As the summer draws to a close, we would like to update alumni and friends on the activities of the Center for Japanese Legal Studies in academic year 2007-2008. It was another very busy year! In addition to our regular programs of fellowships, faculty exchanges, and speaker series (all discussed below), the Center hosted several special events including a major conference on mergers and acquisitions in Japan and a visit to Tokyo in January by David M. Schizer, dean of the Law School and the Lucy G. Moses Professor of Law. The Law School chose Tokyo as one of the kick-off cities in Asia to celebrate Columbia Law School’s 150th anniversary. In addition, two partners of a major Japanese law firm contributed their time and talent to teach a special course at the Law School this spring.

**CENTER HOSTS PATHBREAKING M&A CONFERENCE**

*Scholars and Practitioners Examine Japan’s Changing M&A Landscape*

Japan has long been viewed as a country where M&A is rare and hostile takeovers are nonexistent. Recent developments have changed this picture dramatically.

On October 12, 2007, the Center hosted a well-received conference titled, “Japan’s Emerging M&A Market: Defensive Measures, Judicial Review, and Insider Trading.” The conference, held at Columbia Law School, was organized by the Tokyo law firm Mori, Hamada & Matsumoto.

In the first session, “Recent Developments in the M&A Market,” Satoshi Kawai, LL.M. ’95, and Yuto Matsumura, LL.M. ’02, two partners of Mori, Hamada & Matsumoto, provided an overview of current M&A activity in Japan. Over the past decade, the number of transactions has increased five fold. The momentum is expected to continue as recent legislative changes facilitate M&A, such as the new Company Law, which provides both flexibility and transparency for acquirers of Japanese companies. In addition to friendly M&A activity, the past several years have witnessed a number of unsolicited bids.


Columbia Law School faculty John C. Coffee, Jr., Adolf A. Berle Professor of Law and director of the Center on Corporate Governance, Ronald J. Gilson, Marc and Eva Stern Professor of Law and Business, and Jeffrey N. Gordon, Alfred W. Bressler Professor of Law and co-director of the Center for Law and Economic Studies, provided commentary. The conference was moderated by Curtis J. Milhaupt, ’89, Fuyo Professor of Japanese Law, professor of Comparative Corporate Law, and director of the Center for Japanese Legal Studies.

**COLUMBIA LAW SCHOOL CELEBRATES CONNECTION WITH JAPAN**

*Part of the Law School’s Global Series of Sesquicentennial Events*

Columbia Law School kicked off a year-long, global celebration of its 150th anniversary and its long connection with Japan by hosting an event in Tokyo. The reception on January 16, 2008, hosted by Dean David Schizer and Professor Curtis Milhaupt in the Grand Hyatt Tokyo, commemorated Columbia Law School’s close partnership with the Japanese legal community.
MORRISON AND FOERSTER
PUBLIC INTEREST FELLOWS 2008
The Center, along with Morrison & Foerster, chose two superb fellows from a competitive field this year, the third year of the fellowship. This year’s fellows, Ryan Russell and Justin Steil, both from the class of 2010, will be working for Human Rights Now! in Tokyo.

Ryan Russell held many jobs during the five years between graduating from high school and attending college at Brigham Young University, including serving as a missionary in South Korea. This summer he will research international human rights abuses, draft reports, and assist in presenting policy proposals to Japanese government officials.

Justin Steil earned his B.A. from Harvard and an M.S. from the London School of Economics. This summer he plans to work primarily researching human trafficking and refugee issues in the region, particularly on challenges refugees face in Japan. He hopes to also work with Japan Association for Refugees.

NAGASHIMA OHNO & TSUNEMATSU FELLOWS
This year the Center named two Nagashima Ohno & Tsunematsu fellows from an extraordinary pool of students: Joseph H. Badtke-Berkow and Pooja Dadhania. Both are Class of 2011 and will begin their studies at Columbia Law School in Fall 2008. The fellowship is awarded annually to outstanding students with a strong professional interest in Japan. The fellowship is the brainchild of Ken Tsunematsu, M.C.L. ’63, and one of Japan’s most distinguished legal practitioners.

