The Aneha Syndrome
When builders cut costs, end-users lose.

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More than four months after the fake earthquake-data crisis—dubbed the Anehæ Scandal—was exposed, the number of buildings identified as defective had grown to more than 100. It’s possible that the scope of the problem could increase significantly as we are already seeing that such design fraud is not limited to the rogue architect Hidetsugu Anehæ. Associating the scandal with his name may be dangerously misleading considering the magnitude and cause of the problem. The pain experienced by individuals and institutions as a result of a criminal lapse in ethical behavior is reason enough to reexamine standards of social responsibility in the construction industry and the role of architecture in Japanese society.

**Institutional impact**
The real estate industry has been seriously affected, with fewer condominium starts in November. Particularly hard hit were residential and hotel real estate investment trusts (REITs), as fund prices dropped 10-20% before partly recovering. REIT managers refuse to buy assets associated with the checking agencies implicated and the scandal has delayed the listing of funds at the IPO stage and deals contingent on property as collateral. Should continued investigations and media reporting indicate a systemic problem, then severe and sustained economic impacts would be expected. A broker recently noted, “They caught one (of the fraudulent practitioners), but how many more are out there?”

The scandal has exposed serious deficiencies in the insurance industry, such as gaping holes in coverage. Foreign reinsurers are beginning to distrust the checks and balances in Japan that are supposed to reduce their risk, and the lack of liability insurance for inspection agencies is also a concern. Most architects and engineers in Japan do not have professional indemnity insurance, largely due to traditional obligations whereby the seller is liable to the buyer and the general contractor gives a 10-year defect warranty. Problems can be solved if the seller and contractor remain solvent, but companies have been resorting to court protection against creditors by declaring bankruptcy. Insurance for small- to medium-sized...
companies is voluntary. Huser Co., which built nine defective condo blocks accommodating 309 households, was not covered.

The Ministry of Land, Infrastructure and Transportation may make insurance mandatory in such cases and premiums would be raised significantly if more structural engineers were found guilty of faking data. Professional indemnity insurance does not, however, pay out in cases of deception, such as falsification of structural data, and earthquake policies are invalid if the holder knew about the defects when signing.

Of great social significance is the impact on hundreds of condo and hotel owners and the families and staff members who abandoned the properties or are required to. Many lost jobs or suffered financially and are unsure about recourse. On the positive side, however, the LDP was preparing an 88-billion supplementary financial assistance budget. Meanwhile, the Government Housing Loan Corp. and Shinsei Bank have announced an interest-free, three-year suspension of loan repayments and extended repayment periods for victims. Also, the General Insurance Association member firms will suspend earthquake-insurance premiums and the Tokyo Metropolitan Government will not impose property taxes, as the buildings are effectively worthless.

While these initiatives undoubtedly help ease the pain, hundreds of condo owners must still pay mortgages on properties with no value. They have watched their equity vanish and are embroiled in increasingly more complex litigation with profoundly uncertain outcomes. It would be near impossible for victims to get another mortgage should they wish to buy a replacement home, and highly unlikely that loans on defective properties will be written off. The disruption and stress suffered by these people is difficult to fully appreciate. Many are still in denial and some are so overwhelmed by the logistical and social nightmare of displacement that they refuse to move out of their buildings, some of which are so badly designed they will deform and fail over time under their own weight, let alone if an earthquake strikes.

Faulty moral compass
The full dimension of the scandal has yet to be revealed, if it ever will be. Significant forces are in play to minimize or suppress further publicity of the crisis. As an LDP official said in January: “Any further hunting for ‘bad guys’ would ruin the industry.”

The media also quoted Prof. Yoshimitsu Shiozaki of Kobe University observing “disturbing signs that Japanese society is ever more tolerant to the naked pursuit of profit that drives these dishonest businesses. It seems increasingly regarded as a necessary evil on the road to economic revival.”

This collective tolerance of deception, an anomaly in the context of Japan’s economic might as the world’s second-richest nation, has exposed a deep social flaw in contemporary society that warrants further examination and discussion. One elderly man reflected on the scandal in a newspaper as indicative of “the current state of Japanese society in which people seem to have lost their moral compass.” Atsuo Okasaki, the ministry’s director of codes and standards, shared concerns for the perceived drop in ethical standards and consequent moral hazard.

