



National Human Rights Commission of Korea

Opinions on the first National Report of Korea on the Convention on the Rights of Persons with Disabilities

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1. Introduction

1.1 National Human Rights Commission of Korea

- ① 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 Act on November 25, 2001.
- ② The Commission plays the role of a monitoring organization which promotes, protects and monitors the implementation of the Convention on the Rights of Persons with Disabilities (hereinafter referred to as the “Convention”) by conducting investigations on complaints of discrimination on the basis of disability submitted by individuals and groups and providing access to remedies, and conducting investigations on complaints related to welfare facilities for persons with disabilities and psychiatric clinics, making recommendations and expressing opinions to improve laws, systems, policies and practices related to discrimination against disability, and conducting ex-officio and onsite investigations on discrimination against persons with disabilities.
- ③ The Industrial Accidents Compensation and Insurance Act stipulates that a worker with a disability, for instance, whose artificial leg was damaged while working on duty shall not be eligible for medical care benefit since an artificial leg is not a biological part of a human body. Recently, the Commission submitted an opinion to the Supreme Court that such a provision of the Industrial Accidents Compensation and Insurance Act constitutes discrimination against persons with disabilities, and the Supreme Court accordingly made a ruling in July 2014 that an artificial leg shall be recognized as part of a human body.

1.2 Observations of Korea's Initial Report

- ① The Republic of Korea has made continuous efforts to promote the human rights of persons with disabilities, such as the effectuation of the Anti-Discrimination against and Remedies for Persons with Disabilities Act (hereinafter referred to as “Anti-Discrimination for Persons with Disabilities Act”) in April 2008, even before the Convention came into force in Korea (Jan. 10, 2009). Under Article 3 Clause 1 of the Convention, the government of Korea submitted the National Report on the implementation of the Convention to the UN Committee on Rights of Persons with Disabilities (hereinafter referred to as the “National Report”) in June 2011.
- ② The significance of the National Report lies in the fact that the preparation of the National Report serves as an opportunity for the government to check on the current status and implications of domestic laws, court rulings, policies and systems related to the human rights of persons with disabilities corresponding to respective articles and clauses of the Convention, thereby laying the foundation to establish and develop policies for persons with disabilities in compliance with the Convention.
- ③ In particular, a number of laws have been enacted and taken effect for the promotion of human rights of persons with disabilities after the Convention came into force in Korea, such as the Pension Act for Persons with Disabilities aimed at supporting the livelihood of persons with severe disabilities (effective date: July 1, 2010), the Act on Activity Assistance for Persons with Disabilities which sets forth activity support allowance to be granted to persons with disabilities who need assistance in daily life and social activities (Oct. 5, 2011), the Act on Welfare Support for Children with Disabilities aimed at providing inclusive welfare support to children with disabilities (Aug. 5, 2012), the Act on Supporting the Housing Impaired including Persons with Disabilities and the Elderly, which supports the

housing impaired so as to enjoy safe and convenient housing (Aug. 23, 2012), all of which came as part of efforts by the government to reinforce the foundation to guarantee the rights of persons with disabilities. Most recently, the legislation of the Act on Assurance and Support for the Rights of Persons with Developmental Disabilities (effective date: Nov. 21, 2015) was one such welcome achievement which sets forth support measures customized to the characteristics and welfare needs of persons with developmental disabilities in link with their life cycle and advocates their rights.

- ④ In spite of those efforts and positive achievements of the government, the National Report submitted by the government has several limitations. First, the Report simply cites domestic laws and regulations or reiterates legal provisions previously mentioned within the Report, while not paying enough attention to issues related to the enforcement of laws and social customs undermining the implementation of the Convention. In addition, optional rules and legal provisions which bear only theoretical significance are cited as examples of compliance with the Convention, thus failing to provide accurate explanation of the human rights status of persons with disabilities in Korea. The purpose of the National Report should be about reviewing the level of compliance of domestic laws with the Convention and find out issues associated with the implementation of the Convention and areas to improve, so as to set the foundation to establish and develop more appropriate policies going forward. Given that, it is desirable that the National Report should state both positive progress and problems or limitations on the implementation of the Convention without any reservation.
- ⑤ Second, the UN Committee on Rights of Persons with Disabilities provides guidelines for preparation of a national report (hereinafter referred to as the “Guidelines”) which specify matters to be reported by State Parties corresponding to respective articles of the Convention. Yet, the National Report submitted by the Korean government mentions such matters only

for the sake of formality or neglects to mention them in part.

- ⑥ Third, 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 statistics necessary for the analysis of human rights status of persons with disabilities from the user's perspective, by failing to provide statistics related to education, labor and employment of persons with disabilities but just providing overall status of supply and size (from the government's perspective).
- ⑦ Fourth, the National Report introduces domestic laws and the status of human rights on the basis of the types of disabilities set forth in the Persons with Disabilities Welfare Act, thus failing to provide sufficient explanations on the human rights status of persons with psychosocial disabilities including persons suffering mental diseases as prescribed in the Mental Health Act.
- ⑧ Fifth, Article 33 Clause 3 of the Convention provides "Civic organizations, particularly those which represent persons with disabilities may sufficiently intervene and participate in the process of supervision." However, participation of the organizations of persons with disabilities was limited in the preparation of the National Report.

1.3 Direction of written opinion provided by the National Human Rights Commission

- ① In order to prepare its written opinion, the Commission reviewed the National Report with a focus on the following aspects, considering that the UN Committee on Rights of Persons with Disabilities 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 UN Committee on Rights of Persons with Disabilities and State Parties.

- First, whether the National Report provides thorough explanation on the implementation status of obligations under the Convention and their implications.
 - Second, whether the Report states problems and shortcomings 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.
- ② In addition, the Commission conducted comprehensive analyses on complaints filed with the Commission since the Anti-Discrimination Act against Persons with Disabilities came into force on April 11, 2008, and looked into areas where persons with disabilities face the most discrimination, similar complaints are repeated since corrective measures were not actively taken despite corrective recommendations issued by the Commission, human rights of persons with disabilities are violated due to the absence or conflicts between laws. Based on policy recommendations and corrective recommendations previously issued by the Commission or its expressed opinions, the Commission suggested recommendations, in its written opinion, to be proposed by the UN Committee on Rights of Persons with Disabilities to the government of the Republic of Korea, so as to address those problems.

2. Article 4. General obligations

2.1 The Optional Protocol to the Convention

1) Current status and problem

Despite recommendations by the Commission and continued demands by organizations for persons with disabilities since the Convention came into effect on January 10, 2009, the government has deferred the ratification of the Optional Protocol to the Convention on the ground that it should be preceded by comprehensive reviews of judgment criteria of the UN Committee on Rights of Persons with Disabilities and the status of remedying human rights violations under the Anti-Discrimination Act against Persons with Disabilities.

