



AALAM NEWS

The Newsletter of the Asian American Lawyers Association of Massachusetts

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www.aalam.org

AALAM Celebrates 20th Anniversary by hosting 2005 NAPABA Northeast Regional Conference



On Saturday **April 23, 2005**, the **Asian American Lawyers Association of Massachusetts (AALAM)** hosted the **National Asian Pacific American Bar Association (NAPABA) Northeast Regional Conference** and **AALAM 20th Anniversary Banquet** at the Seaport Hotel in Boston. The conference had over 100 attendees not only from Massachusetts, but also from Connecticut, New York, New Jersey, Pennsylvania and Washington, DC. The theme of the conference was **"Making Your Mark."** During the breakfast sponsored by **Goodwin Procter LLP, Michael Chu**, President of NAPABA, greeted everyone to the conference. He also commented on the recent death of Civil Rights Pioneer **Fred Korematsu** and hoped that Fred's memory would be in people's thoughts throughout the day.

Volunteer law students helped with the registration of conference participants. Highlights from the morning and afternoon sessions included panel discussions on "Diversity Initiatives at Law Firms and Corporations", "Civil Rights in Consideration of *Korematsu* and the *Hamdi/Padilla/Gauntanamo* Cases", and "Strategies for Success in the Legal Profession". Career Coach and Author **Jane Hyun** was on-hand to sign her new book ***Breaking the Bamboo Ceiling***. A cocktail networking reception sponsored by **Dewars** bridged the time between the conference and evening banquet.

During the luncheon sponsored by **Wilmer, Cutler, Pickering, Hale & Dorr, LLP, Hon. John T. Lu** of the Boston Municipal Court introduced the Keynote Speaker **Hon. Denny Chin** of the U.S.



The late Fred Korematsu with President William J. Clinton



Past AALAM Presidents Andrew Leong, Theodore Chuang, and Paul Lee with Hon. Fernande Duffly

District Court, Southern District of New York. In his introduction Judge Lu jokingly commented on Judge Chin's recent ruling in favor of Johnson & Johnson, the makers of dental floss, against Pfizer, the makers of

Listerine. Judge Chin wrote "The benefits of flossing are real --- they are not a 'myth.'" All joking aside, Judge Chin gave highlights from a few of the famous cases that his court had been involved such as Fox News Channel's lawsuit against liberal humorist Al Franken from using the phrase "fair and balanced" in a book title. On a more serious note, Judge Chin also commented on the need for more judges of Asian American ancestry, because the number has remained at six for federal judges (of approximately 850 nationwide) and has been slowly increasing for judges in state courts. He urged NAPABA and AALAM memberships to increase efforts by being more involved in the judicial nomination process and becoming more involved in the political process.



Guests enjoying the banquet.

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May 2005

AALAM

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Announcements

AALAM Director named Partner

AALAM Director **Dongsup Samuel Kim** was recently promoted partner at **Gesmer Updegrave, LLP**. Sam concentrates his practice in representing a wide range of corporate clients, including e-commerce companies, ASPs, a variety of internet-based companies, computer hardware and software companies, medical and optical device companies and systems integrators. Sam also served as a lieutenant with the United States Navy during the Persian Gulf Conflict. Congratulations, Sam!

AALAM to Co-Sponsors Walk to the Hill for Civil Legal Aid

On **March 8, 2005**, AALAM once again co-sponsored the **Annual Walk to the Hill for Civil Legal Aid** to ask the Legislature to restore the \$1.5 million cut from the state budget for legal aid over the past three years. Members of AALAM met with their senators and representatives to let them know that legal aid is a vital resource for poor people who need help resolving critical civil legal problems and that it plays a key role in the smooth functioning of the justice system.

AALAM 2005-2006 Elections

It is that time of year again when we elect new officers and directors! We have an exciting slate of candidates who are eager to work on behalf of AALAM and its members. In the coming week or two, you will be receiving an election packet. Please be sure to submit your ballot early to make sure it counts. Only members in good standing may vote so if you have not paid your dues yet, please renew your membership. For your convenience, membership renewal forms will be included in the election packet.

(Note: If you paid your dues within the past 6 months, you need not renew. Your membership will be extended through April 2006)

AALAM Summer Picnic Scheduled

Please join your fellow AALAM members at the annual Summer Picnic. This year, it will be held at **Houghton's Pond at the Blue Hills Reservation** in Milton on **Sunday, July 17, 2005**. Bring your family (children are very much welcomed) and friends for an afternoon of BBQ dining (grilled burgers, hot dogs, chicken wings and Asian dishes), softball game, swimming, fishing, water balloon fights, snoozing, or just catching up with old friends. This event will start at 11:00am. Please **RSVP by July 8** to **Quan Le** at gle@murthalaw.com.

