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... [I]n Latin America, lawyers have been key actors in their respective societies, and instrumental in shaping the basic political and judicial institutions of new nation states.

Hispanic-American Lawyers: Benito Juarez and the Legal Tradition in Latin America

by Zulema Hinojos-Fall • *WSBA Governor at Large*

In August 1828, a 22-year-old orphaned Mexican youth began the study of law at the newly established Institute of Sciences and Arts in Oaxaca, Mexico. The law student, Benito Juarez, a Zapotec Indian, became a great statesman, and the first indigenous president of the newly independent Mexico.

Though certainly unique in its historical perspective, Juarez's pursuit of a legal education is an experience shared in its general contours by many American-born Hispanic lawyers practicing in the United States today.¹ In 1818, Benito Juarez ran away from home, deserting his uncle and his duties as a shepherd in the mountains of southern Mexico, to seek learning in Oaxaca, capital of the southern Mexico

state of the same name. At the time, his native village of San Pablo Guelatao had about a hundred inhabitants and lacked a school. The city of Oaxaca had an estimated population of 24,400, and the estimated population of the state was 411,000. Approximately 88 percent of the population were pure-blooded Mixtecs and Zapotecs.

At that time, the population of Mexico was about 6,500,000, including two or three million pure-blooded Indians. Indians generally had no civil rights or access to education. Few of them spoke any Spanish at all. But the most important fact about the Mexico in which Benito Juarez lived

and worked is that on September 16, 1810, Mexico proclaimed its independence from Spain. After receiving his law degree, Juarez was to become instrumental in shaping the independent Mexico of the 20th century.



The 12-year-old Juarez walked 41 rugged miles between his village and Oaxaca to arrive at the house where his sister worked as a cook. He stayed and worked there for a short time while he looked for more permanent work. Soon after, Don Antonio Salanueva, a pious bookbinder who wore the habit of the Third Order of St. Francis, offered Juarez employment as a houseboy, and to send him to school to learn to read and write. Only a few days after being received into Salanueva's household so that Juarez would be permitted to study at the seminary, Juarez was confirmed as a Catholic.

Juarez began to study Latin grammar

without knowing Spanish grammar or having the benefit of any other element of a primary education. Eventually, Juarez would become fluent in Latin, Spanish and French. He completed his study of Latin grammar in 1823, receiving the highest grades. At that point, Juarez had obtained a strictly ecclesiastical education from clerical teachers. Salanueva's hope was that Juarez would go on to study theology and become a priest. Juarez had other ideas.

In January 1827, Oaxaca opened its first civil college, independent of the clergy and designed for the instruction of youth outside the parochial system. Prior to the opening of the institute, Oaxaca had no institution of higher learning

other than the seminary, where Oaxacans were taught only Latin grammar, philosophy, elementary physics and theology. In order to follow a non-ecclesiastic career, a student had to possess sufficient means to attend a school in Mexico City or a foreign country. Juarez began his law studies at the college in 1828, and the rest, as they say, is history.²

The relevance of Hispanic lawyers in the process of state-building in 19th century Latin America, of which the Benito Juarez story is but one famous example, is not widely known in American legal circles. However, in Latin

America, lawyers have been key actors in their respective societies and instrumental in shaping the basic political and judicial institutions of new nation states. By 1830, Juarez was advocating direct elections. On September 16, 1840, Juarez, the young lawyer, delivered a patriotic address to his fellow citizens in Oaxaca, opposing indifference to civil rights and championing education. Juarez was the elected governor of Oaxaca from 1847 to 1852. In 1853, he was imprisoned for his opposition to Mexican President Antonio Lopez de Santa Anna. After a period of exile to the United States, he became the chief architect of the revolution that overthrew Santa Anna. When Juarez became acting president in 1857, he transferred political power from the Creoles to the Mestizos³ and forged Mexico's national consciousness. He was re-elected in 1867 and 1871.

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Benito Juarez wrote proudly of his race and humble origins, and he never forgot his own people and his Indian ancestry. His remarks on civil rights and self-determination are often quoted: "El respeto al derecho ajeno es la paz." Generally translated: "Respect for the rights of others equals peace."

Today, there are more than 25,000 Hispanic-American attorneys in the United States practicing in all areas of law, serving in all levels of the judiciary, and working in all branches of federal and state government. According to the 2000 U.S. census, Hispanics comprise 12.5 percent (35.3 million) of the nation's total population, and 573,000 Hispanics hold an advanced degree. Hispanic lawyers are slowly gaining recognition in America. Many of us are already familiar with a few notables: Henry B. Gonzalez, the first Mexican-American to represent Texas in the U.S. Congress after earning his law degree, and Federico Peña, the former U.S. secretary of transportation. But the names of other distinguished Hispanic-American lawyers are not yet so widely known. For example: Petra Jimenez Maes, who in 1998 became the first Latina appointed to serve on the New Mexico Supreme Court; Vilma

S. Martinez, a graduate of Columbia University School of Law, who was instrumental in the Mexican-American Legal Defense Fund's efforts to expand the Voting Rights Act to Mexican-Americans in 1975; and Sonia Sotomayor, judge in the U.S. Court of Appeals for the 2nd Circuit, who has traveled far beyond the South Bronx projects, where she grew up, to become the first Puerto Rican woman to serve as a U.S. circuit court judge.

