



Professor Derrick Bell's Advice for Incoming Black Law Students

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DERRICK BELL

Derrick Bell, a leading and influential legal scholar, is best known as the pioneering founder of the academic discipline and movement in legal philosophy known as Critical Race Theory (CRT). Critical Race Theory explores how racism is a part of all American societal institutions, including its laws. In 1973, he wrote the groundbreaking textbook *Race, Racism and American Law*, which is a standard book used in law schools across the nation.

In addition to this valuable contribution, he is well-known for becoming the first tenured Black law professor at Harvard Law School and the first Black person to become the dean of a predominantly White law school, the University of Oregon Law School.

What has made him stand out is not only becoming the “first” in breaking down walls, but the fact that he was willing to sacrificially give up prestigious positions he had worked hard to earn in order to make a statement about those things he strongly believed in – particularly faculty diversity in law schools. He gave up his deanship at the University of Oregon Law School because an Asian woman was not offered a faculty position. He also took an unpaid leave of absence from Harvard Law School in protest for their not hiring or offering tenure to a Black or minority woman.

Two years later, Harvard still had not offered a Black woman a tenured position and chose not to extend his leave. However, he went on to spend the rest of his career teaching law and writing as a visiting professor of law at the New York University School of Law.

Prior to his academic career, Bell worked as a civil rights lawyer for the U.S. Justice Department, the NAACP Legal Defense Fund, and the U.S. Department of Health, Education, and Welfare. He also served as the executive director of the Western Center on Law and Poverty at the University of Southern California Law School. Notably, while working as an assistant counsel for the NAACP Legal Defense Fund, he supervised over 300 school desegregation cases. He led the fight for James Meredith in helping him gain admission in the then all-White University of Mississippi.

Through Professor Bell’s important contribution to legal scholarship, including his authoring several books including the critically acclaimed works *And We Are Not Saved: The Elusive Quest for Racial Justice* and *Faces at the Bottom of the Well: The Permanence of Racism*, he has impacted many and will continue to for years to come. His legacy will be a lasting one for law students, lawyers, and the many others who study Critical Race Theory in other disciplines outside of law. He was not only a distinguished law professor and prolific writer, he was a tireless champion for civil rights throughout his lifetime unafraid to take risks and confront wrongs.

Bell passed away at the age of 80 of carcinoid cancer. He is survived by his wife, Janet Dewart Bell, and his three children from his first marriage (his first wife Jewel Hairston Bell died of breast cancer in 1990), Derrick Albert III, Douglas Dubois and Carter Robeson.

Remembering Pioneering Legal Scholar and Civil Rights Activist

Derrick Bell

People who knew and were impacted by Derrick Bell share their thoughts about him and the legacy he has left . . .

“Professor Bell set a clear standard for us all in his unrelenting focus on doing what was required to ensure justice was accessible for all. A perfect example was his willingness to give up his tenured position at Harvard Law School because he believed so strongly in the importance of tenuring a woman of color. There are very few people who believe so deeply in something that they would sacrifice in such a personal way to uphold their beliefs. I named my first organization after Professor Bell (Building Educated Leaders for Life, aka BELL) to serve as a small tribute to Professor Bell’s legacy, but I could never thank him enough for being for me and so many others, to use Dr. King’s words, “a drum major for justice.”

Earl Martin Phalen

Founder, Summer Advantage USA

www.summeradvantage.org

CEO, Reach Out and Read

www.reachoutandread.org

Quincy, Massachusetts

“I knew Derrick for 30 years. He was a father figure to me who was always there when I needed him!! Derrick wrote the foreword to my Critical Race Feminism anthology even though he had his own book deadline. He wrote a tenure letter supporting me. We both had sons we named Robeson. He came and spoke at my school the University of Iowa College of Law several times, including for graduation. Of the many characteristics I admired about Derrick, I especially appreciated his humility and willingness to lay himself bare to consider whether he had made mistakes. These can be qualities in very short supply in the legal profession as well as elsewhere. I hope that everyone will have a mentor like Derrick Bell in their lives.”

