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**THESIS**

**THE EFFECTS OF PACIFIST NORMS ON THE  
JAPANESE JUSTICE SYSTEM**

by

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**THE EFFECTS OF PACIFIST NORMS ON THE JAPANESE JUSTICE SYSTEM**

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## **ABSTRACT**

The reliance on pacifist norms in Japan may have left irreparable effects on the country's ability to police organized crime. Japan's pacifist culture is due in no small part to its tumultuous history, but to fully understand the impact these and other norms have on domestic police and legal institutions we need study the evolution of this society's criminal element over the last several decades and measure the effectiveness of the justice system in Japan.

The major areas of research for this project will cover what and how institutionalized norms of pacifism have been used in Japan, comparing and contrasting the Pre-World War II and Post-World War II periods. This study will also analyze the shift in these norms and Japanese society over the last few decades and determine if the social norms relied upon in the past can still be utilized by today's law enforcement agencies to maintain the country's relatively low crime rate, address newer conflicts of domestic and international terrorism and manage the growth of organized crime within the state.

From the statistics and information available on these past several decades I will evaluate how effective the Japanese justice system has been in responding to these new crime trends and whether or not the reliance on pacifist norms have debilitated the county's ability to maintain law and order.

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## **I. INTRODUCTION**

The reliance on pacifist norms in Japan may have left irreparable effects on the country's ability to police organized crime. Japan's pacifist culture is due in no small part to its tumultuous history; but to fully understand the impact these and other norms have on domestic police and legal institutions we need study the evolution of this society's criminal element over the last several decades and measure the effectiveness of the justice system in Japan. The major areas of research for this project will cover what and how institutionalized norms of pacifism have been used in Japan, comparing and contrasting the Pre-World War II and Post-World War II periods. This study will also analyze the shift in these norms and Japanese society over the last few decades. It will determine if the social norms relied upon in the past can still be utilized by today's law enforcement agencies to maintain the country's relatively low crime rate, address newer conflicts of domestic and international terrorism and manage the growth of organized crime within the state.

### **A. IMPORTANCE**

A country's people are shaped by its norms as much as the state is shaped by its citizen's normative behaviors. The Japanese people identify with the peaceful collective identity that they have cultivated over the decades. Social norms translate into legal norms in Japan's justice system. As the collective identity becomes established, the institution defines the standards of appropriate behavior, and the individuals in the system are expected to conform and maintain the accepted actions creating social pressure to dissuade undesired displays. As Katzenstein states, "Once institutionalized, norms do not simply express individually held preferences, values or ideas...They are part of an objective reality that often, though not always, commands some formal sanctioning

mechanisms.”<sup>1</sup> For the Japanese, law is not only a means to control behavior, it is a method to teach the masses what is “right”, or the correct way to behave and what is “wrong”, or incorrect. Still today, Japan’s police will release suspects’ names to the media to be publicized prior to arrest; not only for capitol offenses but also for such minor infractions as falsifying ones name or references on a lease. Social pressure is also a factor when judges sentence perpetrators. They must take into account the weight of social sanctions already experienced, and will often reduce the punishment given.<sup>2</sup>

In the case of Japan, we have a stark contrast between how the state conducted policing and legal functions pre and post-World War II. The forced disarmament of the country and restructuring of the government, led to the state’s adaption of internal security to a “kinder, gentler” method of law enforcement in order to gain acceptance by the people. At the same time however, as the country began to industrialize after the war, we began to see the same urbanization patterns as with other nations, including increasing crime rates and the growth of organized crime.<sup>3</sup> Thus, the country’s ability to rely on social pressures alone has become tenuous, leading to the question of whether or not Japan is prepared to deal with the nature of modern day crime. After the economic “bubble burst” of the 1990s, Japanese societal attitudes began to shift and coupled with the effects of globalization, organized crime began to expand, becoming more predominant with its activities; contributing to drug trafficking, bank loan fraud and its involvement in the human sex slave industry. From the statistics and information available on these past several decades

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<sup>1</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 21.

<sup>2</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 26.

<sup>3</sup> A.J. Finch, “The Japanese Police’s Claim to Efficiency: A Critical View,” *Modern Asian Studies*, Vol. 33 No. 2 (May 1999), 503.

I will evaluate how effective the Japanese justice system has been in responding to these new crime trends and whether or not the reliance on pacifist norms have debilitated the country's ability to maintain law and order.

## **B. PROBLEM AND HYPOTHESES**

Japan's system of utilizing social norms to maintain order in its society though effective in the periods prior to the economic down-turn of the 1990s, has led to the country being ill equipped to deal with the realities of today's crime climate. Japan's pacifist approach to crime control enabled the growth of organized crime in the country as well as corruption within the police system. Due to globalization, terrorism and international crime has become a prominent issue for many countries, with other states adapting to meet these new threats. Japan, however, continues to resist making dramatic changes to its legal system to prevent and control the spread of crime.

To fully understand how Japan's National Police Agency (NPA) has evolved and adapted its practices, this study will break down its history into two sections, Pre- and Post-World War II. Japan's surrender and government restructuring by American military forces had a great influence on the country's justice system in terms of the country's conversion from "police state" to its peaceable enforcement system that continues into today. This study will analyze the shift in society, the rise of crime rates and the dissolution of the *Yakuza's* controlled behavior, over the last few decades. It will also determine if the social norms relied upon in the past can still be utilized by today's law enforcement to maintain the country's relatively low crime rate and address newer conflicts of domestic and international terrorism, rampant human trafficking and the growth of organized crime within the state.

The crippling defeat in World War II and the resulting occupation challenged Japanese belief in the patriarchal organization established through

the “police state” of the Meiji government and The Peace Preservation Laws.<sup>4</sup> Cultural homogeneity was replaced by heterogeneity from imported American social practices and beliefs.<sup>5</sup> Following the theory of social disorganization, “deviance and social pathology arise when institutionalized patterns of social behavior and informal social control are disrupted.”<sup>6</sup> This would translate into the rise of crime due to rapid social change, especially related to the organization of families and communities.

The growth of the “new” police and the rise of organized crime in Japan have paralleled each other since the end of World War II. The government had put heavy obligations on the poorly equipped, inexperienced police forces, leading them to rely on local gangs to maintain order where it could not.<sup>7</sup> The relationship between the police and the *boryokudan*, specifically the *Yakuza*, has been symbiotic, due to the broadly defined regulations the government has applied to them, depending on the gangs to regulate areas of crime like the “entertainment districts” rather than the police getting involved.

With its namesake based in the worst possible hand one can derive in a traditional card game (*ya-8, ku-9, sa-3*), the organized crime syndicate’s origins can be found in such illicit elements of society as gamblers (*bakuto*) and nomadic peddlers (*tekiya*) banding together with the traditional bandits of the time. The bands evolved to accomplish more complex tasks, from booking to labor broking. Eventually, the Meiji government realized that these gangs could be enlisted to serve as a powerful form of deterrence to labor and political protests.<sup>8</sup> The term,

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<sup>4</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 50.

<sup>5</sup> David B. Carpenter, “Urbanization and Social Change in Japan,” *The Sociological Quarterly*, Vol. 1 No. 3 (July 1960), 162.

<sup>6</sup> Aki Roberts and Gary Lafree, “Explaining Japan’s Postwar Violent Crime Trends,” *Criminology*, Vol. 42 No. 1 (2004), 181.

<sup>7</sup> Harry Emerson Wildes, “The Postwar Japanese Police,” *The Journal of Criminal Law, Criminology, and Police Science*, Vol. 43. No. 5 (January-February 1953), 663.

<sup>8</sup> Peter B. Hill, *The Japanese Mafia: Yakuza, Law, and the State* (New York: Oxford Press 2003): 35–45.

*boryokudan*, translates more literally as “organizations or gangs that habitually commit violent illegal actions,” and is used throughout this thesis to refer to organized crime syndicates in Japan as a whole, including the *Yakuza* the country’s largest criminal organization.<sup>9</sup>

A common practice by the government and police was to let organized crime police itself unless there was uncontrolled violence, and in return, the *Yakuza* are expected to cooperate with the authorities with other criminal investigations. Organized crime has become a more common fixture in society, and has even been glamorized over the decades, with criminal groups funding government parties to allow them the ability to remain in power, as well as intertwining themselves in legitimate businesses. Recently, with its noted foothold in corporate sectors with foreign investments, and its expansion through globalized human trafficking and drugs, the country has begun a “crack-down” on the *Yakuza*.<sup>10</sup> As the *Yakuza*’s accepted place in society changes, its methods and concepts of what is appropriate behavior have declined as a response to the effects of this social change.

Japan prefers to concentrate its police and legal efforts into maintaining a relative “status quo” in regards to crime and terrorism externally as well as internally. The country seems to only treat the symptoms of the problem instead of addressing the root problems of an ever-changing society. My core hypothesis is that as Japan has experienced a dissolving of traditional social relations, it will come to realize that its previous forms of dispute resolution based on pacifist norms and tactics has become increasingly ineffective.<sup>11</sup> My intention in this thesis is to assess how Japan’s social norms have evolved and affected the police and government’s pacifist response, fostering the growth of organized

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<sup>9</sup> Frank F.Y. Huang and Michael S. Vaughn, “A Descriptive Analysis of Japanese Organized Crime: The *Boryokudan* from 1945 to 1988,” *International Criminal Justice Review* Vol. 2 (1992): 20.

<sup>10</sup> Leo Lewis, “Yakuza Stalk Japanese Markets As Organized Crime Opens New Front,” *The Times*, August 28, 2008.

<sup>11</sup> Arthur Taylor von Mehren, “The Legal Order In Japan’s Changing Society: Some Observations,” *Harvard Law Review*, Vol. 76 No. 6 (April 1963), 1175.

crime and ultimately hindering the justice system's ability to function appropriately given modern day social trends which directly conflict with collective identity theory. Attempting to maintain an image of a "pacifist" society will ultimately lead to a further break down of the justice system and not allow the authorities to adapt appropriately to future domestic and international threats.

## II. NORMATIVE BEHAVIORS IN JAPAN

### A. JAPAN'S INSTITUTIONALIZED NORMS

Several contributing factors bolster Japan's forms of social control in regards to law enforcement. First, Japan has a deep-rooted relationship with Confucianism, a philosophical belief system strongly based on moral virtue and humanity.<sup>12</sup> Social harmony is a cornerstone of Confucian beliefs and is an underlying factor in Japan's *regulatory* and *constitutive* norms. Dr. Peter Katzenstein describes *regulatory* norms as defining "standards of behavior," that specifically shape the political aspects of an actor, such as the belief that Japan's security policy should be pursued only by peaceful means. *Constitutive* norms describe the interests that shape an actor's behavior. Regulatory and constitutive norms are closely linked to politics and how policy is formed in Japan. As an example, the pursuit of economic prosperity pushed by the state in the 1960s was embraced by the public, providing further support for the policies themselves. In turn, that ideal has now become incorporated into the collective identity of the people.<sup>13</sup>

To maintain a pacifist state, Japan invokes strong informal social control mechanisms unique to the country. Japanese society relies heavily on a premise dubbed by Travis Hirschi as *Social Control Theory*, which holds that the strength of social bonds to family, school and peers serves to deter individuals from committing crimes and deviant acts. Fear of being ostracized from the group or community (or the loss of prestige) regulates individual actions in a society that has put extreme emphasis and high value on group interaction. Appeasement and saving face are generally practiced, while bringing shame (*haji*) for committing deviant acts not only creates guilt for the individual, but causes the

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<sup>12</sup> Arthur Taylor von Mehren, "The Legal Order In Japan's Changing Society: Some Observations," *Harvard Law Review*, Vol. 76 No. 6 (April 1963), 1174.