2) Recommendation

In order to ensure persons with disabilities exercise their rights and participate in society on an equal basis with persons without disabilities as set forth in the Convention, the government should ratify the Optional Protocol, which guarantees the rights to remedies and investigation through the UN Committee on Rights of Persons with Disabilities, thereby reinforcing the assurance of human rights of persons with disabilities.

2.2 The Disability Grading System

1) Current status and problem

- ① The Disability Grading System is a system where the government determines type and degree of the disabilities according to medical criteria and registers and manages the grade of a person's disability. Nowhere in the world can this system be found except in Japan and Korea.

- ② The current system is designed to determine the types and amount of services available to disabled persons solely based on the grade of their disabilities, which results in issues with human rights that different disabilities, needs and circumstances of individuals are not taken into consideration.

2) Recommendation

The government should abolish the Disability Grading System which determines disability grades solely based on medical criteria, and instead it should provide welfare services customized to the characteristics, circumstances and needs of individuals with disabilities.

3. Article 6. Women with Disabilities

3.1 Women with Disabilities

1) Current status and problems

- ① The National Report states that the level of education among women with disabilities is lower than men with disabilities, but fails to analyze the cause behind the discrepancy, and measures proposed by the government to enhance the education level of women with disabilities focus on increasing opportunities for only social education instead of formal education (primary and secondary education).
- ② According to the 2011 Survey on Persons with Disabilities conducted by the Ministry of Health and Welfare, the percentage of women with disabilities with only primary school education or lower (including no school education) stood at 62.3%, while the ratio of women without disabilities was 22.3%, with men with disabilities at 31.9% and men without disabilities at 10.1%. As such, the proportion of women with disabilities with primary school education or lower

was three times higher than women without disabilities and two times higher than men with disabilities.

- ③ The percentage of women with disabilities with a bachelor degree or higher was 5.9%, while that of women without disabilities was 32.9%, with men with disabilities at 16.5% and men without disabilities at 46.3%. The proportion of women with disabilities with a bachelor degree was approx. six times lower than women without disabilities and three times lower than men with disabilities. Furthermore, the employment rate of women with disabilities was 22.7%, representing only half the average employment rate of all women (48.1%) and disabled men (44.8%).
- ④ The 2012 White Paper on Persons with Disabilities (Korea Disabled People's Development Institute, Dec. 2012) points out that the exclusion of women with disabilities from educational opportunities ultimately leads them to difficulties in employment and, after employment, poor working conditions and low wages, creating a vicious cycle of poverty among women with disabilities.

2) Recommendation

- ① In order to increase educational opportunities for women with disabilities who are considerably marginalized from formal education compared to men with disabilities and women without disabilities, plans must be devised and implemented to strengthen education for women with disabilities, and to put in place educational infrastructures for them, such as increase of educational facilities and diversification of education contents.

3.2 Maternity protection and prevention of violence for women with disabilities

1) Current status and problems

- ① According to the results of the 2011 Survey on Persons with Disabilities conducted by the Ministry of Health and Welfare, 35.0% of women with disabilities experienced miscarriages, with 7.8% of them caused by oppositions of husband and other family members, and 5.2% by their disabilities.
- ② According to the result of a survey conducted by the Korea Institute for Health and Social Affairs (KIHASA) in 2011, there were strong needs among women with disabilities for maternity services, such as ‘childcare support services’ and ‘hospitals specialized in pregnancy and childbirth’, but domestic systems to provide such support were lacking. In addition, 7.6% (83,517 persons) of women with disabilities experienced being neglected or treated violently from family members due to their disabilities. Among them, 2.1% (23,236 persons) suffered violent treatment frequently from their spouse, children, siblings and parents in that order.
- ③ The Sexual Violence Counseling Center for Women with Disabilities offered counseling service on a total of 9,706 cases related to persons with disabilities in 2012. Among them, cases related to sexual violence accounted for 75.8% (7,359 cases) and domestic violence was at 7.8% (764 cases). 1,046 women with disabilities suffered sexual violence, of whom women with developmental disabilities were 818 (78.2%) and they were the most vulnerable to the risks of sexual violence compared with women with other types of disabilities. When broken down by age, women with disabilities who suffered sexual violence between 14~19 was 264 (25.2%), and between 20~29 was 349 (33.4%). As such, women with disabilities aged between 14~29 accounted for 58.6% of all victims. The Ministry of Gender Equality and Family reported to the National

Assembly in October 2012 that there were only three shelters to protect women with disabilities who fell victim to sexual violence (Pusan, Gwangju and North Chungcheong province) and their combined capacity to accommodate women with disabilities was approx. 40 people.

2) Recommendation

- ① Unlike women without disabilities, those women with disabilities need experience and information on pregnancy, childbirth and childrearing particularly tailored to their disabilities. Therefore, the government should develop measures to assure the maternity of women with disabilities such as establishing a website to share information on pregnancy, childbirth and childrearing, cultivation of hospitals customized to the needs of women with disabilities, and development of educational programs for parents with disabilities.
- ② Women with disabilities are more vulnerable to domestic violence and sexual violence as they are 'women' with 'disabilities.' Therefore, support measures should be strengthened to prevent domestic & sexual violence against women with disabilities and protect victims.

4. Article 8. Awareness-raising

4.1 Public attitudes and prejudice against persons with disabilities

1) Current status and problems

- ① The National Report states that the government and local governments are providing education, distributing guide books and conducting public campaign advertisements to raise awareness on persons with disabilities for primary and secondary school students, public servants, workers and the general public.

However, the results of the Survey on the Recognition of Discrimination against Persons with Disabilities conducted by the Ministry of Health and Welfare in 2009 showed that 67% of the respondents (persons without disabilities) answered that persons with disabilities frequently face discrimination in Korea, and 49% answered they never heard about the Anti-Discrimination against Persons with Disabilities Act.

- ② According to the result of the 2013 Survey on the Economic Activities by Persons with Disabilities conducted by Korea Employment Agency for the Disabled, discrimination and prejudice against persons with disabilities were the biggest reasons, 17.9%, for them to fail in landing jobs.
- ③ Pursuant to the Act on Welfare of Persons with Disabilities and the Act on Employment Promotion and Vocational Rehabilitation for Disabled Persons, the state, local governments and business owners have the obligation to provide education to employees to raise their awareness on persons with disabilities, but there are no penalties when this provision is neglected. Furthermore, the National Report fails to present statistics on education to raise awareness among public servants and workers.
- ④ Since the Anti-Discrimination Act against Persons with Disabilities came into effect on April 11, 2008, a total of 413 complaints about discrimination in employment were filed with the Commission by the end of 2013 and 145 cases (35.1%) were filed against public organizations. Also, 249 cases (67.7%) among 368 complaints on discrimination in education, and 104 cases (12.4%) among 842 complaints about bullying of persons with disabilities were filed against public organizations. Considering those statistics, it is necessary to strengthen education to raise awareness among government workers about persons with disabilities.

