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# Support for Child, Youth, and Disabled Victims of Sexual Violence: Current Situation and Measures to Improve Policy

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# Contents

I. Introduction .....	1
1. Background and Objective of Research .....	1
2. Research Method .....	2
II. Current Situation of Child, Youth, and Disabled Victims of Sexual Violence and Related Laws/System .....	3
1. Research Related to the Sexual Victimization of Children, Youth, and Persons with Disabilities .....	3
2. Current Situation of Occurrences of Sexual Violence Against Children, Youth, and Persons with Disabilities .....	4
3. Law and System Related to Sexual Violence Against Children, Youth, and Persons with Disabilities .....	5
4. Support Services for Child, Youth, and Disabled Victims of Sexual Violence .....	7
III. Analysis of Questionnaire Survey of Child, Youth, Disabled Victims of Sexual Violence .....	10
IV. Analysis of Cases of Support for Child, Youth, and Disabled Victims of Sexual Violence .....	12
1. Analysis of Cases of Support for Child Victims of Sexual Violence ...	12



2. Analysis of Cases of Support of Youth Victims of Sexual Violence	14
3. Analysis of Cases of Support for Disabled Victims of Sexual Violence	16
V. Current Situation of Support for Victims in the Criminal Justice Process (etc.)	18
1. Current Situation of Support for Victims Seen at Support Agencies and Going Through the Criminal Justice Process	18
2. Current Situation of Support for Victims as Seen by Their Court-appointed Attorneys	20
VI. Recommendations to Improve Policy	23
1. Future Support System Related to Victims of Sexual Violence	23
2. Improving Support for Victims of Sexual Violence Who Are Going Through the Criminal Justice Procedure	23

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# Support for Child, Youth, and Disabled Victims of Sexual Violence: Current Situation and Measures to Improve Policy

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## I. Introduction

### 1. Background and Objective of Research

Through an increase of policy interest about support for child, youth, and disabled victims of sexual violence, training for and arrangement of the system for testimony assistants and experts of testimony analysis. There have been various legal systems and services that have been introduced for victims, and the laws related to the protection system for victims who are going through criminal justice process have steadily been improved, but we are pointing out the problem points of victims who are the target group of support, but who are victimized for a second time, and the course of support for them. This research surveys the current situation of various support services related to child, youth, and disabled victims of sexual violence, examines problem points, and seeks to present measures to improve support services and policy.

## 2. Research Method

To gather the in-depth information related to the current situation of support for victims of sexual violence, the research first implemented questionnaire surveys of research subjects at sexual violence counseling centers throughout the country and at the Sunflower Center; second, implemented interviews of child, youth, and disabled victims of sexual violence and people under protection; third, implemented interviews of support agencies' administrators and practitioners; fourth, implemented interviews of court-appointed attorneys, and finally, implemented face-to-face talks with the police, the Ministry of Justice, the Smile Center's court-appointed attorneys and the person in charge of the people who take testimonies, and experts. In addition, we held a discussion forum to understand the special characteristics of victims of sexual violence who are intellectually disabled and what is suitable support for these victims.

## II. Current Situation of Child, Youth, and Disabled Victims of Sexual Violence and Related Laws/System

### 1. Research Related to the Sexual Victimization of Children, Youth, and Persons with Disabilities

#### A. Research Related to Child and Youth Victims of Sexual Violence

The problem of lasting, intense, harmful effects on child and youth victims of sexual violence is more extreme than that of adult female victims, and there are cases where there is the problem that a relative is the perpetrator (Lee In-sun et al, 2014). Particularly, the chance that the children have already endured problems in their household is high (Lee Mijeong et al, 2013). Particularly, in the case of a relative, there is the difficult and chronic problem of solving the problem in a short period of time. Because of the problem of safety and vulnerability, an extensive and thorough safety plan for the protection of family members who are not the perpetrator is sought (Lee In-sun et al, 2014). However, in reality, the supporting agencies find it difficult to interview families, and they do not provide specialized, standardized family counseling and treatment programs. (Lee In-sun et al, 2014).

