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TO WORK OR NOT TO WORK... BEFORE LAW SCHOOL: APPREHENSION, CONFIDENCE, AND CYNICISM AMONG LAW STUDENTS

Yung-Yi Diana Pan¹, City University of New York, USA

Abstract

Most socio-legal scholarship does not examine pre-law school preparation, more specifically, work experience. The recent American economic recession brought many working adults back into the fold of school. With regard to legal education in particular, how might work experience before law school affect students' perceptions of the profession, themselves, and their career trajectories? And, how do these experiences vary between law schools, and among law students? Drawing on an ethnographic study at two divergently-ranked American law schools between 2009-2011 (the beginnings of the economic crisis), I argue that student work experiences (or lack thereof) before law school matter for their own perceptions of their school and overall career outlook. I typologize those students

¹ Diana Pan is Assistant Professor in the Department of Sociology at the City University of New York

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who transitioned immediately from undergraduate to law school as “conventionals,” and those with work experience prior to commencing legal education as “returnees.” I find that overall, returnees are more confident about completing law school, yet cynical about legal education, while their conventional counterparts respect the pedagogy but remain apprehensive regarding their career outlook. In this respect, work experience provides a form of “capital.” Notably, most immigrant students in this study are conventionals, and I provide some suggestions to better incorporate these students who already feel as if they are posturing in an unfamiliar cultural and professional environment.

Clara worked for three years between college and law school. When asked if she had advice for aspiring law students, she said: “I would encourage them to work for a while before they go to [law] school because I think it will give them some perspective on school so they won’t get so stressed out about it... I think, it just makes you more of an asset to the school.” Scott, who also returned to law school after working, suggests aspiring law students “do a little soul searching. And find out why you want to go to law school and what it really is you want to end up doing.” Clara was a researcher before law school, and Scott, a banker. Students who worked before law school often see their pre-law school

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experiences as strength and recommend their pathway to others. Most literature and representations of law students focus on those who immediately transition to law school after college graduation, which is the typical pathway. The experiences of students like Clara and Scott suggest that students like them, who may diverge from the so-called “modal” student, represent a fertile area for study.

Debates abound within the American legal profession as to the purpose of legal education, and the best course to educate law students.² Removed from the apprentice model, American law schools have become largely an intellectual exercise. Some literature speaks to the merits of apprenticeship and clinical courses during law school, but most focus on how students learn to “think like lawyers.”³ Further, most scholarship paints in broad strokes a generally homogenous experience for all law students.

² See Bethany Rubin Henderson, ‘What is the Purpose of Law School?’, 53 *J. Legal Education*, 48-79 (2003); Wayne S. Hyatt, ‘A Lawyer’s Lament: Law Schools and the Profession of Law’, 60 *Vand. L. Rev.* 385 (2007).

³ See Anthony G. Amsterdam, ‘Clinical Legal Education – a 21st Century Perspective’, 34 *J. Legal Education*, 612-618 (1984); Elliot S. Milstein, ‘Clinical Legal Education in the United States: In-House Externships and Simulations’, 51 *J. Legal Education*, 375 (2001); Kelly Terry, ‘Externships: A Signature Pedagogy for the Apprenticeship of Professional Identity and Purpose’, 59 *J. Legal Education*, 240-268 (2009).

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Prior research has addressed divergent experiences of law students, particularly between those from differently ranked law schools. But these works do not necessarily engage the meaning and effect that personal backgrounds, such as age, race and ethnicity, socioeconomic history, and importantly, work experience have on students' perceptions of themselves – as law students and as aspiring attorneys. In this paper, I underscore how pre-law school work experience may serve as a primary influence, and personal background as secondary on student perceptions of the profession, themselves, and their career trajectories. In other words, the experience of working before law school serves as a form of capital. I also unpack student experiences by focusing on the conjoined role of school rank, immigrant background, and race. In particular, I find that the nonwhite students in this sample tend to not engage in pre-law school work experience, thus are deficient in this particular capital. The findings unveil a fresh understanding of the impact of various identities, and how a current change in American law student demographics requires creativity in defining these identities. The implications speak to legal career preparedness for law students, generally.

Drawing on an ethnographic study at two divergently ranked American law schools between 2009 and 2011, I argue that student experiences *before* legal education influence their approach to their schooling, attitude toward law

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school, and career outlook. My findings suggest that work experience before law school seemingly produces better prepared law students, which may lead to more competent lawyers. However, it also appears select students—native born, white students— are more likely to work before law school and garner capital. Racialized immigrant students – in this case, Asian Americans and Latinos – do not as frequently reap these benefits.

I begin by situating this discussion within literature on professional education, social capital, and stereotype threat. I then briefly discuss the data and methods, followed by the findings. I offer a typology of pathways through law school, typologizing students who transitioned immediately to law school as “conventionals” and those who worked before returning to school as “returnees.” Findings suggest returnees report more knowledge and comfort with the profession, express more cynicism toward law school, and are more excited about their forthcoming careers. Conventionals view law school as an intellectual exercise, yet are apprehensive about their schooling and career. I argue that returnees and conventionals think about law school differently; returnees are cynical experts, and conventionals are adoring imposters. Further, many of the Asian American and Latino law students transitioned immediately to law school after graduating from college. As conventionals, they are already

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worried about their performance in law school, but race and immigrant background add another layer of anxiety. I provide some possible explanations for the differences, followed by analysis and discussion.

LITERATURE REVIEW

Professional Education

Social scientists' unwavering interest in professional education has produced voluminous scholarship examining the socialization of neophyte doctors, surgeons, and social workers among others.⁴ Professional students learn the norms of their respective professions through rigorous education that prepares them academically, socially, and most of all, professionally for their careers. In addition to learning how to *do* professional school, these students must also assimilate the demeanor and cultural expectations within each profession.⁵

⁴ See Howard S. Becker, Blanche Geer, Everett C. Hughes, and Anselm L. Strauss, *Boys in White: Student Culture in Medical School* (1961); Charles L. Bosk, *Forgive and Remember: Managing Medical Failure* (1979); Spencer E. Cahill, 'Emotional Capital and Professional Socialization: The Case of Mortuary Science Students (and Me)', 61 *Social Psychology Quarterly*, 101-116 (1999); Carrie Yang Costello, *Professional Identity Crisis: Race, Class, Gender, and Success at Professional Schools* (2005).

⁵ Becker et al.'s seminal work (1976) on medical students finds that neophyte doctors, at the end of medical school, learn to become medical students.

