Open Research Online

Regulating the other side: disorder, exclusion and subcultural closure in the night-time economy

Journal Item

For guidance on citations see FAQs.

oro.open.ac.uk

Regulating the other side: disorder, exclusion and subcultural closure in the night-time economy

Dr Deborah Talbot
Lecturer in Criminology
Faculty of Social Sciences
Open University
Walton Hall
Milton Keynes
01908 652302
d.h.talbot@open.ac.uk

Regulating the other side: disorder, exclusion and subcultural closure in the night-time economy

Abstract

The aim of this article is to examine the concept of 'alcohol-related disorder' in the night-time economy as a reified notion that neglects the broader impact of economic, social and cultural influences on nightlife. The combined impact of gentrification and disorder management have in turn created and reinforced an idea of nightlife that is dominated by the culture of consumption; marginalising the potential for experimental subcultures while creating an apparatus of control and moral disapproval directed at the 'binge' drinking, common assault and nuisance. The paper will draw on historical frameworks that demonstrate that the regulation of nightlife has, since the earliest licensing statute, been concerned with consolidating big business and criminalising popular cultural forms, a precedent that continues today. The argument will be made that, rather than focusing on nightlife as an undifferentiated social problem, researchers should look more broadly at the cultural, spatial and regulatory barriers facing a creative and diverse nightlife.

Word count: 7,674

Regulating the other side: disorder, exclusion and subcultural closure in the night-time economy

Introduction

The process of implementing the Licensing Act 2003 in 2005 has reignited a decade-long debate on the impact of later licensing and the 'growth' of bars and clubs on the supply of alcohol and consequentially drunkenness. The argument, put forward by a loose alliance of London councils, some key residents associations, voluntary organisations such as Alcohol Concern, academics and policy-makers and the Home Office, is that the growth of the 'night-time economy' has prompted 'binge drinking' and consequently a growth of 'alcohol-related' (Alcohol Concern 2004) or 'alcohol fuelled' (DMCS 2005: 3) disorder. The implementation of the Licensing Act in particular provoked the potential spectacle of twenty-four hour opening and of city-centres therefore descending into an annoying or fear provoking chaos of drunken 'yobs' (of both genders) creating violence, noise and other associated nuisances.

A consultation document produced by the Department of Culture, Media and Sport (DMCS), the Office of the Deputy Prime Minister and the Home Office in January 2005 as part of a National Alcohol Strategy argued that while 'most people drink responsibly', there was 'general agreement that the scale of alcohol-fuelled disorder is much too high' (DMCS 2005: 3). Disorder, however, is a catch-all term that is symbolic of a range of harms, and generally studies cited in order prove a correlation

between alcohol and disorder have a more narrow focus on violence or aggression (Alcohol Concern 2004, Finney 2004). The substantiation of the relationship between alcohol and harm has accelerated in relation to the implementation of the Licensing Act 2003 and more broadly community safety strategies. Hence there have been attempts to formulate research strategies for local 'crime audits' (Tierney and Hobbs 2003).

It is increasingly understood, however, that we are very far from being able to establish the causative effect of alcohol even taking into account the reductive categories of violence and aggression because of the number of variables contributing to aggression and violence and the problem of 'set and setting'. Homel and Clark (1994), for example, cite a range of research that aim to show a contributory impact of alcohol on aggression but also show how alcohol can, in some instances, reduce aggression, depending on the hormone testosterone levels and the experience of frustration and threat. It is clear from this perspective that in explaining the effect of any intoxicant there is a complex interaction between pharmacology, physiology, psychology and social/cultural context. Alcohol Concern (2004), noting this problem, repose these contextual variables as a range of individual 'risk factors' ranging from a family history of violence and behaviour mismanagement, inherited traits, physiological conditions, cognitive impairment, aggressive personalities, mental health problems and lifestyle.

Moreover, as issues surrounding drinking and the night-time economy have permeated cultural geography, the importance of considering how different spaces are productive of behaviours and social relationships have come to the fore. Jayne et al. (2006), for example, have issued a call for more research to be focused on highlighting how space matters and the need for an urban geography of drinking.

Hence from a cursory view of the problem the issue of definition is multi-layered. First, that much of the research focuses on violence and aggression, and here there is agreement that the relationship is neither causal nor direct. Second, that the issue of aggression and violence is not the same as disorder, which is of a more ephemeral nature. This will be examined later in this article. Thirdly, that moreover the role of the spaces of the night-time economy within that causative framework is unclear. While the problem of bars and clubs has been the focus of much debate, there has been until recently little attempt to distinguish between venues or establish how important issues of supply within such venues are compared to availability in supermarkets and other retail outlets[1]. Statistics on licensing over a century show that the most dramatic increase in the number of licensed outlets has been in off-licensed premises (from around 25,000 in 1905 to 46,582 in 2004) and restaurants, with public house licenses showing an increase of nearly 15,000 from 1980 from a historic low point in the post-war period, the era of privatised family-based 'leisure' (Mass Observation 1943) and the public marginalisation of women. The number of clubs licensed remains small (Home Office 2002, Department of Culture, Media and Sport

---

[1] The Times, 'Drink laws will cause teen deaths, warn liver doctors', 29/8/05.

2004). Lastly, that, as Jayne et al. (2006, p.464) note, 'the relationship between drinking, drunkenness and urban public space has been undertheorised'.

