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FEATURE ARTICLES

Consumerism in Japan: Rising Star or Setting Sun?

by Thomas Flannigan
and Amanda Andrews

Dazai Osamu,¹ founder of the Japanese *taiyouzoku* ("Sun-Tribe") school of literature, is a household name in Japan. While Japan rose from the devastation wrought by World War II and began rebuilding a prosperous society, Dazai and his followers scorned Japan's new-found affluence and urged a return to traditional Japanese values of thrift and hard work.² The Japanese people have since rallied around both Dazai's teachings and his suicide, his ultimate protest against Japan's westernization and rapidly rising materialism. This idea of self-sacrifice is still the central theme of the Sun-Tribe, as Dazai's followers call themselves. Today, Ishihara Shintaro, Japan's most popular politician and a loyal follower of the Sun-Tribe, continues to preach restraint and frugality in sharp contrast to the prevailing ethic in other advanced industrial countries.³

While much of the world has promoted credit and free access to consumer products, Japan has clearly marched to the beat of a different drummer. Japan has not experienced the powerful force of the consumer movements that has shaped public

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policy in most of Japan's trading partners. Japan continues to maintain a powerful web of formal and informal restrictions on consumer behavior that has no exact parallel in any member of the OECD.⁴

Defying the Laws of Gravity

First-time visitors to Japan are usually impressed by the bustling, cosmopolitan nature of public commerce. Stores, some large, some small, seem to be everywhere, and are open long hours. Advertising is everywhere. Foreign trademarks, or at

least those that appear to be foreign, are visible all over business districts and *shotengai*, the lively shopping streets that adorn nearly every Japanese neighborhood and town. Shops are usually clean and goods are beautifully presented. The drab, smelly bazaars of the communist world seem light years away. Japan appears to be something of a consumer's paradise.

To the contrary, the image does not meet the reality. Shoppers who spend time investigating almost any industry will find that some rules of capitalism that supposedly govern human behavior seem to have been caught in a state of suspended animation in Japan. Japan has the highest production costs for cement and concrete in the world, yet is a net exporter of both items.⁵ The low cost producer of both products, Korea, has a negligible market presence in Japan, although Korean cement and concrete sell well throughout the world.

Beer is another puzzlement. Sapporo Beer, brewed in Tokyo, sells for 3 Hong Kong dollars (U.S. \$.40) per can at the Pic N' Pack chain in Hong Kong, and .80 cents per can all over the U.S. In Tokyo, nearly every store and vending machine sells the identical can of beer for 230 yen (U.S. \$1.80). An open capitalist system would quickly import Korean cement and Dutch beer until the local Japanese producers were either driven out of business or made to become more efficient. In Japan, an invisible hand, one quite different than the invisible hand envisioned by Adam

Smith,⁶ seems to keep high cost domestic producers flourishing, and consumers paying far too much for too little.

Japan has become famous for its high prices. The media has spread stories of Tokyo stores selling 50 dollar melons and 8 dollar apples. This is due to Japan's heavily protected and terribly inefficient agricultural sector which leads to high prices for basic products such as melons and rice. What is less obvious is how expensive consumer products manufactured in Japan are in Japan. In 1992, one of the authors was in Manaus, Brazil, in the heart of the Amazon jungle, and met a group of Japanese tourists laden with Panasonic VCRs and Sony stereo equipment. All of this equipment was manufactured close to their homes in Japan, yet they were able to buy such equipment in Brazil at half the price charged in Japan.

Elsewhere in the world, goods are generally cheaper when purchased near their point of production. In Japan, this supposedly universal rule of economics has been discarded. Japan is the most expensive place in the world to buy many Japanese products. Taggart Murphy, former partner of Goldman Sachs who has resided in Japan for many years, provides anecdotal evidence of these high consumer prices:

"Eight brussel sprouts cost 280 yen (U.S. \$3.29) or better than 41 cents per sprout at my local store. Four grapefruit-type citrus called *hassaku* run for 480 yen (U.S.

\$5.65), a liter of milk for 188 yen (U.S. \$2.21), a head of lettuce for 260 yen (U.S. \$3.06) and two small cod fillets 600 yen (U.S. \$7.06). I pay 3,300 yen in tolls to go some sixty miles on the expressway . . . Last summer, I tried my hand at gardening. A bag of fertilizer that in the states would go for \$4 costs 3000 yen (U.S. \$35.29)."⁷

Explanations for this phenomenon are specious at best. Some point to the "inefficient" distribution system.⁸ This does not provide a plausible explanation. If the Japanese distribution system was at the root of the problem, retail prices of Japanese goods sold abroad would also be high, because at least some of the high transaction costs would be added to the product before it left Japanese shores. In fact, the opposite is true. Japanese auto parts, cosmetics, beer, film and a host of other products sell for lower prices abroad than in Japan. Classical western economics, and western consumer movements, offer little help in explaining this phenomenon. While appearing western and consumer-friendly, Japan has actually bent Adam Smith's invisible hand to favor producers and national goals, rather than the interests of consumers. The end result involves a system that defies the laws of gravity as calibrated by western economists. The end result also mandates that the Japanese consumer often subsidizes exports by paying high domestic prices for Japanese goods. Whether the Japanese consumer ultimately benefits should be carefully considered. But

first, the the origins of the current Japanese system must be considered.

