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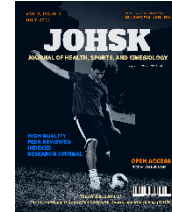
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The Legal Implications of Korean Sports Violence

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Introduction

Korean national laws may have limited application in the sports sector. Sports rules that restrain government intervention have allowed organizations to exercise power as autonomous and private sectors at the global level (Kim, 2011). Despite these constraints, certain issues, including criminal problems, economic interests, and bodily integrity in sports, sometimes call for intervention from judicial powers (Park, 2016).

Purpose

As it is impossible to completely avoid physical contact in team sports games, acts of violence that have high chances of harming others naturally take place during games and competitive events. Thus, this paper seeks to define whether violence in sports is subject to criminal prosecution.

Methods

After a descriptive exploration of pre-existing studies through a systematic literature review, qualitative research was conducted to examine the precedents in accordance with legal transition and flow. Legal concepts in Korea were first established, and key points of previous works and studies were examined thoroughly (Sohn, 2011).

Results

It is critical to judge the intentionality of such actions for a legal interpretation to see whether they can be deemed offensive (Sohn, 2011). As the concept of violence is defined as a physical assault on bodies, illegally exercised physical coercion, and invasion of other people's bodies, thus validating such action as a crime, the benefit and protection of law to be honored in such incidents are bodily integrity and its physiological functions (Oh, 2019). In order to decide criminality under penal law, each case consists of the "component validity-illegality-obligation" (Yeon et al., 2018).

Illegality is defined as a negative value judgment delivered objectively from the perspective of law and order as an act that corresponds to the component. In other words, an action is illegal and thus unacceptable when assessed from the overall perspective of society, law, and order. For an act corresponding to a component to be recognized as justifiable, the devaluation of the act or the devaluation of the results, which are the substance of illegality, must be justified.

A component is a prerequisite for the legal effect of a legal judgment as required to produce a certain effect. Compositional validity means that an act satisfies both the objective and subjective elements of the component case as provided by law.

Currently in sports, the general theory is that if a victim has consented to the assault and there is no violation of social norms, the victim will be subject to a justification and will not be subject to criminal punishment. Within this background, the range of the victim's acceptance and social norms is wide, and differences can exist depending on the scope of interpretation (Lee & Jeong, 2007).

In basketball, for example, an injury occurred when a Basketball's ball was deliberately used to hit the opponent's body. The problem of legal interpretation is that the victim's consent to participate in the basketball game and the injury caused by being hit by the ball are in accordance with the social norms of such a sport, and thus the perpetrator's intention is not taken into consideration (Oh, 2019).

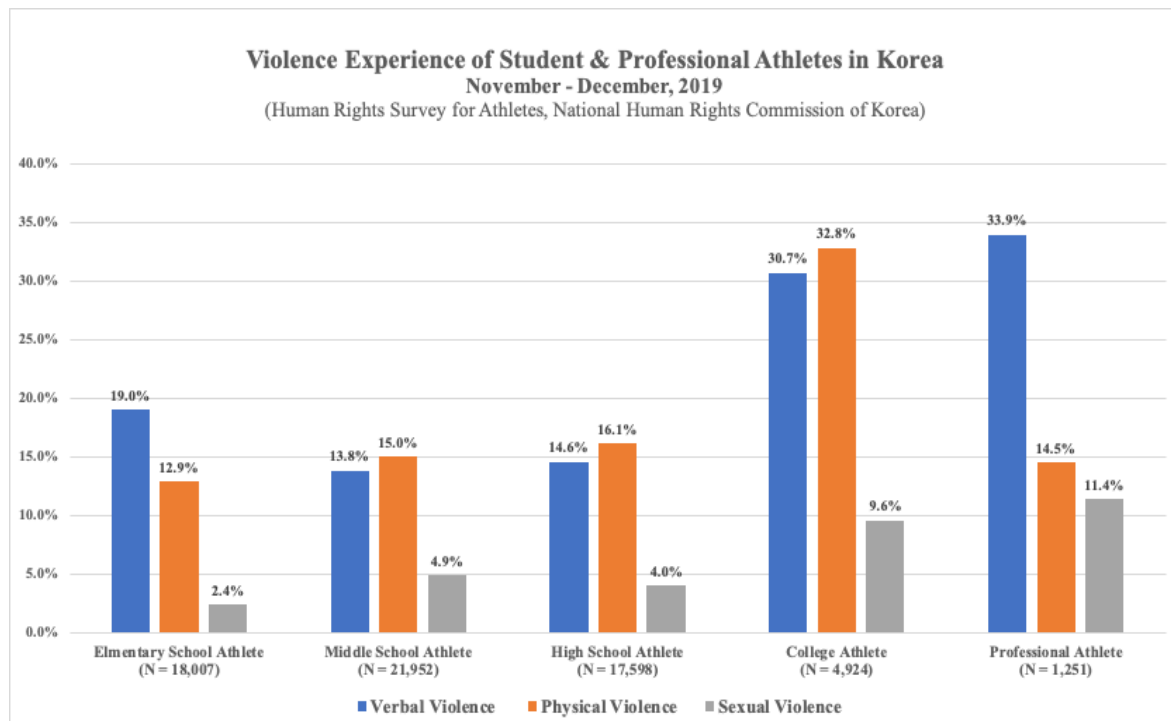


Figure 1. Violence Experience of Student and Professional Athletes in Korea (National Human Rights Commission of Korea, 2019)

Discussion

The following is a criminal interpretation of the 1999 Major League Baseball game case. At that time, a problem occurred when the opponent player Bell had been tagging Park's chest for a long time with a ball. In response to this action, Bell beat Park. This is acceptable behavior within the context of baseball games and not against social norms because it was not violent enough to cause a blow or wound. Later, when Park expressed irritation at Bell's

action, Bell made racist remarks and cursed, and Park, who was angry, hit Bell in the face with his left hand (Kim, 2016). This act ended in disciplinary action in the category of sports. However, it is necessary to think from a criminal legal point of view.

There was an incident in which Korea high school boxing students, who had failed to meet expectations at an athletic competition, were taken to a cemetery in the hills to dig a pit and buried a captain. The reason for the boxing coach's incident was that he failed to make it to the quarterfinals at the Korean National Sports Festival (Kil, 1998). In the Korean elite sports sector, it has been pervasive violence made by the hierarchical structure and the power of physical education (Ahn & Kim, 2019).

Referring to the above cases, the application of corporal punishment at any educational site is not allowed in principle as a violation of human rights. However, Article 31 (7) of the Enforcement Decree of the Korean Elementary and Secondary Education Act stipulates that "the head of a school should guide students by means of discipline, admonition, etc. that does not inflict physical pain or personal insults on students, except in cases where it is educationally inevitable when teaching students."

The opposite interpretation of this regulation can be interpreted as the possibility for educational corporal punishment if it is inevitable for education. In other words, if it is inevitable, physical punishment may be imposed for educational purposes when coaching athletes. In these cases, a coach's conduct requires a legal judgment whether it is an act of violence or corporal punishment (Park, 2016).

Conclusion

In fact, if violence that occurs in the context of sports is directly related to a sport, it is often punished by a cooperative or organization in recognition of the special nature of sports. Although many student and professional athletes have had experiences of violence in Korea (see Figure 1; National Human Rights Commission of Korea, 2019), there is no law for the field of sports, which is currently interpreted and applied by criminal law, civil law, and commercial law. In view of the particular circumstances in the field of sports, it is necessary for the Korean government to experimentally demonstrate enacting sports law and sports ordinances in accordance with its special circumstance of sportspeople and the field.

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