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INDIANA UNIVERSITY
Maurer School of Law
Bloomington

Indiana Law Annotated

*Vol. 13 No.16
December 8, 1997*

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From the Dean

As the semester comes to an end, I would like to take this opportunity to wish everyone a very happy holiday season. I hope each of you enjoys a well deserved break from your studies. I also wish to take a moment to remind you that when you return in January, I will be on sabbatical leave as a Fulbright scholar in Italy and France. I will be teaching comparative constitutional law. Since I will not be here to greet you upon your return, I thought to take a few moments to mention some of the global programs we have, or soon will have, underway.

Prior to arriving in Italy, I will visit Paris to meet with Professor Elisabeth Zoller at Universite Pantheon-Assas, Paris II, one of the leading law schools in France. As you may recall, Professor Zoller has been a visiting professor at our law school for the past four years. She will be teaching in our summer program again this year. While I am in Paris, I will be signing a collaborative agreement with Paris II that establishes a reciprocal student exchange between our law schools. Under this agreement, 1-2 of our students each year will be able to study at Paris II for a semester, provided they are fluent in French. Academic credit will be awarded, assuming prior approval of the student(s) course of study by the ABA. This is an exciting opportunity for several of our students to study law in complete immersion in the French culture. In addition, our own Law School will be enriched by the presence of an equal number of French students in our law classes.

This spring the Law School also plans to engage in a cooperative agreement with the Association of Educational Institutions of Almaty, Kazakstan. The genesis of this agreement arose during the nine month visit by Fulbright scholar Marat Sarsembaev, a professor of international law. The agreement establishes a cooperative relationship to engage in joint research projects, to exchange legislative and bibliography information, and to assist in locating funds to support visits by our respective faculties. Joint research and writing efforts are already underway with several members of our faculty.

This summer, in cooperation with SPEA, law students will be able to participate in a new summer study program. This program is in addition to the two-week Paris program. Each year the Law School sends a number of students to Paris and Brussels to participate in the two week SPEA program "Public Policy and Law in the European Union." This program is hosted at the Ecole Nationale D'Administration and includes visits to the European Union and NATO. This summer, SPEA is planning to add a new two-week program entitled "Globalization in Europe." The program will focus on the globalization of economies and institutions in Western Europe and will involve visits and briefings with relevant institutions in Belgium, the Netherlands, Germany and Switzerland. Included are visits to the Hague, the International Court of Justice, the War Crimes Tribunal, an international law firm, the Bundesbank, the European Monetary Institute, the World Trade Organization, the World Health Organization, and the United Nation's Center for Human Rights. This new program is separate from the Paris program and will run at the conclusion of the Paris program. Students may attend both, if they like, or either one of them. In January, Dean Fromm and Dr. Charles Bonser of SPEA will host an information session on both programs. Look for more details in ILA upon your return.

The Law School is also exploring relationships with schools in several locations, including other former Soviet republics, Erlangen, and Cape Town, South Africa. While I am in Italy I plan to explore additional cooperative arrangements with schools in that country as well.

I believe that these contacts and exchange programs can provide additional learning opportunities for students and enhance the reputation of our law school around the world.

I wish you all the very best with your exams and a very joyous holiday season.

Harris Lecturer to be Harold Hongju Koh

from the Office of Kelly Townes, Associate Dean

Harold Hongju Koh, the Latrobe Smith Professor of International Law and Director of the Orville Schell Center for International Human Rights at Yale Law School, will deliver the Addison C. Harris Lecture on January 21 at noon in the law school moot court room. Everyone is invited to attend.

Professor Koh has received more than a dozen awards for his international human rights work, including the 1995 Trial Lawyer of the Year Award from the Trial Lawyers for Public Justice and the 1992 American Immigration Lawyers' Association Human Rights Award. In 1997, he was named one of America's 45 leading young, public sector lawyers by *The American Lawyer* magazine.

Professor Koh received his JD from Harvard and clerked for Judge Malcolm Wilkey of the U.S. Court of Appeals for the D.C. Circuit and for Justice Harry A. Blackmun of the United States Supreme Court. He practiced Law from 1982-83 at the Washington, D.C. Law firm of Covington & Burling and from 1983-85, as an attorney-advisor at the Office of Legal Counsel of the U.S. Department of Justice.

Professor Koh has testified frequently before the U.S. Congress on international law matters, served as an arbitrator under the North American Free Trade Agreement, and appeared before the United States Supreme Court and the lower federal courts in numerous international human rights cases, including the Haitian and Cuban refugee cases and an ongoing suit against former Bosnian Serb leader Radovan Karadzic. He is a member of the U.S. Secretary of State's Advisory Committee on Public International Law, and the Board of Interights, Human Rights Watch, and the Lawyers' Committee for Human Rights.

