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A FIGHT FOR THE RIGHT TO CARRY LUGGAGE: SOUTH KOREA'S RISE IN GLOBAL PROMINENCE AND ITS ENSUING EFFORT TO DETER DISABILITY DISCRIMINATION

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I. INTRODUCTION

These days, the world knows South Korea (“Korea”) as the land of Samsung,¹ kimchi,² and k-pop,³ for which its upsurge in popularity owes

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¹ See Chico Harlan, *In S. Korea, the Republic of Samsung*, WASH. POST (Dec. 9, 2012), http://www.washingtonpost.com/world/in-s-korea-the-republic-of-samsung/2012/12/09/71215420-3de1-11e2-bca3-aadc9b7e29c5_story.html [https://perma.cc/9NGR-D7NX].

² See, e.g., Brandon Baker, *'Korean Wave' Hits City Center with New Restaurant*, PHILLY VOICE (May 7, 2015), <http://www.phillyvoice.com/koreatown-restaurant-introduce-korean-center-city/> [https://perma.cc/C6NW-XR3T].

³ “K-pop” is the nickname for a genre of Korean popular music. Rachel Tsoumbakos, *'Girls Generation', KPop and Why 'American Idol's' Han Hee Jun Teaming Up with Them Is Awesome*, INQUISITR (May 19, 2015), <http://www.inquisitr.com/2101474/girls-generation-kpop-and-why-american-idols-han-hee-jun-teaming-up-with-them-is-awesome-video/> [https://perma.cc/MQE4-D9JT].

“Gangnam Style” much thanks.⁴ Below the surface of this most recent hallyu, or “Korean wave”⁵ of popular culture ascendancy across the globe, lies the darker side of Korea. Numerous articles have scrutinized its colossal plastic surgery industry, questioning the motives behind such procedures and crowning Seoul the new plastic surgery capital of the world.⁶ A generation of transnational adoptees has renewed attention in what, during the 1988 Summer Olympics,⁷ was labeled the country’s greatest shame: mass exportation of unwanted babies.⁸ Media outlets have exposed a “remote island where the enslavement of disabled salt farm workers is an open secret.”⁹

Nonetheless, the hallyu surges forward. Tourism rates in 2015 nearly tripled those from only a decade prior.¹⁰ College student study of foreign languages has declined nearly 7% since 2009, yet enrollment in Korean-language classes increased 45% from 2009 to 2013.¹¹ In 2014, The Huffington Post launched “Huffpost Korea” and published an article

⁴ *YouTube Recognizes ‘Gangnam Style’ Effect on Spiking K-Pop Popularity Beyond Asia*, PSYSWORLD (May 18, 2015, 6:35 AM), <http://www.kpopstarz.com/articles/202049/20150518/youtube-gangnam-style-effect-k-pop.htm> [https://perma.cc/39LE-HAAT].

⁵ *Hallyu (Korean Wave)*, KOREA.NET, <http://www.korea.net/AboutKorea/Culture-and-the-Arts/Hallyu> [https://perma.cc/2BJN-FVQH]; Katie Holliday & Li Anne Wong, *Korea Builds on Next Wave of Hallyu*, CNBC (Aug. 27, 2014, 6:27 PM), <http://www.cnbc.com/id/101939433> [https://perma.cc/4ZBG-J7RQ].

⁶ See Alexandria Stevenson, *Plastic Surgery Tourism Brings Chinese to South Korea*, N.Y. TIMES (Dec. 23, 2014), http://www.nytimes.com/2014/12/24/business/international/plastic-surgery-tourism-brings-chinese-to-south-korea.html?_r=0; see also Patricia Marx, *About Face: Why Is South Korea the World’s Plastic Surgery Capital?*, NEW YORKER (Mar. 23, 2015), <http://www.newyorker.com/magazine/2015/03/23/about-face>.

⁷ Tamar Lewin, *South Korea Slows Export of Babies for Adoption*, N.Y. TIMES (Feb. 12, 1990), <http://www.nytimes.com/1990/02/12/us/south-korea-slows-export-of-babies-for-adoption.html>.

⁸ See Stephen Evans, *Taking on South Korea’s Adoption Taboo*, BBC NEWS (Jan. 6, 2015), <http://www.bbc.com/news/world-asia-30692127> [https://perma.cc/Q9VH-YNQQ].

