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Author(s)	POTTER, Gregory; ポター, グレゴリー
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The Japanese Regulatory System in the Housing Market Sector

グレゴリー ポッター
Gregory Potter

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Introduction

In this paper the theme of economic deregulation in Japan will be examined in the housing market. Specifically I will examine the deregulation policies of the Hosokawa Government from November 1993 to the summer of 1994. In looking at this policy area my analysis will focus primarily on the group structures and dynamics that transpire in and around the regulatory system in Japan between interest groups and the bureaucracy. Within my analysis I will seek to draw a picture of what meaningful deregulation entails for the Japanese market.

By way of introduction, in this first section of the paper, I will introduce several brief outlines of the Japanese regulatory system by three scholars whose work I will heavily draw on in my own study; Chalmers Johnson, Ezra Vogel, and Shindo Muneyuki. After this I will introduce the work of several other scholars, including Yamaguchi Jiro, in introducing issues pertaining to evaluations and characteristics of the Japanese regulatory system that will form a background for my own analysis of specific cases.

Chalmers Johnson describes how Japanese policy makers, at the inception of post war industrial planning, while seeking to avoid their mistakes of the past sought an economic system that was socialistic in the breadth of its economic planning and coordination but that was capitalistic in its preservation of private incentives and efficiency⁽¹⁾. Coming upon a system unique to Japan they devised what is often called the “gososendan system,” that preserved competition while allowing for bureaucratic guidance in the fulfillment of strategic and social goals for a particular market.

The nature of such guidance, avoiding the heavy handed state controls and regulations of a state controlled economy, was to be informal and based on some level of cooperation and coordination within industry groups and between the bureaucracy⁽²⁾.

While many factors contributed to the creation of this system, including the need to rebuild Japan and interest among industry itself, the bureaucracy reserved for itself certain discretionary powers that held the system together and allowed the bureaucracy to practice what is often referred to as “soft management.” Especially at the inception of the post war regulatory system MITI retained for itself and its economic management of the economy and industry several key powers. These powers included controls on currency and The Export Bank which were used to gain the cooperation of industry for centralized bureaucratic economic planning⁽³⁾.

When Japan was forced to liberalize its market in the '60s to join the IMF, Johnson describes how these overt controls on the economy were replaced by a more informal *gyosei shido* (bureaucratic guidance) style of regulation. Here the bureaucracy's discretionary powers over such basic services as licensing, financial and technical aid, and its ability to interpret and implement regulations themselves became important tools for economic planning. These tools were not necessarily used to coerce and dictate economic policy but as part of an elaborate punishment and incentive-reward system to gain the cooperation of industry groups, in order to work together with the bureaucracy toward the fulfillment of common goals for a market. Also, to create a flexible system that avoided many of the pitfalls of a purely legalistic type of state managed economy.

Vogel characterizes the Japanese regulatory system as a form of “flexible guidance” or “flexible management,” emphasizing the bureaucracy’s ability to function farther outside of legal constraints than comparable systems⁽⁴⁾. Particularly, in explaining this flexible management systems in relation to the legislature, Vogel points out in *Japan as Number One* the relation of the legislature to the bureaucracy over the creation and administration programs was largely auxiliary and reserved for inputs for client interest groups while the bureaucracy was allowed to set policy itself⁽⁵⁾. The bureaucracy, according to Vogel, uses its discretionary powers to create enough incentives for special interests and politicians inside bureaucratic programs, that the bureaucracy is allowed to control the content of policy itself from a more neutral vantage point. Vogel also emphasizes how shared goals, communication, personnel, and interests between the bureaucracy and its industry groups increased and supported bureaucracy fostered economic growth within the context of general public support for such policies of the bureaucracy.

Shindo Muneyuki in his book *Gyosei Shido* describes the Japanese administrative system as a “kataware kikan” system, a term that describes how industry groups become, in effect, administrative units of the bureaucracy itself⁽⁶⁾. Shindo suggests the basis of this system is rooted not so much on bureaucratic economic strategy but is based upon the structure of the bureaucracy itself. He especially draws attention to the “obeya” or “big room” nature of the Japanese bureaucracy within the bureaucracy’s consensus basis for authority⁽⁷⁾.

In terms of the structure of the Japanese bureaucracy he suggests that the Japanese

bureaucracy, without designated areas of authority in its internal structure, depends on consensus within and without its organization to create and implement policy. While informal cooperation is also a feature of an American type system, he points out that an American type system, while also eliciting industry and internal cooperation in its administration, in comparison to the Japanese case the Japanese bureaucracy does not tie such decision making to a definable system of authority and accountability. This, according to Shindo, encourages the Japanese bureaucracy to function far beyond strictly legal parameters by stretching consensual and coordinating functions in a market as the primary form of its authority.

Shindo suggests that industry groups, sensing that the bureaucracy is open to direct influence and that the bureaucracy depends on industry cooperation to exercise much of its authority, are naturally drawn close to the bureaucracy into cooperative networks of management. According to Shindo, the arising of the gososendan system (literally a fleet of ships protected by a destroyer to describe a market organized of cooperative industry groups protected by the bureaucracy) occurs as much as a natural consequence of the kataware kikan system itself as a part of strategic planning.

An added feature of this system would seem that, for the bureaucracy to retain control of and operate its “flexible management,” group consensus must be maintained within industry groups which the gososendan system naturally provides. Following this line of reasoning, which I will pursue deeper in this paper, the maintenance of a group structure of industry would be essential to the management of the

kataware kikan system. If one group became dissatisfied enough to break the unity of the group, and was successful in challenging the system to gain an individual advantage over other groups beyond kataware kikan relationships, the bureaucracy would find it increasingly difficult to use its informal powers to hold the system together.

By way of comment it must be added that what is important to this study is not the fact that a regulatory system exists in Japan restricting competition and as a part of economic planning. This is not unique by any means since no truly free market can be said to really exist in any advanced economy, and most countries intervene in their own markets to raise some definition of effectiveness, or engage in cooperatism and consensual uses of administrative power and influence. Nor is it especially significant that the regulatory system is informal. It is not unusual for the United States, for example, for the bureaucracy to establish a consensual basis of authority and administration between itself and groups it is regulating. What becomes essential to the discussion of the Japanese regulatory system is simply to look at the way it actually works.

Each of the perspectives of the above scholars evaluates the Japanese regulatory system differently. Chalmers Johnson suggests that the Japanese regulatory system gives the Japanese bureaucracy the sort of flexible tools it needs to manage the economy outside of direct legislative interference which increases bureaucratic effectiveness. Ezra Vogel concurs⁽⁸⁾. Both authors describe in positive terms the advantages an independent and highly trained elite bureaucracy can bring to bear on social and economic problems if free from direct legislative influence which could burden

the neutrality of bureaucratic programs with unbridled interest group pressure.

In defining the effectiveness of bureaucratic programs Johnson draws a distinction between ministries like MITI or the Finance Ministry and Ministries like Agriculture and Construction. The former ministries he sees as using the regulatory system to create and implement an overall effective strategic planning for the economy where the full powers of a technocratic elite can be brought to bear on problems, outside of direct legislative interference. The latter ministries he sees in primarily a political light, as responsible for distributing pork inside the country to keep the bureaucracy itself in political power, and create a social consensus for continued bureaucratic rule. He thus sees the efficiencies of the later ministries as conditional which he describes as "effective but not efficient."

Vogel evaluates even such ministries as Agriculture in a positive light suggesting that in the actual operation of their programs they are not only effective but efficient in a social sense⁽⁹⁾. To the degree prices might be high he evaluates this inefficiency of the bureaucracy in a broader light of social effectiveness. Vogel makes the point that such programs are responsible for Japan's lack of a large welfare state and socio-political problems due to a large divisions of wealth.

Further, rather than such programs just distributing pork and the patronage to preserve the political structure that keeps the bureaucracy in power, Vogel suggests that direct access to the bureaucracy plays a democratic function in the society. Where together with politicians, in a cooperative, consensual, relationship with the bureaucracy, farmers, for example, can find a ready means for representation

in the system, and a responsive bureaucracy to do business with. In general, Vogel evaluates the advantages of a *kataware kikan* system over a purely legal system of regulation in this light, suggesting it is the key to effective bureaucratic programs and creates strong democratic ties between the bureaucracy and its industry and political groups. Also, Vogel emphasizes that the bureaucracy itself is sensitive enough to public opinion, through the legislature, for instance, to function outside its immediate relationships to provide an overall balance to the system⁽¹⁰⁾.

Shindo evaluates the regulatory system entirely differently⁽¹¹⁾. He does not find direct fault with the capacity of the bureaucracy to administer programs effectively within cooperative networks between politicians and industry groups. Nor does he doubt the value of such a system. Like Vogel and Johnson his regard for the bureaucracy in this capacity is very positive. But he questions their ability to find new missions relevant to the problems Japan faces today within the system they themselves have created.

From reading Shindo one soon sees that the relationships that have grown up around the *kataware kikan* system have become too narrow and are too limited in the sort of information they give the bureaucracy for it to function effectively. Also that they lack adequate public and administrative checks to insure wide participation in administrative decisions that would ensure balanced programs and prevent abuses. This is especially true, he argues, as the historic mission of the Japanese bureaucracy, to develop the nation, has drawn to a close, and the bureaucracy now faces a welter of new issues arising from a changed international and domestic environment, that require

shifts in policy, which may be painful to the existing system and require fresh inputs⁽¹²⁾.

Certainly some interests formed around the *kataware kikan* system have become vested interests in themselves, blocking change, and the development of effective bureaucratic policy. Lacking strong legislative or public oversight the *kataware kikan* system has become the basis of strong iron triangles in Japan that are impervious to change. The "flexible" regulatory system rather than serving the interests of a higher bureaucratic policy is now being used by the bureaucracy, politicians, and interest groups as the basis of powerful alliances to protect themselves and control policy for their own benefit as the self-evident nature of the bureaucratic mission has worn away.

But Shindo thinks corrupt influences surrounding the *gyosei shido*, as they might arise, have more to do with a falling off the moral values that once surrounded the public mission of the bureaucracy than they do of naked greed or selfishness. According to Shindo, companies caught in the protective embrace of the bureaucracy can lose the ability to judge their own behavior and lose moral vision as both the bureaucracy and business can lose their freedom to judge independently their real interests. He cites how farmers were compelled to follow a *gyosei shido* over reducing rice production, but the generous compensations for complying with the program prevented some farmers from trying to reform their agriculture production to meet future market liberalization as part of new farm strategies and policies. Recent stock scandals involving the use of *gyosei shido* he puts in the same category. Too close of a cozy relation between government and businesses replaces an independent business sense with a dependency on protection. As both the

bureaucracy and industry fall into coddling each other's interests Shindo sees the bureaucracy and business losing its ability to effectively respond to change⁽¹³⁾.

For Shindo it is the relative weakness of the *gyosei shido* rather than its strength or power that is the real problem. Because the *gyosei shido* is not based on law, the bureaucracy, to illicit compliance, is drawn in to compromising relationships with industry. But here ever occurring scandals within *kataware kikan* relationships, according to Shindo, further erode its respect and authority. Because the *gyosei shido* is informal industry is not certain what the bureaucracy will do in the future. Shindo cites that while industry calls for a bureaucracy under law it is similarly trapped in a vicious circle since industry has to find ways to manipulate the bureaucracy, leading to corruption, which further lowers their estimation of the bureaucracy and its capacity to lead⁽¹⁴⁾.

Shindo questions at what point the *gyosei shido* may lose its authority all together. He points out how farmers, resisting *gyosei shido* sanctions against more rice production cut-backs, found it more profitable to cultivate rice by resisting bureaucracy directives. In bureaucratic programs, which carry no more built incentives like economic growth, a time can seemingly come, when incentives will not outweigh sanctions within bureaucratic programs, further eroding the authority of the bureaucracy. At some point Shindo fears through the use of the *gyosei shido* that the bureaucracy will lose the legitimacy and respect of law as the basis of its authority over citizens⁽¹⁵⁾.

But in his work Shindo makes the point that *kataware kikan* relationships, within the *gyosei shido* system, are in essence collusive in

the sense that they exclude the public in decision making over market policy and regulation⁽¹⁶⁾. In his criticism he draws on such cases as the oil company scandal of the early '70s and other recent scandals as representative of structural flaws of the system. He suggests that efforts at deregulation and market liberalization, as well as the creation of new effective programs, are being structurally held up by the functioning of the *kataware kikan* system within the bureaucracy.

One can infer from Shindo that the flexible sort of administrative system employed by the bureaucracy, that was used to such good effect during Japan's high growth era, is now more a hindrance than an asset to the system. In the sense it functions not only to include but exclude in the decision making process, is often collusive, and as a means for creating and administering bureaucratic policy limits choices. In such a light it might be said that such bureaucracies, on the level of policy making, cannot meet not only Vogel's standards of social efficiency and a democratic function, but that the *kataware kikan* system threatens even Johnson's standards for a modicum of effectiveness in the service of maintaining bureaucratic rule.

While both Johnson and Vogel can be said to extol and justify (or excuse) in turn the *gososendan* system for its social and administrative benefits how far can such praise really extend? While a *gososendan* system may be said to have preserved a sense of competition, work incentives, and quality within a partly social-welfare agenda such a system has also created disincentives for initiative, change, and reform. As we will see in housing, throughout the Japanese economy huge vested interests like agriculture stifle shifts in government pro-

grams and leadership capable of creating new growth and opportunities for more employment and efficient and equitable distributions of wealth based on a changing environment. While a gososendan system has provided for a fairly equitable distribution of wealth, at the same time inefficient government programs burden the Japanese consumer with unnecessary, even from a social standpoint, high costs and lower standards of living. These high costs of the gososendan system take their toll on the real quality of life for Japanese citizens while limiting their choices for economically and socially beneficial programs, while forcing policy makers to look to exports for economic expansion.

While Shindo, against the above background analysis, concentrates much of his criticism on the closed or even collusive and monopolistic tendencies of the kataware kikan system, Yamaguchi Jiro believes that the situation is more complicated. He states that the era of the bureaucracy, together with its industry and political supporters, mutually protecting their vested interests, rather than increasing as the bureaucracy has lost its mission, has decreased. That in fact, the bureaucracy, through its flexible regulatory system is, on the contrary, seeking reform in its own way and often moves against the simple interests of its groups who may want to only expand and deepen existing programs.

