

# **UCLA**

## **UCLA Women's Law Journal**

### **Title**

Enjokosai in Japan: Rethinking the Dual Image of Prostitutes in Japanese and American Law

### **Permalink**

<https://escholarship.org/uc/item/8gc4h12r>

### **Journal**

UCLA Women's Law Journal, 13(1)

### **Author**

Wakabayashi, Tsubasa

### **Publication Date**

2003

### **DOI**

10.5070/L3131017775

### **Copyright Information**

Copyright 2003 by the author(s). All rights reserved unless otherwise indicated. Contact the author(s) for any necessary permissions. Learn more at <https://escholarship.org/terms>

Peer reviewed

# STUDENT SCHOLARSHIP

## ENJOKOSAI IN JAPAN: RETHINKING THE DUAL IMAGE OF PROSTITUTES IN JAPANESE AND AMERICAN LAW

Tsubasa Wakabayashi\*, \*\*

### ABSTRACT

This Article details the various laws in both Japan and the United States affecting and regulating prostitution. Specifically, Tsubasa Wakabayashi examines *enjokosai*, an unconventional style of teenage prostitution and further analyzes whether it is a valid occupation or a form of exploitation. She begins by discussing the background of *enjokosai* by exploring Japanese history and customs regarding sex and prostitution. Ms. Wakabayashi then demonstrates how sex, prostitution, and the sexual activity of minors are treated under Japanese law. This treatment is later compared to federal and state laws in the United States, particularly laws affecting teenage prostitution. Finally, she argues that Japanese laws are improperly based upon fixed notions of sex, paternalism, and gender-prejudice, which result in an improper analysis of prostitution as a form of exploitation rather than a chosen occupation.

---

\* Lecturer, Osaka University Graduate School of Law in Japan. L.L.M., UCLA School of Law, 2002; Master of Laws, Osaka University Graduate School of Law, 2000; Bachelor of Law, Osaka University Faculty of Law, 1996. I would like to thank the following people: my L.L.M. thesis adviser Professor Frances Olsen for her warm and insightful comments on the earlier draft of this article; the classmates in the seminar, Feminist Legal Theory in 2001 for the mutual exchange of exciting thoughts; Pitter Hogan, Diego Cartagena, Cindy Zone, Debbie Garrisi, Mikah O'Mara, the editors of UCLA Women's Law Journal for their efforts to improve this article in spite of the difficulties of my imperfect English and unfamiliar style of writing; and Benedikt Buchner for his continuous encouragement and priceless friendship.

\*\* The author has verified the foreign language citations referenced in this Article.

## TABLE OF CONTENTS

I.	INTRODUCTION.....	145
II.	BACKGROUND AND CHARACTERISTICS OF <i>ENJOKOSAI</i> .....	147
	A. <i>Recent History of Prostitution in Japan</i> .....	147
	1. Before National Regulation of Prostitution .....	147
	2. National Regulation of Prostitution in Japan .....	148
	3. Abolition of Licensed Prostitution and the Prostitution Prevention Law .....	149
	B. <i>Social Conditions for Enjokosai</i> .....	150
	1. Customs Regarding Sex in Japan .....	150
	2. Prostitution .....	151
	3. Types of Prostitutes in Japan .....	153
	4. <i>Terekura</i> (telephone club) .....	155
	C. <i>Characteristics of Enjokosai</i> .....	157
	1. How it works .....	157
	2. Girls Can Choose Men .....	159
	3. Money is Not the Only Purpose .....	159
III.	LAWS RELATED TO <i>ENJOKOSAI</i> .....	161
	A. <i>The Penal Code (Enacted in 1907)</i> .....	161
	B. <i>The Prostitution Prevention Law (Enacted in 1956)</i> .....	164
	C. <i>The Child Welfare Law (Enacted in 1947)</i> .....	166
	D. <i>The Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protecting Children (Enacted in 1999)</i> .....	166
IV.	TEENAGE PROSTITUTION AND LAWS IN THE UNITED STATES.....	173
	A. <i>Runaway and Throwaway Kids and Prostitution</i> .....	173
	1. The Situation Surrounding Teenage Prostitution .....	173
	2. New Trend?.....	175
	B. <i>Laws Combating Teenage Prostitution</i> .....	176
	1. Federal Law .....	176
	2. State Law.....	178
V.	COMPARISON.....	181
	A. <i>The Difference of Background</i> .....	181
	B. <i>The Perspective to Treat Prostitution</i> .....	181
	C. <i>A Minor is Always a Victim</i> .....	182

## VI. CONCLUSION ..... 182

## I. INTRODUCTION

Feminist theorists have long debated whether to recognize prostitution<sup>1</sup> as a chosen occupation or as an exploitation based on two dichotomous notions of prostitutes. This being: (1) prostitutes are autonomous persons who choose prostitution as their job or occupation; (2) prostitutes are victims who lack free choice and resort to selling their bodies.<sup>2</sup> Although both views attempt to explain prostitution in some degree, neither side resolves the issue completely nor provides for an appropriate remedy.

The debate is further complicated by *enjokosai*. In Japan, *enjokosai* is an unconventional style of teenage prostitution that some do not define as prostitution at all. *Enjokosai* is understood as a transaction, in which a person sells his/her sexual services for money or gifts without any control or coercion.<sup>3</sup> Most *enjokosai* is performed by teenage girls rather than boys.<sup>4</sup> Because *enjokosai* involves teenage girls that are not mature enough to make these types of decisions on their own, and because of the peculiar characteristics of *enjokosai* that make it unlike other forms of prostitution; an understanding of *enjokosai*

1. Although there are male prostitutes in Japan and the United States, this Article will focus solely on female prostitution.

2. For arguments from prostitutes' rights groups that view prostitutes as autonomous in their choice of work, such as Cast Off Your Old Tired Ethics (COYOTE), see, for example, *Coyote/National Task Force on Prostitution*, in *SEX WORK* 290 (Frederique Delacoste & Priscilla Alexander, eds., 1987); Frances M. Shaver, *The Regulation of Prostitution: Avoiding the Morality Traps*, 9 *CANADIAN JOURNAL OF LAW AND SOCIETY* 123 (1994). For arguments from feminists who see prostitutes as victims, see, for example, KATHLEEN BARRY, *FEMALE SEXUAL SLAVERY* (New York University Press 1984); CATHARINE A. MACKINNON, *TOWARD A FEMINIST THEORY OF THE STATE* (1989); CAROLE PATEMAN, *THE SEXUAL CONTRACT* (1988). Both sides of the autonomy/victim debate are well-depicted in Jody Freeman, *The Feminist Debate Over Prostitution Reform: Prostitutes' Rights Groups, Radical Feminists, and the (Im)possibility of Consent*, 5 *BERKELEY WOMEN'S L.J.* 75 (1989-90); Margaret A. Baldwin, *Split at the Root: Prostitution and Feminist Discourses of Law Reform*, 5 *YALE J.L. & FEMINISM* 47 (1992); Elizabeth Bernstein, *What's Wrong with Prostitution? What's Right with Sex Work? Comparing Markets in Female Sexual Labor*, 10 *HASTINGS WOMEN'S L.J.* 91 (1999).

3. See KOJI MARUTA, DAREGA DARENI NANIO URUNOKA [Who Sells What?] 56 (2001). The Japanese word *enjokosai* consists of two parts: "*enjo*," which means "assist," and "*kosai*," which means "dating." The word *enjokosai* is used as a substitute for the term "prostitution" because it does not have the negative connotations that are attached to "prostitution" in the traditional sense. *Id.*

4. HISASHI SONODA, KAISETSU JIDOKAISHUN JIDO PORUNO SHOBATSU HO [Commentary on the Law for Punishing Acts Related to Child Prostitution and Child Pornography, and Protecting Children] 3 (1999).

could contribute to the debate over whether prostitution is a chosen occupation or a form of exploitation and what remedies, if any, are available.

This article will examine what role *enjokosai* plays in the debate over prostitution. Further, this article will demonstrate that feminist theorists, as well as Japanese laws, are trapped in the fixed images of prostitutes. Part II will discuss the background of *enjokosai* by examining Japanese history and customs regarding sex and prostitution, as well as the unique characteristics of *enjokosai*. Part III will demonstrate how Japanese law treats sex, prostitution, and the sexual activity of minors. Part IV will discuss teenage prostitution both in the federal and state laws of the United States for comparison, due to the differences in the government structures and legal systems of the two countries.<sup>5</sup> Part V will compare teenage prostitution in the United States and Japan. Finally, Part VI will analyze *enjokosai* and demonstrate that laws relating to prostitution based on fixed notions of sex prevent us from finding appropriate remedies for this epidemic.

---

5. In comparing the American and Japanese legal systems in their treatment of prostitution and *enjokosai*, it is appropriate to take note of the functional differences between the national laws of Japan and the state and federal laws of the United States. The governmental structure in the United States is known as federalism. Under federalism, power is centralized in a national government, while individual states retain sovereignty over governmental functions that are not allocated to the national government through the Constitution. KATHLEEN M. SULLIVAN & GERALD GUNTHER, CONSTITUTIONAL LAW 83 (14th ed. 2001); see also U.S. CONST. art. I, § 8. State powers include the power to legislate penal statutes. See generally SULLIVAN & GUNTHER, *supra* note 5, at 83-85. Each state also maintains its own judiciary for enforcing its laws separate from, though sometimes concurrent with, the judiciary of the federal courts. *Id.* GEOFFREY STONE ET AL., CONSTITUTIONAL LAW 137-139 (4th ed. 2001).

In contrast, Japan is a unitary nation with a more centralized national government. Local authorities, including prefectures, cities, towns, and villages, may enact regulations within the scope of the law under Article 94 of the Japanese Constitution. HIROSHI ODA, JAPANESE LAW 58 (2d ed. 1999). The Law on Local Self-Administration sets forth the areas of regulation that are delegated to local authorities, including the maintenance of public order and public health, protection of the environment, consumer protection, and promotion of industry and commerce. *Id.* (citing Jap. Const. arts. 94, 14, 2). Compared to the authority of an individual state in the United States, a prefecture in Japan has a limited power to regulate the issues within its jurisdiction. *Id.*

For a discussion on the differences between the American and Japanese legal systems, see also 1 HIDEO TANAKA, EIBEIHO SORON [A General View of Anglo-American Law] 31-35 (1980).

II. BACKGROUND AND CHARACTERISTICS OF *ENJOKOSAI*A. *Recent History of Prostitution in Japan*

## 1. Before National Regulation of Prostitution

In the Edo period (1600-1868), there were two forms of prostitution in Japan: private and state regulated.<sup>6</sup> The privatized form of prostitution included streetwalkers, waitresses at teahouses (*chaya*), and bath attendants in public bathhouses.<sup>7</sup> State-regulated prostitutes ranged from ordinary prostitutes (*joro*) to courtesans (*tayu* or *oiran*).<sup>8</sup> State-regulated prostitution began in 1617 and lasted more than 300 years until the promulgation of the Prostitution Prevention Law in 1956, which nationally prohibited prostitution.<sup>9</sup> During this period, there was public prostitution in 25 regulated districts under governmental regulation and support.<sup>10</sup> The prostitutes in these districts were wives and daughters of farmers who were sold into bondage to brothel owners under indentured service contracts.<sup>11</sup> The ages of these prostitutes ranged from around age fourteen to twenty-seven years of age.<sup>12</sup>

---

6. MARUTA, *supra* note 3, at 22; Masako Kobayashi, "Koshosei no Seiritsu to Tenkai" [The Establishment of Public Prostitution System and its Development] in 3 NIHON JOSEISHI [Japanese Women's History: Modern History] 128-29 (Nihon Joseishi Kenkyukai ed., 1982)

7. MARUTA, *supra* note 3, at 22.

8. *Tayu* or *oiran* was the most privileged and expensive among the ranks of the prostitution profession. To become *tayu*, a prostitute had to be not only sexually attractive, but also talented at performing musical instruments, dance and poetry. In 1794, the ranks of *tayu* numbered only four. RYOSUKE IISHII, YOSHIWARA 119 (1967).

9. MARUTA, *supra* note 3, at 22; see also EHS LAW BULLETIN SERIES, JAPAN VOL. II, THE PROSTITUTION PREVENTION LAW (2002) (translating Baishun Boshi Ho [The Prostitution Prevention Law] (1956) [hereinafter Prostitution Prevention Law]).

10. The brothels developed by themselves at first. Kobayashi, *supra* note 6, at 130. Then, the brothel owners petitioned the government to collect all brothels into one district under the governmental supervision and protection. *Id.* The most famous district, "Yoshiwara," was located in Edo, the capital of Japan during the Tokugawa Shogunate period. There were two other famous districts in Osaka and Kyoto. All twenty five districts were approved by the government. *Id.* at 131. In exchange for abiding by the government's regulations, such as that prostitutes in Yoshiwara could not work beyond the borders of that district, each district was protected by the government, for example, the governmental prohibition of privatized form of prostitution for the purpose of protecting state regulated prostitution. *Id.* at 132-35.

