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Who's Going to Law School? Trends in Law School Enrollment Since the Great Recession

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This study provides a comprehensive analysis of recent U.S. law school enrollment trends. With two sets of JD (Juris Doctor) enrollment data from 1999 to 2019, we discuss how the demographic composition of law students has changed since the Great Recession. We examine enrollment data by gender, race, ethnicity, and nationality, with particular attention to Asian

* Copyright © 2020 Miranda Li, Phillip Yao & Goodwin Liu. Miranda Li is a 2019 graduate of Yale Law School, Phillip Yao is a 2019 graduate of Yale Law School, and Goodwin Liu is an Associate Justice of the California Supreme Court. This Article is an outgrowth of earlier work that provided a systematic account of the experiences of Asian Americans in the legal profession. See ERIC CHUNG, SAMUEL DONG, XIAONAN APRIL HU, CHRISTINE KWON & GOODWIN LIU, YALE LAW SCHOOL & NAT'L ASIAN PAC. AM. LAW ASS'N, A PORTRAIT OF ASIAN AMERICANS IN THE LAW 2-3 (2017) [hereinafter PORTRAIT PROJECT]. Our study is part of ongoing research in collaboration with the American Bar Foundation on diversity in the legal profession. For valuable input and support, we are grateful to the members of our research team: Ajay Mehrotra, Shih-Chun Chien, George Wang, Meghan Dawe, and Ellis Liang. For their generosity in sharing data and constructive insights, we are indebted to Barry Currier and Bill McAdams at the American Bar Association; Kellye Testy, Ann Gallagher, Kimberly Dustman, and Greg Camilli at the Law School Admission Council; and Judy Areen and Jeff Allum at the American Association of Law Schools. For helpful comments on earlier drafts, we thank Erwin Chemerinsky, Eric Chung, Tino Cuéllar, Noor-ul-ain Hasan, Dan Ho, Christine Kwon, Derek Muller, and David Wilkins.

Americans, who too often remain an invisible minority in contemporary discourse on diversity. We also undertake a novel analysis of enrollment demographics by law school ranking. Our findings include the following:

- Total enrollment has declined almost 25% since the recession and, despite a recent increase, seems unlikely to rebound to pre-recession levels, especially given the economic uncertainty due to the coronavirus pandemic.
- Women have outnumbered men in law school since 2016; the recent uptick in total enrollment is entirely attributable to more women pursuing law.
- Since the recession, Asian Americans and Whites have comprised a smaller share of enrollment; African Americans and Hispanics have comprised a larger share.
- Women, African American students, and Hispanic students are disproportionately enrolled in lower-ranked schools with lower rates of bar passage and post-graduation employment. It is thus unclear to what extent the changing diversity of law students will translate into greater diversity in the legal profession.
- Asian American enrollment has declined more steeply than any other group since the recession. As a result, the number of Asian American lawyers, after rising for four decades, will begin to stagnate in the year 2030.
- The number and percentage of JD students who are foreign nationals or who identify as members of two or more racial groups are growing. These trends have particular salience for Asians and Asian Americans, and they present increasingly serious challenges for collecting and reporting demographic data.

As a whole, our study provides a fresh and comprehensive empirical foundation for current discussions of diversity in law school and the legal profession.

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INTRODUCTION

Since the economic downturn and financial crisis of the late 2000s, total enrollment in U.S. law schools has declined steadily year by year until a slight uptick in 2018 and 2019. There are roughly one quarter fewer JD students today than a decade ago. Commentators have suggested various explanations for this decline, including worsening job prospects in the legal profession and more lucrative options in fields such as technology.¹

Enrollment trends over the past decade have not been uniform across demographic groups. A 2017 study that one of us co-authored, *A Portrait of Asian Americans in the Law*, reported that over the past decade, the enrollment of Asian Americans in law school has declined more than the enrollment of any other racial or ethnic group, whereas Black enrollment has declined modestly and Hispanic enrollment has increased.² In addition, women have outnumbered men in law school

¹ See, e.g., Max Nisen, *The US Lawyer Bubble Has Conclusively Popped*, QUARTZ (May 7, 2014), <https://qz.com/206705/the-us-lawyer-bubble-has-conclusively-popped/> [<https://perma.cc/YNH3-JDVK>]; Greg Toppo, *Why You Might Want to Think Twice Before Going to Law School*, USA TODAY (June 28, 2017), <https://www.usatoday.com/story/news/2017/06/28/law-schools-hunkering-down-enrollment-slips/430213001/> [<https://perma.cc/XHD8-8KZG>].

² PORTRAIT PROJECT, *supra* introductory author footnote, at 9; see also Aaron N. Taylor, *Diversity as a Law School Survival Strategy*, 59 ST. LOUIS U. L.J. 321, 336-45 (2015) (comparing 2010 and 2013 student cohorts).

since 2016.³ Yet women continue to face barriers to employment and advancement in the profession.⁴

Here we further describe and analyze these trends with data extending through 2019. We examine enrollment data by gender, race, ethnicity, and nationality, with particular attention to Asian Americans, who too often remain an invisible minority in contemporary discourse on diversity.⁵ We also undertake a novel analysis of enrollment demographics by law school ranking. As a whole, our study provides a fresh and comprehensive empirical foundation for current discussions of diversity in law school and the legal profession. We expect the trends identified here to be of considerable interest to law faculty, administrators, attorneys, and judges, who will teach, hire, and work with the next generation of law students.

Two recent studies have contributed to our understanding of recent enrollment trends. First, the American Association of Law Schools (“AALS”), in collaboration with Gallup, gathered data from 22,189 undergraduates and 2,727 first-year law students in 2017 to illuminate student views on attending graduate or professional school. The AALS findings are summarized in two 2018 reports: *Before the JD: Undergraduate Views on Law School* and *Beyond the Bachelor’s: Undergraduate Perspectives on Graduate and Professional Degrees*.⁶

³ See Elizabeth Olson, *Women Make Up Majority of U.S. Law Students for First Time*, N.Y. TIMES (Dec. 16, 2016), <https://www.nytimes.com/2016/12/16/business/dealbook/women-majority-of-us-law-students-first-time.html> [https://perma.cc/4K9H-TEN2]; Staci Zaretsky, *The Law Schools Where the Most Women Enrolled as Students (2019)*, ABOVE THE LAW (Feb. 5, 2019), <https://abovethelaw.com/2019/02/law-school-most-women/> [https://perma.cc/YZP8-4NU9].

⁴ See DEBORAH JONES MERRITT & KYLE MCENTEE, *THE LEAKY PIPELINE FOR WOMEN ENTERING THE LEGAL PROFESSION 3* (2016), https://www.lstradio.com/women/documents/MerrittAndMcEnteeResearchSummary_Nov-2016.pdf [https://perma.cc/H27C-TGCG].

⁵ See Esther Yoon-Ji Kang, *The Fight for Asian American Political Power*, WBEZ CHI. (May 30, 2019), <https://www.npr.org/local/309/2019/05/30/728115121/the-fight-for-asian-american-political-power> [https://perma.cc/X2C6-SEHU]; Chris Lu, *What We Miss When We Ignore Asian Americans*, TIME (Oct. 20, 2017), <https://time.com/4992021/asian-americans-pacific-islanders-representation/> [https://perma.cc/S5XN-2PEY]; Alex Wagner, *Why Are Asian Americans Politically Invisible?*, ATLANTIC (Sept. 12, 2016), <https://www.theatlantic.com/politics/archive/2016/09/why-dont-asians-count/498893/> [https://perma.cc/WF89-ZL4Z]; George Yancy & David Haekwon Kim, *The Invisible Asian*, N.Y. TIMES (Oct. 8, 2015), <https://opinionator.blogs.nytimes.com/2015/10/08/the-invisible-asian/> [https://perma.cc/DK5J-AZCK].

⁶ ASS’N OF AM. LAW SCH., *BEFORE THE JD: UNDERGRADUATE VIEWS ON LAW SCHOOL* (2018) [hereinafter *BEFORE THE JD*]; ASS’N OF AM. L. SCH., *BEYOND THE BACHELOR’S: UNDERGRADUATE PERSPECTIVES ON GRADUATE AND PROFESSIONAL DEGREES* (2018) [hereinafter *BEYOND THE BACHELOR’S*].

Second, the Law School Admission Council (“LSAC”) published a 2018 research report titled *Application, Admission, and Matriculation Trends: Asian and Non-Asian Law School Candidates*, which presents informative data on Asian applicants to law school from 2011 to 2016.⁷ We describe and synthesize some aspects of these studies in our analysis.

Our main findings include the following:

- Law school enrollment has declined almost 25% from its peak a decade ago, and there are 10% fewer law students today than 20 years ago. Although law school applicants have increased by 11% since 2016 (what some have called the “Trump bump”), new matriculants have increased by only 3%. The post-recession decline in total enrollment appears to have ended, but a rebound to pre-recession levels does not seem likely any time soon. Law school enrollment may actually decline further over the next decade, depending on the depth and duration of the economic slowdown due to the coronavirus pandemic.
- Over the past decade, male enrollment has declined by 33%; female enrollment has declined by 13%. Male enrollment has fallen continuously since 2010; female enrollment fell from 2010 to 2016 but has risen every year since. As a result, women have closed the gender gap, outnumbering men in law school since 2016. The recent rise in total enrollment is entirely due to more women pursuing law.
- Although the male-female ratio is now fifty-fifty at the top twenty law schools on average, the female share of enrollment tends to increase from higher-ranked to lower-ranked schools. Women are disproportionately enrolled in schools with lower bar passage and post-graduation employment rates.
- Over the past decade, Asian American and White enrollments have declined significantly, and African American enrollment has declined modestly. Meanwhile, Hispanic enrollment has increased. As a result, from 2011 to 2019, the African American and Hispanic shares of total enrollment have grown.

⁷ ANN GALLAGHER, RICHARD STROUSS-ROONEY & MARK WALZER, LAW SCH. ADMISSION COUNCIL, *APPLICATION, ADMISSION, AND MATRICULATION TRENDS: ASIAN AND NON-ASIAN LAW SCHOOL CANDIDATES* (2018), <https://images.law.com/contrib/content/uploads/documents/292/SSR-18-01.pdf> [<https://perma.cc/HQR9-9YAF>] [hereinafter LSAC 2018 REPORT].

- African American and Hispanic students are disproportionately enrolled in lower-ranked schools with lower bar passage and post-graduation employment rates. Together they comprise 40% of current enrollment in schools that lack full ABA accreditation or are otherwise unranked by *U.S. News & World Report*.
- Asian Americans have experienced the largest percentage decline in enrollment of any racial or ethnic group. Whereas Asian Americans were the largest minority group in law school throughout much of the 2000s, their numbers have trailed both African American and Hispanic enrollments in recent years. The number of Asian Americans in law school has now regressed to levels observed two decades ago.
- After decades of rapid growth, the number of Asian American lawyers is expected to stagnate around the year 2030 as a result of the recent enrollment decline. Outreach strategies to inform Asian Americans during or before college about careers in the legal profession may help to mitigate current trends.
- The number of JD students who are foreign nationals increased by 40% from 2011 to 2019 and has nearly tripled over two decades. Foreign students comprised 3.2% of total enrollment in 2019, up from 1.8% in 2011. They are an especially large presence at the top twenty schools, comprising 7.0% of enrollment in 2019.
- Asian foreign nationals make up the largest share of foreign students, comprising over 40% of foreign students between 2012 and 2019. In 2019, almost 12% of law students who identified as Asian were foreign-educated. These data suggest that distinguishing between foreign nationals and U.S. citizens is important to tracking the progress of Asian Americans in the legal profession.
- The number of students who identify as multiracial has increased by 65% from 2011 to 2019. In 2019, these students comprised 3.7% of total enrollment. Going forward, more sophisticated methods of collecting and reporting demographic data are needed to avoid undercounting Asian Americans and other racial groups.

I. DATA AND TERMINOLOGY

When we use the term “law students,” “law degree,” or “law school enrollment” in this report, we are referring to JD students or the JD program. Our analyses do not examine Master of Law (“LLM”), Masters

of Studies in Law (“MSL”), Doctor of Juridical Science (“SJD”), or other students engaged in the study of law.

We obtained and analyzed enrollment data from two sources. It is important to understand the definitions that these sources use in reporting data on race and ethnicity because these definitions vary by source and, within each source, vary across time.

A. American Bar Association

The first source is the American Bar Association (“ABA”) Standard 509 Information Reports.⁸ These reports, submitted to the ABA annually by each ABA-accredited law school, include school-level enrollment data by gender, race, and ethnicity. ABA 509 reports from 2011 to 2019 are publicly available online.⁹ In addition, the ABA generously provided us with 509 reports for the years 1998 to 2010. Approximately 200 law schools submit reports each year. We include part-time and full-time students in our analyses of JD enrollment.

Current data, 2011–present. Since 2011, the 509 reports have employed the following nine race and ethnicity categories: “Hispanics of any race,” “American Indian or Alaska Native,” “Asian,” “Black or African American,” “Native Hawaiian or Other Pacific Islander,” “Two or more races,” “Nonresident alien,” “Race/Ethnicity Unknown,” and “White.”¹⁰ The data collected by law schools are based on student self-reports, typically on the law school application form.

Although a student is allowed to select more than one category, the ABA directs law schools to report each student in only one category. This method of *non-overlapping reporting* proceeds as follows:¹¹ If a

⁸ AM. BAR ASS'N, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2020–2021, at 35–36 (2020), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2020-2021/2020-21-aba-standards-and-rules-for-approval-of-law-schools.pdf [https://perma.cc/2SSU-ENYY].

⁹ *Section of Legal Education: ABA Required Disclosures*, AM. BAR ASS'N, <http://www.abarequireddisclosures.org/Disclosure509.aspx> (last visited Aug. 28, 2020) [https://perma.cc/8JQP-EDS4].

¹⁰ The information in this paragraph comes from the instructions that law schools must follow in compiling their ABA 509 reports. ABA REQUIRED DISCLOSURES, ANNUAL QUESTIONNAIRE 5 (2018–19), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/Questionnaires/18_19_combined_aq_instructions.docx [https://perma.cc/P6VN-VYV8].

