

THE ETHNIC LAWYER AND SOCIAL STRUCTURE:
THE JAPANESE ATTORNEY IN HONOLULU

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Although it was written in the late 1960s based on research conducted in 1959, Professor Yamamoto's article on Japanese lawyers in Honolulu has heretofore only been privately circulated and never before published. Unfortunately it remains the only piece of systematic social science research on any of the professions in Hawaii.

The legal profession in Hawaii has changed dramatically since Yamamoto conducted his research. Some of the Japanese lawyers in his sample have attained high political office and some of the most successful and prestigious law firms in Honolulu are comprised of Japanese partners. Hundreds of new lawyers are now admitted to the bar in Hawaii every year, both graduates of mainland law schools and graduates of the new University of Hawaii School of Law which opened in 1973. Japanese and Chinese lawyers are now firmly established in Hawaii's legal profession. However, Hawaiians, Filipinos, and Samoans are significantly underrepresented. The UH School of Law has a special interest in these groups and has made significant gains in recruiting talented members into the legal profession. Women constitute the most newly discovered underrepresented group and now comprise approximately 40 percent of the UH law students. What will be the experiences of these new groups as they enter the legal profession is now only a matter for speculation. But it is clear that Professor Yamamoto's study begs for an update.

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Hughes (1971), Caplow (1954), and Riesman (1951), among others, have pointed out that there is a tendency for an occupational status, in addition to its specifically determining traits such as technical qualifications, to develop a complex of auxiliary or extra-occupational traits which come to be expected of incumbents. In a period of rapid social change and extensive social mobility, people with auxiliary characteristics such as racial or ethnic backgrounds other than those long associated with the established profession begin to appear on the scene. In professions such as medicine and law in the United States,

this has meant a social allocation of persons into a variety of occupational positions within the profession in which the auxiliary characteristics of race, ethnicity, or religion, play an important contingent role.

The careers of persons in the legal profession as they are affected by their ethnic and religious characteristics and the consequences for the bar have received special attention in recent years. Hale (1949) described the greatly circumscribed careers of Negro lawyers in Chicago in the late 1940s, the limitations on their work as lawyers being related to the stratification of races in the city. Lortie's (1959) study described the main institutional settings within which lawyers practice their profession in Chicago, and showed that career differentiation among lawyers becomes set rather quickly within a few years after graduation from law school, this crystallization into different routes being heavily influenced by the socio-economic and ethno-religious backgrounds of the lawyers' parents and their relationship to the type of law training received.

In his study of individual practitioners in Chicago, Carlin (1962) provided a detailed description of the work setting of solo lawyers and the types of skills employed by them and pointed to their inferior status in the system of stratification that has arisen in the legal profession with the great increase in the number of lawyers and the rise of huge law firms. This stratification of lawyers in the metropolitan bar according to type and manner of work done is associated with type of law school attended, which in turn is related to the ethno-religious characteristics of the lawyers.

In both the Carlin and Lortie studies of Chicago lawyers, minority types of lawyers in entrepreneurial types of practice were found to have predominantly ethnic clienteles and were also found to be participating in petty local politics as an adjunct to or facilitator of their major work of providing legal services.

Ladinsky (1963) compared samples of solo and firm lawyers in Detroit, and his findings tend to corroborate the studies of the Chicago lawyers. Solo lawyers are predominantly "minority lawyers,"

their formal education is "quantitatively less and qualitatively inferior" to that of firm lawyers, and their work history is more likely to be somewhat "disorderly--having many jobs but not in orderly progression, and doing marginal law work." Family and school background affect the social allocation process through both personal self-selection and differential recruitment by firms. Ladinsky drew implications for legal practice and the law from this process of allocation: poorly trained men are likely to end up in individual practices and do most of the "dirty work" of the bar; there has been extensive elaboration of legal procedures to handle problems of corporate enterprise with the flow of talented persons from quality law schools as opposed to developments for the care of problems of private citizens; there has evolved in urban centers of the United States what can be called an ethnic bar, characterized by many mediocre lawyers competing for the same bread-and-butter cases; and finally and ironically, it is the solo lawyer rather than the large firm lawyer whose professional employment is most vulnerable to bureaucratization through their salaried employment in lay enterprises that more and more have been successfully moving into work involving titles and abstracts, collections, taxes, etc.

