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| National Human Rights Commission of Korea’s Responses to Questionnaire of the U.N. Special Rapporteur on the Rights of Persons with Disabilities (Draft) |

May 2015

National Human Rights Commission of Korea

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1. Social Security Acts for Persons with Disabilities

Social security acts for persons with disabilities in Korea include, the overarching Act on Welfare of Persons with Disabilities which stipulates various welfare policies and services such as eligibility for the services, i.e., definition and range of persons with disabilities, basic direction of government policies, policies regarding rehabilitation, medical services, and support for convenience and welfare facilities.

As for income security regulations, there are the National Basic Living Security Act to ensure the minimum standard of living for all the people and the Pension for Persons with Disabilities Act to support persons with disabilities in income and additional benefits. While the National Basic Living Security Act is for all Korean citizens, the act also provides persons with severe disabilities who have substantially lost work capacity with disability living allowance.

Regarding personal activity support for persons with disabilities, the Act on Activity Assistant Services for Persons with Disabilities was enacted and came into effect, which specifies qualification, human resources, compensations, and service providers related to the personal activity support service.

The Act on the Support of Welfare of Children with Disabilities was enacted and took effect in 2013 for children with disabilities who require special protection and assistance and includes provisions regarding welfare, child care, medical services, auxiliary appliances, and family support.

The Act on Special Education for the Disabled Persons, etc. and the Act on Employment Promotion and Vocational Rehabilitation for Disabled Persons also promote education, job opportunities, and support for persons with disabilities.

2. Participation of Persons with Disabilities in Establishment and Implementation of Social Security Policies

Participation of Persons with Disabilities in Policy Coordination Committee for Persons with Disabilities

- The Policy Coordination Committee for Persons with Disabilities is established under the Act on Welfare of Persons with Disabilities. Half of outside commissioned members of the committee shall consist of persons with disabilities, having led to the participation of heads of disability organizations representing interests of persons with disabilities. The main role of the committee is to contribute to the establishment of the 5-year Comprehensive Policy Plan for Persons with Disabilities adopted by the Korean Government.

Participation of Persons with Disabilities in National Legislature (National Assembly)

- Each political party has designated a person with disabilities as a proportional representative in a bid to enhance political representation of each social class and, in particular, the socially disadvantaged. Currently each party, either a ruling or opposition party, assigns one person with disabilities to the National Assembly.

Monitoring by Disability Rights Organizations

- No official or regulatory route to ensure the participation of disability organizations or persons with disabilities is in place when it comes to social security. Instead, disability human rights organizations carry out regular monitoring so that they can issue a statement or opinion or gather signatures

when an issue arises. Depending on the severity of an issue, the government decides whether to allow disability organizations to join a task force team or not.

3. Current Status of Social Security System for Persons with Disabilities

1. Registration and Grading System for Persons with Disabilities

Disability grading system based on medical standards of physical and mental impairment is adopted by the Korean government. The medically-based criteria is used to define categories of disability which helps the government manage registration and grading of persons with disabilities. Japan and Korea are the only nations in the world to use such a system.

The current registration and grading system provides uniform and standardized services and welfare to persons with disabilities even though they are in need of different services even if they are classified into a same type or grade of disability, which brings numerous human rights issues, ignoring diversity and needs of persons with disabilities.

In addition, the range of disabilities has been expanded and revised into the current 15 categories on two separate occasions in 2000 and 2003; however, digestive disorder, severe skin ailment, organic brain syndrome, and other severe physical and mental disabilities are still not recognized in the legal range which was supposed to expand to include them under the second 5-year Policy Development Plan for Persons with Disabilities from 2003 to 2007.

Notwithstanding the same disability grade, social welfare services and benefit should be provided by individual needs and circumstances instead of being provided by standardized services; therefore, disability assessment criteria should be established, which can be a barometer to tell what kind of allowances and services are needed for each individual.

In addition, digestive disorder, severe skin ailment, and organic brain syndrome should be included in the legal range of disabilities. Urinary system, blood vessel, and learning disorder should also be reviewed.

