

# The Factory Act of the Nanjing Nationalist Government of China, and the Response of Local and Foreign-invested Enterprises (“FIEs”) to the Said Act

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## The Factory Act of the Nanjing Nationalist Government of China, and the Response of Local and Foreign-invested Enterprises ( FIEs ) to the Said Act

In China, industrial workers emerged as crucial components of society with the rapid development of capitalism in connection with the industrial requirements of WW I. However, their working environment was very poor and they suffered from low wages and long hours of heavy work. The need to improve their working conditions gave a crucial pretext to the labor movement. The Communist Party, in particular, incited the labor movement, asking for the improvement of poor working conditions, and inspired class consciousness in the minds of workers. Under such circumstances, the Nationalist Government had to enact the Factory Act in an effort to block the Communist Party's influence on the labor movement by coping with the labor issue positively and dealing with worker's discontent.

The Nationalist Government's Factory Act contained clauses intended to improve workers' working conditions and livelihoods, while seeking to enhance capitalists' interests and increase productivity simultaneously. However, capitalist factory owners were opposed to the Factory Act because they feared that any increase in management expenses occasioned by a rise in wages would result in a drop in productivity. FIEs in the concessions, notably Japanese factory owners, who wielded the most influence in the concessions, expressed strong objections to the Factory Act. Thus, the Nationalist Government's Factory Act could not be implemented as originally intended. Nonetheless, the protection of workers and the improvement of working environments were inevitable developments which contributed, albeit gradually, to the improvement of working conditions for Chinese workers.

**Keywords:** Nationalist Government of China, Factory Act, FIEs (Foreign Investment Enterprises), labor movement, textile factories [紗廠], foreign concessions [租界]

# The Factory Act of the Nanjing Nationalist Government of China, and the Response of Local and Foreign-invested Enterprises (“FIEs”) to the Said Act

KIM Jihwan, Korea University

## I. Foreword

Following the industrial revolution, modern industry underwent rapid development and workers emerged as a class to be reckoned with. Under such circumstances, European countries found it necessary to take measures to protect workers through the legal enactment of ordinances for workers. In 1802, the UK became the first country to promulgate the Factory Act. In Asia, Japan came up with a few rudimentary ideas in 1911 and enacted the Factory Act in 1916, after recognizing the need for it in 1881 and conducting numerous surveys and discussions over the subsequent 30 years; China was also faced with the same issue in connection with WW I.

World War I served as an occasion for epoch-making industrial development in China, to such an extent that it came to be referred to as the “golden age of capitalist development” in that country. China’s industrial economy enjoyed a wartime boom, recording a robust rate of growth of 13.8% on average from 1912 to 1920 (Bai Jier [白吉爾], trans. Zhang Fuqiang [張富強], 1998, p. 85). In the 1914-1922 period, the

number of textile businesses established in China with local capital came to the whopping figure of 54. In 1918, the country's rate of self-sufficiency in cotton yarn exceeded 70% (Chen, Zhen [陳真], 1961, p. 200). By the early 1930s, following the end of WW I and the industrialization process of the 1920s, the number of factories in the country stood at 9,679 in twelve cities, including Shanghai, Qingdao and Tianjin, while the number of workers stood at 461,693. The amounts of total capital and total production stood at 320,569,000 yuan and 1,094,852,000 yuan, respectively (Yan, Zhongping [嚴中平] et al., 1955, p. 106).

Following the signing of the treaty banning night-shift work by child factory workers at the first International Convention of Workers held in Washington DC in 1919, the Ministry of Agriculture and Trade of the Beijing Government promulgated the 28-item Temporary Factory General Rules in March 1923. Though it did not pass through Parliament, it was the first Factory Act to be passed in that country. The situation was not much different for the Nanjing Nationalist Government. It had to take positive steps to enact and implement laws for workers, including the Factory Act, in an effort to allay workers discontent and get them on its side following the April 12, 1927 incident.

Concerning the Nationalist Government's Factory Act, there are several theses, most of which were written by Chinese scholars, with the focus chiefly on the role and effects of the Factory Act.<sup>1</sup> Concerning the

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<sup>1</sup> Earnest research on the Nationalist Government's Factory Act only began in the 2000s. The belated commencement of the research was attributable to the fact that introductory books on the history of the Chinese economy could not be out of the way of political history in their statements and appraisal about the Factory Act. Recently, Rao Shuili [饒水利], 2007, *Lun 1929-nian gongchangfa-de shishi xiaoguo* [論1929年工廠法的實施效果; The Effect of Factory Act in 1929], In *Fazhiyushehui* [法制與社會]; Zhu Zhengye [朱正業], 2007, *Nanjing guomin zhengfu gongchangfa shulun* [南京國民政府工廠法述論; Introduction to the Factory Act of the Nanjing Nationalist Government], China: *Guangxi Social Sciences* [廣西社會科學]; Peng Nansheng [彭南生], Rao Shuili [饒水利], 2006, *Jianlun 1929-nian-de gongchangfa* [簡論1929年的工廠法; Summary of the Factory Act in 1929], China: *Historical Research In Anhui* [安徽史學] et al.

reason for the failure to implement the Factory Act prior to the commencement of the second Sino-Japanese War in 1937, they point to the parlous state of development of the Chinese economy at that time, the labor environment of the country, and capitalist resistance. However, little research has been conducted concerning the interests of FIEs, particularly Japanese ones, and their response to the Factory Act, despite the conspicuous development they made in China and their enormous share in China's industry and economy in the post-WW I period.

This study intends to shed light on the contents and nature of the Nanjing Nationalist Government's Factory Act by examining cases of the country's textile industry, and to examine why the Act was not implemented as originally intended in association with the interests and resistance of capitalists and FIEs and the interrelations between them.<sup>2</sup> This study intends to determine the realistic interests of factory owners, i.e. capitalists, and their response to the Act based on materials contained in the quarterly newsletter of the Chinese Textile Factory Association, the semi-annual newsletter of the Chinese Textile Factory Association, the Textile Weekly, and the Textile Newsletter published by the Chinese

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carried out a meticulous analysis of the clauses of the Factory Act from a legislative perspective, saying that the Nanjing Nationalist Government's Factory Act achieved a certain positive result as regards the protection of workers rights and interests and the country's industrial development. Zhu Zhengye [朱正業] & Yang Lihong [楊立紅], 2007, *Shilun Nanjing guomin zhengfu gongchangfa-de shehui fanying* [試論南京國民政府《工廠法》的社會反應: Social Responses to the Factory Act of the Nanjing Nationalist Government], China: *Journal of Anhui University* [安徽大學學報]. pointed out that the Factory Act could not be implemented as planned due to the opposition of capitalists and FIEs; however, their explanation of the process is too simple. Theses of Ma Changlin [馬長林], 2002, *Shanghai zujie nei gongchang jianchaquan-de zhengduo* [上海租界內工廠檢查權的爭奪: Conflicts on Factory Investigation Authority in Shanghai], China: *Academic Monthly* [學術月刊]. explored the Shanghai Archives & Records and stated about oppositions and resistance made by FIEs in the foreign concessions against the Factory Act. It cannot be denied that in-depth analyses of FIEs internal interests and resistance did not get very far owing to the total dependence on historical materials kept by China.

<sup>2</sup> In the modern industrial sector, textile workers account for 60-70% of the total number of workers, representing industrial workers. The textile industry accounted for the highest share of FIEs. See the following table.

Textile Factory Association, as well as the coverage of the views and public opinion concerning the Factory Act in China and Japan in the daily papers published at that time in the two countries. This study will also assess Japan's Chinese policy and the interrelations between the Japanese government and the Japanese capitalists of that time based on Japanese government documents and FIEs' concerns about the Factory Act, and how the implementation of the Act went awry, in connection with the fact that previous studies made virtually no real attempt to explore or use primary materials concerning FIEs. In this way, the present study intends to evaluate the nature and historical significance of the said Act.

