

Presentation Topic: Incompatibility and Implications of Article 27 of UNCRPD with Domestic Employment Policy

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Article 27 of UNCRPD provides the “rights to work,” and the General Comment No.8 (2022) clarifies the detailed obligations of the State Parties to progressively achieve the full realization of the rights. In addition, its Concluding Observations by UN Disability Rights Committee point out some agendas as the “recommendations” for a particular State Party to review its domestic employment policy. However, it is not very easy for each Party State to immediately change its domestic disability policy by following the provisions of CRPD and General Comments and Concluding Observations. In many cases, State Parties leave the recommendations untouched. Thus, this presentation explores why State Parties do not respond to the provisions and the recommendations in relation to employment.

Even if State Parties consider the recommendations as reasonable and valuable, such changes by the governments rarely happen. Successful changes are dependent upon first whether the norm is consistent with the present domestic disability programs and other related policies, second whether the change may charge less financial costs with government, third whether the domestic disability groups devote to the change, fourth whether focal point of the governmental entities plays relevant roles to discuss for the change, and/or whether the report by authoritative commission requires government to change the program.

Let me show you one example with the first reason. Article 27(1)(b) of CRPD provides the principle of “equal pay for work of equal value.” The General Comment No. 8 implies that this aims at guaranteeing a certain amount of incomes to enable PWDs to independently live regardless of their productivity, rather than setting sub-minimum wage. However, such a norm itself is apparently not compatible with the policy which utilizes sub-minimum wage, such as Australian SES, Taiwanese and Japanese systems, and would require it to change a huge and costly policy specification to follow the norm. In such a case, a Party State does not take it seriously and just leaves the present policy lie.