News from the Faculty

The oral arguments made by the United States in the Lockerbie case are available on the Internet at the following address: <http://www.icj-cij.org>. At the State Department's request, **Professor Elisabeth Zoller** made oral arguments on behalf of the United States government against Libya regarding the possibility of judicial review of Security Council resolutions. Professor Zoller is a visiting professor at IU Law School and will be teaching a course in Comparative Law this summer.

Visitors to the Web site will find that although the majority of the arguments are in English, Professor Zoller's are in French. Francophones report that Professor Zoller's arguments are interesting enough to warrant brushing up on one's French.

News from Student Affairs Office

SNYDER VISITING SCHOLAR

This is the last ILA notice for submitting applications for the Synder scholarship for the summer or early fall of 1998. Details of the scholarship can be found in previous ILAs and are posted. The final deadline for the submission of application materials is January 13, 1998.

SPRING LOAN CHECKS

The Bursar's Office will be sending to your local address (i.e., the one you have on file with the Registrar) your second semester loan check on January 6 or 7, which means it should arrive by the 8th or 9th. However, if you have a past due account with the Bursar, your check will not be sent to you. So, please check with that office if you have any concerns about your account status. If you have any questions about this process or about financial difficulties you are experiencing, see Dean Fromm.

FIRST YEAR MENTOR PROGRAM

This is a reminder to first year students to submit to Room 024 your interest sheet for the spring mentor program. The new deadline is December 19. If you have misplaced your memo and sheet, please see Dale for a new one.

SPRING TEXTBOOK LIST

Attached to this issue of the ILA is the list of textbooks for spring classes. Students who have copies of these texts and would like to sell them should contact SLA. That way students who need these texts can check with SLA to see which books are available. Of course, students can also swap books on an individual basis. It is hoped that the availability of this list makes it easier for students to get needed texts at the most affordable price.

WRITING CONTESTS

That research project you have completed or are in the process of completing may be worth some fame and money. Check out the writing contests that law students may enter. Those that are sent to the school are posted on the bulletin board by Room 024. You may also check a World Wide Web site at people.memphis.edu/~law/contests.

[html](#) for an exhaustive, if not completely up to date, list of possible contests.

In the past, our students have won first place in some competitions, have had their pieces published in specialized journals, and have won cash awards as large as \$3,000.00. Deadlines for submission of articles vary throughout the year as do the specific formats required. You are encouraged to review the possibilities. Of special note are two competitions where there is an internal school award: a Bankruptcy paper competition (see Professor Markell) and a Copyright competition (see Professor Cate or Professor Leaffer) or Dean Fromm about details of these competitions.

NOTIFICATION OF FALL SEMESTER GRADES

As usual, your fall semester grades will be posted by your exam number, *unless* you select an "envelope" procedure.

To avoid posting, you can submit a separate envelope for each of your courses to the Recorder's Office by *Monday, December 22*. In submitting envelopes, you must:

Place *your* name, Bloomington address (grades are not due until January 19), *and* a stamp on each envelope. As the grades become available for each course, the applicable envelope will be mailed to you.

The grade distribution and average course grade for each course will be posted on the board *and* also will be included in individual envelopes.

As an exception to the posting procedure, grades in selected courses with very small enrollments and grades in directed research projects will not be posted. Such grades may be picked up at the Recorder's Office when the notice of their availability is posted, unless you have submitted a stamped envelope to be mailed.

Absolutely no grades will be given out over the telephone, by E-mail, or by FAX.

FALL EXAM SCHEDULE

The fall exam schedule is attached to this issue.

Announcements

QUIZ BOWL COMES TO THE LAW SCHOOL

The Law Library is pleased to announce the First Possibly-Annual Law Library Interrogatories! Faculty, staff and students are all invited to participate. Teams of four (plus an alternate) will square off against each other putting their knowledge of trivia to the ultimate test. Question categories will include Entertainment, History, Arts/Literature, Science/Nature, The Law, and Law School/IU History.

An entry fee of \$50 per team will reserve a place in the competition for your team. Funds raised from the fees will be used to support selected student activities such as offsetting travel expenses to national meetings and job fairs. Prizes will be awarded to the winning team members and all participants will receive lovely parting gifts. While the exact date has yet to be chosen, we expect the Questions of Fact Bowl to take place sometime in late January. So it's not too early to start auditioning friends and colleagues to be on your team.

