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Our Activities to Eliminate Disqualifying Clauses on Disability

Kumiko Usui Research Fellow of READ Secretary-general, Citizens' Committee to Eliminate Disqualifying Clauses on Disability

Topics

- □ What is "Disqualifying Clause"?
- How disability movement changed the laws and regulations
- Information and knowledge we gained through international exchanges
- Issues remained

1. "Disqualifying Clause" as a Legal Barrier

- Restrictions of Overall Social Activities including Job Licenses, Technical Licenses and Usage of Public Facilities
- Based on Negative Attitude toward Persons with Disabilities---"Disability=state of incapacity and/or danger"
- →Infringement of Human Rights on the Ground of Disabilities

Examples of Typical Disqualifying Clauses

Until 2001

Persons who cannot see or hear shall not be issued a certificate. Persons with mental illness may be refused a certificate.

After 2001

Persons who cannot carry out tasks of () due to his/her physical/mental impairment may be refused a certificate.

()"tasks of medical doctor", "manipulation of construction machine" etc.

63 licenses breakdown by category of disability Unit: licenses, as of 1999



2. Information gained through international exchanges

- Unreason of viewing "disability as incapacity and/or danger"
- Not only removing barriers but also changing environment that enables persons with disabilities to receive necessary supports as human rights.

(ex) driving license, availability of public housing

3. History of One Century

- Disqualifying clauses already existed in 1870s. License for hunting rifle, Eligibility for election of local government, •••
- 1993 "Basic Law for Disabled Persons" was enacted. The Government launched 10year plan concerning disability measures, announcing to remove four barriers.
 Four barriers mean (1) physical, (2) legal, (3) informational and (4)attitudinal barriers.

- Ms.Hayase
- Pharmacist
- hearingimpaired
- July 17, 2001
- Mainichi-Shimbun
 Newspaper



- 1998 Ms. Hayase, who had passed the national examination for pharmacist, was refused to obtain pharmacist certificate due to her disability.
- 1998-9 "Central Council for the promotion of disability measures" was held to discuss the amendment of disqualifying clauses
- 1999 Government, as its first commitment, issued "Reviewing disqualifying clauses relating to persons with disabilities" and selected 63 licenses.

Mr.Fukushima

- then councilor of Central Council on the Promotion of Disability Measures
- deaf-blind

Photo:

http://www.rcast.utokyo.ac.jp/en/people/staf f-fukushima_satoshi.html



- 2001 About a half of 63 licenses selected by the government were amended. Ms. Hayase obtained a pharmacist certification.
- 2002 Council on the Promotion of Asia-Pacific Decade of Persons with Disabilities conducted a survey of disqualifying clauses and held a workshop.
- 2003-2008 Doctor license was given to the totally blind person for the first time, and a hearing-impaired person

Mr.Osato

- Psychiatrist
- totally blind
- November 24, 2005
- Mainichi-Shimbun Newspaper



Changes of 63 licenses

Unit: licenses, as of 2007

Absolute grounds for disgualification were deleted from laws. However, most of laws maintain relative grounds for disqualification, while only 7 laws completely eliminated disqualifying clauses on disability.



4. Activities of Disabled Persons' Organization

- Dissemination the real voices of persons with disabilities in society
- Unique research and analysis
- Collaboration among disability organizations of different disabilities*

* Cross-disability and grass-root activities and network

Lobbying to parliamentarians in the process of reviewing laws

• Collect signatures on the street

- Organized mainly by organizations of the deaf/hard-of-hearing
- Submitted 2.23 million signatures to the government in 2000
- June 8, 1999
 Asahi-Shimbun Newspaper



- As shown in the chart, in 1988, there were a lot of local ordinances which restricted persons with psychiatric disabilities to observe education board meeting, use public swimming pool etc.
- In 1999, the second research found that all such restrictions were deleted.
- Osaka Center for Mental Health and Human Rights conducted these two researches.on local governments in Osaka Prefecture.

前五十.1000千									●=精神障害者の利用制限規定あり						
	市 町 村 名	図書館	公会堂	労働会館	体 育 館	プー	ャンプ	公 館	市会館	年の		7	会	育	公
											センター	センター			会
1	市	•	•	•	•	•								•	
2	市			•			•							•	
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16	町					•	 							•	
17	町					•									
18	町													•	
19	村													•	

調杳年:1988年 大阪精神医療人権センター

•Mr.Fujita

- Psychiatrist
- Hearing-impaired
- -June 2002
- Mainichi-Shimbun
 Newspaper



5. Changes of this decade

- Basic ideas toward licenses are transforming that the person should becertificated if he/she can complete the tasks by using assistance and assistive means.
- From 2000-2006, Public Housing Law was amended the clauses which limited the eligibility of persons with physical, intellectual and psychiatric disabilities to reside alone in the public housings.

Exams began to consider the test takers with disabilities.

From 2000-2006, Public Housing Law was amended the clauses which limited the eligibility of persons with physical, intellectual and psychiatric disabilities to reside alone in the public housings.

. Important Tips for Solution

- Review and restructure existing laws and systems from the viewpoint of anti-discrimination
- Establish the principle that denial of reasonable accommodation is a form of discrimination
- Transform the view of persons with disabilities based on individual/medical model.

- Understand actual situations of persons with disabilities and clarify the challenges (ex.) Lack of aggregated data and analysis from
 - (ex.) Lack of aggregated data and analysis from the gender viewpoint
- Ensure the participation of persons with disabilities from the beginning of all processes including assessment, research and review.

Access to information and communication is indispensable for participation

Citizens' Committee to Eliminate Disqualifying Clauses on Disability

- Organization without status of judicial person. No fund from the government
- Memberships: most of them are individual memberships
- Characteristics: activities regardless of types of disabilities and difference of positions
- Established in 1999

References

Information Booklet From No to Yes

http://www.dpi-japan.org/friend/restrict/shiryo/syoseki/NOtoYES_English.pdf

Usui Kumiko, Seyama Noriko The present and future issue of disqualifying clauses on disability Journal of Disability Studies 2008