

## Professor Wang Tiewa: My Friend, Critic, Colleague and Example

---

Sienho Yee\*

School of Law, University of Colorado

---

It is truly fortunate for one to be able to count Professor Wang Tiewa as a friend, critic or colleague. I am triply fortunate to be able to count him as my friend, critic *and* colleague. Here I would like to share with you some of my interactions with Professor Wang, which are among the treasures of my life experience so far, and to explain the example he has set for me.

### I. Professor Wang as Friend

I was not born wanting to be a lawyer. My first ambition was to become a great writer. Young, naïve and ambitious, I came to the beautiful campus of Peking University (Beida) to be an undergraduate in literature in September 1984. Then I was attracted more to the beautiful Weiming Lake on campus than to law or other scholarly pursuits. I did not hear about Professor Wang Tiewa until my first ambition was beginning to lose its hold on me. Once that happened, I immediately started to look around to see what else I should do. I sat in on courses on philosophy, politics, religion and law so that I could have a feel as to what would be best. I found that philosophy appeared to be very interesting, but law appeared to offer both the excitement and rigor that philosophy offers, as well as the concreteness that philosophy lacks. So I was very much leaning towards law. However, it was almost impossible to change my major at Beida and so I was considering whether I should quit Beida, and go to the United States where Professor Eugenia Kaledin, who was visiting at Beida from the United States, informed me, one goes to law school only after receiving a B.A. degree in a subject other than law. This thought gave me some hesitation because, although Beida is a place hard to get in and not too hard to get out, quitting in mid-course was difficult. At that time I had a nice friend who was a student of Professor Wang's and she said, "You

---

\* Sienho Yee, educated at Peking University, Brandeis University (Massachusetts, near Walden Pond), Columbia University Law School, and Oxford University; member of the New York Bar; formerly visiting assistant professor of law (public international law) at Northwestern University School of Law, Chicago; tutor in public international law at two colleges of Oxford University; judicial law clerk to Judge Li Haopei at the International Criminal Tribunal for the Former Yugoslavia and to Judge Robert E. Cowen on the US Court of Appeals for the Third Circuit; and counsel at the International Monetary Fund. His articles on public international law and constitutional law have appeared in *Columbia Law Review*, *European Journal of International Law*, *German Yearbook of International Law*, *ICLQ* and *Max Planck Yearbook of United Nations Law*.

should definitely study law. Many people admire legal scholars like Wang Tieya.” I was quite awed: She just mentioned Wang Tieya the name; there was no need for a title or other things that other people normally cling to in order to bolster their names.

One day my friend went to see Professor Wang and she took me along. And it was awesome. Professor Wang appeared very serene, serious and amiable at the same time, the image of a person with deep strength and profound wisdom. Looking back at this image now, when I know enough to understand him better and to read his works, particularly his latest masterpiece<sup>1</sup> on the “general part” of international law, I realize that his image betrayed more than I could appreciate then.

I informed Professor Wang of my dilemma and of my plan to go to the United States with a view to applying for admission to a Juris Doctor program at a good law school. He said to the effect that the nation was undergoing reforms and, as a result, there was a great need for legal expertise. He urged me to work hard and become a solid lawyer so that I could serve the motherland. He said that the motherland would soon give young scholars room to deploy their armoury and that it did not matter where one would build up the arsenal. This actually helped to solidify my resolve to leave Weiming Lake for Walden Pond.

When I met Professor Wang for the second time I was a first year student at Columbia Law School. There Professor Wang and Mrs. Wang did me the honour of accepting my invitation to have dinner at a restaurant on Amsterdam Avenue. The name of the restaurant has long escaped my memory but the conversations have stayed in my mind. There I was able to monopolize Professor Wang’s time for a few hours and to hear his views about law, China and the world. He asked me about my work, about whether I encountered any problems with studying law in a language not my mother tongue, and about whether I would try to “make law review”. So no matter where I was Professor Wang pushed me to work hard. At that time, I was just being initiated into the intricacies of the law, and was perhaps quite a dense law student, and I was not, and am not, sure whether my answers satisfied him. It was not until the spring of 1993 that I was able to write him to report my victory, enclosing a reprint of my long student note from the *Columbia Law Review* (April 1993), with the fresh and special fragrance of ink.