There are numerous outstanding Hispanic attorneys in Washington. A few who should be mentioned, because we look to them as role models, include retiring Supreme Court Justice C.Z. Smith,⁴ a former associate dean of the University of Washington School of Law, whose distinguished career includes service as a special assistant to U.S. Attorney General Robert F. Kennedy, judgeships in Seattle municipal

and King County courts, and work as an appointed member on numerous special task forces, including the U.S. Commission on International Religious Freedom and the Stockholm Accords on Ethnic Cleansing; recently elected King County Superior Court Judge Steven C. Gonzalez, a former assistant U.S. attorney and co-chair of the government's successful prosecution of Seattle's most infamous terrorist threat, Ahmed Ressaam; Municipal Court Judge Michael Hurtado, whose innovative youth program seeks to positively influence school children and deter juvenile crime by stressing the value of education; and U.S. Federal Magistrate for the Western District of Washington Judge Ricardo Martinez, who, as a former King County senior prosecuting attorney and King County judge, spearheaded the innovative drug-court program in King County.

Sadly, there are no Hispanic judges currently serving in Eastern Washington courts. However, Eastern Washington Hispanic lawyers like Victor Lara, a distinguished practitioner and pillar of the Hispanic legal community, and Myrna I. Contreras, one of the longest-practicing Hispanic attorneys in the state, who champions community rights from her personal

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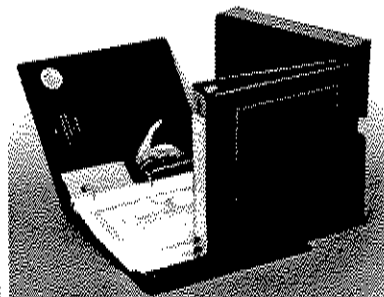
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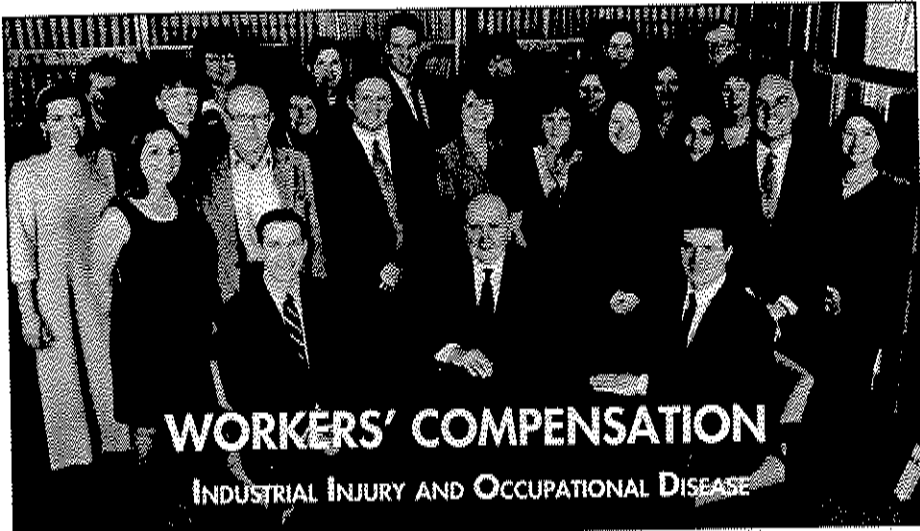
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injury and family law practice, continue to lead and inspire us. In Pierce County, Superior Court Judge Sergio Armijo, a Vietnam veteran, has served with distinction on the bench of Pierce County municipal and superior courts since 1991.

One last example: Judge Reynaldo G. Garza of the 5th Circuit Court of Appeals and the first Mexican-American to serve as a federal judge. During the depression, he earned money as a laborer for the Works Progress Administration to pay his tuition at the University of Texas, and ventured into social activism after meeting a congressional hopeful named Lyndon Johnson. The background and experiences of Judge Garza, a first-generation American, are not too different from those of Benito Juarez. And yet, in his biography, *All Rise*,⁵ Judge Garza recalled: "I've always said I hope I got the appointment because I was qualified, not because I'm Mexican American, but I knew I had to do a good job or else my actions would reflect not only on my ability, but also that of other Mexican Americans." 

Zulema Hinojos-Fall is the first Hispanic-American to serve on the Washington State Bar Association's Board of Governors. She is an administrative judge for the U.S. Equal Employment Opportunity Commission.

NOTES

1. The Office of Education (then an agency within the Department of Health, Education and Welfare [HEW]) officially adopted the term "Hispanic" in 1973 for the purpose of developing racial and ethnic categories which it could use for data-gathering purposes. Although the adoption of the term "Hispanic" quickly led to controversy, other federal agencies such as the Office of Management and Budget and the Bureau of Census soon followed suit in adopting the term. According to HEW's guidelines, the term "Hispanic" encompasses Mexican, Puerto Rican, Central American, South American, Caribbean and Spanish peoples who share some common cultural values. Hispanics can be of any race. Flores-Hughes, Grace. "Why the Term 'Hispanic?'" *Hispanic*, September 1996.
2. Charles Allen Smart, *Viva Juarez*, J.B. Lippincott Company, 1963.
3. As used in the West Indies and Spanish America. Creole: a white person of native birth but of European descent. Mestizo: a person of mixed European and Indian ancestry. *Webster's New Collegiate Dictionary*, 196, 532, 7th Ed. 1969.
4. Justice Smith is honored as a native son by both the Loren Miller and Hispanic bar associations. His father was Cuban and his mother African-American.
5. Louise Ann Fischl, Reynaldo G. Garza. *All Rise*, Texas A & M University Press, 1996.

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