

Law School to World Court: Legal and Judicial Dimensions of the Pacific Shift

BY SOHAIL INAYATULLAH*

I. INTRODUCTION

This article introduces the concept of the Pacific Shift and explores the impacts of this shift on Hawaii's judicial and legal system. The Pacific Shift is not only a shift of economic wealth from one global center to another, but it is also a transfer of cultural myth and meaning as well as technological and intellectual innovation from the Atlantic to the Pacific.

As this reorientation of global economic and cultural power from Atlantic civilization to Pacific civilization is a historical movement, we must be careful not to be drawn into a short-term outlook. We must not be overly concerned with present trade-wars or geo-politics. Rather true shifts of empires take decades and even centuries to conclude. These shifts often lead to changes in consciousness. Thus the cultural, legal, religious assumptions and visions of the future of Pacific civilization will be fundamentally different from the present Atlantic civilization. The Pacific Shift then is not only about a change in which elites define and control the politics and economics of the world system, but it is also a shift in how we see each other and how we relate to our history and our future.

We have seen such historical shifts before. The shift from riverine to Mediterranean was not only a change in power, but also a shift of religion, culture, law and thus worldview.¹ The shift from a dominantly Greek and Roman culture to a more ascendant Spanish, British, and Dutch culture, that is to Atlantic civilization, was equally mythic. We are thus hypothesizing that the basic shift from Atlantic to Pacific culture not only will be a shift in the global center of power, but given the ability of the center to transform the periphery in its own image, also a shift of global values and worldviews.

Ethos and Resources

Evidence in support of the Pacific Shift hypothesis continues to increase. At the common sense level of the immediate present, one daily reads of the ability of the Japanese to penetrate American markets at will. This miracle has not been accidental. The Japanese have managed to transcend traditional dichotomies of labor/management, business/government and capital/labor modes of production. In addition, Johan Galtung, in his extensive research on the emerging Pacific Center, argues that besides all the productive assets needed for a new center (population, labor, technology, raw materials and capital), the nations of China, Japan, and regions of South-east Asia influenced by them, could run an effective capitalism that transcends the traditional growth/distribution problem of economic development. These countries have, in addition to their

*The author is a political scientist/futurist who primarily works with the Hawaii Judiciary. He also consults with the YMCA and self-reliance educational associations in the Pacific. The paper is based on a larger project undertaken for the Hawaii Judiciary. Chapters of this study have been published in *Futures* (December 1985) and in *Renaissance Universal Journal* (forthcoming, 1986). The views expressed in the article are those of the author. The author would like to thank former Administrator Director of the Hawaii Judiciary, Lester E. Cingcade, for his support of futures research. It is through individuals like him that Hawaii may become a true international center.

¹William Irwin Thompson, *The Pacific Shift* (San Francisco, California, Sierra Book Club, 1985).

Confucian tradition which defines the vertical component of organization (respect for authority, non-manual work, family, and education), a Mahayana Buddhist tradition, which defines the horizontal component of organization (solidarity, collectivity and communality), as well as an eclectic mix of Christianity, Liberalism and Marxism.² They have a cheap, disciplined but talented labor supply, numerous resources such as ocean minerals, energy and protein as well as oil, tin and rubber. They also have advanced telecommunications technologies, manufacturing abilities, global graneries, and aerospace, electronic and entertainment/leisure products.³ In addition, they are supplanting traditional banking centers—five of the ten largest banks are now Japanese.⁴

Thus, we should not be surprised by record growth rates for Rim nations. While Japan expands at a 5% to 6% growth rate, South Korea, Singapore, Taiwan, and Hong Kong expand at 7% to 10% rates, China is growing at a 9.5% rate and South-east Asian nations at rates between 4% and 7%.⁵

Global Trends

However, this Shift is also part of numerous other fundamental transitions. Among these are the decline of the nation-state as a functional unit of trade, unity, and allegiance. Capital and nuclear pollution both transcend national boundaries. Thus, although there will be a regional shift of power, the management of the planet will be a global effort and problem. Another trend that will define the nature of the Pacific Rim world is the transition from industrial to electronic technology: from print to video. While industrial technology and print were key ingredients in the rise of the Atlantic, it appears that information and electronic/video technology will be part of the technological revolution that will accelerate the ascendance of Rim nations.