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An overriding institutional language and culture characterize legal education.⁶

First year students adapt to expectations and assimilate norms of the profession, which favors the “modal” student. As Timothy Clydesdale describes,

The typical (i.e. modal) first-year law student is a white male in his early twenties, who speaks English as his first language, attends law school full time, expresses high self-confidence, possesses no physical or learning disabilities, is neither married nor has children, plans 0-9 weekly hours of paid employment during the first year, and comes from an above-average socioeconomic background.⁷

There is no guarantee that this archetypal law student will perform well in law school, but these students possess advantages, especially the ability to identify with the established law school culture. Clydesdale’s “modal” neophytes have one less script to learn than other students. For example, students from working class backgrounds often “fake it to make it” in law school by avoiding

⁶ Howard Erlanger, Charles R. Epp, Mia Cahill, and Kathleen M. Haines, ‘Law Student Idealism and Job Choice: Some New Data on an Old Question’, 30 *Law and Society Rev.* 851-864 (1996); Robert Granfield, *Making Elite Lawyers: Visions of Law and Harvard and Beyond* (1992); Elizabeth Mertz, *The Language of Law School: Learning to “Think Like a Lawyer,”* (2007); Robert V. Stover, *Making It and Breaking It: The Fate of Public Interest Commitment during Law School* (1989).

⁷ Timothy T. Clydesdale, ‘A Forked River Runs Through Law School: Toward Understanding Race, Gender, Age, and Related Gaps in Law School Performance and Bar Passage’, 29 *Law and Social Inquiry*, 711-769 (2004).

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conversations about their parents' jobs, and hide non-middle class speech patterns.⁸

Non-modal law students cannot escape what they perceive to be deficient from their backgrounds. And because of that, they carry with them apprehensions as they embark on their legal training. They, like their traditional peers, pore over outlines and study for exams. They learn how to dress for interviews, and use legal language. But students who deviate from the mold often feel as if they do not genuinely belong. While virtually all law students contend with anxiety at times, non-modal students engage with a different set of concerns. These students often do not have the social capital to navigate the established cultural scripts of law school.

The Qualitative Value of Social Capital

Social capital invigorates individuals with a sense of well-being and familiarity. Known as "tastes," divergent signals of class and privilege persist in societal stratification.⁹ In other words, knowhow for the purposes of socioeconomic mobility is an insidious characteristic of social capital. Mobility requires a certain

⁸ Granfield, 1992

⁹ See Pierre Bourdieu. *Distinction: A Social Critique of the Judgment of Taste* (1979).

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type of social capital. Embedded in nuanced cultural practices, this “right” type of capital can lead to educational, social, and cultural rewards.¹⁰

How does this capital relate to lawyers and law students? In a study of Canadian lawyers, sociologists Fiona Kay and Jean Wallace find that although women junior attorneys had as many senior mentors as their male counterparts, they did not accrue the same types of professional benefits.¹¹ The authors conclude, “The social position of women within the legal profession does not afford them the strategic capacity to mobilize their social capital through mentoring relationships to secure coveted career outcomes, particularly in the forms of earnings and career advancement.”¹² Junior attorneys all have access to mentors, but the qualitatively different outcomes between men and women necessitate an evaluation of the divergences in the *value* of social capital. Without the right type of capital, some individuals (i.e. those who are not male and not white) may

¹⁰ Pamela E. Davis-Kean, ‘The Influence of Parent Education and Family Income on Child Achievement: The Indirect Role of Parental Expectations and the Home Environment’, 19 *J. of Family Psychology*, 294-204 (2005); Jacquelynne S. Eccles and Pamela E. Davis-Kean, ‘Influence of Parents’ Education on Their Children’s Educational Attainments: the Role of Parent and Child Perceptions’, 3 *London Review of Education*, 191-204 (2005); Robert Ream, ‘Toward Understanding how Social Capital Mediates the Impact of Mobility on Mexican American Achievement’, 84 *Social Forces*, 201-224 (2005).

¹¹ Fiona M. Kay and Jean E. Wallace, ‘Mentors as Social Capital: Gender, Mentors, and Career Rewards in Law Practice’, 79 *Sociological Inquiry*, 418-452 (2009).

¹² Kay and Wallace, 445, 2009.

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experience anxiety about their social positions. Evidence suggests this concern begins in law school, and that managing stereotype threat is a key aspect of this concern among non-modal students.

Stereotype Threat Among Professional Students

Students experience status anxiety when they feel as though they are imposters in an educational setting. Psychologists Pauline Rose Clance and Suzanne Innes first identified the “imposter phenomenon” among high-achieving women who “maintain a strong belief that they are not intelligent; in fact they are convinced that they have fooled anyone who thinks otherwise.”¹³ The imposter phenomenon directly relates to “stereotype threat” that negatively affects African American students’ perceptions of their own academic abilities.¹⁴ Stereotype threat can also characterize university professors’ assessment of their teaching evaluations;¹⁵ employees who feel undeserving of their jobs;¹⁶ and

¹³ Pauline Rose Clance and Suzanne Innes, ‘The Imposter Phenomenon in High Achieving Women: Dynamics and Therapeutic Intervention’, 15 *Psychotherapy Theory and Practice*, 1-8 (1978).

¹⁴ Claude M. Steele, ‘A Threat in the Air: How Stereotypes Shape Intellectual Identity and Performance’, 52 *American Psychologist*, 613-629 (1997).

¹⁵ Christine Brems, Michael R. Baldwin, Lisa Davis, and Lorraine Namyniuk, ‘The Imposter Syndrome as Related to Teaching Evaluations and Advising Relationships of University Faculty Members’, 65 *J. of Higher Education*, 183-193 (1994).

¹⁶ William C. McDowell, Nancy G. Boyd, and W.M. Bowler, ‘Overreward and the Impostor Phenomenon’, 19 *J. of Managerial Issues* (2007).

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professional students at elite institutions.¹⁷ Studies on status anxiety and imposter syndrome among professional students often include the experiences of neophyte attorneys (as law students, and fledgling attorneys). Rigorous legal socialization creates a sense of under-preparation among these students as they aspire to join an elite profession.¹⁸ At the same time, women and minority lawyers experience human capital barriers to their achievement,¹⁹ including unequal secondary and collegiate education that hinder their professional success.²⁰

The literature remains deficient however, in the divergent psychosocial outcomes of being an anomaly. American law students who transition to law school immediately following their undergraduate careers ostensibly appear to represent the modal law student. Students who took time off between law school and college appear non-modal, yet, unlike the nonwhite students in others' research, they reported more confidence about the pursuit of their Juris Doctorates than their modal counterparts. These findings do not correspond to

¹⁷ Becker et al. 1976; Costello 2005; Debra J. Schleef, *Managing Elites: Professional Socialization in Law and Business Schools* (2006).

¹⁸ Granfield 1992; Mertz 1997.

