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Roundtable on Foreign Exchanges: Proceedings

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Roundtable on Foreign Exchanges: Proceedings

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The Round Table Meeting was called to order at 8:45 P.M., Saturday, December 28, 1968, in the Gold and Rex Rooms, Roosevelt Hotel, New Orleans, Louisiana, David N. Smith, Secretary, International Legal Studies, Harvard University, Moderator, presiding.

MR. SMITH:

I want to thank our panel for coming tonight: Professor William B. Harvey, Dean of the University of Indiana Law School who has worked very hard today; Professor Kenneth Pye, Dean of Duke University Law School; Professor Bertram Willcox, of Cornell; Professor Tom Ehrlich, of Stanford; and Professor Robert Stevens, of Yale University.

On the program we indicated that there might be two foreign students who would also appear here to give the viewpoints of foreign students who have studied in the United States. As it turns out, the student from East Africa whom we invited contracted the Asian flu, and the student from India contracted the East African flu. But, we are very lucky that we have Dean Yash Glai of DAR, with us tonight. I hope that he will make a few comments. Dean Glai studied at the Harvard Law School in 1962–63.

Just by way of introduction, I would like to say that it seems very timely to have a session on training of students from developing countries at this point, in 1968. There are several reasons. One is that of the 585 foreign law students studying in the United States, over 60% of them come from developing countries. This represents a figure of about 350 students from developing countries. This is an increase, and a substantial increase, over just last year, when there were 475 foreign lawyers, of whom 245 were from developing countries. The additional 100 are all students from developing countries.

The second reason is that now we are developing in the United States a great resource of professors, such as Professor Harvey and Professor Pye, who have been abroad, and who can give us their views on what they think students from these particular countries really need in the way of American legal education.

The third reason is that now in the selection of foreign students we have reached a point where we are fairly sophisticated in the way in which we select them. There is very little language problem now, because we have such testing devices as the Michigan Language Test, and the TOEFL test, and so forth. There was a time when we were happy just to get a Japanese student who could speak some English. But that was some 10 or 15 years ago, and today we can, through these tests, find students who have very high English proficiency, and therefore, we can employ much higher standards otherwise.

Also, the law schools have developed a substantial background of experience over the last 15 years or so. Law schools can draw upon their own experi-
ence as to how students from particular law schools with particular back-
grounds can perform.

I might mention here a letter which the Harvard Law School received from a Japanese applicant some years ago. He had written to us saying that he had been a lawyer for some six or seven years, and he had much experience "in his behind"—(Laughter)—and the law schools are developing this experience also.

I suggested to the speakers tonight several questions to which they might address themselves and I have given them the option of addressing themselves to them, or not, I might just indicate three or four of the questions which have come to mind in re-evaluating what we should do with students from developing countries in American law schools today.

First, should these students be offered the same curriculum that we offer students from, say, Europe?

Second, if we do offer a curriculum different from that which we offer students from Europe, what changes should be made in the curriculum? Is there some way of bridging the experience of the student from a developing country in his home, with the experience that he has here. Is there a special type of course that can be developed to bridge these two experiences?

Third, should there be some greater exposure to other disciplines? Should in addition to—or perhaps in place of—studying law, these lawyers study economics or anthropology, or sociology?

And, then, fourth, is there any value in training these students in the United States at all? Wouldn’t it be better, perhaps, to train these students in their own countries? And, of course, we have sent many distinguished faculty members to Latin America, Asia, the Middle East and Africa. Is this a better way of using our resources than having students come here to study?

Finally, perhaps we might consider the question of whether the law schools have been approaching foreign student training correctly. Is it not time for a law school to say we will take students just from Asia or Africa or just from India or Anglo-phonic Africa, and we will develop an expertise in our faculty. The school could have a number of faculty members, perhaps three or four, who will develop a specialty, an expertise, in Africa, for example, and they would receive students only from Africa.

PROFESSOR WILLIAM BURNETT HARVEY: Thank you, David.

Ladies and gentlemen, I’m going to speak very briefly indeed. After two earlier appearances today, I suspect I have achieved an incoherence that surpasses even my usual level. I’m going to try, briefly, to respond to several of the questions David raised, but to focus on what I see as the kind of program that would be most responsive to the needs of African students. I speak out of the experience I have had in the less developed parts of the world, and this is, by and large, an experience in Anglo-phonic Africa.

I make several assumptions about the students I am going to talk about. First of all, I assume that they will be a very small and highly selected group of post-graduate students, brought to the United States for study following
the completion of their first University degree in law, which in Anglo-phonic Africa usually will have had a substantial professional orientation.

I also assume that most of these students will have made a commitment to teaching, or to a specific governmental service, and will have had at least a small amount of experience in either an African faculty, an Attorney General's Department, or some other segment of an African government.

And, third, I assume a background in Anglo-phonic Africa. I suspect that for the foreseeable future we will see relatively few, if any, applications from students from Franco-phonic Africa to American law schools for either the basic professional degree or the advanced degrees.

On the basis of these assumptions, if we can accept them for the purpose of discussion, what kind of student do we have: what kind of raw material, so to speak, are we working with?

I would say, first of all, that I think we can expect a student of very good intelligence and native ability. That I simply state as a general expectation, and put it aside.

The students will have reasonably good language facility, though we always have to remember that these students are, in fact, working in a second language, and therefore, they will not have the verbal facility of the American student of comparable basic intellectual equipment. This, again, it seems to me, is a very safe assumption to make.

Next, I would suggest that the strengths of these students are those we usually associate with a predominantly English style legal education. Despite the involvements that Americans have had for some time in legal education in Anglo-phonic Africa, the basic orientation of curriculum and teaching method is more English than American. For that reason, the principal strengths the African students will show are those associated with a predominantly English style legal education. These are well-developed analytical sophistication, a very considerable rule-orientation, a relatively slightly developed critical inclination, and probably, by and large, relatively little tendency to insist that law be considered functionally in its specific societal context.

Now, if these assumptions are valid as to the kind of student we will receive from Africa, what kind of program in an American law school would be most responsive to his needs? I will suggest certain general guidelines for use within a regime that, hopefully, will feature the individual planning of each student's program.

First of all, I would suggest that in every case the student should be guided into one of the basic first year courses. I recommend this because I have greater confidence in what we do in the first year of law school than I have in what we do thereafter. The great gain of the first year is in methodology, in basic discipline and craftsmanship. Particularly for those students who will return to their own countries to join faculties, I think a full exposure to one of the basic first year courses will do more than anything else to develop in them the essential craft sophistication, as well as an appreciation of the pedagogical method which characterizes the best of American legal education.
The selection of the first year course into which the student will be guided should depend upon the interests of the particular student. As someone who has, on occasion, taught the course in Contracts, I have a natural bias in favor of the Contracts course for doing all of those marvelous jobs that we expect the first year curriculum to do. In other schools, however, you may want to guide students in other directions; but I do feel very strongly that one of the basic first year courses should be included in the program of the African student.

