Abstract

This study is to suggest effective countermeasures in overcoming social crisis due to illegal online gambling which is rapidly increasing in our society today.

First, installing an overall coordination mechanism of the illegal gambling industry eradication policy. There are different organizations that carry out their roles related to the illegal gambling industry and are maintaining the coordinated business systems but because there are no organizations that carry out the overall mediation functions, the effectiveness of job performance deteriorates, and although there are aspects where active action is established when problems occur, it is restricted to only being temporary. In this sense, an overall coordination mechanism of the illegal gambling industry eradication policy is needed, and as The National Gambling Control Commission is an organization of the permanent consultative body, it is considered suitable to perform this role.

Second, to make active blockage of illegal online gambling user demands. In the case of illegal gambling, disciplinary measures must be arranged on deposits and withdrawal actions through accounts. On this, investigation agencies or The National Gambling Control Commission ought to facilitate a financial transaction account stop request on illegal accounts and arrange a restriction device to block the reversion of criminal proceeds.

Third, to arrange a payment suspension in using accounts on illegal online gambling. It is necessary to arrange the investigation functions on financial transactions dealing with the illegal gambling industry through related law revision, the right to suspend payments, and the right to request data about the head of agency.

Fourth, to grant rights of the special judicial police. According to the current law, The National Gambling Control Commission has a regulation on the illegal gambling industry but does not have any regulations on investigation rights. Under current circumstances where the online illegal gambling industry is rapidly increasing, simple cyber surveillance and information gathering is considerably limited, thus makes it also limited when it comes to the investigation process afterwards. In that sense bringing in the Special Judicial Police who have the authority to investigate must be taken into consideration.

Fifth, in order to reduce users of the illegal gambling industry, not only should posters, videos, and sound productions about harmful effects and penalties of the illegal gambling industry on teenagers be publicized, but prevention education should be made mandatory, and delivering the seriousness of harmful effects in person through visiting the schools should be actively expanded.

[Keywords] Social Crisis, Illegal Gambling, Illegal Online Gambling, Special Judicial Police, The National Gambling Control Commission

1. Introduction

Since the mid-1990s, when the internet started to come into wide use, online games became prevalent and encouraged the users’ speculative spirits into starting up gambling games.

It was about 1995 when internet sites regarding online gambling was first presented. Gambling acts that betted money directly in person shifted into cyber space after betting
was enabled through exchanging cash into electronic money or using virtual money. Since the year 2000, over 1800 online gambling sites were run by approximately 300 companies that received official permission to run them legally. Online gambling, in which the action is considered as gambling in reality, is taken place in cyberspace, or internet, by using electronic money or electronic financial transaction. In other words, it can be known to bet property and decide on profits by coincidence and can gain or lose profit through a connection network online[1].

Since the “Sea Story” incident in this country in July 2006, it is found that the intensive crackdown and the follow-up measures caused offline casinos to rapidly decrease and made online gambling even more prevalent[2].

The scale of the illegal gambling market was 53.7 trillion won in 2005, 75.1 trillion won in 2011, and reached 83.8 trillion won in 2015 and among them, illegal online gambling took a share of about 56% which is about 47 trillion won. The problems that illegal online gambling has in the expansion of the illegal gambling market is first, the users of the illegal gambling industry showing high addiction which causes a loss of money on an individual scale, health issues, occurrence of family trouble, second, the point that they might commit second crimes such as theft, fraud, and violence, third, causes problems in occurrence of invading capital safety and soundness through illegal underground economy vitalization. Especially in the recent past, along with the expansion of the illegal online gambling industry, the access of teenage illegal gambling industry through the internet or smart phones is rising, and the problem in teenagers becoming addicted to using the illegal gambling industry is rising up to a very critical level in society.

When this point is taken into consideration, our society must be concerned and focus on the capabilities about the effective prevention policies and countermeasures for illegal online gambling eradication that the author is trying to discuss.

2. The Present Situation of Online Gambling and Social Crisis with Examinations of Laws Regarding Regulation

2.1. The present situation of online gambling

According to the third illegal gambling research data in 2016, the sales scale of illegal gambling that was 75 trillion 1,474 billion won in 2011 increased to 83 trillion 7,822 billion won by 2015, which shows an increase rate of 11.5%.