Compared to adult standards, the progress of the investigation and trial process with children is problematic because it is difficult to make the child's testimony for investigation, and this can be reversed, and because of the problem of the credibility of the child's statement. This produces a result in which the perpetrator cannot be punished. (Won Hye-wook, 2011).

## **B. Research Related to Disabled Victims of Sexual Violence**

It is confirmed that the majority of disabled victims of sexual violence are intellectually disabled. Because the intellectually disabled cannot consent to sexual activity or they cannot discern the perpetrator's intention, they are vulnerable to sexual violence. From the investigation and trial, by sitting together with a person who is trusted and related to the issue, it is important to have smooth communication, and the aided testimony has to have high credibility in order to give concrete and consistent testimony about the reality of the victimization.

## **2. Current Situation of Occurrences of Sexual Violence Against Children, Youth, and Persons with Disabilities**

### **A. Current Situation of Occurrences of Sexual Victimization of Children and Youth**

As a reference, we looked at the current situation using "Trend Analysis of Sex Crimes Against Children and Youth" (Yoon Deok-kyeong et al, 2014). Of children and youth, more than 90% of the female victims' cases were categorized as rape, indecent assault, buying sexual services, and coerced prostitution, and more than the perpetrators being people they didn't know, there was a high rate of continuing crime by family members or relatives, who were included as acquaintances, especially in the case of rape (68.8%), it was by people that the girls knew.

## B. Current Situation of Occurrences of Sexual Victimization of Persons with Disabilities

In 2013, of all the sexual violence consultations given by counseling centers for disabled victims of sexual violence, 95.5% were to disabled victims. Of these, the majority (81.2%) were intellectually or mentally disabled. Particularly, the vast majority of victims, at a rate of 73.3%, were intellectually disabled (National Council of Sexual Violence Counseling Centers, Counseling Centers for the Disabled, 2013). Looking at the age bracket of victims, 60% were between the ages of 19 to under 65, and 27.7% were children and youth under the age of 19. Including relatives who were perpetrators, 67.6%, knew the perpetrators as someone that they ordinarily had contact with, and of these, 5.3% were people in the role of protecting and supporting disabled people, such as teachers, clergy, welfare facility practitioners, social welfare and service providers, and 7.5% were victimized through online chatting.

### 3. Law and System Related to Sexual Violence Against Children, Youth, and Persons with Disabilities

#### A. Court-appointed Attorneys for Victims of Sexual Violence

Because in the court-appointed attorney system for victims of sexual violence, testimony, etc., is continuously requested, beginning from the investigation of the victims of sexual violence and throughout the court process, a second victimization is highly possible. A system is needed to prevent this and guarantee, through stating an opinion, the right to actively participate in the criminal case procedure. The system for granting court-appointed attorneys

was expanded to all victims of sexual violence crimes when it was offered to child and disabled victims of sexual violence from June 2013. However, from the side of the actual management, it has come out that the systematically guaranteed court-appointed attorneys' activity is limited (Lee Seon-kyeong, 2014). Problems that have come up from the insufficient awareness of the system are: the dates for hearings and the dates for interrogations pending further notification are omitted, or it is not possible to apply to change the date of the hearing; there is a restriction on what is fair as regards opinion testimony; there is no regulation on the confirmation of the attendance of the victim's court-appointed lawyer; reading the court record and mimeograph is not allowed, etc.

## **B. People Who Take Testimony**

Children and disabled people have a low understanding and ability to express the time, place, sequence of events, and cause and effect of the incident. There is a high possibility that the testimony will be contaminated by others, and it is the reality that their special characteristic is that in investigation or trial, their ability to rightly undergo investigation or communicate is insufficient. Consequently, in the case of sexual violence or child abuse crimes, during the investigation and trial process, children under the age of 13 and disabled people need to have help from a specialized person who helps take testimony, in order to mediate communication and assist with preventing a second victimization, and making sure that the testimony is credible (Ministry of Justice, 2015).