Smigel (1964) studied lawyers of the largest firms in New York and concluded that there was considerable professional autonomy even within the context of important bureaucratic firms. Recruitment of lawyers into these Wall Street firms whose special function is to give advice in the practice of corporate law is based on the candidate's academic achievement, attendance at preferred law schools, lineage, and personality. Racial and ethno-religious minority candidates do not readily meet these criteria to the satisfaction of the firms and hence their numbers in these firms are small. Smigel notes, however, that with increasing competition for the hiring of able young lawyers, discrimination in the matter of hiring has been waning as an increasing number of Jews graduate at the top of their classes in the Ivy League colleges and law schools.

The findings of these studies of lawyers in large American urban centers point to the type of law school attended as the crucial contingency with

respect to allocation of lawyers in the legal profession. Racial and ethno-religious background is related to parental occupational and financial status and to perceptions of future roles as lawyers, and these in turn lead to selection of and selection by various types of law schools.

Japanese Lawyers in Honolulu

Is the process of allocation with the law school playing a key role a general phenomenon throughout the United States? Information was collected in Honolulu to test the likely linkage between racial background, legal education, and type of professional work. While Honolulu is an obviously smaller urban center than the metropolises of Chicago and Detroit, the conditions operating to allocate ethnic minority lawyers into different career paths from those of "native American" lawyers in mainland metropolitan centers also appear to be operating in Hawaii: (1) a "new breed" of lawyers emerging out of immigrant backgrounds without family or ethnic attributes long associated with the practice of law; (2) the established law firms' primary function of providing legal services to the large corporate enterprises controlled by "native Americans"; (3) the existence of "dirty work" that has to be done by somebody, and the presence of the minority status population itself as a source of petty legal work for lawyers.

Seventy-five Japanese-American lawyers in Honolulu, a two-thirds sample of the Japanese-American lawyers in Honolulu as of 1959, were interviewed. This report is based on the collected information relevant to family background, legal education, supplemented by information available in the *Martindale-Hubbell Directory of Lawyers* (1921, 1959) and in the *Bancroft-Whitney Directory of Attorneys, State of Hawaii* (1958).

Types of Employment

Of the three areas of primary concern in this paper--social origins of family background, legal education, and type of employment--the last will be considered first. The figures for 1920 (Table 1) showing no Japanese attorneys and eighty Caucasians out of a total of eighty-five attorneys in Honolulu, together with the 1958 situation provide a picture of the minority status lawyer appearing on the scene

in relatively large numbers in a period of a few decades. In 1958 the proportion of non-Caucasian lawyers who were members of law firms of any size was about half the proportion of Caucasian lawyers who were law firm members. This picture suggests the familiar pattern of the Chicago and Detroit

TABLE 1. Type of Employment of Lawyers of Honolulu, By Race, 1920 and 1958

Type of Employment	Caucasian %	Japanese %	Others %	Total %	(N)
<u>1920</u>					
Law Firm	30	--	--	28	(24)
Individual Practice	41	--	80	44	(37)
Gov't. Employment	16	--	20	16	(14)
Other Employment	<u>13</u>	<u>--</u>	<u>--</u>	<u>12</u>	(10)
Total (N)	100 (80)		100 (5)	100	(85)
<u>1958</u>					
Law Firm	42	21	22	31	
Individual Practice	30	46	42	37	
Gov't. Employment	16	28	28	23	
Other Employment	<u>13</u>	<u>4</u>	<u>8</u>	<u>9</u>	
Total (N)	101 (183)	99 (113)	100 (92)	100	(388)

Source: Martindale-Hubbell, 1921 and 1959.

allocation of lawyers. But a further breakdown of law firm membership by race according to size of firm (Table 2) reveals that no non-Caucasian was a member of any firm with six or more lawyers, while half of the law firm Caucasians were members of these large (for Hawaii) firms. All of these large firms provided legal services to the corporate enterprises collectively known as "The Big Five." The association of race or ethnicity with large law firms, and the latter with large business corporations is perhaps even more pronounced than the relationship reported for Chicago and Detroit.