Second, I think there should be built into the program an advanced course or two in some area which is particularly relevant to the student's ultimate interest and career plans. If, for example, he is planning to return to the Attorney General's Department in his own country, with the expectation that the Attorney General is going to assign him to handle tax matters—an area with which Attorneys General in Africa don't do much today—this would argue for one or more courses in Taxation, particularly those oriented toward policy and administration.

Third, I would want to see included in the programs of most of these students courses such as Constitutional Law, Federal Jurisdiction, or Legal Process. My reason for this is that I think it important, not that we indoctrinate, but that we make available at least to the students from other parts of the world, a highly relevant bit of American experience, that is, the American experience with techniques for resolving inter-governmental conflicts, so as to accommodate diversity in a flexible but orderly regime, and to preserve at least the minimum decencies in the relations between officialdom and citizen.

Now, David has raised the question—what should we do with these students from abroad, and particularly from the less developed parts of the world, in terms of the other social disciplines.

I find this puzzling, not only for students from the less developed parts of the world, but also for the less developed students from our own part of the world. One possible response to this problem which has intrigued me for some time is the development of an offering in the philosophy and methodology of the social sciences—not a broad survey, but something that would look systemically and critically at what we can expect of scientific method in social studies. This might enable law students to develop some sensitivity to the relevance and utility of other social disciplines while appreciating their limitations, avoiding the painful kind of naivete that sometimes appears in members of our profession.

If we could devise such a course as this, it seems to me it could be of great benefit, not only to the students from abroad, but also to our own domestic students.

Beyond such a general introduction, it seems to me that we ought to put aside expectations of being able to take a student with very little background in the other social sciences and do very much with him. Of course, if he has some basic preparation in one of the social sciences, we should be able to build on it. If there are seminars with an inter-disciplinary thrust and these seminars are reasonably related to the interests of the particular student, then they would be obvious offerings into which we might guide the African student.
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I assume that in the program of each of these students there will be a substantial research component. It seems to me important that the student be guided in his research by a supervisor with a strong social science orientation, who can press the student to ask penetrating, functional questions about the relation between law and the society it purports to serve, about how the law developed, and about the kind of job it is actually performing within the society. He can also help the student to devise appropriate research techniques in order to take advantage of what the other disciplines have to offer those who are interested in law.

Now, let me conclude with a rather summary listing of several other general considerations that might impinge on planning programs for students from Africa.

First of all, while a student should be brought over with no assurances beyond a fellowship for one year of study, I think the funding agency ought to be prepared, if the student shows sufficient promise in what he does during the first year, to continue his fellowship for a second year, or even a third year. This, incidentally, is a view I would apply to American graduate students as well. Insofar as graduate programs in this country have any functional justification, and I'm recurrently doubtful that they do, it seems to me that the justification is substantially diminished if the person goes on to the next phase of his career while his work, which he has begun during the graduate period, is still incomplete. Therefore, the student ought to be provided an opportunity to conclude the tasks begun in his post-graduate studies before he's sent back to his own country, and to the pressures and distractions that will await him there.

Secondly, if the 2-3 year period of graduate study becomes more common, then we have an opportunity to use the intervening summers for a variety of relevant experiences, which I think the law school ought to assume responsibility for organizing, in both private law firms and governmental agencies. I think these can be as educational as anything the student does in the university.

Third, I'm quite convinced that we ought not to try to segregate or isolate in special programs the students from Africa or other less developed areas. I think they ought to be integrated into the student body of the law school. This provides opportunity not only for better education of the student from abroad, but also for enriched education of our own domestic students.

Fourth, I would strongly urge that those of us who have an opportunity to deal with these students and to talk with them about the planning of their programs in this country avoid the pious posturing about the virtues of American legal education and American legal institutions, which I've seen too frequently in orientation meetings of students from Africa.

Also, I hope very much that we avoid what I've also seen, that is, express or implicit criticisms of the student's own educational preparation. Even though we, as American lawyers and law teachers, may have certain doubts about the adequacy of the perspectives developed by English-style legal education, it seems to me that our flaunting them before our students from Africa serves no educational purpose and may well engender hostilities that get in the way of education. If there are virtues in our own system, I have great confidence in the ability of our students from Africa to perceive...
them, without our trying to do a high-pressure selling job. And, it may very well be that our virtues are less than we sometimes estimate them.

I might say parenthetically that I hope most of these graduate students will not be degree candidates. I think degree programs too frequently are dysfunctional to the educational needs of the students from Africa. Insofar as we can, therefore, I think we should guide them into non-degree programs.

Finally, after a few years back in their own countries, I think we should consider invitations to some of our former graduate students from Africa to return to our universities, either as visiting scholars for a funded year of research, or possibly as visiting faculty. It seems to me there is the possibility of a very substantial pay-off for us, and for the African legal profession, if we keep our former students in mind after they have returned home, if we keep our contacts with them viable, and if we continue to consider them as possible candidates for a later visit back to the school.

Thank you very much.

MR. SMITH: Thank you very much, Dean Harvey. Our next speaker will be Dean Kenneth Pye, of Duke University.

PROFESSOR KENNETH PYE: Thank you, Mr. Smith.

I agree, in very large measure, with what Dean Harvey has just indicated to you. My experience has been primarily in India, and secondarily, with the Orientation Program in American law.

Let me say at the outset, that my colleague, Professor Willcox, knows considerably more about India than I do. My colleague at Opal, Nancy Baldwin, will soon know considerably more about the Opal experience of foreign students in this country than I do, as a result of a survey she is now conducting.

My comments will not attempt to repeat the views of Dean Harvey, with which I am in agreement. I have some other views, however, on this subject, and the basic one concerns of whether most American law schools ought to be in the business of trying to educate foreign students at all. I have a great deal of difficulty conceiving how the financial resources of the average American law school are in any way adequate for the kind of program which Dean Harvey suggests, and which I think is appropriate. The notion that every school must have a foreign student, much in the same manner as a South American country at the turn of the century thought it necessary to have a battleship, or a developing country thinks it necessary to have a steel mill, leaves me a little cold.

We have foreign students now in some 30 or 35 law schools. I have great doubt whether many of these schools, particularly the smaller schools, including my own school, have any business attempting to educate foreign lawyers, unless they can carve for themselves a particular and distinct niche within the resources which it has available.

I am also concerned about the criteria which should be utilized in admitting foreign students. Admittance certainly should not be on the basis of mere applications. There is no Dean in America who goes through the day without receiving an application from India. If he's very fortunate, he might get only one a day.
Normally a Dean is not in a position to assess whether a second-class at Madras is equal to a first-class Jaipur. Indeed, there are very few people anywhere in this country who are in such a position. It is not our custom to call upon our colleagues who have had experience in a particular country to help us to evaluate applications, if, for no other reason than a fear that if the applicant is good, our colleagues may capture him for his own school. There is almost a total lack of cooperative effort among our schools. As a result, if you’re knowledgeable, you accept only first-class first. The alternative is to accept a few second-classes, which opens up the possibility of accepting a large number of unqualified people.

You may attempt to resolve the difficulty through recommendations, but these are notoriously untrustworthy. An Indian Dean wishes the young man to be educated in America, he will recommend him highly. Furthermore, you cannot really operate upon the assumption that the applicant is necessarily weak because he doesn’t have a good recommendation; unfortunately some people who are qualified, do not get good recommendations for totally internal domestic matters. Hence you are really in a situation where you can’t really rely on recommendations.

