

March 31, 2019

To the United Nations Committee on the Rights of the Child

Comments regarding:
Draft Guidelines on the Implementation of Operational Protocol on the
Convention on the Rights of the Child on the sale of children, child
prostitution and child pornography.

Submitted by:
The Japan Society for Studies in Cartoons and Comics

Japan Society for Studies in Cartoons and Comics (JSSCC) is an academic society with more than 400 members and is officially registered as one of the partner societies of the Science Council of Japan.

First of all, we would like to stress that we sincerely respect and support the UN's efforts to protect real children from abuse and sexual exploitation.

However, the latest UN Committee on the Rights of the Child's draft guidelines seem to state that all fictional representation including through drawings and/or written prose should be subject to regulation and prohibited by law.

We argue that there would be many cases where, as stated in paragraph 64 of the draft, "it may be complicated to establish with certainty if a representation is intended or used for "primarily sexual purposes."" This difficulty in establishing this point could cause confusion. In fact, in Japan, there were cases in which the 1999 Act of Regulation and Punishment of Acts Relating to Child Prostitution and Child Pornography, and the Protection of Children brought about confusion in both the market and society. Soon after the law was enacted, manga such as *Vagabond* and *Berserk*, works which have received high praise for their artistry within Japan and abroad, were withdrawn from stores for the sole reason, without any regard to the context, that they depict sexual acts involving minors. This withdrawal, however, was later revoked.

These cases demonstrates that the line between whether one sees something as "intended or used for "primarily sexual purposes"" or not is very subjective.

Therefore, JSSCC is deeply concerned that the proposed guidelines lack clarity in terms of the scope of the regulation, and that what should be subject to the regulation may be decided arbitrarily, resulting in the suppression of some works unnecessary.

Another concern of ours is that the proposed regulations could damage the rights of actual minors.

Let us take for example the manga *Kaze to Ki no Uta* [The Poem of Wind and Trees] on of the most important works of Keiko Takemiya, the current head of JSSCC and a manga artist who has

been awarded with the Medal of Honor with Purple Ribbon from the Japanese government in recognition of excellence in her field. Widely recognized as a masterpiece *Kaze to Ki no Uta* directly depicts sexual violence against boys as well as the sexual urges of the boys themselves. The proposed guidelines, however, may end up making this masterwork illegal.

(See also Takemiya's interview featured on BBC News: <https://www.bbc.com/news/world-asia-35714067>)

Kaze to Ki no Uta is one of the many Japanese manga classics that use similar expressions which take up issues of sexuality faced by young people as their central themes. We cannot avoid sexual representation when dealing with the issue of sexuality. The proposed guidelines, however, may consign to oblivion all such masterpieces that have proven to be significant emotional anchors for children.

Essentially, the difference between depiction of sexual violence for educational or enlightenment purposes and pornographic representation relies heavily upon the respective contexts, and thus, a determining this by merely applying the definition "representation of a child engaged in ... explicit sexual activities" is very problematic.

For the above reasons requesting respective countries to include drawings and written prose within the definition of child pornography in order to regulate them would not only hinder free development of manga culture but also could lead to the banning of representations that hold significance for children themselves.

We are also deeply concerned that creating a new set of regulations on expressions and to direct police and administrative efforts thereto would lead to a wasting of efforts that would be better spent directed to issues that actual children are facing.

For reasons we have outlined here, the JSSCC would like to request the UN to revise the proposed guideline paragraphs 61 through 64.

JSSCC Board of Directors

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