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DIVERSITY AND THE LAW SCHOOL

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During my sixteen years at the Law School, there has been a remarkable growth in the diversity and activism of the students. Two new journals have formed: the *Southern California Interdisciplinary Law Journal* and the *Southern California Review of Law and Women's Studies*. These joined the *Southern California Law Review* in providing students with the opportunity to write and edit scholarly articles. The Public Interest Law Foundation (PILF) was created, which funds over twenty grants annually to enable students to spend a summer working for nonprofit organizations. This year marks the tenth anniversary of the popular PILF fundraising auction, which features dozens of donations from faculty, students, alumnae, and businesses.

Public policy debates and provocative speakers are sponsored by student organizations like the National Lawyers Guild on the left and the Federalist Society on the right. The Student Bar Association (SBA) serves as a link between students and the law school faculty and administration. The SBA also sponsors several charitable and social events. New organizations devoted to various areas of legal practice like corporate law, tax law, health law, and criminal law host lectures by leading practitioners and scholars in their areas.

The Women's Law Association (WLA) has expanded in membership and importance as the number of women law students has grown steadily.¹ Indeed, women made up more than half of the Law School's entering class of 1999. The WLA Annual Luncheon, now in its tenth year, is one of the

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1. The portion of women in the USC Law School entering class increased from 34% in 1991 to a record 54% in 1999. Nationwide, women made up 47% of the admitted students in 1999, as compared with 42% in 1991, and a mere 3% in 1947. AM. BAR ASS'N SECTION OF LEGAL EDUC. & ADMISSIONS TO THE BAR, FIRST YEAR ENROLLMENT IN ABA APPROVED LAW SCHOOLS 1947-1999, <http://www.abaneL.org/legaled/statistics/femstats.html> (last visited Oct. 12, 2000).

best-attended events at the school. The Gay and Lesbian Law Union (GLLU) has become increasingly active at the law school, sponsoring a variety of social events and speakers. USC can take pride in being one of the most gay-friendly law schools in the nation.

The law school has also become far more racially and ethnically diverse. When I joined the law school as an assistant professor in 1984, there were only a handful of African-American, Latino, and Asian-American students. Today, these and other racial and ethnic minorities make up about 40% of the student body. With the existence of a critical mass of students, organizations like the Black Law Students Association (BLSA), the Asian-Pacific American Law Students Association (APALSA), and La Raza Law Students Association (La Raza) have become much more active. These organizations provide support for their own members through social events and mentoring programs and offer a variety of events enjoyed by all students. Some such events during the past academic year included food sales by each organization and an exam-taking-skills lecture sponsored jointly by BLSA and La Raza that was attended by more than half of the first year class.² The past academic year also saw the formation of the Middle-Eastern and South-Asian Law Students Association (MESALA). Their activities for the year included food sales, mentoring, an exam workshop, and cultural movie nights.

The value of diversity, however, goes beyond the formal activities sponsored by the various student organizations. Even more important are the day-to-day exchanges of ideas and feelings, inside and outside the classroom, that create a community of scholars and friends.

Unfortunately, attacks on affirmative action in California and across the nation threaten diversity in many colleges and universities. The impact on the most selective law schools of ending race-sensitive admissions policies is illustrated by the California and Texas experiences.

After the Regents of the University of California prohibited race-sensitive admission,³ the number of African-American students in the first-year law school class dropped from nineteen to two at UCLA⁴ and from

2. Other events included talks by judges and lawyers, clothing and food drives for the homeless, poetry readings, and scholarship competitions.

3. This policy was affirmed by the passage of Proposition 209 by a 54% to 46% vote on November 5, 1996. See Dave Leshner, *Battle Over Prop. 209 Moves to the Courts*, L.A. TIMES, Nov. 7, 1996, at A1.

4. *Diversity Endangered in Law, Medical Schools*, DAILY BRUIN, Oct. 27, 1999, available at <http://www.dailybruin.ucla.edu/db/issues/99/10.27/view.editorial.html> (last visited Oct. 12, 2000) [hereinafter *Diversity Endangered*].

twenty to one at Boalt.⁵ The sole African-American matriculant at Boalt had been admitted the prior year and had deferred his admission.⁶ The drop in Latino enrollment was also substantial, from twenty-nine to seventeen at UCLA⁷ and from twenty-eight to seven at Boalt.⁸

Results were similar in Texas. After the Court of Appeals for the Fifth Circuit ruled in *Hopwood v. Texas* that the University of Texas Law School could not consider race in admissions,⁹ African-American students in the first-year class dropped from twenty-nine to four and Latino students dropped from forty-six to thirty-one.¹⁰

Critics of affirmative action argue that a substantial reduction in the number of African-Americans or Latinos does not threaten diversity.¹¹ Diversity of ideas, they claim, does not depend on racial diversity. Instead, they argue that liberal supporters of affirmative action are engaged in racial stereotyping when they argue that increasing representation of African-Americans or Latinos will increase diversity.¹²

These critics are right, of course, that educational institutions will remain intellectually diverse in many ways even if racial and ethnic diversity declines. There would remain no shortage of liberals and conservatives, meat-eaters and vegetarians, future prosecutors and budding defense attorneys. But it is equally clear that something valuable will be lost.

5. *Admissions at Boalt: Questions and Answers About Fall '97 Admissions at the School of Law*, BERKELEYAN, Aug. 20, 1997, available at <http://www.urel.berkeley.edu/berkeleyan/1997/0320/boalt.html> (last visited Oct. 12, 2000) [hereinafter *Admissions at Boalt*].

