

**SYLLABUS – SPRING, 2010 SEMESTER
(PPL 498-2 // LAW 698)**

**REMEDIES FOR PUBLIC EDUCATION IN MISSISSIPPI –
A ROLE FOR RESTORATIVE JUSTICE?**

Introduction:

This is the second part of a two semester inquiry into the relevance of restorative justice in addressing the need for sweeping reform in the delivery of public education in Mississippi.

The Fall 2009 semester seminar considered the deliberate denial of education for African-Americans, from the earliest slave codes into the modern era. This intentional failure to provide meaningful education was examined in the application of state law, policy and custom, and in the broader context of national civil rights constitutional history - the judicial construction and subsequent application of the 13th, 14th and 15th Amendments to the United States Constitution.

In the first semester, students confronted the profound negative and lasting impacts upon the education of Mississippi school children of all races from *de jure and de facto* segregation laws and policies. We analyzed the ways in which denial of education in furtherance of racial policies became the direct and proximate cause of the limitations in today's public education system.

These issues were considered in the context of the concept of restorative justice. The distortion of educational goals resulted in the pressing need to establish a means of delivering quality education for all children in the state. Since the Education Reform Act of 1982, the state has begun the process of educational reform. However, there remains much work yet to be done. More sweeping change is needed to undo the damage resulting from the destructive policies of the past. The future economic and intellectual well being of Mississippi's citizens will depend largely on the success or failure of this effort.

The concept of restorative justice has been applied in various circumstances and in different forums nationally and internationally. With regard to the African-American population of the United States, the injury to be redressed arises out of, but does not end with, the institution of slavery, but rather continues to require corrective measures to undo the lasting impacts of slavery and its legacies on the entirety of American society.

The premise of restorative justice is that societal equilibrium cannot be restored unless the community comes to terms with the injustice and commits to meaningful and lasting efforts at remediation.

The Fall semester opened the issue of how restorative justice remedies could apply to the disparities in educational opportunity in Mississippi for African-Americans and for all communities with poor populations and inadequate educational programs.

The Spring 2010 semester seminar will continue to explore whether educational reform is an appropriate topic for restorative justice. The primary focus of the Spring semester inquiry will be the identification and evaluation of possible restorative justice remedies. Given the history of educational deprivation, how can this aspect of societal restoration, the provision of quality education for all of Mississippi's school children, now be addressed?

Who may enroll?

The Spring 2010 semester of this interdisciplinary seminar is open for enrollment¹ to second and third year law students, graduate students in any department and undergraduate upper-class students in the Honors College. Enrollment is limited to 18 students and preference will be given to those students who have completed the Fall 2009 semester. Enrollment beyond 18 students may be allowed by permission of the faculty.

Students who did not participate in the Fall semester seminar will be asked to do some additional background reading to provide the essential foundation from the first semester class. This supplemental reading list for enrollees who did not take the first seminar is attached as **Appendix A**. For reference, the Fall Semester Syllabus is attached as **Appendix B**.

Who may be interested in participating?

This seminar may be of value for those students with interests in:

- Understanding the historic evolution of public education in Mississippi and especially how issues of race have affected educational policy;
- Recognizing that improvement in public primary and secondary education in the state will have long term impact upon the intellectual development of all children and improvement in the economic status for all of the state's citizens;
- Exploring systemic alternatives for meaningful change in the funding and delivery of public education.

What specific issues will be addressed?

¹ The first semester of this course was cross-listed as Law 698, Educ 555 and Educ 333. The second semester will be cross-listed by the Department of Public Policy Leadership as PPL 498-2 and by the Law School as Law 698.

The Spring Semester Seminar will consider the issue of necessary remedies to continue the process of educational reform. The focus will be Mississippi's history of slavery and racial segregation, as it relates to limitations upon the provision of public education for all of Mississippi children, and whether that history now mandates the adoption of sweeping and unique remedies to address the present condition of public education in the state.

