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The International Yaoi Boys' Love Fandom and the Regulation of Virtual Child
Pornography: Current Legislation and Its Implications

Mark McLelland

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Abstract

This article looks at current international legislation regulating child pornography, particularly at the category of *virtual child pornography*, or purely fictional images and textual representations of young people defined as “minors”. Current legislation has been drafted with adult male pedophiles in mind in an attempt to stop harm to real children. However, the paper points out that the legislation also inadvertently criminalizes a large, predominantly female fandom of manga fans who use the Internet to participate in online fan clubs dedicated to a Japanese manga genre known as *yaoi*, which celebrates the love shared between fictional “beautiful boys.” It is suggested that there is insufficient research into the effects of this kind of fantasy fandom on girls and young women and that the broad scope of existing legislation which in some jurisdictions criminalizes these fantasies may actually be harmful to young people who need the freedom to express sexual fantasies in a secure and supportive environment.

Key words: Internet; censorship; sexual development; sexual fantasy; young people; manga; yaoi

In recent years, child pornography on the Internet has become an issue of growing concern in both legal and media debate internationally. In North America alone, since January 2006, *Dateline NBC* (Hansen, 2006), a television news magazine program, in a series of investigative reports titled “To Catch a Predator” conducted hidden camera investigations of online sexual predators. In Chicago, in March, 27 people were charged with online child pornography offenses when an Internet chat room was shut down for streaming live child molestation videos (Friedman, 2006). In April, U.S. federal prosecutors requested that popular Internet search engines such as Google, Microsoft’s *MSN*, Yahoo, and America Online submit random samples of millions of search records in preparation for an Internet pornography lawsuit (McCullagh, 2006). Google, which declined the request, was also accused in May of profiting from child pornography (Associated Press, 2006) and of hosting online communities that promote child pornography (Charny, 2006a, 2006b). In Canada in March, a father was cited for “possessing and attempting to smuggle an electronic image of prohibited and obscene material” (Keung, 2006, p. ?) at the Canadian border when it was discovered that he had a cell phone image of his young son naked. Major banks and credit card companies in the United States will soon begin blocking transactions for online child pornography in addition to reporting child pornography websites to the authorities (Koch, 2006).

In this debate, digital technologies, the Internet in particular, have been identified as the primary media through which previously isolated individuals with pedophilic interests—almost invariably men—have been able to contact each other and distribute child

pornography text and images (Krone, 2004; Stanley, 2001). While laws in some countries¹ clearly and unanimously ban the production, possession, and distribution of *real child pornography* that features images of actual children, *virtual child pornography* that represents fictitious children in textual, graphic, and computer-generated formats is regulated somewhat differently in different jurisdictions. The category of virtual child pornography is of particular interest in this paper which discusses the growing international fandom dedicated to yaoi, a literary genre that comprises manga (i.e., graphic novels or comics), illustrated stories, and poetry, dedicated to highly sexualized depictions of male homosexual relationships between good-looking young men and boys. Unlike most other genres of pornographic literature, the main creators and consumers of yaoi are young heterosexual women.

Yaoi developed in the late 1980s out of a genre of Japanese women's comics known as *shōnen'ai* ("boys' love," sometimes referred to by the acronym BL) that dates back to the early 1970s and spread to western countries via the Internet in the late 1990s.² Yaoi, despite its depiction of characters who would be considered "under-age", is permitted in the United States under the First Amendment right of freedom of speech so long as the access of minors to sexually explicit yaoi materials is restricted; however, it is absolutely illegal in some other jurisdictions, such as Australia and New Zealand. Given the transnational nature of the fandom promoted via the Internet, yaoi fans in different regions face different challenges

¹ The International Centre for Missing and Exploited Children (2006) reports that simple possession is criminalized in 49 countries whereas 95 of 184 Interpol member countries do not have legislation on child porn at all.

² Differentiating between *yaoi*, *shōnen'ai* and boys' love (or BL) is problematic given that the fandom is now global and different fan communities use these terms differently.

relating to issues of censorship, prohibition of free speech, and limitations on their own sexual expression. This paper seeks to: (a) outline some of the characteristics of the international yaoi fandom; (b) raise issues concerning the current state of child pornography legislation, particularly in relation to the freedom of speech of the young, especially young women, and their rights to explore and develop their own sexuality and forms of sexual expression; and (c) suggest directions for further research.

Outline of Child Pornography Regulations

In the past decade child pornography legislation in the United States, Australia, and Europe has been redrafted in order to counter the opportunities that the Internet offers to pedophiles and their audience to perpetrate child-sex offenses (Krone, 2004; Walton, 2005a). The main thrust of this legislation has been to prevent the dissemination, and thereby reduce the production of visual representations of actual children engaged in sexual acts or placed in sexual contexts.

Legislation commonly subdivides child-pornography images into three kinds: (a) real child pornography; (b) pseudo-child pornography; and (c) virtual child pornography.