Banquet – Continued from Page 1

The day concluded with the 20th Anniversary Banquet. **WCVB-TV** political reporter **Janet Wu** served as the Banquet Emcee. In her welcoming remarks, she mentioned the growth in the numbers of Asian American lawyers in the Massachusetts Bar but expressed regret that there has been none in the Legislature during her coverage of the State House and the Massachusetts Courts over the past twenty years. Banquet attendees were also greeted by ABA President-Elect **Michael Greco**. President Greco



AALAM Director Stephen Chow with ABA President-Elect Michael Greco

looked forward to working with his counterparts at NAPABA on minority bar issues and raising Asian American representation at law firms and in government.

AALAM Board Members **Jeff Hsi** and **Stephen Chow** presented the AALAM Scholarship to **Karlo Ng**, a Wellesley College graduate and first year law student at Northeastern University School of Law, where she participates in their APALSA and the Northeastern United Radical Front. Karlo received her B.A. in Urban Studies from Wellesley College, *Magna Cum Laude*, where she was a co-founder and President of the Wellesley College Girls' Day, a program created for Boston middle school students to encourage and foster interest in the pursuit of higher education. Karlo was a **Harry Dow Fund** Intern at the **Greater Boston Legal Services Asian Outreach Unit**, and was an Intern at the **Suffolk County District Attorney's Office**, Special Investigations Unit. She was also a Community Organizer with the **Chinese Progressive Association** of Boston and a Research Assistant at the **Urban Institute Center for Nonprofits and Philanthropy** in Washington, D.C. She tearfully acknowledged her parents in appreciation of their efforts to make her pursuit of a legal career possible.

AALAM President **Myong Joun** began his speech with a greeting to all law students, lawyers, and judges. Myong's speech tied together the existing themes of the day. Myong said that like Fred Korematsu, AALAM members must continue to stand up for the rights of others and not just for themselves. "Making your mark ought not to be simply about building up your resume or your bank account, but standing firm and standing up for the principles of justice, equality and fairness." Myong concluded by stating, "Looking ahead to the next twenty years, together, let's make our mark where it truly matters."

The evening was highlighted by the presentation of the inaugural Founders Award by **Paul Lee**, a partner with **Goodwin Proctor**, to the Banquet Keynote Speaker **Dale Minami**. The **AALAM Founders Award** is presented to persons who have contributed to the advancement of Asians in the legal profession. As an



AALAM President Myong Joun and Paul Lee presenting AALAM Founders Award to Dale Minami (middle)

AALAM Founder, Paul Lee commented on the attendance of the AALAM Banquet from the original dinner at **Schroeder's Restaurant** (now occupied by **Radius** on High Street) with less than twenty attorneys to this room filled with more than

200 people. Paul then went on to introduce Dale Minami as the Asian American community's Thurgood Marshall. Paul's introduction spoke of Dale's involvement in the re-opening of Fred Korematsu's case and Dale's championing of civil rights. Nevertheless, Paul also roasted Dale on his independent film-making, posing for an Asian American Hunks Calendar and selection as one of People Magazine's America's Top 50 Bachelors.

Dale Minami began his speech on a somber note. Dale acknowledged the recent deaths of both **Congressman Robert Matsui** and **Fred Korematsu** as major losses to the Asian American Civil Rights movement, because of their tremendous contributions.



Dale Minami presenting Keynote Address

Dale then went on to recount his involvement in the reopening of Fred Korematsu's case.

It began when a University of Massachusetts Professor **Peter Irons** discovered irrefutable evidence that the U.S. Justice Department officials, including the Solicitor General, lied to the Supreme Court about the "military necessity" justification for the Japanese internment. Dale also went on to speak about his relationship to Fred Korematsu, first as client and then as friend. When Dale and Fred had originally met about the evidence, Fred just wanted justice, but was reluctant to speak with the press. By the end, Fred had become more gregarious about his experiences during the Internment years. To sum up, Fred Korematsu was the Asian American community's Rosa Parks. "He had a quiet courage," Dale said. "That's the best way to describe him. He did things because he thought they were right. He just thought this was wrong." "Part of his legacy is that he challenged the government in a time of war. He continued speaking out in support of civil rights and the Constitution until his death." Dale then ended with a challenge to AALAM membership to continue in a struggle because a lot of work still needs to be done.

AALAM also conducted the following activities during the Banquet. AALAM made a \$2,500 donation to the Fred Korematsu Civil Rights Fund to honor Fred Korematsu's memory. AALAM had also planned to present the inaugural Founders Award to Civil Rights

Pioneer Fred Korematsu but, just three weeks before, Mr. Korematsu passed away. AALAM Vice President **Quan Le** organized a successful silent auction (see story page 6) with proceeds going to **Plan USA** of Warwick, Rhode Island, for tsunami relief efforts. Auction items included an autographed copy of **Dennis Lehane's *Mystic River*** and opportunity to be written into his next book as a character, Red Sox Tickets, and Dinner at **Mistral**.

