

# American Association of Law Schools Section on Africa

News and Announcements

Fall/October 2008

## Notes from the Chair

Prof. Susan R. Jones  
The George Washington University Law  
School  
Chair, AALS Section on Africa

### *Capacity Building and Economic Development*

The June 2007 AALS Section on Africa Newsletter featured a project on Teaching Law in Ethiopia and how U.S. law faculty can help African law schools. The discussion of that featured project provided background for my recent visit to Ethiopia.

Through the University of Alabama School of Law (UA) Graduate Program in Law for Teaching and Research Capacity Building, I had the privilege of participating in a Workshop on the Common Law Curriculum in Ethiopia from July 12-19, 2008. The workshop, attended by 260 law professors and law students, included a Pedagogy Track for Law Teachers delivered by Dr. Sam Adelman and Professor Nick Johnson from Warwick University in England and a track on Strategic Leadership for Legal System Transformation in Ethiopia. Panels in this track were taught by members of the UA delegation including Norman J. Singer, Charles O. Stokes Professor of Law and Professor of Anthropology and the Project

## AALS Annual Meeting

Section on Africa  
Program Co-Sponsor, Section on National  
Security  
Thursday, January 8, 2009 from 4:00-5:45  
p.m.  
San Diego, CA

### *Economic Development in Africa*

Economic Development -- a broad term referring to a variety of indicators such as poverty rates, life expectancy, and literacy rates -- is essential to the development of Africa. This program will focus on a range of economic development strategies in Africa with an emphasis on poverty alleviation. Particular focus will be placed on current laws impacting economic development on the continent and on the intersection of economic development and peace and security. The program will also examine the roles that law professors, lawyers and law students can play in fostering economic development in the region.

**Moderator, Prof. Penny Andrews**, CUNY Law School - Chair-Elect AALS, Section on Africa

**David Linnan**, Assoc. Prof. Univ. of South Carolina School of Law

**Muna Ndulo**, Director, Institute for African Development, Cornell Law School,

**Claire Dickerson**, Professor & Sen. Breaux Chair in Law, Tulane University Law School.

Director of the Law and Graduate Program in Ethiopia, Martha Morgan, Robert S. Vance Professor Emerita of Law, and myself as well as Prof. Oladodu A. Ojengbede, Director, Department of Obstetrics and Gynaecology, Centre for Population and Reproductive Health, College of Medicine, University of Ibadan, Nigeria and Professor Abdulmalik Abubaker, former Dean of Harramaya University, Faculty of Law and Head of the University's Dire Dawa campus.

The UA Graduate Program in Law for Teaching and Research in Capacity Building is significant for a number of reasons. With a population of 83 million, Ethiopia is the second largest country on the African continent and the oldest independent country in Africa. (With the exception of a five-year occupation by Italy, Ethiopia has never been colonized.) From 1963-1994 there was only one law school in Ethiopia -- Addis Ababa University (formerly known as Haile Selassie I University). In recent years 8 new public law schools have been created along with a number of private law schools.

At present, Ethiopian law schools offer only undergraduate law degrees. This means that students seeking masters or doctorate degrees must obtain them abroad. In 2007 the Ethiopian government issued a Request for Proposals (RFP) to five universities – the University of Alabama School of Law; Warwick University Law School in Great Britain; Abo Akademi University Department of Law in Finland; University of Amsterdam, Faculty of Law in the Netherlands; and University of Pretoria, Faculty of Law in South Africa. UA and Warwick were chosen by the Ethiopian government to help build its graduate law programs.

UA will allocate spaces for 40 law professors and lawyers seeking LLM degrees and 18 interdisciplinary PhDs. In addition, UA law faculty will offer strategies to increase the capacity of Ethiopia's public law schools.

Prof. Singer, the Project's director, brings a wealth of experience to this new and innovative program. From 1964-68 he was an Assistant Professor on the Faculty of Law at Addis Ababa University and he served as a research scholar from 1970-71. In addition, Prof. Singer was the Ford Foundation Representative in Sudan from 1980-82. In 1997 he was Chair of the AALS Section on Africa and recalls working with Judith Wegner the Section's first chair and others to create the Section (which was granted provisional status in May 1996 and permanent status in July 2000). Professor Singer recalls that the AALS Section on Africa was started, in part, in response to an ABA Africa Law Initiative sister country program, which created opportunities for mutual exchange between US and African law professors.

The 2007 planning process for the Graduate Program in Law for Teaching and Research Capacity Building has included visits by Prof. Singer to all of the public law schools in Ethiopia and visits by a delegation of Ethiopia law professors to the U.S. In 2005, Prof. Singer met with the Minister of Capacity Building and officials from the Justice and Legal Systems Research Institute (JLSRI) in Ethiopia. JLSRI will oversee the Program in Ethiopia.

As discussed in the last Africa Law Section Newsletter (June 2007) Prof. Singer also runs a program encouraging young law school graduates, retirees and teachers on sabbatical to teach in Ethiopia. (Prof. Morgan, who was part of the UA delegation

taught at Mekelle Law School in Ethiopia for a semester in 2004.) Eleven new law teachers are currently teaching at law schools in Ethiopia. In the last year alone, Prof. Singer received more than 200 applications for this program.

Through the law teacher placement program and the UA Graduate Program in Law for Teaching and Research Capacity Building Prof. Singer hopes to have a hand in establishing a meaningful core of Ethiopian law faculty who will make a career commitment to teaching.

Throughout my participation in the Workshop on the Common Law Curriculum in Ethiopia I found the young Ethiopian faculty members to be thoroughly intellectually engaged. Given the extreme poverty and the political challenges the country has encountered, the need for well-prepared socially conscious lawyers is great. This is especially true if Ethiopia takes seriously the UN Millennium Development Goals which include halving poverty and halting the spread of HIV/AIDS by 2015.

