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# LEGAL EDUCATION & PROFESSIONAL OPPORTUNITIES

## THE EDUCATION OF LATINO LAWYERS: AN ESSAY ON CROP CULTIVATION\*

*MICHAEL A. OLIVAS†*

I am regularly asked why Latinos do not fare better in school and society, usually by well-meaning colleagues who are genuinely troubled by the problem. Having spent eight years in the Catholic seminary studying for the priesthood, I tend to be an optimist and put the best gloss on any problem. So, for all the years I have been writing about the education of Latinos, I have always taken the high road; I have variously relied upon the reservoir of goodwill in the majority, counted upon colleagues to follow their own institutional self-interest in seeking and graduating Hispanic students, and encouraged need-based aid programs because in any need-based aid program, Latinos, who constitute one of the most impoverished communities, will more likely participate. I have delivered dozens of lectures, usually during Hispanic Awareness Weeks or Cinco de Mayo celebrations, exhorting my people to do well and encouraging institutional leaders to help my people.

But, like Reverend Leon Sullivan, who finally gave up on white South Africans, I have come to believe, reluctantly, that the majority of individuals in higher education and legal education do not think a problem exists, do not act as if a problem exists, or do not care about minority achievement. I say this knowing how sharply critical and pessimistic this will seem to many readers. However, I have come to believe that Anglo ra-

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\* A version of this Article was delivered at the UCLA School of Law on Feb. 6, 1993.

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cism is at the heart of the problem. Even the self-help I have urged and the patronage of a small number of majority colleagues cannot resolve the clear and long-standing legacy of historical racism toward Latino populations in the United States. For this proposition I could cite historical evidence, from the annexation of the southwestern United States, the colonization of Puerto Rico, the Bracero Program and "Operation Wetback" to the English-only movement and longstanding immigration practices.<sup>1</sup> I could also cite more subtle practices, such as the heightened reliance on standardized testing<sup>2</sup> and the indifference of elected officials to Hispanic communities. While the laundry list could continue, it advances no purpose. Instead, I choose one issue on which to focus my point: the need for more Latino lawyers and professors, especially law professors. I believe that this need for an increased Latino professoriate is the single most important key to any hope for increasing Latino educational access. This Article is divided into two sections: the first examines the condition of education for Latinos, from k-12 through graduate and professional studies, while the second section focuses upon the Latino professoriate, particularly Latino law professors. In each section, there is both good and bad news, or a half-full, half-empty quality to the findings. There can be no doubt that things have improved for Latinos, even to the point that a white backlash has begun to surface. However, in several key respects, progress has been stalled and educational data paint a starker portrait than would have been expected.

## I. THE CONDITION OF LATINO EDUCATION

At all levels, Latino students lag behind their Anglo and other minority peers. Hispanic students, including virtually every

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1. See Jose A. Cabranes, *Citizenship and the American Empire: Notes on the Legislative History of the United States Citizenship of Puerto Ricans*, 127 U. PA. L. REV. 391 (1978); ERNESTO GALARZA, *MERCHANTS OF LABOR: THE MEXICAN BRACERO STORY* 46-57 (1964) (explaining the Bracero program's exploitation of Mexican farm laborers); JUAN R. GARCIA, *OPERATION WETBACK: THE MASS DEPROTATION OF MEXICAN UNDOCUMENTED WORKERS IN 1954*, at 106-38 (1980); MARIO A. BARRERA, *RACE AND CLASS IN THE SOUTHWEST: A THEORY OF RACIAL INEQUALITY* 62-99 (1979) (immigration practices and labor history of Chicanos); Michael A. Olivas, *The Chronicles, My Grandfather's Stories, and Immigration Law: The Slave Traders Chronicle as Racial History*, 34 ST. LOUIS U. L.J. 425, 435-39 (1990) (discussing the history of discrimination against Mexicans and Mexican-Americans through the Bracero program and "Operation Wetback").

2. Increased competition for students in elite institutions and competitive programs has resulted in extraordinary pressures upon admissions offices. It is not unusual for a law school to have a ratio of ten applicants for every seat to fill; for example, Georgetown University Law Center screens over 13,000 applications each year for its first year class. See generally Michael T. Nettles, *The Effect of Assessment on Minority Student Participation*, 65 NEW DIRECTIONS FOR INSTITUTIONAL RESEARCH (1990).

subgroup, do poorly in grade school, middle school, and high school, particularly in the transitions from one level to the other. Despite the increasing size of Hispanic populations, the key indicator of high school completion has worsened: high school graduation rates for Hispanics have dropped from 62.9% in 1985 to 54.5% in 1990.<sup>3</sup> Comparable white rates were 83.6% in 1985 and 82.5% in 1990, and African-American rates were 75.6% and 77% in the same period.<sup>4</sup> Even with large GED and adult basic education enrollments, Hispanic educational achievement data are discouraging. As Table 1 indicates, only 44% of Mexican Americans, 56% of Puerto Ricans, and 64% of Cubans had completed four years of high school.<sup>5</sup> Figures for whites show 80% have completed at least four years of high school.<sup>6</sup> The corollary data are even more striking: while virtually no adult Anglo (1.7%) has less than five years of schooling, 16% of adult Mexican Americans and 10% of adult Puerto Ricans do not even reach this minimal level.<sup>7</sup>

These bleak data take their predictable toll on the Latino college-bound population. In 1990, 29.1% of Latino high school graduates went to college, an increase over the 1985 level of 26.1%. However, 39.4% of white graduates attended college, up from 34.4% in 1985. Also, Black graduate figures improved from 26.1% to 33% in the same time period.<sup>8</sup> Naturally, these attendance figures depend on high school completion as a denominator, and thus the increased attendance rates show an improvement, but only for the shrinking percentage of high school graduates.

Although Latino college enrollments in the fifty states and Washington D.C. increased from 417,000 to 680,000 in the years between 1978-1988 and to 758,200 by 1990, their percentage of the total only increased from 3.7 to 5.2, and to 5.5 in 1990.<sup>9</sup> Thus, the totals increased substantially, but as part of an ever-increasing number of students overall, totalling 13.7 million in 1990.<sup>10</sup> In addition, Hispanics are disproportionately enrolled in two-year colleges, with 56% of all their enrollments in this sector compared with 38% for all students.<sup>11</sup> These students are also extraordinarily concentrated in a small number of colleges.

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3. DEBORAH J. CARTER & REGINALD WILSON, MINORITIES IN HIGHER EDUCATION 37 (Table 1) (American Council on Education Tenth Annual Status Report 1992).

4. *Id.*

5. *See infra* Table 1.

6. *Id.*

7. *Id.*

8. CARTER & WILSON, *supra* note 3, at 36-37 (Table 1).

9. *Id.* at 43 (Table 4) (calculations by author).

