

Research Title Damage from Online Sexual Violence and Victim Protection

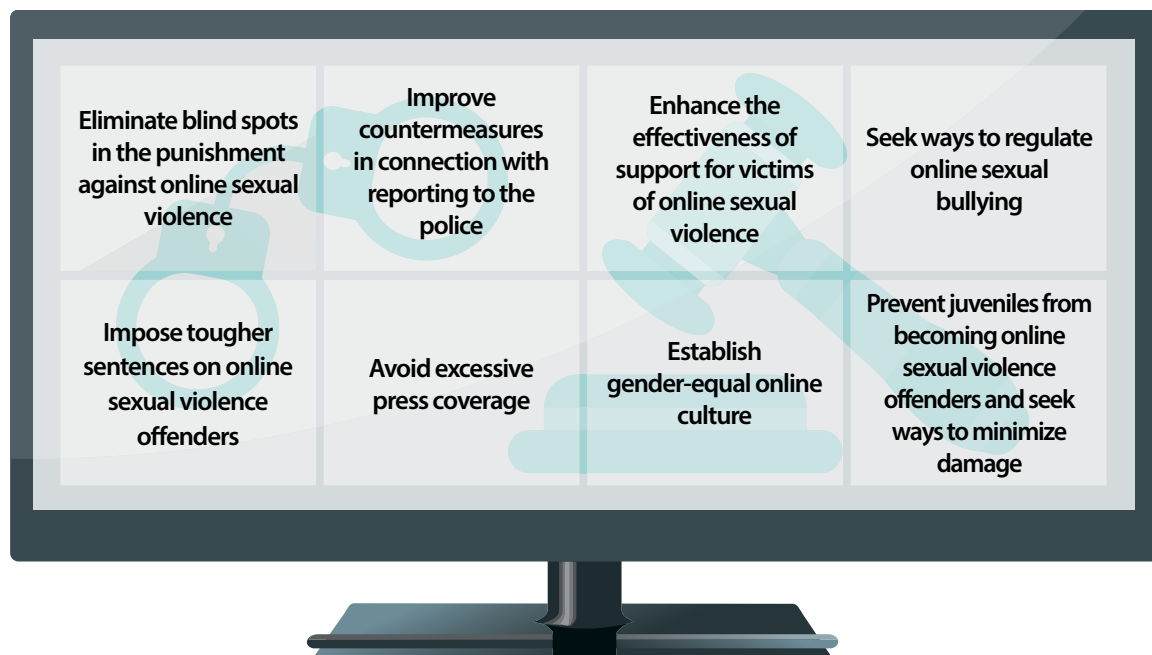
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Damage from Online Sexual Violence and Victim Protection

Abstract

- This research aims to ‘review the concepts and scope of online sexual violence in order to identify issues in victim protection and devise improvement plans’, ‘to present the patterns and types of online sexual violence through research on written judgments, the review of press reports, the identification of cases and status of online sexual violence, and the survey of and in-depth interviews with victims’, and ‘to propose legal and policy measures for the protection of and support for victims and the prevention of such violence’.

Policies for the protection of victims of online sexual violence



1. Research background

- ✔ The proliferation of the Internet and smart phones is functional in terms of enabling the limitless use of information going beyond the barrier of time and space while it is also dysfunctional in the context of causing serious and various online sexual violence. Such negative functions should be actively coped with, identifying related issues, because they not only damage personalities but also leading people to avoid the use of online systems, distorting human relations and creating abnormal relations.
- ✔ In spite of a rapid rise in online sexual violence, the pains and fear that violence victims experience have been reported in a limited way only through some cases or written judgments. As a result, the percentage of victims of online sexual violence, the process of such violence occurring, types of damage and victims' attitudes have yet to be effectively researched. Because existing surveys are characterized by lack of sample and too general questions, they have not been effective in identifying the experience of victims of online sexual violence.
- ✔ Legal provisions specify various types of online sexual violence but there are blind spots in punishing violence offenders. Victims have claimed that they are mentally damaged but there are blind spots in counseling because victims themselves fail to recognize the seriousness of the crime and counseling centers, (etc.) focus on offline sexual violence. The distribution of photographed images or videos on the Internet causes psychological damage, with their deletion costing high. Such a situation adds to the distress of victims, requiring additional measures for their protection.

