



National Human Rights Commission of Korea

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- National Human Rights Commission of Korea -

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Right to Work and Access to the Labour Market

1. Article 7 of the Framework Act on Employment Policy prohibits employers from discriminating workers on the basis of age, gender and other factors in recruitment, employment, and provision of employment services and vocational training. Articles 25 and 26 of the same act set out the State's obligation to promote employment of disadvantaged groups such as youth, women and older persons.

- The government's obligations to support labor force participation of older persons are provided in Article 3 of the Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion. Article 4 of the same Act sets out the obligations of employers to promote the employment of aged persons. In particular, it is stipulated in Article 4-4 of the Act that age-based discrimination is prohibited in recruitment, employment, distribution of welfare benefits, education and training, placement, transfer and promotion, and retirement and dismissal.
 - Meanwhile, Article 23 of the Welfare of Older Persons Act lays out the support provided by central and local governments to promote social participation of older persons. Article 23-2 of the said Act governs matters relating to the establishment and operation of senior employment service centers. Article 11 of the Framework Act on Low Birth Rate in an Ageing Society prescribes that central and local governments should ensure that older persons with the desire and ability to work can work to the maximum extent possible.
2. There are several factors that can restrict the access of older persons to the labor market, including employers' reluctance to hire older persons due to health problems associated with ageing and social perception that links youth unemployment with labor market participation of older persons.

- In addition, older persons have limited access to information such as employment opportunities and there are not enough jobs that match their skill sets.
3. Data of older persons working in the informal sector has not been confirmed.
 4. The Employment Welfare Plus Center is a one-stop service center that integrates a variety of employment and welfare services provided by government ministries such as the Ministry of Employment and Labor and Ministry of Health and Welfare and local municipalities.
 - Moreover, the Korea Labor Force Development Institute for the Aged runs a center that provides career counseling services for senior citizens to ensure older persons' access to the labor market.
 5. Projects undertaken by the government of the Republic of Korea (Ministry of Employment and Labor) include financial assistance for age-friendly workplaces, employment service centers for middle-aged people and job placement service for aged persons. The Korea Labor Force Development Institute for the Aged has been implementing various projects to support employment of older persons in accordance with Article 23-2 of the Welfare of Older Persons Act.

6. The government (Ministry of Employment and Labor) has introduced a program that hires retired professionals over the age of 50 to offer essential community services.
 - Under this program, retired workers in their 50's and 60's with experiences in marketing, accounting or other professional fields can be hired by local social enterprises or village enterprises.

7. There are no protections specifically provided for older persons in the national legislation to guarantee just and favorable conditions of work.

8. Age discrimination in relation to work and access to the labor market is prohibited by relevant laws in Korea.
 - o Under Article 2-3 of the National Human Rights Commission Act, a discriminatory act violating the equal right is defined as preferring, excluding, discriminating against, or unfavorably treating a persons in employment (recruitment, employment, training, placement, promotion, distribution of wages and other financial rewards, loans, retirement, dismissal, etc.), without reasonable grounds, on the basis of age and other factors.
 - o Article 7 of the Framework Act on Employment Policy states that an employer is prohibited from discriminating persons on the grounds of gender, religion, age, physical conditions, social status, place of origin, level of education, educational background, marriage, pregnancy and medical history in

recruiting and hiring workers and required to guarantee equal opportunity for employment.

- Article 4-4 of the Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion states that an employer should not discriminate against employees or those wishing to work on the grounds of age.

9. As set forth in Article 4-6 (1) of the Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion, those who have been discriminated against on the basis of age in violation of the ban on age discrimination are allowed to file a complaint with the National Human Rights Commission of Korea, pursuant to Article 30 of the National Human Rights Commission Act. This provides for the investigation into any rights violations and provision of remedies for victims.

