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Tax Criminal Law in South Korea

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Abstract

In 2024, the Korean Institute of Criminology & Justice (KICJ) carried out a research project called "Comparative Study on Special Criminal Offenses in Major Field and Advancing Comparative Criminal Law Database (CCLDB) (I)." This research project aimed to compare and study tax criminal laws in Korea, the United States, Germany, France, and Japan in detail in both aspects of procedural law as well as substantive law, and the research report was uploaded to the CCLDB of the KICJ. This article aims to introduce the research contents of the report mentioned. However, instead of summarizing the entire report, this article focuses on Korea's tax criminal law, and introduces Korea's tax crime substantive law, procedural law, and discussion on improvement measures.

Keywords: Tax crimes, tax evasion crime, criminal procedure law of tax crimes, offshore tax evasion, criminal proceeds recovery

* This article is a revised version of part of the research report titled 'Comparative Study on Crimes Under Major Regulative Acts and Advancing of Comparative Criminal Law DB', published on 31 December 2024.

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Ⅰ. Introduction

Crimes in violation of Acts governing each of our living areas, such as tax, economy, medical care, labor, and environment, are called "special criminal offenses".[1] Among the special criminal offenses, there are many crimes that correspond to the mitigating crime, aggravated crime or modifying crime for general criminal offenses, and in the specialized modern society, the proportion and importance of special criminal offenses are increasing. In 2024, the Korean Institute of Criminology & Justice (KICJ) carried out a research project called "Comparative Study on Special Criminal Offenses in Major Field and Advancing Comparative Criminal Law Database (CCLDB) (I)." This research project aimed to compare and study tax criminal laws in Korea, the United States, Germany, France, and Japan in detail in both aspects of procedural law as well as substantive law, and the research report was uploaded to the CCLDB of the KICJ.[2]

The purpose of this article is to introduce a summary of the contents of the 2024 research report above. However, summarizing and introducing all the contents of the above research report, which aims to compare and analyze the tax criminal laws of five countries, has no choice but to deal with the contents of each country very roughly. Therefore, this article focuses on Korea's tax criminal law, and introduces Korea's tax crime substantive laws, procedural laws, and discussion on improvement measures.

First, in II below, we look at the Korea's substantive tax criminal law. After an overview of related Acts and regulation, and the type of tax crimes, main contents, and types of tax crimes, we will look at the requirements and scope of the establishment of tax evasion, which is the most important tax crime, and major issues related to substantive law. Next, in III, the procedure for handling tax crimes is outlined, and then the processing procedure for each step and related issues are reviewed.

Ⅱ. Substantive tax criminal law

1. Related statute and type of tax crimes

Taxes include national and local taxes, and national taxes are a concept that encompasses domestic and customs duties. Tax crimes in the broadest sense include domestic tax-related tax crimes, customs-related tax crimes, and local tax-related tax crimes. Among national taxes, 'tax crimes related to domestic taxes' are regulated by the 「Punishment of Tax Offenses Act」(hereafter 'PTOA').

The most important crime among the 'tax crimes related to national tax' is 'tax evasion' in Article 3 PTOA, and 'tax evasion' refers to 'an act of evading tax (national tax) or receiving tax refund or deduction by fraud or other improper means'. Tax evasion includes tax evasion through fraud or other improper means, tax refund through fraud or other improper means and tax deduction through fraud or other improper means and the first is referred to as 'tax evasion in a narrow sense'.

Articles 4 to 16 PTOA stipulate other national tax-related tax crimes, and such crimes are distinguished from tax evasion in that they do not require 'fraud or other illegal acts'. Some of the provisions are those that independently criminalize acts that are to be regarded as anticipatory acts of tax evasion. For example, Article 9 (1) PTOA punishes a person who makes a tax return on behalf of a person liable to taxation makes a false return on taxes of another person

1 Kim, Ji-Pyoung, *The Legal and Practical Issues on the Remuneration for Directors and Statutory Auditors of the Corporation*, JURIS, vol. 1, no. 57, Judicial Development Foundation, 2021, p. 17.

2 From 2019 to 2023, the KICJ carried out research projects which compared the criminal law and criminal procedure laws of the United States, the United Kingdom, Germany, France, and Japan with Korean law and uploaded the research contents to the CCLDB. The research project of "Comparative Study on Special Criminal Offenses in Major Field and Advancing Comparative Criminal Law Database (CCLDB)" aims to compare the mentioned four countries and Korean laws in the tax criminal law, capital market criminal law, and labor criminal law sectors for each year from 2024 to 2026 and upload them to the CCLDB.

in order to help him or her evade the imposition or collection of taxes. The Court states, "[This provision] can be seen as norm that punish false reporting which is a means and an anticipatory act of tax evasion, apart from tax evasion, considering that there is a very high risk of tax evasion in itself."[3]

2. Requirements and scope of establishment of tax evasion

1) Subject of conduct

In South Korea, the requirements for meeting the tax obligations of national taxes, such as income tax, corporate tax and etc., are stipulated in regulatory statute such as the 「Income Tax Act」, the 「Corporate Tax Act」 and etc., and the 「Framework Act on National Taxes」 functions as basic law related to national tax administration. Article 3 PTOA does not specify the actor of criminalized conduct, but according to the majority theory[4] and precedent,[5] Article 3 presuppose that the actor is a person who specifically bears the tax obligation by meeting the tax requirements under the individual tax law. Therefore, tax evasion is 'a true offense requiring a particular status or position' in which only those who bear the tax obligation according to individual tax law can become a principal. Thus, if the withholding method of income tax or corporate tax is applied, the withholding agent cannot be the principal of the crime of tax evasion, because the withholding agent is not the taxpayer, and the person receiving the income is the withholding taxpayer.[6]

To meet the tax requirements under the tax law, it must correspond to the taxable income or transaction prescribed by the tax law, the taxable or transaction must be substantially attributed to the relevant taxpayer, and the taxable quantity or value underlying the tax calculation must be specifically specified.

According to the substantial taxation principle, if the taxable titleholder and the substantial nominee are different, the substantial nominee is recognized as a taxpayer. In applying the principle of substantial taxation, there are 'legal substantive theory' and 'economic substantive theory' in relation to what criteria to judge 'substantial'. The Korean Supreme Court previously took the legal substantive theory, but has taken the economic substantive theory since the Judgment in 2008.[7]

2) Conduct element

Article 3(6) PTOA lists the types of "fraud or other improper means" in subparagraphs 1 to 7, defining "active acts that fall under any of subparagraphs 1 to 7 that make it impossible or remarkably difficult to impose taxes" as "fraud or other improper means". This provision was newly introduced at the time of the full amendment of the PTOA on January 1, 2010, and reflects the standards established through precedents. The conduct listed in subparagraphs 1 to 6(1. A false book entry, such as double bookkeeping; 2. Preparation and receipt of false evidence or a false document; 3. Destruction of books and records; 4. Concealment of property, fabrication or concealment of income, earnings, acts, transactions; 5. Not preparing or keeping books intentionally, or fabrication of bills, tax invoices, a sum table of bills or a sum table of tax invoices; 6. Fabrication of facilities for enterprise resource planning (ERP) or electronic tax invoices under subparagraph 1 of Article 5-2 of the Restriction of Special Taxation Act) is considered as typical pre-income concealment. Subparagraph 7(7. Other acts by a deceptive scheme or improper acts)

3 Korean Supreme Court Judgment, 2019. 11. 4., 2019Do9269 (The Korean precedent is cited as follows: the court, sentencing date, case number).
4 See Ji Ik-sang, (2023), *Tax Criminal Law*, Beopmunsa, p 105-106; Kim Jong-geun, (2022), *Explanation of Tax Criminal Law (Revised Edition)*, Samil Informine, p 100-101.
5 Korean Supreme Court Judgment, 2004. 11. 12., 2004Do5818.
6 Korean Supreme Court Judgment, 2004. 11. 12., 2004Do5818.
7 Korean Supreme Court Judgment, 2012. 1. 19., 2008Du8499 en banc.

stipulates a residual conduct form. According to case law, it is not a "fraud or other improper means" to simply fail to report under the tax law or to make a false report without accompanying other acts, but if there are circumstances in which an active concealment intention is added, such as unreported or underreported taxable, and an act of deliberately not recording income or sales in the ledger, it can be recognized as making the imposition and collection of taxes impossible or remarkably difficult.[8]

3) Result element and causation

Tax evasion is a consequential crime in which the offense is regarded as completed when tax is evaded or tax refund or deduction is received due to fraud or other improper means. Therefore, the amount of tax evaded must exist, and a causal relationship between 'fraud or other improper means' and amount of tax evaded must be recognized in order for the completed crime of tax evasion to be established. If these requirements are not met, even if there is 'fraud or other improper means', the actor cannot be punished for tax evasion, because PTOA does not provide for attempted criminal punishment in all tax crimes.

4) Mens rea

(1) Requisite mens rea

Since PTOA does not provide a punishment for negligence offenders, tax evasion is established only for intentional offenders. The PTOA does not specifically stipulate the requisite mens rea for tax evasion. Thus, the general intention requirement which is provided in Article 13 of the Korean Criminal Code. Unlike Anglo-American criminal law, the Korean criminal law, which belongs to the continental legal system, requires so-called 'dolus eventualis' as general mens rea element. In order for the requisite 'dolus eventualis' element to be fulfilled, the actor must have acted with awareness and willingness (meaning acceptance or enduring) that he is a taxpayer and has a tax obligation on him, that his actions are fraudulent, that his conduct may[9] result in tax evasion,[10] and that a causal relationship between his conduct (fraudulent action) and tax evasion is recognized.[11] Since tax evasion does not require a special purpose as special intent, it does not require an actor to act with the purpose of avoiding or evading tax.

(2) Mistake in the obligation to pay tax

The intention of tax evasion can be fulfilled only when the actor has conducted with awareness of his tax obligation. Since the tax obligation is recognized according to individual tax laws, the requirement of tax obligation is not only a so-called 'blank actus reus element', but also it is a so-called 'normative actus reus element' because normative judgment is strongly required in determining whether the tax obligation for him is established. For this reason, if the actor has acted by mistake that the tax obligation was not recognized, it is controversial whether such an error is to be regarded as mistake of fact or mistake of law.

In cases where the actor is aware of factual circumstances underlying his obligation to pay taxes, but mistakes that tax obligation is not recognized because there is a practice of not taxing, the Korean court understands the actor's error as a mistake in the law and examines whether there is a justifiable reason for the actor's error. However, even in cases where justifiable reasons exist, the court rules that the crime is not established because the actor acted without intention, but the responsibility (in the sense of blameworthiness) is not fulfilled.[12] In the theory,

8 See Korean Supreme Court Judgment, 2012. 3. 15., 2011 Do13605 and other Judgments.

9 On the Difference between "will occur and "may occur see Pigaroff D. K./Robinson, D., Article 30, in: Triffterer O./Ambos, K., *Rome Statute of the International Criminal Court. A Commentary*, (2016), C.H.Beck·Hart·Nomos, mn 22-23.

10 Korean Supreme Court Judgment, 2011. 4. 28., 2011Do527.

11 Korean Supreme Court Judgment, 2006. 5. 29., 2004Do817.

12 See Korean Supreme Court Judgment, 2008. 4. 10., 2007Do9689; See Korean Supreme Court Judgment, 2012. 2. 23.,

there is a view in favor of the attitude of the precedent that understands the above error of the actor as an error of the law.[13] On the other hand, the strong opinion that has been recently argued is that the above error of the actor is to be understood as an error of fact, and the crime of tax evasion should not be established because intention cannot be recognized without the need to examine the existence of a justifiable reason.[14]

5) Determining number of offenses

The tax obligation, which is the premise of tax evasion, is established for each taxpayer, for each type of tax, and for the passage of the taxable period. Therefore, if the taxpayer is different, it becomes a separate crime, and even if the type of tax or tax period is different, it becomes a separate crime.[15] For example, in the case of income tax, comprehensive income tax, capital gains tax, and retirement income tax are separate tax items, so separate tax evasion crimes are established for each tax item.[16]

Ⅲ. Tax criminal procedure law

Overview

In South Korea, the tax offender punishment procedure proceeds as follows: ① the National Tax Service's tax audit → ② tax offense examination by National Tax Service → ③ when there is a complaint from the tax office, criminal investigation by police and/or prosecution → ④ criminal trial procedure. "Tax audit" means an activity in which a tax office asks a question to determine or correct the tax base and amount of national taxes, inspects and investigates the relevant books, documents, or other items, or orders the submission thereof. Tax audit is regulated by the 「Framework Act on National Taxes」, the 「Enforcement Decree of the same Act」, and the 「Regulation on the handling of examination affairs(Instruction of National Tax Service)」. "Tax offense examination" means an examination activity in which the National Tax Service investigates violations of the PTOA and determines whether or not the charges are present, notifying administrative fines on behalf of criminal penalties, or filing criminal charges in serious cases. 'Tax offense examination' is regulated in detail by 「Procedure for the Punishment of Tax Offenses Act」(hereafter 'PPTOA'), the 「Enforcement Decree of the same Act」, and the 「Regulation on the handling of examination affairs(Instruction of National Tax Service)」. There is no separate Act which regulates a Criminal investigation by police or Prosecutor in tax crime cases. That is regulated under the 「Criminal Procedure Code」.

According to the PPTOA, even if a tax crime under PTOA is confirmed, if the case is considered as a case that does not require criminal proceedings through investigation or criminal trial, the case can be closed with the notification of imposition of a civil fine, which is an administrative disposition instead of criminal proceedings. Furthermore, in all tax crimes except for aggravated crime of tax evasion under Article 8 of 「Act on the Aggravated Punishment of Specific Crimes」, the prosecutor can file an indictment only when there is a complaint from the head of the National Tax Service, the head of the local tax office, or the head of the tax office.

