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# The Employment of People with Mental Disabilities in Japan: The Current Situation and Future Prospects

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Support for people with mental disabilities in Japan was traditionally provided in the form of medical care and was strongly focused on protecting society from crime. As a result, Japan has been suffered from a bad reputation of the longest period of hospitalization and the highest number of beds for patients with mental disabilities in the world. One of the negative side effects of this fact involves the problem of human right issues such that the patient's initiative in the treatment has been completely ignored by the doctor-oriented medical practice. Welfare and employment support measures for people with mental disabilities have been developed since the 1980s, but the traditional psychiatric care models have had a pervasive influence on such measures. As people with mental disabilities were considered to require medical care rather than support for social rehabilitation, there was a delay in introducing employment support initiatives, which were first introduced with the enforcement of the Act on Employment Promotion etc. of Persons with Disabilities and the Mental Health Act in 1988. From that time on, employment support initiatives for people with mental disabilities were developed at a rapid pace, and with the ratification of the ILO Convention No. 159 in 1992, became almost equal with the support provided to people with physical and intellectual disabilities, with the only exception that people with mental disabilities were not yet included in the employment quota system defining the ratio of people with disabilities that companies are obliged to employ. In 2006, people with mental disabilities were included in the employment quota system and from 2018 they are scheduled to have terms that are equal with those of people with physical and intellectual disabilities. The recent years have seen increasing diversity in how mental disabilities are perceived and people with severe mental disabilities are also being offered employment support. Companies are also obliged to further develop employment opportunities for people with disabilities, and in the future it will be necessary for specialists from employment agencies to actively support companies in developing such initiatives. Moreover, as the perceptions of mental disabilities become increasingly more diverse, the diagnostic techniques of psychiatric institutions will need to be improved.

## **I. Introduction**

During the regular session of the Diet in 2013, the Act on Employment Promotion etc. of Persons with Disabilities was amended. The major pillars of this amendment were aspects such as including people with mental disabilities when calculating the legal employment quota for people with disabilities—the ratio of people with disabilities that companies are required to employ within their workforce—prohibiting companies from discriminatory treatment on the basis of disability, and imposing on companies the obligation to provide reasonable accommodation for employees with mental disabilities. Prior to the amendment,

a government ordinance was issued raising the legal employment quota for people with disabilities from 1.8% to 2.0%, effective as of April 2013. This paper will address the effects of such developments on the state of employment of people with mental disabilities, examining the current situation and possible future prospects, while also taking into account how support for people with mental disabilities was developed in Japan in the past.

## **II. The Historical Development of Support for People with Mental Disabilities**

In 1900, the Japanese government enacted the Mental Patients' Custody Act. Since then, the treatment of people with mental disabilities in Japan has been overshadowed by negative aspects such as medical care aimed at protecting society, hospitalization-centered care, the establishment of largely private—as opposed to public—psychiatric hospitals, the long-term hospitalization of patients, and the prolonged hospitalization of patients with stable conditions due to the lack of support and acceptance for them to live in the community, known as “social hospitalization.” At present, earnest efforts are being made to break away from such characteristics, but the constraints imposed by the fact that Japan's psychiatric hospitals are largely private are hampering efforts to release more patients from hospital and decrease the number of hospital beds. It could be suggested that Japan is now paying the price for the fact that the national government did not take the responsibility for establishing and developing psychiatric hospitals.

Moreover, because people with mental disabilities were regarded as “invalids,” rather than as “people with disabilities,” they were largely the subject of measures focused on medical care, and were not recognized as requiring welfare or employment support. This still has a significant influence on measures aimed at people with mental disabilities today. It can be said that current support measures for people with mental disabilities are also greatly influenced by complications arising from the fact that such psychiatric care included treatment which violated patients' human rights and did not recognize the importance of their independence.

The aforementioned Mental Patients' Custody Act allowed for the establishment of the “Home Custody System,” a system allowing people appointed with custody over a person with mental disabilities, such as a family member or relative with potentially no experience of providing medical care, to privately confine the person in isolation, submit notification to that effect to the police, and gain permission from the local government, with the aim of protecting the person with mental disabilities and preventing potential harm to society. In other words, it can be said that under this system people with mental disabilities were not being provided with medical care and were subjected to pitiful treatment. In a report of a survey of the state of home custody, Shuzo Kure, a professor of Tokyo Imperial University (currently the University of Tokyo), stated that the 100,000 or so psychiatric patients in Japan suffered not only the misfortune of their condition, but the double misfortune of being born in Japan.

In 1950, 50 years after the establishment of the Home Custody System for psychiatric patients, the Mental Hygiene Act was promulgated. As a result, the Home Custody System was abolished and the focus was placed on medical care provided in psychiatric hospitals. However, this “medical care” consisted of enforced hospitalization and isolation of the patient, which was not aimed at preparing them to return to everyday lives in the community, but at hospitalizing them in order to protect society. Patients were simply hospitalized as opposed to being treated and there were consequently very few cases in which patients were able to be discharged from hospital.

