

Legal Education for Developing Countries: A Personal Case Study from Indonesia

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Introduction

My own work in legal education has been about 20 years in developing countries and more than 20 years in the USA. The first phase outside the US was in three countries in Africa from 1961 to 1973, and the second was eight years in Indonesia between 1993 and 2004.

The current quest for principles of effective development is yielding results, but too late to guide me. My guiding principles, whether right or wrong, were consistent. The generalities are easy to state. Legal education must be responsive to the needs of the country, and the “effective lawyer” will not only know about modern law in the global age, but also will be able to apply it in drafting statutes and preparing teaching materials to educate the students, the new generation of lawyers. You must attract to the law school the students and teachers who are as excellent as possible. You must avoid one of the greatest barriers to effective legal skills, namely an education that is too rote, without sufficient opportunities to learn application. There are many ways to provide students with experience in applying the law, but that makes it important to note a limitation often overlooked by those who help plan education in developing countries: money. Faculty members are poorly paid and often needed to take outside jobs that interfere with other ambitions. Overall, law schools in developing countries often do not have the money for adequate libraries, or small-group programs like legal clinics. I have seen impoverished schools that had alleged clinics that were the equivalent of lecturing on “how to ride a bicycle” to 150 people who do not know how to ride a bike. They will learn something, but not how to ride a bike.

Cautionary Comments

1. Although many financial donors express the need for an effective legal system to support development, the perceptions over the past half century of the connection between law and development have changed as much as the waxing and waning of the moon. In 1986 there was a conference at Arden House, New York, called “After 20 Years” that brought together those who had served in Africa and Asia, mostly with the International Legal Center, a creation of the Ford Foundation. If David Trubek and Mark Gallanter had walked into the meeting, there were those who, I feel sure, would have tarred and feathered them. My own view of Trubek and Gallanter’s critical work on law development was not unfriendly. We would later become colleagues at Wisconsin, but I did not know that at the time. My equanimity had two sources. First, from what I had experienced, much of what they said seemed valid, and anyway not as apocalyptic as some believed. Second, if law was to have any role in the new countries of

Africa, there was an acute need for law-trained people, because they were in short supply or virtually non-existent. In Indonesia, in contrast, there were hundreds of law-trained people, but too few with requisite knowledge and skills in modern economic law. So development of legal education could go forward whatever the latest state of the theory of law and development. To the extent I needed reassurance, I got it from Willard Hurst's book, Law and Economic Development (1964), despite the differences between Wisconsin 1836–1915 and where I was serving.

2. One peculiar characteristic about legal education, unlike medical education, is that everyone is an expert. Or so everyone believes. Every law teacher, every lawyer, and a fair number of development experts without law training believe they know what is best. Fortunately, this makes for many good and interesting ideas. Unfortunately, the experts disagree. Once in a while, a good idea takes hold and comes generally to be accepted. In the USA, forceful advocates of clinics date from at least 1930, an idea that finally gained general support in the law schools in the late '60s and '70s. Much of the time in the US, however, the wheel is regularly re-assessed or re-invented, as new generations question their role and the role of the law school. Regrettably, disagreement among the experts about different methods can stall progress on any of the alternative paths of educational reform.

3. The final cautionary comment is that even when the experts are in general agreement, progress can be badly delayed by a conceptual difference. The problem is whether it is necessary to create the image of an outstanding or "ideal" legal education in order to proceed. (i) One view is that an overall conception of an "ideal" curriculum is necessary in order to make smaller changes meaningful. A common sense version of this might be, "A journey of a thousand miles must begin with a single step, but you better know which direction you are going." (ii) There is a trap, however, in the preceding view that must be noted and avoided. If agreement cannot be reached on the ideal curriculum, there may be failure to change what we would otherwise agree was bad, on the basis that an overall conception is needed to guide the smaller steps. Lon Fuller in The Morality of the Law (1964) called the difference the "morality of aspiration (the ideal)" as contrasted with the less ambitious "morality of duty." But the "morality of duty" can be quite practical – in a common sense image, we can get a hammer if we need to pound nails, and we can agree on this even if we disagree about what we should buy for an "ideal" complete set of tools. Likewise, where reformers in a law school agree about specific needed changes, my advice is to plunge ahead with those changes, and don't be embarrassed that there is still lack of agreement on the ideal legal education, because there may never be agreement about the ideal curriculum.