AALAM Event - Responding to the Needs of the Asian American Community

Notwithstanding the inclement weather, approximately 20 people showed up to attend this Joint Bar presentation by the **BBA Family Law Section** and AALAM at **Boston Bar Association**



Attendees listening to the speakers

Headquarters on **March 8, 2005**. This event was a follow-up to the April 1, 2003 jointly sponsored presentation on "*Cultural Considerations in Divorce and Child Custody Matters*." The purpose of the program was to bring the issues initially discussed a couple of years ago to a new level.

Moderators were introduced by **Ingrid Chiemi Schroffner**, an Associate with **Burns & Levinson LLP**, a Member of the **Boston Bar Association Family Law Steering Committee** and a Member of the Executive Board of AALAM. The following panelists presented various perspectives: **Nirva Kapasi, Esq.**, **Nixon Peabody LLP** and South Asian Bar Association Member; **Dr. Ta Van Tai**, Research Fellow, Interpreter and Attorney, Research Fellow, **East Asian Legal Studies Program, Harvard Law School**; Professor **Carwina Weng**, Assistant Clinical Professor, **Boston College Law School**; and **Laura A. Cecere, MSW, JD, LL.M.**, Research Fellow and Coordinator of Visiting Scholars, **East Asian Legal Studies, Harvard Law School**.

Attorney Kapasi gave a brief outline regarding her interesting and complex case and the cultural issues involved. It concerns an Indian woman who reported her husband's sexual abuse of her daughter to the police and after the police took the husband away, she tried to kill herself and her daughter. The mother would not testify against the father, so charges against him are dropped. The mother faces charges of attempted murder but is in state institution, having been found incompetent to stand trial. DSS is planning to place child with paternal uncle – only relatives in U.S. The mother is concerned that the father will have access to child if she is kept with paternal uncle. Maternal relatives in India trying to obtain custody, but DSS will not consider. Daughter was born here, so she's an American citizen but the father is

only here on a temporary work visa, and the mother has no status apart from marriage to the father.

Kapasi discussed the mother's refusal on what she believed to be cultural grounds, to testify against her husband. She also discussed DSS' reluctance to evaluate child placement in India. After fielding certain questions raised by the audience, Kapasi described the Indian penal code. She also made reference to the fact that there are no child abuse laws in India or protective services. Her practical pointers with respect to representing her clients in this case were twofold. One, if it is a domestic dispute due to the view of roles in Indian society, one might want to talk to the woman separately. Second, you should gauge communication based on education against the backdrop of the different legal systems between home country's culture and that of the United States.

Dr. Tai describe his experience and observation as a practicing attorney in Boston and a Certified Court Interpreter. Because of these roles he was able to gather the data on the needs of Asian Americans in the Court. He has worked primarily with the Vietnamese and other East Asian community, representing clients in the Family Court and Juvenile Court as well as other venues.

Dr. Tai discussed four factors based on his experience as a Court Interpreter as well as an attorney representing mainly Vietnamese clients in Massachusetts. The first factor was the language barrier. He noted that translations of actual words are also a translation of concepts. The second factor was the art of communication by body language. The third factor was that those who are less educated (i.e., recently immigrated Asians), would be less likely to seek out the Court system. The fourth factor was the attitude of what he called the "mainstream actors" in the Court system. With respect to the last factor, Tai noted that he believed that the experience of the Asian American litigant and/or attorney in the Massachusetts Probate and Family Court system has been, in general, a good one. He noted specific examples of interaction while wearing both hats as an interpreter and an attorney with Judges, Clerks and other Court personnel. He ended by quoting Historian **Arnold Toynbee's** description of the Law of History: "**Challenge and Response**."

Professor Weng discussed teaching cultural considerations to her law students. Recently, BCLS has been seeking to incorporate cultural considerations training in their clinical programs, which Professor Weng is a part of.

Weng discussed how she teaches her students to be aware of cultural considerations in representing clients. Her emphasis was on our role as an attorney – our duty to obtain accurate information. She noted that sometimes people can view the American legal system as value-neutral. However, learning to identify cultural considerations to be aware of certain questions to ask to obtain the most accurate information possible to

represent a person's client, is really about becoming aware of how we value things. Weng noted the realization of how each attorney values items affects relations with the clients who may be in a different world of value. We all have our own cultures, respectively. Weng described recognizing that when you are reviewing information given to you by a client, you have two cultures interlocking and interacting. Thus, everything we do as lawyers is filtered through these cultural lenses. The next question she said is that an attorney might ask and look at is what who we are makes us do, thus translating into more concrete skills for lawyers. She noted that some litigants of other cultures might perceive themselves as outsiders. We need to understand what their expectations are with respect to the Court system. Touching on some of the points made by Dr. Tai, she made reference to communication skills and body language and the idea that what is most important to do is to anticipate the kinds of issues that could come up.

