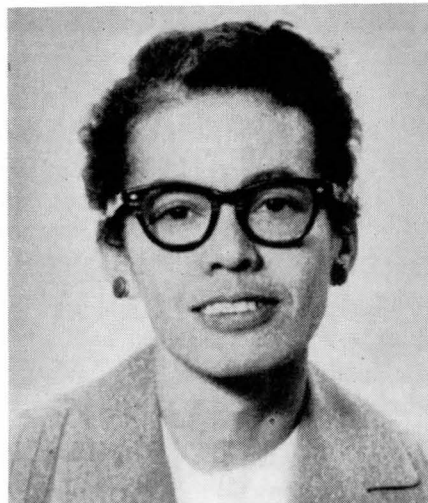


On Teaching

CONSTITUTIONAL LAW

*In GHANA**

Pauli Murray '33



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A Constitution two months old, few books in the library, no textbook from which to teach, and students without previous university training: these were the raw materials from which we built a Constitutional Law course in Ghana.

There were, as yet, no precedents in the law of Ghana for interpreting the Constitution, and most of the students had been exposed only to courses in the History of the British Empire, Religious Instruction, Mathematics, Geography, sometimes Latin, General Science, and English Literature.

The students had been trained in the lecture method, but it seemed to me that they might find the work more interesting if lectures were combined with class discussion. Since the class was never more than 20 in number, I arranged the seating in seminar fashion so as to encourage the discussion technique. Then I mimeographed the Lecture Notes in advance, combined them with mimeographed "Cases and Materials" and at the outset of the course distributed a fairly complete folder with the notes and materials included, so that the students had something they could use outside of class for preparation. And as I expected, they came to class prepared to argue and discuss.

All of the students were working students—civil servants or teachers—and attended school from 4 to 7, had little time for library study, and had few, if any, books of their own. The great problem was to devise a course for them in such a way as to give them some advantage of research and materials which were not widely available to them. Library materials were sparse.

**We are indebted to Yale University for permission to reprint extracts from Miss Murray's story of an important mission.*

The author, Miss Pauli Murray, received her B.A. from Hunter College, LL.B from Howard, and LL.M. from the University of California at Berkeley. Under a Yale Law School Graduate Fellowship, she is completing her doctoral thesis; a comparative study of protection of human rights and fundamental freedoms in emergent African countries.

Miss Murray is now Tutor of Law at Yale University.

She was admitted to the California, New York, and U. S. Supreme Courts. Miss Murray is now a member of the Political and Civil Rights Committee of President Kennedy's Commission on the Status of Women.

In a letter reminiscing about her days at Hunter, she names certain teachers whose courses she considers among the "great experiences" of her life: Mrs. Dorothy S. Keur, Miss Catharine Reigart, and the late Miss Minnie Yarborough, Miss Marjorie Anderson, and Miss Marguerite Jones.

I had only the books I brought with me, and the Government and Constitutional Law section of the USIS Library. An American lawyer, Peter Weiss, had contributed a set of United States Supreme Court Reports; my associates at Paul, Weiss, Rifkiind, Wharton and Garrison had given miscellaneous casebooks and textbooks; and the United States Information Service had given us a set of Corpus Juris. With the aid of these materials, I outlined my lectures, sometimes in the form of questions. Instead of using my own words to fill in the content, I usually quoted the meaty paragraphs of partic-

ular authorities, trying always to give a British view, an American view, sometimes a Pakistani or Indian view, and trying very often to have a non-American authority describe American legal institutions.

From the point of view of teaching, it was difficult to help the students learn the distinction between the English and the American concepts of Constitutional Supremacy and Judicial Review. We spent weeks on this complex transition, beginning with problems of constitutional interpretation and which branch of government is to interpret the Constitution, and progressing to the notion of written constitutions as fundamental law which provide limitations on government and which preserve and guarantee the fundamental liberties of the people.

I told them I did not want them to memorize rules of law— I wanted them to learn how to analyze a legal problem and to use their own powers of reasoning. I warned them to be skeptical of everything I said about American Constitutional Law and English Constitutional Law, and to remember that they were the Jeffersons, Madisons, etc. of their day; that upon their shoulders might well rest the future constitutional history of Ghana.

In view of the tense situation in the Congo which had political repercussions everywhere, I reminded the class that I was a stranger in their country and guest of their government; that these were troublous times and that I would not have them believe that I would present any point of view which was hostile to their government or way of life; that, on the other hand, professional integrity demanded that I make them see all sides of every subject, do their own thinking and arrive at their own conclusions; that, as lawyers they must learn how to defend an unpopular position; and that my only request was that they not distort the statements I made in class.

While we were discussing the nature of *de jure* and *de facto* states, we headed right into the question whether or not the Congo is a state. This led to the relationship of the Katanga question to the Congo and to a discussion of the revolutionary right of secession. American history came to the rescue and I explained how this grave issue could not be decided within the framework of the Constitution, but had taken four years of civil war before the issue was decided. From this discussion, I learned some valuable lessons: (1) that part of my job would be to show these students how similar are the problems of all nations during periods of their growth and that the problems of the African nations are not unique in human history; (2) to equate

some of the constitutional problems of Ghana with those experienced by the United States at relatively similar periods of their history; (3) to strive always to relate the classroom material to the field of their most intense interest and to translate what I knew of American development into African terms; (4) not to shy away from difficult issues but to wrestle with them and to stimulate the students to express differing viewpoints.

