

# Public Diplomacy in the U.S. Supreme Court: The Warren Years—Part I

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The Prime Minister of the Republic of India, Jawaharlal Nehru, and his daughter, Mrs. Indira Gandhi, wandered down the hallway adorned with portraits of Justices in the U.S. Supreme Court building before entering the East Conference Room. There, they were warmly greeted by Chief Justice Earl Warren and his wife, Nina, who had been the Prime Minister's guests in New Delhi only four months earlier. In Washington, Nehru was the special guest of the Warrens, the first ruling head of state to be honored with a formal dinner at the Supreme Court. In attendance were a small but powerful delegation of Indian diplomats and most of the Justices and their wives. In the crisp evening of December 16, 1956, the temperature had dropped to 39 degrees, and the Prime Minister wore a black *achkan*, the South Asian coat that Americans came to call "a Nehru jacket," adorned with his trademark red rose in the breast pocket and a white Congress cap. The Indian ladies dressed in striking saris, while the Western women wore long formal gowns.

The occasion was a groundbreaking affirmation of a new role for the Supreme Court in American government. The Court was to be involved in U.S. foreign policy as a site to honor visiting heads of state with the blessing of, and cooperation from, the Executive Branch. The Chief Justice also was to expand his role in "public diplomacy." He would now serve as host for foreign rulers in the Court's Marble Palace, in addition to being a quasi-official goodwill ambassador attending White House state dinners and traveling

abroad on official visits as head of the federal judiciary. Chief Justice Warren was especially adept in these diplomatic roles and seemed to enjoy the assignments. What the Department of State and the Executive Branch derived from the Supreme Court's new role—other than goodwill—is not documented, but the volume of activities by the Court and the Justices was impressive.

Although there have been studies of extrajudicial activities of Supreme Court Justices,<sup>1</sup> their main focus has not been on the role of



Chief Justice Earl Warren and Nina Warren greeted Prime Minister of India Jawaharlal Nehru at a dinner held in his honor on Sunday December 16, 1956. The Warrens had been Nehru's guests in India only a few months earlier.

the Court in diplomacy. Biographies of Warren touch upon his overseas travel but do not provide a thorough record of his many actions in the international field for the benefit of his country.<sup>2</sup> Likewise, the admiring analyses of the influence of Warren and the Warren Court on foreign law and legal systems fail to document the Chief Justice's informal impact on foreign leaders and the common people with whom he interacted in so many nations.<sup>3</sup> Nor has there been a systematic look at the Court's receiving and entertaining of foreign heads of state in the nation's "Temple of Justice," which architect Cass Gilbert called "the greatest tribunal in the world."<sup>4</sup>

The history of public diplomacy in the Supreme Court will be described in two consecutive articles in *The Journal*. This article, Part I, describes the uses of the Court—the

building and the Justices—in public diplomacy. Part II, scheduled to be published in the March 2009 issue, will provide a more complete portrait of Chief Justice Warren's role as one of the greatest practitioners of informal diplomacy. The years covered in both articles, from 1953 through 1973, account for what can be called "The Golden Age of the Supreme Court in Public Diplomacy."

### The Precedent-Setting Nehru Dinner

The State Department was anxious for the Supreme Court dinner to go well. Nehru's first official visit in October 1949 had been termed a disaster. The Prime Minister, who had been in office for only two years at the time, was received with all the pomp reserved for an important head of state. President Harry S Truman

even went so far as to break protocol and greet Nehru at the airport. Nehru addressed separate meetings of the House and Senate and was applauded for his assurance that India would not stay on the sidelines in the event of aggression anywhere.<sup>5</sup> But the Indian leader was dismayed by what he perceived as Americans' flaunting of their material wealth and by a lack of culture and good taste. Nehru, the patrician British-trained lawyer, did not get along with Secretary of State Dean Acheson and could not relate to Truman's down-home disposition. He was somewhat nonplussed by the President's White House dinner conversation with Vice President Alben Barkley about the merits of Kentucky bourbon whiskey. The Prime Minister wrote the Vice President of India, philosopher Sarvepalli Radhakrishnan, about his visit: "They had gone all out to welcome me and I am very grateful to them for it and expressed so myself. But they expected something more than gratitude and goodwill and that more I could not supply them."<sup>6</sup>

Nehru did succeed as a goodwill ambassador, however. As one of the best-known and most distinguished Asian leaders, he made a favorable impression on the American public by not asking for economic or other help from the United States and by showing a very human side to his personality by playing with the children of embassy officials in the Indian Embassy garden and paying visits to the National Gallery of Art and the Library of Congress to see specific exhibits. In New York, Nehru was awarded a Doctor of Laws degree bestowed by Dwight Eisenhower, then the president of Columbia University.

A few years later, when Eisenhower was U.S. President, attempts to bring Nehru to the United States for an official visit were thwarted. In the summer of 1955, preliminary discussions between Washington and New Delhi to arrange a meeting of the leaders fell through when Eisenhower was stricken with a heart attack. In early 1956, arrangements were concluded for Nehru to visit the United States for lengthy talks with the Pres-

ident about the eroding state of relations between the United States and India, but that project was cancelled because of Eisenhower's abdominal operation in June.<sup>7</sup> Finally, arrangements were made for a six-day visit by Nehru in December.

The enlisting of the Supreme Court's help in playing host to the Prime Minister and his entourage began with a telephone call from the State Department to T. Perry Lippitt, the Marshal of the Court on November 21, 1956. The Department requested that the Marshal inform the Chief Justice that "His Excellency Nehru will visit this country in December. The Department wishes the Prime Minister to visit with you and the other members of the Court on Wednesday, December 19, 1956, between 4:00 and 4:30 pm. It would be appropriate if tea were served."<sup>8</sup>

In suggesting only tea, the State Department representative may have underestimated the appropriate hospitality for the Supreme Court to extend to Nehru. Only four months before, the Warrens had paid an astoundingly triumphal visit to India and had developed strong bonds of friendship with the Prime Minister and his daughter.

### Warren's Trip to India

At the conclusion of the Court's Term in July 1956, the Chief Justice and Mrs. Warren had traveled to Denmark and Switzerland with Santa Barbara newspaper publisher Thomas Storke and his wife Marion.<sup>9</sup> The *New York Times* reported that the Warrens planned to spend about a month in a resort hotel at Burgenstock near Lucerne.<sup>10</sup> The Chief and his wife broke off their vacation, however, at the request of Secretary of State John Foster Dulles to accept an unexpected invitation from the government of India to visit that country in August.

Warren was to travel in his official capacity as Chief Justice to observe India's judicial system in action, and he understood that he would not comment on any political issues,

national or international. In reality, however, as Russell Baker observed, the trip was “bound to have diplomatic significance far overshadowing Warren’s education in Indian law.”<sup>11</sup> The Chief’s trip was seen as a counterbalance to some of the effects of the triumphant tour of India the previous November by Soviet Union leaders Nikita Khrushchev and Nikolai Bulganin, when millions of persons greeted the Russians in several cities.<sup>12</sup>

The diplomatic importance of Warren’s trip was attested to by the fact that it had been the subject of considerable deliberation between the White House and the State Department. The President and Dulles discussed it at Eisenhower’s farm in Gettysburg in early July. The official administrative attitude was that the President was “delighted at the opportunity for creating goodwill between the two countries.”<sup>13</sup> The Chief Justice was widely regarded in Washington as the best possible goodwill envoy, other than Eisenhower himself, whom the United States could send to India because he had written the opinion for the Court in the historic *Brown v. Board of Education* case.<sup>14</sup> The Court’s *Brown* decision, declaring racial segregation in schools as a violation of the Constitution’s Equal Protection Clause, was regarded abroad—especially in Third World countries—as a milestone of modern American jurisprudence. The Voice of America had broadcast news of *Brown* within an hour of the decision in 1954. That evening, reports of *Brown* in thirty-four languages proclaimed the ruling a victory in the diplomatic war between East and West for the allegiance of unaligned nations. A *San Francisco Chronicle* editorial stated: “To the vast majority of the peoples of the world who have colored skins, it will come as a blinding flash of light and hope.”<sup>15</sup> As Chief Justice of the unanimous Court that rendered the decision, Warren was internationally identified with American libertarianism on racial matters. Thus, he was regarded as an ideal envoy for a friendship mission to India at a time when confusing and frequently harsh Washington criticism of un-

aligned nations and neutralism had put fresh strains on relations with New Delhi. During this awkward period in United States-Indian relations, many Americans, including Dulles, were openly unhappy about Nehru’s steadfastness in clinging to his neutralist policies.<sup>16</sup>

The Warrens arrived in Bombay on August 17 on a Pan American Airlines Super Constellation (with sleeping berths!) to begin an eighteen-day tour. The start was not auspicious. The Chief “received a mild but quite correct reception.”<sup>17</sup> There were no Bombay state ministers, no judges, and only minor Indian civil servants present to welcome him. Although the Indian officials who showed up satisfied the demands of protocol, U.S. officials in Bombay were disappointed at the reception given to the highest-ranking American official to visit India since Vice President Richard M. Nixon’s trip in 1953. The Indians explained that because Bombay was not the capital of India, major receptions there were reserved for heads of state. There were not even traditional garlands of flowers presented to the dignitaries, the apologia being that Indians might have thought it undignified for a member of the judiciary. There was apparently an essential difference between the way Indians saw the Warren visit and the way Washington perceived it. The Chief Justice, however, had not expected a major reception and “would have been embarrassed had that occurred.”<sup>18</sup>

