



National Human Rights Commission of Korea

Independent Report of the National Human Rights Commission of Korea

**SUBMISSION TO THE UNITED NATIONS COMMITTEE ON THE
RIGHTS OF PERSONS WITH DISABILITIES
ON THE OCCASION OF ITS CONSIDERATION OF THE COMBINED
SECOND AND THIRD PERIODIC REPORT OF KOREA**

July 2022

NATIONAL HUMAN RIGHTS COMMISSION OF KOREA (NHRCK)

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Introduction

□ National Human Rights Commission of Korea

- The National Human Rights Commission of Korea(hereinafter referred to as the “Commission”) was established as an independent organization to protect and promote human rights under the National Human Rights Commission of Korea Act on November 25, 2001.
- The Commission plays the role of a monitoring organization that promotes, protects and monitors domestic implementation of the Convention on the Rights of Persons with Disabilities(hereinafter referred to as the “Convention”) by conducting investigations on complaints of discrimination and human rights violations on the basis of disability submitted by individuals, groups, or representative organizations and providing access to remedies, making recommendations and expressing opinions to improve laws, systems, policies and practices related to discrimination against disability, and conducting fact-finding researches on the human rights situation of persons with disabilities as well as ex-officio and onsite investigations.

□ Assessment of Korea’s Report

- After receiving the 1st Concluding Observations of the Committee on the Rights of Persons with Disabilities, the Government has made numerous efforts to implement the recommendations. First, the disability classification system was improved and a comprehensive service support survey that considers the demand and environment of the persons with disabilities in addition to medical criteria is being introduced. The government also amended the Act on Promotion of the Transportation Convenience of the Mobility Disadvantaged Persons(hereinafter referred to as the ‘Act on the Mobility Disadvantaged’) on January 18, 2022, and amended Article 15 of the Act on Welfare of Persons with Disabilities which excluded persons with psychosocial disabilities from the application of the Act on Welfare of Persons with Disabilities due to overlapping support system although they are recognized as the persons with disabilities under the law(December 21,

2021). In addition, the government gradually augments foundations to guarantee the right of persons with disabilities by enforcing the Act on the Improvement of Mental Health and the Support for Welfare Service for Mental Patients(hereinafter referred to as “Mental Health and Welfare Act”) on May 29, 2017, which strengthens requirement and procedure of involuntary hospitalization. Recently, the reservation of Article 25 Subparagraph (e) of the Convention was withdrawn(approved by the President on December 14, 2021), and it is also welcomed that the proposal for ratification of the Optional Protocol has passed the Cabinet Meeting(December 12, 2021) to undergo the process for approval of the National Assembly. However, efforts are required for the actual ratification of the Optional Protocol as the approval at the National Assembly is being delayed.

- In spite of those efforts and positive achievements of the government, the National Report submitted by the government has several limitations. First, reasons that delay the implementation of the Convention due to legal enforcement or practice are not sufficiently described, and optional rules and legal provisions which bear only theoretical significance are often cited as examples of compliance with the Convention, thus failing to provide an accurate explanation of the human rights status of persons with disabilities in Korea.
- Second, the Guidelines demand that statistical data should be presented for the comparison and confirmation of the implementation of the States’ obligations and the protection of rights of persons with disabilities corresponding to respective articles of the Convention. However, the National Report does not provide sufficient data necessary for the analysis of the human rights status of persons with disabilities or implementation status as it failed to provide data in relation to education, labor, and employment of persons with disabilities or tended to provide the overall status of supply and size from the government’s perspective.
- Third, although the budget is what shows government’s commitment to policy, the report barely mentions budget.
- The purpose of the National Report should be about reviewing the level of compliance of domestic laws with the Convention and identify issues associated with the implementation of the Convention and areas to improve, so as to set the

basis to establish and develop more appropriate upcoming policies. Given that, it is desirable that the National Report should state both positive progress that has been made and problems or limitations on the implementation of the Convention without any reservation as well as data and related budget to grasp the specific status.

□ **Direction of written opinion by the Commission**

- In order to prepare its written opinion, the Commission reviewed the National Report with a focus on the following aspects, considering that the Committee deliberates the National Report for the purpose of suggesting concluding opinions and recommendations to help State Parties make improvements for the implementation of the Convention through constructive dialogues between the Committee and State Parties.
- First, whether the National Report provides a thorough explanation of the implementation status of obligations under the Convention and their implications. Second, whether the Report states problems and limitations associated with the implementation of obligations and suggests plans to implement the obligations going forward. Third, whether the Report provides sufficient information with regard to matters which, according to the Guidelines, should be reported in the Report corresponding to respective articles and clauses of the Convention.
- Also, with regard to the implementation of the obligation to promote and protect the human rights of persons with disabilities, recommendations that the Committee may present to the government of the Republic of Korea were suggested based on the policy recommendation, rectification of recommendation and opinion of the Commission so that problems caused due to insufficient laws and systems and conflicts between laws can be corrected in the future.

Article 1-4 Purpose and General Obligations

1

Disability classification system and comprehensive service support survey

□ Current status and problems

- In July 2019, the government improved the disability classification system by reducing from 6 grades to 2 grades, and it is gradually introducing comprehensive service support survey that considers the needs and environment of persons with disabilities in addition to medical **standards** in the order of 1st stage of daily life assistance(July 2019), 2nd stage of mobility assistance(October 2020) and 3rd stage of income and employment support(to be introduced).
- However, the concept of disability under the Act on Welfare of Persons with Disabilities is still based on a medical model, and evaluation items of the comprehensive service support survey in operation are also biased toward medical standards and evaluation of functional limitations, and it is evaluated that it does not contain the fundamental meaning of the reform of the disability classification system.
- Evaluation of the comprehensive survey for daily life support services focuses on functional restrictions, and there are no measures that evaluate various social functional restrictions by considering differences between types of disabilities. Accordingly, persons with visual disabilities, persons with psychosocial disabilities as well as persons with multiple disabilities including those with visual and hearing disabilities are at a disadvantage in evaluation¹
- Comprehensive survey for mobile support services is also based on criteria for determining walking disabilities and persons with multiple disabilities are subject for additional applications. In addition, with regards to services for income, and employment support scheduled to be introduced this year, a method that divides people into medically severe disabilities, general disabilities and non-disabilities and makes people with general disabilities receive labor capacity evaluation again from the Korean Employment Agency for Persons with Disabilities is being

discussed, causing concern from the disability community.

- In terms of the procedure and determination methods of the comprehensive service support survey, criticism has been raised that the screening process is insulting as during the final examination, the disabled person has to prove their disabilities and incompetence if an objection is raised against the results of the judgement.
- As such, as long as the disability concept and registration and screening process based on a medical model continue, it is difficult to completely move away from the method which provides uniform quantity and quality of service according to medical standards.
- In addition, improvement is needed as people with various diseases who have significant restrictions in their daily lives to the extent that disability determination is possible are excluded from disability registration and put in a blind spot of welfare services as seen in the rejection of disability registration application of a patient with Tourette Syndrome.²

□ **Recommendations**

- Since Korea is the only country that maintains the disability classification and registration system based entirely on medical standards, it should abolish those systems in line with international trends and move towards a direction that provides customized service by adding criteria for evaluating personal and environmental factors such as lack of power or resources needed for self-reliance in addition to comprehensive service support survey that measures the degree of social functioning.
- Evaluation item on restriction of social function should be reorganized so that the comprehensive service support survey sufficiently considers the difference between types of disabilities, and the screening process and delivery system should be supplemented so that they do not operate in a way where persons with disabilities endure insult to receive support services.

2

Revision of Article 15(exclusion of persons with mental disabilities) of the Act on Welfare of Persons with Disabilities

□ **Current status and problems**

- The government revised Article 15 of the Act on Welfare of Persons with Disabilities(December 2021) which excluded persons with psychosocial disabilities from application due to overlapped support systems.
- However, this is a mere deletion of the exclusion provision. Until now, persons with psychosocial disabilities have been excluded from the disability welfare service under the Act on Welfare of Persons with Disabilities, and they are in shade spots of welfare as many of the welfare services under the Mental Health and Welfare Act are prescribed in dispositive provisions.
- As a result, the employment rate of persons with psychosocial disabilities was 10.9%³, the lowest among all types of disabilities, but it was difficult for them to use employment support services due to Article 15 of the Act on Welfare of Persons with Disabilities. Only 5.5% of them have used activity assistance services necessary to live on their own in community, and service for self-reliant housing was not available either. The Mental Health and Welfare Act also focuses on ‘treatment’, and thus it is considered to have weak support system to guarantee the right of persons with psychosocial disabilities in health and medical services.

□ **Recommendations**

- Detailed measures should be devised to enable people with psychosocial disabilities to use services for self-reliant housing or employment support through revision of the Act on Welfare of Persons with Disabilities to reflect characteristics of mental disabilities in disability welfare service.
- The Mental Health and Welfare Act also has to be reorganized to devise a support system to guarantee the right of persons with mental disabilities in health and medical services.

Article 5 Equality and Non-discrimination

4-1

Expansion of manpower and enhancement of independence of the National Human Rights Commission of Korea

*Including LOI 34-b

□ Current status and problems

- The Committee recommended to expanding manpower and enhancing the independence of the Commission and to providing sufficient personnel and finance to effectively monitor the implementation status of the Convention in the 1st Concluding Observation. However, there is no progress in strengthening the independence of the Commission and expanding human resources for the implementation of the Convention.
- The Commission, in order to strengthen independence in the budget and organization, devised and discussed a Partial Amendment to the National Human Rights Commission of Korea Act in February 2021 which stipulates the Commission as an independent institution pursuant to Article 40 of the National Finance Act and allows the Commission to decide matters concerning organization and operation of the Commission by setting rules; however, it is difficult to even propose the amendment due to objections by the Government. In order for the Commission to effectively monitor the implementation of the Convention, reform of law and institutions, cooperation with the government and strengthening of the independence of the Commission are needed.

