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## Legal Clinic Endeavour for International Family Law Clients in Okinawa

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***Legal Clinic Endeavour  
for International Family Law Clients in Okinawa***

**Masanori TAKEDA & Vera FRY**

**Summary**

This paper documents our inaugural effort to develop a law clinic serving the unique client population in Okinawa, Japan. Due to a substantial U.S. military presence in Okinawa, there is a heavy concentration of foreign residents here including U.S. civilians and service members and non affiliated third country nationals, especially from the Philippines, Korea and Thailand. The Japanese immigration status of foreigners-- either Status of Forces Agreement ("SOFA") status or Japanese resident aliens, complicates the legal landscape and affects their legal rights and responsibilities.

Additionally, the large presence of foreigners on this small island, and their interaction with local residents, creates a host of complex legal issues that elsewhere would be rare but are the norm here. While most foreign residents are transient, their international legal issues are not-- people change, problems remain. Currently, no legal providers in Okinawa comprehensively serve Japanese and non Japanese nationals with their international legal problems.

With emphasis on international family law cases, we attempted to provide bilingal, bilingual counseling for all Okinawan residents in our law school clinic last year. We faced several challenges and we have

much work ahead. But, we will reflect on our experiences, continue to develop the clinic and break through barriers in order to provide high quality legal advice to needy clients.

## Unique International Population of Okinawa<sup>1</sup>

Currently, there are over 24,147 U.S. troops and 26,413 civilian workers and family members stationed in Okinawa<sup>2</sup>. As a result of the large numbers and long-term U.S. military presence on Okinawa from 1945 to the present-over sixty-five years, consistent interaction between U.S. citizens and local residents results in hundreds of marriages and births per year<sup>3</sup>. Therefore, there are an unknown number of adults as old as sixty-five who were the children of an Asian mother and an American father. Neither the U.S. government nor Japanese government maintain any statistical information on historic or current numbers either on the number of marriages, divorces or children born to SOFA status personnel and Japanese citizens.

Despite the lack of exact figures, the large presence of foreigners on this small island, and their interaction with local residents, creates a host of complex legal issues that elsewhere would be rare but here are the norm. While most foreign residents are transient, their international legal issues are not - people change, problems remain. Currently, no

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<sup>1</sup> Section taken from, Fry, Vera, *Amerasian Justice Project, Report: A Bridge to Justice, (2008)*.

<sup>2</sup> Preston, MSgt. Donald E, USMC Media Liaison Chief, Official Spokesperson, Headquarters U.S. Forces Japan, Yokota Air Base, personnel numbers as of November 2009.

<sup>3</sup> Japanese Ministry of Health, Labor and Welfare, "Data of Baby Births From Foreign & Japanese Couple, 2007."

legal providers in Okinawa comprehensively serve Japanese and non Japanese nationals with their international family law problems.

## Typical International Legal Issues in Okinawa<sup>4</sup>

International legal issues that arise in Okinawa result from the high concentration of US citizens living here and their interaction with Japanese citizens. The long-term presence of U.S. citizens on Okinawa has resulted in the social mixing of U.S. citizens and Okinawa residents for the duration. Current demographics assist in enumerating the scope of these legal issues.

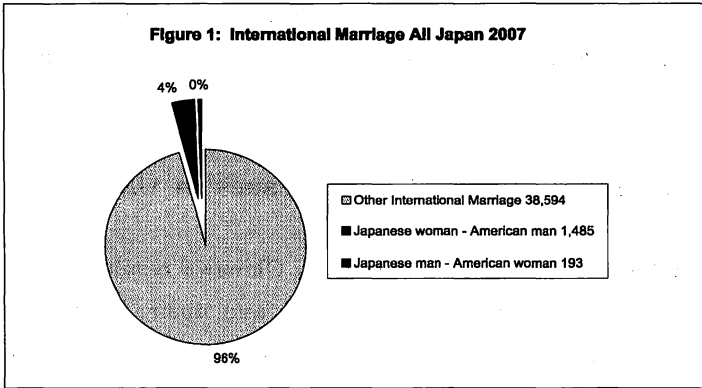
### Divorce

The number of international marriages and divorces in Okinawa are dramatically higher than on mainland Japan. Recent statistics from the Japanese government show the contrast between international marriage demographics on mainland versus Okinawa. In 2007, there were 40,272 international marriages in Japan<sup>5</sup>. Of those, only 193 involved a Japanese man and American woman. There were 1,485 marriages between a Japanese woman and American man. Thus, marriages where one spouse is a US citizen totaled 1,678 in Japan in 2007. As a total percentage of international marriages, this is very small -- about 4%.