¹¹ The ABA adopted this rubric in order to align the reporting of law school demographics with the way that institutions of higher education report student demographics to the U.S. Department of Education. See *Collecting Race and Ethnicity Data from Students and Staff Using the New Categories, Integrated Postsecondary Educ.*

student selects “Nonresident alien,” that student is reported as “Nonresident alien” regardless of any other categories selected.¹² Next, among U.S. citizens and permanent residents, if a student selects “Hispanic,” that student is reported as “Hispanic” regardless of any other categories selected.¹³ Then, if a non-Hispanic student selects two or more categories, that student is reported solely in the category “Two or more races.” Finally, all remaining students — comprised of non-Hispanic U.S. citizens and permanent residents who have selected a single race or ethnicity — are reported in the single category selected. Under this reporting method, the term “Asian” is largely synonymous with “Asian American,” so when we use the term “Asian” in discussing ABA data, it is properly understood as referring to Asian Americans. In addition, we use the term “Black” interchangeably with “African American.”

Pre-2011 data. Before 2011, the 509 rubric for reporting student race and ethnicity differed in several ways: It did not include a unitary “Hispanic” category and instead used “Mexican,” “Puerto Rican,” and “Other Hispanic.” It included a single category “Asian” and did not include “Native Hawaiian or Other Pacific Islander” as a separate category. It did not include “Nonresident alien” and instead included “Foreign National.” And it did not include the category “Two or more races.” Further, it appeared to allow each student to select only one racial or ethnic category and reported that category.¹⁴

B. Law School Admission Council

Our second source of data is the Law School Admission Council, which generously provided us with applicant, admitted applicant, and matriculant data by gender, race, and ethnicity for the academic years

Data Sys., NAT'L CTR. FOR EDUC. STATISTICS, <https://nces.ed.gov/ipeds/report-your-data/race-ethnicity-collecting-data-for-reporting-purposes> (last visited Aug. 27, 2020) [<https://perma.cc/ZRL8-8CEB>].

¹² Although we use the term “non-resident alien” in this Article for the sake of accuracy in discussing ABA data, we are aware that many people find the term “alien” to be racially charged and disparaging toward immigrants. See Kevin R. Johnson, “Aliens” and the U.S. Immigration Laws: *The Social and Legal Construction of Nonpersons*, 28 U. MIAMI INTER-AM. L. REV. 263, 264 (1997); Elizabeth Rosenman, Opinion, *This New Year, Let's Stop Using the Word 'Alien,'* THE HILL (Jan. 2, 2019), <https://thehill.com/opinion/immigration/423570-this-new-year-lets-stop-using-the-word-alien> [<https://perma.cc/X3HN-QNWW>].

¹³ This practice, called *maximum reporting*, is used in the ABA data only for Hispanic students from 2011 onward.

¹⁴ We are grateful to Barry Currier for this information.

1998 to 2019.¹⁵ LSAC, like the ABA, reports data from all ABA-accredited law schools.

Current data, 2010–present. Since 2010, LSAC has used the following nine race and ethnicity categories: “American Indian/Alaska Native,” “Black/African American,” “Caucasian/White,” “Hispanic/Latino,” “Puerto Rican,” “Canadian/Aboriginal,” “Asian,” “Native Hawaiian/Other Pacific Islander,” and “Not Indicated.” Students may select more than one racial or ethnic category. Further, LSAC does not use a “Nonresident alien” category, so the enumerated categories include foreign nationals within each group. However, since 2012, LSAC has distinguished between “foreign educated” and “non-foreign educated” students based on the location of their undergraduate education.¹⁶ LSAC’s count of “foreign educated” students provides a rough approximation of foreign nationals.¹⁷

In reporting racial and ethnic data, LSAC uses *maximum reporting*, which means that a student who selects more than one category is counted in each category selected. In other words, a student who selects both “Asian” and “Caucasian/White” is reported in both categories and is, in that sense, double-counted. The use of maximum reporting in contrast to non-overlapping reporting is an important difference between the LSAC and ABA data sets, as we discuss further below.

Pre-2010 data. Before 2010, LSAC used different race and ethnicity categories and reported each student in only one category: “American Indian,” “Black,” “White,” “Hispanic,” “Asian,” “Puerto Rican,” “Other,” “Canadian Aboriginal,” and “Not Indicated.” LSAC cautions that “[d]ue to significant changes in data collection methods,

¹⁵ Data from LSAC were used with permission. The opinions and conclusions contained in this paper are those of the authors and do not necessarily reflect the position or policy of LSAC.

¹⁶ See LSAC 2018 REPORT, *supra* note 7, at 2, 13.

¹⁷ We recognize, however, that some “foreign educated” Asians may be Asian Americans pursuing their undergraduate education abroad and that some “non-foreign educated” Asians may be Asian foreign nationals pursuing their undergraduate education in the United States. Although we do not know how large the latter group is, we note that the number of bachelor’s degrees awarded to nonresident aliens in the United States has increased substantially in recent years, from 52,540 in 2011 to 98,237 in 2018. See *Trend Generator, Integrated Postsecondary Edu. Data System*, NAT’L CTR. FOR EDUC. STAT., <https://nces.ed.gov/ipeds/TrendGenerator/app/answer/4/24> (last visited Oct. 13, 2020) [<https://perma.cc/RB53-65MX>] (select “Build Table” function, select “Race/ethnicity” in Column and “Award Level” in Row, then select “101, 836” at the intersection of “Nonresident alien” and “Bachelor’s degree”).

race/ethnicity data collected after 2009 are not directly comparable to prior data.”¹⁸

In sum, the definition and reporting of racial and ethnic categories differ between the ABA and LSAC data sets, and also across time within each data set. We discuss these differences throughout this report.

II. ENROLLMENT TRENDS BY GENDER, RACE, AND ETHNICITY

We first examine general trends in law school enrollment from 1999 to 2019. The data show an overall decline in enrollment since the Great Recession, with notable variation by gender, race, and ethnicity.

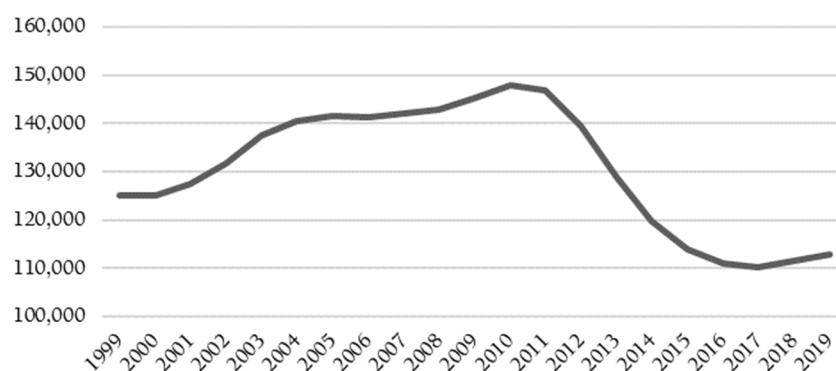
Figure 1 shows total enrollment over the past two decades. Enrollment increased from 125,186 students in 1999 to a peak of 147,914 in 2010, and then declined year by year to a low of 110,176 in 2017 before showing a small uptick in 2018 and 2019. Law school enrollment is today 24% lower than it was in 2010 and 10% lower than in 1999. Although the number of law school applicants plateaued and then increased by nearly 11% from 2016 to 2019 (what some have called the “Trump bump”),¹⁹ the number of new matriculants has increased

¹⁸ *Archive: 2001–2009 Admitted Applicants by Ethnicity*, LAW SCH. ADMISSION COUNCIL, <https://www.lzac.org/archive-2001-2009-admitted-applicants-ethnicity> (last visited Oct. 13, 2020) [<https://perma.cc/6ADL-B3RM>].

¹⁹ *Five Year U.S. Volume Comparison*, LAW SCH. ADMISSION COUNCIL, <https://report.lzac.org/ThreeYearComparison.aspx> (last visited Aug. 8, 2020) [<https://perma.cc/9M94-9LBD>] (select “5Yr”) (reporting 56,237 applicants in 2016, 56,136 in 2017, 60,578 in 2018, and 62,216 in 2019). Some observers have posited that the 2016 election of Donald Trump as President and the ensuing political climate have motivated more people to consider law school. See Kathryn Rubino, *Law Schools Still Benefitting from the Chaotic Political Climate*, ABOVE THE LAW (Jan. 29, 2020), <https://abovethelaw.com/2020/01/law-schools-still-benefitting-from-the-chaotic-political-climate/> [<https://perma.cc/PWG5-3C2C>] (reporting that a Kaplan Test Prep survey found that 84% of law school admission officers say political climate was a significant factor in the rising number of applicants and that 41% of LSAT takers indicated that political climate influenced their decision to pursue law); Corilyn Shropshire, *After Trump’s Election, More Students Consider Law School, Hoping to Make a Difference*, CHI. TRIB. (Nov. 17, 2017), <https://www.chicagotribune.com/business/ct-biz-lsat-registration-up-trump-bump-20171116-story.html> [<https://perma.cc/JM58-YEZR>] (reporting increasing numbers of LSAT takers throughout 2017); Stephanie Francis Ward, *The ‘Trump Bump’ for Law School Applicants is Real and Significant, Survey Says*, ABA J. (Feb. 22, 2018), https://www.abajournal.com/news/article/the_trump_bump_for_law_school_applicants_is_real_and_significant_survey_say [<https://perma.cc/HEY6-T27C>] (reporting that a Kaplan Test Prep survey found that “32 percent [of LSAT takers] indicated that the 2016 presidential election influenced their desire to become lawyers”).

more modestly, rising 3.2% from 2016 to 2019.²⁰ These data suggest that selectivity in admissions is increasing and that enrollment, though no longer declining, is likely to grow incrementally and will not return to pre-recession levels in the foreseeable future.

Figure 1. Total J.D. Enrollment, 1999–2019



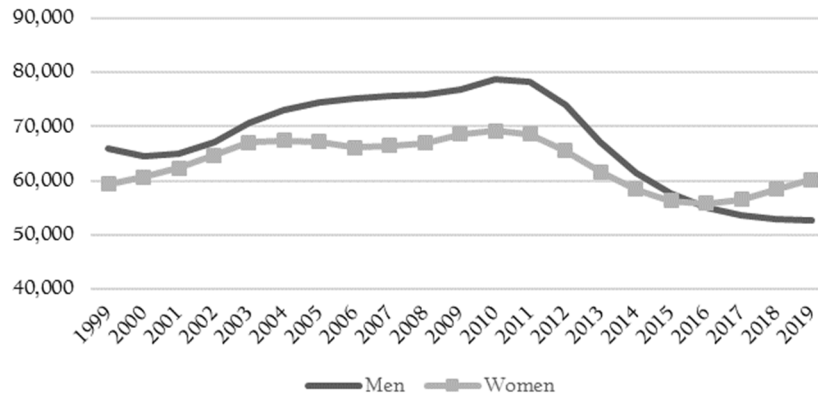
Source: ABA

Figure 2 shows enrollment trends by gender. From 1999 to 2010, there were more men than women attending law school, with male enrollment increasing at a faster rate than female enrollment during the 2000s. From 2011 to 2016, by contrast, male enrollment declined at a faster rate than female enrollment and has continued to decline even as female enrollment began to rebound in 2017. Women have outnumbered men in law school since 2016, and the recent uptick in

²⁰ Almost all of the increase occurred from 2017 to 2018; according to ABA 509 data, there were 37,105 students in the first-year class in 2016, 37,400 in 2017, 38,390 in 2018, and 38,283 in 2019. *Compare* AM. BAR ASS'N, 2017 STANDARD 509 INFORMATION REPORT DATA OVERVIEW (2017), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2017_509_enrollment_summary_report.pdf [https://perma.cc/F88K-DR73], with AM. BAR ASS'N, 2019 STANDARD 509 INFORMATION REPORT DATA OVERVIEW (2019), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/statistics/2019-509-enrollment-summary-report-final.pdf [https://perma.cc/VT9Q-6AWY]. We note that the “First-Year Class” data reported by the ABA appear to count the number of new matriculants in law school and are not the same as “JD1” enrollment data, which count not only new matriculants but also students who were previously enrolled and earned credits but not enough credits to complete the first year of law school. ABA REQUIRED DISCLOSURES, *supra* note 10, at 6 (defining “First-Year Class”); *id.* at 11-12 (defining “JD1,” “JD2,” “JD3,” and “JD4”).

total enrollment is entirely attributable to increasing numbers of women attending law school.

Figure 2. J.D. Enrollment by Gender, 1999-2019

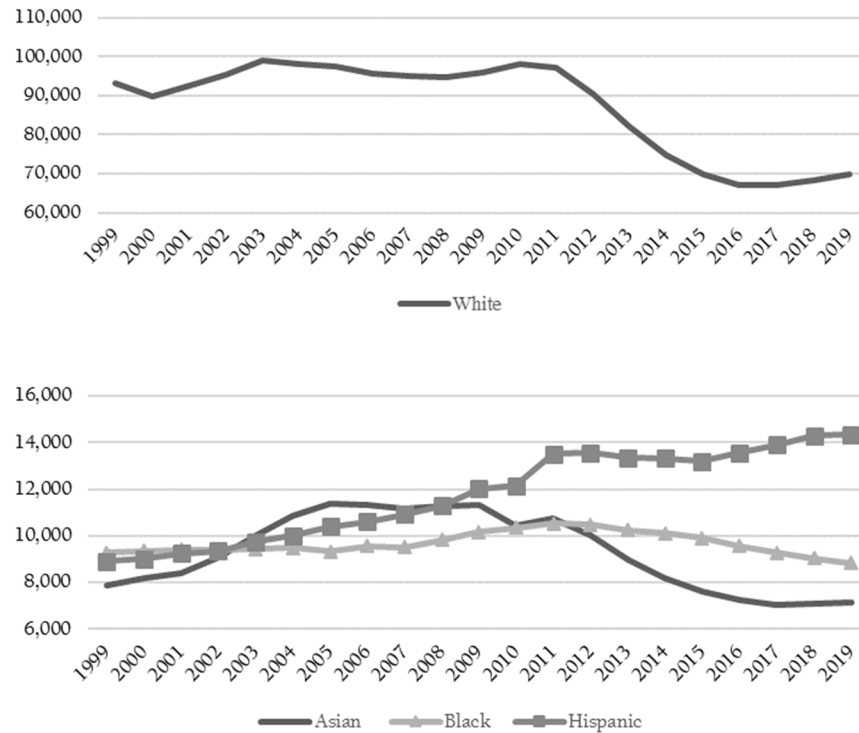


Source: ABA

Figure 3 shows enrollment trends by race and ethnicity.²¹ White enrollment appears in a separate graph from other groups because of the differing enrollment magnitudes. The vertical scaling also differs between the two graphs in order to better depict percentage changes. As noted, the ABA since 2011 has required maximum reporting of Hispanic enrollment — that is, any U.S. citizen or permanent resident who selects “Hispanic” is reported as “Hispanic,” even if the person selects more than one category. Before 2011, by contrast, each student selected only one racial or ethnic category and was reported in that category. Some portion of the observed increase in Hispanic enrollment from 2011 onward may be attributable to this shift in reporting.