NOTE: The Bluhm Legal Clinic of the Northwestern University School of Law and the law firm of DLA Piper have also been active in providing support for legal education in Africa. For more information see:<http://amlawdaily.typepad.com/amlawdaily/2008/07/pro-bono-2008-d.html>.

## **Conferences**

**Mojoyin Onijala**, the outgoing Chair of the African Law Student Association (ALSA) at Columbia Law School reported that the organization held a very successful first-ever Critical Connections Symposium, on April 24, 2008. ALSA sponsored the symposium with the Center for African Education (CAE) at Teachers College.

Onijala writes: “Our goal this year was to bring Africa into focus in the legal and academic communities and form critical connections between lawyers and practitioners working in the field of development, women's rights, migration etc. ALSA and the Center for African Education at Columbia partnered on the event this year, and we hope to extend the partnership to outside groups in future years.”

Onijala also observed, “As one of a handful of law schools nationwide with an organization dedicated to law and Africa - a unique subject distinct from the focus of black American law associations - ALSA thought it would be fitting for Columbia to be the host of the first Africa-focused symposium at a U.S. law school . . .”.

Below is a link to an article on the conference.

[http://www.law.columbia.edu/media\\_inquiries/news\\_events/2008/may2008/alsa\\_conference?#rtregion:main](http://www.law.columbia.edu/media_inquiries/news_events/2008/may2008/alsa_conference?#rtregion:main)

For more information on the next symposium contact the incoming chair of ALSA, Edward Newton, at [edwardbnewton@gmail.com](mailto:edwardbnewton@gmail.com).

## **FIFTH WORLDWIDE CONFERENCE OF THE GLOBAL ALLIANCE FOR JUSTICE EDUCATION (GAJE)**

"JUSTICE EDUCATION IN A COMMUNITY CONTEXT"

MANILA, THE PHILIPPINES,  
DECEMBER 7-13, 2008

The Global Alliance for Justice Education (GAJE) invites proposals for presentations, workshops and training the trainer sessions at its Fifth Worldwide Conference on Justice Education in a Community Context' to be

held in Manila, the Philippines from December 7-13, 2008. Proposals can be accompanied by requests for travel grants to attend the conference.

The Conference Planning Committee will begin review and approval of proposals and grant requests upon receipt, beginning 15 July 2008, so early submission is encouraged. Instructions for submissions appear at the end of this notice and on the conference web site.

The Manila Conference will be an opportunity for law teachers, law students, legal practitioners, jurists and social activists to acquire new ideas, models, and skills for the use of education to promote justice. The Conference will also play a key role in the implementation of the new GAJE Justice Education Initiative. Workshop sessions during the Conference will attempt to define justice education in terms generally applicable in every country of the world, and to produce a model statement of the content and procedures of a comprehensive justice education program, supported by examples of existing justice education programs from around the world. For more information about this initiative, go to the GAJE web site ([www.gaje.org](http://www.gaje.org)) and select "Justice Education Initiative" or go directly to [www.gaje.org/JEI](http://www.gaje.org/JEI).

**\*Regarding Conference Structure\*:** The aim of the conference structure will be to facilitate as much participation as possible by those attending. While there will be a small number of plenary sessions, including a few key note speeches, most of the conference will consist of workshops, small group sessions, and other opportunities for sharing ideas, materials, etc.

**\*The Conference Themes\***

Interested persons are invited to submit proposals on any of following themes:

- New initiatives in justice education;
- Developing and mainstreaming justice education in the law school and other curricula;
- Teaching social justice through experiential learning;
- Clinical legal education, including street law, legal awareness and live-client clinics;
- Justice education and professional responsibility;
- Special areas of concern, such as human rights and violence against women and children.

Presenters are requested to make their presentations participatory and should indicate in their proposal how they would achieve this. Presentations by teams from different regions will be favoured.

**\*The Conference Hosts\***

The Manila Conference will be hosted by the Ateneo Human Rights Center (AHRC), a university-based institution engaged in the promotion and protection of human rights in the Philippines, in collaboration with Bridges across Borders (BAB), a non-governmental organization working in Cambodia, Thailand, Vietnam, Laos, Malaysia, Singapore, Ireland, the United States, Mexico, Panama and Colombia. The primary venue for the Conference will be the Law School of Ateneo de Manila University, located in the City of Makati in metropolitan Manila.

**\*About GAJE\***

GAJE is an alliance of persons committed to achieving justice through legal education. Clinical education of law students is a key component of justice education, but GAJE also works to advance other forms of

socially relevant legal education, which includes education of practicing lawyers, judges, non-governmental organizations and the lay public.

GAJE has so far successfully organized four worldwide conferences: in India (1999), South Africa (2001), Poland (2004) and Argentina (2006), as well as two regional conferences in Australia and the United States. See the GAJE website ([www.gaje.org](http://www.gaje.org)) for conference reports from previous conferences.

**\*Submission of Proposals \***

Forms for the submission of Proposals are obtainable from the GAJE Conference website

([www.gaje.org/Conf08/Participate.htm](http://www.gaje.org/Conf08/Participate.htm)) or by sending an email request to: [gajeconference08@gmail.com](mailto:gajeconference08@gmail.com).

Completed proposal forms should be sent to the GAJE General Secretary, George Mukundi, at [gajeconference08@gmail.com](mailto:gajeconference08@gmail.com) on or before 31 August 2008. Earlier submission is strongly encouraged.

**\*Conference Fee and Registration\***

The conference fee is \$US 350 (\$US 450 after October 1 2008). Persons who cannot pay the full fee will be able to request a fee reduction according to guidelines posted on the GAJE conference web site. The preferred method of registration will be online at the GAJE website: ([www.gaje.org](http://www.gaje.org)). (Persons unable to register online will be able to register by mail.) On-line registration and other information, including hotel options and costs, registration centers and fee payment options, will be available on the GAJE website by July 2008.

