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## Richard Bonnot Lillich in Remembrance of a Civilized Scholar

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## Richard Bonnot Lillich in Remembrance of a Civilized Scholar

### Cover Page Footnote

Born Jan. 22, 1933, Amherst, Ohio; died Aug. 3, 1996, Charlottesville, Va. Education: A.B., Oberlin College, 1954; LL.B. with Specialization in International Affairs, Cornell Law School, 1957; LL.M., J.S.D., New York University School of Law, 1959, 1960. Professional: Admitted to N.Y. Bar, 1957; D.C. Bar, 1980. University Professor of Law, University of Cincinnati College of Law.

# Tributes

## RICHARD BONNOT LILICH\* IN REMEMBRANCE OF A CIVILIZED SCHOLAR

GORDON A. CHRISTENSON\*\*

Richard Bonnot Lillich, my colleague and friend since 1959—we met that year at the annual meeting of the American Society of International Law in Washington—was a major scholar of international repute. A prodigious worker and meticulous craftsman, he authored many books and seminal articles on all aspects of international law, from the law of state responsibility and the use of force to humanitarian intervention and international human rights. His works on the settlement and adjudication of international claims are unsurpassed by any contemporary scholar.<sup>1</sup> At the time of our first meeting, we were both finishing doctoral dissertations in international law: his on the adjudication of international claims by national claims commissions; mine on access by individuals to international tribunals in private matters. He was practicing in New York. I was with the Legal Adviser's Office in the State Department in Washington. We agreed to write a book on preparing and presenting international claims, which we did in 1962. Our collaboration continued

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\* Born Jan. 22, 1933, Amherst, Ohio; died Aug. 3, 1996, Charlottesville, Va. Education: A.B., Oberlin College, 1954; LL.B. with Specialization in International Affairs, Cornell Law School, 1957; LL.M., J.S.D., New York University School of Law, 1959, 1960. Professional: Admitted to N.Y. Bar, 1957; D.C. Bar, 1980.

\*\* University Professor of Law, University of Cincinnati College of Law.

1. Published books by RICHARD B. LILICH on international claims and state responsibility are (in chronological order): INTERNATIONAL CLAIMS: THEIR ADJUDICATION BY NATIONAL COMMISSIONS (1962); CLAIMS: THEIR PREPARATION AND PRESENTATION (1962) (with Gordon A. Christenson); THE PROTECTION OF FOREIGN INVESTMENT: SIX PROCEDURAL STUDIES (1965); INTERNATIONAL CLAIMS: POSTWAR BRITISH PRACTICE (1967); 1-4 THE VALUATION OF NATIONALIZED PROPERTY IN INTERNATIONAL LAW (ed. & contr., 1972-1987); 1-2 INTERNATIONAL CLAIMS: THEIR SETTLEMENT BY LUMP SUM AGREEMENTS (1975) (with Burns Weston); ECONOMIC COERCION AND THE NEW INTERNATIONAL ECONOMIC ORDER (ed. & contr., 1976); INTERNATIONAL CLAIMS: CONTEMPORARY EUROPEAN PRACTICE (ed. & contr., 1982) (with Burns Weston); INTERNATIONAL LAW OF STATE RESPONSIBILITY FOR INJURIES TO ALIENS (ed. & contr., 1983); THE HUMAN RIGHTS OF ALIENS IN CONTEMPORARY INTERNATIONAL LAW (1984); THE IRAN-UNITED STATES CLAIMS TRIBUNAL, 1981-1983 [Seventh Sokol Colloquium] (ed., 1984); FACT-FINDING BEFORE INTERNATIONAL TRIBUNALS [Eeventh Sokol Colloquium] (1992); INTERNATIONAL ARBITRATION IN THE 21st CENTURY: TOWARDS "JUDICIALIZATION" AND UNIFORMITY (ed. & contr., 1994) (with Thomas Carbonneau); THE UNITED NATIONS COMPENSATION COMMISSION [Thirteenth Sokol Colloquium] (ed., 1995). The hundreds of law review articles, symposia, and published essays authored by Richard B. Lillich have been omitted.

until our last telephone conversation on some important issues of international law just three days before his death.<sup>2</sup>

