A Forked River Runs Through Law School: Toward Understanding Race, Gender, Age, and Related Gaps in Law School Performance and Bar Passage

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Analyses of the National Longitudinal Bar Passage Study (N = 27,478), demonstrate that law schools enlarge entering academic differences across race, age, disability, and socioeconomic origins rather than reduce them, and that academic differences in turn impact bar passage. Such differences cannot be reduced to (1) academic preparation, effort, or distractions; (2) instructional or law-school-type characteristics; (3) social class; or (4) acceptance of an elitist legal ethos. Rather, results suggest that (1) women, minorities, and other atypical law students confront stigmatization throughout legal education;(2) for women (entering law school in 1991), this stigmatization is new, rejected, and consequently unassociated with law school outcomes; (3) for minorities, this stigmatization is continuous with prior socialization, making resistance difficult and consequent impact sizable; and (4) for other atypical law students, this stigmatization varies with visibility of difference, as do resistance and impact. Implications for social stigma theory and legal education are discussed.

Friends of affirmative action have much to celebrate. There is the U.S. Supreme Court's decision in *Grutter v. Bollinger,* and earlier news that both white and minority Michigan Law School students were equally likely to

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graduate, pass the bar, and begin successful careers (Lempert, Chambers, and Adams 2000). But the Supreme Court's decision includes a clear time limit and a notable caveat that "Michigan is a highly selective law school; our results may not generalize to people who have graduated from other law schools" (2000, 395). The next major challenge to affirmative action will soon be under way, and answers to the generalizability of the Michigan study must be found. Will Lempert et al.'s findings carry over? Will the "river" of diversity that starts in undergraduate education (*à la* Bowen and Bok 1998) and clearly runs through University of Michigan's Law School also run through *all* law schools? Or will findings from a broader dataset give foes of affirmative action, such as the Thernstroms (1997, 1998), something to cheer about?

Fortunately, broadly representative data are now available, and this project analyzes these data to see how well the river of social diversity runs through law schools in general. The results, reported below, demonstrate that no single river carries law students of varying ages, races, personal characteristics, and social origins from start to finish. A better analogy is a forked river, with one side offering a challenging and often dangerous white-water rapids course, the other side a swift but smooth current, and an entry gate that variously restricts access to the river. All minority law students are made to ride the former, and they are often joined by older law students, law students with physical or learning disabilities, and law students from disadvantaged socioeconomic origins. Young, white, and socially privileged law students complete the latter. While a portion of women are unevenly held up at the entry gate (women have better undergraduate grades than men, but lower standardized test scores, which are weighted more heavily by the gatekeepers), those women allowed through end up navigating the river better than the men do. Both rivers run parallel and end at the same place, but the rides are different indeed, and fewer complete the white-water course.

The dataset that reveals this forked river so clearly is the Bar Passage Study (BPS). It is a national, longitudinal study of the entering law school cohort of 1991. Administered by the Law School Admission Council (LSAC), this dataset contains information on 27,478 entering law students, along with their grade point averages (GPAs), their graduation status, and their bar examination results for up to five attempts (Wightman 1999). It also includes a subset of 6,758 students who received three additional follow-up surveys. Bivariate analysis of the BPS reveals gaps in law school outcomes that are wider than many imagine and include more than just race (see figure 1). Gaps exist in law school performance and bar passage across racial categories[1] and age. For example, 78% of African Americans who sat for the bar examination eventually passed, compared to 97% of their white

1. For efficiency of description, the race/ethnic categories employed in the BPS will be referred to as *race* or *racial categories*.

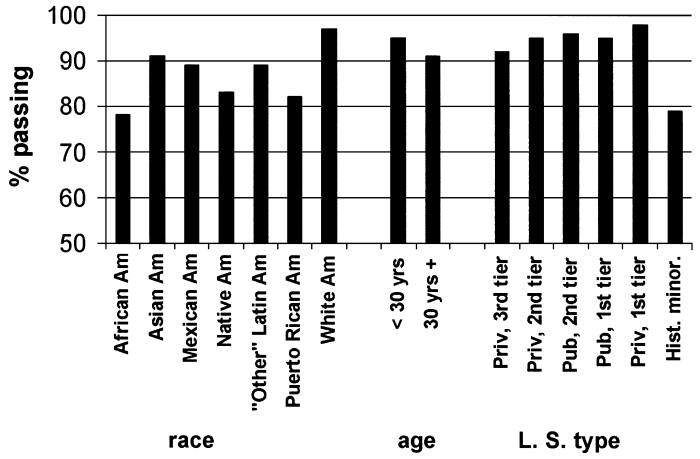

FIGURE 1. **Bar passage comparisons by race, age, and law school type.** *Source:* Author's analysis of known cumulative bar examination results; age category is assigned at law school matriculation; law school types created through cluster analysis by Wightman and associates at the Law School Admission Council, but labeled by the author; dataset is from the National Longitudinal Bar Passage Study.

counterparts. There is also a 4% gap in passage rates between those bar examinees who began law school at age 30 or older and their younger counterparts.

Of course, this is not the first analysis of the BPS. Wightman, then an executive at the LSAC, served as principal investigator for the BPS, and authored several in-house publications (1995, 1996, 1998b, 1999) as well as two law journal articles (1997, 1998a) using the BPS. Her in-house publications present analyses somewhat at odds with the findings reported herein; these in-house publications were not peer reviewed, however, and illustrate how varying starting points produce varying conclusions.[2] Wightman's latter

2. For example, the primary report on the BPS emphasized that the eventual bar passage rate for "all study participants was 94.8 percent," while the rate for "study participants of color was 84.7 percent" (Wightman 1998b, viii). Note, however, that the overlapping category, "all study participants," includes both white and nonwhite study participants—making the outcome gap appear smaller than it actually is. The eventual bar passage for white study participants, cited further down in the executive summary, is 96.7%. And nowhere does the measure of eventual bar passage by entering cohort appear; these figures would tell readers that 83 out of every 100 entering white law students graduated and eventually passed the bar, compared to 77 out of 100 entering Asian American law students, 76 out of 100 entering "other" Latino American law students, 69 out of 100 entering Mexican American law students, 62 out of 100 entering Puerto Rican American law students, 62 out of 100 entering Native American law students, and 57 out of 100 African American law students (see discussion of bivariate results below). Though the consequences of law school dropout may differ from consequences of repeated failures of the bar exam, this measure of eventual goal achievement is equally important, and Wightman does not explain its absence from LSAC publications.

two articles documented the deleterious effects on racial diversity were law schools to adopt an admission policy that considered numerical scores only (see also Cross and Slater 1997; Thernstrom 1998; Wightman 1998c). The present article seeks to complete the work Wightman began in these latter articles, by examining which factors most accurately predict law school performance and bar passage, and how these factors explain differences in law school outcomes.

This project, then, contributes to four sets of scholarly research. The first set investigates bar examination outcomes across race. While essay writers argue for changes to the bar examination, so that it better reflects actual practice and does not favor majority test takers (e.g., Curcio 2002; Glen 2002; Howarth 1997; see also Merritt, Hargens, and Reskin 2001), the empirical literature concludes that the consistently lower rate of passing the bar among minorities is an "educational pipeline" effect (Klein 1989, 1991; Klein and Bolus 1997; Vaughns 1998). That is, differences in bar passage directly correspond to differences in law school grade point average: "virtually all of the disparities in bar exam scores and passing rates among groups can be explained by differences in their law school grades" (Klein 1991, 523). Law school grade differences, in turn, are a function of weaker "educational backgrounds and opportunities of minority students who enter law school," which create a "gap [that] cannot be made up during law school" (1991, 527). The pipeline interpretation is not universally accepted, however. One scholar argues that law schools, despite their official rhetoric to the contrary, are hostile environments for minorities, that this hostility *enlarges* entering educational differences between minority and white law students, and that these enlarged academic differences in turn lower graduation and bar passage rates (Hunt 1996). Another researcher offers evidence that the Law School Admission Test (LSAT) is not a "neutral barometer" but an uneven filter that clogs the pipeline into law school (Kidder 2001). And it should be noted that Klein and associates employ data from particular jurisdictions, often California. Using nationally representative BPS data, this project will evaluate these claims: the reducibility of bar passage gaps to law school grades, the reducibility of law school grades to academic gaps at law school entrance, the possibility that law schools enlarge rather than reduce academic gaps at law school entrance, and the possibility that the LSAT unevenly restricts access to law school.

The second set of relevant scholarly research investigates law student experiences and various outcomes. Much of this literature documents the decline of law student idealism, the pressure on law students to seek employment in elite urban legal practice, the shift away from public service careers, and the pressure on minority, working-class and women law students to conform to dominant patterns (e.g., Bell 1994; Benjamin 1986; Bok 1983; Chambers 1990; Costello 1998; Erlanger and Klegnon 1978; Erlanger et al. 1996; Ewing et al. 1996; Foster 1981; Granfield 1986,

1992, 1994; Granfield and Koenig 1990, 1992; Guinier, Fine, and Balin 1994; Kennedy 1970, 1983; Kissam 2003; Kubey 1976; Orfield and Whitla 2001; Pipkin 1976; Raack 1991; Stover 1989; Spangler, Gordon, and Pipkin 1978; see also Hunt 1996). Put simply, these researchers argue that the legal education process results in either the adoption of an elitist (i.e., privileged white male), pro-business ethos or penalties (e.g., lower grades, dropout, psychological scars) due to efforts to resist (see also Bourdieu 1984, 1988; DiMaggio 1982; Zweigenhaft and Domhoff 1998). While homogenization of professional attitudes is not the focus of this project, a fundamental claim of this literature is systematically evaluated. That is, this project evaluates whether those who are furthest removed (demographically) from this privileged ethos actually have lower grades and lower probabilities of passing the bar, and to what extent grade or bar passage gaps can be attributed to background, experiential, and prior educational factors.

The third set of relevant scholarship is drawn from the large literature investigating occupational and educational outcomes across racial categories. A subset of this literature has employed the histories and cultural contexts of various U.S. racial/ethnic groups to create a typology of involuntary and voluntary minorities, which has then been employed to explain differences in educational achievement and occupational outcomes (e.g., Carnoy 1994; Gibson 1997; Juan 1994; Lee 1991; Lee 1994; Low 1982; Min 1995; Valencia 1991; other scholars prefer the term *nonimmigrant minorities*, but the result is the same—e.g., Markus, Steele, and Steele 2000). A key figure in the creation of this typology is anthropologist John Ogbu, who writes "involuntary minorities in the United States are American Indians and Alaska Natives, the original owners of the land, who were conquered; early Mexican Americans in the Southwest who were also conquered; Native Hawaiians who were colonized; Puerto Ricans who consider themselves a colonized people; and black Americans who were brought to the United States as slaves" (Ogbu and Simons 1998, 162; see also Ogbu 1983, 1987). As a result of their involuntary origins in the United States, Ogbu argues, these minorities are less successful economically, experience "greater and more persistent cultural and language difficulties," and perform less well in educational settings. Voluntary U.S. minorities, such as immigrants from Central and South America, Cuba, China, India, Japan, and Korea, "do not experience long-lasting school performance difficulty [or] long-lasting cultural and language problems" (Ogbu and Simons 1998, 160). Although the BPS's race/ethnic categories are imperfect indicators of this typology, there is sufficient clarity within most categories to evaluate the usefulness of this typology in analyses of law school outcomes.

The fourth set of relevant scholarship is drawn from the even larger literature on varying outcomes across gender and racial categories. This scholarship documents the stereotypes minorities and women confront in

educational contexts: For example, women and many minorities are stereotyped as less capable in advanced quantitative fields; Asian and Latino Americans are presumed to be less capable in English-intensive fields; and African Americans, Latino Americans, and Native Americans are viewed as underqualified affirmative action admits to selective educational institutions (e.g., see Bell, Harrison, and McLaughlin 1997; Bowers 2000; Gaber 1998; Guinier, Fine, and Bolin 1994; Lopez-Garza and Diaz 2001; Steele 1992; Suzuki, Mogami, and Kim 2002; Takaki 1989; Wong et al. 1998). Many who research these stereotypes employ social stigma theory to explain their effects on the stereotyped (Goffman 1963; see also Jones et al. 1984; Heatherton et al. 2000). The social science scholarship on stigma describes the dual social and psychological processes that occur when persons or categories of persons are identified as different.[3] One well-known variant of this theory is Claude Steele's research on "stereotype threat." Steele argues that women perform worse in advanced quantitative areas and African Americans perform worse in school generally because they experience "the threat that others' judgments or their own actions will negatively stereotype them in the [advanced quantitative or general school] domain" (1997, 613; see also Crocker, Major, and Steele 1998; Steele 1999; Steele and Aronson 1995). While this project does not share Steele's experimental design, nor is it limited to standardized test performance, the BPS permits holding constant a number of critical background factors (academic preparation, self-reported effort, distractions, social class, instructional quality, and general institutional differences), facilitating fair outcome comparisons across race, gender, age, and other law student characteristics.

In addition to these four sets of scholarship, two practical concerns underlie this investigation. On the one hand is the serious concern that if more law schools eliminated racial diversity as a factor in admission and financial aid decisions (despite *Grutter*'s allowance of the same), efforts to diversify this profession would be set back significantly. A decline in the diversity of those admitted to law school would then limit even further the access to justice in many communities, as minority lawyers, for example, disproportionately serve minority clients (Lempert, Chambers, and Adams 2000; cf. Saha et al. 2000; Komaromy et al. 1996). The majority opinion in *Grutter* underscores this point:

> Access to legal education (and thus the legal profession) must be inclusive of talented and qualified individuals of every race and ethnicity, so that all members of our heterogeneous society may participate in the educational institutions that provide the training

3. Readers should note that this paper follows the social scientific use of *stigma;* it is not used to describe alleged consequences of affirmative action for individual beneficiaries, as in the legal arguments made by opponents of affirmative action (see Halaby and McAllister 1997).

> and education necessary to succeed in America. (123 S. Ct. at 2341 [2003])

On the other hand, the gaps in law school grades and bar passage rates between typical and atypical law students also represent serious cause for concern, and these gaps must be examined closely, not ignored or explained away through hasty, reductive assertions. Thus, this article will stay close to the data and offer data-driven interpretations and recommendations, charting a course between these two serious concerns.

I. METHODS

This section summarizes the history, design, strengths, and weaknesses of the BPS. It describes the dependent and independent variables, including creation of indexes. And it outlines the statistical analyses, explaining the use of Heckman regression methods to correct for sample selection bias.

A. Dataset

In 1989, LSAC authorized the BPS on the recommendation of the LSAC's Minority Affairs Committee. This study was undertaken "primarily in response to rumors and anecdotal reports suggesting that bar passage rates were so low among examinees of color that potential applicants were questioning the wisdom of investing the time and resources necessary to obtain a legal education. There were no reliable sources of national empirical data to support or refute those claims" (Ramsey 1998, vi). Data collection began with the entering law school cohort of 1991, and ended in 1996 at a cost of four million dollars. Over 70% (or 27,478) of the 1991 entering cohort agreed to participate in the study, giving LSAC permission to match participant survey responses with their LSAT scores and obtain outcome data from law schools and bar jurisdictions. "Participants remained in the active BPS files for approximately two years after graduation (five bar examination administrations) or until they passed a bar examination, whichever came first" (Wightman 1999, 1). This design gives the dataset additional credibility, as it retrieves critical outcome information not from self-report but directly from organizational sources.