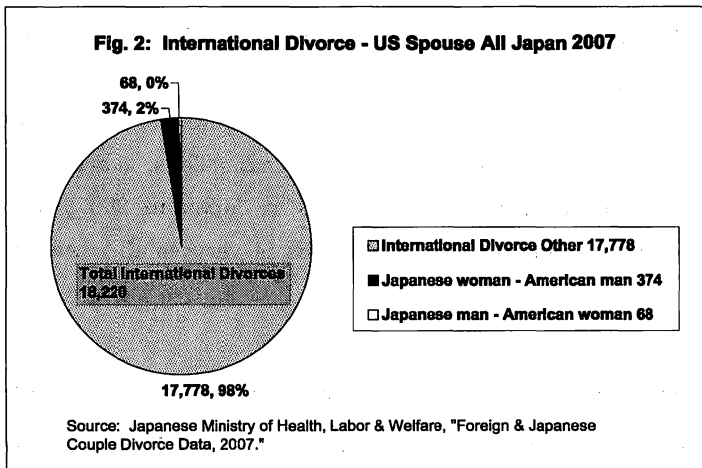
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<sup>4</sup> Section taken from, Vera Fry, *Amerasian Justice Project, Report: A Bridge to Justice, (2008)*.

<sup>5</sup> Japanese Ministry of Health, Labor and Welfare, "2007 Foreign and Japanese Marriage Couple Data."

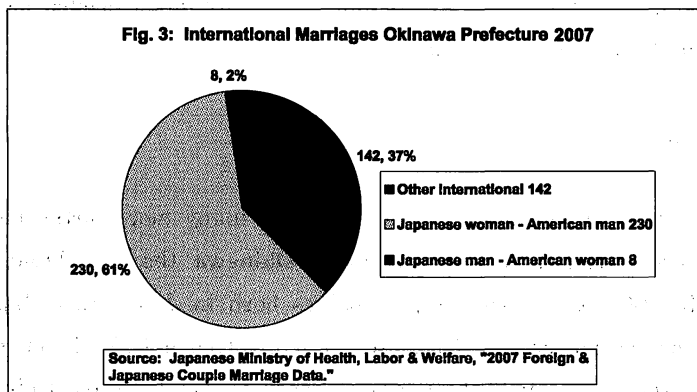


Likewise, divorce statistics similarly demonstrate the small proportion of international marriages in Japan where one spouse is a U.S. citizen. In 2007, there were 18,220 divorces in Japan involving a foreign spouse. Of those, 68 involved a Japanese husband and American wife and 374 involved a Japanese wife and American husband. Thus, divorces where one spouse is a U.S. citizen totaled 442 in Japan in 2007. As a total percentage of international divorces, this is also small -- about 2.4%.

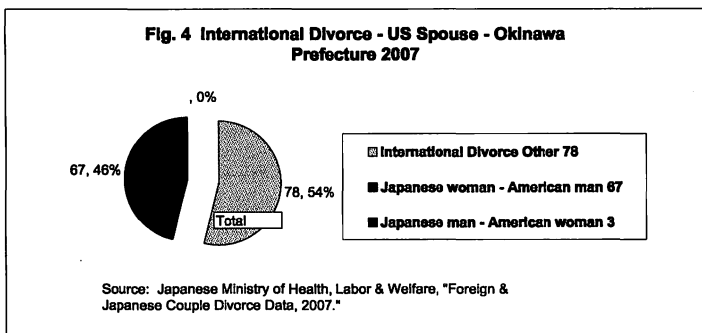


International couples divorcing in mainland have access to substantially greater resources than those divorcing in Okinawa especially if they live in Tokyo and Osaka. It is critical to note that these statistics include reports of marriage and divorce compiled by the Japanese government only. However, not all marriages and divorces in Okinawa are reported to the Japanese government. Thus, these numbers do not include all events. For instance, when one party to a marriage or divorce is a SOFA status resident, it is possible that the couple has not reported the event to the Japanese government. This could be because the marriage occurred on a U.S. military base and was reported to U.S. authorities or the divorce occurred in the U.S. and was not registered in Japan. Therefore, we expect the records kept by the Japanese government of the number of marriages and divorces in Okinawa Prefecture are lower than the actual figures.

In the Okinawa Prefecture in 2007, there were 380 international marriages where one spouse is Japanese and the other spouse is not Japanese. Figure 3 below shows that of those, 238 marriages were between a Japanese citizen and a U.S. citizen.



