

JUSTICE HORIZONS

"NU HOU KANAWAI"

TRENDS, RESEARCH FINDINGS AND EMERGING ISSUES



Social Issues:

"Maui's Boom is Staggering"

Ken Miller

Honolulu Star Bulletin

May 18, 1989

Summary:

The island of Maui, once a paradise for escaping urbanites, has now become a place to escape from. Last year development on the Valley Isle ballooned to more than "\$300 million in construction projects, including the addition of about five new housing units per day." Slow-growth advocates warn that "Maui is becoming another Oahu: congested roads, inadequate public facilities, and high rents for scarce apartments."

According to Miller, slow-growth

advocates may not be too far from the truth as estimates indicate that in 15 years Maui "will have a de facto popula-

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tion (tourist and residents combined) of about 220,000. That's more than twice what it is today, which is twice what it was

15 years ago." Miller further asserts that there may be two or three times as many cars on the island's already overcrowded roads by the year 2015. In addition, Maui's landfills are overflowing to the point that roadside trash has now become part of the island's scenery. Furthermore, Miller asserts that the "sewer system is choking and housing is so tight and rents so high that it's not unusual to find groups of employees rotating bed-time in cramped apartments."

Despite Maui's current burgeoning social and economic problems, plans are now under way to expand Kahului Airport and extend the length of its runway. County Councilwoman Alice Lee "is against a longer runway until Maui's roads and other facilities are

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Law & Technology:

"Britain Rushes To Outlaw Trade In Human Organs"

New Scientist

May 20, 1989

Summary:

Enforced with fines of 2,000 pounds (U.S. \$3,180) and prison sentences of three months, the buying and selling of human organs will soon be outlawed in Great Britain. Moreover, the sale of kidneys from Turkish peasants to the Wellington Humana Hospital in London, has led to the passing of the Human Organ Transplants Bill which intends to curb the rapid expansion of traffic in human organs.

Living donors now represent 10 percent of the kidney transplants in Eu-

rope. Although this number is rapidly expanding, few nations have any legislation relating to living donors. Public opinion polls indicate that most in the European Community (EC) feel that payments to living donors are unethical.

The British medical profession questions the legislation as it does not effectively deal with the issue of donating organs. While most EC countries remove vital organs from the deceased unless otherwise specified by the family, Britons must consent in writing to become kidney donors. Also, tracking payments for organs is almost impossible. The Royal College of Surgeons notes there is no register of organ removal from live owners, making enforcement of the legislation unlikely.

Comment:

The issue of human body parts transcends the ethical issues of proper care and respect of the dead. Laws established to provide minimal protection of the dead were primarily for reasons of sanitation and disease. Historically, the medical community which needs human bodies for dissection and study has utilized bodies of the nameless poor street people for its experiments. Now, as the demand for living tissue increases, such practices may be brought to bear upon society's living "wretched."

New medical technologies enable life saving practices never before imagined. As technology creates new ways to save lives there is a corresponding increase in demand for the use of these

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improved to deal with what she fears will be still more tourist flying directly to the islands." However, Mayor Hannibal Tavares as well as Council Chairman Goro Hokama and Councilwoman Linda Crockett-Lingle claim that a longer runway "would give local farmers and businesses 'more flexibility' to import and export their goods." Besides, "the airport is not what attracts people to Maui" says Mayor Tavares. State Airports Chief Owen Miyamoto adds, "even if the wide-bodied jets weren't coming to Maui, the same number of people would still be coming and leaving on Hawaiian or Aloha, and they'd carry as many passengers as possible."

Even Mayor Tavares sees problems arising from development and in an effort to try to address the island's problems, Mayor Tavares asserts, "we must act immediately to deal with these critical infrastructure requirements." He estimates that Maui County would need at least \$250 million in the next five years to address the island's most pressing water, road, and sewer needs.

"The general plan calls for 'timely development' but the infrastructure has not been there."