Compared with the net sales of the legitimate gambling industry in 2012 that showed an increase rate of 12.4% by 2014, it seems to show a similar trend. Among the whole illegal gambling scale, illegal online gambling takes up about 47 trillion won, which is about 56%. Given the present situation of the crackdown cases in the illegal gambling industry, it decreased 1/7, with 55,788 cases in 2007 to 7,839 cases by 2015. Also, looking at the current state of arrests in cyber gambling crimes of the jurisdiction of the Cyber Bureau, the arrest cases that reached up to 5,847 in 2010 decreased by 2012 and 2013. A tendency shows increasing again and in October 2015, through a 100-day intensive crackdown for cyber gambling eradication of the National Police Agency, the number of cyber gambling crime arrest cases for 2016 was 9,394 which was an increase of 2.8 times the year before which was 3,365[3].

2.2. The examination of regulation related laws on online gambling

There are punishment regulations on gambling acts in Article 246 of the Criminal Code, and on establishing gambling places in Article 247, and the illegal gambling industry can also be applied in the crime of establishing gambling places.

In Article 248, there is a punishment regulation to the one who sells lottery tickets without accordance to the law, and this is also applied to the illegal gambling industry concerning the lottery business which is categorized in the gambling industry.
Article 1 in the Act on Special Cases Concerning Regulation and Punishment of Speculative Acts regulates ‘The purpose of this Act is to prescribe the matters concerning the instruction on and regulation of speculation-related businesses, and the special punishment of persons, etc., who perform speculative acts by using slot machines or speculative gaming machines, besides speculation-related businesses’ which clearly states this is a regulation about illegal gambling acts and the industry.

In Article 44-7, Section 1 in the Act on Promotion of Information and Communications Network Utilization and Information Protection, ten types of information that prohibit circulation using an information and communication network are regulated, and the ones related to online gambling regulations are Act. 6, ‘Information with a content that falls within speculative activities prohibited by statutes,’ and Act. 9, ‘Other information with a content that attempts, aids, or abets to commit a crime.’ If the crime of gambling or the crime of establishing a gambling place fall under this category according to the criminal law or an act of speculation, the regulation can be applied, along with aiding and abetting the crime of the establishment of gambling places.

Other individual acts that are regulated in relation to the illegal gambling industry are the Game Industry Promotion Act, Tourism Promotion Act, Korean Racing Association Act, Bicycle and Motorboat Racing Act, Lottery Tickets and Lottery Fund Act, and Traditional Bullfighting Match Act.

3. National Policy Issues Regarding Illegal Online Gambling

3.1. Dispersed regulations on the illegal gambling industry

The illegal gambling crackdown system of the government is in dualistic structure. The monitoring function of the illegal gambling industry is conducted by The National Gambling Control Commission, and the prosecution and the police agency are in charge of the crackdown. In other words, through the 「National Gaming Control Commission Act」, the matters concerning inspecting actual conditions of places of business of gaming business entities and guiding and supervising them are regulated, but only formal monitoring is in regulation concerning the crackdown of the illegal gambling industry.

The Public Order Division in the National Police Agency Public Safety Bureau is in charge of the permission of the gamble business according to the 「Act on Special Cases Concerning Regulation and Punishment of Speculative Acts」, the Police Administration Public Safety Bureau or the Public Order Division in the Local Police Agency is in charge of the illegal gambling industry that uses illegal games considering that this is also a business conduct in speculative game rooms according to Article 2, Section 3, Item ‘b’ of 「The National Gambling Control Commission」, the Korean National Police Agency Cyber Bureau and the Department of Cyber Safety in the Local Police Agency is in charge of the crackdown of online gambling sites that is regulated in Article 2, Section 3, Item ‘c’ of 「The National Gambling Control Commission」. The Intellectual Crime Investigation Team is in charge of the crackdown of private establishments such as the Casino Business, Horse Racing, Bicycle and Motorboat Racing that are regulated in Article 2, Section 3, Item ‘a’ of 「The National Gambling Control Commission」.

