Asian Americans in the Legal Academy: An Empirical and Narrative Profile

Pat K. Chew

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Pat K. Chew

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Asian Americans in the Legal Academy: An Empirical and Narrative Profile

Pat K. Chew†

Although scholars have researched law faculty in general, and some underrepresented groups in particular, Asian American law faculty as a group have been overlooked until now. In this Article, the author argues that the increasing numbers of Asian Americans in legal academia make it both more important and more feasible to study the background characteristics of Asian American law faculty. She explores the demographic, educational, and employment patterns of Asian American law faculty, and she includes reflective comments of other Asian American law faculty to give voice to the faculty represented among the data. Her research reveals that Asian American law faculty tend to be as “qualified” or even “over-qualified” when compared to other faculty, yet underrepresented in comparison to the relatively high number of Asian American law students who form the available labor pool. She speculates that discrimination may account for this underrepresentation, and for the channeling of Asian American law faculty into a limited number of subject areas, as well as the apparent gender bias which disfavors Asian American women in law faculty hiring and promotion.

INTRODUCTION

At a recent gathering of Asian American law professors we asked, “Who are we? How do others perceive us? What was our

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Finally, this article is dedicated to the Asian American law professors who shared their thoughts and feelings and offered their encouragement so generously. I am inspired by their personal and professional achievements.
life as an Asian American law student and now as a law professor like?” These inquiries prompted thoughts and reflections in all of us. Our voices, however, “spoke” differently. Some were intentionally quiet, there to listen. Others were formulating their thoughts carefully, anticipating an opportunity to speak. Still others jumped in at once, creating a conversational traffic jam.

While scholars have studied law school faculty in various ways, none have dealt specifically with Asian American law faculty. Typically, the professorate has been researched more generally. Examples are Donna Fossum’s extensive study of the law teaching profession published in 1980, and more recently, Robert Borthwick and Jordan Schau’s 1991 survey of law professors based on information found in the Association of American Law Schools (AALS) Directory of Law Teachers. In the last decade, scholarship also has emerged on women and minority law faculty. This research reveals that not all law faculty have the same educational or career experiences. Both personal stories and empirical evidence suggest, for instance, that women and minority faculty have endured subtle and overt disparate treatment in hiring and promotion, resulting in arduous professional challenges.

Why there is an absence of research on Asian American law faculty in particular is unclear. Various explanations for the paucity of research are possible. Specific information on Asian Americans is not always readily

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4. See, e.g., Angel, supra note 3; Chused, supra note 3; Delgado, supra note 3.
5. Some scholarship has focused on African American and Latino law faculty as well as minority women generally. See, e.g., Chused, supra note 3 (describing the status of African American and female law faculty); Merritt & Reskin, supra note 3 (describing a double standard in hiring of minority women); Olivas, supra note 3 (examining the status of Latinos in law school faculty).
In addition, the small number of Asian Americans in a larger study of minority faculty makes meaningful analysis of Asian Americans difficult. Finally, there may be a certain indifference or lack of urgency about studying Asian Americans because of a societal perception that they are unlikely to face problems unique from the general population. In that sense, they are deemed less worthy of study. Furthermore, the group most likely to question and investigate that societal perception, Asian American law scholars themselves, have been small in number.

But presently, the increasing number of Asian Americans in the legal academy make it both more feasible and increasingly important to study Asian American faculty as a distinct group. Scholarship also is emerging which challenges the assumption that Asian Americans are not distinguishable from the population in general. Rather, it posits that Asian Americans, including Asian American law faculty, have particular experiences and valuable perspectives distinct from both the population in general and from other minority individuals.

This Article, following this emerging view, studies the demographic characteristics, educational background, post-law-school experiences, and teaching careers of Asian American law professors. While exploring the group as a whole, it also considers in particular the profiles of Asian American women faculty, foreign educated Asian American faculty, and the most recent Asian Americans to enter law school teaching. In addition, this Article includes reflective comments of Asian American law professors on a range of timely and important topics. Their thoughts and emotions are juxtaposed with the more empirical and quantitative descriptions of the group. Their voices are a diverse mixture of thoughtful insights, some of which articulate angry, frustrated, or confused feelings. They are not necessarily representative, but they are illustrative of the feelings of some Asian American law professors. Thus, this work begins the process of understanding the unique and rich identity of this group.

6. See Borthwick & Schau, supra note 2, at 194 n.15 (noting the absence of racial or ethnic background information on faculty listed in the AALS Directory).
7. E.g., Merritt & Reskin, supra note 3, at 2316 n.76.
10. E.g., Chang, supra note 9; Chew, supra note 8.
I. DESCRIPTION OF THE EMPIRICAL STUDY

This study analyzed a variety of characteristics of all sixty-one tenure-track or tenured Asian American law faculty identifiable from the database used to compile the AALS Directory of Law Teachers, 1992-1993. The study analyzed information in the AALS Directory for each of these individuals, including: (1) personal background information, such as the individual faculty member's gender and age; (2) education, such as undergraduate college, law school, and school activities such as law review participation; (3) post-law school experiences, such as clerkships and employment paths; and (4) law faculty experiences such as their first and current positions and schools.

During the spring of 1993, these individuals were sent a survey requesting biographical data. In addition, they were sent an open-ended questionnaire, to be answered anonymously, on diverse topics including their perception of how Asian Americans are treated for purposes of affirmative action programs, discrimination toward Asian Americans, and the relationships among minority groups. Twenty-six or forty-three percent of all identified Asian American law faculty responded to this open-ended questionnaire. This survey and questionnaire yielded information not otherwise obtainable through an analysis of information in the AALS Directory, including many of the reflective voices throughout this Article.

This study was modeled in part on other studies of the legal academy in order to make possible meaningful comparisons between the background

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12. "Asian American" faculty was defined as those who identified themselves as Asian or Pacific Islander for the AALS Directory. "Tenure track or tenured" was defined as those whose title in the AALS Directory was as an assistant, associate, or as a full or chaired professor at an accredited U.S. law school. Librarians, clinicians, legal writing instructors, those who taught exclusively skills courses, and part-time and adjunct faculty were excluded because their hiring criteria and status often vary widely among different schools. Information on non-tenure track Asian American faculty was obtained but not further analyzed for this study.

13. The study was designed in part so that useful comparisons could be made between the profiles of Asian American professors and the profiles of other faculty groups. In particular, I referred to the study design and the particular data compiled in the Merritt and Reskin study of minority faculty, supra note 3. Two of my research assistants worked together to cross-check the criteria used and the accuracy of the data taken from the AALS Directory. Frequencies, means, medians, and standard deviations on the variables were calculated for the group as a whole and then by various subgroups. Correlational matrices between the variables also were constructed. Due to the limited number of strong correlations, only a limited number of multiple regressions were performed.

14. This survey and questionnaire were sent to all law school professionals identifying themselves as Asian American for the AALS Directory, including librarians, clinicians, writing faculty, and other non-tenure track faculty. Fifty-one responded from this larger group, although only 26 were identified as tenure track faculty.

15. In addition, the biographical information from the survey was used to compile the Directory of Asian American Law School Professors 1993 (on file with author). This Directory includes recent publications, teaching and research areas, years in the profession, and other biographical information on 51 Asian American law school professionals. I also am currently preparing the DIRECTORY OF ASIAN AMERICAN LAW SCHOOL PROFESSORS (2d ed., forthcoming 1996) [hereinafter 1996 DIRECTORY] based on a survey of Asian American law faculty in the Fall 1995/Spring 1996 academic year.
and experiences of Asian American faculty and those of other faculty groups. Thus, comparisons with law faculty in general, minority law faculty, and Latino law faculty can be made by analyzing the results from the Borthwick and Schau study, the Merritt and Reskin study, and the Olivas study, respectively.

16. Relying on the data in the AALS Directory 1988-89, Robert Borthwick and Jordan Schau analyzed the biographical information of over 800 assistant, associate, and full professors. Borthwick & Schau, supra note 2, at 194 (enumerating 872 respondents out of approximately 5528 listed professors). This number represented approximately 15% of all such faculty. Because the Borthwick and Schau study included professors who entered the profession from before 1960 through 1989, it offers a very useful historical perspective.

Their study documented significant developments in the profession, including the increasing number of women. Women, for instance, comprised 20% of those faculty studied. Id. It also highlighted the historic and ongoing dominance of a relatively few "producer" schools from which law faculty graduate. Id. at 226-36. It further looked at the nonteaching experience of law teachers, including judicial clerkships and different forms of practice. Id. at 212-26.