□ Recommendations

- To expand and strengthen the functions of the Commission to monitor the domestic implementation of the Convention, independence of the Commission has to be guaranteed in terms of organization, human resources and budget, and dedicated personnel for the effective implementation of the Convention and investigators who investigate disability-related complaints has to be expanded.

4-2

Remedy of the court and corrective orders of the Ministry of Justice

□ **Current status and problems**

- The government stated that disability remedy litigation for persons with disabilities is supported through the litigation aid system, but there are no related national statistics. In addition, support through the litigation aid system covers only part of the remuneration of the lawyer in addition to the fees paid to the court (stamp and service charges), and the cost of losing the case has to be paid by persons with disabilities, the plaintiff of the remedy litigation. Discrimination remedy litigation is a difficult lawsuit in terms of biased information as well as the input of cost and time, and the risk of losing the case is high because the legal principles of the discrimination relief lawsuit for persons with disabilities are being established.
- There are two types of corrective measures under the Act on the Prohibition of Discrimination against Persons with Disabilities and Remedy against Infringement of Their Rights (hereinafter referred to as the “Disability Discrimination Prohibition Act”); corrective recommendations of the Commission and corrective orders of the Ministry of Justice. However, the performance of the Ministry of Justice’s corrective orders has been very poor. Article 43 of the Disability Discrimination Prohibition Act was amended recently to partially ease the requirement for issuing corrective orders (amended on June 30, 2021) and the number of corrective orders has increased to 4 cases in 2021 by shortening the cycle of holding the Deliberation Committee on Disability Discrimination Correction from once a year to once a quarter. Before the amendment, there were only 2 correctives orders for the period of 13 years. Meanwhile, as the number of public officials in charge is insufficient and investigation is conducted only in writing, improvement is needed. In addition, the penalty for non-compliance with the corrective order is 30 million won or less, and there is no case of imposing a fine.

□ **Recommendations**

- To enhance the effectiveness of rights remedy through courts, data on discrimination remedy litigation for persons with disabilities should be established,

and measures should be devised to exempt or reduce the litigation cost borne by victims with disabilities in the event of losing the case by introducing a system to exempt the cost of litigation of public interest.

- In order for the Ministry of Justice to actively exercise the right to order correction, related personnel should be reinforced and effective sanctions should be prepared in case of failure to comply with the corrective order.

Article 6 Women with Disabilities

5-1

Resolving multiple discrimination against women with disabilities

□ **Current status and problems**

- The government's policy for women with disabilities excessively focuses on the provision of support for pregnancy and childbirth as welfare. As a result, the multiple and complex discrimination faced by women with disabilities in all stages of life such as childhood, adolescence, manhood, and senescence are not handled through detailed policies.
- The government conducts gender sensitive budgeting or gender impact assessments for gender equality, but as there are no disability impact assessments, the positions of women with disabilities are not considered separately. Except for some provisions in the fact-finding survey for persons with disabilities conducted every three years, there is no data on women with disabilities from gender-sensitive perspective needed to implement long-term policies for them. Only when every policy considers gender and disability at the same time, women with disabilities will not be put on back burner or neglected.

□ **Recommendations**

- In order for the position of disabled women to be considered throughout Korean policies, it is recommended that items on disabled women are included in future disability impact assessments as well as the current gender impact assessments.
- To realize long-term policies for disabled women, statistics on them based on gender-sensitive perspectives should be established and based on this, detailed policies for women with disabilities should be devised.

Article 8 Awareness Raising

8

Awareness raising of disabilities

□ Current status and problems

- The Act on Welfare of Persons with disabilities requires mandatory education for disability awareness-raising, and the average implementation rate for the past 4 years(2017-2020) is only 60%. In particular, out of 1,950 national institutions, 964 did not receive education.⁴
- There were concerns about the content of education as well because the focus is on the treatment and overcoming of disabilities and the difficulty faced by persons with disabilities are distorted as problems of failed individuals, not as institutional and environmental barriers. In addition due to expanded remote education, the problem of reduced effectiveness of education has been raised. In this regard, the Commission conducted monitoring in 2019 and informed the Ministry of Health and Welfare of the contents, and as a result, Article 16 of the Enforcement Decree of the Act on Welfare of Persons with Disabilities was amended(June 29, 2021) to reflect the purpose of the Convention in education for disability awareness-raising and include face-to-face education. However, reflection was not made in the workplace education to raise awareness of disabilities under the Act on the Employment Promotion and Vocational Rehabilitation of Persons with Disabilities.
- In addition, an utterance of hate speech in politics has become a problem as the political use of hate speech appeared in the 2017 presidential election and 2018 local elections. The Commission expressed its opinion and recommended for correction regarding politicians' remarks disparaging persons with disabilities. As politicians' remarks have great social influence and ripple effect, special attention has to be paid, but there are still controversial remarks of politicians disparaging persons with disabilities.
- The 2019 fact-finding survey by the Commission shows that families of psychosocial disabilities feel more aggravated by social discrimination and

prejudice against them than 10 years ago, and they stated that resolving discrimination against persons with mental disabilities is the foremost national policy task for persons with mental disabilities.

□ **Recommendations**

- The government should enhance the implementation rate of disability- awareness raising education and revise content and methods of education on disability awareness-raising in the workplace in the Disability Employment Act to enable systematic education of the content and purpose of the Convention.
- The National Assembly should devise measures to prevent the recurrence of hate speech and degrading remarks against persons with disabilities by stipulating matters concerning the prevention of and response to hate speech in the Code of Ethics for Members of the National Assembly or Rule on Ethical Practice for Members of the National Assembly
- To enhance-awareness of persons with psychosocial disabilities and bias against persons with disabilities including campaign or guideline for media and secure related budget.

Article 9 Accessibility

9-1

Accessibility of persons with disabilities in transportation

□ Current status and problems

- With the enactment of the Act on the Mobility Disadvantaged in 2005, low-floor buses began to be introduced. However, the adoption rate of low-floor buses remains at 30.4%(10,382 buses) even when the 3rd Plan on the Transportation Convenience Promotion for the Mobility Disadvantaged Persons based on the act is coming to an end(As of September 2021). This figure is lower than the target of 31.5% of the 1st Plan(2007-2011).
- The revised Act on the Mobility Disadvantaged(2022.1.18.) stipulates the mandatory introduction of low-floor buses when replacing outdated city or village buses. However, inter-city buses, express buses, and wide-area buses have been excluded from the amendment.⁵ In addition, a recent ruling of the Supreme court that grants indulgence to the government and bus companies in a discrimination remedy lawsuit to guarantee the right to move out of town for persons with disabilities drew criticism from the disability community.⁶
- It is also problematic that with regards to use of bus by persons with visual and hearing disabilities, provision of information including bus number and route as well as on-board guidance is insufficient.
- As the local government is responsible for the introduction of special transportation services, the regional disparity is wide, and this has to be addressed. There are regions that operate more than 1 unit of special transportation for every 150 persons with severe disabilities, but in Incheon and Chungbuk, the adoption rate of special transportation service is low at around 50%. In addition, the inter-regional movement of special transportation is limited. Accordingly, national funding has to be provided for the operation of special transportation services in addition to expenses for the establishment of a movement support center. The revised Act on Transportation Disadvantaged

stipulates that the state may provide funding for operation, but it is a dispositive provision. In addition, attached Table 2 of the Enforcement Decree of the Subsidy Management Act excludes special transportation projects for persons with disabilities(operation expense) from eligibility, it is still impossible to provide national subsidies for the operation of special transportation.

□ **Recommendations**

- The government should establish and implement detailed plans to introduce intercity(high-speed) and wider-area express buses equipped with wheelchair boarding facilities.
- Reasonable accommodation should be provided so that persons with visual and hearing disabilities can use buses equally with people without disabilities.
- Related laws have to be reorganized so that national subsidies can be provided for mobile support centers and wide-area mobile support centers that operate special transportation, and measures to address regional gaps in the operation of special transportation should be prepared.

9-2

Accessibility to public buildings and public facilities

*Including LOI 6

□ **Current status and problems**

- The government has amended the Enforcement Decree of the Act on the Guarantee of Convenience Promotion of Persons with Disabilities, Senior Citizens, Pregnant Women and Nursing Mothers(hereinafter referred to as the Enforcement Decree of Disability Convenience Act)(enforced on 2022.5.1.), referring to the 1st Concluding Observation of the Committee and the Policy Recommendation to Enhance Accessibility of Persons with Disabilities to Small-sized Public Facilities(2018) of the Commission and eased the minimum area criteria of facilities subject to mandatory installation of facilities for persons with disabilities such as supermarkets from more than 300㎡ to more than 50㎡.
- Recently, the court issued a meaningful ruling in the first trial of “litigation for a

remedy for discrimination in access to and use of public facilities(February 10, 2022).”⁷ Article 18 (4) of the Act on Prohibition of Disability Discrimination prohibits discrimination against persons with disabilities in access to and use of facilities and states that the scope of facilities obligated to provide reasonable accommodation shall be prescribed by Presidential Decree. However, as the government applied Article 3 of the Enforcement Decree of the Disability Convenience Act, most of the private daily-life facilities open to public use have been excluded from facilities subject to the obligation to install convenience facilities due to the criteria of more than 300m² of floors sizes such as supermarkets, general restaurants, best restaurants and bakeries. With regards to the provision on the scope of facilities of the Enforcement Decree of the Disability Convenience Act, the court declared that this provision is invalid because it deviates from the scope of the mother law, which guarantees access of persons with disabilities to all areas of life, infringes the right to pursue happiness and general freedom of action of persons with disabilities, and violates the principle of equality. Therefore, the government should push for a revision of the act again in consideration of a court’s decision.

- In addition, with regards to playgrounds, which are public facilities, there is no legal basis for playgrounds to children with disabilities can access.⁸ As of 2021, 76,858 playgrounds nationwide are registered in the safety management system for children’s play facilities of the Ministry of Interior and Safety, but there are only 20 inclusive playgrounds for children with and without disabilities (0.03%).