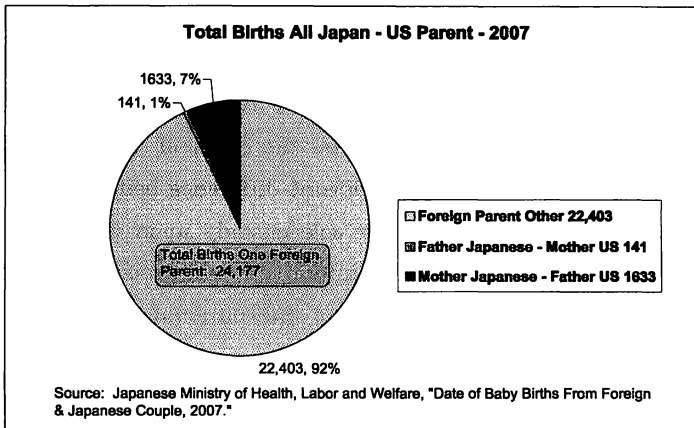
Therefore, international marriage in Okinawa Prefecture where one spouse is a U.S. citizen totaled 63% in 2007. Recall that for Japan the same figure is less than 4%. These divorce figures reflect the enormous impact of the presence of SOFA Americans in Okinawa. In 2007, there were 148 international divorces in Okinawa-70 involved a U.S. citizen spouse.



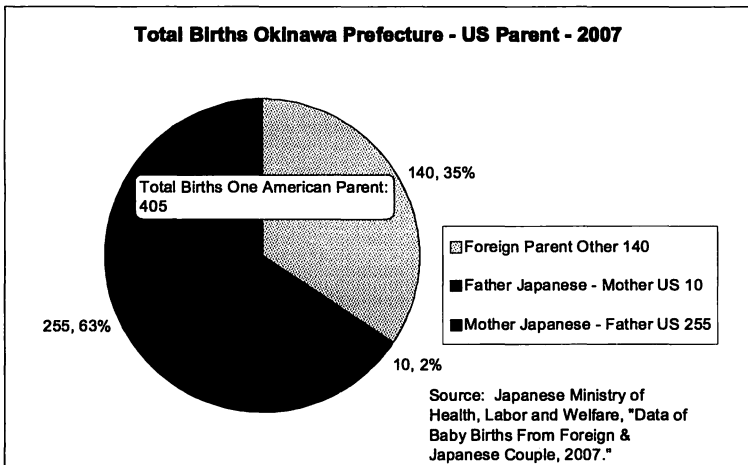
As a total percentage about 46% of divorces in 2007 involved a U.S. citizen and Japanese citizen. These figures demonstrate that Okinawa has a much greater need for divorce counseling than mainland Japan, yet the resources are far fewer. Therefore, the law students working in the international law clinic will be able to supply much needed legal advice to both Japanese and U.S. citizens.

## Births

As with marriage and divorce, there are many more births between a Japanese citizen and U.S. citizen in Okinawa than in Japan as a whole. In 2007, there were 24,177 babies born in Japan to a Japanese citizen and foreign citizen. Of those, 1,774 involved a U.S. citizen parent and the remainder involved citizens of South or North Korea, China, etc.



Only eight percent of births in Japan involved a U.S. parent. Compare this to the statistics for births in Okinawa Prefecture. In 2007, there were 405 babies born to an international couple - one Japanese parent and one foreign parent. Of those, 265 births involved a parent from the United States. Therefore, almost three out of four births in Okinawa involved a U.S. parent.





## Child custody

International child custody involving a Japanese parent is currently receiving frequent media attention due the clash of United States and Japanese family law. The most significant difference being that Japanese family law only has a provision for sole custody upon divorce. There is no possibility under the law for joint or shared custody. Recently, the media has reported heavily on cases of international child abduction by Japanese mothers married to U.S. citizens. And, the U.S. government, lead by the Department of State, is drawing international attention to theses child abduction issues. In depth discussion of this topic is beyond the scope of this paper. However, to the extent that international child custody affects clients in Okinawa, we present a “boots on the ground” summary of current conditions. According to a U.S. Department of State official, “the number of cases are somewhere in the range of about 70 that are active now.”<sup>6</sup> Only a handful of child custody cases dealt with by the authors have involved a claim of child abduction or facts and circumstances that would suggest it. Nevertheless, every single case in which a child is prevented by a parent of maintaining meaningful, continuous contact with the other parent or denied the right to live with the parent specified by court a court order is a tragedy and an injustice that must be addressed. Systematic improvements will be made only when Japan revises its custody laws.

Child custody laws in Japan are extremely different than state laws in the United States. A typical child custody agreement in the U.S.

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<sup>6</sup> Kurt M. Campbell, Assistant Secretary, Bureau of East Asian and Pacific Affairs, U.S. Embassy, Tokyo, Japan, “Press Availability on International Child Abduction,” February 2, 2010.

might allow parents to have joint legal custody - meaning they both have rights to help decide major life decisions, for instance, about the child's healthcare, religion and education. If one parent has sole physical custody, the other parent has visitation with the child -- the goal being to maintain close, continuing contact with the non custodial parent<sup>7</sup>. The child custody order typically sets forth a detailed plan for visitation by the noncustodial parent.

