

사이버 폭력의 피해자 지원에 대한 개선방안

박종렬*

A Study on Improving Support for Victims of Cyber-Violence

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요 약

사이버 공간에서의 폭력이 최근 그 정도를 더해가고 있으며 이는 피해자에게 극심한 정신적 고통을 초래할 뿐만 아니라 건전한 사이버문화를 저해하고 있다. 이러한 사이버폭력의 특징 및 실태를 알아보고 그에 대한 대책을 제시해 보고자 했다. 사이버범죄는 비대면성, 익명성, 무제약성, 증거확보의 어려움 등을 특징으로 하며, 이러한 사이버범죄 중 사이버폭력은 사이버모욕, 사이버명예훼손, 사이버스토킹, 사이버음란물유포 등의 형태로 나타나는데 이에 대한 실질적인 대책이 미흡한 것이 현실이다. 이에 대한 대책으로 실정법상의 사이버모욕죄의 신설, 인터넷실명제의 도입, ISP의 책임의식 강화 및 형사처벌을 위한 관련입법이 필요하며, 보다 근본적인 대책으로 네티즌의 자정노력과 피해예방을 위한 체계적인 교육 및 홍보가 이루어져야 할 것이다.

▶ Keyword : 사이버폭력, 사이버모욕, 사이버명예훼손, 인터넷실명제, ISP책임, 사이버

Abstract

Recently, violence in cyberspace has been increasing and it causes not only severe emotional distress to the victims but also hampers a healthy cyber culture. This paper aims to find out about characteristics and the actual state of Cyber-Violence, and Evaluate the measures concerning it. Cyber crime is characterized as non face to face, anonymity, non-limetary, difficulties in attracting evidence, the Cyber Violence of these cyber crimes was shown in the form of cyber-insult, cyber-defamation, cyber-stalking, circulation of cyber-pornography, and that is the reality there are lack of practical measures. As a measure for protection the establishment of positive laws are needed on the cyber-contempt, adopting the Internet real-name system, strengthening the ISP's responsibility and legislation for criminal penalties. As a more fundamental measure, a greater

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effort of netizen's self-purification and systematic training and promotion for the prevention of damage is necessary.

▶ Keyword : Cyber Violence, Cyber Libel, Cyber Slander, Internet Real Name System, ISP Liability, Cyberspace

I. Introduction

Recently, the phenomenon of violence in cyberspace goes over the line. Verbal abuse of happenings on Internet bulletin boards or online chat occurs frequently. Cyber-defamation has been increasing for celebrities, especially spreading cyber violence phenomena against women such as cyber-sexual violence, cyber-stalking feels like reached its climax upon the event that is the picture of sniping at a sitting president uploaded by an Internet media. For these victims of Cyber Violence show mild reactions such as weakness or irritability but suffering anxiety or depression. In extreme cases, choosing to commit suicide due to the trauma. Recently, awareness of the seriousness of Cyber Violence is spreading such as putting the victim severe emotional distress and to inhibit a healthy cyber culture, but conditions are insufficient for the practical measures. From now on, people have learnt the effects, damage and characteristics of cyber-crime and are hopeful that new proposals and measures for their protection.

II. Concepts and Characteristics of Cyber Violence

1. Concepts of Cyber Violence

The word "Cyber Violence" is accepted generally but analysis may vary depending on who's point of view, because this concept is still unsettled. This word is open to dispute but make decisions based on the act such as "The act on prevention of school

violence and action plan", "Act for the Punishment of Domestic Violence", "Cyber Violence" will be prehensible widely as "To violate the honor or rights of others, the information network through the sign, the wording, sound, video, etc."

In general, violence means "exert of the type of force". In Criminal law, not exert the type of force, Interpreted to include the concept of violence. when grabbing the collar or swearing awfully, On balance we can use enough the word "violence" about various forms of verbal abuse, defamation of Photo composites in cyberspace.