2. Analysis results

- ✔ **Concepts of online sexual violence, related laws and policies**
 - ▶ Concepts of online sexual violence
 - A diversity of terms (online sexual violence, cyber-sexual violence, digital sexual violence, etc.) have been used.
 - Generally speaking, online systems contrasted with offline structures have been familiar to us, because we have frequently used them every day. By accurately

identifying sexual violence occurring in this environment and taking preventive measures, safety should improve and the protection of victims needs to be ensured. In this context, the term ‘online sexual violence’ was chosen for this paper.

► Laws for the protection of victims of online sexual violence

- 「Sexual Violence Prevention and Victims Protection Act」 contains provisions on deleting data on victims of online sexual violence and exercising the right to indemnity against offenders. In accordance therewith, services for the protection of and support for sexual violence victims are also delivered to victims of online sexual violence.

► Policies for victims of online sexual violence

- On September 26, 2017, the Ministry of Education and 13 other Ministries (Ministry of Science and ICT, Ministry of Justice, Ministry of National Defense, Ministry of the Interior and Safety, Ministry of Culture, Sports and Tourism, Ministry of Health and Welfare, Ministry of Gender Equality and Family, Ministry of Land, Infrastructure, and Transport, Ministry of Personnel Management, Korea Communications Commission, Korea Customs Service, Korean National Police Agency, and Korea Communications Standards Commission) devised and announced “Comprehensive Policies for the Prevention of Digital Sexual Violence”.



Precedents on online sexual violence and press reports by type of damage

► Precedents on online sexual violence

- Online searches were conducted by using “Taking Photos by Using Cameras, etc.” prescribed Article 14 of 「Act on Special Cases Concerning the Punishment, etc. of Sexual Crimes」. Focusing on 360 first trial rulings delivered from Jan. 01 to Dec. 31, 2017, offenders, victims, the crime of illegal distribution, and punishments were analyzed and compared with statistics for the period from 2011 to April 2016.
- The number of cases of taking illegal photos in the subway, (etc) dropped while sexual materials filmed without consent (so-called ‘revenge porn’) were distributed more widely. The percentage of distributed materials is higher than that of non-distributed materials.

<Table 1> Whether to distribute materials

(Unit: frequency, %)

Distribution	[2011 ~ April 2016]		[2017]	
	Frequency	%	Frequency	%
No	1,467	95.8%	322	90%
Yes	64	4.2%	34	10%
Sum	1,531	100.0%	356	100%

- In connection with first trial rulings, the share of jail sentences jumped from 5.3% to 11.1% while the percentage of monetary penalties dropped from 72.0% to 54.1%. Prison terms ranged from six months to one year, which is similar to those of the previous period. The share of monetary penalties valued at KRW 3 million or less was estimated at 80.1% for the previous period while in 2017 it fell to 53.5%. However, the percentage of such penalties valued at more than KRW 3 million was as high as 47% in 2017. This means that the amount of penalties climbed to a certain degree.

<Table 2> Types of penalties

(Unit: frequency, %)

First trial penalties	[2011 ~ April 2016]		[2017]	
	Frequency	%	Frequency	%
Jail sentences	82	5.3%	41	11.1%
Monetary penalties	1,109	72.0%	200	54.1%
Probation	226	14.7%	103	27.8%
Suspended sentences	115	7.5%	22	6.0%
Not guilty	9	0.6%	4	1.1%
Sum	1,541	100.0%	370	100.0%



Press reports by type of damage

- ▶ Online searches were conducted by using the keyword “obscene materials” focusing on key daily newspapers or Internet news for 2018.
- ▶ Types of damage from online sexual violence are as follows: 1) sending of obscene messages or videos to the other party; 2) keeping photos or videos of the other party and threatening to distribute such materials or threatening to distribute the materials and sexually assaulting the other party again; 3) using AI-based editing technologies to edit obscene materials with photos of friends or celebrities’ faces and post them with malicious comments or sell such edited

materials; 4) receiving of body photos of children and teenagers via online grooming and distributing or threatening to distribute such materials in order to receive body photos from them again; and 5) releasing such illegal materials to pornographic sites on the Internet or file-sharing sites.



