long simmering resentment toward corrupt politicians and the misallocation of land. A positive take on the recent violence is that many Kenyans will no longer accept the corruption and electoral fraud that have become endemic. Odinga has threatened to use the passive resistance tactics of Gandhi and Martin Luther King—demonstrations and economic boycotts—to tap into this resentment.

(4) British Divide and Rule: The argument here is that British tactics helped create ethnic antagonism between the Kikuyu and Luo peoples in order to prevent the two largest ethnic groups in the country from uniting against them. The British had a hand in picking the leaders and ethnic groups that were to prosper.

All of these perspectives have some resonance and together have increased the power of ethnic rivalry and resentment. On the surface there has been an agreement between President Kibaki and soon to be Prime Minister Odinga to resolve the crisis and share power. Yet history, personalities and patronage will create countervailing pressures. It remains to be seen if there will be a real sharing of power by these titans of Kenyan politics and whether many ethnic groups will feel a stake in the new government. Many difficult issues remain such as which party will get the important ministries and who will appoint the permanent secretaries and other important officials in the bureaucracy that determine policy and its implementation. At this point a peaceful transition to fairer elections and more equitable administration is not assured.

**Remarks by Ziyad Motala**

I am thrilled to be on the panel today. I will stick to the allocated time and will be brief. I want to share our experiences with our exchange programs in South Africa. There are three components to our program. The first is a summer abroad program which we have been running at UWC [University of Western Cape] for twelve years. The second is a student exchange program in which students can spend a semester at UWC and vice versa. The third is a faculty exchange program where faculty from Howard can visit at UWC and vice versa. By far our summer abroad program has proved to be the most successful.

I tell the American students at the very first orientation meeting that if they are not vexed, annoyed, provoked, irritated, stimulated, then they are not getting the full South African experience. For the most part, this reflects the experiences of most students. Students come to South Africa for different reasons such as wine tasting, scuba diving and to go on a safari. Two years ago I had a real challenge where one student on the very first day when introducing himself told us he came to South Africa to “do the work of the Lord.” Each morning he would play religious music which did not go well with his other roommates. His constant proselytizing irked many students. These are the exceptions. Most students are self-selecting and come to South Africa because they have some affinity with the history of the country’s struggle.

South Africa is a laboratory of social experimentation. The participants are able to see the creation of institutions to channel human behavior in certain directions and to achieve certain positive results. Students have an opportunity to witness firsthand what the building of a constitution entails and the transformation of a country from authoritarianism towards democracy and the rule of law. They are able to see social engineering taking place, namely the promotion of national unity in a country that has come out of strife and conflict. Not only

*Professor of Law, Howard University School of Law.*
do we offer an opportunity to witness these remarkable developments first-hand, we also offer an opportunity to interact with key decision makers.

In the beginning, our program was limited to about thirty students. We have since increased it to about fifty-five students. In addition, we have a similar number of students from South Africa. The interaction between the South African students and the American students is an extremely important part of the program. I cannot begin to describe the intangible benefits that derive from this interaction both in the classroom setting and outside. Not only do we have students from South Africa but over the years we have had students from all over the world studying in South Africa in the LL.M. Program at UWC or UCT [University of Cape Town] who have also enrolled in our courses. This enriches the class in a way that is really hard to describe.

We try to expose the American students directly to the South African experience. From the academic point of view, each year we have a class entitled South Africa’s Constitution in Comparative Perspective. For the past eight years, this class has been taught by a justice of the Constitutional Court. Each of the justices who have participated in the program has a unique background which contributes to the students’ experience. Last year the class was taught by Justice Albie Sachs. Justice Sachs was a prominent veteran of the struggle who was targeted by an apartheid assassin in Mozambique. As a result of the bombing, he lost one arm and eyesight in one eye. Justice Sachs was a key figure in the drafting of the interim Constitution that provided the ground rules for the final Constitution. Over the years, we have also had the great benefit of Justice Zak Yacoob who was one of the most prominent civil rights lawyers under apartheid. Justice Yacoob acted for anti-apartheid defendants in some of the country’s major trials. He was also a key figure in the drafting of the Constitution. Over the years, we have had other justices such as Justice Yvonne Mokgoro and Justice Richard Goldstone address the students. The firsthand exposure to both the Constitution-making process and interpretation offers a perspective which the students highly appreciate and benefit from.