10. *Id.*

11. *Id.*

TABLE 1. EDUCATIONAL ATTAINMENT BY HISPANIC GROUP  
MEMBERSHIP OF PERSONS 25 YEARS AND OLDER,  
1980-1990

	% COMPLETED LESS THAN 5 YEARS OF SCHOOL			% COMPLETED 4 YEARS OR MORE OF HIGH SCHOOL			% COMPLETED 4 YEARS OR MORE OF COLLEGE		
	1980	1985	1990	1980	1985	1990	1980	1985	1990
HISPANIC GROUP									
MEX. AMERICAN	20.1	17.1	15.5	38.1	41.9	44.1	4.9	5.5	5.4
PUERTO RICAN	14.1	12.8	9.7	45.9	46.3	55.5	5.6	7.0	9.7
CUBAN	7.3	7.4	5.8	34.6	51.1	63.5	12.2	13.7	20.2
WHITES	3.2	2.7	1.7	69.6	73.9	79.6	17.4	22.4	22.2

SOURCES: U.S. Bureau of Census, *General Social and Economic Characteristics: 1980 United States Summary*, (PC80-1-C1). Washington, D.C.: U.S. Government Printing Office, 1983.

U.S. Bureau of Census, Current Population Reports, *Persons of Spanish Origin in the United States: March 1985*, (P-20-No. 403). Washington, D.C.: U.S. Government Printing Office, 1985.

U.S. Bureau of Census, Current Population Reports, *The Hispanic Population in the United States: March 1990*, (P-20-No. 449). Washington, D.C.: U.S. Government Printing Office, 1991.

Hispanic Association of Colleges and Universities (HACU) data show that 115 of 3300 institutions in the U.S. enroll almost half the Hispanic students in the country.<sup>12</sup> These 81 Hispanic-serving institutions, all of which have at least 25% Latino enrollments, include fifty two-year colleges and 31 four-year institutions.<sup>13</sup>

In graduate education, Latinos experienced an actual numerical decline of 15.2% between 1986 and 1988, dropping from 46,000 graduate students to 39,000.<sup>14</sup> No other group, Anglo or minority, experienced declining enrollments during this time.<sup>15</sup> Lest observers think these students went on to professional schools, Hispanic first-professional school enrollments increased only from 2% in 1980 to 3.5% in 1988; in actual enrollments, the increase was from 5,000 to 9,000, with no increase from 1986 to 1988.<sup>16</sup> Graduate Management Admissions Test (GMAT) data show that only 1.1% of all GMAT takers in 1988-89 were Chicano and only 0.7% were Puerto Rican.<sup>17</sup>

12. Eighty-one institutions are located in the fifty states and Washington D.C., while there are thirty-four in Puerto Rico. Interview with Hispanic Association of Colleges and Universities staff (Jan. 1993).

13. There are three law schools in Puerto Rico, and St. Mary's and St. Thomas, both with law schools, are included in the 31 four-year institutions. *Id.*

14. CARTER & WILSON, *supra* note 3, at 45 (Table 6)(calculations by author).

15. *Id.*

16. *Id.*

17. Interviews with Graduate Management Admissions Test staff (Jan. 1992).

Latinos certainly are not flocking to law school, the subject of inquiry here. Although 1990-91 data show a promising one-time leap for Mexican Americans and Puerto Ricans in the United States over the previous year, there were fewer Mexican Americans enrolled in law school in 1989-90 than in 1981-82.<sup>18</sup> Also, there was only a slight increase for Puerto Ricans; 450 law students enrolled in 1983-84 and increased to 483 in 1989-90.<sup>19</sup> At present, there are 2582 Cubans and other Latinos enrolled in law school, more than Mexican Americans and Puerto Ricans combined,<sup>20</sup> even though the latter two groups comprise over 85% of the U.S. Latino population.<sup>21</sup> As with their undergraduate counterparts, Latino law students are extraordinarily concentrated in a small number of institutions: Miami enrolls over 200 students, Texas enrolls over 170, and UCLA, Texas Southern, Houston, and Georgetown enroll over 100 each. The University of New Mexico, St. Mary's, St. Thomas and Texas Southern University have the greatest concentrations of Latino law students.<sup>22</sup>

TABLE 2. SURVEY OF MINORITY GROUP STUDENTS  
ENROLLED IN J.D. PROGRAMS IN APPROVED LAW SCHOOLS\*

	No. OF SCHOOLS REPORTED	ACADEMIC YEAR	1ST YEAR	2ND YEAR	3RD YEAR	4TH YEAR	TOTAL
BLACK AMERICAN	172/175	1990-91	2982	2222	2023	205	7432
	172/175	1989-90	2628	2128	1816	219	6791
	171/174	1988-89	2463	1913	1728	217	6321
	171/175	1987-88	2339	1761	1690	238	6028
	171/175	1986-87	2159	1800	1735	200	5894
	172/175	1985-86	2183	1837.5	1791	240	6051.5
	171/174	1984-85	2214	1878	1686	177	5955
	170/173	1983-84	2247	1813	1711	196	5967
	169/172	1982-83	2217	1827	1623	185	5852
	169/172	1981-82	2238	1793	1596	162	5789
	168/171	1980-81	2144	1684	1531	146	5506
	166/169	1979-80	2002	1647	1438	170	5257
164/167	1978-79	2021	1565	1572	192	5350	
160/163	1977-78	1945	1648	1508	203	5304	
MEXICAN AMERICAN	172/175	1990-91	768	624	527	31	1950
	172/175	1989-90	640	531	469	23	1663
	171/174	1988-89	656	510	458	33	1657
	171/175	1987-88**	610	528	472	34	1644

18. See *infra* Tables 2 & 3 (showing that 1663 Mexican Americans enrolled in 1989-90, while 1755 did so in 1981-82).

19. *Id.*

20. *Id.* (showing that 1950 Mexican Americans and 506 Puerto Ricans are enrolled).

21. *Id.* (calculations by author).

22. LAW SCHOOL ADMISSION COUNCIL/LAW SCHOOL ADMISSIONS SERVICE, THE OFFICIAL GUIDE TO U.S. LAW SCHOOLS 1992-93, at 50-57 (1992).