Early Contact with the West

Japanese civilization evolved under the influence of China, in isolation from European civilization. Europeans first came into regular contact with Japan in the 16th century. By this time, Japan had already become a highly developed nation. Accurate comparisons are difficult, but some historians believe Japan had the 3rd or 4th highest GNP of any nation in the world by 1600. The literacy rate and development of its economy compared favorably to all but a few European nations.⁹

Japan severed almost all contact with Europe in 1609, at the beginning of the *sakoku jidai*, or period of seclusion. Japan's only contact with Europe was through a Dutch concession on the man-made island of *Dejima* (advanced island), in the harbor of Nagasaki. The Dutch traders isolated on *Dejima* were generally not allowed ashore. Japanese who had any contact with Europeans or other westerners outside of Nagasaki were either put to death forced to live a life of exile due to the contact with westerners.¹⁰

Two hundred and fifty years of seclusion ended when an American flotilla, commanded by Commodore Perry, reached Edo (Tokyo) in 1852, demanding that Japan open to the West. When Perry's *kuroi fune* (black ships)¹¹ returned the following year, Japan's elite felt they had no choice but

to accede to Perry's demands. Diplomatic relations and trading posts were established, and Japan began trading with the West.

The terms of trade with the west, including Japan's tariff rates, were set by America and Europe. Japan was forced to sign a series of humiliating treaties which provided that western nationals resident in Japan were not subject to the laws and courts of Japan.¹² The legacy of these "unequal treaties" as well as chronic trade deficits with North America and Europe, enforced the earlier Japanese reticence of trading with the west.

In spite of these misgivings, Japan enjoyed a period of prosperity. Between 1853 and 1923, Japan modernized at a remarkable rate. Japanese elites assimilated much of the technology from America and Europe. Japanese silk and light manufactures were exported around the world, and foreign products became increasingly common on Japanese shelves. *Mogos* (modern girls), and *mobos* (modern boys), youths dressed in western fashions sported by flappers in America, roamed the streets. To western observers, Japan appeared to be evolving in the direction of a western, consumer-driven economy.

Japan Changes Course

This period of prosperity and relative openness to the west ended abruptly on September 1, 1923, when a magnitude 8.2 earthquake struck Tokyo. The resulting fire and chaos wiped out 40 per cent of Japan's GNP

and killed 144,000 people. During the aftermath of this tragedy, known as the *Kanto Dai Shinsai* (Great Kanto Earthquake Disaster), Japan looked inward and began to establish new policies governing foreign trade. Japanese were urged to buy Japanese products and to conserve resources in order to rebuild the nation.

This effort was spearheaded by the Ministry of Munitions, a governmental body now known as the Ministry of International Trade and Industry ("MITI"), an agency without an exact counterpart in the United States. In 1925, The Ministry of Munitions began implementing policies that favored producers, especially producers attempting to crack foreign markets. MITI encouraged the acquisition of foreign technology and discouraged the importation of foreign manufactured goods. These policies of economic nationalism paid off handsomely; Japan recovered from the devastation of the *Kanto Dai Shinsai* and its economy boomed, even as western economies were collapsing during the *Dai Fukyou* (Great Depression) of the 1930's.

Unfortunately, Japan also adopted militaristic policies that culminated in invasions of much of East Asia and Southeast Asia, and its ultimate defeat by the Allied forces in World War II. Japan had many national slogans during World War II, but one of the most enduring was *Hoshigarimasen Katsu Made Wa* (We won't ask for anything until we have won). Japan, which manufactured 8 tons of steel in

1940 knew that it could only hope to defeat the United States, which produced 80 tons of steel the same year, if it worked harder and made a superior sacrifice. Japanese consumers endured far stricter levels of rationing and material hardship than consumers in the U.S. or Europe, and this sacrifice continued throughout the war. Even this level of sacrifice was not enough.

