

FOREWORD

The UCLA Pacific Basin Law Journal is pleased to offer an engaging, diverse group of articles addressing libel law, civil law, company law, and tax issues in the Pacific Rim.

In the lead article of this issue, Professor Kyu Ho Youm examines Korean and American treatment of libel law and the law's effect on freedom of the press. Professor Youm observes that in America, freedom of the press is protected as a constitutional right and is seen as playing an important democratic role, while in Korea, press freedom and an individual's right to reputation are placed on a more equal footing. He argues that the differences in the two countries' constitutional and statutory treatment of libel are rooted in differing social and cultural approaches. While criminal prosecutions in Korea for libel are decreasing, civil liability is gaining in prominence. Professor Youm observes that as civil libel cases have increased and the press's role in a democratic Korea has gained prominence, the courts have endeavored to formulate a set of constitutional standards that balance the protection of press freedom against that of an individual's reputation.

In the next article, Professor Pitman Potter explores the relationship between popular attitudes and the doctrinal norms embodied in Taiwan's rational and formal civil law system. Professor Potter begins his analysis with a discussion of the general principles of Taiwan's civil law system. In particular, he examines the formal ways in which notions of equality and justice manifest themselves in doctrinal norms regarding contract, unjust enrichment, and property. Using survey data, he then examines the extent to which popular attitudes have assimilated these doctrinal norms. The results of his survey data suggest that the persistence of traditional attitudes have limited the extent to which abstract notions of equality and justice have been applied to practical experience. However, the data also indicated a growing willingness to resort to litigation to settle disputes. Finally, he concludes that this interplay of doctrine and attitude suggests that economic growth is the stimulus rather than the product of formal legal rationality.

Next, Professor Howard Gensler provides a description of the new People's Republic of China Consumption Tax Code

("Consumption Tax"). The new tax scheme, which became effective at the beginning of 1994, replaced the previous two-system tax system, which differentiated between foreign and domestic businesses. Professor Gensler's article summarizes the basic provisions of the Consumption Tax and details the calculation and accounting methods that are established by the new code. Citing the types of goods subject to the Consumption Tax, Professor Gensler argues that the Consumption Tax is a sin and luxury tax levied to offset the economic and environmental harms that the subject goods impose upon society.

The article by Darryl Chiang examines recent developments in the foreign lawyer provisions in Hong Kong and Taiwan. As Chiang discusses, U.S. law firms are utilizing their competitive advantage by exporting legal services around the globe. The growing economic strength of the Hong Kong and Taiwan jurisdictions has attracted many U.S. law firms to establish offices in these markets. Several U.S. law firms use Hong Kong as an entry into the emerging market of China. Hong Kong and Taiwan have both recently modified their provisions for licensing foreign lawyers. Thus, the foreign lawyer wishing to practice in these jurisdictions should have an understanding of how the regulations regarding foreign lawyers have developed. In addition, it is important to understand how the common law tradition of Hong Kong and the civil law model of Taiwan influence foreign lawyer licensing requirements. Chiang surrounds his analysis of recent developments with valuable insight into how the politics of the local bar associations have affected the foreign lawyer provisions. Finally, Chiang contrasts the divergent paths of the reforms in Hong Kong and Taiwan and their likely impact for foreign lawyers in the future.

Our student piece by Sunny Huo explores the impact of the recent passing of the Company Law of the People's Republic of China ("Company Law"). The Company Law provides guidelines to establish and operate corporations in China. Specifically, the Company Law affects limited liability companies and companies limited by shares with regard to requirements for establishment and operation, including the rights and liabilities of shareholders, anti-corruption and company supervision, and share transfer restrictions. Huo also discusses the ramifications of the Company Law on foreign businesses, suggesting that the Company Law will allow foreign businesses to understand Chinese corporate law more easily. Huo ultimately concludes that it is too early to know the precise effects of this new law but is optimistic of the Chi-

nese government's efforts to improve the business environment in China.

Michael S. Bennett gives us an insightful review of *Taiwan's Financial Markets and Institutions* written by Brian Wallace Semkow. The book focuses on Taiwan's recent efforts to deregulate and internationalize its financial markets. Semkow argues that recent amendments to Taiwanese Banking, Insurance, and Securities Law have resulted in a liberalization of Taiwanese industries. Increasingly, Taiwan has become more open to both foreign and domestic competition. Semkow also discusses the obstacles that Taiwan faces in opening their markets, such as Taiwan's underground financial system. Finally, Semkow cautions that further reforms are necessary before the Taiwanese government can claim success in reforming the Taiwanese financial markets. This highly informative book was written for the foreign legal community specifically interested in recent developments in Taiwanese finance.

We trust that you will find this issue to be both interesting and informative.

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