Adrien Katherine Wing

Bessie Dutton Murray Professor of Law

University of Iowa College of Law

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From the foreword of *The African American Law School Survival Guide*

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When I entered law school in the fall of 1954, I did so for two reasons. First, two or three black lawyers who lived in my neighborhood had encouraged me to consider becoming a lawyer and were my exemplars that if as black men, they could become lawyers, maybe I could do as they had done. Second, there seemed very few professional areas open to blacks other than lawyer, doctor, minister, and teacher. I entered law school in Pittsburgh, the only black in a class of about 120 men, worked very hard all three years, was elected associate editor-in-chief of the law review and graduated near the top of my class. Despite my academic accomplishment, no Pittsburgh law firm would hire me.

Now, almost 50 years later, things have changed for the better, but not that much better. More than half of most law school classes are women and almost all law schools have a “diversity” component of black and other non-white students and a few faculty members. Now, those blacks with very good academic records and law review credentials, particularly if earned at a “major” law school, have a better chance than I had of being hired by large firms, though not that much opportunity to advance to partner status.

Despite the fact that record numbers of new lawyers are joining the profession, the job situation is rather bleak for those who attended schools in the second, third, or fourth tiers. It is not that graduates of these schools are less prepared to do good work, but the legal market is so crowded that employers in public interest as well as large law firms, prefer to hire – and boast about hiring – graduates of one of the top tier schools.

This is one of several reasons that I no longer actively encourage students, and especially black and Hispanic students, to consider law as a profession. In addition, legal education is very expensive and except for students able to obtain full scholarships, the cost and the loan debt can easily total well into six figures. True, there is no better investment than yourself, but as with any investment, students contemplating law school should consider carefully all their options.

And yet, despite reservations, I recognize that law is an attractive option for those with undergraduate degrees, no burning desire to enter another field, and few job options of any kind. I also recognize that many law graduates do not go into traditional areas of law practice, or don't remain in them for very long. Law degrees for a host of reasons serve as good credentials for positions in business, government, social service agencies, education, journalism, yes even the ministry.

So, having decided to apply and this Survival Guide assumes, been admitted to a law school, what can I add based on my 36 years of law teaching, 15 at Harvard, almost the same number at NYU, five years as dean of the University of Oregon Law School, visits at a half dozen schools, and lectures at many dozen more? Here are a few basics intended to serve as foundational support for the advice in this Guide:

FIRST,

know that legal education for the most part is pedagogically the poorest education provided for any major profession.

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Certainly, you must and should work hard, but the difficulties, the uncertainties, the trauma, you encounter, particularly in the first year, are more the fault of the system than yours or the other students struggling around you.

There are exceptions, but a great many courses are presented in ways that violate all the rules of effective teaching. Classes are large and are conducted mainly through lecture or some form of what is called the Socratic Method. The teacher calls on one student to describe a case or some aspect of legal doctrine and then in a series of questions, attempts to get the student and the class to see and understand the importance of the case or doctrine. But there is seldom much discussion when one participant, the teacher, knows all the answers, while the other, the student, struggles to understand what the teacher expects as answers to his questions. It is little wonder that few students volunteer for such dialogues and whatever learning takes place is over-shadowed by the prayerful hope not to be called on.

The process for most students is quite passive. You are assigned cases to read in preparation for class and then – at least for many students, hope that you are not called on. There is little opportunity for feedback about progress, and teachers are seldom able to communicate how a student is doing. Should you memorize the case holdings? How do you compare different holdings from different courts or different holdings by the same court? Many courses offer a mid-term practice exam that can be helpful, but there is seldom any detailed comment about the exam answer's strong and weak points.

Final exams are sufficiently traumatic that few students recognize that really good grades depend on a set of skills not either taught during the course. That is, students can read the cases diligently, attend every class, take careful notes, incorporate the cases and the notes into detailed outlines and still do poorly.