2. Characteristics of Cyber Violence

2.1 Non face to face in cyberspace

In cyberspace, there's no need to meet each other people who engage in social life. and cyberspace is living Space by internet and it is Invisible. so unlike the real world, peoples act without revealing their faces. Therefore, there any crime occurred. Look at all actors in the state that does not expose. because of this non face to face of Cyber Violence, offenders are more violent, and to act boldly better than face to face. this non face to face leads to lack of responsibility, it is difficult to identify the perpetrator because victim doesn't know about the perpetrator. so the victim mentality and fear will grow much more.

2.2 Anonymity in cyberspace

In cyberspace, it is possible for one to not expose their true identity. When using the Internet, we write down personal information and through regular certification procedure also checks the user, but, does not require accurate personal information. and stealing others personal

information or ID, you perfectly can be guaranteed

anonymity can guaranteed. it can be submerged easily to the temptation of crime .[2]

2.3 Unconstrained of temporal and spatial

Life in cyberspace, there are no time or space constraints. Anyone can access the Internet 24 hours a day, and from anywhere in the world, without much difficulty. These unconstrained temporal and spatial aspects of cyberspace, provide many crime opportunities to Cyber-criminals. In other words, criminals commit a crime when they want where to place an Internet connection, on the other side of the world in the country's computer.

2.4 Synchronicity and Immediacy

Internet communication is done very quickly in real time. Due to this synchronicity in cyber space, shake off fetters from existing physical space and time. It is a known fact. As a result, Internet users were able to spread their messages to worldwide users at the same time. In addition, "internet" which is cyberspace's basic means of communication enables you to communicate with other users with the just one click. so users can send the information to specific or unspecific users directly.

2.5 Benefit and Protection of the Law of cyber-person and property in cyberspace

Recently, we can find the cyber-character frequently such as cyber singers and models. These virtual characters are important to netizens, more so than their real self. If cyber infringement of moral rights to cyber human who live and activities in cyberspace one will become angry about that infringement and being realized has a high aversion about that infringement.

2.6 The difficulty of securing evidence of the crime

Anonymity of the offender, ID theft, a non specificity crime scene, Invisibility

their anonymity. Like this, when the

of traces of the crime, the lack of international cooperation etc. that make it difficult to Secure evidence of crime, and proof of the fact crimes.

Therefore, due to criminal damage and accidental damage that might be difficult to see, if evidential matters saved difficult to decrypt password, even if the seizure is useless for such investigations more difficult to attribute to the prosecution and trial, as well as in step proven guilty, making it difficult to free from criminal penalties for cyber criminals are creating.

III. Type and damage of Cyber Violence

1. Type of Cyber Violence

Typical case of Cyber Violence can be classified by type as follows:

The 'cyber insult' which is abusive and insulting words to any person on board doing to raise or notes, or online chat. "Cyber defamation" which is disclose to an unspecified majority about for any person any false writing or honorary boards, and put facts on the Internet. "Cyber sexual harassment" which is mental harm to others on the Internet by force the lewd conversation or sexually harass conversation. 'lewd junk mail' which is send out by E-mail to a specific person or an unspecified multitude it contains pornographic, violent things. 'cyber stalking' which is Using the information network such as Internet or PC chat, E-mail etc. and attempt to Unwanted access continues to a specific person or exert sexual harassment. "cyber sex trade" which is using the Internet or PC network 's chat rooms to induce or mediate statutory rape, to diffuse the teenaged girl's prostitution. 'cyber pornography' such as famous artists's hidden camera created in the realworld and distribute content.

2. Damage of cyber-bullying

2.1 Cases of damage of cyber-bullying

Recently transmission of information via the Internet is becoming very actively, but In addition, active personal opinions of Internet users in the form of this comment as which are each events that appeared at various news is abusive or slander such as presenting baseless insult or defamation of various acts are social problems are increasing dramatically. Libel case of public and spreaded Celebrity's X Files, neonatal nurses Abuse Photos distribution events, "Gaettongnyeo(bitch)" incidents, etc. it continues to attract the our attention of cyber-violence cases are decorated with in cyberspace.

2.2 Actual state of damage of Cyber Bullying

We will be discussed about actual state of damage of Cyber Bullying by

Korea Communications Standards Commission(ex, Korea Internet Safety Commission), cyber defamation, sexual assault counseling center and various agencies's the number of applications for damage and relief.