## II. Background to the Enactment of the Nationalist Government's Factory Act

Chinese workers' May 30, 1925 Movement, which was started in the Japanese-owned Neiwaimian Textile Factory as a result of the management's inhumane treatment of its Chinese workers, spread rapidly

<Table 1> Share of the textile industry as a proportion of China's entire industry (1933)

	All industries	Textile industry	Share of textile industry (%)
Capital (Unit: 10,000 yuan)	40,692.6	17,288.8	42.5
Production amount (Unit: 10,000 yuan)	11,1397.4	51,101.0	45.9
Number of factories	2,435	962	39.5
Number of workers (Unit: 10,000 people)	50.0	32.4	64.8

Source: Zhao Mingyuan [趙明遠], September 1992, *Jindai fangzhi gongye zai gongye zhongde bishong* [近代紡織工業在工業中的比重; Proportion of the Modern Textile Industry in China's Entire Industry], In *Zhongguo jindai fangzhishi yanjiu ziliao huibian* [中國近代紡織史研究資料匯編; Research Papers on the History of Textile Industry in Modern China] (Vol. 17), p. 15.

to all Japanese-owned textile factories. The workers' movement, combined with anti-Japanese sentiment, was good news to local textile factory owners, who were being outdone by their Japanese counterparts in terms of capital, machinery and managerial know-how. However, contrary to the expectations of local capitalists, Chinese workers awakened to the need for a labor movement in due course, and carried out their movement against local capitalists too.

The labor movement, which spread rapidly through China with the May 30, 1925 Movement serving as the momentum, was closely associated with the launch and development of labor unions, for which the Chinese Communist Party provided positive support and guidance. After the establishment of the Shanghai Communist Small Group in 1925, Workers' Half-Day Schools and Workers' Supplementary Classes were launched. In 1924, the Workers' Club was established to indoctrinate workers with Marxist thinking through various activities, such as group reading or recreational sessions. It grew as a core organization to play a leading role in the labor movement. Xiang Ying [項英], Deng Zhongxia [鄧中夏], Yun Daiying [恽代英], Liu Hua [劉華] of the Chinese Communist Party frequently gave lectures there, stressing the need for a class struggle to the workers.

Thus, co-worker clubs were organized at Tongxing Textile Factory, Neiwaimian Textile Factory, Rihua Textile Factory, which were Japanese-owned factories. The number of workers who joined them increased to more than 2,000 (Zhou Hongyou [周宏佑], September 1989, p. 18). The co-worker clubs, jointly with the Changxindian Labor Union, which played a central role in the labor movement in Huabei, developed as a leading organization of the labor movement (Zhongguo Jindai Fangzhishi Bianzuan Weiyuanhui [中國近代紡織史編纂委員會; Chinese Modern Textile History Compilation Committee], 1991, p. 33). During the 1925 strike, more than 9,000 workers of Neiwaimian Textile Factory No. 5, 7, and 12, which were Japanese-owned factories, took part. 35,000 workers from 22 factories, such as Rihua Textile Factory, Dakang Textile Factory, Fengtian Textile

Factory, Tongxing Textile Factory, Yufeng Textile Factory, Dongyamadaichang, joined the strike. At the instigation of the Chinese Communist Party, the workers launched the Neiwaimian Textile Factory Workers Committee and the Workers Discipline Corps, whose formation is said to have been the first remarkable step taken in the history of the Chinese labor movement (Zhou, Hongyou [周宏佑], September 1989, p. 20). They continued to carry out the struggle against capitalists even after the April 12, 1927 Incident, protesting against poor wages, the capitalists' closure of factories, and body searches (Zhongguo Jindai Fangzhiishi Bianzuan Weiyuanhui [中國近代紡織史編纂委員會; Chinese Modern Textile History Compilation Committee], September 1991, p. 35).

<Table 2> Number of labor disputes in the 1920s

Year	1923	1924	1925	1926	1927	1928	1929
Number of labor disputes	14	16	75	257	117	118	108
Number of factories involved					11,698	5,433	1,011
Number of workers involved					881,289	204,563	65,557

Source: Sun, Benwen [孫本文], 1943, p. 159.

Ultimately, capitalists came to realize that they could not succeed in business without maintaining good relations with their workers (Chan Yun [禪雲], June 1928, p. 8). The quarterly newsletter of the Chinese Textile Factory Association said, “At the time of the May 30, 1925 labor movement, their target of attack was chiefly Japanese factory owners, but the range of targets was expanded by and by. In fact, those engaged in the labor movement were controlled by communists” (Nan, Mu [南畝], June 1928, p. 5) “Seeing the May 30, 1925 Movement as a good opportunity to fulfill their aim, the General Labor Union of Shanghai instructed workers to organize labor unions at their factories. As a result, most factories in Shanghai came to have labor unions.... Workers were incited to engage in strike action” (Zhu Xiwen [朱希文], September 1928, p.10).

The labor movement carried out under the guidance of the Chinese

Communist Party asked for the improvement of working conditions and environments. The labor movement served as the Communist Party’s vehicle for educating and inspiring class consciousness in Chinese workers. The strike carried out by workers at Wusong Dazhonghua Fangzhi Gongsi [吳淞大中華紡織公司] at the instigation of the Chinese Communist Party in November 1921 is said to have been the first successful struggle to win the 8-hour-a-day working week in the history of the Chinese labor movement (Zhou Hongyou [周宏佑], September 1989, p. 19). In 1923 and the following year, workers at Hengfeng Textile Factory carried out a strike under the incitement of the Communist Party, protesting against the beating of workers, to which the factory owner finally gave in (Institute of Economics, Shanghai Academy of Social Sciences [上海社會科學院經濟研究所編], 1958, p. 63). Thus, the Chinese Communist Party incited the labor movement, propelling them to demand improvements in their working conditions and inspiring class consciousness in the minds of the workers.

Table 3 shows the poor wages, long working hours and low labor productivity of Chinese workers.

<Table 3> Comparison of wages, work hours and labor productivity of textile workers in four countries (1929)

	Weekly wage (Mexican silver)	Weekly production amount (ma)	Daily work hours	Weekly work hours
Chinese workers	2.40	210	15	90
German workers	3.40	466	12	72
British workers	5.95	706	9	54
American workers	5.95	1,200	10	60

Source: Kui, Xuan [奎暄], March 1929, pp. 4-5.

Table 3 of their wages and living expenses show that the labor movement spread very quickly. Table 4 shows how much Chinese workers received from their textile production work.

<Table 4> Comparison of wages of Chinese workers in textile factories (1929) (Unit: Yuan)

Type of worker	Wage	Type of worker	Wage
Males engaged in coarse yarn production	Maximum 0.77	Females engaged in coarse yarn production	Maximum 0.53
	Minimum 0.37		Minimum 0.30
Males engaged in spun yarn production	Maximum 0.75	Females engaged in spun yarn production	Maximum 0.586
	Minimum 0.30		Minimum 0.331
Male child workers	Maximum 0.48	Female child workers	Maximum 0.265
	Minimum 0.24		Minimum 0.245

Source: Qian, Wei [潘園], March 1929, p. 2.

The foregoing Table 4 shows that female workers received lower wages than their male counterparts in textile factories, which is why the number of female textile workers overwhelmingly exceeded the number of male workers in Shanghai. Female child workers were the employees of choice of factory owners because of their usefulness in keeping down costs.

In addition to the sectors stated in Table 4, textile factories employed workers in a wide range of tasks, such as lubricating machinery, repair work, packaging, transportation or weaving textile fabrics. Table 5 represents the simplified monthly living expenses for an ordinary household comprising two parents and two children to show the correlation between the wages of such workers and their living expenses.

<Table 5> Monthly living expenses for a 4-member household (1929) (Unit: Yuan)

Rice	Vegetable	Kerosene as fuel	Rent	Clothing	Miscellaneous expenses	Total
9	6	3	4	3	3	28

Source: Qian, Wei [潘園], March 1929, p. 3

Table 5 above concerns households in which the parents worked as textile workers and lived with two children. The parents' daily wages came to 0.962 yuan, which translates into 25.012 yuan per month based on a 26-day working month. Compared to the monthly living expenses shown in the table, the household's actual income was 2.988 yuan short

each month or 35.856 short for the whole year (Qian, Wei [潘園], March 1929, p. 3).