Please unite with us through this lively competition in supporting the activities of the students of this law school. Your participation will be greatly appreciated. More information will be provided as soon as it becomes available. If you have questions or would like to enter a team, please contact either Linda Fariss or Nonie Watt in the Library.

BULLETIN BOARD CLEANING

The "Services and For Sale" bulletin board will be cleaned on December 22 to make room for new and more timely notices.

Hello from Tokyo

from Joe Hoffman

Once again, I'm writing this column from Tokyo, where winter has finally arrived -- it's turned very cold and windy all of a sudden. (No snow yet, however -- unlike in Bloomington, from what I hear!) The weather here seems especially chilling to me because I've just returned from a wonderful five-day trip to sub-tropical Taiwan, where I enjoyed 70-degree sunshine almost every day. More importantly, however, the Taiwan visit was my first trip in Asia outside of Japan, and (as with all my recent travels) I learned a lot from the experience.

Taiwan, by way of brief historical review, was originally the home of various indigenous peoples (who still can be found in villages scattered around the island). Later, the island was a stomping ground for Chinese pirates who preyed on ships in the South China Sea. Still later, because of wars and persecutions in mainland China, waves of Chinese immigrants came to the island. In 1517, the first Westerners arrived (Portuguese sailors) and named the island "Formosa," or "Beautiful Island." By 1682, invading Chinese forces from the Ching Dynasty established firm

control over the island, and it remained a part of China until 1895. In that year, however, Japan defeated China in the Sino-Japanese War, and Taiwan was ceded to Japan.

The Japanese ruled Taiwan until the end of WWII, eventually setting it up as a kind of "southern base" for the control of Southeast Asia. (In fact, the university where I delivered my lectures in Taiwan -- National Taiwan University -- began as a Japanese Imperial University, making it a kind of "sister school" to the University of Tokyo.) At the end of the war, Japan was forced to give Taiwan back to China, which was -- at least briefly -- cause for celebration in Taiwan. But the mainland Chinese government, known as the Kuomintang (or KMT), which was then led by Generallissimo Chiang Kaishek, set up a rather brutal regime in Taiwan, and many Taiwanese people were killed during anti-KMT riots in 1947. (This is why, incidentally, the Japanese and the Taiwanese get along very well today, despite the lengthy Japanese occupation -- for many Taiwanese people, it seems, being ruled by the Japanese was actually better than the more repressive regime that was imposed by the KMT.)

Back on the mainland, the KMT soon ran into trouble with the Communists under Mao Tsetung, and in 1949, the KMT was forced to flee to Taiwan. The island's population grew almost overnight from 6 million to 7-and-1/2 million. The mass emigration from mainland China had major cultural, as well as political, significance. For example, when the KMT left the mainland, they brought with them to Taiwan more than 17,000 crates of priceless Chinese art treasures and artifacts -- literally the "best of the best" from the collection of the National Palace Museum in Beijing. They also brought many of the best artisans, writers, musicians, and even chefs from throughout mainland China. In short, the KMT sought to "save" traditional Chinese culture from the Communists, and given the chaotic and destructive events of the Cultural Revolution during the 1960's, maybe they actually did. (I now have a personal reason to thank the KMT for their strategy, by the way -- during my visit to Taiwan, I ate at some of the most fantastic Chinese restaurants you could possibly imagine, including one that the New York Times recently ranked as one of the ten best restaurants in the world!)

In any case, the KMT quickly established martial law in Taiwan (now called the Republic of China, or ROC), and initially planned to recapture the mainland from the Communists (now called the People's Republic of China, or PRC) within a few years. It didn't happen, and over time the ROC gradually began to lose hold of its claim to be the one-and-only "real" China. The Chinese U.N. seat was given to the PRC in 1971, and the U.S. withdrew its official recognition of the ROC in 1979, following President Richard Nixon's restoration of diplomatic relations with Beijing. Yet even as the nations of the world gradually shifted their focus to Beijing, they still maintained close economic ties with Taiwan -- which was rapidly growing into one of the strongest economies in East Asia.

In 1975, Chiang Kaishek died, and was replaced by his son, Chiang Chingkuo. Chiang Chingkuo allowed, for the first time under KMT rule, the growth of an opposition political party (the Democratic Progressive Party, or DPP). And just before his death in 1988, Chiang Chingkuo finally lifted martial law, which was a crucial step in the direction of establishing true democracy in Taiwan.