2007Do9143; Korean Supreme Court Judgment, 2023. 10. 26., 2023Do3254.

13 Kim Jong-geun, (2022*), Explanation of Tax Criminal Law (Revised Edition)*, Samil Informine, p 22; Kim Young-soon, (2017), Consideration of the error of the law in the crime of tax evasion – Focusing on the implications of the grounds for defense of the U.S. tax evasion -, *Tax and Accounting Review*, 6(2), p 49-52.

14 Lee Joon-bong, (2019), A Study on the Intention of Tax evasion, *Seoul Tax Law Review*, 25(3), p 207-211; Choi Wan, (2021), Changes in Tax Cases and the Problem of Criminal Punishment - Focusing on Errors in Law and Non-Taxation Practices -, *Seoul Tax Law Review*, 27(2), p 77-81; Sin Ho-in & Kwon Hyung-ki, (2023), A review of the intention of tax evasion under the PTOA - focusing on the awareness of tax obligations and errors thereof, *Contemporary Review of Criminal Law*, Issue 80, p 124-125.

15 Seoul Northern District Prosecutor's Office, (2022), *Commentary on PTOA*, p 144.

16 Seoul Northern District Prosecutor's Office, (2022), *Commentary on PTOA*, p 144.

Each stage of the procedure

1) Tax audit

In that tax audit is an investigation activity to determine and correct the tax base and tax amount of national taxes, it is distinguished from the "tax offense examination" conducted to determine tax offenses if there is a suspicion of tax offenses. If the suspicion of tax offenses during the tax audit is admitted, it may be converted to a tax offenses examination

2) Tax offense examination

(1) Authority of tax official to examine tax offense suspicion

According to Article 2 No. 4 of the PPTOA, the tax offense examination is conducted by a tax official designated by the prosecutor of the local prosecutor's office having jurisdiction over the location of the local tax office. However, the 「Act On The Persons Performing The Duties Of Judicial Police Officers And The Scope Of Their Duties」does not specify the designated tax officials who conduct tax offense examination as special judicial police officers.

According to the PPTOA, designated tax official, like judicial police officials, have the authority to conduct voluntary investigation measures, such as authority to ask questions, to request data and so on. In addition, it is possible to request a prosecutor to obtain a seizure and search warrant issued by a judge and conduct a seizure and search. However, tax officials do not have the authority to conduct personal forced investigation measures such as arrest and detention.

After completing the tax offense examination, the head of the local tax office or the head of the tax office shall dispose of notification of civil fine, file a complaint to an investigative agency, or dispose of no charges. A notification shall also be filed if a person who has received a notification of civil fine fails to comply with the notification within 15 days from the date of receipt of the notification.

(2) Nature of tax offense examination

Although the tax offense examination is formally an administrative examination, there is controversy over whether the tax offense examination can be viewed as criminal investigation activity because it is an investigation into allegations of tax crimes. In the literature, the prevailing view is that it is formally an administrative investigation, but in practice, it has the character of an investigation.[17] However, the Court ruled that tax officials who conduct tax offense examination don't belong to special judicial police officers under the current law, so tax offense examinations are not only an administrative examination in form, but in practice, they do not have the characteristics of criminal investigations.[18]

3) Investigation by police or prosecutor

In the case of a violation of Article 8 of the 「Act on the Aggravated Punishment of Specific Crimes」, the investigative agency may initiate an investigation even if there is no complaint from the customs office. Except in this case, the investigative agency may investigate the tax crime case only when there is a complaint from the customs office.

There's no special Act regulating investigations of tax crimes. Therefore, it is governed by the 「Criminal Procedure Act」. Here, only the question of allowable range of communication interception in tax crimes is introduced. Article 5 of the 「Protection of Communications Secret Act」 lists crimes that can be allowed to telecommunication interception for criminal investigation. According to the

17 Kim Taek-soo, (2018), Question of the exercise of investigative power by administrative agencies and regulatory measures - Focusing on tax offenses examination-, *Journal of Police & Law*, 16(2), p 67 et seq.; Lee Chun-hyun et al., (2020), *Analysis of the current status of criminal investigation power of administrative agencies and research on ways to improve them*, KICJ, p 39 et seq.; Lee Jae-gu and Lee Ho-yong, (2018), Legal issues of administrative examination that can be used as investigations, *Hanyang Law Review*, 35(2), p 428 et seq.

18 Korean Supreme Court Judgment, 2022. 12.15., 2022Do8824.

provision, communication interception is allowed only for tax crimes falling under Article 8 of the 「Act on the Aggravated Punishment of Specific Crimes」, and communication interception is not allowed for other tax crimes. Even compared with overseas legislation, this is too limiting the scope of communication interception in tax crimes. Therefore, it is necessary to expand the range in which communication interception is allowed in tax crimes.[19]

4) Trial phase

Regarding the various legal issues raised in the trial of tax crimes, here we look at only a few issues related to the admissibility of evidences.

Under the current law, there are no explicit provisions generally prohibiting the use of evidence obtained through a tax audit or a tax offense examination in criminal trial procedures. In the end, the question of how much it can be recognized to use evidence obtained through a tax audit or administrative tax offense examination in criminal proceedings must be judged in consideration of specific circumstances in individual cases in accordance with the general principle of 'exclusion of illegal collection evidence'. Considering the specific circumstances in each case, the evidence is to be considered as admissible if the violation of the procedure of a tax official does not infringe the essential content of the due process, but recognizing the admissibility of the evidence is in line with balancing due process principle and the demand for truth-finding.[20]

Another problem is that in relation to the application of hearsay evidence rule, the tax official's interrogation report on the suspect should be judged according to which provision. The Supreme Court ruled that since tax officials who conduct tax offense examination do not fall under special judicial police officers under the current law, the interrogation report of suspect prepared by such tax officials cannot be regarded as interrogation report prepared by an investigative agency, so the admissibility of such interrogation report by tax officials is to be determined in accordance with Article 313 of the 「Criminal Procedure Act」.[21]

Comprehensive issues

1) Asset recovery and international mutual assistance in criminal matters

Tax crimes belong to typical economic and corporate crimes, and are often committed with a relationship to money laundering or corruption crimes, and are often committed with a cross-border character like overseas SPC. Moreover, even if it is a tax crime committed in South Korea, criminal proceeds can be transferred abroad. For this reason, the recovery of criminal proceeds and international mutual legal assistance in criminal matters for criminal asset recovery has a great significance in order to suppress tax crimes.

However, the Korean law only recognizes confiscation against crime charged, and allowes the so-called 'non-conviction based confiscation' only within a narrow range.[22] Therefore, even before the prosecution, a preservation order for confiscation is possible, but if the crime is not charged, for example, due to the death of the suspect, the preservation order is to be canceled.

International mutual assistance in criminal matters is based on the principle of reciprocity. Therefore, even if there is a request for judicial assistance in relation to a non-conviction based confiscation which is not recognized in Korea, Korea cannot respond to such a request, and on the contrary, even if Korea requests such

19 See in detail Park Kyung-gyu et al., (2024), *Comparative Study on crimes under major regulative Acts and advancing of comparative criminal law DB(I)*, KICJ, p 93.

20 Park Kyung-gyu et al., (2024), *Comparative Study on crimes under major regulative Acts and advancing of comparative criminal law DB(I)*, KICJ, p 99-100; Korean Supreme Court Judgment, 2007. 11. 15., 2007Do3061 en banc.

21 Korean Supreme Court Judgment, 2022. 12.15., 2022Do8824.

22 See Korean Supreme Court Judgment, 1992. 7. 28., 92Do700; also see Park Mi-sook, (2003), *Criminal Asset Recovery as Independent Sanctions*, KICJ, p 54.

assistance, the country receiving the request is not obligated to respond to such a request. This weakens the effectiveness of the criminal asset recovery in relation to mutual assistance in criminal matters. From this point of view, in order to improve the effectiveness of the criminal proceeds recovery through international mutual assistance, it is necessary to expand the scope of recognition of non-conviction based confiscation in Korea.[23]

2) Offshore tax evasion

In the Korean law, establishing a special purpose company (SPC) is not an offense in itself. However, special purpose companies are often used for tax evasion. "Offshore tax evasion" refers to the act of a domestic corporation or individual using a so-called 'paper company' in a tax haven to disguise itself as a non-taxpayer, leak domestic income abroad, or conceal overseas income.[24]

Regarding substantive law, in offshore tax evasion cases using overseas SPC, whether or not the corporation in issue is a legally established corporation must be determined in accordance with the laws of the corporate registration country.[25] Regarding whether tax evasion is established in case of using overseas SPC, the main issue is such as whether the accused was obligated to pay taxes, whether the requirement of 'fraud or other improper means' is fulfilled, whether the accused acted with dolus eventualis, and so on. The court convicted tax evasion in some cases by applying the substantial taxation principle,[26] but there are not many conviction cases in which the requirement of 'fraud or other improper means' was met.[27]

From a procedural point of view, the importance of collecting evidence through international mutual assistance is growing in offshore tax evasion cases using overseas SPCs. The research report introduced in this article[28] proposes as follows. To further strengthen international mutual assistance in criminal matters regarding offshore tax evasion cases, Korea needs to sign a 'tax information exchange agreement' with major tax haven countries, just like the United States does, or to supplement in bilateral treaties with such countries matters that can further strengthen international judicial cooperation and information sharing in relation to tax crimes.

Ⅳ. Conclusion

In South Korea, tax crimes related to domestic taxes are provided in the PTOA. Tax evasion, the most important tax offense, is a consequential crime, and is punishable only in cases of intentional commission, and no provision of attempted commission exists. Tax evasion in South Korea is 'a true offense requiring a particular status or position' in which only those who bear the tax obligation according to individual tax law can become a principal. The Korean criminal law, which belongs to the continental legal system, requires so-called 'dolus eventualis' as general mens rea element. Therefore, the intentional requirement for tax evasion is sufficient with fulfillment of 'dolus eventualis'. In cases where the actor was aware of factual circumstances underlying his obligation to pay taxes, but mistakes that tax obligation were not recognized because there is a practice of not taxing, the Korean court understands the

23 In more detail see Park Kyung-gyu et al., (2024), *Comparative Study on crimes under major regulative Acts and advancing of comparative criminal law DB(I)*, KICJ, p 104-105.

24 Ahn Dae-hee et al., (2017), *LAWnB online commentary to PTOA*, LAWnB, Article 3; Bae Cho-hee and Lee Kyung-ryul, (2023), Criminal Law Response to New Transnational Tax Evasion, *SungKyunKwan Law Review*, 35(3), p 48.

25 See Korean Supreme Court Judgment, 2012. 1. 27., 2010Du5950.

26 For example Korean Supreme Court Judgment, 2018. 11. 9., 2014Do9026.

27 For example, acquittal cases: Korean Supreme Court Judgment, 1994. 4. 12., 93Do2324; Korean Supreme Court Judgment 2020. 12. 30. 2018Do14753. On the other hand conviction case: Korean Supreme Court Judgment 2011. 1. 27., 2010Do1191.

28 Park Kyung-gyu et al., (2024), Comparative Study on crimes under major regulative Acts and advancing of comparative criminal law DB(I), KICJ, p 104-105.

actor's error as a mistake in the law and examines whether there is a justifiable reason for the actor's error. However, the recently strong argued view insists that such error is to be regarded as an error of fact, and that there is no need to examine the existence of a justifiable reason.

In South Korea, the tax offender punishment procedure proceeds as follows: ① the National Tax Service's tax audit → ② tax offense examination by National Tax Service → ③ when there is a complaint from the tax office, criminal investigation by police and/or prosecution → ④ criminal trial procedure. Tax audit and tax offense examination is in detail regulated by the PPTOA and relevant subordinate statute. According to the court ruling, tax officials who conduct tax offense examination don't belong to special judicial police officers under the current law, so tax offense examinations are not only an administrative examination in form, but in practice, they do not have the characteristics of criminal investigations.

Since telecommunication interception for criminal investigation in tax crimes is narrow allowed under the current Korean 「Protection of Communications Secret Act」, the research report introduced in this article insists to expand the range of communication interception in tax crimes. In addition, the research report proposes to expand the scope of recognition of non-conviction based confiscation in South Korea in order to improve the effectiveness of the criminal proceeds recovery through international mutual assistance. The research report also proposes to sign a 'tax information exchange agreement' with major tax haven countries, just like the United States does, or to supplement bilateral mutual assistance treaties with such countries regarding matters that can further strengthen international judicial cooperation and information sharing in order to facilitate transnational collecting evidences in cases of offshore tax evasion incident.

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Study on Protection of Human Rights of 'Youth with Migration Backgrounds' in Juvenile Justice Procedures*

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Abstract

This study aims to examine the difficulties experienced by youth with migration backgrounds who are involved in the juvenile justice system and propose measures to enhance human rights protection.

First, the study sought to define the concept of youth with migration backgrounds in the context of juvenile justice procedures. Next, relevant legal systems and legislation in major foreign countries were reviewed. Subsequently, surveys and in-depth interviews were conducted with juvenile justice practitioners and experts, including Ministry of Justice officials, police officers, judges, and lawyers. Concurrently, in-depth interviews were held with youth with migration backgrounds who were either currently detained in juvenile reformatories or had prior experience with the juvenile justice process.

