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ON THE ISSUES OF DISABILITY RIGHTS IN DPRK

SUBMISSION OF HANDONG INTERNATIONAL LAW CENTRE

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SUMMARY

This report is submitted by the Handong International Law Centre¹ to bring deeper understanding of the rights of persons with disabilities in the Democratic Peoples' Republic of Korea (DPRK) and to evaluate the efforts of the State to protect and improve the human rights and dignity of persons with disabilities as stipulated in the DPRK's law² in accordance with the standard of *the UN Convention on the Rights of Persons with Disabilities*.³ This report will address three major issues. They are the right to family life, to freedom of movement, and the right to education. This submission includes key inquiries, questions, and recommendations. In particular, this submission encourages the government of the DPRK to continue striving to implement the CRPD and to establish an "independent disability rights national institution" with a clear legal base, resources, and personnel in accordance with the Paris Principle⁴. The submission emphasizes the need for a National Action Plan for promoting the rights of persons with disabilities. Access to education should be granted to children with disabilities. Accordingly, the DPRK should actively increase the number of special education teachers who are equipped to offer special education classes that meet the needs of the different types of disabilities. There should be more official data on disabilities in the DPRK. Open and comprehensive international cooperation by the State and all relevant institutions will bring steady improvement to the lives of persons with disabilities in the DPRK.

¹ The Handong International Law Centre (HILC) is an academic research institute based in the Republic of Korea. HILC has been conducting human rights and development research with particular emphasis on vulnerable groups (women, children and persons with disabilities) in order to promote human rights, democracy and rule of law in accordance with the United Nation's Sustainable Development Goals. HILC strives to bring justice and dignity for all.

² DPRK enacted "the Protection of People with Disabilities Act" on June 18, 2003.

³ DPRK ratified the CRPD on December 2016.

⁴ The Principles relating to the status of national human rights institutions, reproduced in the appendix of *GA Res. 48/134 of 20 December 1993*.

I. KEY ISSUES OF CONCERN

A. Right to Family Life

- What is the legal basis of family separation for persons with disabilities?
- What is the percentage of married women with disabilities among women with disabilities?
- What is the percentage of women with disabilities who gave birth to children?

B. Freedom of Movement

- What is the prevalence rate of persons with disabilities by area of residency?
- What are the official statistics regarding persons with disabilities in each city and rural region?
- Are there special conditions for persons with disabilities to reside in Pyongyang city?
- What is the rate of the persons with disabilities held in detention facilities and do they have access to medical care?

C. Right to Education

- What is the number of special education teachers?
- What kind of educational institutions and programs train teachers for persons with disabilities? (universities, colleges with special educational department or majors)
- What is the percentage or number of the special education schools or child care centers for children with disabilities?
- What are the official statistics of persons with disabilities among students in the higher education?
- What are the official statistics of persons with disabilities among the Communist Party members?

II. METHODOLOGY

1. This submission is based on published academic articles, reports by organizations such as the UN Commission of Inquiry on North Korea (2014) and UN Special Rapporteur on the DPRK, relevant North Korean legal instruments, and qualitative research consisting of surveys and semi-structured interviews of 104 participants who left North Korea and currently live in the Republic of Korea, the United States, and Europe. The research was implemented with the approval of the Korea National Institute for Bioethics Policy to ensure reliability and credibility.

III. BACKGROUND AND FRAMEWORK

A. Scope of the DPRK International Obligations

2. The Democratic People's Republic of Korea (DPRK) is a party to the following conventions related to

human rights: ICCPR,⁵ ICESCR,⁶ CEDAW,⁷ CRC,⁸ CRC optional protocol,⁹ CRPD,¹⁰ Genocide Convention,¹¹ Geneva Conventions and Protocol I,¹² and Marrakesh Treaty for Workers with Disabilities.¹³

B. Legislative Framework

3. The “Persons with Disabilities Protection Act,” adopted on June 18, 2003, is the first single Act with guarantees for fair social treatment and protects the rights and interests of persons with disabilities.¹⁴

C. Implementation of Specific UPR Recommendations

4. During the Universal Periodic Review process in May 2014, the DPRK accepted several recommendations regarding the ratification of the CRPD. In response to the recommendations, the DPRK ratified the CRPD in December 2016.

