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Law Day Handout

Black American Law Students Association, Fordham University School of Law

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BALSA LAW DAY

Fordham Univ. Law School
140 West 62nd Street

October 27, 1973

Agenda

- 9 A.M. - 10 A.M. Registration, Coffee Hour (Cafeteria)
Fordham Univ. Law School
- 10 A.M. - 1 P.M. Panel Discussion
Pope Auditorium, Lowenstein Bldg.
Fordham Univ.
- 1 P.M. - 2:30 P.M. Lunch Luncheon Fee..... \$~~1.50~~ 1.50
- 2:30 P.M.- 4:30 P.M. Individual Recruitment Sessions
Fordham Univ. Law School, rooms will
be assigned.
- 4:30 P.M.- 5 P.M. Closing Session
Pope Auditorium, Fordham Univ.
- 9 P.M. Party
Fordham Univ. Cafeteria

\$1.00 Admission

B.A.L.S.A. History, Purpose and Activities

The National American Law Students Association was founded at N.Y.U. Law School in October of 1967 with its purposes being to:

- (a) Articulate and to promote the needs and goals of Black law students.
- (b) To foster and encourage an attitude of professional competence among Black law students.
- (c) To bring our legal training to bear upon the legal and non-legal problems afflicting the Black community and
- (d) To encourage a greater commitment by Black attorneys and law students towards the needs of the Black community and thereby earn the respect of the Black community.

Since its formation, BALSAs has grown rapidly; today there are over 110 chapters of BALSAs representing over 4,000 Black law students throughout the country. On August 4, 1971, the Black law students attending the 46th annual National Bar Association (the Black bar) conference voted that the Board of Directors of National BALSAs would assume the leadership reigns of the N.B.A. student division with the four Black law schools in the country each having one representative on the board of the N.B.A. student division. Prior to that N.B.A. conference, there existed two Black law student groups - effectively there exists one at present. The need for two organizations both representing Black law students and doing the same thing, one duplicating the other's efforts was neither rational nor beneficial to Black students, especially since BALSAs already had claim to 90 per cent of the Black law students in the country. BALSAs now represents 100 per cent of all Black law students.

Among the past accomplishments and activities of the BALSAs chapters in the Northeast region are:

1. Providing each Black freshman with a Black upperclassman to act as his or her adviser during his first year.
2. At most law schools a student is graded in each course from the results of one examination given at the end of the term also each professor uses his particular set of criteria to grade his exam, consequently, in order to insure that each Black freshman knows what information he is expected to master and in what form he is expected to answer the questions; in the middle of each semester, BALSAs asks each of the Black students' professors to prepare a practice exam which is administered under exam conditions, submitted

to the professor for correction and then returned to the student. BALSAs also schedules and conducts study and review sessions for Black law students periodically.

3. The establishment and maintenance of BALSAs chapter libraries which stock hornbooks, treatises, course outlines, selected law works and student class notes for specific courses.

4. Notifying Black law students (by letter, newsletter, bulletin board, orally) of part-time, summer-time and permanent law employment opportunities, especially opportunities available at Black lawyers' offices.

5. Securing the appointment of Black faculty members and administrators at the law schools.

6. Many BALSAs members from schools throughout the city do volunteer work for the National Conference of Black Lawyers which involves answering prisoners' letters, doing legal research, filing and other general office work.

7. Providing law advocate assistance to Black parents during school proceedings (i.e. suspension and reassignment to "600 schools" hearings) in which their children are involved.

8. Aiding progressive Black candidates in their campaigns for public offices. For example, about 15 BALSAs members from chapters in the metropolitan area participated in Mayor Charles Ewers Mississippi gubernatorial campaign as well as in the concerted campaigns of the many Black Mississippians who were then running for local public offices under the banner of the Mississippi Freedom Party.

9. Assistance provided to cafeteria workers (90% Black and Hispanic) during labor disputes with N.Y.U. in 1971. Although the workers did not gain all of their demands, sufficient demands were met to make the strike a success in the estimation of the workers.

10. Sponsoring forums where Black lawyers, students and community representatives can communicate with one another.

11. Many BALSAs members are also active in other Black organizations and institutions in the Black community. These members realize that we cannot use our status as students as an excuse for not being involved in the Black community. They also realize that through their participation in such groups and organization they can apply some of their legal skills

and gain valuable experience which may provide them with direction as to what field of law they should focus on in order to best aid in the development of our people.

