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Minority Law Professors' Lives: The Bell-Delgado Survey

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***349** MINORITY LAW PROFESSORS' LIVES: THE BELLEDELGADO SURVEY

Richard Delgado [\[FN1\]](#)
Derrick Bell [\[FN2\]](#)

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For those teachers of color who entered the law teaching field in the late 1960's or early 1970's, this survey makes melancholy reading. As pioneers, we realized--or soon learned--that, as Langston Hughes put it, life for us would be "no crystal stair." [\[FN1\]](#) We accepted the slights and the condescension as part of a transitional process. And so, we entered our classrooms at the outset of each term without the presumption of competence enjoyed by our white colleagues, and worked diligently to overcome the opposite presumption. Often we succeeded, though unless we were outstanding--a status not easily achieved in the first few years--course evaluations provided some students with the opportunity to express their dissatisfaction with our presence as well as our performance.

We struggled on, though, watched sadly as many of our minority colleagues dropped or were dropped out of our ranks, and looked forward to the time when our success would translate into a clear, if grudging, recognition that we could perform competently--even though we might not have the academic credentials of our white colleagues. That recognition and the opportunities it would open for others like ourselves would be reward enough for our long years of mostly unrecognized travail.

This study contains few new revelations. It simply confirms that our expectations for acceptance, like so many of our hopes for racial equality, were premature. The study results are not all distressing, but they justify caution in predicting further progress for minorities in the law teaching field.

***350** The findings also raise a question. If law teachers of color are experiencing unfairness and discrimination in the profession, is it not likely that many white teachers and applicants for teaching jobs are also victims of arbitrary action and prejudice based on class, sex or ideological orientation? Black civil rights victories have enhanced the rights of whites precisely because whites often suffer more subtle, but no less damaging, disadvantage because of factors that should not be considered in a society committed to equal opportunity for all.

I do not think it detracts from the seriousness of this study's message to report that in my two decades as law teacher and dean, I have witnessed a great deal of outright discrimination against whites, males as well as females. Whites, as well as minorities, with impressive success in practice, are rejected for teaching openings if they did not attend the "right" law schools, did not earn top grades, hold law review editorships, or serve clerkships for prestigious judges. Whites, as well as minorities, will not be hired if even a few faculty members respond negatively to them--no matter how subjectively based the negative reactions.

And once hired, promotion and tenure can become an impossible dream-- despite good teaching and publishing records--not only for those teachers who favor a controversial point of view, like Critical Legal Studies, but also for those who some faculty members conclude will not "fit in" because they object strenuously to well-settled policies, particularly those dealing with faculty hiring and promotion.

The old saying that "black folks won't get free until white folks get smart," applies to the condition of minorities in law teaching. For the fact is that the disadvantage we suffer is a more dramatic variation of the unfairness visited on many of our often more silent white colleagues.

They must learn that silent suffering does not beget reform, and that minorities who complain of unfair treatment are sounding an alarm for all.

Findings and Discussion by Richard Delgado

Beginning in the mid-1960's, many law schools worked diligently and effectively to increase minority representation ***351** among their faculties. [FN2] The numbers grew steadily; by the end of the 1970's about 170 black, Hispanic, Asian, and Native American professors were teaching in tenure-track positions in American law schools. [FN3] In the mid-1980's momentum stalled, with the numbers leveling off at around 250, where they have remained. [FN4]

At the same time, several recent incidents, including a highly publicized one at Stanford Law School, [FN5] suggested a possible qualitative decline in the fortunes of those minorities already in teaching. [FN6] Separate studies found a high rate of turnover, a possible indication of job dissatisfaction. [FN7] Although three ***352** presidents of the Association of American Law Schools (A.A.L.S.) [FN8] and at least one dean [FN9] have called for a renewed commitment to diversity in the law teaching profession, there is little evidence that these exhortations, or recent revivals of student activism at such schools as Stanford, Berkeley, Harvard, Penn, and Michigan have brought great gains. [FN10]

To gain insight into the fortunes of minority law professors and to explore possible reasons for their high attrition, a fourpage job satisfaction survey was sent to every professor listed in a recent directory prepared by the chair of the A.A.L.S. Section on Minorities. [FN11] The questionnaire (the "Bell-Delgado" survey) [FN12] asked about relationships with colleagues and students, committee assignments, workload, job stress and other aspects of a professor's life. In addition, the author supplemented the survey by interviewing over fifty minority professors in depth during the year following the winter 1986-87 survey. The picture that emerges from these data is sobering. Many minority professors report a decline in civility and toleration of difference at the nation's law schools. [FN13] A high percentage described their work environments as racist or subtly racist. Many described crushing loads of committee work and student counseling. ***353** More than half described their level of job stress as severe or nearly intolerable. More than one-tenth were seriously considering leaving law teaching.

I. The Questionnaire

The questionnaire was mailed to every minority law professor in the winter of 1986-87. The decision to canvass all minorities was made in the wake of the "Derrick Bell" incident at Stanford Law School [FN14] when informal conversations among minority professors disclosed that many had suffered mistreatment similar to that experienced by the eminent black scholar. [FN15] The survey was carried out to determine how common these experiences were and to gain information about the conditions ***354** under which minority law professors work. [FN16] We received 106 responses, without follow-up. [FN17] A second round of questionnaires was sent to all addressees and produced a few more responses. To guard confidentiality, no record was kept of those who responded and those who did not, and materials that could identify a respondent were destroyed. It may be that the partial return introduces a bias of some sort: those who responded may have been more aroused than the average minority professor; those who were satisfied with their lot may have simply discarded the survey. On the other hand, non-respondents may have included a number of disaffected individuals who declined to fill out the questionnaire, reasoning "What's the use?" Their answers might have skewed the responses in the opposite direction. [FN18] The most cautious interpretation would be that the survey data describe, in qualitative terms, the life experiences of the 106 professors who responded. [FN19]

***355** The survey results are reported, with selected comments and interview material, [FN20] under eleven headings: Time Pressure, Academic Freedom, Relations With Colleagues, Relations with Students, Appointments, Research Support, Committee Responsibilities, Bread-and-Butter Issues & Upward Mobility, Institutional Climate, Ghettoization, and Job Satisfaction.