¹⁹ Hilary Sommerlad and Peter Sanderson, *Gender, Choice, and Commitment: Women Solicitors in England and Wales and the Struggle for Equal Status* (1998).

²⁰ Hilary Sommerlad, Lisa Webley, Liz Duff, Daniel Muzio, and Jennifer Tomlinson, 'Diversity in the Legal Profession in England and Wales: A Qualitative Study of Barriers and Individual Choices', Legal Board – University of Westminster (2010).

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current literature on stereotype threat, or professional socialization, yet may speak to a hidden benefit of a particular form of social capital. Rather than focusing on the “modal” versus “non-modal” descriptions of law students, I propose a new characterization that underscores the role of social capital. In this paper, I present the nuances of modality and social capital by focusing on the reported experiences of returnees and conventionals.

DATA AND METHODS

Data derives from semi-structured interviews with 107 American law students, and nonparticipant observations of law student organizations between 2009 and 2011. Interview questions were the same for all respondents, regardless of race, gender, or law school attended (although some respondents chose to elaborate on their answers while others did not). Some interview questions included, “How would you describe your law school experience, thus far?” “Did you feel adequately prepared to attend law school?” and “Do you have friends, family, or relatives with law degrees?” The two field sites are on the West Coast of the United States, and consist of highly ranked Western Tier 1 (WT1), and lower-ranked Metro Tier 4 (MT4). These field sites were selected to capture divergent

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student characteristics, and to also accentuate similarities among law students, more generally. Although there are some school-level differences, conventionals and returnees populate both law schools. Their status as *law students* do not qualitatively differ, despite difference in school rank. More of the MT4 group were returnees; the typical MT4 student in this sample spent at least two years working, and a good portion of those students worked as legal support staff. Those who embarked on their legal studies immediately following college were a minority, in contrast to the WT1 respondents.

I gained entrée with the administration through established contacts at each institution. I contacted student leaders from panethnic student organization websites at each campus, and observed, and recruited at meetings and orientations. I used an intentional snowball sampling method, asking respondents to refer me to friends from their small groups. I believe this method mitigated selectivity bias as law schools assigned the small groups at random, so they were racially, socioeconomically, and geographically heterogeneous. In the

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end, my sample consisted of Asian Americans, Latinos, whites, and “others”²¹ (refer to Table 1 for sample breakdown by race).

Table 1. Sample by Panethnicity

	Asian American	Latino	White	Other
Western Tier 1	22	23	9	3
Metro Tier 4	23	12	12	2
<i>TOTAL</i>	45	36	21	5

Table 1 shows the study sample by race and ethnicity and by law schools attended, consisting of 45 Asian Americans, 36 Latinos, 21 white Americans, and five law students who did not fall into these broad categories. Asian American and Latino law students are overrepresented in this study, and the other two combined racial categories serve as a control. This sampling anomaly thus may not be representative of American law school demographics where Asian

²¹ Other racialized law students include black/African American, Persian, and one mixed-race, Latino/Asian student who identified as such. The other mixed-race students in this sample identified with a conventional racial category (Asian American, Latino, or white).

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American and Latino law students represent 7.2 percent and 9.3 percent of the student body, respectively, as compared to this sample's 42 percent Asian Americans and 33.6 percent Latinos. The strategic oversampling however, allows us to direct attention to these particular populations' unique experiences in American law schools.²²

The law students in the sample had one shared characteristic: they were all enrolled in law school during an extremely uncertain economic period. Graduate school can act as a shelter from career unknowns, and the U.S. "Great Recession" of 2007-2009 was no exception. Working adults went back to school in an effort to weather financial insecurity; many college graduates also found themselves transitioning immediately to graduate schools. As the data for this paper was collected between 2009 and 2011, the sample includes large numbers of both "traditional" and "nontraditional" law students, providing an ideal platform to understand how work (or lack thereof) before law school influences student experiences in law school.²³ Roughly 45.8 percent of the sample worked for two

²² Oversampling is a method used to establish not only representation, but also reliability in the respondents' experiences. As sociolegal scholarship does not generally focus on Asian Americans and Latinos in particular, oversampling provides a more accurate representation of their experiences.

²³ Traditional students refer to those who transitioned immediately from college to law school, which is the common practice. Nontraditional students return to school at an older age, often to

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or more years before returning to law school. Those who worked for less than one year often interned temporarily, or held hourly jobs, such as baristas, and were coded as conventionals. I conceptualize “work before law school” as a permanent or semi-permanent paying job that was, or could lead to an eventual career. Some examples are legal secretary, paralegal, banker, consultant, and counselor. Students who worked in the service industry for a long period of time, and tout gaining “life experiences” were also coded as returnees.

Interviews lasted between 45 minutes and two hours, and mostly took place on or near the law schools (with some exceptions at respondents’ homes, or places of work). I took notes during the interviews, and also recorded the conversations. All interviews were transcribed and later coded. Initial thematic coding identified anxiety among respondents about entering an elite profession. I noted differences between students’ work experiences before law school, and divided the sample into those who worked before law school (returnees), and those who entered law school immediately following college graduation, or held odd jobs for less than one year (conventionals). Overall, returnees were cynical about legal education, but they appeared confident in their legal and “real world”

prepare for a second career, and are commonly known as OWLS – Older and Wiser Law Students.

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knowledge when compared to their conventional peers.²⁴ Conventionals described having gained knowledge about law school from hearsay, and imagined difficult tests, copious amounts of reading, and responding to “cold calling.” In contrast, most returnees garnered work experience from law-related jobs, and/or established mentor/mentee relationships with attorneys, and possessed expert knowledge about law school and the profession. Findings suggest students’ lives after college and leading up to law school shape their educational experiences and career trajectories.

FINDINGS – ADORATION VERSUS CYNICISM

Student experiences before law school influenced their learning of the law and the new language and decorum that accompanies it.

Table 2. Characteristics of Returnees and Conventionals

Returnees	Conventionals
<ul style="list-style-type: none"> • Worked for two or more years between college and law school 	<ul style="list-style-type: none"> • Transitioned immediately from college to law school, or worked

²⁴ Two students in this sample worked for over 10 years in the service industry before returning to law school, and are coded as “returnees” because they mentioned garnering “life experiences.”

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<ul style="list-style-type: none"> • Law school is a means to an end • Possess a good idea of what to do with one’s law degree • See law school as a welcomed relief from work responsibilities • Cynical toward pedagogy and competitive culture in law school 	<ul style="list-style-type: none"> • odd jobs in anticipation of attending law school • Law school is an intellectual exercise • A law degree <i>can</i> be versatile • Often unsure of what to do with a law degree • Open to second career after law school • Optimistic about future
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Looking at Table 2, we see that returnees better understood the legal profession and had a clearer idea about the type of law they wished to practice than conventionals. Students who had work experience for two or more years between college and law school looked to applying their “real world” skills. They were however, cynical about the pedagogy and competitive culture among law students. Conventionals on the other hand, regarded law school as an intellectual exercise. They lauded the versatility of a law degree, and remained hopeful about their career options.