The BPS also includes a sample of 6,758 students who received three additional follow-up surveys. This sample was drawn from 90 of the 172 participating law schools,[4] and includes all minority participants at these

4. The 90 law schools of the 172 participating were also selected via probability sampling, except for law schools that served primarily minority students; all of the historically

schools as well as a simple random sample of white students equal to the number of minority students.[5] Ninety-one percent of the 6,758 cohort respondents selected for follow-up responded to the first follow-up survey (conducted in fall of 1992), 73% responded to the second follow-up survey (conducted fall of 1993), and 66% responded to the third follow-up survey (conducted fall of 1994).[6]

The entering law school cohort of 1991 may be somewhat unusual. The 1990–91 admissions cycle set a high-water mark for total applications and for minority/white application ratios, making the BPS cohort a bit more competitive than earlier or later cohorts, and more racially diverse than earlier cohorts (but possibly less so than later cohorts; see Kidder 2003; Wightman 2003).[7] The cross-cohort generalizability of the BPS, then, cannot be fully known. The BPS, furthermore, does not include bar examination failure data for examinees in 14 jurisdictions that did not participate in the creation of the BPS (pass data from all jurisdictions are public information and included), and links between respondent, school, and state were destroyed prior to public release of the BPS (in keeping with confidentiality agreements to these parties).[8] These flaws are not insurmountable, but they do impact the types of statistical analyses possible (see discussion of variables and analyses below; see also Wightman 1999; Gulati, Sander, and Sockloskie 2001).

B. Variables

This project examines three dependent variables that record three critical stages in the process of becoming a lawyer. There are two

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minority law schools were included in the 90 law school sample (see Wightman 1999). See discussion in note 26 of the negligible impact that oversampling historically minority law schools had in the analyses of the full BPS and the follow-up sample.

5. Thus, the BPS follow-up survey sample is not proportionately representative of all law students in the cohort of 1991, unless one employs the sample weights provided with the BPS (as the analyses herein do). The unweighted sample does allow separate analyses of racial groups, however, which was an important purpose of the BPS.

6. Mathematica Policy Research of Princeton, New Jersey, carried out the first two waves of data collection, administering mail surveys, telephoning nonrespondents, and employing an external tracking agency to find study participants when their law schools were unable to assist, and LSAC project staff completed the remaining waves.

7. The author is grateful to an anonymous reviewer for this observation.

8. "Bar examination data for the 14 jurisdictions that were unwilling to provide data to this study were obtained from one or both of two sources: participating law schools and public lists of passing candidates published by a state. . . . Approximately four percent of the participants were matched only through public lists. Approximately seven percent of the study participants known to have graduated from law school by the close of this study were not matched to any bar examination outcome data" (Wightman 1999, 2). Since the BPS does not contain bar examination data for these latter participants, and since public lists identify successful bar examinees only, this project analyzes known bar examination outcomes only. Thus, estimates of bar passage throughout this project's analyses are slightly inflated. A better

continuous indicators of law school academic performance (first year and final GPAs), and a dichotomous indicator of eventual bar passage. The BPS collected GPA data directly from law schools, but because of confidentiality agreements, provided only standardized GPAs relative to all other study participants at the same law school (see Wightman 1999).[9] Though nationally standardized law school GPAs might seem preferable on first consideration, such standardization would require a virtually impossible psychometric project to create nationally comparable law school GPAs that did not *implicitly or explicitly use LSAT and undergraduate GPAs* to so standardize (as implicit or explicit use of LSAT or undergraduate GPAs would eliminate their subsequent use as *independent* predictors of law school GPAs). While one might argue that the use of classmate-relative law school GPAs here would underestimate the predictiveness of LSAT and undergraduate GPAs—actual analyses within narrow ranges of LSAT and undergraduate GPAs (i.e., within the six law school clusters/tiers) revealed no evidence of underprediction.[10] The BPS collected bar examination results directly from jurisdictions and/or participating law schools, tracking participants for 5.5 years after they began law school. These variables are not perfect, of course. Adding a control for part-time student status will help to reduce the bias that comes from ceasing data collection in 1997. Acknowledging that restricting analysis to *known* bar examination results upwardly biases the pass rate (some respondents whose results are unknown in fact failed the bar in a nonparticipating jurisdictions), will aid in interpreting the results. And employing Heckman regression techniques will reduce sample selection bias (Heckman 1979; see discussion below).

This project examines a wide array of independent variables, both dichotomous and continuous, to evaluate its dependent variables (see tables 1a and b). *Demographic factors* include the participant's age, gender, and race. Because age is not normally distributed, this project divided entering law

solution to this problem might have been to analyze results from the 36 participating jurisdictions only, but the LSAC removed jurisdiction identifiers as part of its confidentiality agreements, did not foresee the value of creating a dichotomous indicator for participating and nonparticipating jurisdictions, and cannot now create such an indicator because all confidential data were destroyed (Wilder 2002).

9. While much of what impacts first year GPAs is likely to affect final GPAs similarly, understanding first year academic performance is of particular interest to legal educators, and thus is evaluated separately here. One anonymous reviewer suggested dropping analyses of first year GPAs and using final GPAs only, with first year GPA as a predictor. Doing so would have changed the research question to "what predicts change in law school grades during the second and third years?" This is an important question, but not the subject of this project. First year GPAs do play an important role, however, in predicting selection (i.e., inclusion) into the substantive final GPA models (see discussion of Heckman 1979 and sample selection below).

10. Within-tier analyses produced virtually identical results to the cross-tier analyses reported below (e.g., all minority indicators inversely and significantly predictive of first year and cumulative law school GPAs). Virtually identical results were also produced in analyses of the full BPS that employed controls for law school cluster/tier. Since this potential underestimation possibility was of little actual significance, these models are not shown.

TABLE 1A
Weighted Means and Standard Deviations of Dependent and Independent Variables

	Mean	Std. Dev.
Dependent variables		
First-year GPAs[a]	0.0	1.0
Final GPAs[a]	0.0	1.0
Pass bar exam/known bar results[b]	.947	.223
Independent variables		
Demographic factors		
Age: 30 years and over	.173	.379
Gender: female	.440	.496
Race: African American/Afro-American/Black	.071	.257
Race: Asian/Pacific Islander/Pacific American	.045	.208
Race: Latino American		
Mexican American/Chicano	.017	.130
Puerto Rican/Puertoriqueño	.005	.068
"Other" Hispanic/Latin American/Latino	.024	.152
Race: Native American/American Indian/Alaskan Native	.006	.080
Entrance indicators and indexes[c]		
Part-time law student	.095	.293
English ***not*** respondent's best language	.013	.112
Impairment index	.036	.245
Pre-law remedial participation index	.079	.278
Study index	4.712	.635
Self-assessment of personal abilities index	9.223	5.121
Employment index	.600	1.195
Married	.203	.403
Number of children	.204	.676
Financial responsibilities index	.929	.734
Socioeconomic status index	7.985	2.318
Social capital index	.290	.580
Prior race discrimination index	.609	.986
Prior gender discrimination index	.653	.958
Follow-up indicators and indexes[c]		
Life events index	1.304	1.197
Quality instruction index	12.957	3.734
Race discrimination in law school index	.566	1.828
Gender discrimination in law school index	.702	1.853
Faculty race diversity index	1.461	2.114
Faculty gender diversity index	3.427	2.032
Law-school-type indicators		
Third tier, mostly private	.084	.277
Second tier, mostly private	.355	.479
Second tier, mostly public	.271	.445
First tier, mostly public ("Public Ivy")	.170	.375
First tier, mostly private ("Elite")	.085	.279
Historically minority	.029	.168
Academic scores		
Undergraduate GPA: converted to 4.2 scale	3.220	.421
LSAT (max: 48)	36.467	5.694

NOTE: Means are weighted to represent the entire law school entering cohort of 1991 (see Wightman 1999).

[a] Standardized to law school attended.

[b] Respondents tracked up to 5 attempts.

[c] See table 1b for index definitions.

TABLE 1B
Definitions and Ranges of Indexes

Index	Definition	Range
Entrance Indexes		
Impairment	Sum of 5 physical impairments (visual, audio, mobility, medical, other); learning disability; and four types of accommodations (course load, student evaluation, auxiliary services, architectural).	0–9
Pre-law remedial participation	Sum of 5 possible preparation programs (CLEO, American Indian Law Center program, summer program at own or other law school, "other") for law school.	0–5
Study	Expected study hours during first year of law school. Respondents directly selected from 0 = none; 1 = 1–4 hrs/wk; 2 = 5–6 hrs/wk; 3 = 9–12 hrs/wk; 4 = 13–16 hrs/wk; and 5 = more than 16 hrs/wk.	0–5
Self-assessment of personal abilities	Sum of 2 points for "highest 10%," 1 point for "above average," across 10 personal traits (ability to work cooperatively, academic ability, competitiveness, emotional well-being, leadership, physical health, public speaking, academic self-confidence, social self-confidence, writing), based on expected first-year classmate comparison.	0–20
Number of children	Natural, adopted, and stepchildren residing with respondent.	0–11
Employment	Expected paid employment hours during first year of law school. Respondents directly selected from 0 = none; 1 = less than 10 hrs/wk; 2 = 10–20 hrs/wk; 3 = 21–30 hrs/wk; and 4 = more than 30 hrs/wk.	0–4
Financial responsibilities	Sum of "primary financial responsibilities" for self, spouse, own children, other children, parents, other adults.	0–6
Socioeconomic status	Sum of parents' occupational status (0 pts for "private household worker, operator, transport operator, or laborer"; 2 pts for "professionals or managers"; 1 pt otherwise—for male head of household, same for female head); parents' educational achievement (0 pts for high school or less; 2 pts for college grad+; 1 pt otherwise—for male head; same for female head); relative family income while in high school (0 pts for "far below avg"; 2 pts for "far above avg"; 1 pt otherwise), and respondent's current level of educational debt (0 pts for more than $10,000; 2 pts for "none"; 1 pt otherwise).	0–12
Social capital	Sum of family members (parent, grandparent, spouse/partner, sibling) who attended law school.	0–4

TABLE 1B—CONTINUED

Index	Definition	Range
Prior race discrimination	Sum of previous discrimination (1 pt. "some"; 2 pts "a lot") as undergraduate, employee, and law school applicant.	0–6
Prior gender discrimination	Sum of previous discrimination as undergraduate, employee, and law school applicant.	0–6
Life events	Sum of eight possible life events during first year of law school (got married; entered a personal relationship; broke up personal relationship; had a baby; death/seriously ill family member; other family problems; personal illness/injury; other major event).	0–14
Follow-up Indexes		
Quality instruction	Sum of first-year instructors characterized by seven positive teaching traits (interested in teaching, friendly to students, knowledgeable, available outside of class, open minded, clear on what they expect from students, generally supportive), with 3 pts for "all," 2 pts for "many," 1 pt for "some."	0–21
Race discrim. in law school	Sum of eight law school arenas (general law school environment, the classroom, dealings with instructors outside class, dealings with law school administration, social interactions with classmates, academic activities with classmates outside the classroom, community where law school is located, job recruiting) in which respondent experienced "some" (1 pt) or "a lot" (2 pts) of race discrimination.	0–16
Gender discrim. in law school	Sum of eight law school arenas (see previous index) in which respondent experienced gender discrimination.	0–16
Faculty race diversity	Number of racial and ethnic minority faculty who taught respondent during first and second years of law school.	0–25
Faculty gender diversity	Number of women faculty who taught respondent during first and second years of law school.	0–25

students into two age categories, under 30 and 30 years and over. Doing so is admittedly arbitrary. Yet, age deciles carry cultural significance, as Americans in their 30s are expected to focus on matters of family and domesticity much more than on graduate education—making pursuit of legal education in one's 30s and beyond akin to swimming upstream.[11] Race is defined by dichotomous indicators for Asian American, African American, Mexican American, Native American, "other" Latino American (i.e., neither Mexican American nor Puerto Rican American), Puerto Rican American, and White American participants.[12] *Law school type indicators* were created using the six-category law school typology provided in the BPS (confidentiality agreements restricted identification of specific law schools). Law school type indicators are "historically minority" law schools; "first-tier, mostly private (or 'elite')" law schools; "first-tier, mostly public (or 'public ivy')" law schools; "second-tier, mostly private" law schools; "second-tier, mostly public" law schools; and "third-tier, mostly private" law schools.[13] *Academic score variables* included LSAT scores (retrieved directly from LSAC's data files, and averaged if more than one set of scores), undergraduate GPAs (also retrieved from LSAC's data files), and final law school GPA (see above; used in analyses of bar passage only).

Wightman, drawing on the advice of a committee of legal scholars and educators, created the four survey instruments that comprise the BPS (i.e., entrance and three follow-up surveys; see Wightman 1999). Items included on these surveys, then, satisfy the multiple interests of Wightman and her advisory committee.[14] This project created three dummy indicators and 17 indexes based on face validity and prior research (see tables 1a and b). Dummy indicators were created for part-time law students, for married law students, and for law students who indicated English was *not* their best language. The first is necessary to correct, in part, for the longer time to degree of part-time students,[15] the second to determine the impact of family

11. Initially, this project employed actual age in years, and a second transformed variable (age squared) in its analyses of law school GPAs and bar passage. Both measures were consistently significant, but a simple dummy variable for under-30/30 years and over proved more parsimonious and easier to interpret.

12. The BPS did not include cohort participants who indicated "other race" (actually, foreign students) in its follow-up sample.

13. The law school typology was created by LSAC using cluster analysis. "This methodology grouped or 'clustered' those law schools that are most similar to one another on a set of seven relevant variables . . . four that focus on the characteristics of the school (size, cost, selectivity, and faculty/student ratio) and three that focus on characteristics of the student body (percent minority, median LSAT score, and median UGPA)" (Wightman 1999, 15). Labels used in this project are adapted from Wightman's descriptions (1999, 16), and represent the modal characteristics in each cluster. Thus, the qualified label "mostly public" and "mostly private."

14. Initially, to reduce the 300 + items appearing in the entrance and first-year follow-up surveys, this project employed principal component analysis (i.e., factor analysis). However, that method extracted 78 underlying factors that were unwieldy to model and interpret meaningfully.

