



National Human Rights Commission of Korea

Information on the Implementation of the *Convention on the Rights of Per- sons with Disabilities* in the Republic of Korea

**NATIONAL HUMAN RIGHTS COMMISSION OF KOREA
SUBMISSION TO THE UN COMMITTEE 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 under the National Human Rights Commission Act on November 25, 2001.
- 2) The Commission is committed to the national implementation of the Convention on the Rights of Persons with Disabilities (hereinafter referred to as the “Convention”) by conducting research, issuing recommendations and expressing opinions on national implementation of the Convention, making recommendations and expressing opinions to improve laws, systems, policies and practices related to discrimination against disability, conducting investigation on complaints of discrimination against disability submitted by individuals and groups and providing access to remedies, and conducting ex-officio and onsite investigations on discrimination against persons with disabilities.

1.2 Evaluation of Korea’s Initial Report

- 1) The government of the Republic of Korea submitted its Initial Report on the implementation of the Convention to the UN Committee on Rights of Persons with Disabilities in June 2011.
- 2) As required under Article 35 Clause 1 of the Convention, the Initial Report must contain objective and clear information on the measures taken by the Korean government to implement its obligations under the Convention and on the progress made in this regard, and by presenting the problems and shortcomings in fulfilling such obligations and future measures of the Korean government to resolve such issues.

- 3) However, the Initial Report only lists the various policies, systems and programs pursued by the Korean government since prior to January 2009 when the Convention went into effect, and does not clearly state detailed measures taken by the Korean government to implement its obligations under each article of the Convention after its validation and the progress that was achieved on them. Furthermore, it does not sufficiently present future policies and measures to be taken by the government to resolve the difficulties actually experienced by persons with disabilities.

1.3 Direction of the information provided by the Commission

- 1) The Commission drafted this written information after collecting the opinions of civic organizations of persons with disabilities so that the problems experienced by persons with disabilities in their daily and social lives as a result of the obligations of the State Party not being fully implemented are highlighted as pending issues.
- 2) This written information includes issues for which complaints are repetitiously filed to the Commission since the Anti-Discrimination against and Remedies for Persons with Disabilities Act (hereinafter referred to as “Anti-Discrimination for Persons with Disabilities Act”) was implemented on April 11, 2008 but for which active corrective measures are not being taken, problems created by a lack of laws and systems and conflict between laws in implementing the obligation of enhancing and protecting rights of persons with disabilities. It also includes a Proposal of Recommendations the UN Committee on Rights of Persons with Disabilities should issue to the Korean government so that such problems can be actively resolved.

2. Article 4. General obligations

2.1 Reservations on the ratification of the Optional Protocol to the Convention

1) Current status and problem

- ① Despite the recommendation 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 reservations on the ratification of the Optional Protocol to the Convention claiming that national conditions are still too immature.
- ② As a result, persons with disabilities whose rights are violated but cannot be remedied under national law face restrictions in accessing remedies through the Committee on the Rights of Persons with Disabilities.

2) Recommendation

- ① The Optional Protocol ensures the right to remedies and investigation through the Committee on the Rights of Persons with Disabilities, and therefore, the Korean government should withdraw its reservation on ratifying the Optional Protocol and strengthen its protection of the rights of persons with disabilities through swift ratification for the de facto implementation of the Convention and provision of stronger access to remedies.

2.2 Provision of undifferentiated services according to Disability Grading System

1) Current status and problem

- ① The Disability Grading System is a system where the government determines

the disability and extent of the disability 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 does not take into account the differences in services required for each individual even if their disabilities are of the same type or grade. It is only utilized as a standardized and uniform means to determine the qualifications for various services or welfare benefits and does not reflect the diversity or needs of persons with disabilities.
- ③ The government has revealed plans to abolish the Disability Grading System by 2017, but detailed implementation measures have yet to be devised.

2) Recommendation

- ① The government should abolish the Disability Grading System which is applied without consideration of the differences among persons with disabilities based on medical criteria, and the provision of various services and the level of benefits should be determined according to the individual wishes and needs of persons with disabilities.

3. Article 6. Women with disabilities

3.1 Low-level of formal education among women with disabilities

1) Current status and problems

- ① The Initial Report states that the level of education among women with disabilities is lower than men with disabilities, but fails to analyze the cause behind such a phenomenon, and measures proposed to enhance the education level of women with disabilities only focuses on increasing opportunities for social education instead of formal education (primary and secondary education).

- ② According to the 2011 Survey on Persons with Disabilities, the proportion of women with disabilities with no school education stood at 22.1%, five times more than that of men with disabilities (4.4%). The percentage of women with disabilities with a bachelor degree or higher was 5.9%, accounting for only one third of men with disabilities with a bachelor degree (16.5%). Furthermore, the employment rate of women with disabilities reached 22.7%, representing only half of the total employment rate of women (48.1%) and men with disabilities (44.8%).
- ③ The 2012 White Paper on Persons with Disabilities (Korea Disabled People's Development Institute (KODDI), 2012. 12) points out that the exclusion of women with disabilities from educational opportunities ultimately leads 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 so they are no longer excluded from formal education.

3.2 Lack of maternity protection and prevention of violence for women with disabilities

1) Current status and problems

- ① According to the results of the 2008 Survey on Persons with Disabilities conducted by the Ministry of Health and Welfare, 48.7% of women with disabilities experienced miscarriages, and 9.9% experienced violations of the right of self-determination during pregnancy and childbirth.

- ② In 2011, the Korea Institute for Health and Social Affairs (KIHASA) conducted a survey and found that there were high needs among women with disabilities for maternity services, such as ‘childcare support services’ and ‘specialized hospitals for pregnancy and childbirth’, but the domestic systems to provide such support were lacking. In addition, women with disabilities with experience of being neglected or treated violently from family members due to their disabilities stood at 7.6% (83,517 persons), among which 2.1% (23,236 persons) experienced frequent acts of violence. Among family members that disregarded or acted violently against women with disabilities, the spouse was the highest at 36.0%, followed by children 20.7%, siblings 17.4% and parents 15.9%.
- ③ The National Police Agency announced in May 2013 that among total sexual violence crimes in 2008, 288 cases (1.4%) were crimes against persons with disabilities, but in 2012, the proportion of sexual violence crimes against persons with disabilities was 656 cases (2.8%) out of a total of 22,953 cases. According to sexual violence counseling statistics by type of disability conducted by the Ministry of Women and Family in 2011, more than 70% of counseling cases on sexual violence against persons with disabilities were by women with intellectual disabilities.