U.S. Code § 2256 defines child pornography as
any visual depiction, including any photography, film, video, picture, or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where: (a) the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct; (b) such visual depiction is a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaging in sexually explicit conduct; or (c) such visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct. (*Child Pornography Prevention Act, 1996a, U.S.C. § 2256*)

According to the same Act, it is forbidden for any person to knowingly transport, receive, distribute, reproduce, sell, possess with intention to sell, or promote child pornography (*Child Pornography Prevention Act*, 1996b, U.S.C. § 2252A). The U.S. legislation draws a clear distinction, however, between real and virtual child pornography. The U.S. Supreme Court found that “the Government’s interest in enforcing prohibitions against real child pornography cannot justify prohibitions on virtual child pornography, because [t]his analysis turns the First Amendment upside down” (*Ashcroft v. Free Speech Coalition*, 2002, 535 US 234). Thus it is unconstitutional in the United States to prohibit the possession and distribution of child pornography when the images are purely “fictional,” since such a ban would violate an individual’s First Amendment right to free speech (Walton, 2005a, p. 8). In accounting for its decision, the Supreme Court explained that any potential harm to children by the creation and circulation of these fictional images was outweighed by the First Amendment’s guarantee of freedom of speech. It went on to underline that the government may not legislate to control people’s thoughts: “The government cannot constitutionally premise legislation on the desirability of controlling a person’s private thoughts” (Walton, 2005a, p. 8). The dissemination of the fantasy images and narratives via the Internet is thus not legally prohibited in the United States, providing that the authors are over the age of 18 and have taken steps to ensure that their material cannot be accessed by minors, which in fact is the same manner in which other pornographic texts and images are treated.

The Canadian Supreme Court, on the other hand, has been more conservative than the U.S. Supreme Court and has accepted the legitimacy of virtual child pornography only for purely private use. That is, an individual can create and record any fantasies s/he likes but if these fantasies include persons under the age of 18, then the individual cannot publish or disseminate them without committing an offence (Walton, 2005a, p. 9). Hence, the yaoi fandom, which involves the sharing of yaoi materials via fan websites, is technically illegal in

Canada. Australia has extended the law even further to render illegal *all* sexual representations of minors, variously defined as under the age of 18 or 16 (according to different State and national laws), in any medium, including purely fictional representations, graphic, textual, or otherwise (Walton, 2005a), thus rendering illegal even privately produced fantasy images that sexualize juvenile characters.

Australia's states differ slightly in the manner in which they codify child pornography. In New South Wales,³ the definition of child pornography under 91H(1) is

...material that depicts or describes, in a manner that would in the circumstances cause offense to reasonable persons, a person under (or apparently under) the age of 16 years: (a) engaged in sexual activity; (b) in a sexual context; or (c) as the victim of torture, cruelty or physical abuse (whether or not in a sexual context). (*Crimes Act 1900* New South Wales s91H(1) inserted by *Crimes Amendment Child Pornography Act 2004* (NSW) Sch 1 cl 4.

In the Australian context, this definition refers not simply to visual (i.e., depictions of real or imagined children in any graphic medium) but also to text as clause 91C makes clear, classes of offending material include "any film, printed matter, electronic data, or *any other thing of any kind*," including any computer image or other depiction⁴ (*Crimes Act 1900* NSW s 91C). The clause "any other thing of any kind" leaves no space for fantasy outside the law and could, conceivably, be applied to diary entries or other transcribed thoughts. As the New South Wales Council for Civil Liberties pointed out in a submission to a parliamentary Joint Standing Committee, this clause equates to a kind of "thought crime." The submission's

³ New South Wales is the jurisdiction under which the first author presently resides. Other states have similarly worded legislation. For an overview of State vs Federal laws see Walton (2005).

⁴ Emphasis first author's.

author, Michael Walton, points out that “Australian child pornography legislation ...enacts ‘thought crimes’ by criminalizing the expression of child pornography from an individual’s own imagination and kept exclusively for his or her own personal use’ (Walton 2005b). Indeed, prosecutions have already been brought against individuals for committing their child-sex fantasies to paper as in the case of a prisoner in Western Australia already imprisoned for child-sex offenses who was convicted of a further offense when he wrote down his fantasies of child-sex and showed them to another prisoner (Krone, 2004). Human-rights advocates have pointed out that since the Australian legislation applies equally to *written* as well as visual depictions of child sex, it exceeds by far, international human rights standards (Walton, 2005a).