15. And also to correct for the fewer opportunities that part-time law students had to eventually pass a bar examination, given the closing date of BPS data collection.

obligations more precisely, and the third to facilitate comparison of more general race effects with more specific English language difficulties. The project also created 17 additive indexes, summarizing 83 individual survey items in the areas of social background, personal experiences, and prior education. Eleven of these indexes were based on entrance survey items, four indexes were based on first-year follow-up survey items, and two indexes were based on second-year follow-up survey items. All indexes cross-validated successfully, and had high inter-item reliability scores.[16]

C. Analysis

Passing the bar depends on successful performance and completion of law school, and successful performance and completion of law school depends on successful performance in the first year of law school, creating sample selection bias. As Heckman (1979) noted, and others have since confirmed (Berk 1983; Stolzenberg and Relles 1997), failure to correct for this bias can impact one's results. Thus, this project evaluates and corrects for sample selection bias, using full maximum likelihood estimation of a joint distribution (i.e., Heckman regression and Heckman probit analysis; see StataCorp 2001). This correction was necessary for all three dependent variables.

This project evaluates several models for each dependent variable. A demographic model is evaluated first, entrance indexes are added second, and then academic scores are added third. Then, follow-up indexes are added and evaluated in various combinations with entrance indexes and academic scores. Finally, models are evaluated separately within types (or tiers) of law schools. To conserve journal space, only select models are presented in tables 3–5. As indicated above, all analyses use the sample weights provided in the BPS documentation to ensure that results have the broadest generalizability (see Wightman 1999).

II. FINDINGS

The typical (i.e., modal) first-year law student is a white male in his early twenties, who speaks English as his first language, attends law school

16. While this project's indexes and indicators are not independent, the inter-index correlations are generally weak (less than .3). Four exceptions are marital status, number of children, and family financial responsibilities (some correlations from .3 to .4); nonwhite race indicators and the race discrimination indexes (some .3 to .4); gender and gender discrimination indexes (some .3 to .4); and part-time attendance and planned hours of employment (.7). The latter pair were evaluated singly in multivariate analyses, and no differences were found in direction or significance of coefficients compared to the analyses presented here.

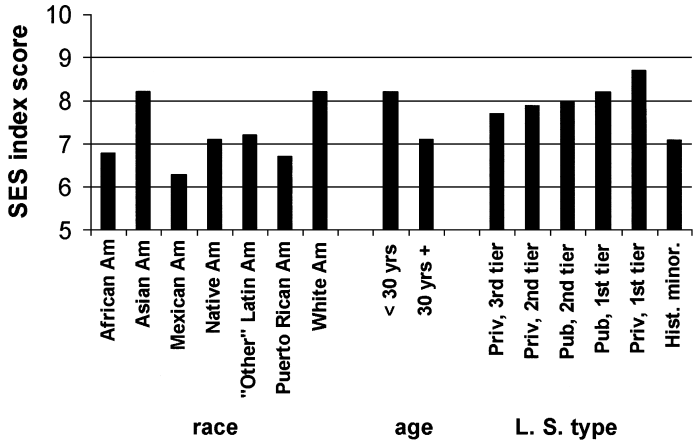

FIGURE 2. **Socioeconomic status index comparisons by race, age, and law school type.** *Source:* Author's analysis of socioeconomic status index (see table 1b); age category is assigned at law school matriculation; law school types created through cluster analysis by Wightman and associates at the Law School Admission Council, but labeled by the author; dataset is from the National Longitudinal Bar Passage Study.

full time, expresses high self-confidence, possesses no physical or learning disabilities, is neither married nor has children, plans 0–9 weekly hours of paid employment during the first year, and comes from an above-average socioeconomic background (see tables 1a and b). There is notable variation among law students, however. About 44% are women, 16% are nonwhite, 17% are 30 or more years old, and many are from social backgrounds that differ greatly from this typical first-year student.

Sixty-three percent of law students in the BPS attend second-tier law schools (with the majority of these enrolled in private law schools), 26% attend first-tier law schools (with two-thirds enrolled in "public ivy" and one-third in "elite" law schools), 8% attend third-tier, mostly private law schools, and 3% attend historically minority law schools (see tables 1a and b). About 10% of law students attend part time, 8% participated in pre-law remedial programs, 4% have physical or learning impairments, and 1% report English is not their best language. For BPS respondents with known bar examination outcomes, there is a 94.7% eventual bar passage rate. And for all BPS respondents who entered law school in 1991, there is a 79.9 percent eventual bar passage rate. Those outcomes vary considerably from group to group, however, as the bivariate analyses reveal.

Obvious gaps exist in bar passage rates across race, age, and type of law school attended (see figure 1). Perspective on these differences comes in part when the socioeconomic origins of law students are compared across race, age, and law school type (see figure 2): The gaps in socioeconomic origins closely match the gaps in bar passage. Still further perspective on bar passage

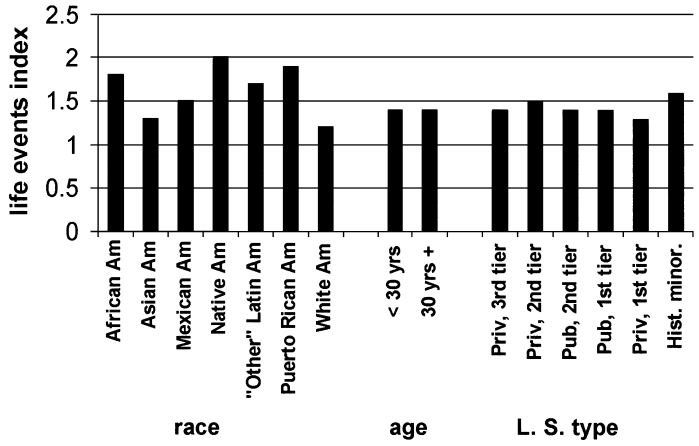

FIGURE 3. **First-year life event index comparisons by race, age and law school type.** *Source:* Author's analysis of first-year life events index (see table 1b); age category is assigned at law school matriculation; law school types created through cluster analysis by Wightman and associates at the Law School Admission Council, but labeled by the author; dataset is from the National Longitudinal Bar Passage Study.

rates is found when first-year life events (e.g., getting married or divorced, partnering/unpartnering, childbirth, illness/death of family member, personal illness/injury) are contrasted (see figure 3): Those groups with the most life events (African Americans, Native Americans, and Puerto Rican Americans, and law students attending historically minority law schools) are the very same groups with the lowest bar passage rates. Not surprisingly, then, one finds significant gaps in law school academic performance—that is, final law school GPA—across racial categories (see figure 4). These are bivariate results, of course, and a fuller understanding of the factors involved in law school performance and bar passage lies ahead. But a closer examination of bivariate results helps illuminate basic differences between groups, and establishes a foundation for multivariate analyses.

A. Bivariate Analyses by Race

The results of bivariate analyses across race are striking and severe (almost all between-group differences are statistically significant[17]). The rate of first-year dropout, for example, is more than two times higher among

17. Based on post-hoc least significant difference (LSD) tests of one-way ANOVAs. All white/minority differences are significant; some minority/minority differences (especially between smaller sample size minority groups—e.g., Native Americans—and other minorities) are not significant (analyses not shown).

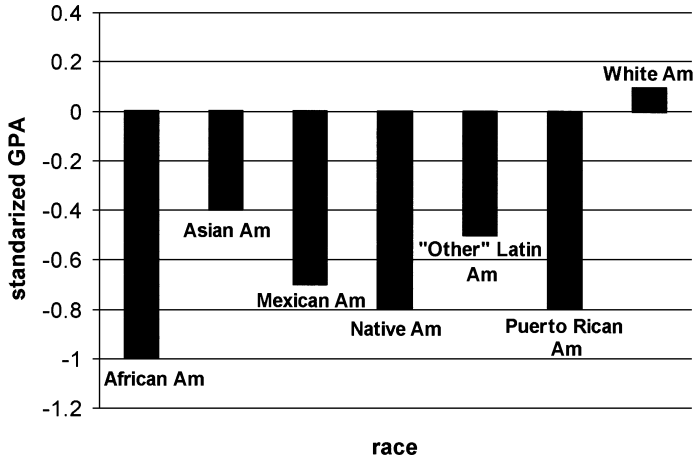

FIGURE **4. Standardized final law school GPA comparisons by race.** *Source:* Author's analysis of standardized final law school GPAs; dataset is from the National Longitudinal Bar Passage Study.

African American law students than it is among white or Asian Americans (12.4% versus 5.5%; see table 2). Yet all minorities—African American, Asian American, Mexican American, Native American, "other" Latino American, and Puerto Rican American—post lower first-year and final GPAs than their white classmates do. While more than 90% of white American, Asian American, and "other" Latino American law students do graduate law school, just over 80% of African Americans, Mexican Americans, and Native Americans, and 86% of Puerto Rican Americans do so. Finally, 83% of entering white American students who begin law school eventually pass the bar exam. For African American, Asian American, Mexican American, Native American, "other" Latino American, and Puerto Rican American law students, the percentage who achieve their career goals are 57, 77, 69, 62, 76, and 62, respectively.

Given these outcome differences, one would expect to see corresponding differences in numerical entry scores. LSAT scores and undergraduate GPAs show gaps across racial categories of similar magnitude to graduation and eventual bar passage gaps (see table 2). These input differences are surely connected to outcome differences. Yet, academic scores may not be the only factors that affect outcome differences. Many background and experiential factors also differ widely across racial categories. Socioeconomic status and first-year life-event differences have already been noted (figures 2 and 3; see also table 2). Other notable differences are:

- African American law students have the highest levels of self-confidence at matriculation, but they report the lowest level of social capital (i.e., fewest lawyers in the family) and describe nearly twice as

TABLE 2
Comparing Weighted Means for Selected Variables across Demographic Groups and Law School Types

	Race							Gender		Age		Law School Type					
	Afric Am.	Asian Am.	Mexic Am.	Nativ Am.	Other Latino Am.	Puerto Rican Am.	White Am.	M	F	<30 yrs	30 yrs +	Priv., 3rd Tier	Priv., 2nd Tier	Pub., 2nd Tier	Pub., 1st Tier	Priv., 1st Tier	Hist. Minr.
N (for entrance survey only)	1874	1152	481	145	655	129	22610	15604	12073	22717	4761	2304	9784	7454	4651	2332	783
N (for 1st follow-up survey only)	1386	804	367	84	410	112	2992	3230	2926	5090	1066	251	1879	1663	1421	500	442
Outcomes																	
Dropout: 1st year law school[1]	.124	.055	.099	.068	.050	.097	.055	.074	.076	.065	.124	.153	.084	.076	.049	.024	.126
First-year GPA, standardized	−1.02	−.38	−.67	−.84	−.42	−.81	.14	.03	−.04	.02	−.12	.00	.00	−.01	.00	.00	−.01
Graduate law school/entering cohort	.807	.913	.824	.825	.905	.855	.918	.904	.909	.920	.843	.874	.897	.903	.938	.959	.842
Final GPA, standardized	−1.02	−.44	−.71	−.76	−.48	−.76	.13	−.01	.00	.00	−.02	−.01	.00	−.01	−.01	−.01	−.02
Pass bar examination/entering cohort	.571	.769	.690	.615	.755	.618	.828	.801	.797	.823	.686	.728	.798	.805	.822	.888	.622
Pass bar examination/known bar results	.776	.914	.885	.833	.893	.823	.967	.952	.942	.954	.912	.921	.947	.959	.952	.981	.787
Entrance indexes and indicators																	
Part-time law student	.109	.064	.061	.103	.081	.138	.096	.094	.096	.060	.261	.097	.116	.069	.115	.010	.019
English not best language	.011	.070	.020	.000	.039	.084	.008	.013	.012	.012	.016	.008	.014	.009	.016	.019	.013
Impairment index	.036	.034	.041	.076	.034	.054	.036	.039	.033	.030	.067	.031	.037	.037	.033	.031	.066
Study index	4.638	4.641	4.739	4.697	4.617	4.634	4.727	4.726	4.695	4.715	4.699	4.740	4.707	4.735	4.683	4.696	4.686
Pre-law remedial partic index	.287	.119	.296	.303	.162	.222	.048	.073	.086	.074	.102	.071	.087	.071	.067	.051	.214

Self-assessment of pers abilities index	10.57	8.179	8.834	9.421	9.107	8.581	9.177	9.903	8.358	9.213	9.271	9.843	9.412	9.042	8.903	8.532	10.60
Employment index	.694	.425	.442	.586	.555	.868	.604	.609	.588	.455	1.287	.604	.704	.527	.689	.233	.534
Married	.177	.138	.196	.241	.190	.198	.211	.214	.190	.134	.534	.233	.210	.233	.159	.125	.254
Number of children	.293	.127	.212	.441	.189	.290	.199	.197	.213	.052	.926	.237	.208	.244	.138	.080	.424
Financial responsibilities index	1.095	.857	1.051	1.248	.942	1.060	.913	1.009	.827	.818	1.459	.996	.923	.966	.879	.803	1.124
Socioeconomic status index	6.846	8.177	6.284	7.062	7.151	6.671	8.151	7.984	7.987	8.168	7.114	7.735	7.855	7.993	8.191	8.696	7.083
Social capital index	.150	.192	.176	.193	.226	.228	.313	.295	.283	.297	.254	.263	.289	.265	.323	.348	.233
Prior race discrimination index	1.991	1.220	1.164	.952	.773	1.084	.424	.683	.516	.614	.588	.539	.592	.551	.657	.587	1.380
Prior gender discrimination index	.956	.620	.630	.676	.654	.491	.626	.305	1.096	.619	.815	.613	.645	.641	.672	.651	.888
Follow-up (1st yr) indexes																	
Life events index	1.754	1.296	1.526	1.952	1.671	1.857	1.245	1.302	1.580	1.432	1.448	1.354	1.462	1.440	1.381	1.328	1.637
Quality instruction index	12.48	12.90	12.96	12.83	12.38	12.48	13.02	12.92	12.71	12.86	12.62	12.78	12.76	12.54	13.08	13.79	12.23
Race discrimination in LS index	3.314	1.386	1.853	1.691	1.042	1.563	.250	1.090	1.532	1.305	1.283	1.019	1.157	1.563	1.100	1.401	1.615
Gender discrimination in LS index	1.237	.743	.698	1.107	.756	.491	.653	.196	1.496	.827	.764	.830	.715	.924	.766	.955	.841
Follow-up (2nd yr) indexes																	
Faculty race diversity index	2.885	1.473	2.090	1.321	1.647	1.718	1.346	1.748	1.754	1.714	1.910	1.089	1.229	1.243	1.312	1.403	8.606
Faculty gender diversity index	3.454	3.161	3.213	3.474	3.367	3.871	3.442	3.320	3.472	3.379	3.460	2.746	3.642	3.000	3.115	3.473	5.190
Academic scores																	
Undergraduate GPA (4.2 scale)	2.865	3.212	3.031	2.939	3.138	3.028	3.262	3.172	3.282	3.238	3.133	3.046	3.123	3.303	3.323	3.495	2.824
LSAT	28.71	35.81	32.55	32.38	33.49	31.60	37.42	36.86	36.00	36.75	35.12	32.50	35.23	37.44	38.51	41.52	28.54

[1] 1st-year law school dropout estimated from follow-up panel sample. This information is not available for the entire BPS sample.