11. MARUTA, *supra* note 3, at 23.

12. *Id.*

When Japan adopted the modern Meiji Government in 1868,<sup>13</sup> prostitution still existed from the Edo period. However, international pressure forced the Meiji Government to issue the Prostitutes Liberation Law in 1872.<sup>14</sup> This law liberated all indentured prostitutes, prohibited traffic in persons, and canceled all debts that had resulted from the trade.<sup>15</sup> In 1873, however, the Tokyo Rental Room and Prostitution Regulation<sup>16</sup> was passed. This regulation adopted room-rental licensing schemes, under which a prostitute became a licensed "independent contractor" and a brothel was a "room rental service," allowing brothels to continue to exist.<sup>17</sup>

## 2. National Regulation of Prostitution in Japan

In 1900, in response to social reformist groups such as the Kyofu Society of Japanese Christian Women, which lobbied the government to abolish the public prostitution system altogether, the government passed the Regulation for Control of Prostitutes.<sup>18</sup> This regulation allowed prostitutes to discontinue prostitution if they reported their desire to quit prostitution to the police.<sup>19</sup> In practice, however, they were often taken back to the brothels because the police were conspiring with the brothel

---

13. Dating from the seventeenth century, Japan had committed to a policy of national isolation (*sakoku*). W.G. Beasley, *The Foreign Threat and the Opening of the Ports*, in 5 THE CAMBRIDGE HISTORY OF JAPAN, THE NINETEEN CENTURY 259, 259 (Marius B. Jansen ed., Cambridge University Press 1995). The arrival of Commodore Perry of the United States Navy in 1853 forced Japan to begin retreating from its isolationist policy. *Id.* at 269-71. The retreat caused the political turmoil of the Tokugawa Shogunate and led to the Meiji Restoration. EDWIN O. REISCHAUER, THE JAPANESE TODAY: CHANGE AND CONTINUITY 78-80 (1988). Meiji is the name of the period of the Meiji emperor, under whose name power was seized from the Tokugawa. This led to the subsequent modernization of the country, based on the model of nineteenth-century West, which included the Western ideals of human rights. ODA, *supra* note 5, at 21-29; *see also* 5 Marius B. Jansen, *The Meiji Restoration*, in 5 THE CAMBRIDGE HISTORY OF JAPAN, THE NINETEEN CENTURY 308 (Marius B. Jansen ed., Cambridge University Press 1995).

14. KANEKO YOSHIMI, BAISHO NO SHAKAISHI [Social History of Prostitutes] 16-28 (1984).

15. *Id.* at 18-21; MARUTA, *supra* note 3, at 24.

16. The Japanese name of this law is "Tokyofu Kashizashiki Oyobi Geishougi Kisoku" (enacted in 1873).

17. YOSHIMI, *supra* note 14, at 23-28; Izumi Kusano, *Baibaishun no Rekishi to Genzai*, in MINAKO SUZUKI ET AL., KAISHUN TO BAISHUN TO SEI NO KYOIKU 114, 122-23 (2001); MARUTA, *supra* note 3, at 24.

18. YOSHIMI, *supra* note 14, at 46; Andrew D. Morrison, *Note, Teen Prostitution in Japan: Regulation of Telephone Clubs*, 31 VAND. J. TRANSNAT'L L. 457, 464 (1998); Kusano, *supra* note 17, at 123.

19. *Id.*

owners.<sup>20</sup> More importantly, the regulation required prostitutes to be older than eighteen years old, to register with the government, and to live and work within the confines of the red-light districts.<sup>21</sup> As a result, the public prostitution system remained intact until the promulgation of the Prostitution Prevention Law to prohibit prostitution in 1956.

The state primarily had two reasons for regulating prostitution: preservation of public order and prevention of sexually transmitted diseases. The government further justified control of prostitution as a tool to alleviate stress in society,<sup>22</sup> especially during difficult periods, such as wartime. This strategy was used in the military system as well. As Japan got involved in war, from the Meiji period to the Showa period, it was an accepted practice that soldiers would buy prostitutes to alleviate stress.<sup>23</sup> The policy of the Japanese government at that time was “rich country, strong army (*fukoku kyohei*).” However, sexually transmitted diseases among soldiers became a significant concern for the military system. Therefore, legalizing and regulating prostitution which enabled the government to control the “quality” of the prostitutes was considered an ideal way to maintain the power of the military, for example, by providing “comfort women” for soldiers overseas.<sup>24</sup>

### 3. Abolition of Licensed Prostitution and the Prostitution Prevention Law

After World War II, the Supreme Commander for the Allied Powers (SCAP)<sup>25</sup> sent a memorandum regarding abolition of li-

20. *Id.*

21. *Id.*; Morrison, *supra* note 18, at 464 (1998); YOSHIMI, *supra* note 14, at 103-04.

22. Kusano, *supra* note 17, at 123-24. Regarding the relationship between war and prostitution, see YUKI FUJIME, *SEI NO REKISHIGAKU* [History of Sex] 96-99, 322-30 (1998).

23. Kusano, *supra* note 17, at 123.

24. FUJIME, *supra* note 22, at 322-26.; YOSHIMI, *supra* note 14, at 172-84. For a thorough discussion of Korean comfort women, see Kyeyoung Park, *Japan, U.S. and World War II: The Search for Justice: The Unspeakable Experiences of Korean Women under Japanese Rule*, 21 WHITTIER L. REV. 567 (2000). In terms of our notions of prostitution, it is significant to consider the relationship between war and governmental control of sexuality. However, I will not explore it here.

25. When World War II ended with the acceptance of the Potsdam Declaration in 1945, Japan was placed under the control of the Supreme Commander of the Allied Powers (SCAP), General Douglas MacArthur. Haruhiro Fukui, *Postwar Politics, 1945-1973*, in 6 THE CAMBRIDGE HISTORY OF JAPAN, THE TWENTIETH CENTURY 154, 155 (Peter Duus ed., 1988). The occupation was done through indi-



censed prostitution to the Japanese government. In 1947, the Japanese government promulgated Imperial Ordinance No. 9, punishing individuals that coerced women into prostitution.<sup>26</sup> This ordinance was supposed to eliminate licensed prostitution. However, despite this regulation and *tatema*,<sup>27</sup> prostitution did not disappear in brothels. Brothel owners simply used room-rental arrangements, restaurants and saloons to conceal prostitution.<sup>28</sup> In addition, the Japanese government designated special areas called "red-line districts"<sup>29</sup> where prostitution was permitted to continue.

In 1956, the Prostitution Prevention Law was finally promulgated and the red-line districts were abolished.<sup>30</sup> The Prostitution Prevention Law marked the Japanese government's switch from the acknowledgement of prostitution as a business to its prohibition. However, it was not intended to punish the prostitutes themselves. This concept will be explained in Part III.

## B. *Social Conditions for Enjokosai*

### 1. Customs Regarding Sex in Japan

Before the Meiji Restoration in 1868, the Japanese did not share Western views about the sinfulness of sexual relations, which are generally based on Christianity.<sup>31</sup> In ancient times, the Japanese worshipped fertility both in agriculture and among humans, and "phallic symbols were common objects of worship

---

rect military rule, which meant that the Japanese government was allowed to function under supervision of SCAP. ODA, *supra* note 5, at 29.

26. Morrison, *supra* note 18, at 466-67; Kusano, *supra* note 17, at 126-27; MARUTA, *supra* note 3, at 24-25.

27. "In order to maintain social harmony and group solidarity, the Japanese rules of behavior based on the distinction between *tatema*, the "front face" or public action and *honne*, real intention, motive or substance. The terms *omote* (front) and *ura* (back) are also used to make distinction between public and private behavior." DOROTHY PERKINS, *ENCYCLOPEDIA OF JAPAN: JAPANESE HISTORY AND CULTURE, FROM ABACUS TO ZORI* 82-83 (1991); *see also* NICHOLAS BORNOFF, *PINK SAMURAI* 217-19 (Harper Collins 1991). Here, I use those words to explain how the Japanese government kept up a front by "abolishing" prostitution legally, but allowed it in different ways in the back.

28. Kusano, *supra* note 17, at 126; Morrison, *supra* note 18, at 466-68.

29. The name red-line district comes from the red line drawn on the map by the police to distinguish areas where prostitution was allowed from those where it was illegal. MARUTA, *supra* note 3, at 24.

30. Prostitution Prevention Law, *supra* note 9, art. 3; *see infra* Part III.

31. MARUTA, *supra* note 3, at 25; REISCHAUER, *supra* note 13, at 175 -76. (noting that "[t]he Japanese do not share Western values about the sinfulness of sexual relations").

in rural Japan.”<sup>32</sup> Until recently, especially in rural Japan, having sex before marriage was permissible and often condoned for the young.<sup>33</sup> In this context, “marriages were frequently not registered . . . [or] made permanent, until the bride had proven her ability to bear children.”<sup>34</sup>

However, this sexual flexibility among the Japanese does not mean that both men and women are held to the same moral standard. Men have a broader social and sexual life than women in general.<sup>35</sup> Although many young women have premarital sex and sexual freedom, Japanese girls continue to be raised much more strictly than boys and “[m]arried women are expected to be far more faithful than men.”<sup>36</sup> In fact, married women basically do not have a social life outside the family if they do not work outside the home.<sup>37</sup> On the other hand, husbands enjoy “a full social life with their work group, which may include a few young unmarried women.”<sup>38</sup> It is very common for a group of men to stop at one or more bars on their way home from work.<sup>39</sup> At those bars, hostesses serve them drinks, entertain them with conversation, and “afford an atmosphere of sexual titillation,”<sup>40</sup> which can lead to more serious sexual involvement.

## 2. Prostitution

The sex industry, supported by the Japanese attitudes towards sex and especially the less severe sexual standard for men, was well established. The sex industry, called *mizu shobai*

32. *Id.* at 176.

33. *Id.* For example, under the customary “*yobai*” (night creeping), a young boy crept into a young girl’s bed by getting through the intentionally opened slide door of the house. BORNOFF, *supra* note 27, at 108-12. For further discussion about rural practices, see ROBERT J. SMITH & ELLA LURY WISWELL, *THE WOMEN OF SUYE MURA* 115 (1982) (detailing a field research of an agricultural community in Japan).

34. REISCHAUER, *supra* note 13, at 176. But another important reason why this custom existed was to keep the lineal line of the family was the most significant under the “*ie*” (family or household) system established in Meiji era. In this regard, a woman often could obtain the status of the wife only when she could bear a child. Especially if it was a boy child, her status was stable since only the eldest son succeeded his father, the head of the family. SHINZOKU SOZOKU HO [Law of Family and Succession] 24 (Ken Kawai & Tadahiko Kuki eds., 1988). For further explanation of the *ie* system, see ODA, *supra* note 5, at 380-81.

35. REISCHAUER, *supra* note 13, at 177.

36. *Id.* at 179.

37. *Id.*

38. *Id.*

39. *Id.*

40. *Id.*

("water trade" or "water business"),<sup>41</sup> transpires from restaurants and pubs to striptease theaters and bathhouses with private rooms.<sup>42</sup> However, *mizu shobai* does not necessarily include prostitution, but rather refers generally to "the nighttime world of bars, adult entertainment and sex in Japanese cities."<sup>43</sup> Since the Prostitution Prevention Law prohibits prostitution, if it does exist, it is assumed to be conducted by prostitutes privately, not under a shop owner's supervision.<sup>44</sup>

Many believe the primary reason women turn to prostitution is because of "poverty."<sup>45</sup> However, the 1986 and 1997 Japanese Governmental surveys indicated that more than 80 percent of Japanese prostitutes were from the middle class.<sup>46</sup> The majority of these prostitutes started the occupation not because of hard living but rather because they sought a quick route to a more luxurious life.<sup>47</sup> Many of the younger prostitutes, especially teenagers, chose prostitution to pay for clothes, entertainment, and travel.<sup>48</sup> Moreover, styles of prostitution have become diversified,<sup>49</sup> making prostitution more generally recognized and a part of the everyday experience in Japan.