Another increasingly common solution is for parents to have joint physical and joint legal custody with children spending substantial periods of time with each parent. In all cases, if a parent repeatedly fails to comply with the custody or visitation order, the aggrieved parent may ask the judge to enforce or modify the existing order. The courts maintain a ready arsenal of enforcement capabilities, including issuing contempt orders or awarding custody to the other parent for failure to abide by legal court orders<sup>8</sup>.

<sup>7</sup> Cal. Fam. Code Ann. § 3020 (Blumberg, 2009). It states: "Legislative findings and declarations; health, safety, and welfare of children; continuing contact with parents states,

(a) public policy of this state to assure that the health, safety, and welfare of children shall be the court's primary concern in determining the best interest of children when making any orders regarding the physical or legal custody or visitation of children; perpetration of child abuse or domestic violence in a household where a child resides is detrimental to the child.

(b) public policy of this state to assure that children have frequent and continuing contact with both parents after the parents have separated or dissolved their marriage, or ended their relationship, and to encourage parents to share the rights and responsibilities of child rearing in order to effect this policy, except where the contact would not be in the best interest of the child, as provided in Section 3011.

(c) Where the policies set forth in subdivisions (a) and (b) of this section are in conflict, any court's order regarding physical or legal custody or visitation shall be made in a manner that ensures the health, safety, and welfare of the child and the safety of all family members."

<sup>8</sup> Margaret M. Mahoney, *The Enforcement of Child Custody Orders By Contempt Remedies*, 68 U. Pitt. L. Rev. 835 (2007).

In stark contrast, Japanese family law has no provision for joint custody<sup>9</sup>. When parents divorce, sole custody of the child is assigned to one parent either by mutual consent or by court order. The other parent loses custody of the child and the visitation order, if one exists, is quite general in nature. It is not normal in Japan to have visitation orders specifying dates, time and locations of visitation. And, unlike United States family court judges, if the custodial parents refuses to make the child available for visitation with the noncustodial parent, the Japanese judge has very little recourse due to weak enforcement powers.

A common scenario is that the Japanese wife and American husband are living together in Okinawa and one party initiates divorce. Choice of law has major implications for child custody and thus for the long term prospects of continuing, close contact between the child and both parents. In order to preserve the legal rights of the parents, both need access to competent legal counsel. Yet due to the complexity of child custody involving international couples, service providers are limited and barriers of language and economic resources are ever present.

Typically, the Japanese wife initiates divorce proceedings in Japan and the husband seeks legal advice in order to try to preserve rights to his child, or the husband initiates divorce proceedings in the United States and the wife seeks legal advice because she does not understand how to proceed and defend a divorce action in the United States. In all cases, students, under the direction of attorney advisors can offer invaluable guidance to clients by helping them understand the legal process - either United States or Japanese, by educating them about the appropri-

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<sup>9</sup> Civil Code (Part IV and Part V), Art. 766.

ate family law procedures and if necessary, by referring them to attorneys who can represent them in court.

For members of the U.S. military stationed here in Okinawa married to a Japanese spouse and contemplating divorce, the prospect of losing all contact with their child produces tremendous fear and anxiety. However, there are some English speaking Japanese attorneys in Okinawa and active duty military members, DOD civilians and contractors are employed and capable of hiring private legal counsel to represent their legal interests in Japanese family court proceedings. However, a husband and wife may divorce by agreement through administrative procedure<sup>10</sup>. This is often done without attorney consultation. U.S. citizen spouses anxious to conclude a divorce due to military relocation or personal reasons may push for a Japanese non judicial divorce by agreement, completely ignorant of the fact that this course of action may severely disadvantage their child custody and visitation interests.

Japanese spouses constitute the group in greatest need of low-cost legal advice on international family law matters in Okinawa. The main impediment to legal advice is financial. Frequently, when wives and mothers assume their traditional caregiver roles and are not employed outside the home, they lack financial resources to retain qualified legal counsel. Even for the Japanese spouse, divorce in Japan can have serious negative consequences in the areas of child support, discussed in the next section, and division of property rights. Spouses of active duty or retired U.S. military personnel may have a right to a share of their spouse's military retired pay. However, under The Uniformed Services

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<sup>10</sup> Civil Code (Part IV and Part V), Art. 763.

Former Spouses' Protection Act (USFSPA), a court order for division of retired military pay must come from courts as defined by USFSPA<sup>11</sup>. Courts of foreign nations are not recognized in the statute. Therefore, Japanese court orders for division of retired military pay are not directly recognized by the Defense Finance and Accounting Service. Japanese divorce then, either by agreement or judicial decree, is often fatal to the non-military spouse's property rights. And results in the loss of tens of thousands of dollars.