Yamaguchi argues that the loss of mission of the bureaucracy after postwar reconstruction and the high growth '60s, with a loss of social consensus about the means and values of economic growth itself, has forced the bureaucracy to deal with a different international and domestic environment, inside and outside its own kataware kikan groups⁽¹⁷⁾. That the

bureaucracy has, to the limits of its possibility, sought to play a neutral, visionary role, in the mode of Vogel's and Johnson's concept of the bureaucracy, as the bureaucracy has tried to find solutions to fiscal restraint, international trade disputes, and a domestic loss of consensus over high growth, that has forced the bureaucracy to revise its programs against its own interest groups. He especially cites the rise of high zokugiin (politicians within political pressure groups formed around a particular ministry special interest area) from the early '80s not as an example of the extension of political and interest group pressure on the bureaucracy per se but rather as part of a new type of system. Where the bureaucracy, in thinking about the feasibility of its programs, which it anticipates will be resisted by its own groups, needs the deeper political cooperation of higher pols to sell its program to its own interest groups represented by the kataware kikan system.

Yamaguchi suggests that what is happening in this system is not further politicization of the bureaucracies but rather a further drawing together of the political and bureaucratic systems themselves inside a consensus system as represented by the regulatory system itself to create policies to deal with change. The weakness of such a system, according to Yamaguchi, is each side is mirroring the other over terms of policy to deal with needed change with each thus losing its respective functions in an increasingly complex and unforeseeable political and economic environment.

In this situation the bureaucracy, in having to operate its kataware kikan groups through high zokugiin cooperation on the policy level, loses the neutrality and independence over policy Vogel and Johnson describe. Politicians, meanwhile, lose their leadership and

ability to reflect public opinion and change, or even their ability to reflect the real interests of their own support groups to the bureaucracy. Politicians reflect only bureaucratic options over a policy they can sell to their interest groups as special favors under a program, even though those policies might not reflect the real interests of groups they represent, or the public good.

Yamaguchi argues that this was not always been the case with politicians in Japan. That it was in the high growth era, before the advent of the high *zokugai* system that pols actually succeeded in pressuring the bureaucracy for their clients in ways that suggested they were more politically independent and representing the real demands of their interest groups to the bureaucracy. Though former bureaucrats themselves, certainly influential pols like Ikeda and Yoshida have given shape, change, and vision to the Japanese system when leadership was needed in the past, as it is now.

Yamaguchi stresses the limitations of the system are not necessarily because the system can more easily protect itself or that its discretionary powers more easily fall prey to vested interests. But that the policies for dealing with change it devises inside its own consensus system of operation are seriously limited by the operation of the *kataware kikan* system itself that can only function on a consensual basis of power. A basis of power that comes at a high political cost to the effectiveness and neutrality of its own programs, where to make feasible policy the bureaucracy has to make a plethora of contradictory compensations and benefits to operate its flexible management system.

This view is of course contested by such scholars as Gerald Curtis⁽¹⁸⁾ who argues that the Japanese system is dynamic. He believes that

while bureaucratic power was extensive in the past it began to wane into the '70s, citing changes in social welfare policies and environmental protection that were initiated under LDP leadership as examples of changes in the system that were a key to long time LDP rule. And even praising, into the '80s the LDP's cutting of its own *zokugai* choked programs.

But Yamaguchi questions if these changes comprised a change in the structure of interest groups in Japan who could openly push the system from the outside for legislative options directly against bureaucratic resistance. Or if interest groups together with politicians (and recalcitrant bureaucrats) could themselves effect change by re-arranging bureaucratic priorities in the name of a public to seize control of the regulatory and policy apparatus itself by creating new laws and legislation independent of the existing bureaucracy, and capable of overriding the inherent limitations to effective policy under a consensus system of bureaucratic operation.

Yamaguchi especially cites the nature of urban support for the LDP as weak, cynical, and manipulated, which Curtis cites as a support base for these new programs. And the fact that their programs were the first to be sacrificed in Nakasone's retrenchment in the '80s as a sign of their inability to function as independent interest groups upon the system, or find real representation or leadership outside of being serviced by existing bureaucratic programs as *kataware kikan* type groups.

But Curtis is correct in locating a dynamic in the system and a waning role for bureaucrats. While whether this change constitutes a pluralistic system is open to debate, his view certainly refutes the emphasis of Shindo Muneyuki's idea which suggests the system

only functions to protect a very limited set of interests. It would be doubtful if such a system could deal with broad areas of social change, which according to Curtis, is an essential function of the system and was a source for much of LDP support, over its hard core triangle support, and a key to LDP long term rule. Such a view certainly lends credence to the view that the bureaucracy is under some forms of public pressure, even direct, to keep its programs relevant and from being exploited by the interest groups involved, and is, in fact using its flexible guidance system, as Vogel or Johnson argues, to work some form of leadership in the system and keep it viable.

Yamaguchi, taking more of a middle view between Curtis and Shindo, suggests that while political influence has increased, it is a feature of the high *zokugai* system, even as it is a sign of weakening bureaucratic influence. According to Yamaguchi the heart of the problem is that as bureaucratic influence has declined it has not been replaced with real political leadership, as Curtis suggests, but by a curious symbiosis between the the bureaucracy and legislature that is both similar to and different to the model presented by Vogel and Johnson, even while it resembles on the surface a pluralistic model described by Curtis. Yamaguchi presents different problems and characteristics to the system than those offered by any of the above models.

In this paper the above evaluations and definitions of the regulatory system in Japan will form the background for my own analysis of deregulation in the housing market. But first as a preliminary study and as an illustration of the regulatory system in Japan I will look at some market policies by the Japanese Health and Welfare Ministry and introduce

further such concepts as *kataware kikan* that will form the basis of my analysis.

Section One

A Preliminary Example: Market Policies of the Health and Welfare Ministry in the Pharmaceutical Industry

In this paper the term *kataware kikan* will be often used. A literal translation of *kataware kikan* into English might be rendered as “an agency that is one and the same (with the bureaucracy).” I will translate *kataware kikan* for this paper “as administrative unit,” when it is used in English but for the most part I will use the Japanese “*kataware kikan*.”

Shindo describes this type of relationship between interest groups and the bureaucracy as arising out of particular structures within the Japanese bureaucracy such as “*fukanzen shugi*” and the bureaucracy’s “*obeya*” structure⁽¹⁹⁾. “*Fukanzen shugi*” refers to how the bureaucracy, lacking clear legal jurisdiction and authority in the operation and creation of its programs, depends on informal compromises with interest groups to realize policy. Since this results in only a percentage of its policies from being implementable, the Japanese bureaucracy is said to pursue a strategy of “non-completeness.”

“*Obeya*” refers to the group structure of the Japanese bureaucracy. Since most desks, representing various positions, are located in a large room rather than separate offices, the structure of the bureaucracy is said to be like a “large room.” Such a structure, Shindo argues, precludes definite spans of authority or a strong chain of command. Instead decisions are made based upon what the consensus structure of the organization will bear.

Without clear legal authority, Shindo points out, the bureaucracy must also illicit cooperation from interest groups for policy management in a similar consensus fashion. He refers to interest groups, thus, as “agents” of the bureaucracy⁽²⁰⁾. From this need for an outside “agent” to realize policy interest groups form as a “kataware kikan” or become a “piece” or “institutional fragment” of the bureaucracy. “Within regular conferences and contacts with the bureaucracy over policy interest groups become like an appendage of the bureaucracy itself or “kataware kikan.” Here directives and advice from the bureaucracy are decided together (as one administrative unit). Thus what to the outside world appears as a “gyosei shido” or administrative guidance is really the mutual product of interest groups and the bureaucracy together⁽²¹⁾.

I will argue in my paper, that while kataware kikan relationships form the basis of much administrative policy by the American bureaucracy what distinguishes the Japanese case is the mutual reliance of the bureaucracy and interest groups (as well as politicians) on the almost exclusive use of closed discretionary powers within the bureaucracy to manage kataware kikan relationships. To first see how these kataware kikan relationships actually work between industry, or interest groups, and the bureaucracy, the following was taken from an article in *The Nihon Keizai Shimbun* (Japan Newspaper of Economics)⁽²²⁾.

In Oct. 1993 members of a pharmacy industry group called “Japanese Drug” protested the Health and Welfare Ministry’s (sometimes referred to as Koseisho in this paper) pharmacy division’s (yakumukyoku’s) “tsutatsu” or “notification” over an industry guideline that would require a licensed pharmacist to operate or

establish drug stores. The ministry was arguing, through meetings and presentations, that drug stores were not like department stores but were really facilities of medical treatment, arguing specifically that “Pharmaceuticals can not be trusted to the market, what is needed here is a socialistic approach”⁽²³⁾.

As Shindo points out in his descriptions of kataware kikan relationships between industry groups and the bureaucracy, the Health and Welfare Ministry uses the “Nihon Yakuzaishikai,” a pharmacy group consisting of small stores, to draw up “guidelines” or regulations for the industry. These guidelines are basically informal, involving, as was mentioned above such forms as the “tsutatsu” or “notification,” which in actuality is a kind of inner-organizational memo without real legal authority in itself. In this case the guideline requiring pharmacy companies to be operated and managed by licensed pharmacists was drawn up by several representatives of the “Nihon Yakuzaishikai,” with the group presenting its recommendations and requests to the Koseisho, at the end of 1992. Within the guidelines both the Welfare Ministry and “Yakuzaishikai” held the view that night chain stores should not deal with prescriptions and that ownership and management of drug stores by other than pharmacists was runaway “eirishugi” or “commercialism”⁽²⁴⁾. To then implement these guidelines the Health and Welfare Ministry used the cooperation of the group, according to the Nikkei.

“Nihon Yakuzaishikai” and the Health and Welfare Ministry’s policy exist within the mutual embrace of the kataware kikan system that protects and extends to all facets of their business. In 1990 the Koseisho decided to ease a standard that required drug stores to possess

certain drug store equipment if they joined the “Yakuzaishikai,” where they would be permitted to use test facilities and equipment at its facilities. After that membership dramatically rose in the organization.

As will be discussed presently this kataware kikan organization also has a political arm. One feature of kataware kikan relationships is that they include politicians known as “zokugiin” or “tribesmen,” that describes their function as a specialized “agent” of the bureaucracy in the legislative realm. When the Fair Trade Commission was preparing to open the pricing of pharmaceuticals to more competition, the “Yakuzaishikai” was able to use its zokugiin groups to put pressure on the commission to stop⁽²⁵⁾.

The Nikkei suggests that the Health and Welfare Ministry is politicized by its relationship with Nihon Yakuzaishikai and is simply trying to protect the interests of its own client groups and its organization with its tsutatsu powers. But, as in the U.S., interest groups and client groups of the bureaucracy often seek to influence bureaucracy policy and often form iron triangles to protect their mutual interests. The main issue here in trying to accuse a bureaucracy of being politicized is to understand how such political pressure is applied within kataware kikan relationships in Japan versus a more legalistic system like the U.S.

In the American case (among other factors) independent regulatory bodies, fair and open administrative procedures, and legislative checks ensure that regulatory decisions that are made by the bureaucracy are open to all that help guarantee efforts to politicize the bureaucracy meet a certain test of public support. Where favors are sought in the system, in the American case, this pursuit more naturally falls

into the legislature, in the actual creation of law itself, or onto the cabinet and its own discretionary powers. In these bodies various public checks are more easily applied and interest groups and the public have more access to actual decision making and opportunities to form independent oppositions to administrative policy and lead public debate.

The defining characteristic of the regulatory process in the Japanese Health and Welfare Ministry example is its ability to unilaterally decide market guidelines to build and protect its own political supporters within the closed confines (albeit Japan’s cabinet system) of kataware kikan relations. This creates two powerful forces on the policy process as it arises out of the relationships between interest groups, pols and the bureaucracy in Japan, I think. First, since the Japanese Health and Welfare Ministry does not have to go through comparable American steps in setting codes and regulations for industry within its kataware kikan format that relies heavily on things like the “tsutatsu” the political pressure (or formation of triangles) brought to bear on the bureaucracy is intense. I will argue a more open regulatory process, while exposing the bureaucracy to more risks, can also allow a bureaucracy to check its own interest group demands.

Secondly, interest groups and pols themselves lose the opportunity to challenge the bureaucracy on the level of policy through open procedures and institutions. Since such groups are dependent on their direct connection to the bureaucracy they are also especially vulnerable to bureaucracy inspired consensus and scenarios over policy choices.

Though both one and two may seem contradictory they actually converge to work to produce a nest of limited, closed, protected, and

identical interests between pols, interest groups, and the bureaucracy in policy formation as represented by kataware kikan relations. Neither the Japanese bureaucracy interest groups, or pols in trying to service their interests are thus forced to create more popular, effective policies, capable of rooting out differences of interests and policy among such inside groups, by having to appeal to the legislature, independent regulatory bodies, or an accountable cabinet. Further, since the tsutat-su is decided informally between the bureaucracy and industry groups within kataware kikan relationships, an informal regulatory creates pressure points in the system where the role of hidden political pressure and money can find strong influence. While "politicization" is a problem for the Japanese systems (as in America) these kinds of observations should be the real issue of the Nikkei's criticism of the Yakuzaishikai relationship to the bureaucracy.

This has led some critics to suggest, since much administrative policy and regulation occurs outside of direct public earshot, that the Japanese bureaucracy must be only interested in maintaining cartels or that the entire system is corrupt. But the situation, as presented in the introduction, is more complex. While critics like Yamaguchi and Shindo might argue that an informal regulatory system creates an environment where vested interests can be more easily protected in policy formation⁽²⁶⁾, Yamaguchi especially argues that a high zokugiin system helps control interest and political groups on behalf of the bureaucracy⁽²⁷⁾. As annotated in the introduction Johnson points out the Japanese bureaucracy, which itself does not take money, trades its granted access to the system for interest group compliance in trying to form policies.

Among other things, such as the high moral standards and expertise of the Japanese bureaucracy, Vogel also stresses the role of consensus in leadership by the bureaucracy, and indirect legislative checks. He argues that shared economic and social goals between interest groups, the bureaucracy, and society, imbue bureaucracy policy with authority to check outright abuses or exploitation of the system by groups as the bureaucracy seeks ways to deal with change⁽²⁸⁾. Both Vogel and Johnson also rightly emphasize that the role of the cabinet, legislature, and public opinion while indirect, cannot be ignored by the bureaucracy.

