THE ADVOCATE

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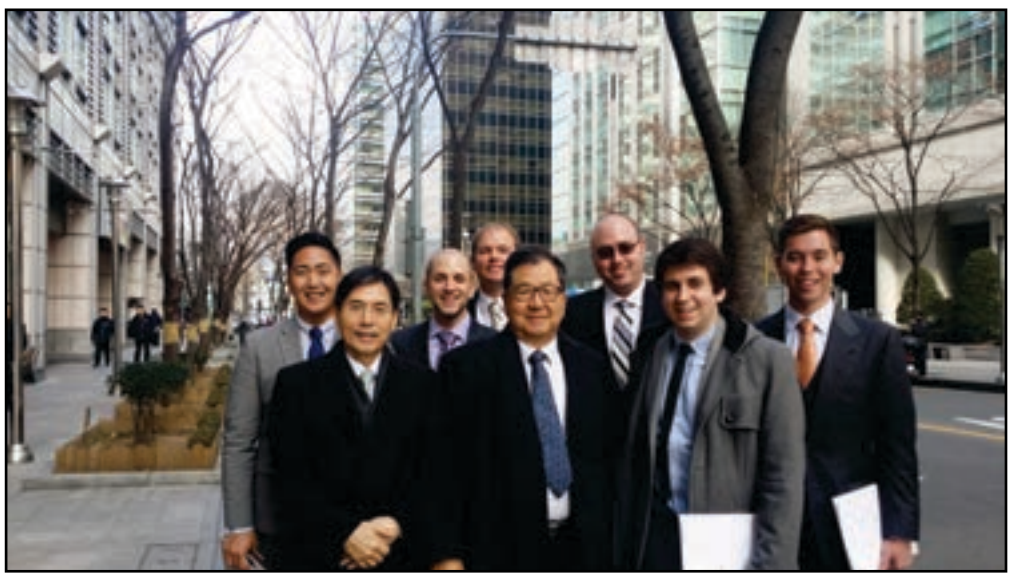
Hands-On IP Licensing Abroad with SCU

By Nicholas Shen
For The Advocate

Every year, twenty-five students are admitted into an extraordinary semester long immersive patent negotiation simulation, known as International Business Negotiations. The class supervised by Professor Jimenez not only offers students real-world experience negotiating intellectual property licensing agreements, but also an optional opportunity to study abroad during the winter break.

Over the course of the simulation, each small group of 4-6 students is given the fictitious assignment of representing Santa Clara Nanotech, Inc., a Silicon Valley leading producer of silver nanowire technology. After recent meetings in Santa Clara, a foreign corporation becomes interested in obtaining legal rights to both current and future SCN patents in order to develop cutting edge consumer products. Just like SCN, each respective foreign company is represented by an international student group counterpart participating in the paralleled International Business Negotiations simulation. Participating international group members include those from Seoul National University School of Law, Panasonic, Fujitsu, DS pharma, Itochu, and Sojitzu.



International Business Negotiations students and counsel outside Kim & Chang in in Seoul

Beyond the initial fact pattern, groups are encouraged to fully customize the direction and goal of each respective negotiation. For instance, while most negotiations conclude with a mutually agreed upon licensing agreement, past semester Santa Clara students have decided to negotiate a complete corporate acquisition instead of licensing rights to the SCN patent portfolio. Instead of typical assignment submission deadlines, groups independently communicate for eight weeks with their international counterpart preparing and exchanging professional bios, market research reports, a non-disclosure agreement, a term sheet, and ultimately a finalized patent licensing agreement. Following these weeks of email exchanges, each group pairing then "meets" via weekly two-hour long video conferences for the final five weeks of the semester to finalize the agreement.

Following the semester long negotiations, SCU groups are then invited to visit their respective international group in Asia for final face-to-face discussions, negotiations, and congratulations. Groups also meet with prestigious International SCU Law Alumni – including gatherings with some of Asia's largest law firms, International Law School Deans, Justices, and Fortune 500 General Counselors.

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Santa Clara Law Helps Make 'Herstory'

By Devin Hyver
Staff Writer

"This is what democracy looks like," A chant that echoed across the globe on January 21 as an estimated 4,956,422 people made themselves heard during The Women's March on Washington. The March, organized in response to the inflammatory rhetoric displayed in the recent presidential election, intended to unify communities and empower those who stand for human rights, civil liberties, and social justice. According to their mission statement, "The Women's March on Washington is a women-led movement bringing together people of all genders, ages, races, cultures, political affiliations, disabilities and backgrounds to affirm our shared humanity and pronounce our bold message of resistance and self-determination." The movement operates based on five guiding principles: Nonviolence, Community, Policy Based Problem Solving, Empathy, and Internal Peace. The March seeks to use these traits to construct a long term resistance that relies on local communities to organize and collaborate in order to determine thoughtful solutions to complex problems.

