Intersectionality and the Careers of Black Women Lawyers

Results from the Harvard Law School Black Alumni Survey

To investigate the significance of race in the careers of black lawyers, and to document the achievements of Harvard Law School’s black graduates, in 2016–2017 the Center on the Legal Profession (CLP) surveyed virtually all living black HLS alumni about their careers since graduating from law school. The survey, which was officially launched in the fall of 2016, covered a wide range of issues, including law school experiences, first jobs post-HLS, current jobs, career trajectories and transitions, levels of satisfaction, and attitudes on the state of race relations. Together, the survey results offer a wealth of information about the career paths, obstacles, and successes of HLS’s black graduates from across more than six decades. In the full report, Harvard Law School: Report on the State of Black Alumni II, 2000-2016, we examine the data using three core approaches:

1. Across the entire sample, which offers an overall snapshot of the professional and personal experiences of black HLS graduates across time
2. Across decade-based cohorts; for example, comparing those graduating between 1990 and 1999 (the “1990s cohort”) with those graduating between 2000 and 2009 (the “2000s cohort”)
3. Across era-based groups, comparing “pre-2000” and “post-2000” graduates (with those graduating in 2000 included in the latter group), allowing us to examine the careers of black graduates on each side of the new millennium

In using decade-based cohorts and era-based groups, we examine graduates both within each grouping, providing insights into the similarities and differences in career patterns of graduates within each decade and/or era, as well as between the groupings, thereby allowing us to examine how graduates have built careers at different periods of time.
We also included a gender variable to each of these groups, which we focus on for this lead story of The Practice. As HLS graduate Kimberlé Crenshaw’s pioneering research on intersectionality makes clear, otherwise distinct social characteristics such as race and gender can combine and intersect in ways that produce a new category of classification with its own systems of discrimination and disadvantage. Indeed, separate discussions about either minorities or women ignore the important reality that the majority of minority law students are women. Minority women lawyers experience many of the same issues that face white women lawyers and minority male lawyers—plus a complex set of challenges that flow from the intersection of these two forms of identity. If the legal profession and society are going to make progress on either gender or racial diversity in 21st-century workplaces, we all must acknowledge and better understand the importance of intersectionality in the lives of minority women lawyers. (For more on Crenshaw’s understanding of intersectionality, read her seminal 1989 article on the topic here.)

Although this is only a study of black HLS graduates, we believe the results have wider implications for those interested in race in the American legal profession. By focusing on black HLS graduates specifically, the study examines a group of high-achieving individuals who enter the legal marketplace with largely similar qualifications. In other words, by studying black graduates of a single prestigious law school, divergences in career paths are more easily attributable to things other than qualifications, which is particularly relevant given the legal profession’s traditional reliance on “qualifications” as a measure of quality. Second, while law schools are often very good at knowing where their graduates end up one, two, or three years after graduation, they are much less equipped to know where they are 10, 15, 20 years or more after they graduate law school. Because our survey of black HLS alumni includes respondents from as far back as the 1960s all the way up to graduates from the class of 2016, we can study law graduates at diverse stages of their careers and begin to understand how race comes into play for graduates from different generations. And while our sample exclusively comprises HLS graduates, our findings are relevant to all of those who care about the role of law in society. Lawyers and those with legal training play critical roles across all segments of American society, whether in the judicial system itself or in government, business, nongovernmental organizations, or other important institutions. Therefore, if black law graduates, whether from HLS or any other law school, encounter more challenges and have fewer opportunities than their nonblack colleagues, that has a profound impact on American society. Our study limits its survey sample to graduates of just one law school, HLS, to get a clear view of this picture.

This article, which is based on the findings presented in the full report, focuses specifically on issues of intersectionality by highlighting key areas in which gender differences among black law graduates are particularly salient. As the following sections demonstrate, while much progress has been made, black lawyers continue to face significant obstacles in their legal careers. Moreover, that black women continue to face particularly high barriers is of paramount importance given that the majority of black law graduates are women. Together with "The Education of Black Lawyers," which examines how law schools are attempting to both grow their black student populations and provide new forms of support and mentorship, and "The Legal Profession in the Age of Obama," which looks at the role of race in lawyers’ careers in the context of the election of the first African American president who was himself a lawyer and former law professor, this issue of The Practice offers a multifaceted view of black lawyer careers during the first 16 years of the 21st century.

