

Miles To Go:

Progress of Minorities in the Legal Profession

Since 1998, the Program on the Legal Profession has collaborated with the American Bar Association's Commission on Racial and Ethnic Diversity to focus attention on diversity issues in the legal profession. The ABA Commission was created in 1986 to promote the "full and equal participation" of minorities in the legal profession. As part of this effort, the Commission serves as a clearinghouse for data regarding the status of minorities in the profession. The primary vehicle for conveying this data is a Report entitled *Miles to Go: Progress of Minorities in the Legal Profession*, which has been published in 1998, 2000, and 2004. Professor Elizabeth Chambliss, who served as PLP's Research Director from 1999 until 2003 and is now a Professor of Law at New York Law School, is the principle author of these Reports.

Miles to Go plays a critical role in assessing the profession's progress toward "full and equal" racial integration. Among the principle findings in the Report issued in 2004 are:

1. . Minority representation in the legal profession is significantly lower than in most other professions.

- Total minority representation among lawyers is about 9.7 percent, according to the 2000 U.S. Census, compared to 20.8 percent among accountants and auditors, 24.6 percent among physicians and surgeons, and 18.2 percent among college and university teachers.

- Nationally, African Americans are the best represented minority group among lawyers (3.9 percent), followed by Hispanics (3.3 percent). The pace of African American entry into the profession has slowed in recent years, however, and currently is significantly slower than that of Hispanics or Asian Americans. Asian Americans are the fastest growing minority group in the profession.

2. Minority entry into the profession has slowed considerably since the 1980s and mid- 1990s.

- Total minority representation among law students has dropped for the past two years, from 20.6 percent in 2001-02 to 20.3 percent in 2003-04.

- Most of the drop is due to a drop in the number and percentage of African American law students. Over the past two years, African American representation among law students has fallen from 7.4 to 6.6 percent, representing a twelve-year low. The percentage of Hispanic students also has dropped slightly, from 5.8 to 5.7 percent.

3. The initial employment of minority lawyers still differs significantly from that of whites.

- Minorities are less likely than whites to have judicial clerkships after law school. Among 2003 law graduates, 9.4 percent of minorities had judicial clerkships, compared to 12.3 percent of whites. Clerkship rates are lowest among minority men (8.1 percent), Hispanics (6.5 percent) and Latinos (7.1 percent).

- Overall, minorities are less likely than whites to begin their careers in private practice, and more likely to start off in government and public interest jobs. Among 2003 law graduates, 53.3 percent of minorities entered private practice, compared to 60.5 percent of whites.

- Historically, minority women in particular have been less likely than other groups to begin their careers in private practice, apparently due to the combined effects of gender and race. The gender difference among minorities has diminished over time, however, and in 2003, minority women entered private practice at a slightly higher rate than

minority men (53.9 compared to 53.0 percent). The gender difference among white graduates also has decreased slightly, although white women continue to be less likely than white men to enter private practice (58.8 compared to 62.1 percent).

- Minority women are the most likely to begin their careers in public interest jobs. Among 2003 graduates, 5.7 percent of minority women started off in public interest jobs, compared to 3.5 percent of white women, 33 percent of minority men, and 5 percent of white men.

- Minority men are the most likely to enter business or industry. Over 15 percent of minority men entered business or industry in 2003, compared to 11.1 percent of minority women, 10.6 percent of white men, and 8.8 percent of white women.

4. Minorities remain grossly underrepresented in top-level private sector jobs, such as law partner and corporate general counsel.

- Nationally, minority representation among partners remains less than 4.0 percent in all but the very largest law firms, and only 4.4 percent in the nation's largest 250 law firms. Since 1999, national minority representation among partners has increased only 0.7 percent.

- Minority representation among corporate general counsel is only 4.3 percent in Fortune 1000 firms.

5. Progress has been especially slow for minority women in the profession.

- Although women make up a growing percentage of minority lawyers (44 percent in 2000), minority women are almost completely excluded from top private sector jobs. Minority women make up less than 1.0 percent of capital (equity) partners in Chicago law firms and only 1.1 percent of general counsel in the Fortune 1000.

Law firm attrition rates for minority women are higher than for any other group. Fully 12.1 percent of minority women leave their firms within the first year of practice and over 75 percent leave within the first five years.

6. Minorities in general continue to face significant obstacles to "full and equal" participation in the legal profession.

- Due in part to the influence of the *U.S. News & World Report* rankings, most law schools base admissions decisions significantly on students' LSAT scores, despite the fact that this criterion serves as a barrier to minority access. The LSAT is only a weak predictor of law school grades and is wholly unrelated to professional success as a lawyer, whether success is measured by income, career satisfaction, or public service contributions.

- Though the Supreme Court's decision in *Grutter v. Bollinger* acknowledges that student body diversity is a compelling government interest, and allows law schools to consider race as a "plus" factor in admissions, the Court's companion decision in *Gratz v. Bollinger* struck down the "point system" commonly used to increase diversity at large state universities, thus significantly raising the cost of affirmative action at those schools.

- Legal employers' heavy reliance on the so-called "box credentials," such as law school rank, class rank, law review membership, and clerkships, disadvantages minority students in initial employment decisions, as well as in the distribution of opportunities for on-the-job training. Such training is essential for advancement in the profession.

- When making initial employment decisions, law firms tend to be quicker to question minorities' academic credentials than whites'.

- Minorities in law firms continue to suffer from a lack of access to clients and business networks outside of the firm. Among partners, minorities continue to be clustered at the bottom of the firm's financial and status pecking order.

The Report concludes with recommendations for bar associations, law schools, legal employers and individual lawyers for promoting the "full and equal" participation of minorities in the profession.

A copy of the report can be obtained from the Commission at:
www.abanet.org/minorities or by contacting Professor Chambliss at:
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In addition to supporting *Miles to Go*, PLP also collaborates with the Commission on programs and projects designed to focus attention on diversity issues in the profession.