□ **Recommendations**

- The Enforcement Decree of the Disability Convenience Act should be amended so that public facilities become obligated to install convenience facilities regardless of the size or construction year.
- For other public facilities, abolish the provision on size criteria subject to the obligation to install convenience facilities so that newly constructed buildings become subject to obligation regardless of the size, and even for facilities installed before the enforcement of the Act in 1998, separate provisions on installation and

supportive measures should be prepared so that convenience facilities are installed to the extent that there is no excessive burden.

- In addition, even if it is structurally difficult to install convenience facilities, alternative measures should be prepared such as providing human services.
- To guarantee the right to play of children with disabilities, a legal basis for installation and vitalization of inclusive playgrounds should be prepared, and safety certification standards for play facilities in consideration of types of disabilities should be devised.

9-3

Access to information

□ Current status and problems

- The gap between the rate of internet usage by persons without disabilities and persons with disabilities is narrowing every year from 35.4% in 2004 to 13.6% in 2020, but the level of web accessibility is still insufficient.⁹ This is because the obligation to guarantee accessibility is limited to national and public institutions, and the sanctions are insufficient.
- With the development of ICT technology and the recent COVID-19 pandemic, the conversion into contact-free and unmanned services in daily life is accelerating, leading to increasing lawsuits and complaints related to the guarantee of access to information of persons with disabilities. The Disability Discrimination Prohibition Act includes provisions on the guarantee of access to information of persons with disabilities, but the guarantee of access to information on mobile and kiosks will be implemented in 2023. As such, they fail to reflect the rapidly changing ICT product and services in time.

□ Recommendations

- Acquisition of quality certificate of web accessibility should become mandatory centered on public institutions, and measures should be devised to ensure access and use of persons with disabilities on websites and mobile apps of private

companies.

- Comprehensive and effective measures should be devised to guarantee the right to access of persons with disabilities to various electronic information services including home appliances, wall pads, e-learning content, digital content, pharmaceutical information and metaverse.

Article 11 Situations of Risk and Humanitarian Emergencies

11

Disaster risk reduction plans, strategies and guarantee of accessibility

□ Current status and problems

- The government mentioned in the national report that it established comprehensive safety measures for persons with disabilities in 2017 and defined persons with disabilities as a safety vulnerable class under related laws in 2018.
- However, the ‘Standard Manual on Crisis Management’, ‘Working-level Manual on Crisis Response’ and ‘Manual on On-site Action’ based on the Framework Act on the Management of Disasters and Safety and the Special Act on Management of Disasters in Super High-rise Buildings and Complex Buildings with Underground Connections do not present matters to be considered concerning disabilities or detailed responsive measures in crisis.
- In fact, in the event of the Pohang earthquake in November 2017 and the Goseng forest fire in Gangwon Province in April 2019 which were declared a national disaster, measures to help evacuation of persons with disabilities were not provided, and even sign language interpretation was not provided in the disaster broadcasting of the three public broadcasting companies, and persons with hearing disabilities could not even understand a situation.
- The same is true of the ‘Infections Disease Control and Prevention Act’. When persons with disabilities were infected during the MERS outbreak in 2015, the activity support service, essential for survival, was suspended, and it became difficult to receive hospital treatment such as dialysis. Sign language or text interpretation was not properly provided for counseling calls regarding COVID-19 in 2020 and problems concerning disabilities continue to occur throughout the response to infectious diseases including selective clinics, mobility support for the disabled, daily life support during self-isolation, convenience facilities for the disabled in a residential treatment center and support system for group residential facility for the disabled.¹⁰

- In July 2021, the court ordered compulsory mediation for the lawsuits filed by disability groups as follows: the government should make its utmost efforts to reflect the specificity of vulnerable groups such as the persons with disabilities when revising and implementing the basic plan for prevention and management of infectious diseases, standard manual for crisis management of infectious diseases and comprehensive safety measures for persons with disabilities; and the government should strive to include detailed and practical measures considering the specificity of the vulnerable groups such as the persons with disabilities in implementing comprehensive safety measures or guideline for the disabled as long as laws and financial matters allow. However, no related measures have been taken yet.

□ **Recommendations**

- In addition to the comprehensive safety measures for the persons with disabilities, the general plan and manual according to related laws should include considerations and countermeasures for each type of disability in times of disaster. In addition, the participation of the persons with disabilities, and related assistant should be guaranteed in the process of establishing these measures.
- In order to consider the characteristics of the vulnerable class such as persons with disabilities, the basic plan for prevention and management of infectious diseases, standard manual for crisis management of infectious diseases and comprehensive safety measures for persons with disabilities should be improved to include detailed and practical measures that consider the specificity of the vulnerable class such as detailed supportive measures for different types and levels of disabilities, accessibility of isolation facilities and activity support measures in case of isolation.

Article 12 Equal Recognition before the Law

12-1

Efforts to replace the adult guardianship system with supported decision-making

□ Current status and problems

- As for guardianship system in Korea, substituted decision-making such as adult guardianship which grants comprehensive power to guardians accounts for the biggest part.¹¹ Currently, among the different types of guardianships, the adult guardianship type, which does not consider the will of the person in charge is used at the highest rate of more than 10 times compared to other types.¹² In addition, there are cases where adult guardianship is determined even when applications are made for specific guardianship or limited guardianship. As such, there is a lack of effort to prepare mechanisms for conversion into supported decision-making.
- As the government stated in the National Report that under current law, the will of the principal should be taken into account and legal procedures require the hearing of the statement of the person, it seems recommendations are well implemented, but when the Commission asked for the number of guardianship adjudication where the principal was examined, written agreement form was submitted, guardianship was commenced or guardians were appointed against the will of the principal, or guardian was dismissed or changed due to misdeed or inappropriate performance of duty, the government answered that there is no separate statistics, making it hard to identify the level of conformity of the legal provisions concerned.
- In addition, no education is conducted on the legal ability of persons with disabilities and the mechanism of supported decision-making in accordance with Article 12 of the Convention and General Comment No. 1.
- Due to this, the situation where persons with intellectual disabilities, persons with autism and persons with psychosocial disabilities are treated as mentally incapacitated throughout the legal system and practices of ‘guardians’ decide everything on behalf of persons with disabilities are repeated.¹³

- In addition, in Korea, there are substitutes for decision-making who do not receive supervision or monitoring of court under various health and welfare-related legislation. Notable examples are Article 43 of the Mental Health and Welfare Act(protective hospitalization of patients with mental illness, refer to 14-2) and paragraph 6 of Article 60 (2) of the Act on Welfare of Persons with Disabilities which prescribed that families, etc may execute vicariously all or part of the contract where persons with disabilities have difficulties in concluding contracts due to lack of intellectual abilities in deciding usage of facilities.
 - Article 8 paragraph 3 and Article 21 paragraph 2 of the Act on Guarantee of Rights of and Support for Persons with Developmental Disabilities(hereinafter referred to as the 'Act on Persons with Developmental Disabilities') prescribe that guardians can support the decision-making of persons with developmental disabilities including a decision on dwelling, consent or rejection of medical services, use of welfare service and manage an account on behalf of them.
- **Recommendations**
- Regarding the current guardianship system, substituted decision-making should be replaced with supported decision-making that conforms to Article 12 of the Convention and General Comment No.1.
 - To this end, it is recommended to study and develop exemplary practices that respect the right of persons with disabilities to receive the support needed to exercise their legal capacity.
 - It is recommended that compulsory education on public officials, judges, and social workers pursuant to Article 25 of the Act on Welfare of Persons with Disabilities be enhanced to conform to the purpose and contents of the Convention including contents on legal capacity and supported decision-making of persons with disabilities.
 - It is recommended to improve the law that recognizes substitutes for decision-making not supervised by the court, such as Article 60 (2) paragraph 6 of the Act on Welfare of Persons with Disabilities and Article 8 paragraph 3 and Article 21 paragraph 2 of the Act on Persons with Developmental Disabilities.

Article 13 Access to Justice

13-1

Effective implementation of Article 26 of the Act on the Prohibition of Disability Discrimination

□ Current status and problems

- Recently, the Constitutional Court ruled that recognizing the videos recording statement of a juvenile victim of sexual violence during the process of investigation violates the right to defend the defendants and is against the Constitution.¹⁴ This logic can be applied to victims of sexual violence who has disabilities, and this is against Article 12 (3) and Article 13 (1) of the Convention. In addition, due to the aforementioned decision, disabled victims of sexual violence have to appear in court to testify and thus there is a severe concern about victims' return to daily life and secondary damage.
- Article 26(6) of the Disability Discrimination Prohibition Act prescribes that a judicial institution shall confirm whether a person related to a case has a disability in communication or expression of opinion, and inform the right to receive assistance and content thereof. The problem is that for persons with psychosocial disabilities, the disability to communicate or express intention is not identified immediately in some cases, making the notification itself difficult. As a result, in many cases, persons with disabilities often fail to exercise their rights in judicial procedures.
- The government operates a dedicated investigation system for persons with developmental disabilities(dedicated police officer), but the disability community questions whether this is more appropriate to investigate various crimes related to persons with developmental disabilities because there are problems such as changed jurisdiction or delays in handling cases to utilize the dedicated investigation system, the focus is on women and juveniles, and in many cases, it is difficult to confirm expertise. However, the National Police Agency replied that education material or guidelines for the investigation of victims are directly related to its work and cannot be disclosed.

□ **Recommendations**

- In consideration of the vulnerable situation of the disabled victims of sexual violence, a measure to prevent secondary damage against the victims should be devised.
- The court or investigation institutions should inform everyone of the right to receive assistance in cases of disabilities in communication or expression of intention and the content of such assistance.
- A fact-finding survey has to be conducted on the dedicated investigation system for persons with developmental disabilities to check if it is effective in guaranteeing the rights of persons with disabilities.