Acknowledging the problem of evidence is not to deny that city centres and other 'zones' of night-time drinking have been beset with problems of late night excess, even if, according to government statistics, the predicted violence has failed to materialise[2]. Certainly a morning walk around night-time 'zones', replete with the stench of urine, is not exactly appetising, although the impact of generational difference in the disapproval and misunderstanding of behaviours might account for some of the reactions to nuisances emanating from nightlife. The problem, as Gofton (1990) points out, is that drunkenness is seen as a personal characteristic illustrating moral or more importantly behavioural culpability in classic neo-liberal style as opposed to examining the wider social influences of 'individualism and consumer materialism' (1990:33) on lifestyle patterns and social habits. Rather than condemn our point of arrival it is important to rehearse recent milestones that would seem to indicate the political, economic, legal and cultural precursors of change; these include a consideration of the interaction between the changing nature of space, cultures, as well as forms of regulation.

There are initially two key points here that point attention outside the spectacle of the individual violent binge drinker towards the impact of structural change and in particular the culpability of government in promoting alcohol consumption. One of

---

[2] See an article by Will Self on 'Why I was wrong about the drink laws' (Evening Standard 9/2/06) where he critiques his own participation in a 'moral panic' about the impact of the Licensing Act 2003 on disorder in localities.

these is that the deregulation of licensing hours that began with the end of the afternoon break in the mid 1980s (Baggott 1990) was part of a broader ideological commitment to laissez-faire economics and deindustrialisation. The second is consequential from the first, that the night-time economy was an idea born from the need to regenerate decaying inner-city areas (Department of the Environment 1993). Nightlife would be an economic driver as part of a service driven sector of symbolic goods that would dominate our post-modern and post-Fordist landscape. In both respects, therefore, the contemporary night-time economy, like fast-food, is a product of the free-market: on the one hand, a product of the morally levelling instinct of the individually free libertarian, and on the other, a means to mop up the economic decay left in its wake.

A third aspect is also key, however, and that is to remind ourselves that the night-time economy was a policy of social control aimed at driving rave culture into private and licensed space, thus rendering them visible and ordered (Garratt 1998, Collin 1997). One consequence of this, however, was that at least officially the intoxicant of choice had to be legal, that is, alcoholic[3], despite the continued prevalence of illegal drugs[4] Moreover, breweries were happy to innovate to suit new tastes and chemically 'facilitate' use. Summaries of research by Alcohol Concern (2001) illustrate that the content of alcopops (including sugar and a variety of stimulants) conceal the taste and strength of alcoholic drinks and thus are more likely to appeal to the young.

---

[3] This is not to celebrate the benefits of ecstasy over alcohol, but merely to note that alcohol more frequently entered into the mix. Hence it should be noted that the post-ecstasy generation were more likely to be poly-drug users.

[4] Indeed, such developments merely added to the prevalence of 'poly-drug use', with alcohol being consumed alongside a range of other drugs.

These contextual influences in recent history demonstrate the socially constructed nature of both drinking and social concerns about alcohol. Dorn (1983) advised any analytical account of licensing law to take a longer look at history and how in early legal regulation (for example, the Act Against Vagabonds and Beggars 1495) alcohol was seen to be symbolic of idleness, political agitation and disorder. At the core of this symbolism lay social and economic change, in particular, the need for a disciplined workforce suited to the regularised hours of an increasingly industrialised Britain. Such concerns with workplace discipline, absenteeism and alcohol are still evident today, although subject to manifold contradictions.

Firstly, as illustrated by Dorn (1983), the production and consumption of alcohol has been subject to the twin political forces of a neo-liberalism largely associated with increased supply and a political non-conformism associated with its restriction since the 1820s. A consequence of this has been, as Gofton (1990) notes, that the working-class acts as both a mass market for the consumption of alcohol whilst simultaneously being criminalised for its use and abuse. As Harrison (1994) points out, excessive drinking is a product of industrialisation - the psychological strain of industrialised working patterns alongside the corrosion of 'traditional sanctions on conduct' (1994:41) – whilst the working-class is held to be responsible for its socially deleterious effects. Secondly, that alcohol, along with the public house, the nightclub and night entertainment in general is embedded in both working-class and popular culture partly but not wholly due to the separation of work and leisure time. Orwell

(1940: 16) noted in his sentimental account of English culture that the working-class are 'inveterate gamblers, drink as much beer as their wages will permit, are devoted to bawdy jokes, and use probably the foulest language in the world', while subcultural thinkers (Roszak 1970) have noted the intimate connection between the experience of industrial (and post-industrial) societies and alienation. It is the dualism of the English cultural experience of drinking, of consumption, alienation and rebellion that is often overlooked in contemporary analyses of nightlife. Put simply, contemporary nightlife is both an expression of the separation of work and pleasure characteristic of market and industrialised societies *and*, because of the dominance of class segregation and the official response to popular culture, a form of rebellion, conceived in its broadest sense.

These basic legal, political and cultural observations point to the difficulty of constructing policy outside of a historical, political, legal, economic and cultural understanding of its object. This article will argue that the current framing of debates relating to the so-called night-time economy and the disposal of cultural spaces in general are a problem for anyone concerned with the pursuit of political and social alternatives. The motivation towards cultural and social change was historically bound up with alternative and outsider spaces and the interrelated pressure of commercialisation and regulatory change has precipitated the dissipation of radical energies. The dominance of alcohol consumption within the new night-time economies partly expresses this marginalisation while the prevalent discourses surrounding its overuse has prompted a regulatory trend towards pre-emptive closure.

This article then will first look at the origins of the contemporary forms of night-time consumption in urban centres before going on to examine the new forms of control being innovated. The implications of this for cultural development will be considered in the conclusion.

The colonisation and commodification of nightlife

As previously outlined, licensing regimes and the official attitude to alcohol have been shaped by political economy as well as political or moral considerations. Attempts to restrict the consumption of alcohol from the sixteenth century, for example, was closely connected with the new vagrancy laws aimed at controlling labour and ensuring discipline, alongside concerns about the close connection of Alehouses with working-class radicalism (Dorn 1983). Furthermore, theorists have understood fears around nightlife and popular culture to be intimately connected to fears about the 'dangerous classes' in the rapidly growing cities from the eighteenth century (Schlör 1998). The social reaction to this culture was organised by largely middle-class movements ranging from the Reformation of Manners Movement (Hunt 1999) to Temperance.

