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The juridification of nightlife and alternative culture: two UK case studies

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Nightlife, the night-time economy and ‘alternative’ culture has been a source of academic contestation over recent years, with differing views as to the direction and meaning of the contemporary drift of law and policy that serves to regulate this area of social and cultural life. Further, there have so far been few attempts to theorise the nature of change. This article aims to highlight some key theoretical underpinnings that can facilitate an understanding of the kinds of regulatory innovation that pervades nightlife and alternative cultural forms. Using two case studies – free or alternative festivals and Form 696 – it will specifically draw on the concepts of *disciplinary power* and *juridification* as a way of theorising both the acceleration of regulatory forms and its impact on the production of alternative culture.

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The juridification of nightlife and alternative culture: two UK case studies

Nightlife, the night-time economy and ‘alternative’ culture has been a source of academic contestation over recent years, with differing views as to the direction and meaning of the contemporary drift of law and policy that serves to regulate this area of social and cultural life. Further, there have so far been few attempts to theorise the nature of change. This article aims to highlight some key theoretical underpinnings that can facilitate an understanding of the kinds of regulatory innovation that pervades nightlife and alternative cultural forms. Using two case studies – free or alternative festivals and Form 696 – it will specifically draw on the concepts of *disciplinary power* and *juridification* as a way of theorising both the acceleration of regulatory forms and its impact on the production of alternative culture.

Introduction: regulating entertainment

Entertainment has always had a troubled history in the UK context. Regulatory practices have, since the fifteenth century, sought to identify the entertainment of the ‘common people’ as detrimental to the good of the nation (Fielding 1751, Dorn 1983, Harrison 1994). Further, regulatory authorities also favoured profit-orientated business operated by the breweries over free entertainment (Storch 1976, Dorn 1983), an emphasis that continued with the treatment of rave culture in the late 1980s and early 1990s (Collin 1997, Garratt 1998). Finally, licensing authorities, ‘right-thinking people’ and the police also identified ‘folk devils’ that were strongly identified with entertainment, whether this be the working-classes, post-war youth culture (Cohen 1973), women who rebelled against their traditional roles in night-time playgrounds, and migrants (Erenburg 1981, Kohn 1992) throughout the twentieth century. Both culturally and in the regulatory gaze, therefore, distinctions have always been made between high and low, and mainstream and deviant, cultures.

More recently, this set of approaches, which suggested that the entertainment forms of the working-classes and later youth and ethnic minorities have been criminalised, has been revisited. Twenty-five years of changes centuries old licensing law and practice, particularly in the deregulation of supply and opening hours, had produced a distinctly

late modern scenario of permissive capitalism in the form of the night-time economy (Lovatt 1996), with consequences for social order. An Economic and Social Research Council project undertaken by a team of criminological researchers on the culture of bouncers put forward the view that the night-time economy was uniformly a sector that, because of commercial imperatives, had facilitated a culture of disorder, violence and transgression amongst young people in city centres at night. This state of affairs had been facilitated by a strategy of deregulation of controls over entertainment and alcohol from a government harnessed to the perspective of big business (Hobbs et al. 2000, 2002, 2003, 2005a, 2005b). It could no longer be claimed, they argued, that nightlife was in any way subcultural or culturally alternative; rather, 'Market forces shaped communal spaces accordingly, corporate leisure effectively creating a bounded and purified social setting; a nocturnal playground for the exclusive use of its own customers' (Hadfield 2006, p.260). Not only was the night-time economy a highly segregated space where normal social control was lifted and violence the norm (controlled by private security), it reflected the way that young people's identities were being ordered by consumption (Winlow et al. 2002), in which consumer objects spoke about the self, rather than work, education or the family (Winlow and Hall 2006). In our society, entertainment is viewed in this analysis as inextricably bound up in the commercial requirements of late modern capitalism; as such, more public policing was needed, not less.