13-2~5

Granting legally binding force on the guideline on judicial assistance for persons with disabilities

□ **Current status and problems**

- Publishing the revised Guideline on Judicial Support for Persons with Disabilities(June 2020) and conducting a fact-finding survey on judicial support of the court and research on improvement measures are evaluated to be meaningful efforts of the Ministry of Court Administration. However, the court has not considered the accessibility of persons with disabilities in regulations on facilities such as rules on judicial facility standards and rules on court seats and it does not receive a regular fact-finding surveys on accessibility and Barrier-Free(BF) certification. In addition, disability support of the Center on Judicial Access or window for preferential support is not linked to the trial process, and the provision of convenience for persons with disabilities is insufficient. There is no effort seen to establish a judicial support system including monitoring with the participation of persons with disabilities and legislating measures to enhance guidelines and institutions.
- Inmates with disabilities can use the public defender system, but there are cases where adequate legal support is not provided due to a lack of understanding of

public defenders on disabilities.

- There are no official statistics released on the number of judges, prosecutors and, lawyers with disabilities. According to the material submitted by the Ministry of Court Administration, out of 3,214 judges nationwide, the number of judges with disabilities is only 14(as of the end of 2021), and the number of prosecutors with disabilities cannot even be checked because the Ministry of Justice replied that there is no separate statistics on prosecutors with disabilities. It is evaluated that there is a lack of systematic efforts to select and nurture legal personnel with disabilities.

□ **Recommendations**

- Measures should be prepared to legislate guidelines on judicial support for persons with disabilities.
- To guarantee the right of persons with disabilities to access the court, the rules on judicial facility standards and court seats should be revised, and regular fact-finding investigation on the right to access and BF certification should be received pursuant to the Disability Convenience Act. In addition, it is needed to establish a system for judicial support for persons with disabilities and continue to receive and monitor the opinions of persons with disabilities and disability groups.
- Compliance of the court and the prosecution with mandatory employment of persons with disabilities and provision of convenience should be checked and the result should be announced. In addition, measures to support persons with disabilities during the process of training should be prepared such as selecting law school students with disabilities first for practical training at public institutions.

Article 14 Liberty and Security of the Person

14-1

Reform of examination institution and process for involuntary hospitalization

□ Current status and problems

- The government amended related law in 2016 so that the Hospitalization Suitability Examination Committee at national mental healthcare centers reviews hospitalization and Mental Health Examination Committee under local governments reviews hospitalization extension.
- However, unlike in the U.S, Germany and Japan, where reviews are made by judicial or quasi-judicial institutions, both hospitalization examination institutions are medical panels chaired by medical personnel and evaluated to have insufficient independence and neutrality. In addition, the written examination is conducted in principle and face-to-face examination is conducted only upon request from a patient.
- As a result, out of about 78,000 hospitalization examinations (including extension) of involuntarily hospitalized patients per year since the implementation of the Mental Health and Welfare Act, only around 1% of the patients are discharged by the decision of the Hospitalization Suitability Examination Committee.¹⁵
- Patients whose hospitalization(extension) is decided should receive the decision letter in person, be notified the procedure to appeal to the court in writing, and a confirmation letter that such notification of the right was received should be written by the patient, but such procedure is not carried out.

□ Recommendation

- An independent examination institution with quasi-judicial characteristics should be established by unifying the Hospitalization Suitability Examination Committee and Mental Health Examination Committee, and it should be a deliberative panel that includes a third party with public interests in addition to legal and medical personnel.

- Face-to-face examination should be conducted in principle, and the result should be notified to the principal in person, and the process for appeal has to be prepared and notified in the examination result notification.
- A system should be devised for the designated supporter who provides information on legal procedure and authority that involuntarily hospitalized patients may exercise and assists such procedure.

14-2

Abolition of hospitalization by legal guardian

□ **Current status and hospitalization**

- In Korea, there is a protective hospitalization system where legal guardians including family can hospitalize patients and administrative hospitalization which allows the state(heads of local governments) to hospitalize patients as types of forced hospitalization. Among them, administrative hospitalization is a minority and most are protective hospitalization requested by family.¹⁶
- With the implementation of the Act on Mental Health and Welfare Act, the rate of involuntary hospitalization has significantly decreased, but involuntary hospitalization by family still accounts for a high proportion.
- According to the Mental Health and Welfare Act, families who have responsibilities to protect mental patients, virtually have the power to control personal liberty of the person with psychosocial disabilities as they have obligations and responsibilities for all matters concerning liberty and property rights including discharge, prevention of self-harm and harm to others, protection of property, prohibition of abandonment in addition to an application for a hospitalization against the will of the person concerned. In the end, the protective hospitalization system by family functions as a substituted-decision making system and violates the right to self-determination of the person concerned.
- In addition, cases were found where the system requires agreement for hospitalization, which was established as an alternative to involuntary hospitalization was abused to avoid hospitalization suitability examination and

hospitalization extension examination.

□ **Recommendations**

- Hospitalization by legal guardian pursuant to Article 43 of the Mental Health and Welfare Act should be abolished, and involuntary hospitalizations(hospitalization by a legal guardian and administrative hospitalization) should be unified into one system with the same requirement and procedure.
- Hospitalization with an agreement system which can be easily changed into forced hospitalization when discharge is required should be abolished and a treatment environment where voluntary hospitalization is a principle has to be created.

Article 15 Freedom from torture, etc.

15-1

Forced treatment

□ **Current status and problem**

- The government said in the report that it has ensured the elimination of inhuman forced treatment against persons with mental disabilities through the enforcement of the Mental Health and Welfare Act. However, there is no shelter for patients in psychiatric crisis including those making remarks warning or implying suicide, and they were often forced to be hospitalized in a mental health institution.¹⁷
- Article 75 of the Mental Health and Welfare Act which prohibits restrictions such as isolation rather serves as a grounds that legally allow isolation and constraint as when medical staff documents the reason and content of isolation and constraint, title of disease and symptom, start and end times, order and performer, pursuant to Article 51 of the Enforcement Rule of the same act, appropriateness of isolation and constraint is not questioned.
- The notice of the Ministry of Health and Welfare on isolation and constraint allows isolation and constraint for the purpose of preventing harm to oneself and others such as the high risk of suicide or self-harm, high risk of harming others due to violence or high risk of harming the patient's own health mentally or physically. In addition, isolation and constraint are allowed when there is a high possibility of serious damage to the ward environment such as damage to property and thus it allows an excessively comprehensive scope. In addition, a situation when isolation and constraint is allowed is defined only as a situation where the risk cannot be prevented or controlled with measures other than isolation and constraint, without presenting detailed interpretation, the practice of isolation and constraint without seeking other measures continues.
- Meanwhile, the use of psychiatric medicine is under the full control of medical personnel, and there is no regulation on the use of drugs for behavioral control. However, given that the European Committee for the Prevention of Torture has

defined the concept of chemical constraint in its 2006 report, regulates the procedure and methods of usage and drugs are given during isolation and constraint can be regarded as a type of forced treatment without consent, adequate regulations are needed for the procedure and methods of usage.

□ **Recommendations**

- To prevent forced hospitalization of mentally ill patients and encourage them to recover and receive treatment in the community, crisis support shelter and support service has to be prepared.
- Regulation on requirement and procedure of isolation and constraint has to be modified upward from the current 'guideline' to 'legislation'. In addition, a non-coercive program that can substitute isolation and constraint has to be developed so that isolation and constraint are used as a last resort after non-coercive measures, and an implementation manual has to be devised. In addition, systems and manpower standard have to be prepared so that mental hospitals can actually implement the manual.
- With regards to psychiatric medication used as a form of forced treatment, regulation measures have to be studied to prevent abuse as a method of behavioral control. In addition, the practical guideline has to be prepared an adequate prescription.

Article 16 Freedom from Exploitation, Violence and Abuse

16

Investigation of abuse cases against persons with disabilities and protection of victims, etc

□ Current status and problems

- The government has a victim support system by crime types such as violent crimes, sexual violence and domestic violence as well as a support system by victim types such as children, the elderly, and the persons with disabilities. However, both systems exclude persons with disabilities as they do not consider disabilities. Counseling centers and shelters in charge of persons with disabilities are having a hard time due to insufficient material and human resources.
- There are 18 Advocacy Agencies for Persons with Disabilities including 1 central and 17 regional, and this means one agency for every 146,000 registered persons with disabilities by region. Moreover, with only 3-4 employees at each agency, they are suffering from a shortage of manpower and budget. For this reason, they are having difficulties in providing rescue and follow-up care for victims. In addition, improvement is urgent for some of the shelters as space is not divided by gender in some shelters, or characteristics of disabilities or individual households (mental illness, challenging behavior, accompanying parents and children) are not considered, making it difficult to use the facility.
- According to the data from the Ministry of Gender Equality and Family, the number of counseling cases of sexual violence against persons with disabilities are increasing from 20,886 cases in 2016 to 35,379 cases in 2020, but there are only 28 sexual violence counseling centers, 7 shelters for victims of sexual violence, 4 counselling centers for domestic violence and 2 shelters for the victim of domestic violence.¹⁸
- In addition, as there is no measure to support self-reliance after leaving the shelter, disabled victims of abuse, sexual violence, and domestic violence are entering residential facilities or returning to places of violence, exposing themselves to the risk of sexual or domestic violence.

□ **Recommendation**

- It is recommended to expand the manpower and budget of Advocacy Agencies for Persons with Disabilities and sexual and domestic violence counseling centers for persons with disabilities, to expand shelters and to improve facilities by separating spaces for men and women and considering characteristics of disabilities and households.
- Monitor status of use and accessibility of persons with disabilities It is recommended to expand the manpower and budget of Advocacy Agencies for Persons with Disabilities and sexual and domestic violence counseling centers for persons with disabilities, to expand shelters and improve facilities by separating spaces for men and women and considering characteristics of
- To prevent victims with disabilities who entered temporary protective facilities including shelters from entering residential facilities or returning to places of damage, detailed measures for self-reliance after leaving the facility should be devised.