Undoubtedly, Maui's rapid development rate caught many government officials by surprise as Councilwoman Linda Crockett-Lingle comments, "We're overwhelmed, nobody expected Maui to become as popular as it is, and it's obvious that we went a little too far."

West Maui Councilman Howard Kihune asserts that, "we've got to put some brakes on this development, if only because of all these problems." Lynn Britton, the Maui Hotel Association executive director agrees, saying, "we've been going too fast as it is. The general plan calls for 'timely development' and the infrastructure has not been there." Mayor Tavares is quick to point out however, that "the Council approved all the plans and attendant zoning, and any attempts to stem development already approved could mean lawsuits." ♦

Organs from Page 1

techniques. The problem is that these techniques require the living pulsing organs of healthy adults. Thus, the human body becomes perceived not as a machine of labor, but as a commodity for profit and exchange.

Legal dilemmas in this area involve questions of individual will and free choice. Should individuals be al-

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lowed to profit from their flesh? Already blood, plasma, urine, organs and hair are sold by individuals. Should body parts be an insurance policy in the event of death where all viable parts are sold and the family compensated? Or is the selling of organs an act of "prostitution?" Will banning the sale of organs create backroom operating tables as when abortion was illegal? This is a legal question which may eventually be as powerful as the abortion issue. ♦

See: "How The Dead Can Help The Living," *NHK/Justice Horizons*, (Vol. 3, No. 1, 1986) and "Who Owns A Patients Cells," (Vol. 1, No. 4, 1984).

Corrections:

"The Search for Ways to Break Out of the Prison Crisis"

Scott Ticer
Business Week
May 8, 1989

Summary:

The U.S. currently spends in excess of "\$20 billion annually on corrections." This exorbitant cost has corrections officials quickly rethinking the traditional means by which lawbreakers are punished. Morris L. Thigpen, Alabama's

corrections commissioner comments, "it just doesn't make sense to pump millions and millions into corrections and have no effect on the crime rate."

With a 38% return rate for ex-convicts from state prisons, Thigpen touches upon a situation that has become extremely problematic for corrections officials. In addition, the public itself has taken a "get tough on crime" campaign that has contributed to the nearly 1 million adults now behind bars. The fact of the matter is that state corrections agencies can no longer afford uncontrollable prison cost.

According to Ticer, one popular alternative to state prisons for first-time offenders is short term boot camp regimen. The primary goal of boot camp "is to keep first-time offenders out of a hard-core environment where they may become hardened" criminals. The attractiveness of boot camp comes from its cheaper operating cost and its ability to relieve an already overcrowded prison system. However, some corrections officials have found that boot camp recidivism is as high as normal prison recidivism.

Ticer claims that a viable solution to recidivism is a joint venture between private industry and prisons. A case in point is the California program which allows inmates to work as TWA reservation clerks while earning a modest income. Ticer asserts that "of the 28 inmates who graduated, only two have returned, compared with a 60% recidivism rate for youthful offenders in general."

Unfortunately, Ticer claims that the program requires an investment of approximately \$27,000 per inmate. Although this cost offers no immediate economic incentive, Fred F. Mills, director of the California program asserts that "if we can keep an individual on the streets and gainfully employed, that's where the real savings come in."

According to Ticer, last year 1,500 inmates were employed in joint ventures between 32 prisons and 45 private companies. Although employers pay market wages to the state and inmates, they acquire benefits which at times add up to 35% of the compensation cost. In addition to the obvious benefits from employing prison in-