We can now judge language proficiency some degree through use of TOEFL, but most foreign students admitted to American law schools have never heard of TOEFL. There are very few law schools which require it. Those that do require it pay very little attention to the manner in which it is administered. In our experience at OPAL, there are indications that the acoustical qualities of the room are more significant in terms of results than any other single factor including the English ability of the student. We can administer this same test in two different rooms and have scores off by 150 points as a result of acoustical qualities of the examination room. The Georgetown or Michigan tests are nothing more than general guides which are often an inadequate standard for assessing the capacity of an applicant to use English in the way which law schools require it to be used.

We also have the question of the extent to which we should consider what the student wants to study, and the capacity of the school is to provide him with decent instruction in that area in determining whether to admit an applicant.

There is also the special problem of the foreign student who doesn’t want to study anything. He wishes to obtain a degree. Study is an incidental benefit which should not be neglected, but it is entirely subsidiary to the basic purpose of obtaining a degree. Normally it is not just any degree but the doctorate which is the object of his ambition.

The M.C.L. degree may or may not be known in this country, and may or may not be regarded as a degree for people who are not going to get the LL.M. degree. But the average lecturer in an Indian law school fully perceives that the possession of an M.C.L. or LL.M. degree is not itself particularly useful, except insofar as it provides access to the S.J.D. degree. With that degree leadership is assured; without the S.J.D. degree the opportunity for advancement is remote regardless of his capacity as a teacher, researcher, or scholar.

We have more or less lured people into coming over here to obtain Masters degrees when they are in hope (or expect) that they will be able to be ac-
cepted for a doctoral program. We know that the chances of admitting many
of them to a doctoral program are slim.

Almost all of the requirements which we have for graduate programs, 20
hours, 24 hours, a thesis, or seminar papers, have very little relationship to the
needs of a student who is going to be returning to his mother country to
teach in a foreign law school, or serve in a government agency.

We ought to have some method of providing assistance to people to come
here and study, not as degree candidates. I suggest, as I have suggested
unsuccessfully to the Ford Foundation before, that we should provide a mech-
anism by which Indian students could be accepted as doctoral candidates
in their own Universities; could come to the United States for the purpose
of doing research in the area in which they plan to write their dissertation;
could obtain teaching experience in the area in which they will teach on
their return to an Indian law school; could obtain adequate funding to
reproduce the materials they will need to provide American insights into the
basically Indian problems which will be the subject of the dissertation; and
could return to that country to present their thesis to those universities which
would then determine whether they should receive the doctoral degree.

In my mind, this would not only be a better use of our resources, but it
would also avoid this invidious discrimination that is developing in India,
and I suspect elsewhere in the developing world, between local doctorate and
American doctorate.

I think there are few of us who have been in India who have not run across
a gentleman who lists numerous LL.M.'s after his name on his stationery. It
is even worse to find "S.J.D.," the year and "New Haven, Connecticut" on
the stationery. This is the kind of situation that begins to develop when there
is a greater prestige attached to an American doctorate than an Indian doc-
torate, and is quite inconsistent with our desire to assist the development of
Indian institutions.

I thoroughly agree again with Dean Harvey that we should be accept-
ing only people who are capable of producing the so-called multiplier effect,
either in education or in government activity when they return.

But very few of us have any knowledge of this potential at the time we
choose to admit. I'm not speaking of the four or five schools which have
fairly systematic graduate programs, fairly erudite graduate committees,
and who can predict with some certainty the probability that a given young
man is going to be in a significant position when he returns.

This kind of admission process is not characteristic of about 125 members
of our Association, when a young man applies after he has obtained an LL.B,
LL.M., first honors, at some Indian law school and indicates that what he
wants to do is to be a teacher, few American schools will be in a position to
know whether there's an opening at the particular law school at which he wish-
es to teach, whether he is of the right caste to get the job; or, whether he's had
a fight there with the Dean, or any of the other factors which may be im-
portant in determining whether this man is going to be able to get in the main-
stream of Indian legal education when he returns.

At OPAL last summer, out of some 120 students, I think we had three
judges and two law teachers, despite our so-called commitment to the mul-
tiplier effect. We had a much higher percentage of people whose basic interests were returning to Western Europe, to represent vested economic interests, or who hoped to represent American businessmen abroad.

We also have to face the question, of whether we can provide the student with adequate financial assistance to engage in the kind of studies in which we hope that he will engage. This problem has two facets. First, should we accept a man whom we normally wouldn't accept because he does have financial resources? Now, even in the best of our schools, there are graduate students who would not have been accepted if they had been unable to pay their own bills.

More important, however, is the problem of the assessment of the amount of financial assistance which we should provide to students whom we know need financial assistance. Five or six of the major schools do a very good job of attempting to find out how much students need. On occasion they are unable to provide financial assistance that would permit a student to bring his wife and family with him. But they are able to provide the financial assistance to take care of a student if he comes without his family, and they have some fairly decent empirical data to back up their estimates of the expenses he will incur.

But, I'm afraid that if we take a look at legal education in general, we have a substantial number of schools who award a fellowship in amounts which are too small. There are, unfortunately, too many foreign students who are here on fellowships which are vastly inadequate to meet their needs. We know, (or should know) from the moment the student arrives that he is going to have to get a job in the library, or get a job at the Student Union, or work part-time, or hedge in some way, in order to meet his obligations. Often his English proficiency is such that he should be spending all of his time out of class in language studies.

What kind of curriculum should we provide for foreign students? I have some disagreement, I think, with Dean Harvey, with reference to subjecting students routinely to at least one first year course—not because I don't think the case methodology is a good methodology, and perfectly adequate for our purposes—but because I'm really not sure that we achieve very much in explaining our methodology to a foreign student. The case method may not be particularly relevant to the average teacher from India, who's going to return to a country where there is only one casebook [prepared by Professor Willcox and Dr. Aggarwal, and available at any book store in Delhi at a price far beyond the capacity of any student to afford.] It doesn't do much good to teach men how to utilize the case method if no one can read cases, because we don't have any casebooks.

I'm inclined to think that what we ought to do is attempt to work out an eyeball to eyeball contact between persons teaching in the same field. Let the teacher from a developing country learn the case method through working with a particular professor. Let him do his work in the field in which he's going to be teaching when he returns. We should constantly bear in mind the basic limitations which are going to be imposed upon him when he returns to his country, instead of attempting to educate him in such a way that he may be misled into thinking he can duplicate the experience in this country when he returns home.
Too often, however, our curriculum is not designed for either of these purposes. Too often, once the fellow arrives on the scene, we take one look at him and say to ourselves a human tragedy is about to unfold, unless we do something to make sure that this fellow gets the degree which he really wants.

We therefore employ either of two techniques to cut our and his losses. We choose his courses on the basis of what is being taught by colleagues who understand our problem and his, in the hopes that this will achieve the desired result without the necessity of any additional skullduggery. If this does not seem to be a promising alternative, we place him in an international or comparative law course. With the advantage of having taken international law once before, the student is able to handle himself considerably better in this field.