But not all the trends are clear or self-evident. Because of inequities in the Pacific, among the Third World, among Pacific Island states, and the realization that trade among unequals largely helps the rich, it may be that the Pacific Era will bring about economies based on cooperatives, that is the emergence of the self-reliant development model.⁶ This model may result because of the rise of the Third World and its demands for a fair share of global output, and the rise of the cultural self-reliant movements throughout the world that are anti-systemic in nature. Thus while the agricultural era coincided with the riverence as the center of focus, the Atlantic with that of industrial competitive capitalism, the Pacific may be the era of globalism based on local self-reliance.

But it is the prospect of profits, of new technologies, of new languages and cultures that

²See Johan Galtung, "Global Goals, Global Processes and the Prospects for Human and Social Development," (Tokyo, Japan, United Nations University Working Paper, October 1979). Also see Ezra Vogel's latest book, *Comeback: Charting the Future for America* (New York: Simon and Schuster, 1985). He argues that 1985 may be the year that Japan surpasses the U.S. as the dominant world economic power. According to Vogel, as quoted by Sam Jameson, "Japan seen 'overtaking' United States this year," *The Honolulu Advertiser*, May 28, 1985, p. A-6:

"We still tend to think of the basis of world power in old-fashioned terms, in which the power belongs to the countries with natural resources and strategic physical locations. [But Japan has proved that] the basis of international power is now human resources and organization, the ability of a nation and its institutions to respond quickly and effectively [to changing conditions]."

See also William Overholt, "The Rise of the Pacific Basin," *Pacific Community*, pp. 516-534 (July 1974).

³Including the U.S., Australia, New Zealand and Canada, the [Pacific] region has 80% of the world's nickel, 65% of its iron ore, 54% of its zinc and bauxites, 49% of its copper, 47% of its silver, and 46% of its coal," writes Paul Hooper, "Introduction," in *Building a Pacific Community*, at p. 2 (ed. Paul Hooper, Honolulu: East West Center, 1983); See also Hank Koehn, "Pacific Rim 2010," *Report for Security Pacific Bank* (1982).

⁴Leslie Helm, "Now Japan Wants to Conquer Global Finance," *Business Week*, April 8, 1985, p. 58.

⁵Data is from the following two articles: Ulrich Hiemenz, "Structural Change in Manufacturing: Issues and Perspectives for Developing Countries," and "Paul Kuznets, "Economic Development, Export Structure, and Shifting Comparative Advantage in the Pacific Basin," in Robert Benjamin and Robert Kudrle, *The Industrial Future of the Pacific Basin*, pp. 13-35 and pp. 35-39 (Boulder: Westview Press, 1984). Also see weekly issues of *Business Week* for up to date growth and trade figures as well as Charles Alexander, "Jumping for Joy in the Pacific," *Time*, November 12, 1984, p. 80.

⁶See P. R. Sarkar, *Problem of the Day* (Ananda Nagar, India: Ananda Press, 1959), Sohail Inayatullah, "P.R. Sarkar as Futurist," *Renaissance Universal Journal* (forthcoming 1986), and Johan Galtung, "Implementing Self-Reliance," *Transnational Perspectives* (Vol. 3, No. 4, 1976) for perspectives on the Self-Reliance model.

excite the n
and Bank o
I emp
area r
busine
we sh
for ou
California h
States and i
addition, m
ers and attc

Hawaii

Hawa
However, H
financial ins
tional cente
nities in the
tial of the P
sector devel
essment ar
these nation
tions of the
family, loss
Instea
after identifi
tion in comp
in Pacific k
among Basi
reorient its
cans—raise
globe. Lang
They must l
the project
the military

II.