Furthermore, there is a significant economic power difference between men and women in Japan. In 2002, a woman's average wage was 66.5 percent of a man's average wage.<sup>50</sup> The

41. BORNOFF, *supra* note 27, at 225. The expression *mizu shobai* ("water trade") stems from "a poetic metaphor for impermanence" because business in this industry at first seems "rooted in the stream" but is soon swept away with "the currents of time." *Id.* Because the prostitution business depends on popularity and customer circumstance, it is not fixed or stable but is easily swept away. *Id.*

42. Stephan M. Salzberg, *The Japanese Response to AIDS*, 9 B.U. Int'l L.J. 243, 261 (1991) (discussing the continued practice of prostitution within the Japanese sex industry, despite the Prostitution Prevention Law).

43. PERKINS, *supra* note 27, at 376.

44. Tomoko Kawabata, *Baishun-boshi-ho ga Josei ni Ataeru Eikyō* [The Impact of the Prostitution Prevention Law on Women], in CHIZUKO UENO ET AL., *BAIBAISHUN KAITAI SHINSHO* 182 (1999).

45. Kusano, *supra* note 17, at 129.

46. SORIFU [the Prime Minister's Office], *BAISHUN TAISAKU NO GENKYO* (1986) [hereinafter *GENKYO* 1986]; SORIFU, *BAISHUN TAISAKU NO GENKYO* (1997) [hereinafter *GENKYO* 1997].

47. *GENKYO* 1986, *supra* note 46, at 4; Kusano, *supra* note 17, at 129.

48. *GENKYO* 1986, *supra* note 46, at 4; Kusano, *supra* note 17, at 129.

49. See generally Salzberg, *supra* note 42, at 261-62.

50. MINISTRY OF HEALTH, LABOR AND WELFARE, 2002 WHITE PAPER ON WOMEN'S LABOR 15-16 (2003), available at <http://www.mhlw.go.jp/houdou/2003/03/h0328-3a-zu.html#zu1-5>. For a comparison with other countries, see NAIKAKUFU 2001 KOKUMIN SEIKATSU HAKUSHO [White Paper on Citizen's Life] 56-58 (2002), available at [http://www5.cao.go.jp/j-j/wp-pl/wp-pl01/html/13201100.html#2\\_1](http://www5.cao.go.jp/j-j/wp-pl/wp-pl01/html/13201100.html#2_1); see also Kusano, *supra* note 17, at 130.

increased part-time and temporary employment of many Japanese women, which has been encouraged to improve the Japanese economic situation, has played a major role in curbing women's wages as a whole. On the other hand, in the sex industry, women can make as much money as men and they can do it in a shorter time.<sup>51</sup> Therefore, women who want to earn money quickly, tend to enter the sex industry. In other words, the social system pushes women towards the sex industry because it allows women to achieve economic equality with men.

Whereas the sex industry was prosperous in Japan,<sup>52</sup> in the 1970's, prostitution tours to other Asian countries flourished. Japanese men left Japan to have sex with prostitutes in other countries. Unlike the present, it was not popular to travel to other Asian countries. For a man to travel to Asia meant he did so for the purpose of buying Asian women.<sup>53</sup> The Japanese travel agencies arranged group tours for men to stay in gorgeous hotels, walk around amusement centers, and to point out young girls who stood on platforms with numbers.<sup>54</sup> This practice has been severely criticized by feminist groups and the international society at large. Japan has made efforts to deal with this problem.<sup>55</sup>

### 3. Types of Prostitutes in Japan

According to the survey from the Prime Minister's Office,<sup>56</sup> prostitutes in Japan operate within five categories: (1) "street-walkers (*gaishogata*)", (2) "hostesses at bars and other establishments licensed and regulated under the [Law Concerning Enterprises Affecting Public Mores]<sup>57</sup> (*fuzokueigyogata*)"<sup>58</sup>, (3)

51. Kusano, *supra* note 17, at 130-31.

52. The prosperity of the sex industry attracts not only Japanese women, but also women from other Asian countries, particularly from the Philippines and Thailand. *Id.* at 132. Gangs with ties to the Japanese sex industry "recruit" these women in their native countries, by deceiving them into believing that they will work as hostesses in *mizu shobai*, not as prostitutes. *Id.* In reality, these women often are forced to work as prostitutes once they arrive in Japan, and sometimes are physically confined to the brothels in which they work, a practice that is not done to Japanese women working as prostitutes. *Id.*

53. *Id.* at 133.

54. *Id.*

55. One of the results is the enactment of the Law for Punishing Acts Related to Child Prostitution and Child Pornography, and Protecting Children (enacted in 1999). See *infra* Part III.

56. Salzberg, *supra* note 42, at 262; see also GENKYO 1986, *supra* note 46, at 2-3.

57. The Japanese name of this law is "Fuzoku Eigyo To no Kisei Oyobi Gyomu no Tekiseika To ni Kansuru Horitsu" (enacted in 1985).

“private bathroom attendants (*koshitsu yokujogata*)”<sup>59</sup>, (4) “hostesses or employees at novel types of adult entertainment spots, such as private bathrooms or massage parlors (*shin fuzokutengata*)”<sup>60</sup>, and (5) “call girls (*hakengata*)” who come to hotel rooms and condominiums, arranged by telephone.<sup>61</sup> In the mid-1980's, the Office of the Prime Minister estimated that streetwalkers accounted for 15% of prostitutes, bar hostesses for 12%, private bath room attendants for 20%, adult entertainment hostesses for 11% and call girls accounted for 42% of all prostitution.<sup>62</sup>

The Prostitution Prevention Law states that bar hostesses, private bathroom attendants, and adult entertainment hostesses are not supposed to engage in “*honban*,”<sup>63</sup> or sexual intercourse. In order to avoid being punished by the Prostitution Prevention Law, the owners of various sex shops prohibit employees from

58. “The regulated establishments include bars, cabarets, dance halls, night clubs, late night coffee shops and tea rooms.” Salzberg, *supra* note 42, at 261. Most of these establishments offer male customers “the female companionship of hostesses, waitresses, dance partners, and the like.” *Id.* at 262. “Many of such establishments provide the opportunity for prostitution (usually occurs at nearby “love hotels,” where rooms are rented by the hour).” *Id.*

59. Private room bath attendants work at private room bath houses, or “soapland.” Soapland used to be called *toruko*, named after Turkish baths. However, because of the protests by a Turkish diplomat, the name was changed. BORNOFF, *supra* note 27, at 265; *see also* Salzberg, *supra* note 42, at 261.

60. There have been variety of ever-changing establishments that provide for “hostess” prostitution, for example, no-panty coffee shops (*no-pan kisa*), where women serve the customer without wearing underwear, fashion massage salons, which provide massage service in a private room, and “image clubs” where the men can play roles usually prohibited in everyday life. *See, e.g.*, BORNOFF, *supra* note 27, at 293-95 (describing no-pan kisa and fashion massaaaji practices); Morrison, *supra* note 18, at 476 (describing the popularity of each of the three at various times).

61. One type of call-girl service that flourished in 1980's was “lover banks” (*aijin banku*), where men paid for a membership and received regular dates. Lover banks acted as agents and kept files on both the clients and the women. MARUTA, *supra* note 3, at 36; Morrison, *supra* note 18, at 477; *see also* BORNOFF, *supra* note 27, at 280-82. The direct origin of *enjokosai* is from lover banks. MARUTA, *supra* note 3, at 36. A similar system that has arisen recently is called “date club.” GENKYO 1997, *supra* note 46, at 12-13; Kawataba, *supra* note 44, at 169-71.

62. This data is based on Salzberg's understanding of GENKYO 1986. *See* Salzberg, *supra* note 42, at 263. GENKYO 1986 uses rounded percentages instead of specific numbers of percentages. GENKYO 1986, *supra* note 46, at 2-3, 11-14. GENKYO 1997, which contains the more current information, says that call-girls (*hakengata*) were the most prevalent category of prostitution from 1991 to 1995; however, GENKYO 1997 does not give the specific percentage of each category. GENKYO 1997, *supra* note 46, at 5.

63. *See* Kawabata, *supra* note 44, at 172. The original meaning of *honban* is a play taking place on the real stage, not for rehearsal. KOJIEN [Japanese-Japanese Dictionary] 2485 (Izumu Shinmura ed., 5th ed. 1998).

this conduct.<sup>64</sup> Additionally, streetwalkers, most of them foreigner-born, may be arrested under Article 5 of the Prostitution Prevention Law.<sup>65</sup> The proliferation of telephone clubs<sup>66</sup> and cell phones has made call girls the easiest and fastest growing form of prostitution. These operations require little capital expenditure, have much mobility, and are difficult for authorities to find.<sup>67</sup>

Where *enjokosai* fits into this scheme is not entirely clear. Because their work is not fixed in a certain place nor controlled by anybody, it does not fall within the categories of bar hostesses, private bathroom attendants, or adult entertainment hostesses. While *enjokosai* seems analogous to streetwalkers, because both streetwalkers and actors engaging in *enjokosai* could be understood as independent contractors, *enjokosai* also has several characteristics that are not applicable to streetwalkers. For example, as I will discuss later, the process of meeting clients, the meaning of money to the actors, and the role of sexual intercourse in *enjokosai* are significantly different from streetwalkers. Therefore, *enjokosai* does not easily fit into any category of prostitution that was ordinary to Japan. Consequently, it is necessary to understand the unique features of *enjokosai* and how this new form of prostitution should be dealt with.

#### 4. *Terekura* (telephone club)

*Enjokosai* emerged with the creation of the telephone club or *terekura*, appearing in the mid 1980s.<sup>68</sup> At a basic *terekura*, there are many small cells in which a man waits for a call from a woman.<sup>69</sup> Once a woman calls, the man answers and a conversation starts. This often is followed by the couple meeting at another time and engaging in *enjokosai*. In the *terekura* system, men pay a fee for the use of the telephone club, while women do not.<sup>70</sup>

---

64. Under the Prostitution Prevention Law, the brothel owner is punished but the prostitutes are not. Kawabata, *supra* note 44, at 172. Also, whether the shop's owner also is considered a brothel owner depends how the employees serve the customers. *Id.* See *infra* Part III.

65. Kawabata, *supra* note 44, at 173.

66. Defined *Infra* Part II.2.d.

67. Salzberg, *supra* note 42, at 263.

68. MARUTA, *supra* note 3, at 29. Seiji Fujii, *Miseinensha no Baishun wo Dokanngaeruka?* [How Do We Think about Prostitution by Minors?], in BAIBAISHUN KAITAI SHINSHO, *supra* note 44, at 130.

69. MARUTA, *supra* note 3, at 29.

70. *Id.*

Although this type of *terekura* continued to be popular, in and around Tokyo, it flourished especially from 1986 to 1987, in 1991, and from 1993 to 1994;<sup>71</sup> another type of *terekura* called *dial Q2* emerged in 1989.<sup>72</sup> *Dial Q2* offered two kinds of services enabling two strangers to get to know each other. First, is *two-shot-dial*, a service of forwarding messages from the opposite gender to the customer's home phone using a prepaid card with a code number.<sup>73</sup> Such cards are sold in the vending machine. Because of its anonymity and privacy, this service began to be used as a means of prostitution.<sup>74</sup> Second, is *dengon* (message) *dial*, a system allowing the customer to leave a message in his/her own message box with a code number and then receiving messages from other people who know that number.<sup>75</sup> It is free to leave messages, but only the registered customer who paid a certain fee can listen to the messages in his/her message box. But by using a number anybody would easily think about, like 1-2-3-4, an unspecified number of anonymous people could communicate with each other.<sup>76</sup> These three forms of telephone communication systems, *terekura*, *two-shot-dial*, and *dengon dial* are the main tools for men and women to meet each other for the purpose of prostitution.<sup>77</sup>

Telephone clubs solicit women by advertising in magazines and newspapers, on the subway, and in public telephone boxes.<sup>78</sup> What makes the advertisements of these clubs so peculiar is its distribution of free pocket tissues with the club's telephone number at train stations, in the streets, or in front of department stores. These types of advertisement attract teenagers to such clubs and makes the clubs more accessible to them.<sup>79</sup> Further, because there is no charge, teenage girls can easily enter.<sup>80</sup>

---

71. *Id.* The reasons why these three periods were the time for *terekura* to flourish were: from 1986-1987, it was revealed that *terekura* gave men chances to meet unprofessional women to have sex; in 1991, the number of prostitution initiated by *terekura* increased; and from 1993 to 1994, *terekura* became a tool to engage in *enjokosai*. *Id.*

72. *Id.*

73. *Id.* at 31.

74. *Id.*

75. *Id.*

76. *Id.*

77. *Id.* at 32.