Power in the Ministries

The Allied Occupation of Japan did not break the power of the elite ministries vested with enormous power and discretion in regulating nearly every aspect of the Japanese economy. Various government ministries, such as *okurasho* (Ministry of Finance) and MITI recruit each year 20 to 30 of the brightest graduates of Tokyo University, especially graduates of the elite law faculty. These graduates generally stay with the ministry for most of the rest of their working life, toiling long hours for modest salaries. They generally are not corrupt and make their decisions based on their perceptions of the Japanese national interest.

When each ministry elects a new *jimu jikan* (vice minister), roughly every two years, all bureaucrats older than the new vice minister must resign and are placed in prestigious, high-paying jobs in the companies they were formerly regulating. This process, known as *amakudari* (descent from heaven) assures a close relationship between the ministries and the private sector.

For the second time in 25 years, Japan was faced with the necessity of rebuilding its economy, and the economic nationalism fostered by the prewar Ministry of Munitions was continued by MITI. These policies, including protectionism, were fully supported by the Allied Occupation forces. Americans licensed or gave away technology, encouraged Japanese economic development, and opened its market to Japanese manufactures. American and Japanese experts rewrote the Japanese tax code, hoping to stimulate savings and investment and discourage consumption. The entire nation of Japan worked and sacrificed as never before. America's leading expert on Japan, Professor Chalmers Johnson, noted

In 1945, amid the ruins of Osaka, a group of businessmen lamented to an American observer that the militarists had 'started the war twenty years too soon.' Although the figure should probably be more like forty years than twenty, it is nonetheless true that from about 1941 to 1961 the Japanese economy remained on a war footing. The goal changed from military to economic victory, but the Japanese people could not have worked harder, saved more, or innovated more ruthlessly if they had actually been engaged in a war for national survival, as in fact they were. And just as a nation mobilized for war needs a military general staff, so a nation mobilized for economic

development needs an economic general staff. The men of MCI, MM and MITI had been preparing to play this role since the late 1920's. During the 1950's, the trumpet finally sounded.¹³

By the time of the Tokyo Olympics in 1964, Japan had clearly rejoined the ranks of advanced industrial nations, and the rationale for continued national sacrifice had become outdated. To paraphrase the old slogan, Japanese consumers could ask for material things because they had indeed won the battle to rebuild Japan. However, Japan continued to promote a doctrine of sacrifice towards national goals of economic development. In the 1960s, MITI issued one of its periodic "white papers" which predicted that Japanese per capita income would surpass per capita income in the United States by 1988.¹⁴ At the time, it seemed to be a hopelessly optimistic prediction. Japan indeed surpassed the U.S. in per capita GNP one year earlier than predicted, in 1987. In the same decade, Japan passed the U.S. in steel production and automobile production. By 1993, more than one-half of all private savings in the world were held by Japanese citizens or companies.¹⁵

Japanese consumers shared in this spectacular economic advance, but not to the extent that consumers in other advanced nations had shared in the national bounty. Japanese workers continued to slave long hours, living in cramped housing, and paying some of the highest consumer prices in the

world. Compared to the consumers of other nations, they continued to be a cooperative and dedicated group of people. They continued to sacrifice in ways that the consumers of other nations would only sacrifice in time of war. When a consumer movement in Japan finally surfaced in Japan, it evolved in a direction radically different from consumer movements in North America and Europe.

Consumer Movement in Japan

Americans would generally consider consumer groups to be dedicated to the interests of consumers in general or specific groups in particular. Such organizations can be expected to pressure governmental or private entities for disclosure, improved safety, or better prices. They are usually at loggerheads with government or industry, or both. Ralph Nader has been criticized for many foibles, real and imagined, but he is generally not regarded as a tool of an invisible power structure.

In contrast, consumer groups in Japan usually find their initiatives to be blunted or coopted to organize their behavior to conform to national goals. The Dutch journalist Karel Van Wolferen noted,

Take, for instance the consumer movement. Middle-class Japanese housewives are a potentially important political presence. Finding themselves with increasing leisure, they have developed an enthusiasm for

neighborhood causes, and hardly a neighborhood today is without its *fujinkai*, or women's group. The Japanese housewives' association, Shufuren, was one of the earliest pressure groups, established in 1948 mainly to counter post-war black marketeering. In the late 1960s and early 1970s it joined Chifuren (an umbrella organization of a multitude of *fujinkai*) in spearheading consumer campaigns that gave the impression of a new kind of political activism. But after some minor successes, such as a regulation making it mandatory for manufacturers of canned fruit-juice, and a lowering of prices on color TV sets, its activism was essentially blunted . . . Even though in the late 1980s the number of consumer groups is estimated at almost thirteen thousand, and though Chifuren claims a combined membership of more than six million housewives, their existence is hardly ever noticed. This is remarkable, given the wealth of justification for agitation afforded by the excessive mark-up for most items (particularly food).¹⁶