Nevertheless, the Chief received warm applause from students when he spoke at the government law college in Bombay on August 20. The head of the college, K.R. Mehta, told Warren, “We admire most your famous judgment of May 1954, outlawing racial segregation in public schools.”<sup>19</sup> Warren was questioned about trial and appellate court procedures in the United States and “the manner in which we protect individual freedoms and accommodate those rights to the stability of government and the protection of society.”<sup>20</sup> Realizing the unusualness of the Chief Justice being feted in the subcontinent, the American

press took advantage of frequent photo ops, and early in the tour, a picture of the Warrens with Chief Minister of Bombay Morarji Desai and Mrs. Desai was published in the *New York Times*.<sup>21</sup>

From Bombay, the Warrens traveled to other provincial capitals, Madras and Calcutta, and took time to enjoy well-known tourist attractions throughout the country. They visited the Ajanta and Ellora caves, with their celebrated works of art, were awed by the Taj Mahal in Agra, dined on vegetarian delicacies at Woodlands Restaurant in Madras, and were breakfast guests of the Maharaja of Banaras in his palace. Everywhere the Chief Justice traveled, he was acclaimed as an international celebrity, and he was "amazed at the interest of both Bench and Bar in American jurisprudence and particularly American constitutional law."<sup>22</sup>

In a speech at Calcutta University's law college, Warren said that law schools were producing "infinitely better equipped" attorneys than thirty years earlier because they had better education in social sciences before they reached law school. "Economics and history are prerequisite courses for the study of law," he said. "If our profession is to mean what it should, we of the bar must have the broadest education," the Chief declared. "Unless we know about economics and sciences which are now developing, we will not be in a position to make law serve the needs of our people." Warren noted that India was "passing through the identical phase the United States experienced 150 years" earlier "when the need arose for her Constitution to be shaped." He praised Chief Justice John Marshall, who "breathed life into our Constitution and covered its bare bones with flesh and sinews."<sup>23</sup>

When Prime Minister Nehru read a dispatch from a U.S. newspaper about the Warrens' low-key reception in Bombay, he determined to make it clear that India was not being cool to the distinguished American jurist. He ordered the government's top brass out to the New Delhi airport to give the Chief Justice

a top-level official welcome. When the Warrens' plane from Benares arrived on a sweltering Thursday, the Chief Justice was welcomed by Indira Gandhi; Chief Justice Sudhi Ranjan Das of the Indian Supreme Court and seven associate justices; the ministers of Law, Health, Defense, and Works, Housing, and Supply; the President of India's military secretary; and a platoon of lesser officials headed by the Chief of Protocol. There were six bouquets of flowers and arrays of garlands for the Warrens. Most members of the U.S. Embassy turned out, along with the Boy Scout and Girl Scout troops of New Delhi's American community.<sup>24</sup> The Warrens also were welcomed by a cordial editorial in the *Hindustan Times* praising a statement made by the Chief in Bombay that the world had to decide whether it was going to live by "force of law, or law of force."<sup>25</sup>

Some Indian officials said the Warrens' reception was warmer than any given to any other guest from the United States.<sup>26</sup> The elaborate official reception in Delhi contradicted the mild welcome earlier given the Chief Justice and was but a harbinger of the popular acclaim that was to follow him during the remainder of his time in India. *Life* magazine reported cheering crowds that paid tribute to "the man who had pronounced the momentous decision banning racial segregation in U.S. public schools."<sup>27</sup> The throngs were so fervid that Warren's party required a police escort to prevent him from being mobbed by admirers.<sup>28</sup> Warren's triumphal tour made what A.M. Rosenthal of the *New York Times* called a "deep impression on the Indian people."<sup>29</sup> Gerald T. Dunne was to write that "in terms of attitude and determination, the trip's decisive influence . . . could be compared only with Woodrow Wilson's tumultuous European reception of 1919."<sup>30</sup> The Chief Justice described it as "one of the most moving experiences of my life." Added Warren, "My embarrassment was complete when I realized how little not only I but most Americans know about this great land and its importance to the world."<sup>31</sup>

In a special convocation at the University of Delhi, a turbaned Dr. Radhakrishnan, India's Vice President, who was also the Chancellor of the University, conferred the honorary degree of Doctor of Laws (LL.D. *honoris causa*) on Warren. The Chief Justice, garbed in red doctorate cap and gown, received a thunderous ovation from a large audience of students, Cabinet members, diplomats, and members of Parliament. G.S. Mahajani, the University Vice Chancellor, read a long citation frequently interrupted by repeated and prolonged cheers and applause at any mention of Warren or the *Brown* decision.<sup>32</sup> Said Mahajani:

Our visitor rose to fame in 28 minutes on that Monday afternoon as he read out his momentous decision outlawing racial segregation in American public schools. The word "Warren" went echoing round the world and has entered securely into history books . . . And a fair guess places the secret of this achievement in his warm personality and persuasive powers.<sup>33</sup>

In a brief reply, the Chief Justice appealed to the young Indians to help in creating a better understanding among the peoples of the world.

In his memoirs, Warren noted that he had sat on the opposite side of the aisle from Nehru when they were both delegates of their respective nations attending the coronation of Queen Elizabeth II of England at Westminster Abbey on June 2, 1953, but there is no mention of the two men meeting at that time.<sup>34</sup> Thus, Warren apparently met Nehru for the first time at a reception in New Delhi given by Chief Justice Das of the Indian Supreme Court. On that occasion, Warren presented Das with an autographed photograph of the U.S. Supreme Court and a boxed copy of the U.S. Constitution. On the evening of August 29, Prime Minister Nehru held a dinner at his home in honor of the Warrens. There, he presented them with gifts including a leather box containing a length of maroon brocade and a copy of his book,

**Discovering India**, inscribed to the Chief Justice with regards.

The Chief Justice met with the Indian Supreme Court and sat on the bench of the high courts of Bombay, Madras, and Calcutta, the equivalent of American state supreme courts. In addition to law students, Warren spoke to bar associations and had discussions with top Indian government officials, including Prime Minister Nehru (whom he met on six different occasions during the tour) and two future Prime Ministers, Indira Gandhi and Morarji Desai—all without violating the agreement to avoid political matters.

The Chief's most widely heard talk was a broadcast over All-India Radio. Warren said while "there are obvious differences in procedure between your courts and ours," these "differences are of no consequences when compared with the important similarities between our two legal systems." He expressed admiration for the "almost superhuman effort" of the Indian government to raise living standards for 400 million people," and noted "it is a mistake to expect all to practice democracy as we do. There are as many democratic ways of getting things done as there are uses of the imagination and vision. Free government is not so much a question of the form of the institution as it is a way of life of the people . . . All democracies have like objectives but of necessity different approaches."<sup>35</sup>

Warren observed that the Indian courts (that conducted oral argument in English) shared with American courts the same background of English common law, the basis of the "kinship" between "the world's two largest democracies." Both nations had federal systems: At that time, India had twenty-six states and the United States forty-eight. The Indian Constitution, Warren said, took what the Indians considered the best from the written Canadian, Australian, and American constitutions. The Indian constitution, he added, paralleled the U.S. model "particularly so far as individual freedom and equality under the law are concerned." The Chief Justice noted that Indian

judges were “intensely interested in the administration of justice in the United States.” According to Warren, Indian jurists knew “our great jurists of the past such as Marshall, Holmes, Hughes, and others, and it is a matter of daily occurrence in their courts to cite decisions of the United States Supreme Court and other federal and state courts with approval and as persuasive.” In building a body of constitutional law, the Chief said, India looked “largely to the opinions of British and American courts for guidance.” Warren recognized that India’s freedom rested on an independent judiciary, an independent bar, and a constitution “which compels recognition by everyone of the dignity of the individual and of equality before the law, without regard to race, color, creed or economic status.”<sup>36</sup>

On his last day in India, Warren went to New Delhi’s diplomatic enclave to lay the cornerstone of a splendid new American Embassy building designed by architect Edward Durrell Stone. The building represented Stone’s combining the best architecture of the Orient with modern Western concepts. The result was what architect Frank Lloyd Wright called one of the finest buildings in the last hundred years. In his dedicatory comments before an audience of 3,000 people, including Indian officials, the Chief Justice expressed the hope that the building would be a new “temple of peace.”<sup>37</sup>

Warren charmed India with his genuine, unaffected smile, and friendly, open manner. The trip was a public-relations triumph, and most of it was filmed by the United States Information Service, which made a 16-mm motion picture, “Chief Justice Warren Visits India,” for use in India. The film was widely shown in theaters in India.<sup>38</sup>

The Warrens returned to the United States by way of Hong Kong and Manila on September 4. Back in Washington, the Chief Justice was interviewed in his Supreme Court chambers about his eighteen-day visit. His remarks were couched in judicial rhetoric. “I feel,” he said, “that as far as the law is concerned, [Indian] institutions not only parallel ours but

there is a great desire on the part of the Indian bench and bar to administer justice in very much the same way we do.” Added the Chief, “I believe they are trying their best both to give stability to their free institutions, to which India is committed, and at the same time to protect the freedom of the individual.”<sup>39</sup>

Although Warren bent over backwards to avoid discussing “political” aspects of his trip, he doubtlessly had been made aware of the mingling of the U.S. Supreme Court’s civil-rights and civil-liberties decisions with the aspirations of people everywhere and with global politics. The Chief Justice had observed firsthand the work of the Court in a comparative context. Bernard Schwartz observed that Warren had “returned with a broadened perspective, aware that the judicial protection of human rights was supported by a constituency that stretched far beyond American boundaries. The global image of the United States was directly related to the Supreme Court’s role in enforcing constitutional guaranties against governmental infringements.”<sup>40</sup> The genie was out of the bottle: Because of his representing the spirit of the law in the *Brown* decision and because of his persona and gravitas, the Chief Justice was an international superstar. And he apparently thrived in the role, as seen in his later goodwill tours abroad.