The P
opportunitie
dialectics of
men and in
Anglo-Saxo
Pacific lega
There
United Stat
vidualistic r

⁷Quoted in N
⁸Kim Foltz wi
41.

⁹The recent d
point. Accordi
tional financia
May 25, 1986

excite the many interested in the Pacific. Rudolph Peterson, former president of Bank of Hawaii and Bank of America, clearly states why the Pacific Shift is a concept we should not dismiss:⁷

I emphasize that this is largely an underdeveloped area [Pacific Rim and Basin], yet an area rich in an immense variety of resources and potential capabilities. Were we California businessmen to play a more dramatic role in helping trade development in the Pacific Rim, we should have giant, hungry new markets for our products and vast new profit potentials for our firms.

California has already tapped into the Pacific market. It is the fastest growing state in the United States and much of its growth has resulted from trade with Rim nations—\$50 billion in 1983.⁸ In addition, much of these funds went to those in the service information sectors—advertisers, bankers and attorneys.

Hawaii

Hawaii too has the potential to profit economically and culturally from the Pacific Shift. However, Hawaii's labor costs, environmental concerns, and local economic control by Hawaii's financial institutions⁹ make it problematic for international concerns to see Hawaii as an international center. For Hawaii to become a center, it must aggressively seek out development opportunities in the Pacific. Hawaii could easily capitalize on the incredible economic development potential of the Pacific. Pacific Rim and Pacific Basin Island nations have numerous public and private sector development needs such as management, education and curriculum design, technology assessment and environmental monitoring, as well as computer software development. Many of these nations need assistance in not only economic growth but also in managing the contradictions of the capitalist export-led growth model—pollution, political apathy, breakdown of the family, loss of security for the aged, cancer and other illnesses of the rich, to mention a few.

Instead of focusing on the past, Hawaii must forecast the future of the Pacific and then after identifying future needs devise management and technical methods to meet them. Education in computers, telecommunications and the sciences is essential. Equally important is training in Pacific language and cultures. Developing a Hawaii Peace Corps to encourage self-reliance among Basin nations would be a significant program. For Hawaii to enter the Pacific Era, it must reorient its cultural ties with the Pacific. Hawaii must be the home of the Pacific Americans—raised in the United States but economically and culturally tied to the Pacific and to the globe. Language, travel, media, electronics and educational contracts are ways to develop these. They must be done from the executive to the primary school level. In fact, the Pacific era may be the project that could reorient Hawaii and lead it beyond its present dependence on tourism and the military.

II. IMPACTS OF THE PACIFIC SHIFT ON HAWAII'S LEGAL SYSTEM

The Pacific Shift will thus be a major factor in Hawaii's future. It will provide numerous opportunities for growth and prominence for the Bar, the Law School and the Judiciary. The dialectics of this historic shift will provide new opportunities for lawyers in their role as businessmen and in their role as diplomats. It will also change the focus of law and law schools. Hawaii's Anglo-Saxon legal system may in the long term become fundamentally changed by Asian and Pacific legal traditions.

There however will be a dialectical clash of traditions as the Pacific-Asian influence in the United States and in Hawaii grows. There will be an increase in conflicts between Western individualistic notions of responsibility and Pacific community orientated social relations. For exam-

⁷Quoted in Noel Kent, *Hawaii: Islands Under the Influence*, p. 95 (New York: Monthly Review Press, 1983).

⁸Kim Foltz with Peter McAlevey, "The Advertising Game Tilts Toward the West," *Newsweek*, March 4, 1985, p. 41.

