

## **Statement for the 42th UPR Pre-session**

Resource of Poverty, Women, Children, and Disability in Japan (RPWCDJ)

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The Resource of Poverty, Women, Children, and Disability in Japan was established in 2019, to improve information accessibility for domestic resources of people with vulnerability in Japan. We already made 5 submissions in collaboration with other organizations.

Today I talk about situations among persons with psychosocial disability in two perspectives: human rights violation against them and designated defects in welfare benefit policy. We recognize that those themes have not been discussed enough in the national consultation.

### **1. Human Rights Violations against Persons with Psychosocial Disability**

In 2017, I made a presentation for UPR pre-session on the same issue as a member of a disabled persons' organization. Japan received recommendations on this issue from Guatemala, New Zealand, Portugal, and dozens of countries. It is regrettable that there has been no improvement.

5 years ago, I started my speech by two deaths of patients in psychiatric hospitals. The first case was a death of a patient who was violated in a seclusion room by two nurses. He was kicked in his face by a nurse and his neck was broken. He died because of this injury in 2014<sup>1</sup>. Two nurses were prosecuted, but in 2018, a higher court decided them not guilty. The second case was a death of a patient, probably by deep vein thrombosis, after 10 days under unnecessary physical restraint. He was a New Zealand and the US citizen, and his family has been working internationally to change Japanese mental health care. Since 2018, some former patients and some bereaved families have filed lawsuits over physical restraints against hospitals, and two plaintiffs won in 2021. After those court decisions, the Ministry of Health, Labour and Welfare (MHLW) has been planning to ease the requirement for restraints. It means that psychiatric hospitals will be less likely to lose in lawsuits over physical restraints.

Just as in 2017, Japan is the top in OECD countries for the number of psychiatric hospital beds and for the average length of stay in psychiatric hospitals, which is about 270 days. The number of people in solitary confinement and restraint is still very high. According to a study in 2020, Japan had about 100 physical restraints per million population every day. It is 3200 times to New Zealand. There is no plan to abolish one form of involuntary hospitalization, which only requires a consent of the family. The government has no plan to abolish adult guardianship, to establish the national monitoring mechanism with Paris principle, or to ratify the Optional Protocols to the ICCPR and

CRPD.

Amid Covid-19, closed, crowded, and poorly ventilated wards may work as incubators for viruses, but there has been no official survey on risks of psychiatric hospitalization. Mr. Jokei Ariga, a former nurse in psychiatric hospital estimated with limited information that was disclosed by those psychiatric hospitals. According to him, infection rate is at least triple and death rate is at least 6 times more than in other hospitals.

Japan should be recommended to eliminate forced treatments as a view of elimination of torture. Also, Japan should be questioned whether there are plans to dissolve current hospital-centered mental health care system and to construct new community-based systems in respect of human rights for all.

## **2. Designated Defects in Welfare Benefit Policy**

On elimination of poverty, Japan received recommendations from Pakistan and Timor-Leste<sup>2</sup> in 2018<sup>3</sup>.

In 2022, the Ministry of Finance is going to promote discharge of welfare recipients in psychiatric hospitals, to reduce the budget<sup>4</sup>. In 2019, 46,000 recipients were in psychiatric hospitals, and 30,000 of them stayed there over one year. Hospitalization costs twice as much as community life support. The MHLW has been preparing to support group homes and living facilities for low-income people<sup>5</sup>, but without effective countermeasures against abuse and exploitation. Institutionalization has been tightly structured in social welfare policy. The current welfare benefit system started in 1950. A notice by the ministry in 1952 enabled forced hospitalization for welfare recipients, whether the person has psychosocial disability or not. In the 1960's, some local governments promoted this policy by financial support for private psychiatric hospitals. These are roots of current policies for low-income people with psychosocial disability.

On the other hand, the capture rate of welfare benefit is assumed 22.6 % in 2016 at most by the ministry<sup>6</sup>. It means Japan has about 2 million recipients<sup>7</sup> and at least 7 million people in need without benefit. Eligibility is too strict even for Japanese citizens. Asylum seekers and foreigners in provisional release (“Karihoumen”) from detention are not eligible<sup>8</sup>. Since 2013, restrictions for recipients have been increasing and the benefit amounts have decreased by 10 % since 2012<sup>9</sup>. There are two human right violations: deprivation from recipients, and exclusion of people in need from benefit.

Japan should be recommended again to ratify the Optional Protocols of the ICCPR, CRPD, and other constitutions. Also, Japan should be questioned about their reason to have not recognized how and what are needed to provide adequate welfare benefits as human right protection.

Thank you for your kind attention.

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<sup>1</sup> A report in English:

<https://japantoday.com/category/crime/bereaved-family-sues-psychiatric-hospital-for-damages-over-fatal-abuse-of-patient>

<sup>2</sup> For example, Japan responded to Timor-Leste as “ Under the SDGs Promotion Headquarters, headed by the Prime Minister and made up of all ministers, the GoJ will enhance the whole-of-Japan efforts to achieve the SDGs ” in the page 32 of the Mid-term report as of Apr. 2020. <https://www.mofa.go.jp/mofaj/files/100371883.pdf>

<sup>3</sup> Report of the Working Group on the Universal Periodic Review for Japan(A/HRC/37/15)

<sup>4</sup> Page 25 in [https://www.mof.go.jp/about\\_mof/councils/fiscal\\_system\\_council/sub-of\\_fiscal\\_system/proceedings/material/zaiseia20220413/03.pdf](https://www.mof.go.jp/about_mof/councils/fiscal_system_council/sub-of_fiscal_system/proceedings/material/zaiseia20220413/03.pdf)

<sup>5</sup> These facilities have been enforced in 2022. A study group in the MHLW discussed about the policy in 2018-2019.

[https://www.mhlw.go.jp/stf/shingi/other-syakai\\_390337\\_00001.html](https://www.mhlw.go.jp/stf/shingi/other-syakai_390337_00001.html)

<sup>6</sup> According to a report by Japan Federation of Bar Association (a footnote in page 5) [https://www.nichibenren.or.jp/library/ja/opinion/report/data/2019/opinion\\_190214\\_2.pdf](https://www.nichibenren.or.jp/library/ja/opinion/report/data/2019/opinion_190214_2.pdf)

<sup>7</sup> A series of survey has been provided by the MHLW

<https://www.mhlw.go.jp/toukei/list/74-16.html>

<sup>8</sup> For details: A submission by AMIGOS for the 136<sup>th</sup> session of ICCPR

[https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/JPN/INT\\_CCPR\\_CS\\_S\\_JPN\\_50137\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/JPN/INT_CCPR_CS_S_JPN_50137_E.pdf)

<sup>9</sup> The yearly trends were disclosed in official statistics until 2013.

<https://www.ipss.go.jp/s-info/j/seiho/seihoR02/R02-26.xlsx>

Since 2014, the calculation methods have been still disclosed by the ministry. The reports are here: <https://www.ncnp.go.jp/nimh/seisaku/data/>