17. In a well-documented analysis, Deborah Merritt and Barbara Reskin studied the backgrounds and experiences of relatively recent minority law faculty. They included all 181 minority tenure-track or tenured faculty members who entered the profession between the fall of 1986 and the spring of 1991. Merritt & Reskin, supra note 3, at 2302-06 (describing the study's methodology), 2316 n.75 (noting the increasing number of minority faculty while highlighting the continuing underrepresentation of minority faculty). An analysis of their total population indicated that tenure-track jobs were held by 53.4% white men, 30.2% white women, 8.8% minority men, and 7.6% minority women. Of this last group, 73.5% were African American, 16.2% were Latino, 7.7% were Asian American, and 1.7% were Native American. Id. at 2315-16, 2316 n.75-76 (explaining that they combined these four groups into one population of minority professors because the numbers in the subgroups were too small to take specific race or ethnic membership into account in the study). In addition to the information available from the AALS Directory, Merritt and Reskin also sent surveys to minority law professors to solicit additional information about what they hypothesized would be relevant to a faculty candidate's career decisions. This included data on marital status, number of children, spouse's occupation, and geographic limits that might restrict job searches. Id. at 2306 n.30.

18. Michael Olivas, in a larger work on the education of Latino lawyers, also recently studied Latino law faculty. Olivas, supra note 3, at 128-38. Based on data compiled by the AALS and the AALS Directory 1992-93, he analyzed the backgrounds and teaching careers of all 94 Latino faculty in tenure-track positions at the time. Id. at 132. As a result of his analysis, he concludes that "in short, Latino faculty have exceeded the usual criteria for law teaching, constituting a statistical elite, and yet Latino faculty are employed at only 60 institutions of the 175 ABA/AALS law schools in the United States." Id. at 133. Thus, he questions the pervasive mythology of high demand but low supply of qualified minority candidates.

19. There are limitations, however, in these comparisons because each study differed in some respects from this study. For instance, although the Merritt and Reskin study and this study gathered data on faculty who entered the profession most recently, the Merritt and Reskin study included minority faculty who entered between 1986 and 1991, Merritt & Reskin, supra note 3, at 2302, while this study analyzes Asian American faculty who entered between 1986 and 1993. It is possible that some differences between these two groups are attributable to the differing circumstances between 1991-1993, for instance, differing faculty hiring patterns. Due to the differences among the studies, it is not always possible to make equivalent comparisons. Whenever relevant comparative data are available, this study tries to use them. However, the groups included in any comparison will vary depending on the availability of data for each particular comparison group.
II. An Identity Begins to Appear: Asian American Law Professor


If one were to create a current composite picture of an Asian American law professor based on characteristics frequently found in the group as a whole, it might look something like the profile above. Yet like so many other public images of Asian Americans, this profile is an oversimplification. More detail on this generalized profile is important.

Among Asian American faculty, there are more men than women, although in recent hiring years, the gender composition is becoming more balanced. There is a range of ethnic backgrounds, with a majority from Chinese backgrounds.

Typically, Asian American law faculty went to U.S. schools, although about a quarter received their undergraduate degrees from foreign schools. They attended a wide range of undergraduate institutions, followed by a wide range of law schools. As a group, they are highly educated, with over 40% having graduate interdisciplinary degrees in addition to their legal education. While in law school, a substantial percentage were on law reviews, often as editors. Following law school, a very high percentage were judicial clerks. Many also practiced law, typically as associates in law firms.

After about six years of post-J.D. experiences and at about the age of thirty-three, they usually accepted their first tenure-track positions, most often as assistant professors, at a broad range of law schools. Almost 70% of the group and 94% of women faculty have entered the law teaching profession only since 1980.

Asian American faculty currently teach at a broad range of law schools, although about three quarters of law schools have no Asian American law professor. Their current schools are slightly more prestigious than the schools where they received their first positions, indicating that some have “moved up” the academic ladder. About half are in the assistant and associate professor ranks and the other half are in more senior positions, including a few in chaired positions and dean positions.

While not all subject areas were surveyed, it appears that Asian American faculty concentrate largely in international law, business law, and constitutional law. It is unclear why Asian American professors concentrate in these subjects. Is it self-selection or is there institutional channeling toward these subjects? Practice experience is not correlated with faculty teaching interests, except that those that teach a skills course are more likely to have more practice experience. While there is a positive correlation between for-
eign educated professors and those who teach international law courses, as one might have predicted given these individuals’ likely familiarity with a foreign legal system, this correlation is not particularly strong. In addition, it does not help explain why non-foreign educated professors also are likely to teach in the international area.

Although the study results present a number of predictable correlations, in some ways the absence of correlations among certain variables is more noteworthy. In other studies, for instance, scholars have found that the prestige of the schools where faculty received their J.D. degrees is related to their subsequent career achievements and status. Borthwick and Schau highlight research showing that the “eliteness” of a professor’s J.D. school significantly affects the school where they end up teaching and how quickly they are promoted. In contrast, the prestige of an Asian American faculty member’s law school is not predictive of any subsequent professional status or achievement, including either the prestige of the first school or the current school where Asian American faculty teach. While one might logically expect one’s educational background and activities (e.g., the prestige of undergraduate college or law school, or whether or not one obtained other graduate education or participated in law review) or one’s post law school experiences (e.g., whether or not one had a judicial clerkship or one’s employment experiences) to affect subsequent professional opportunities (e.g., the prestige of the law school where one obtains his or her first teaching position or their current position), this study did not reveal significant correlations among these variables. In fact, the only strong predictor of the prestige of professors’ current school is the prestige of the school where professors received their first tenure track position.

An analysis of the data also reveals that three sub-groups of Asian American faculty—Asian American female professors, foreign educated Asian American professors, and the more recent Asian American professors—have notably different profiles. Further consideration of these groups raises provocative issues.

A. Women: An Emerging Group

I’m Asian and I’m a woman—a double minority. Sometimes I tell myself that this dual status makes me special and gives me challenges that I should feel honored to have. Other times, I realize that it puts me into binds, and not just double binds but multiple often competing binds. I’m trying to be a role model for women and for Asians, but being a model feminist is sometimes very different from being a model Asian woman. I’m not radical enough for one group but too radical for the other.

20. The correlation between the two variables is +0.459.
22. The correlation between these variables is +0.862.
Asian American female faculty have emerged as a presence in the professorate relatively recently. Over 90% entered law school teaching since 1980. In part because of their more recent entry, most are in the more junior ranks. Many have yet to reach the tenure hurdle.

Their junior status highlights a variety of issues which have been reflected in previous studies of female and minority professors. Angel found that it was more difficult for female professors to obtain tenure than male professors. Borthwick and Schau document that it takes longer for female professors than for male professors to be promoted. Particular issues facing Asian American women include whether women professors will be motivated by incentives or confronted by obstacles unique from other faculty groups in their efforts to obtain tenure and other promotions.

In their study of minority female law professors, Merritt and Reskin consider whether minority women—whom they call the “double minority”—confront particular career problems. They conclude that minority women as compared to minority men have significantly lower status, including entering at lower ranks, teaching at less prestigious schools, and are more likely to teach low-status courses. Moreover, as Merritt and Reskin noted:

"differences in the credentials and personal characteristics of minority men and women do not explain the dramatic differences in their statuses on law faculties. . . . Instead, the evidence suggests that law schools both reward minority men more handsomely than minority women for certain credentials and afford men a bonus for their [gender]."

23. These patterns are consistent with women faculty in general. Borthwick & Schau, supra note 2, at 199-203.
24. It is difficult to assess tenure status because of schools' different definitions of of "title." For instance, while full professors are virtually certain to have tenure and assistant professors typically do not, the rank of associate professors may have tenure status at some schools and pre-tenure status at other schools.
25. Angel, supra note 3, at 805 (finding in a study of five law schools, that of faculty eligible for tenure between 1970 and 1987, 60.5% of the male candidates but only 31% of the female candidates were granted tenure). It also is unclear how increasing numbers of women and minorities on the tenured faculty will affect the career progress of Asian American women. Chused, for instance, noted that at schools with lower proportions of tenured women, women candidates were granted tenure at lower rates than men, while at schools with higher percentages of tenured women, women candidates were granted tenure at higher rates than men. Chused, supra note 3, at 552. One wonders if this same tendency will persist between tenured minority faculty and minority tenure candidates, and between tenured non-minority women and minority women tenure candidates. In other words, is this relationship specific to gender, to minority group identity, to a particular minority group identity, or more broadly applicable among non-traditional faculty members?
26. Borthwick & Schau, supra note 2, at 210-11 (finding that it took women an average of over a half-year longer to become full professors than their male counterparts).
27. See Merritt & Reskin, supra note 3.
28. Id. at 2356.
29. Id. at 2322.
Hopefully, the remarkable credentials of Asian American female professors will increase their probability of success. As compared to other groups, and particularly as compared to Asian American men, a higher percentage were on law review with 40% assuming editorial roles; a similarly higher percentage were judicial clerks. Despite these experiences, however, Asian American women began teaching at less prestigious schools than Asian American men. Like other minority women who were confronted with career impediments, Asian American female faculty overcame with effort and talent some of these impediments. While starting at less prestigious schools, they closed the gap and currently teach at schools that are comparably prestigious to those of Asian American male faculty. While their law review and judicial clerkship experiences apparently did not help Asian American women attain entry level positions at more prestigious law schools, these experiences may better equip female faculty for the writing and publishing achievements presumably linked to promotion to the more prestigious law schools.

