Law & Social Inquiry

Journal of the American Bar Foundation
Volume 25, Number 2, Spring 2000

"FROM THE TRENCHES AND TOWERS"
Law School Affirmative Action: An Empirical Study

Michigan's Minority Graduates in Practice:
The River Runs Through Law School
Richard O. Lempert, David L. Chambers, and Terry K. Adams

including comments and response

The University of Chicago Press

Editor's Introduction

Elizabeth Mertz

In this issue, *Law and Social Inquiry* is very pleased to present findings from the first large-scale empirical study to examine the results of affirmative action in law school admissions. This issue has been the subject of much public debate among lawyers and legal academics, and in court opinions. However, until now, we have had little empirical information on which to base these discussions. In "Michigan's Minority Graduates in Practice: The River Runs Through Law School," Richard O. Lempert, David L. Chambers, and Terry K. Adams report the results of a study examining the careers of minority graduates from the University of Michigan Law School classes of 1970 through 1996, and of a random sample of white alumni from the same period. They conclude that in terms of income, satisfaction, and service contributions, minority graduates are "no less successful than white graduates." Indeed, minority graduates tend to give more back to society in terms of pro bono work, community service, and mentoring. The authors conclude that affirmative action aided the University of Michigan Law School in attaining stated admissions goals for the law school generally, and enriched the profession accordingly.

Five commentators respond to the Lempert, Chambers, and Adams article. Professor Thomas D. Russell, a legal historian at the University of Texas Law School, comments on the applicability of the study's findings to the current situation at his own law school, at which the numbers of students of color dropped precipitously following a federal court ruling against the school's affirmative action program. Moreover, Russell spotlights the fact that Michigan is a state-sponsored law school—a fact that he feels is inadequately addressed in the Lempert, Chambers, and Adams study, and perhaps, in the school itself. Robert L. Nelson and Monique R. Payne, of the American Bar Foundation and Northwestern University, argue that more work on the interactions between race, gender, and class is necessary to fully understand the results of affirmative action in law schools. They also express concern that the authors have "minimized evidence that points to substantial continuing patterns of inequality by race and gender within the legal profession."

0897-6546/00/2502-393$01.00

David Wilkins, Kirkland & Ellis Professor of Law and director of the Program on the Legal Profession at Harvard Law School, also discusses the issue of continued discrimination facing minority lawyers. Drawing on the results of his own research on black lawyers, Wilkins describes the tension between this more negative picture of minority attorneys' prospects and the positive picture emerging from the Michigan study as an ongoing paradox that must be confronted. Richard Sander, economist and law professor at the University of California, Los Angeles, raises a number of methodological issues for consideration, and also warns against generalizing the findings from this study to other law schools—particularly those with less "elite" status. He stresses that further study is needed before we can achieve an accurate overall assessment of the relative success of affirmative action in law schools. Professor Lani Guinier of the Harvard Law School concludes the commentaries with a discussion of the future possibilities for change toward "confirmative action" indicated by Lempert, Chambers, and Adams's study. In particular, she builds from their findings to argue against the use of standardized test scores generally, asserting that all students and the profession itself might benefit from a move toward more diversified "whole person" approaches to evaluation.

Lempert, Chambers, and Adams end the exchange with a response to the commentators. In past issues, our "Trenches and Towers" exchanges have pointed to the importance of empirical research for understanding how law and the legal profession really work "on the ground."[1] We have also examined issues of method, scope, and ethics that must be faced when we turn to social science for answers. This discussion of affirmative action in law school continues both themes. First, it calls our attention to the constitution of the legal profession, from whose ranks come the judges and attorneys who, to a great extent, run the U.S. legal system. Use of standardized tests and undergraduate grades to select law students has become so accepted that to question this approach might seem almost heretical. Data from Lempert, Chambers, and Adams challenge us to turn fresh eyes on the question of what makes a good attorney. If law schools and the legal profession truly hold high goals of providing access to justice for all parts of society, and of training lawyers who will work with under-served parts of the population, perhaps they should select more of the kinds of students who are most likely to help attain those goals. Second, both authors and commentators carefully delineate and discuss the methodological questions that must be addressed in further explorations of this topic, and before attempting to generalize from these findings about the University of Michigan Law School to affirmative action in other law schools. Thus, the exchange continues and deepens our ongoing exploration of law "from the trenches and towers."

1. All lead articles in our "Trenches and Towers" exchanges undergo the standard peer review process required of other articles that appear in *Law and Social Inquiry*.

Michigan's Minority Graduates in Practice: The River Runs Through Law School

Richard O. Lempert, David L. Chambers, and Terry K. Adams

This paper reports the results of a 1997–98 survey designed to explore the careers of the University of Michigan Law School's minority graduates from the classes of 1970 through 1996, and of a random sample of Michigan Law School's white alumni who graduated during the same years. It is to date the most detailed quantitative exploration of how minority students fare after they graduate from law school and enter law practice or related careers. The results reveal that almost all of Michigan Law School's minority graduates pass a bar exam and go on to have careers that appear successful by conventional measures. In particular, the survey indicates that minority graduates (defined so as to include graduates with African American, Latino, and Native American backgrounds) are no less successful than white graduates, whether success is measured by the log of current income, self-reported satisfaction, or an index of service contributions. Also, although an admissions index that combines LSAT scores and undergraduate grade-point average is a significant predictor of law school grades, it does not predict career success on any of our three outcome measures. Michigan is a highly selective law school; our results may not generalize to people who have graduated from other law schools.

Richard O. Lempert is Francis A. Allen professor of law and professor of sociology, University of Michigan. **David L. Chambers** is Wade H. McCree Jr. professor of law, University of Michigan. **Terry K. Adams** is senior research associate, University of Michigan Law School, and senior survey specialist, Institute for Social Research, University of Michigan. Work on this study was supported by the Cook Funds of the University of Michigan Law School and by the Russell Sage Foundation's appointment of Richard Lempert as a Visiting Scholar for the academic year 1998–99. We would like to thank Katherine Barnes and Lisa Kahraman for their help with the statistical analyses, Karl Monsma for his statistical advice, and Karin Garver for the many drafts of the manuscript and the tables that she typed. Too many people advised us on the design of the study or commented on earlier versions of this manuscript for us to thank them all by name, but we are very grateful to them, and the study and this paper have been improved substantially due to their criticisms.

0897-6546/00/2502-395$01.00

As teachers, we enjoy hearing news of our former students. They call us on the phone from time to time. They seek us out at reunions. They tell us about themselves and about other classmates we both knew. They also appear in our alumni magazines and occasionally in the newspapers. From all this, we develop a general impression of what our students are doing with their lives—a memory bank of upbeat stories of achievement and satisfaction and disheartening stories of overwork and disenchantment. Many of us develop such general impressions and stories about groups of our students—our women graduates, our graduates of color.

Until recently very little was known beyond anecdote and impression about the careers of the many cohorts of students of color who have been admitted to the nation's colleges and professional schools under various race-conscious admissions programs.[1] For one important group of students of color, this gap has recently been filled. In 1998, William Bowen, the former president of Princeton, and Derek Bok, the former president of Harvard, published their survey study of the graduates of 28 selective colleges and universities. In *The Shape of the River: Long-Term Consequences of Considering Race in College and University Admissions*, Bowen and Bok document that attending a selective undergraduate institution has profound benefits for black students admitted under race-conscious admissions programs (Bowen and Bok 1998). This study of graduates of the University of Michigan Law School is a natural extension of Bowen and Bok's project as it seeks to document the effects of what, for many of Bowen and Bok's graduates, is the next bend in the "river," attendance at an elite professional school.[2]

Law schools seek to admit students who will not only do well in law classes but also go on to have productive careers. The University of Michigan, for example, looks for students likely to become "esteemed practitioners, leaders of the American bar, significant contributors to legal scholarship and/or selfless contributors to the public interest." It expects that all those it admits will, "have a strong likelihood of succeeding in the practice of law and contributing in diverse ways to the well-being of others" (University of Michigan Law School Faculty Admissions Policy, 24 April 1992, p.1). Other law schools have similar aspirations for the students they admit. Our research is, we believe, the first systematic examination of minority and white law school graduates aimed at learning the degree to which they

1. Several studies have been done of doctors, focusing mainly on whether physicians of color were more likely than white physicians to serve patients of color. These studies generally find a link between physician race and patient race (Keith et al. 1986; Komaromy et al.1996; Moy and Bartman 1995; but see Davidson and Lewis 1997).

2. Between about a third and a half of those students entering Michigan in recent years are graduates of one of the 28 schools that Bowen and Bok studied, and many additional students come from schools like those that Bowen and Bok studied, but that were not included in their sample (e.g., Berkeley, Brown, Cornell, and Harvard).

succeed in these ways and whether factors that are weighed in admissions decisions predict post–law school success.

This study looks at the post-graduation performance of minority alumni of the University of Michigan Law School starting with the graduating class of 1970, the first Michigan Law School class with more than 10 minority graduates. We use the terms *minority admittees*, *minority alumni*, *minority students*, and *minority graduates* to refer to members of three groups—blacks, Native Americans, and Latinos—whose race or ethnicity has, since 1966, been considered in the Law School's admissions process. One result of this process has been to enroll and graduate increasing numbers of black, Latino, and Native American students—about 300 in the 1970s, nearly 400 in the 1980s, and nearly 400 between 1990 and 1996, the last graduation year included in the study. By looking at the post-law school performance of these graduates, we—like Bowen and Bok—seek to inform the current debate about the wisdom of admissions policies that take race and ethnicity into account in admissions. But two important points must be made in this regard, especially since the University of Michigan Law School is currently being sued over its admission policies.

First, the admissions policy and practices of the Law School have changed considerably over the period from 1970 to the present. In particular, in 1992 the faculty adopted a new admissions policy that reflected the faculty's evolving thinking about the broad value within the law school of many sorts of diversity—of which racial and ethnic diversity is one important part. We have not attempted to capture any effects of these recent changes in admissions practices in our analyses, and only one of the 27 classes in our sample was admitted under the new procedures. This study is also not concerned with the historical motivation of the Law School for its consideration of race and ethnicity in admissions. It simply documents some results of that practice over time.

Second, unlike Bowen and Bok, we do not attempt in this article to identify which minority graduates would and would not have been admitted to the Law School if race and ethnicity had not been taken into account. Across the 27 classes included within the study, the Law School has considered race and ethnicity in varying ways in the admissions process. Some of the minority graduates we study would have been admitted to the law school under a so-called race-blind admissions program, but for a considerably larger number, race or ethnicity was a factor favoring their admission. Our study does not seek to differentiate among these groups, in part because, as the reader shall see, we have found little correlation between the numerical entry credentials that Michigan considers—undergraduate grade point average (UGPA) and Law School Admissions Test (LSAT) scores—on the one hand and any of our measures of achievement after law school on the other.

Bowen and Bok surveyed graduates of 28 selective colleges and universities. With the cooperation of the schools in their sample, they were able to link application credentials and school records with questionnaire data from alumni of these schools. They focused primarily on students who graduated from their sample schools in 1976 and 1989, but for some purposes they used national samples of college graduates as well. Bowen and Bok found that although black graduates of the schools they studied received lower undergraduate grades than their white counterparts, as might have been expected from their lower Scholastic Aptitude Test scores, and had somewhat lower graduation rates, the overall picture of how the black students fared after graduation was one of substantial accomplishment. A central conclusion of their work is that the black students in their sample benefited substantially from being able to obtain elite undergraduate educations. Contrary to the suggestion made by some critics of affirmative action that black students would do better if they attended less selective schools where many white students had admissions credentials like their own, Bowen and Bok found that, even after controlling for SAT scores, the general pattern was that the more selective the institution attended, the more likely a black student was to graduate (Bowen and Bok 1998, 61), to look back with fondness on his or her undergraduate experience (1998, 199) and to do well after graduation.[3]

Our study is in many ways like the Bowen and Bok study. Like theirs, this study focuses on race-conscious affirmative action in admissions to elite higher education. Bowen and Bok chose elite schools of necessity, for only the more selective undergraduate institutions need to make race-conscious admissions decisions to ensure substantial ethnic diversity on campus. But, as Bowen and Bok point out, virtually every law school in the country is selective. Michigan generally receives at least 10 applications for every place in a class. Also, like Bowen and Bok, we use mail surveys and link respondents' answers to admissions credentials and indicators of success in school. We seek, as they did, to measure concrete indicators of postschool success, like income, as well as more obviously subjective measures, like expressed career satisfaction. We are also each concerned with how the graduates we study serve their communities. Our analytic strategies are also similar, and our results, as we shall see, are mutually reinforcing.

The major differences between our study and the Bowen and Bok study is that they focus on undergraduate education, while we look at education for the legal profession; and they look at graduates of 28 schools, while we look only at the graduates of one. These differences mean that they can generalize across schools and use school selectivity as a variable while we

3. Students at the more selective institutions among the 28 schools they studied were more likely to get professional or doctoral degrees (1998, 114), and they tended to earn more money at midcareer (1998, 143).

cannot; but we have been able to look in greater depth than they at persons who enter a single profession, the jobs they take within that profession, and how they do in their jobs. Statistically, we have no basis for claiming that the results from our survey, which is limited to Michigan graduates, will generalize to graduates from any of the country's other law schools. Nonetheless, we have substantial reason to believe that the post–law school experiences and accomplishments of the minority graduates of at least 10 to 15 of the nation's most prestigious law schools will be similar to those of the graduates we study. Michigan is like most other high-prestige law schools in the quality of the students it admits, the educational opportunities it offers, and the jobs its graduates take. We are less confident that outcomes like those we describe will characterize graduates of schools not in this small group of elite law schools, but they may. Many fine law schools not at the top of the prestige hierarchy attract excellent students, give them fine educations, and supply national as well as local markets with young lawyers.

Our study also differs from Bowen and Bok's in that they focus solely on black alumni, while we provide information about black, Latino, and Native American graduates, the three groups of alumni who, as law school applicants, were eligible for affirmative-action consideration on the basis of their race or ethnicity. In this paper, we generally do not report on the three groups separately. Numerically, black alumni predominate, constituting two-thirds of the minority respondents to the survey.[4] The three groups do not differ significantly along most of the career dimensions we discuss. They work in similar settings, earn similar incomes, and report similar levels of satisfaction. Where significant differences do exist, we report them either in the text or in footnotes. In a few places, we also discuss our students of Asian heritage, who are not part of either our minority or white samples.[5]

In most of our tables we divide our respondents into cohorts according to graduation decade. This is done primarily because many markers of success change with time from graduation, but also because the situation of minority students at Michigan and the conditions of law practice have

4. Our minority respondents included 360 black alumni (66.1%), 106 Latino alumni (28.1%), and 32 Native American alumni (5.9%).

5. Alumni of Asian heritage are excluded from most analyses for several reasons. They were present only in small numbers until the 1990s; as a group, they were not ordinarily considered in Michigan's pre-1992 minority admissions program; and their status with respect to factors that distinguish the white and minority graduates we study is somewhat ambiguous. As applicants they typically had LSAT scores and UGPAs comparable with Michigan's white students, and as law students their grade point averages were similar to those of white students and higher than the averages of most other minority students. Nonetheless, they were a visible ethnic minority at Michigan Law School and in the city of Ann Arbor, and they remain a visible minority in the world of law practice. Also some Asian alumni report the kinds of experiences and strains that are associated with minority status. Their small numbers preclude a separate examination of Asians before the 1990s, and their potential vulnerability to the strains minority group members face counsels against including them with the group of white students.

changed over time. Not only are decade markers convenient divisions, but they also seem to capture effects associated with these changes, as there are often substantial differences in the responses of alumni who graduated in the different decades. We did not examine other possible graduation year breaks to see if using them would make differences starker. In our regression analyses, we pool respondents from the three decades and capture time-linked changes with the continuous variable "years since graduation."

A NOTE ON GENDER

Our group of minority respondents contains a higher proportion of women (37.5%) than our group of white respondents (24.2%), reflecting the fact that there have been proportionately more women among the minority students who have attended Michigan than among the white students who have gone there. The gender difference between whites and minorities potentially means that some of the data we present might be misleading. Apparent differences between white and minority graduates might reflect differences between men and women rather than differences associated with ethnicity, and tables showing no differences might reveal differences if the gender composition of our groups of white and minority graduates was the same.

Because of these possibilities, when we present regression analyses, we include a control for gender. Moreover, as a general check on whether gender might qualify the apparent influence of minority status, we examined 84 regression equations in which the independent variables entered sequentially were years since graduation, age entering law school, minority status, gender, and the interaction of gender and minority status.[6] The dependent variables include most variables that figure in the tables that follow. In no instance did the inclusion of gender in an equation change the prior significance of minority status. If minority status was a significant predictor of a dependent variable before gender was included in the regression equation, it remained a significant predictor after gender was included. If minority status was not a significant predictor of a dependent variable, controlling for gender did not change this situation. However, adding a control for the gender/minority-status interaction effect did, in a few instances, affect the significance of the minority status variable. In these cases, apparent differences between minorities and whites seem to reflect the special situation of white or minority men or women, rather than an ethnicity-related difference that exists regardless of gender. We note in the text or footnotes the few instances in which differences that appear associated with minority status

6. We used both OLS and logistic regression, depending on the nature of the dependent variable.

seem largely due to the responses of just the women or just the men among minority or white respondents.

Although in places we suggest explanations for our findings and discuss their possible implications, our focus is not on unraveling causes for the relationships we find. This article is largely descriptive. But since we are describing what no one has seen before, we hope it will be of interest.

CAPSULE SUMMARY

The core of our study concerns the careers of Michigan Law School's alumni. Nearly all of Michigan's minority alumni are admitted to practice law in at least one state. They take initial jobs and hold current jobs in every area of the legal profession. They make somewhat different career choices than white alumni, as they are more likely than white alumni to begin their careers in government or other public service or public interest jobs and somewhat less likely than white alumni to begin their careers or to work today in the private practice of law.[7] Still, private practice is the most common setting of work for Michigan's minority alumni and, in large numbers, they are associates and partners in firms of all sizes. All Michigan alumni are disproportionately likely to serve same-race clients, so minority alumni provide, on average, considerably more service to minority clients than white alumni do. Among those Michigan graduates who enter the private practice of law, minority alumni tend to do more pro bono work, sit on the boards of more community organizations, and do more mentoring of younger attorneys than white alumni do.

By any of our study's measures Michigan's minority alumni are, as a group, highly successful in their careers. Although, as a group, they entered Michigan with lower LSAT scores and lower UGPAs than other students, in their jobs immediately after law school and in their jobs today, Michigan's minority alumni are professionals fully in the mainstream of the American economy. They are well represented in all sectors of the legal profession. They are successful financially, leaders in their communities, and generous donors of their time to pro bono work and nonprofit organizations. Most are happy with their careers, and minority alumni respond no differently than white alumni when asked about overall career satisfaction. LSAT scores and UGPA scores, two factors that figure prominently in admissions decisions, correlate with law school grades, but they seem to have no relationship to success after law school, whether success is measured by earned income, career satisfaction, or service contributions. If admission to

7. In this paper, when we use the terms "private practice of law" or, more simply, "private practice" we are referring only to those attorneys who are in solo law practice or are employees or members of private-sector for-profit law firms.

Michigan had been determined entirely by LSAT scores and UGPA, most of the minority students who graduated from Michigan would not have been admitted even though the measures that would have worked to exclude them seem to have virtually no value as predictors of post–law school accomplishments and success.

METHODS

This analysis is based on the responses to a seven-page questionnaire mailed in late 1997 and early 1998 to 2,144 members of the Michigan Law School classes of 1970–96. Because until recently minority law students have been a relatively small fraction of Michigan's student body, we sent questionnaires to all living minority alumni we could identify but to only a sample of white alumni.[8] In sampling white alumni, we oversampled alumni with lower grade-point averages to better allow us to assess the implications of lower grades for job placement and performance. Tabular comparisons of white and minority alumni, except where noted, use weighted data for the white sample so that the percentage figures for white alumni are like those we would have found had our sample of white alumni been a simple random sample. Except where noted, significance tests take account of this weighting. In the regression analyses that conclude this study, we use unweighted data, but we often control separately for final law school grade point averages (LSGPAs). A methodological appendix available from the authors provides more detail on our sampling procedures and the weights we use to reconstitute our white sample.

In drafting the questionnaire, we were particularly interested in issues pertaining to ethnicity, but we wanted to avoid conveying the impression that we were seeking answers of any particular sort. For this reason we entitled the questionnaire "Professional Development Survey," and of the 90 questions we asked, only 13 related to race or ethnicity (such as ethnicity of coworkers and clients), and all of these questions were embedded in a context in which we were also asking about gender and, usually, other matters. A cover letter from Michigan's dean that accompanied the questionnaire made no mention of race and asked for cooperation in a study of our graduates' careers. Nowhere in either the questionnaire or the cover letter did we ask about or refer to admissions policies or to affirmative action. The cover letter did list an advisory panel in which minority alumni were disproportionately represented,[9] and some recipients of the questionnaire may have

8. We actually mailed a total of 2,204 questionnaires. We do not in this paper use the responses to the 60 questionnaires that were sent to Michigan minority alumni who graduated before 1970.

9. Ten of the twenty advisory committee members listed on the letter that accompanied our questionnaire were minorities, and nine of these ten were Michigan alumni. We had such

inferred that we were particularly interested in issues relating to ethnicity or affirmative action. However, no respondent suggested this connection in the space we provided for additional comments, and the responses to this survey by minority and white alumni are much like the responses to similar questions in the Law School's annual alumni surveys, which have never had a significant focus on ethnic backgrounds.

Response Rates

We received responses to our questionnaire from 51.4% of the minority alumni in our sample and from 61.9% of white alumni who were mailed the survey.[10] Among Asian graduates, who have been present in substantial numbers only in recent years, the response rate was 59.1%. Response rates of minority and white alumni, the two groups that get most of our attention, are closer in each succeeding decade, and among graduates of the 1990s, the difference in response rates is not statistically significant. Tables 1 and 2 present these data and also indicate the separate response rates for black, Latino and Native American alumni. The minority alumni category, as we have noted, includes Native Americans, Latinos, and blacks.

Response rates for all groups are at levels commonly reported by those doing mail surveys. Nevertheless, we are concerned about the biases potentially introduced by nonresponse and the difference between the response rates of minority alumni and white alumni. There are obvious reasons why our respondents might differ from our nonrespondents in ways that are relevant to our study. It is plausible to suppose that responses are less likely from alumni who (1) have been relatively unsuccessful in their careers, (2) felt alienated from law school when they were students, (3) are now working in jobs far removed from the practice of law, (4) cannot be traced to good addresses, and (5) were exceptionally busy when they received our question-

---

a high proportion of minority members on this committee because we thought their implicit sponsorship would enhance minority graduate response rates. Also, we realized that few if any minority-group members would know the ethnicity of every listed minority-group member, so the prevalence of minorities on the advisory committee would probably appear less to most respondents than it in fact was. The advisory committee knew about the focus of our survey, and all the alumni who were minority graduates received the survey to fill out. However, only six of the nine advisory committee members responded. These respondents, who were asked to be advisory committee members because of their prominence and success, had no need to distort their careers to enhance the apparent success of minorities who graduated from the University of Michigan Law School. They had only to respond, yet had one more committee member not responded, their response rate would have been like that for all minorities. In addition, one white member of the advisory committee was sampled at random and returned a questionnaire.

10. A dozen respondents are excluded from our analyses because we could not link their questionnaire responses to their law school records. In eight cases this was because they had cut the ID # labels from their questionnaires prior to returning them, and in the remaining cases it was because of a mix-up in affixing ID labels when the questionnaires were sent out.