²¹ Because the ABA 509 reports before 2011 used the category “Asian” without a separate category for Native Hawaiians or Pacific Islanders, from 2011 onward we combine the counts of “Asian” and “Native Hawaiian or Other Pacific Islander” within the category “Asian” in order to enhance comparability across years. We similarly combine the pre-2011 counts of “Mexican,” “Puerto Rican,” and “Other Hispanic” within the category “Hispanic” in order to enhance comparability with the “Hispanic” category from 2011 onward.

Figure 3. J.D. Enrollment by Race/Ethnicity, 1999–2019



Source: ABA

Asians were the fastest growing group in law school from 1999 until the beginning of the Great Recession in 2009, with enrollment increasing by 43%. By comparison, Hispanic enrollment grew 35%, Black enrollment grew 10%, and White enrollment grew 3% from 1999 to 2009. In the most recent decade, the enrollment of all groups except Hispanics has declined,²² and the enrollment of Asians has declined more steeply than any other group. White enrollment has also declined

²² The continuing rise of Hispanic enrollment, even as the enrollment of other groups has declined, is an interesting development that deserves greater attention. See Taylor, *supra* note 2, at 341-43 (noting rise in Hispanic enrollment from 2010 to 2013). This enrollment trend appears to reflect trends in undergraduate attainment: From 2011 to 2018, the number of bachelor's degrees awarded to Hispanic students increased by 79% — the largest increase of any racial or ethnic group — compared to an increase of 15% overall. See *infra* note 48 and accompanying text. The impact of rising Hispanic enrollments on law schools and the legal profession is a topic worthy of further study.

significantly, while Black enrollment has declined modestly. As a result, the Black and Hispanic shares of total enrollment have increased since 2011, while the Asian and White shares have decreased (Figure 4). We examine the recent trendline for Asian enrollment in greater detail below.

Figure 4. J.D. Enrollment by Race/Ethnicity, 2011 and 2019

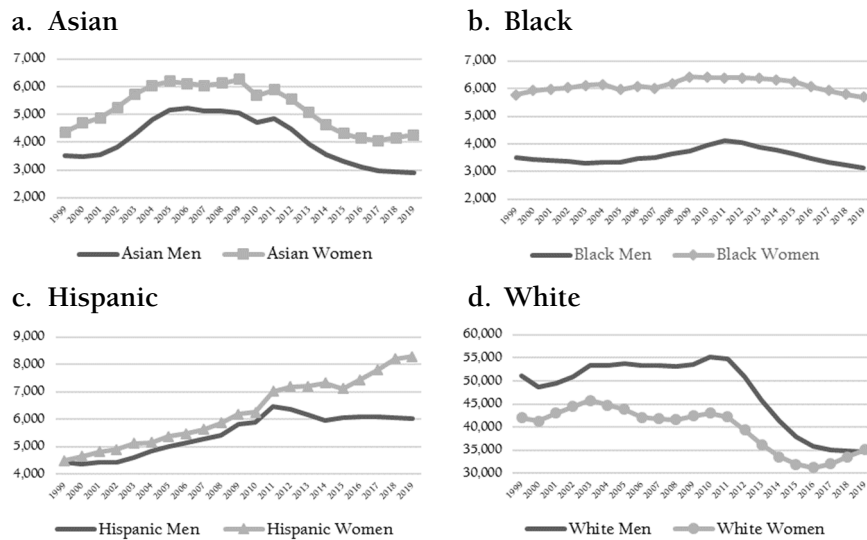
	Asian	Black	Hispanic	White	N
2011	7.3%	7.2%	9.2%	66.1%	146,930
2019	6.3%	7.8%	12.7%	61.9%	112,879

Source: ABA

Figure 5 shows enrollment trends for each racial or ethnic group by gender. Over the past two decades, White men have outnumbered White women in law school, although a recent increase in White female enrollment has now eliminated the gap. Meanwhile, a surge in Hispanic female enrollment has resulted in 38% more Hispanic women than Hispanic men attending law school today. Indeed, the rise in Hispanic enrollment over the past decade is wholly attributable to increasing numbers of Hispanic women, the only subgroup whose enrollment is higher now than before the Great Recession. In contrast to the dynamic trends by gender among Whites and Hispanics, female enrollment has substantially exceeded male enrollment among Asians and Blacks by fairly constant margins over the past two decades. In 2019, women attending law school outnumbered men by 47% among Asians and by 83% among Blacks. Overall, these gender differentials reflect similar trends in undergraduate enrollment and bachelor's degree attainment, except that White women have outnumbered White men in undergraduate enrollment and attainment for more than a decade.²³

²³ See NAT'L CTR. FOR EDUC. STAT., *supra* note 17 (select "Build Table" function and select the "Degree-granting status" category in "Column" and the "Gender" category in "row") (giving the statistics in 2018–2019 on female vs. male awarded degrees); see also CRISTOBAL DE BREY, LAUREN MUSU, JOEL MCFARLAND, SIDNEY WILKINSON-FLICKER, MELISSA DILIBERTI, ANLAN ZHANG, CLAIRE BRANSTETTER & XIAOLEI WANG, NAT'L CTR. FOR EDUC. STATISTICS & AM. INSTS. FOR RESEARCH, STATUS AND TRENDS IN THE EDUCATION OF RACIAL AND ETHNIC GROUPS 2018, at 128, 139, 147 (2019).

Figure 5. J.D. Enrollment by Race/Ethnicity and Gender, 1999–2019



Source: ABA

III. ENROLLMENT TRENDS BY LAW SCHOOL RANKINGS

In order to analyze enrollment across law schools of differing reputation and quality, we developed groupings of schools based on their *U.S. News & World Report* (“*USNWR*”) rankings. The ubiquity of the annual rankings and their role in shaping student, faculty, and industry perceptions of law schools suggest their relevance as a rough sorting mechanism for examining high-level trends. We acknowledge that the *USNWR* rankings have significant limitations, and our study does not use the rankings to make comparisons between individual schools.²⁴

²⁴ For the methodology of the *USNWR* rankings, see Robert Morse, Ari Castonguay & Juan Vega-Rodriguez, *Methodology: 2021 Best Law Schools Rankings*, U.S. NEWS & WORLD REP. (Mar. 16, 2020), <https://www.usnews.com/education/best-graduate-schools/articles/law-schools-methodology> [https://perma.cc/3JYP-A2C6]. For a brief summary of the rankings’ limitations, see Akhil Reed Amar, *Be Skeptical of Law-School and Other College Rankings. Very Skeptical*, L.A. TIMES (Mar. 19, 2019), <https://www.latimes.com/opinion/op-ed/la-oe-amar-law-school-rankings-20190319-story.html> [https://perma.cc/RDB5-USSM]. For a general discussion of the ranking methodology and its pros and cons, see generally Mitchell Berger, *Why the U.S. News and World Report Law School Rankings are Both Useful and Important*, 51 J. LEGAL EDUC. 487 (2001).

We grouped schools into six tiers using a four-step process. First, instead of relying on a single snapshot of rankings for a given year, we calculated a historic average ranking for each law school. We gathered data on rankings for the nine-year period from 2012 to 2020 and then arranged schools in descending order based on their average ranking.²⁵ We were able to calculate nine-year average rankings for 160 schools.²⁶ Second, we provisionally grouped the ranked schools into five tiers, each with a roughly equal number of students based on ABA enrollment data for 2019.²⁷ We chose this approach in order to facilitate comparison of enrollment trends across tiers. Third, we adjusted our groupings in light of any natural breaks in the historical average rankings. Where the enrollment-based groupings placed schools with similar rankings into different tiers, we moved schools up or down one tier as appropriate. We made such adjustments for five schools.²⁸

²⁵ The *USNWR* rankings are categorized according to the year after the one in which they were published; for example, the 2020 rankings refer to the rankings that *USNWR* published in March 2019. We selected 2012 as the beginning year because it is the earliest date for which we could readily obtain reliable rankings for all law schools and because the 2012–2020 rankings period generally matches the period of our main enrollment analyses (i.e., 2011–2018). Because historic rankings are not publicly unavailable on the *USNWR* website, we used records of the rankings transcribed by Pepperdine law professor (and now dean) Paul Caron on his blog. See, e.g., Paul Caron, *2014 U.S. News Peer Reputation Rankings (v. Overall Rankings)*, TAXPROF BLOG (Mar. 12, 2013), https://taxprof.typepad.com/taxprof_blog/2013/03/2014-us-news.html [<https://perma.cc/H2SQ-SBEL>].

²⁶ The *USNWR* rankings cover ABA-approved law schools. If a school was not assigned a specific numerical ranking for a given year, that year was disregarded in calculating the average. However, if during the nine-year period a school had never been assigned a specific numerical ranking of its own — for instance, if it were always listed as part of a range, or if it were not listed at all (i.e., unranked) — then we could not assign the school an average ranking. According to *USNWR*'s methodology, certain schools are unranked or listed as unranked if they are only provisionally approved, on probation status, or not accredited or fully approved by the ABA. See Morse et al., *supra* note 24.

²⁷ The 160 schools enrolled a total of 95,520 students in 2019. We provisionally divided the schools into five tiers so that each tier would have aggregate enrollment of roughly 19,104 students. For example, the first twenty-one ranked schools had an aggregate enrollment of 19,052 students whereas the first twenty-two had an aggregate enrollment of 20,612, so we provisionally defined Tier 1 as the first twenty-one schools. See 2019 STANDARD 509 INFORMATION REPORT DATA OVERVIEW, *supra* note 20.

²⁸ For example, the average rankings of the schools near the provisional Tier 1 cutoff were as follows:

Fourth, we assigned thirty-three unranked law schools to a sixth tier. The results are summarized in Figure 6, and a complete list of schools by tier appears in Appendix A.

Figure 6. Law Schools Arranged by Tiers Based on Nine-Year Average Rank

	Number of schools	Total enrollment
Tier 1	20	18,453
Tier 2	31	19,175
Tier 3	32	19,388
Tier 4	34	17,929
Tier 5	43	20,575
Tier 6 (unranked)	33	14,270

We caution that our categorization of schools is intended only to enable analysis of enrollment trends; it is not intended to create any general lexicon of “Tier 1 schools,” “Tier 2 schools,” and so on. Some ranked schools in each tier would have ended up in a lower tier if we had used more than five tiers, and some in each tier would have ended up in a higher tier if we had used fewer than five tiers. Further, the schools in each tier would have been different if we had created tiers with similar numbers of schools rather than similar numbers of students. In sum, the tiers constructed here provide a practical framework for studying enrollment across differently ranked schools; they are not necessarily relevant or appropriate for other purposes.

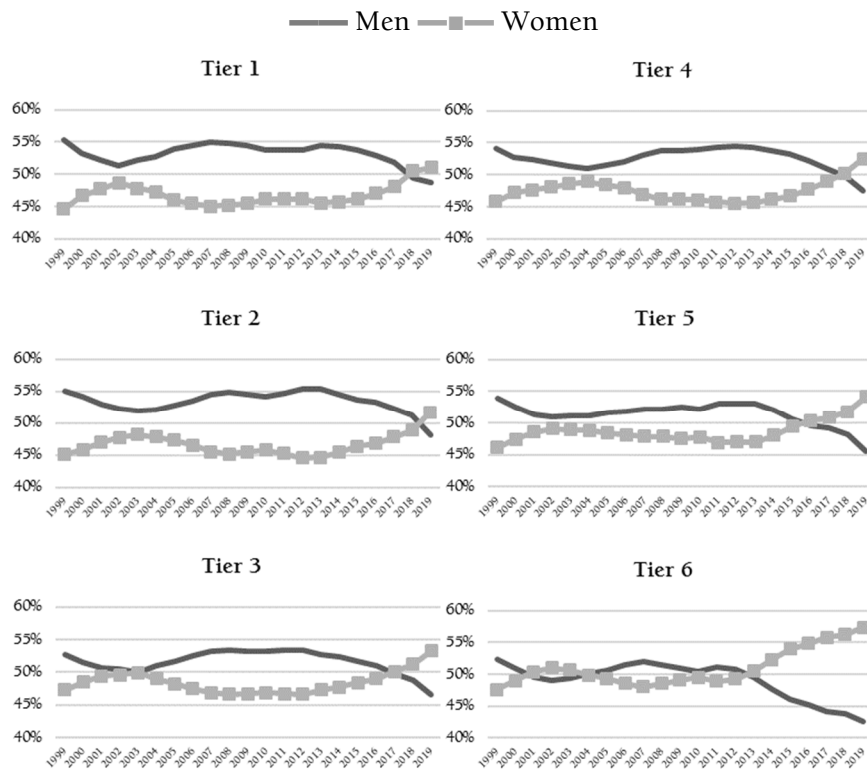
Comparing male and female enrollments across tiers, we observe that over the past decade, women have comprised a greater share of enrollment as one moves from higher to lower tiers. This is evident in

18. University of Southern California	18.67
19. Washington University in St. Louis	18.67
20. University of Minnesota	20.33
21. University of Notre Dame	22.56
22. George Washington University	22.67
23. Emory University	23.00

Although we provisionally assigned the first twenty-one schools to Tier 1, the nine-year average ranking of the twenty-first school, Notre Dame, is closer to the rankings of George Washington and Emory than to the rankings of the University of Minnesota, Washington University, and USC. So we reassigned Notre Dame to Tier 2 and ultimately defined Tier 1 as the first twenty schools. Using this method, we adjusted four other schools: UC Hastings, which we moved from Tier 2 to Tier 3, and Howard, Albany, and Creighton, which we moved from Tier 4 to Tier 5. As a result, Tier 4 has the smallest aggregate enrollment while Tier 5 has the largest.