**\*Applications for Travel Grants and Fee Reductions\***

Separate application forms for Travel Grants and Conference Fee Reductions are obtainable from the GAJE website at [www.gaje.org/Conf08/WaiversAndGrants.htm](http://www.gaje.org/Conf08/WaiversAndGrants.htm) or by sending an email request to [gajeconference08@gmail.com](mailto:gajeconference08@gmail.com). Travel grant applications should be submitted by 31 August 2008 and earlier submission is strongly encouraged.

Travel grants will generally be given only to persons playing a specific role at the conference, such as a session organizer, program speaker, or workshop leader. Therefore, unless you already have a confirmed conference role, you should submit a proposal to participate before or at the same time as your grant application. Depending upon funding, applicants will be informed of the decision regarding their application for a travel grant or fee reduction as soon as possible and generally by 30 September 2008. Completed applications should be sent to the GAJE General Secretary, George Mukundi, at [gajeconference08@gmail.com](mailto:gajeconference08@gmail.com).

**Updates**

**Submitted by Professor Kende, Drake Law School**

Professor Kende spoke at the Annual Summer 2008 Law & Society Conference in Montreal on 2 panels. The first speech was on educating about Human Rights in South Africa and the other involved social change & Constitutional Law in South Africa.

**Submitted by Prof. William Wagner  
Professor William Wagner of the Cooley Law School**

presented, "Law, Ethics and Good Governance" at the 17th Annual U.S. - Africa Sister Cities Conference (24 July 2008).

**Submitted by Louise W. McKinney,  
Professor of Law/Attorney at Law**

### **Case Western Reserve University School of Law**

I am completing my second one-year Fulbright award in Africa. The first was in 1998-1999 when I worked with the University of Nairobi Law Faculty to develop clinical legal education through their teaching in their regular classes, development and expansion of clinical courses through curriculum reform and founding of a student-run legal clinic program in Kenya. They have expanded their experiential learning options through externship placements. I have been consulting with people in Kenya during the past 10 years to actually get an in-house, real-client clinic going and it looks as though that will be happening within the next year or so.

Now I am in Gaborone, Botswana for the second time, after working here in 1988-1989 to help to solidify their fledgling clinical legal education program that had started only two years before. This year (2007-2008) there have been two major goals: to improve and deepen the Law Department's clinical legal education program and to help to establish a sustainable, government-funded legal aid system in the country.

The university has expanded from 2,000 students in 1989 to about 16,000 today. Physical infrastructure has improved in many ways (moving the Legal Clinic out of a portacamp and into a small - but bigger space - in a classroom building) and information technology is working quite well but teaching staff have not been expanded proportionately to the larger student body. The mandatory clinical program is now better organized in its three semesters of mandatory clinical legal education courses, three semesters of in-house clinic and a two-month externship,

but staffing is too thin when I leave. We added mock trials at the local Magistrate Court for all 63 fourth-year LLB students this year. The Legal Clinic is on the way to computerized case management but supervision is hit-or-miss and the space is still totally inadequate.

My most extensive focus has been on working with the Attorney General's Chambers and the Law Society of Botswana (the country's bar association) to develop legal aid in a country where the Constitution does not require appointment of counsel even in criminal matters and the Constitution and statute and tradition do not even allow counsel in the customary courts where many, if not most, of the criminal charges and civil matters are handled. The prisons are filled at about double capacity, many with pretrial detainees, others sentenced to prison after "trial" in Customary Court, up to half serving sentences for charges that would not have resulted in convictions if they had had representation in the Magistrate Court (according to several magistrates). I coordinated a major workshop in Gaborone on "Access to Justice: Feasibility of Sustainable Legal Aid and ADR Systems in Botswana", where people from seven other southern African countries were resource people to describe what they are doing and to provide lessons learned to Botswana planners. The President of the country opened the workshop and the Chief Justice of the High Court closed it; over 100 local stakeholders attended. We are completing writing up the proceedings now. The resources are available from donors to appoint a consultancy to develop a plan for actually establishing legal aid in the most expansive sense possible, including creative use of paralegals and technology, changes in the court and justice systems, mobilizing resources to provide "equality of arms". My

hope is that I will be able to continue to work with people here to actually bring legal aid into reality during the next several years.

## **Interview/Essay**

**Submitted by Susan Jones, The George Washington University Law School**

### **Interview With Tatia Miller**

Interviewed by Michael Dobson, a second-year student at The George Washington University Law School and Research Assistant to Professor Susan Jones.

Through The Rule of Law Initiative, a non-profit organization operating across four continents, the ABA has worked since 1990 to help foreign governments develop and implement the kinds of measures needed to foster a just society. All across the world, in Africa and Asia, in Europe and Eurasia, in Latin America and the Caribbean, and in the Middle East, legal professionals of diverse backgrounds practicing in a variety of fields provide technical assistance to governmental and non-governmental reformers within the host countries. The nature of the assistance depends upon the needs of the host country; it runs the spectrum from grassroots promotion of the “rule of law culture” through civic education and law school curriculum reform to working in cooperation with government officials to draft and implement new laws.

Tatia Miller, a Staff Attorney with the Africa Division of the Rule of Law Initiative, recently took time out of her busy schedule to discuss the work her division does as well as her thoughts on the Initiative as a whole.

*1. Please tell me about the arc of your career to this point and your current position as a Staff Attorney for the Africa Division of the ABA Rule of Law Initiative.*

Sure. I received a Bachelor’s of Science Degree in Anthropology during my undergraduate studies. While I was studying Anthropology I became interested in issues of international affairs and development, particularly in Africa. My interest led me to think about getting a juris doctorate degree and I was accepted at New York University School of Law. In law school I became particularly interested in international law and development policy. While still a law student I assumed my first career choice would be working for the United Nations, however after further investigation, I chose to work for a well-respected big international firm that also had a strong track record of doing important international pro bono work. After graduation I worked as a litigation associate at Debevoise & Plimpton for 5 years. While at the firm I worked on international pro bono cases as well as commercial cases, but I always maintained a strong interest in international development. In February of 2007, I volunteered with the American Bar Association, Section of International Law and was a delegate of the organization’s International Legal Exchange (ILEX) trip to Liberia, Sierra Leone and Ghana in Africa. In Liberia I witnessed first hand the ABA’s mediation and law school reform program. I was really impressed with the work, and fortunately a job opened up [as a staff attorney with the Africa Division of the Rule of Law Initiative] a few months later and I took it.

