

**Law School Response
To
Review of Master of Law and Doctor of Philosophy
Degree Programs
School of Law
University of Washington
November 30, 2000**

Introduction

This document responds to the report dated July 2000 of the Review Committee appointed by the Graduate School to review the Master of Laws and Doctor of Philosophy Degree Programs currently conducted by the School of Law. It contains the following:

- A. Response of Dean Roland Hjorth to Dean Marsha Landolt, dated August 16, 2000.
- B. Additional Comments by Associate Dean Richard Kummert, dated November 30, 2000.
- C. Responses by Program Directors: Professor Prosterman; Professor Clarke.



UNIVERSITY OF WASHINGTON

ROLAND L. HJORTH, DEAN
School of Law

August 16, 2000

Marsha Landolt
Dean, Graduate School
University of Washington

Dear Dean Landolt:

Introduction

I have read with interest the "Review of Master of Law and Doctor of Philosophy Programs, School of Law, University of Washington," hereinafter referred to as "Review." The following is my response to that Review. Associate Dean Richard O. Kummert will prepare a more complete response after he has discussed the Review with faculty members having special interest in post-J.D. programs at the Law School.

A very substantial portion of the Review addresses the J.D. program at the Law School and our plans (or perceived lack thereof) for its future development. The self-study prepared by the Law School for the Review was limited to its graduate programs. Comments about the J.D. program are thus made without the benefit of information such a study would have produced. Moreover, I am not aware that the Committee has either the mandate or particular competence to judge the Law School's J.D. program. No member of the committee is a member (though some may be adjuncts) of a law school faculty and so far as I can tell only one member has a law degree. Thus, to the extent that the Review assesses the basic program of the Law School, the assessment is dicta based on a very superficial review of the Law School.

As to post-J.D. programs, the Review places undue significance on the role of such programs in law schools generally. The primary purpose of these programs in law schools is not to train academics but is to provide advanced training to lawyers who wish to heighten their skills in specialty areas.

In the early 20th century, the great law schools of this nation offered LL.M. and J.S.D. programs designed primarily for graduates of lesser schools who sought academic positions or who sought to upgrade their credentials. In recent years those programs have declined, especially programs designed for prospective academics. The reason for the decline is the fact that very few law schools in the United States pay significant attention to post-J.D. degrees in seeking new faculty members.

In the last half century, other post-J.D. programs have developed with two emphases: (i) the training of foreign lawyers who find a U.S. LL.M. degree helpful in their own societies; and (ii)

advanced professional training for U.S. lawyers in specialty areas. The U.W. Law School has been part of this later development. We had no post-J.D. programs until the Asian Law Program was established in 1963. The history of that program reflects the trends I have described above: although open both to U.S. trained and foreign trained lawyers, almost no students in the graduate program presently come from the United States. They are instead foreign trained lawyers, some of whom hope to gain academic positions, but most of whom will re-enter the legal profession when they return to their home countries. Three other programs launched between 1967 and 1994 (Law and Marine Affairs; International Environmental Law; Law of Sustainable Development) were not, I believe, designed to train academicians. In any event I know of no graduates in those programs who have entered the academy anywhere in the United States.

Post-J.D. programs that do succeed in the United States, as I note above, are those programs in which post-J.D. academic training is considered helpful by the legal profession. The profession does not consider such training to be especially helpful in all areas. One remarkable exception is the area of tax law. We believe that intellectual property law (or technology law, more broadly defined) is another exception.

Given the limited scope of LL.M. programs, they are not as significant in law schools as the Review suggests. Post-J.D. programs are, relatively speaking, more significant here than in most law schools. But even in this Law School, post-J.D. students account for less than 1/6 of the total student body, and more than half of those students are in a self-sustaining program that receives no financial support from the Graduate School, the University, or the State.

In its assessment of the relative significance of post-J.D. education at the Law School, the Review strives mightily to make the tail wag the dog. The Review suggests that the Law School has no strategic plan or vision that properly involves our graduate programs. In fact, the Law School's graduate programs occupy an important but ancillary role in the Law School's mission. They are designed primarily to provide education in American law for foreign lawyers, and to provide advanced academic training in specialty areas, including tax and intellectual property. Those that provide professional training for U.S. lawyers will be self-sustaining programs.