The problem, of course, is that we turn out droves of international lawyers instead of training foreign lawyers in the basic skills they need for national development when they return home.

With all due deference to the great contributions which American legal education has made in India, there are a God-awful number of international lawyers, compared to the number of people who have any knowledge of water resources, or taxation, or interstate commerce, or any of the basic problems of federalism, which are besetting the country.

We also have a tendency to avoid any kind of course of study which is designed to deal specifically with the problems of the country to which the student is going to return. With the exception perhaps of Columbia and Harvard, and perhaps a few other schools, we do not have expertise in the problems of developing countries, or taxation in developing countries. Since we don't know very much about the fields which would be most helpful to him, we're inclined to say that we'll put him in a basic course in the first year; give him four to six hours in international law; a little bit of comparative constitutional law; find a colleague that is understanding; and if we're lucky and careful we can put together the number of hours necessary for a Master's degree.

What we're trying to do is laudable. We're trying to avoid the stigma of returning the student home without a degree. We have a certain desire to have our alumni abroad and to save the money that we've spent on him in a fellowship from being totally wasted. We have a feeling that although this fellow might not be quite as good as some of our American students, he's probably a lot better than most of the people back home, and we ought to find some way to reward him suitably. A suitable way is an M.C.L. degree.

We don't really know very much about the kind of problems which he faces at home, and we're not really qualified to teach him how to deal with them anyway. This approach makes it much easier to fit him in the mainstream of our curriculum.

We talk about the extent to which we should modify our curriculum for students from developing countries from the curriculum we offer to our foreign European students. But really the curriculum we're offering to our European students, in most of our schools, is just our ordinary LL.B. cur-
riculum. What we should be talking about is whether we should create a special curriculum for foreign students, and if so, what should be included in this curriculum? Should it be different for foreign students from Europe, and from developing countries?

Another question which bothers me arose largely as a result of our experience in OPAL. The intangibles about studying in the United States are important—for example, the degree of personal contact which the student has with members of the faculty, while he's in residence. There are obviously some schools which are considerably better than others in this respect. We have had a number of the great leaders of legal education through the years, who have had personal interest in the welfare of these students, who have entertained them in their homes, have talked to them about their problems, have given them counsel about their future. All too often, however, we simply do not have these resources available in a substantial number of our schools, so the foreign student arrives, he meets with the Dean or Assistant Dean, or Foreign Student Advisor, or Chairman of Graduate Studies Committee. He's placed in a curriculum and he may meet with them once or twice sometime during the semester, and then when he doesn't do well on his examinations he meets with him again. We go through the process again in second semester, while everyone prays that no tragedy will occur when we get the final grades in May.

We are not organized in most of our law schools to provide the kind of personal contact, which a foreign student needs. We do not provide it for our undergraduate students. Our student-faculty ratio is outrageous compared to any other graduate discipline. Somehow 60 years ago we persuaded the University Presidents that we could train 150 students in a class successfully. When we come to dealing with foreign students where we need a more personal relationship, we just don't have the resources to provide it in many cases.

My final point is one which Dean Harvey made, in somewhat different context, and that is the necessity of providing education outside of the classroom.

It seems to me that we have very few innovations in legal education in America. One of them is the case method. Another is the law review. We are beginning to develop some others particularly in terms of clinical experience, and practically-oriented activities. How many of our foreign students are ever introduced to a Legal Aid Society? A Voluntary Defender Group? Or, invited to contribute to the Law Review? When we know that we're educating someone who is an odds-on favorite to be Dean of Banaras, or Dean of Delhi, or Dean of Bombay when he returns do we ever put him in a Dean's office so he can see the kind of problems which a Dean confronts daily, and which he's going to have to confront in somewhat different context when he returns home? Would it not help if a student from Yale or Harvard spent a summer at Portia or Suffolk where there are resources much more similar to those with which he will have to deal when he goes home? Are we not misleading him when he forms his opinions about legal education when his associations have been exclusively with the schools which have the greatest financial resources.
I suggest that what we ought to do is not only give them an opportunity to see the best we have in legal education, but to visit schools that have practical problems which preclude them from being the best. If I had any single thing that I would like to see us do, it is to introduce those foreign students who are going to be members of faculties when they return home, to the notion of American faculty participation, and policy-making. This is a tradition which is quite alien to certain sections of the world, such as India, with which I am familiar. I do not suggest that this is the kind of thing that can be transmitted immediately into the Indian experience. But how many of the people whom we have trained here as students have never been introduced to the notion of faculty decision-making, which we regard among ourselves as the key to the successful operation of law schools in America?

If we can accomplish some of this, I think we'll be a little bit better off.

Thank you.

MR. SMITH: The task I've set for Professor Ehrlich is a little different from that set for Dean Harvey and Dean Pye. Professor Ehrlich has had experience with what is something of a departure in legal education of foreign students. He has participated in a program which has brought a number of law teachers from Chile to Stanford for a period of specialized legal training. It is this program which I would like Professor Ehrlich to describe for us.

PROFESSOR THOMAS EHRLICH: As Dave Smith requested, I'll move from the general to the specific, and discuss the International Legal Center's Chilean Law Program, a program that deals not with students but rather—of all things—with law teachers.

At the outset I should emphasize that the Chilean experience is, in many ways unique; at least it was when the program was conceived and designed in 1965 by John Howard, then of the Ford Foundation, now President of the International Legal Center, and John Merryman of Stanford.

First, there was a shared concern among the legal profession and law professors in Chile, that the legal system there was out of touch with Chilean social and economic reality. Second, there was powerful intellectual leadership among the Deans and the law faculties. They wanted to change legal education; to bring it more into line with the problems of Chile and its contemporary society. Third, there was, and still is, a relatively compact and homogeneous world of the legal education in Chile—only four law schools, as compared to 70-plus in Brazil, for example. Finally, and most important, a set of rudimentary, but nonetheless real plans for reform of legal education were already designed when this program began.

Those plans, differed a good deal in detail among the four different law schools but each had a set of common elements around which this program was built.

First, each aimed at moving from a passive lecture method—under which students sat and received learning and then recited that learning in exams—to an active teaching method, under which the students participate in the classroom, having prepared in advance.
Second, each of the schools was moving toward a full-time law faculty—full-time at least in the sense of spending six hours a day at school, as opposed to one or two hours a week.

Third, all were trying to work toward programs of non-doctrinal research, that involve the social and economic problems of Chile.

Finally, all were expanding their libraries and other resources, in an effort to help their programs of legal development in education.

The Chilean Law Program was designed in response to requests from three of the four law schools in Chile. Now, all four participate. The Program is aimed at providing financial and technical assistance to make possible the plans for reform developed by those schools. It seeks to stimulate and promote those plans. Whether the Program can be copied or modified in other countries, seems to me to depend, in a large measure, on whether those steps have been taken.

Now for the Program itself, or at least those aspects that involve United States law schools, for the International Legal Center finance a substantial amount of legal research and other work in Chile, quite apart from the arrangements I'm about to describe. The core of the Program is a highly structured seminar that brings from six to eight Chilean law teachers to the United States, for one Chilean academic year—May until December. In designing this seminar we had four basic objectives in mind. First, to try to expose the Chilean participants to some notions of the range and variety of methods of legal education—particularly, but not exclusively, in the United States. And we attempt to do that in a context that encourages them to consider the relevance of those methods to their own schools and their own specific courses.

