Twenty-Four Ways to Have Sex within the Law

Regulation and Moral Subjectivity in the Japanese Sex Industry

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Abstract: This article argues that how sex appears in the law shapes what erotic pleasure is in a commercial context, and indirectly produces sex workers' ideas about the moral stakes of engaging in certain acts. Although Japan's anti-prostitution law was intended to eliminate commercial sex, the state's mid-century attempt to define a proscribed site of sexual pleasure centered on intercourse instead led to the proliferation of erotic services in a diversified marketplace. The efforts of cisheteronormative sex industry businesses to navigate the actual conditions of the law's enforcement have in turn made intercourse a distinctive site of concern for many sex workers, who regard it as the basis of an imagined moral hierarchy within the industry and as representing the inability of their workplaces to protect them.

Keywords: anti-prostitution law, Japan, moral subjectivity, semi-autonomous social field, sex, sexual regulation, sex work

A guide put out by a Japanese sex workers' advocacy group depicts two mannequin figures in a variety of intimate positions. A salmon-coloured mannequin, representing a female sex worker, alternately straddles, lies on top of, or kneels by a dark-beige-coloured mannequin representing a male customer. Although the blocky figures are simply drawn and lack all but the most rudimentary features, the centre of action in the single-frame illustrations lies with the figure of the sex worker, who guides the encounter while the figure of the customer is mostly shown lying supine. Descriptions provided below each illustration explain how the sex worker should position her body in relation to that of the customer and where and how to caress, stroke, kiss, lick, rock or grind against him.

These illustrations and their accompanying descriptions – twenty-four in total, followed by an additional eight tailored to transgender women (*nyū hāfu*, ‘new half’) sex workers – represent sexual positions selected by the sex workers’ advocacy group for a crucial feature that they share: they provide pleasure while minimising the risk of contracting sexually transmitted infections. In line with the group’s aims, the guide is intended primarily to promote the health and safety of sex workers in an industry in which the available data suggests relatively low condom usage (Higashi 2010). But while the twenty-four positions convey practical advice on sexual health, their presentation also reflects the legal structure framing commercial sex in Japan as one act is conspicuously absent: penile–vaginal intercourse. In other words, the guide does more than provide sexual health advice. It also reflects, by omission, what should not be transacted. In a context in which the state defines the crime of prostitution as constituted by the commercial transaction of this one act, this guide also presents cisgender women in the sex industry with twenty-four ways to have sex within the law.

Contemporary Japan is home to one of the world’s largest and most diverse markets for sex. This market includes a broad array of businesses in which cisgender women and men as well as transgender women provide explicitly sexual services. This article focuses on the dominant male-centered and cisheteronormative industry. Framed by an anti-prostitution law, this market is legally organised around acts other than genital intercourse. As the sex workers’ advocacy guide makes clear, however, a legal proscription on intercourse has hardly constrained the variety of forms of erotic pleasure commercially available. Rather, the narrow focus of Japan’s anti-prostitution law has produced expansive conceptualisations of what ‘sex’ is in a commercial context, and indirectly influences sex workers’ ideas of what is at stake with it.

In her foundational essay, ‘Thinking Sex’, Gayle Rubin (1984) highlighted how regulation constitutes sexual communities, ideologies and practices.¹ For Rubin, the law was just one of a variety of factors to consider in understanding the politics of sexuality, but one warranting special attention due to its longevity as a source of interventions into sexual life.² The sheer scale of regulations relating to the sale or purchase of sex globally makes it a particularly important site for examining the implications of the law for sexual practices and subjectivities. Sexual commerce is heavily circumscribed – if not outright prohibited – in many contexts around the world (Bernstein and Schaffner 2004; Kempadoo and Doezema 1998). Mostly, however, definitions of what the law aims to regulate are broadly construed, veering between the

vague or seemingly self-evident – as with, for example, the invocation of ‘sexual traffic’ in South Korea’s Anti-Sexual Traffic Act (Kim 2014: 51) – and the capacious—such as ‘sexual intercourse, or any other act, or the commission of any other act in order to gratify the sexual desire of another person in a promiscuous manner’ in Thailand’s Prevention and Suppression of Prostitution Act (ILO n.d.). By contrast, what distinguishes the Japanese anti-prostitution law is how it hinges narrowly and exclusively on a specific act. This hyper-specific focus permits interrogation of the effects of legal definitions of sex on questions of what sorts of pleasures are possible to imagine and ideas about what is potentially dangerous about those pleasures.