Figure 7 as the “fish” shape of the curves in the higher tiers transforms into an “alligator” in the lower tiers. In 2019, there were slightly more women than men in Tier 1 and Tier 2 schools, whereas female enrollment significantly exceeded male enrollment in Tier 5 and Tier 6. For the most part, this pattern exists not because the number of women has been increasing more at lower-ranked schools than at higher-ranked schools. To the contrary, from 2014 to 2019, female enrollment increased by 11.1% in Tier 1, 12.2% in Tier 2, 8.9% in Tier 3, 6.5% in Tier 4, and 7.8% in Tier 5, and it decreased by 19.6% in Tier 6. Instead, the observed pattern is due to two main factors: First, male enrollment declined more steeply than female enrollment across all tiers after the enrollment peak in 2010 and has continued to decline in the lower tiers even as female enrollment has leveled off or rebounded. Second, the gender gap in favor of men throughout the 2000s and early 2010s was generally larger at higher-ranked schools; thus, women had more ground to cover in order to close the gender gap in the higher tiers.

Figure 7. J.D. Enrollment by Gender and Tier, 1999–2019



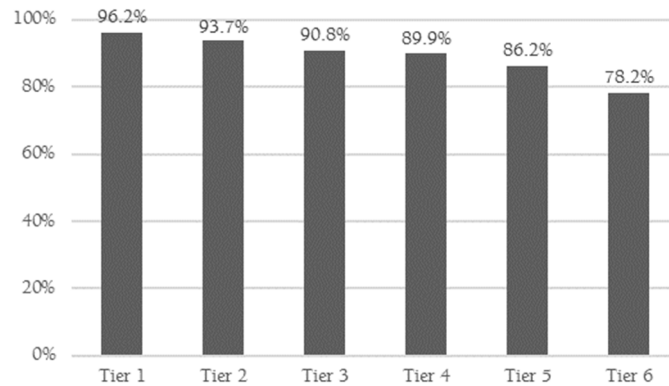
Source: ABA

The distribution of enrollment across tiers provides a more nuanced perspective on the recent increase in women attending law school. Although women have outnumbered men in law school since 2016, female enrollment is somewhat skewed toward lower-ranked schools, which on average have lower rates of bar passage (Figure 8) and post-graduation employment (Figure 9) than higher-ranked schools.²⁹ As

²⁹ In Figure 7, we use ultimate bar passage rates for 2016 graduates (i.e., the rate of bar passage within two years of graduation). See *2016 Ultimate Bar Pass Data*, AM. BAR ASS'N (2016), https://www.americanbar.org/groups/legal_education/resources/statistics/ [https://perma.cc/8YVR-3N2N]. In Figure 8, we use employment rates for 2018 graduates in jobs requiring bar passage and a license in one or more jurisdictions. See *2018 Complete Employment Data*, AM. BAR ASS'N (2018), <http://www.abarequireddisclosures.org/EmploymentOutcomes.aspx> [https://perma.cc/WLX6-73DU]. The data in both figures are averages weighted by the number of graduates from each school.

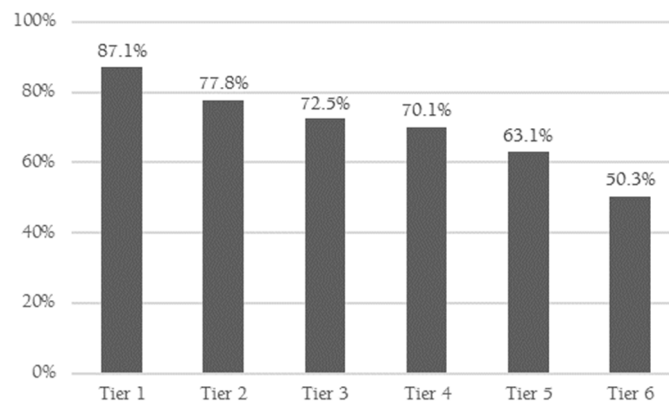
other analysts have observed, the negative correlation between the percentage of women in a law school and the percentage of the school's graduates obtaining jobs requiring bar passage is "a major leak in the pipeline carrying women into the legal profession."³⁰

Figure 8. Bar Passage Rates by Tier, 2016 graduates



Source: ABA

Figure 9. Employment Rates by Tier, 2018 graduates



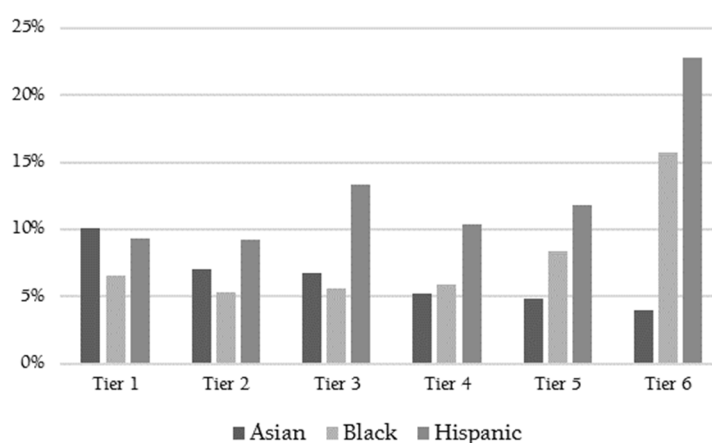
Source: ABA

Examining data across tiers also provides further insight into enrollment trends by race and ethnicity. Since 2011, the White and Asian shares of total enrollment have decreased, while the Black and

³⁰ MERRITT & MCENTEE, *supra* note 4, at 2.

Hispanic shares have increased (Figure 4). But Black and Hispanic students are disproportionately enrolled in lower-ranked schools. In 2019, Whites comprised 61.8%, Hispanics 12.7%, Blacks 7.8%, and Asians 6.3% of total enrollment. As Figure 10 shows, the relative enrollments of these groups differed across tiers. The Asian share of enrollment decreases from higher-tier to lower-tier schools, whereas the Black and Hispanic shares tend to increase.³¹ Black and Hispanic students together comprised over 38% of enrollment in unranked schools (Tier 6) in 2019.

Figure 10. Enrollment by Race/Ethnicity and Tier, 2019



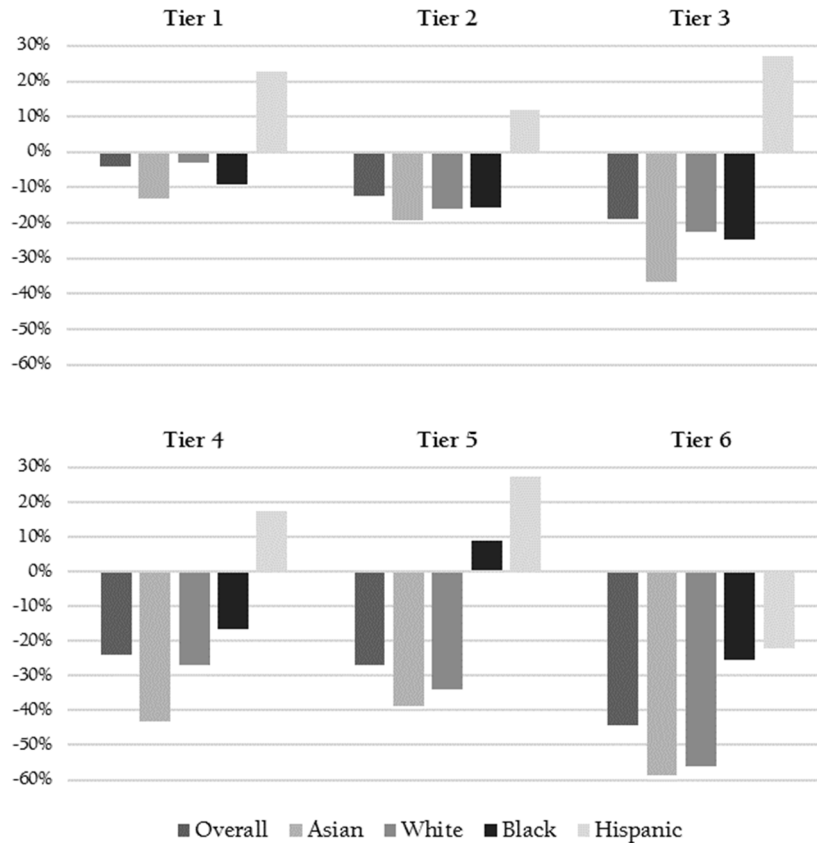
Source: ABA

Disaggregating recent enrollment trends by tier, we observe that the extent of enrollment decline from 2011 to 2019 was smaller at higher-tier schools and greater at lower-tier schools. As the leftmost bars in Figure 11 show, overall enrollment fell by 4.0% in Tier 1, 12.4% in Tier 2, 19.0% in Tier 3, 24.1% in Tier 4, 26.8% in Tier 5, and 44.4% in Tier 6. Asian and White enrollments followed this basic trend, declining less at higher-tier schools and far more at lower-tier schools. By contrast, Hispanic enrollment increased in Tiers 1 through 5, Black enrollment increased in Tier 5, and Black and Hispanic enrollments decreased in Tier 6 to a much lesser extent than Asian and White enrollments.³²

³¹ In 2019, White students comprised 58.0% of enrollment in Tier 1, 66.3% in Tier 2, 63.8% in Tier 3, 68.8% in Tier 4, 66.0% in Tier 5, and 46.3% in Tier 6.

³² Other commentators have noted these general patterns and have raised concerns about “the increasing racial and ethnic stratification among law schools.” Taylor, *supra*

Figure 11. Change in Enrollment by Race/Ethnicity and Tier, 2011–2019



Source: ABA

In sum, although women as well as Black and Hispanic students comprise a greater share of law students today than before the Great Recession, they are disproportionately enrolled in schools with lower rates of bar passage and post-graduation employment. Thus, it is not clear to what extent the changing diversity of law students by race,

note 2, at 354; see, e.g., Scott F. Norberg, *J.D.s and Jobs: The Case for an ABA Accreditation Standard on Employment Outcomes*, 67 J. LEGAL EDUC. 1035, 1053-54 (2018) (reporting that “more minority students are enrolling at schools with lower LSAT scores” and that “women and minorities are disproportionately hurt by law school pricing practices,” consistent with studies showing that Black and Hispanic law students have greater indebtedness than Asian and White students).

ethnicity, and gender will result in greater diversity among new lawyers entering the profession.

IV. ASIAN AMERICAN LAW STUDENTS AND LAWYERS

The *Portrait Project* study highlighted the rapid rise of Asian Americans in the legal profession over the past forty years. As a result of the strong influx of Asians attending law school during the 1990s and 2000s, the number of Asian American lawyers has increased more than five-fold since 1990, from roughly 10,000 to over 53,000 in 2015.³³ But because Asian American law school enrollment has declined significantly over the past decade, the growth rate of Asian American lawyers will attenuate significantly in coming years.

A. Asian American Enrollment Trends

Here we take a closer look at the magnitude of this decline by comparing ABA data and LSAC data. These two data sets provide different estimates of the Asian enrollment decline because they employ different definitions of the term “Asian.” But both data sets confirm that during the years since the Great Recession, law school enrollment has declined more steeply among Asian Americans than among any other racial or ethnic group.

As noted, the ABA 509 reports since 2011 have treated “Asian” and “Nonresident alien” as non-overlapping categories, and the reporting instructions state that nonresident aliens “are to be reported separately . . . , rather than in any of the [other] racial/ethnic categories.”³⁴ Thus, the “Asian” category in the ABA data excludes Asian foreign nationals and captures Asian Americans. This is significant because, as discussed further below, the JD enrollment of Asian foreign nationals has increased significantly in recent years, even as the enrollment of Asian Americans has declined.

Further, the 509 reports treat “Asian” and “Two or more races” as non-overlapping categories, and the reporting instructions state that “a non-Hispanic person who selects two or more of the other racial categories” is to be reported solely in the category “Two or more races.”³⁵ This means that the term “Asian” in the ABA data does not include multiracial students who partly identify as Asian. Because the “Two or more races” count has increased steadily in recent years, and

³³ PORTRAIT PROJECT, *supra* introductory author footnote, at 4, 8.

³⁴ ABA REQUIRED DISCLOSURES, *supra* note 10, at 5.

³⁵ *Id.*

because multiracial Asian Americans likely comprise a significant share of those students,³⁶ the ABA “Asian” category undercounts the number of Asian Americans.