	171/175	1986-87**	583	503	450	32	1568
	172/175	1985-86	609	503	500	23	1635
	171/174	1984-85	607	538	486	30	1661
	170/173	1983-84	642	558	511	33	1744
	169/172	1982-83	628	573	491	47	1739
	169/172	1981-82	665	490	541.5	59	1755.5
	168/171	1980-81	659	500.5	498	32	1689.5
	166/169	1979-80	642	517	471	40	1670
	164/167	1978-79	606	471	510	62	1649
	160/163	1977-78	588	519	421	36	1564
PUERTO RICAN***	172/175	1990-91	183	153	158	12	506
	172/175	1989-90	171	150	156	6	483
	171/174	1988-89	168	156	141	13	478
	171/175	1987-88**	178	134	140	7	459
	171/175	1986-87**	165	136	115	6	422
	172/175	1985-86	171	126	108	7	412
	171/174	1984-85	132	137	123	15	407
	170/173	1983-84	166	152	120	12	450
	169/172	1982-83	171	130	105	12	418
	169/172	1981-82	149	120	116	11	396
	168/171	1980-81	158	135	141	8	442
166/169	1979-80	172	153	107	9	441	
164/167	1978-79	184	126	104	9	423	
160/163	1977-78	138	92	106	14	350	
OTHER HISPANO- AMERICAN	172/175	1990-91	1023	798	705	36	2582
	172/175	1989-90	1019	783	734	31	2580
	171/174	1988-89	819	710	610	68	2207
	171/175	1987-88**	750	623	543	35	1971
	171/175	1986-87**	728	558	550	39	1875
	172/175	1985-86	589	516	477	50	1632
	171/174	1984-85	537	427	426	49	1439
	170/173	1983-84	458	432	370	42	1302
	169/172	1982-83	520	367	326	36	1249
	169/172	1981-82	452	307	254	24	1037
	168/171	1980-81	359	272	226	25	882
166/169	1979-80	261	236	187	22	706	
164/167	1978-79	288	218	194	16	716	
160/163	1977-78	257	193	142	25	617	
AMERICAN/ INDIAN ALASKAN NATIVE	172/175	1990-91	224	185	129	16	554
	172/175	1989-90	220	147	143	17	527
	171/174	1988-89	177	165	149	8	499
	171/175	1987-88	189	144	145	11	492
	171/175	1986-87	176	155	148	9	488
	172/175	1985-86	183	145.5	124	10	462.5
	171/174	1984-85	173	135	111	10	429
	170/173	1983-84	169	126	134	12	441
	169/172	1982-83	154	134	110	8	406
	169/172	1981-82	160	112	124.5	5	401.5
	168/171	1980-81	163	137.5	107	7	414.5
	166/169	1979-80	171	110	100	11	392
	164/167	1978-79	145	110	124	11	390
	160/163	1977-78	137	130	90	6	363

ASIAN/ PACIFIC	172/175	1990-91	1753	1343	1134	76	4306
	172/175	1989-90	1501	1151	946	78	3676
ISLANDER	171/174	1988-89	1282	954	825	72	3133
	171/175	1987-88	1064	804	724	64	2656
	171/175	1986-87	929	685	650	39	2303
	172/175	1985-86	799	678	622	54	2153
	171/174	1984-85	766	610	600	50	2026
	170/173	1983-84	711	610	578	63	1962
	169/172	1982-83	731	593	562	61	1947
	169/172	1981-82	650	579	486	40	1755
	168/171	1980-81	641	485	473	42	1641
	166/169	1979-80	577	487	452	31	1547
	164/167	1978-79	557	435	398	34	1424
	160/163	1977-78	509	409	423	41	1382
TOTAL	172/175	1990-91	6933	5325	4676	396	17330
MINORITY	172/175	1989-90	6172	4890	4264	394	15720
	171/174	1988-89	5565	4408	3911	411	14295
	171/175	1987-88**	5130	3994	3717	409	13250
	171/175	1986-87**	4740	3837	3648	325	12550
	172/175	1985-86**	4534	3806	3622	384	12346
	171/174	1984-85	4429	3725	3432	331	11917
	170/173	1983-84	4393	3691	3424	358	11866
	169/172	1982-83	4421	3624	3217	349	11611
	169/172	1981-82	4314	3401	3118	301	11134
	168/171	1980-81	4124	3215	2976	260	10575
	166/169	1979-80	3825	3150	2755	283	10013
	164/167	1978-79	3801	2925	2902	324	9952
	160/163	1977-78	3574	2991	2690	325	9580

\* In March, 1983, the Office of the Consultant issued revised minority J.D. statistics based on a review of every law school questionnaire received between 1974 and 1982. Discrepancies were the result of inconsistent reporting of Hispanic students by some law schools. Appropriate adjustments were made and some minor errors in transcription corrected.

\*\* Revised figures 5/89.

\*\*\* Puerto Rican students enrolled in the three ABA-approved law schools located in Puerto Rico are not included in these statistics. For the 1990-91 school year, enrollment in ABA-approved law schools in Puerto Rico totaled 1511 students.

SOURCE: ABA Office of the Consultant on Legal Education and Admissions to the Bar (1992)(data collected annually by the ABA, derived from institution-reported statistics).

From Law School Admissions Test (LSAT) data, it is clear why Latino law school enrollments are flat or declining. In 1990, only 1.1% of all LSAT takers were Mexican American, 1.1% were Puerto Rican, and 2.5% were "other" Hispanics, predominantly Cubans. Only nine more Chicanos took the LSAT than did Puerto Ricans.<sup>23</sup> For Chicanos, 71% of test takers applied to a law school; 41% were admitted and 88% of those admitted enrolled in 1991. Eighty-three percent of Puerto Ricans applied, 41% were admitted, and 58% enrolled. For "other" Hispanics, 74% applied, 55% were admitted, and 85% enrolled. For whites,

23. See *infra* Tables 4 & 5.



TABLE 3. LEGAL EDUCATION AND BAR ADMISSION STATISTICS, 1963-1990

ACADEMIC YEAR	NUMBER OF SCHOOLS	FIRST YEAR ENROLLMENT	FIRST YEAR WOMEN ENROLLMENT	TOTAL J.D. ENROLLMENT	TOTAL J.D. WOMEN ENROLLMENT	TOTAL OVERALL* ENROLLMENT	LSAT ADMINISTRATIONS	J.D. OR LL.B. AWARDED	ADMISSIONS TO THE BAR
1963-64	135	20,776	877	46,666	1,739	49,552	30,528	9,638	10,788
1964-65	135**	22,753	986	51,079	2,056	54,265	37,598	10,491	12,023
1965-66	136	24,167	1,064	56,510	2,374	59,744	39,406	11,507	13,109
1966-67	135	24,077	1,059	59,236	2,520	62,556	44,905	13,115	14,644
1967-68	136	24,267	1,179	61,084	2,769	64,406	47,110	14,738	16,007
1968-69	138	23,652	1,742	59,498	3,554	62,779	49,756	16,077	17,764
1969-70	144	29,128	2,103	64,416	4,485	68,386	59,050	16,733	19,123
1970-71	146	34,289	3,542	78,018	6,682	82,041	74,092	17,183	17,923
1971-72	147	36,171	4,326	91,225	8,567	94,468	107,479	17,006	20,485
1972-73	149	35,131	5,508	98,042	11,878	101,707	119,694	22,342	25,086
1973-74	151	37,018	7,464	101,675	16,303	106,102	121,262	27,756	30,879
1974-75	157	38,074	9,006	105,708	21,283	110,713	135,397	28,729	30,707
1975-76	163	39,038	10,472	111,047	26,020	116,991	133,546	29,961	34,930
1976-77	163	39,996	11,354	112,401	29,343	117,451	133,320	32,597	35,741
1977-78	163	39,676	11,928	113,080	31,650	118,557	128,135	33,640	37,302
1978-79	167	40,479	13,324	116,150	35,775	121,606	123,757	33,317	39,086
1979-80	169	40,717	13,490	117,297	37,534	122,860	111,235	34,590	42,756
1980-81	171	42,296	15,272	119,501	40,834	125,397	112,750	35,059	41,997
1981-82	172	42,521	15,811	120,879	43,245	127,312	111,373	35,598	42,382

