

We have recently been made aware that Japan has taken to reviewing its laws in regard to child pornography. As concerned members of the international community who have researched Japan's lax restrictions in that field of law enforcement, we were initially pleased to hear that progress is being made where it is unquestionably necessary.

However, upon discovering that the criminalization of fictional material is presently under consideration for new legislature, we began to fear for Japan's public image as a nation once standing among peers in liberty and justice, now poised to deprive its people of their most fundamental of human liberties, of which we may be historically reminded of in *The Potsdam Declaration*:

"Freedom of **speech**, of **religion**, and of **thought**, as well as respect for the **fundamental human rights**..." (Section 10)

The idea that ownership and production of a work entirely comprised of fiction (written, spoken, drawn, etc.) could be a prosecutable offence is an absurd violation of human rights as well as freedom of both speech and thought. It is an aimless and impolitic prohibition of ideas themselves. We of the international community cannot help but be reminded of other countries who have violated their citizens' freedom of speech, of whom Japan is standing but months away from joining in rank.

Prosecuting the production and distribution of authentic child pornography is a fundamental and necessary legislation. It is a menace that harms our children mentally, physically and emotionally, and has to be fought to the full extent of law.

It is the unfortunate, but solemn democratic responsibility of this document to illustrate why prurient fiction (written, spoken, drawn, etc.), regardless of the ideas it presents to the legally consenting consumer, is:

- (1) protected in the Japanese Constitution as a freedom of speech, thought, and a fundamental human right and civil liberty
- (2) the only outlet for common taboo-breaking fantasies available to healthy, law-abiding citizens (in parallel with violent fiction)
- (3)
 - (a) a proven therapeutic aid in cases where victims of abuse benefit from confrontation-based therapies (such as emotional discharge therapy^[1] and cathartic treatment^[2])
 - (b) a proven therapeutic aid in cases where patients suffering from aggression and/or sexual disorders benefit both themselves and society from having safe outlets to expel anti-social fantasies^[3]

[1] Allen, B., & Borgen, K. (1994). Multimodel therapy for survivors of sexual abuse with developmental disabilities; *Sexuality and Disability*, 12(3), 201-206

[2] Kraus, G. (1997). *The psychodynamics of constructive aggression in small groups*. *Small Group Research*, 28(1), 122-145

[3] The use of art in counselling child and adult survivors of sexual abuse, Maralynn M. Hagood, p.169, 213-214, 215-222

During the production, distribution, and ownership of any creatively-derived, fictional pornographic material, there *already exists* a solid legal barrier to ensure that only consenting adults take part in such private enterprises.

Nevertheless, there is a growing movement of hysteria supporting the idea that fictionally-depicted crime could incite actual crime by influencing the minds of those who consent to view it. In the case of fictional minors as characters in prurient media, the concern would be that it could hypothetically incite child molestation in the real world and therefore contribute to the harm of a real child.

During their formative years, it has been proven^[1] that *children* are at risk of imitating aggressive behaviour into adulthood if exposed to it habitually throughout their youth. Adults exposed to the influence of media do not fall into this category. Free societies are founded on the ideology that every citizen is responsible for his or her own actions. If we were to open the floodgates of blame displacement, it would corrode the value of self-responsibility in our culture.

Therefore there has never been, nor will there ever be, legitimate evidence that fiction constrained to an adult viewership is capable of begetting crime. Studies on the effects of creative media and how it may make its audience think and behave is a topic of countless research papers in scientific journals spanning the realms of psychology, communication theory, sociology, criminology, political science, and technology. The equal abundance of arguments and counter-arguments contemplating the question of how media affects behavior create a chaotic unscientific atmosphere wherein the casual observer has no rigorous scientific compass to rely on beyond their subjective beliefs.

Physiological desires are another category of behavioral influence that does not necessarily dictate one's actual behavior. According to one study by Nagayama Hall, Hirschman & Oliver, more than 25% of normal men exhibited penile arousal to heterosexual pedophilic stimuli that was equal or greater to their arousal from heterosexual adult stimuli^[2]. This is a conservative figure for the objective of this document, as the study did not include homo-erotic stimuli or adolescent stimuli, bringing the likely ratio of males presently functioning on a normal level in society who nevertheless experience erotic thoughts about minors *considerably higher* than one out of every four. The study then went on to empirically confirm that "...arousal to pedophilic stimuli does not necessarily correspond with pedophilic behavior".

