

TK/UN/99

The Permanent Mission of Japan to the International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, with reference to the Note Verbal ref: OL JPN 4/2017, dated 9 January 2018, has the honour to transmit herewith the reply of the Government of Japan to the Joint Communication sent by Ms. Catalina Devandas-Aguilar, Special Rapporteur on the rights of persons with Disabilities and by Mr. Dainius Pūras, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

The Permanent Mission of Japan to the International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 9 March 2018

Enclosure mentioned



Reply to the Joint Communication from U.N. Special Procedure
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[About 1]

- Japan understands that Article 14 of the Convention on the Rights of Persons with Disabilities provides to secure that “a deprivation of liberty shall not be justified by only the existence of a disability”.
- In this regard, a person is hospitalized involuntarily in accordance with the Act on Mental Health and Welfare for the Mentally Disabled with appropriate legal procedures, if a person with mental disorder meets the requirements such as when the person with mental disorder cannot be hospitalized by his or her own will due to their diseases. Therefore it is never the case to hospitalize a person only for the reason that they have a mental disorder. We therefore consider that it consistent with the purpose of the Article 14 of the Convention on the Rights of Persons with Disabilities.
- The draft bill, which was mentioned in the joint communication, mandates local prefectures, etc. to develop a post-discharge care plan in principle during involuntary hospitalization to allow the patient, who is involuntarily hospitalized by the prefecture, etc., to receive smoothly the medical and other assistance necessary for helping her or his social rehabilitation, etc. While, the post-discharge care plan includes the description of the ambulatory medical services or welfare services that are deemed necessary for meeting the patient’s support needs after the discharge. However, the patient is not obliged to receive support based on the relevant plans and hence he or she can even choose not to receive support in accordance with the plan. Thus the draft bill is not meant to regulate the place where the involuntarily hospitalized person is to receive medical and other support after discharge nor is it meant to regulate how a person with mental disorder should be provided with medical support.

Also, post-discharge care plan should be developed by fully taking into consideration the opinions of the person concerned, and it is also assumed as principle that the person should attend the conference to discuss the content of the plan. Incidentally, of the Regional Support Council for persons with mental disabilities, Meetings of Representatives (a meeting to discuss support system but not individual cases for persons with mental disorder in his/her home prefecture/city where health centers are located) are attended by the police for the purpose of mutual understanding among the related administrative bodies. Meetings to discuss the content of the post-discharge care plan in individual cases, meanwhile, are composed of the persons engaged in support, so it is not the case that the police should attend them for the purpose of crime prevention. In light of the post-discharge care plan, the supporting period is to be, in principle, half a year. If the patient moves to another residence, the reporting to the local government on the detail of the post-discharge care plan should

be done within this supporting period, and it is assumed that in principle the consent of the person is required.

In implementing such plans, we are currently assuming to develop guidelines pursuant to the law and require the local government to follow it.

In addition, the draft bill has already been submitted to the ordinary diet session of 2017. It passed the session after the partial amendment in its review regulations part during a prior consideration in the House of Councillors. Though the House of Representatives decided to continue its deliberation for some time, it was scrapped as a result of the resolution of the House of Representatives. Its re-submission is currently under consideration.

- For above-mentioned reasons, we claim that the points raised in the joint communication are not valid.
- Additionally, though the amended law does contribute to preventing the recurrence of cases similar to the Sagamihara case, its purposes not only the prevention of the recurrence of such cases.

[About 2]

- In submitting last year's draft revision, the "Study Committee for an ideal approach to mental health and medical welfare in the future" was held from January 2016 to February 2017, which two members who actually have mental disorder attended. At the Study Committee, there were also hearings from the representative organizations for persons with mental disorder.
- At the meetings of the "Team for Verifying the Incident at the Disabled Person Support Facility in Sagamihara City and for Reviewing the Prevention Measures for Its Recurrence", at which the structure, etc. of support after discharge of involuntarily hospitalized persons was discussed before the said Study Committee, hearings from the representative organizations were held as well.
- The bill was developed in light of the opinions raised in these occasions as well. The content of the guidelines will also be developed in light of such opinions.

[About 3 and 4 (collectively)]

- In the "Act on Mental Health and Welfare for the Mentally Disabled", its purpose is shown in Article 1, and it is declared to achieve its objective of improving the "mental health" of the people in general and to provide medical treatment and protection of the persons with mental disorder and the support necessary for their social rehabilitation and promotion of their self-support.
- This idea is made more concrete in the "Guidelines for ensuring the provision of good quality and proper medical services for persons with mental disabilities" (Ministry of Health, Labour and Welfare Notice No. 65 of 2014) to determine, in light of the law, the direction for all the people who

are involved in health care, medical treatment and welfare of persons with mental disorder. The said guidelines upholds the following points as basic concepts: it is important to ①continue realizing patient-intensive medical treatment based on the idea of informed consent and to provide medical treatment in maximum consideration of the human rights of the persons with mental disorder, ② organize the psychiatric mental care system as well as trying to deepen the understanding of mental disorders so that persons with mental disorder can live with peaceful mind as members of the local community; and ③ promote peer support, as well as preventing persons with mental disorder and their families from being isolated from the society, by supporting the families who support the person with mental disorder.

- In Article 2 of the said law, the country and the local governments are mandated to make efforts by comprehensively implementing measures concerning health, welfare, etc. of persons with mental disorder.. It helps them to achieve social rehabilitation as well as independence and participation in socioeconomic activities. The draft revision pointed out in the join communication revises the said article. It now clearly states that national and local governments should fully take into consideration respect for the human rights of persons with mental disorder and furtherance of their community integration in implementing the relevant measures.
- Meanwhile, the General Support for Persons with Disabilities Act, which provides for welfare services for persons with disabilities including persons with mental disorder, respects their self-decision while having the purpose of achieving their independence and coexistence,.
- Thus we consider that the Japanese legal system in mental health does not contradict with the human rights-based approach.
- Also, by installing the Mental Health and Welfare Centers in prefectures, etc. (69 places nationwide), we are providing, from a technical viewpoint, a wide-range of support for all local residents, including persons with mental disorder, in collaboration with health centers, local governments and institutions that deal with medical treatment, welfare, labour, etc. Such assistance includes maintenance and promotion of mental health, prevention of mental disorder and promotion of adequate psychiatric medical care, promotion of social rehabilitation, and assistance in achieving independence and participation in socioeconomic activities, etc.
- At present, incidentally, we are proceeding with formulation of an integrated community care system for responding to mental disorders, so that persons with mental disorder can live with peace with their own way, as members of the local community.
- In concrete terms, in the Program for Disability Welfare, we let each local government determine

the amount of welfare services for persons with disabilities, which is to be developed in each prefecture. The program mandates each prefectural/city governments and disability welfare zones, to have a platform for consultation among persons involved in health, medical treatment and welfare.

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