IV. RIGHT TO FAMILY LIFE

5. **North Korean Disability Law.** *Code of Family Law of the DPRK (1990)* recognizes a citizen’s right to marry. *The DPRK’s Persons with Disabilities Protection Act (2003)*, Art. 2 specifies State responsibility to respect persons with disabilities and to provide them rights and freedom on an equal basis with persons without disabilities. However, discriminatory practices persist against persons with disabilities in forms including but not limited to quarantine, forcible sterilization, and forcible separation due to the broad interpretation of Art. 4 which states that the State shall ‘promptly detect, treat, and prevent the diseases causing disability.’¹⁵

6. **Separation from family.** As a preventive measure against the occurrence of disabilities and their exacerbation, the State enforces quarantine and forcible sterilization on both adults and children with

⁵ International Covenant on Civil and Political Rights (acceded September 14, 1981; announced withdrawal August 23, 1997, although treaty does not include withdrawal provision).

⁶ International Covenant on Economic, Social and Cultural Rights (acceded September 14, 1981).

⁷ Convention on the Elimination of All Forms of Discrimination against Women (acceded February 27, 2001 with reservations; partially withdrew reservations November 23, 2015).

⁸ Convention on the Rights of the Child (ratified September 21, 1990; accepted amendment to Article 43(2) February 23, 2000).

⁹ Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (ratified November 10, 2014).

¹⁰ Convention on the Rights of Persons with Disabilities (signed on July 3, 2013 and ratified on December 6, 2016).

¹¹ Convention on the Prevention and Punishment of the Crime of Genocide (acceded January 31, 1989).

¹² International Committee of the Red Cross (ICRC), Geneva Conventions I.-IV. (ratified 1958), and Protocol relating to the protection of victims of international armed conflicts (protocol I, ratified 1988).

¹³ Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (ratified February 19, 2016).

¹⁴ The Law of the Democratic People’s Republic of Korea on the Protection of the People with Disabilities (2013).

¹⁵ Article 4 of the Persons with Disabilities Protection Act (2003) states ‘the prevention of occurrence and aggravation of disability is indispensable need to guarantee a stable life of the people. The State shall promptly prevent detect the diseases causing disability and prevent the occurrence of disability caused by accidents and different kinds of factor. (North Korean official translation by Legislation Press, North Korea).

inborn disabilities. Due to a prevailing belief that being raised by parents with disabilities is not in the best interest of the child, parents with disabilities are advised against having a child, and women with disabilities are denied access to adequate antenatal and postnatal care. When a child is born to parents with disabilities, children are often sent to institutional settings provided by the Government, resulting in forced separation. Based on the same rationale, persons with disabilities are denied the opportunity to be adoptive parents, guardians, or trustees of children.

7. Preferential Policy for Honored Soldiers. While the Government strongly encourages and supports the marriage of persons with disabilities in the form of Preferential Policy for Honored Soldiers, only a minority of “honored soldiers” receive this benefit, as it is not intended to enhance their quality of living, but for political, public relations campaigns.

8. Right to marry is not encouraged. Recent survey results imply that the prevalence of forced sterilization and quarantine has lessened and that persons with disabilities are increasingly seen living together with the rest of the general population. More recent testimony of refugees shows that marriages of persons with disabilities is not prohibited, but still not recommended. However, discrimination based on widely accepted negative assumptions further creates barriers to the realization of the right to family life for persons with disabilities. The general public sentiment is that persons with disabilities should only marry each other. Exceptions are generally limited to those with acquired disabilities or those belonging to a higher socio-political caste based on the *Songbun* system,¹⁶ further marginalizing persons with intellectual or psychosocial disabilities and dwarfism.

