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## Regulating Pornocomic Sales to Juveniles in Japan: Cycles and Path-Dependence of a Social Problem<sup>1</sup>

**Abstract** The purpose of this paper is to develop a new constructionist perspective on path-dependence of a social problem by examining the process of constructing issues regarding the revisions of the Tokyo Youth Protection Ordinance from December 2008 to July 2010. I start with pointing out that a social problem has a cycle of concern and a unique past and background, in a word, path-dependence. Once a social problem process has started down a track, the costs of reversal are very high. Through investigating the revision process between pro-regulation and anti-regulation groups compared with the previous arguments, I found three characteristics of arguments: the limited use of statistics, shared grounds, and shared warrants. I interpret the features as an unintended consequence of path-dependence of the pornocomic problem. This context limits the course of claims-making activities and affects the following controversy. I conclude that the concept of path-dependence offers a better understanding of how and why claims-making activities sometimes lose their diversity and are lopsided over time.

**Keywords** Path-Dependence; Social Problems; Pornocomics; Youth Protection Ordinance; Tokyo

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### Social Problems and Cycles of Concern

Sometimes, a social problem recurs as if it were on a cycle. Similar claims are made and similar policies are implemented every few years. Japanese examples include the revision of juvenile law, youth bashing, countermeasures for low birthrates, and regulation of sex comics for children (Goodman, Imoto, and Toivonen 2012). Best (2008:307) also suggests that social problems often are characterized by cycles of concern which increase until it reaches a peak, and then interest falls off.

<sup>1</sup> An earlier Japanese version of this paper was published in Akagawa (2012).

In Japanese local governments, concern arises every five or six years about the need to regulate the sale of comics to juveniles (under the age of 18) that include sexual depictions. This paper focuses on the controversies regarding the revision of a youth protection ordinance enacted by the Tokyo Metropolitan Government (TMG) that attracted nationwide attention in 2010. The youth protection ordinance in Tokyo, called "The Tokyo Juvenile Sound Upbringing Ordinance," was first enacted in 1964 "to prevent acts that damage the welfare of juveniles and to bring up sound children" (Tokyo Metropolitan Assembly 1992). It stipulates "harmful publications" which are defined as "material which stimulate sexual feelings of juveniles, promote cruelty, induce suicide or crimes, and prevent juveniles' sound upbringing" (Tokyo Metropolitan Assembly 1992). Once a book is categorized as a harmful publication by the authority, its sale for juveniles is strictly prohibited. This ordinance was revised in 1992, 1997, 2001, 2005, 2007, and 2010,<sup>2</sup> with the regulations becoming stricter with every revision. This paper investigates how the cycle of concerns developed in 2009 to 2010, and presents a theoretical idea for the constructionist theory of social problems, path-dependence of a social problem.

Each construction of a social problem has its own unique history and new developments. I will call this "path-dependence" of a social problem.

<sup>2</sup> Akagawa (1993), Nakagawa (1999) analyzed the debate on the revision of the ordinance in the early 1990s. In this period, "harmful comic" issues were heavily emphasized. During the late 1990s and early 2000s, this topic was framed as an "Enjo-Kosai" issue and analyzed by Yamamoto (2000), Suzuki (2001), and Kinsella (2012).

Path-dependence in general means that an institution or a mechanism is bound or locked in by past sequences of events or historical happenings. A political scientist, Levi (1997:28), argues that path-dependence does not simply mean "history matters" and that "path dependence has to mean, if it is to mean anything, that once a country or region has started down a track, the costs of reversal are very high. There will be other choice points, but the entrenchments of certain institutional arrangements obstruct an easy reversal of the initial choice" (see also Pierson 2000; 2004).

This paper adds other elements in path-dependence by arguing that as a controversy proceeds in the social problem process, its concerns become more specific, elaborated, and locked in by the past events or agreements. As a result, various possible arguments are excluded or neglected by claims-makers.

This paper examines the process of constructing issues regarding the revisions of the Tokyo Youth Protection Ordinance from December 2008 to July 2010.<sup>3</sup> During this period, some bureaucrats in the TMG tried to add a new stipulation, "non-existent youths," to the definition of harmful publications to juveniles. This concept seems quite similar with "simulated or virtual child pornography" which was made illegal in the U.S. Child Pornography

<sup>3</sup> My analysis is based on various materials, including: official records from the Tokyo Metropolitan Assembly and the 28<sup>th</sup> Tokyo Youth Affairs Conference in the Tokyo Metro Government; media coverage in nationwide newspapers such as *Asahi Shimbun*, *Yomiuri Shimbun*, *Mainichi Shimbun*, and *Sankei Shimbun*; Nagayama and Hiruma (2010), which is the best collection of statements on the issue; Sato (2012), which thoroughly examined the "non-existent youths" issues; and my own participant observations and interviews.