Second, the seminar is designed to encourage the participants to begin the preparation of their own teaching materials for active classroom use. On the whole, we have sought to bring teachers from different areas, in order to reach as many fields as possible of legal education in Chile.

Third, we’ve tried to stimulate the Chileans to think about legal research, particularly non-doctrinal research, and its relationship to their own teaching. Fourth, we have worked to promote communication among the four law schools in Chile, cooperation among those schools, a sense of community of interests that has been, at least in the past, largely absent.

The Chileans come to the United States, most with their families, about the first of May, and then begin an intensive six-week English language study at Stanford. All have had a fair amount of background in English before they come. It seems to us, however, that since they spend almost a full year in the United States, the six weeks of intensive language training is well worth the effort.

The legal education seminar begins at the end of June and lasts ten weeks. It includes the six to eight Chileans and three United States law professors. In the past the latter have come from three different law schools. The pattern has been for us to meet as a group, about three times a week for two hours. We also meet for longer periods on a one to one basis—one North American and one Chilean—working on a series of specific projects.
We begin the seminar with a discussion of assigned readings on legal education and on the structure and design of law schools in the United States and elsewhere. These readings are designed to erase stereotypes about the case method, particularly that it is solely adapted to the common law and not to the civil law system. More important, these initial discussions indicate the range and variety of methods in legal education that are present in the United States and elsewhere. And they begin to stimulate the Chileans to think about ways in which they can apply those methods to their own courses.

We also take some time to describe the operation of law schools—from admissions through placements.

The second phase of the seminar involves the drafting of a prospectus by each of the Chileans for a set of teaching materials that he will prepare during the course of his stay in the United States and then use in his own course when he returns to Chile.

Each Chilean works with one of the North Americans in designing his prospectus. At this point many for the first time begin to think about not only what they teach but how they teach it.

In the next phase of the seminar each Chilean—again in cooperation with a North American—prepares a draft chapter of teaching materials. When we meet as a whole in the seminar, each Chilean then teaches (in Spanish) either all or a portion of his chapter to both the North Americans and Chileans, using the seminar as his class. During the same period, each North American also teaches a class in a different subject with a different approach, to give some more specific idea of the range of possible methods.

The third and final phase of the seminar involves the consideration of a series of specific research projects undertaken by North Americans—the jury study among others—and some discussion of the ways in which such research efforts could be adapted to Chilean problems. Each Chilean then prepares a proposal for a specific research project, to be carried out when he returns to Chile.

We make no effort in this seminar to convert the Chileans to any specific method, or group of methods. None of the thirteen who have so far participated in the seminar will adopt any particular approach wholesale. But all have come away with some sense of different ways in which they might go about teaching—ways that they hadn't considered before.

After the Chileans' ten-week stay at Stanford, each goes to a different United States law school, both to continue preparing his teaching materials and to work on what else interests him.

The seminar itself is a highly structured, organized, and quite intensive period. The period after the seminar is designed to offer an opportunity to reflect, to attend courses, to do research, as well to continue their teaching materials. One may spend that time in a Dean's office, next year. Another worked in the Senate judiciary Committee last year.

The program now has been in operation for two years. We will have another seminar next summer, with eight Chileans from all four law schools. We will probably continue the Program for at least a couple of years thereafter. All who are involved in the program, however, want to move the entire operation to Chile as soon as possible. And all hope that this will be pos-
sible as soon as a critical mass of 30 or 40 Chileans have participated in the current Program. This program should be, in other words, a wasting asset that disappears within a few years. Hopefully, in those few years, we will have created a core of teachers in Chile who are not only interested in promoting legal education, but also want to help their colleagues do so.

PROFESSOR ROBERT STEVENS: Mr. Chairman, sir, I assumed that when you said "Commentator," the important thing was that I was to speak very briefly, and certainly have no set speech to make.

I can't really comment on the remarks of the last speaker, in that he's talking about a specific problem about which I have very little to say. I can, however, comment rather briefly on the things Dean Harvey and Dean Pye said. I liked Dean Harvey's speech, and I liked Dean Pye's even more. That's solely because I agree with both of them equally, but I have heard Burnett Harvey's speech on various occasions before, and this was the first time I had heard Dean Pye's.

Basically, if I may summarize what they were saying, I think it's roughly this: That if we look back on what we've been doing over the last ten years, we could say, on the one hand that we've been doing too little for the students from the less developed countries, and yet, in another sense, we've been expecting too little from them.

In the sense that we have been doing too little for them, I think we just have not been providing the types of experience with which they should have been provided. Now, you can talk about that in terms that they did not see the inside of the Dean's office—God knows why they would want to!—but that's an old-fashioned view. They haven't seen the inside of a lawyer's office—again, I have some skepticism, but I can concede that that's probably not an eminently desirable state of affairs.

But, primarily, we have not provided the kinds of experiences in the intellectual and academic spheres which I'm sure we should have done. There were Dean Pye's remarks about faculty-student ratio—this is eminently true. All our schools, and I don't think there's very little difference between a so-called national law school and any other sort of law school—have miserable faculty-student ratios. We do all too little for our domestic students. How we can be expected to do anything meaningful for foreign students remains almost a mystery. We have for instance literally failed to relate what we're doing here to the situations they face at home.

I'm not suggesting we should represent ourselves as having major programs in Indian law, or in African law, or perhaps even in Latin-American law. But, I think all of us who have traveled abroad and have been involved in dealing with lawyers who have been in the United States and have gone back to their own countries, have been impressed by a willingness of such returnees to join in a highly sophisticated discussion of recent Supreme Court decisions in Washington. But when one tries to put a question to such a person about what the Supreme Court of India, or the High Court of Uganda has recently done, then all too often his response shows a lack of sophistication which is terrifying. It's absurd that we bring people here, teach them to be sophisticated about the American court system, but don't even ask them to think about the role of law or lawyers or the legal system in their own society.
Now, the result has been, as I again think Dean Pye was suggesting, that most foreign students have drifted into a kind of limbo. They have taken courses which they think may be "relevant," and one of the advantages of coming from the School which I do, is that it has what its friends call "a pluralistic society," and what its enemies call an anarchial situation. The result of this is that fortunately we have several courses in International Law, given under different names; therefore a student can take the same course many times. There are many courses in jurisprudence, all of them given under totally different names. Traditionally foreign students at Yale simply took a whole series of courses in International Law and jurisprudence, some of them lacking, perhaps, the intellectual rigor which these particular students might have needed. Certainly these students did not get the kind of training that they should have gotten in this country.

And on the second level of failure (and I hope I'm reflecting what Dean Harvey and Dean Pye were saying), in another sense we've expected too little from foreign students. Now, I don't think that you can expect the typical student from the less developed countries to start teaching a seminar. But, have we provided any type of seminars which might be called relevant; have we had members of the faculty who knew anything about the countries from which these students come? If we had, we should have been in a much better position to use these students well. Among the students from the less developed countries, we have had a number of distinguished scholars. We've never really made use of them. We've never encouraged the kind of faculty participation and interests and the kind of seminars which might have made full use of the potential of foreign students to add a new scholarly dimension to the intellectual life of the law schools.

