

# KWDI Issue Paper

**Research Title:** A Study of Establishing Protection and Support System for Human Trafficking Victims

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## Establishing a Protection and Support System for Human Trafficking Victims

### Abstract

- ◆ In accordance with the Act on the Prevention of Human Trafficking, which has been in effect since 2023 and aligns with the UN Protocol to Prevent Human Trafficking, it has become an important policy issue to identify victims of human trafficking and establish a support system for them.
- ◆ The international community has assessed the efforts of the Korean government in combating human trafficking, prosecuting traffickers, and protecting victims as insufficient. Considering this context, this study aims to understand the current situation of human trafficking and propose improvements for victim protection through literature review, examination of foreign policy examples, and in-depth interviews with experts, activists, and police officers.

### Research background and issues

- The government aims to implement human trafficking prevention policies that align with the UN Protocol to Prevent Human Trafficking, through the Act on the Prevention of Human Trafficking enacted in 2023. Additionally, it intends to adopt a definition of human trafficking that is consistent with this protocol and establish mechanisms to identify and protect victims.
- Given the lack of measures to protect victims of human trafficking, the implementation of this Act has made it an urgent policy issue to establish a system for identifying and supporting these individuals.
- The "2022 Trafficking in Persons Report" published by the U.S. State Department downgraded South Korea's status in cracking down on human trafficking to Level 2, citing issues such as forced prostitution and the forced labor of migrant workers as reasons. Additionally, the report pointed out problems such as a decrease in the number of trafficking-related prosecutions from 2020 to 2021, the lack of measures for foreign victims of sex trafficking, and the forced deportation of victims without proper investigation and services. It also recommended improvements in prosecution, victim protection, and prevention of human trafficking.
- This study aims to identify the current status of human trafficking in Korea and suggest specific measures to protect and support victims of human trafficking.

### Existing discussions around human trafficking

- ▶ Various types of labor exploitation of people with disabilities were reported in the media, including the "salt farm case" in 2014 and other cases between 2016 and 2022. The main one is labor exploitation which takes advantage of the vulnerability of people with disabilities, subjecting them to long hours of intense labor without pay, or deducting excessive amounts from their wages under the pretext of accommodation and meals.
- ▶ There are reports of foreign women being exploited in the domestic sex industry. The process of their entry into the country involved recruitment for prostitution, transportation, and concealment, contracts based on insufficient information, and imposing entry costs as debt. The characteristics of human trafficking were confirmed through the exploitation of their economic vulnerabilities and coercion into prostitution by using authority or force.
- ▶ There are reports of human rights violations against migrant workers in the agricultural industry, but it is difficult to verify the actual situation of migrant workers who live in isolation in rural areas. Existing studies have identified trafficking elements such as issues with labor contracting procedures for migrant workers, non-fulfillment of labor contracts, and sexual violence against female migrant workers.
- ▶ According to existing research, migrant fishery workers pay multiple fees from the local recruitment stage until after entering the country, often by selling assets or taking bank loans in their home countries. Their minimum wage is 75-80% of that of Korean crew members, and they face discriminatory treatment.

### Key issues around the punishment of human trafficking

- ▶ A problem with the provisions for punishing human trafficking in Korea is that, during investigations, cases of human trafficking are often judged as other crimes, leading to the improper use of punishment regulations. Experts point out that the legislation of human trafficking law in Korea was carried out in response to international demands, resulting that the law does not reflect the domestic situation in detail.
- ▶ The Korean courts rarely recognize the crime of human trafficking due to the restrictive interpretation of the concept of trafficking. There has been a tendency to punish cases of prostitution brokering mostly as crimes of brokering prostitution, rather than the more severe crime of forced prostitution, even up until recently.
- ▶ There are also issues with the response of the police and prosecution. In a 2016 case involving Thai women and massage parlors, despite elements of human trafficking, the prosecution only charged the case as forced prostitution and rape by force, and the court only punished the business owner for rape by force.
- ▶ Crimes such as human trafficking are not handled by a single investigative division of the police because they cover a wide range of offenses. Different divisions are responsible for different crimes, such as the criminal division for human trafficking and the investigative division for sex trafficking. There is a lack of a proper investigation system for crimes related to human trafficking, not to mention protection and support for victims of trafficking.

### **Key issues around identifying and protecting victims of human trafficking**

- ▶ The direction of victim identification indicators should be based on the Act on the Prevention of Human Trafficking with the purpose of “protection and support” for victims, and set within a much broader range than the criteria for punishment.
- ▶ However, in cases of human trafficking for the purpose of sexual exploitation, where voluntary prostitution is criminalized, it is often difficult to distinguish between prostitution due to trafficking and voluntary prostitution, suggesting the practicality of operating separate identification indicators.
- ▶ When developing identification indicators, it is necessary to create initial identification indicators for victims of human trafficking for the purpose of involuntary sexual exploitation, to be used in initial investigations such as crackdowns, and to carefully determine the victim’s status thereafter.

### **Legal and institutional challenges to human trafficking identified through expert interviews**

- ▶ Legal experts point out that despite significant limitations in the punishment of human trafficking offenses, the Act on the Prevention of Human Trafficking was enacted focusing solely on victim protection without considering amendments to the criminal law.
- ▶ The diversity and complexity of human trafficking types and methods make it difficult to create effective identification indicators, and there is currently no system in place that mandates the use of identification indicators by mandatory reporters.
- ▶ The role of central and regional rights protection agencies in identifying victims of trafficking and providing them with the support and protection they need is critical. There is a need to create a system whereby central organizations are responsible for operating helplines, training mandatory reporters and first responders, and issuing victim verification documents, while local organizations are responsible for initial response and protection support following a report.