V. FREEDOM OF MOVEMENT

9. Freedom of citizens’ residence is limited. According to the White Paper on Human Rights in North Korea (2014)¹⁷ and the testimony of interviewees, the DPRK recognizes freedom of dwelling within the Constitution. However, this is only a nominal provision, and it seems that the freedom of citizens’ residence is limited in practice. In addition, persons with disabilities have more limits when it comes to freedom of dwelling than citizens without a disability. Persons with disabilities have been expelled from Pyongyang, where residence depends on the origin of one’s family based on the *Songbun* system, and have been isolated in restricted areas or to facilities in other cities. For instance, the Government created separate residences for the blind and created a ‘dwarf village’ in order to segregate people with disabilities from society. The purpose of isolating disabled persons is mostly to prevent them from marrying and

¹⁶ North Korea practices a state-administered discriminatory socio-political caste system called *Songbun* based on the social and political origin of the person. *Songbun* determines the entire aspect of a North Korean’s life such as access to education, jobs, health care and residence. See Robert Collins, *Marked for Life: Songbun North Korea’s Social Classification System*, The Committee for Human Rights in North Korea, 2012. (https://www.hrnk.org/uploads/pdfs/HRNK_Songbun_Web.pdf), accessed October 2, 2018.

¹⁷ Korea Institute for National Unification (KINU), *White Paper on Human Rights in North Korea* (2014).

having children.

10. **Social stigma on persons with disabilities.** Families who have members with disabilities are reluctant to expose a member with disabilities to society due to social pressure because people with disabilities are discriminated against by the government and the public, who consider disability as a disgrace. Families feel particularly ashamed of female family members with disabilities and do not like them participating in local activities. Accordingly, women with disabilities are generally limited in their ability to go outside and are confined at home compared to men with disabilities.

11. **Widespread infanticide is suspected.** There is evidence of the widespread practice of infanticide of babies born with disabilities. Infants with disabilities are killed by their parents due to lack of desire to raise a child with disabilities, or the parents want to avoid restrictions that might be imposed upon them such as deportation from the city to restricted areas if they were to raise children with disabilities.

12. **Disabilities in detention facilities.** The DPRK's detention facilities are sites where severe human rights abuses occur including cruelties of violence, torture, and forced labor in extremely poor conditions. Inmates suffer torture and intense forced labor without exception, even if they suffer from serious disabilities. Also, numerous people have become physically or mentally disabled in the detention camps due to the severe human rights conditions and the lack of proper medical treatment. Furthermore, women detainees with disabilities are more likely to be exposed to sexual assault in detention camps. Incidentally, there are no independent monitoring agencies for persons with disabilities in detention.

VI. RIGHT TO EDUCATION AND PARTICIPATION

13. **Lack of special education teachers.** According to the data from the Education Commission, the pupil-teacher ratio in Early Childhood Education was 19 students per teacher in the 2008 census and 18.3 students per teacher in 2012. In comparison, the pupil-teacher ratio for special classes that offers education to persons with disabilities is not measured due to the serious lack of specialized educators for persons with disabilities. There is a lack of teachers who are trained to offer education to persons with disabilities.

14. **Lack of educational institutions.** The number of educational institutions that offer special classes for persons with disabilities is very limited. There are public schools, but not all of them have classes for special education. The existing schools for disabilities are too few and do not cover enough regions.

15. **Mandatory education for children with disabilities.** Although *the Persons with Disabilities Protection Act of the DPRK (2013)* Art. 17 prohibits the exclusion of persons with physical disabilities or mental disabilities from compulsory education. Nevertheless, 12 years of compulsory primary education and secondary education is only guaranteed for those who have certain physical disabilities such as visual, hearing, or language disabilities. The DPRK has established eleven special schools: eight schools for those

who have hearing impairments and three schools for those with visual disabilities. In addition, persons with disabilities such as Cerebral Palsy and Down Syndrome are given education in the Korean Rehabilitation Center for Children with Disabilities, but those with multiple disabilities and psychosocial disabilities are not considered in giving every individual a fair opportunity to their rights to education.

16. Access to educational services. *The Persons with Disabilities Protection Act of the DPRK (2013)* Art. 19 states that a special education class, sponsored by the State, must be organized and operated in a general school or special school with consideration given to both the physical and mental characteristics of the persons with disabilities. However, according to testimony, neither educational facilities nor proper special schools are established for persons with mental disabilities. Persons with disabilities are prevented from enjoying basic education due to the unavailability of assistive devices, funds, and universally accessible facilities.

