

Moral guardians without a reliable compass ...

People have different moral values which can evolve over time. This makes it difficult to reach a consensus on what constitutes public decency. So it is not surprising that the first stage of a consultation on an overhaul of the city's obscenity laws unearthed diverse views among the public.

Ahead of the crucial second round of consultation, which was expected to begin six months ago, the judiciary has seized the initiative. It has laid the groundwork for reform of the Obscene Articles Tribunal to make it more representative by doubling its pool of adjudicators and capping their service at nine years.

The judiciary has been openly critical of the tribunal's operations and the Control of Obscene and Indecent Articles Ordinance. This reflected public concern over a series of confusing tribunal decisions. Perhaps the most striking decision came not from the tribunal but the publisher of the Chinese-language edition of *National Geographic*, which, in late 2008 and again in May last year, sealed the respected scientific monthly magazine in transparent plastic with a warning about explicit content. The contents in question, computer-generated images of a naked Neanderthal woman and a photograph of half-naked ethnic minority women in a bathing ritual celebrating the coming of spring, were unlikely to offend reasonable people. Moreover, *National Geographic* took no such precaution with the English-language editions. Such is the uncertainty and confusion created by the tribunal's rulings.

A series of questionable decisions over the years has exposed the tribunal's inability to deliver consistent and predictable judgments. Examples include an interim ruling that explicit photos of pop stars engaged in private sex acts, published in two magazines, were neither indecent nor obscene. This was overturned on appeal and the photos judged indecent. Another was the classification of harmless articles on sex published by a Chinese University student newspaper and reprinted by the newspaper *Ming Pao* as indecent. In this case the Court of First Instance overruled the tribunal.

Such surprising interpretations do nothing for the city's image. The judiciary says the tribunal's role in classifying articles under the obscenity laws is inappropriate for a judicial body also responsible for dealing with referrals by a court. Officials proposed a two-tier system with a separate classification board. But the consultation revealed public support for the existing system, subject to membership being more representative of the community and the adoption of procedures to enhance transparency and consistency.

That is a minimum requirement given the wide-ranging scope of the review, which includes regulation of articles on the internet. The second stage of the consultation must aim at a system that is not only representative of community values but also fair and capable of delivering consistent, predictable and well-reasoned judgments. Under the present arrangements, the way forward is to have a much higher number of adjudicators in classification hearings, instead of a magistrate plus just two for interim classifications and four for full hearings. Such small numbers expose tribunal decisions to individual biases. The judiciary's initiative in increasing the pool of adjudicators from 270 to 500, with 100 to be added in the next few months, is a modest step in the right direction to "address some immediate operational issues". More importantly, it is a reminder that meaningful reform is needed to safeguard Hong Kong's reputation as a free society.



Jonathan Thomson with some of the exhibition yesterday. "I found it very surprising that people would think the exhibition is too rude." Photo: Dickson Lee

Watchdog decides that with only one complaint, nude show goes on

Olga Wong

The Television and Entertainment Licensing Authority will not take further action against an exhibition featuring paintings of nude females by an art consultant to Louis Vuitton Asia-Pacific.

"We don't need further information now. We will monitor the case and will not take further action at this stage," a spokeswoman for the authority said.

Tela decided not to inspect the exhibition and did not refer the case to the Obscene Articles Tribunal for classification because only one public complaint had been received about the exhibition, she said.

The police did not reveal who made the complaint.

which has been on display at Korlos Gallery in Prince's Terrace, Mid-Levels, since Friday, ends next month.

The 67 works, which include 10 large oil paintings and one resin artwork of nude females, are by Jonathan Thomson, a consultant to the French fashion house and curator of its galleries in Hong Kong and Taipei. Four police officers visited the exhibition last Friday saying they had received a public complaint about the paintings. The complainant said the works were obscene and the police referred the case to Tela, which enforces the Control of Obscene and Indecent Articles Ordinance.

The police did not reveal who made the complaint.

I was told [by Tela] that I don't need to do anything. The exhibition will continue

Jonathan Thomson, the artist behind the White Girls exhibition



The gallery, on the opening day of the first solo exhibition of the former deputy secretary general of the Arts Development Council. Photo: Dickson Lee

Police raid art exhibition after complaint nudes were too rude

Willemine Chow and Joyce Ng

Police were early visitors to an art exhibition opening yesterday, after receiving a complaint that works by an art consultant to Louis Vuitton Asia-Pacific were obscene.