In this sense the Nikkei's view that the Health and Welfare Ministry is politicized by its relationship to the small retail drug store organization and is only seeking to eliminate large retailers from the market is a gross oversimplification of the issue. The Health and Welfare Ministry has been locked in a struggle for a long time with large retail chain drug stores represented by "Japanese Drug" for kickback schemes to hospitals in the operation of in-house hospital stores. With few incentives between hospitals and their in-house drug stores to control the price and amount of prescriptions, these in-house hospital stores have often systematically raised prices and tacked on costs and services to prescriptions without the customers' knowledge and formed the basis of collusive business practices between hospitals and pharmacies.

Such practices have left the Health and Welfare Ministry itself in a quandary over its own programs since the high price of prescriptions raises costs and deficits for its own public health programs. But according to the Japanese press the ministry has met with little success in trying to curb these practices on the

basis of recent efforts to strengthen its own oversight system and “advisories” to the industry that both rely, like the *tsutatsu*, on the informal authority of the bureaucracy to try to indirectly regulate industry⁽²⁹⁾. In reference to the demands of groups like “Japan Drug” the Health and Welfare Ministry itself has been arguing for the creation of regional stores to service several hospitals at once that the ministry says it could more easily monitor for abuses. For the last several years the ministry has also been engaged in trying to strengthen the market position of small retailers by setting up computer services over filling prescriptions between small retailers and hospitals.

In other words besides simple politicization problems are multiplying for the bureaucracy within its own system of controlled access. Here the Health and Welfare Ministry is confronting a powerful interest group in the form of large retailers who are aggressively pursuing a market the bureaucracy has little control over. The controlled access the bureaucracy can offer to such groups, over regulations, licensing, subsidies, expertise, and the like has failed to rein in corrupt practices in the industry even when those practices violate ministry policy or the viability and popularity of ministry programs. In fact, the closed *kataware kikan* type relationships the bureaucracy has successfully used in the past to “domesticate” corrupt pressures in the system, by controlling access and maintaining leadership in the system as Vogel and Johnson argue, are in this case actually producing pressures for collusion and corruption that arise independent of the bureaucracy’s access points, and within the informal relationships of *kataware kikan*s themselves. These informal relationships and regulatory system become especially vulnerable to manipu-

lation and exploitation by groups such as “Japanese Drug” who are simply interested in new business opportunities beyond any sort of bureaucracy led socio-economic goals.

Since its advisories have had little effect on the efforts of large retailers to dominate the market the ministry’s new guidelines for the industry (seeking to eject large retailers from the market) can be taken as a final threat from the bureaucracy to revoke the licenses of large retailers in order to gain some sort of authority over them. But in trying to invoke this final discretionary power in trying to “guide” industry the bureaucracy is facing several obstacles. The large retailers were threatening to sue the bureaucracy if it implemented the guidelines, arguing that such guidelines would restrict their constitutional rights to choose their own profession⁽³⁰⁾.

Faced with outright rebellion by one of its client groups the Health and Welfare Ministry would find itself in a serious dilemma. If it tried to push its guidelines their legality could be contested in court (even though slow, expensive and unsympathetic) or force retailers to take their case to the legislature. Here not only would the Health and Welfare Ministry lose the ability to informally influence such groups but the possible creation of law would seriously lessen the discretionary powers of the bureaucracy itself and create dangerous precedents for other groups to settle their disputes by legislation and open debate, independent of the bureaucracy.

On the other hand, if the the bureaucracy sought compromise with the large retail stores the Health and Welfare Ministry, to try to ensure industry compliance to cut back on kickbacks, would have to create informal incentives and compensations by promising

some sort of favorable treatment. The bureaucracy is thus locked into a dilemma in trying to control recalcitrant groups—it can only seek (within its informal regulatory system) to control groups by protecting their interests in some form by its own discretionary powers. Also limiting bureaucracy authority to deal with its own kataware kikan groups is that as incentives for compliance with bureaucracy directives decline so does the power of bureaucracy sanctions (by denying access). In such a situation the price of compensations offered by the bureaucracy to operate is kataware kikan system become much more expensive to the bureaucracy in terms of the efficiency of its programs.

Thus while both Vogel and Johnson can be said to argue that the controlled access the bureaucracy offers to groups allow the bureaucracy a zone of neutrality to function in this case of the Health and Welfare Ministry just the opposite is true. As already noted both Johnson and Vogel argue that politicians, on the behalf of interest groups, are manipulated into bureaucracy scenarios to promote economic and social welfare by granting politicians privileged access on the behalf of their client groups. But in the case of the Health and Welfare Ministry informal relationships between it and its interest groups drive the bureaucracy deeper into politicization to be manipulated by a narrow political agenda on the behalf of its interest groups through backdoor political pressure.

Since the Health and Welfare Ministry does not depend on law or public opinion through the legislature to operate its programs with, it has to rely on the direct support of its kataware kikan groups, such as Nihon Yakuzashikai, to both build political support for

itself and support and for its legislative and budget agendas. Since these sources of political support follow the same informal routes of power as are in fact an extension of kataware kikan relationships into the legislature the bureaucracy, (as in applying informal pressure on the Kosei Torihiki Inkaei or Fair Trade Commission), is naturally more dependent on these groups (and their demands) for support than on legislative agendas. Agendas where the creation of open legislation would force some form of independence between the bureaucracy and its groups over the formation of policy.

Nowhere is this more apparent than in the Health and Welfare Ministry's support of the claims of small retailers and for the protection of their organization. By creating new guidelines for the market with small retailers the Health and Welfare Ministry is forced to adopt an agenda that is clearly political in its aims to restrict competition, which the Nikkei rightly points out, by trying to eliminate large retailers from the market. If the bureaucracy itself were forced to go through open verifiable procedures in creating important regulations it could probably control its own interest groups more effectively, be forced to create real public policy, and expose the naked protection of its vested, organizational interests to stronger forms of public accountability.

Though full of contradictions which the Health and Welfare Ministry is having a difficult time overcoming, its policy is seeking a certain independence and neutrality within those constraints. Though politically bound closer to one group the bureaucracy itself is pursuing the broad outlines for some definition of fair development of the market. Rather than excluding one group over another, the

bureaucracy itself so far has been attempting to measure where one group's interests in relation to another group's interest might lie. It has approved, apparently, the licensing of large stores for a certain percentage of the market. Rather than eliminate those stores it is, even at present, probably only seeking to slow or alter their development, while seeking to balance the social, economic, and public interests involved between the claims of small store and large store operators to certain percentages of the market. At the same time the ministry is seeking to protect the market from rapacious business practices by large chain store operators and to protect the rights of small store operators.

Through this process a sense of consensus reigns. Though the large store group is resisting policy now in the open, it is still dependent on the bureaucracy's behind the scenes cooperation for a vast array of other services in its industry under the flexible guidance system. Later it will probably be brought into line over some kind of bureaucratic policy after it succeeds with the public and media in some way to gain a relative advantage within the bureaucratic consensus system itself, ceasing its direct challenge to the system.

At the same time small drug store owners have to be silently convinced also. Here the bureaucracy, behind the scenes, is sure to be offering incentives, compensations, and implicit threats, within its own *kataware kikan* relationships to get them to change their demands also. All the while extending its own *kataware kikan* system to larger stores also to try to bind the entire system into a new form of *gososen-dan*.

In the '60s the operation of the *kataware kikan* system to implement bureaucratic policy

was relatively simple and automatic. All elements of the system, including social opinion, could be aligned to cooperate in the pursuit of a common market goal forecast by the bureaucracy, which was fairly obvious—economic growth and development. The demands of most groups could easily be accommodated within a bureaucratic policy for a market sector, allowing the bureaucracy to bring its full powers to bear on what was primarily a technical mission. The expertise and effectiveness of leadership of the bureaucracy in this capacity along with public support for what was a strong public mission also lent the bureaucracy authority.

But as the pharmacy case shows the flexible system runs into several obstacles in a more complicated environment. As economic opportunities decline, the bureaucracy cannot service all its clients from a cornucopia of economic growth, but priorities have to be established in the system based on a more subjective and qualitative standard of efficiency over quantitative goals. Or abuses themselves have to be checked in the system that force the bureaucracy to move against the vested interests of its client groups.

But in making choices, based on a more abstract definition of social utility, or to prevent outright abuses, the bureaucracy has to exert a form of leadership that is difficult to attain within its own *kataware kikan* relationships that operate on an informal consensus basis. To maintain a consensus, the bureaucracy is forced to nurse those relationships with compensations that threaten the effectiveness of its programs. The bureaucracy is also not politically free enough in those relationships to create independent policy, and is not forced to step outside of *kataware kikan* relationships in

order to defend itself to a broader spectrum of the public interest that would create clear, enforceable, and accountable policies for the public to participate in and choose among.

While Shindo concentrates most of his analysis on the relationship between interest groups and the bureaucracy within kataware kikan relationships he also points out how informal kataware kikan relationships between interest groups and the bureaucracy create a fertile area for political intervention. In his book *Gyosei Shido* (Administrative Guidance) he states, "Administrative guidance is a handy tool for pols to influence the bureaucracy on behalf of certain interests. Even though such pols may seek to realize a very narrow interest to the bureaucracy this can be accomplished owing to the secretive nature of administrative guidance⁽³¹⁾." In contrast to this, as previously noted and explained, both Vogel and Johnson describes how the intervention of pols into kataware kikan relationships provided the bureaucracy with a means to subdue and control interest group activity and fulfills a social and even democratic function.

Following Shindo's lead Yamaguchi emphasizes how the expansion of kataware kikan relations into the legislature form the basis of strong triangles. To the degree that zokugiin became kataware kikan operatives, Yamaguchi sees the expansion of kataware kikan relations into the legislative and political party realm in a historical context. The need to protect bureaucratic programs into the '70s and '80s, when slower growth forced government cutbacks, he argues, presaged the appearance of zokugiin who could secure budget amounts (under informal consultation with the Finance Ministry) and political support and protection (under informal LDP policy bodies

like the Seimu Chosakai)⁽³²⁾. Zokugiin politicians also act as "fixers" between interest groups and bureaucracy over the informal terms of compliance within government programs whose support is crucial for the bureaucracy in operating its kataware kikan system.

Here Yamaguchi argues, as opposed to such political scientists as Johnson, kataware kikan relations between politicians and the bureaucracy actually result in increasing political pressure on the bureaucracy as the bureaucracy itself seeks access to the legislative realm. (Something of this can be seen in recent scandals in the Hokkaido Government, where the bureaucracy has faked travel expenses to create a slush fund to secretly wine and dine politicians). According to Yamaguchi, as bureaucratic programs become more vulnerable in a "low" growth environment, both to public criticism and political infighting, the bureaucracy becomes more dependent on access into the legislature, through a primarily informal policy process, fostered by zokugiin⁽³³⁾. Thus, kataware kikan relationships, where they reach into the legislature, become the basis of powerful triangles where the interests of each leg of the triangle, including the bureaucracy, tend to identify with the interests of the other.

To deal with this new growth and influence of zokugiin pressures on the bureaucracy Yamaguchi proposes the development of a high zokugiin system which seeks to control pols and interest groups on behalf of the bureaucracy. While politicians into the '80s, with more influence over the survival and maintenance of bureaucracy programs, are granted more policy sharing duties with the bureaucracy, this ties the bureaucracy even more closely to pols on the high policy level, where a

mutual consensus must still be maintained within and among kataware kikan relations. All this, Yamaguchi explains, tends to limit bureaucracy leadership to what can be contained within triangle relations on both the high end and low end of policy decisions⁽³⁴⁾.

While Yamaguchi stresses the development of a high *zokugiin* system that seeks some kind of overall leadership for the system, based on the functioning of kataware kikan triangles examined in this paper, in Japan the legs of triangles seem bound so closely together (while resisting outside pressure) that leadership in the system by *pols*, interest groups, or the bureaucracy (or real public accountability) is largely frustrated in any real as well as theoretical or potential sense. As we will see in housing this is largely because of the mutual dependencies that grow up around triangle relationships based on the large scale discretionary powers of the bureaucracy. It will be shown in this paper how this mutual dependency between legs of the triangle limits the independent functioning of each group within a triangle, and inhibits the formation of effective policy (modifying or creating new triangles) on behalf of the bureaucracy, *pols*, or interest groups. Policy that would be capable of embracing the real public interest, or producing real policy debate, than would normally take place with a more legal regulatory system. It will also be shown in this paper how such kataware kikan relations tend to eschew leadership, purpose, accountability, or responsibility for any of the respective functioning of the triangle elements within kataware kikan relations.

One can see how relations operate between the various legs of kataware kikan-triangles in Hosokawa's efforts to lower airline fares for the Japanese consumer. The airline industry,

a semi-government monopoly administered within a kataware kikan format, has been plagued with a multitude of problems. High fares (double most countries) have restricted air business for most carriers with some operating in the red. At the same time the Transportation Ministry has been under relentless pressure by *zokugiin* groups to expand local airport construction, which the ministry then has to provide unprofitable flights to. And refurbish many local airports with international flight facilities even though such airports are rarely used for international flights except for occasional charters⁽³⁵⁾.

The Transportation Ministry has been in a quandary on how to regain control of its programs but has apparently been unable to control its own groups enough to introduce cut-backs or efficiency steps. The programs it has offered have been dubious, such as raising fares for one embattled air cargo service that were sure to further hurt its business, according to the *Nikkei*. Airline companies, in reference to a Hosokawa's request to reduce taxes, sought simply to lower their own user fees for airports through governmental assistance. One airline *zennikkuu*-company (*Zennikkuu-All Nippon Airways*) proposed doing this by having the "zaisei toyushi shikin" fund, a form of a publicly financed deficit fund, finance their fee payments into the treasury of the special budget. This unpaid fee by the airlines would then be returned to consumers as lower prices⁽³⁶⁾.

The Transportation Ministry tried to vigorously reject this plan as putting too much strain on the budget. *Zennikkuu* responded by calling together its *zokugiin* to pressure the ministry (through a legislative "price reduction campaign"). This resulted in *zokugiin* calling for more fiscal measures to reduce air fares and

more local airport construction, beyond even industry requests. Still facing Transportation Ministry opposition, the Transportation Minister then stepped in declaring, "The bureaucracy tries hard, but the policy decision process has to be changed," and was able, together with *zokugiin* connections, to divert (by a phone call to the Transportation Ministry Airport Department Head) funds from the Kansai Airport construction to local airports. Though the Transportation Ministry tried to deny the switch of funds, local mayors, probably more certain of their *zokugiin* influence than official statements from the bureaucracy, declared the switch done. Finally *zokugiin* pressure was applied on the Finance Ministry itself which approved the fiscal plan for more airport services and construction over Transportation Ministry protest⁽³⁷⁾.