In examining how legal proscriptions come to influence everyday life, it is of course not the case that a direct, linear relationship exists between state ideology and people’s sense of self and daily practice. Rather, the ways in which a formal code rearranges relations or produces new meanings are often subtle, involving complex interplay with overlapping sets of norms as well as with forms of resistance (Chua and Engel 2019; Ewick and Silbey 1998; Sarat and Kearns 1993). In particular, Sally Falk Moore’s concept of the ‘semi-autonomous social field’ accounts for how particular domains may be simultaneously subject to the law and yet also partially autonomous and governed by the myriad non-legal norms and rules that emerge from everyday relations. Such a social field ‘can generate rules and customs and symbols internally, but . . . is also vulnerable to rules and decisions and other forces emanating from the larger world by which it is surrounded’ (Moore 1973: 720). Socio-legal scholar Prabha Kotiswaran (2011), for instance, has shown how social norms such as tenancy and labour arrangements within brothels in the Sonagachi red-light area of Kolkata, India provide sex workers and others with differential bargaining power in relation to the legal system.

In this article, I argue that how sex appears in the law shapes what erotic pleasure is in a commercial context and indirectly produces sex workers’ ideas about the moral stakes of engaging in certain acts.³ There are two parts to my argument. First, although Japan’s anti-prostitution law was intended to eliminate commercial sex, it has instead led to the proliferation of erotic services in a diversified marketplace. The state’s mid-century attempt to define a proscribed site of commercial sexual pleasure, that is, led to entrepreneurial innovation that shifted the focus of sexual commerce from intercourse to a multitude of newly specified forms of male-centered desire and sexual gratification. Second, the efforts of cisheteronormative sex industry businesses to navigate

the actual conditions of the law's enforcement have made intercourse a distinctive site of concern for many sex workers, who regard it as the basis of an imagined moral hierarchy within the industry and as representing the inability of their workplaces to protect them.

I begin this article with an examination of the history behind how a particular legal-juridical construction of 'sex' has come to define the regulation of the contemporary sex industry in Japan. I then demonstrate how sex industry businesses have organised themselves around a diverse variety of non-intercourse services and specialisations, and discuss how the authorities' regulation of the industry characterises it as a 'semi-autonomous social field'. In the final section, I show the indirect influence of the anti-prostitution law on sex workers' moral subjectivities as the industry's focus on non-intercourse services and its 'semi-autonomy' generate the expectation among many women that intercourse is outside the scope of their work.

Legal-juridical constructions of 'sex'

In 1956, after nearly three-and-a-half centuries of organised and state-sanctioned prostitution,⁴ Japanese law-makers passed the Prostitution Prevention Law (*Baishun Bōshi Hō*). Although anti-prostitution activists had advocated for national legislation since the late nineteenth century, new forms of sexual exchange that emerged in Occupation-era Japan (1945–1952) had led to growing popular and political support for measures to control women's sexuality and reconstitute the social order. Amidst the hardship of the early post-war period, the visibility of women who consorted with Allied servicemen and sold sex on the streets, together with the increase in organised prostitution, came to represent for many the unsettling changes that followed Japan's unconditional surrender (Dower 1999; Kovner 2012; Kramm 2017; Sanders 2012). After several punitive bills supported by the nation's first female parliamentarians failed, and notwithstanding the protests of prostitutes themselves, conservative lawmakers – many of whom had opposed anti-prostitution efforts and taken political donations from brothel owners – pushed through a watered-down law (Kovner 2012; Rowley 2002; Shiga-Fujime 1993; Shin Yoshiwara Joshi Hoken Kumiai 1989).

The anti-prostitution law was heavy on rhetoric around public morality but light on penalties. 'Prostitution', the law declared, 'damages human dignity, opposes sexual morality, and harms the good morals of society'.⁵ But although the law proscribed engaging in prostitution and

becoming the customer of a prostitute, it did not stipulate a punishment for either of these acts. In other words, the anti-prostitution law punished neither prostitutes – explicitly marked as a female-gendered subject position – nor their customers for actually transacting sex (*tanjun baishun*). While lawmakers designated women who engaged in prostitution as subjects of state intervention and rehabilitation,⁶ they did not problematise the male pursuit of sexual gratification in itself.⁷ Punishment was reserved, instead, for acts involving the facilitation of or the making of profit from prostitution, such as solicitation, procurement, coercion or making a location for prostitution available. Thus, women engaged in prostitution could be subject to criminal charges under the anti-prostitution law for soliciting – the source of much public hostility – but not for transacting sex itself.