That is, to get to what a client means, one might look into what cultural views and parenting styles are. What does the client think of family? What are traditional roles in the client's culture? Weng's ending comments, led into a natural transition to Attorney Cecere's discussion.

Attorney Cecere pointed out that the first goal in an attorney/client relationship is to generate trust. Her background is in dealing with international adoption and the cultural exchanges at play therein. She is also experienced in forensic social work. She brought home the idea referred to and introduced by the other panelists: that representing a client is to obtain accurate information and seek to obtain equity under the laws available here. That is, cultural considerations are not to be used as excuses for conduct or to give preferential treatment to people. Rather, they are to be used as a way to understand conduct of parties. A way to get into the mind-set of those parties so that they understand the rules that apply here vis-à-vis their respective world views. Cecere, who is Caucasian, pointed out that sometimes she experiences initial distrust because she is not of Asian ancestry, from Asian litigants. Cecere has adopted two Chinese girls. She says that sometimes she mentions this because she perceives that it may generate trust – to be brought into the fold, so to speak. Trust is the big step. But aside from the cultural considerations, it is the human interaction of representation that is enhanced by the awareness of cultural factors to consider. Recognizing cultural considerations – at least the awareness that there are issues that might be there to be considered, assists in that endeavor.

As advocates, it can assist us in achieving equity for our clients to the best extent possible within the system that we have here in the United States. That is the importance of it.

AALAM Executive Board Member **Ingrid Chiemi Schroffner** sings under her middle name in "Living On 2 Coasts," her recently released CD. The disk features 9 original songs sung by Chiemi. Chiemi also plays her vintage green Gretsch guitar with DeepC (Djembe, percussion and backing vocals) and Sean Dennehy (lead guitar, bass & keyboards) the Chiemi Trio. The CD is currently available at **Newbury Comics & CD Spins** in MA, **Bull Moose Music Stores** in ME, the **Boston College Bookstore** and **www.cdbaby.com**.

Song samples as well as news clips and photos may be accessed from **www.ChiemiMusic.com**. Chiemi's next local appearance will be on **Saturday, June 11, @ 1:00pm** at the **Borders Books and Music Store Café** in Cambridge.



AALAM President's Message

As my term as AALAM President winds down, I cannot help but think what a great way it is to step down after such a successful hosting of the 2005 National Asian Pacific American Bar Association Northeast Regional Conference and celebration of AALAM's 20th Anniversary! On behalf of the Executive Board, I would like to express my deep gratitude to all of our sponsoring firms and bar associations.



When I took the helm in December 2003, AALAM was strong in its essential mission: to promote and enhance the Asian American legal profession. After almost 20 years, it was clear – at least to me - that AALAM was poised for the next chapter in its history by broadening the scope of that mission. I have sometimes been criticized but mostly applauded for the initiatives I took. This tells me that I have created some awareness and critical thinking and that the organization is heading in the right direction.

I am grateful for the great assistance I received from the Board of Directors during my tenure. I have been honoured to serve as AALAM President and I pledge to remain an active member. If you are not a member or have not been active, I hope that you will join me in making this organization even more relevant to both the legal profession and to the communities we serve.

Myong J. Joun

Silent Auction to Support Tsunami Relief

On April 23rd, AALAM celebrated its 20th Anniversary Banquet and hosted the NAPABA 2005 Northeast Regional Conference. As part of this year's activities, AALAM held a silent auction fundraiser with all proceeds from the silent auction given to the **Plan USA** of Warwick, Rhode Island, a public charity, to assist in tsunami relief efforts. As many of you know, nearly five months ago, a massive underwater earthquake triggered a tsunami that ravaged the coasts of approximately a dozen Asian nations and killed hundreds of thousands of people. The devastation has touched millions of lives and the long-term affect is immeasurable. AALAM, through the generous donations of our friends and members, was able to raise over \$2,000 to support the tsunami relief efforts. AALAM would like to thank all of those who helped support the fundraising efforts, with special thanks to the following:

John H. Chu, Esq. of **Chu, Ring & Hazel LLP** for donating Red Sox tickets; **Paul Harris**, Esq. of **Murtha Cullina LLP** for donating Red Sox tickets; **Dr. Sandra Crowley** for donating teeth whitening services; New York Times best selling author **Dennis Lehane** for donating a signed autograph copy of *Mystic River* and the unique opportunity to be written into his next book; **Top of the Hub Restaurant** for donating a tasting dinner for two; **Harpoon Brewery** for donating a gift basket and a brewery tour; **Jillian's of Boston** for donating an after work billiards party; **PlexCom Online Services** for donating a website design; **Mistral** for donating dinner for two; **Dewar's** for donating a gift basket; **Salon Marc Harris** for donating hair styling services; and the **Seaport Hotel** for donating a night stay in Boston.