Santa Clara Law students at Women's March in San Jose

Formally scheduled to take place in Washington D.C., the March rapidly spread across social media and the world, culminating in 673 "Sister Marches" located everywhere from Decorah, Idaho, to the Antarctic Peninsula. California alone contained 47 Women's Marches, including three in the Bay Area with San Jose, Oakland, and San Francisco each hosting a march. At Santa Clara Law, the Social Justice Coalition (SJC) sought to bring The Women's March's message of diversity and community home by promoting the local Bay Area Marches and organizing events that encouraged student involvement. SJC, along with Women in Law and the American Constitution Society, worked together to provide students with information about the Marches such as times, routes, transportation options, and safety tips. In addition, the organizations helped formulate groups of students who would travel and march together on the day of the event.

On Friday January 20th, the day before the March, the Coalition held a poster making party in the Bannan Hall student lounge. Students were invited to prepare for the protest alongside their peers and were provided with a space for members of the community to vocalize any fears or apprehensions regarding the incoming administration. During the event students took their markers, poster boards, and other crafting supplies and sprawled on the floor and occupied tables to begin mapping out their respective signs. The discussion among the group quickly fell to issues of reproductive rights, healthcare, immigration, race relations, and environmental justice as students struggled to decide what slogan or topic to represent on their signs. These conversations eventually evolved into a dialogue about ways to begin solving these problems within the local community through mentorship, volunteering at legal aid clinics, organizing fundraisers for local nonprofits, or just attending a performance of The Vagina Monologues.

The following day over 20 students from 5 different Santa Clara Law student organizations attended one of the Bay Area Women's Marches, armed with their handmade posters, t-shirts, and cardboard signs. In Oakland and San Jose the March was scheduled to start at 10:00 am, while the San Francisco March didn't begin until 3:00 pm. On the way to the routes both CalTrain and BART experienced delays due to the massive crowds traveling to the marches. Nevertheless, upon arriving, the atmosphere took on a hopeful and optimistic feel as men, women, children, and dogs of all ages, races, and backgrounds walked, chanted, and sang together in solidarity. Children speckled the family filled environment holding signs that read statements such as "future president" and "girls are strong". Meanwhile, voices could be heard blocks away chanting phrases like "No hate, no fear, Immigrants are welcome here" and "the people united can never be divided". Each of the Marches remained peaceful and nonviolent throughout the demonstrations and never encountered a hostile police presence.

The Women's March has since been deemed by news sources as the largest organized protest in United States history with 2.9 million Americans in attendance. In addition, local organizers estimated that over 200,000 people attended the Bay Area marches. Reports also indicate that not a single arrest occurred during or as a result of the nationwide protest. Due to the success of the Women's March, organizers have begun a new campaign titled "10 Actions in the First 100 Days," which guides communities in formulating productive and peaceful action-plans and can be found on their website.

IP Licensing Abroad with SCU

Winter 2016 students visiting Seoul were generously hosted by, among others, Kim and Chang, Korea's largest law firm with over 2,500 attorneys and staff located in Seoul. Students visiting their Tokyo counterparts were hosted by, among others, TMI Associates, a large Japan based international law firm currently spearheading the Tokyo 2020 Olympics.

The following is a quote from Kim and Chang Senior Foreign Attorney, Shane Y. Hong. Prior to joining Kim and Chang, Shane was Senior Legal Director (General Counselor) for Oracle Korea Ltd. Shane graduated from Santa Clara University School of Law in 1999.

International Business Negotiations students in Tokyo

"South Korea's economy continues to attract some of the world's brightest minds in law and technology. In that connection, I feel very fortunate to have the unique opportunity to connect SCU students and alumni with Korea's top legal scholars and practitioners and would like to thank Professor Phil Jimenez, Dean Don Polden, and Santa Clara University School of Law for providing this opportunity. Professor Jimenez, Dean Polden and the Law School continue to be instrumental and play a leading role in positively enabling me to introduce and connect SCU students and alumni with prominent Korean and U.S. lawyers, in-house counsel, judges, professors, and prosecutors so that they can collectively cultivate and expand their business and personal networks in South Korea.

This has not only contributed meaningfully to the success of SCU students and alumni in developing those important ties with Korea, but also has vigorously galvanized the Law School's Summer Program in Seoul to enjoy remarkable achievements and affirmatively position itself as a popular destination for SCU students in 2017." International Business Negotiations, unlike traditional lecture based courses, teaches practical legal proficiencies through hands-on involvement. Students are thrust into an immersive cross-cultural interaction, and are expected to convey these skills in a professional medium. Upon completion, the students are left with new experience handling intellectual property transactions, as well as lasting professional and personal relationships. Those interested in this graded three-unit class may contact Professor Jimenez (pjimenez@scu.edu) for more details on when the course is offered how to apply for course consideration.

