**Japan Disability Forum (JDF)’s Comments on the Draft General Comment on Article 27 on the Right of Persons with Disabilities to Work and Employment**

We, Japan Disability Forum (JDF), have been working hard to establish the Convention on the Rights of Persons with Disabilities (CRPD) and to implement it. This Convention and particularly its Article 27, which clearly stipulate the right of persons with disabilities to work and the obligation of the State Parties to ensure it, are hope of all the persons with disabilities in the world, and we wish its realization from the bottom of our heart.

From such a standpoint we would like to make our comments on the draft General Comment concerning concrete support measures to be taken for persons with severe work disabilities in the open labour market and also relevant measures to be taken for sheltered workshops.

1. **The open labour market and persons with severe work disabilities**

The draft General Comment is expected to reveal concrete measures as well as the necessity of effective plan to promote the participation of persons with severe work disabilities in the open labour market. Such measures might include the improvement of the employment quota system, wage subsidy under the public support program, provision of reasonable accommodation, securing accessibility, provision of medical insurance, personal support system for commuting to and from workplaces and activities of daily living (ADL) at workplaces, all of which relevant financial arrangements should be made by the central and local governments. And for the effective implementation of those measures it should be essential to establish a relief and monitoring agency with the authority of making relevant inspections and recommendations.

In addition we need to take into account relevant work and employment for persons with disabilities corresponding to rapid development of digitization and automation. And it is also essential to promote awareness raising activities to deepen sound understanding of disability throughout society so that persons with disabilities can enjoy decent work on an equal basis with others.

And as indicated in the paragraph 88 of the draft General Comment it is very important to ensure the provision of needs-based individual support, including personal assistance funded by the government so as to make it possible for persons with severe disabilities to work.

We consider that the draft General Comment as a whole is rather focused on abstract arguments on what it should be and lack of enough discussions on concrete actions to take a step forward.

The relevant items of the Concluding Observations on the initial reports of 4 countries referred at note 37 of paragraph 44 are rather abstract. Most of the affirmative action referred at paragraph 46, such as employment quota system, employment grants and deduction of income tax, have already been implemented in Japan. And as to a wage subsidy, which has not been implemented in Japan, there is no explanation on its concept and no reference to specific examples.

We think in the General Comment the Committee should indicate what the laws and policies State Parties should introduce, and provide detailed information on good examples of such laws and policies which are helpful for many State Parties from the standpoint of the realization of the Article 27.

We consider that the drastic reform of the open labour market should be the main point for the realization of the Article by further advancing such discussions.

**II . Necessity of sheltered workshops at the moment**

Though it is very important to establish a society where persons with and without disabilities can work together, we think the abolition or reduction of sheltered workshops at the moment is to lead to deprivation of their actual workplaces from persons with severe work disabilities as a result.

Sheltered workshops have been developed to ensure employment opportunities of persons with severe work disabilities in the absence of drastic reform of the open labour market. And the abolition of sheltered workshops does not necessarily lead to automatic increase of their work opportunities in the open labour market.

The present employment situation of persons with disabilities in Japan is as follows;

The number of those who are working in the open labour market is 880,744 [[1]](#endnote-1)persons, and the number of those who are working at sheltered workshops (Type A workshops and Type B workshops) is 418,518 persons[[2]](#endnote-2), and in total 1,299,262 persons with disabilities are working either in the open labour market or at sheltered workshops, which amounts to only 33.5% [[3]](#endnote-3)of the total working age (15 ~64 years old) persons with disabilities while 77.9%[[4]](#endnote-4) of the working age persons without a disability are working, which is calculated by the same formula.

As the employment needs of persons with disabilities are to become more apparent in the future, persons with severe work disabilities are considered to have higher expectation to sheltered workshops.

Actually the number of Type B workshops, which are typical sheltered workshops in Japan, increased from 4,590 in 2011 to 12,479[[5]](#endnote-5) in 2019.

The followings are the main reasons why sheltered workshops are needed in Japan at the moment;

1. There are not a few persons with disabilities working at sheltered workshops who have been suffering from PTSD, caused by psychological trauma while they worked in the open labour market. And not a few of them have recovered their normal work ability at sheltered workshops, which provide them with carefree and restful environment.
2. We can easily guess that the number of those users of day centers is to increase with no alternative option if sheltered workshops are abolished or greatly reduced. This is against the will of those persons with disabilities who have ability and willingness to work, which leads to the deprivation of their right to work.
3. In the open labour market workers have been increasingly demanded for higher productivity, greater efficiency and faster speed at their workplaces. And taking into consideration such a situation in the open labour market it is essential to provide persons with disabilities with necessary and adequate accommodation at their workplaces so as to realize their right to work on an equal basis with others. We strongly believe that sheltered workshops can play a positive and realistic role for it .