The anti-prostitution law defines prostitution as ‘having sexual intercourse (*seikō suru koto*) with unspecified partners for compensation or for the promise of compensation’.⁸ Although no explicit definition of intercourse is provided, since the law’s enactment the authorities have interpreted it to mean penile–vaginal copulation. Kawamoto Haruko,⁹ a well-known lawyer and authority on the history of regulations relating to commercial sex, explained that this focus reflected the normative imagination of prostitution at mid-century. At the time of the law’s passage, said Kawamoto, ‘Intercourse was what was on offer. “Prostitution” meant having intercourse’. Lawmakers considering how to write commercial sex into the law, she suggested, thus naturally isolated this act as the center of their legal framework – a decision that would have profound consequences for the sex industry. Given the law’s cishetero-normative framing of sex, same-sex and non-cisnormative commercial sexual services were and are not regulated by this law or, indeed, officially acknowledged by the state.¹⁰

The full enactment of the Prostitution Prevention Law in 1958 led to the closure of brothels nationwide. It did not take long, however, for new businesses offering previously unspecified services to appear and fill in this void. As Kawamoto narrated, indicating the beginnings of this transition: ‘Then, someone clever came along and saw an opportunity to make other kinds of services available. As long as these services didn’t include intercourse, they wouldn’t be considered prostitution and wouldn’t be illegal’. As entrepreneurs grasped the implications of the law’s narrow definition of sex, they reorganised their businesses around non-intercourse services. Police investigator and long-time sex industry observer Matsuki Takashi provides further contextualisation, explaining that ‘businessmen who had operated brothels were con-

fronted with either closing down or changing their occupation. People say that, “There is always some way out of a difficulty”, and what resulted . . . was the “Turkish bath” (*toruko buro*)’ (2011: 139). At the outset, these businesses offered only a bath in a private room followed by a massage. But Matsuki describes how within just a few years, ‘Turkish bath’ employees and their managers devised distinctive services (e.g. the ‘bubble dance’, ‘periscope play’) and specialised equipment (e.g. the ‘pervert chair’) that quickly caught widespread attention and that were adapted at businesses appearing across the country (2011: 139–152; see also Nagai 2002).

Notably, however, even as entrepreneurs shifted the focus of the sex industry to non-intercourse services, lawmakers did not revise the anti-prostitution law to broaden the legal-juridical construction of ‘sex’. To the contrary, rather than clamping down on these new forms of sexual commerce, in 1966 the authorities instead decreed that ‘Turkish baths’ as well as strip theatres and nude studios would be incorporated into the post-war law overseeing all forms of potentially subversive entertainment: the Law Regulating Entertainment Businesses (*Fūzoku Eigyō Torishimari Hō*, enacted in 1948; revised in 1984 as the *Fūzoku Eigyōtō no Kisei oyobi Gyōmu no Tekiseikatō ni kansuru Hōritsu*). This law regulates those businesses – everything from bars and dance halls to mahjong parlours and game arcades – that are regarded as requiring special oversight for their potential to affect public order. From the outset, the law differentiated sex industry businesses from these other forms of entertainment businesses by mandating distinctive regulations, such as the need to maintain a 200-metre minimum distance from public buildings like schools and libraries. Nevertheless, this law is not designed to impede sexual commerce but rather to establish the conditions under which it can operate (e.g. hours of operation, location) (Nagai 2002).¹¹ Meanwhile, the narrow definition of ‘sex’ as established by the Prostitution Prevention Law remains the basis by which the content of sexual commerce is regulated today.