However, in contradiction to these movements were the free traders that dominated the brewing industry that were, despite this ideological perspective, rapidly moving away from small production to large scale and rapidly consolidating companies. In 1787 the top twelve brewers controlled 42% of the industry but by 1870 controlled

85% (Dorn 1983:48), establishing a historical tendency towards large-scale enterprises. Lobbying by this body precipitated the passing, for example, of the Beerhouse Act 1830, which removed the right of magistrates' to license public houses for the sale of beer and allowed any householder to sell beer for a small fee.

Regardless of whether licensing law was restrictive or liberalising, however, the impact was permissive of the alcohol trade only in licensed outlets. Any entertainment that fell outside of the bourgeois economy ('fairs and festivals') were treated as potential sites for disorder and targeted for surveillance by the emerging police forces (Storch 1976). The aim of the first entertainment licensing law, the Disorderly Houses Act 1752 as outlined by its proponent Henry Fielding (1751), was to permit and restrict, so long as the authorities retained control over the premises. What is central here is that licensing law, whether aimed at deregulation or re-regulation depending on the historical period, had the impact of consolidating the permitted industry. Free or unregulated activities outside of the industry were successively restricted. The fate of the 'beat clubs' in London's West End and Manchester in the 1960s, closed because of the so-called 'moral dangers' to young people (Public Records HO300/24, Lee 1995) and the domestication of the rave scene already noted were indicative of these dual standards.

The industry was often compliant with respect to regulatory controls for entirely strategic reasons. For example, between 1890 and 1900 the industry saw a drop in revenue due to falling sales and prices and as a consequence a struggle to control

retail outlets ensued. An industry in fierce competition then favoured the closure of a number of outlets, which accorded with the growing temperance mood of regulators (Dorn 1983). Furthermore, the fate of the trade was bound up with changing economic regulation in general. Growing state involvement in the economy from world war one onwards and with the growth of social democracy alongside the Fordist (Lovatt 1996) mode of regulation, saw the state step in to regulate supply by restricting the number of public houses and hours of opening. This form of regulation persisted until the 1980s with the growth of laissez-faire economics (Baggott 1990) and renewed support for the liberalisation of the trade. As a consequence, the 1980s saw the first Conservative-led deregulation of closing times for three generations alongside the innovation of restrictive legislation directed at rave culture but more broadly reflected social fears about large gatherings of people in public spaces and social disorder. This period also saw the tightening of the freedom to protest.

The argument is therefore that licensing law and surrounding legislation flowed from the imperatives of economic activity, and in turn shaped how urban leisure spaces could be used. A similar relationship has emerged today, with an expansion of commodified spaces as previously marginalised cultural forms are turned over to the combined forces of regeneration initiatives and corporate enterprises, whilst alternative and unregulated events are subject to closure. Cultural geographers and criminologists have long observed the intimate relationship between economic

change, regulatory strategies and the tendency to differentiate between acceptable and unacceptable cultures[5].

In *Loft Living* (1989), for example, Sharon Zukin charts the valorisation of the SoHo loft spaces of the old manufacturing districts as they were firstly inhabited by countercultural artists and then turned over to 'higher rent uses' (1989:121). This 'value-added' urban boosterism was fed by social and cultural change, in particular, she argues, the escape from the alienation of suburbia. As a consequence of the growing interest, however, the original colonisers were forced out as rents increased, a phenomenon that Zukin refers to as the Artistic Mode of Production.

This analysis was developed in later work to describe the impact of urban conversion on public culture itself. As previously neglected areas are turned over to higher status cultural groups, new forms of exclusion arise. One of these is the displacement and marginalisation of existing cultures. Smith (1996), for example, notes how in the acceptance of the language of decline and 'social pathology' applied to the inner city, the language of 'revitalisation, recycling, upgrading and renaissance' (1996:32) was ideologically appealing. However, it served to hide the class connotations of gentrification strategies, essentially entailing the reclaiming of the inner city for the middle-class. Moreover, it suggests that 'affected neighbourhoods were somehow devitalised or culturally moribund prior to gentrification' (1996:32).

---

[5] In this contemporary landscape, theorists have argued there is a causative relationship between the post-industrial economy (Bell 1976, Bianchini and Parkinson 1993, Castells and Hall 1994) with the growth of consumption, individualism, relative deprivation and a culture of fear and punitive impulses against the 'other' (Cohen 1985, Young 1999, Ferrell 2001, Garland 2002).

Additionally, theorists have noted the way in which reclaiming space translates into defending space along new class and racial boundaries. Smith, for example, argues that the language of inner city development has become more defensive in the wake of economic decline. The desire to reclaim the inner city is harnessed onto strategies designed to curb the presumed 'crime and violence, drugs and unemployment, immigration and depravity' (1996:211) associated in popular discourse with immigrants, the poor, minorities, the unemployed, and any other new categories of exclusion. In other words a strong desire to 'sanitise' the city, referred to by Smith as 'revanchism'. In the US, commentators have focused on the search for a purified space free of risk and the possibility of meeting the 'other' (Zukin 1991, 1995, Ferrell 2001). Techniques of control emerge whereby this feared 'other' is objectified in spatial localities by the adoption of strategies of containment through the closure, privatisation and sanitisation of public space. As a consequence, the discourse of security and protection became a common currency of public discourse, alongside strategies that contain risk and the fear of risk, such as private security, gated communities and Zero Tolerance (Young 1999). Davis's (1990) description of the dystopia that is the 'pure capitalism' of Los Angeles is illustrative of the way in which populations are divided along class lines in a 'fortress' style form of social control as a consequence of the escalation of market-led 'reaction'. In 'cities like Los Angeles, on the bad end of postmodernity, one observes an unprecedented tendency to merge urban design, architecture and the police apparatus into a single, comprehensive security effort' (Davis 1990:224). In other words, cultural development becomes

bound by a consciousness of risk as capital encompasses the 'mental space' of the counterculture (Klein 2001:66). As Ferrell notes, 'the melting pot is over' (1991: 3).

