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COMMENT

A SEMINAR IN CIVIL RIGHTS LAW

Charles Edward Donegan*

INTRODUCTION

The denial of the civil rights of black people and other racial minorities throughout the history of this country has been amply documented.¹ In addition, recently there has been a resurgence of anti-civil rights activity and violence against blacks and other racial minority groups by terrorist organizations such as the Ku Klux Klan and the Neo-Nazis. Finally, the generally conservative mood of the country and the Reagan Administration's proposals to drastically curtail funds for social action programs and support for school desegregation threatens to eradicate many of the gains achieved by the civil rights movement in the 1950's and 1960's.²

Lawyers trained in civil rights law can make a significant contribution to domestic peace and justice by protecting the civil rights of racial minorities. Therefore, it is incumbent on law schools to offer courses and seminars on civil rights law to provide knowledge and skills that can best be taught and learned in the classroom or legal clinic. Lawyer competence and law school education are inextricably linked.

A cursory survey of the 1980 *Director of Law Teachers*, law school catalogs, and information already known to the writer indicated that the great majority of accredited law schools in the country have offerings in the area of civil rights law dealing in whole or in part with racial discrimination.³ This does not include the basic course in constitutional law.

A SEMINAR IN CIVIL RIGHTS LAW

The two hour elective "Seminar in Civil Rights Law," discussed in this article, was offered by the author at Southern University School of Law in the Fall semester of 1980.⁴ The primary focus of the course was on racial discrimination in employment, education, housing and voting. The course

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1. R. ALLEN, *RELUCTANT REFORMERS: RACISM AND SOCIAL MOVEMENTS IN THE UNITED STATES* (1975); J. FRANKLIN, *FROM SLAVERY TO FREEDOM* (1974); A.L. HIGGINBOTHAM, *IN THE MATTER OF COLOR: RACE AND THE AMERICAN LEGAL PROCESS—THE COLONIAL PERIOD* (1978); H. GUTMAN, *THE BLACK FAMILY IN SLAVERY AND FREEDOM, 1750-1925* (1976).

2. *New York Times*, Mar. 16, 1981, at A15, col. 1.

3. The following law schools had no discernible courses in civil rights law pertaining to race: Arizona, Boston College, Brigham Young, California (Davis), California (Hastings), Campbell, Creighton, Duquesne, Gonzaga, Loyola (N.O.), Maine, John Marshall, Montana, Nebraska, North Dakota, Pepperdine, South Dakota, West Virginia, and Willamette.

4. It should be noted that the first Civil Rights Law course in the United States was conceived

requirements included an indepth research paper on a topic selected by the student and approved by the instructor, and participation in class discussion. In addition, the students were divided into four groups which were responsible for leading the class discussion on the four major areas of racial discrimination studied. There were no written examinations.

The primary objective of the seminar was to give the students a solid understanding of civil rights law. Many students wanted to obtain employment as civil rights lawyers with governmental agencies such as the United States Justice Department, United States Department of Education, and the United States or State Civil Rights Commissions. Other students were interested in obtaining legal positions with civil rights organizations such as the NAACP or the NAACP Legal Defense and Education Fund, Inc. Still other students intended to become active in the private practice of law and anticipated representing persons who were victims of racial discrimination.

MATERIALS

The materials used in teaching the Seminar were *Race, Racism and American Law*,⁵ as primary text and *Civil Rights: Leading Cases*,⁶ as supplementary reading. Moreover, several other books were used as secondary sources.⁷

METHODOLOGY

The writer devoted the first week of the seminar to a historical overview of racism in American law. The lectures dealt in considerable detail with major judicial decisions, constitutional amendments, executive orders and legislation relating to the civil rights of black people since the Civil War.

The students were divided into four panels, consisting of racial discrimination in voting, education, housing and employment. Each panel had the primary responsibility of leading the class discussion in their designated subject areas. In addition, the professor and students discussed newspaper and magazine articles dealing with contemporary civil rights issues concerning voting, education, housing, employment and other pertinent topics.

On one occasion, a nationally known civil rights leader appeared on campus. The instructor cancelled the class so that he and the students could hear the speech.⁸ It is especially important that anyone teaching a course or seminar in civil rights keep abreast of current events in order to enhance the relevancy and interest of the assigned cases and materials.

One of the most interesting and stimulating techniques used in teaching

and taught by James M. Nabrit, Jr. at Howard University Law School. Dr. Nabrit later served as Dean of the Law School and President of Howard University.