*2. How long have you been with the ABA and what is the most exciting aspect of your job?*

I’ve been a Staff Attorney here since June of 2007. It’s tough to identify the most exciting part of the job, because we do quite a lot here. It’s a small office with a 3 person

staff running 6 programs. We do a lot of program management; we design the programs and supervise and support country directors who implement the programs in the field. We respond to funding opportunities and draft proposals and budgets. We also travel to the field to monitor our programs and occasionally to develop new business. Travel to the field offices allows us to witness and learn from the operation of our programs so we're not programming in a vacuum. I especially enjoy seeing our programs in action and the impact on the legal professionals that we train.

3. *How does the Initiative measure the success of its programs?*

In our program plans, we always include quantitative indicators (like "number of training programs completed" or "number of judges trained") as well as qualitative descriptions of what we plan to achieve. From the funder's perspective the success of our work is measured based on our ability to meet these quantitative indicators. There is also the possibility of conducting more comprehensive baseline studies of our programs and their impacts. This may involve comparing a region where we have been operating to a comparable area where we haven't operated and measuring impact that way. It's one of our goals to include more comprehensive monitoring and evaluation studies in our program designs.

4. *Please tell me your vision of the big picture goal of the Rule of Law Initiative, and what you see as your role in achieving that goal. What is your conception of the "rule of law," and what sources inform this conception?*

I see major growth for the Rule of Law Initiative especially in Africa. Rule of law and technical assistance issues in Africa are

increasingly becoming a focus of funders. I think my role in that is to use my experience as a legal professional to help shape the organizational structure and agenda of the programs that we implement on the continent.

To me rule of law work means helping to ensure that legal professionals, law enforcement, and civil society understand the laws of their government as well as international norms. However, it also means providing the technical assistance that prepares these constituencies to successfully fulfill their responsibilities under the law.

While our programmatic issue areas are diverse (including human trafficking; mediation; law school reform; gender based violence; and corporate social responsibility) we are in fact a bar association, so we use that to our advantage and always try to engage local bar associations on a peer-to-peer basis and try to address issues fundamental to justice sector professionals like ethics, court room administration and interview techniques in addition to the targeted issue area. Some of our other mandates are broader, like working with legal institutions within countries to build capacity. This is especially important in countries like Liberia where only 30 - 40 lawyers a year are graduated, which of course results in a shortage of magistrates, judges, and other legal professionals.

Keep in mind that the larger ABA does a huge amount of work domestically, and the Rule of Law Initiative is just trying to extend that good work to the international context. Eventually, I hope we'll start expanding into economic development and commercial issues, maybe start getting into the issues surrounding the way the AIDS epidemic is being handled. There really is tremendous potential for what we can do.

5. *What do you think are the primary factors hindering the spread of the rule of law abroad, and what do you think can and should be done to eliminate or diminish them?*

It sounds so generic -- but I think "time" is the biggest hurdle. If you look at the United States of America over its history, we dealt with slavery, civil war, groups being discriminated against, serious violations of the rule of law. It's not a tidy or quick process and our democracy is still growing. A lot of the nations in Africa are still relatively young and will have to deal with the fallout of colonial histories and internal tensions. I'm not naïve; I know it's not going to work out over night, but hopefully it won't take 200 years either. I don't think we have 200 years. The best thing we can do is to be supportive of institutions that are working and lend assistance to institutions that are faltering. I think that we'll do our jobs better if we learn from our own centuries-long progress toward a fully representative democracy under a rule of law. It also helps to remember the fact that we are still on that journey.

6. *How can law professors involved in the Association of American Law Schools Section on Africa contribute to the goals of the Rule of Law Initiative and the Africa Division?*

On a practical level, the Rule of Law Initiative needs volunteer legal experts who can apply their expertise in the field or by generating training materials. For example, we need an expert to help us with a program in Burundi to reintegrate child soldiers. So maybe an expert in juvenile justice or juvenile social services or a gang reintegration expert might volunteer to work with these former child soldiers. It is also

extremely helpful to our work just to have academic experts publish and circulate their scholarship. We want to maintain an information exchange and work cooperatively with people doing research and field work to figure out ideas for proposals.

For more information about the Africa Division of the ABA Rule of Law Initiative, please contact Tatia Miller at [tmiller@staff.abanet.org](mailto:tmiller@staff.abanet.org).

### **Articles**

**Submitted by Mary L. Dudziak, Judge Edward J. and Ruey L. Guirado Professor of Law, History and Political Science, University of Southern California**

Exporting American Dreams: Thurgood Marshall's African Journey (Oxford University Press, 2008) Mary L. Dudziak

Thurgood Marshall became a living icon of civil rights when he argued *Brown v. Board of Education* before the Supreme Court in 1954. Six years later, he was at a crossroads. A rising generation of activists were making sit-ins and demonstrations rather than lawsuits the hallmark of the civil rights movement. What role, he wondered, could he now play? When in 1960 Kenyan independence leaders asked him to help write their constitution, Marshall threw himself into their cause. Here was a new arena in which law might serve as the tool with which to forge a just society.

