**KAMI Answers to Questionnaire on** **the right of persons with disabilities to the highest attainable standard of health**

1. Please provide information on existing or planned legislation and policies to ensure the realization of the right to health of persons with disabilities, including current challenges and good practices.

* Act on the right to health and access to medical services of persons with disabilities (Act No. 13661) had been enacted on 29. Dec. 2015 and has been enforced from 30. Dec. 2017. The purpose of the Act is to improve health of persons with disabilities by providing support, establishing public health care system for the persons with disabilities and guaranteeing access to health.
* But most of the provisions of the Act is not imperative but optional rules and too much focused on medical services.

1. Please provide any information and statistical data (including surveys, censuses, administrative data, literature, reports, and studies) related to the exercise of the right to health of persons with disabilities in general, as well as with particular focus in the following areas:

* Availability of barrier-free general healthcare services and programmes, which take into account all accessibility aspects for persons with disabilities;

- General healthcare services and programmes are available for persons with disabilities but not so much barrier-free.

* access to free or affordable general healthcare services and programmes, including mental health services, services related to HIV/AIDS and universal health coverage;

- Mental health services and programmes and services related to HIV/AIDS and universal health coverage are accessible for persons with disabilities but mental health services are provided mostly by mental health hospitals and involuntary hospitalization and long-stay in the mental health hospitals are very

* access to free or affordable disability-specific healthcare services and programmes; and

- only for the poor persons with disabilities the services are free and social welfare facilities are providing programmes for the people with disabilities free.

* access to free or affordable health-related habilitation and rehabilitation goods and services, including early identification and intervention.

- By the provisions of the Act on the right to health and access to medical services of persons with disabilities (Act No. 13661) central or local government can support all or part of the expenses of medical check or services of the health care and medical service centers for the persons with disabilities and expenses for research, censuses, administrative data and education and propaganda.

1. Please provide information on discrimination against persons with disabilities in the provision of healthcare, health insurance and/or life insurance by public or private service providers.

* Below information is from “the Parallel report for the List of Issues of the Republic of Korea to the United Nations Committee on the Rights of Persons with Disabilities
  + The critical situations of people with psychosocial disabilities in Korea” by KAMI. (written by Ohyong Kweon, Secretary General)

*People with psychosocial disabilities in Korea are being in critical situations even after the CRPD Committee made* ***8 important concerns and recommendations related to persons with psychosocial disabilities in the Concluding Observations on the initial report of the Republic of Korea.[[1]](#footnote-1)***

* ***General principles and obligations (arts. 1–4)****: Disability Rating System and The Welfare of Disabled Persons Act (WDPA) Article 15*
* ***Equal recognition before the law (art. 12)****: Legal Capacity and Guardianship system under the New Civil Act*
* ***Liberty and security of the person (art. 14)****: Involuntary admission and treatment, and Institutionalization under Mental Health Act (New Mental Health Promotion Bill)*
* ***Freedom from torture and cruel, inhuman or degrading treatment or punishment (art. 15):*** *Forced treatment that subjects persons with psychosocial disabilities to cruel, inhuman and degrading treatment and punishment*
* ***Freedom from exploitation, violence and abuse (art. 16):*** *All cases of violence, exploitation and abuse against persons with psychosocial disabilities*
* ***Liberty of movement (art. 18):*** *Article 11 of the Immigration Control Act and Article 32 of WDPA*
* ***Health (art. 25):*** *Article 732 of the Commercial Act and reservation on Article 25 (e) of the Convention*
* ***Work and employment (art. 27):*** *Minimum Wage and Sheltered Workshops*

*But Korean government didn’t do anything to implement the obligations under CRPD and the CRPD Committee’s Concluding Observations.*

*In Sep. 2016 there was a Constitutional Court Decision on the Article 24 of the Mental Health Act which was ruling the involuntary admission of the people with psychosocial disabilities but there is no change in policy and legislations to follow the ruling of the Constitutional Court.*