Based on the findings, the researchers proposed the following solutions. First, regarding the investigation stage, it is proposed that a legal framework be established to allow for the early intervention of public defenders. Furthermore, the study suggests enhancing the professional competency of interpreters and revitalizing the judicial interpretation system. Next, for the adjudication stage, the provision of a checklist for judges to ensure compliance with necessary protocols is recommended. For the correctional and protective disposition stages, it is suggested that educational content provided before and after admission to detention facilities be delivered using video

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materials or Virtual Reality (VR) tools to improve comprehension. Additionally, the establishment and implementation of correctional policies grounded in multiculturalism are emphasized. Finally, measures to enhance the professional capabilities of probation officers are proposed.

In conclusion, measures are also presented to protect the human rights of youth with migration backgrounds when they participate in the juvenile justice process as victims. Specifically, recommendations include strengthening interpretation support and assistance with statements for youth requiring linguistic aid, as well as providing information to victims and reinforcing their right to procedural participation.

It is hoped that this study will stimulate further discussion, ultimately leading to the establishment of a fair and human rights-friendly juvenile justice system for youth with migration backgrounds.

Keywords: Youth with migration backgrounds, juvenile justice, safeguard of human rights, protection of procedural rights, multicultural society

Ⅰ. Introduction

The present article summarizes and organizes the contents of the report titled 'Study on Protection of Human Rights of 'Youth With Migrant Backgrounds' in Juvenile Justice Procedures,' [1] which the author conducted as the principal investigator.

As of November 1, 2023, the number of foreign residents in Korea was reported to be approximately 2.46 million, representing about 4.8% of the total population of the Republic of Korea. [2] The influx of foreign migrants into the country is expected to continue increasing. Therefore, it is imperative to move beyond merely accommodating visitors and instead seek ways to foster a harmonious community with foreign residents.

The research team identified the need to investigate whether children from multicultural families or foreign youth entering from abroad experience difficulties distinct from those of youth without migration backgrounds due to social, cultural, and linguistic differences. This investigation focuses on instances where these youths become involved in juvenile justice procedures—such as investigation, adjudication, and detention—either as perpetrators or victims.

Based on this awareness, this study focuses on identifying procedural issues within the juvenile justice system experienced by 'youth with migration backgrounds' and exploring corresponding countermeasures. Specifically, the scope of the research is limited to examining potential issues at each stage of the judicial process—including criminal investigation, adjudication, corrections, and probation—and proposing solutions. Accordingly, this study does not separately examine the causes of conflicts that youth with migration backgrounds may face in settings such as schools or homes. Similarly, issues outside the juvenile justice process, such as the need to improve public perception regarding foreigners, have been excluded.

Ⅱ. Issues Related to Youth with Migration Backgrounds

While many multicultural nations have long existed with diverse racial and cultural populations, South Korea has only relatively recently begun to discuss social issues arising from foreign residents with migration backgrounds. There is a considerable body of existing research regarding the social integration of foreigners with linguistic and cultural differences into Korean society. However, research addressing the specific difficulties encountered by youth with migration backgrounds residing in Korea within the juvenile justice system remains scarce.

Conceptual Ambiguity Regarding Youth with Migration Backgrounds

First, the legal concept of 'youth with migrant backgrounds' is not clearly defined within the judicial context. Generally, the term is understood to encompass children of multicultural families, youth who entered Korea after birth (foreign-born youth), and North Korean defector youth. [3] However, there is no distinct legal definition, and relevant statistics are currently lacking.

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1 Minkyu Kim and Youngoh Jo, *'Study on Protection of human rights of 'youth with immigrant backgrounds' in juvenile justice procedures'*, Korean Institute of Criminology and Justice, 2024).

2 Ministry of the Interior and Safety, "Current Status of Foreign Residents in Local Governments in 2023," Oct. 2024, pp. 1–2 (https://www.mois.go.kr/frt/bbs/type001/commonSelectBoardArticle.do;jsessionid=ebs9UdYP0MQKf1Fj7ud1xvgv.node40?bbsId=BBSMSTR_000000000014&nttId=113261, last accessed July 15, 2025).

3 According to Article 18 of the Youth Welfare Support Act, the State and local governments are required to devise and implement necessary measures for youth from multicultural families and other youth who have migrated to Korea and experience difficulties in social adaptation or academic performance. For further research on the concept of youth with migration backgrounds, see Hyun-ok Shin et al., Actual Conditions and Policy Tasks by Type of Youth with Migration Backgrounds, Policy Research for the Gender Equality and Family Committee of the National Assembly, Rainbow Youth Center (Migrant Youth Foundation), 2012, pp. 6–8.

To date, primary attention has focused on issues related to immigration control or the granting of nationality. However, as previously mentioned, with the increasing foreign population in Korea, it is necessary to establish definitions that allow for adaptation to diverse legal situations. Limiting the scope to youth with migration backgrounds, it must first be clearly determined whether accommodations are required due to their diverse cultural and social backgrounds and linguistic differences. Even in cases where the youth holds South Korean citizenship, such as children from multicultural families, specific issues may arise because one parent is a foreigner. These issues include a lack of understanding of juvenile justice procedures, differences in attitudes toward crime stemming from cultural backgrounds, and diminished protective capacity due to limited Korean language proficiency.

To address these issues, it is necessary to clarify the legal definition and categorization of youth with migration backgrounds. Furthermore, it is essential to establish statistical data on youth with migration backgrounds involved in the juvenile justice system to facilitate the development of juvenile policies based on scientific evidence.

Issues within the Juvenile Justice Process

South Korea has already established various mechanisms at each stage of the judicial process to support foreigners with limited Korean proficiency. A primary example is the provision of interpretation support during the investigation and adjudication stages. However, it was necessary to examine whether youth with migration backgrounds receive active support from the initial stages of a criminal case—specifically, the investigation stage. Notably, youth with migration backgrounds who were born in Korea and received formal education there did not appear to face significant difficulties in using the Korean language. However, problems may arise in cases involving foreign guardians with limited Korean proficiency, or youth who possess spoken fluency but lack distinct comprehension skills, as they may fail to understand the stages of the juvenile justice process or the implications of their statements. In particular, there have been instances where individuals with partial proficiency in Korean were denied interpretation assistance—support they would have received had they been unable to speak Korean at all. Furthermore, when the parents of youth with migration backgrounds possess low Korean proficiency, their ability to protect and advocate for their children may be diminished compared to that of native-born parents.

Meanwhile, differences in the laws and customs of the youth's country of origin, as well as differing perceptions of public authority figures such as the police, have also influenced judicial proceedings. For instance, it is frequently observed that foreign migrants form communities based on their country of origin or shared cultural background. These communities often prioritize bonding and cooperation among members, while sometimes exhibiting insular behavior and excluding outsiders. These characteristics are particularly pronounced in rural areas or small cities; in severe cases, there is a reluctance to report crimes occurring within the community to the police.[4]

Areas for improvement are also observed in cases where youth with migration backgrounds become victims of crime. Analyses suggest that youth who migrated to Korea during their adolescence find it difficult to report victimization due to environmental factors such as linguistic barriers, complex family structures, and issues related to residency status.[5] Furthermore, there were instances where victims refrained from

4 Emergency Support Center for Migrant Women, 2010, *Lives and Human Rights of Marriage Migrant Women* (cited in Hyung-min Park, Seong-hyun Jo, & Seon-hee Kim, *Future Directions of Criminal Policy According to Social Changes (II): The Spread of Multicultural Society and Changes in Criminal Policy*, Korean Institute of Criminology, 2016, p. 194).

5 Hyo-jin Song, So-young Kim, So-young Ahn, & Yeon-jae Kim, *Legislative Improvement Plans for the Protection of Children of*

reporting crimes to the police out of fear that doing so would become known within their community, leading to retaliation. Consequently, there is a need to establish a system that ensures youth victims with migration backgrounds receive appropriate assistance, such as interpretation, from the initial stages of a case, while also providing measures for psychological stabilization.

Ⅲ. Research Methodology to Identify Issues in Juvenile Justice Procedures for Youth with Migration Backgrounds

To explore solutions to the challenges encountered by youth with migration backgrounds within the juvenile justice system, this study employed the following methodologies.

First, a comparative legal review was conducted regarding the laws and systems concerning foreign migrants in Germany, the United Kingdom, the United States, and Japan. These nations were selected as they possess advanced juvenile justice systems and have extensively addressed issues related to foreign migrants. Through this review, the study examined potential implications and measures that could be adopted into the Korean juvenile justice system.

Subsequently, to investigate the current status of human rights protection within juvenile justice procedures, surveys were conducted with relevant practitioners. These included Ministry of Justice officials performing juvenile justice duties (staff at juvenile reformatories, juvenile classification review centers, and probation offices), employees at Youth Misconduct Prevention Centers, police officers, juvenile court judges, and lawyers. Concurrently, in-depth interviews were conducted with a subset of these practitioners.

Additionally, in-depth interviews were conducted with youths who have experienced the juvenile justice process. This group included individuals currently detained in juvenile reformatories or juvenile classification review centers, as well as those undergoing education at Youth Misconduct Prevention Centers.

Review of Overseas Legal Systems Implications from the German System

Germany is a nation that has long maintained a high level of interest in immigrant crime. However, there are conflicting views on whether special judicial consideration should be extended to youth with migration backgrounds.

On one hand, some argue that the experience of migration itself is not a direct or central cause of delinquency. Instead, they point out that factors such as a family background involving violent parenting styles, economic hardship, and reduced social bonds resulting from discrimination are more significant criminogenic factors. Consequently, this view suggests that appropriate social support is required to address these root causes.[6] On the other hand, there is a counter-argument that explicitly discussing the need for special consideration for migrants could inadvertently stigmatize those with migration backgrounds; therefore, caution is advised when establishing separate policies.[7]

Although not a measure specifically designed for youth with migration backgrounds, Germany has implemented several institutional reforms aimed at strengthening the procedural rights of juvenile suspects.

First, the Juvenile Courts Act (Jugendgerichts gesetz, JGG) was amended to mandate the

Multicultural Families, Korean Women's Development Institute, 2015, p. 6; Hyung-min Park, Seong-hyun Jo, & Seon-hee Kim, *op. cit.*, pp. 178–179.

6 Christian Walburg, "Expertise: Jugenddelinquenz in der Einwanderungsgesellschaft: Ursachen und neuere Entwicklungen" [Expertise: Juvenile Delinquency in the Immigration Society: Causes and Recent Developments], Mediendienst Integration, Dec. 2023.

7 Sabrina Hoops & Bernd Holthusen, "Jugendhilfe vor neuen Herausforderungen" [Youth Welfare Facing New Challenges], DJI Impulse, Vol. 21, No. 4, Deutsches Jugendinstitut, 2011, p. 33.

video recording of interrogations for juvenile suspects in proceedings other than the main trial (i.e., pre-trial stages). While video recording is generally considered to be more beneficial for the protection of juvenile suspects, the law stipulates that the welfare of the juvenile must remain the paramount consideration in such instances.[8]

Next, the duties of the 'Representative of the Juvenile Court Assistance' (Vertreter der Jugendgerichtshilfe), who assists juvenile suspects in juvenile proceedings, have been made more specific than in the past. The Juvenile Court Assistant performs a crucial role not only in supporting investigative agencies and the courts but also in facilitating the juvenile's social reintegration by providing substantive and effective assistance. Their responsibilities include conducting investigations and presenting opinions from the initial stages of the juvenile justice process, providing assistance in court, and supervising the fulfillment of dispositions imposed on the juvenile.[9]

In addition to these legal supports, various social support measures—such as the provision of tailored programs, the implementation of youth support initiatives, and parental education—have been proposed to address issues related to youth with migration backgrounds.[10]

Implications from the United Kingdom

The United Kingdom is a nation that effectively addresses juvenile delinquency through local Youth Offending Teams (YOTs).[11] In particular, it implements various forms of judicial support for youth with migration backgrounds as well as other foreigners experiencing racial or linguistic difficulties.

