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Comics and the Myopic Gaze Punishing Unexpected and Effective Texts

A remarkable indictment and conviction following the sale of an 'obscene' comic book invites us to examine arguments brought forth to describe a specifically childlike reception of new media, as usually suggested by those who would motivate legal restrictions for such media. Trying to explain some perceived contradictions on the surface of these arguments, we discuss whether it is the failure or rather the extreme success of texts that is marked as 'dangerous' in such contexts.

In September 1999, a man entered a comic shop in Dallas, approached the separate section that held comic books for adults, identified himself as an adult and purchased a manga book titled *Demon Beast Invasion: The Fallen II*. Right across its cover, that book carried a yellow banderole with the words: "Absolutely not for Children."

That man turned out to be a police officer, and several months later, Jesus Castillo was indicted under an "obscenity" charge. Castillo does not own that comic shop; but he was the employee who sold the book. In the court procedure that followed, (1) the case proved difficult for the prosecution.



The criterion to decide such matters is defined by law as the “community standard”, its ever-changing form to be decided by the jury. As it becomes standard procedure for our communities to refrain from punishing adult neighbours for their private choices, achieving a conviction under those rules must be growing harder every day. It is true that the book in question contains images both explicit and fantastic, depicting young girls practicing intercourse with various men; with small winged demons; and not least with trees; but those pictures alone did not seem to guarantee that the jury would find the accused guilty of an illegal act.

[Scott McCloud](#), a comic author himself and probably the world’s most famous writer on the theory of comics, spoke in the man’s, and the comic book’s, defence. Another official expert heard was [Professor Susan Napier](#), scholar of literary and cultural studies at the University of Texas in Austin, a renowned specialist for modern Japanese literature who has conducted various research into the areas of Japanese manga and anime. She explained that the comic book in question was not limited to such images as mentioned above, but drew from a rich vocabulary of both traditional and modern symbols from Japanese culture in order to comment on contemporary political and other issues. This lack of single-mindedness alone should likely have sufficed to rescue the book from any charges of pornographic obscenity. But in her closing argument, the prosecutor managed to convince her jury. This is how she dismissed the experts’ explanations:

I don't care what type of evidence or what type of testimony is out there, use your rationality, use your common sense. Comic books, traditionally what we think of, are for kids. This is in a store directly across from an elementary school and it is put in a medium, in a forum, to directly appeal to kids. That is why we are here, ladies and gentlemen.

Jesus Castillo was sentenced to a \$ 4000 fine as well as to a prison sentence of 180 days on a year’s probation. Activists defending the freedoms of speech and of the press cite this case as an example of the current dangers facing those freedoms; the [Comic Book Legal Defense Fund](#) has supported Castillo financially and in his legal battles, and several articles on its website emphasize the absurdity of a process that convicts a man for selling adult comics to an adult because he might be endangering minors. Legal commentators, on the other hand, point out a number of formal infelicities on the part of Castillo’s lawyer, and are careful to explain that the verdict does not affirm that comics are always meant for kids or that they have to be measured by that standard, as the case was never originally about children’s literature. (2) The comic book in question never reached the hands or eyes of children; though an elementary school is close to the comic shop, the manga was stored in the adult section; the customer that bought it was obviously of age, and no-one denies that Castillo had made sure this was so. Indeed, the prosecutor even made use of the fact that the comic book was offered in this separate section and that it carried that unmistakable warning on its cover, using these facts as an argument against the idea that Castillo might not have known what the comic contained and thus couldn’t have recognized its possible obscenity.

But if kids were never in danger of reading the book, how did that claim that

'Comic books are for kids' ever enter the discussion? Even if we deny that claim for this and for any other context (and I believe we should), we have yet to explain why the prosecutor would ever think of including it and why the jury would accept it as a reasonable argument.

Although no children were involved, the comic was apparently more likely to be judged as obscene if comics were generally products intended for children's use. Why would that be so? In order to answer that question, we must deal with two separate problems.