TABLE 3A
Unstandardized Coefficients from Heckman Regression of First-Year Law School Grade Point Averages

	Standardized 1st-Year GPAs		
	Model 1	2	3
N	25,158	25,158	24,836
Demographic factors			
Age: 30 years and over	−.075***	−.096***	−.048**
Gender: female	−.010	.019	.014
Race: African American	−1.128***	−1.004***	−.635***
Race: Asian American	−.518***	−.463***	−.404***
Race: Mexican American	−.805***	−.702***	−.505***
Race: Native American	−.970***	−.893***	−.656***
Race: "Other" Latino American	−.548***	−.483***	−.332***
Race: Puerto Rican American	−.930***	−.837***	−.622***
Entrance indicators and indexes			
Part-time law student		.052†	.138***
English *not* respondent's best language		−.178***	−.076
Impairment index		−.207***	−.164***
Pre-law remedial participation index		−.180***	−.047*
Study index		.055***	.064***
Self-assessment of personal abilities index		.002†	.006***
Employment index		−.019*	−.013†
Married		.231***	.222***
Number of children		−.067***	−.055***
Financial responsibilities index		.046***	.040***
Socioeconomic status index		.024***	.010***
Social capital index		−.009	.012
Prior race discrimination index		−.026***	−.012†
Prior render discrimination index		−.023**	−.032***
Academic scores			
Undergraduate GPA, standardized			.285***
LSAT			.039***
Log likelihood	−41923.44	−41638.53	−40303.08
Wald chi-square	3196.38***	3846.96***	5688.82***
R-square	.115	.134	.185

NOTE: Models correct for sample selection following Heckman (1979), but using full maximum likelihood estimation of a joint distribution. Only substantive model shown; selection model uses a low LSAT score indicator, law school rank, and actual age (see text).

†$p < .1$; *$p < .05$; **$p < .01$, ***$p < .001$

TABLE 3B
Unstandardized Coefficients from Heckman Regression of First-Year Law School Grade Point Averages: Follow-up Sample

	Standardized 1st-Year GPAs				
	Model 1	2	3	4	5
N	6,266	6,266	6,158	5,645	5,645
Demographic factors					
Age: 30 years and over	−.108***	−.118***	−.076*	−.058	−.064†
Gender: female	−.027	−.011	.007	.034	.029
Race: African American	−1.102***	−.937***	−.609***	−.607***	−.567***
Race: Asian American	−.532***	−.459***	−.410***	−.434***	−.418***
Race: Mexican American	−.805***	−.668***	−.490***	−.467***	−.454***
Race: Native American	−1.020***	−.905***	−.684***	−.643***	−.630***
Race: "Other" Latino American	−.561***	−.477***	−.328***	−.281***	−.262***
Race: Puerto Rican American	−.922***	−.810***	−.609***	−.553**	−.536**
Entrance indicators and indexes					
Part-time law student		.054	.103†	.083	.054
English *not* respondent's best language		−.137	−.067	−.035	−.049
Impairment index		−.179***	−.151**	−.114*	−.099†
Pre-law remedial participation index		−.211***	−.085*	−.062	−.064
Study index		.064***	.072***	.083***	.081***
Self-assessment of personal abilities index		−.001	.004	.003	.002
Employment index		−.024	−.010	−.003	−.005
Married		.260***	.247***	.202***	.195***
Number of children		−.094***	−.078***	−.081***	−.079***
Financial responsibilities index		.063***	.053**	.072**	.074***
Socioeconomic status index		.026***	.015**	.013*	.011*
Social capital index		−.001	.017	.026	.024
Prior race discrimination index		−.043**	−.023	−.003	.012
Prior gender discrimination index		−.007	−.024†	−.016	−.006
Follow-up (post-1st year) indicators and indexes					
Life events index				−.125***	−.118***
Quality instruction index					.032***
Race discrimination in law school index					−.020**
Gender discrimination in law school index					−.001
Academic scores					
Undergraduate GPA, standardized			.253***	.249***	.251***
LSAT			.035***	.032***	.030***
Log likelihood	−9810.94	−9722.50	−9435.17	−8733.83	−8685.17
Wald chi-square	811.26***	1014.62***	1398.70***	1441.69***	1567.58***
R-square	.209	.227	.264	.274	.287

NOTE: Models correct for sample selection following Heckman (1979), but using full maximum likelihood estimation of a joint distribution. Only substantive model shown; selection model uses a low LSAT score indicator, law school rank, actual age, and 1st-year dropout (see text).

†$p < .1$; *$p < .05$; **$p < .01$, ***$p < .001$

many experiences of race discrimination during law school as any other minority group.

- Asian American law students are the least likely to plan paid employment while enrolled, to be married, to have children, or to have many financial responsibilities; but 1 out of 14 report that English is not their best language.
- Mexican American law students enter law school with low levels of social capital, high usage of pre-law remedial programs, and the highest level of planned study hours; they also report the second highest level of race discrimination during law school.
- Native American law students have the highest level of impairments, make the most use of pre-law remedial programs, and report the most family responsibilities of all law students (i.e., marriage, children, family financial obligations).
- "Other" Latino Americans report the lowest levels of race discrimination of the six minority groups—both before and during law school; they have average levels of family responsibilities, pre-law remedial participation, and planned employment.
- Puerto Rican American law students struggle with English more than any other minority group (1 out of 12), and includes the highest proportion attending part time (1 out of 7); they report the second highest level of social capital.[18]
- White American law students have the highest social capital, the lowest participation in pre-law remedial programs, and the fewest life events during their first year; they have average rates of part-time attendance, employment, and family responsibilities.

These bivariate analyses suggest many factors that might be associated with law school outcomes. Multivariate analyses will help illuminate which background, experience, and prior academic factors are most associated with differences in law school performance and bar passage across racial categories (see below).

B. Bivariate Analyses by Gender

Unlike race, gender is associated with fewer statistically significant bivariate differences, and more similarities (see table 2). Women law students have higher undergraduate GPAs but lower LSAT scores than men law students (just as they do with high school grades and SAT scores; see

18. This ranking on social capital is a likely artifact of sample size. The full BPS includes only 112 Puerto Rican American law students, making the social capital index mean susceptible to a few outliers.

Lemann 1999; Zwick 2002). Women law students also express lower levels of self-confidence at entrance to law school, report more gender discrimination, experience more race discrimination during law school,[19] and undergo more life events during their first year of law school than men do. In all other respects, however, women and men law students are similar: They appear to have comparable socioeconomic origins, plan equal hours for employment and study, earn similar grades, graduate from law school at similar rates, and pass the bar examination at similar rates. Whether these bivariate results persist when evaluated using multivariate methods waits to be seen.

C. Bivariate Analyses by Age

Older law students are more likely to drop out in the first year, less likely to graduate, and less likely to pass the bar than their younger counterparts (see table 2). They are also more likely to attend law school part time, have physical or learning disabilities, have more family responsibilities, and plan paid employment at two to three times the rate of their younger classmates. Older law students have lower socioeconomic status origins, make greater use of pre-law remedial resources, experience more major life events during their first year, and report more gender discrimination prior to law school than younger law students.[20] Older law students also have, on average, lower undergraduate GPAs and lower LSAT scores.[21] Again, the fuller test of age differences is still to come.

D. Bivariate Analyses by Type of Law School

It is no secret that law schools are not equal. Some have large endowments, deep connections to American legal practice, and international reputations for excellence. Other law schools are in debt, funded entirely by tuition, and struggling to maintain their accreditation. Most law schools fall in between these two extremes, though skewed toward higher rather than lower quality. Comparing across the six law school types provided by the BPS, one finds wide differences[22] in student outcomes, social backgrounds, experiences, and prior academic records (see table 2). Some of the most notable findings are highlighted in this section.

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19. This is because women comprise a larger proportion of minority law students than they do white law students.

20. A greater proportion of students over age 30 are women (47% versus 43% among law students under 30), hence this significant result.

21. All noted differences based on post-hoc LSD tests of one-way ANOVAs (analyses not shown).

22. As determined by post-hoc LSD tests of one-way ANOVAs (analyses not shown).

Law students attending elite (i.e., first-tier, mostly private) law schools have the lowest rate of first year dropout (2.4%), the highest degree completion rate (95.9%), and the highest rate of bar examination passage of its entering cohort (88.8%). Such students are least likely to attend part time, use remedial resources least often, have the highest socioeconomic origins, plan the fewest hours of paid employment, and have the fewest family responsibilities. Yet, while these students report the highest quality of first-year instruction and the fewest life events, they report the highest level of gender discrimination and high levels of race discrimination.[23] Students at elite law schools have the highest undergraduate GPAs and LSAT scores.

Law students attending public ivy (i.e., public, first-tier) law schools have low first year dropout rates (5%), high degree completion rates (93.8%), and high bar examination passage rates (82.2%). These students have higher levels of employment and are more likely to attend law school part time than their counterparts attending elite law schools. In other respects, however, public ivy law students resemble elite law students, just a notch lower. Public ivy law students use pre-law remedial programs infrequently, have high socioeconomic origins, and have few family responsibilities. Public ivy law students also report high scores for quality instruction, fewer life events than most other law students, and relatively low levels of race or gender discrimination during law school. Public ivy law students have the second highest undergraduate GPAs and LSAT scores.

Law students attending second-tier law schools, both public and private, are quite similar. About 8% drop out during the first year, 90% graduate from law school, and 80% of their entering cohorts eventually pass the bar exam. Law students attending both types of schools report similar instructional quality during their first year. Private second-tier law schools do have somewhat greater gender diversity and lower reports of racial discrimination, and their law students are more likely to attend part time and plan more hours of paid employment than their public second-tier peers (which is reasonable given the sizable tuition differences between these two types). And public second-tier law school students have generally better undergraduate GPAs and LSAT scores than their private second-tier peers (which is also a reasonable result given the greater admission competition for these more affordable law schools).

Law students attending historically minority law schools have high levels of first year dropout (12.6%), the lowest rates of degree completion (84.2%), and the lowest bar passage rate of their entering cohort (62.2%). These low outcomes occur despite planning to study the same number of

23. This finding, when coupled with the claims of Guinier, Fine, and Balin (1994), Bell (1994), Granfield (1992), and Wilkins (2000), suggests that a particularly unwelcoming culture exists on elite law school campuses—especially when contrasted with that of public ivy law schools. In-depth, comparative studies of law school cultures may hold much promise for future research.

hours as elite law school students, and they may be a partial function of the high student impairment rate (about two times higher than all other types of law schools), the high level of family responsibilities, the high incidence of racial discrimination prior to law school entry (more than two times higher), and the low socioeconomic status origins (at least 10% lower). Given this, it is not surprising that students at historically minority law schools would have the lowest undergraduate GPAs and lowest LSAT scores. Students attending historically minority law schools also report the lowest quality instruction scores; however, they have the highest race *and* gender faculty diversity of the six law school types.

Finally, law students attending third-tier, mostly private law schools have the highest first year dropout rate (15.1%), low degree completion rates (87.4%), and low bar passage rates (72.8%).[24] Third-tier law students are more likely to attend part time, plan more hours of paid employment, have high levels of family responsibilities, and come from lower socioeconomic origins. Third-tier law students report average levels of teaching quality, and they have the second-lowest undergraduate GPAs and the second-lowest LSAT scores.

These bivariate results by law school type follow patterns that many legal educators would expect; that is, higher LSAT scores and higher socioeconomic origins at higher-status law schools. But they also indicate that students at all types of law schools plan an equal time commitment to their studies, as indicated by equivalent planned hours of weekly study. Bivariate results are, of course, tentative. Firmer conclusions about the relationships between type of law school and student outcomes—namely, first-year GPAs, final GPAs, and bar passage—must be drawn from the multivariate analyses that follow.

E. Multivariate Analyses of First-Year Law School GPAs

To be included in analyses of first-year law school GPAs, BPS participants must have valid first-year GPAs. Those who lack them either attended law schools with fewer than 20 BPS participants (uncommon), or failed to complete the first year of law school (most common). The Heckman regression analyses reported here correct for sample selection bias using full maximum likelihood estimation of a joint distribution (that is, they evaluate the selection model—the model predicting inclusion in the substantive model—simultaneously with the substantive model). This

24. Because just 251 law students at third-tier schools responded to the follow-up survey, compared to 2,304 third-tier law student respondents in the full BPS, first-year dropout and degree completion rates do not sum to 100%. First-year dropout can only be determined for follow-up sample respondents, while degree completion and bar passage rates are provided for all BPS participants.

project modeled selection using a low LSAT score indicator, law school rank, age, and first-year dropout.[25] Not surprisingly, those with low LSAT scores are less likely to have first-year GPAs (i.e., less likely to be selected for inclusion in the substantive model), as are those from lower-ranked law schools, older law students, and those who never began their second year of legal education (the latter is available in the survey sample only).

1. Demographic Factors

Law students' age and race are significant and quite robust predictors of first-year GPAs. Together, they explain 11.5% of the variation in first year GPAs for the full cohort, and 20.9% of the variation for the follow-up sample (see model 1 on tables 3a and 3b).[26] Age is an inverse predictor of first-year GPAs: Law students 30 years and over have lower first-year GPAs. And this age effect is not simply a function of differences in entrance factors or prior academic scores (i.e., LSAT and undergraduate GPA). Those who pursue legal education later in life have lower first-year grades than their younger, but otherwise comparable, classmates (see model 2 on table 3a and models 1–3 on table 3b). The explanation for this relationship comes when first year life events are held constant (model 4, table 3b): Older law students come to law school with more family obligations and a greater likelihood for personal illness. Once life events involving family commitments and personal health are held constant, the gap between older and younger law student's GPAs disappears.

While the negative impact of age on first-year grades is eventually explained, the negative impact of being a minority on first-year GPAs is not reducible to differences in entrance factors, first-year experiences, or prior academic scores. *All* minority law students (Asian American, African American, Mexican American, Native American, "other" Latino American,

25. Respondent LSAT scores two or more standard deviations below the mean LSAT for type of law school attended were dummied to create the low LSAT score indicator. Law school rank came up identically using several criteria, including LSAT scores, undergraduate GPAs, and graduation rates: Elite law schools had the best outcomes, followed in order by public-ivy, second-tier public, second-tier private, third-tier private, and then historically minority. First-year dropout is available for follow-up sample participants only.

