

Ulf Göranson

Minneapolis – Uppsala

Reflections on a Successful Exchange Program

1. For the first time in more than 22 years, I had the pleasure of making an extended re-visit to Minneapolis in the fall of 2008. The occasion was seminars and other festivities organized to commemorate the 25 years jubilee, slightly vague as to exact dates, of the standing exchange program between the University of Minnesota Law School and the Uppsala University Faculty of Law. I was very happy to be invited to take part in the jubilee events, in spite of the fact that I left the Uppsala Faculty in 1996 to take up the directorate of the University Library.

Immediately after checking into the excellent hotel reserved by our hosts close to the University Mall on the East Bank, I walked over the Mississippi on the old and now rather rusty pedestrian bridge, which I had crossed every day during the spring semester of 1986 to have lunch with colleagues at the Faculty Club in the Coffman Memorial building. I had a brief look at the well-known Law School, now with a new wing added, but I did not stay long since that would be the site for the following days. The changes and novelties on the campus on both sides of the Mississippi gave me a clear impression of the continuous expansion and building activity of the University of Minnesota with the new Art Museum by Gehry as an inspiring jewel, situated dramatically on a cliff and looking as if it might fall at any time into the river far below.

I continued this warm and sunny September afternoon along Washington Avenue to downtown Minneapolis, a giant walk for an American but a short leap for a Swede. The walk had, however, sometimes been rather difficult in the tough Midwest winter of 1986, since the sidewalks were seldom cleared because very few people used them and very few sites along half a mile of this broad street were worth a visit. My wife Maria and I had a small but very cosy apartment in the Crossings on

Washington Avenue and 2nd. During the spring months we could follow true American efficiency when a new high rise was erected on the adjacent site; innumerable trucks lined up to take away what was dug up to construct an underground car park of four or five levels. We left before the new high-rise blocked the view of the Federal Bank building with its fascinating mirror façade that gave us sunlight both from the east and from the west.

Along Washington Avenue now most of the insignificant and empty houses had disappeared and in many places had been replaced with pleasant apartment and office buildings. The impressive new Guthrie Theater rose up near the river and an interesting museum was arranged close by in a mill plant derelict 20 years ago. An attractive park, not very crowded on an ordinary work day, stretched along the river all the way to the new Interstate 35 Bridge, replacing the old, sadly collapsed one, which I had seen from my office window at the Law School. In the 1980s no decent person had any reason to visit the riverbank in this area of the city. Now it was part of a cultural center to be expanded even further. The quite ugly but practical Metrodome was still in its place but said to be torn down soon and replaced by a billion dollar construction elsewhere in the city. The Milwaukee Road Depot dilapidated 20 years ago, the gate to the real downtown where tall buildings started to rise a hundred years ago, was now restored and changed into a hotel complex. Where there were unused tracks in the vast old train shed, was now an area that in winter could be transformed into a giant ice rink.

Downtown Minneapolis had also changed dramatically during the recently-ended building boom. The slightly extended skyways were of course the same, so pleasant to use in wintertime but less needed on this beautiful September day. People were walking along the streets and having coffee or drinks at outdoor tables, a style unheard of in the 1980s. Numerous buses were seen in some streets and even a streetcar, going all the way to the airport.

From the 1980s I can only remember one bus route along Washington Avenue, which I took some days when the snow and wind were too hard. It was a mode of transport none of the faculty ever seemed to have tried in those days before environmental consciousness became fashionable. Coming from the most “Scottish” province of Sweden, Småland, I got off one stop before the one closest to the Law School and thus traveling within the so-called dime zone and giving me an unbelievably cheap ride. I should add that a very generous colleague lent us a large station wagon in which we

later traveled all the way to the west coast and back—a formidable month-long trip—but Maria had to use it in the Twin Cities to go to her far-off laboratory where she started her pharmaceutical PhD studies.

Many of the typical older Minneapolis buildings were well-kept and many new ones had been erected, some designed by famous architects. The numerous ware houses from the turn of the former century had either been re-used or razed. In some blocks they were replaced for the better, in others for the worse. In many ways it was a different city after 20 years of active development. But at the same time it had the air of the same Minneapolis that in 1986 had meant so much to me personally and as a law don. The city, the Law School, and the people and lifestyle all gave me a variety of lasting impressions.

