

The politics of dancing in Japan

Dancing is illegal in Japan. That does not mean it doesn't happen, and indeed nightclubs regularly stay open into the early hours. However, since 2010 police have begun reanimating Japan's old *fueiho* cabaret law, dubiously used to crackdown on nightclubs. This has been a disaster for Japan's vibrant underground music scene, an affront to freedom of expression, and evidence of a growing authoritarianism by elites who rely on vague legal and institutional practices. With a push back from Japan's civil society in the form of the Let's Dance Campaign, and a simultaneous alignment between domestic and international elites worried about the upcoming 2020 Tokyo Olympics, things may be beginning to change. This article explores the structures of power underlying this issue and speculates on the degree to which recent developments may be cause for alarm or cheer.

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FUEIHO (pron: 'fu:' 'ei' 'hoo') is an acronym of the 1948 *Fūzoku Eigō Torishimari Hō* [Businesses Affecting Public Morals Regulation Law]. The key word in that title is *fūzoku*, which in the context of the law refers to entertainment, but is specifically referring to the sex industry.¹ The law itself has been amended four times, with the last change coming in 2005, demonstrating a continued interest by lawmakers in refining the legislation (or rather campaigning on it), but has been largely dormant in the hands of the police. This changed in December 2010 when police used the law to justify raids on nightclubs in Osaka's *amerika-mura* district, or *ame-mura* for short (America Village), a popular expat locale and the central location for much of the city's nightlife. Two clubs were raided and the owners arrested for allowing people to dance. Later, all twenty of the area's clubs were raided and the owners arrested. This soon spread to Tokyo and some of the capital city's major clubs found themselves raided on multiple occasions, making normal business operations impossible. In the short period between 2010-2013, many either shut down or dramatically altered their operations, damaging and in some cases ending an underground music scene that attracts DJs and musicians from around the world, and which has made Tokyo and Osaka major capitals within the international music circuit.

The fueiho law

The Meiji period (1868-1912) was a time of incredibly rapid change for Japan and its people. The country was in the midst of its catch-up phase, after having been forcibly pulled out of its *sakoku* period whereby contact with the outside world was restricted to a few key trading posts. As foreign contacts developed, Japanese elites realized how far behind Western nations they were and they embarked on a radical program of social, economic, technological and political change. Among these developments was the dancehall, the first of which, *Rokumeikan*, was completed in November 1883. The purpose was political; creating a common space for the exchange of ideas and agendas, in addition to convincing foreign representatives of Japan's comparatively equal status. The dancehall was thus born as a political instrument, yet it quickly became popularized, emerging as a place of 'questionable moral virtue' where strangers could meet, hold hands, and even dance closely (public demonstrations of affection were a taboo at this time). Police felt that dancehalls initiated public assembly, and as a result they were sites where political unrest could potentially erupt. For parents, dancehalls threatened the organizational system for marriage – *miai*, or arranged marriage – as the venues gave their children opportunities to find their own partners. When a member of the nobility's son eloped with a town girl whom he had met at a dancehall, intra-elite pressure was exerted to close down the venues.²

During the Edo period (1603-1868), attitudes towards 'nightlife' or *mizu shobai* (water trade), had been significantly more mature, with authorities attempting to curb and control its excesses, rather than ban or moralize about it. The shift in attitude towards the dancehall/cabaret/nightclub as a public morality issue can be historically linked to the more puritanical Christian norms that Japan started to import during 19th century Meiji period. Eventually, dancehalls became, in the elite's mind, sites of a dangerous phenomenon: liberalism.

The Meiji period's conservative internationalism gave way to a fragile democracy during the brief Taisho period (1912-1926), that then fell to a fascist imperialism during the militarized Showa period (1926-1989). The impact on the dancehalls was greater restriction through the use of regulation, licensing, zoning or simple outright bans. Japan was not alone in this. In the US, prohibition was enacted between 1920 and 1933, feeding the early seeds of organized crime in America.

After Japan's WWII defeat, the dancehall morphed into the cabaret club, and started serving a new and hungry clientele: the American GI.³ Cabaret clubs and the side attractions they generated came to be regarded as a public health threat and a challenge to elite desires to redevelop and reform the country within a certain normative framework. Occupation authorities in Japan, partly driven by a Christian reformist ethos, attempted to introduce not only 'superior' Western democratic institutions, but also specific social values. This was the context for the creation of the *fueiho* law. The law mandates that nightclubs that wish to allow dancing must apply for a license, and clubs with a floor space less than 66m² will not be issued one. Those with a license are required to stop all dancing at midnight (after the law was amended in 1984). This has led to some comical, and many not so comical situations.

