

LAWYERS AS COMMUNITY BUILDERS

A law school dean offers some perspective on the community role of lawyers and the importance of including minority lawyers as full participants and sources of influence

By JoAnne Epps



Lawyers should be commended as community builders. From educational to economic to social organizations, lawyers have been architects, builders, caretakers and preservers of many of our communities' most important institutions. Most lawyers contribute their time and efforts because they care deeply about these communities and want to help improve them. They are able to offer unique and valuable wisdom and advice because of their training.

Despite our efforts, however, many of our communities are in dire straits. There are inadequacies in economics, education, child care, and mental and physical health

care. So where are lawyers and their community-building efforts in this first decade of the 21st century? The profession as a whole is in the process of a sea change.

In the aftermath of the current economic crisis, the structure and financing of legal work will change. Although clients began to push back before the recent economic downturn, the unexpected depth of this decline has hastened and intensified their scrutiny, leading to at least two changes in the future.

First, clients are increasingly going to demand that legal costs be contained and

will invite more competition for their business. Second, they will demand more creativity in fee structures.

These changes will substantially impact law firm management and financing. There will be even more pressure for law practices to follow a business model, with organizations recognizing that they need not managing partners but CEOs.

The changes will also require new strategies in legal education. Law school could be adequately, even if not ideally, completed in two years. That will not occur in the immediate future because institutions and governing bodies (the American Bar Association and the

Association of American Law Schools) are heavily invested in the current structure. As long as the three-year system remains, law schools will be pressured to ensure that graduates are completely ready for the practice of law and equally equipped to assume their role as shapers of our communities. The most successful law schools will recognize that lofty intellectual pursuits must be combined with skills and values training so that graduates both know the law and how to practice it for the good of the community.

The question is whether lawyers have taken advantage of all the opportunities afforded them to shape the legal profession and our society. In addressing this question, large law firms provide a point of reference for the following reasons: First, these firms regularly collect and disseminate demographic data, which offers a viewpoint from which to examine the role of lawyers in the profession, and, second, these firms are the source of extremely generous compensation and a disproportionate number of federal appointees and other positions of influence in this country.

As for minority lawyers, it is clear that their numbers have improved. Since the late 1980s, the percentage of minority law graduates has more than doubled from 10 percent to 23 percent. Apart from the inevitable question of who gets counted in that statistic, the question must also be asked: What is happening to those graduates? Are numbers the right or only metric that should be measured? If so, are the numbers where we want them to be? The answer is no. Although there has been some improvement in the minority participation rate, the numbers are flattening and are not yet proportional to minorities' societal presence. Participation numbers, however, are not the only metric. Another metric that must be considered is influence.

According to the National Association for Law Placement (NALP) data for 2008, less than 6 percent of large law firm

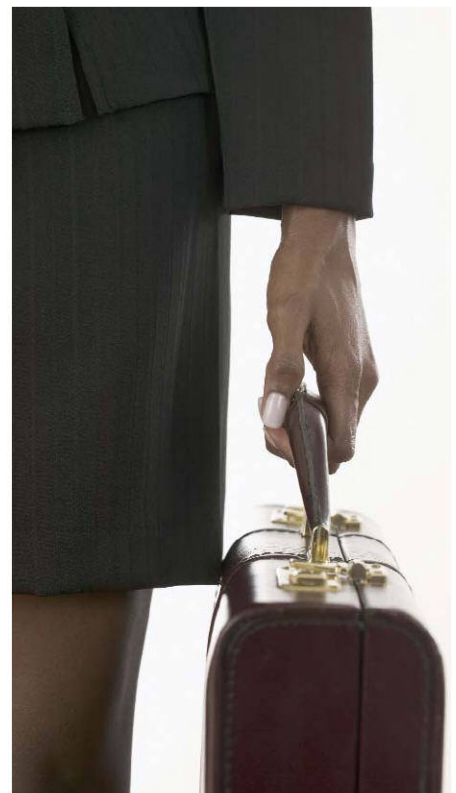
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partners were minorities. Minority women partners were a woeful 1.84 percent. There were only seven women-of-color general counsels in the *Fortune* 500. Interestingly, the numbers are better in the associate ranks.

In 2008, almost 20 percent of associates were minorities (19.08 percent) and almost 11 percent of the associates were minority women. Despite these larger associate numbers, there are observations worth noting. First, both minorities in general and minority women in particular lag behind the overall number of law school graduates by nearly 5 points. Nationally, almost 20 percent of the reporting law firms did not have any associates who were people of color. This is not encouraging. Since 1993, the first year for which NALP has comparable data, the improvement in these numbers has been only marginal.

