The Promise and Peril of Legislative Reform

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Japan's policymaking process is in trouble, according to Shiozaki Yasuhisa, a Liberal Democratic Party (LDP) member of the House of Representatives. The iron triangle of big business, bureaucrats, and politicians that dominated Japanese politics for decades relied on a consensus about the need to catch up economically with the West and to resist communist expansion. But Japan's economic prosperity and the Soviet Union's collapse rendered these goals obsolete and, in turn, robbed the iron triangle of the ideological glue that held it together.

With no new consensus developing, Japan now lacks a beacon or control tower in government. What has arisen instead is an ad hoc policymaking process. The dominant guru has been replaced by a multitude of smaller gurus, each more interested in his political survival than in the common good. The key players have changed with each shift in prime minister. The *seisaku shinjinrui*, or "brats in the Diet"—a group of junior politicians with policy expertise—have sought to carve out a greater role for themselves but have found themselves outflanked by more senior politicians. Policy reforms have faltered, and Japan continues to grapple with fundamental economic and political problems.

The situation Shiozaki describes sounds more familiar than strange to an American ear. One does not have to try too hard to find echoes of similar problems in the past operations of the U.S. Congress. This is not to say that American political practice provides a direct analogue. The differences between the American and Japanese political systems and cultures are too great for that to be the case. Yet there are enough similarities between the two that a review of how Congress dealt with a major shift two decades ago may contain valuable insights—and cautions—for Japan.

THE CENTRALIZED CONGRESS

The U.S. Congress today has a well-deserved reputation as a democratic institution. True, members of Congress are not all created equal, and seniority typically brings additional status and influence. But one of the most remarkable features of today's Congress is how quickly even the newest members of the House and Senate can become crucial policy players.

This has not always been how things operated on Capitol Hill, however. Until the 1970s, congressional decision making was relatively centralized. Committees dominated congressional business, and senior members, especially the chairs, dominated committee business. House and Senate rules gave chairs tremendous power. They could create and abolish subcommittees, set committee agendas, choose committee staff, and manage bills when they went to the floor. Informal norms of behavior reinforced these formal rules; junior committee members were expected to view their tenure as an apprenticeship and to defer to committee leaders.

Not surprisingly, many committee chairs ran their committees as personal baronies—their word was law. Most consulted only with other senior members, but not with junior members. In the case of the House Armed Services Committee, for instance, members had to serve for as long as ten years before they were allowed to play a major role in committee business. One junior member complained in 1969:

> But we have another thing on our committee. It is called the policy committee . . . I do not know what it is. I have been on the [Armed Services] committee only $4^1/_2$ years. I do not know who the members of the policy committee are. . . . I have never seen a scratch of a pen before our committee authorizing what the policy committee does. I know on the day of our committee markup [of the defense spending bill] it was reported to us that the policy committee had recommended such and such with respect to all of these various systems, but I have never heard one member of the policy committee . . . relate what was happening, relate an argument, or relate some of the democracy that has taken place on that very important committee (*Congressional Record* 1969).

Things were much the same in the Senate, which was characterized as an elite men's club in which a handful of senior members dominated decisions (see Matthews 1960; White 1956). One senator described his experience as a junior member of the Senate Committee on Armed Services in the 1960s as follows: "[Chairman Richard] Russell and the senior members would sit at the other end. I'm partially deaf in my right ear and I couldn't even hear what the hell was going on. Finally one day I spoke up and asked Russell if he would mind talking louder so we could hear what decisions were being made!" (Lindsay 1991, 29).

In addition to the considerable deference from junior committee members, senior committee members could often expect considerable deference from the parent chamber. Floor challenges to committee bills were more the exception than the rule. In many cases, the bill the committee wrote became the bill that the chamber passed. To some extent, this floor deference reflected agreement on the merits of the policy and on what committee chairs with a good sense of what rank-and-file members would tolerate decided. But it also reflected the belief among many members that they had to go along to get along.

One consequence of the strong committee system was the existence of iron triangles similar to what Shiozaki notes in Japan. Congressional committees, federal agencies, and interest groups formed three-way alliances of mutual cooperation. Centralization of power within congressional committees was crucial to the iron triangles because without it, no one in Congress could deliver the legislative support that the other two arms of the triangle needed.