Prevention Act of 1996: It included drawings, cartoons, sculptures, and paintings of minors in sexual situations. “Non-existent youths” were defined as *manga and anime characters who are expressed as if they appear to be under the age of 18, judged from voices or signs of age, clothing, belongings, school grades, backgrounds, or something that typically would symbolize how old they were*. Comics, anime, and video games that include sexual depictions with “non-existent youths” were to be designated as harmful publications to juveniles. The concept kindled controversy among the Assembly members, mass media, and social movement organizations nationwide. In the next section, I describe how pro-regulation and anti-regulation campaigns developed and what kind of claims-making activities became popular during the period.

### Revision of the Tokyo Youth Protection Ordinance

The movement for revision began on 24<sup>th</sup> November, 2009. The 28<sup>th</sup> Tokyo Youth Affairs Conference (TYAC) proposed a draft report recommending that Tokyo Governor revise the ordinance.<sup>4</sup> It disclosed to the public a report titled “A Draft Report on the Issue of Raising Sound Juveniles in a Computer-Mediated Society” (hereafter, draft report).

The draft report consisted of three chapters: “Raising Sound Children in an Age Flooded With Mo-

<sup>4</sup> The 28<sup>th</sup> commission consisted of six members of the Assembly, two mayors, fourteen experts, and thirteen bureaucrats. Its special committee included some activists who supported the regulation of comics. Usually, they might be on stage as outsider claims-makers, but they were insider claims-makers who were directly involved in policy-making (Best 2008:65).

bile Phones and Computer-Mediated Networks,” “On Mass Media That Treat Children as Sexual Objects,” and “On the Improvement of Environment for Children.” Of the draft report’s 52 pages, 32 were in the first chapter, which means that on the first stage of the revision, pro-regulation campaigns focused more on protecting children from harm in using mobile phones and computers than on child pornography issues.

When the draft report was disclosed on the website, public comments from Tokyoites were invited. Over 500 Tokyo residents and over 1,000 people from outside Tokyo responded, an unusually large response for common ordinances. Most of the comments voiced apprehension that regulating artistic expression in comics for juveniles would lead to regulating comics for adults as well.

On 10<sup>th</sup> December, Japan Book Publisher Association and Magazine Publisher Association announced their joint comments, which focused solely on the second chapter of the draft report. They criticized the tighter regulation of comics, anime, and video games that depicted fictional children’s sexual acts—which were not categorized as child pornography at that time—and expressed concern that it would possibly infringe on freedom of expression. They stated:

[t]he child pornography prevention law of 1999 was aimed at the protection of human rights of existent children, therefore regulation of creations which depict fictional characters in comics and anime is beyond the purpose of the law which defends living children’s rights. (Japan Book Publisher Association 2009)

The 28<sup>th</sup> TYAC revised the report responding to the public comments and claims made by the two associations, and submitted it to the Tokyo Governor on 14<sup>th</sup> January, 2010. They claimed that *malicious comics, which recklessly depict youths as sexual objects, are not different from child pornography which depicts real children as sexual objects, in that they promote child abuse and sexual exploitation of children and impair the dignity of children*.

The revised bill was submitted to the Tokyo Metropolitan Assembly on 24<sup>th</sup> February, which included the idea of “non-existent youths” as one the definitions of harmful publications. On 18<sup>th</sup> March, the General Affairs Committee of Tokyo Metropolitan Assembly started discussions on the revision. The Liberal Democratic Party (LDP) and the New Komei Party, the coalition ruling parties, supported the Tokyo Governor and agreed with the bill. The stance in the largest opposition party, Democratic Party of Japan (DPJ), was said to be divided, with some opposed, while others had no firm position.

The opposition campaign peaked on 17<sup>th</sup> May. Yukari Fujimoto of the Meiji University and a lawyer, Takashi Yamaguchi, who led anti-regulation campaigns held a meeting with an audience of 1,000 people. Virtually, all parties who opposed the bill were on the stage.<sup>5</sup> Fujimoto said: “We should not question whether or not we are against the bill. We should concentrate more on the text of the bill *per*

<sup>5</sup> The people or representatives of organizations who were on the stage included: some DPJ members, and representatives of the Society for Bookshops, the national liaison group of manga fans, an organization for inspection of mobile contents, and a labor union for the publishing industry, as well as a novelist, a translator of manga, comic writers, professors of law, and a sociologist, Shinji Miyadai.

