



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

Concluding observations on the initial report of the Republic of Korea*

I. Introduction

1. The Committee considered the initial report of the Republic of Korea (CRPD/C/KOR/1) at its 147th and 148th meetings, held on 17 September and 18 September 2014, respectively, and adopted the following concluding observations at its 165th meeting, held on 30 September 2014.
2. The Committee welcomes the initial report of the Republic of Korea, which was prepared in accordance with the Committee's reporting guidelines, and thanks the State party for the written replies (CRPD/C/KOR/Q/1/Add.1) to the list of issues prepared by the Committee.
3. The Committee appreciates the fruitful dialogue held with the State party's delegation and commends the State party for the strength of its delegation, which included many representatives of relevant government ministries. The Committee welcomes the independent participation of the National Human Rights Commission of Korea.

II. Positive aspects

4. The Committee congratulates the State party for the progress made in many areas of the Convention and the legislative harmonization undertaken, including the adoption of the Act on Welfare Support for Children with Disabilities, which entered into force on 5 August 2012. The Committee notes with appreciation the existence of the Anti-Discrimination against and Remedies for Persons with Disabilities Act. It also welcomes the development of the Five-year Policy Development Plan for Persons with Disabilities.
5. The Committee commends the State party for the large number of measures relating to international cooperation for the rights of persons with disabilities, including, in particular, its initiative to support the launch and implementation of the Incheon Strategy to Make the Right Real for Persons with Disabilities in Asia and the Pacific.

* Adopted by the Committee at its twelfth session (15 September–3 October 2014).



III. Principal areas of concern and recommendations

A. General principles and obligations (arts. 1–4)

6. The Committee is concerned that the Welfare of Disabled Persons Act refers to the medical model of disability.

7. **The Committee recommends that the State party review the Welfare of Disabled Persons Act and harmonize it with the human rights-based approach to disability as espoused in the Convention.**

8. The Committee is concerned that the new disability determination and rating system under the Welfare of Disabled Persons Act relies only on medical assessments in providing services and fails to take into account the various needs of persons with disabilities and to encompass all persons with disabilities, including those with psychosocial disabilities. The Committee is also concerned that, as a result, this system limits the eligibility of persons with disabilities for welfare services and personal assistance, based on their ratings.

9. **The Committee recommends that the State party review the current disability determination and rating system under the Welfare of Disabled Persons Act to ensure that the assessment reflects the characteristics, circumstances and needs of persons with disabilities, and that welfare services and personal assistance be extended to all persons with disabilities, including those with psychosocial disabilities, in accordance with their requirements.**

10. **The Committee encourages the State party to ratify the Optional Protocol to the Convention.**

B. Specific rights (arts. 5–30)

Equality and non-discrimination (art. 5)

11. The Committee is concerned about the lack of effective implementation of the 2008 Anti-discrimination against and Remedies for Persons with Disabilities Act. It is particularly concerned that the majority of complaints seeking remedies have not been resolved. The Committee notes that the courts need to exercise the injunctive powers conferred upon them.

12. **The Committee recommends that the State party increase the human resources and independence of the National Human Rights Commission of Korea. It also recommends that the cost of lawsuits be waived or reduced for victims of disability discrimination in order to ensure access to remedies through the courts, and that the requirements be lowered for the issuance by the Minister of Justice of a remedial order (set out in article 43 of the Anti-Discrimination against and Remedies for Persons with Disabilities Act). The Committee also encourages the State party to raise awareness among judges on the need to implement effectively the Anti-Discrimination against and Remedies of Persons with Disabilities Act and to exercise the injunctive powers conferred upon them.**

Women with disabilities (art. 6)

13. The Committee is concerned that legislation and policies concerning persons with disabilities do not include a gender perspective. It is also concerned about the lack of sufficient measures to prevent domestic violence against women with disabilities and sexual violence against women with disabilities, both inside and outside residential

institutions. It is further concerned at the difficulties faced by women and girls with disabilities in participating in lifelong education programmes and at the lack of sufficient support for women with disabilities during pregnancy and childbearing.

14. **The Committee recommends that the State party mainstream a gender perspective in its disability legislation and policies and develop specialized policies for women with disabilities. It also recommends that the State party take effective measures to address violence against women with disabilities, both inside and outside residential institutions, in particular by introducing a disability-sensitive perspective when formulating educational programmes on preventing sexual and domestic violence. The Committee further recommends that the State party ensure that women with disabilities receive appropriate lifelong education according to their choices and needs, regardless of whether they have finished or were excluded from mainstream education. It also recommends that the State party increase its support to women with disabilities during pregnancy and childbearing.**

Awareness-raising (art. 8)

15. The Committee notes that the State party fails to systematically and continuously publicize, and educate government officials, members of Parliament, the media and the general public on, the contents and purpose of the Convention.