We like to believe that the program empowers South Africans. We do not charge the South African students in the program. They are able to register for the classes and receive credit through the University of Western Cape pretty much for free.

With respect to the class offerings, each year we offer a class on international business. In the past, this course was very popular for South African students who traditionally did not have exposure to international business law. In a way this empowered them in an area of the law that has now become part of the curriculum at law schools in South Africa.

The Comparative Constitutional Law class has become a staple of the program. We also rotate a third class, Alternative Dispute Resolution, Human Rights and International Trade.

In addition to myself, in most years at least two Howard faculty members teach in the program. We also rely extensively on guest lecturers from UWC, Stellenbosch and UCT who come and teach various sections particularly with respect to the South African perspective.

In addition to having a judge from the Constitutional Court, we also conduct classes in Parliament and in the Magistrates Court. We spend an entire day in Parliament and another day in the Magistrates Court. I usually arrange with a Member of Parliament (MP) to host us for a full day in Parliament. During our visit, a tour is arranged in Parliament and various talks by Members of parliament are conducted. We usually have lunch in Parliament. This offers an opportunity for students to meet with members of the legislature, interact with them and discuss the lawmaking process, the current legislative agenda and challenges and successes. Most years, I also try to arrange a talk by a member of the Cabinet. Many Cabinet
members have been very generous with their time. We also spend a full day at the Magistrates Court. The students get to meet with magistrates, prosecutors, interpreters and other court personnel.

An additional aspect of our program is the noncredit internships. Over the years we had students intern with the Truth and Reconciliation Commission, the Legal Aid Board, practitioners, Members of Parliament, the Legal Resources Center, Human Rights Commission, and Gender Commission. We have repeat students who have taken a semester off and gone to work for some of these institutions. This benefits students in work study programs and enables them to finance their trips. Many of the hosts are very appreciative of having the students do research for them. For others it is a baby-sitting experience but the students benefit greatly from the experience anyhow.

In order for the program to work well, one needs good partners. UWC has been a magnificent host. We have one UWC faculty member who has been primarily responsible for the logistics on the ground. The one area we have failed in is getting South African students to spend a semester at Howard. First is the financial constraint. The second is the problem that the LL.B. degree is an undergraduate program in South Africa.

Currently, we at Howard are leading an initiative to form a consortium to conduct a semester abroad program. I have been talking to schools for a year and half and hope that this will come to fruition in the next year or so. The semester abroad program would entail the offering of a select number of courses taught by various faculty members from the consortium law schools. We hope to have at least seven schools as part of the consortium. We hope to use a facility in close proximity to downtown Cape Town.

I am told that in any given year there are over one hundred U.S. law students that go and spend a semester abroad in South Africa. We believe that a structured program operating in terms of the ABA accreditation process will enhance the students’ experience in South Africa.

South Africa is an extraordinarily beautiful country with a great infrastructure which has all the creature comforts of a first world country. However, there are challenges with regard to the program. Crime is a major problem in South Africa. Over the past few years we have had students who have been victims of crime or witnessed crime first hand. We have to impress on them the need to be particularly vigilant and street smart. The accommodation has to be safe. We bus the students each day to school and back. The other thing we must emphasize to our American students is that they are very rich and have to be mindful of their surroundings. The other challenge is racism. African American students sometimes experience racism and it is very difficult to for them to comprehend it in an African majority country.

All in all, the program has proved to be a wonderful experience. For most students it is a life changing experience.

**Remarks by Bernard Freamon* **

Thank you very much. It is an honor and a privilege to be here. I have been able to operate two study abroad programs in Africa. The one in Cairo has been operating for fifteen years now. The second one is a winter session program in Zanzibar, Tanzania, which focuses on slavery and human trafficking. I would like to briefly describe each program and then I have seven issues to discuss: university relationships; student well-being and demographics; local

* Professor of Law, Seton Hall Law School.