

NOTES AND COMMENTS

RICHARD B. LILICH (1933–1996)

Our colleague and friend, Richard Bonnot Lilich, one of the foremost international law scholars of our times, died unexpectedly of a heart attack on his Locust Mountain Farm in Charlottesville, Virginia,¹ on August 3, 1996. Born in Amherst, Ohio, on January 22, 1933, he was sixty-three years old.

Ours is a major loss. The length of Richard Lilich's service to the *Journal* and the quantity and quality of his contributions to it were large. He served on the Board of Editors a total of twenty-six years. He was responsible for eleven articles, eight reviews, four notes and eleven other comments—a total of thirty-four contributions, not to mention countless manuscripts read and other duties undertaken. Simultaneously “a respecter of tradition and an advocate of reform,” Keith Highet observes, “[h]e inspired the significant turnover of rules that loosened the grip of long-term board members and opened the board to new faces.”

Professor Lilich's service to the *Journal* was, of course, but part of his abundantly active career. He was the *engaged* scholar.

In 1965, with a small group of international lawyers from the academy, government and private practice, he founded The Procedural Aspects of International Law (PAIL) Institute, whose purpose he defined to be the advancement of an international process of justice for individuals and groups wronged by violations of international law. Perhaps best known for its distinguished book series, many of them edited and several of them authored and coauthored by Professor Lilich, the PAIL Institute at present boasts twenty-one titles that reflect well the diversity of his international law curiosity and vision.

Additionally, in 1978, as a project of the PAIL Institute, Lilich spearheaded the creation of the Washington-based International Human Rights Law Group. Now an independent nongovernmental organization, the Law Group, from its inception to the present, has been, in Steven Schneebaum's words, “consistently inspired by Richard's conception of what good, proficient lawyering can accomplish.”

Finally, throughout the years, Professor Lilich actively participated in and significantly influenced the governance and intellectual life of numerous legal (mostly international) associations and organizations to which he belonged: The American Society of International Law (on whose Executive Council he served for a total of twelve years and whose Panel on State Responsibility he chaired for thirteen years until his death), the International Law Association, the American Law Institute, the British Institute of International and Comparative Law, the American Bar Association's Standing Committee on World Order Under Law, the Association of the Bar of the City of New York, the United States Institute of Human Rights, the International Human Rights Law Group, the Urban Morgan Institute of Human Rights, and the London-based Interights. In addition, he was, at various times, a legal consultant to the United States Naval War College, the U.S. Department of Justice, the U.S. Department of State, the United States Centre Against Apartheid, and the United Nations Compensation Commission. An international lawyer's international lawyer, Lilich also argued before various international tribunals and served as an international legal consultant to numerous law firms and governments.

¹ A memorial service honoring Professor Lilich was held at Christ Episcopal Church in Charlottesville on October 12, 1996. I borrow liberally from sentiments expressed on that occasion by some of his colleagues and friends who, in addition to myself, participated.

In all of these affiliations, Richard Lillich's credentials were ample and impeccable. A 1954 graduate of Oberlin College, he earned his LL.B. degree from Cornell University in 1957 and, while engaged in part-time private practice, his LL.M. and J.S.D. degrees from New York University in 1959 and 1960. Quickly thereafter, he began his teaching career, first briefly at Indiana University and then at Syracuse University where he was a member of the law faculty and Director of International Legal Studies from 1960 to 1969. During these years, he was also a Ford Foundation Law Faculty Fellow in London and Cambridge, England (1963), and a Guggenheim Fellow in London (1966–1967). In 1968–1969, he held the Charles H. Stockton Chair of International Law at the United States Naval War College, and in 1969 he was appointed to the law faculty of the University of Virginia where, as the Howard W. Smith Professor of Law since 1977, and except for several visiting appointments, he taught for twenty-seven years until his death. In 1974–1975, he was a visiting fellow at the Centre of International Studies in Cambridge; in 1980–1981, the Thomas Jefferson Visiting Fellow at Downing College, Cambridge; in 1987, a visiting fellow at All Souls College, Oxford; and in 1993, a visiting fellow at the Max Planck Institute in Heidelberg. Also during these years, he taught as a visiting professor at New York University (1977), Florida State University (1992), the University of Georgia (1994), and St. Louis University (1995). Beginning in January 1996, he taught, half-time, as the Edward Ball Eminent Professor in International Law at Florida State University.