Comics Are For Kids, and This Comic Is Not For Kids

The claim that comic books, all of them, are aimed at children, will at first seem all too easy to refute. This is a universal claim; to prove it wrong, contrary examples should suffice. So we point to Art Spiegelman's *Maus*, which tells the tale of Spiegelman's father surviving the extermination camps at Auschwitz, or to Will Eisner's stories collected in *Last Day in Vietnam*, narratives covering the Second World War as well as the Vietnam War: Everybody must surely concede that these topics are not exclusively or even mainly directed at school kids? In fact, wouldn't any person arguing to protect children from certain comics have to be the first to agree to such a distinction that marks some texts as appropriate for mature readers rather than others?

But there's the rub. Following that line of argument, *Demon Beast Invasion*, the very comic in question, would itself serve as a counter-example: After all, the prosecutor necessarily has to agree that this book is not appropriate for kids. Thus the comic could not be considered dangerous to kids precisely because this comic is seen as fit to harm immature readers. That's obvious nonsense, but it is no more than the reverse of the same paradox introduced by the prosecutor, as she uses the unmistakable warning on the comic's cover in her attack on Castillo. The prosecutor does postulate the claim that 'Comic books are for kids' as a kind of universal law; however, it is a law of the kind that is not intended to facilitate predictions, but convictions. The proposition itself seems to be well inside the area of media observations, but it is treated as if it were a legal prescription – as if we had a legislative decision that ordered all comics to be addressed to children. That is why this claim can be turned against the statements made by media experts, and that is also why this claim can be used to discredit media studies in a court room: 'I don't care what type of testimony is out there...'. Cases that violate this law do not disprove it; instead, they provide the sourly needed opportunity to prove the validity of the law by means of a conviction. What is it that is being punished here? No more than the fact that a text refuses to fit into predictions about its art form: This violation of the (or an imputed) traditional form a genre is thus turned into a punishable offence.

That's the first of two problems raised by the prosecutor's argument: By confounding a descriptive law with a normative intention, we arrive at a paradox: Any text we might sanction on this basis automatically calls the same basis into question. The argument demands a certain knowledge of text categories, and yet makes it impossible to deduce such knowledge from any observation of actual texts.

How a Comic Book Corrupts Youths That Don't Read It

Whatever does not fit into the scene is ob scaenum and will be punished, if indeed obscenity threatens punishment. But obviously, this does not suffice: Auster's City of Glass does not inspire charges of obscenity, although its decentralized protagonist's subject hardly fits into the scene of the traditional detective novel; and Orwell's 1984 isn't restricted to under-the-counter sales just because it goes beyond the scope generally associated ('I don't care; use your common sense; traditionally, what we think...!') with science fiction. It is the implied threat to children that furnishes the law in question with that sense of urgency which can motivate punishment. That the same urgency was also referenced when there were no kids involved is the second problem raised by Castillo's indictment and conviction.

Indeed, the legal protection of children and minors does provide some pretext – and not altogether unreasonably – to preclude some texts and media from open discourse even in an otherwise free society. In Germany (where this site is based), the 'Bundesprüfstelle für jugendgefährdende Medien' ([BPjM](#) or 'Federal Examination Authority for Media Endangering the Youth') does not openly deal in full-scale censorship, but ostracizes media by means of 'indexing' them, adding them to an index of restricted media. Its webpage emphasizes the alleged differences between this process and regular censorship:

Indexing is not censorship!

Being added to the index does not result in a general legal ban of a medium. It is only intended to keep children and minors from coming into contact with media endangering minors. That is why the prescriptions according to § 15 JuSchG [Jugendschutzgesetz, or "Law for the Protection of Minors"] are not designed as absolute indictments of any dissemination, but only limit the sale of media to minors. So while minors are banned from accessing indexed media, adults are still able to obtain them. (3)

