

Novel case not about prejudice

Jailing of novelist does not show a discriminatory attitude by China toward gay people

Editor's Note: Some Western media outlets have said the recent sentencing of novelist Tian Yi, to 10 years and six months in prison for the sales of about 7,000 copies of her novels including those with gay sex content, shows China's discriminatory attitude toward gay people. However, such claims are misleading. Three experts shared their views on the issue with China Daily's LIU JIANNAN. Excerpts follow:

Solicit expert, legal opinion

Tian Yi's case has touched many netizens' nerves, especially because she has made only about 150,000 yuan (\$22,000) and yet she has been jailed for creating pornography while actress Fan Bingbing escaped criminal sentencing by paying tax arrears of about 800 million yuan. Many believe the Criminal Law is not applied uniformly.

Somewhat tardy adjustments to the laws in accordance with the socioeconomic changes have led to the misalignment between the judi-

cial system and public opinion to a certain extent.

Some legal experts believe it is good to encourage tax evaders to pay their arrears along with the administrative fines and avoid criminal sentencing according to the Criminal Law. But to advance the rule of law, it is important to enact a unified Criminal Code, or general principal of Criminal Law.

And just like the Civil Code, the Criminal Code should be aimed at awarding criminal sentences according to the severity of the crime.

Also, public hearings should be held to solicit the opinions of legal and education experts, and scholars, so as to get public support for judicial practices.

Qiao Xincheng,
a professor at Zhongnan University of Economics and Law

Upgrade judicial explanation

Tian Yi was sentenced because she created and sold pornography irrespective of whether the characters are homosexual or het-

erosexual. But, if homosexuality is included as an issue in any discussion or debate, many could get carried away and lose track of the real point of the case.

First, the sentencing of Tian Yi is backed by law. Yet some netizens' claim that her jail term is severer than that given to some rapists is understandable. And Chinese people's opinion about pornography has changed quite a bit in recent years.

For instance, a survey conducted by Renmin University of China shows the number of people who have watched pornography videos or pictures has been constantly on the rise since 2000, and about 75 percent of youths aged between 18 and 25 have viewed pornography at least once.

Compared with the past, creating and selling pornography is no longer a seriously harmful offense in some people's eyes, which could have led to the social media outcry over Tian Yi's sentencing.

But the fact that netizens say the sentence is "disproportionately" severe suggests the judicial interpretation and explanation of the

laws should be updated in accordance with the changes in society.

Still, public opinion should not influence court judgments, and judicial authorities' independence should be safeguarded. Yet, Tian Yi can expect a commuted sentence as the judicial explanation provides a range of jail terms for such an offense.

Zhao Jun,
a professor at the College for Criminal Law Science, Beijing Normal University

Differentiate true gay culture

Some netizens believe Tian Yi's prison term is disproportionately high because there are no victims in the case, unlike cases involving rape, murder and theft. They also say people bought the books out of their own free will.

Also, the gay-themed contents in some of Tian Yi's novels have been classified as abnormal relationships comparable to incest, sexual perversion, sexual assault or sexual violence, according to the General Rules for the Review of Online

Audio-Visual Programs issued by the China Netcasting Services Association in June 2017.

Just like not all heterosexual contents are classified as pornography, not all gay-themed contents should be listed as pornography as the general rules suggest.

Over the last decade, the *tanbi* culture, or the pursuit of beauty in Japanese, has become popular among women in East Asia, especially the *fujoshi* — female fans of Japanese manga and novels featuring romantic relationships between men.

Being strictly supervised by parents and forbidden from developing a relationship at a young age, *fujoshi* often seek comfort and satisfy their yearning for pure love in *tanbi* creations and find solace in the romance between pretty men, even though it is far removed from their real lives. This should be differentiated from true gay culture.

Li Yinhe,
a research fellow at the Institute of Sociology, Chinese Academy of Social Sciences



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