In *Exporting American Dreams*, Mary Dudziak recounts with poignancy and power the untold story of Marshall's journey to Africa. African Americans were enslaved when the U.S. constitution was written. In Kenya, Marshall could become something that had not existed in his own country: a

black man helping to found a nation. He became friends with Kenyan leaders Tom Mboya and Jomo Kenyatta, serving as advisor to the Kenyans, who needed to demonstrate to Great Britain and to the world that they would treat minority races (whites and Asians) fairly once Africans took power. He crafted a bill of rights, aiding constitutional negotiations that helped enable peaceful regime change, rather than violent resistance.

Marshall's involvement with Kenya's foundation affirmed his faith in law, while also forcing him to understand how the struggle for justice could be compromised by the imperatives of sovereignty. Marshall's beliefs were most sorely tested later in the decade when he became a Supreme Court Justice, even as American cities erupted in flames and civil rights progress stalled. Kenya's first attempt at democracy faltered, but Marshall's African journey remained a cherished memory of a time and a place when all things seemed possible.

### **Reviews**

"Dudziak brings out with impressive clarity how Thurgood Marshall's greatness stemmed from his Whitman-esque ability to contain multitudes: committed to the rule of law, he could chide Kenya's new leadership for departing even slightly from it, work for justice in segregated America, and sustain a relationship with young civil rights activists taking direct and 'illegal' action in the early 1960s."--Mark Tushnet, Harvard Law School and author of *Making Civil Rights Law: Thurgood Marshall and the Supreme Court, 1956-1961*

"In this gem of a book, Mary Dudziak brings vividly to life the important but little known history of Thurgood Marshall's intense involvement with Kenya during its journey toward independence in the 1960s. This

great champion of the American civil rights struggle never relinquished his hope that democracy and equality would one day flourish in Kenya, even as he became painfully aware of the obstacles that stood in the path of this dream. A powerful and poignant story, beautifully told."--Gary Gerstle, Vanderbilt University and author of *American Crucible: Race and Nation in the Twentieth Century*

"By dint of creative and exhaustive research, Mary Dudziak has written an excellent book about a facet of Thurgood Marshall's career that has never before received substantial attention. Who knew that 'Mr. Civil Rights' contributed significantly to African as well as American legal systems. All students of this great man's life owe a major debt to Professor Dudziak's labors."--Randall Kennedy, Harvard Law School and author of *Sellout: The Politics of Racial Betrayal*  
[http://www.amazon.com/Exporting-American-Dreams-Thurgood-Marshalls/dp/0195329015/ref=sr\\_1\\_1?ie=UTF8&s=books&qid=1211457836&sr=8-1](http://www.amazon.com/Exporting-American-Dreams-Thurgood-Marshalls/dp/0195329015/ref=sr_1_1?ie=UTF8&s=books&qid=1211457836&sr=8-1)

**Submitted by Tom Kelley, UNC-Chapel Hill School of Law**

**Appeared on Americandiplomacy.org in March 2008.**

*A Peace Corps Volunteer in Niger, now an associate professor at a law school, returned to the country and the rural village where he had lived in order to do a research project. He kept a journal during the visit, and now shares it with us. It provides a fascinating picture of life in one of the world's poorest countries.— Ed.*



I arrived yesterday in Niger to begin research on Justice and Dispute Resolution in Zarma Villages, at least that's what the

grant application claimed. Now that I'm here I find myself wanting nothing other than to wander the streets of the capital, Niamey, and the sand paths of the bush. I want to catch up with old friends and see how things have changed since my Peace Corps days.

If I had studied anthropology rather than law there would have been courses, I imagine, on how to manage the process of returning to old haunts to perform ethnographic fieldwork.



Tom as a Peace Corps Volunteer, in his millet field with villagers

How am I supposed to deal with the fact that I involuntarily compare everything I see and hear to my memory's version of this place, obscuring my focus on the project at hand? How do I balance the fact that I am here to visit old friends and revisit scenes from a magical experience in my young adulthood with the reality that I have also come to work, to extract from those same friends data that will support my thesis and give rise to a publishable piece of scholarship? When I see my old friends and acquaintances, I'll have pen and paper in hand and I'll be probing for valuable nuggets of information. Few of them will even know why I am asking the questions. At the same time, they will be assessing how they can best take advantage of my presence. For some, it will be enjoying the tea and sugar and kola nuts that I always bring with me to the village.

Others will hope for a quick and simple infusion of cash. More ambitious and imaginative acquaintances will beg me to take them home to America, or at least help them arrange a visa so they can escape their blighted land and make their fortunes.

It is a fraught time of year to be visiting Niger. I timed my trip to coincide with what foreigners call "the hot season" and locals refer to simply as "the heat." At this time of year, men are returning to their villages after months of post-harvest wanderings in search of wage labor. Everybody is parched and exhausted from months of cloudless skies, sandstorms, and 120-degree temperatures. They're looking hopefully toward the sky, wondering if and when the rains will come and whether there will be happiness or hunger in the coming year. They are feeling pensive and restless and, I'm quite certain, ready to talk.

It was a fabulous first night in Fandou Berri. I caught a ride from the capital in a private car. As we topped the last hill before the village I could see that it now has a much bigger, more impressive profile than last time I was here. In the old days when looking from a distance one could only catch a glimpse of a few grass roofs and a cluster of tall trees. Now the village skyline is dominated by an impressive mosque with towers and domes and even an outbuilding for an as yet not purchased generator.

Everyone turned out to greet me as the car rolled down the sand path into the village center. Nobody seemed particularly surprised to see me, just happy. Almost all my old friends and neighbors were there, many having just arrived from Cote d'Ivoire and Burkina Faso. They're waiting for the rains to come and the growing season to begin. The village has an expectant air about it, like a military camp in which the soldiers

are awaiting orders to engage. The villagers are idle today but when the signal is given, they'll throw every ounce of their energy into planting and weeding. And like soldiers, they'll be fighting for their lives. In the meantime, they will be happy to sit under shade trees and answer my questions. At least that's what they said.

The village chief's compound is pretty much the same, though his grandsons, Jibirou and Bachirou, each now married, have their own huts.