<sup>13</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 18.

entire family or group with whom the person is attached to be shunned for the action. <sup>14</sup>In Japan, legal norms as a branch of social control matter much more than in other countries, with the bases that legal principles should “articulate what purports to be occurring in society,” rather than displaying what actually does.<sup>15</sup> Legal norms come into play when informal social controls breakdown and law as a doctrine of morality is no longer respected. The Japanese ideology of law however, is based more on reconciliation than punishment, preferring informal dispute resolution than formal adjudication and not only seeing the event as challenging the harmony of Japanese society, but any further disruption as a continuance. This minimizes the ability for individuals to make substantial complaints or claims in some cases.<sup>16</sup>

The law in Japan is used as a means to reinforce other methods of social control, but “requires consensus and a process for sanctioning that continually reinforce the existing social structure.”<sup>17</sup> In the court system, prosecutorial discretion is very deliberate. It is meant to convict even before the judge can serve a decision, which would be aimed more at correction than punishment. Japanese law also centers more on repentance in the form of confession and corrective behavior rather than detainment. This leaves Japan in a situation where the breakdown of traditional social norms has given way to the paradox of a legal system meant as a means to legitimate coercive control via public molding while becoming wholly ineffective as citizens no longer view themselves as part of a collective.<sup>18</sup>

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<sup>14</sup> Aki Roberts and Gary Lafree, “Explaining Japan’s Postwar Violent Crime Trends,” *Criminology*, Vol. 42 No. 1 (2004), 180.

<sup>15</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 43.

<sup>16</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 43.

<sup>17</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 43.

<sup>18</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 44.

For Japan, globalization and culture contact become major factors in the transition of its society from harmonized collective to a society that has become more individualized. In the decades prior to World War II, we see a country very tightly controlled internally, limited in their contact with countries outside of their nation and in which information distributed to the masses is scrutinized carefully by the government. As the country begins to open and transition based on a new imposed government approach towards citizens' rights, we see the evolution of a mass media and how globalized economy allows social freedom where there was none before. During the period post World War II and during the economic "bubble burst" in the early 1990s, we see a clear transition of society changing, and social normative behavior shifting its attention from controlling a collective, to attempting to deal with individuals in society, social misfits and criminals, becoming organized and challenging what is demonstrated to society as "accepted behavior."

Japan's system of utilizing social norms to maintain order in its society, though effective in the periods prior to the economic down-turn of the 1990s, has led to the country being ill equipped to deal with the realities of today's crime climate. The country's pacifist approach to crime control has led to the growth of organized crime in the country and the corruption of police and court systems. With globalization, terrorism and international crime has become a prominent issue for many countries, with other states adapting to meet these new threats. Japan however, continues to resist making dramatic changes to its legal system to prevent and control the spread of crime. Can a "non-violent" society maintain law and order in a world where organized crime has become increasingly brazen?

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### III. THE EVOLUTION OF NORMS IN JAPAN PRE WORLD WAR II

Japan began to see great change in government and society starting in the 1600s, the period that marked the rise of the government as a fully controlling power over all territories and not just limited to a central region. During this period of Japanese history, the Tokugawa regime began to rise, taking the place of the Emperor as the reigning authority, dissatisfied with the political deficiencies of the 250 years prior. The regime moved the country's capital to Edo, establishing a central national authoritarian government. Territorial governors and their families were relocated, with wives and children kept at the castle year-round, as if held hostage by the new regime to keep its personnel in check in order to remain in control of the regional lords. The Tokugawa also implemented the *metsuke*, a system of civil sensors and secret police to enforce the regime's standing and pushed the country towards a policy of national isolation from the rest of the world.<sup>19</sup>

The Tokugawa fervently pursued its idea of political stability "through highly organized regimentation and deliberate national isolation."<sup>20</sup> It also utilized the deliberate revival of Confucianism, applying the concept of class systems; a hierarchy of social standing by occupation as well as controlling who was allowed to have weapons. Economic development flourished and industrialization began to thrive with the new orderly governance. Outwardly, feudal lands converted into expanding cities, and the military was downsized to a Spartan-like force due to the formal rule of law that was standardized throughout the territories.

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<sup>19</sup> David B. Carpenter, "Urbanization and Social Change," *The Sociological Quarterly* Vol. 1 No. 3 (July 1960): 158.

<sup>20</sup> David B. Carpenter, "Urbanization and Social Change," *The Sociological Quarterly* Vol. 1 No. 3 (July 1960): 158.

Japan became a very controlled and in effect, peaceful society, embracing the start of urbanization with more citizens moving from rural villages to the growing central cities by the year 1800<sup>21</sup>.

## **A. THE MEIJI ERA**

Peace within the country came to an abrupt halt in 1853, when the United States' Commodore Perry sailed into Tokyo Bay to conduct coerced trade negotiations with the government. These negotiations forced the Japanese to agree to several treaties and trade agreements, making them reopen ports to foreign visitation and commerce. This action made the Tokugawa regime seem weak to the public since it appeared unable to protect the country from foreign invasion.<sup>22</sup> The discredited Tokugawa Shogun and staff relinquished power to the Emperor of Japan in 1867, making way for the Meiji restoration. The Meiji Empire was both "impressed and humiliated by the helplessness of the previous government in the face of foreign force."<sup>23</sup> The government took a stance of selective westernization, specifically in regards to the benefits of overwhelming military power in order to maintain its independence as a nation.

### **1. The Meiji Police State**

When the Meiji Constitution was created in 1880, it created a period of totalitarian rule in Japan, with the Emperor titled as supreme commander strengthening the country's military and creating a "warrior state." Over the next few decades, the power of the military and state police expanded drastically, utilizing coercion and violence as methods to increase control over the populace. Citizens' social lives were strictly monitored and the police force maintained observance over the entertainment districts, amusement businesses and even

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<sup>21</sup> David B. Carpenter, "Urbanization and Social Change," *The Sociological Quarterly* Vol. 1 No. 3 (July 1960): 159.

<sup>22</sup> David B. Carpenter, "Urbanization and Social Change," *The Sociological Quarterly* Vol. 1 No. 3 (July 1960): 161.

<sup>23</sup> David B. Carpenter, "Urbanization and Social Change," *The Sociological Quarterly* Vol. 1 No. 3 (July 1960): 161.

factories.<sup>24</sup> Police during this period were given judicial and quasi-judicial powers, foregoing due process in the conviction of any citizen perceived to be breaking the law or causing social disruption. “Between 1932 and 1937, 200,000 to 300,000 suspects were punished annually for minor offenses.”<sup>25</sup> The amount of police stationed in local areas grew; their primary purpose was to collect information on the residents in their assigned neighborhoods. The system consisted of 1,207 police stations, 4,847 police boxes and 14,324 residential police boxes established by 1930. The use of such tactics helped enforced social control over the populace.<sup>26</sup>

As Communism began to filter into Japan in the 1920s, the Meiji government became agitated and ordered the dismantling of leftist organizations. Systematic suppression began in the late 1920s and by the early 1930s the small Japanese Communist Party was virtually obliterated. The momentum already established by the state continued, and the government began expanding its suppression to extreme right-wing groups and even religious organizations.<sup>27</sup> The Peace Preservation Law, which gave the police far-reaching legal power, allowed the imprisonment and torture of numerous individuals so they could be reeducated and made into supporters of the Empire.

In this Imperial Order, the idea was that “the government should be seen as the parent, the people as the children and the policemen as the ‘nurses’ of the children.”<sup>28</sup> The military were the guardians of external security and the police of internal security as well as serving as ‘teachers’ to the population. Police were to

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<sup>24</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 50.

<sup>25</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 51.

<sup>26</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 51.

<sup>27</sup> Elise K. Tipton, *The Japanese Police State: the Tokko in Interwar Japan* (Honolulu: University of Hawaii Press, 1990), 17.

<sup>28</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 50.

ensure that nothing disturb the national polity; through the surveillance and reeducation of individuals, its work became the central role of the state itself.<sup>29</sup> The police were seen as violent agents of the state, with fear and oppression becoming a social norm within the country. Control over the population was maintained, but as brutality increased, the public began small uprisings. This “Reign of Terror” by the police state continued through the end of the Pacific War, and has even been considered a contributing factor to the “spiritual mobilization for war” that culminated in the Japanese expansion attempts.<sup>30</sup>

## **B. THE GROWTH OF CRIMINAL INDUSTRIES**

The pre-World War II era also saw the development of the beginning of organized crime in Japan. During the Tokugawa period leading into the Meiji restoration, unorganized methods of illicit activities began to evolve; some becoming authorized practices, like prostitution, while others such as banditry began to mold into hierarchical gangs. While the Japanese government put more emphasis on control over the general populace, we begin to see the start of the symbiotic relationship shared between the state and crime.

### **1. Legal Prostitution in Japan**

Prostitution was not a hidden occurrence in historic Japan; it was regarded as any other profession, even regulated by the state dating back to as early as the Sixteenth Century. Public and commercialized sex trade was a hallmark of the Tokugawa era, with government quarters given to prostitutes for servicing clients.<sup>31</sup> The Yoshiwara Quarter (“entertainment” district) was established away from city proper in order to regulate the activity, and the government provided

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<sup>29</sup> Elise K. Tipton, *The Japanese Police State: the Tokko in Interwar Japan* (Honolulu: University of Hawaii Press, 1990), 17.

<sup>30</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 50.

<sup>31</sup> John Lie, “The State as Pimp: Prostitution and the Patriarchal State in Japan in the 1940’s,” *The Sociological Quarterly* Vol. 38 No. 2 (Spring, 1997): 252.

licensing to control the shape of the industry.<sup>32</sup> The sex trade, though legitimate, was considered work for women that came from impoverished backgrounds. Girls would be contracted to brothels to provide the family a supplement to its income. The term *ianfu* (“comfort women”) began as a reflection of girls that choose to engage in this profession in order to “help their family.”<sup>33</sup>

When Japan began to expand its empire during WWII, it invaded neighboring countries such as China, Korea and the Philippines. Japan began to import women from conquered countries, to serve in the sex trade and as laborers. This was an important strategy as venereal disease became rampant among the local prostitutes, and one of the underlying themes of the war was based on protection of “family”. Thus, the importation of women for the purpose of providing for the sex trade, as well as labor from the conquered nations began. Women in conquered countries were forced to provide sexual services to the Imperial Army. They would set up “comfort” stations for the purpose of forced prostitution wherever deployed.<sup>34</sup>

Ideally, Korean women were used due to their ‘racial closeness’ in relation to the Japanese, they were viewed to be close in likeness but deemed inferior. Indoctrinating foreigners as sex workers for the military at home and abroad allowed the Japanese to “protect” its women, as well as push for heterosexual behavior among the men, where homosexuality had been previously accepted.<sup>35</sup> The system of trafficking began to adapt, and persons became as common as any other commodity in a colonial system, being traded among the satellites to the home country. For decades after the fact, these crimes have been fervently denied and downplayed by the Japanese government.

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<sup>32</sup> David Leheny, *Think Global Fear Local: Sex, Violence and Anxiety in Contemporary Japan* (Ithaca: Cornell University Press, 2009), 62.

<sup>33</sup> David Leheny, *Think Global Fear Local: Sex, Violence and Anxiety in Contemporary Japan* (Ithaca: Cornell University Press, 2009), 63.

<sup>34</sup> Ian Buruma, *Wages of Guilt: Memories of War in Germany and Japan* (Plume, 1995), 194.

<sup>35</sup> John Lie, “The State as Pimp: Prostitution and the Patriarchal State in Japan in the 1940’s,” *The Sociological Quarterly* Vol. 38 No. 2 (Spring, 1997): 255.

The ministry has even stated that the treatment of these women was typical of actions performed by armies during any war in history.<sup>36</sup>

## 2. The Start of Organized Gangs

Some would comment that organized crime in Japan came more as a result of the policies implemented by the Meiji government, specifically the disbanding of the *samurai* class.<sup>37</sup> While some gave into the Meiji state and attempted to reintegrate into the new social structures, others became outcasts and embraced illicit activities to support themselves, mixing into the criminal element already present in the country. This introduced element of leadership may have created the ties to unite the roving gangs and petty thieves at the time into the more organized structure that produced the *boryokudan* we know today. As Huang and Vaughn state, a “common element” shared between the now lord-less samurai and the more high-class criminals, gamblers and extortionists as opposed to common thieves, was the declining social statuses shared by individuals due to the Tokugawa and Meiji social restructuring.<sup>38</sup> The different skills brought by the diverse types of convicts that began to band together formed a network, now staking claim to specific areas of towns, and carving out territories.

This subculture clashed with the society developing at large, but what was created was the beginning of a highly structured, loyalty based syndicate system, which had not been present before in the country. <sup>39</sup>

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<sup>36</sup> Ian Buruma, *Wages of Guilt: Memories of War in Germany and Japan* (Plume, 1995), 194.