Damage from online sexual violence and support for victims

► Online survey

- A survey of 2,000 females aged 15 to 49 who have experienced online sexual violence was conducted to identify their experience in online sexual violence (types of damage including media, offenders, and methods), aftereffects (risks in hurting themselves or others), their recognition of online sexual violence (scope of and countermeasures to online sexual violence and plans for supporting victims), and socio-demographic characteristics.
- Out of a total of 2,000 respondents, 1,648 participants (82.4%) have experienced online sexual violence without 'filming,' 'threatening to distribute materials,' and 'distribution· re-distribution' while 352 respondents (17.6%) are victims of digital sexual violence. Among victims of digital sexual violence, victims of illegal filming number 324 (16.2%), with victims of 'threatening to distribute materials', 'distribution/redistribution', and 'online grooming', numbering 96 (4.8%), 57 (2.9%), and 106 (5.3%), respectively (including overlapping damage).
- Damage from illegal filming and types thereof are as follows: The highest number of respondents (110 persons, 33.9%) said that part of their body or their naked body causing sexual humiliation was filmed unknowingly, followed by "keeping their photos and videos causing sexual humiliation against their will" (101 persons, 31.2%) and "scenes of defecation or urination and sex being filmed unknowingly" (84 persons, 25.9%), and "part of their body or their naked body causing sexual humiliation being filmed by force against their will" (29 persons, 9%).

<Table 3> Types of penalties

(Unit: frequency, %)

Classification	Filming by mutual consent	Filmed by the offender secretly	Filmed by a third party secretly	Filmed by force or threats	Sum
Part of their body or their naked body causing sexual humiliation filmed unknowingly	0(0.0)	64(58.2)	46(41.8)	0(0.0)	110(100.0)
Part of their body or their naked body causing sexual humiliation filmed by force against their will	0(0.0)	0(0.0)	0(0.0)	29(100.0)	29(100.0)
Scenes of defecation or urination and sex filmed unknowingly	0(0.0)	41(48.8)	43(51.2)	0(0.0)	84(100.0)
Their photos and videos causing sexual humiliation are kept by the other party against their will	13(12.9)	49(48.5)	22(21.8)	17(16.8)	101(100.0)
All	13(4.0)	154(47.5)	111(34.3)	46(14.2)	324(100.0)

-According to the survey on preventive measures, the highest number of respondents, among victims of online sexual bullying and digital sexual violence, responded that legal systems should be revised to toughen penalties against online sexual violence offenders, taking stronger regulatory measures.

<Table 4> Necessary measures for the prevention of online sexual violence

(Unit: persons, %)

Classification	Sexual bullying	Filming	Threatening to distribute	Distribution/redistribution	Grooming
Develop and promote countermeasures (manuals) to online sexual violence	79(4.8)	15(4.6)	7(7.3)	6(10.5)	13(12.3)
Revise legal systems and take tougher regulatory measures to strengthen penalties against online sexual violence offenders	1,023(62.1)	210(64.8)	44(45.8)	30(52.6)	60(56.6)
Apply real-name systems to online posts and comments	246(14.9)	40(12.3)	16(16.7)	11(19.3)	14(13.2)
Establish permanent bodies to support victims of online sexual violence	36(2.2)	11(3.4)	7(7.3)	5(8.8)	2(1.9)
Continuously monitor and control online sexual violence (monitoring agencies)	222(13.5)	42(13.0)	19(19.8)	4(7.0)	16(15.1)
Promote education and training on human rights and the prevention of online sexual violence	42(2.5)	6(1.9)	3(3.1)	1(1.8)	1(0.9)
Sum	1,648(100.0)	324(100.0)	96(100.0)	57(100.0)	106(100.0)

► In-depth interviews

- Materials filmed using digital devices can be copied and reproduced limitlessly, so that damage is not done on a one-time basis but continuously occur, going beyond the barrier of time and space. Moreover, such data are widely shared across society, exposing victims to various types of criticism. As a result, victims are reluctant to disclose and share their experience.
- Before distribution or prior to threatening distribution of such materials, focus is placed on preventing the distribution thereof. As a result, victims can't report such incidents to regulatory authorities. After they are distributed, they concentrate on deleting such materials. Given that reporting or asking for help is likely to lead such materials to be distributed more widely, victims are often hesitant to report such incidents to related authorities or to request help.
- Lack of confidence in national authorities including law enforcement agencies and the burden of giving personal information and proving damage cause victims to seek help from private organizations. However, it is impossible to delete all the materials. In some cases, personal data are accumulated in private companies, leading such firms to threaten victims with personal data disclosure.
- Victims of online sexual violence or of the distribution of filmed materials have to see their daily lives ruined and witness their personal connections severed, thereby being isolated socially.



