Lolicon: The Morality of Illustrated Child Pornography

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Christopher Handley appeared to lead a normal life, with a decent job and a decent house. However, one day, a package addressed to him was intercepted by the local postal inspector and thoroughly examined. Soon after, Chris Handley found himself at the center of a federal investigation: the FBI searched his room and seized his materials.

What was in that package?

Lolicon manga. Short for “Lolita complex,” stemming from the eponymous Nabokov novel, lolicon focuses on sexual depictions of 10-17-year olds. While some may find such an idea repulsive, the lolicon genre has been a booming industry in Japan, and is seemingly rising in popularity around the world.\(^1\) Note, however, that the definition of lolicon excludes photo-realistic or computer-generated images; lolicon is limited to those images which are clearly illustrated, identifiable either through unrealistic situations or art style.

Upon seeing the content of the package, the postal inspector filed a for a search warrant under the presumption that lolicon was just as bad as pornography that depicted real children; soon after, the Comic Book Legal Defense Fund rushed to Mr. Handley’s rescue and fought back. In the Fund’s eyes, the package Mr. Handley was supposed to receive simply contained art, albeit a strange sort, and to prosecute him for obscenity charges would lead to a slippery slope of any questionable content suddenly becoming illegal.\(^3\)

Handley’s case is at the leading edge of the law: the legal status of lolicon in the United States has always been shaky. The Supreme Court in 2002 struck down the Child Pornography Prevention Act of 1996, which attempted to block illustrated child porn. In response,


Congress passed the PROTECT Act, which would “revise and strengthen the prohibition on ‘virtual’ child pornography.”\(^4\) The narrower scope of the PROTECT act was upheld by the Supreme Court in May.\(^5\) Similar actions of tit-for-tat between government branches have happened in the European Union and in Canada; at any point in time, one can never be sure if lolicon is legal or not, and if so, to what extent.

The courts are grappling with a difficult decision: is this sort of illustrated child pornography, which does not involve a direct victim, on the same level as real-life child pornography? If so, should it be banned, or controls to limit it put in place? It is a naturally decisive issue, one that lends itself to easy stereotypes: those that support the rights of lolicon artists and fans are labeled as pedophiles, while those who are against it are labeled as Puritan first-amendment-right crushers. The involvement of children, whether real or not, attracts attention and leads to simple, bumper-sticker rhetorics along the lines of “Think of the children! How could you do such a vile thing!” Lolicon is not the only “victimless crime” to have such a divided public opinion—gay rights, as well, suffered the problem of extreme negative stigma in certain parts of the United States. The issue of legislating victimless crimes is extremely difficult in general, bringing into question the dilemma of individual versus community: if the community decides to totally cede power to the individual (an extreme libertarian viewpoint), problems happen as individuals overstep authorities (e.g., what might happen if I decide to launch rockets every day from my house). The other extreme, the communitarian viewpoint, has substantial problems because individuals aren’t given enough freedom, akin to Draconian homeowners’ associations that don’t let you hang pictures on the wall. The balance between individual and community must be maintained,


and the decision about lolicon must take that into account.

A careful examination of the facts will reveal that liking and possessing lolicon material is perfectly moral; no bans should be placed upon it. Coming to such a conclusion, however, must involve a study of why people have a lolicon fetish in the first place.

Those against will simply rile on about how lolicon material is a substitute for real-life pictures of child abuse. “It’s such a short step from getting off to a drawing of a child being raped versus a photo of a child being raped,” one anti-lolicon proponent argues.\(^6\) This is the crux of the anti-lolicon argument: people who like lolicon material are presumed to be mentally defective, one step away from going out to raping children themselves. Take this lynchpin of argument away, and surprisingly, all the other arguments explicitly against lolicon disappear. One assumes that the lolicon material acts as an active agent in perverting sexual identity; this logic implies that it is impossible for people to stay normal and not be a pedophile after getting involved with lolicon.

An interview with the purveyors and consumers of lolicon reveals a different story. One fan says, “Lolicon incites people to go out and hurt people no more than porn incites people to go out and rape adults, money incites people to go out and rob banks, etc, etc.”\(^7\) Another fan, when asked if lolicon material incites real-life urges, said, “no, I don’t [feel anything]. to me, 2d and 3d [are] just different.”\(^8\) The mind-set of a lolicon-obsessed person has been misinterpreted by those who are afraid of it, an easy stance to adopt when the media in question is shockingly close to depictions of real-life abuse. To people who actually view and consume this material, the difference between the screen/page and real life is as disparate as night and day. A simple statistical analysis would seem to support this: there are dozens

\(^7\)Tommy. Interview by Raymond Jimenez, 14 Dec 2008.
\(^8\)Shinji. Interview by Raymond Jimenez, 14 Dec 2008.
of websites on the Internet that host this material, some of which provide it free of charge. One of the largest sites, notfourchan.net, has nearly 17,000 unique visitors per month.\textsuperscript{9} If the forementioned “lolicon-turns-people-into-pedophiles” logic is correct, one would see a drastic increase in child abuse cases and child pornography roughly corresponding to the amount of people that visit these sites. This has not turned out to be the case; not a single article or media frenzy has arisen over a dramatic increase in child sex offender statistics (and given the sensationalist inclinations of the mass media, such statistics would be widely disseminated).