First, the Lammy Review was published in 2017, examining issues of discrimination against 'Black, Asian, and Minority Ethnic' (BAME) individuals involved in the criminal justice system.[12] The review presented a total of 35 recommendations, and the UK Ministry of Justice announced its commitment to taking practical measures in response to these recommendations.[13]

Meanwhile, the Equal Treatment Bench Book is provided to courts to ensure consideration for individuals facing social inequality, physical or mental disabilities, or racial and linguistic challenges during judicial proceedings. This guide not only suggests appropriate terminology and expressions to be mindful of regarding culture and race but also provides guidance on using language that enhances comprehension in the courtroom for litigants whose native language is not English.[14]

Implications from the United States

The United States is composed of such diverse racial groups that it is often referred to as a "nation of immigrants." In 2018, the United States amended the Juvenile Justice and Delinquency Prevention Act (JJDPA) to address inequalities in judicial proceedings regarding people of color and disparities in dispositions resulting from language barriers. This legislation mandates equitable treatment by considering a youth's 'ethnicity' in addition to gender, race, family income, and disability. It also requires efforts to address and

8 Ulrich Eisenberg & Ralf Kölbel, *Beck'scher Online-Kommentar JGG*, 25th ed., 2024, Rn. 18–18a.
9 Soo-gil Ahn, "Analysis of the Latest Trends in the German Juvenile Justice System: Focusing on the Strengthening of the Juvenile Court Assistance System," Juvenile Protection Research, Vol. 34, No. 1, 2021, pp. 225–231.
10 Sabrina Hoops & Bernd Holthusen, *op. cit.*, p. 34.
11 Gov.UK, "Youth offending teams" (https://www.gov.uk/youth-offending-team, last accessed July 15, 2025).
12 The Lammy Review- An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System, Sept. 2017. (https://assets.publishing.service.gov.uk/media/5a82009040f0b62305b91f49/lammy-review-final-report.pdf, last accessed July 15, 2025).
13 Ministry of Justice (UK), Government Response to the Lammy Review on the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System, Dec. 2017.(https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/669206/Response_to_David_Lammy_Review.pdf, last accessed July 15, 2025).
14 For further details, see Judicial College, *"Equal Treatment Bench Book"*, July 2024 Edition, May 2025 update, pp. 136~160(https://www.judiciary.uk/wp-content/uploads/2025/05/ETBB-July-2024-May-2025-update.pdf, last accessed Aug. 1, 2025).

resolve racial and ethnic disparities.[15]

Additionally, individual states are implementing policies to eliminate discrimination against foreign residents. Notably, New York State has established positions such as "Race Equity Coordinators" and the "Racial and Ethnic Disparities (R.E.D.) Advisory Committee" in an effort to reduce racial and ethnic inequalities.[16] In King County, Washington, the local community and state government have collaborated to reduce juvenile delinquency, including the implementation of the "Road Map to Zero Youth Detention" project aimed at reducing juvenile detention rates.[17]

Implications from Japan

In response to the issues facing youth with migration backgrounds, Japan has implemented various programs through the Ministry of Justice and regional juvenile reformatories. Notably, there are plans to introduce correctional education programs specifically targeting youths who possess Japanese language proficiency but are anticipated to face challenges in social adaptation.[18] In addition, there are documented instances where individual juvenile reformatories have implemented specialized programs for youth with migration backgrounds.[19]

IV. Results of Surveys and Interviews with Juvenile Justice Practitioners and Youth

The research team conducted surveys and in-depth interviews with practitioners—including police officers, judges, and lawyers—who are engaged in juvenile justice duties or have experience investigating or adjudicating cases involving youth with migration backgrounds. Furthermore, interviews were conducted with youths who have either experienced juvenile justice procedures or are currently detained in correctional facilities. Due to space constraints, the full findings cannot be detailed here. However, the following key issues were identified.[20]

First, instances were identified where problems arose due to Korean language proficiency. While many youth with migration backgrounds possessed a certain level of Korean proficiency, and interpretation support was generally provided where communication was difficult—thereby ensuring the procedural progression itself was not significantly hindered—issues remained. Specifically, there is a lack of evaluation tools or manuals to determine whether interpretation assistance is technically necessary. Consequently, frontline practitioners faced difficulties in assessing whether the youth truly comprehended the juvenile justice proceedings or if interpretation services were required. Regarding interpretation, there were challenges in securing professional interpreters capable of speaking minority languages. Additionally, although in a limited number of cases, some practitioners expressed uncertainty regarding whether interpreters were accurately conveying the intentions of investigators or judges.

Meanwhile, concerns were raised regarding the effectiveness of educational programs, as most are conducted in Korean. Questions were posed as to whether these programs yield substantive

15 Act4jj.org, "Juvenile Justice and Delinquency Prevention Act (JJDPA) Fact Sheet Series - Core Protections: Racial and Ethnic Disparities"(https://www.act4jj.org/sites/default/files/resource-files/Racial%20and%20Ethnic%20Disparities%20Fact%20Sheet.pdf, last accessed July 15, 2025).

16 New York State Division of Criminal Justice Service, "Youth Justice" (https://www.criminaljustice.ny.gov/ofpa/jj/jj-index.htm#programs, last accessed July 15, 2025),

17 Washington Department of Children, Youth, and Families, "Racial Disproportionality"(https://dcyf.wa.gov/practice/practice-improvement/ojj/racial-ethnic-disparities/awareness/racial-disproportionality, last accessed July 15, 2025).

18 Mainichi Shimbun, "Japan to introduce education program at reformatories for youths with foreign roots," Nov. 28, 2023 (https://mainichi.jp/english/articles/20231127/p2a/00m/0na/011000c, last accessed July 15, 2025).

19 Mainichi Shimbun, "Japanese juvenile detention center's group work helps boy open up, embrace Filipino roots," May 10, 2020 (https://mainichi.jp/english/articles/20200510/p2a/00m/0na/004000c, last accessed July 15, 2025).

20 For further details, see Minkyu Kim & Youngoh Jo, *op. cit.*, pp. 65–153.

educational benefits for youth with migration backgrounds. In other words, there was a consensus on the need for tailored education that considers the linguistic proficiency and cultural backgrounds of these youths. Furthermore, it was pointed out that information must be provided not only to the youths but also to their guardians to enhance their understanding of the juvenile justice process. To this end, the development and utilization of non-verbal programs, such as those employing video materials, were recommended.

V. Proposals for Improving Juvenile Justice Procedures

Based on the aforementioned survey results and comparative legal research, the research team proposes the following policy improvements.

1) Strengthening Early Intervention by Court-Appointed Counsel

The current Juvenile Act does not contain provisions allowing for the participation of court-appointed counsel to provide legal assistance during questioning during the police investigation stage for juvenile suspects who are not under arrest or detention. However, youth with migration backgrounds may require interpretation assistance due to difficulties in speaking Korean. Furthermore, they need support from professionals familiar with the characteristics of juveniles to fully exercise their right to defense. Therefore, it is deemed necessary to provide assistance, such as that of public defenders, from the initial stage of the case—namely, the police investigation.[21]

In particular, under current laws, a court-appointed assistant (Bojoin) may be selected if the juvenile has a physical or mental disability, is unable to appoint an assistant due to poverty or other reasons, or if the juvenile court judge deems it necessary. It appears necessary to explicitly stipulate youth with migration backgrounds as eligible subjects for such appointments within these regulations.

2) Improvement of the Judicial Interpretation System

As briefly mentioned earlier, South Korea has significantly advanced its interpretation support system. Notably, the Supreme Court amended the regulations on Translation, Interpretation, and Handling of Cases Involving Foreigners in 2024 to establish and operate the "Court Interpretation Center." This center is an organization under the National Court Administration established to provide uniform interpretation and translation services to courts nationwide via video trial systems.[22] Through this, services are provided in four high-demand languages—English, Chinese, Vietnamese, and Russian—as well as sign language for the hearing impaired.

Despite these efforts, a permanent interpretation and translation support system available for use by the police during the initial investigation stage, or by correctional and probation facilities, has not yet been established. Difficulties are particularly acute when seeking interpreters for minority languages where experts are scarce. To address these issues, the establishment and utilization of an integrated interpretation center capable of serving the entire judicial process appear necessary.

Furthermore, while South Korea employs interpreters with verified foreign language proficiency through a relatively rigorous selection process, some interpreters lack knowledge of the legal system, specifically criminal and juvenile justice procedures. In such cases, problems may arise regarding the accuracy of the interpretation.[23]

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21 For a similar opinion, see National Human Rights Commission of Korea, *Study on Improving the Juvenile Justice System to Guarantee the Human Rights of Children and Youth*, Research Report on the Survey for the Promotion of Children's Human Rights 2018, Dec. 2018, p. 311.

22 Supreme Court of Korea, Press Release (July 17, 2024), "Opening Ceremony of the Court Interpretation Center," p. 1.

23 Issues regarding the competence and quality of interpreters have been raised in existing research. See Sung-hoon An & Jieun Lee, *A Study on Improvement Measures for Judicial Interpretation in Criminal Justice Procedures*, Korean Institute of

To resolve this, sufficient education must be provided to interpreters regarding the meaning and characteristics of judicial procedures, precautions at each procedural stage, and available remedies.

Additionally, it is necessary to codify legal ethics for judicial interpreters and ensure compliance, ensuring they interpret impartially and in accordance with professional ethics.[24]

3) Reviewing Mandatory Video Recording in Juvenile Cases

As seen in the German example previously mentioned, the implementation of a video recording system for statement processes should be considered as a measure to strengthen the defense rights of juveniles under investigation. It is desirable to video record interrogations, particularly in situations where youth with migration backgrounds are investigated without the presence of a public defender or interpreter, making it difficult to receive appropriate assistance.

Specifically, when an interpreter is present due to the suspect's limited Korean proficiency, disputes may arise in subsequent trials regarding whether the content conveyed by the interpreter matches the statements made by the suspect. In such cases, the existence of a video recording would make it possible to verify the accuracy of the interpretation. Therefore, the introduction of this system is desirable both for securing evidentiary material in case of disputes and for enhancing human rights protection during suspect interrogation.

However, caution must be exercised to prevent the misuse of the video recording system. For instance, young children or youth with migration backgrounds might feel intimidated by the fact that they are being recorded, potentially leading to exaggerated or inhibited statements. Conversely, if the system is interpreted to mean that interrogation can proceed without legal assistance solely because it is being recorded, this could result in a disadvantageous situation for the suspect.

4) Establishing Guidelines for Foreigners at the Adjudication Stage

Similar to the United Kingdom, where guidelines are provided to judges to ensure fair proceedings without discrimination based on diversity, it appears necessary for South Korea to provide guidelines on the manner and attitude judges should adopt when adjudicating cases involving youth with migration backgrounds. In particular, even when a youth is deemed capable of speaking Korean, judges must always bear in mind that the youth may lack a precise understanding of legal terminology and the specific legal situation. Therefore, it is necessary to explain matters using simple language in a gentle, yet accurate and firm manner.

Furthermore, youth with migration backgrounds or foreign guardians facing difficulties due to limited Korean proficiency or economic reasons may find it challenging to easily verify the status of their case. Considering this, measures need to be established to guide case parties and guardians through the stages of case progress quickly and easily.

5) Measures for Improvement in Correctional and Protective Disposition Stages

The Korean correctional system has already established a framework that significantly considers foreigners. Nevertheless, several points for further improvement have been identified.

For example, before admission to detention facilities such as juvenile reformatories, youth undergo education, and materials for this purpose are already translated and provided in various

Criminology, 2012, pp. 119–140; Jieun Lee & Won-kyung Jang, "A Study on the Improvement of the Judicial Interpreting System," *Ewha Law Journal*, Vol. 20, No. 3, Ewha Womans University Law Research Institute, 2016, pp. 253–254.

24 For a similar opinion, see Si-seop Song, "Legislation of Legal Ethics for Judicial Interpreters: Focusing on the Impact of 'Accuracy' of Interpretation on Criminal Trials," *Hongik Law Review*, Vol. 23, No. 1, 2022, pp. 58–59.

languages. However, whether providing materials in the native language of youth with migration backgrounds guarantees easy comprehension of the content is a separate issue.

In light of this, it is necessary to provide measures to enhance understanding, such as utilizing audiovisual educational materials, not only for education upon admission to and discharge from detention facilities but also throughout the entire correctional education process. Specifically, developing educational programs utilizing rapidly evolving Virtual Reality (VR) or Augmented Reality (AR) technologies is expected to increase learning effectiveness.[25]

Additionally, while strengthening multiculturalism in correctional policy, the introduction of policies such as specializing probation personnel to better serve youth with migration backgrounds is recommended.

6) Support Measures for Youth Victims with Migration Backgrounds

It is believed that special consideration within juvenile justice procedures is necessary not only for youth victims with migration backgrounds but for all juvenile crime victims. First, as previously mentioned, assistance with statements through interpretation needs to be provided from the initial stages of the case.

Furthermore, legislative measures appear necessary to strengthen the right to participate in the proceedings, enabling juvenile crime victims to actively state their opinions during the juvenile justice process.[26] Moreover, measures to guarantee the 'right to know' by ensuring victims can quickly obtain information regarding the case processing and its outcome are also considered necessary.

VI. Conclusion

In conclusion, this study has examined the shortcomings of the current legal system that may arise when juvenile justice procedures are conducted for youth with migration backgrounds and has presented potential alternatives.

It is important to clarify that these proposals do not advocate for preferential treatment for these youths over their non-migrant counterparts. Rather, it is argued that while fundamental rights must be guaranteed equally to all, identifying specific factors that require special consideration and providing appropriate support is essential for strengthening the human rights of youth with migration backgrounds.

Fair and proper dispositions that reflect the distinct characteristics of youth with migration backgrounds must be ensured throughout the entire judicial process—from the initial stage of police investigation to adjudication and correction. Through these measures, it is hoped that youth with migration backgrounds can be supported in their sound development and that recidivism can be effectively prevented.

25 For related research, see Jeeyoung Yun, Minkyu Kim, Young-geun Oh, & Jeong-hyeon Oh, *Criminal Justice Response and Development Plans in the Era of the 4th Industrial Revolution (III): Virtual Reality (VR) and 3D Printing*, Cooperative Research Series of the National Research Council for Economics, Humanities, and Social Sciences, Korean Institute of Criminology, 2020, pp. 241–244.

26 For a similar opinion, see Hyeok Kim, "A Discourse on the Transition to Victim-Centered Juvenile Justice and Protection Policy," *Korean Journal of Victimology*, Vol. 28, No. 3, 2020, pp. 127–128.

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Understanding and Responding to Stalking(II)*

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Abstract

This study is based on the recognition that the domestic response to stalking remains focused on punishment and fails to sufficiently reflect offenders' psychosocial characteristics and risks of recidivism. To address this limitation, the study analyzed 241 stalking offenders, including incarcerated individuals as well as those subject to fines or probation.

Most offenders were male and commonly exhibited prior criminal records, alcohol or substance abuse, mental health issues, and unstable employment. Stalking behaviors primarily involved repeated messaging, surveillance, and physical approaches. Among offender typologies, "Rejected Stalkers" showed the highest levels of violence and risk of reoffending.

Risk assessment results identified obsession, threats, and repeated contact as key factors associated with elevated risk. Psychological assessments revealed prominent levels of depression, delusional thinking, and antisocial traits, alongside high stress and low social support.