In 1965, the Mental Hygiene Act was amended with the aim of breaking away from such a system and moving in the direction of rehabilitation and community care. However, while the amendments were being developed, an incident occurred in which a young man suffering from a mental disorder stabbed the then United States Ambassador to Japan, Edwin O. Reischauer, on the street outside the United States Embassy. This incident, which is known as the “Reischauer Incident,” led to a strong public opinion demanding for people with mental disabilities who pose a danger not to be allowed in society. As a result, the amendments to the act, which were aimed at developing community care by community support organizations led by public health centers, were curtailed and hospitalization-centered measures were continued.

As measures for people with mental disabilities continued to be focused on hospitalization, measures for increasing the number of psychiatric hospitals and hospital beds were developed, giving Japan the largest number of psychiatric hospital beds of any country in the world, with 200,000 beds in 1966, 280,000 beds in 1975, and 340,000 beds in 1985. At the same time, a large number of private hospitals were established, in part due to the Mental Hospitals Act, enacted in 1919, which allowed private hospitals to provide care to publicly-supported patients, by being designated as “substitute hospitals” to compensate for the shortage of public psychiatric hospitals. The fact that private hospitals account for as much as 80% of all psychiatric hospitals in Japan is perpetuating long-term hospitalization and “social hospitalization,” and impeding attempts to decrease the number of hospital beds.

In 2005, patients admitted to psychiatric care facilities in Japan were hospitalized for an average of 327 days. Comparing this with figures for other countries—6.9 days in the United States, 57.9 days in the United Kingdom, 22 days in Germany, 13.3 days in Italy, and 6.5 days in France (OECD Health Data 2008)—demonstrates the significant length of hospitalization in Japan. Incidentally, the average number of days of hospitalization in Japan is decreasing, with an average of 292 days in 2012.

Long-term hospitalization leads to an increase in the number of psychiatric hospital beds. The number of psychiatric hospital beds per 10,000 members of the population in Japan is 28, which is conspicuously more than the figures for other countries: 3 in the United States and Canada, 1 in Italy, 7 in the United Kingdom, and 10 in France (OECD Health Data 2007; data for the United States and Canada is from 2004, data for all other countries is from 2005). This is largely influenced by the fact that while in other countries psychiatric

hospitals are largely public and measures have been made to decrease the number of beds and actively develop community care, in Japan it is difficult to develop measures to decrease the number of beds due to the fact that the majority of psychiatric hospitals are private.

As the Medical Care Act allows psychiatric facilities to be staffed by small teams of nursing staff, many facilities assigned only a limited number of staff. The relatively low numbers of staff combined with ongoing long-term hospitalization of patients for the purpose of keeping them confined led to conspicuous trends of treatment characterized by supervising and controlling patients and the use of force. A succession of scandals involving psychiatric hospitals shocked society by revealing the conditions in such facilities. For example, the Utsunomiya Hospital Incident, which came to light in 1984, was a tragic case involving medical practice by unqualified people, violence inflicted on patients by medical care professionals, and patients being allowed to die due to violation of their human rights.

The first movements toward the provision of community care were initiated by the Mental Health Act, which was enforced in 1988 as an amendment of the Mental Hygiene Act. This legal revision was focused on preventing incidents such as the Utsunomiya Hospital Incident and other cases of human rights violation in psychiatric hospitals, and on developing community care. The act stipulated the development of social rehabilitation, the introduction of welfare for people with mental disabilities, and appropriate medical care and protection taking into account the patient's human rights. Facilities providing daily lifestyle training, daily-living with support, and employment training were stipulated by law as facilities aimed at preparing patients to be discharged and return to everyday society. However, as financial support was limited, many of these facilities were established by corporations operating psychiatric hospitals, and eventually became welfare support as an extension of the conventional psychiatric medical care model.

With the enactment of the Basic Act for Persons with Disabilities in 1993, people with mental disabilities were specified as "people with disabilities" for the first time. The national government was obliged to formulate a program for people with disabilities and the decision was made to formulate a welfare program for people with mental disabilities. Moreover, in 1995 the Mental Health Act was amended to become the Act on Mental Health and Welfare for People with Mental Disabilities (hereafter, the "Mental Health and Welfare Act") and initiatives were introduced to develop support to allow people with mental disabilities to be discharged from hospital and return to everyday society.

In the same year, the "New Long-Term Program for People with Disabilities" and the "Plan for People with Disabilities" were formulated, including for the first time a target for establishing a number of social rehabilitation facilities for people with mental disabilities. The initial program and plan were succeeded by the "Basic Program for People with Disabilities" and the "New Plan for People with Disabilities," formulated in 2003. While they clearly defined a plan for discharging 72,000 of the 330,000 socially-hospitalized patients over a period of ten years, and for shifting from hospitalization-centered measures to

measures focused on allowing people with mental disabilities to live in the community, the number of people discharged from hospital did not increase.

