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YALE UNIVERSITY

PROGRAM IN LAW AND MODERNIZATION

FOURTH ANNUAL REPORT

1972-73

Submitted to the

Agency for International Development

October, 1973

211(d) Annual Report
October 1973

Yale University Program in Law and Modernization

Grantee: Yale University
New Haven, Connecticut

Chairman: Richard Abel

Executive
Director: Jerrold K. Guben

A. Statistical Summary:

Period of Grant: July 1, 1969 to June 30, 1974
Amount of Grant: $1,000,000.

Expenditures for Report Year: $293,579.20 Accumulated: $776,667.61
Anticipated for next year: $223,332.39

B. Narrative Summary:

The grant was designed to create a research and training center for the study of the relationship between legal institutions and the processes of modernization and economic development. The Program has created an institutional arrangement whereby scholars from the developed countries and the nations of the Third World can examine the role of the law in the developmental process, acquire research skills and techniques, and plan and carry out empirical research in nations of the Third World.

In pursuit of these designated objectives the Program has created a three-phase approach for training lawyers and social scientists interested in the study of law and the modernization process. The major efforts of the Program are directed to the creation of a series of courses and seminars for disseminating currently available knowledge to students (See Appendix I). The Program has also established a working paper and reprint series to distribute various reports, original research and translations prepared by Program participants (See Appendices G and H). Thirdly, the Program has conducted conferences and colloquia for members of the Yale community and visiting scholars. These conferences have ranged from a major conference on law and anthropology to mini-conferences on the legal profession in the developing states and East African law. (See Appendix B).

In its first four years the Program has trained a substantial number of lawyers and social scientists interested in the study of law and modernization. It has also assisted in the creation of research centers in Third World countries interested in legal studies. The Program has continued to distribute an ever expanding number of working papers and reprints to groups of scholars and institutions in the developed states and the Third World.

The Program operates on the premise that the acquisition of knowledge of a legal system will assist the developing states in their efforts to modernize. Additionally, knowledge of the operation of the law and legal institutions in the Third World will assist policy makers in the United States in the decision-making process. The Program has thus made a concerted effort to prepare scholars from around the world to develop insights into the functioning of their legal systems, while training American scholars to conduct research in the Third World.

A major development of the 1972-73 period was the implementation of the research training project. The training project involved the organization of a series of courses in the Law School and throughout the university designed to provide the theoretical and methodological skills necessary to conduct empirical research on legal institutions in the Third World. Many of the participants of the training project will spend the academic year 1973-74 carrying out their research projects in various sites throughout the world.

I. General Background and Purpose of the Grant

One of the basic premises of the Program is that legal institutions affect the social, political and economic structures of a society. Legal institutions are central to the developmental process insofar as they facilitate or inhibit realization of development goals. It was the Program's belief that through an analysis of the role of legal institutions in the development process scholars and policy-makers can most effectively comprehend and plan for the problems and crises which arise during modernization.

Academic scholarship in the 1950's and 1960's neglected the critical relationship between socio-economic change and the legal system. Many studies of the politico-bureaucratic process of Third World states omitted any examination of the impact of legal institutions on the nation-building process. This lacunae in academic scholarship was the result of a lack of interests among social scientists in legal institutions, and the failure of legal scholars to conduct empirical investigations. The Yale grant was intended to remedy these conditions in two ways. First, by bringing professionally trained social scientists to the Law School and involving them in the empirical study of legal phenomena in the Third World.

The other approach was to create in the Law School the capacity to train students of the law in the theoretical and methodological skills necessary to conduct empirical investigations in the Third World. By encouraging the interaction between lawyers with social science skills and professionally trained social scientists interested in legal phenomena, the Program created a critical mass of scholars involved in the analysis of the role of legal institutions in the development process. It was intended that this cadre, through their own research and teaching, would have an impact throughout the United States and the Third World. As more and more of the Program's participants return to the academic world and to government administration there will emerge a world-wide network of scholars interested in the role of law and socio-economic change.

II. Objectives of the Program

A. The Original Objectives

In our final proposal we set forth three basic goals for the Program. These were:

1. To collect, organize, and disseminate existing empirical and theoretical knowledge about the relationship between legal systems and political, economic, and social development ("modernization").

2. To develop new concepts and research methods which will permit a) interdisciplinary work by lawyers and social scientists on institutional aspects of modernization; b) work by social scientists on law and legal systems; and, c) more precise evaluation of the effect of specific legal systems on the process of planned modernization.

3. To encourage and support specific research projects by U.S. and LDC scholars (where feasible this research would be cooperative, and/or interdisciplinary). Among the types of research projects would be:

a. studies of the legal systems and legal cultures of specific societies;
b. studies of legal barriers to change in specific areas;
c. cross-cultural comparisons of the relationship between legal systems and modernization
d. interdisciplinary studies of strategies for planned social change in specific societies.

These have been, and remain, the Program's basic goals. But they were somewhat general in scope, and frequently merge several elements that should be kept separate for purposes of appraisal. Accordingly, in this annual report we have restated the original objectives to permit us more precisely to identify, describe, and appraise the Program's several elements.

B. The Objectives Restated

1. Research

a. to create and maintain an institutional structure within which studies can be conducted on various aspects of relationships between legal institutions and social, economic and political change in the Third World (such relationships are hereafter referred to as "law and modernization");

b. to organize and make available existing knowledge on law and modernization;

c. to conduct specific studies, primarily of a multi-disciplinary and empirical type, of law

and modernization. Such studies should attempt to verify and develop empirical generalizations and should be, if possible, cross-cultural;

d. to encourage research and theory building in other areas related to, and necessary for, the Program's priority efforts.

2. Training

a. to train existing Yale University faculty members. This training included learning social research methods, and gaining familiarity with behavioral science studies of law, development studies, and area studies of selected areas of the Third World (e.g. East Africa, Brazil);

b. to train a relatively small cadre of advanced researchers. These researchers would be exposed to the behavioral science study of law and trained to carry out developmentally relevant empirical studies. Candidates for this program would have either a law or social science background, and would be drawn primarily from universities in the U.S., other developed countries, and the Third World;

c. to impart to a much larger group of lawyers and social scientists (especially those who contemplate teaching careers) knowledge about the use of behavorial science in the study of law, and the developmental relevance of such studies.

3. Publication

a. to make available interim and final reports of Program research to the scholarly community;

b. to provide, where appropriate, a publication vehicle for important works in the field produced at other centers of research, and translations of important works unavailable in English.

4. Institutional Cooperation

a. to assist in the creation and growth of other research centers interested in the furtherance of knowledge about any aspect of law and modernization.

5. Library Development

a. to develop a working collection on law and modernization literature, on development studies generally, and on the legal systems of anglophonic Africa, and Latin America, particularly Brazil and Chile.

III. Accomplishments: Highlights of 1972-73

A. Research

I. Institutionalization: Creation of a Supportive and Stimulating Milieu

When the Program applied for the initial grant there was no institutional arrangement for the study of law and development at Yale. One of the first requirements for the establishment of a viable Program was the development of an infrastructure which would stimulate and support law and modernization research. Since the Program was unique at the time of the initial grant, we had no models in structuring an appropriate environment. During the four years of the grant, we believe we have realized our objective of creating an institutional arrangement supportive of conducting empirical legal research in the Third World.

This achievement is reflected in the network of cooperating scholars from the United States and the Third World who have turned their interests and research to problems of legal institutions in the developing countries.

The boundaries of the problem have been kept flexible in order to facilitate a continual re-definition of the field. When the Program received its grant scholars were not agreed as to the parameters of the field or the appropriate orientation or strategies of research. In the early years of the Program we found that a flexible definition of law and modernization would encourage individual scholars to articulate their own definitions of the field. This tentative shaping of a once amorphous realm of inquiry has crystallized into an emerging intellectual structure which has become bi-polar in nature.

For purposes of this analysis we can distinguish two perspectives: the scientific and the policy.

1. The Sociology of Legal Institutions: This emerging social science involves an interdisciplinary approach to the study of legal phenomena. Concepts and methodology are drawn from anthropology, sociology, political science and jurisprudence. Such a multidisciplinary orientation befits an emerging social science specialty in the process of laying out a framework to guide present empirical research and permit future theoretical elaboration. A major component of the sociology of legal institutions involves the articulation of a series of hypotheses relating legal institutions and the modernization process. These hypotheses are then translated into a set of research objectives and issues which permits the student of legal institutions to conduct empirical investigation in the Third World. This in turn permits the validation of these research hypotheses by intensive empirical investigation.

2. Policy-Studies of Legal Problems in the Third World.

> The second approach involves a more programatic and pragmatic approach to the study of legal institutions in the Third World. Rather than being concerned with the construction of testable hypotheses and their empirical validation, the student of legal policy confronts a specific situational problem and attempts to resolve the issue in a way consistent with the objectives of the developmental process. While such policy studies are often interdisciplinary in nature, their major objective is to resolve a pressing legal problem, without any specific intention of deploying a rigorous methodological strategy nor adding to the cumulative corpus of social science knowledge.