2) Recommendation

The government should first conduct an investigation on the implementation of mandatory education to raise awareness on persons with disabilities in public institutions, businesses and schools. It should amend relevant laws to impose sanctions on organizations and businesses which do not conduct such education programs, and establish measures so that the education program itself can effectively contribute to preventing and rectifying discrimination against disabilities, instead of simply being a superficial program..

5. Article 9. Accessibility

5.1 Accessibility to facilities

1) Current status and problems

- ① After the Anti-Discrimination Act against Persons with Disabilities came into effect in 2008, a total of 6,540 complaints were filed with the Commission until the end of 2013. Among them, complaints related to accessibility to facilities were 881 cases (13.5%), of which 614 (69.7%) were filed by persons with physical disabilities and 137 (15.6%) were filed by persons with visual disabilities, indicating that disabled persons, given the nature of their disability, faced the most discrimination in the area of accessibility to facilities.
- ② In particular, the fact that 421 (47.8%) out of 881 complaints were related to accessibility to facilities in public organizations indicates that public organizations have a greater responsibility to guarantee accessibility to facilities. Public organizations, compared with private organizations, have yet to improve accessibility to their facilities. According to the result of the 2013 Survey on Accessible Facilities for Persons with Disabilities conducted by the Ministry of Health and Welfare, the installation rate of accessible facilities in the

central and local government buildings was only 67.7% and, as such, persons with disabilities still have limited accessibility to facilities in public organizations.

- ③ The Anti-Discrimination Act against Persons with Disabilities (legislated on April 10, 2007) prohibits discrimination against persons with disabilities in all areas of life. However,
 - ① the Act does not specifically prescribe the provision of reasonable accommodation for persons with developmental disabilities,
 - ② the Act stipulates that only facilities above a certain size (at min. 300m²) and workplaces with at least 30 full-timers shall have the responsibility to provide reasonable accommodation to persons with disabilities, and hence the rights of persons with disabilities who use smaller facilities or work at workplaces with a smaller number of employees than what is set forth in the Act are not protected,
 - ③ the Anti-Discrimination Act against Persons with Disabilities adopted specific criteria to measure physical accessibility for persons with disabilities which were drawn up in the past under the enforcement decree of the Act on the Enhancement of Convenience for Persons with Disabilities, Elderly and Pregnant Women (legislated on Feb. 24, 1998, hereinafter referred to as the “enforcement decree of the Convenience Enhancement Act”) and the enforcement decree of the Act on Movement Convenience Enhancement for the Transportation Impaired (legislated on Jan. 19, 2006, hereinafter referred to as the enforcement decree of the “Movement Convenience Enhancement Act”), and therefore it fails to fully reflect social, cultural and technical changes which have occurred thereafter.
- ④ Article 10 of the Act on the Enhancement of Convenience for Persons with Disabilities, Elderly and Pregnant Women (hereinafter referred to as the “Convenience Enhancement Act”) sets forth guidance and supervision for the installation and operation of accessible facilities for persons with disabilities,

and Article 22 prescribes inspection of accessible facilities on their compliance with detailed criteria. However, laws subordinate to the Convenience Enhancement Act do not include specific standards to enforce such inspections set forth in Article 22.

2) Recommendation

- ① Accessibility to facilities is an essential prerequisite for persons with disabilities to lead an ordinary life and participate in social activities on an equal basis with persons without disabilities. Therefore, the government should devise measures to assure persons with disabilities accessibility to even small-scale facilities (300m² or less) and workplaces with a small number of employees (30 full-timers or fewer) in the long term. To that end, it is necessary to revise the Anti-Discrimination Act against Persons with Disabilities. The enforcement decree of the Convenience Enhancement Act and the enforcement decree of the Movement Convenience Enhancement Act also need amendments in order to keep the detailed criteria of accessible facilities up to date.
- ② For the continuous and periodic inspection and improvement of organizations which are obliged to install accessible facilities, detailed rules should be included in subordinating laws to the Convenience Enhancement Act in order to enforce the guidance and supervision on the installation and operation of accessible facilities for persons with disabilities set forth in Article 10 and the installation of accessible facilities and the inspection of their compliance with specific criteria as prescribed in Article 22 of the Act.

6. Article 11. Situations of risk and humanitarian emergencies

6.1 Security assurance for persons with disabilities in case of emergencies

1) Current status and problems

- ① The National Report admits there are no systems to evacuate persons with disabilities in case of emergencies such as fires in high-rise buildings, earthquakes, etc. The National Emergency Management Agency (NEMA) recommends people to refrain from using elevators in case of fires or earthquakes; however, persons on wheelchairs, among others, do not have any other alternatives than using elevators in times of evacuation. As a result, they are defenseless and exposed to danger in emergency situations, such as fires and earthquakes.
- ② In accordance with the Basic Act on Disasters and Safety Management and the Natural Disasters Response Act, the government shall take measures to protect people in emergencies and disaster situations which did or may inflict damages on the life, body and properties of people. However, Article 37 (Emergency Measures) and Article 40 (Order of Evacuation) of the Basic Act on Disasters and Safety Management which set forth first aid, relief activity and rescue do not include provisions related to persons with disabilities.
- ③ The National Report does not point out the lack of a report registration system for persons with hearing or linguistic disabilities who report crimes or traffic accidents. For instance, the 112 Crime Report Center does not have a video report registration system which receive emergency reports in sign language or writing, and since most private car insurance companies receive car accident reports by voice telephone, the security of persons with hearing or linguistic disabilities is not ensured in emergency situations as their accidents cannot be swiftly registered.

2) Recommendation

- ① In order to make sure the safe evacuation of persons with visual, hearing and physical disabilities from accidents caused by disabilities or emergencies, the

government must take measures reflecting the characteristics of persons with disabilities, such as securing evacuation passageways, installing Braille, audio and text signboards and emergency communication systems. In addition, the Basic Act on Disasters and Safety Management should be revised to provide emergency aids to and evacuate persons with disabilities in consideration of the characteristics of their disabilities.

- ② The government must come up with measures so that the report registration system in both public and private sectors that receive calls in case of emergencies, including the 112 Crime Report Center and private car insurance companies, can be improved and reports can be made through a preferred method of communication, including sign language or writing, by persons with hearing or linguistic disabilities or with developmental disorder in emergency situations.

7. Article 12. Equal recognition before the law

7.1 The Guardianship System

1) Current status and problems

- ① The previous Incompetent Person System (a person adjudged incompetent or quasi-incompetent system) did not respect the will of persons with disabilities, but rather limited and denied their legal rights, thus marginalizing them from society. In order to rectify the problem and create an environment where the self-determination rights of persons with disabilities are ensured, the Civil Code was amended to abolish the Incompetent Person System, and instead, the Guardianship System was adopted and implemented on July 1, 2013.
- ② However, more than 290 laws still include various provisions which deny certain qualifications and jobs, or unilaterally limit or disqualify persons from jobs and related qualifications by reason of the persons being under the

Guardianship System. This is a problem which undermines the legislative purport of the Guardianship System.