⁹The recent defeat of a Legislative Bill which would allow international banks to operate in Hawaii is a case in point. According to Senate President Richard Wong, "The rhetoric has to stop if we want Hawaii to be an international financial center, we better do something about it." Nina Berglund, *The Sunday Star-Bulletin and Advertiser*, May 25, 1986, p. E-6.

ple, recently a Japanese woman in California, prior to attempting suicide, facilitated the suicide of her children—the only honorable thing for her to do from the Japanese perspective. The children died, but she was saved and is now on trial for first-degree murder. Her reaction was: "They must have been Caucasians, otherwise they would have let me die."¹⁰ There is, however, no cultural defense for murder in the United States; suicide is a sin and children are seen as separate individuals from the time they are born. The Japanese, however, are regulated by custom, not law. Cases such as these are only the beginning. Also, as American business increasingly enters Japan and China, as the Pacific Era develops and the Pacific becomes the land of opportunity, then just as American courts must face the clash of cultures, Chinese, Japanese or Malaysian courts, too, will increasingly face this problem.

However, although the Pacific perspective today is subsumed by the dominant Western cultural model, this may not be the case tomorrow. Just as the West is impacted by Pacific and Asian economic and cultural practices, it may also be impacted by Pacific and Asian legal practices.

A. The Role of the Law School

The law schools of the future may have to do more than teach rules and procedures to be relevant. Comparative customs and histories will be just as important. Creativity and commitment will be required. Perhaps the sought after law schools in the future will not be the Ivy league ones, but new law institutions in the Pacific.

Among others, Jeremy Harrison, Dean of the William S. Richardson School of Law at the University of Hawaii, apparently already is aware of this. He believes that the University of Hawaii Law School should be the hub of Pacific and Asian Law.¹¹ This goal is being slowly implemented by, for example, a 1985 comparative law convention between the University of Hiroshima Law School and the University of Hawaii Law School. It is hoped that conventions such as these will lead to faculty exchange programs. In addition, the Law School is developing its Pacific and Asian focus through hiring professors who have expertise in Asian languages and comparative law.¹² While such activities do not have immediate economic advantages, they do train individuals to become Pacific-Americans and do develop Hawaii's human resource base, that is, its knowledge industries.¹³ Certainly attorneys who understand the various legal systems of Pacific Rim and Basin countries would increase their market value for corporations desiring to do business in that area. These attorneys, however, may not be employed immediately by business and law corporations in Hawaii. This is because Hawaii's law corporations have not made the jump into the Pacific; that is, they have not diversified into investment banking, financial analysis, advertising and consulting, and they have not set up adequate regional centers in Rim areas—they are not yet transnational.

Exchange of faculty is thus an important beginning. It will lead to an expansion in depth and breadth of law classes offered—in the nature of attorneys that graduate from the law school. It will also lead to numerous opportunities for Hawaii's lawyers. The Pacific is an area composed of many nations with many different histories. The legal traditions are also vast. China, for example, bases her legal system on the Soviet system. Law is enforced by the state and through people's tribunals. Although a great deal of social conflict is mediated, and punishment is actually behavior correction by the local community (one's office, one's village, or the people who have been harmed by the alleged offense), there is reason to believe that the formal codified law system may increase. For example, the Chinese government has recently promulgated a new constitution, criminal code and criminal law, and 300 laws—one-third of which, incidentally, are

¹⁰Michael Reese, "A Tragedy in Santa Monica," *Newsweek*, May 6, 1985, pp. 10-11.

¹¹Catherine Enomoto, "UH, Japan Faculty Exchange Plan Proposed," *The Honolulu Star-Bulletin*, May 4, 1985, p. A-8.

¹²Addison Bowman, professor of law, University of Hawaii, interview, Honolulu, May 1985.

¹³For an example of the type of training that has begun, see Robert Hollis, "Law School to train a few good traders," *The Honolulu Advertiser*, May 28, 1985, p. A-3. See also Elyse Tanouye, "The Client Chase," *Hawaii Business*, June 1984, pp. 33-49.

designe
N
system
predict
ever an
integral
and the
this enc
Hiroshi
Hawaii
Chinese
O
Law pro
students
cultural
the info
School,
Hawaii

B. Th

Tl
are nun
knowled
W
ture, sp
possible
Fo
the Paci
ings of
sary rec
record p
ented, "
Al
sia to a
offer a p
course,
thus car
economy
low. Th
developr