TABLE 1
Response Rates, by Ethnicity and Minority Status

Ethnicity	n	Proportion Returning Questionnaires
Black	704	51.1%
Latino	297	51.5%
Native American	59	54.2%
All Minority	1,060	51.4%
White	935	61.9%
Asian	149	59.1%

naire and reminders. Given our interest in career success and data which indicate that Michigan's white and minority graduates have similarly high achievements, what most concerns us is the first source of bias—the possibility that those who are least successful in practice are least likely to have responded. If responses are biased in this way, we will be overstating the accomplishments of both whites and minorities and, more important, overstating the accomplishments of minorities relative to whites, since minorities responded at a lower rate. The next three possibilities are concerns primarily because they may be associated with relatively unsuccessful

TABLE 2
Response Rates, by Minority Status and Graduation Decade

Graduation Decade	Minority Alumni	White Alumni
1970s***	48.7%	64.4%
	(300)	(413)
1980s**	50.5%	60.4%
	(378)	(346)
1990s	54.5%	59.1%
	(382)	(176)

** $p < .01$ *** $p < .001$

NOTE Numbers in parentheses are the total number of respondents giving valid responses in the category and not the number represented by the percentage figures in a cell. Except as otherwise noted, this is true of subsequent tables as well, except that in subsequent tables (but not in table 1 or this one) the percentage figures for whites, unless otherwise noted, are weighted to indicate the proportion of people who would have been expected to be in the cell had we not disproportionately sampled whites with low grade point averages. Indicators of statistical significance in this and other tables, unless otherwise noted, indicate differences within decades between minority and white students. Where the data for whites are weighted, the significance tests are based on the weighted data to avoid giving undue influence to whites with low grade point averages. Using weighted data indicates that had we sampled randomly, we could have expected the decade-specific white response rates shown in this table to be between 2.9% and .7% higher than what they in fact were. The significance levels of the differences between white and minority response rates by decades would have remained the same.

careers. Because being busy is often an aspect of career success, the fifth possibility, that nonrespondents were busier than respondents, is less a concern unless it contributes more to white nonresponse than to minority nonresponse.

We devoted considerable attention to evaluating the likely existence and magnitude of nonresponse bias, particularly bias that would overstate the accomplishments of minorities relative to whites. We discuss what we did in more detail in a methodological appendix available on request from the authors. Here we briefly summarize the results of our investigations and explain why, though we can't discard entirely the possibility of sample bias, we think it is slight enough that it does not substantially distort the picture our data paint.[11]

First, we know that nonresponse is not largely attributable to unemployment or employment outside the practice of law. We were able to find a current place of employment in private practice, business, government or public interest work for 70% of our minority nonrespondents and 73% of the white nonrespondents.[12] We also are certain that among these nonrespondents are a great many high-earning persons. For example, of the 174 minority graduates we know to be working currently in firms of more than 50 lawyers, a group that among our respondents reports very high earnings, 41% were nonrespondents.

Second, a multivariate analysis was consistent with the hypothesis that most nonresponse results from factors that are randomly related to the variables that concern us. Using Multiple Classification Analysis (MCA), we regressed response status on demographic variables (e.g., ethnicity, gender),

11. Our effort to evaluate possible nonresponse bias was aided considerably by our access to law school records for all those in our sample. These allowed us to identify the ethnicity, gender, numerical entry credentials, and law school grades of our nonrespondents. In addition, for everyone in our sample, we independently sought to identify a current work setting and current status at work (e.g., partner, associate), and for those in law firms, the number of other attorneys in the firm. We did so by making use of not only Michigan Law School's address lists, but also Martindale–Hubbell and other online lists and directories of lawyers as well as bar directories from many states. For those in our original sample, we were able to acquire information about work settings from one of these non-questionnaire sources for 87% of the minority alumni and 90% of the white alumni. The result is that our information on current employment is to a large extent independent of the tendencies of sample alumni to keep the law school informed about their current addresses.

12. Our inability to find a current place of employment for nonrespondents by consulting the sources cited in note 11, above, does not mean that the nonrespondents for whom we could not find jobs for were unemployed or employed outside the practice of law. Consulting the same sources, we were similarly unable to find current sources of employment for 134 of our respondents. Their responses indicate that 40% were engaged in the practice of law with an additional 13% in law-related jobs such as judge or law teacher and 15% in nonlaw positions as business executives or managers. Only one respondent indicated that he/she was unemployed, and an additional 13% chose not to indicate their current occupation. Moreover, 85% of these respondents indicated that they had practiced law at some time in their careers, and 70% had spent at least half their careers in law practice. Only 11% of these respondents indicated they had never practiced law.

and such possible correlates of career success as job status (e.g., partner, associate, judge), job organization (e.g., law firm, federal government, legal services), law school grade-point average (LSGPA) and whether we could find recent work and home addresses for those in our sample. Despite the richness of these variables, we were able to explain only 9.3% of adjusted response variance in the full sample.[13] Among minorities the same model explains 8.3% of the adjusted variance, and among whites 8.6% of the adjusted variance in response is explained.[14]

Third, those who did not respond had only slightly lower grades than those who did. When LSGPA is regressed on time since graduation (to control for grade inflation and the possibility that people who have been out longer will be harder to find) and whether a person in our sample responded, knowing whether a person responded uniquely explains only 1% of the variance in LSGPA among minorities and 1.6% of the variance among whites. Controlling for time since graduation, the average minority nonrespondent has an LSGPA .077 lower (on a scale that ranges between 2.0 and 4.5) than the average minority respondent, and the average white nonrespondent has a GPA .122 lower than that of the average white respondent.[15] Not only are these differences small, but among respondents, law school grades do relatively little to explain various measures of post–law school accomplishment and success.

Fourth, among respondents there is little evidence that the amount of prodding needed to elicit responses relates to post–law school achievement, which is consistent with there being little relationship between not responding at all and post–law school achievement. Knowing whether a person responded to our original questionnaire only after a second or third reminder does not add significantly, for either whites or minorities, to the amount of variance explained by regression models we shall later present when the log of income or a service index is dependent. But among minorities, responders after one reminder have significantly lower satisfaction index scores than those who responded without a reminder. The difference is small, however (2.1 points on a 56-point scale). Moreover, those who needed two reminders have higher satisfaction scores than those who

13. Explained variance (R^2) in MCA is computed in a manner mathematically equivalent to the comparable computation in ordinary least-squares regression with dummy predictor variables: explained sum of squares divided by total sum of squares. The adjusted explained variance (R^2_{adj}) is computed from R^2 with an adjustment factor for the number of cases (n), number of predictor variables (p), and sum of categories of all predictor variables (c): $R^2_{adj} = 1 - (1 - R^2)((n - 1)/(n + p - c - 1))$.

14. When the data for whites are weighted to remove the effect of oversampling whites with low LSGPAs, our model explains 9.7% of the adjusted variance in responding among whites and 10.1% of the adjusted variance in the full sample.

15. Without the control for time since graduation, the average minority nonrespondent's LSGPA is .094 lower than that of the average minority respondent, and the average white nonrespondent's LSGPA is .113 lower than that of the average white respondent.

needed only one. Also, when we look separately at the components of our satisfaction index, the difference across response waves is small and statistically insignificant for income satisfaction, although income is often taken as a marker of career success.

Fifth, among whites and minorities the amount of prodding needed does not relate to graded law school performance. When final LSGPA is regressed separately for whites and minorities on years since graduation and the two response wave variables, neither second- or third-wave respondents differ significantly from first-wave respondents in their law school GPAs.

Finally, the response rates of minorities and whites are closest and do not differ significantly for 1990s graduates. Thus it appears that at least for recent graduates in the early part of their careers, response bias is not a likely explanation for similarities or differences in career paths and accomplishments. It is, of course, the experience of recent graduates that most directly relates to the longer-term implications for individuals and society of Michigan's current minority admissions program.

We conclude from our bias checks that, as suggested by their slightly lower law school grades, those who didn't respond to our survey may, on average, be slightly less successful in some aspects of their careers than those who did respond, but if they are, the difference is likely to be too small to be a serious concern. Moreover, there is no evidence that minority nonrespondents have fared worse in their careers relative to minority respondents than white nonrespondents have fared relative to white respondents. Although a higher proportion of whites than minorities responded, our data provide little reason to believe that this response rate difference greatly affects comparisons between the two groups.

Approach to Analysis

With respect to many of the variables we investigate, we compare the performance of minority alumni with the performance of white alumni. We do this not because we regard differences between these groups as intrinsically important, but because it is often unclear what the normative or expected performance of Michigan Law School graduates might be. For example, we can report that the average minority graduate of the 1970s who is in private practice devotes about 137 hours a year to pro bono work, but without looking at white alumni we have no way of knowing whether 137 hours is a particularly large or small time commitment for a Michigan graduate who has been out of school at least 18 years. At the same time, devoting 137 hours a year to pro bono activity, the equivalent of three solid weeks of work, shows substantial effort and success in giving back to the community regardless of what white alumni do. Thus we can get a good sense of how minority alumni are doing by just looking at the data that pertain to them.

The fact that, as we shall see, white private practitioners who graduated in the 1970s devote less time to pro bono work (an average of about 94 hours a year) than their minority counterparts does not increase the contribution that minority alumni are making or render the pro bono contributions of Michigan's white alumni insubstantial.

In order to gain a sense of what is typical for Michigan graduates, we use, for the most part, data from white alumni only in the comparisons we draw. Whites are the largest single ethnic group who attend Michigan Law School and, unlike Asians, who are also not part of the minority subsample, whites ordinarily don't have to cope, either in school or afterwards, with the destructive pressures resulting from ethnic prejudice that may bear on racial or ethnic minority group members. Asian alumni are present in such small numbers, especially before 1990, and are for the most part so similar to white alumni in law school performance and career choices, that including them in the comparison group would not substantially change the similarities and contrasts that comparisons of white with minority alumni reveal.

Finally, we should point out that, except as explicitly noted, our data for all cohorts focus on the *current* (as of the time our questionnaire was answered) views and activities of Michigan Law School's alumni. In reading about the views and situations of graduates of the 1970s, 1980s, and 1990s, and about some of the marked differences between them, it is easy to slip into thinking that the differences we identify are differently dated, but most of the differences noted in the report are differences that exist *today*[16] in the activities and attitudes of our respondents, although linked to the time respondents graduated. Many differences we see between graduates of different decades are, we believe, genuine cohort effects, meaning that we do not expect graduates of the 1980s and 1990s to look like graduates of the 1970s when they have been out of law school as long as the 1970s graduates have been. Some differences between cohorts, however, are to a large degree maturation effects, such as the high likelihood that graduates of the 1970s working in private law firms will be partners rather than associates. On variables like attaining partnership status, we expect the figures from later cohorts to change as their members age and their careers progress. Ordinarily, only common sense allows us to distinguish cohort from maturation effects or to estimate their likely relative importance in settings where both may be operating.

16. When we use words like *today* or use the present tense to describe our respondents' situations and attitudes, we mean to be describing matters not as of the time we write but as of late 1997 and early 1998, the time our respondents filled out their questionnaires.

THE LAW SCHOOL EXPERIENCE

Although most of our survey questions inquired about post–law school experiences, we begin by looking at several items that ask about the law school experience, since our respondents' legal educations set the stage for everything that followed, and we are interested in what our respondents thought they took from it.

TABLE 3
Alumni Reporting Satisfaction with Aspects of Law School Experience, by Minority Status and Graduation Decade

	Aspect of Experience			
	Intellectual	Career Training	Social	Overall Satisfaction
1970s				
MA	82.1%*	75.2%	45.8%	69.0%+
	(145)	(145)	(144)	(142)
WA	89.7%	71.8%	50.8%	77.4%
	(266)	(266)	(266)	(265)
1980s				
MA	85.3%	63.7%	47.9%	70.7%
	(191)	(190)	(190)	(188)
WA	81.8%	66.7%	55.8%	72.4%
	(208)	(208)	(207)	(204)
1990s				
MA	84.1%	60.3%	56.1%	69.5%
	(207)	(204)	(205)	(203)
WA	89.5%	52.2%	65.9%	80.0%
	(103)	(103)	(103)	(103)

+$p < .1$ *$p < .05$

NOTES MA = minority alumni; WA = white alumni. Percentages are the proportions of respondents giving a response of 5, 6, or 7 on a scale, where 1 = very unsatisfactory and 7 = very satisfactory.

Table 3 indicates, by minority status and graduation decade, the proportion of respondents who reported general satisfaction with their law school experience along four dimensions: *intellectually*, *as career training*, *socially*, and *overall*. Respondents are considered to be satisfied if they gave responses of 5, 6, or 7 on a 7-point scale ranging from very unsatisfactory to very satisfactory.[17] Table 3 reveals substantial similarity in how minority

17. On our questionnaire the coding was reversed. A score of 1 was "very satisfactory" and a score of 7 was "very unsatisfactory." In analyzing the data we reversed the coding of some items so that higher scores always indicate greater satisfaction. Henceforth, we shall not explicitly note when this was done.

and white alumni look back on their law school careers. Satisfaction with law school overall is, in retrospect, prevalent, with 69% or more of the respondents from both groups in all decades giving scores on this measure of 5 or above. White alumni in the 1990–96 cohort are the most satisfied group, and white alumni overall tend to be slightly more satisfied with their law school experience than minority alumni. The difference between white and minority alumni on the proportion reporting overall satisfaction is only marginally significant among graduates of the 1970s and not statistically significant in any other cohort.[18] However, even if the differences in reported satisfaction are real, they are quite small. This is even clearer if we look at average law school satisfaction scores rather than at the percentage of respondents giving higher scores. Using this measure, the difference in average satisfaction scores between the white and minority graduates of the 1970s is less than .4 on the 7-point scale (data not in table).[19]

Regression analysis confirms the suggestion that there is little difference between the overall law school satisfaction scores of whites and minorities[20] and also indicates that what differences exist, are largely attributable to the tendency of whites to have higher grades. Controlling for LSGPA, minority graduates report greater overall satisfaction with law school, and the difference is highly significant ($p < .001$). This is because male minority graduates report having been more satisfied with law school than white males and females when grades are controlled. Minority females are similar to white males and females when grades are taken into account, but they report substantially lower satisfaction levels than white males and females and minority males when grades are not taken into account.

---

18. While there are no significant differences in overall satisfaction with law school between whites and minorities as a whole among the graduates of the 1980s and 1990s, there were differences among the minority graduates. As a group, Latino graduates of the 1980s were more satisfied with their law school experience overall than were black graduates, a difference of .5 on the 7-point scale, $p < .05$. For the classes of the 1990s, overall satisfaction was virtually identical for the two groups. Few Latinos graduated in the 1970s.

19. On these variables and other variables we measure on 7-point scales, there is always a high correlation between the proportion of respondents in a group giving scores of 5, 6, or 7 and the average scores of groups of respondents. Ordinarily we report only the proportion of respondents giving scores of 5 or above, as we find this figure intuitively more meaningful than mean scores. Where mean score differences shed light on or qualify the picture painted by proportions, we report them in the text, though we do not present them in tables.

20. The model we used is the model described in the text at note 6, with LSGPA added after the effects of the other variables have been taken into account. Until LSGPA is entered into the model, differences between minorities and whites are not significant. Because of the skewness in overall satisfaction scores, we confirmed the OLS results described in this paragraph using logistic regression after recoding overall satisfaction scores so that ratings of 1–4 equaled 0 and ratings of 5–7 equaled 1. As with OLS, there was no significant minority status difference until LSGPA was added to the model. Then minorities showed themselves to be more satisfied, largely because of the scores of minority men (p value of interaction term $< .001$.) The results are the same if overall satisfaction is recoded so that only scores of 6 and 7 count as 1.

Looking at the specific dimensions of satisfaction, we see that for both white and minority students, satisfaction with law school is greatest on the intellectual dimension, followed by satisfaction with law school as career training. In general, both white and minority graduates recall the social aspects of law school as less satisfying than the other dimensions, although the minority and white graduates of the 1990s report considerably more satisfaction with the social aspects of law school than do graduates of the earlier decades. Minority alumni report taking as much intellectual satisfaction from the challenge of law school as their white counterparts, and are as satisfied as their white counterparts with law school as career training. Only with respect to social satisfaction do minority alumni lag behind their white counterparts in all cohorts, but the lag is not statistically significant.[21]

Table 4 presents data on how alumni, looking back, regard the value of four aspects of their legal education to their law school classroom experience: the *faculty's ability as teachers*, the *faculty's ability as scholars*, *being called on in class*, and the *intellectual abilities of their classmates*. The table indicates the proportion of students by minority status and graduation decade who, when asked to rate the value of these aspects to their classroom experience, gave ratings of 5, 6, or 7 on a 7-point scale, where 1 is "none" and 7 is "a great deal."

With the exception of being called on in class, the bulk of respondents in all time periods see considerable value in the contributions made by these factors to their law school classroom experience. White and minority alumni do not differ significantly in the value they place on the faculty's abilities as teachers.[22] White alumni in the 1970–79 cohort think they got more out of being called on in class than minority alumni do.[23] Particularly striking is the difference between Latinos and others in the perceived value of being called on in the 1970–79 cohort. While 44% of white students and

21. The effect seems largely due to the very low social satisfaction scores of minority women. In a full sample regression, a significant negative effect of minority status on social satisfaction disappears once the interaction of minority status and gender is taken into account.

22. Whether or not one controls for grades, women as a group place a significantly higher value on faculty scholarship than men, but if we look at the four groups formed by the interaction of race and gender, we see that minority men place the highest value on faculty scholarship as a contributor to their classroom experience. White males value it the least. This suggests that belonging to a legally protected minority may enhance appreciation of faculty scholarship. A possible reason is that female and minority students are particularly appreciative of the role that legal scholarship played in making the case for the protection of women and minorities. Another possible reason is that they are aware of the connection between a law school's prestige and the scholarship of its faculty, and count on the prestige of a Michigan degree to open doors into once largely closed areas of law practice.

23. Of the various aspects of the classroom experience about which we inquired, belief about the value of being called on in class was the only one that related strongly to overall satisfaction with law school. Those who thought being called on contributed little or nothing to their classroom experience reported substantially lower than average overall satisfaction, while those who report that being called on contributed considerably to their classroom experience report substantially higher than average satisfaction.

TABLE 4
Alumni Placing Considerable Value on Various Aspects of Their Legal Education to Their Classroom Experience, by Minority Status and Graduation Decade

	Aspect of Law School			
	Faculty as Teachers	Faculty as Scholars	Being Called On	Classmates' Abilities
1970s				
MA	72.9% (144)	61.8%** (144)	31.5%* (143)	62.1%* (145)
WA	76.7% (260)	45.4% (260)	44.0% (262)	73.8% (263)
1980s				
MA	66.3% (190)	58.4%* (190)	39.4% (188)	68.8% (189)
WA	72.4% (207)	47.8% (207)	39.8% (207)	74.1% (207)
1990s				
MA	65.5% (203)	56.9% (204)	41.7% (206)	65.5%* (206)
WA	70.7% (100)	51.3% (101)	52.0% (100)	80.9% (101)

* $p < .05$ ** $p < .01$

NOTE Percentages are proportions of respondents giving a response of 5, 6, or 7 on a scale of contributions to the classroom experience, where 1 = none, and 7 = a great deal.

33% of black students gave responses of 5 or above to the value of being called on in class, only 14.3% of Latinos gave a response of 5 or above, and no Latino gave a response of 7. (Data not presented in table.) This may be because the law school's minority admissions program admitted only small numbers of Latino students during the 1970s. Anecdotal evidence suggests that being part of a very small but visible minority can put tremendous burdens on students. They may regard themselves as "tokens" and feel the quality of their answers have implications for how all their fellow ethnics will be regarded. In the 1980s, Latino students began to enter the school in more substantial numbers. Among graduates of that decade, there is no difference between white and Latino alumni in their recollections of the value of being called on in class.

Finally, while most white and minority students regard the intellectual abilities of their classmates as having made important contributions to their classroom experience, white graduates of the 1970s and 1990s are significantly more likely than minority alumni to value highly this aspect of Michigan Law School's strength. But as in the prior table, even though some

TABLE 5A
Alumni Placing Considerable Value on the Contributions of Diversity to Their Classroom Experience, by Diversity Aspect, Minority Status, and Graduation Decade

	Aspect of Diversity		
	Ideological Diversity	Gender Diversity	Ethnic Diversity
1970s			
MA	63.2%***	61.8%***	65.0%***
	(144)	(144)	(143)
WA	35.8%	26.5%	24.8%
	(262)	(260)	(260)
1980s			
MA	58.7%	58.7%***	60.6%***
	(189)	(189)	(188)
WA	51.3%	40.7%	32.5%
	(204)	(206)	(205)
1990s			
MA	60.5%	59.0%+	57.3%
	(205)	(205)	(206)
WA	59.3%	46.0%	50.0%
	(101)	(101)	(100)

$+p < .1$ $***p < .001$

NOTE Percentages are proportions of respondents giving a response of 5, 6, or 7 on a scale of contributions to the classroom experience, where 1 = none, and 7 = a great deal.

differences between minority and white alumni on this measure are statistically significant, not much should be made of them, for they don't represent substantial differences in judgments.[24]

Table 5A indicates respondents' retrospective views of the value of different kinds of diversity to their classroom experience. Here, more than with respect to other aspects of the law school experience, white and minority alumni differ in their response patterns. Minority alumni in all decades see ideological, gender, and ethnic diversity within the classroom as having been more important to their classroom experiences than white alumni do. Differences are highly significant across all three types of diversity for those graduating in the 1970s and for gender and ethnic diversity among gradu-

24. The statistical significance of some differences, like the difference between the value white and minority alumni attribute to their classmates' intellectual abilities, disappears if one looks at mean scores rather than at the proportion of respondents giving high scores, and no difference in average ratings of the importance of classmates' intellectual abilities is greater than .4 or about 7% of the range of a 7-point scale. The difference that does exist is due to the low value that minority women place on their classmates' intellectual abilities. The ratings of minority men are statistically indistinguishable from the ratings of whites.

ates of the 1980s. White and minority alumni of the 1990s are more similar in how important they think the kinds of diversity were to their classroom experience. Looking at mean scores (data not in table) confirms the importance of these differences in the proportions giving high scores. In three of the significant relationships, the averages for minority and white alumni differ by more than a scale point, and all the significant differences involve differences in average scores of .6 of a scale point (10% of the possible range) or more.

TABLE 5B
White Alumni Placing Considerable Value on the Contributions of Diversity to Their Classroom Experience, by Diversity Aspect, Gender, and Graduation Decade

	Aspect of Diversity		
	Ideological Diversity	Gender Diversity	Ethnic Diversity
1970s			
Men	33.3% (230)	21.5%** (229)	20.3%** (230)
Women	51.5% (32)	57.4% (31)	53.8% (30)
1980s			
Men	43.0%** (133)	30.2%*** (133)	23.5%** (133)
Women	67.0% (71)	60.0% (73)	49.4% (72)
1990s			
Men	60.8% (64)	44.9% (64)	48.6% (64)
Women	56.7% (37)	47.7% (37)	52.3% (36)

$^{**}p < .01$ $^{***}p < .001$

NOTE Percentages are proportions of respondents giving a response of 5, 6, or 7 on a scale of contributions to the classroom experience, where 1 = none, and 7 = a great deal. Differences tested for significance are between men and women within types of diversity and decade.

But these figures disguise a more nuanced story. Table 5B breaks down white responses by gender. We see that the difference between the value that white and minority graduates place on diversity in the 1970s and 1980s cohorts is due largely to the views of white male law students. The proportion of white women who believe that ethnic, gender, and ideological diversity were important to the value of their classroom experience is close to the proportion of minority alumni who feel this way. Until we get to the graduates of the 1990s, however, fewer than 25% of white male respondents feel

that the value of their classroom experience was substantially enhanced by ethnic diversity. Only among graduates of the 1990s does this change. Gender differences among whites disappear, and about one in two white male students believes that ethnic diversity added considerably to the value of his classroom experience.