Calendar of Events

Please check our website www.aalam.org for updates on events.

June 7, 2005 5:00pm – 7:00pm	Asian Americans in Politics – A Discussion Northeastern University, Boston, MA
June 11, 2005 1:00pm	Chiemi to Play at Borders Books and Music Cambridgeside Galleria Mall, Cambridge, MA
June 28, 2005 8:00am – 9:00am	AALAM Community Service Committee Meeting Bingham McCutcheon, 150 Federal St., Boston, MA
June 22, 2005 8:00am – 3:00pm	Ruffin Society Convocation: Demise of Affirmative Action Northeastern University, Curry Student Center, Boston, MA
July 17, 2005 11:00am – ???	AALAM Summer Picnic Houghton's Pond, Blue Hills Reservation, Milton, MA
October 20-23, 2005 TBA	NAPABA 17 th Annual Convention: Forging Ahead Hyatt Regency, Chicago, IL For more info: www.napaba.org

Please Join AALAM for this special event

The **Asian American Lawyers Association of Massachusetts** and the **Asian American Center at Northeastern University** are presenting a panel entitled, "**ASIAN AMERICANS IN POLITICS: A DISCUSSION WITH OFFICEHOLDERS AND CANDIDATES.**" Co-sponsored by the President's Asian American Advisory Group at Northeastern and the Commonwealth Legislative Seminar.

Tuesday, June 7, 2005

Northeastern University,
McLeod Suites (Curry Student Center)
Reception at 5:00 pm
Panel Discussion at 5:30 pm

Opening Remarks by Governor **Michael Dukakis**.

MODERATOR:

Professor Paul Watanabe, Director, Institute for Asian American Studies and Assoc. Prof. of Political Science, University of Massachusetts-Boston

PANELISTS:

Ramesh Advani, Chairman, Norfolk Board of Selectman
Amy Mah Sangiolo, Vice-President, Newton Board of Alderman
Greer Tan Swiston, Candidate for Newton Board of Aldermen
Sam Yoon, Candidate for Boston City Council

This forum will explore issues faced by Asian Pacific Americans (APAs) running for political office in a state where APAs comprise one of the fastest-growing populations in many major towns and cities but have yet to elect a representative to statewide office. The panelists will examine topics ranging from the significance of an APA identity for politicians to the difficulties of representing a diverse and non-homogenous ethnic group to the impact of current demographic trends on political races.

Directions to the Curry Student Center (CSC) located at 346 Huntington Ave.:

From Green Line: Go to the Northeastern stop on the E Line (first stop above ground). Cross Huntington Ave. and walk through the Krentzman Quadrangle. Go straight, passing Richards and Hayden Halls on your right and Ell Hall on the left. Go down the stairs and the CSC will be on your left.

From Orange Line: Go to the Ruggles stop and walk down the stairs towards campus. Go right, passing in front of the Egan Research Center and then go left, walking between Egan and the Snell Library and walk diagonally through the quad to the CSC.

For a campus map, go to www.campusmap.neu.edu.

For more information, contact Tina Matsuoka at tinaryoko@yahoo.com

[AALAM member article submission:](#)

**LANGUAGE AND CULTURAL FACTORS
AFFECTING ASIANS' SITUATION IN PROBATE
AND FAMILY COURTS**

By **Tai Van Ta**, Attorney and
Certified Court Interpreter, Massachusetts

The Institute for Asian American Studies at University of Massachusetts has, basing on the 2000 Census data, released the profiles of Asian Americans in the state and in 14 cities and towns with the largest concentration of Asian Americans. The profiles show that they are extremely varied in economic and class status and demography. Here are some selective facts: 40% of Vietnamese are born in the US (highest percentage) while the Chinese have the highest rate of naturalization and citizenship; Indians (75%) and Chinese (30% over 25 years old) are more likely to have a college/graduate degree than the Vietnamese (11% of Vietnamese over 25) or Cambodians. Many female Chinese (over 44%) and Vietnamese (56%) have less than a high school education. Many more Indians and Chinese than Vietnamese or Cambodians are in management, professional and related occupations, while one half of Cambodians and one-third of Vietnamese are in production, transportation and material moving. Half of the Chinese households have less than \$25,000 income, but 41% of Vietnamese households are below that income level, probably the Vietnamese have more people in their household working. Also as newer refugees and immigrants, many more Vietnamese and Cambodians are on public assistance than other Asian groups.

Under 4 headings, we will present the factors that impede these Asian Americans' equal access to, and use of, the services of the Court system and also those factors that can be mobilized to help facilitate their access to the Court services and to smooth out the administration of justice: (1) language barrier (2) cultural differences, (3) access/opportunity to be heard, and (4) attitudes of the major actors in the court system.