### **C. Sitting Together with a Trusted Party**

According to the Legislation Concerning the Punishment of Sexual Violence Crimes and Victims, etc., in order to provide the victim with a comfortable and safe environment during the investigation or trial process so they can give testimony, a regulation (Paragraph 2 of Article 22) was established (August 22, 1997 partial revision, January 1, 1998 enforcement) so that the victim and a trusted party can sit together during the investigation and court process, and in the Law to Punish Sexual Violence, it is kept that way. In the Law to Protect Youth from Sexual Crimes, there is the same regulation as the Law to Punish Sexual Violence and in addition, the target of the law is limited to children and youth.

## **4. Support Services for Child, Youth, and Disabled Victims of Sexual Violence**

### **A. Counseling and Protection for Victims of Sexual Violence**

There are the sexual violence victim counseling centers, sexual violence protection facilities, the women's emergency hotline 1366, the Sunflower Center (children), the Sunflower Center (Integrated), etc. In 2014, through the Committee for Social Security (with the prime minister presiding), in order to adjust the function and unify the names, the existing name of the "Sunflower Children's Center" was changed to "Sunflower Center (Children)", and the existing "Sunflower Center (Women-Children)" was changed to "Sunflower Center (Integrated)". As of 2015, the Sunflower Center (Children), nationwide had installed 8 centers, supporting child and youth sexual violence victims under the age of 19 and intellectually disabled

people. Sunflower Center (Integrated) has been installed and is operating 10 centers nationwide and 1 smaller office (Ministry of Gender Equality, 2015).

### **B. Scale of Support Facilities for Victims of Sexual Violence**

A decreasing tendency could be seen in the number of facilities that were sexual violence counseling centers, and other facilities all had a tendency to increase. Even though the number of facilities decreased in the case of the centers for sexual violence, the number of counseling sessions increased from 124,591 in 2007 to 146,750 in 2014, and in the case of the women's emergency hotline 1366, a steadily increasing trend could be seen from 160,899 consultations in 2007 to 265,792 consultations in 2014. Altogether, the amount of budget to run facilities that support victims of sexual violence increased almost 7-fold from over 3,100,000,000 Korean won in 2003 to over 23,200,000,000 Korean won in 2013.

### **C. Crime Victim Protection and Compensation Fund**

According to the Crime Victim Protection Act, Article 16 Paragraph 1 to Article 34 Paragraph 1, the government is supporting the fees, etc., for the designated legal assistant for the child or youth victim of a sexual crime, preparation for the installation of protection from retaliatory crime, and private organizations for crime victims, etc.

### **D. Smile Center**

For victims of criminal incidents who face psychological damage such as PTSD, as well as their families, they offer one-stop services

for medical diagnosis, psychological evaluation, psychological treatment, legal counseling, recovery education, etc. When it is discovered through a crime that a person has a difficult time keeping a residence, they are operating program where victims can enter a residential facility. As of 2015, outside of one center in Seoul and Ulsan, each metropolitan city had one center, for a total of 6 centers that are running.

### III. Analysis of Questionnaire Survey of Child, Youth, Disabled Victims of Sexual Violence

In order to examine the current situation of support for child, youth, and disabled victims of sexual violence, we implemented a questionnaire survey at counseling centers and targets at Sunflower, and a total of 129 people responded. In the case of child, youth, and disabled victims of sexual violence, there was a high ratio of people who came to the supporting agency through school, etc., educational agencies, or the police. For support, the waiting time was not long, but the situation was not good as regards the job turnover among investigators, their replacements, job openings, and people lasting long in the position.