These two perspectives, the policy and the scientific, are not mutually exclusive, but interactive. While there is a certain overlap between policy studies and scientific research, it is essential that we distinguish the two orientations. Two critical differentiating factors are the ways of defining a problem and the methodology employed.

a) Definition of the Problem

The student of policy is often presented with a concrete problem susceptible for resolution from a governmental agency. The scientific researcher defines his problems with respect to the interests and concerns of the prevailing paradigm of the particular discipline. What distinguishes the scientific from the policy approach in the realm of problem-definition is in the lack of action-oriented research on the scientific sphere. The scientist defines his problem solely with respect to the theoretical concerns in his discipline. On the other hand, the student of policy is often given his problem by a government administrator or bureaucrat for programmatic resolution.

b) Differing Methodologies

The student of policy is concerned with the formulation of a set of answers to a specific problem. The technique and strategy for formulating the solution are of subordinate concern. This is to be contrasted with the scientific researcher who is more concerned with the procedures and techniques for the collection and processing of valid and reliable data. Not that the student of policy is unconcerned with valid and reliable data, but he is less involved with the philosophy and methodology of data collection. The scientific researcher is more aware of the strict canons of the scientific method and its systematic procedures for the generation of empirical data.

In defining the proper composition of policy studies and scientific research the Program has placed a greater emphasis on scientific research.

The Research Training Project has focused on imparting to the participants a concern for the philosophy and technique of data collection, with a more limited concern for the explicitly programmatic problem-solving.

The Program recognizes that the creation of an intellectual framework is only one dimension of the total effort. We believe that a productive center of scholarship must include both lawyers and social scientists drawn from the developed countries and the Third World. Additionally, the Program has attempted to select applicants whose skills, training and background would contribute to the objectives of the Program.

We have attempted to bring together fellows of diverse intellectual traditions. In the years of the Fellowship Program, we have had 21 Senior and Junior Fellows. Of these, 12 have had their primary training in law, six have had formal social science training, while three Fellows have done advanced work in law and social science.

Among those with professional social science training, the Program has attempted to draw from several disciplines. Included among the social scientists have been four anthropologists, two sociologists, one political scientist and one economist. The Program has also attempted to balance the Fellows geographically: 13 from the United States, two from Western Europe and six from the Third World.

As a means of creating a network for communication among the other Fellows themselves and between them and scholars, the Program sponsored a variety of activities. A luncheon series was inaugurated to introduce the Fellows to social scientists and legal scholars from the Yale community and the Third World. In addition the Program cooperated with the Russell Sage Program in Law and Social Science in presenting a bi-weekly series of colloquia by Program Fellows and other invited scholars. These sessions afforded the Fellows an opportunity to disseminate their work in preliminary form. Thirdly, the Program sponsored conferences on the legal profession in the developed countries and the Third World and a conference on African law. (See Appendix D)

2. <u>Organization and Dissemination of Existing Knowledge on Law and Modernization</u>

The Program has made major efforts to disseminate the knowledge of law and modernization by a variety of means. Course work and the seminar have been the primary vehicle for the diffusion of the available knowledge. Mr. Trubek and Mr. Abel offered a new course entitled Comparative Legal

Sociology which reviewed the application of the theories of Max Weber, Emile Durkheim and H.L.A. Hart in explaining the differences between legal systems. Mr. Trubek again offered his seminar on Law and Modernization. Mr. Trubek and Mr. Leon Lipson, a member of the Program's Executive Committee, offered a reading course on the Comparative Aspects of Civil Law and Common Law Systems.

Senior Fellow Yash P. Ghai offered two courses during 1972-73. One course involved an examination of the interaction of political change, economic development and African law. In the spring, Mr. Ghai offered a seminar on law and socialist development in the Third World. Senior Fellow Henry Steiner, of the Harvard Law School, offered a new course on Law and Socio-Economic Organization. Mr. Steiner's course examined the ways in which a legal system expresses and influences a society's social, economic and political ideals. Professor Benjamin Cohen of the Department of Economics who is a member of the Program's Steering Committee, offered a seminar on international private investment. Fellow Jerrold Guben, Executive Director, 1973-74, offered a new course on the Analysis of Social Systems. This course was designed as a prerequisite to the more advanced courses and seminars offered by the Program. (See Appendix I).

3. Development and Testing of Propositions: Specific Studies

The Program continued its major emphasis on dispute resolution as a focus of research. Mr. Richard Abel completed a major piece on dispute settlement drawing on his empirical research conducted in Kenya; it will appear in the winter issue of the Law and Society Review. Mr. Boaventura Santos completed his J.S.D thesis on the dispute resolution process in a "favela" of Rio de Janeiro; he is now revising it for publication. Dr. Santos spent several months as a participant observer in the "favela" in order to collect his numerous case studies.

Heleen Ietswaart, a J.S.D candidate, was in Chile for 9 months studying the impact of the Allende regime on the Chilean legal system. Ms. Ietswaart focused on the operation of the labor courts and inspectorate. Mr. Neelakandan Tiruchelvam, a fellow of the Program, continued his research on the Conciliation Boards in Ceylon. Mr. Tiruchelvam and his research assistants were in the field for over eight months, conduct-

ing interviews with the participants and judges of the Boards, as well as observing cases. Mr. Richard Burcroff, an economist and a Fellow of the Program, designed an empirical project for the study of the penetration of legal rights in the rural areas of the Philippines. (See Appendix C)

This interest in dispute resolution will be continued in 1973-74. Ms. June Starr, a Program Fellow and an anthropologist from the State University of New York, Stony Brook, will continue her analysis of dispute resolution in rural Turkey. Mr. Michael Lowy, an anthropologist from the University of Pittsburgh and a Fellow in the Program, will continue his research on the local courts and dispute resolution in West Africa.

A second area of research involved the role of the legal profession in the Third World. The Program sponsored a two day conference on the African Legal Profession with scholars from Africa, Latin America, England and the United States participating (See Appendix D 3). Additionally, Dennis Lynch, a Fellow and J.S.D candidate is conducting an empirical research project on the transformation of the role and function of Colombian legal profession during the modernization process. Mr. Stephen Wallenstein, a J.D candidate who has worked closely with several members of the Program, designed a research project to examine the impact of modernization on Brazilian legal education. Mr. Wallenstein will spend an intensive semester in Brazil this year carrying out his research. Ms. June Starr and Mr. Tiruchelvam will begin in 1973-74 a major study of the Ceylonese legal profession under the auspices of the International Legal Center.

4. Other Research

The Program conducted extensive overseas research in 1972-73. Mr. Bolivar Lamounier visited Brazil to continue his research on the institutionalization of authoritarianism in Brazil. Mr. Lance Compa, a J.D. candidate, spent seven months in Chile studying the collective bargaining process in the machine manufacturing industry between 1958 and 1972. Mr. Alberto Hernandez, a J.D. candidate spent six months in Geneva conducting a study of the relationship between state and private investment in the oil industry in the Middle East. Mr. H.W. Okoth-Ogendo, a 1973-74 Fellow and a J.S.D candidate, is conducting research in Kenya concerning the impact on the agrarian social structure of the recently

enacted land reform law. Mr. Attila Andrade, a J.S.D candidate supported by the Program, began preparing an empirical study of the impact of the National Housing Bank of Brazil on the housing market. Mr. Andrade will spend 1973-74 in the central headquarters of the Bank in Rio de Janeiro interviewing various bank officials, builders, government officials and consumers.

5. Research in 1972-73: Trends and Summary

This past year saw the continuation of the Program's efforts to foster overseas empirical research. Consistent with the Program's decision not to squeeze all research projects into some preconceived theoretical framework, we permitted individual projects to contribute to an emergent analytical framework which will in turn provide guidance and direction to future research.

This approach is reflected in the Program's efforts in generating a scheme for the analysis of the dispute resolution processes. In summarizing existing research by Program participants and others, Mr. Tiruchelvam and Ms. Ietswaart prepared a bibliography on "Popular Justice", which is now working paper no. 21 in which Mr. Tiruchelvam gave a report on his findings. It is this flexible approach to research, with an eventual synthesis and convergence, which the Program has found most useful.

6. Expenditures

In 1972-73, we spent approximately 26% of our total annual budget on research (See Appendix J).

B. Training

1. Research Training Project

The Program's emphasis on the training of students and other scholars is consistent with the orientation of the Yale Law School. A substantial effort in terms of funding and faculty time has been committed to the training of undergraduate and graduate students. In order to integrate the Program's interest in empirical research and the Law School's orientation towards teaching, we have prepared a curriculum which would combine the research degree (Ph.D/J.S.D and teaching interest (J.D) in a six year program of professional legal education and advanced social science training.

These efforts culminated in the Research Training Project. The initial design of the Research Training Project contemplated a four-fold sequence.

1. substantive course work in the law school and cooperating social science departments in the university.

2. training in research strategies and techniques.

3. the preparation of a detailed research design under faculty supervision.

4. the carrying out and the writing up of the empirical study.

In 1972-73, a number of Program participants went through one or more steps of the Training Project. Mr. Robert Pozen, a J.S.D candidate and an 1972-73 Fellow, conducted his empirical field work in Ghana on the transplanting of the British model of a public corporation to a West African country. Ms. Heleen Ietswaart, a J.S.D candidate, completed her course work and methodological training in the Sociology Department. Ms. Ietswaart has now completed her field research in Chile and has returned to Yale to write up her findings. Dr. Boaventura Santos, J.S.D candidate and 1971-73 Fellow, took work in the Law School and Department of Sociology preparatory to his empirical research in Brazil. Dr. Santos has since completed his dissertation and has been awarded his degree. Mr. Neelakandan Tiruchelvam was given special training in research methods prior to initiating his field research in rural Ceylon. Mr. Dennis Lynch,

a 1972-74 Fellow and J.S.D candidate, took courses in the Department of Sociology and the Law School to acquire the substantive and methodological skills needed to carry out his empirical research on the Colombian Legal profession. Mr. David Clark, a J.S.D candidate, and Mr. Stephen Wallenstein, a J.D. candidate, also undertook interdisciplinary training in preparation for field research in Latin America. Mr. Attila Andrade, a J.S.D candidate, also took training in the social sciences prior to his field work in Brazil.