Company or safety first
So what are the root cultural forces that corrupt a structural engineer tasked with performing critical safety functions for buildings in the world’s most seismically unstable region? And how problematic is the issue of personal integrity within the industry? Aneha’s justification for falsifying documents is that he was “under pressure to slash costs and speed up the structural strength calculation process.” He feared losing his clients if he did not comply. Such pressures are often imposed on the professional design community by general contractors, some of which are primarily driven by profit, usually at the expense of quality or even the safety of end-users. An Internet poll of structural engineers by Jun Kanda, professor of architecture at the University of Tokyo, revealed that 37% of the 121 respondents admitted they had “experienced unfair pressure from companies to reduce costs in structural design.” Kanda
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concluded, "There is the possibility of similar problems being buried elsewhere."

This is precisely why in most countries architects and the structural engineers they retain are usually contracted directly by property owners or developers, largely to protect themselves and prospective occupants against the rapacious tendencies of less responsible, profit-oriented building contractors. For historical and cultural reasons these roles are reversed in Japan, with architects and engineers mostly hired by contractors and thus far more submissive to their demands.

Also troubling is the inherent complicity of the large number of individuals who would have been aware of the noncompliant and obviously unsafe structural design. Workers faced with these suspicions would have included site engineers, construction supervisors, steelworkers, formworkers and various site staff whose experience would have easily enabled them to recognize structural elements designed to only 15% of the legal standard. According to an independent architect commissioned by the Yomiuri Shimbun to inspect one project, "Experienced persons on site at the time of construction would have noticed the below-standard structure."

Why did nobody speak up? Site workers know that a red flag could seriously affect the schedule, cost and reputations of individuals and companies, with very painful fallout for everyone. In a

clanish, conformist society such as Japan’s, where personal integrity is often subordinate to the good of the group or organization, individuals are easily discouraged from blowing the whistle by a misplaced sense of loyalty and corporate honor.

Alleged collusion between individuals as well as corporations remains problematic at higher levels, too. Links have reportedly been discovered between companies tied to the scandal and LDP Cabinet officials. This pervasive cultural phenomenon may be a challenge that goes far beyond the remedial capabilities of building authorities and ministry regulators.

Catching fallout
Who will ultimately be liable for damages and compensation? Some of the contractors involved, such as Kimura Construction Co., and their affiliated design companies, have already filed for bankruptcy protection from creditors and possible litigants. Some developers may follow. Huser's asset-to-liability balance is dwindling fast.

In early January it was reported to be ¥748 million, a fraction of the cost to demolish and rebuild their defective properties. With ingenuous bravado, Huser, accused of knowingly selling defective condominiums, has filed a lawsuit demanding ¥13.9 billion in damages from 18 municipal governments it blames for not spotting falsified data.

Government checking agencies are uninsured, as are Aneha and the other designers, of whom eight were stripped of their licenses.
The Anhe Syndrome

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That leaves the government, local municipalities and condo buyers to pick up the tab. Municipal governments are responsible for confirming approved construction data submitted by private inspection firms. This inculcates the checking companies and places the government squarely in the cross-hairs of compensation litigation, although the effectiveness of legal action against public entities has a poor and tortuous track record.

Blame building boom
Japan’s rapid post-war recon-struction has led to a loss of faith in architecture and has impoverished the environment. Most buildings in Japan seem designed merely for commerce with priority on yield, and are considered a commodity with a short life of little or no cultural value. Deregulation, tax laws and a lack of controls exacerbate this. Buildings depreciate in value rapidly and it is common for perfectly sound structures to have no value on paper after 20 years or less. According to Associate Prof. Shuichi Matsumura of the University of Tokyo’s Department of Architecture, the average life span of a building is nine years. The realities of the market, public perception and social expectations are that buildings do not warrant more than the minimum investment, and achieve higher yields if maintenance is deferred, becoming quickly obsolete.

The resulting lack of cultural value of buildings has damaged the environment humans have created, many observers lament. The diminished role for buildings in Japan’s cultural context accommodates and rationalizes the exploitative tendency of industry elements, some of which have crossed the threshold of social responsibility.

The public outcry from the scandal will hopefully result in significant regulatory improvements and consumer protection. It may also reawaken certain people to the importance of integrity and the potential value of properties as cultural building blocks that help create and define society and which deserve a longer life and more thoughtful gestion.

This may prompt mere buildings to become works of architecture and raise expectations and standards of structural integrity and urban and cultural purpose. If there is to be a realignment of the moral compass, let’s hope it points toward a greater sense of ethics by the construction industry and a broader purpose and meaning for architecture as an instrument of great social significance in the cultural fabric of Japan’s man-made environment.

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