The political nature of the Chief’s trip was of some concern to some of the Associate Justices. Before Warren left for India, Justice John Marshall Harlan wrote in a letter to Justice Felix Frankfurter, “I can see why the President would want him to go—and no one could do a better job than he—but I do wish the Court could be left alone on these essentially political activities.”<sup>41</sup> Frankfurter replied:

I share the thought behind the anxiety which you express. I think it was quite right for him to accept the Indian invitation during the summer recess, but it should have been accepted without asking either the President or the Secretary of State whether it was

agreeable to them. Thereby occasion was given for publicity which they naturally would want to exploit, or at least to give it a political innuendo, which it ought not to have.<sup>42</sup>

Justice William O. Douglas, whom the press had named the “globe-trotting Justice” because of his book-publishing trips abroad, had himself traveled to India in 1950. In a note to Justice Hugo Black, he wrote supportively of Warren’s trip: “I was glad the Chief went to India. He’ll make a lot of friends for us there.”<sup>43</sup>

U.S. officials in India echoed Douglas’s opinion. Graham Hall, Counselor for Special Affairs in the Embassy in New Delhi, wrote Warren: “As I feel sure you are aware from the reaction in India during your visit, you made a very large contribution to further understanding and friendship between India and the United States.” Added the U.S. Consul General in Madras: “What a success I believe your visit to India was.”<sup>44</sup>

Chief Justice Das gave an Indian perspective of the trip in a letter to Warren: “Your visit to our country . . . certainly served to bring our two countries nearer, for Mrs. Warren and you endeared yourselves to us by your urbanity, the catholicity of your ideas, and the breadth of your outlook and vision.”<sup>45</sup>

The Chief Justice’s accolades in India were in sharp contrast to the criticism he was receiving in the United States at that time from Southerners, states-rights advocates, and super-patriots. On the same day that Warren was being interviewed in chambers by the press, the *Washington Post* published a seething column by George Sokolsky blasting Warren and the Court for decisions setting back “racial relations in the South several decades” and giving “the Communist cause . . . a new lease on life.”<sup>46</sup> Senator Joseph McCarthy (R-WI) added fuel to the accusatory fire by asserting: “I will not say that Earl Warren is a Communist, but I will say he is the best friend the Communists have in America.” Such criticism of the Chief Justice and the de-

isions of the Court would continue throughout Warren’s tenure on the Bench, but at this time a crescendo of censure of the judiciary was under way that would culminate in Congress’s 1958 attempt to curb the Court in the Jenner-Butler Bill, the high-water mark of congressional hostility to the Court—and one from which the Court barely escaped.<sup>47</sup> The Chief’s widely reported international summer travels, coupled with a congressional recess, may have provided a welcome respite from the clamor of such detractors of the Court at home.

Warren’s successful goodwill tour so impressed John J. McCloy, Chairman of the Council on Foreign Relations, that he invited the Chief to give his “impressions of India” to an afternoon meeting of the members in New York City.<sup>48</sup> Similar meetings with distinguished statesmen during 1955 and 1956 had included Dulles, British Prime Minister Harold Macmillan, and German Chancellor Konrad Adenauer. The Chief Justice’s trip to India had earned him a place in the pantheon of world politics of the 1950s.

Warren’s connections to India continued in the autumn of 1956. On October 2, in a ceremony in the Supreme Court Chamber the day after the opening of the 1956 Term of the Court, Warren accepted an eight-volume biography of Mahatma Gandhi from Indian Ambassador to the United States G.L. Mehta and a delegation of Indian jurists. Six Associate Justices were present as the Chief described the United States and India as two nations “trying to travel the same highway through the use of free institutions.” Warren expressed the hope that the books that would be housed in the Supreme Court Library “would long serve as an inspiration to the Justices and lawyers through the years.”<sup>49</sup> In November, the Chief wrote Dean Rusk, president of the Rockefeller Foundation, asking for his help in sending books on American law to Indian legal libraries and law schools and having them dispersed there to bench and bar.<sup>50</sup>

When Warren learned of Nehru’s official visit to the United States in 1956, he wrote the

Prime Minister “that our two countries, understanding each other’s problems and purposes, could be forces for great good in transforming hatred and armed conflict into world peace based on justice . . . We only need to know more about each other. That is one reason I am so happy you are to visit us. Our people want to know you better and I am sure you will find them warm-hearted toward you.”<sup>51</sup>

In reply, Nehru wrote on December 6:

I entirely agree with you that in spite of many superficial differences, there is much that is common in the basic approach of our two countries. Unfortunately, not much is said about this and a great deal is said about the superficial differences. I think the time has come when we can look at each other in truer perspective and understand each other better. To the United States of America it is given to play a vital and leading part in world affairs. We do not presume to interfere in the affairs of the rest of the world, nor have we the desire or capacity to do so. But, inevitably, no country can isolate itself from these currents and conflicts of the world, and so we have to play our part to some extent. I see no reason why that part should not lead us to an ever greater measure of cooperation with the United States.<sup>52</sup>

In preparing for the Nehru dinner, the U.S. Department of State had provided Warren with classified documents about the Indian visitors and their nation; a pronunciation guide and biographical data about each dignitary; a summary of U.S. policy towards India; and “talking points,” topics that probably might be raised by the foreign guests and subjects to steer away from should they be raised in conversation. The Department had advised the Court’s Marshal that the group accompanying Nehru would be “much smaller . . . than the normal one” and that the visit therefore should be “considered to be of a more personal and intimate nature.”<sup>53</sup>

In addition to the Prime Minister and his daughter, who served as his chief of staff, Indian dinner guests included V.K. Krishna Menon, the unapologetically anti-American chair of India’s delegation to the United Nations, and Ambassador Mehta. Attorney General Herbert Brownell, who had played a significant role in the Court nominations of Warren, Harlan, and William J. Brennan (all of whom were sitting on the Court at the time), represented the U.S. Department of Justice, and the State Department’s Chief of Protocol, John Simons, was also present. Justices Sherman Minton and Black were ill and unable to attend, although the latter was represented by his son and daughter, Hugo L. Black, Jr., and Josephine Black. Justice Frankfurter renewed his acquaintance with Nehru, having honored him with a tea at his home during the Prime Minister’s first visit to the United States in 1949. The entire dinner party of thirty was seated around one long table, with fourteen guests on either side and two at the ends. Following protocol, the Chief Justice was flanked by the Ambassador’s wife and Mrs. Gandhi, while Mrs. Warren was seated between the Ambassador and the Prime Minister. All of the Indian guests spoke excellent English, so there was no need for translators.<sup>54</sup>

The caterers for the dinner carefully followed the Department of State’s menu recommendations. Two kinds of punch were prepared—neither with liquor—and orange and tomato juices were served. Canapés were all open-faced, with no beef or pork. The *New York Times* noted that the dinner had an unusual alternative for the main course, a rice pilaf ring for the vegetarians in Nehru’s party—even though the Prime Minister and his daughter were not vegetarians. The Court’s dinner was more politically correct than had been President Eisenhower’s hearty White House luncheon served the Nehru party earlier in the day, which had included roast leg of lamb.<sup>55</sup>

Apparently the Warrens’ dinner was a pleasant, relaxed evening. The Chief Justice got along well with Nehru and his protégé

Krishna Menon, two Indian leaders with whom successive U.S. Secretaries of State Acheson and Dulles had trouble dealing. The Prime Minister preferred smaller, less formal gatherings, rather than the “medieval splendor” heaped on him during most state visits.

The next day, Justice Frankfurter sent a “Dear Chief” note proclaiming that “last night’s dinner may well be deemed an historic occasion.” Justice Harold Burton, a former Senator and no stranger to state dinners, wrote Warren that he hoped the evening, “in addition to being delightful and interesting,” might “be internationally helpful.” Upon her return to India, Mrs. Gandhi sent Mrs. Warren a warm letter of thanks for a most enjoyable dinner.<sup>56</sup>

The dinner for Nehru at the Supreme Court was part of what could only be described as a successful official visit. President Eisenhower and Nehru related well at a personal level. They even spent fourteen hours together, without aides, at Eisenhower’s farm in Gettysburg, Pennsylvania, where they discussed “many things in the international field” and had an opportunity to gain an appreciation of each other’s positions and compulsions. Nehru found the President “sincerely interested in India, its history, its aspiration and developmental efforts.”<sup>57</sup>

Three years later, Eisenhower made the first U.S. presidential visit to India, spending four days there during a nineteen-day, eleven-nation peace tour, at that time the longest trip ever made by an American President. Eisenhower’s memorable visit, following in many ways in the footsteps of Chief Justice Warren’s tour, established the foundation for a close and valuable friendship between the two nations in the decades that followed. Warren had pointed out the basis of that friendship during his visit to the subcontinent in 1956 by explaining the joint commitments of the United States and India to democracy, human rights, and the rule of law. Only the popular Eisenhower, on an official state visit, could receive more public acclaim in India than had the Chief Justice.