Nightclubs and Japan

"Every weekend, we DJs are breaking the law." DJ Emma.⁴

Rising to prominence in the 1970s at venues such as Studio 54 (Manhattan, US) and The Warehouse (Chicago, US), and at The Hacienda (Manchester, UK) in the 1980s/90s, clubs and 'clubbing' are now an important channel of cultural and economic globalization. They are also large sources of revenue and cultural trendsetters. Japan was socially, and especially economically, well prepared to join this global trend. In the 1980s and 1990s, Japanese corporate entertainment budgets were proportionately higher than national spending on defense, with on average an enormous 20% of a company's budget being allocated to 'entertainment'. Leisure time was increasing, especially among the young, and attempts were made to enjoy this new and booming global clubbing culture. The cabaret club transformed again, into the nightclub. Clubs began to open in greater numbers and greater sizes, with mega clubs such as Gold, Yellow and Mission emerging, and catering not only to larger audiences, but also audiences wanting to engage with this 'cool' non-mainstream culture. By the 1990s Japanese DJs began to stray outside their national clubs and into the various international music scenes, with some at the time becoming that new musical character: the 'superstar DJ'.

The scene continued to develop in a legal grey zone, with police rarely interested in clubs unless something very serious occurred. By the end of the 1990s and into the new millennium, previous tensions in Europe between the developing underground 'rave' culture and the police had largely disappeared, as the music and the scene became normalized. Japanese club owners attempted to follow a similar path, legitimating and better monetizing the movement. By the turn of the century, super clubs such as Womb, AgeHa, and Air had opened their doors.

However, there were, and still are, domestic structural constraints on this developing culture, which are unique to Japan: the country's shrinking and aging population; a public

Above: Clubbing in Tokyo. Image reproduced under a Creative Commons license, courtesy of Ginji Fukasawa on Flickr.com.

perception even among Japanese youth that nightclubs are *abunai* (dangerous) or *kowai* (scary), not aided by media perceptions of nightclubs as dens of crime and embarrassing behavior; and busy cradle to grave study/work lives, all present constraints on the scene that differ from other countries. These are in addition to fluctuating pressure exerted by police over the decades. As a result, the thriving nightlife and underground music scene began to change in December 2010, when police began raiding nightclubs in the southern cities of Osaka and Fukuoka, legitimated by the *fueiho* law. Soon spreading north to Tokyo, the raids became more widespread, with key nightlife institutions being harassed to the point of closing their doors, creating a trickledown effect of fear upon the smaller clubs.

Nightclubs are more than just party venues. From post-Cold War divided Berlin to minority/gay freedom movements in New York, nightclubs represent key sites of social and political counter culture. They are also a sociological 'canary in the coalmine', as the attitudes taken by elites in power towards the 'other' of the nightclub dweller, reflectively demonstrates the space and limits of mainstream society at large. Furthermore, Japan's political elite generates rafts of laws that lay dormant on statute books and unused by periphery state authorities. This has been the case with the *fueiho* law, whereby nightclubs have been tacitly condoned for decades. It becomes incumbent therefore to ask "why now?" It is posited here that there are three levels of explanations: the non-state (the yakuza), the state (the politics-big business nexus), and the international.

Non-state actors: the Yakuza

They exist in plain sight, are connected with Japanese banks, property and construction (the Japanese state's perceived golden goose of economic growth), and even the national sport sumo. They have headquarters (openly displayed with signs), business cards and even their own magazine.⁵ Largely a southern phenomenon, centered around the Osaka-Kobe-Fukuoka triangle, there are many gangs of varying sizes, with three large syndicates representing most members – *Yamaguchi-gumi*, *Sumiyoshi-kai*, and *Inagawa-kai*. Traditionally the Japanese police have tolerated the yakuza as agents of street level stabilization, removing day-to-day petty crime functions from the police workload. In addition, the yakuza could be considered to be a form of social welfare and training for young misfits, school dropouts, and other potential social miscreants. In exchange, yakuza groups supposedly refrain from trading in firearms or drugs, and prevent internal feuds from spilling over into the public domain.