12. In the political arena, the local chapters have concentrated on increasing the enrollment of Black law students and providing sufficient financial aid for us. Although our efforts have caused a small increase in the enrollment of Black students, we are totally unsatisfied with the administrations' meagre responses to our demands for more Black students. We are also ever vigilante for and prepared to challenge the racist tactics employed by them in their attempts to increase the attrition rate of Black students.

So as you can see, a BALSAs chapter is many things to her members: social club, protective association, closely-knit family, employment agency, political organization, etc. This year, we will be working to continue past programs and to initiate a broad range of new programs at our respective chapters and at the Regional level. Some of the new programs which we plan to initiate at the Northeast regional level are following:

a. Prisoners project which involves doing research for and drafting briefs for prisoners.

b. Welfare Fair Hearing advocacy program - The program is designed to provide legal and extralegal representation for welfare recipients before various administrative agencies, with which welfare recipients must deal and upon which they depend for economic subsistence.

c. Regional Newsletter - We plan to prepare and distribute a monthly newsletter which will inform Black law students in the Northeast region of employment opportunities, new developments in the legal field, different happenings at the local chapters, and other interesting events.

d. Regional Conference - The Northeast Region will host a conference of Black law students sometime in October, 1972. You will be notified in the near future of all the details.

e. National BALSAs is in the process of compiling a Black Pre-law Student Directory which will provide Black college students with the essential information about the major law schools attended by Black law students that they need to know in order to decide where to apply and in order to meet the deadlines and fulfill the requirements set by the schools.

In the past, BALSAs has used her influence to attempt to persuade the N.B.A. to turn in the right direction vis a vis Black liberation, We shall continue to do this.

WHATS GOING DOWN

Been Watching the TREND

In the mid and late 60's it was "Git dem nigras in college"; in the late 60's it was "Git dem nigras in law and other professional schools"; now the TREND is to forget the "nigras" even exist.

You saw how your undergraduate university jumped on the bandwagon of having "disadvantaged programs" and remedial tutoring, and you also saw how many big universities superficially added "Black Studies" departments and awarded "Black Studies" degrees. Where are those who acquired a Black Studies degree? Some are secretaries, clerks, social workers, and some even got a chance to teach. How helpful was the remedial tutoring? Just ask around.

What's all this got to do with law school? No empirical study was done (as we are taught to do in Political Science 100) but the TREND is clearly visible. Black folks in college have been preempted by ecology. It has been determined that we are worth less than the ground we walk on. The Environmental Law Society will have a bigger office and a bigger budget allocation than the local Black Law Student Association, if BLSA gets an office or budget at all. The so-called poverty - community law courses are being replaced with courses on environmental control and women's rights! I won't go off on a tangent in this issue of how a white woman is more important than the entire Black race when it comes to teaching law, I will save that for a discussion in the future.

This nation has taken a TV network approach in how it has handled us. We had our premiere showing in the late 60's; we ran for a couple of successful seasons, but our "Neilson" (Nixon) ratings have dropped considerably since the ecology scapegoat show premiered. For the last season or so we have been running re-runs, but we are no longer nationally syndicated at the big universities and are only remotely holding our own in isolated instances. Our commercialability has worn out - we are no longer useful to the universities in getting federal and state aid; we are no longer beneficial to the naive psy of soc prof or his department to be studied or analyzed or reactionized or systemmatized or stigmatized or idolized or radicalized or patronized or sanctified or televised.

O.K., the law school has fulfilled its "liberal" requirement for the year by wasting all that good green "white" money on "dem nigras" and, they ain't gonna do no more! As a matter of fact, somekind of implied conspiracy has been generated away faculty and the administration to flunk out the before unaware Black freshman law students. Most law schools are proving very successful in fulfilling their conspiracy requirement; in some schools up to 75-80% of the frosh class were flunked out. What follows? Usually the BLSA tries to get them reinstated with the same financial aid and commitment; BLSA has had limited success in getting the Brothers and Sisters back into school. This has been the TREND for the past couple of years, including the recently ended academic year. It's going on at all law schools in various degrees, from the obvious efforts of 75% flunk-outs to the subtle efforts of a consistent 10-20% flunk-out rate.

