

gaillard
banifatemi
shelbaya | DISPUTES

The act of departure from this world is not a final one. The departed can rest, but those of us whom the departed leaves behind are invested with ongoing responsibilities. We mourn. We commemorate. We reflect. And we ensure that the memory of those whom we no longer can see and touch lives on in us, in our thoughts and in our deeds.

These are significant and precious tasks in all cases. With Emmanuel Gaillard, these tasks become monumental. Emmanuel's stature as a lawyer and thinker need no elaboration. His grace, humor, and generosity of spirit are familiar to those fortunate enough to get to know the man himself. An enumeration of his accomplishments would stretch long into the night, and a compilation of personal anecdotes from those whom he touched would fill a book. I think it is sufficient to say the following: Emmanuel did so much for so many, and because of this, we have much to do for him.

I was asked to speak tonight as a representative of a younger generation whose lives have been shaped profoundly by Emmanuel Gaillard. Emmanuel was my teacher. He was a great teacher, and he, like all great teachers, imparted lessons which only become more salient and more impactful with the passage of time. I would like to share with you what I take to be Emmanuel's two most important lessons. In doing so, I hope to undertake two of the responsibilities I identified before. I will reflect on the way in which Emmanuel influenced the path of one individual, with the knowledge that this reflection is representative of what he did for countless others. And I will reflect on how we might hold up his example as a guiding light to illuminate the ground which lies before us.

Initially, I was not an enthusiastic law student. After years of studying political theory and foreign languages, law struck me as dull and devoid of human spirit. I spent much of my first semester of law school struggling to establish a sense of direction in a strange and disorienting environment. Part of this struggle was simply the process of adjusting to the newness of it all. But a larger part of it, I believe, came from the sensation that I was searching for a place to put down an intellectual anchor without success.

That winter, Emmanuel arrived. Together with his partner, Yas Banifatemi, and Professor Michael Reisman, Emmanuel introduced me and a group of around twenty other students to the theory and practice of international arbitration. Because the class took place at night, we would enter the seminar room cold and acclimated to the dark. Emmanuel would then sweep in, radiant with enthusiasm and good cheer. Dressed unpretentiously in a plaid shirt and jeans, he would settle into his chair at the head of the room and open class with a question, always open-ended and always inviting philosophical elaboration. From time to time he would rise and walk to the blackboard, where he would sketch out

a pictorial representation of some aspect of his theory. He would then stroll around the perimeter of the room as he prodded students to grapple with his views. From the outset it was clear to us all that Emmanuel was a dynamic thinker, but it was the ease with which he communicated this thinking, as well as the respect and joy with which he did so, that most impressed us.

Suffice it to say that I had found a landing ground for my anchor. Inspired by the richness of Emmanuel's theory and the drama of his tales of practice, I began to approach Emmanuel outside of class to ask questions. Some of these questions were undoubtedly amateurish, but Emmanuel inevitably responded with patience as well as with an obvious and genuine desire to enlighten. We discussed the nature of the law and its place in a community of human beings. We discussed the special role the law must play when it is refracted through the international plane, when matters, as you all know well, become especially complicated. At one point, I voiced a more practical concern to Emmanuel -- I was looking for summer work and wanted to know if he had any advice. Without a moment's hesitation, he invited me to spend the summer with his team in Paris. It would be a good learning opportunity, he said, and so it was. Throughout these conversations, Emmanuel engaged me as an equal, or at least this is how it felt. He was not a haughty lecturer speaking from on high, but rather a guide who calmly accompanied his charge through the fog of a murky landscape.

I tell you this story not to emphasize Emmanuel's virtuosity as a theoretician or a teacher. He was a virtuoso, but I don't think that's the most important point. What I find most remarkable about Emmanuel's teaching is how naturally he married brilliance with decency and kindness. Brilliance means very little without the ability to reach others, and to reach others, it is important to be decent and kind. This is how Emmanuel shaped my path, and this, I believe, is his first lesson.

Now, however, we must chart our paths without the benefit of Emmanuel's personal guidance or his living example. I have been thinking about how to do so in a way that is true to the example Emmanuel set when he was among us. Here, I offer you my conclusions. I share them not as the correct interpretation of Emmanuel's life, not as gospel, but rather as the perspective of a relative newcomer to this ecosystem who, like all newcomers, seeks to gain inspiration from those sources which shine with particular promise.

As a student, Emmanuel's theory of international law and arbitration appealed to me so strongly because it seemed keenly attuned to contemporary challenges. The foremost illustration of this is the fundamental optimism contained in his vision of the law. Emmanuel espoused a system of transnational justice. His vision was born and sharpened at a time when the values of internationalism were ascendant. On a planet and continent which were increasingly defined by connections which transcended national borders, Emmanuel understood that any effective system of justice must account for the transnational character of its changing subject. This was not just a practical insight; it was a product of the aspiration that law which better reflected our common humanity would advance the doing of justice wherever justice needed to be done. Only a true pioneer can turn mere aspiration into a force capable of effecting change. Emmanuel was a true pioneer. He possessed the creativity and courage which animate the soul of the pioneer. And so Emmanuel, who exuded sincere belief in the power of his aspirations, was an irresistible standard-bearer for those of us who wished to see the world grow closer together.

Unfortunately, it sometimes seems as if the realization of this wish is slipping out of reach. We live in a world beset by daunting problems. This is not new, and many of the issues which plague us today have existed since time immemorial. But I think the imperative to maintain a belief in the transnational ideal is more urgent today than ever before. This is firstly because an undoing of the progress made over the past seventy years would be psychologically devastating. But more practically, it is also because there exist threats whose potential solutions demand a sense of collective orientation. The foremost example is in fact something which was especially near to Emmanuel's heart: the increasing danger in which our fragile and precious environment finds itself. There are others: resurgent nationalism, suspicion of outsiders, and rising inequality. I do not pretend to be able to diagnose the source of these ills, but I will say this: a world in which the elevation of self-interest above the common good steers the course of political and social developments is a world which has handicapped itself in the journey toward a peaceful and productive co-existence.

Admittedly, it would be a mistake to hope that the law, whether on the national or international plane, contains sufficient solutions to all or even any of these problems. But I do think that Emmanuel's transnational ideal can and should serve as a sort of north star -- a point of reference which we all, no matter who we are and where we come from, can point toward and say: "that is where I wish to go. The journey there will be hard and battered by opposing winds. But through perseverance and ingenuity I will find my way, and when I look at those who meet me there I will see proof of the communion of mankind." This, I believe, was Emmanuel's second lesson.

These are my reflections. I invite you to reflect upon them in turn. I hope that alongside mourning and commemorating Emmanuel's life, we can grasp the promise which his life embodied. It is the promise of thoughtful and attentive mentorship. It is the promise of the open mind in a complicated world. It is the promise of a forward-looking global citizenship committed to the value of international engagement. And it is the promise of the attainability of ever-better justice.

I thank you for your time, and I hope you enjoy the rest of the evening.

Michael Beechert