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Barriers to Latinos/as in Law School

Irma D. Herrera[†]

It's been so inspiring to be here and hear the stories from our panelists, and I'm equally inspired by the conversations I've had with some of the law students I've talked with in the hallways, during lunch, and last night. I'm just incredibly happy that this is how I am spending my day today.

About two years ago my little boy Antonio, who was then six years old, stopped me and said, "Mami, even a man can be a lawyer." My jaw dropped. He said, "Neil is a lawyer" – Neil is the father of one of his close friends. I said, "Well, sure, *mijo*, even a man can be a lawyer." Since he was three years old, I have been the head of Equal Rights Advocates, a women's legal advocacy organization in San Francisco, and he spends a lot of time in my office. When people from my office get together socially to have a summer barbeque or a holiday party, all he sees are women. He sees Latinas, he sees African-Americans, he sees Asians, he sees lesbians, single moms, married women. In his small world, lawyers are women. I thought, "Wow, my own experience was that I never met a lawyer until I was in law school." In the community where I grew up in South Texas, if there were Latino lawyers, I certainly didn't know them. All of our parents were poor, had very low levels of education, and were fortunate if they had finished high school. As a child, the idea of becoming a lawyer wasn't even on my radar screen. I never thought about it as a possibility for my life – it just was not thinkable. If you can't think of something, it's very hard to become it, to be it. Therefore, I think it's extremely important that we have visible role models that our children can see, so they can say, "Yeah, I can do that," or so a parent can say, "Yeah, *mijo* or *mija* can do that. She can be a lawyer, she can be a doctor."

Career opportunities for women have expanded tremendously in the law. I heard that here at Boalt 60% of the law students are female. However, the reality is that for the vast majority of Latinos in this country, their experience is much more like mine than my son's. They do not know any lawyers. They do not live in communities where there are well-educated people to serve as their role models. Whether in East L.A., Minneapolis, or Fayetteville, Arkansas, we continue to be the most under-educated population in this country. Latinas have the lowest level of education – we're the least likely to finish high school and the least likely to go to college. When we do go to college, we earn less money than a white man with a high school education. We have many, many obstacles in our way. And yet, look at this group of young, successful Latinas on this panel. It is possible to achieve many successes in spite of the many obstacles that we face. For many women – white women in my law class, my friends, my colleagues – becoming a lawyer was much

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easier. They simply followed in their fathers' and uncles' footsteps. They were well prepared to do something that had been denied their mothers. Their mothers, who were highly intelligent and well educated, had been artificially capped from achieving many of their dreams. Many of these women, if they had paid employment, worked as teachers, nurses, and in a few other professions that were open to women. However, law was not open to them. When the law schools did open up, these women were very prepared to pursue this course of study. One of the questions I hope we can answer later is whether there is data on Latinas in law school, because very often you see data reported on the progress women and minorities have made, but it's not correlated. You might say that today, almost 50% of law students are women. Today, 10% of law students are African-Americans. However, you can't know what percentage are African-American women, or Latinas, or Asian-American women, because we're all put into one category or the other, and we can't disaggregate the data.

I would like to comment on the most significant barriers Latinas face. One of them has been mentioned in every single panel – the limited educational opportunities our communities have. Thirty years ago, I graduated with a 4.0 from a high school that was segregated by classrooms. We only had one high school in Alice, Texas, so the classes you took depended on whether you were Mexican or Anglo – that's all there was. I remember my mother saying, "Los Americanos." I would say, "We're Americans too," and she would say, "Pues tú sabes – you know what I mean." Most Americanos went into the college prep courses, and all of the Mexicano kids were put into the remedial or lower-tracks. I happened to be put into both tracks, and this had strange consequences. I was able to graduate from high school with a 4.0, but I had never had a chemistry course, I had never had physics, I had never had trigonometry. I knew how to set a beautiful table, and how to use all sorts of crystal and knives, because I'd learned those things in home economics. I mean, things that I had never seen in my home, eating implements that still startle me. That has not changed much – when you look at the conditions that many of the kids face in public schools in California and other states, they are not much different. Some weeks ago, the *San Francisco Chronicle* reported on a case brought on behalf of minority and low-income schoolchildren against the State of California, alleging the denial of equal educational opportunity. Children in poor urban and rural communities attend schools that are in terribly deteriorated physical condition and these kids are all too often taught by teachers who are not fully credentialed. They have outdated textbooks, which they must sometimes share with classmates, since there aren't enough books available for all students. In addition to these fundamental inequalities, which certainly put students at a serious disadvantage, poor schools cannot provide the course offerings which allow students to have the competitive advantages they need for admission into the best publicly supported colleges and universities in California. For example, schools in poor communities are unlikely to offer advanced placement (AP) classes. Because grades received in AP classes are given greater weight by colleges in the admissions process, poor students who couldn't take AP classes because they simply weren't available in their schools are deemed "less qualified," and receive lower numerical rankings than those who took AP classes. Until the State of California can provide all of its students equal educational opportunity, we will have a serious pipeline problem that keeps Latinas in the underclass, and which guarantees we will be underrepresented in colleges and universities and consequently in all the professions.