A Personal Case Study from Indonesia

The Suharto regime neglected the Indonesian legal system during three decades of authoritarian rule that ended in May, 1998, when public pressure pushed Suharto out of power. Before his fall, the government belatedly undertook patchwork legal projects. The original ELIPS Project was one of them. It began near the end of 1992, continued after the democratic and reform experiment began in 1998, and ended on October 7, 2004. During those 12 years, there was the original ELIPS Project (1992–1997) and the recent ELIPS II Project (2002–2004), with shorter versions in between, such as the "ELIPS Bridge." The ELIPS acronym

became a landmark in Indonesia, but it had shifting if similar titles, the final one being “Economic Law, Institutional & Professional Strengthening”. The Government of Indonesia and USAID sponsored the ELIPS Projects to help Indonesia to strengthen its legal system in regard to “economic laws.”

When the project began, the phrase “economic law” was in fact not much in use in the United States. In Indonesia, many law faculty members, if they had heard of “economic law”, equated it with a framework for a state’s planned economy. But the Project’s purpose was to oil the wheels of commerce and generate new wealth, especially in the private sector, and with an eye to a global market. An entrepreneurial emphasis was behind the GOI-USAID support for reform in the field of “economic law.”

There are other law reform projects in Indonesia that preceded or accompanied ELIPS, and such projects are likely to continue after ELIPS. Three decades of neglect of the legal system left much to reform. The Civil Codes, originally Dutch, lack official translation and are badly out of date. As reform began, there were virtually no versions in Indonesia of global economic laws, such as the International of Sales of Goods. Many judges were polishing their corrupt practices when not responding to political interference. In legal education, the 26 public law schools had an old guard of faculty (an able group), then a generation gap between it and the younger faculty being hired in the early 1990s. The schools’ curriculae had changed little from what was adopted in the years following Independence after World War II.

It is not the purpose of this paper to cover all of the reform projects, or even to cover all the activities of ELIPS, which had many components. Areas of concentrated effort included the following, noted with the name of the full-time Advisor who could provide a valuable account of the component: government contracts (Hal Sullivan), information technology applied to statutory material (Charles Shapiro); the new Competition (anti-trust) Commission (John Davis), and, most recently, legislation and regulations on anti-terrorism and control of money-laundering (Jon Eddy).

My emphasis is on legal education. The paper will note the many ELIPS activities in legal education, but the emphasis will be on its development of a Masters in Law program in the US for junior law faculty members. A theory about a legal education program is incomplete without realizing there are many unanticipated problems that can defeat the program. These are like the “transaction costs” that bedevil economic models. So I will provide a bit of the troublesome reality, an illustrative story with twists and cautionary tales. An underlying theme will be that the overseas law degree programs, including those in Australia, England, Germany, Japan, the Netherlands, and the USA and others, are the most effective form of faculty upgrading in developing countries that need to reform their legal education, and were essential in Indonesia to jump-start the engine of legal reform.

That the GOI-USAID law reform project contained a significant legal education component in 1992 was unusual. Since then, there has been worldwide no development project in legal education on the scale of the ELIPS Project. Law reform projects often assume that there are enough experts to carry out the new designs, but ELIPS recognized that the decades of neglect in the legal system required assistance to upgrade the legal experts and to create more of them. The Project had significant funding for legal education for much of the period 1993–2004.

ELIPS applied three guidelines for achieving effective legal training: 1) the use of knowledgeable and effective teachers, Indonesian or foreign, as “teachers of the teachers” for

“training the trainers” in USAID parlance; 2) the preparation of written materials for the trainees to reinforce their learning; 3) the provision of intensive and in-depth educational opportunities as well as shorter introductory training. The last guideline was opposed by those who thought it was only necessary to “train up” people in short courses. It surprised me to find so many who thought a one or two day workshop could transform someone into a negotiable instruments expert. One of my arguments for longer programs and not just short-courses was that the introduction in the USA of Articles 3 and 4 of the Uniform Commercial Code required years of educational effort, in the law schools and elsewhere.

You will notice that in the three guidelines that I named, there is no mention of interactive teaching. There was no requirement that the teaching be interactive, although we strongly favored it. Interactive teaching, in fact, has been a preferred goal by legal education leaders in Indonesia since the 1970s, but like other countries, it is easier to ask for it than to get it. ELIPS worked hard in support of interactive teaching, but we also felt we made progress if, for example, a course on the International Sale of Goods was added to the curriculum, where none had existed before, even if it was primarily taught by lecturing.

