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Abstract

OBJECTIVE: This paper intends to review the historical development and related issues involved in the employment of persons with disabilities under the Law on Employment Promotion of Persons with Disabilities in Japan in light of the UN Convention on the Rights of Persons with Disabilities (CRPD).

METHODS: The actual situations of the special subsidiary company system, which was established by the Law to assist large-sized enterprises in achieving their legally mandated quota, were analyzed, based on the relevant data and materials published by the government and other sources.

CONCLUSIONS: The targeted enterprises could achieve the highest employment rates of persons with disabilities through the establishment of special subsidiary companies. However, various studies on these companies have revealed that more effort is needed to improve the quality of employment of their workers with disabilities in light of the UN Convention on the Rights of Persons with Disabilities (CRPD).

Keywords

Quality of employment of persons with disabilities, normalization and inclusion, realization of rights to work of persons with disabilities

Disciplines

Human Resources Management | Labor and Employment Law | Labor Relations

Employment opportunities of persons with disabilities and the special subsidiary company scheme in Japan

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Received 10 January 2011

Accepted 9 April 2011

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1. Introduction

The employment of persons with disabilities in Japan has been promoted mainly through the employment quota, levy and grant system established by the Law on Employment Promotion of Persons with Disabilities revised in 1976. The present legal employment quota is 1.8% of the workforce for private enterprises. The targeted enterprises with 56 or more full-time employees are mandated by the amended legislation to submit to the local Public Employment Security Office (PESO) their annual report on the employment of persons with disabilities. The employment rate of the targeted enterprises was 1.68% as of June 1, 2010, which was 0.12% lower than the legal employment quota requirement. As a comparison the rate for those enter-

prises with 1,000 or more full-time employees for the same period was 1.90%, which was 0.10% higher than the legal employment quota.

Among 2,836 enterprises with 1,000 or more full-time employees, 1,576 or 56% of their total number have met the 1.8% legal employment quota. Among the targeted enterprises, the percentage of those enterprises meeting the legal employment quota, was about 47%. This indicates that enterprises with 1,000 or more full-time employees are 10% more likely to employ persons with disabilities than other enterprises.

The special subsidiary company system is one of the main reasons for the rapidly increasing employment rate of persons with disabilities in large enterprises. This system was originally introduced along with the legal employment quota, levy and grant system estab-

Table 1
Employment situation of persons with disabilities by size of private enterprises (As of June 1, 1991)

Size of enterprises	Actual employment rate	Rate of enterprises achieved legal employment quota
63~99 persons	2.06%	60.0%
100~299	1.52%	55.2%
200~499	1.27%	40.1%
500~999	1.19%	30.3%
1,000 or more	1.16%	18.9%
Total	1.32	51.8%

lished in 1976, but its regulations were relaxed in 1997 and 2002 as a result of the revisions of the Law on Employment Promotion of Persons with Disabilities.

In this paper we review the historical development of the special subsidiary company system in Japan, the present situations, problems, and future prospects, taking into consideration the UN Convention on the Rights of Persons with Disabilities that came into effect in May 2008.

2. Development of the special subsidiary company system in Japan

The special subsidiary company system was introduced together with the legal employment quota, levy and grant system established by the amended Law in 1976. The legislation was further amended in 1987. According to its Section 44 and 45, should an employer establish a subsidiary company which gives special consideration for employing persons with disabilities, the workers are deemed to be employed by the parent company when calculating the employment rate of persons with disabilities.

The specific requirements for the accreditation of subsidiary companies are as follows.

- (1) The parent company should control the decision-making body (general meeting of shareholders, etc.) of the subsidiary company in question.
- (2) The subsidiary company should have a close relationship with the parent company, e.g. dispatching executives from the parent company to the subsidiary company.
- (3) At least 20% of a subsidiary company's workforce should be people with disabilities. In addition, the total percentage of workers with severe physical, intellectual and/or mental disabilities should account for 30% or more of the total number of employees with disabilities.
- (4) The subsidiary company should have sufficient capacity to manage workers with disabilities, e.g. improving facilities for the benefit of the

workers with disabilities, and assigning full-time instructors.

- (5) In addition, the subsidiary company should promote the employment of persons with disabilities and offer them stable employment.