78. NATIONAL POLICE AGENCY, 2003 WHITE PAPER 173 (2003).

79. GENKYO 1997, *supra* note 46, at 13.

80. *Id.* As technology has advanced, additional means of facilitating meetings between strangers have appeared, including websites called "*deaikei* site (website for meeting)," which enable two people to meet in person after mutually setting a

### C. Characteristics of Enjokosai

#### 1. How it works

*Enjokosai* can start at several points. For example, it may begin as *terekura*, explained above, where a girl and a man meet each other through a telephone club. In addition, *enjokosai* may also begin when a teenage girl and a man meet in a public place, such as a nightclub<sup>81</sup> or even a park in the daytime. In these types of situations, a man will speak to a high school girl and arrange *enjokosai*.<sup>82</sup> *Purikura*, or photo stickers, play a role as well. *Purikura* photo stickers of girls with cell phone numbers are often put on the boards next to *purikura* machines. The owner of each *purikura* photo sticker negotiates *enjokosai* with men who call her after looking at her *purikura* photo sticker.<sup>83</sup> Further, introduction by friends is another method for girls to meet men for *enjokosai*. For example, when a girl cannot handle all the *oyaji* (a contemptuous expression meaning “old men”) that request her for *enjokosai*, she may introduce some of them to her friends.<sup>84</sup> Additionally, if the teenage girl wants just to date, which is one type of *enjokosai*, and not to sell her body, she may introduce an *oyaji* to a friend who is willing to engage in another type of *enjokosai* that involves sexual intercourse.<sup>85</sup> This conduct is similar to “pimping,” which often results in referral of a case file to a public prosecutor because this behavior violates Article 34 of the Child Welfare Law.<sup>86</sup>

Interestingly, *enjokosai* is not only performed by teenage girls. According to the Maruta study on *enjokosai*,<sup>87</sup> the girls and women engaging in *enjokosai* are age fourteen to fifty-two, though 96 percent of them are in their teens or twenties. Their occupations range from high school and college students to office

---

time and place on the website. Cell phones, which can provide internet access, play a similar role. NATIONAL POLICE AGENCY, 2001 WHITE PAPER 31, 36-37 (2001); NATIONAL POLICE AGENCY, 2002 WHITE PAPER 149 (2002).

81. Typically in Japan, teenage girls hang around in the busy streets and go to clubs or karaoke shops in their free time. See KATSUSHI KURONUMA, ENJOKOSAI (1996) (interviewing teenage girls engaging in *enjokosai*).

82. Fujii, *supra* note 68, at 132.

83. *Id.*

84. *Id.*

85. *Id.*

86. *Id.*; SONODA, *supra* note 4, at 18-19. See *infra* Part III.

87. MARUTA, *supra* note 3, at 42. This study was based on the seventy-one interviews done in Kansai, Kanto, Chugoku and Fukuoka areas, from May in 1997 to December in 1999. Sixty-one informants were men and women who categorized themselves as engaging *enjokosai*. *Id.* at 14-20.



workers, part-time workers, and housewives. As for the men who engage in *enjokosai* as buyers, the age range is from nineteen to over eighty. Their occupations include businessmen, shopkeepers, company owners, doctors, lawyers, professors, police officers, *yakuza* (Japanese mafia), high school teachers, and college students. Most of the men are in their thirties and forties and have the economic ability to pay for *enjokosai*.<sup>88</sup>

*Enjokosai* may encompass a variety of things, including having dinner together, seeing a movie, or going to an amusement park.<sup>89</sup> The sexual contact involved ranges from letting the man touch the girl's body from outside of the clothes to letting him touch her body directly, or the man making the girl touch his body.<sup>90</sup> Sexual intercourse is often involved. The price may be from 30,000 yen to 50,000 yen.<sup>91</sup> Since *enjokosai* is often done anonymously in a "love hotel,"<sup>92</sup> especially when it involves sexual intercourse, there is a significant risk for teenage girls to be beaten or sexually assaulted due to the disparities in power, economic status, intelligence and experience between the men and women. To avoid such danger, the girls prefer a long-term relationship, but the men do not like such relationships due to the higher risk of being identified.<sup>93</sup> For protection, two girls may be involved in one *enjokosai*, known as "*kyoyu-papa*," which means "joint (or common) dad."<sup>94</sup>

88. *Id.* at 94-95.

89. MARUTA, *supra* note 3, at 56-57.

90. *Id.*

91. Fujii, *supra* note 68, at 148. This amount of money is approximately equivalent to between 277 and 462 dollars (based on a 1 dollar to 108 yen exchange rate in October in 2003).

92. A "love hotel," mentioned *supra* note 58, is "[a] hotel where couples, married or unmarried, can rent rooms for a short time for sexual purposes without stigma. The room rate is calculated by the hour or the night, although most couples stay only a few hours." PERKINS, *supra* note 27, at 199. "Rooms in love hotels are often decorated with fantastic themes . . . . The hotel is surrounded by a wall and has a separate entrance and exit in order for couples not to see each other." *Id.*; see also BORNOFF, *supra* note 27, at 17-22. The reason why Japanese go to love hotels is because Japanese homes are often lacking in privacy, with small rooms, thin walls and several generations living together under one roof. *Id.* at 17-18; see also PERKINS, *supra* note 27, at 199. However, the privacy and anonymity offered by love hotels also makes it easy for teenagers to use them to have sex with their partners and to engage in *enjokosai*.

93. Fujii, *supra* note 68, at 142.

94. *Id.* at 141-42. It is interesting to note the meaning of the word used for "*kyoyu-papa*." "Joint" or "common" is a term that generally refers to the concept of property. Here, the man is conceptualized as the property of girls.

## 2. Girls Can Choose Men

The major difference between prostitution, generally performed in a brothel or by arrangement of a third party, and *enjokosai*, is the fact that the girls choose the men. If a girl does not like a man when she first sees him, she can leave him. Because the girls involved in *enjokosai* are not forced by anything, like money, poverty, pimps, salon owners, and so on, they can conduct *enjokosai* only when they need extra money. Typically, they spend the money on expensive brand-named goods or on activities with friends.<sup>95</sup> In this sense, the fact that the girls can decide for themselves whether to engage in *enjokosai*, makes *enjokosai* different from traditional prostitution.

## 3. Money is Not the Only Purpose

There are several explanations for *enjokosai*, although monetary reward underlies each of them. According to the Maruta study, there are three reasons why girls engage in *enjokosai*: (1) efficiency, (2) sexual desire, and (3) psychological compensation. The ratio among these three categories was 3:1:6.<sup>96</sup> As for efficiency, the girls consider *enjokosai* a part-time job and an efficient way to earn money. These girls are often passive in engaging in sexual intercourse; lying on the bed like *maguro* or tuna fish, waiting to be sold in the market.<sup>97</sup> The reason they are passive is not because they do not have any sexual feelings during intercourse, but rather because they attempt to draw a line between sexual intercourse as a part-time job and sexual intercourse as an intimate and emotional experience with a chosen partner.<sup>98</sup> Since they have been taught that the unification of

---

95. Teenage girls share the enthusiasm of Japanese women for top imported brand goods, such as Chanel, Gucci, and Louis Vuitton. The discrepancy between the high price of such goods and the average monthly allowances of teens seems to be one of the motivations for young girls to start engaging in *enjokosai*. Fujii, *supra* note 68, at 139-40 (noting that although the main purpose of *enjokosai* is buying brand goods and having extra allowance, there are other purposes behind the practice, such as knowing men outside of school or hanging about with friends); MARUTA, *supra* note 3, at 28 (describing the necessity of money in girls' lives); see also Gucci, Chanel: Teen-age princesses' best friends, MAINICHI DAILY NEWS, Apr. 7, 1996, at 11 (describing the lengths that girls go to in order to obtain designer goods); 'Buy high' is latest teen-fashion trend For 'Baby Chanelers,' Only Designer Labels Make The Grade, THE NIKKEI WKLY., Mar. 4, 1996, at 20 (providing figures for youths' allowances).

96. MARUTA, *supra* note 3, at 64, 60-92.

97. *Id.* at 70.

98. *Id.* at 71.

love and sex is the ideal for a woman, to be active in sexual intercourse related to money may affect and confuse their sexual identity.<sup>99</sup>

The girls whose main purpose in pursuing *enjokosai* is sexual desire are those who find pleasure materially, sexually, and spiritually in selling their bodies. These girls believe that *enjokosai* is ideal work because it gives them both money and the opportunity to have sex. Although this purpose is the prevailing image of girls engaging in *enjokosai*, according to the Maruta study, the actual number is small.<sup>100</sup>

There are two subcategories for the girls who engage in *enjokosai* as psychological compensation, according to the analysis of the Maruta study. The first are girls who have grown up in defective families and struggle with post-traumatic stress disorder or PTSD.<sup>101</sup> These girls have experienced some sort of significant trauma in their lives.<sup>102</sup> For some, the trauma may be physical, like being raped or being physically abused by their parents. For others, the trauma is emotional, such as experiencing their parents' divorce.<sup>103</sup> It would seem inappropriate to interpret this kind of experience as a direct cause of engaging in *enjokosai*, but there might be certain psychological connections between the two in a sense that *enjokosai* compensates for the lack of love and the feeling of loneliness stemming from their traumatic experience in the past.<sup>104</sup>

The second subcategory includes girls who seek to gain sexual experience and affirm their own sexuality through male approval.<sup>105</sup> It becomes possible to affirm their sexual attractiveness by setting a price for their bodies.<sup>106</sup>

---

99. *Id.*

100. The number of the girls in this category was five out of fifty-eight informants. *Id.* at 72.

101. PTSD is a multidimensional construct of stress response syndromes. "An individual diagnosed with PTSD has been exposed to a serious threat of physical harm that engenders concomitant feelings of fear, helplessness, or horror." Michael R. Basso & Elana Newman, *A Primer of Closed Head Injury Sequelae in Post-Traumatic Stress Disorder*, in *POST-TRAUMATIC STRESS THEORY 25* (John H. Harvey & Brian G. Pauwels eds., 2000). Trauma impacts the psychic core of the survivor and generates a search for meaning as to why the event had to happen. John P. Wilson et al., *A Holistic, Organismic Approach to Healing Trauma and PTSD*, in *TREATING PSYCHOLOGICAL TRAUMA AND PTSD 30* (John P. Wilson et al. eds., 2001).

102. MARUTA, *supra* note 3, at 75-78.

103. *Id.* at 76.

104. MARUTA, *supra* note 3, at 76.

105. *Id.* at 78-82.

106. *Id.* at 80.

In addition to the various motives that lead girls into *enjokosai*, there are also several reasons why men as buyers engage in *enjokosai*. While these men have the desire to engage in sexual intercourse by paying money, they seek something else as well. The Maruta study provides two purposes for why men engage in *enjokosai* aside from the desire of sexual intercourse. The first purpose is role-playing as a lover involved in fictitious love. The second one is role-playing as a father in order to simulate the relationship between a father and daughter.<sup>107</sup> Thus, it appears that on some level, the men who engage in *enjokosai* are striving for intimate relationship.<sup>108</sup> In this way, the motives of the men engaging in *enjokosai* are similar to those mentioned above of the girls seeking psychological compensation.

### III. LAWS RELATED TO *ENJOKOSAI*

Japan has several laws regarding prostitution and the protection of children.<sup>109</sup> In examining these laws, women are divided in two groups: adults and children. The two groups are further divided into the chaste and the whorish. These two dichotomies are connected and mixed and *enjokosai* seems to be located in their intersection.

#### A. *The Penal Code (Enacted in 1907)*

Article 176 (Obscenity by compulsion):

“A person who by violence or threat, commits an indecent act against a male or female person of thirteen years or over shall

107. *Id.* at 94-126.

108. A similar result is found in an investigation into men's perspectives of *enjokosai*. MAMORU FUKUTOMI ET AL., *ENJOKOSAI NI TAISURU SEIJINDANSEI NO ISHIKI TO HAIKEI YOIN* [Adult Men's Senses of *Enjokosai* and Their Backgrounds] (2000).

109. Under the Japanese legal system, each prefecture has the power to enact legislations that are enforceable within the confines of the prefecture. *See* ODA, *supra* note 5, at 58. One example of local regulations related the issue of *enjokosai* are the ordinances regarding juvenile protection and development. SONODA, *supra* note 4, at 3 & app. 3, 78-87. The age of children protected by local ordinances is different from one prefecture to another. In some prefecture it is under eighteen, and in another, it is from six to eighteen. *Id.* at 78-87. In each prefecture, these ordinances have been significantly effective supplements to the national legislation of childhood prostitution, especially prior to the establishment of the Law for Punishing Acts Related to Child Prostitution and Child Pornography, and Protecting Children. Each ordinance has played a vital role in the legal and judicial response to *enjokosai*. However, because of the differences among the local ordinances, this Article focuses on *enjokosai* in terms of the national laws.

be punished with penal servitude for not less than six months nor more than seven years. The same shall apply to a person who commits an indecent act against a male or female person aged under thirteen years."<sup>110</sup>

Article 177 (Rape):

"A person who by violence or threat, obtains carnal knowledge of a female person of thirteen years or over shall be guilty of rape and be punished with penal servitude for a limited period of not less than two years. The same shall apply to a person who obtains carnal knowledge of a female person under thirteen years."<sup>111</sup>

According to these two articles of the Penal Code, the constituent elements of the crimes vary according to the age of the victims. When the victim is thirteen years old or over, "violence or threat" is necessary to constitute a crime, but when the victim is under age thirteen, neither is necessary.<sup>112</sup> Thus, it is illegal to commit an indecent act or have sex with any person under age thirteen, even if the person has consented to the acts. Therefore, under Japanese law, thirteen is regarded as the age of consent and children under thirteen are viewed as incapable of giving consent.