**Careers in Comparison**

The 2016 survey was designed to be comparable to a series of other CLP career study projects. First, and most notably, the 2016 survey is highly comparable to the 2000 HLS black alumni survey, in most cases utilizing identical questions. As we revisit below, because the survey questionnaires are largely identical, we can compare the responses of the more recent black HLS graduates to those of their predecessors, as well as observe how the careers of pre-2000 graduates have continued to change over time. The 2016 survey also allows us to capture the critical changes that have occurred since 2000, including the election of the first black president, himself an HLS graduate and lawyer. In that respect, the 2016 survey includes a set of questions not present in the 2000 version, most notably on the impact the Obama presidency has had on the legal profession.
Second, the 2016 (and 2000) black alumni questionnaire shares many similar characteristics with the Harvard Law School Career Study (HLSCS), which surveyed four HLS classes: the classes of 1975, 1985, 1995, and 2000. Conducted in 2010 by CLP, the HLSCS focused primarily on how gender impacted the professional and personal choices of HLS graduates, the full results of which were published in 2013 in Women and Men of Harvard Law School: Preliminary Results from the HLS Career Study. It is important to note that due to data limitations, specifically the relatively low response rate of minority students from the target classes, the HLSCS did not systematically address race-based issues. However, given the high comparability of the questionnaire with the 2000 and 2016 black alumni surveys, in the sections below we can compare the experiences of black HLS graduates to those of the school’s alumni more generally.

Finally, the results of the 2016 survey are comparable to what is known about black lawyers’ careers nationally, including results from the After the JD (AJD) study. AJD is a longitudinal study that tracks the professional lives of more than 4,000 lawyers who entered the bar in or around the year 2000. The first wave of the study, AJD 1, was conducted in 2002–2003 and provides information about the personal and professional lives of AJD respondents two to three years after passing the bar. The second wave of the study, AJD 2, was conducted in 2007–2008 and provides data about the same respondents seven to eight years into their careers. The third and final wave, AJD 3, was conducted in 2011–2012 and provides data on these same respondents 10 to 12 years into their careers. AJD findings, along with other sources of publically available data, allow us to draw comparisons between the experiences of black HLS graduates and a more national population of black lawyers.

Law school enrollment

We begin our story at law school, where the ratio of black women to black men at HLS has increased significantly since gender and race numbers were first tracked in the 1980s. In decade-based cohort terms, more than half (54.8%) of the 1980s cohort were black men at HLS. With the 2000s cohort, that number had dropped to 40.2%. By comparison, the percentage of black women at HLS was just under half (45%) for the 1980s cohort; however, with the 2000s cohort, it had ballooned to 60%. This trend continues and appears to be accelerating for the yet-unfished 2010s cohort, where the percentage of women has increased to almost 64%. Put differently, in the 2010s, nearly two out every three black students at HLS was a woman.

Table 1. Distribution of gender by cohort

<table>
<thead>
<tr>
<th></th>
<th>Male</th>
<th>N - Male</th>
<th>Female</th>
<th>N - Female</th>
<th>Overall</th>
<th>N</th>
</tr>
</thead>
<tbody>
<tr>
<td>1980s</td>
<td>54.8%</td>
<td>187</td>
<td>45.2%</td>
<td>154</td>
<td>100.0%</td>
<td>341</td>
</tr>
<tr>
<td>1990s</td>
<td>43.2%</td>
<td>272</td>
<td>56.8%</td>
<td>357</td>
<td>100.0%</td>
<td>629</td>
</tr>
<tr>
<td>2000s</td>
<td>40.2%</td>
<td>220</td>
<td>59.9%</td>
<td>328</td>
<td>100.0%</td>
<td>548</td>
</tr>
<tr>
<td>2010s</td>
<td>36.0%</td>
<td>49</td>
<td>64.0%</td>
<td>87</td>
<td>100.0%</td>
<td>136</td>
</tr>
<tr>
<td>Overall</td>
<td>44.0%</td>
<td>728</td>
<td>56.0%</td>
<td>926</td>
<td>100.0%</td>
<td>1654</td>
</tr>
</tbody>
</table>

