

WASHINGTON AND LEE LAW REVIEW

Volume 62

Summer 2005

Number 3

A Tribute to Frederic L. Kirgis

Mark Drumbl*

Rick Kirgis has been by my side since I joined the Washington and Lee University School of Law. When I write "by my side," I mean so in a literal sense: after all, Rick and I are neighbors in Lewis Hall. That said, I also mean "by my side" in a much more meaningful sense, namely as a mentor. And Rick certainly has a gift for mentorship. We share similar interests in international law and Rick, as countless classes of our graduates know, gives so much of his interests to others. Rick has diligently read and commented on basically everything I have written. In this capacity, he has been many things: patient, giving, accepting, rigorous, honest, sharp, wise, and blunt. I am much in his debt, as we all are.

Rick patiently listens to concerns, calms the anxious, and gives perspective to the elated. He is a leader through his actions and a role model through his conduct. In a time period where international law has been under siege, Rick's composure is a source of strength; in a scholarly world of faddish change, Rick's resolve inspires. Finnish international law scholar Martti Koskenniemi has described international law as the "gentle civilizer of nations."¹ This is a wonderfully apt description. And within our field, Rick remains the gentle mentor and teacher, so befitting of the wider civilizing mission of international law at large.

In effect, Rick founded international law at Washington and Lee and in doing so, he has left an indelible mark on this institution. It is fitting that the prize for the best student of international law in each graduating class at

* Associate Professor and Ethan Allen Faculty Fellow, Washington and Lee University School of Law.

1. See generally MARTTI KOSKENNIEMI, *THE GENTLE CIVILIZER OF NATIONS: THE RISE AND FALL OF INTERNATIONAL LAW, 1870-1960* (2001).

Washington and Lee receives the Frederic L. Kirgis, Jr. Award. Future generations of teacher-scholars in Lexington face the challenge of following in his footsteps; it will be hard work to live up to his expectations, but this work is more than worthwhile for it will ensure that we stay true to the deepest values of our community. He has undertaken the challenge of drafting the history of the American Society of International Law—a proud history that will be done justice by Rick's objectivity, integrity, and care for detail. Rick's energy and enthusiasm know no bounds.

It has been a privilege for me to work with Rick and an honor to assemble these tributes in his name. Truth be told, this latter task has been an easy one. The response to write about Rick has been effusive. He has touched so many lives in so many constituencies. These range from our community at Washington and Lee to the world of international law, particularly the membership of the American Society of International Law and the American Journal of International Law. The tributes that follow represent members of these many constituencies, including former students. These tributes are beautiful in the depth of the feeling they invoke, the respect they intone, the diversity of perspectives they share, and the joy they illuminate.

José E. Alvarez*

This summer, I completed a decade-long effort to put in writing what I have endeavored to accomplish in my course on international organizations (now fashionably re-titled "global governance"). As I indicate in the acknowledgments to that book,² neither my book nor my course would exist without Frederic Kirgis, to whom I owe a great intellectual debt.

In 1984, when I was a callow lawyer in the office of the Legal Adviser of the U.S. Department of State, one of my colleagues recommended to Georgetown that I be hired as an adjunct professor to teach an evening course on international organizations. At the time, I now confess, I knew next to nothing about the subject but I was eager to try my hand at teaching. I readily agreed when offered the opportunity, especially when I was told that there was a casebook available: Kirgis's *International Organizations in Their Legal*

* Hamilton Fish Professor of Law & Diplomacy, Columbia Law School; President, American Society of International Law.

2. JOSÉ E. ALVAREZ, *INTERNATIONAL ORGANIZATIONS AS LAW-MAKERS* (2005).

Setting (then in its first 1977 edition).³ I wish that I could say that I appreciated the unique value of Kirgis's book the instant I used it in the classroom, but my initial reaction was gratitude that someone had put between two covers materials that I would otherwise have to collect on my own. I failed to see in that first year of teaching—when I was myself trying to learn all that Kirgis conveyed—just what Kirgis had accomplished in his book.

I blithely assumed that everyone, like Kirgis, recognized that international organizations were both legal and political actors. I assumed that it was due to my inadequate education that I had previously seen only highly political treatments of the subject. I assumed that it was common to treat international organizations and their work product with the seriousness of any legal subject dealt with by any of my colleagues in the Legal Adviser's office. I assumed that there were lots of readable, thoroughly cited and up to date volumes, like Kirgis's, suitable for law school adoption. I assumed that many books put international organizations "in their legal setting,"⁴ as would be expected for use in a professional school of law, instead of organizing the subject around one of the then fashionable constructs of political science. I assumed that there were plenty of books that suggested that these organizations were not simply fig-leaves for power or testimonies to the hypocrisies of world leaders but were also settings for the making, the interpretation, and the enforcement of law—books that took developments in these organizations as seriously as would any lawyer working with or in these organizations.

After all, the typical U.S. law school offers innumerable domestic courses that focus on the role of institutions—from federal courts to administrative agencies—so I could hardly be blamed for assuming that a book that addressed the impact of institutionalization on international law was neither innovative nor unusual. What was so special about a book that dealt with the tangible consequences of international legal personhood?⁵

3. FREDERIC L. KIRGIS, JR., *INTERNATIONAL ORGANIZATION IN THEIR LEGAL SETTINGS* (1st ed. 1977).

4. *Id.*

5. These consequences include treaty-making capacities; the duties to respect organizational privileges and immunities; the problems arising from membership or issues of representation; the impact of decision-making procedural issues; the evolution of rule-making powers, including by institutionalized dispute settlers; the diverse "enforcement" techniques deployed by organizations as different as the International Monetary Fund, International Civil Aviation Organization, and the International Labor Organization; the unique features of the United Nations' collective security apparatus; and the evolution of legal processes in regional organizations as distinct as those within the European Community and the Inter-American system.

The more I learned about the relevant literature, the more I learned that the answer was "plenty." As I read more widely in a field that seems unusually fixated on a positivistic doctrine of sources and routinely fails to recognize the significance of institutionalized law-making processes, I began to realize what Kirgis had achieved. It was not only that Kirgis's book was the only available book on the subject suitable to the U.S. problem method of teaching.⁶ It was that, in the late 1970s, when his casebook first emerged, the notion that these organizations were themselves law-making actors was still a radical revelation—at least to most international lawyers.⁷

It is now clear that the Kirgis casebook was one of those rare cases in which a volume intended for classroom use served as more than a great instructional resource. Kirgis's casebook helped to define a new field and helped to re-orient the old. Like Eric Stein's early course materials that eventually led to modern day courses on European Community law or John Jackson's synthesis of trade agreements that led to today's courses on the World Trade Organization, Kirgis helped to legitimize the study of international institutional law. And like those two other examples, Kirgis's work made it easier to see the impact of the turn to post-World War II institutions. While Europeans like H.G. Schermers helped define the field through treatises, Kirgis was the first to engage the field through the problem method most amenable to U.S.-style Socratic teaching. Further, his careful distillation of the legal practices buried in obscure internal documents also made teachers and students aware that something profoundly different was occurring as a result of international institutionalized processes. Kirgis documented in detail the "international legal process" described so vividly by Abram Chayes, evinced the ongoing interactions essential to constructivists within international relations, and supported the disaggregationalist insights of liberal theorists like Andrew Moravcsik.

6. Indeed, this remains essentially true today because the only rival book published in the United States, for all its virtues, is focused on the United Nations and does not address the sweep of international organizations that Kirgis addresses in either of the two editions of his casebook.

7. Some international lawyers of the rigidly positivistic school would still debate that proposition and would insist that the International Court of Justice's Reparations Case of 1949 that appeared to suggest otherwise was merely of significance for those who studied the "internal" or "administrative" law of these organizations. See *Reparation of Injuries Suffered in the Service of the United Nations*, 1949 I.C.J. 174; see also Rudolf Bernhardt, *International Organizations, Internal Law and Rules*, in 2 *ENCYCLOPEDIA OF PUBLIC INTERNATIONAL LAW* 1314, 1315–17 (1995) (suggesting that international organizations are not law-making actors with the power to create international legislation capable of generating external effects but engage only in promoting "internal" rules).

Kirgis showed how the ostensibly "internal" rules produced within these organizations are of interest even to those not working within them. Kirgis made it abundantly clear how much was at stake when UN organs recognized the immunities of a UN expert or accepted the credentials of a government delegate. His book connected bureaucratic "routine" to issues of wider normative impact. His carefully selected materials and probing open-ended questions (both in the text and in the invaluable teacher's manuals that students never saw) showed how particular privileges and immunities questions could implicate serious issues for the enforcement of human rights. Kirgis demonstrated that the work of civil aviation specialists within the International Civil Aviation Organization (ICAO) could have an impact on general rules relating to the use of force and that even a "political" body responsible only for enforcing the peace could also adjudicate disputes. Because his book forced students to look at institutional products as lawyers would—as institutional precedents within an evolving Charter—those who studied it were better prepared for later developments, including "constitutional" developments that have expanded the mandates of international organizations from the UN to the World Bank. Kirgis's careful attention to the text and subtle impacts of Security Council decisions from the Gulf War, for example, anticipated that body's now much noted capacity to legislate for the world.⁸ Although Abram and Antonia Chayes coined the phrase nearly twenty years later, back in 1977 the first edition of Kirgis's casebook made it clear that there was a "new" kind of sovereignty being born, and that membership in international organizations was essential to enjoying it.⁹

It is now also obvious that despite Kirgis's lawyerly objectivity and effort to present every side of the legal arguments raised, his book has a normative agenda. Kirgis takes the charters of international organizations seriously as legal instruments and subjects them, like all treaties, to the delimited tools of analysis sanctioned by the rule of law: the rules of treaty interpretation of customary international law and the Vienna Convention on the Law of Treaties. His book is a stark antidote to the views presented in Ambassador John Bolton's most infamous article, which concludes that treaties are at best political but not legal instruments.¹⁰ Although Ambassador Bolton's view is one that is common

8. See generally Paul C. Szasz, *The Security Council Starts Legislating*, 96 AM. J. INT'L L. 901 (2002) (discussing the ability of the UN under its Chapter VII powers to require all states to take or refrain from specific actions).