Under Article 176, the victim may be either male or female and the legal interest being protected is the individual sexual freedom and emotion. In contrast, Article 177 is gender-based and the legal interest is "women's sexual freedom."<sup>113</sup> The Supreme Court of Japan held that Article 177 was constitutional under Article 14 of the Constitutional Law<sup>114</sup> because it was reasonable to treat women differently based on the biological and factual differences between men and women.<sup>115</sup>

110. EHS LAW BULLETIN SERIES, JAPAN, vol. II, The Penal Code of Japan (2002) (translating Keiho [Penal Code], art. 176) [hereinafter Japanese Penal Code].

111. Japanese Penal Code, *supra* note 110, art. 177.

112. Japanese Penal Code, *supra* note 110, art. 177.

113. MINORU OYA, KEIHOKOGI KAKURON [Lecture on the Penal Code: Crimes] 112-13 (4th ed. 1995). The Penal Code does not have any provision to make it illegal to rape a man.

114. Article 14 of the Japanese Constitution states: "All of the people are equal under the law and there shall be no discrimination in political, economic or social relations because of race, creed, sex, social status or family origin." EHS LAW BULLETIN SERIES, JAPAN Vol. I (2002) (translating Nihonkoku Kenpo [Constitution], art. 14).

115. 7 KEISHU 1366 (Sup. Ct., Jun. 24, 1953). If differential treatment is "reasonable," then it is permitted under the Article 14 of the Japanese Constitution.

## Article 182 (Solicitation to commit fornication):

“A person who for the purpose of obtaining profit induces a female person not habitually licentious to commit fornication shall be punished with penal servitude for not more than three years or a fine of not more than three hundred thousand yen.”<sup>116</sup>

The legal interest behind this provision is interpreted as the preservation of public morals or women’s chastity.<sup>117</sup> This article is striking in that it distinguishes a certain kind of woman that should be protected under the Penal Code. “A female person not habitually licentious” means a woman who protects her chastity and does not engage in sexual intercourse with many men or unspecified men as a prostitute would.<sup>118</sup> In other words, the Penal Code thinks a prostitute who has licentious sexual habits does not deserve protection. However, since the establishment of the Prostitution Prevention Law, this article has been applied to few cases and, therefore, has less meaning.

---

Differential treatment of men and women with regard to sexual freedom is rationalized as reasonable based on supposed “biological” or “factual” differences between men and women. The “natural difference” rationalization is accepted in the academic field of Constitutional Law. *See, e.g.*, KOJI SATO, KENPO [Constitutional Law] 468-83 (3d ed. 1997). However, for the arguments against this interpretation, *see* MASAOMI KIMIZUKA, SEISABETSU SHIHOSHINSA KIJUNRON [An Argument on the Standard of Judicial Review for Sex Discrimination] 245-67 (1996); SHIGENORI MATSUI, NIHONKOKU KENPO [Japanese Constitutional Law] 385-87 (1999). For a discussion of socially constructed meanings of “nature” and how they play a role in fixing societal perspectives regarding gender issues in the Japanese legal context, *see* Tsubasa Wakabayashi, *Sai no Manejment: “Shizen” Toiu Koteitekiishiki Karano Dakkyaku* [Management of the Difference: Overcoming the fixed idea of “Nature”], 50 OSAKA LAW REVIEW 1013 (2001). For a discussion of this topic with respect to the United States, *see* Frances Olsen, *Statutory Rape: A Feminist Critique of Rights Analysis*, 63 TEX. L. REV. 387 (1984).

116. Japanese Penal Code, *supra* note 110, art. 182.

117. OYA, *supra* note 113, at 121; YOSHIHIKO NAKAMORI, KEIHO KAKURON [The Penal Code: Crimes] 68-69 (2d ed. 1996). The prevailing interpretation of the purpose of this provision among academic scholars in Japan is to preserve “public morals,” but another purpose also is to protect women’s “sexual freedom.” *Id.* It seems inconsistent to consider both “sexual freedom” and chastity as the protected interests behind this provision. However, if we understand that “chastity” can refer to the right to be free from sexual intrusion and unwanted sexual conduct, chastity can be considered as “sexual freedom.” A woman who has a “chaste” notion of sexuality deserves legal protection of her “freedom” to say “no.” But this interpretation is possible only when it is considered that women in general do not want to have sex with many men or possibly, a man who is not in a steady relationship. In contrast, women who do not have a “chaste” notion of sexuality would not have “sexual freedom” in this sense, and therefore, would not be protected under Article 182.

118. OYA, *supra* note 113, at 113.

B. *The Prostitution Prevention Law (Enacted in 1956)*

The following articles provide a governmental perspective to prostitution.

Article 1 (Purpose):

"The purpose of this Law is, in view of the fact that prostitution impairs the dignity of the human being, corrupts sex morals, and depraves good manners of the society, to prevent prostitution by punishing acts, etc. of promoting prostitution and at the same time by taking measures for guidance disposition, protection and rehabilitation of such females as are apprehended from their character and conduct and environments to prostitute."<sup>119</sup>

Article 2 (Definitions):

"The word prostitution as used in this Law shall mean sexual intercourse with an unspecified other party for compensation or for a promise of compensation."<sup>120</sup>

Article 3 (Prohibition of prostitution):

"Any person shall not prostitute or be the client of a prostitute."<sup>121</sup>

Article 5 (Solicitation, etc.):

"Any person who does the act coming under any of the following items with intent to prostitute shall be punished with penal servitude not exceeding six months or a fine not exceeding ten thousand yen:

- (1) Publicly to solicit a person;
- (2) To confront or hang on a person in the street or any other public place with intent to solicit him to be her client;
- (3) Publicly to wait for a prospective client or to induce a person to be a client by means of advertisement or other like means."<sup>122</sup>

---

119. The Prostitution Prevention Law, *supra* note 9, art. 1.

120. The Prostitution Prevention Law, *supra* note 9, art. 2.

121. The Prostitution Prevention Law, *supra* note 9, art. 3.

122. The Prostitution Prevention Law, *supra* note 9, art. 5.

## Article 6 (Procurement, etc.):

“Any person who procures a prostitute for some other person shall be punished with penal servitude not exceeding two years or a fine not exceeding fifty thousand yen. . . .”<sup>123</sup>

Under the Prostitution Prevention Law, neither the act of prostitution nor the act of buying a prostitute is criminally punishable. Article 3, which prohibits prostitution, does not have any penal provision.<sup>124</sup> Rather, the law delineates and criminalizes certain activities related to prostitution, including: public solicitation (Article 5), the furtherance of prostitution through an intermediary (Article 6), executing a contract requiring another person to engage in prostitution (Article 10),<sup>125</sup> furnishing a venue for prostitution (Article 11),<sup>126</sup> compelling a person to stay in a place owned or controlled for purposes of prostitution (Article 12),<sup>127</sup> and furnishing capital, land, or buildings for the business of prostitution (Article 12).

The law is structured in this way because prostitutes are depicted as the object of “protection and rehabilitation” (Article 1). Article 17 provides that a court may place a woman who is twenty years of age or older and is convicted of public solicitation in a women’s guidance home.<sup>128</sup> The evil of prostitution is not completely attributed to the prostitutes, but rather to the people arranging prostitution for them. Prostitutes are not seen as making any autonomous choices as to whether they become prostitutes, but instead are seen as victims. However, the con-

---

123. The Prostitution Prevention Law, *supra* note 9, art. 6.

124. See the Prostitution Prevention Law, *supra* note 9, art. 3.

125. Article 10 (Contract to make a person prostitute): “Any person who concludes a contract for making a person prostitute shall be punished with penal servitude not exceeding three years or a fine not exceeding one hundred thousand yen.” The Prostitution Prevention Law, *supra* note 9, art. 10.

126. Article 11 (Furnishing of place): “Any person who knowingly furnishes a place for prostitution shall be punished with penal servitude not exceeding three years or a fine not exceeding one hundred thousand yen. . . . Any person who engages in the business of furnishing the place for prostitution shall be punished with penal servitude not exceeding seven years and a fine not exceeding three hundred thousand yen.” The Prostitution Prevention Law, *supra* note 9, art. 11.

127. Article 12 (Business of making a person prostitute): “Any person who makes it own business to make a person live at the place which is possessed or managed thereby or at the place which is designated thereby and make her prostitute shall be punished with penal servitude not exceeding ten years or a fine not exceeding three hundred thousand yen.” The Prostitution Prevention Law, *supra* note 9, art. 12.

128. The Prostitution Prevention Law, *supra* note 9, art. 17. However, the guidance homes are not used in reality. Kawabata, *supra* note 44, at 166.



trary view would also be plausible. No penalty is imposed on either of the parties involved in prostitution because of freedom in adult sexual relationships.<sup>129</sup>

Notice, however, that this law does not anticipate or include the present situation of *enjokosai* because the Prostitution Prevention Law limits prostitution to sexual intercourse and does not include other kinds of sexual conduct, such as touching a body. In addition, it does not punish the men or the prostitutes. From the perspective of protecting minors, both parties engaging in *enjokosai*, especially the adult men, are not subject to punishment under this law.<sup>130</sup>

### C. *The Child Welfare Law (Enacted in 1947)*

Article 34 (1) 6 punishes anyone who forces a child under age eighteen to engage in sexual intercourse. The person who violates this law will be punished with penal servitude or fine.<sup>131</sup> The servitude will not exceed ten years and the fine will not exceed five hundred thousand yen.<sup>132</sup> Additionally, whoever actually engages in the sexual conduct with the child is also punished under this provision.<sup>133</sup> The Child Welfare Law does not require the exchange of money to constitute a crime.<sup>134</sup>

### D. *The Law for Punishing Acts Related to Child Prostitution and Child Pornography, and for Protecting Children (Enacted in 1999)*<sup>135</sup>

This Law was enacted for three main purposes.<sup>136</sup> First, there were concerns that children were being bought abroad and brought to Japan to become prostitutes.<sup>137</sup> Both Articles 176 (ob-

129. SONODA, *supra* note 4, at 37.

130. Morrison, *supra* note 18, at 492-94.

131. Child Welfare Law art. 34 (1) 6.

132. Child Welfare Law, art. 60, 1

133. 52 KEISHU 505 (Sup. Ct. Nov. 2, 1998).

134. SONODA, *supra* note 4, at 18.

135. Hereinafter, the Child Prostitution Law. The temporal translation of this law is available at the Japanese governmental website at <http://www.moj.go.jp/ENGLISH/CRAB/law01.html>.

136. SONODA, *supra* note 4, at 2-4.

137. *Id.* at 2. We can see the same concern in the United States. The Congress established protections for foreign minors from prostitution and sexual misuse in Section 2423 of Title 18 of the U.S. Code. As part of the Mann Act amendments in 1994, the statute made it illegal for a U.S. citizen or permanent resident alien to travel in foreign commerce or conspire to, for purposes of engaging in sexual acts with anyone under the age of eighteen. See 18 U.S.C. § 2423, as amended by Protec-

scenity by compulsion) and 177 (rape) of the Penal Code could have been applied in such instances because they would include a crime committed by a Japanese citizen in a foreign country.<sup>138</sup> However, the fact that these articles apply to crimes instituted by a personal complaint, meaning a prostituted foreign child must file a complaint within only six months,<sup>139</sup> made these articles ineffective in punishing the person who engaged in child prostitution in foreign countries.<sup>140</sup>

The second purpose was to regulate child pornography.<sup>141</sup> Although Article 175 of the Penal Code (distribution, etc. of obscenities) is related, the legal interest of this Article is to maintain good sexual morals in society and target adult pornography.<sup>142</sup> In the case of child pornography, a child has necessarily been abused in the pornography process, even though it would not be recognized as obscenity under the standard for adult pornography.<sup>143</sup> This Law was established from the perspective of protecting children's rights, which had not been covered by the general regulation of pornography.<sup>144</sup>

The third and final purpose relates to *enjokosai*, as discussed above, which began to be recognized in the 1980s as a serious social problem.<sup>145</sup> There are two laws aimed at regulating *en-*

---

tion of Children from Sexual Predators Act, § 103, P.L. No. 105-314, 112 Stat. 2974 (1998). The law makes it easier to prosecute Americans who sexually exploit prostituted youth in other countries.

