"KAROSHI"

Comparative overview of Brazilian and Japanese Law related to Karoshi

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ABSTRACT

Karoshi (death from work exhaustion) has been subject of several studies in Japan in the recent years. The health ministry reported 93 cases of suicides or attempted suicides directly linked to work pressure in 2015, but the national police agency declared that work was partly responsible for 2,159 suicides in 2015. In this sense, Prime Minister Shinzo Abe proposed, together with the main Employers ' (Keidanren) and Workers' (Rengo) unions in Japan, to establish a legal limit of over 100 hours per month. Although such a measure may be considered by some as a progress in the history of Japanese labor law, since there is currently no limit to the law, this proposal has been harshly criticized. This is because it is too much above the 80-hour limit established by the Ministry of Health, Labor and Social Welfare as a limit for the configuration of karoshi, and quite close to 105 hours worked monthly by Matsuri Takahashi, the young Dentsu worker driven to suicide by the daily and excessive hours of work. On the other hand, in Brazil, the discussion of the subject is restricted to the sugar cane cutter worker, and there is only few research on other cases concerning karoshi. The aim of the present paper is to investigate the Brazilian and the Japanese Law related to karoshi, mainly the cases analysis in each system, and comment on the difficulties faced by them.

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1. Introduction

Karoshi, a phenomenon known as death from work exhaustion, is quite characteristic of the reality experienced in Asia, where pressure for high productivity and fierce competition drives employees to force their physical and mental stamina to the limit.

The first recorded case of karoshi was reported in 1969 with the death by stroke of a apparently healthy male worker and 29 years in the freight department of the largest Japanese newspaper company. Since then, an increasing number of victims of karoshi, especially of young men, has been recorded.

Almost a decade later (1978), the incident of death from heart attack or stroke caused by overworking came to be defined as "karoshi." In the 1980s, the term has already become popular worldwide, especially since the launch of the book entitled "Karoshi", published by Tajiri Seiichiro, Hosokawa and Uehata in 1982. It was then recorded in 1984 the first case of compensated occupational mental disorder.

It is important to draw attention to the fact that karoshi only came to be considered a major social problem in the period known as "Bubble Economy", between 1986 and 1991, when real estate stock prices were inflated. After three decades of "Economic Miracle", Japan was facing a severe economic crisis, which is why young workers faced long and strenuous working hours.

In this period, some high-ranking corporate executives died without any sign of pre-death illness. Concerns reached the point where the government took action and began collecting and publishing information on karoshi in order to investigate the cause of the deaths as well as conduct the first

awareness campaigns on the subject.

Since then, although there has been a significant reduction in average hours worked, the problem persists and cases of reported karoshi and karojisatsu (suicide due to work) have risen surprisingly in recent years.

An example of this is the famous Dentsu case involving the suicide of an employee overworked by the long working days called Matsuri Takahashi in 2015. She killed herself at age 24 after 8 months working at Dentsu, jumping out of her apartment window in Tokyo. The Court acknowledged that she suffered from depression caused by overwork, since she was working about 105 hours of overtime in the month that anticipated her death.

In response, the government of Prime Minister Shinzo Abe has approved a plan of action for radical reforms of employment practices, including goals for overtime and better remuneration for part-time and contract workers.

2. Concept of Karoshi

Karoshi is understood as sudden death from work, usually due to excessive work hours and / or high levels of stress, and is a major public health and occupational health problem worldwide, particularly in East Asian countries, including Japan.

The word karoshi was coined in Japan and arose from the combination of two words, 過労 (karō) meaning "overwork," and 死 (shi) meaning "death." Thus, in its strict sense, karoshi corresponding to death arising from work.

However, as Iwasaki, Takahashi and Nakata explain, it is interesting to note that the term karoshi can be understood in its more general sense, a hypothesis in which it refers not only to cases of death but also to cases of permanent disability arising from cerebrovascular or coronary disease caused by overwork. We also check here the concept of karojisatsu, which

means suicide induced by overwork and depression related to work. It is not included in this case accidents caused by extreme fatigue that have caused the permanent death or disability of the worker.