⁹ Foster Klug, *The Islands of Abuse: Inside South Korea’s Slave Farms for the Disabled*, INDEPENDENT (Jan. 2, 2015), <http://www.independent.co.uk/news/world/asia/the-islands-of-abuse-inside-south-koreas-slave-farms-for-the-disabled-9954527.html> [https://perma.cc/STW9-4WVU].

¹⁰ *South Korea Tourist Arrivals*, TRADING ECON., <http://www.tradingeconomics.com/south-korea/tourist-arrivals> [https://perma.cc/5SR9-TMM7] (showing monthly tourist arrivals of approximately 50,000 in 2005 and approaching 150,000 in 2015).

¹¹ Kat Chow, *Way More College Students Are Studying Korean. Is ‘Hallyu’ The Reason?*, NPR (Apr. 3, 2015, 4:48 PM), <http://www.npr.org/sections/codeswitch/2015/04/03/397263103/way-more-college-students-are-studying-korean-is-hallyu-why> [https://perma.cc/8YGQ-NL4R].

proclaiming what the country can teach “the rest of the world about living well,”¹² while ignoring its low happiness index and high suicide rate.¹³

Rapid economic growth has rocketed South Korea’s Gross Domestic Product (“GDP”) to the fourteenth highest in the world¹⁴ and secured its position in the Organization for Economic Cooperation and Development (“OECD”).¹⁵ In the 1960s, Somalia and the Democratic Republic of the Congo, for example, had higher per capita GDPs than Korea.¹⁶ The Korean War left the small East Asian peninsula one of the poorest nations in the world.¹⁷ Few other countries can boast such drastic transformation of economic circumstances in a half-century period.¹⁸

However, the aforementioned societal realities demonstrate a deep chasm between the country’s economic development and its social progress. Contemporary society in South Korea shuns minority groups from the benefits of Korea’s commercial gains. Due in large part to an entrenched Confucian class hierarchy, which dates back to the Chosun dynasty,¹⁹ conformity is king.²⁰ Prevailing discriminatory employment practices illustrate Korea’s ambivalence toward its new social obligations as it grapples with antiquated ideologies in a modern marketplace. Part II of this article will discuss disability-focused anti-discrimination law in Korea. Part III will address the actual efficacy of such legislation to date.

¹² *What South Korea Can Teach the Rest of the World About Living Well*, HUFFINGTON POST (Feb. 24, 2014, 3:15 PM), http://www.huffingtonpost.com/2014/02/27/what-korea-can-teach-the-_n_4817685.html [<https://perma.cc/YY6K-KEL3>].

¹³ Chung Hyun-chaee, ‘*Students Need to Learn Equity, Justice*,’ KOREA TIMES (May 21, 2015, 10:27 PM), http://www.koreatimes.co.kr/www/news/nation/2015/05/181_179375.html.

¹⁴ See Marx, *supra* note 6.

¹⁵ See *Korea*, OECD, <http://www.oecd.org/korea/> [<https://perma.cc/4QMX-S3JW>]. The OECD “uses its wealth of information on a broad range of topics to help governments foster prosperity and fight poverty through economic growth and financial stability.” *What We Do and How*, OECD, <http://www.oecd.org/about/whatwedoandhow/> [<https://perma.cc/978S-7KD7>].

¹⁶ Marx, *supra* note 6; Mark Tran, *South Korea: A Model of Development?*, GUARDIAN (Nov. 28, 2011, 7:27 AM), <http://www.theguardian.com/global-development/poverty-matters/2011/nov/28/south-korea-development-model> [<https://perma.cc/3C97-3ZVU>].

¹⁷ See Tran, *supra* note 16.

¹⁸ See Michael Schuman, *Why South Korea Matters*, TIME (Mar. 24, 2010), <http://business.time.com/2010/03/24/why-south-korea-matters/> [<https://perma.cc/R3ZX-JUN9>].

¹⁹ Ilhyung Lee, *Korean Perception(s) of Equality and Equal Protection*, 31 B.C. INT’L & COMP. L. REV. 53, 60-61 (2008).

²⁰ See Marx, *supra* note 6.

