



AMERICAN BAR ASSOCIATION

Section of Legal Education
and Admissions to the Bar

Office of the Consultant on
Legal Education to the
American Bar Association

Indiana University
550 West North Street Suite 349
Indianapolis, Indiana 46202-3162
(317) 264-8340
FAX (317) 264-8355
ABA/net: ABA411

REPORT ON

HOWARD UNIVERSITY
SCHOOL OF LAW

FOREIGN SUMMER PROGRAM

Cape Town, South Africa

June 22- August 1, 1996

BY: Professor Emeritus Harry E. Groves
University of North Carolina

CHAIRPERSON
Erica Moerer
3448 Lake Mendota Drive
Madison, WI 53705

CHAIRPERSON-ELECT
Rudolph C. Hasl
Jamaica, NY

VICE-CHAIRPERSON
Beverly Tarpley
Abitene, TX

SECRETARY
Henry Ramsey, Jr.
Washington, D.C.

SECTION DELEGATES TO
HOUSE OF DELEGATES
Jose Garcia-Pedrosa
Miami Beach, FL

Norman Redlich
New York, NY

LAST RETIRING CHAIRPERSON
Nina S. Appel
Chicago, IL

BOARD OF GOVERNORS LIAISON
Roy A. Hammer
Boston, MA

SECRETARY EMERITUS
Gordon D. Schaber
Sacramento, CA

COUNCIL MEMBERS

David L. Boren
Norman, OK

Alfred P. Carlton, Jr.
Raleigh, NC

Marie L. Garibaldi
Jersey City, NJ

Roger F. Jacobs
Notre Dame, IN

Herna Hill Kay
Berkeley, CA

John R. Kramer
New Orleans, LA

Gary H. Palm
Chicago, IL

William R. Rakes
Roanoke, VA

Randall T. Shepard
Indianapolis, IN

Gerald W. VandeWalle
Bismarck, ND

Robert K. Walsh
Winston-Salem, NC

Diane C. Yu
San Francisco, CA

LAW STUDENT DIVISION LIAISON
Alan M. Freeman
Washington, D.C.

YOUNG LAWYERS DIVISION LIAISON
John M. Williams
Oklahoma City, OK

CONSULTANT ON
LEGAL EDUCATION TO THE
AMERICAN BAR ASSOCIATION
James P. White
(317) 264-8340
ABA/net: ABA411

ASSISTANT CONSULTANT
William B. Powers
(317) 264-8352

EXECUTIVE ADMINISTRATOR
Marilyn S. Shannon
(317) 264-8348

ASSISTANT STAFF DIRECTOR
Suzanne E. Rose
American Bar Association
750 North Lake Shore Drive
Chicago, IL 60611
(312) 988-5675
FAX (312) 988-6281

IMPORTANT: *This report was prepared by the site evaluator named herein. The conclusions and judgments stated represent his views alone. The site evaluator does not make the official findings or conclusions for the Section of Legal Education and Admissions to the Bar of the American Bar Association. These are made by the Accreditation Committee and the Council of the Section. The report was prepared for the use of the Council of the Section of Legal Education and Admissions to the Bar of the American Bar Association and not for public release. It is intended for the exclusive use and information of those persons authorized by the Council to receive it. Any copying or distribution of a part or whole of this report is subject to this restriction.*

I. HISTORY and INTRODUCTION

This was a new program. The faculty approved the program on October 5, 1995. ABA approval was granted November 16, 1994. The site visit occurred July 7-11, 1996.

Howard, as a predominantly Black university, with its Law School long a leader in the United States civil rights movement, feels a particular relationship to current developments in South Africa to which it wished to give interested students exposure.

I visited a full session of the class of each teacher. I had extensive conversations with all the teachers and most of the students. I went with the students and faculty on two trips. I lunched with the Director and the Dean-elect of the Law School of the University of the Western Cape, the site of the program. I examined all the facilities used by the program. I reviewed the teaching materials and documents sent students prior to the program.

II. ADMINISTRATION

The Director was Associate Professor Ziyad Motala, of Howard University School of Law. Professor Motala took his LL.B. at the University of Natal School of Law and both the LL.M. and S.J.D. from Northwestern University. An Indian native of South Africa, he has published very extensively on the laws of several African countries, including South Africa, as well as on the constitutions and laws of the Soviet Union and other countries. He is a friend of and in close contact with many ministers of government, legislators, attorneys and others, some of whom he called on for exceedingly valuable contributions to the program. He has advised and been a consultant to the South African government. He is intimately acquainted with and knowledgeable about the whole of South Africa, its culture and economy. While he had no prior experience with similar programs, he was uniquely qualified to direct this program. He did not participate concurrently in any other program.