Often, instead of answering a specific question, I outlined the principles from which to proceed and encouraged the students to answer it themselves. This technique, wholly accidental, and based upon the ticklish situation in which I found myself, paid off handsomely. For days, classes ended in uproar as the students clattered down the steps to stand in the school yard an hour or more, arguing with one another.

To develop habits of research, I began to insist that they support their arguments with judicial authority. I then discovered they seldom used the library because they had not learned how to find the law. So we held a class in the library. The Director demonstrated how to look upon a problem in the English digests and other reference works, and I duplicated the demonstration with American sources.

When we took up the rule of law, the idea struck me that the American Civil Rights cases would be relevant to our discussion. They would demonstrate the growth of a written constitution through interpretation by the Supreme Court, in cases involving the struggle of American Negroes to enforce their constitutional rights. Of necessity, such a review would give them some perspective on American democracy.

I began with the *Dred Scott* decision, moved through the *Civil Rights Cases* to *Plessy v. Ferguson* and then the long road back to the *Brown* decision of 1954 and *Aaron v. Cooper* of 1958, which took care of Little Rock. I carried them through sixteen decisions, giving them the historical background of each case, something about the judges (like Taney and Harlan), and something of the atmosphere of the modern cases. I showed them the voluminous brief used in the *Brown* decision, described the thousands of man hours involved, the authorities amassed and the hundreds of lawyers, white and colored, who worked on the case voluntarily. I read pertinent and significant excerpts from the majority opinions or dissents, as the case might be, underscoring the fact that always in the United States there had been those voices of clarity who stood for the rights of man. The students were so interested in this presentation that they insisted upon extra class time to complete the review.

They were therefore ripe for Professor Fowler V. Harper, who appeared on the scene about two weeks later with lectures on Civil Liberties in the United States, the role of the Supreme Court, Judicial Review and Separation of Powers, clinching what I had covered. He showed a TV-Omnibus film, which re-enacted many of the civil rights cases I had presented, with the very words I had read to the students. It was one of the high points of my experience with the course—a coincidence so great that it actually looked as if Professor Harper and I had planned it that way. What was so fascinating about the use of the civil rights decisions in the field of race relations was that they pointed up various aspects of constitutional interpretation, such as "state action", the commerce clause and the due process clause. The icing on the cake, however, was the December 1, 1960, *New York Times* text of the Federal Court's decision in the New Orleans school segregation case. I mimeographed it and used it to summarize this part of the course, for not only did it spell out anew the significant constitutional guarantees against segregation and discrimination but it dealt with the relationship of the Supreme Court to the Constitution—and with the finality of its decisions, bringing forward the principles of *Marbury v. Madison*, with which my students were thoroughly familiar by now.

Toward the end of the term, I gave the class a sample Constitutional Law examination problem, worked out in such a way that it dealt with the major principles we had discussed all term. It took them two hours to answer it, since I first had them decide and write a ma-

ajority opinion and then a dissenting opinion. I worked out a very complicated procedure of marking based upon the total points made by the class, then checking off the points each student made and totaling his mark accordingly. We spent considerable time in *post mortems* on the examination and I explained in detail my procedure for marking the papers so as to be as objective as possible.

It was a real joy to see the development of these students through both their classroom discussion and their written papers, to see them tackle difficult issues with ease and a sense of confidence. This means, I think, that they began to respect me as one interested in developing their minds, so that they could independently develop their convictions.

The highest compliment which was paid to me came from my youngest student on the last day of the semester, after class.

He spoke of the poverty of his people in the Northern Region and how little opportunity they had had in the past for education. He said that if he were successful in being admitted to the bar, he would be the first lawyer from his district. He added: "We had been led to believe that American education is inferior. We have been impressed with American technology, however, and through your Constitutional Law class—the first time we have ever been taught by an American—we have come to change our views. We used to accept without questioning whatever the lecturer said. Through your class we have learned to inquire."

Reminder!

Calling All Members

to the

Membership Meeting

(already announced)

Wednesday Evening, January 16, 1963

7:00 P.M.

North Lounge, Park Avenue

Consideration of Proposal to Change Article II of our Constitution.

Committee Reports: Nominating, Birthday Luncheon, etc., etc.

Other Important Matters:

1. State support for the graduate program; free tuition in the Community and Junior Colleges, as well as in the Senior Colleges.

2. The proposal for the City-University Clubhouse for the four Colleges.

3. Preliminary Plans for our Alumni program for Hunter's Centennial.

HAVE YOU PAID YOUR DUES? (\$3.00 for June '62 and January '63 graduates—all others \$5.00). Or be an angel; become a Contributor Member—\$10.00; a Donor Member—\$25.00.

Anna M. Trinsey, President