II. ANTI-DISCRIMINATION DISABILITY LAW

In 1948, South Korea adopted a formal constitution.²¹ It was amended in 1987 after decades of political upheaval²² and established a Constitutional Court that would enforce its provisions.²³ Article 11 provides, “All citizens shall be equal before the law, and there shall be no discrimination in political, economic, social or cultural life on account of sex, religion or social status.”²⁴ Today, three laws govern disability-related anti-discrimination: the Act on Employment Promotion and Vocational Rehabilitation for Disabled Persons (“Employment and Vocational Rehabilitation Act”),²⁵ the National Human Rights Commission Act (“NHRCA”),²⁶ and the Act on the Prohibition of Discrimination Against Disabled Persons, Remedy Against Infringement of Their Rights, Etc. (“APDD”).²⁷

The Employment and Vocational Rehabilitation Act was passed in 1990. Article 6 places certain responsibilities on the disabled individual and her family:

Every disabled person shall make efforts to become a competent career person to support himself/herself by pursuing the development and enhancement of his/her abilities on his/her own self-confidence as a career person. Family members or guardians of disabled persons shall

²¹ 1948 DAEHANMINKUK HUNBEOB [HUNBEOB] [CONSTITUTION] (Jul. 17, 1948) (S. Kor.), http://english.court.go.kr/cckhome/images/eng/main/Constitution_of_the_Republic_of_Korea.pdf [<https://perma.cc/4UGX-BU9B>].

²² Lee, *supra* note 19, at 55.

²³ DAEHANMINKUK HUNBEOB [HUNBEOB] [CONSTITUTION] art. 107 (S. Kor.).

²⁴ *Id.*, art. 11, § 1.

²⁵ Act on Employment Promotion and Vocational Rehabilitation for Disabled Persons, Act No. 4219, Jan. 13, 1990, *amended by* Act No. 10682, May 19, 2011 (S. Kor.), *translated in* Ministry of Government Legislation online database, <http://www.moleg.go.kr/english/korLawEng?pstSeq=52978> [<https://perma.cc/DW76-GVPD>].

²⁶ National Human Rights Commission Act, Act No. 6481, May 24, 2001, *amended by* Act No. 9402, Feb. 3, 2009, (S. Kor.), *translated in* Korea Legislation Research Institute online database, http://elaw.klri.re.kr/eng_service/lawView.do?hseq=847&lang=ENG [<https://perma.cc/GVU4-HAAK>].

²⁷ Act on the Prohibition of Discrimination Against Disabled Persons, Remedy Against Infringement of Their Rights, Etc., Act No. 8341, Apr. 10, 2007, *amended by* Act No. 10789, June 7, 2011, (S. Kor.), *translated in* Korea Legislation Research Institute online database, http://elaw.klri.re.kr/eng_service/lawView.do?lang=ENG&hseq=24624 [<https://perma.cc/Y68V-DP7B>].

cooperate with the Government in implementing policies for disabled persons, and make full efforts to promote the self-reliance of disabled persons.²⁸

Business owners have their own specific obligations: “to cooperate with the government, . . . provide [disabled persons] with employment opportunities by evaluating their abilities fairly, . . . conduct employment management for them in a proper way,”²⁹ and not to discriminate in “hiring, promotion, transfer, education and training” on the basis of disability.³⁰

In addition to providing vocational guidance to the disabled individual,³¹ the Government “may grant a loan or subsidy” to the business owner “who employs or intends to employ disabled persons” for expenses relating to facilities or equipment and assistive instruments “required for the employment of disabled persons.”³² State and local governments must adhere to quotas: 3% of their positions must be filled with disabled individuals, with exceptions for occupations such as public prosecutors, police officers, etc.³³ Private companies with fifty or more regular employees must “employ disabled persons at a ratio . . . equal to or higher than the ratio prescribed by the Presidential Decree.”³⁴ For private businesses with fewer than fifty employees, the Minister of Labor “may pay an employment subsidy” to promote employment of disabled individuals.³⁵ Further, the Minister of Labor may choose business owners who set “a model of employing disabled persons as excellent employers employing disabled persons, and take such measures as supporting their business,” otherwise known as “preferential treatment.”³⁶ By contrast, the Government

²⁸ Act on Employment Promotion and Vocational Rehabilitation for Disabled Persons, Act No. 4219, Jan. 13, 1990, *amended by* Act No. 10682, May 19, 2011, art. 6, §§ 1-2 (S. Kor.), *translated in* Ministry of Government Legislation online database, <http://www.moleg.go.kr/english/korLawEng?pstSeq=52978> [https://perma.cc/5LRX-6VXL].