9. ABRAM CHAYES & ANTONIA CHAYES, *THE NEW SOVEREIGNTY* (1995).

10. See John R. Bolton, *Is There Really "Law" in International Affairs?*, 10 TRANSNAT'L L. & CONTEMP. PROBS. 1, 48 (2000) (concluding that international law is not law, as that term is typically understood, but rather "a series of political and moral arrangements that stand or fall on their own merits").

among diplomats, and may even be dominant in those with power in the United States government, one of the hidden virtues of Kirgis's book is that it does not succumb or pander to it. Kirgis is surely aware that many politicians, like Bolton, might be tempted to ignore the rule of law or even pretend that it does not exist (at least in the realm of foreign affairs). To his credit, Kirgis chooses instead to present the work of these organizations through the legal lens that is appropriate, indeed essential, for those seeking to practice law consistent with the rules of professional responsibility—rules that Kirgis implicitly assumes apply equally to those practicing international law.

While some might contend that the study of international organizations requires a healthy dose of political theory, situating these organizations "in their legal setting," as Kirgis does, is essential for presenting the organizations to law students. Diplomats can and will get plenty of political advice as to what to do within these organizations or about how best to achieve their political goals. They turn to lawyers for the best *legal* advice. Kirgis's casebook assumes that diplomats are entitled to lawyers with as much expertise in international institutional law as a person would expect from an attorney practicing family law, or one advising clients on questions of tax liability. Kirgis's book takes the discipline of international lawyering seriously; at this time in the history of the American Republic, this is a normative—some would say even an ideological—stance. Needless to say, it is also a highly worthy stance that should not be associated with a single political party or one side of the political spectrum.

Other commentators here are likely to focus on Kirgis's many contributions to scholarship, to teaching, and to the American Society of International Law (for whom he has long served as secretary). As President Elect of the American Society of International Law, I am well aware that the Society would not have a history without its long-term secretary-cum-historian's efforts to produce one¹¹ and that his work on cutting edge developments in the field are appreciated by the numerous readers of the Society's Insights. Yet, for me, Kirgis will always be the father of the study of international organizations in the United States. His work is in the proud tradition of those who were "present at the creation of the United Nations," including scholar practitioners like Louis Sohn and Oscar Schachter. It is a privilege and an honor to salute him on his retirement.

11. See Frederic L. Kirgis, *The American Society of International Law: The First Hundred Years* (forthcoming), excerpted at <http://www.asil.org/pdfs/asilhistory.pdf> (last accessed September 12, 2005) (on file with the Washington and Lee Law Review).

David Partlett*

Duty is sometimes dismissed as an old-fashioned Victorian notion.¹² Duty was connected with honor and both were the essence of a gentleman. Lord Nelson¹³ had that character, and Robert E. Lee had it.¹⁴ Rick Kirgis is, in this sense, a Victorian gentleman and somewhat athwart his times. In this age of individual achievement and social anomie, where the glittering prizes are measured by the numbers of pages on one's curriculum vita, reference to duty in career is rarely made.¹⁵

If one were to gauge Rick's career by a review of his *curriculum vitae*, the reader would conclude that Rick had not taken an eye off the modern glittering prize: he has accumulated a superb scholarly record that has propelled him to the top ranks of international lawyers. Others will speak to his reputation. I can speak to Rick's motivations—his character as a gentleman made manifest by his deanship of the Law School. He has never sought fame, but has bent his life to duty in a number of dimensions: duty to family; duty to his Christian faith; duty to colleagues; duty to the law. The most remarkable example of Rick's sense of duty was his service to the Law School as Dean.

Rick did not assume the deanship to advance his career, to wield power, or to boost his prestige. He took on the task in a sense of duty to his law school. He was a scholar of outstanding reputation; he had joined the faculty as a rising star in his field and committed himself to it. His scholarship had contributed to

* Vice President, Dean and Professor of Law, Washington and Lee University School of Law.

12. It is no accident that the founding cases of the law of negligence, notably *Heaven v. Pender*, 11 Q.B.D. 50 (1883) and *Langridge v. Levy*, 150 Eng. Rep. 863 (1837), use the concept of duty to found the obligation and hence the reason for liability. The famous articulation based explicitly on moral grounds is Lord Atkin's apodictic "neighbor" principle in *Donoghue v. Stevenson* [1932] 1 A.C. 462, 480 (H.L.): "The rule that you are to love your neighbour becomes in law you must not injure your neighbour . . ." It is this principle that is relied on by Judge Cardozo in *MacPherson v. Buick Motor Co.*, 111 N.E. 1050 (N.Y. 1916) in the American fundamental case in negligence.

13. I was reminded of Lord Nelson and his sense of duty when reading, Adam Nicolson, *Seize the Fire: Heroism, Duty, and the Battle of Trafalgar*. The call to duty was well understood when Nelson, leading his fleet into bloody battle, ordered the signal flags to be raised, spelling: "England expects that every man will do his duty." Later, when he is dying in Hardy's arms, he asks Hardy to take care of Lady Hamilton and their daughter, adding: "Thank God, I have done my duty." See generally ADAM NICOLSON, *SEIZE THE FIRE: HEROISM, DUTY, AND THE BATTLE OF TRAFALGAR* (2005).

14. For Lee, duty and honor was part of his code as a gentleman.

15. Most encompassing for Rick is the Biblical commandment found in Ecclesiastes 12:13: "Fear God, and keep His commandments: for this is the whole duty of man."

the law faculty being rightly judged as an extraordinary community of scholars projecting the Law School as among the nation's best.

As a dean, Rick had the advantage of the momentum given by Roy Steinheimer. He had the confidence to envision that the School's reputation could be further enhanced with the right leadership. In retrospect after Rick stepped down, his colleagues duly noted Rick's accomplishments. They acknowledged that the tribulations of a deanship were a hair-shirt for one of Rick's scholarly temperament. Rick himself bemoaned the slowdown in his scholarship as time had to be eked out of the argy-bargy of the dean's hectic daily schedule. The summer, designed for some respite, represented the only available window for deep academic thought and achievement. The rough and tumble of decisions wore at his sympathetic, caring nature. Paul, Rick's distinguished law professor son, once mentioned to me how his father had found so much of the contention distasteful.¹⁶

Rick is an academic of the highest achievement who inspires a reciprocal effort and performance from those around him. His academic leadership had great momentum since he presented such an impeccable reputation. This erected an air of expectation of scholarly performance at a critical time for the Law School. The faculty was built, in the Kirgis years, with the addition of outstanding scholar/teachers, including Lyman Johnson, Ann Massie, David Millon, Doug Rendleman, and Joan Shaughnessy. The stage was set for Randy Bezanson to follow and have strong grounds to argue that, with President Wilson's support, the Law School could, in a liberal education model, become nationally distinctive. It was under Rick's leadership that the journey was confidently commenced.

Rick also shored up alumni support. As I have traveled around the nation and talked to hosts of our alums about the Law School and its deans, I am often told how Rick lent a sympathetic ear to alumni matters. He made that critical constituency consider that the Law School cared about its opinions. He made our alums welcome. I am a lucky beneficiary of that hard work done by Rick.

The Law School has commissioned a portrait to be done of Rick. I hope that future generations of students who walk the halls will see in the artist's rendering a man of duty who, with devotion, in his years as dean gave of himself and bestowed an inestimable gift to all those who follow. What extraordinary art that would be, but perhaps that spark in the eye, tilt of head, and warm smile will give those observers of the canvas an inkling of what he

16. Note the wisdom of Gilbert and Sullivan in *The Pirates of Penzance*: "When the constabulary duty's to be done . . . [a] policeman's lot is not a happy one." W.S. Gilbert & Arthur Sullivan, *The Pirates of Penzance*, in *THE COMPLETE ANNOTATED GILBERT & SULLIVAN* 251 (Ian Bradley ed., 1996).

has meant to this place. The joy for many years will be that Rick in the flesh will appear in that same corridor advising young colleagues and being a genuine friend to us.

Rick will continue to thrive. He has now completed his history of the American Society of International Law. Without pause, he will continue to add his brilliant, balanced, nuanced voice to that clamorous field—international law. His colleagues will be drawn in by the gravitational force of the quality of his work and obliged to set their efforts to his mark. As a dean, I am grateful for Rick's advice over my tenure here. A dean can have no better supporter or critic than one who has sat in the same chair and pondered problems defying rational solution. I am beholden to him for those years when he heeded the call of duty to become Dean. His achievements benefit us today and guide the future of this special place.

David Millon*

I met Rick Kirgis back in 1985, when the Association of American Law Schools's "meat market" for aspiring professors still occurred at an inhospitable hotel near the Chicago airport. Rick, as Dean, led the interview team representing the law school at Washington and Lee University. Having grown up in the Midwest and attended college, grad school, and law school there and in the Northeast, I knew nothing about this small university in a remote corner of Virginia. Its name struck me as incongruous, combining those of a great American military and political hero and the leader of the South's failed rebellion. Schoolchildren in the North learn little of Robert E. Lee than beyond Pickett's Charge and Appomattox. Certainly we were never told of his presidency of Washington College after the Civil War and his efforts to build an educational institution that would prepare southern youth for leadership in politics and the professions in the postwar Union. At least in 1985, Washington and Lee was not on the short list of institutions that northeasterners considered serious places of higher learning.