Japanese consumer prices are the subject of a certain degree of awe throughout the world. Tokyo periodically tops the list of the world's most expensive cities. Visitors are regaled with horror stories of two hundred dollar cab rides and thousand dollar restaurant tabs. What is less

famous is the uniformity of prices for basic goods and services. A visitor to Tokyo can spend the better part of an afternoon wandering through shops and find beer, lipstick, rice and hundreds of other items selling for essentially the same price in every store. Van Wolferen noted,

Most salary men are urban consumers, and it is they who, through relatively high amount of savings, subsequently channeled into the *keiretsu* for capital investments, have played a crucial role in sustaining the economic 'miracle'. It is they who in the late 1980s were still subsidizing Japan's export industries by being systematically deprived of low-cost imports and by paying considerably higher prices than consumers in the western industrialized countries for almost all daily necessities. In most other countries the rise of the middle class upset and basically changed political relations. In Japan such a disturbing influenced has been minimized.¹⁷

This consumer subsidy of export industries and the interests of producers can be found in many sectors of the Japanese economy.

Rice

Throughout the 1980s, the United States, Thailand and other nations were protesting against the Japanese ban on imported rice. The *shufuren*, or Federation of Housewives, became

involved in this interminable struggle. Most Japanese married women do not work outside the home, but exercise nearly absolute control over household expenditures.¹⁸ Most keep a detailed log of household receipts and expenditures, and are judged, at least by the ever-present mother-in-law, by how efficient they are in marshaling assets and pinching pennies. At the time the *shufuren* became involved in the rice dispute, Japanese rice cost nearly ten times as much as comparable American or Thai rice.¹⁹ Consumers in general and housewives in particular would normally support reforms that would allow virtually identical competing products to be sold to consumers at a small fraction of the prevailing and virtually uniform retail price.

However, the *shufuren* opposed opening the Japanese market to foreign rice, and organized noisy demonstrations in favor of the ban. Most of the demonstrators resided in Tokyo, far from the rice farmers who would be hurt by the proposed reform. All of them knew that their precious household ledgers would benefit from the competition provided by foreign rice. Yet they demonstrated against a reform that would save them money. They perceived a greater priority than having the cheapest basket of groceries this weekend.

Automobiles

When Toyota introduced its Lexus automobile in the United States in 1991, the Lexus was not sold in Japan

at any price. Even Toyota executives were forced to sign onto a waiting list before they could buy a Lexus. When the auto was finally sold in Japan, the sticker price was nearly double the sticker price in the United States. Consumer rebellion never occurred; many Japanese understood that the interests of the Japanese consumer had to be subverted to the export goals of the Japanese government. The Lexus automobile was the Japanese equivalent of the American space project. Government and industry cooperated for years to acquire and perfect the necessary technology, and to mass produce an automobile as good or better than any auto manufactured in the United States. The enormous sacrifices required continued after the Lexus was widely available in the United States. The people who designed and built the Lexus could not even buy one in Japan until an export market had been established.

The Petroleum Industry

Japanese pump prices are the highest in the world, with a gallon of gasoline costing nearly \$5.00. Japan imports nearly all of its petroleum, but other nations do the same and avoid such high prices. However, other nations normally have competition in the form of American, English and Dutch multinationals, that export and market refined petroleum products. Japan is one of the few nations in the world to blunt this form of competition.

There is no law or regulation

banning the import of refined petroleum into Japan, but it is impossible to accomplish. Section 12 of Petroleum Industry Law ("PIL") required prospective importers to notify MITI and to file plans.²⁰ MITI was given statutory authority to issue a *kankoku* (formal request) to the importer to change the plans. However, MITI could effectively ban the import of petroleum into Japan by means of *gyosei shido* (administrative guidance).

This power is described by Sato Taiji in *Ore Wa Tsusansho ni Barasaeta*, ("I Was Butchered by MITI").²¹ Sato an entrepreneurial Japanese and president of Lions Oil, attempted to undercut retailers and import gasoline into Japan for distribution to independent resellers, who could gain market share at the expense of the established cartel. Sato initially bought gasoline on the domestic spot market, while finalizing plans to import. Frank Upham, Professor at Boston College Law School, described the reactions to Sato's consumer-friendly plans,

Local members of the gas station trade association organized convoys of cars to go to his station. Each bought Y500 (6 dollars) of gas; demanded clean ashtrays, windshields etc.; and paid with Y10,000 notes. They cut his hoses, poured water in his storage tanks, blocked delivery tankers and harassed their drivers. When Sato complained to the police about the harassment, including the cutting of hoses and

insertion of water, they replied, 'You're destroying order in the industry. You're the problem.'²²