He is one of the American scholars best known in Europe and other countries for his work in state responsibility and in human rights. These twin substantive areas are important for the future of international law, and Professor Lillich surely invigorated them both. He had served as member of the Board of Editors of the *American Journal of International Law*, President of the Procedural Aspects of International Law Institute, and member of many international law associations and boards.<sup>3</sup> He was a leader in the international law academic community. Not only was Professor Lillich a scholar of international reputation, but he regularly practiced, as all recognized public international lawyers do, in consultation to governments, law firms, and corporations to argue before international tribunals as well as write opinions and give advice as a lawyers' lawyer. His respect for the rigors of craft and careful research in his teaching and in his scholarship made his engagement in the central issues of the day effective. A member of the American Law Institute and a contributor to law reform movements around the world, he regularly brought together diverse scholars, practitioners, and government lawyers for giving papers and colloquia on cutting edge international legal

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2. We were collaborating (along with David Bederman) on a research grant to circulate a questionnaire to the foreign offices of all countries asking for their policies in espousing international claims on behalf of nationals. We were discussing projects of the Procedural Aspects of International Law ("PAIL") Institute—he being its President and founder and I Vice-President. Lillich was consulting with me on his plan for a colloquium at The Florida State University College of Law on various self-help measures in aid of international claims. He was interested in compensation for violations of human rights standards and in the problem of punitive damages in international claims. We had been discussing international standards for compensating victims of human rights violations for years. He had expressed reservations about my thesis that the U.N. Compensation Commission was a regime of compensatory (not punitive or corrective) justice as contemplated by the International Law Commission's Draft Articles on State Responsibility when authorized under Security Council mandate to compensate mass victims of crimes of state. This function is completely distinct from the Security Council enforcement regime. However, after the Sokol Colloquium on the Commission, he revised that view. See Gordon A. Christenson, *State Responsibility and the UN Compensation Commission: Compensating Victims of Crimes of State, in THE UNITED NATIONS COMPENSATION COMMISSION [Thirteenth Sokol Colloquium]* 311 (Richard B. Lillich ed., 1995).

3. Membership in learned societies included: American Law Institute; American Society of International Law (member, Executive Council, 1966-1972, 1973-1976, 1982-1985; Chairman, Panel on State Responsibility); Association of the Bar of the City of New York (member, Committee on International Law, 1970-1973; member, Committee on International Human Rights, 1989-1992); British Institute of International and Comparative Law; International Human Rights Law Group (founder and member, Advisory Board); International Law Association (member, Executive Council; Chairman, International Committee on International Human Rights Law and Practice; Vice President, American Branch); Interrights, London (member, Advisory Council); Procedural Aspects of International Law Institute (President and member, Board of Trustees); United States Institute of Human Rights (member, Advisory Board); Urban Morgan Institute of Human Rights (member, Advisory Board).

questions of practical and theoretical concern, which were published without fail. Many of his former students have gained prominence in international law, no doubt aided by Lillich's loyalty.<sup>4</sup>

He was a devoted editor of several series of scholarly books and research publications such as those published in the Procedural Aspects of International Law series, which he inaugurated over thirty years ago, with titles by some of the most recognized scholars in the field. He edited the Virginia Legal Studies Series from 1973 to 1984 and organized and edited many of the Sokol Colloquia at the University of Virginia School of Law.

With a grant from the National Endowment for the Humanities, in 1972-1973 at the University of Virginia, he developed early materials for a problem course in international human rights. When, during that time, I was Dean of the American University, Washington College of Law, I asked him to teach the first seminar offered in the Washington area using these materials in 1974. Later, Lillich and co-author Professor Frank C. Newman of Berkeley developed these materials further, publishing what became the first course book using the problem method in teaching international human rights, *International Human Rights: Problems of Law and Policy* (Little, Brown, 1979), now in its third edition.<sup>5</sup>

