

My Memories of Professor Hazard

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It was autumn or perhaps winter in 1991 when I first met Professor Hazard, who later became a most instrumental mentor for me. He had been invited by several Japanese universities to present his lectures to scholars of civil procedure gathered from universities in Tokyo and the neighboring prefectures. That was his first visit to Japan. He was staying about a week in Tokyo. When looking back from the view of the present, I had a special fortune to be personally asked by one of the professors who invited him to Japan to take care of him during his stay, given my status as a young scholar possessing interest in American civil procedural law. Back in those days, the eyes of most Japanese in the domain of civil procedure were turned to German and French laws.

I called at his hotel every morning, and accompanied him both going and returning to the seminar venue. At the hotel lobby, in the taxi, in the subway and at the seminar hall before and after his lectures, we discussed various topics including legal theories in both the United States and Japan. Remembered in this way now, it was quite an enjoyable and intellectually vibrant time. To my delight, he always praised my arguments as sharp and deep. As our relationship developed, he also came to talk of his days of boyhood in Missouri. In the train heading to Narita International Airport, on his last day in Japan, I told him that I hoped to study at a law school in the United States. I asked him to write a letter of recommendation to some universities in California. At that time, I longed for the free style culture of the West Coast. He replied with a severe face, “My answer is no.” I was disappointed by his answer, which was contrary to my expectation. But, he continued: “Because, I would like to guide you myself at Yale in New Haven.” This was the moment Professor Hazard became the mentor of my life. At that time I didn’t even know where New Haven was located.

In April, 1993, I arrived in New Haven from Tokyo. As soon as some small business at the student affairs center was complete, I visited the office of Professor Hazard. When I knocked on the door of his office, an assistant emerged from the adjoining room and said that he was absent. She asked me, “Would you like to look inside of his office?” I nodded and she unlocked the office. The room was large and tidy. Casting my eye around the room, I found mountains of copies of his new textbook, which had just arrived from the publisher, piled high up on the side desk. The assistant snatched one of them and

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handed it over to me. I asked her with trepidation, "Is it OK?" She replied with arching laughter. "There's so many. What's the matter?" I took it and held it in my arms.

Several days later, I again visited the office of Professor Hazard. He welcomed my arrival to New Haven with a soft smile. After a bit of chatting, I took his new textbook out from my bag. I joked that I had stolen the textbook from his office. He made a serious face and said in a low voice, "That's a crime. Return it now." I disgorged the book while turning a little pale. He maintained a serious face, took the purloined book, and picked up his ballpoint pen on the desk. He then wrote a dedication and his signature on the back cover, and gave it back to me flashing a wicked smile. The textbook, of course, is still on my bookshelf now.

In this way, I started my life studying-abroad as a visiting scholar at Yale. In September began the Civil Procedure class that Professor Hazard taught. I always occupied a seat right in front of him, in the first row. He used plain English, but I could not catch half of it, as a result of my poor English listening comprehension and lack of vocabulary in those days. In addition, the topics of the class were only related to technical issues of jurisdiction that were boring for a young scholar from Japan who burned with enthusiasm to study. As a result, I used to go to Professor Hazard after class and come up with something to question which had nothing to do with the class. He always listened to my questions pleasantly and patiently.

The topics I often asked him about then concerned the comparison of legal theories and case law in Japan and the United States. It was hard to find a professor or lawyer capable of understanding the nuances and implications of that kind of question accurately, and in turn formulating an appropriate answer from a comparative legal point of view. This is due to the deep understanding and knowledge needed of both common law and civil law. He was the only foreign scholar who always gave me a satisfying response. It was often in the hallway to his office from the classroom that we engaged in arguments on such topics. At the time, he always held me round the shoulder. His way of calling me was "Miki." Although he knew my first name is "Koichi," he simply said that "Miki" is easy to pronounce. As time passed, I don't exactly remember when it was, he changed to calling me "My boy." I was already over the age of thirty and was no longer a boy in any sense at that time. However, I was happy when he called me that.

In the early spring of 1994, Professor Hazard told me that he was going to move to the University of Pennsylvania Law School. At that time, he was serving as the Director of the American Law Institute. He was having to go back and forth between New Haven and Philadelphia each week, and some of his family lived in or near Philadelphia. He asked me whether I wished to move to Pennsylvania with him. I thought a little, and answered that I'd like to stay at Yale. More than one year of my stay already had passed, and I had become completely accustomed to Yale Law School and the town of New Haven. Thus,

the opportunity to receive instruction from him directly after my second year at Yale was lost.

Fortunately, however, our exchange did not break off after all. I continued to live in New Haven for two and a half years in total. After Professor Hazard moved to Penn Law School, I visited Philadelphia several times to meet him. Moreover, in the winter of 1995, Yale Law School invited him for intensive lectures for the students of that academic year. My wife was an LLM student at that time. She says that she remembers he and I having a long chat in front of the students on the platform after his lecture.