This kind of indexing, then, would not apply to the case of Castillo. But even so, media placed on the index is not only banned from sales to minors, but also must not be reviewed or advertised publicly. For media that are expensive to produce and thus only become logistically possible when a large audience pays for many copies, this can be devastating. Computer games sometimes meet this fate; they reach their target audience to no small extent through reports and advertisements in magazines that deal more or less exclusively with computer games and that count many minors among their readership. Thus an indexed game will practically fail to reach its targeted audience altogether, at least within Germany. Such meta-texts apparently become dangerous because they reference dangerous primary texts: "Any form of advertisement is forbidden [in these cases], even such advertisement that does not itself endanger minors." (4) A text that points to a text unsuitable for children is itself unsuitable for children: On the one hand, this epidemic diffusion of prohibited text reception is unsettling. On the other hand, an alternative to this mechanism is difficult to find, despite all its unsavoury side effects, as long as most minors have no trouble to obtain any given computer game, notwithstanding any objections on their

parents' or other textual guardians' parts, just as long as a computer with internet access is available to them.

But that still doesn't explain how the protection of minors ever entered into the original argument we were discussing. The desired separation of minors and adults had been achieved in that case, the manga book in question had not been made generally available nor had the comic shop advertised it to kids (a feat that is accomplished much more effectively, by the way, by [amazon](#), than it could ever be by a small comic shop). We still need to find out how the protection of minors from a certain text and other metatextual references to it could motivate a jury to sanction the sale of this comic by one adult to another adult. To explain this jumping of categories, we need to turn to an observation of a different kind.

All Too Successful Media

It is remarkable that new media are more readily suspected of rising such dangers than more traditional forms. The BPjM, for instance, has indicted 27 videos, 13 computer games, 35 audio CDs and 67 online publications, but only a total of 27 print media (books and magazines) in 2003. (5) So either there is a tendency for contents dangerous to minors to be expressed in moving images and digital media more readily than they are reproduced on paper; or else, it must be that the same kinds of content are more readily considered dangerous when they appear in new media than when they appear as mere words on paper.

Accepting the second hypothesis allows us to solve at least the first of our two problems. The same content will allegedly become more dangerous, so many have argued, if it addresses a specific subset of our senses. And indeed no-one will completely deny that different media do affect us in different ways. Otherwise, differing receptive attitudes could no longer be explained, differing media experiences would have to be founded exclusively in recipients' differing contingent constitutions or temporary moods, new media could never present truly new phenomena, movies would show no necessary differences to books, but only accidental deviations in productions that set them apart from a theoretically possible detailed and accurate translation from one medium to the next, – and the essential claim of all media observation would collapse.

So we do accept the minimal assumption that different media entail different receptions. If these differing reactions correspond with an individually different competence for perceiving specific media, or let us phrase this more cautiously: if they correspond with different receptive mechanisms in individual recipients, then that will allow us to get a more specific grasp on the two propositions with which we are dealing: The claim 'Comic books are for kids' would mean that comics address specific receptive mechanisms that are mostly found in kids. And if this is followed by the claim that the contents of a particular comic is not for kids, then that would mean that this content corresponds to other, specifically adult receptive mechanisms. If that was so, we would be faced with a dangerous disproportion between media and their content. Whether you accept these premises or not: At least they do serve to dissolve the first of the two contradictions we found in the prosecutor's final argument against Castillo. We could then assume she intended to say that comics address, by virtue of their medial constitution, a

specifically childlike reception; and that this obligated producers to avoid topics that should not be part of children's reception.

But this would still leave us with the second problem untouched: The Castillo case did not feature any children consuming any kind of media, whether they were suited for their contents or not. What, then, could be the significance of the medium that the prosecutor intended to point out? Could it be that such childlike reception happens even when no kids are involved?

How do we picture this specifically childlike reception that is supposed to accompany new media and render them unusually dangerous? Following this same line of thought, we would expect children to achieve especially successful readings of appropriately chosen forms, such as comics – their readings should prove more successful than those of adults, or more successful than children's readings of texts in other media. Contents more suitable for adults would then be inappropriate in such media; but for topics well suited for kids, these media should be recommended for young readers. If that was the case, then children should be encouraged to read comics, more than other texts. But that conclusion is rare: For the same groups arguing that specific media are purely for kids will usually also argue that extensive consumption of new media is itself harmful to children.

