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Internet Gambling POLICY: Prohibition versus Legalization

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Abstract

The fastest growing form of gambling in the world is Internet gambling. Internet gambling creates many new potential problem in modern society. Gambling can be a very addictive behavior, for some it becomes pathological. And the liquid and ever-changing environment of the Internet provides a perfect cloak for criminal activity. One of the primary concern is that the encryption and anonymity of accounts in off-shore gambling sites provides a conduit through which criminals can launder money. Also, the Internet is readily accessible by young people. As such, teenagers also have access to the multitude of new gambling websites.

There are good arguments for both prohibition and legalization of Internet gambling. In reality, it is difficult to crack down or ban Internet gambling sites, and laws or policies that reverse people's behavior practices are ineffective. And therefore, it is also argued that it is necessary to bring into the legal regulatory areas to promote economic benefits such as securing the national tax revenue and to use it in the prevention and treatment of gambling addiction. But the argument that it will create new net revenues by legalizing Internet gambling is simply red-herring taxation that misleads the government, because the monies converted from a taxable consumer economy into vacuous gambling account will significantly diminish overall tax revenues. Internet gambling should not be allowed because the sybaritic monetary philosophy will eventually infect, destabilize and destroy the global economy and financial system.

[Keywords] *Internet Gambling, Gambling Addiction, Problem Gambling, Legalization, Prohibition*

1. Introduction

For better or worse, the Internet offers new ways of satisfying age-old human desires. For the most part it serves blandly virtuous ends, such as private correspondence, public discourse and legal commerce. But it serve pornography and gambling as well[1]. In little more than a decade, Internet gambling has exploded from a minor sideshow on the Internet into a substantial global industry[2]. Thanks to the Internet, now gamblers no longer have to fly to Las Vegas to play the slots, drive to nearest authorized track to play the horses, or even walk to the corner store to play the state lotto. Consumers can now

play such games at home via the many Internet Web sites that offer gambling services[1].

As such, Internet Gambling refers to gambling in the cyber space, and is an act that is regarded as gambling in the real world. This is done through e-money or electronic financial transaction, which is a new means of payment in the virtual space of the Internet. It is also referred to as online gambling or cyber gambling[3].

Internet gambling can be gambled instantly, without having to worry about time and place at all times, wherever the Internet is connected, without having to go to a gambling place like a real gambling in the real

world. These characteristics show that addiction to on-line gambling is stronger than off-line gambling, and the openness and high profitability of Internet gambling are causing social ills such as explosion of users. Moreover, It is used as a means of money laundering and has many social pathologies[4]. Especially, as the spread of portable smart devices has expanded recently, the accessibility to internet gambling sites has been increasing, and there is a concern that the illegal internet gambling is rapidly increasing. As gambling online games are widely accepted, the distinction between online game and internet gambling is blurred, and gambling is increasingly recognized as a game or entertainment. Especially, since the use of adolescents for online gambling games is facilitated, there is a serious problem that gambling learning opportunities increase before gambling hazards are recognized[5].

Today, there is a growing concern about the spread of Internet gambling, both at home and abroad, as well as the need for policy responses. In the meantime, the social malpractice of Internet gambling has been mentioned a lot through media. But although there have been many discussions on the regulation of Internet gambling, there is still no fundamental solution.

In reality, it is difficult to crack down or ban Internet gambling sites, and laws or policies that reverse people's behavior practices are ineffective. And therefore, it is also argued that it is necessary to bring into the legal regulatory areas to promote economic benefits such as securing the national tax revenue and to use it in the prevention and treatment of gambling addiction. An example is the UK's Gambling Act of 2005. It is necessary to examine the realization possibility by comparing and analyzing the advantages and disadvantages of legalization.

2. Impact of Internet Gambling

2.1. Characteristics of internet gambling

Many internet gambling sites are very easy to use with very little effort. Most sites initially require users to set up an account and a

password. After doing so, the user creates an ID and a password. This enrollment procedure typically involves entering some basic information, such as name, address, age, and credit card number. Once the account is established, the user can continue to access it[6]. Users can then play blackjack, slots, roulette and many other gambling games. The user makes various decisions, including choosing a game and how much money he or she is comfortable in his/her home[4]. By clicking a button or clicking on a mouse, the information entered by the user will reach the server computer of the Internet gambling through a nationwide or international network. The server is usually located in places like Antigua or Australia, which are legalizing Internet gambling. And the internet gambling server also transmits the information back to the user's computer to create a game environment that interacts with each other[3].

Compared to real world gambling, characteristics of internet gambling include ubiquity, openness, anonymity, accessibility, addictiveness, and possibility of crime. Online gamers can gamble in their home 24 hours a day. Minors can also gamble online without strict age verification. Betting using credit cards can reduce the user's perception of the value of cash and can lead to criminal activities such as gambling game addiction, bankruptcy, long absence from work, suicide, and fraudulent gambling. Moreover, these can be easily and rapidly spread by the anonymity of cyberspace, the unlimited nature of time and space[6].