2) Recommendation

- ① The government must actively work to increase the social participation of women with disabilities in various sectors, such as daily life, education, economic activities, residence, and maternal rights, according to the different cycles in their lives from a gender perspective.
- ② In case of women with disabilities, the government must establish measures for the prevention of domestic and sexual violence and provision of support for victims thereof as they are more likely to be exposed to such risks.

4. Article 7. Children with disabilities

4.1 Inadequate education support system for children with disabilities

1) Current status and problems

- ① The Act on Special Education for Disabled Persons stipulates that one special education teacher must be allocated for every four children with disabilities at special education schools. However, according to the Special Education Annual Report issued by the Ministry of Education in September 2013, for one special education teacher there were 5.4 students in 2009, 5.2 students in 2010, 5.2 students in 2011, 5.1 students in 2012 and 5.0 in 2013, exceeding the above criterion.
- ② The above Act mentions the nature of a Special Education Support Center but fails to provide details on ways of implementation.

2) Recommendation

- ① The government must increase the number of special education teachers to meet the legal criteria and ensure the basic rights of children with disabilities to education, provide greater details on the nature and role of Special Education Support Centers rather than their size or number of staff and students, and come up with measures to maintain consistency and enhance effectiveness in the operation of regional Special Education Support Centers.

4.2 Lack of a protection system for children with disabilities who are victims of abuse

1) Current status and problems

- ① According to the results of the 2013 Survey on Abuse against Children with Disabilities carried out by the Ministry of Health and Welfare, the number of abuses against children with disabilities was 256 cases (4%) out of the total 6,403 cases in 2012.
- ② In particular, among 248 cases of abuses against children with disabilities in 2011, 166 cases were second-time reports, which represent 66.9% of the total cases of abuse against children with disabilities. It was found that parents were the major perpetrators of abuse in 212 cases (82.8%), 27 cases (10.6%) by relatives, and 16 cases (6.2%) by third parties in 2012.
- ③ Given the lack of protective facilities for children with disabilities and no availability of group homes, they do not have anywhere to go even if they are abused and risk being exposed to such abuse after they are returned to their families.

2) Recommendation

- ① It is imperative for the government to strengthen all legal and institutional support services for children with disabilities who are also victims of abuse, and increase protective facilities for children with disabilities in order to enable them to enjoy basic freedom without abuse.
- ② The government should also develop an education program for parents in order to prevent the abuse and re-abuse of children with disabilities, and conduct promotional activities and devise an education system to change the social recognition that regards the special characteristics of children with disabilities as a cause for abuse.

5. Article 8. Awareness-raising

5.1 Insufficient efforts in removing negative public attitudes and prejudice against persons with disabilities

1) Current status and problems

- ① The Initial Report states that the government and local autonomies are providing education, distributing information leaflets 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 undertaken by the Ministry of Health and Welfare in 2009 showed that 67% of the respondents (persons without disabilities) answered that the discrimination in the Korean society against persons with disabilities was considerable or was on the significant side, and 49% answered they never heard of the Anti-Discrimination against Persons with Disabilities Act.
- ② 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 autonomies and business owners have the obligation to conduct education for employees and workers to raise awareness regarding persons with disabilities, but there are no penalties when this provision is neglected. Furthermore, the Initial Report fails to present statistics on education to raise awareness for public servants and workers.
- ③ As a result of a lack of aware-raising education, public servants who work for the state and local autonomies and should lead efforts to eradicate social prejudice and preconceptions against persons with disabilities have such prejudices and preconceptions, which can be confirmed through complaints and counseling at the Commission.

2) Recommendation

- ① The government should first conduct an investigation on the implementation of mandatory education to raise awareness on persons with disabilities in public corporations and businesses. It should amend related laws so that organizations and businesses that do not conduct such education programs can actively correct this situation, and establish measures so that the education program itself can effectively contribute to preventing and improving discrimination against disability instead of simply being a superficial program to raise awareness.

6. Article 9. Accessibility

6.1 Lack of accessibility due to inadequate laws related to the provision of accommodation

1) Current status and problems

- ① The Act on the Enhancement of Convenience for Persons with Disabilities, Elderly and Pregnant Women (hereinafter referred to as “Convenience Enhancement Act”) designated facilities that were constructed prior to its implementation subject to repair, including public corporation offices, passenger terminals, railway stations, welfare facilities for persons with disabilities, and general hospitals, and obligated them to install accommodating facilities within 2-7 years after its implementation. Public-use facilities mostly used by the general public (such as, restaurants, supermarkets, hospitals and performance theaters, etc.) are required to install such facilities in new construction, expansion, re-construction, re-storing, moving, repairing or changing of purposes after April 11, 1998.
- ② Pursuant to the Convenience Enhancement Act, facilities commonly used by the general public fall under the exception provision if they are smaller than a certain area size.

2) Recommendation

- ① The government must establish and implement measures to enhance the accessibility of persons with disabilities even to public-use facilities commonly used by the general public but which are not subject to the Convenience Enhancement Act because they are built smaller than a certain size.

6.2 Inadequate installation and management of convenience facilities for persons with disabilities in their daily lives

1) Current status and problems

- ① The details of the current law on the installation of toilets for persons with disabilities includes installing at least one toilet stall with a toilet bowl for both men and women, but considering the differences by size of building and the fact that many persons without disabilities use them, the numbers of such toilets are lacking. In some cases, buildings are installed with only one toilet for both genders of persons with disabilities, creating humiliation for those using the facilities. For reference, the results of the 2013 Inspection Survey of Accommodations for Persons with Disabilities conducted by the Ministry of Health and Welfare showed that the percentage of toilets with toilet bowls for persons with disabilities reached only 39.9%.
- ② In case of designated parking spaces for persons with disabilities at public-use facilities (including department stores, large-scale supermarkets, airports, bus terminals, performance theaters and stadiums), complaints that illegal parking by persons without disabilities, among others, is prevalent and the rights of accessibility to such facilities by persons with disabilities are violated because of a lack of monitoring due to a lack of manpower are made to the Commission every year (86 cases of complaints and 14 cases of counseling in 2008-2013). According to the data submitted by the Ministry of Health and Welfare to the National Assembly in 2012, unhandled cases of reports for il-

legal parking in designated parking spaces for persons with disabilities reached a total of 28,692 cases from 2009 to the end of August 2012, equivalent to penalties of 2.87 billion Korean won.