1982-83	172	42,034	16,136	121,791	45,539	127,828	118,565***	34,846	42,905
1983-84	173	41,159	16,049	121,201	46,361	127,195	111,620***	36,389	41,684
1984-85	174	40,747	16,236	119,847	46,897	125,698	104,621	36,687	42,630
1985-86	175	40,796	16,510	118,700	47,486	124,092	95,129	36,829	42,450
1986-87	175+	40,195	16,491	117,813	47,920	123,277	91,921	36,121	40,247++
1987-88	175+	41,055	17,506	117,997	48,920	123,198	100,751	35,478	39,918++
1988-89	174	42,860	18,395	120,694	50,932	125,870	115,407	35,701	46,528
1989-90	175	43,826	18,722	124,471	53,113	129,698	136,367	35,520	47,147
1990-91	175	44,104	18,592	127,261	54,097	132,433	138,087	36,385	43,286+++

Notes: Enrollment is that in American Bar Association-approved schools as of Oct. 1. The LSAT test-taker volume is given for the test year ending in the first year stated. Thus, 138,087 administrations occurred in the test year June 1989 through February 1990. J.D. or LL.B. degrees are those awarded by approved schools for the academic year ending in the first year stated. Thus, 36,385 degrees were awarded in the year beginning with the Fall 1989 term and ending with the Summer 1990 term.

Total new admissions to the bar are for the 1990 calendar year and include those admitted by office study, diploma privilege, and examination and study at an unapproved law school. The great bulk of those admitted were graduated from approved schools.

\* Total overall enrollment includes post-J.D. and other.

\*\* Stanford enrollment not included.

\*\*\* These are updated figures for 1982-83 and 1983-84.

+ This number includes Oral Roberts University, Coburn School of Law, which terminated its program effective June 1, 1986. However, the Council advised it to retain degree-granting authority for those former students who completed satisfactorily 30 additional hours in ABA-approved law schools by Sept. 1, 1988.

++ No data were available from New York state in this year; thus figure is lower than prior years.

+++ No data were available from Puerto Rico and The Virgin Islands in this year. Includes 416 admitted by diploma privilege. It does not include admissions on motion by a jurisdiction of attorneys from other jurisdictions, which totaled 5,418.

SOURCE: ABA Office of the Consultant on Legal Education and Admissions to the Bar (1992)(data collected annually by the ABA, derived from institution-reported statistics).

TABLE 4. TEST TAKERS, APPLICANTS, ADMITS, ENROLLED BY NUMBER AND PERCENTAGE, 1990

GROUP	NUMBER	PERCENT
<b>AMERICAN INDIAN</b>		
Test Takers	564	0.5% of pool
Applicants	403	71%
Admitted	226	56%
Enrolled	180	80%
<b>ASIAN/PACIFIC ISLANDER</b>		
Test Takers	4441	3.7% of pool
Applicants	3140	71%
Admitted	1905	61%
Enrolled	1568	82%
<b>AFRICAN AMERICANS</b>		
Test Takers	9498	8.0% of pool
Applicants	6691	70%
Admitted	3087	46%
Enrolled	2645	86%
<b>CHICANO/MEXICAN AMERICAN</b>		
Test Takers	1330	1.1% of pool
Applicants	948	71%
Admitted	548	41%
Enrolled	480	88%
<b>CAUCASIAN/WHITE</b>		
Test Takers	94012	79.0% of pool
Applicants	69997	75%
Admitted	40820	58%
Enrolled	33111	81%
<b>HISPANIC</b>		
Test Takers	3008	2.5% of pool
Applicants	2237	74%
Admitted	1239	55%
Enrolled	1053	85%
<b>PUERTO RICAN</b>		
Test Takers	1309	1.1% of pool
Applicants	1086	83%
Admitted	450	41%
Enrolled	261	58%
<b>OTHER</b>	4748	4.1%
<b>TOTAL</b>	118910	

SOURCE: Law School Admissions Council (1992)(data collected for 1991-92 entering class; derived from LSAC and institutional data).

TABLE 5. 1990 APPLICATION, ADMISSION AND MATRICULATION SUMMARY

GROUP	% OF TEST TAKERS	PERCENT APPLIED	PERCENT ADMITTED	PERCENT ENROLLED
NATIVE AMERICAN	0.5%	71%	56%	80%
ASIAN AMERICAN	3.7%	71%	61%	82%
AFRICAN AMERICAN	8.0%	70%	46%	86%
MEXICAN AMERICAN	1.1%	71%	41%	88%
CAUCASIAN	79%	75%	58%	81%
HISPANIC	2.5%	74%	55%	85%
PUERTO RICAN	1.1%	83%	41%	85%
OTHER	4.1%	72%	58%	83%
TOTAL	100%			

SOURCE: Law School Admissions Council (1992)(data collected for 1991-92 entering class, derived from LSAC and institutional data).

TABLE 6. 1990 TEST TAKERS WHO DID NOT APPLY TO LAW SCHOOL

GROUP	TEST TAKERS	APPLICANTS	LOST NUMBER
AFRICAN AMERICAN	Total 9498	Total 6991	2507 (26%)
Scores 25 and over	4019 (42%)	2872 (41%)	1147 (46%)
Scores 30 and over	1970 (21%)	1355 (14%)	615 (25%)
AMERICAN INDIAN	Total 564	Total 403	161 (29%)
Scores 25 and over	379 (67%)	295 (73%)	84 (52%)
Scores 30 and over	238 (42%)	191 (48%)	47 (29%)
ASIAN AMERICANS	Total 4441	Total 3549	2301 (29%)
Scores 25 and over	3557 (80%)	2661 (75%)	896 (69%)
Scores 30 and over	2769 (62%)	2147 (60%)	622 (48%)
CAUCASIAN	Total 94012	Total 69997	24015 (26%)
Scores 25 and over	83048 (88%)	61373 (88%)	21675 (90%)
Scores 30 and over	66799 (71%)	50558 (72%)	16241 (68%)
HISPANIC	Total 3008	Total 2237	771 (26%)
Scores 25 and over	1897 (63%)	1514 (64%)	383 (50%)
Scores 30 and over	1182 (39%)	977 (44%)	205 (27%)
MEXICAN AMERICAN	Total 1330	Total 948	382 (29%)
Scores 25 and over	879 (66%)	683 (72%)	196 (51%)
Scores 30 and over	568 (43%)	458 (48%)	110 (29%)
PUERTO RICAN	Total 1309	Total 1086	223 (17%)
Scores 25 and over	501 (38%)	428 (39%)	73 (33%)
Scores 30 and over	268 (20%)	242 (22%)	26 (12%)

