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Toward a Statistical Profile of Latina/os in the Legal Profession

Miguel A. Méndez† and Leo P. Martínez‡

De dicho a hecho hay mucho trecho.¹
—A Proverb—

I.
INTRODUCTION

In her ambitious history, Race, Colonialism, and Criminal Law: Mexicans and the American Criminal Justice System in Territorial New Mexico, one of our panelists, Professor Laura E. Gómez, chronicles the somewhat surprising high participation by Mexicans as petit jurors in the criminal trials of European-Americans in the late 19th century New Mexico Territory.² But the broad themes developed by Professor Gómez leave us with a mixed message. On the positive side, she describes full participation by Mexicans in the important role of jurors.³ On the other, what also emerges from her account is the almost exclusive domination by European-Americans of the positions of judge and lawyer.⁴ Mexicans were poorly represented among this elite and, despite the power-sharing she describes, were relegated to the passive role of listeners.⁵

The story we tell is even less hopeful than the history recounted by

† Adelbert H. Sweet Professor of Law, Stanford Law School. We are grateful to Professors John Donohue, Tino Cuéllar, and José L. Martínez for their helpful comments in assessing some of the data presented here. Any statistical and computational errors are ours, however. In addition, we especially want to thank Ms. Erika Wayne and other members of the Stanford Law School library staff for their tireless efforts in locating and retrieving much of the statistical data.

‡ Academic Dean and Professor of Law, University of California, Hastings College of the Law.

1. Although the alliteration and the poetry are lost in the translation, the proverb literally means that from being said to being done there is much difficulty. A better sense of the proverb is that it is a long way between the setting of a goal and its accomplishment. The proverb aptly captures the long road Latina/os must travel if they are to reach parity in the legal profession.

2. Laura E. Gómez, Race, Colonialism, and Criminal Law: Mexicans and the American Criminal Justice System in Territorial New Mexico, 34 LAW & SOC’Y REV. 1129 (2000). Her use of the terms "Mexican" and "European-American" are described in her introductory footnote. Id. at 1130 n.1. Professor Gómez uses the term "Mexican" to describe the "national origin of the original Spanish-speaking settlers of San Miguel County . . . ." Id. As we note below, we rely on the term Latino or Latina because of its inclusiveness. See infra, note 6.

3. Id. at 1164-73. Professor Gómez also cites the participation of Mexicans in the system in various roles, including deputy sheriffs, jailers, and bailiffs. Id. at 1171-72.

4. Id. at 1174-76.

5. Id.
Professor Gómez. Unlike the New Mexico Territory, Latina/o exclusion from grand and petit juries in other states was the focus of a prolonged struggle that lasted well into the Twentieth Century. Moreover, as we shall see, significant Latina/o exclusion from the bench and bar continues to this day, especially when measured by the proportion of Latina/os in the U.S. population.

No one doubts that Latinos and Latinas\(^6\) are underrepresented in the bar, the bench, law faculties, and among law school students. The only questions are the degree of underrepresentation and whether it is getting better, worse, or staying about the same. When we agreed to participate in this conference, our goal was to provide answers to these questions, but we ran into a major roadblock: incomplete data.

We hoped to present a number of tables that provided information over time about the total number of lawyers in general and the number of Latina/o lawyers in particular. In addition, we wanted to include the following data for each ten year interval beginning with 1950 and ending with 2000:

- A table showing the population/attorney ratio nationally and in each state with a substantial Latina/o population. This table would also include the Latina/o population/Latina/o lawyer ratio nationally and for each of these states.

- A table showing the population/judge ratio nationally and in each state with a substantial Latina/o population. Again, this table would include the Latina/o population/Latina/o judge ratio nationally and for each of these states. Ideally, the table would include subsets for state and federal judges.

- A table showing the population/law student ratio nationally and in each state with a substantial Latina/o population. The table would include the Latina/o population/Latina/o law student ratio nationally and for each of these states.

- A table showing the population/law faculty ratio nationally and in each state with a substantial Latina/o population. The table would include the Latina/o population/Latina/o law faculty ratio nationally and for each of these states.

These tables would be invaluable in ascertaining Latina/o participation in the bar and bench, and in the law schools as students and as faculty members. They would also be indispensable in discerning whether relative to our proportion of the population our participation is increasing, decreasing, or stabilizing nationally and in each state with a substantial Latina/o population.

We lament our inability to provide this much needed information. But all is not lost. In our search for the data, we did find information that begins to shed some light on our participation in the legal profession. So we changed the title of this

\(^6\) We prefer to use the terms "Latinos" and "Latinas" instead of "Hispanics" to refer to American citizens and resident aliens who trace their ancestry principally to Spanish-speaking Latin American countries. The data cited in this article at times appeared under the "Hispanic" category. Unless otherwise stated, "Latina/o" refers both to Latinos and Latinas.
essay from "A Statistical Profile" to "Toward A Statistical Profile." Although the data are not as complete as we would like, they do generally confirm our intuitive sense of exclusion from the profession and the isolation we sometimes experience as lawyers, judges, law professors and law students.

II.

THE PROFESION: MEN AND WOMEN

At the end of World War II, there were about 200,000 lawyers in the United States.\(^7\) It is estimated that the number reached about one million by the end of the century.\(^8\) The percentage increase in the number of lawyers during this period exceeded the percentage increase in the U.S. population. As a consequence, the population/lawyer ratio has fallen each year since 1951 when it was 695/1. By 1991, it had fallen to 313/1 and was estimated to fall to 267/1 by 2000.\(^9\)

Between the end of World War II and the mid-1960s the rate of new admissions to the bar remained relatively stable at 8000 to 10,000 per year.\(^10\) The rate began to increase modestly to about 15,000 a year until 1973 when it jumped to over 20,000.\(^11\) New admissions continued to increase yearly, exceeding 31,000 in 1979.\(^12\) Since 1980, they have stabilized at 30,000-32,000 per year.\(^13\)

Table 1 shows the number of lawyers in the U.S. and the population/lawyer ratio for selected years.

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8. Id.

9. Id.

10. Id. at 2. There was a brief rise following the war.

11. Id.

12. Id.

13. Id. It is unlikely that the current lawyer population will stabilize much earlier than 2020. The mortality rates for lawyers admitted prior to 1950 will not have much of an effect on the net growth of post-1970s lawyers because of the small initial size of the pre-1950 cohorts. Id. at 2-3.
Table 1: All Lawyers\textsuperscript{14}

<table>
<thead>
<tr>
<th>Year</th>
<th>Lawyers</th>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>1951</td>
<td>221,605</td>
<td>696/1</td>
</tr>
<tr>
<td>1960</td>
<td>285,933</td>
<td>627/1</td>
</tr>
<tr>
<td>1970</td>
<td>355,242</td>
<td>418/1</td>
</tr>
<tr>
<td>1980</td>
<td>542,205</td>
<td>403/1</td>
</tr>
<tr>
<td>1991</td>
<td>805,872</td>
<td>313/1</td>
</tr>
<tr>
<td>1995</td>
<td>857,931</td>
<td>303/1</td>
</tr>
</tbody>
</table>

The increase in the number of lawyers in the last four decades in absolute numbers and in relation to the U.S. population has been startling. But even more dramatic has been the increase in the number of women attorneys. Their increase is of special interest to us because for many years women too were severely underrepresented.

Table 2 shows the number of women lawyers and their percentage of the total lawyer population for selected years.

Table 2: Women Lawyers\textsuperscript{15}

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
<th>% of All Lawyers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1951</td>
<td>5540</td>
<td>3%</td>
</tr>
<tr>
<td>1960</td>
<td>7434</td>
<td>3%</td>
</tr>
<tr>
<td>1971</td>
<td>9947</td>
<td>3%</td>
</tr>
<tr>
<td>1980</td>
<td>44,185</td>
<td>8%</td>
</tr>
<tr>
<td>1991</td>
<td>159,377</td>
<td>20%</td>
</tr>
<tr>
<td>1995</td>
<td>202,308</td>
<td>24%</td>
</tr>
</tbody>
</table>

By the year 2000, women lawyers were expected to number 269,068 and make up 27\% of the total lawyer population.\textsuperscript{16} But, as impressive as these figures are, they mask the potential of women to make up close to 40\% of the lawyer population by the second decade of the new century. More telling is the percentage of law students who are women. Between 1977 and 1999, the percentage of women law students increased almost yearly, from 26.1\% in 1977 to 47.4\% in 1999.\textsuperscript{17} At Stanford Law School, over half of the members of the Class of 2004 are women. At the University of New Mexico School of Law, women made up 54\% of the Class of

\textsuperscript{14} Data for 1951-1991 was taken from Table 1. CURRAN, supra note 7, at 1; data for 1995 was taken from Table 1, CLARA N. CARSON, AM. BAR FOUND., THE LAWYER STATISTICAL REPORT: THE U.S. LEGAL PROFESSION IN 1995, 1 (1999).