- ③ The Initial Report states that Korea ensures accessibility of persons with disabilities in various areas, but it fails to admit the problems in accessibility in reality caused by the inadequate installation and lack of management of accommodations for persons with disabilities in their daily lives, including toilets and designated parking spaces for persons with disabilities.

2) Recommendation

- ① The government should install criteria for toilets for persons with disabilities so they vary according to the size of the building in order to minimize any inconvenience of persons with disabilities using the toilets, and in case of public-use facilities with only one toilet for both genders of persons with disabilities, install toilets separately for each gender.
- ② The government must eradicate illegal parking and crackdown on violating vehicles so that persons with disabilities who are unable to walk can use the designated parking spaces.

7. Article 11. Situations of risk and humanitarian emergencies

7.1 Insufficient security assurance for persons with disabilities in case of emergencies

1) Current status and problems

- ① The 112 Crime Report Center does not have a video report registration system which can report emergencies 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 in

emergency situations is not ensured as their accidents cannot be swiftly registered.

- ② The National Emergency Management Agency (NEMA) recommends people to refrain from using elevators in case of fire or earthquakes, however, for persons with disabilities using wheelchairs, among others, do not have any other alternative other than using the elevator at times of evacuation. As a result, they are defenseless and exposed to danger in emergency situations, such as fire and earthquakes.
- ③ The Initial Report does not admit the lack of a report registration system for persons with hearing or linguistic disabilities in times of crime or traffic accidents. It does, however, point out that there is currently no system to evacuate persons with physical disabilities in case of emergency in high-rise buildings.

2) Recommendation

- ① 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 made through a preferred method of communication, including sign language or writing, by persons with hearing or linguistic disabilities in emergency situations.
- ② The government must build an evacuation system for persons with varying types of disabilities so that persons with disabilities can evacuate safely in case of an emergency, such as fire or earthquake, from buildings, including high-rise buildings.

8. Article 12. Equal recognition before the law

8.1 Possible violation of the right to self-determination of persons with disabilities under 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.
- ② In order to improve this situation 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. However, detailed procedural regulations for the implementation of the system were not established and related government ministries were unprepared.
- ③ In this regard, the Commission issued a Policy Recommendation to Devise Ways to Enhance Respect for Self-determination Rights to the Chief Justice of the Supreme Court, Minister of Justice and Minister of Health and Welfare on May 16, 2013.

2) Recommendation

- ① The government should continuously monitor the Guardianship System so that it does not deviate from the initial purpose of the system, such as excessively limiting or depriving the self-determination rights of persons with disabilities, and resolve any ensuing problems.

9. Article 14. Liberty and security of the person

9.1 Limited access to remedies for facility inmates due to limited claims for relief under the Habeas Corpus Relief Act

1) Current status and problems

- ① With the enactment of the Habeas Corpus Relief Act, swift and useful remedy procedures have been set up against illegal restrictions of the human body, but its lack of promotion is resulting in a low level of demand for relief. In order to protect a person with psycho-social disability who has been cut off from outside communication from unlawful institutionalization or extended hospitalization due to a repeated re-admission to hospitals, the range of claimants for relief must be expanded. Currently, the Habeas Corpus Relief Act defines claimants for remedies as the facility inmate, his or her legal representative, guardian, spouse, lineal blood relative, siblings, cohabitant, employer and workers of institutionalization facilities, but a third party (for example, an individual or organization aware of the unlawful institutionalization) does not have the right to file for remedy.
- ② The Initial Report does not mention the limits of the Habeas Corpus Relief Act, nor provide information on the current status of court orders for remedies.

2) Recommendation

- ① The government should expand the range of eligible relief claimants under the Habeas Corpus Relief Act in order to protect facility inmates, whose freedom is unjustly limited and are cut off from communication with the outside world, from the damages of unlawful institutionalization.

9.2 Lack of understanding of the provision of reasonable accommodation for institutionalized persons with disabilities

1) Current status and problems

- ① The Initial Report provides an explanation on the protection of rights of inmates pursuant to the Administration and Treatment of Correctional Institution Inmates Act, but fails to provide information on the current status of inmates with disabilities (number of total inmates with disabilities or inmates by type of disability, etc.) or the accommodations provided to them (for instance, books in Braille for inmates with visual disability). Furthermore, there is no explanation on the current status of persons with mental disabilities institutionalized for medical treatment and custody or the programs being conducted for their treatment.

2) Recommendation

- ① The government must periodically survey the status of the protection of legal rights of facility inmates with disabilities, and thus provide reasonable accommodation and develop and implement rehabilitation programs customized to the different natures of their disabilities so that persons with disabilities who are institutionalized or imprisoned can lead a life of equal standard to that of persons without disabilities.

9.3 Excessive involuntary hospitalization of persons with mental disabilities

1) Current status and problems

- ① According to the 2011 National Mental Health Commission Business Report, the number of hospital beds in domestic mental healthcare institutions for persons with mental disabilities increased by more than 20,000 over the past

decade (approximately 84,000 hospital beds as of 2012), but more than 70% of hospitalizations were involuntary.

- ② The bill to amend the Mental Health Act proposed by the government (Ministry of Health and Welfare) on January 16, 2014, incorporates a considerable portion of the National Report for the Protection and Promotion of the Rights of Persons with Mental Disabilities recommended by the Commission in 2009. However, the bill still distinguishes hospitalization by the consent of the guardian and hospitalization by the mayor, county governor or head of a borough, and obligates the deliberation on the adequacy of hospitalization for both cases. Considering there is no practical difference between the two methods of hospitalization given that it is determined by the diagnosis of a medical specialist for mental health affiliated with the relevant medical healthcare institution, regardless of the will of the person with mental disability, the two systems differ in hospitalization periods and adequacy screening, and therefore, lack rationality.