SOURCE: Law School Admissions Council (1992)(data collected for 1991-92 entering class, derived from LSAC and institutional data).

who constituted 79% of the LSAT takers, 75% applied, 58% were admitted, and 81% enrolled.<sup>24</sup> Tables 4, 5 and 6 show the dropoffs and racial differences. These data should serve as an answer to affirmative action critics who suggest that minority students are given unwarranted breaks in the admissions process. White enrollments are at an all time high, and minority enrollments appear to have peaked.<sup>25</sup>

In sum, from grade school to law school, Latinos lag in all academic achievement data. This is not due to immigration; social science research has carefully disaggregated data to reveal that even indigenous subgroups do not fare well throughout the system.<sup>26</sup> Clearly, there is much work to be done in this regard.

## II. THE LATINO PROFESSORIATE

The extent of the problem is inadvertently revealed by Richard Chused's Society of American Law Teachers (SALT) survey, when he did not include Latino faculty due to the negligible number.<sup>27</sup> When I began teaching law in 1982, there were twenty-two Latino law teachers in the fifty states and Washington D.C. in only a dozen different institutions. The first Mexican American law professor was Carlos Cadena, who taught at St. Mary's Law School from 1952 to 1954 and from 1961 to 1965. He was also co-counsel in *Hernandez v. Texas*,<sup>28</sup> and is thought to be the first Chicano to have argued before the U.S. Supreme Court.

Similar inconsequential numbers exist in other fields of study, even fields where one would expect to find Latino scholars. According to the most recent figures from the Equal Employment Opportunity Commission (lamentably inadequate as they are), Hispanics constitute 1.5% of all faculty and just 1.1% of all tenured faculty.<sup>29</sup> As paltry as these figures are, they mask an even more startling under-representation because these numbers include *all* fields of the professoriate and report all Latinos, even some who would be surprised to find themselves described on their colleges' books as minority faculty. I have found institu-

24. *Id.*

25. See *infra* Tables 4-6.

26. See, e.g., Jorge Chapa, *The Myth of Hispanic Progress: Trends in the Educational and Economic Attainment of Mexican Americans*, 4 HARV. J. HISP. POL'Y 17 (1989-90); MICHAEL OLIVAS, *LATINO COLLEGE STUDENTS* (1986).

27. Richard H. Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537, 537 n.5 (1988) ("The number of Hispanic teachers is so low that tabulations other than the gross number of teachers are useless.").

28. 347 U.S. 475 (1954) (holding that persons of Mexican descent were a separate class, distinct from whites, and that they had been systematically excluded from jury service).

29. CARTER & WILSON, *supra* note 3, at 63-64 (Tables 19 & 20) (calculations by author).

tions that pad their figures shamelessly and that list retired, resigned, and temporary faculty as if they were active participants in institutional life. After teaching one special course as an adjunct on an extension campus for a university, I found myself listed seven years later in the institution's catalogue, and one law school lists an 80 year-old emeritus a decade later. Such examples are legion and overstate the true number of Latino faculty. Professors from Spain, Brazil, Portugal, and South America are routinely identified and misleadingly tallied as "minority" faculty.<sup>30</sup> In several universities, Anglo women married to Latinos have also been counted. Association of American Law Schools (AALS) data do not disaggregate Puerto Rican law schools from totals, consequently misstating the number of Latino law faculty.<sup>31</sup> While I do not intend to dissect racial enumeration practices,<sup>32</sup> suffice it to say that institutions employ far too few Latino faculty, and employ far too many statistical tricks in their reporting, and both practices evidence bad faith.

Although Latinos in all fields are under-represented, I am going to use law faculty as an example, because I am more familiar with the practices in this area, and because law professors have an influence in higher education beyond their small numbers. Moreover, the problems Latinos face in entering the teaching of law mirror the problems of minorities in the academy at large: exceedingly small numbers, arbitrarily employed hiring criteria, and sheer prejudice. With adjustments for different trade usages and academic customs, the case I now recite resembles that in most disciplines.

First, one starts with exceedingly small numbers: fewer than 100 of the over 5700 law teachers (less than 2%) in the approximately 175 accredited law schools in the fifty states and Washington D.C. are Latinos; of the 94, 51 are Mexican-Americans, 17

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30. See, e.g., Guy Cantwell, *Pressure to Add Minority Faculty Leads to Disputes*, HOUS. POST, July 9, 1989, at A2 (referring to a case where an Anglo law faculty member with a Mexican grandfather was counted as Latino faculty). For evidence of student misrepresentation of their racial status, see Mary Cage, *Claims of American-Indian Heritage Become Issue for Colleges Seeking to Diversify Enrollments*, CHRON. HIGHER EDUC., Apr. 29, 1992, at A29.

31. See, e.g. Dennis Hevesi, *Law Schools Boycotted Over Lack of Minority Teachers*, N.Y. TIMES, Apr. 6, 1990, at B6.

32. For scholarship that does treat racial enumeration practices, see Jeffrey S. Passel & Karen A. Woodrow, *Geographic Distribution of Undocumented Immigrants: Estimates of Undocumented Aliens Counted in 1980 Census by State*, 18 INT'L MIGRATION REV. 642 (1984); Jeffrey S. Passel et al., *Coverage of the National Population in the 1980 Census by Age, Sex and Race: Preliminary Population Estimates by Demographic Analysis*, POPULATION REPORTS, SPECIAL STUDIES, P-23, No. 115, (U.S. Dep't. of Comm., 1982). See also REP. TO CHAIRMAN, COMM'N ON GOV'T OPERATIONS, H.R. 93-25, FEDERAL DATA COLLECTION: AGENCIES' USE OF CONSISTENT RACE AND ETHNIC DEFINITIONS (U.S. Gen. Acct. Off. ed., 1992).

are Puerto Ricans, 17 are Cuban, and the remainder are of "other" Latino origin.<sup>33</sup>

TABLE 7. LATINO LAW FACULTY, 1992-93\*

*Total Latino Faculty in Tenure Track Positions:*

94 total —

51 Mexican, 17 Puerto Rican, 17 Cuban, 9 other Latinos;

61 men, 33 women

*Number of Schools Employing Latinos:*

62 total —

UNM, UH, TSU, with 4 each;

2 with 3 each;

25 with 2 each;

33 with 1 each.