### **Child support<sup>12</sup>**

Students will have the largest impact on their community and clients by advising them on the issue of child support. The typical case involves a Japanese woman who has a baby with a U.S. citizen, either in or out of wedlock, seeking child support. Child support involving an international couple is complicated by the disparate policies of the two governments regarding child support. Children who go without child support from the noncustodial parent are at a severe economic disadvantage compared to children receiving child support or children living in two parent homes. A very conservative estimate for child support per child, per month in the United States of \$400 totals over \$4800 per year (approximately 480,000 yen) and up to \$100,800 to the age of majority<sup>13</sup>. Assuming an average monthly wage of 115,000 yen in Okinawa, a mother working full-time would earn approximately 1,380,000 yen per

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<sup>11</sup> 10 U.S.C. 1408 (a)(1)(A)

<sup>12</sup> Portions of this section taken from Fry, Vera, *Amerasian Justice Project, Report: A Bridge to Justice*, (2008).

<sup>13</sup> Child support in the United States typically stops at age 18 unless the child is enrolled in college, in which case, child support may continue until the child turns 21 years old.

year. Thus, the addition of child support for one child in the amount of 480,000 per year would mean a 34% increase in family income.

Yet, many Japanese single mothers eligible to apply for child support from the U.S. citizen father of their child do not apply. Or, if they do apply, they wait until many years after the child is born. Retroactive child support payments are not allowed in many states. In California, for instance, child support is only retroactive to the filing of the child support application. This means that every month before a mother submits the child support application, is a month of support lost - permanently. One of Fry's clients, whose husband abandoned her when their baby was one year old, did not start receiving child support payments until the child was eleven years old. The state where the request was filed does not allow for back support, therefore, the child and mother lost out on approximately \$66,000. This mother earns 800 yen per hour as an experience infant caretaker, and it takes her over three years to earn that amount. In the case of child support, time really is money.

Unfortunately, Japanese child support laws are weakly enforced so for many single parents, they rely only on welfare assistance from the Japanese government. In fact, only 18 percent of noncustodial parents in Japan (mostly fathers) pay child support<sup>14</sup>. A small number of responsible fathers pay support voluntarily-without a child support order. Yet, the majority do not. Typically, noncustodial parents pay no support, or if they have agreed to pay support, pay for a short time and stop. Wage garnishment is an option but the mother has to hire counsel or represent herself in court in a civil proceeding against the father. Only the

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<sup>14</sup> Ministry of Health, Labor and Welfare of Japan, *National Working Papers of Single Mother Household in 2003* (2005).

judiciary branch, via a private lawsuit, is involved in child support. The executive branch has no responsibility or power with regard to child support.

In contrast, U.S. state and federal laws reflect a unified public policy dedicated to holding parents responsible for the support of their minor children instead of burdening federal and state governments and ultimately the taxpayers, with the costs of support. Simply put, “parents cannot walk away from their children<sup>15</sup>.” Child support is not seen merely as a discrete family law issue, but as a broader issue of national importance because children not receiving parental support are more likely to be on welfare and receiving other government benefits. All states administer a child support enforcement program which meets the federal requirements and allows parents to apply for child support by completing a no cost application<sup>16</sup>.

## **Barriers to Legal Access and Child Support in Okinawa<sup>17</sup>**

### **Geography**

U.S. Child Support Policy is: “Parents Cannot Walk Away From Their Children<sup>18</sup> “-No Exceptions! Yet, a child’s right to receive child support

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<sup>15</sup> Ibid.

<sup>16</sup> Title VI-D of the Social Security Act--42 U.S.C. Chapter 7, Title IV-D. The federal government’s power to regulate these state plans stems from the federal governments contributions to individual state’s Aid to Families with Dependent Children.

<sup>17</sup> This section reproduced from Vera Fry, *Amerasian Justice Project, Report: A Bridge to Justice*, (2008).

<sup>18</sup> “Handbook on Child Support Enforcement,” Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, Updated 2005, [http://www.acf.hhs.gov/programs/cse/pubs/2005/handbook\\_on\\_cse.pdf](http://www.acf.hhs.gov/programs/cse/pubs/2005/handbook_on_cse.pdf).

from a U.S. citizen parent can be severely disadvantaged by the fact that the child lives in Okinawa, Japan, instead of the United States of America. A child born to a U.S. citizen father and non U.S. citizen mother, later abandoned by the father, has a legal right to support from him regardless of whether the child has U.S., Japanese or dual citizenship, regardless of whether the child lives in the United States or Japan and regardless of whether the child's parents were married or not at the time of the child's birth. Laws exist to protect these children, yet without legal representation, children are not able to access the law. As a result, in the authors' experience, the vast majority of children do not receive the support to which they are entitled.