2. Training in the "Use" of Law and Modernization Research

While the Research Training Project is designed to impart an intensive preparation in law and social science, the Program recognizes its responsibilities to instruct the legal scholar or social scientist who does not intend to become a full-fledged social researcher on law. These students are exposed to a new way of thinking about legal institutions, and shown how social science methods can be used in this study. These goals are pursued through the regular J.D. and LL.M degree program, aimed at the training of legal practioners and scholars. Courses supported by the Program are available to students in these two regular degree programs. Special efforts are made to recruit Third World students to the LL.M Program and grant funds are used to support these LL.M candidates. (See Appendix A4 and F).

In addition to formal training in methodology, the Program has aided American and European students to gain an appreciation of legal problems in the Third World. Not all of these students will enter the academic profession; many will assume careers in private practice and governmental work. We believe that such training is important to these non-academics to sensitize them to the problems of development in general and the nature and variety of legal systems in societies of the Third World.

3. Publications

In 1972-73 our working paper series and reprint series saw a substantial increase. Fourteen new Working Papers were published during the year, an increase of 50% in comparison to the first two years of the Program. Working papers and Reprint Series were distributed throughout the country and the Third World to universities, research centers and international assistance agencies. During the year, we received approximately 95 requests for working papers. Our Reprint Series offered four new publications during 1972-73; Mr. Robert Pozen's dissertation, THE

BRITISH PUBLIC CORPORATION IN GHANA: LEGAL TRANSFERS TO THE THIRD WORLD, was published as a working paper, and is currently under consideration for publication by the Yale University Press. (See Appendix G)

4. Institutional Cooperation

Dean Abraham Goldstein conducted a major tour of law schools in Latin America visiting schools in Lima, Peru; Sao Paulo, Brazilia and Rio de Janeiro, Brazil. During his tour, the Dean spoke to the faculty and to students at Catholic Law School (PUC) in Rio de Janeiro on legal education and the use of social sciences in the United States.

Mr. David Trubek taught a two week course in law and social science at PUC in Rio de Janeiro. Mr. Trubek was instrumental in establishing a new master's degree program at PUC with an emphasis on the integration of law and social sciences. The PUC-Masters Degree Program is being administered by Mr. Joao Mestieri, a Program participant 1971-72 and LL.M. recipient. Mr. Robert Stevens participated in a conference on "Legal Education in less Developed Countries" at the University of Warwick, England.

5. Library

For the budget year 1972-73, an amount of $30,000 was ear-marked for library acquisitions. Of this amount, $24,972.94 was actually spent, while an amount of approximately $4670.00 was committed.

As in the previous budget year, the largest amount--$14,895.75--was spent on Africa. Ms. Gillian Bull, the African law specialist, who returned to England in the beginning of May 1973, was responsible for the African acquisitions for ten months out of this budget year. The policy which was established in the previous year was continued. The emphasis remained on the eight countries (Ethiopia, Ghana, Kenya, Nigeria, the Sudan, Tanzania, Uganda, and Zambia) on which the Yale Law School concentrates in its research and teaching program. However, somewhat more attention was paid to other African countries, and the proportion of books in foreign languages as compared to those in English increased slightly. Next to legal materials, publications in related fields such anthropology, economics, political science, and sociology were acquired, as well as works of a general or interdisciplinary character, and especially those dealing with problems of development.

The deposit accounts which had been established in Botswana, Ethiopia, Ghana, Kenya, Lesotho, Malawi, Nigeria, Rhodesia, Tanzania and Zanzibar, Uganda, and Zambia, were replenished. New deposit accounts were established in Liberia, Mauritius, Somalia, Sudan, and Tunisia. We continued receiving the Official Gazettes of the first eleven countries, including their legislative supplements.

The next largest area of expenditure was Latin America amounting to a total of $6886.27. The effort to concentrate on Brazil and Chile was continued, but this effort succeeded markedly better with Brazil, for which country, once again, extensive serial backfile on microfilm was acquired. The publishing and dealer situation in Chile has been deteriorating. Little has been offered from that country and it remains to be seen whether this situation will now change. All of the more important Latin American nations are now included in the acquisitions program, and it is hoped that this can be continued and expanded into the Central American area despite the many difficulties that this part of Latin America offers.

Asia comes third with a total expenditure of $676.93. It is hoped that in the next budget year the acquisition effort for this continent can be expanded significantly. While the source of the largest output of legal and related materials--South Asia, especially India--is covered almost completely by the PL 480 Program, there are other important areas, specifically the Philippines, Malaysia, and Singapore, where gaps have been developing in the past years. A substantial increase in acquisitions, especially in Philippine materials, is desirable. It is hoped that China can be included in this program.

A detailed account for the three continents, broken down into English and foreign language materials, and further into monographs and periodicals, follows as an appendix, which also shows additional expenditures for books and periodicals dealing with development problems in general and miscellaneous expenses. (See Appendix K).

IV. Impact of Grant Supported Activities in Developing Institutional Capabilities

The curriculum of an American law school focuses on courses and seminars related to advancing professional education. We in the Program recognized the need for external funding in order to create a schedule of courses, a cadre of interested persons and infrastructure capable of supporting the participants in the law and modernization area. It was the grant which provided sufficient funds to support faculty members in the formulation of new courses and seminars, students interested in doing law and modernization work, and needed library facilities.

A major component of the first four years involved support of faculty members in the preparation and teaching of courses related to modernization. Faculty members supported by the Program over the term of the grant include Richard Abel, Donald Black, William Felstiner, Robert Hudec, Quintin Johnstone, Leon Lipson, Michael Reisman, Robert Stevens, David Trubek and Stanton Wheeler.

In addition the Program has encouraged various Fellows of the Program to teach courses or seminars in their specialty. Fellows who have taught courses include Laura Nader Yash Ghai, Henry Steiner, Robert Pozen and Jerrold Guben. Over the four year period the Program has funded a variety of courses and seminars dealing with law and modernization issues. Many of these courses would not have been offered to the law school community but for the grant. Additionally, the Program has provided faculty members with an opportunity to improve already existing skills or acquire new intellectual skills.

The grant has been a major factor in creating a critical mass of faculty members, Fellows and students in the area of law and modernization studies. In this respect the Program has developed a two-pronged strategy. On the one hand, the Program has designed courses and seminars attractive to the undergraduate law student. For the advanced undergraduate student, the Program has worked closely with the Law School's committee for the "Intensive Semester". The unique "intensive semester" at Yale permits an undergraduate law student to undertake an empirical research project for one semester while receiving full academic credit. A number of students

have taken advantage of the Program's involvement with this. Among the undergraduate students who have participated in the intensive semester program while funded by the Law and Modernization grant are Mr. Robert Pozen, J.D., 1972 and Fellow, 1972-73; Mr. Lance Compa, J.D., 1973; Mr. Stephen Wallenstein, Class of 1974; Mr. Rosser Brockman, J.D. 1971; Mr. Alberto Hernandez, Class of 1974.

A second phase of the Program involves a series of courses and seminars for graduate students from the United States and Third World. These students have all received their basic professional training in law and have applied to Yale for the LL.M. or J.S.D degree.

The American graduate students accepted for the Program have been exposed to life and work in the Third World. These candidates bring to the Program an extensive experience in the country, language skills and an interest in acquiring a more theoretical and systematic perspective on the legal institutions of the country of their interest.

A second aspect of this program involves Third World students at Yale. The Program has provided the fellowships and scholarships needed to support these students while at Yale. In addition to direct financial assistance to these students, the grant has permitted faculty members to work more intensively with Third World students. (See Appendix A3).

V. Utilization of Institutional Resources in Development

During the past year, Program participants have worked actively in the academic and governmental sphere in law and development problems. David Trubek served as Chairman of the International Legal Center's Research Advisory Committee on Law and Development. A 1973-74 Fellow, Akilagpa Sawyerr, of the University of Ghana, Legon, is also a member of that committee.

Senior Fellow Yash Ghai served as a Consultant to the Government of Papua, New Guinea. Mr. Robert Stevens continued as an adviser to the East African community. Senior Fellow Henry Steiner participated in a conference on legal education in the Third World held in Lima, Peru. Professor David Apter of the Department of Political Science, a member of our Steering Committee, participated in conferences on law and development in Lima, Peru and Santiago, Chile. 1973-74 Fellow June Starr of the Department of Anthropology, State University of New York, Stony Brook,

has been appointed by the International Legal Center (ILC) to direct a major project on the legal profession in Ceylon. Dr. Starr will be assisted in the project by Neelakandan Tiruchelvam, 1971-73 Fellow of the Program. Mr. Tiruchelvam and former Senior Fellow (1970-71) Marc Galanter of the Law School at the State University of New York, Buffalo, will conduct a conference on the use of research techniques and strategies in law and social science problems, to be held in Colombo, Ceylon in December 1973. The Program sponsored in part by the Law and Modernization Program, will bring together scholars from all over South and Southeast Asia.