So, as a long and grueling day came to a close, I searched for the Washington and Lee interview suite with skepticism born of a northerner's ignorance and prejudices. The day had already offered a fairly bizarre range of

* Associate Dean for Academic Affairs and J.B. Stombock Professor of Law, Washington and Lee University School of Law.

experiences, including some in which my interrogators made no effort to hide their mutual antipathy and others in which they made no effort to hide their lack of serious interest in me. It was hard to feel enthusiastic. I was not so arrogant as to view this interview as a mere backup in case better opportunities fell through, but at the same time the chance of ending up at Washington and Lee seemed remote.

The interview changed all that. I cannot remember any details but I do recall coming away intrigued by this small, ambitious law school in a remote valley enchantingly named "Shenandoah." I was excited about a faculty that included people as friendly and quietly impressive as Rick and the other interviewers. Here was a dean with an international reputation as a scholar who had none of the arrogance or self-importance I had seen in my law school teachers and so many of the deans and professors I had met earlier that day. Here were a dean and two faculty colleagues who respected each other and enjoyed each other's company. Here were three successful academics who didn't feel the need to explain why they were at Washington and Lee rather than, say, Yale or Chicago.

In his calm, self-effacing way, Rick described the excitement and satisfaction of work at a small school that prided itself on teaching. Then, as now, the student body was tiny by law school standards. This, Rick emphasized, made it possible to teach small classes and to cultivate the kinds of close relationships with students that I knew from experience are hard to realize at larger law schools. He acknowledged that Washington and Lee's commitment to teaching could constrain scholarly achievement but spoke persuasively of the school's commitment to scholarship; there was no suggestion that being a "teaching school" was a code for minimal research and publication expectations. Rick and his colleagues also emphasized the natural beauty of the place and the virtues of small-town life for raising children. As much by his sincere manner and easy, friendly openness as by his words, he persuaded me that Washington and Lee's commitment to teaching could be rewarding and exciting. I was convinced that the law school could provide the right environment and support for an ambitious new professor aspiring to make a splash as a scholar. Rick also made it possible to imagine why someone might move his family from Boston to a small Southern town, just as Rick had moved with his family to Lexington from a major West Coast law school several years earlier.

Since then, I have often looked to Rick for guidance in my professional life. Sometimes I have simply gone to him for advice. Often as not, an easy smile turned into his toothy grin as I expressed my frustration with a wrong-headed colleague or a difficult student. He had the patience and the long view of a lifelong Cubs fan and the wisdom that comes from a fundamentally charitable outlook on humanity.

More often, though, Rick has taught me by his example. He is not a preachy person. Exhortation and criticism do not come naturally to him. He prefers to go quietly about his business, pouring enormous energy into teaching while continuing to produce important scholarship in several areas of international law. I have been especially impressed by his willingness year after year to teach Legal Writing to first-semester, first-year students. It is a particularly time-consuming kind of teaching. A scholar of Rick's stature might have insisted on teaching advanced, small-enrollment courses in his specialties, but Rick devoted many, many hours to marking papers and meeting with bewildered, often insecure first-year students. The workload was heavy, heavier than it would have been if he had complained and demanded relief, and there were certainly times when it taxed his natural cheerfulness. I think, though, that he embraced this labor not just because he believed he should do his share but mostly because he knew the value of his careful, patient attention to his students' development as lawyers.

For me, Rick's willingness to devote extraordinary time and energy to teaching while regularly producing scholarship of the highest quality exemplifies our aspirations as a faculty. His cheerful diligence and unwavering dedication to the best values of our law school have served as a constant reminder of what we should stand for, even as we are pulled by reputational pressures to spend more time writing and less time teaching. With his retirement we lose his quiet leadership. In his absence, I hope we do not lose our direction.

Blake D. Morant*

*A great [person] will find a great subject, or which is the same thing, make any subject great.*¹⁷

The legal academy has long acknowledged the seminal nature of the academic triad, the elements of which include teaching, scholarship, and

* Roy L. Steinheimer, Jr., Professor of Law and Director, Frances Lewis Law Center, Washington and Lee University School of Law. I express my heartfelt gratitude to Professor Frederic Kirgis, whose career, counsel, and friendship continue to inspire and motivate me. I appreciate the research assistance provided by Joseph Dunn ('05 L) and Mrs. Terry Evans's clerical assistance. I also acknowledge Mrs. Paulette J. Morant whose constant support and patience contribute to all of my projects.

17. Ralph Waldo Emerson, *Journals*, in THE INTERNATIONAL THESAURUS OF QUOTATIONS 561 (Rhonda Thomas Tripp ed., 1970).

service.¹⁸ Although debate continues regarding the relative importance of each element,¹⁹ mastery of the triad as a whole remains the quintessential definition of a successful career. There is, perhaps, no greater symbol of this mastery than the career of Professor Frederic Kirgis, who will retire from his position as the Law Alumni Association Professor of Law at the Washington and Lee University School of Law. The invitation to contribute to this collection of testimonials affords the opportunity to comment on the essentiality of the academic triad and to note its manifestation in the remarkable career of Professor Kirgis.

Teaching students of the law constitutes a critical element of the academic triad. As Kent Syverud, former Dean of Vanderbilt Law School, states: "The startling truth is that, with the exception of a few dozen law professors, our ideas will improve the world more through our students than through our writing."²⁰ Effective instruction of future members of the profession requires methodologies that reveal the complexity of legal concepts. Professor Kirgis has fully adopted this standard and gained the enviable reputation of a rigorous, yet compassionate instructor sensitive to the educational needs of each student in the class.

As a teacher of several of his former students, I have discovered anecdotally Professor Kirgis's zest for teaching, concern for students, and ability to stimulate intellectual curiosity.²¹ He has inspired students to

18. See Annette B. Johnson, *Current Trends in Faculty Personnel Policies: Appointment, Evaluation and Termination*, 44 ST. LOUIS U. L.J. 81, 90 (2000) (noting that tenured professors are evaluated for salary purposes based on the individual's teaching, research, and service activities); Robert W. McGee & Walter E. Block, *Academic Tenure: An Economic Critique*, 14 HARV. J.L. & PUB. POL'Y 545, 554 (1991) (providing that "[a]ccording to the tenure theory, only those professors who prove themselves through excellent teaching, research, and service are awarded tenure"); see also Marina Angel, *Women in Legal Education: What It's Like to be Part of a Perpetual First Wave or the Case of the Disappearing Women*, 61 TEMP. L. REV. 799, 831-32 & n.202 (1988) (stating that while the teaching, research, and service criteria are "near-universal," these criteria are inherently ambiguous).

19. See Linda H. Krieger, *Civil Rights Perestroika: Intergroup Relations After Affirmative Action*, 86 CAL. L. REV. 1251, 1294 (1998) (noting that "although success in legal academia ostensibly involves performance in three domains—teaching, research, and service—it is generally accepted in many institutions that research is the one that really counts"); Robert J. Spitzer, *Tenure, Speech, and the Jeffries Case: A Functional Analysis*, 15 PACE L. REV. 111, 123 (1994) ("Larger research-oriented universities with substantial graduate schools are more likely to emphasize scholarly and research activities, while smaller institutions are more likely to emphasize teaching as [being] the most important.").

20. Kent D. Syverud, *Taking Students Seriously: A Guide for New Law Teachers*, 43 J. LEGAL EDUC. 247, 259 (1993).

21. As Dean Syverud so astutely observes: "[O]ur students will never really grasp our ideas until we take them seriously." *Id.*

appreciate the nuances of law, and has generously shared with colleagues the pedagogical methods he uses to foster that appreciation.

Professor Kirgis's career also reflects the strong nexus between teaching and research.²² Realization of this nexus can be elusive given the dominance of scholarship in the assessment of academic achievement.²³ The intellectual spark that Professor Kirgis exhibits in the classroom is memorialized in a rich collection of books²⁴ and articles.²⁵ A review of his scholarship confirms a depth of thought and productivity that will undoubtedly continue after his retirement. The totality of Professor Kirgis's work is paradigmatic of effective scholarship, which should be instructive, technically sound,²⁶ and original.

His scholarly vitality is particularly evident in the 1998 *Symposium on the Future of International Human Rights* that he selflessly chaired, organized, and edited.²⁷ Professor Kirgis's exhaustive work on this symposium represents a significant contribution to the literature of international law. It also constitutes an invaluable service to the Law School.²⁸

The academy has tacitly, if not blatantly, considered service an ancillary obligation particularly when compared to scholarship and teaching.²⁹ In my

22. See Stephen M. Feldman, *The Transformation of an Academic Discipline: Law Professors in the Past and Future (or Toy Story Too)*, 54 J. LEGAL EDUC. 471, 495–96 (2004) (noting that because of the connection between teaching and scholarship, a professor's traditional approach to teaching will likely lead to her writing traditional scholarship—that is, "scholarship that resonates closely with the practices of lawyers and judges"); Alfred C. Aman, Jr., *Protecting a Space for Creativity: The Role of a Law School Dean in a Research University*, 31 U. TOL. L. REV. 557, 558–59 (2000) ("[There is a] fundamental connection between teaching and research. Teaching and research are not in competition, but are two sides of the same coin."). The author also notes that the university's attention to fundamental processes, principles, and methods of analysis connects teaching and research. *Id.* at 559.

23. See Krieger, *supra* note 19, at 1294 (noting that "although success in legal academia ostensibly involves performance in three domains—teaching, research, and service—it is generally accepted in many institutions that research is the one that really counts").

24. E.g., FREDERIC L. KIRGIS, JR., *INTERNATIONAL ORGANIZATIONS IN THEIR LEGAL SETTING* (2d ed. 1993); FREDERIC L. KIRGIS, *PRIOR CONSULTATION IN INTERNATIONAL LAW: A STUDY OF STATE PRACTICE* (1983).