One of the ironies of Australia’s “zero tolerance” approach is that it criminalizes sexual communication that takes place between teenagers, one of the constituencies the laws are designed to protect. For instance, a teenager who writes about her or his sexual encounters in a diary or who sends a sexual message to another teen via a mobile phone or posts it on the Internet is both a producer and possessor of child pornography under Australian law (Walton 2005b). Similarly, in other jurisdictions, it can be an offense for a 17-year-old person to take and then send a sexualized picture of her or himself to his or her own boyfriend or girlfriend via a mobile phone. Leading sexual-rights activists such as Jessica Fields label such legislation “adultist” (2004, p. 12) since the rights to privacy and to control one’s own body—factors taken for granted in the case of adults—do not apply to young people. As Levine points out, it is impossible to identify an age at which young people become “sexually agentic” (2002, p. 16) and consequently they are subject to arbitrary age-of-consent and majority laws that differ over time and across state and national boundaries; the end result being that “young people have no legitimate claim to sexual expression, desires, or identities” in the eyes of the law (Levine, p. 15). Thus, although the need to prohibit real

child pornography is a clear requirement, such all-encompassing child pornography legislation has raised concerns for freedom-of-speech advocates.

Indeed, a growing body of academic commentary has shown that the manner in which some child pornography laws are framed reflects an agenda that is much broader than concern about the protection of children. As Rubin points out, “no tactic for stirring up erotic hysteria has been as reliable as the appeal to protect children” (1998, p. 102). In fact, “harm to minors” or “protection of children” has been used as a strategic tactic for censorship (Heins, 2001), and invoked to restrict the circulation of any material that Christian groups disapprove of on moral grounds (Kinkaid, 1998; Levine, 2002). Although restrictions are necessary to protect children from becoming the victims of or being inappropriately exposed to real child pornography,⁵ it should be regarded differently when young individuals express their sexual fantasies without causing any harm to anyone, particularly when their fantasies are a part of their sexual development process.

Yaoi, Its Background and Globalization

Despite popular stereotypes that a large majority of child pornography offenders are male adults (Krone, 2004; Stanley, 2001; Sullivan, 2005), the yaoi fandom demonstrates that interest in the sexuality of the young is not specific to a narrow band of male pedophiles but that a large online community of *predominantly young women and girls* is also interested in creating and disseminating purely fictional accounts of love and sex between boys and young men. The existence of this fandom raises questions as to the universal applicability of existing child pornography legislation and calls for increased research into the nature and the effects of participation in the fandom.

⁵ In New Zealand, another jurisdiction where both textual and visual child pornography are illegal, young males between ages of 15 and 19 were “the largest single age grouping” of those convicted of child pornography possession (Sullivan, 2005, p. 3).

As previously mentioned, yaoi, developed from a genre of Japanese comics (manga) known as *shōnen'ai* or “boys’ love,” and primarily refers to comic-book style stories and illustrations that deal with romantic and erotic relationships between beautiful boys (*bishōnen*) and good-looking young men (*biseinen*). Yaoi can also be used more broadly to signify a literary genre for women comprising manga, illustrated stories, novels and poetry. These homosexual love stories first emerged in Japan in the early 1970s. Since then, male homosexuality has become an “essential feature” and “part of the everyday landscape” of girls’ comic books in Japan (Fujimoto, 2004, p. 83). This is clearly a very different situation from Anglophone cultures where homosexual narratives are highly segregated and are excluded from comics books, which are exclusively regarded as children’s media (McLelland, 2001, 2005).

Although yaoi or boys’ love in the Anglophone context may conjure up images of adult male pederasty⁶, Japanese researchers into yaoi manga point out that “The yaoi phenomenon is... a female gendered space, since its participants—writers, artists, readers, and the majority of editors—are female” (Mizoguchi, 2003, p. 65). Given yaoi’s “overwhelmingly female” readership (Nagaike, 2003, p. 76), the pornographic nature of these stories and illustrations may come as a surprise to those not familiar with Japanese culture. Despite the fact that much of the debate about pornography in an Anglophone context assumes a generalized male consumer, in Japan there are numerous pornographic print media created and consumed by women; as Jones points out: “In Japan, visual pornography is not for men only” (2003, p. 5). Yaoi stories and illustrations do not shy away from explicit sexual references; as Nagaike notes, yaoi is “an example of narrative pornography directed at female readers” (2003, p. 77) and “Yaoi narratives include all kinds of sexual acts, such as hand jobs,

⁶ One may recall the now defunct North American Man/Boy Love Association.

fellatio, digital penetration of the anus and S/M” (2003, p. 80). Indeed, Mizoguchi points out that many yaoi stories feature “rape as an expression of love” (2003, p. 56).

Yaoi stories have proven particularly popular among female amateur-manga fans who create and disseminate their own stories and illustrations via the large comic markets held annually in Japan (Mizoguchi, 2003, pp. 54-55). Popular, commercially produced yaoi comics such as *June* solicited work from these amateur artists and enabled many to cross-over into mainstream publishing. As the genre developed, it saw an increased sexualization of its characters, leading to the development of the acronym YAOI (YAmashi, Ochi nashi, Imi nashi) officially made up of the first letters of the phrase “no climax, no point, no meaning,” emphasizing that the plots were little more than vehicles to stage the sex scenes between the youthful male characters. Indeed, the highly sexualized nature of some of these depictions is emphasized by an alternate derivation, YAmete Oshiri ga Itai (Stop, my ass hurts).⁷ This playful derivation is not far off the mark for, as Mizoguchi points out, “in the boys’ love genre, virtually all the protagonists engage in anal intercourse” (2003, p. 65).