B. Foreign Educated: A Dwindling Group

I didn’t have many choices and felt so lucky to be able to teach at an American law school. I worked hard to achieve what I could. I admire the younger Asian American law professors, but in many ways they are different from me. They are freer.

About 25% of all Asian American law faculty are foreign educated and presumably have grown up in a foreign country. This group has a notably different profile from Asian American professors who were born in and raised in the United States. As the study reveals, these foreign educated professors are almost exclusively men who began their legal teaching careers in earlier periods and who consequently tend to hold more senior teaching positions. Perhaps because of racial discrimination, they were less likely to practice law in the United States. Therefore, their alternative

30. See id. at 2319 (noting that minority women entered at lower starting ranks than minority men, but that they closed the rank gap over the duration of the study). I recall, for instance, one of my own examples of “heroic” efforts. During my second year of law school teaching, I was pregnant with my first child. In part to substantiate to my colleagues and students that women and minority law professors would not allow “personal family” matters to interfere with their professional responsibilities, I was determined and voluntarily did resume an active agenda of professional responsibilities, including teaching my classes, less than a week after my daughter was born.

31. In addition to the effort and talent of Asian American women faculty, there are alternative explanations for the closing of this gap. One could argue, for instance, that law school faculties at the more prestigious schools are particularly attracted to Asian American women because they are a “double minority.” Or it may be that the decreasing gap is prompted by law school faculties’ bias against Asian American men as attractive lateral hires. See, e.g., Chew, supra note 8, at 50-51, 51 n.221 (noting the evidence of bias against Asian American men in the communications industry).

32. Those with foreign undergraduate degrees also were more likely to have foreign J.D. degrees and to have U.S. graduate law degrees. Those with foreign J.D. degrees also were more likely to have U.S. graduate law degrees, to have written more books, and to have a fewer number of bar admissions.
career strategy frequently may have been to obtain American graduate law
degrees to supplement their foreign education and then to seek law teaching
positions. Perhaps prompted by economic, cultural, and language concerns
to make the most practical choices, they often taught and researched in
international or foreign law areas, or in traditional mainstream courses such
as business law. Consistent with many earlier immigrant Asian groups,
they probably avoided professional specialties and activities that might have
required them to become more outspoken or controversial.

The number of foreign educated Asian American law professors, how-
ever, is dwindling dramatically. Before 1986, 58% of Asian Americans
entering the profession were foreign educated. In contrast, since 1986, only
11% of the entrants were foreign educated. This decline in the representa-
tion of foreign educated Asian American law faculty likely will be exacer-
bated since, as a group, these faculty are older, more senior, and
approaching retirement.

This decline in the representation of foreign educated Asian American
law faculty raises important issues. First, one wonders what is causing the
decline. Is it reflective of a bias of law school faculties against foreign
educated candidates and a concomitant closing of teaching opportunities?
Or is the trend reflective of law school faculties’ attraction to American-
born Asian Americans, thus either deliberately or unconsciously dis-
advantaging foreign born candidates? This attraction toward American-
born candidates would disadvantage foreign educated candidates, of course,
only if there were limited faculty positions for all groups, or if an institution
wanted to limit the total number of Asian Americans hired. It also may be
possible that the number of foreign educated Asian American candidates is
decreasing. This decreasing supply explanation, however, is inconsistent
with the increasing numbers of highly educated Asian immigrants.

Whatever the reasons, there is clearly a diminishing number of foreign
educated Asian American faculty entering the profession. This, combined
with the likelihood that an increasing number of foreign educated profes-
sors are simultaneously leaving the profession, creates a real possibility that
foreign educated Asian American law professors, at least in significant
numbers, are a thing of the past.

The possible demise of this segment of the professorate has teaching
and research implications for the academy in general. Historians and other
researchers have noted the varied cultural and attitudinal differences
between first generation Asian immigrants and subsequent generations of

33. It is not uncommon in today’s market for law schools to have very limited faculty positions.
Furthermore, the small number of law schools with more than one Asian American faculty member
suggests that there may be a tendency toward limiting their representation. Quotas limiting the number
of Asian Americans have also been documented in university admissions’ policies. U.S. Comm’n on
34. See Bill O. Hing, Making and Remaking Asian America Through Immigration Policy
Asian Americans. Furthermore, one’s particular country of origin, time of immigration, purposes of immigration, and gender, among other variables, can shape differently and distinctly one’s perspective. Legal education would lose the unique and more global perspective of these foreign educated Asian American faculty. This loss would be particularly noteworthy in subjects these faculty currently teach, such as business law and international law, where a global perspective enriches the curriculum. In addition, other law faculty and administrators, perhaps particularly Asian American professors, would lose these individuals as mentors and voices of wise counsel.

C. Recent Entrants: Glimpse of the Future

They say we’re impatient ... and why not? Asian Americans have waited a long time—while suffering injustices and racist revisionist history. They say we’re “in your face,” but how else will anyone pay attention?

Examining the Asian American law faculty who have recently entered the profession is particularly worthwhile since a substantial percentage of all Asian American professors entered recently—70% since 1980, 40% since 1986. In addition, the profile of recent entrants in this study, who entered between 1986-1992, is probably more predictive of future entrants.

In some ways, recent Asian American faculty entrants are similar to recent faculty entrants in general. For instance, both groups are less likely to have graduate law degrees. In addition the percentage of women in both groups is much greater than in earlier years.

On the other hand, recent Asian American professors are notably distinguishable in a number of ways. First, their credentials for law school teaching and research are comparatively more impressive in certain regards. Unlike the trend of declining law review participation among recent faculty entrants in general, recent Asian American faculty entrants were much more likely than earlier Asian American faculty to have participated on law reviews, often in editorial roles. Second, over half of the recent Asian American faculty members also had judicial clerkships, a percentage significantly greater than recent faculty entrants in general. Third, recent Asian American faculty, while less inclined to pursue LL.M. degrees, instead pursued interdisciplinary graduate degrees in high percentages. Twenty-two percent of this recent group, for instance, obtained doctorate degrees.

In these ways, recent Asian American law professors are especially well positioned for their future work. Their law review experience gives them opportunities to use research and editing skills. Their judicial clerk-

35. E.g., id. at 172 n.180 (noting “dissimilarities between generations”).
37. Id. at 205.
ships further establish their analytical and writing skills, while exposing them to the internal workings of the judicial process. Their nonlaw graduate education endows them with rich interdisciplinary perspectives.

One wonders, however, why these recent entrants are so well-credentialed. Are they merely behaving consistently with the common societal perception of Asian Americans as over-achievers? Or are only Asian Americans with extraordinary credentials being hired? If, instead, the Asian American candidate pool as a group is particularly well-qualified, does this mean that law schools should be hiring increasing numbers of Asian Americans?

III.
AND SOME FURTHER DETAILS AND VOICES BEHIND THE PROFILE

The life stories of Asian Americans are very different from those of other minority groups. . . . Furthermore, even within the notion of “Asian” lies a multiplicity which is far different than the differences among Blacks or Latinos.

[Society] sees one image. The biggest stereotype that I encounter is that of the model minority or the idea that racism against Asian Americans does not exist, is irrelevant or is trivial in comparison to racism against other groups. Incidents of outright hostility have occurred at this law school, including remarks like “I don’t understand why they let chinks in here who can’t speak English.” Insensitivity to racially charged imagery is also apparent, both by “conservative” and “left-wing” faculty members.

As a mixed Asian, I’ve escaped overt racism directed at myself. My brother, who is more clearly of Asian extraction, has a much greater sensitivity on the question and a stronger perception of exclusion and mistreatment.

To better answer the “who are we?” question requires more detailed study into the demographic, educational, and occupational backgrounds of Asian American law professors. For instance, how old, well-educated, and how credentialed are they? At what kinds of schools did they get jobs at and how prestigious are their current schools?