Questions that may be considered include:

- 1) Are there still vestiges of *de jure* segregation in public education in Mississippi, and if so, what are they? Should any such remnants of *de jure* segregation be addressed as a necessary part of educational reform, and if so, how? How do *de facto* and *de jure* racially segregated housing patterns relate to school segregation and student performance in the schools?
- 2) What role is now played by parents, students and community organizations in advocating for and participating in fundamental changes in the delivery of public education? How can public responsibility and participation in a process of school reform be encouraged? How can these primary stakeholders become the advocates for and participants in a process of meaningful change? Is meaningful reform possible without this participation? What tools and assistance are needed for a grass roots educational reform program to succeed? Is it possible to build a consensus in the State for the need for additional educational reforms and greater commitments of state funding?
- 3) Should fundamental changes to the Mississippi Constitution and education laws be considered as a means of addressing the legacy of slavery and segregation upon the current education system, and if so, what are the possible changes?
- 4) Could Mississippi benefit from a new constitutional mandate, creating a state funding priority for the delivery of quality education for all of Mississippi's children?
- 5) What can be learned from the citizens' campaigns in other states to modify state constitution education clauses, such as previously took place in California and as is now pending in South Carolina?
- 6) Should consideration be given to changing how public education is funded and if so, are there other possible and realistic funding sources to dramatically increase state funding for education? As a matter of public policy, what priority should be given to funding public education as contrasted with other pressing needs? Will the *Children First Act* of 2009 and other legislative changes since 1982 produce the desired results?
- 7) What relevance is there for Mississippi in the school funding litigation in 46 of the 50 states (but not in Mississippi), which litigation seeks to compel more educational funding and to address the lack of funding equity in those school districts where needs are the greatest?

- 8) How should Mississippi evaluate the trend toward “top-down” accountability standards? Should funding increases be tied to improving test scores or, in demonstration of programmatic needs and a commitment to spend resources in productive ways? How does productivity get defined and measured?
- 9) How can Mississippi attract and retain excellent teachers and administrators for schools with the greatest needs?
- 10) Is there a need for reform of curriculum and teaching methods? Should reforms be compelled by the State and how should reforms be funded?
- 11) What role should the Federal Government play in funding large scale improvement to the delivery of public education? If there is a role for large scale federal participation, what controls on how education is delivered by the states should the Federal Government be allowed to impose? Should funding be tied to educational success or to needs? Is there a national constitutional right to a quality education? If so, what level of funding should the Federal Government be asked to provide? Should Mississippi and the other States become advocates for a national mandate for quality education and substantially more federal funding?
- 12) Is the Federal *No Child Left Behind Act* a meaningful vehicle for educational reform? Should this law be amended, and if so, for what legislative purposes?
- 13) Is there any relevance and applicability in the national Charter School movement for educational reform in Mississippi?

Faculty:

This Seminar will be taught by Rita L. Bender, J.D., and William J. Bender, J. D., visiting faculty at the Winter Institute for Racial Reconciliation.

Second Semester Readings:

Assigned readings will be selected from the following materials. Additional readings will be suggested in response to seminar participants’ interests, new additions to the literature, and current events. This bibliography is offered to provide an overview of the direction of the investigation.

The Constitution of the State of Mississippi – Article 8, Sections 201, 203, 206, 206-A, 211; Article 15, Amendments to the Constitution in General, Section 273;
www.sos.state.ms.us/pubs/constitution/constitution.asp)

Section 37-1-2 Mississippi Code of 1972, Legislative findings and determinations; state policy [concerning public education – The Education Reform Act of 1982]; <http://michie.com/mississippi/lpext.dll?f=templates&fn=main-h.htm&cp=>

The Children First Act of 2009; billstatus.ls.state.ms.us/2009/pdf/history/SB/SB2628.xml

Miss. Code Ann. § 37-13-193 and 195 (2008)

Miss. Code Ann. § 37-13-193. Civil rights and human rights education in public schools authorized; guidelines to be implemented

Miss. Code Ann. § 37-13-195. Mississippi Civil Rights Education Commission created; membership; terms of members; rules, regulations, standards and policies; funding State Curriculum Reform

MDE Teaching Curriculum: Mississippi U.S. History: Post-Reconstruction to Present Framework; www.mde.k12.ms.us/ACAD/.../Final%20Approved%20Draft%20of%20US%20history_05_09.pdf