Though the Transportation Ministry is seeking to resist *zokugiin* and industry pressures this resistance has a built in limit within *kataware kikan* relations. The Transportation Ministry depends on *zokugiin* to maintain budget amounts and protect its interests from rival groups. Without any real alternative to an informal legislative process, if its informal access points through *zokugiin* were cut, the bureaucracy would be exposed to the Finance Ministry ax. And the Transportation Ministry could not protect itself from reprisals from other ministry's *zokugiin*, willing to cut its own programs and influence within *zokugiin* brokered back room power plays, that figure largely on informal maneuverings and the use of cash war chests raised by *zokugiin* to defend ministry interests. (Japan has very loose corruption laws which are also difficult to enforce within a *zokugiin* system).

In this situation the compromising compen-

sations the ministry is forced to pay to such groups for their support of ministry interests (over even policy) are difficult for the ministry to resist. If budget procedures were more open, the ministry would be forced to depend more on policy than direct political connections to create and service its own programs, where triangle relations would have to be more sensitive and accountable to public pressure. Further, informal access points make it difficult for the ministry to resist political pressure. Though it would put bureaucracies themselves at greater risk, if access were more open ministries could protect their own programs better since political demands would be subject more to public opinion and legislative challenge.

Likewise other legs of the triangle are similarly trapped in the mutual embrace of *kataware kikan* relationships. While *zokugiin* enjoy more influence over the system than might have occurred in the '60s, they are restricted in their role from offering any agendas or legislation that really differ from the bureaucracy. *Zokugiin* will be careful not to push their case too far for fear of breaking off their access to such things as the the final dividing up of airport subsidies and construction that remain in the hands of the bureaucracy. High *zokugiin*, like the Transportation Minister, while pushing for more pork, also is probably working at the same time behind the scenes to control groups and try to establish some kind of workable consensus and with the bureaucracy over political pressure on bureaucracy access points. Yamaguchi described how, (though within the one party rule of the LDP), an intricate promotion ladder and seniority system among *zokugiin* groups help insures this sort of discipline and "leadership" by

higher *zokugiin*⁽³⁸⁾.

If *Zokugiin* really made independent policy in their own interest they might be expected to push, against ministry interests, for more deregulation of airlines (and create their own access to the system through re-regulation), because competition would surely lower fares to increase business and the need for local airports. Against such a background public support would probably be forthcoming for more local and public airport construction. (Or if *zokugiin* were really free, they might totally politicize the system, forcing bureaucracy to take a more active legislative route in protecting its programs). Likewise interest groups, represented by airlines, would restrict their demands to what could be obtained within *kataware kikan* relations, not wanting to break their personal connection to the bureaucracy under an informal regulatory system. This in spite of the fact that more efficient companies might welcome a more competitive market, if they had a real chance to set rates in an open forum.

Thus all legs of a *kataware kikan* triangle, including the bureaucracy largely restrict their outlook and functioning to what can be achieved within *kataware kikan* relationships and lose a natural sense of their own real interests. Scholars like Curtis have interpreted this give and take among *kataware kikan* groups, as in the above airline industry example, as a form of pluralism⁽³⁹⁾. But as the *Nikkei* itself points out in the above article this is a pluralism that ignores consumers. What infighting takes place within *kataware kikan* groups is restricted to each group simply seeking to extend its relative advantages vis-a-vis other groups within a fixed set of relations. Naturally such a “pluralism” eschews any real

vision, leadership, or purpose within its deliberations that can extend beyond those relations, while restricting, as a closed policy community, debate and real policy choices for the public to choose from.

As we will see with housing policy, in terms of cabinet leadership, with budget powers and the distribution of pork more firmly in the hand of the Prime Minister and cabinet, and access to programs also more under cabinet or legislative control, conflict within *kataware kikan* can be more easily brought to the surface where effective, enforceable policies can be created. Where various triangle legs are forced to compete for public support through accountable centers of power sensitive to public opinion, the basis for a true pluralism can be created capable of really shifting (or challenging) triangle inspired consensus to embrace new policy directions.

Another limitation to the idea that *kataware kikan* triangles embrace some sort of pluralism (or bureaucratic leadership function) is that while infighting may occur in triangles the final reality of such triangles is that they form an intractable set of vested interests bent on mutual protection from outside (prime minister or cabinet) pressure. *Zokugiin* will loath to see their “policy” powers or access shift to real legislative or cabinet control as a restriction to their own privileged access to the bureaucracy. Likewise the bureaucracy will prefer the secure cocoon of *zokugiin* support, based on the dispersion of its own discretionary powers, to the risks of a more open political process. Interest groups themselves would be forced into the same logic of mutual protection and seek to avoid any sort of market inspired reforms. Each side of the triangle has little incentive to change since they are locked in a mutual pro-

tective embrace.

The Hosokawa government proposed a deregulation package for Koseisho (Health and Welfare Ministry) areas of administration. This plan consisted of a proposal to reduce the absolute number of regulations guiding the market. At the same time, just after the start of the Hosokawa government the bureaucracy itself announced a plan to “simplify” the approval process for new drugs as part of a general deregulation package. But these proposals had little effect in addressing several problems within the system or in penetrating kataware kikan-triangle relations that surround the actual administration and political support for Koseisho programs.

For example, several problems occur within the distribution system for drugs that involve the role of kataware kikans themselves. The actual setting of market prices for pharmaceuticals is through a “Chuo Shakai Hoken Iryo Kyogikai” which is a committee made up of industry representatives in a classic kataware kikan set up. In addition to setting prices for drugs this group also does such things as granting approval to new pharmaceutical products and controls doctor fees. While objective standards for the deciding of fees, prices, and product approval can be said to exist their implementations left to these closed kataware kikan relations, the proceedings of which are closed to the public and do not require public documentation.

The Health And Welfare Ministry has been locked in a struggle with this kataware kikan over the setting of prices for drugs. (At the same time elements of the pharmaceutical industry itself have complained that the “opaque” approval process for new medicines has restricted the development of new products

to high priced medicines similar to existing brands that are sure of “speedier” approval). According to an article in the Asahi of October, 1996, titled “Yakuka Yokusei e Kyoso Unagasu” or “Promoting competitive pricing to bring down drug prices,” this committee has been keeping the official price of drugs artificially high while manufacturers actually sell drugs wholesale to hospitals and clinics at a lower cost. The hospitals and clinics then charge the higher, official price and pocket the profit⁽⁴⁰⁾. While the ministry has tried to resist this practice its main weapon appears to be to try to reduce periodically the amount of subsidies it offers for drug purchases to customers within its own programs, to more accurately reflect real market prices, that the ministry hopes will reduce incentives for price gouging by hospitals.

Another problem involving distribution has been payments to hospital “kenkyukai” or research bodies by the pharmaceutical industry that are part of collusive relationships to maintain high drug prices. Ostensibly such payments are to promote drug research and aid the development of the industry but the Koseisho operates this program through another kataware kikan that allows manufacturers and hospitals to use this system as a kickback payment scheme by manufacturers to hospitals. An article in the Asahi titled “Kusurigyokai Jokentsuki Mitomeru,” describes how most of these “kenkyukais” are set up for the sole purpose of receiving money from the industry which promotes such activities as hot spring trips for doctors. Also doctors can actually receive such payments as direct income, according to the article⁽⁴¹⁾.

To monitor such abuses the Koseisho depends on an “Iryo Iyakuhin Seizo Kosei

Torihiki Kyogikai,” or another kataware kikan set up to regulate fair trade practices in the industry (associated with the Kosei Torihiki linkai, or the Fair Trade Commission, itself). With no formal powers, and like the similar committee that regulates prices for the market, the proceedings of this “regulatory body” are not open to the public and require no public documentation. In the Asahi article noted above this committee itself states how such “opaque” relations between the industry and hospitals as represented by the “kenkyukai” system make abuses difficult to control and detect. Nonetheless this committee of the Koseisho proposed some new guidelines for the regulation of payments to “kenkyukai” hospital research organizations. These guidelines will still allow these “opaque” relationships between hospitals and manufacturers to flourish under a kataware kikan “kenkyukai” system, that is the real source of the problem. And rely, again on the same kind informal and closed “cooperation” for their effectiveness that make up the source of corrupt practices the guidelines are supposed to eliminate.

In another area of the distribution system similar abuses occur. According to the Asahi when wholesalers buy direct from manufacturers prices are set by the manufacturers by an elaborate system of rebates to wholesalers that even involve the exchange of contracts stating that wholesalers will maintain a certain price for goods received⁽⁴²⁾. (An article in the Nikkei, April 16, 1992, also explains how this practice is prevalent on the retail level).⁽⁴³⁾ Though according to an article in the Asahi, the Koseisho has issued “advisories” to the industry to cease this practice, these instructions to the industry have been ineffective.

As a sort of aside, in the above article an

official the ministry while admitting to the ineffectiveness of these guidelines explained their ineffectiveness as due to the need for pharmaceutical companies to ensure stable business and wholesale purchases. But as with all these price setting schemes if regulation of the industry were open and by law, with appropriate penalties and oversight, manufacturers would be forced to compete for customers on the basis of quality and fair pricing, while wholesalers could choose their own suppliers based on the same criteria—without fear or retribution from the industry.

Vogel extols the positive, if indirect, effect of the legislature and public opinion on the bureaucracy⁽⁴⁴⁾. But this effect has a built-in limit based on kataware kikan relations. Even while public criticism of its own groups in the above case is in a sense convenient, while the ministry may seek public censure of its own groups to aid its own authority such use of public opinion, by the legislature too, would have its natural limits. The bureaucracy cannot push its public case too far or it will risk open retribution from such groups who could expose how the ministry’s own administration breeds abuses. At the same time if the bureaucracy does not shield such groups from public opinion, the bureaucracy could also invite group rebellion. In the context of reform this dilemma would also limit the independence of bureaucratic leadership in overcoming its own vested interests in the formation of public policy.

In the above cases, as in the hospital rebate scam, the Health and Welfare Ministry is not only administratively restricted by kataware kikan relationships from leadership but politically it is directly beholden to zokugii groups that surround such programs that form its own

political access to the system. Again, access over budget amounts for ministry programs is largely through *zokugiin*, informal channels, and by direct pressure on the Finance Ministry. Other regulatory bodies and policy making bodies, such as the *Torihiki Iinkai*, which also affect ministry programs, are subject to heavy *zokugiin* pressures through “old boy” bureaucratic and political networks and access systems that surround those institutions. Networks, that keep such deliberations away from the public and legislation in forming an informal political policy consensus where interests unrepresented by *zokugiin* can easily be eliminated, in spite of real public opinion.

Zokugiin pressure where it arises within informal *kataware kikan* bodies such as the *Koseisho*'s “*kenkyukai*” system or its price setting board, would thus be difficult for the bureaucracy to resist outright or reform. If procedures were open, even where the bureaucracy were closely allied to industry politically over programs, it would still have a means to regulate them for their own good along with a good reason to do so. At the same time industry could check the bureaucracy, even while preserving strong alliances and cooperation with the bureaucracy over programs, in the daily administration of its regulatory activities.

As far as trying to resist direct, informal, political pressure the same is true for the cabinet. While Hashimoto in October of 1996 unleashed, through a special advisory panel to his cabinet, a plan to end the above abuses in the *Koseisho* system it is doubtful his leadership, as in Hosokawa's case, can overcome *zokugiin* pressure within his own party and cabinet (even if the bureaucracy would comply with such a leadership move). This in spite of the fact that the government is desperate to bring down

health costs for its own programs and reduce fiscal strains on an ever hemorrhaging budget.

Similar to the bureaucracy the prime minister depends on *zokugiin* groups to form the basis of his internal support but has little policy control of *zokugiin* pressures that comprise what had become a closed and internalized policy process outside of real public access. Because oversight and approval for the operation of such *kataware kikan*s as the “*Kenkyukai*” system, pricing boards, and other distribution functions are closed and not subject to public checks it is difficult for a prime minister to intervene within *kataware kikan*s on the policy level in order to ensure or control access to bureaucracy programs for political supporters. Likewise if access itself to programs were more open legalistic and more public then *zokugiin*, in seeking access to the system would be forced to go through more institutional channels. This institutionalized access, more open to public accountability and sensitive to real public opinion, would force *zokugiin* groups to change their demands to embrace higher policy goals in order to find representation in the system.

Naturally, centralized access to programs, where the bureaucracy would be restricted in offering direct access except through the prime minister and cabinet levels, would also foster political competition, forcing more accountability on the system. With a powerful source of influence in the system, out-groups, rather than seeking inside *zokugiin* representation in the system, would have strong incentives and opportunities to try to use public opinion to overthrow a government itself to gain their own access to programs.

Private access, where it is granted to groups through a cabinet, could be more easily

forced out into the open, and would be more subject to such check and balances and sensitivities to public opinion. In-groups would naturally want to maintain the popularity of an administration to maintain their own access, but could find their interests at serious risk, based on stiff political competition from other groups wanting similar access. In sum kataware kikan groups would have to find access by general policy initiatives aimed at gaining a cabinet which would put their activities into an arena of open political competition. The importance of centralized political parties in such a political process would also naturally create more discipline among lower party operatives to top leadership.

Of course, as noted by Vogel and Johnson even now cabinets are under some forms of public pressure and have to maintain a modicum of popularity (as in the long term rule of the LDP) to ensure access for their groups. But as it is real popular opinion does not have an adequate way to directly express itself to the government. A more open system puts more pressure on a prime minister and cabinet in several ways. Open policy making makes such policy more accessible to debate and oversight capable of challenging leadership and forcing it to be more accountable. An open policy process also makes competition in and among groups easier that would be capable of putting direct pressure on cabinets to help foster more accountability in their policies.

In a more open and competitive policy environment inside groups wishing for access through an administration would find it more in their self interest to follow top leadership directives and make their policies directly accountable to voters outside their own districts or seek independent policies on their own to win

public support. Though public pressure is not eliminated from the present system as it is the public will tolerate unpopular policies out of a sense of futility and cynicism that also allows zokugiin to operate with a certain impunity toward the public and leadership.