2) Recommendation

- ① The government must unify the system of hospitalizing persons with intellectual disabilities by the consent of the guardian and by the request of the major, county governor, or head of a borough, among others, and distinguish between hospitalization of two-weeks for purposes of diagnosis and three-months of treatment. It must also revise the Mental Health Act in order to shorten the deliberation process for continued hospitalization and undertake the deliberation process every three months.
- ② The government should ensure the participation of a member nominated by a human rights civil organization which advocates persons with disabilities in order to increase the discharge of persons with disabilities and to acquire consistency through deliberation of continued hospitalization by the Mental Health Promotion and Judgment Committee. In addition, the government should revise the Mental Health Act so that the deliberation is 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.

10. Article 16. Freedom from exploitation, violence and abuse

10.1 Prevalence of human rights violations of persons with disabilities in facilities due to an inadequate system to protect whistleblowers

1) Current status and problems

- ① The National Human Rights Commission Act stipulates that persons who report or file a petition against acts of human rights violations in welfare facilities for persons with disabilities and mental health facilities shall not be subject to any unfavorable treatment, but in reality, there are cases where whistleblowers were dismissed or were subject to unfavorable treatment after reporting human rights violations to the Commission. Thus, some employees are refraining from acting even after witnessing acts of human rights violations in fear of being disadvantaged, refusing to testify in investigations by the Commission or reversing their original testimony.
- ② The Act on the Protection of Public Interest Whistleblowers, which aims to protect and support reporters of public interest, does provide stronger protection compared to the National Human Rights Commission Act. However, it only includes a total of 180 laws, such as the Act on Promotion of the Transportation Convenience of Mobility Disadvantaged Persons, Infant Care Act, Juvenile Protection Act, and Juvenile Activity Promotion Act, as laws subject to violation of public interest, but excludes laws that aim to promote and protect the human rights of persons with disabilities, including the Act on Welfare of Persons with Disabilities, Anti-Discrimination against and Remedies for Persons with Disabilities Act, and the Mental Health Act, thereby failing to

protect the reporters of acts of human rights violations in welfare facilities for persons with disabilities and mental health facilities.

- ③ The Initial Report fails to analyze and present the fundamental cause of human rights violations and acts of discrimination, and except for human rights education programs for facility workers, it fails to clearly present government measures to eradicate such problems.

2) Recommendation

- ① The government should include laws such as the Act on Welfare of Persons with Disabilities, Anti-Discrimination against Persons with Disabilities Act, Mental Health Act, Convenience Enhancement Act, and National Human Rights Commission Act, to the laws subject to violations of public interest as stipulated by the Act on the Protection of Public Interest Whistleblowers so that it can protect the person who made the report on cases of human rights violations and discriminations in order to prevent such violations and discriminations from happening and enable effective subsequent remedies.

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

11.1 System insufficient in protecting rights and supporting the independence of persons with developmental disabilities

1) Current status and problems

- ① The number of registered persons with developmental disabilities (persons with intellectual disabilities and autism) in Korea was approximately 183,000 persons as of end of 2011, among which 167,000 were persons with intellectual disabilities and 16,000 persons with autism, accounting for about 7.3% of the total.

- ② Due to a delay or lack of development in cognition, communication and sociality, persons with developmental disabilities face difficulties in almost all spectrums of life, such as learning, interpersonal relations, daily life and economic activities. However, the lack of a protection system or support for them leaves them highly vulnerable to human rights violations, including abuse, neglect, and sexual violence as they are not fully capable of protecting themselves. For instance, among 72.8% of counseling cases at the Sexual Violence Counseling Office for Women with Disabilities in 2011 were by persons with intellectual disabilities, and it was found that 22.5% of women with intellectual disabilities experienced mental or physical violence at least once a year.
- ③ The current welfare system is centered around persons with physical disabilities, which leaves most persons with developmental disabilities dependent on their families. This has long been cited as a point for improvement, and the community of persons with disabilities has continuously demanded the enactment of the Persons with Developmental Disabilities Bill. In this regard, the government announced it would enact this bill in 2013 and two different Members of the National Assembly motioned two bills in this regard, but as of February 2014, they are still pending at the National Assembly and little progress is being made.
- ④ National laws and policies for persons with developmental disabilities include the Children with Disabilities Support Act, Guardianship System, and Plan to Support Persons with Developmental Disabilities (Ministry of Health and Welfare, 2012), but due to a lack of the quantity of services, gaps according to region, a supplier-centered service delivery system and a lack of effective connection between services, they are not receiving adequate support.

2) Recommendation

- ① It is imperative the government devises the legal basis to prevent the human rights violations and ensure the rights of persons with developmental disabilities.

- ② The government should improve the existing welfare system for persons with disabilities centered on persons with physical disabilities and establish and implement policies that offer customized support which takes into consideration the diverse spectrum of persons with development disabilities, and build an advocacy system so that persons with developmental disabilities can be included in the local community.

11.2 Limited users eligible to use the Activity Assistant Services for Persons with Disabilities

1) Current status and problems

- ① The Activity Assistance Program was implemented pursuant to the amendment of the Act on Welfare of Persons with Disabilities in 2007, and later, the Activity Assistant Services was adopted in 2011 with the enactment of the Act on Activity Assistance Services for Persons with Disabilities.
- 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 persons with disability grades 1 and 2, and the fact that they cannot select, employ or manage their activity assistants and the service provided are excessively limited have also been highlighted as problems.
- ③ Meanwhile, when persons with disabilities reach the age of 65 and become seniors, they are denied their right to apply for services and must be subject to the Long-Term Care Insurance. As a result, persons with disabilities who need activity support services rather than care risk regression in terms of social participation and quality of life due to a break of these services.
- ④ In October 2010, the Commission proposed tasks such as the expansion of persons eligible to apply for the Activity Assistant Services, abolishment of a ceiling on services provided, granting of right to persons with disabilities over the age of 65 to choose services, and the need to develop measures to man-

age service quality, in the Mid-Long Term Plan to Promote the Rights of Persons with Disabilities (2013-2017).

2) Recommendation

- ① The government should improve the operation of the current system to support the activities of persons with disabilities, such as the criteria determining the people eligible to use the services and extent of those services, ways for management and supervision, and provision of services for seniors, so that the necessary services can be provided to the persons who need them.