Bachirou and Tom

Bachirou's is on the site where my hut once stood, under the shade of the trees I planted and he watered to maturity.

As darkness fell Jibirou dragged a mattress outside of his hut for me. Most people sleep outside on grass mats at this time of year, so there were dozens of men and children lying all around me. I lay in the dark listening to the distant sound of girls clapping and stomping their feet in unison — the same rhythm that lulled me to sleep hundreds of times during my years here. There was a breeze and the air was perfectly clear, save the lingering smoke from wood cooking fires. Steady conversation trailed off to occasional secrets whispered back and forth, then silence and sleep. As I drifted off I saw two shooting stars cross the northern sky. The Zarmas say this means two important people have died.

The next morning Jibirou's mother, Mariama, called me into her hut. “What are you going to do for us?” she wanted to know.

“What do you need?” I asked.

“That's not for me to say,” she said, “but we had a horrible harvest last year. Grasshoppers ate our millet and the rains were poor. We've already had to buy one sack of millet and it's almost gone. We have not earned enough money to buy more.”

Wearing the same sad expression she always put on years ago when asking me for something (she would tease me mercilessly when she did not need anything), she pointed to the depleted grain sack slumped on the sand floor of her hut.



Chatting with the village's oldest woman

It seemed clear that she was telling the truth. The village is full of telltale signs of last year's poor harvest and this year's want. The villagers' clothing is more tattered than usual because there was no excess grain to sell and thus no money for new outfits. There are no lights in the village at night because no one can afford to buy fuel for their kerosene lamps. Even peoples' addictions are going unsatisfied: No one is smoking cigarettes or chewing kola nuts because no one can spare the necessary nickel.



### Scavengers at a trash pile in Niamey

As Mariama knows, I would buy them the millet whether they truly needed it or not. She and her family were kind and generous to me during my two years in the village, and paying for a 50 kg sack of grain (I'll give them money for two) is the least I can do.

I'm back in Niamey, at the moment in a truck parked on the road next to the Petit Marché waiting for Issa to buy soap. The gutters are overflowing with detritus: onion peelings, fish scales, piss, shit, plastic bags, scraps of paper, unidentifiable gunk. A curious, hopeful, one-armed beggar who is dressed in tatters but retains a dignified air lingers by the car door saying nothing, watching me write. Across the way a man squats (Nigerien men squat to urinate) in front of a wall next to a fading sign that reads *Defense d'Uriner*. A dust storm settles on the city, now blowing violently over the top of the market causing fishmongers and old ladies selling smelly roots to scramble into action to cover their wares.

Earlier, driving through the city center on the way to the post office to buy stamps I observed:

- The jewelry shops are not maintaining stock. With the political instability in the northern part of the country there must be too few European playboys coming across

the desert and snapping up their wares.

- An old man squatting low on a patch of grass in front of one of the older government buildings. I noticed him because, even for Niger, it would be a strange place to urinate. But then I realized he was cutting the lawn, squatting down with a pair of hedge clippers hopping forward as he squeezed them. The spectacle bothered me, I suppose because this country doesn't have enough water to grow food, but soaks a patch of government grass to the point that it has to be clipped laboriously by an old beggar.
- Buses, large ones stuffed with young men singing and chanting. It must have been a political rally staged by the colonel (as the elected president, a former military officer, is still called), something I never would have seen a decade ago because the Cold War was still on and the brutal military dictators who ruled the country had no need to pretend they were presiding over a democracy. Neither of the packed, Greyhound-sized buses had a front window.
- More mind-bending filth. Passing by the Grand Marché I saw countless open sewers filled to overflowing: huge stagnant pools of lumpy, light



A typical bush taxi in Niger

gray liquid, much more pungent and foul than simple human waste. These vast, nightmarish moats bring me - a veteran - to the point of puking as I pass. All along the road there are coffee and food tables within ten feet of the muck.

A few minutes ago I handed money to a beggar. As my fingers brushed against his stump I registered the fact that he was a leper. I have read that casual contact does not spread leprosy. Still, I find myself rubbing my hand on my trouser leg and avoiding contact with my mouth.

I sit in the still, midday heat of Jibirou's hut in Fandou Berri having just rested for a half hour or so on his grass mat. I can hear murmurs from his father's hut next door, indicating that the family chooses to hide from the sun in the shelter of their hut rather than profiting from the shade and breeze of the village chief's tree.

This morning I set off from Issa's house in Niamey to the new Wadata bush taxi station hoping to catch a ride to the village. It's market day in Fandou Berri, so I was confident of finding a taxi. Although I turned in early, I slept later than expected, not crawling out of bed until almost 6:30. I didn't have time for breakfast, but I did have a quick cup of coffee and a satisfying trip to

the latrine, both important preparatory steps for trip into the bush.

I arrived at the station just as the Fandou Berri taxi was preparing to leave. It was full, but the taxi man sent one of the occupants, a woman, to take a Hamdallaye taxi. My white skin and an extra hundred francs got me the front passenger seat, though I had to share it with a bony paysan from a neighboring village.

The bush taxi was typical: A decades old station wagon with dozens of small shatters and several top-to-bottom cracks in the front window. Wires protruded from the dashboard, the ends bunched together by tabs of duct tape. A thick coat of dust obscured the dials and controls, though I could see them well enough to know that none worked. There were a few ripped, faded stickers on the front window, evidence of some past act of whimsy, some past time of prosperity.

I sat in front for a half-hour with my pack on my lap before we began the trip. I had forgotten the Nigerien necessity of multiple stops before getting on the road: stop to tie a spare tire to the roof, stop for gas, stop to talk to the driver's friend, stop to fill the radiator and the reserve water supply (stored under my feet), stop to add a tenth passenger, stop to clear the Hamdallaye police checkpoint.

In Hamdallaye, a young man pleaded with the driver for a place. He ended up climbing on top.