This balance seems to have been upset around 2009 when, as noted yakuza investigator Jake Adelstein points out, a perfect storm of events came together to break this implicit compact.⁶ The crackdown on nightclubs could be explained by police attempts to put pressure on yakuza revenue streams. Revenue may come from protection rackets, or narcotics, although Japan's narcotics consumption is extremely low by international standards and so is not considered a significant enough explanation for the targeting of nightclubs. There is also the issue of an intra-group breakdown of structure, as differing yakuza factions began internecine fighting. Existing outside traditional hierarchies, a splinter group of Tokyo's

Sumiyoshi-kai, called the *Kanto Rengo-kai*, are less than discrete about celebrity activities in nightclubs they protect, which has resulted in lurid newspaper front pages, thereby breaching the implicit compact: do not embarrass the police or their authority.⁷ Two cases that severely hardened the police's resolve were an assault on *Yamaguchi-gumi* members in a cabaret club in Roppongi in 2011, and the beating to death of the owner of Club Flower, again in Roppongi, in 2012. The crackdown on nightclubs thus becomes both a means of controlling this violent splinter group, in addition to allowing the police to reassert their position. However, perversely, it may be the *fueiho* law itself that is mitigating this problem. A veteran DJ from the Tokyo clubbing scene informed this author that it is standard practice for clubs to rely on the *Kanto Rengo-kai* due to the fact that after midnight, because of the *fueiho* regulations, it is not possible to call the police if there are problems.

The State: politicians, police and big business

Following a seemingly global trend, Japan is currently experiencing a shift to the political right. From 1999 until 2012 Ishihara Shintaro, a conservative nationalist, governed Tokyo. In Osaka, between 2008 and 2012 Hashimoto Toru, himself the son of a yakuza member, was elected by adopting Ishihara's populist conservatism. Eventually in 2012, both split with their already conservative parties to form the even more conservative 'Japan Restoration Party'. Both leaders have made a great deal out of 'cleaning up' their cities. Located in central Tokyo, Roppongi is a town of two halves. Its older half, 'Roppongi Crossing', was developed in proximity to a US army base during the US occupation of Japan, and is characterized by bars, nightclubs (including their associated industries) and a high presence of foreigners; the other half, and more recently developed half, centers on 'Roppongi Hills', a large upmarket shopping and business mall where high fashion, expensive restaurants and large corporations reside. While in office, Ishihara made no secret of his distaste for Roppongi Crossing, appearing in election campaigns with a broomstick to symbolize the cleanup of the area. Roman Cybriwsky argues that Tokyo authorities increasingly want to clear away the older infrastructure and unwelcome foreign influences, and reclaim prime central Tokyo real estate for the benefit of large construction companies like Mori Building Company, which built the Roppongi Hills complex.⁸ Japan's *doken kokka* (construction state) must survive.

The police also have a political agenda. Modern police forces are increasingly target-based. However, in Japan there is a lack of any clearly defined laws concerning yakuza (it is not actually illegal to be a member). Therefore, to meet targets it is easier to aim at easy targets (the nightclub) rather than difficult targets (a *yakuza* gang) to push up the points. The *fueiho* law is ideal, because it is so vague as to allow the police to enter the premises on the slightest of pretexts, pick up anyone of suspicion, make drug busts without the need for probable cause, and exert a generalized influence over society.⁹ The Japanese police will sometimes claim that the reason for a raid is a noise complaint from local residents, and indeed, this has been the pretext for the original crack down on *amerika mura* in Osaka. A range of recent local ordinances is further facilitating this approach.¹⁰ However, clearly noise pollution cannot always be the real reason, as many nightclubs are either in soundproof basements, are far away from residential areas, or are in the middle of commercial districts that pump out more ambient street level noise than the nightclub could even with its doors open.

Personalities and ambition matter too. When then National Police Agency (NPA) chief, Ando Takaharu, spoke about the yakuza in 2009, he stated "we want them to disappear from public society". The context was that he was positioning himself as clear leader of the nation's differentiated police forces at the time. Echoes of this existed fifteen years previously in the last major nightclub crackdown, when Mutsumoto Yoshitaka was installed at Azabu Juban (a Tokyo district with many nightclubs) police station in the mid-1990s. Incentivized by a points based system for promotion, he took a hard line towards nightclubs and hostess bars, harassing many to the point of closure and fining/arresting their owners.¹¹

The international: the US and the Olympics

International factors also play a role, especially with regards to Japan's ideational and politically important relationship with the US. In the post-9/11 landscape and concomitant US 'war on terror', the Obama administration began specifically targeting Japan's yakuza in 2011.¹² Concerned with the shifting signals from the US and always wanting to maintain the strength of the *nichi-bei* partnership (Japan-America), it appears as though the crackdown on nightclubs comes at an opportune moment that falls in line with changing international security expectations. The US also plays an ideational modelling role, especially to conservative Japanese lawmakers. New York enacted draconian cabaret laws in 1926, which forbade any more

than three people from dancing together, a discriminatory attempt to prevent multi-racial mixing in Harlem and other downtown areas. As in Japan, these laws have been anachronistically kept on the statute book but rarely enforced. That is until Mayor Rudy Giuliani was elected in 1994, remaining in office until 2001. Mayor Giuliani embarked on what he called 'quality of life' initiatives, which involved tightening up police responses to what were perceived to be prevalent vices: the cocaine and heroin trades. Conservative Tokyo Mayor Ishihara's 'broom holding' seems resonantly similar to Mayor Giuliani's rhetoric in New York.