A. Time Pressure

It is widely believed that minority professors are at a disadvantage vis-a-vis white professors because of the many competing demands on the former group's time. [FN21] Stories circulate of Third World professors shouldering inordinate burdens of committee responsibility and student counseling. [FN22] The results, summarized in Tables 1-3, [FN23] generally bear out these concerns. In the words of one respondent: "As the 'Black Professor,' one feels obligated to be available to minority students and/or minority issues." [FN24] Nearly two-thirds reported the time pressure high or nearly intolerable. [FN25] Over 74% said that they worked fifty or more hours a week on professional activities. Few worked fewer than forty hours, many more than sixty.

***356** One respondent, who checked "time pressure nearly intolerable, one of worst aspects of job," commented: "I've been a Deputy AG [Attorney General] ... and a Deputy Director of a state department ... and I've never worked harder." A few reported great pressure but blamed themselves for it: "I am beginning to set aside time for research and writing. I'm simply frustrated with *myself* that it's taken so long ... and the fault is all mine and that of my schedule." Many professors sought relief from job stress through such means as exercise, meditation, and seeking counsel from family or friends. Seeking assistance through formal channels in at least one case proved ineffective:

One professor, after six weeks at his new school, told the acting dean that he was feeling highly pressured because of too many committee assignments, too much student counseling and too many demands to speak to minority groups and serve on panels. The Dean told him, "Don't feel pressured," placed a kindly hand on his shoulder, and accompanied him to the door. The Dean made no further effort to discuss, or help the professor cope with his workload.

Of course, many majority-race professors are time-pressured as well, yet the quality, and perhaps quantity, of stress reported by minority professors seems remarkable. Moreover, institutional solicitude for overburdened minority professors may be declining. It seems unlikely that the acting dean's brusque dismissal of his minority colleague described in the previous example would have taken place at most American law schools ten or even five years ago.

B. Academic Freedom

I have previously reported that minorities of color are sometimes counseled or pressured by their white colleagues not to write or teach in certain "sensitive" areas, such as civil rights. [FN26] ***357** Our research disclosed that this problem is less widespread than I thought: 83% of respondents reported little or no pressure. Only 3% reported strong pressure. [FN27] Of course, *any* pressure on a faculty member to avoid writing in an area such as civil rights is lamentable; even a 17% finding of pressure is arguably too high. [FN28] Responses to this question are summarized in Table 4.

Even when there was no direct pressure to avoid writing in poverty law or race relations, many believed that scholarship in these areas was devalued. Others reported that pressure increased over time--after publishing a tenure article in civil rights, one professor was told to make sure his next article was in a different area. Another reported that writing or teaching in this field was considered "divisive." A third was told to stop writing about Indians and write about *law*. Others remarked that their writing was simply ignored--they were not counseled, much less pressured, at all.

C. Relations With Colleagues

Minority professors reported that they could rely on white colleagues for discussing ideas and critiquing manuscripts about as often as they could rely on their minority colleagues, if any. Several reported, however, that they could count on only a small group of whites; other white colleagues brushed them off or left their manuscripts on a shelf for months, unread.

When minority professors do consult their white colleagues for help with research and writing, they sometimes face a peculiar danger. The senior professor may forget where he or she first heard the idea. In addition to their well-known invisibility, [FN29] blacks and other minorities may be inaudible as well:

***358** A Third World professor approached a senior colleague, who teaches constitutional law, about an article the minority professor planned to write on cultural pluralism. The senior professor pointed out a number of difficulties with the younger professor's thesis and declared the topic unwritable. Two years later, the minority professor, who had moved to another institution, received a reprint from the senior professor, who had written the very article he had discouraged the minority from writing. When confronted, the white professor first denied any memory of the earlier conversation. Then, when the minority professor described the bizarre facts of one of the cases he had discussed with his colleague, the majority-race professor recalled the conversation, but said he had written the article independently and that it was a logical extension of his own writing and thought.

Several respondents reported reluctance to discuss teaching problems with majority-race colleagues (Table 5), perhaps because one's reception by students is linked with self-esteem as a teacher [FN30] or for fear of admitting that one is seen as a racial "symbol." Some professors cited the concern that such disclosures could be used against them later.

When asked how emotionally supportive minority professors found their majority-race colleagues, about as many reported them highly supportive as somewhat or highly unsupportive. The largest group (45%) described them as "somewhat supportive." Of those who checked somewhat or highly unsupportive, most turned to friends, family, therapists or minority colleagues for support (Tables 7, 8).

***359** At least one professor described his faculty as uncollegial: "I hate the word ['collegial']. At my school it's total hypocrisy." Another described efforts to seek support from majority-race colleagues as "a waste of time," since they were in his view "part of the problem." Another, lacking collegial support close at hand, said, "My long-distance phone bills are extraordinary." When asked on whom they rely for institutional news and gossip, substantial numbers answered no one, myself, minority or majority race students, secretaries or the clerical staff. A few said, "I'm usually the last to find out," or, "I'm not a part of the Old Boy network." [FN31]

D. Relations With Students

Most minority professors reported satisfactory or good relationships with white students (75%). About half this percentage reported difficulties, however, including 10.5% who reported strong resistance ("nothing I do is right"). Twenty-four percent reported that some of their strongest detractors, as well as strongest supporters, were white students (Table 10a). The kinds of problems that can be encountered in dealing with white students are illustrated by the following examples:

A first-year white student, who had been a linebacker in college football, scheduled a meeting in the black professor's office. During the meeting, he presented the professor, who had recently come to teaching after an impressive career in law practice, with a memorandum reviewing the professor's teaching, noting his deficiencies and giving suggestions on how he could overcome them. The professor asked the student what his basis was for criticizing him. The student answered that he was taking Torts from a well-known professor, Contracts from another famous teacher, and that he had unfortunately been assigned to the black professor and so was bent on making the best of the situation.