※ Types of Persons with Disabilities (in relation to Article 2 of the Act on Welfare of Persons with Disabilities)

the physically challenged, brain lesions, visual or hearing impairment, speech impediment, intellectual disability, autistic disorder, mental disorder, kidney disorder, cardiac lesion, respiratory disorder, hepatopathy, facial disorder, intestinal or urinary fistula, and epilepsy

※ Registration System for Persons with Disabilities

Medical check-ups render grades to those falling under the 15 categories mentioned above. The grades range from one to six: grade one of disability is the severest, while grade six is the least serious.

1. Improvement of Personal Assistant Support System for Persons with Disabilities

The personal assistant support system was adopted in October 2011 in a bid to support independent life of persons with disabilities and encourage their social participation by providing a person who is hampered in daily life or social activity due to physical or mental disability with activity assistance service.

However, despite a separate evaluation tool used to assess how much service is needed for each person, the personal assistant support system carried out under the Act on Activity Assistant Services for Persons with Disabilities places a limit on eligibility for the service in accordance with enforcement decree of the act; for example, only grade one had been eligible until 2011, the service had expanded to grade one and two until February 2014, and, finally, grade one, two, and three became eligible in March 2015.

The hours of the service are also too limited for them to lead an independent life; thus, it seems desirable to set up the duration of the service based on individual needs and circumstances. For example, the U.K., Canada, Sweden, and Japan do not place any limit on the service hours.

Furthermore, once the recipients of the service turn 65, they are deprived of the eligibility of the service and forced to move over to the senior long-term care insurance system. The disconnection of the service is likely to discourage their social participation and worsen the quality of life if they still want the activity assistance, not long-term care.

Rarely have any follow up measures been taken properly in case of various issues such as sexual harrassment or human rights violation between assistant workers and service users because of the absence of management or evaluation system for assistance service providers. The quality of service, which is crucial for personal assistance of persons with disabilities, is also mostly neglected.

Hence, service assessment in accordance with the evaluation tool, abolition of the ceiling of personal assistance service, an option given to those over 65 to choose either senior long-term care insurance or personal assistance support service, and management of service quality should precede.

1. Income Security (National Basic Living Security)

According to a survey on persons with disabilities in 2014, 36.6% of those over 15 are employed, slightly higher than half a national average.

The rate shows that many of them are unemployed, and, especially, those with severe disabilities who have substantially lost their work capacity are in need of income security program to secure a minimum standard of living.

At present, the National Basic Living Security Act is in effect so as to guarantee the minimum standard of living of the public. Under the law, persons with severe disabilities who are rarely acknowledged as capable of work are eligible to receive the basic living benefits as their inability to work is recognized. However, if persons responsible for supporting them including their parents or children are capable, they are no longer eligible for the basic living benefits.

In particular, the eligibility for benefits under the National Basic Living Security Act is not an isolated issue. It is also related to other services such as the Disability Pension System, Disability Allowance, Personal Assistant Support System and medical protection, thereby holding back adults with severe disabilities from standing on their own feet.

This is why there are on-going discussions whether to make adults with disabilities an exception to the standard regarding persons with duty of support or to abolish the standard itself.

1. Income Security (Pension for Persons with Disabilities)

In June, 2011, the Korean government started implementing the pension system for persons with disabilities pursuant to the Pensions for Persons with Disabilities Act so as to stabilize life of and promote welfare for persons with severe disabilities, which is composed of basic and optional benefits.

The basic benefit is offered to help persons with disabilities and their families sustain basic standard of living even when they are incapable of supporting themselves as their disabilities hamper their ability to work and make ends meet. However, the amount of the basic benefit is too low to provide substantive income security as it is designed to be in line with the basic pension for the elderly. Therefore, readjustment of the amount of the basic benefit is necessary to offer realistic income security.

The optional benefit is provided to cover additional expenses which occur due to disabilities, but the amount of disability allowance provided to persons with moderate disabilities and the optional benefit provided to persons with severe disabilities are substantially low.

The disability pension system is an expanded and reorganized system, separated from the existing disability allowance system. However, the amount of the pension benefit remains similar to that of the disability allowance system, still unable to practically help persons with disabilities. Therefore, the amount of basic and optional benefits should increase to help persons with disabilities sustain adequate standard of living.