By the late 1990s researchers in Japan speculated that there was a core readership for yaoi material of about half a million. In 1998 there were 9 literary magazines, 12 comic magazines and approximately 30 paperbacks being published each month that specialized in yaoi, with estimated total sales of 1,275,000 volumes (Mizoguchi, 2003, p. 57). Yaoi comics are openly sold in designated sections of large bookstores throughout Japan and their primary readerships are young women and schoolgirls. The readership for this material is probably on the increase since, as Mizoguchi notes, the space given over to the genre in bookstores seems to be expanding (2003, p. 58). In fact, commercially produced yaoi in Japan is big business

⁷ Fujimoto (2004, p. 86) suggests an even more extreme derivation: YARu, Okasu, Ikaseru (Fuck, rape, make come).

and “has generated enough jobs for hundreds of women to be economically independent by providing products to female customers” (Mizoguchi, p. 66).

While yaoi grew out of Japan’s manga fandom and is historically related to specifically Japanese tropes of romance (McLelland, 2005), it has proven to be widely popular among women readers in other countries who use the Internet both to access amateur yaoi websites as well as purchase and trade in printed yaoi material. International yaoi fans have been proactive in creating both on- and offline communities and share, sell and swap their yaoi manga, animations, and stories globally. A Google search for “yaoi” in May 2006 produced results of: 3,740,000 English; 639,000 Spanish; 181,000 Italian; 41,200 Chinese; and 24,500 Korean web pages. When a yaoi search was conducted in the Korean alphabet, a Google search yielded about 1,200,000 web pages in Korean. In addition, many young female users of MaSpace.com, a popular Internet community site in the United States, list yaoi as one of their areas of interest on their MySpace profiles. There is also a growing international market for commercial yaoi products online via Amazon.com, eBay, and other Internet book dealers.

There is even an annual international convention for yaoi fans and authors which takes place in San Francisco (in October of 2006, for the sixth year).⁸ As in Japan, the genre attracts a mainly heterosexual female readership in the U.S. As one organizer of the yaoi convention comments, “convention membership is about 85% female” and participants are “predominantly straight” (Cha, 2005, p. #?). The facts that registration at the conference is open only to those over the age of 18, and that the translated yaoi novels feature explicit content warnings restricting them to readers 18 and over (Cha, 2005), are an

⁸ See their website: <http://www.yaoicon.com/>

acknowledgement of the pornographic nature of the genre and a source of considerable disappointment to younger fans.⁹

Japanese comics, or manga, became substantially visible in the United States, in the late 1990s. Unlike American comic strips, a manga book published in North America runs for 180-220 pages in a regular book size, which is 5 7/8" x 8 1/4" or slightly smaller. The manga market was the fastest growing business in the United States in 2003, with 75-100% growth making \$100 million at retail (ICv2 News, 2004a). The estimated total manga market for North America reached \$140 million in 2004 (ICv2 News, 2005). In the same year English translations of yaoi manga debuted in the North American market. Since the debut, approximately 100 yaoi manga books have been published by major comic publishers and smaller yaoi-exclusive publishers, and about 30 additional books were announced for release in 2006. The overall growth of manga in the United States may be attributable to the fact that manga has a broader fan base than traditional American superhero comics, since it also includes young women (Harris, 2005). In fact yaoi appears to claim a significant proportion of online manga sales. In the week of November 7, 2004, four of the top ten, and three of the top five manga bestsellers at Amazon.com were yaoi (ICv2 News, 2004b).

Currently translated English-yaoi manga published in North America are labeled with three rating categories: for Teens (13 years and older); for Older Teens (15 years and older or 16 years and older, depending on publishers); and for Mature Readers (18 years and older or adults only). Rating label stickers are posted on both front and back covers of each yaoi book. Of 135 yaoi books released and to be released in North America between 2003 and 2006 whose rating information is available, 47% are rated for Mature Readers, 39% are for Older Teens, and 14% are for Teens. When a yaoi manga series consists of more than one book, not

⁹ Cha (2005) notes that as an additional measure, U.S. publisher CPM certifies on the cover of its translated yaoi manga that all fictional characters are over the age of 19.

all books are necessarily rated in the same category because they are not rated by series but by book. In some cases, high school characters in the original Japanese yaoi manga are “aged-up” into college students in English editions in order to make the contents and storyline more age-appropriate.