However, this analysis, that regulatory strategies represented a one-way deregulatory or liberalising thrust, has itself been questioned. In recent years, it has become evident that regulatory strategies concerning popular entertainment are both more differentiating and wider in scope. For example, research by Chatterton and Hollands (2002, 2003), Talbot (2004, 2007) and Böse (2005) has shown in different contexts that the contemporary boundaries of regulatory subjectivity are entwined with beliefs about commercial viability and its' assumed relationship to orderly spaces. Regulation 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 with commercial development. In other words, different kinds of venues have been subject to distinct forms of regulating depending on how they are perceived by licensing authorities. This in itself is not unusual, and in many

ways represented a more sophisticated form of regulating that combined permissiveness with control. However, in the research studies highlighted above, the venues targeted as disorderly tended to be ethnic minority, working-class and alterative; in other words, the usual suspects, which raised questions about social justice.

Further, nightlife and entertainment in general as seen a worrying escalation in the range of powers awarded to licensing authorities, that is, local councils and the police (Talbot 2009). This article will first outline some examples of the range and scope of these new powers. It will then look at different ways in which these trends have been theorised, pointing to understandings of disciplinary power and juridification was productive ways of understanding the contemporary escalation of legal innovation. It will then examine two case studies that illustrate the ways in which these concepts can be utilised: the fate of free or alternative festivals and Form 696. The conclusion will explore the consequence of these trends for academic research and policy.

Current trends in licensing regulation

There have been a number of concurrent changes in licensing and civil law that have impacted upon nightlife in such a way as to counteract the more 'permissive' effects of the Licensing Act 2003, itself an uneasy combination of licence and sanction that reflected 'New Labour's' free-market communitarian logic of 'rights' and 'responsibilities'. (Talbot 2006).

Firstly, there have been major developments in noise and nuisance laws. 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. For example, the Environmental Protection Act 1990 proved particularly useful against parties and night venues because of the sanctions and fines available in this Act (Talbot, 2007). In the wave of governmental reaction to its own deregulation of licensing hours, the Criminal Justice and Police Act 2001 was passed, which 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 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 Act 2006 contained provisions for ‘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. This has already had an impact in some areas (Talbot 2007, p. 131).

Secondly, 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. A provision for the creation of Alcohol Disorder Zones (ADZ) has been passed in the Violent Crime Reduction Act 2006. 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.

Thirdly, 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 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, was created through the Licensing Act 2003, the purpose of which was to encourage regulators to impose sanctions and encourage 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). There have also been attempts to make nightclubs and bars pay for the impacts of disorder – for example, policing costs - that occur in the vicinity of particular premises (Talbot 2007). Although this might appear just to policy-makers, in so far as some premises encourage excessive drinking that is automatically and unquestioningly equated with disorder (Valverde 2003), it is a stricture not applied to other ‘risky’ businesses, ranging from fast food premises to banks.

Theorising the regulation of nightlife

Recent thinking in understanding the regulation or ‘governance’ of licensing have rightly focused on the expanding territory of law and policy as New Labour ‘third way’ thinking reconfigured the core relationships between licensees and licensors. While the Licensing Act 2003 was initially castigated as ‘liberalising’ the night-time economy with detrimental effects for alcohol-related disorder at night (Hayward and Hobbs 2007), other research identified how the Act itself, along with the range of

powers innovated through other legislative forms, have swung the balance toward increasing powers particularly for the police but not excluding other interested authorities (Talbot 2006, 2009, Hadfield et al. 2009). As outlined in the previous section, and as noted by researchers, traditional forms of regulating nightlife and alcohol through closing times and controls over supply have been replaced by the surveillance and control of behaviours and public/private space, alongside enhanced responsibilisation strategies (Valverde 2003, Talbot 2009). Regulation of the night-time economy, from being what has been referred to as a merely ‘administrative’ (Hadfield et al. 2009, p.470) arm of predominantly civil law, backed by formal and informal police practices of surveillance and control (Talbot 2007), has been recast and potentially criminalised (anew) by being part of the corrosion of the boundaries between civil and criminal law (Hughes et al. 2002) with all the problems of due process (Brown 2004) exercised over anti-social behaviour and ‘disorder’.