\textsuperscript{15} Data for 1951-1991 was taken from CURRAN, supra note 7, at 4 tbl.2; data for 1995 was taken from CARSON, supra note 14, at 4 tbl.2.

\textsuperscript{16} CURRAN, supra note 7, at 4.

\textsuperscript{17} AM. BAR ASS'N, MILES TO GO 2000: PROGRESS OF MINORITIES IN THE LEGAL PROFESSION 2 tbl.3 (2000).
2002, 60% of the Class of 2003, and 62% of the Class of 2004. At the University of California, Hastings College of the Law, women made up 50% of the Class of 2002, 56% of the Class of 2003, and 52% of the Class of 2004. If these trends hold, sometime in the first quarter of the new century the percentage of women lawyers will approximate the percentage of women in the U.S. population.

Three states with large Latina/o populations — California, New Mexico, and Texas — mirror the growth in the number of lawyers and women lawyers. Statistics compiled by the American Bar Association show the following figures for selected years:

Table 3: All California Lawyers

<table>
<thead>
<tr>
<th>Year</th>
<th>Lawyers</th>
<th>% Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>1952</td>
<td>14,577</td>
<td>2.9%</td>
</tr>
<tr>
<td>1961</td>
<td>22,576</td>
<td>3.6%</td>
</tr>
<tr>
<td>1970</td>
<td>34,248</td>
<td>3.7%</td>
</tr>
<tr>
<td>1980</td>
<td>64,840</td>
<td>10.9%</td>
</tr>
<tr>
<td>1991</td>
<td>105,253</td>
<td>23.0%</td>
</tr>
<tr>
<td>1995</td>
<td>113,173</td>
<td>26.4%</td>
</tr>
</tbody>
</table>

18. Document on file with Professor Méndez.


Table 4: All New Mexico Lawyers

<table>
<thead>
<tr>
<th>Years</th>
<th>Lawyers</th>
<th>% Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>1952</td>
<td>617</td>
<td>2.1%</td>
</tr>
<tr>
<td>1961</td>
<td>972</td>
<td>2.7%</td>
</tr>
<tr>
<td>1970</td>
<td>1,319</td>
<td>2.0%</td>
</tr>
<tr>
<td>1980</td>
<td>2,508</td>
<td>10.9%</td>
</tr>
<tr>
<td>1991</td>
<td>4,062</td>
<td>21.9%</td>
</tr>
<tr>
<td>1995</td>
<td>4,231</td>
<td>27.4%</td>
</tr>
</tbody>
</table>

Table 5: All Texas Lawyers

<table>
<thead>
<tr>
<th>Years</th>
<th>Lawyers</th>
<th>% Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>1952</td>
<td>9,997</td>
<td>2.5%</td>
</tr>
<tr>
<td>1961</td>
<td>13,997</td>
<td>2.0%</td>
</tr>
<tr>
<td>1970</td>
<td>19,074</td>
<td>2.1%</td>
</tr>
<tr>
<td>1980</td>
<td>30,151</td>
<td>6.9%</td>
</tr>
<tr>
<td>1991</td>
<td>48,221</td>
<td>18.9%</td>
</tr>
<tr>
<td>1995</td>
<td>52,686</td>
<td>22.4%</td>
</tr>
</tbody>
</table>

The message in these tables is inescapable: at least one important underrepresented group has demonstrated that it is possible to achieve parity in the profession within a few generations.

III.

THE PROFESSION: LATINOS AND LATINAS

Latina/os have not matched the gains women have made since the 1970s in increasing their representation in the profession. As will be seen, Latina/os are


severely underrepresented in the profession relative to their numbers in the population. And since one in four U.S. residents is projected to be a Latina/o by 2050, the prospects of Latina/os achieving parity in the profession appear to be dismal in the near term.

By parity we mean that point where the proportion of Latina/os in the legal profession equals the proportion of Latina/os in the U.S. population in a given year. As in the case of women, parity is a useful way to assess participation in an elite profession by a group that until recent years has been largely excluded from the American mainstream. In using parity as the pertinent measure, we do not assume that Latina/o lawyers should represent only Latina/os or that Latina/o clients should retain only Latina/o lawyers. Nor are we unmindful that the Census Bureau projects that between 1995 and 2050 Latina/os will add more people to the U.S. population each year than any other group. Spikes in the proportion of any distinct group in America makes achieving parity in the legal profession more difficult. Parity becomes an even more elusive goal if a significant part of the growth consists of individuals who do not qualify for admission to law school under prevailing standards. We recognize that some Latina/o immigrants fall into this category. But in assessing the impact of immigrants on parity, it is important to underscore that the Census Bureau still projects Latina/os as the largest minority group in 2050, comprising almost 19% of the population, even after discounting for immigration after 1994. Finally, we note that by using parity as the departure point we implicitly reject the questionable assumption that, even if given a chance, Latina/os somehow are less inclined than whites to aspire to membership in the legal profession.

Latina/os made up 6.5% of the population in 1980, 9.0% in 1990, and 11.1% in 2000. Yet, Latina/o representation in the legal profession in 1990 was only 2.49%. This is an especially troubling figure because minority representation in the profession increased by almost 50% between 1980 and 1990, from about 5% to 7.45%. Comparing the percentage of Latina/os in the legal profession with the percentage of Latina/os in the U.S. workforce in 1990 does not dispel the alarm. In that year, Latina/os made up 7.76% of the workforce—a figure that most certainly increased by 2000.

23. See infra text accompanying note 35.


25. Id. at 23. Other factors affecting achieving parity in the legal profession include overrepresentation in other professions and underrepresentation in the college age pool. Proportionally, Latina/os are not over-represented in other professions. See infra text accompanying note 70. Moreover, the percent of Latina/os in the U.S. college population appears to be greater than the percent of Latina/os in the U.S. population. See infra text accompanying note 150.


27. Id. at 1 tbl.1.

28. Id. at 1.

29. Id. at tbl.2.
If the percentage of Latina/os in the profession approximated the percentage of Latina/os in the workforce in 1990, we would expect to find about 62,535 Latina/o lawyers in that year.30 Instead, the number of Latina/o lawyers in 1990 was closer to 20,066.31 If instead the percentage of Latina/os in the profession approximated the percentage of Latina/os in the population, then for that year we would expect to find about 72,528 Latina/o lawyers.32

If, as predicted, the number of lawyers in the U.S. topped one million by 2000,33 then we would expect to find 77,600 Latina/o lawyers using the 1990 workforce figure or 111,000 Latina/o lawyers using the 2000 population projections. Latina/os who practice, teach, and study law know intuitively that our actual representation in the bar is well below either of those projections. Indeed, many of us may have been surprised to learn that our numbers today might be in the 20,000+ range.

The U.S. Census Bureau estimates that the U.S. population will increase from about 275 million in 2000 to about 393 million in 2050.34 Individuals of Hispanic origin are projected to increase from about 31.4 million to about 96.5 million in that period.35 By these projections, Latina/os, who made up 11.1% of the population in 2000, will comprise a quarter (24.5%) of the population by 2050. Such a dramatic increase in any underrepresented population would make reaching parity in the legal profession problematical. In the case of Latina/os the challenge might well prove insurmountable. For as we shall see, even if the Latina/o population had stabilized at the 2000 level, reaching parity in the profession at current growth rates will require many more generations than it will take women to achieve parity.