But Richard Lillich is best known, I believe, for his forthright and meticulous legal scholarship, simultaneously imaginative and principled. He regularly organized and published the proceedings of conferences on international law, noted for their broad participation of experts from government and private practice as well as academe and for the detailed perfectionist editing that was his trademark. It is, however, from his more than thirty books and many articles and book reviews that one can see clearly how he became a widely respected authority on international claims, international investment law, the diplomatic protection of aliens and their property, the law of state responsibility, international human rights law, and international humanitarian law. Especially to be noted, because it was the first major casebook on the international protection of human rights and highly influential, is his *International Human Rights: Problems of Law, Policy, and Practice*, initially coauthored with the late Frank Newman and now in its third edition (with Hurst Hannum). Throughout his writings, but particularly in his human rights writings, one senses, as his former student and research assistant Bert Lockwood has put it, "his abiding faith in the power of law for social change." Observes Professor Lockwood:

His sense of outrage was kindled often—I associate him in my mind with the antique phrase "it shocks the conscience of mankind." . . . He sought to resurrect the doctrine of humanitarian intervention so that the world did not have to stand by and watch Idi Amin's slaughter of thousands of Ugandans. He fiercely argued for American courts to adjudicate the legality of the Vietnam War.

And yet, "[u]nlike most people who became active in the human rights movement," Tom Farer notes,

[Lillich] presented himself in everyday life as brusque, ironic, unsentimental, a cool professional who chose the great army of victims as his clients. . . . He was moved . . . not by raw hatred of injustice, which is a projection of our own anguish, but by an irreducible sense that everyone should share with him a sense of life's bounty, its quiet charms, its small delights, of which friendship is one.

He was, in Keith Highet's view, "a man of contrasts . . . : graceful ebullience and elegant vigor; cheerfulness and skepticism; fine cynical wit and boyish gusto."

And what of the personal, private man?

Charles Brower: "A man . . . who combined unremitting, total pursuit of excellence in scholarly endeavors with equally unshakable commitment to enjoyment of life. . . . Dinners in various London clubs—how he loved them!—with the Executive Council of the International Law Association, the loyal toast followed by the supreme pleasure of a splendid Cuban cigar, accompanied by a fine cognac or vintage port. . . . And always there were the fine tailored suits"

Gordon Christenson: "When you visited the Lillichs at Locust Mountain Farm . . . , he made sure you signed the book in the guest room and posed for a photograph taken on the lawn. He would send it to you. If you visited him in England while he was at All Souls, you would have to accompany him to the old parish church for Evensong, then stroll back along the Thames hitting a pub now and then . . . , [followed by] a memorable photograph [that] would arrive not long after you were back in the States."

Thomas R. White III: "As his reputation grew . . . , I thought he would eventually move on, perhaps to England But I [did] not fully understand the importance of [his] farm. . . . He had researched its earliest antecedents, even possessed a deed for the property drawn, I believe, by Thomas Jefferson. His was a special care that the farm be preserved as a natural part of its environment. . . . [T]he farm was an extension of his life, perhaps because it, and the experiences it brought with it, was permanent while other, equally essential parts of his life, were not."

I will be permitted, I trust, a yet more personal anecdote and impression. While I first knew of Richard Lillich when we were students together at Oberlin College in the mid-1950s (a champion swimmer and thespian, he was known to everyone), we really met for the first time, in the mid-1960s, on the occasion of a visit to the Association of the Bar of the City of New York by that most famous of receivers, Mr. Peter Sabbatino. By this time, Professor Lillich had learned of my interest in foreign nationalization claims, and also of my relative fluency in French. So he sought me out. To my surprise, he knew of our Oberlin connections as well. Richard Lillich was nothing if not a master of detail. "Weston," he called out in that last-name tradition of the English academic of which he obviously was already enamored, "I need a good French-speaking Oberlinian to write about French international claims practice."