To some degree the gender differences we see in table 5B reflect differences in the political attitudes of men and women, both when they answered our questionnaire and when they were law students. Although our questionnaire contained no political-attitude items, they have been included on surveys that Michigan's graduates receive during the fifth and fifteenth years after their graduation. The sample of white alumni who answered our survey should be much like those who have responded to these alumni surveys; indeed, we expect that most of our respondents have been Alumni Survey respondents since the motivations to respond to each survey are similar.[25]

No matter when they graduated, women responding to the Alumni Survey report more liberal political views than men, both at the time of the survey and when asked to recollect their views while in law school.[26] Thus, the women in our survey may place higher values on diversity than the men because recollecting diversity as valuable accords more with women's current political attitudes and/or, with respect to ethnic diversity, because their attitudes in law school made them more receptive than men to arguments minorities made in class and to out-of-class associations with minority law students.

Regardless of how the dynamic works, political attitude is unlikely to explain all the gender-associated differences in the perceived value of ethnic or other diversity. Changing political views seem particularly unlikely to explain the dramatic increase in the value that white male alumni of the 1990s, as compared to white male alumni of earlier decades, place on ethnic and other kinds of diversity as aspects of the classroom experience. Alumni Survey data from the classes of 1990 and 1991 indicate that white male

25. A problem with using the Michigan Alumni Survey data for our purposes is that except for the classes most recently surveyed, the attitude items may not report current views. To the extent political attitudes change with age, the Alumni Survey data for some of the classes we examine may differ, most likely in a liberal direction, from what would have been reported in our survey (which we call the Professional Development Survey, or PDS) had we included political attitude items. Nevertheless, data from the alumni surveys can help us evaluate the possibility that political attitudes explain the gender effect in table 5B and, more important, the marked change in the attitudes of white males who graduated from Michigan in the 1990s.

26. On a 7-point scale running from very liberal to very conservative, the proportion of women characterizing their political views today as very liberal (scores of 1 or 2) is usually about twice the proportion of men with such views, and the smaller proportion reporting themselves as very conservative (scores of 6 or 7) is among women about half of what it is among men. Women also remember their political attitudes as students as more liberal than men remember theirs, and both, as groups, report having had somewhat more liberal attitudes as students than they report having today.

graduates from these classes are currently about as conservative politically as white male graduates of the 1980s or perhaps a bit more so, and that while in law school, they were more conservative, as a group, than 1980s white male alumni.[27] Yet 49% of the white male respondents in our survey from the classes of 1990 and 1991 give ratings of 5, 6, or 7 when asked about how valuable ethnic diversity was to their classroom experience, a proportion almost the same as what we see when we look at all 1990s white male graduates. By contrast only 23.5% of 1980s white male alumni place such a high value on ethnic diversity.[28]

If increasingly liberal political attitudes cannot explain the 1990s upsurge in the value white males place on ethnic diversity, what does explain it? We tentatively offer two hypotheses. First, we suggest that the change in how white males assess the classroom value of diversity reflects the fact that Michigan's ethnic diversity was greater in the 1990s than it was in the two preceding decades. The proportion of Michigan graduates who were black, Latino, or Native American rose from 7.6% of all students in the 1970s, to 10.2% in the 1980s, to 15.4% in the first seven years of the 1990s. Moreover, Asians began entering Michigan Law School in substantial numbers in the 1990s, further enhancing visible ethnic diversity. This increase may have made Michigan's white male students more aware of the classroom contributions of those with different ethnic backgrounds, and it may also be that the presence of larger numbers of minorities resulted in issues being raised that would not have been voiced in the classroom at an earlier time. Increased minority enrollment is also likely to have increased interaction

27. We only have Alumni Survey data for the classes of 1990 and 1991 in usable form, but these data have the virtue of being collected close to the time of our own survey and are likely to be a good proxy for the current views of our respondents from these classes. The current political attitudes of white males in the classes of 1990 and 1991 as measured in the Alumni Survey are not much different from the attitudes held by white male alumni of earlier decades. Only 20.4% of these alumni said they were currently very liberal (scores of 1 or 2 on a 7-point scale), and 17.2%, a higher proportion than in any of the other groups we look at, considered themselves very conservative (scores of 6 or 7 on a 7-point scale). By way of comparison, in the 1982–89 cohort, for which we also only have five-year data, 21.5% of respondents rated themselves as very liberal when they filled out the Alumni Survey, and 10.9% saw themselves as very conservative. For data on the views of the classes of 1980 and 1981, see note 28, below.

28. It does not appear that this difference can be explained simply by the fact that 1980s alumni have been out of school longer than 1990 and 1991 alumni and so may have grown more politically conservative. We can see this by looking at alumni who graduated in 1980 and 1981 and so participated in the 15-year Alumni Survey at the same time the 1990 and 1991 alumni were participating in the 5-year Alumni Survey. The white male alumni of a decade earlier have 6.7% fewer strong conservatives than the 1990–91 group and 5.8% fewer strong liberals. The difference in strong conservatives is opposite what one might expect if conservatism increases with age, and the liberal difference is too small to account for the large difference in the educational value that the 1980s and 1990s white male graduates we surveyed placed on ethnic (and other) diversity. Moreover, 1980–81 white male graduates are more likely than their 1990–91 counterparts to report having had strong liberal views while in law school (39.4% vs. 29.8%), and fewer report having had strong conservative views (8.3% vs. 17.2%) in their law school days.

between white males and minority students. Consistent with these suggestions, Bowen and Bok (1998, 235) found a linear relationship between the percentage of black students in the colleges that furnished graduates for their study and the percentage of the college's 1989 white alumni who reported having known well two or more black students.

Second, we suggest that being in a minority can sensitize a person to both the degree of diversity and the value of minority perspectives. In addition to their greater liberalism, white women had the experience of being in a minority while in law school, and this may be one reason why so many of them, especially graduates of the 1970s, saw value in ethnic diversity. By contrast, white males, until the decade of the 1990s, constituted a majority of Michigan's law students. But in the 1990s, increased female and minority (including Asian) enrollment meant that white male law students became, for the first time, themselves a minority of the student body. They were more exposed to women and people of color, and the likelihood that most of their friends and associates were fellow white males probably diminished. At the same time, the likelihood of sitting in class next to a person of a different gender or ethnicity, or being assigned to write a brief with, negotiate with, or respond to the views of someone of a different gender or ethnicity went up. We expect that such interactions increase the perceived educational value of diversity. Unlike white female and minority students, who have always been minorities in Michigan's student body, for white male law students it was not until the 1990s that many of their class-related interactions with other law students could not help but cross gender and ethnic lines.

These data are consistent with the claims of some educators that increasing diversity, particularly ethnic diversity, has important educational benefits not just for minority and women students but for white male students as well. Although the correlation we report cannot prove causality, we think we have shown that the correlation between increased ethnic diversity and the increased educational value that the law school's most numerous group, white males, see in diversity cannot be dismissed as simply reflecting differences in the "politically correct" response to questions about the value of diversity. All our respondents, regardless of when they graduated, provided their answers in the context of the same present-day political atmosphere. Moreover, to the extent our respondents are recalling their feelings when they were in law school, opposing affirmative-action programs is probably more acceptable among students today than it was in earlier decades. Finally, the political-attitude data captured by the alumni surveys are inconsistent with a "political correctness" explanation. At least in the classes of 1990 and 1991, we know that a dramatic change in white male attitudes toward the classroom value of ethnic diversity is not mirrored by a marked change in the overall political attitudes of white male alumni.

Our results are consistent with what Gary Orfield and Dean Whitla report (Orfield and Whitla 1999) in a recent paper that presents the results of a survey of University of Michigan Law School and Harvard Law School students. The survey asked questions about the effects of ethnic diversity in the school and the classroom on students. Using electronic mail as the medium, Orfield and Whitla obtained an 81% response rate. The white respondents from both schools reported in overwhelming numbers that in law school, but not before, they have several (three or more) close friends of another racial or ethnic background. The draft that has been released does not break down responses to other questions by race, but on every one of a long series of questions about the possible impacts of racial diversity on their experiences, a large majority of the Michigan students reported that they believe the effects of diversity are positive. For example, 72.8% of the Michigan students believed that racial diversity within the school enhances the way they and others think about problems and solutions in classes, and 73.5% regarded having students of different races and ethnicities as a "clearly positive" element of their educational experience.[29] The Orfield and Whitla study complements our findings. Together they provide strong evidence that, in the 1990s, many Michigan Law School students perceived ethnic diversity as adding value to their educational experience.

Table 6 shifts to the benefits *after* law school of friendships and contacts made at Michigan and with Michigan graduates later as well as the benefits of the "prestige associated with being a University of Michigan Law School graduate." On a scale of 1 to 7, where 1 means "none" and 7 means "a great deal," about 85% of Michigan's minority alumni reply with scores of 5 or above when asked about the degree to which their career has benefited from "the prestige associated with being a University of Michigan Law School graduate." Lesser proportions point to friends made at Michigan (22.5% to 30.8% depending on graduation decade) or Michigan contacts (17.3% to 19.8%) made after graduation as important to their subsequent careers, but a significant minority of Michigan's minority alumni believe they benefited from these byproducts of a Michigan education as well.[30] Minority alumni graduating in the 1970s and 1980s are more prone than white alumni graduating during these decades to think that their Michigan education benefited their careers in the ways we asked about. There are no statistically significant differences in the 1990–96 cohort. Regardless of cohort or minority status, the prestige of having attended the University of

29. An additional 17% believed it a "moderately positive" element. Fewer than 1% of respondents considered it had no value whatsoever.

30. Regression analyses indicate that in the full sample, minorities are significantly more likely than whites to feel they benefited from friends made at Michigan and contacts with Michigan alumni after graduation. Gender does not significantly affect responses to either the *friends* or *contacts* item, but minority males are more likely than minority females or whites of either sex to report that friends made at Michigan were important to their subsequent careers.

TABLE 6
Alumni Reporting Considerable Career Benefits From Attending Michigan, by Type of Benefit, Minority Status, and Graduation Decade

	Type of Benefit		
	Friends Made at Michigan	Contacts Made Through Michigan	Prestige of Michigan
1970s			
MA	30.8%***	19.2%**	86.1%***
	(146)	(146)	(144)
WA	13.4%	7.8%	71.6%
	(266)	(266)	(260)
1980s			
MA	22.5%+	17.3%*	85.2%*
	(191)	(191)	(189)
WA	14.8%	9.6%	75.0%
	(209)	(208)	(205)
1990s			
MA	29.5%	19.8%	85.3%
	(207)	(207)	(204)
WA	29.7%	16.4%	79.9%
	(104)	(104)	(104)

+$p < .1$ *$p < .05$ **$p < .01$ ***$p < .001$

NOTE Percentages are proportions of respondents giving answers of 5, 6 or 7 to questions regarding the importance to their careers of friends and contacts made at Michigan and of the prestige associated with being a Michigan Law School graduate where 1 = none, and 7 = a great deal.

Michigan Law School is associated with greater career benefits than friends made at Michigan or alumni contacts after graduation.

A regression model of the full sample confirms that minorities place a higher value on the prestige of a Michigan Law School degree than whites do and that white women place a higher value on Michigan's prestige than white men do.[31] It appears that those with reason to feel that their demographic status is likely to hamper their career chances place a special value on the way in which a high-prestige law degree can open up career opportunities. If Michigan's graduates are correct in their perceptions, attending prestigious law schools like the University of Michigan has higher career returns to women and minorities than it does to white men.

31. The model is the one described in the text at note 6. The results do not change if LSGPA is also controlled. The gender effect is qualified by a significant gender/minority-status interaction effect. Minority women see the same career value in the prestige of a Michigan degree as minority men; they do not place a higher value on school prestige because they are women.

When the Supreme Court ordered the University of Texas Law School desegregated in 1950 (*Sweatt v. Painter*, 339 U.S. 629 [1950]) it held that "separate but equal" could not justify segregated professional education because the prestige and "connection" benefits of attending a state's leading law school could not be duplicated in an all-black law school; even if the state were to invest as much money in the black school as was invested in the white one. Our data suggest that Michigan alumni would agree with the Supreme Court. White and minority graduates believe they benefited from attending an elite law school in ways they might not have benefited from attending a less prestigious one. The benefits appear as particularly important to graduates with demographic characteristics that, regardless of their talents, once would have barred them from many of the nation's highest status legal positions (Smigel 1969) and even today may make them more vulnerable than white males to invidious stereotyping and discrimination.

Educational Debt

Table 7 reports responses to this question: "When you completed law school, how much contractually enforceable debt resulting from attending college and law school did you have?" Across the decades, the debts of both minorities and whites have risen greatly in nominal dollars, in constant 1996 dollars, and in probable debt payments as a proportion of first-year earnings. Table 7 also reveals that, in every decade, a much higher proportion of minorities than whites have left law school with educational debt, and in every decade, the debts of minority students are much higher than the debts of white students.[32] Michigan's minority students simply come to law school, on average, from families with fewer economic resources than its white students.

By the classes of 1995 and 1996, over half the minority graduates finished law school with educational debts of at least $70,000. Based on their reported first-year earnings and the common level of debt payments that have to be made each year for each $1,000 in loans, it is probable that over half the minority graduates of these classes with debts had to spend more than 15% of their first-year incomes making the payments due on them. That is a substantial burden that is likely to weigh most heavily on those who take initial employment in government, legal services, or other relatively low-paying public interest settings. The claim by some critics of affirmative action that most minority students are, on account of their

32. Among the graduates of the 1990s but not in earlier decades, Latino students with debt finished law school with significantly higher debt in constant 1996 dollars than black students with debt (a mean of $71,555 v. a mean of $61,192, $p < .01$.) As table 7 reports, white students with debt had an average debt in constant 1996 dollars of $52,665, significantly lower than either Latinos or blacks.

TABLE 7
Mean Educational Debt and Debt/Earnings by Minority Status and Graduation Decade

	Proportion with Debt on Graduating from Law School	Mean Debt of Those with Debt	Mean Debt in 1996 Dollars for Those with Debt	Mean Annual Debt Payments[a] As a % of 1st-year Earnings for Those with Debt
1970s				
MA	83.5%*** (127)	$12,633*** (106; $888)[b]	$37,666*** (106)	7.6%*** (101)
WA	52.7% (251)	$ 9,069 (128; $864)	$26,345 (128)	5.1% (124)
1980s				
MA	93.5%*** (184)	$32,655*** (172; $1,420)	$47,207*** (172)	10.1%*** (162)
WA	79.5% (204)	$23,697 (163; $1,580)	$34,959 (163)	6.5% (156)
1990s				
MA	96.0%*** (201)	$59,720*** (193; $1,708)	$65,652*** (193)	15.1%*** (185)[c]
WA	71.6% (101)	$48,404 (72; $4,210)	$52,665 (72)	8.3% (71)

***$p < .001$

a. Law Access, the principal loan program relied on by law students, expects that most graduates will pay an amount each year toward principal and interest equaling about 10% of the total of their loans. We calculated the probable debt payments by multiplying the total debt of each student by .10 and then dividing that product by their reported first-year income.

b. The second number in the parenthesis is the standard error of the mean debt.

c. Two outliers with debts exceeding $80,000 and incomes of $1,000 or less were not included in calculating the figure for this cell.

ethnicity, getting free rides at the expense of their white counterparts differs sharply from what these data tell us.

WORK AFTER LAW SCHOOL

Six of the seven pages of our questionnaire dealt with the experiences of Michigan's graduates after they finished law school. We asked respondents questions about their first jobs, their current jobs, and the overall shape of their careers. We also asked about dimensions of career satisfaction, partnership status and income, pro bono work, and service and other activities apart from their jobs. In the next two sections we look at these aspects of the careers of Michigan Law School's graduates.

Bar Passage and First Jobs

Ninety-six percent of the minority students and 98.5% of the white students who entered Michigan between 1983 and 1992 graduated from Michigan with the J.D. degree.[33] In launching their careers, law students face two immediate challenges. The first is to pass a bar exam, and the second (usually met by Michigan students before they graduate) is to find a job.

TABLE 8
Bar Passage Rates, by Minority Status and Graduation Decade

	% Bar Members	% Bar Members, Two or More States
1970s		
MA	98.5% (137)	37.2% (137)
WA	97.9% (256)	39.6% (256)
1980s		
MA	95.1%** (184)	32.6%+ (184)
WA	99.3% (202)	43.2% (202)
1990s		
MA	96.1% (204)	26.5%* (204)
WA	97.5% (102)	40.0% (104)

+ $p < .1$ * $p < .05$ ** $p < .01$

As table 8 reveals, almost all minority alumni who responded to our survey passed a bar exam after graduation. Overall, 96.3% have been admitted to the bar of at least one state, and many have been admitted in two or more states. We do not know how many, if any, of the 3.7% who have not joined a bar (19 individuals out of 525 responding minority graduates) attempted to pass a bar examination and failed and how many, if any, chose employment from the beginning that did not require bar membership. We do know that as a group these 19 view their nonlaw careers today with high satisfaction (somewhat higher, in fact, than the respondents who are bar

33. Among both minorities and whites most of those who entered but did not graduate from Michigan were in academic good standing when they left, some to enter other law schools and some to pursue other careers. We were unable to get graduation data broken down by race for classes entering before 1983.

members), and two-thirds of them report that their legal training is of "great value" to them in their current employment. (For comparison, the proportion of white graduates who have ever been admitted to the bar is 98.3%.)

TABLE 9
Proportions of Alumni Securing Judicial Clerkships, by Minority Status and Graduation Decade

	n	Proportion Taking Clerkship
1970s		
MA	144	8.3%+
WA	260	13.3%
1980s		
MA	189	10.6%+
WA	206	16.2%
1990s		
MA	205	18.1%
WA	104	23.8%

+$p < .1$

The other task, finding initial employment, often has two stages. Students decide whether to seek a judicial clerkship, commonly a one-year appointment after law school, and then, if they do not seek or find a clerkship, they seek an initial longer-term job with a law firm, business, government agency, or elsewhere. We sought to learn from all respondents whether they took a clerkship and, apart from clerkships, what their first job was.

Overall, 12.8% of Michigan's minority graduates have taken judicial clerkships. As table 9 reports, the proportion taking clerkships has risen over time from 8.3% of the minority graduates of the 1970s to 10.6% among minority graduates of the 1980s to 18.1% of the minority graduates in the 1990–96 cohort. This trend over time among minority alumni is mirrored by white alumni and so seems to reflect a general increase in the interest of Michigan students in judicial clerkships and in their capacity to secure them. Although relatively more white alumni than minority alumni have taken clerkships over the years, the difference is only marginally significant in the 1970 and 1980 cohorts, and not significant among graduates in the 1990s.[34]

Table 10 displays the first jobs of white and minority graduates, not counting any judicial clerkships, and table 11 indicates the size of the firms

34. We did not ask where clerkships were held and so have no data on the prestige of the clerkships held by minorities and whites.

TABLE 10
First Jobs of Michigan Alumni by Job Sector, Minority Status, and Graduation Decade

		First-Job Sector				
	n	Private Practice	Business	Government	Legal Services or Public Interest	Other[1]
1970s[2]						
MA	145	31.7%	10.3%	29.7%	17.9%	10.3%
WA	260	68.7%	5.6%	15.2%	5.3%	5.2%
1980s[3]						
MA	189	72.0%	3.7%	13.2%	6.9%	4.2%
WA	206	85.1%	2.7%	3.7%	3.3%	5.1%
1990s[4]						
MA	203	69.0%	3.0%	15.8%	3.0%	9.4%
WA	103	81.9%	2.1%	3.0%	5.7%	7.3%

[1] Includes education, accounting firms, labor unions, etc.
[2] $\chi^2 = 52.1$, $p < .001$
[3] $\chi^2 = 16.5$, $p < .01$
[4] $\chi^2 = 15.2$, $p < .01$

for those who chose the private practice of law. The pattern of first employment has changed dramatically over time. For the minority graduates of the 1970s, substantially more took initial positions in government, legal services, or public interest work (47.6%) than took jobs in private practice (31.7%). And, of those who took jobs in private practice, almost half took jobs in firms with 10 or fewer lawyers. In the 1980s and 1990s, the proportions of minority alumni taking jobs in firms increased dramatically, reflecting both a general increase in the size of law firms in the United States and a major change in the jobs minority alumni acquired as firms of all sizes became accessible to them. During the 1980s, 72% of Michigan's minority graduates took first jobs in law firms, and fewer than 15 % of them worked in firms with 10 or fewer lawyers.[35] The picture is similar for graduates of the 1990s.[36]

Jobs with large private law firms are the most sought after positions by most American law school graduates. Large firms seek young lawyers willing to work long hours to a high standard of quality. Many of the job offers they

35. In the 1980s, more Latinos than blacks took jobs in firms (83% of Latinos, 64% of blacks), and more blacks than Latinos took jobs in government or public interest work (25% of blacks, 12% of Latinos).

36. In the 1990s, unlike the 1980s (see preceding footnote), more Latinos (27.2%) than blacks (15.4%) took initial jobs in government or public interest work.

TABLE 11
Firm Size of First Jobs of Alumni Entering Private Practice, by Minority Status and Graduation Decade

		Number of Lawyers				
	n	1-10	11-50	51-100	101-150	151+
1970s[1]						
MA	45	46.7%	31.1%	11.1%	2.2%	8.9%
WA	159	25.5%	39.5%	19.7%	6.4%	9.0%
1980s[2]						
MA	134	14.9%	20.1%	21.6%	10.4%	32.8%
WA	168	10.6%	26.8%	18.0%	11.6%	33.1%
1990s[3]						
MA	140	14.3%	20.7%	12.9%	16.4%	35.7%
WA	84	9.3%	8.4%	18.4%	8.2%	55.9%

[1] $\chi^2 = 8.3$, $p < .1$
[2] $\chi^2 = 5.1$, *not sig.*
[3] $\chi^2 = 16.6$, $p < .01$

extend are to students whose abilities they know firsthand because they have observed them as summer clerks. These firms pay high salaries and are seen as stepping stones to other desirable positions. About 45% of minority graduates in the 1980s and more than 50% of minority graduates in the 1990s secured first jobs with firms employing more than 100 lawyers, and most of these graduates were in firms with 150 lawyers or more. The employment picture for white graduates changes in much the same way over time. In each decade a higher proportion of white graduates than minority graduates took first jobs in large firms (100+ lawyers), and fewer took first jobs in very small firms (1–10 lawyers), but the difference in the overall pattern of first job firm sizes achieves statistical significance only in the 1990–96 cohort.

Law school graduates acquire first jobs in many ways. In recent years, a common mode of entry into law firm jobs, especially in larger law firms, has been to clerk for a firm during the summer and to so impress the firm's partners that a permanent job offer is forthcoming.[37] Securing summer clerkships turns to different degrees on law school grades, impressions made

37. We did not inquire in the PDS about whether graduates held summer clerkships in the firms that hired them, but a question on the Alumni Survey asks whether the respondent's first job after any clerkship was with a firm he or she had clerked for after the second year of law school. In the classes of 1988 through 1991, 75.6% of minority alumni in firms with more than 50 lawyers reported having had summer clerkships with the first firm that employed them, as did 68.1% of white alumni. Among alumni working in smaller firms, white alumni were more likely than minority alumni to have clerked for the firm that hired them, so

in interviews, faculty recommendations, personal connections, and sheer initiative. The fact that minority students tend to have lower law school grade-point averages than white students may lead those law firms interested in hiring minority lawyers to make special efforts to recruit minority students as summer clerks. This gives them an experiential base for deciding whether to extend offers. Law firms may do the same with white students who are more impressive in their interviews than on their transcripts, or who, despite low LSGPAs are attractive for other reasons, like potentially important business connections. This makes sense because the less stellar a student's grades, the more risky hiring her may appear, absent other information about how she is likely to perform. Our data show that minority graduates hired by large law firms have on average lower LSGPAs than the white graduates these firms hire, but this does not necessarily tell us anything about how firms view the relative prospects for success of the minority and white graduates to whom they extend job offers. These judgments may in large measure reflect impressions conveyed during interviews, faculty recommendations, or a summer clerkship experience. Moreover, LSGPA, as we shall see later, seems to have only limited bearing on later career success, and law firms may have some inkling of this.