*se*. Are there any problems in the text itself?” She tried to avoid the controversy of whether someone was for or against the bill and focus on whether the text had faults; if so, the bill should be abrogated regardless of their belief or position. The next day, Shinji Miyadai, a sociologist and intellectual leader in the opposition campaign, gave unsworn testimony before the special committee in the Assembly and emphasized how the text itself had serious faults. He claimed that the definition of “non-existent youths” was vague and the stipulation had many problems. Thereafter, his statements were frequently quoted in the Assembly.

The ruling and opposition parties posed questions to a bureaucrat who was in charge of the revised bill at the General Affairs Committee on 11<sup>th</sup> June. There were severe debates between him and opposition party members. Three days later, the ruling parties submitted a re-revised edition of the ordinance to the committee. However, on 16<sup>th</sup> June, members of the opposition parties voted against the revised bill and it was rejected by the Assembly.

### Historical Backgrounds of the Revision

In the previous section, I briefly described which actors claimed what concerning the revision of the Tokyo Youth Protection Ordinance. This paper points out two policy outcomes from the 2007 revision.

The revision was a minor one of the previous 2005 revision. The 2005 revision recommended that Internet service providers develop filtering service for pornography and announce it to their consumers, and the 2007 revision urged cell phone retailers to do so.

One outcome is that topics on content filtering on the Internet were affected by the draft report in 2009, which stated: “[v]arious media and information technology have developed, especially the wide distribution of mobile phones among juveniles and the diversification of communication methods on the Internet and mobile phones, leading to a rise in the number of juvenile victims of crimes and offenders as well” (The 28<sup>th</sup> Tokyo Youths Affairs Conference 2009:1). Topics on content filtering accounted for 61.5% (thirty-two out of fifty-two pages) in the draft report. However, these points were not emphasized in the social problem process thereafter.

Another outcome was related to the nationwide Child Pornography Prevention Law of 1999, which merged the nationwide regulation of imaginary-child pornography into the context of the ordinance of raising sound children. The draft report mentioned that the law did not prohibit possession of child pornography, and claimed:

[a]wful child pornography is spreading on the Internet. There is no regulation for comics which depict rape and incest towards children or games that are realistic depictions of these acts using computer graphics and animation readily available at average bookshops and on the Internet. (The 28<sup>th</sup> Tokyo Youths Affairs Conference 2009:35)

In summary: regulating comics has gone through a series of cycles. The 2007 cycle focused on filtering, but later cycles barely mentioned it. At first, topics on content filtering seemed the main focus of the draft report, but virtually all claims-makers ignored the topic in the 2010 cycle. On the other hand,

the 2010 cycle also raised the topic of fictional depictions of children in sexual situations quoting the nationwide Child Pornography Prevention Law of 1999, and that became the focus of the 2010 debate.

### 2010 Compared With the 1990s Cycle

There are three unique rhetorics in the 1990s cycle. The first was “the rhetoric of entitlement” (Ibarra and Kitsuse 1993:38). Both pro-regulation and anti-regulation groups relied on it. The former claimed that children had the right to be defended from harmful environments. The latter stated that children are subjects with right of self-determination to read sex comics and express their views on them. In short, the rhetoric of entitlement based on children’s rights was used by both parties but with different interpretations (Akagawa 1993).

The second was the rhetoric of “commercialization or objectification of women’s sex.” Some Japanese radical feminists who were influenced by Catharine MacKinnon and Andrea Dworkin, who led the campaign for the Minneapolis anti-pornography ordinance in 1982, had a great influence in the 1990s cycle. They claimed that pornography degraded women and reproduced discrimination against women, or that pornography objectified women’s sexuality. The rhetoric of “commercialization or objectification of women’s sex” was actively taken advantage of by pro-regulation groups as a rhetoric which supported the regulation.

The third rhetoric was about whether or not the so-called harmful pornocomics caused juvenile sex crimes. Some claimed that sex comics encouraged

juveniles to commit rape or juvenile delinquency. However, a psychiatrist claimed that the more comics were published, the less sex crimes were committed because sex comics were thought to be outlets for sexual frustration, thereby reducing the number of readers assaulting others (Fukushima 1990).