¹⁴Rick Gl
See also
UCLA Pa
tion of th
criminal l
procuracy
audiences
proliferate
¹⁵See Tao
China Bu.
ent Syster
Laws for
Investmen
¹⁶Addison
¹⁷Id.

designed to encourage foreign investment.¹⁴

Max Weber has argued that for capitalism to thrive, it needs a rational, formal, written system of law. The laws and judicial decisions interpreting and enforcing these laws must be predictable as business needs a predictable environment; risk, obviously, must be reduced wherever and whenever possible. Thus, as the People's Republic of China continues to open up and integrate into the world capitalist system, it will need to set up a formal legal system.¹⁵ The Bar and the Law School, the East-West Center, as well as the State Judiciary could play a key role in this endeavor. Perhaps, in addition, to faculty exchanges between Honolulu and its sister city Hiroshima, there should be exchanges between Honolulu and selected Chinese cities. Already, Hawaii's East-West Center has opened the door through its numerous scholarships and grants to Chinese students as well as through the Chinese-Hawaii journalism program.

One possibility that is in the emergent phase at the Law school is to develop a Masters of Law program.¹⁶ Harvard, for example, is already pursuing this and inviting Chinese, among other students, to attend this program. These informal contacts are critical for future business and cultural exchanges, and in fact are part of a fundamental cosmology exchange as well as a part of the informal process of the development of what is being called the "knowledge sector." The Law School, if it can get funding, would be wise to develop such a program—the legal system and Hawaii's economy as a whole would benefit in the long run.

B. The Role of the Bar

The opportunities for attorneys and others involved in the legal profession in the Pacific Era are numerous. These professionals clearly are the ones that can develop and export Hawaii's knowledge industries to the Pacific.

While certainly more research is needed to forecast opportunities for attorneys in the future, specifically as a result of the Pacific Shift, there is a range of activities that do seem possible.

For one, while China may need assistance to move towards a formal system, other areas in the Pacific will need help in moving towards mediation. The United States has seen the shortcomings of the formal adversarial system, which although cultural in nature, certainly was a necessary requirement for economic development. The Japanese, of course, have also developed at a record pace, yet have managed to maintain a non-adversarial, yet predictable, non-litigation oriented, "family style" law.

Already, professionals, such as attorneys and political scientists, have traveled to Micronesia to aid in the development of the legal system and judiciary there.¹⁷ Perhaps, Hawaii could offer a package of legal, judicial alternatives for Pacific Basin and Rim nations. Rim nations, of course, have parliamentary legal systems from the days of English and Dutch colonial rule, and thus care must be taken in transporting ideas across systems. Yet as these nations continue their economic and societal growth into uncharted areas, they will certainly need legal models to follow. This is especially so as the legal system is a key part of the infrastructure of economic development.

¹⁴Rick Gladstone, "To Western Eyes, Chinese Law is Disorder," *The Honolulu Advertiser*, May 9, 1985, p. D-5. See also William Alford, "Zhu Qiwu and the Development of Criminal Law in the People's Republic of China," *UCLA Pacific Basin Law Journal*, 60-64 (Spring and Fall, 1983). Alford writes that since 1975 "... the Constitution of the PRC has twice been revised to set out greater formal safeguards for criminal defendants; codes of criminal law and criminal procedure have been promulgated; 'organic laws' have been issued for the courts, the procuracy and lawyers, education in criminal law has resumed at the university level and been launched for broader audiences in a fashion unprecedented in Chinese history; and legal publications, both professional and popular, have proliferated." *Id.* at 61-62.

¹⁵See Tao Zuji, "Shanghai Looks in New Direction," and David Richter, "Investment Projects in China," in *The China Business Review*, pp. 6-7 and pp. 41-52 (November-December 1984). See also Ellen Eliasoph, "China's Patent System Emerges," *The China Business Review*, pp. 50-57 (January-February 1985) and C. W. Chiu (ed.) *PRC Laws for China Traders and Investors: Practices and Interpretations*; and Michael Moser (ed.) *Foreign Trade, Investment and the Law in the People's Republic of China* (New York: Oxford University Press, 1984).