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Without regard to race, the students who transitioned immediately to law school—conventionals—were not confident about their abilities to succeed in law school. But, they also overwhelmingly “loved” the experience. The majority of the returnees, brimming with confidence, considered themselves “experts,” yet remained cynical about legal pedagogy. In the next section, I describe the characterization of imposter versus expert. Conventionals often aligned with an imposter identity where they felt underprepared to undertake law school. Returnees, on the other hand, asserted an expert identity bolstered by their previous work experience.

The Imposter and The Expert

Ben is a white law student at MT4, and anticipated a career in law while he was pursuing a bachelor’s degree in political science, and a master’s in public policy. He worked as a paralegal for four years, to learn more about the profession before investing time, energy, and money in law school. Working as a paralegal affirmed his affinity for the profession, and kindled an interest in real estate law. Regarding whether he felt prepared for law school, Ben said, “I felt overly prepared. With four years of work in the legal profession, I felt I was [comfortable with] a lot of the material. ... I had a pretty easy first year and it

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was fun! I didn't have to work. I [have] pretty much had to work all my life, and it was the first time I could just do school." Ben's enthusiasm further translated into a sense of confidence. With regard to his first year classes Ben says, "Civil procedure – I mean civil procedure is so easy because I actually dealt with a couple of complaints and a couple of lawsuits from start to finish. I never went to trial or anything like that but I dealt with a majority of it, and it made application of the stuff I didn't know so well, easier."

Likewise, Spencer, another white MT4 law student also worked as a paralegal before law school, and found a smooth transition. He says he likes law school "a lot!" and credited his three years working as a paralegal: "I mean I worked with lawyers. Honestly, they just said if you keep up with all the reading, and take good notes, that it all worked out. ... There's no secret to it. You work hard and then you will do well." This advice was reassuring to Spencer and freed him to enjoy law school.

Law students like Ben and Spencer espoused an *expert* identity. Working among attorneys as paralegal or secretary provided them with professional familiarity, which led to a boost in confidence—a belief that they will be able to succeed in law school. Further, professional interactions with attorneys assuaged their

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anxieties about being able to face the challenges of law school. These students intimated they were less anxious about exams and answering questions in front of peers and professors than their peers.

Returnees who did not work in law-related fields also espoused confidence. While they did not claim expertise in topical matters, they approached law school with ease and comfort. When asked to compare college and law school, Clara, a white student from WT1 says, "I've been more confident [compared to college] and I know who I am more. I just like my relationship with school more now. ... Just the fact that I'm more confident with who I am has made law school a lot better." Scott, a white student from MT4 reports,

I don't really care about grades, which is another anomaly in law school. To me, an indicator of success in law school is feeling prepared to take the Bar [exam]. And feeling prepared to be successful in practice. I'm not too concerned with the day-to-day monotony of tests and grades... My primary concern is making sure that I'm prepared to substantively know what I need to know to practice law.

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Scott could focus on the long-term aims of his career in a way that conventional students could not (i.e. short-term grades). Even without the “expert” legal knowledge of students like Ben and Spencer, these students were confident about their abilities to complete law school in a way that conventionals weren’t.²⁵

Esperanza, a Latina WT1 law student who followed the conventional route, was determined to become an immigration attorney. Esperanza describes her law school experience:

A roller coaster, like a never-ending roller coaster. It’s ups and downs. Constantly ups and downs. It’s feeling really into it one day and feeling like “wow, I’m studying really hard and completely immersing myself in this, in this really hard experience, [this] legal program!” And then at other points, “I don’t know what’s going on, I don’t know what I’m doing here. And, I don’t know why they let me in. And maybe I need a career change, before I’m even a lawyer.”

Esperanza feels like an imposter. She and others who feel this way seem as dedicated to becoming attorneys as their expert peers. After all, the

²⁵ Although returnees were also anxious about exams and found learning the new materials overwhelming, they were generally positive about the workload.

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psychological, financial, and social costs of legal education are rather high. But, they espoused less confidence when they spoke about law school. To take another example, Marvin, an Asian American law student at WT1, said:

The stress, it's natural. It's part of the territory when you come to a school like [WT1]. When you first start out, you always think everyone is smarter than you. Everyone has more experience than you. They come from a lot better schools... It puts a lot of pressure on you! And, you never know how you're going to do in class, just because you're surrounded by all these people.

Marvin also felt like he was posturing. Amid a sea of peers who attended American Ivy League institutions for college, conventionals at WT1 felt the sting of competition. Not only did they need to learn new material, and make friends, they were also status-conscious about their undergraduate alma maters. Brett, a white conventional student, summarizes this sentiment:

I was terrified before my first exams because I came from a state school; I went to [a large public school], right? Most of my classmates, like Yuan for example, came from Yale and there were people from Harvard, and [WT1], right? Like great schools. ...

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[T]hat anxiety of “how do I really stack up against the best of the best of my generation right now? How do I stack up against that?”

Because schools such as WT1 attract high achieving students, most of the sample assumed that their peers attended elite undergraduate institutions. WT1’s entering class profile, which prominently lists the prestigious undergraduate institutions of admitted students, supports this assumption.²⁶ Nor did having attended elite schools prevent conventionals from experiencing anxiety about law school; Yuan had graduated from Yale but he expressed no less anxiety about law school than Brett who attended a public university for undergraduate.

Yuan is Asian American; findings reveal that Asian American and Latino law students in this sample – many of whom are first-generation college students (refer to Figures 1a, 1b, and 1c) – are particularly likely to feel marginalized and therefore feel like imposters. Akin to part-time law students in the United Kingdom—whose demographics deviate from their full-time peers—Asian American and Latino law students experience marginalization. Andrew W. Francis and Iain W. McDonald find that part-time law students’ divergent backgrounds from their full-time peers disadvantages them toward successful

²⁶ Students are admitted from Yale, Harvard, University of Pennsylvania, etc. A quick Internet search readily yields this type of admissions information.

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law school completion.²⁷ For one, part-time law students exist at the intersection of multiple disadvantages—they are typically older, ethnic/racial minorities, attended lower-ranked institutions, and earned less impressive grades. As suggested by the Francis and McDonald, unlike part-time students, full-time law students are advantaged by being a part of the normative representation: “the full time law student typically belongs to a broad tribe of students who have moved, relatively unproblematically, from A-levels to degree-level study—they share ‘a feeling of inevitability’”.²⁸ Part-time students do not possess the requisite experiences, or habitus, of their full-time counterparts. In the same vein, Asian American and Latino law students, most of whom are first-generation college students, also lack the habitus of the normative American law student. I will return to this discussion of racial disparities.