16. **The Committee encourages the State party to strengthen awareness-raising campaigns to reinforce the positive image of persons with disabilities as holders of human rights. In particular, it recommends that the State party systematically and continuously publicize, and educate government officials, members of Parliament, the media and the general public on, the contents and purpose of the Convention.**

Accessibility (art. 9)

17. The Committee is concerned about the low number of accessible buses and taxis in rural and urban areas. It is also concerned that accessibility standards for buildings are restricted by minimum size, capacity and date of construction and have not yet been applied to all public buildings. The Committee is further concerned that many websites remain inaccessible for persons with visual impairment, and that web accessibility catering for each disability type, such as hearing impairment and intellectual and psychosocial disabilities, remains weak.

18. **The Committee recommends that the State party review current public transportation policies, with a view to ensuring that persons with disabilities can use all types of public transportation safely and conveniently. It encourages the State party to apply accessibility standards to all public facilities and workplaces, regardless of their size, capacity or date of construction, in accordance with article 9 of the Convention and the Committee's general comment No. 2 (2014) on accessibility. The Committee further recommends that the State party amend the relevant laws to ensure that all persons with disabilities can gain access to information via Internet websites on an equal basis with others, and facilitate access to smart phones for persons with visual and other impairments.**

Situations of risk and humanitarian emergencies (art. 11)

19. The Committee is concerned about the absence of specific strategies in accessible formats for all persons with disabilities in situations of emergencies, including natural disasters. The Committee is particularly concerned that the enforcement decrees of the Framework Act on Building and the Act on the Promotion of Convenience for the Disabled,

Senior Citizens, and Pregnant Women fail to include evacuation systems for persons with disabilities.

20. **The Committee recommends that the State party adopt and implement a comprehensive plan to ensure, in situations of risk, including the occurrence of natural disasters, the protection and safety of persons with disabilities in consideration of the characteristics of their disabilities, and to further ensure universal accessibility and disability inclusion at all stages and levels of all disaster risk reduction policies and their implementation.**

Equal recognition before the law (art. 12)

21. The Committee is concerned that the new adult guardianship system, which was introduced in July 2013, permits guardians to make decisions regarding the property and personal issues of persons deemed persistently incapable of managing tasks due to psychological restrictions caused by disease, disability or old age. The Committee notes that such a system continues to promote substituted decision-making instead of supported decision-making, contrary to the provisions of article 12 of the Convention, as elaborated in the Committee's general comment No. 1 (2014) on equal recognition before the law.

22. **The Committee recommends that the State party move from substitute decision-making to supported decision-making, which respects the person's autonomy, will and preferences and is in full conformity with article 12 of the Convention and general comment No. 1, including with respect to the individual's right to give and withdraw informed consent for medical treatment, to have access to justice, to vote, to marry, to work and to choose his or her place of residence. The Committee further recommends that the State party provide training, in consultation and cooperation with persons with disabilities and their representative organizations, at the national, regional and local levels for all actors, including civil servants, judges and social workers, on the recognition of the legal capacity of persons with disabilities and on the mechanisms of supported decision-making.**

Access to justice (art. 13)

23. The Committee is concerned about the lack of effective implementation of article 26 of the Anti-Discrimination against and Remedies for Persons with Disabilities Act, which requires that the Government ensure reasonable accommodation during judicial procedures for persons with disabilities. It is also concerned that judicial personnel lack sufficient awareness of the rights of persons with disabilities. The Committee notes the existence of the Guidelines for Judicial Assistance for Persons with Disabilities published by the Korean Supreme Court in 2013.

24. **The Committee recommends that the State party increase its efforts to ensure the effective implementation of article 26 of the Anti-Discrimination against and Remedies for Persons with Disabilities Act. It further recommends that standard modules on working with persons with disabilities, on the provision of reasonable accommodation, in particular procedural and age-appropriate, as well as gender-sensitive, accommodations, and on the guarantee of access to justice be incorporated into training programmes for police officers, prison staff, lawyers, the judiciary and court personnel. It is recommended that the Guidelines for Judicial Assistance for Persons with Disabilities, published by the Korean Supreme Court, be legally binding and implemented effectively.**

Liberty and security of the person (art. 14)

25. The Committee is concerned that the existing legal provisions in the Mental Health Act, as well as the draft amendment to the Act, allow for deprivation of liberty on the basis

of disability. It is also concerned about the high rate of institutionalization, including long-term institutionalization, of persons with psychosocial disabilities without their free and informed consent.