11.3 Lack of support for Independent living by deinstitutionalization of persons with disabilities.

1) Current status and problems

- ① According to the Research Report on Building a Basis for the Independence of Persons with Disabilities issued in December 2013 and the Survey on the Status of Persons with Disabilities Residing in Institutions and Desire for Independence conducted in 2012 showed that the extent of social support influenced the decisions of persons with disabilities to lead independent lives.
- ② However, persons with disabilities residing in facilities today face difficulty in acquiring information related to independence, and there are various problems, such as the lack of initial funds for independence and a residential place to live after leaving the facility.
- ③ Furthermore, the Study on the Current Status on Independence by Disability Type and Improvement of the Support System conducted by the Commission in 2011 found that cases where residential allowances are either reduced or not paid because the person with disability was already a beneficiary of residence support, such as free leased housing, the person with disability loses eligibility as a beneficiary for disability pension due to a lowering of his or her

disability grade, and the lack of consideration in allowances for the rise in prices in the National Basic Livelihood Security Act caused difficulties in everyday life.

- ④ In regards to residences, there was a lack of Open Houses which created difficulties in admission, there were cases where persons with disabilities were rejected during contracts for annual and monthly leases, and there was a lack of public residential homes and convenience facilities within residential facilities. Additionally, the Activity Assistant Services that was provided for daily life was too limited, and the lack of human resources services, such as sign language interpreters and assistants in public facilities and government offices, were also pointed out as problematic.

2) Recommendation

- ① In an effort to realize the basic rights of persons with disabilities and achieve 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 services necessary during the initial settling down period.
- ② In addition to the above, the government should establish the institutional base for the initial settlement of persons with disabilities into the local community by setting up a plan for deinstitutionalization of persons with disabilities by the central government and enabling them to easily acquire information on independence, among others.

12. Article 20. Personal mobility

12.1 Inadequate access to public transportation

1) Current status and problems

- ① The Mobility Enhancement for the Mobility Impaired Act recognizes the rights of persons with disabilities to use all forms of transportation equal to persons without disabilities, and yet regulates only local buses, long distance buses, and rural area buses as transportation means that need to install mobility convenience facilities (wheelchair lifts), and excludes express buses, shuttle buses and airport limousines. In addition, this law obligates long distance buses and rural area buses to install wheelchair lifts, but almost none of these buses have carried out their duties. According to the 2013 Final Report on the Survey of Mobility Convenience by the Mobility Impaired undertaken by the Ministry of Land, Infrastructure and Transport (MOLIT), there are a total of 5,447 accessible (sliding) buses, accounting for 16.4% out of the total of 33,225 local buses nationwide as of September 2013, and the introduction of accessible buses on an annual basis is on a declining trend.
- ② Shuttle buses are operated in sections with no local buses and in connection with subway stations, but they do not have wheelchair lifts.
- ③ The Initial Report and the Second Plan to Promote the Mobility Convenience of the Mobility Impaired (2012-2016) by MOLIT mention plans to continuously expand low floor local buses and call taxis for persons with disabilities, but they do not report on the lack of access by persons with disabilities in wheelchairs to express buses, shuttle buses and airport limousines nor present measures for improvement.

2) Recommendation

- ① The government must devise and implement plans to install facilities that enable the mobility of persons with disabilities, including the installation of a wheelchair lift in all forms of transportation used by the public, such as express buses, shuttle buses, airport limousine buses, long distance buses and rural area buses, to ensure the access by persons with disabilities in wheelchairs, and necessary facilities (such as vocal and text announcements) for persons with visual and hearing disabilities.

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

13.1 Lack of access to information and ICT services

1) Current status and problems

- ① According to the Enforcement Decree of the Anti-Discrimination Act against Persons with Disabilities, public organizations and legal entities have the duty to provide websites that ensure accessibility to desired services regardless of the users' physical or technical conditions from April 11, 2009 and April 11, 2013, respectively. The National Information Society Agency, however, conducted a survey on website accessibility in 2012 and found that although the central government and local autonomies marked an average 93 points (out of 100), private organizations stood at a mere 67 points. In the 2013 National Information White Paper (issued by the National Information Society Agency), results showed that the website accessibility in the private sector, such as portal, finance and shopping, which were practically useful for persons with disabilities was relatively lower than the public sector.
- ② Statistics on the information divide between the general public and persons with disabilities in using information and IT (sources: National Information

Society Agency, 2012) revealed the gap index* was 25.1 in terms of quantitative utilization and 27.5 in terms of qualitative utilization.

* Gap index: Information-level of the general public (assumed to be 100) – information-level of persons with disabilities compared to the general public (100)

- ③ In the Initial Report, the government revealed plans to continuously increase the proportion of broadcasting programs for persons with disabilities so they can access and utilize broadcasting programs and services on an equal basis as persons without disabilities. However, on December 12, 2013 it made a preliminary announcement to amend the “Notification on ensuring the access of persons with disabilities to broadcasting programs, such as the organization and provision of programs for persons with disabilities” which includes the extension of the deadline to achieve the increase of the said proportion of broadcasting programs for persons with disabilities (closed captioning 100%, screen reading 10%, sign language interpretation 5%) by terrestrial broadcasters from 2013 to 2016 considering the poor infrastructure in producing such programs (closed captioning, screen reading and sign language interpretation services for person with visual and hearing disabilities) and from 2016 to 2018 by program providers that specially organize general broadcasting services and reports.

2) Recommendation

- ① The government should recall that legal entities have the obligation to provide a website which is fully accessible by persons with disabilities from April 11, 2013, and devise and implement measures to ensure their complete accessibility to electronic and non-electronic information, including websites provided by private business that are useful in their daily life, such as portals, shopping sites and finance.
- ② In addition, it must withdraw its plan to extend the deadline to achieve the goal of organizing broadcasts for persons with disabilities (closed captioning

100%, screen reading 10%, and sign language interpretation 5%) which was initially set to each broadcasting company in a bid to ensure the right of persons with visual and hearing disabilities to access broadcasting programs, and take active measures to construct an infrastructure for broadcasting for persons with disabilities.

