

115th Session of the UN Committee on the Elimination of Racial Discrimination  
**Joint NGO Submission on the Rights of Migrants with Disabilities  
in the Republic of Korea**

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**Participating Organisations:**

Duroo – Association for Public Interest Law

Association of Right-based Public Jobs for the Disabled

Children with Disabilities Rights Network

Disability and Humanrights In Action (Footact)

Disability Discrimination Act of Solidarity in Korea

Dongcheon Foundation

GongGam Human Rights Law Foundation

Korea Council of Centers for Independent Living

Korea Solidarity for Human Rights of Disability peoplewith Brain Lesion

Korean Disability Forum

Korean Parents Network for People with Disabilities

Migration and Human Rights Institute

Migrant Center Friend

Namyangju city migrant welfare center

National Council of Popular School for People with Disability

Network of Accessible Environments for All

Solidarity Against Disability Discrimination

Support Network for Migrants with Disabilities

# **I. Discriminatory Exclusion of Migrants with Disabilities from the Disability Registration System**

## **1. Background**

The disability welfare system in the Republic of Korea operates primarily based on the disability registration system established under Article 32 of the Act on Welfare of Persons with Disabilities. Most welfare services require registration as a prerequisite for eligibility.<sup>1</sup> However, registration eligibility is restricted based on nationality and immigration status, and access to welfare is not guaranteed even after registration. This layered exclusionary structure results in structural discrimination against migrants with disabilities on the basis of nationality and immigration status, violating the right to equal access to social security and public welfare as guaranteed under Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

## **2. Discriminatory Structure of the Registration System**

Under the current system, individuals who meet the criteria for disability but are not registered are effectively excluded from all forms of public support. Critically, registration eligibility is limited to certain categories of foreign nationals, including overseas Koreans, permanent residents, marriage migrants, and recognized refugees.<sup>2</sup> Migrant workers, international students, refugee applicants, temporary residents, and accompanying family members are excluded. This approach permits or denies access to public welfare based solely on legal status, irrespective of length of stay or actual need, and constitutes direct discrimination based on nationality and immigration status. For vulnerable groups such as children with disabilities or refugee applicants, this results in direct violations of their rights to life and health.

## **3. Exclusion of Unregistered Migrants with Disabilities**

Unregistered migrants with disabilities are excluded not only from welfare benefits but also from basic administrative services such as consultations, information, and emergency support (e.g., in cases of abuse).<sup>3</sup> National statistics and surveys are conducted only on registered persons with disabilities, rendering unregistered

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<sup>1</sup> The term “registration” as used in this report refers to registration as a person with a disability under the Act on Welfare of Persons with Disabilities, not to immigration or residency status.

<sup>2</sup> Act on Welfare of Persons with Disabilities, Article 32-2(1)

<sup>3</sup> Act on Welfare of Persons with Disabilities, Article 32-6(1)

migrants with disabilities invisible in policy-making.<sup>4</sup> A study of 1,060 migrants found that while the rate of activity limitation due to disability among migrants (5.0%) was comparable to that of nationals (5.2%), the registration rate among long-term migrants was just 0.4%, compared to 5.1% for Korean nationals.<sup>5</sup> This highlights the widespread exclusion of migrants with disabilities from the official system and results in their persistent omission from welfare planning and budget allocation.

#### **4. Limited Access to Welfare Even After Registration**

Registration does not guarantee access to welfare benefits. In practice, the availability of services is subject to the budgetary decisions of central and local governments.<sup>6</sup> As a result, even registered migrants with disabilities are often excluded from substantive support. For instance, a permanent resident (F-6) with a child who acquired a disability due to diabetes complications reported spending KRW 25 million (approximately USD 17,000) out of an annual income of KRW 40 million (approximately USD 27,000) on the child's rehabilitation and neurological treatment, without receiving any public assistance. The child, classified under an F-2 dependent visa, was ineligible for registration despite long-term residency prospects. Even with future registration, the family would remain ineligible for disability-related medical support.<sup>7</sup> Thus, migrants with disabilities face both structural barriers to registration and exclusion from services post-registration.

#### ***Examples of Key Welfare Programs That Exclude Migrants*<sup>89</sup>**

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<sup>4</sup> Ministry of Health and Welfare & Korea Institute for Health and Social Affairs (KIHASA), *2023 Survey on the Living Conditions and Welfare Needs of Persons with Disabilities*, 2023.

<sup>5</sup> Han-Sook Lee et al., *Study on the Health Rights of Migrants and Policy Recommendations for Improving the Medical Security System*, National Human Rights Commission of Korea, 2020, p. 164.

<sup>6</sup> Act on Welfare of Persons with Disabilities, Article 32-2(2) With respect to persons with disabilities who are registered pursuant to paragraph (1), the State and local governments may restrict support for welfare-related business for persons with disabilities in consideration of budgets, etc.

<sup>7</sup> Migrant and Human Rights Research Center, *2024 Survey on the Health Rights of Migrant Infants and Young Children*, 2024, p. 30.

<sup>8</sup> In addition to the major disability welfare programs listed, most disability welfare programs are restricted for registered persons with disabilities, except for the issuance of parking permits for designated disability parking zones and fee discounts, with the following exceptions:

1. Exceptions recognized for refugees.
2. Exceptions recognized for refugees and marriage immigrants.
3. Exceptions recognized for refugees, marriage immigrants, and permanent residents.

<sup>9</sup> Ministry of Health and Welfare, *2024 Guide to Disability Welfare Programs*, Volume 1, pp. 28–56.