<sup>37</sup> Frank F.Y. Huang and Michael S. Vaughn, “A Descriptive Analysis of Japanese Organized Crime: The *Boryokudan* from 1945 to 1988,” *International Criminal Justice Review* Vol. 2 (1992): 20.

<sup>38</sup> Frank F.Y. Huang and Michael S. Vaughn, “A Descriptive Analysis of Japanese Organized Crime: The *Boryokudan* from 1945 to 1988,” *International Criminal Justice Review* Vol. 2 (1992): 22.

<sup>39</sup> Frank F.Y. Huang and Michael S. Vaughn, “A Descriptive Analysis of Japanese Organized Crime: The *Boryokudan* from 1945 to 1988,” *International Criminal Justice Review* Vol. 2 (1992): 23.

#### IV. THE EVOLUTION OF NORMS IN POST WORLD WAR II JAPAN

The Meiji restoration lasted through 1945, with the Japanese Empire using its growing military forces to invade and capture Formosa, claiming it from China, defeating Russia and gaining territories in Manchuria and Korea. Leading into World War II, Japan had established itself not only as an independent nation, but also as a formidable force attempting to expand its empire to encompass the region.<sup>40</sup> During the war, the United States applied strategic bombing and massive air raids to Japan's mainland, killing upwards of 600,000 people and decimating civilian housing in the major cities.<sup>41</sup> Compared to the Allies' strategy in Europe, strategic bombing in the Pacific proved more horrific. Targets in Europe were typically surrounded by large sections of land as opposed to many of Japan's crowded towns and suburbs.<sup>42</sup> Incendiary bombardment caused the wooden houses in the areas to catch ablaze and cause substantial collateral damage each time an attack was launched.

The blockade of Japan's harbor caused the country's rapid deterioration. The island was deprived of major necessities such as food, clothing and even materials to construct military equipment. Japan had long passed the point at which it would be rational for a country to surrender.<sup>43</sup> This reluctance to end the war, along with Russia's impending entrance, forced President Truman to rethink his strategy of ending this conflict without landing troops ashore for battle. The cities of Hiroshima and Nagasaki were chosen as targets of industrial and military significance.

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<sup>40</sup> David B. Carpenter, "Urbanization and Social Change," *The Sociological Quarterly* Vol. 1 No. 3 (July 1960): 161.

<sup>41</sup> Lawrence Freedman, Edited by Saki Dockrill, *From Pearl Harbor to Hiroshima: The Second World War and the Pacific*

<sup>42</sup> Richard B. Frank, *Downfall: The End of the Imperial Japanese Empire*, 214–22

<sup>43</sup> Lawrence Freedman, Edited by Saki Dockrill, *From Pearl Harbor to Hiroshima: The Second World War and the Pacific*

The first atomic bomb was deployed on August 6th, by a U.S. B-29 bomber in Hiroshima. On August 9th, a second atomic strike was delivered to Nagasaki. Shortly after these strikes, Japan surrendered unconditionally to Allied forces. <sup>44</sup>

## **A. OCCUPATION BY UNITED STATE'S FORCES**

The crippling defeat in World War II and the resulting occupation challenged Japanese faith in the patriarchal organization, which had been established through the “police state” of the Meiji government and The Peace Preservation Laws. <sup>45</sup> Cultural homogeneity was replaced by heterogeneity from imported American social practices and beliefs.<sup>46</sup> Following the theory of social disorganization, “deviance and social pathology arise when institutionalized patterns of social behavior and informal social control are disrupted.” <sup>47</sup> In Japan, crime rates increased in response to disruptions to the prior social order and rapid change; especially when related to organization of families and community.

### **1. Imposition of Pacifist Methods**

After a crushing defeat by the Allies and eighty months of occupation by American troops, Japan’s collective identity changed drastically. The country had been devastated by war, with many citizens homeless and starving at the time of surrender. Emperor Hirohito’s announcement of surrender after months of asserting Japan’s impending victory was almost an afterthought. General Douglas MacArthur, Supreme Commander of the Allied Powers, was put in charge of overseeing the country’s reconstruction and rehabilitation.

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<sup>44</sup> Richard B. Frank, *Downfall: The End of the Imperial Japanese Empire*, 214–22

<sup>45</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 50.

<sup>46</sup> David B. Carpenter, “Urbanization and Social Change in Japan,” *The Sociological Quarterly*, Vol. 1 No. 3 (July 1960), 162.

<sup>47</sup> Aki Roberts and Gary Lafree, “Explaining Japan’s Postwar Violent Crime Trends,” *Criminology*, Vol. 42 No. 1 (2004), 181.

His main concern was to ensure that change was introduced gradually in ways consistent with creating minimal social disorganization.<sup>48</sup>

There was a general idea among the Allies that a removal of the social elements responsible for Japan's aggression was necessary. It was noted that the public had been indoctrinated through fear and terrorization via the government institutions of the military, the police and education systems. It was widely perceived that in order for Japan's transformation into a cooperative society was to be successful, none of these institutions could be left unmodified.<sup>49</sup> To create a more passive nation, the belief was that it would be possible to channel Japan's emphasis on group society, which was already reinforced by Confucian beliefs, as a means to restore social equilibrium.

The United States wanted to ensure aggressive behavior was removed from the culture, and thus, it was impressed upon the Japanese that they were in an inferior position. Many institutions were rebuilt entirely in the American image of democracy, including the importation of Western law, which emphasized individualistic premises and general abstract principles.<sup>50</sup> This directly conflicted with a culture whose past conflict resolution techniques were based on mediation or adjustment, as opposed to litigation, and where positions in a social hierarchy were considered factors in trial and punishment. This intrusive form of "culture contact" that occurred from the military occupation, much like the westernization that occurred after Japan was forcibly "opened" in 1856 by Commodore Perry, has had lasting effects on the Japanese culture. New social and legal norms were forced upon the country and were accepted by the crippled nation. Pacifism was not chosen by the people of Japan, but rather enforced by their occupiers.<sup>51</sup>

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<sup>48</sup> David B. Carpenter, "Urbanization and Social Change in Japan," *The Sociological Quarterly*, Vol. 1 No. 3 (July 1960), 163.

<sup>49</sup> Geoffrey Gorer, "The Special Case of Japan," *The Public Opinion Quarterly* Vol. 7 No. 4: *The Occupation of Enemy Territory* (Winter 1943), 567–582.

<sup>50</sup> Arthur Taylor von Mehren, "The Legal Order In Japan's Changing Society: Some Observations," *Harvard Law Review*, Vol. 76 No. 6 (April 1963), 1174.

<sup>51</sup> Geoffrey Gorer, "The Special Case of Japan," *The Public Opinion Quarterly* Vol. 7 No. 4: *The Occupation of Enemy Territory* (Winter 1943), 567.

## **B. THE EFFECTS OF URBANIZATION**

Social change not only occurred in Japan due to Allied occupation. The country had already begun major industrial growth and processes of urbanization even pre-World War II. The growing population had begun to migrate more to the cities to work and reside, and after the war, familism began to be corroded by individualism. Defeat in the war challenged the belief in patriarchal organization and cultural homogeneity was replaced by heterogeneity from the imported American social practices and beliefs.<sup>52</sup>

In response, realizing the current police system no longer worked as a solely centralized institution, the government broke it down into prefectural units to better serve the public. The National Police Agency (NPA) was created to oversee, train and coordinate interprefectural police affairs, blending centralization and decentralization of political authority. The police became embedded in the community, performing a support role rather than a domineering one, with a mission not only to provide internal security and surveillance, but broadened to respond to the social needs of the people.<sup>53</sup>

### **1. Police Restructuring**

As the police began to integrate more with the local community, citizens created coextensive neighborhood associations to help establish a safe place to live.<sup>54</sup> With the community's assistance in policing localities, the police rarely had issues with maintaining low levels of crimes.. The police presence, in sharp contrast to decades prior, created a favorable public climate in which cooperation became common practice through "neighborhood watch" type associations in the community. Surveillance, which was once used more as a control method over the people, became socially acceptable and encouraged, Neighbors switched

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<sup>52</sup> David B. Carpenter, "Urbanization and Social Change in Japan," *The Sociological Quarterly*, Vol. 1 No. 3 (July 1960), 162.

<sup>53</sup> Walter L. Ames, *Police and Community in Japan* (University of California Press, 1981), 17.

<sup>54</sup> Walter L. Ames, *Police and Community in Japan* (University of California Press, 1981), 41.

from spying and informing on each other, to watching for strangers and undesirable presences that may be noticed in the neighborhood.<sup>55</sup> The phrase “Japanese society, in effect polices itself,” describes how the police and society integrated on the most intimate levels in order to achieve the common goal of security. <sup>56</sup> One of the methods the police utilized to incorporate itself more closely with the community was the establishment of *Kobans*, or police boxes, stationed throughout each neighborhood. With the formation of the National Police Agency (NPA), Japan restructured its policing approach to emphasize “local” presence as part of its “kinder, gentler” approach. *Kobans* were not just a manned police station, the boxes were actually full size homes, with the “office” portion in the front and a family style residence attached. The police officer assigned lived there with his family for several years at a time, this was not just an outside person that worked in the area, but a member of that neighborhood.<sup>57</sup>

With a constant ‘friendly’ police presence in the local area, neighborhoods and towns created a rapport with local law enforcement personnel. This method began to establish trust in the police and government, which had been diminished prior to World War II when the Meiji government established a “police state” of rule for the country. <sup>58</sup> The idea that ‘violence doesn’t pay’ had also become a mantra, as aggressive methods were barely utilized in controlling the small amount of crime dealt with by the police. Non-violence steadily became the accepted social norm with the disarming and indoctrination of the country to the new pacifist methods of control.

### **C. CRIME IN “NEW JAPAN”: POST WWII TRENDS**

The period directly after the end of the war until the formal completion of Allied Occupation can be seen as skewed with regards to crime statistics. The

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<sup>55</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 63.

<sup>56</sup> Walter L. Ames, *Police and Community in Japan* (University of California Press, 1981).

<sup>57</sup> Walter L. Ames, *Police and Community in Japan* (University of California Press, 1981), 45.

<sup>58</sup> Walter L. Ames, *Police and Community in Japan* (University of California Press, 1981), 41.

state, anticipating that United States service members would become a fixture, actually legalized and regulated prostitution. A degree of disorganization resulted from the police system being dismantled and reconstituted; other crimes that may have been committed by occupying forces or other elements in society were therefore not recorded. The Allied forces had also enforced a certain amount of censorship through this period in order to control the information flow out to the general public, but after occupation came to an end in 1952, more tangible information became available for evaluation.

### **1. Dropping Crime Rates**

The initial post war general crime rate sharply increased through 1955, and then only slightly declined until 1964 when it began to dramatically drop. The utilization of *kobans* and non-violent, community contact based methods embraced by the new police structure helped renew trust between Japan's citizens and its police forces. Japan was able to establish internal security with only a negligible use of force, reaching its lowest point in 1973 leveling off and showing that the majority of crime was centralized in the city areas.<sup>59</sup> Figure 1 statistics taken from A.J. Finch's article, *The Japanese Police's Claim to Efficiency: A Critical View* shows the drastic difference in crime rates compared to other major counties using statistics for major crimes from 1960 and 1987.

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<sup>59</sup> Walter L. Ames, *Police and Community in Japan* (University of California Press, 1981), 58.

	Homicide		Rape		Theft	
	1960	1987	1960	1987	1960	1987
United States	5.1	8.3	9.6	37.4	1,726	4,940
Japan	3.0	1.3	6.8	1.5	1,112	1,116
West Germany	2.2	4.3	11.6	8.6	1,538	4,565
France(a)	3.0	4.1	2.1	5.8	2,300	3,503
United Kingdom(b)	1.3	5.5	1.2	4.9	1,491	5,803

Table derived from Minoru Shitaka and Shinnichi Tsuchiya, *Crime and Criminal Policy in Japan from 1926-1988: Analysis and Evaluation of the Showa Era* (Tokyo: Japan Criminal Policy Society, 1990), pp. 74-8; (a) Data included from 1970 for rape and 1975 for homicide and theft. (b) England and Wales.