First, looking at the Korea Communications Standards Commission(ex, Korea Internet Safety Commission)'s actual state data, Korea Communications Standards Commission(ex, Korea Internet Safety Commission) Based on the a provision of Korea Communications Standards Commission(ex, The Telecommunications Business Law Article 53 Clause 2) to the public through electric telecommunication lines and distribution information, which is responsible for examination and the modification is required, Review targets are illegal, harmful information for youth, at illegal information there are defamatory, false information dissemination, verbal abuse, stalking and other law violations, and social order, a violation of prohibited acts includes, As the result of deliberation, they can requirements of modification

such as warning, the deletion of information, stop using, revoke using, etc. if telecommunications carriers that do not respond, they can requeste of Minister of Knowledge Economy (formerly, Minister of Information and Communication)'s exert of the power to command.

The first half of 2005, the number of required correction of the Korea Communications Standards Commission (ex, Korea Internet Safety Commission) are total 17,247cases, but defamation 1372 cases, insult 404 cases, pornographict 11,316 cases, violence / hate 189 cases, speculation 54 cases, violation of order 3809 cases, request investigation 103 cases.

Secondly looking at data of cyber defamation, sexual assault counseling center.

The center has occurred on the cyber defamation, libel, stalking, harassment, and infringement damages for the receipt of the report and the report of the victim or when you serve requesting redress and civil laws, criminal and administrative procedures, etc. to conducting discussion, after consultation with the victims of that information deleted, and if you want the punishment of perpetrators, the Report Center, in conjunction with deliberations department and Police Department through the corrective action is taken to such institutions. The center five months of the last four years, the number of consultations, including insults of 15,027 libel cases almost half the number of 7,195 cases. [4]

IV. Supporting Plan for the victims of cyber-bullying

1. Victim Assistance in Criminal Procedure

4.1 Respect the rights of victims

At criminal procedure shall respect the rights of all people. Therefore, when conducting a criminal investigation to understand the feelings of the

victim and should be careful to avoid victim's 'second victim'. The most common victims include measures for the accusation, positive response about prosecution, the improvement of reporting a crime and protect reporter, improvement in the complaint and of the period at an offense subject to complaint. In addition, for the prevention of secondary damage to a survey of victims of the use of suitable locations, and should take measures to prevent to other victims as possible to feel anxiety or discomfort. In the course of investigation provides an overview about the criminal procedure to the victim, and the progress of the investigation and the victim's description of the remedy or relief of anxiety can be helpful in providing information to notice any recognized effort is required.

4.2 Investigative agency's reinforcement of control and punishment activity

Break a case with Judicial Institutions is powerful and the final solution for victims. Victims of cyber-bullying expect to the investigation of the police, first cause of death was too slightly so it is difficult to have investigative staff. Secondly, there is sufficient evidence to secure a victim if it is not often, Third, it given the lack of investigation that can be seen in reality, related to the investigation of computer technology and require long-term nature of the case.[5] Therefore, law enforcement agencies, including police respond positively will be secured the expert on cyber-investigative personnel for cyber-bullying and investigative skills.

2. Installation of the organization of grievance mediation for relief damage

Victims who suffered serious wounds in mind, force of civilian volunteers is absolutely necessary. The first half of 2004, according to a survey of 1,958 users which are cyber defamation, sexual assault counseling center counseling people a survey of 1,958 users, according to the users about cyber-libel damages the other party's public

apology writing their requests (30%, 53 person), criminal penalties (28% , 52 person), delete information requests (17%, 32person), financial compensation claims (11 percent, and 20person), physical violence (3%, 6person), refute posts or vindictive post articles (2%, 3 person) showed that hope.[6]

Cyber defamation, sexual abuse victim counseling centers are lacks of system to help for damage about users satisfactory.

if victim want to criminal penalties it passing to the Police. and examination department to request about delete posts. it is limited role like request a consultation, and a beyond its own did not have the means to solve.