It is worth mentioning that, according to the Ministry of Health, Labor and Welfare of Japan (MHLW), sudden deaths of any employee who works on average 65 hours per week or more for more than 4 weeks or on average of 60 hours or more per week for more than 8 weeks can be recognized as karoshi.

3. Indicated causes for occurrence of karoshi

Since the earliest cases of karoshi identified in the 1970s, Japanese doctrine and jurisprudence have focused on the possible causes of the phenomenon.

Although the discussion is quite controversial, also involving the collection and analysis of medical data and information, there is some consensus in both doctrine and jurisprudence that the occurrence of karoshi is usually linked to the observance of three factors, namely: (a) long working hours; (b) not having paid annual leave; and (c) moral harassment.

3.1. Long Working Hours

In fact, in research on the "Stress and health risk by weekly working hours" conducted by The Japan Institute for Labor Policy and Training (JILPT), it was found that the greater the number of hours worked, the greater the occurrence of cases of physical exhaustion; anxiety, worry, and work-related stress; as well as risks of injury and illness.

Like other Asian countries, Japan is known for the extremely high amount of hours worked compared to Western countries. However, to a large extent due to the Japanese government's effort to combat the karoshi phenomenon, a

substantial decrease in working hours in the last decades.

In its origin, the Basic Labor Standard, which came into force in 1947 to regulate the conditions of work provided for in the Post-War Constitution, provided that the weekly working day could not exceed 48 hours. However, over the years, this limit has been reduced so as to guarantee, as a rule, a journey of 40 hours per week, under the terms of Article 32 of said law.

> *Article 32 The employer shall not submit the employee to work for more than 40 hours per week, excluding rest periods.*

In addition, the same article provides in its item (2) the maximum daily workload of 8 hours.

> *(2) An employer shall not have a worker working more than 8 hours per day for each day of the week, except rest periods.*

Although in the first instance the law prescribes a limit of daily and weekly working hours, the same instrument ends up allowing the employee to be subjected to an unlimited amount of overtime. This is because the legislator has created a mechanism by which the employer can use overtime by (i) entering into an agreement with the union organized by the majority of workers in the workplace concerned (in the case where the union is organized) or with a person representing the majority of workers in the event that such a union is not organized, and (ii) subsequent submission of the agreement to the responsible administrative authority (similar to the labor office). Such an agreement is known as "Agreement 36", as it makes reference to art. 36 (1) of the Basic Labor Code.

Article 36. Where the employer has entered into a written contract, either with a trade union organized by the majority of the workers in the workplace (if such a union is organized) or with a person representing the majority of the workers (in the case of such union is not organized) and notified the governmental body responsible for such an agreement, the employer may, notwithstanding the provisions relating to the working hours stipulated in articles 32 to 32-5 or by article 40 (hereinafter referred to as " working hours ") or the provisions relating to the days off as stipulated in the previous article (hereinafter referred to as" days off "), to extend working hours or to work on days off in accordance with the provisions of that agreement; provided that, in addition, the extension of working hours for underground work and other work especially detrimental to health, as stipulated in the Ordinance of the Ministry of Health, Labor and Welfare, does not exceed 2 hours per day.

Thus, by Article 36 above, in establishing a limiting working day that can be overcome by the conclusion of an agreement between the employer and the employees, the legislator apparently "gives one hand and draws with another." But what was the justification given by the legislator for such legal maneuver?

According to Yuichi Shimada, the lawmaker at the helm of the project, Hirosaku Teramoto, understood that the 8-hour working day established as an international standard was not only intended to ensure life and health, but also aimed at ensuring leisure and well-being -being cultural. Given that Japan at that time had not reached the point where the Japanese citizen would consciously have expectations of leisure time, it was decided to adopt a "soft law" hours system, or not so international standard ("hard law") as embodied

in ILO Convention No. 1 (1919).

Moreover, considering that Japan's economic scenario at the time of the enactment of the Basic Labor Standard was not too favorable, the legislator established an additional 25% of overtime, well below the minimum percentage adopted internationally.

Although the law prescribes the obligation to pay additional overtime, it is common for companies not to pay for overtime. Unpaid overtime is popularly called "service hours" and is considered illegal.