Graduate Degrees: 27/94 (.29), including LL.M., M.A., Ph.D.

Law Review: 41/94 (.44)

Clerkships: 24/94 (.26)

*Visiting*

Professors: 34/94 (.36)

Tenured: 33/94 (.35)

J.D. Schools: Harvard (18), Berkeley (9), Yale (7), Georgetown (4), Minnesota (4), UNM (3), Texas (3), Utah (3), Columbia (3), 9 with 2 each, 25 with 1 each.

Years in Law	1966 - 2	1981 - 0
Teaching	1970 - 1	1982 - 1
(Tenure Track)	1971 - 1	1983 - 3
	1972 - 1	1984 - 3
	1973 - 1	1985 - 4
	1974 - 2	1986 - 1
	1975 - 0	1987 - 3
	1976 - 2	1988 - 5
	1977 - 3	1989 - 7
	1978 - 1	1990 - 16
	1979 - 0	1991 - 22
	1980 - 4	1992 - 11

Median = 5.9 years (19 over 10; 64 under 6 years)

SOURCE: Association of American Law Schools (1993)(data compiled by AALS)(calculations by author). See also AALS DIRECTORY OF LAW TEACHERS 1992-93 (1993).

\* Faculty in the 3 Puerto Rican law schools not included in the data.

Although law faculty positions are not as plentiful now as when law enrollments were soaring, a substantial number of vacancies are filled each year. In 1986-87, 570 law professors or 10% of the total law professoriate entered teaching.<sup>34</sup> In the same year, only one new Latino entered law teaching, while one left for law practice and another was appointed to a state

33. See *infra* Table 7 (calculations by author).

34. Data from AALS (on file with author).

bench.<sup>35</sup> Ground was lost. A recent study by SALT found that 34% of respondent law schools had no minority faculty, neither Latino nor black, while another 30% had only one minority teacher.<sup>36</sup> By the 1990s, things began to improve due to organized efforts of Latinos, and in 1991, a total of 22 new Latino law professors had been hired—equaling the total number of Latino law professors in 1981-82. However, even if one includes black and Puerto Rican law schools, only 7.5% of the law professoriate is minority.<sup>37</sup>

These extraordinary data show the small extent to which minorities, especially Mexican-Americans and Puerto Ricans, have entered the legal academy. Data gathered by the National Chicano Council on Higher Education (NCCHE) reveals that there are only six Chicano professors in higher education, seven physicists, twelve in chemistry, and proportionately greater numbers in sociology, psychology, Spanish, and bilingual education.<sup>38</sup> By any measure, these numbers are appalling.

What about the supply side? In 1986-87, all minority law students constituted 10.6% of law enrollments; by 1992, the percentage had increased to 15%. Of these, 1512 or 1.3% were Chicanos, the same percentage of law enrollments as in 1975-76, when 1443 Mexican Americans were enrolled.<sup>39</sup> To be sure, there are relatively few Latinos in the law school “pipeline,” but this can be misleading. First, the consumers (law schools) are also the producers; why is it that the schools do not see their responsibility to recruit and graduate more Latino lawyers? Second, even 1400 graduates a year produce a large pool of eligible Latinos over time that is certainly sufficient to produce more than the one Mexican-American lawyer hired to teach in 1986-87, or even the 22 hired in 1991, the high-water mark for Latino hiring.

Things have improved slightly, but not to the degree promised by the “Decade of the Hispanic”. As previously noted, the numbers increased but only as a static, small percentage encased in an overall growth in law school enrollments. What went wrong? What can be done? Is law teaching the pantheon with law review membership and Supreme Court clerkships the essential requirements for entry, so that most Latinos are simply not

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35. See *infra* Table 7 (calculations by author).

36. Chused, *supra* note 27; see also Charles R. Lawrence III, *Minority Hiring in AALS Law Schools: The Need for Voluntary Quotas*, 20 U.S.F. L. REV. 829 (1986).

37. Hevesi, *supra* note 31.

38. CARTER & WILSON, *supra* note 3, at 63 (Table 19). In 1990, the total number of Hispanic Ph.D.'s awarded was 1192; of these, only 700 were awarded to U.S. citizens. *Id.* at 60 (Table 16); discussion with NCCHE staff (Summer 1992).

39. Data from AALS (on file with author).



qualified? Hardly. Considerable data have been gathered on new teachers and their qualifications are indeed high. For example, of the 577 new law teachers hired in 1986-87, 38% had law review experience (compared with 48% of the total professoriate); 16% had been elected to Coif membership (the national honorary reserved for the top 10% of graduates); 10% held the L.L.M., an advanced graduate degree in law (compared with 23% of the total); and 14% had published a book.<sup>40</sup> Interestingly, one-third had no legal experience before they entered teaching; 30% had not even passed a bar exam.<sup>41</sup> It was not minority teachers who lowered the standards; the minorities hired statistically resemble their majority counterparts, and in the case of Latinos, outperform Anglo credentials.<sup>42</sup>

By 1992, the credentials of Latino law professors exceeded those of all other faculty hired during the same period.<sup>43</sup> Since 1986, with an average of over 300 new faculty hired each year, a consistent credential pattern has emerged: approximately 12% hold advanced degrees in law or other subjects, an average of one-third were on law review, over one-third reported no bar admission, approximately 90% had never published a book, and approximately one-third had no non-teaching law experience.<sup>44</sup> However, Latinos in law teaching bested each of these "required credentials." Of the 94 Latinos in law teaching by 1992, 29% had advanced degrees, 47% were on law review, and 26% had

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40. See *supra* Table 7 (calculations by author).

41. While the data show that nearly one-third held no bar membership, AALS officials suspect the true figures are closer to 15%, on the theory that people clerking and entering law teaching have simply not decided where they will take their bar exam. Discussion with Richard White, AALS (Jan. 1993).

42. See Michael A. Olivas, *Latino Faculty at the Border, CHANGE*, May/June, 1988, at 6-9. AALS data for 1983-89 show that for all new faculty hired, approximately 11% held L.L.M. degrees; 1% held J.D. degrees; 33% were on law review; and 33% reported no bar admission. Data from AALS (on file with author)(calculations by author); discussion with Richard White, AALS (Jan. 1993). See also Michael Olivas, AALS Conference Presentation, Washington, D.C. (Nov. 1989)(analyzing 1989-90 data on law professoriate)(on file with the *Chicano-Latino Law Review*).

Richard H. Chused, author of a SALT study that excluded Latinos, has suggested that faculty credentials are not comparable due to the wide range of law school requirements. *Supra* note 27. Francisco Lopez, *Deans Flunk Hispanic Hiring Quiz*, 25 GEO. L. WKLY., Dec. 4, 1989, at 1-2. My own analysis refutes this suggestion, as Latino faculty are being hired and gaining tenure at both elite and non-elite schools. For example, there are tenured Latino faculty at UCLA, Stanford, Berkeley, UC-Hastings, Wisconsin, Minnesota, and tenure track faculty at these and other elite schools. Moreover, the relative youth of Latino faculty (average time in rank is less than six years) means that there has been too little time for the usual upward mobility to show itself.