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TABLE 2. Racial Distribution of Lawyers by Size of Law Firms, Honolulu, 1920 and 1958

Size of Firm (No. of Lawyers)	Caucasian %	Japanese %	Others %	Total %	(N)
<u>1920</u>					
7 and over	--				
4 to 6	33			33	
2 and 3	<u>67</u>			<u>67</u>	
Total	100			100	
(N)	(24)				(24)
<u>1958</u>					
7 and over	51	--	--	33	
4 to 6	28	25	15	25	
2 and 3	<u>21</u>	<u>75</u>	<u>85</u>	<u>42</u>	
Total	100	100	100	100	
(N)	(76)	(24)	(20)		(120)

Source: Martindale-Hubbell, 1921 and 1959.

Social Origins

Entry into the legal profession in Hawaii for persons of racial backgrounds other than Caucasian is a relatively recent development. Like the ethnoreligious minority-status lawyers of the metropolitan bars in the 1950s, but to a greater degree, the Japanese lawyers of Honolulu are predominantly second-generation persons (68 of the sample of 75 were born in the United States--67 in Hawaii, 1 in California--of immigrant parents from Japan; the remaining 7 lawyers are *sansei*, or third generation).

Inspection of "father's occupation" (Table 3) suggests a generally modest family background among these 75 lawyers, as might be expected of children of immigrants who in the main migrated to take up work in the sugar and pineapple plantations and who had relatively little formal schooling. The percentage of blue-collar origin (35%) is greater than the percentage reported by Carlin, Lortie, and Ladinsky for

solo and two-man ethnic partnerships, and the individual proprietor or small entrepreneur type of parental occupation is smaller in percentage for the

TABLE 3. Period Admitted to Bar by Occupation of Fathers of Sample of 75 Respondents

Father's Occupation	Admitted 1947 or Earlier		Admitted 1948 or Later		Total	
	N	%	N	%	N	%
	Professional:					
Civil engineer, clergyman, language school principal	(4)	29	(2)	3	(6)	8
White Collar:						
Small firm or plant manager, salesman, bookkeeper	(4)	29	(12)	20	(16)	21
Individual proprietor:						
Retail store owner, tailor, real estate broker, photo- grapher, farmer	(6)	43	(21)	34	(27)	36
Blue Collar:						
Carpenter, mechanic, welder, waiter, cab driver, laborer	--	--	(26)	43	(26)	35
All	(14)	101	(61)	100	(75)	100

Honolulu sample than for the counterpart Chicago and Detroit samples. These differences are considerably clarified when we note in the table that of the 14 lawyers in the sample who began to practice before the end of World War II, not a single one was of blue-collar background. All 25 of the blue-collar origin lawyers received their legal training after World War II, and 20 of these 26 reported that the G.I. Bill was the principal source of financial support for their legal education (Table 4). The high percentage of blue-collar background lawyers is likely to have been a historical accident--the subsequent trend appears to have been that of very few blue-collar origin aspirants to law. The appearance of these working-class background lawyers in relatively large numbers in a brief period of time may have had an important

TABLE 4. Principal Source of Financing Legal Education of 75 Respondents by Occupation of Fathers

Financial Source	All		Prof.		White Collar		Indiv. Prop.		Blue Collar	
	N	%	N	%	N	%	N	%	N	%
Family	(23)	31	83		31		37		12	
Own income/ savings	(7)	9	--	--	6		15		8	
G.I. Benefits	(45)	$\frac{60}{100}$	$\frac{17}{100}$		$\frac{63}{100}$		$\frac{48}{100}$		$\frac{81}{100}$	
	(75)		(6)		(16)		(27)		(26)	

influence, however, in increasing the tempo of Japanese and other Oriental participation in the city council and the state legislature and thus affecting the rate of social and economic change through political decision making in postwar Hawaii.