Since 1988, Taiwan has been led by President Lee Tenghui. Free elections for the National Assembly were held in 1991, and the pace of democratic reform has been picking up steam with each passing year. The evidence of this growing sense of democracy is everywhere. For example, just in the past few years, many Taiwanese have begun to discuss openly whether to seek independence from mainland China. Although the official ROC government position (i.e., the KMT's position) is still in support of "one China" (presumably with the KMT regaining control of the mainland), more and more Taiwanese are now advocating a free and independent sovereign state. The problem is that, while Beijing seems willing to tolerate the current murky situation, a declaration of independence from Taiwan would be completely unacceptable to Beijing, and might well provoke a war. (This, in turn, would put the U.S. to the test, because we have given assurances that we won't allow the PRC to use force to recapture Taiwan. But would the U.S. really go to war with China over the "Taiwan issue"? No one knows for sure, and I don't think I really want to find out.)

The "Taiwan issue" may get even hotter in the VERY near future. My visit to Taiwan coincided with the final build-up to a big election, which included most local government positions outside of the capital city of Taipei. The election was held last week, shortly after my return to Tokyo, and -- in a major upset -- the opposition DPP won a majority of the posts, as well as the overall popular vote.

This election may prove to be a key turning point in Taiwan's history. For one thing, it's the first time that the KMT has lost an election in Taiwan. Perhaps more importantly, however, it's a real wake-up call for Beijing. That's because most DPP politicians tend to support Taiwanese independence. Until now, the PRC has pretty much ignored the DPP and its pro-independence slant. But now, Beijing will have to start taking the DPP much more seriously. Indeed, almost immediately after the election results were declared, the PRC announced its desire to begin meeting with DPP leaders.

Meanwhile, Taiwan continues to reshape its own political and legal systems at a dizzying rate. Almost weekly, there are new and major reforms -- most recently, for example, the Taiwanese legislature enacted several new statutes that totally changed the rules for interrogating suspects accused of crimes. One of the central figures in these reform efforts is the current Dean of the Law School at National Taiwan University, Tzu-Yi Lin -- who happens to be a former graduate student of our own Dean, Alfred Aman. During my brief visit, T.Y. and I spent quite a few hours "talking shop" with some of the top policy-makers in the Taiwanese Ministry of Justice -- and it became quite clear to me that it's truly an exciting time to be a lawyer in Taiwan!

The biggest social problem in Taiwan, at the moment, is the fact that the crime rate has soared, and there have been several crimes of a shocking and brutal nature (e.g., the kidnapping and murder of the teenage daughter of a famous TV personality, and the rape and murder of a leading opposition government official). Some Taiwanese people seem to believe that this surge in crime and general lawlessness is the product of the rapid democratic reforms -- at least, they argue, these kinds of things didn't happen under martial law! There is a possibility that in time, such beliefs may even lead to a rollback of democracy in Taiwan. But for now, most Taiwanese remain willing to give democracy a chance.

Anyway, that's my report on Taiwan. I hope to return there sometime in the spring, perhaps at the invitation of the Ministry of Justice, so I may be able to update you at that time.

Back here in Tokyo, the hot news is the continuing crisis in the financial markets. I hate to say "I told you so," but one of the "Big Four" Japanese securities firms that I wrote about in my last column -- Yamaichi Securities -- announced a week ago that they will be closing down for good. This announcement (the biggest corporate failure in Japan since WWII) has rocked the nation, sending the Tokyo stock market tumbling and kindling fears of further bankruptcies in the securities and banking sectors. In the past week, two major regional banks have also folded, and further dominoes seem almost certain to fall. The feeling here is that the Japanese financial markets are teetering on the brink of a full-scale collapse.

Meanwhile, there is one other "big," and rather sad, story to report from Tokyo. Konishiki, the heaviest wrestler in sumo -- at more than 600 pounds -- has retired. Konishiki was the first of the wave of Hawaiian-born sumo stars, eventually achieving the rank of "ozeki" (just below the top rank, "yokozuna") before injuries and age began to take their toll. He was a real crowd favorite, and will certainly be missed.

That's all for this column. Good luck on your final exams (taking them, for students, and grading them, for faculty), and have a pleasant holiday season. Until 1998, take care, and bye for now.

-- Joe Hoffmann

Calendar

FRIDAY, DECEMBER 19

...Submit interest sheet for spring mentor program to Room 024.

MONDAY, DECEMBER 22

...Envelopes are due to the Recorder's Office for those who want their grades by mail.

...Bulletin Board cleanup.

THURS. FRI., JANUARY 8-9

...Look for spring loan checks unless you have a past due account.

TUESDAY, JANUARY 13

...Deadline for Snyder Visiting Scholar Applications.

WEDNESDAY, JANUARY 21

...Addison C. Harris Lecture, noon, moot court room.

Updated: 18 December 1997