A diversification of services

Over the past several decades, the anti-prostitution law’s narrow definition of sex has produced an expansive sexual marketplace offering any and every service short of intercourse. When the coercive authority of the state shut down one model of commercial sex, entrepreneurial innovation transformed the sex industry, generating a new public

imagination of the kinds of erotic possibility available in the market.¹² While 'Turkish baths' (today known as 'soaplands') formed the mainstay of the sex industry through the 1970s, from the early 1980s onward the industry began to diversify heavily, in line with the more general explosion in consumer trends in the 'bubble' economy (Allison 1994). New kinds of businesses appeared in rapid succession: *nozoki beya* (1981), so-called 'peeping rooms' in which customers engage in voyeurism; *fasshon herusu* ('fashion health', 1984), businesses at which sex workers provide customers with oral sex and/or manual stimulation; *terekura* (1985), or telephone clubs; and *imekura* (1986), 'image clubs' that feature costumes, role-playing, and rooms designed to cater to fantasy scenarios (Haha no Kai 2005; Shimokawa 2007). As sociologist Miyadai Shinji has observed, these newer businesses shifted the role of the sex industry from a market centered on ejaculation to one centered on arousal, sexual play and 'changing one's day-to-day frame' (NHK 2002: 152–153). The services offered by this 'new sex industry' (*nyū fūzoku*) were not only cheaper relative to those at soaplands, but were also regarded as presenting lower risk (for customers, at least) of HIV transmission following the 'AIDS panic' of the late 1980s (Nagai 2002: 154).

The diverse variety of named services in the cisheteronormative Japanese sex industry today underscores the multitude of forms of male-centered sexual pleasure that have become the focal point of encounters between sex workers and their customers. Although there are important distinctions across different genres of sex industry businesses, as well as stratification within these, in general, the standard service at many businesses includes: kissing, oral sex, manual stimulation, breast sex and/or dry-humping – described by one manager as 'mock sex' (Mizushima 2009: 78). In addition, many businesses allow customers to purchase 'add-on' services from sex workers who have designated beforehand that they are willing to offer them. These may include taking photographs, tearing off or taking home items of the sex workers' clothing, designating who will play the active role, specifying the site of ejaculation, watching masturbation, a prostate massage, the use of sex toys, threesomes, bondage, anal sex and taking the sex worker out on a date.

Exemplifying the 'incitement to discourse' that is constituted through attempts to regulate sex (Foucault [1978] 1990), sex industry magazines and websites, men's sports papers, Internet discussion boards, personal blogs and – until the mid-2000s – sexually explicit advertisements placed in phone booths, public toilets and mailboxes are only some of the media that enumerate and disseminate an industry-

specific vocabulary to refer to these named and specified services and their countless variations. Together with word of mouth and intermediaries who assist customers in selecting a sex industry business (*inuryō annaijo*), these fuel a customer imagination of the sorts of pleasures that are possible to conceive of and pursue in the market. The emphasis on variety and specialisation underscores that intercourse is by no means the implicit referent for ‘sex’ in this industry, with the non-fiction writer Nakamura Atsuhiko and veteran sex industry business manager Teshigawara Mamoru going so far as to call the pursuit of intercourse as an aim in itself ‘incomprehensible’ (Nakamura and Teshigawara 2015: 39–41). A dictionary of sex industry terminology aimed at male customers, meanwhile, includes only a brief cautionary entry on intercourse – referred to by the industry colloquialism, *honban*, ‘the central performance itself’ – amidst 167 pages detailing other services, equipment and fantasies on offer (Shiroie 1998).¹³

While the Prostitution Prevention Law has reconstituted the marketplace for commercial sex, the actual conditions of its enforcement lend a more complex view onto its effects on the sex industry as businesses are effectively left to regulate themselves. Police regulation of this industry is relatively hands-off. In a context in which commercial sex has long been accepted as an inevitable part of social life, the authorities regard the sex industry as necessary and often turn a blind eye to many infractions – everything from businesses operating after hours or without registering properly to strip theatres’ violation of ‘public indecency’ regulations – while remaining ambivalent about sanctioning the industry (see Koch 2020). In practice, the police do not regard the industry as a high priority and largely favour sporadic enforcement of the laws in order to prevent the most brazen violations (Adelstein 2009; Matsuki 2011). A major mid-2000s crackdown on Tokyo’s sex industry that became a model for similar ‘clean-ups’ nationwide, for instance, was decidedly not anti-sex industry in design but rather a campaign against excessive unlawfulness (Koch 2020). Most blatantly, the police tolerate the open secret that intercourse can be purchased at soaplands (formerly ‘Turkish baths’), which frequently separate the payment for bathing charges (*nyūyokuryō*) – collected at the front desk – and service charges (*sābisuryō*) – collected by the sex worker – so as to claim plausible deniability of the service offered to the customer.¹⁴