In a survey sponsored by the Japan Trade Union Confederation on working hours to explore ways of thinking and accepting the real labor conditions and working hours of workers held between October 31, 2014 and November 5, about 3,000 male and female workers (regular workers and irregular workers) aged 20 to 59 years. About 60% stated that they were required to work overtime, and 42.6% stated that they had to agree to work overtime without payment of the additional.

It has recently been found that the majority of workers undergoing long unpaid working hours are young workers who find it difficult to find a stable job in the midst of the Japanese economic recession since the 1990s. Thus, there have been countless cases of employees who undergo low wages, continuous hours and strenuous work, no overtime and no paid vacation. These companies that have constantly violated labor rights and exploited their employees are called "black companies", being the subject of concern by the government.

In this sense, given the current legal, economic and cultural structure of Japan, although a significant reduction in the average number of hours worked has been observed, we have been able to find that the long hours of work are still a very delicate issue and rooted in the daily reality of the country, with repercussions on occupational diseases, including karoshi.

3.2. Not having paid annual leave

Another reason for the high number of occupational deaths in Japan is the custom of not taking paid leave.

Firstly, it is important to note that Japan has not ratified ILO Convention No. 132 on paid leave, which prescribes the requirement to grant three (3) weeks leave after one (1) year worked, as well as the enjoyment of at least two (2) weeks of vacation without interruption.

In fact, the Basic Labor Standards Law provides in article 39 (1) the employee's right to only 10 (ten) working days of paid annual leave after 6 (six) months worked, and such period may be enjoyed consecutively or in a manner provided that they have worked at least 80% of the total working days in the period.

> *Article 39 (1) Employers shall grant paid annual leave of 10 consecutive or fractional working days to workers who have worked continuously for 6 months from the date of their employment and who have worked at least 80% of the total working days.*

According to Kazuya Ogura, the requirement of 80% of presence in the period of 6 (six) months as a condition for acquiring vacation entitlement reflects the legislator's concern to avoid absenteeism observed after World War II; however, Ogura believes that such a restriction would be more justified today, although an employee who is unjustifiably absent at the rate of 20% could be waived by the employer.

Also, for each year worked, a regular employee acquires 1 day more vacations until the limit of 20 (twenty) days.

As in Brazil, although the employee may express an interest in enjoying his vacation in a specific period of his preference, art. 39 (5) of the Basic Labor

Standards Act provides that the employer is the one who will determine the best period for this considering the company's circumstances.

> *(5) Employers must grant annual paid leave under the previous paragraph requested by the worker, however, if the granting of leave in the requested period interferes with the normal operation of the business, the employer may grant vacations in a different period.*

We would like to draw attention to the fact that the vacation acquired by the employee can be transferred and accumulated only for the next year. Thus, an employee who has worked 7 (seven) years and 6 (six) months continuously in the same company, and who did not enjoy his vacation in 2017, would have acquired the right to 40 (forty) days of vacation in 2018; however, if the 20 (twenty) first days of leave for the year 2017 are not taken in 2018, the employee loses his entitlement to expired leave, and the employer is not obliged to compensate him for the days lost.

In practice, in fact, it is hardly possible to observe cases where the employee is allowed to enjoy the vacation period in full and without interruption.

Most of the time, the employee is only able to partially enjoy the vacation he is entitled to and yet he does so in a fractional way - not only in a fraction of a day, but in a fraction of the time. Thus, it is common in cases where the employee asks for a few hours of vacation to solve particular matters, like going to the doctor, for example. It is also observed that it is common practice to use holiday days for amendments on holiday bridges in order to prolong the rest period a little longer.

For Wada, the non-enjoyment of paid holidays by workers is one of the main causes of karoshi. According to him, the problem lies in the fact that the

law gives workers the duty to request the season, leaving it to the employer to authorize it. In that sense, he considers that the ideal method would be to have the holiday settlement method changed in order to give employers the duty to formulate annual holiday plans through consultations with workers' representatives or with the workers themselves at the beginning of the year annual holidays to workers. In other words, Professor Wada argues that the law should provide that annual leave is an obligation of the employer.