26. Analyses of the follow-up sample first-year GPAs produced much higher r^2's than analyses of the full BPS. There are several possible reasons. First, more information is known about the follow-up sample—such as first-year dropout—which improves selection modeling. Second, the follow-up sample received more attention during the data collection process, increasing the odds that key data were collected. Third, the disproportionate representation of minorities in the follow-up sample results in greater variation in GPAs (thus making the race indicators more predictive of final GPA, and first-year GPA more predictive of sample selection). While the analyses reported herein use the BPS-provided follow-up sample weights to correct for disproportionate sampling, these weights are not perfect corrections. Such weighting imperfections are of very little consequence, however, since the direction and significance of predictors in the first three models of table 3a match almost perfectly the first three models of table 3b.

and Puerto Rican American) have consistently lower GPAs (often more than half a standard deviation lower) than their white classmates. Controlling for differences in entrance factors, first-year experiences, and prior academic scores (i.e., undergraduate GPA and LSAT score) reduces these GPA gaps by about half—*but race cannot be fully reduced to these factors*. Something intrinsic to the structure or process of legal education affects the grades of all minorities; GPA differences are not explained by differences in academic ability (since LSAT and undergraduate GPAs are held constant), differences in entrance factors (as significant as several entrance factors are for grades), or first year experiences (as significant as these are, too). Particularly notable is the discrimination-during-law-school index (model 5 on table 3b): Law students who report overt race discrimination in law school have significantly lower grades *in addition to* the general impact of being a minority. (Of course, the causal direction is ambiguous: Lower grades may be the mechanism whereby some conclude discrimination based on race.) Important analyses still lie ahead, but these results suggest new interpretations will be needed to explain these first-year GPA differences across race.

In striking contrast to the race results, gender has no significant relationship to first-year GPAs (see tables 3a and 3b). Men and women law students have equivalent first-year law school GPAs—in spite of women's lower LSAT scores (see table 2). Neither is the experience of overt gender discrimination in law school significantly associated with first-year grades (model 5 on table 3b). Such results do not indicate that law schools are no longer gendered spaces, nor do they reveal that even overt gender discrimination has disappeared from law school. What they indicate is that first-year academic performance is not a gendered phenomenon—while the privileging of LSAT scores over undergraduate GPAs in many law school admission decisions surely is.

2. Entrance Factors

The addition of 14 entrance indicators and indexes improves the model fit modestly (r^2 improvement of .019 for model 2 on table 3a and .018 for model 2 on table 3b). Yet, many entrance factors predict first-year GPAs, and several factors retain significance throughout subsequent model testing (see table 3a, table 3b). Of the latter, hours of study planned, being married, having greater family financial responsibilities, and socioeconomic status are consistent, positive predictors, while the law student's number of children and impairment level are consistent inverse predictors of first-year GPAs. Entering law students who planned to study more hours weekly, were married, had more family financial responsibilities, and came from higher-status social origins had higher first-year GPAs than their counterparts (see model 2 on table 3a and table 3b). By contrast, entering law students who had children or who indicated physical or learning

disabilities had consistently lower first-year GPAs than those without either. These factors persist, moreover, with LSAT, undergraduate GPA, and follow-up factor differences controlled. Since we already know (see bivariate results above) that there are significant differences in these entrance factors across demographic categories (e.g., African Americans have lower socioeconomic status origins; older law students have more children), what these results reveal are *direct* effects of entrance-factor differences in addition to *indirect* effects incorporated in LSAT scores and demographic indicators. In other words, these models *underestimate* the size and significance of these entrance-factor coefficients; the impact of lower class origins, for example, is significantly absorbed by lower LSAT scores, which are affected by lower quality secondary and collegiate educations, and so on.

Other entrance factors show significance in early models of first-year GPAs, but drop from significance as either academic scores or follow-up factors enter the model. Pre-law remedial participation is an inverse predictor of first-year GPA, and it remains such even with prior academic scores controlled; it drops from significance only after first-year life events enter the model. This finding indicates that law students who participate in pre-law remedial programs experience a disproportionate share of major life events during their first year of law school. Other factors with significant, if short-lived, relationships to first-year GPAs include part-time attendance and self-confidence (both positive predictors in model 3 on table 3a only), nonnative English speakers and those planning more hours of paid employment (inverse predictors in model 3, table 3a only), and prior-discrimination indexes (inverse predictors in two models each).

One entrance factor is consistently nonsignificant: social capital, or the number of attorneys in one's family. Having a familial connection to legal practitioners does not aid or hinder one's academic performance during the first year of law school. Perhaps social capital is absorbed by the broader measure of socioeconomic status. Or perhaps the impact of social capital is strongest before or after legal education—in guiding students to law school or in helping law school graduates begin their careers. This is purely speculative, of course, and suggestions for future research must await the results of the next two series of analysis.

3. *Follow-up Factors*

A small improvement in model fit comes with the addition of the life events index, and another small improvement comes with the addition of instructional quality and race discrimination indexes (models 4 and 5, table 3b). External life events, both positive (getting married) and negative (death of a family member), have an important impact on first-year grades (r^2 increases by .01, see table 3b). Less influential, but significant nonetheless,

is quality instruction and race discrimination in law school. Students with higher GPAs are more likely to report having faculty who demonstrated concern for students and attention to good teaching. Students who report overt race discrimination in law school have lower first-year GPAs (in addition to the significantly lower GPAs that come with membership in a racial minority; see race results above and discussion below). Students who experience overt gender discrimination during law school do not have lower GPAs, however. Academic performance and the experience of overt gender discrimination appear to be unassociated phenomena (see discussion).

4. *Academic Scores*

Undergraduate GPAs and LSAT scores are significant and positive predictors of first-year law school grades. The addition of these measures improves the model fit notably (with an r^2 increase of .051 in model 3, table 3a, and an increase of .037 in model 3, table 3b). Both academic scores are robust: they remain positive predictors of first-year grades even after the addition of follow-up indexes. (Note that one cannot directly compare these two coefficients, as undergraduate GPAs are based on a 4.2 scale and 1990 LSAT scores are based on a 39-point scale; see tables 1a and b.) Adding academic scores to the model does not result in indicators for age, race, impairment, pre-law remedial usage, planned study, being married, having children, family financial responsibility, or socioeconomic status dropping from significance, however. These demographic and entrance-factor GPA gaps, though partially reduced by holding constant LSAT and undergraduate GPA, are not reducible to LSAT or undergraduate GPA. First-year GPAs are the product of much more than differences in academic "inputs," and the influence of these demographic, social background, and experiential factors deserves close attention by legal educators.

5. *Summary*

Over one-fourth (28.7%; model 5, table 3b) of the variation in first-year law school grades can be explained using demographic indicators, entrance and follow-up factors, and academic scores.[27] In particular, law students with the highest first-year grades are those who are in their twenties, are not minorities, have no physical or learning impairments, plan more study hours, are married, have no children, carry greater family financial responsibilities, have higher-status socioeconomic origins, experience fewer first-year life events, enjoy higher-quality instruction in law school, experience no racial

27. Analyses within law school types produced virtually identical results to analyses across all law school types; thus, to conserve journal space, they are not shown.

discrimination during law school, and have higher undergraduate GPAs and higher LSAT scores. Those who vary from this description have significantly lower first-year GPAs relative to their law school peers.

F. Multivariate Analyses of Final Law School GPAs

Inclusion in the substantive analyses of final (i.e., graduation) GPAs is predicated, quite importantly, on the participant's prior academic performance. The Heckman regression models correct for sample selection bias using a low LSAT score indicator, law school rank, age, first-year law school GPA with mean substitution, and a missing first-year GPA indicator. (For follow-up sample respondents, the latter two factors were sufficient selection predictors.) Quite expectedly, those with low LSAT scores, who attended less prestigious law schools, who were older, and who had lower (or missing) first-year law school GPAs were significantly less likely to have valid final GPAs.

1. Demographic Factors

Gender and race indicators explain a substantial portion of the variation in final GPAs (an r^2 of .105 in model 1, table 4a, and an r^2 of .219 in model 1, table 4b).[28] Women law students have significantly higher final GPAs than men, net of race and age, and this relationship persists throughout subsequent model testing. Put simply, women graduate from law school with better grades than men do, and this difference is not reducible to systematic differences between men and women law students in demographic, entrance, follow-up, or academic factors. Minority law students, by contrast, have final GPAs significantly lower than white law students, and these relationships also persist throughout all subsequent model testing. In other words, *even if one could equalize academic score differences and every other factor contained in these analyses, there would still be a significant GPA gap between white law students and law students of every other race/ethnicity*. Age, however, is *not* a significant predictor of final GPAs (with one exception in model 1, table 4a).

It is interesting to compare GPA patterns across demographic groups: Women have equivalent first-year GPAs but higher final GPAs than men do; older law students have lower first-year GPAs but equivalent final GPAs compared with their younger counterparts; while *all* minority law students have lower GPAs first year and lower final GPAs than their white classmates (cf. tables 3–4). Women and older law students, then, witness substantial improvements in their academic performance during their

28. See previous footnote about follow-up sample and full BPS model-fit statistic differences in first-year GPA analyses.

TABLE 4A
Unstandardized Coefficients from Heckman Regression of Final Law School Grade Point Averages

	Standardized Final GPAs		
	Model 1	2	3
N	23,251	23,251	22,969
Demographic factors			
Age: 30 years and over	.044**	−.014	.033†
Gender: female	.069***	.072***	.060***
Race: African American	−.862***	−.752***	−.458***
Race: Asian American	−.442***	−.396***	−.357***
Race: Mexican American	−.656***	−.559***	−.402***
Race: Native American	−.664***	−.599***	−.398***
Race: "Other" Latino American	−.467***	−.414***	−.291***
Race: Puerto Rican American	−.648***	−.571***	−.378***
Entrance indicators and indexes			
Part-time law student		.093**	.180***
English *not* respondent's best lang.		−.081†	.000
Impairment index		−.145***	−.098***
Pre-law remedial partic. index		−.200***	−.080***
Study index		.028**	.037***
Self-Assessment of abilities index		−.001	.003*
Employment index		−.005	.002
Married		.213***	.204***
Number of children		−.041***	−.037***
Financial responsibilities index		.034***	.034***
Socioeconomic status index		.021***	.011***
Social capital index		−.009	.009
Prior race discrimination index		−.026***	−.011
Prior gender discrimination index		.001	−.010
Academic scores			
Undergraduate GPA, standardized			.356***
LSAT			.033***
Log likelihood	−37560.25	−37323.59	−36021.34
Wald chi-square	2094.88***	2614.18***	4471.79***
R-square	.105	.124	.178

NOTE: Models correct for sample selection following Heckman (1979), but use full maximum likelihood estimation of a joint distribution. Substantive model shown only; selection model uses a low LSAT score indicator, law school rank, age, and 1st-year grade point average (see text).

†$p < .1$; *$p < .05$; **$p < .01$, ***$p < .001$

TABLE 4B
Unstandardized Coefficients from Heckman Regression of Final Law School Grade Point Averages: Follow-up Sample

	Standardized Final GPAs					
	Model 1	2	3	4	5	6
N	5610	5610	5518	5116	5116	4163
Demographic factors						
Age: 30 years and over	.017	−.058	−.012	−.000	−.004	.013
Gender: female	.043†	.062*	.054*	.063*	.062*	.084**
Race: African American	−.900***	−.763***	−.524***	−.500***	−.496***	−.474***
Race: Asian American	−.495***	−.426***	−.403***	−.413***	−.412***	−.360***
Race: Mexican American	−.729***	−.613***	−.487***	−.460***	−.463***	−.433***
Race: Native American	−.691***	−.601***	−.454***	−.398**	−.397**	−.371**
Race: "Other" Latino American	−.510***	−.448***	−.341***	−.285***	−.278***	−.229**
Race: Puerto Rican American	−.737***	−.656***	−.488**	−.493**	−.481**	−.363*
Entrance indicators and indexes						
Part-time law student		.200**	.232***	.215***	.202***	.282***
English *not* respondent's best lang.		−.100	−.090	−.045	−.055	−.104
Impairment index		−.158***	−.133**	−.143**	−.138**	−.175***
Pre-law remedial partic. index		−.207***	−.107**	−.101*	−.105**	−.107*
Study index		.068***	.071***	.076***	.076***	.085***
Self-assessment of abilities index		.001	.004*	.004†	.004	.005*
Employment index		−.002	.008	.000	−.001	−.011
Married		.230***	.216***	.193***	.191***	.210***
Number of children		−.065**	−.061**	−.058**	−.056**	−.044†
Financial responsibilities index		.034†	.032†	.043*	.043*	.029
Socioeconomic status index		.014**	.008	.008	.007	.000
Social capital index		.006	.021	.021	.020	.023
Prior race discrimination index		−.036**	−.019	−.010	−.006	−.004
Prior gender discrimination index		−.011	−.022	−.012	−.007	−.006
Follow-up indicators and indexes						
Life events index				−.086***	−.084***	−.090***
Quality instruction index					.017***	.019***
Race discrimination in L.S. index					−.004	−.002
Gender discrim. in L.S. index					−.001	−.000
Faculty race diversity index						.020***
Faculty gender diversity index						.024***
Academic scores						
Undergraduate GPA, standardized			.313***	.314***	.318***	.308***
LSAT			.022***	.022***	.021***	.026***
Log likelihood	−9160.24	−9081.31	−8853.17	−8319.64	−8306.67	−6895.60
Wald chi-square	607.3***	784.29***	1058.2***	1061.1***	1090.0***	971.4***
R-square	.219	.236	.275	.288	.293	.309

NOTE: Models correct for sample selection following Heckman (1979), but use full maximum likelihood estimation of a joint distribution. Substantive model shown only; selection model uses 1st-year grade point average (see text).

†$p < .1$; *$p < .05$; **$p < .01$, ***$p < .001$

second and third years of law school. Minority law students, however, do not. Since these results cannot be reduced to differences in entrance factors, follow-up factors, academic scores, or faculty diversity, they will receive much attention in the discussion section below.

2. *Entrance Factors*

Of fourteen entrance factors, six show significant and persistent relationships with final GPAs across all models, four show significant relationships in various models, and four entrance factors are not significant in any models (see tables 4a, 4b). Of the six significant and persistent entrance factors, three are positive: part time student status, hours of planned study, and being married. Students who enter law school part-time (but graduate within 5.5 years), students who plan more hours of study, and married students (net of children and family financial responsibilities) have higher final GPAs than their counterparts. Three significant and persistent entrance factors are negative: Having physical or learning disabilities, having participated in a pre-law remedial program, and having children. Law students with physical or learning disabilities, law students who opted to enroll in a pre-law remedial program, and law students who are parents have lower final GPAs than their counterparts. All six of these entrance factors remain significant throughout subsequent model testing. They cannot be reduced to variations in academic scores or follow-up factors (e.g., pre-law remedial participation is not a proxy for low LSAT scores or low undergraduate GPAs; planned study hours are not proxies for high scores or grades).

Another four entrance factors have varying relationships with final GPAs: Self-confidence, family financial responsibilities, and socioeconomic status have significant and positive relationships in select models, while prior race discrimination has a significant and inverse relationship in select models. Law students with higher levels of self-confidence have higher final GPAs than classmates with lower levels of confidence, net of prior academic scores and faculty diversity indexes (see model 3, tables 4a and 4b; model 5, table 4b). Law students with higher socioeconomic status origins have higher final GPAs than their lower-status classmates, until prior academic scores enter the follow-up sample models. Put differently, socioeconomic status index scores closely track LSAT scores and undergraduate GPAs, but they reveal no direct association with final law school GPAs net of LSAT and undergraduate GPA (true of models 3, 4, 5, and 6 on table 4b, but not model 3, table 4a). Law students who experienced race discrimination before entering law school also have lower final GPAs than law students who did not experience race discrimination; but as with socioeconomic status, this result gets absorbed by prior academic scores. This similarity may indicate that one of the ways students who report race discrimination before

law school experience that discrimination is through their undergraduate GPAs and LSAT scores. Finally, law students with greater family financial responsibilities (net of marital or parental status) often have significantly better final GPAs; such responsibilities, rather than interfering with academic performance, appear to help these law students perform well academically.