Sato persisted in his plans to import gasoline from Singapore Petroleum. When a tanker carrying imported gasoline reached Kobe on December 28, 1984, amid much media fanfare, it appeared that the domestic cartel would finally be broken. However, the financing he had arranged was suddenly canceled on January 4, 1985, and the tanker left Japan without unloading gasoline. MITI forced Sato to abandon his plans to import gasoline:

MITI also issued a statement in which it reiterated the threat to national security posed by Lions' actions and promised to apply its *kankoku* not only to the case before but also to any future instances of gasoline importing. As for the general propriety of unrestricted imports, MITI noted that the arrival of foreign goods in Japanese ports without any prior consultation would be 'regrettable' . . . The *kankoku* was clear and unequivocal and, should it be violated again, resolute and stern enforcement measures would be taken. There was, not surprisingly, no mention of what such measures would be or on what legal basis they would be taken.²³

MITI was able to stop importation of gasoline without triggering a consumer rebellion. It is difficult to imagine such a scenario in other

members of the OECD. Cheaper imports are usually praised as a benefit to consumers and a stimuli for domestic producers to become more efficient to match the foreign competition. Efforts by an OECD government to restrict imports would normally require legal authority, and some modicum of due process, whether in the form of an anti-dumping complaint or customs regulation. In Japan, MITI and other government agencies are vested with broad authority to act for the perceived national interest. Administrative guidance is more powerful than many, if not most, laws.

Interestingly, Japanese consumers were not always so cooperative. Prior to World War II, Japan was the site of substantial consumer unrest. The infamous "Rice Riots,"²⁴ violent demonstrations against high commodity prices, tarnished Japan's image abroad. Until World War II, Japan was often regarded as a nation with rebellious consumers. Losing World War II, with concomitant privations, changed the social contract. Since most Japanese were impecunious in 1946, there were few vested interests to overcome in implementing national policies favoring economic development even at the expense of personal sacrifice. Most Japanese believed that personal sacrifice was essential for rebuilding Japan.²⁵

Peer Pressure

Long working hours provide an additional restraint on consumption.

Workers who spend long hours in a factory or office, as well as interminable commutes on packed trains, often lack the time or inclination to indulge in excess consumption. Nakamura Masanobu, managing Director of the Daiwa Institute of Research, provided a tongue-in cheek illustration of this phenomenon,

For a long-term solution to bilateral trade imbalance, U.S. pressure should be more social than economic. I would advise U.S. Trade Representative Carla Hills to ask her Japanese counterpart before a negotiating session: 'By the way, how many days did you take off last year?' If the answer is less than five, she should say, 'It's no use negotiating with you. You have no personal freedom and you don't even realize it.' Why talk about free trade with someone like that? Holidays and trade are related. A person who is legally entitled to a vacation but cannot take it because of custom or peer pressure will find extralegal ways to limit U.S. imports.²⁶

Japanese interested in leisure activities face a host of barriers that discourage all but the most intrepid. Expressways are rare and saddled with high toll charges. Public transport, although plentiful and run with precision, tends to be extremely crowded. Once a person has arrived at his or her destination, infrastructure in leisure facilities is woefully inadequate.

Ski slopes, swimming pools and tennis courts are packed to capacity and beyond. Golf Courses are so over-utilized that many enthusiasts must get up at 3 A.M. to take advantage of pre-dawn tee times under klieg lights. The ever-present high prices discourage profligate shopping.

Savings Before Consumption

Japan ministries, including but not limited to MITI, have implemented a series of policies that discourage consumption and encourage saving. Almost every Japanese household took advantage of a program which enabled individuals to open a savings account at the government-sponsored postal savings banks. Interest on these accounts was exempt from taxation so long as the account's balance did not exceed the equivalent of \$10,000. The plan was so successful that Japanese opened multiple accounts at different institutions. By the mid 1980s there were more of these accounts than there were people in Japan. During the same period, the United States taxed interest income under Section 61 of the Internal Revenue Code. Japan encouraged small savers with tax breaks while the United States discouraged savings by taxing interest income.

The U.S. Government did not interfere with the private sector when it promoted issuance of credit cards to virtually any U.S. resident, including those who had declared bankruptcy. In Japan credit cards were banned by the Ministry of Finance. When credit cards were finally allowed, complex

regulations prevented popular acceptance. In 1998, it is still difficult to obtain a credit card. Taggart Murphy notes:

Until the 1980s Japanese households had effectively no option for financing major expenditures except for savings. Credit cards, installment plan financing for consumer durables, and other forms of consumer credit all were stymied in order to encourage saving at every point. A Japanese colleague in the late 1970s told me that when he resigned from a major Japanese bank to join Bank of America's Tokyo office, where we both were working, his credit card had promptly been revoked. This was a married man with plenty of money and a good job. His American counterpart would have had to throw away ten pounds of junk mail a month offering credit cards and other inducements to spend.²⁷

By contrast, U.S. Government policy encouraged profligate consumption on credit. Until 1986, heavy use of credit cards provided a tax benefit since interest on credit card debt could be utilized as an itemized deduction on Schedule A. In Japan, savings were encouraged while savings were being discouraged in the United States. At the same time that Japanese consumers had difficulty getting access to consumer credit by use of credit cards, American consumers who acquired large credit card debt paid lower taxes

than consumers who stayed out of debt by limiting their consumption.

