

# SPECIAL REPORT ON THE STATUS OF MINORITIES IN LEGAL EDUCATION

Mr. Chairman:

I. At the Annual Meeting of the AALS in December 1973 the membership of the Section on Minority Groups instructed me to investigate the feasibility of establishing a commission or task force which would consider in depth the status of ethnic minorities in legal education.

In my preliminary report (Appended hereto as Exhibit A) submitted on June 7, I summarized as follows:

The pendency of *DeFunis v. Odegaard* underscored the importance of such an inquiry, but the uncertainty which attended the matter, suggested that it would be well to await the Supreme Court's disposition prior to proceeding with any firm plans. As you know however preliminary discussions were conducted with funding agencies and others who would be most helpful if such a project is ever to come into being.

It now appears that the *DeFunis* case is settled—at least for the present and that we can proceed and concretize some of our earlier discussions.

My suggestions are as follows: *one* to proceed immediately with a series of studies without awaiting the formal establishment of a commission; *two* to use the preliminary reports and papers as the basis of the session's discussions at the 1974 Annual Meeting in San Francisco; *three* to solicit funds for the specific purpose of sponsoring the research and publications costs of the research and publication costs of the studies; *four* to convene a planning group to consider these proposals in depth prior to the Annual Meeting and if possible, at the time of the AALS fall recruiting conference.

A minority group law teachers planning conference was held at Harvard in September which considered many of the problems we had initially perceived and to lay the groundwork for the Annual Meeting.

While none of the studies were formally undertaken, Professors Derrick Bell and Mildred Ravenell did manage to compile a considerable amount of data on minority law teachers. And though funds were not yet forthcoming for the proposed research, both the planning conference and the annual meeting have been at least partially subsidized by foundations.

It is against this background that I submit this report.

II. Over the past twelve months I have sought to discharge the responsibility given me by the Section. I explored the concept of a commission or task force with law students, law teachers, and members of the practicing bar. I met with representatives of the various organizations and funding sources and discussed with them the problems and potential of a detailed inquiry. All in all, the input I have received, though not scientifically solicited, appears to have come from representatives of all of the various constituencies which will be affected by or involved in any comprehensive inquiry.

Within and among this diverse group there is consensus *one* that the current status of ethnic minorities in legal education seems as best uncertain and possibly deteriorating; *two*, that the atmosphere created by *DeFunis v. Odegaard* has adversely affected the policies and programs and morale of those involved in ongoing efforts to increase the numbers of ethnic minorities in legal education; and *three*, that a task force or commission as proposed should be convened and charged with

the responsibility of documenting and evaluating the various efforts which have been undertaken to increase the number of minority law students and teachers.

III. In addition to input on the narrow question of whether a task force or commission ought to be convened, several substantive areas were also explored. Foremost among them were two recurring observations: *One*, the disproportionately small amount of influence exercised by members of minority groups as most critical in legal education; *two*, the absence of a means for collective action by the small but increasing number of minority law teachers. Various suggestions were made concerning the first observation. Virtually all these suggestions centered around the ETS-LSAC academic testing complex, and most explicitly or impliedly suggested *some level of accountability* by either or both organizations in addition to some formalized input into the policy formulation and deliberative stages of the process.

The proposals, with respect to minority law teachers, were far more detailed and can be summarized as follows: *Minority law teachers should develop a formal mechanism to enhance their ability to deal with the problems, demands and needs of their special constituencies and their own professional problems.* More specifically, minority law teachers need a mechanism to *one*, fulfill a clearinghouse function for information regarding research, faculty-recruiting and the like; *two*, coordinate efforts to deal with continuing education of the minority bar; *three*, maximize the impact and influence of minority law teachers in speaking to issues directly affecting their constituent communities.

IV. My involvement with this Section and my efforts to discharge the mandate of its membership allowed me a high degree of involvement and contact with the machinations and personalities of the Association of American Law Schools. Because of this I can say without equivocation that the current composition and bureaucratic structure of the AALS make it *unable* (even were it so inclined) to be responsive to the needs and aspirations of any but the dominant population. Such an observation prompts the following suggestions:

*one*, the AALS should hire an "Affirmative Action Officer" who should be given broad oversight and policy making powers and report directly to the Executive Committee.

*two*, the AALS should immediately reestablish a special committee on minority groups.

*three*, the AALS with the ABA should join with the various national professional and student organizations and convene a task force or commission to assess the current status and future of minorities in legal education.

V. Because of all the above, in my capacity as Program Coordinator, I have proposed a program which seeks to facilitate the discussing of the various issues mentioned. As with any program, time and budget limitations will no doubt detract from its effectiveness. However, I am convinced that the topics and participants will prove worthy of our time. I urge its adoption.

Respectfully submitted this 26th day of December 1974.