Standard household expenses were set based on multiple sample surveys conducted on workers at textile factories in Shanghai in 1929. As regards the possibility of differences in the level of living expenses, depending on areas and factories, the survey was conducted at many textile factories to check living expenses based on the following three categories: 1) single males living alone; 2) households composed of childless married couples; and 3) households composed of two parents and two children (one infant and one 5 or 6-year old child). See Table 6.

<Table 6> A survey of the average monthly living expenses of textile factory workers in Shanghai (Unit: Yuan)

Items	Single male living alones	Childless married couples	Parents and two children
Rice	3.260	5.540	8.150
Subsidiary food	1.690	2.870	4.230
Seasoning	625	1.060	1.560
Fuel	1.000	1.500	1.800
Tea	120	200	300
Rent	800	2.500	2.500
Cotton yarn	250	380	380
Clothing	1.785	3.570	5.000
Miscellaneous expenses	520	780	1.040
Entertainment	800	1.200	2.000
Total	10.850	19.600	26.950

Source: Kui, Xuan [奎暄], March 1929, pp.1-2.

China’s poor working environment, including its low wages, long work hours and low labor productivity, eventually led to the formation of the labor movement. With the May 30, 1925 Movement serving as the momentum for the organization of the labor movement, which became a routine part of workers’ daily lives, the number of labor unions increased rapidly. In response, capitalists saw the need for state involvement in the

settlement of labor disputes and for the enactment of a labor law that would institutionalize state involvement. Commenting on the issue, the quarterly newsletter of the Chinese Textile Factory Association said, “No day passes without a labor dispute. No relevant law or regulation has been established, which means that there is no basis for settlement of the problem. People who have nothing to do with the textile industry instigate workers to form labor unions, take part in strikes, and threaten factory owners. Unless proper measures are promptly taken by the authorities, labor unions will assume a position similar to that of the dictatorial warlords of the past” (Nie Lusheng [聶潞生], December 1929, p. 3)

### III. Capitalists’ Response to the Factory Act

Following the Northern Expedition of 1928, the Nationalist Government designated Nanjing as the country’s capital and took steps to enact the Factory Act in an effort to cope with labor issues more positively. In June 1928, the Nationalist Government drew up the bill for the Labor Dispute Resolution Act (the Factory Act) and sent it to the Parliament in January 1929. The Parliament passed the Act in December 1929 at its 67th session, and it was promulgated forthwith. In December 1930, the Enforcement Ordinance of the Factory Act was promulgated.

The Factory Act contained many clauses designed to ensure the humane treatment of workers and the protection of their rights, including the adoption of the 8-hour-a-day working week; the prohibition of night-shift work for female and child workers; the prohibition of employment of children aged under 14; the imposition of one mandatory day off per week; and the operation of factory management councils equally composed of management and workers (Cases of Countries’ Labor Acts and the Relevant Policies, China Section, Factory Act (Japan Center for Asian Historical Records)).

The clauses in the Factory Act which aroused the most concern

among capitalists were the prohibition of nighttime work for child workers and of the employment of children under the age of 14. At that time, many factories employed children and submitted false reports about their age to the authorities. One record states, “Some of the boys looked younger than 12. In China, records of births and deaths are not kept properly, which makes it difficult to see how old they actually are” (Chan, Yu [禪愚], June 1931, p. 5)

The working environment for female workers was particularly poor, constituting a major cause of the labor movement. Nighttime work, which required very high labor intensity, must have been hard to endure. According to a survey conducted in 1930, many female workers at textile factories experienced hearing impairment due to the noise made by machinery (i.e. 48% of those engaged in weaving work; 28% of those engaged in coarse yarn production; and 17% of those engaged in spun yarn production). They were often told by their employers to stuff their ears with cotton pieces to protect their hearing (Fangzhi nugong-zhi tingli ceyan [紡織女工之聽力測驗; Hearing Test for Female Workers at Textile Factories], In *Huashang shachang lianhehui jikan* [華商紗廠聯合會季刊; Quarterly Newsletter of the Chinese Textile Factory Association] (Vol. 8), September 1930, p. 12).

A report made by a British delegation at the end of the 1930s includes the following statement about the life led by female and child textile workers in China: On Sundays, work is carried on at night after a break during the day. Day-shift teams work for 72 hours a week and night-shift teams for 84 hours a week. A half-hour lunch break is the only rest they can take during the day. Working conditions for female workers are particularly poor. They are not given even a single day off throughout the whole year. According to a survey carried out in Tianjin, 9,292 female workers responding to the survey said they did not take a single day off in 1927, while 1,170 female workers said that they took just one day off every two weeks, and there were some who said that breaks were only possible while machines were being repaired or cleaned (Chan Yu

[禪愚], June 1931, p. 10).

The clauses prohibiting nighttime work for child workers and the employment of children under 14 were a considerable burden for factory owners. Factory owners were particularly concerned about the clauses concerning female workers. The share of male child workers was relatively lower than that of female workers, and their number was decreasing. It also turned out that male child workers were not economically efficient. Looking at the composition of textile factory workers in China in the early 1930s, women accounted for 66.2%, followed by male adult workers (30.6%) and male children (3.2%). These figures reveal the prevalence of women in the textile labor force (Chan Yu [禪愚], June 1931, p. 5). The clause of the Factory Act concerning female workers naturally became a matter of extreme concern to factory owners.

Factory owners were concerned that their overall production would decrease drastically with the implementation of the Factory Act, given that it stipulated the protection of workers' rights and the prohibition of night-shift work for female workers. According to a survey conducted at 204 textile factories by the Chinese Textile Factory Association, the factories were expecting their production to decrease by 17.33% in the cotton spinning sector and by 15.42% in the textile manufacturing sector following the effectuation of the clause banning nighttime work by female workers (Bi, Gong [璧公], September 1930, pp. 1-3). Such a concern was expressed as follows in the annual newsletter of the Chinese Textile Factory Association:

“The implementation of the Factory Act will inflict a loss on both workers and factory owners. If child workers under 16 and female workers are taken out of nighttime work, the only choice will be to put male workers aged 16 or over in their place. Even they are subject to the 8-hour-a-day system (with the exception of some areas where up to 10 hours' work per day is permitted). Ultimately, night-shift work will have to be stopped completely. The concentration of female workers on

daytime work will cause a reduction in their wages. The new regulation also stipulates the payment of wages for public holidays, including special days of commemoration when factories are closed. The higher financial burden on factory owners will eventually bring undesired results to both factory owners and workers.... Japan had 10 years of preparation before its implementation of the Factory Act. It is not reasonable to try to implement such a radical regulation after just a few months of preparation in a country like China, whose industry remains backward and short of skilled workers. The country should have a period of preparation at least as long as that of Japan's" (Wang Zeyuan [汪澤原], September 1930, p. 2).

Concerning the loss thought likely to be inflicted on factory owners under the Factory Act, it was calculated to be 17% in terms of production if the reduction of daily work hours was from 12 hours to 10 hours (based on a case in 1932), or 10% in terms of production if the reduction was from 10 hours to 9 hours (based on a case in 1930). Based on the foregoing, it was estimated that factories would sustain a production loss of 12.5% with the reduction of daily work hours from 8 hours (Fang Xianting [方顯廷], 1939, p. 78).

Seeing the need to close ranks in response to the Factory Act, factory owners formed the Chinese Industry Management Association [中華工業總聯合會] as its representative body. The body had been established earlier in 1928 in connection with the need to speak out on factory owners position as per the Factory Act. At that time, it was not approved by the government authorities, and could only be launched formally in 1930 with the help of *Hu Hanmin*. By 1933, the number of its members had increased to 130. They held monthly meetings to discuss how to reinforce their position. Its Execution Committee elected Liu Hongsheng as its head representative, along with 17 executive members. (Women xinmuzhong-de zhonghua gongye zonglian hehui [我們心目中的中華工業總聯合會], In *fangzhi zhoukan* [紡織週刊; Textile Weekly] (Vol. 3), August 25 1931, pp. 1081-1090).