Figure 1. Comparative Crime Rates (N per 100,000 of Population) for Homicide, Rape and Theft in 1960 and 1987 (From <sup>60</sup>)

Japan's methods of strong informal control coupled with the United States' imposition of pacifist methods via culture contact, translated in a seemingly positive way towards the country's low crime rate and the reintroduction of a population friendly police force. Japan seemed to transition through industrialization while avoiding the harmful effects that usually plague similar cases in regards to crime. The social standards relied upon by the state began to weaken as the economy strengthened and organized crime took more root in the country as a common component used by the authorities to its own ends or, at the very least, simply accepted by the authorities.

## 2. The Expansion of the *Yakuza*

The post-World War II period is where the evolution of the *Yakuza* becomes truly defined. Much like we see with other forms of mafia, the group begins to capitalize on the deficiencies of the state, providing "protection" to various social groups because of the lack of attention from civil authority.<sup>61</sup> The *Yakuza* also became intertwined with politics, as officials of the Liberal

<sup>60</sup> A.J. Finch, "The Japanese Police's Claim to Efficiency: A Critical View," *Modern Asian Studies*, Vol. 33 No. 2 (May 1999), 489.

<sup>61</sup> Peter B. Hill, *The Japanese Mafia: Yakuza, Law, and the State* (New York: Oxford Press 2003): 35-45.

Democratic Party enlisted the assistance of gangs in the 1960s to avoid anticipated violent uprisings by leftist groups.<sup>62</sup> Such relations between politics, business and organized crime has continued over the years, with the *Yakuza* providing politicians with “private security” and funding to maintain control of the government system. In turn, these ties have prevented any major legislative movements against the gangsters for years.

As the state scrambled to reconstitute itself under foreign occupation, the immediate post-war years were plagued with lawlessness. Coupled with economic deprivation, areas of the country were fret with anarchy. There was in fighting among the members of the criminal underworld, between the organized structured groups and *gurentai* groups, the street hoodlums. Both sides battled with each other to determine who would control the lucrative prostitution, gambling and drug industries growing throughout the nation. “Police countermeasures were minimal because of the Allied occupation and budget constraints.”<sup>63</sup> By 1950, the *boryokudan* had established themselves as a powerful force in Japan with an estimated 5,216 gangs consisting of over 184,091 members by the end of 1963. The syndicates had capitalized on the split attention by the American armed forces now fighting on the Korean Peninsula, and the money being pumped into the economy due to the war effort. Illicit activity grew, and prostitution and gambling reaching record levels. This period also saw the start of rival conflicts between the *boryokudan* organizations.<sup>64</sup>

The presence of the *boryokudan* was palpable to society garnering concern from the general public as the criminal element was more present than ever before. Japanese citizens, now confident in their police force, encouraged

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<sup>62</sup> Walter L. Ames, *Police and Community in Japan* (University of California Press, 1981), 123.

<sup>63</sup> Frank F.Y. Huang and Michael S. Vaughn, “A Descriptive Analysis of Japanese Organized Crime: The *Boryokudan* from 1945 to 1988,” *International Criminal Justice Review* Vol. 2 (1992): 25.

<sup>64</sup> Frank F.Y. Huang and Michael S. Vaughn, “A Descriptive Analysis of Japanese Organized Crime: The *Boryokudan* from 1945 to 1988,” *International Criminal Justice Review* Vol. 2 (1992): 26.

the NPA to respond to the rising threat. Between 1964 and 1970, the police started an anti-gang campaign by educating the general public on the negative effects of supporting or dealing with the *boryokudan*, and informing the people of the anti-Japanese values the gangs embodied. This public relations plan stressed increased community involvement in order to ostracize members of the *boryokudan* from society, as well as labeling them outcasts. Interprefectural police cooperation was increased to help control the gambling and prostitution enterprises. During this period, gang membership saw some declination, but would see resurgence due to the economic woes inflicted by the oil shocks of 1973 and 1979. During this time, groups associated with the *boryokudan* began to consolidate their power, absorbing smaller components to create “super gangs,” the start of the *Yakuza*.<sup>65</sup>

**a. *The Yakuza and Prostitution in Japan***

When the war ended, with the impending United States occupation, the Japanese Government proactively set up available prostitution for incoming foreign soldiers. The Recreation Amusement Association (RAA) was established in 1945 as one of the first post-war actions, with the purpose of protecting Japanese women by the “sacrifice of others.”<sup>66</sup> In a war-torn and impoverished country, marginalized women may have had no other choice but to engage in prostitution in order to survive. By 1946, however, the government had done a one hundred and eighty degree turn in policy, admitting that licensed prostitution was “in contravention of the ideals of democracy.”<sup>67</sup> The women recruited by the government were now hunted down and incarcerated for the very actions they still needed to perform in order to survive. Making prostitution illegal did not stop

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<sup>65</sup> Frank F.Y. Huang and Michael S. Vaughn, “A Descriptive Analysis of Japanese Organized Crime: The *Boryokudan* from 1945 to 1988,” *International Criminal Justice Review* Vol. 2 (1992): 26.

<sup>66</sup> John Lie, “The State as Pimp: Prostitution and the Patriarchal State in Japan in the 1940’s,” *The Sociological Quarterly* Vol. 38 No. 2 (Spring, 1997): 257.

<sup>67</sup> John Lie, “The State as Pimp: Prostitution and the Patriarchal State in Japan in the 1940’s,” *The Sociological Quarterly* Vol. 38 No. 2 (Spring, 1997): 257.

the practice but actually drove it underground. Without regulation from the state, prostitution became a commodity of the growing gang sector.

In 1956, Japan enacted Anti-Prostitution Laws in compliance with the American views of democratic values. Complications in maintaining this policy stemmed from the hypocritical enforcement of the new institutions. Although the government outlawed prostitution, Japanese citizens as well as the United States soldiers that were enlisted to assist in policing the personnel involved, continued to partake of the prostitution available with fees as low as 300 yen (a bowl of noodles costing 600 yen at the time for comparison).<sup>68</sup> As the industry began to be controlled by the *Yakuza* and become more and more part of the criminal underworld, government enforcement methods hovered even more in the gray area.

#### ***b. Yakuza's New Business Ventures***

With the government attempting to restructure the police system and conform to new methods of policing, the “new” National Police Agency had heavy obligations put upon it. Poorly equipped and too undermanned to properly enforce newly enacted laws, the inexperienced police force was led to rely on local gangs to maintain order where it could not.<sup>69</sup> The relationship between the police and *Yakuza* began to become symbiotic, due to the broadly defined regulations the government had applied to them. They began to depend on the gangs to regulate areas of crime like the “entertainment districts” rather than get involved. The common practice was to let organized crime police itself unless there was uncontrolled violence.

Vertical organization structure could be seen as one of the reasons why the police preferred working with the *Yakuza*. As opposed to dealing with ‘unorganized’ criminal elements, having a hierarchy, as an option to negotiate

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<sup>68</sup> John Lie, “The State as Pimp: Prostitution and the Patriarchal State in Japan in the 1940’s,” *The Sociological Quarterly* Vol. 38 No. 2 (Spring, 1997): 257.

<sup>69</sup> Harry Emerson Wildes, “The Postwar Japanese Police,” *The Journal of Criminal Law, Criminology, and Police Science*, Vol. 43. No. 5 (January-February 1953), 663.

with, was a more favorable method than exhausting the minimal forces available in areas that arrests would be negligible. They were also perceived to have a “code” within the gang with their own set of rules to follow and a punishment system, which could be considered more effective than if members were arrested and processed through the legal system at the time.<sup>70</sup>

What the National Police agency failed to take into account was the *Yakuza*’s expansion into criminal ventures that would have an effect on legitimate businesses. The gangs’ activities soon seeped outside of the controlled “entertainment districts”. Atypical means of illegal income included involvement with real estate, banks and construction to add to the drug trafficking and gambling revenues. Figure 2 depicts the income percentages in 1988<sup>71</sup>:

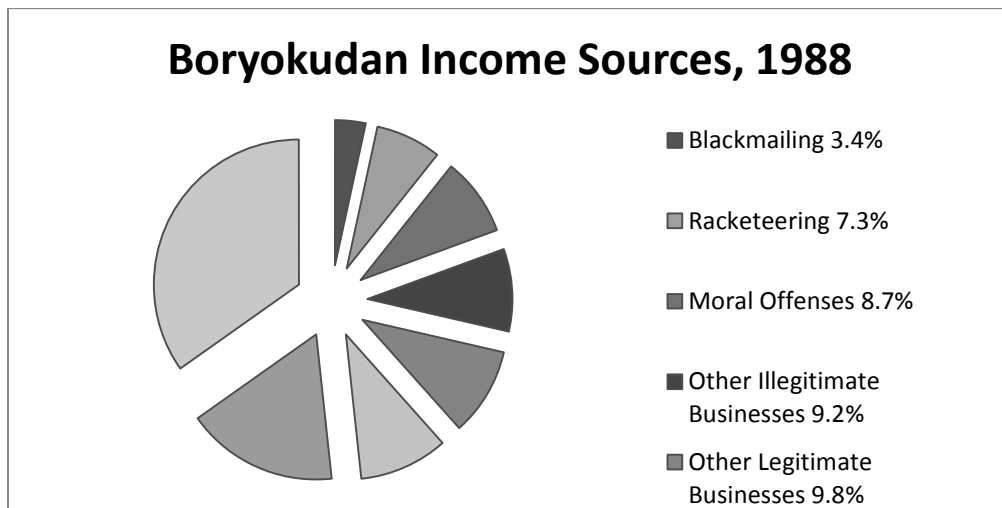


Figure 2. *Boryokudan* Income Sources, 1988 (From “*Boryokudan no shikingen katsudou to torishimari nit suite*” [*Boryokudan’s* Activities of Financial Resource and Its Countermeasures] by M. Tanaka, 1989, *Sousa Kenkyo* [Journal of Investigative Studies], 453(9), p.6)

<sup>70</sup> Frank F.Y. Huang and Michael S. Vaughn, “A Descriptive Analysis of Japanese Organized Crime: The *Boryokudan* from 1945 to 1988,” *International Criminal Justice Review* Vol. 2 (1992): 33.

<sup>71</sup> Frank F.Y. Huang and Michael S. Vaughn, “A Descriptive Analysis of Japanese Organized Crime: The *Boryokudan* from 1945 to 1988,” *International Criminal Justice Review* Vol. 2 (1992): 36.

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## **V. ECONOMIC GROWTH AND THE RISE OF ORGANIZED CRIME IN JAPAN**

As nations begin to industrialize and modernize, they also urbanize, which, in turn, leads to growth in a country's crime rate. Japan is no exception; the end of the Pacific War and the United States' occupation and reorganization of the government began a new era of development for the state. With the expansion of industries, cities became Japan's focal points. With a police system that still was considered understaffed and underdeveloped; this gave way to organized crime compensating for areas where the government left the country deficient.

Japan's organized crime syndicates, the *boryokudan*, have evolved in parallel with the country's globalization, engraining itself in the culture and economy. The *Yakuza*, Japan's most expansive organized crime network has integrated itself in multiple facets of the economy, expanding the scope and complexity of its operation through legitimate businesses, real estate and the international stock market, as well as using globalization to advance its criminal empire through drug running and human trafficking. The influence of pacifist norms have directly affected Japan's National Police Agency's response to the introduction and growth of organized crime for decades and has translated in the *Yakuza's* influence within the country and now abroad.

### **A. THE EFFECTS OF GLOBALIZATION**

The growth of the "new" police and the rise of organized crime in Japan have paralleled each other since the end of World War II. The government had put heavy obligations on poorly equipped, inexperienced police forces, leading them to rely on local gangs to maintain order where it could not. The relationship between the police and *Yakuza* had been symbiotic, due to the broadly defined regulations the government applied to the gangs, depending on them to regulate areas of crime like the "entertainment districts" rather than involving the police.