2. There is a reason why I have allowed myself to start my views on the exchange program by giving a short report of a sentimental journey back to Minneapolis. I have had the great privilege to read a draft of former Dean Robert Stein's contribution to this volume of *De lege*. It is a brilliant, extensive and accurate description of how the Minneapolis—Uppsala exchange program started and continued, including a list of all the professors who have taken part from each side. I have nothing to add to that, from my point of view, especially since it is more than 15 years since I took an active part in the exchange administration. Instead I would like to share some reflections on how the opportunity to spend a semester at a renowned US Law School added to my experience and had some impact also on its Uppsala counterpart.

3. The program demands, of course, that the visitor teaches a course at the host institution. To give the requested course in comparative law was splendid to me and the confrontation with the American text-book on the subject was a bit of a challenge. I will come back to the pedagogical issues of an exchange program below. I had dealt very little with US law until then. In my dissertation on the transfer of property in movables I compared Swedish law with several European systems. Since a Stockholm scholar in his then-recent thesis had compared Swedish and US law in the related subject of security rights, I had a bit leisurely omitted that system. The study of English law had, however, given me some familiarity with common law thinking.

What could be a better way of learning a foreign legal system than spending a full semester in the midst of the excellent specialists of a law

faculty with the addition of a splendid law library? I really learnt a lot during these months. The most important thing was to get a feeling for of the American legal environment. It is often said that a comparative lawyer can never be as good in a foreign system as in his own. I share that view unconditionally. But you can arrive at better and more appropriate results in analyzing a foreign system only if you try to apply a sort of domestic lawyer's feeling for the questions and problems studied. Reading and continuous discussions with colleagues at lunch, coffee and the rather rare scholarly seminars opened my eyes in a way that studies in isolation never could have.

The importance of case law is evident in any common law system—that I knew. But the enormity of the US case law and the ways of finding relevant cases was, in the days before modern legal databases, a fascinating area to approach. I am not sure I succeeded very well, but I duly collected American material for my then on-going comparative study on *Actio Pauliana* (fraudulent conveyance and transfer), a book that appeared some years later. At least I had learnt a bit about all the pitfalls a foreigner may meet, when trying to enter the American legal scene.

In conclusion, to be given the opportunity to get acquainted with the US legal system was a major advantage of taking part in the exchange program. The splendid Minneapolis law library with its skilled staff was an additional important factor.

4. The University of Minnesota Law Library was known already in the 1980s to be one of the best in the United States. It was certainly complete as regards US material and the stacks, totally open to faculty and students at any time, proved to be a real treasure trove. Not surprisingly it was also very rich in English and Commonwealth law. What was more astonishing was the broad and well-selected content of material from many continental European legal systems, including the Nordic ones. A co-operation between the two libraries of Minneapolis and Uppsala was already drawn up in the founding documents of the exchange program. It has been further developed over the years, also with visiting staff.

Starting my exploration of US law *in situ*, I was impressed and scared by the innumerable cases from all jurisdictions on the shelves in this world, seemingly impossible to overview. I was rather familiar with the English law reports, which now looked almost dwarfed in comparison, not to speak of the Swedish printed reports, easily packed into two normal bookcases. By the time the semester was over, I thought that I

had learnt at least some of the ways of finding relevant cases, but that is another story. What was more important for a comparative lawyer on an exchange program was how to follow and construe the legal reasoning of the judges. Here discussions with colleagues together with reading comments in other cases and in the literature was illuminating but far from sufficient to make me any more than a mere amateur in US law.

Another overwhelming part of the US section of the Law Library was the periodicals collection. I knew that there were many law reviews published but had no idea of the vast number. Neither had I earlier reflected on the policy of choosing the editors and the review mechanisms. I soon got advice from friendly colleagues to read only the latest article on a certain legal problem, since the earlier discussion in case law and literature was meticulously reported therein. This is, of course, an exaggeration but in more than one instance it held rather true. Anyhow, it proved valuable when, back in Uppsala, I supervised students, who were writing exam theses with an outlook on American law and wished to order copies of 20 articles or more on the same subject from journals not available in our own library. Copying costs were reduced.

A more complicated area for a visitor to investigate and evaluate was the American monographic legal literature. The excellent commentaries and textbooks form a corpus having some comparable items in the Swedish material written as commentaries on various statutes. The style and content are, however, very different. Typical for the Swedish scene is the dependence both for courts and scholars on the often extensive *travaux préparatoires*. There is little such in most systems outside the Nordic countries and even if they exist their weight is much less significant. Typical and central to the American system of course are the cases and their construction. Cases form the nucleus of any American book in a totally different way than a Swedish one, not least due to the fact that Swedish law often lacks published cases in many private law areas. One reason, often put forward but never scientifically researched or compared with other systems, is the amount of cases in Sweden decided not by the courts but in arbitration. Another factor is more traditional: almost no first instance court decisions are published and the ones from the appellate courts are only a strictly selected number.