We have been unable to gather the data needed to estimate the time that will be required for the percentage of Latina/os in the legal profession to approximate one in four lawyers. But the inordinate difficulty in achieving this goal is suggested by population/attorney ratios. In 1991 there was one lawyer for every 313 U.S. residents.36 In 1990, there was one Latina/o lawyer for every 1,115 Latina/os.37 Data from New Mexico, Texas, and California are not encouraging.

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30. The total was arrived by multiplying the total number of lawyers in the profession in 1991 (805,872) by the percentage of Latina/os in the workforce in 1990 (7.76%).

31. The figure was derived by multiplying the number of lawyers in 1990 (805,872) by the percent of Latina/o lawyers in 1990 (2.49%). The American Bar Association's Commission on Racial and Ethnic Diversity in the Profession cites a lower figure — 18,612. See Am. Bar Ass'n, supra note 17, at 1 tbl.1.

32. The total was arrived by multiplying the total number of lawyers in the profession in 1991 (805,872 by the percentage of Latina/os in the U.S. population in 1990 (9.0%).

33. See supra text accompanying note 8.

34. BUREAU OF THE CENSUS, supra note 24, at 5 (using middle series projections).

35. Id. at 12 tbl.1.

36. See supra Table 1.

37. This figure was reached by dividing the number of Latina/os (22.3 million) residing in the U.S. in 1990 by the number of Latina/o lawyers in 1990 (about 20,000). The number of Latina/o residents was taken from the census. BUREAU OF THE CENSUS, Statistical Abstract of the United States 12 (2000).
In New Mexico the number of Latina/o lawyers more than doubled from 400 in 1988 to 840 in 2000. As a result, the Latina/o population/Latina/o lawyer ratio in New Mexico fell from 1448/1 in 1990 to 911/1 in 2000. More telling, however, is a comparison of the percentage of Latina/os in the New Mexico State Bar with the percentage of Latina/os in the New Mexico population. Latina/os comprised 14% of the active state bar in 1988 and 38% of the New Mexico population in 1990. By 2000, Latina/os comprised 15% of the active bar and 42% of the state's population. As a result, the ratio of Latina/o lawyers to Latina/o population declined from 36.8% to 35.7%. Declines in this ratio (sometimes called here the “parity ratio”) makes achieving parity an even more difficult goal.

In Texas, the number of Latina/o licensed lawyers increased by 77.4% from 2,283 in 1993 to 4,051 in 2000. As a result, the Latina/o population/Latina/o


39. Report from New Mexico State Bar (on file with the authors).


In the same period, the overall population/attorney ratio in the state fell from 447/1 to 325/1. The 447/1 ratio was computed by dividing the 1990 New Mexico population (1,515,069) by the number of active lawyers in New Mexico in 1989 (3386). The 325/1 ratio was computed by dividing the 2000 New Mexico population (1,819,046) by the number of active lawyers in New Mexico in 2000 (5604). For the number of New Mexico attorneys in 1990, see supra note 38, at 14. The number of New Mexico attorneys in 2000 was taken from a New Mexico State Bar report (on file with the authors).

41. NEW MEXICO STATE BAR, supra note 38.

42. The 38% figure was computed by dividing the 1990 New Mexico Latina/o population (579,224) by the total 1990 population (1,515,069). The 1990 population figures were taken from BUREAU OF THE CENSUS, GENERAL POPULATION AND HOUSING CHARACTERISTICS: 1990, 1990 SUMMARY TABLE FILE 1, NEW MEXICO, available at http://factfinder.census.gov/.

43. NEW MEXICO STATE BAR, supra note 38.

44. The 42% figure was computed by dividing the 2000 New Mexico Latina/o population (765,386) by the total 2000 population (1,819,046). The population figures were taken from BUREAU OF THE CENSUS, RACE, HISPANIC OR LATINO, AND AGE: 2000, CENSUS 2000 REDISTRICTING DATA, NEW MEXICO, available at http://factfinder.census.gov/.

45. The 36.8% figure was computed by dividing 1990 percentage of Latina/o lawyers (14%) by the percentage of Latina/os in the 1990 population (38%); the 35.7% figure was computed by dividing the 2000 percentage of Latina/o lawyers (15%) by the percentage of Latina/os (42%) in the 2000 population.

46. One hundred percent (100%) would mean that parity had been achieved.

47. CYNTIA PANHEL, DEP’T OF RESEARCH & ANALYSIS, STATE BAR OF TEXAS, STATISTICAL PROFILE OF THE STATE BAR OF TEXAS MEMBERSHIP 1997-98 2 (Feb 1998). December 1993 is the first data point for which race/ethnicity is known for over 90 percent of the membership.
lawyer ratio in Texas fell from about 1901/1 in 1993 to 1646/1 in 2000.49 Latina/os comprised 4.2% of the licensed lawyers in Texas in 199350 and 25.5% of the state’s population in 1990.51 By 2000, Latina/os made up 6.0% of the licensed lawyers52 and 32.0% of the state’s population.53 Consequently, the ratio of Latina/o lawyers to Latina/o population increased from 16.5% in 1993 to 18.8% in 2000.54 But an improvement in the parity ratio of only 2.3 percentage points over seven years55 or an average of 0.33 percentage points annually56 leaves much to be desired. At that annual rate, it would take almost 79 years from 2000 for the Texas Latina/o lawyers to reach parity with the Texas Latina/o population of 2000 (32.0%).57

In 1991 Latina/os made up 3% of California’s lawyers58 and about 25.8% of the state’s population.59 By 2001 Latina/os made up 3.7%60 of California’s lawyers

48. The 4051 figure was computed by multiplying the number of Texas licensed lawyers in 2000 (67,524) by the percentage who are Latina/os (6.0%). The total number of licensed lawyers in 2000 was taken from Carol L. Cannon & Kevin J. Priestner, Dept’ of Research & Analysis, State Bar of Texas, Annual Report on the Status of Women in the State Bar of Texas 2000-01 1 (June 2001). The percentage of Latina/o lawyers licensed in 2000 was taken from Carol L. Cannon & Kevin J. Priestner, Dept’ of Research & Analysis, State Bar of Texas, Annual Report on the Status of Racial and Ethnic Minorities in the State Bar of Texas 2000-01 1 (June 2001).

49. The 1993 ratio was computed by dividing the 1990 Texas Latina/o population (4,339,905) by the number of Texas licensed Latina/o lawyers in 1993 (2283). The Texas Latina/o population figure was taken from U.S. Census Information, at http://www.nd.edu/~iuplt/cic/2region-state.html. The 2000 ratio was computed by dividing the 2000 Texas Latina/o population (6,669,666) by the number of Texas licensed Latina/o lawyers in 2000 (4051). The population figure was taken from U.S. Census Information, at http://www.nd.edu/~iuplt/cic/2region-state.html.


51. The 25.5% figure was computed by dividing the Texas 1990 population (16,986,510) by the number of Latina/os (4,339,905) in that population. The population figures were taken from U.S. Census Information, at http://www.nd.edu/~iuplt/cic/2region-state.html.


54. The 16.5% figure was computed by dividing the percentage of Texas Latina/o licensed lawyers in 1993 by the percentage of Latina/os in the Texas population in 1990 (25.5%). The 18.8% figure was computed by dividing the percentage of Texas Latina/o licensed lawyers in 2000 (6.0%) by the percentage of Latina/os in the Texas population in 2000 (32.0%).

55. The 2.3 figure was computed by subtracting 16.5% from 18.8%.

56. The 0.33 figure was computed by dividing 2.3 by 7 years.

57. The 79 year figure was computed by subtracting the percentage of Texas Latina/o licensed lawyers in 2000 (6.0%) from the percentage of Texas Latina/os in 2000 (32.0%), and dividing the remainder (6) by 0.33.


59. The 25.8% figure is a 1990 figure. See U.S. Census Information, at http://www.nd.edu/~iuplt/cic/data_files.html.

60. Hertz Consulting, supra note 58.
and about 32.4% of the state’s population. As in the case of New Mexico, the increase in the percentage of California Latina/o lawyers can be misleading. Because the growth rate of California Latina/os outpaced that of California Latina/o lawyers, the result, as in New Mexico, was a decline in the California Latina/o lawyer/California Latina/o population parity ratio, from 11.6% in 1991 to 11.4% in 2001. If that trend continues, attaining parity with the Latina/o population will become an even more elusive goal.