Recommendations

Asian and Comparative Law

I agree that the program should be retained. The Review states that the program needs more support, administrative and otherwise. In a School with extremely limited resources for administrative support, I believe the Asian and Comparative Law Program has fared very well. I have agreed to provide additional administrative support to the new Director of the program out of existing Law School resources. In addition, I have dedicated an endowed professorship (endowment of about \$600,000) to bring one visiting professor to the Law School from Asia for one quarter each year. (This Professorship is in addition to the Dan Fenno Henderson Professorship in East Asian Legal Studies.) I believe that the UW Law School provides more resources to Asian law than any other law school in the United States (with the possible exception of Harvard Law School). I will of course continue efforts during the next year to reach alumni of the program as potential contributors to and recruiters for the Asian and Comparative Law Program at the Law School.

Taxation

I agree that the program should be retained. It has been a striking success and has almost twice as many students as the LL.M. program in Asian and Comparative Law. The Review recommends that someone "require" the taxation program to develop a research, public policy, and scholarly component. I hope that when Associate Dean Kummert and I return to full-time teaching and scholarship we will add to its research, public policy, and scholarly component. Professor Meade Emory is a nationally recognized scholar in tax law and he is actively involved in tax policy. We believe that Sam Donaldson, a superb young teacher, will also become a leading scholar in taxation.

It should be noted that the program's ability to do the things that the Review would require it to do is limited by its resources. Although the program developed substantial reserves in its early years, the addition of a full-time junior faculty member and other enhancements have caused revenues this past year to exceed expenses by only \$35,000. The launching of a low income tax clinic this year will cause a further drain on revenues. Although the program may be a "money tree" (to quote a phrase from the Review) to the central administration (15% of revenues are paid as "overhead"), it is not a money tree to the Law School.

Law and Marine Affairs

I agree with the recommendation that the program in Law and Marine Affairs be discontinued. I am not persuaded, however, that the Law School should create a consolidated graduate program that includes aspects of this LL.M. Although the Review is not explicit on this point, I presume their overall recommendation is that Law and Marine Affairs (and Sustainable Development) be terminated as separate tracks and that a new LL.M. program be instituted that would include not only the terminated tracks, but many other possible tracks, such as environmental law, health law, etc. The creation of such a new, general program would require inspection and acquiescence by the American Bar Association, the accrediting agency of the Law School. I am also of the view that a "general" LL.M. program that is not the responsibility of a faculty member director will gradually sink into desuetude.

Law of Sustainable Development

The Review recommends termination of this program, stating that it "is not at the core of the School's mission, and it adds little in the way of prestige, research or teaching." The Review criticizes of the Law School for shortcomings of the program, which is called a "tiny program that depends too much on a single faculty." The Review adds that there is "no evidence of real commitment by the Law School." The Review suggests that this program be folded into an "intellectually compelling research and graduate program that includes aspects of this LL.M."

I presume that if the Review's recommendations are accepted, the Law School will adopt a "general" LL.M. program and that Professor Prosterman's program will continue under that aegis. I believe such an arrangement would offend Professor Prosterman and would make "general" graduate programs more peripheral to the Law School than individual programs are now.

I do not share the Review's view of the program on sustainable development. It is a small program. But it is an integral part of the work of the Rural Development Institute (RDI) and an

integral part of Roy Prosterman's vision and his life work. Roy has devoted his life at the University of Washington to the promotion of world peace and the alleviation of world hunger by means of land reform in developing third world and former soviet bloc countries. His work has been recognized by grants to RDI from many donors (including a \$4.5 million grant from the Bill and Melinda Gates Foundation). The work of RDI is supported by the U.S. Agency for International Development. Roy himself has been awarded the Corbally Professorship for Public Service and has been nominated for the Nobel Peace Prize. RDI now has a staff of 8 lawyers and 4 administrators. While RDI is now a separate institution, it grew out of Roy's efforts at the Law School and is affiliated with the Law School's work. Many J.D. students receive credit for serving as "externs" at RDI under the supervision of Roy Prosterman and other RDI attorneys.

