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Consideration of Policies Designed to Prevent Sexual Assault CRIMES against Children with Disabilities in KOREA

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Abstract

Korea has strengthened inspection of respective social welfare facilities and schools for handicapped and disabled across the country in response to the emergence of sexual assault crime against children with disabilities as a social issue. Children with disabilities often find it painful to live with disabilities, but are unable to protect or defend themselves or are sometimes unaware that they are being victimized due to their mental illnesses and physical disabilities, etc. Even if when they want to claim that they have fallen victim to by sexual assault crime, they do not know how to come forward and make their cases. Another problem is that perpetrators of sexual assault crime against children with disabilities are not punished and that compensation and treatment are not provided properly to those children, the victims of sexual assault crimes.

In addition, sexual assault crimes committed against children with disabilities pose many problems in whole processes until the cases are closed. To resolve such problems, the priority would need to be given to understanding the specificity of children with disabilities in the process of crime cases. Efforts need to be made constantly to establish the system ensuring thorough investigation and imposing strong punishment on perpetrators of sexual assault crime against children with disabilities and to improve human rights for persons with disabilities. Thus, this study was intended to identify current status and problems of sexual assault crimes perpetrated against children with disabilities and to propose measures at policy level for prevention of such sexual assault crimes.

When the sexual assault crime against children with disabilities was brought up as a social issue, it was possible to see controversies swirling and then subsiding over time. Therefore, long-term policies need to be mapped out constantly for prevention of sexual assault crimes, instead of one-time countermeasure, to fundamentally resolve the issue of sexual assault crimes perpetrated against children with disabilities.

For the purpose, first of all, it is necessary to understand the specificity of children with disabilities and reflect it in the process where cases of such crimes are handled. Additionally, more stringent punishment and expeditious and precise investigation would be needed in making response to sexual assault crime against children with disabilities. Moreover, the new government would need to devise comprehensive measures in parallel with practical support through amendment of Social Welfare Service Act so as to ensure human right protection for children with disabilities.

[Keywords] *Sexual Violence Crime, Children with Disabilities, Prevention Policy, Human Rights Protection, Social Prejudice*

1. Introduction

In Korean society, children with disabilities are often badly neglected and ostracized under very unfavorable social environment.

Furthermore, children with disabilities tend to fall victim to sexual assault crime as they remain unaware of their rights to be protected.

Even the cases of sexual assault crimes perpetrated against normal ordinary children reveal that they have a lack of expressive power and defensive ability necessary to avoid being victimized by sexual offenders, and children with disabilities are even more vulnerable to sexual assault crime.

Moreover, children with disabilities become victims of social prejudice and sexual assault crimes, which needs to be recognized as a grave social issue[1][2].

Children with disabilities often find it painful to live with disabilities, but are unable to protect or defense themselves or are sometimes unaware that they are being victimized due to their mental illnesses and physical disabilities, etc.

Even if when they want to claim that they have fallen victim to by sexual assault crime, they do not know how to come forward and make their cases. Another problem is that perpetrators of sexual assault crime against children with disabilities are not punished and that compensation and treatment are not provided properly to those children, the victims of sexual assault crimes.

In addition, sexual assault crimes committed against children with disabilities pose many problems in whole processes until the cases are closed. To resolve such problems, the priority would need to be given to understanding the specificity of children with disabilities in the process of crime cases. Efforts need to be made constantly to establish the system ensuring thorough investigation and imposing strong punishment on perpetrators of sexual assault crime against children with disabilities and to improve human rights for persons with disabilities.

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2. Theoretical Consideration

2.1. Causes of sexual assault crimes

One of the causes of sexual assault crimes against children with disabilities is, firstly, associated with the decrease in the ability to control sexual impulse and sexual activity in certain areas of brain in perpetrators of sexual assault crimes.

Second, sexual assault crimes are encouraged by negative views towards the persons with disabilities and their weakness and by the abuse of the power that perpetrators have.

Third, the absence of sex education for the disabled is claimed to be the cause of sexual violence against them. Women with disabilities who are not informed of sexuality are exposed powerlessly to sexual violence, and particularly, women with mental retardation, may not be aware of sexual assault committed against them.

Fourth, perpetrator are not punished in consequence of low rate of reporting among victims who feel ashamed or powerless towards the sexual assault crimes committed against them, which make them victimized constantly[3][4].

2.2. Enactment of laws related to sex crimes

In Korea, ‘Crimes Related to Chastity’, enacted in 1953, was the first act associated with sexual assault crimes. Later, “Act on the Aggravated Punishment, etc. of Specific Crimes”, amended on March 25, 1989, came into force.

In 1990s, “Special Act on Sexual Violence” was enacted to prevent sexual assault in the wake of a crime in which a stepfather was murdered. On February 3, 2000, “Act on Protection of Children and Juveniles from Sexual Abuse” was enacted to promote protection and relief for juveniles who became targets of prostitution and sexual assault.

“Juvenile Protection Act” was amended wholly and renamed to “Children and Juvenile Protection Act” on September 6, 2009. Additionally, “Act on Attachment of Electronic Device for Position Tracking” and “Act on Medication Treatment of Sexual Im-

pulse of Sex Offenders” were written into laws in 2007 and 2010, respectively[5].