Political relationships surrounding Koseisho programs have produced what is called an “oligarchy of zokugiin”⁽⁴⁵⁾ But neither the Hosokawa or Hashimoto government could readily supplant this vested interest. As in Hosokawa’s deregulation proposal for the drug market, certainly many onerous regulations exist in Japanese markets that need to be removed. But “deregulation” is difficult to achieve without cabinet leadership and bureaucracy independence, that can actually make and oversee regulations outside of kataware kikan relationships.

In a basic sense many regulations are still necessary for the market and are desirable to insure competition and protect the public. Here the issue in deregulation should not be how many regulations exist but how they are made. As long as kataware kikan relations persist over the creation and administration of regulation real “deregulation” will be difficult to achieve in the sense of forming a policy consensus within a market that can embrace real alternatives beyond existing kataware kikan relationships, or in restricting the influence of those relationships in actually regulating a market. Similarly as long as cabinet leadership cannot intervene in kataware kikan relationships to open up their decision making to a wider political process such efforts, as by the Hosokawa cabinet, to “deregulate” markets will be difficult to implement.

Section Two

Hosokawa's Deregulation Package for the Housing Market

While Vogel and Johnson emphasize the flexibility of the Japanese bureaucracy, Shindo describes the kataware kikan system as limiting options to those that can only be supported by consensus and compromise within the kataware kikan system itself. While Vogel and Johnson both stress the foresight of the bureaucracy, Shindo describes this process as producing only contingent policy, that is not created out of a careful sifting of alternatives to create the best plan, but that limits the consideration of all policy to only what can be achieved with the kataware kikan system itself to preserve a consensus for its operation.

Like pharmaceuticals, housing is another market area that requires a careful deliberation of choices and alternatives, costs and benefits, to create policy capable of leading change. The following is an analysis of the creation and implementation of policy by the Construction Ministry to reform the housing market during the Hosokawa Administration. Using articles from the Nikkei, I will follow the policy process through various stages over a chronological period beginning in November of '93 and ending in the summer of '94, to examine the effects of the kataware kikan system on that process.

Many factors inside the Japanese economy account for the high price of Japanese housing. The high price of land, high distribution and transportation costs, as well as the gososendan structure of the industry itself, which limits competitive pressures for efficient business practices by protecting all businesses from bankruptcy. Financial assistance to con-

sumers is also limited, beyond low cost loans, under the Jutaku Kinyu Koko, a public finance loan program for housing administered by the Finance Ministry as a tokushu hojin, or government corporation.

While during '93 and '94 the Japanese media focused on the high cost of Japanese housing relative to North America, which it characterizes as being half to one third lower in costs than in Japan, the actual price differential is greater when one considers the short longevity of Japanese housing. Most houses cannot receive mortgages after ten or fifteen years in Japan because houses have little market value after that time. Considering the non-existent sale value of the Japanese home, and their short life span, the average Japanese consumer, who probably has to purchase two or three homes in his lifetime, receives little equity from his home investment, other than in land, to purchase a new home. This effectively makes housing in Japan many times higher than the North American market. Social costs also have to be weighed. Without a plentiful stock of used housing to pass along lower income groups especially are burdened with the high cost of housing.

An article in the Nikkei's industry publication from November 11th, '93 headlined "Charenji-Kisei Kanwa" or "The Challenge of Deregulation" listed barriers to liberalization and market rationalization⁽⁴⁶⁾. In this article, the traditional regulatory barriers to import liberalization and overregulation of the market for Japanese industry are attacked and singled out as factors leading to the high cost of Japanese housing. The article describes how American houses in a housing show in Tokyo, though 20% lower in cost than Japanese prices, could not be built in Japan at that price because

of regulations.

The article then describes the various onerous regulations that force imported housing to raise their costs to meet Japanese standards over many accessory parts. For example, the addition of fire screens in some areas, that have to be specially built for American windows, add an extra cost of ten thousand dollars to the American house, even though the article doubted if fire screens were even needed for the American type windows. Similarly Japanese regulations did not recognize the use of American plumbing and faucets. American electric outlets faced a similar problem, the article describing how without these sorts of approvals over parts the Finance Ministry's "Jutaku Kinyu Koko," or public loan program for housing, would not recognize financing for imports. Because of this Koko policy the amount of house imports in Japan had been kept to 5,500 for '93. While American interest was described as "intense" in the Japanese housing market and regulations governing lumber (under JAS and JIS) had been liberalized to accept American products "barriers still remained," according to American industry.

The regulations regarding the industry are drawn up and administered, as Shindo describes, by various agents of the bureaucracy within kataware kikan relationships that represent business interests. For example, the JWVA or "Nihon Suido Kyokai" or "The Japanese Pipe Association" under the Health and Welfare Ministry devised regulations regarding plumbing. Similarly the JAS or "Nihon Norin Kikau," a board that sets standards for forestry and agriculture products, administers regulations over lumber as does the JIS or "Nihon Kogyo Kikaku," another board that sets standards for industrial products to

enter the Japanese market.

Johnson proclaims these groups within the closed confines of their kataware kikan relationships seek to limit competition and liberalization out of mercantile conspiracy led by the bureaucracy⁽⁴⁷⁾. But the regulating boards and bodies regarding the housing market are multifarious and it would be difficult to coordinate them all for a central economic strategy. These regulations soon became the focus of public debate.

The regulations themselves, rather than the kataware kikan policy process that creates and operates such regulations, received the most attention. Even newspapers like the Nikkei, who push for more open markets and deregulation, almost exclusively focused their criticism, during this period, of the Japanese bureaucracy, on the existence of the gosendan system itself, without making the point that it is the way the system is operated, through kataware kikan relations that should be the real issue. It is the kataware kikan system itself and its support by the discretionary powers of the bureaucracy (in being able to decide such things as regulations) that makes the creation of independent policy, by pols, interest groups, or the bureaucracy, capable of reflecting a larger sense of the public interest, difficult.

As in the pharmacy case, an informal consensus process under the discretionary powers of the bureaucracy creates a strong policy community that can decide on its own how to resolve interest group and political conflict. Relationships inhering over the informal regulations of a gosendan format naturally create strong communities of interests among the varying components comprising a market (as in the pharmacy case). In these communities, or

kataware kikans, competing interests wrap themselves around an internal consensus which also lets groups (including the bureaucracy) find political support for their varying causes outside of fray of real public debate or competition. As I will show presently in housing policy the total effect of this is to seal off internal and external differences and public participation in public policy formation.

While also creating strong areas of vested interest, within these policy communities, Shindo argues, both the bureaucracy and interest groups begin to reflect and support each other's views as if they were their own. Groups lose their respective bearings and independence of viewpoint in respect to their own real interests, or having to see those interests in the light of public policy. This, more than outright corruption or a mercantile conspiracy, can become much of the basis for operating regulatory boards on housing.

The issue of the high costs for Japanese housing, as it arose out of public pressure, thus came to focus almost exclusively on import liberalization and deregulation by the media, public, politicians, and the bureaucracy. But these discussed measures in themselves would be of dubious effect on high prices and for the most part shifted public attention away from the root causes of the high cost of housing. That would require coordinated policy shifts among various ministries and structural reforms in the market itself as well as strong bureaucratic programs before the potential effects of deregulation and import liberalization could be really felt by the consumer.

Though liberalization by deregulation in itself would have dubious effects on lowering the costs for American houses in Japan for their competitive advantage to materialize, Hosokawa

chose this as an area of deregulation to pursue as cabinet policy. The reasons for this were probably various. One was partly appease American interests, after a breakdown in trade talks with Americans in January of '94, who were threatening retaliation after the Japanese government refused to accept their demand for numerical targets for imports. Another was that the housing industry, traditionally more multifarious and independent than many other industries, is not so dominated by *zokugaiin*.

The bureaucracy, according to the Nikkei, had effectively squelched on its own any attempts by the Prime Minister to agree to numerical quotas for the Japanese market, after Miyazawa had previously, that fall, showed indications of accepting such a proposal⁽⁴⁸⁾. It might therefore seem that the housing market is not representative of more powerful *kataware kikan* groups, which remain completely closed, or in complete control of cabinet policy, or that partially opening the housing market was simply a cynical attempt, by such forces, to deflect American demands. That perhaps the policy process here being described, in housing, might not be typical of many other *kataware kikan* groups that remain fixated on their own interests, *en masse*, incapable of change.

But my argument in this paper that whether *kataware kikans* are relatively open or closed the same internal tensions and inherent limitations can apply. Namely that, in addition to limiting scenarios for dealing with change to those palatable to *kataware kikan* relations, that within a closed consensus process represented by *kataware kikan* groups the independence of each group to realize and defend its own interests is impaired (that would

be capable of creating real policies for the public to support and judge).

I have already shown how these inherent limitations of the kataware kikan system have applied to the Koseisho, frustrating any real leadership of that ministry to effectively deal even with its own groups. In terms of the bureaucracy squelching a move toward numerical quotas a similar limitation of the system is manifest. While the defiance against the idea of numerical targets was led by a group called the “international faction” within the bureaucracy consisting of high officials from various ministries, it is difficult to evaluate their actions as any sort of strategic, powerful, bureaucracy led conspiracy based on the long range national interest.

While refusing American demands for numerical demands on the grounds that they would expand governmental interference in the economy, and that the bureaucracy supported deregulation, the Nikkei adds, “While the bureaucracy talks of reducing government interference in markets to the outside world it has no thought of reducing its own powers to intervene within Japan in order to maintain its own power While the bureaucracy can say “no” to the Americans it has no idea how to forge a new relationship with the U.S. The new international faction is just a group of bureaucrats who can go over the head of the cabinet to utter the word “no.” What worries this newspaper is that there is a complete lack of any kind of design to their actions”⁽⁴⁹⁾.

While naturally kataware kikan relations reflect powerful vested interests in themselves it is difficult to say if these interests, especially on the part of the bureaucracy, reflect the real, or long term, interests, of those involved, to constitute anything that might be called a

master vision or blueprint. As the Nikkei points out in this case even the leadership MITI can offer on trade is no more than bungled equivocations. Shindo speaks of a universal quality to all kataware kikan relationships, I think, when he describes how each element of the kataware kikan system lose a sense of an independent, wider vision within their mutually protecting and comfortable relationships where they are not forced outside of those informal relationships to gain political support. At the same time kataware kikans form the main policy vehicle and apparatus for policy. As in the Health and Welfare Ministry case even when the bureaucracy seeks to steer policy it is heavily limited by its own system. According to the Japanese press, even MITI, when it undertook to create a policy in housing after correctly analyzing the issue, the kataware kikan system stood in the way of any real leadership by that ministry.

Only one day after the breakdown of trade talks with the U.S., in preparation for the coming Naples Summit in July Hosokawa created a “Gyosei Keikaku Suishin Honbu” or “A Headquarters for Promoting Administrative Reform,” to look into ways to deregulate and stimulate the housing market in Japan⁽⁵⁰⁾.

The following July 25th the Construction Ministry announced the creation of a “Jutaku-Takuchi Taisaku Suishin Honbu” or a “Head Office of Policy Promotion for Housing and Housing Land” that would compile “within half a year” to look into such “themes” as “deregulation, lowering the costs of housing, and increasing housing stocks” under a “Jutaku-takuchi Taisaku Sogo Suishin Honbu”⁽⁵¹⁾. The compilation of this group reflected a wide array of interests both within and without the ministry. The Construction Ministry Jimujikan, or

vice minister, was to be chairman. With five bureau chiefs from various departments including, the “Somu Shingi Kan and Jutaku Kyo-kyu.” Also the president of the Jutaku Kinyu Koko, a public finance corporation for housing loans, was to be included. Also it was planned to include housewives, people from industry, and the academic community, as well as people from local government and organizations.

On June 6th an inter-ministry panel consisting of MITI, the Agriculture Ministry and the Construction Ministry announced they would pursue policy exploration that aimed to liberalize the Japanese market to house imports⁽⁵²⁾. They said they would do this by simplifying administrative procedures, changing jutaku yushi kokka finance regulations and recognizing the use of foreign housing accessories in the Japanese market. The main purport of the plan, however, was the same as previous proposals, which promised to try to reduce the cost of housing in Japan by removing difficult and onerous regulations and a difficult regulation process.

Actual measures to implement a housing policy were first covered in a “Kisei Kanwasaku no Gainen” or “Outline for a Policy on Deregulation” announced on June 28th⁽⁵³⁾. As mentioned above this plan focused primarily on deregulation measures barring liberalization, while promising to rationalize and simplify the regulatory process itself to delay costs and time lag for Japanese industry.

The real policy of the Construction Ministry in housing was announced on July 25th⁽⁵⁴⁾. Here the ministry unveiled a grand design for the market it labeled “Jutaku-takuchi Taisaku no Kihon Hoshin” or a “Fundamental policy for dealing with housing and housing land,” “that had been put together by the” Jutaku-Takuchi

Taisaku Sogo Suishin Honbu,” or “Headquarters for Comprehensive Policy Promoting Measures For Housing and Land Issues.” The plan promised to reduce costs by two thirds while creating 100,000 new rental units within a 30 minute commute of large metropolitan areas. Its “Action Plan” planned to reduce the cost of construction by the types of deregulation mentioned in the above plans. Items of the plan also created a new kataware kikan groups for the ministry as it would “rationalize” construction supply stores throughout Japan under a new “kanri” system. Meanwhile, while promising to increase domestic use of lumber and foreign supplies, it also promised to recognize the use of North American lumber in the Japanese market.

The tenor of the plan was consumerism. The plan promised to reduce Japanese housing costs by two thirds, drawing a grand vision for general support that would provide growth and development for the industry as well as meeting the needs of “middle class salaried workers and the elderly” for affordable housing and to “create a comfortable living environment.” The plan proposed that within a thirty minute radius of large metropolitan cities an increase in 100,000 housing units a year, would take place. Further, that the plan, mainly by deregulation, would “by the year 2000 reduce housing costs by two thirds.”

But the vision of the plan was traditional in trying to build public and industry support by an expansion of opportunity for all in the system and avoiding weighted choices, that might hurt some groups, for effective policy that would genuinely reduce housing costs and increase market growth. Most new budget project simply smelled of pork, effective as compensations, but incapable of shifting spend-

ing themselves while burdening the ministry program within efficiencies. Would this approach to building support for policies, in place of substantive debate still work?