Warren, representing the law of equality with a gentle certitude of behavior and presenting the persona of a diplomat in the best sense of the word, had paved the way for the President.<sup>58</sup>

### Visits of Foreign Heads of State to the Supreme Court

Although the dinner at the Supreme Court honoring Prime Minister Nehru in 1956 was deftly planned and carried out as though the Chief and the Justices were in the habit of frequently entertaining state visitors, only a small number of foreign heads of state are documented as having visited the Supreme Court. Prior to the Court’s moving to its own building in 1935, visits might have occurred as a part of a foreign head of state’s tour of the Capitol, but there are no records of this in the Supreme Court Curator’s offices.

One of the first visits by distinguished guests to be photographed at the Court was that of a future head of state, Princess Elizabeth of England, accompanied by her husband, Prince Philip. They came to the Court for a brief tour on November 2, 1951. The royal couple was met at the curb on First Street at 11:30 a.m., walked through the Great Hall and Courtroom, and met the Justices of the Vinson Court in the Conference Room. They left the Court at 11:55, with the Princess being escorted to her automobile by the then–Marshal of the Court, Thomas E. Waggaman, who was dressed in morning coat for the occasion.<sup>59</sup> The photogenic Princess, then twenty-five years old, had been met at the airport by President Harry Truman two days earlier. Princess Elizabeth may have had a special interest in the Court. After her father, King George VI, succeeded to the throne in 1936, Elizabeth studied constitutional history and law as part of her home schooling.<sup>60</sup> At the time of her 1951 visit, there was great concern for Elizabeth’s father, who was very ill. He died the following year, and Elizabeth was proclaimed Queen.

The first recorded visit to the Court by a reigning foreign head of state was on

October 20, 1954, when President William V.S. Tubman of Liberia met the Court, in robes, in the Justices' Conference Room.<sup>61</sup> Tubman, a lawyer who had served on the Liberian Supreme Court, was on a state visit to the United States from October 16 to November 12.<sup>62</sup> He urged the extension of the expiring five-year agreement to finance Liberia's development plan.<sup>63</sup> An American-Liberian descendant of former American slaves, Tubman had been the guest of President Franklin Roosevelt in Washington as President-elect of his country during his first visit to the United States, in 1943, when Liberia provided the Allies with a vital link to Africa during World War II. It was most fitting, although probably serendipitous, that the Court's first head-of-state guest came to call during the year of the historic *Brown* decision providing equal protection for other descendants of American slaves. The Tubman visit to the Court received extensive press coverage in African nations. The year after his visit to the Court, Tubman survived an assassination attempt, and he went on to rule until his death in 1971.

On December 8, 1955, President Batlle Berres of Uruguay became the first foreign head of state to be present at a Court session. After meeting the robed Court in the Conference Room at 11:45 a.m., the President and his entourage were taken to seats in the Courtroom. After the session opened, Chief Justice Warren announced the presence of President Berres and his party. After the lawyers for the case before the Court were admitted, the Marshal banged the gavel, the Court and audience rose, and the President and his party departed. After their exit, "the Crier banged again and court resumed."<sup>64</sup>

Three months later, on February 29, 1956, President Giovanni Gronchi of Italy and Signora Gronchi came to the Court and were "given the same treatment as the Uruguay party."<sup>65</sup> By a memorandum, the Chief Justice informed the Associates that "[t]he Court will meet the President of Italy and his wife in the Conference Room in robes at 11:45." Be-

cause the Justices were supposed to be robed at that time anyway and ready to take their seats in the Courtroom for oral argument a few minutes later, the Chief's memo was more informative than imperative. Later in the day, Gronchi, the second President of the Italian Republic, who was on a state visit from February 27–March 2, 1956, addressed the U.S. Congress.

On May 18, 1956, President Achmad Sukarno of Indonesia, one of the charismatic leaders of Afro-Asian nationalism, met the Court in the Conference Room during the last day of a three-day state visit.<sup>66</sup> The first President of the Republic of Indonesia, Sukarno held that position from August 17, 1945, the day he proclaimed Indonesia's independence, until he was deposed in 1968. To help bolster his tenure, Sukarno proclaimed himself President for life in 1963, although his critics contend that he remained in office only during good behavior.

As noted above, in December 1956, Prime Minister Nehru of India attended the first dinner for a foreign ruler at the Supreme Court, an event that received the most press coverage of any of the Court's honoring of international dignitaries.<sup>67</sup>

In the following year, on May 9, 1957, President Ngo Dinh Diem of the Republic of Vietnam met with Chief Justice Warren and Justices Douglas, Burton, and Stanley Reed for tea and a tour of the building led by Douglas. At that time, Diem had been engaged in a campaign of arresting political opponents in South Vietnam, and it may have been in protest against such activity that several of the Justices chose not to attend the tea. Later in the day, as part of a state visit, Diem addressed the U.S. Congress.<sup>68</sup>

Sultan Mohamed V, King of Morocco, was the guest of the Chief Justice at a luncheon at Court on November 26, 1957 with eight Justices in attendance. Justice Minton was ill and unable to attend.<sup>69</sup> The King was in Washington on a four-day state visit to the United States, during which he met with President Eisenhower. The King had requested specifically



The first recorded visit to the Court by a reigning foreign head of state was on October 20, 1954, when President William V.S. Tubman of Liberia came to Washington. A lawyer who had served on the Liberian Supreme Court, Tubman was on a state visit and is pictured here shaking hands with Chief Justice Warren at the White House.

that music from the Broadway musical “The King and I” not be included in the entertainment at the state dinner at the White House. Apparently, he did not like some of the lyrics. In February 1956, he had successfully negotiated with France for the independence of Morocco, and in 1957 he had taken the title of King. From 1927 to 1953 he had been Sultan of Morocco, and in that role he played host to Allied leaders in a conference that mapped out significant strategy for World War II. In January 1943, United Kingdom Prime Minister Winston Churchill, Roosevelt, and French President Charles de Gaulle met for four days in the Casablanca suburb of Anfa, where they first agreed on the demand for the “unconditional surrender” of the Axis powers. One of the highlights of the conference was a dinner

party hosted by President Roosevelt in honor of Sultan Mohammed V. This recognition of the Moroccan sovereign as host of the conference and as a ruler of importance by President Roosevelt gave credibility to Moroccan aspirations for independence. Mohammed reigned as King of Morocco from 1957 through 1961, when he was succeeded by his son, Moulay Hassan, who became Hassan II.

It should be noted that there were only three state visits to the United States by visiting foreign heads of state in 1957, and two of the three were guests of the Supreme Court. Only King Saud of Saudi Arabia failed to visit the Court during his state visit to Washington from January 30 through February 8.

In the first recorded incidence of one-to-one diplomacy between a Justice and a head

of state at the Court, Robert Menzies, Prime Minister of Australia, met with John M. Harlan for lunch on June 1, 1960.<sup>70</sup> The reason for the meeting is not recorded, but the two shared several common interests. Menzies, who was characterized as an extreme monarchist and “British to his bootstraps,” was one of Australia’s leading constitutional lawyers and parliamentarians. He also was a Scholar in Law at Cambridge University. Harlan had spent three years as a Rhodes Scholar at Oxford, taking an A.B. with a “first” in jurisprudence in 1923, and was well versed in British and Commonwealth law. He also had a “colonial experience,” having been enrolled at an early age in a Canadian boarding school and spent all but the final year of his preparatory education there. Menzies served as Prime Minister from 1939 to 1941 and from 1949 to 1966 and was knighted in 1963. Two years later, he made unpopular decisions to commit Australian troops to the Vietnam War and to reintroduce conscription. In 1966, he retired as Prime Minister and from Parliament.

The final event for a foreign head of state at the Court during the Eisenhower administration occurred on June 29, 1960, when His Majesty King Bhumibol Adulyadej the Great, King Rama IX, and Her Majesty Queen Sirikit of Thailand were honored with a luncheon.<sup>71</sup> All of the Justices and most of their wives and twelve members of the royal party attended, along with the Thai Ambassador to the United States and the State Department’s Chief and Deputy Chief of Protocol. The Boston-born King, one of the wealthiest men in the world, had studied political science and law at Lausanne University in Switzerland during his student days. The royal couple had been guests of the Eisenhowers at a state dinner on the previous night. Following the Court luncheon, His Majesty went across the street to address the U.S. Congress. The King immediately told his audience why he had come to America:

When I hear of intolerance and oppression in so many parts of the world,

I want to know how, in this country, millions of people, differing in race, tradition and belief, can live together freely and in happy harmony. How these millions, scattered over a large territory, can agree upon the major issues in the complicated affairs of this world. How, in short, they can tolerate each other at all.<sup>72</sup>

Perhaps, over lunch, the King posed those questions to the Chief Justice and the Court, who might have had intriguing answers in light of their work at the time in civil-rights and civil-liberties cases.