Because of the differences among Asian Americans in their educational attainment, and therefore their differences in English language proficiency, occupational positions, acculturation in American social customs and ways of doing things, and knowledge of the American legal system, we should start out by saying that the Asian American elites do not seem to have special problems in access to, and use of, the Court system and most of our observations on impediments to such access to/use of the Court system apply to the less educated, the less sophisticated and acculturated and the lower in the occupational hierarchy.

Moreover, as we discuss the 4 headings, we will point out that there are factors in the Asian culture that actually smooth out the operation of the court system, contributing to economy of justice, and the mainstream people in the court system should not have the condescending attitude and talk only about how to respond to the needs of Asians--as a matter of favor to them.

Most of the observations herein on probate and family courts apply equally to other trial courts' situations, especially the criminal court sessions.

A. LANGUAGE BARRIER AND COMMUNICATION

The problem of language barrier and inadequate communication at the Court applies only to some, and not all, Asian Americans. An Asian American college degree holder, long time resident of the US, would have no difficulty in talking to the Court, but a Vietnamese boat refugee/immigrant would have trouble speaking and understanding in Court. The old-timer Chinese who lives in Newton, Belmont, or Brookline would need no interpreter in a divorce but I have seen a Chinese new immigrant woman in Chinatown beaten up by her husband trembled and unable to express herself clearly, even with an interpreter. I have seen a Vietnamese dentist try to deliver a lecture in English on her case, based on her prepared paper, to the Probate judge even she had been advised by her attorney not to speak too much. I have seen Asian kids speak perfect English with poise to the juvenile court or the probate court judges. On the other hand I have watched so many times the second or third wave of Vietnamese refugees (who came as boat people in late 1970's or early 1980's, or as orderly departure immigrant from 1980's on), in contrast to the first wave of refugees who came out of Vietnam in 1975, like myself, become bewildered in the court proceedings because of their weak English and other cultural impediments.

The less educated Asian Americans need a lot of help from court interpreters, who besides the strict role of language interpreters, sometimes have to go a little beyond that and serve also--despite themselves--as cultural interpreters. For example, in a divorce case in which the wife tried to explain to the judge where the down-payment for the marital house came from, the interpreter has to translate and, then to paraphrase and --when the judge asked-- also to explain the term *hui* (credit association) and the mechanism of forming an association to take turn borrowing from each other. And the lawyers using the service of interpreters in their interview of their clients should be patient and reserve extra time for it, because of both the language barrier and usual lack of sophistication of the clients who need interpretation.

Despite the budget crisis of the Massachusetts court system in the last few years, the Office of Court Interpreters of the Trial Courts has responded to the soaring requests for interpreters of the courts, and has asked for additional funding from the state budget. Each day, about 140 interpreters, full time as well as freelancers, work in the state courts, handling 66 languages, and yet they cannot satisfy fully the need of the courts, and there is some time the delay-- and violation of the constitutional right to speedy trial-- due to lack of interpreter.

When there is no interpreter in the probate and family courts, there is no urgency as in the criminal court, because the judge can always postpone the hearing, but fairness in the fundamental issues of equitable partition of the marital estate and especially fairness in child support and visitation and education require that the judge understands clearly the positions/explanations of the litigants. Moreover, even in probate courts, there are emergency need for interpreter in order for justice to be served, and the fundamental interests of the litigants to be protected (their safety), for example, in the hearings on the incidents of domestic violence and the urgent need for restraining order.

We should all address the legislature for more money for interpretation service. That would show the world that the Commonwealth considers equal access to this legal system is the right and privilege it confers on all residents of the state, in a real democratic spirit.

Body Language - One aspect of language barrier is the art of communication with body language and tone of voice, which should be used with intelligence and tact by the mainstream people in dealing with Asian Americans in courts. Don't shout too loud, but speak gently. Act out your body language gently to an Asian, but not in a too much authoritarian or aggressive manner. One way the Asians communicate respect and tactfulness is to bow their head and look to the ground (for the emperor, people even prostrated themselves to the ground), and also to avoid eye contact. Such behavior should not be misunderstood as undue shyness or guilt or suspect.

B. CULTURE

1) Attitude toward legal system and authority. Asians came from legal systems different from the US court system and may need time to learn to adapt to the US system.

A person from the civil law system of Vietnam (modeled after the French system) may not be used to the jury being the absolute judge of facts in American courts--even though they have two people's assessors sitting on both side of the judge to decide cases, and may learn that in American courts they can use the power of persuasion with laymen jury to win their cases. The Chinese immigrants from Taiwan and China, or even Japan (all civil law systems) face the same situation. The Vietnamese and the Chinese coming from a communist court system in which the judges may have to ask for the communist party unit's agreement before rendering a judgment (in Vietnamese, they call it *think an*--request for judgment) may actually appreciate and feel protected by the American independent court system which is a co-equal branch of government, especially with the jury composed of citizens like themselves. This is a positive influence of the American court system which may induce the Asian Americans to be more ready to use the system.

