

UNIVERSITY OF  
WISCONSIN  
MADISON

March 5, 2007

Kenneth B. Davis, Jr., Dean  
UW Law School  
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975 Bascom Mall, Room 5211A  
Madison, WI 53706-1399

Dear Dean Davis:

I write in response to the letter of February 16, 2007, written to you by three students in my Legal Process course about the class of February 15, 2007.

As a preliminary observation, I want to state that over the course of the last two very painful weeks I have come to understand better the rawness of the wounds sustained within the living memory of our Hmong neighbors: the carnage of the Vietnam War, the savage reprisals against the Hmong people in Southeast Asia in the years following the U.S. withdrawal from Vietnam, the chaos of life in temporary resettlement camps, the often jarring transition to a new and unfamiliar environment in the United States. In that context, I can also better appreciate the frustration of Hmong Americans in light of the widespread ignorance in America about the Hmong story in all its nuance and complexity and the stereotyping of Hmong culture, even by well-intentioned outsiders.

As to what happened in my Legal Process class on February 15, the context is critical. In that class, I was doing my job as a professor of law. I was teaching my law students that the law is an obstacle to, rather than an instrumental tool for, the needs of displaced ethnic groups.

The text assigned for the class was *Patterns of American Jurisprudence* by Neil Duxbury, in particular Duxbury's discussion of legal formalism. We also drew on *Hegel's Theory of the Modern State* by Shlomo Avineri, which the class had read earlier in the semester. With these texts as background, I intended to discuss how government--including our legal institutions--fails adequately to respond to poverty and the challenges of a multicultural society.

Within this context, I discussed how particular displaced ethnic groups experience difficulties within the liberal state. As examples, I referred to the Muslims in Amsterdam, Pakistanis and other ethnic groups in London, Algerians in Paris, and Turks in Germany. To bring the discussion closer to home, I went on to discuss the experiences of the Hmong people at the time of their resettlement in the United States. I did not intend my statements to describe the current

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cultural norms of the Hmong. The most remarkable fact about immigrant groups is the speed with which they adapt to new environments and make significant and in many cases unique contributions to the community.

I made the case that the difficulties encountered by many Hmong on their arrival in this country were substantially aggravated by the failure of government and our legal institutions to accommodate them. The statements attributed to me in the February 16 letter do not correctly reflect the statements I did make or my purposes in making them.

The February 16 letter asserts that I said, "Hmong men have no skills other than killing," and that I commented that Hmong men's only roles are as warriors and killers. I did not make either of these statements. I noted that many of the first generation of Hmong men died prematurely and that a possible explanation is that some Hmong men suffered from a loss of meaning as a result of their changed status in the United States. I did refer to Hmong men as "warriors," using that term to express the status they held in Southeast Asia, not to suggest any inherent violent proclivities.

The letter further suggests that I implied that Hmong women are better off with Hmong men dead. Specifically, the letter attributes to me the following statement: "What do you think happened after ten years? The Hmong men started to die and women started to do better. Women did handicrafts and other things ..." I did not mention what happened "ten years" later. I did note that some Hmong women -- I may have referred to "Hmong women" rather than "some Hmong women" -- began to thrive in cottage industries, and I may have used the term "handicrafts" in that discussion. Hmong women have successfully operated cottage industries. Suggesting that they were skilled in handicraft does not denigrate them or suggest that handicraft is their only skill or competence. Finally, I never said, and I never implied, that Hmong women were better off with Hmong men dead.

The letter further states that I mischaracterized the Hmong dowry system as "a Hmong man would go and buy himself a wife." I did in fact refer to instances in the United States where a Hmong man arranged a marriage with the father of a young Hmong woman, without her knowledge or consent, by paying a "bride price." Actual cases arose out of such arrangements in which the Hmong man was charged with rape for engaging in marital relations. In an effort to highlight the imperfections of legal formalism, and not to denigrate any cultural practice, I made an ironic comment that those who pay a price for a bride and are charged with rape may believe that they have paid too much.

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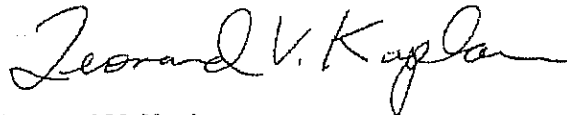
The letter also attributes to me the statement that the second generation of Hmong Americans was involved in gangs and crime. I did say that many young Hmong men were involved in criminal activity. The letter accurately reports that I noted that second-generation immigrants have historically been involved in criminal activity. I shared with the class the observation that almost every generation of immigrants has had some segment involved in crime as a matter of economic necessity. I also shared with the class that I upset my Jewish mother when I once observed within her presence that many second-generation Jewish young men were involved in criminal activity. These examples were directly relevant to my point about the marginalization of ethnic groups within the liberal state.

Finally, the letter states that I "lamented" that the government did not relocate the Hmong people to Colorado as they were mountain people. What I did lament was that the government, with little or no forethought, settled in northern Wisconsin people who were accustomed to living in the mountains. I intended this only as one example of the government's lack of consideration. I did not mean to suggest that the Hmong people are not welcome in Wisconsin.

Many of the statements attributed to me in press accounts and emails are hateful. Although I strongly believe in academic freedom, I do not seek to cloak my statements in this protection. Had I made the hateful comments wrongly attributed to me, I would repudiate them without hesitation. I did not make them. As both a matter of personal inclination and my professional training as a clinical psychologist, I try my best to bring human empathy to bear in my vocation as a teacher. However, this experience and the compounded misunderstandings that have resulted from it reinforce my recognition of the limits of language, as well as law, to bridge certain gulfs. I have come to a new awareness of how the statements I did make could be misunderstood and of the pain that this experience has caused. I acknowledge that pain and regret the part that my own limitations played in contributing to it.

I authorize you to make this letter available to the public.

Respectfully submitted,



Leonard V. Kaplan  
Mortimer Jackson Professor of Law