17

Forced labor of persons with disabilities

- Even after the so-called ‘Shinan Salt Farm’ incident¹⁹ discussed at the 1st deliberation in 2014, cases of forced labor of persons with disabilities continue to occur. According to the 2020 Report on Status of Abuse against Persons with Disabilities by the National Advocacy Agency for Persons with Disabilities, there are 88 cases recognized to be forced labor of persons with disabilities among the cases received in 2020(for 43.2%, the damage lasted for more than 10 years).
- However, despite the ruling of the Supreme Court²⁰ which recognizes state liability for compensation with regards to △police who did not investigate or take protective measures even after receiving a report from the victim, △labor supervisor who did not separate the perpetrator and the victim and investigated poorly without a person in a fiduciary relationship, △social welfare public officials

who did not take measures including prosecution even after recognizing the fact of forced labor of persons with disabilities, the government continues to inappropriately respond to forced labor of persons with disabilities as seen in the “second Shinan Salt Farm” incident²¹ in October 2021.

- In addition, the practice of leniency for perpetrators and the low level of punishment are also pointed out as problems. According to data from the Seoul Bar Association in 2017, in 39 criminal cases involving the 2014 Shinan Salt Farm Slave case, 10 out of 33 defendants were sentenced to prison(7 of whom are sentenced to not more than 2 years in prison), three were fined, and the remaining 20 were released on probation.²² In the case of “compulsory labor in a temple”²³ where the chief monk exploited the labor force of a person with intellectual disability, a low sentence of one year in prison was sentenced in the first trial(June 2020), and an appellate trial is underway.
 - Legal experts who took charge of related cases pointed out that such leniency and low sentences are due to the fact that the victim’s vulnerability is not considered in the agreement between the perpetrator and the victims and victim’s unwillingness to punish²⁴, and the crimes that can be sufficiently applied are not prosecuted.
- **Recommendations**
- The practice of passive and compassionate application of the law on the forced labor of persons with disabilities should be addressed, related institutions should be reorganized and a detailed manual should be devised so that the government recognizes the related case as a serious crime of abuse not merely as a labor-related crime.

Article 19 Living Independently and Being Included in the Community

20

Deinstitutionalization strategies and measures

□ Current status and problems

- In 2021, the government announced the ‘Roadmap for Supporting Self-reliance of Deinstitutionalized Persons with Disabilities in the Community(hereinafter referred to as the “Deinstitutionalization Roadmap”). This Deinstitutionalization Roadmap includes setting policy directions and goals for deinstitutionalization, establishing dedicated organizations and departments, and expanding housing and welfare services in the community. However, in 2041, when the plan will be accomplished, the roadmap still recognizes facility residence of persons with severe disabilities and group homes which correspond to the small-sized institutions as part of a form of a self-reliant housing, all of which do not conform to the Convention and General Comment No.5. As for the group home managed and operated in residential facilities as in the present, the right to control housing and service is on the facility, so there is a limit to self-reliant life.
- In addition, the establishment of a monitoring system for deinstitutionalization policies, the creation of principles and guidelines to plan deinstitutionalization of local governments and deinstitutionalization strategies for persons with disabilities living in other facilities such as homeless facilities and mental care facilities are not sufficient. In particular, as for persons with mental disabilities, Article 15 of the Act on Welfare of Persons with Disabilities was amended; as measures for the deinstitutionalization of persons with psychosocial disabilities should be included in the deinstitutionalization roadmap.

□ Recommendations

- To achieve complete deinstitutionalization, a deinstitutionalization roadmap that accepts some of the residential facilities should be enhanced and additional measures should be devised including the establishment of a monitoring system for deinstitutionalization policies, the creation of principles and guidelines to plan

deinstitutionalization of local governments, and deinstitutionalization and dehospitalization strategy for persons with disabilities living in other facilities such as homeless facilities and mental care facilities

- The government should establish a legal basis for the deinstitutionalization roadmap, closely consult with persons with disabilities and encourage their participation as recommended by General Comments No.5 and No.7 of the Convention.

21

Activity Assistant Service

□ Current status and problems

- The Commission emphasized in the 2019 policy recommendation to prepare a deinstitutionalization, a foundation in the local community has to be established at the same time and welfare service including 24-hour activity assistant services and daytime protection services should be expanded.
- However, the maximum time for activity assistant service provided by the state(central government) is 16 hours. Some local government provides 24-hour activity assistant service through additional support, but there are large regional gaps because it is not carried out by the state.
- In addition, revision of the disability classification system led to an expansion of service applicants, but the newly introduced comprehensive service support survey showed a significant fall in the section of persons with the most severe disabilities. As for 14.5% of persons with disabilities applied for renewal of eligibility for activity assistance from the period from July 2019 to June 2021(8,333 out of 57,370), service time has decreased by an average of 22 hours a month(maximum 241 hours), and only 5 people have received 1 section(16 hours a day) during the same period.
- As for the issue of suspension of activity assistance service and conversion to long-term care insurance for the aged after the age of 65, the government made a revision to enable receipt of activity assistant service even after the age of 65.

However, some of the persons with disabilities are facing problems of decreased benefit and continuity of service because more than 60 hours of difference compared to the existing service is preserved by activity assistant, and long-term care benefits are continued to be provided for baths and meals.

□ **Recommendations**

- Review the composition and benefits of the comprehensive service support survey and enable persons with disabilities to choose between the activity assistant service for persons with disabilities and long-term care benefit for the aged.
- Measures to provide 24-hour activity assistant service equally among the region should be devised for persons with severe disabilities who need care and support for 24 hours.

Article 21 Freedom of Expression and Opinion and Access to Information

22-1

Braille Act and Korean Sign Language Act

□ Current status and problems

- The Braille Act was enforced on May 30, 2017, but it is not effective as persons with visual disabilities rarely encounter braille in their daily lives such as in home appliances, daily supplies, and medicines.
- With the enforcement of the Korean Sign Language Act(August 3, 2016), the government has established the 1st Korean Sign Language Development Masterplan(2018-2022), and sign language interpretation has become mandatory for public events including government policy briefings(December 2020).
- However, as the sign language policy is entrusted to one ministry(Ministry of Culture, Sports and Tourism), it is difficult to effectively respond to problems arising from education and employment. In addition, as the operation of the sign language interpretation center is by the local rehabilitation facility for persons with disabilities pursuant to Article 51 (1) 2 of the Act on Welfare of Persons with disabilities, sign language policy and sign language interpretation policy is separated.

□ Recommendations

- The National Braille development plan and the annual implementation plan should include detailed measures to enhance the environment of braille use including home appliances, daily supplies and medicine, and measures to enhance the effectiveness of the Braille Act should be prepared, starting with public institutions and daily essential life.
- In order to link policies for sign language and support for sign language interpretation, measures for linkage among government ministries and policies should be devised, and supportive measures should be prepared to provide expanded sign language interpretation in the daily life of persons with hearing disabilities.

22-2

Accessibility of persons with disabilities to broadcast and online information

□ **Current status and problems**

- The Broadcasting Act and the Enforcement Decree of the same Act guarantee access to broadcasting by the disabled, and related notification stipulates the rate of the mandatory airing of program for persons with disabilities including closed captioning, sign language interpretation, and descriptive narration.
- Currently, closed caption broadcasting aims for 100% for terrestrial broadcasting and comprehensive programming channel, but the goal is 10% for descriptive narration and 5% for sign language interpretation.²⁵ In addition, problems are raised concerning the programming of broadcasting for the persons with disabilities that are focused on specific program and specific time and quality of descriptive narration, closed captioning and sign language interpretation.²⁶
- In the case of video-on-demand(VOD) platform services and over-the-top service(OTT), as there is no legal ground, most of the latest and overseas contents that are highly demanded are excluded from the obligation to provide disability broadcasting. In addition, unlike literary work, there is even a controversy over copyright violations when the original work of a video clip is processed for descriptive narration, etc.²⁷

□ **Recommendations**

- It is necessary to increase the target rate of sign language broadcasting and descriptive narration given to each broadcaster and the rate of provision of disability broadcasting of the latest content with high demand such as dramas and entertainment shows. In addition, measures to enhance the quality of broadcasting for the disabled should be devised including the introduction of a quality assessment system.
- Related laws should be reorganized to expand the scope to VOD, OTT and other contents officially serviced both at home and abroad and to prevent copyright issues.

22-3

Public information in accessible and easy-to-read methods

□ **Current status and problems**

- Recently, there have been calls to guarantee the right to access information of persons with developmental disabilities who have been excluded from society at large and provision of easy-to-read information based on the Disability Discrimination Prohibition Act.
- In the case of broadcasting, the Korea Communications Commission has made a total of 106 videos so far, starting from 25 videos for persons with developmental disabilities in 2014, and the National Library for the Disabled also has a total of 108 easy-to-read material. However, there are few other data for persons with developmental disabilities that are regularly produced by public institutions.
- Moreover, support for access through braille and sign language for documents of public institutions has not even been discussed, and thus it is urgent to prepare a method to guarantee the right to access public information of persons with visual and hearing disabilities including those with developmental disabilities.

□ **Recommendations**

- To guarantee the right to access public information of persons with developmental disabilities as well as persons with visual and hearing disabilities, standards on accessible format, production and provision have to be devised and policy measures should be prepared to provide public information in an easy-to-read manner.