Rumor Mill

By Susan Erwin
Senior Assistant Dean

Dear Rumor Mill,

I think there are some people getting extra time on exams that shouldn't be. Who checks these things?

Every year, a few of you express concern about the fairness of accommodations. I think the reason these concerns persist is because folks don't understand the rules and the process.

- The purpose of accommodations is to create a level playing field. It is to give every student an equal chance to do well in school.

-All students seeking accommodations must apply through the Disabilities Resources Office. Students must also provide documentation proving the disability. All of this information is reviewed and if it meets the standards set by the university and the ADA, accommodations are provided. Accommodations are only provided for those issues that are documented.

- The type of accommodations is dictated by the degree or type of disability. Some students get class notes, some are given permission to tape courses, some get special seating or equipment. For exams, some students need minimized disruptions, some need to be able to stand and stretch during the exam, some need specialized equipment, and some need extra time. The amount of extra time depends on the disability.

- Students must apply separately to the bar association to be accommodated for the bar exam. The standards are pretty tough. At some law schools, only a small percentage of those given accommodations by the school actually receive accommodations from the bar. At SCU, the bar almost always grants our students the same level of accommodations they received from us. I think this is because SCU does a really good job of reviewing and approving accommodations appropriately.

- For the other schools on campus, students work directly with their professors to receive support. At the law school, the administration helps to provide support. We try to keep this support as confidential as we can, just like we try to keep your exams confidential.

- Every few years we survey the accommodated students to make sure the level of support is appropriate.

Please keep in mind that not all disabilities are visible. If you have issues with these policies, please come talk to me about it. Please don't discuss in the hallways or classrooms, you might be inadvertently insulting your classmates.

What about students who get to reschedule their exams? Why do some people get to move exams every time they have a cold and others have to take them?

We caution all students not to take an exam if you are sick. We want you to do your best on your tests, because they are important for you. If students are sick and need to postpone a test, we require a doctor's note. If students are on campus, they can go to the Cowell Health Center. If you aren't feeling well, stop and talk to the Head Proctor before you walk into the exam room. Please do not "tough it out" and take the exam anyway. It is never a good idea!

I read something online about MacBooks not being allowed for the bar exam. Is this true??

Sort of. The California Bar and some of the other state bars that use ExamSoft (the program we use) will not allow students to use the MacBook Pro laptop with Touch Bar. Apparently, the touch bar feature contains embedded features that make it a security concern. Right now this is only for the February 2017 bar exam. Hopefully, as we get closer to the July bar exam, ExamSoft will have figured out a way to work around this feature. THIS ALSO MEANS THAT IF YOU HAVE A MIDTERM OR QUIZ USING EXAMSOFT IN THE NEAR FUTURE, YOU CAN'T USE THE MACBOOK PRO WITH TOUCH BAR. Until ExamSoft tells us it is safe, you can't use it.

Heard any rumors lately? If so, send me an email – serwin@scu.edu

The Political Offense Exception

By April Wegesin
For The Advocate

The political offense exception is a rule in international law that is used all over the world. To understand the political offense exception and its complications, one must first understand what international extradition is. According to Ronald J. Hedges, "[I]nternational extradition is a process by which an individual taken into custody in one country is surrendered to, another country for prosecution, to serve a sentence, or, in some cases, for a criminal investigation." For the purpose of this discussion, this means that when an individual commits a crime in their home country and then flees to another country, the governments of those two countries may work together to return the individual in question to be put on trial for the crime they allegedly committed in the country that they committed it. However, there are several reasons why the individual would not be extradited back for a trial. One of these exceptions is the political offense. The purpose of the political offense exception is to allow those who have committed political crimes to be exempt from extradition.

The political offense exception in international extradition is one ofthe most widely adopted and most widely contested rules in the world. Even with most of the world using the law, not a single country contains a clause in legislation with a definition of political offense. Without a single definition to dictate how judges interpret the term, the political offense exception will remain what scholars already call a hopeless and indefinable nightmare.

One of the factors that make it so difficult to define the term political offender is the fact that the term itself contains two words. Each word must separately be defined before the collective term can be defined. The first task of international court is to identify if the act in question is political. Around the world, there are multiple tests that dictate this outcome. James Kinneally III discusses three of these tests in his work titled, "The Political Offense Exception: Is the United States-United Kingdom Supplementary Extradition Treaty the Beginning of the End?" The first of these tests is the Proportionality Test, also called the Swiss Test. According to Kinneally III, "under the Swiss test, the taking of life-because it is so extreme-is considered predominantly political and non-extraditable if the killing is of last resort." This means that the person on trial must have tried all other methods of expression before taking a person's life can be jutified. This is a difficult criterion to provide evidence since it is hard to prove hypothetical situations that must have been available to the person on trial before the action at question occurred.

The second test, the Motives Test, is much simpler. If the motives of the person on trial seem to be political, the person may use the political offense exception. The problem with this test is that it leaves a great amount of room for speculation and interpretation.