Like cyber defamation, for the victim's real relief, the judicial handling the most obvious way, but time and cost easily take advantage of the more difficult because the judicial process simpler and monetary compensation and public apology and the deletion of information, including the victim's needs to meet the establishment of a quasi-judicial dispute resolution mechanism is needed. through a mechanism to adjust the dispute notification and consultation services more efficiently and faster.[7].

3. Establishment of Cyber-contempt

Currently so-called 'cyber-offensive' can only be punished by criminal contempt (under Article 311). As criminal law, if who abusive to others, which is equivalent to a criminal contempt and subject to criminal penalties. criminal contempt must be public and victim's complaint investigations and appeals have been filed with an offense subject to complaint is possible. However Once the damage occurs in cyberspace, it passes by netizens due to be expanded into cyberspace in an instant the whole blame on the victim once that starts, continues endlessly, and the damage caused by the trauma of the victims to speak achieved without a large In addition to features that will have

irreversible. Especially, "Choi jin-sil" suffered from internet rumors which is "Ahn jae-hwan"'s suicide was involved with her, and malicious comments etc it makes her suicide. Considering these damage of cyber-space's propagation and no prevent the spread. it is needed related legislation's amendments

4. Adoption of Internet real-name system

As the way to prevent cyber-violence "Internet real-name system" should be conducted to gain the sympathy public opinion. "Internet real-name system" is using whose real name when using the Internet system. If carry into effect "Internet real-name system", a crime in cyberspace is expected to decrease significantly, and offered services in cyberspace will be able to increase the credibility of customer. [8] Recently because of these advantages the major ISP's have already performed a "real-name system". but If a uniform force the Internet real-name may appear adverse effect because the dysfunctional to the extent such dysfunction is minimized, for example, the press bulletin, the public message boards, youth are expected to deviate, or damages from Internet cafes in part at community must enforce there will be.

5. Strengthen the ISP's responsibility

Related with cyber-bullying, there are myriad of views corresponding to criticize about irresponsibility idle of ISP that is Internet Service Provider. To protect the interests of its network users establish a secure communications environment should be duty granted by the ISP. Because the cyber-sexual offenders the damage caused by an invisible track. So, secured and enough evidence is essential. To do this, the ISP's actively helps are urgent. But one of the most ISP they show about the incident also net actively resolve the reported incidents and invisible and irresponsible appearance a myriad of examples.

But it is very difficult problem, the information

and communications service providers are responsible for specific Whether any form. theres critical view of ISP's recognition of criminal responsibility, the current situation you can see the trend going acknowledge its responsibility in any form. Grant to ISP monitoring of cyber-violence for its administrative space if these obligations sluggishly administrative penalty or criminal penalty by legislation so that you can find itself in cyberspace, more aggressive cleansing will be able to embark on.

6. Education and promotion for the prevention of damage

For prevention of cyber-bullying internet service provider's to become a member of the Real-time status, and determine the terms and conditions to actively protect your privacy, and trusted manufacturer and approved then you need to join, chat, games, dialogue, message boards, and address or phone number, pictures, etc. should not disclose any personal information.

ID and your password is changed on a regular basis and if there is a number of bulletin boards or chat rooms to bombard abusive, obscene language, sexist language, its Report Center reported actively trying to settle a cyber culture will be required. [9]

Also netizen's self-purification, own work of youth the most desirable way to verify the information themselves, but this education has limitations at home. Individuals and Households, various social groups etc. Internet access for application and skills training, and systematically contribute to the prevention of the damage.

V. Conclusion

Cyber-bullying occurs in cyberspace and it is verbal abuse or crime of expression that violates an individual's personal rights. Therefore, in using the Internet to minimize dysfunctional and created the

correctcyber-culture. Using the Internet right way is very important. In addition, right internet access and use the right skills and understanding of the nature of cyberspace ethics awareness about the spread of information and communication needs. Cyberspace is strong communicability the nature of its own so victim's damages are more grow. Therefore, for a healthy cyber culture, there is need to strengthen minimum regulation. In particular, It need for urgent action.about so-called 'Cyber Bullying' it obtain the victim's mental depression.

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