In the main, family background for the Honolulu Japanese lawyers does not differ from that reported for the Mainland urban center solo lawyers. Were it not for the special government educational benefit opportunity that many veterans took advantage of, small entrepreneur, white-collar, and modest professional immigrant-status parental backgrounds would be predominant.

Pre-legal and Legal Education

It is in the facet of formal education--college and law school--that Honolulu's Japanese lawyers, who were all in solo or small partnerships or in government service (i.e., no one was a member of the larger, established law firms of Honolulu), differ most from their counterparts in Chicago and Detroit. Table 5 shows that 95 percent (72 out of 75 lawyers) of the Honolulu Japanese sample had received a bachelor's degree before enrolling in law school, compared with 43 percent, 60 percent, and 44 percent respectively for the Ladinsky, Lortie, and Carlin samples.

The difference in legal education in terms of type of law school attended is equally impressive (Tables 6 and 7). A goodly proportion of Honolulu

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TABLE 5. Undergraduate Education of Honolulu Japanese, Detroit, and Chicago Samples

	Honolulu Japanese	Detroit		Chicago	
		Solo	Firm	"Lortie"	"Carlin"
Has no B.A. degree	5%	57%	13%	40%	56%
Has B.A. degree	<u>95</u>	<u>43</u>	<u>87</u>	<u>60</u>	<u>44</u>
N =	(75)	(100)	(107)	(72)	(84)

Sources: Detroit sample: Ladinsky (1963)
Chicago samples: Lortie (1959); Carlin (1962)

Japanese lawyers attended the more prestigious schools and not a single one got his law degree from a "proprietary" school. It is clearly evident that in Honolulu, up to the late 1950s, type of law school attended was not relevant for the lawyer employment allocation process, although it appears to have been a crucial contingency in the major alternative occupational routes for lawyers in Chicago and Detroit. While the fact that Hawaii did not have law schools of any kind had obviously affected the type-of-law-school-attended distribution of these Japanese lawyers, it nevertheless remains true that their legal education varies considerably from that of the bulk of the Mainland urban center ethnic minority and/or solo lawyers.

TABLE 6. Affiliation of Law Schools Attended--Honolulu Japanese, Detroit, and Chicago Samples

	Honolulu Japanese	Detroit		Chicago	
		Solo	Firm	"Lortie"	"Carlin"
Private Non-					
Catholic	47%	3%	18%	} 33	} 33
State University	43	39	69		
Catholic	11	22	11	31	36
Proprietary	--	<u>36</u>	<u>2</u>	<u>36</u>	<u>31</u>
	101%	100%	100%	100%	100%
N =	(75)	(100)	(107)	(72)	(84)

Sources: see Table 5.

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TABLE 7. Type of Law School Attended--Honolulu Japanese and Detroit Samples

	Honolulu <u>Japanese</u>	Detroit <u>Solo Firm</u>	
"Top National" schools (Chicago, Columbia, Harvard, Michigan, Yale)*	40%	14%	73%
State and "local" schools (other than Michigan)	60	50	25
Proprietary schools	--	36	2
	<u>100%</u>	<u>100%</u>	<u>100%</u>
N =	(75)	(100)	(107)

*The "top national" schools list is Ladinsky's.