There is a loophole in the strong U.S. policies that require parents to take financial responsibility for their children. When U.S. citizens have children who live outside the United States, child support collection becomes problematic. Often, Amerasian children in Okinawa who have been abandoned by their U.S. citizen fathers are not benefiting from child support because custodial parents do not know how to apply for child support in the United States. Thus, many fathers simply walk out of their children's lives and walk away from their duty to provide support. This problem is exacerbated by the fact that the United States and Japan have very different policies regarding child support.

### **Lack of Affordable, Accessible International Law Advice**

The legal assistance providers available in Okinawa for Japanese law issues including city hall free lawyer consultation and Houterasu (Japan Legal Support Center) are not able to assist clients if the clients either don't speak Japanese and/or the case involves any international



law issue. For the most part, they are qualified to provide Japanese law advice only. Therefore, clients must look elsewhere for help. When in need of legal representation involving international family law issues, people may reach out to a variety of local contacts for help including the Okinawa Prefectural Government's Women's Comprehensive Center (TIRURU), the Gender Equality Office, Executive Office of the Governor, Department of General Affairs, the U.S. Consulate General in Okinawa, the Okinawa liaison office of the Japanese Ministry of Foreign Affairs or U.S. military legal assistance offices.

Unfortunately, only military legal assistance offices offer any direct legal representation. But, they are qualified to provide U.S. law advice only. While the staff is dedicated to legal assistance, in the vast majority of cases, they are unable to assist foreign spouses due to language barriers, ineligibility for services, staffing issues, lack of technical knowledge or inability to follow long-term cases. Thus, the client's inability to access services might also be quite literal-if she has no military identification card she is not allowed to enter the base and visit the legal assistance office. Legal assistance offices and the others mentioned about typically refer clients to a private attorney, which most clients are unable to afford.

### **Effects of Child Support Barriers**

At least in terms of child support, there are some good outcomes. With the assistance of private attorneys, through pressure placed on a military member by their command, or through the legal assistance of offices, a small fraction of children entitled to receive child support from their U.S. citizen father actually receive the support. No figures exist on the percentage of children born to Japanese mothers and SOFA

Americans receive child support. But in the great majority of cases, mothers and children who seek child support information are directed and redirected from one organization to another without locating the assistance they so desperately seek. When they are aware of their right to child support, efforts by mothers in Okinawa to pursue child support encounter serious legal barriers because they do not know where to go, who to talk to, etc. Currently available legal services in Okinawa are woefully inadequate to represent the large numbers of clients potentially eligible to receive child support.

The lack of legal access to international family law advice harms child, mother and father. Children are not only being denied their right to financial support from absent parents. Without proper representation, children may be cut off from contact with one parent, or a parent may lose valuable property rights. Additionally, other rights are at stake as well including citizenship, both U.S. and Japanese. For instance, babies born in the United States to a Japanese mother and American father lose forever their right to Japanese citizenship if the mothers fail to register the child's birth with the Japanese government within 90 days<sup>19</sup>. Thus, law students have an opportunity, by participating in the international law clinic, to positively impact families in significant and lasting ways and gain invaluable experience at the intersection of United States and Japanese laws.

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<sup>19</sup> Nationality Law of Japan, Section 12 and Family Registrarion Law of Japan, Section 49, Paragraph 1.

## **Legal Clinic at Univ. of the Ryukyus Graduate School of Law Law Clinic Opened in 2006**

The creation of an entirely new law school system in Japan inaugurated the beginning of clinical law courses for law students. Both began in 2006. Practical courses include: moot court, lawyering skills, client interview and law clinic. Third year students are required to complete the moot court course. Also, students have the choice to enroll in one of three two credit courses: lawyering skills, externship, or live client clinic. The lawyering skill course is open in the fall (latter) semester of second year, live client clinic is open in the spring (former) semester of third year, and externship is available in the summer break between second and third year. Students may, but are not required, to take lawyering skills, prior to clinic so they have a foundation of knowledge regarding client interview prior to live client interviews during the clinic.

The substantive course curriculum requires students to enroll in seventeen mandatory courses in their first year, thirteen mandatory courses and some elective courses in their second year, and six mandatory courses and the rest of elective courses in their third year. In order to graduate, they have to earn ninety-five credits for mandatory and elective courses in total. Students attend classes from morning to evening five days a week with only one half day outside class Monday through Friday during their second and third years. Thus, attending law school in Japan is akin to a full time job. Contrast this to the United States law school curriculum, where students enroll in four to five courses per term with a typical Monday/Wednesday/Friday or Tuesday/ Thursday schedule. The U.S. system allows students to have blocks of time outside core class requirement freeing students to enroll in clinic and extern

classes. For Japanese law students, these blocks of time are not available, thereby making clinical work almost impossible. Now, the law clinic is relegated to Saturday morning -- not a popular time block for school-- during second semester. The law clinic is open one time per month for four hours during one semester only.