I did not know it then, but that encounter marked the beginning of what became an extraordinary commitment on Professor Lillich's part—virtually unparalleled, and proven by the PAIL book series that he started—of selflessly helping young scholars in the advancement of their professional lives. Not in my entire career have I known a colleague *more generous of time, energy, sheer courtesy*. When in 1965, in furtherance of my doctoral thesis, I called him from New Haven to ask if I could have a look at materials he had collected for his as yet unwritten study on the British Foreign Compensation Commission, he not only said yes, but invited me to Syracuse where he was then teaching, provided me free room and board at home with his family, found me a quiet office, gave me all his research cards and notes to examine, and authorized me to Xerox whatever I needed, asking only that I put things back in the order that I found them. And I barely knew him! Richard Lillich always defied the conventional wisdom of jealously guarding one's hard-won unpublished research. He was uniquely generous and trusting in a profession not known for its deference to could-be rivals.

Richard Lillich and I became serious collaborators, close colleagues, and warm friends, mostly in that order. A very private person, he was not easy to know personally, certainly not quickly. But I do know this: perhaps because of his having been an adopted child with an uncertain past, and thus always having had some ingrained sense of the frailty of life and its premises, he put a high premium on collegial loyalty and other forms of professional friendship, always extending it at least as much as he wished it extended in return. Perhaps for the same reasons, he was profoundly committed to the importance

of history and to our continuity with it. Hence his love of historical biography, legal and otherwise. Hence the thoughtfully inscribed postcards from the world's great museums. Hence his beloved Locust Mountain Farm—"just the other side of the hill," he used to say, "from where Tom Jefferson had his place."

Perhaps because Professor Lillich put such a high premium on collegial friendship and life's continuities, I am at a loss to accept his death even as I write. As I continue, in his memory, to edit the PAIL book series that he started, I still half-expect his constant reminders about the importance of properly placed adverbs and accurate footnotes. As his colleague in one professional association or another, I have yet completely to grasp why the phone does not ring with principled indignation at this or that intrigue or outrage. And it still has not really sunk in that, as his intellectual companion and friend generally, I am to be denied the penetrating liberal argument and that familiar "etc., etc."

BURNS H. WESTON*

JOHN H. MCNEILL (1941–1996)

Last October, a great many of us said our farewells to John H. McNeill at Arlington National Cemetery. His death had not been a total surprise, since he had gone through a long and difficult illness. But it was still very hard to accept the thought that we would no longer have him with us.

Jack McNeill was a fine scholar. He earned an LL.M. and a Ph.D. from the London School of Economics, and a diploma from the Hague Academy. He taught at the Naval War College, the Johns Hopkins School of Advanced International Studies, and Georgetown Law School. He served as a consultant to the Ford Foundation, the International Atomic Energy Agency and Amnesty International. He was a member of the Board of Editors of the *American Journal of International Law*, and a member of the Executive Council of The American Society of International Law. His list of publications is long and impressive.

Jack McNeill was a seasoned negotiator and counselor. He was the senior career attorney in the Department of Defense and a member of the Senior Executive Service. As Senior Deputy General Counsel in DOD, he was responsible for the legal aspects of all the Department's international activities—operational deployments, disaster relief, security assistance, intelligence activities, and so on. He was a valuable member of many U.S. negotiating teams, both for DOD and previously for the Arms Control and Disarmament Agency (ACDA). He received a number of awards from the U.S. Government, including two presidential-rank awards.

Jack McNeill was a great asset for the United States in the conduct of its international responsibilities. He played an important role in the negotiation of several major arms control agreements. He was a recognized expert on the law of the sea and the law of armed conflict, and a significant factor in ensuring DOD's compliance with that law. He was a trusted colleague and point of contact for all of us in the State Department, the National Security Council, ACDA and other agencies that had legal business to conduct with DOD. He was well-known and well respected in diplomatic circles as a strong, but constructive, representative of the United States. He argued for the United States before the International Court of Justice and represented us in International Red Cross conferences.

But most of all, Jack McNeill was a great friend and colleague. He was never petty or parochial. He was always courteous and self-effacing. He would always go well out of his

* Of the Board of Editors.