2.3. Disclosure of identities of perpetrators of sexual assault crimes

In Korea, punishment of sexual assault crime is more severe than that of other crimes. However, the most frightening thing is the registration of personal information of perpetrators.

Any sex crime offenders who are imposed fine or more severe punishment will find their personal information controlled by the government for 20 years, including actual place of residence, address, telephone number, and vehicle registration number, etc.

For repeat offenders who perpetrated crimes of same kind while their identities are registered and managed, their personal identities will be disseminated by the government all over the country[6].

3. Status and Problems of Damages from Sexual Assault Crimes against Children with Disabilities

3.1. Types of damages from sexual assault crimes against persons with disabilities

Regarding the types of sexual assault crimes against persons with disabilities in Korea, the rate of rape was found to outstrip that of other types of sexual assault crimes by wide margin, increasing to 630 cases in 2008 and 686 cases in 2010.

For the type of disabilities in victims of sexual assault crimes, the proportion of intellectual disability was found to be the highest. This suggests that the lack of cognitive ability and coping ability in persons with intellectual disability led to high rates of sexual assault crimes against them.

In Korea, 1,177 cases of rape, sexual molestation, and sexual harassment were reported in 2008 in connection with the types of sexual assault crimes perpetrated against the disabled. In 2010, the number of cases involving rape, sexual molestation, and sexual harassment stood at 1,349, which shows

an overall increase in those 3 types of crimes[7][8].

3.2. Problems facing the disabled victimized by sexual assault crimes

In Korea, many legal issues have arisen from sexual assault crimes committed against the persons with disabilities for many reasons described below. First, investigations and trials are pressed ahead even when the characteristics of children with disabilities have not been fully determined.

In particular, there are difficulties in understanding the statements presented by children with disabilities during the proceedings.

Second, the most serious issue is related to the difficulty in imposing punishment on offenders of sexual assault crimes, and even worse, victims sometimes become harmed again.

Moreover, no system has been established to provide support to victims of sexual assault crimes.

Third, the issues related to laws on sexual assault on children with disabilities are concerned with interpretation of conditions for ‘incapability of resistance’ (Article 6 of the Act on Special Cases concerning the Punishment, etc. of Sexual Crimes), aggravated punishment, etc., which have given rise to controversies.

Fourth, perpetrators of sexual assault crime against children with disabilities are simply given a slap on the wrist, which raises the issue of sentencing[9][10].

4. Considering of Policies for Prevention of Sexual Assault Crimes against Children with Disabilities

4.1. Stricter punishment for perpetrators of sexual assault crimes against children with disabilities

Swift and thorough investigation and severe punishment need to be assured for sexual assault crimes against children with disabilities.

No major issue has been raised thus far over the sentencing criteria for sexual assault crimes against persons with disabilities. However, that contradicts overall sentiment of the public.

It will be difficult to preclude the evermore increasing sexual assault crimes against children with disabilities, unless intensity of investigation and severity of punishment increase. Thus, it would be necessary to apply current law as much as possible and to strengthen punishment for sexual assault crimes by amending current laws when problems occur[11].

4.2. Comprehension of mental and physical specificity in children with disabilities

Children with disabilities who were victimized by sexual assault crime are often confronted with environment unfavorable to them, compared to that of children with other types of disabilities, in connection with their mental and physical characteristics. Consequently, there is some difficulty in resolving cases of sexual assault crime. In addition, there is considerable difficulty arising from lack of understanding and awareness among the police and prosecutors towards disabled persons when cases of sexual assault crime are processed. Therefore, it would be necessary to establish social protection measures designed to ensure expeditious processing of cases and follow-up responses by taking the specificity of children with disabilities into consideration[12][13].

4.3. Comprehensive measures to improve the human rights for children with disabilities

In Korea, corruption and frauds committed by social welfare law and facilities led to frequent infringement upon human rights of children with disabilities. The government which recently took office will need to review practical comprehensive measures to protect human rights of children with disabilities. It is important to provide support to children with disabilities through legal and institutional approach, but it is also important to ensure prevention of problems through thorough supervision and control by

supervisory authorities in order to underpin human rights protection for children with disabilities[14].

5. Discussion and Conclusion

Korea has strengthened inspection of respective social welfare facilities and schools for handicapped and disabled across the country in response to the emergence of sexual assault crime against children with disabilities as a social issue.

When the sexual assault crime against children with disabilities was brought up as a social issue, it was possible to see controversies swirling and then subsiding over time.

Therefore, long-term policies need to be mapped out constantly for prevention of sexual assault crimes, instead of one-time countermeasure, to fundamentally resolve the issue of sexual assault crimes perpetrated against children with disabilities.

For the purpose, first of all, it is necessary to understand the specificity of children with disabilities and reflect it in the process where cases of such crimes are handled. Additionally, more stringent punishment and expeditious and precise investigation would be needed in making response to sexual assault crime against children with disabilities.

Moreover, the new government would need to devise comprehensive measures in parallel with practical support through amendment of Social Welfare Service Act so as to ensure human right protection for children with disabilities.

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