I think one of the reasons we've not done that is that we have had this kind of feeling that all foreign students are the same. Now, I don't mean to suggest that they're all basically different and that there's not much work that ought to be done in the general area of developing societies—indeed that happens to be a field of research in which I'm particularly interested. But, I think simply to assume that we could just take every country under our aegis, and really do what we should be doing, was in retrospect, a very naive view. It seems to me we have to specialize in areas. We have to encourage students particularly in those areas where we have some expertise.

It always struck me as somewhat absurd that at Yale the vast majority of our L.D.C. students came from Formosa and Korea, Japan and India, when we have absolutely nobody with any interest in those countries; whereas, we have faculty members who are interested in Latin-America and Africa and, on the whole, have had relatively few students from those countries. I like to think when we have had students from those countries, we've been rather more successful in the sort of job we have done and they have themselves added more usefully to the life of the institution.

I think it's absolutely essential to go on providing sensible programs for students from the less developed countries, but we should have somebody on the faculty who has experience in those countries. Not only should we have someone with experience of those countries, but someone who is interested in doing research in those countries, who can make use of the talents of the persons coming from the less developed countries, and can give them some
sense of relevance to the work students are doing while they are here. In
other words, if a colleague is working in Latin-America, he will supervise stu-
dents from Latin-America and make some use of them in seminars. He will
also give them some sense of relating what they’re doing in Constitutional
Law or Contracts—and particularly with respect to the kinds of problems
they’re going to face when they go back. He’ll ask them the difficult ques-
tions—well, all right, fine, you are doing this—how is the problem solved in
Brazil? Why does Brazil not do it this way? What would be the political
objections to Brazil doing it another way? What would be the social and cul-
tural objections, or difficulties in Brazil’s doing it this way?, and the U. S.
doing it another way.

These are just the questions which we’ve never really been asking. I’m
afraid we’ve been spitting in the ocean, doing things that were well-meaning,
but I cannot help feeling we’re largely wrong. I’m delighted that, at least
among the panelists, we’re now beginning to concede that in the past we’ve
been acting without clearly thinking what we’re doing; and that now we’re
beginning to make some sort of effort to move forward in a constructive
way. And, I think its very essential if we are going to move in a constructive
way, we have to encourage research in this area.

We all claim rather feebly when we’re addressing foundations or other
beneficiaries that it’s absolutely essential if we are going to teach better then
we must do research in these areas. At the moment the research we attempt
is so miniscule that we’re really luring people here under totally false pre-
tenses. Of course, we’re all very interested in research. Those of us who
are concerned with the less developed countries would like to do more re-
search. But we must realize that many of our colleagues regard this as a
peripheral operation. The course on African law is being geared up and
built up, and we’re driven off to teach Contracts. But, in the long-run, if
we’re not prepared to accept our responsibilities as an institution, and to de-
velop research and to develop programs in the legal problems of the less de-
veloped countries, then perhaps we should think very seriously of getting out
of these programs.

I certainly hope that will not be the solution. But one way we might de-
velop effective programs is to indulge in things which, under the present ad-
ministration, are not acceptable to the anti-trust division, but under the
next administration may well be acceptable. We should indulge in market-
sharing. We ought to work together. It’s absurd for Yale to be taking in
Formosan or Korean students—we can offer them very little, but the Koreans
should be at the University of Washington where there is a program and the
Formosans should be at Harvard where the expertise in Chinese law exists.
The University of Chicago has scholars who are familiar with the Indian
legal culture and students from that sub-Continent might well go there.

In those kinds of situations we’ve got to begin talking together, and talking
together very seriously. And, I think we have to begin rethinking the whole
notion of how long we expect to keep foreign students here. OPAL was in-
deed a great step forward. But can we expose students to American method-
ology and expose them to the elements of American law, make them begin to
think about the problems in their own countries—all in one year? If we’re
going to throw in Social Science, as we’re certainly trying to do by making
them take a course in Social Science methodology in the law school, or a
course in Social Science methodology, or Political Science or Sociology—can
we really do all that in a year? Maybe we ought to think of a much smaller
program, keeping people for at least 18 months or two years.

I must say when it comes to dealing with degrees, I find myself really on
the side of Dean Pye, rather than Dean Harvey. At one time I naively
thought it was a marvelous idea to tell people they didn’t want degrees, but
certainly with Indian students, if we’re going to continue taking them, and
increasingly with students from Africa, the absence of a Doctorate means the
absence of a future career. One must just face those realities, and plan ahead
for them; make the programs smaller—make them more selective. After all,
when you consider the enormous sums of money it costs to keep a person at a
law school for say, four years—$20,000.00 at least in real economic terms—
our lack of selectivity in foreign graduate programs is remarkable. In some
situations we may have to fly faculty members to foreign countries to inter-
view. We tend on occasions to be very foolish about spending seed money,
and then get ourselves into situations where we’re spending enormous sums
of substantive funds.

And while I’m on that subject, and while we have the President of the In-
ternational Legal Center here, one must, I think, be entirely realistic in say-
ing that the money situation for foreign students is not good. The Ford
Foundation somehow doesn’t seem to think that a study of anything foreign,
unless its an urban problem, is really particularly relevant these days. And,
some four years ago, when Yale reviewed its foreign graduate program, it
found it had some 70 persons in the foreign graduate program, and altogether
graduate students were taking something in economic terms, between a fourth
and a third of the law school budget. The University decided it was time for
retrenchment and reform. We, in those days, had 50 LL.M. candidates from
abroad, and some 20 J.S.D. candidates in residence. We now have in total, 12.
We shall not rise again above 12, or beyond 15 at the most, unless we get
very large sums of money to do the thing properly. We’re not going to run a
program for students from less developed countries on the cheap. Programs
for students from less developed countries are not cheap; they’re very ex-
ensive. To do them properly you need adequate library resources. I think,
with some irritation, of the reports I’ve read by many American academics on
libraries for new Universities in Africa or Asia. Of course, they must have
enormous libraries. Look at Harvard—it has a million volumes. Look at
Yale—it has 500,000 volumes. But, then you look at Yale, and assume you
want to get a good L.D.C. program. If you want to put a student to do some
work on corporation law in India, the library is totally inadequate. You bring
students from Korea; the basic books are absent. You try to teach a course
on political and legal development in East Africa and none of the books are
there.

We have run these programs on a cheap. We have thought about them
inadequately. The fact that we have done good for some students is marvel-
ous... The fact that we have done, perhaps, some good for many students, is
also marvelous. What we have left undone, though, is, in many senses, a
disgrace. We’re not always fully aware of what’s going on at the moment.
We’ve got to be a good deal more sophisticated; much more aware of what
our students from less developed countries are doing. We have—and we
mustn't just flagellate ourselves—we've done much good; but I think we can-
not go on as we are at the moment. There is much good we can do in the
future, but it does require a total rethinking of the programs as they have
existed in the past.