Although the plethora of new legislation has not necessarily been implemented (yet), an example being Alcohol Disorder Zones, and further, that new laws are subject to a constant process of negotiation between different and conflicting ‘stakeholders’ (Hadfield et al. 2009), it is worth considering in a boarder sense what is the social impact of such legislation beyond actually and direct implementation. One way of examining this dilemma is to look at the idea of an increasing irrationality of the overproduction of law where law is passed for ‘symbolic’ purposes (Jenness and Grattatt, 2006) – to send a cultural message rather than a practical act. Within licensing law, there is such a vast array of laws and initiatives some of which were explored in this paper already, that not all could be possibly used and licensing authorities simply focus on the ones that fit within their historical and regulatory practices (Talbot 2007). However, the overall impact of the range of powers available has been a tightening of the grip of control over cultural production at night, and the expansive nature of the powers available may go some way to explaining the increase in the amount of licence revocations in recent years (DMCS, 2004, 2006), 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 well as mobilise legal support (Talbot, 2007).

As Mariana Valverde (2003) points out, the ‘science’ of urban regulation, in order to produce ‘well-ordered’ and ‘disciplined’ cities, and achieved through a plethora of regulatory powers available to local authorities, has never retreated (despite its tension with more liberal thinking), regardless of the renewed interest in ‘communitarian’ forms of civil imposition. Indeed, for Valverde, it is the ‘license’ – a long-standing feature of British governance and which extends to an array of commercial and social activities – that reconciles English notions of freedom with municipal authoritarianism, as it ‘allows governments to ensure that certain spaces, activities, and people are under constant surveillance and are subject to immediate disciplinary measures but without state officials (or centralised state knowledges) being involved in the micromanagement of those dimensions of everyday urban life that are regarded as problematic’ (2003, p.144). Moreover, the license, she argues, has become so well embedded in regulatory thinking in the UK that no contemporary discourse argues for its abolition ‘in favour of more direct state control’ (2003, p.145) although more overtly supervised projects were established on a local basis during the first World War (Thorne 1985). The inability to rethink the relationship of licensing regimes to public culture also means, for Valverde, that successive governments, concluding with the New Labour experiment, have been unable to discuss public licensing outside of the usual social order framework; instead of focusing on unhealthy drinking habits of the population, a vastly broader issue than that of public houses and which could fall under the remit of harm reduction, the prevention of crime, disorder, nuisances and the protection of children have remained as the key aims of the 2003 Licensing Act (see also Talbot 2006). This analysis, drawn from a largely Foucauldian understanding of disciplinary power, supports the recent trends in legislation and practice examined in the previous section.

The disciplinary function of municipal knowledges, in Valverde’s analysis, is drawn together with an in-depth analysis of law (see also Hunt 1992, and Talbot 2007). First coined by Otto Kirchheimer in 1928 and developed by Jürgen Habermas in 1989, the concept of *juridification* also aimed to analyse the social and cultural function of the ‘overproduction’ of law. Juridification refers to the tendency of law to proliferate and intrude into all aspects of social life. While on the one hand the solidification of informal social relationships into formal law can be seen as positive and democratic as in the case of human rights (Blichner and Molander 2008), in its initial formulation

as outlined by Kirchheimer and Habermas it also referred to the replacement of social relationships with contractual ones, regulating conflict (Cooper 1995) and overwhelming social relationships, with devastating consequences for everyday life and culture (hence Habermas referred to this process as the ‘colonisation’ of everyday life). As regulation evolves in complexity, a contradiction emerges between the form and its object. As Teuber (1987, p.24) argues, the law can create social disintegration if it ‘intervenes in self-regulatory situations in such a way as to endanger the conditions of self-reproduction’. So the application of law can both corrode social life and the conditions for, in this case, cultural reproduction, but also make manifest social injustices and provide a locus for resistance (Cochrane and Talbot 2008).