A. Demographic Characteristics

As with the profession in general, Asian American male faculty (72%) substantially outnumber Asian American female faculty (28%). These patterns also are consistent with law faculty in general.38 Prior to 1970, law school faculties were almost exclusively composed of white men, but

38. See id. at 199-200.
beginning in the 1970s and more dramatically in the 1980s, women began entering the profession in significant numbers. Thus, as one might expect, the distribution among Asian American entrants since 1986 is more balanced, with 59% men and 41% women.

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<th>Table 1</th>
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<td><strong>Percentage of Men and Women in Various Law Faculty Groups</strong></td>
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</table>

**Table 1.a**

<table>
<thead>
<tr>
<th>Faculty in General</th>
<th>Latino Faculty</th>
<th>Asian American Faculty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Men</td>
<td>79.7%</td>
<td>64.9%</td>
</tr>
<tr>
<td>Women</td>
<td>20.3%</td>
<td>35.1%</td>
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</table>

**Table 1.b**

<table>
<thead>
<tr>
<th>Faculty in General Entering Between 1980-89</th>
<th>Minority Faculty Entering 1986-91</th>
<th>Asian American Faculty Entering 1986-92</th>
</tr>
</thead>
<tbody>
<tr>
<td>Men</td>
<td>64.6%</td>
<td>53.6%</td>
</tr>
<tr>
<td>Women</td>
<td>35.4%</td>
<td>46.4%</td>
</tr>
</tbody>
</table>

The lower percentages of women across faculty groups, as shown in Table 1.a, is explained in part by the historical numerical domination of the professorate by men. Thus, one would expect that it will take time for women to be better represented in the overall group. The lower percentages of women among the recent entrants across the various faculty groups, as shown in Table 1.b, is more difficult to explain. It is unclear, for instance, whether the gender distribution among these entrants was reflective of the gender distribution in the candidate pool, and/or if men simply are favored in hiring decisions? Interestingly, the lower representation of women among recent entrants is more extreme among faculty in general (35.4%), as compared to minority and Asian American recent faculty entrants (46.4% and 40.7%). Perhaps there are more minority than nonminority women in the candidate pool; or perhaps law school faculties are preferring minority women over nonminority women for the limited number of entry level faculty positions. If this is the case, then ironically minority women may

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39. Id. (indicating that during 1960-69, only 1.2% of faculty entering a tenure track position were women, compared to 35.4% of those entering by the 1980s).

40. Excluding those faculty with foreign undergraduate degrees, however, results in a distribution that is more lop-sided with 65.9% men and 34% women.

41. A recent study of the success rates of those law school faculty candidates using the AALS Faculty Appointments Register (FAR) revealed some interesting related data. (In 1995, 55.9% of new law faculty used the Register). Richard A. White, *Variations in the Success Rates of Minority and Nonminority Candidates in the AALS Faculty Appointments Register*, AALS Newsletter, March 1996, at 6 [hereinafter White, *Variations in the Success Rates*]. The study found that in 1994, minority candidates had a higher success rate (12.4%) than nonminority candidates (10.3%). When accounting for gender and race, minority women had the highest success rates (13.4%), followed by nonminority
have a competitive advantage over nonminority women in the hiring process, while at the same time, male faculty across all groups appear to have a competitive advantage over their female counterparts.\textsuperscript{42}

The age statistics of Asian American faculty reflect their recent entry into the profession. Asian American faculty range in age from thirty-one years to sixty-five years old with a mean of forty-three years. The mean ages for men (44.3 years) and for women (40.5 years) were very close, with a 3.8 year age gap. In comparison, faculty in general were an older group, with a mean age for men of forty-nine and the mean age for women of forty-three, with a larger age gap of six years.\textsuperscript{43} Asian American faculty age correlates with other variables. As one might expect, as age increases, the faculty member’s current rank and the probability that the person entered the profession earlier also goes up. Given that a substantial percentage of Asian American faculty entered the profession more recently, it is not surprising that they are younger as a group than faculty in general. Since Asian American women are even more likely to have entered more recently, the similar mean ages of Asian American female and male faculty might suggest that women are entering the profession at older ages.

The ethnic backgrounds of Asian American law faculty, like other minority groups, appear to be diverse.\textsuperscript{44} Of the twenty-five Asian American faculty who provided their ethnicity, 60\% are of Chinese background, 25\% of Japanese background, and 8\% are of Asian Indian background. Other ethnic backgrounds include Korean, Taiwanese, Vietnamese, Filipino, and Sri Lankan. Given the different groups’ historical immigration patterns,\textsuperscript{45} one might expect these percentages to vary over time, but instead these percentages are surprisingly similar among Asian American law faculty who entered before 1986 and those who entered in 1986 and after. In addition, Asian American men and women also had comparable ethnic composition patterns.

Interestingly, the ethnic distribution of professors is not reflective of their ethnic composition in the Asian American population generally. While the percentage of Asian American faculty of Japanese ancestry gen-
erally approximates their percentage among the larger population of Asian Americans,\textsuperscript{46} the same cannot be said about other ethnic groups. The percentages of law faculty with Chinese ancestry and Philippine ancestry, for example, do not approximate the percentages of these groups among Asian Americans in general. Thus, the 60% representation of those with Chinese ancestry substantially exceeds the 22% representation of those with Chinese background in the Asian American population, while the 4% representation of those of Filipino ancestry is less than the 21% representation of this group in the Asian American population.\textsuperscript{47}

Finally, about a quarter of all Asian American faculty obtained their undergraduate educations in foreign institutions (Table 2).\textsuperscript{48} Of this group, 66% were men and 34% were women. Furthermore, it is more likely that Asian American faculty who entered the profession before 1986 (58.6%) are foreign educated than more recent entrants (11.1%).

\textbf{TABLE 2}

| Percentages of Asian American Faculty With Foreign and U.S. Undergraduate Degrees |
|-----------------------------------------------|---------|---------|---------|---------|
| Total Asian American Faculty                  | Men     | Women   | Entering Before 1986 | Entering 1986-92 |
| Those with Foreign Degrees                    | 28.0%   | 34.0%   | 11.8%   | 58.8%   | 11.1%   |
| Those with U.S. Degrees                       | 72.0%   | 66.0%   | 88.2%   | 41.2%   | 88.9%   |

\textbf{B. Educational Background}

The issue of Asians and affirmative action is unresolved. Most schools increase the number of minority students by setting actual or

\textsuperscript{46} See U.S. GEN. ACCOUNTING OFFICE, ASIAN AMERICANS: A STATUS REPORT 13, Table 1.1 (1990) (indicating percentage of subgroups within Asian and Pacific Islander Americans, including Japanese (19%)).

\textsuperscript{47} Explanations for these disproportionate percentages are varied. Perhaps faculty with Chinese backgrounds are so prevalent because their families were able to provide the educational experiences and particularly valued achievements consistent with this career path. Alternatively, this limited sample may not be representative of the total Asian American faculty group. Finally, these percentages may be more reflective of the percentages of these subgroups during earlier periods. For example, although those of Chinese ancestry currently represent only 22% of Asian Americans, historically their percentage may have been much higher. Thus, over time, the ethnic composition of Asian American faculty may mirror the percentages in the larger population. A preliminary analysis of the survey for the 1996 Directory, supra note 15, seems to support this explanation. It indicates the following percentages among Asian American faculty: approximately 40% Chinese, 25% Japanese, 11% Asian Indian, 11% Korean, 3% Filipino, and 11% other.

\textsuperscript{48} Similarly, 21% of the group did not receive a J.D. degree from a U.S. school. The correlation between those who received their undergraduate degrees overseas and those who did not receive a U.S. J.D. degree was 0.765.
de facto ethnic quotas. When Asian Americans were not very successful at traditional "numbers" credentials, this benefited them and other minorities. Now many Asian Americans have fabulous traditional "numbers." They perceive (I think correctly) that universities are reluctant to admit more Asians. They blame this (perhaps incorrectly) on quotas/affirmative action programs which benefit other minorities.

What is school life like? Our meekness is taken advantage of. We have to prove a hell of a lot of more merit to get scraps. . . . Our role has been to survive at the margins of insignificance. . . . We do not have political clout. Our normally glamorous qualifications are used to enhance the faculty profile in catalogs.

People constantly assume that I am good in math or science.

All of us of color still feel isolated. . . . When I first arrived [at the law school], it seemed that the dominant racial issues revolved around black v. white. The invisibility of other minority groups was striking to me. . . . I felt as if I didn't really have a place. . . .