Thank you.

MR. SMITH: Thank you very much.

Now, Professor Willcox.

PROFESSOR BERTRAM F. WILLCOX: Mr. Smith, ladies and gen-
tlemen, I must assure Dean Pye and this audience, that I did not set the price
of that Case Book at 50 rupees. Nor, did I have anything to do with such a
tragic event. Because it was set at 50 rupees, many, many months of work,
including the very hot summer in Delhi, went down the drain, so far as I can
see, and the book is of no use, as Dean Pye said, to anybody. I pulled all the
wires I could to get some kind of subsidy to get the book into the hands of law
teachers and students, or at least to make multiple copies available in some
of the libraries for students. But I've had no success.

Now, I agree with so much of what's been said that I think it would be
merely repetition if I were to go over any of it again. I agree with Dean Pye
strongly, that the present situation is unsatisfactory in so far as the selection
of students goes.

Now, mind you, I speak only from a knowledge of India, and from having
been Chairman of the Cornell Committee on Graduate Studies for some years
before I went to India; and we had mainly Indian students there. So, what
I say does not apply to all students, but what Dean Pye said is exceedingly
true, and can't, I think, be emphasized too much, that we have very poor means
for choosing good students.

Some of the larger law schools may have it. I wonder whether there would
be any possibility of having some kind of central organization which would
have the expert knowledge to make the comparisons which we can't make in a
college like Cornell, between the grades and the records of people from dif-
ferent law schools in India. I have some familiarity with them, but even I
don't feel competent to make those comparisons.

If this could be done for all law schools by some organization, which could
do something like what the International Institute of Education tries to do in
the administering of the Smith-Mundt Act, this might be a helpful improve-
ment. It's a problem that needs a great deal of constructive thought—and
I'm not at all sure that this policy is the right line—but I'm suggesting it for
consideration.

I disagree slightly with what I understood Dean Pye to imply, that the for-
egn—that the United States degrees are blindly and unreasonably overvalued
in India. To a certain extent, that may be true. But remember that there is a
very real dissatisfaction in India with its own legal system, among the intelli-
gent judges and law teachers. Not all of them will agree, but a great many
of them will. They are dissatisfied just as Chile, I think, is dissatisfied with
its legal system. When students come from India to the United States, even
if the best is not done for them (especially in the smaller law schools where
all these defects that Dean Pye mentions are present) the fact that they’re able to come here and go back does help the process of—Arnold Toynbee called it radiation—by which one culture slowly impregnates and influences another one. Of course he was talking about changes that took place over centuries. Here, everything is speeded up; but I think that these changes are slowly going on, and we probably expect too much too soon. I do believe that the student who comes over here, even if he doesn’t get a very adequate course, and gets a degree based on a thesis for which he was stuck away in the library, he gets something out of this, enlargement of his perspectives, his horizons; which makes him of more value to India. And this is borne out by the fact that a dozen deans of Indian law schools have had their training mostly in the United States—a few in England and in Australia.

I would like, just very briefly, to suggest that the shock of adjustment which the student suffers when he comes to this country is probably not appreciated by our faculties or by our students. Of course, our students probably don’t feel that it’s any of their business. The faculty does, but doesn’t have much time to devote to it.

It is important to remember that these people suffer a real trauma—a real shock of adjustment—in changing to new attitudes toward work, toward living condition, toward eating—because many of them have rigid habits of diet—toward religious observances, and toward the relations between teachers and students. We ought to be more sympathetic in our treatment of these students; use a little more imagination; try to make things a little easier for them—and I don’t know, again, just how this can be done.

I do think that the picture is not all black. I hope that it can be greatly improved.

I welcome greatly Dean Harvey’s approval of longer grants. In other words, if we can get over the hurdle of the problem of selection, so that we know that we’re getting really competent students, then it would certainly be desirable for a grant to make it possible for a student to stay for two years, and presumably to stand for his doctoral degree. While, as Dean Pye said, degrees are undesirable from the point of view of the law school, they are so essential from the Indian’s point of view, that we simply have to face the facts of life. Now, I wonder about the people that came here from Chile—was it easy to get them to come here without any promise of a degree of any sort—to work here?

PROFESSOR EHRLICH: Yes.

PROFESSOR WILLCOX: Because at Benares, we did find—and Dean Pye will bear me out in this—that the project which the Ford Foundation—not the International Legal Center, but the Ford Foundation directly—was pushing there, to send young teachers over as non-degree candidates to study in the United States, met the obstacle that these people weren’t willing to come unless they could get a degree, and it was a quite serious setback to a program which had been planned with some care.

I also feel very strongly, and I have correspondence with Professor Cavers on this subject, and many other people, that the grants ought to be larger. Now, this may be repeating what others have said, but my excuse for doing so is that I think the reason that some of our grants are so small for foreign stu-
dents is historical. We dealt mainly with Americans, and came to think of
these grants as supplements to what a student could supply from his own re-
sources. This is all right where a student can supply something from his
own resources; but remember that an Indian student simply cannot bring
any rupees out of India. (He may be able to have his travel ticket purchased
there with rupees; but I think that grants ought to include budgeting for tra-
vel too, at least as a last recourse.)

It is absolute mockery to write to a man that he's been admitted, without a
grant sufficient to cover his expenses. Those expenses must include travel
unless he has rupees or unless he can try for a Fulbright travel grant. The
Fulbright travel grants close their doors to applicants—well, in this last year
it was on April 15th and usually the offer of a grant has not come through by
that time.

These may seem like minutiae I am talking about, but some of these minu-
tiae are quite important and have a good deal to do with the morale of the
student, and therefore with the quality of his work. The student who lives at
a poverty level and so has to count every penny is an unhappy student; and
when you add the poverty problem to all the other problems of adjustment,
he can really be often in quite a bad way.

I can only add a word or two about what seems to me of great importance,
the task of developing studies of real Indian problems. (Now, I'm talking
about Indian students.) This task others have mentioned, but I want to add
my word here simply for repetitive emphasis.

If we could get some real problems worked out, like the problems involved
in land acquisition in Calcutta, like the problem of enforcing bans on caste
discrimination; like the problems involved in family planning—how far peo-
ple can be coerced to take certain steps for family planning—(these are just a
few instances of thousands of real problems) and if we had on our staffs
teachers with some specialized knowledge of these problems, and if our li-
brarians were able to lay in the necessary materials, we could do a great
deal of work with students that would be really meaningful to them, instead of
theoretical. Learning American law doesn't do them much good when they
go back to India. What is important is to learn the methods, and these meth-
ods are much richer if they are applied to real problems, rather than to imagi-
nary ones.

Thank you all very much.

MR. SMITH: Dean Ghai, I wonder if you could give us your views as to
whether we did anything right in your training when you were at Harvard
in 1963, or whether you would have changed your program in light of the
experience you had after you finished your stay at Harvard and went on to
law teaching at Dar es Salaam.

DEAN GHAI: Well, I begin by asking whether I might change my terms
of reference and not just speak of what went wrong with me, but also on
some of the points raised by the panel speakers of this evening.