Recent California bar examination data are not a cause for optimism. The data show that the percentage of newly admitted Latina/o lawyers in California has remained fairly stable since 1997. On average, Latina/os comprised 7.4% of the total passing the nine general bar examinations held between February 1997 and February 2001.

The number of Latina/o lawyers is determined principally by the number of Latina/o law students who obtain a law degree. As in the case of the California bar examination data, figures on Latina/o law students do not bode well for the future of Latina/o lawyers. Between 1976 and 1999, the percentage of all students who were Latina/o increased each year by an average of 0.16 percentage points. If we assume that the percentage of all lawyers who are Latina/o increases each year by 0.16 percentage points, it would take almost 54 years from 1990 for the percentage of Latina/o lawyers in 1990 (2.49%) to equal the percentage of Latina/os in the population in 2000 (11.1%). Assuming the same annual growth rate, it would take almost 138 years from 1990 for the Latina/o lawyers to reach parity with the Latina/o population projected for 2050 (24.5%).

The underrepresentation of Latina/os in the legal profession cannot be explained by the overrepresentation of Latina/os in other professions. Latina/os are underrepresented in all professions, with no Latina/o professional group having achieved parity. In 1998 Latina/os made up 4.6% of all professionals. Latina/o economists led with 6.5% representation. All Latina/o professional groups, except

61. The 32.4% figure is a 2000 figure. See U.S. Census Information, at http://www.nd.edu/~iupui/cic/data_files.html.

62. The 11.6% parity ratio was computed by dividing the percentage of Latina/o lawyers in 1990 (3%) by the percentage of Latina/os in the 1990 California population (25.8%).

63. The 11.4% parity ratio was computed by dividing the percentage of Latina/o lawyers in 2000 (3.7%) by the percentage of Latina/os in the 2000 California population 32.4%).

64. The percentage of successful first-time takers and repeaters who were Latina/o is as follows: February 97 (8.1%), July 97 (6.6%), February 98 (8.8%), July 98 (7.0%), February 99 (8.6%), July 99 (7.0%), February 00 (8.3%), July 00 (6.5%), February 01 (6.8%). See GENERAL STATISTICS REPORTS, CALIFORNIA STATE BAR, at http://www.calbar.org/admissions/examresults.htm.

65. See infra text accompanying note 110.

66. The 54 year figure was reached by subtracting 2.49 from 11.1 and dividing the remainder (8.61) by 0.16.

67. The 138 year figure was reached by subtracting 2.49 from 24.5 and dividing the remainder (22) by 0.16.

68. AM. BAR ASS‘N, supra note 17 tbl.2.

69. Id.
dentists (2.0%), were better represented than the lawyers.70

Although data on Latina lawyers are sparse, their participation in the profession has increased substantially in absolute numbers. By all anecdotal accounts, almost all of the Latina/o lawyers were men until the 1960s. By 1990, Latinas comprised one-third of the Latina/o attorneys.71 In 2001, Latinas made up 30% of the 43 Latina/o federal trial and appellate judges.72 The increase in Latina lawyers can be misleading, however. Relative to the number of Latinas in the population, they are as rare as are Latino lawyers relative to the number of Latinos in the population.

Table 6: Latina/o Lawyers

<table>
<thead>
<tr>
<th>Years</th>
<th>Lawyers</th>
<th>% Latina/o</th>
<th># Latina/o</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980</td>
<td>542,205</td>
<td>2.49%</td>
<td>20,066</td>
</tr>
<tr>
<td>1991</td>
<td>805,872</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1995</td>
<td>857,931</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>1,000,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2050</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

70. Id.

71. AM. BAR ASS’N, supra note 26 tbl.2. In Texas, however, Latinas were still only one-third of the Texas Latina/o lawyers ten years later. See CANNON & PRIESTNER, ANNUAL REPORT ON THE STATUS OF WOMEN IN THE STATE BAR OF TEXAS 2000-01, supra note 48, at 2.

Table 7: Latina/o Lawyers if Parity With the Latina/o Population Had Been Achieved

<table>
<thead>
<tr>
<th>Years</th>
<th>% Latina/o Population</th>
<th>Latina/o Lawyers</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980</td>
<td>6.5%</td>
<td>35,243</td>
</tr>
<tr>
<td>1990</td>
<td>9.0%</td>
<td>72,528</td>
</tr>
<tr>
<td>2000</td>
<td>11.1%</td>
<td>111,000</td>
</tr>
<tr>
<td>2050</td>
<td>24.5%</td>
<td></td>
</tr>
</tbody>
</table>

Table 8: Years Required to Achieve Parity

Years required from 1990 for % of Latina/o lawyers to equal 11.1% of all lawyers: 54.

Years required from 1990 for % of Latina/o lawyers to equal 24.5% of all lawyers: 138.

Assumption: The percentage of all lawyers who are Latina/o increases each year by 0.16 percentage points.

IV.
JUDGES

Latina/os comprised 2.2% of about 60,000 sitting federal and state judges in 1997. This was a decline from 1990, when Latina/os made up 3.39% of the 32,394 sitting federal and state judges. Data for California show that in 1994, Latina/os comprised 9.3% of the state's 1562 judges. While that figure appears impressive when compared with the national figure for 1997, it must be recalled that Latina/os made up 31.0% of the California population in 1994. The population/judge ratios tell a different story. In 1994 there was one state judge for every 20,194 Californians but only one Latina/o state judge for every 65,246 Latina/o.

73. AM. BAR ASS'N, supra note 17, at 2 tbl.46.
74. Id. at 1 tbl.1.
75. AM. BAR ASS'N, supra note 26, at 11 tbl.31.
76. CALIFORNIA ALMANAC, at 2 tbl.1.2.95 (James S. Fay ed., 7th ed. 1995).
77. The California population/state judge ratio was derived by dividing the 1994 California population (32,150,000) by the number of California state judges (1592). The population figures were taken from id.
Californians.\textsuperscript{78}

Figures for the federal bench are not encouraging. The percentage of Latina/os on U.S. district courts was 4.5% in 1992, increased to 5.3% in 1994, decreased to 4.7% in 1997, rebounded somewhat to 5.0% in 1999,\textsuperscript{79} and fell again to 4.7% in 2001.\textsuperscript{80} Representation of Latina/os on the U.S. courts of appeal showed a consistent improvement, from 2.4% in 1992, 3.0% in 1994, 3.6% in 1997, 4.9% in 1998, 6.2% in 1999,\textsuperscript{81} to 6.7% in 2001.\textsuperscript{82} Latina/os comprised 8.4% of the appointments to the trial bench and 11.1% of the appointments to the appellate bench in Clinton's first two years in office.\textsuperscript{83} However, those appointments dropped to 3.2% and 9.1% in the last two years of Clinton's first term, after the Republicans took over the Senate.\textsuperscript{84}

Based on the percentage of Latina/os in the U.S. population in 2000 (11.1%), one would expect to find 73 Latina/os among the 665 sitting federal district court judges in 2001.\textsuperscript{85} In 1997, there were only 30\textsuperscript{86} — a figure that increased by one to 31 by 2001.\textsuperscript{87} One would also expect to find 19 Latina/os among the 179 court of appeal judges in 2001.\textsuperscript{88} In 1997, there were only six.\textsuperscript{89} Although the number doubled to 12 by 2001,\textsuperscript{90} even that figure is just two-thirds of the 19 circuit court judges one would expect to find if parity were achieved.

\textsuperscript{78} The 1994 California Latina/o population/California Latina/o state judge ratio was derived by dividing the 1994 California Latina/o population (9,656,500) by the number of California Latina/o state judges (148). The population figures were taken from \textit{id}.

\textsuperscript{79} AM. BAR ASS’N, supra note 17, at 18 tbl.42.

\textsuperscript{80} See ALLIANCE FOR JUSTICE, supra note 72. The Alliance table shows a total of 665 federal district court judges; of these 31 are listed as Hispanics. The percentage of Latina/o federal district court judges was reached by dividing 31 by 665.

\textsuperscript{81} AM. BAR ASS’N, supra note 79.