Since I have the opportunity to express my viewpoint and analysis through the newsletter of the situation, this is how I see it. Not to speak disparagingly upon those who availed themselves of the only alternative that existed at the time, that is to demand a 2nd chance by being reinstated, we can't limit ourselves to this remedy alone. If we viewed this as the only method, the law schools could justify their condescending attitudes and interactions with us by our constant kow-towing to get reinstated.

We can't allow this method to be the endall approach. We must ourselves develop a TREND. A possible way to get positive results from the law schools is to document the various racist things that go on in your school, and a coalition of local BLSA's in a region, or a kind of class action under BALSAs against all law schools attacking their accreditation.

A separate, but equally important, factor in maintaining our autonomy (or absence of white control) is that we can't become dependent upon tutorial-remedial help from the law school. Granted, in the schools that have a very few upperclassmen, this is going to put quite a strain on them, but it is something that is essential. The Black upperclassmen must be the ones who provide the tutorial-remedial help, not the white professor or the white upperclassmen; we must develop an interdependence among ourselves and view any assistance from the law school in an additive matter.

T.Q. Thompson

A REPORT FROM THE NATIONAL OFFICE

The following Organizational Structure was adopted:

1) National Chairman, 2) Regional Director, 3) Directors at Large

The responsibility of the Regional Directors are:

- a) To make an inventory of Law Schools in their region to ascertain black law student enrollment. This information will be used to establish an up-to-date national roster of black law students.
- b) To organize local BALSAs chapters.
- c) To establish regional conferences for recruitment, fund raising, and sharing information.
- d) To submit monthly project reports on regional activities
- e) To develop long and short range programs for the regions.
- f) To provide copies of all regional correspondence for the national office.

The Regional Directors are accountable to the National Chairman and the Board.

In case of a vacancy among Regional Directors, the National Chairman may appoint a replacement.

In the event that a Regional Director is charged with malfeasance, written notice of the alleged charges shall be given to the accused and the accused shall have reasonable time to respond to these charges.

Simultaneously the Regional Chapter shall be given adequate notice. In event that the Regional Chapters fail to exercise their adjudicative powers, the National Board has the power to sit adjudicatively on the matter.

It was agreed that Black Law students have the right to expect certain services and programs from their national organization. The Board decided that the services should include but not be limited to:

- 1) Preparation of materials that outline the relationships between individual law schools, Regional Offices and the National Office.
- 2) Preparation and dissemination of National Membership Cards, Charter certificates, and a national BALSAs map of the United States indicating the location of local chapters and Regional offices.
- 3) Establishment of a national newspaper to disseminate information to local chapters and their communities.
- 4) The National office should obtain up-to-date information as to the enrollment of Black Law students. This is to be accomplished by letters addressed to "Black Law Student Organizations".

The following committees were established by the Board

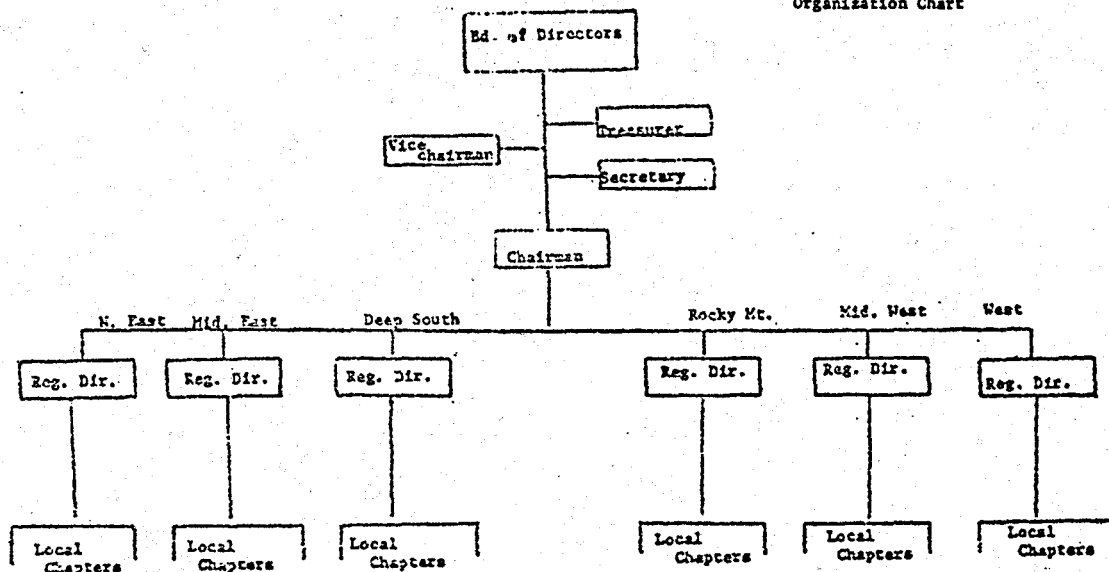
1) National Placement Services Committee.