By contrast, the LSAC data from 2010 onward are based on maximum reporting of racial and ethnic categories. This means that LSAC’s “Asian” category includes any student who identifies as Asian, regardless of nationality and regardless of whether the student selects other racial or ethnic categories. Thus, the term “Asian” in the LSAC data includes both Asian Americans and Asian foreign nationals, and also includes multiracial persons who partly identify as Asian.³⁷ Since 2012, LSAC has distinguished between “foreign educated” and “non-foreign educated” students based on the location of a student’s undergraduate education.³⁸ We focus here on “non-foreign educated Asians,” a category that serves as a reasonable proxy for Asian Americans.³⁹

³⁶ Because Hispanic students are reported separately from and prior to students reported as “[t]wo or more races,” the latter category does not include multiracial Hispanic students and is instead mainly comprised mainly of multiracial Asian, Black, and White students. Among the latter three groups, multiracial Asians likely comprise a significant share. See GRETCHEN LIVINGSTON & ANNA BROWN, PEW RESEARCH CTR., INTERMARRIAGE IN THE U.S. 50 YEARS AFTER LOVING V. VIRGINIA 6 (2017), <https://www.pewsocialtrends.org/2017/05/18/intermarriage-in-the-u-s-50-years-after-loving-v-virginia/> [<https://perma.cc/Q6FH-FAH4>] (reporting that the rate of intermarriage in 2015 was 29% among Asians, 18% among Blacks, and 11% among Whites); KIM PARKER, JULIANA MENASCE HOROWITZ, RICH MORIN & MARK HUGO LOPEZ, PEW RESEARCH CTR., MULTIRACIAL IN AMERICA: PROUD, DIVERSE AND GROWING IN NUMBERS 29 (2015), <https://www.pewsocialtrends.org/2015/06/11/multiracial-in-america/> [<https://perma.cc/9E7H-E8ZW>] (indicating that among 9.3 million multiracial Americans reported by the U.S. Census Bureau’s 2013 American Community Survey, the largest groups were White-Black individuals (26%) and White-Asian individuals (20%)). Using a different methodology than the U.S. Census for counting multiracial individuals, the Pew Research Center found that “the mixed-race adult population could be as much as three times what current government estimates suggest.” *Id.* at 32. The Pew methodology, which counts multiracial adults based not only on the racial categories they report for themselves but also on the races they report for their parents and grandparents, finds White-American Indian to be largest group (50%), followed by Black-American Indian (12%), White-Black (11%), White-Black-American Indian (6%), and White-Asian (4%). *Id.* However, among the adults whom the Pew methodology reports as multiracial, only 39% consider themselves multiracial, with adults who are White-Asian most likely to consider themselves multiracial (70%), followed by White-Black (61%), White-Black-American Indian (50%), Black-American Indian (33%), and White-American Indian (25%). *Id.* at 40.

³⁷ See LSAC 2018 REPORT, *supra* note 7, at 2.

³⁸ See *id.* at 13.

³⁹ See *supra* note 17.

In sum, both the ABA data on “Asians” and the LSAC data on “non-foreign educated Asians” are reasonably understood to capture Asian Americans, not Asian foreign nationals. The main difference between these data sets is that the LSAC data include multiracial Asian Americans whereas the ABA data do not.

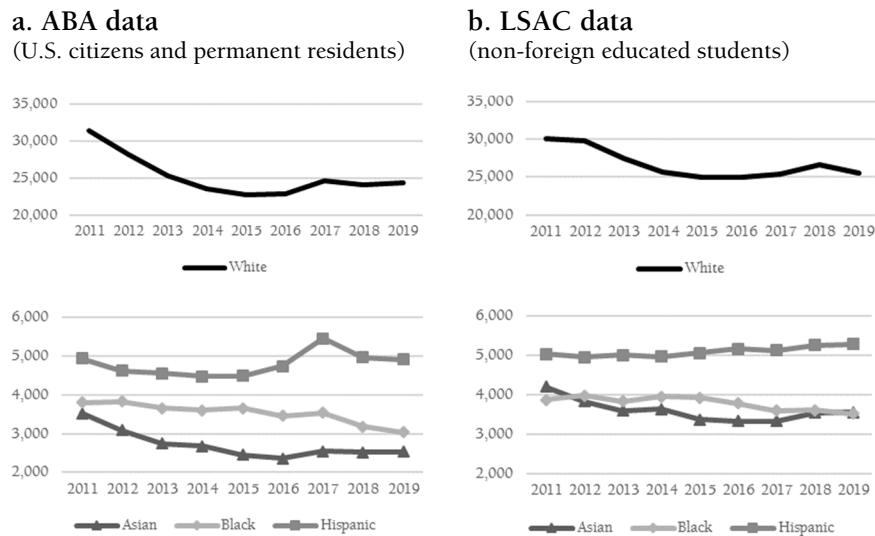
Figure 12 consists of two graphs comparing ABA first-year enrollment data with LSAC data on non-foreign educated matriculants from 2011 to 2019.⁴⁰ We again present White and non-White enrollments on separate graphs with different scaling in order to better depict percentage changes. Although the reporting rubric for each data set is consistent over this period, LSAC’s “non-foreign educated” category goes back only to 2012, not 2011. To address this, we posit that the percentage of Asians in 2011 who were non-foreign educated was the same as the percentage in 2012 and thereby derive a reasonable, likely conservative estimate of the number of non-foreign educated Asians in 2011.⁴¹ We apply the same method to derive estimates of the number of non-foreign educated Blacks, Hispanics, and Whites in 2011.⁴²

⁴⁰ See 2019 STANDARD 509 INFORMATION REPORT DATA OVERVIEW, *supra* note 20; 2017 STANDARD 509 INFORMATION REPORT DATA OVERVIEW, *supra* note 20. First-year enrollment in the ABA data is close but not equivalent to a count of new matriculants, but we use first-year enrollment data here because we do not have ABA “First Year Class” data going back to 2011. For both graphs, we include Native Hawaiians and other Pacific Islanders (a separate category in both data sets) within the Asian category. This results in double-counting in the LSAC graph insofar as some number of students identify as both Asian and Native Hawaiian or Pacific Islander, although that number is small. Similarly, we include Puerto Ricans (a separate category in the LSAC data) within the Hispanic category in the LSAC graph. This also results in double-counting insofar as some number of students identify as both Puerto Rican and Hispanic.

⁴¹ According to LSAC, there were 4,068 Asian matriculants in 2012; among them, 3,700 — or 91% — were non-foreign educated. There were 4,439 Asian matriculants in 2011; imputing the 91% figure yields 4,039 non-foreign educated Asian matriculants in 2011. This estimate is reasonable and probably conservative because the percentage of non-foreign educated Asians was steadily decreasing from 2012 to 2017 (i.e., from 91.0% in 2012, to 89.8% in 2013, to 89.6% in 2014, to 88.6% in 2015, to 88.2% in 2016, to 86.4% in 2017) and because it is likely, in light of the Great Recession, that this decreasing trendline began earlier than 2012. As discussed further below, the ABA data show that from 2011 to 2017, nonresident alien enrollment steadily increased even as Asian American enrollment steadily declined. We err on the conservative side in order to avoid overestimating the decline in Asian American enrollment.

⁴² Whereas over 10% of Asian matriculants are foreign-educated, the foreign-educated shares of Black, Hispanic, Puerto Rican, and White matriculants are between 1% and 2%. The LSAC data show no foreign-educated Native Hawaiian or other Pacific Islander matriculants from 2012 to 2019.

Figure 12. First-year J.D. Enrollment by Race/Ethnicity, 2011–2019



A comparison of Figures 12a and 12b reveals several observations. First, LSAC’s method of maximum reporting, which counts multiracial persons in multiple categories, generally produces higher numbers within each racial or ethnic category than the ABA’s method of non-overlapping reporting, which counts multiracial persons in an entirely separate category (“Two or more races”). Second, both data sets show similar overall trends: Asian and White enrollments have declined significantly, Black enrollment has declined modestly, and Hispanic enrollment has held steady or increased slightly.⁴³ Third, although the LSAC data show a lesser decline in Asian enrollment than the ABA data, both data sets reveal that Asian enrollment — more precisely, Asian American enrollment — has declined more steeply than the enrollment of any other group (see also Figure 13). Whereas Asian Americans were the largest minority group in law school throughout much of the 2000s, their enrollment has trailed both Black enrollment and Hispanic enrollment in recent years. The number of Asian Americans in law school has now regressed to levels observed two decades ago.

⁴³ The ABA data show a significant uptick in Hispanic enrollment in 2017. ABA officials informed us that this appears to be a statistical aberration caused by a temporary change in the definition of first-year and second-year students that resulted in over-reporting of first-year students.

Figure 13. Change in First-Year Enrollment by Race/Ethnicity, 2011–2019

	ABA			LSAC		
	2011	2019	% change	2011	2019	% change
Asian	3,517	2,539	-27.8%	4,203	3,553	-15.5%
Black	3,795	3,034	-20.1%	3,875	3,524	-9.1%
Hispanic	4,940	4,914	-0.5%	5,027	5,287	+5.2%
White	31,358	24,385	-22.2%	30,072	25,571	-15.0%
Total 1Ls	48,996	39,270	-19.9%	47,110	37,417	-20.6%

As Figure 13 shows, LSAC's method of maximum reporting generally produces lower estimates of enrollment change or volatility by group than the ABA's method of non-overlapping reporting. This muting effect of maximum reporting is evidenced by the fact that in the LSAC data, the percentage change in matriculants for any of the four major racial or ethnic groups is less than the percentage change in total matriculants (-20.6%) — an artifact of multiple counting of multiracial students. For Asian Americans, the ABA data show a 27.8% decrease in enrollment from 2011 to 2019, whereas the LSAC data show a decrease of 15.5%. The main reason for this differential is that the LSAC data, but not the ABA data, include multiracial Asian students in the Asian category. As discussed further below, the number and percentage of multiracial students have increased significantly over the past decade.

B. Projected Estimates of Asian American Lawyers

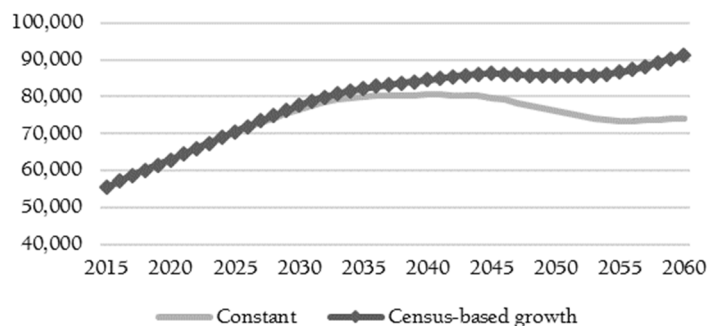
In light of this recent enrollment decline, we sought to estimate the number of Asian American lawyers in future decades using a replacement model in which each cohort of law graduates is assumed to have a forty-year career and is then replaced by an entering cohort of new law graduates.⁴⁴ Consistent with data from other studies, our model estimates that 8% of Asian American law graduates do not pass the bar exam and that 20% of those admitted to the bar do not end up practicing law.⁴⁵ We examined two scenarios based on the ABA data:

⁴⁴ To estimate the size of the Asian American lawyer population, we used ABA data on third-year enrollment from 1972 to 2010 and on actual law degrees awarded from 2011 to 2018 to estimate the size of the lawyer cohort in those years. In addition, we used first-year and second-year enrollment data for 2018 to estimate the number of new lawyers in 2019 and 2020, respectively. Our model underestimates the number of Asian American lawyers to the extent that the "Asian" category in the ABA data from 2011 forward do not include multiracial Asians.

⁴⁵ LINDA F. WIGHTMAN, LAW SCH. ADMISSION COUNCIL, LSAC NATIONAL LONGITUDINAL BAR PASSAGE STUDY 32 tbl.10 (1998) (reporting that 91.88% of Asian

The “Constant” scenario assumes no change in the annual number of Asian American law graduates from 2020 onward. The “Census-based growth” scenario assumes that Asian American law graduates will increase in proportion to the population of Asian eighteen- to thirty-four-year-olds in the U.S. population, i.e., an annual growth rate of roughly 1% over the next forty years.⁴⁶

Figure 14. Projected Number of Asian American Lawyers, 2015–2060



As Figure 13 shows, the number of Asian American lawyers will rise significantly until 2030 under both scenarios. This is because pre-1990 cohorts were fairly small, and as those cohorts retire, they will be replaced by new cohorts that are significantly larger. From 2030 to 2050, however, the total number of Asian American lawyers will plateau or decline. Under both scenarios, the entering cohorts will be smaller than the large retiring cohorts of Asian American lawyers who attended

students entering law school in 1991 eventually passed the bar exam); AM. BAR FOUND. & NAT'L ASS'N OF LAW PLACEMENT, *AFTER THE JD III: THIRD RESULTS FROM A NATIONAL STUDY OF LEGAL CAREERS* 21 tbl.2.1 (2014) (showing that 21.4% of study participants were not practicing law seven years after bar admission in 2000 and 19.2% were not practicing law twelve years after bar admission).

⁴⁶ See 2017 *National Population Projection Tables*, U.S. CENSUS BUREAU, at tbl.6 (2017), <https://census.gov/data/tables/2017/demo/popproj/2017-summary-tables.html> [<https://perma.cc/HN97-83A5>] (providing data by race and Hispanic origin for different age groups). The eighteen to thirty-four age group is most relevant for our purposes. Cf. Anusia Gillespie, *The Horrible Conflict Between Biology and Women Attorneys*, AM. BAR ASS'N (Nov. 2016), <https://www.americanbar.org/careercenter/blog/the-horrible-conflict-between-biology-and-women-attorneys/> [<https://perma.cc/94FV-5V36>] (estimating that the average law student is twenty-seven years old at graduation, based on a sample of schools). Because the Census table provides population projections decade by decade, we calculated a compound annual growth rate for each decade from 2020 to 2060 as follows: 0.93% for 2020–30, 1.09% for 2030–40, 1.06% for 2040–50, and 0.76% for 2050–60.

law school during the 1990s and 2000s. After 2050, the number of Asian American lawyers will gradually increase under the Census-based growth scenario, as entering cohorts become larger than the retiring cohorts comprised of Asian American lawyers who attended law school during the enrollment decline of the 2010s.

These projections assume that no extrinsic forces will substantially affect current patterns of Asian Americans choosing to attend law school. However, future changes in market conditions could produce either a sustained increase in Asian American enrollment like what occurred during the 1990s and 2000s, or a sustained decrease like what has occurred in the 2010s, or potentially both over the coming decades. Moreover, it is possible that increased outreach and information during college or earlier in the educational pipeline can encourage more Asian Americans to attend law school.