Category	Main Programs	Exceptions
Pensions/Allowances	Disability pension, Disability allowance	①
	Child disability allowance, Child-rearing allowance for children with disabilities	
Childcare/Education	Subsidy for daycare fees for children with disabilities, After-school support for adolescents with developmental disabilities	①
Medical/Rehabilitation	Medical expense support for persons with disabilities	②
	Reduced health insurance contributions for local subscribers	③
	Developmental rehabilitation services	①
Services	Activity assistance services	①
	Day care service for adults with developmental disabilities	None

## 5. UN Treaty Bodies' Recommendations and Korea's Inaction

In 2018, the Committee on the Elimination of Racial Discrimination (CERD) recommended that the Korean government review its social security policies to ensure equal access to basic support regardless of nationality.<sup>10</sup> In 2022, the Committee on the Rights of Persons with Disabilities (CRPD) urged Korea to take immediate measures to ensure that migrants with disabilities have access to basic disability-related services, rehabilitation, and social security. Despite these recommendations, no substantive policy changes have been implemented.<sup>11</sup> One exception was the recognition of Afghan Special Contributors as persons with quasi-refugee status, but this was an isolated response to public scrutiny. The majority of migrants remain excluded from the disability registration system and public social security.<sup>12</sup>

<sup>10</sup> CERD/C/KOR/CO/17-19, paras. 31, 32

<sup>11</sup> CRPD/C/KOR/CO/2-3 para. 39, 40, 57(c), 58(c)

<sup>12</sup> Framework Act on Treatment of Foreigners residing in the Republic of Korea, Article 14-2(2)

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## **Conclusion and Recommendations**

The Korean disability registration system institutionalizes differential treatment based on nationality and immigration status, resulting in structural discrimination that clearly violates international human rights standards, particularly Article 5 of ICERD.

We respectfully urge the Committee to recommend that the Republic of Korea:

1. Abolish restrictions on disability registration based on nationality or immigration status, and allow registration based on the presence of a disability and need for support.
  2. Amend Article 32-2(2) of the Act on Welfare of Persons with Disabilities to ensure, as a general principle, that registered migrants with disabilities have access to welfare services, and to guarantee that any restrictions are based on clear legal grounds and are narrowly and strictly applied.
  3. Include unregistered migrants with disabilities in official statistics and needs assessments to ensure inclusive and equitable policy and budget development.
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## II. Discriminatory Entry Restrictions Against Migrants with Disabilities

### 1. Background

Article 11(1)(5) of the Immigration Act permits denial of entry to individuals with mental disabilities who lack a caregiver in the country.<sup>13</sup> The government justifies this on grounds of "public safety," but in practice, the provision allows authorities to regard persons with psychosocial disabilities as potential threats and deny entry based solely on abstract risks.

### 2. Discriminatory Nature of Entry Restrictions

The Committee warns that immigration and deportation laws may have indirect discriminatory effects, and urges States to eliminate such impacts and respect the principle of proportionality. Such laws must be reviewed and revised to eliminate indirect discrimination and ensure adherence to the principle of proportionality.<sup>14</sup> Korea's Immigration Act Article 11(1)(5), however, functions as a legal basis to exclude persons with psychosocial disabilities without individualized assessments or clear risk evaluations. It is applied uniform, leading to compounded discrimination against vulnerable migrant with disabilities. Furthermore, the denial of entry solely due to the absence of a caregiver fails to satisfy the principle of proportionality.

### 3. UN Treaty Bodies' Recommendations and Korea's Inaction

In 2022, the CRPD Committee explicitly recommended that the Korean government repeal this provision under Article 18 of the Convention on the Rights of Persons with Disabilities (freedom of movement and nationality).<sup>15</sup> Nevertheless, no legislative or policy changes have been made. In January 2025, a foreign national who expressed intent to seek asylum upon arrival was denied entry on the grounds of suspected psychiatric illness, based on Article 11(1)(5) of the Immigration Act, and was simultaneously deemed ineligible for refugee status on the basis of posing a threat to public order and safety.<sup>16</sup>

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<sup>13</sup> Immigration Act Article 11 (Prohibition of Entry) (1) The Minister of Justice may prohibit an alien from entering the Republic of Korea if the alien is:

5. A mentally disabled person who is void of a capacity of discriminating sense and has no person to assist his or her stay in the Republic of Korea, a person who cannot afford expenses incurred in relation to his or her stay in the Republic of Korea, and a person in need of relief;

<sup>14</sup> CERD/C/GC/31, para. 4(b)

<sup>15</sup> CRPD/C/KOR/CO/2-3 paras. 39, 40

<sup>16</sup> Although a group of ten lawmakers proposed a revision of the provision (National Assembly of the Republic of Korea, *Partial Amendment to the Immigration Control Act*, Bill No. 6258, 5 December 2024.), the draft merely altered the wording and transferred authority to define the criteria for denial of

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## **Conclusion and Recommendation**

Article 11(1)(5) of the Immigration Act enables entry denial based on abstract and generalized risks associated with psychosocial disabilities. This provision institutionalizes stigma and constitutes a form of discrimination against migrants with disabilities that clearly violates international human rights law, particularly Article 5 of ICERD.

We respectfully urge the Committee to recommend that the Republic of Korea:

1. Repeal Article 11(1)(5) of the Immigration Act, which discriminates against migrants with psychosocial disabilities by treating them as potential threats in the immigration process.

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entry from the National Assembly to Presidential Decree, increasing the risk of arbitrary interpretation and application. This proposal cannot be considered a genuine alternative to repeal.