

FOREWORD

The Pacific Basin Law Journal is pleased to offer in this issue a collection of articles that deal with the troubling issue of infanticide and additional articles on Korean labor law and Hong Kong nationality issues.

First offered is a symposium on infanticide. The recent case of Fumiko Kimura sparked much debate in legal circles over the issues of cultural defense and infanticide: in 1985 Kimura was convicted of manslaughter, after having drowned her two children in an attempt at *oya-ko shinju* [joint parent-child suicide]. Bryant and Kawanishi take the case of Fumiko Kimura as a starting point from which to explore the legal and sociological ramifications of joint parent-child suicide in Japan.

Bryant analyzes how Japanese courts treat parents like Kimura, who succeed in killing their children, but stop short of suicide. She finds that contrary to popular perceptions, Japanese courts impose much stiffer liability on infanticidal parents than many believe. The mere existence of the cultural phenomenon of *oya-ko shinju* does not predicate a corollary excuse — rather, courts base liability on a complex set of factors. Bryant's penetrating analysis of these factors provides remarkable insight to family norms which are rarely articulated in Japan.

Focusing on mother-child suicide, Kawanishi examines the sociological and psychological reasons for the phenomenon of *oya-ko shinju*. Kawanishi argues that the phenomenon springs from strong social norms that encourage Japanese mothers to over-identify with their children. This intense identification results in a type of ego extension, whereby the mother comes to consider the child as an extension of herself. Kawanishi also discusses the phenomenon of suicide as a culturally viable form of coping or as a form of revenge for women who feel hopeless or betrayed. In her examination of these cultural norms, Kawanishi explains why many Japanese believe that a more loving mother will take her child with her in suicide.

Turning to China, Jimmerson explores the phenomenon of female infanticide. Since China instituted its one-child policy in 1980 to limit population growth, the traditional practice

of killing infant females has resurfaced to an alarming degree. Jimmerson examines the historical background to infanticide: she discusses the cultural preference for sons, marriage customs that work to devalue daughters, and traditional legal family norms. She explains how recent economic policies have worked at cross-purposes with the nations' one-child policy, in effect encouraging rural couples to bear super-numerary children and to control gender through infanticide. Jimmerson traces the evolution of the one-child policy since 1980, focusing on the government's often schizophrenic legal and extra-legal responses to the peasantry's widespread disregard of the policy.

Choi analyzes the issue of cultural defenses in criminal proceedings in the United States and examines the reasons for and against formal recognition of a cultural defense. Three recent cases, including the Kimura case, involving immigrants to the United States provide a background for exploration of whether cultural factors should be considered by the prosecution and the courts in charging and sentencing the defendants.

In addition to the above collection of articles, this issue includes additional pieces that we hope you find interesting. Rodgers examines recent developments in Korean labor relations in the wake of the Korean government's announcement of a package of political reforms on June 29, 1987. Utilizing a historical analysis, Rodgers identifies three categories of mechanisms used traditionally by a government/business coalition to minimize labor costs and maintain labor peace: 1) the promotion of a system of values and behavioral norms associated with Confucianism; 2) the promulgation of a state corporatist system of cooperative and/or ineffective business unionism; and 3) the obligations as well as legal procedures by which to adjudicate labor disputes. Rodgers analyzes why these mechanisms have partially broken down as the business/government coalition has sought to achieve its goals in recent years, and highlights the consequential changes in the ROK's labor relations environment as of the end of 1989.

Finally, Chua examines the complex and disturbing nationality issues arising from the United Kingdom's transfer of Hong Kong to China, which is scheduled for July of 1997. As a result of British policy changes leading up to the 1984 Sino-British Agreement, most of Hong Kong's citizens no longer have citizenship or a right of abode outside of Hong Kong. Chua delineates relevant aspects of the formal transfer agreement, the Joint Declaration; and she explains the dangers presented by the many nationality issues it leaves unan-

swered. She then focuses on the meaning of the Joint Declaration in view of each government's nationality law history and practices. Chua concludes by evaluating solutions to the Agreement's deficiencies.

We hope you find this issue to be valuable and informative.

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FOR THE BOARD OF EDITORS