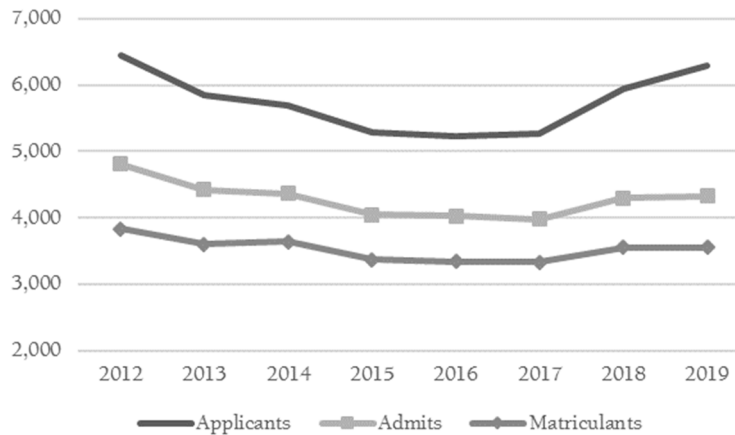
C. Why Is Asian American Law School Enrollment Declining?

While the data clearly show that law school enrollment has declined among Asian Americans more than among other groups, there is a dearth of empirical data illuminating the reasons why. Here we explore some possible explanations, starting with whether the decline in Asian American law school enrollment reflects a similar decline in Asian Americans applying to law school.

Using LSAC data, Figure 15 shows the number of non-foreign educated Asian applicants, admits (i.e., applicants admitted to at least one law school), and matriculants for the 2012 to 2019 academic years. The parallel trendlines show that the decline in new matriculants through 2016 reflects a similar decline in Asian Americans who applied and were admitted. These data suggest that the enrollment decline among Asian Americans reflects a decline in interest in law school as evidenced by declining applications, as opposed to a decrease in admission rates or a decrease in matriculation rates among admitted applicants.⁴⁷

⁴⁷ From 2012 to 2017, the admission rate for non-foreign educated Asian applicants was 75% to 77%. Their admission rate fell to 72% in 2018 and 69% in 2019, which accounts for the slightly wider divergence between applicants and admits in those years. From 2012 to 2019, the matriculation rate for non-foreign educated Asian admits was 80% to 84%.

Figure 15. Non-Foreign Educated Asian JD Applicants, Admits, and Matriculants, 2012–2019



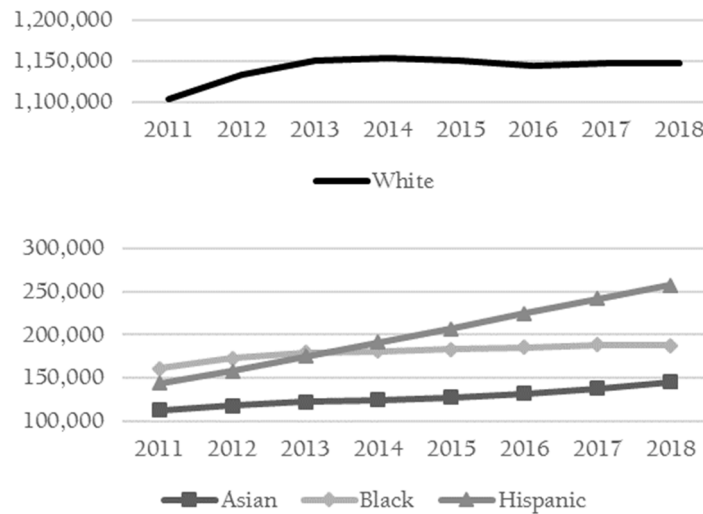
Source: LSAC

A second question is whether the recent decline in Asian American law school applicants and matriculants reflects a similar decline in undergraduate attainment. Figure 16 shows data from the National Center for Education Statistics on the number of bachelor's degrees awarded from 2011 to 2018.⁴⁸ The number of bachelor's degrees awarded to Asian Americans increased by 29% during this period, even as Asian American enrollment in law school decreased substantially. These data indicate that the recent decline in Asian American law school enrollment is not attributable to declining Asian American undergraduate attainment. Among other groups, law school enrollment also did not keep pace with undergraduate attainment from 2011 to 2018. Bachelor's degrees awarded to Black students and White students increased by 17%, and 4%, respectively, while law school enrollment decreased modestly among Blacks and decreased substantially among Whites. Among Hispanics, the number of bachelor's degrees awarded

⁴⁸ *Trend Generator*, *supra* note 17 (select "Build Table" function; select the "Award level" category in "column" and the "Race/ethnicity" selection in "row;" then in the "Asian," "Black," "White," or "Hispanic" category under the Bachelor's degree, click the bar graph icon to view the value over time). These data are reported with the same racial and ethnic category definitions as the ABA data from 2011 forward. The "Asian" category in Figure 16 includes Native Hawaiians and other Pacific Islanders. The years on the horizontal axis (i.e., 2011 to 2018) denote the academic years from 2010–11 to 2017–18, the most recent year for which these data are available.

increased by 79% during this period, while law school enrollment increased only modestly.

Figure 16. Bachelor's Degrees Awarded by Race/Ethnicity, 2011–2018



Source: NCES

Why has law school enrollment declined the most among Asian Americans over the past decade, even as the number of bachelor's degrees awarded to Asian Americans has increased? Have Asian Americans, to a greater extent than other groups, gravitated toward other fields? We lack systematic data on advanced education or employment pathways for Asian American college graduates, including those who have entered the technology or engineering sectors. But it is somewhat notable that Asian American enrollment in medical school has increased by 12.5% over the past five years,⁴⁹ and the share of business students who are Asian American may be growing as well.⁵⁰ Moreover, it is well known that since the Great Recession, college

⁴⁹ See ASS'N OF AM. MED. COLLS., TABLE B-3: TOTAL U.S. MEDICAL SCHOOL ENROLLMENT BY RACE/ETHNICITY (ALONE) AND SEX, 2015-2016 THROUGH 2019-2020, at 1 (2019), https://www.aamc.org/system/files/2019-11/2019_FACTS_Table_B-3.pdf [<https://perma.cc/BH6B-ANW2>].

⁵⁰ Compare ASS'N TO ADVANCE COLLEGIATE SCH. OF BUS., BUSINESS SCHOOL DATA GUIDE 57 (2019) (reporting that Asians comprised 9.1% of students in U.S. business schools pursuing "Master's Generalist" degree in 2017–18, i.e., predominantly MBA students), with ASS'N TO ADVANCE COLLEGIATE SCH. OF BUS., BUSINESS SCHOOL DATA GUIDE 39 (2018) (reporting that Asians comprised 8.4% of such students in 2016–17).

students have shifted away from liberal arts and humanities majors in favor of science, technology, engineering, and mathematics (“STEM”) fields,⁵¹ but we are not aware of data indicating whether this shift is more pronounced for Asian Americans than for other groups.

From the AALS’s recent study of undergraduate views on graduate and professional education, we see clear indications that Asian undergraduates express less interest in law school than other groups.⁵² In a fall 2017 survey of 22,189 undergraduates at twenty-five four-year institutions, over 70% said they were likely to pursue an advanced degree. Among these students, Figure 17 shows the percentages of students in each group who expressed interest in various fields. Only 8% of Asians, compared to 15% of students overall, expressed interest in law.⁵³ Asians made up 9% of the undergraduates considering law but 17% of those considering other fields.⁵⁴

Figure 17. Percentage of Undergraduates Considering Various Advanced Degrees, 2017 (among undergraduates likely to pursue an advanced degree)

	Asian	Black	Hispanic	White	All
MA/MS	62%	60%	64%	64%	63%
PhD	32%	31%	37%	33%	34%
MBA	28%	22%	18%	23%	23%
MD	17%	18%	18%	12%	14%
JD	8%	16%	15%	16%	15%
N	2,477	822	1,496	10,698	15,850

Source: AALS

The AALS study asked undergraduates considering law to select from various response items “the top three factors that might prevent you from going to law school.” Compared to other groups, Asians more

⁵¹ See Benjamin Schmidt, *The Humanities Are in Crisis*, ATLANTIC (Aug. 23, 2018), <https://www.theatlantic.com/ideas/archive/2018/08/the-humanities-face-a-crisis-of-confidence/567565/> [<https://perma.cc/Z5XV-5LE6>]; *Bachelor’s Degrees in the Humanities*, AM. ACAD. OF ARTS & SCIS., <https://www.amacad.org/humanities-indicators/higher-education/bachelors-degrees-humanities> (last visited Sept. 22, 2020) [<https://perma.cc/R4D5-R75N>].

⁵² The study did not distinguish between foreign nationals and U.S. citizens or permanent residents, so we use the term “Asian” instead of “Asian American” in discussing the study’s findings.

⁵³ BEFORE THE JD, *supra* note 6, at 24 fig.1.1; BEYOND THE BACHELOR’S, *supra* note 6, at 28 tbl.2.1.

⁵⁴ BEFORE THE JD, *supra* note 6, at 25, 27 tbl.1.2.

often selected “Too few jobs in this field pay enough money” and “Little advancement opportunity in the field/takes too long to move up.”⁵⁵ The study also found that among undergraduates considering law, Asians more often than other groups selected “Potential to earn a lot of money” as one of the three most important characteristics in thinking about which career to pursue.⁵⁶ To the extent that financial considerations become more pronounced during periods of economic stress, the greater sensitivity of Asians to such concerns may help explain the declining enrollment of Asian Americans in law school.

The AALS study suggests other factors that may be contributing to the decline in Asian law school enrollment. In addition to surveying undergraduates, the AALS study gathered survey data from 2,727 first-year law students at forty-four law schools and, among other questions, asked, “When did you first consider going to law school?”⁵⁷ As Figure 18 shows, 28% of Asians first considered law school after college, compared to 16% of law students overall. Meanwhile, well more than half of all law students (and more than two-thirds of Black students) first considered law school before high school, but only 45% of Asians did.

⁵⁵ *Id.* at 50 fig.6.2 (reporting that among undergraduates considering law, 25% of Asians, 14% of Blacks, 18% of Hispanics, 16% of Whites, and 17% overall selected “[t]oo few jobs in this field pay enough money,” and 18% of Asians, 14% of Blacks, 10% of Hispanics, 9% of Whites, and 10% overall selected “little advancement opportunity in the field/takes too long to move up”); *cf.* BEYOND THE BACHELOR’S, *supra* note 6, at 44 fig.4.2 (reporting that among undergraduates likely to pursue an advanced degree, 41% of Asians, 37% of Blacks, 34% of Hispanics, 37% of Whites, and 37% overall selected “[t]here are high-paying jobs in the field” as one of the top three factors for considering graduate or professional school, not including law school).

⁵⁶ BEFORE THE JD, *supra* note 6, at 30 fig.1.3 (reporting that among undergraduates considering law, 79% of Asians, 81% of Blacks, 73% of Hispanics, 67% of Whites, and 70% overall selected “Potential to earn a lot of money”). Although Asians appear more concerned than other groups about future earnings in choosing an advanced degree, Asians appear less concerned than other groups about the cost of education or potential indebtedness. *See id.* at 50 fig.6.2 (reporting that among undergraduates considering law, 60% of Asians, 65% of Blacks, 71% of Hispanics, 62% of Whites, and 63% overall selected “Overall cost/potential debt is too high” as a factor that “might prevent you from going to law school”); *see also* GITA Z. WILDER, NAT’L ASS’N FOR LAW PLACEMENT, LAW SCHOOL DEBT AMONG NEW LAWYERS: AN AFTER THE JD MONOGRAPH 9 tbl.2A (2007) (reporting that Asians in the *After the JD* study graduated from law school with lower debt than Blacks, Hispanics, or Whites).

⁵⁷ BEFORE THE JD, *supra* note 6, at 32 fig.2.1, 108 tbl.A2.1.

Figure 18. Law Student Responses to “When Did You First Consider Going to Law School?”

	Asian	Black	Hispanic	White	All
During high school or earlier	45%	68%	56%	54%	55%
During college	27%	25%	30%	30%	29%
After college	28%	7%	14%	17%	16%
N	282	166	258	1,917	2,666

Source: AALS

In addition, the AALS study found that Asians, to a greater degree than other groups, rate “whether my family thinks it would be a good choice” as an important factor in their selection of a career.⁵⁸ Lack of familiarity with legal careers or the American legal system among parents or family members may partly account for the fact that Asians are significantly less likely to consider law school before college than members of other groups.⁵⁹

The AALS survey is a snapshot at a single point in time and does not provide data on whether or how student interests and perspectives have changed over time. From the survey, we cannot draw any inference that declining law school enrollment among Asian Americans is attributable to declining interest in law. In addition, the AALS survey did not distinguish between Asian Americans and Asian foreign nationals, and it is possible that the data in Figures 17 and 18 would be different if Asian Americans were the focus. Nevertheless, considering those figures together, we find it significant that a disproportionate number of Asian law students indicate that they first considered law school at a later stage of their educational careers. If economic conditions in the

⁵⁸ *Id.* at 30 fig.1.3 (reporting that among undergraduates surveyed, 51% of Asians, 43% of Blacks, 36% of Hispanics, and 37% of Whites rated “whether my family thinks it would be a good choice” as an extremely or somewhat important factor in selecting a career).

⁵⁹ See PORTRAIT PROJECT, *supra* introductory author footnote, at 7 (reporting that in a survey of over 600 Asian American lawyers, 94.5% of respondents did not have any parent with a law degree).

wake of the Great Recession motivated an increasing share of students to decide on their advanced education or career paths before or during college (i.e., students felt pressure to get “on track” before completing college), then the share of students who formed their advanced degree aspirations after college would have decreased.⁶⁰ Against this backdrop, the disproportionate tendency of Asian students to consider law school later in their educational careers may also help explain the disproportionate decline in Asian law school enrollment.

In sum, the available data, though limited, suggest at least two possible reasons for the disproportionate decline in Asian American law school enrollment over the past decade. First, concerns about future earnings may have caused Asian Americans, more so than other groups, to turn away from law. Second, the Great Recession may have disproportionately narrowed the pool of Asian Americans considering law school to the extent that (a) economic stress motivates a greater share of students to decide on their advanced education or career paths during or before college and (b) a higher share of Asians, compared to other groups, do not consider law school until after college.