Also notice that while the assumption of the third guideline (the longer the training the better) proved generally valid, a study in 1997 indicated that a one or two-day workshop, if supported by good teaching and appropriate written materials, could bring about more curriculum reform than expected. The reason was that a newer law school, outside the major cities, with almost no modern economic law in its curriculum, would add introductory materials on new courses into the large blocks of hours that were assigned in a general way to commercial law. In contrast, the more established schools, with more entrenched senior teachers, often were unwilling to undertake the effort of change.

In addition to the three guidelines, namely, the use of good teachers, written materials for trainees, and the use of several levels of upgrading, we had two broad goals that help to characterize the ELIPS Project’s approach to legal education. The first was that we wanted to match the upgrading of people’s knowledge and skills with providing new tools for them to use. By new “tools” I mean new syllabi and new teaching materials for use by the teacher. The syllabi for Indonesian economic law courses were often non-existent or inadequate.

The second broad goal fits the saying of “killing two birds with one stone.” Thus, if there was a need for a workshop on “Commercial Paper,” we would insist on presenters who could prepare papers they were willing to see printed in a “Basic Book” on that subject. This goal of getting double value from activities was one of the many contributions to ELIPS by Professor Mardjono Reksodiputro, a former Dean at the University of Indonesia Law School, and sometime Executive Secretary of the Consortium of Law Schools.

The Need for the Legal Education Programs in Indonesia

The shocking shortage of economic law experts in Indonesia in the early 1990s was well understood by Professor Charles Himawan, the Dean 1986-1992 at the Faculty of Law of the University of Indonesia (FH-UI), and a major player in establishing the modern economic law program at FH-UI. He was also influential in lobbying for legal education to be included in ELIPS’s law reform program. He estimated in 1993 that the FH-UI had at most only 10 faculty who could be considered relatively knowledgeable in economic law, broadly defined, and that the other six “leading law schools” (those offering Masters and Doctoral programs) would, on

the average, each have fewer than five such experts. The situation in the remaining 19 public law schools was even weaker. The some 175 private law schools in 1993 reflected the inadequate state of the public law schools, since most of their faculty were those moonlighting from the public schools.

The shortage of economic law “experts” meant that there were too few people available to do the specialist tasks of initiating law reform, such as drafting the revisions and new laws needed, or designing and teaching the courses essential to educating the new generation of lawyers who are required for the long-term success of the program, and writing the scholarly articles that can help to guide the development of the law.

The basic shortage of legal experts in Indonesia was not, however, generally recognized by most of those who were actually or putatively the experts. They seemed to believe there were plenty of people available for the crucial tasks. Yet when asked for the names of those who were up to those jobs, people provided the same short-list of a few names, the “usual suspects.” It reminded me of a scene from the Beatles’ film “Help” in which a foreign official coming out of his airplane on a tropical isle is obviously impressed by the large number of people in the reception line. He shakes a hand, looks the fellow in the face, and then moves to meet the next person. But then the camera pulls back and you see there are only a handful of people in the line. The explanation is that after a person has greeted the official, that person runs ahead and rejoins the line, producing an endless line-up of greeters. Likewise, there was a wide-spread delusion in Jakarta about the number of economic law experts who were actually available. It may have been they actually believed there were many experts, for there were certainly a large number of faculty members and lawyers, both private and government. Or, their viewpoint may have been similar to an attitude I have seen in every one of the four states in the US where I have taught. Simply stated, many local lawyers assert that their jurisdiction already has too many lawyers and discourage law schools from adding any (who just might compete with them).

Indonesia did indeed have an abundance of law teachers, private and public lawyers, and law-trained people serving in the public and private sectors in a variety of roles in jobs with varying degrees of legal content. But they were not expert in the growing field of economic law, so ELIPS had many potential targets for its training programs.

Our primary emphasis was on the teachers, especially the younger teachers, in the law schools. Attention was also given to a more limited number of young lawyers in selected government offices, and to lawyers generally. The importance of teachers is that they are the ones needed to reform legal education and improve the quality of future law graduates. And in practice, government departments often relied more on law school faculty members than on their own staff in drafting of new or revised laws.