1. Undergraduate Education

The forty-four Asian American faculty who received their undergraduate degrees from U.S. colleges attended a broad range of institutions. Under a system devised by Alexander Astin and used widely by other researchers, the prestige of colleges is scored from thirty-seven to eighty-one with a higher number indicating higher school prestige. On the Astin scale, the average ranking for colleges attended by Asian American faculty was 67.3. This prestige score was only slightly higher than that of minority faculty in general, where the mean score for minority men was 62.4 and for minority women was 61.9.

2. J.D. education

Asian American faculty attended a wide range of law schools, although a majority of Asian American professors graduated from certain institutions. Attendance at these "top producer" schools of Asian American faculty is as follows:

---

49. ALEXANDER W. ASTIN, WHO GOES WHERE TO COLLEGE? 57-83 (1965). Astin calculates each college's academic competitiveness by studying the number of students who want to enroll with the number of students admitted. The Merritt and Reskin study, among others, uses the Astin scale. Merritt & Reskin, supra note 3, at 2307 n.34.

50. The 17 Asian American faculty who did not attend a U.S. undergraduate college were not included in these calculations.

51. Merritt & Reskin, supra note 3, at 2323.

52. The 11 Asian American faculty who did not receive a J.D. degree from a U.S. law school were not included, so that these percentages are based on the 50 faculty who did receive their J.D. degree from a U.S. law school.
Like other faculty groups, a significant percentage of Asian American law faculty (24%) attended either Harvard Law School or Yale Law School. Unlike other faculty groups, however, Yale Law School rather than Harvard Law School was the top producer school for Asian American professors by a substantial margin. One wonders if Asian American students particularly interested in teaching choose to go to Yale; if their experience at Yale somehow inspires or trains them for academia; or if some combination of pre-selection, nurturing, or other factors explain Yale's dominant role. Given the high percentage of Asian American professors with a Yale education, Yale's faculty and legal education may be particularly impacting the teaching styles and philosophies and the research agendas of Asian American law professors.

Moreover, the data suggest that Asian American faculty attended schools that were at least as prestigious as those attended by law faculty in general. For example, 40% of Asian American faculty attended what have been identified as the top five producer schools for faculty in general, and 52% of Asian American faculty attended the top ten producer schools. In comparison, 32.7% of faculty in general attended the top five, and 44.4% attended the top ten.

Along with assessing the top producer schools, this study determined the prestige of all Asian American faculty's J.D. institutions. A ranking system devised by Jack Gourman and widely used by other researchers ranks schools from 1 to 175, with lower numbers indicating higher prestige.

53. See Merritt & Reskin, supra note 3, at 2323 (noting that 28.4% of minority men and 29.3% of minority women faculty attended Harvard and Yale); Olivas, supra note 3, at 130 (noting that 26.5% of Latino faculty received their J.D. from either Harvard or Yale).

54. To contrast, the top five producer schools in descending order for Latino law faculty in 1992 and 1993 were Harvard, Berkeley, Yale, Georgetown and Minnesota. Olivas, supra note 3, at 130.

55. The schools in rank order are Harvard, Yale, Columbia, Chicago, Michigan, NYU, Virginia, Berkeley, Georgetown, and Wisconsin. Borthwick & Schau, supra note 2, at 227.

56. Id.


58. E.g., Borthwick & Schau, supra note 2, at 203 n.57; Merritt & Reskin, supra note 3, at 2309 n.50.
Using the Gourman rankings, the mean prestige score of Asian American faculty’s schools is 22.9. Interestingly, Asian American women faculty attended less prestigious schools than Asian American men faculty. This finding is consistent with the pattern of women faculty in general attending less prestigious J.D. schools than men faculty in general.

3. Additional Graduate Education

Historically, a sizeable percentage of Asian American faculty obtained LL.M. degrees (Table 3). Approximately 41% of Asian American faculty entering before 1986 earned an LL.M degree. These high percentages are explained in part by the pattern of foreign educated Asian American faculty acquiring graduate law degrees from American schools to complement their prior foreign education.

A much smaller percentage of more recent Asian American faculty entrants obtain LL.M. degrees. This trend is consistent with law faculty in general, as well as other minority faculty groups. Borthwick and Schau found, for instance, that 38% of professors hired in the 1960s had LL.M. degrees compared to 13% of professors hired in the 1980s.

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**Table 3**

Asian American Faculty with LL.M. Degrees

<table>
<thead>
<tr>
<th>Total Asian American Faculty</th>
<th>Men</th>
<th>Women</th>
<th>Entering Before 1986</th>
</tr>
</thead>
<tbody>
<tr>
<td>28.0%</td>
<td>31.8%</td>
<td>17.7%</td>
<td>41.2%</td>
</tr>
</tbody>
</table>

Various More Recent Faculty Groups with LL.M. Degrees

<table>
<thead>
<tr>
<th>Faculty in General Entering in 1980s</th>
<th>Minority Faculty Entering 1986-91</th>
<th>Asian American Faculty Entering 1986-92</th>
</tr>
</thead>
<tbody>
<tr>
<td>13.0%</td>
<td>12.4% (men)</td>
<td>11.1%</td>
</tr>
<tr>
<td></td>
<td>13.3% (women)</td>
<td></td>
</tr>
</tbody>
</table>

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59. This calculation is based on those faculty who attended U.S. law schools. This number was depressed because three professors (6%) received their J.D. degree from the 138th ranked law school. Unfortunately, comparisons with other faculty groups are not available.

60. For instance, the mean prestige score for men was 16.87 and for women was 35.68. These calculations excluded those professors who received their undergraduate degrees from foreign colleges.

61. Borthwick & Schau, supra note 2, at 209. For instance, 39.1% of the men and 25.4% of the women attended the top seven schools. Id. at 209.

62. These calculations included Doctors of Juridical Science (S.J.D.) degrees at U.S. law schools. In addition, three professors received more than one LL.M. degree.

63. The correlation between those professors who received their undergraduate degree from a foreign school and those who have an LL.M. or S.J.D. degree is +0.592.

64. Borthwick & Schau, supra note 2, at 207; Merritt & Reskin, supra note 3, at 2325; Olivas, supra note 3, at 132.

65. Borthwick & Schau, supra note 2, at 207.
One of the most notable distinctions of Asian American faculty is their level of interdisciplinary graduate education. Over a third of all Asian American faculty have non-law graduate degrees, excluding doctorate degrees (Table 4). In addition, 13% of Asian American faculty as a group and 22% of the more recent entrants have doctorate degrees, with similar representation of both men and women faculty.66

Comparing the graduate education of more recent minority faculty as a group to more recent Asian American faculty reveals both similarities and differences. The two groups share similar percentages of individuals with non-law graduate degrees, excluding doctorate degrees.67 More recent Asian American faculty, however, have a substantially higher percentage of doctorate degree holders than other minority groups.

### Table 4

Interdisciplinary Graduate Education Among Various Faculty Groups

<table>
<thead>
<tr>
<th></th>
<th>Total Asian American Faculty</th>
<th>Men</th>
<th>Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>Graduate Degrees,</td>
<td>36.0%</td>
<td>40.9%</td>
<td>23.5%</td>
</tr>
<tr>
<td>excluding Doctorates</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Doctoral Degrees</td>
<td>13.0%</td>
<td>13.6%</td>
<td>11.8%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>More Recent Entrants</th>
<th>Minority Faculty Entering 1986-91</th>
<th>Asian American Faculty Entering 1986-92</th>
</tr>
</thead>
<tbody>
<tr>
<td>Graduate Degrees,</td>
<td>26.8% Men</td>
<td>29.6%</td>
</tr>
<tr>
<td>excluding Doctorates</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Doctorate Degrees</td>
<td>5.20% Men</td>
<td>22.0%</td>
</tr>
<tr>
<td></td>
<td>0.00% Women</td>
<td></td>
</tr>
</tbody>
</table>

Higher percentages of both Asian American and minority faculty groups had interdisciplinary graduate training than law faculty in general. Seventeen percent of faculty in general had master's level degrees in subjects outside law, and five percent had doctorate degrees.68 Given their interdisciplinary education, it is not surprising that Asian American professors' teaching and research interests and methods also would be more interdisciplinary in nature.

66. Some individuals have multiple graduate degrees.
67. Merritt & Reskin, supra note 3, at 2325; Olivas, supra note 3, at 130 (indicating that 29% of Latino faculty have graduate degrees, including Ph.D's).
68. Borthwick & Schau, supra note 2, at 212-13. Borthwick and Schau's calculations, however, are based on faculty in general. It is quite possible that among more recent entrants, the percentages with non-law graduate degrees would be higher.
4. Law Review Participation

Many Asian American faculty participated on law reviews while in law school (Table 5). Over 40% of all Asian American faculty were members of law reviews. Closer analysis reveals interesting patterns of participation. For example, Asian American female faculty were more likely than Asian American male faculty to have been law review members. Forty-seven percent of all Asian American female faculty had been members of either the main or another law review, while 25% of the men were members of a law review.\(^6\) In addition, more recent Asian American faculty entrants (44%) were members of law reviews than earlier entrants (20.6%).