Ralph R. Smith  
Assistant Professor  
University of Pennsylvania  
Visiting Assistant Professor  
Boston College (1974-75)

## EXHIBIT A

Preliminary Report to the Chairman of the  
Section on Minority Groups of the  
Association of American Law Schools

Submitted to: Mr. Walter F. Leonard  
by: Mr. Ralph R. Smith  
June 7, 1974

Mr. Chairman:

At the Annual Meeting of the AALS in December 9, 1973, the Section on Minority Groups instructed me to proceed with the notion of establishing a commission to consider in depth the role of minorities in legal education over the past six years.

The pendency of *DeFunis v. Odegaard* underscored the importance of such an inquiry, but the uncertainty which attended the matter, suggested that it would be well to await the Supreme Court's disposition prior to proceeding with any firm plans. As you know however preliminary discussions were conducted with funding agencies and others who would be most helpful if such a project is ever to come to fruition.

It now appears that the *DeFunis* case is settled—at least for the present and that we can proceed and concretize some of our earlier discussions.

My suggestions are as follows: *one* to proceed immediately with a series of studies without awaiting the formal establishment of a commission; *two* to use the preliminary reports and papers as the basis of the session's discussions at the 1974 Annual Meeting in San Francisco; *three* to solicit funds for the specific purpose of sponsoring the research and publications costs of the studies; *four* to convene a planning group to consider these proposals in depth prior to the Annual Meeting and if possible, at the time of the AALS fall recruiting conference.

I continue to be supportive of the efforts of Professor Derrick Bell to organize Black law professors and I hope that his efforts and those of the AALS section and Minority Groups will complement each other.

Attached you will find three proposed studies. I await your counsel and comments.

Power and Peace,  
Ralph R. Smith

Attachment no. 1 : Proposed project entitled

“Access to Legal Education for Minority Students: A case study.”

Although there has been a dramatic increase in the number of minority law students attending predominately white law schools over the past five years; and although the *DeFunis* controversy and concern regarding bar examinations have focused attention of the various programs which account for the increase, there has yet to be a systematic study of any of these various programs to ascertain, what was done, what was done well, and whether in retrospect, it was worth the doing.

It is first such a study by the Section on Minority Groups of the AALS that is proposed.

The study would focus on a school which has had over the past five years a clearly defined program for the admission of minority law students, has in fact

admitted and matriculated a statistically significant number of minority law students, and has at least the preliminary data available.

After having selecting the school the Section should convene an interdisciplinary panel to conduct the study.

Some of the factors which should be considered are: Events leading up to initiation of the program; Initial implementation problems; LSAT scores and GPA of the first and all succeeding studies in the program; academic performance of each student admitted; reasons for whatever attrition—academic, economic, philosophical etc. financial assistance provided; perception of minority law students by their classmates, the faculty and themselves; perception of minority regarding the institutions, the program, the faculty, their classmates; performance on bar examinations; career choices.

In addition to raw data contained in files, answers to a comprehensive survey questionnaire should be obtained from each minority student who actually enrolled—whether he eventually graduated or not.

#### Attachment no. 2 : Proposed study on “The Minority Law Teacher”

Less than 5% of the full-time law teachers in AALS-approved law schools are minorities. The most recent estimate suggest that there are \_\_\_\_\_ Blacks \_\_\_\_\_ Chicanos \_\_\_\_\_ Puerto Ricans \_\_\_\_\_ native Americans engaged in the full-time teaching of law.

Like their student counterparts, many minority law teachers in predominately white institutions have found their experience frustrating and disheartening. Many have voiced concern regarding tenure possibilities and the “assistant dean” syndrome that avoids the tenure track altogether.

The Section on Minority Groups of the AALS should intake a study of minority law teachers to ascertain (1) At what schools they are located; (2) what courses they teach and whether such courses are part of the core curriculum; and (3) their rank and professional advancement along the tenure ladder.

The Section on Minority Groups of the AALS should also consider what efforts (if any) are being made by predominantly white institutions to attract and recruit minority law teachers.

#### Attachment no. 3 : Proposed Study on “The Aftermath of *DeFunis*”

Many suspect that despite the indecisive outcome of the *DeFunis* litigation, the very bringing of the case has had a demonstrable adverse impact on the attitudes, policies and programs which Marco DeFunis opposed. Others contend that there has been no effect at all. The Section on Minority Groups of the AALS should conduct an eighteen-month inquiry to ascertain (1) whether there has been a demonstrable impact on either the law schools' admission policies or the career opportunities of minority law students; and (2) whether this impact is adverse.

The inquiry should seek to document and assess changes in the composition of the admissions committees, in admission criteria applied, and in the actual number of minority law students admitted. A survey should be made of a representative number of admission programs immediately after admission of the class of 1977 (fall of 1974), and again after admission of the next class in the fall of 1975.

The portion of the inquiry focusing on careers opportunities should be implemented by survey. The survey should be made of a sample of graduating minority law students immediately after the fall interview seasons and at the beginning of the next fall.