One can also draw a parallel to a similar fantasy activity: violent video games. Current studies show that violent video games do not contribute to adolescent violence\textsuperscript{10}; since pornography is mostly viewed by adults, lolicon’s effects should be even less. All signs point to the fact that people are able to keep fantasy and reality apart; therefore, no person looking at images of two-dimensional children will have any thoughts about transferring the imaginary actions to the three-dimensional world.

The case of Tsutomu Miyazaki comes immediately to mind: he killed and raped several young girls and was found to have a large caché of violent lolicon material. “People like this will be attracted to lolicon,” one might say, “and it will only further fuel their desires.” The counter-argument is simple: such violent people are already mentally unstable before their outbursts of violence and improper behavior; if it were not for lolicon, it would be some other material that would be the trigger. There still will be a risk that unstable people will find their way to this material and posses it, but these are offset by the advantages that accepting lolicon provides.


The advantages of lolicon only come to light when one analyzes the situation using a rule-based methodology. “How can I best respect humanity—how can I have respect for both people’s freedom to choose their interests, as well as the society’s interest to protect children?” one must ask. This metric proves better than either care-based or end-based techniques—ends-based reasoning does not respect individual liberty, while care-based reasoning is typically not applicable in a top-down manner.

One asks whether or not lolicon should be banned, per the stipulations of the 2003 PROTECT Act. Lolicon has no intrinsic positive value to itself, as it is just a fetish; it provides no more benefit to society than what people with foot fetishes or breast fetishes provide. Therefore, one must look at the consequences: what does happen if lolicon is banned? To ban lolicon would mean incredible amounts of expense, expense that could be dedicated to catching the existing child predators and ensuring that the trade of real-life child porn diminishes. To ban lolicon would mean that customs officers and FBI agents would have to spend time looking for content that is not even dangerous in the first place; it would mean taking agency time away from far more pressing programs such as preventing terrorism and ensuring national security. To ban lolicon would mean that authors would have to worry about the themes of their works, lest they ever be interpreted to be between under-aged children.\(^\text{11}\)

Banning lolicon has a questionable effect at best, as its ability to cause and incite real-life child abuse has not been well established. The government has an obligation, through this rule-based metric, to consider what is best for its people and its society; it cannot and must not make investments that have only a chance likelihood of returning dividends. Note, as

well, that since lolicon is detached from real-life, essentially a fantasy world, it has no source in real life. The Internet will make such a ban nearly useless, as those who want to find it will have the means to do so. Banning something from the Internet has shown to in fact increase its popularity via the Streisand effect, in which curious bystanders are more curious to look something up due to its press coverage.\textsuperscript{12} It would be an ineffective move with no net benefits other than giving its proponents something to gloat about.

The alternative? Ensure that lolicon is protected by the First Amendment, and shift the government focus to exclusively real-life and photo-realistic pornography. Cracking down on real-life child abuse and child porn rings will have a demonstratable effect: it will prevent pedophiles from getting further material to satiate their mentally unstable, lust-filled minds, and it will prevent the money that these child porn rings make from getting into the wrong hands—such as the Russian Mafia.\textsuperscript{13} There is a more imminent wrong that the government needs to stop, and that is the funding of terrorist and organized crime activities through child exploitation. Even to those that are anti-lolicon, they must cede this: the Russian Mafia and its child pornography ring are a much more serious problem than any lolicon-peddling individual would ever pose.

Personally, I believe that this is the best tact of action, if only to keep the government out of content regulation. When the government has tried to regulate any form of content on the Internet, it runs into substantial problems because it doesn’t understand how it works (one cannot simply legislate away the action and expect individuals to enforce the laws). Additionally, I feel that if the government did make lolicon illegal, it would be setting a

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double standard: the extension of Japanese animation as art would not be recognized. For example, a tasteful, yet slightly risqué pose of a childish anime character will get a worse reception than a similar child-like sculpture by one of the Renaissance artists. And, even if the law dictates that lolicon is legal, there will be people like this postal inspector who suspect it anyway. US culture—and as an extension, its legal and enforcement implements—has not acclimated yet to the influx of Japanese media; stereotypes of all Japanese animation as violent pedophile shows have already spread.

Allowing lolicon to remain unregulated lets the community take care of the issue and frees up the government to take care of serious matters. It’s a win-win situation.
Bibliography