What this substantive category of people need is a venue to convert these impulses into a more socially acceptable form. Prurient fiction is *the only available means* to sublimate sexual impulses without actually committing them, and is therefore too necessary an element of societal health to suddenly and aimlessly prohibit. Without fantasy to expel the taboo-breaking impulses of at least one out of every four men, what remains?

[1] "Longitudinal Relations Between Children's Exposure to TV Violence and Their Aggressive and Violent Behavior in Young Adulthood: 1977 - 1992," L. Rowell Huesmann, Jessica Moise-Titus, Cheryl-Lynn Podolski, and Leonard D. Eron of the University of Michigan; *Developmental Psychology*, Vol. 39, No. 2.

[2] Sexual Arousal and Arousability to Pedophilic Stimuli in a Community Sample of Normal Men, Nagayama Hall, Hirschman & Oliver, *Behavior Therapy* 26, 681-694, 1995

And how does such a ban account for viewers of prurient fiction whose purpose for consumption has no counterpart in reality? We are talking about a ban on fantasy after all. How silly would it look to the international community if Japan were to outlaw romantic depictions of elves, angels, faeries or any number of other impossible beings whose physical features are traditionally those of ageless youth?

Imagine police breaking into the apartment of an 18 year old hard working student because he bought a romantic comic book about mythological beings, and sending him to prison for several of his precious few young adult years. It would be ludicrous, shameful proof of an unprincipled Constitution-desecrating political system. It would be an outrage. It would also be, however, following Japan's potential new child pornography laws *to the letter*.

Imprisoning those who possess, distribute or create fictional crime is a straightforward example of gratuitous pre-emptive incarceration. It does not in any way reflect the harm caused by passively communicating such fiction. It is unapologetically confining a law-abiding citizen under the pretence that doing so will help to prevent the thought, the fiction, from becoming reality.

Society has a duty to protect the safety of *all* its law-abiding citizens. Every single person within categories (2), (3)(a) and (3)(b) of page one of this document (regular citizens seeking safe alternatives for expelling *commonplace* anti-social impulses, victims of abuse seeking confrontation therapy, patients seeking therapeutic aid) would be classified as criminals were this legislation to become law. This is regardless of their intent to ever actually commit crime. There cannot be a more clear-cut example of abusive and destabilizing legal precedent than the governmentally sanctioned authorization of superfluous imprisonment.

It is evident from the ever tightening laws in the west oblivious to an ever increasing rate of child molestation^{[1][2]} that making things such as fictional media illegal or censored proves to be completely ineffective and could be reasonably interpreted as a correlative factor that is presently encouraging the rising trend of child molestation in the west. Compared to other first world countries, Japan has a relatively low child molestation rate (even with the inclusion of the unreported rape statistic)^[3].

With a national crime reporting statistic of 39%^[4] and rape rate of 0.177%^[5], this would mean that Japan has an official estimate of 0.285 rapes per 100 people. Even giving the United States of America the handicap of a 100% crime reporting rate, this means that Japan, presently an endangered safe haven without fictional obscenity prohibitions, sets a superior example of how a free society enjoys less sexual crime by roughly a factor of 10.

[1] Kendall-Tackett, K.; Meyer Williams, L. and Finklehor, D. (1993). "Impact of child sexual abuse: a review". *Psychological Bulletin* 113: 164–180

[2] The Journal of Mind and Behavior, Winter 1989, Vol. 10, No. 1, Pages 127-130

[3] David Gough, Associate Professor, Japan Women's University, "Child Abuse in Japan", *Child and Adolescent Mental Health*, Volume 1 Issue 1, Pages 12 - 18 (1996)

[4] UN International Crime Victims' Survey year 2000

[5] Seventh United Nations Survey of Crime Trends and Operations of Criminal Justice Systems, 1998 – 2000

This is significant evidence that a less constraining atmosphere in the realm of prurient fiction restricted to adults does indeed correspond with a legitimate decrease in crime. It stands as an indisputably beneficial ingredient in nurturing the homeostasis of humane and hospitable culture^[1]. For further perspective, Japan's crime rate has steadily decreased since World War 2 while the availability and variety of its permitted fictional therapeutic erotica has steadily increased^[2] (with no limit ever set on the thematic range of obscenity communicated), particularly during the most recent decades. Research following trends in Japan's respectably small criminal landscape has consistently repeated this correlation between the increase in availability of pornographic material and subsequent decreases in juvenile crime, sexual violence, and number of assaults of children under the age of 13^[3]. Society requires outlets for taboo-breaking fantasies to function safely and humanely. This cannot be restated enough.