We would expect those who lack the capacity for large firm work to quit their jobs or be eased out of them relatively soon. For this reason we asked our respondents how many years they worked at their first jobs. The graduates of the 1990s haven't been out long enough for meaningful assessment, but the graduates of the 1980s are a good group to examine. The minority graduates from the 1980s who took a first job in a firm with more than 50 lawyers spent an average of 4.1 years at that firm. The whites in our sample who took a job in such a firm spent an average of 4.7 years at the firm. Seventeen percent of minority alumni and 22% of white alumni spent 7 or more years at their first large firm job. These differences are not great, and they are not statistically significant. They might also be explained by differential satisfaction with large-firm work unrelated to capacity (e.g., if minorities are less comfortable than whites in largely white, business-oriented firms; Wilkins and Gulati 1996) or by the quality of available alternative opportunities (e.g., if competent minority attorneys are more in demand than competent whites). The differences could also be greater than they appear if it is whites who have more competence-unrelated dissatisfaction or have more opportunities elsewhere.

In each of our cohorts, many minority students have taken first jobs in government, and some have taken jobs in legal services offices, public defender offices, or other public-interest settings. Between the 1970s and the 1980s the numbers of minority students taking first jobs in these public

---

that overall 60.1% of both minority and white Alumni Survey respondents in these classes had clerked for the first firm to hire them.

service settings declined sharply, but in all three decades the proportion of minority students taking first jobs in government has substantially exceeded the numbers of whites taking government jobs, and the proportion entering the legal services/public interest sector is greater for minority alumni among graduates of the 1970s and 1980s, although not among graduates of 1990s. The other major job sector that Michigan Law School's graduates frequently enter is business and finance, often in the offices of corporate counsel of major corporations. There is no substantial difference in the propensities of Michigan's minority and white students to take first jobs in this sector.

CURRENT JOBS

The Overall Pattern

Table 12 reports the current jobs of minority and white alumni by graduation decade. For both minority and white graduates, regardless of graduation decade, the private practice of law in firms is by a wide margin the most frequent single setting of work, and in each decade, the proportion of whites in private practice exceeds the proportion of minorities. Overall, about half of all minority alumni and 60% of white alumni currently work in solo practice or in firms. The gap between whites and minorities is greatest for the graduates of the 1970s, where the proportion of minority alumni in private practice is only two-thirds the proportion of white alumni in private practice. This gap is not due to a diminution over time in the attractiveness of private practice to 1970s minority graduates, as this cohort is the only decade cohort of white or minority alumni which shows a net movement into private practice since their first jobs.[38] We look more closely at those in private practice in the next section.

After private practice, the next most common current work setting for minority graduates is government. About a fifth of the minority alumni responding to our survey work in government today, and regardless of graduation decade, a higher proportion of minority graduates than white graduates

38. Gender is more strongly associated with private practice careers than minority status. Logistic regression indicates that at the mean of the other variables in the model described in the text at note 6, the odds that a female Michigan graduate is currently in private practice are about half the odds that a male graduate has a current private practice career. However, even though there are proportionately more women among Michigan's minority graduates than among its white graduates, gender explains little of the difference between whites and minorities. Before controlling for gender, the odds that a Michigan minority graduate will have a current career in private practice is .70 of the odds that a white graduate will have a private practice job. After controlling for gender, the relative odds increase to .71. Controlling for grades, the odds that a minority graduate will have a private practice career increases substantially relative to the odds that a white will have a private practice career (to .87), but the odds that a woman will have a private practice career barely changes relative to the odds for men.

TABLE 12
Current Jobs of Alumni, by Job Sector, Minority Status and Graduation Decade

		Current Job Sector				
	n	Private Practice	Business	Government	Legal Services or Public Interest	Other[1]
1970s[2]						
MA	138	40.6%	20.3%	22.5%	2.2%	14.5%
WA	256	60.0%	16.3%	13.6%	0.5%	9.7%
1980s[3]						
MA	178	47.2%	14.0%	18.5%	3.9%	16.3%
WA	199	53.0%	25.3%	9.9%	3.0%	8.9%
1990s[4]						
MA	202	57.9%	12.4%	20.3%	3.5%	5.9%
WA	104	67.1%	5.2%	8.8%	2.1%	16.8%

[1] Includes education, accounting firms, labor unions, etc.
[2] $\chi^2 = 15.2$, $p < .01$
[3] $\chi^2 = 16.5$, $p < .01$
[4] $\chi^2 = 21.1$, $p < .001$

currently work for government employers. On its face, this pattern of government work echoes the data on initial job choices, which revealed that minority alumni at all points in time were more likely to take first jobs in government than their white counterparts. But among alumni of the 1970s and 1980s, it is not ordinary government work that explains the pattern. In these cohorts a high proportion of the minority alumni in government jobs today work *not* as attorneys but as judges or appointed or elected officials. A remarkable 13% of all minority graduates of the 1970s serve as judges, public officials, or government agency managers (in comparison to 4% of white alumni); and 5% of the minority graduates of the 1980s serve in such positions (compared to no white alumni). These data may help explain the comparatively small proportion of the 1970s minority graduates currently in private practice. Many who might have had enduring private practice careers may have opted for careers in judicial or political office or law teaching instead. About a third of the relatively small number of the 1970s minority graduates who began in private practice are today judges, political office holders or law teachers. By contrast only about 2% of white alumni

from this decade with a first job in private practice ended up in one of these careers.[39]

After private practice and government, the next most popular current job sector for minority alumni is business. Over half of Michigan's minority alumni who work for businesses practice law as corporate counsel, and about half the remainder are business executives or managers. The overall propensity of minority alumni to be currently in business careers does not differ substantially from that of white alumni, but there is variation over time. White graduates of the 1980s and minority graduates of the 1990s seem to have had a special affinity for business careers. In addition, among those choosing business careers, minority alumni of the 1990s appear relatively more likely than white alumni to be working at Fortune 500 companies (data not shown in table).

About 6% of Michigan's minority graduates work in the field of education. Most of this group—25 minority graduates in all—are teachers of law. Since our survey focused primarily on those who practice law in some setting, we did not learn much about the professional life of law teachers—what or where they taught, for example. But the sheer numbers are important. Michigan is among the five or six law schools that provide the largest numbers of law teachers for the nearly 200 American law schools. At the beginning of the 1970s, there were almost no black, Latino, or Native American law teachers at predominantly white law schools in the United States. Together with the minority graduates of the other teacher-producing schools, Michigan's minority graduates have played an important role in bringing minority teachers to the faculties of law schools in the United States. White and minority alumni have similar propensities to choose careers in education, and about the same proportion of those who chose careers in this sector entered law teaching.[40]

Relatively few Michigan alumni, whatever their ethnic background or graduation year, work in legal services or other public-interest positions. But

39. Logistic regression on the full sample confirms the statistical significance and strength of the tendency of minorities to gravitate toward government work. At the mean of the other independent variables in the model the odds that a minority Michigan graduate will be working for government is about 1.9 times the odds that a white Michigan graduate will be (about 1.7 times if LSGPA is controlled).The tendency of women to work for government is even stronger. The relative odds that women, as compared to men, will be currently working in government are more than 2.2:1 regardless of whether grades are controlled. As with private practice, gender does little to qualify the disproportionate tendency of minorities to have government positions.

40. Small numbers mean that one should not make too much of differences in propensities to choose careers in education across decades, but it is interesting to note that differences in the tendencies over time of minority and white alumni to choose careers in education are almost the mirror image of differences in tendencies to choose business careers. Relative to whites, minority graduates of the 1980s seem to have a special propensity to choose jobs in education and not in business, while among graduates of the 1990s the situation is reversed.

TABLE 13
Alumni Working as Lawyers in Settings Other Than Private Practice Who are Supervising or Managing Attorneys, by Minority Status and Graduation Decade

	n	% Supervising or Managing Attorney
1970s		
MA	31	64.5%
WA	43	63.5%
1980s		
MA	48	25.0%
WA	50	30.9%
1990s		
MA	49	14.3%**
WA	16	0.0%

** $p < .01$

in all cohorts, minority alumni are somewhat more prone than white alumni to have careers in this sector.

Table 13 looks at the occupational roles of alumni who practice law in government, businesses, and other nonfirm organizations. We see that, as one would expect, the likelihood of being a supervisory or managing attorney increases with time since graduation. There is no consistent association with minority status, but considering how short a time they have been out, it seems that a remarkably high proportion of minority alumni from the 1990s (14.3%) have attained supervisory roles, given that none of the white alumni from this decade have done so. The difference is statistically significant.

More on the Private Practitioners

Private practice is the setting in which about half of all Michigan's minority alumni and 65% of its white alumni work. It is by far the largest employment sector for the school's graduates. Here we look at the private practitioners in somewhat more detail, saying more about the settings in which they work, the colleagues with whom they practice, and the clients they serve.

TABLE 14
Firm Sizes of Alumni Currently in Private Practice, by Minority Status and Graduation Decade

		Lawyers in Firm				
	n	1-10	11-50	51-100	101-150	151+
1970s[1]						
MA	56	66.1%	17.9%	5.4%	1.8%	8.9%
WA	145	38.8%	23.6%	10.5%	6.9%	20.1%
1980s[2]						
MA	83	47.0%	21.7%	6.0%	6.0%	19.3%
WA	101	27.7%	21.0%	14.1%	9.6%	27.6%
1990s[3]						
MA	116	25.9%	18.1%	15.5%	9.5%	31.0%
WA	69	14.4%	19.9%	13.5%	14.3%	37.9%

[1] $\chi^2 = 8.1$, $p < .1$
[2] $\chi^2 = 6.6$, *not sig.*
[3] $\chi^2 = 4.5$, *not sig.*

Table 14 reports firm sizes for those Michigan alumni currently in private practice. These alumni work in firms of all sizes, across the whole spectrum of American law practice. There are, however, major cohort differences. The substantial majority of minority graduates from the 1970s who are in private practice today—over 65%—work alone or in small firms of 10 or fewer lawyers. Of those who graduated in the 1980s, 47% are in solo practice or small firms, but nearly a third work in firms of more than 50 lawyers. Among the most recent graduates, only about one-quarter work for firms of 10 or fewer lawyers and over half work in firms of more than 50 lawyers. In part, the size of the current law firms in which minority graduates practice reflects their opportunities and job choices at the time they graduated; in part, it reflects the usual migration of young lawyers from an initial job in a larger firm to a long-term position in a smaller practice setting. It also reflects, as we shall see shortly, considerable movement into and out of the private practice of law.

Among white graduates, the same partnership pattern exists, though among the graduates of the 1970s proportionately more whites than minority graduates work in firms of larger sizes and proportionately fewer in very small firms or solo practice. Chi-square tests indicate, however, that only in the earliest cohort is there a possibly significant difference in the way that minority and white alumni sort themselves into firms of various sizes. Minority graduates of the 1990s look the most like their white counterparts with respect to the size of the firms they practice in, and they are considera-

bly less likely than the minority graduates of prior years to be currently practicing in firms of 10 or fewer lawyers or by themselves.

TABLE 15
Alumni in Private Practice Who Are Partners in Firms, by Minority Status and Graduation Decade

	n	% Partners in Firms
1970s		
MA	56	91.1%
WA	142	96.0%
1980s		
MA	84	72.6%
WA	99	80.0%
1990s		
MA	116	19.0%
WA	68	13.2%

Table 15 displays the proportion of lawyers currently in private law firms who are partners, excluding a small number of alumni who are "of counsel." We see from this table that almost all minority graduates from the 1970s who work in law firms are partners (91.1%) as are over two-thirds of those who graduated in the 1980s. White graduates in these cohorts do even better. No difference in partnership rates is significant, however, and the 7.4% advantage whites held in the 1980s exists in large part because minority alumni from the 1980s have been with their firms for a shorter time, on average, than the white graduates (a mean of 6.0 years for minority graduates compared to 7.3 years for white graduates) and because, on average, they graduated more recently from law school (36% of the minority graduates of the 1980s, but only 24% of the white graduates, are from the classes of 1988 or 1989).

The next two tables, tables 16A and 16B, depict characteristics of the private practitioners' colleagues within the firms where they work. Table 16A presents data on the number and proportion of the other lawyers in their law firms who are graduates of so-called elite law schools (in the words of the questionnaire, "graduates of schools like Berkeley, Harvard, Michigan, and Yale"). Three features of this table stand out. First, Michigan graduates regardless of race tend to work in law firms with substantial proportions of attorneys from other leading law schools—across the decades, an average of about a third or more of the attorneys in respondents' firms. Second, the graduates of the 1990s tend to have a somewhat higher proportion of "elite" law school colleagues than the graduates of the earlier

TABLE 16A
"Elite" Law School Graduates in the Firms of Alumni in Private Practice, by Minority Status and Graduation Decade

	n	Proportion of Elite Law School Graduates	Mean Number of Elite Law School Graduates
1970s			
MA	41	27.4%	16.6***
WA	109	31.6%	55.8
1980s			
MA	64	32.4%	53.0
WA	81	41.3%	61.0
1990s			
MA	100	40.5%	64.2+
WA	59	46.1%	92.2

+$p < .1$ ***$p < .001$

NOTE The question asked "[A]bout how many [lawyers in respondents' firms] are from 'elite' law schools (Berkeley, Harvard, Michigan, Yale, etc.)?"

decades, reflecting the higher proportion of more recent graduates working in large firms. And, third, within decades of graduation, minority and white alumni report similar proportions of "elite" law school graduates among the lawyers in their firms. Differences in the proportions are not statistically significant.[41]

Table 16B reports on the ethnicity of the other lawyers in the firms where respondents practice. The table shows, for private practitioners of the various ethnic groups, the mean percentage of lawyers of each ethnicity in their firm. Unlike most of our tables, this table does not divide respondents into two groups, minority and white alumni. Rather, it looks separately at each of the major ethnic groups represented in our survey, including Asians, whom we have heretofore not considered. In addition, because the numbers of Latinos, Native Americans, and Asians in firms are small, we group all three decades together. As the table reveals, for members of each ethnic group, a majority of their colleagues in both small (2–10 lawyers) and large firms (more than 50 lawyers) are white. It also reveals that, in large firms,

41. There is a possible selection bias problem here, as a smaller proportion of minority alumni than white alumni have current positions with law firms. It is possible that had as high a proportion of minority alumni as white alumni entered law firms, the additional entrants would not have entered firms with as high a proportion of elite attorneys. Significantly, however, in the 1990–96 cohort, where the proportion of minority alumni in law firms is highest and closest to the proportion of white alumni in firms, the average proportion of elite attorneys in minority respondents' law firms is higher than it is for minority alumni of earlier decades. Similar selection problems may affect some of the other law-firm related variables we examine.

TABLE 16B
Ethnicity of Other Lawyers in Respondent's Firm, by Firm Size and Respondent's Ethnicity

	Mean % Other Lawyers Black		Mean % Other Lawyers Latino		Mean % Other Lawyers Native American		Mean % Other Lawyers White		Mean % Other Lawyers Asian	
Respondent's Ethnicity	Small Firms	Larger Firms	Small Firms	Larger Firms	Small Firms	Larger Firms	Small Firms	Larger Firms	Small Firms	Larger Firms
Black	44.0%***	3.0%	1.8%	0.9%	2.0%	0.3%	51.0%***	94.0%	1.2%	1.8%
	(42)	(53)	(42)	(53)	(42)	(53)	(42)	(53)	(42)	(53)
Latino	3.5%	3.0%	22.9%**	4.8%	0.0%	0.4%	71.5%**	89.6%	2.1%	2.2%
	(18)	(34)	(18)	(34)	(18)	(34)	(18)	(34)	(18)	(34)
Native	0.0%+	2.1%	0.0%*	1.2%	1.9%	0.2%	98.1%	94.1%	0.0%**	2.5%
American	(6)	(8)	(6)	(8)	(6)	(8)	(6)	(8)	(6)	(8)
White	2.8%	3.1%	1.5%	1.5%	0.0%	0.2%	94.5%	93.1%	1.3%	2.1%
	(59)	(115)	(59)	(115)	(59)	(115)	(59)	(115)	(59)	(115)
Asian	0.0%+	2.7%	4.8%	1.6%	0.0%	0.2%	76.2%	91.9%	19.0%*	3.6%**
American	(7)	(22)	(7)	(22)	(7)	(22)	(7)	(22)	(7)	(22)

*** $p < .001$ **$p < .01$ * $p < .05$ **$p < .1$

NOTE Small firms = 2-10 lawyers; larger firms = more than 50 lawyers. Significance tests were performed against white alumni in the same size firms.

regardless of their ethnicity, respondents tend to have few minority colleagues. Our black graduates in large firms are no more likely than our white graduates to have a substantial proportion of black attorneys among their colleagues. The same is true for Latinos, Native Americans and Asian Americans. This is because the large law firms in this country are overwhelmingly white, so regardless of their ethnicity, Michigan graduates working in large firms have mainly white colleagues. (Much the same is true of midsized firms of 11–50 lawyers [not shown in table]. There too, the overwhelming majority of minority lawyers practice with no or few same-race colleagues.)

A different pattern exists for those practicing in firms of 2 to 10 lawyers. Unlike their counterparts in larger firms, black, Latino, and Asian American lawyers who practice in small firms often have a substantial proportion of fellow ethnics as colleagues. For example, on average 44% of the colleagues of black private practitioners in small firms are black. (No other ethnic group averages more than 4% black colleagues.) The 44% figure is, however, somewhat misleading. Almost none of the black graduates work in small firms where roughly half their colleagues are black. Rather, the average disguises a bimodal distribution: about half the black respondents in small firms have no black colleagues, and about a third have no colleagues who aren't black. But black lawyers are not the most likely to practice only with others of their race. The small-firm lawyers most likely to practice only with same-race colleagues are the whites: 94.5% of the colleagues of white small-firm attorneys are white, and 71.4 percent of whites in small firms have no colleagues who are black, Latino, Native American, or Asian American.

Tables 17, 18, and 19 look at the clients of the private practitioners. Table 17 shows how the three decades of Michigan alumni in private practice divide their time among different types of individual and organizational clients. We see from the table that collectively both minority and white alumni serve a diverse group of clients, ranging from poor individuals to wealthy corporations. As a broad generalization, whether minority or white, the more recent the graduate, the more likely clients are to be businesses and the less likely they are to be individuals (a pattern that reflects the much greater tendency of recent graduates to work in large firms).

Differences between minority and white alumni in the types of clients served are greatest among 1970s graduates, but in all cohorts, minorities seem more likely than white graduates to serve low- and middle-income individuals, while white alumni are more likely to serve small- and medium-sized businesses. Most differences on these client-served variables are significant or marginally significant. There are no statistically significant differ-

TABLE 17

Proportion of Time Private Practitioners Devote to Types of Clients, by Minority Status and Graduation Decade

	Client Type								
	Rich Individuals	Middle-Income Individuals	Low-Income Individuals	Fortune 500 Companies	Medium-Size Businesses	Small Businesses	Government	Nonprofit Organizations	Other
1970s									
MA	5.8%	24.8%+	26.6%***	14.5%	7.7%***	8.8%*	6.1%	3.7%	1.9%
	(56)	(56)	(56)	(56)	(56)	(56)	(56)	(56)	(56)
WA	8.1%	16.3%	8.3%	20.0%	23.4%	13.6%	4.5%	2.6%	2.9%
	(142)	(142)	(142)	(142)	(142)	(142)	(142)	(142)	(141)
1980s									
MA	7.2%	15.7%**	12.1%	23.0%	20.3%**	8.8%*	6.4%	4.8%	1.7%
	(83)	(83)	(83)	(83)	(83)	(82)	(83)	(83)	(83)
WA	8.9%	7.1%	6.2%	18.4%	32.0%	17.1%	5.0%	4.2%	1.5%
	(100)	(100)	(100)	(98)	(99)	(99)	(99)	(99)	(98)
1990s									
MA	6.3%	10.6%*	8.8%	31.4%	24.6%	8.9%+	6.2%	3.2%	1.0%
	(115)	(115)	(115)	(115)	(115)	(115)	(115)	(115)	(115)
WA	8.6%	4.7%	4.5%	29.2%	32.0%	12.2%	4.9%	3.2%	0.3%
	(68)	(67)	(67)	(68)	(67)	(67)	(67)	(67)	(67)

+$p < .1$ *$p < .05$ **$p < .01$ ***$p < .001$

TABLE 18
Ethnicity of Individual Clients of Alumni in Private Practice, by Lawyer Ethnicity, among Alumni Who Spent 20% or More of Their Time Serving Individual Clients

Alumni Ethnicity	Client Ethnicity				
	Black	Latino	Native American	White	Asian
Black	53.1%*** (73)	5.5% (73)	0.2% (73)	39.3%*** (73)	1.1%* (73)
Latino	10.9% (36)	28.9%*** (36)	0.6% (36)	53.0%*** (36)	4.8% (36)
Native American	3.5%** (11)	4.7% (11)	10.9% (11)	69.9% (11)	8.2% (11)
White	13.6% (130)	5.3% (129)	0.3% (129)	76.6% (130)	2.4% (128)
Asian	0.6%*** (10)	0.6%*** (10)	0.0%*** (10)	67.3% (10)	31.5%** (10)

*$p < .05$ ** $p < .01$ ***$p < .001$
NOTE Significance tests were performed against white alumni serving the same ethnic population.

TABLE 19
Ethnicity of Principal Contacts within Organizations Served by Alumni in Private Practice, by Lawyer Ethnicity, for Alumni Who Spent 20% or More of Their Time Serving Organizational Clients

Alumni Ethnicity	Ethnicity of Principal Organizational Contact				
	Black	Latino	Native American	White	Asian
Black	24.6%*** (101)	2.1% (101)	0.9% (101)	72.7%*** (101)	1.1%*** (101)
Latino	3.0% (65)	9.3%** (65)	0.2% (65)	82.1%+ (65)	2.2% (65)
Native American	2.3% (13)	0.8% (13)	6.5% (13)	80.5% (13)	6.7% (13)
White	3.7% (237)	1.8% (235)	0.2% (235)	88.7% (237)	3.2% (235)
Asian	1.9%* (40)	2.0% (40)	0.1% (40)	71.9%*** (40)	21.6%*** (40)

+$p < .1$ *$p < .05$ ** $p < .01$ ***$p < .001$
NOTE Significance tests were performed against white alumni serving the same ethnic population.

ences in the average amount of time that white and minority private practitioners spend on the business of Fortune 500 companies, government agencies, or nonprofit organizations. For both whites and minorities, the proportion of time devoted to the affairs of low- and middle-income individuals seems to reflect substantial cohort effects. Among 1970s alumni, minorities spend about half their time and whites, about a quarter of their time, on the legal affairs of such clients. In the 1990 cohort, minority alumni are devoting less than 20% of their time and white alumni, less than 10% of their time, to such individuals. None of these differences should, however, obscure the larger picture. Minority and white alumni in all decades serve all kinds of clients, and within each group in each cohort, there is substantial variation in the kinds of clients time is devoted to.