Prior to 1981, neither HLS nor the ABA kept records on the gender breakdown of minority students. Moreover, due to changes in ABA data collection methods, race/ethnicity data collected after 2009 are not directly comparable to prior data. Beginning in 2010, racial/ethnic data incorporate maximum reporting, which means that candidates may select multiple races/ethnicities. Selections are counted in each racial/ethnic group.

Moreover, between 2000 and 2016, in every individual class (as separate from the decade-based cohorts just discussed) apart from 2012, the percentage of black women at HLS was higher than the percentage of black men. (Indeed, looking further back in data not shown here, apart from the class of 1992 and 2012, black women have outnumbered black men in every individual HLS class since gender records have been kept.)

Table 2. Black 1L enrollment at HLS: 2000-2016
HLS is not alone in having higher percentages of black women than men. For instance, at Howard University School of Law, which has graduated more black lawyers than any other school, nearly two-thirds of its black student body are women. National data also supports this finding. According to 2009–2013 ABA data on full-time J.D. enrollment across all ABA-approved law schools, black women make up, on average, 61% of all black law students and black men, 39%. To add context, black students constitute just 7.4% of all law students.

It should be noted that the higher proportion of black female law students tracks a more general trend of increased gender parity at law schools, both at HLS and nationally. At HLS, the class of 1975 was 85% male and 15% female. In 2013, it was 52.4% male and 47.6% female. For the class of 2019, women outnumber men at time of enrollment—51% to 49%. Nationally, in 2016, the number of women J.D. students at ABA-accredited schools outnumbered men—55,766 to 55,059, with female 1Ls representing 51% of new students and male 1Ls 48.6%.

This trend is not limited to the United States. In Norway, as The Practice has previously reported (see “Women in the Global Legal Profession”), women now make up 64% of graduating law school classes and have made up more than 60% for more than a decade. The case is similar in many other countries around the world. Thus, the fact that black women outnumber black men is not necessarily surprising given the more general increase in the number of women going to law school. Nevertheless, three points should be stressed.

First, as Figure 1 graphically illustrates, while the number of black women continues to outnumber the number of black men at HLS, there has been a steep decline in the overall number of black students at the school since 2013, with a 3% drop between 2015 and 2016. This decline impacts both black men and women; however, in the most recent years black women represent the greatest drop in numbers (perhaps due to their greater starting numbers). More research must be done to determine what is driving this drop at HLS.

**Figure 1. Black 1L enrollment at HLS: 2000-2016**
Second, law schools and the profession need to be cognizant of the gender gap when it comes to black law students and, in particular, the increasingly low numbers of black men entering the profession. (For more on black law school enrollment and experiences, see "The Education of Black Lawyers.")

Finally, precisely because substantially higher numbers of black women are graduating from law school, the profession has a serious problem to the extent that they face significant challenges based on their race, gender, and the intersection between the two in building successful and meaningful careers. We turn to examine this issue and the careers of black women lawyers on the basis of our survey data.

"The overwhelming majority of black HLS graduates—71.9%—entered private practice for their first job post-HLS."
Minority Leaders
*From the Journals:* Which kinds of law firms have the most minority lawyers?

We Have Been Here Before
*Speaker’s Corner:* Vernon E. Jordan Jr.
PRIDE MONTH MATTERS BECAUSE THERE IS A LACK OF EDUCATION AND VISIBILITY AROUND TRANSGENDER ISSUES; I KNOW THIS WELL. IN 2008, I STARTED MY CAREER AT GOODWIN PROCTER IN THE CORPORATE DEPARTMENT AS A FEMALE SUMMER ASSOCIATE, RETURNING TWO YEARS LATER AS A MALE FIRST YEAR ASSOCIATE, AND IN 2016 I WAS ELEVATED TO PARTNER.