Lastly, the third test is the Objective Test. This test focuses solely on the objective nature of the action. If the nature of the action is political, the person on trial may use the political offense exception. Petersen points out that "if the violence was committed in furtherance of a political aim or uprising, protection from the political offense exception will be granted". This means that the action must result from a political uprising, not just at the same time as political unrest, in order for it to be considered a political crime. This test relies more on facts than it does on speculation of the person's actions.

Clearly defining the term political alone is very complex and requires multiple methods in which a court may choose from. This again causes controversy since each test may result in a different outcome in the overall ruling. Perhaps this is why there is not yet a definition for the second half of the term, offender.

Multiple attempts have been made in defining the term political offender as a whole but there are many complications. Lieberman states, "when the decision-maker does not share the political ideologies of the fugitive, he is far less likely to perceive someredeeming value in the fugitive's conduct, deem it 'political,' and halt the extradition." This means that is hard to avoid ethnocentrism and achieve cultural relativism when defining the term political offender. What one person sees as an act of terrorism, another may see as a political offense. Hence many people around the world disagreeing on what the definition should be.

Aimée Buckland, author of "Offending Officials: Former Government Actors and the Political Offense Exception to Extradition," suggests that the definition should contain a clause where the political offense exception does not apply in cases where there are civilian casualties. Since many acts of terrorism result in the unnecessary death of innocent people, it is argued that the written definition of political offender should explicitly make that defining difference between political offender and terrorist.

Although there is not a single proposal that gains the support of the entire global community, what these scholars do agree on is that there should be one single term that defines political offender. Alec Samuels, author of "The English Fugitive Offenders Act, 1967" says it best when concluding that "the continuing failure of the international community to harmonize extradition law for all states is, to be regretted." This is an important statement for lawmakers to keep in mind because the purpose of the political offense exception is to protect the rights of people around the world.

Negotiating in a World of Polarized Politics

By Flora Kontilis
Senior Editor

The following article is not a political party endorsement.

To prepare for a successful negotiation, think about the other side. I keep track of practice tips given by professors or practicing attorneys. Here is one suggestion that consistently sticks out to me in transactional negotiations: "if this is a business transaction, then be fair; this is a partnership." You have to think about the other party, the other side of your transaction, the other side of your "ask." A similar idea can be applied in litigation contexts. Litigating attorneys often say that first thing they do in their cases is consider what the other side will argue. In either scenario, practitioners focus on the opposing side. More importantly, they are negotiating while acknowledging greater ramifications. At the end of the day, there has to be some give and take, and some common ground or shared interests, which further a mutual goal.

Can we apply this approach to our severely polarized political landscape? For lack of a new cliché, we can clearly see that United States political parties are engaging in a cutthroat battle with each other. Every day, we wake up to a new headline of Democrats or Republicans pushing back in furtherance of their party's political stance. Yet the reasoning behind their fight is less clear. Are we seeing this pushback result out of spite, rather than values? Take, for example, the recent Supreme Court nominee, Judge Neil Gorsuch. It seems that every news or radio station is covering his nomination, and the Democrat Senators protesting it. There is speculation that Senate Democrats are responding to how Republicans treated Former President Obama's nominee, Merrick Garland. An eye for an eye. If you blow me off, then I blow you off. Ok, I have been there too. And it feels great—in the moment! But, in my moments of hostility, I did not have a nation of others who were impacted. The U.S. government branches do. Perhaps this is my low-level approach to a far greater problem; however, I must urge us to ask, "how much is truly being accomplished by this behavior?" Let me note here that I AM NOT saying one party is right or wrong. Personally, I feel conflicted "choosing" a political party, because I identify with values from both sides. And that is my point: that some (even most) of us are actually stuck in the "middle" in terms of our political views. So a polarized political battle is not benefiting "all Americans," regardless of what your campaign pitch is.

Ultimately, I cannot help but analogize, to refer back to what has been taught to me about engaging in meaningful and productive debates and conversations. If you have conflict in mind, then you will get conflict as a result. Furthermore, a business is a microcosm; it is like an organism in which all parts have an important function and role that impacts the vitality of the whole. A political system is not much different. In the U.S. we are lucky to have a republic with democratic elections, and separation of powers. More importantly, differing views are necessary to achieving progress—I am not arguing otherwise. Differing functions are essential, invaluable even, to achieving a mutually beneficial end. Your favorite sport's team is not composed of the league's best pitchers or quarterbacks, but of players with different skillsets that together make it competitive enough to win the World Series or the Super Bowl.