Before turning to the overseas Masters’ programs, I will briefly outline some of the other kinds of training that ELIPS made available.

- One to two day workshops in a variety of topics, involving upwards of 2,000 faculty members, government officials and other professionals;
- Month-long, full-time programs for over 125 candidates;
- Semester-length (3 to five months) full-time training for over 100 junior faculty or government officials;
- Advanced research work of two to four week in US law libraries for five senior faculty

who helped train junior faculty;

- Research fellowships in Indonesia for 24 Masters or Doctoral candidates in economic law subjects;
- 40 new model syllabi in economic law subjects
- 18 sets of teaching materials;
- 12 “Basic Books“ that were not textbooks, but introductions to subjects that emphasized “law in action” as well as the “law on the books;”
- assisted with Continuing Legal Education programs every semester at FH-UI;
- arranged for two US law professors on sabbatical to be in residence at Indonesia law schools to share their economic law expertise: one at USU in north Sumatra (for one semester), and one at UGM in central Java (for two semesters);
- core library collections of 200 economic law textbooks for all seven of the “leading law schools” and 500 additional textbooks for FH-UI;
- legislative drafting training, in a wide variety of formats, most usually a two-week workshop, under the leadership and methodology of the Professors Ann and Robert Seidman of Boston University, and with major assistance to the FH-UI in the revision of its basic training course methods. The participants in the training were legislators, legislative staff, faculty members, and members of NGOs;
- distance learning courses involving CD-ROM technology and some synchronous on-line faculty-student exchange, in conjunction with several of the leading law schools in Indonesia, and with the law schools of the University of San Francisco, the University of Southern California, and the University of Wisconsin. The main courses were an Introduction to US Constitutional Law, International Transactions, and Basic Tax Law.

James L. Agee III, the Chief of Party for ELIPS II 2002-2004, was the principal implementer of the last two noted activities, as well as being involved in other ELIPS programs since ELIPS began in the early 1990s.

Masters in Law Programs in the USA

Between 1993 and 1997, ELIPS sent 10 candidates for a Masters program (hereafter LL.M, although specific titles may differ) to law schools in the USA, and nine were successful. From 2000 to 2003, we sent 13 candidates to the US who successfully returned to Indonesia with their degrees. There were 17 more candidates in the US in 2004, aiming to graduate in May/June, or by September 2004 at the latest. Fifteen did graduate, and two, while remaining in good academic standing, had not completed all of the required credits when ELIPS ended.

The striking increase in the number of LL.M candidates between the original ELIPS Project and the current ELIPS II was, for me, a wonderful development. That is because I am one of the supporters of the view that overseas LL.M training is a crucial step in getting Indonesia into a self-sustaining orbit in its effort to undertake law reform. But there were detractors and opponents as well as supporters of the LL.M program. There is little by way of research to sustain either side. Detractors include those who are sure that they hold an alternative magic key, such as a pedagogical methodology for designing courses, or a new technology that will sweep away the problems of the past. They may be envious of the useful prestige of a LL.M as a credential and the networking among the recipients, but neither the formal prestige nor the network would long survive if the substance of a foreign LL.M were not there.

Local training can be sufficient to excellent, once it is established, and in many areas that level has been reached in Indonesia. But at a time when there are too few people with the advanced qualifications to do all of tasks of law reform , including legal education, it is vital to bring up a new cadre to a high level as fast as possible.

Let me give you three of my reasons for thinking the foreign LLM could do this. 1) The candidates are associated with teachers and fellow students engaged in advanced legal education on an intense, full-time, and competitive basis, while at the same time largely freed of the time-consuming obligations of their home institutions and the calls of an extended family. 2) I saw the LLM program work in Africa in the early days of independence of many countries in 1960 and afterwards. I helped in legal education in Sudan, Zambia, and Ethiopia, from 1961 to 1973, often not directly involved with the foreign LLM programs, but I saw the LL.M produce an overwhelming number of the national legal leaders. 3) But you did not need to look to countries outside of Indonesia, whether in Africa or SE Asia (and Singapore would jump to mind) to make the case for a foreign LL.M. In Indonesia in 1993, those who already could undertake with expertise the revision and drafting of economic laws , and the building of this subject into the university curriculum, were, with few exceptions, those Indonesians who had done a foreign Masters in Law (and occasionally a doctorate), most of them in Australia, the Netherlands, Great Britain, Japan, and the USA.