The Factory Act was scheduled for implementation on February 1, 1931. In January 1931, the association dispatched its representative and two executive members (i.e. Wang Xiaolai and Yu Qiaqing) to the Nanjing Nationalist Government to ask for some of the most stringent clauses of the Factory Act to be mitigated and for its implementation to be postponed [Cases of Countries' Labor Acts and the Relevant Policies, China Section, Factory Act (Japan Center for Asian Historical Records)].

As a result, the implementation of the Factory Act was postponed until August of the same year. According to the semiannual newsletter of the Chinese Textile Factory Association, the three-member delegation dispatched by the Chinese Industry Management Association asked for the implementation of the Factory Act to be postponed for five years. The Parliament Speaker said that the implementation of the Act would be put off until August 1, 1931 in consideration of the delegation's request but that there could be no further concession from the government (Chan Yu [禪愚], June 1931, p.10).

In February 1931, a session looking at how to improve the livelihood of people and discuss the Factory Act was held in Shanghai under the sponsorship of a Christian association. The attendees decided to conduct the relevant study in a fair way. Thus, a wide-ranging survey was carried out concerning the reality of the country's industry and the applicability of the Factory Act, with Professor Chen Da (陳達) from Tsinghua University heading the survey team under the cooperation of the Business Management Association, the Statistical Office of the Nanjing Government, Central Research Institute, the Social Affairs Bureau of the City of Shanghai, the labor unions, and the association of foreign factory owners. Five surveyors checked more than 200 factories in China, while a German named E. M. Hinder checked over 60 factories in foreign countries. Ten labor union leaders and ten child workers also joined the survey, which was conducted on 51,960 male adult workers, 10,418 female workers, and 11,895 male child workers (Chen Da [陳達], August 1931, p. 424). Later, they submitted a proposal (whose contents

are stated in Table 7) to the government.

<Table 7> Contents of the proposal submitted by a team of surveyors in 1931

Category	Current status	Provision stipulated by the Factory Act	The surveyors recommendation
Records concerning factory operation	Records kept by 149 factories. 79 factories kept no operational records whatsoever	To submit a report semi-annually on 50 items to the relevant government authorities	To submit a report on 13 items annually
Daily no. of work hours	Three hours (from 8:00 to 11:00)	8 hours (but may be extended to 10 hours)	10 hours (for female workers and male child workers)
Nighttime work	Women work from 6:00 pm to 6:00 am	No work for women between 10:00 pm and 6:00 am, or for male child workers between 7:00 pm and 6:00 am	10 hours night-time work for both female workers and male child workers (as during the day) for 3 years
Overtime	No limitations	2 hours a day or 36 hours a month	-
Monthly days off	2.6 days on average (paid holidays at 55 factories/ unpaid holidays at 121 factories)	4 paid days off	2 unpaid days off
Annual holidays	14.4 days on average	8 paid holidays	-
Minimum age of workers	9-14	14	12 (on condition that they pass a doctor's inspection of their physical capability)
No. of work hours for male child workers	Same as those for adults	8 hours a day	10 hours (day/night) for the first 2 years, followed by 8 hours of work per day/2 hours of education
Benefit provided to a woman who gives birth to a baby	16.02 yuan	8 weeks paid holiday	4 weeks paid holiday (from a year later) for those who have worked for more than one year
Factory management councils	None formed at any factory	A discussion session granted other rights	To be held only for discussions and communication between workers and management
Wages	Fixed based on the supply-demand situation of the workforce	Minimum wage to be set based on the local living conditions	The government's committee should fix it based on an on-the-spot survey

Labor contract	81 factories adopted written contracts, while 130 factories did not	Dismissed workers should be paid wages for the period not covered by the notice of dismissal	Dismissed workers will be paid a sum equal to 15 days' wages
Wage payment	Once or twice a month after deducting penalty	Twice a month. The amount deducted shall not exceed a third of monthly wage	-

Source: Chen Da [陳達], August 7 1931, pp. 425-426.

Factory owners in Shanghai asked the government for another postponement of the Factory Act from August 1931 (Gongchangfa shishi jiangzai zhanhuanhu [工廠法實施將再展緩乎]. In *Fangzhi zhoukan* [紡織週刊; Textile Weekly] (Vol. 1), July 3 1931, p.295). The Industry Management Association, another association of factory owners based in Shanghai, asked the Ministry of Industry of the Nationalist Government for the following demands to be considered:

- (1) A five-year period of grace for Articles 12 and 13 of the Factory Act (in which they would decrease the number of female workers).
- (2) (Concerning the Factory Act, Article 15 stipulating one day off per week) Workers to be granted so many days off per year on a flexible basis rather than fixing the number at one day off per week.
- (3) Indefinite postponement of the implementation of the factory management councils-related clause.
- (4) Postponement of the implementation of the clauses concerning the reduction of work hours, factory safety, sanitary facilities and the education of male child workers for three years. (Waishi jingchabao [外事警察報] (No. 110), September 1931, p.90)

In July 1931, Chairman Qian Chengxu [錢承緒] of the Chinese Industry Association went to Beijing and asked Zhang Xueliang [張學良] and the Nanjing Nationalist Government to postpone the implementation of the Factory Act. Before returning home, he discussed the matter with

Industrial Minister Kong Xiangxi [孔祥熙], who said that he would consider postponing the implementation of the clause prohibiting nighttime work by female and male child workers for three years and the clause concerning factory management councils for five years [Cases of Countries' Labor Acts and the Relevant Policies, China Section, Factory Act 1, Japanese Minister in the Republic of China (Japan Center for Asian Historical Records)].

Such a situation is well described in the report made by Director of General Affairs Funatsu Tatsuichiro of the Association of Japanese Textile Businesses in China. In his report sent to Chairman Takei of the association in July 1931, Funatsu Tatsuichiro said, "The purpose of Qian Chengxu's visit to Beijing was to ask Zhang Xueliang to exert his influence on the government led by Chiang Kaishik for the postponement of the implementation of the Factory Act, particularly the clauses concerning: 1) the prohibition of nighttime work by female workers and male child workers; 2) the abolition of work on Sundays, with wages paid; 3) the number of work hours; and 4) the factory management councils. According to Liu Hongsheng [劉鴻生], it appears that the Social Affairs Bureau of the City of Shanghai and the Nanjing Nationalist Government accepted part of the factory owners' request, including limiting workers' say in factory management councils, as a result of mutual discussion" (Cases of Countries' Labor Acts and the Relevant Policies, China Section, Factory Act 2, Japanese Consulate-General in Shanghai (Japan Center for Asian Historical Records)).

The Factory Act could not be implemented as originally intended even in August 1931. Concerning the resistance of factory owners to the Act, the mass media said, "The only merit of China's textile industry is its cheap labor, and it will surely be dealt a severe blow if limitations are imposed on the number of work hours, if nightshift work by female workers and male child workers is prohibited, and if public holidays are given as paid days off" (Osaka jiji shinbo [大阪時事新報], July 25 1931).

On July 29, 1932, the Central Political Commission discussed the

Factory Act at the proposal of the Executive Government with the focus on the Factory Act, specifically Article 13, which prohibited nighttime work by female workers. Attendees expressed their concern that the implementation of the article would result in the replacement of female workers with their male counterparts, which would in turn lead to large-scale unemployment among female workers. In the end, the commission decided to give a two-year period of preparation before the implementation of Article 13, under the responsibility of the Industrial Ministry (Gongchangfa shishi wenti [工廠法實施問題; Problems in Implementing Factory Act]. In *Fangzhi zhouban* [紡織週刊; Textile Weekly] (Vol. 1), August 7 1931, p. 422).