The concept of juridification has relevance for nightlife and alternative culture by raising the question of whether the plethora of laws that govern these cultural spheres have actually become so overwhelming and over-complex as to corrode the basis for its reproduction, and, indeed, undermine the stand-off between liberty and social order established by the licensing function. In order to answer this question, this paper will look at two examples of the management of entertainment: free festivals and Form 696.

Free or alternative festivals and fairs

Enhanced police powers aimed at more tightly regulating licensed spaces as opening times were liberalised have been matched by an increasing preoccupation with risk and safety at public fairs and other alternative cultural events.

Stokefest, a music festival held in Clissold Park in Stoke Newington, London, was cancelled this year (2009) because of edicts issued by Hackney Council’s policing department. The event had been attracting large crowds beyond the 15,000 limit set by the Council for the park. In last year’s event the Council demanded that any event of 3,000 or more must be fenced in. According to online magazine the Londonist, ‘the new metal barriers had created predictable chaos around the entry and exit bottlenecks, replacing the amenable atmosphere that Stokefest was known

for with an officious and stressful air' (Londonist 27/4/09). As the organisers of the festival stated of the fencing system:

'...we, as the organisers of Stokefest, cannot bring ourselves to organise a free community festival inside a great big steel box! It just doesn't feel right. We feel sure that the atmosphere will change, the essence of what we all collectively had would be diluted, and our memories of the fun we had would be tainted by the security systems, ridiculous entry conditions and a general lack of freedom' (www.stokefest.co.uk).

However, a new arts and music festival – Free Range - was permitted in September 2009 in Clissold Park, with an exclusive £25 entrance fee. In 2009 also, the Big Green Gathering in Somerset was cancelled at the last minute after the local council sought an injunction against it, leaving organisers struggling with debts (Monbiot 2009). An Africa Caribbean Asia Fashion Week festival in Finsbury Park, London, was cancelled after the police raised 'serious safety concerns' because of large numbers expected to attend and it was thought the organisers could not cope (Hornsey and Crouch End Journal 2009). The Notting Hill carnival in London continues to be plagued by over policing and regulation, after decades of unfriendly crown control and tussles over management. Such regulation is matched by that facing public political-cultural demonstrations, as illustrated the pre-emptive arrest of environmental activists and the use of 'kettleing' against demonstrations and 'climate camps' such as that at the G20 in 2009. In all cases, the regulatory assault is accompanied by a utilitarian calculation of how many millions such events are costing the public purse in general and the policing budget in particular, alongside fears around disorder and safety.

Political issues also impact upon the perceived desirability of free events. Rise, a free anti-racist music festival resurrected by Ken Livingstone and normally held in Finsbury Park, North London, was axed by Boris Johnson's conservative regime at the Greater London Assembly (Londonist 8/4/09). A year previously, Johnson had stripped the festival of its anti-racist message, leading its Trade Union sponsors to withdraw. As a consequence, no new sponsors could be found.

Free festivals and fairs have had, like entertainment in general, a contested history. Both Dorn (1983) and Harrison (1994) have examined the way in which from the fifteenth century onwards the control of alcohol and entertainment was maintained by the way in which licensing law allowed for the domination of the big breweries over its sale and provision. This was partly because of the need to discipline the ‘common people’ for work by regulating their ‘leisure’ habits, viewed as a barrier to industrialisation. It was also that licensing enabled the idea of individual freedom to be maintained – people were free to drink and enjoy free time as they ‘chose’ while control could be exercised over its provision through the breweries and licensees (Valverde 2003, Talbot 2007). Lastly, a clear theme to emerge in the UK (and indeed other contexts) was the association of large gatherings of people with disorder and riot. Storch (1976), for example, explored how early policing was concerned with the surveillance and therefore effective demobilisation of free festivals. Enjoyment could simply not be had under the watchful eye of the police.