In August, 1995, I finally went back to Japan and returned to fulltime teaching as an associate professor at Keio University in Tokyo. On May 31, 1997, as luck for legal society in Japan and myself would have it, the Japanese Association of the Law of Civil Procedure officially invited Professor Hazard to Tokyo as a special guest at the opportunity of the annual meeting. I was nominated by the Association as the interpreter for the lecture and the translator of the report manuscript as well. At that time, the American Law Institute, where he was still the Director, had launched a major project called “Transnational Rules of Civil Procedure,” and he took up the subject for his lecture, which was entitled “Harmonization of Procedural Law.” His lecture commenced at 4:30 p.m. He went up upon the platform and took his seat, and I sat down right next to him. The seats immediately in front were completely vacant, but behind the front rows it was full of people. Among them, sat a number of authorities in our academic society. While a staff member adjusted the microphones, the hall was silent as a grave. Then, he brought his mouth close to my ear and whispered. “Nothing different from students, isn’t it? Everyone wants to sit in the back seats.” Immediately after, my impolite laughter echoed loudly in a silent hall, and I felt deeply awkward. His magnificent lecture at that time appears in a bulletin of the Association by my translation. My howl of laughter isn’t transcribed, of course.

Professor Hazard visited Japan several times after that. In some cases, it was for a lecture invited by some university, as he was the most famous professor of civil procedure in the United States. When he would come to Japan for a lecture, I went to the venue without fail. He always introduced me to the audience at the begging of the lecture. “I’m very glad Professor Miki, my former student, is in this hall.” In some cases, it was for missionary work on the “Transnational Rules of Civil Procedure” project, as Director of the American Law Institute. I was designated as an official Japanese translator of the Rules, along with the translators for other languages. When meeting in such occasions, he always approached me with a full smile, hugged me tight by both arms, and whispered those familiar words: “My boy.” He kept calling me “my boy” even when I was in my forties and fifties. It was embarrassing a bit at those ages, but still made me happy.

I served as the representative of the Japanese government for the working group of arbitration and conciliation of the United Nations Commission on

International Trade Law (UNCITRAL) from March 2000 to July 2010. During that time, I visited New York for at least two weeks almost every year. It was around 2005 or 2006 when I received an email from Professor Hazard. It said that he would visit the United Nations in Manhattan during the UNCITRAL meeting and hoped to see me at that occasion. He was interested in the process of discussion and compromise for establishing transnational rules at UNCITRAL. After the UNCITRAL meeting, we ventured to the Yale Club near Grand Central Station, at his suggestion. I remember that he ordered a hamburger as usual. His lunch was always simple.

As Japan entered the twenty-first century, the introduction of collective litigation systems such as American class actions or European group litigation started to be extensively discussed, both in political and academic scenes. I came to be involved in the legislative process as chairperson of several councils of the government and a research representative especially regarding overseas systems. In June 2007, I visited UC Hastings College of the Law as an adviser of a research team of the Japan Federation of Bar Associations. We interviewed Professor Hazard regarding U.S. class actions. His answers were enlightening as usual. The most useful instruction for us was his assertion that the U.S. class action is a system for settlement, not a system for judgment.

In 2012, I acquired the right for a half-year sabbatical. I asked my friend Professor Richard Marcus for advice regarding my plan of research. He kindly arranged for my status as a visiting scholar at UC Hastings College of the Law from October 2012 until March 2013. After twenty years since my time at Yale, I was once again to study abroad—and once again Professor Hazard happened to be there. While there, I pleaded with him to arrange a meeting with Justice Sonia Sotomayor of the U.S. Supreme Court. My wife was, and still is, a judge in Japan and was an LLM student in 1994 at Yale. When she finished her LLM course in May 1995, she was introduced to Ms. Sotomayor as a promising young female judge on the U.S. District Court, who was also a graduate of Yale Law School. My wife was admitted as a short-time trainee under her. Time passed, and my wife hoped to meet again with Ms. Sotomayor, who had then become a Justice of the U.S. Supreme Court. However, they had lost contact over the years. I related this situation to Professor Hazard. Only a few days later, a meeting with Justice Sotomayor was planned, like a rabbit taken from a magic hat. My wife and I met Justice Sotomayor in her chambers at the U.S. Supreme Court in Washington, D.C. on January 5, 2013. That would have been impossible without his special arrangement.

My last episode with Professor Hazard was recent, and I did not even expect it at all until it happened. Japanese universities generally have a kind of seminar class which is called “zemi,” derived from German. Unlike ordinary seminars, in a “zemi,” students learn a certain subject under the instruction of a certain professor for usually two years. The students have one “zemi” in their chosen field during their undergraduate years. The students and the professor in the “zemi” jointly hold intensive off-site camps for study, as well as drinking

parties, sports events and so on, in addition to regular class on campus. Accordingly, a special kind of lasting comradeship develops between the students and their “zemi” professor. A “zemi” class is typically referred to simply under the name of the supervising professor, for example, my “zemi” is called “Miki-zemi.” Even after the students graduate, it is usual that exchanges between students and their professor continue, often for a lifetime. The same goes for “Miki-zemi,” and it has an alumni association with more than eight hundred members. On November 25, 2017, the “Miki-zemi” alumni association organized a large party to celebrate the twenty-fifth anniversary of “Miki-zemi.” Toward the end of the party, video messages from graduates who were unable to attend that day, as well as professors and friends from overseas, were displayed on the screen, one after another, as surprises. Professor Hazard appeared at the end. It was a photograph of him and a written message, not a video message. One of the members of the alumni association had written a letter to him secretly for me, and he received the message from him through exchange of emails about a month before the party. His message was not so long, but was warm-hearted as usual.

It was only one month and a half after the party that Professor Hazard passed away. I do not know what his state was like when he wrote the message for me, however, his message still touches me deeply. I will always cherish our memories and time together, and his touch will forever remain on my career.