The numbers are similarly discouraging in Pennsylvania, particularly in Philadelphia and Pittsburgh. Last year in Philadelphia, approximately 4 percent of partners were minorities and slightly more than 1 percent were minority women. In Pittsburgh, approximately 2 percent of the partners were minorities. A scant 0.8 percent were minority women.

Clearly, these low numbers speak for themselves. But the numbers do not inform us about the influence or lack of influence wielded by lawyers of color in large firms, and that is because the numbers do not indicate membership on executive or management committees, hiring committees, associate review committees, partner review committees or other positions of influence. In making this point, however, it is only fair to acknowledge that women and minorities leave law firm jobs at a higher rate than



their male and non-minority colleagues. Seventy-five percent of women of color who are entry-level associates and 74 percent of men of color who are entry-level associates leave their positions within five years. Some of the reasons for this movement may be out of our control and some may be ours to fix or at least influence. One reason not within our control remains the legal profession's inhospitable attributes despite the increased emphasis on diversity. Many legal institutions remain staunchly disinterested in what diversity really means and what they need to sacrifice to attain it. Accordingly, to determine whether they really embrace diversity, businesses must first determine which of their characteristics are essential.

Not too many law practices ask themselves that question. Those that do often define "essential" by reference to their existing attributes and characteristics. As a result, the definition of excellence and the worth of some employees' contributions are regularly misunderstood and undervalued. The impact of this narrow assessment is that

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minority and women attorneys often see themselves on the fringes of or, worse, on the outside of the success track.

There are still too few minority lawyers in positions to distribute business. When they are in such a position, they need to do what Rod Palmore, senior vice president and general counsel of the Sara Lee Corp., did. He not only distributed business broadly, he made sure that the majority firms he hired shared the wealth and made lawyers of color the originating partners, not just marginal presences. When lawyers of color are in a position to make a referral or to direct business to someone, they should remember their friends and classmates and professional associates, but they also have a responsibility to share the wealth and provide opportunities to their fellow minority lawyers. They must help each other get on the success track by bringing business to them.

So, against the backdrop of the absolute certain need for diversity and the need to claim the lawyer's rightful role as an essential contributor to communities, there are two challenges.

First is the challenge to the legal profession to continue to define and embrace the importance of diversity. Diversity is important both symbolically and for business. Diversity is important symbolically because law defines the terms by which members of society interact. It is critical that those rules reflect everyone's values, not just the values of a small number of insiders. Witness our recent economic crisis where only a small number of participants/beneficiaries defined the rules of the game. It is important from a business

perspective because increasingly clients are diverse and are demanding that their lawyers bring an expansive rather than a narrowly exclusive world view. So those firms that delude themselves into believing that the only metric is the amount of business are wrong. They will ultimately be proven wrong as their very lifeblood — business — is handed out by and to a more diverse constituency.

The second challenge is to reconsider the role lawyers individually and collectively should occupy as integral builders of our communities by questioning the role they should claim in this profession. Minority lawyers must reject the notion that they have arrived by being in the room. There is no one right job or position, no one right answer for any of us. The legal services lawyer is making as much of a contribution or more than the lawyer trying to guide General Motors out of bankruptcy. If someone wants to be a legal services lawyer, he or she should aspire to supervise the office of the Legal Services Corporation of America. If someone wants to be a prosecutor, he or she should plot to be a U.S. attorney or an attorney general. If someone wants to be a corporate lawyer, he or she should seek to be the general counsel. Too often lawyers take themselves out of the game by never even seeing themselves in those roles.

If lawyers stretch and encourage someone else to stretch, they will be an enormous force for change. They can reshape what it means to be a successful lawyer. They can help determine which values are important to uphold and which are not. They can reassert the crucial importance of fairness and justice, not just profits and prestige. They can help make clear what is

important and what is not. Their voices should be heard everywhere law is practiced. For that to happen, they must be everywhere law is practiced. We must make all legal institutions more hospitable to and responsive to the participation of people of color. That will only happen from the inside.

If lawyers of color believe and make others believe that they're entitled to full and equal participation in all the deliciously different ways that participation can be defined, they will have expanded their voices, their influence and their impact. They will have given a gift to our society. When they believe they can, they can. With imagination, courage and hard work, they can achieve things they never dreamed of. And they should. They can influence our community by encouraging someone else to reach higher than before. And they should. And in doing so they may just find that they have changed the world. As well they should. 🌟



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