Based on these findings, the study highlights the need to strengthen police professionalism, establish a risk management system grounded in multi-agency collaboration, and introduce counseling and treatment referrals as part of provisional protective measures, emphasizing an integrated approach to stalking response.

Keywords: Stalking crime, stalking offender, criminal risk factors, risk management strategies, case management strategies

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I . Introduction

Discussions on the response to stalking crime in South Korea have primarily focused on legislative measures, resulting in a lack of empirical research on the characteristics of stalking offenders and response strategies that take these characteristics into account. In order to deter the escalation of stalking crime, it is necessary to identify and intervene in offenders' psychosocial problems and pathological issues that go beyond the cognitive and emotional characteristics of a typical offender.

Given that crime deterrence is difficult to achieve through the mere isolation of stalking offenders without such diagnosis and intervention, there is an urgent need to secure baseline data that can reflect socio-psychological analyses and research findings on these offenders in the design of criminal policy and in public education initiatives.

Overseas criminal justice systems introduced punishment and management measures for stalking crimes earlier than those in South Korea; however, they have identified clear limitations in preventing stalking through punishment and deterrence alone. Due to the nature of stalking crime, early intervention and preventive measures are essential, yet current domestic and international judicial policies continue to focus primarily on post-offense responses.

The diverse characteristics of offenders, particularly mental health issues, represent areas that cannot be adequately addressed by the criminal justice system alone and therefore require the involvement of specialized agencies. Findings from the previous year's research likewise confirmed that domestic stalking offenders require more specialized interventions alongside punitive sanctions.

Accordingly, effective management of stalking necessitates a comprehensive and multi-faceted approach that extends beyond reliance on a single institution within the criminal justice system. International practices, particularly in the United Kingdom, demonstrate multi-agency collaborative responses to stalking crime, including the Fixated Threat Assessment Centre (FTAC), the Multi-Agency Stalking Intervention Programme (MASIP), and Early Awareness Stalking Intervention (EASI).

Accordingly, the primary objective of this study is to collect and analyze empirical data on the characteristics of stalking offenders. This study is a continuation of the research project that began in 2023 (Phase I). In 2023, an empirical study was conducted focusing on stalking offenders incarcerated in correctional facilities, examining their psychosocial characteristics and risks of recidivism.

In the current year, 2024 (Phase II), an empirical study is being conducted on stalking offenders under the probation supervision to analyze their psychosocial characteristics and risks of recidivism. Through this process, the study aims to build empirical data encompassing a wide range of individuals, from serious stalking offenders to those involved in relatively less severe stalking behaviors.

In addition, by aggregating the data collected from incarcerated stalking offenders in Phase I, the study seeks to conduct comparative analyses between incarcerated offenders and those under probation supervision, and to classify stalking offenders into more detailed subtypes in order to explore their specific characteristics.

Based on the characteristics of stalking offenders collected through this study, the research aims to derive effective measures for the risk management of stalking offenders. Because stalking offenders at the investigation and probation stages remain in a non-custodial setting, there exists a continued risk of contact with victims, including the persistence of stalking behaviors or the use of violence. Accordingly, risk management combined with judicial supervision of stalking offenders is of critical importance.

Effective risk management of stalking offenders requires appropriate tools that enable case management of these individuals. In

particular, assessments of recidivism risk can serve as a useful tool for managing stalking cases. Stalking becomes especially dangerous when escalation toward violence is evident, and given the nature of stalking crimes, case management based on the identification of dynamic risk factors is essential. In this regard, the use of fourth-generation risk assessment tools designed for case management is necessary.

Accordingly, this study seeks to introduce fourth-generation risk assessment tools developed and utilized overseas to identify risk factors for stalking recidivism and to propose effective strategies for monitoring offender risk.

Ⅱ. Domestic Stalking Crimes and Offender Characteristics

A. Socio-Demographic Characteristics of Stalking Offenders

An analysis of investigation and trial records for 241 stalking offenders, comprising those sanctioned with fines or probation in 2024 (n = 122) and those incarcerated in 2023 (n = 119), identifies the following characteristics.

Among the fine and probation group, 81.1% (n = 99) were issued summary orders for violations of the Stalking Punishment Act, while 18.9% (n = 23) received suspended sentences. The vast majority of perpetrators were male (91.3%), with a mean age of 41.37 years. This group trended younger than the incarcerated population, with a heavy concentration of individuals in their 20s to 40s.

Regarding educational background, high school graduates represented the largest segment (36.9%, n = 45), followed by those with some college education or a degree (28.7%, n = 35). Compared to the incarcerated group, those fined or on probation showed higher rates of self-employment or private-sector employment. Over half were single (57.4%), while 26.2% were separated, divorced, or widowed; notably, 44.3% lived in single-person households. Furthermore, 59.8% (n = 73) had prior criminal records, averaging 5.15 offenses. Among the 31.1% who exhibited chronic substance issues, the majority struggled specifically with alcohol abuse. Approximately 24% had a history of mental illness, involving a diverse range of diagnoses.

In the aggregate sample, which combines incarcerated offenders from the previous year with those subject to fines or probation in the current year, the vast majority were male (91.3%) with a mean age of 43.33 years. While the age distribution was relatively broad, spanning from those in their 20s to over 60, the 40s age group represented the largest segment at approximately 25%.

High school graduates constituted the largest educational subgroup (43.6%). In terms of professional status, there were notably high concentrations of individuals who were either unemployed (34.9%) or employed in daily or contract-based labor (31.5%). Furthermore, over half of the sample (52.7%) were single.

Criminal history was prevalent, as 76.3% of offenders had prior records with an average of 9.07 prior convictions. Nearly half of the respondents (46.1%) reported chronic alcohol or substance abuse, with alcohol being the primary substance in 91.0% of these cases. Finally, a history of mental illness was reported by 33.6% of offenders, including a significant prevalence of comorbidity (46.9%) among those with mental health histories.

B. Characteristics of Stalking Offenses

In both the fine and probation group and the aggregate sample, the most frequent types of stalking behaviours were identified as “sending messages” (83.8%), “surveillance” (67.6%), and “approaching” (55.2%). Certain acts added in the 2023 revision of the Stalking Punishment Act, such as the distribution or posting of personal information, location data, or edited and synthetic versions of such data via communication networks, appeared rarely in the data.

Furthermore, there were no recorded

instances of offenders impersonating victims through communication networks. Given that these amended legal provisions have only recently been implemented, these behaviours require further examination in future studies. Regarding the duration of stalking, cases involving those fined or on probation frequently concluded within a single day (8.2%) or one week (13.9%). In contrast, the incarcerated group showed a higher prevalence of prolonged stalking, with many cases lasting more than six months (10.9%) or even over a year (14.3%). For both groups, the most common duration was between one and three months (fine/probation: 24.6%; incarcerated: 22.7%), which also represented the largest proportion of the aggregate sample (23.7%).

The presence of violence or sexual violence during stalking episodes was reported in 38.8% of the total sample A clear difference was observed between the two groups; while only 13.1% of the fine and probation group committed acts of violence, 64.7% of incarcerated offenders engaged in stalking accompanied by violence or sexual violence. Among all offenders subjected to at least one victim protection measure, the most frequent were provisional measures (43.8%), emergency temporary measures (31.8%), and emergency measures (24.9%). Notably, more than half of these offenders (56.4%) violated their protection orders, with the highest violation rate occurring among those under provisional measures (57.9%).

Regarding the judicial outcomes of the cases, 81.1% (n = 99) of the 122 offenders in the fine and probation group received summary orders, while 18.9% (n = 23) were given suspended sentences. Within the summary order subgroup, fines ranging from 3 million to less than 4 million KRW accounted for nearly half of the dispositions (49.2%).

Among those who received suspended sentences, the most frequent combination was six months of imprisonment suspended for a period of one or two years (6.6%, n = 8). Furthermore, among all offenders sentenced to prison terms, 63.0% received sentences of at least one year but less than three years.

As for supplementary dispositions, orders to complete stalking treatment programs were the most prevalent, with 84.6% mandated for 40 hours and 5.4% for 80 hours. Other additional measures included mandates for sexual violence treatment programs, educational courses, and community service.

C. Characteristics of Stalking Victims

In both the incarcerated and fine/probation groups, the vast majority of cases involved a single primary victim (95.9%), most of whom were female (84.3%). Notably, the proportion of male victims in the fine and probation group was 15.7% (n = 19), which is approximately three times higher than that observed in the incarcerated group. The mean age of victims in the fine and probation group was 38.56 years, with a heavy concentration of individuals in their 20s and 30s.

Across the aggregate sample, women represented the overwhelming majority of victims (89.0%), and the average age was 40.59 years. The age distribution was relatively balanced: victims in their 20s accounted for 27.2%, followed by those in their 40s (21.8%), 50s (19.2%), and 30s (18.0%).

Regarding the relationship between offenders and victims, 58.1% of the total sample targeted former spouses or intimate partners. Additionally, 15.4% of cases involved “acquaintances” (such as friends or workplace associates), while 11.2% involved “casual acquaintances” (individuals known only by sight). The distribution of these relational dynamics in the fine and probation group closely mirrored the patterns seen in the aggregate sample.

D. Characteristics by Stalking Typology

Stalking offenders were analyzed by subtype using Mullen’s stalking typology. Within the aggregate sample, the “Rejected Stalker” was the most prevalent subtype (63.1%), followed by the “Incompetent Suitor” (14.9%), the “Resentful

Stalker" (12.4%), and the "Intimacy Seeker" (5.8%).

Male offenders constituted the vast majority of the "Rejected Stalker" and "Incompetent Suitor" subtypes, accounting for 95.4% and 100.0%, respectively. In contrast, the proportion of female offenders was significantly higher among the "Intimacy Seeker" (28.6%) and "Resentful Stalker" (30.0%) subtypes compared to other groups. The highest rates of unemployment were observed in the "Incompetent Suitor" (50.0%) and "Resentful Stalker" (40.0%) subtypes. Notably, 85.7% of the "Intimacy Seeker" subtype were either unemployed or engaged in daily/contract-based labor. Across all subtypes, unmarried offenders and those who were separated, divorced, or widowed represented a high proportion of the sample.

Offenders with prior criminal records outnumbered those without across all subtypes, with fewer than 20 prior convictions being the most frequent category. However, a substantial number of "Rejected Stalkers" had 20 or more prior convictions. This subtype also exhibited a high prevalence of intimate partner violence (IPV) or domestic violence (54.6%). Furthermore, the "Rejected Stalker" group showed the highest rate of alcohol or substance abuse (50.7%) but the lowest prevalence of mental illness history (25.0%). In contrast, a history of mental illness was most prevalent among the "Incompetent Suitor" subtype (63.9%), followed by the "Resentful Stalker" (43.3%).

An examination of physical violence revealed that the "Rejected Stalker" subtype had the highest rate, with 48.7% engaging in violence during their stalking offenses. This was followed by the "Intimacy Seeker" (35.7%), "Incompetent Suitor" (22.2%), and "Resentful Stalker" (13.8%) subtypes. Consistent with prior research, "Rejected Stalkers" were the most likely to use violence against victims, often involving cases where violence had already occurred during a prior relationship. These findings suggest that this subtype requires the most intensive level of management and supervision.

Finally, the "Intimacy Seeker" subtype showed a notable violence rate of 35.7%, and half of these offenders continued their stalking behavior for more than one year, indicating that this group also warrants close clinical and legal attention.

E. Risk Assessment of Stalking Crimes

Based on investigation and trial records, the risk levels of stalking offenders were assessed using the Stalking Assessment and Management (SAM) tool, a specialized instrument for stalking risk evaluation. First, among stalking-related characteristics, frequent communication with the victim (86.7%), approaching the victim (74.3%), and direct contact (62.2%) were commonly observed. Additionally, behaviors involving the intimidation or frightening of the victim (80.1%), explicit threats (58.5%), and the continued persistence of stalking (60.6%) were identified as major risk factors, whereas stalking accompanied by actual physical violence (29.9%) was rated relatively lower. Regarding perpetrator-related risk factors, high frequencies were noted for intimate relationship conflicts (78.0%), anger (75.9%), antisocial lifestyle (68.9%), lack of remorse (68.5%), emotional instability (63.1%), and obsession (61.4%), with the "Rejected Stalker" subtype exhibiting particularly pronounced antisocial attitudes and a strong fixation on the victim.

In terms of victim-related factors, emotional instability (78.4%), unsafe living environments (52.7%), relationship conflicts (48.1%), and inconsistent behavior toward the offender (45.6%) emerged as primary vulnerability factors. These elements can diminish a victim's capacity for self-protection, highlighting the urgent need for enhanced physical security and expanded monitoring systems. An analysis of aggregated SAM scores by subtype revealed that the "Rejected Stalker" recorded the highest scores for stalking-related characteristics, while the "Intimacy Seeker" scored highest on perpetrator-related risk factors,

and the "Rejected Stalker" again showed the highest scores for victim vulnerability. However, the "Resentful Stalker" recorded the highest overall total score, and the "Intimacy Seeker" subtype included the largest number of offenders classified in the "High-Risk" category. In summary, the "Rejected Stalker" was rated highly for both stalking-related risks and victim vulnerability, ranking second-highest in both overall risk classification and SAM total scores. The "Intimacy Seeker" subtype received elevated risk ratings due to perpetrator-specific factors, while the high average SAM score for the "Resentful Stalker" was driven by a specific subset of high-scoring offenders. These findings underscore the necessity for differentiated response and management strategies tailored to the distinct risk profile of each stalking subtype.