The large or small variations in the USA between the laws of the many states and the efforts in a monograph to harmonize or generalize legal rules and reasoning are a difficulty to the foreign onlooker when trying to reach a more definite analytic conclusion. A rather special material when

studying American law is formed by the Restatements of Law in various areas. They are written in a clear and to a European lawyer easily understandable style, but I must admit that I never got the full insight into how important they are as a source of law in US litigation.

Finding the legal article literature voluminous and the text books and other types of commentaries numerous and varied, I got the impression that monographs on a limited subject—typical in Sweden and continental Europe—were relatively sparser. I quickly learnt that prolific faculty in the Law Schools mostly publish in the form of articles, thus producing in a way more similar to the areas of medicine, natural science, technology, and several social science subjects. As to whether or not the peer review systems are comparable, I cannot judge. The need in Sweden, at least previously, to write two monographs to reach a tenured full professorship is not the starting point in American faculty recruitment. This is not the place to continue a comparison with the types of literature in other legal systems. Needless to say, the amount of literature is dependent on the size of a country in combination with long standing traditions among academic lawyers and the reception of their works in legal practice.

5. It did not need a trained librarian's eye to realize that the resources of the Minnesota Law Library were far beyond what was available at Uppsala University. In those days we had very little US material. For some reason our main library at Carolina Rediviva had since long bought a series of US Supreme Court cases, usable as such but to little avail for anyone trying to go deeper into American law. Later we explored the possibility of buying the law reports available on microfiche, but that also proved to be too expensive. Nowadays, with the electronically-provided legal material in databases, the situation has much improved as it has in so many other scholarly and scientific fields. As for textbooks and periodicals we still have to wait for a richer amount to be available electronically and at an affordable price.

Building a comparative law collection like the one in Minneapolis has not been within our reach in Uppsala, but a continuous enrichment has no doubt taken place. Neither was the number of staff comparable, even if it has been augmented here since the 1980s. The housing in Minneapolis was impressive with ample reading rooms and stacks. The Uppsala situation was later much improved when the law branch of the University Library moved into the old Uppsala Public Library, a fine and classified building by Leche, the city's most important architect in the 1930s. The

tradition at the Minnesota Law School of having leading librarians who also teach in various legal subjects and who take part in the exchange program as visiting professors has no equivalent. I was duly impressed by the services immediately given me in the form of long bibliographical records in the areas of law requested. When I declined the offer of having a shelf meter or two of the literature thus suggested delivered to my office and said that I would prefer to acquaint myself with the tempting stacks, it was almost received with staff dissatisfaction. I also learnt about the various forms of help and support for students of a degree hitherto not matched in Uppsala but which is much more similar today.

On my return visit last fall, library matters had, naturally, another profile than two decades ago. Collection development in a specific field was less important than various service aspects, building matters and administrative complications that burden one's everyday life. I had the pleasure of being warmly welcomed in the Law Library, and visits were cordially prepared for me to other University of Minnesota libraries. The new modes of electronically-based scholarly information give rise to very similar challenges and problems in the library world, totally irrespective of frontiers. The interests of a visiting library director are, thus, quite different from those of a comparative lawyer.

6. As I have indicated, the social contacts between faculty members seemed to me closer and easier in Minneapolis than in Uppsala. Most professors were in their offices during normal hours and easy to approach. Access was smooth and very friendly. The teaching load was heavier than that of a Swedish full professor but the semester shorter. I was welcome to their classes to learn both legal and pedagogical excellence. My wife and I were invited to the homes of many colleagues in law and in pharmacy and also to a few of the students. We could enjoy the warm and spontaneous American hospitality. This was before the era of email and gradually the letter contacts with numerous friends ebbed out, as often happens.

There was, however, one important part of the Swedish faculty life that I saw little of in Minneapolis: the "higher seminars" as we call them. The *doctorands* (PhD candidates) play a very important role in all faculties and departments of a Swedish university. Beside the frequent meetings between supervisor and candidate, his or her provisional texts are discussed at these higher seminars, often with a very critical approach in order for the candidate to improve the style and argumentative power. At the Uppsala Law Faculty, the seminar is composed of a mixture of

senior and junior professors, the group of PhD candidates in the field, and frequently external lawyers from the areas of legislation, judiciary and practice. Not only PhD candidates but also faculty members provide the basis for deliberations at these seminars with material before going to print, giving valuable insights into on-going research and an opportunity to discuss complicated legal problems and analyze recent cases or articles by others.