I had returned to law school for my final year, began gender transitioning and then started to communicate with Goodwin about how we would work together to prepare for my reintegration as a male lawyer.

Goodwin had never had an openly transgender employee before, which is the case in many organizations. This inevitably leads to certain integration hurdles both from an administrative and cultural perspective. On the administrative side, our names and genders are linked to a significant amount of information and all of that information that runs through our employer needs to change. From a cultural standpoint, large organizations invariably consist of people who have different viewpoints and perspectives, and the challenge to acceptance lies in a lack of both education about and exposure to the transgender community.

Most people have not met or come to know a transgender person and this is part of the challenge for us. People tend to develop ideas and uncertainty about things that they do not know, and in our case those ideas tend to be negative.

Any openly transgender person starting a career is likely to enter their organization with the burden of having to overcome certain misconceptions about who we are and what we will bring to work.

Corporate environments in particular can be more challenging for us. I know from mentoring a number of law students that many young people feel that a successful career in these types of environments just isn’t possible for them. As a result, the segment of the transgender community that tends to gravitate to work in big law firms and corporations is a pretty limited one. But I see our presence within organizations that have not seen us before as an opportunity to educate people.

From the time I started my career until now, I have seen tremendous growth in the areas of diversity and inclusion at Goodwin and in law firms generally. Issues around transgender inclusion are part of the last frontier in evolution around diversity, but organizations are now thinking about us in conversations around inclusion as they generally develop more understanding of the value of a diverse workforce. In this respect, transgender people can contribute...
LAST YEAR’S PRIDE CELEBRATION HELD BY SOME OF MCCA’S MEMBER ORGANIZATIONS.
I have been working with the MCCA to develop a transgender taskforce to get the relevant issues into diversity discussions and to provide more exposure to corporations and law firms so that the concept of hiring or employing a transgender lawyer isn’t groundbreaking.

a unique perspective. We have the experience of living our lives on both sides of the gender divide, which I believe provides us with a true understanding of multiple viewpoints and positively impacts the way we solve problems.

In looking ahead to continuing progress, one of the biggest concerns for me when I was starting out on career path was looking for a mentor; someone to help me understand the likely challenges for a transgender lawyer on a path in a corporate environment, but there was no one at that time. One of my goals has been to serve as a mentor for others coming after me who may be looking for any guidance.

I feel a duty to contribute in this respect both because it is the right thing to do but also because I believe that by helping other transgender people to pursue a path that’s not interfered with by concerns around our identity’s limitations, we show that it won’t deter us and we lay a groundwork for inclusion in new environments.

At MCCA’s Pathways to Diversity Conference last year, I participated on a panel discussing transgender inclusion and following that dialogue, MCCA received a number of questions from lawyers across the country who faced challenges around their transition, whether internally at their law firm or company or relating to issues with clients.

In response to those inquiries I have been working with the MCCA to develop a transgender taskforce to get the relevant issues into diversity discussions and to provide more exposure to corporations and law firms so that the concept of hiring or employing a transgender lawyer isn’t groundbreaking.

It is a work in progress but the hope is that it will serve as a resource for any lawyers or people in MCCA-affiliate corporations who have questions or want to discuss relevant issues, like what it would be like to have a transgender in-house counsel or external counsel. We still have a long way to go but we are building momentum.

Pride Month is an important part of the LGBTQ+ calendar at Goodwin, where we host speakers and social events to bring everyone together. We make significant commitments to our careers as lawyers and the idea that the organization hosts events focused on supporting our identities is important. Pride month is a good time to celebrate our community and to share our experiences.

It also is a time to connect with our allies. Having supporters from outside the community who are committed to our causes and who empathize with the adversity that we face can really help facilitate change and progress. One of the key successes at Goodwin has been having firm leaders who believe in the value to the firm of diversity and inclusion and who are engaged in advancing those elements in our culture.