Effectively, then, the authorities leave legal compliance in the hands of the owners and management of sex industry businesses, who must carefully navigate the discrepancy between the formal letter of the law and what is tacitly permitted. In this ‘semi-autonomous social

field', management is held responsible for upholding the law but operates according to a normative order in which even the police regard some degree of the sale of intercourse as licit so long as businesses do not openly flout the law (Abraham and van Schendel 2005: 18; Merry 1988). As managers weigh the likelihood of coming under police scrutiny, some businesses illegally offer intercourse as a standard service while staff at other businesses may look the other way if individual sex workers are willing to negotiate with customers. The risks of being caught, however, are high, and no business is safe from unexpected police raids that can result in arrests (although only rarely of sex workers themselves) and/or being shut down. Even in the face of sporadic enforcement, it thus remains imperative that businesses draw a sharp distinction between the forms of male sexual gratification on offer and the 'sex' that defined the sexual commerce of the past. As those who are ultimately held accountable to the authorities, managers and staff act as regulators of the industry and drive its seemingly endless innovation of competing non-intercourse services and specialisations. It is the conditions created by these actors who must uphold the law that largely frame sex workers' expectations of the boundaries of the physical service on offer – and their understandings of what exceeding these boundaries means for who they are.

Moral subjectivities

The Japanese sex industry's focus on non-intercourse services together with its 'semi-autonomy' produce specific kinds of moral subjectivities among sex workers in relation to intercourse. Unlike sex industry management, women engaged in this industry are not directly targeted by the anti-prostitution law, and, as such, neither fear of enforcement nor even knowledge of the law drive their behaviour. Instead, sex workers are *indirectly* influenced by the law through how their expectations of what their work is lead them to assess their moral subjectivity – by which I mean sex workers' sense of themselves as individuals who engage in the 'right' actions for the 'right' reasons (Keane 2016) – in part with reference to intercourse. Many women working in the sex industry regard intercourse as the basis of an imagined moral hierarchy within the industry. Further, the coercion that defines this act when some customers pressure or compel sex workers to engage in it can make sex workers experience it as degrading and as representing the inability of their workplaces to protect them.

Sex workers' expectations about what services they are – and are not – offering are shaped foremost by how management presents the work to them.¹⁵ When a woman begins working at a sex industry business, the manager or another staff member will run through the services that she is expected to provide. This brief orientation focuses on practical information related to service content, and goes no further in explaining or contextualising these parameters. The former escort worker Hiromi, for example, was typical in explaining how she had learnt what she could and could not offer: 'As long as you only do the things you're told [by the staff], you'll be fine'. Intercourse was nowhere mentioned in the orientation, so Hiromi knew that it was outside the scope of her work. Like other sex workers, she eventually learnt that intercourse was not allowed, either at her business or others. She was unsure of why this was but did not think about it much, assuming that 'this probably relates to the law somehow or other'. But even without direct knowledge of the law, Hiromi exemplified the kind of matter-of-fact practical understanding that sex workers pick up from management and peers about the boundaries of their work, as demonstrated by her blunt rationalisation of why anal sex could be offered as an 'add-on' service: 'Because the opening is different'.

Hiromi's lack of interest in the legal parameters of her work reflects how the anti-prostitution law – which does not criminalise individuals for transacting sex – does not directly motivate the behaviour of sex workers. In fact, it is telling that neither management nor sex worker advocates see the law as relevant enough to communicate to sex workers. Sachiko, a former *fasshon herusu* worker, articulated most clearly that it is not concern for adhering to the law that motivates many sex workers' aversion to offering intercourse when she observed: 'The reason that sex workers are not having intercourse [*honban*] with their customers is not because it's illegal. It's because they don't want to'. Rather, as expressed by Sachiko, sex workers' attitudes towards transacting intercourse are shaped by a normative order that is distinct from formal law and yet not entirely separate from it either.