In addition, as a second measure to prevent karoshi, Professor Wada suggests that Japan increase the number of vacation days per year by implementing the conditions laid down in ILO Convention No. 132, ie by determining holidays of at least twenty (20) days per year, with at least 2 weeks of vacations being uninterrupted. In this way, paid leave could effectively serve its purpose, which is to allow the employee to have reasonable time and ideal conditions to physically and mentally recover from work during the period.

Another important point raised by Professor Ogura is the "economy" of vacations by employees to use when the real need arises, usually due to illness or care of children or relatives. According to the current system of personal illness leave, the employee can only use this after the fourth day, which is why he uses his paid annual leave for when he falls ill for one or two days. In a way, the companies themselves expect the employee to use their paid leave for this purpose. In this sense, a suitable measure would be to stipulate the companies to compel their employees to enjoy their vacations in their entirety, as well as to create a license that would allow them to leave in case of personal illness without discount of the vacations.

While such measures are essential to increase employee vacation time, we believe that government should take an active role in raising society's awareness of the importance of this paid annual rest period for achieving a

healthy balance between personal and family life. the professional, especially with employers and employees, through guidelines and campaigns. This is because the cultural question is still pointed out as the main justification for such behavior, since there is the idea that the employee can not be absent for too long work time, as this would cause disruption to the company and the rest colleagues who would have to undertake their activities during the period, or for fear that this would hinder their professional advancement within the company by demonstrating non-commitment to their work.

In this sense, we believe that the enjoyment of annual leave paid by employees is related not only to the need for legislative changes, such as the increase in the number of vacation days and compulsory uninterrupted enjoyment for a period of at least 2 weeks, under the terms of the Convention No. 132, but also with a change in Japanese culture itself as regards the importance of holidays in the physical and mental recovery of workers.

3.3. Moral Harassment

Another factor pointed to the occurrence of karoshi, together with the long working hours and the non-enjoyment of paid annual leave, is moral harassment.

Harassment is understood as the exposure of workers to humiliating and embarrassing situations, in a repetitive and prolonged manner, during the working day and in the exercise of their functions, which predominate negative conduct, inhuman and long-term one or more bosses and subordinates and coworkers, destabilizing the relationship of the victim with the work environment and company, to force to give up of the employment, causing practical and emotional damages for worker and employer, and the company must fight this practice firmly, once which may cause harm to the physical and mental health of the offended, extending to all the collective who

witness these acts.

Among the types of moral harassment, we highlight the vertical descending moral harassment, which is the typical case where the employer or superior hierarchically harasses the subordinate employee. In this case, the hierarchical superior seeks to embarrass the victim by attacking her psychologically, causing her to feel her self-esteem destroyed.

There are several reasons that lead to this type of conduct. The superior may be afraid of losing power to other colleagues; want to impose respect; aim to increase team productivity; forcing a certain employee to resign, among others. However, no motive justifies the adoption of harassment.

It is important to draw attention to the fact that this conduct can take the most varied forms, namely:

These are ways of publicly demoralizing the offended:

(i) Ignore the presence of the worker;

(ii) Require that the hours be set aside for the journey;

(iii) Disqualify the work done;

(iv) Suggest resignation;

(v) verbally assaulting with the use of slang or pejorative words;

(vi) Assignment of tasks impossible to perform or useless tasks;

(vii) Do not assign any task to the employee.

(viii) Require work to be performed in excess of the employee's technical capacity;

(viii) Require work to be performed in excess of the employee's technical capacity;

(ix) Ironize, defame, and despise the employee;

(x) isolate the employee;

(xi) Control toilet use time;

(xii) Perform public humiliation;

(xiii) Place the employee in the "refrigerator".

Aware of the problems stemming from bullying, the Japanese government annually releases a report on the country's progress, difficulties and challenges in the treatment of karoshi ("White Paper") prevention.

To this end, it is understood that measures against harassment to develop a healthy working environment for workers should not be restricted to the control and management of hours worked, but also to the concern with the need to harmonize human relations in a harmonious way.

To strengthen the prevention of harassment in the workplace, the Government has committed to examine various measures, together with the employer and employee parties. The idea for the moment is to review the government's objectives, including the analysis of new goals to implement the mental health measures to be defined in the guidelines according to the Karoshi Measures Promotion Act, etc.