Throughout the last quarter of the twentieth century, raves (Hill 2003), warehouse parties, shebeens (Talbot 2007) and other free legal, semi-legal and illegal events, have been subject to an extensive range of controls by local authorities with jurisdiction over such events (essentially local councils and the police). In particular, concerns have been raised over events that are perceived as potentially disorderly, normally coalescing with generalised fears over youth, gender, class, and racialised othering (Talbot 2007) and, furthermore, speaks to the way in which public space and its use – particularly by large crowds and alternative culture – has become contested (see Zukin 1989, 2005). Central government, local authorities and the police have used an expanding array of legislation, based around licensing, nuisance, and health and safety laws, to manage the use of space and exclude unwanted events. Further, relevant authorities also sought to bring such activities into the commercialised, and therefore licensed, arena (Garratt 1998), and research has shown that highly commercial operations have been favoured in licensing decision-making over smaller uncommercialised ones, the former being seen as better organised and orderly (Chatterton and Hollands 2003, Talbot 2007). *Legal innovation, normalisation and commercialisation* have therefore been the conjoined strategies to contain free, open and alternative events. The concept of juridification expresses both this tendency towards the overregulation and contractualisation of everyday life and the way in

which in impacts negatively on the cultural ‘lifeworld’, closing down the possibilities of the free or experimental use of public space.

Form 696

Form 696 is a risk assessment form used by the Metropolitan Police to ascertain whether particular live music events pose a particular risk of disorder. According to the MET, the form was innovated by the Clubs and Vice Unit (a branch of the MET operating in Westminster and responsible for many policy innovations in the capital) in 2006 after series of incidents at live music concerts (Independent 21/12/08). In response, UK Music, headed by Fergal Sharkey (formerly of *The Undertones*), set up a campaign against it. The campaign has focused on, in general, the way in which the Form racially profiles cultural events.

The second version of the form began with a reassuring statement that ‘Completing this document will enable the police to give you appropriate support and advice to ensure a safe event. Full, honest disclosure forms part of the risk assessment and will not in itself jeopardise the event’. It continued with an implied threat that ‘Full cooperation is regarded as demonstrating positive and effective venue management’. Moreover, ‘full cooperation’ with the authorities and the demonstration of ‘positive and effective venue management’ is a condition of licensing and the failure to demonstrate this can lead to the police calling for a License Review (in which a premises license can be revoked or a personal license endorsed with ‘points’ like a drivers license). Failure to submit the Form can also lead to £20,000 fine or 6 months imprisonment.

The form then required the applicant to fill out the name, address, capacity, premises supervisor and contact details of the premises, and the full contact details of the promoter. It asked for the details of the proposed event. Its name, date, start and finish times, expected numbers, whether the event is public or private, and whether tickets will be sold on the door. Significantly for much of the protest that has taken place against the form, it asked for the music style that is to be played, and it listed the examples of Bashment, R’ ‘n ‘B, and Garage, in other words musical forms that are black or black inspired. It also required information on the ‘target audience’, which up

to 2008 required the applicant to specify the ethnicity of the target audience but in second version oddly stated in brackets ‘include here if Birthday Party’. The second page provided considerable room to list the acts stage names, real names, date of birth, contact numbers and address. Page three required details of the security to be provided for the event, and significantly asked that the applicant provide information which specifies ‘knowledge of the acts or crowds attending that would need special considerations to be made to limit crime and disorder (e.g. problems at previous venues, the make up of the patrons, whether they are local or expected to travel from long distances to the event, etc.)?’

Finally, the form had a section offering an after event ‘debrief’ in which the applicant should ‘complete this page if you have any information concerning the event that will enable police to give you appropriate support and advice to ensure safer future events’. In a small note at the end, it states that the form will be retained for a period of 6 years.