The AALS study concluded that “[b]ecause most law students first considered law school before college, law schools may wish to consider developing ways to connect with high school students and ensure that law schools are well-represented at undergraduate career programs and fairs.”⁶¹ Such outreach efforts — not only by law schools but also by bar associations, ethnic affinity groups, and civic education organizations⁶² — may be especially important to stem the decline of Asian Americans

⁶⁰ In this regard, it is notable that Asian Americans are more likely than other groups to be enrolled in further schooling in the initial years after completing college. A recent study by the Economic Policy Institute reports that in 2019, 38.2% of Asian American college graduates of ages twenty-one to twenty-four were enrolled in further education, compared to 27.2% of Blacks, 23.7% of Hispanics, and 22.8% of Whites. ELISE GOULD, ZANE MOKHIBER & JULIA WOLFE, ECON. POLICY INST., CLASS OF 2019 COLLEGE EDITION 10 fig.D (2019). This report does not indicate whether the percentage of Asian American college graduates who immediately pursue further education has increased since the Great Recession. But in light of the data above in Figure 18, we might expect that among students pursuing further education immediately after college, the percentage choosing law would be lower for Asian Americans than for other groups.

⁶¹ BEFORE THE JD, *supra* note 6, at 19.

⁶² See, e.g., Karen Sloan, *New Network of High Schools Aims to Boost Diversity in Legal Education and Beyond*, LAW.COM (Nov. 18, 2019), <https://www.law.com/2019/11/18/new-network-of-high-schools-aims-to-boost-diversity-in-legal-education-and-beyond/> [<https://perma.cc/U6Q4-JXNN>] (reporting that LSAC and Street Law have compiled a new directory of 200 high schools across the country organized around a law and justice curriculum, “the first time national data has been compiled on law-focused high schools”).

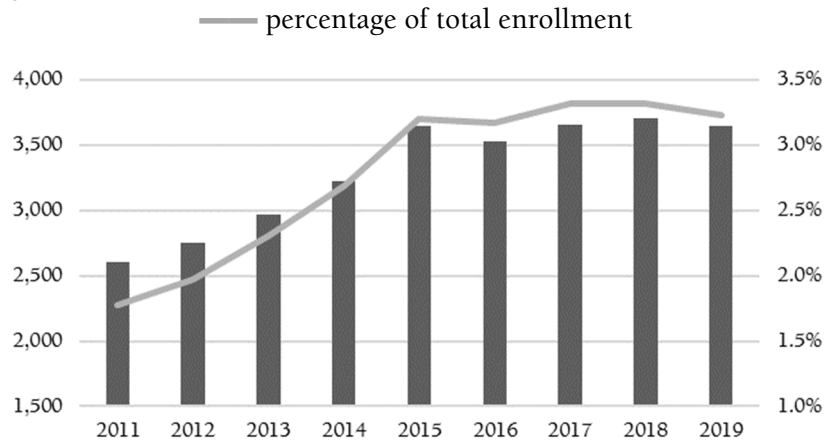
attending law school insofar as Asian Americans seem to disproportionately lack information or encouragement to consider law at an early stage of their educational careers.

V. RISING NUMBERS OF FOREIGN JD STUDENTS

In the wake of the Great Recession, many law schools expanded their LLM programs and enrolled large numbers of foreign students in those programs. What is less well known is that the number of foreign students has also increased in the JD program over the past decade.⁶³ This phenomenon underscores the importance of distinguishing between Asians and Asian Americans in charting enrollment trends.

Figure 19 shows the number and percentage of JD students reported as “Non-resident aliens” in the ABA data from 2011 to 2019. Foreign enrollment increased almost 40% during this period, even as overall enrollment declined. As a result, foreign students have comprised an increasing percentage of the student population.

Figure 19. JD Enrollment of Non-Resident Aliens, 2011–2019



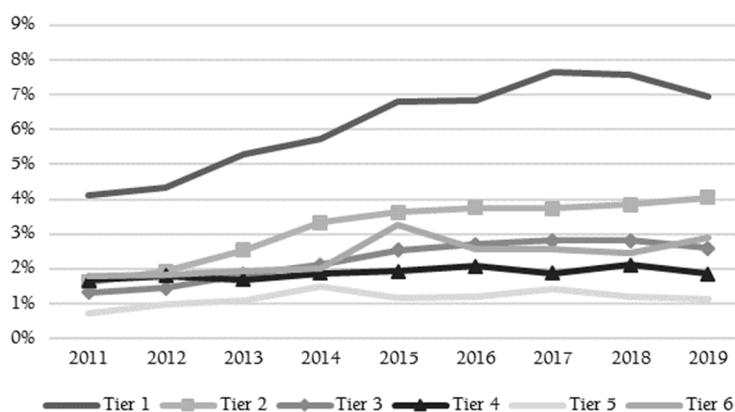
Source: ABA

An interesting feature of this growth is its concentration in the upper tier of law schools (Figure 20). In Tier 1, non-resident aliens increased from 4.1% of total enrollment in 2011 to 7.0% in 2019, nearly doubling in number over this period. By comparison, non-resident aliens on

⁶³ See generally Swethaa S. Ballakrishnen & Carole Silver, *A New Minority? International JD Students in US Law Schools*, 44 L. & SOC. INQUIRY 647 (2019).

average comprised 2% to 3% of total enrollment outside of Tier 1 during this period. Thus, as other scholars have observed, “although nonresident aliens are an increasing law student demographic, their relative presence is, at least for the time being, likely to be most significantly felt within highly ranked law schools.”⁶⁴ It is possible that foreign students are concentrated at the top schools because those schools have greater name recognition abroad or because foreign students are less inclined to travel to the United States to attend lower-ranked schools. It is also possible that the top schools have made deliberate choices to enroll more foreign students. These various explanations are topics for future research.

Figure 20. Non-Resident Aliens as Percentage of Total Enrollment, 2011–2019



Source: ABA

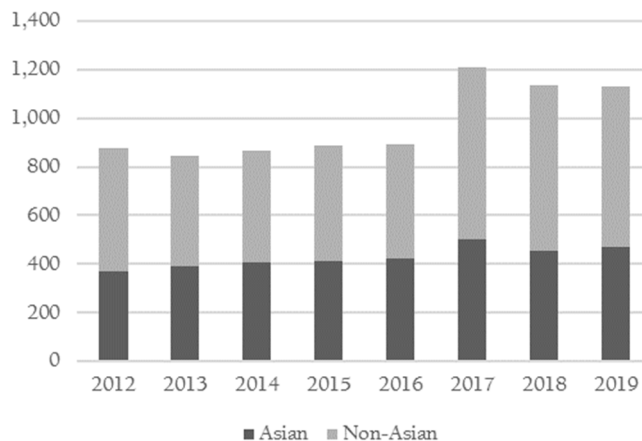
Another important dimension of the growth in foreign JD students is that Asians by far comprise the largest share of these students. Although the ABA data do not disaggregate non-resident aliens by race or ethnicity, the LSAC data on “foreign-educated” students (a reasonable approximation of foreign students⁶⁵) does disaggregate students by race

⁶⁴ *Id.* at 655; see DAVID B. WILKINS & BRYON FONG, HARV. LAW SCH., REPORT ON THE STATE OF BLACK ALUMNI II, 2000–2016, at 36 tbls.3-4 (2017) (reporting that among a sample of 525 Black alumni of Harvard Law School, forty identified as “African” or “Caribbean” and not as “African American/Black”).

⁶⁵ As a proxy for foreign students, LSAC’s “foreign-educated” category is overinclusive to the extent that some U.S. citizens earned their college degrees abroad, and it is underinclusive to the extent that some foreign students earned their college

and ethnicity. Figure 21 shows the number of Asian and non-Asian foreign-educated matriculants from 2012 to 2019. Over this period, Asians comprised 40% to 47% of all foreign-educated students.

Figure 21. Foreign-Educated Matriculants (1Ls), 2012–2019



Source: LSAC

Whereas the percentage of all matriculants who were foreign-educated grew from 2.1% in 2012 to 3.1% in 2019, the percentage of Asian matriculants who were foreign-educated grew from 8.8% to 11.7% over this period. No other racial or ethnic group has a remotely comparable percentage of foreign-educated students.⁶⁶ These data make clear that reporting “Asians” as a single inclusive category, without distinguishing between foreign nationals and U.S. citizens, obscures our understanding of Asian American enrollment trends. Over the past decade, the enrollment of Asian foreign nationals in law school has increased, while the enrollment of Asian Americans has decreased. The same is true for Asian law school applicants: from 2012 to 2019, the number of foreign-educated Asian applicants increased by 31.9% (from 867 to 1,144), whereas the number of non-foreign-educated Asian

degrees in the United States. The latter number may be quite substantial in light of the increasing number of non-resident aliens earning bachelor’s degrees in the United States. *See supra* note 17.

⁶⁶ In 2019, the percentage of foreign-educated students was 1.9% among Black matriculants, 2.3% among Hispanics (including Puerto Ricans), and 1.9% among Whites.

applicants decreased by 2.5% (from 6,450 to 6,288). Disaggregation by nationality is vital to discerning these trends.

Because Asians comprise such a significant component of the increasing number of foreign JD students, the trajectories of these students in the legal profession is a topic worthy of serious inquiry. In contrast to the LLM degree, “the JD offers the most likely path into the US legal labor market.”⁶⁷ We presently know little about how the experiences of Asian foreign nationals who become licensed to practice law in the United States resemble or differ from the experiences of Asian American lawyers. It is possible that many Asian foreign nationals who attend law school already have deep ties to the United States and readily assimilate within the American legal profession, while others pursue a more cosmopolitan trajectory that integrates law practice in the United States with practice in their home countries.⁶⁸ The shape of these students’ careers, as well as how they perceive themselves and are perceived by others, may affect the degree to which they serve as mentors and role models for Asian Americans, many of whom may aspire to similar career paths. The experiences of Asian foreign nationals may also affect societal understandings and expectations regarding the place of Asian Americans in the legal profession and its various sectors. Because Asians have long been stereotyped as foreign, nationality may have limited relevance as a variable affecting societal perceptions, career aspirations, and opportunity structures in the United States. In addition, the broad continuum of immigration histories among Asians in the United States may render the distinction between citizens and foreign nationals somewhat porous as a matter of lived experience. In sum, the impact of the growing number of Asian foreign JD students is ripe for future research.

VI. RISING NUMBERS OF MULTIRACIAL STUDENTS

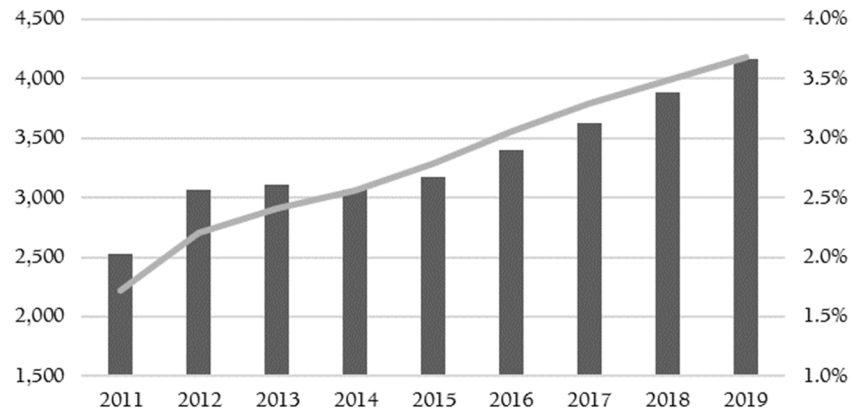
As noted, the ABA count of “Asians” and the LSAC count of “non-foreign-educated” Asians provide reasonable counts of Asian Americans. The principal difference is that the LSAC data, but not the ABA data, include multiracial Asian Americans. Whereas the LSAC data count multiracial students in every racial or ethnic category they select, the ABA data report students who select two or more races as a separate category. The number and percentage of students reported as “Two or

⁶⁷ Ballakrishnen & Silver, *supra* note 63, at 659.

⁶⁸ *See id.* at 668-73 (describing these and other forms of “identity negotiation” by students with regard to their international status).

more races” have increased in recent years (Figure 22). These data exclude Hispanic students and non-resident aliens, each of which is reported separately in the ABA data. Students reported as “Two or more races” are not concentrated in any particular tier.⁶⁹

Figure 22. JD Enrollment of Students of Two or More Races, 2011–2019
— percentage of total enrollment



Source: ABA

Corroborating this trendline is Figure 23, which shows the difference between the total number of unique matriculants and total counts across all racial and ethnic categories resulting from LSAC’s method of maximum reporting. The extent of multiple counting has grown in recent years, which suggests an increase in multiracial students. The LSAC data include Hispanic students and thus indicate higher numbers of multiracial students than the ABA data, although the extent of multiple counting does not yield a precise count of multiracial students because some students may be reported in more than two categories.

⁶⁹ In 2018, students reported as “[t]wo or more races” comprised 3.7% of total enrollment in Tier 1, 3.2% in Tier 2, 2.8% in Tier 3, 4.0% in Tier 4, 3.1% in Tier 5, and 3.7% in Tier 6.

Figure 23. Multiple Counting of Non-Foreign-Educated Matriculants, 2012–2019

	Unique count	Total count (max report)	Difference	Percentage difference
2012	41,904	44,687	2,783	6.6%
2013	38,506	41,456	2,950	7.7%
2014	36,926	40,122	3,196	8.7%
2015	35,437	39,040	3,603	10.2%
2016	35,509	39,097	3,588	10.1%
2017	35,008	38,976	3,968	11.3%
2018	36,359	40,654	4,295	11.8%
2019	36,285	40,747	4,462	12.3%

Source: LSAC

We do not have individual-level data on the racial and ethnic composition of multiracial students in the ABA or LSAC data sets. But the rising number of multiracial students suggests the importance of collecting and reporting such data. The ABA data on Asian, Black, and White students will increasingly provide an undercount of those groups as the number of students in the “Two or more races” category continues to grow.⁷⁰

VII. DISCUSSION

Over the past two decades, the number of students attending law school has been in nearly constant flux. Enrollment increased significantly during the decade before the Great Recession and has decreased even more significantly during the decade since. Today there are nearly 25% fewer law students than there were at the peak in 2010 and 10% fewer than there were twenty years ago. Although law school applicants have increased by nearly 11% since 2016, new matriculants have increased by only 3%. After twenty years of dynamic growth and decline, it is possible that law school enrollment is now entering a period of relative constancy. It remains to be seen how industry developments or changes in social, economic, or political conditions, such as the coronavirus pandemic or the outcome of the 2020 U.S. election, will affect enrollment going forward.