Josh Kagan, A CIVICS ACTION: INTERPRETING “ADEQUACY” IN STATE CONSTITUTIONS’ EDUCATION CLAUSES, *New York University Law Review*, 2003; 78 (6)

Goodbye “minimally adequate.” a current effort to amend the South Carolina Education Clause; <http://www.goodbyeminimallyadequate.com> (Review the proposed constitutional amendment and the citizens’ petition)

SCHOOL FINANCE-- NORTH CAROLINA SUPREME COURT FINDS THE STATE IN VIOLATION OF ITS CONSTITUTION FOR FAILING TO PROVIDE STUDENTS AN OPPORTUNITY TO OBTAIN A SOUND BASIC EDUCATION.--*Hoke County Board of Education v. State*, 559 S.E. 2d 365 (N.C. 2004)
Harvard law review, ISSN 0017-811X, Vol. 118, N° 5, 2005 , pags. 1753-1760

Text of California Proposition 98; <http://www.cde.gov/ta/sa/prop98.asp>

“Schwarzenegger’s call to suspend Prop.98 jolts Capitol:” *The Sacramento Bee*, July 12, 2009; <http://www.sacbee.com/politics/v-print/story/2019315.html>

San Antonio School District v. Rodriguez, 411 U.S. 1 (1973)

The Education Trust, FUNDING GAPS – 2006; <http://www2.edtrust.org/edtrust/> (follow the links to: Reports/funding)

Education Trust, Inc. Education Watch – Mississippi; Key Education Facts and Figures – Achievement, Attainment and Opportunity From Elementary School Through College, Fall 2006. Edwatch Online 2006; www.edtrust.org.

National Center for Education Statistics – State Profiles, The Nation’s Report Card (Mississippi); www.nces.ed.gov/national_reportcard/states/profile.asp; Southern Education Foundation (SEF), Miles to Go Mississippi, Rebuilding Education, The Next Big Challenge; www.southerneducation.org;

Southern Echo, Brown Paper No. 2, Building Healthy Schools; <http://southernecho.org/s/wp-content/uploads/2008/10/09-11-07brownpaper2-buildinghealthyschoolsv2.pdf> (Students are encouraged to review the wide-ranging materials developed by Southern Echo and posted on this website on public education issues in Mississippi.)

The website of The Mississippi Parents’ Campaign; <http://www.msparentscampaign.org>

Closing the Gap: A Policy Analysis of Education in the Mid-South, Joint paper, honors section, Political Science – 367: Public Policy Analysis. University of Mississippi.

Manhattan Institute for Policy Research, Education Working Paper No. 8, Feb. 2005 – Public High School Graduation and College Readiness Rates: 1991-2002, Jay P. Greene, Ph.D. and Marcus A. Winters; http://manhattan-institute.org/html/ewp_08.htm

Center for Labor Market Studies; LEFT BEHIND IN AMERICA: THE NATION'S DROPOUT CRISIS; May 5, 2009; www.clms.neu.edu/publication/.../CLMS_2009_Dropout_Report.pdf

John Dayton, J.D., Ed. D. Associate Professor. The University of Georgia., OVERVIEW OF SCHOOL FUNDING LITIGATION IN THE 50 STATES - Chapter 4; www.ed.sc.edu/aefa/reports/ch4.pdf

Rethinking Rodriguez: Education as a Fundamental Right; Selected papers from a conference held at Boalt Hall, University of California, Berkeley in April 2006:

- 1) Broun, Puriefoy and Richard, *Public Engagement in School Reform: Building Public Responsibility for Public Education*;
- 2) Grub, *What should be equalized? Litigation, Equity and the “Improved” School Finance*;
- 3) Oakes, Rogers, Blasi & Lipton, *Grassroots organizing, Social Movements, and the Right to High-Quality Education*;
- 4) Tractenberg, *The Refusal to “Federalize” The Quest for Equal Educational Opportunity, The Role of State Courts and the Impact of Different Constitutional Theories: A Tale of Two States*;

5) Rubenstein, Schwartz, Stiefel, *Rethinking The Intradistrict Distribution of School Inputs to Disadvantaged Students*;

6) Loeb, Dannenberg, *Federal Financial Support for Adequacy and Equity in School Finance*.