The program of Sustainable International Development may only graduate 2 to 5 students each year, but the lives of those students are enriched by the work they do in the School and as interns at RDI. Most go on to perform socially meaningful and helpful work. Roy Prosterman has not complained to me about lack of School support or involvement.

This recommendation represents a needless slap in the face of one of the finest human beings I know. Surely he deserves more than a cavalier rejection by a group that has shown so little appreciation for his work. This program does not demand huge resources. Terminating it will not save one dollar. Its graduates, though few in number, do get jobs.

CASRIP

The proposed LL.M. program, CASRIP and our new Center for Law, Commerce and Technology would all be parts of the Law School's new focus on research and teaching in areas of law that relate to new and emerging technologies in the Pacific Northwest and in the rest of the world.

The Review supports the Law School proposal for a new LL.M. program in intellectual property and technology law, but raises two issues that "need to be addressed." The first issue is said to be the need for administrative support. This may be an issue of concern but it can hardly be the cause of criticism inasmuch as we have not yet launched the program. Moreover, when it is launched it will have to live within its budget as a self-sustaining program. I expect the Technology Law LL.M. program to sustain itself comfortably; I do not expect (as the Review suggests) that it will be a "money tree." I do note the following:

1. We have recently provided a full time administrative assistant for CASRIP.
2. We have appointed a new Director of our Center for Law, Commerce & Technology. This is a high-level administrative position.
3. We have used the "unit specific" UIF (1/3 of 1% of our budget) to employ an administrative assistant for our Center for Law, Commerce & Technology.
4. We have raised \$500,000 to endow a Professorship to assist us in hiring a senior faculty member in technology law.

5. We have raised \$1,200,00 in other private support to support the work of the Center for Law, Commerce & Technology, and the Center will be an integral part of our new LL.M. in intellectual property and technology law.
6. We intend to raise much more private support for the work of the Center.

To the extent the Review suggests a lack of commitment to administrative support for our technology initiative it is incorrect and ill informed.

The second "issue" the Review identifies is insularity. The Review states that the Committee "is concerned that without active encouragement in this direction, the LL.M. and the Center itself will revert to the more insular model that dominates the Law School." In launching the Law School's Center for Law, Commerce & Technology, I met with the Vice Provost for Research, the Dean of Engineering and the Dean of Business to discuss the possibility of a joint program among our schools. The Vice Provost was enthusiastic. The Deans were noncommittal. Business and Engineering have both launched similar programs without once consulting me or members of my faculty. We want to work with other units on this campus to advance common goals, but we cannot do this alone. I do not believe the Law School is "insular." We work with the School of Social Work in our Child Advocacy Clinic. We are actively involved in the interdisciplinary Public Health Genetics Program. We have had joint degree programs with other units for many years. We are a professional school whose prime mission is to train lawyers, and we cannot assign that responsibility to other units (including the Graduate School), but we do seek to work with other units in the University to improve the work we do here.

Health Law

While we certainly welcome the merited praise of Professor Pat Kuszler, we do not understand why discussion of a health law program is included in the review. We do have such a program. It is not a graduate program. We recruited Professor Kuszler to develop the program. We have raised more than \$150,000 in private (non-endowed) funds to support the program. That money has been available to Professor Kuszler for years. I have urged Professor Kuszler, without success, to spend money we have raised to provide her with administrative support. The money lies idle. The Review's statement that Professors Kuszler and Mastroianni "deserve active administrative and fiscal support" is a misinformed statement. Professors Kuszler and Mastroianni are members of our faculty. As such they receive the same support as other members of our faculty and we have obtained special funds to provide them extra support – funds which they have not utilized.

Apart from all of the above, the health law program is not a post-J.D. program and Professor Kuszler has not suggested that it should be. The Review's comments about that program are thus once again dicta concerning a Law School program over which the Graduate School has no jurisdiction.