My year at Harvard was an extremely stimulating year. I was almost in-
toxicated by the excitement of being at Harvard. Now, it may be that I over-
reacted to Harvard, or it may be that I came after being in a rather tradition-
formulastic and slightly stuffy University, but I did profit enormously from my year at Harvard, and it had very deep influence on my approach to legal problems, and my method of study.

Now, it's been very interesting to me to listen to so many distinguished Deans and professors, and see such an exhibition of self-flagellation from them. One had always learned to associate supreme self-confidence with American law schools. So, it was a very interesting spectacle to me today to see this.

I don't really understand the pessimism that has been expressed this evening. I happen to be an admirer of American law schools, and I do believe quite strongly that a student who comes from overseas does benefit enormously by coming here. They may not always measure up to your expectations, and they may not do as well as they might have done, but I have no doubt at all that they gain a great deal by being in the States, and by being in a law school.

Now, what do I regard as being the advantages of a foreign student coming to the U. S.? First of all, I think there is an exposure to new concepts. Even those who come from the common law countries do get exposed to new ideas and new concepts. I had a very traditional common law training, but I certainly picked up many concepts during my studies in the U. S., both in the common law and in Constitutional Law and public law and international law, and I think this is an important factor.

Also, one becomes exposed to new methodology. More and more of American influence radiates now, and people who come to the States from my law school have been fully exposed, and indeed indoctrinated into the methodology of the case method. But, it is useful, I am sure, for people from any law school to be exposed to the case method, the problem method, especially if they have been taught through the lecture method.

The case method does leave a great impression, I believe, on people's minds. It gives them a new way of thinking, and analyzing the legal problems, and even if a person has had some exposure in undergraduate training, I think it does help him to come and participate in this method in a fairly sophisticated class of sophisticated teachers, and I'm sure that the benefit is enormous.

The third point is this discussion about what is relevant, and here again, I'm perhaps a little old-fashioned, but I think one can overdo this point of what is relevant. If one has picked up some new concepts, and then one has picked up the new methodology in the way of looking at and analyzing the problems, I don't think it matters all that much what a person does while in the U. S.

I do agree entirely with the degradation of the emphasis on international law. Every one in my faculty wants international law, because they've all been to American law school, and I think perhaps this is one area that where the Deans or the Graduate Committees might advise foreign students to keep away from. But, I would have thought that most of the areas of American law, they might study, would be useful in one way or another. And I think perhaps one should not get too concerned about relevance, and there is, I think, a tendency to underestimate the training of these students before they come to the law school in the U. S. We do try to make our students aware
of the social and economic and political context in which the law operates, and hopefully, during the three years they are at the law schools in their own countries, they have been exposed to this kind of problems. They do not have to come to the U. S. to be told how—to relate their legal knowledge to the problems of their own country. They should have a fairly good working knowledge of what the problems are in their own country. I saw in some of the law schools that I visited in the last week, a lot of African students in the American law schools who are all doing courses, or one course, in what they call African Law. Now, I don’t know what African Law means myself, but it would appear to me that this could easily be a waste of time of the student.

He has been, if he comes from Africa, exposed for over three years to various areas of the law of his country, and what he might hope to pick up here would be very superficial knowledge, or maybe it’s a repetition of what he has done.

Now, I can conceive of a course imaginatively designed which does introduce him in an intellectual way to the general developmental problems. This I can conceive of having some value.

To come to the point of how long the graduate program should be, I think maybe one year is not long enough. A student, perhaps, does pick up much of the methodology in one year, but I doubt if he has then time to do any further research or additional research, and he may not have much opportunity while in the U. S. to apply this new method to a problem.

I think there is some virtue in the person’s staying an extra year, trying to apply this new method that he might have acquired to a particular problem, under the guidance of a professor. I would far rather see a person given an extra year after his LL.M., than to go home to teach for a couple of years and then come back. I, as Dean, get very upset when a colleague requests to leave to come back to the U. S., and very often the request is only made a year after he comes back from the States. I do think that once a person goes back to his home country, he should get involved in problems of his home country, and this is bound to be interrupted if he comes back to the U. S. A year or two, or three years in the U. S. is very valuable, but to return to the U. S. disrupts the stability of the faculty.

I am quite sure, and I again speak from experience, that it’s really a waste of time for a person with two years of graduate work here, to go back to his own faculty, and then come back after a couple of years. It’s much better that he should seek six months of non-lectures and stay in the country and do research. It may be that the foundations could help make this possible, so that the law school could have the money to train someone else for the period, but it is, I think, harmful for people to come back after they’ve been home for only one or two years.

On the question of selection of students, I think it would be useful to involve the local Dean or the Dean of the university from which the student is applying, in the possible selection. We’ve been trying to work out a system whereby the law faculty would make some kind of evaluation of the various applicants for the law school, so that the Selection Committee would have some kind of assessment, one against the other. And, this is possible, and I’m sure the deans overseas would be very happy to cooperate.
On the other hand, may I make a plea to the American professors here who have to write references for our graduates when they apply for jobs—most of our people who come here, not most, but a large number of them, do wish to apply for faculty appointments in their home Universities, and I have occasion to read a vast number of these references from American law schools, and they're absolutely ludicrous. Now, this may be that the American law schools like to have their alumni in the appointments overseas, and maybe they underestimate the ability of the choices open to a Dean back in Africa, but this seriously affects our own selection in our appointment process. I have known of my own students coming to America to do graduate work, people who are not particularly bright coming back with an extremely excellent reference, only after having been in the States two, or four months, and this is very serious. This is done with all the good will in the world, but it does have a very serious distortion of fact on our appointment process, and we very seriously urge you all to cooperate with us in this matter, and do write very frank testimonials. We are in a position to be able to choose from a vast number of applicants, and we would very much appreciate your very frank assessment on the abilities of these candidates.

On the question of concentration of these graduate programs, I think the idea of Dr. Stevens is very admirable. I do think there is danger of dissipation of resources. I think it's important that the law schools in the States should agree on some kind of allocation of areas, as among themselves. Most of us are acquainted with some of the leading law schools in the States, and can advise reasonably accurately about the prospects of courses, the programs, the conditions of living in these law schools, but couldn't possibly advise them on the condition of programs, etc., of all the law schools, and it may well be that the Deans in the States could get together and make out some kind of allocation of responsibility in this respect.

Well, I've been told I have to stop, but may I make this one final point—and this is, that if there is all this doubt about the value of graduate studies in the U. S., perhaps more attention should be given to the promotion of graduate centers—centers of graduate studies overseas. It may be that one law school in the eastern part of Africa, and one in the western part of Africa, could be encouraged to develop an interest for graduate studies for the whole of the region. There is obvious merit in this. This exposes African students to another system, which is comparable to his. He gets an opportunity to examine the solutions in this section to a problem that he has in his own country. This builds a stronger faculty back in Africa. This provides opportunity for more work, and there's no reason why American law schools cannot participate in this kind of adventure.

I would like to see support given to our schools in Africa to develop as graduate centers, and I do hope that perhaps we could repay our debt to you by receiving some of the American students in African law, so that they could do their graduate work in African studies.

. . . . Thereupon, the discussion was concluded at 10:35 o'clock P. M., Saturday, December 28, 1968 . . . .