The common practice was to let organized crime police itself unless there was uncontrolled violence, and in return, the *yakuza* have been expected to cooperate with the authorities on other criminal investigations. Even in modern day Japan, with a number of 1.8 police per every 1,000 people (compared to the United States' 3.25) the relationship with organized crime gangs remains an intricate part of the system.<sup>72</sup> "The police tolerate traditional gang activities involving prostitution, protection rackets, and illicit businesses; however, when gangs traffic in narcotics, smuggle guns and injure innocent law-abiding citizens, the authorities are pressured to crack down."<sup>73</sup>

Organized crime has become a more common fixture in society and even glamorized over the decades, funding government parties to allow them the ability to remain in power, as well as intertwining itself in legitimate businesses. Recently, with its noted foothold in corporate sectors with foreign investments, and its expansion through globalized human trafficking and drugs, the country has begun a "crack-down" on the *Yakuza*.<sup>74</sup>

## 1. Japan's Bubble Economy

The ability of organized crime to thrive is not unlike any other business. As the economic landscape evolved, the *Yakuza* had to adapt its practices to remain viable. The radical changes in Japanese economy starting in the late 1970s, and following into the 1990s, became a driving force behind the *boryokudan's* methods. In 1986, as Gross Domestic Product (GDP) soared, asset prices began to increase. Stock and land price value ballooned in comparison to GDP, with interest rates beginning to show signs of forming a bubble. The Nikkei 225 on the Tokyo Stock Exchange jumped from 8,800 in 1983, to its historical high of 38,915

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<sup>72</sup> Harry Emerson Wildes, "The Postwar Japanese Police," *The Journal of Criminal Law, Criminology, and Police Science*, Vol. 43. No. 5 (January-February 1953), 663.

<sup>73</sup> Frank F.Y. Huang and Michael S. Vaughn, "A Descriptive Analysis of Japanese Organized Crime: The *Boryokudan* from 1945 to 1988," *International Criminal Justice Review* Vol. 2 (1992): 29.

<sup>74</sup> Leo Lewis, "Yakuza Stalk Japanese Markets As Organized Crime Opens New Front," *The Times*, August 28, 2008.

just 6 years later in 1989. Japan's land asset value tripled from 139 trillion yen in 1983 to 529 trillion yen in 1988. The Plaza Accord and global economic shocks such as the Black Monday stock market crisis of October 1987, contributed to low interest rates in Japan that helped fuel a vicious cycle of borrowing to purchase real estate; the real estate was then used as collateral to borrow money for more land purchases, resulting in exploding asset prices. By the start of 1990, the asset bubble burst, sending land and stock prices plummeting.<sup>75</sup>

## 2. The *Boryokudan's* Involvement in The Bubble Burst

Globalization and the bursting of the asset bubble directly impacted the *boryokudan*. Since they held a large amount of the bad loans issued by Japan's banks, the *Yakuza* were linked directly with the financial downturn. *Jusen*, non-bank financial institutions, relied on bank loans due to the fact that they could not accept deposits, and would relend the official loan to the customers. When the official institutions realized that the *jusen* lenders were offering better rates to consumers, they began to lower their own interest percentages. This forced the *jusen* companies to lend to higher risk customers, using land as collateral, causing the businesses to implode when land prices plummeted in 1990.<sup>76</sup> It is estimated that the seven *jusen* collectively held 6.4 trillion yen in bad debt. A sample of 93 *jusen* loans found that 40 were made to the *boryokudan*.<sup>77</sup>

Japan's Ministry of Finance (MOF) also estimated that the *boryokudan* held roughly 5 trillion yen of debt from the *jusen*.<sup>78</sup> Of all the bad debt resulting from the asset bubble, a conservative estimate is that 10% were made directly to the *boryokudan* and another 30% were made with businesses that had indirect ties to the *boryokudan*. This posed a serious problem for banks that had

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<sup>75</sup> Yukio Noguchi, "The "Bubble" and Economic Policies in the 1980s," *Journal of Japanese Studies* 20, no. 2 (Summer, 1994), 291–297.

<sup>76</sup> David Kaplan and Alec Dubro, *Yakuza: Japan's Criminal Underworld* (New Jersey: University of California Press, 2003), 199.

<sup>77</sup> Peter B. Hill, *The Japanese Mafia: Yakuza, Law, and the State*, 185–187.

<sup>78</sup> Peter B. Hill, *The Japanese Mafia: Yakuza, Law, and the State*, 185–187.

previously relied on organized crime groups to enforce its debt collection. Now that the *boryokudan* held a significant portion of the bad debt, debt collection became risky.<sup>79</sup>

## **B. THE *BORYOKUDAN*'S RESPONSE TO JAPAN'S FINANCIAL DECLINE**

The *boryokudan*'s reaction to the effects of the "bubble burst," was varied. The first was palpable violent change in its "code of conduct," in which it would begin to lash out at financial institution lenders directly, as opposed to before where it would not harm "ordinary people." As a result of the economic decline, the *boryokudan* left dozens of people dead, causing a rampant fear of organized crime that had not previously existed in the general public.<sup>80</sup> The most publicized attacks happened to heads of banks, such as the 1993 shooting of the Vice President of Hanwa Bank, Koyama Toyosaburo, as well as several Sumitomo Bank executives, all shot dead in their homes.<sup>81</sup> Another response was to take advantage of the opportunities afforded by the economic openings, including auction obstruction, the artificial lowering of property values, and the purchase of property without the intention to legally occupy or repay the lender. Other methods involved extortion of land bidders, and "loss cutting" whereby attorneys would negotiate on behalf of debtors to have its account dues reduced by the creditor. It was apparent that many of the creditors in these instances had *Yakuza* affiliations.<sup>82</sup>

## **C. NATIONAL POLICE AGENCY'S RESPONSE TO A CHANGING *BORYOKUDAN***

As a result of the *boryokudan*'s changing financial methods and violent trends, the National Police Agency (NPA) attempted to devise a strategy to

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<sup>79</sup> David Kaplan and Alec Dubro, *Yakuza: Japan's Criminal Underworld*, 201.

<sup>80</sup> Peter B. Hill, *The Japanese Mafia: Yakuza, Law, and the State*, 185–187.

<sup>81</sup> Peter B. Hill, "Heisei Yakuza: Burst Bubble and Bôtaih," *Social Science Japan Journal*, Vol. 6 No. 1 (2003).

<sup>82</sup> David Kaplan and Alec Dubro, *Yakuza: Japan's Criminal Underworld*, 201.

counteract the movement. This caused a fissure between the *yakuza* and the police, altering the existing contemporary relationship. The chaotic response to the “bubble burst” showed the NPA that the *boryokudan* could no longer be relied upon to contribute to a productive social environment.<sup>83</sup> The first law enacted against the *boryokudan* was the Organized Crime Countermeasures Act in 1991. This law established prefectural safety commissions with the authority to designate groups as *boryokudan* and issue cease and desist orders and order punishment. The law prohibits 11 forms of racketeering to include collecting protection fees, loan sharking, and acting as loss-cutting specialists.<sup>84</sup>

Where America’s Racketeer Influence and Corrupt Organization (RICO) Act can indict an organized crime group’s leadership because of a continuing pattern of criminal activity, Japan’s Organized Crime Countermeasures Act did not have the same teeth, and was thus criticized internationally as weak, due to its limited scope and inability to enforce. Revised in 1993, the law was geared more towards why the policy was initially created, addressing more of the symptoms developed due to the “bubble burst,” specifically the issues created by the *boryokudan*’s tactics of credit manipulation and property devaluation. This was a breakthrough for the NPA, now allowing it to pursue organized crime specifically.

On the other hand, the *yakuza* also responded to the new restrictions imposed on them.<sup>85</sup>

#### **D. THE EFFECTS OF THE ASIAN FINANCIAL CRISIS**

Shortly after Japan’s economic downturn, the region suffered another event that exacerbated crime and social unrest, the 1997 the Asian Financial Crisis. Japan was deeply involved, particularly through its monetary ties with

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<sup>83</sup> T.R. Reid, "Japan Sets Organized Crime Crackdown," *The Washington Post*, February 29, 1992, .

<sup>84</sup> David Kaplan and Alec Dubro, *Yakuza: Japan's Criminal Underworld* 210–212.

<sup>85</sup> David Kaplan and Alec Dubro, *Yakuza: Japan's Criminal Underworld* 210–212.

Thailand. Large corporations and financial institutions went bankrupt prompting Japan to inject 30 billion dollars into its financial institutions.<sup>86</sup> Fears spread that up to one half of the major banks would have to merge or close altogether. Non-performing loan estimates for 1998 projected a total of 1 trillion dollars. Japan's economy was once again rocked by economic troubles, stunting its growth, and earning the 1990s in Japan the title of "the lost decade".<sup>87</sup>

### 1. Contemporary *Boryokudan* Trends

The Asian Financial Crisis illustrated how economic globalization had allowed organized crime new avenues of funding with the added benefit of anonymity associated with complex growing financial systems. The trends that followed the crisis include decreased transparency, with the numbers of "associated" members of the *yakuza* increasing in recent years, and the involvement of the group in numerous and diverse fund raising activities. These methods include the use of force to procure funds through the misuse of public benefit systems, fraud, extortion, robbery, and larceny.<sup>88</sup> *Furikome* is an example of a new form of extortion widely used by the *boryokudan* (See Figure 3). *Furikome* is a scam that targets elderly citizens by pretending to be a relative and then asking them to send them money via an ATM to a criminal's bank account. These transactions are difficult to trace because the accounts are usually created under false names. Along with the diversification of fundraising activities, *boryokudan* infiltrated new and legitimate industries such as construction, real estate, financial markets, and even government bodies.<sup>89</sup>

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<sup>86</sup> Michael R. King, "Who Triggered the Asian Financial Crisis?" *Review of International Political Economy* 8, no. 3 (Autumn, 2001), 438, 442. <http://www.jstor.org/stable/4177393>.

<sup>87</sup> Bruce Cummings, "The Asian Crisis, Democracy, and the End of "Late" Development," in *The Politics of the Asian Economic Crisis*, ed. T.J. Pempel (Ithaca, London: Cornell University Press, 1999), 28–29.

<sup>88</sup> *Japan's National Police Agency White Paper* (Tokyo: National Police Agency, [2009]), 92–93. [http://www.npa.go.jp/english/kokusai9/WHITE\\_PAPER\\_on\\_POLICE2009.htm](http://www.npa.go.jp/english/kokusai9/WHITE_PAPER_on_POLICE2009.htm).

<sup>89</sup> *Japan's National Police Agency White Paper*, 91, 97.

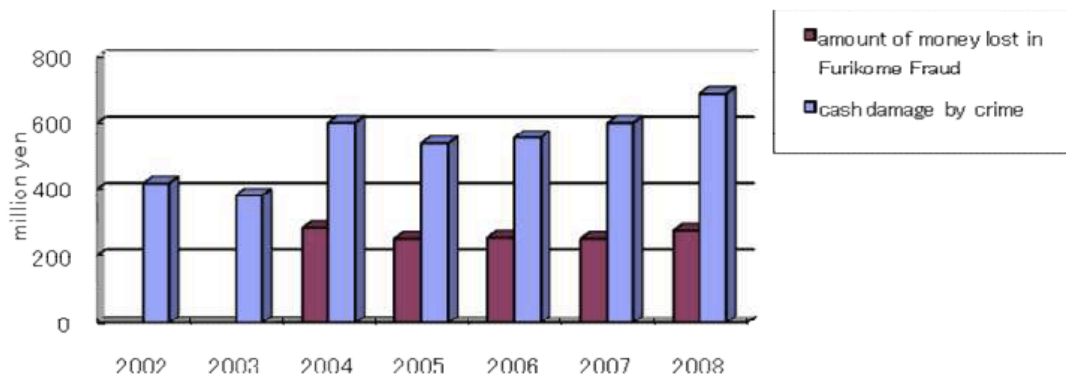


Figure 3. *Furikome* Fraud (From: <sup>90</sup>)

## 2. National Police Agency Response to Contemporary *Boryokudan* Trends

Following a decade of crime increase and a 160% spike in crime rates between 1996 and 2002, Japan passed a series of new laws in 1999 aimed at the *boryokudan*. These laws provided stricter laws against organized crime and granted the NPA powers similar to those in the American RICO law. The Law concerning intercepting communications in order to investigate crime provided the NPA the authority to conduct wire-tapping and exploit intercepted communications in order to prosecute *boryokudan* members. The Organized-Crime Punishment Law increased the severity of punishments of crimes committed in connection with the *boryokudan* and it also expanded the range of assets resulting from criminal activity that the police can confiscate. The partial reform of the code of criminal procedure provided better protection for those involved in criminal prosecutions.<sup>91</sup> In 2003, the Japanese government launched the Action Plan to Create a Crime Resistant Society (APCCS), which contained a category for the protection of the economy and society from organized crime. By

<sup>90</sup> *Action Plan to Create a Crime-Resistant Society* (Tokyo: Police Policy Research Center, National Police Agency of Japan, [2003]), 33–34.  
[http://www.npa.go.jp/english/seisaku8/action\\_plan.pdf](http://www.npa.go.jp/english/seisaku8/action_plan.pdf).