Joseph H. Badtke-Berkow graduated with honors from Haverford College in 2002, where he majored in classics. He spoke no Japanese when, soon after graduation, he flew to Tokyo to help his brother, the founder of Knee High Media Japan. The day after he arrived, he found himself giving a sales presentation to Japanese businessmen about Paper Sky, a travel and culture magazine. Although he didn’t close that deal, over the next six years he learned Japanese and went on to become the senior editor of Paper Sky, an assistant producer for Paper Sky TV, and a senior editor for Knee High Media Japan. He also was a regular writer for Japan Times and the Japan editor for C Photo Magazine.

Pooja Dadhania graduated with high distinction from the University of Virginia in 2006, double majoring in economics and in political and social thought. Her involvement with Japan began as a purely academic interest in Japanese linguistics. She spent six weeks in Japan during her junior year and returned soon after graduation. Since then, she has been teaching English as an assistant language teacher through the Kumamoto City Board of Education, part of the Japan Exchange and Teaching (JET) Program. She also teaches English as a volunteer at a local orphanage.

“STUDY TOUR” SILENT PARTNER: TASUKU MATSUO, ESQ.
The position of summer associate at Matsuo & Kosugi perennially attracts many more applicants among Columbia 1Ls than can be interviewed in a single day. The position is so popular because Mr. Matsuo’s personal attention ensures that the summer associate receives a unique perspective on the Japanese legal system and culture. During the two-and-a-half month stay, the associate typically attends client meetings, visits factories and courts, and even goes to a Kabuki performance. A highlight of the internship is a very special kengaku ryoko, organized and sponsored annually by Mr. Matsuo. This all-day “study tour” typically includes a visit to the Supreme Court of Japan and various government offices, such as the Metropolitan Police Department and the Diet, as well as the offices of a U.S. law firm, and finishes with a dinner. All Tokyo-based Columbia Law School summer associates are invited to participate. This summer, ten such students — a record number — took part in the tour.

Matsuo-sensei served as a teaching fellow at Columbia Law School during the spring semester of 1984 and has remained a close friend of the Law School and the Center for Japanese Legal Studies ever since. He started his student internship program 33 years ago at the behest of the late Walter Gellhorn (pictured at a young age), university professor
at Columbia University. Professor Gellhorn had been concerned that U.S. law students interning in Japan were not receiving meaningful training. For more than three decades, Matsuo-sensei has ensured that Columbia Law School students receive an incredible educational experience at his firm.

**ADVANCED COURSE ON JAPANESE LAW OFFERED BY JAPANESE ALUMNI**

In the spring semester of 2008, two Japanese lawyers offered a special seminar to Columbia Law School students with a high level of proficiency in the Japanese language. Hiroyuki Ishizuka, LL.M. ’97, and Yasuhide Watanabe, LL.M. ’91, co-taught “Advanced Research in Japanese Law.” The course was designed to introduce students to Japanese legal documents and legal scholarship. Mr. Ishizuka took a leave of absence from his firm, Nagashima Ohno & Tsunematsu, to teach the seminar, while Mr. Watanabe recently transferred from Nagashima Ohno & Tsunematsu to Masuda International in New York.

**HIGHLIGHTS FROM THE SPEAKER SERIES**

This spring, the Center welcomed two speakers, the distinguished legal scholar, Professor Mark West, ’93, and Ms. Sayo Saruta, LL.M. ’08, a notable practitioner.

On March 27, Mark D. West, Nippon Life Professor of Law, director of the University of Michigan Center for Japanese Studies, and faculty director for the Law School’s Center for International and Comparative Law at the University of Michigan Law School, gave a talk titled, “Lovesick Japan: Love, Sex, and Marriage in Contemporary Japanese Law and Society.” In his talk, he described his study of over 2,100 Japanese court opinions relating to love, sex, and marriage, which led him to “diagnose” a “Lovesick Japan.” He said that, although every country has its share of unusual cases, Japanese love is symptomatic by violent love suicides, stalking, unrequited love, and other manifestations of love’s dark side. The pathology of sex is one in which sex in relationships is expected to follow an unexciting, male-dominated, shame-based script while commercial sex is allowed to fulfill a variety of decidedly non-intimate and occasionally dangerous fetishes. These symptoms correlate with contemporary Japanese social crises, including a low birthrate, a rising divorce rate, a high suicide rate, low numbers of opposite-sex friendships, and low national rankings in sexual satisfaction and sexual activity.