(These and related papers from this conference can be found by either a Google search by title and author, or by searching the University of California at Berkeley, Boalt Hall Library website.)

Reviving the Goal of an Integrated Society: a 21st Century Challenge; Gary Orfield; The Civil Rights Project, January 2009;

www.civilrightsproject.ucla.edu/research/deseg/reviving_the_goal_mlk_2009.pdf

United States of America ex rel. ANTI-DISCRIMINATION CENTER OF METRO NEW YORK, Inc., v. WESTCHESTER COUNTY, NEW YORK, 06 Civ. 2860 (DLC) Opinion and Order, filed 02/24/2009; Stipulation and Order of Dismissal, filed 08/10/09; (These and related documents to this case can be accessed on line at:

www.antibiaslaw.com/westchester-false-claims-case; (Also review: Map - Concentration of Non-Hispanic Black Population by Census Block, 2000 Census; and, Fact Sheet on Key Elements of Settlement, posted as a PDF document on this website)

Goodwin Liu, Education, Equality and National Citizenship, The Yale Law Journal, 116: 330, 2006; www.msri.org/calendar/attachments/workshops/388/EENCv3.pdf

Andrew P. Mullins, Jr., The Education Programs of Governor William Winter, 2009; Journal of Mississippi History

McKinsey & Company, The Economic Impact of the Achievement Gap in America's Schools, April, 2009;

www.mckinsey.com/client-service/.../achievement_gap_report.pdf

Robert P. Moses and Charles E. Cobb, Jr. *Math Literacy and Civil Rights*, Beacon Press, 2002.

Will Debbie and Roland G. Freyer, Jr.: Are High-Quality Schools Enough to Close the Achievement Gap? Evidence from a Bold Social Experiment in Harlem. Harvard University, 2009; www.economics.harvard.edu/faculty/freyer/.../hcz%204.15.2009.pdf

Matt Miller, Nationalize the Schools (... A Little)!, Center for American Progress, March 2008; www.americanprogress.org/.../nationalize_the_schools.html; (Follow the link to the full PDF text of this report.)

Mississippi Department of Education: Budget Funding Application and Related Documents;

<http://www.mde.k12.ms.us/budget/MDE%20K-12%2020FY10%20Request.ppt>

<http://www.mde.k12.ms.us/Extrel/leg/09Legislation.html>

Mississippi Adequate Education Program (MAEP) Explanation;
http://www.mde.k12.ms.us/financial_accountability/maep.html

Putting the Pieces Together: a Taxpayer's Guide to the Mississippi Budget
www.mepconline.com/images/.../MS_Budget_and_Tax_Guide.pdf

Joint Legislative Budget Recommendation for FY 2009 Released by the Joint Legislative Budget Committee;
www.mepconline.org/.../FY_2009_Joint_Legislative_Budget_Recommendation.pdf

State of Mississippi, Joint Legislative Budget Committee Budget Report, 2009, submitted by the Joint Legislative Budget Office;

Selecting Report Topics:

By week 5, students will propose topics for a final paper for the semester, in consultation with faculty. The final paper will account for 75% of the grade for this course. The remainder of the course grade will be determined from class participation.

Topics should be directly related to the “topics to be addressed,” listed above. Students will be encouraged to choose a topic that draws upon their wider academic interests. For example, law students may choose to focus on at least some case law, constitutional and statutory materials and students from other disciplines will be encouraged to work within their own academic interests.

Within 2 weeks of selecting a topic, students will meet with faculty to review a topic outline and to propose a preliminary bibliography. Faculty will be available for regular meetings and collaboration as the research develops.

Specific readings will be selected depending on the makeup of the class and specific interests. Additional readings will be assigned as soon as topics for final papers have been selected. These additional readings will be responsive to the topics being researched.

Commencing on week 8 students will begin reporting on their preliminary findings from their independent research.

Final reports on selected topics will be due on May 1, 2010.