13.2 Insufficient legal assurance on sign language for persons with hearing disabilities

1) Current status and problems

- ① Recognizing the various forms of communications by persons with disabilities means acknowledging their culture and diversity so they can be included in society.
- ② The Act on Welfare of Persons with Disabilities, the Convenience Enhancement Act, Employment Promotion Act, Broadcasting Act and Anti-Discrimination against Persons with Disability Act mention sign language as a reasonable form of convenience services for persons with hearing disability, yet the laws treat it as a subsidiary language or service rather than acknowledge it as an official language. According to the Commission's Research Report on Building the Base for the Independence of Persons with Disabilities in 2013, the proportion of teachers in special schools for persons with hearing disabilities with qualifications for sign language was less than 5%, 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.

2) Recommendation

- ① The government should come up with a system to increase broadcasting services with sign language and install an explicit provision on sign language in related laws so that it can be legally ensured.

14. Article 22. Respect for privacy

14.1 Violation of portrait rights of persons with disabilities

1) Current status and problems

- ① The problem of violation of personality rights of persons with disabilities was raised previously as some volunteer workers and politicians who visited welfare facilities for persons with disabilities to offer voluntary services or deliver donated goods uploaded photographs of persons with disabilities on their websites and blogs or disclosed them to the media. There were also cases where some organizations for persons with disabilities posted and distributed photographs of persons with disabilities in their leaflets or websites in order to attract sponsors.
- ② The fact that some workplaces and schools require their employees or students to submit photographs of them undertaking voluntary activities as evidence of their activities at such welfare facilities and that the photographs of persons with disabilities are utilized in the process have also been pointed out as problematic.
- ③ The Initial Report, however, fails to mention the violation of privacy of persons with disabilities that occur in welfare facilities.

2) Recommendation

- ① It is important for the government to establish and implement plans to conduct a human rights education program for workers in public organizations, welfare facilities and organizations for persons with disabilities, company employees, students of all years and workers for the media, in order to respect the privacy of persons with disabilities by preventing photographs or videos of persons with disabilities from being taken without their or their guardian's prior consent by volunteer workers visiting welfare facilities for persons with disabilities during volunteering activities or delivery of donations, or while fund-raising by organizations and welfare facilities for persons with disabilities.

15. Article 24. Education

15.1 Lack of a support system and accommodation facilities for inclusive education

1) Current status and problems

- ① Pursuant to the Anti-Discrimination against Persons with Disability Act, an educational officer shall designate a department or administrator to be in charge of supporting students with disabilities to seek and offer reasonable convenience 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 (MEST), October 2010) showed that among 242 nationwide universities subject to the survey, there were a total of 111 schools, approximately 46%, with no such center or similar organization.
- ② The statistics on installations of convenience facilities for persons with disabilities in special classes and special schools presented in the Initial Report

(Source: MEST, 2010) demonstrated the proportion of such installations was relatively high in special schools at 93.8%, whereas it was only 78.6% in general primary and secondary schools installed with special classes, showing that there was difficulty for students with disabilities in receiving integrated education.

2) Recommendation

- ① The government should recall that, from April 11, 2011, pursuant to the Elementary and Secondary Education Act and Higher Education Act, all national, public and private schools must not only install a department to support students with disabilities within the school, but also mandatorily install necessary facilities, equipment and means of mobility needed for persons with disabilities to move and access all areas needed for educational activities, such as classrooms within the educational institutions. Therefore, it must undertake active measures to provide reasonable accommodation facilities so that persons with disabilities are not disadvantaged in educational activities in all schools.

16. Article 25. Health

16.1 Lack of access to health services by persons with disabilities

1) Current status and problems

- ① Due to many primary and secondary health services, including local clinics and hospitals located in local communities, without appropriate convenience facilities for persons with disabilities (lifts, designated parking spaces and toilets for persons with disabilities), persons with severe disabilities must go through the trouble of finding primary, secondary or tertiary medical institutions located at far distances installed with convenience facilities even for

very simple diagnoses and prescriptions. Even if there is such a tertiary medical institution nearby, in order to use such services, they must submit medical referrals issued from primary and secondary medical institutions. Therefore, persons with severe disabilities have to undergo the trouble of visiting primary and secondary medical institutions with the necessary facilities located at far distances, despite the fact that it is time-consuming and cost-incurring (transportation costs, medical referral issuance fee etc.).

- ② The Rules on the Standard of Medical Treatment Benefits under the National Health Insurance limits the direct access of persons with disabilities to tertiary medical institutions without medical referrals from primary and secondary medical institutions to rehabilitation medicine.
- ③ The 2012 White Paper on Persons with Disabilities (Korea Disabled People's Development Institute (KODDI), 2012. 12) investigated medical clinics with convenience facilities for persons with disabilities located in boroughs within Seoul and found that the installation ratio of elevators, reception areas and toilets for persons with disabilities were low at 6.3%, 6.3% and 4.4%, respectively, and percentages of clinics with designated parking spaces for persons with disabilities and Braille blocks were a mere 1.3% and 0.6%, respectively.
- ④ The Initial Report fails to state any of above.

2) Recommendation

- ① Considering the serious restrictions in access to primary and secondary medical institutions in local areas by persons with severe disabilities, the government should remove any inconvenience in administrative procedures for those who use tertiary medical institutions. It must also develop measures to improve the physical accessibility to primary and secondary medical institutions.

16.2 Continued discrimination against persons with disabilities in purchase of insurance

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.
- ② The Commission issued a recommendation on August 22, 2005 to the Minister of Justice, Minister of Strategy and Finance, 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, persons with insanity or mental and physical weakness are invalid”, and installed a conditional provision that in case of persons who were mentally capable can purchase an insurance policy. However, there is controversy over who would 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.
- ④ Meanwhile, the amendment of the Insurance Business Act in 2010 installed a new provision in Article 97 to prohibit “actions to unreasonably deny the purchase of insurance by persons with disabilities pursuant to Article 2 of the Anti-Discrimination against Persons with Disabilities Act”. In addition, the Commission issued the Recommendation on Guidelines and Medical and Statistical Research to Improve the Discrimination against Persons with Disabilities in Insurance to the Financial Supervisory Service (FSS), Ministry of Health and Welfare and the National Health Insurance Service on November 26, 2012, but complaints on discrimination in insurance due to disability filed at

the Commission have continued even thereafter, amounting to a total 331 cases from January 2008 to December 2013.