Oversees Masters Program under the original ELIPS Project (1993–97)

Whatever the merits of the arguments for and against the overseas Masters program, you might imagine that given my views, that the LL.M programs would proceed smoothly in the original ELIPS Project. This was not to be. There were two obstacles. First, although there was money in the contract for overseas training, nothing was tied to a Masters program. There were plenty of rival claimants, especially those few who already had foreign LL.Ms and wanted to begin foreign doctorates. Second, a much greater obstacle was that virtually none of the otherwise qualified candidates from the Indonesian law schools had sufficient ability at English to be admitted to a US law school. This was stunning bad news. I had never met such a weak standard of English It was not the Indonesians fault, the fault was in the wholly inadequate system of language training in the government schools. A telling contrast for me was Ethiopia, which was not a British colony, but it had a high standard of English in the university because of the leadership of Emperor Haile Sellassie.

ELIPS tested large numbers of law faculty candidates, often in the hundreds, at the University of Indonesia and the six other “leading law schools,” and at some of the other 19 public law schools. The ones who were qualified were the few who had already done overseas Masters programs in English. Otherwise, the scene was bleak. At Law Faculty of the University of North Sumatra (FH-USU), for example, we found that out of more than two hundred test-takers only one person had a Toefl score near 550 (213 new scale), still well short of the minimum 580 (237) to 600 (250) required by US law schools, with scores in 640 (273) range being preferred.

In addition to the language requirement, the person was to be a junior faculty member whose career was, or increasingly would be, in economic law. A candidate needed the support of the Dean and key colleagues, as part of assuring later service within the law school, and there was a final vetting by ELIPS. We found an encouraging number of candidates who, other

than the English requirement, met the ELIPS criteria for a LL.M. So the obvious need was to support English language training for the otherwise qualified candidates. That need led to the next shock. The original ELIPS Project contract said that it was “not expected” that funding would be used for English language training, and USAID’s Project Officer for ELIPS used that non-binding indication to make ELIPS support for such training unavailable.

We found indirect ways around that problem, but the main rescue of the Masters program was by UI Law Dean R.M. Girindro Pringgogidgo (“Dean Bipi”). Elected as Dean in 1993, and determined that his junior faculty would benefit by the LL.Ms potentially available from ELIPS, he quickly decided to send some 17 of them to a large house he rented in Cisarua, a small town in the mountain area well away from Jakarta. With an Indonesian language instructor, they studied English full-time for a semester, with permission to return home only on Sundays. This episode is worth telling at greater length, but for this paper I will only emphasize that he had no sure idea of how he would pay the cost, which was about US\$26,000. His bravery and risk paid off, since he found the money for the bill in an evening degree program he introduced, and the majority of the first ELIPS’ LL.Ms came through his Cisarua program.

Otherwise, ELIPS’ indirect assistance to get around the ban on language training was principally through four or five week summer programs for foreign lawyers in the US that were taught in geared-down English, and which had lower Toefl requirements. Some 40 Indonesian junior law faculty and GOI officials went to these programs at the law schools at the University of California (Davis), the University of Wisconsin, and the Southwest Legal Foundation. Later, a more elaborate program for 16 candidates was held for five months at a specially designed program at Harvard Law School.

Eventually we had three faculty candidates from the University of Indonesia who were clearly strong in their analytical skills and motivation, and who were up to the minimum of 550 (213) required by USAID for long-term training. Since we were convinced the three had the character and academic ability to get an LLM, we needed to convince one or more US schools to trust our judgment about the ability of our nominees. In effect, ELIPS asked from a US law school not one but two favors: 1) to lower the 580 (237) or higher Toefl requirement for admission down to 550 (213); 2) to provide, in addition to student advisors, a faculty member who would meet weekly with an ELIPS candidate to make sure the person was on track. The schools that cooperated were the University of Washington (Seattle), the University of Florida, and the University of Wisconsin, which took one candidate each. The initial group of three Indonesians performed from well to sensationally well. American University (D.C.) and Louisiana State University joined the original three US law schools in welcoming the later rounds of LLM candidates under the first ELIPS. The achievements of the first three candidates made it much easier to place later candidates in the US schools, including the original three schools. But there was also some increased risk, since the first selection was of only three candidates observed closely over a relatively long period, circumstances that were less favorable in later selections.

