

PC-279 (4-63) ROUTE SLIP

TO:

- 1. Neil Winkler - GIP
- 2. _____
- 3. _____
- 4. _____
- 5. _____

<input type="checkbox"/>	APPROVAL	<input type="checkbox"/>	PREPARE REPLY
<input checked="" type="checkbox"/>	COMMENT	<input type="checkbox"/>	SIGNATURE
<input type="checkbox"/>	NECESSARY ACTION	<input type="checkbox"/>	SEE ME
<input type="checkbox"/>	INVESTIGATE	<input type="checkbox"/>	AS REQUESTED
<input type="checkbox"/>	NOTE AND RETURN	<input type="checkbox"/>	FOR YOUR INFORMATION
<input type="checkbox"/>	INITIAL FOR CLEARANCE	<input type="checkbox"/>	PER CONVERSATION

FROM Winkler

DATE 3-12-70

REMARKS OR ADDITIONAL ROUTING

Winkler upon request from
Hansen

THE PEACE CORPS VOLUNTEER LAWYER - Sensitivity, Creativity,
and Diplomacy

Only one hundred and ninety-five years ago in the House of Commons we were referred to as "they", ... as "this recent people...", a people who are still, as it were, but in the gristle, and not yet hardened into the bond of manhood." * We've referred often to "underdeveloped countries" in this same tone as the British referred to us at the time of our revolution. Now we call third world countries "developing countries or nations." But more important we seem to have learned that to really assist developing countries, we must be true partners; we must "work with" rather than "for" the citizens of these countries. The powerful forces of nationalism continue to affect us and of course our Volunteer lawyers. And it is in this setting in which our Volunteer lawyers must function today.¹

1 "The Peace Corps works, and, because it has captured the essence of a certain greatness of spirit - a greatness which says that we are big enough to allow others to find their own strength, to serve their own ideals as they can see them, achieve their own ambitions as they feel them." "As we all know, the people of the developing world are determined to preserve the attributes and attitudes which are uniquely their own. These distinctive qualities are a cherished part of nationalism. To respect them is to win acceptance, even in the face of nationalism. Volunteers have won such acceptance, and this acceptance has proven itself solid and endearing right through times of crisis - including political unrest, military upheaval, and outright hostility toward the United States."

Warren Wiggins, former Peace Corps Associate Director, speaking before the Society of International Development, March 17, 1964. See also Ganzglass, Peace Corps Lawyer (Somali Republic), "A Common Lawyer Looks at an Uncommon Legal Experience", 53 A.B.A.J. 815 (1967). The author states at p. 817, "You are in a foreign country, they have their way of doing things and you must respect this."

We have been proud of our Volunteer lawyers. As products of American legal training, they have proved their worth in diagnosing the heart of problems and proceeding to work with host country citizens and institutions toward solutions. While many have had the opportunity to serve in lawyer-like capacities, as law teachers, counselors in legal aid programs, and advisers and clerks to governmental agencies, legislatures, and judges, many more lawyers have served as public administrators in municipal management programs, worked with cooperatives, financial institutions, and in other economic, social, and community development programs. Even though they are given training for prospective assignments, too often when they arrive in their respective host countries, the trained-for assignment does not exist. Sometimes this is the fault of Peace Corps; or there may have been changes in host country governments, its leaders and administrators. Nevertheless even in these somewhat chaotic occurrences, our Volunteer lawyers have been innovative and have served well. Their performance in most cases has exceeded the definition of a true Volunteer.²

2 "Peace Corps Volunteers, . . . , try to work within whatever system they find - and they seldom will find a system that is, or could be much like America." "A Volunteer is a person who is doing something because he takes pride and joy in doing it even though it will not bring him wealth or renown or professional advancement. A Volunteer is a person with a commitment. A Volunteer is a person with ideals. A Volunteer is a person who believes in himself and in others. And so a Volunteer is a person whom the lowly and powerless - or for that matter the high and the mighty - can accept at face value, without suspicion, as a friend."

Jack Vaughn, Former Director, in a speech at Grosse Pointe, Michigan, March 4, 1969.

Past Assignments, Legal Education, Assistance, Counseling

Most of our legal assignments have involved legal education. Even if our Volunteer lawyers were not assigned to law schools, they have helped generally to teach legal courses wherever they've been assigned.

Volunteer lawyers have been assigned to law schools in many of our host countries. They have been involved in teaching most of the courses found in the basic curriculum of American law schools. In countries whose legal and judicial systems are patterned after ours or a common law system, fewer limitations have inhibited volunteer contributions and effectiveness. In countries whose legal system differs from ours, e.g., a civil law system, we have attempted to send lawyers who have been exposed to or have had some experience with the different legal systems. These lawyers have also performed well.