Many scholars trained under the auspices have returned to their universities. This past year Mr. Attila Andrade, Mr. Jose Bimbato, Mr. Marcus Repozo and Mr. Gustav Toniatti have returned to Brazil to continue their teaching careers. Mr. Robert Pozen, a 1972-73 Fellow, has taken a teaching position at Georgetown University. Mr. David Clark, a J.S.D candidate, has joined the AID Stanford Law School Project in Law and Development. Mr. Neelakandan Tiruchelvam has accepted a law teaching position in Colombo, Ceylon. (See Appendix C)

VI. Level of Activity and University Contribution

The grant application projected cumulative expenditures of $776,667.61 by June 30, 1973: actual expenditures were $293,579.20 for 1972-73. This level of expenditure reflects a continuing emphasis on organization and administration while significantly increasing the level of teaching and research. Expenditures during 1972-73 fell below the projected $298,803.00. Publication and distribution of research efforts (working papers, reprints, etc.) increased expenditures for research assistance, xeroxing, and postage. (See Appendix J1).

The University has continued to provide major contributions to the Program. These have included substantial office space and access to equipment. All overhead costs have been borne by the University, totalling $115,010.00 through 1972-73. The University provided an additional $19,266.84 for the Overseas Research Fund during 1972-73.

VII. Program Administration

The Program's administrative structure during 1972-73 remained largely similar to that of the previous year, although there were several changes. The position of Research Director was eliminated and assumed by the Executive Director. The revised administrative structure is as follows:

A. Dean- Names members of Steering and Executive Committees; processes nominations for faculty appointments received from the Steering Committee; approves appointments of Research Fellows; approves research grants in excess of $250.00; approves travel grants in excess of $350.00.

B. Steering Committee- Recommends faculty appointments to the Dean; exercises general policy direction of the Program. Advises the Dean on research grants in excess of $250.00.

C. Research Committee- Was eliminated and replaced by the Steering Committee.

D. Chairman of the Steering Committee- Convenes the Steering and Executive Committee; approves research grants under $250.00 and travel grants under $350.00; provides overall Program direction.

E. Executive Director- Assists the Chairman in conducting day-to-day business of the program. Acts as secretary to the Executive Committee, maintains the financial records of the Program being responsible for routine administration; assists Chairman in research supervision.

F. Administrative Assistant- Assists the Executive Director in maintaining financial records and assists in routine administration. Responsible for distributing publications provided by the Program.

In 1972-73, the incumbents in these positions were:

Dean- A.S. Goldstein

Executive Committee:	J. Guben, L. Lipson, Q. Johnstone, R. Abel, J. Roberts, D. Trubek (Chairman).
Steering Committee:	J. Guben, L. Lipson, J. Roberts, Q. Johnstone, D. Trubek, S. Wheeler, J. Goldsen, B. Cohen, D. Apter, and M. Reisman, R. Abel.
Research Committee:	J. Guben, D. Trubek, L. Lipson, S. Wheeler, B. Cohen.
Administrative Assistant:	F. Burton

All administrative costs of the Program were charged to the AID grant: all overhead costs were assumed by the University.

During 1972-73, we spent approximately 3% of our total annual budget (including Overseas Research Fund) on salaries for persons engaged in Program administration.

VIII. 1973-74: Plans and Budget

A. General

In 1973-74, the Program will have the following visitors: In the fall of 1973, Professor Vilhelm Aubert of the University of Oslo will visit Yale under the sponsorship of the Program. Professor Max Gluckman, the renowned legal anthropologist from the University of Manchester, will be a Senior Fellow of the Law School during the spring 1974. Professor Gluckman participated in the Program's conference in Law and Anthropology in November 1971.

Two legal anthropologists have been appointed Fellows for 1973-74. Ms. June Starr of the State University of New York, Stony Brook and Mr. Michael Lowy of the University of Pittsburgh. Two other new Fellows are Dr. Akilagpa Sawyerr of the University of Ghana and Mr. Brun-Otto Bryde of the University of Hamburg. (See Appendix E)

B. Major Developments

1. Courses and Seminars

The Program will continue to offer a full complement of courses and seminars. Mr. Guben's course on social systems will be offered again. Mr. Abel will be giving courses on legal anthropology and African judicial systems. Mr. Aubert will give a short course on the sociology of law. In the spring, Mr. Gluckman will offer a short course in African legal anthropology. (See Appendix I).

2. Special Programs

The Program is planning to continue its luncheon session, which has proved to be an excellent forum for the participants in the Program to meet leading social scientists and legal scholars on an informal basis. As in years past, each fellow will be asked to give a report on his most current research project. A selection of the work is circulated to the participants to provide a basis for discussion.

3. Recruitment

In 1972-73 Mr. Jerrold Guben, Executive Director of the Program, visited four Latin American countries on a recruitment trip. This is the first time the Program has attempted a systematic canvas of potential applicants. Through these efforts, Mr. Guben was able to recruit three J.S.D candidates interested in law and modernization problems and the Program.

C. Financial Plans

Our projected budget for 1973-74 is attached as Appendix J-2 and reflects the process of transition from an experimental program going full scale to one which can gradually be integrated into the regular operation of the Law School. The Program's initial grant terminates on June 30, 1974, which is the end of the current academic year. To continue the operation of the Program until it can be fully supported by University funds, we have requested from AID a supplementary grant of $300,000.

The requested supplemental grant described in tentative terms in a letter from Dean Goldstein to Mr. Jonathan Silverstone dated July 5, 1973, would extend over a three-year period on a declining basis. The first year of the proposed supplemental period will be funded at $150,000 for the year. $100,000 is allocated to the second year and $50,000 for the final year of the supplemental grant period. It is anticipated that at the end of the third year, the Program will be on a self-supporting basis from a variety of Law School and University sources.

The three-year supplemental grant period will permit the Law School and the Program to elaborate plans for support on a continuing bases: Discussions are now being conducted with the Dean and the appropriate faculty committees to insure the continued existence of the Program after the AID funding has terminated. The requested $300,000 supplemental AID grant will assist the Program in maintaining its core of faculty personnel, research fellows and graduate students in the transition period. It is anticipated that during the transition period a larger proportion of the Program's budget will be assumed by the Law School, until it has become fully institutionalized in the Law School's curriculum.

D. Specific Research Goals

1. Doctorates and Other Major Studies to be Completed

Mr. Abel will submit his Ph.D thesis on the dispute resolution process in Africa to the University of London. Mr. Abel is also planning to publish portions of the thesis in an American law review. Mr. Neelakandan Tiruchelvam will submit his S.J.D. thesis to his committee at the Harvard Law School. Mr. Dennis Lynch is expected to continue to gather data and to prepare a draft of his J.S.D. thesis on the Colombian legal profession. Ms. Heleen Ietswaart is expected to complete her J.S.D. thesis on the legal reforms of the Allende regime.

2. Field Research Projects to be Begun

Mr. Hastings Okoth-Ogendo will spend the year in Kenya carrying out an empirical study on the impact of the Kenyan land reform law on the agrarian social structure. Mr. Richard Burcroff will complete his field research on the penetration of legal norms in rural Philippines. The study is to test a number of hypotheses relating village social structure and the process of dispute resolution. Mr. Stephen Wallenstein will complete his research on the impact of economic development on the education of lawyers in Brazil. Mr. Wallenstein will examine the new movement for educational reform in the Brazilian law schools. Mr. Attila Andrade will begin his empirical research on the National Housing Bank in fulfillment of the requirements for his J.S.D. degree.

3. Other Research

Ms. June Starr will complete the analysis of her field data on dispute resolution in Turkey. Mr. Michael Lowy will continue his analysis of data on the urban courts of West Africa. Mr. Akilagpa Sawyerr will prepare his work on conflicts of law for publication. Mr. Brun-Otto Bryde will continue his research on developing a conceptual scheme for analyzing law and modernization issues.

APPENDIX A

1972-73 Senior and Research Fellows

Senior Research Fellows

Yash P. Ghai, of Kenya, B.A. (Oxford), LL.M (Harvard) was Professor of Law at University College, Dar es Salaam and was Dean of the Faculty of Law there from 1967-69. He is author of Public Law and Political Change in Kenya (with J.P.W.B. McAusland) (Oxford University Press, 1970), and Portrait of a Minority: Asians in East Africa (Oxford University Press, 1970) (with D.P. Ghai) and numerous articles on constitutional law and law reform. During 1971-72 he taught a seminar on East African Law with Mr. Stevens. Professor Ghai is now on the Faculty of the University of Uppsala, Sweden.

Henry J. Steiner, B.A. (Harvard), M.A. (Harvard - International Affairs), LL.B (Harvard). As Professor at Harvard Law School since 1965, he has taught primarily in the international and comparative fields with recent emphasis upon the role of law in socio-economic change. He is author of several articles in legal reviews and other periodicals as well as co-author of a coursebook, Transnational Legal Problems, (1968).

Fellows

Boaventura de Sousa Santos, of Coimbra, Portugal, Licenciatura (Coimbra), LL.M (Yale), is Assistant Professor of Law in the Faculty of Law at Coimbra University and received his J.S.D. degree at Yale this year. Dr. Santos is now teaching at the Universidado de Coimbra.

Neelakandan Tiruchelvam, of Colombo, Ceylon, LL.B (University of Ceylon), LL.M (Harvard), has been a Lecturer in Law at the University of Ceylon and is a J.S.D. candidate at Harvard. Mr. Tiruchelvam has accepted a position at the University of Ceylon for the year 1973-74.