(end)

APPENDIX A

Background reading list for students who did not participate in the first semester of this course:

- Charles C. Bolton, *The Hardest Deal of All, The Battle Over School Integration in Mississippi, 1870 -1980*, University Press of Mississippi, 2005
- *Report of the Brown University Steering Committee on Slavery and Justice, Confronting Historical Injustice: Comparative Perspectives*, pp. 32-57; Accessible on line at: www.brown.edu/research/slavery_justice/documents/slaveryandjustice ; (Students are also encouraged to read the entire Brown report.)
- Education Trust, Inc. *Education Watch – Mississippi; Key Education Facts and Figures – Achievement, Attainment and Opportunity From Elementary School Through College, Fall 2006*. Accessible on line at: www.edtrust.org. Edwatch Online 2006. *National Center for Education Statistics – State Profiles, The Nation’s Report Card (Mississippi)*; Accessible on line at: www.nces.ed.gov/national_reportcard/states/profile.asp; Southern Education Foundation (SEF), *Miles to Go Mississippi, Rebuilding Education, The Next Big Challenge*; Accessible on line at: www.southerneducation.org;

(end)

APPENDIX B

First Semester Syllabus:

IS THERE A ROLE FOR RESTORATIVE JUSTICE IN ADDRESSING PUBLIC EDUCATION ISSUES IN MISSISSIPPI?

This is in an interdisciplinary seminar, which will be conducted over the course of two semesters, and open to undergraduate honors students, law and graduate students. After a brief introduction into the concept of restorative justice, the first semester will be devoted to the study of existing data and research into other sources in order to gain a full understanding of the history of public education in Mississippi, with emphasis on how the issue of race has informed educational policy and the status of education in Mississippi today.

The second semester will consider potential remedies from a perspective of restorative justice.

The seminars will be open to those students with an interest in:

- The status of public primary and secondary education in the State;
- Understanding the historic evolution of public education in Mississippi;
- Exploring systemic alternatives for meaningful change in public education.
- Considering restorative justice as a vehicle for educational reform.

Examining the Meaning of Restorative Justice:

The concept of restorative justice has been applied in various circumstances and in different forums nationally and internationally. With regard to the

African American population of the United States the injury to be redressed arises out of, but does not end with, the institution of slavery.

The premise of restorative justice is that societal equilibrium cannot be restored unless the community comes to terms with the injustice and commits to efforts at remediation.

How does the concept of restorative justice apply to the disparity in educational opportunity in Mississippi?

- Is public education an appropriate issue for restorative justice?
- What form might restorative justice take in addressing Mississippi's educational needs?

After a brief review of the current status of public education in Mississippi and a discussion of the concept of restorative justice, the history outlined below will be explored in depth.

Mississippi does not yet deliver quality education to the majority of its school children in grades K – 12.

Mississippi remains near the bottom of the roster of the states using the recognized metrics for educational success rates in public education. The educational “outcomes” for the majority of Mississippi’s public school pupils are unacceptable.

Even with recent increases in state funding, Mississippi continues to spend less on public education than almost all other states.

Great disparities also remain on the amounts being spent on public education between those districts with a substantial tax base and those districts that do not have meaningful financial resources for local funding. Recent increases in the levels of state funding and changes in the method for distributing state financing have helped bridge the funding gap but have by no means solved the disparities in funding between districts, especially when unique and specific educational needs are taken into account.

Educational deficiencies are the greatest in those districts with high poverty levels. The poverty level is highest in those districts with large African American populations, where educational success rates for Mississippi's African American school age population remain very low.

The deficiencies in public education in Mississippi have grave consequences for all citizens of the State. Drop-out rates are very high and probably correlate with the extremely high rates of incarceration for young people, especially in the African American population. School suspensions and expulsions are also at very high levels. Many children are not being adequately prepared for post-secondary education, or to assume jobs in the economy of the 21st century. This fundamental failure in the public education system is a perpetual drag on efforts to improve the overall Mississippi economy and to better the social and political well-being of all citizens.

What Caused the Deficiencies in Public Education? How the past informs the present.