***360** A Hispanic professor who had always received good teaching evaluations moved to another school. After teaching there for a few weeks, he was visited by a delegation of four students. The students advised him that since he was new they wished to acquaint him with their objectives in taking the course and the manner in which they would like for him to teach. One student said that his pace was too slow; he was belaboring the obvious. Another said he was covering ground too quickly, being too superficial. A third said she was anxious to have him incorporate the southern point of view in the course (Civil Rights).

On the first day of class, a new Hispanic law professor by mistake called one of two black students in her class by the name of the other one. Everyone in class laughed at her mistake--the Hispanic had insulted the black student. When the seating chart came back, someone (not the black) had signed in the place of the second black, "the other one." (The black student had not taken offense).

Although some of the incidents recounted above could be explained on nonracial grounds, the frequency with which they occur in minority professors' lives belies such explanations. Some examples were expressly racial:

A respondent, the only black woman teaching at a major southern university, reported that many of the law students had never seen a black woman "out of uniform"--outside of domestic service. She said that although she dresses impeccably, visitors to the law school often mistake her for a maid and call spills and messes to her attention.

Relations with minority students, as might be expected, were more positive. Yet even here the blessing was mixed: Many reported that minority students made unrealistic demands and expected the professor to be superman or superwoman but did little to reciprocate (Table 10b).

***361** Minority law professors' teaching evaluations, as reported, are generally at or near the institutional median. Substantial numbers reported that their evaluations vary greatly from subject to subject, are sometimes both positive and negative for a single course, or are best in technical subjects that do not call for much normative analysis (Table 11). Some said that while they are treated politely by majority race students in class and around the law building, they are regularly "trashed" on evaluations. Some report increasing numbers of "bullets": students who give the professor the lowest rating in all categories, thereby lowering his or her average as much as possible.

Poor student evaluations can be used by faculty members and administrators to confirm what some secretly believe: "black professors are unqualified." In contrast, when white males get low numbers, they may be over-looked or explained away: "Joe got poor numbers in Civil Procedure because he is so rigorous; and what do students know anyway?"

E. Appointments

The respondents were asked how receptive their faculties were to hiring more minority teachers. [\[FN32\]](#) Nearly 15% reported them highly receptive. The largest number reported them somewhat receptive (50%) or somewhat or highly unreceptive (35%). About 71% described receptivity as remaining the same or cooling; only 10% reported it improving. Several reported their schools take the view that "one is enough," or only made offers to minority candidates unlikely to accept (Tables 12a, 12b). The kinds of problems minority candidates can face from appointments committees are illustrated by the following examples:

The chair of the appointments committee, in considering a black candidate, said he had never seen a "qualified" black teaching or tenure candidate. The chair said this in the presence of several faculty members, who later denied hearing it. A minority professor at the ***362** school, hearing about the remark, argued that it tainted the entire appointments process. No one backed her until finally a senior professor corroborated the remark. This caused a rift on the faculty between those who remembered the incident and those who did not. The candidate was ultimately successful in gaining a tenured position.

A Hispanic applied to the LL.M. program at an eminent school to prepare for a teaching career. Although he had graduated from a top law school and first-rate undergraduate university and today is a tenured professor at a top-fifteen school, the chair of the LL.M. committee told him he would not be admitted, because the school reserves its slots for persons of real intellectual caliber.

A black professor recounted that he was offered an appointment at a major law school located in the South. The school retracted the offer when they learned he was married to a white woman.

A light-skinned Hispanic with a Spanish surname interviewed at the Chicago A.A.L.S. hiring conference with a committee from a well-known midwestern law school. One of the interviewers asked her why she had indicated on her form that she was a Hispanic. She said she answered as she had because she did not wish to lie and asked the interviewer whether he did not answer questions truthfully on forms, such as ones about his sex.

The reported apathy toward minority appointments stands in contrast to the relatively receptive attitude that prevailed in the past. Although opposition to diversity hiring is not universal, it no longer commands the broad support that it once did. [\[FN33\]](#)

***363** *F. Research Support*

Most respondents had few complaints about research support at their schools, finding it adequate or excellent. Slightly less than half reported that their school did not have a program that provides time off for research and writing (Tables 13a, 13b). A few said if there was such a program, they did not know about it, it had not been offered to them, or if offered a stipend, theirs was the smallest of the faculty:

A professor moved from his previous position to one at a large research university. Once there, to his surprise he found his requests for research assistance, a computer grant, and summer stipends regularly rejected. This happened even though the professor's writing record was at least as good as that of majority race colleagues who received funding. Among the proposals rejected was one requesting support for an article the professor subsequently had accepted in a highly-ranked law review. The next year, the professor requested support for an article that, unknown to the research committee, had already been accepted by an even more highly ranked review. This proposal was also rejected.

G. Committee Responsibilities

Although about half of all minority professors reported that assignment to too many committees was not a problem, 40% described their committee assignments as excessive--more than they want, and more than those of the average professor. [FN34] A small number reported that their schools are careful about their time, and that they are probably on fewer than the usual number of committees. Of those who checked "too many committees," most believed that the law school did not weigh their greater than average committee contributions in tenure and promotion ***364** decisions (Tables 14, 15). Some commented that they were often placed on committees, but rarely the most important ones and never given the position of chair.

The data indicate that for many minority professors, committee service is a career trap. The professor serves out of a sense of institutional loyalty or because the institution wants the "minority point of view" represented on as many committees as possible. Yet, come tenure time the long hours of service are given scant weight. [FN35] If the professor's writing record has suffered as a result of university or community service, the school's position is, "That's unfortunate, but what can we do?"

H. Bread and Butter and Upward Mobility

Responses regarding promotions and compensation were mixed. About one-third of respondents reported that they were treated as well as whites in promotion and tenure decisions, or better (3%). One-fourth reported being treated "not as well as whites" (Table 16). Many of the comments indicated the extent of the resistance minority faculty members may face:

Last year, as a tenured Associate Professor, I made less money than two untenured Assistant Professors.