Based on the aforementioned Japanese experiences we would like to propose to incorporate the following improvement plan for sheltered workshops in the General Comment;

１．Based on the needs of people with disabilities, a policy support should be provided to facilitate the transition between the open labour market and sheltered workshops. Especially in order to promote their transition from sheltered workshops to the open labour market, radical improvements are needed so as to embrace persons with severe work disabilities in the open labour market.

2. What persons with disabilities engage in at sheltered workshops　is　clearly　classified　as　work.　Therefore, based　on　the　principle　of　non-discrimination　and　equality　the　labour　laws　should　be applied to those persons with disabilities working at sheltered workshops.

3．The location of sheltered workshops should be in the community as a principle so that those persons with disabilities working there can mix well with local citizens and also contribute to the development of the community. Except those who are engaging in agriculture, forestry or fishery, persons with disabilities working at sheltered workshops should not be segregated from the local citizens in the community.

4．The wage level of many persons with disabilities working at sheltered workshops is very low, which needs radical improvement. It is not be solved only by the management efforts of sheltered workshops, but also such policy support as wage subsidy, securing relevant orders, including priority public procurement, and incentives to enterprises to subcontract their goods and services to sheltered workshops, should be provided for them.

Lastly we would like to emphasize that regardless of many relevant recommendations made by the Committee on the Rights of Persons with Disabilities on gradual elimination of sheltered workshops, they still have been playing an active role in providing persons with disabilities with work opportunities in many countries. Taking into consideration the present situation the Committee should conduct an international research and study on sheltered workshops. And the Committee should indicate the necessity of such a research and study in the General Comment.

1. (1)The total number of persons with disabilities working at public agencies is 59,744 persons (Central government agencies: 7,807 persons, Metropolitan and other prefectural government agencies: 7,465 persons, city, town and village government agencies:24,036 persons, boards of education: 11,390 persons, independent administrative corporations: 9,046 persons. (Source: “Actual sum total of employed persons with disabilities”, Division of Employment Measures for Persons with Disabilities, Employment Development Department, Employment Security Bureau, Ministry of Health, Labour and Welfare, 2020)

(2) The number of persons with disabilities working at private business offices with 5 or more employees is 821,000 persons. (Source: “Results of 2018 Fact-fining survey on employment of persons with disabilities” (published on 25 June 2019), Division of Employment Measures for Persons with Disabilities, Employment Development Department, Employment Security Bureau, Ministry of Health, Labour and Welfare.

The sum total of (1) and (2) is 880,744 persons. [↑](#endnote-ref-1)
2. The number of the service users of Type A workshops is 86,031 persons and that of the service users of Type B workshops is 332,489 persons. And the total number of the service users of both workshops is 418,518 persons. (Source: The actual number of the service users of Type A and Type B workshops”, 2019 survey of social welfare facilities, etc.. Ministry of Health, Labour and Welfare) [↑](#endnote-ref-2)
3. The denominator is 3,877,000 persons, that is, the total number of working age persons with disabilities, which consists of 1,013,000 persons with physical disabilities (18 ~ 64 years old), 580,000 persons with intellectual disabilities (18 ~ 64 years old) and 2,284,000 persons with mental disabilities (20 ~ 64 years old). And the numerator is 1,299,262 persons with disabilities, which consists of 860,744 persons with disabilities working in the open labour market, and 418,518 persons with disabilities working at sheltered workshops. (Source: 2021 White Paper on Persons with Disabilities, Cabinet Office, and 2017 Patient Survey, Ministry of Health, Labour and Welfare). [↑](#endnote-ref-3)
4. The denominator is 73,940 thousand persons of working age (15 ~ 64 years old) population and the numerator is 57,600 thousand working age (15 ~ 64 years old) persons in employment, which means employment rate of the working age general population is 77.9%. (Source: Labour Force Survey (Basic Sum), survey results of September, 2021). [↑](#endnote-ref-4)
5. (Source: The outline of 2011 and 2019 surveys of social welfare facilities, etc, Ministry of Health, Labour and Welfare) [↑](#endnote-ref-5)