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Abstract

< Title of the contribution >

An Analysis of the Japanese viewpoint on regulatory policy of virtual child pornography²

< The research question >

The Japanese law "Act on Regulation and Punishment of Acts Relating to Child Prostitution and Child Pornography, and the Protection of Children" ("the Child Pornography Prohibition Act") does not regulate virtual child pornography such as manga, animation, and games. As a result, cases in which Japan-made virtual child pornography influenced sexual crimes against children frequently occur not only domestically but also internationally. Japan has been criticized of that by the international community. This study sets a research question on what the Japanese viewpoint is over regulatory policy on virtual child pornography. It analyzes the legislative process of the second revision of the Child Pornography Prohibition Act in order to reveal a part of the viewpoint in Japan.

<Methodology>

This study examines in detail how human rights concerning the sexuality of children have been discussed among legislators over the minutes of the Diet on the second revision of the Child Pornography Prohibition Act. With reference to the "Japanese Decree Index" (provided by the National Diet Library), the research targets the period

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from June 4, 2014 when the second revision of the Child Pornography Prohibition Act was submitted to the 186th Diet, to 18th of the same month when the proposed revision passed the Diet. The research contents to reveal how children's sexual human rights were discussed among legislators are as follows:

- Why was the problem presentation from the international community not reflected in the second revision of the Act?
- Were the international trends related to children's sexual human rights discussed at the revised deliberations? If so, what was the content?

The second survey target is the statement of the publishing industry. The publishing industry is a party to be regulated. By analyzing the opinions released by the industry, it would be possible to clarify the viewpoints of the parties concerning child pornography regulation. The survey covers statements issued by the Japan Magazine Publishers Association and the Japan Book Publishers Association during the legislation process.

The third survey target is the Bar Association's statement. Legal experts are said to play an important role in discussions and interpretations over the law. By analyzing the opinions released by the Bar Association, the survey would clarify what viewpoints the experts of laws, who are thought to have influence on the legislative process, have concerning child pornography regulation. The survey covers statements issued by the Japan Federation of Bar Associations in the legislative process.

< Outline of results >

The study reveals that in discussing the legislative process over virtual child pornography regulation, the viewpoint of giving priority to 'freedom of expression' was more dominant than that of protecting the human rights of children. During the deliberation on the second revision bill of the Child Pornography Prohibition Act, the drafters said they deleted the supplementary rule proposed by several parties in 2013 "The government investigates the relevance of infringement of children's rights and virtual child pornography" based on concern such as "the rule causes creators to atrophy" from affiliated organizations.

The attitude that gives priority to consideration to creator groups is regarded as neglecting children's human rights in order to protect the freedom of expression of virtual child pornography. The drafter also conditionally states that "scientific

verification" will be done on causal relationships with human rights abuses to existing children, even if they regulate virtual objects. However, it is not taken up for deliberation on such already published scientific data. The drafters and lawmakers lacked the attitude to positively gather such academic materials or intentionally ignored it. The government side also revealed that they thought that the rights of real children can be protected even if virtual child pornography is excluded from regulation subjects.

Almost no international framework of virtual child pornography, especially "virtual child porno is the violations of human rights" was taken up in the legislative process. Most of the legislators' points were placed on how to avoid infringing freedom of expression. There was no mention among lawmakers and government officials of "The Council of Europe Convention on the Protection of children against sexual exploitation and sexual abuse" that regulates virtual child pornography. Similar to the response to scientific data on the influence of virtual child porno in Japanese legislators, there is even a possibility that they lacked the attitude to positively collect the data on the treaty or intentionally ignored it.

Another findings is that the publishing industry and the bar association also prioritized concerns about "atrophy of expression" and "infringement of expression of freedom" over the child's human rights violation. Statements by the publishing industry declare cartoons and animation as "the world in which victims do not exist". However, there are cases in which the victim actually existed in cartoons depicting sexual violence against girls, and no attention to such facts has been made. In addition, the statement calls "cartoon, animation, CG, etc. similar to child pornography" that the Supplementary Rule considers to be a problem as "a phenomenon boasting of Japan", rather than trying to refrain from expressing sexual abuse on children. The attitude of this publishing industry, which prioritized concerns about atrophy of expression rather than infringement of children's human rights, was considered a reason by the draft author to delete the supplementary rule. In the statement by the JFBA, there was also no recognition that the virtual pornography could expose a child to the actual danger of sexual damage.

<Key words>

Regulatory policy of child pornography, Virtuality, Human rights, Freedom of expression

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