While private websites are not subject to the same ratings system, most English yaoi websites are prefaced by warnings or disclaimers (McLelland, 2001). Yaoi warnings inform website visitors that the website contains graphic representations of male homosexual relationships and are usually accompanied by age restriction warnings such as “You must be 18 years or older in your country to view this website.” In addition, many membership websites require the submission of age or date-of-birth evidence at the time of registration and site access is granted only after proof of appropriate age. To participate in Yaoi-Con (i.e., an annual yaoi convention in San Francisco), a prospective participant is similarly asked to provide proof of age, such as a copy of driver’s license, passport, or birth certificate. The Yaoi-Con website notes that “Yaoi-Con cannot waive the age requirement, even if a minor has parental permission or parental supervision” (Yaoi-Con, 2006, ¶ #?).

Yaoi as Virtual Child Pornography?

Although yaoi is sexually explicit, published yaoi and yaoi websites do *not* contain representations of actual children and do *not* deal in stories that are supposed to represent real people. Rather, it is often observed on yaoi fan websites that female fans experience discomfort if they are exposed to images or stories about real children (or even real gay pornography). Yaoi is comprised of *fictional* stories and hand-drawn and computer-generated artworks in which older teen (and sometimes preteen) boys engage in a variety of same-sex sexual interactions both with each other and with older men. While most yaoi deals with

older teenage and young adult characters, a subgenre known as *shōtakon* (i.e., Shōtaro¹⁰ Complex – a play on *rorikon* or Lolita Complex) specializes in stories about and depictions of the sexual adventures of younger boys. In the English-language fandom, these stories are often designated *chan fics*—*chan* being a diminutive suffix commonly appended to children’s names in Japanese. Chan fic is a comparatively small and controversial genre within the fandom but the wider body of fans does not seem particularly anxious or panicked by the presence of authors whose fictional characters are clearly underage. The highly stylized nature of the illustrations and conventional plot lines of the narratives in most yaoi and chan fics militate against any kind of realistic interpretation of these stories. However, despite the fact that these illustrations are highly figurative in nature and are purely imaginary, producing, disseminating or even accessing them via the Internet is subject to various strict limitations in many jurisdictions and is illegal in Australia.

Conventional ideas about virtual child pornography and associated Internet child abuse include: that erotic interest in children is overwhelmingly a male preserve; that exposure to child sex-imagery is a step toward performing child sex-abuse; that any erotic interest in children is deeply pathological and entirely outside the range of acceptable normal, healthy sexuality; and hence that any expression of sexual interest in children communicated via any medium is in need of surveillance, censorship, and prosecution. However, the large majority of the creators and consumers of yaoi are young women and girls, not constituencies usually identified as potential child sex-abusers.¹¹

¹⁰ A common boys’ name in Japan; but more particularly in this context, the name of the boy character in a famous Japanese SF animation released in the U.S. as *Gigantor*.

¹¹ Although there has been a report of two high school boys in Korea being arrested in 2000 for sexually abusing a male school mate by imitating what they had seen in homosexual

Whereas yaoi as virtual child pornography is legal in the United States., yaoi illustrations, stories, and the websites on which they appear can be classified as child-abuse publications according to legislation in Australia and elsewhere due to their sexual explicitness and the fact that they contain characters who are (*or appear to be*) under the age of 18 (or 16 depending on the local legislation). Also, the fact that yaoi is characterized by its emphasis upon *sexual* scenarios and interactions means that this form of expression cannot avail itself of any ‘artistic merit’ clauses that exist in some legislation since such clauses refer only to material where there is no “undue emphasis on...indecent or offensive aspects” (Krone, 2004, p. 3). As the very acronym YAOI makes clear, sexual scenarios are at the heart of these narratives. This point is not lost on yaoi producers, as one Australian fan posted to an online discussion board:

Demonstrating “the literary, artistic or educational merit (if any) of the material” might be beyond our resources or our abilities, just given the widely held misconceptions about fan fiction, never mind any frothing at the mouth about slashing or sexualizing “child” characters.¹²

Much yaoi therefore falls within the parameters of virtual child pornography and its producers and disseminators are liable to prosecution under existing legislation in some jurisdictions. However, a closer look at the genre reveals that yaoi is an important aspect of women’s shared sexual culture, and it might be argued, even a feminist enterprise. The

manga (Kim, 2000; Min, 2000), a manga expert has argued that it was a rare, isolated case (Kim, 2000), and in fact is the only case reported.

¹² The URL of this yaoi discussion site is not listed in order to protect the identities of its participants. It should be stressed here that this site is for discussion of issues relating to the yaoi fandom and is not a site that archives fiction or illustrations that may be illegal under Australian law.

probity of the prohibition of this material and the potential criminalization of its fan base should therefore be questioned.