Article 24 Education

25-1

Enhancing effectiveness of inclusive education policy

□ **Current status and problem**

- The government has established 17 special schools during the period of the 4th Five-year Plan on Development of Special Education(2013-2017). However, even in the 5th Plan(2018-2022) which aims for successful social inclusion of targets of special education, the basic direction is the continued expansion of special school(class)²⁸, and additional special schools are being established.
- The expansion of special school violates Article 24 of the Convention and runs counter to the policy of pursuing inclusive education. The reason behind the continued expansion of special schools is that there is no education environment that considers disability type and characteristics of students with disabilities. The government's argument of the inevitability schools proves the fact that individualized education plans and support for the educational activity of students with disabilities are not smoothly carried out. Currently, most students with disabilities assigned to general schools are receiving separated education in special classes.
- Therefore, for the implementation of Article 24 of the Convention and realization of inclusive education pursuant to General Comment N.4, the disability-inclusive monitoring system has to be introduced that tracks implementation status at all levels and monitors whether policies and programs are properly implemented. Only then can such retrogressive measures be understood as temporary measures even if special schools are expanded for the time being in consideration of reality.
- Recently, the Ministry of Education implemented the 'Project to develop integrated educational cooperation model between special teachers and general teachers' as part of the 5th Five Year Plan for the Development of Special Education(2018-2022). This is an attempt to provide inclusive learning opportunities for both

students with and without disabilities within the general education system. Efforts should be made to include a plan to convert to inclusive education in the 6th Five-year Plan for the Development of Special Education(2023-2027).

- 「Article 5 (2) of the Lifelong Education stipulates the establishment and implementation of a policy for lifelong education for persons with disabilities. However, lifelong education facilities for the students with disabilities account for 6.5% of lifelong education facilities nationwide(269 out of 4,169), programs accounts for only 0.3% of all adult programs and the budget is 0.008% of the entire budget for education.²⁹ In addition, the participation rate in lifelong education is very low at 0.9%, compared to 40% of the lifelong education participation rate for all adults, according to the 2017 fact-finding research on persons with disabilities.³⁰

□ **Recommendations**

- The government should expand the budget to develop inclusive education and establish a plan to convert to inclusive education to gradually realize Article 24 of the Convention.
- A disability-inclusive monitoring system should be introduced regarding education for persons with disabilities.
- Budget for lifelong education for persons with disabilities should be expanded; the Act on Lifelong Education for Persons with Disabilities(tentative name) should be amended, and lifelong education institutions for persons with disabilities should be expanded to enable easy access and various programs in the local community.

Article 25 Health

27-2

Medical Accessibility of Persons with Disabilities

□ **Current status and problems**

- The government introduced in the national report the Act on Guarantee of Right to Health and Access to Medical Services for Persons with Disabilities(enforced on Dec. 30, 2017, hereinafter referred to the “Act on the Right to Health of the Disabled) and ‘physician-in-charge pilot project for the disabled’ operated since May 2018 pursuant to this Act, but did not present related achievements.
- According to the statistics on the physician-in-charge pilot project for the disabled announced by the office of Choi Hye Yeong, a member of the National Assembly, 1,146 persons with disabilities participated in the 2nd phase of the project, which accounts for only 0.1% of targeted 984,965 persons with severe disabilities, and out of 567 doctors registered as a physician-in-charge for the disabled, only 88 actually carried out activities.
- The reasons behind the poor performance is that it is difficult to go to the hospital due to the difficulty of using public transportation, and even when it is possible to move to the hospital, it is difficult to enter the building in many of the registered medical institutions of the pilot project because of insufficient convenience facility for persons with disabilities. These institutions do not provide support for the persons with disabilities having difficulty in communicating. Moreover, out of 542 registered medical institutions, 50% are located in the metropolitan area, making it difficult for the residents in other areas to use. The government mentioned in-home health care services as an alternative to limited physical access, but there are not many institutions that actually provide in-home services. The national reports state that Article 9 of the Act on the Right to Health of the Disabled mandates the guarantee of access to and use of healthcare institutions by the persons with disabilities, but that Article is ineffective as it is a dispositive provision. In the 2019 study on the physician-in-charge pilot project for the disabled, only 11.5% of the respondent stated that they are aware of this project.

- The government established a plan to expand 100 “disability-friendly medical examination institutions” by 2024 pursuant to the Act on the Right to Health of the Disabled, but as of 2020, there are only 7 institutions that have been certified as “disability-friendly medical examination institutions.”
 - Under the Act on the Right to Health of the Disabled, women’s right to health is limited to pregnancy, childbirth, and maternity right. Although it is true that the dire medical environment concerning pregnancy and childbirth of the women with disabilities have to be addressed, there are various other aspects that have to be considered including information on abortion, contraception, safety of female sanitary products as well as professional medical services for female-related diseases such as breast cancer, uterine cancer, and osteoporosis.
- **Recommendations**
- In order to properly implement the Act on the Right to Health of the Disabled, proper budget, manpower and resources have to be provided, and measures to provide convenience for the persons with disabilities have to be implemented including the installation of convenience facilities in medical institutions to enhance the access of the disabled. In addition, disability-friendly medical examination institutions have to be expanded according to regional demand.
 - Develop and implement various programs on women’s right to health so that the right to health of women with disabilities is not limited to pregnancy, childbirth and maternity right in implementing the Act on the Right to Health of the Disabled.

Article 27 Work and Employment

28-1

Discrimination against persons with disabilities in work

□ Current status and problems

- Currently, 28 laws in Korea have disqualification provisions that limit the attainment of certificates and licenses by persons with psychosocial disabilities. Attainment of 6 certificates and license including operation of the postpartum care facility and aquatic rescue technician is fundamentally prohibited, and attainment of 18 certificates and licenses including dietitian and social workers are exceptionally allowed only when it is accepted that there is no problem in carrying out duties according to doctor's diagnosis, etc. The remaining 4 certificates can also be restricted by the doctor's diagnosis.
- In April 2018, the Commission recommended to abolishing or easing such disqualification provisions to the government, which was not properly accepted as only the definition of the mentally disabled was reduced.³¹ This has to be addressed urgently because it could strengthen the social prejudice and severely limit the basic right to choose an occupation.

□ Recommendations

- Restricting the attainment of certificates and licenses could violate the freedom to choose an occupation, and thus 28 laws that restrict attainment of certificates and licenses by the mentally disabled should be comprehensively reviewed to abolish or ease the disqualification provisions concerned.

28-2

Exclusion from the minimum wage application

□ Current status and problems

- The number of workers with disabilities excluded from the application of minimum

wage reached an all-time high of 9,413 in 2018 from 7,006 in 2015, and still remains at the 9,000 range. That is, the figure increased by 29.3% compared to 2015.³²

- As of the end of 2020, the average monthly wage of disabled workers excluded from the minimum wage is 370,000 won, which is only 20.7% of the minimum wage, and 80.2% of the disabled who do not receive the minimum wage are persons with psychosocial disabilities.
- Other major OECD countries are implementing a “subsidized employment system” under which the government subsidizes some of the wages to guarantee the minimum wage of persons with disabilities so that persons with severe disabilities under protective employment do not receive compensation below the minimum wage due to productivity, and the 1st Concluding Observation of the Committee recommended to introduce a supplementary wage system. However, there is no such supplementary system in Korea.

□ **Recommendations**

- The government should devise detailed measures for improvement including the introduction of a ‘supplementary wage system’ so that persons with severe disabilities can receive a proper level of wage.

28-3

Sheltered workshops for persons with disabilities

□ **Current status and problems**

- As of 2020, there are 619 sheltered workshops for persons with disabilities(used by 16,147 persons with disabilities), accounting for 86% of the entire vocational rehabilitation centers.
- 86.8%(7,812) of persons with disabilities excluded from the application of minimum wage are working in vocational rehabilitation centers as of 2019, and most of them are working in a sheltered workshop, receiving an average monthly wage of 370,000 won.

- Sheltered workshops should make efforts for the transition to general labor market, but they are rather passive. This is attributable to the structure where each sheltered workshop is solely responsible to pay for the wage of the disabled workers with profits generated through professional management activities other than rehabilitation services. When competent worker with disabilities is converted to a competitive labor market, they have to bear losses such as reduced productivity and profits.
- In December 2019, government ministries jointly announced ‘a plan to support low-wage workers with disabilities in vocational rehabilitation center’ and implemented ‘a project to support transition of disabled workers excluded from the minimum wage’. However, a total of 134 people(2,625 participants) over the two years, that is, only 0.8% of people with disabilities using the sheltered workshops succeeded in switching jobs.³³

□ **Recommendations**

- The government should establish detailed plan to reduce dependency on the sheltered workshops which makes it difficult to move from the low-wage structure or integrate into the competitive employment market, and devise alternative employment policies for persons with severe and developmental disabilities including jobs in public employment based on rights.³⁴

28-4

Mandatory disability employment system and efforts to enhance employment of women with disabilities

□ **Current status and problems**

- The government stated in the national report that the rate of the disabled hired in workplace obligated to hire persons with disabilities is increasing annually, but out of institutions required to hire persons with disabilities, the rate of institutions achieved mandatory employment rate is still less than 50%, and the implementation rate of mandatory employment and employment rate of persons with disabilities by large enterprises with more than 1000 regular employees is

still low.

- In addition, as of 2021, the mandatory employment rate was 3.4% of regular workers for public sector and 3.1% for private sector. However, disability rate is now over 5% which was 2.22% in 1991 when the mandatory employment for the disabled was first implemented, and the mandatory employment rate should be adjusted in line with disability rate.
- According to the 2021 Survey on Economic Activity of Persons with Disabilities (Employment Development Institute, Korea Employment Agency for Persons with Disabilities, 2021), the employment rate of women with disabilities in 2021 is 22.2%, half of 43.8% of men with disabilities. Compared to the employment rate of women in general, the employment rate of women with disabilities was 22.7% in 2020, which is less than half of the employment rate of women in general during the same period which was 50.7%. The government pays 150,000 won more as employment incentives for women with mild disabilities and 200,000 won more for women with severe disabilities than for men with disabilities, but the actual effect of promoting employment for women with disabilities is not felt.
- According to the 2018 'Survey on the Right to Work of Women with Disabilities' conducted by the Korea Differently Abled Women United, even highly educated women with disabilities were out of reach of "decent jobs" or did not even have a chance to work at all, and many of them are having difficulties in finding jobs due to 'lack of vocational training, technology and experience(27.6%).'