Four entrance factors have no relationship to final GPAs: being a nonnative English speaker, having planned more hours of paid employment, having familial connections to legal practice, and having experienced gender discrimination before entering law school. When compared to the occasionally significant relationships between these factors and *first-year* GPAs, the results with final GPAs suggest that nonnative English speakers, those who planned more hours of work, and/or those who experienced gender discrimination before law school entrance find ways to eliminate the academic effects of these factors during their second and third years of law school.

3. *Follow-up Factors*

Adding follow-up factors to models predicting final GPAs increases the model fit modestly (from an r^2 of .275 for model 3, table 4b, to an r^2 of .288–.309 in models 4, 5, and 6, table 4b). Much of this increase comes with the addition of first-year life events. The more life events a student experiences during their first year of law school, the lower their first-year and final GPA. It does not matter whether these experiences are positive (e.g., getting married, having a baby) or negative (e.g., personal illness, death of a family member): All such experiences distract students and lower law school grades—not just immediately (during the first year), but over the long term as well. This finding underscores what many legal educators know full well: A student's performance during the first year of law school has long-term consequences.

Three other follow-up factors also have significant relationships with final GPAs: quality instruction, faculty race diversity, and faculty gender diversity. Those students with higher final GPAs were more likely to report better instructional quality, more minority instructors, and more women instructors. While the causal ambiguity of the first result was previously noted, the latter two results are less ambiguous. Faculty at most law schools must follow standardized grading distributions (Kissam 2003); thus, one can reasonably infer that students who have race and gender diverse instructors actually perform better academically. This is an important finding, as it supports the "critical mass" argument in the *Grutter* decision and deserves thoughtful attention by legal educators and social scientists alike.

Two follow-up factors were not significantly associated with final GPAs: race or gender discrimination during law school. Once again, this finding does not mean that race or gender discrimination are absent from law school and their surrounding communities. Rather, it suggests that women

and minority law students who persist to graduation either (1) separate (or learn to separate) the experience of overt law school discrimination from their academic performance (cf. model 5, table 3b, to models 5 and 6, table 4b), or (2) treat overt acts of discrimination no differently than the more subtle and pervasive forms of prejudice confronted daily.

4. *Academic Scores*

The inclusion of LSAT scores and undergraduate GPAs improves the model fit considerably (with an r^2 increase of .054 in model 3, table 4a, and an increase of .039 in model 3, table 4b). One's prior academic performance is a significant, positive, and persistent predictor of one's final law school GPA. Law students with better prior academic scores perform better both in the first year and throughout their legal educations. Yet, it is noteworthy to see what is not impacted by the addition of prior academic scores to models of final GPAs: Neither gender nor race gaps disappear, while six out of eight previously significant entrance factors (e.g., impairment, socioeconomic status) remain significant. Though prior academic performance is an important predictor of law school performance, it is but one predictor among many.

5. *Summary*

Gender, race, part-time student status, physical or learning impairments, pre-law remedial participation, planned study hours, self-confidence, being married, first-year life events, quality instruction, faculty race diversity, faculty gender diversity, LSAT scores, and undergraduate GPAs explain 31% of the variation in final law school GPAs.[29] In other words, those with the highest law school GPAs are white women who began as part-time students (yet graduated within 5.5 years), had no physical or learning impairments, did not participate in pre-law remedial programs, planned more study hours, had high self-confidence, had spouses, had fewer first-year life events, reported higher instructional quality, had more nonwhite faculty, had more female faculty, and entered with higher LSAT scores and better undergraduate GPAs. Those who vary from this description have lower final GPAs.

G. Multivariate Analyses of Bar Passage

In contrast to GPAs, which are relative to one's law school classmates, bar passage is a dichotomous and absolute indicator. Consequently, these

29. Analyses within law school types produced virtually identical results to analyses across all law school types; thus, to conserve journal space, they are not shown.

analyses employ Heckman probit analysis and produce results that one describes in terms of probabilities.

To be included in analyses of bar passage requires each BPS participant to have known bar examination results, which is predicated on completing law school and the graduate's overall career goals,[30] which in turn are predicated largely on the law school attended, first-year academic performance, and the student's own academic readiness for law school. Thus, the Heckman probit selection model corrects for sample selection bias using a low LSAT score indicator, law school rank, first-year law school GPA, age, and (for follow-up survey participants only) a third wave survey participation indicator. The selection predictors performed as expected: Those who attended more competitive law schools have higher probabilities of sitting for a bar examination (and thus, higher probabilities of law school graduation); younger law graduates, those with higher first-year GPAs, and follow-up sample participants who responded to the third wave questionnaire also have higher probabilities of sitting for a bar examination. Law students with low LSAT scores had lower probabilities of sitting for a bar examination.

1. Demographic Factors

Analyses of the full BPS shows law students 30 years and over have significantly lower probabilities of passing the bar examination than their younger counterparts, and that this is not a function of entrance factors, academic performance differences, or type of law school attended (see table 5a). Analyses of the follow-up sample also show that law students 30 years and over have significantly lower bar-passage probabilities, but this age effect disappears once academic scores enter the model (i.e., age becomes marginally significant with LSAT and undergraduate GPA held constant, and nonsignificant once final law school GPA enters the model; see table 5b). Thus, to understand age effects on bar passage, one must understand age effects on academic scores (as in the analyses of law school GPAs above). Bar examination outcomes are, however, only weakly associated with demographic indicators; models containing age, gender, and race indicators explain no more than seven percent of the variation in bar passage (see model 1, tables 5a and 5b).

All minority study participants have initially lower bar-passage probabilities than their white counterparts, and this pattern persists across

30. That is, the desire to practice law at all, for which actual age is a potential proxy. Put differently, a 50-year-old law school graduate is less likely to seek a career in legal practice for which passing the bar is necessary; rather, that 50-year-old graduate is more likely to have completed law school as a supplement to her or his present career. This is confirmed by bivariate analyses: Respondents age 30 and over were more likely to say that a career in a prosecutor or public defender's office, in a large or medium-sized law firm, in a government agency, or in a legislative office was "very unappealing."

subsequent models until final law school GPA is added (except where too few cases exist to reach statistical significance, as with Native American and Latino American subgroups in the follow-up sample). African American study participants who sit for a bar examination have a .83 predicted probability of passing (net of gender and age), Asian Americans have a .93 probability, Mexican Americans have a .90 probability, Native Americans have a .87 probability, "other" Latino Americans have a .91 probability, and Puerto Rican Americans have a .86 probability, while white study participants have a .97 probability of passing. These probability gaps are slightly reduced by controlling for entrance factors, follow-up factors, type of law school attended, undergraduate GPA, and LSAT score differences (model 3, table 5a, and model 5, table 5b). They are eliminated, however, once final law school GPA is controlled (see model 4, table 5a, and model 6, table 5b). This loss of statistical significance indicates that while race may have a direct effect on bar passage initially, its final effect is *indirect*—through law school GPA primarily. This is a very important finding, because it confirms an important finding of prior research: That is, if one wants to understand race differences in bar passage, one must understand race differences in law school grades. Law school grades, in other words, measure essentially the same set of skills and knowledge as the bar examination.[31] (By contrast, analyses of law school grades show that understanding race differences in grades requires understanding far more than race differences in LSATs and undergraduate GPAs.)

Gender does not have a significant relationship with bar passage. Women and men law students have equivalent probabilities of passing the bar, regardless of entrance factors, follow-up factors, type of law school attended, or academic performance differences. Though bivariate results reveal significantly *lower* LSAT scores for women law students, women have *higher* final law school grades and *equal* probabilities of passing the bar. These gender findings also merit close attention.

2. Entrance Factors

Since the time between law school entrance and sitting for a bar examination spans several years, the addition of entrance factors to the demographic models produces only a small gain in model fit (just over 1% in explained variance). Planning more study hours (model 2, table 5b), being married (model 2, table 5a), and having higher socioeconomic status origins (model 2, table 5a) are all associated with higher bar passage probabilities, while attending part-time (model 2, table 5a), being impaired (model 2,

31. Which does not imply that law school grades or the bar examination are good predictors of success in legal practice—only that law school grades and the bar examination are highly correlated (see Curcio 2002; Glen 2002).

TABLE 5A
Coefficients from Heckman Probit Regression of Passing Bar Examination

	Pass Bar Examination			
	Model 1	**2**	**3**	**4**
N	23,000	22,999	22,726	21,414
Demographic Factors				
Age: 30 years and over	−.272***	−.196***	−.114**	−.135*
Gender: female	−.006	−.012	−.012	−.056
Race: African American	−.939***	−.795***	−.329***	−.056
Race: Asian American	−.457***	−.409***	−.307***	−.120
Race: Mexican American	−.606***	−.478***	−.247**	−.008
Race: Native American	−.754***	−.664***	−.356**	−.087
Race: "Other" Latino American	−.559***	−.482***	−.262***	−.103
Race: Puerto Rican American	−.812***	−.673***	−.422**	−.261
Entrance indicators and indexes				
Part-time law student		−.246***	−.156*	−.284***
English *not* respondent's best language		−.152	.087	.068
Impairment index		−.134**	−.105*	−.078
Pre-law remedial participation index		−.212***	−.031	−.015
Study index		.034	.038†	.008
Self-assessment of personal abilities index		−.001	.004	.005
Employment index		−.021	−.027	−.048*
Married		.107**	.100*	−.009
Number of children		−.000	.009	.027
Financial responsibilities index		−.023	−.017	−.031
Socioeconomic status index		.023***	.006	.000
Social capital index		.041	.072*	.055
Prior race discrimination index		−.033*	−.005	.022
Prior gender discrimination index		−.011	−.026	−.036†
Academic scores				
Undergraduate GPA, standardized			.386***	.212***
LSAT			.058***	.039***
Final law school GPA, standardized				.701***
Law school type (comparison is to public, 1st tier)				
Private, 3rd tier			.059	−.172*
Private, 2nd tier			.128**	.044
Public, 2nd tier			.118*	.145*
Private, 1st tier ("Elite")			.185*	.272**
Historically minority			.057	−.735***
Log likelihood	−14413.27	−14343.17	−13902.43	−12238.390
Wald chi-square	768.84***	874.76***	1173.41***	984.35***
Pseudo R-square	.052	.064	.111	.189

NOTE: Models correct for sample selection following Heckman (1979), but using full maximum likelihood estimation of a joint distribution. Only substantive model shown; selection model uses a low LSAT score indicator, law school rank, age, and 1st-year law school GPA (see text).

†$p < .1$; *$p < .05$; **$p < .01$, ***$p < .001$

TABLE 5B
Coefficients from Heckman Probit Regression of Passing Bar Examination

	Pass Bar Examination					
	Model 1	2	3	4	5	6
N	5,837	5,836	5,749	5,356	5,356	5,030
Demographic Factors						
Age: 30 years and over	−.348***	−.261**	−.169†	−.164†	−.173†	−.060
Gender: female	−.059	−.110	−.101	−.041	−.028	−.102
Race: African American	−.966***	−.783***	−.308**	−.372**	−.372**	−.082
Race: Asian American	−.528***	−.468***	−.379**	−.407**	−.408**	−.233
Race: Mexican American	−.630***	−.472**	−.234	−.232	−.237*	.005
Race: Native American	−.831***	−.715**	−.346	−.273	−.267	.169
Race: "Other" Latino American	−.591***	−.498***	−.270†	−.272†	−.269†	−.084
Race: Puerto Rican American	−.927***	−.803**	−.539†	−.547†	−.537†	−.321
Entrance indicators and indexes						
Part-time law student		−.122	−.099	−.197	−.204	−.398*
English *not* respondent's best lang.		.024	.246	.338	.346	.284
Impairment index		−.100	−.061	−.073	−.055	.123
Pre-law remedial partic. index		−.324***	−.113	−.098	−.102	−.064
Study index		.110**	.100*	.099*	.097*	.031
Self-assessment of abilities index		−.003	.006	.006	.006	.012
Employment index		−.028	−.017	−.000	−.002	−.036
Married		−.075	−.066	−.043	−.048	−.180
Number of children		−.041	−.032	−.036	−.031	−.030
Financial responsibilities index		.067	.055	.065	.067	.087
Socioeconomic status index		.019	.008	.005	.005	.010
Social capital index		−.061	−.024	−.053	−.051	−.092
Prior race discrimination index		−.080**	−.055†	−.042	−.038	−.030
Prior gender discrimination index		.056	.040	.032	.045	.047
Follow-up indicators and indexes						
Life events index				−.063*	−.059*	−.012
Quality instruction index					.018†	.010
Race discrimination in L.S. index					.002	−.000
Gender discrim. in L.S. index					−.019	−.012
Academic scores						
Undergraduate GPA, standardized			.408***	.371***	.379***	.247*
LSAT			.060***	.063***	.064***	.049***
Final law school GPA, standardized						.687***
Law school type (comp. is to public, 1st tier)						
Private, 3rd tier			.016	−.011	.014	−.264
Private, 2nd tier			−.049	−.047	−.038	−.158
Public, 2nd tier			.020	.058	.079	.185
Private, 1st tier ("elite")			.164	.270	.261	.503
Historically minority			−.031	−.044	−.025	−.816***
Log likelihood	−2953.70	−2928.77	−2815.39	−2625.61	−2623.03	−2300.29
Wald chi-square	202.8***	242.1***	315.72***	295.57***	296.25***	321.19***
Pseudo R-square	.069	.080	.153	.160	.162	.250

NOTE: Models correct for sample selection following Heckman (1979), but use full maximum likelihood estimation of a joint distribution. Only substantive model shown; selection model uses a third-wave follow-up participation indicator, age, and 1st-year grade point average (see text).

†$p < .1$; *$p < .05$; **$p < .01$, ***$p < .001$

table 5a), participating in pre-law remedial programs (model 2, tables 5a and table 5b), and experiencing prior race discrimination (model 2, tables 5a and table 5b) are all associated with lower bar-passage probabilities. Planned study hours have a particularly robust association with bar passage (model 3–5, table 5b), but only part-time student status shows significance once law school GPA enters the model. This part-time result is a likely consequence of right censoring; that is, since data collection was ended in early 1997, part-time law students had fewer opportunities to retake and eventually pass the bar examination than did their full-time counterparts.