Yaoi as an Expression of Young Women's Sexual Culture

Research in Japan and the west has made it clear that many women find the manipulation of male characters in a sexual fantasy setting empowering (Jenkins, 1992; Mizoguchi, 2003; Nagaike, 2003). Yaoi invites comparison with *slash fiction*, another predominantly female fandom which imagines same-sex scenarios between the male leads of popular TV dramas and movies. Slash developed out of the *Star Trek* fandom in the mid 1970s. The epithet, slash, refers to the “/” mark in Kirk/Spock stories that imagine a sexual element to the relationship between the captain and the Vulcan. Slash now comprises a similarly immense online fandom.¹³ Academic commentary on slash is extensive (Cicioni, 1998; Green et. al. 1998; Jenkins, 1992; Penley, 1992, 1997), with most commentators taking an ethnographic approach to the analysis of slash communities, drawing upon paradigms created by John Fiske that stress fans’ “active, enthusiastic, partisan, participatory engagement with the text” (1991, pp. 146-147). Jenkins notes that “most slash fans concede that erotic pleasure is central to their interest in the genre” (1992, p. 191) and other work emphasizes the therapeutic role that involvement in the community offers women in developing an independent fantasy life outside of patriarchal limits and control. Indeed “reconfiguring male identity” in terms of female desires is central to the genre (Jenkins, 1992, p. 191). Furthermore, the slash fandom, which now increasingly overlaps with that of yaoi, is “highly self-reflexive and self-critical,” (Penley, 1992, p. 484) resulting in a space very supportive of critical and deconstructive analyses of mainstream, patriarchal notions of gender and sexuality. To this extent, women’s slash fandom constitutes what Warner

¹³ For an introduction to slash fandom consult the “slash” entry in the *Wikipedia*:

http://en.wikipedia.org/wiki/Slash_fiction

describes as a “counterpublic” in that “discussion within [this] public is understood to contravene the rules obtaining in the world at large” (2002, p. 56). Despite some crossover, yaoi differs from slash to the extent that it originally started as a fantasy about beautiful boys, not adult men. Although this distinction is becoming increasingly difficult to maintain as the yaoi aesthetic influences slash fandom¹⁴ and as yaoi branches out to include older men as main characters (e.g., *riiman mono* [salary-man stories], a yaoi subgenre featuring businessmen couples). Nevertheless, the fact that yaoi has a strong tie with the notion of beautiful boys (*bishōnen*) and boys’ love (*shōnen’ ai*) renders it more problematic in relation to virtual child pornography censorship.¹⁵

In the Japanese context, Nagaike suggests that part of the attraction of yaoi narratives is that they provide female readers with access to the phallus. She suggests that readers identify with the male characters and delight in the characters’ performance of “transgressive” acts such as “anal sex, S/M, rape, the use of sexual apparatuses [and] fellatio” (2003, p. 85). Among her informants, some point out how they identify with the penis of the

¹⁴ Partly under the influence of the yaoi aesthetic, slash fandom is increasingly addressing underage characters, most notably those featured in the Harry Potter series of books and movies.

¹⁵ As yaoi and slash continue to influence each other, a new trend in yaoi fandom is to create fictional yaoi contexts between real-life celebrities based on celebrity photos or video clips. For instance, for a photo of two male movie stars taken together, fans develop a story as if the two movie stars were romantically involved. This yaoi coupling does not involve graphic images of sexual activities because the photos or video clips that the fan-fictions are based on are those taken by paparazzi of the celebrities’ daily lives. Therefore, yaoi coupling is a sexual fantasy of women through which they fantasize about male beauty, celebrity lives, and erotic relationships.

male characters and enjoy the sexual agency this gives them in fantasy but, at the same time, since all the bodies involved are those of males, they feel distanced from “their shameless sexual ecstasy,” thus enabling them to enjoy these transgressive scenes without guilt. Since the bodies involved are different from those of the female readership, male homosexuality acts as a “safety device” allowing girls to negotiate the “dangerous weapon of sexuality” (Ueno, cited in Fujimoto, 2004, p. 86). Similarly, the fact that all bodies involved are male makes it safer for women to “play with” scenes of sexual violence that are usually performed with women as their targets. As Fujimoto argues, “No matter how much those rape or gang-rape scenes (and there are truly a lot of them!) resemble male-on-female assaults, if it is men depicted, then they cannot get pregnant, lose their virginity, or become ‘unsuited for marriage’” (p. 87).

Compared with Japan where depiction of beautiful boys has long been a romantic and sexualized trope for both sexes (McLelland, 2005), the youthful male body has been downplayed as an object for the erotic gaze in recent western culture.¹⁶ Germaine Greer, in her study of “the boy” in Western art, points out that despite a tradition of representing the charms of boys in classical and renaissance art, fears about pedophilia in the late twentieth-century resulted in a “criminalization of awareness of the desires and charms of boys,” the effect being that “they are now considered attractive only to a perverted taste” (2003, p. 10). Greer’s book *The Boy* is an attempt to reclaim the pleasures of the youthful male body for a female gaze and dissociate the appreciation of the charms of boys from its connotation of pederasty.