43. Given the new attention paid to hiring Latinos, the median time in teaching for Latinos is less than six years; therefore it is appropriate to measure this cohort's credentials side by side all law faculty hired since 1986-87.

44. Data from AALS (on file with author)(calculations by author).

clerked.<sup>45</sup> The schools they attended included the most elite producer-schools, with Harvard, Berkeley, and Yale as the largest suppliers. In short, Latino faculty have exceeded the usual criteria for law teaching, constituting a statistical elite, and yet Latino faculty are employed at only 60 institutions of the 175 ABA/AALS law schools in the United States.

What is operating here? A powerful mythology permeates law hiring, as it does hiring in nearly all academic fields—that there are too few minority candidates for too few positions, and that they possess unexceptional credentials for the highly credentialed demand. I believe these data paint the opposite picture—that, for most schools, white candidates with good (but not sterling) credentials are routinely considered and hired, while the high-demand/low-supply mythology about minorities persists, in the face of a more-than-adequate supply.<sup>46</sup>

Not only does this myth not square with available data, but the practices ignore the supply-side responsibility of law schools and the lack of marketplace alternatives for Latinos in other legal employment. After all, major firms and governments are no more accessible to Latinos than are law faculties.<sup>47</sup> The explanation for the existence of these myths is available, however, it is an unpopular one because it entails racism, which permeates the academy as it does all of society.

That this is so should not surprise us, as higher education reflects our society, draws from it, and collaborates with it. After all, the legal road to *Brown v. Board of Education*<sup>48</sup> was a series of higher education cases, suits in our lifetime that assaulted a segregated citadel.<sup>49</sup> The poisonous residue of those practices remains. Many of today's senior faculty directly benefited from

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45. *Id.* See *supra* Table 7.

46. See also Richard Delgado, *Minority Law Professors' Lives: The Bell-Delgado Survey*, 24 HARV. C.R.-C.L. L. REV. 349 (1989) [hereafter *Minority Law Professors' Lives*](study finding that many minority law professors report less civility and tolerance for difference, many describing their work environment as racist and severely stressful); Richard Delgado, *Mindset and Metaphor*, 103 HARV. L. REV. 1872 (1990)(responding to Randall L. Kennedy, *Racial Critiques of Legal Academia*, 102 HARV. L. REV. 1745 (1989)(supporting critical race theory)); Richard Delgado, *Affirmative Action as a Majoritarian Device: Or, Do you Really Want to Be a Role Model?*, 89 MICH. L. REV. 1222 (1991)(arguing that affirmative action goals should focus on repairing rights and not on having token representatives to increase social utility).

47. See Steven Keava, *Unequal Partners*, A.B.A. J., Feb. 1993, at 50; Doreen Weisenhaus, *Still a Long Way to Go For Women, Minorities*, NAT'L L.J., Feb. 8, 1988, at 1, 48, 50 & 53. See also Linda E. Davila, *The Underrepresentation of Hispanic Attorneys in Corporate Law Firms*, 39 STAN. L. REV. 1403 (1987) (survey of Latina and Latino law graduates).

48. 347 U.S. 483 (1954) (holding that public school segregation on the basis of race violates the Equal Protection Clause of the Fourteenth Amendment).

49. See Michael A. Olivas, *Legal Norms in Law School Admissions: An Essay on Parallel Universes*, 42 J. LEGAL EDUC. 103 (1992).

having it all to themselves, and by not having to compete—in school or the academic marketplace—with women or minorities. To a large extent, they still do not compete, particularly not with Latinos.

What can be done? My suggestions are aimed at law teaching, but they apply to many professions and fields of study. As in many professions, there is a formal hiring fair or “meat market” for law hiring, one that inadequately reaches or serves Latino applicants—the conference of the AALS. Law schools should make that meeting a far more effective device for recruiting minorities. Recent minority alumni could be encouraged to register for the conference and the conference forms could be sent to recent graduates who express an interest. I regularly carry AALS forms to conferences, scouting out minority talent. I send out dozens of forms each year, encouraging minority attorneys to consider teaching. Others could do this, thereby widening the formal stream of applicants. However, only a small percentage of law hiring occurs in the formal AALS setting, 27.6% in 1991-92. Fewer than three of ten new teachers beginning in 1992 participated in the 1991 AALS conference.<sup>50</sup> Betsy Levin, former Executive Director of the AALS, and I also conduct a workshop each year at the annual convention of the Hispanic National Bar Association. Since 1986, more than thirty Latino lawyers have attended these workshops and subsequently become law professors.

In this informal market that predominates, there is an array of things to do in order to recruit minority talent. Faculty could keep in touch with recent graduates who are undertaking advanced legal studies, making legal presentations, clerking, and engaging in private or government practice. Law school deans should identify minority practitioners who may not wish to leave their firm, but who might be persuaded to teach as an adjunct, judge a moot court competition, or lecture on their field of expertise in a lunch forum, continuing legal education seminar, or other teaching situation. This would expose students to minority professionals and encourage minority attorneys to consider teaching as a possible alternative career opportunity.

Many full-time teachers began teaching as adjunct or part-time faculty. Every legal writing program staffed by local attorneys or senior law students should be required to include minorities on its teaching staff. Faculty in all disciplines should encourage promising minority students by hiring them as re-

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50. Only 129 of the 468 new teachers in 1992-93 went through the 1991-92 AALS Faculty Appointments Registry. Interview with Richard White, AALS (Jan. 1993)(calculations by author).

search assistants or teaching assistants, mentoring them, inculcating scholarly values, and ensuring a fuller stream of persons who will aspire to eventual careers in teaching. Schools should always "be on the prowl" for promising prospects, especially minority prospects.