As long as Japan was in a high growth phase it was easy for the bureaucracy to find common goals in the system for all its groups in a program that could form a consensual cooperation in the fulfillment of bureaucratic objectives. At that time the goals and mission of the bureaucracy were self evident and did not need real public debate to help define them. Trying to expand and make use of development opportunities the prime function of the bureaucracy was technocratic and relatively speaking, in terms of determining the social values of a program, it was functioning in a simple political and social environment.

But now, almost ironically, the bureaucracy is not being asked to catch up with the west in quantitative terms but in qualitative ones. Industry magazines describe how in sheer quantity Japan's housing needs have been met. What consumers now demand are greater lifestyle choices, reflecting housing costs, style, and quality, similar to the rest of the world. For industry to develop it must do so by marginal efficiencies that meet individualized market choices.

Matsushita Keiichi talks of this as a historic change facing the bureaucracy where its centralized system can no longer provide a basic engine for economic development and planning from a centralized source to meet the most basic needs of a society⁽⁵⁵⁾. As social demands take a qualitative tinge over a quantitative one Matsushita argues that the bureaucracy's decision process has to be opened up for it to discover new missions that require more flexible approaches to the public to ascertain

its needs. Matsushita himself suggests that a grass roots approach, where such issues as housing are considered in relation to other community issues as part of a total living environment can provide the coordination and breadth bureaucratic policies need to deal with a more complicated environment.

Both Vogel and Johnson envision a bureaucracy who can use its discretionary powers in a flexible way, by creating new areas for interest group activity and privileged access out of its scenarios of growth that allows it to shape and influence legislative and interest group activity. They describe these tools of the bureaucracy as working in the service of a vision of leadership, expertise, and cooperation, that enables the bureaucracy to create a neutral plan, outside of the immediate political pressures of the legislature. But the plan the bureaucracy came up within its own policy process was limited and without leadership.

Of course the Japanese bureaucracy, like any other, wants to protect its power, organization, and jobs. The Japanese bureaucracy, in particular, may be stronger in their resistance to cabinet leadership than most since its structure is very inflexible and plagued by "tatewari" or extreme sectionalism. Many also question if the Japanese bureaucracy has ever really been democratized into accepting political rule or if the bureaucracy feels itself to be under "the people." At the same time Japan has had little experience with cabinet leadership or political struggles to establish cabinet control over the bureaucracy as in Europe. But to what extent is the kataware kikan system responsible for a lack of leadership in bureaucratic policies in housing?

During LDP rule Yamaguchi argues that the high zokugaiin system aids the bureaucracy

in maintaining discipline in the system as it has to shift policies away from business toward international and consumer issues. In the formation of high policy to deal with needs for change that cut into kataware kikan interests high zokugiin and the bureaucracy are forced to devise policies palatable to lower zokugiin and interest groups, with high zokugiin then employed to carry the message of reality back to their own groups where they can enforce it. Before the necessity of these kinds of cutbacks the bureaucracy could run policy itself, in the mode of Vogel and Johnson, without the need of high zokugiin to ensure interest group support.

The problem in this sort of policy formation, of course, is that only policies palatable between the bureaucracy and zokugiin are adopted for dealing with change that can continue to maintain its kataware kikan system. Here independence of the bureaucracy in high policy formation where it can devise a neutral, objective policy, and then enact it through compliant groups is difficult. (Similarly the ability of politicians to form alternatives in policy is squelched). Rather to maintain the system the bureaucracy has to sacrifice more and more of the substance of its programs to create incentives, as it adopts the political outlook of moribund high zokugiin, losing the freedom its discretionary powers once granted.

The Construction Ministry seems to be following this policy process and to be locked into the same dilemmas. To implement deregulation compensations have to be made by the Construction Ministry but these measures can persuade no group to go against its real interests to create a truly effective policy in housing. And this policy formation itself, made up of nemawashi (networking) over such informal compensations, takes the place of

debate and forms the real substance of the internal policy process of the Construction Ministry. The terms and limits of debate are thus set largely by the bureaucracy by dishing out access to the system, but not in the mode Vogel or Johnson envisioned.

Since this process is largely informal official policy sessions the public sees are ornamental. During the tenor of the LDP policy formation was handled within various standing committees surrounding programs of the bureaucracy. These committee sessions were closed for the most part their deliberations were perfunctory. Most decisions were made between zokugiin, the bureaucracy, and interest groups informally. Central party organs like the Seimu Chosakai handled higher policy. These sessions, too, that operated technically as internal party business, were closed. What legislation emerged from this policy process was largely already decided by informal consensus. Earnest debate did not take place in the legislature which primarily functioned as a rubber stamp.

The Construction Ministry plan seems to be following the same closed policy process. Each one of the kataware kikan groups, high zokugiin, interest groups, and the bureaucracy itself, are so mutually dependent on their relationships in the kataware kikan system that none can afford, (or have the opportunity to) really oppose the policy consensus that is reached for dealing with change. Oppositions that might form the core of a substantive debate, capable of engaging other active forces in the media, among pols, in the legislature or bureaucracy do not come to the fore. (Press clubs also limit debate.)

Another feature of a closed policy process is the pure access it offers zokugiin to critical

pieces of policy they can apply pressure to independent of all policy deliberation. In the final deregulation policies on housing deregulation of the public finance program for housing was not, apparently, discussed or proposed. Without public financing approvals for house imports their market has and would be severely restricted.

Also if the market were to be reformed longer term mortgages would also be in order, where houses would be allowed to keep their values beyond the usual 10 or 15 year limit now offered by the public finance housing program. Since the longevity of house imports surpass Japanese housing longer term mortgages would make house imports cheaper in terms of re-sale value in a used housing market. Such market and consumer pressures would force Japanese companies to make more durable and quality housing.

But industry resistance to such financing reforms is sure to be intense in many quarters. A quick turnover in housing ensures a steady, lucrative, market at the consumers' expense. Not financing homes built after 10 to 15 years ensures the full value of house imports will not reach consumers and that a vital used housing market will not be created. Though consumers and competitive companies would be sure to benefit from such reforms and deregulation the public financing program, administered under the Finance Ministry, in a *kataware kikan* format with industry and politicians, is under no obligation to decide its policies in an open, public forum, or subject to legislative checks.

The Hosokawa cabinet had a unique opportunity to undercut *zokugiin* activity by opening up the policy process. Strong cabinet leadership could force the compiling of a plan to take

place within open policy councils where direct public support could form the background for various interest group pressures, and rival interest groups could make an open play to capture policy choices and debate.

However, without a strong cabinet which has the staff, information, and expertise to lead on policy debate, policy making reverts back to the internal machinations of the bureaucracy based on its *kataware kikan* structure and relationships. Here *zokugiin* pressures are created anew capable of overturning cabinet level open policy deliberations. The bureaucracy itself can be expected to resist openness if it has an opportunity. Openness would limit its use of discretionary power to create its own areas of influence and protection. While cooperation between the cabinet and the bureaucracy are crucial, on some level, for policy creation, without strong cabinet leadership, the bureaucracy will base that cooperation on the use of its own discretionary powers and tip the balance of power scales in its own direction as far as the real creation of policy goes. All this has to be dealt with by a cabinet without even the benefit of many political appointments in the bureaucracy.

Yamaguchi argues that at some stage in the policy process, high *zokugiin* and the bureaucracy confer over policy alternatives as the bureaucracy seeks some kind of leadership over its *kataware kikan* system. But there was no real evidence of this in housing. While it would be hard to believe the bureaucracy would scuttle its *kataware kikan* system in order to liberate itself from *zokugiin*, according to Yamaguchi, pressures should exist in the bureaucracy to take advantage of *zokugiin* weakness and try to create more independent policy. But Shindo doubts that in the policy

process such an independent step as between high *zokugiin* and the bureaucracy occurs. Rather he thinks policy is made *en masse* among *kataware kikan* groups, where the relationships between the bureaucracy and interest groups concentrate on the ground floor and are mutually indivisible in their reach for any kind of policy exploration. Shindo makes the argument that as long as *kataware kikan* relationships persist they will seek to perpetuate themselves in this manner.

Shindo seems to imply that the bureaucracy has to deal with its own internal structure in the same way it deals with interest groups and politicians to assert leadership or lead debate. The bureaucracy with a “obeya” or “big room” structure, and lacking a strong chain of command structure or definite spans of authority has a very bottom up decision process. A strong career and non-career system is also in place, with uppers dependent on the information and expertise of lowers who reside permanently in their departments.

In the administration of discretionary powers within *kataware kikan* relationships strong ties between business and the bureaucracy exist on the non-career level. A two tier career and non-career structure often pits top leadership in the bureaucracy (and higher *zokugiin*) against non career groups who are more closely tied to their programs. At the same time, during LDP rule, as in the high *zokugiin* system that is used by the bureaucracy to deal with its own interest groups and *pols*, could not high *zokugiin* also be used to maintain, in the same way, peace within the bureaucracy?

Even without much *zokugiin* pressure, in this situation, for leadership in the bureaucracy to occur its own non-career groups would have to be satisfied. As long as new areas of inter-

est group activity could be created out of growth top leadership in the bureaucracy by career groups could more easily take place, as they were free to concentrate, devise, and implement high level policy and leadership when it was needed in the system. But in an era of lower growth and imminent cutbacks, and needs for deregulated markets, their leadership is also limited to what they can wrangle from *kataware kikan* groups in the way of compromises and deals that cut deeper into their ability to make independent policy by relying solely on informal discretionary powers within the bureaucracy as well.

As we shall see, though, the situation is even more complicated than this as lower groups have many ideas for policy that top leadership is not able to exploit or take up. Because in trying to create a policy it also has to create a consensus among elements in the entire bureaucracy and *kataware kikan* groups which also stifles dissent inside *kataware kikan* relationships.

For Yamaguchi, in this instance, the case is simpler. Since interest groups and politicians can realize their demands by direct connections to the bureaucracy he argues they really do not need legislation, parties, or cabinets to access the bureaucracy. If these discretionary powers were more open, he argues, it would not matter so much what the internal structure of the bureaucracy is. Groups, forced to create legislation to realize their demands, would also create strong policy through cabinets capable of their implementation through public policy debate. Also opposing groups could not pressure the bureaucracy so much over implementation and the drawing up of plans. The policy process, itself, he then argues, would naturally accrue to the legislature and open debate,

where interests would be woven together and the bureaucracy would be handed or create itself a clear mandate to devise a plan around that would be separate in the execution stage of wide discretionary powers of the bureaucracy, thus freeing up the bureaucracy to execute policy with authority.

For Yamaguchi, top down leadership, vision, and a flexible response to lower interest groups would all be best established in this way. It is difficult for the bureaucracy, in a complicated environment, to achieve a consensus on its policies, outside of real legislative debate that is capable of expressing and weaving together various interests into one package that can shape interest groups' demands in public debate by parties. Similarly, without the legislature it is difficult for policies the bureaucracy might want to see adopted to be enforced with genuine leadership. For Yamaguchi, as compared to Vogel or Johnson the relationship between the legislature and bureaucracy is not a zero-sum prospect. For the bureaucracy to use its more informal powers effectively and expertise for high policy formation, while increasing the effectiveness of administrative policy and debate, an active legislature is also needed. By this reasoning each can increase the effectiveness of the other when policy has to be sought and created rather than being self-evident as in Japan's high growth phase.

The Construction Ministry is being forced to take a consumer approach to the housing issue and tries to open up its decision process to outside participation its decision process is within the bureaucracy. The sort of "shingikai," a kind of deliberative council sponsored by the bureaucracy to include public debate in the formation of its policies, format it introduced to include outside opinion is notori-

ous in Japan for becoming a rubber stamp for bureaucratic policies. The actual plan that was chosen, a vague sort of market liberalization, with deregulation, and new market development, and construction based on pork, represent the lowest common denominator of reform and ideas the system is capable of within a closed consensus process it can sell to its kataware kikan groups.

But while this internal structure of the bureaucracy remains the same outside reality is changing. In pure economic terms the Construction Ministry contains no silver bullet. It cannot generate automatic support for its programs out of economic growth that would automatically create a favorable environment for its kataware kikan relationships to live in. The real economic effectiveness of its policies themselves are at stake and its ability to make effective policy become its prime mission if it is to generate real support for its programs.

During the '50s and especially in the "high growth" '60s the creation of grand bureaucratic visions for a market relied heavily on expanding economic growth. Ineffective programs were supported by being conduits of welfare distribution and fulfilling a social function of redistributing the wealth and benefits of high growth from urban centers. One of the prime jobs of a ministry, like Construction has been to divide up the proceeds of such growth among its supporters that also created balances of wealth within the society, spreading the benefits of growth equally among all groups in the society. The real efficiency or cost of programs was not an issue. Misses in the program itself could be covered not only by the social value of such programs in distributing wealth and opportunities in the system, but by growth itself which shielded bureaucratic pro-

grams from having to produce economic growth or efficiency on their own, which could claim other functions.

With a public outcry over the high cost of housing in an age of scarcity most opportunities for growth in the system will have to be measured in terms of economic effectiveness, which will come to play a larger social value in determining the worth, and popularity, of programs, over national development goals. During the '60s while the needs of urban dwellers, as in the case of housing were ignored, these were compensated by rising incomes and growing prosperity of the urban middle class, who were also asked to sacrifice their social welfare needs until economic development was achieved. As this consensus, and the economic growth for which much of it was based began to wane into the the '70s, consumer demands arose which could not be fulfilled by the bureaucracy in creating more growth. Here also international demands for market opening arose.

While the Construction Ministry plan is indicative of these historic changes for the bureaucracy, the consensus system it has used to administer and create plans is now being asked to do too much, and is limiting the bureaucracy in creating new areas of consensus where its informal powers can be used effectively. Without absolute growth in the economy it is powerless to promise industry development outside of effective cost cutting measures. Issues like trade disputes force policy both ways and split effectiveness, where priorities can not be set based on overall effectiveness as measured by real public policy debate.

While, as in the "shotoku baizo keikaku," a plan to double incomes during the '60s, the bureaucracy could once offer a powerful vehicle of economic growth to form a consensus

with, now, as in the Construction Ministry plan, the bureaucracy has to be surgical in its effect to ensure the health of the patient. Cutting away fat here, adding muscle there, it has to think of the overall health of the system and its relation to other parts to make viable policy. Naturally these require different forms of leadership than those offered by an ever expanding cornucopia of growth. The issuing of grand visions for new opportunities in the system as in the Construction Ministry plan, or the ability to pass on sacrifices equally to all its kataware kikan members can not substitute for substantive leadership in gaining real public support for its programs.