Research Finding: The Growth of Maui, Implications for the Hawaii Judiciary

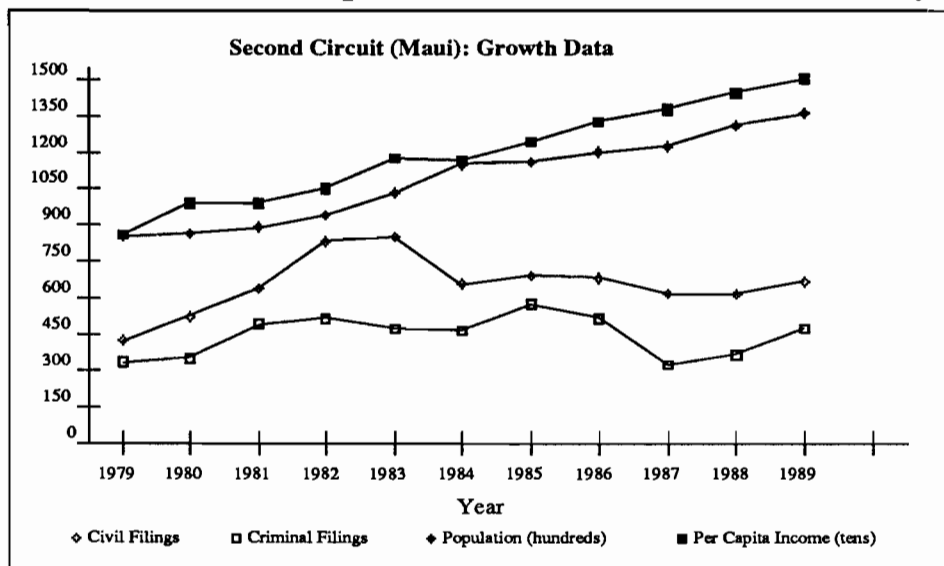
Unlike Maui's economic and population explosion, its civil and criminal filings have increased only slightly in the past decade.

Previous studies have found strong positive correlations between population growth, economic growth and case filings. An earlier study on Maui concluded that "as the population goes, so does the caseload."¹ The same holds true for economic growth. Thus, given the boom in Maui, we might deduce that there would be a concomitant increase of demand on judicial services. However, this has not happened. Criminal filings have fluctuated in the past decade, increasing in some years by more than a hundred cases (1984 to 1985) and decreasing in other years by more than a hundred fifty cases (1986 to 1987).

Moreover, Maui's civil filings have not increased annually, as one might expect given upward changes in tourism, housing, and population. Rather they rose steadily until 1983 and then declined from a high of 847 cases for the decade in 1983 to to a low of 614 in 1987 and have managed to stay in the 600 cases filed range in the past few years.

These results are surprising and call for some level of understanding if not causal explanation. First, these trends suggest some differences with the national findings of Thomas Marvel, who argues that a strong economy leads to increased filings.² While this relationship held true in earlier expansionary periods, it appears not to in recent history.

Moving this analysis to a more sophisticated level, various bivariate analyses were conducted to explain the changes in Maui's civil and criminal filings. Using variables such as de facto population, per capita income, building permits, and tourists to explain Maui's circuit court civil and criminal filings, the correlations found in general were low. Population explained less than three percent of the variance of civil filings. In addition, the strongest relationships were not linear as in previous studies but curvilinear. Other variables explained little of the changes in criminal filings. However, fluctuations in civil filings correlate strongest



with building permits and personal income. Permits explaining 25 percent of the variation and personal income explaining nearly 19 percent of the variation. Two relationships we might expect.

...arguing for increased resources based on expected population increases or based on economic trends appears to be equally problematic, so suggests the data.

A multiple regression model—one that uses all the variables above interacting simultaneously to explain changes in civil and criminal filings—proved to be more successful with 43 percent of the variation of criminal filings explained and 62 percent of civil filings explained.

In addition to the classical plea for more research, what else can be concluded from the above? First, predicting the future of civil and criminal filings based on autoregression forecasts (that is, assuming that the future will follow the pattern of the past) or based on independent variables such as population or the economy appears to be problematic. Recent civil and criminal filings do not follow previous pat-

terns; they are declining. This pattern is observable at the first circuit level as well. Second, the assumption that demands on the judiciary are linear appears to be equally problematic. Third, arguing for increased resources based on expected population increases or based on economic trends appears to be equally problematic, so suggests the data. However, disaggregating the civil data and for the criminal data unpacking the institutional and policy roles of the police, the prosecutor's office, and the legislature must be considered as well. Equally valuable would be understanding the growth patterns of the different circuits.