In 2004, the Ministry of Health, Labour and Welfare released their “Vision for Reforming Mental Health Care and Welfare,” specifying targets for decreasing the number of hospital beds and the restructuring of social rehabilitation facilities. Moreover, “Regarding Future Health and Welfare Measures for People with Disabilities (Proposal of a Grand Design for Reform)” was published, and led to the 2006 Act on Services and Supports for People with Disabilities and its successor, the Act on Comprehensive Support for People with Disabilities. Currently, welfare measures for people with mental disabilities are equal with those for people with physical or intellectual disabilities.

However, little progress has been made on the pending issue of promoting the discharge of patients in long-term hospitalization. While the national government set a target in the “Basic Program for People with Disabilities” and implemented various different initiatives to promote the discharge of more patients, the situation has not improved. An increasing number of the patients in long-term hospitalization are now in their old age, and such patients are currently dealt with as part of measures for elderly people.

The majority of people with mental disabilities who are aged 50 or under are hospitalized for short periods or receive treatment as outpatients, and many people with mental disabilities are now living in the community. According to the estimated proportion of patients discharged within one year of being admitted to a psychiatric hospital in June 2010, 58.1% of patients are discharged within a period of three months, and 87.6% of patients are discharged within one year (Ministry of Health, Labour and Welfare). Moreover, according to a patient survey in 2011, hospitalized patients account for approximately 10% of the 3,201,000 patients being treated for mental disorders in Japan.

New drugs for the treatment of mental disorders are constantly being developed, and are beginning to be effective in treating people with mental disabilities. Frequent hospitalization has become a new issue and there are an increasing number of people with mental disabilities who require counselling and support to avoid this, as well a place to be active during the day, and support for living in the community, such as employment support. Mental disorders are also becoming more diverse, and there are now people with severe mental disabilities living in the community. Today, the scope of the term “people with mental disabilities” includes not only people with mental disorders but also people with developmental disabilities and higher cerebral dysfunction. In the future, it will be necessary to provide support which responds to the increasingly diverse types of mental disorders and levels of severity of disorder.

### **III. The Historical Development of Employment Support for People with Mental Disabilities**

#### **1. The Period without Employment Support (Up to the 1970s)**

In 1955, the International Labour Organization (ILO) adopted the Recommendation concerning Vocational Rehabilitation of People with Disabilities (Recommendation No. 99). The recommendation classified people requiring vocational rehabilitation as people “whose prospects of securing and retaining suitable employment are substantially reduced as a result of physical or mental impairment,” thereby also specifying people with mental disabilities as being entitled to such rehabilitation.

However, in Japan, the term “people with disabilities” was interpreted as “people with *physical* disabilities” and a system aimed at providing employment support for people with mental disabilities was not adopted. This was one of the major factors which delayed the introduction of measures for people with mental disabilities and other categories of people with disabilities who do not belong in the category “people with physical disabilities.”

In Japan, mental disabilities were perceived as “illnesses,” and people with mental disabilities were considered to require medical care as opposed to support for employment.

#### **2. The Period of Preparation for Employment Support (1980–1987)**

1981 was proclaimed by the United Nations as the International Year of People with Disabilities, and a glimmer of hope began to appear regarding employment support measures for people with mental disabilities. In 1982, the Japanese government finalized the “Long-Term Program regarding Measures for People with Disabilities,” under which the consideration of employment support for people with mental disabilities was stipulated for the first time.

In 1986, the former Ministry of Labour established the first system for employment measures for people with mental disabilities, known as the “Workplace Adjustment Training System.” Under this system, companies would be entrusted with providing occupational training to a person with disabilities for a period of six months, with the aim that the company would employ that person at the end of the six-month period. The system was simply applied to people with mental disabilities in addition to being applied to the other categories of people with disabilities, but it meant that, for the first time, people with mental disabilities were able to receive support from the enquiries services for people with disabilities offered by Public Employment Security Offices—public agencies, commonly referred to in Japan as “Hello Work” offices, which offer employment placement and consultation services.

Outside of Japan, in 1983 the ILO adopted the Convention concerning Vocational Rehabilitation and Employment (People with Disabilities), referred to as “Convention No. 159.” Convention No. 159 stipulates that it applies to “all categories of people with disabilities.” The international trend was to implement the same vocational rehabilitation measures

for people with mental disabilities as those implemented for other categories of people with disabilities.

### 3. The Dawn of Employment Support (1988)

In 1988, the chance occurrence that both the former Ministry of Labour and the former Ministry of Welfare amended laws in the same year marked the formal introduction and development of employment support measures for people with mental disabilities.

In that year, the former Ministry of Labour amended the Employment Promotion Act for Persons with Physical Disabilities, and put into effect the Act on Employment Promotion etc. of Persons with Disabilities (hereafter, the “Employment Promotion Act for Persons with Disabilities”). The Employment Promotion Act for Persons with Disabilities defines the people with disabilities to whom it applies as “people who are considerably restricted in their working life or have significant difficulty leading a working life in the long term due to a physical or mental disability.” This was the first time that people with mental disabilities were legally stipulated as being eligible for employment measures.

