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

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Background:

Regulatory policy of child pornography in Japan

- ▶ The situation of children suffering from sexual exploitation – getting worse

Types of sexual exploitation	Number of victims (2016)
Child pornography	1313 (record high) – 15% was below elementary school age
Sexual abuse	251 – nearly 50% more than the previous year
Forced indecency to less than 13 years old	around 1,000 cases each year in the past 10 years

(National police agency, 2016., 'The white paper on police 2016')

Background:

Regulatory policy of child pornography in Japan

History of child pornography regulation

- ▶ 1999: **The Child Pornography Prohibition Act** (Act on Punishment of Activities Relating to Child Prostitution and Child Pornography, and the Protection of Children) – **Protecting only actual children**
- ▶ 2004: First revision – Increasing legal sentence
and expanding punishment range
- ▶ 2013: Draft of second revision proposed **a supplementary provision**
– Promoting the research about the relevance of manga, animation, games and other expressions that sexually depict children (**virtual child pornography**) and the act that violates children's rights
⇔ Contrary opinion persisted
- ▶ 2014: Second revision – Supplementary provision **not included**



Issues:

Around Virtual Child Pornography

<Harmful effects of Japan-made virtual child pornography>

Year	Cases: Japan-made virtual child pornography seems affected
2004	Kidnapping murder case of a 1st grade elementary school girl (Nara)
2005	Confinement and sexual abuse case of teenage girls
2011	Murder case of a three years old girl (Kumamoto)
2012	Kidnapping case by putting a 6th grade elementary school girl in a bag (Hiroshima)
2014	Confinement case of a 3rd grade elementary school girl (Hokkaido)

▶ Overseas

In Australia and the UK: Japan-made virtual child pornography was used for sexual crimes against children

– Reported at Rio Conference (The Third World Congress against Sexual Exploitation of Children and Adolescents), 2008

Issues:

Around Virtual Child Pornography

<Criticism from the international community to Japan>

- ▶ Being a major country producing virtual child pornography and not illegalizing them (Reported at Rio Conference, 2008)

<Trends in international treaties>

- Regulating virtual child pornography

2001	Convention on Cybercrime	(the Council of Europe)
2007	Convention on the Protection of children against sexual exploitation and sexual abuse	(the Council of Europe)

- “virtual child pornography is playing the role of supporting, encouraging and facilitating sexual offenses to actual children”

Research Question

- ▶ What is the Japanese viewpoint over regulatory policy on virtual child pornography?
 - Analyzing **the legislative process** of the second revision of the Child Pornography Prohibition Act
 - Revealing a part of the viewpoint in Japan

Methodology

Research target	The minutes of the Diet – the second revision of the Child Pornography Prohibition Act
Research period	June 4–18, 2014

- ▶ Research items
 - Why was virtual child pornography excluded from the regulation?
 - Why were the problems raised by the international community not reflected in the second revision?

Results:

Discussion on the regulation of virtual child pornography in the House of Representatives and the House of Councilors

< Position of each lawmaker >

- ▶ 6 lawmakers questioned about the pros and cons of virtual child pornography
 - 5 of them: "how to prevent infringement of freedom of expression"
 - The regulatory proponents were composed of a single member, Mr. Tsuchiya alone

Results:

Discussion on the regulation of virtual child pornography in the House of Representatives and the House of Councilors

< Why the supplementary provision was deleted in the second revision >

▶ The Motioner:

“There was a contrary argument mainly by related organizations that there is a possibility that **the creator’s atrophy may be caused** by such a provision. ... We have come to the conclusion to delete it from the revision proposal **based on concerns from these organizations.**”

Results:

Discussion on the regulation of virtual child pornography in the House of Representatives and the House of Councilors

< Cases where virtual child pornography seemed to have influenced sexual crime in reality >

▶ The Motioner:

“ It is not necessary to judge one individual case as a general theory. But **when the causal relation is scientifically verified**, it is necessary to treat it as a problem **different from the protection of existing children.** ”

Results:

Discussion on the problems raised by the international community in the House of Representatives and the House of Councilors

< Trends in international treaties >

- ▶ The view of international treaties “virtual child pornography is also a human rights violation”
→ **Not taken up by lawmakers**
- ▶ Only 1 lawmaker (Mr. Tsuchiya) introduced the fact: Japan was criticized at the Rio Conference
→ **The respondent did not touch on this point**

Results:

Discussion on the problems raised by the international community in the House of Representatives and the House of Councilors

<Convention on the Protection of children against sexual exploitation and sexual abuse>

- ▶ In 2009, the government answered:
“ We will continue to make sufficient adjustments within the government, and we would like to consider future measures for the convention ”
- ▶ In 2014, on the legislative process of the second revision of the Child Pornography Prohibition Act:
 - **No discussion on the convention**

Discussion:

Why was virtual child pornography excluded from the regulation?

1. < The position of the lawmakers >

- ▶ Biased

- The viewpoint of "what can be done to prevent children's human rights abuses caused by virtuality" was scarce among the lawmakers

2. < Why the supplementary provision was deleted in the second revision >

- ▶ The motioners not prioritize children's human rights

- Preserving the freedom of expression of virtual child pornography

Discussion:

Why was virtual child pornography excluded from the regulation?

- In cases where virtual child pornography, seemed to have influenced sexual crime in reality >
- ▶ The motioners' recognition
 - No point of view to take heavily on the facts:
 - The contents of the virtual object that makes the child subject to sex are the human rights violations
 - “Scientific verification is necessary”:
 - The survey research has already been published
 - Motioners lacked the attitude of positively collecting the reference material or even possibly ignored it intentionally

Discussion:

Why were the problems raised by the international community not reflected in the second revision?

< Among Japan's legislative officials >

- ▶ **Lacked the attitude** of actively collecting references on international trends and international treaties, or **even possibly ignored** them intentionally
 - Just as in the case of their responding to scientific data on the influence of virtuality

Conclusion 1:

The viewpoint of Japan over the regulation

▶ Negative

- “Virtual child pornography is not related to violations of human rights against children”

⇔ Not referring to Scientific data, International treaties, and Cases concerning human rights abuses by virtuality

→ Legislators do not positively take up the information which is incompatible with their own principles

Conclusion 2:

The viewpoint of Japan over the regulation

- ▶ Based on the concept of “opposing regulation”
 - Legislators have prioritized consideration for:
Related organizations > Child's rights protection
 - Biased discussion for the prevention of regulations

▶ Thank you.