In the process of the colonisation of alternative spaces the vernacular of alternative culture is reposed as status objects. It is of note, for example, that Spitalfields in East London, in recent years home to markets, bars and music venues have been turned over to the City, but in doing so have retained echoes of the old, with 'tat' markets installed in the new shopping mall and pricy shops called 'Bohemia', rather a contradiction of terms. This odd repackaging of bohemian life for City workers is a reminder of Richard Florida commentary of the search of the 'creative class' for 'abundant high-quality amenities and experiences, an openness to diversity of all kinds, and above all to validate their identities as creative persons' (Florida cited in White 2004:156). What sanitisation means, however, is the exclusion of the troublesome – begging, incivilities, panhandlers, street music and strippers (White 2004).

Nightlife, repackaged as the night-time economy, is an interesting addition to the plethora of attempts to regenerate through culture decaying inner city areas (Miles and Paddison 2005), normally enacted through the development of 'cultural quarters' in places as bizarre and moribund as Merton in London. Such strategies have been most successful in areas like Manchester and Brixton in South London and have been so because of their subcultural history as areas of rebellion and experimentation. However, regeneration through the promotion of night-time economies in these areas

has required a complex interplay between the marketing of subcultural reference points alongside their exclusion in practice, notably through the pressing absence of black cultural forms and in the closure of important nightclubs such as the Haçienda (Talbot 2004, Böse 2005). As with inner city markets, cafes and other cultural ephemera, nightlife has been colonised, gentrified and sanitised as many consumers look for safe spaces to exercise mundane social preoccupations. The idea of city spaces where one actively chooses to engage in risky behaviours in order to challenge the boundaries of conventional norms or even search for an alternative world view - a core part of the ethos of alternative culture and embedded in particular spatial forms because it is reliant on crossing social boundaries – has been marginalised in the contemporary licit night-time economy.

As Jayne et al. (2006) comment, however, accounts of the processes of gentrification and sanitisation can be over-deterministic, and belie a continued reality of creative reconstruction, the continued uses and subversion of space, and, as Peter Ackroyd (2000) is at pains to demonstrate in his biography of London, the overwhelming continuity of disorderliness and the elusiveness of control; in London because of its size, its history, its geographical complexity, its cultural diversity and its historic tendency to attract those seeking to escape suburban and provincial normality (see also Raban 1974, Pryce 1976, Talbot 2007). Hence there will always be subcultures or new reactions to and uses of older cultural forms; it is simply that they need to be uncovered.

Order, disorder and social differentiation in the night time economy

The Licensing Act 2003 exemplified the process of cultural sanitisation outlined in the previous section. Its discourse or rationale was explicitly aimed at creating cultural distinctions between favoured café style bars (for example, the 'All Bar One' chain or family centred 'gastro pubs') and disorderly spaces seen to be productive of noise, violence and drinking to excess. Furthermore, it created a continuum of sanctions aimed at 'disciplining' the licensee and their staff in the form of license endorsements, as opposed to the simple revocation available to the licensing authorities previously. Far from being a liberalising Act per se, it symbolised a system of control that gave benefits to perceived orderly venues (such as later hours) and a progressive range of sanctions aimed at the disorderly (Talbot 2006).

The aim of encouraging well-decorated and orderly café style bars and discouraging noisy and occasionally violent or criminal vertical drinking dens may not seem particularly controversial if not to everyone's taste[6]. To a large degree the Act simply endorsed mainstream norms regarding cultural behaviour at night, including the capacity to target failing premises, and consolidated a decade of licensing practice in some cities and localities. However, the drive against alcohol-related disorder has much in common with broader governmental strategies aiming to tackle anti-social behaviour particularly with respect to its punitive consequences. This section will examine the broader debate around disorder and anti-social behaviour before looking at the nature and consequences of the punitive push on night cultural spaces.

---

[6] Although there have been fierce debates about the perceived curtailment of 'live' music.

A characteristic feature of government policy has been to attempt to reverse the policy orientation of the 1960s liberal intelligentsia to 'define deviance down' (Kelling 2001). In response to the perceived failings of the 'justice' orientated criminal justice system in the face of a society descending into atomisation and crime (Young 1999), New Labour policy began to focus heavily on issues of behaviour and 'civility'. In this it was influenced by the communitarian reaction to individual rights and the 'rule of law', and policy, summed up by some as 'punitive populism' (Garland 2002), which signified a shift from the criminal law to the more subjective civil law of tort to enhance behavioural controls and symbolise 'expressive punishment'.

Much of this new policy orientation focuses on behaviour issues in public space, and in the context of a more *visible* presence of nightlife and drinking it was perhaps inevitable that disorderly behaviour at night while under the influence would be a focus of approbation. As such, recent governmental policies discuss making binge and under-age drinking 'socially unacceptable' (DMCS 2005: 3), and highlight the problems of street massing (when large numbers of young people are on the street at the same time after standard closing times), street drinking and large numbers of people in particular areas 'intimidating, harassing, alarming or distressing the public' (DMCS 2005: 6).