On the original ELIPS Project we had a total of 10 law faculty candidates for the LL.M, seven women and three men, with an average age in the late 20s. Six were from UI, and one each from UNPAD (Bandung, West Java), USU (Medan, Sumatra), and UNDIP (Semarang, Central Java). Nine completed the work for their Masters’ degrees. All but one of the successful candidates have since moved into the middle-level, or even above, in national legal reform.

Overseas Masters Programs under the ELIPS Bridge (2000–2001) and ELIPS II (2002–2004)

The support for the overseas Masters programs under ELIPS took two important steps forward during 2000–2004. First, the competitively-awarded contract to ELIPS II allowed financial support to Indonesian law schools for English language training. Since the level of English among potential candidates had already improved in many of the law schools from 1993 to 2000, the authorization to intensify English training increased the chances of getting good candidates for the LL.M. Second, and more dramatically, the goal of overseas LL.Ms was not only explicit in the contract, it was also posited that approximately 30 new LLM candidates would go to the US. Given that at the time of the contract to ELIPS II there were about five new candidates who had adequate Toefl's scores, the goal was refreshingly optimistic as well as daunting. We were able to prepare 13 who were in the first batch that began LL.Ms in the Fall of 2002.

But the number of otherwise qualified candidates who would reach adequate Toefl scores for the second group to begin in the Fall 2003 was seriously in doubt until the receipt of the official scores in April 2003. We were pleased and relieved that the success allowed the final selection of 17 candidates. They aimed to complete their degrees by September 2004.

That progress was greatly helped by the various programs that ELIPS II could provide in language as well as law training. Similar to the original ELIPS, some workshops, such as the two-week programs in legislative drafting, while mostly in Indonesian also had English presentations as well. More substantively and directly, a new program was that ELIPS provided funding for law schools to put selected faculty into established English programs in their areas, and ELIPS helped to monitor their progress. Some law schools, especially the University of Indonesia, used the ELIPS grant to expand programs they were supporting from their own funds.

Perhaps most importantly, ELIPS II developed three centralized pre-LLM programs that combined introductions to the common law with some of the best English language training available in Indonesia, competitively selected. Both the law component and the language section provided interactive teaching, exams, and individual assessments based on class performance. The first program was with the University of San Francisco and the Indonesian-Australian Language Institute for 13 weeks; the second was with Professor Brietzke of Valparaiso University (and former full-time Legal Advisor to a USAID economic development project in Indonesia) for five weeks; and the third was with the University of San Francisco Law School and The British Institute (Jakarta) for 10 weeks. The USF's law portion was a distance learning course with both an original CD-ROM and synchronous on-line internet feedback between the candidates and the instructor.

The above summary suppresses the substantial new difficulties we faced during ELIPS II. I will not dwell on them since there are no clear lessons that might be passed along. The main message, however, which will not be new to those of you who have managed projects, is that unexpected threats jump into your face, just like they do in a horror film. So it is better not to holler (too loud or long) but rather to do your best to handle the threat.

The two main jolts were a budget crisis early in 2003, and an escalating difficulty in the attempt to get USA entry visas for the LL.M candidates.

The budget crisis came at the start of 2003, when we were trying to identify 17 new

candidates to follow the first 13. It suddenly appeared, for reasons never clear to me, that we would have funds for only seven more LL.M candidates. Since at that time we were doubtful about finding even seven candidates who would qualify, an easy response would have been to accept seven rather than 17 as the goal. I did not do that. Setting aside months of varying suspense and complicated explanations, the bottom line is that ELIPS II was not limited to seven candidates. I was especially grateful to Professor Erman Radjagukguk, the guiding spirit of ELIPS II from both the UI and his senior post in the government, and to the Leader of the USAID (Jakarta) Economic Growth Team, Paul Deuster, for their help.

The resolution of the budget crisis did, however, cut away the flexibility that we previously had in regard to the LL.M funding. In the US, a LL.M takes a minimum of an academic year, that is, nine or ten months, and many people complete it in that time. But some foreign students, up to 50% of them in many law schools, take more than the nine or ten months. There are at least two situations, in my view, as to why a longer period than a minimal academic year may be essential or desirable. 1) Since ELIPS II was still sending some candidates with Toefl scores well under 580 (237), it might be essential to allow a lighter course load and stretch the program to at least one calendar year to avoid an undeserved failure. 2) After a semester or two of studying at a foreign law school, a candidate, in addition to getting settled generally, may have made a substantial improvement in English, and will have moved up to a higher level of expertise in economic law. The more challenging courses are then within the ability of such a candidate. Thus, stretching the LL.M beyond the minimum time can bring dividends far in excess of the extra time invested.