Regarding medical and psychological treatment services that are offered, there was a relatively high response saying that there is difficulty related to quickly collecting evidence and offering mental health treatment for disabled victims. Regarding the services related to criminal justice, there was no big problem with recorded testimonies and connecting with a court-appointed attorney, but the rate of attorneys sitting with victims during investigations was below 40% for all children, youth, and the disabled, and in the case of non-dedicated attorneys, it was even lower. People who help with testimonies responded that they are not being connected much with children's cases, which was at the rate of 27.1%, and 76.8% responded that they have a high understanding of victims' special characteristics, which they marked as a point of improvement. They responded positively that judges have an understanding in dealing with victims of sexual violence, with children at 46.6%, youth at

43%, and disabled people at 40.2%. About family support and after-services, there was a high percentage of responses saying that carrying out the family counseling is difficult, and there was also a high percentage of responses saying that the capability of families to protect the victim is insufficient.

More than at the counseling centers, there was high satisfaction at Sunflower Center facilities, with the dedicated and non-dedicated court-appointed attorneys and people helping with testimonies. In the case of the counseling centers, there was a high ratio of support by sitting together with the victim at the investigation and the trial in the criminal justice process. Overall, the Sunflower Center had a higher percentage of cooperations with other agencies than the counseling centers. Particularly, they cooperated well with healthy family support centers, social welfare agencies, prosecutors, agencies for mental health treatment, centers for disabled victims of sexual violence, shelters for victims of sexual violence, and agencies specializing in child protection, etc.

## **IV. Analysis of Cases of Support for Child, Youth, and Disabled Victims of Sexual Violence**

### **1. Analysis of Cases of Support for Child Victims of Sexual Violence**

Through the cases of four victims of sexual violence, we examined the experiences of the support system. As the age of the children is young, they cannot recognize the damage from sexual violence, and children in early puberty tend to choose friends of the same age group, so it is difficult for parents/guardians to immediately know about the truth of the victimization. The perpetrators were acquaintances or family members who were touching the radius of the child's life, and there were many cases where the person was well-known to the child, such as a close friend, etc. Before the victimization, they didn't know about the support center and the parents did not recognize the reality of the children's victimization, and they did not let outside people know. In order to find a solution, they used the internet to search for information to find a countermeasure. There were cases in which they received information about the support center after first contacting the hospital or the police. Of the four participants in the research, three received a lot of help from victim support services, and they evaluated that they felt thankful to the person who offered them the services. There was an especially high response regarding the aspect of the stabilization of the child and improving the parent-child relationship in the psychological counseling process. The evaluation of and demand for group meetings with other parties related to sexual victimization was

high. The parents/guardians were reluctant to go through the criminal justice system for the following reasons: they anticipated that the perpetrator's punishment would be weak, they were afraid of revenge, they felt sympathy for the perpetrator, they were resistant to participating in the trial, etc.

The parents/guardians who are stepping into the criminal justice process have various routes of contacting the police, such as reporting through the school, through directly reporting, etc. The people who reported all had a recorded testimony together with the police in charge at either the police station or the supporting center's recorded testimony room. The special characteristic of child victims is that it is hard for them to clearly testify about the time and place, and about taking this into consideration, the effort and expertise of the person in charge of the testimony was lacking and inadequate. Even though a parent sat together with the child during the testimony as a trusted party, and even though they were asked to keep silent in order to prevent the testimony from being contaminated, the explanation was not sufficient. In the case that the child was uncomfortable testifying in front of the parent because they felt that their parent would judge them, there was a counselor from a support agency who sat together with the victim as a trusted party. In addition, separately, in the case that there was only a person helping to take the testimony sitting together with the child, there was no consistency in the testimony.