Concerns: This committee is responsible for conducting an evaluating of the previous operation of the placement service at the Univ. of Denver and to provide appropriate recommendations for improving its functions.

2) Permanent Headquarters and Administrative Taskforce.

Concerns: Recognizing the importance of Administrative continuity of any national organization and the need for BALSAs to project a new image reflecting stability and seriousness of purpose, the Board established this committee and charged it with conducting a full-scale study of the desirability and implications of establishing (a) a permanent National Headquarters (b) determining the best geographic location (c) types of activities that would be conducted at such a national location i. e., Research Institution Placement Service inter. al. (d) developing an operational budget for the National Office.

NATIONAL BALSAs
Organization Chart



The Board discussed and unanimously agreed to the desirability of electing a full-time National Director. This would be accomplished by the election of a Third-year Law Student who would serve for a maximum term of two years and be re-elected annually.

3) Research Institute Committee.

Concerns:

- (1) The development and assessment of supportive research on the social, political, and economic implications of laws and legislation.
- (2) The synthesis of the provision of social and economic analysis for the drafting of new legislation.
- (3) The translation of the legal needs of Blacks, poor, and the oppressed as defined by BALSAs into concrete predictions of the legal
- (4) The evaluation of legal resources and manpower required to provide adequate broad legal services to those communities.

4) Funding Committee.

Concerns: Establishment of National Fund raising programs.

Among the projects contemplated are:

- (a) Submission of proposals to A. B. A.
- (b) Solicitation of specific contracts, i.e. Reginald Heber Smith training proposal
- (c) Walt Stone's proposal for the development of Law School Recruitment Directory.
- (d) Solicitation of Federal Research Grants available through Title IX and Title I inter. al.
- (e) Submissions of Funding Proposals to LSCRRRC and other organizations.

5) Community Action Committee.

Concerns: Responsible for identifying available models and developing others for Law School-Community Projects i.e.

- (a) Habeas Corpus program
- (b) High School Speakers programs
- (c) Inmate Legal Assistance
- (d) Legal Rights Handbook
- (e) Consumers Protection Rights
- (f) Draft Counseling.

This information will be disseminated to Regional Offices and Local chapters through the National Office.

Additionally, this committee will establish prototypes for Legal Communes, local, regional, and national, staffed by Law Students and Lawyers which address themselves to the legal, social and political issues of their enviroing communities.

The statistics as to the number of black lawyers and judges were obtained by questionnaire survey from the Governors of the 50 States and from individual inquiries from NBA members. The population figures were based on the 1960 census, and the lawyer figures were from the *Journal of American Judicature Society*, Vol. 49, No. 9, Feb. 1966. A more detailed report was placed in the *Congressional Record* (Sept. 2, 1970), E7996-E7997.