17. Discriminatory practice against women with disabilities. *The Women's Rights Protection Act of the DPRK (2010)* Art. 38 guarantees that the same rights and interests can be enjoyed by women with disabilities as ones with non-disabilities in all areas. Women with disabilities are a socially disadvantaged class with relatively limited access to social participation based on their economic, physical and other conditions and excluded from enjoying equal benefits as members of society.

18. Education enrollment. According to the Second Periodic Report on the ICESCR (2003), children with disabilities are not actively searched for or registered to compulsory secondary education in the DPRK which is from 9 to 15 years of age.

19. Communist Party Membership. There are no available statistics on the number of persons with disabilities who belong to the Community Party of the DPRK.

VII. Recommendations

20. Independent Disability Rights National Institution. The Government of DPRK should fully implement CRPD and establish an independent disability rights national institution to effectively monitor the implementation of the CRPD according to the Paris Principles.

21. National Action Plan. The Government of DPRK needs to develop a National Action Plan to promote the inclusion of persons with disabilities, and monitor all relevant facilities, programs, and procedures to ensure that persons with disabilities, including children, retain their fertility on an equal basis with others, and prevent the abandonment and segregation of children with disabilities.

22. Right to form and enjoy family life. Laws of the DPRK concerning persons with disabilities should be amended in order to respect persons with disabilities as a natural part of human diversity. The DPRK

Government must immediately refrain from engaging in any act, custom or practice including forcible sterilization, discouragement of marriage between persons with disabilities, quarantine, and segregation that creates barriers to the enjoyment of the right to integrity, home, and family.

23. Instruction and training for government officials. The DPRK Government must provide instruction and training for government officials, health care providers, and educators on needs specific to persons with disabilities to ensure that all persons with disabilities have equal access and rights to health care, and that families of parents and or children with disabilities are supported and their needs provided for on an equal basis with other persons without disabilities.

24. Freedom of Movement. The DPRK should comply with the rights to freedom of movement respecting the ICCPR Art. 12(1) and the CRPD Art. 18 by inserting a specific provision to protect persons with disabilities in its constitution.

25. Infanticide. The DPRK should address the allegedly widespread practice of infanticide of children born with disabilities since infants with disabilities are entitled to the right to life.

26. Inclusive education. The Government of the DPRK should address the prevailing exclusion of persons with mental disabilities from education. There are no educational institutions for persons with multiple disabilities or psychosocial disabilities. According to the CRPD Art.24 and the *Persons with Disabilities Protection Act of the DPRK (2013)* Art. 2, the Government is obligated to establish schools to offer education accommodative to the different types of disabilities, and especially for those who are mentally disabled.

27. Special education teachers. The Government must actively increase the number of special education teachers who are equipped to offer special classes that meet the needs of the different types of disabilities. Also, the State should increase the teacher-pupil ratio for special classes to provide a closely monitored class that can provide quality education for persons with disabilities. The Government must allocate funds and budget to provide teacher training programs and professional development to increase the number of teachers qualified to teach students with different types of disabilities.

28. Girl children with disabilities need special protection. The DPRK is urged to stop discriminating against women, girls, and persons with disabilities by recognizing the vulnerability of women with disabilities to abuse. The DPRK must conduct national education programs to educate the public on the rights of women and persons with disabilities. Hence, the Government should revise the specific provisions of its domestic law to come in line with standards of the CRPD, the CEDAW, and the CRC that stipulate equal rights to education for women and children with disabilities.

29. **Registration.** The State must take systematic measures to ensure that infants with disabilities are registered at birth. Children with disabilities also must be registered in schools or taken care of in a nursery in their preschool years so that they are adequately prepared for enrollment in primary school education at the age of six. A wide-spread distribution of special classes in education institutions must be guaranteed by the Government in order to enhance the accessibility of education for persons with disabilities. Hence, the Government is obligated to promote inclusive education for persons with disabilities as stated in the CRPD Art. 24.

30. **The CRPD Review.** The DPRK should faithfully prepare for the first review by Committee on the CRPD.

31. **International cooperation.** The DPRK should strengthen cooperation with the international community in achieving the above mentioned recommendations.