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REGULATING THE UNREGULATED: LEGAL CONTROL OF THE YAKUZA UNDER JAPAN'S ANTI-BÖRYOKUDAN FRAMEWORK

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Abstract

In this paper, researcher will explore the unique legal approach Japan uses to regulate organized crime via its Anti-Bōryokudan measures. While many countries use conspiracy laws or outlawing gang membership as tools in fighting criminal enterprises, Japan is unique in allowing bōryokudan (gangs) to exist as quasi-visible entities¹ but restrict their activities through various regulations and sanctions. This paper will examine the development of the Anti-Bōryokudan legislation from the 1991 Act on Prevention of Unjust Acts by Organized Crime Group Members up until the exclusion ordinance introduced after 2010 and civil liability measures. It is researcher's claim that this particular approach is a combination of social, economic, and legal measures aimed at making the criminal enterprise financially isolated and socially excluded, thus reducing its organizational power and effectiveness. While this strategy has led to the considerable decrease in Yakuza membership numbers, it has led to some unforeseen consequences, such as further marginalization of former criminals or adaptation of organized crime to new technological realities. By looking at the enforcement practices in Fukuoka Prefecture and the decisions made in the Supreme Court regarding liability of criminal organization heads, I show how the Japanese government moved towards organizational liability. This article analyzes more recent developments extending from year 2020 to 2025 such as the increasing use of criminality by new technologies, demographic changes among members, and greater use of financial controls. From my perspective, although Anti-Bōryokudan is a novel approach to regulating criminal organizations, its success is contingent upon the balance between enforcement and reintegration and the changing nature of organized criminality itself.

¹ The term bōryokudan (暴力団) literally translates to "violent group" in Japanese. The National Police Agency uses this term in official designations, whereas the organizations themselves and popular media more commonly employ the term Yakuza (やくざ), derived from traditional card-game slang denoting a worthless hand (8-9-3), symbolizing outsider status in Japanese society. The semantic distinction carries legal significance: official designation as bōryokudan triggers statutory consequences under the 1991 framework.

Keywords: Yakuza; Bōryokudan; law, organized crime; Japan; criminal responsibility

Introduction

Organized crime usually stays hidden, but Japan offers an unusual case in this respect. The Yakuza have existed in Japan for many years, openly maintaining office spaces, giving out business cards, and participating in legitimate economic activities. In researcher's view, the visibility of the Yakuza is not an accident or purely a reflection of Japanese culture, but rather an expression of the country's legal philosophy. The issue of how the law controls such entities becomes a critical legal question. In an attempt to respond to it, I look at Japan's legal framework for controlling the phenomenon referred to as AntiBōryokudan. Bōryokudan, popularly known as Yakuza, exist in an ambiguous legal space because they are neither fully legitimate nor completely illegitimate (Hill, 2020).²

For over three decades, the country has changed its approach towards organized crime from passive acceptance to outright exclusion. The country wants not only to curb crimes perpetrated by the organized crime groups but also to uproot them from society. This process represents a change in governance, whereby law works not only to penalize but to transform social and economic relations.

Understanding the Yakuza and Legal Ambiguity

Historical Background and Semi-Legal Identity

In researcher's observations, the strength and durability of the Yakuza gangs are due to their strong historical connections to Japanese society. Historically, such groups have always been characterized by:

- A clear hierarchy among members
- Publicly known headquarters
- Linkages with legitimate businesses

It became difficult to distinguish what was legal and illegal. While mafias operated secretly, the Yakuza were active participants in the social economic environment (Friman, 2021).³

² Hill's study examines Yakuza organizational structure, historical development, and legal relationships from the Meiji era through the late twentieth century. It remains a foundational reference in English-language scholarship on Japanese organized crime law. Hill distinguishes between the Yakuza's "semi-legitimate" commercial activities and their coercive criminal conduct, arguing that legal ambiguity was a deliberate feature of postwar Japanese governance rather than an enforcement failure.

³ Friman's analysis situates the Yakuza within comparative frameworks of state-organized crime relations across

Non-criminal Nature of Membership

Another distinguishing factor of Japan's strategy is that just being a member of any gang in Japan does not amount to a crime in itself. Rather, the focus is on:

- Any criminal act (fraud, extortion, coercion)
- Transactions made out of criminal gains
- Mediators of any organized crimes

The researcher approach is based on the regulatory concept of behavior regulation, not prohibition, setting apart Japan from similar policies in other countries like US RICO (Hamada, 2022).⁴

The Anti-Bōryokudan Legal Framework

Key Legislation: The 1991 Act

Act on Prevention of Unjust Acts by Organized Crime Group Members

The foundation for the fight against Yakuza in Japan is formed by the 1991 Act.⁵ It includes:

- Designations System: public safety commissions designates particular groups as bōryokudan
- Administrative Injunctions: authorities issue injunctions to stop the criminal activities
- Prohibitive Measures: actions including threats and extortion are forbidden

It is important to note that the legislation is entirely preventive rather than repressive in nature (Johnson, 2020).⁶

East Asia. He argues that Japan's tolerance of visible Yakuza operations served latent social functions during the high-growth era—including labor dispute management and informal dispute resolution—making wholesale suppression politically complex. The 1991 Act is thus best understood as a recalibration of an existing tacit arrangement rather than a rupture from it.