The pattern of client service we see among graduates of the 1970s is visible but less striking among alumni of the later decades.[42] By the 1990s, associations are attenuated to the point where differences between the tendencies of minority and white alumni to devote time to low-income individuals and medium-sized businesses have ceased to be significant.

The next two tables examine the relationship between the ethnicity of lawyers and the ethnicity of the clients they serve. Table 18 looks at the ethnicity of individual clients for lawyers who report spending at least 20% of their time serving individual clients, and table 19 looks at the ethnicity of the principal contact person at organizations for lawyers who report spending at least 20% of their time serving organizations (including businesses, governments, and nonprofits).[43] Again, as with the examination of colleagues in the same firms, we look at each ethnic group separately, and again, because the numbers of some groups, such as Asians and Native Americans, were so small in the earlier decades, we combine the three decades.

For all groups, a high proportion of their individual clients and an even higher proportion of their contacts at organizations are white. That is unsurprising given the numbers and resources of whites in our society. What is striking in the tables is the extent to which the members of each minority ethnic group have individual clients and organizational contacts who are members of their own group. This pattern illustrates well the continuing salience of race in American society and, in particular, in the provision of legal services by private practitioners of law. For the black graduates, our

42. In most respects black and Latino graduates in private practice report similar work settings and experiences, but among the graduates of the 1980s, black private practitioners spent on average 35.1% of their time serving low- and middle-income individuals, while Latino private practitioners spent on average 17.5% of their time serving such clients ($p < .05$). White private practitioners in the 1980s averaged 13.3% of their time serving such clients.

43. We tried to constrain respondents' answers to the items we summarize in this table so that the proportions of different client's represented would total 100%. But because we did not offer the category "other ethnicity" or because of respondents' mistakes in addition, not every row in these tables totals 100%.

largest minority group, an average of 53.1% of their individual clients and 24.6% of their organizational contacts are also black, a vastly higher percentage of black clients than is the case for any other group. Similarly, Asian graduates, who are most like white graduates in UGPAs, LSAT scores, and career choices, have more than 6 times the proportion of Asians among their individual clients and organizational contacts, that white, black, or Latino graduates have.

The strong statistically significant tendency of alumni to disproportionally serve persons of their own race or ethnicity exists among the graduates of each of the three decades examined separately (not shown in tables), but is more pronounced among the graduates of the 1970s than among more recent graduates. The graduates of the 1970s are more frequently in solo practice and small firms, and it is among solo practitioners and small-firm lawyers that the highest proportion of same-race individual clients and organizational contacts are reported.

As we have noted, lawyers tend to have colleagues of their own ethnicity. The stronger this tendency, the more likely it is that a lawyer's clientele will also consist disproportionately of members of the lawyer's ethnic group. Thus, minority lawyers practicing in minority-dominated firms are more likely to have same-minority clients or organizational client contacts than minority lawyers practicing in white-dominated firms, and whites are more likely to have white clients and client contacts, the smaller the proportion of the firm's lawyers with minority backgrounds. For example, among black lawyers in private practice, the correlation between the percentage of lawyers in their firm who are black and the percentage of individual clients who are black is .55. The correlation between the percentage of lawyers who are black and the percentage of institutional client contact persons who are black is .59. This relationship loses none of its strength after controlling for size of firm. The same pattern exists between the proportion of Latino lawyers in a firm and the proportions of the firm's clients and client contacts who are Latino. These patterns may exist because the more dominated firms are by lawyers of one ethnic group, the greater their capacity to attract clients from that ethnic group and the less their relative ability to attract clients from other ethnic groups. The pattern could also reflect the preferences of lawyers who could attract clients from any ethnic group or the implications of residential segregation for where lawyers work and where clients seek lawyers.

From one point of view, the strong relationship between the ethnicity of minority lawyers and the ethnicity of their clients is an aspect of the success of Michigan's commitment to train more minority lawyers, for the Michigan program has surely increased the numbers of its graduates providing services to African American and Latino individuals and organizations and to low- and middle-income individuals. From another point of view,

the implications of the race-linked pattern of client relationships are a discouraging reminder of the continuing deep significance of race in personal and professional relationships in American society. Clients and representatives of organizational clients gravitate toward attorneys of their own ethnic group and vice versa. Clients seek lawyers whom they know personally or by reputation and with whom they expect to be comfortable. Lawyers seek out, as colleagues and clients, people to whom they have access through informal networks and with whom they expect to be comfortable. Color blindness seems not to prevail in the world of law practice, and it seems unlikely to prevail as long as ethnicity plays a major role in structuring opportunities and relationships in the larger society. Medicine is similar. Komaromy et al. (1996) report that even after controlling for the ethnic characteristics of practice locations, black and Hispanic physicians were disproportionately likely to serve patients from their own ethnic groups. Keith et al. (1985), looking at 1985 medical school graduates, found that black, Hispanic, Native American, Asian, and white physicians each tended disproportionately to serve patients of their own ethnic backgrounds. These findings confirm our sense of the importance race has in the establishment of professional-client relationships.

TABLE 20A

Job Movement, by Minority Status and Graduation Decade: Michigan Alumni with First Job in Sector Who Are Still in the Same Sector

	Private Practice	Business/ Finance	Government	Legal Services/ Public Interest	Other
1970s					
MA	59%	40%	40%	8%	20%
	(46)	(15)	(43)	(26)	(15)
WA	71%	46%	46%	1%	35%
	(160)	(18)	(46)	(17)	(19)
1980s					
MA	53%	57%	24%	31%	13%
	(136)	(7)	(25)	(13)	(8)
WA	55%	77%	36%	27%	26%
	(170)	(9)	(7)	(8)	(12)
1990s					
MA	72%	50%	69%***	33%	32%*
	(140)	(6)	(32)	(6)	(19)
WA	79%	24%	100%	19%	71%
	(84)	(3)	(3)	(6)	(7)

*** $p < .001$ * $p < .05$

NOTE Numbers in parentheses are the number of respondents with first job in sector. Percentages are rounded to the nearest whole number.

Career Patterns

Tables 20A and B look at career trajectories by examining movements from first to current jobs by job sector, graduation decade, and minority status. Table 20A looks at whether our respondents at the time of our survey were working in the same job sector in which they initially worked (after a judicial clerkship, if any). Since the data relate only to first and current jobs, it is an imperfect measure of job changes. People who have not changed job sectors may have changed employers within that sector, and some may have left their initial job sector but returned to it by the time of our questionnaire. Table 20A reveals no important differences between white and minority students in their tendencies to be working at the time of our survey in the same job sector in which they began their careers. In the few cases where the stability proportions differ substantially, the number of people working originally in the sector is so small that the differences have little meaning, although in two cases they are significant. A relatively small proportion of 1970s minority graduates began in the private practice of law, but nothing about the table suggests that these early graduates could not succeed in private practice. We see from table 20B that these 1970s graduates are the only group to show net movement into private practice, and we have already noted that a large proportion of those in this group who left private practice left for the high-prestige alternatives of political office, judging, and teaching. The most noticeable aspect of table 20A is how much sector shifting goes on, even during the first few years after law school. At the time of our questionnaire, more than 40% of our respondents were no longer working in the same practice sector where they began, and no doubt, many additional career moves have occurred within sectors.

Table 20B gives a sense of career moves across sectors, as it presents the number of respondents in a job sector as a proportion of the number who started out there. These proportions capture the net effects of movement both into and out of the various sectors. Where the number having first jobs in a sector is small, these proportions can be quite large, but not much should be made of their absolute magnitude. The direction of movement into or out of a sector is of more interest. Minorities and whites are very much alike. Both have tended to leave jobs in private practice or the legal-services/public-interest sector and to move into jobs in the business/finance area and, for graduates of the last two cohorts, government. Minority alumni of the 1970s, as we just noted, are the only group to show net movement toward private practice. This reflects, no doubt, the small proportion of minority graduates of this decade who began there. Overall, our data are consistent with the reported decline in the satisfaction of attorneys in private law firms relative to those in other spheres of legal work. Those whose practice careers go back long enough or who entered practice with

TABLE 20B

Job Movement, by Minority Status and Graduation Decade: Michigan Alumni Currently in Job Sector as a Proportion of Those with First Job in Sector

	Private Practice	Business/ Finance	Government	Legal Services/ Public Interest	Other
1970s					
MA	127%	187%	76%	13%	143%
	(56)	(28)	(31)	(3)	(20)
WA	88%	281%	88%	9%	197%
	(145)	(45)	(36)	(2)	(27)
1980s					
MA	64%	357%	165%	58%	414%
	(84)	(25)	(33)	(7)	(29)
WA	62%	893%	255%	95%	168%
	(101)	(50)	(21)	(7)	(20)
1990s					
MA	85%	417%	125%	120%	63%
	(117)	(25)	(40)	(6)	(12)
WA	83%	256%	258%	38%	231%
	(69)	(7)	(9)	(2)	(16)

NOTE Numbers in parentheses are the actual number of respondents currently working in job sector. Percentages are rounded to the nearest whole number. No significance tests were done.

more seniority apparently find the practice experience more satisfying than younger attorneys. As we have seen, almost all 1970s Michigan law graduates are partners if they are in law firms, and as we shall see, their overall satisfaction with their careers is both absolutely high and higher than that of private practitioners who graduated in later decades.

Summary of Work Settings

To summarize, when we look at the careers of Michigan's minority alumni we see that they are found in substantial numbers in all the major settings where lawyers work: small and large private law firms, government agencies, judgeships, businesses, and legal education. And when we compare the current positions of minority and white alumni, similarities stand out more than differences. Alumni from both groups, regardless of graduation decade, are more likely to be engaged in the private practice of law than in any other occupation. The proportion of private practice lawyers who are solo practitioners decreases markedly for each group with each graduation decade, and the proportion of attorneys practicing in large and very large

firms increases. Regardless of minority status, graduates of the 1970s working in law firms are almost all partners, and those working as lawyers for nonfirm organizations are likely to have supervisory responsibilities. The biggest difference between the jobs of the minority and white alumni is that minority alumni are substantially more likely than white alumni to work in government. Indeed, among white graduates of the 1970s and 1980s, business, not government, is the second most likely current employer. But the different propensities of minority and white graduates of these decades to hold current jobs in government is because a higher proportion of minority alumni have been elected or appointed to judgeships, political office, or high-level administrative positions and does not reflect a difference in tendencies to work as government attorneys. Turning our attention to the 1990–96 cohort, we see that virtually all current occupation differences between minority and white alumni are substantially diminished compared to earlier decades, and on a number of measures that might be thought to reflect rapid or high achievement, such as partnership status in law firms and supervisory responsibility in nonfirm organizations, the group of most recently graduated minority alumni is doing at least as well as, if not a bit better than, their white counterparts.

SUCCESS AND ACHIEVEMENT

There are many ways to measure professional success and ability, but none is without its problems. Although some research has attempted to look at lawyer performance in practice, no researcher has yet come up with an acceptable general measure of lawyer competence. We have already, in the preceding section, looked at some indications of success and achievement—for example, persons who have become judges, public officials, or partners in large firms. In this portion of the report, we look at three other measures of success and achievement and indirectly of ability: self-reports of career satisfaction; income from work; and contributions as a citizen/lawyer—that is, serving the legal needs of the public, supporting younger attorneys, and giving back to the community. The latter kinds of contributions are usually not required of lawyers but are expected by the legal profession's aspirational norms.

None of our achievement measures is ideal. All are based on self-reports, and each may be biased toward reporting greater success than has in fact been experienced. For example, most of our respondents report they are more satisfied than dissatisfied with their careers. In worker surveys, findings of self-reported career satisfaction are, however, common, even among those in careers that might appear to many as less rewarding (and certainly far less remunerative) than our respondents' legal careers. It may be that our respondents share a general bias against acknowledging job dissatisfaction or

that their tendency to report satisfaction with their careers hides considerable dissatisfaction. But, with satisfaction, as with our other measures of achievement, we have no reason to believe that biases that might affect whites differ from those that might affect minorities. If they don't, the validity of the comparisons we draw between whites and minorities will not be affected. Moreover, the fact that the data below reveal few differences between the career satisfaction of whites and minorities is important. If minorities were much less happy with their careers than whites, it would be a sign that something was amiss, and that affirmative action programs for minority applicants were not having some of the long-term effects supporters of these programs intended.

Unfortunately, we have no way of directly measuring competence. We did not observe our respondents in their jobs or test them or seek to learn what other attorneys think of the quality of their work. At best we would expect some of our measures, like income and the previously examined promotion to partnership, to have some positive but unknown association with relative competence and, in the case of those earning high incomes or working as partners, to largely negate the possibility of incompetence.

Finally, there are many dimensions of practice success for which we have no measures. Thus, there is much to be said about practice success that we cannot address. But in employing three measures, we have diverse indicators of success and accomplishment, and a number of the variables we have already examined relate to success or accomplishment on other dimensions. If there are large differences between the success and accomplishments of Michigan's white and minority graduates, we would expect some of our measures to be noticeably affected.

Career Satisfaction

To learn how satisfied our alumni felt about their careers, we inquired about overall career satisfaction and satisfaction with the following aspects of work: solving problems for specific clients, income, the intellectual challenge of work, the value of one's work to society, relationships with coworkers, and the balance work allows between professional and family life. Table 21 presents measures of overall job satisfaction on a 7-point scale for everyone and separately for those in private practice, government, and business (the three largest sectors of employment). Tables 22 and 23 present data on specific kinds of career satisfaction controlling for whether respondents are in private practice.

TABLE 21
Michigan Alumni Who Report Being Satisfied with Their Careers Overall, by Minority Status, Practice Setting, and Graduation Decade

	Practice Sector			
	Private Practice	Government	Business	All Alumni
1970s				
MA	80.4% (56)	87.1% (31)	64.3%* (28)	79.2% (144)
WA	79.2% (144)	91.0% (36)	84.2% (44)	81.8% (256)
1980s				
MA	70.2% (84)	84.8% (33)	84.0% (26)	75.5% (184)
WA	70.7% (101)	91.9% (21)	88.9% (50)	79.4% (202)
1990s				
MA	63.2% (117)	85.4% (41)	68.0%+ (25)	71.2% (205)
WA	71.7% (69)	87.8% (10)	90.8% (7)	76.4% (104)

+ $p < .1$ *$p < .05$

NOTE Data reflect proportion of respondents giving a rating of 5, 6, or 7 on a scale, where 1 is "very dissatisfied" and 7 is "very satisfied," when asked how satisfied they were with their careers overall.

Table 21 shows that the great majority of minority graduates in all three decades are satisfied overall with their careers and that there is just one statistically significant difference and one marginally significant difference in the overall reported career satisfaction of Michigan's white and minority alumni. Both indicate that whites in the business sector are more satisfied than minorities with their careers. Perhaps the most striking aspect of the table is that both white and minority alumni of all three decades are considerably more likely to report being satisfied with their careers if they work in government rather than in private practice, and among alumni of the 1980s and 1990s, those with business careers are also more likely to report satisfaction than those in private practice. This confirms a general sense in the law school world that the conditions of the private practice of law today have led to considerable dissatisfaction at both the associate and partner level. However, it is important to note that even among those in private practice, a substantial majority of respondents indicate satisfaction with their careers.

Looking within practice sectors at the various dimensions of satisfaction we inquired about, we see from tables 22A, B, and C that white and minority graduates present similar satisfaction profiles. Table 22A indicates that, in general, those in private practice are most likely to report as satisfying the solving of problems for clients and the intellectual challenge of their work and least likely to report as satisfying the value of their work to society and the balance between their professional and their personal or family life. In only 3 of the 21 comparisons that can be made of minority and white alumni are differences statistically significant. Among 1970s graduates, minority alumni are more likely than white alumni to be satisfied with the social value of their work, and white alumni of the 1990s are more likely than minority alumni to be satisfied with their relationships with coworkers and with their incomes. The last of these differences is surprising because, as we shall see, 1990s minority alumni who are in private practice have slightly higher earnings than their white counterparts. This difference could reflect disposable income differences stemming from differences in the average debt loads of minority and white students. Also, perhaps some minority graduates may suspect they are getting paid less than their white counterparts, even when they are not.

Table 22B reports on those in government. We find that both whites and minorities in government are far more satisfied with the social value of their work and the balance of their work and professional lives than those in private practice (table 22A). Among the white graduates of the 1980s and all graduates of the 1990s, however, those in government are much less satisfied with their incomes than those in private practice. Looking within table 22B at the satisfaction of whites and minorities reveals few significant differences on the components of career satisfaction. White graduates from the 1980s with careers in government are much less satisfied with their incomes than similarly situated minority graduates, and white alumni from the 1990s are more satisfied than minority alumni with the social value of their work and coworker relations, although minority satisfaction levels on these dimensions are high.

Table 22C looks at those working as corporate counsel or in other positions in business. Comparing those working in business with those in private practice (table 22A), we see that patterns of satisfaction are similar, except that, apart from minority alumni of the 1970s, both minorities and whites in business are typically much more satisfied than private practitioners with the balance of work and family. Among just those who work in business, white 1970s graduates and perhaps 1990s graduates are more satisfied overall than minority graduates, and in all decades, they seem more satisfied with their relationships with coworkers. As a general matter, 1990s white alumni in the business sector report very high satisfaction, except when asked about the social value of their work, and more satisfaction than

minorities, but so few Michigan alumni work in business that sizeable differences between whites and minorities are not always statistically significant.

Table 23, which aggregates the satisfaction data across work sectors, is consistent with what we have already seen. Few of the differences between whites and minorities are significant (minority graduates of the 1970s and 1980s are more likely to report satisfaction with the social value of their work than white graduates, and white graduates of the 1990s are more likely to report satisfaction with coworkers than minorities).

To summarize, we see from these data that to the extent that career success or achievement is measured by the likelihood a person is satisfied with his or her overall career and with important aspects of it, Michigan's minority alumni are, for the most part, successful in their careers and, on average, as successful as Michigan's white alumni. The differences in the overall satisfaction levels reported by minority and white alumni never approach statistical significance.

Earned Income

Turning from career satisfaction to income from employment, we see that Michigan's minority alumni do very well. Table 24 presents mean and median incomes of minority and white alumni. The mean job income earned in 1996 by Michigan's minority alumni by cohorts is $141,419 for the 1970–79 cohort, $104,513 for the 1980–89 cohort and $67,865 for the 1990–96 cohort. Median income levels for the same three cohorts are $101,500, $85,000 and $65,000 respectively. To put these figures in perspective, the median job income of Michigan's minority alumni who graduated between 1970 and 1979 places them in the top 8% of total *household* incomes in the United States without regard to other household income; graduates of the 1980s are in the top 13% of U.S. household incomes, and graduates of the 1990s, who are at the start of their careers, are already in the top 22% (U.S. Bureau of the Census 1997). If we add spouse's income and nonjob sources of income to respondent's job income (data not presented), minority graduates from our three cohorts had, by decades, median household incomes in 1996 in the top 3%, 7% and 14% of all U.S. household incomes. When we look separately at the household incomes of those minority alumni in private practice, we see that their median household income is in the top 2% of the United States income distribution for graduates of both the 1970s and 1980s and, already, in the top 9% for graduates of the 1990s. But those minority alumni not in private practice are not doing poorly. They have median household incomes that fall into the top 3%, 8%, and 22% of the U.S. income distribution for graduates of the 1970s, 1980s and 1990s respectively. Mean incomes are higher still, because of the effects of very high incomes.

TABLE 22A

Dimensions of Career Satisfaction, by Practice Setting: Michigan Alumni in Private Practice Who Report Being Satisfied With Their Careers, by Work Aspect, Minority Status, and Graduation Decade

	Solving Problems for Clients	Income	Intellectual Challenge of Work	Value of Work to Society	Relationship with Coworkers	Balance between Professional and Family Life	Overall
1970s							
MA	94.6%	67.9%	80.4%	76.8%*	79.6%	55.4%	80.4%
	(56)	(56)	(56)	(56)	(54)	(56)	(56)
WA	96.2%	78.2%	82.6%	61.7%	79.4%	54.5%	79.2%
	(145)	(145)	(144)	(144)	(138)	(145)	(144)
1980s							
MA	89.3%	65.5%	80.5%	50.6%	72.8%	52.4%	70.2%
	(84)	(84)	(82)	(83)	(81)	(84)	(84)
WA	91.7%	78.9%	82.3%	46.6%	77.6%	49.2%	70.7%
	(100)	(100)	(101)	(101)	(99)	(101)	(101)
1990s							
MA	84.6%	69.8%*	75.2%	44.4%	73.5%*	44.4%	63.2%
	(117)	(116)	(117)	(117)	(113)	(117)	(117)
WA	80.2%	83.5%	78.3%	35.2%	85.4%	45.4%	71.7%
	(68)	(69)	(69)	(69)	(68)	(69)	(69)

* $p < .05$

NOTE Data reflect proportion of respondents giving a rating of 5, 6, or 7 on a scale, where 1 is "very dissatisfied" and 7 is "very satisfied," when asked how satisfied they were with various aspects of their careers.

TABLE 22B

Dimensions of Career Satisfaction, by Practice Setting: Michigan Alumni in Government Who Report Being Satisfied with Their Careers, by Work Aspect, Minority Status, and Graduation Decade

	Solving Problems for Clients	Income	Intellectual Challenge of Work	Value of Work to Society	Relationship with Coworkers	Balance between Professional and Family Life	Overall
1970s							
MA	88.0%	74.2%	80.6%	87.1%	83.9%	80.6%	87.1%
	(25)	(31)	(31)	(31)	(31)	(31)	(31)
WA	89.0%	74.7%	91.5%	87.5%	76.8%	74.9%	91.0%
	(34)	(36)	(35)	(36)	(36)	(36)	(36)
1980s							
MA	100.0%	72.7%***	90.9%	90.9%	90.6%	78.8%	84.8%
	(27)	(33)	(33)	(33)	(32)	(33)	(33)
WA	90.1%	32.1%	93.5%	93.5%	77.7%	76.1%	91.9%
	(21)	(21)	(21)	(21)	(21)	(21)	(21)
1990s							
MA	82.1%	48.8%	70.7%	90.2%*	87.8%*	85.4%	85.4%
	(39)	(41)	(41)	(41)	(41)	(41)	(41)
WA	87.5%	38.1%	85.6%	100.0%	100.0%	76.9%	87.8%
	(8)	(10)	(10)	(10)	(10)	(10)	(10)

*$p < .05$ *** $p < .001$

NOTE Data represent proportion of respondents giving a rating of 5, 6, or 7 on a scale, where 1 is very "dissatisfied" and 7 is "very satisfied," when asked how satisfied they were with various aspects of their careers.

TABLE 22C

Dimensions of Career Satisfaction, by Practice Setting: Michigan Alumni in Business Who Report Being Satisfied with Their Careers, by Work Aspect, Minority Status, and Graduation Decade

	Solving Problems for Clients	Income	Intellectual Challenge of Work	Value of Work to Society	Relationship with Coworkers	Balance between Professional and Family Life	Overall
1970s							
MA	81.5%	67.9%	71.4%	46.4%	67.9%+	50.0%+	64.3%*
	(27)	(28)	(28)	(28)	(28)	(28)	(28)
WA	86.0%	72.9%	74.7%	44.4%	84.5%	70.7%	84.2%
	(43)	(44)	(44)	(44)	(43)	(43)	(44)
1980s							
MA	92.0%	79.2%	84.0%	56.0%	75.0%+	76.0%	84.0%
	(25)	(24)	(25)	(25)	(24)	(25)	(25)
WA	87.0%	85.5%	83.8%	45.6%	91.4%	64.8%	88.9%
	(49)	(50)	(50)	(50)	(49)	(50)	(50)
1990s							
MA	75.0%	56.0%*	68.0%	36.0%	56.0%*	60.0%	68.0%+
	(24)	(25)	(25)	(25)	(25)	(25)	(25)
WA	90.8%	81.5%	79.4%	31.2%	90.8%	81.7	90.8%
	(7)	(7)	(7)	(7)	(7)	(7)	(7)

$+p < .1$ $* p < .05$

NOTE Data represent proportion of respondents giving a rating of 5, 6, or 7 on a scale, where 1 is "very dissatisfied" and 7 is "very satisfied," when asked how satisfied they were with various aspects of their careers.