Campus-wide, there is a general observation that minority professors stimulate unusual hostilities [in tenure and promotion matters].

[We are] [n]ever given acceleration, even when we're clearly superior to whites who are. It's a fixed "pot"--the more you give minorities the less you can give to your white friends.

I teach, publish twice a year, write grant proposals, do more than others, but was denied tenure track.

The respondents were also asked how they saw their opportunities for "upward mobility"--visits to other schools, appointments ***365** to a university or law school administrative position, or selection for an endowed chair. More than one-third replied that they have less mobility than whites ("I have to be twice as good to go half as far"). About one-fourth described their upward mobility as the same as whites'. Smaller numbers felt that their upward mobility was excellent--"if I work hard the sky is the limit"--or stymied--"whites make sure minorities do not move up." (Table 17).

The following examples illustrate the non-white professors' predicament:

My upward mobility is nil. [R]egardless of track record or “credentials,” minorities have to prove themselves continually.

All it takes is a phone call from a prestigious but conservative faculty colleague, and the interest school X displayed in you instantly dries up. This happens to me and has happened to other minorities who taught here over the years.

Upward mobility in terms of going to a more prestigious school, I believe, will be stymied We tend to be locked out of the most elite schools, many of which have their “one” or “two.” For these institutions, the idea of having more seems ... contrary to their “essence.”

An interviewee reported that the administration assigned her difficult classes. Her colleagues then spread word of her low teaching evaluations to other schools that were considering her. She finally surmounted the bad publicity and moved to a much better school.

An experienced minority professor was interviewed for a position as dean of a good Eastern law school. One of the most persistent questions he was asked concerned his ability, as a minority person, to raise funds from the alumni and wealthy donors.

***366** After a break from teaching, during which he held a high post in government, a professor applied for a teaching position with a better law school than the one he left. The new school asked the previous dean for a letter of recommendation. The dean told the new school that the respondent (a Latin male) had been more interested in dancing, clothes and members of the opposite sex than his work.

These results call for attention. When members of a profession believe that their advancement is handicapped by reason of their color, that profession has a serious problem. [\[FN36\]](#) In the teaching profession, which relies heavily on psychic rewards to maintain its members, the pervasive disenchantment we found is even more troubling.

I. Institutional Climate

A checklist of adjectives describing the climate at law schools elicited both positive and negative responses, often by the same individuals. A large group, 45%, described their institutions as “subtly racist;” 35% selected “indifferent, neutral;” 26% chose “psychologically unhealthy, stressful;” and 20% felt “excluded by whites from informal networks” or “treated inconsistently, never know how I’ll be treated.” Ten percent flatly described their institution as “racist.” At the same time, however, 44% described the atmosphere as “warm, supportive;” 34% as “positive, encouraging;” and 12% as “nonracist” (Table 18). A fair number of professors described their schools as simultaneously positive and negative, *e.g.*, “subtly racist” and “positive, encouraging” (Table 18).

The following examples illustrate some of the institutional hurdles minorities face:

Derrick Bell lectured at her school. Later that day, there was a poetry reading that included black poetry. ***367** One white student read Kipling on the sexual qualities of “nigger” women. The professor was devastated, certain that the choice of material was directed at her. Next day, in class, some of her students hung red, white and blue banners to show support for her. Many students, however, maintained that the passage was not aimed at her, and disputed her interpretation that it was insulting to black women. Other white students indicated later that they were afraid she might retaliate against white students for the insult.

A “crazy” student continually disrupted the professor’s class. A white student asked her what she was doing wrong; why couldn’t she “handle” the disruptive student? The law school administration refused to help her, telling her that the crazy student was her problem.

A professor filed suit against his law school for permitting continual racial slurs and graffiti and an otherwise hostile work environment, for denying him various forms of material support and promotions and for removing him from his favorite classes.

Do these dismal examples and survey results indicate deteriorating treatment? Only before-and-after data (which do not exist) would confirm such a decline, yet the survey results show a pattern of institutional coolness that is hard to imagine existing ten years ago. [\[FN37\]](#) Several surveyed professors said they felt a decline in institutional support.

J. Ghettoization

Even though many minority professors are not encouraged to write in the area of civil rights and may be actively discouraged from doing so, they are expected to be instant experts when consulted about minority affairs. Most respondents found ***368** the role demeaning when these were the only matters about which they were consulted (Table 19). A few respondents said they welcomed the expert role, or blamed themselves for having accepted it. ("Maybe I got myself into [it] by agreeing to run the rap in the first place."). Others answered that their opinions are not consulted about anything ("They ... seem increasingly unconcerned about race and don't need an expert," or "After they picked my brain, they justified their results with a footnote-- Professor Minority said so and so.").

K. Job Satisfaction

A final question asked: "On the whole, how satisfied are you with your job?" Less than one-half described themselves as highly satisfied. About 19% described themselves as somewhat or extremely dissatisfied, thinking of leaving (Table 20a). Teaching, working with students, and writing and research led the list of most satisfying activities (Table 20b); dealing with administrators and colleagues that of the least satisfying (Table 20c). [\[FN38\]](#)

After almost ten years, I'm seeing a psychiatrist again. The stress is related to student evaluations and the institution's insistence on giving consideration to them. [\[FN39\]](#)

(From a respondent who checked Extremely Dissatisfied): I'm out of here.

Teaching, writing, counseling would be so much more satisfying were it not for the anxieties produced by racism.

***369** I am planning to move on. The dissatisfaction I feel comes from the frustration of unmet expectations.

Dismal job--but it's not much better "out there."

Conclusion

It is impossible to read the survey returns without being acutely conscious of the pain and stress they reflect. Large numbers of minority law professors are overworked, excluded from informal information networks and describe their work environment as hostile, unsupportive, or openly or subtly racist. Many face increasing challenges to their legitimacy in the classroom. The anecdotal material from the interviews does little to dispel the picture, drawn by the survey results, of a beleaguered group of teachers struggling to maintain credibility.