25. E.g., Frederic L. Kirgis, *Fuzzy Logic and the Sliding Scale Theorem*, 53 ALA. L. REV. 421 (2002); Frederic L. Kirgis, *Restitution as a Remedy in U.S. Courts for Violations of International Law*, 95 AM. J. INT'L L. 341 (2001); Frederic L. Kirgis, *Zschernig v. Miller and the Breard Matter*, 92 AM. J. INT'L L. 704 (1998).

26. I vividly recall Professor Kirgis's helpful comments on my scholarship. He continually impressed the importance of a cogent writing style and forthright analysis.

27. Frederic L. Kirgis, *The Future of International Human Rights: An Introduction to the Conference Papers*, 55 WASH. & LEE L. REV. 661 (1998).

28. See *infra* notes 29–32 and accompanying text (discussing the importance of service).

29. See Spitzer, *supra* note 19, at 123 (stating that "[g]enerally speaking, service is [considered] less important than research and teaching").

opinion, this view is myopic. Scholars should continually strive for relevance by sharing their talents with the broader universe of society. The quest for social relevance transforms service into an integral element of the academic triad.³⁰

His tenure as Dean of the Washington and Lee University School of Law is the most notable evidence of Professor Kirgis's academic service.³¹ Following on the heels of the legendary Dean Roy L. Steinheimer, Jr., he continued to enhance the Law School's reputation by fostering scholarship and maintaining the school's renowned student-centered focus. In addition to his deanship, Professor Kirgis served the Law School as Director and Interim Director of the Frances Lewis Law Center.³² He also worked on numerous Law School and university committees, including appointments, dean search, and curriculum.

Professor Kirgis has continually shared his talents with diverse constituencies. He has nurtured the careers of junior faculty members formally through service on individual support and tenure committees, and informally whenever asked. His instructive and compassionate assistance reflects a spiritual generosity and genuine sense of collegiality. Indeed, his selfless counsel has advanced the careers of many and resultantly broadens his legacy of professional excellence.³³ Despite constraints imposed by a demanding career, Professor Kirgis has always found time to work with church and civic activities.

The discussion of the relative primacy of teaching, scholarship, and service within the academy will undoubtedly continue. Yet, achievement of excellence in each of these elements, which collectively comprise the academic triad, remains a universally accepted goal. Professor Frederic Kirgis's career

30. See Thomas D. Morgan, *Law Faculty as Role Models*, 1996 ABA SEC. LEGAL EDUC. & ADMISSIONS TO THE BAR 37, 47 (1996) (noting the importance of professors' emphasis on a commitment to serving the public as a norm).

31. See Frederic Lee Kirgis, at <http://lawlibrary.wlu.edu/faculty/bios/kirgis.htm> (last visited Sept. 27, 2005) (noting that Professor Kirgis also served as Dean of Washington and Lee University School of Law from 1983 until 1988).

32. See *id.* (noting that Professor Kirgis served as Director of the Frances Lewis Law Center from 1978 until 1983).

33. Dorothea A. Beane, Professor of Law at Stetson University College of Law and former visiting Professor of Law at Washington and Lee, has commented on Professor Kirgis's positive influence on her scholarship in the field of international law. I have also benefited from Professor Kirgis's generosity. As chair of my tenure committee in 1996, he provided helpful insights that have enhanced my teaching and scholarship. His commentary was genuine, instructive, and always encouraging. Professor Kirgis's perfect mix of critique and praise is a strategy I employ as I mentor junior colleagues.

provides a model that should inspire others to strive for excellence. Thank you, Professor Kirgis.

Detlev F. Vagts*

It is a privilege to write about my friend and colleague Rick Kirgis on this occasion. I will focus on the part of his life which was interwoven with mine—the world of international law. Over the years, Rick Kirgis's activities on behalf of international law through its institutions has profoundly impressed those who, like myself, have tried to help in those endeavors. Rick became an editor of the *American Journal of International Law* (AJIL) in 1981 and has been affiliated with it ever since (except for a brief hiatus required by its term limit rule). He has also been a member of the American Society of International Law for many years. His contributions in each capacity have been unusually important.

As editor he has continuously risen to the occasion when efforts were needed, including questions of organizational governance and the choice of materials to publish. His contributions at board meetings were delivered with grace and good humor. During my tenure as book review editor, I relied heavily on Rick for reviews that would be enlightening to the reader and fair to the author; the index reveals a long list of such tasks successfully and punctually accomplished.

Even more impressive have been his contributions to the American Society of International Law, the mother organization of the *Journal*. Being the unpaid secretary of such a non-profit body is challenging and distracts one from research, publication, and other tasks that offer more obvious rewards. In that capacity he has become the historian of the Society's development, delving deeply into the archives of the institution's nearly one hundred year history.³⁴

Although an innately kind and non-confrontational person, Rick has not shied away from controversy, particularly in his contributions to the Society's up-to-the minute publications intended to educate the public about current happenings that have an impact on international law. Quickly and clearly producing these *Insights* for the ASIL Newsletter is a scholarly challenge that

* Bemis Professor of International Law, Emeritus, Harvard Law School.

34. See Frederic Kirgis, *The Formative Years of the American Society of International Law*, 90 AM. J. INT'L L. 559 (1996) (providing the first installment of the Society's history).

he has regularly met. In a number of his works that deal with terrorism and the legality of responses to it, Rick has not hesitated to take positions that are at variance with those taken by powerful representatives of the government.

Academics tend to undervalue the contributions of colleagues who devote time and energy to keep the machinery of intellectual life operating smoothly. It is only when people like Rick Kirgis are no longer available that one realizes how important they are. I regret that he is moving toward retirement but look forward to more of his colleagueship and more intellectual contributions.

Paul F. Kirgis*

My father's father, Frederic Lee Kirgis, Sr., built the law firm of Gorsuch & Kirgis into one of the most successful firms in Denver, Colorado. Success brought comfort and status to my grandparents. It would have been natural for their eldest son to inherit a taste for the trappings of success. But he never did. Although he shared his father's name and legal acumen, my father never shared that need for material success. In his daily life as well as in his career, my father has been driven instead by his commitment to his core values: humility, compassion, and integrity.

For example, in the 1940s, the Denver Country Club excluded Jews, among other ethnic and religious minorities. My father's best friend, who would later attend Washington and Lee, was Jewish. Sensitive to his friend's feelings and unwilling to accept the casual bigotry of that era, my father refused to accompany his parents on their weekly Country Club brunches. It was a modest act of defiance, to be sure. But it evidenced, at an early age, an innate sense of right and wrong and an unfailing commitment to doing the right thing despite personal and social pressures to do otherwise.

That commitment would guide him years later as he settled on a career path. After law school at Berkeley and a stint in the Air Force JAG, he landed a position at Covington & Burling in the wills and trusts department. He knew he wanted to teach and, more specifically, he knew he wanted to teach international law. So he finagled his way into some international work that paid off in an article in the *Virginia Law Review*³⁵ and, before long, several

* Professor of Law, St. John's University School of Law.

35. Frederic L. Kirgis, Jr., *Extended Risk and Latin American Housing Guaranties: Foreign Assistance Through Business Risk Protection for Private Enterprise*, 53 VA. L. REV.

tenure-track offers. He and my mother chose to return to their roots in Colorado, where his academic career began.

The decision to go into teaching was straightforward. He relished the intellectual challenge of academic legal scholarship and looked forward to the opportunity to educate new generations of aspiring lawyers. Those are the reasons most of us go into teaching.

The choice of international law as a field was more telling. It sprung, I believe, from his commitment to personal integrity. As one of my father's least-favorite jurists, Oliver Wendell Holmes, famously described it, positive law is directed at the bad man, who cares only for the material consequences of his actions.³⁶ For Holmes and positivists like him, it is the threat of governmental power that gives effect to law. While even many positivists deny the conception of law as the gunman writ large, Holmes was certainly correct that in practice, law's efficacy is intimately connected to its power to compel.

International law, however, is not backed by the threat of coercive action. To the extent nations comply with international law, they do so out of a national commitment to adhere to the rule of law in defiance of internal and external pressures and without compulsion. Granted their compliance may be motivated by enlightened self-interest rather than selfless sacrifice, but so much the better. After all, it is the humble nation that can see that its power is not everlasting and that it may one day need its rivals to defer to the same rule of law.

For a man so guided by his own moral compass—and humility—this is the perfect field. My father has never pretended that his own country or any other would bow to international law when immediate self-interest dictated a different course of action. But he wished they would, and he has always seen value in calling them out when they did not. Like people, nations lose a little bit of their integrity every time they fail to live up to their values. When a country founded on the rule of law pursues narrow national interest in contravention of international law, it signals to the world that it does not take its commitments as seriously as it pretends. At the University of Colorado, at UCLA, at Washington and Lee, and at the many stops along the way, my father has built a career gently reminding the powers that be of the moments when they do not live up to their, and our, commitments.

With his retirement from teaching, my father will not give up his work as an advocate for international law. He will continue to write for the American

285 (1967).

36. See generally Oliver Wendell Holmes, Jr., *The Path of the Law*, 10 HARV. L. REV. 457 (1897).

Society of International Law, pressing for greater recognition of international norms. Nor will he give up his service to the community and, as needed, to the School of Law. He is not the type to retire to a life of golf and beachcombing. He will give up his chaired and tenured faculty position, however, at a time when he is still a productive scholar and effective teacher. He does that, again, not because of compulsion but because his values require it. Having had a long career, he is making way for the next generation.

In making this choice, he serves as an example for the profession. Guiding by example was always his strategy as a father as well. He rarely gave me direct advice, instead allowing me to make my own choices—and mistakes.³⁷ Like a good Socratic teacher, he questioned me about my decisions and sometimes became exasperated with them, but he let me find my own way to the best answers. He never pushed me toward the law as a career either. Even when I attended Washington and Lee for law school, we seldom discussed course selection, career options, or test-taking strategies.³⁸ His example was available to me though. Both during law school and afterward, as I forged my own career path, I could look to him and see the model of a professional life well-lived.