- ③ The ability to make a decision, which is the evaluation criterion of persons to be subject to the Guardian System tends to change over time, vary depending on what matters are there to decide and improve through treatment. However, the aforementioned disqualifying provisions unilaterally limit or deprive of qualifications and make it difficult to recover them.

2) Recommendation

The Guardian System should be operated in ways to let persons with disabilities make decisions on their own. To that end, existing legal provisions unilaterally disqualifying persons with disabilities as incompetent persons should be abolished and alternative legislations should be enacted which serve the purport of the Guardian System.

8. Article 14. Liberty and security of the person

8.1 Hospitalization and human rights of persons with a psychosocial disability

1) Current status and problems

- ① According to the 2012 Business Report of National Mental Health Commission, the number of inmates in domestic mental healthcare institutions for persons with psychosocial disabilities was 80,569, among whom 61,128 persons or 75.9% were involuntarily hospitalized. The rate of forced hospitalization of persons with psychosocial disabilities in Korea was higher than that of other advanced countries which stands below 20% (Germany 17.7%, UK 13.5%, France 12.5%), and the period of hospitalization was also longer, 247 days, than other countries (UK 52 days, France 35.7 days, Germany 26.9 days).

② A survey conducted by the Commission in 2008 found out that the period of hospitalization tends to be prolonged affected by social factors such as the consent of guardians of persons with psychosocial disabilities, the types of medical social security, etc. and the hospitalization of 35.5% of entire inmates in mental healthcare institutions were unjustifiable. Inappropriate hospitalization of persons with psychosocial disabilities for a long time ultimately undermines their ability to adapt themselves to social life, making their social rehabilitation even more difficult and thus resulting in the vicious circle of sending them back to long-term hospitalization.

- The period of hospitalization varies by type of guardians (median value): mayor, country governor or head of borough: 233 days, siblings: 202 days, parents: 116 days, children: 100 days
- The period of hospitalization varies by type of medical social security (median value): *type 1 medical care: 221 days, type 2 medical care: 153 days, medical insurance: 90 days
- * Pursuant to the Medical Care Assistant Act Enforcement Decree Article 3, among beneficiaries designated by the National Basic Livelihood Security Act, those subject to Type 1 medical care include minors under the age of 18, elderly over the age of 65, people with severe disabilities and members of households designated by the Ministry of Health and Welfare as they are solely consisted of those without work ability or incapable of working. Other beneficiaries designated by the National Basic Livelihood Security Act are subject to Type 2 medical care.

2) Recommendation

① The Mental Health Act should be revised in order to unify the system of hospitalizing persons with psychosocial disabilities regardless of either by the

consent of the guardian or by the request of the mayor, county governor, or head of a borough, distinguish the purpose of hospitalization between diagnosis and treatment and also shorten the deliberation process for continued hospitalization.

- ② The Mental Health Act should be revised also to make sure the deliberation of continued hospitalization will be conducted by the Metropolitan Mental Health Promotion and Judgment Committee instead of the same Local Mental Health Promotion and Judgment Committee for cases where the hospitalization period extends more than three times, for which the deliberation should be, as a principle, conducted face-to-face.

9. Article 19. Living independently and being included in the community

9.1 Activity Assistance Services for Persons with Disabilities

1) Current status and problems

- ① Activity Assistance Services for Persons with Disabilities are designed to help persons with disabilities to lead an independent life and reduce burdens on their families by providing activity assistant allowance to persons with severe disabilities who have difficulties in living independently in personal and social lives. Currently, different amounts of activity assistance allowance are granted to persons with disability grades 1 and 2 aged between 6 and 65 depending on necessity recognition scores, and only persons with disability grades 1 and 2 are allowed to apply for the assistance allowance, thus denying persons with disability grade 3 or below who also need activity assistance the rights to apply for the assistance services.
- ② Despite the fact that there is a questionnaire which evaluates the extent of

services needed, the enforcement decree of the Act on Activity Assistant Services for Persons with Disabilities limits the eligibility of applicants to only persons with disability grades 1 and 2, and the fact that they cannot select, employ or manage their activity assistants and the services provided are excessively limited have also been highlighted as problems.

- ③ According to the results of the 2011 Survey on the Status of Persons with Disabilities by the Ministry of Health and Welfare, 198,000 persons with disabilities responded they need someone else's support for doing most activities in daily life but only 29% of persons with disabilities who need activity assistants received such services. In addition, 27.8% of persons with disabilities responded 'I have difficulty in going outside (the house) because there is no one to accompany me.' This shows that the lack of activity assistants may result in the contraction of social activities of persons with disabilities.
- ④ In 2014, the activity assistance allowance was increased to an amount equivalent to 392 hours a month, or roughly 13 hours a day, including both basic allowance and additional allowance. However, the allowance amount was not set on the basis of needs of individual persons with disabilities. Rather, the amount was unilaterally set conditional to recognition scores, thus failing to accurately reflect the needs of individual persons with disabilities. It also raised the problem that some people get less allowance than they actually need or others get more than they need.

2) Recommendation

- ① Since persons with disability grade 3 or below are not eligible for activity assistance under the current system, it is necessary to ease the qualification of persons allowed to apply for the assistance, by excluding the grades of disabilities from the qualifications of persons eligible for activity assistance, and instead qualifying persons with disabilities for the allowance based on the

recognition score table which is composed of detailed items on the physical and mental conditions and the degree of necessity to provide activity assistance (ability to perform ordinary activities in daily life, degree of engaging in social activities, etc.)

- ② In order to make sure the Activity Assistance System satisfies the desires and needs of persons with disabilities, the amount of allowance should be individually determined in consideration of the living conditions, desire for the assistance, degree of social engagement, etc. of persons with disabilities, and a checklist for recognition should be developed, which calculates, in detail, the amount of allowance respective persons with disabilities may need, so that activity assistance can be used appropriately.

9.2 Deinstitutionalization of persons with disabilities

1) Current status and problems

- ① In 2012, the Commission surveyed 839 persons with disabilities who resided in facilities on the question of “If you leave the facilities and lead an independent life, what will be the most needed support?” In the survey result, desire for ‘housing support’ was the highest at 31.5%, followed by ‘living expense support (22.5%)’, ‘employment support (13.0%)’, and ‘helpers to support daily life, such as activity assistant, patient carer and housemaid (12.3%).’
- ② According to the results of the 2011 Survey on the Status of Persons with Disabilities conducted by the Ministry of Health and Welfare, 8.9% of all persons with disabilities had experiences of living in permanent rental houses and while only 1.0% had experiences of living in public rental houses. In addition, the proportion of people who benefited from the government’s financial support for yearly housing rent, monthly housing rent for low-income earners, home purchase or home renovation was 0.9%, 3.8%, 1.6% and 0.5% each.