2) Recommendation

- ① In addition to deleting Article 732 of the Commercial Act, the government should withdraw its reservation on Article 25 (e) of the Convention, and by providing medical and statistical data on the mortality rate, illness incidence rate and accident rate of persons with disabilities as soon as possible so that insurance companies can conduct risk evaluations on persons with disabilities based on objective information and provide insurance services, it should prevent them from being unreasonably discriminated in insurances.

17. Article 27. Work and employment

17.1 Discrimination against persons with disabilities in employment as a result of their exemption from minimum wages

1) Current status and problems

- ① The Minimum Wage Act provides that persons acknowledged to have a mental or physical disability which will significantly impede the undertaking of a job can be exempt from being subject to minimum wage (4,860 won per hour in 2013) after acquiring the approval of the Minister of Employment and Labor. In this regard, according to the data submitted by the Ministry of Health and Welfare to the National Assembly during parliamentary inspection of the administration, there were 73 establishments (53%) out of 138 establishments designated as facilities manufacturing products by persons with severe disabilities which paid a per hour wage lower than the minimum wage, and in particular, despite the provision on mandatory acquisition of the approval by the Minister of Employment and Labor in such cases, there were 21 establish-

ments (15%) without such approval.

- ② The Initial Report mentions the regulation that persons with disabilities are exempt from the application of minimum wages, but does not provide statistics on the total number of establishments or workers with disabilities that receive a per hour wage lower than the minimum wage with the approval of the Minister of Employment and Labor.

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 received for equal work. Therefore, the government should first gain insight on the current state of all establishments that pay wages lower than the minimum wage to persons with disabilities and strictly manage and monitor them in order to prevent abuse of the minimum wage exemption.

17.2 Lack of reasonable accommodation for public servants with severe disabilities

1) Current status and problems

- ① Based on the Act on Employment Promotion and Vocational Rehabilitation for Disabled Persons, the Ministry of Employment and Labor operates a Work Assistant System where assistants provide support to qualified workers with severe disabilities in carrying out “additional work apart from the core job carried out by persons with disabilities at the workplace” with a limit of 172 hours per month. However, the Ministry does not provide work assistants to public servants with severe disabilities as they are not regarded as workers under the Labor Standards Act, and the Initial Report fails to point out this problem.
- ② The Ministry of Security and Public Administration (MSPA), which is entrusted with the employment, promotion and welfare of public servants, does provide

regulations on providing convenience services in terms of human resources as part of the convenience provided for public servants with disabilities, but has not promoted this actively, resulting in low awareness. Furthermore, due to the lack of budget and detailed criteria such as scope of provision and qualification of work assistants to implement the regulation, there is difficulty in providing such services. For reference, there are 4,805 public servants with disabilities working in central administrative agencies as of end of 2012 (accounting for 3.27% of total national public servants), and 8,306 public servants with disabilities in local autonomies (accounting for 3.82% of total local public servants).

- ③ Meanwhile, the Convention stipulates that State Parties shall take appropriate measures to ensure that persons with disabilities are employed by the public sector and reasonable convenience services are provided to them, and additionally, the Anti-Discrimination against Persons with Disabilities Act provides that the allocation of an assistant should be included in the convenience services provided by the employer to workers with disabilities.

2) Recommendation

- ① The government should install explicit provisions on the provision of reasonable accommodation for public servants with severe disabilities, such as the allocation of working assistants, in related laws, notably the National Public Servant Act and the Local Public Servant Act. It must also prepare detailed implementation measures so that central administrative agencies and local autonomies can provide working assistant services to public servants with severe disabilities.

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

18.1 Insufficient social protection for persons with disabilities

1) Current status and problems

- ① According to the 2012 White Paper on Persons with Disabilities (KODDI, 2012. 12), the National Basic Livelihood System, which includes pensions and allowances for persons with disabilities, excludes persons with disabilities whose economic conditions can improve with a little bit of assistance from the scope of beneficiaries, creating a situation where persons with disabilities not receiving allowances have to bear with economic conditions more aggravating than persons with disabilities who are economically worse off and receive basic livelihood allowances. The greatest problem of this System is also the fact that it does not deduct additional costs incurred due to disabilities from one's income. Therefore, families of persons with disabilities find that even though they receive basic livelihood allowance they are unable to maintain an adequate standard of living after paying for the additional costs due to disability. The Initial Report fails to mention this problem.
- ② The pension for persons with disabilities in Korea is composed of a basic allowance to compensate for income which is decreased due to a loss or significant decline in the working capacity of persons with severe disabilities and additional allowance to compensate for all or part of the costs that are additionally incurred due to their disabilities. Despite the fact that the beneficiaries of the additional allowance should include not only basic allowance beneficiaries and lower income families, but also other persons with disabilities since it is an allowance to compensate the additional costs incurred due to a disability, the income criterion is limited to allowance recipients, and therefore, persons with disabilities with a certain level of income are not eligible to receive the additional allowance.

2) Recommendation

- ① In order to enable persons with disabilities to maintain a decent standard of living, the government must take additional costs incurred due to the disability into account in determining beneficiaries for the National Basic Livelihood Allowance and Additional Allowance for Pensions for Persons with Disabilities.

18.2 Lack of assurance of livelihood for persons with disabilities due to the Guardian Obligatory Support System

1) Current status and problems

- ① According to the Research on the Current Status of Independence by Disability Type and Improvement of the Support System conducted by the Commission in 2011, cases where “the guardian of a person with disability failed to meet the necessary criteria in the deliberation for the National Basic Livelihood System” was noted as a cause which undermined the independence of persons with disabilities.
- ② According to the present National Basic Livelihood Act, if persons with the legal duty to care for persons with disabilities have a certain amount of property or income, persons with disabilities are excluded from the basic livelihood allowance even though they do not receive any assistance from their guardians. Despite the fact that in many cases the property or income level of the guardian is considerably low and a large number of persons with disabilities need assistance, persons with disabilities are excluded from receiving the allowance. This is transferring the duty of the state to ensure the minimum standard of living for its people to the families of persons with disabilities and is continuously criticized by the civic society.
- ③ The Commission announced the Mid-Long term Plan for the Promotion of Human Rights of Persons with Disabilities (2013-2017) in October 2012, which calculated the number of people in the blind area where despite the fact that

they are under the poverty level and meet the conditions for the income limit but are exempt from the basic livelihood allowance due to the Guardian Obligatory Support System at 1.03 million, accounting for 2.13% of the total population as of 2008. The Commission pointed out that even when persons with disabilities reach adulthood, it is difficult for them to undertake income-generating activities. Therefore, the additional costs due to disability must be incorporated in the criteria to designate eligible beneficiaries, and the system must be improved to either ease or abolish the criteria for guardians of adults with disabilities.