Four policemen turned up in the afternoon at Korlos Gallery on Prince's Terrace, Mid-Levels, to investigate paintings of nude females by Jonathan Thomson, who, as well as being a consultant to the French fashion house, is a curator for the brand's galleries (of which Korlos is not one) in Hong Kong and Taipei.

Thomson said that the exhibition, titled "White Girls", and featuring 67 works including 10 large oil paintings and one neon picture of nude females, was to celebrate the beauty of women and that there was nothing indecent or obscene in that.

"As an art historian, I'm actually aware that the nude is not just one subject, but the essential subject of art since humans were painting on the cave wall," said Thomson, who previously served as the deputy secretary general of the Arts Development Council.

"I'm surprised that people complained ... It was strange." The police did not reveal who made the complaint.

Thomson said that every image was done in white against a white background, and the image was flat, without any shading. "They are, quite clearly, art," he said.

The police said they had referred the case to the Tela, which enforces the Control of Obscene and Indecent Articles Ordinance. A spokesman for the Television and Entertainment Licensing Authority said it would provide more information after contacting police.

Obscene Articles Tribunal adjudicator Mervyn Cheung Man-ping said it was arguable whether the case breached the ordinance.

"According to the ordinance, art productions displayed in a gallery or museum can be exempted from the law, provided that the paintings are visible only from within the premises," he said. "If the works are clearly visible to passers-by and not just an audience of art lovers, you may argue the works should not be exempted from the law."

The nude [has been] the essential subject of art since [humans were painting] on the cave wall

Jonathan Thomson, whose exhibition was raided and who is an art historian



He said that the phrase "visible only from within" in the law was clearly a safeguard to prevent people from randomly displaying things that they claimed to be art but were in fact obscene or indecent.

about 10 years ago, some paintings that showed human private parts and were displayed on a concourse of a commercial tower in Central were classified as Class II indecent, the middle of three categories.

James To Kin-sun, a lawmaker and solicitor familiar with the ordinance, said the legislative intent behind the clause that Cheung cited was to "make sure art works would not be displayed at an obvious location, such as the shopfront, so that children can't see them easily".

"If you have to peep into the shop, it doesn't count." Yesterday, no art works were at the front of the gallery, though works on walls and pillars were visible to passers-by through the shop window.

"The spirit of that law was to ensure a proper display." To said. "It is too much to say that it is a case of indecent articles in a gallery."

Thomson said that the police told him the tribunal would visit the gallery on Monday and make a decision. "In the meantime, the show will go on," the artist said.

The exhibition runs until June 30.

Culture & Living

From Nudity to Art Jonathan Thomson 個人展覽. Includes images of the exhibition and a large block of Chinese text.

... expose city to ridicule for a nervousness about nudes

A police visit has turned a sedate art exhibition into the talk of the town. Jonathan Thomson - whose artworks featuring nude females have attracted the force's interest because of a single complaint - has suddenly received more publicity than the best-run advertising campaign could generate. The art historian - who is also an artistic consultant to French fashion powerhouse Louis Vuitton - appears more amused than worried. He is right; it's the authorities who should be worried about the way in which they go about enforcing the city's obscenity laws.

Like similar incidents over many years, the police raid has again threatened to make Hong Kong an international laughing stock. The officers have referred the case to the Television and Entertainment Licensing Authority, and the Obscene Articles Tribunal will visit the gallery to determine whether the artworks are indecent, obscene or not at all.

The 67 works by Thomson - a former deputy secretary general of the Arts Development Council - may be artistic or erotic. Some might even think them pornographic. But it's a debate best left to art lovers and critics. Police officers do not have the expertise to make such determinations. Since the works are all displayed inside a Mid-Levels art gallery, there is little chance children would wander in to see the provocative nudes. It is puzzling why police should waste manpower to make the visit on the strength of a single complaint. Surely the police have more serious matters to attend to.

From the start, the complainant should have been referred to the Tela and the tribunal, which could then act to make a judgment. The tribunal may decide some or all of the works are indecent and that the public needs better protection, such as requiring the gallery to block window viewing or restrict admissions to adults. Alternatively, it may decide the complaint is invalid and quietly drop the matter. The public interest would then have been served.

Either way, police officers have no business visiting the art gallery. In doing so, they have created a wholly unnecessary - and embarrassing - controversy.