In total, nine foreign heads of state and government had visited the Court during the groundbreaking era of the Eisenhower presidential years, from 1954 through 1960. In contrast, no such visits occurred during the short administration of John F. Kennedy from 1961 to 1963. It should be noted that Prime Minister Nehru returned to the United States for his final official visit in November 1961, but he did not visit the Court on that occasion—nor did he get along well with President Kennedy.<sup>73</sup>

A renowned writer of a modern constitution was the first foreign head of state to visit the Supreme Court during the presidential administration of Lyndon B. Johnson. Eamon de Valera, President of Ireland, came to Washington on May 28, 1964, at the age of eighty-one, on a visit of sentimental value rather than of international importance. At the Supreme Court, he was the guest of Chief Justice Warren at a luncheon.<sup>74</sup> Later that day, de Valera, although almost blind, addressed Congress, speaking for twenty-five minutes without notes. The Irish patriot was born in New York City and taken to Ireland as an infant. The author of Ireland’s constitution, “Bunreacht na hÉireann,” he was one of the dominant political figures in twentieth-century Ireland. De Valera ended his political career as President of Ireland, serving two terms from 1959 until 1973. As President, he received many distinguished visitors,

including President de Gaulle and President Kennedy (in 1963). De Valera retired from the presidency in June 1973 at the age of ninety-one, the oldest head of state in the world at the time, having served for fourteen years, the longest period allowed under the Irish constitution.

Only five days after the second inauguration of President Johnson on January 20, 1965, the President-elect of Brazil, Arthur da Costa e Silva, arrived in Washington for a three-day informal visit. As part of his tour, Costa e Silva came to the Supreme Court on January 26, 1967.<sup>75</sup> Less than two months later, he was sworn in as President. He then adroitly increased the powers of his office, closed the Brazilian Congress, banned the opposition, and increased media censorship. Costa e Silva suffered a severe stroke in August 1969 and was removed from power by his military ministers.

Prime Minister Mohammad Hashim Maiwandwal of Afghanistan, considered to be one of the main architects of modern Afghanistan, was given a formal welcome with full military honors at the White House on March 28, 1967. The Prime Minister, who vitalized his country's 1964 constitution, which liberalized the political structure and inaugurated a Supreme Court that completed the separation of powers among the executive, the legislature, and the judiciary, was on a three-day official visit. His itinerary included a stop at the Supreme Court, where he was "received on the Plaza by the Chief Justice."<sup>76</sup> Only six months later, Maiwandwal resigned as Prime Minister due to ill health. In 1973, he died in prison under mysterious circumstances following a military coup.

### The Luncheon for Emperor Haile Selassie

One of the best-documented events for a visiting head of state at the Court was the luncheon for Emperor Haile Selassie of Ethiopia on February 14, 1967.<sup>77</sup> The Chief Justice

again was repaying hospitality, for he had been a guest of the Emperor in Addis Ababa in 1963. Selassie, seventy-four years old at the time, was on his third state visit to the United States, the guest of President Johnson from February 13 to 15, 1967. The Emperor afterwards visited New York City and departed the United States on February 17.

The Chief Justice and Mrs. Warren had first met Emperor Selassie on May 26, 1954 during his initial state visit to the United States, when they attended a White House dinner hosted by President Eisenhower. The Chief and the Emperor were almost the same age, and apparently each admired the life and accomplishments of the other.

When the Emperor paid his second state visit to President Kennedy, on October 1, 1963, the Chief Justice, joined by Attorney General Robert Kennedy and others, entertained His Imperial Majesty and some members of his royal entourage aboard the Secretary of the Navy's white yacht, *Sequoia*.<sup>78</sup> The "Rolls Royce of yachts" was a regal setting for a luncheon on the Potomac honoring the Emperor. The Chief Justice sat next to Haile Selassie in the ship's main salon, where five U.S. Presidents had dined and where Roosevelt and Churchill had planned the D-Day invasion of Europe. Later that evening, the Warrens attended the state dinner for the Emperor at the White House.

Although records of the role of the Department of State in helping plan diplomatic proceedings at the Supreme Court are scarce, the documentation of the Court's 1967 luncheon for the Emperor contained in the Earl Warren Papers in the Library of Congress gives details that are probably typical of all such head-of-state events.

In preparation for the luncheon, John Buché, Assistant Ethiopian Desk Officer in the State Department, sent the Chief Justice's secretary details of administrative arrangements.<sup>79</sup> Included were: the Emperor's itinerary; "confidential" biographies of the twelve-member official party (in order of



The Court hosted a luncheon for Emperor Haile Selassie of Ethiopia (center) on February 14, 1967. Chief Justice Earl Warren (right) was again repaying hospitality, for he had been a guest of the Emperor in Addis Ababa in 1963. Selassie, seventy-four years old at the time, was on his third state visit to the United States.

precedence), their titles and manner of address, and a guide to pronouncing their names; a copy of a “secret” memorandum for the President from the Under-Secretary of State summarizing the foreign-policy implications of the visit (for example: the United States could not satisfy the Emperor’s demands for more military assistance, but “on the other hand, friendly relations with Ethiopia” were important to American interests in Africa) and suggesting talking points on questions for discussion with the Emperor (for example: “Topics the Emperor will raise: threats to the Red Sea Area and Ethiopia. I recommend that you say: . . . Topics you might raise: The danger of a continued arms race in the Horn of Africa. . .”); a “confidential” country fact sheet including information about governmental structure, natural resources, human resources, economic activity, defense forces, and Americans in Ethiopia; confidential “suggestions on approaching the Ethiopians and topics of conversation” (for example: “Ethiopian court etiquette makes the Hapsburgs look breezy . . . Ethiopians are

generally aware of what is going on in the United States and also follow with some interest developments in Vietnam, China, the Middle East, and Europe . . . Subject to be avoided, if possible . . . Somalia”); and a proposed toast by the Chief Justice. Buché was an excellent choice to write the toast, for he had only recently returned to the United States from a three-year assignment in the U.S. Embassy in Ethiopia, where he was the only Foreign Service Officer fluent in Amharic, the official language of the country. He accompanied the royal party as a translator throughout the state visit.

At 10:30 on the morning of February 14, Haile Selassie met with President Johnson at the White House.<sup>80</sup> The Emperor and the President discussed shared concerns about the United Arab Republic and Soviet advances in the Red Sea basin and the Soviet-sponsored Somali threat to Ethiopian security. Selassie’s primary objective was to convince the President of the need for the United States to provide Ethiopia with more arms.

After leaving the White House, the royal entourage drove in a five-limousine convoy from Blair House, where the Emperor was staying, to the Supreme Court, where they were scheduled to arrive at 1:45 p.m. at the 2<sup>nd</sup> Street entrance and park in the underground garage. Security must have been a concern, for accompanying the Emperor in the lead vehicle was Leo E. Crampsey of the State Department's Foreign Dignitary Protective Division. According to Charles "Steve" Gillispie, one of the State Department's translators for the Emperor's visit, the motorcade was thirty minutes late. His Imperial Majesty was met by Chief Justice Warren and T. Perry Lippitt, Marshal of the Court, and escorted to the East Conference Room, where a reception line was formed. In hastening the royal party and getting as many as possible into the elevators, uniformed U.S. Security guards apparently shoved people so tightly that the Emperor's black-and-red military hat was knocked askew—a misfortune doubtlessly galling to the ever-meticulous ruler. Although the incident was quickly passed over, some of the Ethiopians interpreted the zealous security arrangements and the actions of the guards as showing a lack of respect for the Emperor and the royal party.<sup>81</sup>

After the forty-five guests had arrived, the party moved to the West Conference room, where lunch was served. Those invited included attorneys working in a variety of federal government positions and "at least some of the important persons who [were] not going to the White House dinner" later that evening.<sup>82</sup> Among the eclectic roster of guests were: Secretary of the Interior Stewart Udall; Senator Frank Lausche (D-OH); Congressman Ross Adair (R-IN), who would later serve as Ambassador to Ethiopia in the 1970s; an admiral and a general; a half dozen State Department officers; representatives of the Peace Corps, the United States Agency for International Development (USAID), and the United States Information Agency (USIA); and *Washington Post* columnist Joseph Kraft. As always at the

Court's functions for visiting heads of state, the State Department's Chief of Protocol—in this instance, James W. Symington—was on hand to ensure that the accepted rules of diplomacy were implemented. Symington was carrying out his duty to "plan and execute detailed programs for foreign leaders visiting the President and accompany them during their official travel in the United States." The Chief Justice was the only Justice present: Tuesday was a working day for the Court, and the Associate Justices were busy at the time of the luncheon, which turned out to be a stag party with no women present.

Ridgewell's Caterers prepared the meal, which featured saddle of veal Orloff and fresh strawberry mousse. At the head table, Haile Selassie was flanked by the Chief Justice and Senator Frank Carlson (R-KS), who, the next morning, hosted a prayer breakfast at the Capitol that the Emperor attended. The Governor of Ethiopia's Shoa Province sat next to Warren and served as interpreter. The Chief Justice was a charming host who, in his remarks, made several comparisons of California to Ethiopia. He and the Emperor competed with bragging rights about their homelands and urged the guests to visit them to see for themselves their natural beauty. Warren wrote by hand several additions and deletions to the proposed toast that Buché had prepared, to make his comments more personal and specific to the Court setting. For example, to the statement "When mention is made of the Emperor of Ethiopia, Americans today recall with pride and affection your many courageous and far-sighted actions," the Chief added, "which have contributed to the freedom of mankind." After "Yet, on this occasion," Warren inserted, "as we are breaking bread at the Supreme Court of the U.S. where all Americans who come here pursue our national ideal of equal justice under law" and then continued from the text, "I think it is more appropriate to salute Your Majesty for your contribution to Ethiopia's legal system." He concluded the page-long statement that

he had made his own with “a toast to Your Majesty—a great statesman, a valued friend, a wise law-giver.”<sup>83</sup>

After the luncheon, the Emperor was escorted back to his automobile in the garage by the Chief Justice and Marshal Lippitt. He left at 3:15 p.m. to attend a reception at Howard University, during which His Imperial Majesty was awarded an honorary degree. Later that evening, the Emperor was the guest of the Johnsons at a White House dinner. The Chief Justice and Mrs. Warren were invited to an intimate pre-dinner gathering in the upstairs Yellow Oval Room of the White House for cocktails and the exchange of gifts by the heads of state. Besides the President and First Lady and the Emperor, the Warrens were the only non-diplomats present. Also attending were Acting Secretary of State Nicholas Katzenbach, U.S. Ambassador to Ethiopia Edward Korry, Chief of Protocol Symington, the Ethiopian Minister of Foreign Affairs, and the Ethiopian Ambassador to the United States. Following the presentation of gifts came what Lady Bird Johnson described as “the always thrilling removal of the colors, the forming of the line, and the marching downstairs to the tune of ‘Hail to the Chief.’”<sup>84</sup> The party stopped for photographing at the bottom of the stairs before standing in line in the East Room, where about one hundred and fifty guests filed by to shake hands. At state dinners amidst regal furnishings, the Warrens enjoyed executive privileges without many responsibilities other than grasping bejeweled and manicured hands.