As already outlined, Form 696 has provoked a wave of reaction from the music and promotions industry, led by UK Music, an ‘umbrella organisation representing the collective interests of the UK’s commercial music industry’ (www.ukmusic.org/about-uk-music). The organisation has cited Form 696 as an example of racial profiling, clearly targeting black musical forms as requiring special attention (Hancox 2009). UK music has sought a judicial review of the practice adopted by many licensing committees whereby completion of the form has become a condition of their license (www.bbc.co.uk 3/12/08). They are also seeking legal advice on the invasion of privacy implied by the listing of promoters and musician’s details – one musician argued that ‘I can tell you that some of my colleagues would refuse to work with me rather than give their details’ (Independent 21/12/08). The Culture, Media and Sport Select Committee (2009) recommended that the form be scrapped, arguing that ‘We are concerned at the linkage of live music and public order issues by the Licensing Act and its accompanying guidance, and we emphasise that music should not be automatically treated as a disruptive activity which will inevitably lead to nuisance and disorder’. The police, conversely, have claimed that it is simply risk management, and that some kinds of events are known to be more risky than others. As Detective Superintendent Richard Martin of the Met’s Club and Vice

Unit argued: ‘We’ve had quite a few of what I consider to be ‘higher risk events’, where there may be some problems – so we recommend additional searching processes and additional security to help the event out’ (Hancox 2009). The Met rejected the Select Committee recommendations (www.clashmusic.com 18/5/09). Chief Inspector Adrian Studd, Head of the Clubs and Vice Unit, defended the Form: ‘Yes, you could say that statistically, [with] certain genres of music there’s more likely to be trouble’ (NME 18/5/09).

A club promoter who was seeking to put on a community Festival on the Hackney/Tower Hamlets border was told by the police that they weren’t permitted to put on music that was ‘grime, garage, reggae or R&B’ (Hancox 2009). Kiss FM DJ Logan Sama has also claimed that grime and garage nights he booked were closed down by the Met because of unspecific references to ‘intelligence’ (Hancox 2009). A gig entitled ‘Project Urban’ – hosting big UK hip-hop acts - at the O2’s Indigo Venue was called off because the police had deemed it high risk because the dates of birth of a couple of performers had not been included (Institute of Licensing 18/5/09). However, the use of the form has not just affected black musical events. There have been reports that a charity concert of school bands was cancelled after the organisers were unable to provide details of the performers (Oelowski 2008). The Met, however, have denied that they forced the closure of concerts; rather, they simply advise of the risks associated with particular events and the promoters or venue owners have voluntarily pulled the show (Institute of Licensing 18/5/09).

In response to criticism, the MET amended the form. The new version no longer specifies live music as the object of concern. Instead, the form ‘recommends’ that the form be filled out when the ‘event’ is ‘promoted / advertised to the public at any time before the event, and predominantly features DJs or MCs performing to a recorded backing track, and runs anytime between the hours of 10pm and 4am, and is in a nightclub or a large public house.’ It also no longer asks for the type of music to be played at the event. However, critics have argued that such criteria again narrowly targets ‘urban’ music, which is characterized by those conditions (Mixmag 19/10/09). The form however remains.

Form 696 is in many ways a symbolic representation of many criminological themes explored over the past two decades and which this article has examined: the way in which risk management has altered the landscape of contemporary life so that spontaneity and fun are deemed too risky and too costly to manage, the responsibilisation of everyday life in which a failure to be so carries a heavy sanction (Rose 2000). However, utilising the concept of juridification, Form 696 can be seen as a peculiarity. The MET and other police forces dealing with social contestations of class and race have long mobilised informal strategies for dealing with unwanted nightlife. In one study of an anonymous area of London characterised by racialised conflict with the police such informal strategies aimed at closing down black owned or consumed spaces ranged from informal warnings of intimidation to come to the accumulation of evidence to revoke a license through constant raids (Talbot 2007). What is interesting with Form 696 is the way in which, for the first time, the connection in the MET's perception between disorder and 'black cultural events' have been expressed on paper and rendered visible. As expressed by Form 696, it is not only musical events that have been increasingly colonised by a range of formal legal practices to the extent that its purpose has been practically extinguished; ironically the police themselves have increasingly been brought within the realms of regulatory practice. Their 'lifeworld' has also been 'colonised' by legal forms, and as such in this instance at least informal practices have been made transparent.

