

# The Lessons of Law School

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On the 20th Anniversary of the *Berkeley Women's Law Journal*, I reflect on some of my experiences at the law school and on the Journal from 1995 to 1998. Sadly, the dismantling of affirmative action and the concomitant decline of underrepresented students of color at Boalt Hall dominated this period. These events were a focus of my law school years and a reality that affected *BWLJ* directly. In three short years, Boalt went from being a top-ten law school with the most racially diverse student body in the country to, in the 1997-98 academic year, an institution with no Native Americans, one African-American, and fourteen Latinas and Latinos in its incoming class.

How did this come about so rapidly? The sequence of events is well recorded and remembered by many. In July of 1995, the University of California Board of Regents enacted Resolution SP-1 prohibiting the use of "race, religion, sex, color, ethnicity, or national origin as criteria for admission" to an educational program.<sup>1</sup> Then, in November 1996, a majority of California voters passed Proposition 209, which prohibits "grant[ing] preferential treatment . . . on the basis of race, sex, color, ethnicity, or national origin in the operation of . . . public education."<sup>2</sup> In response, Boalt deleted the racial / ethnic information in the application, eliminated the use of enrollment goals for specific racial groups, increased the discretion granted to the Director of Admissions and Admissions Committee in making admissions decisions, increased the personal statement from two to four pages, and halted targeted recruitment of underrepresented students of color. In those first years after Proposition 209 the school did not develop alternative measures to encourage continued racial diversity nor take active steps to reverse the "chilling effect" that SP-1 and Proposition 209 had on many students of color considering attending Boalt. I do

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†. J.D. 1998, Boalt Hall School of Law, University of California at Berkeley. I am indebted to my fellow Boalt students on the *Journal*, New Directions in Diversity, Coalition for a Diverse Faculty and Student Body and the Equal Educational Opportunity Initiative who inspired hope and made a difference. Elizabeth A. Landsberg was Editor-in-Chief of Volume 13 of the *Berkeley Women's Law Journal* and is currently the Supervising Attorney at the Health Rights Hotline at Legal Services of Northern California.

1. Univ. of Cal. Bd. of Regents, Policy Ensuring Equal Treatment (SP-1) (approved July 20, 1995, rescinded May 16, 2001).
2. Proposition 209 (*codified as* CAL. CONST. art. I § 31(a)).

not wish to rehash each decision made during this difficult time, but to note that these developments in admissions had a real effect on the law school as a whole and on the *Berkeley Women's Law Journal* specifically.

What captured my interest in *BWLJ*, and what I believe is its cornerstone, is the *Journal's* publishing mandate. This mandate is printed in full at the beginning of the *Journal*. It states in part:

Our mandate is to publish research, analysis and commentary that address the lives and struggles of underrepresented women. We believe that excellence in feminist legal scholarship requires critical examinations of the intersection of gender with one or more other axes of subordination including, but not limited to, race, class, sexual orientation, and disability.

*BWLJ* rejects a feminism informed solely by the experiences of white, middle-class women. Instead, the *Journal* also embraces the voices and experiences of women of color, poor women, women with disabilities, immigrant women, lesbians, bisexual women, and transgender people. How in 1997 could we continue publishing under this critical mandate with the shrinking number of women of color at the law school? This was a very real question in the face of an incoming class with no African American women, no Native American women, and only seven Latinas. Indeed, at the *Journal's* annual retreat in 1997, we asked ourselves whether we should or could continue our mandate in light of the declining number of underrepresented students of color at Boalt. Though my memory of the retreat is not complete, I know we answered these questions with a resounding yes. We could not abandon the mandate—the heart of our *Journal*. We would no longer be the *Berkeley Women's Law Journal* if we lost our focus on intersectionality.

So, we took steps to counteract and protest the decline in racial diversity. We solicited and published commentary pieces for Volume 13 from Boalt students and professors about the dismantling of affirmative action that was occurring at the school. We co-signed a letter with other student groups to the faculty urging them to adopt admissions policies that would maximize racial diversity. We gathered signatures to place the Equal Educational Opportunity Initiative (EEOI) on the ballot to once again permit the consideration of race and sex for admissions to educational programs.

These efforts are what I remember most poignantly about my time at Boalt Hall. Of course I learned the meaning of consideration, personal jurisdiction, and *mens rea*, and I found those law school courses and concepts important and philosophically engaging. But, what was most important to me during those law school years was my work with members of the *Journal* and other student groups to maintain racial justice at the school and in our larger community. Through these activities and groups, I found my voice and my community. I was part of a student-initiated class that authored a report, "New Directions in Diversity," proposing alternative admissions strategies to continue racial

diversity in the wake of Proposition 209.<sup>3</sup> I participated in numerous discussions at *Journal* meetings about the meaning of intersectionality and our mandate, and the importance of the consensus model under which we operated. We instituted a new practice during the 1996-97 year of having a *Journal* retreat to increase our awareness of different forms of oppression and to set our goals for the year ahead. Then in my third year, when many of us were so demoralized by the low numbers of incoming underrepresented students of color, several Boalt students led the charge to place the Equal Educational Opportunity Initiative on the ballot in California to reverse the deleterious effects of Proposition 209 in education. Though we were not successful in getting the number of signatures needed to qualify the EEOI for the ballot, the incredible commitment and tireless work of the students leading the campaign, and the hunger with which students throughout the state responded to the initiative, were inspirational and taught me much about the power of organizing. And when the faculty still did not heed our call to action, many of us staged a protest, which ended with a sit-in in the Registrar's office.

These formative experiences of my three years at Boalt were shaped by my involvement with the *Berkeley Women's Law Journal*, the Coalition for a Diverse Faculty and Student Body, and "New Directions in Diversity." My understanding of the invisibility of white-skin privilege was reinforced in part by the responses of too many people who saw affirmative action as granting special preferences rather than trying to counteract racial injustice and serve the important educational goal of racial diversity. My work on the *Journal* and in the admissions struggles gave me a language and framework for the best of feminism and showed me the importance of focusing on intersectionality. Though I was outraged and demoralized by the faculty's failure to fight for racial diversity and justice, I learned a great deal from my fellow students about the power and importance of action and organizing. As I look back, these are the critical lessons I take from law school and apply as a public interest attorney, mother, and community member. Indeed, looking back at these times reminds me of how much more there is to be done.

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3. Cecilia V. Estolano, et. al., *New Directions in Diversity: Charting Law School Admissions Policy in a Post-Affirmative Action Era* (May 9, 1997) (unpublished report) (on file with author).