*Korean government and the Court is trying to promoting the legal guardianship system which was introduced in Korea from 2013 by the New Civil Act, even after the CRPD Committee observed it as against the Article 12 of the CRPD and the legal capacity of the people with disabilities and recommended to develop a new system for supported decision making.*

*Korea revised the Mental Health Act in May 2016 and the procedure of involuntary admission of the people with mental illness changed but it still discriminates the people with psychosocial disabilities.*

*The new Mental Health and Welfare Act still doesn’t need informed consent of the people with mental illness and the Welfare of Disabled Person’s Act still doesn’t include the people with psychosocial disabilities in many services for the people with disabilities.*

*Recently the revised Social Welfare Service Act ruled out the people with psychosocial disabilities who have mental illness from getting the certification of social workers if he/she cannot prove himself/herself OK for the job by the psychiatrist’s medical diagnosis.*

*There already have been more than a hundred laws and regulations to discriminate people with psychosocial disabilities in Korea as wrote in KAMI Parallel report to the 12th session of CRPD Committee.*

*This report is mostly from the presentation “State obligations under UNCRPD and Concluding Observations, New opportunities for Korean persons with psychosocial disabilities” by the CRPD Committee member Dr. Monthian Buntan in 2015. But Korea didn’t do anything to change the system or practice for implementing the CRPD and the Concluding Observations from the CRPD Committee.*

1. Please provide information on the observance of the right to free and informed consent of persons with disabilities regarding healthcare, including sexual and reproductive health and mental health services.

* For the people with psychosocial disabilities the revised Mental Health and Welfare Service Act (enacted May 2016 and enforced from May 2017) allows involuntary hospitalization and coercion. But most of the present articles relating to involuntary hospitalizations, mental health facilities and special treatments such as ECT (Electroconvulsive Therapy), insulin lethargy therapy, hypnosis-under anesthesia therapy, psychiatric surgery therapy, coercion and seclusion remains in the new Mental Health and Welfare Service Act.

1. Please describe to what extent and how are persons with disabilities and their representative organizations involved in the design, planning, implementation and evaluation of health policies, programmes and services.

* Even though KAMI is the only national level NGO for the people with psychosocial disabilities registering at the Department of Health and Welfare, the government and National Assembly didn’t make KAMI know the contents of the revised Bill of Mental Health and Welfare Service Act until we asked it officially to the National Assembly. There has been no official invites from the government of Mental Health Policy and Services for the meeting for design, planning, implementation and evaluation of health policies, programmes and services for many years. KAMI are excluded from the government run or government support events after KAMI stood against the revised Mental Health and Welfare Service Act. I think the government deleted KAMI from their email or fax lists.
* For more than 10 years I cannot remember there had been official meetings of stakeholders by the department of Mental Health and Welfare Policy and Services to hear or explain the policy and programmes which had been held annually before.
* There had been changes in the mental health budgets but the consumers including people with psychosocial disabilities had been excluded from the table of the government officials and the psychiatrists’ association or Academy of Psychiatry.
* The national mental health expenditure is mostly spent for the psychiatric services of inpatient and outpatient mental health hospitals and very little (1~2%) is spent for the community mental health centers and community rehabilitation services.
* The national health budget for the mental health services of the mental health hospitals has grown from below 2 billion USD in 2007 to more than 4 billion USD but little is spent for the independent living of the people with psychosocial disabilities in Korea.
* The Disability Welfare Service Act Art. 15 is excluding people with disabilities with mental illness from using the rehabilitation services or use of the facilities for the people with other kinds of disabilities and the Social Welfare Service Department for the people with disabilities is not taking the matters of the people with psychosocial disabilities in Korea.

1. Monthian Buntan, State obligations under UNCRPD and Concluding Observations, New opportunities for Korean persons with psychosocial disabilities, TCI Asia conference in Nov. 2015 hosted by KAMI and NHRCK [↑](#footnote-ref-1)