Five kilometers later, at the turn to Fandou Berri, a man and his wife pleaded for two more places.



A storm coming across the Sahara

The driver said the man could climb on top, but that there was no space for the woman. She paced around the car looking in the windows trying to figure out how to stuff another body in, but the paying passengers were having none of it. Finally, a young man sitting the back offered to ride on top and allow her a seat.

With three of them on top, plus tires, sacks of millet, bags, and suitcases, the station wagon listed badly to the right. With the left tires barely touching the ground, the taxi-man was obliged to drive on the extreme left of the road, using its steep grade to compensate for the car's starboard tilt. It worked fine, except that the car had no horn, leaving us to take our chances over hills and around corners.

It is a windy, dusty afternoon. Still no sign of rain. Yaye, with whom I spoke this morning about theft resolution in the village, offered to take me to a neighboring village this afternoon to speak with folks there. I'm sitting under the chief's tree sweating and thirsty while a crowd of young boys stares at me, preventing me from scratching the heat rash that has turned my lily-white backside into an angry red beacon.

It is 9:30 or so the next morning. I have been in the village less than 24 hours this visit. Still, I've got the brousse (bush) stench: the memorable mix of armpit odor and dust on my body and oil in my hair and greasy food stuck to my beard. My off-white clothing has taken on the brown tint of the soil, and I've got sauce stains on my cuffs from eating goeey okra sauce cross-legged.

I have already spent an hour or so today under a neighbor's tree talking about inheritance and land disputes. Then a half hour in Jibirou's hut asking him about his fields and how he works things out with Bachirou and Yow, his absent brothers. The four oldest brothers have a large millet plot of ten hectares that they cultivate together. Bachirou and Yow have been in Cote d'Ivoire since last summer trying to earn money. If they succeed, they'll share their riches with the rest of the family. While they're gone, Jibirou (the oldest brother who now must be in his late-twenties) and Braima (who is about 16) will cultivate as much of the ten hectares as possible. Jibirou said that if he and Braima have "courage," they might succeed in cultivating five, even six hectares. I asked Jibirou whether he and Braima could cultivate enough for everyone in the family to eat. He seemed doubtful. I wonder whether the food situation they now find themselves in is a result of the persistent drought or Bachirou's and Yow's absence.

Clouds should have begun rolling in by this time, and the nervousness is becoming more pronounced. They are a fatalistic and spiritual people. They know there is nothing they can do except pray, but I keep seeing them sneak peeks at the horizon.

At around noon, after a bowl of fried guinea hen eggs and a quarter loaf of bread, I

succeeded in dozing off on a grass mat on Jibirou's floor.



Interview in the shade

I woke only when the sweat soaked through my clothing and my legs stuck together.

I was gathering my reading and writing materials for a spell under the village chief's tree — again following old habits — but on my way out I heard Jibirou's mother telling someone that there would not be any more cars coming down the road today. I was surprised that my Zarma language skills are still good enough to pick that random information out of a distant conversation. Everyone agreed that I probably should head out to the road to maximize the chance of a ride, so here I am.

I am back in Niamey, which last night had its first significant rain. Issa and I were headed out for a beer when the storm hit. I am staying at his house and paying him to act as translator for my project, and practically every night I'm with him he insists that we step out. I think he feels an obligation to entertain me. He also enjoys parading me from bar to bar, showing off his exotic friend and stunning the locals by conversing with me in Zarma.

The electricity went out as we drove across the Kennedy Bridge into town. (The capital's only bridge across the Niger River, it was

built with USAID funding in the 1960s and named for the assassinated president.) The wind whipped dust and trash across the beam of the car's headlight and in tremendous swirls that battered the side windows. Well after the rain began, Issa turned on the wipers but all they did was smudge the dirt in great, wide streaks. Why replace wiper blades when you live on the edge of the Sahara?

We went to the Croisette, the scene of too many late nights back in Peace Corps days. The staff was relaxing on a quiet Sunday. The lone prostitute, Love, sat next to me, relieved that the only white person in the bar and thus her best prospect spoke English. She's from the Rivers State of Nigeria, which the British colonized. Though she conducts her trade in the universal language, she apparently finds it difficult to transact business with francophone Johns. She said she owns a fashion boutique and is just visiting Niger. She was persistent, putting her hand on my thigh and asking whether Issa's wife would mind her spending the night with me.

As we chatted, rain came through the bar's wood-paneled ceiling, first in droplets, then in steady streams. Our party had to move to avoid being drenched. After a half hour of hard rain a large portion of the ceiling behind the bar collapsed and a torrent of water crashed in.

For the rest of our stay the water poured in sending streams through and around the light fixtures and rivulets by our feet. As we left, I handed Love a 1,000 CFA note (the equivalent of a few dollars, or about half of what she would earn for a night's work) and thanked her for the conversation.



A typical bar in Niamey

As I was preparing for my final research trip to Fandou Berri, the planting rains came. I had planned to cover a lot of ground on Monday afternoon and Tuesday, focusing mainly on the question of whether and to what extent legal disputes are influenced by the spirit realm. But when I arrived in Fandou Berri on Monday afternoon the soil was damp and everyone was either in the fields planting or just back from their labor. Where only days before I and my lengthy questions about divorce and theft and inheritance had been the most interesting thing in the village, after the rain my friends and neighbors had far more important things to do. I adjusted my plan accordingly. Instead of posing questions to justify my grant and advance my career, I'd go to the fields to help them plant the crops that will determine whether they eat or go hungry.

The evening passed uneventfully, as Fandou Berri evenings always do. I talked, I listened, I watched the women caring for their babies, weaving grass mats, preparing supper over their three-rock fires. When bedtime arrived they urged me to move my mattress inside one of the huts. They feared I'd be uncomfortable in the 85-degree chill. I slept, comfortable if damp, in the same long pants I had worn all that day and would wear the next. I'm getting used to it.