The implementation of the Factory Act had to be postponed again due to the outbreak of the Manchurian Incident (September 1931) and then the Shanghai Incident (January 1932). In November 1932, the Industrial Ministry asked the Executive Government to postpone the implementation of the minimum wage system of the Factory Act in consideration of the difficulty experienced by people during the national emergency (Shanghai shehui jiancha gongchang [滬社會局檢查工廠]. In *Fangzhi shibao* [紡織時報; Textile Newsletter] (No. 941), November 21 1932, p. 1939). Under such circumstances, there were frequent instances of the labor movement and factory owners raising their voice asking for amendments to the Factory Act. Eventually, in December 1932, the amended Factory Act and its Enforcement Ordinance were promulgated, with some mitigation of the clauses concerning the prohibition of night work by male child workers, restriction of the number of work hours for male adult workers, and the payment of wages to female workers taking time off to give birth, as well as the revision of certain contents, such as workers' voting rights at factory management councils and welfare regulations for workers. (Cases of Countries' Labor Acts and the Relevant Policies, China Section, Factory Act 2. Japanese Consulate-General in Tianjin (Japan Center for Asian Historical Records))

It is noteworthy that efforts to protect workers' rights and improve

working conditions were starting to be made, albeit anemically, at factories outside Shanghai. Anyhow, the Factory Act could not be implemented as originally intended, due to factory owners' stiff resistance to the part of Article 13 concerning the prohibition of night work by female workers. The Central Political Commission of the Nationalist Party shared the concern over the possibility of large-scale unemployment among female workers and the problem of finding skilled workers in the event of the implementation of the clause. The Nationalist Government had to postpone the implementation of the Factory Act again by the end of 1933 set for two years' preparation (Ren Shangwu [任尚武], December 18 1933, pp.1526-1527).

#### **IV. Foreign Factory Owners' Response to the Factory Act**

How did Japanese-owned textile factories, which had the highest share among foreign-owned ones, respond to the Nationalist Government's Factory Act? As noted previously, with WW I serving as the momentum, Japan made efforts to turn the Chinese market, which was its export destination, into a capital investment target. As a result, a large number of Japanese textile factories were established in Shanghai, Qingdao and Tianjin. As it happened, among the factors which drove them into China was the implementation of the Factory Act in Japan. At the first International Convention of Workers held in Washington DC in 1919, female workers and male child workers were banned from nighttime work. President Muto Sando of Kaneka Textile, who attended the convention as Japan's representative, had to sign the ban. However, he asked for certain exceptions to be made, notably that the ban on male child workers under 15 and female workers be put off until 1925, and that the ban on male workers under 16 be delayed until later than 1925, claiming that the Japanese industry would be dealt a severe blow, as female workers accounted for a large proportion of the entire textile workforce in Japan (Iijima Manji [飯島幡司], 1949, pp. 217-218).

Later, Japan deferred the enactment and implementation of the Factory Act many times on the pretext of a series of domestic difficulties, including the Great Kanto Earthquake of 1923. However, Japan's status in the international community meant that it could not continue deferring the implementation of the Act. Thus, in 1926, it was arranged that the partially amended Factory Act be implemented in July 1929 after a three-year period of preparation, the key points being that the number of work hours could not exceed 10 hours a day and that female and male child workers could no longer work at night (10:00pm through 5:00am) (Zhu, Shigang [祝士剛], July 1936, p.4).

At that time, Japanese capitalists judged it more advantageous to their factories in China. However, the implementation of a similar law in China would lessen the merit of investing in China conspicuously. In the 1930s, the number of Japanese businesses in China increased rapidly in response to China's raising of import duties. From February to June 1931, more than 50 Japanese businesses began operating in China. In areas close to the Yangtze River, the number of FIEs stood at more than 300, with their total capital amounting to 70 million yen. The textile industry of China was evenly occupied by local and Japanese capitalists (Cases of Countries' Labor Acts and the Relevant Policies, China Section, Factory Act 3, Japanese Consulate-General in Tianjin (Japan Center for Asian Historical Records).

<Table 8> Increase/decrease of foreign (mostly Chinese and Japanese) capital in the textile industry in 1913 and 1931

Year	Number of spindles				Number of spinning machines			
	Chinese capital	Japanese capital	Others	Total	Chinese capital	Japanese capital	Others	Total
1913	484,192	111,936	138,036	823,152	2,016	886	800	4,002
1931	2,453,304	2,135,068	221,336	5,102,796	17,629	15,983	2,691	36,303

Source: Yan, Zhongping [嚴中平], 1957, pp. 368-369.

At that time, FIEs, including Japanese-owned textile factories in the foreign concession, were granted extraterrestrial rights. If the Factory Act

did not apply to FIEs amid the fierce competition between Chinese and Japanese businesses, it would be out of place to apply it only to locally-owned factories. The government could not forcefully impose the Factory Act on FIEs, as it could not sign an agreement with owners who had been granted the extraterrestrial right (Fang Xianting [方顯廷], 1939, p. 102). For such a reason, in January 1931, Director General Pan Gongzhan of the Social Affairs Bureau of the City of Shanghai clearly said to reporters that the Factory Act would apply to both locally-owned and foreign-owned factories in the concessions (Osaka Asai Shimbun [大阪朝日新聞], January 16, 1931).

What mattered was the right to inspect factories in the concession in Shanghai where, as it happened, 23 out of the 28 Chinese-owned textile factories in Shanghai were located. In fact, factories located in the concession accounted for 80-90% of the total number of spindles and about 82% of the total number of workers in the industry. Thus, if it were not possible to carry out inspections of factories in the concession, the Factory Act would serve no purpose (Fang Xianting [方顯廷], November 25, 1933, p. 1450).

The Social Affairs Bureau of the City of Shanghai announced that it would dispatch a team to inspect all the factories in the city under the Factory Inspection Act. The factories were made to assist the inspectors by supplying a list of their workers, in-house regulations, and other documents. They were also instructed to make available 1) a table of overall factory inspection; 2) a table of work hours; 3) a table of wages; 4) a full list of their male child workers; 5) employment contracts; 6) a table of workers welfare; 7) a table for inspection of students; 8) a table for inspection of other matters; 9) the minutes of dialogues with workers representatives; and 10) the minutes of dialogues with workers (Shanghaishehuiju jiancha gongchang [滬社會局檢查工廠], In *Fangzhi shibao* [紡織時報; Textile Newsletter] (No. 918), September 1932, p. 1758).

In connection with the implementation of the Factory Act scheduled for February 1, 1931, officials from the Nationalist Government

(Industrial Ministry) and the City of Shanghai (Social Affairs Bureau) met on January 24, with Director of General Affairs Funatsu Tatsuichiro of the Association of Japanese Textile Businesses in China, Basset of British American Tobacco Plc, Chairman MacNaghten of the Association of the Board of City Councilors, and Liu Hongsheng of China Tabacc Co. to discuss matters relating to the implementation of the Factory Act, including the factories in the concession.

At the meeting, Basset and Funatsu said that it would be premature to implement the Factory Act under the prevailing local economic conditions and that it was not realistic either to reduce the number of work hours or to prohibit female workers and male child workers from working at night. They added that forced implementation of the Factory Act would result in large-scale unemployment, a drop in production, and the closure of factories. The Director General of the Social Affairs Bureau said that the number of work hours would be flexibly operated, i.e. up to 10 hours a day, depending on specific cases, and up to 12 hours in exceptional cases. The representatives of the FIEs stressed again that the Chinese authorities should discuss it with the representatives of foreign countries and with the concession authorities as regards the implementation of the Factory Act in the concession (Cases of Countries' Labor Acts and the Relevant Policies, China Section, Factory Act, (Japan Center for Asian Historical Records)).

Thus, FIEs in the concessions and the consuls of foreign countries held a very dim view of the implementation of the Factory Act. However, they did not take any strong action to defer or stop its implementation, then scheduled for early 1931, apparently because they thought it unlikely that the Act would actually be implemented, given that even local factory owners were opposed to it. Japanese factory owners said, the implementation of the Factory Act will put local capitalists in a very disadvantageous position, while giving a considerable jolt to Japanese owners of textile factories. It is realistically impossible to implement the Factory Act. It was really only a measure taken by the Nationalist

Government to win favor with the public Cases of Countries' Labor Acts and Relevant Policies, China Section, Factory Act, (Japan Center for Asian Historical Records). In early 1931, Japanese newspapers asserted that it would be difficult for the Chinese authorities to implement the Factory Act right away in consideration of the fact that the Labor Union Act implemented earlier had not been implemented as originally intended (Osaka Asahi Shimbun [大阪朝日新聞], January 17, 1931).