Additional Recommendations

The "Additional Recommendations" appear to be addressed to the overall Law School program rather than to graduate programs as such. I read such comments with interest. Presumably the new Dean of the Law School will do so as well inasmuch as this entire Review seems to be epistle intended primarily for that person.

Conclusion

The Review seems to proceed on the unstated premise that graduate education for law-trained students ought to resemble graduate education in political science or international studies, with similar occupational outcomes. Almost all of our LL.M. students are, or desire to become, lawyers with heightened skills in complex areas of practice. We have no indication that graduates are not superbly prepared in the area of their choice. While we are always ready to consider ways to improve our programs, we also insist that the appropriate standard for evaluating proposals is whether they will advance the professional training of the students involved. If any member of the Review Committee thought to ask that question, it seems to have had little influence on the product.

I am very proud of the Law School and the accomplishments of its graduates. Our graduates include three current Regents of the University of Washington, a former Speaker of the House who is Ambassador to Japan, a majority of the Justices of the Washington Supreme Court, leaders of the Bar, and leading industrialists of the State and Nation. Our graduate program in Asian and Comparative Law is considered to be one of the best such programs in the Nation. We will devote additional resources to that program within the constraints of our overall resources. Our graduate tax program, although young, has had much success and has a promising future. Our proposed graduate program in intellectual property and technology law will (with other technology initiatives) help take the Law School to a new level of excellence. We welcome informed and constructive criticism as we seek to improve the Law School and its graduate programs.

Sincerely,



Roland L. Horth

cc: Debra Friedman, Associate Provost for Academic Planning
 Richard Kummert, Associate Dean, School of Law
 John Slattery, Associate Dean, Academic Programs, The Graduate School
 Members of the Law Review Committee:
 Margaret Levi (Chair), William Lavelly, Richard Zerbe, John Ferejohn (New York
 University and Stanford University), and James Barnes (Indiana University)
 Augustine McCaffery, Assistant to the Dean, The Graduate School
 Beatrice Greenwald, Assistant to the Dean, The Graduate School
 Linda Kay, Assistant to the Vice Provost, Office of the Provost

Additional Comments.

1. The report states that "one of our aims is to lay out some guidelines for how scholarship can and should be better integrated with the J.D. program." The report later recommends that there be "a research component in every [graduate] program." On the latter point, every graduate program except for the LL.M. in Taxation currently requires at least one major research thesis-length effort. With respect to the J.D. program, every graduating student must satisfy an advance writing project requirement (projects must extend over two or more quarters) by participating in research-based seminars, publishing a note or comment in one of our highly respected law journals, or preparing, with faculty supervision, an individual research project. Many J.D. students pursue more than one of these in-depth research experiences.
2. The report assumes that the best law schools in the U.S. owe some important part of that distinction to their LL.M. programs. The assumption is contrary to what I, or my faculty, know about such "programs", and the personal experiences of our J.D. graduates who have chosen to pursue an LL.M. elsewhere. Most of the best schools (exceptions must be made for NYU and Georgetown) offer generic LL.M. degrees whereby the LL.M. students (usually foreign students and graduates of lesser-known law schools) pick and choose from the list of courses and seminars available to J.D. students. Even if you look to the limited group of quality law schools with specialized graduate programs, I doubt that faculties at those schools would attribute much of the ranking of their schools to their graduate programs. I recently received a mailing from the University of Chicago Law School (touting the school as the best, at least on one measure, in the country), which in its 150 pages barely mentions graduate programs, let alone connects them with the school's academic reputation.
3. The report faults the School for not focusing its graduate programs on producing law school teachers. We repeatedly told committee members that LL.M. programs generally are not, and have not, been viewed as preparation for law teaching. For purposes of this response, I asked our librarians to determine how many faculty members at leading law schools hold an LL.M. degree. The results are attached as Appendix A. These data show very few LL.M. degree holders on the faculties of most quality institutions. The exceptions are NYU, George Washington, and Georgetown, presumably as a result of their extensive specialized LL.M. programs in which many part-time instructors in the LL.M. programs have that degree. (This explanation also fits for U.W. Law School data.) Both our recent tenure-track hiring experience, and recent preferences of J.D. students interested in teaching, suggest that possession of a graduate degree in another discipline serves the aspiring law teacher far better than an LL.M.: almost all of our recent hires have a graduate degree in another discipline; and increasingly, J.D. students expressing a strong interest in teaching engage in joint J.D./PhD. or joint J.D./Masters programs.
4. As Dean Hjorth states in his response, most of the American law school graduates who pursue graduate legal education do so to acquire background and skill in a practice specialty, with the hope of enhancing their marketability. Generally