<sup>91</sup> Peter B. Hill, *The Japanese Mafia: Yakuza, Law, and the State*, 259–262.

2008, the anti-organized crime laws and the APCCS along with improvements in the economy after the Asian Financial Crisis resulted in a 33% decrease in the crime rate since 2002. The *boryokudan* dominated criminal activities such as money laundering, stimulant offenses, and gun-related offenses decreased while corporate fraud and loan sharking increased.<sup>92</sup>

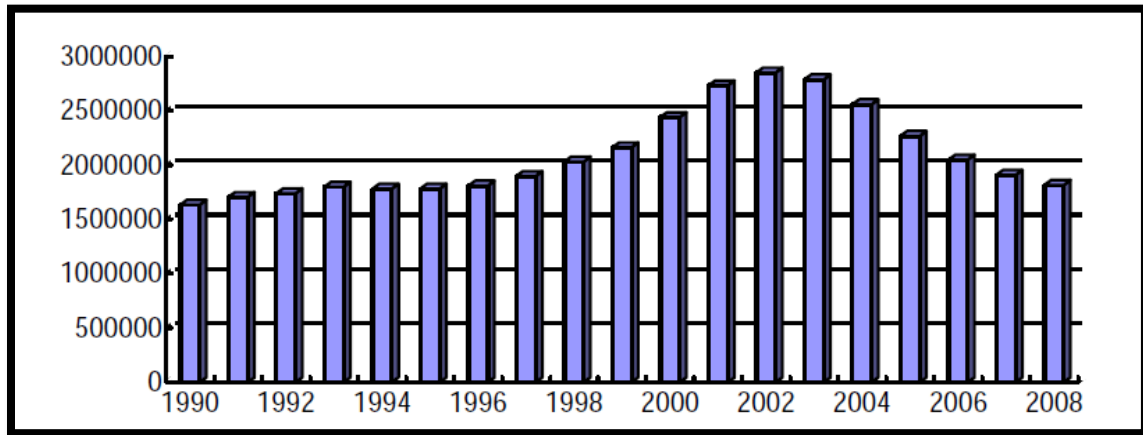


Figure 4. The number of recorded penal code crime in Japan (1990-2008).(From <sup>93</sup>)

As crime took an upturn, the National Police Agency was also plagued with various scandals involving embezzlement and clearance rate falsification.<sup>94</sup> The NPA attempted to blame the increase in crime on foreigners and juvenile offenders, with minimal success, and growing dissatisfaction with the police grew throughout the public.

<sup>92</sup> *Action Plan to Create a Crime-Resistant Society*, 1, 16–19.

<sup>93</sup> National Police Agency (2008) White Paper (Keisatsu Hakusho) Tokyo: Gyosei.

<sup>94</sup> Tetsuya Fujimoto and Won-Kyu Park, “Is Japan Exceptional? Reconsidering Japanese Crime Rates,” *Social Justice*, (Summer 1994).

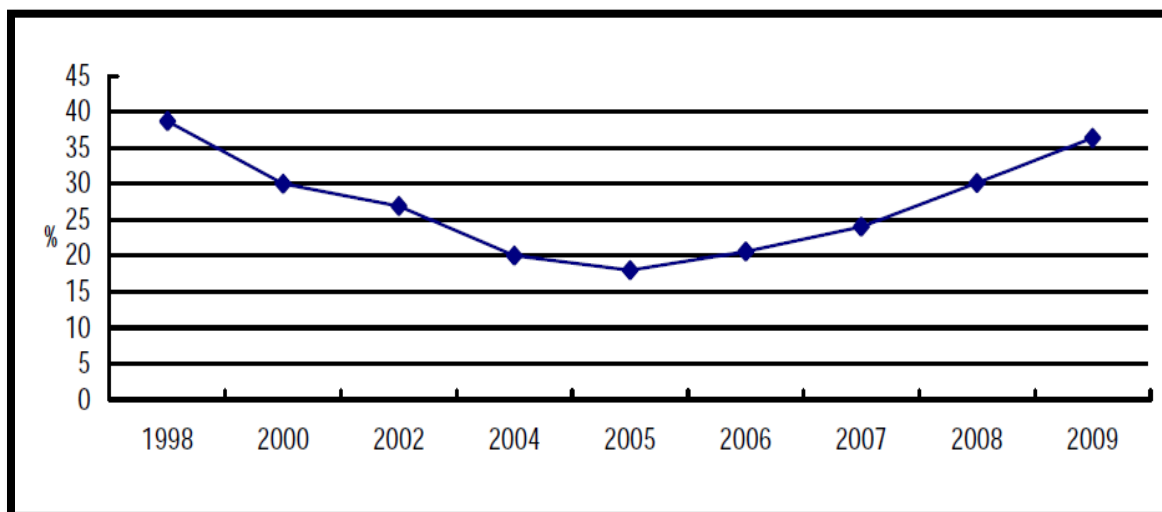


Figure 5. The rate of people who feel positively about Japanese public safety (National Poll 1998–2009). (From: <sup>95</sup>)

The country's mistrust in the police stemmed from the violent or oppressive tactics of the state in the decades pre-World War II and was now based in its lack of confidence in the institution's capabilities and intentions. The Japanese people began to resent the police and resistance to assisting officers began to take effect. Public perception and opinion became a focal point of the state in building-up citizen-police relations again trying to regain legitimacy.

As Katzenstein states: "For the Japanese police the belief is axiomatic that success depends largely on a favorable public climate.", he cites the example of how the police responded to student unrest in the late 1960s. Though there was provocation, crackdown was delayed until public opinion swayed in support of the government. The police were weary of using violence in the confrontation in order to prevent sympathy for possible martyrs. <sup>96</sup>

The only way a police institution can function by primarily using pacifist methods is to rely on the controlling social norms to remain stable. With a more

<sup>95</sup> National Police Agency (2008) White Paper (Keisatsu Hakusho) Tokyo: Gyosei.

<sup>96</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 80.

current drop in support, the normative behavior of respect and submission to authority was now met with apprehension. The system's forensic policies also come into question, autopsies are only preformed in 11.2% of deaths, and police discourage medical examinations of the bodies' post-mortem to avoid a possible homicide investigation.<sup>97</sup>

Today, Japanese police have had to rely more on technological advancements to assist them in controlling crime. As crime has begun to decrease, polled favor has increased slowly, but there is a general consensus that crime is still becoming a major problem in Japan. This may be due to increased media attention and the availability of information received readily via the internet. Increased reporting on the part of the population in some areas contribute to police crime clearance rates, which allows the NPA to garner favor again among the general public as shown starting again post-2005.<sup>98</sup>

#### **E. MODERN DAY ORGANIZED CRIME ISSUES**

Japan faces a breakdown in its reliance on social control reliance with today's population. More violent crimes have been occurring particularly among the younger generation in Japan with a noted growth in "youth gangs." As stated by Joachim Kersten, "In this environment of conformity, the deviant style of you groups, cliques and gangs guarantees public attention."<sup>99</sup> Where before gang style crime like those conducted by the *yakuza* had its own "code" of ethics among gangsters, today's members no longer have the same restraint or respect for authority, even within the gang, as it had in decades prior. Along with maintaining control in its own groups the *yakuza* received freedom from the NPA. In return, the *yakuza* were expected to cooperate with the authorities on other criminal investigations, keeping drug importation manageable and helping prevent foreign prostitution from flooding the country to maintain control on

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<sup>97</sup> Bruce Wallace, "Japan's Police See No Evil," *Los Angeles Times*, November 9, 2007.

<sup>98</sup> National Police Agency (2008) White Paper (Keisatsu Hakusho) Tokyo: Gyosei.

<sup>99</sup> Joachim Kersten, "Street Youths, Bosozoku and Yakuza: Subculture Formation and Societal Reactions in Japan." *Crime and Delinquency*, Vol. 39 No. 3, July 1993.

domestic pricing and restrict the outbreak of AIDS in the 1980s and 90s.<sup>100</sup> With the previously noted nation-wide crack-down progresses, there has been an obvious difference in the relationships between the police and *yakuza*. As Adelstein states:

Its antagonistic attitude toward the police- collecting information on them, not allowing detectives into the gang offices for a chat, not confessing, goes against the unwritten rules of how *yakuza* get along in Japan.<sup>101</sup>

This deterioration in the control the police have, as well as the *Yakuza's* own control of its personnel within the system can be used as a barometer for future management of crime in the country.

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<sup>100</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (Cornell University Press, 1996), 66–67.

<sup>101</sup> Gavin Blair, "Japan's Yakuza Mafia Faces a Crackdown," *The Christian Science Monitor*, July 27, 2010.

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## VI. THE STATE'S PACIFIST RESPONSE TO INTERNATIONAL CRIME

In the case of Japan, their pacifist approach to law enforcement has extended to transnational crime and terrorism. Globalization has forced Japan to be confronted with the same illicit behavior performed by transnational culprits as other countries. Instead of confronting such elements, it has taken a position of avoidance or abatement rather than mitigation. Japan's pacifist normative behavior not only has fostered the growth of organized crime domestically, its inability to be effective in policing such criminals has allowed the *yakuza* to expand globally.

### A. INTERNATIONAL DRUG TRAFFICKING

As a result of the success the *yakuza* attained in its country, its intermingling with foreign crime has increased throughout the decades to include global drug running and human trafficking. Methamphetamine has been the major drug of choice starting in the 1970s; other synthetic drugs such as LSD and ecstasy have become increasingly popular and an import of choice in Japan. Working with other major crime syndicates in Korea, Taiwan, Hong Kong China and even Iran, the *yakuza* have utilized them as importers in the stimulant trade.<sup>102</sup> After the "bubble burst" of the 1990s, the collapse of the economy stilled revenue from real estate and stock speculation, driving the *yakuza*'s push in drug and human trafficking as a means to maintain financial inflow. Approached by the United States in the 1990s to request assistance in curbing international drug trafficking, Japan only reluctantly agreed to some enforcement agreements, worried that the methods and restrictions the United States were requesting would hinder other aspects of its international trade.

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<sup>102</sup> H. Richard Friman, "The Great Escape? Globalization, Immigrant Entrepreneurship and the Criminal Economy," *Review of International Political Economy*, Vol. 11 No. 1 (February 2004), 98–131.

## B. HUMAN TRAFFICKING TODAY AS A RESULT OF ORGANIZED CRIME GROWTH AND STATE PACIFISM

When Japan's economy took-off in the 1980s, there was an increased demand for minor wage earners in the growing bar and club businesses. This began an influx of illegal immigration via organized crime channels to fill these and other low-end work positions.<sup>103</sup> Due to the rapid financial growth of Japan in the 1970s and 1980s, the demand for entertainment businesses began to increase as well. In order to accommodate Japan's "semi-legal" sex entertainment industry, the country had an in-flood of foreign women via immigration and human trafficking through organized crime to provide for bars and strip clubs. The *yakuza* and Japan's sex industry became intermingled; with the *yakuza* filtering in foreign women under the guise of legitimate work, creating a system for the modern day enslavement of people to feed this institution.<sup>104</sup>

There are approximately 2.5 million people in the world that are considered to be in a trafficked status, being in forced labor situations to include sexual exploitation. Asia and the Pacific dominate this statistic with 56%, 1.4 million people, currently counted.<sup>105</sup> In Japan's case, there have been glaring issues with the trafficking of persons, specifically women and children for use in their sex industry, and importation of persons to supplement intensive labor industries, being defined as "destination, source and transit country," which attributes to its Tier 2 status in the State Department's Trafficking of Persons report.<sup>106</sup>

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<sup>103</sup> John Lie, "The State as Pimp: Prostitution and the Patriarchal State in Japan in the 1940's," *The Sociological Quarterly* Vol. 38 No. 2 (Spring, 1997): 259.

<sup>104</sup> David E. Kaplan and Alec Dubro, *Yakuza: Japan's Criminal Underworld*, (University of California Press, 2003), Chapter 9- Meth, Money and the Sex Trade.