In summary, the above data suggests (but does not demonstrate) that previous growth patterns, the assumptions of linearity, and the assumptions behind resource allocation models are contentious. What new variables might account for these changes? A change in the legal culture? A change in the structure of Hawaii's economy? Mediation and arbitration? New laws?

While these questions presently remain unanswered, we can assert that forecasting future demands on the second circuit based on past trends is problematic.

1. Rik Scarce, "The Next Five Years: Trends in Maui County," (Hawaii Judiciary, Trend Reports, 1983).

2. Thomas Marvel, "Civil Caseloads: The Impact of the Economy and Trial Judgeship Increases," *Judicature* (Vol 69, No. 3, 1985).

Prisons from Page 2

mates, companies also acquire a flexible work force that can be fired, hired and kept active or inactive for as long a period as necessary.

Ticer asserts that *"economic pressures are forcing prisons to move to new industries — beyond farming, road work, and making clothes and license plates."* In South Carolina inmates are used to build prisons as well as restore old buses. Ticer claims that *"a new breed of prison administrator is taking a business approach to corrections."*

Also, according to Ticer, there are programs which allow nonviolent offenders to stay out of prison provided they abide by certain rules and regulations. In approximately 35 states nonviolent offenders are sentenced to what is termed *"intensive supervision."* The intensive supervision program usually requires *"probationers to meet with a court officer five times a week. They are expected to find and hold jobs, perform community service, and submit to random drug test and home curfew tests."*

A more severe version of the intensive supervision program is the *"house arrest"* program. According to Ticer, the house arrest program *"lets detainees leave home only for work, job hunting, addiction treatment, or other care."* Each detainee in this program is fitted with an electronic bracelet which monitors his or her movement in and out of the house. In addition, some bracelets must touch the phone when random check-in calls are made by authorities. Ticer says, *"some 14,000 men and women nationally are under electronic house arrest."*

The problem of overcrowding in prison as well as soaring prison cost is real. Ticer asserts that *"institutions in dozens of states are under court order to reduce overcrowding and free up beds — meaning that get-tough sentencing is actually forcing more prisoners to be released early."* Todd R. Clear, a criminal justice professor at Rutgers University, notes that *"while judges quadrupled the length of prison sentences between 1965 and 1985, the actual time served has remained constant."* Ticer concludes that *"many of those released early may commit new crimes — the most expensive outcome of all."* ♦

Feature Trend:

Immigrants and the Judicial System

"Ignorance of the law is no excuse." While this truism is certainly justified, according to Ernesto Acosta, a deputy city attorney in Los Angeles, *"you get a lot of people (meaning immigrants) breaking the law not because they're criminals but because they just don't understand what it means to break the law."*¹ Many defense lawyers would agree asserting that, *"when a recent immigrant from a foreign country, with a completely different set of values, commits an illegal act that would have been perfectly acceptable in the homeland, the act is not necessarily a crime."*² This form of cultural defense creates a perplexing situation when the courts must ponder the guilt or innocence of an immigrant defendant. For example, *"rape,"* as an acceptable form

"...when a recent immigrant from a foreign country, with a completely different set of values commits an illegal act that would have been perfectly acceptable in the homeland, the act is not necessarily a crime."

of conduct, has never been a question that the legal system has challenged (and naturally so given that rape is a form of violence). However, law enforcement officials in California and other states are now wondering whether some crimes are really crimes.

The Hmong Culture: A Contrast in Understanding

The Hmong culture is one of the many immigrant groups that has settled in the United States. Hmong culture, originating from the mountainous region of Laos, represents just one cultural/legal dilemma that the judicial system is now trying to resolve.