On site administrative support provided by the University of the Western Cape was excellent. The Director had an office in the Law School, fully equipped to include telephone, computer, printer and E-mail. He had fine secretarial support provided by the Law School and a full-time Western Cape law student who handled

the program's photo-copying and otherwise assisted as needed.

The program was not only operating effectively at the time of my visit, it was the most effectively administered of a number of programs I have visited over a span of years.

The Director and entire faculty, in separate offices, were on campus all of the time that the students were on campus and were readily accessible to students. In addition, two faculty members had apartments in the same apartment buildings where the students had apartments; and the Director was next door.

Non-curriculum tours and activities included: June 24--Welcome Address by Mr. Cecil Abrahams, Rector, University of the Western Cape (UWC). June 24--Half day tour of Cape Town June 25--Formal Reception at UWC. Present were prominent lawyers, faculty members from UWC, the University of Cape Town and University of Stellenbosch. June 29--Full day Peninsula Tour to Atlantic and Indian Ocean Coastline, Camps Bay, Clifton, Hout Bay, Simons Town and Cape Point. July 6--Full day tour to Cape Agulhus (tip of Africa), Hermanus, Houw Hoek, Elgina and Sir Lowry's Pass. July 10--Visit to Robben Island, the prison which held prominent political prisoners, including President Mandela. The visit was arranged through President Mandela and the guide was his Legislative Advisor, best friend and former fellow prisoner, who flew down from Pretoria for this tour. Weeks 2-6--Tours of townships for interested students in small groups arranged through UWC Students Representative Council.

III. FACULTY

The faculty consisted of the Director, Professor Ziyad Motala, of the Howard School of Law, Professor Mark A. A. Warner, Assistant Director of the Center for International and Comparative Law, at the University of Baltimore, and Professor Adrian Wing, of the University of Iowa. Professor Wing has done consulting with the South African government on legal matters and herself had excellent contacts. Both she and the Director made use of their contacts to have speakers in their classes. Professor Warner also used local talent effectively. I sat in on one of his classes which he co-taught (for this one class) with Attorney E. N. Banda, who is employed by the U.S. law firm, White and Case. Mr. Banda, a South African, was trained in both South Africa and the United States. The subject of the class, Mr. Banda's specialty, was Intellectual Property rights. His accent was generally easily understood; but if a word seemed unclear, Professor Warner skillfully repeated the

word and several times suggested the use of the blackboard. It was quite effective coteaching. Banda illustrated his subject with South African concepts; and discussed the old and new Trademarks Acts of South Africa.

Professor Motala is a first-rate instructor. He also used a visitor for a part of the class I attended, a Professor Ayola, who had a rather heavy accent but was generally understandable. He spoke on Investment Law in South Africa, Lesotho and Zambia. He was knowledgeable and generally an effective lecturer.

I regretted missing on the day of my departure a visiting lecturer in Professor Wing's Comparative class, the Minister of Justice, a friend of hers, who flew down from his office in Pretoria just for this class. Professor Wing, herself, is a dynamic and effective teacher.

All faculty members had excellent credentials. All had fulltime duties with the program.

The Director and faculty members were appointed by the Dean.

This program made an exceptionally rich use of visiting casual lecturers. The schedule of their meetings with the appropriate class follows: June 24--Professor K. Malherbe, UWC Law Faculty, lecture on Introduction to South African Legal System. June 26--Professor Bernard Martin, UWC Law Faculty, lecture on South African Choice of Law Principles. June 26--On a visit to Parliament, where they had a formal tour of both houses of the Legislature and a reception, their first Constitutional Law class was conducted by Advocate Johnny De Lange, M.P., Chair of the Parliamentary Committee of Justice and a leading member of the body which drafted the final constitution. His lecture was on The Framing of South Africa's Constitution. Because of the intense student interest the talk scheduled for one hour went beyond two and half hours. June 27--Professor R. Gorgorty, UWC Law Faculty, South African Law on Carriers Liability. July 1--A talk by Ms. Leora Bloomberg, Deputy Chair of the Competition and Trade Board, who flew down specially from Pretoria to talk about South Africa's competition policy. July 1 (afternoon) a full tour of the Magistrates Court, accompanied by the senior Magistrate of Cape Town, Mr. Swart, and two law graduates from the University of the Western Cape's Legal Aid Clinic. July 2--Professor R. Gorgorty, South African Law on Distributorship and Agency in International Contracts. July 4--Advocate Riekie Wandrag, UWC Law Faculty, South African Law on Choice of Forum and Enforcement of Foreign Judgments and Arbitral Awards. July 8--Attorney Enos