The child victim does not participate in the trial, and the parent/guardian participates or the court-appointed lawyer participated at the supporting agency. The perpetrator's side watched for weak points in the child's ability to express themselves and pointed out

an objection to the credibility of the child victim's testimony. Under this process, the victim's pain was increased and the judgement proceeded advantageously to the perpetrator. At the supporting agency, the victims who are starting the video testimony smoothly receive information about a court-appointed attorney. The time it takes to meet the attorneys is fast, the attorneys contact the victims continuously and smoothly, and regarding sitting together during the trial, etc., and the victims getting active legal support, there was very high satisfaction. The victims who gave negative evaluations complained that they could not get smooth, direct contact, they did not get an answer to their matters of inquiry, or they got negative responses.

## 2. Analysis of Cases of Support of Youth Victims of Sexual Violence

Youth victims are middle school students, and the reality about the victimization becomes known through their schoolteachers or school friends, then it is reported, and then they step into the support process. There were no cases where the victim did not already know about the integrated support agencies before their victimization, but even though they received education at school about this, they were not reminded after their victimization about the information related to the support agencies. In cases where victims encounter victim support information particularly late, the victims cannot be stabilized, and their pain is aggravated through the police's improper testimony investigation and not being offered any information about the support agency. Participants evaluated the support from supporting agencies as being helpful, and in particular,

they were highly satisfied with the psychological service for the formation of a harmonious relationship between pubescent youth and parents/guardians in the role as the trusted party. The group meeting for the parties who are related to the victimization is running in a limited way, but a few had a remembrance that they received help through the group meetings, and asked to share their difficulties with other victims through another group meeting of victims.

In the process of the police investigation, the repetitious testimony investigation reminds the victim of the situation of their victimization numerous times, and there was insufficient understanding and consideration of the sexual violence victim about testifying in a public place about the situation of their victimization, etc. and awareness about a second victimization was absent. There were cases where the following were not adequately performed: efforts to secure evidence of the sexual violence victimization, recording the victim's testimony after stabilizing the victim, and the process to secure the court-appointed attorney or the person helping to take testimony. The recognition of the severity of cyber sexual violence is also low, and there was a tendency for the detectives responsible to try to conclude these cases through reconciliation and mediation, and not handle them as criminal actions. Through various courses, the victim's side received requests for settlement which were relayed by the perpetrator's side, and it was especially psychologically unsettling for the victim's side to receive contact directly from the perpetrator's family. Most victims did not attend the trial in order to avoid the situation of being reminded of the course of their victimization. In cases where they did attend, the attitude of the perpetrators, in which they denied the crime or give an invalid

excuse, gave the victim a psychological blow, and they felt rage. In addition, in cases where the perpetrator got a lighter sentence than the victim expected, the victim became fearful of revenge and a secondary victimization, so the victim received psychological pain, agitation, and worry, etc.

There were also cases where the victim requested a court-appointed attorney but could not get one appointed, while more than half of the participants in retrospect said that the court-appointed attorney was not a big help to them. Satisfaction was high when from the beginning of the incident, there was smooth communication with the court-appointed attorney when the victim was looking for contact, when information was actively offered and responses to the victim had clear content, and when the attorney understood and supported the victim. In cases where the court-appointed attorney gave inadequate legal support, the victims had a tendency to try to resolve the problem through the integrated support center's counselor, who emotionally offers support.

### 3. Analysis of Cases of Support for Disabled Victims of Sexual Violence

Intellectually disabled people have an insufficient recognition of sexual crime, and it frequently occurred that they could not tell outsiders about the truth of their victimization. Accordingly, the response to the incident was late, and early intervention and protection became difficult, and especially when the victim was younger, the difficulty deepened. More than the victim, the reporting of the victimization was done through the parent/guardian.

The perpetrators were mostly close people in positions of authority

or relatives, so they knew that their victims were vulnerable and had a weak intellectual capability, that they have a low capability for self-defense, etc., and they used these weaknesses in the crime and its concealment. In the case where the perpetrators were family members, the victim's parent/guardian missed the time when there could have been an intervention, or they could not protect the victim quickly when there was conflict between the victim and the perpetrator. Through access to the support agency, it was a very important point for the victim to be connected to an official support system, while the agency's ability to quickly link services played a very important role in the protection and recovery of the victims. Integrated support services were a great help to not just the victims, but also the families in readapting after the incident.