\textsuperscript{82} ALLIANCE FOR JUSTICE, supra note 72. The Alliance table shows a total of 179 federal appellate court judges; of these, 12 are listed as Hispanics. The percentage of Latina/o federal appellate court judges was reached by dividing 12 by 179.

\textsuperscript{83} AM. BAR ASS’N, supra note 26, at 10 tbl.27.

\textsuperscript{84} Id.

\textsuperscript{85} ALLIANCE FOR JUSTICE, supra note 72. The Alliance table shows a total of 665 federal district court judges; of these, 31 are listed as Hispanics. The percentage of Latina/o federal district court judges was reached by dividing 31 by 665.

\textsuperscript{86} AM. BAR ASS’N, supra note 26, at 10 tbl.28.

\textsuperscript{87} ALLIANCE FOR JUSTICE, supra note 72. The Alliance table shows a total of 665 federal district court judges; of these 31 are listed as Hispanics.

\textsuperscript{88} Id. The Alliance table shows a total of 179 federal appellate court judges; of these 12 are listed as Hispanics.

\textsuperscript{89} AM. BAR ASS’N, supra note 26, at 10 tbl.28.

\textsuperscript{90} ALLIANCE FOR JUSTICE, supra note 72. The Alliance table shows a total of 179 federal appellate court judges; of these 12 are listed as Hispanics.
Between 1992 and 1999, the percentage of district court judges who are Latina/os rose from 4.5% to 5.0%, or at an average annual rate of 0.07 percentage points each year.\textsuperscript{91} Stated differently, at that rate it took Latina/os seven years to move from 4.5% to 5.0% of the district court judges sitting in 1999. At that rate, it would take 87 years from 1999 for the percentage of Latina/o district court judges to match the percentage of Latina/os in the population in the year 2000 (11.1%). At the same growth rate, it would take almost 279 years from 1999 for Latina/o judges to reach parity with the 2050 projected Latina/o population (24.5%).\textsuperscript{92}

Between 1992 and 2001, the percentage of lawyers who are Latina/o on the court of appeal increased each year on average by 0.48 percentage points, from 2.4% to 6.7%.\textsuperscript{93} Stated differently, at that rate, it took Latina/os nine years to move from 2.4% to 6.7% of the circuit court judges sitting in 2001. At that rate, it would take nine years from 2001 for the percentage of Latina/o Circuit Court judges to match the percentage of Latina/os in the population in the year 2000 (11.1%).\textsuperscript{94} Assuming the same rate of increase, it would take 37 years from 2001 for the percentage of Latina/o circuit court judges to reach parity with the 2050 projected Latina/o population.\textsuperscript{95}

\begin{table}[h]
\centering
\begin{tabular}{|l|l|l|l|}
\hline
Year & All Judges & \% Latina/o & \# Latina/o \\
\hline
1992 & & 4.5\% & \\
1994 & & 5.3\% & \\
1997 & & 4.7 & 30 \\
1999 & & 5.0\% & \\
2001 & 665 & 4.7\% & 31 \\
\hline
\end{tabular}
\caption{Latina/o Federal District Court Judges}
\end{table}

\textsuperscript{91} The .07\% annual percentage point increase was arrived at by subtracting the percentage of Latina/o district court judges in 1992 (4.5\%) from the percentage of Latina/o district court judges in 1999 (5.0\%) and then dividing the remainder (0.5) by seven years.

\textsuperscript{92} The 279 year figure was arrived at by subtracting the percentage of Latina/o district court judges in 1999 (5.0\%) from the percentage of Latina/os in the population in 2000 (24.5\%) and dividing the remainder (19.5) by .07.

\textsuperscript{93} The 0.48 annual percentage point increase was arrived at by subtracting the percentage of Latina/o circuit court judges in 1992 (2.4\%) from the percentage of Latina/o circuit court judges in 2001 (6.7\%) and dividing the remainder (4.3) by nine years.

\textsuperscript{94} The 9 year figure was arrived at by subtracting the percentage of Latina/o circuit court judges in 2001 (6.7\%) from the percentage of Latina/os in the population in 2000 (11.1\%) and dividing the remainder (4.4) by .48.

\textsuperscript{95} The 37 year figure was arrived at by subtracting the percentage of Latina/o circuit court judges in 2001 (6.7\%) from the percentage of Latina/os in the population in 2050 (24.5\%) and dividing the remainder (17.8) by .48.
Table 10: Latina/o Federal District Court Judges
If Parity With the Latina/o Population Had Been Achieved

<table>
<thead>
<tr>
<th>Years</th>
<th>% Latina/o Population</th>
<th># Latina/o Judges</th>
</tr>
</thead>
<tbody>
<tr>
<td>1990</td>
<td>9.0%</td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>11.1%</td>
<td>73</td>
</tr>
<tr>
<td>2050</td>
<td>24.5%</td>
<td></td>
</tr>
</tbody>
</table>

Table 11: Years Required to Achieve Parity

Years required from 1999 for the % of Latina/o district court judges to equal 11.1% of all district court judges: 87.

Years required from 1999 for the % of Latina/o district court judges to equal 24.5% of all district court judges: 279.

Assumption: The percentage of all federal district court judges who are Latina/o increases each year by 0.07 percentage points.

Table 12: Latina/o Federal Circuit Court Judges

<table>
<thead>
<tr>
<th>Year</th>
<th>All Judges</th>
<th>% Latina/o</th>
<th># Latina/o</th>
</tr>
</thead>
<tbody>
<tr>
<td>1992</td>
<td></td>
<td>2.4%</td>
<td></td>
</tr>
<tr>
<td>1994</td>
<td></td>
<td>3.0%</td>
<td></td>
</tr>
<tr>
<td>1997</td>
<td></td>
<td>3.6%</td>
<td>6</td>
</tr>
<tr>
<td>1998</td>
<td></td>
<td>4.9%</td>
<td></td>
</tr>
<tr>
<td>1999</td>
<td></td>
<td>6.2%</td>
<td></td>
</tr>
<tr>
<td>2001</td>
<td>179</td>
<td>6.7%</td>
<td>12</td>
</tr>
</tbody>
</table>
Table 13: Latina/o Federal Circuit Judges If Parity With the Latina/o Population Had Been Achieved

<table>
<thead>
<tr>
<th>Year</th>
<th>% Latina/o Population</th>
<th># Latina/o Judges</th>
</tr>
</thead>
<tbody>
<tr>
<td>2001</td>
<td>11.1%</td>
<td>19</td>
</tr>
</tbody>
</table>

Table 14: Years Required to Achieve Parity

Years required from 2001 for the % of Latina/o circuit court judges to equal 11.1% of all circuit court Judges: 9.

Years required from 2001 for the % of Latina/o circuit court judges to equal 24.5% of all circuit court judges: 37.

Assumption: The percentage of all federal circuit court judges who are Latina/o increases each year by 0.48 percentage points.

V.

LAW FACULTY

Less than ten Latina/os attended the first Latina/o law faculty conference convened by Professor Michael Olivas in Albuquerque in 1981. Only four were able to attend the Houston conference held a year later. Professor Olivas' latest survey indicates that by 2001 the number of Latina/o law professors had increased to 140, a number that does not include administrators or visiting clinical law professors or Latina/o professors on the faculty of the three law schools in Puerto Rico. This figure is impressive when one considers that Latina/o law professors could be counted on the fingers of the two hands until the 1980s. Nonetheless, 140 is discouraging when one compares the figure to the numbers provided by the Association of American Law Schools which does count the Latina/o professors at the Puerto Rican law schools. Of the 8043 full-time faculty members at 184 law schools in 1999, 241 or 3% were "Hispanic." The percentage falls to 1.7% when

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97. Id.

98. In 1977, when Miguel Méndez entered teaching, there were seven Latina/o law professors. By 1985, when Leo Martínez entered teaching, there were twenty five.

Professor Olivas' figure is used.

Based on the percentage of Latina/os in the U.S. population in 2000, one would expect to find 892 full-time Latina/o faculty members in the 184 law schools.

