



Democratic People’s Republic of Korea:
Brief on the Implementation of CRPD Commitments for
Articles 3, 5, 27 and General Comment No. 6

*Information for the Committee on the Rights of Persons with Disabilities
16th Pre-Session Working Group, September 2022*

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INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 16th Pre-Sessional Working Group of the Committee on the Rights of Persons with Disabilities.

WORLD works to advance the global evidence base on national laws and policies that address social and environmental barriers to the full realization of the right to work and education for persons with disabilities. We are immensely fortunate to have had a 19-member steering committee of global leaders from DPOs, academia, intergovernmental organizations, civil society and philanthropy that guided us on the development of these measures. While WORLD is responsible for this submission and its content, we have benefited greatly from their advice.

The WORLD Policy Analysis Center's examination of the Democratic People's Republic of Korea's (DPRK) constitutional provisions and legislation vis à vis the commitments it has made through its ratification of the Convention is focused in the following areas:

- General Equality and Non-Discrimination (Articles 3, 5)
- Non-Discrimination in Work and Employment (Articles 5, 27, General Comment No. 6)
- Reasonable Accommodation at Work (Articles 5, 27)

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this report, we provide a summary of our constitutional and legislative findings as well as suggested questions for the Committee to ask the DPRK, and topics we hope the Committee will address in its concluding observations. We hope the Committee will recommend that the DPRK address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations.



SUMMARY OF FINDINGS AND RECOMMENDATIONS

General equality and non-discrimination (Articles 3, 5)

Based on our review of full-text national constitutions, **the DPRK's constitution does not explicitly guarantee equality or non-discrimination to persons with disabilities.**

We hope the Committee will:

- Recommend in its concluding observations that the DPRK **amend its constitution to add explicit guarantees of equality and non-discrimination regardless of disability status**, consistent with CRPD commitments.

Non-discrimination in work and employment (Articles 5, 27 and Gen. Comment No. 6)

Based on our review, **the DPRK has no legal provisions on workplace discrimination on the basis of disability.**

We hope the Committee will:

- In its list of issues, ask the DPRK: Can the DPRK outline any concrete, near-term plans to pass legislation that explicitly prohibits disability-based discrimination in work and employment?
 - If the DPRK does not have concrete, near-term plans in place, recommend in its concluding observations that the DPRK pass and implement legislation that explicitly prohibits disability-based discrimination in the following critical aspects of the working life course:
 - Employment opportunities and hiring
 - Equal remuneration for work of equal value
 - Access to employer-provided vocational training at work
 - Career advancements including promotions and demotions
 - Continuance of employment or terminations
 - We also hope the Committee will recommend that this legislation includes effective enforcement mechanisms, as well as protection from retaliation by employers against those reporting incidents of workplace discrimination.

Reasonable accommodation at work (Articles 5, 27)

Based on our review of legislation, the DPRK guarantees reasonable accommodation for workers with disabilities only in the area of working time.

We hope the Committee will:

- In its list of issues, ask the DPRK: Can the DPRK outline any concrete, near-term plans to pass legislation that guarantees reasonable accommodation to workers with disabilities, beyond the area of working time?



- If the DPRK does not have concrete, near-term plans in place, recommend in its concluding observations that the DPRK pass and implement legislation that guarantees reasonable accommodation to workers with disabilities, beyond the area of working time.

DETAIL

While the following review is systematic and rigorous, we recognize that there may be laws or policies governing these areas that we have not captured, including new legislation or policies that have not yet been published globally.

General equality and non-discrimination (Articles 3, 5)

Article 3 of The Convention states that:

The principles of the present Convention shall be:

(b) Non-discrimination;

Additionally, Article 5.1 calls on states parties to “recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law”, and Article 5.2 states that “States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.”

We reviewed full text constitutions for all 193 UN member states available from official government sources to determine whether the constitution explicitly guaranteed equality or non-discrimination on the basis of disability by prohibiting discrimination, guaranteeing equal rights, guaranteeing equality before the law, or guaranteeing overall equality or equal opportunities.

THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA’S CONSTITUTIONAL PROVISIONS: MISSING EXPLICIT GUARANTEES OF EQUALITY AND NON-DISCRIMINATION FOR EVERYONE, INCLUDING PERSONS WITH DISABILITIES

Based on our review of full-text national constitutions, **the constitution does not explicitly guarantee equality or non-discrimination to persons with disabilities.**

WHY CONSTITUTIONS MATTER

Constitutions state the values of a country, describe the rights of people living within the country, and profoundly influence norms and practice. In nearly all countries, constitutions take precedence over other sources of law—making them critical tools for delineating and implementing equal rights. New constitutions and new rights guaranteed in constitutions can be used to overturn discriminatory laws as well as to legislate non-discrimination guarantees. Moreover, constitutions can offer protection against policy and legal changes during periods of social and political shifts that may seek to undermine equal



rights. For these reasons and others, as the foundational document setting out the rights of all human beings in a country, a constitution and the rights contained therein are essential to realizing equal rights.