⁴ The Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961–1968 (1970), criminalizes participation in a “racketeering enterprise,” enabling federal prosecution of entire criminal organizations. Japan's deliberate avoidance of a membership-criminalization model reflects constitutional sensitivity to freedom of association under Article 21 of the Japanese Constitution and pragmatic concerns about enforceability given the scale of Yakuza penetration of the economy through the 1980s.

⁵ The official Japanese title is Bōryokudan-in ni yoru Futō na Kōi no Bōshi-tō ni kansuru Hōritsu (暴力団員による不当な行為の防止等に関する法律), commonly abbreviated as the Bōryokudan Taisaku Hō or Bōhō. The law entered into force on March 1, 1992, following passage in May 1991, and was subsequently amended in 1993, 1997, 2004, 2008, and 2012 to expand designated group criteria, broaden injunctive remedies, and increase administrative penalties.

⁶ Johnson situates Japan's anti-bōryokudan policy within the broader literature on regulatory governance and argues that administrative law instruments—rather than criminal prosecution—were chosen partly because of prosecutorial resource constraints and partly because Japanese legal culture historically preferred negotiated compliance over adversarial litigation. Administrative injunctions are faster and cheaper than criminal trials but

Supplementary Legal Instruments

Organized Crime Punishment Law (2000, as amended)

This act will increase the power of the state in:

- Seizing criminal proceeds
- Conducting financial transactions surveillance
- Improving prosecutorial capabilities

Strengthening Efforts After 2010

Researcher observes that post-2010 measures include social and economic isolation, representing a move from regulation to isolation.

Yakuza Exclusion Ordinance: Social Enforcement

De-centralized Legal Innovation

By 2011, Japan had established exclusion ordinances in all its prefectures. The ordinances prohibit:

- Businesses from associating with Yakuza gangsters
- Punish people offering financial or physical aid
- Incentivize local enforcement

Researcher's analysis shows that there is a change from state enforcement to comprehensive social regulation (Yamamoto, 2021).⁷

Practical Consequences

The enactment of the ordinances has significantly impacted the lives of Yakuza members:

- Limitation on financial services and banks
- Housing and employment barriers
- Exclusion from mainstream society

This results in what researcher refer to as civil exclusion from society.

provide weaker deterrent signals.

⁷ The timing of prefectural ordinance adoption varied considerably. Tokyo adopted its ordinance in October 2011, one of the last major prefectures to do so, while Fukuoka adopted a particularly stringent version reflecting its acute exposure to organized crime. Yamamoto documents significant inter-prefectural variation in enforcement intensity, raising concerns about “shop-shopping” by criminal organizations—relocating operations to less-regulated jurisdictions while nominally complying with stricter regimes.

Expanding Liability: Holding Leaders Accountable

Judicial Developments

Recent court decisions indicate a growing trend towards holding organizational leaders accountable. This is seen from the recent Supreme Court of Japan ruling on Yamaguchigumi liability where damages were assessed against the syndicate leader for criminal acts by his subordinates.⁸

Implications

In researcher's view, this represents a shift towards:

- Increased accountability of organizations
- Indirect criminalizing of being an organization's leader
- Applying corporate liability laws to criminal syndicates

This enhances deterrence through attacking hierarchies (Hamada, 2022).

Case Study: Fukuoka Prefecture Crackdown

Background

The city of Fukuoka has become a focus of anti-Yakuza enforcement because of extensive criminal group activities within the prefecture. These included:

- Extensive penetration into the construction and finance industries
- Extortion schemes
- Tightly controlled network of businesses

Legal Response

Law enforcers used a mixture of tactics including:

- Busting and administrative measures by the police
- Financial monitoring and asset seizures
- Criminal proceedings under organized crime statutes

⁸ The landmark ruling is Supreme Court of Japan, Second Petty Bench, July 7, 2011 (Minshu 65-5-1904), in which the Court held the sixth-generation Yamaguchi-gumi kumicho vicariously liable in tort for assault committed by a subordinate member. The Court applied a modified respondeat superior doctrine, reasoning that the hierarchical command structure, mandatory tribute payments, and organizational imprimatur together established sufficient control and economic benefit to ground liability even absent specific direction. Subsequent lower court decisions have extended this principle to other designated organizations.