What can be done to arrest the deterioration in the quality of minority law professors' lives that these data bespeak? Many solutions have been proposed, [\[FN40\]](#) most of which undoubtedly would ease our dilemma to some extent. It seems unlikely that relief will come soon, however--the professors we canvassed sensed little urgency on their institutions' parts to redress the conditions they described. [\[FN41\]](#) Yet, recognition of the magnitude of the problem may one day spur the search for constructive responses. [\[FN42\]](#) Without that recognition, plainly nothing will happen. ***370** This Article is offered with the hope, admittedly not great, that that day will come sooner rather than later. [\[FN43\]](#)

[\[FN4\]](#) Professor of law, University of Wisconsin. J.D., University of California-Berkeley (Boalt Hall), 1974. I am indebted to Harriet Cummings and Sandy Talbott for research assistance in preparing this Article.

[\[FN4a\]](#) Professor of law, Harvard University.

[\[FN1\]](#) Hughes, "Mother to Son," in *Selected Poems* 87 (1959).

[\[FN2\]](#) For descriptions of the early years of affirmative action, see Burns, *C.L.E.O.: Friend of Disadvantaged Minority Law Students*, 61 A.B.A. J. 1483 (1975); Cabranes, *Careers in Law for Minorities: A Puerto Rican's Perspective on Recent Developments in Legal Education*, 25 J. Legal Educ. 447 (1972); Chused, *The Hiring and Retention of Minority and Female Faculty in American Law Schools*, 137 U. Pa. L. Rev. 537 (1989) (article prepared at request of Society of American Law Teachers); Kaplan, *Hard Times for Minority Profs*, Nat'l L.J., Dec. 10, 1984, at 1, col. 1;

Lawrence & Chambers, [*Minority Hiring in A.A.L.S. Law Schools: The Need for Voluntary Quotas*](#), 20 U.S.F. L. Rev. 429 (1986).

[FN3] Chused, *supra* note 2, at 556. Chused's figures do not include Hispanics teaching at law schools in Puerto Rico nor blacks teaching at the four predominantly black U.S. law schools; figures compiled by the Association of American Law Schools (A.A.L.S.) often do and accordingly are somewhat higher.

[FN4] Chused, *supra* note 2 at 556. The leveling off may be part of a national trend. See Delgado, [*Derrick Bell and the Ideology of Racial Reform: Will We Ever Be Saved?*](#) 97 Yale L.J. 923 (1988); sources cited *infra* notes 6, 15, 41.

[FN5] See *infra* note 14.

[FN6] See Bell, *The Price and Pain of Racial Perspective*, Stan. L.J., May 8, 1986, at 1; Bates, *Minority Law Professors: Will the Best and the Brightest Continue to Teach*, Harv. Crimson, Dec. 17, 1986, at 3, col. 1; Gilliam, *An Insult to a Law Professor*, Wash. Post, Aug. 4, 1986, at C3, col. 1. See also Letter to Chair, Faculty Appointments Committee (Nov. 1987) (letter signed by 29 minority law professors and sent to every accredited law school called attention to loneliness and isolation of minorities of color and encourages schools to hire Third World professors in numbers larger than one) (on file with *Harvard Civil Rights-Civil Liberties Law Review*); Letter to Dean John Ely, Stanford Law School (fall 1986) (signed by 17 Hispanic law professors) (on file with *Harvard Civil Rights-Civil Liberties Law Review*); Open Letter to our Colleagues of the Majority Race (Aug. 1986) (letter signed by 22 minority law professors and sent to every accredited U.S. law school drew attention to deteriorating numbers of and climate for minorities at nation's law schools) (on file with *Harvard Civil Rights-Civil Liberties Law Review*); Statement by Jose Bracamonte, Richard Delgado and Gerald Torres, Critical Legal Studies Annual Meeting, Los Angeles, Cal. (Jan. 1987) (called attention to racially insulting language contained in CLS Newsletter).

[FN7] Chused, *supra* note 2, at 563; Open Letter to Our Colleagues of the Majority Race, *supra* note 6 (turnover rate of minority professors 43% in recent six-year period); Brooks, *Anti-Minority Mindset in the Law School Personnel Process*, 5 Law & Inequality 1 (1987) (citing study that showed white attrition rate about 12 points lower than minority attrition rate). See also Zenoff & Moody, *Law Faculty Attrition: Are We Doing Something Wrong?* 36 J. Legal Educ. 209 (1986).

[FN8] Huber, *President's Address*, A.A.L.S. Newsletter, Feb. 1988, at 1, 3; Rosenblum, *President's Message, Toward Enhancing Faculty Diversity*, A.A.L.S. Newsletter, Dec. 1987, at 1; Prager, *President's Message, Minority Law Teachers*, A.A.L.S. Newsletter, Nov. 1986, at 1.

[FN9] Letter from Rennard Strickland, dean, Southern Illinois University Law School, to Victor Rosenblum, president, A.A.L.S.; Frank Walwer, chair, Section on Legal Education, ABA; and Marilyn Yarborough, president, Law School Admissions Council (Apr. 21, 1987) (on file with *Harvard Civil Rights-Civil Liberties Law Review*).

[FN10] See Statement by Paul Brest, dean, Stanford Law School (Nov. 20, 1988) (describing role of student activism in wake of Derrick Bell incident at Stanford Law School, see *infra* note 14); Levi, *28 Arrests in Boalt Hall Sit-in Over Bias*, San Francisco Chron., Mar. 23, 1988, at A-3, col. 1; *Student Groups to Dean: Delgado Not Enough*, Penn. L. Forum, Mar. 7, 1984, at 5, col. 4; *Update: Schoolwide Meeting to Combat Sexism*, *id.*, Apr. 13, 1983, at 4, col. 5. On May 10, 1988, black law students conducted a 24-hour sit-in at Harvard Law School. See also conversation with Derrick Bell (July 22, 1988); N.Y. Times, May 12, 1988, at A-26, col. 3; *id.*, May 11, 1988, at A-18, col. 4.