As a result of the enforcement of the Employment Promotion Act for Persons with Disabilities, people with mental disabilities were formally recognized as people with disabilities. They became able to officially register with the enquiries service of a Public Employment Security Office as a person seeking employment under the status of a person with disabilities, and to receive employment counselling and assistance in finding employment opportunities.

In the same year, the former Ministry of Welfare amended the Mental Hygiene Act and introduced the Mental Health Act. One of the major pillars of the Mental Health Act was aiming to ensure that more people with mental disabilities would be discharged from hospital and return to everyday life in society, and the act stipulated the provision of social rehabilitation facilities for people with mental disabilities. This also included the establishment of vocational training centers, which allowed employment support for people with mental disabilities to progress significantly, by providing them with training in work activities and preparing them for employment.

### 4. The Development of Employment Support (1989–2005)

In 1992, Japan ratified the ILO Convention No. 159. This led to significant developments in the domestic system in Japan. In the same year, the Employment Promotion Act for Persons with Disabilities was partially amended to include people with mental disabilities in the subsidy system based on the “Levy System for Employing People with Physical Disabilities,” under which companies who fail to meet the legal employment quota pay a levy for each person below the quota, which is then distributed to companies who meet the quota. Also in the same year, people with mental disabilities were included in the “Subsidy for Employment Development of Designated Job Seekers,” allowing companies to receive partial subsidies for the wages paid to the people with mental disabilities they employed.

With this development, the only difference remaining between the measures for people with mental disabilities and those for people with physical and intellectual disabilities was the fact that people with mental disabilities were not included in the employment quota system for people with disabilities.

Following Japan's ratification of the ILO Convention No. 159, employment support measures for people with mental disabilities became significantly more widespread. In 1987, regional vocational centers for people with disabilities operated and established in each prefecture by the Japan Organization for Employment of the Elderly, Persons with Disabilities and Job Seekers (JEED) began to offer training to assist preparation for employment. This was followed, in 1992, by active support for people with mental disabilities through a succession of projects in which advisors provided individual training in the workplace to prepare people with mental disabilities for employment. In 2002, these projects incorporating guidance offered by advisors in the workplace were developed into the "Job Coaching Project," a project which is currently still in place and achieving significant results in employment support for people with mental disabilities.

In addition to these developments, Public Employment Security Offices were also gradually beginning to improve their capacity for supporting people with mental disabilities, appointing employment counsellors for people with mental disabilities in 1993. These roles were later developed in 2011 into roles for specialist advisors, known as "comprehensive-supporters," who provide counselling and a range of support for people with mental disabilities seeking employment, on the basis of careful consideration of the person's mental condition. They also conduct initiatives aimed at raising awareness and promoting understanding among business holders regarding the employment of people with mental disabilities.

In April 1998, the scope of the definition of people with mental disabilities within employment for people with disabilities was expanded to include "people who have been issued a 'Mental Disability Passbook'" in addition to the original categories, which included people with schizophrenia, mood disorders, and epilepsy. The former Ministry of Labor also established a review committee in 1999 to investigate the possibility of including people with mental disabilities in the employment quota system for people with disabilities. In order to prepare for the inclusion of people with mental disabilities in the employment quota system, it was necessary to improve the environment for the promotion of employment of people with mental disabilities and accumulate know-how regarding the employment of people with mental disabilities by companies. This may have influenced the fact that this year saw an increase in employment support measures which were aimed at, or which benefited, people with mental disabilities.

## 5. The New Employment Support Period (2006–Present)

2006 saw the dawn of a new period in employment support. The Employment Promotion Act for Persons with Disabilities was amended in order to include people with men-



tal disabilities in the employment quota system for people with disabilities from April onwards. In addition to this, another act entitled the “Act on Services and Supports for People with Disabilities” (currently the “Act on Comprehensive Support for People with Disabilities”) was put into effect and the system of facilities for people with disabilities was restructured. While the details of the Act on Services and Supports for People with Disabilities will not be addressed here, it should be noted that employment support was drastically improved as a result of its introduction.

One of these improvements was a project specifically focused on providing people with mental disabilities with support for finding, preparing for, and entering employment with a company, known as the system of “Transition Support for Employment.” This system actively encourages training not only at facilities but also in the workplace, and incorporates the support methods employed by job-coaches. The aim of the system is for participants to enter employment with a company within two years of the support first being provided, and it has led to a significant increase in the number of people with mental disabilities entering employment with companies.