However, there seems to be a parallel but opposite force: the usual traditional fear of authority among recent immigrant Asian Americans. The Vietnamese, for example, have long suffered from all kinds of police oppression: French colonial, Communists, and feudal-militarist. That historical baggage brought to America has resulted in the Vietnamese being careful/law-abiding but also sometimes evasive when dealing with the police and the court.

Because of these push and pull in opposite directions, we don't think the stereotype of Asians being afraid of police and court is true. In family law and court, many Asian women may suffer domestic abuse without appealing to the help of the police and the court, which they fear or avoid in their home countries. But other Asian women have taught one another the scheme of resorting to the intervention of the police and the court in domestic disputes as a way to control their husband or boyfriend--amounting to abuse of process.

Divorce has soared among the Asian Americans, because the no-fault divorce of the American probate and family courts permits an easy way out of the usually strong bond of marriage in Asian families when they were back in their former homelands. Men may want to divorce to go back to their country to marry younger women (*dao nhi* is the Vietnamese word). It may be divorce today, a trip to Vietnam tomorrow. Women may find that white Americans are more gallant and having their economic/financial independence with their own

jobs. Asian women are in a better bargaining position than before.

2) Asian preference for pacific settlement of dispute. Asians, especially Vietnamese, prefer pacific settlement of disputes. Mediation and conciliation have been the traditional roads to problem solving in Vietnam and China. The Vietnamese have a saying in Sino-Vietnamese terms; *Di hoa vi quy* (Harmony is the best policy). It has been incorporated into the dynastic code of the Le Dynasty. In both China and Vietnam, there have been the cultural influence of Buddhism, which promoted respect and tolerance of all living creatures (*tu bi hi xa*) and the culture of Confucianism, which treasured self-improvement, cohesion in the family, law and order in the nation and peace in the world (*tu than, te gia, tri quoc, binh thien ha*). As a result, many Asian Americans from China and Vietnam prefer negotiation and mediation if they can, to avoid litigation.

In probate and family court matters, this tendency toward the tradition of mediation and conciliation is reflected in the intervention --such as offer for mediation, conciliation-- by family or clan members in the domestic violence, divorce, property dispute or children's custody. A Vietnamese wife, who was nearly stifled by her husband, has been advised by her father to forgive the husband in the criminal proceeding and therefore, the divorce in the probate court goes on more smoothly with concession of the husband on property division. Probably because of this tendency, the divorces among Vietnamese are much less vicious --mostly by mutual consent or uncontested proceeding-- than the acrimonious divorces among rich Americans (in the rich counties of Middlesex and Norfolk for example). The ADR (Alternative Dispute Resolution), which the American courts now promote, have been a long tradition of the Vietnamese and the Chinese peoples. This cultural aspect is a positive contribution of the Asian culture to the American legal system.

3) Socio-economic status: downward social mobility among some Asian Americans in their new country of USA. Besides the success of the Asian whiz kids, many Asian immigrants experienced a downward social mobility when they moved from white collar jobs in their old countries to blue collar or menial jobs in the United States and then suffered also some discrimination in the employment places. These people fell into social and emotional troubles. Among the elderly Vietnamese war veterans, for example, many fell into grief and anxiety as they are near the end of their active lives and feel it is too late to re-create their career and their place/status under the American sun. They become unstable and would beat up their wives after going out drinking with friends. They end up in domestic violence cases in the family courts and even criminal courts. In a similar pattern, Asian youths who could not keep up in their study may end up with gangs and then in juvenile courts.

The family courts and the juvenile courts need to give these people a lot of empathy, because, at least in the Vietnamese case, they are the flotsam and jetsam of the war.

C. ACCESS TO, AND OPPORTUNITY TO BE HEARD BY, THE COURTS

In order to have access to, and opportunity to be heard by, the family courts (as well as other courts), the Asian American litigants should use the service of Asian American attorneys, because they not only can speak the language to interpret for

them to understand the words spoken or written in courts, but also can explain to them as cultural interpreters the working of the American Court system. Only in that way can the Asian American litigants make full use of the services of the Courts. Also, such bilingual Asian American attorneys can help the Court and thus, can carry out effectively their role as officers of the Court.