In the morning I woke with the sun (a half hour after most everyone else in the village) and shared the previous evening's warmed-over millet and sauce for breakfast. While Jibirou and his brothers rigged the ox-cart for the long trip to the family's fields, Yaye and I set off together on foot. It was a perfect way to leave the village: a cool morning, my hat on, farming tools in hand, a walk along a sand path greeting my fellow farmers along the way, off into the deep bush to help the family take advantage of the healing rain.



Resting in a millet field

When the ox-cart caught up I bade farewell to Yaye, off to plant his own field, and climbed on with the rest of the family: Jibirou driving; his father Djibo sitting in front next to me with his youngest son alternately on his lap and lying between us trying to sleep; Jibirou's wife, young and smiling and perky; Bachirou's wife, younger still and sulking, defiant, proud; Djibo's wife, Mariama, reticent and guarded as always; and Braima, who was a small, runny-nosed boy when I lived here last, but who now has the muscles of a middle linebacker and his being relied upon to feed half of his extended family. We bumped along the sand path, then over the rutted approach and onto the laterite mesa that forms Fandou Berri's northern horizon.

After an hour or so Djibo told me we had arrived at the family's field. I looked around and saw hard-packed earth, the only remaining topsoil clinging to the roots of the few surviving trees and shrubs. Those bits of soil looked sadly isolated, little oases of dirt in a sand landscape, all else having been washed away in recent decades by wind and rain and too much cultivation. After twenty minutes of plodding through the moonscape of their "field," we arrived at a stretch of land that still had some soil, spotty though it was. We stopped at a gathering of three tumbledown huts, the family's home during the rainy season. A few minutes later, there was commotion in one of them. Mariama was swinging a stick at a viper and yelling at her young son to step away. She dispatched it and flung its carcass onto the sand outside the hut to bake.

I planted with the family all morning, doing mostly the women's work of dropping seeds and covering the holes with a swoosh of my foot. For a while the wind was blowing strongly, making it necessary to lead the seeds so they'd fall into the hole and not scatter. I was enjoying the test of eye-hand coordination, though there was a lot more at stake than sport.

After a while I got into the zone, that feeling I remember from my Peace Corps days of repetitive labor under the blazing sun. You have to breathe evenly, move deliberately, sweat, but sweat gradually. It's a state of mind. By the time Jibirou and I were sent off by his parents to the highway to catch a ride to the city I was completely fried. A decade makes a difference.

Now that the seeds are in it's up to God. If the rains come regularly over the next three or four months, Jibirou and his family will prosper. If not, they may well starve. I'm

flying home in a few days, so I won't be there when judgment day comes.



With friends in the village

I'm at the kitchen table at home. A gentle rain has been falling since the wee hours. A cool, light breeze is blowing through the back window and the screen door. I can hear a lone bird calling from the back woods. Classical music is playing in the living room. My eldest boy sits on the kitchen floor drawing pictures. The dog, Strawberry, sleeps at my feet.

I arrived yesterday afternoon after 24 hours of travel. Alex, my wife, had arranged for us to attend two birthday parties on the way back from the airport so I found myself stepping from millet fields in parched, turbulent Africa into humid, still, suburban back yards in North Carolina. It was not easy.

The boys wanted a goodnight story, but when I lay down on their floor and began a tale of an African drummer boy I began drifting off. My four-year old interrupted me with one of his usual comments or questions, but by the time he was done I was sound asleep. They roused me plaintively but I couldn't go on. My body wanted to sleep and my mind couldn't stay with the story line. I was saying things that didn't

make sense until my five-year-old finally said “Dad, is that the end of the story?”

I slept in a confused world somewhere between Niger and home. I vaguely recall being uncomfortably hot in the middle of the night and thinking there was nothing I could do about it since I was sleeping on the ground in front of Jibirou's hut, and in those circumstances there is no additional comfort to be had. I also remember feeling thirsty during the night and wrestling with whether or not to reach over to lift my plastic canteen off the dirt, feeling that I ought to lest I become dehydrated, but rolling over and ignoring that sensible thought because of exhaustion and because I always feared being stung by a scorpion at night.

At dawn I could hear rain falling. I considered whether or not to rouse myself and move inside the hut, and whether once inside the rain would come through the thatch and drench me anyway. As my confused mind struggled with how to react to the rain the thought passed through my head that I hoped it was not falling only on the village center. I hoped it would be falling on the distant fields we seeded just a few days ago. I knew that my friends Jibirou and Bachirou and their family would be happy if the rains were falling on their newly planted millet. Only with a good soaking rain will the seeds germinate and the small green sprouts begin to push their way up through the sandy soil. And with that I fell back into a sound, dreamless sleep.

## **Books**

**Submitted by Penny Andrews, CUNY School of Law**

COMPARATIVE CONSTITUTIONALISM AND RIGHTS: GLOBAL PERSPECTIVES. (Editors Penelope Andrews and Susan Bazilli). Published by VanDePlas Publishing (2008).

## **Selected Law Review Articles 2007-2008**

(Compiled by Monica Corrine Moran, 2L, Research Assistant and Michael Dobson, 3L, former Research Assistant to Prof. Jones, The George Washington University Law School.

**Louise Arbour**, *Economic and Social Justice for Societies in Transition*, 40 N.Y.U. J. Int'l L. & Pol. 1 (2007).

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**Mark Calagus**, Christina M. Drost & Edward Fluet, *Legal Pluralism and Women's Rights: A Study in Postcolonial Tanzania*, 16 Colum. J. Gender & L. 471 (2007).

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**Sandra Lee**, *Wimax in Africa: A New Frontier*, 15 CommLaw Conspectus 517 (2007).

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The purpose of the section is to promote communication, understanding, and activities among law schools of Africa and the United States. The Section shall seek to foster exchange of faculty and students, expand the availability of law library materials, with emphasis upon the development and sharing of technology and to promote comparative and international legal study and research in the administration of justice.

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