Perhaps the most controversial clash between the legal system and the Hmong culture centers on the Hmong marriage custom; a custom that some anthropologists have termed *"marriage by capture."*³ The problem with this peculiar marriage custom is that it is often difficult to distinguish it from rape. The normal marriage custom requires that the groom-to-be flirt with his bride-to-be for a prescribed period of time, after which he will take his intended wife to his family's home and consummate the marriage. Families who oppose the marriage often notify police that their daughter has been abducted. *"The police go out there with their guns drawn, kicking down doors, and it turns out the mother just wants her daughter back."*⁴ According to Public Defender Kenneth Carrington, the situation is further complicated *"when the bride-to-be is questioned by police. She often states that she hates the man [groom] even though she may be delighted with the marriage."*⁵ This role of denial is but one aspect which further complicates an already confusing ritual.

Immigrants and Law: A Historical Conflict

The conflict between the American legal system and newly arriving immigrant and refugee groups is not new in this country. A study conducted by the New York School of Social Work in 1923 concluded that domestic crimes *"spring from the special attitudes of mind of the immigrants and are by no means to be understood by cataloguing them under such fixed legal formulae as adultery, desertion, abandonment, rape, and so on."*⁶ The report also noticed that newly arriving immigrants usually get acquainted with the American standard when he or she has the misfortune to violate some of its laws. The report goes on to say that perhaps a less traumatic form of education should exist; one that is easier on the courts and the immigrant.

Racial Tensions and Immigrant Groups

An indirect, though no less important condition which arises from a growing minority population is the racial tensions that it creates.

Corrections:

"Prisons as Centers of Kindness"

Bo Lozoff
Whole Earth Review
Summer 1989

Summary:

Bo Lozoff argues for progressive prison reform by asserting that the present focus of corrections promotes blatant self-interest. The present structure propagates inmate power struggles making survival — watching out for oneself — the number one priority. Furthermore, conventional therapy and training again promotes self-interest. The author claims this negative process is counter productive in preparing inmates with the skills necessary to interact positively in the community upon release.

Prisoners find that becoming a value to others has had much more effect upon them than probation or rehabilitation

Lozoff encourages making prisons "Centers of Kindness" where prisoners become givers rather than takers. Such an ideal is met by positively serving community needs through kindness projects as: translating books into Braille, building playground equipment for low income schools, raising vegetables for nursing homes, repairing toys for Christmas. Indeed, such programs are now available in a limited number of areas.

The emphasis here is upon empathy and altruism. But Lozoff is realistic in the impossibility of abolishing prisons as forms of punishment. Therefore, these programs are designed to be run from inside the prison thus mitigating cost and risk to the public. Secondly, prisoners who have gone through Lozoff's programs claim that becoming a value to others has had a greater effect upon them than probation or rehabilitation. In kindness, they

discover a freedom which gives hope, self-respect and often a connection with the rest of humanity.

Comment:

"The U.S. Jail Population Estimated To Exceed 1 Million By Year's End" reported the *Wall Street Journal* (1/27/89). At an average cost of \$20,000 annually, the total bill is approaching \$20 billion. Recidivism is high and public funds are being severely strained. Obviously, skyrocketing prison populations indicate deep social problems and not just increased criminal justice efficiency.

For Lozoff the solution is to provide these individuals with a chance to have an emotional stake in the community. In agreement, Michel Foucault has argued in *Discipline and Punish* that it should be no surprise that prisoners continue to commit crimes once released. In prison they are inflicted with the arbitrary display of power by wardens and guards. They see injustice and proceed to operate from it. ♦

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Racial tensions in the United States are not new. Although racial tensions have not been as prevalent as in previous years, the rise of neo-Nazi groups, skin heads, and white supremacists, has renewed efforts to spread the message of "hate." Caught in the middle of these hate campaigns are the immigrant and refugee groups who have traditionally been scapegoats for the problems of the United States.