### **Current situation of human trafficking victims identified through interviews with activists**

- ▶ A standardized identification model for identifying victims of sex trafficking needs to be developed and the system needs to be improved. For the Act on the Prevention of Human Trafficking to be effective, it is necessary to identify victims of sex trafficking, but there are no objective and standardized criteria that can be applied in the field.
- ▶ Most foreign women detained in prostitution raids are transferred to immigration offices for violations of immigration laws. Because activists are not given the opportunity or enough time to support these victims, there needs to be a system overhaul to ensure cooperation with victim support organizations during the detention and investigation phases.
- ▶ It's necessary to provide relevant personnel with information on what constitutes human trafficking, how to respond when a victim is identified, and what protection and support systems are in place. Given the economic vulnerability to human trafficking, it's essential to support victims by ensuring their ability to engage in economic activities and establishing a foundation for their lives.

- ▶ To address the issue of labor exploitation of foreign workers, it is necessary to raise awareness among government officials. Activists have pointed out the problem of these officials not taking issues like wage theft or human rights abuses in the workplace seriously.
- ▶ When cases of labor exploitation targeting disabled individuals occur, law enforcement agencies often do not recognize them as human trafficking, leading to lenient punishment for perpetrators. Perpetrators continue their trafficking and exploitation, not recognizing their wrongdoing, especially if no overt acts of abuse are apparent, thinking there is no problem.

## Policy suggestions

### ● Improving awareness and systems related to human trafficking

- ▶ With the enforcement of the Act on the Prevention of Human Trafficking in 2023, efforts to raise social awareness about human trafficking are required. Mandatory reporters, police, prosecutors, maritime police, labor inspectors, seafarer labor inspectors, and immigration office workers need to make efforts to familiarize themselves with the concept of human trafficking and related activities.

### ● System for identifying and supporting victims of human trafficking

- ▶ A 24/7 hotline for victims of human trafficking should be established. Incidents reported through the hotline should be reported to the police and simultaneously notified to rights protection agencies concerning the victim and relevant details.
- ▶ When investigative bodies identify potential victims of human trafficking, they should direct them to rights protection agencies and inform them about the public services available to victims.
- ▶ Close cooperation with disability rights advocacy organizations is necessary for identifying and supporting victims with disabilities.
- ▶ There is a need to increase support facilities for foreign victims of sexual exploitation, including assessing daily needs, providing counseling, legal support, and interpretation services, coordinating emergency medical services, and assisting with the application for a temporary G-1 visa to secure legal residency status during the investigation cooperation period.

### ● Supporting human trafficking victims with disabilities

- ▶ At the time of discovery, victims of human trafficking are often fearful, confused, and angry, so it is necessary to provide a space for them to feel secure. The first month should be dedicated to adaptation and receiving physical and mental treatment and healing. Support for daily life necessities such as disability registration, application for basic living assistance, appointment of a guardian, notifying the change of residence, opening a bank account, and activating a mobile phone should be provided.

- ▶ Hiring a lawyer to file criminal complaints or support during the investigation process, with rights protection agencies accompanying the judicial procedures as trusted individuals, can assist and support in making statements.

### **Identifying human trafficking victims**

- ▶ According to the Act on the Punishment of Procuring Prostitution and Associated Acts, women engaged in prostitution can be identified as criminals if not recognized as victims, hence it is proposed to distinguish sex exploitation from other fields and to identify victims in two stages: the “initial screening phase” and the “official decision phase”.
- ▶ For victims of human trafficking in fields other than sexual exploitation, it is advisable to interpret the provisions of the Act on the Prevention of Human Trafficking as broadly as possible. Utilizing identification indicators provided by the National Human Rights Commission could also be beneficial.

### **Improving police response systems related to human trafficking**

- ▶ According to the 2023 Act on the Prevention of Human Trafficking, crimes related to human trafficking fall under the purview of various investigative departments within the police. However, given the organized nature of human trafficking, the specialization of tasks is urgent. It's necessary for the Women and Youth Crime Investigation Units of provincial police agencies to take charge of major human trafficking crimes while allowing other related crimes to be addressed by local police stations.

### **Strengthening the publicity of the foreign workforce system**

- ▶ The practice of relying on private agencies for the recruitment of foreign workers should be reversed and led by public institutions to increase transparency and eliminate intermediate exploitation structures. In terms of introducing crew members, the Ministry of Oceans and Fisheries should be responsible for creating a public institution-led foreign worker introduction system. Similarly, for the introduction of seasonal workers, the publicity of the system should be strengthened to prevent human trafficking.

### **The importance of residency visas for victims of human trafficking**

- ▶ It is anticipated that by reviewing the matters mentioned in Article 11 of the Act on the Punishment of Arrangement of Commercial Sex Acts, the government can prepare a plan for organizing residency qualifications of foreign victims of human trafficking.
- ▶ Article 11 of the Act on the Punishment of Arrangement of Commercial Sex Acts should be reviewed to develop a plan to improve the residency status and protection measures for foreign victims with input from activists, investigators, and immigration officials in the field.

## Improving interpretation services for victims of human trafficking

- ▶ The Ministry of Justice, the Ministry of Gender Equality and Family, the National Police Agency, the Supreme Prosecutors' Office, and the courts should actively implement interpretation support services for victims.
- ▶ The annual action plans developed by the heads of relevant organizations based on the Basic Plan should include the improvement of interpretation services for foreign victims of trafficking as a priority.

Responsible Ministry : Ministry of Gender Equality and Family(Human Trafficking Prevention Division)

Related Ministries : Ministry of Justice, Ministry of Employment and Labor, Ministry of Oceans and Fisheries, Ministry of Health and Welfare, Ministry of SMEs and Startups, Financial Services Commission, National Police Agency, Korea Coast Guard, Supreme Prosecutors' Office, Local Governments