<sup>105</sup> International Labour Organization, Forced Labour Statistics Factsheet (2007)

<sup>106</sup> United States, State Department's Human Rights Report, Trafficking of Persons Report: Japan, 2011

## 1. The Tiers<sup>107</sup>

### a. TIER 1

Countries whose governments fully comply with the Trafficking Victims Protection Act's (TVPA) minimum standards

### b. TIER 2

Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards

(1) TIER 2 WATCH LIST. Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards AND:

a) The absolute number of victims of severe forms of trafficking is very significant or is significantly increasing.

b) There is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year.

c) The determination that a country is making significant efforts to bring themselves into compliance with minimum standards is based on commitments by the country to take additional future steps over the next year.

### c. TIER 3

Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so

## 2. Standards without Enforcement

Japan's 1956 Anti-Prostitution Laws and its Labor Standard Laws suffered from lack of enforcement and prosecution. In the case of labor violations, when caught committing such offenses, employers typically settled out of court or were

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<sup>107</sup> International Labour Organization, Forced Labour Statistics Factsheet (2007)

fined by the government in order to avoid prosecution. A highlighted case in 2010 by the Labor Standards Office involved a Chinese man, only 31 years of age, who had been worked past the point of exhaustion and consequently died. The company involved was given a fine of only a few thousand dollars as punishment. Most personnel that have been identified as victims are treated as illegal immigrants and simply shipped back to its country of origin with no real compensation or assistance by the state.<sup>108</sup>

In 1998, it was estimated that there were more than 150,000 foreign women prostitutes in Japan; half Filipinas and approximately 40% Thai.<sup>109</sup> More recent information from the 2008 Human Rights Report noted that human trafficking was still a prominent issue for Japan with victims from China, the Republic of Korea, Southeast Asia, Eastern Europe and Latin America. Most women are lured to Japan under the pretense that they will be working as entertainers or club hostesses, not realizing that the people offering the work have ties to the *yakuza*.

### **3. Pacifism from Past Preconceptions**

Japan joins failed states in the rankings that include such issues as failure to respond or prevent to such crimes as sex and labor slavery. To understand why a country that is considered a world leader and revered for its pacifist methods and low crime rates has been so delinquent in this area we must take into account the historical and normative perspectives that have created a society that seemingly disregards this area of human rights. History cannot be the only reason for Japan's aloofness to its human trafficking issue. We must look at how it considers prostitution in regards to the sex industry. Lie describes the action in his article as: sex work being used by the state as a form of political economy, concentrating more on the dynamics between genders pre- and post-

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<sup>108</sup> United States, State Department's Human Rights Report, Trafficking of Persons Report: Japan, 2011

<sup>109</sup> Coalition Against Trafficking of Women-Asia Pacific, *Newsletter Volume 1.2*, (Winter 1998)

World War II. He colorfully describes the state as the “pimp,” with its power over women’s sexuality in a patriarchal state serving as a form of control and another way to subjugate the populace.<sup>110</sup> Leheny determines how this position took root back to how Japanese culture considered the relationships between men and women in the Nineteenth Century, pointing out the new expectation of a marriage being platonic, creating a sense that sexual activity (past the point of reproduction) was considered as dirty. He specifically points out the dynamics between children, noting that children were grouped based on social status as opposed to age<sup>111</sup>; fortifying the idea that sex work involved only impoverished people. We see the parallel as stated before with the comfort women, where the dehumanization of individuals makes the action more prohibited in the minds of the consumer.

#### **4. Modern Day Issues**

Even with the Anti-Prostitution laws enacted in 1956, by 1998, Japan’s sex industry had grown to the point of generating a yearly revenue equaling 1% of the GNP, the same amount that is allotted to its country’s defense budget.<sup>112</sup> Along with the inflow of foreign sex workers, Japan has noticed a major rise in the amount of young teenage females becoming “part-time” Japanese sex workers. Most of these females are identified as high school girls, termed as *kogals*, that perform sex acts as well as play dating to supplement their disposable income in order to purchase high-end material goods. Initially unsure how to approach this growing concern of young females acting so improperly, the common consent among the Japanese is that the girls are being rebellious and that their actions are their own fault.

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<sup>110</sup> John Lie, “The State as Pimp: Prostitution and the Patriarchal State in Japan in the 1940’s,” *The Sociological Quarterly* Vol. 38 No. 2 (Spring, 1997): 251–252.

<sup>111</sup> David Leheny, *Think Global Fear Local: Sex, Violence and Anxiety in Contemporary Japan* (Ithaca: Cornell University Press, 2009), 62.

<sup>112</sup> Coalition Against Trafficking of Women-Asia Pacific, Newsletter Volume 1.2, Winter 1998)

Japanese society thus sees these young women as endorsers of criminal activity as opposed to recognizing them as victims of the system.<sup>113</sup>

Trafficking is not just considered a problem within the country; it is noted that Japanese men have been and still are a major contributor to the demand for sex tours abroad, specifically child tours in Southeast Asia. In addition to trafficking through illicit channels there has been a rise in immigrants being brought to the country under fraudulent marriages as an entrance into forced prostitution rings and through foreign “trainee” programs for labor purposes.<sup>114</sup> Much like with sex trafficking, labor trafficked persons are brought to the country under the false presumption of legitimate work, only to have their identification and visas taken from them and made to operate under unsafe working conditions.<sup>115</sup>

As emphasized in the United States’ State Department Human Trafficking Report, Japan as a country has “failed to address government complicity in trafficking offenses.” The government’s neglect in protecting identified victims has been sub-par, indicating a disregard for the person’s exploitation and ineffectiveness in mitigation of the acts involved in trafficking. The Anti-Prostitution Laws themselves are obscure, criminalizing the functions affixed to sexual service with the exception of the transaction itself.<sup>116</sup> The care provided by the state is extremely faulty, shelters and services provided vary from place to place, and the victims are often treated more as accomplices, having their movements restricted and are only provided counseling in few reported cases. In the event that a victim tries to press charges, the government does very little to help the individual. No funds are given to the victim to sustain themselves while

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<sup>113</sup> David Leheny, *Think Global Fear Local: Sex, Violence and Anxiety in Contemporary Japan* (Ithaca: Cornell University Press, 2009), 51.

<sup>114</sup> United States, State Department’s Human Rights Report, Trafficking of Persons Report: Japan, 2011

<sup>115</sup> United States, State Department’s Human Rights Report, Trafficking of Persons Report: Japan, 2011

<sup>116</sup> David Leheny, *Think Global Fear Local: Sex, Violence and Anxiety in Contemporary Japan* (Ithaca: Cornell University Press, 2009), 65.

trying to navigate the legal system, and with no legitimate work visa available to the “illegal immigrant”, the women are forced to depart the country with no justice found.<sup>117</sup>

## 5. Possible Reason for Apathy

Where Japan is concerned, many still question why such a respected nation that seemingly values respect and human rights still has such an issue when addressing the blatant issues in regards to trafficking of persons. One of its major faults in this area may have to do with its “shame based” society. In the case of human trafficking in Japan, we can be led to believe that it chooses not to aggressively pursue or enforce prosecution or education on the subject due to the complicity of Japanese citizens, who must be consumers of the product in order for the industry to be so large. Admission of such involvement in devious acts would cause guilt among the society; hence, feigning obliviousness to the problem is more tolerable than coming to terms with such fault.

As Huang and Vaughn state, “there is a paradoxical relationship between *boryokudan* gangs and society at large.”<sup>118</sup> Though the Japanese do not condone the *yakuza*'s more violent behaviors, they fill the function in its society to satisfy the demand for gambling, pornography, prostitution and stimulant drugs. Huang and Vaughn summarize the relationship between the *yakuza* and society in regards to immoral behavior by saying:

This arrangement allows the average Japanese to avoid self-introspection and accountability for individual indulgences while at the same time attaching an ambivalent attitude to *boryokudan* gangs for providing these illegal services.<sup>119</sup>

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<sup>117</sup> United States, State Department's Human Rights Report, Trafficking of Persons Report: Japan, 2011

<sup>118</sup> Frank F.Y. Huang and Michael S. Vaughn, “A Descriptive Analysis of Japanese Organized Crime: The *Boryokudan* from 1945 to 1988,” *International Criminal Justice Review* Vol. 2 (1992): 47.

<sup>119</sup> Frank F.Y. Huang and Michael S. Vaughn, “A Descriptive Analysis of Japanese Organized Crime: The *Boryokudan* from 1945 to 1988,” *International Criminal Justice Review* Vol. 2 (1992): 49.

If Japan is expected to make the proper adjustments to its approach in preventing and prosecuting human trafficking, the country's citizens must embrace the obvious accountability it has as a society. Without addressing this reluctance to properly pursue perpetrators and protect victims, Japan will continue to be a Tier 2 country in trafficking on a global level.

### **C. PACIFIST APPROACH TO SEX CRIMES BETWEEN JAPANESE CITIZENS**

In many cases in Japan, sexual crimes among its own citizens, such as rape, molestation and harassment go unreported due to the stigma still attached to the act in regards to the victim. Attitudes involved with the act were to treat it as "natural" sexual behavior in some situations for young men, conversely, the shame produced by the encounter for the woman was seen as harmful to future marriage prospects, so the event would go without being recorded. Even with improved clearance rates reported the last few decades, the shame on the part of victims still discourages them from addressing the crime to the authorities.<sup>120</sup>

### **D. THE RESPONSE TO TERRORISM AND TRANSNATIONAL CRIME**

Terrorism and violence-prone social movements have littered Japan's history despite the country's low crime rate. Japan has experienced hundreds of domestic bombings and "guerilla" attacks in the last several decades. These include the 1986 rocket attack by left wing-organization *chukaku-ha*, on the palace during the Tokyo summit, the 1995 sarin gas attack in the subways of Tokyo, as well as more than 200 domestic bombings between 1969 and 1989. The country's counterterrorism policy is based on the same premise as its Peace Constitution, focusing on root causes as opposed to the immediate act of terrorism. Japan has been notorious for pushing international terrorists out of the country to other countries, while it is less willing to assist with the response to terrorism as part of a global problem. For example, the Japanese Government's

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<sup>120</sup> A.J. Finch, "The Japanese Police's Claim to Efficiency: A Critical View," *Modern Asian Studies*, Vol. 33 No. 2 (May 1999), 506.

response to the JRA plane high-jacking and passenger kidnappings was complacency, when confrontation seemed unavoidable, Prime Minister Takeo Fukuda decided to pay ransom to release JRA cadre from prison and proceeded to issue blank passports to resolve the situation.<sup>121</sup>

Katzenstein states, “Concepts of self and other define the standards of appropriate behavior that govern Germany’s and Japan’s counterterrorist policies.” He relates in his article that institutionalized norms of concepts of “self” and “other” inadvertently enhance terrorist issues for other actors. Japan in particular has a policy of “avoiding bloodshed,” preferring to appease terrorists by paying demanded ransoms and only tepidly supporting the “no-concession” policy.<sup>122</sup> This passive approach to threats seems to work for internal skirmishes and has allowed them to avoid conflicts with terrorism on a global level, but Japan has received external pressure from other international organizations to push for more involvement in terror deterrence, although this still meets with reluctance from the Japanese public.

## **E. TERRORISM AND THE STATE**

Institutionalized norms, specifically Japan’s “pacifist” image, drive how the country creates and interprets its antiterrorism policies. The Japanese people’s pacifist identity affects what actions it perceives as external and internal threats, making them willing to downplay events internal to the country in order to avoid causing alarm and political disfavor as well as brushing off international terrorism by arguing that such issues are not the country’s concerns.<sup>123</sup> Such internalization can be drawn back to post-World War II isolation, remaining occupied and allied with the United States; Japan had little direct contact with other countries without the United States purview. In regards to the growing

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<sup>121</sup> Peter J. Katzenstein, “Same War: Different Views: Germany, Japan and Counterterrorism,” *International Organization*, Vol. 57 No. 4 (Autumn 2003) 731–760.

<sup>122</sup> Peter J. Katzenstein, “Same War: Different Views: Germany, Japan and Counterterrorism,” *International Organization*, Vol. 57 No. 4 (Autumn 2003) 736.

<sup>123</sup> Peter J. Katzenstein, “Same War: Different Views: Germany, Japan and Counterterrorism,” *International Organization*, Vol. 57 No. 4 (Autumn 2003) 743.

issues of terrorism in later decades, the establishment of ASEAN (Association of Southeast Asian Nations) created a situation where neighboring countries focused on domestic issues and not international engagements.<sup>124</sup> This regional approach fostered Japan's posture that what occurred outside of its borders need not be addressed.