Asian Americans, in particular, have faced an increased amount of racial violence, not only from whites, but also from Afro-Americans and Hispanics. Incidents of racially spurred violence against Asian Americans have already been reported in California, New York, Seattle, Boston and Houston. According to Wallace Warfield, associate director of the Community Relations Service of the Department of Justice, "discrimination against Asians is definitely a growing problem in all parts of the country."⁷ Warfield claims that "every part of the country had some incident that it could point to as a sign of this kind of problem."⁸ Indeed, Dr. Alan Seid, who heads the Asian-Pacific American Advocates of

California, noted that recent appearance of graffiti such as "nips, slant-eyes, gooks, and slopeheads"⁹ in local high schools indicates a problem that may be growing among the youth in this country. Racially negative words, such as "nips" and "gooks," have not been visible since World War II.

A case in point is a 1982 incident in Detroit in which Chinese-American Vincent Chin was viciously beaten to death by two unemployed automobile workers angry over the amount of Japanese imports. Such misidentification indicates that Asian-Americans are all being lumped together. Indeed, this is the very source of racism.

Today, the Asian population represents one of the fastest growing minorities in the United States with an estimated population of 4.8 million in 1985. The Asian population is also among the "best educated and most prosperous in the country."¹⁰ The combination of affluence and education of Asian-Americans, with the recent explosion of Asian immigrants and Japan's rise to status as a world economic power, has fueled a campaign of hate that may only be in its infant stages.

The Role of the Lawyer and the Judge

As the immigrant and refugee population continues to grow in the United States, the courts may encounter more situations dealing with cultural and language barriers. The Hmong culture may represent only the beginning of a greater problem that may soon plague the courts. California, which has the largest immigrant clusters in the nation, is already experiencing incidents where cultural behaviors are clashing with the legal system. Other states like New York, Texas, Hawaii, and Florida presently have a large immigrant and refugee population and may soon, if not already, be faced with cultural/legal dilemmas. Clearly judges, as well as lawyers, need to be sensitized to the diverse cultures that may enter into the judicial system.

Lawyers, in particular, need to be sensitized to the confusion that may be created by a complex judicial process. On many occasions, the litigant leaves the courtroom feeling cheated by a process that he or she neither under-

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stood nor respected. It becomes the obligation of the lawyer, therefore, to explain to the client exactly what has transpired in the courtroom, in a way that can be understood. This means the elimination of legal jargon and the use of plain English. The problem is certainly apparent when one considers that English-speaking American citizens, who have gone through the legal system, have little comprehension of what occurred in the legal process. This problem is compounded for immigrants who cannot speak English nor have any idea of the U.S. judicial system. The result is, the judicial system loses public respect and, therefore, the very source of its viability.

Lawyers need to realize the existence of cultural and language barriers. How can they represent their clients to the best of their ability without any understanding? In cases where there are cultural and/or language barriers, the lawyers could either change the client's behavior and attitude to prepare them for court or sensitize the court to the client's cultural circumstances.

The problem in handling clients from different cultures is apparent. How does one explain to a client, who doesn't speak English or has little knowledge of law, the ramifications and/or dynamics of the judicial process? How does one discuss the ramifications of such "*complicated concepts as the due process of law to someone who perhaps doesn't have anything to relate this concept to in his or her culture?*"¹¹ We already know that American citizens have a difficult time understanding the process themselves. An explanation to a foreign client may be a futile and time-consuming effort.

Culture is ingrained and very difficult to change. The judiciary can attempt to train or teach foreigners the due process of law, but will it actually change the person's behavior? Perhaps it would be better and easier to sensitize the judiciary. Judge Stuart A. Nudelman, supervising judge, First Municipal District, Criminal Division, Circuit Court of Cook County, Chicago, states, "*We, as judges, must be trained. We as judges must take seminars*

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in cultures before us. Judges have to be sensitized to the type of cases before them. It seems to me that I should not get involved in a case involving minorities or people that I don't know anything about."¹² However, this does not mean that the judiciary and judges in particular must inherit total responsibility for the acculturation of newly settled immigrants. On the contrary, the judiciary should simply display an understanding of the varied predicaments that may arise in a diverse culture. In other words, the judiciary could convey to the public that everyone can receive a fair hearing despite his or her cultural origin.