From April 2013 onward, the legal employment quota for people with disabilities was set at 2.0% according to government ordinance. This was later followed by the amendment of the Employment Promotion Act for Persons with Disabilities in June that year. The amendment was primarily aimed at revising the scope of the definition of people with disabilities used when calculating the legal employment quota, and preparing for the ratification of the UN Convention on the Rights of People with Disabilities, including aspects such as the prohibition of discrimination against people with disabilities, and the obligation of companies to provide reasonable accommodation. It was decided to include people with mental disabilities in the scope of people with disabilities used to calculate the legal employment quota, which up until then had included only people with physical and intellectual disabilities. As a result, it became certain that the legal employment quota for people with disabilities would further increase, causing the burden for companies to increase successively over a short period of time. The quota will therefore be maintained at 2.0% until 2018, after which for the subsequent five years until 2023 it will be possible to adopt a quota set by government ordinance at a figure between the quota calculated with people with mental disabilities included and the quota calculated without people with mental disabilities included. The employment quota including people with mental disabilities will be formally employed from 2023.

At the same time, under the amendment of the Employment Promotion Act for Persons with Disabilities, the guidance which Public Employment Security Offices provide to companies to assist them to achieve the employment quota for people with disabilities will include guidance encouraging companies to employ not only people with physical and intellectual disabilities but also people with mental disabilities. This is expected to help boost the employment of people with mental disabilities. 42 years after the employment quota system for people with physical disabilities was first enacted in 1976, the three categories of

people with disabilities will be able to stand on the same start line. The next issue that must be addressed is skills for supporting employment and the models for employment support.

#### **IV. The Current Situation of Employment of People with Mental Disabilities**

According to data collected from companies and compiled by the Ministry of Health, Labour and Welfare on the employment of people with disabilities in FY2013, the actual rate of employment of people with disabilities by private-sector companies was 1.76% as of June 2013, and is continuing to steadily increase. The increase in the number of people with disabilities employed by private-sector companies is remarkable, with the number of people with disabilities employed by companies with 50 employees or more totaling 408,947.5 people, a 7.0% increase on the figure for 2012 (26,584.0 people). This figure has increased consistently each year since 2002, and represents an increase of 162,000 people in comparison with 2003, ten years previously, and an increase of around 83,000 people in comparison with 2008, five years previously.

However, the breakdown of the 408,947.5 people with disabilities employed by private-sector companies in 2013 reveals that 76.3% (303,798.5 people) are people with physical disabilities, 20.3% (82,930.5 people) are people with intellectual disabilities, and 5.4% (22,218.5 people) are people with mental disabilities. The low proportion of people with mental disabilities reveals that the number of people with mental disabilities in employment is still low in comparison with people in other categories of disability. At the same time, the proportion of people with mental disabilities in employment is increasing at a significant rate, with a 33.8% increase on the previous year, in comparison with a 4.4% increase in the proportion of people with physical disabilities and an 11.0% increase in the proportion of people with intellectual disabilities on the previous year. While the proportion that people with mental disabilities account for among people with disabilities in employment is low, it has increased significantly from the 2000 people recorded in 2006 when figures were first taken and is increasing every year. It is expected that the number of people with mental disabilities in employment will continue to rise, and the proportion they account for will continue to gradually increase.

At the same time, data from the Ministry of Health, Labour and Welfare on introductions to employment by Public Employment Security Offices in FY2013 indicates that the number of cases of people with mental disabilities entering employment on introduction from Public Employment Security Offices during the 2013 fiscal year was 29,404, the largest number of cases to date and a remarkable increase of 23.2% (5,543 cases) on the previous year. Among the separate categories of people with disabilities, this is the highest number of cases, exceeding the figures for people with physical disabilities and people with intellectual disabilities. It can be said that the number of cases of people with mental disabilities entering employment is increasing at an extraordinary rate each year, having gone from 2,493 cases ten years previously in FY 2003, to 9,456 cases five years previously in FY

2008, reaching 29,404 cases in FY 2013.

However, while the number of cases of people with mental disabilities entering employment is extraordinarily high, the employment status of people with disabilities reveals that people with mental disabilities account for only 5.4% of the total number of people with disabilities currently in employment. This indicates there is a high proportion of people with mental disabilities who quit their employment. This in turn suggests that the challenge for people with mental disabilities is remaining in employment once they have entered it, and that specialists from employment support organizations need to focus on support measures to assist people with mental disabilities in remaining in employment, as opposed to finding it.

## **V. The Expansion of the Types of People with Mental Disabilities Perceived as Requiring Employment Support**

As mentioned in the previous section, the number of people with mental disabilities entering employment is increasing significantly at an extraordinary rate. On this note, let us look again at the types of people with mental disabilities who are perceived as requiring support. The Employment Promotion Act for Persons with Disabilities defines people with disabilities as “people with physical disabilities, intellectual disabilities, or mental disabilities (including developmental disabilities) and other people who are considerably restricted in their working life or have significant difficulty leading a working life in the long term due to a disability which affects their mental or physical functions.” People with mental disabilities are defined as (i) people who have been issued a Mental Disability Passbook, and (ii) people who have not been issued a Mental Disability Passbook but are affected by schizophrenia, manic depression (including mania and depression), or epilepsy. Only people who have been issued a Mental Disability Passbook are counted as people with mental disabilities when calculating the actual rate of employment of people with disabilities.