[FN11] Skillman, *Directory of Minority Law Professors* (1986).

[FN12] See Appendix, *infra*, reprinting questionnaire. Derrick Bell helped design the questionnaire and received the returns. Richard Delgado, with the assistance of Gerald Torres, mailed the questionnaires, and tallied and prepared the analysis.

[FN13] Many illustrated the decline in the "Comments" section of the questionnaire, using examples drawn from personal experience. Question A, for example, dealing with time pressure, drew nearly 30 comments, several in this vein.

[FN14] See Bell, *supra* note 6; Gilliam, *supra* note 6. Bell, a leading black scholar, taught Constitutional Law as a visiting professor to a section of first-year law students at Stanford. After a few weeks, the professor was invited to give a lecture in a noon "enrichment" series on constitutional law offered at the law school. Unknown to the professor, the faculty had initiated the series in response to complaints from his students over the way the course was being taught, with an emphasis on economic determinism and the role of slavery in the Constitution's founding. On the eve of the professor's lecture, black students advised him of their suspicion that the series was aimed at remedying his perceived teaching deficiencies and assuring that the students knew constitutional law as it was conventionally taught. Bell had been invited to speak to allay suspicions about the series' purpose. When the black students protested, the series was cancelled. Bell subsequently wrote a long account of his experience in the Stanford Law School student newspaper, which was widely circulated in the national law school community. See Bell, *supra* note 6; Statement by Dean Paul Brest, *supra* note 10.

[FN15] Open Letter, *supra* note 6.

Human experience is structured in such a way that minorities experience racial treatment much more frequently than white people observe it. See Delgado, [Critical Legal Studies and the Realities of Race--Does the Fundamental Contradiction Have a Corollary?](#) 23 *Harv. C.R.-C.L. L. Rev.* 407 (1988). Few acts of race-based discrimination come into the field of vision of most whites; when they do they cause a deep impression. Minorities, by contrast, experience racial treatment virtually every day of their lives. *Id.* Today, much racism is covert and one-on-one. Accordingly, only the victim and the perpetrator observe it. *Id.* at 407 n.1. Further, much racism is subtle; absent unusual sensitivity, observers may easily miss it. *Id.* Even perpetrators of racial acts may be largely unaware of the racist character of their deeds. *Id.* Finally, much of the racism that reaches the white majority today may seem more remote than previously. There are few TV or news stories of lynchings and cattle prods in our "backyard." The acts of race-based brutality that do reach us tend to arise in places like South Africa, conveniently remote from us. Accordingly, they may fail to arouse in the watcher any sense of urgency or personal responsibility. For all of these reasons, members of the majority race may underestimate the amount and degree of racial treatment that minorities of color live with.

[FN16] To our knowledge, there have been no earlier job satisfaction surveys of minority law professors, nor of law professors generally. Tenured university professorships rank high in a list of most desirable occupations. See *Best-Rated Jobs in U.S.*, *San Francisco Chron.*, May 19, 1988, at A-5, col. 1. Because law professors have even higher salaries, prestige, and greater autonomy than professors generally, it is reasonable to infer that most white male professors are relatively satisfied with their jobs. For other studies of law professors or of law teaching, see Fossum, [Law Professors: A Profile of the Teaching Branch of the Legal Profession](#), 1980 *Am. B. Found. Res. J.* 501; Fossum, [Women Law Professors](#), 1980 *Am. B. Found. Res. J.* 903; McFarland, *Self-Images of Law Professors: Rethinking the Schism in Legal Education*, 35 *J. Legal Educ.* 232 (1985) (studies of law teachers' self-concept); Zenoff & Moody, *supra* note 6; Kelso, *The A.A.L.S. Study of Part-Time Legal Education: Final Report* (1972). See also Symposium, *Women in Legal Education--Pedagogy, Law, Theory, and Practice*, 38 *J. Legal Educ.* 1-193 (1988).

[FN17] Three hundred three questionnaires were mailed out. Two were returned marked "addressee unknown." The return rate was slightly over 35%, relatively high for a survey

dealing with sensitive material. See R. Sommer & B. Sommer, *A Practical Guide to Behavioral Research* 71-72 (1980). Compare Jones, *Black Managers: The Dream Deferred*, Harv. Bus. Rev., May-June 1986, at 84 (similar response rate to questionnaire on racism in business world).

[FN18] Hansen & Hurwitz, *The Problem of Non-Response in Sample Surveys*, 41 J. Am. Stat. A. 517 (1946). See also *infra* note 19 (survey primarily qualitative, not quantitative, in nature).

[FN19] Although the survey results are reported in numerical and tabular form, the survey is primarily qualitative in nature, not quantitative. Most of the questions called for the respondent to describe in subjective terms some aspect of his or her professional life. Many of the answers contained extensive comments and stories drawn from personal experience. The tabulating of these data required making subjective judgments regarding the category or categories in which the responses fell. Subjectivity also entered into the questionnaire's design and the choice of questions, which were designed to elicit information about various areas of a minority professor's life where racism might be felt. See *generally* *Qualitative Methodology: Firsthand Involvement with the Social Word* (W. Filstead, ed. 1970).

[FN20] By "comments" I refer to remarks the respondents entered in a Comments section provided for most questions. "Interview material" includes that obtained during face-to-face interviews with nonwhite colleagues at conferences, meetings, and social and professional events during the year following the survey. Interview material is indented on the page. Interview material turned out to be considerably more negative than the responses to the survey, perhaps because the questions asked were open-ended ("How are things going for you at _____?"). The interviewees were not selected randomly from those surveyed, however, and this material should be considered as illustrative of poor working conditions at some universities for minority faculty members and not necessarily as representative of all the institutions at which professors were surveyed.