Moreover, Asian American professors who were on law reviews often assumed leadership roles on those law reviews. With respect to such positions, the data further suggests interesting gender and historical patterns. Over 40% of Asian American female faculty had served as editors, in contrast to a much smaller percentage of the men (18.2%). A third of the more recent Asian American faculty entrants were editors, in contrast to 17.7% of earlier Asian American faculty entrants.

| Table 5 |
|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
|                | On Main Law Review | On Other Law Reviews | Any Law Review | Named Editor Position | Editor-in-Chief Position | Any Editor Role |
| Men            | 18.2% | 6.80% | 25.0% | 13.6% | 4.60% | 18.2% |
| Women          | 35.3% | 11.8% | 47.1% | 35.3% | 5.90% | 41.2% |
| Entering Before 1986 | 17.7% | 2.90% | 20.6% | 17.7% | 0.00% | 17.7% |
| Entering 1986-92 | 29.6% | 14.8% | 44.0% | 22.2% | 11.1% | 33.3% |

Asian American faculty’s participation on law reviews can be compared to other faculty groups both in terms of the groups as a whole and in terms of recent entrants. Overall, Asian American professors share similar participation patterns with professors in general and other minority groups, such as Latino faculty (Table 6).\(^7\) Comparisons among more recent faculty entrants suggest that Asian Americans are more likely to have been law review members than minority faculty as a group, and about as likely as faculty in general.\(^7\) But the trend among faculty in general is that more recent professors are less likely than earlier professors to have served on a

---

69. If one excludes those professors with foreign undergraduate degrees from the sample, this gender difference persists although it is decreased. In this modified group, 43.18% of the total, 37.93% of the men, and 53.33% of the women had participated on law reviews.

70. Borthwick & Schau, supra note 2, at 207; Olivas, supra note 3, at 130. The percentages of Asian American faculty here do not include professors with foreign undergraduate degrees. See supra note 69.

71. Borthwick & Schau, supra note 2, at 206; Merritt & Reskin, supra note 3, at 2324.
Among Asian Americans entering the profession, however, substantial participation on law reviews persists. Asian Americans may be acquiring these credentials believing them to be necessary for entrance into law school teaching. This belief could arise either because they are unaware that the *de facto* rules for entrance have changed or because they believe they must be exceptionally qualified or even overqualified for entry to the legal academy.

**Table 6**

<table>
<thead>
<tr>
<th>Faculty in General</th>
<th>Asian American Faculty</th>
<th>Latino Faculty</th>
</tr>
</thead>
<tbody>
<tr>
<td>48.2%</td>
<td>43.18%</td>
<td>44.0%</td>
</tr>
<tr>
<td>(50.2% men)</td>
<td>(37.9% men)</td>
<td></td>
</tr>
<tr>
<td>40.1% women)</td>
<td>53.3% women)</td>
<td></td>
</tr>
</tbody>
</table>

**More Recent Entrants**

<table>
<thead>
<tr>
<th>Faculty in General Entering 1980-89</th>
<th>Minority Faculty Entering 1986-91</th>
<th>Asian American Faculty Entering 1986-92</th>
</tr>
</thead>
<tbody>
<tr>
<td>41.7%</td>
<td>32.6% Men</td>
<td>44.4%</td>
</tr>
<tr>
<td></td>
<td>37.1% Women</td>
<td></td>
</tr>
</tbody>
</table>

**C. Post Law School Experiences**

1. **Judicial Clerkships**

Another distinguishing characteristic of Asian American faculty is their significant participation as judicial clerks (Table 7). About 40% had at least one clerkship experience, most frequently with federal courts. More recent Asian American faculty entrants were even more likely to have this experience, with over half of this group having clerked.

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72. Borthwick & Schau, *supra* note 2, at 206 (showing general decrease each decade, from 59.6% of those entering 1960-69 to 41.7% for those entering 1980-89).

73. There were 39.35% of the total group having clerkship experience.

74. Among Asian American faculty, 22.96% were clerks at either the federal district or federal appellate level.

75. Among more recent Asian American faculty, 55.56% had clerked.
TABLE 7
Judicial Clerkship Experience Among Various Faculty Groups

<table>
<thead>
<tr>
<th></th>
<th>Faculty in General</th>
<th>Asian American Faculty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Men</td>
<td>28.1%</td>
<td>40.9%</td>
</tr>
<tr>
<td>Women</td>
<td>35.0%</td>
<td>47.1%</td>
</tr>
</tbody>
</table>

More Recent Entrants

<table>
<thead>
<tr>
<th></th>
<th>Faculty in General Entering 1980-89</th>
<th>Minority Faculty Entering 1986-91</th>
<th>Asian American Faculty Entering 1986-92</th>
</tr>
</thead>
<tbody>
<tr>
<td>Men</td>
<td>36.4%</td>
<td>29.9%</td>
<td>56.3%</td>
</tr>
<tr>
<td>Women</td>
<td>4.2%</td>
<td>28.6%</td>
<td>45.6%</td>
</tr>
</tbody>
</table>

The percentage of Asian American faculty who have had judicial clerkships also appears to be significantly higher than among faculty in general or other minority groups. This difference is more striking when comparing more recent faculty groups (Table 7). Given the high percentage of Asian American faculty with law review experience, it is not surprising that many also have clerkship experience. However, it is unclear why the percentage is higher than that of Latino faculty, for instance, who also have a high percentage of law review participation. In addition, given the low percentage of Asian American judges, one might have predicted a lower percentage of Asian American clerks.

2. Career Paths to Teaching and Employment Experiences

Asian American law professors made similar transitions from law school to academia as their non-Asian American colleagues. For Asian American faculty, the length of time between graduating from law school and beginning a tenure-track position ranged from immediate entry into the profession to twenty-eight years, with an average of 6.2 years. This average time period is very similar to other faculty groups. Like other groups,
the average age for Asian American faculty upon acquiring their first tenure track position is about thirty-three years.\footnote{This refers to their first tenure track position at U.S. law schools. The range was between 26 and 51 years. \textit{See also} Merritt & Reskin, \textit{supra} note 3, at 2326 (indicating 35.9 years for minority men and 34.8 years for minority women).}

Most Asian American faculty have taken a limited number of career paths to teaching. Seventy-nine percent practiced law, with the single most common experience being an associate in a law firm (Table 8). Much smaller percentages practiced as government lawyers or as lawyers for legal aid societies. Asian American faculty practiced from one to fifteen years, with a mean time of 3.9 years.\footnote{The mean practice time for faculty in general was a little more, at 4.3 years. Borthwick & Schau, \textit{supra} note 2, at 217.} Recent Asian American faculty entrants are about as likely to be associates in law firms as other minority faculty as a group, but less likely than other minority faculty to practice in government or with public interest entities.\footnote{Merritt & Reskin, \textit{supra} note 3, at 2325-26.}

### Table 8

<table>
<thead>
<tr>
<th></th>
<th>Total Asian American Faculty</th>
<th>Minority Faculty Entering 1986-91</th>
<th>Asian American Faculty Entering 1986-92</th>
</tr>
</thead>
<tbody>
<tr>
<td>Associates in Law Firms</td>
<td>38.0%</td>
<td>47.4% Men</td>
<td>44.4%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>58.3% Women</td>
<td></td>
</tr>
<tr>
<td>Government Lawyers</td>
<td>3.30%</td>
<td>25.8% Men</td>
<td>7.40%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>27.4% Women</td>
<td></td>
</tr>
<tr>
<td>Legal Aid Societies</td>
<td>1.60%</td>
<td>7.20% Men</td>
<td>3.70%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>10.7% Women</td>
<td></td>
</tr>
</tbody>
</table>

Borthwick and Schau researched various combinations of career paths of law faculty in general and found that the typical patterns are to begin teaching after practicing law (37%), followed by or after having clerked and practiced (16.3%) (Table 9). Less than 6% of faculty in general followed any other single career path.\footnote{Borthwick & Schau, \textit{supra} note 2, at 212-13. These paths included beginning teaching immediately, graduate study only, teaching non-tenure track only, clerking only, clerking and teaching, and clerking, teaching non-tenure, and practicing.} Similarly, the most typical patterns for Asian American faculty are the combination of clerking and practicing and practicing only, with about a quarter of Asian American faculty following each path. The combination of clerking and practice is particularly frequent among Asian American female professors and among more recent Asian American faculty entrants, with over a third of each group following that path.
Table 9
Career Paths to Teaching of Various Faculty Groups