In Germany, Professor Christian Pfeiffer from the "Criminological Research Institute of Niedersachsen" ([Kriminologisches Forschungsinstitut Niedersachsen](#) of KFN) has been undertaking some pioneer research into the question of *medially neglected* ('Medienverwahrlosung') children and minors. For some years, he has been trying to find out whether there is a phenomenon in which minors take harm by perusing new media in excess and without supervision. Some of these studies document the time young people tend to spend in front of the TV, watching videos or playing computer games; passionate perusal of books is not considered a sign of medial neglect.

It pictures as opposed to written language that Pfeiffer perceives as possibly harmful – so the problem is not that children and minors spend too much time with various media. Pfeiffer describes (6) that he sees several undesirable effects stemming from children's excessive use of new media: The extent of their perusal threatens, so Pfeiffer says, to displace other activities in young people's life, social contacts and physical exercise will cease, and finally, the children will fail at school. The latter not simply because there will be no time left for school work after children spend hours engaged with pictorial media: Rather, it is the specific medial reception of new media that sets them apart from the ways in which school can try to reach children's minds:

[...] what children hear at school, and the topics they learn about in their homework, will first enter their short time memory [...]. Transferral into long time memory, that is, into stable knowledge, takes a minimum of twelve hours and is heavily influenced by the emotional experiences that the child undergoes after learning. The brain is extremely sensitive to strong emotions. It concentrates its memory functions on those impressions that most incite its emotions. A person that watches disturbing, shocking movie scenes in the afternoons, and submits to their mesmerizing spell, will find that those contents that were previously stored in short time memory are now being crowded out. What was learned at

school pales under the emotional force of the movie's images.(7)

In this view, pictorial media or their excessive use would not pose a danger to minors for the reason that minors fail to process the sensual data such media offer. On the contrary, the accusation is that the semiosis triggered by the children's perusal of such media is more successful than those semioses that follow school lessons. It is not that children's readings of such texts falter – rather, or so Pfeiffer fears, it is that their readings will succeed all too well. Their success will be greater than it should: A true competence for new media, as adults will hopefully possess, would then not be conducive to the receptive semiosis, but should hinder it, limit it, and restrict its effects – if indeed we accept these views.

The Successful Myopic Gaze

In the 50s, child psychologist Fredric Wertham published his famous book *Seduction of the Innocent*, in which he ascribed to comics an essential part of the guilt for juvenile delinquency. The tome instigated considerable change in the societal awareness towards comics (or you could say, it first attracted any greater societal attention to this fairly new art at all). It led to comics being banned from schools and libraries, even to comics being burnt on the streets, and eventually resulted in a kind of self-censorship by comic producers in the form of the Comics Code, a document that excluded certain topics and images from comic books. (8)

Wertham's explicit intention was to relieve parents, educators and other adults in the children's life from some of their guilt about having contributed to the juvenile delinquents' deeds:

[S]uch arguments are so superficial, and so evidently special pleading, that the only thing worth noting about them is that so many adults are naive enough to give them credence. It is necessary to analyze the comic books themselves, the children in relation to them and the social conditions under which these children live. (9)

What do Wertham's eyes see when he analyzes 'the comic books themselves' in his search for the causes of juvenile crime? His descriptions show that same striking ambiguity that finds children badly suited to the perusal of certain media precisely because they are especially successful at reading them. On the one hand, the children's competence for comics is far superior to those of adults:

[T]he Lafargue group of researchers has often convinced itself that most adults have really no idea of the details and content of the majority of crime comic books. I have heard public discussions where only the publishers and their representatives knew what was being talked about; the parents, teachers and doctors who asked discussion questions spoke of comic books as if they were fairy tales or stories of folklore. Children, however, do know what comic books are. [... A]dults are more readily deceived than children.(10)

Wertham continues with many analyses of colour schemes, relative panel sizes, depicted body images, the deliberate and differentiated use of typesets and panel shapes and many other aspects of the comic page. He

does all this in order to demonstrate how quoted adult opinions about comics manage to completely misunderstand certain comics, while it is the children he has interviewed who prove able interpreters for all those specific signs of the comic, thus arriving at a successful understanding. Wertham's work here often proves extremely diligent and painstakingly accurate. In some parts, it can make an almost structuralist claim to completeness and detail. It is, though ironic, with good reason that Wertham's ultimate condemnations of comic books are sometimes considered to be among the best early analyses of the new art's constituent elements. (11)