As Brown (2004:204) argues, the significance of the idea of anti-social behaviour (and its sister concept disorder) is that it can 'mean anything, while also being a

strongly symbolic and evocative term'. In 'blurring' the boundaries between civil and criminal law, it accelerates the process of defining deviancy up as more difficult behaviours are included in its net. This can be witnessed in the various policy studies conducted on anti-social behaviour and in local crime audits, where we see locally constructed meanings of anti-social behaviour that have little universal congruence (Home Office 2003). While the behaviours demonstrated at night in terms of their social consequence - noise, nuisances and inebriated arguments and fighting – are not the most important of the social harms facing society, and indeed are fairly common daytime or night-time in urban areas, they attract a high level of social disapproval. The social reaction, disproportionate to the actual behaviours demonstrated, recall episodes of 'moral panic' (Cohen 1973) and historically common fears concerning the entertainment habits of the lower orders, women, and minority ethnic groups (Erenburg 1981, Kohn 1992) which has been channelled into the system of licensing predicated on distinguishing between different kinds of culture and entertainment through judicial discretion and the objections process[7].

The recent rapid commercialisation of 'night-time economies' has merely reframed this culturally differentiating process. As research by Chatterton and Hollands (2002, 2003), Talbot (2004) and Böse (2005) has shown in different contexts, the contemporary boundaries of regulatory subjectivity are entwined with beliefs about commercial viability and its assumed relationship to orderly spaces. The regulation of

---

[7] For example, the requirement that the applicant for a license was a 'fit and proper' person, and importantly the unlimited powers of the police to object to a license. It should be said, however, that the earliest entertainment licensing act, the afore mentioned Disorderly Houses Act 1752, excluded premises already overseen by the Lord Chamberlain, such as opera houses and theatres.

licensing therefore coalesces with cultural regeneration strategies to ultimately favour

chain bars over independent or alternative spaces, or white controlled spaces over

those owned by black licensees, and so on in a complex process that intertwines moral

norms and cultural habits[8] with commercial development.

The reconfiguration of techniques of regulation in the wake of deregulation and the

development of the night-time economy have not just stopped at the cultural

differentiation exemplified by the Licensing Act 2003 and decades of licensing

practice. In conjunction with strategies of control targeted at other groups, for

example, the young, the 'anti-social', and 'suspected terrorists', licensees and their

clients have also seen the innovation of a bewildering array of legislation and

prevention techniques aimed at containing the impact of the culture of the night as

currently experienced.

There have been three areas of social control where techniques have been innovated

or refined. Firstly, with respect to the preservation of quiet or 'tranquillity' and

prevention of public nuisances, the law of tort has been integrated within public and

---

[8] The fear of crime or more generally social interactions is influenced by design and situation, and this has a specific impact on nightlife. As Wortley (2002) argues, gentrified spaces signal that violence is not acceptable, and correspondingly that they are safe spaces. Anecdotal information[8] suggests that people prioritise safety over experimentation in the choice of venue, hence the popularity of the predictable 'All Bar One' with its open windows with clear visibility and pro-female policies such as handbag clips and policies aimed at breaking up large groups of men at the bar. Such choices extend to location, surveillance strategies and clientele and can significantly affect the commercial success of a venue (Sparks et al. 2001, Talbot 2004). A pub makeover, with designer wallpaper, brown and cream design, mirrors, vases, candles and a food menu, attracts middle-class money as quickly as it alienates the 'other'. Fear also has been understood to affect cultural and entertainment choices according to ethnicity (Back, Crabbe & Solomos 2001, Talbot 2004).

criminal jurisdictions. Included within this are strategies directed at controlling what is deemed, either by the public or the police, to be unacceptable behaviour. Secondly, laws and prevention techniques aimed at controlling the design and use of space, whether public or quasi-public[9]. Thirdly, there are techniques attempting to responsibilise staff, licensees and clientele.

The preservation of tranquillity and the control of nuisance had long existed within civil law to protect private property owners through the establishment of normative ideas as to behaviour and tolerable noise (Bailey 1996, Cane 1997). However, local councils throughout the twentieth century increasing took on the power to protect and prosecute in these areas, the Environmental Protection Act 1990 proving particularly useful against parties and night venues because of the created sanctions and fines available (Talbot 2007). The Criminal Justice and Police Act 2001, however, permitted the police to close venues for twenty-four hours because of noise or disorder with protection from prosecution because of loss of earnings. This Act also introduced 'on the spot' fines for drunkenness, and Closure Notices for unlicensed premises. The Licensing Act 2003, already mentioned, introduced Closure Orders for individual or all licensed premises in an area of disorder or anticipated disorder, the extension of provisions to ban individuals from premises in the Extension of Licensed Premises (Exclusion of Certain Persons) Act 1980 from up to two years to ten years, and the extension of Licensing Act 1902 prohibiting sale of liquor to 'habitual drunkards' from up to three years to ten years. The Anti-social Behaviour Act 2003

---

[9] By this it is meant night clubs and bars, privately owned but classified as public entertainment, and distinguished from purely private spaces such as private members clubs or private parties.

introduced Closure Orders (up to 3 months) for use, production or supply of Class A drugs, Closure Notices (up to twenty-four hours) for noise nuisance from licensed premises in which non-compliance could result in three months imprisonment and/or a £20,000 fine, imposed conditions on gatherings of two or more people and the removal of twenty or more people gathering indoors or outdoors for the purposes of a rave, and extended the power to give on the spot fines to those over sixteen. The Violent Crime Reduction Bill 2005 has in addition proposed 'Drinking Banning Orders' that 'may impose any prohibition on the subject which is necessary for the purpose of protecting other persons from criminal or disorderly conduct by the subject while he is under the influence of alcohol', and License Reviews through which the Chief Officer of the police can modify or impose conditions on a license if it is viewed that serious crime or disorder has taken place there.