Writing this, I am listening to CNN Live. People are shouting at each other. Whether out of fear or anger, people are actually shouting on live television, knowing that millions of viewers are witnessing their brawl. Let's face it, our reality is one full of constant headlines about another terror attack or executive order, followed by political responses. Again, I want to be clear that I am not arguing that there be no conflict or combat. Rather, before we put the gloves on, why not think, "Are the gloves here for my ego or for public policy?" Speaking to a law school and to young lawyers here, I think we are in a favorable position. Many of us feel strongly and are personally impacted by current events (i.e. Trump's executive orders). Moving forward, let this time be an example of how to be a different leader—not a better leader—but a different one! Consider the ultimate goal. Consider the shared interests. Consider the other side.

Office Hours Unwound

Thiadora Pina
Assistant Director, Professional Development and Externships; Assistant Clinical Professor

Currently Teaching:
Externship Seminar (Criminal Justice/Judicial/ Civil Practice/High Tech and Social Justice)
Panetta Fellows Externship
Advanced Legal Writing: Bar Exam

Education:
-J.D., Boston University School of Law
-B.A., University of Massachusetts, magna cum laude

1.What is your top source (news / journal / legal blog / other) for keeping current with the law?
The New York Times for the broad brush stroke; several Listservs for industry specific legal news.

2. What do you consider to be the most important development in your field or the legal profession in general over the last 5 years?
Recognizing the need and importance of experiential learning in law school and the formalizing that recognition with graduation requirements for the 2016 entering class.

3. If you could go back in time, what advice would you give to yourself in law school?
Network, network, network.

4. Who is someone you admire, and why?
Professor Cookie Ridolfi--I think she's the definition of hard work paying-off, living life on her terms, and giving back. That's a balance I admire and respect.

5. Any book recommendations?
Too many to include them all! *The Seven Habits of Highly Effective People*; *Financially Stupid People are Everywhere: Don't be One of Them.*

6. Do you have a favorite sports team or particular athlete
Woohoo! I am a BIG sports fan. Go Pats! Red Sox and Celtics. I was a big Jim Rice fan when I was a kid.

7. What has been your most memorable concert experience?
I've seen Prince, Michael Jackson, and Madonna in concert. I can't pick one.

8. What is your favorite restaurant in the bay area?
That's tough. I'll stick with San Jose and say the wine dinners at J. Lohr Winery.

9. If you could have dinner with any person, alive or deceased, who would it be and why?
On April 14, 1865 I would have a late dinner with Abraham Lincoln.

10. How do you unwind?
Spending time in the kitchen cooking something delicious (while sipping a glass of wine).

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1. What is your top source (news / journal / legal blog / other) for keeping current with the law?
The Washington Post, SCOTUS Blog, and Inside EPA.

2. What do you consider to be the most important development in your field or the legal profession in general over the last 5 years?
Before the elections, I would have said that the most important development in environmental law was the adoption of the Paris Climate Agreement. However, now, there is little doubt in my mind that it is the election of Donald Trump as President of the US. His choice of Scott Pruitt, an avowed foe of EPA, to be the head of that Agency could undo decades of environmental progress in this country. And President Trump's chaotic style of governing, for example by issuing Executive Orders that have not been appropriately vetted by Justice Department lawyers and other experts, is undermining the rule of law and international trust in the United States.

3. If you could go back in time, what advice would you give to yourself in law school?
Go to office hours and get to know your professors. Take advantage of the mentorship and help they can offer. Choose small classes and take some risks with unfamiliar subject matters.

4. Who is someone you admire, and why?
Professor Wang Canfa, who founded the Center for Legal Assistance to Pollution Victims at the China University of Political Science and Law. Wang is China's leading environmental lawyer who survived starvation as child during the Cultural Revolution and has successfully litigated landmark environmental cases in a system that remains hostile to lawyers and environmentalists. Another person I admire is former U.S. Attorney General Janet Reno. I served under her as an attorney in the Justice Department. She had an enormous amount of integrity as a public official.

5. Any book recommendations?
For serious reading, I recommend Daniel Kahneman's "Thinking, Fast and Slow." For pleasure reading, I would recommend the "Foundation" trilogy, a set of science fiction novels by Isaac Asimov. (I am an avid science fiction reader.) The Foundation novels are a classic in that genre. I am eagerly waiting for the novels to be made into movies. Finally, if you have children, I would suggest "The Penderwicks" series by Jeanne Birdsall. It was written for children, but can be enjoyed by adults as well.

6. Do you have a favorite sports team or particular athlete?
My favorite athlete is my daughter Gwen-Zoe, and my favored sport is usually whatever she is playing. I also love to watch the Olympics (when they come around).

7. What has been your most memorable concert experience?
When I was a kid, I went to see Huey Lewis and the News. (Remember "Power of Love" – that's them.) It was memorable because it was singularly unimpressive. I realized then that performances on TV and in other media oftentimes look/sound much better than in real life. I have used that lesson in other areas of life, including understanding the role of public officials, where the performance of the public aspects of an office are often quite different and not necessarily consistent with the mundane aspects of their day-to-day activities.