TABLE 23

Michigan Alumni Who Report Being Satisfied with Their Careers, by Work Aspect, Minority Status, and Graduation Decade

	Solving Problems for Clients	Income	Intellectual Challenge of Work	Value of Work to Society	Relationship to Coworkers	Balance between Professional and Family Life	Overall
1970s							
MA	90.3% (134)	68.5% (143)	80.6% (144)	74.3%* (144)	76.4% (140)	61.1% (144)	79.2% (144)
WA	91.1% (251)	73.6% (258)	81.5% (256)	64.7% (257)	80.7% (250)	61.3% (257)	81.8% (256)
1980s							
MA	90.6% (171)	69.2% (182)	85.7% (182)	66.1%* (183)	76.5% (179)	64.1% (184)	75.5% (184)
WA	88.7% (196)	75.1% (201)	84.0% (202)	53.6% (202)	83.1% (199)	58.2% (202)	79.4% (202)
1990s							
MA	83.3% (198)	61.8% (204)	74.1% (205)	57.1% (205)	76.1%** (201)	58.0% (205)	71.2% (205)
WA	82.1% (96)	69.9% (104)	80.0% (104)	45.5% (104)	89.8% (103)	55.1% (104)	76.4% (104)

* $p < .05$ ** $p < .01$

NOTE Data represent proportion of respondents giving a rating of 5, 6, and 7, where 1 is "very dissatisfied and 7 is very satisfied, when asked how satisfied they were with various aspects of their careers.

TABLE 24

Mean and Median Employment Incomes of Michigan Alumni, by Minority Status, Graduation Decade, and Sector of Work

	All Alumni		In Private Practice		In Government		In Business	
	Mean	Median	Mean	Median	Mean	Median	Mean	Median
1970s								
MA	$141,419+ (136; $15,483)	$101,500 (136)	$167,706 (51; $38,737)	$120,000 (51)	$91,512+ (29; $3,745)	$98,000 (29)	$183,556 (27; $19,878)	$165,000 (27)
WA	$177,725 (239; $10,960)	$125,000 (239)	$205,134 (132; $14,513)	$161,500 (132)	$79,562 (35; $6,043)	$85,000 (35)	$224,782 (39; $30,318)	$160,000 (39)
1980s								
MA	$104,513* (178; $7,249)	$85,000 (178)	$125,454 (76; $15,638)	$95,000 (76)	$82,524 (33; $3,964)	$84,000 (33)	$131,500 (24; $20,568)	$98,000 (24)
WA	$127,716 (191; $8,149)	$100,000 (191)	$162,214 (94; $16,581)	$117,500 (94)	$70,812 (20; $6,730)	$65,000 (20)	$115,364 (44; $10,460)	$115,000 (44)
1990s								
MA	$67,865 (195; $2,971)	$65,000 (195)	$73,788 (110; $4,593)	$70,000 (110)	$53,227 (40; $3,303)	$50,500 (40)	$81,083** (24; $10,437)	$75,000 (24)
WA	$68,320 (102; $4,711)	$65,000 (102)	$71,221 (68; $7,830)	$69,000 (68)	$49,703 (10; $6,398)	$46,500 (10)	$157,350 (7; $23,524)	$83,000 (7)

$+p < .1$ $*p < .05$ $**p < .01$

NOTE: Where two numbers are in parentheses, the second number is the standard error.

When we look at income by job sector, we see that for both minority and white alumni in all three cohorts, the mean and median job incomes of those in private practice are not consistently higher or lower than the incomes of those in corporate counsel's offices and other business work, and that those in private practice and business have incomes that are always higher, and often substantially higher, than the mean and median incomes of those in government jobs. Among Michigan alumni in private practice, the mean and median incomes of white graduates of the 1970s and 1980s are higher than the mean and median incomes of minority graduates, but the difference in mean income among those who graduated in the 1970s is not statistically significant. For those graduating in the 1990s, the situation changes, and minority alumni have the higher mean income (though the difference is not statistically significant), and by $1,000, the higher median income as well. Among government workers, the tendency of minority alumni from the 1970s to earn more than whites is marginally significant, and among those in business, whites in the 1990s earned significantly more than minorities, but in all other groups there are no significant differences between whites and minorities.

Despite the lack of statistical significance it is tempting to see in the data for private practitioners who graduated in the 1970s and 1980s some evidence that whites are earning more than minorities, for differences in both mean and median incomes favor whites and seem substantial. But it is a mistake to attribute these differences to minority status. Over the period of our study the proportion of minority students in the law school was increasing, and in most classes the group of minority students has contained proportionately more women than the group of white students. When the minority status of those in private practice is entered into an equation that regresses logged income on years since graduation and gender, the minority status coefficient is not statistically significant and, adjusting for degrees of freedom, it adds nothing to the explained variance.

The overarching point is that, to the extent earnings are a mark of success, Michigan's minority alumni are doing well, both absolutely and in comparison to white alumni. What stands out from the tables is not the differences between minorities and whites but the similarities.

Unremunerated Service

As a final measure of career quality, we look at what are ordinarily unremunerated contributions to the well-being of others. These include such activities as mentoring younger attorneys, serving on the boards of public and private nonprofit organizations, exercising community leadership through political involvement, and providing legal services on a pro bono basis. Tables 25–27 report the relevant data. From these tables it appears

TABLE 25
Alumni Who Mentor Younger Attorneys, by Practice Sphere, Minority Status, and Graduation Decade

	In Private Practice			Not In Private Practice		
	% One or More	% Six or More	Mean # Mentored	% One or More	% Six or More	Mean # Mentored
1970s						
MA	89.8% (49)	53.1% (49)	7.0 (49)	88.9% (45)	46.7% (45)	9.1+ (45)
WA	84.7% (130)	40.8% (130)	6.9 (130)	83.2% (63)	31.3% (63)	5.3 (63)
1980s						
MA	84.4% (77)	22.1% (77)	4.6 (77)	65.4% (52)	26.9% (52)	5.3 (52)
WA	86.9% (93)	24.0% (93)	5.7 (93)	75.8% (57)	21.6% (57)	3.6 (57)
1990s						
MA	66.7%* (102)	9.8% (102)	3.1+ (102)	60.0% (60)	6.7% (60)	2.7 (60)
WA	52.7% (61)	4.5% (61)	1.5 (61)	66.5% (19)	19.0% (19)	2.7 (19)

$+p < .1$ $*p < .05$

that Michigan's alumni, both white and minority, contribute substantially to the well-being of others, but minority alumni, particularly those who graduated in the 1970s, tend to make more contributions than whites.

Mentoring Younger Attorneys

We asked on our questionnaire, "For how many younger lawyers have you been an important mentor?" About 9 out of 10 minority graduates from the 1970s who are in private practice report mentoring other attorneys, as do about seven-eighths of the 1980s minority graduates and two-thirds of the 1990s minority alumni (table 25). More than half the minority alumni of the 1970s, almost one-quarter of the alumni from the 1980s, and about 10% of the minority alumni from the 1990s report mentoring six or more fellow attorneys. Mentoring by alumni who practice law but are not in private practice is close to the same level. White attorneys, on average, do somewhat less mentoring of younger attorneys than minority attorneys, but the difference between the mean number of attorneys that minorities and whites mentor is never significant and marginally significant only for private practitioners who graduated in the 1990s, and for graduates of the 1970s who are not in private practice.

We did not ask about the ethnicity of the mentored attorneys. Thus we cannot tell whether there are attorneys who because of their ethnicity might lack mentors if our respondents were not in practice. It is highly probable that Michigan's minority alumni as a group mentor proportionately more younger minority attorneys than the school's white alumni as a group. This is because we know that, among attorneys practicing in small firms, Michigan's minority alumni are more likely than its white alumni to work in settings where a high proportion of the other attorneys have minority backgrounds, which means they are more likely to encounter younger minority attorneys in need of mentoring (table 16B).

Community Leadership

Minority graduates also do a large amount of unremunerated public service. Table 26 presents data on nonprofit board membership and political involvement. Among minority alumni, 60% of the alumni from the 1970s, 48% from the 1980s, and 29% from the 1990s serve on the board of at least one civil rights, charitable, religious, or other nonprofit organization.[44] In the first two cohorts, significantly more minority alumni than white alumni

44. Among the graduates of the 1990s, but not of the earlier decades, black graduates were somewhat more likely to serve on nonprofit boards than Latino graduates: 33.9% of the black graduates and 20.2% of the Latino graduates of the 1990s served on a nonprofit board ($p < .05$).

sit on such boards. And about half the minority alumni who serve on one board serve on two or more boards. For both white and minority alumni, nonprofit board membership is most prevalent among those in private practice, but it is also common among those in other sectors.

In a similar manner, as table 26 reveals, Michigan's minority alumni also exercise community leadership through political activity. About 40% of the minority alumni from the 1970s and a quarter of the minority alumni from the more recent two decades participate in electoral politics or in nonelectoral, issue-oriented politics. Here again, in each decade, minority graduates participate more frequently than whites, but only for the graduates of the 1970s is the difference statistically significant.

Pro Bono Work

Michigan's minority alumni do what seems to be an extraordinary amount of pro bono legal work, much more than that reported in other studies of American practitioners in general.[45] We asked our respondents how many hours they spent representing individual or organizational clients on a pro bono basis (counting explicit initial agreements only—not post hoc decisions to forgo collection of a previously agreed-upon fee) and how much time they spent doing other law-related work on a pro bono basis (such as serving on a legal services board or bar committee). Table 27 reports these data. As a group, the minority alumni in private practice averaged 75 hours of pro bono representational work and 46 hours of other pro bono work a year. The minority graduates of the 1980s and 1990s average, all told, about 100 hours of pro bono work per year, while minority graduates of the 1970s average 137 hours per year, or about three full weeks of legal work. Minority alumni who practice law in settings other than private practice also engage in pro bono legal work, but they do not devote as much time to pro bono work as their private-practice minority counterparts.

Michigan's white graduates are also very active, contributing an average of 51 hours of representational work and 47 hours of other work per year. Whites in private practice who graduated in the 1970s or 1990s devote less time to pro bono work than their minority counterparts, with the difference being statistically significant among graduates of the 1990s and marginally significant among graduates of the 1970s. Among private practitioner who graduated in the 1980s, however, it is whites who average more hours of pro bono service, although the difference is not significant. Except among white graduates of the 1990s, minorities and whites in pri-

45. "Recent estimates suggest that most attorneys do not perform significant pro bono work, and that only between ten and twenty percent of those who do are assisting low-income clients. The average for the profession as a whole is less than a half an hour per week" (Rhode 1999).

vate practice report performing more pro bono work, and often substantially more, than those not in private practice. As one might expect, the difference is particularly marked with respect to legal representation (data not in table). Among those alumni not in private practice, minority graduates of the 1970s and 1980s devote, on average, significantly more time to pro bono work than white graduates. White graduates of the 1990s average substantially more pro bono hours than their minority counterparts, but a high standard error means the difference is not statistically significant.

Summary of Unremunerated Service

Both absolutely, and in comparison with white alumni, Michigan's minority alumni seem to enjoy remarkable professional success to the extent that success is indicated by "giving back" to the community. The 1970–79 cohort seems particularly noteworthy in this respect. This group of alumni were the pioneers of affirmative action admissions and more likely than later groups to enter a world of law practice in which they encountered significant discrimination (for example, at the start of the decade, many jobs in law firms in the South were closed to them). Today, they report substantially more pro bono involvement, mentoring of other attorneys, and community leadership than the minority alumni of succeeding decades, and the gap between this alumni group and its white counterpart is greater than the gaps in the two succeeding decades. Some of the greater participation may be due to the fact that these attorneys are further advanced in their careers, but it also seems to reflect a genuine cohort effect. On every measure we examine, minority graduates of the 1970s do more than minority graduates of succeeding decades, but white attorneys of the 1970s, who have the same age and experience advantages, do not consistently exceed the activity levels of white graduates of later decades.

In its admissions policy, Michigan Law School states that in choosing which students to admit, whether white or minority, it seeks those students "who have a strong likelihood of succeeding in the practice of law and contributing in diverse ways to the well-being of others." It desires to have alumni, white and minority, "who are esteemed legal practitioners, leaders of the American bar, significant contributors to legal scholarship and/or selfless contributors to the public interest." We see in the data we have presented on career choices and career success that students admitted under Michigan Law School's affirmative action admissions program meet the school's aspirations for all its applicants.

TABLE 26
Community Involvement, by Minority Status and Graduation Decade

	Serves on At Least One Nonprofit Board	% Involved in Electoral or Nonelectoral Issue Politics
1970s		
MA	60.3%*	40.4***
	(146)	(146)
WA	48.3%	22.9%
	(265)	(266)
1980s		
MA	47.6%*	24.1%
	(187)	(191)
WA	34.4%	17.1%
	(207)	(209)
1990s		
MA	29.1%	24.5%
	(206)	(208)
WA	19.2%	20.8%
	(103)	(104)

*$p < .05$ ***$p < .001$

TABLE 27
Average Hours Per Year of Pro Bono Legal Work, by Practice Sphere, Minority Status, and Graduation Decade

	Pro Bono Hours Per Year	
	In Private Practice	Not in Private Practice
1970s		
MA	137+	94***
	(48)	(39)
WA	92	15
	(113)	(50)
1980s		
MA	105	61*
	(74)	(48)
WA	126	17
	(76)	(52)
1990s		
MA	98*	19
	(101)	(51)
WA	57	92
	(54)	(13)

+$p < .1$ *$p < .05$ ***$p < .001$

PREDICTING PERFORMANCE

The LSAT and Undergraduate Grades

In this section we turn to the significance of the Law School Admissions Test (LSAT) and undergraduate grade-point averages (UGPA) as indicators of future performance. We examine the relationship between these two measures and grades during law school and the relationship between these measures and achievement after law school. We also look at what the likely consequences would have been if admissions at Michigan had been based entirely on the LSAT and UGPA. What we find is a strong, statistically significant relationship between LSAT and UGPA, on the one hand, and grades at the end of three years of law school on the other. But we find no significant relationship between the LSAT or UGPA and what matters more—the achievement of students after graduation. Drawing on work done in connection with the affirmative action lawsuit against the University of Michigan Law School, we can also say that had the LSAT and the UGPA been the only criteria for admissions at Michigan, few of Michigan's minority graduates would have been admitted to the school, even though their career success since law school is similar to the career success of Michigan's white graduates and consistent with the aspirations Michigan has for all students it admits.

The University of Michigan Law School is a highly selective law school. It receives far more applications for admission than it has places to fill. In deciding who will succeed in the competition for admission, Michigan, like other highly selective law schools, considers such difficult-to-quantify, or soft, indicators of ability as applicant essays and letters of recommendation, but it also pays attention to two so-called objective, or hard, indicators of ability: LSAT scores and undergraduate grade-point averages. Critics of minority admissions programs typically point to disparities in these hard indicators and not to disparities in softer indicators of ability, to justify claims that minority admissions programs admit people who are less competent academically, less able to benefit from their education, and less likely to succeed after school than many rejected white applicants.

A response sometimes made to the critics' claims is that the validity of LSAT scores and the UGPA as law school selection devices is typically determined only with respect to first-year law school grades. Studies done for law schools by the Law School Admissions Council (LSAC), the agency that administers the LSAT, indicate that across a wide range of law schools an index that combines LSAT scores and UGPA is a statistically significant predictor of the grades that first-year law students receive. The relationship between LSAT, UGPA, or an index that combines them, and graded performance over the full three years of law school is not routinely studied by the LSAC and has seldom been examined. In the few studies that have

been done, however, the correlation between LSAT scores and cumulative GPA suggests that LSAT scores are significant predictors of final LSGPAs, although the studies differ on whether correlations are stronger than (Winterbottom, Pitcher, and Miller 1976), weaker than (Lin and Humphreys 1977), or about the same (Carlson and Werts 1976) as they are when first-year LSGPA is the criterion. A recent, more elaborate study by Linda Wightman involving students from 142 law schools confirms earlier work and suggests that LSAT and UGPA, alone or in combination, relate to final LSGPAs in much the same way as they relate to first-year LSGPAs (Wightman 1999). Thus, arguments for giving LSAT scores and UGPAs a privileged status in law school admissions are not defeated by LSAC's practice of ordinarily validating these measures only by reference to first-year law school grades. It seems safe to conclude from Wightman's findings, and from the consistency of her results with more limited earlier research, that LSAT scores and an index based on LSAT scores and UGPAs are significantly correlated with both first-year and final law school grade-point averages. But two reasons to be concerned about overweighting LSAT scores and UGPA in the law school admission process remain. The first is that whether the validating criterion is first or final LSGPA, a substantial portion of the variance in graded law school performance remains unexplained. The second and more important reason is that we know almost nothing about the relationship between these so-called hard admissions credentials and indicators of success or achievements in law practice. In this section, we look at these relationships.

In order to measure the relationship between the LSAT and UGPA and performance during and after law school, we combined each graduate's LSAT and UGPA by separately ranking those in our sample according to their LSAT scores translated to year-specific national percentile ranks and by their UGPAs on a 4.5-point scale. We then added their percentile rankings in our sample on these two dimensions, yielding an index with the potential range, after rounding, of from 0 to 200, where 0 would be scored if a graduate had both the lowest UGPA and the lowest LSAT percentile score in our sample, and 200 would be scored if the same person was highest on both these dimensions. We sometimes shall refer to this measure as the *admissions index,* although it is not the index that Michigan used to sort applications.[46] Because this index correlates more highly with final law

46. We could not use the index scores Michigan used because the formula for constructing them and, indeed, the variables used in constructing them, changed over time in ways we could not always identify. The range and metric of LSAT scores has also changed several times since 1970. In our analyses we use national percentile equivalents provided to us by LSAC as our measure of LSAT. These percentiles were noted, along with test scores, on materials LSAC furnished the nation's law schools. Because the volume of test takers has changed over the years, the percentile rankings are not a time invariant measure of aptitude for law studies, but only a measure of how a test taker fared relative to others in a given year. Only if changes in the size of the law applicant pool over time are uncorrelated with the

school GPA than either of its constituent measures, we use it as our measure of "hard" admissions credentials rather than LSAT scores and UGPAs taken separately.[47]

Measures of Success

Income is a common, if controversial, measure of career success. In preliminary analyses, we measured income in three ways: as actual income, as the log of actual income, and as a percentile ranking among national household incomes. Correlations involving the log of income and income as a percentile ranking were close and more likely to be statistically significant than correlations involving actual income. Hence, in the tables that follow we report only correlations involving the log of income. In our figures, we use the percentile ranking measure because it better portrays how Michigan graduates do relative to national norms.

We created additional indexes, which combine measures presented in prior tables, to investigate the relationship between our admissions index and other indicators of success. The career satisfaction index is the total of the satisfaction scores on the variables found in tables 22A, B, and C, with the overall satisfaction score counting double.[48] The service index gives re-

---

distribution of talent in the pool are these rankings strictly comparable. But these relative rankings are the best we can do, and they are validated by their high correlation over time with final LSGPA. Moreover, these correlations compare favorably with the correlations Professor Wightman (1999) reports between a combined LSAT/UGPA measure and final LSGPA in her national study. The median correlation between Wightman's combined index and final LSGPA among schools in her Cluster One (the cluster that contains the University of Michigan's peer schools) is .48. The correlations between our admissions index and final LSGPA for the three decade cohorts we have been examining are .62, .66, and .62. The difference between the correlations in our data and the median correlations Wightman reports is not a spurious result of the fact that our correlations are for decade cohorts and Wightman's are for students entering law school in the same year. For our sample, the partial correlation between our index and final LSGPA controlling for years since graduation is .62. The correlations we report for minority students considered separately are higher than those Wightman reports for black or Latino students, and the correlations we report for white students are comparable to those Wightman reports.

47. When we analyze our data by decade cohorts, our admissions index correlates more strongly than either LSAT scores or UGPAs with final law school GPAs in all cohorts of all respondents, in all cohorts of minority respondents, and in two of the three cohorts of white respondents. (Among white graduates of the 1990s, LSAT alone is a better predictor of final LSGPA than our admissions index.) Looking at the full sample, the index is a trifle better in explaining variance in both final- and first-year LSGPA than a linear combination of LSAT and untransformed UGPA. The fact that these alternative measures are almost identical in their ability to explain law school grades is what one would expect given the way our index is constructed.

48. In order to check on the appropriateness of using this summated scale, we used SPSS to factor analyze responses to our satisfaction questions using a principal components analysis. We used the six specific satisfaction measures in one analysis and these measures plus the general satisfaction measure in a second analysis. Two components were extracted, and as these seemed easily interpretable, we did not use any rotation. The first, which explained 45% of the variance in the six-measure analysis and 50% of the variance in the seven-measure

spondents 1 point for their involvement in each of 8 service areas (electoral politics, nonelectoral issue-oriented politics, PTAs, alumni associations, charitable organizations, religious organizations, bar associations, and other similar involvements), up to 5 points for service on nonprofit boards (2 points for service on 1 board and an additional point for each additional board served on up to a maximum of 3 additional points), up to 3 points for mentoring younger attorneys (1 point for mentoring 1–4 attorneys, 2 points for mentoring 5–8 attorneys, and 3 points for mentoring nine or more attorneys) and up to 10 points for pro bono legal activity (2 points for 1 to 25 hours of pro bono work and an additional point for each additional 25-hour increment, up to a maximum of 10 points for 201 hours or more).[49] Our success indexes were all specified before we began our analysis of the relationship of LSAT, UGPA, and LSGPA to measures of accomplishment.

---

model, is easily interpretable as an indicator of overall satisfaction. All satisfaction measures have loadings above .45 on this factor, with the overall-success item having a loading of .917 when it is included. The correlation between our satisfaction index and these factor scores is .974 for the six-variable model and .994 for the seven-variable case. When we use satisfaction as a dependent variable, the regression coefficients have a more natural interpretation if our index is used as the dependent measure of satisfaction, so we use the index score rather than factor scores in our analyses. The second factor extracted, which explained about 18% of the variance in the six variable model and 16% when overall satisfaction is included, is one on which scores for the balance between family and professional life have a high loading (above .6) in a positive direction and income scores have a high negative loading, with no other factor loading above .33. We interpret this as a "get a life" factor, which we call "separate spheres satisfaction." We believe that those who score high on this measure do better than those who score low in separating their working and nonworking lives and in keeping the former from encroaching on the latter. When we regress respondents' factor scores on this secondary dimension of satisfaction on the variables we shall shortly use in an attempt to explain satisfaction, we find that we can explain considerably more variance than we can when our satisfaction index or primary-factor scores are dependent. This is in part because there is a far stronger relationship between practice sector and separate spheres satisfaction than between job sector and overall satisfaction. Graduates working in all sectors other than private practice score significantly higher in separate spheres satisfaction than graduates in private practice jobs. Also law school grades, which are not significantly related to overall satisfaction, are significantly related to separate spheres satisfaction. Those with higher grades in law school are, controlling for practice sector, less satisfied than those who had lower grades in law school ($p < .001$) It appears that those who make themselves unhappy because they cannot let up in the race for good grades while in law school also cannot let up when the goals are such accepted markers of career success as income or being regarded by others as an essential employee. Those who score lowest on the sphere-separation variable are likely to be Michigan's "Type A" alumni and, it appears, they are also more likely to have gotten As while in law school.