6. *Id.*

7. *Diversity Endangered*, *supra* note 4.

8. *Admissions at Boalt*, *supra* note 5.

9. 78 F.3d 932, 954 (5th Cir. 1996), *cert. denied*, 518 U.S. 1033 (1996). The court ruled that the law school could consider race only to remedy past discrimination by the school itself. *Id.*

10. Julian E. Barnes, *A Surprising Turn on Minority Enrollments*, U.S. NEWS & WORLD REP., Dec. 29, 1997 / Jan. 5, 1998, at 34, 34.

11. See, e.g., STEPHAN THERNSTROM & ABIGAIL THERNSTROM, *AMERICA IN BLACK AND WHITE* 415 (1997).

12. See *id.* The Thernstroms offer negative stereotypes of African-Americans in their own work. They speculate, for example, "perhaps the best-prepared black students, who require no preferences, are inhibited by [anti-academic] peer group pressures from doing as well as they otherwise might." Stephan Thernstrom & Abigail Thernstrom, *Reflections on The Shape of the River*, 46 UCLA L. REV. 1583, 1606-07 (1999) (book review). But their only support for this conjecture is a report that such peer pressure exists in *high schools*. See *id.* at 1609. It is hard to see why anti-academic peer pressure would exist among students admitted to elite colleges and graduate programs. Indeed, a recent comprehensive survey of law students found that black male and female students each studied more hours per week than their white counterparts. See LINDA F. WIGHTMAN, *WOMEN IN LEGAL EDUCATION* 46-47 tbl.21 (1996).

African-American and Latino students have unique personal experiences and views that can enrich the classroom. To take an obvious example, in an analysis of racial profiling the perspective of a student who has been stopped and searched because he was black or brown cannot be duplicated by a student who has only read about such practices.¹³ Diverse perspectives are even more important in the countless out-of-class interactions that make up a critical part of the learning experience. Unlike incidents of racial conflict cited by opponents of affirmative action,¹⁴ these innumerable small interactions are not dramatic events reported in the media.¹⁵ But they are the foundation of a great education and a just multicultural society.

My views have been shaped by my own experiences. The increased diversity at the Law School has enormously enriched my own life as a teacher, scholar and person. Looking back on my own undergraduate education, I regret that it was not more diverse.

There is good evidence, moreover, that my experiences are not unique. In the mid-1990s thousands of former students from the 1976 and 1989 entering cohorts of selective colleges and universities were surveyed on various aspects of their college and university education.¹⁶ In the 1976 cohort, 57% of the black matriculants and 46% of the white matriculants gave college a rating of four or five on a five-point scale (one being "very little/none," five being "a great deal") for helping them develop the "ability to work effectively and get along well with people from different races/cultures."¹⁷ The percentages were even higher in the more recent cohort. Seventy percent of the 1989 black matriculants and 63% of 1989 white matriculants gave a four or five rating to the contribution of college to their ability to get along well with people of different races.¹⁸ Forty-six percent of blacks and 34% of whites in the 1989 cohort said college helped

13. As one commentator states, "[a]t times, the importance of what is said depends less upon the idea expressed than upon the identity of the speaker and the manner of expression." Terrance Sandalow, *Minority Preferences Reconsidered*, 97 MICH. L. REV. 1874, 1907 (1999) (reviewing WILLIAM G. BOWEN & DEREK BOK, *THE SHAPE OF THE RIVER* (1998)).

14. *E.g.*, DINESH D'SOUZA, *THE END OF RACISM* 401 (1995); SHELBY STEELE, *THE CONTENT OF OUR CHARACTER* 142-43 (1990).

15. The media may overstate the extent of campus racial conflict. *See* RICHARD BERNSTEIN, *DICTATORSHIP OF VIRTUE* 203-10 (1994).

16. The College and Beyond (C&B) database also includes extensive information about academic records and subsequent careers of students. For a comprehensive analysis of affirmative action based on the C&B database see WILLIAM G. BOWEN & DEREK BOK, *THE SHAPE OF THE RIVER* (1998). For a discussion of the scope of the database see *id.* app. A.

17. *Id.* at 225 fig.8.2 (citing C&B database).

18. *Id.*

them “a great deal” in learning to get along with people of different races.¹⁹ These ratings were similar to the ratings that the students gave to colleges for teaching them traditional academic skills like the ability to communicate well orally, knowledge of a particular discipline, and the ability to write clearly and effectively.²⁰

Respondents were also asked to rate on a five-point scale (one being “very little/none,” five being “a great deal”) the emphasis their colleges currently place on a variety of priorities and how much emphasis their school should place on each priority. The desired emphasis on racial diversity was high for both white and black matriculants. For white matriculants, the desired emphasis was 4.0 in the 1976 cohort and 4.2 in the 1989 cohorts.²¹ For blacks, the desired emphasis was even higher.²² The overwhelming support for a strong institutional emphasis among all former students surveyed is easy to explain—they have seen firsthand the benefits of a diverse student body.

On the Centennial of its founding, USC Law School can be justly proud of the talent and diversity of its student body. USC students, faculty, and staff appear to appreciate and recognize the part that increased diversity plays in the growth of a rich academic community.

19. *Id.* at 227 tbl.8.2 (citing C&B database).

20. *See id.*

21. *Id.* app. D at 444 tbl.D.8.4.

22. The desired emphasis was 4.7 among 1976 black matriculants and 4.8 among 1989 black matriculants. *Id.*