As noted in the foregoing, the implementation of the Factory Act was postponed from February 1931 to August of the same year due to stiff resistance from local capitalists. On his way from Shanghai to Nanjing in March 1931, Funatsu Tatsuchiro said to reporters, Japanese textile factories in China are making preparations in connection with the forthcoming implementation of the Factory Act on August 1 (Tokyo Asahi Shimbun [東京朝日新聞]. (1931, March 20)). At that time, Japanese textile factories in China compelled their workers to work for 11-12 hours a day, so the limitation on the number of work hours under the Factory Act would clearly have had an impact on their management.

The Nationalist Government engaged in discussions with foreign consulates and the Bureau of Works, which was in charge of controlling the concessions, keeping in mind that the application of the Factory Act to FIEs and factories in the concessions would be the key to its successful implementation. According to the record of a meeting of foreign consuls held in China on March 10, 1931, the Dutch Consul said that discussions were under way between the Bureau of Works and the Chinese government concerning the application of the Factory Act in the concessions. In a telegram sent to Japanese Foreign Minister Shidehara on May 18, the Japanese Consul in Shanghai reported that the Bureau of Works and the Chinese government had not reached a satisfactory agreement on the limitation of nighttime work for female and male child workers [Cases of Countries' Labor Acts and the Relevant Policies, China Section, Factory Act 2, Japanese Consulate General in Shanghai (Japan Center for Asian Historical Records)]. The difficulty of applying the Factory Act to FIEs in

the concessions provided an excuse for local capitalists to oppose to it. Thus, the implementation of the Factory Act, currently rescheduled for August 1, 1931, had to be put off again.

On July 29, 1931, Funatsu Tatsuchiro said the following with regard to the failure to implement the Factory Act as originally intended: "It appears that the implementation of the Factory Act will be put off. Both local and foreign factory owners have asked for its postponement, as the abrupt implementation of this radical Act will hamper the development of a still immature Chinese industry. I think that the Chinese authorities saw a proper reason in our request." (Osaka Asahi Shimbun [大阪朝日新聞], July 30, 1931).

On August 2, 1931, the Bureau of Works announced a statement to the effect that they agreed with what was intended by the Factory Act but that the limitations on female and male child workers were not matters that could be settled with a law Cases of Countries' Labor Acts and the Relevant Policies, China Section, Factory Act 2, Japanese Consulate General in Shanghai (Japan Center for Asian Historical Records). As it were, the Bureau of Works expressed its de facto opposition to the Factory Act. In its resolution announced on July 31, the Central Political Commission said that the clause banning female and male child workers from working at night would not be implemented for the next two years. The Cabinet Meeting of the government also decided to allow the matter of paid days off to be left to collective bargaining between factory owners and workers.

The implementation of the Factory Act had to be postponed again due to the outbreak of the Manchurian Incident (September 1931) and then the Shanghai Incident (January 1932). In early 1933, the plan of the Social Affairs Bureau of the City of Shanghai to inspect factories in the concessions was met with opposition from the concession authorities Cases of Countries' Labor Acts and the Relevant Policies, China Section, 9, labor laws/regulations concerning factories in the concessions (Japan Center for Asian Historical Records). In response to a local newspaper

article (dated February 1, 1933) concerning the government authorities' scheduled inspection of factories in the concessions, the Bureau of Works said, "We cannot accept the Chinese authorities' inspection of factories in the concessions, to which even the Board of City Councilors is opposed. We reject the plan of the Social Affairs Bureau of the City of Shanghai concerning the inspection of factories in the concessions" [Cases of Countries' Labor Acts and Relevant Policies, China Section, Factory Act 2, Japanese Consulate-General in Shanghai (Japan Center for Asian Historical Records)].

In its report to the home government on March 20, 1933, the Japanese Consulate-General in Shanghai said, "The Bureau of Works has already expressed its opinion that it will not accept the Chinese authorities' inspection of factories in the concession. We will demand that the Chinese authorities allow the Japanese to carry out the inspections. Japanese textile factory owners will express their opinions in the strongest of terms at a meeting of the Federation of Employers. Japan will reject even the Chinese authorities' insistence that FIEs located outside the concessions should receive their inspection" [Cases of Countries' Labor Acts and the Relevant Policies, China Section, Factory Act 2, Japanese Consulate-General in Shanghai (Japan Center for Asian Historical Records)].

On January 18, 1933, the Board of City Councilors decided to submit a bill for amendment to the Concession Regulations, Article 34, concerning factory registration, at the taxpayers' meeting slated for April 19. The amendment was intended to secure a legal basis for the Bureau of Works to exercise the right to inspect factories in the concessions. The existing Concession Regulations, Article 34, stipulated that the permit be obtained from the Bureau of Works for the establishment of various businesses, such as karaoke clubs or theaters, with violators subject to a fine of 100 yuan. The amendment added "factories" to "various businesses." That is, a party intending to establish a factory in a concession had to acquire a permit from the concession authorities, who

in turn would have the right to inspect factories with a view to protecting workers' rights based on issuance of the permit.

At the taxpayers' meeting held on April 19, 1933, a unanimous resolution to grant the Bureau of Works the right to inspect factories was passed. 551 out of the 1,350 attendees at the meeting were Japanese (Cases of Countries' Labor Acts and Relevant Policies, China Section, Factory Act 2, Japanese Consulate-General in Shanghai (Japan Center for Asian Historical Records)). This indicates that the amendment to the Factory Act was very important for Japanese capitalists, who owned the greatest number of FIEs in the concession in Shanghai, and that they played a positive role in the provision of a legal basis for factory inspection by the Bureau of Works alone.

In response, Shanghai Mayor Wu Tiecheng said that the Bureau of Works could never be allowed to exercise such a right, calling it an illegal act, as the right of factory inspection belonged to the Chinese government. On April 27, the City of Shanghai sent a letter of protest to the group of foreign consuls. On May 2, Shanghai Dongbu [上海市黨部; Party the City of Shanghai] sent an instruction that all locally-owned factories in the concessions reject all inspections by the Bureau of Work.

Nonetheless, on May 2, the corps of foreign consuls in Shanghai held a special meeting at the US Consulate and approved the resolution adopted at the taxpayers' meeting by which the factory inspection right was granted to the Bureau of Works. They also decided to send a letter of refutation in response to Shanghai Mayor Wu Tiecheng's letter of protest dated April 27 (Geumyohoe pamphlet [金曜會パンフレシ] (No. 96), May 18, 1933).

At that time, police power in the concessions was in the hands of the Bureau of Work. Thus, the instruction of the City of Shanghai to reject inspections conducted by the Bureau of Works in locally-owned factories in the concessions was difficult to comply with.

In the ensuing period, the Nationalist Government continued to

make efforts to implement the Factory Act in the concessions. On September 25, 1934, the Japanese Consulate in Shanghai sent a report to the home government claiming that the Nationalist Government had submitted a report on poor working conditions at factories in the concessions to the International Labor Convention, and that the concession authorities granted with the extraterrestrial right were adamantly opposed to the exercise of sovereignty in the form of inspection by Chinese government inspectors [Cases of Countries' Labor Acts and the Relevant Policies, China Section, Factory Act 2, Japanese Consulate-General in Shanghai (Japan Center for Asian Historical Records)].

Public opinion in China pointed out that the first step that ought to be taken to develop the Chinese economy was the abolition of the privileges given to factories in the concessions. The Textile Weekly asserted that the abolition of the unequal treaties should precede the implementation of the Factory Act, and that unless consular jurisdiction was taken back the Factory Act could not be applied to FIEs in the country or to locally-owned factories in the concessions (Ren Shangwu [任尚武], December 1933, p. 1528).

A letter sent by Japanese Foreign Minister Hiroda to Japanese Minister to China Ariyoshi Akira in 1935 advised the latter to keep rejecting the Chinese request that Japanese factories in China be subject to the Factory Act of China [Cases of Countries' Labor Acts and the Relevant Policies, China Section, Factory Act 2, Japanese Consulate-General in Shanghai (Japan Center for Asian Historical Records)]. This shows that the resistance of Japanese businesses in China to the implementation of the Factory Act conformed with their home government's position.