On April 8, Ms. Sayo Saruta, attorney at Tokyo-Kyodo Law Firm and the chair of the general assembly and secretary general for Amnesty International, Japan, gave a lunchtime talk titled, “The Fujimori Extradition Case and Human Rights in Japan.” From October 2002 to the present, Ms. Saruta has served as the lead attorney representing the families of victims killed by the regime of the ex-president of Peru, Alberto Fujimori. In her talk she discussed the particular challenges of extraditing Fujimori from Japan to Peru, where he could stand trial. For example, in Japan she saw little public objection to Fujimori for his alleged crimes. Her talk also related the Fujimori case to the broader state of public interest lawyering in Japan, which Ms. Saruta described as being at an extremely low level.

**FACULTY EXCHANGE WITH THE UNIVERSITY OF TOKYO**

The program of exchange between the University of Tokyo and Columbia Law School continued in Spring 2008. This year the Center hosted Shozo Ota and Yoshiko Terao, both professors at the University of Tokyo Faculty of Law, while C. Scott Hemphill, associate professor of law at Columbia Law School, and Zohar Goshen, professor of law at Columbia Law School, traveled to Japan.

The two professors from Japan guest lectured in Professor Milhaupt’s course, “Japanese Law and Legal Institutions.” Professor Ota’s research focuses on law, economics, and social science. Professor Terao’s areas of research include common law, the law of U.S. urban planning and land use, and the law of U.S. local governments.

RECENT PUBLICATIONS BY CURTIS J. MILHAUPT, DIRECTOR OF THE CENTER FOR JAPANESE LEGAL STUDIES


Recent corporate scandals around the world — including Enron in the United States, Livedoor in Japan, and Yukos in Russia — challenge prevailing assumptions about how law functions in successful capitalist economies. Law and Capitalism examines contemporary corporate governance controversies in six countries to shed light on the interaction of legal systems and economic change. This provocative book debunks the simplistic view of law’s instrumental function for financial market development and economic growth.

Using comparative case studies, the authors show that law and markets evolve together in a “rolling relationship,” and legal systems, including those of the most successful economies, therefore differ significantly in their organizational characteristics. Law and Capitalism will change the way lawyers, economists, policy makers, and business leaders think about legal regulation in an increasingly global market for capital and corporate governance.


Sovereign wealth funds (“SWFs”) have increased dramatically in size as a result of increased commodity prices and the rise in the foreign currency reserves of Asian trading countries. SWF assets now roughly equal those in hedge and private equity funds combined. This growth, coupled with the shift of SWF investment strategies toward equities and increasingly high-profile investments, like capital infusions into U.S. financial institutions following the subprime mortgage problem, have generated calls for domestic and international regulation. The U.S. and other Western economies already regulate the foreign acquisition of control of domestic corporations. However, acquisitons of significant but non-controlling positions are not regulated. The danger is that new regulation will compromise the beneficial recycling of trade surpluses accomplished by SWF investments.

In this article, Milhaupt and Gilson situate the controversy over SWF investments within the increasing global trend toward direct governmental involvement in corporate activity — what they label the New Mercantilism. They explain why increased transparency of SWF investment portfolios and strategy, the most commonly advanced policy recommendation, does not respond to the chief concern that SWF investments have engendered. They offer a regulatory-minimalist response to fears that SWFs will make portfolio investments for strategic rather than economic reasons. Under the proposal, voting rights of SWF equity investments in U.S. corporations would be suspended but reinstated on sale. Thus, SWFs would buy and sell fully voting rights, thereby assuring that the incentives to make non-strategic investments would be unaffected, while the capacity to exercise influence for strategic motives would be constrained.


Although China’s booming stock markets have become a focus of international attention, little Western scholarship has examined the role China’s stock markets play as regulators of listed companies. In a recent article, Curtis J. Milhaupt and Benjamin L. Liebman argue that, contrary to common assumptions, China’s stock markets may be transforming themselves into important regulators of listed companies. Their primary mechanism of doing this is through the public criticism of listed companies — which Milhaupt and Liebman show yields significant effects on listed companies and their executives.

The authors use both event-study methodology and extensive interviews with market participants to examine the effect of public shaming of listed companies. They find abnormal negative stock price returns in response both to disclosure of the misconduct which gave rise to the public criticisms and also upon publication of the criticisms themselves. Interviews showed that the impact of criticisms of listed companies by the exchanges extends beyond the stock markets, as banks and bank regulators increasingly make use of the data and as companies that are subject to criticisms find that their ability to raise new capital is restricted.