speaking, courses, workshops and seminars for any such graduate program are designed to prepare the students to become, after reasonable experience, outstanding practitioners in the area of specialization. Ultimately, we expect that at least some of the graduate students will become leaders of the profession, business enterprises and governmental units. Those goals, of course, are similar to, and complementary to the School's goals for J.D. graduates. Our graduate programs are designed to enhance and support our J.D. program by affording J.D. students the opportunity to specialize through access to a rich set of advanced learning experiences that would not otherwise be available to them. Consider, for example, the impact of the initiation of the Tax LL.M. program on the Law School curriculum: prior to the LL.M. program, J.D. students had access to four or five tax courses each year; immediately after the program began, the number of courses available exceeded twenty-five, and now exceeds thirty.

5. U.W. J.D. students who wish to specialize have several means at their disposal: joint or collaborative degree and certificate programs with campus graduate units; an LL.M. program; or pursuit of a concentration within the J.D. program. Both an LL.M. program, and a concentration track, exist for our most prominent specializations (thus there is an Asian and Comparative Law concentration in the J.D. program as well as an LL.M. program). The existence of the concentrations is a significant factor in recruiting outstanding J.D. students. For example, each year a number of strong J.D. students enter with the desire to specialize in the Asian and Comparative Law track. We also have concentrations in areas in which we do not offer an LL.M. (e.g., Alternative Dispute Resolution, Environmental Law, Health Law, and Intellectual Property and Technology Law). While the Law School Curriculum Committee has not addressed the issue, both the Law and Marine Affairs and Law of Sustainable International Development programs merit classification as J.D. concentrations. That status, combined with increased recruiting of J.D. candidates with those special interests, would enable the School to continue two of its most interdisciplinary programs. The programs deal with vital issues of global significance, involving faculty from other departments, produce significant research (both by students and faculty), and are, at least within specialized audiences, highly regarded.

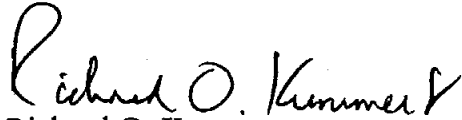
6. Updates on several matters:

- a. LL.M. enrollments in fall 2000 continued recent patterns: 22 candidates for an LL.M. degree in Asian and Comparative enrolled and 60 candidates for an LL.M. in Taxation enrolled. None of the admittees to the Law and Sustainable International Development and Law and Marine Affairs LL.M. programs enrolled.
- b. The Law School is a partner in a collaborative multidisciplinary graduate program in Public Health Genetics. Funded in the initial round of University Initiatives Fund awards, the program will ultimately offer M.P.H., M.S., and Ph.D. degree programs as well as a certificate program in Public Health Genetics. The M.P.H. degree program is now beginning its third year. Applications nearly doubled after the first year, and this program's courses have drawn graduate students from several different disciplines. Several J.D.

students are pursuing the Public Health Genetics certificate. Law faculty teach three of the seven required courses in the master's program and are integrally involved in the ongoing self-study for the future Ph.D. program. A formal joint/concurrent J.D./M.P.H. program is in development.

- c. The Law School Initial Appointments Committee will soon begin interviewing candidates for what will become a third faculty position in Asian Law, and for the director's position in the Tax LL.M. program.
- d. Over the summer the Law School installed equipment necessary to conduct videoconferences at the School. This fall and winter quarter a J.D. course in International Contracting will involve J.D. students in conferences and negotiations with law students at the University of Tokyo (Professor Foote deserves much credit for his arrangements at the other end). Our anticipation is that the existence of the equipment will greatly enhance our ability to conduct courses, seminars and conferences involving international scholars.