In contrast to the legal danger that intercourse poses to sex industry businesses, for many sex workers it presents a distinctively moral danger. As women engaging in work that is widely regarded to be shameful and disreputable in Japan, and who are thus subject to stigma and harsh social opprobrium, sex workers must navigate questions about what supporting themselves in this way – even if only temporarily – means for their moral personhood.¹⁶ At stake is their sense of themselves as 'ordinary' women and their ability to represent themselves

to others, if necessary, as moral actors. Drawing boundaries around intercourse as an act that they will not provide becomes the basis of one kind of moral hierarchy that sex workers establish to mitigate stigma by creating distinctions among themselves (see Cheng 2010: 117–122). As the great appeal of sex work for many of the women who engage in it is that it is both highly lucrative and, ultimately, intended to be transient – a youthful means of achieving otherwise unattainable goals of financial and social independence – engaging in intercourse has the morally troubling connotation of taking on an identity more permanently. That intercourse serves as the particular barometer for this hierarchy reflects the pressure of the law indirectly, as managers and staff – those who are held responsible for compliance – shape sex workers’ understanding of the physical boundaries of their work. Contrary to the semantic conflation of some members of the public, then, who assert that everything offered in the sex industry is ‘prostitution’ (*baishun*), for sex workers themselves the distinction between intercourse and non-intercourse services is significant for how it reflects these different moral valences.¹⁷

The reluctance of many women to work at soaplands, despite their being the most lucrative genre of sex industry business, most clearly manifests this boundary-drawing. At soaplands, erotic play revolves around an elaborate bath and massage. The service is typically longer and more extensive than at other kinds of businesses, and requires some degree of specialised knowledge. Most importantly, as noted above, these businesses are widely known to include intercourse as a standard service. Despite the potential for higher earnings, therefore, sex workers generally speak of soaplands as businesses that attract primarily those women who are unable to succeed elsewhere and/or those who are desperate for money. Those women with the greatest range of workplace options are unlikely to choose soaplands. Shiori, for instance, was typical in describing the women working there as marked by a seriousness of purpose distinct from the ‘cheerfulness’ of those at non-intercourse businesses, a descriptor that alluded to the deliberate intent necessary to take on what she ascribed as the weightier moral burden of the work. In the eyes of Shiori and others, soaplands are places that women who previously had other choices end up at once they are no longer successful elsewhere – and once their opportunities for entry into appealing work outside the sex industry have often also diminished.

In addition to the moral danger immanent in seeing oneself as the kind of woman who offers sexual services beyond the scope of her work, for sex workers intercourse also comes to represent their vulnerable position in relation to their customers. Veteran sex worker Mizushima

Kaorin exemplifies both the kinds of affective investments that women in the sex industry may place on not having intercourse and the lack of control over their workplace encounters that this act can come to stand for. In a book written about her experiences at seven different kinds of businesses, Mizushima narrates her entrée into and exploration of the sex industry from the viewpoint, first, of an adolescent bored with school and home life in rural Japan and, later, of a young woman on her own in Tokyo. Among the many sexual encounters that she describes in frank and often graphic detail, what stand out are her consistently negative portrayals of those occasions on which she engaged in intercourse with customers. In contrast to her nonchalant attitude elsewhere, Mizushima expresses a disgust bordering on revulsion when writing about these experiences, describing thinking that having intercourse with a customer is the same as ‘having a rod plunged into me and my insides gouged out’ and feeling as if ‘I were being invaded’ (2009: 87, 109). Her extreme discomfort, it is clear, has everything to do with the varying degrees of coerciveness marking these encounters and her realisation of her inability to enforce the boundaries that she will not cross.

For a young Mizushima, being compelled to have intercourse was a not infrequent occurrence, one that she describes as always a possibility as she engaged with customers who showed up too drunk to reach orgasm through the standard services or with those who seemed like they might get angry if she refused them (2009: 112). The customers that Mizushima reserves the greatest scorn for, however, are those who insisted on their own niceness while disregarding her pleas not to have intercourse (2009: 107–109). Mizushima’s awareness of her unwillingness to confront customers directly and of her reluctance to call the front desk for help heightens her anguish at these situations (2009: 112–113).

The experiences described by Mizushima are not uncommon in the sex industry and reflect the clear licence that some customers – who are similarly not criminalised by the anti-prostitution law and face few if any repercussions for their actions – feel in being able to force sex workers to go beyond the services on offer. Many of the women whom I met through my research reported having had to manoeuvre around a customer’s attempts to engage in intercourse. As with Mizushima’s experiences, this was typically a source of great stress as businesses effectively leave sex workers to their own devices in learning techniques for dealing with such potentially volatile situations. More broadly, although women working at brick-and-mortar businesses can notify the front desk when a customer is pushy or aggressive, most sex

workers today are escort workers who meet their clients in locations – love hotels, rental rooms and apartments – at which staff members are not on hand to intervene on their behalf. A survey of 126 sex workers conducted in the early 2000s, for instance, found that 44.4 per cent of respondents estimated that roughly half of their clients pressured them for intercourse – although the researchers qualify that ‘pressure’ spans a broad range of meanings from asking for intercourse but letting the subject drop to customers who threaten or assault the sex worker (Kaname and Mizushima 2005: 72–74).