26. **The Committee recommends that the State party repeal the existing legal provisions allowing for the deprivation of liberty on the basis of disability, including a psychosocial or intellectual disability, and adopt measures to ensure that health-care services, including all mental health care services, are based on the free and informed consent of the person concerned. The Committee also recommends that until the law is amended, all cases of deprivation of liberty of persons with disabilities in hospitals and specialized institutions be reviewed and that the review include a possibility of appeal.**

27. The Committee is concerned about the lack of information on the safeguards and guarantees in force to ensure persons with disabilities who are declared unfit to stand trial the right to a fair trial in the Republic of Korea. The Committee notes the information provided by the State on the provision of legal aid for such persons and the rendering of not-guilty verdicts; however, no information was provided on the actual measures the Republic of Korea applies as sanctions for those persons considered unfit to stand trial.

28. **The Committee recommends the establishment of procedural accommodations that ensure fair trial and due process guarantees for persons with disabilities. It also recommends that the declaration of unfitness to stand trial be removed from the criminal justice system in order to allow due process for persons with disabilities on an equal basis with others.**

Freedom from torture and cruel, inhuman or degrading treatment or punishment (art. 15)

29. The Committee is concerned that, in psychiatric hospitals, persons with psychosocial disabilities are subjected to acts considered cruel, inhuman or degrading treatment, including solitary confinement, constant beating, restraint and excessive drug treatment.

30. **The Committee urges the State party to abolish forced treatment that subjects persons with disabilities to cruel, inhuman and degrading treatment and punishment. As long as institutionalization continues, the Committee urges the State party to protect persons with disabilities in psychiatric hospitals from violence, abuse and ill-treatment of any kind through the establishment of effective external independent monitoring mechanisms that ensure the representation of organizations of persons with disabilities.**

Freedom from exploitation, violence and abuse (art. 16)

31. The Committee is concerned that persons with disabilities continue to face violence, abuse and exploitation, including forced labour. It is also concerned about the failure of the State party to punish the perpetrators and provide reparation to the victims, and about the absence of shelters for persons with disabilities other than those who are victims of sexual and domestic violence.

32. **The Committee urges the State party to investigate all cases of violence, exploitation and abuse experienced by persons with disabilities both inside and outside institutional settings; to ensure that the perpetrators are punished and the victims receive reparation; and to provide accessible shelters for persons with disabilities who are victims. The Committee recommends, in particular, that the State party strengthen its investigations into the incidents of forced labour of persons with disabilities and provide the victims with adequate protection.**

Protecting the integrity of the person (art. 17)

33. The Committee is concerned about cases of forced sterilization of women with disabilities despite legal provisions prohibiting the practice. It is also concerned about the absence of information on investigations undertaken by the State party on this matter.

34. **The Committee urges the State party to take measures to eradicate the practice of forced sterilization, including by raising awareness of the rights of women and girls with disabilities among their families, in communities and within institutions, and by ensuring that mechanisms providing protection against forced sterilization are effective and accessible. The Committee recommends that the State party carry out investigations into recent and current cases of forced sterilization.**

Liberty of movement (art. 18)

35. The Committee is concerned about the provisions of article 11 of the Immigration Control Act pursuant to which entry to the State party is denied to persons with psychosocial disabilities “who lack reason and are not accompanied by an assistant for their sojourn”, and of article 32 of the Welfare of Persons with Disabilities Act, which restrict basic disability services for migrants with disabilities.

36. **The Committee recommends that the State party repeal article 11 of the Immigration Control Act and article 32 of the Welfare of Persons with Disabilities Act in order to ensure that persons with disabilities are not deprived of the right to enter the Republic of Korea on the basis of disability and to free migrants with disabilities from restrictions on basic disability services.**

Living independently and being included in the community (art. 19)

37. The Committee is concerned about the lack of efficiency of the deinstitutionalization strategies and the lack of sufficient measures aimed at including persons with disabilities in the community, as reflected by the increase in both the number of institutions for persons with disabilities and the number of residents, and the lack of policies for inclusion in the community with all necessary support services, including personal assistance services.

38. **The Committee urges the State party to develop effective deinstitutionalization strategies based on the human rights model of disability and to significantly increase support services in the community, including personal assistance services.**

39. The Committee is concerned that the amount that a person with disabilities is required to pay to receive personal assistant services is calculated based on the “degree of impairment” rather than on the characteristics, circumstances and needs of that person and on the income of the family rather than on the income of the person concerned, resulting in the exclusion of some persons with disabilities from receiving personal assistant services.