Intimately connected to such strategies are measures designed to impose conditions on the designation, disposal and use of space. The Criminal Justice and Police Act 2001 made the contravention of a by-law preventing public drinking a criminal offence. Alcohol Disorder Zones (ADZ) have been proposed in the Violent Crime Reduction Bill. The creation of an ADZ allows local authorities to charge businesses for additional services required to control disorder. They can be made if local authorities are satisfied that 'there has been a nuisance or annoyance to members of the public, or a section of the public, or disorder, in or near that locality' and that it is 'associated with the consumption of alcohol in that locality' or supplied by premises in the locality and that there is 'likely to be a repetition' of this behaviour. The Police

Standards Unit and Crime Directorate (2004) has also proposed or implemented new policing and surveillance strategies ranging from warnings for anti-social behaviour, for example, 'bad language and urinating in the street', fixed and mobile CCTV, in the street, inside premises (a license condition), toilets and taxis, sniffer dogs in queues, encouraging the use of new laws against offenders such as ASBOs, exclusion orders and victimless prosecutions, the publicising of convictions, and a database to monitor licensees, premises and door staff.

There is also a vast array of measures aimed at encouraging responsible practice, many of which has been discussed, proposed or carried out by the licensed trade. The Criminal Justice and Police Act 2001 has made all staff, not just the licensee, responsible for 'drunkenness or violent, quarrelsome or riotous conduct' in licensed premises and the continuum of sanctions, managed through a license endorsement system, created through the Licensing Act 2003, is aimed at encouraging conformity. Pub Watch, 'Best Bar None' (Department of Culture Media and Sport 2006) and door staff registration schemes are presumed to inculcate licensees and staff with responsible practices (Hughes and Bellis 2003) although privatised policing exercised through violence and intimidation is perceived to be normal (Hobbs et al. 2003).

These are only a few examples of range of sanctions available to local authorities and the police, and it expresses the contemporary tendency of governance towards the 'overproduction' of 'symbolic' law (Jenness and Grattatt 2006) and the looseness in the formulation of legal language as the distinctions between civil and criminal law

are eroded (Hughes et al. 2002). To take the proposed Alcohol Disorder Zones, it is highly likely that members of the public not engaging in clubbing might find its existence an 'annoyance' but, as is the case with harassment laws and anti-social behaviour, is it possible to establish objective legal norms and rules of evidence? The expansive nature of the powers available may go some way to explaining the increase in the amount of licence revocations in recent years[10], the raiding and closure of well-known London nightclubs, and the increased difficulty of independent premises to both meet and pay for the range of conditions required. As research conducted in an anonymous locality in London demonstrated, the racialised nature of regulatory subjectivities, cost, and the difficulties in persuading clientele who visited alternative night spaces that CCTV was a necessity, meant that black licensees tended to be under greater pressure than white licensees, amongst other factors (Talbot 2007). Such factors belie the idea that licensing regimes are liberalising. Rather, these measures simply repose the historic relationship between the commercial management of entertainment and alcohol consumption and licensing law; excluding, in public and private spaces, alternative or less commercialised activities. It is noteworthy, for example, that the police have used the Criminal Justice and Public Order Act 1994 against the aforementioned small-scale raves and parties in the

---

[10] There were 273 on-license revocations in 2004, compared to 132 in 2001. Similar high points could be found in 1995, when 262 on-licensed premises had their licenses revoked (Department of Culture, Media and Sport 2004). The Final Report of the Security Council Initiative (Department of Culture, Media and Sport 2006) noted with satisfaction that the new licensing laws had encouraged residents to be more proactive and the police to use the range of power available, particularly Closure Orders and Licensing Reviews. In particular, however, a range of sanctions were now available to change the conditions of use without necessarily resorting to revocation. In one problem premises in Cardiff, for example, the police and the licensing authorities had ordered the premises to install new seating, reduced capacity, more CCTV, a new queuing system, over 21 admission policy, different music, a bottle ban after 7pm, and management and door staff changes. Elsewhere, it was noted that changing bars to restaurants through the planning process had encouraged an older clientele.

suburbs and countryside that advertise their rejection of the culture of drinking. In addition, the Licensing Act 2003 has been viewed as acting punitively against live music by requiring a license for any live performance. Given the nature of current legislation, however, it is not possible to rule out a return to the simple closure and control of even highly commercial spaces. Posed either as a default[11] 'law and order' discourse about violence and disorder or as an expression of political crisis, even the breweries and their various outlets can find themselves out of favour, as occurred during World War One. But why should we care?

Conclusion: transgressive spaces, encountering the 'other', and social alternatives

As protests against the Criminal Justice and Public Order 1994 and those occurring more recently, for example, against the tightening of restrictions against protesting on the 'common land' outside Parliament have indicated, the contemporary nature of governance makes no distinction between the presumed problematic nature of political protest, mass popular culture, civil rights and extreme violence – all, as illustrated since this time, being subject to similar spatialised logics of social control and the closure of political and cultural expression as was historically always the case (Talbot 2007). This paper has attempted to illustrate through an understanding of social changes in the utilisation of space and in control techniques how there have been a variety of processes aiming to colonise and control the alternative spaces of popular culture over a long historical period. While the article has argued that cultural

---

[11] Where concerns about drinking in town centres can be casually superseded by further anti-terrorist measures, as occurred in the summer of 2005.

rebellion and the creative engagement with existing spaces does recreate itself, it seems more useful to consider how urban policy and licensing law might facilitate diversity in urban landscapes. This requires – still - a new approach to thinking about nightlife, which may take the form of thinking about the relationship between space and culture (Jayne et al. 2004) or challenging perspectives on nightlife that promote nightlife as an undifferentiated problem. In short, a more complex appreciation of nightlife, and the night-time economy, is required.