138. SONODA, *supra* note 4, at 2.

139. The crimes mentioned in Articles 176 and 177 of the Japanese Penal Code, *supra* note 110, are prosecuted upon a complaint (Article 180). See Japanese Code of Criminal Procedure, Article 230 (Person entitled to file complaint: "Any person injured by an offense may file a complaint") and Article 235 (Period for filing complaint: "A complaint of an offense subject to accusation upon complaint may, after lapse of six months as from the day when an offender was known, not be made . . ."), in EHS LAW BULLETIN SERIES, JAPAN Vol. II, Code of Criminal Procedure (2002) (translating KEISOHO [Code of Criminal Procedure], arts. 230, 235). The purpose of prosecution of a complaint is to protect the reputation of a victim. TADASHI TAKEUCHI ET AL., *KEIHO TO GENDAI SHAKAI* [Criminal Code and the Modern Japanese Society] 136 (2d ed. 1992). Because prosecuting the offender may give a great hardship to the victim through the whole legal procedure ("second rape" by the system), the victim decides whether or not to file a complaint for prosecution. SONODA, *supra* note 4, at 34. However, Article 235 of the Japanese Code of Criminal Procedure was amended in 2000 in order to abolish the statute of limitation on complaints for sexual crimes.

140. SONODA, *supra* note 4, at 2.

141. *Id.* at 3.

142. *Id.*

143. *Id.*

144. *Id.*

145. *Id.*

*jokosai*: The Child Welfare Law Article 34(1) 6, mentioned above, and the Juvenile Protection and Development Ordinance of each prefecture.<sup>146</sup> The latter has played a key role in regulating *enjokosai*. But because each prefecture establishes the law, the law is not unified in terms of the constituent elements and the statutory penalties. Thus, the Child Prostitution Law was established to uniformly regulate child prostitution in Japan among all the prefectures.<sup>147</sup>

Part of the name of the Child Prostitution Law is "*kaishun*," which means "to buy a body." By using this word as a legal term in the national law, the legislature tried to introduce a new perspective, which is different from the more traditionally used word, "*baishun*."<sup>148</sup> The word "*baishun*," meaning "to sell a body," is generally used to express prostitution itself.<sup>149</sup> By using "*kaishun*," this law asserts that the problem is on the side of the buyer rather than the seller.<sup>150</sup>

There are several articles that pertain to *enjokosai* under this law:

#### Article 1 (Objective):

The objective of this Law is to protect the rights of children by prescribing punishment for acts related to child prostitution and child pornography, and by establishing measures including the giving of appropriate protection to children who have suffered physically and/or mentally from the said acts, in light of the fact that sexual exploitation and sexual abuse of children seriously infringe upon the human rights of children.<sup>151</sup>

In order to cover *enjokosai*, the person who sexually exploits and abuses children is not limited to parents or the substitutes of parents the way child abuse has been traditionally interpreted.<sup>152</sup> The sexual abuse includes sexual conduct by anyone with violence or disregard to the victim's will.<sup>153</sup> If the victim is a child, however, it does not matter whether there is violence or coercion. It is understood under this law that for an adult, who is

146. *Id.*

147. *Id.*

148. *Id.* at 12-13. For example, the Prostitution Prevention Law is "*Baishun Boshi Ho*" in Japanese.

149. *Id.*

150. *Id.* at 12.

151. Child Prostitution Law, *supra* note 135, art. 1.

152. SONODA, *supra* note 4, at 11.

153. *Id.* at 12.

sexually mature and should take social responsibility for children, to treat a child as an object of sexual desire should be regarded as sexual abuse of children.<sup>154</sup> The implication is that children should be protected more completely than women prostitutes under the Prostitution Prevention Law.<sup>155</sup>

Article 2 (Definitions):

"1. For the purpose of this Law, a "child" means a person under the age of 18 years.

2. For the purpose of this Law, "child prostitution" means the act of performing sexual intercourse, etc. (i.e., sexual intercourse, an act similar to sexual intercourse, or an act for the purpose of satisfying one's sexual curiosity, of touching genital organs, etc. [genital organs, anus and nipples; the same shall apply hereinafter] of a child or of making a child touch one's genital organs, etc.; the same shall apply hereinafter) with a child in return for giving, or promising to give, a remuneration to any of the persons listed below:

(i) the child;

(ii) the person who acts as an intermediary in sexual intercourse, etc. with the child;

(iii) the protector of the child (i.e., a person who exercises parental power over the child or who is the guardian or suchlike and who is taking actual care of the child; the same shall apply hereinafter) or a person who has placed the child under his or her supervision."<sup>156</sup>

Under this article, a child is defined as a person under age eighteen, which is the same definition used by the Child Welfare Law. However, under the Penal Code, the age of consent for sex is thirteen.<sup>157</sup> Therefore under the Penal Code, the person who engages in sex with a teenager over age thirteen will not be punished if the child consents, regardless of whether there is any exchange of money. Yet, under the Child Prostitution Law, it is illegal to exchange sex for money with anyone under the age of eighteen. Thus, a contradiction exists.

The term "in return for giving, or promising to give, a remuneration" refers to the economic return for sexual intercourse.<sup>158</sup>

---

154. *Id.*

155. *Id.*

156. Child Prostitution Law, *supra* note 151, art. 2.

157. Japanese Penal Code, *supra* note 110, arts. 176 & 177.

158. Child Prostitution Law, *supra* note 151, art. 2.2.

It is not limited to money, but may include expensive goods or relief of an obligation.<sup>159</sup> However, the mere offer of dinner may not be recognized as an economic return.<sup>160</sup> Whether something is "in return" for sex is determined by: (1) whether it is counter-performance for sex and (2) whether there is an economic interest in the light of socially accepted ideas.<sup>161</sup> In this case, the question is whether the dinner induced a minor to have sex and how much economic value the dinner had. If the dinner meets those requirements, the sexual conduct between the parties is recognized as a crime under this law.

Article 4 (Child prostitution):

"A person who commits child prostitution shall be punished with imprisonment with labor for not more than three years or a fine of not more than one million yen."<sup>162</sup>

Article 5 (Intermediation of child prostitution):

"1. A person who acts as an intermediary in child prostitution shall be punished with imprisonment with labor for not more than three years or a fine not exceeding three million yen.

2. A person who, as his or her business, acts as an intermediary in child prostitution shall be punished with imprisonment with labor for not more than five years and a fine not exceeding five million yen."<sup>163</sup>

Article 6 (Solicitation of child prostitution):

"1. A person who solicits another person to commit child prostitution for the purpose of intermediating in child prostitution shall be punished with imprisonment with labor for not more than three years or a fine not exceeding three million yen.

2. A person who, as his or her business, solicits another person to commit child prostitution for the purpose mentioned in the preceding paragraph shall be punished with imprisonment with labor for not more than five years and a fine not exceeding five million yen."<sup>164</sup>

---

159. SONODA, *supra* note 4, at 22.

160. *Id.*

161. MAYUMI MORIYAMA, YOKUWAKARU JIDO KAISHUN JIDO PORUNO KINSHI HO [Clear Understanding of the Law Prohibiting Child Prostitution and Child Pornography] 104 (2000).

162. Child Prostitution Law, *supra* note 151, art. 4.

163. Child Prostitution Law, *supra* note 151, art. 5.

164. Child Prostitution Law, *supra* note 151, art. 6.

Article 5 and Article 6 are similar to the Prostitution Prevention Law in that it punishes a person who coerces women into prostitution or does anything to enhance prostitution.<sup>165</sup> The difference between the Prostitution Prevention Law and the Child Prostitution Law, however, is that neither a prostitute nor a client is punished under the former while an adult who has sexual intercourse with a minor for money is punished under Article 4 of the latter.<sup>166</sup>

When we review the laws mentioned above, it is apparent that they are based on two dichotomies: one between adults and children and the other between the "chaste" and the "whorish." As for the first dichotomy, the age of consent is thirteen under both Article 176 and Article 177 of the Penal Code, so persons under thirteen are not treated as those who can make rational decisions about sexual conduct. But under Article 34 (1) 6 of the Child Welfare Law and the Child Prostitution Law, all people under eighteen are protected from sexual coercion or transaction, including those between the ages thirteen and eighteen. In this regard, the Child Prostitution Law punishes only the adults who buy teenage prostitutes under the age of eighteen. Compared to the notion of adult prostitutes who engage in prostitution of their own free will, teenage prostitutes are treated as victims.<sup>167</sup> Therefore, in regarding sexual decisions, the law draws the line between autonomous adults and children who need protection even though those from thirteen to eighteen are supposed to be recognized as competent enough to make sexual decisions under the Penal Code. Monetary exchange seems to impose on people the higher minimum age to make autonomous decisions regarding sexual conduct.

As for the second dichotomy, Article 182 of the Penal Code treats women as victims<sup>168</sup> and divides them into two groups, "the chaste" and "the licentious." The licentious are commonly

---

165. Child Prostitution Law, *supra* note 151, arts. 5 & 6.

166. In order to protect minors, Article 9 imposes strict liability on adults to make sure the other party is over the age of eighteen. This article attempts to exclude any excuse that the defendant did not know the age of the child. See Article 9 (Awareness of the Age of the Child): "No one who uses a child shall be exempt from the punishments specified in Articles 5 to 8 on the grounds of not having been aware of the age of the child excepting cases where there is no negligence." Child Prostitution Law, *supra* note 151, art. 9.

167. SONODA, *supra* note 4, at 37.

168. See Japanese Penal Code, *supra* note 110, arts. 182 & 177 (both defining rape as a crime against women only).

understood among the criminal law academics to mean professional prostitutes.<sup>169</sup> The chaste, who are not prostitutes, are protected to preserve their chastity and sexual freedom,<sup>170</sup> and are not punished for committing fornication.<sup>171</sup> This provision suggests that "chaste" women are vulnerable to solicitation. Therefore it is necessary to protect them from moral degradation stemming from the conditions to which they are exposed. A chaste woman depicted in this provision is recognized as a person who is weak and does not have the ability to make her own sexual decisions. This provision can be recognized as paternalistic.

On the other hand, "whorish" women are not protected under Article 182. These women are the subject of the Prostitution Protection Law but yet there seems to be two mixed images. Although being a prostitute and a client is prohibited (Article 3), neither party is punished by this law. This is due to the fact that both parties engage in prostitution under their own sexual freedom.<sup>172</sup> Under this provision, a prostitute is recognized as a person who has the ability to decide her own sexual conduct.

Another image of the whorish can be seen in the Prostitution Prevention Law. As explained in Article 1, prostitutes impair the dignity of the human being; therefore, they need to be put in a position of guidance instead of being punished. Prostitutes are the people who need protection and rehabilitation. That is why this law punishes the conduct of setting up or promoting prostitution. Here the law treats prostitutes as people who are not reasonable enough to make their own sexual decisions and who have chosen the work that impairs their own human dignity.

In short, the underlining theory of both chaste and whorish women relies on the notion that women are not reasonable enough to make good decisions and therefore need to be protected by the law. However, another perspective of whorish women views these women as autonomous though their decisions are not treated as morally correct.

169. 9 HITOSHI OTSUKA ET AL. DAI KONMENTARU KEIHO 101-02 (2d ed. 2000); 4 CHUSHAKU KEIHO 321 (Shigemitsu Dando ed., 1965).

170. "Sexual freedom" should be understood as discussed *supra* note 117.

171. NAKAMORI, *supra* note 117, at 69; OYA, *supra* note 113, at 122. However, it is possible to punish the woman and the man who engaged in sexual intercourse as complicity if they knew the purpose and committed this conduct positively. See OTSUKA ET AL., *supra* note 169, at 103.

172. SONODA, *supra* note 4, at 37. Here, the meaning of "sexual freedom" is different from the meaning ascribed to "chaste" women discussed *supra* note 117.

*Enjokosai* seems to be located in between these two dichotomies. Most of the actors engaging in *enjokosai* are teenagers, however, the typical image of children, lacking autonomy and needing protection, do not fit in this category because these same children arrange and choose to sell their sexual services.<sup>173</sup> In addition, the typical image of prostitutes, whores and victims, does not fit the typical image of children. Instead, the image of chastity is assigned to the actors engaging in *enjokosai* under the Child Prostitution Law because it is overlapped by the image of children; the innocent and pure image of schoolgirls who are supposed to have nothing to do with sex and sexuality. Therefore, the emergence of *enjokosai* confuses the notions surrounding prostitution.