THE DECENTRALIZED CONGRESS

The tradition of centralized congressional decision making came under attack in the early 1970s (see Deering and Smith 1981; Dodd and Oppenheimer 1977; Rohde 1974; Smith and Deering 1984). The challenge was a reflection of both internal and external pressures. Many legislators, especially in the House, chafed against the tremendous power of the committee chairs. Some wanted to increase the potential for gaining political credit with their constituents through committee work. Others were like the *seisaku shinjinrui*—they had policy expertise and interests and wanted a greater say in policymaking.

Regional and ideological rivalries also played a role. Democrats from northern and western states bridled at the disproportionate number of committee chairs held by conservative southern Democrats. Southerners dominated the committee chairs because they had been elected at a young age, had never faced serious electoral challenges because they came from essentially one-party states, and thus had gained substantial seniority.

The American public aided the reformists' cause. Much as the Japanese public has become disillusioned in recent years by the Diet's inability to address the country's pressing economic woes, many Americans were deeply disillusioned by the course of the Vietnam War. They began electing more individualistic members of Congress. Like the *seisaku shinjinrui*, these new legislators were more interested in what the voters thought than what party elders thought. They were not interested in entering into an apprenticeship while more senior members managed the business of Congress. And just as Kato Koichi of the LDP and Kan Naoto of the Democratic Party of Japan (DPJ) aided the *seisaku shinjinrui* in the battle over the Financial Revitalization Law, senior congressional Democrats who sympathized with the new legislators' policy objectives—and who also saw a chance to increase their own power—encouraged their efforts to change the way Congress did business.

The new, more individualistic members of Congress devoted much of their effort to fighting—and usually losing—battles over the substance of policy. But they also devoted a good deal of their effort to another battle, which was to rewrite the basic rules of how Congress operates.

The House eventually adopted several key reforms in the 1970s. The most important came in 1973 when the House Democratic Caucus adopted its Subcommittee Bill of Rights. The new rules stripped committee chairs of the power to make subcommittee assignments and mandated that subcommittees have formal jurisdictions, authority to hold hearings, and a staff selected by the subcommittee chair. To enforce its will, the House Democratic Caucus removed committee chairs who resisted the reforms and replaced them with members who accepted the will of the caucus.

The Senate similarly adopted several rule changes in the 1970s that decentralized power (Ornstein, Peabody, and Rohde 1977; Sinclair 1989; Smith and Deering 1984, 48–50). First, it

limited senators to serving on only one of the Senate's top four committees, which included appropriations, armed services, finance, and foreign relations. This enabled junior senators to sit on the most prestigious committees earlier in their careers. The Senate subsequently increased the size of the legislative staff that junior senators could hire for their committee work. Later it barred senators from chairing more than one subcommittee per committee and made it easier for junior senators to get better subcommittee assignments.

In addition to changing the rules governing subcommittees, reformers sought to strengthen their ability to influence policy by expanding congressional staff. Many of the new staffers handled constituent problems and worked in district or state offices rather than in Washington, D.C. But many were policy experts hired to help members evaluate legislation and research issues. The number of House committee staff nearly tripled from 702 in 1970 to 1,909 in 1979, while the number of Senate staff went from 635 to 1,269 over the same period (Ornstein, Mann, and Malbin 2000, 135).

Reformers also strengthened Congress's institutional capacity for policy analysis in a bid to negate, at least in part, the decided advantage of the executive branch in policy information and expertise. The staff of the General Accounting Office, Congress's main watchdog agency, and the Congressional Research Service, which provides Congress with basic reference information, rose sharply. Congress also created two new support agencies: the Congressional Budget Office provided independent and ostensibly nonpartisan analysis of federal programs, and the Office of Technology Assessment advised Congress on scientific matters. (The latter was abolished in 1995, when Republicans won control of both houses of Congress.)

MORE DEMOCRATIC, BUT BETTER?