5. D. BELL, *RACE, RACISM AND AMERICAN LAW* (2d ed. 1980).

6. D. BELL, *CIVIL RIGHTS: LEADING CASES* (1980).

7. T. EMERSON, D. HABER, & N. DORSEN, *POLITICAL AND CIVIL RIGHTS IN THE UNITED STATES* (1979); A.L. HIGGINBOTHAM, *supra* note 1; G. COOPER, H. RABB & H. RUBIN, *FAIR EMPLOYMENT LITIGATION* (1979); M. SOVERN, *CASES ON RACIAL DISCRIMINATION* (2d ed. 1973); R. COVER, *JUSTICE ACCUSED: ANTISLAVERY AND THE JUDICIAL PROCESS* (1975); W.E.B. DUBOIS, *BLACK RECONSTRUCTION IN AMERICA* (1935); B. RADIN, *IMPLEMENTATION, CHANGE AND THE FEDERAL BUREAUCRACY: SCHOOL DESEGREGATION POLICY IN HEW, 1964-1968* (1977).

8. Address by the Reverend Jesse Jackson, President, People United to Save Humanity (Operation PUSH).

the course was the use of the hypotheticals contained in Dean Bell's casebook.⁹ Two students were assigned as counsel to represent the plaintiffs and two students to represent the defendants in the hypothetical examples. Each side would prepare and distribute a written memorandum of law one week prior to making oral arguments. This teaching device not only added realism to the course but also gave the students a modicum of practical advocacy experience.¹⁰ The instructors were very impressed with the skill and maturity demonstrated by their students in making these presentations. The bulk of the class acted as the jury while the instructor acted as a judge and resource person. The exercises proved to be tremendously valuable to everyone involved.

RESOURCE PERSONS

The instructor identified and invited an outstanding civil rights lawyer and former state legislator¹¹ to speak to the class concerning his involvement in civil rights cases in Louisiana over the last twenty-five years. The attorney made an excellent presentation concerning his personal involvement in civil rights cases in Louisiana including several that went before the United States Supreme Court. At the conclusion of the informal talk the instructor and members of the class asked pertinent questions of the speaker concerning the cases discussed and other civil rights issues. The instructor, students and speaker all considered this a most informative and memorable exercise.

SEMINAR RESEARCH PAPERS

The students in the seminar wrote term papers on topics they selected with the instructor's approval. The topics and outlines for the papers were submitted to the instructor during the fourth week of the seminar. After close scrutiny, the instructor promptly returned the outlines to the students with suggestions concerning modifications of topics or outlines, significant cases and sources of information pertinent to the topic. In only two or three cases did the instructor suggest a different but related topic to the student.

Topics selected by the students for research papers included: the Bakke decision and the quest for equal opportunity; the black college and the status dilemma; whether separate but equal law schools are in violation of the Fourteenth Amendment's equal protection clause; the quest for quality education; background survey: busing to achieve school desegregation; legal restraints and remedies for housing discrimination based on race; a brief look at the legal history and background developments of section 1981 of the Civil Rights Act of 1866; deficiencies in Title VII and a quest for equitable remedies; discrimination: a focus on the irrelevancy of the standard of review of the bar examination; cause and effect; is there a bias in the bar

9. BELL, *supra* note 6.

10. The need for legal educators to provide law students with practical training has been raised in many quarters; see, e.g., ABA REPORT AND RECOMMENDATIONS OF THE TASK FORCE ON LAWYER COMPETENCY: THE ROLE OF THE LAW SCHOOLS (1979).

11. Attorney Johnnie A. Jones graduated from Southern University Law School in 1953. The law school was established in 1947.

exam?; rights against private discrimination as enforced under 42 U.S.C. §§ 1981 and 1985(3); and civil rights organizations and boycotts.

CONCLUSION

The seminar was very well received and enjoyed by all participants. Students not enrolled in the seminar stated that it had been recommended to them and they intended to register for the seminar the following year. The writer feels that the seminar enhanced the civil rights knowledge, perspective and practical skill of the students. The need for civil rights seminars and civil rights lawyers has never been more imperative. Hopefully, other professors and law schools will adopt and improve on this seminar in civil rights law.

APPENDIX SEMINAR OUTLINE

| <u>DATE</u> | <u>TOPIC</u> |
|--------------|---|
| August 26 | - Racism in American Law (Historical Overview) |
| September 1 | - Labor Day Holiday |
| September 2 | - Voting |
| September 9 | - Voting |
| September 16 | - Education |
| September 23 | - Education |
| September 30 | - Education |
| October 7 | - Housing |
| October 14 | - Housing |
| October 21 | - Housing |
| October 28 | - Employment |
| November 4 | - Employment |
| November 11 | - Guest Speaker—A noted Civil Rights Lawyer |
| November 18 | - Student Oral Reports on Research Papers |
| November 25 | - Student Oral Reports on Research Papers |
| November 26 | - Thanksgiving holidays begin |
| December 2 | - Student Oral Reports on Research Papers |
| December 15 | - Written Research Papers Due |