

Reasonable Accommodation for Employing Persons with Disabilities : An Introductory Framework for Japan

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This paper clarifies the meaning and significance of reasonable accommodation in work and employment, a key element of the Convention on the Rights of Persons with Disabilities, and provides a framework for introducing reasonable accommodation to Japan, referring to the implementation of reasonable accommodation in the United States under the Americans with Disabilities Act (ADA) of 1990.

Promoting the employment of persons with disabilities in the general labor market has been an important policy in many countries; generally, it has been attempted by either quota schemes or anti-discrimination legislation. Japan has adopted a quota scheme, and the quota has been gradually filled, but the employment rate of persons with disabilities has not met the regulated standard yet. Reasons for this are a lack of understanding about persons with disabilities and their capabilities. In contrast to Japan, the US has adopted anti-discrimination legislation, namely the ADA, which includes the concept of reasonable accommodation (the amending of the workplace to allow the employment of persons with disabilities). This approach seems to have decreased discrimination based on disabilities, but the employment rate of persons with disabilities has not increased. Thus, neither a quota scheme nor anti-discrimination legislation can be seen as the definitive system for the employment of persons with disabilities.

However, a combination of a quota scheme and anti-discrimination legislation should be effective. As Japan is currently preparing to ratify the Convention, it is necessary to consider how to introduce anti-discrimination legislation and reasonable accommodation to Japan to complement the quota scheme. In particular, introduction of reasonable accommodation should increase the number of employees with disabilities and increase their happiness at work.

In this paper, first, I describe reasonable accommodation and the need for introducing it to Japan. Next, I describe how reasonable accommodation was defined in the Convention, and how it can be significant for Japan. Based on the above, I examine accommodations and adjustments currently made for employees with disabilities in Japanese enterprises, as well as the present implementation of ADA in the US; then, I conclude that Japan needs to redefine “disability” and enact anti-discrimination legislation that mandates obligatory implementation of reasonable accommodation in the workplace.

The final chapter describes the necessity of an anti-discrimination legislation in Japan, and the necessity of defining disability, enacting anti-discrimination legislation and, in the Basic Act for Persons with Disabilities and the Act on Employment Promotion etc. of Persons with Disabilities, mandating the obligatory adoption of reasonable accommodation.