In addition to regular teaching chores, Volunteers contributed legal articles, helped to build up law libraries and improve research facilities, assisted in preparing textbooks and lesson materials. Naturally as teachers they participated often in legal writing programs, moot court competitions, student publications, discussion groups, research projects, and other activities related to legal education.

Peace Corps Volunteer lawyers in Liberia taught, prepared lesson plans, submitted articles and materials for a Justice of the Peace training program. Throughout their two years of

JLW-429942

Volunteer service they contributed articles for publication in Liberian law journals. They were involved also in participating in administration of the law school and assisted in producing films for the purpose of training lawyers.

Our Volunteers have assisted in codifying the customary and tribal law and in developing commercial codes in many of our host countries. Such an exposure has been often intellectually rewarding, as many of the countries have fascinating legal traditions extending back to the early years of man.

In some of our host countries our Volunteers have helped to compile law reports, edit and digest cases, write headnotes, correlate statutory changes, prepare indexes and cross-reference tables, etc., performing tasks which have been accomplished in the United States by our legal publishing companies. Often such a venture was a country's first.

Volunteer lawyers have acted as advisors to city councils, legislatures, and different public institutions. In some countries Peace Corps lawyers have been assigned to different ministries. For example, in a Ministry of Public Works, a Peace Corps lawyer worked as he would in a General Counsel's office in one of our cities or states, an office concerned with advising a state or city's public works department. Volunteer lawyers worked also with public housing departments in different countries, where they have been involved with problems related

to long-range financing, mortgages, and urban development. They have worked on contracts involving any number of subjects, participated in negotiations, worked on proposed legislation and ordinances, and interpreted existing legislation.

Volunteer lawyers assigned to Ministries of Commerce and Industry worked on problems relating to foreign investments in industrial mining, agriculture, tourism, and transportation. Also they have been involved in problems relating to licensing traders and business organizations, registering corporations, trademarks, administering weights and measures. They have worked on legislation concerning fair trade practices, price controls, workmen's compensation. They have been involved in labor relations, worked with chambers of commerce, and have been assigned to small business development centers where they worked on market, cost, and feasibility studies.

In the summer of 1964 David K. Kadane, General Counsel of the Long Island Lighting Company for twenty years, and his wife volunteered to serve in Tanzania. His wife, a nutritionist by profession, worked with the Tanzania Freedom from Hunger Committee. She had worked for many years as a volunteer for a non-governmental organization working with the United Nation's Children's Fund. David's background was in corporate finance, commercial and regulatory law. In Tanzania he served as a lawyer in the chambers of the Attorney General of Tanzania.

22X6-429944

6

Much of his work was in the field of corporate finance. It included negotiating and drafting contracts for the setting up of new industries and commercial interests. He spent a considerable amount of time assisting on the problem of trying to build a genuine and workable common market for East African countries. He worked on several legal matters which he found particularly interesting. He participated in negotiations for a new five-year contract to mine one of Tanzania's few natural resources, a diamond mine which produced over 6% of the world's gem diamonds. "After all these years of becoming familiar with the electric and gas industry, I found it quite a change of pace to learn about the several hundred different kinds of diamonds, and the problems connected with valuing them beneficially to the seller, when they are sold to the world cartel, and with the buyer owning half of the stock himself."

Another special job was serving as a member of the presidential commission of enquiry to examine the cooperative movement in the agricultural marketing boards of Tanzania. This commission was appointed by President Nyerere.

"One of the major things I brought home with me, and which I want to share with you, is seeing the Tanzanian farmer as a person, rather than a statistic; furthermore, seeing him not the way he is usually visualized with

22 ~~1/2~~ -429945

Western eyes as ignorant, backward and superstitious, but rather as a poor and very hard working person who is motivated in much the same way as their people are motivated, especially with a desire to improve things so that his children will be able to live a better life."

In describing the Tanzanian, Dave points out,

"He wants to be self-reliant; he wants to make it on his own. He realizes that while aid from the rest of the world can make the development process go more quickly, most of the capital required for the development must come from the people themselves."³

The Hon. Robert Clifton, former municipal and superior court judge for 24 years in Los Angeles, joined the Peace Corps and served in Micronesia. He was assigned to aid the high court and later was appointed by the Secretary of the Interior as temporary judge in the high court without salary. He held trial court sittings involving civil and criminal cases in all the districts.