In the case of a parent company with affiliated companies that control validated special subsidiary companies, the employment rate of workers with disabilities is calculated from all employees within the group companies, including those at its related subsidiaries.

The amended Law in 1976, which made the employment of persons with physical disabilities compulsory to enterprises with 67 or more employees, mainly targeted those enterprises with 301 or more employees, especially those enterprises with 1,000 or more full-time employees. The special subsidiary company system intends to help those large-sized enterprises achieve their legal employment quota within relatively short period.

As part of priority measures for the latter half (1988~1992) of the Long-term Plan concerning the Measures for Persons with Disabilities (1983~1992, which was enacted in accordance with the UN Decade of Disabled Persons) large-sized enterprises with actual employment rates lower than medium and small enterprises, were requested by the Government of Japan to establish special subsidiary companies for achieving their legal employment quota.

The number of new special subsidiary companies increased from 4 in the 1970s to 182 in 2000s. Almost two thirds of these companies were established between 2000 and 2010. By June 1, 2010 283 such companies had been established.

The number of special subsidiary companies increased about 2.5 times from 115 to 283 during the period of 2001 to 2010. The number of employees with disabilities increased around 3.1 times from 3,069 persons to 9,516 persons during the same period.

The average number of employees in special subsidiary companies was around 52, and the average employment rate of people with disabilities was around 58%.

Table 2

Composition of employees with disabilities by category of their disability

	1980s	1990s	2010
Physical disability	74.6%	57.8%	48.2%
Intellectual disability	24.3%	40.4%	46.7%
Mental disability	1.1%	1.8%	5.0%

As shown in Table 2 in the 1980s almost three quarters of employees with disabilities were those with physical disabilities. However, the percentage of employees with intellectual disabilities increased from 24.3% in 1980s to 46.7% in 2010 as a result of the revisions of the legislation in 1987 and 1997.

Though the 1987 revisions did not make the employment of persons with intellectual disabilities compulsory, the 1997 revisions did make it compulsory for the targeted private enterprises as well as public agencies to employ persons with intellectual disabilities.

Owing to these revisions the number of persons with intellectual disabilities employed by special subsidiary companies has been increasing annually. As of June 1, 2010 the percentage of employees with intellectual disabilities (46.7%) became almost same as those with physical disabilities (48.3%).

As a result of the revisions to the legislation in 2004, the number of employees with a mental disability has been gradually increasing. However, the percentage of those employed by special subsidiary companies is much lower than that of workers with other disabilities. The percentage of employees with mental disabilities might be increased significantly when their employment becomes compulsory to comply with the Convention on the Rights of Persons with Disabilities (CRPD) which prohibits discrimination on the basis of disability.

3. The present situations and problems of special subsidiary companies

The Japan Organization for Employment of the Elderly and Persons with Disabilities (JEED) surveyed 242 special subsidiary companies in September 2008, and received complete responses from 134 companies or 55.4%. Results were as follows;

3.1. Number of employees

The total number of employees of these special subsidiary companies was 7,244 and consisted of 4,300 (59.4%) persons with disabilities and 3,944 (40.6%)

non-disabled persons. The persons with disabilities consisted of 2,544 (59.2%) with physical disabilities; 1,618 (37.6%) with intellectual disabilities; and 138 (3.7%) with mental disabilities.

3.2. Percentage of regular and non-regular employees

While 29.6% of non-regular employees were non-disabled persons, only 10.4% of those with disabilities were non-regular employees. Employees with disabilities had more stable positions than their non-disabled counterparts. However, there were significant differences in the percentage of non-regular employees by category of disability. Nearly one third (31.3%) of those with mental disabilities, 16.9% with intellectual disabilities and 5.2% with physical disabilities were non-regular employees.

3.3. Average monthly wages

Nearly half (47.4%) of those with physical disabilities earned between 150,000 ~ 200,000 yen (\$1US = 82.41 yen), and nearly 90% of them earned between 100,000 ~ 250,000 yen. While over three quarters (80.7%) of those with intellectual disabilities earned between 100,000 ~ 150,000 yen, with over 90% of their earning between 50,000 ~ 150,000 yen.