Robert C. Pozen, of Washington, D.C., A.B. (Harvard), J.D. (Yale), J.S.D. (Yale). Formerly a staff member of Ralph Nader's Center for the Study of Responsive Law 1970-71, consultant on urban problems for ABT Associates 1968. While participating in the Program, Mr. Pozen continued to teach a spring semester course in Yale's City Planning Department. Mr. Pozen is now on the Faculty of Georgetown Law School.

Jerrold Guben, of New Haven, Connecticut, B.A (University of Southern California), A.M. (University of Michigan), J.D. (Harvard), is a Ph.D candidate at the University of California. During 1970-72, he has been a Russell Sage Fellow, at the Law School. His work, "The 'England Problem' and the Theory of Economic Development" is Working Paper No. 9 of the Program in Law and Modernization. As a Research Fellow, he will continue his research on the relationship between legal and social change in Colonial America. He was appointed Executive Director of the Program in Law and Modernization and is also a Lecturer in law teaching a seminar, Introduction to the Analysis of Social Systems.

Richard Burcroff, of Ticonderoga, New York, B.S. (R.P.I.), Ph.D (University of Washington), was acting Assistant Professor of Economics at the University of Hawaii. His dissertation addressed Contractual Choice in Philippine Agriculture: Implications for Land Reform in Asia. His major fields are micro-economic theory, law and economic development.

Dennis O. Lynch, of the Ford Foundation in Colombia, A.B. (University of Oregon), J.D. (Harvard). Now a J.S.D. candidate at Yale. His research at Yale concerned the impact of economic development on the legal profession of Colombia.

Mr. Nurkut Inan, of the Ankara Law School, was a Special Student during 1972-73. While at Yale, he worked in the areas of development economics, law and economic reasoning, sociology of law and economic theory under the Department of Economics Program in International and Foreign Economic Administration.

Summary of Student Research

Lance Compa, '73 L, spent an Intensive Semester in Chile studying collective bargaining in the machine manufacturing industry of Chile from 1958-1972.

Heleen Ietswaart, LL.M Yale '71, a doctoral candidate; conducted research on labor courts and the labor inspectorate.

Stephen Wallenstein, '74 L, has spent this summer in an intensive language training program in Rio de Janeiro in preparation for his forthcoming Intensive Semester research on change in Brazilian legal education. He is spending an Intensive Semester in Rio de Janeiro and will return in January, 1974.

In addition, the Program supported the following Graduate Students:

Attila Andrade, of Brazil, LL.B (University Federal de Rio de Janeiro, LL.M (Yale).

David Clark, A.B. (Stanford), J.D. (Stanford), J.S.M. (Stanford). Began preparing a research project on the impact of the Legal Digest on the Costa Rican legal system.

Sadanand Jha, B.L. (Bernaras Hindu University), LL.M (Yale).

Hastings Okoth-Ogendo, LL.B (Dar es Salaam), B.C.L. (Oxford).

Jose Bimbato, of Brazil, B.A. (Universidade de Brasila).

Toniatti Gustav, of Brazil, B.A. (Fac. Dir. Rio de Janeiro).

Bart Schwartz, spent his Intensive Semester at Harvard studying Japanese Law and the Japanese language.

Alberto Hernandez, spent his Intensive Semester in Geneva, Switzerland studying legal, political and economic issues arising from the relationship between foreign business interests and developing states.

APPENDIX B

PROGRAM IN LAW AND MODERNIZATION INTERNATIONAL LEGAL CENTER

CONFERENCE ON THE STUDY OF LEGAL PROFESSIONS

February 16-17, 1973

Yale Law School - Faculty Lounge

Friday, February 16, 1973

3:00PM Mr. Marc Galanter: Some Bases for the Comparison of Legal Professions

Discussants: Mr. Jerrold Guben
Mr. Stephen Warner

6:00PM Dinner (Law School Faculty Dining Room)

8:00PM The Legal Profession in the Developed Countries

U.S.A.: Mr. Quintin Johnstone

U.S.S.R.: Mr. Leon Lipson

U.K.: Mr. Robert Stevens

Discussants: Mr. Geoffrey Hazard
Mr. Juan Linz

Saturday, February 17, 1973

9:00AM The Legal Profession in the Developing Countries

Chile: Mr. Peter Ellis

India: Mr. Robert Kidder

Ghana: Mr. Robin Luckman

Discussants: Mr. Amos Odenyo
Mr. Henry Steiner
Mr. Neelan Tiruchelvam

12:00 Lunch (Law School Faculty Dining Room)

AFRICAN STUDIES CONFERENCE

The African Studies Conference, sponsored by the Program in Law and Modernization, The Council on African Studies, and the Department of Political Science at Yale was held on Friday and Saturday, March 2-3 1973 at the International Relations Lounge, Yale University. Speakers at the conference included the Honorable Joshua Zake, former Minister of Education and Attorney-General of Uganda on "The Asian Factor in Ugandan Society" and the Honorable Roland Brown, formerly Attorney-General of Tanzania and later, Advisor on Constitutional and International Affairs to President Nyerere, who spoke on "Expropriation of Assets: An African Viewpoint." Following the two lectures, Mr. John Okumu, formerly Dean of the School of Social Science at the University of Nairobi, acted as commentator on the lectures given by Mr. Zake and Mr. Brown. Later, informal cocktails and dinner were served at the Law School Faculty Lounge followed by discussion on East Africa since its Independence.

On Saturday, March 3, 1973, discussions on the future of East Africa were held in the Faculty Lounge of the Law School.

APPENDIX C

1972-73

Developmental and Other Related Activities

During the year, Program participants were involved in the following related activities:

Mr. Stevens acted as adviser in Tanzania to the East African Community. In May 1973, he worked at the University of Warwick, England with a group on a series of background papers in "Legal Education in Less Developed Countries." He also acted as Chairman of the Steering Committee.

Mr. Trubek was Chairman of the Steering Committee from 1970 to 1973. He was also chairman of the International Legal Center's Research Advisory Committee; and taught a course on Empirical Research in Law at PUC-Rio in May 1973.

Mr. Joseph Goldsen, secretary to the International Studies Conciliation acted as a member of the Steering Committee.

Dean John Roberts was a member of the Steering Committee.

Mr. Jerrold Guben delivered a paper on the "Transformation of the Legal Culture in the Massachusettes Bay Colony, 1630-1730" at law and social science seminar at the Law School. He also undertook a review of Latin-American law school graduates in Peru, Chile, Argentina and Brazil for the Program. He also prepared a course, "The Analysis of Social Systems" for the Yale Law School, focusing on the use of social science materials in the study of Third World Countries.

Mr. Yash P. Ghai participated on a panel, A.A.L.S.. Convention in New York on the Delivery of Legal Services in Africa and the convention of the American Society of International Law in Washington; he completed a paper, "Regulation of Discrimination in Employment Practices: The African Case." He presented a paper, "Public Corporations in Tanzania" at a conference of the International African Law Association in Bordeaux. He served as Constitutional Consultant, to the Government of New Guinea, March 1973. He was also a member and secretary of the International Committee of the International

Legal Center, New York. His publications included "Constitutions and Political Order in East Africa" I.C.L.Q. (July, 1972); "The East African Industrial Licensing System: Towards Regional Industrial Integration", forthcoming, Journal of Common Market Studies. Mr. Ghai taught a seminar on East African Law and on Law and Socialist Development. Mr. Ghai continued his research on law and development in Tanzania, with particular emphasis on adapting the inherited legal system to a socialist political economic order. A Working Paper to that effect is in the process, entitled "The Corporation in Tanzania: The Challenge of Development of Law."

Mr. Leon Lipson participated as a member of the Steering Committee.

Neelan Tiruchelvam, Mr. Tiruchelvam visited the major law schools in East Asia to discuss the prospects of establishing a Regional Institute on Law and Society Studies. He presented a paper on Law and Development in Sri Lanka at a meeting of the Advisory Committee of the International Legal Center, and was the guest Lecturer at a Faculty Seminar on de-legalization at the Buffalo (S.U.N.Y.) Law School. He also completed a working paper on the Ideology of Popular Justice. He became Co-Director of a Study Group on Law and Society Studies in Colombo (Ceylon), and the Director of a Workshop on Socio-Legal Research in Asia.

Dennis O. Lynch lectured on a "Research Design for a Study of the Colombian Legal Profession." The majority of his time was devoted to course work in law and sociology related to the research project he will undertake on the Colombian legal profession beginning July, 1973.

Henry Steiner as a Senior Fellow in the Program, Mr. Steiner taught a course on Law and Socio-Economic Organization. Began research on a book treating International Law and Economic Development. He also acted as an advisor to students in the Program.

Benjamin Cohen taught a course on the Multinational Firm.

Robert C. Pozen completed his Intensive Semester Research in Ghana on the study of legal problems of urban development, while in Ghana, he also taught a course at

the University of Ghana in Legal Control of Public Corporations 1971-72. In 1972-73, Mr. Pozen organized a seminar with Professor John Simon on housing policy. His dissertation concerned British Corporations in Ghana, entitled "The British Corporation in Ghana: Legal Transfers to the Third World." His many publications include: "No Room for Singles - A Gap in the Housing Law," 80 Yale L.J. 395 (1970), "Public Corporations in Ghana," Wisconsin Law Review

Boaventura de Sousa Santos completed his research on dispute settlement in a favella in Rio de Janeiro for which the field work and preliminary analysis was conducted in 1970-71. He is now teaching at Universidado de Coimbra in Portugal.