Significance

In researcher's view, this reflects three trends:

- Bridging economic and criminal regulations
- An emphasis on financial proof
- A focus on organizational networks

(Freeman, 2023)⁹

Effectiveness of the Anti-Bōryokudan Framework

Decline in Membership

According to official records by the National Police Agency of Japan, there has been a consistent reduction in Yakuza membership for the last ten years due to the following factors:

- Increase in legislative regulations
- Economic marginalization
- Diminution of recruitment

(NPA, 2022)¹⁰

Disruption of Revenue Streams

The framework has greatly hindered the access to traditional means of earning income through:

- Loss of extortion services
- Closure of accounts in banking institutions
- Inability to enter legitimate businesses

Shift towards Undercover Activities

However, researcher have noted certain shifts that suggest the following:

- Entry into cybercrime and fraudulent schemes
- Creation of front organizations and intermediaries

⁹ Freeman's field research in Fukuoka documents that the prefecture's construction and waste-disposal sectors were particularly vulnerable to Yakuza penetration due to subcontracting chain opacity. Following the 2011 ordinance, prefectural authorities introduced mandatory anti-organized crime compliance clauses into all public procurement contracts—a model subsequently adopted nationally. Fukuoka thus served as a policy laboratory whose lessons informed national-level regulatory development.

¹⁰ The NPA's 2022 White Paper reported approximately 24,100 total Yakuza members and associates as of end-2021, a decline from a peak of roughly 91,000 in 1963 and from approximately 80,600 as recently as 2011. Despite this decline, the NPA noted that the absolute number of criminal cases attributable to designated bōryokudan members had not fallen proportionally, suggesting increased per-capita criminal activity among remaining members and significant migration to non-designated criminal networks.

- Greater secrecy in operations

It is evident that the crackdown strategy has not only failed to eliminate organized crime but also changed its modus operandi (Le, 2024).¹¹

Critical Challenges and Legal Concerns

Impact on Civil Rights

There are several legal questions about the policy's infringement on basic civil rights:

- Suppression of freedom of association
- Protection of due process of law
- Discrimination against ex-Yakuza

In researcher's opinion, such measures are prone to infringe on individual liberties through collective punishment (Yamamoto, 2021).¹²

Reintegration Barriers

Ex-Yakuza often suffer from:

- Social prejudice
- Scarce job prospects
- Legal disenfranchisement

Failure to reintegrate leads to forced recidivism.

Limitations of Non-Criminalization

Non-criminalizing organizational membership brings about various enforcement problems including:

¹¹ Le's comparative study of organized crime digitization across Japan, South Korea, Taiwan, and Hong Kong finds that Japan's Yakuza have been relatively slower to adopt cryptocurrency and dark-web infrastructure than regional counterparts, partly due to an older membership demographic and Japan's robust financial monitoring regime. However, Le identifies a generational transition underway, with younger, technology-literate associates increasingly handling digital operations on behalf of traditional hierarchical leadership.

¹² Article 21 of the Japanese Constitution guarantees freedom of assembly and association. Critics argue that lifetime social exclusion—including denial of banking, housing, and employment—constitutes a de facto penalty extending indefinitely beyond any judicially imposed sanction, without equivalent procedural safeguards. Yamamoto notes that the five-year post-resignation exclusion period is not predicated on individual risk assessment but on group membership alone, raising proportionality concerns under constitutional equal protection principles (Art. 14).

- The challenge of prosecuting affiliations within organizations
- Use of non-confrontational regulatory measures
- Increased pressure on private individuals

Contemporary Trends (2020-2025)

Current trends point to certain important characteristics:

- Age: Recruitment of young people has fallen dramatically
- Electronic Crime: Growing participation in internet fraud and other forms of financial crime
- Surveillance: Growing sophistication of monitoring systems
- Court Orders: Increased use of organizational liability by the courts

All these are indicative of the move from classic syndicates to new-style criminal networks (Le, 2024; NPA, 2022).

Conclusion

The Japanese Anti-Bōryokudan legislation represents an unusual strategy where the focus is not on punishing the membership but regulating it. With the application of a combination of administrative, financial, and social measures, the Japanese state managed to seriously disrupt the organization of Yakuza. As a result, this policy successfully reduces membership and undermines the sources of income. However, this model has a downside because it pushes organized crime underground. At the same time, it causes concerns due to the violation of civil liberties and disproportional sanctions. In addition, the problem of reintegration is acute for former members who continue to live on the margins of society. The judicial trend towards expanding liability demonstrates that Japan's strategy gradually becomes punitive, which will enhance the deterrent effect. Nevertheless, implementation is challenging because affiliation is not classified as a criminal offense. Changes in the nature of crime and its transition to the cyber sphere will test the effectiveness of this approach. Thus, the Japanese experience is promising but requires further improvement.

While concluding, the researcher suggests some policy recommendations:

- Limited Criminalization: Implementation of specific legal liabilities for being involved with such organizations

- Reintegration Programs: Creating reintegration policies for previous members of criminal gangs
- Cybercrime and Financial Intelligence: Increased efforts at enforcing cybercrime laws and using financial intelligence
- Judicial Safeguards: Guaranteeing proportionality of exclusion from society

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