So successful were the Chief Justice and his wife in serving as unofficial diplomats that they were frequent guests at White House state dinners and Yellow Oval Room ceremonies throughout Warren’s tenure at the Court. Mrs. Johnson noted that at diplomatic receptions, “Chief Justice and Mrs. Warren . . . were always on hand as helpful standbys and ornaments.” And she added, “How easy it is to forget that the Chief Justice is a member of the other political party!”<sup>85</sup> Warren and Mrs. Johnson shared a dubious bond: the John Birch

Society put up billboards in Texas urging the impeachment of Earl Warren and Lady Bird.<sup>86</sup>

In a letter from Symington, the Department of State formally thanked Warren for his “help in entertaining Emperor Haile Selassie of Ethiopia . . . The luncheon at the Supreme Court was an outstanding success, your toast was much appreciated, and your hospitality contributed significantly to making the visit a memorable occasion for the Emperor and his party.”<sup>87</sup> Senator Carlson also sent a letter praising the luncheon to the Chief Justice.<sup>88</sup>

### Later Court Events for Foreign Heads of State

The final foreign head of state to visit the Court during the Johnson administration was President Alfredo Stroessner of Paraguay. On the first day of his three-day official visit, on March 20, 1968, Stroessner “took tea” with the Justices.<sup>89</sup> Tours of the Supreme Court building conducted by a Justice are usually part of such visits. The President ruled Paraguay from 1954 to 1989, coming to power in a military coup and then being re-elected for eight consecutive terms. In many of these elections, either he was the only candidate or the fairness of the election was questioned. He was accused of repression and human-rights violations and of making Paraguay a refuge for some Nazi war criminals after World War II. Stroessner stayed in power for thirty-five years. Among twentieth-century Latin American heads of state, only Fidel Castro had a longer tenure. In 1989, Stroessner was ousted by a coup d’état, and he died in 2006 in exile in Brazil at the age of ninety-three.

In addition to foreign heads of state, the Chief Justice occasionally played host to judges and leaders of the legal profession from foreign countries at the Supreme Court. An example of this was the visit of Ethiopian Attorney General Bereket Habte Selassie in the summer of 1964. Warren had met Bereket during his visit to Ethiopia in 1963. Bereket recalled that “he struck me as a genuine article; no airs

of self importance, no pretensions. Of course, having read *Brown v. Board of Education*, I was biased in his favor from the word go. I considered him a great man, and when I met him in Addis I took to liking him instantly as a human being.”<sup>90</sup> Jim Paul, dean of the new law school at Haile Selassie I University, accompanied the Attorney General to Washington, D.C. and telephoned Warren to see if they could meet.<sup>91</sup> The Chief Justice insisted that the two visitors join him for lunch at the Court. When Paul introduced Bereket to Warren, the Chief “exploded into a broad grin and said, ‘I remember you, General. And a hearty welcome, Sir!’” Bereket remembered the Chief Justice “as a very kind and jovial man and generous host.” Added Bereket, who now lives in the United States,

Men like Earl Warren are rare and when we get them we need to send them abroad as often as possible. They are the surest antidote to the likes of [poor official representatives in recent times]. In the same way the Peace Corps laid to rest the notion of the “Ugly American,” good representatives of the institution that checks executive overreaching would help restore America’s damaged image and generate good will once more.<sup>92</sup>

Bereket’s holding of Warren in high esteem and fond remembrance may have been typical of those foreign lawyers who met the Chief. Jurists around the world proudly hung photographs of themselves with the Chief Justice on their office walls, noted former president of the American Bar Association Charles Rhyne.<sup>93</sup>

With the retirement of Chief Justice Warren in 1969, the Supreme Court went into dormancy as a site for honoring foreign heads of state. Not until 1996 was the tradition revived. But diplomacy at the Court continued, with a steady stream of state visitors from other levels of foreign governments, especially

the judiciary, touring the Court and meeting the Justices. Several types of “judicial exchanges,” wherein Justices and judges from the United States traveled to a foreign country and visited their counterparts, were instigated and continue on a regular basis. Reciprocal visits by foreign judges frequently occur afterwards in the United States.

One of the most colorful visitors to the Court was His Holiness the Dalai Lama, the spiritual leader of most Tibetan Buddhists and the head of the Government of Tibet in Exile. He was the guest of Justice Stephen Breyer, who, along with Justices Harry A. Blackmun and Sandra Day O’Connor, Justice Breyer’s wife Dr. Joanna Breyer, and the Breyers’ daughter, Chloe, met with him in the Justices’ Dining Room on September 13, 1995.<sup>94</sup> His Holiness, clothed in his usual monk’s robe of maroon and gold, followed the Tibetan custom of offering a *kata*, or white scarf, in greeting to each of his American hosts. In the Vajrayana Buddhist tradition, the auspicious *kata* signifies the good intentions of the person offering it. Justice O’Connor later commented on the striking charisma of the Dalai Lama on that occasion.<sup>95</sup> On the same day he visited the Court, His Holiness, who was awarded the Nobel Peace Prize in 1989, met with President William J. Clinton and Vice President Albert Gore.

The tradition of honoring a foreign head of state with a luncheon at the Court was revived by Chief Justice William Rehnquist when President Mary Robinson of Ireland was his guest on June 14, 1996.<sup>96</sup> It was a small event, with only two tables in the West Conference Room. The Chief Justice and Justice O’Connor were the only Justices who attended, one at each table with invited guests. Robinson served as the first female President of Ireland from 1990 to 1997 and was the United Nations High Commissioner for Human Rights from 1997 to 2002. She first rose to prominence as an academic, barrister, and member of the Irish senate from 1969 through 1989. The night before her appearance at the Court, Robinson was



His Holiness the Dalai Lama, the spiritual leader of most Tibetan Buddhists and the head of the Government of Tibet in Exile, was invited to visit the Court by Justice Stephen Breyer (left) in 1995. Justices Harry Blackmun and Sandra Day O'Connor (center), Justice Breyer's wife Dr. Joanna Breyer, and the Breyers' daughter, Chloe, met with him in the Justices' Dining Room. His Holiness followed the Tibetan custom of offering a *kata*, or white scarf, in greeting to each of his American hosts.

the guest of the Clintons at a White House dinner as part of her state visit from June 12 to 15, 1996.

President Carlos Saúl Menem of Argentina was honored on January 12, 1999, with a tea at the Court hosted by Justice O'Connor, who had visited Argentina earlier that year.<sup>97</sup> All the Justices except Chief Justice Rehnquist attended. Menem, a lawyer trained at the University of Córdoba and a Peronist, was President of Argentina for ten years. His attempt to run for a third term in 1999 was ruled unconstitutional by Argentine courts. Although there are no photographs of Menem's visit to the Court in the Curator's files, two years afterwards he married Chilean television host and model Cecilia Bolocco, a former Miss Universe, who is thirty-five years younger than

he, and since that time the Menems have been frequent subjects of photo ops by the press.

Perhaps it was fitting that Justice O'Connor, the most recent former elected politician to serve on the Court, would be the successor of Chief Justice Warren as a host to foreign visitors in the conference rooms. Throughout her tenure on the Court, O'Connor attempted to foster collegiality among her colleagues by hosting or organizing lunches and dinners for the Justices. This no doubt reflected her background in Arizona politics, where she was the first female majority leader in any state senate and where she and her husband frequently entertained state legislators and other officials in their home. In 2007, after she had assumed "retired" status on the Court, Justice O'Connor served on the Iraq Study

Commission, a bipartisan group requested by Congress to assess the situation in war-torn Iraq and the surrounding region.

The tradition of foreign heads of state visiting the Court continued during the Chief Justiceship of John Roberts, when Alfred Moisiu, President of Albania, met with the Chief in the Lawyers' Lounge on September 18, 2006.