3. *Follow-up Factors*

The first-year life events index is a significant and inverse predictor of bar passage probability, and it is significant even with LSAT scores and undergraduate GPAs controlled (model 4, table 5b). Students who experienced one or more major life events during their first year of law school had lower bar-passage probabilities. Though this index does not add much to the overall explanatory power of the model (less than 1% improvement in model fit), its significance for bar passage underscores again the importance of the first-year experience for a law student's long-term outcomes.

Other follow-up indexes do not show significance. Quality instruction, gender discrimination during law school, race discrimination during law school, faculty race diversity, and faculty gender diversity indexes do not have a significant relationship with bar passage.[32] Several of these indexes impact law school GPAs directly, but their impact on bar passage is indirect. Faculty diversity, discrimination during law school, and instructor quality impact the outcomes of bar examinees only to the extent that these factors impact law school grades.

4. *Academic Scores*

Undergraduate GPAs and LSAT scores are both significant and positive predictors of bar examination outcomes (see tables 5a and 5b). Adding these scores with law-school-type indicators make large improvements in model fit, and these factors subsume several factors that showed significance in prior models. Yet, adding undergraduate academic scores and law school types does not eliminate all direct effects of race indicators on bar passage. Instead, they impact indicators for racial categories with the fewest cases (see table 2). The race coefficients only drop from significance when final law school GPA enters the model. Adding final law school GPA

32. To conserve journal space, the model evaluating (nonsignificant) faculty-diversity indexes is not shown.

eliminates all demographic, entrance, and follow-up factors save part-time student status (which is an artifact of right censoring). In other words, many apparent bar passage gaps (such as those in figure 1) reduce to final law school GPA gaps. But the corollary does not hold: Final law school GPA gaps do not reduce to undergraduate GPAs or LSAT scores (see analyses above).

Bar passage is primarily explained by final law school GPA. But bar passage also draws on general academic ability as signified by undergraduate GPA and readiness for legal education (or standardized test-taking ability) as signified by the LSAT. Those with the best performance in all three of these areas have the highest probabilities of passing the bar.

The significance of law school GPAs in predicting bar examination outcomes also reveals something quite important about the limited relativity of law school grades. That is, while faculty (by and large) assign grades relative to the overall student abilities at particular law schools, they also (by and large) assign passing grades with an eye toward absolute professional standards. Put differently, a passing law school grade signifies at least minimal subject competency, and a completed law degree signifies at least minimal legal competency. There appears to be just one aberration from this general pattern, described next.

5. *Law School Type Indicators*

With first-tier, mostly public law schools as the reference category, one law school type is differentiated in analyses of both the full BPS and the follow-up sample (see model 4, table 5a; model 6, table 5b). Net of final law school GPAs, undergraduate GPAs, LSAT scores, age, gender, race, entrance factors, and follow-up factors, graduates of historically minority law schools have significantly lower predicted probabilities of passing the bar. Third-tier, mostly private law school graduates also have lower probabilities, while elite law school and second-tier, mostly public law schools have higher probabilities (in analyses of the full BPS only; see model 4, table 5a). One should note that the lower bar-passage probabilities for historically minority law school graduates appear only when final law school GPAs are added to the model. Since law school GPAs are standardized to individual law schools, this relationship suggests that the faculty of historically minority law schools, on average, award passing grades more often than faculty at other types of law schools, and that the significant, negative coefficient for graduates of historically minority law schools is essentially a final-GPA correction factor. The same may hold for third-tier law schools, and the inverse may hold for elite and second-tier, mostly public law schools, but this possibility would need future investigation for any firm conclusion to be drawn.

6. *Summary*

Part-time student status, undergraduate GPA, LSAT, final law school GPA, and law school type explain one-fourth (model 6, table 5b) of the variation in bar examination outcomes. In other words, BPS participants with the highest probabilities of passing the bar examination[33] attended law school full time, had good grades as undergraduates, had high LSAT scores, had good grades in law school, and did not attend historically minority law schools. Those who varied from this description had significantly lower probabilities of passing the bar.

III. DISCUSSION

Does the river of social diversity run through all law schools, as it does for minorities at the University of Michigan Law School? The results above demonstrate that no single river carries law students of varying ages, races, personal characteristics, and social origins from start to finish. As noted at the beginning, a better analogy is a forked river, one side swift but smooth; the other side, challenging and often dangerous. Moreover, an entry gate unevenly restricts access to the river.

For women law students, the hardest part of the journey is being allowed to begin (i.e., they must get through an uneven LSAT checkpoint to enter the river; cf. Kidder 2001). Women have higher undergraduate GPAs than men, but because law schools favor LSAT scores in admission decisions, some portion of women applicants are restricted from pursuing law degrees. The women who do pass through this LSAT checkpoint ride the easier fork; in fact, the analyses demonstrate that women navigate it better than men of identical race, age, social backgrounds, law school experiences, and academic preparations.

For minority law students, the journey is never easy. Passing through the entry gate is often challenging (Wightman 2003; Kidder 2003), and the BPS analyses demonstrate that all minority law students must ride the white-water rapids side. And these truly are two different rivers, *as the analyses above hold constant ''piloting'' differences*.[34] The white-water rapids that *all* minority law students must navigate are not at all like the smooth currents that white law students enjoy.

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33. Within the 5.5 years of BPS data collection.

34. River "piloting differences" include LSAT scores, undergraduate GPAs, hours of planned study, hours of planned employment, various additional distractions, self-confidence, and even English language difficulties. In other words, "piloting differences" (or individual student differences) explain only half of the modeled variation in law school grades; the other half of the modeled variation is attributable to nonreducible, systemic race differences. And one ought not forget that even in the best-fitting model, more than two-thirds of the outcome variation is left unexplained.

For law students who are in other ways "atypical"—older, physically or learning disabled, or lower in socioeconomic status—both the entry checkpoint and the river ride can be difficult. Compared with their younger counterparts, older law students have significantly lower first-year GPAs (primarily due to more health and family issues) and lower probabilities of passing the bar (until final law school GPAs are held constant). Law students with physical or learning disabilities and less affluent law students also lag behind their counterparts rather often. Since these law students have lower LSAT scores,[35] one can safely infer that some portion of law school applicants like them never make it through the entry gate. And those who do sometimes find themselves navigating white-water rapids to become lawyers—though not continuously as minorities must.

Viewed together, these results call for a revised interpretation of law students and the process of becoming a lawyer—of which an adaptation of social stigma theory holds the most promise. But before turning to a potential explanation of these results, one must consider several interpretations of law school grade and bar-passage gaps that these results have made implausible. First, one cannot reduce these gaps to differences in academic preparation, effort, or distractions. Further, one cannot reduce these gaps to differences in instructional quality or law school resources. Nor can one reduce these gaps to social class differences. Finally, one cannot reduce these gaps to the willingness to accept an elitist, pro-business law school ethos. Each of these interpretations deserves attention.

A. On Academic Preparation, Effort, and Distractions

Students must have the requisite academic preparation, self-confidence, diligence, and an absence of distractions to succeed in any course of study, including law school. This project's results confirm this quite well. Those law students with the best incoming academic records have the best academic performance during law school. Those law students who expect to devote the most hours to study and those with the highest self-confidence have the best law school grades. Those law students who did not feel it necessary to attend pre-law remedial programs have the best grades. Those law students who can avoid distractions—be they child care or major life events (or have spouses who mitigate distractions and/or help focus attention on study)—are those who have the best GPAs. Even those law students with greater financial

35. Law students over 30 had LSAT scores that were, on average, 1.63 points lower (−.29 sd) than their younger classmates (see table 2); the 135 law students with two reported impairments had LSAT scores that were, on average, 2.18 points lower (−.38 sd) than their unimpaired classmates; the 695 law students with a socioeconomic status index score of three had LSAT scores that were, on average, 5.57 points lower (−1.02 sd) than their 430 classmates with index scores of 12 (all differences were significant, using ANOVA F's, at $p < .001$).

responsibilities somehow find that these responsibilities help them focus more effectively during their study hours (the positive relationship between family financial responsibilities and GPAs is net of children, marital status, and hours of planned study), and thereby earn better grades than classmates with fewer financial responsibilities.[36]

It might be simpler if academic preparation, effort, and distractions were the only factors that impacted law school performance and bar passage, as one could assign blame to the "educational pipeline" and be done with the matter. But this is only true of bar passage, *not* of law school performance. Minority law students have lower grades than their white counterparts, *net* of LSAT, *net* of undergraduate GPA, *net* of planned study hours, and *net* of many other critical distractions. The same holds true for law students with impairments, for law students with lower socioeconomic origins (with a couple of exceptions), and for older law students (with first-year GPAs). Though bar-passage differences may be explained primarily by law school grades, those grades are impacted by far more than academic factors. One cannot explain away GPA gaps as nothing more than consequences of weaker academic preparation, less effort, or more distraction. Rather, something about legal education *exacerbates* academic "input differences" and damages the law school performance (and subsequent bar passage) of minority, impaired, and less affluent law students (cf. Hunt 1996). A possible description of this inherent harm is suggested below.

B. On Instructional and Law-School-Type Differences

Quality instruction and faculty diversity are significantly associated with better student performance, which in turn is positively associated with bar passage. (Of course, students with better grades may be more likely to rank their instructors highly because they have better grades, so the causal direction is ambiguous.) Perhaps "critical mass" is the mechanism that connects faculty diversity to higher student GPAs; other research has documented that diversity aids learning among both law students (Mertz, Njogu, and Gooding 1998; Orfield and Whitla 2001) and medical students (Whitla et al. 2003). By contrast, the type of law school attended is not an important predictor of bar passage, once LSAT and undergraduate GPAs are held constant (except for historically minority law schools at which

36. Admittedly, this last point is not proven by these results; it's only a plausible interpretation. It fits, though, with the anecdotal experiences of many educators, who often find that those students with more financial pressures—*ceteris paribus*—appear to use that pressure to positive academic effect. For example: "Many students say working helps them manage their time more effectively. Working can also give students a sense of connection to the community that they might not have otherwise" (http://www.furtheryoureducation.com/transfer/life_at_four_year/combining_college_work.shtml).

passing grades do not accurately signify bar examination readiness[37]). In other words, law students with equivalent LSAT scores, undergraduate GPAs, and law school GPAs will be equally likely to pass the bar regardless of their law school's rank.

Nevertheless, as important as quality instruction or faculty diversity may be, or type of law school is assumed to be, adding these factors into the analyses does not eliminate (or even make a major reduction in) demographic outcome differences. All members of minority groups, regardless of instructional quality, faculty diversity, or law school type, have weaker outcomes than their white classmates. Outcome differences among impaired law students and less affluent law students are also not explained by instructional quality, faculty diversity, or law school type. While efforts to improve instructional quality, increase faculty diversity, or imitate elite law schools may be laudable in their own right, the evidence herein suggests such efforts will at most make but a small reduction in the systematic differences in outcomes across law students.

C. On Social Class Differences

Law students from lower status origins have lower LSAT scores and lower law school grades, and these factors in turn reduce probabilities of passing the bar. This is an important finding and worth close attention by legal educators. The bivariate results further demonstrate significant associations exist between socioeconomic status and race, and between socioeconomic status and age. Yet, as important as socioeconomic differences are for law school performance, holding them constant does not eliminate race, age, or impairment outcome gaps.[38] Socioeconomic differences (or social class differences) are not the root problem behind these outcome gaps. These differences are one of many important factors, and an understanding of outcome gaps is far from complete if socioeconomic differences are considered in isolation.

It may surprise some readers that social capital did not have the predictive importance that many social capital researchers would expect (e.g., Wilkins and Gulati 1996). This may be because social capital gets absorbed by more general measures of socioeconomic status (i.e., having *neighbors* who are attorneys and *parents* who are physicians may be just as helpful as having

37. It may be that graduates of historically minority law schools disproportionately sit for bar examinations in jurisdictions with particularly stringent passing standards. Since jurisdiction data have been removed from the BPS, this possibility cannot be evaluated. But given that most historically minority law schools draw students from across several states, and often from across the nation, this is a remote possibility.

38. Interaction effects between race and socioeconomic status were evaluated in all models; none of these interaction terms were significant, however (models not shown).

parents who are themselves attorneys; there is a weak but significant correlation [r = .256, $p < .001$] between social capital and socioeconomic status), or because the impact of family social capital is significant before (in helping to select and apply to law schools) and after (in job recruiting and career networking) law school but not *during* law school. Future researchers will need to clarify the role of social capital in the process of becoming a lawyer.

D. On Acceptance of an Elitist, Pro-business Ethos

If law schools are characterized by an elitist (i.e., privileged white male), pro-business ethos (as many prior studies of law students argue), then the outcomes of women in the BPS present a number of questions. Do women law students in 1991 embrace a privileged white male law school ethos that their predecessors did not? Or has this ethos changed from the 1970s to early 1990s, so that it is now gender neutral? If either of these is true, how did the change occur, and why? Moreover, why might minority, and other atypical law students be excluded from this ethos at the very time women law students were finding their way into it? These questions are troubling, and it is doubtful that this 1970s interpretation of law school outcome gaps can be salvaged. This is not to say that law schools are neither elitist nor hostile to those who are not—as they arguably are (e.g., Bell 1994; Guinier, Fine, and Balin 1994; Kissam 2003). Rather, the error in this interpretation is twofold: First, it conflates good law school grades and bar passage with *acceptance* of an elitist, pro-business ethos, and second, it essentializes law students who are women, nonwhite, or from lower socioeconomic origins as inherently committed to public service. In fact, such law students are *not* primarily interested in public service careers; most have a variety of career interests and are open to possibilities.[39]) What is needed is a simpler interpretation that avoids these two errors but that can account for the similarities and differences in the experiences and outcomes of women, minorities, and other atypical law students.

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39. For example, 18% of entering African and Mexican American law students said a career in a public defender's office was "very appealing," compared to 10% of white and "other" Latino classmates. Twenty-nine percent of entering Puerto Rican American and 37% of Native American law students said a career in a public interest organization was "very appealing," compared to 23% of their white and Asian American counterparts. Such differences support the notion of greater interest in public service careers among nonwhite law students; however, there is not a dominant interest, since the 37% of Native Americans who indicate high public service interest are joined by 63% who do not indicate such interest. In fact, 39% of entering Puerto Rican American and 37% of African American law students said a career in a large private law firm was "very appealing," compared to 28% of their white counterparts. And an equal proportion (1 out of 4) of entering African American, Mexican American, "other" Latino American, and white American law students said a small private law firm was "very appealing." Entering law students have a wide range of law career interests, regardless of race, age, or gender.

E. Stigma As an Interpretive Possibility

Proponents of social stigma theory would argue that women, minorities, and other atypical law students are still (in the early 1990s) outsiders to the U.S. legal profession and, as such, are subject to external processes of stigmatization (i.e., differential treatment, by institutions and individuals, consciously and unconsciously; see Banks 1988; Krauskoph 1994; Sturm and Guinier 1996). Put differently, U.S. cultural and demographic majorities are not passive beneficiaries of privilege; they are active protectors (consciously and unconsciously) of unearned privilege (see Law 1999; Wildman et al. 1996). Analyses of law school discrimination indexes confirm that women and minorities[40] are significantly more likely to experience overt discrimination (see table 6), even net of their prior likelihood of reporting discrimination, and even net of their first-year GPAs (which are arguably associated with perceptions of discrimination).[41] But particularly interesting are the very different responses that women and minorities make to this discrimination: For women, discrimination during law school is neither associated with their academic performance nor with their prior experience of discrimination; for minorities, discrimination during law school is closely linked to academic performance and to prior experiences of discrimination (see table 6). In other words, women's experience of law school discrimination does not affect their law school grades, while minorities' experiences of law school discrimination do the opposite. Why?