We had used that flexibility in the original ELIPS and for the first group of 13 candidates in ELIPS II. But for the remaining 17 the new policy required strict adherence to a goal to graduate within an academic year, that is, nine or ten months. For example, a person with a weak Toefl had to take a full course load which could in theory achieve that goal. Any exceptions required the approval of USAID, and no exception could go beyond a total of one calendar year. Monitoring who might be a candidate for an extended stay in the summer was extremely difficult.

The other new problem for ELIPS II arose from the tightened requirements for a visa to enter the US. This was a result, of course, of the heightened security concerns in the US after 9/11 (2001). This was not a surprise, but our difficulty was caused by a combination of a mandatory "waiting period" that kept increasing (up to six months for the last group), the lack of clarity in many rules, and the changing rules. The problem was not the lack of help from the responsible officials, who were in fact helpful, but primarily because it was all new, with many glitches. A computerized data base operating out of Washington was one new feature. To give you some sense of the process, ELIPS took the precaution of asking if the (many) Indonesians with one name should add a name, since one name is hard to handle on US data forms. The answer was the candidate's name must match the person's passport. Nevertheless, the processing later came to a long halt when a person listed only one name.

Likely you have read about the legions of applicants who in the past two or more years did not get a study visa to the US, or got it too late to begin an academic program.

For ELIPS II, the amazing result is that all of our candidates got visas in time for them to begin their LL.M programs. How we did this is not clear, and I don't rule out those who attributed the result to prayer. We tried a great deal, including a variety of end runs, which

worked for the 13 candidates who went to the US in 2002, but not thereafter. The most important elements in the success were, I think, two. The cooperating schools in the USA were gratefully responsive to our endless requests for flexibility, such as how many candidates we would try to send, and whether they could take people at times other than those prescribed in their timetables. The second element was the untiring and unstopping efforts of the Indonesian secretaries at ELIPS and the Indonesian staff at the US Embassy who daily fed data into the computer until we got what we needed.

The first group of 13 Masters candidates who began in 2002 and who all returned successfully in 2003 had eight men and five women, average age in the early 30s, 10 of them from five law school faculties, and three from government ministries. The cooperating law schools in the US were the University of Washington (Seattle), the University of San Francisco, American University (DC), and the University of Wisconsin. In addition, ELIPS provided support for a faculty member who won a Fulbright Scholarship, in order to cover the difference between the Fulbright and the actual current costs. He also returned successfully in 2003.

Under ELIPS II, the new Dean of the leading public law school (at the University of Airlanga) in Surabaya, Indonesia's second largest city, did not allow his young faculty to go on ELIPS foreign programs. Fortunately, one of the private law schools that had developed a strong reputation was at the University of Surabaya, which enthusiastically and effectively coordinated with ELIPS II.

The group of 17 who aimed to complete studying in the US in 2004 had 10 men and seven women, average age about 29, 12 of them from four law schools, and five representing four government institutions. The cooperating US law schools were the University of Washington (Seattle), American University (DC), and the University of Wisconsin. Fifteen of the candidates succeeded by June or by the end of the summer 2004. The two who did not were short of academic credits that they may complete later on funds other than those of USAID.

USAID is in 2005 undertaking support of education in elementary schools in Indonesia, and I am not in a position to predict the long-term value of this, in part because the level of support is unsettled. But I do feel confident about the future of the 40 LLM candidates from the ELIPS Project in the past decade. Overall, they will be in the vanguard, along with the existing legal experts, of the law reform movement in Indonesia, if it is allowed to proceed. With them will be the Masters graduates of the programs in Australia, the Netherlands, Japan, England, Germany, and elsewhere. Of course, not every candidate will be a leader. We have already seen one of our promising graduates drift out of sight and out of Indonesia, one or two are not living up to their potential, and, tragically, one died young of cancer. My prediction for the LL.Ms is the kind of prediction that one can make for a team, not for any particular individual, and I feel optimistic about betting on this team.