Industry reaction to the Gyosei Kaikau Suishin Honbu's (originally started by Hosokawa to create a housing policy) deregulation package was extremely mixed⁽⁵⁶⁾. While some industry groups thought on the whole that accumulated effects of deregulation would reduce costs, most thought the deregulation package itself would be ineffective in appreciably reducing costs. Most of these groups thought a fundamental policy was missing to increase effectiveness in the market.

A Suzuki, according to the same article in the Nikkei Sangyo (industry newspaper of the Nikkei), of an organization interested in importing houses, described how the main costs of housing are decided at the "construction sight." He broke down housing costs into three main areas of including supplies at 30% of total cost, with the rest of the costs in distribution and labor. He particularly described how transportation costs were such that it was cheaper to import from America than order in Japan for materials. Another president of a housing construction company who prefers, apparently, to remain anonymous, reports that while the

problem of regulations over piping, lumber, gas and electric connectors was cleared up thus to reduce costs, "if the ministry was serious, their plan would require opening the market to foreign labor,"⁽⁵⁷⁾.

Interestingly, a nameless Construction Ministry official reported that the real reasons costs were high was because of distribution and "customs" of the industry itself, implying deregulation would have little impact on prices. At the same time almost overwhelming opinion doubted the ministry would enact the plan as stated, or could simplify regulations to the point that their actual administration (by kataware kikan) would result in true deregulation.

But such debate, or alternatives to official ministry itself, rarely find their way out of kataware kikan policy formation. Rather it is vagueness over the implementation of the plan itself that attracts the real attention of kataware kikan groups. As Yamaguchi suggests this process still allows the bureaucracy to set broad outlines of an agenda. In this case of deregulation to reduce housing costs specific groups then become caught up in the details of the plan and what nuggets they can achieve in its execution by pulling close to the bureaucracy. With each group vying for special advantages in the plan's execution, where zokugiin as their political representation intervene, the bureaucracy can maintain control of the broad outline of the program. Loyalty to the bureaucracy plan is created as various zokugiin and industry groups are networked deeper into a bureaucracy strategy and they all struggle and compete for their relative position and advantage under the discretionary powers of the bureaucracy within a policy.

Shindo describes how even after markets are deregulated kataware kikan relationships

persist to actually shape regulations in an informal format. Such groups are also dependent on the kataware kikan system for their basic livelihood. Active rebellion against the system, against the bureaucracy by zokugiin or industry groups, would jeopardize their long term relationship with the bureaucracy where a close cooperative kataware kikan connection can ensure speed in processing licenses, regulations, and access to other special programs, that are essential to a business. By squirreling away advantages of favors over the implementation of policy and regulations such a system can provide, they can be guaranteed relative advantage and improve their individual standing in a program vis-a-vis other groups. The bureaucracy is adept in maintaining this competition in the system through the use of its discretionary powers in a scarcity situation. As far as real public debate goes by kataware kikan groups this shifts the nature of their complaints in the media from actual debate over concrete policy choices or initiatives to gaining some kind of relative advantage within the existing system, as a higher price for their support of bureaucratic programs.

For the bureaucracy to gain influence over the policy setting process compensations and favors have to be granted. As mentioned above these become especially troublesome to the effectiveness of real policy that has to be paid out by the bureaucracy to maintain the governability of the system. In the case of progressive groups, searching for more opportunities in a competitive market, or importers, less efficiency for them can be offset by other advantages or special considerations they can achieve from the bureaucracy for their cooperation over the bureaucratic plan. For less progressive groups, bound to be hurt by some

form of liberalization or deregulation, they are sure to receive some forms of protection and compensation for their support. While the total effect of policy is thus blunted and confused, and deregulation itself almost impossible to implement, relative advantages can be maintained as adaptation is achieved and the kataware kikan system is preserved. To create real policy for an objective like lowering costs that requires it to move against one interests at the expense of the other inside the system, to create policy that can maximize the interests of all by sacrificing a few individual interests, seems difficult.

Meanwhile contradictions in the system deepen. While focusing on deregulation, meaningful reform for costs require controversial measures which the bureaucracy had to avoid. Deregulation itself essential to industry to raise competitiveness is largely forestalled and difficult to implement in a kataware kikan format. As society changes and grows more complicated the consensus of kataware kikan system is stretched thinner and thinner over a vaster array of interest and choices it cannot hope to contain or deal effectively with. In creating policy only non-controversial and painless solutions can be sought among kataware kikan groups, where the public is not directly represented where they could judge alternatives and choices through open debate that could create true public support. The compensations that the bureaucracy has to offer within the kataware kikan system to preserve peace in the system, and its own influence over it, cut deep into the effectiveness of programs, deepening contradictions in the system that thwart the creation of effective policy.

The opportunities for politicians, interest groups, and the bureaucracy to create new

programs for housing is immense, especially when one considers the wide public support such plans would receive. Programs that would involve market re-structuring for a competitive, dynamic industry, financial supports for the public, and market liberalization measures, would accrue dazzling benefits for the society. Rises of Japanese living standards, combined with rises in disposable income, increased opportunities and growth for a reformed industry as well as a lessening of trade conflicts and overall economic growth should make such policies extremely attractive, even from a political standpoint, to even the most insular bureaucracy. Especially when one considers the huge amount of waste in other parts of the Construction Ministry on projects that have long lost their effectiveness that could be used by the Construction Ministry itself to expand its own programs into new, more fruitful areas.

But it has to be said that the housing market is by no means a failure in Japan. A kataware kikan gososendan type system for the market's administration has provided, as shown by the above plan, for some liberalization measures. Together with the bureaucracy the housing industries dealing with some public forms of pressure to lower costs and improve quality. Newer Japanese homes reflect improvements in styling, quality, and longevity. Public debate and the existence of a legislature, along with a strong, internal consensus system within the bureaucracy strive to save the system from corrupter features of an outright politicization by introducing elements of discipline between the bureaucracy and interest groups to maintain a modicum of market standards for the public. Though none of this results in what might be considered effective

policy or substantial policy formation, the system is preserved by dealing and adapting to changes.

Section Three

A Comparative Example of Administrative Policy: The U.S. Department of Interior's Wolf Introduction Program into Yellowstone National Park

As in the housing market, with a loss of real bureaucratic leadership the bureaucracy must operate its *kataware kikan* system through high *zokugiin*, with whom it shares policy making powers. Unlike what Johnson and Vogel envision what authority the bureaucracy can exercise is limited by the feasibility of what the *kataware kikan* system can bear. While not eliminating change, this limits adaptation for all elements in the system to what a consensus can create. Rather than a flexible management system this seems very inflexible.

The American bureaucracy is, too, of course limited in its power to what its interest groups and other forms of support will bear on the level of high policy. In the implementation of policy it must also go through an informal consensus process. The U.S. Fish and Wildlife Service recently completed a plan to reintroduce wolves into Yellowstone National Park. Integral to the plan was the support of the local population which included many sheep herders and ranchers who opposed the plan. This consisted of over 150 public hearings, 12 million dollars in scientific studies and 160,000 public comments. Newsweek called the plan (initiated under the Endangered Species Act) "the most people pleasing compromises in the act's 22 year history. Private citizens are permitted to shoot dead the wolves caught

killing livestock, and federal officials can remove any that threaten humans or herds. To make the return even more acceptable conservationists put their money where their ideology is. Private donations paid for the chain link fence around the Yellowstone pens. And The Defenders of Wildlife has pledged to pay for any livestock killed by the wolves"⁽⁵⁸⁾.

The bureaucracy in Japan is often said to have vast interpretive powers over vague laws it can manipulate and interpret unilaterally to create policy. But as I have tried to show so far the actual administration and creation of law is limited by the bureaucracy's need to maintain its *kataware kikan* relationships as its main vehicle for policy formation and implementation, making it difficult for the bureaucracy to exercise real leadership over policy.

The American bureaucracy can also interpret and administer law as it sees fit. Though it is more limited in these powers by congressional and court checks than the Japanese bureaucracy, in the actual application of law and policy it has more authority and independence. Why is this? I think one large reason, as I will try to show by the wolf introduction program, is because the discretionary powers granted to the bureaucracy, to ostensibly create and implement "law" independent of the legislature, actually open the Japanese bureaucracy to intense administrative and political pressures from below, the bureaucracy cannot resist to assert leadership over the system. In the American case leadership can be more easily achieved by a cabinet or top officials because (one reason) the discretionary powers of the bureaucracy are limited in the actual implementation of policy which is done in a open, "neutral" manner.

Of course "leadership" by a bureaucracy is

a relative concept and a double edged sword that involves the representation of special interests as they may come to dominate even strong legislative agendas. But in the Japanese case the protection of such interests within bureaucracy programs, if outside kataware kikan relations, will force and encourage such groups and individuals to take their respective interests and cases to the legislature, courts, or open regulatory bodies to decide, that would engender cabinet development. Here the protection of interests would meet institutional and democratic challenges over the present kataware kikan system that would form the basis for powerful checks against a bureaucracy seeking to simply protect and expand its power. In terms of bureaucratic leadership this would open (and/or force) the Japanese bureaucracy to use its considerable expertise to create efficient popular programs to preserve its own organizational interests, and to attempt to steer policy with.

Of course outside the function of kataware kikan's institutional factors account for the differences in executive leadership in America and Japan. In a presidential system constitutional powers of the office allow a president to exercise discretionary power separate to the legislature and over the head of the bureaucrats. Though certain powers of the office of prime minister could certainly be expanded in Japan, as over political appointments and the budget, in a cabinet system of government, where the prime minister is not directly elected, for PM leadership to emerge it must be based on strong party discipline. At the same time where strong popular checks are sought in the system these arise in a parliamentary system not from the independent powers of a legislature or a presidential office but from a check

and balance between opposition and ruling parties.

Thus in comparing American and Japanese administrative policy on the question of leadership in the Japanese bureaucracy the role of the cabinet, as related to the function of kataware kikan, has to be considered in tandem with legislative, electoral, and party reforms. As in the Interior Department's policy to be presently discussed, in the American case where redress or leadership is sought against the executive this can be more easily achieved on the top level of government by direct public opinion in a national election or through an independent legislature that helps ensure an openness and accountability in the wide use of discretionary powers by the bureaucracy. But in both systems where openness is missing in the implementation of policy the bureaucracy will lack authority or pressure to deal with interest groups where the bureaucracy has an opportunity or desire to implement changes that are supported by public opinion (the development of a check and balance system within the policy process is also hindered).

In the wolf introduction program even though this policy was decided under law, The Endangered Species Act, the Interior Department, at the instigation of its Secretary, Bruce Babbitt, used the law to reintroduce a top of the food chain predator into an area for the first time. Here the bureaucracy both had to take the initiative and control of policy in several areas, expanding its support, and searching for compromise. The bureaucracy, in trying to meet an administrative directive from the top, must be able to produce a plan that is not only politically viable to the leadership but is also neutral and feasible enough, both practically and politically to ensure some sort of success.

Its job is not necessarily to implement political will but to ensure the neutrality, viability, and continuity of political directives. It itself also has to think about political feasibility, from possibly a wider perspective, anticipating future oppositions, and political problems, if it is interested in long term viability of its plan it has to be interested in an independent stand.

Ranchers, whose administration is handled by the Agriculture Department, opposed the wolf introduction plan because of the threat wolves pose to their livestock. During the early part of the century ranchers killed off the wolf population to protect their herds. When their case against the wolf introduction program was turned down in a Wyoming District Court over the Interior Department's interpretation of law they planned to wage a political fight through their agricultural organizations and federations that are associated politically with administrative programs by the Agricultural Department similar to Japan's kataware kikan systems.

Within the consensus process in implementing and drawing up the details of the Interior's plan what is interesting in the American case, as compared to the Japanese one in housing and pharmaceuticals, is that though the Department of Interior offered compromises and compensations to opposing groups to ease implementation of the plan and broaden support it did this in a fashion that actually made its own plan more effective by serving a wider public interest. In this process the bureaucracy could not afford to sacrifice the contents of its plan to the point they would jeopardize its popularity or the overall merits of the plan. Since cooperation with the plan was voluntary and each group involved was free and able to take its protests to the legislature to let the public

decide, a check and balance arose between different groups associated with drawing up the details of the plan. Each side had to insure the public viability of their complaints or pressured amendments and could not afford not to think of the plan in that light. Here the bureaucracy had strong incentive to ensure the real public support of its plan.

On the consensus level of implementation in the American case the bureaucracy's discretionary power is limited by law and open procedures. To build support for its plan it cannot rely upon its discretionary powers to offer groups special deals on the side. Neither can it cut or increase one individual's services at the expense of another arbitrarily as in the Japanese case as incentives for groups to adopt its plan. Much more independent, because their own programs and bureaucratic services are protected by existing law, groups are more free to propose alternatives to the bureaucracy's plan where they can raise support separate to their direct connection to the bureaucracy. Because of these reasons the bureaucracy has to devise a plan that can convince the public and interest groups that its plan is worthwhile based on its real merits that reflect the genuine interests of those involved.

In the Japanese elements of the kataware kikan have a difficult time trying to balance each other's plans by using public opinion to check a closed element of the system. For example, if pharmacy groups too actively opposed the bureaucratic plan, it would threaten its direct connection with the bureaucracy over the administration of a plethora of regulations and assistance effecting its business. At the same time, for the bureaucracy, if such resistance got out of hand, the bureaucracy would be directly threatened. Not only

with a loss of influence in operating its informal system, where such conflict might spill over to the legislature with the chance independent law could be created that would render its own kataware kikan system inoperative. But also there is no guarantee the bureaucracy could replace recalcitrant supporters with new supporters from outside its kataware kikan, since the bureaucracy primarily relies on its discretionary powers to capture support within the immediate span of its own system. But likewise the bureaucracy's own kataware kikan groups are in the same boat. To service their demands they do not really know how to raise support outside of operating zokugiin levers around the discretionary powers on the bureaucracy.

In such a situation, groups like the pharmacy ones, have to confine their opposition to inside the kataware kikan system, and use that system to realize their demands. Similarly the bureaucracy has to find a way to accommodate those demands. In such a situation the compromises and compensations that develop between groups within the kataware kikan system over the creation, implementation, and administration of policy revolve around the small bits of self interests each group can salvage from the process rather than each group thinking of what might be achievable, necessary, or desirable, in a larger political context where a more diverse set of interests would have to be considered to find a workable consensus to realize their goal through. (Or, if such demands are not realizable in a larger context, to be forced to change its behavior).