2.2. Perceived danger of internet gambling

The following problems arise due to the characteristics of Internet gambling mentioned above.

First, anonymity and openness of Internet gambling increase the gambling behavior of minors. Gambling on the Internet does not meet personally but gambles on the network, so that their identity is not disclosed. This guarantees that anyone can easily participate in gambling. This anonymity creates the risk of mass production of gambling activities, especially for minors. Most gambling sites require membership for adults only before

gambling, but they rarely check the information you enter when you sign up. As a result, a minor can immediately play any online gambling game by entering his or her parents' information and credit card number[5].

Second, the addictive nature of Internet gambling leads to social and economic bankruptcy. Internet gambling is much less costly than going to an offline gambling site, and it can aggravate the addiction of gambling because it allows users to gamble quickly whenever they want in a private space[4]. Such gambling addiction can lead to bankruptcy, unemployment, and suicide, and can cause criminal behavior such as fraudulent gambling to make a lot of money at once. Thus, it can be a serious risk to the family economy of the gambling addict family as well as the national economy[3].

Third, Internet gambling can be used as a means of other crimes. In other words, by using the anonymity of cyberspace, Internet gambling can be used as a criminal means in various ways without revealing its existence in cyberspace[6]. Specifically, the money for gambling can be intercepted by repeating establishment, transfer, closing, etc. of a gambling site. For example, a gambler can have his or her money for gambling intercepted by closing a gambling site as soon as the gambler has made a payment with a credit card or the like in advance. Internet criminals can also close the site without paying the gambling winner[7]. They can also play fraudulent gambling. This is done by manipulating the game by manipulating the software program for gambling. This is accomplished by match fixing through manipulation of a software program for gambling[4]. It can also be used as a means of money laundering. A person who wants to do money laundering deposits his money into a foreign account, gambles on the internet with that money and loses a little. He then withdraws his remaining funds and claims that the money is a winnings[6].

3. Policy Implications and Options of Internet Gambling: Prohibition vs Legalization

In 2010, the “Room for Debate” section of The New York Times posed the question, “Should Internet gambling be legalized?”[8] Several respondents identified an increase in gambling addiction as the probable outcome if Congress lifts the ban on online gambling in the United States. Some respondents also insisted on legalizing Internet gambling and imposing taxes on the premise that public use of gambling revenues in the depression[9]. Those who advocate the legalization of Internet gambling claim that it is difficult to control or prohibit Internet gambling sites in reality. They also argue that laws or policies that back people's behavior practices are ineffective. Therefore, they argue that Internet gambling should be legalized to secure tax revenue and to use it to prevent and treat gambling addiction.

However, the problems caused by Internet gambling as mentioned above also appear to be serious in the country and society. The purpose of this paper is to examine the legalization and illegalization of internet gambling and to examine what is the benefit of gambling reality in Korea.

3.1. Arguments for legalization of internet gambling

The main arguments for legalizing internet gambling and managing it through public regulation are as follows[9].

First, it is nearly impossible to effectively prohibit online gambling, because of the difficulty in blocking individual player's online access to these sites, and the difficulty in prosecuting companies that legally provide these services from other countries. As evidence of this, the rate of Internet gambling in the United States with prohibitionist legislation(2.0%) is roughly equivalent to Canada (2.1%), with more permissive legislation[10]. Also, laws or policies that go against the behavioral practices of many people have no effect. Some commentators cite the widespread societal disregard for alcohol prohibition as a model of what would happen with online gambling prohibition.

Second, regardless of whether online gambling is good or bad for society, it is better for

it to come under some form of legal regulatory control so as to accrue the economic benefits (gambling revenue, tax revenue, employment, decrease the flow of money leaving the jurisdiction), and to better ensure player protection (fair games, responsible gambling practices, etc.). Furthermore, some of the new online gambling revenues could be used for the prevention and treatment of online problem gambling [11].

Third, even if Internet gambling is accompanied by some risk, the state should not try to shape people's leisure behaviour or how they spend their money. In other words, people should have freedom of choice.

Fourth, because the average household income of internet gamblers is higher than average, online gambling revenue appears to be less regressive than most other forms of gambling.

Fifth, even if online gambling does initially increase rates of problem gambling, the evidence from land-based gambling suggests that, over time, populations adapt to the presence of problematic products and develop some "inoculation" from further harm. As evidence, the rates of problem gambling in Western countries appear to have stabilized or declined in recent years despite continuing expansion of gambling availability and increased revenues. Furthermore, an argument can be made that unless the populace will never be exposed to this product then it may be better to develop this inoculation early on rather than later.

3.2. Arguments for prohibition of internet gambling

The arguments that Internet gambling should be prohibited are as follows [9].

First, the purpose of the law is not to conform to people's behaviour, but to help shape it, and codify societal values. Child pornography or illegal drugs are practically widespread in many places, but they are prohibited. These efforts can reduce such illegal behaviors.

Second, general disregard for the rule of law is more of a risk when prohibiting something the majority of people engage in (e.g.,

alcohol use) rather than when prohibiting something only 1–7% of people engage in (i.e., Internet gambling).

