



THE MAGIC INSTITUTE
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My having lived in Germany for nearly two decades prior to coming to the United States for college made moving to Berlin a homecoming of sorts for me. On a professional as well as personal level, the Institute and its entire staff from relocation to farewell could not have been more hospitable. The degree to which the Wissenschaftskolleg provides for the Fellows' wants and needs, coupled with the breadth of intellectual stimulation it offers throughout the year, makes this an almost magical place for scholarly exploration.

Spending a year in Grunewald thinking, reading, writing, and discussing was a rare privilege indeed.

My own scholarly projects at the Wiko centered on comparative constitutional law. The projects ranged from the more traditional realm of comparative federalism and the emerging field of comparative administrative law to the boundaries of constitutionalism and pluralism. With regard to the first, I finished a co-authored report on an empirical study of federalism and legal uniformity. This study examines the questions how and to what degree federations produce uniform law within their system. The comparative empirical study addresses this question comprehensively for the first time by examining legal unification in twenty federal systems around the world. With the help of national reporters from each of these systems, we had gathered information in the form of broad-ranging qualitative descriptions of national systems, as well as highly specific quantitative assessments of the degree of legal unification in each system. Our general report presents the means and methods of legal unification, the degree of legal unification of each system (and of particular areas of the law within each system), and a first attempt to explain the driving forces of legal unity and diversity in federations more generally. Over the course of the year we brought our general report to preliminary publication under the auspices of the International Academy of Comparative Law (which I was honored to join by election at their membership meeting this past July).

Second, my stay at the Wiko gave me the time and resources to expand a small piece written originally for a German/French symposium into a self-contained chapter on the constitutional role of independent agencies in the United States, Germany, and France. In this brief essay, “The Promise of Comparative Administrative Law: A Constitutional Perspective on Independent Agencies”, I pursue the idea that independent agencies play rather different roles in these three systems and that each of these roles are connected with distinct histories, inter-institutional political dynamics, and (perceived) constitutional pathologies. I thereby push back against the dominant trend in the still-emerging field of comparative administrative law that examines the creation of administrative agencies as a rather generic phenomenon with universally shared purposes, values, and goals. By viewing these agencies through the lens of constitutionalism, I hope to bring into focus hitherto neglected differences in the significance of such agencies for each system – differences with which we must wrestle especially as we confront supranational (and international) demands for the creation of often novel independent administrative structures.

Finally, I made progress on my overarching project of constitutional pluralism. The basic idea, on which I gave my colloquium presentation, is to explore the interconnectedness among systems and institutions of constitutional law and to investigate the regularities of discourse in the clashes of authority that ensue. In these contests, claims of legality and legitimacy are blended together, yielding a practice of conflict and spontaneous mutual accommodation instead of universal hierarchy and settlement. The hope is that considering this interconnectedness will yield not only an understanding of certain fringe aspects of constitutionalism, but also a potential reconceptualization of the core practice of constitutional law itself. My stay at the Wiko has allowed me to broaden my exploration of these ideas and also to finish two chapter-length manuscripts – one on “Local, Global, and Plural Constitutionalism” and another on “Systems Pluralism and Institutional Pluralism in Constitutional Law.”

The rewards of this year, however, were not only to be found at my own computer and in my own collection of books or even in the many books borrowed from throughout Europe with stunning ease by our heroic librarians. They were found beyond the office as well. The weekly seminar series was a *tour de force* ranging from the emergence of the symphonic form to the puzzles of quantum mechanics; from the saga of the gold rush to the wonders of ant battles; from the sociology of morals to animal communication; and from ancient Greek philosophers, gods, sculptors, and craftsmen to modern interiors and plays. Our regular lunch and (weekly) dinner conversations with (current, former, and permanent) Fellows, members and staff of the institute, guests, and many Fellow spouses (or honorary Fellows, as they really were) refreshed our minds and provided food for thought beyond the standard fare of our respective projects or disciplines. Indeed, these conversations – whether in colloquia, at lunch or dinner, in hallways, at special sessions, or simply at table-tennis matches – led to some fascinating and often rather systematic exchanges on discipline and method from which I – and probably many of us – benefited immeasurably.

Then there were the concerts. We were blessed this year by a host of wonderful composers and musicians, some of whom gave us a very special present. András Schiff gave an unforgettable in-house performance of Bach, Schumann, and (a highly personal piece of) Kurtág, only to be joined by Yuuko Shiokawa for a captivating Mozart finale. Alfred Brendel gave a sonorous rendition of his delightful essay on humor in music while providing his own accompaniment and acoustic illustrations. These evenings will remain with me – and almost surely with us all – forever. Several of us were quick to jump at

another marvelous opportunity in that regard: hearing András Schiff perform and direct Haydn at the Berlin Philharmonic.

The world beyond the Wiko was filled with attraction, and with more to offer than a family with three school-age children could ever hope to exploit. After numerous trips to museums, galleries, performance halls, and lakes we still had explored only a fraction of what Berlin had on tap. Our children became fluent not only in German but also in a public transportation system that (to Americans) is simply a marvel. The John F. Kennedy public school our children attended was a model of intercultural dialogue and hospitality while giving our children a sense of maturity that went beyond their experiences back home. Quite apart from the few stints to capitals across Europe during their school vacations, the year was a wonderful growth experience for them as well.

The family dinners at the Wiko were always a highlight. For us, these were especially significant occasions, as we did not wind up living in the famed Villa Walther. As it turned out, we took up residence in an idyllic part of town and just around the corner from where Eric and Virginia Stein (my chair's namesake and his spouse) lived during their visit to the Wiko over 25 years ago. The monthly dinners were thus a special opportunity for our family to connect with those of the other Fellows. These dinners were also yet another display of the Institute's hospitality and generosity at its best. From the kitchen staff to the director, the Wiko here as elsewhere demonstrated a commitment to the well-being of spouses and children unsurpassed by anything I have experienced elsewhere.

I have one and only one great regret about all this. Writing this report as I am back home and into my routine again, I am more aware than I might like to be of having left behind the magic of that institute in Grunewald. For now.