State	State population	Black population	No. of lawyers	No. of black lawyers	No. of black judges
Alabama	3,266,740	980,271	2,712	24	1
Alaska	226,167	6,771	198	1	0
Arizona	1,302,161	43,403	1,693	2	1
Arkansas	1,786,272	388,787	1,759	10	0
California	15,717,204	883,861	22,798	373	15
Colorado	1,753,947	39,902	3,635	10	2
Connecticut	2,535,234	107,449	4,002	26	3
Delaware	446,292	60,688	514	3	1
Florida	4,951,560	880,186	7,901	60	2
Georgia	3,943,116	1,122,596	4,824	30	3
Hawaii	632,772	4,943	482	1	0
Idaho	667,191	1,502	683	1	0
Illinois	10,081,158	1,037,470	19,045	667	26
Indiana	4,662,498	269,275	4,757	56	2
Iowa	2,757,537	25,354	3,596	15	2
Kansas	2,178,611	91,445	3,013	30	2
Kentucky	3,038,150	215,949	3,353	22	4
Louisiana	3,257,022	1,039,207	4,217	27	2
Maine	969,255	3,318	990	0	0
Maryland	3,100,689	518,410	5,301	32	5
Massachusetts	5,148,578	111,842	10,443	50	3
Michigan	7,823,194	717,581	9,464	250	15
Minnesota	3,413,864	22,263	4,787	14	1
Mississippi	2,178,141	915,743	2,201	23	0
Missouri	4,319,813	390,853	7,501	64	6
Montana	674,767	1,467	1,031	1	0
Nebraska	1,411,330	29,262	2,358	5	0
Nevada	285,278	13,484	441	4	1
New Hampshire	606,921	1,903	647	1	1
New Jersey	6,066,782	514,875	9,460	65	9
New Mexico	951,023	17,083	980	0	0
New York	16,782,304	1,417,511	50,204	650	36
N. Carolina	4,556,155	1,116,021	3,637	70	2
N. Dakota	632,446	777	742	0	0
Ohio	9,706,397	788,097	15,535	416	18
Oklahoma	2,328,284	153,084	4,829	16	2
Oregon	1,768,687	18,133	2,657	7	1
Pennsylvania	11,319,366	852,750	12,319	141	14
Rhode Island	859,488	18,332	1,070	2	0
S. Carolina	2,382,594	829,291	1,896	11	1
S. Dakota	680,514	1,114	760	0	0
Tennessee	3,567,089	586,876	4,251	35	3
Texas	9,579,677	1,187,125	14,022	95	2
Utah	890,627	4,148	1,151	1	0
Vermont	389,881	519	496	0	0
Virginia	3,966,949	616,258	4,758	103	3
Washington	2,853,214	48,738	3,907	20	3
W. Virginia	1,860,421	89,378	1,809	8	1
Wisconsin	3,951,777	74,546	6,231	18	0
Wyoming	330,066	2,183	497	1	0
D.C.	763,956	411,737	12,693	503	6
U.S. Courts					19
U.S. Totals:	179,323,175	18,871,831	288,336	3,645	214

Are you going to sit on the sidelines all your life?

What are you doing about what's wrong with our community?

You. Not the fellow next to you. You.

Don't kid yourself. You know what the problems are.

You read the papers. You listen to the gossip. Now get

off the sidelines and into the game.

Today, as virtually never before in our history, Black communities across the nation face a crisis of racism which threatens not merely our constitutional rights but our homes, our safety and our very survival.

Political offices at the highest level are won by those most committed to the cynical campaign cry of law and order which, in fact, mandates calm in the ghetto through a mobilization of laws and at the sacrifice of justice.

Investigatory commissions find that white racism is at the core of the nation's most serious domestic problem, and yet society's major response is acceleration of the police weapons race to the point that the smallest disturbance in a Black area initiates an invasion of police armed with instruments of war and destruction, ready to intimidate, maim and kill, if necessary, to suppress the Black community.

The systematic suppression of Black people continues, notwithstanding the plethora of court decisions, civil rights laws, anti-poverty legislation, human relations commissions, enlarged political representation and the other symbolic promises to Blacks which serve as this society's substitute for equality.

The Black revolution sparked by the growing realization that white America does not intend to deal with Black people in accordance with Constitutional standards presents the concerned Black lawyer with questions of the most serious nature,

the answer to which necessitates a re-evaluation of his role and his relationship to the Black community.

To the extent that the Black revolution calls for an attack on institutional and structural racism in this country, combatting the crisis of maladministration of justice, and enlisting the total Black community in this effort for its mutual survival and uplift, we must make it.

Where the Black revolution requires the development of unique and unorthodox legal remedies to insure the effective implementation of the just demands of Black people for legal, economic and social security and protection, we must aid it.