### **Students Primarily Concerned About Japanese Bar Exam**

In 2001, the Justice System Reform Council of Japan (“JSRCJ”) recommended as follows. “A new legal training system should be established, not by focusing only on the “single point” of selection through the national bar examination but by organically connecting legal education, the national bar examination and legal training as a “process.”<sup>20</sup> As its core, law schools, professional schools providing education especially for training for the legal profession, should be established. In light of the purpose of developing a new legal training system as a “process” instead of only through the “single point” of the bar examination, law schools should be designed in such a manner that the students can concentrate on their coursework while in school.

In this respect, on the essential condition that people with the ability and motivation to become legal professionals are admitted to law schools and their grades are strictly evaluated and their completion of the coursework is rigidly certified, productive educational programs should be provided so that a certain ratio of those who have completed the course at law schools (e.g., 70 to 80%) can pass the new national bar examination discussed later.”<sup>21</sup> Simultaneously, JSRCJ recommended that

<sup>20</sup> Recommendations of the Justice System Reform Council - For a Justice System to Support Japan in the 21st Century - at (The Justice System Reform Council of Japan, June 12, 2001).

<sup>21</sup> Ibid.

the aim for substantial increase of the legal population should be to have 3,000 successful candidates for the new national bar examination in about 2010.

However, the Ministry of Education, Culture, Sports, Science and Technology of Japan (“MEJ”) initially approved 68 law schools where the total number of capacity was 5590 students. At this point, it was almost impossible to achieve the ideal held up by JSRCJ. Most students at law schools have every reason to concentrate on preparing for the National Bar Exam, instead of taking time on their coursework, including, but not limited to, clinical coursework

### **Professors - Difficult to Obtain Cooperation From Scholars**

The Japanese law school system is quite different from the U.S. law school system in that many of the law school professors do not have clinical experience. Prior to their appointment as law school professors, they were Ph.D. candidates who studied law academically and studied and taught law at four-year undergraduate colleges. Other than exceptional scholar professors, many of them do not have an interest in maintaining clinical legal education at law schools. Or, because they lack practical experience themselves, they lack confidence to develop clinical courses. As a result, all the planning, course management and administration are left to practitioner professors, who are usually very busy with their own private clients.

### **Clients & Legal Issues**

The majority of clients last year were Japanese citizens with Japanese law problems including motor vehicle accidents, employment/labor disputes, divorce (both spouses Japanese), adultery. Most clients were referrals from Houterasu, the National Legal Assistance Office. Of

non Japanese clients or cases involving international legal issues, most were referrals from Univ. Ryukyus Professor Takeda or Professor Fujita, the others learned about the clinic from a newspaper article in the U.S. newspaper, "Stars & Stripes." Approximately four were American and two of the four were able to communicate in Japanese, the others spoke only English. Of these, one case involved Japanese employee rights and the other three involved international family law.

## REFLECTIONS

### What Worked and What Didn't

Despite edition of Fry as a clinic legal instructor in 2008-2009 term, the nominal title of the clinic remained the same. The existing clinic was designed as a general law clinic with professors and students prepared to provide legal counsel to Japanese speaking clients on questions of Japanese law. Last year there were eleven students in the law clinic. The program is offered as one choice among other practical courses including legal research (either Japanese or U.S. law), Interview Skills or Moot Court. There are no prerequisites for law clinic enrollment. Only third year students are eligible. Last year, five were male, six were female. All were Japanese citizens. Out of the group, only two or three students had sufficient English language ability to converse about legal issues with peers, clients and/or instructors. Although two courses are offered in English: American Legal Systems and American Legal Investigation, only three clinic students had previously enrolled in one or both. Thus, the great majority of students did not have enough background knowledge to take part in international family law clinic.

## FUTURE CLINIC DESIGN

### **Overcoming Boundaries of Language, Culture and Law**

The main boundary students and clients face is one of language. Approximately 30% of international law clients, in our experience, are American males who speak only English. In contrast, the majority of law students are not comfortable speaking English - only about 15% speak English at an advanced level-the level necessary to conduct client interviews in English. Without an interpreter present, the majority of law students are unable to serve as the lead in interviews of Americans. Thus, in order to allow greater student participation, English speaking clients could be asked to supply their own interpreter for the initial consultation, a law professor could serve as interpreter, or another student could serve as interpreter. Serving as an interpreter would also be a useful exercise for students fluent in English because it would require them to listen closely to the client - always a critical skill.