Prior to the Civil War, education was often unavailable and when available, largely a private affair, reserved for white children of economic privilege. Educating the slave population was prohibited by law. Few slaves learned to read or write. By the end of the Civil War, the large population of blacks and poor whites were illiterate, lacking meaningful educational experience. The great disruption of society during the Civil War and in the years thereafter is well known. The pursuit of systematic education was not a high priority among the white laboring class, nor was there any public commitment to encourage education of that population. The Black freemen, struggling to make their way without resources, had little opportunity to overcome the burdens of their illiteracy. Public education continued to be unavailable in the early post-war years.

Beginning in 1868, the State started to address the establishment of a system of free public schools. But from the beginning, Mississippi's educational policy was largely consumed and entangled with overriding racial policy concerns. The earliest school laws made racial integration of the newly formed public schools a matter for "local choice." The "local choice" was largely pre-ordained. Integration of public schools did not happen, even in the few years when integration was conceptually permissible.

By 1870, the Klu Klux Klan became a potent and violent force opposing public education of the freemen. By 1876, Reconstruction was at an end in Mississippi and the population of newly freed slaves and those willing to support them politically became essentially powerless.

As of 1878, just ten years after the enactment of the State's first educational laws, the Mississippi Legislature mandated racial segregation in all public schools. For the next 90 years, the State's educational policy was largely consumed with preserving *de jure* segregation of the races in public education, as increasingly in other aspects of society.

With the end of Reconstruction, the Federal Government left the states free to perpetuate systematic racial segregation. The U.S. Congress refused over the course of a number of legislative sessions to authorize use of Federal funds from the sale of public lands for educational improvement. This failure was largely the result of opposition by Southern Democrats to equal utilization of the funds for education of black and white students.

The United States Supreme Court, in ruling that the states were free to determine what constituted a "separate but equal" education, left the states to determine which resources to provide for students of each race.

The best Mississippi could do with its resources was to require a minimum 4 month school term. By 1892, an amended school law required that there be separate white and black school districts within a school administrative unit. Funding came largely from the state, with local contribution accounting for only a small percentage of the overall expenditure. A meaningful local tax base was not available to fund the dual school system.

The Mississippi Supreme Court ruled that equality in funding for black and white schools was not required, thereby leaving local administrators with the discretion to use scant funds for the white schools to the exclusion of the needs of the black schools.

The dual educational system, with minimal funding for any of the schools and wholly inadequate and unequal funding for black schools, became the hallmark of Mississippi public education. By the start of the twentieth century, the state had managed to consolidate and thereby improve a significant number of its all-white schools, providing some increased educational opportunity for white students. However, a very high

percentage of small, highly inadequate rural schools for black pupils persisted. From the highest echelons of state government, the education plan called for the under-funding of black schools, with systematic rationalizations to demonstrate that educating the state's black population was both unnecessary and largely a waste of resources.

The state's education system struggled under the dual burdens of inadequate funding and commitment to separate education for the races through World War II. As African-American GI's began returning home, the deplorable state of public education in Mississippi received renewed attention. In a bizarre twist, many of Mississippi's public officials began to realize that the only way to continue to preserve a dual system of public education was to provide some modicum of funding for Mississippi's black schools. However, the funding problem was daunting.

With the 1954 United States Supreme Court decision in *Brown v. Board of Education*, far too many of the state's public officials and white citizens turned attention to resisting the school integration mandate which finally had rejected the constitutionality of the "separate by equal" doctrine.

Shortly after the *Brown* decision, the Governor convened a Legal Advisory Committee to "test" the concept of implementing and wholly funding a separate school system for every black child in the state.

The Citizens' Councils were formed to muster a challenge to *Brown* and to give voice to white opposition to school integration.

The State Legislature adopted a "School Assignment Plan" to preserve race as the primary factor in making school assignments. A Constitutional Amendment was proposed to authorize the closure of all public schools to avoid desegregation.

In another twist, in order to avoid the remedial phase of the Supreme Court's 1955 decision in *Brown II*, the Legislature adopted a "Minimum Foundation" program for public education to provide some "equalization funding" for the State's black schools.