F. Violence in Stalking and Violations of Victim Protection Measures

To examine the effects of offender-related and stalking-related variables on stalking accompanied by violence and violations of victim protection measures, regression analyses were conducted. The first dependent variable was the presence of violence during the stalking incident (yes/no), with independent variables including offenders' prior histories, personal characteristics, and stalking-specific traits. In the first model, offenders' prior criminal records and histories of substance abuse were found to increase the likelihood of violent stalking by more than twofold. The second model, which controlled for prior histories, revealed that substance abuse history and obsession with the victim also increased the likelihood of violence by more than twofold. In the third model, controlling for both prior histories and personal characteristics, stalking-related factors such as contact with the victim, threats, and violations of surveillance conditions significantly influenced the occurrence of violence. Specifically, stalking involving threats was associated with a nearly fourfold increase in the probability of violence compared to cases without threats. Direct contact with the victim and violations of surveillance conditions each increased the likelihood of violence by approximately threefold. Furthermore, offenders classified under the "Rejected Stalker" subtype were approximately five times more likely to engage in violence than non-rejected subtypes.

Second, an analysis of factors influencing violations of victim protection measures showed that, in the first model focused solely on prior history, offenders with a history of substance abuse were approximately four times more likely to violate protection measures than those without such a history. In the second model, which incorporated offender characteristics, substance abuse history remained a significant predictor, while obsessive tendencies and employment or economic instability also emerged as influential factors. The third model, which added stalking-related characteristics while controlling for prior histories and personal traits, confirmed that substance abuse history, obsession, and socio-economic problems continued to have significant effects on protection measure violations. However, none of the stalking-specific variables showed a statistically significant effect on the violation of these measures. Specifically, offenders with a history of substance abuse were 3.83 times more likely to violate protection measures, those with obsessive tendencies were 2.25 times more likely, and those facing employment or economic problems were 2.19 times more likely to do so.

G. Psychological Characteristics of Stalking Offenders

An examination of the psychological characteristics of stalking offenders, based on mean PAI (Personality Assessment Inventory) scores and the prevalence of clinically significant cases, indicates that the most prominent clinical concerns include depression, delusional symptoms, borderline features, antisocial traits, and alcohol-related problems. Among the treatment consideration scales, stress levels,

suicidal ideation, and lack of social support were markedly elevated compared to normative adult samples. Specifically, stalking offenders showed moderately higher levels of affective depression relative to the general population. Within the psychotic symptom scales, a significant number of offenders exhibited symptoms consistent with delusional disorder or paranoid personality features, characterized by persecutory ideation, resentment, hypervigilance, and social withdrawal.

Psychotic symptoms, such as social withdrawal and delusional thinking, were more pronounced in non-rejected stalkers than in rejected stalkers. Furthermore, personality pathology related to borderline and antisocial features was higher than that of general adult samples, and a substantial proportion of offenders demonstrated problematic drinking patterns and alcohol dependence.

On the treatment consideration scales, levels of experienced stress were significantly higher than the mean values of the general adult comparison group. Given that approximately half of the sample fell within the clinically significant range for stress and lack of social support, it can be inferred that many stalking offenders experience high levels of recent life stress while lacking adequate social support networks.

Conversely, scores on the treatment rejection scale suggested that most stalking offenders do not resist therapeutic intervention, indicating a profound need for psychological interventions such as counseling or psychotherapy. Across the clinical scales, it is estimated that approximately one in four offenders requires urgent clinical intervention, defined by scores exceeding 65T in most domains.

When categorized into rejected and non-rejected subtypes, rejected stalkers exhibited levels of dominance and warmth similar to the adult normative sample, indicating a general capacity for interpersonal interaction. In contrast, non-rejected stalkers showed lower levels of interpersonal control and autonomy, often displaying patterns of fixation, delusion, and regression linked to their psychotic states. Clinical scales further indicate that non-rejected stalkers experience higher levels of neurotic and psychotic issues than rejected stalkers. The non-rejected group often includes socially withdrawn and timid individuals characterized by sadness, anhedonia, and diminished interest in daily activities or physical and sexual pursuits, making active romantic pursuit difficult (Yoon et al., 2023).

Elevated resentment scores suggest a tendency to feel unfairly treated or humiliated in relationships, often attributing personal misfortune to others. While the initial study by Yoon et al. (2023) on incarcerated offenders found that rejected stalkers had more significant issues with borderline features and substance abuse, this distinction diminished when offenders receiving fines or probation were included. However, aggression remained higher among rejected stalkers, while suicidal ideation, stress, and lack of social support were more acute among non-rejected offenders.

By specific subtype, intimacy seekers showed elevations in somatic complaints, anxiety, depression, delusions, schizophrenia-related features, antisocial traits, suicidal ideation, and stress, standing out as the group with the most pronounced psychotic features. They often approach victims based on distorted relational beliefs while disregarding the victim's perspective. Incompetent suitors exhibited high levels of depression, delusions, alcohol problems, suicidal ideation, and stress, representing socially isolated individuals with pessimistic outlooks and fragile support systems.

Finally, resentful stalkers showed elevated levels of anxiety-related disorders, antisocial features, and substance abuse, characterized by high anger and chemical dependence.

H. Life History and Development of Stalking Offenders

This study analyzed the life course development of stalking offenders through in-depth interviews. Compared to incarcerated offenders, those subject to fines or probation demonstrated more diverse life trajectories. Childhood experiences varied significantly; while half the participants formed secure attachments in stable households, others experienced unstable relationships due to parental conflict or strict discipline, leading to weakened emotional bonds. In some cases, academic pressure resulted in only superficial emotional interactions. During school years, although some struggled with adjustment due to family issues, the majority maintained positive peer relationships without major difficulties. Adolescent delinquency was typically minor, such as smoking or alcohol use, with juvenile criminal records found in only one case. Except for socially isolated "Incompetent Suitors," most maintained regular social functioning and received support from family and colleagues into adulthood. An examination of socio-affective functioning identified obsession and impulsivity as key risk factors, particularly in the "Rejected Stalker" subtype where unemployment and an inability to accept separation fueled emotional immersion. Revenge and hostility motivated some "Rejected" and "Resentful" types, who exhibited distrust and antisocial attitudes.

While most had no history of substance abuse, alcohol occasionally hindered impulse control at the time of the offense. Although some had sought psychiatric treatment for depression or anxiety, mental illness was rarely the primary cause, with the notable exception of one individual with schizophrenia-driven erotomanic delusions. Most participants did not struggle in romantic relationships, yet some held distorted views of women, prioritizing sexual goals over emotional bonds or misinterpreting social cues due to poor social skills. Motivations varied by subtype: “Rejected Stalkers” were driven by lingering attachment, “Incompetent Suitors” by loneliness and the false belief of reciprocated interest, and “Resentful Stalkers” by anger rooted in low self-esteem. The effectiveness of law enforcement warnings was mixed; some were deterred, while others, blinded by emotional arousal, ignored them. Many suggested that combining sanctions with counseling would better facilitate rational appraisal.

Responsibility acceptance ranged from full acknowledgment to blame-shifting and justification, with the latter reflecting typical cognitive distortions. While many expressed a willingness to change, their plans often lacked specificity. Evaluations of treatment programs were also split; while some valued case sharing and learning about the Stalking Punishment Act, others viewed it as a waste of time due to low motivation or a sense of excessive punishment. This highlights the need for pre-program motivation assessments. Participants recommended including psychological counseling and self-reflection in programs and stressed the need for better public outreach regarding the law. Finally, the study identified a need for individualized treatment. The current “one-size-fits-all” group format is ineffective for those with cognitive limitations or urgent psychiatric needs and risks exposing low-risk offenders to antisocial influences. Consequently, treatment group composition and intensity must be differentiated based on individual risk levels and specific needs.

Ⅲ. Establishing a Specialized Risk Management Framework for Stalking Offenders

A. Enhancing Police Expertise in Stalking Response

The lack of clarity in identifying stalking behaviors and the insufficient understanding of the dynamics of dating violence and stalking, particularly within intimate relationships, are global issues not unique to South Korea. Due to inadequate police responses, many victims feel that reporting incidents does not lead to

appropriate prosecution or that the police fail to restrain stalkers early on (Quinn-Evans et al., 2021). This perception ultimately discourages reporting, as victims grow skeptical of the police's willingness or ability to take meaningful action.

To address these issues, a specialized police response is essential—one grounded in a deep understanding of stalking's unique characteristics, the critical nature of early detection, and the efficacy of legal sanctions. The U.S. Department of Justice stalking response protocol emphasizes the need to "reexamine conventional policing methods" that may be ill-suited for stalking victims. It highlights that stalking is often "covert," differing from overt violence, and urges a "careful" evaluation of how legal remedies affect both offenders and victims (NCVC, 2002).

Stalking response training should not be confined to specialized units; it must be extended to all personnel, including patrol officers and investigators. These programs should improve officers' understanding of stalking typologies and risk factors, while ensuring that the victim's psychological and behavioral reactions are integrated into the frontline response and investigation. Furthermore, the U.S. DOJ recommends systematizing data collection, enhancing inter-agency collaboration to coordinate victim services, and establishing monitoring systems for police conduct. These guidelines specify that such protocols must be accessible to all first responders including emergency dispatchers (112/119) and patrol officers rather than just specialized units (NCVC, 2002).

Reflecting on these international precedents, South Korea's current training system, which is largely concentrated on specialized stalking officers, must be expanded comprehensively. By including emergency call handlers, local patrol officers, and investigators, the police can build a more robust, all-encompassing capacity to respond to stalking.

B. The Need for a Multi-Agency Collaborative Framework in Stalking Risk Management

Even with enhanced expertise and response capabilities, the police often face limitations in addressing stalking alone. Many offenders are either unwilling or, due to psychiatric symptoms, unable to accept a victim's rejection. Consequently, even when prompt initial measures and protection orders are in place, stalking behaviors often escalate through persistent contact and threats during investigations, sometimes culminating in severe violent crimes.

The findings of this study suggest that the persistence and severity of stalking are closely linked to the rejected stalker typology. These offenders frequently exhibit cognitive distortions such as rumination, obsessive preoccupation with the relationship, or hostile perceptions of the victim. When coupled with impulsivity from alcohol abuse, these factors become clear predictors of potential violence. These results underscore that preventing violent escalation requires direct intervention in the offender's mental health. This necessitates not only specialized assessment tools and professionals but also psychological interventions specifically designed to mitigate criminogenic risk factors.

A multi-agency collaborative approach addresses the vulnerabilities of single-agency management, such as an over reliance on criminal investigations. Instead, it prioritizes comprehensive risk management as its primary objective. This framework integrates various stakeholders including the police, probation and correctional services, mental health and social welfare providers, the courts, and victim support services to effectively manage offender risk and enhance victim safety.

The success of this model depends on consistent cooperation based on a shared understanding of stalking. Its core functions

involve integrated offender supervision, therapeutic intervention, victim safety planning, and community support. Offender management includes continuous monitoring of protection orders, compliance checks for electronic tracking, and surveillance of potential contact with victims. It also involves identifying acute risk factors that may shift the danger level of a case.

Therapeutic interventions focus on the root causes of stalking to permanently cease the behavior. Meanwhile, victim safety planning is conducted alongside support agencies to develop and share safety protocols. This includes informing victims of relevant offender data, providing safety advice, and managing victim behaviors that might inadvertently heighten risk (McEwan et al., 2024). Finally, community support aims to prevent recidivism by assisting offenders with employment and vocational development as they reintegrate into society following legal sanctions.

C. Introducing Counseling and Treatment Referrals as Emergency and Provisional Measures

The public outcry following cases where stalking escalated to homicide, despite the use of provisional and personal safety measures, has highlighted the inadequacy of current legal protections. Critics argue that existing measures, which primarily focus on restraining orders, fail to act as effective coercive sanctions. While custodial options like electronic monitoring have since been introduced, there has been little progress in discussing therapeutic or educational interventions that address the specific risk profiles of stalking offenders.

Provisional measures under the Stalking Punishment Act are intended to protect victims by forcing an immediate halt to the offender's behavior. While these are similar to temporary measures under the Domestic Violence Punishment Act, a key difference exists: the Domestic Violence Act allows for counseling and treatment referrals, whereas the Stalking Act does not. This discrepancy stems from their different legal foundations. Domestic violence measures act as interim dispositions aimed at behavioral correction and prevention, while stalking measures are characterized as preemptive criminal sanctions.

However, research from the past two years suggests that preventing recidivism in relationship-based crimes like stalking requires a more nuanced approach. We must assess the offender's psychological traits, situational factors, and the victim's specific vulnerabilities to predict and prevent imminent harm. Relying solely on criminal sanctions is often insufficient. In fact, because stalking can escalate into severe violence following legal intervention, it is vital to complement criminal penalties with psychological and therapeutic measures.

Feedback from victim support organizations reinforces this need. Many victims are reluctant to pursue active legal measures because they fear that criminal sanctions might provoke the offender rather than stop them. The high violation rate of current provisional measures further proves that traditional legal restraints alone cannot manage the unique psychology of stalkers.

Therefore, this study proposes incorporating counseling and treatment referrals as formal provisional measures under the Stalking Punishment Act (Yoon et al., 2023). Although therapeutic interventions are most effective when voluntary, the cognitive distortions common among stalkers—who often justify their actions and lack self-awareness—make voluntary participation unlikely. The failure of current, non-binding police counseling programs underscores the need for legally mandated intervention. By integrating treatment into the provisional measure framework, the justice system can establish a more holistic approach that combines punishment with essential risk management.

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A Study on Elementary School Teachers' Experiences of Infringement on Educational Activities and Their Views on Protection Policies*

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Abstract

Following an incident in 2023, in which excessive complaints from parents and students and an overwhelming workload led to the death by suicide of an elementary school teacher, the seriousness of infringements on educational activities in schools has once again raised public concerns in South Korean society. Subsequently, the South Korean government, along with various ministries including the Ministry of Education, has initiated policy efforts.