As important as our careers are, we are defined at least as much by our private lives. The balance between work and family is difficult to strike. While he may not have struck it perfectly—none of us does—my father has never allowed his dedication to the law to overwhelm his devotion to his family. I remember him sitting patiently through every little league game, school play, and band concert. I remember even more vividly the extra things he did, not just for me but for the entire community. Now that I face the same time pressures that come with a career, a house, and a family, I marvel that he found the time single-handedly to create a youth soccer program in Lexington, Virginia, so that local kids would have an alternative to football.³⁹ In ways big and small, he was always there for me and for the community.

37. For example, my unfortunate decision to purchase a Morris Mini Cooper. See MARK MALACZYNSKI, *THE HISTORY OF THE MINI, 1959–2003*, at http://www.outmotoring.com/mini_history.html (last accessed September 12, 2005) (describing the introduction of the Mini Cooper model) (on file with the Washington and Lee Law Review).

38. He had prepared me for law school in other ways though. In the first week of law school, I was startled to discover that I already knew the facts of the property law classic *Pierson v. Post*, 3 Cai. R. 175 (1805). Years before, he had posed the case about the Long Island fox hunt to my sister and me as one of the "law questions" he occasionally gave us over the family dinner table.

39. This was, undoubtedly, the best possible training for his subsequent job as dean of a law school faculty. Perhaps the only group more difficult to manage than a group of tenured faculty members is a group of soccer parents.

The world does not have enough people who put principle ahead of self-interest, who are honest and humble when honesty and humility hinder personal advancement. The law certainly does not have enough of such people. Over his nearly forty years of teaching, my father has touched the lives of thousands of future lawyers. If they absorbed at least some of his commitment to those values, then the world has been made a better place. For myself, I hope to have a career as long and as productive, and I hope to end it as gracefully. Along the way, I hope to show at least some of the humility, compassion, and integrity that he has shown to us.

John H. Jackson*

Like many others, I count Professor Frederic Kirgis as a very good friend. Together we have traversed the American Society of International Law (ASIL) and the *American Journal of International Law* (AJIL) for many decades. Rick is a key scholar of international law and his work on the law of international organizations is an invaluable resource for the rest of us toiling in the field.

Like myself, Rick spent a major portion of his earlier professorial years teaching contracts, a subject that tends to keep one grounded in reality (more than is the case for international law, some might say). More broadly, however, the words that come to my mind when I think of Rick are integrity, responsibility, intellectual ambition, and achievement. I have always had a profound sense of being able to rely on what Rick says. He approaches his work with great diligence and eschews the overstatement observed in many works of international legal scholarship. His responsibility is manifested by his extraordinary service to the ASIL and to the AJIL. Beyond the scope of these tasks, his willingness to explore the intellectual frontiers of international law in works that many admire, such as *Fuzzy Logic and the Sliding Scale Theorem*,⁴⁰ *A Mythical State's Attitude Toward the Role of the United Nations in Maintaining and Restoring Peace*,⁴¹ *Custom on a Sliding*

* University Professor of Law, Georgetown University Law Center; Director, Institute of International Economic Law, Georgetown University Law Center; Editor-In-Chief, *Journal of International Economic Law*.

40. Frederic L. Kirgis, *Fuzzy Logic and the Sliding Scale Theorem*, 53 ALA. L. REV. 421 (2002).

41. Frederic L. Kirgis, *A Mythical State's Attitude Toward the Role of the United Nations*

Scale,⁴² and *Federal Statutes, Executive Orders and "Self-Executing Custom,"*⁴³ are strong indications of an ambitious intellect and probing mind. These works represent a remarkable and admirable body of professional work and, when coupled with Rick's personal integrity and responsibility, outline the accomplishments of a scholar of the highest caliber.

Lucinda A. Low*

Having gone to law school with the goal of becoming an international lawyer, I naturally signed up for a course in public international law as soon as I could—the first quarter of my second year at UCLA Law School. I would have taken the course regardless of the professor because only one course existed and it was obvious I had to have that course. But I was exceedingly fortunate in having the professor who taught the course in the fall of 1975—Rick Kirgis, visiting at UCLA Law School that year from the University of Colorado School of Law.

This fact, in and of itself, intrigued me when I learned who the professor was, for I have Colorado roots and I recognized the name "Kirgis" as the name of a distinguished legal family in the state. How many of us who hailed from this landlocked state in the 1970s, though, had emerged with a focus on international law? Not many.

Rick's course in public international law provided me with a solid foundation in the field and I have drawn on that foundation ever since. He effectively instilled not only the key legal principles, concepts, and sources, but also his deep interest in and respect for the work of international organizations. This interest would later result in his definitive text on the subject, but for me and my fellow students the course was an important introduction to these organizations and the increasingly critical role they play in the international legal and political order. With the debate over the effectiveness of international organizations that rages today, one can only wish that everyone could have a

in *Maintaining and Restoring Peace*, 26 GA. J. INT'L & COMP. L. 43 (1996).

42. Frederic L. Kirgis, Jr., *Custom on a Sliding Scale*, 81 AM. J. INT'L L. 146 (1987).

43. Frederic L. Kirgis, Jr., *Federal Statutes, Executive Orders, and "Self-Executing Custom,"* 81 AM. J. INT'L L. 371 (1987).

* Partner, Steptoe & Johnson LLP, Washington, D.C.

similar opportunity to learn more about these institutions early in their legal careers.

But, as important as that course was to my formation as an international lawyer, it was not the most important course I took from Rick that year. That distinction applies to his course in conflicts of law, which he taught that spring. Conflicts is something of a neglected subject by today's law students, especially since its disappearance from bar examinations. It is utterly lacking in the marquee appeal that draws students to many other discretionary subjects. And yet, for practicing international lawyers, almost nothing is more central to our day-to-day work. Whether dealing with choice-of-law issues in an international business transaction, counseling a client on compliance obligations in connection with international business activities, or dealing with a transnational dispute, the international lawyer must invariably address the threshold question of whose laws apply (or, in the case of contract drafting, the question may be whose laws do I want to apply and can I make it stick?). In a globalized world where business activities are less and less confined within national boundaries, the answers are increasingly complex. The implications of a wrong or incomplete answer may be very significant.

Yet, many lawyers—even otherwise very accomplished ones—skip over this threshold choice-of-law question, not because they consider it unimportant, but because they fail to recognize its presence. I cannot count the times in practice that I have seen this occur, whether in working with a client, co-counsel, an adversary, or even one's own colleagues.

Each time this happens, I think of Rick Kirgis and his conflicts course, and what it taught me about the need to parse through these issues. As I toss out the word "*renvoi*" to an uninformed party, perhaps followed by *dépêche* (which in truth I do not invoke that frequently) and watch their bewildered look, I remember some of the conceptual struggles of conflicts theory. And I am glad again for the solid foundation that I was given, in the painstaking, methodical, and thoughtful way that is the hallmark of Rick Kirgis's work.

When several years later I co-taught International Conflicts of Law with Tatiana Maekelt, then the OAS's Secretary for Legal Affairs, at American University under the deanship of Judge Tom Buergenthal, I dug out all my old conflicts notes and was again grateful to Rick. I realized then that his conflicts course, although ostensibly dealing only with domestic issues, was subtly drawing from the wider world of private international law, exposing his students to comparative concepts and relevant international instruments as well as the cases and endless theorists.

It has now been almost thirty years since I took those courses. In the years that followed, I have not only drawn regularly in practice from the foundation

those courses gave me, but have also maintained a friendship with Rick and worked with him through our joint involvement (his much longer and more significant than mine) with the Executive Council and Executive Committee of the American Society of International Law. Others will doubtless detail his many contributions to the Society, but the one I will highlight here is his work on the *Insights*.

Insights are short, focused analyses of current decisions and issues in international law. Rick has given much of his time and energy to them. Just as his teaching has provided such a solid foundation for me and his other students over the years, so too the *Insights* have provided a foundation for a wider public to deepen its understanding and appreciation of international law and institutions. As we all know, it is much harder to write a short synthesis on a topic than it is to write a long exegesis. Rick's *Insights* are the distillation of years of thought and experience.

Rick is not a flashy person. He is calm, quiet, invariably smiling, and positive. But he is a builder, in a brick-by-brick way that creates a lasting legacy in those with whom he works. I feel personally privileged to have learned from him and worked with him. As he moves into the next phase of his life, we pay tribute to his thoughtfulness, his care and workmanlike instincts, and his commitment to building a better international system.

Malgosia Fitzmaurice*

I am very happy to participate in a tribute to Rick Kirgis, who is both an exceptional human being and a true visionary of international law. Rick commented on many aspects of international law well before the developments caught the attention of other international lawyers. One of these areas, which has subsequently developed into an area of growing importance, is the expanding role of international organizations, a phenomenon he called "nontraditional treaty-making."⁴⁴

Rick was one of the first scholars to observe that treaties employing innovative opting-out or tacit consent procedures produced a strong rulemaking

* Professor of International Law, Department of Law, Queen Mary University of London.