Consumption Patterns and Senior Citizen Policy

Japan and the United States face fiscal difficulties due to the costs associated with aging populations, but their approaches to these impending crises have been quite different. Efforts to slash the costs of Medicare by requiring affluent senior citizens to pay a greater percentage of Part B costs in 1995 triggered protracted conflict between President Clinton and House Speaker Newt Gingrich that shut down the operation of the U.S. Government. In Japan, a new source of revenue *shouhizei* (consumption tax) was implemented in 1994 with no noticeable protest on the part of consumer groups. Nearly all transactions were subjected to a value added tax of 3 per cent, which has since been increased to 5 per cent. Every consumer in Japan was forced to shoulder the burden of paying for future social security costs.

Every nation has budgetary problems and Japan is no exception to this rule. However, Japanese budget decisions are normally made with an eye towards the future and care of the young. Income enhancement or spoils for the seniors are low priorities. Funding is lavished on schools and infrastructure for the young. Tax codes favor stay-at-home mothers and back-to-work grannies. Senior citizens discounts are rare. Most prices and tax

rates are equally applied to all age groups.

Japan has produced a system that favors the young at the expense of the old, and has produced a generation of young Japanese who are better educated and more productive than their parents and most of their young counterparts in the United States. The sacrifice of Japan's elderly, the result of deliberate government policies, has produced spectacular dividends for the nation. Japan's national wealth and prestige have risen in tandem with the soaring literacy and productivity of the younger generation.

The situation is very different in the United States. The United States, goaded by powerful pressure groups such as the American Association of Retired Person ("AARP"), has produced a system that favors the old at the expense of the young. "Retired" individuals, many of whom continue to work and accumulate capital, are given discounts on virtually every good and service traded in the United States. State, local and federal tax regimes are rigged to assure that seniors pay far less than the young. Americans over the age of 65 are exempt from the punishing 15% Social Security withholding. Ninety per cent of American workers under the age of thirty pay more in Social Security than in federal tax, and know they will never get this money back. One recent poll found that more X Generation respondents believed in UFOs than believed in receiving any payback from Social Security.

Today's seniors routinely take out ten to fifteen times as much in Social Security and Medicare benefits than they paid into the system, adjusted for inflation. More than two million immigrant seniors receive free Part A Medicare benefits without ever having paid into the system. Meanwhile, fifty percent of Americans between twenty-one and twenty-five years old were without health insurance at some point in 1995, although most dutifully paid for Medicare benefits for the elderly.

While American seniors are enjoying an unprecedented era of prosperity and consumption, fueled by a web of tax breaks, subsidies and discounts, Japan's seniors continue to pay the same high prices other consumers must pay for goods and services. Many continue to work long hours and take less out of the economy than they put in. Even though their generation has essentially "won" the struggle to rebuild Japan, Japan's seniors are a remarkably quiescent lot, and ask for very little in the way of material rewards.

Antitrust in Japan

The ultimate weapon in favor of the consumer in the United States is the very real threat of the U.S. government suing large companies, such as IBM and Microsoft, if they become too powerful in the marketplace. Japan also has antitrust laws and an enforcement agency, the Japan Fair Trade Commission, ("JFTC"). However, Japanese antitrust laws and the JFTC are radically different from

their counterparts in the U.S.

Japan never enacted its own antitrust laws until it was forced to by the Occupation. This legislation²⁸ was enacted at the behest of the Supreme Command of the Allied Forces ("SCAP") to break up the *zaibatsu* (money gangs), that had been instrumental in Japan's war effort. Huge combines such as Mitsui, Mitsubishi and Fuji, operated a central, bank, steel company, housewares company, and so on, under central ownership and control. Each *zaibatsu* resembled a parallel economy, but competed against other *zaibatsu* in Japan's domestic economy. Throughout the 1930s, the Ministry of Munitions had encouraged the development of each group in preparation for Japan's war effort in Asia and beyond.