From the time that the investigation started through the follow-up, the police services that were linked played a positive role, as victims and caregivers were thoroughly protected and their safety was stabilized. On the other hand, the testimony can be distorted, since in the course of the prosecution investigation, the questions do not reflect the special characteristics of the victim's intellectual disability. In the case that the testimony of the victim was unbelievable in the trial, there were systematic problem points discovered everywhere, which did not take into consideration the special characteristics of the disability. There was a big difference in services performed and satisfaction depending on whether or not the court-appointed attorneys were dedicated/non-dedicated attorneys.

## V. Current Situation of Support for Victims in the Criminal Justice Process (etc.)

### I. Current Situation of Support for Victims Seen at Support Agencies and Going Through the Criminal Justice Process

#### A. Court-appointed Lawyer System for Victims

The majority of counseling centers for disabled victims of sexual violence or the Sunflower Center have received help from court-appointed attorneys from the stage of interacting with the police. Victims showed high satisfaction with lawyers who were dedicated court-appointed lawyers, whereas on the other hand, non-disabled victims showed low satisfaction with their court-appointed lawyers in terms of their expertise, activeness, communication with the victim, participation in investigation and trial, and cooperation with supporting agencies. It was also pointed out that perpetrators' arguments are redundant.

#### B. System of the People Who Take Testimony

Problems that were exposed were: the people who take testimony do not have a sufficient understanding of disability and have a low ability to communicate; they do not have a sufficient understanding of the special characteristics of child development; although the true nature of the incident is revealed, points that are not helpful are that there is no assignment of a person to help with testimony if the victim has a Level 3 intellectual disability; there is an insufficiency in necessary time and opportunity to grasp the special characteristics of the victim; and the confidentiality of the criminal law agency is

insufficient as regards the expertise of the people who help with the testimonies.

### **C. Testimony by Video Recording and Sitting Together with a Trusted Party**

Depending on the investigator's clinical career and whether or not that person understands the victim, and whether or not the investigator has technique, etc., and whether or not they have expertise, there was a difference in the satisfaction of the recorded testimony. Each case was usually very different in terms of the court-appointed attorney's awareness about sitting together with a trusted party, such as a counselor, teacher, or a family member.

### **D. Additional System for Victim Support (Treatment Counseling, Connection with Expert Social Service Agency in the Community, etc.)**

Most support for treatment regarding child or intellectually disabled victims of sexual violence are connected through the Sunflower Center, and outside of the sexual violence counseling center (for disabled people) and the Sunflower Center, regional hospitals exclusively for sexual violence and also hospitals that are connected through counseling centers are providing support. In the case of disabled victims, there were many cases where a diagnosis of disability or housing support, etc., and living and independence had to be supported. At the time of the discovery of the disabled victim of sexual violence, many sexual violence counseling centers (for disabled people), had faced the difficulty of a shortage of connection with specialized treatment agencies that give treatment considering

the special characteristics of the disability. It was pointed out that there is the problem of the difference of expertise among counselors, victims who are relatives, and that there is no system for a specialized supporting agency for the family.

## **2. Current Situation of Support for Victims as Seen by Their Court-appointed Attorneys**

### **A. Role of the Court-appointed Attorney After Client Designation**

After the client is designated, they call and set up a date to meet; then for the investigation into the victim, they correspond with the investigator to set up the schedule and the contents of the investigation of the victim; then they consult with the prosecutor for additional investigation and cross-examination; then in cases where a perpetrator accesses the client, they take measures. In the case that they cannot attend the trial or hearing, they confirm the result of the trial, and with the prosecutor or judge, discuss prior consent to the examination of the witness.