To my knowledge, even up through the late 1960s there was no non-Caucasian partner in any of the large, long-established law firms in Hawaii, although there were a number of small inter-racial partnerships. Interview materials suggest that there has been some self selection on the part of Japanese lawyers in avoiding employment with the big firms on grounds, for example, of "not wanting to give them the satisfaction of turning me down," or of independence--"Who wants to be just a hired hand?" A few non-Caucasians have actually worked as clerks in some of these law firms over the decades, but none of them has worked himself into partnership in these firms. It is possible that the established law firms have had a policy of not taking any "local boy," Caucasian or Oriental, on the assumption that local boys tend to be lacking in poise and local-dialect-accented in speech. It appears that up to World War II, recruitment and eventual partnership in these firms always involved young men from the Mainland. By the late 1960s, however, a few Hawaii-born Caucasians, possibly with the acceptable type of lineage, have been hired and later accepted into partnership.

We could speculate that a practical reason lay behind the seemingly studied avoidance of Oriental and other non-Caucasian lawyers on the part of the big law firms, however good the educational background

of these non-Caucasians. The large law firms have long been legal counselors for the complex of related businesses, the earlier-mentioned "Big Five," involving sugar, pineapple, banking, public utilities, shipping, land management, etc., all owned or controlled in the main by Protestant Caucasians of old American stock. Sons of Asian immigrants in these law firms would have created the problem of Big Five "secrets," not privy to the population at large, becoming accessible to representatives of the non-elite, minority status ethnic groups.

While the old established law firms associated with the old established corporations in Hawaii appear to be especially resistant to the intrusion of non-Caucasians (along with a couple of prestigious social clubs), the business corporations themselves have been hiring and promoting non-Caucasians in the lower and middle executive levels since the end of World War II. Their boards of directors are now sprinkled with the names of persons whose fathers were Japanese and Chinese immigrants to Hawaii, and a good percentage of these Oriental board members are lawyers. This opening up of employment and directorship to non-Caucasians appears to be an irreversible trend, and the time may not be far off for a Japanese lawyer here and a Chinese lawyer there, with the proper legal training and proper degree of poise and standard-American speech fluency, to be providing legal services as members of these large firms.

The possibility of non-Caucasians in the large law firms and the reality of non-Caucasians in the executive and board levels of the larger local corporations appear intimately related to the increasing influence of non-Caucasians in Hawaiian politics--a theme that is not developed in this paper except to mention the important role of non-Caucasian lawyers in local political decision making. Politics has been an outlet for Japanese lawyers, particularly veterans of the armed forces, who have felt that certain changes needed to be made in the Island Community. Politics has also been viewed as a facilitator in getting clientele in their practices, and for many as a temporary refuge while they earned a living and got experience in the law as politically appointed government attorneys. Active political participation has meant also the appearance of many non-Caucasian lawyers in the higher local judiciary positions where formerly such high judgeships were out of reach of Orientals.

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Most specifically, non-Caucasian lawyers have invaded the State Legislature (Table 8) and the County Councils. In 1959, 36 of 76 state legislators were lawyers, and of those 36, twenty were Japanese and another nine were of Chinese, Korean, or Hawaiian ancestry. In addition, of the four Congressional posts for the new state of Hawaii, two were held by a Japanese lawyer and a Chinese lawyer. Today (1968), all four posts are filled by Oriental lawyers, three Japanese (one a woman) and one Chinese.

The Chicago and Detroit studies of lawyers do note the tie between the minority status practitioner and local politics, but it would seem that the geographically isolated, rather closed Hawaiian situation and the high proportion of non-Caucasians, most of whom are now of the citizen generations, have enabled the ethnic minority lawyer in Hawaii to wield a greater degree of political influence in the state and to rise to high political and judiciary positions in a briefer period of time.

TABLE 8. Hawaii State Legislators by Lawyer/Non-lawyer and by Race, 1959

	<u>Caucasian</u>	<u>Japanese</u>	<u>Others</u>	<u>Total</u>
Lawyer	7	20	9	36
Non-lawyer	<u>16</u>	<u>15</u>	<u>9</u>	<u>40</u>
Total	23	35	18	76

Source: Directory of Agencies and Officers of the State of Hawaii, 1960.

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