#### IV. TEENAGE PROSTITUTION AND LAWS IN THE UNITED STATES

##### A. *Runaway and Throwaway Kids and Prostitution*

##### 1. The Situation Surrounding Teenage Prostitution<sup>174</sup>

In the United States it seems appropriate to start with runaway youths and “throwaway” kids when we discuss teenage prostitution.<sup>175</sup> A typical runaway is defined as “a person under the age of eighteen who voluntarily leaves home or another residence, and thereby leave the custody and control of parents or guardians.”<sup>176</sup> Along with runaways, the number of throwaway kids is growing in the United States.<sup>177</sup> Throwaway kids are those who are forced out of the home despite their own wills or are unreported as missing by parents. Most runaway and throwaway kids come from “broken homes,” households without both parents.<sup>178</sup> Barri Flowers has identified several reasons why

---

173. Sexual service includes a range of sexual conducts, as mentioned *supra* in Part II, section 3.

174. Since the purpose of this section is to provide a comparison of teenage girls engaging in *enjokosai*, I focus more on female teenage prostitution here, although an increasing number of male prostitutes has been reported. See R. BARRI FLOWERS, *RUNAWAY KIDS AND TEENAGE PROSTITUTION: AMERICA'S LOST, ABANDONED, AND SEXUALLY EXPLOITED CHILDREN* 86 (Greenwood Press 2001).

175. For a discussion about the relationship between runaway kids and prostitution, see KELLY D. WEISBERG, *CHILDREN OF THE NIGHT: A STUDY OF ADOLESCENT PROSTITUTION* 3-5 (1985).

176. FLOWERS, *supra* note 174, at 3.

177. *Id.* at 17; see generally *id.* at 19-26 (describing the incidence and general characteristics of throwaway children).

178. *Id.* at 13, 24.



teens run away from home, including: domestic violence, sexual and physical abuse, school problems, poverty, and mental illness.<sup>179</sup> As for throwaway kids, their parents do not care that they are leaving and usually do not try to stop them.<sup>180</sup>

After leaving home, most runaways face the problem of meeting their basic needs of food, clothing, shelter, and medical attention.<sup>181</sup> However, because of their lack of marketable skills, many must sell their bodies to get money for the very basic life necessities.<sup>182</sup> In most cases, runaway teens are forced into selling sexual favors and live on the streets, in alleys, or on park benches."<sup>183</sup>

There are several types of prostitution, however, most teenage prostitutes are involved in streetwalking.<sup>184</sup> Other types of prostitution practiced to a lesser extent are prostitution by phone and prostitution in bars, hotels/casinos, and saunas.<sup>185</sup>

Runaway teens that have become prostitutes are exposed to several risks.<sup>186</sup> For one, there is an extremely high probability of suffering violent assault.<sup>187</sup> The majority of young female prostitutes are beaten by their pimps and abused by their clients.<sup>188</sup> The biggest threat for these kids, aside from violence, is exposure to the AIDS virus and other sexually transmitted diseases.<sup>189</sup> "The rate of pregnancy among female prostitutes is also high."<sup>190</sup> "Half of all female teenage prostitutes have been preg-

179. *Id.* at 41-45.

180. *Id.* at 46. The problem of runaways is significant. In 1998, there were an estimated 117,089 reported arrests of runaways. FLOWERS, *supra* note 174, at 30. Of that number, 57.9 percent were between the ages of fifteen and seventeen, while 40.1 percent were under age fifteen. *Id.* at 30. With regard to the sex of runaway arrestees, female runaways tend to be arrested more than males. *Id.* There were 68,170 arrests of female runaways in 1998, compared to 48,919 similarly situated males. *Id.* Female constituted 58.2 percent of total arrests as runaways, while males constituted 41.8 percent. *Id.*

181. FLOWERS, *supra* note 174, at 52.

182. *Id.* This is why runaway and throwaway kids enter prostitution. *Id.*

183. *Id.* at 52.

184. WEISBERG, *supra* note 175, at 110.

185. *Id.*

186. HOWARD A. DAVIDSON & GREGORY A. LOKEN, CHILD PORNOGRAPHY AND PROSTITUTION: BACKGROUND AND LEGAL ANALYSIS 54-56 (U.S. Dep't of Justice 1987); FLOWERS, *supra* note 174, at 54-56.

187. FLOWERS, *supra* note 174, at 55-56.

188. DAVIDSON & LOKEN, *supra* note 186, at 54-55; *see also* FLOWERS, *supra* note 174, at 122-24 (describing violence against girl prostitutes by their pimps).

189. DAVIDSON & LOKEN, *supra* note 186, at 55; *see also* FLOWERS, *supra* note 174 at 53-54.

190. *Id.* at 90.

nant at least once, while 20 percent have experienced two or more pregnancies.”<sup>191</sup> The babies resulting from such pregnancies “tend to be neglected and plac[ed] in unsafe environments where, medical, psychological, and financial resources are scarce.”<sup>192</sup> Teenage prostitutes often suffer from mental health disorders, such as “depression, personality disorders, thought disorders, and risk of suicide.”<sup>193</sup> In addition, the risk of suicide is especially high among teenage prostitutes.<sup>194</sup>

Drug abuse is another major problem for teenage prostitutes.<sup>195</sup> It is estimated that as many as three-quarters of teenage prostitutes are regular drug users.<sup>196</sup> Most drug-abusing prostitutes are street walkers. However, drug-abusing prostitutes may also be call girls, “house prostitutes” and madams.<sup>197</sup> The need for money to support drug habits keeps them from moving out of that life.

## 2. New Trend?

Though the issue of female teenage prostitution is often discussed in terms of runaway kids who have problems of substance abuse, risk of AIDS and pregnancy, lack of money to pay for food, shelter, or addiction, not all female teenage prostitutes are situated in such a position. “Some evidence suggests that a growing number of teenage girls are sexual adventurers, engaging in prostitution not as the result of child abuse, dissatisfaction, domestic violence, mental illness, or related factors, but rather for the sexual excitement.”<sup>198</sup> The combination of money and sexual pleasure attracts many female teenagers.<sup>199</sup> Selling their bodies is something that these teens do from time to time, only when they need extra money.<sup>200</sup> Also, a rise in prostitution among af-

---

191. *Id.*; see also DAVIDSON & LOKEN, *supra* note 186, at 55 (noting that half of prostitutes under the age of twenty have had at least one pregnancy).

192. *Id.*

193. FLOWERS, *supra* note 174, at 90; see also DAVIDSON & LOKEN, *supra* note 186, at 55.

194. *Id.*

195. See generally DAVIDSON & LOKEN, *supra* note 186, at 55-56 (describing the nature and prevalence of substance abuse amongst young prostitutes).

196. WEISBERG, *supra* note 175, at 117-19.

197. FLOWERS, *supra* note 174, at 88; DAVIDSON & LOKEN, *supra* note 186, at 55.

198. FLOWERS, *supra* note 174, at 113.

199. *Id.*

200. *Id.*

fluent girls has been reported, with the idea that "the danger of prostitution is a relief from the neutrality of suburbia."<sup>201</sup>

This phenomenon is very similar to that of the Japanese *enjokosai*. Although a thorough study has not yet been done, the fact that a number of American teenage prostitutes are from middle class suburban families, which do not have any serious problems, such as domestic violence, alcoholic parents or poverty; suggests a parallel development to *enjokosai* in Japan.

## B. Laws Combating Teenage Prostitution

### 1. Federal Law

Although federal power is limited because of the constitutional separation of power between federal and state governments, a number of federal statutes apply to prostitution and the sexual exploitation of women and children.

#### (i) *The Mann Act*

Child sexual exploitation and child prostitution was first addressed at the federal level under the Federal White Slave Traffic Act enacted in 1910, now called the Mann Act.<sup>202</sup> Its initial aim was to prohibit all interstate trafficking of white prostitutes.<sup>203</sup> "The Mann Act made transporting a female across state lines for purposes of prostitution a federal crime."<sup>204</sup> Persuading, inducing, or coercing a woman to make such a trip using a "common carrier" was defined as a separate crime with similar penalties.<sup>205</sup> And the transportation of any woman or girl under eighteen years of age for prostitution or any "immoral practice" was defined as another crime.<sup>206</sup>

The Mann Act was revised by Congress in 1986 to make it a gender neutral crime and to change the coercion of a minor across state lines "for practice of prostitution or debauchery, or any other immoral practice" to "prostitution or any sexual activ-

201. *Id.*

202. *Id.*

203. *Id.*

204. *Id.*; see also 18 U.S.C. § 2421 (1949), amended by Pub. L. No. 99-628, § 5(b)(1) (1986), to include transportation of any individual, not just women (current version at 18 U.S.C. § 2421 (1999)).

205. 18 U.S.C. § 2422 (1910) (current version at 18 U.S.C. § 2422 (1999)).

206. 18 U.S.C. § 2423 (1910), amended by Pub L. No. 99-628, § 5(b)(1) (1986) to include the transportation of any minor, not just female minors (current version at 18 U.S.C. § 2422(b) (1999)).

ity for which any person can be charged with a crime.”<sup>207</sup> Further, in 1998 Congress amended the Act to remove the requirement of a “commercial” motive to transport a juvenile across state lines.<sup>208</sup>

(ii) The Protection of Children from Sexual Predators Act

The Protection of Children from Sexual Predators Act of 1998 clarified the language of the Mann Act and increased penalties for violators.<sup>209</sup> Further, it added Section 2425 to Title 18 of the U.S. Code, which prohibits the use of interstate or foreign commerce for transmitting information about a minor “with the intent to entice, encourage, offer, or solicit any person to engage in criminal sexual conduct.”<sup>210</sup>

(iii) The Racketeer Influenced and Corrupt Organizations Act

Although the Mann Act plays a central role on the federal level, the Racketeer Influenced and Corrupt Organizations Act (RICO)<sup>211</sup> is also of interest. Under RICO, it is a federal crime to participate in an “enterprise” that “affects” interstate commerce and that involves a “pattern” of “racketeering activity.”<sup>212</sup> Offenses applicable to the Mann Act are included among crimes defined under such activity.<sup>213</sup> The RICO statute makes it possible to file charges against individuals who only participate in an interstate prostitution ring indirectly.<sup>214</sup>

---

207. FLOWERS, *supra* note 174, at 169; *see also* Pub. L. No. 99-628, §5(b)(1), 100 Stat. 3511(1986) (making the Mann Act in its entirety gender neutral, including as to the transportation of minors, and rewriting § 2422(b)) (codified as amended at 18 U.S.C. § 2421 et seq (1999)).

208. Pub. L. No. 105-314, § 103(1), 112 Stat. 2974 (1998) (codified as amended at 18 U.S.C. § 2423(a) (1999)).

209. FLOWERS, *supra* note 174, at 169; *see also* Protection of Children from Sexual Predators Act of 1998, Pub. L. No. 105-314, §§ 102-104, 112 Stat. 2974 (1998).

210. FLOWERS, *supra* note 174, at 169; *see also* Protection of Children from Sexual Predators Act, Pub. L. No. 105-314, §§ 102-104, 112 Stat. 2974 (1998).

211. 18 U.S.C. §1962 (1999).

212. *Id.*

213. FLOWERS, *supra* note 174, at 169.

214. *Id.*

## (iv) The Protection of Children Against Sexual Exploitation Act

The Protection of Children Against Sexual Exploitation Act was enacted in 1978.<sup>215</sup> Its purpose was to fill the gaps in existing federal statutes aimed at protecting children from teenage prostitution and child pornography.<sup>216</sup> "The Act sought to halt the production and dissemination of child pornography by prohibiting interstate transporting of persons under the age of eighteen for purposes of sexual exploitation."<sup>217</sup> Moreover, the Act furthered "the federal government's power to prosecute producers and distributors of child pornography."<sup>218</sup>

## (v) The Runaway and Homeless Youth Act

The Runaway and Homeless Youth Act (RHYA) was enacted in 1978 and was amended in 1980 for the purpose of assisting local organizations in operating temporary shelters for runaways.<sup>219</sup> In contrast to the punitive statutes mentioned above, the RHYA attempts to provide direct help to the group most at risk of involvement in juvenile prostitution, that is, runaway and homeless children. Direct federal funding is offered under the act to a number of programs throughout the country which provide crisis shelter and services to runaway and homeless youth.<sup>220</sup>

2. State Law<sup>221</sup>

Most states have statutes that prohibit prostitution and apply to adult patrons, pimps, procurers, and promoters of underage prostitutes, as well as laws prohibiting teenage prostitution in general.<sup>222</sup> In addition, most states have patron laws that prohibit the solicitation for prostitution, irrespective of the prosti-

215. 18 U.S.C. §2251 et seq. (1999).