4. Regulation of occupational health and karoshi

4.1 Japanese Law

4.1.1 Labor Accident Compensation Insurance Act (1947)

The Labor Accident Compensation Insurance Law, enacted in the same year of the Basic Labor Standards Law, deals with work accident insurance, and, according to its article 1, its purpose is:

(a) granting necessary insurance benefits to workers in order to provide them with prompt and fair protection against injury, sickness, disability or death or similar arising from a cause or displacement of employment;

b) promote the social rehabilitation of workers who have suffered an injury or illness from a cause related to employment or commutation;

c) assist workers and their surviving relatives;

(d) to ensure the safety and health of workers or the like, thereby contributing to the welfare of such workers.

It is interesting to draw attention to the fact that the legislation applies to all private businesses employing workers in Japan, with rare exceptions.

The said law is of paramount importance when studying the karoshi, as it provides in Tables 1 and 2 of art. 35 of the Ordinance on the Application of the Basic Labor Standards Law, which occupational diseases are recognized for granting the benefit.

Until 2010, karoshi was eventually framed in the residual item "other diseases that clearly derive from work activities". However, with the amendment of the text of the Ordinance, items 8 and 9 were added, which include, respectively, " cerebral hemorrhage, subarachnoid hemorrhage, cerebral infarction, hypertensive encephalopathy, myocardial infarction, angina pectoris, cardiac arrest Severe Sudden Death) or dissociative aortic aneurysm or diseases that accompany such diseases "to refer to karoshi, and" incidents or accidents involving threat to human life or other burden that result in disturbances of spirit and behavior "to report suicide on reason of work.

Regarding the procedure when karoshi occurs, the employee or his relative must submit the request for granting the benefit to the Office of Labor Inspection, and his request will be analyzed by the head of the police station, who will decide whether he is entitled to the benefit or not . The petitioner may request that he, a co-worker or his doctor be heard, and the head of the police station may request a medical opinion, as well as consult the municipal labor secretariat or the Ministry of Health, Labor and Welfare.

If the applicant is not satisfied with the decision, it is possible to request the review for the industrial accident compensation insurance examiner, and

if he does not accept the result of the review, he may also seek a third instance, namely the Insurance Committee. Lastly, the petitioner may also bring an action before the Court to re-examine the case.

4.1.2 Occupational Health and Safety Act

According to Wada, the Occupational Safety and Health Act emphasizes the maintenance and promotion of active health of employees, as well as obliges employers to ensure a safe and comfortable work environment, valuing the physical and mental health of workers.

Also, although the Law could have gone further, it represented a step forward in that it provided for mandatory placement of industrial physicians in small and medium-sized enterprises; the establishment of the Committee on Safety and Health at Work; the requirement of an industrial doctor in order to strengthen the workers' advisory right and strengthen the health management functions of workers in the Committee on Occupational Safety and Health.

In addition, it also provides for the obligation of the employer to pay all employees the annual medical examination to ensure health, identify any health concerns related to work and file the information in the chart of each employee.

In this treadmill, the law prescribes the duty of the employer who has more than 50 employees working at your company to offer "stress test" at your expense. The employee may refuse to take the test - the idea is that the employee can assess and be aware of their mental and physical health in the face of stress, and have the opportunity to seek medical support if necessary.

If it is identified that an employee has developed health problems due to stress in the workplace, the employer may be called upon to take preventive and corrective measures in order to ensure better working conditions for

their employees.

Finally, it is worth mentioning that the employer who employs more than 50 workers in the workplace is obliged to report annually to the Labor Office the results of the stress tests.

4.1.3 Act on the Promotion of Preventive Measures against Karoshi and Other Health Disorders Related to Excess Work (2014)

In this sense, the Government of Prime Minister Shinzo Abe decreed the Ordinance on the Promotion of Preventive Measures against Karoshi and Other Health Disorders Related to Excess Work in 2014, and based thereon, decided on a basic political program for the prevention of death by in 2015. The idea was to develop a national initiative for the prevention of work-related disorders.