In the USA only a few Law Schools give a doctoral degree and Minnesota was not among them. This lack of a very significant research body, the *doctorands*, within the School was the most striking difference to me between Minneapolis and Uppsala. As much as I liked the informal and informative discussions with colleagues, I missed our steady flow of organized seminars on very specific, often quite limited, legal questions.

7. So far I have dealt with the research side of the exchange program, how it was possible to become familiar with American law, to conduct comparative studies, and also, for those not so inclined, to use the excellent library for studies in Swedish law. The other part of the program was the teaching demanded, in my case a rather general course in comparative law.

It was fascinating to meet the American students, most of them extremely industrious and showing a genuine interest in learning more about foreign legal systems. There was already a tradition in Uppsala in many subjects to work with examples handed-out or invented legal situations, when we were not dealing with a more traditional analysis of individual cases or statutory texts. The lively exchange of questions and answers, used in the American Socratic method, had been heard of in Uppsala and some of us had made experiments in different ways in that direction.

During my semester in Minneapolis, I had the pleasure of attending some Socratic hours conducted by expert teachers. It was an intriguing experience, and I personally never came close to what the great masters together with a student group, familiar with the method, could achieve. But I immediately became a firm believer in the basics of the method in order to make the students better prepared and gradually become more skilled in analytical reasoning. When we totally reformed the legal education program in the early 1990s in Uppsala, I served as *Prefekt* (Head of Department or Administrative Dean; there is no immediately corresponding position at an American School of Law). My enthusiastic expe-

riences from Minneapolis went hand in hand with the ideas of other reforming forces at the Faculty and helped to produce what I dare say was a very fruitful result.

Another important “example” I took home from Minneapolis was the open book exams. Normally at the time in Uppsala, the only help for the students in written exams was the large standard edition of the Statutes of Sweden. It was not easy to persuade some colleagues here that knowledge based on the mere memory of certain details in the literature was not a good way to differentiate a good lawyer from a bad. However, the principle of open book exams became an integral part of the reform program in the early 1990s. Whether it still stands, and whether the semi-Socratic method is still in use, I cannot tell almost 15 years after I stopped teaching. I am sure that pedagogical matters and programs have developed further and that the continued exchange program has given many other participants similar stimuli in addition to those I received and warmly cherished.

8. The Minneapolis-Uppsala program was the only organized opportunity for almost a decade for the limited number of ten of our students to study abroad. In the early 1990s, when Sweden and several other former EFTA countries entered into closer co-operation with the European Community, now the EU, a totally new situation emerged. What was then called the Erasmus Exchange allowed European universities to send out and receive students in large numbers under the auspices of one of the major principles of the European idea: the free movement of persons.

The successes of the Minnesota program led me, in my recently mentioned position as *Prefekt*, to work determinedly and expediently for the opportunity of a much larger number of Uppsala students to study abroad for at least one semester. Quicker and easier than anyone could expect, we were able to reach the stated goal to be able to offer a third of our students, i.e. almost 100, a one-semester position as guests at foreign universities, including the very attractive ten positions in Minneapolis. Of course we had to receive a comparable number from all corners of Europe together with the approximately 20 coming from the USA for half a semester under the old program.

The changes of the Uppsala student exchange provisions also led to a favorable development for our American guests. Initially only one course was offered to them. Now we had to run quite a few courses in English for the much larger number of visiting students, almost none of them

able to speak or understand Swedish. A broader choice of subjects was offered and our American guests took courses together with Swedish and other European students. The mix was advantageous to all participants from both sides of the Atlantic.

9. In this rather flowery essay I have recalled memories of one session in the fruitful exchange program established between our two seats of legal learning more than a quarter of a century ago. The time span between 1986 and 2009, when this was written, has in my mind not gilded the recollections. I was equally enthusiastic when returning, as my erstwhile colleagues can confirm. I am sorry that I have only talked for myself here and that I have not had the time and opportunity to make a survey among the many other Swedish participants and even less among the numerous students having taken part in the program. My general view, however, is that for the overwhelming majority the experience has been very favorable and has promoted the several aspects of research and teaching that I have touched upon.

The great values of an exchange program like the Minneapolis—Uppsala link must be given serious recognition and I am convinced, as I had the pleasure to read in Bob Stein's contribution, that both our institutions will do their best to keep the program going forward. There is no less demand these days for a comparative outlook in law and networking beyond borders. Europe is certainly essential to us Swedes but the American scene remains of global importance. The exchange program between us has been of great help to understand the US scene and for some of us even to enter on a shadowy part of it, be it not given a leading role.