For the other 70% of cases, the client speaks Japanese so there is no barrier between client and student. However, an interpreter is also necessary between an English speaking clinical law teacher and Japanese (only) speaking student. Without interpretation assistance, the teacher will not be able to affectively coach and provide feedback to the student. One solution would be to enlist the aid of the English language interpreter students from the Okinawa International Exchange and Human Resources Development Foundation. These Japanese students have advance English language skill and are studying to become interpreters.

Cultural boundaries between client and student may arise with an American client and Japanese law student. The first step to overcoming

these boundaries is for students to maintain awareness of possible differences in communication styles, styles of relating, and gender or national-ity stereotypes. From our experience last year, we saw that students need encouragement to ask probing questions - this is all the more difficult across cultural and/or gender lines. Students cannot simply be satisfied to serve as stenographers for information clients volunteer. They must take each piece of information offered by the clients and consider what follow up questions should be asked pertinent to that piece of information. And, they should not be reticent about asking personal questions. Other cultural differences we have seen include rate of speech, conversational pauses and number of interruptions. Again, awareness of these issues is the first step to overcoming them. With every client interview, students will become more adept at managing these to ensure a quality consultation despite them.

The great benefit to the design of our international clinic is that teachers are licensed in both Japan and the U.S and they can educate students about U.S. law topics. Multijurisdictional knowledge is almost always necessary in international consultations. As students progress through the term, they can build on new law knowledge to offer increasingly sophisticated advice to clients. The law school offers a course on U.S. legal research - an important foundation that will enable international clinic participants to understand how to find relevant state and federal laws and cases on the internet.

### **Reaching Greater Populations**

The small size and tight knit community of Okinawa allows us to easily reach a large segment of the population. Citizens in Japan have regular contact with their city hall and each city hall serves as an information



hub. By informing city administrators of the clinic's existence and requesting that they publicize it, we will have the opportunity to reach a larger number of people. Likewise, the clinic service can be published on local U.S. military bases by the public affairs officers and the community liaisons. We will also notify the U.S. Consulate in Okinawa, Tiruru Women's Center and military base legal offices about the clinic since each of these offices receives frequent requests for international legal assistance. Additionally, due to the demand for international legal services, we can expect that local papers such as the "Okinawa Times," "Ryukyu Shimpo," and "Stars and Stripes" would publicize the clinic as a service to the community.

### **Towards a More Effective Experience For Students**

Effective communication with clients and clinic teachers is crucial. Thus, the language assistance (with interpreter if necessary) as mentioned in the previous issue will enable students to have comprehensive consultations with clients and avoid, to the greatest extent possible, client - student misunderstandings about factual questions. It will also ensure that students understand teacher feedback and can ask follow-up questions.

Students should receive a step by step guide to conducting an effective client interview even though some may have already taken a client interview class. We have found that nervous students are likely to forget important points so we advise students to create a checklist of items to move through during the client interview. As they finish one, for instance, self -introduction, or explanation of attorney-client privilege, they can check off the item on their list.

Concrete legal skills like fact gathering and issue spotting will be highlighted. As mentioned in detail earlier, some students have the tendency to passively absorb facts provided by clients. Yet, effective fact-gathering requires follow-up questions that probe for additional forgotten or seemingly unimportant facts. Students will be reminded that they, not the client, possess legal knowledge. Therefore, just because the client presents with Issue “A” does not mean that that is the only legal problem the client faces. Clients cannot be expected to spot issues. This is the responsibility of law students under the guidance of clinical professors. Frequently, the legal issues in the case are more complicated than initially presented by the client. As teachers, we should reinforce the fact that additional or hidden legal issues can dramatically change the advice we give clients. Therefore, quality legal counsel follows from quality interview, fact gathering and issue spotting.

## CONCLUSION

Despite the fact that there are hundreds of babies born each year in Okinawa to a Japanese parent and American SOFA parent, there is not a single legal service organization on the island organized to address the international, multijurisdictional legal problems endemic to this group. Beyond the discrete group of these children, there is no legal support system that advocates for the rights of children on Okinawa. Instead, there is a confusing patchwork of U.S. military and Japanese government offices ill-equipped to address the unique legal needs of international families in Okinawa. Law students participating in the international law clinic provide a critical link, bridging the gap between clients and access to justice. Without legal advocates, international

families in Okinawa continue to be at risk for legal detriment when they do not understand their legal rights and do not understand the ramifications of their legal actions or inaction. Until Japanese and United States officials support the creation of an international law advice center for SOFA status personnel and their Japanese families members, law students can make meaningful contributions the community and garner valuable international law experience by participating in the law school's international family law clinic.