8. What is your favorite restaurant in the bay area?
My favorite is Chez Panisse in Berkeley, but it's pricey. For a more budget-conscious good meal, I recommend Mama Chen's Kitchen in Cupertino and Cooking Papa in Santa Clara (on Homestead, near Kiely). My go-to for Vietnamese Banh Mi sandwiches is Cam Hung, at the corner of Reed Ave. & South Wolfe Rd in Sunnyvale.

9. If you could have dinner with any person, alive or deceased, who would it be and why?
The first choice would be The Most Interesting Man in the World, before he went on his trip to Mars. The questions I would ask: Why do dolphins appear when he swims in the ocean? How does one ace the Rorschach test? And why would his enemies list him as their emergency contact? The second choice would be any one of my grandparents, all of whom passed away before I was born or while I was a child. I would have loved to know what they were like as persons.

10. How do you unwind?
I go running for exercise. Recently, I have taken up training for this year's San Francisco Marathon. But my main spare-time pursuit is gardening. I have been working on a back/front yard fruit orchard and have 6 laying hens. I am considering an apiary.

Tseming Yang
Professor of Law

Currently Teaching:
-International Environmental Law
- Journal of International Law

Education:
-J.D., Boalt Hall School of Law, University of California, Berkeley
-B.A., Harvard University

The Return of the Global Gag Order

By Kerry Duncan
Associate Editor

On Monday, January 23, President Donald Trump issued a Presidential Memorandum restoring the Mexico City Policy, also known as the "Global Gag Rule." This policy was first passed in 1984 when President Ronald Reagan blocked funding to international family planning charities. President Trump's memorandum has brought the policy back by directing the Secretary of State and the Secretary of Health and Human Services "to ensure that U.S. taxpayer dollars do not fund organizations or programs that support or participate in the management of a program of coercive abortion or involuntary sterilization." This policy will prevent foreign aid and funding to international nongovernmental organizations that discuss or provide abortions.

This rule has been rescinded and imposed any time there has been a different political party in the White House. It was effective under President George W. Bush, but lifted under President Clinton and President Obama. While this rule has been lifted in the past, existing federal law has barred the use of American dollars to pay for abortions anywhere. In the past, the rule was limited to State Department funding of family planning programs, but with new wording it is possible that it will now apply to any global health assistance. As the biggest global funder of family planning services, the return of the Global Gag Rule will have a huge impact. In 2016, the U.S. budget included $607.5 million in internation funding for reproductive healthcare. Once again, organizations will have to choose either to stop providing information and performing abortions or to lose any funding from the United States. The impact of the return of the Mexico City Policy will affect organizations like the International Planned Parenthood Federation that provides family planning services in more than 180 countries. In this instance, the International Planned Parenthood Federation has chosen to give up the funding, which they estimated would have been up to $100 million. Other groups like Marie Stopes International have also chosen to not alter their services as it "violates [their] core belief in individual choice."

The impact of the mandate will not only affect abortions but will also limit access to contraception and general reproductive health to women in developing countries. Under the policy, funding is completely stopped to the organization if they provide abortion information or services. Many organizations that provide these services, also provide general and reproductive healthcare to their patients. For instance, Marie Stopes International estimates that they gave 2,843 general and gynecological checkups; and they performed 596 contraceptive implant insertions after the 2015 earthquake in Nepal. Marie Stopes estimates that the impact from the policy in the next four years will be 6.5 million unintended pregnancies, 2.2 million abortions, 2.1 million unsafe abortions, and 21,700 maternal deaths.

The concern over the policy's impact on women's health is based on a 2010 study after the policy was reenacted under President Bush's administration. The study by the Walter Leitner International Human Rights Clinic found that the use of the Mexico City Policy from 2001 to 2008, hampered efforts to combat unsafe abortions, a leading cause of death for women, second only to HIV and AIDS.

Other countries have echoed similar concerns. The Dutch government responded to the act by saying it wants to set up an international abortion fund to help replace the money that organizations will lose due to the policy. The goal would be to allow women in developing countries access to contraceptives, information, and abortions. The fund would allow contributions and donations from governments, companies, and civil society organizations. Ploumen, the Dutch minister for foreign trade and development said, "this decision has far-reaching consequences above all for the women it affects, who should be able to decide for themselves if they want a child, but also for their husbands and children and for society as a whole... Banning abortion does not reduce the number of abortions."

However, not everyone is opposed to the return of the policy. Tony Perkins, the President of the Family Research Council, said that this "is a vital step in the journey to make America great again, recognizing and affirming the universal ideal that all human beings have inherent worth and dignity, regardless of their age or nationality."