□ **Recommendations**

- To promote employment of persons with disabilities, adjust employment levy and the mandatory employment rate of persons with disabilities in consideration of the disability rate.
- To promote employment of women with disabilities, separate measures should be devised including enhancement of education and training as well as career development.

Article 29 Participation in Political and Public Life

30

Guarantee of the right to vote and to be elected of persons with disabilities

□ Current status and problems

- Although disability-specific convenience is provided throughout the entire election process, people with disabilities are still experiencing discrimination, and complaints of violation of the right to vote of persons with disabilities continue to be filed.
- As for persons with hearing disabilities, provisions on sign language or subtitles during election broadcasting or speech are dispositive and ineffective, and the talks and debates covered by imperative provisions, one sign language interpreter interpreted remarks of several candidates at the same time, making it difficult to distinguish between speakers.
- As for persons with visual disabilities, the number of pages of campaign bulletins in braille should be three times that of campaign bulletins in a printed letter to provide equal provision, but it was expanded to two times, and this can be replaced by bulletins that have Barcode for Printed Material Accessibility or text or voice bulletins in digital file storage. However, there is no unified format, making it difficult to check the campaign bulletins in different formats. In addition, some of election bulletins posted on the website of the National Election Commission and some political parties provide image files only, making it difficult for persons with visual disabilities to check information.
- Persons with developmental disabilities requested easy-to-understand campaign bulletins and ballots pictures, which were not provided because there is no ground under the Public Official Election Act. In addition, the provision for an accompanying voting assistant is vague and it can be checked and decided by an election officer on the spot, causing conflict.
- The Management Rules on Public Official Election stipulates that polling stations should be installed on the first floor or in places with convenient facilities such as

elevators, but exceptions are allowed under the proviso clause which should be supplemented by the installation of a temporary pooling booth, but they are not properly managed.

- In addition, people residing in hospitals or nursing homes can apply for home-voting, but there were cases where patients at psychiatric institutions could not apply for home-voting due to insufficient information.

□ **Recommendations**

- For all persons with disabilities to participate in all elections and referendums without discrimination, the Public Official Election Act should be amended to make it mandatory to provide sign language and subtitles in election broadcasts or speeches, to ensure access of persons with visual disabilities to election-related information and provision for campaign bulletins with the same information as non-disabled people, and to provide easy-to-read campaign bulletins for persons with developmental disabilities and voting aids suitable for them such as picture ballots. In addition, the provision on exception stipulated in Article 67 (2) (Installation and facilities of pooling station) of the Management Rule on Public Official Election should be deleted.
- People living in hospitals or nursing homes should receive information on home-voting, and supervision and instruction are needed to prevent fraud such as proxy vote in the case of home-voting.
- In addition, the government should take measures to prevent a decision-making abilities of an individual from being used to justify the exclusion of persons with disabilities from exercising political rights including the right to vote. In this context, it is necessary to review the introduction of a public assistant so that voting rights can be exercised according to the will and preference of persons with disabilities, and detailed guidelines should be devised to ensure the proper provision of voting assistance including assistants.

Article 33 National Implementation and Monitoring

34-1

Policy Coordination Committee for Persons with Disabilities

□ Current status and problems

- The Policy Coordination Committee for Persons with Disabilities was established to perform three functions; establishment of comprehensive disability policies, coordination of opinion among related departments, and monitoring and evaluating policy implementation. However, it is evaluated that regular coordination, monitoring, and evaluation functions are lacking. As a supplementary measure, the government proposed the establishment of a specialized subcommittee, but it was insufficient to serve as a supplementary measure as it has been held twice, once each in 2018 and 2019.

□ Recommendations

- Establish a new National Committee for Persons with Disabilities under the president as a permanent institution in charge of disability policies which handles all aspects of disability welfare policies from policymaking through implementation to an evaluation of policies so that policies for persons with disabilities are implemented in policies and projects of all departments.

¹ According to the “Status of new application for activity assistant for persons with disabilities from July 2019 to June 2021” submitted by the National Pension Service to commissioner Jang Hye-yeong of the Strategy and Finance Committee of the National Assembly, more than 90% of new applicants with visual disabilities and developmental disabilities who have complained of blind spots were selected to be in section 12- 15 where 2-5 hours of activity assistant service a day is provided. Experts pointed out that evaluation items such as “I can buy things” evaluate various social functions such as ability to move, manage money, build relations and communicate, but the current evaluation is limited to movement, so people with physical disabilities score well, while people with visual, hearing, developmental and mental disabilities don't. It is necessary to develop manual that can properly evaluate ADL and IADL, and enhance actual evaluation capacity.

² The Supreme Court ruled in favor of the plaintiff(the Supreme Court Decision

2016Du50907, October 31, 2019) saying, “It is unfair to refuse disability registration of a patient with Tourette syndrome, whose daily life is significantly restricted.” The Ministry of Health and Welfare and National Pension System conducted face-to-face investigation of the applicants and exceptionally allowed disability registration through a resolution by Disability Review Committee in May 2020. In addition, a provision on exception was added to the Notification of the Ministry of Health and Welfare on the level of disabilities(Standard to determine the level of disability, Notification of the Ministry of Health and Welfare 2021-109), but the methods of notifying the types of disability that can be registered under the Enforcement Rules of the Act on Welfare of Persons with Disability was not revised.

- ³ According to the 2021 Survey on Economic Activity of Persons with Disabilities(published by Employment Development Institute of Korea Employment Agency for Persons with Disabilities), among the 15 types of disabilities, figures were relatively high for facial disorders(55.2%), liver disorder(45.3%), and physical disabilities(42.8%) and mental disabilities were the lowest at 10.9%.
- ⁴ According to data submitted by the Ministry of Health and Welfare in 2022, the rate of education implementation increased from 50.6% in 2020 to 78.2% in 2021 for national institutions and from 74.6% to 91.8% for local governments. However, this seems to be the effect of the implementation of remote control due to COVID-19, which is easy to implement. In fact, as the rate of remote education tripled from 11.2% in 2016 to 30.8% in 2019, the rate of education implementation also nearly tripled from 19.3% in 2016 to 64.9% in 2019.
- ⁵ In October,2019, the pilot operation of high-speed bus equipped with wheelchair boarding started, but there are only 4 routes nationwide(From Seoul to Busan, Gangneung, Jeonju, and Dangjin), and there are only 10 such buses among 9,000 high-speed and intercity buses.
- ⁶ Recently, with regards to the discrimination remedy case to guarantee the right of persons with disabilities to move between cities, the Supreme Court reversed and remanded the second trial, which ordered bus companies to take active measures to prepare wheelchair lifting facilities based on the Disability Discrimination Prohibition Act, saying that it is in violation of the principle of proportionality(Supreme Court, Ruling 2019Da217421, February 17, 2022). The Supreme Court also decided that the government’s negligence of its duty to supervise and monitor the establishment of wheelchair lifting facilities and provide technical, administrative and financial support for reasonable accommodation is not discrimination because it was not in the type of discrimination under the Disability Discrimination Prohibition Act. However, when returning the case to the High Court, the Supreme Court decided that “the route subject to the installation of wheelchair boarding facilities shall be a route that has concrete and realistic probability for the plaintiffs to board in the future, and within the scope of the route, wheelchair boarding facilities shall be established gradually in consideration of the financial condition of the defendants.
- ⁷ Seoul Central District Court, February 10, 2022, Ruling 2018GaHap524424
- ⁸ In Korea, with regards to children’s playground, there are various laws including the Act on Safety Management of Playing Facilities of Child>, <Housing Act>, <Act on Urban Parks and Green Areas>, <Child Care Act>, <Child Welfare Act>, but none of them include a provision on establishment of a playground to which a child with disabilities can access. The Act on the Guarantee of Convenience Promotion of Persons with Disabilities

Disabilities, Senior Citizens, Pregnant Women and Nursing Mothers and Enforcement Decree include child care centers and child-welfare center as park and child related facilities subject to installation of convenience facilities, but 'playground' is not included. However, commissioner Lee Jong Seok of the Committee on Health and Welfare of the National Assembly proposed a partial amendment to the Act on Safety Management of Playing Facilities for Child on June 27, 2021 to lay a legal foundation for inclusive playgrounds for children with and without disabilities.

⁹ According to the 2021 Fact-finding Survey on Web Accessibility(National Information Society Agency), when websites accessibility compliance of 1,000 website was investigated, only 46 received 95 or more points and 723 received lower than 75 points, showing lack of compliance.

¹⁰ In particular, the government announced a plan for "preventive" cohort quarantine for facilities where people with disabilities reside in groups, such as closed wards of the mental hospital, residential facilities for the disabled and nursing hospitals, without providing proper quarantine support or checking for separate space for isolation in the case of confirmed patients. However, the very first death due to COVID-19 occurred in a cohort quarantined mental hospital and there were a number of other group infections.

¹¹ Korea's guardianship system is comprised of adult guardianship, limited guardianship, specific guardianship and voluntary guardianship. Among them, the adult guardianship which grants comprehensive authority to guardians is substituted for decision-making, and although there is a controversy over the limited guardianship and specific guardianship, current implementation shows that they can hardly be regarded as supported decision-making under the Convention given that the will and preference of the person concerned stipulated as the essence of support decision-making in General Comment No. 1 of the Convention is not properly reflected, it is difficult for the person concerned to deny support and terminate or change support relations at any-time, and it is decided based on the assessment of their ability to make decisions.