¹⁶ Indeed, even the exhibition of non-erotic art photographs of nude boys is problematic. See for instance, Rubin’s account of the harassment of art photographer Jacqueline Livingstone “for her efforts to capture on film the uncensored male body at different ages” (1998, p. 103).

In placing the charms of the beautiful boys at its heart, the yaoi genre clearly resonates with women all over the world who delight in expressing their attraction to the youthful male form. Even a cursory reading of chat sites dedicated to yaoi fandom shows that the female readers derive both narrative and visual pleasure from the genre, nicely captured in the often-used phrase “eye candy” (McLelland, 2001). It is possible, then, to suggest that part of the appeal of yaoi is that it allows women to express their interest and enthusiasm for the youthful male body in an uninhibited manner, an interest that, according to Greer, is not endorsed by the wider society.¹⁷ Indeed, a review of English yaoi websites revealed fans like yaoi because it is entertaining (Yoo, 2002). While they acknowledged that the sexual violence and the lack of reality in yaoi can be problematic, the genre’s pure entertainment value was emphasized by the fans. According to the fans, reading yaoi is “all about bishonen [sic].” Fans think that yaoi is “hot, steamy, and romantic,” and like yaoi because yaoi is about “Boys and sex. Lots of boys, lots of sex. Lots of boys having sex.” (Yoo, 2002)

The deliberately transgressive nature of the yaoi websites should not be underestimated and it is clear that some women see their participation in the yaoi fandom as an attempt to challenge normative codes conditioning femininity and the expression of female desire. Women’s participation in the yaoi community, now conducted on a global scale, constitutes a “counterpublic” in Warner’s terms since its participants “are marked off from persons or citizens in general” given the manner in which fantasies conjoining homosexuality and child sex are pathologized in the wider community. Within the yaoi fandom, speech (and writing/artwork) is “structured by alternative dispositions or protocols, making different

¹⁷ It is important to stress that the recent popularity of boy bands among young women is a slightly different phenomenon in that “boy” bands are almost invariably made up of young-looking adult men. Yaoi deliberately emphasises the youth of its characters, many of whom are represented as (and are described as) under 16 in the narratives.

assumptions about what can be said” (Warner, 2002, p. 56). One effect of participation in this counterpublic is that hegemonic (i.e., patriarchal, masculinist, heterosexist) codes governing the public expression of gender and sexuality can be interrogated and overturned, and hence, the fandom “can work to elaborate new worlds of culture and social relations...including forms of intimate association, vocabularies of affect, styles of embodiment” (Warner, p. 57).

Despite the fact that yaoi fandom is more about elaborating “new shared worlds and critical languages, new bodies, new intimacies, and new citizenships” (Warner, 2002, p. 57) among women fans than it is about the objectification of ‘children,’ participants in the global fandom run the risk of being positioned as readers and producers of “child-abuse publications”. Given the almost impossible task of representing this fandom to a mainstream public ignorant of its styles and genres, fans themselves experience their position as one of both vulnerability and defiance. As Josephine Ho points out, “with the help of shame and stigmatization, legal regulations of sex and the body help produce other power effects, including an increasingly conservative social milieu and a chilling silencing effect over sexual dissidence” (2005, pp. 157, n. 121). She emphasizes the fact that apparently unobjectionable “child protection” legislation can have serious ramifications for adult communication, particularly that conducted between sexually nonconformist individuals and groups—even when that communication involves *fantasy alone*.

Young people themselves are also potentially negatively impacted by the broad sweep of this legislation. Sexual fantasy and experimentation are important aspects of sexual development and the development of the sexual identities of adolescents (Feldmann & Middleman, 2002). Furthermore, sexual fantasy is regarded as normal, healthy sexual behavior for men and women, both as an added pleasure in the context of sexual acts and as a pleasure in and of itself (Strassberg & Lockerd, 1998). In the United States, accessing textual materials describing the sexual activities of those legally defined as underage are legal for

adult readers only. Meanwhile, adolescents do write original yaoi stories and yaoi fan-fictions (i.e., reproduction of existing narratives with yaoi plots) although they are not permitted to access adult-rated fiction on the Internet, to purchase age-restricted commercial yaoi publications, nor to attend yaoi conventions. In sum, their ability to participate in online networks of sexual fantasy is circumscribed although research argues that sexual fantasy and experimentation are a necessary part of sexual development. While there is a clear need to protect the young from inappropriate exposure to adult or explicit materials, there is no research that looks at the effects of participating in youth-driven fan communities of a sexually explicit nature. There are clearly policy issues at stake here: how to protect young people from exposure to potentially damaging material while at the same time supporting their right to develop sexual fantasy lives.