3 This was taken from the statement of David K. Kadane before the House Committee on Foreign Affairs, Subcommittee on Africa, May 8, 1968.

Also, in Micronesia, Peace Corps Volunteer lawyers worked with local bar associations and published a legal review entitled "The Micronesian Advocate." Some of the articles which were published concerned juvenile delinquency, writing wills in the Trust Territories, small claims procedures, marriages and divorces, land use planning, and recent Supreme Court decisions on confessions. Additionally, they worked on annotations for the Trust Territory codes.

In Nigeria Volunteer lawyers were native court inspectors. They inspected court records, watched the handling of cases, and investigated particular complaints. They helped also to train judicial staffs.

In Peru, Volunteer lawyers worked on a land registration law. They participated in reform of the existing land registration procedures. This project was very important because of its relationship to agriculture and agricultural reforms. A Peace Corps Volunteer lawyer helped work on its initial drafting, facilitated its travel through all the bureaucratic obstacles, and saw its final passage before completing his Volunteer service. Also in Peru, Peace Corps Volunteer lawyers worked on projects to help devise an equitable and orderly distribution system of water for irrigation projects. They worked on compiling and formulating a new water code.

22/10-429947

Peruvian Volunteer lawyers worked also in the first formulation of grades and standards for commodities.

In the Venezuelan municipal management project, Volunteer lawyers contributed to the strengthening of the efforts at the municipal level in light of Venezuela's stated goal of decentralization. They were concerned with projects designed to streamline internal administration machinery (for example, budgets, accounting controls, collection procedures); to execute existing functions more effectively (for example, garbage collection, land taxation); to stimulate the city's participation, or more effective participation, in many instances, in other functions within its legal responsibility (for example, most notably, with regard to land use planning); and various others not so easily categorized as the above (for example, in public relations, in design or construction activities, which otherwise might be shifted to national or state agencies, contracted out, or not untypically, abandoned altogether).

Also in Venezuela, a Volunteer lawyer participated in helping to make a map of the city to which he was assigned. Volunteers were also involved in helping to open up and repair streets, drainage ditches. They worked on landfill activity, subdivisions, and assisting in the control of sale and leasing of specific new areas for development, and assisting and advising the municipal's engineering department. In

agricultural programs Volunteer lawyers have engaged in market research, production scheduling, financial analysis, and coordination of technical assistance. They have worked in assisting host country citizens with financial needs and problems, particularly loans.

Often a Peace Corps lawyer may be particularly useful in bringing together representatives of different agencies, international or domestic, high officials of the different organizations and perhaps from different countries. Peace Corps Volunteers have worked with representatives of U.S. AID, United Nations agencies, the World Bank, etc.

In many of the countries Volunteers helped initiate legal aid programs. Sometimes this was the country's first attempt to provide legal assistance to the poor.

The legal aid needs in the developing countries are the same as those in many of our metropolitan cities and areas, where the cost of living is high, where housing is inadequate, where jobs are too few, where organized crime and corruption are serious, where severe domestic strains result in broken families.⁴

4 "A need for legal services in the developing country is perhaps more crucial than the same need in a similar and affluent society. The problems of the developing countries which increase the need for legal assistance occur because of the specific plans for development which the government institutes. The government's entire effort to improve the economic level of the country requires drastic dynamic changes. The ability of the individual to relate to his social environment is thus complicated by the changing nature of the environment itself. Traditionally, all law, through the courts, has been the means by which an individual adjusts to the structure of the society." Taken from the Legal Aid Program for Bombay, April 11, 1968.

In Brazil, our Volunteers helped stimulate the interest of local bar associations in these programs and often assisted in soliciting funds to finance the projects. In Bombay, Volunteer lawyers enlisted the assistance of social workers in their legal aid programs.

In a proposal to the Ford Foundation for financing of the Bombay legal aid project, the role of the Peace Corps Volunteer lawyer would be partly as a promoter, an administrator, and an adviser. His objective would be to help design and develop a legal aid center that could eventually be carried on without him. His main job would be to help in staff training and establishing an effective organization composed of Volunteer lawyers and social workers.

Like most other Volunteers, the experiences of Peace Corps Volunteer lawyers are very personal. They are based primarily on one's own values, his ideals, his resourcefulness, his sensitivity and creativity. Given two lawyers who graduated from the same school with the same academic standard, each person will probably experience his Volunteer service differently. One Volunteer may comment that the volunteer service will have been the best years of his life; while another Volunteer may consider the Volunteer experience a complete waste. Often determining factors in the evaluation of his service are his ambition, his patience, and his outlook on life. One who

sees himself in the center of everything, as the boss, or as the major policymaker is unlikely to have an enjoyable Volunteer service. One who is willing to work with and is very sensitive to needs, problems of the host country citizens, his counterparts and its institutions, who is tactful, patient, and not easily frustrated, who is resourceful and innovative is more likely to have an enjoyable Volunteer service.⁵

Usually it's a person who likes people, who considers other human beings more important than himself.