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4. Within my personal experience, on Lillich's recommendation, I appointed Robert Goldman to serve as Assistant Dean for Academic Affairs at the American University-Washington College of Law in 1971. Goldman also held a faculty appointment and went on to be a distinguished academic in human rights as well as Acting Dean of the College. He currently serves as member of the Inter-American Commission on Human Rights. Also, again with prominent support from Lillich, Bert B. Lockwood succeeded Goldman as Associate Dean, Washington College of Law, and in 1979 became the first Director of the Urban Morgan Institute of Human Rights and professor at the University of Cincinnati College of Law, at the beginning of my second law deanship. His service as Editor-in-Chief of the *Human Rights Quarterly* and as Editor of the *University of Pennsylvania Series in Human Rights* as well as leading the Morgan Institute are recognized worldwide. Other prominent academics who were Lillich's students include Professor Thomas Carbonneau of Tulane University School of Law, Professor Stephen Neff of York University in England, and Professor David Bederman of Emory University School of Law (he was recently elected by the PAIL Institute Trustees to succeed Lillich as President).

5. Published books on international human rights by Richard B. Lillich are (in chronological order): HUMANITARIAN INTERVENTION AND THE UNITED NATIONS (ed., 1973); INTERNATIONAL HUMAN RIGHTS: PROBLEMS OF LAW AND POLICY (1979) (with Frank C. Newman); INTERNATIONAL HUMAN RIGHTS: PROBLEMS OF LAW, POLICY, AND PRACTICE (1979, 2d ed., 1991); U.S. RATIFICATION OF THE HUMAN RIGHTS TREATIES: WITH OR WITHOUT RESERVATIONS (ed., 1981); THE FAMILY IN INTERNATIONAL LAW: SOME EMERGING PROBLEMS [Third Sokol Colloquium] (ed., 1981); INTERNATIONAL ASPECTS OF CRIMINAL LAW: ENFORCING UNITED STATES LAW IN THE WORLD COMMUNITY [Fourth Sokol Colloquium] (ed., 1981); TRANSNATIONAL TERRORISM: CONVENTIONS AND COMMENTARY (ed., 1982 & 1996 Suppl.); INTERNATIONAL HUMAN RIGHTS INSTRUMENTS (1983, 2d ed. 1990); THE HUMAN RIGHTS OF ALIENS IN CONTEMPORARY INTERNATIONAL LAW (1984); INTERNATIONAL HUMAN RIGHTS: PROBLEMS OF LAW, POLICY, AND PRACTICE (ed., 3d ed., 1995) (with Hurst Hannum).

After private practice and graduate work in New York City from 1957 to 1960,<sup>6</sup> Lillich began his law teaching career at Syracuse University. Then he served as the Stockton Professor of International Law at the Naval War College in 1968-1969<sup>7</sup> and thereafter moved to the University of Virginia in 1969, where he remained until his death, residing at his beloved Locust Mountain Farm not far from Monticello. He regularly visited various colleges of Oxford or Cambridge as well as Continental and other law schools or research institutes for lectures, teaching, or seminars.<sup>8</sup> He held distinguished full-time visitorships at a number of American law schools.<sup>9</sup>

Most recently, Richard was pleased and rejuvenated by his appointment as Edward Ball Eminent Professor in International Law at The Florida State University College of Law.<sup>10</sup> I was happy that the College of Law enticed Richard to join its impressive program for another advance in international law, alas cut short by his untimely death at the age of sixty-three at the full height of his powers.

When I became Dean of the University of Cincinnati College of Law in 1979 and worked with William Butler of New York to establish and endow the Urban Morgan Institute for Human Rights at the College, we called on Professor Lillich for advice, which was of inestimable value. He remained a member of the Advisory Board and of the Board of Editors of the *Human Rights Quarterly*, an interdisciplinary journal published by Johns Hopkins Press and now edited at the Urban Morgan Institute. After a national search, and on Lillich's recommendation, I appointed as the first director of the Urban Morgan Institute one of his former students, Bert B. Lockwood, Jr., who had moved with Lillich from Syracuse to Virginia in 1969 for graduate work. Lockwood soon became Editor-

6. He was Teaching Fellow, New York University School of Law, (1958-1960) and was for a semester Visiting Assistant Professor of Law at Indiana University School of Law at Indianapolis (1960) before settling in at Syracuse.

7. See, e.g., 1-2 RICHARD B. LILLICH & JOHN NORTON MOORE, READINGS IN INTERNATIONAL LAW FROM THE NAVAL WAR COLLEGE REVIEW: 1949-1977 (1980).