So according to Wertham, children know what to do with comics, while adults fail at interpreting them. But at the same time, Wertham still intends to mark children's reading of comic books as a dangerous thing. That is why that specific talent for reading comic books that Wertham finds to be exhibited by young readers is never mentioned without the accompanying suggestion that this specific ability is really a flaw. The same eyes that see more than those of adult readers, who are less suited to comic books, are blemished by a wrong, a limited gaze. The potential rivalry between these opposing definitions of competence might be one reason for the innumerable parallels and metaphors that Wertham uses for referencing these points and that are so strikingly different to the explicit accuracy with which he examines the comic books 'themselves'.

Take Willie. He is 13 years old, short-sighted and a murder suspect:

He had difficulty with his eyes and had to wear glasses which needed changing. According to his aunt he had occasionally suffered from sleepwalking which started when he was six or seven.(12)

Willie was always a rabid comic-book reader. [...] The Lafargue Clinic has some of his comic books. They are before me as I am writing this, smudgily printed and well thumbed, just as he used to pore over them with his weak eyes. Here is the lecherous-looking bandit overpowering the attractive girl who is dressed (if that is the word) for very hot weather ('She could come in handy, then! Pretty little spitfire, eh!') in the typical pre-rape position. (13)

On the one hand, the depicted content is offensive, and Wertham and Willie, the adult and the minor, both recognize the apparently typical female gesture that comes before a rape. (What gesture is that?) But it is remarkable that the reference to Willie's weak eyes is repeated often and always when his reading of comic books becomes topical. But Wertham's argument does not appear to be that Willie was unable to read his comics. To the contrary, the boy has read them often and diligently and has to be considered successful as a comic reader. But it was a myopic gaze with which he read those comics, and yet the myopia does not seem to be the usual flaw of short-sightedness, for according to Wertham, Willie did recognize what was depicted, he recognized it all too well. As the boy's lack of sight is first mentioned, it is immediately – and apropos of nothing – followed by a description of his sleep-walking, which implies an affinity of myopia and some literally hypno-tic psychological effect. Wertham keeps implying the like, but never explicitly describes the connection.

If it is such a myopic gaze that endangers comic readers, then the choice of

a correspondingly dangerous or of an appropriately child-suited topic will hardly matter much. And indeed, Wertham soon drops that distinction. At first, he is prepared to note that “not every comic book is bad for children’s minds and emotions. The trouble is that the ‘good’ comic books are snowed under by those which glorify violence, crime and sadism.” (14) But Wertham’s next step is to explain that a child, once it has first begun to read comic books, will always move on to reading comics with unsuitable topics: “Children of eleven do not read only animal comics – whether their parents know it or not. They see all the crime, horror, superman and jungle comics elsewhere if they are not allowed at home.” (15) As proof, Wertham points out the case of a young girl who misrepresents the title of one of her comic books:

One Lafargue researcher asked a little six-year-old girl what comic books she liked and was told ‘corpsies’. This baffled the researcher (That name would fit so many!). It finally developed when she produced the book that she meant ‘kewpies’. It was one of the very few artistic comic books and had on its inside back cover a charming ‘Map of Kewpieville’ showing Kewpie Square, Willow Wood, Mischief Grounds, Welcome Bridge, a Goblin Glen, Forsaken Lake, Blue Lake and a Snifflebrook. What was impressed on the child’s mind, however, were the ‘corpsies’ she had seen in the crime comic books of her friends. (16)

And finally, Wertham subsumes all super hero comics, which cover the vast majority of all comic books in America by now, as ‘crime comics’:

The Superman-Batman-Wonder Woman group is a special form of crime comics. [...] Superwoman (Wonder Woman) is always a horror type. She is physically very powerful, tortures men, has her own female following, is the cruel, ‘phallic’ woman. While she is a frightening figure for boys, she is an undesirable ideal for girls, being the exact opposite of what girls are supposed to want to be. (17)

That last phrase showcases all the problems of such normative approaches to children’s or indeed to anyone’s reading behaviour: Does that sequence of words supposed to want to be mean anything at all? That spells not a rule to restrict the realization of certain desires, rather a law to rule desire itself.