[FN21] E.g., In *Memoriam: C. Clyde Ferguson, Jr.*, 97 Harv. L. Rev. 1253, 1264-67 (1984); Olivas, *Latino Faculty at the Border*, Change, May/June 1988, at 9; *Black Professors Fell Special Stress*, San Francisco Chron., Mar. 20, 1987 (interview with Earl Smith, Assistant Professor of Sociology, Washington State University, reporting survey of more than 1000 black academics); *Stress Hits Black Profs Harder than Whites*, Study, Jet, Mar. 30, 1987, at 5 (same). But see "Service" Duties About Equal for All Faculty, *New UC Report Says*, 12 Notice 1 (May 1988) (minority professors worked about 10% more on service tasks than their white counterparts).

[FN22] Sources cited *supra* note 21.

[FN23] Tables appear in the Appendix at the end of this Article.

[FN24] Many cited too much committee work, student counseling, and too many hard-to-turn-down speaking invitations.

[FN25] E.g., "My time pressures [before tenure] were unbelievable--almost unbearable;" or "I am on sabbatical to organize my work life."

[FN26] See, e.g., Delgado, *The Imperial Scholar: Reflections on a Review of Civil Rights Literature*, 132 U. Pa. L. Rev. 561 (1984).

[FN27] E.g.: Advised "not to work in 'soft' areas"; pressured "to write more traditional studies"; "now advise other non-tenured faculty of the danger" [of writing in race remedies area].

[FN28] Pressure to avoid writing in certain sensitive areas violates academic freedom. See *1940 Statement of Principles on Academic Freedom and Tenure*, 53 A.A.U.P. Bull. 246 (1967); *Developments in the Law--Academic Freedom*, 81 Harv. L. Rev. 1045, 1146 (1968).

[FN29] See R. Ellison, *Invisible Man* (1952).

One respondent related an incident in which a white male professor did not see her as a colleague:

A young Hispanic professor teaching at a major school approached a senior white male colleague to discuss some issues she was about to cover in class. The professor appeared not to recognize her and asked her to please see his secretary for an appointment--the treatment he routinely applies to students.

Was this simply a case of faulty memory? Most faculty members make a point of getting to know their new colleagues; ordinarily there are not more than a handful at a time. More likely the professor's failure to recognize the Hispanic was a product of unconscious perceptual screening--he was not prepared to see a young-looking Hispanic as a colleague. See Lawrence, [*The Id, The Ego and Equal Protection: Reckoning with Unconscious Racism*, 39 Stan. L. Rev. 317 \(1987\).](#)

[FN30] Nagel, *Invisible Teachers: A Comment on Perceptions in the Classroom*, 32 J. Legal Educ. 357, 359 (1982).

[FN31] These findings are summarized in Table 9.

[FN32] Survey results aside, evidence suggests that this receptivity is cooling. See *supra* notes 2, 6-7.

[FN33] See *infra* note 37; *supra* notes 2-4 and accompanying text.

[FN34] See Olivas, *supra* note 21; *Black Professors Feel Special Stress*, *supra* note 21 (sociology professor's survey of black professors). But see "Service" Duties About Equal, *supra* note 21 (discrepancy only about 10%).

[FN35] See Olivas, *supra* note 21.

[FN36] See Jones, *supra* note 17 (drawing same conclusion with respect to black managers).

[FN37] As one possible indication of a cooling climate, the Index to Legal Periodicals listed four articles about minorities in legal education during the period 1973-76 but only one during the period 1983-86.

[FN38] Of those who checked "dealing with colleagues and administrators," a large number circled or underlined "administrators."

[FN39] For a discussion of the effects of student evaluations, see *supra* § I.D.

[FN40] See, e.g., Brooks, *supra* note 7; Chused, *supra* note 2; Kay, *The Need for Self-Imposed Quotas in Academic Employment*, 1979 Wash. U.L.Q. 137; Lawrence & Chambers, *supra* note 2; Romero, Delgado & Reynoso, *The Legal Education of Chicano Students: A Study in Mutual Accommodation and Cultural Conflict*, 5 N.M.L. Rev. 177 (1975).

[FN41] See also Crenshaw, [*Race, Reform, and Retrenchment: Transformation and Legitimation in Antidiscrimination Law*, 101 Harv. L. Rev. 1331 \(1988\)](#) (documenting downturn in fortunes of blacks, increase in indifference toward minorities coinciding with Reagan administration); Delgado, *Derrick Bell and the Ideology of Racial Reform: Will We Ever Be Saved?*, 97 Yale L.J. 473 (1988).

[FN42] See sources cited *supra* note 40. Law faculties could begin redressing some of the conditions called to their attention in Open Letter, *supra* note 6. They could take seriously the suggestion in Letter to Chair, Faculty Appointments Committee, *supra* note 6, that faculties

appoint professors of color in numbers larger than one. They could restructure the workload of minority professors to lessen the stress and burnout that appear to contribute to high attrition, *supra* notes 21-26. They could include minority professors in informal networks, *supra* notes 30-33, lessen their excessive committee assignments, *supra* notes 34-35, reinforce their credibility with students, *supra* notes 32-33, and be sensitive to issues of racism in course evaluations, *supra* § I.D. They could desist from ghettoizing their Third World colleagues, *supra* notes 37-38 and accompanying text, or penalizing them when they write or teach in areas dealing with race, *supra* notes 26-28.

[FN43] Perhaps a glimmer of hope can be found in the current complaints of arbitrary or harsh treatment of white feminists and leftists at certain law schools. See Bell, *Introduction, supra*; D. Bell, *Race, Racism and American Law* 2-51 (2d ed. 1980) ("interest convergence" formula: whites undertake racial reform only when motivated by self-interest). It may be that glaring inequities in the treatment of minorities of color will serve as the occasion for a broader academic housecleaning that benefits all. Reexamination of bias and "Old Boy" networks in hiring and promotion, necessitated by the dwindling number of minorities, may lead to fairer standards generally. Reconsideration of issues of stress and workload may lead to reforms that will produce a more humane workplace for everyone. See Freund, *The Civil Rights Movement and the Frontiers of Law*, in T. Parsons & K. Clark, *The Negro American* 363 (1962) (reforms undertaken on behalf of blacks often end up benefiting all of society).