Bolivar Lamounier worked on the relationship between the legal profession and institutionalization of anthoritarianism in Brazil. He conducted research in Brazil on Authoritarian-Ideology as articulated by a Brazilian intellectual elite since the 1920's and its institutionalization after the Revolution of 1930. His fellowship was devoted to analyzing his data and writing up the project.

Richard T. Burcroff completed a study for AID and Philippine Government entitled A Study of Agricultural Tenancy in the Philippines: Implications for Land Reform Policy.

APPENDIX D

1972-73 VISITORS

During 1972-73, the Program hosted numerous presentations by scholars, both within the University and from the outside, for faculty and students. They included:

Juan Linz (Departments of Political Science and Sociology - Yale University) on Lawyers in Authoritarian Regimes

Stephen Varner (Department of Sociology - Yale University)
Logic of Group Action and an Implicit Model of Comparative Analysis of Thought in Max Weber

David Apter (Department of Political Science and Sociology -Yale University) on his current research in Latin America

Professor Luis Alameda Bates (Santiago)
Cuban Popular Tribunals

Bolivar Lamounier (Law and Modernization Fellow)
Ideology, Modernization and Authoritarianism

Professor Keith Rosenn (Professor of Law - Ohio State University)
Judicial Review and Authoritarianism in Brazil

Robert Pozen (Law and Modernization Fellow)
Legal Transfers for Development

Roberto Unger (Associate Professor - Harvard Law School)
Some Problems in Conterporary Legal Thought

Professor Patrick McAuslan (Professor of Law - University of Warwick)
Urban Law in Africa

Dean David Allan (Monash University - Australia)
Legal Framework for Development Finance in Developing Countries

Richard Burcroff (Law and Modernization Fellow)
Property Law as a Planning Instrument: Implications for Legal Penentration

Neelan Tiruchelvam (Law and Modernization Fellow)
"De-Legalization" Re: The Goals of Popular Justice (Paper)

Dean Harry Arthurs (Osgoode Hall-York University, Canada)
Problems of Legal Underdevelopment in an Overdeveloped Economy

Professor John Dugard (University of Witwatersand, Johannesburg, S.A.)
Law and Politics in South Africa

Hastings Okoth-Ogendo (JSD Candidate, Yale Law School)
Some Problems of Theory in Land-Use Analysis

Heleen Tetswaart (JSD Candidate, Yale Law School) and
Lance Compa (JD) Legal Reform and Labor Relations Under
the Allende Regime

Dennis Lynch (Law and Modernization Fellow)
A Research Design for a Study of the Legal Profession in Colombia

In addition, the Program hosted two significant conferences. The first was conducted in conjunction with the International Legal Center and was titled, "Conference on the Study of Legal Professions." A schedule of the proceedings follows.

The second conferences, on African Studies, was conducted in conjunction with Yale's African Studies Council. The following guests participated:

The Honorable Joshua Zake
Former Minister of Education and Attorney-General of Uganda
"The Asian Factor in Ugandan Society"

Roland Brown
Former Attorney-General of Tanzania
Expropriation of Assets: An African Viewpoint

John Okumu
Commentator on Zake and Brown

While both conferences were conducted on an informal basis, they provided excellent opportunities for Program and other law school personnel to confer with scholars on matters of interest and importance to them.

APPENDIX E

1973-74 Senior and Research Fellows

Senior Fellows

Max Gluckman - Professor of Social Anthropology at the University of Manchester. Among his publications are the Judicial Process Among the Barotse and the Ideas of Barotse Jurisprudence.

Vilhelm Aubert - Professor of Law at the University of Oslo, Norway. Professor Aubert will lecture on some problems in Sociology and Law during the fall term, and will act as consultant for students and fellows in the Program.

Research Fellows

Dr. Brun-Otto-Bryde - of Hamburg, Germany, 1st and 2nd State Exam in Law (Hamburg), Dr. Jur. (University of Hamburg); Lecturer at the Faculty of Law, University of Hamburg, Editor-in Chief "Verassung und Recht in Übersee". He lectured at the Faculty of Law, Haile Selassie I University, Addis Ababa, for two years. His publications include a book (in German) on Economic Advisory Councils and articles on international and comparative law with emphasis on developing areas.

Akilagpa Sawyerr - of Accra, Ghana, LL.B (University of Durham), LL.M (University of London), LL.M, J.S.D (University of California). He was Senior Lecturer at the Faculty of Law, University College, Dar es Salaam. Associate Dean, Faculty of Law, University College, Dar es Salaam; Associate Editor, East African Law Journal; Associate Editor, Eastern Africa Law Review; Visiting Research Fellow, Max Planck Institute for Auslandisches und Internationales Privatrecht; and a member of the Advisory Council Volume XI of the Encyclopedia of Comparative Law. His many publications include:

East African Law and Social Change; The Doctrine of Precedent in the Court of Appeal for East Africa; Cases and Materials on Conflict of Law in East Africa;

"Internal Conflict of Laws in East Africa," East African Law and Social Change; "The High Court of Uganda and Customary Law" East African Law Journal; "Contractual Capacity of Minors and the Conflict of Laws in East Africa: A Study in Conflicts Method." Volume I Eastern Africa Law Review. "The Application of Muslim Law in Kenya: a brief note" Volume I Eastern Africa Law Review. "Discriminatory Restrictions on Private Dispositions of Land in Tanganyika: A Second Look"; in Land Law Reform in East Africa; Volume 13 Journal of African Law.

Michael J. Lowy - of Pittsburgh, Pa, B.A. (City College of New York), M.A. (Hunter College), Ph.D (University of California, Berkeley). Dr. Lowy is an Assistant Professor at the University of Pittsburgh, Department of Anthropology. His Publications include: Book Review of "Anthropology and Law: A Comparative Theory" by Leopold Pospisil. "An Alternative to ARD - New Forums for Conflict Resolution" Pretrial Justice Quarterly. "Modernizing the American Legal System: an Example of the Peaceful use of Anthropology." "Me Ko Court": Studying the Impact of Urbanization on Conflict Resolution in a Ghanaian Town." While a Fellow in the Program, his research will concern the study of the impact of the processes of urbanization on the use of public dispute resolving agencies in Ghana.

June Starr - of Stony Brook, New York, B.A. (Smith College), M.A. (Colombia University), Ph.D (Univeristy of California, Berkeley). Ms. Starr is an Assistant Professor of Anthropology, SUNY at Stony Brook. Her publications include: Turkish - Village Conflict: An Ethnography of Law; The Impact of a Legal Revolution in Rural Turkey; Dispute Settlement and Status Relationships in a Turkish Village; Review of A. Bozeman's Law in a Multicultural World, Journal of Asian Studies. Review of Tiruray Justice; American Anthropologist.

Richard Burcroff - of Hawaii. B.S. (R.P.I.), Ph.D (Univeristy of Washington). A Research Fellow who has been in the Program since 1972, will conduct research in the Philippines. His project in the Philippines will concern the impact on the Agrarian Reform law and dispute resolution. He completed a study for AID and the Philippine Government entitled A Stud, of Agricultural Tenancy

in the Philippines: Implications for Land Reformation.

Dennis O. Lynch - lectured on a "Research Design for a Study of the Colombian Legal Profession." The majority of his time was devoted to course work in law and sociology related to the research project he will undertake on the Colombian legal profession beginning July 1973.

- Hastings Okoth-Ogendo - LL.B (Dar es Salaam), B.C.L. (Oxford). Mr. Okoth Ogendo will conduct research on the impact of the land reform law on agrarian social structure in Kenya.

In addition, the Program will support the following Graduate Students:

Peter Winship, B.A. (Harvard), LL.B (Harvard), LL.M (University of London).

Heleen Ietswaart, LL.M (Yale), a JSD candidate, who is now in the process of writing up the data she collected from her research in Chile.

Stephen Wallenstein, now in Brazil preparing his Intensive Semester research on change in Brazilian legal education.

Attila Andrade, of Brazil, LL.B (University Federal de Rio Janeiro), LL.M (Yale).

Third World Candidates

Mahnoush Arsanjani has an LL.B from National University of Iran. She was first in her class. During the past year, she studied English at the University of San Francisco.

John Frimpong holds an LL.B from the University of Ghana and is presently working on an LL.M from there.

Goshu Wolde has an LL.B from Haile Sellassie I University. He was Case Editor of the Journal of Ethiopian Law and best oralist of the P.C. Jessup International Moot Court Competition held in Washington in 1972. He graduated first in his class.

Haile Kebede received his LL.B from Haile Sellassie I University. He has an article on the "Handling of Juvenile Delinquents by the Police and the Courts" to be published in the Journal of Ethiopian Law. He was second in his graduating class.

Philip Iya has a B.A. from University College, Dar es Salaam and an LL.B from Makerere University. Presently, he is a Lecturer in Law at the Law Development Center, Kampala, Uganda.

Pheroze Nowrojee received his B.A. from St. Xavier's College, Bombay and has been called to the English bar. He has taught at the Kenya School of Law in Nairobi. Presently, he is working on an LL.M from the University of Dar es Salaam. He has also engaged in private practice in Nairobi.

Medard Rwelamira has an LL.B from the University of Dar es Salaam. For the past year, he has been a Tutorial Assistant on the Faculty of Law of the University of Dar es Salaam.

Salman M.S. Salman holds an LL.B from the University of Khartoum. He has been a teaching assistant on the Faculty of Law of the University of Khartoum.

Kietkajorn Vachanasvasti holds an LL.B from Thammasat University and an M.C.J. from New York University. He was first in his class in Thammasat University in Thailand.