Work and employment (Articles 27, 5, General Comm. No. 6)

Article 27 of the Convention calls on countries to advance equal work rights and prohibit disability-based discrimination “with regard to all matters concerning all forms of employment”. National laws and policies have an important role to play in achieving these goals and dismantling the discriminatory social and environmental barriers that maintain these disparities in employment. Laws and policies that advance equal work rights are critical.

Non-discrimination in work and employment (Article 27.1, General Comment 6)

Article 27.1 states that:

(...) States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- (a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement (...)*
- (b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, (...) including protection from harassment, and the redress of grievances;*
- (d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;*

Per General Comment 6:

Article 5 (2) contains the legal requirements for achieving equality rights for persons with disabilities and persons associated with them. The obligations to prohibit all discrimination on the basis of disability includes persons with disabilities and their associates, e.g. parents of children with disabilities.

General Comment 6 further outlines that:

The duty to prohibit “all discrimination” includes all forms of discrimination. International human rights practice identifies four main forms of discrimination, which can occur individually or simultaneously:



- b. *“Indirect discrimination” means that laws, policies or practices appear neutral at face value but have a disproportionate negative impact on a person with a disability. It occurs when an opportunity that appears accessible in reality excludes certain persons owing to the fact that their status does not allow them to benefit from the opportunity*

We systematically reviewed national labor codes, penal codes, equal opportunity, anti-discrimination legislation and other relevant legislation available through the International Labour Organization’s NATLEX database as of May 2018 for all 193 UN member states to determine whether national legislation prohibited discrimination on the basis of disability in employment. We examined legal protections across five areas covered by the Convention:

- Employment opportunities and hiring
- Equal remuneration for work of equal value
- Access to employer-provided vocational training at work
- Career advancement, including promotions and demotions
- Continuance of employment or terminations

We assessed whether there were explicit prohibitions from discrimination at work based on disability in each of these areas and whether legislation explicitly prohibited harassment based on disability. We further examined whether there were provisions that protected employees from retaliatory action for reporting disability discrimination. We also examined whether legislation prohibited both direct and indirect forms of discrimination.

THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA’S LEGISLATIVE PROVISIONS: MISSING ANY SPECIFIC GUARANTEE OF DISABILITY-BASED NON-DISCRIMINATION AT WORK

Our systematic review of national labor and disability legislation **did not identify any national legislative provisions that prohibit discrimination on the basis of disability at work in the DPRK.**

Table 1: Does the DPRK have legislative provisions in place explicitly guaranteeing non-discrimination on the basis of disability in the following eight key areas of employment?

Legislative provision	Is the legislative provision in place?
Employment opportunities and hiring	No provisions found
Equal remuneration	No provisions found
Employer-provided vocational training	No provisions found
Promotions and/or demotions	No provisions found
Terminations	No provisions found
Retaliatory action	No provisions found



Discriminatory harassment	No provisions found
Indirect discrimination	No provisions found

[Reasonable accommodation at work \(Articles 27.1, 5.3\)](#)

Article 27.1 of The Convention states that:

(...) States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- (i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace”*

Additionally, Article 5.3 of the Convention States that *“in order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.”*

We analyzed whether countries legally guaranteed employer-provided reasonable accommodation. We did not consider guarantees of general workplace accessibility to be equivalent to guaranteeing reasonable accommodation to an individual worker. To assess legislative guarantees of reasonable accommodation, we systematically analyzed national labor codes, equal opportunity legislation, anti-discrimination legislation, and other relevant legislation available through the International Labour Organization’s NATLEX database for all 193 UN member states.

[THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA: LIMITED GUARANTEES OF REASONABLE ACCOMMODATION FOR WORKERS WITH DISABILITIES](#)

Based on our systematic review of national legislation, we found that the Law on the Protection of Persons with Disabilities explicitly guarantees reasonable accommodation at work, **but only in the area of working time**, as confirmed by paragraph 171 of the State Party Report.

Law on the Protection of Persons with Disabilities

Article 36 (Working hours of persons with disability)

The daily working hours of persons with disability shall be 8 hours. The daily labour time period of workers who have a severe degree of disability, and of female workers who have more than 2 children with disability, can be less than 8 hours. In these cases, assistance that follows the measures of the State shall be received.