40. **The Committee encourages the State party to ensure that social assistance programmes provide sufficient and fair financial assistance so that persons with disabilities can live independently in the community. The Committee recommends, in particular, that the State party base the amount of payment for the personal assistant services on the characteristics, circumstances and needs of the persons with disabilities, rather than on the “degree of impairment”, and on the income of the person with disabilities concerned, rather than on the income of his or her family.**

Freedom of expression and opinion, and access to information (art. 21)

41. The Committee is concerned that the sign language used in the Republic of Korea is not recognized as an official language in the State party and that the draft law declaring Braille as an official script is still pending before the National Assembly. It is also

concerned that the regulation ensuring access to broadcast material for persons with disabilities, in particular television programmes, includes a standard on programming quantity but fails to include standards to ensure the quality of the programmes and to provide adequate accessible information through sign language, closed-captioning, descriptive video/audio description, easy-to-read/easy-to-understand content and through other access formats, modes and means of communication.

42. The Committee encourages the State party to recognize Korean Sign Language as an official language of the Republic of Korea, and to adopt the draft law recognizing Braille as an official script of the State party. It further recommends that the regulation on ensuring access to broadcast material for persons with disabilities include standards on programming quality and on providing adequate, accessible information through sign language, closed-captioning, descriptive video/audio description, easy-to-read/easy-to-understand content and through other access formats, modes and means of communication.

Respect for home and the family (art. 23)

43. The Committee is concerned that support services provided to families of children with disabilities is limited to low-income families that include persons with severe disabilities. Due to short supply, even such services are insufficient. The Committee is furthermore concerned that the Government provides more subsidies and benefits to families adopting children with disabilities than to their families of origin, which encourages the abandonment of children with disabilities by their own families, in particular by single mothers who face compounded stigmatization, and denies the child's right to family.

44. The Committee recommends that the State party provide the legal basis for, and implement, comprehensive policies to enable parents, including single mothers, of children with disabilities to receive support to raise their child within the family and to ensure the child's rights to family and to participation in the community on an equal basis with other children.

Education (art. 24)

45. The Committee is concerned that, despite the existence of an inclusive education policy, students with disabilities in regular schools return to special schools. It is further concerned about reports that students with disabilities enrolled in regular schools fail to receive education that is suitable to their impairment-related needs.

46. The Committee recommends that the State party:

(a) Conduct research into the effectiveness of the current education inclusion policy;

(b) Step up efforts to provide inclusive education and reasonable accommodation in schools and other learning institutions by providing, inter alia, assistive technology and support in classrooms, accessible and adapted educational materials and curricula, and accessible school environments;

(c) Intensify training for education personnel, including teachers and administrators in regular schools.

Health (art. 25)

47. The Committee is concerned that the recently amended article 732 of the Commercial Act recognizes life insurance contracts for persons with disabilities only if the person "possesses mental capacity". The Committee notes that the denial of insurance contracts on the basis of "mental capacity" constitutes a discrimination against persons with disabilities.

48. **The Committee encourages the State party to repeal article 732 of the Commercial Act, which recognizes life insurance contracts for a person with disability only if the person “possesses mental capacity”, and to withdraw its reservation to the provision of article 25 (e) of the Convention regarding life insurance.**

Work and employment (art. 27)

49. The Committee is concerned that the Minimum Wage Act excludes from the benefit of the minimum wage “those who clearly lack the capacity to work” and fails to set clear standards for conducting assessments and making decisions to define the lack of capacity to work. The Committee is also concerned that, as a result, many persons with disabilities who work, especially those with psychosocial disabilities, receive compensation below the minimum wage, and that the practice of placing such workers in sheltered workshops that do not aim to prepare them for entry into the open labour market continues.

50. **The Committee encourages the State party to introduce a supplementary wage system to compensate those persons with disabilities who are excluded from the benefit of the minimum wage by the Minimum Wage Act and to eliminate sheltered workshops and seek alternatives in line with the Convention to promote the employment of persons with disabilities in close consultation with organizations of persons with disabilities.**

51. The Committee is concerned that, despite the existence of a mandatory employment quota system for persons with disabilities, unemployment is higher for persons with disabilities, and in particular for women with disabilities, than for the general population.