After the war, SCAP reasoned that the concentration of economic power in a few hands was anathema to its goals. The SCAP officials probably did not have the interests of Japanese consumers at heart, but they drafted and forced Japan to pass²⁹ legislation modeled after the Sherman Antitrust Act³⁰ in the U.S. The watchdog JFTC was patterned after the Fair Trade Commission ("FTC") in the U.S.

Japan obediently enacted the Antimonopoly Laws, but did little to enforce them. In fact, the JFTC appeared to pursue policies that contravened the competitive intent underlying antitrust laws. The JFTC did nothing as MITI reorganized the *zaibatsu* into *keiretsu* (related line) groups of companies. With the *keiretsu*, no holding company owned a majority

of the voting shares of all the companies in the group. However, cross-shareholdings between member companies, often coordinated by a single large bank, accomplished many of the same objectives of the original *zaibatsu*. The new organizations were termed *shinkon zaibatsu* (newly-married money gangs). The free-trade SCAP officials were placated, and MITI maintained much of the authority over the Japanese economy it had enjoyed prior to World War II.

Professor Mark Tilton of Purdue University noted,

The Japanese Antimonopoly system differs from the U.S. system in that all antimonopoly law is embedded in one law. While enforcement in the U.S. is shared by the antitrust division of the Justice Department and the Federal Trade Commission, in Japan it is concentrated in an independent FTC. This independence and complete authority might have made the FTC very powerful; but once SCAP's production was lost at the end of the occupation, the centralization of authority made it easy for opponents of the law to limit enforcement by simply controlling a single institution. In addition, it is still very difficult for a private party to bring an antitrust suit Therefore the FTC always acts as both judge and prosecutor. According to Fujiwara Ichiro, a former MITI official, this dual role presents a problem

because the Japanese are uncomfortable with the litigiousness of the Antimonopoly Law. The FTC therefore avoids spending excessive time and expense on cases in favor of discussion and compromise. Nevertheless, such a cultural argument is unnecessary for explaining the FTC's weakness. Its lack of political support is due to the historical association of cartels with development and considerable obstacles to bringing suit within the legal system.³¹

The JFTC has proven to be a silent watchdog when it comes to enforcing consumer rights. The JFTC has brought very few price-fixing cases and has imposed token fines in the cases that involved penalties. Since private citizens cannot bring antitrust suits in Japan and the JFTC has done so little to enforce consumer rights, this avenue for consumer protection has largely been closed.³²

Propsects for the Future

Japan ended a remarkable period of economic growth in or about January, 1990, when the Tokyo Stock Exchange retreated from record highs, and the Japanese financial system became severely burdened by nonperforming loans extended during the "bubble economy" of the 1980s. By 1998, the financial

retrenchment had taken its toll with the bankruptcy of Yamaichi Securities Co. and many smaller firms. This period of retrenchment spawned some speculation that Japan's days of success through state-guided capitalism were over.³³ Many reasoned that the Japanese system that had proven so successful in restraining consumer demand and channeling capital and resources into export industries would have to reform in order to extricate itself from financial ruin. Much of this commentary was excessively pessimistic. Foreign observers essentially discounted the viability of the Japanese system during the oil crisis of 1973, the second oil shock of the early 1980s, the *endaka* (High yen) period from 1988 to 1994, and again during the financial upheavals of 1997 and 1998. Such pessimistic prognostications proved false in the past and may well prove to be false in the year 2000 and beyond. During the supposed collapse in the Japanese economy between 1992 to 1998, Japanese companies increased world market share in a host of key industries, including shipbuilding and automobiles.³⁴

Although Japanese citizens and companies sustained financial hardships after the collapse of the bubble economy, there has been no significant change in the organization of the Japanese economy that would increase the power of consumers or consumer groups in formulating policy. Power continues to reside in the bureaucrats, who have shown scant

inclination to serve the interests of consumers. Japan's domestic prices continue to be extremely high. Incentives for consumers to save and disincentives to consume remain in place. Change is likely to come slowly, if it comes about at all.

Conclusion

The spirit of national sacrifice embraced by followers of Dazai Osamu may seem anachronistic in 1998, to foreign observers as well as the Japanese themselves. However, many of the bureaucrats still believe in the old time religion, and show no inclination in relinquishing the power they have to regulate the Japanese economy and consumer behavior. For their part, Japanese consumers have continued to be a remarkably quiescent lot, remaining silent during the imposition of the consumption tax, and continuing to pay excessive prices for most basic goods and services. The long-forecast consumer rebellion that will discard the doctrine of self-sacrifice in favor of greater consumer rights has still not materialized. Until it does, Japanese consumers seem grudgingly content to ask for very little and allow the bureaucrats to man the helm.

Endnotes

¹ Throughout this text Japanese names will be rendered in the Japanese style, with the surname first and the given name second. Thus, Dazai is the family name and Osamu is the famous author's given name.