¹⁶Addison Bowman, interview, note 12 *supra*.

¹⁷*Id.*

raise numerous legal issues, such as transborder information problems, the right to communicate and other information rights, remote viewing and other psychic crimes, international software and video piracy, equal national and global access to technology, that lawyers will eventually have to litigate or mediate.²⁵ Training Hawaii's lawyers through the University of Hawaii and through conferences and issues seminars on these new technologies and the fundamental problems that they will raise in another knowledge industry that can be developed. Although the field of futures research is relatively established, the field of legal futures research, which attempts to determine the alternative futures of law and lawyers, as well as forecast the impact of the law on new technologies and social developments, remains to be developed.²⁶

In addition to understanding the legal impact of the new technologies, lawyers who actually use these technologies in their practices will have a professional advantage over those who do not. Besides Lexis and Westlaw, various types of decision-making software are emerging which aid in rational analysis. Although no entrepreneur has developed software to help lawyers in case preparation, software that aids in negotiation already exists. Word processing and automating form-filling functions are other aspects of the computer revolution that lawyers should be, if they are not already, using. These computer research skills could be easily packaged and sold to Pacific Asian lawyers. Training seminars for Pacific lawyers could be held as well on a regular basis.

While much of this work could be done by individual attorneys acting as entrepreneurs, the Bar and the University should play key roles. The University should teach classes appropriate to the Pacific era, and the Bar should form professional links with the various professional legal associations of the Pacific. Yearly conferences inviting attorneys from the various nations of the Pacific could be held. A special division of the American Bar Association for the Pacific could be established. In addition, the Bar, Law School and the Judiciary, should make efforts to participate in the yearly training sessions of the United Nations Asia and Far East Institute for the Prevention of Crime and Treatment of Offenders held in Tokyo.²⁷ The conferences and research workshops held by this agency would greatly increase the ties between criminal justice professionals in Hawaii and the Pacific. Already key criminal justice professionals from Pacific and Asian nations attend these conferences regularly. The institute also publishes papers on comparative law and comparative perspectives of criminal justice in the region. Attending these conferences is an excellent opportunity for Hawaii's professionals to engage in mutually beneficial dialogue.

For law to play a key role as a knowledge industry in Hawaii, lawyers must look into the future, they must train law students in comparative law and in the legal issues that will be created by the new technologies, they must develop international offices (that is expand and grow), and they must export those aspects of legal business (computerized forms, computerized legal research, word processing, witness testimony by video) that are not yet developed in Pacific areas. Lawyers must also develop an international focus in their practices and become negotiators and peace researchers.

C. The Role of the Judiciary

The Judiciary also has a key role to play. Although developing an international legal culture is critical, due to the differences in legal traditions, there is a danger of cultural colonialism by core areas of periphery areas—for example, transporting the American judicial model to areas in Micronesia which have done well with traditional legal systems.

Where the Hawaii Judiciary can play a great role in improving legal and court systems

²⁵See issues of *Nu Hou Kanawai: Justice Horizons* (eds. Anna Yue and Phil McNally, Planning and Statistics, The Hawaii Judiciary, 1984-1986) for the most recent on new technologies and social issues and their impact on the legal system. See also Sohail Inayatullah, "The Future of State Court Administration," *Futures Research Quarterly* (forthcoming 1986); and Sohail Inayatullah, "Challenges Ahead for State Judiciaries," *Futurics*, pp. 16-19 (Vol. 9, No. 2, 1985).

²⁶For a collection of articles on the future of legal systems, see James Dator and Clem Bezold (ed.) *Judging the Future* (Honolulu, Hawaii: Social Science Research Institute, 1981).

²⁷See United Nations Asia and Far East Institute, *Criminal Justice in Asia* (Tokyo, Japan: United Nations Asia and Far East Institute, 1982) and *Resource Material #26* (Tokyo, Japan: United Nations Asian and Far East Institute, 1984).

throughc
ary is a
thus has

Pa
the socia
unemplo
backlog
local lega
wail's co

Ha
judiciarie
technolog
tions cou
Bar and
receive.