As Figure 1 suggests, the majority of the students in this sample hail from families where at least one parent is a college graduate. Beyond college however, we see that fewer than half of the Asian American and Latino students have even

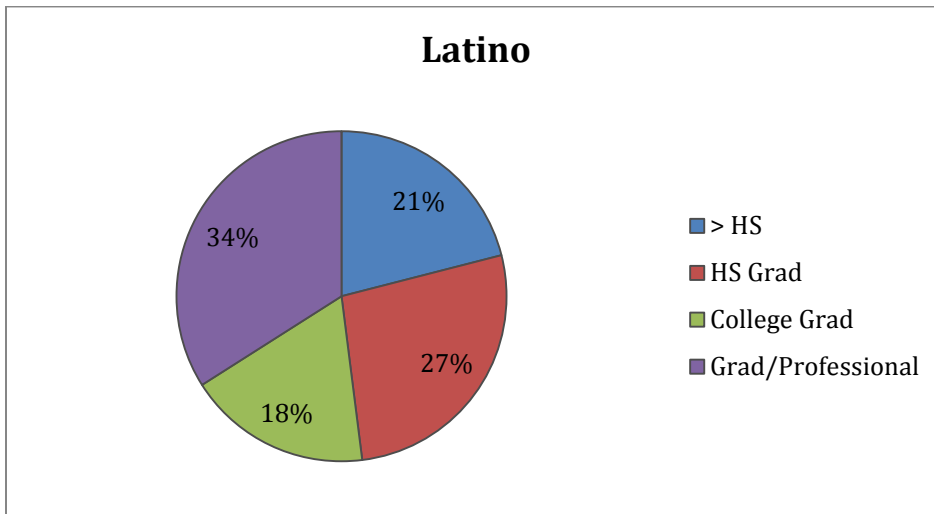
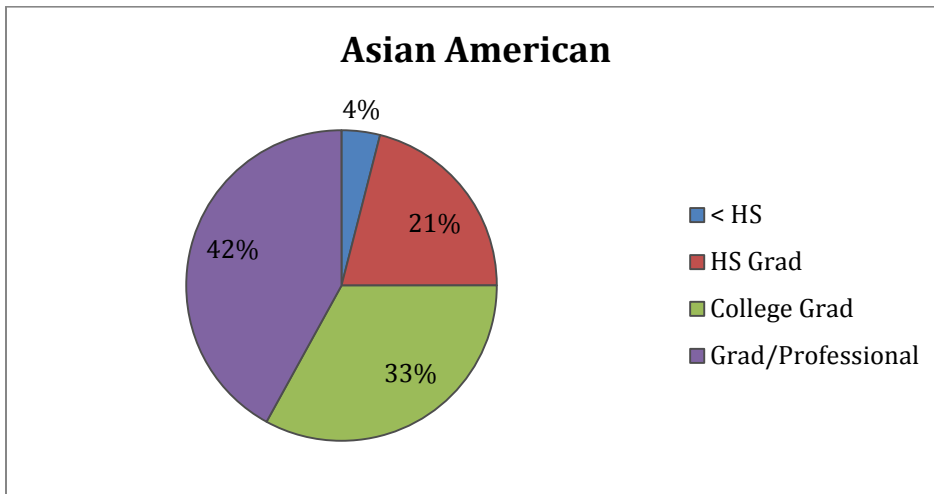
²⁷ Andrew W. Francis and Iain W. McDonald, ‘Preferential Treatment, Social Justice, and the Part-Time Law Student’, 33 *Journal of Law and Society*, 92-108 (2006).

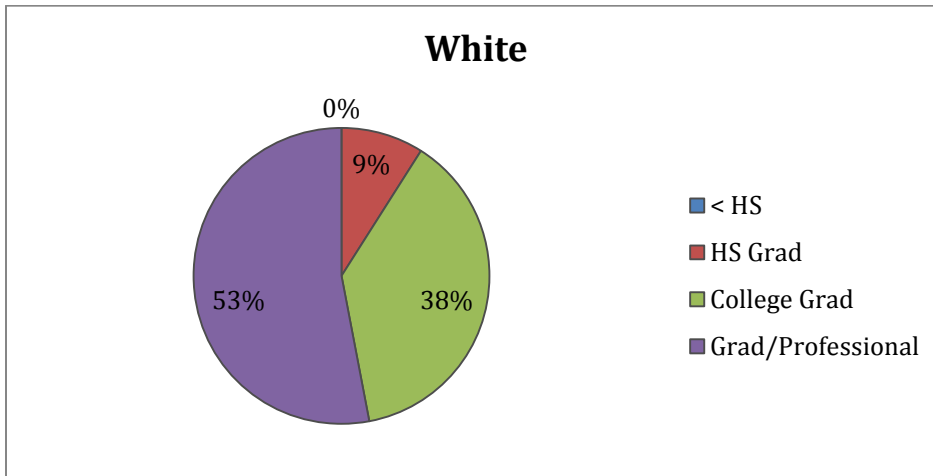
²⁸ Andrew Francis and Iain McDonald, ‘After Dark and Out in the Cold: Part-Time Law Students and the Myth of “Equivalency”’, 36 *Journal of Law and Society* 220-247 (2009).

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one parent who completed graduate or professional school, while more than half of white students do.

Figure 1. Highest Degree Attained by One Parent among Asian American, Latino, and White Law Students in Sample



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All of the white students with parents who hold professional degrees, have at least one parent who possesses a JD.²⁹ Minority students tended to assume that their white peers have lawyer relatives or friends, an assumption the sample supported—35 percent of the white students without lawyer parents have relatives or close family friends with law degrees. In other words, the assumption, which increased Asian American and Latino law students' imposter syndrome, that white students have JD role models and networks, appears accurate.

Falling in Love and Going Through the Motions.

Law students have complex feelings about law school. The intellectual pursuit of law infatuates some. Others describe law school as a means to an end. As a rule,

²⁹ While this may be a sampling anomaly, it does not distract from the divergent experiences between conventionals and returnees.

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conventionals “fall in love” with law school – its rigor, status as an elite profession, and the intellectual value attributed to complex language and puzzle-like problem solving – and returnees see it instrumentally.

Conventionals’ experiences of falling in love

Bryn adores law school. An Asian American WT1 law student and a conventional, she is enamored by the intellectual pursuit of law. She says, “I have been really lucky to find professors that I love and respect. And, I have been lucky to find organizations that are socially conscious of dynamics – especially around race and gender.” Conventionals from both schools admired their professors’ intellect and appreciated like-minded peers. Their friends and the logic of learning the law was a source of excitement.

