

UCLA

UCLA Pacific Basin Law Journal

Title

Foreword

Permalink

<https://escholarship.org/uc/item/1822s3r0>

Journal

UCLA Pacific Basin Law Journal, 10(2)

Author

PBLJ, Editors

Publication Date

1992

DOI

10.5070/P8102021994

Copyright Information

Copyright 1992 by the author(s). All rights reserved unless otherwise indicated. Contact the author(s) for any necessary permissions. Learn more at <https://escholarship.org/terms>

Peer reviewed

FOREWORD

The *UCLA Pacific Basin Law Journal* is pleased to offer in this issue a diverse collection of articles and comments addressing topics of key interest and concern to our readership.

In "The Chinese Democracy Movement in U.S. Perspective," Josephs examines the progress of civil liberties in China and compares it with the history of First Amendment jurisprudence in the United States. Despite close parallels, she notes one critical distinction: In the United States, the limits of civil liberties are actively shaped by the courts. The major impetus for change in China, however, stems from mass movements. Josephs focuses on the aftermath of the 1989 Chinese Democracy Movement and concludes that, despite violent government repression, mass movements are testing and expanding the limits of freedom of speech and assembly in China.

PoKempner explores two troubling aspects of Hong Kong's policy towards Vietnamese boat people, namely, indefinite detention and mandatory repatriation. She describes how Vietnamese refugees in Hong Kong are subject to years of detention before highly flawed government procedures determine whether or not they merit refugee status and thus avoid compulsory repatriation. Under recent agreements between Britain and Vietnam, those not found to be refugees are forcibly repatriated. PoKempner notes that these agreements fail to provide any protections against possible prosecution or discrimination for vaguely defined "political crimes." Finally, PoKempner argues that present arrangements for U.N. monitoring in Vietnam will not suffice to protect returnees' human rights, and that Britain's policies in fact set a series of dangerous precedents on the eve of Hong Kong's transition to Chinese sovereignty.

Ntumy examines the two separate legal systems that currently exist in the French overseas territory of New Caledonia and argues that the system applying to indigenous Kanaks fails to protect Kanak legal autonomy and culture. Kanaks born in New Caledonia are covered by the *statut civil particulier* (a special civil status), which purports to preserve Kanak customary law through a complicated system of protections. French citizens in New Caledonia, and Kanaks who

so choose, are governed by French Civil Law. However, Kanaks who opt to be governed by French Civil Law lose the benefits of Kanak customary law. Ntumy believes the undesirable outcome of this choice is the disintegration of Kanak culture and legal autonomy. He urges Kanaks to use the upcoming political reorganization under the Matignon Accord to correct the inadequacies of the *statut civil particulier*.

Beyer reviews tax reform in Japan through an historical overview of the Japanese tax system from the Meiji restoration of the late 19th century to the current system, focusing in particular on the far-reaching recommendations of the U.S.-sponsored Shoup Mission in the 1950s. The immediate goal of the Shoup Mission was to stimulate Japan's war-torn economy, while the long-term objective was to promote a progressive and fair tax system. However, this system of reforms was improperly implemented, leaving it unable to cope with sudden global economic changes. Consequently, a second major reform was undertaken in 1988 to address continued tax inequities. The author argues that the 1988 reforms have not gone far enough towards achieving true horizontal equity and in fact preserve certain elements of regressive taxation. Beyer concludes that an interdependent world economy dictates tax system flexibility, and that periodic amendments to the Japanese tax code are thus both necessary and likely.

In "Violent Repression in Burma: Human Rights and the Global Response," Guyon documents what stands as perhaps the most brutal example of systemic human rights abuses by a government in the world today. In recounting the dictatorship's attempts to crush Burma's democracy movement and its refusal to transfer power to the elected opposition, Guyon presents a list of abuses that include the slaughter of untold thousands of Burmans and ethnic minorities, forcible mass relocations, and the creation of an exodus of nearly three hundred thousand refugees.

Against this background, Guyon examines Burma's international legal commitments and determines that the regime directly violates both the letter and spirit of the United Nations Charter and five other treaties, as well as several non-derogable principles of international law. Guyon then evaluates the global response, noting that while many countries have condemned the atrocities and levied sanctions, many other nations remain complicit through continued trade and have even expanded economic and/or military ties. Finally, he recommends that the nations of the world employ joint economic sanctions to force the military regime to cease

all human rights abuses and turn over power to the democratically-elected government.

Glassman examines extrajudicial mediation in the P.R.C. by describing how its role has evolved throughout the nation's history. He argues that in contemporary China the government increasingly employs such mediation as an instrument of social control in order to promote economic reform. Glassman analyzes the 1989 regulations governing the People's Mediation Committees, and contends that these rules bolster the efficiency, professionalism, and usefulness of mediation as a coercive mechanism. Though noting that mediation in China has its shortcomings, Glassman nonetheless predicts that the institution will continue to play a central role in the modernization of China.

Recio uses the T. Boone Pickens—Koito affair as a backdrop for examining shareholder rights in Japan. He first traces the evolution of the stock market in Japan to show that shareholder rights are far less extensive than in the United States for several reasons, including the traditionally limited role required of shareholder investment as a form of corporate financing. Within this context, Reccio then explores Picken's dispute with Koito by considering each party's analysis of the problem. The author concludes that a number of legal and economic forces may lead Japanese corporations to change their attitude towards shareholders, to the point where shareholder participation is no longer an "empty formality."

Yukevich reviews *Human Rights in Korea*, a collection of essays analyzing the Korean human rights experience since the late nineteenth century. He commends the authors' empirical rigor in examining the histories of various reform movements and the record of rights abuses by recent South Korean governments. Noting also the depth of theoretical insights concerning rights reform, Yukevich finds *Human Rights in Korea* a significant contribution to human rights scholarship.

We trust that you will find this issue of the *UCLA Pacific Basin Law Journal* both interesting and provocative.

THE BOARD OF EDITORS