Access to Justice

1. There is a judicial mechanism that is put in place in Korea, which allows any person, including older persons, to seek damages in court for denial of their rights. As for non-judicial mechanism, those who have suffered rights violations or discrimination may file a petition to the National Human Rights Commission and seek redress.
 - In particular, older persons who have suffered abuse are entitled to receive specialized services from senior care centers, as set forth in Article 39-5 of the Welfare of Older Persons Act.
2. The government of the Republic of Korea (Ministry of Justice) provides legal services for those who live in remote areas such as farming villages or cannot afford to hire a lawyer through various means such as the assignment of lawyers to remote villages and home-visiting lawyers.
3. The Korea Elder Protection Agency handles reports on human rights violations and abuse of older persons and provides counseling services. The Korea Federation of Senior Welfare provides information about nursing homes and medical/welfare centers for senior citizens and admissions counseling services for those seeking to move into these facilities. A senior helpline is also operating to provide assistance to older

persons in the areas of employment, facilities, healthcare and legal matters.

- In addition, older persons can lodge a complaint with the National Human Rights Commission of Korea for human rights violations and discrimination and used the dispute settlement mechanism of the National Labor Relations Commission to seek remedies for violations of the right to work.
4. The Legal Aid Act was enacted in 1986 to protect the rights of and provide legal aid for socially and economically disadvantaged people. The Korea Legal Aid Corporation, which is under the authority of the Ministry of Justice, has been providing free legal service for all Korean citizens, including older persons, and foreign nationals living in Korea.
 - People who cannot afford legal representation can hire legal professionals at lower costs in civil, family and administrative lawsuits and constitutional court proceedings. Free legal aid is also provided in criminal law cases.
 5. Older persons have inadequate access to justice and remedy due to limited knowledge and understanding of remedial measures.
 6. The government has provided legal assistance for residents of remote areas and economically disadvantaged individuals by assigning lawyers to villages and arranging home visits by

lawyers.

- Lawyers have been assigned to remote areas to provide legal services for those who have limited access to legal assistance. Home-visiting service is also available for those who cannot access legal help such as aged persons living alone, recipients of basic livelihood grants and residents of farming and fishing villages. See the answer to Question 2 for further information.

7. Age discrimination is prohibited by the National Human Rights Commission Act and Act on Prohibition of Age Discrimination in Employment and Elderly Employment Promotion. Access by older persons to remedies is also guaranteed under these acts.
8. The Supreme Court of Korea established the Training Institute for Court Officials in 1979 to oversee matters relating to the training of court officials in accordance with Article 21 of the Court Organization Act and has been providing educational programs designed for all justice system personnel.
 - o There is no public policy or awareness-raising program in place to address ageism or age discrimination in justice system.
9. The National Human Rights Commission of Korea, a non-judicial oversight mechanism, has gained an independent status according to the National Human Rights Commission Act and consists of human rights commissioners who have been

nominated by the legislative, executive and judicial branches of government. The Commission is tasked with monitoring the actions of the government, including the justice system.

- However, the Commission is not allowed to handle cases under investigation or in litigation according to the National Human Rights Commission Act, restricting its oversight of discrimination committed by justice system professionals.

Education, Training, Life-long Learning and Capacity-building

1. The rights of older persons to participate in social activities, seek educational opportunities and access educational program related to daily lives are defined by Article 2-2 of the Welfare of Older Persons Act, Article 15 of the Framework Act on Low Birth Rate in An Ageing Society and Article 36 of the Welfare of Older Persons Act.
 - The definitions of the right to education of older persons should include enjoyment of opportunities for education and lifelong learning and transfer of experience and wisdom of older persons to younger generations.

2. It is stated in Article 3 of the Framework Act on Education that every citizens have the right to lifelong learning and education that suits their ability and aptitude.
 - The Ministry of Health and Welfare is providing lifelong learning programs to meet different learning needs at different stages of life at senior welfare centers and other locations. These programs help older persons to expand their knowledge and skills and enhance the quality of life after retirement.