- ③ The Act on Supporting the Housing Impaired including Persons with Disabilities and the Elderly requires that rental housing complexes constructed for 30 years of rental period should include houses for the housing impaired, while long-term yearly rental houses, government-owned rental houses and public rental houses (5/10 years) are excluded from the requirement.

2) Recommendation

- ① In an effort to realize the basic rights of persons with disabilities and achieve their social inclusion, the government should ensure their rights to live in the local community by building a phase-by-phase support system so they can reside in the everyday environment of the local community rather than in a facility, and arrange local community resources or provide alternative residential and employment support necessary during the initial stage to settle down.
- ② It is also necessary to introduce minimum housing standards which reflect the characteristics of disabilities so as to provide substantial housing support. The housing status of persons with disabilities should be regularly surveyed, in consideration of the characteristic of disabilities such as the types of disability and housing.
- ③ The Act on Support of the Housing Impaired such as Persons with Disabilities and the Elderly should be revised to make the construction of houses for the housing impaired mandatory not only in rental housing complexes built for 30 years of rental period but also in long-term yearly rental houses, government-owned rental houses and public rental houses (5/10 years). It is also necessary to introduce the concept of universal design primarily to the construction of rental houses for the housing impaired.

10. Article 20. Personal mobility

10.1 Access to public transportation

1) Current status and problems

- ① The 2nd Plan to Promote the Mobility Convenience of the Mobility Impaired (2012-2016) by the Ministry of Land, Infrastructure and Transport (MOLIT) stated that the ratio of accessible buses to intra-city buses will be raised to 41.5% by 2016. According to the 2013 Final Report on the Survey of Mobility Convenience by the Mobility Impaired undertaken by MOLIT, however, there were only 5,447 accessible buses, accounting for 16.4% out of the total of 33,225 local buses nationwide as of September 2013, and the introduction of accessible is on a declining trend year after year.
- ② While Article 3, Clause 1 of the enforcement decree of the Passenger Vehicles Operation Business Act sets forth the types of buses operated on routes as local buses, long distance buses, shuttle buses and rural area buses, Article 11 of the enforcement decree of the Act to Promote Mobility Convenience of the Mobility Impaired and its appendix exclude shuttle buses from the obligation to install accessible facilities for persons with disabilities, thus failing to assure the rights to mobility for persons with disabilities.
- ③ Electronic texting and audio broadcasting systems installed in buses are the very basic means to inform persons with disabilities of the location and destination of the buses and hence may be viewed as convenience systems to guarantee their rights to mobility. However, according to statistics compiled by MOLIT, the electronic texting system was installed at only 31.5% of buses of all types and the installation rate of audio broadcasting system was 79.2% as of 2011.

- ④ As of 2011, the supply rate of special means of transportation was as low as 23.0% of the legal standard. While the 2nd Plan to Promote the Mobility Convenience of the Mobility Impaired (2012-2016) by MOLIT stated that the supply rate of special means of transportation will be raised step by step to satisfy the legal standard by 100%, the expansion of special means of transportation requires budget spending by local governments and hence without sufficient financial back-up from them, the supply of special means of transportation cannot be expanded. That is why there are wide gaps among regions in the supply rate; 48.0% in Gangwon province and 50.3% in South Kyongsang province, as opposed to 5.5% in South Jeolla province and 6.3% in Jeju Island.

2) Recommendation

- ① The government should revise Article 11 and its appendix of the enforcement decree of the Act to Promote Mobility Convenience of the Mobility Impaired in order to include shuttle buses, thus ensuring access for persons on wheelchairs with disabilities to all range of buses operated on routes.
- ② The government should increase support to private businesses so that mobility accessible facilities such as wheelchair lifts and visual/audio systems for persons with disabilities (audio broadcasting system, text board, etc.) can be installed in the existing means of transportation in a phased manner.
- ③ The lack of special means of transportation would mean long waiting time and difficult reservations, resulting in infrequent use by persons with disabilities. Therefore, special means of transportation should be supplied satisfying the legal standard set forth in the Act to Promote Mobility Convenience of the Mobility Impaired (1 vehicle per 200 registered persons with disabilities at grades 1 and 2).

11. Article 21. Freedom of expression and opinion, and access to information

11.1 Access to information for persons with visual and hearing disabilities

1) Current status and problems

- ① After the Anti-Discrimination Act against Persons with Disabilities came into effect, a total of 1,238 complaints and 831 complaints were filed with the Commission until the end of 2013 in relation to discrimination against persons with visual and hearing disabilities respectively. Among them, the number of complaints related to access to information was 503 cases (40.6%) and 272 cases (32.7%) each. Given the characteristics of visual and hearing disabilities, impaired access to information accounted for the lion share of complaints against discrimination.
- ② According to the Enforcement Decree of the Anti-Discrimination Act against Persons with Disabilities, public organizations and legal entities have the duty to provide sign language, text and all the other necessary means to ensure persons with disabilities can access and use electronic and non-electronic information they produce and distribute services on an equal basis with persons without disabilities starting from April 11, 2009 and April 11, 2013, respectively. However, a total of 378 complaints were filed with the Commission between April 11, 2009 and June 30, 2014 against discrimination related to access to information by public organizations, and 280 complaints of the kind were also filed against private institutions between April 11, 2013 and June 30, 2014.
- ③ The National Report states that the proportion of broadcasting programs accessible to persons with disabilities (which provide closed captioning, descriptive video services and sign language interpretation) will be

continuously increased so that they can access and use broadcasting contents and services on an equal basis with persons without disabilities. In relation to that, 「guarantee of access to broadcasting for persons with disabilities such as including and offering broadcasting programs (notified by Korea Communications Commission, legislated on Dec. 26, 2011) by the government suggested the annual target ratios of broadcasting programs for persons with disabilities by each broadcasters (2012~2016) and the final target ratios of such programs were set as follows; land-based broadcasters, comprehensive programming channels and news channels: closed captioning 100%, descriptive video services 10%, sign language interpretation 5%/ satellite broadcaster and internet multimedia broadcasting contents providers: closed captioning 70%, descriptive video services 5~7%, sign language interpretation 3~4%. The target ratios of descriptive video services and sign language interpretation services are way too low.

2) Recommendation

- ① The government should widely publicize that public organizations and legal entities have the obligation to provide persons with disabilities with reasonable accommodation they duly deserve so that they can access and use electronic and non-electronic information they produce and distribute services on an equal basis with persons without disabilities, and devise and implement measures to make uncooperative organizations actively fulfill the obligation.
- ② In an effort to guarantee persons with visual and hearing disabilities the access to broadcasting, the government should revise upward the target ratios of broadcasting programs set for each broadcasters at the outset and continuously manage and check on their achievement of the targets so that persons with disabilities can access and use broadcasting contents and services on an equal basis with persons without disabilities.