1. Right to Housing of Persons With Disabilities

Housing is one of the three essential elements of human living, food, clothing, and shelter; the Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights and HABITAT Agenda also announce the right to adequate housing as one of fundamental human rights.

However, in Korea, the right to adequate housing is often dismissed or regarded as a matter of individual ability, which goes same for persons with disabilities, leaving them in another challenges such as poverty and housing conditions inconsiderate of their physical conditions.

Indeed, a whopping 71.2% of persons with disabilities have remained as non-homeowners for more than 10 years according to the 2009 Survey on Housing of Persons with Disabilities by the Ministry of Land, Transport and Maritime Affairs. However, despite such a grim ratio, welfare or support system for housing of persons with disabilities lag far behind, resulting in a mere 8.9% of persons with disabilities having experience of using permanent rental housing, while 1.0% using public rental housing. In addition, the ratios of persons with disabilities who have used subsidies to rent, purchase or remodel houses were only 3.8%, 1.6% and 0.5%, respectively, according to the 2011 Survey on Persons with Disabilities by the Ministry of Health and Welfare.

Aware of the gravity of the issue, the government enacted the Act on Support for Dwelling Disadvantaged People including Persons with Disabilities and Older Persons (hereinafter “Act on Support for the Dwelling Disadvantaged“), which, however, failed to provide anything beyond the current housing support.

Accordingly, institutional improvements are necessary including improving the Act on Support for the Dwelling Disadvantaged up to expectation, expanding subsidies for purchasing or renting houses, and increasing support to improve living conditions.

1. Right to Health of Persons with Disabilities

Right to health is one of the fundamental rights related to survival of human being, and the World Health Organization prescribes in its Charter that the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition. In addition, the Universal Declaration of Human Rights, Article 12 of the International Covenant on Economic, Social and Cultural Rights and Article 25 of the Convention on the Rights of Persons with Disabilities clearly state the right to health for the same purpose.

However, according to the 2014 Survey on the Right to Health of Persons with Disabilities by the National Human Rights Commission of Korea conducted in Seoul, Korea on 300 persons with severe disabilities falling under grade 1 through 3 and aged 20 or older (159 male and 136 female), 52.9%, or more than half the respondents answered that they have not received regular medical check-up. Their reasons include economic burden, suspicion of how effective medical treatment would be, and the lack of nearby specialized hospitals or hospitals with convenient facilities, which account for 27.0%, 20.3% and 14.9%, respectively.

In regard to dental treatment, a whopping 55.3% of the respondents had no experience of receiving treatment, and the reasons are as follow: 42.4% say economic burden, 22.8% physical limitation (lack of facilities at nearby dental clinics), 21.1% medical staff‘s lack of understanding of disabilities, and 10.6% overcrowded and fully booked dental hospitals designated for persons with disabilities.

In addition, 15.9% and 16.8% of the respondents do not know their height or weight, respectively, and 56.8% do not have any insurance to cover possible disease or accident.

The respondents were asked what is the biggest challenge for them to use medical service: medical staff’s lack of understanding or consideration of disabilities (34.8%), economic burden (33.0%), lack of facilities to accommodate persons with disabilities at medical institutions (26.8%), lack of specialized rehabilitation hospitals or specialists (19.6%), difficulty in communication and access to information (14.1%), and long waiting time (12.7%).

In response to the question how their life changes after using assistive devices for persons with disabilities, more than half the respondents said that they felt physical functions as well as social participation improving. However, most of them answered that purchasing assistive devices posed financial burden substantially (51.3%) or fairly (20.3%).

To promote the right to health of persons with disabilities, overall improvement is necessary: legislation improvement on medical welfare for persons with disabilities, enhancement of infrastructure including medical welfare facilities, and improvement of accessibility and awareness of medical staff.

4. Conclusion and Prospects

Social security system for persons with disabilities exists to help them lead an independent life. In this regard, the pressing challenge of the social protection system for persons with disabilities in Korea is the Grading System for Persons with Disabilities and Mandatory Support System which decide welfare services or contents of social security for persons with disabilities.

We note that the government promised to revise the grading system, garnering the public attention on this matter.