¹² Receipt and handling of cases per guardianship type

Division	Number of Receipt				Number of Handling			
	Adult guardianship	Limited guardianship	Specific guardianship	Voluntary guardianship	Adult guardianship	Limited guardianship	Specific guardianship	Voluntary guardianship
2015	3010	283	179	8	2493	260	292	10
2016	3716	282	158	17	3420	298	129	13
2017	4571	897	464	26	4572	708	354	28
2018	5927	742	520	15	5603	914	529	13
2019	6984	746	759	30	6831	768	660	25
2020	8180	830	917	26	7832	805	940	28
2021	8670	834	939	28	8464	829	937	24

Source: Judicial Yearbook, March 15, 2022, electric data

¹³ **Case 1.** The Cheongju District Court, in a lawsuit filed by a person with a grade 2 intellectual disability by appointing a lawyer, ruled that the lawsuit filed by him and appointment of a lawyer is invalid because he is a person lacking litigation capacity as he is a person devoid of mental capacity due to grade 2 disabilities, without detailed judgment(Cheongju District Court 2017GaHap203616). 53

Case 2: In the case of a person with intellectual disability who was abused and exploited like a slave for more than 10 years at the dump of Jamsil Baseball Stadium, the biggest baseball stadium in Seoul, the Seoul Western District Prosecutor’s Office has not indicated his brother who sent the victim to the garbage dump and embezzled both wages and national subsidies, and ignored the intention of the victim with intellectual disabilities to sue and punish, saying “It cannot be regarded as an idea with inner standards.”(Seoul Western District Prosecutors’ Office, 2019 Sentencing N.836).

¹⁴ Constitutional Court, Ruling 2018HunBa524, December 23, 2021

¹⁵ Status of hospitalization suitability examination and hospitalization extension(2018. 7. 1. ~ 2020. 6. 30.)

Number of cases and ratio	Result of hospitalization suitability examination				
		suitable (maintain hospitalization)	unsuitable (discharge)	rejection (already discharged)	total (number, %)
2018.7~2019.6	Number	26,672	557	7,493	34,722
	Ratio	76.8	1.6	21.6	100%
2019.7~2020.6	Number	24,208	431	7,357	31,996
	Ratio	75.7	1.3	23.0	100%

Number of cases and ratio	Result of hospitalization extension examination							
		extension	rejection	discharge	re-examination	out-clinic	other	total
2018.7~2019.6	Number	37,554	616	351	176	8	44	38,749
	Ratio	96.9%	1.6%	0.9%	0.5%	0.0%	0.1%	100%
2019.7~2020.6	Number	45,114	981	388	306	9	18	46,816
	Ratio	96.4%	2.1%	0.8%	0.7%	0.0%	0.0%	100%

Source: internal material received from the Ministry of Health and Welfare and Mental Hospital Examination Committee nationwide(July, 2020), National Human Rights Commission of Korea, Report on Human Rights of Persons with Mental Disabilities(2021), p.165

¹⁶ As of December 2018, among involuntary hospitalization, 88% were hospitalization by a legal guardian and 12% were administrative hospitalization (press release of the Ministry of Health and Welfare on May 2019, “Measures with priority for protection and rehabilitation for patients with severe mental illness, p.30). And as for the period from July 1, 2019 to June 30, 2020, among 37,157 the hospitalization by legal guardians, all were hospitalization by family members except for 26 cases by guardians, and as such, involuntary hospitalization by family members accounts for large proportion(National Human Rights Commission of Korea, 2021 Report on Human Rights of Persons with Mental Disabilities, p.158).

¹⁷ “Forced hospitalization into medical health institution by a member of mental health and welfare center”(Disability Discrimination Rectification Committee, February 16, 2020, Decision, Case No 21-Complaints-0697700).

- ¹⁸ Guideline for Operation of Project to Promote the Rights of Women and Children(posted on the website of the Ministry of Gender Equality and Family on January 14, 2022). According to this material, as of the end of December 2020, among 295 people in a protective facility for sexual violence victims, women with disabilities accounts for more than half at 166, but out of 34 protective facilities for victims of sexual violence, only 20%(7) are shelters for women with disabilities.
- ¹⁹ In the Shinan Salt Farm Slave incident took place in Shinan in 2014, most of the victims were persons with disabilities and they were forced to work for from several months to more than 25 years. They were tricked into coming to this region because they were told to make money and suffered from heavy labor and violence in dire conditions without receiving wages. At the time, more than 100 missing people were rescued from the salt farm through a full investigation of salt farm workers.
- ²⁰ 2019. 4. 5. 2018Da300067
- ²¹ In October 2021, the Korea Communications Commission announced a “comprehensive plan for media inclusion for the disadvantaged’, and said it would raise the ratio of sign language interpretation of terrestrial broadcasting to 7%, but at the time of the announcement, around 7% of terrestrial broadcasting programs was already providing sign language interpretation. In addition, it received criticism as it allowed rerun programs to account for up to 30% of 10% of mandatory programming. In addition, it contains compliance with accessibility to VOof D platform services such as web and mobile apps, but there are no compulsory regulations.
- ²² Refer to ‘Study on effective judicial support for abuse cases against persons with disabilities through the salt-farm case’, page 24, ‘Material book of presentation of study result in the field of public interest and human rights(June 2017), Seoul Bar Association. According to the study, among the cases where perpetrators were released on probation, there were cases where persons with disabilities were imprisoned and forced to labor for more than 6 years. Even perpetrators who imprisoned and forced persons with intellectual disabilities to labor for 14 years and 1 month as well as 21 years since his father was released on probation.
- ²³ The prosecution accepted the claim of the perpetrator that it was a traditional labor method of combining strength without expecting a price and summarily indicted with a fine of 5 million one by recognizing simple assault. In response, disability group called for a reinvestigation, accusing the perpetrator of exploitation of labor and identity theft.
- ²⁴ Among the cases recognized as an agreement by the court, there was a case where the court accepted the agreement between the perpetrator and victim’s brother who left and neglected the victim as an agreement between the victim and perpetrator. There was also a case where the perpetrator deceived the victim who did not know the meaning of a letter of not wanting punishment to receive the letter and submitted it to the court, and probation was sentenced. The appeals courts admitted that the letter was not the true intention of the victim, but the probation sentence was maintained.
- ²⁵ In October 2021, the Korea Communications Commission announced a “comprehensive plan for media inclusion for the disadvantaged’, and said it would raise the ratio of sign language interpretation of terrestrial broadcasting to 7%, but at the time of the announcement, around 7% of terrestrial broadcasting programs was already providing sign language interpretation. In addition, it received criticism as it allowed rerun

programs to account for up to 30% of 10% of the mandatory programming. In addition, it contains compliance with accessibility to VOD platform services such as web and mobile apps, but there are no compulsory regulations.

- ²⁶ In particular, persons with visual disabilities pointed out it is difficult to understand the program such as character information and foreign language content because of poor quality of descriptive narration of terrestrial broadcasting and general programming channels.
- ²⁷ In addition, the current Copyright Act prescribes content on “literary works” in Article 33 (2)(Reproduction for the Hearing Impaired), but does not specify “broadcasting and communication works”, making the production of descriptive narration itself a legal controversy. In the case of video works, unlike literary works, the Copyright Act does not suspend copyright if the original work is processed for non-profit purposes for persons with visual disabilities. In order to provide descriptive narration, the original work has to be processed, which in itself is a copyright violation.
- ²⁸ Creation of more than 22 special schools and creation and expansion of 1,250 special classes
- ²⁹ Basic study to establish mid-to-long term plans for lifelong education for persons with disabilities(National Institute of Special Education, 2019)
- ³⁰ Result of analysis of 2017 fact-finding survey on persons with disabilities
- ³¹ In April 2020, the Chair of the Board of Audit and Inspection of Korea announced the result of the audit on the operation of the social service electronic voucher project from January 2016 to June 2019. During the presentation, he pointed out that 91 people with a history of receiving treatment at medical institutions for more than 90 days for severe mental diseases such as schizophrenia worked as social service providers, which exposed service users to risk and unsecured quality of social service. He also notified the Ministry of Health and Welfare to devise a plan to stipulate the disqualification reasons of service providers for the 5 projects which did not have disqualification provisions as of the day of audit in December 2019 and to encourage local governments to thoroughly check the disqualification reason. In response, the Commission expressed its opinion to the Board of Audit and Inspection to take cautious about audit results and recommendations that may strengthen negative stereotypes and prejudices against patients with mental illness or limit their rights.
- ³² Since 2018, the government has reinforced the criteria for the permission for the exclusion from minimum wage application from less than 90% of the average work capacity of the lowest worker among the workers of similar occupations receiving minimum wage to less than 70%. However, the rate of workers with disabilities evaluated to be more than 70% has significantly decreased from 9.7%(693 people) of people received evaluation to 2.9%(282) in 2018 and 2.8%(256) in 2019. Accordingly, the number of workers with disabilities excluded from the application of minimum wages was 7,006 in 2015, 7,935 in 2016, 8,632 in 2017, 9,413 in 2018, 9,000 in 2019, and 9,060 in 2020, increasing by 29.3% compared to 2015(Study on evaluation of conversion project for workers with disability excluded from the minimum wage, Lee Su-yong, Hwang Sung-ju, Employment Development Institute, Korea Employment Agency for Persons with Disabilities, December 2021). In this regard, the Ministry of Employment and Labor explained that this is partially affected by the an increase of workplaces requesting approval for exclusion of application of minimum wage such as 56

increased number of sheltered workshops and workers from 13,616 people in 496 places in 2015 to 15,262 people in 573 places in 2018 as well as simplified evaluation procedure such as a temporary switch of face-to-face evaluation to written evaluation or reduced number of evaluation for the period of 2020 to 2021 to prevent COVID-19.

³³ The number of workers with disabilities who succeeded in job switch is 63 in 2020(1,765 participants) and 71 in 2021(860 participants). The rate of conversion of participants of the conversion support projects is 5.1%, which is higher compared to that of workers with disabilities in vocational rehabilitation facilities at 2.3%(As of 2016). It is needed to consider that the project was carried out in line with the spread of COVID-19.

³⁴ In July 2020, Seoul city introduced for the first time “right-oriented public jobs customized for persons with severe disabilities(rights-oriented public jobs)”, and 260 people with severe disabilities worked in three jobs: protection of disability rights; culture and art; and disability human rights education. It is currently being implemented in Gyeonggi and Chuncheon, and Jeonbuk Jeonnam and Gyeongnam are also discussing the introduction of rights-oriented public jobs.