11.2 Sign language for persons with hearing disabilities

1) Current status and problems

- ① Sign language is used as the primary language by persons with hearing disabilities. However, Korea has a poor environment for the use of sign language, which poses an obstacle to communication, use of information and learning based on sign language. Consequently, persons with hearing disabilities are placed at disadvantages in many areas of life including not only daily life but also education and employment, leaving them socially marginalized.
- ② According to the Commission's Research Report on Building the Base for the Independence of Persons with Disabilities in 2013, the proportion of teachers who have qualifications for sign language was less than 5% in special schools for persons with hearing disabilities, and there were only six schools nationwide that provided support to students with hearing disabilities by allocating sign language interpreters in integrated education classrooms, demonstrating that despite the fact that sign language was a language for persons with hearing disabilities, there was a lack of awareness on sign language in our society.
- ③ The Commission judged that providing no sign language interpretation to persons with hearing disabilities constituted discrimination and accordingly made a Recommendation on April 3, 2013 that the organizations against which complaints were filed should provide sign language interpretation. The Anti-Discrimination Act against Persons with Disabilities stipulates that sign language is one of the tools to fulfill the mandatory provision of reasonable accommodation in communication.
- ④ Recognizing various forms of communication by persons with disabilities

means acknowledging their culture and diversity so they can be included in society. Three bills related to the provision of sign language interpretation service were initiated by lawmakers in the second half of 2013 but have been still pending with the National Assembly as of the end of June 2014.

2) Recommendation

The government should insert explicit provisions on sign language in related laws or legislate related laws so that sign language can be legally ensured and set the foundation to develop, educate and disseminate sign language.

12. Article 24. Education

12.1 Reasonable accommodation and support system for students with disabilities

1) Current status and problems

- ① Pursuant to the Special Education Act for Persons with Disabilities, the head of each school shall install a special class in case there is at least one person who needs to receive special education. In addition, the Anti-Discrimination Act against Persons with Disabilities provides that an educational officer (the head or chief administrator of an educational institute) shall install necessary facilities, equipment and means of mobility needed for students with disabilities to move and access all areas needed for educational activities, such as classrooms, toilets and cafeterias within the educational institutes. The educational officer shall neither refuse to admit students with disabilities into the educational institute nor force them to transfer to other educational institutes.
- ② Since the Anti-Discrimination Act against Persons with Disabilities came into effect, a total of 368 complaints about discrimination against education of

students with disabilities were filed with the Commission by the end of 2013. The most frequent complaints among them were about 'refusal to install a special class (19.6%)', followed by 'no provision of reasonable accommodation during classes and tests (16.3%)', 'refusal and restriction to admit or transfer (15.5%)', 'limited access to and use of facilities (11.1%)', 'exclusion from educational activities such as classes (9.0%)', and 'bullying of students with disabilities (4.6%)' in that order.

- ③ The enforcement decree of the Special Education Act for Persons with Disabilities stipulates that one teacher shall be assigned to every four students with disabilities in special schools and classes. However, the Annual Report on Special Education published by the Ministry of Education in September 2013 stated that the number of students a special education teacher is assigned to take care of has consistently surpassed the standard set forth in the enforcement decree; 5.4 students in 2009, 5.2 in 2010, 5.2 in 2011, 5.1 in 2012 and 5.0 in 2013.
- ④ The Special Education Act for Persons with Disabilities sets forth the maximum number of students per special class; 4 students in kindergarten, 6 in primary/middle school and 7 in high school. According to the 2013 Annual Report on Special Education, the average number of students per class in special middle schools was 7.8 in South Jeolla province, 7.2 in Daejeon, 6.6 in Seoul and 6.5 in Incheon as of April 2013. In special high schools, the average number of students per class was 8.8 in Daejeon, 8.5 in South Jeolla province, 8.2 in Incheon and 7.5 in Seoul, again higher than the legal standard. Also in general high schools across the country, special classes had students in excess of the legal standard; 8.2 students in Daegu, 8.1 in Jeju Island, 7.8 in Daejeon and 7.6 in Pusan.
- ⑤ Pursuant to the Anti-Discrimination against Persons with Disability Act, an educational officer shall designate a department or an administrator to be in charge of supporting students with disabilities to seek and offer reasonable

accommodation in order to ensure that they are not disadvantaged with respect to their educational activity. However, the current status of support centers for persons with disabilities at universities (Source: Ministry of Education, Science and Technology, October 2010) showed that among 242 universities subject to the survey, there were a total of 111 schools, approximately 46%, with no such center or similar organization.

- ⑥ According to the result of the 2013 Survey on the Abuse of Children with Disabilities conducted by the Ministry of Health and Welfare, there were a total of 6,403 cases of child abuse in 2012, of which 256 cases (4%) were against children with disabilities. Parents were the perpetrator in 212 cases (82.8%) against children with disabilities, followed by relatives in 27 cases (10.6%) and others in 16 cases (6.2%).

2) Recommendation

- ① It is necessary to provide students with disabilities reasonable accommodation in consideration of the type and degree of their disabilities. To that end, the government should continuously manage and supervise the provision of reasonable accommodation satisfying the educational needs of students with disabilities in an integrated environment for education, such as provision of reasonable accommodation considering the characteristics of disabilities in classes and exams, reinforced accessibility to facilities within schools, support for their participation in educational activities within schools such as classes and installation of support centers for students with disabilities within universities.
- ② In the installation of special classes and the assignment of teachers in charge of special education, the government should make sure that standards set forth in the Special Education Act for Persons with Disabilities should be abided by, so as to provide an educational environment which accommodates the need of special education for students with disabilities in all regions across

the country.

- ③ The government should develop educational programs for parents in order to prevent the abuse and repeated abuse of children with disabilities, and devise public education campaigns and systems to rectify the social perception that the disabilities of children is one of the factors to cause child abuse.

13. Article 25. Health

13.1 Medical care for persons with disabilities

1) Current status and problems

- ① Many medical institutions, including local clinics and hospitals located in local communities, do not have appropriate accessible facilities for persons with disabilities (lifts, designated parking spaces and toilets for persons with disabilities), and therefore persons with severe disabilities often take the trouble to visit medical institutions equipped with such facilities but located at far distances though what they need is simple diagnoses or prescriptions.
- ② According to the result of the 2013 Survey on the Status of Accessible Facilities for Persons with Disabilities conducted by the Ministry of Health and Welfare, only 60.5% of medical clinics, dental clinics, and oriental medical clinics which are classified as community facilities have such accessible facilities, and the installation rate at medical institutions such as general hospitals, hospitals, dental hospitals, oriental medical hospitals, mental hospitals and recuperation hospitals was 66.1%, which revealed insufficient physical accessibility to medical institutions.

2) Recommendation

The government should develop measures to improve physical accessibility to medical institutions for persons with disabilities, by introducing a system to grant subsidies or incentives to primary and secondary medical institutions which put in place accessible facilities.