### The Court as a Site for Public Diplomacy

Under the leadership of Chief Justice Warren, the Supreme Court took up the challenge of exercising “public diplomacy”—interactions other than official ones between national governments. Effective public diplomacy involves dialogue, a two-way exchange of information, and people-to-people contacts are a significant aspect of that effort. From the early 1950s, when the practice of feting high-ranking foreign guests at the Court began, until the present time, U.S. public diplomacy has emphasized the nation's core values and subtly built an image of a benevolent global leader. The Justices have been adroit, upon occasion, in using the magnificent Court building as a place to meet visiting foreign heads of state and to advance the goals of public diplomacy. In contrast to the “hard power” of coercion and threat, and payment or inducement exercised by the executive and legislative branches in rough and tumble diplomacy, the judiciary has been a player in what Joseph Nye calls “soft power,” the “ability to get what you want by attraction rather than coercion” in public diplomacy.<sup>98</sup> On view before the world's leaders, the Supreme Court stood four-square for human dignity under the rule of law, and that message was so perceived and admired by the international guests. In extending courtly hospitality to foreign dignitaries, the Justices developed lasting relationships with key individuals over many years, another hallmark of successful public diplomacy.

From all accounts, the Court's move into this previously uncharted area for the judiciary

was a resounding success. And why should it not have been? The Supreme Court is housed in an awe-inspiring temple of justice, one of Washington's—and the world's—great neo-classical buildings. Any occasion honoring a visiting leader in such surroundings was bound to be a memorable event, even as only one aspect of a state visit. And the Justices were among the most intelligent and knowledgeable Americans, who had frequently interpreted the core values of the nation in their work and were well able to represent the country in dialogue with foreign leaders. The visiting dignitaries had an opportunity to interact with the Justices at an institution admired abroad for its independence from other branches of government and for its protection of human rights. The Court's decisions ending racial segregation in public schools were especially lauded by official visitors, many of whom were learned in the law and had an affinity for fellow professionals on the bench.

For visiting foreign heads of state, the Court offered aspirational goals and attractive ideas for emulation. During a time of tense Cold War confrontations, the Supreme Court contributed to public diplomacy that successfully followed the sage advice of George Kennan in his so-called “X article,” which appeared in the July 1947 issue of *Foreign Affairs*: “To avoid destruction, the United States need only measure up to its own best traditions and prove itself worthy of preservation as a great nation.”<sup>99</sup> In utilizing the Supreme Court building as a welcoming site for foreign leaders to get acquainted with the culture of American law in its most revered institutional setting, the Justices did just that.

### ENDNOTES

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<sup>1</sup>See, e.g., Peter A. Bell, "Extrajudicial Activity of Supreme Court Justices," 22 *Stanford Law Review* 587–617 (1970); Russell R. Wheeler, "Judging What Justices Do Off the Bench," *Supreme Court Historical Society 1990 Yearbook*, available at [http://www.supremecourt.history.org/04\\_library/subs\\_volumes/04\\_c12\\_j.html](http://www.supremecourt.history.org/04_library/subs_volumes/04_c12_j.html) (last visited 1 August 2008); Russell R. Wheeler, "Extrajudicial Activities of the Early Supreme Court," 1973 *The Supreme Court Review* 123–58 (1973).

<sup>2</sup>Biographies of Warren, including his memoirs, are cited throughout this article.

<sup>3</sup>See Harry N. Scheiber, ed., **Earl Warren and the Warren Court: The Legacy in American and Foreign Law** (Lanham, MD: Rowman & Littlefield, 2007), especially the following chapters: Javier A. Couso, "The Seduction of Judicially Triggered Social Transformation: The Impact of the Warren Court in Latin America," pp. 237–63; Thomas Ginsburg, "The Warren Court in East Asia: An Essay in Comparative Law," pp. 265–94; Edward Greenspan, "The Impact of the Warren Court in Canada: A View from the Trenches," pp. 295–307; Eivind Smith, "Political Hero, Legal Dwarf? The Impact of the Warren Court in Europe," pp. 309–32; Kjell Ake Modeer, "An American Dilemma and the Scandinavian Dream: The Citizen Meets Modernity and the Strong Nation-State—A Study in Comparative Legal Cultures," pp. 333–55.

<sup>4</sup>Jeffrey Toobin, **The Nine: Inside the Secret World of the Supreme Court** (New York: Doubleday, 2007), p. 1.

<sup>5</sup>Ferdinand Kuhn, "Capitol Hears Nehru Warn Aggressors," *Washington Post*, 14 Oct 1949, p. 1.

<sup>6</sup>Vice President Radhakrishnan visited the United States in March 1958 and came again as President of the Republic of India in June 1963. Prime Minister Nehru returned to the United States in November 1961.

<sup>7</sup>"This Day That Age," dated June 27, 1956; Talks Postponed, *The Hindu*, Online edition, 27 June 2006, available at <http://www.hindu.com/2006/06/27/stories/2006062703030902.htm>; Edwin L. Dale, Jr., "Eisenhower, Nehru Postpone Parley," *New York Times*, 26 June 1956, p. 1.

<sup>8</sup>Memo, Marshal, SC, U.S. to CJ, 21 Nov 1956, Personal File, Box 115, Dinner for Prime Min. Nehru, Dec. 16, 1956, Earl Warren Papers, Manuscript Division, Library of Congress, Washington, D.C. (hereafter EWPLC).

<sup>9</sup>Ed Cray, **Chief Justice: A Biography of Earl Warren** (New York: Simon & Schuster, 1997), p. 322; Box 799, Address, Rebild Festival, Copenhagen[?], Denmark, 4 July 1956, EWPLC.

<sup>10</sup>"Justice Warren in Switzerland," *New York Times*, 10 July 1956, p. 3.

<sup>11</sup>Russell Baker, "Warren Will Make India Goodwill Tour," *New York Times*, 27 July 1956, p. 1.

<sup>12</sup>See **Selected Works of Jawaharlal Nehru**, second series, volume XXXI, H.Y. Sharada Prasad & A.K. Damodaran, eds. (New Delhi: Oxford University Press India, 2004); Inder Malhotra, "A Peep into the Past," *The Hindu*, Online edition, *Literary Review*, 7 Sep 2003, available at <http://www.hindu.com/Ir/2003/09/07/stories/2003090700170300.htm>.

<sup>13</sup>Baker.

<sup>14</sup>347 U.S. 483 (1954).

<sup>15</sup>Quoted in Cray, p. 292.

<sup>16</sup>Baker; Leo Katcher, **Earl Warren: A Political Biography** (New York: McGraw Hill, 1967), p. 357.

<sup>17</sup>A.M. Rosenthal, "India Welcomes Warren Politely," *New York Times*, 17 August 1956, p. 5.

<sup>18</sup>Chalmers M. Roberts, "India's Law Impresses Warren," *Washington Post*, 11 September 1956, p. 12.

<sup>19</sup>"Warren Is Hailed in Bombay," *New York Times*, 21 August 1956, p. 5.

<sup>20</sup>Roberts.

<sup>21</sup>The photograph of the Warrens with the Desais was published in the *New York Times*, 26 August 1956, p. 4. Desai later served as Prime Minister from 24 March 1977–15 July 1979. He was the first Prime Minister who did not belong to the Indian Congress Party.

<sup>22</sup>Letter, Warren to Dean Rusk, President Rockefeller Foundation, 20 Nov 1956, Personal File, Box 56, India-1956, EWPLC; "Justice Warren in Madras," *New York Times*, 22 August 1956, p. 20.

<sup>23</sup>"Warren, in Calcutta, Says Law Schools Do Much Better Than 30 Years Ago," *New York Times*, 25 August 1956, p. 17.

<sup>24</sup>A.M. Rosenthal, "New Delhi Greets Warren Warmly," *New York Times*, 29 August 1956, p. 12.

<sup>25</sup>"Indian Paper Hails Warren," *New York Times*, 24 August 1956, p. 5.

<sup>26</sup>Rosenthal, "New Delhi Greets."

<sup>27</sup>Quoted in Bernard Schwartz, **Super Chief: Earl Warren and His Supreme Court** (New York: New York University Press, 1983), p. 203; Katcher, p. 356.

<sup>28</sup>Jack H. Pollack, **Earl Warren: The Judge Who Changed America** (Englewood Cliffs, NJ: Prentice-Hall, 1979), p. 304.

<sup>29</sup>Quoted in Katcher, p. 357.

<sup>30</sup>Gerald T. Dunne, **Hugo Black and the Judicial Revolution** (New York: Simon & Schuster, 1977), p. 335.

<sup>31</sup>Earl Warren and Chester Bowles, moderated by William D. Patterson, "Dialogue on India: A Great Friend's Future," *Saturday Review*, 9 January 1957, p. 34.

<sup>32</sup>"Delhi Honors Warren," *New York Times*, 1 September 1956, p. 3; Cray, p. 323.

<sup>33</sup>Clipping, 31 August 1956, Personal File, Box 56, India-1956, EWPLC.