Schools should structure interviews to increase the likelihood of minorities' success, interview several minority candidates, and hire more than one.<sup>51</sup> One of the first law schools to hire Chicano faculty hired two at once in the early 1970s. That school, New Mexico, now has five full-time tenured Latinos, three Latina visitors, a total of seven minority faculty members, and the first Latino law school dean.<sup>52</sup> It is clear that greater effort must be expended to increase the critical mass of minority teachers in individual schools, as only one-third of all law schools have two or more minorities. Minority faculty should be appointed to chair search committees, not merely to serve as the lone member charged with affirmative-action responsibilities. In fact, I believe that the best results come from an aggressive chair, who is even more crucial than a good dean.<sup>53</sup>

A combination of formal and informal methods must be used to identify faculty. As with recruiting graceful seven-footers, strong-armed quarterbacks, or musical prodigies, recruitment requires diligent looking. Historically black law schools and Puerto Rican institutions have always been able to recruit minority lawyers, yet few majority schools recruit faculty or graduates from them. Yet, minority legal organizations have contributed many extraordinarily talented attorneys to the teaching ranks and regularly attract excellent minority law graduates. Government service has also recruited a disproportionate array of minority attorneys because of less elitist hiring criteria, more perceived openness to minorities, and few opportunities at elite law firms—which tend to have very few minority partners or associates.<sup>54</sup> Indeed, faculty enter legal teaching from a variety of backgrounds; in this regard law schools have a larger stream of candidates than do other academic fields which recruit new

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51. See, e.g., Scott Heller, *Recruiting Minority Professors: Some Techniques That Work*, CHRON. HIGHER EDUC., Feb. 10, 1988, at A17; Scott Heller, *Some Colleges Find Aggressive Affirmative-Actions Efforts Are Starting to Pay Off, Despite Scarcity of Candidates*, CHRON. HIGHER EDUC., Feb. 10, 1988, at A12.

52. Dean Leo Romero is the first Latino law school dean. To date, no law school has hired a dean who has not been a member of its faculty.

53. This conclusion comes from my personal experience in recruiting and interacting with many search committees. See Sandra Goldsmith, *HNBA's Dirty Dozen*, A.B.A. STUDENT LAW., Mar. 1993, at 3-4 (review of efforts to point out schools not hiring Latino faculty). This is not to say that deans play no role. See, e.g., Rodney K. Smith, *A Dean's Role in Supporting Minority Faculty Members*, 10 ST. LOUIS PUB. L. REV. 373 (1991).

54. See Davila, *supra* note 47.

faculty directly from doctoral programs. However almost no field is without minority candidates. It is a self-serving mythology that minority candidates are "flooded with offers" when every year, qualified and interested minorities are looking for academic work but do not find it.

One way for a university to encourage the recruitment of minority faculty is to provide additional funds, reserved for minority teachers. Most universities have funding mechanisms that reserve resources for the occasional superstar, faculty spouse, senior administrator, or other out-of-the-ordinary hiring. To turn up the heat, schools or departments with one or no minority faculty members could be precluded from hiring any majority faculty until they achieve success in attracting minorities. Only courageous provosts, deans, and presidents can effect this practice, but courage is what is needed. Another idea is that law schools could utilize placement and search firms, such as those regularly used by large law firms and universities in administrative searches.

These ideas are not revolutionary or even that unusual. Most law schools employ them, or versions of them, when looking for hard-to-find specialists; every law faculty has had to search for a specialized tax or bankruptcy or decedents-estates teacher, all of whom have been less readily available than, say, a contracts or torts teacher. The same diligence should be used in looking for minority law teachers. I am convinced that there is a good supply of Latinos and blacks in most fields who are interested in and qualified for teaching. This is more a demand-side issue, and institutions should take more seriously their obligation to demand more minority faculty.

It is little wonder that Latinos have not fared well in the academy. The condition of Latino education is appalling, and even spending more money has not drastically improved matters since majority decision-makers and educators simply do not appear to be concerned. At a minimum, schools should hire more Latino teachers in all disciplines, and make it a priority to produce more teachers. Teachers and scholars make a difference in their instruction, their writing, their service, and their characterization of social issues. They serve as useful irritants, interpreters of society, and as role models for their students—both minority and majority.

I have chosen to critique law professor hiring practices, but any field could be similarly analyzed. The lamest excuses exist in the social and behavioral sciences, to which many Latino scholars have been drawn. Many minority faculty labor in minority institutions or low-prestige colleges, and are thus removed from con-

sideration in more prestigious schools. For example, one of the most distinguished Chicano historians labors at a state teachers college, with a teaching load of four courses per semester. This is extremely common. Given the proper support and opportunities, many more minority faculty members could successfully perform at research institutions. In an earlier book, I found startling evidence that minority faculty were not even reasonably represented in the least prestigious sector—community colleges—where few faculty hold the doctorate or engage in research.<sup>55</sup> In addition, many of the law schools without Latino faculty are less-prestigious, regional, or local institutions.

In an eloquent law review essay, Professor Rachel Moran described the phenomenon of being “a society of one”:

The psychological and social consequences of membership in a Society of One are pervasive and severe. The lone minority or woman professor is likely to encounter two extreme reactions. Some students and faculty will expect the minority or woman professor to serve as a representative of all minorities and women. These expectations will manifest themselves in demands for compliance with an impossible standard of performance. Another group will stigmatize the isolated minority or woman professor by assuming that he or she is inherently less capable than white male colleagues and was only appointed because of affirmative action. These dehumanizing views ignore the unique individual characteristics of minority and women law professors by either elevating them to superhuman symbol or reducing them to substandard political appointment. Both reactions have devastating consequences. An impossible standard of performance is a sure fire formula for disappointment and failure. A negative expectation about academic promise may become a self-fulfilling prophecy . . . . A lone minority or woman law professor can not discount the salience of race, ethnicity, and gender in the legal academy. Yet, in standing apart as a Society of One, these professors cannot assume the limited diversity on law faculties implies equality or even a grudging respect.<sup>56</sup>

To be sure, many faculty of all stripes find their work alienating, solitary, or unsatisfactory. I believe, however, that minority faculty are made to feel more isolated than are their majority colleagues, and that that isolation leads to disaffection and attrition.<sup>57</sup> My discussions with disaffected Latino academics, both former law faculty and those in other disciplines, lead me to con-

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55. MICHAEL A. OLIVAS, *THE DILEMMA OF ACCESS: MINORITIES IN TWO YEAR COLLEGES* (1979).

56. Rachel F. Moran, *Commentary: The Implications of Being a Society of One*, 20 U.S.F. L. REV. 503, 512-13 (1986).

57. Delgado, *Minority Law Professors' Lives*, *supra* note 46.

clude that many instances of isolation could have been avoided with better support and reduced tension. Most encountered the "Society of One" syndrome and felt that they had regularly encountered hostile colleagues or racist students. While some feel relieved to be away from their situation, many feel bitterly betrayed that their original choice of careers was curtailed by prejudice. This attrition, like Latino attrition generally, seems an extraordinary waste in light of dire needs.

As a Chicano law professor, I fully appreciate the extent to which I and Latino colleagues have greater responsibilities; our service contributions and informal duties at times seem overwhelming. However, unless higher education takes more seriously its responsibility to seek out others like us, and to behave differently toward Latinos, the extraordinary cycle of exclusion from faculty ranks will continue. Higher education is poorer for its loss, and the United States cannot continue to rely upon its traditional practices. As society approaches the 21st century, it desperately needs the full participation of all its peoples. The professoriate, perhaps more than other ranks, requires this infusion of talent to replenish itself. Latinos have always followed the crops, and these fields require our labor and cultivation.