3.2. Willingness to crackdown and criminal responsibility concerning gambling crime

Concerning the crime of gambling, according to the criminal law, any person who gambles shall be punished by a fine not exceeding ten million won. Any person who regularly gambles shall be punished by imprisonment for not more than three years or by a fine not exceeding twenty million won. Any person who establishes a gambling place with the purpose of profit making shall be punished by
imprisonment for not more than five years or by a fine not exceeding thirty million won.

The Sentencing Committee regulates the sentencing guidelines by distinguishing the establishment of gambling places, illegal sports gambling, providing usage of illegal games, and distribution of illegal games.

According to the current laws and sentencing guidelines the strongest penalty is four years of imprisonment and in other cases, the bounds are of no more than three years of imprisonment with the possibility of probation. For these reasons, there is a tendency to not deal with this matter as a priority because in the case of the police, it is not a violent crime related to a direct invasion of a civilian’s life and body, and is focused when the case is very serious of unlawfulness and a social awareness is occurred. Moreover, taking a look at the present condition of the judicial action of gambling crimes, in 2015, the cyber gambling special crackdown promotion outcomes show that they have arrested 2,873 people in 1,246 cases, and 2,610 of these people were charged without physical custody, 99 were not indicted, and according to the statistics of The Public Prosecutors’ Office, criminals that were arrested in relation to gambling and lottery tickets that fall into folk crime, as for the penal code offenses, 44.3%, which is 11,840 out of 26,724 criminals were prosecuted, and as for the Special Criminal Acts, the 79.0%, which is 1,222 of the 1,547 criminals arrested were charged with prosecution by the 「Act on Special Cases Concerning Regulation and Punishment of Speculative Acts」 and leads to a problem where the criminal himself cannot be aware of the seriousness of the crime[4].

3.3. Manned enforcement of crackdown and organization of the national gambling control commission

The National Gambling Control Commission ought to establish a comprehensive plan for an integrated crackdown and supervision of the gambling industry, and must implement an education in prevention of gambling addiction to teenagers. Also, in spite of the fact that the Surveillance and Report Center of Illegal Gambling Industry has to deal with the illegal gambling industry and matters of the illegal gambling industry accusations or requests for investigation, and matters regarding monitoring illegal gambling sites, but the monitoring staff is very limited. There are currently only nine monitoring personnel (contract employees) for the illegal gambling industry in The National Gambling Control Commission, and with this number it seems that it will be inadequate to find illegal gambling sites, analyze scientifically and systematically with effect. Not only so, but The National Gambling Control Commission is consisted of twenty-three dispatched public officials and twenty-six contract employees which is a problem regarding safety and professionalism in the organization.

3.4. The crackdown and punishment of business operators in internationalization and specialization of illegal online gambling

In the case of the illegal gambling industry through internet gambling sites, there clearly exists a limitation of crackdown and punishment on business operators that operate through the illegal gaming industry on an international level such as operating the servers abroad by dispersing them in order to avoid local police crackdown or going abroad and operating an illegal gaming industry by establishing a local corporation.

According to the investigation cases a business operator was arrested by Gyeongbuk Provincial Police Agency Cyber Investigation Team for operating a gambling site worth a total of 500 billion won by opening an internet casino gambling site 'Woori Casino (www.pdr070.com)' in the Philippines from January 2012 to July 2014, and with the reinforcement of the crackdown of gambling sites from the police, it was revealed that the casino games were operated live on the internet in Manila, Philippines(Jaehyun Seung, Restriction and Problems of the Crackdown of the Illegal Gaming Industry and Legal Countermeasures, 2019.5.24.).
Also, in the case of an illegal sports toto gambling site ‘Tiara(md-3232.com)’ they used a Chinese site called ‘BETSAFE’ to prevent information leakage and by using these overseas sites, there is a case in which they tried to secure the safety and reliability of illegal gambling operation, and in 2007 to 2012 in Cambodia, established a local corporation and installed the internet gambling site server from each country with eighty members, and got an unfair profit of 470 billion won through stakes of about 3 trillion 700 billion won for five years[4].