49. This scale is admittedly arbitrary; it is our sense of appropriate relative weights with caps so that no sector is excessively influential. Factor scores are not a good alternative here because we are not seeking to identify people with different underlying propensities to do service but instead want to measure the time and effort actually put into service activities by our respondents. Because minorities generally have higher scores than whites on each of the individual components of this index, we do not believe that the scoring and relative weighting of these factors (imposed by the caps) meaningfully affect the degree of ethnic differences in the overall index. In constructing this index, we did not explore other possible scoring arrangements or caps. Bivariate data suggest that if we removed the caps, minority graduates would appear to be doing more service relative to white graduates than the index indicates.

TABLE 28A
Correlations between Achievement Predictors and Measures of Achievement for 1970-79 Alumni Respondents

	LSAT Percentile	Undergrad GPA Percentile	UMLS Final GPA	Log of Income	Career Satisfaction Index	Service Index
Admissions index						
Pearson correlation	.823	.815	.623	.043	.036	−.186
Sig. level (2-tailed)	.000	.000	.000	.413	.489	.000
N	409	409	409	365	365	409
LSAT percentile						
Pearson correlation		.342	.533	.081	.017	−.184
Sig. level (2-tailed)		.000	.000	.122	.749	.000
N		409	409	365	365	409
Undergrad GPA percentile rank						
Pearson correlation			.487	−.011	.043	−.120
Sig. level (2-tailed)			.000	.830	.414	.015
N			409	365	365	409
UMLS ®nal GPA						
Pearson correlation				.223	.032	−.146
Sig. level (2-tailed)				.000	.538	.003
N				365	365	409
Log of income						
Pearson correlation					.272	.105
Sig. level (2-tailed)					.000	.045
N					332	368
Career Satisfaction Index						
Pearson correlation						.124
Sig. level (2-tailed)						.018
N						368

NOTE Cases are unweighted.

Predicting Law School Grades

The shaded parts of tables 28A–C present the correlations between our admissions index, LSAT percentile scores, UGPA percentile rankings within our sample, and LSGPA by graduation decade for all our respondents regardless of ethnicity.[50] When we look at tables 28A–C, we see that the

50. The data in tables 28A–C are unweighted. Our weights are designed to reproduce within the group of white respondents the likely pattern of responses had we not oversampled, relative to other whites, whites with low grade point averages. Since all white students were sampled with sampling fractions substantially less than "1," we would have had to use different weights to reproduce the likely patterns among Michigan's alumni taken as a whole, and this pattern, particularly in the earlier decades, would dominate the correlations because the school has had so many more white alumni than minority alumni. Although we have LSAT, UGPA, and LSGPA data for sample nonrespondents, we present the data just for those alumni who responded to our survey to keep the sample consistent across all correlations presented in tables 28–30. Response bias is not a problem here. The correlations between our admissions index and the final LSGPA are in the 1970–79 cohort, .63 for respondents and .62

TABLE 28B
Correlations Between Achievement Predictors and Measures of Achievement for 1980-89 Alumni Respondents

	LSAT Percentile	Undergrad GPA Percentile	UMLS Final GPA	Log of Income	Career Satisfaction Index	Service Index
Admissions index						
Pearson correlation	.846	.816	.657	.081	−.035	−.087
Sig. level (2-tailed)	.000	.000	.000	.117	.498	.077
N	420	420	420	377	371	417
LSAT percentile						
Pearson correlation		.382	.605	.058	.046	−.122
Sig. level (2-tailed)		.000	.000	.259	.378	.012
N		420	422	379	373	419
Undergrad GPA percentile rank						
Pearson correlation			.484	.073	−.105	−.016
Sig. level (2-tailed)			.000	.159	.043	.740
N			420	377	371	417
UMLS ®nal GPA						
Pearson correlation				.202	−.004	−.089
Sig. level (2-tailed)				.000	.942	.070
N				379	373	419
Log of income						
Pearson correlation					.139	.126
Sig. level (2-tailed)					.010	.014
N					343	377
Career Satisfaction Index						
Pearson correlation						.155
Sig. level (2-tailed)						.003
N						373

NOTE Cases are unweighted.

index we created does a reasonably good job in predicting final law school grade-point averages. The correlation coefficients for the decades we examine are all above .6, and the proportion of the variance in LSGPA explained by the index ranges from 38% to 43%. We also see from tables 28A–C that LSAT scores are, by themselves, a better predictor of law school grades than UGPAs taken alone; the advantage of the LSAT over UGPA in explaining LSGPA increases over the decades.

The correlations of index scores with law school grades diminish when we look just at the group of minority students, but the correlations are still highly significant and relatively high. Tables 29A–C report these data. The correlations of interest range from .53 to .61 across the three decades, which

for everyone sampled; in the 1980–89 cohort, .66 for respondents and .65 for everyone sampled; and in the 1990–96 cohort, .62 for respondents and .60 for everyone sampled. In all cases the correlations are significant ($p < .001$).

TABLE 28C
Correlations between Achievement Predictors and Measures of Achievement for 1990-96 Alumni Respondents

	LSAT Percentile	Undergrad GPA Percentile	UMLS Final GPA	Log of Income	Career Satisfaction Index	Service Index
Admissions index						
Pearson correlation	.830	.832	.617	.002	.042	−.221
Sig. level (2-tailed)	.000	.000	.000	.975	.452	.000
N	356	356	356	327	328	356
LSAT percentile						
Pearson correlation		.381	.584	.015	.007	−.194
Sig. level (2-tailed)		.000	.000	.790	.901	.000
N		356	357	328	329	357
Undergrad GPA percentile rank						
Pearson correlation			.444	−.015	.057	−.173
Sig. level (2-tailed)			.000	.791	.301	.001
N			356	327	328	356
UMLS ®nal GPA						
Pearson correlation				.139	−.003	−.132
Sig. level (2-tailed)				.010	.961	.012
N				339	339	368
Log of income						
Pearson correlation					−.040	.066
Sig. level (2-tailed)					.473	.220
N					318	342
Career Satisfaction Index						
Pearson correlation						−.007
Sig. level (2-tailed)						.894
N						342

NOTE Cases are unweighted.

means that among minority students, between about 28% and 37% of the variance in law school grades can be explained by our index's combination of the so-called objective admissions credentials. By themselves, LSAT scores and UGPAs do about equally well in explaining law school grades, but neither measure alone does nearly as well as their combination.

When we look only at white students, as tables 30A–C do, the picture changes, as the index's value in predicting law school grades diminishes dramatically. The correlations between LSGPA and index scores range from .22 to .35, which means that in no decade does our index explain more than 12.3% of the variance in law school grades. LSAT scores and UGPA taken individually relate not too differently to explained variance in the 1970–79 cohort, but the LSAT score is a substantially better predictor in the two subsequent decades. Indeed, for whites in the 1990–96 cohort, UGPA had

TABLE 29A
Correlations Between Achievement Predictors and Measures of Achievement for 1970-79 Minority Alumni Respondents

	LSAT Percentile	UGPA Percentile	UMLS Final GPA	Log of Income	Career Satisfaction Index	Service Index
Admissions index						
Pearson correlation	.503	.819	.536	−.033	.054	−.074
Sig. level (2-tailed)	.000	.000	.000	.711	.546	.377
N	143	143	143	130	127	143
LSAT percentile						
Pearson correlation		−.084	.360	.038	−.133	−.054
Sig. level (2-tailed)		−.317	.000	.672	.135	.522
N		143	143	130	127	143
UGPA percentile rank						
Pearson correlation			.379	−.063	.150	−.050
Sig. level (2-tailed)			.000	.473	.093	.554
N			143	130	127	143
UMLS ®nal GPA						
Pearson correlation				.207	.010	−.099
Sig. level (2-tailed)				.018	.915	.239
N				130	127	143
Log of income						
Pearson correlation					.252	.195
Sig. level (2-tailed)					.006	.025
N					118	132
Career Satisfaction Index						
Pearson correlation						.134
Sig. level (2-tailed)						.129
N						129

no significant relationship to law school grades,[51] and the LSAT score alone did a better job of predicting grades than the index.[52]

Reading tables 28–30 together, it appears that an index composed of LSAT scores and UGPA is a moderately good predictor of final law school grade-point averages when incorporated in a linear model. Index scores are less effective in predicting which minority admittees will do well among the group of minority students attending Michigan than they are for all

51. Part of the declining significance of UGPA as a predictor flows from a constriction of range in the more recent decades. In the 1970s, the mean UGPA for whites was 3.41 with a standard deviation of .35. In the 1980s and 1990s, the mean UGPA was 3.57, and the standard deviation was .26.

52. With unweighted data, the relationships in tables 30A–C look somewhat different. Correlations of final LSGPA with index scores are .45, .41, and .29 for the 1970–79, 1980–89, and 1990–96 cohorts respectively. Correlations with LSAT scores are .29, .33, and .30, while correlations with UGPA are .39, .24, and .14 across the three decades respectively. All correlations are statistically significant, except the correlations between UGPA and LSGPA for the 1990–96 cohort.

TABLE 29B
Correlations between Achievement Predictors and Measures of Achievement for 1980-89 Minority Alumni Respondents

	LSAT Percentile	Undergrad GPA Percentile	UMLS Final GPA	Log of Income	Career Satisfaction Index	Service Index
Admissions index						
Pearson correlation	.685	.737	.605	−.012	−.032	.014
Sig. level (2-tailed)	.000	.000	.000	.881	.689	.846
N	188	188	188	172	159	185
LSAT percentile						
Pearson correlation		.012	.495	.036	.055	−.017
Sig. level (2-tailed)		.874	.000	.638	.487	.818
N		188	190	174	161	187
Undergrad GPA percentile rank						
Pearson correlation			.370	−.062	−.087	.031
Sig. level (2-tailed)			.000	.416	.274	.671
N			188	172	159	185
UMLS ®nal GPA						
Pearson correlation				.088	−.123	.019
Sig. level (2-tailed)				.246	.119	.793
N				174	161	187
Log of income						
Pearson correlation					.116	.097
Sig. level (2-tailed)					.154	.205
N					152	172
Career Satisfaction Index						
Pearson correlation						.134
Sig. level (2-tailed)						.091
N						160

students, but the linear trend still seems pronounced. Among whites, index scores are still significantly correlated with LSGPA, but in each decade, the explained variance is less than half of what it is for minority students.[53]

53. Sometimes the failure of LSAT scores to predict substantial grade variance within law schools is attributed to a lack of substantial variation in test scores within particular schools. This might lead one to suspect that our index does a better job in predicting the grades of minority students than it does the grades of white students because the "hard" credentials of minority students who matriculated at Michigan span a wider range than the credentials of white students. We don't think this is the explanation, for the variance explained by LSAT scores alone, measured as national percentile equivalents, is no less for whites than for minority students even though the scores of whites tend to be confined to a narrower range. What appears to explain the different efficacy of the index in the two samples is that UGPA remains a strong predictor of graded law school performance for minority students across all three cohorts, but in the last two decades it loses much of its ability to predict the grades of white students.

TABLE 29C
Correlations Between Achievement Predictors and Measures of Achievement for 1990-96 Minority Alumni Respondents

	LSAT Percentile	Undergrad GPA Percentile	UMLS Final GPA	Log of Income	Career Satisfaction Index	Service Index
Admissions index						
Pearson correlation	.708	.760	.534	.009	.074	−.093
Sig. level (2-tailed)	.000	.000	.000	.900	.316	.190
N	201	201	201	187	186	201
LSAT percentile						
Pearson correlation		.079	.448	.061	.056	−.100
Sig. level (2-tailed)		.263	.000	.407	.451	.158
N		201	201	187	186	201
Undergrad GPA percentile rank						
Pearson correlation			.342	−.042	.051	−.039
Sig. level (2-tailed)			.000	.566	.485	.582
N			201	187	186	201
UMLS ®nal GPA						
Pearson correlation				.218	.052	−.076
Sig. level (2-tailed)				.002	.474	.275
N				192	191	206
Log of income						
Pearson correlation					−.080	.142
Sig. level (2-tailed)					.283	.049
N					180	193
Career Satisfaction Index						
Pearson correlation						−.014
Sig. level (2-tailed)						.847
N						192

Predicting Practice Success

Given the linear relationship between the so-called hard law school admissions criteria as summarized in our admissions index and graded law school performance, one might expect that these admissions criteria would relate to success or achievements in practice. Our data, however, show no such a relationship. We see this when we return to tables 28A–C, which present data for all alumni. In no decade is there a statistically significant relationship between the admissions index and either the log of income or our index of career satisfaction, although among 1980s graduates, there is a statistically significant *negative* relationship between UGPA and career satisfaction. In all decades, those with higher index scores tend to make fewer social contributions as measured by our service index (which excludes contributions through primary jobs) than those with lower index scores, and this negative relationship is statistically significant among graduates in the

TABLE 30A
Correlations between Achievement Predictors and Measures of Achievement for 1970-79 White Alumni Respondents

	LSAT Percentile	Undergrad GPA Percentile	UMLS Final GPA	Log of Income	Career Satisfaction Index	Service Index
Admissions index						
Pearson correlation	.710	.835	.324	−.049	.059	−.024
Sig. level (2-tailed)	.000	.000	.000	.475	.386	.710
N	244	244	244	217	218	244
LSAT percentile						
Pearson correlation		.206	.291	.015	.082	−.042
Sig. level (2-tailed)		.001	.000	.823	.226	.513
N		244	244	217	218	244
Undergrad GPA percentile rank						
Pearson correlation			.224	−.079	.018	.000
Sig. level (2-tailed)			.000	.247	.786	.995
N			244	217	218	244
UMLS ®nal GPA						
Pearson correlation				.244	.015	−.074
Sig. level (2-tailed)				.000	.823	.253
N				217	218	244
Log of income						
Pearson correlation					.223	.133
Sig. level (2-tailed)					.002	.050
N					197	218
Career Satisfaction Index						
Pearson correlation						.080
Sig. level (2-tailed)						.238
N						220

1970–79 and 1990–96 cohorts. The same pattern holds for LSAT scores and UGPA when these index constituents are separately examined, except the negative relationship between LSAT scores and the service index is also statistically significant among 1980's graduates. However, in no decade does the relationship in the full sample between higher objective admissions credentials and less future service explain more than 4.9% of the variance. Moreover, when we look separately by cohorts at the minority and white subsamples, significant and marginally significant relationships are confined to the white sample. A possible explanation is that Michigan seeks to recruit students who will adhere to the legal profession's aspirational norms of service and to this end admits applicants who appear committed to serving others despite somewhat lower "hard" admissions criteria. If so, the negative relationship suggests the school has been successful in its efforts.

Figures 1–9 display by graduation decades the relationships between our admissions index and indexes of post–law school achievement. These figures display admissions index scores along the horizontal axis, with scores

TABLE 30B
Correlations between Achievement Predictors and Measures of Achievement for 1980-89 White Alumni Respondents

	LSAT Percentile	Undergrad GPA Percentile	UMLS Final GPA	Log of Income	Career Satisfaction Index	Service Index
Admissions index						
Pearson correlation	.628	.757	.346	.034	−.004	−.020
Sig. level (2-tailed)	.000	.000	.000	.633	.950	.770
N	222	222	222	196	204	222
LSAT percentile						
Pearson correlation		−.034	.307	−.084	.051	−.114
Sig. level (2-tailed)		.619	.000	.242	.472	.089
N		222	222	196	204	222
Undergrad GPA percentile rank						
Pearson correlation			.186	.114	−.048	.071
Sig. level (2-tailed)			.005	.112	.495	.294
N			222	196	204	222
UMLS ®nal GPA						
Pearson correlation				.141	.044	−.114
Sig. level (2-tailed)				.049	.536	.092
N				196	204	222
Log of income						
Pearson correlation					.104	.119
Sig. level (2-tailed)					.161	.098
N					184	196
Career Satisfaction Index						
Pearson correlation						.153
Sig. level (2-tailed)						.029
N						204

increasing with movement toward the right. Dimensions of success are measured along the vertical axis with scores increasing with height. Minority students are indicated by dark triangles and white students by open circles. A "jittering" technique, which adds 2% random error to each case, is used to minimize completely overlapping cases. In figures 1–3 income is the success measure, in figures 4–6 self-reported career satisfaction is the criterion and in figures 7–9 service activity is what we examine. The vertical line through each figure indicates the median admissions index score among all respondents. The horizontal line indicates the median score on the measure of accomplishment. In the figures involving income, income is not the log of actual income as it is in the tables but is where each respondent's individual income falls as a percentile of national household income.[54]

54. Using figures for national household income rather than figures for national personal income as a base conveys the income success of our respondents relative to national norms but allows for greater spread on the income graphs than if individual income had been used to locate our respondents' earnings, since the clustering at the high end is greater when individ-

TABLE 30C
Correlations between Achievement Predictors and Measures of Achievement for 1990-96 White Alumni Respondents

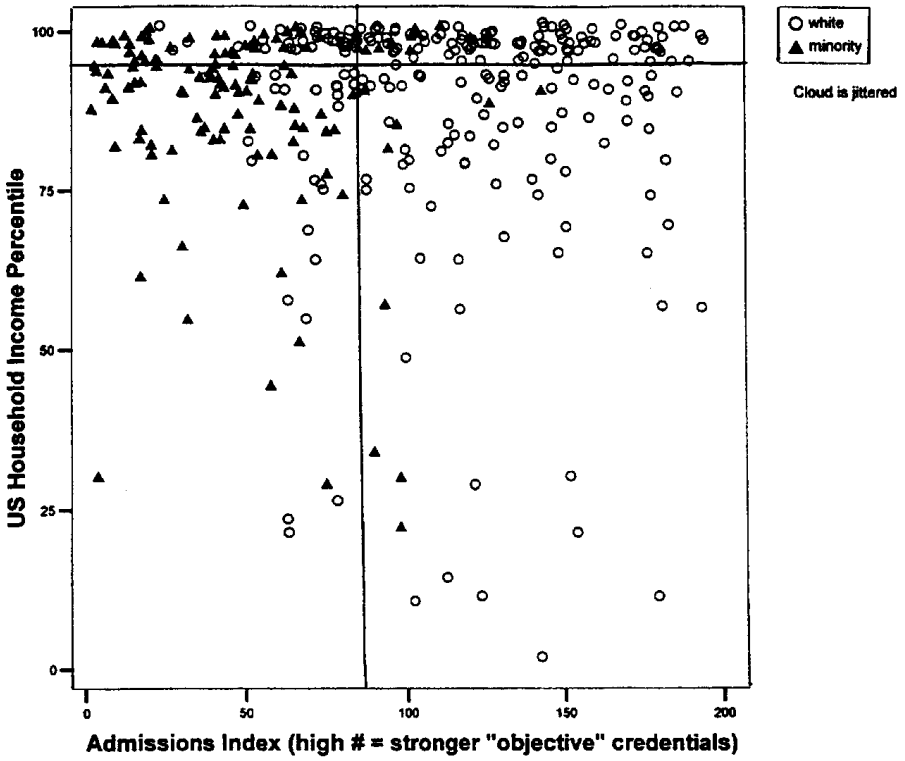
	LSAT Percentile	Undergrad GPA Percentile	UMLS Final GPA	Log of Income	Career Satisfaction Index	Service Index
Admissions index						
Pearson correlation	.527	.812	.219	.028	−.032	−.166
Sig. level (2-tailed)	.000	.000	.017	.773	.744	.072
N	118	118	118	112	108	118
LSAT percentile						
Pearson correlation		−.067	.362	−.040	−.072	.029
Sig. level (2-tailed)		.469	.000	.676	.455	.752
N		118	120	114	109	120
Undergrad GPA percentile rank						
Pearson correlation			.014	.057	.000	−.211
Sig. level (2-tailed)			.877	.548	.999	.021
N			118	112	108	118
UMLS ®nal GPA						
Pearson correlation				.129	−.060	.001
Sig. level (2-tailed)				.164	.529	.992
N				118	113	124
Log of income						
Pearson correlation					.034	−.003
Sig. level (2-tailed)					.728	.978
N					109	119
Career Satisfaction Index						
Pearson correlation						.047
Sig. level (2-tailed)						.620
N						115

In each figure the index scores of white alumni fall, for the most part, substantially to the right of the scores of minority alumni. This pattern reflects the fact that white students who matriculate at Michigan tend to have higher LSAT scores and higher UGPAs than minority matriculants.

But a person's horizontal position has little to do with where that person will be located vertically. This is because among Michigan alumni, a matriculant's LSAT and UGPA have almost no implications for post–law school achievements, as we are able to measure them. Moreover, the vertical positions of minority graduates as a group are not easily distinguished, if they can be distinguished at all, from the vertical positions of white alumni as a group. This is because, as groups, minority and white alumni seem to enjoy almost equal success.

ual incomes are used. We did not use logged income in these graphs because the measure has no intuitive relationship to how our respondents are doing relative to national norms.

FIGURE 1
Relationship between Admissions Index Scores and Relationship of Personal Income to U.S. Household Income for 1970-79 Minority and White Alumni

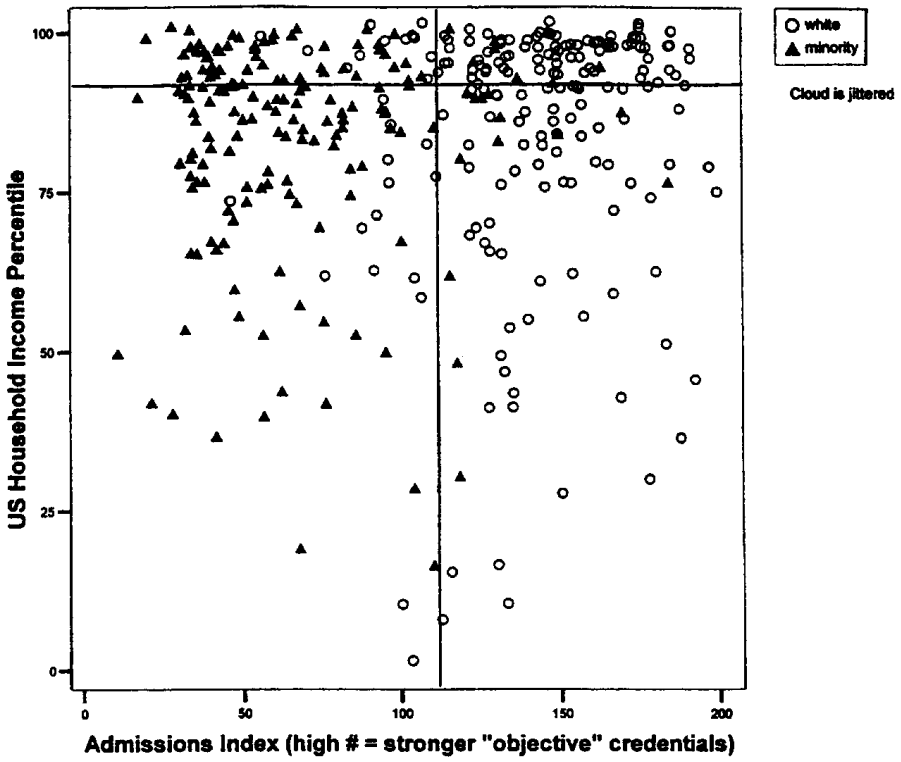


The figures for career satisfaction and service situate Michigan's alumni, both individually and as groups, relative to each other. While one might interpret these figures as indicating that most Michigan alumni are quite satisfied with their careers and engage in considerable service, no external standard defines considerable service or high career satisfaction. In contrast, the figures for income situate Michigan's graduates in relation to national norms. Here we see that Michigan's graduates, both white and minority, are very high earners compared to national norms.