In the context of the probate and family courts, these attorneys can promote the uncontested divorce (1A divorce) according to the principle of "Harmony is the best policy", using the language of a mediator to advise his clients. Thus, they can alleviate the burden of the judges, who in general, like to have the assistance of attorneys rather than to have to explain to, and bog down with, litigants who go pro-se. In paternity cases, these Asian American attorneys can persuade the putative fathers that they should recognize their children immediately, because in the best Asian tradition, they would have their grown up children take care of them when they reach old age. These attorneys can also encourage their male clients in domestic cases that equality between men and women is the rule in the US and they should no more conduct as if they are the masters and their wives the servants (actually, traditional law in Vietnam treated women almost as equally as men). This is helping the Courts to educate the litigants. Some litigants are so well brain-washed by these reeducation masters that they now joke that in the US, first the women, second the children, third the dogs, and fourth the men.

D. ATTITUDE OF THE MAINSTREAM ACTORS IN THE COURT SYSTEM

1. The Judges - Almost invariably, the judges in the Probate and Family Courts (also the Judges in other trial courts) have great solicitude for Asian Americans. As an Asian attorney and also interpreter, I have the honor of being joked at sometimes by a judge who would ask me "Are you wearing today the hat of the interpreter or that of a lawyer?" And I, as a lawyer, would jovially answer the question. When I served as interpreter, the judges would thank me for contributing to the effort of dispensing justice to non-English speaking residents of this country. When I spoke as attorney, they would listen attentively as if they want to go the extra mile to be a benevolent judge for my foreign-born clients, to try to understand the cultural shock the clients are going through, and to show that in this country of the rule of law, everyone has equal access to justice. And at the appropriate time, I would thank the judge that my clients would be so grateful for a judicious and compassionate decision. At one time, I said that my clients would write home to their relatives and friends to say that they received justice in this country and the judge would become the frontline diplomat in the promotion of the prestige and foreign policy interest of the United States toward the peoples of Asia. The whole court is surprised at my pitch and the judge gave my client a good judgment.

2. Other personnel of the Courts - The Court officers are very friendly to an Asian attorney like myself. I think my being polite and in good humor and my respect for their role of order-keeper make them feel like a friend to me.

The clerk office of the Probate Courts; some are very kind and helpful. One or two are ignoring the litigants when they come to file papers and have to be reminded by his/their colleagues to drop the telephone and help them .

The family services of the Probate and Family courts are very helpful and conscientious when dealing with Asian American litigants. For example, a probation officer asks many questions to strike a balanced solution to be submitted to the judge for eventual approval.

3. Other agencies involved in probate and family matters - Department of Social services: some are careful workers. Others are too power-conscious, and self-righteous especially when dealing with an unsophisticated and bewildered Asian mother who has lost temporarily custody of her child. The Department of Revenue collecting child support is helpful.

4. The White American attorneys, either prosecutors or defense counsels - Most of them are dedicated and correct when dealing with Asian American litigants or attorneys.

For example, when I used this pitch to appeal to his mission, this prosecutor acted magnanimously: I told him that I read that young prosecutors often seem to be difficult but seasoned and older prosecutors decide that their role is not prosecuting but really finding the truth, because they would immediately communicate any exonerating fact to the defense counsel, as required by law, and drop the case. He agreed and dropped the case against my client.

Most defense counsels, when appointed to cases of Asian Americans, are working hard and treat Asian American interpreters well. But some treat the interpreters as an appendage of his or her show at court, as a person under his or her authority, not knowing that the interpreter is there to serve the court, not him or her. Vis-à-vis opposing counsels who are Asian Americans, some white attorneys act rather badly. In the attorneys' room at the Boston Juvenile Court some years ago at Pemberton Square, a female attorney asked an Asian American, sitting nearby in his best suit (and not like some unwashed low class person) "Are you an attorney?" The Asian lawyer replied "So, you think Asians just can't be attorneys, huh?" So embarrassed, the female attorney stick out her hand, saying "Sorry". The Asian American attorney thought that if he eagerly grabbed her hand, he would look like he was too eager to join the club and would be like Uncle Tom in the story Uncle Tom's Cabin, so he pretended to be in hurry and walked out, saying in a loud voice: "That would teach you a lesson".

Another white American attorney tried to use intimidation, telling his opponent who is an Asian American attorney "I never lost a case in front of this judge." The Asian American said "You honor, this attorney said he never lost a case in front of you", implying that this guy might imply that he and the judge are in collusion. Later, after 20 minutes argument, the judge ruled against the white man. The judge might have taught him the lesson that the merits of the case and the skills of an attorney decide the case and not the racial bias and bullying attitude.

The conclusion for Asian Americans: dress well and sharply, so you don't look like a country bumpkin or a China laundryman. Act quickly in your replica (tit for tat), by thinking ahead of all the discrimination situation and the way an Asian American should respond, like Bob Hope or a late night show host thinks ahead of all the jokes, to be used timely later on. Otherwise, you will be bullied. Remember Historian Arnold Toynbee's description of the law of history: challenge and response.

AALAM welcomes submissions from its members for publication in their newsletter.

AALAM NEWS

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