

“Revisiting Ramseyer: The Chicago School of Law and Economics Comes to Japan”

Luke Nottage (USydney) with **Craig Freedman**
(economist, retired!)

<https://ssrn.com/abstract=3868698>

Preface

J. Mark Ramseyer, “Contracting for sex in the Pacific War” 65 Intl Rev L & Econ (2021)

- “The protracted political dispute between South Korea and Japan over the wartime brothels called “comfort stations” obscures the contractual dynamics involved. These dynamics reflected the **straightforward logic of the “credible commitments” so basic to elementary game theory**. The brothel owners and potential prostitutes faced a problem: the brothel needed credibly to commit to a contractual structure (i) generous enough to offset the dangers and reputational damage to the prostitute that the job entailed, while (ii) giving the prostitute an incentive to exert effort while working at a harsh job in an unobservable environment.
- Realizing that the brothel owners had an incentive to exaggerate their future earnings, the women demanded a large portion of their pay upfront. Realizing that they were headed to the war zone, they demanded a relatively short maximum term. And realizing that the women had an incentive to shirk, **the brothel owners demanded a contractual structure that gave women incentives to work hard**. To satisfy these superficially contradictory demands, the women and brothels concluded indenture contracts that coupled (i) a large advance with one- or two-year maximum terms, with (ii) an ability for the women to leave early if they generated sufficient revenue.”
 - Then “Expression of Concern”: <https://www.sciencedirect.com/science/article/abs/pii/S0144818820301848#!>
 - And eg <https://www.newyorker.com/culture/annals-of-inquiry/seeking-the-true-story-of-the-comfort-women-j-mark-ramseyer>

Overview

- Introduction
- Chicago's Economics, Plus Law, Equals Tradition: 3 Tenets
 - .. Markets Work, Even When They Don't Seem To
 - Skepticism as an Analytical Approach
 - Cold War Blues – The Ideological Context ...
- Proving the Non-Existence of Japan: Ramseyer as Professional *Enfant Terrible*
 - Markets Clear – Consistently (Only?) in Japan
 - Corporate Governance
 - Product Safety and Consumer Law
 - Politicians > Bureaucrats > Judges
 - Believe Nothing Said
 - Ideology Rules
- Conclusion: ideological excess from right (or left) shouldn't cancel all debate

I. Introduction

- “Teachers are entitled **to full freedom in research and in the publication of the results** ... College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citizens, they should **be free from institutional censorship or discipline**, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others ...”
 - American Association of University Professors, *1940 Statement of Principles on Academic Freedom and Tenure*, <https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>.

II. Chicago's Economics, Plus Law, Equals Tradition

- **“The trouble** with most people ain’t ignorance; **it’s what they know that ain’t so.”** (Josh Billings.)
 - Quoted in ROBERT LEESON, *Patinkin, Johnson, and the Shadow of Friedman*, in KEYNES, CHICAGO AND FRIEDMAN 19 (2003).
- “Price theory”: all relevant information is encapsulated in market prices, and economic actors respond passively to such signals
- Yet assumptions don’t matter, only observable “facts”
- “price theory stood as a bulwark against government intervention into the workings of a preferred *laissez faire* economy. Both Friedman and Stigler had only recently returned from the first meeting of the Mont Pelerin Society (1947) formed to resist a perceived world-wide tsunami of collectivism.”

Hence 3 Chicago School tenets:

- .. Markets Work, Even When They Don't Seem To
 - “What is, is efficient”
- Skepticism as an Analytical Approach
 - So eg “predatory pricing” can't exist because theoretically inefficient
- Cold War Blues – The Ideological Context of the Chicago Approach
 - ... The traditional (self-proclaimed) liberals, represented at Mont Pelerin [1947], firmly believed that a free economy was necessary for a democratic society. Given what they uniformly viewed as a dangerous, and almost unrecognized, drift toward collectivism, they, like their socialist opponents, saw no other viable option than embracing the underlying logic of their ideas. They needed to find the courage to be idealistic. The extent of the leap taken, from this position to that of a full-fledged ideologue, is hard to measure. A few steps in this direction need not lead to a deliberate attempt to slant research to achieve a given set of preconceived outcomes. ...

III. Proving the Non-Existence of Japan: Ramseyer as a Professional *Enfant Terrible*

- “Practical men, who believe themselves to be quite exempt from any intellectual influences, are **usually the slaves of some defunct economist.**”
 - J.M. KEYNES, THE GENERAL THEORY OF EMPLOYMENT, INTEREST AND MONEY (1936), quoted in JOHN QUIGGIN, ZOMBIE ECONOMICS: HOW DEAD IDEAS STILL WALK AMONG US 1 (rev. ed. 2012).
- Ramseyer as an (old-school) Chicago-style *provocateur*:
 - NO keiretsu (or powerful pre-WW2 zaibatsu), main banks, lack of outside directors, govt intervention in the economy (eg admin guidance), or lifelong employment [“where are those written contracts”?!]

So 3 applications by Ramseyer

- **Markets Clear – Consistently (Only?) in Japan**

- **Corporate Governance** (cf eg independent directors: empirical & theoretical studies)
- Product Safety (problems exist! Japan's PL Law did change in 1994! Claims increased and suppliers did improve!) and **Consumer Credit Law**
- Politicians > Bureaucrats > Judges: surrealism of pure principal-agent theory (eg “credible commitments”)

“Invoking the “rational choice” made by Chinese coolies pulling barges through the Yangtze River gorges, Ramseyer and Rosenbluth: “offer the explanation that ‘Acting collectively as principals, the coolies hired supervisors with whips to prevent each other from free riding’. It evidently never crossed the minds of these savants of coolie motivation that their conclusion is so preposterous that it could be established (if at all) only empirically – by some on-the-spot discovery of a hitherto unknown guild of Chinese masochists.” (Johnson & Keene 1994)

- **Believe Nothing Said**
 - Only observable “facts” matter (yet sometimes “anecdotes”?)
 - Sharply distinguished from norms (cf Tanase),
let alone expressed beliefs (eg surveys)
- **Ideology Rules**
 - Everything can, or should, be based on voluntary hence efficient contracts
...



IV. Conclusions

- “... highly-educated or intelligent people tend to be far more ideological than the general public. They are **more** likely to be partisan, to be obsessed with some moral-political cause, or to use some intellectual framework or idealized model to interpret the world.”
 - Musa al-Gharbi, *Three Strategies for Navigating Moral Disagreements*, HETERODOX: THE BLOG, (Feb. 16, 2018), <https://heterodoxacademy.org/blog/three-strategies-moral-disagreements/>
- This applies to the far right (old Chicago School and Ramseyer) but also the far left (postmodernists, who too play hard and loose with facts and logic: eg https://en.wikipedia.org/wiki/Cynical_Theories)

- Let them speak, if they meet minimal academic (not public) standards, but (re-)examine each individual paper on its merits:
 - So eg re Ramseyer's latest skeptical view of comfort women:
 - Were earlier brothels and Pacific War comfort stations really (regulated) the same?
 - Did the women really consent, or (efficiently!) break their contracts – & where are those?
 - How could they “shirk”? Were contracts not renewed instead to get in younger women?
- But people shouldn't assume Ramseyer is misogynist, or racist, or ultra-nationalist. He is demonstrably a consistent market fundamentalist!
 - Cf now Western (esp. US) academia's growing preferences for structural, rather than inter-personal let alone individualist approaches to social issues (Jindra)
 - And cf going way beyond usual market/regulation fields, incl. also burakumin