Banda, Intellectual Property and Competition in South Africa July 9--Advocate Riekie Wandrag, South African Company Law. July 12--Talk by Minister Dullah Omar, Minister of Justice, Affirmative Action and the South African Constitution. July 15--Talk by Minister Trevor Manual, Minister of Finance, formerly Minister of Trade and Industry, on South African monetary policy, fiscal policy, exchange rates, rules for repatriation of profits, royalties, interest and dividends. July 26--Talk by Albie Sachs, a Judge of the Constitutional Court.

IV. EDUCATIONAL PROGRAM

The academic content of the program was approved by the faculty. The academic content of all courses met the on-campus standards, including those of written examinations, of Howard.

All of the courses had a comparative or international perspective and all placed particular emphasis on the socio-legal environment of South Africa.

The three courses were: South Africa's Constitution in Comparative Perspective
International Trade: Doing Business in South Africa
International Business Transactions

All courses were for two credit hours; all had 1540 total classroom minutes; all scheduled examinations of two-three hours. The program complied with Criteria III.A.2. and III.B.

Although several students were given the opportunity to work for a few days in law offices, these were not regarded as externship placements; and credit was not awarded for externship placements.

I heard only one complaint about the program. One quite "laid-back" student said that he expected the summer program to be in the nature of a vacation, and they were having to work!

V. COURSE MATERIALS/LIBRARY ACCESS

Course materials were essentially self-contained and were sent to students prior to their departure from the States. However, effective use was made of photo-copying to add new material particularly relevant to the developing South African legal-political scene.

The students had full access to the excellent modern law and general libraries of the University.

VI. PHYSICAL FACILITIES and HOUSING

The physical facilities were excellent. Classes were held in a tiered classroom, well-lighted, with blackboards. There were no sound distractions. It was the only activity in the building because the Law School of the Western Cape was on vacation. Students had full access to the very modern, attractive, well-furnished building which housed both the law and general libraries.

Faculty members could scarcely have been better housed. On campus the Director had a large office, comfortably furnished with modern furnishings. He had telephone, computer, printer and E-mail. The two professors shared an office similarly equipped, except that it did not have its own printer.

Housing was secured for the students in two luxury apartment buildings right on Cape Town's beautiful beach. The students were ecstatic about the housing. Four students shared a two bedroom apartment, one of which I visited. It was fully and beautifully furnished to include even a C.D. player. Winter is the off-season in this resort city and these apartments went for very reasonable rent. The Director and faculty members were similarly housed, each in a separate apartment.

Because the housing was some distance from the Law School, the program had a bus which picked up the students and faculty members, who did not have their own cars, in the morning and returned them when the classes were over. This transportation was not only convenient and free to the students but it helped to insure excellent on-time attendance at classes, since a student who missed the bus would have had to take a less convenient train or a relatively expensive taxi to school.

VII. STUDENTS

The program was open to U.S. students from ABA accredited schools who had completed at least their first year and were in good standing.

A unique feature of this program was that the courses were also open to South African law school students and attorneys who were selected by the Dean of University of the Western Cape. Some thirteen persons, black and white, from the University of the Western Cape, Stellenbosch and law graduates, took advantage of the opportunity. I spoke to most of these students. All expressed gratitude for the opportunity. Several chose to attend because no course in International Business Transactions was available in South Africa. A student from the University of the Western Cape said that he found the teaching methods a challenging and meaningful change from the universal lecture method used in his education. He, also, emphasized how much he learned and benefited simply from the association with black and white American law students.

Conversely, the American law students felt that the association with the South Africans in the class had enriched their experience.

Twenty-five U.S. students enrolled. Four were from Howard. Sixteen other schools were represented.

VIII. FINANCIAL RESOURCES

Students were charged \$3250, which included everything except food.

There were no charges to the program by the University of the Western Cape.

IX. CANCELLATION and DISCLOSURE REQUIREMENTS

The written disclosures concerning cancellation and refunds were consistent with the Criteria VI.A., VI.B., and VII.A.16.

X. SUMMARY



The summary word for this program is that it was excellent. I have at no other program encountered such universally pleased students. I really do not know how the program could have been improved. It was well-conceived, well-planned and brilliantly executed. The use of the Director's and one of the professor's remarkable contacts with the highest levels of government and with the University gave the program a richness no student could have anticipated and for which every student to whom I spoke expressed profound gratitude.