## V. Characteristics and Historic Significance of the Factory Act

In its first National Convention of Delegations held in 1924, the Nationalist Government passed the Labor Law, which had been designed to protect workers' rights, help improve their livelihood, and develop labor unions. The key contents of the Labor Law were as follows:

- (1) Imposition of an 8-hour-a-day working week (maximum of 10 hours a day).
- (2) Establishment of minimum wage system.
- (3) No male workers under 14 to be employed. 60 days' paid maternity leave to be provided to female workers upon giving birth.
- (4) Workers to be guaranteed freedom of publication, assembly and strike.
- (5) Public holidays to be given as paid days off (South Manchuria Railways Corporation [滿鐵總務部編], 1934, pp. 181-182).

After Sun Yatsen was inaugurated as the President of the Republic of China in November 1924, the Nationalist Party announced the 21-item labor union-related platform, including the following:

- (1) Labor unions and employers' organizations shall have equal status.
- (2) Labor unions shall have the freedom of expression and publication, and the right to run educational sessions for their members.
- (3) Labor unions shall be guaranteed the right to represent workers in negotiations with the employer.
- (4) In the event of a dispute between workers and the employer, the labor union shall act as a mediator.
- (5) A labor union may call a strike based on the majority opinion of its members.
- (6) A labor union may ask the employer to improve the work hours,

working conditions or the welfare of the workers (South Manchuria Railways Corporation [滿鐵總務部編], 1934, pp. 181-182).

At the second National Convention of Delegations held in 1926, the Nationalist Party passed a resolution to enhance the benefits for workers, including the following:

- (1) Imposition of an 8-hour-a-day work system (maximum of 10 hours per day).
- (2) Establishment of a minimum wage system.
- (3) No employment of male workers under 14; protection of female workers (South Manchuria Railways Corporation [滿鐵總務部編], 1934, pp. 181-182).

In August 1926, the Nationalist Government launched the 5-member (i.e. one government representative, two workers' representatives and two employers' representatives) labor-management arbitration committee. After designating Nanjing as the capital in August 1927, the Nanjing Nationalist Government launched the Labor Affairs Bureau (Director General: Ma Chaojun [馬超俊]). Its major assignments consisted in improving workers' livelihoods, educating and developing industry and farming, helping the unemployed, and organizing the labor unions.

As noted in the foregoing, the Nationalist Government's labor policy was a progressive one that considered workers' rights positively, including provision of freedom of assembly and association. Following the Nationalist Government's termination of cooperation with the Communist Party in April 1927, however, the direction of its labor policy was readjusted. Some people expressed such opinions as: "The labor movement should not stand in the way of industrial development." Others countered them by saying, "Industrial development should not hamper workers' interests" (South Manchuria Railways Corporation [滿鐵總務部編], 1934, pp. 181-182). Labor Union Innovation Committees

[工會改組委員會] were launched in the cities to block the possibility of the Communist Party manipulating labor unions through either the labor movement, the popular movement or the farmers' movement. The Ministries of Workers, Farmers, Merchants, Youth and Women were abolished. The Grassroots Training Committee was organized to control the popular movement. Simultaneously, the government formulated a series of laws and measures designed to protect workers' rights, e.g. the Factory Act, the Labor Union Act, and the Labor Dispute Resolution Act, as well as workers' insurance and education.

Against such a background, the Nanjing Nationalist Government promulgated the Factory Act on December 30, 1929 following the Northern Expedition of 1928. On December 16, 1930, it promulgated the Enactment Ordinance of the Factory Act, with its implementation scheduled for February 1, 1931. In this way, with the establishment of the Nanjing Nationalist Government led by Chiang Kaishek, the direction of the country's labor policy was changed. In the past, only workers' interests had been stressed, but now the position was altered to take into consideration factory owners' interests as well. Nonetheless, the Factory Act promulgated by the government contained clauses aimed at positively protecting workers' rights and improving the working environment. The direction and the nature of the Nationalist Government's labor policy are clearly indicated in the labor issue-related resolutions (see the following), passed at the National Industry Meeting in November 1931.

- (1) In the case of a labor dispute, both the workers and the employer shall clearly keep in mind that they cannot survive without factory production.
- (2) The same number of people representing both the workers and the employer shall sign a labor-management contract.
- (3) A labor-management contract shall contain stipulations concerning the number of work hours, wages, and bonuses.

- (4) Factory owners shall provide educational sessions for their workers.
- (5) Factory owners shall provide various insurance benefits to their workers.
- (6) Factory owners shall provide dormitories for workers. (South Manchuria Railways Corporation [滿鐵總務部編], 1934, p. 186)

The Factory Act deserves praise as part of the Nationalist Government's efforts to institutionalize the protection of workers during the country's march towards modernization and the construction of a nation state. In his report, a British citizen who conducted a survey of the Chinese economy in November 1930 stated, "The application of the new Factory Act is being expanded to all factories employing 30 or more workers. It emphasizes the protection of female and male child workers in particular. The Factory Act contains some positively innovative ideas concerning work hours, working conditions, welfare facilities, safety and health" (Chan Yu [禪愚], June, 1931, p. 10)

Even the mass media of Japan, where the Factory Act had been adopted ahead of China, had the following to say about China's Factory Act: "The Act is more progressive than its counterpart in Japan in a way, as it bans young workers "both males and females" under the age of 14 from employment. It also prohibits work for 5 successive hours without a break, while stipulating half an hour's break per day and one day off per week" (Tokyo Nichinichi Shimbun [東京日日新聞], February 3, 1931).

The Factory Act as promulgated by the Nationalist Government was significant in that it legalized the improvement of working conditions and the protection of workers' rights. However, it clearly revealed the intention to bring both workers and the labor movement under the government's control and to block the possibility of the labor movement becoming a political issue under the Communist Party's influence, as revealed by the May 30, 1925 Movement.

The Textile Weekly said, "The clauses of the Factory Act contain the spirit of labor-management cooperation. The Factory Act was made

for the protection of workers, but many of its clauses nevertheless appear to have been formulated in the interest of capitalists. Article 12, for example, allows factory owners to take effective countermeasures against workers who obstruct factory operations with violence or damage goods or machinery, or who incite strikes through threats and intimidation or something like that” (Gongchangfa shishi wenti [工廠法實施問題; Problems in Implementing Factory Act], In *Fangzhi zhoukan* [紡織週刊; Textile Weekly] (Vol. 1), September 18, 1931, p. 584). Act 31 stipulated, “A factory owner may unilaterally terminate the employment contract with a worker who violates the factory regulations or is absent from work for three days on end without a justifiable reason.” Articles 73 and 74 stipulated, “A worker who obstructs factory operations with violence shall be subject to the most stringent punishment under the Penal Code,” and, “A worker who forces others to join in a strike through violence may be dismissed immediately and transferred to the government authorities for legal punishment.” Such articles appear to have been intended to block the kind of arbitrary political strikes associated with non-economic reasons, including incitement by the Communist Party ([支那工廠法及施行條例の改正] Amendment to the Chinese Factory Act and its Enforcement Ordinance], In *Monthly Newsletter of the Japanese Textile Business Association* [大日本紡績聯合會月報] (No. 486), February, 1933, p. 24 and p. 28).

The Chinese Industry Association of capitalists expressed concern about the possibility of interference in management by factory management councils equally composed of representatives of factory owners and workers. Zhu Maocheng [朱懋澄], who drafted the Factory Act as the Chairman of the Labor-Management Committee of the Ministry of Home Affairs from 1928 capitalists, said, “We should clearly remember that factory management councils were formed as bodies for dialogue between management and workers. That is, their crucial aim is to improve labor-management relations and settle labor disputes” (Zhu, Maocheng [朱懋澄], May 1, 1931, pp. 75-76).