Shortly afterwards I went to a party organized at Columbia by Professor Wang’s former students and his friends in North America to celebrate the 50th anniversary of his teaching career. Professor Wang was all smiles. I brought a card with me to the party, and was thinking about what to write on it. Seeing that it was such a happy occasion and knowing Professor Wang’s devotion to teaching and his students, I penned in the words “*Jinghe Jinhun*” in Chinese, meaning “Happy Golden Anniversary”. Some were puzzled by my apparent mess-up of the different events, until I explained that Professor Wang had been married to international law teaching for 50 years. Then my card, together with others, was read aloud by one of his students, and I saw Professor Wang smiled. When I went up to chat with him, he whispered to me, “I want a Diamond Anniversary card from you.”

---

<sup>1</sup> Wang Tieya, *Guojifa Yinlun*, Peking University Press, 1998.

That is Professor Wang. Since then I have always tried to keep in touch with him, writing him and calling him from time to time, to inform him of the projects that I have been working on and the ideas that I hope to develop. Every time I speak with him he is pleased and talks with me about all kinds of issues. From time to time he peppers his conversations with black humour so that listening to and understanding him is a challenging and memorable experience.

## II. Professor Wang as Critic

Perhaps it is inevitable that one becomes the prisoner of one's experience, to some extent at least. So as a lawyer trained in the common law tradition, it is only natural that I would resort to common law for inspiration from time to time. This much I conceded in a 1997 article commenting on the *Erdemović* sentencing judgment of a Trial Chamber of the International Criminal Tribunal for the Former Yugoslavia (ICTY).<sup>2</sup> There I argued, among other things, that since the faculty of guilty plea is not a creature of international law but rather of common law, when international law borrows this faculty from common law, it is only fair that the common law procedural guarantees associated with this faculty should be considered to have been imported implicitly. It gives one the impression that this argument favours common law, and may lead one to label me as a prisoner of my common law experience. This created a burden on me as I believe neither common law nor civil law separately is my best friend. This burden did not lessen even after glimpses or, if I may say so, the essence, of this argument could be found in the subsequent decision of the Appeals Chamber in the *Erdemović* case, and after my article had been quoted or cited by more than ten commentators in several major journals and reviewed in the *Annuaire français de droit international*.

After the *Erdemović* case was finally disposed of, I had the opportunity to relate my concerns to Professor Wang. He went through the arguments with me on the phone. He carefully analyzed the issues and expressed his view that the text of the article did give him the impression that I may have been too common law friendly. I tried my best to explain that my position is necessitated by the fact that before its importation into the ICTY Rules, guilty plea existed only at common law and that the attendant procedural guarantees are the minimum requirements that would assure fairness. I further explained that as no treaty or customary international law applies to this particular issue, the ICTY must seek guidance from general principles. While the common law procedural guarantees are not "general" principles, strictly speaking, they are the only data directly on point. The problem lies with importing the faculty of guilty plea *at all*, and not with my argument for importing the procedural guarantees also. International law cannot, in good conscience, import a concept from a municipal legal system and yet reject its essentials, to the detriment of the rights of the individual. At that point,

---

<sup>2</sup> Sienho Yee, "The *Erdemović* Sentencing Judgement: A Questionable Milestone for the International Criminal Tribunal for the Former Yugoslavia", 26 *Georgia Journal of International & Comparative Law*, 1997, pp. 263-309.

Professor Wang said something to the effect that then the problem was an inherent one and that we should adopt the position that is just. What a sagely position: Justice is the ultimate guiding principle. This test my argument would pass, I believed.

Since then I have been more sensitive to this feud between common law and civil law and have come to realize that this conflict actually incites greater passion than I had previously imagined. So sometimes I am tempted to simply take an escapist attitude towards it. I hope that when international law applicable to a particular issue becomes robust, its urge to maintain its superiority over other legal systems and its insecurity about being associated with a particular municipal system will yield to the greater concern for justice, as Professor Wang explained to me.

This is but one example of Professor Wang critiquing my arguments. My other articles have also been subjected to his incisive criticisms. I regret that I live so far away from him, otherwise I would be able to benefit more from his comments.

