

Integrating Race Into the Curriculum: Learning from Failure

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When I received Katheryn Russell-Brown's invitation to speak at the Race and Law Curriculum Workshop about integrating race into the curriculum back in the Summer of 2004, I was honored and excited. I was one year into working with Angela Harris on a new Criminal Law casebook which would highlight issues of race, gender and sexual orientation, and was eager to share what I hoped would be a good experience teaching out of the draft during the upcoming Fall semester.

In February 2005, a few weeks before the workshop, I received my student evaluations from my Fall 2004 Criminal Law class. Those evaluations were the worst I'd ever received in my life. I certainly take responsibility for not measuring up to the students' expectations and will try to learn from their comments, but I suspect the strongly negative tone that ran as an undercurrent in that batch of student evaluations was influenced (consciously or subconsciously) by the hostility a few students felt towards me for seeking to integrate race into the criminal law curriculum. My initial reaction was deep shame and humiliation, and I didn't want to tell anyone about the evaluations. Moreover, I felt entirely worthless as a teacher and particularly ill-equipped to speak at the workshop on how to *successfully* integrate race into the curriculum.

Fortunately, an unexpected turn of events on my way to the conference convinced me that sharing my experiences would be valuable to others and helpful to me. Because of a snowstorm, the plane I was on was delayed and I missed my connecting flight. During the

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layover, I ran into Professor Sherilynn Ifill (University of Maryland), and over lunch told her about my horrible evaluations. Sherilynn convinced me that I did have something worthwhile to say at the workshop. I could share my experiences so that other professors of color who raise issues of race in the classroom would know they are not alone when their efforts are met with silence or, worse yet, hostility. Even though it was particularly difficult for me to share my bad evaluations with an audience, I knew I was amongst friends who would understand and most likely empathize with me. Additionally, my decision to disclose rather than hide my pain was aided by the fact that I had received excellent student evaluations over an eight-and-a-half year period when I was on the faculty at another law school. I had even been voted Professor of the Year by the students at that law school.

In Part I of this paper, I address questions Professor Audrey McFarlane (University of Baltimore) raised at the workshop to encourage reflection: “Why teach race?” “What are we trying to accomplish?” In Part II, I elaborate on Berta Hernandez’s (University of Florida) suggestion that we professors of color should take advantage of the fact that today, unlike 20 years ago, there are casebooks that do the work of integrating issues of race into the curriculum so the individual law professor who is sensitive to race doesn’t have to give his/her students a supplement as thick as the casebook. In Part III, I conclude with some tips for the law professor of color who chooses to teach from a casebook that addresses issues of race.

Why teach race?

Before setting out to do something difficult, it helps to know why one has chosen that path. Many professors of color believe that teaching race in the traditional curriculum is important, but – like me prior to the workshop – haven't reflected much upon the reasons why.

There are certainly many reasons not to teach race. If you are a professor of color, raising the race issue before students who have grown up learning that color blindness is good can make students uncomfortable. Some students will think the only reason you are raising race is because you are a person of color, not because the issue is really important. Some students will dislike you for making them feel guilty. Just one or two hostile students can turn the classroom into a battleground, leading to bad student evaluations. If you are not yet a tenured professor, bad student evaluations can be used to deny you promotion and tenure. Even if you are tenured, bad student evaluations can cause reputational harm. Once you have a reputation as a bad teacher, upper-level students will choose not to take you. Students who have no choice and end up in your class may presume that you are incompetent. If you are at an institution that values teaching as mine does, bad teaching evaluations can affect your ability to get a raise or promotion.

Given all these downsides, why would anyone teach race in a traditional or core curriculum class? Professors of color incorporate race into the classroom discussion for the same reasons we write about race in our scholarship: (1) to show ways in which the law is not actually race-neutral or color-blind, (2) to show how racial bias and unconscious racism affects legal decision making, and (3) to encourage fair and equal treatment of all persons. Moreover,

we have a responsibility to our students – both those who care about race and those who don't but should – to teach race. As law professors in positions of power and authority, we can either avoid teaching race because it makes us and our students uncomfortable or we can embrace the challenge. Thirty years ago, many male criminal professors avoided teaching rape because it made them and some of their students uncomfortable. We should not repeat the mistakes of the past.

II.

Casebook Selection

Choosing a casebook that incorporated issues of race in any systematic and consistent manner was not a viable possibility twenty-five to thirty years ago, except perhaps in a few limited subject areas. Today, across the curriculum, it is much easier to find casebooks that incorporate issues of race, although such casebooks remain the exception, not the general rule.

There are pros and cons involved in selecting a casebook that explicitly incorporates race. Many students are uncomfortable discussing race. Some white students believe racial minorities routinely receive preferential treatment, which causes personal disadvantage to white people. Exposing the law's non-neutrality may make some white students feel like they are being blamed for the inequities in society.

If most of the other professors at your institution do not address issues of race, students may feel you are not sufficiently traditional. If you assign excerpts from law review articles and books which highlight race, students may think they are not learning enough black letter law.

Despite the above, there are many reasons to select a casebook that incorporates issues of race. If you want to teach race and you select a more traditional casebook, you will have to give

students supplemental material that might end up being as thick as the casebook. Students tend to resent “supplemental” material except in small doses. Many students will be unhappy about having to do a lot of extra reading, especially when they’ve already paid a hefty sum for the casebook. Additionally, using supplemental materials to teach race can accentuate the perception that you are injecting race into the curriculum where it doesn’t belong.

Adopting a casebook that already incorporates race makes it easier for you, the law professor, to raise race-related questions without looking like you are forcing the issue.

III.

Advice for the Law Professor Who Chooses a Casebook that Highlights Issues of Race

The first piece of advice I’d give a law professor of color who chooses to adopt a casebook that incorporates issues of race is to realize that whatever you say, students will perceive your words differently than if the same things were said by a white colleague. When a person of color raises issues of race, students tend to see those issues as issues of personal concern to the person of color. When a white person raises issues of race, students tend to think the white professor cares about social justice.

Second, choose carefully how much and when to introduce racial issues into the curriculum. If you have a majority white class, it might be best to start off the semester with traditional subjects and wait until at least the third week of the semester to introduce racial issues into the class discussion. You have to establish yourself as an authority in the subject matter and if you introduce race too soon, students may see you as non-traditional and not competent. For example, Professor Keith Aoki (University of Oregon) shared his experience teaching property for the first time. He assigned the *Dred Scott* case and spent the first two weeks of the semester

on that case. His students went to the Dean's Office complaining that *Dred Scott* wasn't in Gilberts.

My third piece of advice to the law professor of color who chooses to teach out of a casebook that incorporates racial issues is to use video and film to enhance the discussion. Start watching and recording law-related popular television shows and save the relevant episodes. I find *Law and Order* often raises interesting criminal procedure issues. *The Practice* (no longer running) raised good professional responsibility issues. 60 Minutes, Dateline NBC, PrimeTime Live, and other similar shows often discuss contemporary issues that might be relevant to a subject you cover in your class. Just as you might give students a hypothetical to test their understanding of a given case or doctrine, you can use vignettes from television to elaborate upon the assigned cases. One word of caution. Using video clips is *usually* a successful move. Over the years, most of my students have commented favorably upon my use of video clips in the classroom. My last Criminal Law class, however, didn't seem to like anything I did – including my use of video clips.

In closing, I encourage law professors of color to teach race even though doing so can be risky. Your students of color and your white students who care about issues of race will appreciate your courage. Even those white students who do not “appreciate” the courage will benefit from the experience. Just remember to be careful about how much and when you introduce questions of race into the discussion.