2) Recommendation

- ① The government should enable persons with disabilities to enjoy dignified lives by easing or abolishing the Guardian Obligatory Support System which transfers its duty to ensure people a basic standard of living to their families, and by enabling persons with disabilities to receive the Basic Livelihood Allowance based on their personal circumstances.

19. Article 29. Participation in political and public life

19.1 Lack of equal convenience with persons without disabilities in elections

1) Current status and problems

- ① The Anti-Discrimination against Persons with Disabilities Act obligates candidates of public office elections and political parties to deliver information on the candidate and political party to persons with disabilities on an equal basis with persons without disabilities. This provision, however, is in conflict with the Public Official Election Act which provides for 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 rules.

- ② The Public Official Election Act stipulates that candidates can prepare Type 1 braille campaign gazette for persons with visual disability in addition to a leaflet-type campaign gazette, but the number of pages of the former must be within that of the latter. However, for the information contained in the leaflet-type campaign gazette to be produced in braille requires more number of pages than the original document, showing that the law does not take this fact into account.
- ③ The Public Official Election Act also provides an exception for preliminary candidates who have yet to register as a public official electoral candidate and allows them to carry out campaigns outside the election period, such as posting writings or videos on their internet website or bulletin boards and chatting rooms. However, the Anti-Discrimination against Persons with Disabilities Act exempts individuals manufacturing or distributing electronic and non-electronic information the obligation to provide reasonable convenience to persons with visual and hearing disabilities.
- ④ The Initial Report state that persons with disabilities are ensured suffrage rights on an equal basis with persons without disabilities through the Public Official Election Act and the Anti-Discrimination against Persons with Disabilities Act, however, it does not mention the conflict between the two laws.

2) Recommendation

- ① The government should enforce the regulations on the provision of convenience for persons with disabilities which are currently included as optional rules in the Public Official Election Act, ease the limit on the number of braille pages for the official campaign gazette, and amend related laws so that even if preliminary candidates not yet registered as public official electoral candidates conduct campaign activities on websites ahead of the election period, the information posted on the websites should be made equally accessible by persons with or without disabilities.

19.2 Insufficient assurance of right to secret voting by persons with disabilities in facilities for persons with disabilities

1) Current status and problems

- ① The Public Official Election Act stipulates that in case of persons who reside in hospitals or rest homes or persons with severe physical disability who cannot move can vote in their residences, and the head of a facility accommodating more than 10 persons with disabilities who applied for residence voting must install a polling booth.
- ② In this regard, the violation of voting rights of persons with disabilities residing in such facilities by coerced or proxy voting by the head or employee of the facility has continuously been criticized as problematic, and during the parliamentary inspection of the administration in 2012, suspicions were raised for proxy voting at a facility for persons with disabilities.
- ③ Concrete measures to prevent the violation of voting rights of persons with disabilities residing in facilities have not been established, and the upcoming local elections in June 2014 call for stringent management and supervision.

2) Recommendation

- ① 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 due to coerced or proxy voting by facility staff.

20. Article 30. Participation in cultural life, recreation, leisure and sport

20.1 Discrimination against persons with disabilities in tourism and leisure

1) Current status and problems

- ① Most tourist buses and city tour buses consigned by local autonomies to private companies are not furnished with lifts for wheelchairs, and thus persons with disabilities who use wheelchairs cannot enjoy tourism or leisure activities on an equal basis with persons without disabilities.
- ② Travel agencies that sell travel products home and abroad do not accept applications for persons with disabilities in wheelchairs for packaged tours unless they are accompanied by an assistant or demand additional payment for the recruitment of another guide for them, and there are cases where they are denied such products for other tourists may find traveling with persons with disabilities unfavorable or uncomfortable.
- ③ Persons without disabilities can use an airplane or train to reach a tourist destination and from there, travel by renting a car of their choice from a car rental company, but there are no rental companies that rent cars installed with driving assistant devices customized to different disabilities for persons with disabilities.
- ④ The Initial Report does not state any of the above.

2) Recommendation

- ① The government should amend provisions so that tour buses and city tour buses operated in major cities nationwide are installed with lifts for wheelchairs.
- ② The government should engage in stronger supervision of companies selling

tourist products that deny persons with disabilities and enable them to receive services without additional costs from travel agencies. It should also establish measures so that the economic costs for persons with disabilities accompanied by an assistant can be reduced.

- ③ Furthermore, the government should revise provisions related to the car rental business so that rental car companies with more than a certain number of cars can prepare and rent vehicles for persons with varying disabilities.

21. Article 33. National implementation and monitoring

21.1 Insufficient access to remedies due to a lack of investigating officers at the Commission

1) Current status and problems

- ① The Commission was founded in 2001 as an independent organization and not affiliated to the legislative, administrative or judiciary pursuant to the so-called “Paris Principles”, the Principles relating to the Status of National Institutions. The National Human Rights Commission Act clearly stipulates the independence of activities of the Commission, and provides for independence and guarantees the status of its human resources. However, the government reduced the Commission’s organization and number of workers by 21.4% in April 2009 (208 workers in 2008 → 164 workers in 2009 (a reduction of 44 workers)). Although the number of workers was increased to 188 as of end of February 2014 with the installation of the Anti-Discrimination Division in October 2011, the number of investigators needed to handle complaints for discrimination against persons with disabilities is lacking and thus, limiting efficient remedy of rights of persons with disabilities.

2) Recommendation

- ① 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 were discriminated due to their disability must be swiftly remedied. To this end, the government should expand and strengthen the function of the Commission, which is exclusively responsible for handling complaints for discrimination against persons with disability 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 its organization, manpower, and budget, and actively increase its manpower so that there is a sufficient number of investigating officers conducting investigations on complaint cases.