November 30, 2000


Richard O. Kummert
Associate Dean for Academic Affairs

APPENDIX A

Law School Rank	Law School	LL.M. only	J.S.D. or S.J.D. only	LL.M. and J.S.D.	Total #	# of Faculty
1	Yale University	4	1	1	6	78
2	Stanford University	1	0	1	2	61
3	Harvard University	3	2	2	7	109
4	New York University	14	0	3	17	150
5	Columbia University	7	2	2	11	118
6	University of Chicago	3	2	1	6	64
7	University of Michigan - Ann Arbor	1	3	2	6	99
8	University of California - Berkeley	4	0	1	5	87
8	University of Virginia	4	2	2	8	90
10	Cornell University	3	1	0	4	65
10	Duke University	4	1	1	6	64
12	Northwestern University	5	2	1	8	78
12	University of Pennsylvania	1	2	1	4	63
14	Georgetown University	18	2	1	21	138
15	University of Texas - Austin	8	3	1	12	91
16	University of California - Los Angeles	6	3	3	12	91
17	University of Southern California	2	1	0	3	53
18	Vanderbilt University	4	1	2	7	47
19	University of Minnesota - Twin Cities	2	1	0	3	55
20	Washington and Lee University	3	0	0	3	40
21	University of Iowa	6	1	3	10	68
22	University of North Carolina - Chapel Hill	7	1	0	8	63
23	Boston College	7	0	2	9	76
23	George Washington University	12	4	2	18	108
23	University of Illinois - Urbana Champaign	5	1	0	6	55
TOTALS		134	36	32	202	2011
26	Emory University	7	1	2	10	58
26	University of Notre Dame	3	0	1	4	54
26	University of Washington	9	2	0	11	86

Source of rankings: *The U.S. News & World Report Best Graduate Schools Top Law Schools Ranking 2001*, <http://www.usnews.com/usnews/edu/beyond/gradrank/law/gdlawt1.htm>
Source of educational degree data: Westlaw Database, WLD-AALS, *West Legal Directory: AALS Directory of Law Teachers*, 1996-97 edition.

MEMORANDUM

University of Washington/School of Law/Campus Box 354600/Seattle, WA 98105-6617

Date: September 8, 2000

To: Associate Dean Richard Kummert

From: Professor Roy Prosterman

Re: "Report of Committee to Review Graduate Programs", with Particular Reference to the LL.M. Program in Law of Sustainable International Development (LSID)

I have a number of grave questions about this report, its approach, implicate assumptions, self-consistency, and explicit or implicit values:

- (1) Is a "small" (6 or fewer students) graduate program per se undesirable? This seems to be what the report is saying. I suspect that a number of counter-examples could be found at "top tier" law schools. This has been the contemplated size of the LSID LL.M. since first initiated at the urging of then-Dean Wallace Loh and approved (and re-approved) by the ABA review committee.
- (2) There are quite significant differences between the state of the LSID program and that of the Law and Marine Affairs LL.M. The report notes that LSID had a pool of 17 applicants last year — which (though they leave this, at best, to inference) is quite adequate for our needs (of course it is not adequate if they mean to say that any "desirable" program must be much larger than ours). While Law School placement support has been, in our view, often insufficient, most of our LL.M.'s (in apparent contrast to Law and Marine Affairs) do get meaningful, international-development or related jobs, many of them quite significant. The committee knew this, since they asked and I responded at some length, and to ignore this known fact—and the contrast with Marine Affairs—seems to me unfair at a minimum and (given the otherwise likely inference from their reference to past lack of Law School placement support) probably misleading to most readers.
- (3) I could argue with the report concerning the "prestige" issue. I have grave doubts that the committee had, of themselves, sufficient contacts with relevant constituencies, especially abroad, to draw this conclusion, or did the research that would be needed otherwise to reach that conclusion. Of course, they may mean "prestige" within a narrow circle of legal academics in the U.S., but that seems hardly sufficient to discontinue a program that may or may not be "prestigious" (yet) in that narrow sense, but which is (see item (6) below) accomplishing considerable good.
- (4) What does it cost the Law School and the University to keep the LSID LL.M.? The other side of the coin of "little resource support", though that lack is in many ways regrettable, is that it costs very little to keep the program going. Indeed, a very good argument can be made that the

Law School presently gets, freely, the benefit of all of RDI's synergistic research activities as they relate to creating a program which, we believe, is (though of limited enrollment) of very high quality.