These were the obviously important and unique arguments in the 1990s cycle, but few of them were repeated in the 2010 cycle.

### Theoretical Considerations

This paper uses the framework proposed by Best (1990; 2008) to examine what kinds of rhetoric were frequently used in the controversy. This framework has three components: grounds, warrants, and conclusions. A claim’s grounds are assertions of fact; that is, they argue that the condition exists, and offer supporting evidence (Best 2008:31). Typifying examples, names, and statistics are three major rhetorical forms of grounds.

In the pornographic controversy, few typifying examples were presented. As for naming, the concept of “non-existent youths” became a symbolic term representing the issue, for good or bad. The term was newly-coined by the authority, and new to most people in Tokyo. Therefore, anti-regulation and pro-regulation groups contested whether or not the concept was appropriate as a legal concept.

What is most interesting is that while several statistics and numbers were used to ground both sides of the claims, they were never the focal points of the argument. Pro-regulation claims-makers such as draft

report and officials in Security Measures for Juveniles made claims based on numbers and statistics, such as:

- The number of problems connected with the Internet and mobile phones is increasing. More and more juveniles are victimized.
- The average number of harmful publications has decreased from 57.6 volumes between 1965 and 1974 to 33.6 between 2005 and 2009.
- Only 68.3% of parents use some sort of Internet filter to control their kid’s access to unwanted content.

On the other hand, anti-regulation claims-makers refuted pro-regulation assumptions by using their own statistical grounds:

- There is no correlation between sex crime and the growth of sexual media. In fact, there is a negative correlation between them.
- The number of harmful publications is decreasing (the Council of Publication Ethics, Assembly members of the DPJ).
- The ratio of parent’s use of Internet filter is 95% when a new phone is purchased. It has risen by 12.7% in a year. Awareness of Internet filter for parents has become common (Assembly members of the DPJ).

These claims seem to contradict each other. For example, pro-regulation claims-makers often assume

that pornocomics cause juvenile sex crimes. On the other hand, anti-regulation claims-makers argue that sexual media have no causal relationship to juvenile sex crimes. However, an important thing is that the discrepancy does not seem to influence the total social problem process—because which grounds were valid and which interpretations were persuasive were never contested in the Assembly.

The question we should consider is: Why the grounds which focused on numbers and statistics were not the main focal point of the issue? There are three possible answers.

### Is the Glass Half Full or Half Empty?

Just as optimists and pessimists can interpret the same facts differently, so did both sides in this policy debate interpret the same facts and grounds differently. For instance, anti-regulation groups claimed that the fact that fewer harmful publications were designated than before meant that self-regulation by the industry worked well and that stricter regulation was unnecessary. Pro-regulation groups, on the other hand, countered that the decreased number was simply measured in accordance with the current loose standards, which did not include the regulation of “non-existent youth.”

Similarly, when an Assembly member of the DPJ claimed that the ratio of parent’s use of Internet filter is 95% when they purchase a new cell phone, he meant that the current implementation for Internet filter was successful and more regulation was unnecessary. On the other hand, the draft report

and an official in Security Measures for Juveniles claimed that only 68.3% of parents use some sort of Internet filter to control their kid’s access to unwanted content. They assumed that all mobile phone users should use the Internet filtering, so the 68.3% meant that the current policy was ineffective.

These are illustrations of the “half full or half empty?” nature of social policy debates. Opposing points of view can lead to a stalemate. For example, no one can change the fact that fewer harmful publications were designated, or that the participation rate in content filtering was 68.3% in 2009. But, such facts lose their value as discursive resources for refuting opponents. When both sides realize this, they tend to avoid using the facts and/or grounds as tools to persuade others.

### Rhetoric of Risk Prevention

Another explanation for the limited use of statistics is related to a new “rhetoric of risk prevention” by pro-regulation groups. Pro-regulation groups argued that the numbers of juvenile offenders caused by sex crimes or child prostitution were increasing; in contrast, anti-regulation activists counter-claimed that there were fewer and fewer sex crimes, murdered victims, and heinous juvenile crimes. However, there were no direct opportunities for arguing whether juvenile sex crimes or offenders/victims of sex crime were increasing or not. This meant that debates over the statistics were not the main rhetoric to mobilize and persuade third-party audiences.