52. **The Committee recommends that the State party put in place measures to narrow the employment gap, paying particular attention to the employment of women with disabilities. It recommends, in particular, that the State party ensure the effective implementation of the mandatory employment quota system for persons with disabilities and the publication of relevant statistics on the achievements and results in that area.**

Adequate standard of living and social protection (art. 28)

53. The Committee is concerned that the National Basic Living Security Act excludes from the benefit of minimum living support those persons with disabilities whose family members have a certain amount of income or property. It is also concerned that eligibility for the minimum living support benefit is based on the existing disability grading system and is limited to “persons with severe disabilities”.

54. **The Committee recommends that the State party grant the minimum living support benefit on the basis of the personal characteristics, circumstances and needs of persons with disabilities, rather than on the basis of the disability grading system and on the income and property of their family.**

Participation in political and public life (art. 29)

55. The Committee is concerned that many polling booths are not fully accessible to persons with disabilities and that voting information is not provided to persons with disabilities in consideration of the various types of disabilities. It is also concerned about the low level of participation of persons with disabilities in political activities and as candidates in elections due to the barriers that they continue to face in that regard. It is also concerned that persons declared incompetent are denied the right to vote and stand for elections.

56. **The Committee recommends that the State party step up its efforts to ensure that voting is fully accessible to all persons, irrespective of disability, and that voting information is provided in all accessible formats. It further recommends that the State**

party take specific measures to promote the participation of persons with disabilities in elected bodies. It also recommends that the State party repeal provisions denying the right to vote and stand for elections and provide the right to vote and stand for elections regardless of type of disability.

Participation in cultural life, recreation, leisure and sport (art. 30)

57. The Committee is concerned that the State party has not ratified the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled, which allows access to published material to blind persons, persons with visual impairments or persons with other difficulties in having access to printed materials.

58. **The Committee encourages the State party to adopt all appropriate measures to ratify and implement the Marrakesh Treaty as soon as possible.**

C. Specific obligations (arts. 31–33)

Statistics and data collection (art. 31)

59. The Committee is concerned that the statistical data relating to persons with disabilities collected by the State party fail to take into account the diversity of persons with disabilities, thereby rendering it impossible to evaluate the impact of each policy on persons with disabilities. It is also concerned that statistical data is not being produced and shared in all accessible formats.

60. **The Committee recommends that the State party systematize the collection, analysis and dissemination of data, disaggregated by sex, age, disability, place of residence, geographic area and types of benefits received, and that the statistics be freely accessible by all persons with disabilities through the provision of the information in accessible formats.**

National implementation and monitoring (art. 33)

61. The Committee takes notes that the Bureau of Policy for Persons with Disabilities is in charge of the overall implementation of the Convention, the Policy Coordination Committee for Persons with Disabilities formulates, coordinates and monitors the implementation of basic policy on persons with disabilities, and the National Human Rights Commission of Korea provides advice or comments to the Policy Coordination Committee for Persons with Disabilities on the implementation of the Convention. However, the Committee is concerned that the Policy Coordination Committee for Persons with Disabilities is not functioning properly, and that the National Human Rights Commission of Korea lacks sufficient human and financial resources to monitor effectively the implementation of the Convention.

62. **The Committee recommends that the State party ensure that the Policy Coordination Committee for Persons with Disabilities carries out its role of effective development and implementation of policies related to persons with disabilities, and provide the National Human Rights Commission of Korea with sufficient human and financial resources to monitor effectively the implementation of the Convention. The Committee also recommends that the State party adopt legal provisions to ensure the full participation of persons with disabilities and their representative organizations in the monitoring of the implementation of the Convention.**

Follow-up and dissemination

63. The Committee requests the State party to implement the recommendations of the Committee as contained in the present concluding observations. It recommends that the

State party transmit the concluding observations for consideration and action to members of the Government and Parliament, officials in relevant ministries, local authorities and members of relevant professional groups, such as education, medical and legal professionals, as well as to the media, using modern social communication strategies.

64. The Committee strongly encourages the State party to involve civil society organizations, in particular organizations of persons with disabilities, in the preparation of its periodic report.

65. The Committee requests the State party to disseminate the present concluding observations widely, including to non-governmental organizations and representative organizations of persons with disabilities, as well as to persons with disabilities themselves and members of their families, in national and minority languages, including sign language, and in accessible formats, and to make them available on the government website on human rights.

Next report

66. The Committee requests the State party to submit its combined second and third periodic reports by no later than 11 January 2019, and to include therein information on the implementation of the present concluding observations. The Committee invites the State party to consider submitting the above-mentioned reports under the Committee's simplified reporting procedure, according to which the Committee prepares a list of issues at least one year prior to the due date set for the report/combined reports of a State party. The replies of a State party to such a list of issues constitute its report.