The culture of nightlife and discourse and practices aimed at containing it, have always, as this article has aimed to argue, been an expression of social and historical contexts. Alcohol, public houses and public fairs were politicised throughout the long development of capitalism and industrialisation in England as elsewhere; reflecting an erosion of traditional cultural practices of work and leisure on the one hand, and promoting new forms of the same on the other, while simultaneously criminalising these emergent forms of leisure. Similarly today, our economy is based predominantly around the financial and leisure services, the deregulation of traditional forms of control – summed up on the notion of the 'twenty-four hour economy' – and the celebration of consumption and transgression; yet policy-makers express surprise that this should have an impact on drinking and night culture. Hence it appears that we still need an understanding of the social and economic context of drinking.

The effective exclusion of a subcultural expression that is not wholly dependent on commercial imperatives is a particular problem when considering the possibility of

social and cultural alternatives. In Southview (Talbot 2004), Manchester (Böse 2005) or through mass events like rave where alternative culture was able to express itself in a spatial form, the possibilities of encountering the 'other' – whether this be an expression of class, ethnic, gender or other forms of difference – were high (Sennett 1970, Raban 1974). The impact of such encounters was both a challenge to conventional identities and the assertion of mainstream values such as work or family (Pryce 1976, Willis 1978). Transgressive spaces and behaviour were at the same time destructive and creative, allowing for personal dissipation, internalised and externalised violence and vandalism, but also opening a space for cultural and political expression (Lessing 1969). The importance of understanding the dynamic of subculture, emergent in disciplines such as cultural criminology, appears key.

Current debates and policies around 'alcohol-related disorder', as simplistic policy discourses, have enhanced the tendency toward subcultural closure by criminalising nightlife as a whole and by expanding the scope of regulatory control and police powers. In making nightlife a 'law and order' issue the prospect of night spaces being inhabited by subcultural entrepreneurs becomes narrower. The colonisation and control of nightlife, alongside the moral disapproval about its behaviours, will not aid the potential for the recreation of a more interesting and creative nightlife and politics.

Bibliography

Alcohol Concern. (2001). *Alcopops – factsheet*. London: Alcohol Concern.

Alcohol Concern. (2004). *Alcohol and crime: fact sheet 10*. London: Alcohol Concern.

Back, L., Crabbe, T., Solomos, J. (2001). *The changing face of football: racism, identity and multiculture in the English game*. Oxford: Berg.

Baggott, R. (1990). *Alcohol, politics and social policy*. Aldershot: Avebury.

Bailey, P. (1996). 'Breaking the Sound Barrier: A Historian Listens to Noise'. *Body and Society*. Vol 2 (2), p.49-66.

Bell, D. (1976). *The forming of post-industrial society: a venture in social forecasting*. Harmondsworth: Penguin.

Brown, A.P. (2004). 'Anti-social behaviour, crime control and social control'. *The Howard Journal*. Vol 43(2). pp.203-211.

Bianchini, F. & Parkinson, M. (1993). *Cultural policy and urban regeneration*. Manchester: MUP.

Böse, M. (2005). Difference and exclusion at work in the club culture economy. *International Journal of Cultural Studies*. Vol 8(4). pp. 427-44.

Cane, P. (1997). *The anatomy of tort law*. Oxford: Hart Publishing.

Castells, M. & Hall, P. (1994). *Technopoles of the world: the making of twenty-first century industrial complexes*. London: Routledge.

Chatterton, P. & Hollands, R. (2002). 'Theorising urban playscapes: producing, regulating & consuming youthful nightlife city spaces'. *Urban Studies*. No 1 (Jan), p.95-116.

Chatterton, P. & Hollands, R. (2003). *Urban nightscapes: youth cultures, pleasure spaces and corporate power*. London. Routledge.

Cohen, S. (1973). *Folk devils and moral panics: the creation of mods and rockers*. St Albans: Paladin.

Cohen, S. (1985). *Visions of social control: crime, punishment and classification*. Cambridge. Polity.

Collin, M. (1997). *Altered state: the story of ecstasy culture and acid house*. London: Serpant's Tail.

Davis, M. (1990/1998). *City of quartz: excavating the future in Los Angeles.*

London: Pimlico.

Department of Culture, Media and Sport. (2004). *DCMS statistical bulletin – liquor*

licensing England and Wales July 2003- June 2004. London: ONS.

Department of Culture, Media and Sport, Home Office, Office of the Deputy Prime

Minister. (2005). *Drinking responsibly: the government's proposals.* London:

ODPM.

Department of Culture, Media and Sport. (2006). *Licensing Act 2003: Monitoring and*

evaluating implementation: final report of the Security Council. London. DMCS.

Department of the Environment. (1993). *Planning policy and guidance note 6.* Great

Britain: DoE.

Dorn, N. (1983). *Alcohol, youth and the state.* Croom Helm. Oxford.

Erenburg, L.A. (1981). *Steppin' out: New York nightlife and the transformation of*

American culture 1890-1930. London. Greenwood.

Ferrell, J. (2001). *Tearing down the streets: adventures in urban anarchy. New*

York. Palgrave.

Fielding, H. (1751). *An enquiry into the causes of the late increase in robberies with some proposals for remedying this growing evil.* London: A. Miller.

Finney, A. (2004). *Violence in the night-time economy: key findings from the research.* London. Home Office.

Garland, D. (2002). *The culture of control: crime and order in contemporary society.* Oxford: OUP.

Garratt, S. (1998). *Adventures in wonderland: a decade of club culture.* UK: Headline.

Gofton, L. (1990). 'On the town: drink and the new lawlessness'. *Youth and policy.* Vol 29. pp.33-9.

Harrison, B. (1994). *Drink and the Victorians: the temperance question in England 1815-1872.* Keele. Keele University Press. 2nd edition.