The typical Japanese definition of terrorism is grouped into how it views other social problems, with events classified more under crisis management than response to anarchy. The National Police Agency still suffers from a lack of intelligence gathering capabilities as well as the structure to deal specifically with terrorism. Policy is related more with how peace and human rights are affected than being clearly defined as counterterrorism and is left out of public debate. When compared to the United States in regards to counterterrorism, Katzenstien quotes that:

Japan is more methodical, less willing to create alarm by preparing for crises, more sympathetic to the root causes of terrorism, and less willing to respond to terrorism as a global problem.<sup>125</sup>

In many cases, when international terrorists are a cause for concern within Japan, the government will press for them to be pushed out of the country rather than confronting the problem directly. With the events of September 11, 2001 bringing global terrorism to the forefront, and testing the bonds of the U.S.-Japan strategic alliances in some areas, Japan has been forced to embrace a more partnered method to dealing with terrorism. Working more closely with INTERPOL (International Criminal Police Organization), the nation has begun to recognize the impact that terrorist networks have on a worldwide scale.

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<sup>124</sup> Peter J. Katzenstein, "Same War: Different Views: Germany, Japan and Counterterrorism," *International Organization*, Vol. 57 No. 4 (Autumn 2003) 738.

<sup>125</sup> Peter J. Katzenstein, "Same War: Different Views: Germany, Japan and Counterterrorism," *International Organization*, Vol. 57 No. 4 (Autumn 2003) 744.

## F. TRANSNATIONAL CRIME

In regards to transnational crime, Japan has embraced partnerships outside of its borders in order to contain issues caused by syndicates originated in the country. As stated in Chapters III and IV, Japan's well known organized crime syndicate, the *yakuza*, has branched itself into the global markets of drug smuggling and human trafficking with little regulation by its own government. With links to China's Triad as well as syndicates in Korea, the *yakuza* have become a larger globalized issue affecting Asia as well as other regions. Where it lacks proper connections on a multinational level, the National Police Agency has cultivated connections from its neighboring countries of China, Thailand, Taiwan, Burma, Vietnam, Laos and Cambodia along with high-level relations with South Korea and the United States to facilitate intelligence gathering and pursuit.<sup>126</sup>

One theory as to why Japan is so aggressive in its pursuit of transnational crime in comparison to its passive pursuit in confronting terrorism is the palpable affect that such international crimes, especially drug trafficking, have on the country. Because of the high standard of living making Japan distinct in a relatively poor region of the world, Japan has become a major target for international dealers.<sup>127</sup> As opposed to its unresponsive actions towards human trafficking, the country has recognized the negative impact such activities has on its society. Japan also may feel more shame for the *yakuza's* actions in regards to the international stock market, real estate scams and bad loan ventures, because they are in open view of the global community. Issues such as terrorism relocation and human trafficking are not as publicized as a problem with the country and are therefore not as actively confronted by the state.

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<sup>126</sup> Nobuo Okawara and Peter J. Katzenstien, "Japan and Asian-Pacific Security: Regionalization, Entrenched Bilateralism and Incipient Multilateralism," *The Pacific Review*, Vol. 14 No. 2 (2001) 173–176.

<sup>127</sup> Nobuo Okawara and Peter J. Katzenstien, "Japan and Asian-Pacific Security: Regionalization, Entrenched Bilateralism and Incipient Multilateralism," *The Pacific Review*, Vol. 14 No. 2 (2001) 173–176.

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## VII. CONCLUSION- EFFECTIVE POLICING, OR A SOCIETY LYING TO ITSELF?

In an effort to maintain the non-violent, less militaristic image to avoid pre-World War II connotations, Japan has only succeeded in creating a system of contradiction. The nation has touted its low crime rate but has also come under scrutiny in recent years for claims of statistics falsification and misreporting crimes. There have been cases of numerous stations underreporting crimes around the country and offices targeting individuals already possessing criminal records already with charges of unrelated crimes in order to improve its clearance rates. Reporting procedures have been skewed as well, as Japan continues to be a society where shame and saving face remain a prominent concern.

### A. COUNTERARGUMENTS: “PLANNED CHANGE?”

As Carpenter points out, Japan has gone through several major shifts in how it approaches governing its society.<sup>128</sup> In some cases, these changes were “planned” such as the Tokugawa, Meiji and even the United States’ approaches to remolding the nation. In the cases of the Tokugawa and Meiji, Carpenter states that the changes were forced and indoctrinated by the sitting governments, and eventually fully accepted by the people with only the instances of “culture contact” that forced a shift in authoritative measures and policies. Without the intervention of a foreign presence creating an event or interfering with how Japan conducts its domestic and foreign actions, we must assume that the counterfactual Japan of today would most likely still be an authoritarian governance, and militaristic rather than “passive.” Many may wonder how Japan was able to make a 180-degree change from its pre-WWII Imperialistic identity into the pacifist nation it is today. I posit that Japan as a country, until recent decades, was hard-wired socially to accept whatever governing choices the

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<sup>128</sup> David B. Carpenter, “Urbanization and Social Change,” *The Sociological Quarterly* Vol. 1 No. 3 (July 1960): 156.

leadership imposed, with bases rooted in “social control theory,” constitutive norms and underlying manipulation of Confucius beliefs.

Where successive Japanese governments have relied on such controls to retain dominion over society’s behavior, they have been unable to properly evaluate the collective social shift that has occurred in the past decades, because of globalization and the general dissociation new generations feel towards the collective body. As Japan becomes more heterogeneous through genetics, culturally and economically, the government becomes increasingly unable to handle the autonomy its people are displaying. The breakdown of the law enforcement model relying on the organized crime collective is a distinct example of how prior approaches to governance will no longer work in modern Japan. These “unplanned” social evolutions due to urbanization and globalization cannot be judged with such a narrow focus on maintaining the status quo.

## **B. ARE THE POLICE METHODS TRULY “PACIFIST”?**

One of the major concepts examined during this study, is the idea of pacifism and whether or not the methods used by the Japanese Police can be truly considered “pacifist.” A common idea of the definition of pacifism is, “to avoid the use of force or, using non-violent methods to achieve one’s goals”. In Japan, guns are strictly prohibited for all except law enforcement, military and sportsmen, which immediately de-escalates the potential for forceful conflict in most situations. Physical violence is rarely needed in most cases of police response and only in controlled amounts. The government retains a very loose hold on the police. The legal framework that the police operate under, allows an ‘enabling’ environment in respect to its investigative procedures.<sup>129</sup>

Working under the National Public Safety Commission, the NPA has relative political and operating autonomy, allowing the police *carte blanche* when pursuing criminal investigations. Though the justice system has gone through

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<sup>129</sup> A.J. Finch, “The Japanese Police’s Claim to Efficiency: A Critical View,” *Modern Asian Studies*, Vol. 33 No. 2 (May 1999), 495.

reforms over the decades, it still relies heavily on the policy of confession being the “King of Evidence.”<sup>130</sup> Securing a confession from a suspect ensures a minuscule acquittal rate for the Japanese courts and positive statistics for police case closures. The legal environment provides the police opportunity for unlimited and unrestrained questioning of suspects. As Finch relates in his article:

Interrogation may be conducted on an unarrested suspect at a police station or police box on the basis of Article 2 of the Police Duties Execution Act, and Article 198 of the Code of Criminal Procedure. Article 2 of the Act allows a police officer to stop and question any individual when there are reasonable grounds to believe that the individual has just committed a crime or has knowledge about a crime which has been or will be committed.<sup>131</sup>

This form of on-the-spot questioning is not considered to be detaining an individual and is not included in the set time limits of indictment. During questioning, a suspect can be subjected to psychological and physical pressure, and a person can be subjected to questioning at any time, day or night with no regard to meal consumption or sleep. Legal counsel involvement is very limited and in many cases, a statement will be written by an investigating officer and signed by the suspect.<sup>132</sup>

Detention is another method by which police can coerce a confession from a suspect. An individual can be held for three days, prior to seeing a judge. Pending a trial a judge can send the person to a detention facility for up to 10 days, which is usually extended. Where there are plenty of facilities capable of housing the suspect, the police will typically enact a method called *daiyokangoku* or “substitute imprisonment” which was utilized in the early 1900s when there were a shortage of holding facilities. This action allows the arresting police

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<sup>130</sup> A.J. Finch, “The Japanese Police’s Claim to Efficiency: A Critical View,” *Modern Asian Studies*, Vol. 33 No. 2 (May 1999), 497.

<sup>131</sup> A.J. Finch, “The Japanese Police’s Claim to Efficiency: A Critical View,” *Modern Asian Studies*, Vol. 33 No. 2 (May 1999), 498.

<sup>132</sup> A.J. Finch, “The Japanese Police’s Claim to Efficiency: A Critical View,” *Modern Asian Studies*, Vol. 33 No. 2 (May 1999), 500.

to hold the prisoner with them as opposed to being transported to the required alternative facility. While still in its custody, the suspect can be subject to even more questioning until a confession is obtained. Physical abuse is not uncommon, but we are made to believe that “non-violent” methods are employed to the degree that the person is not subjected to bodily harm. We also gauge the psychological effects that confinement and coercion have on a person and whether these methods can be considered “passive.”<sup>133</sup>

### **C. THE FUTURE OF JAPAN**

Japan’s objective is to be a pacifist nation, where violence is considered unnecessary, but in its quest to achieve this status, it has compromised the truth behind the term. Preservation of self-image is the cause of misreporting, falsification of statistics, and issuing unsubstantiated blame to foreigners and youths for the rise of crime. In order to avoid addressing unwanted aspects of society, the government chose an alliance with organized crime and has allowed it to embed itself as an accepted part of its culture. The pressure to ensure low clearance rates leads to questionable methods used by the authorities to secure confessions that are the sole evidence against a suspect. Even the approach to terrorism is one of apathy, as the government and society would rather be oblivious than commit to a stance against it.

The study has tracked the growth of organized crime as a result of globalization from the Allied Occupation of Japan through the economic “Bubble Burst” of the 1990s. Forced restructuring of the government and the country’s legal infrastructure coupled with its industrial revolution caused major social shifts in the way Japanese police approached law enforcement. The reliance on pacifist norms and the lack of resources for the rebuilding country in the 1950s and 1960s forced a dependent relationship with gangs in order to maintain public order. Those gangs steadily evolved into organized crime syndicates, and as

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<sup>133</sup> A.J. Finch, “The Japanese Police’s Claim to Efficiency: A Critical View,” *Modern Asian Studies*, Vol. 33 No. 2 (May 1999), 501.

Japan was introduced to the international economy, these *boryokudan* followed, expanding their own business scope. Methods have inevitably become more violent as a means to achieve its financial objectives and in response; the police will need to adapt its passive practices in order to counter the threat.

Japan has been slow in responding to its problem of organized crime, but has come to realize the negative effects of globalized criminal activities and is now trying to contain the influence of the *yakuza* and foreign syndicates in the country and on an international level. Japan's crime trends mirror those of other developed democratic nations, which occur after a period of industrialization and urbanization.<sup>134</sup> Though stunted due to the post war occupation, the country will eventually reach the same level of social disorder and crime influx as experienced by other states.

Japan prefers to concentrate its police and legal efforts on maintaining a relative "status quo" in regards to crime and terrorism, externally as well as internally. The country seems to only treat the symptoms of the problem instead of addressing the root problems of an ever-changing society. In recent decades, the country has experienced a dissolving of traditional social relations where in the near future, the Japanese will come to realize that its previous forms of dispute resolution based on pacifist norms and tactics has become increasingly ineffective.<sup>135</sup> Attempting to maintain an image of a "pacifist" society will ultimately lead to a further break down of the justice system and not allow the authorities to adapt appropriately to future domestic and international threats.

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<sup>134</sup> A.J. Finch, "The Japanese Police's Claim to Efficiency: A Critical View," *Modern Asian Studies*, Vol. 33 No. 2 (May 1999), 503.

<sup>135</sup> Arthur Taylor von Mehren, "The Legal Order In Japan's Changing Society: Some Observations," *Harvard Law Review*, Vol. 76 No. 6 (April 1963), 1175.

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