- (5) What are we to make of the report's harshly evident lack of consistency? The "synergy between research and teaching" for which the report pleads in an early section is, indeed, demonstrably and extremely strong in the LSID LL.M., but is wholly ignored by the committee. The presence of a strong interdisciplinary thrust is another value that the committee lauds early on, in the abstract, but then utterly ignores in the concrete context of the LSID LL.M., where that thrust is, again, demonstrable and extremely strong.
- (6) Last but not least, what is the framework of values within which the committee is operating? If the Medical School had a small (6 or fewer students), fairly recent, and not-very-well-known "outside" (at least by other medical schools) graduate program, that was getting most of its effective support from, say, the WHO, and was making considerable progress in training physicians to deal with the problem of AIDS in sub-Saharan Africa, would the committee shut it down as too small and not "prestigious"? What are we — the University, and within it the Law School — about, anyway? Is it irrelevant that we have our LSID LL.M. graduates engaged, e.g., in working with the WHO to create updated and desperately needed international legal standards to deal with reporting of, and reaction to, highly contagious diseases that can rapidly traverse international boundaries; working with the U.S. Agency for International Development on important rule of law issues in the Palestinian-administrated West Bank; working with the Securities & Exchange Commission to help create viable capital markets in Eastern European countries; working at a senior level of the BIA on development problems of Native Americans; or —yes— working at the Rural Development Institute in a highly direct and leveraged way to win land rights for the rural poor in a range of Third World and transitional economies? If the answer is yes, it is irrelevant, and despite the evidently high benefit-to-(University and Law School) cost ratio, the program must go because it is too small and has not been sufficiently publicized among U.S. law schools (i.e., lacks sufficient "prestige"-generation), then so be it. But before that is done, for those reasons, and under these circumstances, I think the Law School, the Graduate School, and the Administration should be pretty clear about what exactly it is doing and why. This clarity is, clearly, not provided by the 1¼ page (double-spaced) blurb that is all that we are provided on the LSID LL.M. in the committee's report.

All of which, however, is not to say that we are not prepared to consider proposals for preserving the essence of the LSID LL.M. under some reconfigured umbrella, a possibility that the report — despite its many shortcomings — appears to leave open. But even that case is far from being made.

R.L.P.

MEMORANDUM

School of Law/Box 354600/University of Washington/Seattle/WA

To: Associate Dean Richard Kummert

From: Professor Don Clarke

Date: November 6, 2000

Subject: Response to Review of the Master of Laws and Doctor of Philosophy Degree Programs

To summarize, we believe that many of the observations of the report with which we disagree stem from the committee's not understanding the fundamental differences between graduate programs in American law schools and graduate programs in American universities generally. Students in LL.M. programs are not simply advanced versions of J.D. students. Frequently they are foreign students with only an undergraduate degree in law; when they are not, they are often American students from lesser law schools seeking to upgrade their qualifications. In either case, they do not necessarily have a longer educational history, or more degrees, than J.D. students, and they are not used as teaching assistants. Law school hiring committees do not generally put a high value on an American graduate degree in law, and American graduate programs in law generally neither aim nor expect to produce American law teachers from their graduates. As a corollary, the reputation of an American law school does not generally rest in any important way on its graduate programs. While the Harvard Faculty of Arts and Sciences would be very different without any master's or doctoral programs (or students), Harvard Law School's reputation would not suffer were it to abolish its LL.M. and S.J.D. programs. Of course, every school is different, and indeed the University of Washington Law School's reputation has been enhanced, particularly in East Asia, by its graduate program in Asian Law. Nevertheless, it is impossible to understand the role of law school graduate programs properly without an appreciation of this very fundamental difference.