Samson Ameh holds an LL.B from Ahmadu Bello University and an LL.M (1968) from Yale. For the past few years, he has been a Lecturer in Law at Ahmadu Bello University in Northern Nigeria.

German Lubrs received his law degree from Catholic University of Valparaiso and a Master of Science in Legal Institutions from the University of Wisconsin. He is a Professor of Law at Catholic University of Valparaiso. Besides teaching, he also practices.

Bernardo Nun received his law degree from the University of Chile and an M.C.L. from the University of Miami. He is a Professor of International Economy at the University of Chile School of Law.

Arturo Yrarrazaval received his law degree from the Catholic University of Chile and an M.C.J. from New York University. He is Assistant Professor of Law and Economics at the Catholic University of Chile School of Law.

YALE LAW SCHOOL

PROGRAM IN LAW AND MODERNIZATION

Working paper Series

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23	Compa, Lance, Labor Law and the Legal Way: Collective Bargaining in The Chilean Textile Industry under the Unidad Popular, 117p.	$1.00
24	Toharia, Jose J., A Summary Translation of Social Life and Legal Activity in Spain 1900-1970, Translated by Catherine G. Lynch, 26p.	$ .50
25	San Tiago Dantas, Francisco Clementino de, "LEGAL EDUCATION AND THE BRAZILIAN CRISIS", Translated by David M. Trubek, 35p.	$ .50
26	Trubek, David M., When is an Omelet; What is an Egg? --Some Thoughts on Economic Development and Human Rights in Latin America 12p.	$ .50

Copies above may be secured by writing: Administrative Assistant
Program in Law and Modernization
Yale Law School
127 Wall Street
New Haven, Connecticut 06520

APPENDIX II

YALE LAW SCHOOL

STUDIES IN LAW AND MODERNIZATION

Reprint Series

No. 1 Richard L. Abel, A Bibliography of the Customary Law of Kenya (with special Reference to the Laws of Wrongs)

No. 2 Richard L. Abel, Customary Law for Wrongs in Kenya: An Essay in Research Method.

No. 3 David M. Trubek, Law, Planning and the Development of the Brazilian Capital Market: A Study of Law in Economic Change

No. 4 David M. Trubek, Max Weber on Law and the Rise of Capitalism

No. 5 Robert C. Pozen, Public Corporations in Ghana: A Case Study in Legal Importation

No. 6 David M. Trubek, Towards a Social Theory of Law: An Essay on the Study of Law and Development

No. 7 Francis G. Snyder, Bibliographie: sur les Diola de la Casamance (Senegal)

Appendix I

1972-73 Course Descriptions

1972 FALL TERM

Advanced Courses

COMPARATIVE ASPECTS OF CIVIL-LAW AND COMMON-LAW SYSTEMS.

2 units. A reading course, ungraded but tested, in comparison of features common to the legal systems of Western Europe and Latin America with counterparts in Anglo-American law. Discussion sessions will be called from time to time. Materials to be assigned. Enrollment limited to 12. L.S. Lipson and D.M. Trubek.

COMPARATIVE LEGAL SOCIOLOGY. 3 units. Comparative legal sociology is the construction of theory which explains the differences between legal systems within a society and across disparate societies. In this course we will use such theorists as Hart, Weber, Durkheim and Maine to illuminate empirical studies drawn from Africa, Asia and Oceania as well as from Europe and the United States. We develop a concept of the legal system as a structure and process for the normative ordering of social action. It performs the functions of defining, applying, and changing norms in such fields as kinship, economic activity, and political behavior. We seek to explain the variations between legal systems in terms of other social variables, such as differentiation, bureaucratization, etc. In doing so we hope to throw light on the relationship between "traditional" and "modern" legal systems. There will be a takehome final examination, for which a paper may be substituted at the discretion of the instructors. R. Abel and D.M. Trubek.

EAST AFRICAN LAW: POLITICAL CHANGE AND ECONOMIC DEVELOPMENT. 3 units. After a brief review of the key legal problems facing the emerging nation-states of Africa, the course will explore the role of law and legal institutions in East Africa since independence. It emphasizes in particular the relationship between legal and political change and law and economic development. Special attention will be paid to the role of the law in establishing legitimacy of state institutions; the impact of ideology on the law; law and planning. The difference between the strategies for development in Kenya and Tanzania will be examined to explore the comparative role of law in contrasting economic systems. Y.P. Ghai.

SOCIAL SYSTEMS: INTRODUCTION. 2 or 3 units. An introduction to sociology and social anaylsis, with a special unit on the sociology and politics of modernization. The course is divided into two sections. The first section (2 units) will deal with general problems of social science and basic concepts of sociology. Topics will include the nature and logic of the social sciences, the nature of sociology, the development of sociological theory, the bases of social organization, social change, associational life, and bureaucratic organization. The second section (1 unit) will deal with modernization and will include such topics as industrialization and urbanization, the impact of modernization on family structure, elites in the modernization process, nation-building, political parties in the developing nations, the role of the military in the development process, and the role of class and ethnic relations in modernizing states. Students may elect to take section one or the entire course. This course is designed for students without formal university-level training in sociology, who are taking or plan to take any of the following: Selected Problems in the Sociology of Law; Introduction to the Theories of Law and Society; Introduction to the Study of Law and Society; Law and Modernization; or Law and Socio-Economic Organization. J. Guben.

SOCIOLOGY OF LAW. 2 units. This seminar will explore selected problems in the sociological theory of legal systems and legal processes. It will proceed from a conception of law as an aspect of social organization. Among the issues to be addressed are the following: the relation of law to other forms of social control, legal change and evolution, law and social stratification, the symbolic aspects of law, the detection and sanctioning of illegality, law and moral sub-cultures, and the social impact of law. Limited to 15 students. Takehome final examination; no papers. D.J. Black

1973 SPRING TERM

Advanced
Courses

LAW AND SOCIO-ECONOMIC ORGANIZATION. 2 units. This course views the traditional materials of the law, cases and legislation, from the perspective of traditions of social thought and a society's socio-economic structures. It examines ways in which a legal system expresses and influences a society's social, economic, and political premises or ideals. Although the course stresses relationships within the United States among the legal system, social thought, and socio-economic organization, there will be brief and illustrative comparative materials. Readings will be drawn from the basic common law subjects and regulatory legislation; from economic and political theory; and from legal history, sociology, and anthropology. Those readings will include market or liberal state theorists, Weber, Marxist-oriented thinkers, and empirical studies. Mimeographed materials. Takehome examination. H.J. Steiner

LAW AND MODERNIZATION. 3 units. The seminar will examine reciprocal relationships between legal and other social processes during industrialization. Its principal emphasis is comparative and theoretical. In the first half of the seminar we will examine ideas about law and social change in the work of the classical social theorists, with special attention to Weber, Durkheim, and Marx. We will then turn to contemporary "law and development" studies and social theory of law. To illustrate issues raised in the theortical discussion, we will examine several historical and comparative "cases' including a detailed study of some of the effects of rapid industrialization on the contemporary Brazilian legal system. Enrollment limited. Paper or examination; papers may be submitted in partial satisfaction of the supervised analytic writing requirement. No previous background on Brazil is necessary; a prior course on law and society is useful. D.M. Trubek.

LAW AND SOCIALIST DEVELOPMENT IN THE THIRD WORLD. 3 units. The seminar will analyze the role of law in the transition to socialism by examining attempts by selected countries - to be chosen from Chile, Cuba, Tanzania, and Guinea. An analysis of the socialist ideologies of these countries, and a brief examination of the "Soviet" and "Chinese" strategies of development, will provide the background for three sets of issues. The first deals with policies and constitutional structures, and the relationship between state and party institutions. Second, the attempts of these countries to "disengage" themselves from the Western international economic system which they identify as a cause of the underdevelopment. The focus will be on the nationalization of foreign and domestic assets (including land, the organization of external trade, and new legal forms of importation of technology). A third set of issues returns to the domestic organization of the economy planning, state enterprises, devices for administrative regularity. Y.P. Ghai.

INTERNATIONAL PRIVATE INVESTMENT. 3 units. The seminar will examine the economic and legal framework of the foreign investment process, with particular emphasis upon investment in developing countries. We shall be concerned with the various forms of governmental regulation designed to influence and to control foreign investment, attempting to draw out the policy goals and the assumptions about the behavior of foreign investors which stand behind this legal structure. We shall attempt to test these goals and assumptions in the light of various theoretical and empirical studies about the investment behavior of international and corporations and the social and economic consequences of their investments. Each student will do a research project and present his findings in class. There will be no final examination. The seminar will be open to law students and to students of Yale College. Enrollment will be limited to 20 students. B. Cohen.

1973-74 Course Descriptions

Fall Term

FAMILY AND STATE. 3 units. The relationship between behavior in the family and state action is complex and important. This course will investigate selected areas of that interaction, including: the origin of state action in values and power relationships; the nature of the behavioral patterns themselves; and the extent to which they can be seen as a response to or a stimulus for state action. It will not train the student to practice family law. R.L. Abel.

SOCIAL SYSTEMS: INTRODUCTION. 3 units. An introduction to sociology and social analysis, with a special unit on the sociology and politics of modernization. The course is divided into two sections. The first section will deal with general problems of social science and basic concepts of sociology. Topics will include the nature and logic of the social sciences, the nature of sociology, the development of sociological theory, the bases of social organization, social change, associational life, and bureaucratic organization. The second section will deal with modernization and will include such topics as industrialization and urbanization, the impact of modernization on family structure, elites in the modernization process, nation-building, political parties in the developing nations, the role of the military in the development process, and the role of class and ethnic relations in modernizing states. An examination will be required. J.K. Guben.