<table>
<thead>
<tr>
<th>Faculty Group</th>
<th>Total Asian American Faculty</th>
<th>Asian American Men</th>
<th>Asian American Women</th>
<th>Asian American Faculty Entering Before 1986</th>
<th>Asian American Faculty Entering 1986-92</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Began Teaching</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Immediately</td>
<td>3.60%</td>
<td>8.00%</td>
<td>6.80%</td>
<td>5.80%</td>
</tr>
<tr>
<td></td>
<td>Clerked Only</td>
<td>5.70%</td>
<td>7.00%</td>
<td>6.80%</td>
<td>5.90%</td>
</tr>
<tr>
<td></td>
<td>Practiced Only</td>
<td>7.0%</td>
<td>25.0%</td>
<td>25.0%</td>
<td>23.5%</td>
</tr>
<tr>
<td></td>
<td>Clerked and Practiced</td>
<td>16.3%</td>
<td>26.0%</td>
<td>22.7%</td>
<td>35.3%</td>
</tr>
</tbody>
</table>

D. Law School Teaching Careers

Law schools face difficult hiring decisions. A numerically based hiring quota would not have resulted in [this many] Asian-Americans on our tenured law faculty, nor would it encourage us to continue to seek out and hire additional qualified Asian-Americans to add to our law faculty. Asian-Americans are less than 3% of the U.S. population. So numerically based quotas will hurt more than help us.

At [my law school], Asians are not counted as "minorities" for affirmative action purposes in faculty hiring or law student recruitment. For faculty hiring, we favor Blacks, Hispanics, and women. For law student recruitment, we favor only Blacks and Hispanics.

The articulated reason for this is [our school's] well-documented history of discrimination against Blacks. . . . The real reason, of course, is largely political. Blacks and Hispanics are significant minorities in [our state] and we are state-supported. Women, I suspect, are a majority in this state. Asians are a growing minority (fastest growing minority group in the state by the 1990 Census) but still small compared to the others.

This creates a very strange state of affairs. For example, many people believe Asians do receive preferential treatment when, in fact, we don’t here. Thus, we get the worst of both worlds: we receive no preference while at the same time bearing the stigma Stephen Carter has written about that accrues to those who are members of groups that receive preferential treatment. Further, despite not providing any preference, the school is always very quick to “count” me as a minority on any official reports indicating affirmative action/diversity progress, etc.
When I was on our faculty hiring committee, I raised some of these questions. The other members of the committee thought I was pushing to have Asians included as one of the “preferred” groups. In fact, I was looking the other way, to reexamine our affirmative action practices altogether. My sense is that it is counterproductive, and not good policy, to try to add more and more groups to the “preferred” category. Rather, it makes better sense to me to broaden the concept of “diversity” to encompass intellectual, ideological, and economic diversity, and not to rely upon simplistic notions of racial, ethnic, and gender diversity.

1. Entry into the Profession

a. Period of First Tenure-Track Position

When Asian American law professors entered the profession indicates striking patterns. About 40% of current Asian American law faculty entered teaching between 1986 and 1992; almost 70% entered the profession since 1980 (Table 10). The recent influx of Asian American women into the profession is particularly dramatic, with about 59% entering since 1986 and about 94% entering since 1980. In contrast, approximately 30% of male faculty and 64% of female faculty in general entered the profession between 1980 and 1989.86 Compared to Asian American faculty, there was an even greater wave of Latino faculty into the profession in recent years. Approximately 69% entered between 1986 and 1992; about 85% entered since 1980.87

<table>
<thead>
<tr>
<th>Period of First Tenure Track Position for Asian American Faculty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Asian American Faculty</td>
</tr>
<tr>
<td>1986-92 41.0%</td>
</tr>
<tr>
<td>1980-85 26.2%</td>
</tr>
<tr>
<td>1970-79 19.7%</td>
</tr>
<tr>
<td>1960-69 9.80%</td>
</tr>
<tr>
<td>Other 3.30%</td>
</tr>
</tbody>
</table>

86. Borthwick & Schau, supra note 2, at 202.
87. Olivas, supra note 3, at 130 (providing numbers on which these calculations were based).
88. The date of entry of some Asian American faculty was not ascertainable. These faculty are captured in the “Other” row.
89. The date of entry of some Asian American faculty was not ascertainable. These faculty are captured in the “Other” row.
90. The date of entry of some Asian American faculty was not ascertainable. These faculty are captured in the “Other” row.
b. **Schools of First Tenure-Track Positions**

Asian American faculty received their first tenure track position at a wide range of schools. Typically, their first position was as an assistant professor.\(^9^1\) On a scale ranging from 1 (highest rank) to 175 (lowest rank),\(^9^2\) Asian American faculty's first positions were at schools ranging from 3rd to 175th. The mean and median scores for the group were 73.2 and 61 respectively. Asian American male faculty began teaching at somewhat more prestigious schools than female faculty. There was no meaningful difference between Asian American faculty who entered the profession since 1986 (mean of 72.52) and those who entered earlier (mean of 74.24).

Over 70% of American law schools have never hired an Asian American faculty member.\(^9^3\) Of the forty-six identifiable schools who have hired an Asian American faculty member, the vast majority have hired only one.\(^9^4\) Eight law schools have hired two Asian Americans and two other law schools, Temple and the University of San Diego, have hired three Asian American faculty members in their first tenure track positions.

2. **Current Professional Circumstances**

The stereotyping continues. Asian students are supposed to be quiet and not participate. Asian professors (especially female) are supposed to be “nice” and never aggressive toward students.

What is life as a faculty member like? In my own professional life, I have found other minority group members to be a source of badly-needed support. I have always lived and worked in areas that do not have large Asian populations. I think a new term might need to be coined for me—yellow on the outside, brown on the inside. My need to connect with other people of color is currently met only infrequently by other Asians and more frequently by African Americans or Latinos.

I’m still trying to figure it all out—to be whole. Where does my Asian identity fit into my identity as a law professor? Or should my Asian identity be the cup that I pour the rest of me into?

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\(^9^1\) Eighty percent received a tenure track position as their first law school teaching job; 69% started as Assistant Professors. The others started as Associate Professors (25%) or as Professors (3%). Two percent started their first tenure track position with a joint appointment teaching at another school or department.

\(^9^2\) See [Gourman Report, supra note 57.](#)

\(^9^3\) Of the 175 law schools listed in the Gourman Report, 73.14% of American law schools have never hired an Asian American faculty member. [Gourman Report, supra note 57.](#) Some law schools may have hired an Asian American who was no longer in teaching in 1992-93, and hence would not have been included in this study.

\(^9^4\) Thirty-seven schools.

\(^9^5\) Yale, University of Denver, Boston College, University of Santa Clara, New York Law School, Washburn University of Topeka, William Mitchell College of Law, and the University of Hawaii.
a. Current Law School

Approximately three-quarters of American law schools do not have an Asian American faculty member. The forty-eight schools who do have Asian American faculty are virtually the same schools at which Asian American faculty started their teaching careers. While most have a single Asian American faculty member, ten schools have two Asian American professors. Only Temple University Law School has three Asian American faculty members.

Asian American faculty teach at schools of varying prestige. The mean and median rankings of Asian American faculty's current schools are 69.8 and 58 respectively. Only 6.6%, however, teach in the top ten schools and only 16.4% teach in the top twenty. Almost half (44.3%) teach in the top fifty, and approximately 70% teach within the top 100. While Asian American men entered the profession at more prestigious schools, there are only slight differences between the prestige of the men's and women's current schools. Similarly, there was only a small difference in the prestige of schools between faculty who entered the profession since 1986 (mean of 71.3) and those who entered earlier (mean of 68.6).

Compared to the schools of their first tenure track positions, Asian American faculty's current schools are slightly more prestigious (Table 11). As a group, the mean prestige score improved from 73.5 to 70 and the median score improved from 61 to 58. Of the top quartile of professors, the mean score in fact shifted from 45 at their first schools to 33.5 in their current schools. This improvement appears largely attributable to Asian American female faculty. As a group, female faculty started their teaching careers at schools with a mean prestige score of 82.7, but currently teach at schools with a mean prestige score of 71.9, indicating movement to higher ranked schools as their careers progress. In contrast, Asian American male faculty as a group began their careers at slightly higher ranked schools than female faculty but continued their careers at comparably ranked schools.