²⁹ *Id.*, art. 5, § 1.

³⁰ *Id.*, art. 5, § 2.

³¹ *Id.*, art. 10.

³² *Id.*, art. 21 (emphasis added).

³³ *Id.*, art. 27.

³⁴ *Id.*, art. 28. The Presidential Decree prescribes a ratio of roughly 2%. *See* U.S. DEP’T OF LABOR, REPUBLIC OF KOREA LABOR RIGHTS REPORT 35 (2011), http://www.dol.gov/ilab/reports/pdf/southkorea_lrr.pdf [https://perma.cc/226L-FAWM].

³⁵ Act on Employment Promotion and Vocational Rehabilitation for Disabled Persons, Act No. 4219, Jan. 13, 1990, *amended by* Act No. 10682, May 19, 2011, art. 30, §1 (S. Kor.), *translated in* Ministry of Government Legislation online database, <http://www.moleg.go.kr/english/korLawEng?pstSeq=52978> [https://perma.cc/5LRX-6VXL].

³⁶ *Id.*, art. 24. The Government can provide preferential treatment in the form of a “monetary reward” per disabled employee above the established quota. *See* Zafar Nazarov

finances businesses that fail to meet established quotas.³⁷

Whereas the Employment and Vocational Rehabilitation Act implements a detailed regulatory scheme to encourage disabled individuals to join the workforce, the NHRCA generally serves as the enabling statute for the National Human Rights Commission (“NHRC”),³⁸ a national advocacy agency for human rights protection³⁹ akin to the Office of Civil Rights within the Department of Education or the Equal Employment Opportunity Commission in the United States. The NHRC functions primarily in an investigatory and research capacity.⁴⁰ However, it has the power to remedy findings of “discriminatory acts”⁴¹ with a “conciliation.”⁴² “Discriminatory acts” within NHRC purview include those beyond the scope of employment⁴³ and cover more protected classes.⁴⁴

et al., *Employment Quota System and Labour Market Outcomes of Individuals with Disabilities: Empirical Evidence from South Korea*, 36 J. APPLIED PUB. ECON. 99, 105 (2015).

³⁷ Act on Employment Promotion and Vocational Rehabilitation for Disabled Persons, Act No. 4219, Jan. 13, 1990, *amended by* Act No. 10682, May 19, 2011, art. 33, (S. Kor.), *translated in* Ministry of Government Legislation online database, <http://www.moleg.go.kr/english/korLawEng?pstSeq=52978> [https://perma.cc/KF9V-V24H]. Fines are administered through a non-compliance penalty. If a company has no disabled employees, it must “pay a penalty corresponding to the minimum wage amount in South Korea (700,600 KRW) for each non-employed individual with a disability.” Nazarov et al., *supra* note 36, at 105.

³⁸ National Human Rights Commission Act, Act No. 6481, May 24, 2001, *amended by* Act No. 9402, Feb. 3, 2009, art.1, (S. Kor.), *translated in* Korea Legislation Research Institute online database, http://elaw.klri.re.kr/eng_service/lawView.do?hseq=847&lang=ENG [http://perma.cc/GVU4-HAAK].

³⁹ *Mandate & Function*, NAT’L HUMAN RIGHTS COMM’N OF KOREA, http://www.humanrights.go.kr/english/about_commission/mandate.jsp [https://perma.cc/3Z3D-SRX9].

⁴⁰ *Id.*

⁴¹ National Human Rights Commission Act, Act No. 6481, May 24, 2001, *amended by* Act No. 9402, Feb. 3, 2009, art.19, (S. Kor.), *translated in* Korea Legislation Research Institute online database, http://elaw.klri.re.kr/eng_service/lawView.do?hseq=847&lang=ENG [http://perma.cc/GVU4-HAAK].

⁴² *Id.*, art. 42. Comparable to an administrative hearing, a conciliation has “the same effect as settlement at court,” *id.*, art 43, and the NHRC may issue injunctive orders, award damages, and proscribe future action, *id.*, art. 42.