Dealing with non-English speakers, however, involves more than just hiring a translator. A study conducted by Carlos A. Astiz, a professor of political science at the State University of

Perhaps, then, future law will not represent one culture but will reflect the views of many cultures. Indeed, this rewriting of law may be the legislative and judicial challenge of the decades ahead.

New York at Albany, "*found that very few interpreters in the criminal justice system, and almost none of their administrative supervisors, were familiar with various interpreting techniques commonly used by professionals.*"¹³ Astiz also found that many interpreters were expected to act as "*liaisons between court personnel and the non-English speaking individuals.*"¹⁴ In many instances, interpreters stated that they felt it was their "duty" to simplify and outline the court process for people they felt could not comprehend the full ramifications of the proceedings. In the same instance, they took it upon themselves to reinterpret the non-English speakers' statements which they felt were not appropriate to court proceedings. According to Astiz, the "*adaptation role often contradicts the expectations of accuracy, precision, and neutrality*"¹⁵ which are essential to the due process of law. Even if the court

interpreter is successful in conveying the process of court proceedings, the participants in the trial (judge, jurors, police officers, etc.) could receive an inaccurate impression of the litigant's knowledge of the court process and the law.

The translator, therefore, must be able to convey the nuances of the language. For instance, why does the client choose one word over the other? What emotion or perspective is he or she trying to convey? These problems must be understood in order for the lawyer or judge to receive a complete account of the situation and circumstances.

Conclusion

According to Judge Nudelman, the U.S. system of justice is unique in the world. Most other countries do not adjudicate cases through nonprofessional juries or with only a judge and attorneys. The judicial system needs to be sensitive to this fact and not take for granted that everyone who appears before them has been fully acculturated into the American mainstream.

Law, thus, could be used to enhance, support, and celebrate our understanding of the diversity evident in complicated conflicts arising out from a more complex and diverse society.

Perhaps, then, future law will not represent one culture but will reflect the views of many cultures. Indeed, this rewriting of law may be the legislative and judicial challenge of the decades ahead. ♦

J. Monma

Notes:

1. Mark Thompson, "The Cultural Defense," *Student Lawyer*, (September, 1985), p. 26.
2. *Ibid.*, p. 26.
3. *Ibid.*, p. 25.
4. *Ibid.*, p. 27.
5. *Ibid.*, p. 25.
6. *Ibid.*, p. 26.
7. Fox Butterfield, "Asian-Americans Bump Into Signs of Racial Tension" *Honolulu Star-Bulletin*, (September 2, 1985), p. B-1.
8. *Ibid.*, p. B-1.
9. *Ibid.*, p. B-2.
10. *Ibid.*, p. B-2.
11. "The Changing Face of America—How will Demographic Trends Affect the Courts?" *Judicature*, (August-September, 1988), p. 129.
12. *Ibid.*, p. 131.
13. Carlos A. Astiz, "But They Don't Speak the Language", *The Judge's Journal*, (Spring, 1986), p. 34.
14. *Ibid.*, p. 34.
15. *Ibid.*, p. 34.

Literary Horizons:

To Govern Evolution

Walter Truett Anderson

376 pages (Boston, Harcourt, Brace and Jovanovich, 1987).

To Govern Evolution by Walter Truett Anderson argues for the emergence of a global politics of humanity or "bio-globalism." Anderson's concept of global evolution is based upon three fundamental themes:

- (1) the resurging awareness of environmental pollution;
- (2) the rapid development of the bio-technologies such as genetic engineering;
- (3) the call for environmental and animal legal rights.