For many sex workers, intercourse thus comes to reflect some of the contingencies at play around consent and coercion in the Japanese sex industry. The women who enter this industry typically do not think of themselves as defined by this work but rather as temporarily taking advantage of its highly remunerative nature. When sex workers either feel pressured to have intercourse with their customers or are forced to do so, it threatens not only their dignity, bodily autonomy and physical and emotional well-being, but also their sense of themselves as individuals who enforce boundaries on what transactions are legitimate to engage in. Being compelled to engage in an act that is heavily associated with those within the sex industry who have few choices left to them and feeling degraded by customers who disregard their protests threatens many sex workers’ sense that they can keep the work from defining them and that it is morally justified by the future opportunities outside the industry that its remuneration and flexibility afford.

The ‘semi-autonomy’ of sex industry businesses clarifies why there are few repercussions when customers refuse the distinction between male pleasure and intercourse. Managers and staff navigating the gray space between what the authorities tacitly permit and the formal letter of the law have little interest in drawing police attention. Filing a police report bears the risk of bringing unwanted scrutiny from authorities who might uncover the kinds of infractions (e.g. operating outside legally designated hours) that are common across the industry. Rather than engaging the police, businesses may ‘blacklist’ a customer in egregious cases but more likely they will question why the sex worker herself was not more forthright in refusing intercourse. Among sex workers, on the other hand, shame, fear of discrimination and insecure legal status keep many from reporting such incidents themselves (see Aoyama 2015; Kaname 2012). As management defends its ‘semi-autonomy’ from police scrutiny, sex workers are left to face both the trauma of such encounters and the possibility of future occurrences on their own. In this light, the guide produced by the sex workers’

advocacy group with which this article began, with its twenty-four suggestions for how to gratify customers without involving intercourse, can be read not only as practical guidance on sexual health but also as strategies for sex workers to manage and divert customers intent on intercourse, thereby protecting themselves from an act that threatens their well-being in other ways as well.

Conclusion

While mid-century anti-prostitution activists may initially have been hopeful that the Prostitution Prevention Law would eliminate commercial sex in Japan, the outcome has been far different. Not long after the law's full enactment, entrepreneurs began making newly specified services available that skirted the legal-juridical definition of 'sex' established by the law. Over the intervening decades, this innovation has generated a powerful and pervasive imagination of male-centered pleasure rooted in diverse genres of sex industry businesses that define themselves in terms of competing non-intercourse services and specialisations. In other words, when the coercive authority of the state was brought to bear on one mode of sexual commerce – organised around penile–vaginal intercourse – the market simply moved on. In keeping with the long-standing practice of the Japanese state to regard commercial sex as socially necessary, the authorities have shown little interest in expanding the scope of the anti-prostitution law and today take a largely hands-off approach to the sex industry, for the most part leaving businesses to regulate themselves.

And yet even without consistent enforcement by formal actors of the state, the anti-prostitution law has come to indirectly influence the everyday practice and sense of self of many adult Japanese women working in this industry. Moore's concept of the 'semi-autonomous social field' elucidates this dynamic as it links the actual regulatory operations of this industry with the non-legal rules and practices that define its everyday relations. It is the conditions created by managers and staff – those individuals who are directly accountable to the authorities – that shape the expectations of many sex workers that intercourse is outside of the scope of what they are offering. In this context, this act comes to serve as a site of moral concern for many. Here, we run into a key conundrum of the law – namely, that despite the clarity with which managers and staff may convey the boundaries of what is on offer, they have little control over actually guaranteeing those conditions for sex

workers, and have little interest in punishing customers. It is sex workers who must deal with the consequences of a regulatory regime that indirectly instills particular expectations about what conditions they can expect but that is effectively unable to ensure those boundaries when confronted with aggressive customers. Sex workers are left to rely on their own efforts in protecting themselves, and left alone in dealing with the trauma of forced sex.

