

TRIBUTE REFLECTIONS

DAVID P. STEWART: FROM BOSS TO COLLEAGUE

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In the fall of 1982, as a new lawyer fresh out of law school, I joined the U.S. Department of State's Office of the Legal Adviser (L). Like a number of us new to L, I was assigned to the recently created Office of Iran Claims. It was not considered a prize assignment.

Just the year previous, the governments of the United States and Iran had agreed to the Algiers Accords, a comprehensive framework negotiated under the heroic leadership of Carter administration Deputy Secretary of State Warren Christopher. The Algiers Accords were a crucial element in Iran's decision to release American diplomats who had been held hostage in Tehran since the 1979 Iranian Revolution. The two governments agreed to establish an arbitration tribunal in the Hague to settle the claims of Americans whose lives in Iran had been uprooted by the Revolution, as well as governmental claims such as Iran's demand for the return of military equipment that had been impounded in the United States. The U.S. government agreed to fund the claims settlement process with frozen Iranian funds.

David Stewart, himself a relatively young State Department lawyer at the time, was put in charge of the new Claims Office. He had a daunting task. The arbitral tribunal itself—staffed by U.S., Iranian, and neutral judges—had just been established. It was—and sadly remains—one of the few instances of ongoing engagement between the estranged U.S. and Iranian governments. Some of the Iranians at the Tribunal had taken part in the assault on the U.S. Embassy and the lengthy detention of its staff. The atmosphere at the Tribunal was charged and turbulent.

In Washington, we faced the enormous initial administrative task of cataloging the thousands of private claims that came pouring in. With access to only primitive computer technology, we fashioned systems for tracking the progress of claims. The heavy lift of arbitration got underway. The office's lawyers were assisted by a team of Farsi-language secretaries and translators, many of whom had fled to the United States only a couple of years earlier. They were a distinguished and highly-educated—if embittered—group, including Iran's former ambassador to France and the Shah's personal interpreter.

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The biggest category was so-called “small” claims made by Americans who had lived in Iran and had to flee hastily. We instructed claimants to submit whatever documentation they had of their lost possessions, and some of what came back in the mail was unusual. One claimant submitted a photo of himself posing next to his dining room set, stark naked and grinning. He said it was the only documentation he had.

The work also posed novel and interesting legal challenges. One project on which I assisted was to guide the Tribunal as it developed its rules of procedure. The neutral judges at the time were Swedish and Dutch, so naturally they wanted to draw from their own countries’ rules of procedure. U.S. judges and lawyers of course wanted rules that were recognizably drawn from U.S. law. The compromise was a set of rules adapted from the United Nations Commission on International Trade Law (UNCITRAL) trade arbitration rules, with Scandinavian and North European tinges.

The assignment turned out to be a colorful and fascinating launch to my career in L. A wise senior lawyer in the office, serving at the time in the Hague as the U.S. agent to the Tribunal, once took me aside to explain to me what public international lawyers for the U.S. government actually did. Our job, in his view, was to “clean up after the accidents of history.” More than forty years later, the Iran clean-up work continues.

Another way I sometimes describe the career path of a generalist lawyer for the State Department is as a bus tour through public international law. There are many stops and unexpected detours, and in the end, it is quite a ride.

David Stewart’s career in L is illustrative. After steering the Iran claims process, David went on to supervise the offices responsible for diplomatic immunities law, human rights and refugee law, and law enforcement and intelligence, among others. There is, not accidentally, a striking similarity between these subjects and the subsequent scholarship that David has prolifically produced at Georgetown University Law Center. To each of them, he has brought not only a deep understanding of theory and doctrine but also the practical bent he acquired at State.

Throughout David’s busy career in government, he was teaching at Georgetown as an adjunct professor—for more than twenty-five years. As committed as he was to his government career, David brought equal energy and passion to his evening teaching. Eventually, the Law Center realized what a remarkable resource David was, and it anointed him Professor from Practice.

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It was in this latter capacity that I reconnected with David, nearly a decade ago when I too began to combine my L practice with adjunct teaching. Georgetown had—surprisingly—lacked an introductory class in European Union law. I had recently returned from a role as a legal counselor at the U.S. Mission to the European Union, and I wanted to share the mysteries of European Union law with students. David immediately saw the value in such a new course.

David could not have been more welcoming and encouraging. He walked me around campus, introducing me to fellow faculty members, deans, and other members of the school administration. He was always available for lunch and a spot of advice. David also plugged me into the scholarly life of the Law Center, which is otherwise not readily accessible for adjunct faculty. He would regularly enlist me to join symposia and visitors' lectures. His students from the Global Law Scholars program have regularly found their way to my course.

David's legacy is a remarkable one. It extends beyond the students he delighted in challenging intellectually in his courses to include the institutions that sustain public international law. He has, for example, played a leading editorial role over the years at the *American Journal of International Law*. He has served as a member of the Advisory Committee on Private International Law that consults with State's career lawyers. David's career, in sum, has been characterized by a constant interplay between scholarship and practice. The world of public international law, in the United States and abroad, is much richer for it.