3. The State needs to introduce a policy that supports resocialization of older persons and transfer of experience and know-how from older to younger generations.

4. The State should promote equal access to education at all levels, including education, vocational training and re-training, to guarantee older persons' rights to education and lifelong learning. Educational materials should be produced in a way that is easy to understand to older persons.

5. The Korean Senior Citizens Association, a non-governmental organization, is engaged in a range of projects such as provision of senior education programs, operation of senior citizen centers, support for employment of older persons and social enterprises recruiting seniors, survey/research and education/training.
 - The Korea Association of Senior Welfare Centers is providing diverse programs for older persons, including hobby and leisure courses, preventive health services, intergenerational solidarity programs, assistance for older persons living alone and advocacy for the rights of older persons.

6. Programs being offered by senior welfare centers and senior education centers are primarily designed to help older persons develop hobbies or spend their leisure time and thus are not suitable for those who seek to develop expertise or professional skills. Lifelong learning is defined as a concept that encompasses all types of out-of-school learning activities and cannot reflect specific learning needs of older persons.

Social Protection and Social Security

(including social protection floors)

1. According to Article 2 of the Framework Act on Social Security, the basic principles of social security system are to support self-sufficiency of all citizens to ensure their happy and dignified lives, free from various social risks, and to create the conditions conducive to social participation and self-realization of all persons to achieve social integration and build a happy welfare society.
 - Under Article 2 (basic principles) of the Welfare of Older Persons Act, older persons deserve the respect from society and stable lives for their upbringing of offspring and contributions to national and social development.
 - Therefore, older persons are entitled to have equal access to healthcare and education and stable lives through income-generating activities, employment and care services. Older persons also have the right to participate in social activities, according to their desires and abilities, and to be respected by others.
2. The key normative elements of the right to social protection and social security for older persons are the minimum security levels established for the basic rights that should be enjoyed by all persons such as the right to health, right to an adequate standard of living, right to housing and right to education.

- The minimum protection level that should be achieved to ensure an adequate standard of living are prescribed by relevant laws.
 - Right to health: 「National Health Insurance Act」, 「Long-term Care Insurance Act」
 - Right to an adequate standard of living: 「Framework Act on Social Security」, 「National Pension Act」, 「Basic Pension Act」, 「National Basic Living Security Act」, 「Social Welfare Services Act」, 「Welfare of Older Persons Act」
 - Right to housing : 「Framework Act on Residence」, 「Act on Support of the Disabled, the Aged, and Other Housing-Disadvantaged People」, etc.
3. The State is required to undertake measures such as national pension system, basic pension scheme, national health insurance system, long-term care insurance and support programs for dementia patients to realize the rights of older persons to social protection and social security.
4. It should be specified in the normative content of the right of older persons to social protection and social security that older persons are entitled to enjoy the right to social protection without discrimination on the basis of age or other factors and the State has a legal obligation to ensure the full enjoyment of this right by older persons.
- Older persons should be allowed to have equal access to

healthcare and education, free from age-based discrimination, live in dignity and safety with a source of income, and access to work and social services, and participate in social activities according to their desire and ability.

5. Non-State parties such as private sector need to present their views regarding social protection and social security of older persons to the National Assembly, government organizations and public agencies by assessing the current status and limitations of the social protection and social security systems for older persons, promoting public debate on these issues and exploring new ideas for discussion.
6. Best practices in the normative framework on social security and social protection for older persons include: increase in basic pensions; customized employment services for older persons; expansion of the eligibility criteria for assistance under the National Basic Livelihood Security Program (phase-out of caregiver-related clause); support programs for dementia patients (introduced in Sept. 2017); and expansion of the eligibility criteria for long-term care services (mild cases of dementia included from Jan. 2018).
 - Persons with disabilities who have been covered by the personal assistance program are required to switch to long-term care insurance benefits when they reach the age of 65, resulting in a sharp decline in the number of caregiver hours.