Seminars - Fall Term

SOCIOLOGY OF LAW. 3 units. After examining the historical role of sociological thought in connection with the American legal system, and some broad issues concerning types of work in the sociology of law, the course will settle into an examination of the contemporary American legal system using materials from sociology and related disciplines. The seminar is not intended for those whose concern is primarily for the immediate and practical utility of social research for legal action, but for those with a more general interest in the functioning of legal institutions. Specific areas of inquiry will include the study of legal effectiveness, the distribution of contacts with and attitudes toward the law among the citizenry, the effects of legal labeling (either negative

as in the case of the criminal sanction, or positive as in the case of licensing and certification), the balance between rule and discretion in legal action, and the social organization of courts. A special contributor to the seminar during a portion of the term will be Vilhelm Aubert, Norwegian sociologist of law. S. Wheeler.

Seminars - Spring Term

COMPARATIVE AFRICAN JUDICIAL SYSTEMS. 3 units. This seminar will investigate the pluralistic judicial systems of contemporary Africa (mainly anglophonic) which seek to integrate indigenous and European elements. It will begin with a survey of existing social theory on the adjudicative function, and then turn to case studies of a few national systems, including Kenya, Tanzania, Uganda, Zambia, Nigeria, and Ghana. The materials will be anthropological, legal, and administrative. A paper is required, which may be submitted in partial fulfillment of the supervised analytic writing requirement. R.L. Abel.

COMPARATIVE LEGAL SOCIOLOGY. 3 units. This seminar will analyze some of the theories about law in society advanced by anthropology and sociology Wherever possible, it will apply the insights drawn from societies of other times or other places to the functioning of the American legal system in American society. Students with no university course work in those disciplines must have completed The Analysis of Social Systems. Choice of a paper, which may be submitted in partial fulfillment of the supervised analytic writing requirement, or examination. R.L. Abel.

INTERNATIONAL AND NATIONAL PROCESSES OF DEVELOPMENT AND SOCIAL CHANGE. 2 units. From the transnational perspective, programs for the increased production and wider distribution of values are readily seen to be global in impact and, of late, in planning and implementation. This seminar will develop a model of global social change and, in particular, identify the functional grid of international and national agencies and groups which may or do play important development roles. With this background, the seminar will consider in depth, in several sectors, the goals, trends, conditions, projections, and preferred alternative strategies of community development and world social change. Mimeographed materials and selected readings. Examination or paper option. Where paper option is exercised, seminar papers may be submitted in partial satisfaction of the supervised analytic writing requirement. W.M. Reisman.

LAW AND ANTHROPOLOGY. 2 units. The earlier history of studies of tribal law (Maine, Vinogradoff, Malinowski). Divergence within anthropology on the use of Western jurisprudence in analyses of tribal law. Problems of translating concepts from one system to another. Folk concepts and analytic concepts. Social-anthropological approaches to the study of social order. The analysis of institutions. The shift to the study of social interaction and the emphasis on self-interest and social manipulation. Judicial and proto-judicial processes: reasoning or rationalization? --the revolt against interpretation in terms of rules. Case law and the study of rules. Comparison of Western and tribal law. This seminar will be given during the second half of the spring term in two two-hour sessions each week. M. Gluckman.

APPENDIX J

Aid Accounting 1972-73

	Projected	Actual
Perm. Faculty (6) Visiting Professors	$81,233.00	$87,766.90
Research Fellows (7)	$62,355.00	$43,089.65
Library Adm. (2)	$16,500.00	$4,500.00
Library Clerical (2)	$10,340.00	$12,911.75
Secretarial (2)	$12,075.00	$14,813.18
Travel Expenses		$4,931.37
Fringe Benefits	$19,000.00	$17,701.99
Students Fellowships (9)	$41,000.00	$58,655.00
Consultants	$1,000.00	$1,080.00
Guest Lecturers	$1,000.00	$805.00
Travel	$7,500.00	$6,124.02
Equipment Rental	$300.00	$1,690.00
Library Acquisitions	$35,000.00	$24,988.06
Xeroxing	$3,000.00	$6,458.74
Publication	$1,000.00	$1,026.65
Other (tel.,Postage, etc.)	$7,500.00	$7,036.89
TOTAL	$298,803.00	$293,579.20

Balance - June 30, 1973	$223,332.39
Estimated Expenditures 1973-74	$222,550.00
Estimated Remainder of Grant	$223,332.39

1972-73 ORF Accounting

Tiruchelvam, Neelan Research - Ceylon	$2,564.00
Guben, Jerrold Latin-America - Graduate Student Recruitment	$1,504.65
Montoro, Andre Research-Latin America	$1,000.00
Santos, Boaventura Teach and Consult - Rio de Janerio	$2,270.00
Bull, Gillian Library Acquisitions - London	$ 270.00
Ietswaart, Heleen Research - Chile	$ 911.00
Goldstein, Abraham Dean Institutional Cooperation - Latin America	$ 520.00
Wallenstein, Stephen Language Training - Rio de Janeiro	$ 275.00
Compa, Lance Intensive Semester - Chile	$3,400.00
Hernandez, Alberto Intensive Semester - Geneva, Switzerland	$ 750.00
Lamers, Carl Library Acquisitions - Trinidad	$ 112.00
Trubek, David Lecture at PUC Rio	$ 577.00
Stevens, Robert Seminar on LDC's - Warwick, England	$ 350.00
Wallenstein, Stephen Intensive Semester - Rio de Janeiro	$4,750.00
Lamounier, Bolivar Research Sao Paulo	$ 562.25
	$19,815.90

Draft Regular Budget 1973-74		Revised September 1973
Faculty: Permanent (6)		
3/4 Abel	$16,000	
1/4 Reisman	$ 6,000	
1/10 Johnstone	$ 3,000	
1/2 Guben	$ 7,000	$32,000.
Faculty: Visiting (2)		
Aubert	$ 4,500	
Gluckman	$ 6,500	$11,000.
Research Fellows (6)		
Guben	$ 7,000	
Burcroff	$ 8,000	
Bryde	$ 9,415	
Lowy	$ 9,415	
Starr	$ 4,710	
Sawyerr	$ 4,710	$43,250
Research Fellows/Graduate Students (2)		
Okoth-Ogendo	-0-	
Lynch	-0-	-0-
Graduate Students		
Winship	$ 7,600	
Ietswaart	$ 2,400	
Block Grant	$25,000*	$35,000
Other Grants (1)		
Inan	$ 1,000	$ 1,000
Library		
Lamers	$ 7,500	
Clerical	$ 6,000	
Temp. Personel	$ 3,000	
Purchases	$30,000	$46,500
Secretarial		$12,000
Fringe Benefits		$22,080

* Represents amount given to the Graduate Committee to be dispensed to Third World graduate students.

Consultants		-0-
Guest Lecturers, Seminars & Conferences		$3,500
Travel		$4,000
Equipment		none
Xeroxing		$3,000
Publications, etc.		$2,000
Other (telephone, postage, etc.)		$7,220
	TOTAL	$222,550.00
Remainder of Grant		$223,332.39

Overseas Research Fund Budget 1973-74

Revised September 1973

Committed		
Lynch	$13,530.	
Burcroff	$7,200	
Okoth-Ogendo	$3,000	
Wallenstein	$4,750	$31,480.00
Andrade	$3,000	
Possible		
Clark	$2,000	$ 2,000.00

APPENDIX K

AID EXPENDITURES 1972-73

AFRICA

Books--English language	$6,761.64	744 volumes
Books--English-Xerox	$1,194.30	34 items
Books--English Microfilm	$ 102.04	4 items
Books--foreign language	$2,413.67	229 volumes
Books--foreign Xerox	$ 34.64	3 items
Books--foreign Microfilm	$ 9.94	2 items
Total Books--English language	$8,057.98	782 items
Total Books--foreign language	$2,188.25	234 items
Total Books	$10,246.23	
Periodicals--English language	$3,015.70 $ 116.95 $ 13.90	121 volumes 14 issues 4 binders
Periodicals--English Microfilm	$ 50.00	1 set
Periodicals--foreign language	$ 512.64 $ 70.58	47 volumes 24 issues
Total Periodicals--English language	$3,196.55	140 items
Total Periodicals--foreign language	$ 583.22	71 items
Total Periodicals	$3,779.77	
Deposit accounts and extra payments	$869.75	
Africa total expenditure	$14,895.75	

LATIN AMERICA

Books--English language	$338.63	30 volumes
Microprint Catalogue Cards	$225.12	
Books--foreign language	$1,959.37	385 volumes
Total Books	$2,298.00	
Periodicals--English language	$408.15	23 volumes
Periodicals--foreign language	$455.00	22 volumes
Periodicals--foreign Microfilm	$3,500.00	1 set

Note: Total Periodicals--foreign $3,955.00 of which $3,507.00 was for Brazilian material (1 Microfilm set and 2 volumes).

Total Periodicals	$4,363.15
Latin America total expenditure	$6,886.27

MIDDLE EAST

Books--English language	$ 47.28	4 volumes
Middle East total expenditure	$ 47.28	

FAR EAST (including South and Southeast Asia)

Books--English language	$ 160.40	11 volumes
Microprint Catalogue Cards	$ 225.00	
Total Books--English language (no foreign language books)	$ 160.40	11 volumes