² Dazai's moment of fame came with the publication of his epic novel "The Setting Sun." DAZAI OSAMU, *THE SETTING SUN* (Donald Keene trans., 1956).

³ *No to Ieru Nihon* (The Japan That Can Say "No") Tokyo Kappa Homes 1989.

⁴ Organization for Economic Cooperation and Development. Japan acceded to this elite group of rich nations in the late sixties. HERBERT GLAZER, *THE INTERNATIONAL BUSINESSMAN IN JAPAN* 28-30 (1968).

⁵ MARK TILTON, *RESTRAINED TRADE: CARTELS IN JAPANESE BASIC MATERIALS INDUSTRIES* 80-83 (1996).

⁶ ADAM SMITH, *THE WEALTH OF NATIONS* (London, J.M. Dent & Sons 1981).

⁷ TAGGART R. MURPHY, *THE WEIGHT OF THE YEN* 93 (1996).

⁸ KAREL VAN WOLFEREN, *THE ENIGMA OF JAPANESE POWER* 393 (1989). Van Wolferen examines the distribution system in Japan and reaches this conclusion: "The distribution system is not complicated. It is rigged". Wholesalers and retailers are often owned by *keiretsu* (related groups of companies), that have an incentive to keep retail prices and profit margins as high as possible.

⁹ See DAVID BERGAMINI, *JAPAN'S IMPERIAL CONSPIRACY* (1971).

¹⁰ See FRANK LEQUIN, *THE PRIVATE CORRESPONDENCE OF ISAAC TITSINGH* (1992).

¹¹ "Black ships" has remained a common term in Japan, representing unwanted pressure from the west,

particularly America.

¹² EDWARD J. LINCOLN, *JAPAN'S UNEQUAL TRADE* 61-63 (1990).

¹³ CHALMERS A. JOHNSON, *MITI AND THE JAPANESE MIRACLE* 241 (1982).

¹⁴ MITI issues regular Tsusho Hakusho ("White Papers") concerning the development of the Japanese economy. See, e.g., Showa 38 Nen Tsugo Hakusho, Soron Tokyo: Ministry of Finance Printing Office 1963.

¹⁵ EAMONN FINGLETON, *BLINDSIDE* 1995; See also CHALMERS A. JOHNSON, *JAPAN: WHO GOVERNS* 1995.

¹⁶ Van Wolferen, *supra* note 8 at 52-53.

¹⁷ See *id.* at 174.

¹⁸ LEAL PHILIP, *THE ROAD THROUGH MIYAMA* (1989).

¹⁹ Japonica rice, the strain of rice grown in Japan and considered unique by many Japanese gourmands, is cultivated in the U.S. and is a popular gift item for Japanese residents in the U.S. returning to Japan.

²⁰ Petroleum Industry Law, Law No. of 1962.

²¹ See Frank K. Upham, *The Man Who Would Import: A Cautionary Tale About Bucking the System in Japan*, 17 J. JAPANESE STUD. 323 (1991).

²² Upham, *supra* note 21 at 328.

²³ See *id.* at 333-34.

²⁴ See Johnson, *supra* note 15, at 92.

²⁵ See CLYDE V. PRESTOWITZ, *TRADING PLACES* (1988); IVAN P. HALL, *CARTELS OF THE MIND* (1998).

²⁶ Nakamura Masanobu, *Confessions of a Corporate Warrior*, 1995 Japan Policy Research Instit. 132.

²⁷ Murphy, *supra* note 7 at 95.

²⁸ Shiteki Dokusen no Kinshi oyobi Kousei Torihiki no Kakuho ni kan suru Houritsu [Law Relating to the Prohibition of Private Monopoly and to Methods of Preserving Fair Trade] Law No. 154 of 1947.

²⁹ See KAWAI KAZUO, *JAPAN'S AMERICAN INTERLUDE* (1960). See also PHILIP CURTIS, *THE FALL OF THE U.S. CONSUMER ELECTRONICS INDUSTRY* (1994).

³⁰ See 15 U.S.C. § 1 et. seq.

³¹ Tilton, *supra* note 5 at 30-1.

³² See FRANK K. UPHAM, *LAW AND SOCIAL CHANGE IN POSTWAR JAPAN* (1987); ELEANOR HADLEY, *ANTITRUST IN JAPAN* (1970); JOHN OWEN HALEY, *AUTHORITY WITHOUT POWER: LAW AND THE JAPANESE PARADOX* (1991).

³³ See BILL EMMOTT, *THE SUN ALSO SETS* (1989).

³⁴ *Defying the Odds, Japan Shipbuilders Beat Back Their Hungry Competitors*, WALL ST. J., Feb. 12, 1998, at A19.

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