Take two: SCU International Negotiations in Japan

By Liudmyla Balke & Cherrie Tan
For The Advocate

Another team of SCU law students has been negotiating a mock licensing deal with Japanese attorneys over the course of the semester. Two members of the team traveled to Japan during the winter break for the final negotiation session. Their counterparts were employed by Panasonic, Fujitsu, DS Pharma, Itochu, and Sojitzu. Professor Jimenez has joined the SCU team to supervise the visit.
The final negotiation lasted an hour. It was heated and action-packed. The abroad team wanted a worldwide exclusive license for seven years with a value of 2.5% royalties, and the home team insisted on the $700 million initial capital plus 8% royalties. The home team's goal was to receive a $500 million initial payment as the value of the contract. As the meeting wore on, both sides reiterated the value of the partnership and continual hope in closing the deal.

At first, the Japanese team took control of the meeting. They listed why they should receive 2.5% royalties based on their meticulous target sale calculations. The home team responded with a robust confidence in their standard-reforming technology, and how they disagreed with the low assumption for the target sales. Failing to reach an agreement, both teams switched to talking about the exclusivity of the license. In an effort to lower the cost of the agreement, the Tokyo team offered to reduce the scope of their license to an exclusive license in Japan, China, and North America and a non-exclusive license elsewhere. The home team accepted the proposal. In return, the home team offered to reduce the initial payment to $500 million with royalties of 5%. After much debate about target sales and an intense last-minute battle over royalties, both teams settled on a payment of $500 million and royalties of 1.25%.

After the deal was reached, Professor Jimenez gave feedback to both teams on negotiation style and presentation. The organizer of the Tokyo team, Etsuo Doi, a renowned intellectual property attorney, and partner at Foley & Lardner, recorded the negotiations for further scrutiny. Finally, both teams congratulated each other on a successful negotiation finale and had a celebratory dinner.

Mock negotiating a patent licensing deal for the sale of silver nanowire technology took months of preparation. The team had to draft and redraft a non-disclosure agreement, a licensing agreement, and a term sheet with lots of points of contention. The home team, in Professor Jimenez's class, had been in constant contact with the Tokyo team, redlining contracts and negotiating through email and Skype before meeting each other officially.

However, 'all work and no play' was not the motto of this class. Upon arriving in Tokyo, the team spent time exploring Japan. They participated in the traditional New Year's visit to temples, watched the Emperor give a speech, sat in on a traditional tea ceremony, and admired Mountain Fuji from a skyscraper.

Furthermore, Professor Jimenez called upon his contacts and introduced the team to a lead partner in the fifth largest law firm in Japan, TMI Associates. Yoshiyuki Inaba's firm is proudly spearheading the Tokyo 2020 Olympics. The team was also treated to dinner by a highly respected law professor, Zenichi Shishido.

Gaining practical skills through negotiations, relevant to so many areas of law and everyday life, numerous networking opportunities, and learning about other cultures, would not have been possible without this class. To those seeking a challenging yet rewarding experience, International Business Negotiations-Simulation class will not disappoint.

21st Century Privacy

By Brendan Comstock
Staff Writer

What does privacy mean in the 21st century? Have we given up our privacy rights, or worse yet, stopped caring enough to inform ourselves about those rights? In the age of consumer data collection and the Internet of Things, these questions are more salient than ever. Over the next several months, I will be writing three pieces for *The Advocate* based on my experiences at three different data privacy conferences: Enigma, RSA, and the IAPP Global Privacy Summit in Washington D.C. I hope to bring more awareness to the issue of consumer data collection and usage, and what you, the consumer, can do to ensure your data is being used responsibly.

Today, I am reporting on one presentation in particular that was given at Enigma. The speaker was Lorrie Faith Cranor, who is a Professor of Computer Science and of Engineering and Public Policy at Carnegie Mellon University. The subject of the presentation was those pesky privacy policies that are often skimmed over as quickly as possible with no real awareness as to what was agreed. Take a moment and ask yourself, "How many privacy policies have I actually read?" and "Do I really know how my personal data is being used?" If you answered "Zero" and "I know more about biomedical physics than how my personal data is being used," you are not alone.

There are perfectly legitimate reasons why people do not read privacy policies; they are long and difficult for the average person to understand. Professor Cranor cited a major telecom company's privacy policy that is 29 pages long.

One of Professor Cranor's graduate students decided to calculate how much time would be needed to read every privacy policy that the typical consumer encounters. The answer? 244 hours per year. You read that correctly. If you would like to know how the websites you visit are using your personal data, you have to spend over 10 full sleepless days per year reading their privacy policies. That is almost 3% of your entire 2017 calendar year. Naturally, people do not want to put themselves through that.

The information contained in privacy policies is what makes this issue one of great importance. The easiest way to examine the contents of a typical privacy policy, is to review what data is being collected, and how it is being used. Consumers should read these policies to understand what their choices are regarding their personal data, and which websites to visit. Professor Cranor stated that the ideal cognitive process for reviewing a privacy policy is as follows: people must notice the privacy policy, pay attention long enough to read it in its entirety or at least a good portion of it, and be able to comprehend it. If consumers comprehend the privacy policy and action should be taken, they must be sufficiently motivated to do so in order to effect change.