According to a survey on private enterprises with 5 or more full-time employees conducted by the Ministry of Health, Labor and Welfare in 2006, the average monthly wages of persons with physical disabilities was about 254,000 yen, and that of persons with intellectual disabilities was about 118,000 yen. This was less than half the average monthly wages of persons with physical disabilities, and lower than the minimum wages at that time. However, taking into consideration the average monthly wages of non-disabled workers were around 336,000 yen in 2006, even the monthly wages of persons with physical disabilities were about 25% lower than those of non-disabled counterparts.

3.4. Merits and demerits of special subsidiary companies

Around 50% of parent companies indicated the establishment of subsidiary companies improved their public image by fulfilling their corporate social responsibilities through the employment quota. Around 30% of respondents pointed out that they could save their investment costs for facilities and equipment through the system which would otherwise have been a direct

cost in mainstream offices and factories (i.e. business operating outside the system) [4].

On the other hand several experts on the employment of persons with disabilities pointed out the following negative aspects.

As persons with disabilities are employed mainly by special subsidiary companies, parent companies tend to regard the employment of persons with disabilities as the sole responsibility of special subsidiary companies, and not as their central responsibilities. Persons with disabilities work in special subsidiary companies separated from the parent companies. Such employment practices are against the normalization principle which aim to promote their inclusion within mainstream employment [7].

The sales orders of nearly 80% of special subsidiary companies were dependent on the parent companies. These subsidiary companies would be adversely affected if their parent companies encountered financial difficulties. Therefore, special subsidiary companies need to expand and diversify their businesses and/or create and develop new ventures beside the orders from their parent companies so as to stabilize and improve their business sustainability.

4. Future prospects of special subsidiary companies in light of the UN Convention on the Rights of Persons with Disabilities (CRPD)

The employment conditions of the employees in most of special subsidiary companies were not equal to those who were employed in the parent companies. Nearly 95% of special subsidiary companies had different wage structures to their parent companies, and in most cases the wages of the former were lower than the latter whether employees had a disability or not [5].

There were also significant differences in average monthly wages between employees with physical disabilities and those with intellectual disabilities who were employed in these companies.

Taking into consideration 1(b) of Article 27 of the Convention on the Rights of Persons with Disabilities (CRPD): "Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value", it is necessary to improve the employment conditions in special subsidiary companies, and also reduce the big wage gaps between persons with physical disabilities and those with intellectual disabilities.

Another key issue concerning special subsidiary companies was that it is impossible for persons with disabilities to move from special subsidiary companies to parent companies. This restricts their career development prospects as most of the special subsidiary companies are small and in the low added-value business areas with limited markets [5].

Based on Article 27 of the Convention on the Rights of Persons with Disabilities (CRPD), parent companies are obliged to make working environments open, inclusive and accessible as well as to "ensure that reasonable accommodation is provided to persons with disabilities in the workplace" so as to pave the way for promoting inclusion of those employees with disabilities who are employed at special subsidiary companies in mainstream offices and factories.

Some of the leading enterprises with special subsidiary companies have taken the initiatives and made their mainstream offices/factories inclusive and accessible for persons with disabilities. Such initiatives include using their special subsidiary companies as resource and training centers for managers in their mainstream offices/factories.

Such initiatives are markers of good practice for parent companies in general. As a long term policy objective the legal employment quota should be achieved without depending on segregated special subsidiary company system.

5. Conclusion

In January 2010 the Committee for the Promotion of Disability System Reform was established under the Cabinet Office. Its major objective is to review the existing disability related laws, regulations, policies and programs for Japan's ratification of the UN Convention on the Rights of Persons with Disabilities. The author was appointed as Chair of its sub-committee on work and employment to review the existing employment policies and programs for persons with disabilities in light of Article 27 (work and employment) of the Convention on the Rights of Persons with Disabilities (CRPD). The sub-committee is to make recommendations to the government by midyear of 2011 on the necessary measures to be taken to improve the employment policies and programs, including the special subsidiary company system, for persons with disabilities. The author would like to see that special subsidiary companies should not be terminal, but transitional employment places for persons with disabilities by help-

ing mainstream enterprises make their working environments inclusive and accessible. This will contribute to transforming Japanese society to more inclusive, accessible and better place to live not only for persons with disabilities but also for everyone.

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