If the Black revolution demands that Black attorneys organize for a mutual exchange of plans and programs for a major effort to achieve dignity and a fair share of power for Black people, we must do it.

And finally, if the Black revolution requires that we provide a unified Black voice of resistance designed to unmask the silent but no less criminal conduct of American institutions which condones the suppression of Black manhood, the lynching of Black leaders, and the frustration of Black efforts to save Black people, we must join it.

There is no existing institution of the legal profession as presently constituted available to address itself to the problem of white racism as it affects substantial justice for the Black Americans of this country.

**DECLARATION OF CONCERN
AND COMMENT**

The following article is an excerpt from:

"Can a Black Man Get a Fair Trial in This Country?"

By: Haywood Burns

As appeared in New York Times Magazine, July 12, 1970.

Whereas white Americans are accustomed to viewing the law as an historic vehicle through which liberties have been progressively expanded, black Americans have experienced law in quite another fashion. From the very first, American law has been the handmaiden of American racism. It has been the means by which the generalized racism in the society has been made specific and converted into the particularized policies and standards of social control.

So many of the milestones in the early history of liberty in this country are emblazoned with the exception: "But not for blacks." Thus, black people cannot view the Declaration of Independence, the Constitution or Jacksonian democracy in the same lofty manner as many who see them as triumphs of liberty; for the early Americans who sought freedom so assiduously for themselves, at the same time so cruelly denied it to others in their midst.

For so much of the past, the law rather than being a tool for expanding liberty, has been an implement for constricting, downgrading and narrowing the possibilities for blacks. It was the law which institutionalized American chattel slavery (by making black bondage life-long and later hereditary). It was the law which provided the onerous slave codes to govern in oppressive detail the lives of millions of blacks until their emancipation, and which returned to perform the same function through the notorious Black Codes after emancipation. It was with the law that the architects of segregation built a Jim Crow society which is still intact over a decade and a half after Brown v. Board of Education and more than a century after the Emancipation Proclamation.

For long stretches of American history in many parts of the country, black people lacked any legal personality whatsoever. By law they were excluded from bringing lawsuits to protect their rights. There was no legal recourse for injury to themselves or their property. They were not even allowed to take the witness stand to testify in cases where the interests of white persons were involved. Nor were they permitted to serve on juries. In the criminal area it is the criminal case that I shall concentrate on in this article - the penalties the law prescribed for blacks were often different from those prescribed for whites for the same offense.

Perhaps the most striking example of the latter disparity is the way in which certain jurisdictions reserved the penalty of sexual mutilation for blacks and Indians accused of interracial sex crimes. A reading of the statutes provides insights into the psycho-social pathology of white America - of its fear of letting black men be men; of its need to deprive them of their manhood; of its artfulness in employing the law in this base service. As recently as the mid-nineteenth century, white men sat in the Kansas Legislature and introduced, debated and passed legislation which provided that the penalty for any black convicted of attempting to compel a white woman to marry should be castration "by some skillful person," the cost of such a procedure to be charged to the convicted person. The penalty for corresponding acts by white persons was "confinement and hard labor not less than five years."

The Agnews and the present-day guardians of the American judicial system often have little patience with such discussions of the past. References to past legal unpleasantness, at best, are seen as irrelevant diversions from the present point, and at worst, as inflammatory devices which hinder a cool, contemporary and pragmatic approach to the closing of what are seen as minor gaps in the legal system. The fact that the explicit racial distinctions

in the South, challenging employment discrimination against our black clients. Early in the legal proceedings, much to his consternation, we had taken exception to the judge referring to our clients as "nigras." At the very beginning of the trial itself, the judge told us in no uncertain terms that "nigra" was listed in his dictionary as a regional pronunciation for "Negro" (he did not point out that it is a white "regional pronunciation"), and that for the balance of the proceedings he and anyone else in the courtroom could use the term. By instant judicial decree we then had become nigra lawyers pressing the claims of nigra clients in a white man's court. A corollary of the judge's pronouncement was that we were not to use the term "black" in referring to our clients and the racial community from which they came, since it was not the term traditionally used in "our jurisprudence."