The objectives of this policy framework are:

a) Reduce the percentage of people working 60 hours or more per week to below 5% by 2020;

b) Guarantee workers the right to have 70% or more of their holiday days properly allocated by 2020;

c) Implement measures to promote mental health for 80% or more of employers by 2017.

In this ordinance, the term "work-related disorders" was defined to include:

a) death by CCVD due to overwork,

b) death by suicide after the appearance of mental disorders due to psychological stress at work, and

c) CCVD due to overwork and mental disorders due to psychological stress at work.

Following this Act, the "Principles of Preventive Measures against Work-Related Disorders" were created in 2015, which sets out four main objectives to be implemented by the Japanese Government:

a) promote research on disorders related to overwork and publish the findings,

b) raise awareness about work-related disorders,

c) developing a system of advisory services,

d) support the activities of the private sector.

4.1.4 "Revolution in the Way People Work"

According to the Revolution in the Way People Work Act, enacted in June 28th, 2018, the Japanese legislator established a legal limitation on overtime.

With the strong support of the Federation of Economic Organizations (Keidanren), the labor reform consisted of three main changes: (a) determining a legal limit for overtime, hitherto unpredicted in the Japanese legal system; (b) guarantee the payment of equal salary for equal work for regular and irregular workers; and (c) determine the non-application of labor regulations to highly qualified and high-paid professionals, since it is understood that remunerating these professionals for the results they present, rather than the hours worked, will allow greater flexibility in working style.

As a general rule, the overtime limit, which can be worked over time, should be 45 hours per month and 360 hours per year, and penalties are imposed for violations, except in the following special cases. Even in a special case, because of a special temporary circumstance, in which the worker and the company agree on the limits of the extension of the working day as stipulated in the agreement of Article 36, paragraph 1, of the Basic Labor Standards Act, the hours extraordinary hours of work that cannot be

exceeded, and must comply with the ceiling of 720 hours per year (= monthly average of 60 hours). In addition, even when the amount of work temporarily increases, the limit of 720 hours per year cannot be exceeded.

In relation to this, it is assumed that the average of 2 months, 3 months, 4 months, 5 months, 6 months, including holiday work, shall be up to 80 hours. In a single month, it is assumed that less than 100 hours should be met, including holiday work. In addition, in light of the fact that the principle of extra labor is 45 hours per month and 360 hours per year, the application of the special case over and above this is limited to 6 times per year, so that does not exceed half of the year.

On the other hand, as employees and employers agreed that due diligence should be taken to prevent the conclusion of an agreement with a higher limit than that established, in order to further reduce the extension of working hours, a provision will be established in the Basic Labor Standards Act for the Executive to provide necessary advice and guidance to employees, unions, etc., regarding the guidelines.

The opposition party and labor law experts have also criticized the labor reform regarding the exemption from overtime pay to highly skilled workers who are paid more than 10.75 million yen per year. According to them, this would lower the cost to companies and further increase the number of cases of karoshi (death by labor exhaustion) in the country.

In this sense, while such a change represents an admirable legislative advance, once the restrictions would limit overtime to 100 hours per month and 720 hours per year, and the overtime pay was abolished for the high skilled professionals, the labor reform may not solve the problem of karoshi in Japan.

4.2 Brazilian Law

Firstly, it is important to clarify that there is no specific legislation on karoshi in Brazil. However, there is a limitation on overtime. The labor law establishes the limitation of 8 working hours per day, which may be extended up to 10 hours in the Constitution and Labor Code.

> *Article 7, XIII, Constitution – The normal working hours not exceeding eight hours per day and forty-four per week, with compensation for working hours and reduction of work hours, by agreement or collective bargaining agreement*
> *Article 58, Labor Code - The normal working hours for employees in any private activity shall not exceed 8 (eight) hours per day, provided that no other limit is expressly fixed.*
> *Art. 59, Labor Code - The daily duration of work may be increased by overtime, not exceeding two, by individual agreement, collective agreement or collective bargaining agreement.*

Besides, the labor law also determines a limitation of 44h working hours per week, and a mandatory rest period of 11 hours between two working days.