Conclusion: wither diversity?

This article has examined current trends in licensing law and policy, as well as the range of other laws and practices currently affecting nightlife and alternative cultural forms. It has looked at theories of disciplinary power and juridification, which seeks to explain how socio-cultural life is influenced by power and over-regulation. Finally it has looked at two case studies – free and alternative festivals, and Form 696 – that illustrate the impact of over-regulation on contemporary culture, particularly as it is realised in public and quasi-public (Talbot 2009) spaces. This conclusion will consider what implications this has for cultural diversity and experimentation.

It is easy to see how the combined assault of commercialism, social order concerns and regulatory practice have closed down the experimental possibilities of nightlife

and alternative culture. Such cultures have become – albeit with exceptions - bound up with commercial objectives, the pursuit of status, and either a homogenous culture of dance bars, sports bars, and so on, or a form of rehashed bohemia prime pumped by City investors, an example of which can currently be seen in Brick Lane and Spitalfields in East London (Hannigan 2007, Talbot 2007). Is this entirely a product of regulation, or simply a result of key social, cultural and political changes? Some commentators (White 2004) have seen this as an example of the cultural mediocrity of middle-class habits of consumption, favouring sanitised and easy leisure over the effort and pain normally required to enact genuine cultural change. Winlow and Hall (2006) have pointed to the way that the night-time economy has become segregated by age, meaning that its activities are confined to those in their teens or twenties. Others (Sibley 1995, Bauman 2000, Young 1999, 2007) have noted that way that public spaces in general have become segregated because of fears and anxieties about crime and different social behaviours, and that these are differentiated along class, ethnic and age fault lines.

If such analyses are accepted, it is possible to see how this might affect alternative culture and (sub)cultural innovation, which relies on the crossing of physical and mental borders and boundaries (which is not to say that ‘nightlife’, ‘alternative culture’ and ‘subculture’ are identical concepts; rather they intersect at particular historical moments). Such boundary crossing can be seen in the way that the ‘situationalist intellectual’ Tony Wilson on musical and cultural development in Manchester, depicted well in films such as ‘24 hour Party People’ and ‘Closer’, but fused with the energy of working-class youth. Or it can be seen in the creative interaction between Reggae and punk in the 1970s (Hebdige 1979). Alternatively whole areas can become, for brief moments in history, laboratories for social experimentation, because they become dislocated from social and economic norms (Talbot 2007). Accounts of such subcultural histories have also pointed to how such alternative cultures and alternative spaces are lost, as they are pulled once again into cycles of economic and social normalisation (Frank 1997, Talbot 2007). Naturally, there are always counter-examples, and people use spaces and rebel in new ways (Hadfield and Measham 2009); however, the implication of current trends in law, policy and practice is suggestive of a drift towards closure, reinforced by cultural norms that favour monocultural or ‘sanitised’ experiences. As this article has

examined in different ways, non-commercial projects, particular styles of music, and events with large crowds motivated by alternative objectives, all give rise to perceptions of social disorder and are more heavily regulated. Thus there is always a tension between conformity and experimentation, mediated by the governance of entertainment and the use of public space.

What is certainly needed is an expanded research agenda into this most engaging area of social life, and one that both takes the academy into everyday life views it in an expanded way not as a minority field of interest but as reflective of broader and critical trends in society, culture and politics alongside practices of governance and regulation. There are some key questions here. One of these is to understand and theorise the contemporary nature of regulation, concerned as it is with the intersection of culture and order – of which this article forms a part. Another is to rearticulate the contemporary cultural meaning of nightlife, as a product of commercialism, lifestyle and politics. Lastly, to try and understand what underpins innovative culture and its relationship to urban spaces and more broadly how an inclusive engagement with difference, seemingly central to subcultural development, can be facilitated.

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