13.2 Insurance purchase by persons with disabilities

1) Current status and problems

- ① Article 17 of the Anti-Discrimination against Persons with Disabilities Act stipulates that a provider of financial products and services shall not restrict, segregate, exclude or reject persons with disabilities without any legitimate grounds in offering insurance policies. However, complaints about discrimination in insurance due to disabilities have continued to be filed with the Commission, amounting to a total of 331 cases from January 2008 to December 2013.
- ② In an effort to rectify discrimination against persons with disabilities in the private insurance industry, the Commission issued a recommendation on August 22, 2005 to the Minister of Justice, the Minister of Strategy and Finance, the Governor of the Financial Supervisory Service (FSS) and Prime Minister to delete Article 732 of the Commercial Act, revise the Insurance Business Act and amend the criteria for deliberation on common contracts for persons with disabilities.
- ③ The government amended Article 732 of the Commercial Act, which stipulated that “insurance policies that insure the death of minors under the age of 15 years, and persons with insanity or mental and physical weakness are invalid”, and installed a conditional provision that persons who are mentally capable

can be insured as an individual or as part of a group (scheduled to take effect on March 12, 2015). However, there are still controversies over who should judge their mental capability and the vagueness of the concept. In relation to this, the government's reservation on Article 25 (e) of the Convention remains effective. Due to the lack of medical and statistical research on insurance and disabilities, persons with disabilities still face discrimination in the purchase of insurance.

2) Recommendation

The government should withdraw its reservation on Article 25 (e) of the Convention, and let insurance companies conduct risk evaluations on persons with disabilities based on objective data and provide insurance services by providing them with medical and statistical data on the mortality rate, illness incidence rate and accident rate of persons with disabilities, so that persons with disabilities will no longer face unreasonable discrimination.

14. Article 27. Work and employment

14.1 Exemption of persons with disabilities from the minimum wage regulation

1) Current status and problems

- ① The Minimum Wage Act provides that an employer may not pay the legal minimum wage to persons acknowledged to have a mental or physical disability which significantly impedes the undertaking of a job, upon the approval of the Minister of Employment and Labor.
- ② According to the data submitted by the Ministry of Health and Welfare to the National Assembly during the parliamentary audit in October 2013, 73 (53%) out of 138 workplaces designated as facilities manufacturing products by

persons with severe disabilities paid them hourly wages below the minimum wage and, in particular, 21 workplaces (15%) paid less than the minimum wage even without acquiring the approval of Minister of Employment and Labor.

- ③ Major OECD countries have the ‘Subsidized Employment System’ whereby the government subsidizes part of wages for persons with severe disabilities so that they do not get paid less than the minimum wage by reason of low productivity. However, Korea has no such systems to supplement the clause of the Minimum Wage Act, which waives the minimum wage on persons with disabilities.

2) Recommendation

- ① The Convention requires State Parties to take appropriate measures to protect the rights of persons with disabilities so that equal pay can be earned for equal work. Therefore, the government should first examine the current status of all workplaces that pay persons with disabilities below the minimum wage and put them under strict management and supervision in order to prevent the abuse of the minimum wage waiver clause.
- ② In addition, it is necessary for the government to implement policies to subsidize the wage of persons with disabilities, so as to guarantee them the minimum wage and stabilize their livelihood.

14.2 Employment Discrimination against Persons with Disabilities

1) current status and problems

- ① To let persons with disabilities exercise the rights to work and lead a life of their own constitutes the highest level of full social inclusion and sets the foundation

where they can live an independent life. According to the result of the 2013 Survey on the Economic Activities by Persons with Disabilities conducted by Korea Employment Agency for the Disabled, the economic activity participation rate of persons with disabilities was 38.3%, the unemployment rate was 5.9% and the employment rate was 36.0% as of May 2013. The unemployment rate of persons with disabilities was twice the rate of the total population (3%), while their employment rate was only half the rate of the total population (60.4%)

- ② 'Employment' is one of the major sectors where persons with disabilities face serious discrimination. Since the Anti-Discrimination Act against Persons with Disabilities came into effect, a total of 413 complaints about discrimination in employment were filed with the Commission by the end of 2013. Among them, discrimination in 'recruiting and employment' accounted for 38.7%, followed by 'retirement and dismissal (22.5%)' and 'salary and fringe benefits (14.3%)' in that order. Complaints filed against the private sector were 268, while 145 complaints were against the public sector. While fewer complaints were filed against the public sector, the statistics stills reveals the fact that persons with disabilities face discrimination also in recruitment and employment by the public sector which was supposed to prevent discrimination and lead the employment of persons with disabilities.
- ③ For instance, persons with disabilities experience discrimination such as dismissal by authority on account of disability, no provision of reasonable accommodation to persons with disabilities at job interviews, dismissals by reason of disabilities, reassignment to jobs which cannot be performed by persons with disabilities and disadvantages in promotion. There were also cases where government organizations did not provide work assistants to government employees with severe disabilities on the ground that government employees are not classified as worker under the Labor Standard Act. According to the Act on Employment Stimulation and Occupational Rehabilitation for Persons with Disabilities, workers with severe disabilities who satisfy certain criteria may receive services from work assistants for up to 172

hours a month when performing secondary duties other than their core duties at work.

2) Recommendation

In order to increase work opportunities for persons with disabilities, the government should take aggressive measures such as creating more jobs in the public sector for persons with disabilities, developing job categories appropriate to different types of disabilities, and assigning more work assistants to support persons with disabilities within workplaces.

15. Article 28. Adequate standard of living and social protection

15.1 Exemption from the Basic Livelihood Allowance; persons with a guardian

1) Current status and problems

- ① The National Basic Livelihood Act is designed to guarantee minimum livelihood for people in poverty and support rehabilitation by granting them subsidies. The beneficiaries to this Act are persons whose recognized income (estimated household income + estimated income value of properties) is below the minimum cost of living. These persons may either have no guardians to provide for them or have guardians, who are not capable of providing for them or from whom they cannot receive financial support.
- ② Persons with disabilities, even in the adulthood, face difficulties in engaging in economic activities due to disabilities and social obstacles. Hence, they continue to depend on their family financially, not being able to support themselves since they are not eligible for the basic livelihood allowance under the criteria of guardian, even if they are qualified under the criteria of recognized income. A number of persons with disabilities who are

economically dependent on their family face limitations on exercising the rights to make decisions since not only the form of housing but also the way of life are decided under substantial influence of the family.

- ③ According to the result of the Study on the Status of Independent Life by Type of Disabilities and the Improvement of Support Systems conducted by the Commission in 2011, “disqualification of persons with disabilities from the basic livelihood allowance for not satisfying the criterion of guardian” in the context of income was pointed out as one of the factors undermining the independent life of persons with disabilities. According to the National Basic Livelihood Act, if a person with a disability has a guardian who has a certain amount of properties or income, the person with a disability shall not be eligible for the basic livelihood allowance. The thresholds of property or income level to initiate exemption from the allowance are quite low, and hence a large number of persons with disabilities in need of assistance, are denied the allowance.