Long-term trends are not particularly encouraging. In the six years ending with the 1999-2000 academic year, the percentage of all law faculty who are minority at the 184 schools rose from 12.3% to 13.6%,\(^{100}\) that is, by an average of 0.22 percentage points each year.\(^{101}\) Assuming that the percentage of Latina/o professors increases at that annual rate, it would take almost 37 years from 1999 for Latina/o law professors to achieve parity with the percentage of Latina/os in the 2000 population (11.1%) if the A.S.L.S. 3% figure is used.\(^{102}\) Assuming the same rate of increase, it would take almost 98 years from 1999 for the Latina/o law professors to reach parity with the 2050 projected Latina/o population (24.5%).\(^{103}\)

If Professor Olivas' 1.7% figure is used, it would take almost 43 years from 2001 to reach parity with the 2000 Latina/o population\(^{104}\) and almost 104 years from 2001 to reach parity with the 2050 projected Latina/o population.\(^{105}\)

<table>
<thead>
<tr>
<th>Table 15: Latina/o Law Faculty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Year</td>
</tr>
<tr>
<td>------</td>
</tr>
<tr>
<td>1999</td>
</tr>
</tbody>
</table>

women. \(\text{Id.}\)

100. \(\text{Id. at tbl.2B.}\) The figures for Latina/os are not shown.

101. \(\text{Id.}\) The 0.22% figure was computed by subtracting the 1994-1995 percentage of minority law professors (12.3%) from the 1999-2000 percentage of minority law professors (13.6%) and dividing the remainder (1.3) by 6.

102. \(\text{Id.}\) The 37 year figure was computed by subtracting the percentage of Latina/o law professors in 1999 (3%) from the percentage of Latina/o population in 2000 (11.1%) and dividing the remainder (8.1) by 0.22.

103. \(\text{Id.}\) The 98 year figure was computed by subtracting the percentage of Latina/o law professors in 1999 (3%) from the percentage of Latina/o population in 2050 (24.5%) and dividing the remainder (21.5) by 0.22.

104. \(\text{Id.}\) The 43 year figure was computed by subtracting the percentage of Latina/o law professors in 2001 (1.7%) from the percentage of Latina/o population in 2000 (11.1%) and dividing the remainder (9.4) by 0.22.

105. \(\text{Id.}\) The 104 year figure was computed by subtracting the percentage of Latina/o law professors in 2001 (1.7%) from the percentage of Latina/o population in 2050 (24.5%) and dividing the remainder (22.8) by 0.22.
Table 16: Latina/o Law Faculty if Parity With the Latina/o Population Had Been Reached

<table>
<thead>
<tr>
<th>Year</th>
<th>All Faculty</th>
<th>% Latina/o Population</th>
<th># Latina/o Faculty</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>8043</td>
<td>11.1%</td>
<td>892</td>
</tr>
</tbody>
</table>

Table 17: Years Required to Achieve Parity

- Years required from 1999 for the % of Latina/o law professors to equal 11.1% of all law professors: 37.
- Years required from 1999 for the % of Latina/o law professors to equal 24.5% of all law professors: 98.
- Assumption: The percentage of all law professors who are Latina/o increases each year by 0.22 percentage points.

VI.
THE PIPELINE PROBLEM

Reaching parity in the profession among lawyers, judges, and law faculty requires a critical mass of Latina/o law students, and before them, of Latina/o college graduates, and before them, of Latina/o high school students.

In this part of our essay, we examine each of these student populations. Our findings again are discouraging.

A. Law School Enrollment

Ethnic representation in the bar is determined largely by ethnic representation in the law schools. The percentage of minority law students has increased significantly in the last twenty years: from 8.8% in 1980, to 13.6% in 1990, to 20.2% in 1999. However, the percentage of minority law students appears to have largely stabilized. Since 1995, minority enrollment has increased only 0.4%, the smallest five-year increase in 20 years. Indeed, as a result of judicial and legislative decisions abolishing race-based affirmative action, the A.B.A. Commission on Opportunities for Minorities in the Profession questions whether the level of minority enrollment in 1997 in law school can be sustained.

Based on enrollment figures of A.B.A. approved law schools, Latina/os

106. AM. BAR ASS'N, supra note 17, at 3 tbl.3.

107. Id. at ix, 3 tbl.3.

108. AM. BAR ASS'N, supra note 26, at 2.
made up the following percentages of law students: 1976 (2.1%), 1980 (2.5%), 1985 (3.1%), 1990 (3.9%), 1995 (5.4%), and 1999 (5.7%).\textsuperscript{109} Between 1976 and 1999, the percentage of all law students who were Latina/o increased each year on average by 0.16 percentage points.\textsuperscript{110} At that growth rate, it will take about 34 years from 1999 for the percentage of Latina/o law students to approximate the percentage of Latina/os in the U.S. population in the year 2000 (11.1%).\textsuperscript{111} At the same growth rate, it will take almost 118 years from 1999 for the percentage of Latina/o law students to approximate the percentage of Latina/os in the U.S. population in the year 2050 (24.5%).\textsuperscript{112}

In the six years between 1994 and 1999, the percentage of all law students who were Latina/o increased more slowly, from 5.3% to 5.7%,\textsuperscript{113} or an average of 0.10 percentage points per year.\textsuperscript{114} At that lower growth rate, it will take about 54 years from 1999 for the percentage of Latina/o law students to approximate the percentage of Latina/os in the U.S. population in the year 2000.\textsuperscript{115} At the same growth rate, it will take about 188 years from 1999 for the percentage of Latina/o law students to reach parity with the projected 2050 Latina/o population.\textsuperscript{116}

Latina/o law school enrollment has been adversely affected by the repeal of affirmative action programs in public law schools in California, Texas, and Washington. In 1996, first-year Latina/o law students comprised 11.0% of the class at Berkeley and 14.6% of the class at U.C.L.A.\textsuperscript{117} In 1997, after the repeal of the University of California's affirmative action program, the percentages dropped to

\textsuperscript{109} AM. BAR ASS'N, supra note 17, at 3 tbl.4. It is unclear whether these figures exclude Latina/os attending Puerto Rican law schools.

\textsuperscript{110} Id. The 0.16 figure was reached by subtracting the 1976 percentage of Latina/o law students (2.1%) from the 1999 percentage of Latina/o law students (5.7%) and dividing the remainder by 22 years.

\textsuperscript{111} Id. The 34 year figure was reached by subtracting the 1999 percentage of Latina/o law students (5.7%) from the 2000 percentage of Latina/o population (11.1%) and dividing the remainder (5.4) by 0.16.

\textsuperscript{112} Id. The 118 year figure was computed by subtracting the 1999 percentage of Latina/o students (5.7%) from the 2050 percentage of Latina/o population (25.5%) and dividing the remainder (18.8) by 0.16.

\textsuperscript{113} Id. It is unclear whether these figures exclude Latina/os attending Puerto Rican law schools.

\textsuperscript{114} Id. The 0.1% figure was reached by subtracting the 1994 percentage of Latina/o law student (5.3%) from the 1999 percentage (5.7%), and dividing the remainder (.4) by 5. The 0.1% is rounded from the actual figure of 0.08%.

\textsuperscript{115} Id. The 54 year figure was reached by subtracting the 1999 percentage of Latina/o law students (5.7%) from the 2000 percentage of Latina/o in the population (11.1%) and dividing the remainder (5.4) by 0.1%

\textsuperscript{116} Id. The 188 year figure was reached by subtracting the 1999 percentage of Latina/o law students (5.7%) from the 2050 percentage of Latina/o in the population (24.5%) and dividing the remainder (18.8) by 0.1%

\textsuperscript{117} AM. BAR ASS'N, supra note 17, at 4 tbl.5.
5.2% at Berkeley and 10.3% at U.C.L.A. In 1998, Latina/o law students made up 7.5% of the first-year class at the University of Washington. In 1999, the percentage dropped to 2.3% after the enactment of an anti-affirmative action initiative.

In 1998, the percentage of Latina/o first-year students partially recovered to 8.6% at Berkeley but declined to 6.2% at U.C.L.A. The recovery at the University of Texas has been better. In 1996, 8.4% of the entering law students were Latina/os. In 1997, after the Fifth Circuit struck down the university's admissions plan in *Hopwood v. Texas*, the percentage declined to 6.5%. By 1998, the percentage of Latina/os in the first-year class rebounded to 8.6% but declined to 7.2% in 1999.