In 1956, the Mississippi Legislature passed a resolution interposing "State Sovereignty" between any school district and the federal government if the school district was "threatened" with desegregation. The "State Sovereignty

Commission” was formed and given a budget from state revenues. Thus began one of the worst and most destructive chapters of Mississippi State history.

The state turned its attention and resources to resisting the *Brown* mandate. The Legislature passed a law requiring black teachers to identify their organizational affiliations, in an attempt to suppress advocacy for integration of the schools. The Sovereignty Commission sought to identify black teachers who belonged to the NAACP. The information was disseminated with the intention of creating intense pressure upon members of the African American community opposing the separate race school system.

1960 saw a Constitutional Amendment which gave the State Legislature discretion to resist *Brown* by allowing local school boards to close schools and transfer students to maintain “peace, order and tranquility.”

In the 10 years after *Brown*, gross disparities in the funding levels for white and black school districts persisted.

Between 1963 and 1970 a series of legal challenges were mounted by both the Federal Government and private citizens in efforts to integrate Mississippi’s schools. In one such case, the resisting school district offered testimony that there are such “fundamental cultural and intellectual differences between the races” that separate school systems were necessary to meet the needs of each. In another case, the State offered testimony as to the “mental deficiencies” of black students who therefore should not attend school with “more able” white students. In the fall of 1970, after years of litigation and resistance, the Courts finally ended any pretense of legality in Mississippi’s dual school systems. The schools were left in disarray.

In 1982, the state began the long road of educational recovery. Governor William Winter led a state-wide educational reform program, resulting in the adoption by the Legislature of the “**Adequate Education Program.**”

In the recent past, the State Legislature has increased funding. It has also begun to address the issues of funding inequality, the special needs of the most egregious of under-achieving schools and accountability by education managers and teachers. In spite of these efforts, overall funding levels remain very low, when measured against national norms and educational achievement remains very low.

Restorative Justice

(Semester Two – tentative outline)

- What does “restorative justice” mean, in the context of the historical failure of state educational policy, a critical state function and the long history of *de jure* racial discrimination?
- What remedies should be considered to provide restoration for the harm to individual students and the citizenry of the state? Should there be state and federal legislative changes, and if so, what should they be? Should the education clause of the Mississippi Constitution be amended to mandate fundamental and sweeping changes in the state’s commitment to public education?
- What responsibility does the State have to provide a meaningful remedy?
- What role and responsibility should the Federal Government have in providing a remedy?
- Can a process of “restorative justice” engage the interest and participation of parents and students in rapid and effective programmatic changes for all of Mississippi’s school children?

First Semester Readings – First Four Weeks of Class:

In the first 4 weeks, all participants will read and discuss the following materials (**Required reading in bold**):

Education Trust, Inc. ***Education Watch – Mississippi; Key Education Facts and Figures – Achievement, Attainment and Opportunity From Elementary School Through College, Fall 2006***. Accessible on line at: www.edtrust.org. Edwatch Online 2006. [Optionally, students may also want to review: *National Center for Education Statistics – State Profiles, The Nation’s Report Card (Mississippi)*; Accessible on line at: www.nces.ed.gov/national_reportcard/states/profile.asp; Southern Education Foundation (SEF), *Miles to Go Mississippi, Rebuilding Education, The Next Big Challenge*; Accessible on line at: www.southerneducation.org; and, *Education Working Paper No. 8, February 2005*, Manhattan Institute for Policy Research. Accessible on line at: www.manhattan-institute.org/html/ewp_08.htm]

Mississippi Department of Education; *F.Y. 2010 Budget Request for the Legislature Budget Committee Hearing*, pp. 3-14 (state of education in Mississippi). Accessible on line at: www.mde.k12.ms.us/

***Report of the Brown University Steering Committee on Slavery and Justice, Confronting Historical Injustice: Comparative Perspectives*, pp. 32-57; Accessible on line at: www.brown.edu/research/slavery_justice/documents/slaveryandjustice ; (Students are also encouraged to read the entire Brown report.)**

John Dittmer, *Local People, The Struggle for Civil Rights in Mississippi*, University of Illinois Press, 1995