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Notes

1. See also Foucault ([1978] 1990); Rubin ([1981] 2011); Walkowitz (1980); Weeks (1977, 1981).

2. See, for example, Halperin and Hoppe (2017) and Lancaster (2011) for recent analyses of sex law in the United States.

3. The analysis in this article is based on twenty-one months of ethnographic fieldwork that I conducted in Tokyo from 2008 to 2013, in addition to several short trips in 2016 and 2017. This fieldwork, which focused on the labour of adult Japanese cisgender women working in the legal sex industry, included visits to sites in and around the sex industry; time spent with sex workers when they were not at work; formal and informal interviews with sex workers, sex industry business managers and support staff, journalists, police officers, lawyers and others; and analysis of the prolific Japanese-language commentary on the sex industry.

4. On the long history of organised heterosexual prostitution in Japan, see, for instance, De Becker ([1905] 1971); Frühstück (2003); Fujime (1997); Seigle (1993); Sone (1999); Stanley (2012). The Allied occupation forces abolished licensed prostitution in 1946, although the Japanese authorities allowed it to continue in designated areas until the full enactment of the Prostitution Prevention Law in 1958 (Dower 1999; Kovner 2012; Kramm 2017; Sanders 2012).

5. *Baishun Bōshi Hō*. See https://elaws.e-gov.go.jp/document?lawid=331AC0000000118_20170401_428AC00000000063. Article 1.

6. The law mandated the creation of a nationwide network of women's counseling centers (*fujin sōdanjo*) and shelters (*fujin hogo shisetsu*) as well as several women's guidance homes (*fujin hodōin*) (Hayashi 2008). For comparison, see also the provisions for 'protection' and 'rehabilitation' established in the 2004 South Korean Act on the Prevention of Sexual Traffic and Protection, Etc. of Victims Thereof (Kim 2014: 52).

7. Police officers, lawyers and activists with whom I spoke consistently explained to me that the mostly male politicians who passed the anti-prostitution law had not wanted to be punished themselves should they be caught buying sex – an explanation that was typically offered with, depending on the stance of the speaker, either a suppressed smile or muted exasperation.

8. *Baishun Bōshi Hō*, Article 2.

9. To protect the identities of research participants, pseudonyms are used throughout this article. Japanese names are given following the Japanese convention of family name first followed by personal name.

10. As a police handbook explains: 'As intercourse is the necessary condition, the acts resembling sexual intercourse (*seikō ruiji kōi*) performed by male prostitutes do not constitute prostitution as laid out by this law' (Natori [1996] 2005: 127). To the extent that same-sex sexual commerce is regulated, it is by public obscenity regulations.

11. See Aoyama (2015) and Koch (2020) for their discussion of the industry's ambiguous legal status and the consequences of this for the women who work there. See also Yoshida ([1996] 2005: 302).

12. Anne Allison has made a similar point in relation to her examination of how Japanese comic book artists in the 1980s and early 1990s represented sex in ways that avoided censorship for obscenity under Article 175 of the Penal Code (1907) by creating storylines that incorporated non-genital modes of sexuality. As she writes: 'Restrictive laws are actually a boost to the big business of sexual fantasy-making in Japan' ([1996] 2000: 150).

13. The entry primarily instructs readers on how this act is legally constituted, noting: 'At a sex industry business, *honban* is taken to be the insertion of the male genitalia into the female genitalia. Insertion itself – and not ejaculation – is the deciding factor' (Shiroie 1998: 147).

14. Moreover, as the anti-prostitution law only applies to cases in which a woman has intercourse with 'unspecified' (*futokutei*) partners, soaplands that have run into trouble with the authorities have made the claim of 'free love' (*jiyū ren'ai*); that is, that women working at their businesses 'fell in love' with their customers while bathing and massaging them and then spontaneously had intercourse. Effectively, the police have turned a blind eye to the availability of intercourse at soaplands.

15. See Koch (2016a) for a discussion of the emotional and affective aspects of the erotic encounter between sex worker and customer.

16. See also Koch (2016b).

17. Japanese anti-prostitution advocates argue that the anti-prostitution law's narrow focus on intercourse has effectively allowed prostitution to continue under a new name, and call on the government to prohibit all forms of sexual commerce (Hayashi 2008; Tsunoda [2001] 2005).

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