This author suggests that women who entered law school in 1991 confronted for the first time an old form of sexism (about their capacities to become outstanding legal practitioners; see Gaber 1996; Guinier et al. 1994; Krauskopf 1994) and rejected it. This is why the analysis of gender discrimination in law school shows no association with either pre–law school gender discrimination or law school grades (see table 6): The type of gender discrimination experienced in law school differs wholly from that experienced before law school. Studies of American college women conducted in the 1980s and 1990s confirm that few undergraduate women experienced demeaning attitudes toward their academic competencies – save those surrounding math and science (see Beh 1994; Moffat 1989; Sherman and Spence 1997; Twenge 1997; Jensen and Christiansen 1994).

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40. The BPS includes no indicators of discrimination for age, socioeconomic status, or impairment status.

41. Other models, evaluating additional controls, are not shown because they were either not significant or made only marginal improvements to the model fit. Race, socioeconomic status index, elite law school type, and gender/race interaction indicators were evaluated in models of gender discrimination during law school, but none showed significance. Gender, socioeconomic status index, and gender/race interaction indicators were evaluated in models of race discrimination during law school, but only two gender/race interaction terms showed significance: African American women law students and "other" Latina women law students, in contrast to other minority women, were particularly likely to report experiencing overt race discrimination.

TABLE 6
Unstandardized Coefficients from Heckman Regression of First-Year Law School Discrimination Indexes

	Gender Discrimination in Law School Index	Race Discrimination in Law School Index
N	5,746	5,746
Control factors		
First-year grade point average	.000	−.069***
Prior gender discrimination index	.000	
Prior race discrimination index		.202***
Law school type: hist. minority		−.053
Demographic factors		
Gender: female	.795***	
Race: African American		.860***
Race: Asian American		.437***
Race: Mexican American		.667***
Race: Native American		.677***
Race: "Other" Latino American		.488***
Race: Puerto Rican American		.562***
Log likelihood	−12268.55	−12118.32
Wald chi-square	289.60***	223.84***
R-square	.104	.288

NOTE: Models correct for sample selection following Heckman (1979), but use full maximum likelihood estimation of a joint distribution. Substantive model shown only; selection model uses a low LSAT score indicator, law school rank, age, and 1st-year dropout (see text).

†$p < .1$; *$p < .05$; **$p < .01$, ***$p < .001$

By contrast, U.S. minorities who entered law school in 1991 have confronted racist attitudes about their general academic competencies since birth (see Markus et al. 2000; Ogbu 1983, 1987; Ogbu and Simons 1998; Schuman et al. 1997). Racist attitudes are, moreover, more hostile and damaging to U.S. minorities than sexist attitudes have ever been to U.S. women (see Grillo and Wildman 1996; Williams 1991; see also Mertz, Njogu, and Gooding 1998), and empirical evidence supports this claim (e.g., Gonzales, Blanton, and Williams [2002] found race "stereotype threat" to be more harmful than gender "stereotype threat"). This is why the analysis of race discrimination in law school reveals a significant association with pre–law school race discrimination (see table 6): Race discrimination in law school is but a continuation of a lifetime of uniquely hostile discrimination. Even students attending historically minority law schools are no less likely to report discrimination during law school.[42] The final GPA gap between white and

42. Recall that the index of discrimination in law school captures discrimination felt "in the community where your law school is located" and "in job recruiting" (see tables 1a and b).

African American law students at these schools is considerably smaller than at all other law school types, however, suggesting a difference of degree.[43] And even at an elite law school like the University of Michigan's, Wilkins observes, there is "important evidence of the racialized reality" that shapes the lives and careers of minority and white law students (2000, 531). Lempert, Chambers, and Adams (2000) had such good news to share *not* because Michigan is an idyllic paradise of diversity (bivariate results show elite law school students report high levels of race discrimination; see table 2), but because the positive stigma of attending and graduating from such a prestigious institution outweighs the negative stigma of being a minority. Bivariate BPS analyses support Wilkins: Graduation rates at elite law schools are 91.2% for Latino American law students, 95.3% for African Americans, 96.4% for Asian Americans, and 96.5% for white Americans; known bar-passage rates for elite law school graduates are 93.9% for African Americans, 95.1% for Latino Americans, 96.8% for Asian Americans, and 98.8% for white Americans; for all other law schools, the gaps are much larger.[44] Thus, contra women's educational experiences, the psychological battle that each U.S. minority must wage against long-standing racial/educational prejudices is often a less successful one, and grade performance is subsequently impacted: Witness researchers' capacities to experimentally activate these stigmas among elite university minority students (see Steele and Aronson 1995; Shih et al. 2002).

It is historical and contextual differences in the educational socialization of U.S. women and minorities, then, that may explain their very different law school outcomes. And it is these historical and contextual differences that need to become more prominent in theories of stigmatization and "stereotype threat" if these theories are to become useful explanatory tools. Steele acknowledges the contextual aspect of "stereotype threat" theory—though not as prominently as he might have (see Crocker, Major, and Steele 1998; Steele and Aronson 1995; Steele 1992; see also Heatherton et al. 2000). But some adopters of his theory may miss its highly contextual character. They may not recognize that both history and subculture are critical in defining the context wherein "stereotype threat" (i.e., lowered

43. A .74 final GPA gap exists between white and African American law students at historically minority law schools. The gap ranges from .99 to 1.42 at the other five law school types (see table 2).

44. Too few Native Americans attended elite law schools to calculate reliable rates, and too few Mexican Americans, Puerto Rican Americans, and "other" Latino Americans attended elite schools to break out Latino groups separately. The range in graduation rates (by race) at public ivy law schools was 88 to 95%; at second-tier, mostly public law schools it was 80 to 93%; at second-tier, mostly private law schools it was 78 to 91%; at third-tier, mostly private law schools it was 67 to 91 %; and at historically minority law schools, it was 78 to 91%. The range in eventual bar-passage rates (for known bar examinees) at public ivy law schools was 78 to 97%; at second-tier, mostly public law schools it was 80 to 98%; at second-tier, mostly private law schools it was 72 to 97%; at third-tier, mostly private law schools it was 66 to 93%; and at historically minority law schools it was 70 to 88% (see Bentley 1998 for a complementary discussion).

performance due to external stigmatization) becomes activated. Or they may not recognize that stereotypes themselves vary notably across contexts. As this author argues, women and *all* minority law students confront stereotypes about *general* academic competence, whereas other domains hold specific gender and ethnic competencies in math, science, or technology.

One objection to this argument might be that the particular stigmas attached to Asian Americans—that is, "model minority" stigmas that favor academic success among various Asian ethnicities—would lead one to expect superior law school outcomes among Asians. Three responses suggest themselves. First, "positive" stigmas of Asian Americans surround math, science, and technical competencies, which are not in play in legal education (see Yu 1998). Second, negative stigmas about the English competencies of Asian immigrants may have impacted a portion of Asian BPS participants. Third, Asian American law students possess the strongest outcomes of the six minority groups examined, which indicates that their stigmatization may be less severe and less pervasive than that of, say, African Americans. Indeed, the Asian American results, in conjunction with the relatively better outcomes found among "other" Latino Americans, confirms the usefulness of voluntary and involuntary (or nonimmigrant) minority constructs. But these results also suggest that the differences between voluntary and involuntary minorities may be relative, while the differences between racial minorities and the majority may be absolute. Further research is again necessary to evaluate this possibility; in the meantime, however, Ogbu's typology underscores the importance of historical and cultural context to understanding stigmatization processes.

Another objection to this article's argument about historical and contextual differences in education might be its applicability to understanding the varying outcomes of older law students, students with lower socioeconomic origins, or impaired students. The BPS does not contain questions that would indicate discrimination due to age, socioeconomic origins, or impairments—so this project cannot evaluate these perceptions. But a key element in stigmatization is the visibility of the stigma (or "concealability"; see Goffman 1963; Becker 1963; Heatherton et al. 2000)—and the visibility of these stigmas can vary much more than the stigmas of gender and race. Those with less visible stigmas may experience less differential external treatment, and thus their outcomes may vary with the visibility of the stigma. This possibility, combined with varying absorption of direct effects into LSAT and undergraduate GPA measures (e.g., older law students have significantly lower LSAT scores), may explain the outcomes of older law students, students with lower socioeconomic origins, and impaired students.

A final objection to this argument might be that the effects of stigmatization are measured and held constant by the law school race and gender discrimination indexes included in the analyses. *If* these discrimination indexes measured subtle prejudicial attitudes, stigmatizing cultural contexts,

as well as "discrimination or adverse treatment," then perhaps this objection would have merit. But these indexes simply total "some" or "a lot" responses to "discrimination or adverse treatment" in eight broad categories (see tables 1a and b). In other words, they measure overt *acts* of discrimination—not the more pervasive and thinly disguised attitudes of superiority that create hostile institutional contexts for women, minority, and other atypical law students (see Soloranzo, Allen, and Carroll 2002).[45] Hostile institutional contexts are formed subtly, through omission as much as commission, and require close observation, probing interviews, and contextual research to describe them. Though survey indicators of prejudicial attitudes and antagonistic law school contexts might have captured this, ethnographic methods are more apt, and both should be employed if the BPS is ever repeated.

In the end, this interpretation is not proven, only plausible. And the BPS, while a valuable tool, is not perfect and its cross-cohort generalizability is not known. Future research must assess whether this interpretation and these results will withstand subsequent evaluation—just as this project has evaluated and found wanting previous scholarship. Notwithstanding future inquiries, these results have important and immediate implications for legal education in the United States, to which this project now turns.

F. Recommendations

A *forked* river runs through law school, with an entry gate that controls access to the river. Some portion of women applicants are unevenly restricted from passing through the gate, while all minorities and many other atypical law students are made to navigate a white-water rapids course. Still, 44% of the entering 1991 cohort were women who subsequently achieved their career plans, and the overwhelming majority of minority and other atypical law students forced to navigate the white-water course manage to do so.

The analyses above demonstrate that the present process of legal education *exacerbates* the entering educational gaps of minority and other atypical law students. At a minimum, law schools "should do no harm," and ideally, they should reduce the educational gaps that students bring to law school. Law schools could ease rather than hinder the entry process, and smooth rather than agitate the river, if they implement the following changes.

45. Separate analyses of first-year and final GPAs for minorities only reveal that those minorities who report experiencing overt acts of discrimination had lower first-year and final GPAs than those minorities who did not report such experiences (analyses not shown). That is, minority law students who report overt race discrimination in law school have significantly lower grades *in addition to* the general impact of being a minority. (The effects of overt discrimination are absorbed by law school grades, when analyzing bar passage.) But the argument here is not about overt discrimination—consciously recognized and reported. It is about subtle and pervasive law school cultures that impact all minority law students—often unconsciously.

First, law schools should reduce their reliance on the LSAT for admission.[46] While the above results show a significant association between LSAT scores and law school outcomes, the LSAT has lower validity (or underpredicts, to use the psychometrician's friendlier term for the same) for the overall law school performance of women,[47] and overreliance on these scores hinders women applicant's access to legal education (see Ridley 1998). Overreliance on the LSAT also impacts applicants in general, as the small fraction of first-year academic performance variation it explains does not support its large role in admission decisions (see Kidder 2001).

Second, law schools must do more to support students during their critical first year of law school—especially minority, older, and other atypical law students. Meeting educational demands, adjusting to law school culture, and balancing life events make this a difficult time of transition, and a disproportionate share of minority, older, and other atypical law students drop out during the first year. This point is further underscored when one considers that those students who began law school more slowly—that is, began as part-time students—actually graduated with better GPAs than their full-time student classmates (see tables 4a, b). Every effort to support students both academically and personally, including expanding part-time opportunities, will reap benefits, not just for the individual student, but for the school and the success of its students as a whole.

Third, law schools should not, in their concern for issues of gender and race, pay less attention to other forms of diversity: namely, age, physical and learning impairments, and socioeconomic differences. This author was surprised by the significance of age in the process of becoming a lawyer; many readers may share that surprise. These results offer compelling evidence that older law students, along with impaired and less affluent law students, must often (though not continuously) navigate white-water rapids in their efforts to become lawyers. Just as injustices across gender and race should be corrected, so must these.

Fourth, law schools should do more to increase the diversity of their faculty. The above analyses show that increased gender and race diversity among faculty is significantly associated with better academic performance by all students. Since grading distributions are strictly adhered to at most law schools (Kissam 2003), one can infer that this association is not

46. Even the LSAC strongly recommends that law schools be cautious in their use of LSAT scores for admission.

47. The LSAC is emphatic that the LSAT, while it underpredicts the first-year performance of women and overpredicts first-year performance of men, remains a wholly valid predictor of first-year law school success (Duffy and Pashley 2003). But the significant gender gap in *final* GPAs—when combined with the significant LSAT gender gap—suggests that the LSAC should evaluate the LSAT in light of *final* law school GPAs, too. Though statistical significance is not always substantive significance, marginal differences in LSAT scores (even one point) may separate admitted versus rejected law school applicants—making this a substantive matter to potentially hundreds of law school applicants each year.

attributable to more lenient grading by women and minority faculty. Rather, the very diversity women and minority faculty bring to their classrooms—arguably, the "critical mass" that diverse faculty help to create—enhances the educational experience for all students, regardless of race (see also ABA Commission on Racial and Ethnic Diversity in the Profession 2000; Dowd 2003; Merritt and Reskin 1997). One should note, however, that while increased faculty diversity is associated with better academic performances, its impact is small, and faculty diversity is but one of many factors that should be considered in addressing unequal outcomes.

Fifth, historically minority law schools need to address passing-grade standards. Presently, all their graduates (minority and white) are systematically less successful on the bar examination when final GPAs are held constant. While such schools deserve recognition for providing a supportive climate for students of color—and thus for narrowing performance differences between minority and white law students—this project's findings indicate that passing grades at these schools do not consistently signify graduates' readiness for the bar examination. (The same may be true of grading at third-tier law schools; see bar-passage findings above.)

Sixth, until the entry gate opens fairly to all, and until the forked river of law school is merged and its diverse rafters given equally smooth currents to ride, law schools should support groups on every campus that will help women, minority, older, and other atypical students, faculty, and alumni stimulate and encourage each other. Getting to the river and/or completing a white-water rapids course is not easy, but finding oneself among others who are also doing so, or who have done it before, will surely benefit all parties. And should some of these groups go on to challenge the presumptions of their colleagues, so much the better.

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