Charles C. Bolton, *The Hardest Deal of All, The Battle Over School Integration in Mississippi, 1870 -1980*, University Press of Mississippi, 2005

***Education Clause, Constitution of South Africa* (Section 29); Accessible on line at: www.info.gov.za/documents/constitution/1996/96cons2.htm#29**

***Framework Document; Education Rights Project – Wits University*; Accessible on line at: www.erp.org.za/htm/frame1.htm;**

***Education Clause (Article 8, Section 201) of the Constitution of the State of Mississippi*; Accessible on line at:**

www.sos.state.ms.us/pubs/constitution/constitution.asp

***Section 37-1-2 Mississippi Code of 1972, Legislative findings and determinations; state policy [concerning public education – The Education Reform Act of 1982]* Accessible on line at: <http://michie.com/mississippi/lpext.dll?f=templates&fn=main-h.htm&cp=>**

Selecting Report Topics:

By week 5, students will propose topics for a final paper for the semester, in consultation with faculty. The final paper will account for 75% of the grade for this course.

It is anticipated that topics will focus on key historical periods in the development of Mississippi educational policy and with emphasis on an exploration of original sources. Students will be encouraged to choose a topic that draws upon their wider academic interests. For example, law students may choose to focus on at least some case law, constitutional and statutory materials and students from other disciplines will be encouraged to work within their own academic interests.

Examples of topics include:

- 1) Education during slavery for blacks and poor whites
- 2) The role of the State Sovereignty Commission in opposing integration
- 3) The role of the Citizens' Councils in opposing school integration
- 4) The role of the Legislature (in various time frames) in perpetuating racial segregation
- 5) The role of the State Courts (in various time frames) in fostering school segregation
- 6) The role of the Federal Courts (in various time frames) in inhibiting integration of the schools
- 7) The role of Mississippi's Congressional Delegation in opposing school integration (in various time frames)

Within 2 weeks of selecting a topic, students will meet with faculty to review a topic outline and to propose a preliminary bibliography. Faculty will be available for regular meetings and collaboration as the research develops.

Additional Readings:

Commencing on week five, additional readings will be assigned, including the following:

The Honorable Michael P. Mills, United States District Court Judge, *Slave Law in Mississippi from 1817-1861: Constitutions, Codes and Cases*, 71 Mississippi Law Journal 153 (Fall, 2001),

Brown, et al. v. Board of Education of Topeka et al. Supreme Court of the United States, 347 U.S. 483, Decided May 17, 1954 (Brown I)

Brown et al. v. Board of Education of Topeka et al. Supreme Court of the United States, 349 U.S.294, Decided May 31, 1955 (Brown II)

The Southern Manifesto. Accessible on line at:
<http://www.strom.clemson.edu/strom/manifesto.html>

Alexander v. Holmes County Board of Education et al. Supreme Court of the United States, 396 U.S. 19, Decided October 29, 1969

San Antonio School District v. Rodriguez, 411 U.S. 1 (1973)

Goodwin Liu, *Education, Equality and National Citizenship*, The Yale Law Journal, 116: 330, 2006

Arthur Kinoy, *The Constitutional Right of Negro Freedom*, 21 Rutgers Law Review 387 (1967) and, *The Constitutional Right to Negro Freedom Revisited: Some First Thoughts on Jones v. Alfred H. Mayer Company*, 22 Rutgers Law Review 537 (1968).

Roy L. Brooks, *Atonement and Forgiveness, a New Model for Black Reparations*. U. California Press, 2004 (Preface to page 95)

Joseph Crespino, (*In Search of Another Country – Mississippi and the Conservative Counterrevolution. Chapter six, The Irony of School Desegregation; Chapter seven, Southern Strategies in Mississippi* (This entire book is recommended reading.)

Du Bois, *Black Reconstruction in America*, Chapter- *Founding the Public School*;

McLemore, Richard Aubrey, *A History of Mississippi*, University and College Press of MS. 1973.

Additional readings will be assigned as soon as topics for final papers have been selected. These additional readings will be responsive to the topics being researched.

Commencing on week 8 students will begin reporting on their preliminary findings from their independent research.

Final reports on selected topics will be due on December 1, 2009.