While medical care, welfare, and employment measures for people with mental disabilities were formerly all largely focused on supporting people with schizophrenia, this began to change after the turn of the century. The Association for Research on the Promotion of Employment of People with Mental Disabilities, which was established by the Ministry of Health, Labour and Welfare in September 2002, conducted a survey of companies which revealed that 94.3% of the people with mental disabilities employed by the companies surveyed had developed mental disorders after entering employment. The survey also indicated that of the people with mental disabilities 83% were affected by mood disorders (depression), and 22% were on temporary leave from work. This revealed the shocking revelation that while employment support organizations perceived people with mental disabilities as people with schizophrenia, the type of people with mental disabilities that companies were actually being confronted with was people with mood disorders (depression). The survey highlighted the necessity of providing support for people affected by mood disorders (de-

pression) and support to assist the return to work of employees on temporary leave due to mental disabilities developed after entering employment.

From around this time onward, attention was focused on developing support to assist people with mental disabilities in returning to work. In 2002, programs to support people with mental disabilities who were on leave from employment in returning to the workplace were launched by regional vocational centers for people with disabilities and private psychiatric care facilities also began to offer programs to prepare patients for returning to work, known as “rework programs,” which were mainly provided in the form of day care.

As described above, the employment support for people with mental disabilities which was available in around the year 2000 consisted of support for people with mild or moderate schizophrenia, and support for people with depression, provided in the form of support for returning to work. In around 2010 the situation changed again, accompanied by changes in the structure of welfare for people with disabilities and significant increases in the number of cases of people with mental disabilities in employment.

One of the developments around this time was the increase in people with developmental disabilities. Developmental disabilities affect the cognitive functions and other cerebral functions, and measures concerning developmental disabilities were traditionally included in employment support measures. At the same time, people with developmental disabilities were regarded as an additional category of people with disabilities, as they were not regarded as belonging in the category for intellectual disabilities or the category for mental disabilities. However, there was an increase in the number of people with developmental disabilities who developed mental disorders due to the difficulties their developmental disabilities created in their everyday lives. These people in turn received treatment at psychiatric care facilities as outpatients, were diagnosed with developmental disabilities or mental disorders, and used employment support services. Moreover, as a Mental Disability Passbook is required in order to be included in the employment quota for people with disabilities, there was also an increase in the number of people with developmental disabilities acquiring Mental Disability Passbooks, including people who had not been affected by mental disorders. This is likely to have been influenced by the fact that developmental disability was defined as a type of mental disability in the Basic Act for Persons with Disabilities and the Employment Promotion Act for Persons with Disabilities.

The nature of depression has also changed drastically. Depression among young people aged 30 or younger changed significantly from the traditional perception of depression, and began to be described using terms such as “new-type depression” and “immature-type depression.” These types of depression are characterized by strong narcissistic tendencies, a tendency to blame others and one’s environment, difficulty with interpersonal relations, and the inability to adapt to environments such as the workplace. People affected by such types of depression tend not to experience episodes of severe mental symptoms, and are able to enjoy mental diversions such as changes of scenery. Even among specialists it is suggested that in such cases it is difficult to distinguish between “depression” and “laziness.”

Depression does not involve disabilities of the cerebral functions as in the case of developmental disabilities, but there are similarities in the language and behavior that people with depression and people with developmental disabilities may adopt in everyday workplace situations and their ways of approaching and interpreting situations. As a result, at lifestyle support organizations there are many cases diagnosed as developmental disabilities which also include new-type depression, and at psychiatric care facilities there are many cases diagnosed as new-type depression which also include developmental disabilities. It is thought that this in turn is leading to confusion at employment support organizations. It is feared that, if cases of social withdrawal and other types of social anxiety disorder are also included, the number of people with mental disabilities in this field will steadily increase and reach an inordinate number. In fact, such aspects have already begun to reveal themselves in statistics regarding the employment of people with disabilities.

Such concerns regarding large increases in the number of people with mental disabilities may also be attributed to factors resulting from the new system of welfare for people with disabilities, which places no restrictions on the establishment of facilities providing welfare services and finances the operational costs of these facilities in accordance with the number of users. This has resulted in an increase in the number of small-scale facilities offering disability welfare services. As these facilities are not funded for their operational costs if they are unable to secure users, resulting in a significant influence on their operations, securing users has become their utmost priority. Particularly in the case of “Transition Support for Employment” projects, welfare service projects focused on preparing people with mental disabilities to enter employment for companies, facilities offering welfare services must always seek to secure new users, as users receiving such services can only receive support for a maximum period of two years. Furthermore, as increasing the number of users who enter employment increases the operational budget available for each user and benefits operations, these facilities welcome people with mild disabilities who are more likely to find employment—even though they may also be more likely to leave employment. People with mild disabilities are essentially people with new-type depression and people with mild developmental disabilities. If such people receive medical consultation at psychiatric care facilities and acquire Mental Disability Passbooks, the number of people with mental disabilities will increase even more. The accuracy of the diagnostic techniques employed by psychiatric care facilities appears to have a significant influence on the number of people with mental disabilities.