Why? Because final exams require not simply a good knowledge of the course content, but the ability to rather quickly recognize applicable precedents from the factual setting in the question, analyze how those precedents should be applied to the facts, distinguish other precedents that seem applicable, and reach a conclusion that impressively communicates your understanding of both law and policy issues raised in the question. All of this should be done in a straight-forward writing style that is both legible and cogent. Those students who do very well on such exams bring to the process skills of quick analysis and writing not likely learned in the course or in law school.

SECOND,

success in law school requires that you supplement the law school's education.

When I attended law school a half-century ago, it was not unusual for less than half of a first-year entering class would graduate three years later. Today, most law schools admit students from applicant pools ten to twenty times larger than the size of their first-year classes. Relatively few students are asked to leave because of poor grades, though many more drop out because of financial or personal problems, or after concluding that law is not for them. Thus, most graduating classes are roughly the same size as the entering class. In short, if you can get admitted, with hard work, you can graduate.

This, though, is small comfort for an investment of three years of your life and more money than you are likely to earn for several years. Avoiding this “I got through” rationalization can be done by replacing every passive aspect of your schooling with activist endeavor. For example:

– In addition to reading the assigned cases, compose a list of questions that the teacher will or should raise during the class. Note: suddenly, the reading of cases (often a boring activity) becomes interesting, even gripping. You have to understand the case to write those questions and, perhaps, brief answers. This is active learning and the questions and answers are far better for review than briefing the cases (a week or so of briefing is usually enough to get the hang of it and as much as you are likely able to stand).

– With your questions and answers, you are prepared to participate in class discussion and you should participate. You don't have to keep your hand up all the time (alas, as I did in law school), but being involved in class discussion at least once a week is a worthy goal. Teachers will appreciate your participation and will likely be more welcoming when you drop in during their visiting hours to discuss the finer points of the material.

– Study groups may be old fashion, but getting together with three or four other students once or twice a week and actually teaching one another can be a great help. Again, it is active learning. This is much more useful activity than writing 100 page outlines or (heavens) buying canned outlines.

– Prepare for final exams by writing exam questions. The school library usually has old exam questions on file that can serve as models. But write your own questions and do this throughout the course, not just in the week or so before finals. You will find that you can't write a decent question without a good understanding of the material. Once again, this is active learning, the very best kind.

THIRD,

law school is a part of your life. Live it throughly.

I wish I could guarantee that those who remember my admonition about the quality of legal education in part one, and strive to follow the advice contained in part two, will graduate at or near the top of their classes. I can't. There are too many factors involved in that form of success. I can assure you, though, that adherence to my suggestions will make your law school experience both more productive and more rewarding.

And if, despite your best efforts, your first-year grades are a disappointment, don't give up. Don't go into overdrive and plan to cruise through the other two years, saving your real efforts for the bar exam and your career job. Those who work effectively in law school, embracing active learning, are more likely to do well on the bar exam and in the jobs that follow.

Even in law school, there are opportunities within the school, academically on a law review, moot court, or in a clinic program. Law school is far better than when I was a student, but there is much need for further reform. Be a part of a BSLA or other student group pushing the law school administration for improvements that may or may not happen during your years, but is a worthwhile way of expressing appreciation for the reform work done by your predecessors.

Keep in mind that even as a law student at least somewhat traumatized by your experience, you are better off than much of the society that did not have your opportunities. Reach out and volunteer your skills with organizations in your community that are working with persons and families facing barriers to well-being far greater than those posed by law school. Even your efforts to help will provide you with a sense that, whatever your grades, you have and are developing skills that others can use.

And, finally, while not wishing to be morbid, we know that there are a few among you whose lives may well end within a too short time after law school. Tragedy happens, and its pain and loss are eased somewhat by the knowledge that the individual lived life fully and viewed law school not as simply a preparation for the future, but as an important phase of life that was lived fully.

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