⁴³ Discriminatory acts are defined as any of the following acts, when performed on the basis of a protected status:

1. Any act of favorably treating, excluding, discriminating against or unfavorably treating a particular person in employment (including recruitment, appointment, training, posting, promotion, payment of wages and any other money or commodity, financing, age limit, retirement, dismissal, etc.);

Finally, the APDD was passed in 2007 and amended in 2011 to compel state and local governments to provide remedies for discrimination as a companion to the NHCRA.⁴⁵ Article 4 defines “discriminatory acts” broadly.⁴⁶ Although critics of the bill chastised its drafters for excluding

2. Any act of favorably treating, excluding, discriminating against or unfavorably treating a particular person in *the supply or use of goods, services, transportation, commercial facilities, land and residential facilities*; and

3. Any act of favorably treating, excluding, discriminating against or unfavorably treating a particular person in the *use of educational facilities or vocational training institutions*.

(b) An act of favorably treating, excluding, discriminating against or unfavorably treating a particular person regarding *the supply or use of goods, services, means of transportation, commercial facilities, land and residential facilities*; (c) an act favorably treating, excluding, discriminating against or unfavorably treating a particular person regarding the *education, training, and use of educational facilities or vocational training institutions*; (d) an act of sexual harassment.

Id., art. 30 (emphasis added).

⁴⁴ Beyond disability, the NHRC may investigate and remedy discriminatory acts based on

sex, religion, disability, age, social status, region of origin, state of origin, nation of origin, physical condition such as features, whether or not to be married, pregnancy or delivery, family surroundings, race, skin color, thought or political opinion, record of any crime the effect of the punishment of which has been extinguished, sexual inclination, or history of diseases[.]

Sex, religion, age, social status, region of origin (referring to place of birth, place of registration basis, principal area of residence before the full adult age, etc.), state of origin, nation of origin, physical condition such as features, whether married, such as single, separated, divorced, bereaved, remarried, married de facto, or whether pregnant or having given birth, family form or family surroundings, race, skin color, thought or political opinion, record of crime whose effect of punishment has been extinguished, sexual inclination, academic career, medical history.

Id., art. 30.

⁴⁵ “The purpose of this Act is to prohibit discrimination on the basis of disability *in all aspects of life . . .*” Act on the Prohibition of Discrimination Against Disabled Persons, Remedy Against Infringement of Their Rights, Etc., Act No. 8341, Apr. 10, 2007, *amended* by Act No. 10789, June 7, 2011, art. 1, (S. Kor.), *translated in* Korea Legislation Research Institute online database,

http://elaw.klri.re.kr/eng_service/lawView.do?lang=ENG&hseq=24624

[<http://perma.cc/Y68V-DP7B>] (emphasis added).

⁴⁶ Discriminatory acts include:

1. Treating the disabled persons unfavorably by means of restriction, exclusion, segregation or denial on the ground of such disabilities without justifiable grounds;

2. Applying *disability-blind* standards that cause the disabled persons to be unfairly treated without justifiable grounds, despite the

many classes protected under the NHCRA and classes initially protected under the APDD's first draft, at the very least, the legislation shows an unchallenged recognition that disability rights in South Korea must be addressed.⁴⁷

absence of explicitly unfavorable treatment, such as restriction, exclusion, segregation or denial;

3. Refusing to provide legitimate convenience to the disabled persons without justifiable grounds;

4. Directly placing, or permitting or promoting to place, any advertisement that indicates or encourages unfavorable treatment of the disabled persons, such as restriction, exclusion, segregation or denial of such persons, without justifiable grounds. In such cases, an advertisement shall include any act normally considered to have the effect of advertising that causes unfair treatment of the disabled persons;

5. Committing any act defined in subparagraphs 1 through 4 against *individuals representing or accompanying* the disabled persons for the purpose of helping such persons (including guardians or protectors of the disabled children or other persons reasonably recognized to help the disabled persons: hereinafter referred to as "persons related to the disabled"). In such cases, any act committed by persons related to the disabled against the disabled persons shall be subject to the determination of a discriminatory act prohibited under this Act

Id., art. 4, § 1. The Act defines "legitimate convenience" as *any or all human and material arrangements and measures* that will lead the disabled persons to *participate in activities on an equal basis with persons without disabilities*, including convenient facilities, equipment, tools and services designed to take into account the gender of a disabled person, as well as the type, degree and nature of a disability.

Id., art. 4, § 2 (emphasis added). Finally, the Act includes an exception where any of the following justifiable grounds exists, such act shall not be deemed a discriminatory act:

1. Refraining from any discriminatory act prohibited under paragraph (1) might incur an *excessive burden or undue hardship*;

2. Discriminatory acts prohibited under paragraph (1) *is inevitable* due to the *nature of particular duties or business operations*. In such cases, the nature of particular duties or business operations shall be deemed to apply to services, including education.