Accordingly, this study aimed to examine the experiences of infringements on educational activities among elementary school teachers and their views on current laws and policies for protecting educational activities. Based on these findings, the study sought to present implications for preventing infringements on educational activities of teachers and for strengthening the protection of teachers in the course of their educational activities.

* This article is a revised version of part of the research report by Kim et al. (2024). In addition, part of this research was presented at the 2024 Fall Conference of the Korean Association for Public Administration, held on 15 November 2024.

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The results of the analysis indicate that, above all, in order to prevent infringements on educational activities in elementary schools, efforts are required to strengthen communication and trust among students, guardians/parents, and teachers. In addition, active efforts by administrators to protect educational activities are essential to ensuring that support and protection are provided at the school level, rather than being left to individual teachers.

Furthermore, whilst elementary school teachers viewed the recent legal and institutional changes for protecting educational activities presented in the survey as effective, their level of awareness of these changes was relatively low. To enhance policy effectiveness, it is necessary to actively promote and provide education to teachers regarding recent legal and institutional changes for protecting educational activities. The findings of this study can serve as foundational data for the development of more effective policies for the protection of educational activities and contribute to a more concrete understanding of school settings.

Keywords: Protection of Educational Activities; Infringements on Educational Activities; Elementary School Teachers

I . Introduction

Following an incident in 2023 in which an elementary school teacher died by suicide due to excessive complaints from parents and students and an overwhelming workload, the seriousness of infringements on educational activities in schools has once again emerged as a major public concern in South Korean society. In particular, in the second half of 2023, the so-called "Four Acts for the Protection of Teachers' Rights"—namely, the Elementary and Secondary Education Act, the Early Childhood Education Act, the Act on the Improvement of Teachers' Status and the Protection of Their Educational Activities (hereinafter referred to as the Act on the Status of Teachers), and the Framework Act on Education—were amended on 27 September 2023 and came into force on 28 March 2024[1]. In addition, the Act on Special Cases Concerning the Punishment of Child Abuse Crimes was amended and implemented on 26 December 2023[2] to ensure that cases of child abuse are addressed in a manner that takes into account the specific characteristics of educational settings.

Nevertheless, calls for more effective policies remain strong within school settings. The issue is particularly significant, as infringements on educational activities and the resulting harm are not limited to individual teachers or those directly involved, but constitute a major factor contributing to the contraction of educational activities within schools, teachers leaving the profession, and, ultimately, a decline in the quality of education.

The seriousness of harm resulting from infringements on teachers' educational activities has also been demonstrated in previous studies, which have mainly focused on violence towards teachers. A meta-analysis of student violence against teachers found that prevalence rates over a two-year period ranged from 20.1% to 75.2%, depending on the type of victimisation, with a pooled prevalence rate of 53%. Non-physical victimisation was several times more common than physical violence, and, whilst verbal abuse may appear less severe, its frequent occurrence can lead to serious negative consequences (Longobardi et al., 2019: 596).

As a result of such infringements, educational activities within schools are constrained and teachers leave the profession, ultimately leading to a decline in the quality of education. Between March 2022 and April 2023, a total of 589 teachers across elementary, middle, and high schools with less than five years of service resigned from their positions—nearly double the figure recorded during the same period in the previous year (303 teachers). One of the main factors identified is the lack of institutional-level efforts to address infringements on educational activities, rather than continuing to treat such infringements as problems to be handled by individual teachers[3]. Similarly, a panel study on teacher victimisation in the United States found that teachers who experienced persistent violence were more likely to suffer from job dissatisfaction and emotional distress, thereby increasing their likelihood of leaving the profession (Moon et al., 2023).

Accordingly, this study aimed to examine elementary school teachers' experiences of infringements on educational activities and their views on current laws and policies designed to protect such activities. On this basis, the study sought to derive implications for preventing infringements on teachers' educational activities and for strengthening the protection of teachers in the course of their educational activities.

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1 Ministry of Education (Republic of Korea), "Four Acts for the Protection of Teachers' Rights Approved at the Plenary Session of the Education Committee," press release, 15 September 2023, https://www.moe.go.kr/boardCnts/viewRenew.do?boardID=294&lev=0&statusYN=W&s=moe&m=020402&opType=N&boardSeq=96388 (accessed 19 December 2025).

2 Act on Special Cases Concerning the Punishment of Child Abuse Crimes, enforced on 26 December 2023 (Act No. 19832, partially amended on 26 December 2023). The legislative intent and reasons for enactment and amendment are referenced.

3 BBC News Korea, "Disappearing Young Teachers: Where Are They Heading After Leaving Schools?" article published on 4 July 2024, https://www.bbc.com/korean/articles/cq5xl5y8x34o (accessed 19 December 2025).

Ⅱ. Concepts and Types of Infringements on Teachers' Educational Activities

1. Concept of Infringements on Teachers' Educational Activities

In this study, the concept of 'infringements on teachers' educational activities' was employed separately. Whilst the research scope was grounded in the types of infringements stipulated in the Act on the Status of Teachers, the analysis adopted a broader conceptualisation that encompasses not only acts of infringement experienced by individual teachers in school settings, but also the resulting psychological and physical harm. This approach was intended to enable a comprehensive understanding of such experiences, subsequent responses, and outcomes.[4]

Accordingly, based on Article 19 of the Act on the Status of Teachers, this study classified the concept of "infringements on teachers' educational activities" into two categories: acts of infringement against teachers' educational activities committed by students at schools below the high school level and their guardians during educational activities, and the resulting harm, including unreported cases.

2. Classification of Types of Infringements

To gain a more detailed understanding of infringements on teachers' educational activities occurring in schools and to conduct the survey, the study classified such infringements into a total of 15 types, as presented below.

<Table 1> Types of Infringements on Teachers' Educational Activities: Conceptual Definitions

Type	Conceptual Definition
Non-compliance with legitimate student guidance	Acts that intentionally disrupt educational activities by not complying with teachers' legitimate guidance on student conduct.
Persistent imposition of tasks not required by law	Acts that continuously compel teachers to perform tasks that are not legally required as part of their scope of professional duties or prescribed in the curriculum.
Repeated filing of complaints with unjustified purposes	Acts involving the continuous and repetitive presentation of unreasonable demands to teachers or schools for personal gain or the expression of dissatisfaction.
Defamation and insult	• Defamation: Acts that damage a person's reputation by publicly disseminating or spreading true or false information that undermines their social value or standing. • Insult: Acts that express contemptuous feelings in front of others that can degrade a specific person's social evaluation.
Obstruction of official duties	Acts that interfere with the official duties (legitimate educational activities) of teachers in national or public schools through violence, threats, or fraudulent means.
Intimidation	Acts that generally convey an intention to cause harm in a manner sufficient to induce fear in another person.
False accusation	Acts involving the reporting of false information to investigative authorities, local governments, or their public officials, through accusations, complaints, petitions, or other means, for the purpose of subjecting another person to criminal or disciplinary punishment.

4 Given the interrelated nature of the educational community, which comprises students, parents or guardians, and teachers, a degree of caution is required in using the terms "educational activities" and "victimisation" together. However, in order to comprehensively examine teachers' experiences of infringements on educational activities and to avoid confusion with the results of the Ministry of Education's Survey on the Status of Infringements on Educational Activities, this study adopted a distinct conceptual approach.

Type	Conceptual Definition
Distribution of illegal information	Acts that infringe upon educational activities by distributing illegal information through telephone communications or internet access via computers, including: ① the distribution, sale, rental, or public display of obscene symbols, text, sounds, images, or videos; ② the public disclosure of true or false information with the intent to defame others and thereby damage their reputation; ③ the repeated distribution of illegal information intended to cause symbols, text, sounds, images, or videos that induce fear or anxiety to be delivered to another person.
Illegal audio recording	Acts of recording a teacher's voice that has not been publicly disclosed during ordinary educational activities without the teacher's consent.
Unauthorised distribution of recordings or manipulated materials of teachers during educational activities	Acts of unauthorised distribution of materials created by filming, recording, audio-recording, or manipulating a teacher's video, images, or voice during educational activities.
Damage of property	Acts that damage the utility of another person's property, documents, or electronic records by exercising physical force, concealing them, or using other means.
Injury and assault	Acts that harm another person's physical health or cause impairment of bodily functions (including psychological harm), whether through direct or indirect, tangible or intangible means.
Stalking offences	Acts that, on a continuous or repetitive basis and against the will of the other party without justifiable reason, cause fear or anxiety by delivering objects or making one's presence known through mail, telephone, fax, or information and communication networks.
Sexual harassment	Acts that cause sexual humiliation or aversion through verbal or behavioural sexual conduct directed at teachers during educational activities.
Sexual violence	Acts constituting sexual violence offences, including rape, forced molestation, public indecency, the manufacture or distribution of obscene materials, obscene acts by using means of communication, filming using cameras, and the distribution of fabricated or manipulated sexual images or videos.

Notes: 1. The above notification refers to the Notification on the Criteria for Infringement on Educational Activities and Corresponding Measures.
2. Illegal audio recording and stalking were classified as separate categories by the research team for the purposes of the empirical analysis.
3. Original sources: compiled with reference to Lee et al. (2023, pp. 40–41) and the Ministry of Education and the Korean Educational Development Institute (2024, pp. 77–100).
4. Source: presented with a modified order based on Table 1-3-2 in Kim et al. (2024).

Ⅲ. Overview of the Survey

In order to examine teachers' views on policies for the protection of educational activities and the current status of infringements on teachers' educational activities, the target population of the survey was defined as teachers at national and public elementary schools nationwide (including Jeju Island) who are responsible for classroom instruction and student curriculum-related teaching and student guidance. This included homeroom teachers, special education teachers, subject-specialist teachers, and school administrators, namely principals and vice principals. Contract teachers were also included alongside permanent teachers. As the survey aimed to examine experiences of infringements on educational activities and related responses, teachers with less than six months of actual work experience at the time of the survey were excluded from the sample.

Using regular teachers at national and public elementary schools nationwide as the study population, this study employed a multi-stage stratified cluster sampling method, with samples allocated in proportion to the square root of the

number of teachers in each region, taking into account region (17 cities and provinces) and regional size (special cities, metropolitan cities, small and medium-sized cities, and town/rural areas). With the assistance of survey coordinator teachers at participating schools, an online survey link was distributed to eligible teachers within each school, and responses were collected through a self-administered questionnaire. The survey was conducted between 19 August and 5 October 2024, during which responses were obtained from 10,000 elementary school teachers and 573 principals and vice principals. The survey was also conducted among school administrators, in addition to teachers, in order to examine and compare the two groups' views on policies related to the protection of educational activities within schools.

IV. Results of the Survey

1. Experiences of Infringements on Educational Activities among Elementary School Teachers

This section examines the status of infringements on educational activities experienced by elementary school teachers in South Korea. When responding to questions on victimisation, respondents were instructed to indicate all applicable types of infringements when multiple types occurred within a single incident, in order to capture teachers' detailed individual experiences.

In particular, experiences of infringements on educational activities were examined over an approximately seven-month period from March to September 2024. This period was selected for focused analysis because amendments to the Act on the Status of Teachers, enacted on 27 September 2023 and implemented from 28 March 2024, explicitly added several acts to the list of infringements on educational activities, including obstruction of official duties, false accusation, repeated filing of complaints with unjustified purposes, and the persistent imposition of tasks not required by law. In addition, based on Article 19(1)(d) of the Act on the Status of Teachers, this study additionally classified illegal audio recording and stalking offences as distinct types of infringements on teachers' educational activities, as they were considered to involve particularly severe harm.

The results show that, among elementary school teachers, 55.8% reported having experienced no infringements on their educational activities during the approximately seven-month period from March to September 2024, whilst 44.2% reported having experienced at least one type of infringement. This indicates that a substantial proportion of teachers experienced infringements on educational activities and the resulting harm during the 2024 academic year.

Specifically, the most frequently reported types were non-compliance with legitimate student guidance (32.9%), repeated filing of complaints with unjustified purposes (15.4%), and persistent imposition of tasks not required by law (13.7%). These types not only occur frequently in school settings but also constitute acts that unjustifiably interfere with or restrict teachers' educational activities. These findings suggest that teachers' awareness of these infringements increased following the amendment of the Act on the Status of Teachers on 27 September 2023, which explicitly stipulated these acts as infringements on educational activities.

In addition, a relatively high proportion of teachers reported experiencing defamation or insult (10.1%), with this type also exceeding a 10% prevalence rate alongside the three types mentioned above. This was followed by obstruction of official duties during educational activities (7.2%), injury or assault (6.9%), damage of property (6.0%), and intimidation (5.5%), each reported by more than 5% of respondents. Notably, 6.9% of teachers reported having experienced physical harm, such as injury or assault, during educational activities, indicating that such experiences were not uncommon. Other reported types included illegal audio

recording (3.3%), false accusation (3.0%), distribution of illegal information (2.7%), stalking offences (2.6%), and unauthorised distribution of recordings or manipulated materials during educational activities (1.7%). Experiences of sexual harassment during educational activities were reported by 2.7% of respondents, whilst experiences of sexual violence were reported by 0.7%.

2. Views on the Causes of Educational Activity Infringement in Elementary Schools

This section examines teachers' and school administrators' views on the causes of infringements on educational activities in elementary schools, with respondents asked to select up to three main factors that they considered to contribute to such infringements.