44. Frederic L. Kirgis, Jr., *Specialized Law-Making Processes*, in THE UNITED NATIONS LEGAL ORDER 109, 112-21 (Oscar Schachter & Christopher C. Joyner eds., 1995).

role for the organs that the treaties established.⁴⁵ Such procedures allow member countries to block or opt out of rules adopted by the relevant organ. Rick's work was among the earliest to recognize and document that despite their superficially voluntary character, opting-out/tacit consent procedures "operate[] in practice roughly as would a regime of formally binding non-treaty rules."⁴⁶

Rick also accurately predicted the future direction of specialized law-making processes in international law. In 1995, he noted that although few international organizations had formal legislative authority, "[p]reservation of the global environment would be a strong candidate for further development of this technique."⁴⁷ Since then, Conference of the Parties or Meeting of the Parties (COPs/MOPs) provisions have become common in multilateral environmental agreements (MEAs), giving rise to the concept of so called autonomous institutional arrangements.⁴⁸ In such systems, states express consent to be bound by obligations determined at some future date by an international organ established by the MEA. This very innovative way of expressing the consent to be bound goes well beyond the 1969 Vienna Convention on the Law of Treaties (VCLT), and has resulted in a new and exciting development for international organizational law: the theory that a state may consent to be bound by future actions of a treaty-created institution.⁴⁹

The far-reaching powers of COPs/MOPs are among the most significant subjects in contemporary international law. They raise serious concerns for sovereignty, efficiency, and legitimacy.⁵⁰ These recent developments clearly

45. *Id.* at 134.

46. *Id.*

47. *Id.* at 143.

48. Robin R. Churchill & Geir Ulfstein, *Autonomous Institutional Arrangements in Multilateral Environmental Agreements: A Little-Noticed Phenomenon in International Law*, 94 AM. J. INT'L L. 623 (2000).

49. See Malgosia Fitzmaurice, *Consent to be Bound: Anything New Under the Sun?*, 74 NORDIC J. INT'L L. 1 (forthcoming 2005).

50. One scholar has offered this summary of the debate:

Whatever the approach, it is in the relevant decision-making processes that the sovereignty-efficiency tension appears to come to a head. The need for quick responses to a new or changing threat would seem to militate in favour of binding decision-making directly by a COP rather than subject the consent of states, and in favour of majority rather than consensus decision-making by COPs. Yet, treaty adaptation will be meaningful only if majority requirements are set so as to ensure that a large enough number of parties, including at least some of the key players, are on board.

Jutta Brunnée, *COPing with Consent: Law-Making Under Multilateral Environmental Agreements*, 15 LEIDEN J. INT'L L. 1, 9-10 (2002).

indicate and confirm that Rick was indeed very astute in observing as early as 1995 that new phenomena were emerging.

Another example of Rick Kirgis's foresight about developments in international law is his analysis of the treatment of a material breach of a treaty under the VCLT, one of the most puzzling phenomena in international law. His 1989 articles about the unclear relationship between material breach and other provisions of the VCLT emphasised a "hazily-defined relationship between the treaty law of material breach and the more general law of state responsibility."⁵¹ In 2001, the International Law Commission's Articles on State Responsibility confirmed this statement, although the relationship remains as opaque as ever.⁵²

Rick's innovative and visionary scholarship, only a sample of which is described in this tribute, has provided fertile soil for many subsequent academic writings and inspired many international lawyers, including myself.

Joan M. Shaughnessy*

When I joined the Washington and Lee law faculty in 1983, I was fortunate to be surrounded by an extraordinary group of senior colleagues, people of fine minds and generous spirits. They were led by Rick Kirgis, whose five years as dean coincided with my first years as a law teacher. Rick's predecessor as dean, Roy Steinheimer, was (and is) a larger-than-life figure. His fourteen years as dean led to a host of colorful stories about his tenure. From his colorful sports jackets to his love of flying a private plane on University business, Roy Steinheimer provided many vivid cues for those who sought to pay him tribute.⁵³

Rick is a very different person. His sport coats are in quiet shades of browns and blues, and although he served three years in the United States Air Force as a Judge Advocate General, I never knew him to pilot a plane as dean. The facts that he is a longtime Cubs fan and that his favorite lunch is a peanut

51. Frederic L. Kirgis, *Some Lingering Questions about Article 60 of the Vienna Convention on the Law of Treaties*, 22 CORNELL INT'L L.J. 549, 572 (1989).

52. See generally INT'L LAW COMM'N, UNITED NATIONS, THE INTERNATIONAL LAW COMMISSION'S ARTICLES ON STATE RESPONSIBILITY (James Crawford ed., 2002).

* Professor of Law, Washington and Lee University School of Law.

53. See generally Robert E.R. Huntley et al., *A Tribute to Roy Steinheimer*, 40 WASH. & LEE L. REV. 1 (1983).

butter and jelly sandwich may give the reader some sense of Rick's character, but they do not capture the qualities that made him such a magnificent dean and senior colleague.

Unlike his predecessor, Rick assumed the deanship from the ranks of our faculty. Perhaps as a result of that beginning, the hallmark of Rick's deanship was a genuine spirit of collaboration. In Roy's era, the dean made many important decisions on his own. Rick's style was different. The dean and the faculty worked together to administer the law school and to plan for its future. We met as a group every other week or so during the term to decide questions about faculty appointments, student life, curriculum, admissions, and a host of other matters. The sense of teamwork that prevailed during Rick's deanship cemented the deep loyalty and commitment so many of my senior colleagues have shown to Washington and Lee. It also created an atmosphere in which junior faculty were trusted members of the team from the outset. I could not have asked for a better dean to guide my early years as a law teacher.

In reflecting on Rick and remembering the years of his deanship, I kept coming back to an author I first encountered in those years. In his work on legal ethics,⁵⁴ Tom Shaffer, then of our faculty, returned again and again to Shirley Letwin's study, *The Gentleman in Trollope*.⁵⁵ In that work, Letwin attempted to capture the moral qualities that define a gentleman. The description which Letwin gives of the gentleman's world captures something of the vision that, I believe, animated Rick's deanship:

Nothing stands still but there is no sign of chaos. Order rests on proportion, harmony and continuity, not uniformity or changelessness. Men are not bound together by domination or submission but by affections, habits, duties and aspirations, as well as friendship, love, loyalty, obedience, respect and admiration. They can alter and remain consistent. They can be amiable without being dishonest. Deference is no bar to independence nor respectability to originality. Firmness does not exclude sensitivity and moral clarity is one with compassion.⁵⁶

We are very fortunate to have had a leader who set an example of duty and aspiration and who bound us together through friendship and respect (obedience is perhaps too much to expect of a law faculty, even at its most harmonious).

54. See THOMAS L. SHAFFER, *AMERICAN LEGAL ETHICS: TEXT, READINGS AND DISCUSSION TOPICS* 54–57, 407–12, 502 (1985) (referencing Shirley Letwin's work).

55. SHIRLEY LETWIN, *THE GENTLEMAN IN TROLLOPE: INDIVIDUALITY AND MORAL CONDUCT* (1982).

56. *Id.* at 268.

Of course, Rick's career included many years spent as a faculty member and a leading scholar of international law. It strikes me that Letwin's description of the gentleman's world helps describe Rick's scholarly work as well as his administrative work. Rick's extensive studies of the United Nations and other international organizations, together with his leadership role in the American Society of International Law, represent a sustained effort to move the world a bit closer to a one where people and nations are not bound together by domination or submission but by mutual respect. As one would expect, Rick's work is that of a gentleman scholar—tempered and balanced, revealing a keen awareness of the legal complexities under discussion. Rick's scholarship achieves its aims not through sweeping rhetorical pronouncements but rather through thorough investigation and informed analysis. His sustained attention to the legal structure and operation of international organizations is itself a mark of respect for them and for the international legal order. Washington and Lee is grateful for what Rick has brought to this law school and proud of what he has contributed to the field of international law.

Brian C. Murchison*

Rick Kirgis—scholar, teacher, dean, mentor—embodies the highest values of the legal academy. It has been an honor to observe, work with, and learn from this gentle, extraordinary man for over twenty years at Washington and Lee.

The first of the values I associate with Rick is selfless commitment—to the varied persons who walk the hallways of Washington and Lee, labor in its offices and libraries, and fill its classrooms. Put simply, Rick's door has always been open. When he was director of the school's research arm, the Frances Lewis Law Center, I could always ask him to comment on drafts or help me think through an impasse; when he was Dean, I frequently sought his wisdom and advice on the host of matters that trouble a young professor; when he returned to a regular faculty position, I continued to tap on his door with concerns small and large. Never once did he plead lack of time or shrug me off. His students have always said the same, whether they were beginners with questions about Contracts or upper-level veterans puzzling through the labyrinths of International Law or Conflicts. Rick saw this institution as a

* Charles S. Rowe Professor of Law, Washington and Lee University School of Law.

school, and he embraced his role as builder, teacher, and guide. His career was never about self-promotion, but always about helping those around him to flourish.

A second value I associate with Rick is integrity. It has been said that integrity combines "moral reflectiveness," steadfastness in meeting obligations, and unashamed pursuit of goals that one discerns to be right.⁵⁷ Could there be a more accurate description of Rick? As Dean, he administered the law school fairly and honestly. It was a time of transition, marked by penetrating debates about the future of Washington and Lee. To every question and controversy, Rick brought good-faith judgment, careful stewardship, and fidelity to standards of excellence. He encouraged renewal of the curriculum, particularly the first-year program, promoted greater diversity of the student body and faculty, strengthened bonds with Washington Hall, and ensured the law school's readiness to take further steps forward at the end of the 1980s. Most of all, he stressed the value of faculty scholarship as a crucial element in the law school's ambition to become a truly national institution.

A third value I associate with Rick is intellectual courage. He has not shied away from the great international issues of the day, and he has written about them with conviction. In Rick's dedication to the power of ideas and public participation, he has modeled for all of us the essence of citizenship. A persistent quest for the meaning of justice in volatile times informs every word he has written.

As Rick retires, we at Washington and Lee can only thank him and try to emulate his character. When I think of Rick, I recall several lines from the writings of Bart Giamatti, who as President of Yale spoke often about the values of liberal education. For Giamatti, "the pleasure in the pursuit of knowledge joins and is finally at one with our general human desire for a life elevated by dignity, decency, and moral progress A liberal education desires to foster a freedom of mind that will also contribute, in its measure, to the freedom of others."⁵⁸ Rick Kirgis's career represents for me these values of liberal learning, and his legacy at Washington and Lee is permanent.