Our analysis reveals several demographic trends that merit further inquiry. First, women have outnumbered men in law school since 2016.

⁷⁰ See *supra* note 36 and accompanying text.

Male enrollment peaked in 2010 and has declined every year since, while female enrollment has risen gradually since its nadir in 2016. The recent uptick in overall enrollment is entirely attributable to increasing numbers of women attending law school. And the current majority status of women in law school is almost wholly due to the substantial predominance of women among Asian, Black, and Hispanic students.

Given the historic predominance of men in law school and the legal profession, the implications of this current trend for legal education and the profession deserve careful study. Women have closed the gender gap at the top-ranked schools as a whole, and there are signs that women are leveraging these opportunities for further success. In the fall of 2019, the editors-in-chief of the principal law reviews at the top sixteen schools were all women; indeed, women have held half or more of those editor-in-chief positions for each of the past five years.⁷¹ In the 2018 Term of the U.S. Supreme Court, more than half the law clerks were women for the first time.⁷² And consistent with the changing gender makeup of the student population, a record number of women are now serving as law school deans.⁷³

⁷¹ We are grateful to Noor-ul-ain Hasan, Editor-in-Chief of Volume 108 of the *California Law Review*, for first bringing these observations to our attention. See Karen Sloan, *Women Hold Editor-in-Chief Positions at the 16 Most Elite Law Reviews*, LAW.COM (Jan. 21, 2020), <https://www.law.com/2020/01/21/women-hold-editor-in-chief-positions-at-the-16-most-elite-law-reviews/> [https://perma.cc/TN2U-UJ7C] (reporting additional indicators of women's advancement on law reviews). At the same time, gender gaps remain in other areas of legal education, as student-led reports have documented. See, e.g., WOMEN'S ADVOCACY PROJECT, *SPEAK NOW: WOMEN, EDUCATION, AND ACHIEVEMENT AT THE UNIVERSITY OF CHICAGO LAW SCHOOL 14-15* (2018) (reporting that from 2008 to 2017, more men than women served on law review, more men than women received clerkships, and women were less likely than men to win academic prizes or receive honors at graduation); Katie Cion & Sarah Parker, *Annual Analysis of Glass Ceilings at HLS*, HARV. L. REC. (Feb. 22, 2019), <http://hlrecord.org/annual-analysis-of-glass-ceilings-at-hls/> [https://perma.cc/YJ5F-E9GR] (reporting that more women than men served on the *Harvard Law Review* in 2019, but 58% of students in the class of 2018 who earned Latin honors at graduation were men).

⁷² Erin Coe & Jacqueline Bell, *A High Court Milestone Stirs Hope of Gender Parity*, LAW360 (Oct. 17, 2018), <https://www.law360.com/articles/1093264/a-high-court-milestone-stirs-hope-of-gender-parity> [https://perma.cc/TFC8-ZPSF].

⁷³ See Karen Sloan, *Incoming Batch of Law Deans Is More Diverse Than Ever*, LAW.COM (Mar. 21, 2019), <https://www.law.com/2019/03/21/incoming-batch-of-law-deans-is-more-diverse-than-ever/> [https://perma.cc/BG73-QR5Y] (reporting that 35% of law deans are women); Karen Sloan, *Meet the Record-Setting Number of Incoming Women Law Deans*, LAW.COM (Apr. 3, 2019), <https://www.law.com/2019/04/03/meet-the-record-setting-number-of-incoming-women-law-deans/> [https://perma.cc/S7A7-WCDR].

Nevertheless, significant gender gaps remain at the top ranks of the profession. Women comprise one-third of active federal judges⁷⁴ and only 20% of equity partners at the 200 largest law firms.⁷⁵ In addition, although the number of women attending law school now exceeds the number of men, the impact of this development on the profession is unclear in light of the disproportionate enrollment of women in schools with relatively low bar passage and post-graduation employment rates. It is far too soon to suggest that current enrollment trends portend the feminization of the legal profession. More detailed analysis is necessary to answer basic questions, such as how many women who attend law school eventually graduate, pass the bar exam, and practice law.

Second, as law school enrollment has declined over the past decade, its racial and ethnic diversity has changed. Since the Great Recession, Asian and White enrollments have decreased significantly, Black enrollment has declined modestly, and Hispanic enrollment has increased. At first glance, the rising percentages of Black students and Hispanic students in the law school population may appear to be a salutary trend. But it is a sobering fact that Black students and Hispanic students are disproportionately enrolled in lower-ranked schools. As with women, further analysis is needed to determine how many Black or Hispanic students go on to graduate, pass the bar, and practice law. Given the substantial indebtedness and opportunity costs that students incur by attending law school, the changing racial and ethnic makeup of recent enrollments should be interpreted cautiously.

Third, over the past decade, Asian American law school enrollment has fallen more steeply than the enrollment of any other racial or ethnic group. As a result of this decline, the number of Asian American lawyers is expected to stagnate around the year 2030 after several decades of robust growth. The reasons for the differential decline of Asian Americans attending law school warrant further study. It is possible that Asian American enrollment declined more than other groups in response to the Great Recession because Asian Americans have greater concern about financial security in choosing a career or because they

⁷⁴ See *Biographical Directory of Article III Federal Judges, 1789–Present*, FED. JUDICIAL CTR., <https://www.fjc.gov/history/judges/search/advanced-search> (last visited Jan. 13, 2020) [<https://perma.cc/Q7EM-4PJ7>] (select “personal characteristics and background” then in that category select either “female” or “male;” then select “Limit to sitting Judges” and in that category select “Active Judges;” then compare the results yielded from this search to the results yielded by selecting the opposite gendered category than first chosen).

⁷⁵ NAT'L ASS'N OF WOMEN LAWYERS, 2019 SURVEY REPORT ON THE PROMOTION AND RETENTION OF WOMEN IN LAW FIRMS 5, 5 n.20 (2019).

disproportionately lack exposure to or encouragement toward law in the face of growing pressure to choose a career path before completing college. Going forward, any recessionary conditions due to the coronavirus pandemic may exacerbate these trends.

In order to reverse or mitigate current trends, civic organizations, bar associations, and law student groups, such as the National Asian Pacific American Bar Association and the National Asian Pacific American Law Students Association, may wish to consider collaborating with guidance counselors and faculty at the undergraduate and even high school levels to develop outreach strategies that inform students earlier in the educational pipeline about careers in the legal profession.

Fourth, the number of foreign nationals enrolled in JD programs has increased significantly in recent years. Among them, Asian foreign nationals comprise the largest group, and the experiences and career paths of these students deserve additional study. The increasing presence of foreign nationals in law schools also underscores the importance of distinguishing between Asians and Asian Americans in reporting enrollment data. It is notable that the ABA, the most widely cited resource on enrollment data, reports non-resident aliens separately from U.S. citizens and permanent residents. In light of the coronavirus pandemic, however, it is uncertain whether law schools can maintain their current numbers of international students, at least in the short term.

Fifth, the number of law students who identify as multiracial is increasing. We expect this number to continue to grow, consistent with broader demographic trends, and this presents significant challenges for data collection and reporting. The ABA reports multiracial students as a separate category, resulting in an undercount of non-Hispanic students who partly identify as Asian, Black, White, or another race. For example, the ABA's count of Asian students (properly understood as Asian Americans since non-resident aliens are reported separately) does not include multiracial students. Moreover, although the LSAC counts students in every race or ethnicity category they select, we are not aware of any data collection that reports multiracial students based on the particular combination of races or ethnicities with which each student identifies.⁷⁶ Going forward, accurate understanding of enrollment trends will require greater attention to these complexities, as the

⁷⁶ The U.S. Census and the Pew Research Center have reported such data for the multiracial population nationally. See, e.g., PARKER ET. AL., *supra* note 36, at 29, 32-33. For an overview of historical, current, and possible future methods of counting multiracial individuals in the U.S. population, see *id.* at 19-39.

number and percentage of multiracial individuals within the student population continue to grow.

CONCLUSION

Our study of demographic trends in law school enrollment over the past two decades provides wide-ranging data that help frame ongoing discussions of diversity in law schools and the legal profession. Our engagement with multiple datasets in developing the study's findings underscores the key role of organizations like the ABA, LSAC, AALS, and American Bar Foundation and the data collection they undertake, as well as the critical importance of the definitions and methods that underlie each dataset. In light of challenges posed by the changing demographics of our society, careful and sustained attention to data collection methods — by those who collect or report the data and by those who use them — is itself a vital component of advancing understanding of diversity in the legal profession.

Although our findings provide a thorough descriptive account of enrollment trends, our study is largely silent on how and why the observed trends came to be. From the rise of women in law schools to the increase in Hispanic enrollment to the steep rise and fall of Asian American enrollment, each notable development we have gleaned from the data would benefit from in-depth historical and comparative analysis. In particular, what are the key decision factors and pathways to law for various groups? Why are some groups choosing not to pursue law, and what are they doing instead? Knowing why people choose a life in the law — that is, what internal values, external cues, information channels, or other factors affect those choices — may shed light on appropriate outreach efforts and help align resources in the legal profession with the needs of diverse communities.

Finally, we emphasize that law school enrollment trends, while signaling future changes in the demographics of the legal profession, do not by themselves foretell the precise extent of those changes. As noted, the disproportionate enrollment of women, African Americans, and Hispanics in lower-ranked or unranked law schools is cause for concern; the trajectories of those students and the costs and benefits of the schools they attend merit careful study. Further, it remains to be seen what effect the rising numbers of foreign nationals earning JD degrees, including substantial numbers of Asian foreign nationals, will have on the American legal profession.

APPENDIX A

Tier	School Name
1	Yale Stanford Harvard University of Chicago Columbia New York University University of Pennsylvania University of Virginia University of California - Berkeley University of Michigan - Ann Arbor Duke University Northwestern Cornell Georgetown University of Texas - Austin University of California - Los Angeles Vanderbilt University University of Southern California (Gould) Washington University in St. Louis University of Minnesota
2	University of Notre Dame George Washington University Emory University Boston University University of Iowa University of California - Irvine University of Alabama (Culverhouse) Arizona State University (O'Connor) Indiana University Bloomington (Maurer) Boston College University of Washington University of Georgia University of Wisconsin - Madison Washington & Lee University University of California - Davis William & Mary Ohio State

	<p>Fordham University University of North Carolina Chapel Hill Wake Forest University University of Illinois Brigham Young University University of Arizona (Rogers) George Mason University University of Colorado - Boulder University of Florida (Levin) University of Utah University of Maryland Southern Methodist University Florida State University Tulane University</p>
3	<p>University of California - Hastings Baylor University Temple University (Beasley) University of Richmond University of Houston University of Connecticut Pepperdine University Georgia State University Yeshiva University (Cardozo) University of Tennessee - Knoxville University of Kentucky Seton Hall University Case Western Reserve University Loyola Marymount University University of Oklahoma University of Miami University of Nebraska - Lincoln American University (Washington) University of Nevada - Las Vegas University of Denver Pennsylvania State University - University Park University of Missouri Pennsylvania State University - Carlisle (Dickinson) University of Cincinnati University of Kansas Loyola University Chicago</p>

	University of New Mexico Rutgers, The State University of New Jersey University of San Diego Illinois Institute of Technology (Chicago-Kent) Northeastern University University of Pittsburgh
4	Brooklyn Law School University of Arkansas - Fayetteville Rutgers (Newark) Villanova University Lewis & Clark College (Northwestern) St. John's University Louisiana State University - Baton Rouge (Hebert) University of Oregon Rutgers (Camden) University of Tulsa Michigan State University Saint Louis University Syracuse University University of Louisville (Brandeis) University of Hawaii - Manoa (Richardson) Indiana University - Indianapolis (McKinney) University at Buffalo - SUNY University of South Carolina West Virginia University The Catholic University of America Marquette University Wayne State University Florida International University Texas A&M University Stetson University University of New Hampshire School of Law Seattle University Santa Clara University University of Mississippi Hofstra University (Deane) DePaul University Texas Tech University Drake University Drexel University (Kline)

	Gonzaga University University of Missouri - Kansas City
5	Howard University Albany Law School Creighton University CUNY Mercer University (George) University of Baltimore University of Wyoming University of Maine Cleveland State University (Cleveland-Marshall) University of Idaho University of Montana University of St. Thomas Duquesne University New York Law School Quinnipiac University Southwestern Washburn University Willamette McGeorge Vermont Law School Chapman University (Fowler) University of Akron Pace University (Haub) University of Arkansas - Little Rock (Bowen) Campbell Hamline Mitchell-Hamline John Marshall (IL) Samford William Mitchell University of Toledo Loyola University New Orleans Belmont University Ohio Northern University (Pettit) North Dakota St. Mary's University of Memphis (Humphreys) University of South Dakota

	<p>Suffolk University Dayton S. Illinois N. Illinois Widener (PA) South Texas Oklahoma City</p>
6	<p>Appalachian School of Law Widener (DE) Roger Williams Cal-Western Elon Mississippi College N. Kentucky Nova Capital Detroit Mercy District of Columbia Florida A&M Golden Gate NC Central New England Texas Southern Touro UMass Valparaiso Southern St. Thomas (FL) W. New England Charleston John Marshall (GA) Regent Ave Maria Barry Faulkner Florida Coastal La Verne Liberty W. Mich. Cooley Western State</p>