Among elementary school teachers, the most frequently identified cause was a lack of respect for teachers' educational activities among parents (90.4%). This was followed by a declining societal respect for the teaching profession (70.7%), students' emotional or behavioural problems (65.9%), insufficient efforts by school administrators (principals and vice principals) to protect educational activities (25.9%), and a lack of communication and trust between students·guardians and parents·teachers (23.6%). School administrators also most frequently reported a lack of respect for teachers' educational activities among parents as a primary cause (86.6%). This was followed by a declining societal respect for the teaching profession (67.4%), students' emotional or behavioural problems (62.0%), and a lack of communication and trust between students·guardians and parents·teachers (48.9%).

<Table 2> Infringements on Teachers' Educational Activities (Multiple Responses): Status by Type

Unit: %

Category	2024 Academic Year (March–September 2024, approx. 7 months)
Non-compliance with legitimate student guidance	32.9
Persistent imposition of tasks not required by law	13.7
Repeated filing of complaints with unjustified purposes	15.4
Defamation or insult	10.1
Obstruction of official duties	7.2
Intimidation	5.5
False accusation	3.0
Distribution of illegal information	2.7
Illegal audio recording	3.3
Unauthorised distribution of recordings or manipulated materials during educational activities	1.7
Damage of property	6.0
Injury or assault	6.9
Stalking offences	2.6
Sexual harassment	2.7
Sexual violence	0.7

Notes: 1. In cases where multiple types of infringements on educational activities occurred within a single incident, respondents were instructed to report all applicable types.
2. The weighted population of teachers, after applying design weights, was 158,112.

These results indicate that both teachers and school administrators commonly regard a lack of respect for educational activities among parents as the most significant cause of infringements on educational activities in elementary schools. In addition, both groups identified a decline in societal respect for the teaching profession and students' emotional or behavioural problems as important contributing factors. By contrast, whilst around 20% of teachers identified a lack of efforts by school administrators to protect educational activities as a cause, nearly half of school administrators responded that a lack of communication and trust between students·guardians and parents·teachers was a cause. This indicates, from the perspective of school administrators, that a lack of communication and trust among the key actors in education may be a major cause of infringements on educational activities, and that this perception is stronger than that of teachers.

Considering these results, the findings suggest that preventing infringements on educational activities in elementary schools requires not only efforts to strengthen communication and trust among students, parents or guardians, and teachers, but also more proactive engagement by school administrators in protecting educational activities.

3. Awareness of and Views on Changes in Laws and Institutions Related to the Protection of Educational Activities among Elementary School Teachers

1) Awareness of changes in laws and institutions related to the educational activity protection

Since 2023, a number of legal and institutional changes have been introduced to protect educational activities in schools. For these changes to be effective, teachers and school administrators must be aware of them and recognise their effectiveness. Accordingly, this study examined teachers' and school administrators' awareness of, and views on, recent changes in laws and institutions related to the protection of educational activities.

Across all items, the proportion of respondents who reported that they were well aware of recent legal and institutional changes related to the protection of educational activities was higher among school administrators than among teachers. In contrast, the proportions of teachers who reported having heard of such changes, having only limited awareness of them, or being not aware of them at all were higher than those of administrators. Among administrators, approximately 70–80% reported being well aware of most of the items examined (with the

<Table 3> Views on the Primary Causes of Infringements on Educational Activities in Elementary Schools (Multiple Responses)

Unit: %

Category	Teachers	School Administrators
Students' emotional or behavioural problems	65.9	62.0
Lack of respect for educational activities among parents	90.4	86.6
Lack of teachers' student guidance methods tailored to students' characteristics	7.7	11.0
Lack of communication and trust between students·guardians and parents·teachers	23.6	48.9
Insufficient efforts by school administrators to protect educational activities	25.9	1.4
Declining societal respect for the teaching profession	70.7	67.4
Other	6.8	3.8

exception of the obligation of parents or guardians to respect and cooperate with educational activities, and the direct hotline for educational activity infringement (1395)). Among teachers, by contrast, the proportion reporting that they were well aware was slightly above 40% for the items "teachers' legitimate student guidance is excluded from child abuse" and "prohibition of suspension from duty unless legitimate grounds exist when a teacher is reported for child abuse." For the transfer of authority to regional Teacher Rights Protection Committees, the proportion reporting that they were well aware was slightly above 30%. For the remaining items, the proportion of teachers reporting that they were well aware ranged between 10% and 20%. Meanwhile, between 10% and 40% of teachers reported that they were not aware at all of recent legal and institutional changes related to the protection of educational activities.

These findings suggest that more effective and proactive educational efforts are required to inform and explain to teachers the laws and institutions related to the protection of educational activities.

<Table 4> Awareness of Recent Changes in Laws and Institutions Related to the Protection of Educational Activities

Unit: %

Item	Group	Not aware at all	Have heard of it / limited awareness of them	Well aware
① Addition of a list of infringements on educational activities to the Act on the Status of Teachers	Teachers	14.8	60.1	25.1
	Administrators	1.2	20.5	78.2
② Teachers' legitimate student guidance is excluded from child abuse	Teachers	11.9	46.5	41.6
	Administrators	1.8	13.8	84.4
③ Prohibition of suspension from duty unless legitimate grounds exist when a teacher is reported for child abuse	Teachers	14.5	44.2	41.2
	Administrators	2.1	14.4	83.6
④ Mandatory submission of opinions by the Superintendent of Education in cases where a teacher is subject to investigation for child abuse offences	Teachers	32.4	39.1	28.4
	Administrators	3.2	16.5	80.3
⑤ Legal stipulation in the Framework Act on Education of parents' or guardians' obligation to respect and cooperate with educational guidance	Teachers	29.4	45.8	24.9
	Administrators	6.2	26.9	66.9
⑥ Authority of Teacher Rights Protection Committees to impose measures, such as written apologies and special education, on parents or guardians who infringe educational activities	Teachers	23.1	48.7	28.2
	Administrators	2.8	21.1	76.1
⑦ Transfer of Teacher Rights Protection Committees from individual schools to regional Teacher Rights Protection Committees	Teachers	30.0	37.9	32.1
	Administrators	1.9	8.4	89.7
⑧ Expansion and reorganisation of existing Teacher Healing Centres into Educational Activity Protection Centres	Teachers	40.4	40.9	18.7
	Administrators	4.6	25.5	69.8
⑨ Institutionalisation of school principals' responsibility for handling complaints	Teachers	35.0	40.2	24.8
	Administrators	5.0	21.8	73.2
⑩ Operation of a direct hotline (1395) for infringement on educational activities	Teachers	42.4	38.5	19.0
	Administrators	8.6	35.1	56.3
⑪ Financial support for litigation costs incurred when filing or facing civil and criminal lawsuits due to infringements on educational activities	Teachers	25.2	48.5	26.3
	Administrators	2.9	18.5	78.5

2) Views on the Effectiveness of Changes in Laws and Institutions Related to the Protection of Educational Activities

Regarding views on the effectiveness of recent legal and institutional changes, financial support for litigation costs incurred when filing or facing civil and criminal lawsuits due to infringements on educational activities received the highest mean score (4.33) among teachers. This was followed by the prohibition of suspension from duty unless legitimate grounds exist when a teacher is reported for child abuse (4.26), the exclusion of teachers' legitimate student guidance from child abuse (4.15), and the legal stipulation in the Framework Act on Education of parents' or guardians' obligation to respect and cooperate with educational activities (4.04), all of which recorded mean scores above 4.0.

Among school administrators, the highest mean scores were recorded for financial support for litigation costs incurred when filing or facing civil and criminal lawsuits due to infringements on educational activities (4.57) and the transfer of Teacher Rights Protection Committees from individual schools to regional committees (4.56). These were followed by the prohibition of suspension from duty unless legitimate grounds exist when a teacher is reported for child abuse (4.50) and the exclusion of teachers' legitimate student guidance from child abuse (4.40). With the exception of the institutionalisation of principals' responsibility for handling complaints, all items received mean scores above 4.0 among administrators.

A comparison between teachers and administrators shows that teachers reported

<Table 5> Views on the Effectiveness of Recent Changes in Laws and Institutions Related to the Protection of Educational Activities

Unit: Mean score

Item	Teachers	Administrators	t
① Addition of a list of infringements on educational activities to the Act on the Status of Teachers	3.88	4.12	-27.255***
② Teachers' legitimate student guidance is excluded from child abuse	4.15	4.40	-27.936***
③ Prohibition of suspension from duty unless legitimate grounds exist when a teacher is reported for child abuse	4.26	4.50	-30.123***
④ Mandatory submission of opinions by the Superintendent of Education in cases where a teacher is subject to investigation for child abuse offences	3.82	4.37	-66.755***
⑤ Legal stipulation in the Framework Act on Education of parents' or guardians' obligation to respect and cooperate with educational guidance	4.04	4.31	-27.767***
⑥ Authority of Teacher Rights Protection Committees to impose measures, such as written apologies and special education, on parents or guardians who infringe educational activities	3.87	4.10	-22.993***
⑦ Transfer of Teacher Rights Protection Committees from individual schools to regional Teacher Rights Protection Committees	3.77	4.56	-102.315***
⑧ Expansion and reorganisation of existing Teacher Healing Centres into Educational Activity Protection Centres	3.64	4.25	-66.531***
⑨ Institutionalisation of school principals' responsibility for handling complaints	3.91	3.60	27.597***
⑩ Operation of a direct hotline (1395) for infringement on educational activities	3.68	4.07	-41.999***

Note: Not effective at all(=1)~ Very effective(=5)

higher mean scores than administrators only for the institutionalisation of principals' responsibility for handling complaints. For all other items, administrators reported higher mean scores than teachers, indicating that administrators tended to view recent legal and institutional changes as more effective.

4. Views on Measures for the Protection of Educational Activities

When respondents were asked to select up to three measures necessary for the protection of educational activities, both teachers and administrators most frequently reported that stricter measures against perpetrators of infringements were needed (59.6% and 51.6%, respectively).

Among teachers, this was followed by the need for clear guidelines on teachers' roles and authority (48.5%), active responses by school administrators (principals and vice principals) to infringements on educational activities (39.3%), counselling and treatment for students with emotional or behavioural problems (37.2%), preventive education regarding infringements on educational activities for students, parents, and teachers (31.4%), a social culture that respects teachers' professional authority (23.4%), efforts by educational authorities to protect educational activities (17.2%), provision of information to parents on student guidance in schools (15.4%), and the development of various activities, including awareness campaigns and the formulation of shared rules, to promote mutual respect and understanding among students, parents, and teachers (12.1%).

Among school administrators, counselling and treatment for students with emotional or behavioural problems (48.2%) was the second most frequently selected measure. This was followed by clear guidelines on teachers' roles and authority (44.7%), preventive education regarding infringements on educational activities for students, parents, and teachers (36.7%), a social culture that respects teachers' professional authority (34.4%), the development of various activities, including awareness campaigns and the formulation of shared rules, to promote mutual respect and understanding among students, parents, and teachers (26.4%), and the provision of information to parents on student guidance in schools (18.9%).

Both teachers and administrators most commonly emphasised the need for stricter measures against perpetrators of infringements, indicating a shared view that effective measures are important. In addition, given that infringements on educational activities in elementary schools are likely to be associated with students' emotional and behavioural problems, it can be understood that there were many views emphasising the importance of counselling and treatment for students with such emotional and behavioural difficulties. The high demand for clear guidelines on teachers' roles and authority may reflect challenges in student guidance and excessive parental expectations, particularly in the lower grades of elementary school. Notably, teachers ranked active responses by school administrators to infringements on educational activities as the third most important measure, suggesting that such administrative engagement is perceived as crucial for ensuring teachers' safety and protecting educational activities.

In particular, special education teachers reported higher levels of need than homeroom teachers and subject-specialist teachers for preventive education, provision of information to parents on student guidance in schools, attention from school administrators to the protection of educational activities, and training to strengthen teachers' capacities in student guidance and conflict management. In light of these considerations, there is a need to strengthen preventive education that takes into account the characteristics of special education teachers and students, as well as to enhance training programmes aimed at strengthening teachers' capacities in student guidance.

<Table 6> Measures Required for the Protection of Educational Activities (Multiple Responses)

Unit: %

Category	Teachers	Administrators
Development of various activities, including awareness campaigns and the formulation of shared rules, to promote mutual respect and understanding among students, parents, and teachers	12.1	26.4
Provision of information to parents on student guidance in schools	15.4	18.9
Preventive education regarding infringements on educational activities for students, parents, and teachers	31.4	36.7
Clear guidelines on teachers' roles and authority	48.5	44.7
Training to strengthen teachers' capacities in student guidance and conflict management	3.8	9.0
Counselling and treatment for students with emotional or behavioural problems	37.2	48.2
Attention by school administrators to the protection of educational activities	5.8	2.5
Active responses by school administrators to infringements on educational activities	39.3	7.9
Efforts by educational authorities to protect educational activities	17.2	15.1
Stricter measures against perpetrators of infringements	59.6	51.6
Social culture that respects teachers' professional authority	23.4	34.4

V. Summary and Conclusion

To summarise, the results of this study indicate that, above all, preventing infringements on educational activities in elementary schools requires efforts to strengthen communication and trust among students, parents or guardians, and teachers, and that active engagement by school administrators in protecting educational activities is necessary to ensure support and protection at the school level, rather than leaving responsibility to individual teachers. In addition, although elementary school teachers viewed recent legal and institutional changes aimed at protecting educational activities as effective, their level of awareness of these changes was relatively low. To enhance policy effectiveness, it is necessary to actively disseminate information and provide education to teachers regarding recent changes in laws and institutions related to the protection of educational activities.

The findings of this study can serve as foundational data for the development of more effective policies for the protection of educational activities and contribute to a more concrete understanding of school settings.

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