> *Art. 66 - Between two (2) work days there will be a minimum period of 11 (eleven) consecutive hours for rest.*

In Brazil, there are no official statistics on the number of workers killed by overwork. The Statistical Yearbook for Work Accidents only discriminates against work accidents with "sudden deaths from unknown causes", but does not cross the numbers of deceased workers at work with the reason for death

according to the International Classification of Diseases (ICD).

The majority of cases recognized by the labor courts as karoshi are related to rural labor, mainly sugarcane cutter workers.

Apart from the rural labor cases, the Courts exceptionally recognized karoshi in a:

a) workers of a Metallurgy in Minas Gerais;

b) Soccer Players during football matches;

c) Road transport drivers.

As we can note, the Courts currently understand that the profile of the workers that suffer from karoshi in the Brazilian cases are linked to great physical effort, and not necessarily to stress, differing from the Japanese traditional cases of karoshi.

In this sense, we can conclude that the Brazilian current legal literature related to karoshi is still extremely poor compared to the Japanese reality.

5. Conclusion

Japan has an extense legislation on karoshi, as well as a large number of cases and statistics concerning karoshi in various job areas.

On the other hand, in Brazil, there are still very few studies and data on karoshi, and the few documented cases are mainly related to rural labor which are restricted only to the physical fatigue, but not to the mental disease derived from the work pressure, as we can verify in Japan.

However, considering the increasing number of occupational health cases in Brazil related to overtime, as well as the controversial changes introduced by the recent approved Labor Law Reform, we understand that in a near future the Brazilian legislation, researches and precedents on occupational diseases and karoshi also tend to increase.

BIBLIOGRAPHY

Books

ARAKI, Takashi. *Labor and Employment Law in Japan*. Tokyo: *The Japan Institute of Labor,* 2002.

ARAKI, Takashi. *Cases and Material on Labor and Employment Law,* 4th ed. Tokyo. Yuhihaku, 2015.

ANZAI, Saruma. *Rodoshanokasshitsusousatsu*. Tokyo: Rodochusaikai, 2016.

SAKUMA, Daisuke. *Seishinshikkan Karoshi. Dai ni han*. Tokyo: Chuokeizaisha, 2015.

KAZUO, Koike. *The Economics of Work in Japan*. Tokyo: LTCB International Library Foundation, 1995.

NISHIMURA. Kenichiro. *Rosaihoshoto mentaruherufe*. Toquio: Shinzansha, 2014.

OSUKA, Akira. Welfare Rights. In: *Japanese Constitutional Law*. Tokyo: University of Tokyo Press, 1993.

SASAKI, Ryo. *BurakkuKigyou sekuhara pawaharataisaku*. Tokyo: Junpocha, 2017

SUGENO, Kazuo. *Japanese Labor Law*. Tokyo: University of Tokyo Press, 1992.

TOI, Hiroshi. *Rosaisaiban 1988-2014*. Tokyo: Rodochusaikai, 2016.

Articles

NAKAYAMA, Kazuhisa. The characteristics of the Japanese labor law and its problems. *Waseda Bulletin of Comparative Law*. Tokyo, n.14. p.1-9, 1993.

Eletronic bibliography

IWASAKI, Kenji, TAKAHASHI, Masayaka, and NAKATA, Akinori. *Health Problems due Long Working Hours in Japan: Working Hours, Worker's*

Compensation (Karoshi), and Preventive Measures. Available at: < https: //www. jstage. jst. go. jp/article/indhealth/44/4/44_4_537/_pdf/-char/en >. Accessed in: 15 Feb. 2018.

OGURA, Kazuya. *Annual Paid Leave in Japan.* Available at: < http://web.jil. go.jp/english/JLR/documents/2004/JLR02_ogura.pdf >. Accessed in: 16 Feb. 2018.

SHIMADA, Yoichi. *Working Hours Schemes for White-Collar Employees in Japan. Available at:* < http: //web. jil. go. jp/english/JLR/documents/2004/ JLR04_shimada.pdf >. Accessed in: 16 Feb. 2018.

WADA, Hajime. *Rodokaramita Karoshi Karojisatsu Mondai.* Available at: < https: //www. jstage. jst. go. jp/article/tits/15/10/15_10_10_16/_article/-char/ja/ >. Accessed in: 15 Feb. 2018.