***371 APPENDIX**

This Appendix contains the questionnaire sent to respondents and tables summarizing responses.

All percentages in the tables are of 106 total respondents unless otherwise indicated.

***372 MINORITY LAW PROFESSORS' EXPERIENCE**

--An Inventory and Questionnaire--

A. YOUR TIME AND DEMANDS ON IT

It is sometimes said that minority professors are at a disadvantage vis-a-vis white professors because of the many competing demands on our time.

About how many hours do you work, at all professional activities, in a typical week? 60 or more: ____. 50 to 60: ____. 40 to 50: ____. 30 to 40: ____. Fewer than 30: ____.

About what percentage of your time do you devote to the following activities? Talking with, counseling students: ____. Preparing for and teaching class: ____. Answering letters and the phone: ____. Writing and research: ____. Dealing with stress through exercise, meditation, talking things over with friends, etc.: ____.

How time-pressured do you feel in your job? Not at all or slightly: ____ Moderately time-pressured: ____. Highly time-pressured: ____. Time pressure nearly intolerable, one of worst aspects of job: ____.

Comment: _____.

B. ACADEMIC FREEDOM

Some minority teachers report that they are counseled against writing or teaching in certain areas, such as race relations law. How much pressure of this sort have you experienced? Little or no pressure: ____. Some pressure: ____. Strong pressure: ____.

Comment: _____

C. RELATIONS WITH COLLEAGUES

Can you rely on your white colleagues for the following types of support?

Discussing research topics and ideas? Yes: ____. No: ____.

Other: _____

Reading and critiquing manuscripts you have written? Yes: ____. No: ____.

Other: _____

Discussing problems with students or teaching? Yes: ____. No: ____.

Other: _____

Can you rely on your minority colleagues for the following types of support?

Discussing research topics and ideas? Yes: ____. No: ____.

Other: _____

Reading and critiquing manuscripts you have written? Yes: ____. No: ____.

Other: _____

Discussing problems with students or teaching? Yes: ____. No: ____.

Other: _____

On whom do you rely for informal institutional news and scuttlebut? _____.

***373** D. RELATIONS WITH STUDENTS

White students. I currently have good or satisfactory relationships with white students at my school: ____. Some white students resent me; nothing I do is right: ____. Some of my strongest detractors, as well as strongest supporters are white students: ____.

Other: _____

Minority students. Minority students at my school are the light of my life-- they give me support and information when I need them: ____. Minority students make my life both easier and harder; they support me but consume a great deal of my time and energy: ____. Minority students are part of my problem: they make unrealistic demands of me and expect me to be superman/woman but do little to reciprocate: ____.

Comment: _____

Teaching evaluations. (Check one or more). My teaching evaluations are about average for my school: ____. My evaluations are above the school's average: ____. My evaluations are below the school's average: ____. My evaluations vary greatly from subject to subject and year to year: ____. My evaluations are "bipolar"-- about the same number like me as dislike me: ____. My evaluations are best in technical subjects rather than ones that contain much policy analysis: ____. My teaching evaluations are rising: ____; dropping: ____; staying about the same: ____.

Comment: _____

E. APPOINTMENTS

How receptive are the faculty at your school to hiring more minority faculty members? Highly receptive: ____. Somewhat receptive: ____. Somewhat unreceptive: ____. Highly unreceptive: ____.

Has receptivity cooled in recent years? ____. Improved? ____ Remained about the same? ____.

Comment: _____

F. COLLEGIALITY

How emotionally supportive are your majority-race colleagues? Highly supportive: ____. Somewhat supportive: ____. Somewhat unsupportive: ____. Highly unsupportive: ____. If you checked somewhat or highly unsupportive, where do you turn for emotional support? (Check one or more). Friends, family: ____.

Minority professors or students at my school: ____. Minority colleagues at other schools or departments: ____. Other: ____.
Comment. _____

***374 G. RESEARCH SUPPORT**

How adequately does your school support your research and writing in such respects as research stipends, typing, and research assistance? Adequate support: ____. Some support but not as much as is available at other schools: ____. Excellent support: ____.

Inadequate support: ____.

Does your school have a released-time program that enables you to take off a solid bloc of time, with pay, for research and writing? Yes: ____. No: ____.

Comment. _____

H. COMMITTEE RESPONSIBILITIES

Many minorities find themselves placed on a large number of university or law school committees. Is this true in your case? Yes, I am on too many committees--more than I want and more than the average professor: ____. No, I am on about the right number of committees: ____. My school is careful about my time; I am probably on fewer than the usual number of committees: ____.

If you checked "too many committees," does your school weigh your greater than average contribution in tenure and promotion decisions? Yes: ____. No: ____. Other: _____

Comment. _____

I. BREAD AND BUTTER

How are minority professors treated at your school in promotion and tenure? Same as whites: ____. Not as well as whites: ____. Better than whites: ____.

Comment. _____

J. UPWARD MOBILITY

How do you see your opportunities for upward mobility--visits to other schools, appointment to a university or law school administrative position, selection for an endowed chair, etc.? Available to me on same basis as for whites: ____. Less available to me than for whites; I have to be twice as good to go half as far: ____.

Upward mobility excellent--if I work hard, the sky is the limit: ____. Upward mobility stymied--whites make sure minorities do not move up: ____.

Comment. _____

***375 K. INSTITUTIONAL CLIMATE**

How would you describe the climate at the school where you teach? (Check as many as apply).

Indifferent, neutral: ____

Cold: ____

Warm, supportive: ____

Patronizing: ____

Positive, encouraging: ____

Psychologically unhealthy, stressful: ____

Whites tolerate minority professors: ____

Whites exclude minority professors from informal networks: ____

Inconsistent, never know how I'll be treated: ____

Racist: ____

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