The
tems—is
research
legal org
Pacific.

Pla
tional Pa
work clos
nations. I
Pacific. T
Tokyo an
Pacific, n
itself with
cient and
cognizant
technocra
The court
that Haw
mass of ir
knowledge

In e
to come t
ministrati
on compa
nations ar
garding ju
ary, the E
formal co
plan to de
agencies c
business e

Haw
as a perip
Hawaii, h
Pacific Sh

²⁸Joy Labez.
²⁹"Pacific Fc
tiser, May 1

throughout the Pacific is through spreading its model of court management. The Hawaii Judiciary is a recognized leader in court unification, comprehensive planning and futures research. It thus has the intellectual and organizational resources to pursue such a task.

Pacific Rim and Basin legal systems will, as they continue to develop, certainly have to face the social costs of capitalistic modernization (breakdown of the family, urbanization, inequity, unemployment, for example). This development will lead to increased litigation. The problems of backlog and delay, although only indirectly related to caseload volume (and directly related to local legal culture), will increasingly become problems in Pacific nations. The experience of Hawaii's courts in dealing with these problems could be valuable to Pacific nations.

Hawaii could also play a key role in facilitating discussion between the various bars and judiciaries of the various Pacific states. A yearly conference on emerging legal issues, emerging technologies, new methods of court administration, comparative law, and international legal questions could be held in Hawaii. While the Judiciary should sponsor this conference, certainly the Bar and attorneys individually could assist, given the numerous potential benefits that they will receive.

The Judiciary's experience in automation—word processing, statistics, information systems—is also invaluable to other nations. While the National Center for State Courts provides research support for the American courts in the area of court management, there is no court/legal organization to provide research, problem-solving, issues identification support for the Pacific.

Planner Joy Labez of the Hawaii Judiciary has suggested that Hawaii develop an International Pacific Institute for Court Management to provide for these needs.²⁸ The Institute could work closely with the Judiciary, the Bar, and the private attorneys in Hawaii and in Pacific nations. This is especially needed as there are no other institutes that provide such a service to the Pacific. The only other similar institute, United Nations Asian and Far East Institute housed in Tokyo and funded entirely by the Japanese government, serves only to train personnel from the Pacific, mostly Asia, in the field of crime prevention and offender treatment. It does not concern itself with the problems of court administration, especially in terms of the execution of an efficient and effective dispute resolution system and public agency. A Pacific Institute, although cognizant of the differences in legal systems of the various cultures, could, without being overly technocratic, attempt to modernize and automate court administrative planning and procedures. The courts of the Pacific will then be able to gain from the wealth of experience and knowledge that Hawaii's court administrators possess. Such an Institute, again, would help build the critical mass of international, Pacific organizations and institutions to make Hawaii into an international knowledge center.

In either case, as for Hawaii business, the Courts and the Bar should not expect the Pacific to come to them; they must go out and make opportunities. Conferences, faculty exchanges, administrative institutes are one way of realizing these opportunities. Of course, there is little data on comparative judicial systems and on problems of court administration in the emerging Rim nations and in other parts of the Rim and Basin. More intensive research needs to be done regarding judicial and legal possibilities in the Pacific. Attorneys need to be interviewed; the Judiciary, the Bar and the University of Hawaii should be consulted. Perhaps a special, informal or formal committee of key individuals within Hawaii's legal system could be formed to develop a plan to deal with the emerging Pacific Shift. This group should consult with other groups and agencies oriented towards the Pacific, such as the Pacific Forum (which is comprised largely of business executives).²⁹

Hawaii must remember that the Pacific does not require Hawaii for its development, except as a periphery or as an escape for its elite (retired Presidents, for example) and for tourists. Hawaii, however, if it is to escape economic stagnation, must establish a role in the emerging Pacific Shift.

²⁸Joy Labez, Planner, Hawaii Judiciary, interview, Honolulu, November 1984.