**Table 18: Latina/o Law Students**

<table>
<thead>
<tr>
<th>Years</th>
<th>% Latina/o Students</th>
<th>% Latina/o Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>1976</td>
<td>2.1%</td>
<td></td>
</tr>
<tr>
<td>1980</td>
<td>2.5%</td>
<td>6.5%</td>
</tr>
<tr>
<td>1985</td>
<td>3.1%</td>
<td></td>
</tr>
<tr>
<td>1990</td>
<td>3.9%</td>
<td>9.0%</td>
</tr>
<tr>
<td>1995</td>
<td>5.4%</td>
<td></td>
</tr>
<tr>
<td>1999</td>
<td>5.7%</td>
<td>11.1%</td>
</tr>
<tr>
<td>2050</td>
<td></td>
<td>24.5%</td>
</tr>
</tbody>
</table>

---

118. Id.
119. Id.
120. Id.
121. Id.
122. Id.
124. AM.BAR ASS'N, *supra* note 17, at tbl.5.
125. Id.
Table 19: Years Required to Achieve Parity

| Years required from 1999 for the % of Latina/o law students to equal 11.1% of all law students: 34. |
| Years required from 1999 for the % of Latina/o law students to equal 24.5% of all law students: 118. |
| Assumption: The percentage of all law students who are Latina/o increases each year by 0.16 percentage points. |

Other measurements illustrate the underrepresentation of Latina/o law students. As the following tables show, one can focus on the parity ratio, that is, the ratio of Latina/o law students to Latina/o population in those years for which we have Latina/o population figures. One can examine also the shortfall in the percentage of Latina/o law students in relation to the percentage of the Latina/o population in those years.

Table 20: Latina/o Law Student Parity Ratio

<table>
<thead>
<tr>
<th>Year</th>
<th>% Latino/a Students</th>
<th>% Latina/o Population</th>
<th>Parity Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>1976</td>
<td>2.1%</td>
<td>6.5%</td>
<td>39%</td>
</tr>
<tr>
<td>1980</td>
<td>2.5%</td>
<td>6.5%</td>
<td>39%</td>
</tr>
<tr>
<td>1985</td>
<td>3.1%</td>
<td>9.0%</td>
<td>43%</td>
</tr>
<tr>
<td>1990</td>
<td>3.9%</td>
<td>11.1%</td>
<td>51%</td>
</tr>
<tr>
<td>1995</td>
<td>5.4%</td>
<td>11.1%</td>
<td>51%</td>
</tr>
<tr>
<td>1999</td>
<td>5.7%</td>
<td>11.1%</td>
<td>51%</td>
</tr>
</tbody>
</table>

Table 21: Latina/o Law Students: Shortfall

<table>
<thead>
<tr>
<th>Year</th>
<th>% Latino/a Students</th>
<th>% Latina/o Population</th>
<th>% Shortfall</th>
</tr>
</thead>
<tbody>
<tr>
<td>1976</td>
<td>2.1%</td>
<td>6.5%</td>
<td>61%</td>
</tr>
<tr>
<td>1980</td>
<td>2.5%</td>
<td>6.5%</td>
<td>61%</td>
</tr>
<tr>
<td>1985</td>
<td>3.1%</td>
<td>9.0%</td>
<td>57%</td>
</tr>
<tr>
<td>1990</td>
<td>3.9%</td>
<td>9.0%</td>
<td>57%</td>
</tr>
<tr>
<td>1995</td>
<td>5.4%</td>
<td>11.1%</td>
<td>49%</td>
</tr>
<tr>
<td>1999</td>
<td>5.7%</td>
<td>11.1%</td>
<td>49%</td>
</tr>
</tbody>
</table>

The data in these tables are consistent with the data in the earlier tables. They confirm little improvement in the representation of Latina/o law students in relation to the Latina/o population over the last 19 years. At the average annual growth rate implicit in these tables (0.17%), from 1999 it will take Latina/o law
students 27 years to reach parity with the Latina/o population of 2000 and 105 years to reach parity with the Latina/o population of 2050.\textsuperscript{126}

B. College Enrollment and Graduation Rates

Marta Tienda, a sociology professor and director of the Office of Population Research at Princeton University, and Susan Simonelli, assistant director of the Center for Economic Policy Studies at Princeton, published a paper in June of 2001 which gives one pause about achieving goals that depend on the size of the Latina/o college population. In Hispanic Students are Missing from Diversity Debates,\textsuperscript{127} they report that 65% of Latina/o parents, compared with 47% of African American parents and 33% of white parents, believe that a college education is the single most important factor to an individual’s success.\textsuperscript{128} Sadly, a much smaller proportion of Latina/os aged 18 to 24 attend college in comparison to their classmates.\textsuperscript{129} Tienda and Simonelli confirm a statistic long-known to us: Latina/os drop out of high school at almost four times the rate of non-Hispanic whites, sharply shrinking the pool of potential Latina/o college applicants.\textsuperscript{130}

As a result, despite growing numbers of Hispanic students in higher education, the gap between the proportions of Hispanic students and non-Hispanic white students has widened. In 1980, 27% of all 18-24-year-old non-Hispanic whites attended college, compared with 16% of all college-aged Hispanic students. By 1997, the respective shares were 41 and 22%.\textsuperscript{131}

More pertinent is Tienda and Simonelli’s look at college graduation rates. They found that in 1970 almost 11% of white adults 25 and older held college degrees, a figure that jumped to 28% by 1999.\textsuperscript{132} In those years, the Latina/o graduation rate was 5% and 11%.\textsuperscript{133} Since Latina/os have been growing faster than any other population since 1990, Tienda and Simonelli anticipate even greater disparities between the white and Latina/o enrollment and graduation rates.\textsuperscript{134}

\textsuperscript{126} Id. The assumption is that percentage of all law students who are Latina/o increases each year by 0.17 percentage points. The 0.17 was computed by subtracting the percentage of Latina/o law students in 1980 (2.5%) from the percentage of Latina/o law students in 1999 (5.7%) and dividing the remainder (3.2) by 19 years. The 27 year figure was computed by subtracting the percentage of Latina/os in the population in 1980 (6.5%) from the percentage of the Latina/o population in 2000 (11.1%) and dividing the remainder (4.6) by 0.17. The 105 year figure was computed by subtracting the percentage of Latina/os in the population in 1980 (6.5%) from the percentage of the Latina/o population in 2050 (24.5%) and dividing the remainder (18.0) by 0.17.

\textsuperscript{127} Marta Tienda & Susan Simonelli, Hispanic Students are Missing from Diversity Debates, CHRON. HIGHER EDUC., June 1, 2001, B13.

\textsuperscript{128} Id.

\textsuperscript{129} Id.

\textsuperscript{130} Id.

\textsuperscript{131} Id.

\textsuperscript{132} Id.

\textsuperscript{133} Id.

\textsuperscript{134} Id.
Tienda and Simonelli believe that the type of post-secondary institutions usually attended by Latina/o students promotes inequality. In contrast to 37% of white students, in 1996 more than half of Latina/o college students were enrolled in two-year colleges. While two-year colleges provide relatively inexpensive local access to higher education, Tienda and Simonelli point out that only about one-fourth of community college students eventually transfer to four-year institutions.

Currently, Tienda and Simonelli are assessing the effects of changed admissions policies on minority enrollments in Texas colleges. Because more than half of all Latina/os in the United States reside in Texas and California and an even larger slice of school-age Latina/os reside in these two states, they believe that Texas and California provide a "crucial vantage point from which to gauge the consequences of changes in admission criteria." In response to Hopwood, Texas enacted a statute requiring public institutions of higher learning to admit the top 10% of graduating seniors from every high school in the state. Those students admitted under the statute at the Austin campus of the University of Texas — the most selective school in the system — earned better grade point averages in general than did other students, even those who had scored 200 to 300 points higher on their SATs. Significantly, the percentage of Latina/os attending the Austin campus returned to the pre-Hopwood level; however, as Tienda and Simonelli underscore, similar enrollment rates do not guarantee similar graduation rates. It remains to be seen whether the post-Hopwood Latina/o graduation rate will be significantly different from the pre-Hopwood rate. More time will be needed to determine whether the new admissions policies will maintain or improve the Latina/o enrollment and graduation rates.