Third, many internet gambling sites are showing unsatisfactory business and responsible gambling practices. Moreover, the means to correct this is not clear.

Fourth, a significant portion of the Internet gambling revenue comes from problem gambler (27% internationally, 41.3% in Canada). It is unethical to get more tax revenue from vulnerable groups, especially in cases where the government is the primary operator and/or beneficiary.

Fifth, the legalization of internet gambling will increase the availability, which will increase the percentage of total gambling and problematic gambling. Internationally the prevalence of Internet gambling is largely proportional to the extent to which a country has legalized or allowed Internet gambling. For example, the U.K. has one of the world's most liberal Internet gambling laws as well as the world's highest known rate of Internet gambling.

Sixth, Internet gambling is more likely to cause problems than other types of gambling. Policies that prohibit higher risk types are common. For example, it prohibits automatic weapons and handguns rather than hunting rifles and prohibits cocaine, methamphetamine, and heroin rather than alcohol. Internet gambling is one of these types, along with electronic gambling machines.

Seventh, even if Internet gambling is legalized and tax revenues are used to treat gambling addiction, it will not reduce dysfunction. In other words, legalizing Internet gambling and using some of it to prevent and treat gambling do not reduce the risks that may arise from Internet gambling [8]. This is equivalent to suggesting that automatic weapons and handguns should be legalized but redirecting some of the licensing/registration fees into health care and rehabilitation for the shooting victims. Preventive education of gambling addiction has a very limited effect. Once an addiction has been established, a lifelong

propensity for this behaviour has been created. Treatment helps decrease risk of relapse, but does not eliminate it.

4. Conclusion

In Korea, where digitization is rapidly progressing, Internet gambling will spread more and risk will increase. This is something we have not experienced before, and there is lack of empirical knowledge and information about it, and cultural wisdom to cope with it is not accumulated yet. However, it is difficult to resist, and it seems difficult to manage risk effectively. However, despite the fact that gambling is illegal, in Korea, where many types of gambling are practiced in practice, it is very likely that there will be many side effects of implementing a full regulation or permitting policy.

According to a final report submitted by the National Gambling Impact Study Commission in 1999, the social cost of gambling is three times greater than its benefits. The report says that the benefits of gambling on the Internet are just one more addition to the already existing electronic entertainment. The social costs of gambling include crime, suicide, and business. Furthermore, people feel bitter pain because of the loss of property lost by gambling rather than bitter pain in the fact that they are lost the game. Also, people usually do not commit suicide or murder because they are embezzled in the company or lost the tennis match, but do so if they lose money in gambling. Internet gambling is a crack cocaine of gambling[12], and it will be located in every school desk, office desk, and every living room. This simplifies the ability to lose a house by clicking the mouse. The lobbyists' claim that it will create new net revenues by legalizing Internet gambling is simply red-hering taxation that misleads the government, because the monies converted from a taxable consumer economy into vacuous gambling account will significantly diminish overall tax revenues. Internet gambling should not be allowed because the sybaritic monetary philosophy will eventually infect, destabilize and destroy the global economy and financial system.

5. References

5.1. Journal articles

- [1] Bell TW. Internet Gambling: Impossible to Stop, Wrong to Outlaw. *Regulation*, 21(1), 16-17 (1998).
- [3] Shin CJ. The Legal Regulation and Policy of the Cyber Gambling. *Han Nam Journal of Law & Technology*, 15(1), 163-203 (2009).
- [4] Kwon JY. A Study on the Cyber Gambling. *Yonsei Law Review*, 12(3), 85-104 (2002).
- [6] Song SE. The Regulation of the Internet Gambling. *Internet Law Journal*, 36, 163-188 (2006).
- [7] Loscalzo TE. Internet Gambling: Prohibition versus Regulation Jeffrey S. *Moorad Sports Law Journal*, 7(1), 11-33 (2000).
- [9] Kim KH & Kwon SJ & Kim SJ. Problem and Issues of Internet Gambling. *The Korean Journal of Health Psychology*, 15(2), 199-217 (2010).

5.2. Books

- [2] Stewart DO & LLP Gra. Online Gambling Five Years after UIGEA. American Gaming Association White Paper (2011).

5.3. Additional references

- [5] Jeong CM & Lee WT & Yu JY & Hwang JY & Kwon HY & Lee HS. The Regulation of Online Gambling, Korea Information Society Development Institute, 24 (2007).
- [8] <https://www.nytimes.com> (2017).
- [10] Wood TR & Williams RJ. Internet Gambling: Prevalence Patterns Problems and Policy Options Final Report prepared for the Ontario Problem Gambling Research Centre: Guelph Ontario 93 (2009).
- [11] Reilly C. The Internet Gambling Debating: Is Research the Missing Ingredient?, NCRG, 1 <http://www.ncrg.org/> (2010).
- [12] <http://news.join.com> (2017).

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- The Criminal Countermeasures Against the Aircraft Crime, *Korean Journal of Criminology*, 29(1) (2017).

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