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96. Of the 175 law schools listed in the Gourman Report, 72.57% do not have an Asian American faculty member. Gourman Report, supra note 57.
97. Yale, University of California at Hastings, University of Denver, Boston College, University of Santa Clara, New York Law School, Washburn University of Topeka, William Mitchell School of Law, University of Hawaii, and CUNY.
98. There are 11 schools who did not hire an Asian American in their first tenure track position, but who did hire, presumably as a lateral, an Asian American who is currently a faculty member.
99. This discrepancy between the mean and median scores suggests that there is an uneven distribution with a few faculty at lower prestige schools dragging down the mean score.
TABLE 11
Rankings of Law Schools Where Asian American Faculty Began Their Career and are Currently Employed

<table>
<thead>
<tr>
<th>School of First Tenure Track Position</th>
<th>Current Law School</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Mean Rankings</td>
<td>Total Mean Women</td>
</tr>
<tr>
<td></td>
<td>73.50</td>
</tr>
<tr>
<td></td>
<td>70.30</td>
</tr>
<tr>
<td></td>
<td>82.67</td>
</tr>
</tbody>
</table>

b. Position

Within the faculty ranks, Asian Americans hold various positions, which are distributed unevenly across gender lines. About 50% hold assistant and associate professor positions and about 50% hold more senior positions (Table 12). The differences in positions between genders is substantial, with over 80% of Asian American female faculty at the lower levels compared with about 40% of the male faculty at these ranks. In contrast, only 17.65% of the women are full professors, compared with about 60% of the men. As one might expect, those who entered the profession earlier, who are tenured, and whose age is higher are more likely to have a higher position.

TABLE 12
Positions of Asian American Faculty at Current Law Schools

<table>
<thead>
<tr>
<th>Total</th>
<th>Men</th>
<th>Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assistant Professors</td>
<td>26.2</td>
<td>20.5</td>
</tr>
<tr>
<td>Associate Professors</td>
<td>24.6</td>
<td>18.2</td>
</tr>
<tr>
<td>Full Professors</td>
<td>42.6</td>
<td>52.3</td>
</tr>
<tr>
<td>Chaired Positions</td>
<td>3.30</td>
<td>4.60</td>
</tr>
<tr>
<td>Dean Positions</td>
<td>3.30</td>
<td>4.60</td>
</tr>
</tbody>
</table>


c. Teaching Areas

The study surveyed the subjects that Asian American faculty teach. A high percentage of Asian American faculty concentrate in particular teaching specialties. About half, for instance, teach an international law subject. Similarly, about half teach a business law subject. Forty-four percent teach constitutional law. While comprehensive comparisons with other faculty groups are unavailable, these percentages seem unusually high. Consider,
for instance, that only 20.6% of more recent minority male faculty and 14.3% of minority female faculty teach a course in corporate law.

Table 13
Teaching Areas of Asian American Faculty

<table>
<thead>
<tr>
<th>Subject Areas</th>
<th>Total</th>
<th>Men</th>
<th>Women</th>
<th>Entry Before 1986</th>
<th>Entry 1986-92</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constitutional Law</td>
<td>44.3%</td>
<td>47.7%</td>
<td>35.3%</td>
<td>52.9%</td>
<td>33.3%</td>
</tr>
<tr>
<td>International Law</td>
<td>50.8%</td>
<td>61.4%</td>
<td>23.5%</td>
<td>55.9%</td>
<td>44.4%</td>
</tr>
<tr>
<td>Business Law</td>
<td>50.8%</td>
<td>47.7%</td>
<td>58.8%</td>
<td>47.1%</td>
<td>55.6%</td>
</tr>
<tr>
<td>Estates and Trusts</td>
<td>6.60%</td>
<td>6.80%</td>
<td>5.90%</td>
<td>8.80%</td>
<td>3.70%</td>
</tr>
<tr>
<td>Skills Courses</td>
<td>13.1%</td>
<td>11.4%</td>
<td>17.7%</td>
<td>8.80%</td>
<td>18.5%</td>
</tr>
</tbody>
</table>

There are some interesting differences between Asian American male and female faculty and between those with different experience levels. More Asian American women than men teach business law. While substantial percentages of women teach constitutional law and international law, the percentage is notably lower than the percentage who teach business law and lower than the percentage of men who teach in these areas. For instance, over 60% of the Asian American male faculty teach international law, followed by 47% who teach constitutional law and the 47% who teach business law courses. A relatively small percentage of Asian American faculty teach estates and trusts courses and skills courses, although women and more recent faculty entrants are slightly more likely to teach skills courses than male faculty and less recent entrants.

Asian American faculty who entered teaching since 1986 are slightly less likely to teach international law and slightly more likely to teach business law than faculty who entered the profession before 1986. Even though a third of the more recent entrants teach constitutional law, this is less than the 53% of their more experienced colleagues who teach in this area.

Conclusion

Who are Asian American law professors? This Article begins to answer this question in two ways. First, it discusses an empirical study that explores the demographic and background characteristics of Asian American faculty: their ages, gender, educational experiences, and career paths. Second, this Article offers commentaries and narratives of Asian American faculty describing who they are, how others perceive them, and what they experience.

The statistical data and the emotional sentiments at times seem paradoxical. While the "voices" of Asian American faculty often describe discriminatory treatment and feelings of exclusion, the empirical information

101. Merritt & Reskin, supra note 3, at 2351 n.159.
describes impressive achievements. How, one might ask, can Asian American faculty be so successful if they are discriminated against? Asian American law faculty, for instance, have attended prestigious undergraduate schools and law schools. While in law school, they were as likely as law faculty in general to have been members of the law review. In fact, Asian American faculty appeared to have more impressive credentials in a number of categories than law faculty in general: higher percentages of law review editors, judicial clerks, and interdisciplinary graduate degrees.

The achievements of some Asian American faculty may merely allow society to camouflage the discrimination that Asian American faculty experience. Consider, for example, the possibility that Asian American faculty are as qualified as they are because only those with such credentials are allowed to become law faculty. As with instances of de facto quotas limiting Asian Americans into major universities, a de facto quota of Asian American law faculty may also exist. Thus, only those Asian American candidates with extraordinarily impressive backgrounds receive one of the few admission tickets to law school teaching. The low percentages of Asian American faculty relative to the number of Asian American law students and the fact that over 70% of American law schools have never hired an Asian American support the proposition that positions for Asian American faculty are artificially limited.

Results of the empirical study may also be explained by subtle racial discrimination. Disproportionally high numbers of Asian American faculty teach certain subject areas. Asian Americans' high representation in certain specialties may be explained only partially by conscious individual choices based on personal interests and talents. American society also may be limiting the choices to those it deems appropriate for Asian Americans. "Even when Asian Americans gain access to particular professional areas, invisible barriers creating "glass walls' apparently preclude entry into certain career paths within those professions."102 Thus, societal casting of Asian Americans as foreigners, inarticulate, and non-adversarial, for instance, may unconsciously channel Asian Americans to particular teaching and research specialties.

The data also provide some evidence of gender discrimination. Asian American female faculty started their teaching careers at less prestigious schools than Asian American men. This result is particularly surprising given that women had comparable credentials, and in some ways, more impressive credentials than their male colleagues. For example, Asian American female faculty were more likely to have been on law review and more likely to have assumed an editorial role than Asian American male faculty.103

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102. Chew, supra note 8, at 50.
103. On the other hand, Asian American women faculty attended less prestigious law schools.
So who are we? We are many and not one. We’re not monolithic, in the same way that Asian Americans in general are not monolithic.

Some of us are older, mostly immigrants, often esteemed professionals and academics in our native countries, struggling and then establishing a place in American academia. We are less politically outspoken, perhaps in part because we are less comfortable with English. We focus on hard work, relying on coping skills characteristic of our immigrant generation.

Others of us were born here, now in our forties and fifties. Like many of our non-minority classmates, we wanted status and good jobs. We entered mainstream professions and specialties, like private practice and business, property, contract, and tax law. We relate to our heritage through international law and international business law experiences.

There are still others of us. We’ve entered the profession only in recent years. We’re more interdisciplinary, more critical, more politically active, more energetic for change. We want to use the past to change the future.

So in these ways, we are a microcosm of the complexity and transitional attitudes of Asian Americans in general.

Another Asian American law professor, Williamson Chang, wrote that “[T]here is a price for using the word ‘Asian,’ it is the price of losing much of the uniqueness of the self.” This Article is premised on an antithetical hope: that better understanding of who we are as “Asian American” law professors will enrich rather than rob us of both our individual and collective uniqueness.

104. Williamson B.C. Chang, Race, Dispossession and the Persistence of Culture (unpublished, on file with author).