Id., art. 4, § 3 (emphasis added).

⁴⁷ Opposition groups particularly disfavored adding sexual orientation as a protected class. See *South Korea: Anti-Discrimination Bill Excludes Many*, HUMAN RIGHTS WATCH (Nov. 6, 2007), <http://www.hrw.org/news/2007/11/05/south-korea-anti-discrimination-bill-excludes-many> [<https://perma.cc/BYY3-RXPU>]; Letter from Scott Long, Dir., Lesbian, Gay, Bisexual and Transgender Rights Program, Human Rights Watch, to Han Duck-soo, Prime Minister, S. Kor. (Nov. 5, 2007), <https://www.hrw.org/news/2007/11/05/letter-exclusion-undermines-landmark-bill> [<https://perma.cc/66KD-6KR2>] (listing disabled persons as a protected group not excluded in the redrafting of the bill).

III. EFFICACY OF EXISTING LAW

Both anecdotal and empirical evidence suggests that disability legislation has failed to fulfill its promise.⁴⁸ In the highly publicized salt farm slave scandal, some of the disabled workers “refused to leave because they had nowhere else to go,” claiming that family members would not accept them and that life in the salt farms was better than the streets or shelters.⁴⁹ Reports of the abuses largely went unnoticed.⁵⁰ Relatives sent letters to the farmers telling them that “they didn’t need to pay the workers.”⁵¹ Once charged, the farmers paid modest fines and returned to the status quo.⁵² Notwithstanding the media frenzy and tabloid-esque sensationalizing of the all too real plight of mentally disabled salt farm workers, the message is clear: despite legal victories, Korea is not ready to protect its disabled citizens.

Less dramatic narratives of disabled Koreans can be found on various lesser-known internet publications. A twenty-two-year-old man with a “mild intellectual disability” has spent a year searching for a job that pays at least 500,000 won per month, about \$463 U.S. dollars.⁵³ Even securing a job “carrying luggage” is near impossible due to employer reluctance to hire.⁵⁴ Disabled Koreans find it “difficult to get a job because many employers think that [they] are less productive than non-disabled people.”⁵⁵ Moreover, police pepper sprayed protesters in wheelchairs at a 2014 National Disabled Persons’ Day demonstration in response to an “illegal gathering” involving attempts to board public buses to demonstrate a lack of accessibility.⁵⁶ Disability rights advocates denounced the police

⁴⁸ Lee Hyun-jeong, *Labor Market Shuns Disabled*, KOREA HERALD (Apr. 19, 2015), <http://www.koreaherald.com/view.php?ud=20150419000165>; Nazarov, *supra* note 36, at 120.

⁴⁹ Foster Klug, *Slavery a Living ‘Hell’ and an Open Secret on Remote South Korean Salt Farms*, CHICAGO TRIBUNE (Jan. 2, 2015, 7:36 AM), <http://www.chicagotribune.com/news/nationworld/chi-sunui-island-south-korea-20150102-story.html#page=1> [https://perma.cc/2ENL-RCQN].

⁵⁰ Ayanna Nahmias, *South Korea’s Abysmal Record of Disability Rights Despite Economic Prosperity*, NAHMIA CYPER REP. (Jan. 21, 2015), <http://ayannanahmias.com/2015/01/21/south-koreas-abysmal-record-of-disability-rights-despite-economic-prosperity> [https://perma.cc/AXS5-H2LD].

⁵¹ Klug, *supra* note 49.

⁵² Nahmias, *supra* note 50.

⁵³ Hyun-jeong, *supra* note 48.

⁵⁴ *Id.*

⁵⁵ Hyeon-bok, *Korea’s Invisible People*, DISABILITY NOW (July 11, 2009), <http://disabilitynow.org.uk/2009/11/07/koreas-invisible-people/> [https://perma.cc/RV4L-GLZH].