In addition to pressure from the US security regime and US national ideational shifts, is the pressure from the decision to campaign for and win the international chest-beating ego competition that is the Olympic Games. The world's gaze on Japan is making the country's elite very conscious of not appearing 'weird'; not allowing people to dance would certainly qualify as being odd. As lead lawyer from the *Let's Dance* campaign, Saito Takahiro, says: "I think politicians and authorities are feeling pressure as they don't want Japan to be seen as a boring place by foreign tourists."¹³ Better to create a Potemkin village for as long as the world is focusing on Japan.

Recent developments: a liberal turn?

There has been resistance from Japanese civil society in the form of the *Let's Dance* campaign, a collection of Japan's biggest musicians, music journalists and DJs. In May 2013 a petition with 150,000 signatures was submitted to the Japanese government requesting that dancing and nightclubs be removed from the *fueiho* legislation. Success may have resulted, as on 13 May 2014 the government announced the intention to potentially loosen the *fueiho* law to exclude nightclubs. Attempts to reframe the law in June 2014 failed; however, there seems to have been a strong impetus to examine the issue (preparations for the Tokyo 2020 Olympics picking up speed), and on 24 August 2014, Abe Shinzo's socially conservative/economically neo-liberal government revised the *fueiho* law. Instead of the law being applied to dancing, it will now regulate venue light levels and opening hours. Maximum lighting levels of ten lux are permitted (about enough brightness to read a newspaper 30cm away), and a special license is required, indicating a 'special entertainment and food-serving business'.¹⁴

An offshoot of the *Let's Dance* campaign, the *Dance Lawyers*, is attempting to challenge each case in the courts. On 25 April 2014, Kanemitsu Masatoshi (owner of Osaka's Club Noon) won a landmark trial after being charged with breaking the *fueiho* law and 'corrupting sexual morals'. However, the summation of the presiding Judge Masato Saito is revealing of elite attitudes. Saito found Kanemitsu 'not guilty' in his individual case, but judged the basic *fueiho* law as still valuable, rejecting the defense's claim that the law infringes the Japanese constitution's guarantee of free of expression: "[There is] reasonable doubt that the club allowed customers to dance in an obscene manner that can disturb sexual morals. The regulation has an important aim of promoting the healthy fostering of young people." (Judge Masato Saito).¹⁵

Conclusion

Some may applaud democracy in action in this case, as both political and juridical forms of peaceful protest and legal argument have impacted a change in practice by the state. The *Let's Dance* campaign and the *Dance Lawyers* have certainly scored some significant victories. However, the rules are still vague. For example, lighting levels can be arbitrarily measured; the police are able to subjectively decide when and where to measure the lights, and hence when a venue is in breach of the rules. In addition, it is more than likely a combination of preparations for the 2020 Tokyo Olympics and the desire to further integrate into the US security apparatus that is driving change, especially with regards to the yakuza. In Japanese this is called *gaiatsu* or 'foreign pressure', and the Japanese state is rarely prompted to bring about significant change without it. Domestic protest has thus come at an opportune time; leaders and lawmakers are conscious of their, and the country's, status. However, once the international gaze has shifted to its next sparkling target, there is no telling when it will once again be 'business as usual'.

Vague laws give power to authorities, as they imbue the actor in charge with both investigatory and judicial powers, being able to exercise at will the prosecution of the law. What is needed is a clear, black and white law, which draws a line that lawmakers, police, and civil society, can see. This would place controls on state authorities by giving non-state actors an awareness of their rights. Japan still has a little way to go.