There is a double standard that would be enforced when banning this material compared to violent media such as games, movies, novels and art. Such media is sold on a much wider scale, yet Japan has a low violent crime statistic. Where usually the argument against this would be that the genre of fictional children in sexual situations “rewards” the viewer with physical pleasure, First Person Shooter (FPS) games always reward players who kill the most, socially with leader boards showing things such as accuracy and killing efficiency. Violent media has shown in studies to have either no noted correlation to violent crime^[4], or a positive correlation to reducing violent crime^[5], so why should other fictional material be banned? Enforcing such a double standard enforces hypocrisy within the government body itself, and promotes bias when making laws. Creating laws that impede on one's right to animate their thoughts purely based on emotion with no clear facts is a huge violation of human rights.

There is also a concern about how, when debating about what Japan should criminalize, one of the most common points made is “a select few other countries have done it, therefore so should we”.

There are indeed countries that imprison and fine their citizens for expressing their views in words and through art. For example, Ireland has made Atheistic texts, speech and art illegal with its new 2009 Defamation Bill introducing the crime of “blasphemous libel”, which has been signed into law by President Mary McAleese as of July 10th, 2009. In Australia and Canada, it is a crime to draw or own cartoons of minor characters without clothing, regardless of whether the work is of a prurient nature. In China, Iran, North Korea, and India, there are endless lists of “dangerously free-thinking” films, news outlets, internet communications, and books that are routinely criminalized and restlessly prosecuted.

[1] Berl Kutchinsky, “Studies on Pornography and sex crimes in Denmark”, *New Social Science Monographs*, Denmark 1970

[2] Diamond, M. and A. Uchiyama, "Pornography, rape and sex crimes in Japan." *International Journal of Law and Psychiatry* 22(1): 1-22. 1999

[3] Diamond, M., "The Effects of Pornography: An international perspective." *In J. Elias, et al., Editors. Prometheus Press: Amherst.* p. 223-260. 1999

[4] Jonathan Freedman, “Media Violence and Its Effect on Aggression: Assessing the Scientific Evidence”, pp. 106-107. 2002

[5] Patrick Kierkegaard, “Video games and aggression”, *International Journal of Liability and Scientific Enquiry* - Vol. 1, No.4 pp. 411 – 417. 2008

Most of these countries do possess their own Constitutional guarantee of freedom of speech and expression in their media... but it is simply ignored.

Is this how Japan wishes to be viewed by the international community? Among such peers? It is a misconception to believe every country desires militant control over their citizen's beliefs and private expressions. Even among speech-impooverished cultures as listed above, there is quite a wide range and volume of communities who do not believe this material should be banned.

Finally, what will making such content illegal truly achieve when it comes to the citizens of Japan? It serves to protect no one, and simply extracts freedom of speech from those who have done no harm and *shown no intent* of doing harm. The Japanese populace has exhibited their disapproval of such bans over numerous surveys and petitions. All a ban will do is enact witch hunts deceiving people into the belief that they are helping to make Japan a better place when they are essentially just enabling the saturation of prisons with innocent people.

With this in mind, it also means that the police of Japan will be obligated to waste precious time and resources on chasing comic book lovers whose greatest capacity for danger is toying with the momentary dream of spending a romantic evening with some supernatural character in a storybook. Comical as this scenario may seem at first glance, all it takes is the realization that this is the current future Japan is planning to dump indifferently upon its citizens, and then nauseous disappointment at such disregard for basic human value and freedom settles in. There is only a finite amount of manpower police can have. Surely it ought to be spent *responsibly* by inhibiting actual harm upon real children instead of those that are purely fictional.

Suggesting a ban on fiction benefits no one. It saves no one, and most importantly the citizens of Japan have shown large amounts of disapproval toward such unmerited policing of thought and artistic freedom. We ask that you renounce the idea of fantasy prohibition and protect your innocent citizens from a potentially despotic future.

"Liberty of thought means liberty to communicate one's thought."
-Salvador de Madariaga

"It is our attitude toward free thought and free expression that will determine our fate."
-William O. Douglas