⁵⁶ Nam Hyun-woo et al., *Disabled Still Face Discrimination*, KOREA TIMES (Apr. 29, 2014, 6:25 PM),

action, which also included a military-style phalanx of police in riot gear surrounding a group of wheelchair-bound protesters, as excessive force.⁵⁷

Population studies bolster disabled Koreans' allegations of government complacency. According to a 2014 report, South Korea has approximately 2.5 million people with disabilities, constituting approximately 5% of its population.⁵⁸ In 2014, the employment-to-population ratio of disabled Koreans stood at little over half that of the national employment-to-population ratio.⁵⁹ Only 36% of disabled individuals age fifteen or older are "economically active."⁶⁰ Furthermore, 43% of disabled employees have "basic physical laboring jobs and 63.2% have part-time jobs."⁶¹ Full-time working disabled Koreans in 2010 had a mean monthly earning that was less than half that of their nondisabled counterparts.⁶² A longitudinal study from 2004 to 2006 found that Korea's disability employment initiatives "did not have a major impact on the disability employment situation"⁶³ and particularly noted that the quota system "had limited positive impact on the probability of employment . . . and on job satisfaction."⁶⁴

Prevailing hiring practices defy Korea's anti-discrimination laws and, therefore, undermine the already dubious quota system.⁶⁵ Lack of enforcement⁶⁶ allows private companies to continue a widespread custom of inquiring about the most personal details of a prospective employee's life, sometimes including, but not limited to, height and weight, health, lifestyle, religion, family background, educational achievement, financial history, and blood type.⁶⁷ Further still, many companies require an applicant to attach

http://www.koreatimes.co.kr/www/news/culture/2015/05/399_156361.html.

⁵⁷ *Disability Rights Activists in Wheelchairs Surrounded by Seoul Police*, AL JAZEERA (Apr. 20, 2015), <http://stream.aljazeera.com/story/201504201314-0024700> [<https://perma.cc/AYV8-JJTA>].

⁵⁸ See Ju-Min Park & Jane Chung, *Disabled South Koreans Protest "Inhumane" Benefits System*, REUTERS (Oct. 25, 2012, 4:11 AM) <http://www.reuters.com/article/us-korea-disabled-idUSBRE89O05X20121025> [<https://perma.cc/7YYW-VA4F>].

⁵⁹ See Hyun-jeong, *supra* note 48.

⁶⁰ Se Kwang Hwang & Alan Roulstone, *Enterprising? Disabled? The Status and Potential for Disabled People's Microenterprise in South Korea*, 30 *DISABILITY & SOC'Y* 114, 117 (2015).

⁶¹ *Id.*

⁶² *Id.* at 118.

⁶³ Nazarov et al., *supra* note 36, at 125.

⁶⁴ *Id.* at 124.

⁶⁵ Vladimir Hlasny, *Discriminatory Practices at South Korean Firms Quantitative Analysis Based on Job Application Forms*, 10 *EUROPEAN J. E. ASIAN STUD.* 85, 91 (2011).

⁶⁶ *Id.* at 89.

⁶⁷ *Id.* at 88; Amy Odell, *Imagine Having to List Your Weight and Height on a Job Application*, *COSMOPOLITAN* (Dec. 30, 2013, 10:01 AM), <http://www.cosmopolitan.com/career/news/a17696/south-korea-job-applications/>

her photograph.⁶⁸

The foregoing employment practices reveal cultural attitudes—not inadequate anti-discrimination legislation per se—as the foundation for Korea’s abysmal employment record for people with disabilities. A meager nine out of the thirty largest companies in Korea met their disability employment quota in 2014.⁶⁹ Rather than modify hiring practices, corporations like Samsung and LG chose to pay roughly 11 million dollars in fines.⁷⁰ Failure to enforce existing anti-discrimination legislation effectually authorizes illegal conduct among many Korean companies; however, the example of Samsung and LG prove that enforcement alone cannot remedy the plight of disabled Koreans. Harsher penalties may force compliance, but a shift in the cultural attitude toward disabled individuals will help the nation to welcome it.

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[<https://perma.cc/5ZZS-Q9GB>]; Sooyoung Oh, *Korean Job Applications: Forms of Discrimination on Appearance, Background and Bodyweight*, HUM. RTS. MONITOR S. KOR. (May 20, 2014), <http://www.humanrightskorea.org/2014/korean-job-applications-forms-discrimination-appearance-background-bodyweight/> [<https://perma.cc/63GW-2GYS>].

⁶⁸ Oh, *supra* note 67.

⁶⁹ Hyun-jeong, *supra* note 48.

⁷⁰ *Id.*