Ecological Awareness

Information technologies have, Anderson notes, played a critical role in promoting 1990's environmentalism. Data on pollution, environmental cycles, toxic chemicals, disease, and genetic extinction is stored and analyzed by computers providing detailed information not possible 20 years ago. The data clearly shows that the impact of modern man in shaping the environment, both positively and negatively, has been far greater than previously anticipated. Underlying this impact is social Darwinism; an ideology that has promoted the development of free market capitalism where exploitation of the environment is seen as a natural extension of the idea of the survival of the fittest. Yet humans, the most capable destroyer of nature, are not necessarily pursuing actions which best ensure their long term survival.

Issues concerning the environment have been in decline since the 1970s; however, a series of ecological catastrophes as well as scientific evidence of ozone depletion, acid rain, and global warming have created a situation of heightened awareness. There is now a general public understanding of the magnitude of the environmental crisis which threatens our survival. Environmental questions are a global concern.

The Bio-revolution

In describing the evolution of an ecologically grounded planetary consciousness, Anderson explains at length the tremendous strides science has made in the field of genetics. Genetic material is a national resource, he argues, one which developed nations seek to control and exploit. "All of the world's major food crops derive originally from a few regions of genetic diversity." These regions called Vavilov Centers are isolated locations of rich genetic diversity. Vavilov Centers are typically located in undeveloped nations which make them literally gene rich. Thus, Anderson argues we are seeing the creation of "seed politics" where developed nations replace these centers with seed banks hence transferring control over future food resources.

Law typically lags behind technology. Particularly at the global level, our social and legal institutions have failed to keep pace.

His discussion of seed politics evolves into one of human genetic selection. Here we see that Adlous Huxley Brave New World of genetic selection, like that of Orwell's 1984 surveillance society, has become closer to reality than we care to admit. Although babies are not born in bottles, they are conceived in a dish, under microscopes. These technologies most certainly represent a new stage in the development of humans. Spurred by such biotechnologies, "we are currently undergoing an evolution of cultural evolution."

Anderson continues the argument of genetic change citing that "reproductive possibilities remain so novel that terms are lacking to describe the human relationship they create." Are parents the donors of sperm and egg, the carriers of the fetus, or are they the individuals who raise the child? Does eugenics or these genetic altering sperm or egg mean the end of cultural/ethnic identity? Will genetic engineering create a new species of humans. The possibility

of cloning offers more novel legal dilemmas. Would one's clone be a son or brother?

Rights of Existence

Law typically lags behind technology. Particularly at the global level our social and legal institutions have failed to keep pace. A philosophy of the rights of living things will be essential for future bio-globalism. Anderson provides a copy of the Universal Declaration of the Rights of Animals 1978 which states in the preamble, "all animals are born with an equal claim on life and the same rights to existence." This Declaration, with its 14 articles, attempts to better define the structural relationship between man and animals. Although it is an eloquent statement, acceptance by the United Nations is doubtful given that the World Constitution framed in 1948 to embody basic human rights still languishes on paper and not in the hearts and minds of the world's people.

As supporting evidence for the development of "Nature Rights" Anderson cites the very important work of Christopher D. Stone, Should Trees Have Standing: Towards Legal Rights For Natural Objects. "It is no answer," Stone writes, "to say that streams and forests cannot have standing because streams and forests cannot speak. Corporations cannot speak nor can states, estates, infants, incompetents, municipalities or universities. Lawyers speak for them." Anderson then recounts the case of Palila v. Hawaii in which the Sierra Club and Audubon Society along with the Palila bird sued the State of Hawaii to protect its habitat from encroachment by sheep and goats. Surprisingly, the little bird won. This test case serves as an example of how court cases are generated as the eco-system is modified by human intervention.

For Anderson there is no question that all of nature, plants and animals, must be declared to have equal standing or rights to existence as humans. Their vital, shared role in our life on this planet should be recognized. Thus, "in order to govern man must become the helmsman. The helmsman is focused upon accepting feedback. The helmsman does not

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