8. Ford Foundation Law Faculty Fellow, London & Cambridge Universities (1963); Guggenheim Fellow, London University (1966-1967); National Endowment for the Humanities Senior Fellow & Centre of International Studies Visiting Fellow, Cambridge University (1974-1975); Thomas Jefferson Visiting Fellow, Downing College, Cambridge University (1980-1981); Visiting Fellow, All Souls College, Oxford University (1987); Visiting Fellow, Max Planck Institute, Heidelberg University (1993).

9. Visiting Professor, New York University School of Law (1977); Visiting Edward Ball Eminent Scholar & Chair in International Law, Florida State University College of Law (1992, 1996); Visiting Woodruff Professor of International Law, University of Georgia School of Law (1994); Visiting Distinguished Professor of Law, St. Louis University (1995).

10. There, he completed spring term, rotating back to the University of Virginia for summer and fall and would have continued to hold the Howard W. Smith Professorship.

in-Chief of the *Quarterly*, integrating it within the functions of the Institute, with student editors.

The year before, in 1978, as part of the Procedural Aspects of International Law ("PAIL") Institute, Lillich, with help from a Ford Foundation grant, had established the International Human Rights Law Group, an activist group of lawyers dedicated to advocacy of human rights through legal processes. Lillich had founded the PAIL Institute in 1965 together with a small group of young international lawyers to inquire into the processes of international law and publish books and studies of a practical but scholarly variety. Eventually, the International Human Rights Law Group became a major enterprise requiring full-time fund-raising and staffing, and Lillich and the PAIL trustees decided to spin-off the group to let it stand on its own. This decision was very difficult for Lillich to take, for he had literally created and sustained both institutions and had wanted to be actively involved in leading them both. By separating activism in promoting human rights from the more scholarly work in international process, however, he prudently recognized that the Law Group, then directed by Amy Young (a former student of mine at American and former graduate law student of Lillich's at Virginia), should be reorganized as a separate institution under separate leadership, while keeping his own membership on its Board of Advisors as founder. Professor Lillich was involved with the students and faculty at Florida State to strengthen the scholarly reputation of the Florida State *Journal of Transnational Law and Policy* as well as to add to the existing teaching competence and depth.

Richard's loyalty to colleagues and former students grew from a most civilized—some might even say polite and properly distant—view of professional relationships, especially in times of upheaval and ugliness in human nature. He was a demanding but giving taskmaster for all who worked with him, including colleagues but especially his students. While well-known as a public academic figure of international stature, he was a very private person in many ways. Never sentimental in public, he would read English novels or stories to a daughter in private. Yet, he could express the most passionate outrage for the most recent banality or mistake in foreign policy or Supreme Court decision.

Only those of us who were his oldest friends and had lived with him through many trials and personal crises might have recognized as a warning signal his call to moderate the pace of a walk with him while going up a Tallahassee hill or his reminder not to stride at such a fast clip on a London street. With the utmost discretion, I arranged a second opinion on his heart condition from a well-known cardio-

logist at the University of Cincinnati Medical Center, but Lillich chose not to have bypass surgery. Few of his closest professional colleagues even knew of this heart condition, although one might observe his use of the silver pill box he carried with him. Even with loss of eyesight for reading in one eye (a detached retina which never impeded his editing or writing), he was savoring plans for his later years when the interest he had sustained since law student days at Cornell in the life of Luther Martin, one of Maryland's delegates to the Constitutional Convention, would allow time and reflection to write a definitive historical biography of one of the little-known but important Founders of the American Republic. Lillich was always collecting material on the side about Luther Martin.

The last decade of life had been personally satisfying for Richard, he told me, made happier by his marriage to Gerda Heidel on July 4, 1986 (after the ceremony that day, they tracked me down in Utah, where I was teaching the summer international law course at the University of Utah College of Law, to let me be among the first to know). It was during these past ten years that he increased traveling and lecturing abroad and cultivated his international tastes and civility in private letters and conversation, in enjoying good food, in seeking out the best theater and musical performances, and in reading the finest literature, all the while continuing to deepen his effectiveness in international law.

The international law community has lost a thoroughly contemporary, unfailingly civilized though outspoken scholar in the fullness of his life.