### III. Professor Wang as Colleague

The greatest honour that Professor Wang has done me is to agree to be the co-editor with me for the book *International Law in the Post-Cold War World: Essays in Memory of Li Haopei*, and I believe this entitles me to count him as my colleague. As an eminent scholar in the field and the Co-Editor-in-Chief and then Editor-in-Chief of the *Chinese Yearbook of International Law* since its inception, Professor Wang was not afraid to be associated as the co-editor with a newcomer in international law like me. The confidence that he had in me was gratifying but also put a great deal of pressure on me.

Thus the Li memorial collection has a team of editors consisting of a genuine friend of his for 60 years and a former young assistant of his. As a co-editor, Professor Wang has been very resourceful. He helped me prepare the list of persons whom we were to invite to contribute to the collection. I had always been very impressed with his excellent memory. He was able to tell me which invitee was especially good on which issue so that I could suggest a topic for the invitee.

Despite the press of business at the ICTY, Professor Wang always promptly answered by email my questions relating to the Li project and discussed various issues with me on the phone. As the project ground on, we found a publisher and together we decided on a title for the book and the standard to apply in reviewing manuscripts. As someone who has been through these tasks, Professor Wang is a great teacher on these issues. We thought it appropriate to apply the standard that a solid academic journal would apply with respect to research and writing quality, and the standard of “whether reasonable minds may differ” with respect to viewpoint. When we felt that we were not competent to review a contribution, we consulted with outside experts. As a result of this rigorous review, we ultimately had to turn down some contributions.

What struck me most in this project is the fairness that Professor Wang exhibited towards every contributor and every viewpoint, particularly those with which either he or I did not agree. Since I have been the contact person with the contributors, they would not know about this. But they can rest assured that everyone of them has been treated fairly. This fairness of mind no doubt explains the tremendous respect that

Professor Wang commands among scholars of international law. As we know, among the many virtues that many a great scholar may have, the most contagious is the fairness of mind.

As delivered to Routledge, the publisher, the typescript of the book contained a section of materials about Judge Li Haopei (including a short essay by Professor Wang on his friendship with Judge Li, and a eulogy by President Antonio Cassese of the ICTY) and 32 articles on various current topics (including, as an appendix, an excellent article by Judge Li himself on *jus cogens*). This is a substantial collection. In our Preface, we say that “Limited though the collection may be, we hope that there will be those who like it.” The results of this cooperation should be left to future readers to pass judgment on; I should like to say that it has been a success in the sense that this has been a great learning experience for me.

#### IV. Professor Wang as Example

Professor Wang has not only been exemplary in being a great source of encouragement as a friend, a great source of challenge as a critic, and a great source of inspiration as a colleague, but also in his devotion to the cause of international law, which manifests in his pursuit of excellence in international law scholarship, in his tireless efforts in teaching and cultivating his pupils, and in his courage to take on new tasks in his advanced years.

His scholarship knows few rivals. He has toiled for so many years in this field and never stops writing and publishing. His hard work culminated, only recently, in the above-mentioned masterpiece on the “general part” of international law. It will be an authoritative work for a long time to come. And that is only Part I of his four-part plan. I will be content if in my whole life I could achieve one-tenth of what he has achieved.

He has been a tireless teacher and tutor. The Chinese saying “Taoli Mantianxia” (pupils all over the world) accurately describes the results of his life work. I am sure others have much more to say about this and I shall move on to his admirable courage to take on the new task of being a judge on the ICTY in his advanced years. Some may wonder why. Some may have even heard answers from Judge Wang himself. If one takes those answers at face value, one would be fooled by Judge Wang’s deliberate black humour. From my conversations with him, I can tell that what drove him to take up the challenge is his urge to do justice by deploying in practice the “arsenal” of international law that he has been honing most of his life. To a hero who has been preparing himself all his life for great missions, when one of these missions finally comes, it must be very tantalizing. This is especially so in this world where the angel of chance, fortune and fairness does not always smile, intentionally or unintentionally, on the excellent, although excellence, for sure, will shine through the hazy clouds, if not today, then tomorrow.

**V. Best Wishes**

Now Professor Wang professes that he has retired. I send him my best wishes for a satisfying life in retirement. But I am sure that his pursuit of excellence will not retire. Neither will the example he has set for me.