### **B. Difficulties in Incidents Involving Disabled Victims of Sexual Violence**

In the testimony investigation of sexual violence incidents against disabled people, forming rapport is important in order to communicate. In the court, if the victim has a disabled condition that gives them an “incapability to resist and a difficulty to resist” or if it is contested “whether the victim has a disability”, it becomes a major issue and an intense argument.

### C. Important Issues Related to the Victims' Testimony Investigation

As the victim has experienced a shocking, sexually violent incident, getting an accurate of the truth of the damage is difficult in the criminal justice process, and there is insufficient understanding of the legal meaning of the testimony, it is important that the court-appointed attorney offer advice to the client on the legal meaning of the testimony, the importance of accurate testimony, and advice on the method of doing it. While prioritizing a rapid investigation, the victim's psychological and physical safety has to be considered, while in order to prevent the contamination of the testimony, care must be taken about sitting together with a trusted party.

### D. In Trials of Sexual Violence Incidents, Differences Among Benches

There is hardly any difference among benches regarding the opinions of the court-appointed attorneys on whether or not may be permitted to be used or its limits. Even though the data for the investigation and trial are accessed, there is not much difference among benches. As a result of this kind of data being made accessible, the restrictions of the information the court-appointed attorney's role to support the client is properly fulfilled, but through difficulty, there was an effect. It was pointed out that the benches in the provinces had more lacking points than those in the Seoul region. Although the courts had implemented a specialized sexual violence system, there was difficulty in securing continued expertise.

### E. Problems Related to the Management of Court-Appointed Attorneys for Victims of Sexual Violence

Court-appointed attorneys are human resources that have to be allocated rationally. The support for child, disabled, and youth victims who are facing extreme and difficult situations has to be prioritized first. From the beginning, a public announcement is needed in order to make sure that the court-appointed public attorneys do not depart from the scope of their expected work when there is a request from a client. Even though the documentation that is needed to claim the lawyer's fee is prepared, there are instances where there were difficulties, so they gave up on claiming the fee.

## VI. Recommendations to Improve Policy

### 1. Future Support System Related to Victims of Sexual Violence

More than advertising support agencies for victims of sexual violence, there should be systematic and active implementation for the victims to quickly find an appropriate support agency. Related medical support, investigation support, and the cooperative system of psychological treatment and the support agency have to construct an organic network and through this, vitalize the private counseling centers. Education targeting children, youth, and the disabled should be expanded to prevent sexual violence against them. For children who were sexually violated by their family members and for the disabled, specialized medical treatment and specialized centers for the treatment of children who were sexually violated by family members should be established, and protective facilities should be expanded. At the support agencies, the practitioners' capability should be strengthened, and the support methods for boys and male adolescents who are victims should be improved.

### 2. Improving Support for Victims of Sexual Violence Who Are Going Through the Criminal Justice Procedure

Monitoring of the management services of victims' court-appointed attorneys may be considered through the client and the support agencies. Expand the victims' dedicated court-appointed attorneys and strengthen the expertise and effectiveness of support, and through periodic education, nurture expertise and ability. Before the investigation, in order to form rapport, the person who takes the testimony should hold pre-interviews and express that concrete role

of the pre-interview. In addition, at the investigative agency and in the court, in order to recognize the role and the authority of the person who helps takes testimony, awareness should be increased, the expertise of the person who helps take testimony should be strengthened, and support for the person who helps take testimony should be mandatory, as the victims are children and disabled people. For the protection of the victim, the examiner should effectively relay to the victim information about various expert services, and nurture the ability to draw out a testimony that has consistency and credibility. Whether or not a trusted party sits together with the victim is important to the testimony. The excessively various experts can be confusing and embarrassing to the child, youth, and disabled person who is participating in the testimony, so an effort has to be made to consider the victim. Whatever kind of victim support agency the victim of sexual violence goes through, in order to receive similar services, the support agency has to be able to fairly offer full services that are above a certain standard.