Labor union leaders expressed their discontent about certain clauses of the Factory Act which appeared to have been designed to hamper the development of labor unions. They said, “The Labor Law is not clear about whether a strike is legal or not, which means that the legality of a strike would depend solely on the judgment of the authorities” (South Manchuria Railways Corporation [滿鐵總務部編], 1934, p. 201)

Concerning the Nationalist Government’s Factory Act, the Chinese Communist Party said, “First of all, the Factory Act deprives workers of freedom of assembly and association. It also deprives them of the freedom to strike by stipulating that those not employed in a specific sector should not be permitted to join a relevant labor union. It prohibits strike action, thus trying to turn labor unions into capitalist toys” (Zhongguo gongchandang zhongyang xuanchuanbu [中國共產黨中央宣傳部; Central PR Section of the Chinese Communist Party], March 12, 1931, pp. 1-2). This indicates that the Chinese Communist Party was concerned about the possibility that its positive involvement in the labor movement might be hindered by the implementation of the Factory Act, as its members fell under the category of those not employed in a specific sector.

The Communist Party excoriated the Factory Act, declaring that it had been designed to protect the interests of capitalists and to exploit the workers. On April 24, 1931, the Communist Party made the following announcement about the Factory Act: “The Factory Act stipulates an 8-hour-day working week, but allows its extension to 10 hours per day in exceptional cases and to 12 hours in the event of internal strife or acts of God. Moreover, small factories depending on manual labor are not covered by the Factory Act. This shows that the Factory Act is full of flowery words intended to cheat the workers” (Cases of Countries’ Labor Acts and the Relevant Policies, China Section, 1, Factory Act (Japan Center for Asian Historical Records)).

The Communist Party formulated its own Labor Bill in which it stressed the importance of the protection of workers. The first All-China Congress of Soviets, held in May 1930, passed the Workers Protection

Act, which comprised 8 chapters and 44 articles. Its major clauses include: “All production units, private or state-run, are subject to this Act.... The number of work hours shall not exceed 8 hours a day. The number of daily work hours for workers engaged in nighttime work shall be one hour less than the usual number of work hours..... Male child and female workers shall be prohibited from performing heavy physical work.... All workers under the age of 18 shall be banned from nighttime work” [Cases of Countries’ Labor Acts and Relevant Policies, China Section, 16, The Chinese Soviet Republic (Japan Center for Asian Historical Records)]. The bill was passed at the Session of the Chinese Communist Party Leaders held on December 1931.

Granted, the Factory Act had significance and a certain historical impact but, as noted in the foregoing, the Nationalist Government’s Factory Act was not implemented as originally intended due to the stiff resistance put up by local and foreign factory owners.

Immediately after the September 18, 1931 Incident, the Chinese engaged in a strong anti-Japan/Japanese currency movement throughout the country. Under such circumstances, in August 1932, the mass media in Shanghai reported that the Factory Act would be implemented even in the concession in Shanghai, and that the Bureau of Works would implement it in the name of workers’ safety, health and welfare ([滬租界將行工廠法]. In *Fangzhi shibao* [紡織時報; Textile Newsletter] (No. 917), August 29, 1932, p. 1749). The Bureau of Works still did not accept the Nationalist Government’s Labor Law or the inspection of factories in the concessions by Chinese inspectors, but the Nationalist Government’s Factory Act served as an occasion for commencement of the legalization of measures for the protection of workers in factories in the concessions. According to a report made by the Japanese Consul General in Shanghai to the Japanese Foreign Ministry on March 19, 1935 concerning a series of measures taken by the Bureau of Works to improve the working environment in factories, it appears that the Bureau of Works had started taking a series of positive measures regarding the

prohibition of discharging hazardous materials into sewers, the periodic inspection of factory buildings for safety, fire and other risks, precautions against hazardous materials, and the improvement of working conditions (Cases of Countries' Labor Acts and the Relevant Policies, China Section, Factory Act 2, Japanese Consulate-General in Shanghai (Japan Center for Asian Historical Records)).

In spite of the failure to implement the Factory Act as originally intended, measures began to be taken in Shanghai and other areas to protect workers apparently under its influence. It should be noted that those clauses of the Factory Act which limited the number of work hours did not result in a drop in overall productivity, as factory owners had feared. Such a fact was verified by the management results of Baocheng Textile in Tianjin in the period following the adoption of policies for the protection of workers, including the 8-hour-a-day working week. The said textile businesses made public the following findings: 1) a 4-5% increase in productivity; 2) a rise in wages at a rate similar to that of the past; 3) less frequent confrontations between workers and factory owners; 4) workers expression of satisfaction with their ability to take care of household chores with the adoption of the 8-hour-a-day work system; and 5) the emergence of opportunities for workers to attend educational sessions at night (South Manchuria Railways Corporation [滿鐵總務部編], 1934, p. 205). The foregoing revealed the possibility that the implementation of the Labor Law might work in favor of the development of factory management and the country's overall industry-economy.

Looking at the relevant cases in Shanghai, in 1932, the number of labor-management disputes stood at 253 involving 1,452 factories, which indicated a dramatic decrease from 338 disputes involving 4,237 factories just one year before (Shanghaishi Shehuiju [上海市社會局; Social Affairs Bureau of the City of Shanghai], 1934, p. 53). Although the Nationalist Government's Factory Act could not be implemented in the concessions, it did provide the momentum for the enactment and implementation, albeit in a rudimentary manner, of the Act in other areas

of the country and even in some concessions. Thus, it should be noted that the Factory Act went a long way towards improving poor working conditions and protecting workers' rights.

## VI. Conclusion

The Factory Act formulated by the Nanjing Nationalist Government of China inherited the legacy of policy continuity bequeathed by the Beijing Government. It was a measure corresponding to demands in the post-WW I period for the protection of workers amid the overall development of Chinese industries. Certain clauses—such as the limitation on the number of work hours, the granting of periodic days off, and the protection of female and male child workers—appear to have contained more positive measures than the corresponding measures adopted in Japan.

The poor working environment, including low wages, long hours of heavy physical work and low production efficiency, led to the emergence of the labor movement and established a pretext for the Communist Party-led labor movement. The Nanjing Nationalist Government tried to control the labor movement legally in an effort to block labor disputes incited by outside factions, including the Communist Party. It was thus obliged to formulate and implement a policy designed to enhance the welfare of workers and protect their rights. The Factory Act, then, was made against such a background.

The Factory Act clearly considered the interests of capitalists, while protecting the rights of workers. It was the result of efforts to have the interests of both workers and capitalists reflected in a balanced way amid the changes in economic conditions that followed the eruption of the Great Depression in 1929. The Nationalist Government's Factory Act was outdone by the measures taken by the Communist Party in terms of the level of protection sought for workers, but that does not constitute solid grounds for underestimating it. Its balanced reflection of the

interests of capitalists and the need to enhance productivity in factories based on the reality of the country's industries appears to have been significant, as workers could share in the result.

Capitalists were opposed to the Factory Act because they feared that any rise in wages would result in an increase in management expenses and a drop in productivity. However, the Act was also intended to enhance productivity through the mitigation of labor-management confrontations, and there were cases in which that intention was indeed realized.

FIEs based in the concessions—notably Japanese factory owners, who had the greatest influence in the concessions—objected strongly to the Factory Act. The community of foreign consulates and the concession authorities reflected the interests of the FIEs in the amendment to the Concession Agreement, while refusing to apply the Factory Act to them. Even more important was the fact that this opposition to the application of the Factory Act to FIEs established a crucial pretext for objecting to its implementation on the part of locally-owned factories in the concessions. Thus, the process of repeated postponement and frustration concerning the implementation of the Factory Act led the Chinese to realize that the country's modernization should be preceded by political independence and the establishment of firm sovereignty.

Nevertheless, it is necessary to note the fact that a similar measure for the protection of workers was taken by the concession authorities concerning factories in Shanghai, which occupied a crucial share of the Chinese economy, although it did not take the form of direct administrative power on the part of the Nationalist Government or the application of specific laws. Not only that, in areas outside the concessions, the protection of workers' rights and the improvement of the working environment had by now become a matter of course. Thus, the Factory Act contributed to improving the working environment for Chinese workers, albeit gradually, which in turn laid the groundwork for both the protection of workers and the country's overall economic development.

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