216. FLOWERS, *supra* note 174, at 76.

217. *Id.*; *see also* 18 U.S.C. § 2251(a) (1999).

218. FLOWERS, *supra* note 174, at 76; *see also* 18 U.S.C. § 2251(c)(1)(A) (1999) & § 2252A (1999).

219. FLOWERS, *supra* note 174, at 75; *see generally* 42 U.S.C. §5701-5702 Supp. II (1978)

220. DAVIDSON & LOKEN, *supra* note 186, at 68.

221. *See generally*, RICHARD POSNER AND KATHARINE SILBAUGH, A GUIDE TO AMERICA'S SEX LAWS (1996).

222. FLOWERS, *supra* note 174, at 166.

tute's age.<sup>223</sup> "Most state patron statutes apply to prostituted children under the age of eighteen."<sup>224</sup>

There are some states with statutes that specifically apply to the pimping of minors, for example: Colorado, California, West Virginia, and Illinois.<sup>225</sup> Colorado's statute outlaws pimping defined as "anyone who knowingly lives on or is supported by" money earned or received by a person under the age of eighteen.<sup>226</sup>

"Pandering statutes can include not only pimping but also other prostitution-related charges, including causing an underage person to enter into prostitution."<sup>227</sup> For example, Iowa's pandering law "applies to anyone who persuades or coerces a juvenile to enter or return to prostitution."<sup>228</sup> It also includes one who runs an establishment for the express purpose of teenage prostitution, or receives earnings from such a place.<sup>229</sup>

In Oregon, to compel a person under the age of eighteen to participate in prostitution is prohibited, even if the juvenile consents to the involvement.<sup>230</sup> The child is considered a victim who needs protection from the destructive effects of a life of prostitution.<sup>231</sup> Also, "[a] few states have prostitution statutes that make the parents of juvenile prostitutes criminally liable for allowing

---

223. *Id.*

224. *Id.*

225. *Id.* at 167; *see also* COLO. REV. STAT. § 18-7-405 (2002); CAL. PENAL CODE § 266h (West 1999); W.VA. CODE § 61-8-8 (2002); 720 ILL. COMP. STAT. ANN. 5/11-19.1 (West 2002).

226. COLO. REV. STAT. § 18-7-405 (West 2002).

227. Flowers, *supra* note 174, at 167.

228. *Id.*

229. *Id.*; *see also* IOWA CODE ANN. § 725.3.2 (2003).

230. FLOWERS, *supra* note 174, at 167; *see also* OR. REV. STAT. § 167.017 (2001). Oregon Revised Statute § 167.017 (1) (b) provides: "(1) A person commits the crime of compelling prostitution if he knowingly: . . . (b) Induces or causes a person under 18 years of age to engage in prostitution." Although the statute does not mention consent, the Court of Appeals of Oregon interpreted the purpose of this subsection as providing "maximum protection" and prohibiting "conduct that exploits the immature" regardless of coercion." *State v. Wood*, 34 Or. App. 569, 573 (1978). The court said that "one who provides opportunity for a willing minor to engage in prostitution and influences, persuades or prevails upon her to do so has induced or caused the prostitution within the meaning of the statute regardless of her consent." *Id.*

231. FLOWERS, *supra* note 174, at 167; *see also* *Wood*, 34 Or. App. at 573 (noting that, as compared to adults, the purpose of OR. REV. STAT. § 167.017 (1) (b) is "to provide maximum protection for minors from the harmful, cumulative effects of a life of prostitution"). Other cases similarly refer to the child as "the victim." *See, e.g., State v. Wilson*, 111 Or. App. 147 (1992); *State v. Barnett*, 42 Or. App. 69 (1979).

their children to prostitute themselves or not doing enough to prevent such."<sup>232</sup>

In California, it is unlawful to commit "an act of sexual intercourse" with a person who is under the age of eighteen.<sup>233</sup> If the parties are not more than three years apart in age, the offense is a misdemeanor.<sup>234</sup> It is a felony for a person at least twenty-one to commit an act of sexual penetration with a person under sixteen,<sup>235</sup> and a misdemeanor for any person to commit an act of sexual penetration with a person who is under eighteen.<sup>236</sup> It is a felony for any person to commit a lewd or lascivious act upon or with a person not yet fourteen "with the intent to arouse, appeal, or gratify the 'sexual desires' of either."<sup>237</sup> The same acts constitute felonies with a fourteen or fifteen-year-old if the offender is at least ten years older than the child.<sup>238</sup>

With regard to prostitution, it is a misdemeanor to solicit, agree to engage in, or engage in any act of prostitution.<sup>239</sup> It is a misdemeanor to "inveigle or entice any unmarried female, of previous chaste character, under the age of 18 years, into any house of ill fame . . . or elsewhere, for the purpose of prostitution," or "to aid or [assist] such inveiglement or enticement."<sup>240</sup>

Pandering is a felony.<sup>241</sup> A person is guilty of pandering if that person "procures another person for the purpose of prostitution,"<sup>242</sup> for example, procuring a person to become an inmate of a house of prostitution.<sup>243</sup> This provision distinguishes the punishment depending on whether the other person's age is over or under sixteen.<sup>244</sup> If it is under sixteen, the punishment is more severe than if over sixteen.<sup>245</sup> It is a felony to take a person under eighteen "from the [parents,] guardian, or other person having

232. FLOWERS, *supra* note 174, at 168.

233. CAL. PENAL CODE § 261.5(a) (West 2002).

234. § 265.1(b).

235. § 289(i) (West Supp. 2003).

236. § 289(h) (West 1999) (indicating that the penalty is not more than one year).

237. § 288(a).

238. CAL. PENAL CODE §288(c)(1) (West 1999).

239. § 647(b).

240. § 266.

241. § 266i(a).

242. § 266i(a)(1).

243. CAL. PENAL CODE §§ 266i(a)(3) (West 1999).

244. § 266i(b).

245. § 266i(b).

legal charge of the [minor], without their consent, for the purpose of prostitution."<sup>246</sup>

## V. COMPARISON

### A. *The Difference of Background*

The big difference between teenage prostitution in Japan and in the United States stems from the social differences between the two countries. First, the United States addressed the issue of runaway kids, which is intertwined with teenage prostitution, with many statutes and government policies. In Japan, however, the teenage prostitution issue was considered as part of the prostitution problem until *enjokosai* emerged. In addition, the girls engaging in *enjokosai* are mostly from affluent families with which they remain; they are not forced to turn to prostitution for their primary needs as runaway kids are. This background difference would affect the difference of the number of laws and policies between Japan and the United States. For example, the United States has more laws available to deal with teenage prostitution, like RICO designed to attack organized criminal activity to deal with interstate prostitution rings, or the RHYA to assist runaways who often end up as prostitutes.

### B. *The Perspective to Treat Prostitution*

Since sex itself was not originally a sin in Japan and Japanese people are more tolerant of sex outside of wedlock (though they have a double standard for men and women), prostitution has been treated as a well-established industry throughout Japanese history. This may be one of the reasons why punishment of a prostitute and a client is lacking under the Prostitution Prevention Law in Japan.

The Japanese laws view prostitutes in a complicated way, that is, both as victims and as autonomous decision makers. Both perspectives, however, seem to lead to no punishment for prostitutes themselves. On the other hand, most of the state laws in the United States punish both prostitutes and clients. This may mean the American laws view the women who engage in prostitution as more independent and autonomous individuals enough to take on responsibilities. In addition, they are more morally intervening than the Japanese laws.

---

246. § 267.



### C. *A Minor is Always a Victim*

Although one dimension of the Japanese laws considers prostitutes as those who need more protection compared to the American laws, when it comes to teenage prostitution, the laws of both countries treat children as victims. However, this perspective does not seem relevant to the girls engaging in *enjokosai* who know what they want and what it means to engage in prostitution. The girls engaging in *enjokosai* have more freedom to choose than American runaways based on their information and knowledge. In this sense, the attitude of the Child Prostitution Law, to punish only adult clients but not teenagers, does not address the problem of teenagers selling their bodies based on their own decisions.

## VI. CONCLUSION

Prostitution laws in both Japan and the United States seem to be based on the two fundamental distinctions: one between adults and children, and the other between the whorish and the chaste. Under those dichotomies, the Japanese laws are more paternalistic compared to the United States. However, both systems of laws attempt to determine whether a person is autonomous. The feminists' debate over prostitution, whether prostitution is a chosen occupation or a form of exploitation, can be viewed as a parallel argument.

However, the question of whether a person is autonomous under the two dichotomies does not help to deal with the issue of prostitution in certain conditions, especially *enjokosai*. While in the United States it may be appropriate to treat teenage prostitutes as victims because of their background as runaways, in Japan it might not be as appropriate to treat teenage prostitutes as victims. As we have seen in *enjokosai*, the teenage girls as actors do not seem to fit into these two dichotomies. The actors engaging in *enjokosai* make their own sexual decisions according to the information they have. Although this information might not be perfect, the information that adults use to make decisions may not be perfect either. *Enjokosai* destroys the dichotomies which laws and feminists have assumed,<sup>247</sup> and confuses our seemingly fixed notions of women, teenagers and prostitutes.

---

247. Another dichotomy *enjokosai* puts into question is that of women inside and outside of a family, based on patriarchal notions of wife and daughter, and prostitute because, prior to the emergence of *enjokosai*, it was impossible to imagine that

We often tend to have fixed notions about some things, which are so natural that we do not even notice that they are a part of the frameworks that we can change. Laws and theories are often built on the basis of those fixed notions. However, if we take a look at one particular issue in more detail, *enjokosai* in this case, we notice that it does not fit into the traditional framework dealing with prostitution.

By utilizing legal theory, we are able to gain perspective to analyze, organize and deal with issues. However, it is equally important to recognize the limits of each theory. Each theory is based on a series of facts or images that the advocates think are true and at the core of the issue. Often it turns out that the facts or images used by each theory are true, but only to a certain degree. For example, in the case of prostitution, some prostitutes are victims according to the circumstances surrounding them, on the other hand, for others, prostitutes are not victims but autonomous persons who have chosen prostitution as their profession. Therefore, when applying legal theory and law to the issue of prostitution, we have to look at the relevant facts distanced from fixed notions and prejudice. In addition to that, theories and laws themselves cannot be separated from the picture of the society as a whole. If the Japanese people want to establish certain morals regarding teenagers' sex for monetary exchange, the remedy for *enjokosai* could possibly include the punishment of teenagers that claim prostitution is based on individual choice. Interestingly, this perspective has recently been applied to Japanese Law.<sup>248</sup>

---

wives and daughters in the domestic sphere would work as prostitutes. URU URANAI WA WATASHI GA KIMERU [Whether to Sell or Not, This is What I Decide] 242 (Goichi Matsuzawa ed., 2000).

248. The Deaikei Site Regulation was enacted on September 13, 2003. According to the National Police Agency, the total number of crimes related to *deaikēi* sites in 2002 was 1,731 (seventeen times as many as in 2000). Ninety-seven percent of the 1,731 crimes associated with *deaikēi* sites occurred via the cell phone accesses to the websites. The number of child victims (under 18) of crimes related to *deaikēi* sites was 1,273 (eighteen times as many as in 2000). For an idea of the magnitude of these crimes, consider that the number of the child victims of serious crimes through *deaikēi* websites, such as robbery and rape, totaled 42 in 2002 (six times as many as in 2000). NATIONAL POLICE AGENCY, 2003 WHITE PAPER, *supra* note 78, at 166, available at <http://www.npa.go.jp/hightech/toukei/html/html11.htm>.

Ninety-two percent of the convictions of child prostitution prohibited by the Child Prostitution Law that occurred through *deaikēi* websites were initiated by minors. "Deaikei Site Kiseiho ga Start! [The Deaikei Site Regulation Has Started!]", available at [http://www.gov-online.go.jp/publicity/tsushin/200310/topics\\_b.html](http://www.gov-online.go.jp/publicity/tsushin/200310/topics_b.html).

---

The Deaikei Site Regulation prohibits minors, as well as adults, from posting solicitations for prostitution on the *deaikēi* sites. "Internet Iseishokai Jigyo wo Riyoshite Jido To wo Yuinsuru Koi no Kisei To ni Kansuru Horitsu" [Law for Regulating the Act of Inviting Children to Sexual Conducts through the Website of Introducing Opposite Sex](2003) Art. 6., available at <http://www.npa.go.jp/safetylife/syonen1/deaikeijyoubun.pdf>.

It also requires the owners of the *deaikēi* sites and internet providers to make efforts to prevent minors from using the sites. *Id.*, art. 3. Although this regulation is limited to the *deaikēi* sites, its underpinnings can be understood as a change in the conceptualization of girls in *enjokosai* from "victims" to persons bearing responsibility for their actions.