These reforms of the 1970s fundamentally changed the way Congress did business. Most notable was the dispersal of power to a broader array of members. Committee chairs remained as powerful actors, but the days when a few "old bulls"—or "gurus" in Shiozaki's parlance—could run Capitol Hill as they wanted were over. The main beneficiary of this dispersal of power was subcommittee chairs—or the smaller gurus. The House, for instance, now has more than eighty subcommittee chairs. Many of them are junior members, and they wield considerable influence.

As former Representative Morris Udall once joked, "We've got so many committees and subcommittees now that if you can't remember somebody's name, you just say 'Hi, Mr. Chairman'" (Davidson and Oleszek 1990, 218).

The decentralizing trend also effectively weakened the power of committees. Members of Congress unwilling to defer to old bulls on their own committees were even less inclined to rubber stamp the decisions made by those on other committees. The result was that the number of amendments offered on the floor, and the number accepted, increased dramatically (Smith 1989). More members, and certainly more junior members, had gained the ability to influence congressional decision making than had ever been the case during the days of the centralized Congress.

Iron triangles also became a victim of congressional decentralization. Committees became less able to deliver the support of their parent chambers, undermining one of the prerequisites of the traditional pattern of mutual cooperation. The tremendous rise in the number of organized interest groups—which placed competing demands on committees—further undermined the system. The result was less structured, more ad hoc policymaking arrangements, called variously issue networks and "hollow-core" policymaking, that allowed greater participation (see Heclo 1978; Heinz, Laumann, Nelson, and Salisbury 1993). These new policymaking arrangements are marked by more conflictual interactions and less predictable policy decisions (Ricci 1993).

All of these developments made Congress much more democratic as an institution. It is less clear that they produced better government. While giving more people a chance to have their say about policy made the process more reflective of the views found in the country as a whole, it also made it much harder to pass major pieces of legislation. Whereas the agreement of a few old gurus once was enough for a bill to pass, today it is essential to recruit a large number of smaller gurus. Moreover, decentralization may have made it easier to pass legislation tailored to narrow interests. Because decentralization means more people have an opportunity to stop legislation, it creates more opportunities for members to hold major legislation hostage until their specific, and often unrelated, demands are satisfied.

In a way, much of the tinkering with congressional rules in the 1980s and 1990s was meant to curb the excesses of the decentralizing trend of the 1970s. Over the past two decades,

Congress has sought to *re*centralize some, but by no means all, power in the hands of party leaders (see Dodd and Oppenheimer 1989). This was especially true in the budget battles of the 1980s, when legislation such as Gramm-Rudman concentrated power in the hands of relatively few people (see Dodd and Oppenheimer 1993; Quirk 1992). Still, Congress has not returned to the days of the old bulls, and the strains of decentralization and recentralization continue to coexist somewhat uncomfortably.

SHIOZAKI'S PROPOSED REFORMS

Decentralization of congressional decision making in the 1970s proved to be a double-edged sword. That lesson is worth remembering in assessing Shiozaki's proposals for improving Japan's policymaking process. His hope is to ensure that the Diet will "no longer be a mere rubber stamp of bureaucrat-made policy." To that end, he proposes establishing a year-round Diet session and a tax council, increasing the personal staff of the prime minister and minister-level politicians, and increasing the transparency of policymaking. Another reform proposal, though implicit rather than explicit, is that the Diet learn to harness the policy interests and expertise of the *seisaku shinjinrui*.

For Americans accustomed to year-long congressional sessions and congressional staffers so numerous they constitute a fourth branch of government, none of Shiozaki's proposals is remarkable. Yet while these reforms may be needed in the Japanese context, the American experience suggests their consequences may be uneven. True, they may make the Diet better able to challenge the bureaucracy. But that is not the same as restoring the control tower that Shiozaki longs for in Japanese politics.

The fact is, structural reforms by themselves do not, and cannot, create a political consensus. That task rests with society itself. And in the absence of consensus, reforms that democratize the political process will almost invariably give life to disagreements and complicate policymaking. That in itself is not bad. One responsibility of democratic governments is to air differences of policy opinion. But democratization creates the possibility, as the American experience shows, that government by smaller political gurus may not disappear but become entrenched.

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