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References

- 1 The law (in Japanese, and yet to be updated) can be found here: www.tinyurl.com/fueiho
- 2 Sugunuma, M. 3 November 2012. 'Dancing Ban in Japanese Nightclubs, Netizen Reactions', *Japan Crush*, www.tinyurl.com/japancrush (accessed 24 November 2014)
- 3 John Dower details how various cultures arose from this – a sexualized literature (*kasutori* literature), prostitutes or 'women of the night' (*panpan* girls) and a general need for escapism encapsulated in the 'three-S' policy of sex, sports and screen, washed down with copious amounts of black market *shochu* or methylated spirits called *bakudan* (bomb). Dower, J. 1999. *Embracing Defeat: Japan in the Wake of World War II*, New York: W.W. Norton Company/The New Press.
- 4 Quoted in Godfrey, A. 29 May 2013. 'Dancing all night is a crime in Japan', *News.com.au*, www.tinyurl.com/dancing-allnight (accessed 24 November 2014)
- 5 Adelstein, J. 3 August 2013. 'Is new yakuza journal good news for Japan?', www.tinyurl.com/adelstein (accessed 24 November 2014)
- 6 A 2008 National Police Agency 'Special Report on the Yakuza' states that due to their inroads into the financial sector the yakuza represent a threat to the economy itself; fifty *Kodo-kai* (a wealthy sub-branch of the *Yamaguchi-gumi* clan) members parade themselves on stage at a Nagoya sumo stadium while live on NHK, in the summer of 2009; the *Yamaguchi-gumi* syndicate begins to record the names and details of police officers and their family members; finally resulting in National Police Agency chief Ando Takaharu's call to all police forces in Japan to devote their energies to tackling the *Kodo-kai* and other yakuza groups. Adelstein, J. 2011. 'The Yakuza: No Longer Welcome in Japan (2)', *Culturemag.de*, www.tinyurl.com/adelstein2 (accessed 24 November 2014)
- 7 Several high profile cases of celebrities in drugs and assault related cases in nightclubs around Nishi-Azabu and Daikan-yama in Tokyo, involving *Kanto Rengo-kai* members – long time number one sumo wrestler Asashoryu Akinori in February 2010 (sumo a sport riddled with yakuza and gambling connections) and 11th generation kabuki actor Ebizo Ichikawa in December 2010 – have drawn increased public attention to the 'club as danger' perception.
- 8 Cybriwsky, R. A. 2011. *Roppongi Crossing: The Demise of a Tokyo Nightclub District and the Re-Shaping of a Global City*, Athens, Georgia: University of Georgia Press.
- 9 Stefan Saxanoff, an expat club owner in Tokyo, claims that a policy evaluation tool launched in 2001 called 'Law to Evaluate the Administration of Policies' [*Gyosei kikan ga okonau seisaku no hyoka ni kansuru hōritsu*] is the problem. It requires bodies to report centrally on regulations they are responsible for, to assess whether they are still relevant and workable. In the case of *fueiho*, rather than admit that the regulation is old and irrelevant, it incentivizes the police to use the law more, in order to show that it is still worth having on the statute book. Quoted in Hadfield, J. 12 October 2012. 'Japan: no dancing please. Police are raiding clubs nationwide for the "crime" of dancing. What's going on?', *Timeout*, www.tinyurl.com/timeoutjapan (accessed 24 November 2014)
- 10 This is perhaps due to the currently fashionable *machi zukuri* (community building) philosophy, jurisprudentially enacted through the 'City Planning Act' (2000) and the 'Local Autonomy Act' (2003), combined with an increase in 'Local Ordinances for Safe Community Building' (crime prevention coalitions of citizens that began in Osaka in response to increased criminal activity). These are leading to an increasing degree of local activism against perceived local troublemakers. Residents are now more active in their neighborhoods and complaints to police are taken very seriously. Nightclubs also take this seriously, and position staff outside and along the street upon closing to shush people as they leave.
- 11 Grunebaum, D. 2000. 'Stop The Music!', *Metropolis: Tokyo Classified* issue 300, www.tinyurl.com/grunebaum (accessed 24 November 2014)
- 12 In 2011 US President Obama signed Executive order 13581 giving the US Department of Treasury the ability to impose sanctions on transnational criminal organizations (TCOs), allowing the freezing of their assets in the US. Japan's isolation strategy of the yakuza was effectively internalized. See: White House. 25 July 2011. *Executive Order 13581-Blocking Property of Transnational Criminal Organizations*, www.tinyurl.com/blockprop (accessed 24 November 2014)
- 13 Quoted in Knight, S. 23 June 2014. 'License to boogie: Japan moves to ease dancing ban', *Reuters*, www.tinyurl.com/reutersboogie (accessed 24 November 2014)
- 14 Yagi, T. 25 October 2014. 'Want to dance? Cabinet approves revised law easing regulations on dance clubs', *Asahi Shimbun*, www.tinyurl.com/revisedlaw (accessed 24 November 2014)
- 15 Abe, S. 25 April 2014. 'Court clears Osaka nightclub owner of violating anti-dancing law', *Asahi Shimbun*, www.tinyurl.com/antidancing (accessed 24 November 2014)