How could this be true? At least pro-regulation claims-makers thought they could circumvent

controversies about whether the spread of harmful publications caused juvenile crimes. For instance, a lawyer, who was the chairperson of the special committee in the 28<sup>th</sup> TYAC, claimed that the regulation was constitutional without any scientific evidence of the causal relationship. Quoting a judge’s decision, “[e]ven though there is no strict scientific evidence that harmful publications lead to juvenile delinquencies and other vice, this does not mean that regulation of harmful publications violates freedom to access information and is unconstitutional” (December 17, 2009, at the committee). He also argued, “There is a causal discussion regarding whether designating child pornography reduces crimes, both discussions could be true. When it is the case, it is wrong to conclude that we should not regulate it until we have enough evidence” (May 18, 2010, comment at the special session at the Assembly). In short, he suggested that regulation is possible even when there is no evidence that legitimizes the regulation. Precautionary measures are acceptable even though academic proof of causal relationship is impossible.<sup>6</sup> An analogous rhetoric of risk prevention often appears in environmental issues such as global warming and chlorofluorocarbon (CFC) regulations. This rhetoric can nullify “statistics wars” because even the smallest risk could, in principle, justify precautionary regulation against putative harm.

<sup>6</sup> We can assume that there are some possible counter-rhetorics to the rhetoric of risk prevention, which includes questions to evaluate risk: (a) To what extent can we stand the risk? (b) Is the risk larger than other risks? (c) Is the cost for the risk reasonable? (d) Are other measures more appropriate? This counter-rhetoric could be more focused in future controversy, when a debate on grounds (numbers and statistics) or conclusions could occur.

### Shared Grounds

The third possible reason for downplaying statistics was that both parties tended to share some grounds in the course of the arguments. Pro-regulation groups accepted some warrants proposed by anti-regulation activists; for instance, Miyadai Shinji proclaimed on 18<sup>th</sup> May that what he called “bad-influence theory”—that harmful comics hinder juvenile’s sound upbringing—was groundless. He claimed that only “specific effect theory” was academically reasonable. This theory implies that mass media’s influence depends on the audience’s circumstances of whether they receive it alone or with others, with family or friends or with strangers. He found it important to control circumstances under which the audience receives mass media’s message rather than to regulate it.

In response to this claim, an official in Security Measures for Juveniles did not reject the specific effect theory. Instead, he utilized the theory for the revision of the ordinance. The revision included a plan called “family e-mail-lecture” that encouraged parents and children to reach consensus about the use of the Internet, mobile phones, and video games at home. This official regarded the plan as a measure to control media circumstances based on the specific effect theory. On the other hand, he claimed, “Nowadays, pornocomics depicting malicious sexual acts against juveniles are being sold at bookshops where a juvenile can readily buy them ... there is a limit to what parents, schools, and local communities can do to create an environment for sound upbringing” (June 11, 2010, by the committee of general affairs). In short, once

he accepted the opposition's grounds, the specific effect theory, the importance of controlling media circumstances and control by ordinance were included in the measures suggested by the theory. By his discursive tactics, the theoretical controversy over the influence of harmful publications was suspended. According to his new discursive strategy, the regulation of sales of pornocomics became necessary just because it was based on the specific effect theory, which had been proposed by the opposing claims-maker. This means that pro-regulation groups realized that both groups shared some of the same grounds: the specific effect theory. This paper suggests that at this point, controversies over statistics and causal relations were nullified and did not work well as tools for stopping or promoting the regulation of the ordinance. This is one discursive factor of why the controversies over statistics and causal relations were not fully emphasized by both parties in the Assembly.

### Shared Warrants

The basic claims of the pro-regulation groups called for protecting children from harmful publications, while anti-regulation groups called for protecting freedom of expression. Both lines of rhetoric can be categorized as a "rhetoric of loss" described by Ibarra and Kitsuse (1993:37) as basic in confrontations between the parties. This implies that pro-regulation movements are regarded as people who do not respect the freedom of expression, which is regarded as a fundamental value in democratic societies. On the other hand, anti-regulation movements risk being labeled as "enemies of children" who oppose any regulation of expression, including (real) child pornography.