57. STEPHEN L. CARTER, *INTEGRITY* 7 (1996).

58. A. BARTLETT GIAMATTI, *A FREE AND ORDERED SPACE: THE REAL WORLD OF THE UNIVERSITY* 123-24 (1988).

Samuel W. Calhoun*

It was my good fortune to join the Law Faculty at Washington and Lee University in the same year as Rick Kirgis. During my entire tenure at Washington and Lee, therefore, I have benefited from Rick's incredible generosity. He has been especially helpful in three ways—as a colleague, an advisor and a friend.

Rick was already an experienced professor when we joined the faculty, but I was a relative newcomer. From the outset, I relied on Rick for help with one key element of a law professor's job—dealing with students. How should I handle the unprepared student? What was the fairest way to grade exams? These were only a few of the matters for which I sought Rick's counsel, and even though I have now taught for years myself, I still call on Rick for advice. Despite all the demands on his time, he is always willing to talk. Recently, a frequent topic has been the challenge of teaching the first year writing course and it has been helpful to commiserate with another member of the faculty. More importantly, Rick is a wonderful example of a rigorous and fair teacher who inspires others to strive for those same attributes. His thoughtful guidance on what rigor and fairness require in specific situations has been invaluable.

Rick's skills as a writer and editor are legendary at Washington and Lee. Although it embarrasses me to think how often I have asked him to read my drafts, Rick has cheerfully done it so many times that I am uncomfortable doing any writing without his input. That posed a serious problem with this particular writing project: Writing something without Rick's review made me nervous, but I could not very well ask Rick to proofread his own tribute!

I have been especially fortunate throughout my career to have had several colleagues with whom I could speak openly about personal aspects of my life. Rick has been one of these special persons. He is always available when I need to talk and we have often prayed together. I cherish the times I have been privileged to share my life with such a faithful and caring friend as Rick.

Given all of the ways Rick Kirgis has helped me, one would expect that I would view Rick's retirement as a great personal loss. Because of his generous spirit, however, I know that Rick has not actually retired as my colleague. It comforts me to know that I can still knock on his door to benefit from his wisdom, eloquence, and compassion.

* Professor of Law, Washington and Lee University.

David A. Wirth*

Although he would no doubt be too modest to acknowledge it, Rick Kirgis has had a far-reaching and profound impact on the study of international organizations as a legal discipline in the United States. His casebook on international organizations,⁵⁹ first published in 1977 and now in its second edition, is but one of the many ways in which Rick has enhanced the profile of international organizations as a legal discipline.

The book must have been a sensation at its initial appearance. As those of us who work in the field know, international law at best is a "hard sell" among law school courses. Colleagues may question the utility of the subject matter in ways that they never would over more standard fare, such as trusts and estates or tax law. International law as a vehicle for channeling and harnessing humankind's basest instincts has met with considerably less receptivity in the hard-boiled, common law-influenced culture of legal education in the United States than it has in Europe.

Imagine, then, how bold Rick must have been to take a subject matter area that already risked marginalization and identifying what must have been perceived as a boutique subspecialty—international organizations—as the subject of a law school text and implicitly, a full course. It is difficult for us to appreciate this today, in the early years of the twenty-first century, but at the time there were few models for courses or texts in any specialized subdisciplines of international law, not just in the area of international organizations.

Now, nearly thirty years after the book's initial appearance, we can clearly see that Rick broke new ground not just in teaching and writing about international organizations, but in shaping and molding pedagogy for those of us who work in other specialties as well. Rick faced the daunting task of taking unfamiliar materials such as resolutions and reports of international bodies and packaging them in a way that meshes with the case method of teaching to which law students quickly become accustomed. Rick did more than write a

* Professor of Law and Director of International Programs, Boston College Law School. The author had the privilege of being an academic colleague of Professor Kirgis's at the Washington and Lee University School of Law for nearly a decade, as well as the honor, not to mention responsibility, of having been invited by Rick to serve as a co-author on the next edition of *International Organizations in Their Legal Setting*.

59. FREDERIC L. KIRGIS, JR., *INTERNATIONAL ORGANIZATIONS IN THEIR LEGAL SETTING: DOCUMENTS, COMMENTS AND QUESTIONS* (1st ed. 1977).

book; to a considerable extent he defined a new academic discipline addressing the law of international organizations in the United States.

When the first edition appeared, Rosalyn Higgins in the *American Journal of International Law* greeted it as a "handsome book."⁶⁰ She particularly appreciated the structured way in which Rick identified the range of alternatives available to international organizations to encourage compliance by member states, ranging from gentle expressions of dismay to formal sanctions and Security Council enforcement actions. While the text underwent some changes in the second edition that appeared in 1993—most notably by excising the material on the European Union, now a subspecialty in its own right—the book retained the distinctive stamp of Rick's vision for the field. As an indication of its continuing timeliness, the second edition gets a five-star approval rating on Amazon.⁶¹ That review notes that the work is appropriate for "serious students" of the discipline. Anyone who knows Rick knows that the latter comment goes without saying.

Largely thanks to his visibility as the author of the leading legal text on international organizations—but also because of his deep commitment to the subject—Rick has become something of a spokesman for articulating the benefits of international institutions at a time when their respect in the United States is at a low ebb. As the editor for the series of brief, informative, analytical treatments of timely issues for the American Society of International Law, known as *Insights*, Rick has played a pivotal role in educating the public and demystifying international institutions that often seem to be dedicated to confounding rather than assisting lay people who want to learn about them. Never strident, always analytical, Rick in his dignified way both in person and in writing exemplifies a world view informed by a profound respect for multilateralism. While it goes without saying that Rick is a highly sophisticated scholar, he also deeply appreciates the need to educate the public about multilateral institutions. Particularly given the current political climate, that effort is a critically needed public service.

As of this writing, Rick himself has authored no fewer than fifty entries in the *Insights* series, including the very first dating from 1996 and far more than any other contributor. "Contributor" is an entirely apt description for Rick, who is tireless in his dedication to the profession of international legal scholar. He has been a mainstay and stalwart of the American Society, with seemingly inexhaustible resources to devote to the institution's managerial needs. As

60. Rosalyn Higgins, *Book Review*, 72 AM. J. INT'L L. 676 (1978).

61. AMAZON.COM, *Books: International Organizations in their Legal Settings (American Casebook Series)*, at <http://www.amazon.com/exec/obidos/tg/detail/-/0314016430/> (last visited Sept. 24, 2005) (on file with the Washington and Lee Law Review).

Secretary of ASIL, he is preparing an extensive history of the principal professional society in the field⁶² which will undoubtedly be of enduring benefit both to the Society and the profession.

This volume is a wonderful occasion as well to express a word of personal and professional thanks to Rick, who was enormously influential and helpful to me at a crucial juncture in my career, when I had first entered teaching. Before leaving my previous position, a colleague who had taken the plunge into academia a few years earlier took me to lunch in Washington to give me an honest report on academic politics. Duly warned, I arrived at the Washington and Lee School of Law with a bit of apprehension, less than fully confident of my capacity to meet expectations in an entirely new professional endeavor. Rick could not have been more supportive, graciously offering but never forcing on me both sound counsel and judicious feedback. Like me, many generations of law students have been privileged to benefit from Rick's skill and kindness as a teacher at Washington and Lee, where he has contributed so much that it is difficult to imagine the institution without him.

Rick is not only a consummate and judicious teacher and scholar, but also one of the loveliest individuals one could ever have the privilege of knowing. Regardless of the situation, it is reassuring to know in advance that a telephone call or a conversation with Rick is going to be a genuine pleasure. As demonstrated by this tribute, others have also had the good fortune to experience not only Rick's deep sense of professionalism, but also his sterling personal qualities. When I first mentioned Rick to another colleague, she gushed, "I just adore that man." I can hardly put it better myself.

Roger D. Groot*

Rick Kirgis has been my colleague and friend for many years. He was once my dean; even then he was my colleague and my friend. Because he intends, as an *emeritus* professor, to keep an office in the law school and because, as Rick, he will invariably be in that office, I am comforted that his retirement will not much change our daily interaction.

62. See Frederic L. Kirgis, *The American Society of International Law: The First Hundred Years*, available at <http://www.asil.org/pdfs/asilhistory.pdf> (last accessed September 12, 2005) (on file with the Washington and Lee Law Review).

* Class of 1975 Alumni Professor, Washington and Lee University School of Law.

Our future students, though, will be the poorer for Rick's retirement. They, of course, cannot know that for they will never have the opportunity to study under Rick's tutelage. For generations of law students interested in international law, Rick has been the essence of what a law teacher should be—deeply knowledgeable in his subject matter, immensely articulate, eminently prepared in both substance and concept for every class, and active in seeking for them entry into the field. Equally important to both students and administration, Rick has never become so enamored of his esoterica that he has forgotten the value of basic instruction in law and legal skills. Year after year Rick toiled in the basic course in Contracts and its associated course in legal writing. In this latter arena too, Rick had a special deftness—he was kind but not coddling, demanding but not demeaning, precise but not pedantic. This may have been his greatest service. Every student who went through the experience with Rick Kirgis came away from it better prepared for the profession.

We are diminished by Rick's retirement, but he has served long and well. I will treasure my continued association with him and wish him and Sylvia many happy years.