I believe that the most effective way to improve consumers' understanding of privacy policies is to present them in a simplistic yet informative way. Professor Cranor tasked her students with creating new ways to present privacy policies. One of the ideas was to model it after a nutrition facts label. This is a less intimidating and more familiar way for consumers to learn about how their data is being collected and used. This design also allows consumers to compare one privacy policy to the next to make informed decisions about the websites they visit.

In order for privacy policies to more effectively inform the average consumer about how their data is being collected and used, there needs to be a dialogue between consumers and companies. Ideally, companies would be proactive when it comes to informing consumers. However, if that is not the case, consumers need to express their dissatisfaction, so that companies act to improve. Presently, there is not a strong incentive for companies to improve their privacy policies. Professor Cranor pointed out that there are not many legal restrictions on how companies handle consumer data, but once a company includes something in its privacy policy, it must adhere to it. It is for this exact reason that dialogue between consumers and companies is essential to responsible consumer data collection and usage.

Should we really focus on President Trump's Cabinet?

By Christina Faliero
Associate Editor

It is safe to say that electing President Trump is one of the most shocking, divisive, and confusing democratic actions in recent history. Proud supporters are still flaunting "Make America Great Again" hats, women are marching in protest around the world, and for the first time it seems, citizens are vocally concerned about the Cabinet. Yet, how much power does the Cabinet actually have, and why is America suddenly enraged by these nomination decisions? I, too, want to be vocal about my political opinions on the matter, but frankly, I can't even name the current Secretary of Education or Secretary of Treasury without searching Wikipedia. So, let's lay some groundwork for the process before we gratuitously prepare for an apocalypse instead of a cloudburst.

Article II, Section 2, Clause 2 of the Constitution (i.e. the Appointments Clause) empowers the President to appoint Cabinet members with the "advice and consent" of the Senate. The Senate's role in approving or rejecting nominations is simply that: advice and consent. Regardless of arguably justified public outcry, the Senate does not have a duty to inform the public about its decisions. Traditionally, Cabinet members are confirmed based on the principle that a president should have a "free hand" in choosing their closest advisors; the confirmations are for the president, not the people. Though there is a civic responsibility for our elected Senators to represent the interests of their states, and those interests are more powerfully served through legislation, not through advisory confirmations for the executive branch.

The last person rejected by the Senate was John Tower for defense secretary under President George H.W. Bush. Tower was "qualified" politically, being reelected to the Senate three times in 1966, 1972, and 1978. Instead, it was concerns about his personal life, primarily accusations of being a drunk and a womanizer, which played a major role in the rejection. The Senate's scrutiny generally involves consideration of professional qualifications, conflicts of interest, character, and ideology. Ultimately, the process is purely discretionary, and appointments are almost always confirmed. Withdrawal, as opposed to outright rejection, is far more common.

While it is important for the public to be cautious about imprudent executive power, the Cabinet doesn't really seem to have much tangible authority. Rex Tillerson, recently confirmed for Secretary of State, has been one of the more controversial appointments. He's an oil executive, having worked at Exxon Mobile since graduating college, and worked his way up the ranks to CEO. The Department of State's leading role is developing and implementing the President's foreign policy, requiring relations with over 180 countries and overseeing a budget of approximately $35 billion. President Trump wants Tillerson as his advisor because Tillerson's global business experience, in his mind, parallels the relationship and budgeting skills necessary for Secretary of State. Notwithstanding the complete absence of foreign policy knowledge, which he can acquire from other advisors and mentors, this rationale isn't entirely misplaced.

More controversial over her true lack of capability is Betsy DeVos for the Department of Education. She does not have any government experience, and is described as a "philanthropist" and "Republican donor" in most news articles. In the Senate confirmation hearings, she used "grizzlies" (yes, the bears) as an excuse to refuse to answer a question concerning banning all guns on school grounds. She demonstrates a complete lack of experience in knowledge, support, and understanding of public education, and she does not have any familiarity with federal aid. The Secretary of Education oversees 4,200 employees and a $68.6 billion budget. On one hand, education is the foundation for our society, and entrusting a woman in charge with administering federal financing for education, who seems to have no genuine interest or know-how in the field, is terrifying. However, if she is confirmed, it is important to remember that her role is merely advisory. A woman with no applicable skills will not easily destroy the work of 4,200 employees and a long-history of Department precedent, coupled with the power of concerned legislators and state-run school systems.

It is inspiring to witness our country come together, re-emphasizing our values of liberty and free speech, during a period of rapid and radical change. Still, we need to pick our battles wisely, and not be distracted by every brash move President Trump may choose to make. Casting stones at every action is not productive. Rather, it is more important to be educated, informed, and cognizant of the realities of our changing nation, so that we can be prepared to fight, rightfully, when it truly matters.