Both parties were forced to reject these labels. Pro-regulation groups emphasized that the revised bill did not violate the freedom of expression or intend any harm to creative activity by comic writers. Typical discourse appeared in Q-As published by the Tokyo Metropolitan Government on 26<sup>th</sup> April, which stated that *the aim of revision is only to prevent children from buying the comics. It is acceptable for people over the age of eighteen to draw, create, and publish these comics. Therefore, the revised bill does not infringe on anyone's "freedom of expression."*

Anti-regulation groups often claimed that they did not oppose the idea of raising sound children and the regulation of (real) child pornography. For instance, an anti-regulation Assembly member of the DPJ repeatedly claimed that real child pornography should be eradicated. Also, a declaration by a representative of the Tokyo Bar Association reported that they accepted the idea that they would not leave unsolved the current state in which children were sexually exploited and exposed to harmful publications. Both statements can be categorized as *tactical criticism*, a counter-rhetorical strategy that "accepts the characterization of the condition-category being proffered, but demurs in the means the claimants employ" (Ibarra and Kitsuse 1993:44; see also Nakagawa 1999). Both sides favored both basic values of "freedom of expression" and "protection of children." They shared basic warrants and revised claims based on tactical criticism.

### Conclusion: Path-Dependence of a Social Problem

This paper finds a "path-dependence" of a social problem in the controversy. This means that the

controversy over harmful publications had its own unique past and background that shaped the construction of current issues. In the previous section, I pointed out three theoretical considerations: limited use of statistics, shared grounds, and shared warrants among opposing parties. All these features have the tendency that concerns have become specific and some focal points that had earlier been thought important were excluded or neglected. I also identified three rhetorics in the 1990 cycles that are not in the 2010 cycle: the rhetoric of entitlement, the rhetoric of commercialization or objectification of women's sex, and unlimited use of statistics.

The controversy over harmful comics in the 1990s had more diversity than in the 2010s. In the 2010 cycle, both parties in the social problem process focused mainly on the legitimacy of the text of the ordinance, in particular, on the concept of "non-existent youths." For instance, anti-regulation activists emphasized the sloppiness of the ordinance's text and the ambiguity of the definition of "non-existent youths." Therefore, pro-regulation lawmakers were forced to reconstruct their logic and rhetoric by excluding the term from the revised bill of the ordinance. As a result, many other focal points were neglected and there were few points to be argued in the controversy.

I also observed that over time the focus of arguments became narrower and more specific. In June 2010, both sides focused only on the ambiguity of "non-existent youths." When the revised bill was voted down by the Tokyo Metropolitan Assembly on 16<sup>th</sup> June, the anti-regulation campaign seemed

to enjoy their victory. Their tactics of targeting only the concept "non-existent youths" seemed tentatively successful.

However, there were some side effects. Focusing on the faulty sentences lost the target when the pro-regulation groups corrected or removed the sentences. Once the ordinance was corrected in accordance with criticism from the anti-regulation groups, there was no big issue to be discussed. The anti-regulation group no longer had a good reason to oppose the revised bill.

This paper starts with the proposition that social problems have cycles of concern. In this case study, this means that the authority never gave up tightening the regulation of pornocomics for juveniles even after their bills were rejected by the Assembly in June 2010. Half a year later, the pro-regulation groups of the Assembly deleted the concept of "non-existent youths" from the bill, and submitted it to the Assembly again. The largest opposition party seemed to reluctantly agree with this version of the bill. The re-revised bill was enacted by the Assembly in December 2010.

What does this mean? Was it a "consensus building" between the ruling and opposition parties? For the pro-regulation groups, it might be true. They might claim that they had already shared basic grounds and warrants with their opponents, and if only they eliminate the concept of "non-existent youths" from the revised bill, there would be "consensus" between two groups. However, from the anti-regulation viewpoint, it was an awful political compromise because they could not

prevent the re-revision of the ordinance, which meant tighter regulation of pornographics for juveniles was legalized. As Levi (1997) suggested, once a social problem process which focuses on a single issue has started down a track, the costs of reversal are very high or virtually impossible for the anti-regulation groups. This paper interprets that this was an unintended consequence of path-dependence of the pornographic problem. Once the controversy over a political issue is bound by its unique past contexts, the focus of arguments becomes narrower and more specific, and many other focal points of argument are neglected. This context limits the course of claims-making activities and affects the following controversy. In this case, once the focal point, the concept of “non-existent youths”, disappeared, decisive opposition by both groups was lost, which formed the discursive contexts in favor of the re-revision of the ordinance in December 2010.

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This paper begins with investigating the cycle of concern in a social problem process, and finds the cycle is not just the repetition of the same kind of claims-making activities. It also has a history. This paper calls it “path-dependence” of a social problem and concludes that by using the concept, constructionist natural history models of the social problem process will give better understanding of how and why claims-making activities sometimes lose their diversity and are lopsided.

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