This is by no means to suggest that what we are contending with is exclusively a Southern phenomenon. Daily, in courts throughout the country, Black and poor defendants suffer the humiliations of legal system which refuses to accord them full recognition of their dignity as human beings.

The clerk's office is an area where personal attitudes can impair fairness. Lower-level clerks are often extremely powerful persons in the bureaucratic machinery of justice and they can use this power in an obstructive and hostile manner when they do not like the people or the issue involved. This is seldom blatant, but can be seen in differences in flexibility and cooperativeness, and in the way normally straightforward matters can suddenly become complicated - as, for example, with the simple act of incorporating an organization or group when that group happens to have the word "black" in its title.

Biased judges use procedural devices and their judicial discretion to avoid ruling in favor of blacks when legal mandate in their favor is clear. This is true in a wide variety of areas, but perhaps most obviously with

have for the most part been removed from the statute books, and that, in a formal sense, race has ceased to be an articulated ground for judicial decision, is for many sufficient proof that our avowedly neutral system of justice is both neutral and just.

This impatience with history would be justified if America had in fact, somehow accomplished the impossible task of severing the past and completely exorcising the demons of old. However, in truth, the past of the American legal system is inextricably bound up with its present. Many of the same forces which kept blacks out of the courts or imposed harsher penalties on them in the past are at work today, militating against any black man receiving full justice in an American court.

The barriers to fairness are basically of two kinds: (1) personal - those related to the racial views and attitudes of persons responsible for the day-to-day administration of justice; and (2) structural - those related to the nature of our legal system itself, its procedural rules and substantive doctrines. Sometimes the barriers are a hybrid combination of both.

The manifestations of racism in the legal system today may be more subtle than many of those of the past, but they are not necessarily less pernicious. As their cases make their way through the courts, black lawyers and litigants must still often sustain personal indignities from biased judges and other court personnel. Despite United States Supreme Court disapproval of the practice, it is still not uncommon to find judges and prosecutors who fail to use the courtesy titles "Mr.", "Mrs.", " or "Miss" when addressing black defendants, and in some cases when addressing black lawyers. Similarly, normally expected courtesies often fall away when court attendants, clerks, bailiffs, and marshals find themselves dealing with blacks.

Recently, I appeared with two other black lawyers before a Federal judge

many Southern judges in civil-rights cases. In general, judicial or administrative discretion can be used to cloak racism in sentencing, parole and probation.

Blacks usually receive longer prison sentences than whites for most criminal offenses. A study of persons convicted of burglary and auto theft in Los Angeles County, most of them first offenders and unskilled laborers, revealed that on the average whites were treated much less severely than blacks. Forty-five per cent of the whites and 27 per cent of the blacks were given sentences for these crimes of four months' imprisonment or less, or probation; 42 per cent of the whites and 47 per cent of the blacks received four to nine months; and 13 per cent of the whites and 27 per cent of the blacks got 10 to 20 months.

A 1951 study showed that the average number of months served before release in all the states was 25 for blacks and 20 for whites. The disparity was greatest in the West and the Northeast. Proportionately about 10 to 14 per cent more whites than blacks are annually "released conditionally" or granted some kind of parole. This racial disparity in the granting of parole helps to keep the percentage of blacks in the prison population high. According to reports in National Prison Statistics, blacks comprise about one-third of all prisoners, though they make up only about 11 per cent of the general population.

White America still reserves special penalties for blacks convicted of sex crimes - especially interracial sex crimes. National Prison Statistics shows that of the 12 jurisdictions that have executed men for rape since 1930, almost one-third of them - six states - have executed only blacks. There have been some years in which everyone who was executed for rape in this country was black. Detailed state-by-state analysis has shown that the discrepancy in death sentences for rape is related to the race of the victim.

Blacks raping blacks is apparently less serious than whites raping whites, and certainly less serious than whites raping blacks. But the black man today convicted of raping a white woman can be as certain of receiving the harshest treatment as was a Kansas black convicted of an interracial sex crime in 1855. For example, in Florida between 1960 and 1964, of the 125 white males who raped white females, six - or about 5 per cent - received death sentences (four of these involved attacks on children). Of the 63 black males in the same period who were convicted in Florida of raping black females, three - or about 4 per cent - received death sentences; and this when in two cases the victims were children. However, of the 84 blacks (same period, same state) convicted of raping white women, 45 - or 54 per cent - received the death sentence; only one of these cases involved an attack on a juvenile. None of the eight white men who raped black women was sentenced to death.