<sup>34</sup>Earl Warren, **The Memoirs of Chief Justice Earl Warren** (Lanham, MD: Madison Books, 1977), p. 263. Warren sat in a choir seat at Westminster Abbey and noticed

- Prime Minister Nehru sitting opposite him. A photograph of Warren and Nehru appeared in the *New York Times*, 2 September 1956, p. 20.
- <sup>35</sup>Box 799, Address, the All-India Radio network, 30 August 1956, EWPLC; Roberts; Katcher, p. 357.
- <sup>36</sup>Roberts; John D. Weaver, **Warren: The Man, the Court, the Era** (Boston: Little Brown, 1967), p. 253.
- <sup>37</sup>"Justice Warren Lays Cornerstone," *Washington Post*, 2 September 1956, p. A17.
- <sup>38</sup>The Court's copy of the film was sent to Earl Warren, Jr. on 21 June 1957.
- <sup>39</sup>Roberts; "Warren Ends India Visit," *New York Times*, 3 September 1956, p. 3; "Warren Stops in Hong Kong," *New York Times*, 4 September 1956, p. 10; "Chief Justice Warren Has Cold," *New York Times*, 9 September 1956, p. 77.
- <sup>40</sup>Schwartz, p. 203.
- <sup>41</sup>Letter, John M. Harlan to Felix Frankfurter, 28 July 1956, Felix Frankfurter Papers, Harvard Law School, Cambridge, MA (hereafter Felix Frankfurter Papers).
- <sup>42</sup>Letter, Frankfurter to Harlan, 31 July 1956, Felix Frankfurter Papers.
- <sup>43</sup>Letter, William O. Douglas to Hugo L. Black, 24 August 1956, Hugo L. Black Papers, Library of Congress, Washington, D.C. International travel by Douglas is described in Bruce Allen Murphy, **Wild Bill: The Legend and Life of William O. Douglas** (New York: Random House, 2003), p. 289.
- <sup>44</sup>Letter, Graham R. Hall to Warren, 18 May 1957, and Letter, Henry C. Ramsey, American Consul General, Madras, to Warren, 8 November 1956, Personal File, Box 56, India-1956, EWPLC.
- <sup>45</sup>Letter, S.R. Das to Warren, 18 March 1958, Personal File, Box 56, India-1956, EWPLC.
- <sup>46</sup>George Sokolsky, "These Days, The Supreme Court's Role," *Washington Post*, 10 September 1956, p. 17.
- <sup>47</sup>S. 2646, 85<sup>th</sup> Cong., 1<sup>st</sup> Sess. (1957); H.R. 9207, 85<sup>th</sup> Cong., 1<sup>st</sup> Sess. (1957); see generally C. Herman Pritchett, **Congress Versus the Supreme Court 1957-1960** (Minneapolis: University of Minnesota Press, 1961); Pollack, p.196; Theodore M. Vestal, **The Eisenhower Court and Civil Liberties** (Westport, CT: Praeger, 2002), pp. 5, 293-94; Shelden D. Elliott, "Court-Curbing Proposals in Congress," 33 *Notre Dame Law*. 597 (1958); Joseph L. Raugh, Jr., "The Truth about Congress and the Court," *The Progressive*, November 1958, p. 30.
- <sup>48</sup>Letter, John J. McCloy, Chairman, Council on Foreign Relations, New York City, to Warren, 9 August 1956, Personal File, Box 56, India-1956, EWPLC.
- <sup>49</sup>The biography was compiled by D.G. Tendulkar. 2 October 1956, Personal File, Box 56, India-1956, EWPLC.
- <sup>50</sup>Letter, Warren to Dean Rusk, 20 November 1956, Personal File, Box 56, India-1956, EWPLC.
- <sup>51</sup>Letter, Warren to Nehru, 19 November 1956, Personal File, Box 56, India-1956, EWPLC.
- <sup>52</sup>Letter, Nehru to Warren, 6 December 1956, Personal File, Box 56, India-1956, EWPLC.
- <sup>53</sup>Memo, Marshal, SC, U.S. to CJ, 21 Nov 1956, Personal File, Box 115, Dinner for Prime Min. Nehru, Dec. 16, 1956, EWPLC.
- <sup>54</sup>Personal File, Box 115, Dinner for Prime Min. Nehru, Dec. 16, 1956, EWPLC.
- <sup>55</sup>"Warrens Entertain Nehrus," *New York Times*, 17 Dec 1956, p. 10; Dana Adams Schmidt, "President Begins Talks with Nehru to Broaden Amity," *New York Times*, 17 Dec 1956, p. 1.
- <sup>56</sup>Note from Frankfurter to CJ, 17 Dec 1956; Note from Burton to CJ, 17 Dec 1956; Letter from Indira Gandhi to Mrs. Warren, 6 Jan 57; and Letter from Mrs. Warren to Indira Gandhi, 22 Jan 57, all in Personal File, Box 115, Dinner for Prime Min. Nehru, Dec. 16, 1956, EWPLC.
- <sup>57</sup>"Eisenhower Sees Nehru 14 Hours," *New York Times*, 18 December 1956, p. 1; "Nehru Tells U.S. India is 'Dynamic,'" *New York Times*, 19 December 1956, p. 1.
- <sup>58</sup>Nehru met Eisenhower again in New York City while attending the UN General Assembly session on 26 September 1960.
- <sup>59</sup>U.S. Supreme Court, Curator Special Events Files.
- <sup>60</sup>According to the Official Website of the Royal Monarchy. "Her Majesty the Queen, Education," available at <http://www.royal.gov.uk/output/Page5544.asp>.
- <sup>61</sup>U.S. Supreme Court, Marshal Lippitt Papers.
- <sup>62</sup>"President of Liberia Due Monday," *Washington Post*, 17 October 1954, p. F11.
- <sup>63</sup>Paul Sampson, "Washington Greets Liberia's President," *Washington Post*, 19 October 1954, p.1.
- <sup>64</sup>U.S. Supreme Court, Marshal Lippitt Papers.
- <sup>65</sup>U.S. Supreme Court, Marshal Lippitt Papers.
- <sup>66</sup>U.S. Supreme Court, Photographs and Curator research files.
- <sup>67</sup>U.S. Supreme Court, Curator research files.
- <sup>68</sup>Russell Baker, "Diem Lauds U.S. Aid in Talk to Congress," *New York Times*, 10 May 1957, p. 1.
- <sup>69</sup>Box 116, File, CJ Luncheon for King of Morocco, 16 November 1957, EWPLC.
- <sup>70</sup>Email, Matthew Hofstedt, Associate Curator, U.S. Supreme Court, to author, 8 April 2005.
- <sup>71</sup>Box 116, File, Luncheon for King & Queen of Thailand, 29 June 1960, EWPLC.
- <sup>72</sup>Speech, 29 June 1960.
- <sup>73</sup>"'Get Acquainted' Visit," *New York Times*, 7 August 1961, p. 2; "The Nehru Visit," *Time*, 10 November 1961, p. 28; E.W. Kenworthy, "Kennedy Takes Up Snags with Nehru," *New York Times*, 9 November 1961, p. 15.
- <sup>74</sup>U.S. Supreme Court, Curator research files; Nan Robertson, "Congress Hails Irish President," *New York Times*, 27 May 1964, p. 8.
- <sup>75</sup>U.S. Supreme Court, 1967 *Docket Sheets* (the Supreme Court's internal newsletter).

<sup>76</sup>U.S. Supreme Court, Curator research files.

<sup>77</sup>“Johnson Greets Selassie on Visit,” *New York Times*, 14 February 1967, p. 2; “Johnson Hails Selassie as an Ignored Prophet,” *Washington Post*, 14 February 1967, p. 2.

<sup>78</sup>Nan Robertson, “Kennedy Greets Selassie as Man History Will Recall,” *New York Times*, 2 October 1963, p. 1.

<sup>79</sup>Letter, John Buché to Margaret K. McHugh, 10 February 1967, Box 116, “Luncheon for Emperor of Ethiopia,” EWPLC.

<sup>80</sup>“Johnson and Haile Selassie Confer,” *New York Times*, 15 February 1967, p. 2.

<sup>81</sup>Charles S. Gillispie, telephone interview, 16 July 2003.

<sup>82</sup>Letter, John Buché to Margaret K. McHugh, 10 February 1967, Box 116, “Luncheon for Emperor of Ethiopia,” 14 February 1967, EWPLC.

<sup>83</sup>*Ibid.*

<sup>84</sup>Lady Bird Johnson, **A White House Diary [by] Lady Bird Johnson** (New York: Holt, Rinehart and Winston, 1970), pp. 47, 110.

<sup>85</sup>Johnson, p. 69.

<sup>86</sup>Transcript, Earl Warren Oral History Interview I, 9/21/71, by Joe B. Frantz, Internet Copy, LBJ Library, Austin, TX.

<sup>87</sup>Letter, James W. Symington to Warren, 23 February 1967, Box 116, “Luncheon for Emperor of Ethiopia,” 14 February 1967, EWPLC.

<sup>88</sup>Letter, Frank Carlson to Warren, 15 February 1967, Box 116, “Luncheon for Emperor of Ethiopia,” 14 February 1967, EWPLC.

<sup>89</sup>U.S. Supreme Court, Curator research files.

<sup>90</sup>Email, Bereket Habte Selassie to author, 8 September 2006.

<sup>91</sup>James C.N. Paul, telephone interview, 6 September 2006.

<sup>92</sup>Email, Bereket Habte Selassie to author, 8 September 2006.

<sup>93</sup>Cray, p. 293.

<sup>94</sup>U.S. Supreme Court, Photographs and Curator research files.

<sup>95</sup>Public program, “A Life in the Law: A Conversation with the Honorable Sandra Day O’Connor,” University of Tulsa, Tulsa, Oklahoma, 1 June 2007.

<sup>96</sup>U.S. Supreme Court, Curator Special Events files.

<sup>97</sup>U.S. Supreme Court, Curator Special Events files.

<sup>98</sup>Joseph S. Nye, Jr., **Soft Power: The Means to Success in World Politics** (New York: Public Affairs, 2004).

<sup>99</sup>X (George F. Kennan), “The Sources of Soviet Conduct,” 25 *Foreign Affairs* 566–82 (July 1947).