

## Discussions on the Legal Policies in the Metaverse: From the Perspective of Diversifying Self-Expression

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### Abstract

This paper discusses the Metaverse, an immersive online environment where users engage through avatars, from the perspective of diversifying self-expression and legal policies. Approximately 25% of users adopt avatars of different genders for communication, aiming to create a discrimination-free society. Cultural characteristics of the Metaverse include diverse applications like learning, entertainment, identity experimentation, and fan culture, maintaining local cultural practices despite its global nature. Real-time interactions in the Metaverse impact embodied identity construction, raising concerns about gender representations. However, growing global regulations respond to reported user harm, prompting discussions and investigations, especially concerning underage users and preventing sexual harm. The Republic of Korea has a history of implementing broad internet restrictions, including punitive measures for metaverse expressions deemed “Sexual Exploitation of Children and Adolescents.” The 2021 amendment to the Youth Protection Law enables punishment for individuals over 19 engaging in explicit conversations through metaverse platforms. In the EU, Europol emphasizes protecting children from harmful content, urging platform operators to ensure a safe environment and moderate inappropriate behavior, citing cases from VRChat and Roblox. The paper examines international concerns about cultural homogenization due to Metaverse globalization, emphasizing the importance of considering cultural differences in regulations. It warns against punishing non-existent youth expressions and advocates for a nuanced approach, recognizing the diverse cultural expressions within the Metaverse.

The Metaverse is a shared, three-dimensional, persistent, and immersive online environment where users, represented by avatars, engage in creative and collaborative practices while participating socially and economically in the space (Ritterbusch and Teichmann 2023). While the term ‘metaverse’ was re-introduced in 2021 when Mark Zuckerberg, the CEO of Facebook, announced the company’s name change to Meta, the Metaverse in itself is not a new concept (Novak 2022) but an evolution that stems from previous virtual worlds incorporating the latest technological advancements (Richter and Richter 2023).

This paper focuses on the possibilities for gender and self-expression through avatars in the Metaverse. Large-scale quantitative surveys have demonstrated that approximately 25% of users choose avatars of different gender identities to express themselves and communicate with others (Virtual Girl Nem and Bredikhina 2021, 2023). The Metaverse has the potential to create a society that does not discriminate based on physical and social attributes (Kunitake 2023).

However, this comes in the wake of sensational reports of user harm within the Metaverse, prompting discussions in several nations to initiate regulatory measures, which this paper investigates. This paper first presents the cultural characteristics of the Metaverse. Then, it delves into discussions and legal frameworks pertaining to the Metaverse. Finally, it examines regulations and offers recommendations.

### Cultural Characteristics of the Metaverse

In recent years, the Metaverse has been used for learning and education, entertainment (Shirai Akihito 2023), recreation of historical places (Utsugi, Moriya, and Takeda 2001), identity experimentation (Takano and Taka 2022), fan culture (Lee and Wei 2022), healthcare (Yang et al. 2022), marketing (Lu and Mintz 2023). While the Metaverse can be applied to different domains, the current Metaverse has a strong ‘play’ aspect (digital games, video distribution of virtual entertainers, role-playing) (Nakao 2022, 70) with a focus on mobile social networking services, digital assets, selling and purchasing of virtual fashion, and event organization.

Furthermore, virtual worlds are presented as substitutes for the physical world, promising an escape from existing social conditions (Roquet 2023). Although the Metaverse appears as a global scape, local cultural practices persevere. For instance, Japanese metaverse users tend to spend time in small communities (Kawamura, Shoichi, and Kyohei 2023), bearing similarities with Japanese self-publishing culture through knowledge sharing, encouragement, assistance, and provision of specialized material and fan culture (Nakao et al. 2023).

As a space that impacts real-time multisensory social interactions (Hennig-Thurau et al. 2023), the Metaverse has significant implications for embodied identity construction (Saker and Frith 2022). Paul Roquet has

voiced concerns regarding the predominance of male users with feminine avatar appearances in the Metaverse, potentially contributing to a misogynistic environment (Roquet 2022). However, those 'living' in the Metaverse suggest that the virtual identity is a diversified form of self-expression (Virtual Girl Nem 2022) and enables users to express their gender identity (Bredikhina 2023). During the 2022 IGF forum for Internet governance, author two also highlighted the importance of the Metaverse as a space for transcending yet reaffirming existing socio-cultural gender expectations (Virtual Girl Nem and Bredikhina 2023), a conclusion that has been supported by prior research into avatars (Huh and Williams 2009; Paik and Shi 2013). Similarly, a report by the Japanese government shows that VR spaces tend to be liberated from hegemonic norms and are more likely to cross national and language barriers (Council for Cultural Affairs 2022).