Natalia, a Latina student from WT1, also found law school exciting, albeit at times overwhelming. She said:

What surprised me about law school is that it’s a big exercise in reasoning, more so than being taught concrete information about the law. It’s more general doctrines of the law rather than concrete, which is what I had expected prior to coming.

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For students like Bryn and Natalia, social aspects are a large part of their schooling. Natalia distinguished the role of the Latino Law Students Organization, saying, "In terms of social experiences, it's better than what I expected. I have been able to make a lot of friends here."

Brandon, one of the conventional respondents at MT4, hails from the American Midwest. An Asian American student, he relocated to Metropolitan City to attend MT4. He connected his love for law school directly to its challenge:

I do love it here, even when it gets really rough and I haven't slept anywhere close to enough, exams are coming up, I don't feel prepared for them... I think that everybody has worked harder than me, knows more than me and I feel like I'm constantly the underdog. Even though I know I'm not – I'm top ten percent of my class... So, I do think you have to love what you're doing in order to be able to keep pushing yourself like that. Because you are working almost every waking hour in law school, or at least you should be. ... And, you can only do that if you really like what you're doing. Even if you don't like the subject matter. Real estate law, not the right thing for me to be doing. But, I love learning

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about the law and doing the law. So, even if I have to take an unpleasant class, it's part of an experience that I really want. So it keeps me going. And of course, I have had some wonderful and fantastic teachers. My first Property teacher, fantastic. Hence the future interest – wills, that stuff. I did really well there. My Criminal class, I loved Criminal Law, that was an amazing teacher.

It was probably my best experience yet in law school. Fantastic.

As seen from his comments, Brandon enjoys law school. He acknowledges competition as a part of the law school experience, but he thrives in this environment. Moreover, Brandon enjoys his coursework because they are all related to the law.

Whitney, another Asian American student from MT 4, was raised in Metropolitan City, and grew up in an impoverished neighborhood, which prompted her interest in pursuing criminal law. She directly relates her difficulties in law school to her youth:

I actually did really poorly my first semester. When I started law school, I was only twenty-years-old! So, I couldn't even drink the first week of school. ... I was having a really hard time grasping

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some of the concepts, just because there were lots of archaic words and concepts I didn't get because of lack of experience in life, especially things to do with financial cases. Some of them [cases] talked about finances or business. My parents handled all that stuff for me [in my life]. So when I started law school, I had no idea what was going on with investing money or economics or any stock market. I had no idea! So that was really hard for me and I had to learn legal concepts, but I hadn't even learned the foundational aspects of it yet. Like, I had to learn more things than the other students because they already knew all that stuff!

In spite of these difficulties, Whitney notes, "It's been really good. The professors have been good." Yet she herself suggests that the returnee path might have been good for her, attributing her lack of understanding the legal language to her youth and deficient life experiences. Transitioning immediately to law school meant more than learning the legal language, or learning about the law. For Whitney, it also meant learning about finances and how to budget.

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Purposive schooling and a break from work

Those returnees who seem to really enjoy law school frame it as a welcomed break, and an opportunity to seriously explore a new career. In general, they are cynical about law school pedagogy, but appreciate a respite from work. They also look forward to graduation. Supriya, an Asian American WT1 student, worked for three years on political campaigns in Washington D.C. She says, “law school is different. Just different than any other type of school I’ve ever been in. [It] took like the first semester to figure out how to read a case and how to study. It just takes more time than school’s ever taken me before. But it’s easier than working on a presidential campaign.” Supriya appreciates law school. She describes remembering how to study as a task but not necessarily a difficult one.

Will, a white MT4 student who worked in record stores and restaurants for roughly 10 years before pursuing a law degree, described law school this way:

I think I had the advantage in some ways because I did work all the way through undergrad. I was working forty hours a week and going to school full time. So as far as time management goes, I was pretty well prepared to face a whole lot of work. Because I wasn’t

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working at all during the school year, in some ways I felt like I had more time than ever to do my [school] work.

For the first time in his academic life, Will is only focusing on his course work. The workload does not overwhelm him, and he credits his 10 years of work experience for this. Across the board, returnees described time management as their largest asset. Because returnees worked before law school, they espouse learning “life experiences.” It is possible that the experiences are conflated with their older age—they are more mature and take more seriously their schooling and career development. Regardless, having worked (and maturing during the time of work) seems to affect how returnees perceived law school.

Returnees also didn’t share conventional students’ pleasure in law school’s social scene. Cindy, a white student at WT1, was an engineer for several years before returning to school. She says:

I was used to having a lot of responsibility at work and I felt like I fulfilled a purpose. And then coming to law school, your purposes are all very selfish. You’re not doing good for other people or a company; you’re doing good for yourself by getting good grades. And, I’ve never really given a crap about grades or differentiating

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myself on that basis. ... And then also, I think that the way law schools teach is really inefficient. Just the methods – reading a casebook and the Socratic method. It’s not the way I learn the best. So that was frustrating. Also, and this is perhaps the biggest thing, by and large, but there are very few people that I actively like in law school. And, I think it’s just that I’m way too chill. And most people are all uppity and gunnerish. And like, I don’t know, I find them irritating.

As a returnee who worked for several years, the pervasive “gunner”³⁰ atmosphere in law school disappointed Cindy. Further, she disliked the pedagogy and found the Socratic method to be inefficient. Her perceptions contrast sharply with the collegiality among peers by conventional students.

Similarly, Ricardo, a Latino MT4 student who, before law school, worked several years for insurance companies, had this to say:

³⁰ Respondents describe “gunners” as law students who will stop at nothing to achieve the best grades, and success. They are perceived as straining to answer professors’ questions, tearing pages out of library casebooks, and compete with their peers to acquire the best internships. And, they boast about their accomplishments. These types of students are so pervasive (and disliked by some), that the tag “gunner” is in common usage by law students, including appearing on the popular legal blog, *Abovethelaw.com*.

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Honestly, I think [law school]’s fine. It’s not *The Paper Chase*.³¹ There are people that are super stressed out. But it’s not that intellectually challenging. It just seems like at first, you have to learn how to go to law school. Once you know how to do law school, you just kind of use the same process with different subjects. ... It is a different way of thinking, it is a different way of applying certain things with certain rules, right? You have your facts and you have your rules. And, you have to learn how they interact. And, once you learn that process, it’s just a matter of learning new rules and new facts. Go through that process of how they interact. How to craft an argument or something like that, using those facts and rules and their interactions.