As stated by one Volunteer from a southern state intending to practice in a small town:

"More important, however, has been the whole experience of being a Peace Corps Volunteer. I've learned a little more about what it means to be 'sensitive' to other people's needs and feelings. I've learned a little bit more about the meaning of the term 'racial discrimination.' I've learned a little more about the similarities all humans share with one another. In short, though this does sound terribly immodest, I think I have become a better person from having come into contact with so many people of different backgrounds, other Peace Corps Volunteers as well as Liberians." "In terms of my career goal, the

5 See Ganzglass, footnote 1, supra.

Peace Corps experience gives me confidence in achieving it. Social justice in my hometown may not improve much in my lifetime, though I think it will. But even if it doesn't my goal of contributing to its attainment is well on its way before it is started. Trying is part of the satisfaction. Small successes become cause for celebration. Any Peace Corps Volunteer who has tried and failed at many little things knows what I mean. For what I want to do as a lawyer in my hometown, the Peace Corps experience is an excellent training ground. The frustrations of home will no doubt be more severe than here."

Another Volunteer stated, "I joined this municipal management group essentially because of the unique opportunity for experience and service in the municipal government of a foreign country. That I may have contributed something to the development of a particular 'Concejo Municipale' in Venezuela awaits a future judgment. Personally, it has been and continues to be a most satisfactory and challenging assignment. It has added important dimension to my direct experience in government affairs (prior to entering the Peace Corps, I was employed by the Office of the General Counsel, Department of Health, Education and Welfare) and increased my desire to continue a career in public service."

2216 - 429952

Another Peace Corps lawyer stated,

"People in the United States, with relatively new lives can, by becoming Peace Corps Volunteers, mature beyond their years - at least with respect to a comprehension of the world in which they live... a world with two-thirds of its population in developing countries where per capita incomes average about \$100 a year." As Cardinal Newman stated to scholars, "Those of you who look to shape tomorrow's policies must engage the world where it lives - in its people at a level where their substance is not obscured by the products of culture, but rather illumined by the cultures itself."⁶ The Peace Corps offers this opportunity.

Experience Requested and Future Assignments

Since the early sixties, we have witnessed profound changes in our host countries. In the many newly independent countries the powerful forces of nationalism have generated fierce pride. So much that Peace Corps is required to export its very best. Our countries want experienced Volunteers. Our Volunteer lawyers often have been recent law graduates; while our young lawyers have contributed superbly, our countries are more sophisticated and wish to work with our best legal technicians, advisers, and administrators. They want skilled technicians as well as skilled humanitarians. There have

⁶ Ehmann, *Old Lives for New*, Peace Corps Publications, Office of Public Information, Washington, D. C. 20525

2216-429953

been requests for Volunteer lawyers with substantial international law experience, in drafting treaties and specific laws such as mining laws. Many of these requests Peace Corps has been unable to fulfill.

The countries need skilled lawyers to work with them in devising appropriate foreign investment schemes, agreements, which are generally very complex and which may help preserve the country's resources for its citizens and at the same time afford the investor a fair rate of return. Challenging positions and opportunities exist to work on taxation problems in developing countries, ways in which to generate more revenue to provide the services necessary for a better life for a country's citizens.

Experienced lawyers in legal aid work are necessary to assist in working with and establishing new legal aid programs. Skilled public administrator lawyers will be useful in helping to reshape and improve bureaucratic mazes which are burgeoning in our host countries. There are opportunities to participate in reforms, to eliminate the bad aspects and remnants of colonialism and to devise and propose a legal framework which is more responsive and relevant to the problems and needs of the people in the host countries.

"With change there may be opportunities to inquire into what the law should be, to prove the reasons for existing law,

to question the wisdom of a particular statute, to challenge the logic of a particular judicial decision, to recognize new problems and to find modern solutions for old ones,"⁷ as one Peace Corps lawyer has stated.

We shall continue sending lawyers to all areas of the world. In Micronesia, eight to twelve lawyers are needed to continue the excellent work of our previous Volunteers in legal education, counseling local institutions and legislatures, and assisting in building the legal resources of the Trust Territories.