At present, the number of people with mental disabilities who are affected by schizophrenia and are of working age is decreasing considerably. However, there is a growing number of people with severe schizophrenia who up until now were considered to require treatment through hospitalization but are now being discharged from hospital and living in the community, due to the fact that policy is now oriented toward providing support to allow such people to live in the community, as a result of the momentum generated by the appearance of outreach organizations providing comprehensive home support such as Asser-

tive Community Treatment (ACT) programs, and the increase in regional lifestyle support organizations under the new disability welfare system. Moreover, there are also pioneering employment support organizations and medical facilities which have begun to provide employment support for people with severe schizophrenia. While the number of people receiving support is still low, the fact that people with severe schizophrenia are also now able to receive employment support reflects the expansion in the range of people for whom support is provided.

Another factor leading to the increase in people with mental disabilities eligible for employment support is the fact that people with higher cerebral dysfunction caused by cerebrovascular disease or head injuries and people with epilepsy, as well as people with drug and alcohol dependencies and people with borderline personality disorders are also able to receive employment support if they acquire a Mental Disability Passbook. The types of people with mental disabilities are becoming more diverse and expanding in number, resulting in a steady increase in the number of people requiring support.

As it becomes increasingly more difficult to discuss employment support measures for people with mental disabilities in general terms, the question is whether not only companies but also specialists at employment support organizations will be capable of adapting to the growing diversity in the types of people with mental disabilities. It will become increasingly more necessary for these specialists to equip themselves with appropriate support skills by understanding the difficulties faced by people with mental disabilities in their working lives and the functional disorders that cause such difficulties.

## **VI. The Impact of the Amendment of the Employment Promotion Act for Persons with Disabilities**

The pillars of the amendment of the Employment Promotion Act for Persons with Disabilities in 2013 were (i) adding people with mental disabilities to the basis of the definition of people with disabilities used when calculating the legal employment quota for people with disabilities, and (ii) incorporating content in preparation for Japan's ratification of the UN Convention on the Rights of People with Disabilities (prohibition of discrimination against people with disabilities, obligation of companies to provide reasonable accommodation).

### **1. Adding People with Mental Disabilities to the Basis of the Definition of People with Disabilities Used When Calculating the Legal Employment Quota for People with Disabilities**

The 2013 amendment of the Employment Promotion Act for Persons with Disabilities stipulates that people with mental disabilities will be included in the definition of people with disabilities used when calculating the legal employment quota for people with disabilities from 2018 onwards. Prior to this amendment, the definition of people with disabilities

included people with physical disabilities and people with intellectual disabilities. From 2018, people with mental disabilities will also be included when calculating the legal employment quota for people with disabilities.

The legal employment quota for people with disabilities is currently calculated by taking the number of people with physical disabilities in regular employment + the number of people with physical disabilities who are unemployed (job-seekers) + the number of people with intellectual disabilities in regular employment + the number of people with intellectual disabilities who are unemployed (job-seekers) as the numerator, and dividing them by the total number of people in regular employment and the total number of people who are unemployed (job-seekers) as the denominator. As a result of the 2013 amendment, the number of people with mental disabilities in regular employment and the number of people with mental disabilities who are unemployed (job-seekers) will be included in the numerator. In this case, the definition of people with mental disabilities is restricted to people who have been issued a Mental Disability Passbook.

This means that the number in the numerator will increase, inevitably causing an increase in the legal employment quota for people with disabilities. It should also be noted that even people with disabilities who are unable to enter employment and are therefore not included in the number of people in regular employment will be counted in the calculation of the quota as unemployed people with disabilities if they are registered with a Public Employment Security Office as a job-seeker. This will also cause the legal employment quota for people with disabilities to increase. It is noteworthy that the system is such that an increase in the number of people with mental disabilities who wish to work will lead to an increase in the legal employment quota for people with disabilities.

This revision of the definition of people with disabilities used when calculating the legal employment quota for people with disabilities will therefore not only promote the employment of people with mental disabilities but also lead to an increase in the legal employment quota for people with disabilities. This in turn will make it necessary for companies to further promote the employment of people with disabilities, and lead to the promotion of employment of people with disabilities as a whole.

Prior to the revision in 2013, the legal employment quota for people with disabilities had last been revised in 1997, when people with intellectual disabilities were added to the definition of people with disabilities and the legal employment quota was increased from 1.6% to 1.8%. It was then revised for the first time in 16 years in April 2013, raising the legal employment quota for people with disabilities to 2.0%, prior to the amendment of the Employment Promotion Act for Persons with Disabilities in June that year. The amendment of the Employment Promotion Act for Persons with Disabilities, which stipulates adding people with mental disabilities to the definition of people with disabilities used when calculating the quota, will also lead to a further increase in the legal employment quota of people with disabilities in 2018. Given that the number of people with mental disabilities who are in regular employment or seeking employment is currently increasing every year, a signifi-

cant increase is expected. As this will result in the burdens on companies increasing successively in a short period of time, measures have been taken to mitigate sharp changes. In anticipation of the increase in the legal employment quota for people with disabilities in 2018 as a result of adding people with mental disabilities, the amendment allows for the quota to be lower than the quota that would be calculated with the original formula.