The internationalism of illegal online gambling industries is intensifying and in a situation where most illegal sites are being constructed at illegal web sites abroad which makes it difficult for the investigative agency to trace gambling sites, therefore, a cooperation investigation is urgently needed[5].

4. Conclusion-Examining Effective Countermeasures for Illegal Online Gambling Eradication

4.1. Establishing an overall coordination mechanism on the illegal gaming industry eradication policy

Many organizations concerning the illegal gambling industry are performing their roles in preserving the coordination of business system but there are no organizations performing overall coordination functions therefore the work performance efficiency declines, and although there is an aspect where there are active measures in the case of problem occurrence but it has the limit of being only temporary. In this respect, an overall coordination mechanism on the illegal gaming industry eradication policy is needed[1], and The National Gambling Control Commission, which is part of a permanent consultative body, it is considered suitable to perform this role.

4.2. Arranging active blockage of illegal online gambling user demands

In telecommunications-based financial fraud crimes such as Mortgage fraud and voice phishing, the measure of the suspension of payment of the account is possible based on the Special Act on the Prevention of Loss Caused by Telecommunications-based Financial Fraud and Refund for Loss, but illegal gambling has no related basis. Measure of restriction ought to be arranged on the deposits and withdrawals of accounts due to the characteristics of illegal gambling. There is a need for the investigation agency or The National Gambling Control Commission to arrange restriction devices that can block the attribution of criminal proceeds by making possible the demand of suspension of electronic financial transactions of illegal accounts.

4.3. Arranging a payment suspension in using accounts on illegal online gambling

In order to prevent expansion and additional damage of illegal online gambling, restricting user access through quick site blocking is essential. Currently, only through investigation process from Korea Communications Standards Commission the blocking is possible and even if the information on the online illegal gambling site is identified, it normally takes two weeks. During this time, there are many cases in which the online gambling site operator safely makes a profit and then closes the site, then opens again a new one. Therefore, in order to block illegal gambling sites, it is necessary to arrange a basis in which The National Gambling Control Commission can make orders to block illegal gambling sites directly without deliberation from Korea Communications Standards Commission.

It is necessary to arrange the investigation functions on financial transactions dealing with the illegal gambling industry through related law revision, the right to suspend payments, and the right to request data about the head of agency.

4.4. Granting rights of the special judicial police
According to the current law, The National Gambling Control Commission has a regulation on the illegal gambling industry but does not have any regulations on investigation rights. Under current circumstances where the online illegal gambling industry is rapidly increasing, simple cyber surveillance and information gathering is considerably limited, thus makes it also limited when it comes to the investigation process afterwards. In that sense bringing in the Special Judicial Police who have the authority to investigate must be taken into consideration. In late 2017, 15 of the 17 central departments operate the special judicial police, and the local governments also operate the special judicial police for the crime crackdown concerning public welfare. However at the current moment, with the organizations and personnel in The National Gambling Control Commission, it is difficult to deal with the roles caused by these grants of the special judicial police, so first, a significant increase of the organizations and personnel is needed. And the fact that the grant of the investigation rights having a heavy responsibility should be kept in mind. This might restrict the freedom of the people, therefore, institutional complements that can cultivate professional knowledge should be arranged.

4.5. Expanding report rewards and introducing the informant punishment reduction system

The illegal gambling investigation mostly begins with an inside informant therefore there is a need to increase the payment standards of report rewards and also expand the range to motivate the informant.

The evidence provider of the illegal profits and operators that the writer is suggesting, should be considered the most advantageous sentencing factor in the sentencing guidelines and at the same time the introduction to legal plea-bargaining is necessary.

4.6. Expanding teenage education on harmful effects and punishments regarding the illegal gambling industry

to reduce users of the illegal gambling industry

Not only should posters, videos, and sound productions, but prevention education should be made mandatory, and delivering the seriousness of harmful effects in person through visiting the schools should be actively expanded.

5. References

5.1. Journal articles


5.2. Thesis degree


5.3. Additional references


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