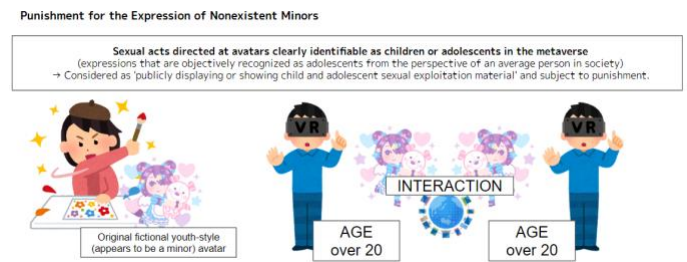
### Discussions and Legal Frameworks Pertaining to the Metaverse

The central focus of the debate on regulations related to the metaverse concerns the handling of underage users and the prevention of sexual harm. This chapter introduces cases and discussions from the Republic of Korea, Japan, and the European Union.

First, let us delve into the discussions in the Republic of Korea, a leading internet nation. The Republic of Korea has a history of implementing broad restrictions on the circulation of illegal and harmful information on the internet, such as limiting search terms on portal sites and establishing an adult verification system on adult websites (Shirai Kyo 2009).

In the Republic of Korea, punitive measures are already possible for expressions in the metaverse. The Youth Protection Law deems as 'Sexual Exploitation of Children and Adolescents' acts such as sexual intercourse with avatars clearly recognizable as children or adolescents, touching or exposing parts or the entirety of the body, or any acts that cause sexual shame or disgust in the general public. All acts of publicly displaying such material are punishable. Here, 'avatars recognizable as children or adolescents' means expression materials objectively seen from the viewpoint of an average person in society as evidently recognizable as adolescents (as per the ruling of the Supreme Court of Korea), and includes fictional expressions that can be distinctly differentiated from real adolescents (Kim, Jeonghw a, Yunsik Kim, and Ho Dong Cha 2022).

**Figure 1.** Examples deemed illegal in the Republic of Korea



Furthermore, from the perspective of preventing actual harm, the 2021 amendment to the Youth Protection Law makes it possible to punish individuals over 19 years of age who engage in, or repeatedly participate in, conversations through metaverse platforms with individuals aged 16 and over that could induce sexual desire, shame, or disgust for the purpose of sexual exploitation. If the other party is under 16, the purpose of sexual exploitation is not a required element for the act to be punishable.

In 2021, the Ministry of Gender Equality and Family of the Republic of Korea held an expert panel discussion due to concerns over sexual crimes against teenagers, who are the main users of metaverse platforms. Experts pointed out that "communication through avatars can further weaken the psychological boundaries that children and adolescents feel towards strangers online." (Jeon Jun-woo 2021).

In the following section, we introduce the discussions held within the European Union. The Europol Innovation Lab, a research institution of the European Union Agency for Law Enforcement Cooperation (Europol), has highlighted in a report the potential dangers the metaverse poses to children (Europol 2022).

Europol asserts that finding effective ways to protect children from harmful sexual content is essential for ensuring they have safe and positive experiences in the metaverse. The agency emphasizes the need for platform operators to provide a safe environment for children and to appropriately moderate content and behavior that violates terms of service. Furthermore, the report presents cases where children were exposed to harmful experiences in 'VRChat' and 'Roblox' (Smith, Tony, and Angus Crawford 2022)(Clayton, James, and Jasmin Dyer 2022).

In Japan, discussions on policies necessary for realizing a safe and secure metaverse are being conducted in 2024. However, no specific regulations for the metaverse have been implemented yet. The regulation of information distribution concerns discussions by the

Ministry of Internal Affairs and Communications' "Working Group on Measures Against Illegal and Harmful Information" (Ministry of Internal Affairs and Communications 2024).

This working group examines the measures platform operators should take against "illegal information" and "harmful information." "Illegal information" refers to rights-infringing information such as slander and defamation. However, the discussions also focus on handling "harmful information" (information that is not illegal but is harmful). According to the Ministry of Internal Affairs and Communications' overview document on responding to illegal and harmful information on the internet, examples of harmful information include types that are "harmful to minors," specifically mentioning "adult content," "dating sites," and "violent expressions." These could potentially be expressed within the metaverse and other content. However, public comments solicited by the government on the regulation of harmful information have been predominantly opposed. As a result, the working group has added language suggesting that "a more cautious examination of harmful information is appropriate" (Ministry of Internal Affairs and Communications 2022) (Ministry of Internal Affairs and Communications 2024).

