

JEFFERSON B. FORDHAM: LEGAL EDUCATION AND SCHOLARSHIP IN AFRICA

WILLIAM B. HARVEY †

Obvious hazards are inherent in my writing an appreciation of Jeff Fordham's career—even when that writing is to be limited to a single aspect. One is the bias of friendship. I cannot eliminate this hazard but can only acknowledge it and declare my intention to be as objective as possible. A second is the possibility that a tribute to the most vital of colleagues will sound somewhat like a soliloquy at a wake. Here, however, the living fact belies any verbal impression. As anyone who recently has visited, worked, or argued with Jeff knows, he is indeed vigorously at work in Philadelphia.

My brief comment will deal with Jeff's work in support of legal education and scholarship in Africa. This focus is appropriate. During recent years Jeff has played a prominent and fruitful role in the American attempt to assist young, struggling law faculties in several African countries to produce lawyers responsive to the needs of a continent in ferment.

American lawyers and law teachers paid scant attention to legal development in Africa until the late fifties. By January 1962, however, when a Conference on Legal Education in Africa was held in Legon, Ghana, under the sponsorship of the University of Ghana, sufficient interest had developed to produce an American delegation of eight lawyers. Among these Jeff was a leading member.¹ In Ghana we found an understaffed law faculty which was confronting grave problems in developing and maintaining a relation with Dr. Nkrumah's government that was compatible with its own academic integrity. The Conference itself starkly revealed the deep systemic and linguistic cleavage between the francophonic lawyers and those from English-speaking Africa, the swirling political forces, and the urgent need to produce African lawyers who could respond creatively to Africa's revolutionary hopes and expectations.

The Legon Conference convinced us that the Africans would accept some American assistance in developing their programs of legal

† Dean and Professor of Law and Government, Indiana University. A.B. 1943, Wake Forest University; J.D. 1948, University of Michigan. Member, District of Columbia Bar. Dean Harvey served as Dean and Professor of Law at the University of Ghana from 1962 to 1964.

¹ The other members of the delegation were John S. Bainbridge, then of Columbia University and now director of the African Program of the International Legal Center; Albert H. Garretson of New York University; James C. N. Paul, then of the University of Pennsylvania; Max Rheinstein of the University of Chicago; Charles Runyon, then of Yale University and now with the State Department; Arthur E. Sutherland of Harvard University; and the author.

education, and we believed this assistance might be useful. On this basis and with support from the Ford Foundation, the American delegates, in March 1962, formulated a program and a grant proposal for consideration by the Foundation. By June these had led to the first of four grants to the SAILER project (Staffing African Institutions of Legal Education and Research). An advisory committee comprised of the eight American delegates to the Legon Conference was constituted, and Jeff was appointed the chairman. Until the SAILER project was merged into the International Legal Center on July 1, 1967, he continued as chairman. Since that merger, he has acted as a consultant to the Center on its African program, has visited and advised many of the African law faculties with which SAILER and the ILC have been associated, and has participated in special seminars held in this country for African lawyers studying here.

Jeff Fordham's concern for legal study in and about Africa has not been that of the involved scholar; his scholarly commitment lies in other areas. Rather, his concern, which permeated the SAILER project and much of the African program of the ILC, has been to assist, at least on an interim basis, the efforts to educate African lawyers in Africa. The risks inherent in this undertaking were obvious and disturbing. Most of us involved in the effort had very limited experience in or familiarity with the cultures, legal institutions, and political processes of a vast and complex continent. Necessarily, most of the actual work in Africa was entrusted to young, recent graduates of American law schools. Teaching, researching, and helping to reshape African law inevitably exposed the American teacher to shifting political forces and their potential for personal adversity as well as for the destruction of patiently nurtured educational enterprises. In this context, it is not surprising that sharp differences of view on approaches and emphases occasionally arose in the SAILER and ILC advisory groups, that choices of people for assignments in Africa often proved agonizing, or that some apparent successes were swiftly transformed into crushing defeats.

Though the hazards were great, so were the needs. After centuries of exploitation and deprivation, Africa was awakening. New African leaders taking over the powers and responsibilities of government faced enormous problems in mobilizing and channeling the energies of their people for development. Imaginative, disciplined lawyers in both the private and public sectors were desperately needed. Yet in many of the new nations there were virtually no African lawyers. In those nations which possessed a significant lawyer population, too many were rigid defenders and practitioners of a system of

law largely unrelated to the realities or aspirations of the society it was to serve and mold.

Jeff Fordham exercised a major influence in shaping the American involvement in African legal education. Understanding that involvement, therefore, develops an understanding of the man. It eschewed officious intervention; instead it sought to respond affirmatively to African receptivity and perceptions of need. It rested on the belief that the African nations could and should develop law faculties of real excellence. It was remarkably free of the patronizing assumption that Africa's legal salvation lay in the uncritical importation of American institutions. It saw law pragmatically as a means of meeting human needs and consequently insisted that the study of law should be illumined by study of the social, political, and economic matrix in which it was to be developed and applied. It envisaged the African lawyer as an indispensable partner in any successful efforts toward modernization, economic development, political stability, and public order.

Probably it is too early to evaluate the contribution of American lawyers to legal education in Africa. As a participant, I am hesitant to attempt the assessment. Out of that experience, however, I can speak, not of a program or its concrete achievements, but of a man.

Jeff Fordham has contributed generously of his energies and insights to African legal education. With the same deep commitment which characterizes the rest of his career as teacher, scholar, dean of a great law school, and respected leader of his profession, he has rejected the view that ethnic or cultural factors should be permitted to delimit the pursuit of justice, rational order, and governmental decency. He has held to the belief that law faculties of high quality can significantly shape and support strong universities, and that such universities are indispensable to African development. While these convictions and commitments have earned the respect of his associates, Jeff has not forfeited their affection. Courteous, even courtly in manner, sharp and penetrating in argument, but warm and considerate with his adversaries, and firm without hint of intransigence, Jeff Fordham has turned the best face of legal education toward colleagues in Africa.

Jeff's resignation from the deanship at Pennsylvania provides an appropriate occasion for honoring him in recognition of past achievement. Perhaps more appropriately, however, one might speculate on the next phases of a distinguished career. One of the happiest possibilities would be to enlist his talent and his dedication even more substantially in the building of responsible legal and educational institutions in Africa.