Along with standard legal assignments, we think there is tremendous potential in establishing inter-disciplinary consulting teams which include lawyers. Most assignments of this nature have proved productive. Many of our lawyers enjoyed attacking economic and social problems and working with experts and specialists in fields of architecture, business and city planning, economics, and engineering. Our consulting teams have helped to draft proposals and specifications for different projects in our host countries. They have been involved in everything from tax to garbage collection programs. Such assignments demanded sensitivity, maturity, political sophistication, patience, tact, and the ability to work within what often is a frustrating organizational framework. Lawyers whose undergraduate academic training involved

22/6-429955

7 Salacuse, Lawyers Have a Volunteer Role, footnote 6, supra.

political science, government, finance, accounting, economics, public administration, urban studies, or psychology have been particularly useful. Naturally often our most successful Volunteers are fluent in the host country's language. We hope to develop some placements overseas for which private practitioners and judges may serve on a rotating short-term basis. Private funding will probably be necessary for such a project.

Throughout all our programs, legal education will be stressed continuously. Volunteer lawyers will be expected, whether during their working or nonworking hours, to contribute from their American legal experience whatever is relevant to host country citizens and its institutions.

Host Country Participation

Like all our Peace Corps programs, our legal programs and Volunteer lawyers have attempted to involve host country participation to the fullest extent. As has been mentioned often, "whether we've contributed at all can only be determined when we leave." "What will continue to grow?"⁸ Our main desire continues to be to work with host country citizens and institutions in a way where our efforts continue to have a continuing and rewarding multiplier effect.

8 Wiggins, supra.

Volunteer Support

We are requesting legislation to make Volunteer living allowances more flexible to enable more skilled personnel such as lawyers to maintain an economic and social position equivalent or closer to their counterparts.⁹ We think this will improve their effectiveness. We hope to send more Volunteers with dependents overseas.

We hope to identify the specific jobs with greater accuracy and make our training more relevant to the specific placement. We will try to expose our Volunteer lawyers as much as possible to the host country law, providing them with relevant texts, articles and statutes, and arranging informal meetings with host country law graduates, lawyers, and former Volunteers who may have had legal experience in the particular host country.

We hope to have research pools, groups, facilities in different law schools and institutions in the United States to assist our Volunteers on difficult legal problems, assistance which may be necessary because of incomplete research facilities in the host countries.

⁹ Hagman, Schimmel, Education for Peace Corps Volunteer Lawyers, 17 J. Legal Ed 384 (1965). See this article also for suggestions on a Peace Corps lawyers training program and comments on a program conducted at the U.C.L.A. law school in 1964.

Attorney-Client Relationship

Peace Corps has been proud of its apolitical role and its independence from U.S. foreign policy and institutions. We are not an arm of U.S. foreign policy and do not interfere with host country politics. Consequently Peace Corps continues to respect and adhere strictly to the confidential nature of the attorney-client relationship.^{d1} While our Volunteer lawyers represent Peace Corps and the United States, they are considered lawyers first and Peace Corpsmen second. They are not expected to violate legal ethics, to divulge any confidences which they share with host citizens, its institutions; nor are they expected to involve themselves in conflict of interest situations. We do not attempt to gain information derived from the attorney-client relationship of the Volunteers, for to do so would destroy their very effectiveness. Oftentimes the Volunteer lawyer's effectiveness is based primarily on his ability to gain the confidence and assurance of those with whom he works. He must show that he sincerely wants to work with and assist host country citizens in any way possible and that he does not in any way intend to disclose any information derived from his confidential relationship with the host country citizen and its institutions.

In the 1970's we hope that we can send abroad another group of sensitive, creative lawyers, true diplomats like those of the 60's.

22
K-429958

Of course, we need the same talent and unselfish commitment/in the United States, but a volunteer experience abroad may be invaluable. It often provides one with a new perspective on life. A Volunteer sees the common similarities and of mankind/is often stimulated with a greater concern to deal with our society's economic and social problems when he returns home. Most of us who have witnessed mass poverty and suffering return home with our eyes opened a little wider than before. Our sensitivities have been sharpened, and we are determined to work toward a more equitable distribution of achievement opportunities for all our citizens.

As stated in the Harvard Law Record, "For the highest peak a lawyer can reach is to know that he has been of service to his fellow man and that he has helped to better the system of rules and regulations which keep society functioning. He can achieve this in any field of the law, in any case he tries, and in any country of the world."¹⁰

10 This was an editorial in the Harvard Law Record entitled "A Refreshing Breeze" when William Delano, General Counsel of the Peace Corps, spoke at Harkness Commons at the Harvard Law School, April 1963.