The intellectual experience that excited conventional students held few charms for returnees. This might suggest that returnees gain less from law school than conventionals. But the picture becomes more complicated when we take into consideration the students’ panethnicity, or race.

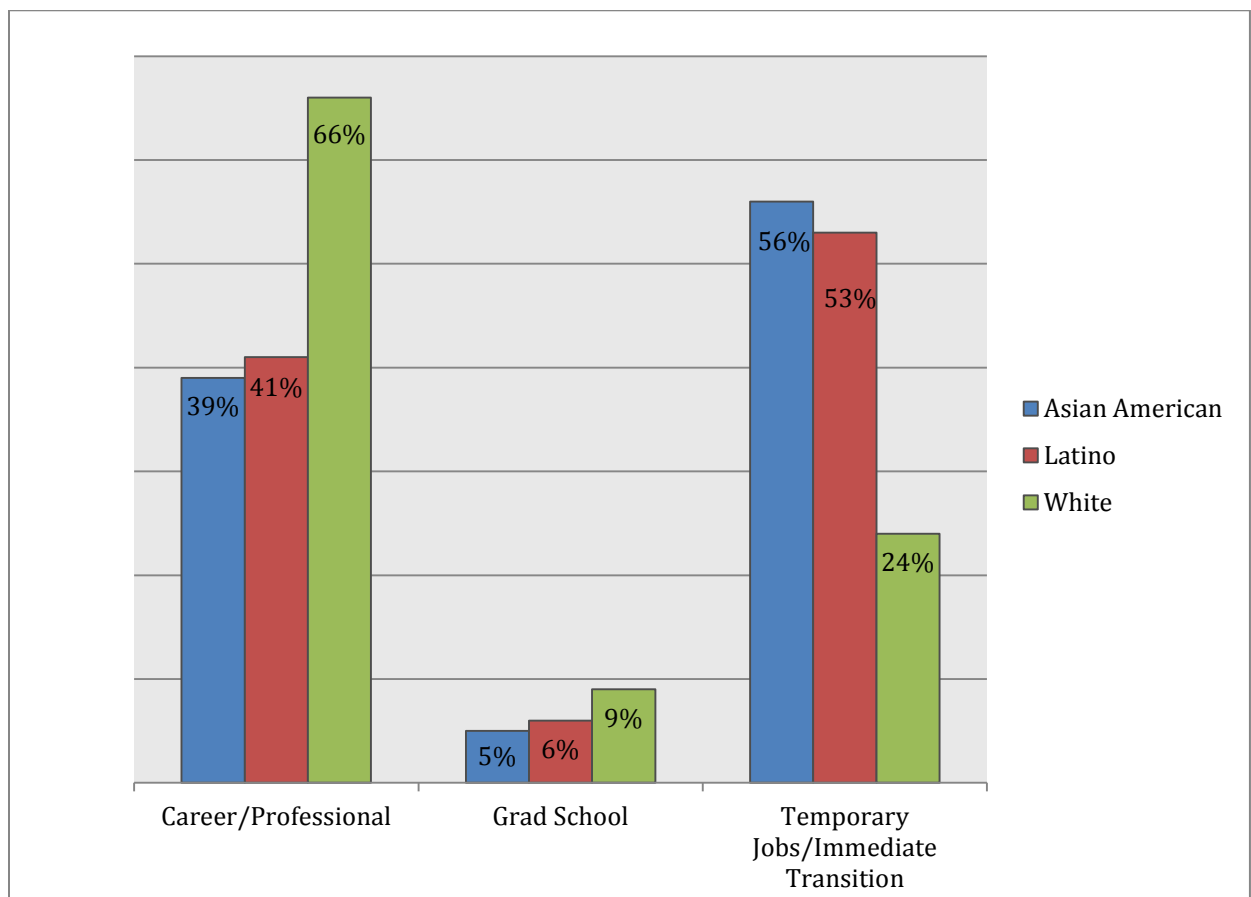
Rac(e)ing Toward the JD

³¹ A 1973 film about an elite American law school, *The Paper Chase* stars actor John Houseman who plays unforgiving law professor, Charles W. Kingsfield Jr.

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The conventional and returnee groups included students of all racial backgrounds, but the way students talk about their experiences signaled divergent expectations. Figure 2 presents pre-law school preparation by race and ethnicity.

Figure 2. Pre Law School Preparation among Asian American, Latino, and White Law Students in Sample



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Only 24 percent of the white students transitioned immediately to law school from college, or held temporary jobs that were easy to quit; the remainder typically worked in career-building or professional positions prior to law school. Roughly 56 percent of Asian American and 53 percent of Latino respondents were conventionals, and the remainder typically worked as temporary interns or volunteers. Perhaps the Asian American and Latino students who hail from families with professional parents did not need to take time off between undergraduate and law school in order to earn money for law school expenditures, but this should also have prevented white students, who were more likely to have professional parents, from doing so. What we see instead is that roughly 66 percent of the white students from this sample did not transition immediately to law school. But, the opposite appears to be true for Asian American and Latino law students, which could signal a social capital effect.

The legal and professional role models in middle-class students' lives may be the source of information about the benefits of taking time off before starting law school. If that were the case, we would see a greater proportion of students from higher socioeconomic backgrounds, without regard to race or ethnicity, garnering work experience before law school. But, this was not apparent from this sample of Asian American and Latino law students.

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The findings appear to support an *immigrant* effect (deficient capital) among the Asian American and Latino law students from higher socioeconomic backgrounds; over 80 percent of the Asian American and Latino law students from this study are second-generation immigrants, meaning their parents immigrated to the United States. Even the highly educated immigrant parents do not have the *cultural* capital to advise their children to take on meaningful work before enrolling in law school. Conceptualized by Pierre Bourdieu, cultural capital describes the attitudes and knowledge parents transmit to their children for educational success. Sociologist Annette Lareau further applied cultural capital to the understanding of educational stratification, taking into consideration class, race, and family factors. She characterises middle class families as using “concerted cultivation” to nurture their children’s ability to perform in school through ideas about education, and involvement in extracurricular activities. Working class and poor parents do not have access to organized activities, and were more focused on letting their children experience “natural growth,” not least because of the effort involved in providing basic support.

Lareau’s findings on the intersection of race and class suggests that the parents of white, middle-class law students encouraged them to work before law school as

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part of “concerted cultivation.” It may be that immigrant parents, even middle class ones, do not recognize the benefits of avoiding burnout and/or gaining industry knowledge, versus transitioning immediately to professional school.