Foreign laws and policies for the protection of and support for online sexual violence victims

- The US has established laws and policies by putting more emphasis on protecting privacy than on controlling sex crime.
- The UK has dealt with online sexual violence from the perspectives of sex crime. What should be noted in the protection of and support for victims is that whisper contact is possible. In other words, without disclosing their personal information, victims can be effectively protected and supported. This policy is deemed to have been feasible because the needs of vulnerable victims are fully considered.

- ▶ Australia's policy is deemed to be very meaningful in that it has comprehensively introduced the victim-centered principle of 'image-based abuse.' More specifically, it is based on offenders' behaviors and at the same time goes to the root of the needs of victims.
- ▶ Japan has yet to prepare regulations on punishing offenders and protecting and supporting victims. This is attributed to the fact that it has already established the 「Act on the Prevention of Damage from the Delivery, (etc.) of Personal Sexual Images and Videos」 whose purpose is to protect privacy. Therefore, the Japanese legal systems are considered to be insufficient in protecting victims.

3. Policy suggestions

- Based on the aforementioned results from the survey on the patterns and status of damage from online sexual violence, blind spots in controlling online sexual violence are identified, thereby presenting the following policy alternatives that are deemed to be effective in protecting and supporting victims and preventing damage.

Eliminate blind spots in punishing online sexual violence	Improve responses to reporting to the police	Enhance the effectiveness of support for victims of online sexual violence	Seek ways to regulate online sexual bullying
<ul style="list-style-type: none"> • Resolve the issue of failing to apply the Act on Special Cases Concerning the Punishment, Etc. Of Sexual Crimes to image filming and filmed material editing • Necessary to consider sexual humiliation that victims feel in connection with "others' bodies causing sexual desire or humiliation prescribed in the Crime of Taking Photos Using Cameras, etc. 	<ul style="list-style-type: none"> • Expand active investigation where illegally filmed materials are recognized as sexual violence • Secure and improve deposition spaces for victims in police stations 	<ul style="list-style-type: none"> • Offer more support to resolve the fear of reporting before illegally filmed materials are distributed • Offer counseling services that reflect the characteristics of victims of online sexual violence • Seek ways to provide one-stop services for data deletion and other services 	<ul style="list-style-type: none"> • Lead citizens to recognize that sending obscene messages and such can be punished • Devise plans to self-regulate online sexual bullying • Lead law enforcement agencies to actively and continuously control and monitor online sexual bullying

Give tougher sentences to online sexual violence offenders	Avoid excessive press reports	Establish gender-equal online culture	Seek ways to prevent teenagers from becoming online sexual violence offenders and to address damage
<ul style="list-style-type: none"> • Help give sentences considering statutory punishment against the crime of taking photos using cameras, etc. 	<ul style="list-style-type: none"> • Avoid the sensational reporting of the distribution of illegally filmed materials in connection with victims of online sexual violence • Promote the use of guidelines for reporting sexual harassment and violence to prevent press reports from causing collateral damage 	<ul style="list-style-type: none"> • Improve the gender sensitivity of law enforcement agencies • Devise plans to enhance gender sensitivity 	<ul style="list-style-type: none"> • Prevent teenagers from potentially committing the crime of online sexual violence by introducing self-checklist systems and education for the prevention of online sexual violence and the improvement of gender sensitivity • Offer education and training services for preventing the online grooming of teenagers

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Management Ministry: Ministry of Gender Equality and Family

Affiliated Ministries: Korean National Police Agency, Korea Communications Standards Commission, Ministry of Justice, Ministry of Education, Ministry of Science and ICT, and etc.