2) Recommendation

The government should enable persons with disabilities to lead a life of human dignity by abolishing the system which deny the basic livelihood allowance by the reason of having a guardian, and instead granting the basic livelihood allowance on the basis of their personal circumstances.

16. Article 29. Participation in political and public life

16.1 Suffrage of persons with disabilities

1) Current status and problems

- ① The Anti-Discrimination against Persons with Disabilities Act obligates candidates of public office elections and their affiliated political parties to

deliver information on the candidate and political party to persons with disabilities on an equal basis with persons without disabilities. However, the Public Official Election Act states the provision of closed captioning and sign language interpretation for persons with hearing disability and the use of voting assistant tools for persons with visual disability as optional.

- ② The Public Official Election Act stipulates that candidates may produce a Type 1 Braille campaign gazette for persons with visual disabilities in addition to a booklet-type campaign gazette, but the number of pages of the former shall not exceed that of the latter. The fact is, printing information in Braille consumes more pages than ordinary printing in booklets, but such an aspect is not taken into account in the Act.
- ③ When the general election was held on June 4, 2014, a total of 3,508 preliminary polling stations were established across the country. While accessibility may have been ensured with 330 polling stations installed on the ground floor, 772 polling stations with elevators and 38 with wheelchair lifts for wheelchairs, approx. 70% of the entire polling stations were not accessible to voters on wheelchairs. Some constituencies did not even have one single polling station installed on the ground floor.
- ④ Since the Anti-Discrimination Act against Persons with Disabilities came into effect, a total of 147 complaints about the voting rights of persons with disabilities were filed with the Commission by June 30, 2014. Complaints keep repeating on the violation of voting rights of persons with disabilities, such as polling stations not installed on the ground floor, which hindered persons on wheelchairs from casting votes, Braille ballots not provided during preliminary voting, voting assistance tools not provided to persons with visual disabilities(so accompanying family members had to cast proxy votes) and lack of information accessibility in the homepages of public office candidates.

- ⑤ Pursuant to Article 122, Clause 2-3 of the Public Official Election Act, the allowances and actual expenses of the activity assistants of election candidates shall be borne by the State, while the expenses spent by the activity assistants of preliminary election candidates with disabilities shall be borne by the candidates themselves. This clause puts preliminary election candidates with disabilities who need support from activity assistants at a disadvantage compared with candidates without disabilities.

2) Recommendation

- ① In order to assure the voting rights of persons with disabilities, the government should amend the Public Official Election Act and related laws, so as to set forth mandatory provision of reasonable accommodation for persons with disabilities which is currently prescribed as optional, ease the limit on the number of Braille pages in election campaign gazettes, and provide reasonable accommodation to persons with disabilities in elections, taking into consideration the type and degree of their disabilities.
- ② Article 122, Clause 2-3 of the Public Official Election Act should be revised, so that preliminary candidates with disabilities who need activity assistants may exercise the rights to be voted for, on an equal basis with preliminary candidates without disabilities who do not need activity assistants.

16.2 Voting by persons with disabilities in facilities they reside in

1) Current status and problems

- ① The Public Official Election Act stipulates that persons who reside in hospitals or rest homes and persons who cannot move due to severe physical disabilities may still vote in their residences and that the head of a facility accommodating more than 10 persons with disabilities who apply for residence

voting shall install a polling booth within the facility.

- ② In relation to that, the violation of voting rights of persons with disabilities residing in such facilities by coerced or proxy voting by the head or employees of the facilities has continuously been criticized. During the parliamentary audit in 2012, suspicions were raised against proxy voting at facilities for persons with disabilities. No concrete measures have been established to prevent the violation of voting rights of persons with disabilities residing in facilities.

2) Recommendation

It is important for the government to come up with detailed measures for management and supervision so that the rights of persons with disabilities residing in facilities are not violated through coerced or proxy voting by facility staff.

17. Article 31. Statistics and Data Collection

17.1 Statistics on human rights of persons with disabilities.

1) Current status and problems

- ① The National Report mentions various statistics as basic evidence to indicate progress on the implementation of government's disability policies. However, more specific statistical data are required in order to confirm issues under controversies.
- ② For instance, Clause 68 of the National Report does not suggest statistics broken down by type of disabilities in relation to persons with disabilities who are detained in custody or under arrest. Also no statistics are presented in Clause 98 on broadcasting programs put on air by local broadcasters, cable

TV stations and IPTVs which provide reasonable accommodation for persons with disabilities. No statistics on the implementation status of mandatory education and supply vs. demand for pre-schooling of children with disabilities in Clause 113, no statistics on the ratio of persons with disabilities to all university students and the installation rate of the Disability Support Centers in Clause 116. The lack of such information poses an obstacle to examining the implementation status of the Convention.

2) Recommendation

The government should build a system to manage various statistics on persons with disabilities individually produced by ministries and public organizations, in a more comprehensive and systematic manner. It is also necessary that statistics on persons with disabilities should be compiled in a more specific manner, such as by type of disabilities (ex: statistics of traffic accident statistics, disease incidence rates, disaster incidence rates, etc. broken down by type of disabilities) and by beneficiaries to policies (ex: students, women or children with disabilities, persons with developmental disabilities) so as to capture the human rights status of persons with disabilities in more details.

18. Article 33. National implementation and monitoring

18.1 National Human Rights Commission as Monitoring Organization of the Convention

1) Current status and problems

- ① The Commission was founded in 2001 as an independent organization not affiliated with any of the legislature, the administration or the judiciary in accordance with the Principles Relating to the Status of National Institutions or called the 'Paris Principles. The National Human Rights Commission Act stipulates the independence of activities of the Commission, and provides for

independence and guarantees the status of its human resources. Pursuant to Article 33, Clause 2 of the Convention, the Commission fulfills the status and role of a monitoring organization which promotes, protects and supervises the implementation of the Convention in Korea.

- ② However, the government reduced the Commission's organization and number of employees by 21.4% in April 2009 (208 employees in 2008 → 164 in 2009, reduced by 44 employees). Although the number of employees was increased in part with the installation of the Anti-Discrimination Division in October 2011 and currently stands at 188 as of the end of June 2014, the Commission is still understaffed with investigators, which undermines its capability to provide fast remedies for discrimination against disabilities and monitor the implementation of the Convention.

2) Recommendation

In order to achieve the complete social participation and inclusion of persons with disabilities and protect and promote their human rights, the rights of persons with disabilities who are discriminated due to their disability should be swiftly remedied. To that end, the government should expand and strengthen the function of the Commission, which is exclusively responsible for dealing with complaints for discrimination against persons with disabilities pursuant to the provisions of the Anti-Discrimination for Persons with Disabilities Act and the National Human Rights Commission Act, by ensuring the independence of the Commission in terms of organization, human resources, and budget, and actively increase its manpower so that there is a sufficient number of investigating officers conducting investigations on complaint cases.