After the repeal of the race-based admissions policies at the University of California, minority enrollment declined significantly at Berkeley and U.C.L.A., the two most selective schools of the system. At Berkeley, Latina/os comprised 16%

135. Id.
136. Id.
137. Id.
138. Id.
140. Tienda & Simonelli, supra note 127.
141. Id.
142. Id.
143. The Board of Regents of the University of California in 1995 voted to repeal the university's race-based admissions program. Subsequently, the California electorate in 1996 enacted an initiative — Proposition 209 — banning the use of race in admissions in public education and other state programs. See C.A. Const. art. 1, § 31. In May 2001, the Board of Regents rescinded the 1995 resolution repealing the race-based admissions program. The University is still subject to Proposition 209.
of the 1995 entering class but less than 8% of the 1998 class. At U.C.L.A., the percentage of Latina/os dropped from 15% to 8% in those two classes.

While it is too early to assess the impact of California's new plan admitting to one of the university's campuses the top 4% of seniors graduating from the state's high schools, Tienda and Simonelli are not hopeful. Among the factors they identify as hindering progress are the use of 4% (as opposed to a higher percentage), competition by students of other races (especially Asians) in high schools attended by Latina/os, and the possibility that the University of California might give SAT II scores more weight than SAT scores. SAT II exams test students on specific subjects; consequently, students attending schools that offer advanced placement courses will be better prepared for the SAT II examinations. Tienda and Simonelli are concerned that Latina/os, like other minority students, are less likely to attend schools offering such courses.

In the long-run, however, even the Texas 10% plan worries Tienda and Simonelli. To date, the plan has enabled Texas Latina/os to recover almost all of the ground they lost after Hopwood, but as they point out, simply staying even means losing the race. The percent of Latina/os in the U.S. college age population has grown dramatically, from 2% in 1950, to 15% today, and is projected to reach 25% by 2020. Tienda and Simonelli conclude:

144. Tienda & Simonelli, supra note 127.
145. Id.
146. Under the University of California's plan, "the top 4 percent of students in each California high school who are on track to graduate and have completed specified academic coursework by the end of the junior year will be designated UC eligible, beginning with students entering UC in fall 2001. The plan was developed to recognize that student achievement is relative to the educational opportunities available at individual schools. California comprehensive public high schools and private high schools accredited by the Western Association of Schools and Colleges (WASC) will be considered eligible for participation in the program. Students deemed eligible * * * will be guaranteed a place at one of UC's eight undergraduate campuses, though not necessarily the campus of their choice. Students must complete remaining eligibility requirements prior to enrollment." See <www.ucop.edu/news/expanding/welcome.html>.
147. Tienda & Simonelli, supra note 127.
148. Id.
149. Id.
150. Id. at B14.
If [Latina/os'] swelling numbers are not accompanied by commensurate increases in college attendance and graduation rates, educational inequality will continue to rise for the foreseeable future — in fact, even faster than it has during the past two decades.\textsuperscript{151}

Tienda and Simonelli worry also that focusing unduly on admissions at selective universities will deflect attention from the more serious problem of Latina/o "educational underachievement: the growing gaps in enrollment and graduation at all educational levels that limit Hispanic students' opportunities before college is even considered."\textsuperscript{152}

C. High School Drop Out Rates

Grade retention is believed to be the most important single predictor of student drop out.\textsuperscript{153} In 1988, 37.0\% of Latina/o 9-10 year-olds were enrolled below grade, compared with 27.6\% of white 9-10 year-olds.\textsuperscript{154} By 1994, the figure for Latina/os had dropped to 28.4\%, but was still higher than the figure for whites (25.8\%).\textsuperscript{155}

In 1988, 45.0\% of Latina/o 12-14 year-olds were enrolled below grade, compared with 27.2\% of white 12-14 year-olds.\textsuperscript{156} By 1994, the percentage of Latina/os below grade in this group had dropped to 32.3\% but still exceeded the rate for whites (30.1\%).\textsuperscript{157}

In 1988, 36.8\% of Latina/o 15-17 year-olds were enrolled below grade, compared with 23.9\% of whites in this age group.\textsuperscript{158} By 1994, the percentage of Latina/os below grade in this group had increased to 39.9\%, while the percentage of whites in the group had increased to 29.6\%.\textsuperscript{159}

Not surprisingly, when measured by the status and the high school completion drop out rates, the Latina/o drop out rate is significantly higher than the white rate. The status drop out rate includes a count of young adults who are not in school and have not graduated, regardless of when they last attended school.\textsuperscript{160} In

\begin{itemize}
  \item[151.] Id.
  \item[152.] Id.
  \item[154.] Id. at 18.
  \item[155.] Id.
  \item[156.] Id. at 19.
  \item[157.] Id.
  \item[158.] Id.
  \item[159.] Id.
  \item[160.] Id. at 48.
\end{itemize}
1988, the Latina/o status drop out rate was 35.8%, compared with 9.6% for whites. By 1995, the Latina/o status drop out rate declined to 30%, compared with 8.6% for whites.

The high school completion rates combine the number of individuals who have received a high school diploma or a general education certificate. In 1988, the high school completion rate for Latina/os was 61%, compared with 89.3% for whites. By 1996, the Latina/o high school completion rate remained virtually unchanged at 61.1%, while that for whites had climbed to 92.6%.

VII. CONCLUSION

Our goal in writing this paper was not to formulate a set of recommendations for remedying the under-representation of Latina/os in the legal profession. This is a task we leave to others. Our purpose was more modest — to describe the degree of under-representation and estimate the years required to reach parity at present and projected growth rates. But to a significant extent, we have been prevented from reaching even this goal by the lack of pertinent data. As we explained in the introduction, we hoped to present a number of tables that would have allowed us to display the data in various ways. We were only partly successful. We invite others to join us in continuing the search for the needed data and, where missing, to pressure bar associations and other groups to collect and report it systematically.

In closing, we return to Tienda's and Simonelli's observation that 65% of Latina/o parents, compared with 47% of African American parents and 33% of white parents, believe that a college education is the single most important factor to an individual's success. Although this aspiration is not borne out by the percentage of Latina/os graduating from high school, college, and law school, it is essential to remedying the under-representation of Latina/os in the legal and other professions. As some Asian American groups have demonstrated, parental recognition of the value of education, when combined with effective measures to reverse the drop out rate, can result in significant gains in the professions.

161. Id.
162. Id.
163. Id. at 49.
164. Id.
165. One problem is inconsistent data. Two examples illustrate the problem. First, in the American Bar Foundation's 1994 report, The Lawyer Statistical Report, the relative proportion of women in the profession in 1991 is reported as 20%. See supra note 7, at 4 tbl.2. However, in the American Bar Association's report, Miles To Go 2000, the relative proportion of women in the profession in 1990 is reported as 24.5%. See supra note 17, at 1 tbl.1. Second, the Association of American Law Schools report the number of "Hispanic" full-time faculty members at its member schools as 241 in 1999. See supra note 98, at tbl.1B. Professor Michael Olivas, however, counts only 140. See supra text accompanying note 97. In the latter case, the discrepancy is attributable to Olivas' exclusion of the faculty in the law schools in Puerto Rico where the Latina/o faculty comprise 100% of the entire faculty. In the former case, there is no apparent explanation for the difference.
166. TIENDA & SIMONELLI, supra note 127.
In our view, however, neither a complete statistical profile of Latina/os in the legal profession nor fixing the pipeline problem is a prerequisite to taking some remedial measures. With regard to faculty and judges, there is even less need for additional data. If by 1990 the number of Latina/o lawyers numbered over twenty thousand, those who appoint law teachers and judges have an ample pool from which to draw candidates who can meet the most exacting criteria.

Neither is a complete statistical profile of Latina/os in the legal profession, including law schools, indispensable to increasing the number of Latina/o law students. Admittedly, the information we have presented is incomplete, and some of our assumptions may prove unwarranted. Still, the direction of the data seems incontestable and confirms widely held impressions: relative to their numbers, Latina/o under-representation in the profession is severe and in some instances getting worse. Law school deans and faculties should not wait until all the numbers are in to develop and implement innovative strategies for increasing the number of Latina/o students. As with any urgent problem, what is needed is giving Latina/o under-representation the high priority it deserves.