²⁹"Pacific Forum enters second decade with hope for further advancement," *The Sunday Star-Bulletin and Advertiser*, May 15, 1985, p. E-4.

III. CONCLUSION

For the legal system to enter the Pacific Era, it will have to be proactive: it will have to envision a preferred future, then develop a strategic plan to realize this vision. Those in the legal system will need to understand the long-term nature, the mythic character of the Pacific Shift. They will have to understand not only the move from Atlantic to Pacific, but also the shift from industrial economy to post-industrial economy, from written word to video screen, from earth to space. They will have to understand the revolutionary impacts of computers, robotics, and biotechnology. They will have to understand the new worldview of the Pacific, of the globe. That is, the Pacific Shift is also a global shift, it is about the development of a world community, of the transformation of the nation-state. The legal system—lawyers and judges, administrators and policy makers—will have an important role in this transformation. As Kenneth Boulding has written:³⁰

The role of law, especially of the slowly developing world law is of the utmost importance. The concept of law has to be expanded beyond the narrow scope of the resolution of legal conflicts, important as that is, to more general institutions for the expression of the world community and the management of the human predicament. We must think of the law not only as a fruit of a long process of human learning, institution building and accommodation, but also as the seed of a whole new set of institutions which will lubricate the great geological and political faults which underlie the system. . . . The task which lies ahead of the human race in the next two hundred years is enormous. The legal profession, if it can catch a vision of its potential, can play a crucial role in it.

The present Law of the Sea Institute, a future Pacific Institute of Court Management or a Pacific or World Court are small steps to deal with the human predicament. There are many others. More than ever Hawaii needs leadership that understands the significance of the Pacific Shift. This leadership must understand that Hawaii can play a unique role in the Pacific Era; that we must actively seek out opportunities in the Pacific; that we must shift our focus from the Atlantic to the Pacific, to the globe; and that we must be proactive and design our role in the Pacific.

The purpose of this paper has been to present and make concrete the idea of the Pacific Shift. But rationally understanding such a major shift is not easy. The rational mind gropes for information, for data on trade flows, exchange rates, power relationships, but the shift under discussion is fundamentally deeper than that. Romans in their day could not conceive of the decline of their empire and the contracted Middle Ages that followed afterwards. Those in England, Paris, New York, Cambridge cannot fully understand the Pacific Shift either. In Hawaii, we are closer to it. But our minds are still in New York. The era of the Pacific cannot be grasped emotionally either. It is a change that is beyond us: to see it, we must go beyond who we are. That may prove a difficult task. The Romans could not do it. The leaders of the Atlantic world cannot either. They talk of trade barriers and unfair Japanese protectionism. They forget the mythos, the civilizational nature of this shift.

The shift from Atlantic to Pacific will provide tremendous opportunities for Hawaii's lawyers. The Judiciary, Bar and Law School can play key roles in Hawaii's political, cultural, economic and legal development. Hawaii certainly has the potential for a true international legal and cultural center. But although the Pacific Shift will take decades to manifest, Hawaii must urgently seek to discover ways in which it can participate in this shift. It is hoped that this paper has made a small contribution to this task, to this larger project.

Of course, much has been left unsaid—the role of import-export industries, the role of space as savior of American hegemony, the relationship between corporate and local business, the relationship between the various economic sectors, the role of the military, the role of South America, New Zealand and Australia, to mention just a few critically important areas. But we are entering a new world; one full of contradictions and constraints, as well as visions and realiza-

tions. It is
but one tha
shifting, de
respond?

³⁰Kenneth Boulding, "Economic, Evolution and Law," in *Law and the American Future*, p. 42 (Murray Schwartz, ed., New Jersey: Prentice-Hall, 1975).

tions. It is a new world that we can resist or enjoy. A new world that we have some impact on, but one that is perhaps easier simply to enjoy, like an artist gazing at a video canvas quickly shifting, developing, unfolding. The Pacific Shift is emerging: can Hawaii and its legal system respond?