What I can offer my son by way of academic preparation, and a road map for how to succeed as a student, is light years away from what my parents could provide me. I am painfully aware that generation after generation of Latino children in this country are denied equal access to education, and as a result of this we repeat the cycle of low educational achievement.

When we grow up in low-income households with parents who themselves had limited educational opportunities, we are not well prepared in terms of exposure to the critical-thinking skills or the cultural knowledge base which are at the heart of higher education. I remember one day in my law school class, a professor made a reference to Winnie the Pooh. I had never heard of Winnie the Pooh. I didn't grow up in a home where that was available. I knew about *La Llorona*, and all sorts of other things, but I had never heard about Winnie the Pooh. Nobody has ever tested me on all the cultural information I have that's very rich and rewarding. We enter with what is perceived of as a deficit, indeed it is a deficit, because if they're using a frame of reference that is unfamiliar, you're lost and thinking, "Oh my God, who was this Winnie the Pooh? What case was that, how did I miss it?"

My parents weren't able to give me some of those skills that would have been so useful, but they gave me lots of other wonderful things that have served me very well: love, respect for my community and the values of my community, the importance of hard work, the importance of integrity and honesty. There's no such thing as partial integrity or honesty – it's all or nothing. Those are values that have served me very, very well. We have tremendous talent in our community. We must overcome difficult odds, and yet look in this room. You are here. We are here, so we have made advances.

I'd like to talk about another important barrier, and that is the psychological barrier. I moved to California after practicing law in Washington State for a couple of years. I arrived over the summer and took a job with MALDEF. At a social gathering in the MALDEF conference room one afternoon, the spouse of one of the MALDEF lawyers asked me if I had yet taken the bar exam. I told her I hadn't, I was planning on taking it in February. This person said, "I hope you're prepared to take it several times, because Chicanos never pass the bar on the first try." I was appalled by her comment. As I had just moved to California, I was unaware of this belief system that Chicanos couldn't pass the bar the first time we took it. I quickly learned that this had been internalized and accepted as gospel by many. As I came in contact with students from all the Bay Area law schools, I heard this refrain time and again, "I probably won't pass the bar the first time." "Well, I think of the first time as a dress rehearsal." I spoke with first-year students who were already expressing high anxiety about the bar exam.

It became my mission to challenge this assumption. "That's just not true," I would tell them. "Lots of Chicanos pass the bar on the first try, and you have to get that out of your mind. That is not a useful tape to be playing in your mind." I became very committed to tutoring law students through a program at Hastings, and I have a 100% track record. Of the students I tutored, almost every one passed on their first try. The most important message that I give them is, "You can and you will pass. There is no dress rehearsal." We hear so many negative messages about

what we can't do. "You can't pass the bar." "You can't become a law professor." "You can't get a job in a law firm." "You can't become a partner." "You can't get tenure." "You can't be a federal judge." "You can't, you can't, you can't." The fact is, we can, we can, we can, we do, we do, we do, and we have to remind each other that we can and will and are doing all of those things. I feel a strong psychological barrier that we have is the fear of failing. If you have a typo in your brief, it's looked at in a different way – "Oh my God, she is so sloppy. Did you see that? That brief has a typo." Whenever we fail, whenever we fall short at anything, it is perceived as a group failure – "Chicanos can't produce a brief that's error-free." However, when we succeed, that success is unique to us, to you the individual – "Boy, you really are something." One day in law school I was called upon in Tax, and I answered the question, and after the class this white law student whose father is a Supreme Court Justice in a state that will remain unnamed said to me, "Irma, you're a real credit to your people." I said to him, "Gary, you're a real debit." We often are faced with that sense of, "Oh my God, what if I don't succeed at something?" Well, you won't succeed at everything. It's impossible to succeed at everything. But you will have lots of successes.

I want to say one last thing in my one minute, and that is this: one barrier that stands in our way for women in particular is the work-family balance. The legal profession is very demanding – it's become brutal. Whether you are practicing law at a law firm, teaching at a law school, or in public interest, we have this ethic of "I can work harder than you." Often that mentality translates into a 60-, 70-, 80-hour workweek. Well, a lot of us want to have children, and a lot of us want to have a life outside of our work. Women continue to bear much greater responsibility, regardless of how enlightened our spouses are. As a society we don't take seriously that we have a tremendous imbalance in responsibility in the home, and this really impacts us negatively as Latinas. I think it makes it a lot harder for us to feel successful as professionals and as family members.

It's been great. I've really enjoyed practicing the law. I've really enjoyed the different opportunities that I've had, and I look forward with great hope to all that you can do in your careers, and the ways in which I know you will be successful. Thank you very much.