Just as with their elders, black youths can expect a difference in what the system of justice metes out to them and to others. The President's Commission on Law Enforcement and the Administration of Justice found that almost all youths committed acts for which they could be arrested and taken to court. However, the commission also found that the likelihood of a youth being arrested and taken to court varied according to where he lived. Juveniles from the nation's ghettos were much more likely to be arrested as delinquents than youths from white suburbia. If a suburban youth is arrested, it is more likely that some disposition will be worked out which will not involve incarceration. A ghetto youth will seldom find a policeman cautious about making an arrest merely because the youth is the son of a community leader, any more than in court will his parents be able to provide private

counsel, private psychiatrists or to make an impression with personal prestige of their own as their child's fate is weighed in the balance.

It is the general experience of lawyers who represent Blacks - North, South, East and West - that judges and juries seldom accord the testimony of non-whites the same weight as that of whites. When the issue is one of credibility, one white witness on one side of a lawsuit often cancels out several nonwhite witnesses on the other.

I recently represented some young black defendants who had been stopped by the police in the Bronx, allegedly for an infraction of the traffic laws. Prompted by a racial remark from one of the officers, a verbal duel between the young men and the officers ensued, in which the officers were outfenced. The result was that the young men were jailed on a long string of charges, including resisting arrest and inciting to riot. The defendants, though disturbed by the treatment they received, were not overly concerned about their trial since there had been so many people at the site of the incident who had seen that the most that had occurred was an argument between the police and the defendants.

By way of defense, I put on a large group of these witnesses - all black or Puerto Rican - most of whom did not know the defendants and who had no personal interest in testifying. Despite the disinterestedness of our witnesses and their number, the court chose to believe the policemen, on all but the most serious of the charges, and convicted the defendants. The impact of this lesson in credibility was strong, both on the defendants and on some of the spectators.

One of the defendants indicated to me that some of his worst notions about the workings of American justice had been confirmed and that the lesson he took away from the experience was in future to resist unwarranted police

action directed at himself, since he would probably be charged with doing so anyway. One boy of 11 or 12 who had seen the arrest and been at the trial blurted out to me at its conclusion, "Wow, if that's what happens to you in our courts, I ain't gonna stop if a cop ever tells me to stop. I'm gonna run. Those guys didn't do nuthin'!"

Some of the greatest barriers to blacks receiving fair treatment in the courts today rise from the structure of the law itself, which through its substantial doctrines and procedural rules works invidious discriminations against the poor and the nonwhites.

A prime example of the structural inequality in the law, is the operation of the money-bail system. Two accused persons can be in otherwise comparable situations - length of time in the community, length of time steadily employed, number of dependents and family obligations - except that one has money and the other does not. Upon arraignment on a criminal charge, one will walk free until the time of trial, the other will be locked up - though both are equally presumed innocent.

The city jails across the country are filled to overcrowding with poor and nonwhite who must serve weeks, months, and sometimes more than a year in jail before coming to trial. In many cases the amount of bail is nominal - but even \$25 is a considerable sum if you have not got it.

The jailed defendant has much less chance of being acquitted than the bailed defendant. The defendant who comes to trial from the streets will have had greater access to his lawyer in preparing his defense, and having been at liberty will be able to arrive in court with a demeanor that will not cause those trying him to associate him readily with criminality. Jail in lieu of fines for indigents, creditor-biased consumer, landlord-biased tenant law, lack of due process before administrative agencies which deal with the poor are but a few further examples of the law's structural inequality.

Changing the law involves changing American. In a nation of inverted priorities, misallocated resources and inhumane, materialistic values; it is too much to expect that the law will provide the fairness and justice to the

poor and the nonwhite that is being denied them in every other sector of society.

It is folly to say that ours is a government of laws, not men. Laws are made, interpreted and applied by men - and in America's case by men in a racist society. Ultimately, there is a simple and obvious truth that the judicial system is run by people, mostly by white people and that most white people are racially biased.

Can a black man get a fair trial in the United States? If by fair one means free of bias, the answer has to be generally NO.