Mark H. Grunewald*

Rick Kirgis and I arrived at Washington and Lee at roughly the same time, but that was all that was the same. Rick was already an accomplished teacher and scholar while I was about as green a new law professor could be. What I remember most about the early years that he and I were colleagues was Rick's steadiness and confidence. I remember those characteristics well because they were quite different than two closely-related characteristics that the new kid on the block might encounter—stubbornness and arrogance. Rick's manner was open and modest, one that made a most junior colleague feel comfortable and included. As I came to know Rick better through our work together those core qualities remained dominant, but I also learned much about Rick's sense of duty. This became most evident through his willingness to serve as dean at a pivotal point in the law school's development. While Rick would probably be the first to say that being dean was not his most rewarding professional experience, he performed to his usual high standards and kept the law school

* James P. Morefield Professor of Law, Washington and Lee University.

moving forward. When he returned to the faculty, he continued to be a leader. He regularly took on demanding teaching responsibilities in the first year writing program, while still teaching a range of international law courses and continuing to produce high quality scholarship in that area. Rick also remained an active and thoughtful participant in faculty governance, with a willingness to take an unpopular stand or simply to express a position with notable frankness and clarity. Occasionally, I felt the need to disturb Rick's generally serious demeanor with some good-natured kidding, and to my relief, he always took it as was intended. The best opportunities for those less serious moments were over Rick's standard luncheon delicacy in the faculty lounge—a peanut butter and jelly sandwich on whole wheat bread. As I think about it now, that simple but solid staple of his diet says a lot about Rick that goes well beyond his widely-recognized distinction as a teacher and scholar—things that reflect the personal qualities that have made Rick so important to the law school, and such an admired and respected colleague for those of us on the faculty.

Scott E. Sundby*

Rick Kirgis's career has been a resounding success. When I make that statement, everyone undoubtedly will think of his many accomplishments as a scholar and professor. And I do not for one minute downplay Rick's towering position within the international law field or the respect that he commands in the broader community of legal scholars.⁶³ Nor could I fail to acknowledge his reputation as a teacher whose former students are an amazingly loyal fan club. One of my favorite memories is seeing Rick give a lecture in England when he was on a lecture tour. By the end of the session he had everyone in the room mesmerized and I have never been more proud to call someone a colleague. Rick's soft-spoken manner is a testament to the fact that one need not be a podium thumper or master of theatrics to hold an audience in the palm of your hand.

* Sydney and Frances Lewis Professor of Law, Washington and Lee University School of Law.

63. During my travels to various law schools both here and abroad, I often have felt like Harry Potter because simply uttering the words "Rick Kirgis is my colleague" acts like a powerful spell that instinctively brings smiles to people's faces and opens doors.

When I say that Rick's career is the definition of success, however, I actually am referring to a different kind of success than that marked by accolades and honors. For me, Rick is the embodiment of the idea that one's ultimate achievement is to live a life dedicated to daily acts of kindness and generosity. When I think of Rick, I think of a well-known poem on success, often attributed to Ralph Waldo Emerson:

To appreciate beauty
 To find the best in others, to give one's self
 to leave the world a little better, whether by a healthy child,
 a garden patch or a redeemed social condition,
 to have played and laughed with enthusiasm and
 sung with exaltation
 To know even one life has breathed easier because you
 have lived,
 This is to have succeeded.⁶⁴

While I cannot attest to Rick's gardening abilities, I can say with complete sincerity that over the twelve years that I have been at Washington and Lee, I have witnessed Rick strive daily "[t]o find the best in others, to give one's self to leave the world a little better" And Washington and Lee is fortunate that he brought these qualities to our school with unflagging energy and optimism. His integrity and soundness of judgment make him a natural leader for the law school community, and many were the times we looked to Rick for guidance because his judgment would be based on what he thought best for the overall community. Rick would always answer the call to duty even when the task at hand was not one that he relished, because Rick is willing to make sacrifices in the name of the greater good.

It is this selfless giving to the Washington and Lee community that leads me to say that even if Rick's list of accomplishments was not as impressive as it is, and his lectures had not been the astounding displays of knowledge and

64. See Dirk H. Kelder, *Success*, at <http://www.chebucto.ns.ca/Philosophy/Sui-Generis/Emerson/success.htm> (last visited September 27, 2005) (discussing the attribution of the poem to Ralph Waldo Emerson) (on file with the Washington and Lee Law Review).

insight that his students loved, I still would have no difficulty in saying to Rick upon his retirement, "my friend, you have succeeded."

Thomas L. Shaffer*

Rick Kirgis hosted my family for nine years at Washington and Lee. We could not have done better. Our daughter Mary and I first went to Lexington from Notre Dame and South Bend as Rick's guests in the fall of 1979. I went as scholar-in-residence in the Frances Lewis Law Center after Rick, the director, invited me for the fall semester; Mary moved as a high school junior who bravely agreed to look after her old dad when her mom had to stay home and look after Mary's brothers. An unexpected dividend of that adventure was that Rick's daughter Julie, also a high school junior, was there to welcome Mary to Lexington's high school and to the charming little town.

Rick set us up in the faculty apartments on Lee Avenue, near city hall, for a comfortable four-month stay. Mary got her driver's license and we were back home in Indiana for Christmas. Then an invitation came to make a permanent move to Washington and Lee (with, no doubt, Rick tending to such minor details as a permanent appointment to the faculty). After the welcome we had enjoyed on the first trip, moving to Lexington was not difficult for Mary and me. The move south was more difficult for Mary's two younger brothers, who she had to talk into leaving their suburban Hoosier high school for rural Virginia. My wife Nancy made the best of it, but I finally had to admit that she, although a Missouri farm girl at heart, did not work out as a southern lady.

When the Shaffer family arrived in Rockbridge County in the fall of 1980, Rick was the consummate host—sincere and generous. He helped us settle temporarily in a rambling 1791 house, Tuckaway, just up the road from Mackey Tavern, where another law school family, the McThenias, lived in the shadow of House Mountain. Julie Kirgis and Paige McThenia helped Mary introduce her brothers to Lexington.

As much as Rick and his family helped us feel comfortable in Lexington, his most valuable contribution during my time at Washington and Lee was introducing me to the joy of watching and listening to major league baseball. It was clear that this great spectator sport, a pastime of Rick's since his days glued

* Robert and Marion Short Professor Emeritus of Law, University of Notre Dame Law School.

to the radio in Denver, held a special place in his heart. His willingness to share the experience with a newfound friend is indicative of the easy warmth and openness that are characteristic of Rick's personality.

Now, hearing of Rick's retirement, I find it hard to imagine Sydney Lewis Hall without him standing guard over the Law Center, or in the dean's office, or from some other nearby vantage point. If Washington and Lee is lucky, Rick will continue to play a role in the welcoming committee, making a welcoming place even warmer. Knowing Rick's commitment to the law school there, I have no doubt he would embrace the role.

While those of us that consider Rick a friend and colleague greet news of his retirement with a reluctant happiness, there is one group that cannot help but be saddened by Rick's return home: the Japanese beetles that assault his roses. Rick takes a stern approach to those beetles, removing them by hand, one at a time, without pesticides. Rick's colleagues may miss his advice and guidance, and his students may miss his insightful discussion and caring attitude, but I know that the roses will be very happy to have him around in retirement.

Matthew Z. Earle*

When I arrived at Washington and Lee as a first year student, I was convinced that my interests lay in international law, even though I had no idea what the term actually meant. An utter amateur in the field, I didn't know Dutch scholar and jurist Huig de Groot from Washington and Lee law professor Roger D. Groot. It should come as no surprise, therefore, that unbeknownst to me, Lexington had one of the most important international legal scholars of the last century, Rick Kirgis, in residence.

My first exposure to Professor Kirgis was a glowing recommendation for his U.S. Foreign Policy Law class from my classmate Ahmed Younis, now National Director for the Muslim Public Affairs Council and a veteran of several United Nations internships, who told me "Kirgis is big time—everybody from Sergio De Mello to Kofhi Annan has a copy of Kirgis's book 'International Organizations in Their Legal Settings' on their bookshelf." Duly

* Juris Doctor, Washington and Lee University, 2004; B.A., Hamilton College, 2000. Frederick L. Kirgis, Jr., International Law Prize, 2004.

impressed, I vowed to take at least one class taught by Professor Kirgis before I graduated.

Luckily, I found my way into Professor Kirgis's conflict of laws class before it was too late. I was a little apprehensive at first because professors who are dominant figures in their respective field sometimes have the "eccentric genius" syndrome, displaying little patience for the sufferance of fools. Fortunately for me, Professor Kirgis did not need any bluff or bluster to maintain the preparation and direction of his class, and was dedicated to making sure his students learned the foundations of conflict of laws.

Professor Kirgis used the Socratic Method in class, randomly calling on three or four students and using them as vehicles to elicit the key principles from the day's readings. In the rare case that a student was unprepared, Professor Kirgis didn't embarrass or humiliate the student, but instead put a mysterious check next to the student's name and moved on, with the implied promise that at some future date he would return to the unprepared soul. Professor Kirgis's gentle mannerisms and systematic method made for one of those rare classes where a talented professor would forge the topic into a new world, primed for exploration. I certainly had no idea that a subject like conflict of laws had so many interesting nooks and crannies. Who would guess that Professor Kirgis's class would leave a lasting impact in an aspiring lawyer's mind, permanently changing his approach to future transjurisdictional questions? Professor Kirgis's classes were focused, interesting, and open to discussion—all the required ingredients for a great learning experience.

I will leave the discussion of Professor Kirgis's scholarly contributions to international law to more qualified individuals. Some of his writings, such as *Fuzzy Logic and the Sliding Scale Theorem*,⁶⁵ are admittedly over my head. I will just note that, in light of some current attitudes towards institutional international law, I particularly appreciate Professor Kirgis's efforts to research, examine, and create a practical international legal framework. Professor Kirgis, through his scholarly efforts and his pivotal role in establishing the credibility of the international legal system, has inspired countless aspiring international legal scholars.

65. Frederic L. Kirgis, *Fuzzy Logic and the Sliding Scale Theorem*, 53 ALA. L. REV. 421 (2002).