### Examination of Regulations

We conclude this paper by examining regulations.

This study has elucidated the benefits and drawbacks arising from the proliferation of the metaverse, along with the legal trends addressing these disadvantages. Upon comprehensive examination, it becomes evident that due to diverse cultures within the metaverse, certain expressions permissible in one country may not be acceptable in another. This highlights the circulation of expressions that vary significantly in acceptability across different national contexts and the necessity to attend to cultural differences (Naito, Masanori 2022).

Regarding the protection of minors and the prevention of sexual harm, movements towards legal regulation exist in various countries. However, it is believed that the punishment of non-existent youth expressions (fictional representations that can be clearly distinguished from actual youth) should be approached with restraint. (Ogino, Kotaro 2013)

As mentioned earlier, in the Republic of Korea, the punishment of non-existent youth expressions has already been made possible. Legislative amendments enabling the punishment of such expressions have led to a significant increase in the number of "sex crimes"

detected, from approximately 100 cases in 2011 to about 2000 cases in 2012. Professor Park Kyung-shin from Korea University has noted that this increase is attributed to the crackdown on anime and manga that include non-existent youth expressions. Additionally, the VR Culture & Rights Committee, a Republic of Korea civil organization, argues that the regulation of non-existent youth expressions fails to contribute to the protection of real-life minors and has the potential to dampen the creative activities of numerous digital creators (Kunitake 2024).

Punishing non-existent youth expressions as a form of diverse cultural expression and self-expression presents significant issues from human rights perspectives and cultural diversity. Indeed, there are concerns about the homogenization of culture due to globalization within the international community. United Nations Resolution A/RES/76/162 (Human rights and cultural diversity) expresses a determination to prevent and mitigate cultural homogenization. The key points of the resolution are presented in "Table 1". Metaverse, as a space of identity formation and expression, promotes those key points and facilitates cross-cultural dialogue.

**Table 1.** The key points of United Nations Resolution A/RES/76/162 (Human rights and cultural diversity)

7. Affirms that the international community should strive to respond to the challenges and opportunities posed by globalization in a manner that ensures respect for the cultural diversity of all;
8. Expresses its determination to prevent and mitigate cultural homogenization in the context of globalization, through increased intercultural exchange guided by the promotion and protection of cultural diversity;
11. Emphasizes that dialogue among religions, cultures and civilizations on the basis of equal dignity should be enhanced, through supporting efforts made at the international level towards reducing confrontation, suppressing xenophobia and promoting respect for diversity, and in that regard also emphasizes that States should oppose all attempts at uniculturalism or the imposition of particular models of social or cultural systems and promote dialogue among civilizations, a culture of peace, tolerance and interfaith dialogue, which will contribute towards peace, security and development;
13. Recognizes that respect for cultural diversity and the cultural rights of all enhances cultural pluralism, contributing to a wider exchange of knowledge and understanding of cultural background, advancing the application and enjoyment of universally accepted human rights throughout the world and fostering

stable, friendly relations among peoples and nations worldwide;
15. Also emphasizes that tolerance and respect for diversity facilitate the universal promotion and protection of human rights, including gender equality and the enjoyment of all human rights by all, and underlines the fact that tolerance and respect for cultural diversity and the universal promotion and protection of human rights are mutually supportive;
17. Calls upon States, relevant international organizations and non-governmental organizations to support and embark on intercultural initiatives on human rights in order to promote all human rights, thereby enriching their universality;
18. Urges States to ensure that their political and legal systems reflect the multicultural diversity within their societies and, where necessary, to improve democratic institutions so that they are more fully participatory and avoid marginalization and exclusion of, and discrimination against, specific sectors of society;
19. Calls upon States, international organizations and United Nations agencies, and invites civil society, including non-governmental organizations, to recognize and promote respect for cultural diversity for the purpose of advancing the objectives of peace, development and universally accepted human rights;
20. Stresses the necessity of freely using the media and new information and communications technologies to create the conditions for a renewed dialogue among cultures and civilizations;
21. Requests the Office of the United Nations High Commissioner for Human Rights to continue to bear in mind fully the issues raised in the present resolution in the course of its activities for the promotion and protection of human rights;

We conclude that in discussions on the legal framework within the metaverse, it is considered most crucial to establish regulations that adequately consider the cultural backgrounds of different countries.

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