Conclusion: Legal and Research Implications for the Yaoi Community

As online child pornography increases (Foley, 2005), the response of some countries is to enforce ever stricter child pornography regulations (International Centre for Missing and Exploited Children, 2006). Although it is both justifiable and absolutely necessary to prohibit child pornography in which real children appear, the regulation of virtual child pornography, both text and visual, is debatable in terms of free speech and respect for the sexual fantasies and sexual expressions of the young.

Yaoi is arguably an art form and an important means of individual and community expression that deserves constitutional protection. Furthermore, there is no demonstrable relationship between the production of yaoi, participation in online yaoi communities and harm to actual children. Yaoi is, to a certain extent, an enterprise that seeks to share transgressive sexual fantasies created by women and youth among themselves, thus current legislation drafted largely as a response to male pedophile interaction via the Internet is inadequate to the complexities of women's yaoi fandom. Prior to the development of new

communications technologies, women have traditionally had limited opportunity to develop and share sexual fantasies in community with other women and unlike men, their interests have been poorly served by mainstream producers. The Internet offers scope for community development among young people, particularly young women. Indeed the massive women-driven slash fiction community on the Internet is a clear instance of women's interest in and appreciation of a space for collective sexual fantasy. Much of the discussion that takes place on yaoi chat sites is, in fact, self-justifying and mutually supportive. Furthermore, the illusion that the Internet gives of providing a free and safe space for the development of communal fantasy does indeed encourage a great number of women to express and access increasingly extreme sexual fantasies.

Research on sexual fantasy in the past decade has mostly focused on that of sexual offenders, and research into so-called normal sexual fantasy has only been conducted with adult respondents, at least college age or older. The potential effects of expressing sexual fantasies online on the sexual and mental development of adolescents and young people generally have not been extensively studied. The motivations underlying participation in the yaoi community do not seem to threaten or harm children as far as the existing research from Japan discussed above shows. Despite this, the yaoi community remains vulnerable to state surveillance, intervention and prosecution as yaoi fans are legally and rhetorically aligned with pedophiles in certain jurisdictions. More research is needed in Anglophone and other cultures about yaoi content, its fandom, and its potential behavioral effects so that realistic ratings and legislation can be developed. As Angelides (2004) argued, "we ought to be conducting studies that are not driven solely for a search for 'difference' or 'deviant' identities, but by the desire to appreciate...diversity" (p. 10). The yaoi community, constituted as it is of primarily female fans from a wide range of cultures and backgrounds, and conjoining as it does male homosexuality with youthful sexuality, has much to teach us

about human sexuality, sexual fantasy of women in particular, the malleability and inflexibility of conjoining sexual fantasy to the limited range of sex and gender roles currently endorsed by mainstream society.

Nagaike stresses the “multiple, shifting, and synchronic process of identification experienced by female readers during the act of reading yaoi manga” (2003, p. 88). The process of identification involved in the production and consumption of yaoi is thus obviously very complex, differs according to the sexual orientation of the reader, and different factors may also be at play in the context of different yaoi language communities.¹⁸ That the process of identification is extremely complex challenges criminological models that collapse yaoi into other categories of child pornography and that prohibit yaoi on the understanding that it is about the sexual objectification of children. Therefore, yaoi may need to be theorized from a feminist perspective as a potentially feminist enterprise. On the other hand, although the number seems to be relatively small, yaoi also has a young male fan base, some of whom identify as gay. Given that yaoi is interpreted differently according to the culture, gender and sexual orientation of the reader, any research program should recognize this diversity among yaoi fans.

Existing research into the yaoi fandom has been carried out from literary and cultural studies perspectives (Fujimoto 2004; Mizoguchi 2003; Nagaike 2003; McLelland 2001). However, the behavioral effects of yaoi are surely of interest to legislators, anthropologists, behavioral scientists, health-care professionals, and psychologists. Yaoi, as an important form of sexual expression for many young people internationally, needs to be studied for both its positive and negative effects among the fans (including the negative effects of the law’s pathologisation of the genre). Research should also include whether and what types of

¹⁸ For instance, yaoi fandom in Chinese is said to be considerably less sexualized than either Japanese or English yaoi but there is as yet no published data to confirm this.

behavioral effects yaoi has upon adolescents' and young adults' psychological and sexual health. Such research will not only establish foundations for understanding yaoi but also inform legislation regulating both virtual child pornography and the sexual fantasies of young people.

In the United States, where yaoi manga books are published with age-associated ratings, systematic yaoi content analysis is necessary to inform and to enforce appropriate ratings. Some yaoi websites, such as aestheticism.com and yaoicon.com have already adopted an age-verification policy and restrict adult-rated yaoi materials to those over the age of 18. More empirical research into yaoi contents would be useful in helping develop self-regulating mechanisms within the fandom that would help yaoi creators and consumers take responsibility for access to their work. Such research is also a necessary precondition for developing policy, and for fostering mutual understanding among the yaoi community, ISP providers, the commercial comics industry and community health and other specialists.

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