

Diversity: Contrary Trends in Politics and the Law

BY WESLEY R. PAYNE

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During the last 20 years, our country has seen a dramatic increase in racial, ethnic and gender diversity and inclusiveness at all levels of society. The inclusiveness and diversity is evident in the 2008 U.S. presidential election, a race in which an African-American and a woman are contending for, and one will eventually be nominated as, the presidential candidate of a major political party.

The interest in the race is so great that a record number of voters have come out to support each of these candidates in the various primary elections and caucuses throughout the country. Finally, one of the significant voices in making the decision as to who will be the nominee may be first- and second-generation Hispanic voters. The election speaks volumes with respect to how far our country has come in the last half century with respect to including all people and groups in the political process.

Notwithstanding the strides made during the last 20 years in the political arena, and in other professions like accountants, actuaries, physicians and surgeons, which have reached diversity levels of 20.8 per-



WESLEY R. PAYNE is a partner at White & Williams. He is the chairman of the firm's diversity committee, a member of the operations and budget committee, and co-chairman of the firm's homeless advocacy practice group. He primarily focuses his practice in the areas of insurance defense, bad faith, extra-contractual damages and coverage litigation.

cent to 24.6 percent, the legal profession has been less successful in achieving such diversity and inclusiveness. In the same 20-year period, the legal profession has remained 90 percent white and nearly 70 percent male in the larger and/or more prestigious firms and practices. The stagnant and deliberate pace at which the legal profession has failed to progress in its diversity efforts is alarming. This trend must be reversed if our profession is to remain among the leaders of our country.

The lack of progression, and actual regression, of the legal profession in the area of diversity is even more disturbing when considering that minority enrollment in law schools for certain groups has consistently declined through the years.

This is particularly worrisome considering the population of diverse persons in this country is steadily increasing and anticipated to reach 50 percent of the population by the middle of this century. Less than 10 percent of a profession is not an adequate representation of what is soon anticipated to be half of the country's population.

Researchers at Columbia Law School's Lawyers in the Digital Age Clinic and the Society of American Law Teachers posted on their Web site (www2.law.columbia.edu/civilrights) Jan. 15, 2008, the finding of their analysis, based upon the Law School Admission Council data concerning the demographics of all school applicants for the last 15 years. In the report titled "A Disturbing Trend in Law School Diversity," the researchers evaluated not only the statistical data but also the trends regarding African-American and Mexican-American law school application and acceptance rates to ABA accredited law schools. The report indicates that during this time period the application rate to law schools by applicants from these groups has been consistent, but there are actually fewer minority students being admitted to law school. The number of first year law students from these groups has actually decreased in percentage by 8.6 percent and, in actual numbers, from 3,937

in 1992 to 3,595 in 2005. Even considering an upward swing of African-American students admitted to law school in 2006, the combined number of students from these groups admitted to law school in 2006 were slightly fewer than in 1992. This data is further confounding because there are more seats available in law schools today than at any other time in the history of this country.

SALT noted that the average grade point average and Law School Admission Test scores of potential law school candidates of African-American and Mexican-American heritage have continually increased in this time period. As stated in the SALT report: "Despite the rise in the number of available seats in American law schools, up nearly 4,000 seats in the last 15 years, African-American and Mexican-American enrollment has decreased at an alarming rate. Overall, these applicants are showing better conventional stats — LSAT scores and college grade point averages — yet they are vanishing from law schools. That translates into fewer attorneys of color in America's future. This means a less diverse bench and bar."

The decline may be surprising to some, but it is a reality that will almost force the legal profession to remain stagnant with respect to diversity for many years. The

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fact is that if there are fewer diverse candidates entering law school, there will be fewer eligible diverse attorneys to enter the legal profession. Fewer diverse attorneys in the profession equates to fewer diverse attorneys that will have the opportunity to progress into the upper echelons of private practice and the judiciary. This translates into a less diverse and less representative legal profession to serve a public that is becoming more diverse. As a result, the status quo of about 10 percent diverse attorneys within certain realms of the profession will remain the norm unless the trend is drastically reversed in the near future. The trend in the legal profession is contrary to the direction of the country and other professions with respect to diversity.

Without the inclusion of all in the system, the legal profession risks losing relevance to the fastest growing segment of our society. As many commentators have noted, the rule of law is based on voluntary respect, acceptance and adherence to the legal system. As Justice Sandra Day O'Connor recently noted, courts do not have armies to enforce their rulings. Instead, communities must buy into and accept the rule of law and the legal principles upon which the law is based.

However, for groups to respect the system, it is imperative that they feel as if they are part of the system and that the system is representative of them. The continued lack of minority attorneys and judges erodes away this basic concept and may cause further disillusionment among minorities with the system. Once again, the current election is illustrative. By inspiring people in the political process, many people who would not have been interested in the election are not only vot-

ing but also taking an even more active role in the election. When people feel they have an interest in the system, they become inspired, are less likely to be disillusioned and are more likely to participate in and adhere to the decisions made within the system of laws.

So what must the legal profession do to foster a sense of inclusion and prevent a sense of disillusionment with respect to the legal profession and to prepare young diverse students to consider the law as an option? As in our political process, we must eliminate the barriers to the legal process, expose the youth to the positive basic elements of the rule of law and inspire them to see themselves as the future lawyers of our society. We must give younger members of our society, especially young diverse members of our society, the opportunity to understand and appreciate the value of the law and the legal profession before the disillusionment with the legal process has an opportunity to be ingrained in them.

For there to be a feeling that the legal system will fairly protect their interest, diverse students must be exposed to the law in a positive fashion. They must be exposed to diverse attorneys who can bring a positive image along with the experience. Seeing is believing. If you do not see people like you doing a certain type of job or profession, you are less likely to see yourself in that job or profession. As a result, the legal profession will not be the first option of the best candidates our country has to offer.

One of the many ways to prevent the potential self-exclusion of these students from considering pursuing a career in the law is to introduce the profession to high school and even younger students through pipeline initiatives. A number of organizations have initiated these types of programs. For example, the Barristers' Association recently conducted a mediation training program for the Philadelphia

area schools, the Pennsylvania Bar Association through the minority bar committee conducts an annual Law Day program in Philadelphia and Pittsburgh to introduce high school students to the possibility of pursuing law as a career. The American Bar Association offers the Choose Law program to high schools, and the Law School Admission Council along with the PBA sponsors the Pennsylvania Minority Pre-Law Conferences in Pittsburgh and Philadelphia for middle and high school students to expose young diverse students to the possibility of a legal career. Each of these programs, and many others, has met with tremendous success, but more needs to be done and at an earlier time with the students.

As a result, another great idea is the plan that will soon be initiated by the Philadelphia Bar Association under its current chancellor to have attorneys assist with the teaching of civics classes in Philadelphia elementary schools. The exposure of the students to civics and to attorneys will serve the dual purpose of providing a needed aspect of the curriculum and an understanding of the general principals of civility, which is a fundamental building block of the law. The program would also give the students the ability to interact with attorneys and open their eyes at an early age to the potential and possibilities of a legal career.

Our profession dangerously flirts with the prospect of losing touch with and relevance to a significant portion of our society in the not-too-distant future. However, if students are allowed to develop a sense of justice, compassion and commitment to service and are exposed to the rule of law in a positive setting with the potential of a legal career through attorneys that are like them, we might find that the public perception of lawyers may improve and the ranks of the legal profession may one day also mirror the population of the country. •