If ranchers decided to oppose the wolf introduction program, it has to base such resistance on the chances for popular, administrative success, in the form of general support, over and above the general support present

administrative policies have achieved. More likely, in the case of the wolf introduction program, it will choose to cooperate with the bureaucracy in some mode, to ease the transition, sensing a certain inevitability to change as traditions and demographics change in the west they will have to adapt their life style, too, as society changes. While depending on its informal ties to the bureaucracy in administering the program fairly.

The situation with the housing industry may be similar to ranchers. Long protected, losing its market effectiveness over cost and innovation, subject to import pressure and domestic consumer pressure, the Japanese bureaucracy, in fulfilling an administrative directive, has powerful tools to persuade the industry to reform. Against this background such groups may measure their chance of success against the tide for change, but more likely can be persuaded to accept reforms for that are for the long term health of the industry and the interest of society, which can not be resisted forever.

Yet in the Japanese case the bureaucracy loses this powerful tool over entrenched interests. Rather than persuading the industry to change—to rationalize and meet the times, or be included in an effective plan for real market reforms for the public good, and the good of the industry itself, it has to deal with its interest groups through kataware kikan. To win support from the industry primarily by offering goodies from a shrinking bag that, in the end, will continue to protect vested interests and keep the industry from reforming for effective policy.

While areas of less zokugiin pressure like in the pharmaceutical and housing industries give the bureaucracy some room to deal with

policy within the confines of their kataware kikan's other areas, like in heavy construction remain closed to any kind of reform or liberalization. But, here too, the same limitations of the kataware kikan system are manifest. The unique effect of money and influence within the kataware kikan system is that indirectly binds each leg of the kataware kikan triangles so closely that none can escape even when it is in their own interest. The Construction Ministry, notorious for hand picking candidates for election or using its own former officials, ordering its industry groups to supply campaign support, even crowds from construction sites for rally is singular only in that each group, politicians, interest groups, and the bureaucracy itself, become so beholden to each other they lose the ability to function independently of each other when it becomes in their real interest to do so. (Although a bureaucracy using its own discretionary powers unfairly to build party or political support violates a basic sense of bureaucracy neutrality and separation of powers.)

Politicians raising huge amounts of funds from interest groups cannot use that power to really effect ministry policies because the real source of funds is the access the bureaucracy grants to politicians. In the housing market, as mentioned, potential new areas exist for interest group exploitation capable of serving as the catalysts for public policy formation, that have to be attractive to some construction companies in the more traditional pork projects of public works that are facing cutbacks and higher kickback fees. Similarly, bureaucrats looking for new opportunities are trapped by their dependency on established kataware kikan groups (even for amakudari) that they cannot risk conflict in the system for their own ideas or interests in sniffing out new opportu-

nities.

Cabinet policies and leadership can be an opportunity for pols, interest groups and bureaucratic groups within the kataware kikan system to surface and coalesce around to create new programs that are independent of official policy represented by a kataware kikan system and more accurately reflect their own interests and view. All the while providing new possibilities for public support to form around outside of kataware kikan bureaucratic policy. Policies thus openly decided can be more easily and fairly implemented, and involve a careful debate over choices that reflect a deeper social consensus over complicated issues that reflect a qualitative differences in value and needs to set priorities.

Instead of politicizing a bureaucracy, a cabinet and legislature can liberate it. Another criticism of a stronger, more "individualistic" pluralistic democracy in Japan is that such system would seem to deny some groups their direct representation in the system. Certainly a superlative feature of the Japanese system, through its kataware kikan type systems has been to include the interests of all in its economic development. But as can be seen in the housing and pharmaceutical markets in a more qualitative age of economic scarcity the immediate economic interests of each do not always translate into the interest of society. New priorities and balances have to be established between individual and social interests from a wider perspective than that provided by kataware kikan relationships, where ironically, in an era of limited growth and opportunity in the system, individual over national interests have been allowed to predominate. A positive effect on interest group behavior by a more legal regulatory system is to change the nature

of their representation in the system to a more open one, revolving around a stronger combining of individual with social goals where everyone is free to express their own interests and opinion.

In the housing issue unnamed bureaucrats within the Construction Ministry questioned the effectiveness of the plan. In the American case a strongly environmental administration might push for the program beyond what is feasible politically in the west. Here the U.S. Fish and Wildlife Dept. with local information and expertise could advise the pols on a more workable program that could be more effective in the long run in drawing up a program. Or the bureaucracy might find a more effective program than that proposed from the top.

Such programs might have the effect of going over the heads of politicians or top officials or put politicians and the bureaucracy itself on the defensive. Here upper echelons of leadership would have to re-define their programs to a more educated public that is suddenly presented with another alternative that is more politically palatable. Such plans introduced from lower in the system could become instantly more politically attractive to ruling or opposition parties, and introduces a sort of added check and balance into the system that can, for the bureaucracy, avert too much interest group pressure from one direction.

In the case of housing the bureaucracy probably has many ideas politicians have not thought of. While the internal structure of the Japanese bureaucracy makes the expression of individual dissent difficult, as official policy pushes consumerism some people in the bureaucracy probably know fairly radical, effective ways to achieve these goals, on the basis of an effective plan that could benefit the most peo-

ple. But, even as whole, the bureaucracy in Japan cannot exercise this sort of freedom in coming up with a plan it could put over on its kataware kikan groups in this way to gain control and leadership over its own system.

Conclusion

Though Japanese bureaucracies often appear invincible, surrounded by their political supporters that are directly dependent on the bureaucracy's discretionary powers, this power has limitations. While it can protect and maintain programs the bureaucracy can only introduce incremental changes that such inside groups would find acceptable.

While both Vogel and Johnson describe a Japanese bureaucracy capable of leading change outside of the legislature and law, we have seen how this is difficult for the bureaucracy to realize within its own kataware kikan groups. What both Vogel and Johnson seemed to succeed in explaining was how the Japanese bureaucracy was able to function effectively for a while within triangle relationships with politicians and interest groups where the interest of each were fully represented in the system. During this period a kataware kikan system provided the basis for close and effective cooperative networks that ensured coordinated and effective policies in the fulfilling of collectivist goals for the society.

While the bureaucratic system both Johnson and Vogel want to describe prevents outright politicization of the bureaucracy, what neither seemed to anticipate was how the bureaucracy, or other elements of the system, could escape those triangle relationships once they became closed or how a dynamic could be restored to the system if need be. Meanwhile Shindo describes the kataware kikan system

itself as a sort of institutionalized politicization. While Yamaguchi, in describing the function of the high *zokugin* system to the bureaucracy, seems to imply that outright politicization of the system would probably be a good thing since by overtaking the *kataware kikan* system entirely by one pressure group or another would force the bureaucracy to defend its interests and regain its programs on more public turf, which would open up the bureaucracy to more political leadership and public control.

As the Japanese bureaucracy, a strong central bureaucracy capable of real leadership in the mode of Vogel or Johnson, seeks to deal with change it cannot escape its political and interest group relationships within a system it itself has created to make new ones or forge new public consensus. Likewise interest groups and politicians are similarly trapped. Meanwhile while the *kataware kikan* system contains conflict within their own relationships the public is spared the chance to participate in debate and choice for the system such conflicts could create and help give the system direction and shape.

Yamaguchi argues that to restore neutrality to the bureaucracy, a clear separation between the legislative and bureaucratic realms has to be established. He argues that the best way to accomplish this is through clear administrative procedures where access to the bureaucracy would be through legislation and the cabinet. The sort of triangle relationships that would then form the bureaucracy could work through would have a greater chance of reflecting the true interests of all.

In this light the real meaning of deregulation is simply the issue of opening up the policy process to embrace the real demands of interest

groups, the bureaucracy, and politicians, within public debate in the legislature. This, of course, does not necessarily involve less regulation but also stronger regulation of the market to ensure fair competition (however that is defined) and open regulatory procedures, as well as clear, enforceable policies for how a market should be developed and maintained.

As a final note obviously the issue of the effectiveness of the legislature itself in modern systems, which are often choked with interest group politics, in creating public policy through such open debate alone might be questioned. But where the creation of public policy has been effective in the U.S. as in the wolf introduction program, strong leadership by the cabinet and bureaucracy, that could directly connect with the public, could overcome narrow interest group pressures. As in the wolf introduction program the bureaucracy, by reaching out directly to groups it was trying to administer, was able to informally form effective policy between various interest groups to create a strong policy consensus that would be difficult to attain in the legislature alone.

Matsushita argues that in the post-central government era as the creation and implementation of policy become more identical the focus of real politics will shift to more local issues and participation. Perhaps a sense of genuine democracy, capable of animating the legislature in a more open democratic spirit will come from such new concepts of community in forming policy. Here the use of such things as *gyosei shido*, or informal guidances by the bureaucracy, if backed up and checked by the legislature, can be invaluable in short circuiting vested interests in the legislature to create true public policy with. While my paper has concentrated on the central government, on

the local level, Japan is replete with such examples of effective policy formation.

While this paper has criticized Johnson it has attempted to do this in a historical context. The issue, of course, of whether bureaucratic leadership is responsible for Japan's phenomenal economic growth, or even really ever existed, is controversial. But the policy model Johnson presented, of controlled access that leads to a bureaucratic inspired consensus on overall aims for market development, was probably valid. What I have attempted to do in criticizing Johnson in this context is to point out how contradictions within this policy process, brought on in part by a changing environment and the accomplishment of growth itself, have left the bureaucracy, especially, incapable of any real leadership over its own system in the areas I have presented in this paper. I have also shown that while Johnson extols the virtues of a "development state," that in the Japanese case what is needed for effective policy formation is a strengthening of parliamentary institutions.

Finally I have attempted to put the arguments for a "revisionist" view of the Japanese system in a wider context of analysis. While scholars like Curtis argue for a normative view of the Japanese system, and scholars like Johnson argue from "a revisionist" perspective, and where these two kinds of views tend to polarize debate about the Japanese system, I have attempted to present a more balanced view that accounts for both viewpoints. Specifically, I have shown how the ideas of political scientists such as Yamaguchi and Shindo provide alternatives to both the revisionist and normative views of the Japanese system that have provided me with a more fruitful direction for the examination of the Japanese policy within the

areas I have tried to analyze in this paper.

Notes

- (1) Johnson, Chalmers, *MITI and the Japanese Miracle* (Tokyo: Tuttle, 1982), p.196.
- (2) *Ibid.*, p.308.
- (3) *Ibid.*, p.227.
- (4) Vogel, *Ezra, Japan as No.1* (Tokyo; Tuttle, 1979), p.78.
- (5) *Ibid.*, pp.60-61.
- (6) Shindo, Muneyuki, *Gyosei Shido* (Administrative Guidance) (Tokyo; Iwanami Shoten, 1992), p.112.
- (7) *Ibid.*, p.102.
- (8) Vogel, *op. cit.*, p.73.
- (9) *Ibid.*, pp.80-81.
- (10) *Ibid.*, p.59.
- (11) Shindo, *op. cit.*, pp.197-198.
- (12) *Ibid.*, p.164.
- (13) *Ibid.*, pp.163-164.
- (14) *Ibid.*, pp.169-170.
- (15) *Ibid.*, p.172.
- (16) *Ibid.*, p. 168.
- (17) Yamaguchi, Jiro, *Itto Shihai Taisei no Hokai*, (The Collapse of the Rule of the One Party System) (Tokyo: Iwanami Shoten, 1989), pp.153-156.
- (18) Curtis, Gerald, *The Japanese Way of Politics*, (New York: Columbia 1988), pp.81-89.
- (19) Shindo, *op. cit.*, pp.99-114.
- (20) *Ibid.*, p.105.
- (21) *Ibid.*, p.112.
- (22) Nihon Keizai Shimbun Company, ed., *Kanryo: Kishimu Kyodai Kenryoku* (The Japanese Bureaucracy: A Creaking Colossus) (Tokyo: Nihon Keizai Shimbunsha, 1994), pp. 22-24.
- (23) *Ibid.*, p.23.
- (24) *Ibid.*, pp.23-24.
- (25) *Ibid.* p.25.

- (26) Shindo, op. cit., p.164.
 (27) Yamaguchi, op. cit. pp.190-204.
 (28) Vogel, op. cit. pp.60-61.
 (29) *Asahi Newspaper*, April 4 and 8, 1995.
 (30) Nihon Keizai Shimbun Company, ed., op. cit. p.22.
 (31) Shindo, op. cit., p.164.
 (32) Lecture.
 (33) Yamaguchi, op. cit.
 (34) Ibid., pp.190-204.
 (35) Nihon Keizai Shimbun Company. ed., op. cit. p.130.
 (36) Ibid., pp.127-129.
 (37) Ibid., pp.129-130.
 (38) Yamaguchi, op. cit., p.154.
 (39) Curtis.
 (40) *Asahi Newspaper*, October, 10, 1996.
 (41) Ibid., April 12, 1995.
 (42) Ibid., April 6, 1995.
 (43) *Nikkei Newspaper*, April 16, 1992.
 (44) Vogel, op. cit.
 (45) Yamaguchi, Letter, April, 1997.
 (46) *Nikkei Sangyo (Industry) Newspaper*, November 9, 1993.
 (47) Johnson, Chalmers, *Japan: Who Governs?*, (New York: Norton, 1995), pp.72-84.
 (48) Nihon Keizai Shimbun Company, ed., op. cit., pp.104-107.
 (49) Ibid., p. 107.
 (50) *Nihon Keizai Shimbun*, Feb. 18, 1994.
 (51) Ibid., Feb. 25, 1994.
 (52) Ibid., June 20, 1994.
 (53) Ibid., June 28, 1994.
 (54) Ibid., July 25, 1994.
 (55) Matsushita Keiichi, *Sengo Seiji no Rekishi to Shiso* (Postwar Political Outlooks and History) (Tokyo: Chikuma Shobo, 1994), p. 345.
 (56) Kawasaki, Mitsuru, "Kobo: Kisei Kanwa" (Sparing Controversy Over Deregulation)

- Nikkei Sangyo Newspaper*, August 8, 1994. p.4.
 (57) Ibid.
 (58) Baggily, Sharon, "The Return of the Native," *Newsweek*, Jan. 23, 1995. pp.35-36.

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System). Tokyo: Iwanami Shoten, 1989.

(グレゴリー ポター 札幌学院大学非常勤講師)