Alternatively, Asian American and Latino law students may have transitioned immediately to law school in an effort to climb the socioeconomic ladder, or to accelerate the immigrant adaptation process. Sociologists Alejandro Portes and Rubén G. Rumbaut’s comprehensive studies on immigrants and their children find that first- and second-generation immigrants strive to ascend the socioeconomic ladder to actualize the American dream. Known as “immigrant optimism,” this mindset contributes to the overall successful scholastic performance of second-generation immigrants, and it may shape the conventional path of Asian American and Latino law students in this study.³²

It could also be that the concerted cultivation upper-middle class immigrants practice with their children does not compensate for the lack of attorney family members, relatives, or friends. The American legal profession has experienced, and continues to witness, an increase in the number of Asian American and Latino law students and lawyers, but this phenomenon has not yet spread to

³² See Alejandro Portes and Rubén G. Rumbaut, *Immigrant America: A Portrait* (2006).

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local panethnic communities. Perhaps, in one or two generations, a critical mass of panethnic attorneys will engage networks, supporting guidance and career advice. But, we do not see this trend yet. The fact that the few Asian American and Latino law students with attorney friends or siblings in the sample worked in law-related fields before enrolling in law school suggests it will be transformative.

CONCLUSION, LIMITATIONS, AND IMPLICATIONS

As I suggest in this paper, both the returnee and the conventional paths have benefits and drawbacks. Returnees overall convey more ease in navigating law school, but are also cynical toward the pedagogy, and see law school as nothing more than a vehicle to a career. Conventionals experience status anxiety, yet report optimism about their legal training and impending career; they enjoy learning to think like a lawyer more than returnees. Students from lower ranked MT4 are typically returnees while WT1 has a greater proportion of conventionals. Panethnicity and immigrant background further complicate this picture. A majority of Asian American and Latino law students are conventionals, and their ethnic identities compound the anxiety of conventionals generally with additional dimensions of imposter syndrome. Asian American

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and Latino law students in this study suspect that their white peers have attorney networks to turn toward when needed, whereas they do not have that available resource.

The divergence among students is both real and imagined. Asian American and Latino law students imagine their white peers receiving more guidance on surviving law school and becoming an attorney, and the data reveal that white respondents have the opportunity to seek such guidance from friends and family. Peer socioeconomic background thus further exacerbates the imposter syndrome among Asian American and Latino law students.

These nuanced findings challenge our current understandings of stereotype threat, social capital, and the modal law student. First, as demonstrated in this paper, a conventional is not necessarily the “modal” law student, or the most confident. Tellingly, returnees actually appear to be more confident. Although returnees take a more blasé attitude to law school, they espouse more confidence than their conventional counterparts. They do not fear divergence from their younger peers, but rather boast of their real world expertise (social capital). Conversely, conventionals felt the least prepared for law school, and feared competition with other high achievers. What we see is that nonwhite law

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students appear to be mostly conventionals who transition immediately to law school, which challenges Timothy Clydesdales' description of "modal" law students. In some respects, conventional students embody the racial and socioeconomic disadvantages experienced by Andrew Francis and Iain McDonald's part-time students. Conventionals intimate more anxiety about law school, and are disproportionately nonwhite, second-generation immigrants. This study reveals that white law students appear to possess a hidden capital in that so many are returnees.

Theoretical implications notwithstanding, these findings also suggest practical steps to mitigate anxiety among students who transition immediately to law school, especially for nonwhite law students. For one, American law schools may consider placing added value on practical work experience. Lawrence Foster notes that the current teachings of American law schools focus too much on the theoretical components of law at the expense of practice application. Foster argues that the merits of clinics are that "law students represent real clients in real cases, under the close supervision of faculty."³³ In this way, students are not

³³ Lawrence Foster, 'The Impact of the Close Relationship Between American Law Schools and the Practicing Bar', 51 *The Journal of Legal Education*, 346-349 (2001).

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only more confident in their abilities to work with clients, but they also garner “real world” experience.

Some law professors support this endeavor. Eric J. Gouvin argues that clinics are crucial for the successful understanding and practice of business law as most clinics use a “law firm” model where professors take on the role of partners, while students are the associates.³⁴ Gouvin impresses, “business clinics may help students better appreciate the challenges of business lawyering, which they sometimes misunderstand as merely a form of practice. By putting students in the middle of real transactions, they gain a deeper understanding of the subtleties of making a transaction come together.”³⁵ Similarly, Amy L. Ziegler argues that clinics are instrumental for students interested in public interest work by enhancing their problem-solving skills on actual cases for which they are held accountable.³⁶

These studies on clinics underscore the importance of work experience. Because clinics are expensive to administer, and most law schools in the United States do not appear to house many of them, it is thus important for law schools to

³⁴ Eric J. Gouvin, ‘Learning Business Law by Doing It: Real Transactions in Law School Clinics’, 14 *Business Law Today*, 52-55.

³⁵ Gouvin, 55, 2004.

³⁶ Amy L. Ziegler, ‘A Law School Clinic and the Bar: Promoting Development’, 2 *ABA Journal of Affordable Housing and Community Development Law*, 16-17 (1993).

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consider other ways to nurture student confidence (and competence).³⁷ Perhaps then, American law schools may consider the role of work experience as a part of applications. Admitting mostly returnees could mean increasing the cynicism of the student body. But, the students would also direct their attention to learning the law and appreciating the applicability of their pre-law school work experience with a better eye toward their career trajectories. This model may mitigate some angst among non-modal law students more generally – in this case, Asian Americans and Latinos – who currently do not have widespread professional guidance, and who transition immediately from college in large numbers. A shift to prioritizing pre-law school experience could benefit all students, and the profession. Rather than being deficient in this hidden social capital, all students are aware of expectations for real world work prior to applying.

Affirmatively accepting law students based on a holistic evaluation of applications suggests commitment to a diverse student body. Admitting former paralegals, doctors, engineers, teachers, and others would no doubt enrich classroom discussions, and inject a “real world” element to the enterprise of legal

³⁷ See Elliot S. Milstein, ‘Clinical Legal Education in the United States: In-House Externships and Simulations’, 51 *J. of Legal Education*, 375 (2001) for discussion of the dearth of clinics in American law schools.

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education. In the midst of debates surrounding Affirmative Action, law school diversity, bar passage rates, and post-law school careers, giving returnees preference in admission (and publicizing this on law school admissions sources) could serve as a step in the right direction.³⁸ While the long-term effects of such admissions policies are outside the scope of this paper, the findings presented here serve as a starting point for future research to interrogate the significance of work experience before enrolling in law school, as well as graduate programs, writ large.

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³⁸ See Richard H. Sander, 'A Systemic Analysis of Affirmative Action in American Law Schools', 57 *Stanford Law Review*, 367-483 (2004); Richard H. Sander and Kate L. Antonovics, 'Affirmative Action Bans and the "Chilling Effect"', 15 *American Law and Economics Review*, 252, (2013).

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