However, it is all too easy to point out such deficiencies in Wertham’s normative pedagogic program (especially from a vantage point of 50 more years), and more importantly, doing so does not suffice to refute his descriptive claims. Again, we will accept as a minimal hypothesis that the psychological effects of comic books do differ from those of other arts; denying that would be to deny any difference between the arts themselves. And it would be negligence to simply ignore the possibility that such a different effect might be especially suited to harm children. Our interest, then, has to be in determining how a reasonable search to find such an imputed danger might be organized and how basic knowledge from psychology or the cognitive sciences as well as empiric observations could be employed to either confirm or dismiss such fears. It would then be reserved for a second step to decide whether there are better ways to protect children than by restricting their access to certain material.

Banning Myopic Semiosis For Adults

Meanwhile, this sketch of an imputed myopic gaze into comics can help us understand what the unspoken connection between comic books' exclusive suitability for kids and the prosecutor's argument for obscenity in adult reading was supposed to be. For according to the worldview shown in such statements, the greatest danger is not posed by an artist choosing an unsuitable or obscene topic for his comic books. Instead, the true danger supposedly lies in that specific semiosis that is allegedly incited by reading comic books – a danger of too great a success, too little hindrance in reading. If we need a specific competence for reading comics, one that does not further, but that slows that semiosis, and if that competence is one that only adults can possess, then it is easy to move on to another conclusion: Namely, that even some adults might have failed to completely develop that competence; that even some adults might read comic books all too successfully.

Could there even be a kind of comic so devastatingly successful that there exists no competence in any reader that could sufficiently stall semiosis?

In 1994, Mike Diana was the first artist in America ever to be convicted in an "obscenity" case. (18) A sold copy of his comic book *Boiled Angel* had been confiscated in connection with a murder case, alongside various other items. Several years later, he was indicted and convicted. His fine was \$ 3000; during his three-year probation, Diana had to refrain from any contact with minors; he had to frequent courses on journalistic ethics; undergo psychological examinations; and he was not allowed to draw any more comics. Literally, he was even forbidden to draw them – not just to sell them to minors or to sell them at all. Diana was not allowed to draw comics even in his own home, even if only intended for his own eyes, not if they covered topics the court ruled unsuitable. In order to prove that he is meeting this requirement, Diana has to subject his home to inspections at any time and without any additional warrant.

What is it that such decisions try to ban? This is not about the sale of obscene material, nor is it about keeping such material out of children's hands. What such rulings try to prevent is that a certain kind of semiosis takes place anywhere at all, that any one consciousness entertains that semiosis. The assumption is that certain comic signs are necessary for such semioses, and that even the same consciousness that would first produce those comics will stop entertaining such semioses as soon as it stops producing the comics.

No greater power has ever been ascribed to any art form. How could media studies examine such problematic claims? How could we examine this theory of infelicitously successful readings for its veracity? Pointing out the existence of comic books for adults will not help, as we have seen above. Nor will we make progress by any attempt to prove or disprove that children are competent to deal with comics; for this idiosyncratic theory supports both those claims. To protect children from such texts altogether obviously is no safe way to go either, not least because any attempt to do so will fail.

Here's a proposal. According to this theory of infelicitous success, it is the most successful reading of a given comic that can prove to be the greatest failure. If we are to look for possible counter arguments, we will have to demonstrate all-round successful readings for comics: Readings that allow

15. Ibid., p. 13. ([top](#))
16. Ibid., p. 35. ([top](#))
17. Ibid., pp. 33-34. ([top](#))
18. Cf. "Mike Diana: Petition Denied", <http://www.cbldf.org/casefiles/diana.shtml> (cit. July 10th, 2004), as well as McCloud, Reinventing Comics, p. 91. ([top](#))

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