In 2023, the legal employment quota for people with disabilities will be calculated using the original formula, and is therefore likely to increase. It is predicted that in the future the legal employment quota for people with disabilities will increase every five years and it is clear that this will have a significant influence both on all people with disabilities—including people with mental disabilities—as well as all companies to which the legal employment quota for people with disabilities applies.

Expanding the definition of people with disabilities to include people with mental disabilities will also affect people with mental disabilities as a result of the impact that it will have on the guidance that Public Employment Security Offices provide for companies to help them fulfil the legal employment quota for people with disabilities. While at present the guidance which Public Employment Security Offices provide companies which fail to fulfil the legal employment quota for people with disabilities entails assisting companies with employing people with physical disabilities and people with intellectual disabilities, from 2018, this will also include guidance encouraging the employment of people with mental disabilities. This will provide a significant boost for the employment of people with mental disabilities.

## 2. Content in Preparation for the Ratification of the UN Convention on the Rights of People with Disabilities (Prohibition of Discrimination against People with Disabilities, Obligation of Companies to Provide Reasonable Accommodation)

The amendment of the Employment Promotion Act for Persons with Disabilities was also aimed at preparing an environment to support adherence to the UN Convention on the Rights of People with Disabilities, which Japan ratified in 2014.

Firstly, the amendment prohibits companies from adopting discriminatory treatment on the grounds of disability. Discriminatory treatment in this case refers to such treatment as using disability as grounds for not hiring a person or as grounds for setting an employee's wages at a low rate. It is important to understand that companies have been prohibited from ignoring the abilities of a person and making decisions regarding whether or not to hire them or regarding the level of wages to offer them purely on the grounds of their disability or its level of severity.

Secondly, the amendment also stipulates that companies are obliged to provide reasonable accommodation. Except in cases in which it would become an excessive burden, companies must provide treatment that takes into consideration the characteristics of disabilities. Specific case studies outlining discriminatory treatment and reasonable accommodation will be specified under guidelines which are currently being formulated by the Min-



istry of Health, Labour and Welfare.

However, even if guidelines are provided, the increasing diversity in the perception of people with mental disabilities will restrict how far companies alone can implement measures which accommodate for such disabilities. In the future specialists from employment support organizations will be expected to provide an increasingly higher level of support for companies and develop increasingly specialist knowledge.

## **VII. Prospects for the Future**

Under the amendment of the Employment Promotion Act for Persons with Disabilities, the Japanese government has imposed various obligations on companies regarding the employment of people with disabilities. Japan's measures for supporting the employment of people with disabilities involve (i) imposing various obligations on companies and providing guidance regarding adherence to laws and regulations, (ii) decreasing the financial burdens on companies which employ people with disabilities, and (iii) providing human support through employment support organizations.

It is important to note that without number (iii)—the support provided by employment support organizations—it would be difficult to ensure the ongoing employment of people with mental disabilities and other people with disabilities who require significant amounts of support. Employment support organizations play an essential role in providing people with disabilities with counselling, training, support for adjusting to a workplace, support for transition into employment, and follow-up support after entering employment. It is also necessary not only to support people with disabilities but also to provide various forms of support for companies which employ people with disabilities, such as support for understanding disabilities, identifying and redesigning work that people with disabilities could do, and interacting with people with disabilities.

The greater the emphasis on obligations to be fulfilled by companies becomes, the greater the impact that support for companies provided by employment support organizations will have on the employment of people with disabilities and sustaining such employment. In the future, employment support organizations will need to provide an increasingly higher quality of support, by possessing skills to provide support which is suited to more diverse types of people with mental disabilities, and skills for supporting companies. The increase in the legal employment quota will undoubtedly lead to increasing numbers of people with disabilities who require greater amounts of support entering employment. It will be necessary to find a means by which employment support organizations, the people with disabilities themselves, and companies can work together to promote and sustain the employment of people with disabilities.

As the perception of people with mental disabilities becomes increasingly more diverse, it will also be necessary for psychiatric care facilities to increase the accuracy of their diagnostic techniques, and conduct diagnoses which are based on both medical models as

well as social models which can be used to assess the difficulties the person faces in daily life. If the current situation continues, there may come a time when there are no borders between people with mental disabilities and people without mental disabilities. Moreover, as facilities providing disability welfare services such as support for transition into employment will make desperate endeavors to secure users for their services, there is an undeniable possibility that such facilities will play a role in generating new types of people with mental disabilities. It is now necessary to make fresh attempts to devise a system which will properly support people who are genuinely affected by physical and mental disabilities and as a result are considerably restricted in their working life or have significant difficulty leading a working life in the long term.