Haywood, K. (2004). 'Space- the final frontier: criminology, the city and the spatial dynamics of exclusion' in Ferrell, J., Haywood, K., Morrison, W. and Presdee, M. (eds). *Cultural criminology unleashed.* London. Glasshouse Press. pp. 207-218.

Hobbs, D. et al. (2003). *Bouncers: violence and governance in the night-time economy*. Oxford. Oxford University Press.

Home Office. (2002). *Liquor licensing England and Wales July 2000- June 2001*. London: ONS.

Home Office (2003). *Respect and responsibility – taking a stand against anti-social behaviour*. London. Home Office.

Homel, R. & Clark, J. (1994). 'The prediction and prevention of violence in pubs and clubs' in Clarke, R.V. (1994). *Crime Prevention Studies*. (Vol. 3). New York: Criminal Justice Press, p. 1-46.

Hughes, G., McLaughlin, E. & Muncie, J. (2002). 'Teetering on the edge: the futures of crime control and community safety' in Hughes, G., McLaughlin, E. & Muncie, J. (eds). *Crime prevention and community safety: new directions*. London. Sage publications. pp. 318-340.

Hughes, K. and Belllis, M.A. (2003*). Safer nightlife in the North West of England*. Liverpool. Centre for Public Health, Liverpool John Moores University.

Hunt, A. (1999). *Governing morals: a social history of moral regulation*. Cambridge: University of Cambridge Press.

Jayne, M., Holloway, S.L., and Valentine, G. (2006). 'Drunk and disorderly: alcohol, urban life and public space'. *Progress in human geography*. 30(4). pp. 451-68.

Jenness, V. and Grattatt, R. (2006). 'Beyond symbolic v instrumental law: hate crime police and law enforcement practice'. www.core.web.uci.edu/documents/jennesspaper.pdf. Accessed 1/9/06.

Kelling, G.L. (2001). 'Broken windows and the culture wars: a response to selected critiques' in Matthews, R. & Pitts, J. (eds). *Crime, disorder and community safety: a new agenda*. London. Routledge. pp. 12-25.

Klein, N. (2000). *No logo*. London: Flamingo.

Kohn, M. (1992). *Dope girls: the birth of the British underground*. London: Granta Books.

Lee, C.P. (1995). 'And then there were none: government legislation and Manchester beat clubs 1965'. *Critical musicology conference*. Salford.

Lessing, D. (1969/1972). *The four-gated city*. London. Granada Publishing.

Lovatt, A. (1996). 'The Ecstasy of Urban Regeneration: Regulation of the night time economy in the transition to a post-fordist city' in O'Connor, J. & Wynne D. (eds). *From the Margins to the Centre: Cultural production and consumption in the post-industrial city*. Aldershot: Arena. p. 141-168.

Mass Observation. (1943). *The pub and the people: a worktown study*. London. Victor Gollanez Ltd.

Miles, S. and Paddison, R. (2005). 'The rise and rise of culture-led urban regeneration'. *Urban studies*. Vol 42 (5/6). pp. 833-39.

Police Standards Unit and Crime Directorate. (2004). *Tackling violent crime in the night-time economy*. London. Home Office.

Public Records. (1964). *Licensing of unregistered clubs for young people: working party chaired by the Home Secretary to discuss provision for new legislation* HO300/24. London. Public Records Office.

Orwell, G. (1940). *The lion and the unicorn*. London. Penguin.

Pryce, K. (1976). *Endless Pressure: a study of West Indian life-styles in Bristol*. London. Penguin Books.

Raban, J. (1974). *Soft city*. London. Hamilton.

Roszak, T. (1970). *The making of the counter culture: reflections on the technocratic society*. London: Faber and Faber.

Schlör, J. (1998). *Nights in the big city*. London: Reaktion Books Ltd.

Sennett, R. (1970). *The uses of disorder: personal identity and city life*. New York. W.W. Norton and Company, Inc.

Smith, N. (1996). *The new urban frontier: gentrification and the revanchist city*. London: Routledge.

Sparks, R., Girling, E. and Loader, I. (2001). 'Fear and everyday urban lives'. *Urban studies*. Vol 38(5-6). pp. 885-898.

Storch, R.D. (1976). 'The policeman as domestic missionary: urban discipline and popular culture in Northern England, 1850-1880'. *Journal of Social History*. Vol 9(4). p. 481-509.

Talbot, D. (2004). 'Regulation and racial differentiation in the construction of night-time economies: a London case study'. *Urban studies*. Vol 41(4). pp. 887-901.

Talbot, D. (2006). ' The Licensing Act 2003 and the problematisation of the night-time economy: planning, licensing and subcultural closure'. *International journal of urban and regional research.* . Vol 30 (1). pp. 159-171.

Talbot, D. (2007). *Regulating the night: race, culture and exclusion in the making of the night-time economy*. Aldershot. Ashgate.

Tierney,J. & Hobbs, D. (2003). *Alcohol-related crime and disorder data: guidance for local partnerships*. London. Home Office.

White, C. (2004). *The middle mind: why American's don't think for themselves*. London. Penguin.

Willis, P. (1978). *Profane culture*. London: Routledge & Kegan Paul.

Wortley, R. (2002). *Situational prison control: crime prevention in correctional institutions*. Cambridge. Cambridge University Press.

Young, J. (1971). *The drugtakers: the social meaning of drug use*. London: Paladin.

Young, J. (1999*). *The exclusive society: social exclusion, crime and difference in late modernity*. London: Sage.

Zukin, S. (1989). *Loft living: culture and capital in urban change*. New Brunswick: Rutgers University Press.

Zukin, S. (1991). *Landscapes of power: from Detroit to Disney World*. California, University of California Press.

Zukin, S. (1995). *The cultures of cities*. Oxford: Blackwell Publishers Inc.