Regressions of Success Measures

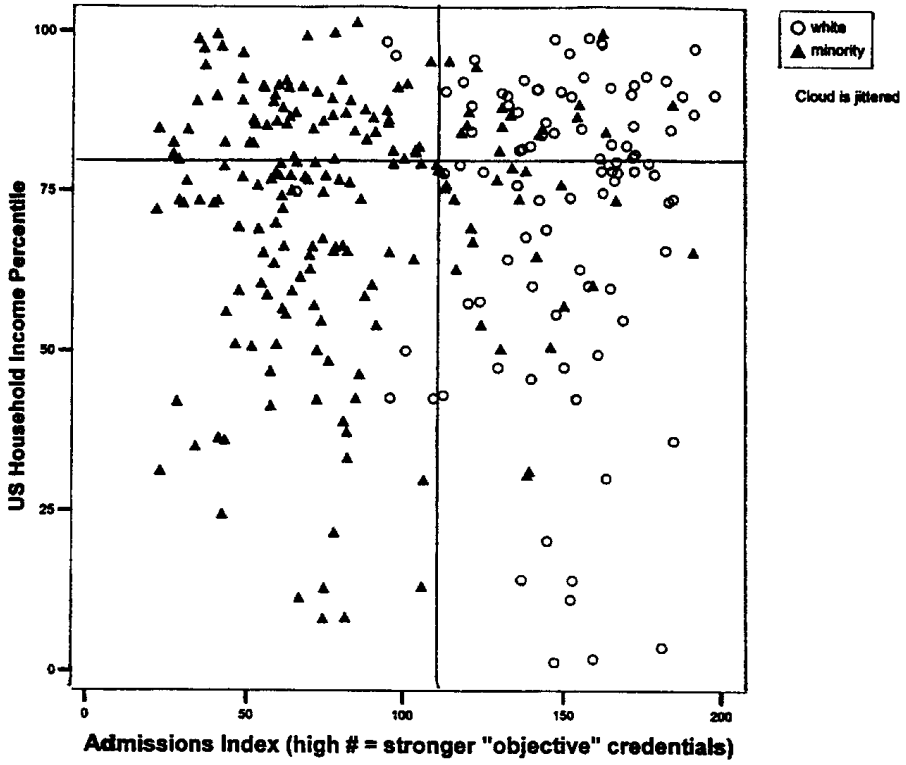
To check the patterns we see in figures 1–9, we used ordinary least squares (OLS) regression to examine the sequential and simultaneous effects of various possible predictors on our three measures of accomplishment: logged income, the career satisfaction index, and the service index. The purpose of these regressions is not to do the best job we can in explaining post–law school success and accomplishments but rather to examine the implications of ethnicity and other factors known at admission to law

FIGURE 2
Relationship between Admissions Index Scores and Relationship of Personal Income to U.S. Household Income for 1980-89 Minority and White Alumni



school for later accomplishments. We also wish to check whether the somewhat surprising failure of LSAT and UGPA to correlate with post–law school accomplishments and the lack of association between minority status and accomplishments that we see in tables 28–30 might be due to the suppression of true effects by other respondent characteristics that affect both admissions decisions and later accomplishments. In addition to examining characteristics an admissions officer might have observed, we look at how long a respondent has been out of law school and at two other variables not known at admissions, final LSGPA and job sector, to see if the implications for achievement of our independent variables, especially minority status, change when these are controlled. Finally, we look not just at minority status but also at respondent ethnicity to see what effect including Asians in the analysis has and to see how members of the different ethnic groups compare to whites when they are looked at separately rather than as an aggregate group of minority alumni. Tables 31, 33, and 35 report the regression coefficients for the variables in our model; tables 32, 34, and 36 indicate the incremental variance explained by different variables or sets of variables entered sequentially.

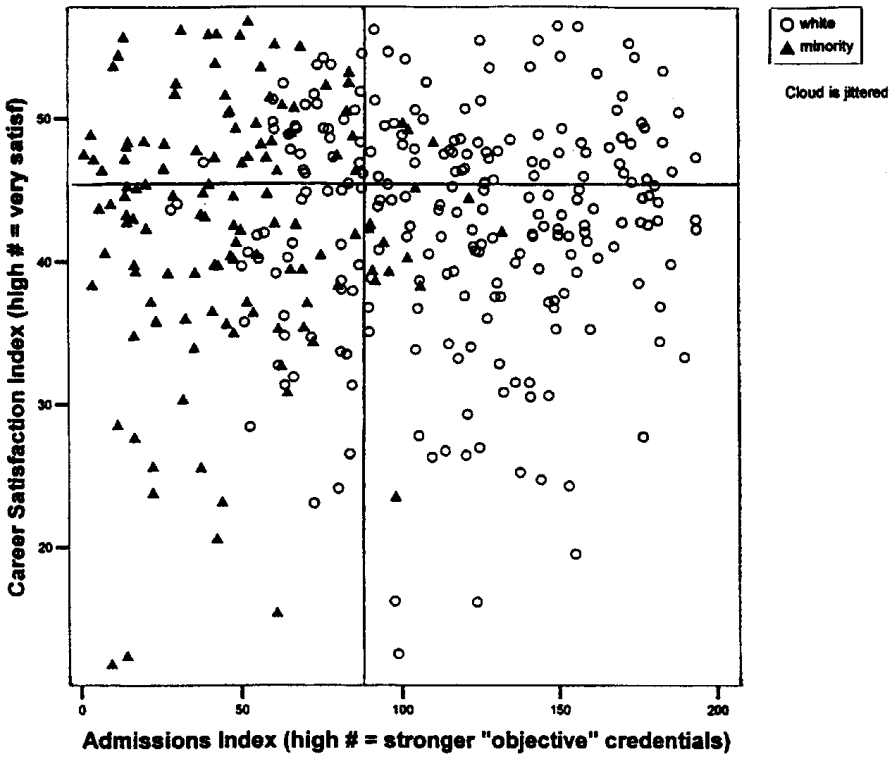
FIGURE 3
Relationship between Admissions Index Scores and Relationship of Personal Income to U.S. Household Income for 1990-96 Minority and White Alumni



We constructed our models by first regressing each measure of achievement on a set of variables taken or constructed from our respondents' admissions files: gender, age at law school entry, ethnicity, a gender/ethnicity interaction term, our LSAT/UGPA admissions index,[55] undergraduate college, undergraduate major, and whether the respondent had a nonlaw masters degree or doctorate as well as the additional control variables of time (in years) since graduation, time (in years) since graduation squared, marital status, final LSGPA, and job sector. We would like to have included several other variables but could not because of missing data. Beyond checking for missing data, we did no further exploratory model building. Undergraduate

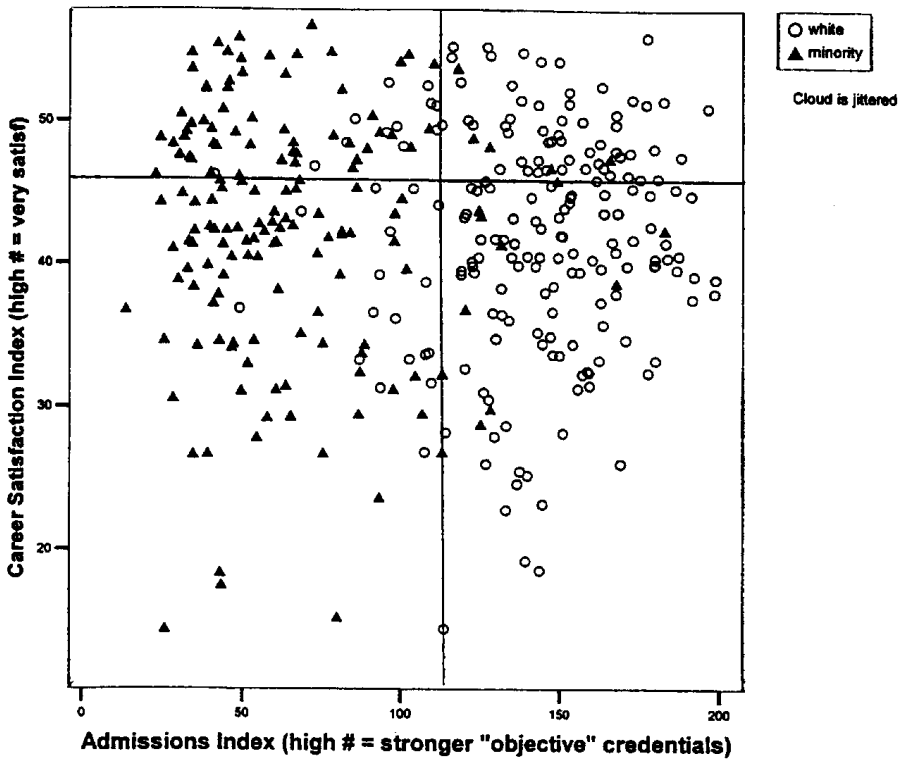
55. We also ran all our regressions entering as a block respondents' LSAT scores and UGPA percentile rankings rather than the index we had constructed. In none of our equations was the coefficient on either variable significant, and when entered into our equations together, following only years since graduation and the basic demographic variables, the two variables together never added a statistically significant increment to the variance the model explained, nor did using LSAT and UGPA rather than the admissions index change the implications of other variables. Since the picture painted when we use our admissions index is the same as when we use LSAT and UGPA together, we present models using only the former measure.

FIGURE 4
Relationship between Admissions Index Scores and Career Satisfaction Index Scores for 1970-79 Minority and White Alumni



college was entered as a series of zero-one dummy variables in which the University of Michigan was omitted and other colleges were coded by type (e.g., ivy league/seven sisters, other private, other Michigan public, other state schools); undergraduate major was entered as a series of zero-one dummy variables with social science the omitted category; and ethnicity was entered in the same way with whites the omitted category. We entered in our equation first, time since graduation and time since graduation squared; next the four demographic variables, gender and age at law school entry, as a block, and then ethnicity and the gender/ethnicity interaction term; then, the application form variables as separate blocks, with the LSAT/UGPA index the first variable entered; then, marital status and final LSGPA; and finally, current job sector. We dropped from our models information about undergraduate college attended, undergraduate major, and advanced degrees if the relevant dummy variables together did not make a statistically significant incremental contribution to explained variance and if none of the dummy coefficients was significantly different from the omitted category. These criteria resulted in the elimination of undergraduate college and advanced degrees from all models, and undergraduate major from one model.

FIGURE 5
Relationship between Admissions Index Scores and Career Satisfaction Index Scores for 1980-89 Minority and White Alumni



We also omitted the gender/ethnicity interaction term and marital status from our final models because they were never significant in these screening regressions, and we omitted the time squared variable from the satisfaction and service models because it was not significant when these variables were dependent. In each regression we present results using two primary models; one that includes only time since graduation and information known at admissions and a second which includes these variables plus final LSGPA and job sector.[56] The primary models use minority status as the measure of ethnicity, but we replicate these models using our five specific ethnic categories.

56. Social scientists differ on the appropriateness of using weighted data in multiple regression analyses. The data used in the models we present in tables 31–36 are unweighted, but as a check we ran models in which we weighted the data by the inverse of the sampling fraction (which in the case of minorities was always "1.") Our concern was particularly with model 1 in these tables, since among white graduates those with lower LSGPAs were oversampled, and it is reasonable to hypothesize a relationship between LSGPA and the variables we are seeking to explain. In the service and satisfaction regressions, weighting makes no difference in the significance of the impact of the admission index scores and minority status, which are the variables that most interest us in model 1. With the log of income dependent, a marginally significant relationship between admission index scores and income in model 1 (p

Income

Table 31 presents the regression results when logged income is dependent. And table 32 presents the incremental variance explained when each variable or, in some cases, set of variables is added to the analysis. Looking at model 1, which includes the time since graduation variables and all variables known when the admissions decision was made, we see that time since graduation is the most important predictor of income. This is not surprising. Other things being equal, the longer people have been working, the more they earn. Time since graduation squared is also highly significant, but its coefficient is negative. It qualifies the story told by the linear time variable. Although income increases with time in the work force, the extra returns to

---

= .099) becomes insignificant when weighted data are used, a change that supports rather than undercuts our suggestion that admission index scores have little to do with future income.

Weighting occasionally changes the apparent significance of some other variables in these models. Most changes involve the tendency of graduates with different undergraduate majors to differ significantly from graduates who majored in social science. These are relationships that explain little variance despite their statistical significance, and that hardly figure in our discussion. The other differences between the weighted and unweighted regressions are that age entering law school is not significant in the weighted equation when log of income is dependent, though it is marginally significant when the regression is unweighted; age entering law school becomes significant in the weighted equation with the service index dependent (p = .007), and a tendency of women to be more satisfied than men becomes significant (p = .032) when the satisfaction index is dependent.

Model 2 controls for LSGPA, so we are less concerned about theoretically relevant relationships that might be distorted due to sampling based on LSGPA strata. With log of income dependent, a marginally significant tendency of those with higher admissions indexes to have lower incomes becomes insignificant when the data are weighted, and a significant tendency of minorities to earn more than whites controlling for grades and practice sector disappears. Also those with jobs in the business/finance sector no longer earn significantly more than those in private practice. With the service index dependent, the significant tendency of minorities to do more service becomes only marginally significant in the full model (p = .071), and attorneys in the public-interest sector score significantly lower on the service index than those in private practice (p = .044), but their jobs involve public service. The apparent influence of admissions index scores, LSGPA, and job sector remains the same in all equations, except that the tendency of those majoring in business and economics to earn more than those in the social sciences, which was significant with unweighted data (p = .002), becomes only marginally significant (p = .056) with weighted data, and the significant tendency of minority graduates to earn more than white graduates when LSGPA and job sector are controlled (p = .011) becomes only marginally significant (p = .073) when the data are weighted. A few differences exist in some equations in the statistical significance of undergraduate major and age at law school entry, but these variables explain little variance and do not figure prominently in our analyses. Weighting does not change the significance of any variables in the satisfaction equations.

After observing the limited effects of weighting on the crucial variables in models 1 and 2, we saw no need to rerun models 1A and 2A with weighted data. We have also, as we noted, weighted all minority respondents as "1," since we sought to include all of Michigan's living minority graduates in our sample. We missed, however, at least one Latina graduate, but captured this person when she was inadvertently included in the white sample. Although as part of the white sample, this graduate had a probability of being in our sample that was less than one, she is included as a minority for analytic purposes and like other minorities has a weight of "1."

TABLE 31
OLS Regression Coefficients for Logged Income

	Model 1 (n = 969)		Model 1A (n = 1,033)		Model 2 (n = 969)		Model 2A (n = 1,033)	
	b	Std. Error	*b*	Std. Error	*b*	Std. Error	*b*	Std. Error
Constant	10.870***	.234	10.968***	.232	9.767***	.255	9.849***	.251
Years since graduation	.074***	.013	.069***	.012	.091***	.012	.086***	.011
Years since graduation squared	−.001**	.000	−.001*	.000	−.002***	.000	−.002***	.000
Sex (M = 0, F = 1)	−.235***	.053	−.207***	.051	−.168**	.050	−.143**	.047
Age entering law school	−.013	.008	−.015	.008	−.017*	.007	−.018*	.007
Minority or white (W=0, M=1)	.067	.072			.145*	.067		
Ethnicity (whites omitted)								
Black			.027	.078			.109	.073
Asian			.155	.099			.195	.091
Latino			.074	.084			.137	.078
Native American			.128	.142			.229	.132
LSAT/UGPA index	.001	.001	.001	.001	−.001	.001	−.002*	.001
Undergraduate major (social science omitted)								
Humanities	.091	.058	.077	.055	.133*	.053	.113*	.051
Nat. Sci.	−.091	.117	−.075	.112	−.028	.107	−.026	.103
Engineering	.090	.129	.158	.116	.026	.119	.089	.107
Business/economics	.176**	.065	.175**	.062	.136*	.060	.135*	.058
Other	−.016	.097	−.020	.094	−.023	.089	−.027	.087
Final LSGPA					.005***	.001	.005***	.001
Current job sector (private practice omitted)								
Business/Finance					.166**	.061	.158**	.058
Government					−.339***	.061	−.331***	.059
Legal Svc/Pub Int					−.607***	.135	−.581***	.131
Education					−.608***	.094	−.593***	.090
Other					−.385***	.100	−.364***	.095
	(R^2=.200), (Adj.R^2=.191)		(R^2=.196), (Adj.R^2=.185)		(R^2=.328), (Adj.R^2=.316)		(R^2=.321), (Adj.R^2=.308)	

*p < .05; **p < .01; ***p < .001

additional years of experience diminish over time. Looking at table 32 we see that when the two time variables are entered first in the equation, they explain together more than half the variance that we are eventually able to explain.

TABLE 32
Incremental Variance Explained by Logged Income Predictors

Order of Entry	Change in R Square	F Change
Years since graduation and (years since graduation)^2	.166	96.452*** (2,967)
Gender and age	.022	13.171*** (2,965)
Minority status	.001	.603 (1,964)
LSAT/UGPA index	.002	2.852 (1,963)
UG major	.009	2.112 (5,958)
Final LSGPA	.048	61.561*** (1,957)
Job sector	.079	22.400*** (5,952)

***$p < .001$

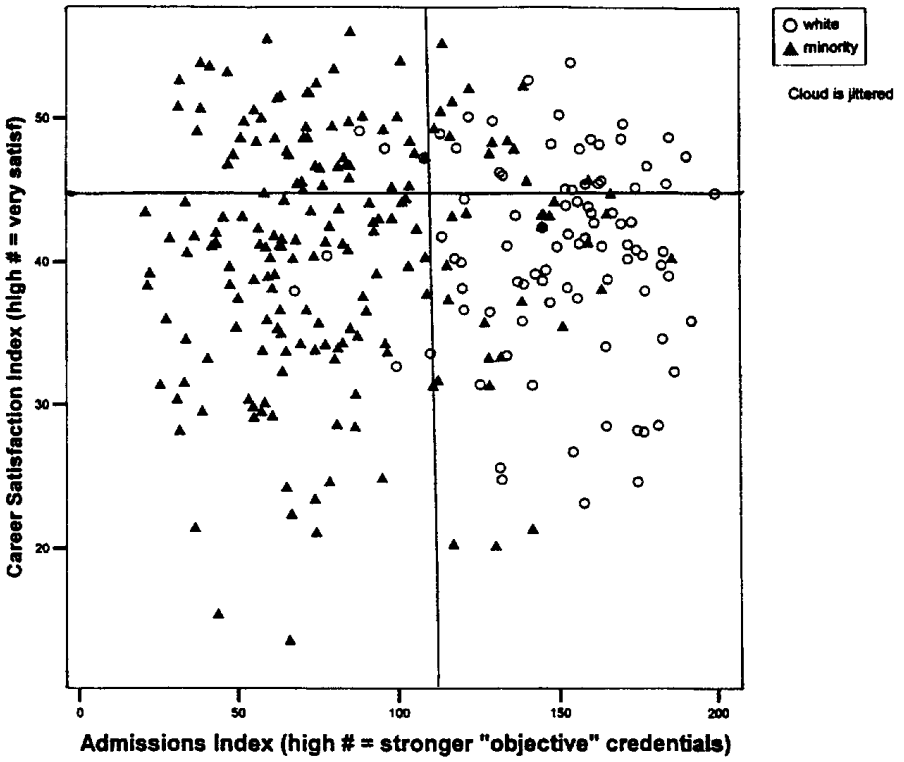
NOTE The numbers in parentheses are the degrees of freedom associated with the F statistic for each variable when it is entered.

Gender also predicts income. Men earn more than women. Also there is a marginally significant tendency for students entering law school at an older age to earn less. But a graduate's ethnic status does not affect income. The coefficient on minority status is insignificant and when entered after time since graduation, gender, and age entering law school, it explains only 0.1% of the variance. The LSAT/UGPA index is also unimportant; its coefficient is only marginally significant (.099), and it explains only 0.2% of the variance.[57] A respondent's undergraduate major also appears to have little effect on income, as the incremental contributions of this set of variables to explained variance is 0.9%, but those majoring in business or economics, unlike those having other majors, earn significantly more than those majoring in a social science.

When we look at model 1A we see that our decision to treat all minority students together and eliminate Asians from most analyses has not distorted our results. Controlling for the other variables in the models, no ethnic group differs significantly from whites in logged incomes.

57. When entered immediately after years since graduation it explains 0.3% of the variation, so it is not a correlation with earlier entered variables that makes it unimportant.

FIGURE 6
Relationship between Admissions Index Scores and Career Satisfaction Index Scores for 1990-96 Minority and White Alumni

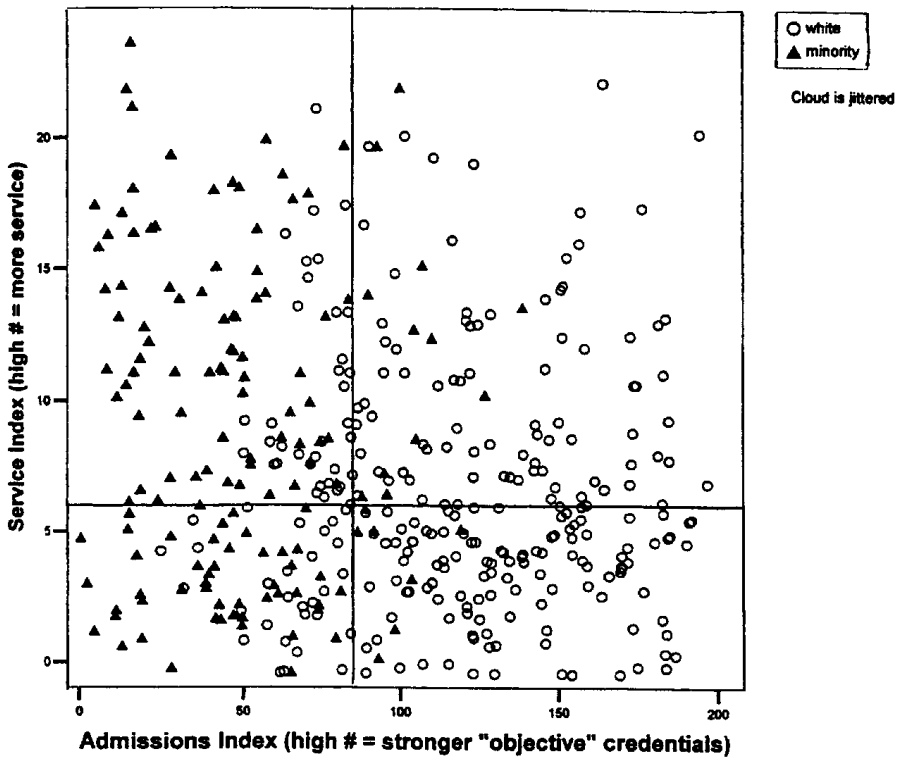


Model 2 adds factors known only at or after law school graduation. Both additional variables, final LSGPA and job sector, are significant predictors of future income. LSGPA adds 4.8% to the explained variance in income, and job sector adds 7.9%. The importance of job sector is as expected. Those with government, legal services, public interest, education, and other jobs earn significantly less than those in the private practice of law. It is somewhat of a surprise that those in the business/finance sector earn significantly more. Our data indicate that this group of graduates contains both a somewhat lower proportion of low-income earners and a somewhat higher proportion of high-income earners than the group of private practitioners.[58]

The contribution of LSGPA makes the failure of the UGPA/LSAT index to predict earnings all the more puzzling, since there is a reasonably high and highly significant correlation between the LSAT/UGPA index and LSGPA, and in model 1, as well as in tables 28–30, the index does not

58. Only 8.2% of Michigan graduates in the business/finance sector earn less than $50,000 per year compared to 11.6% of those in the private practice of law, and 32% of Michigan graduates in the business/finance sector earn more than $150,000 per year compared to 24.2% of those in the private practice sector.

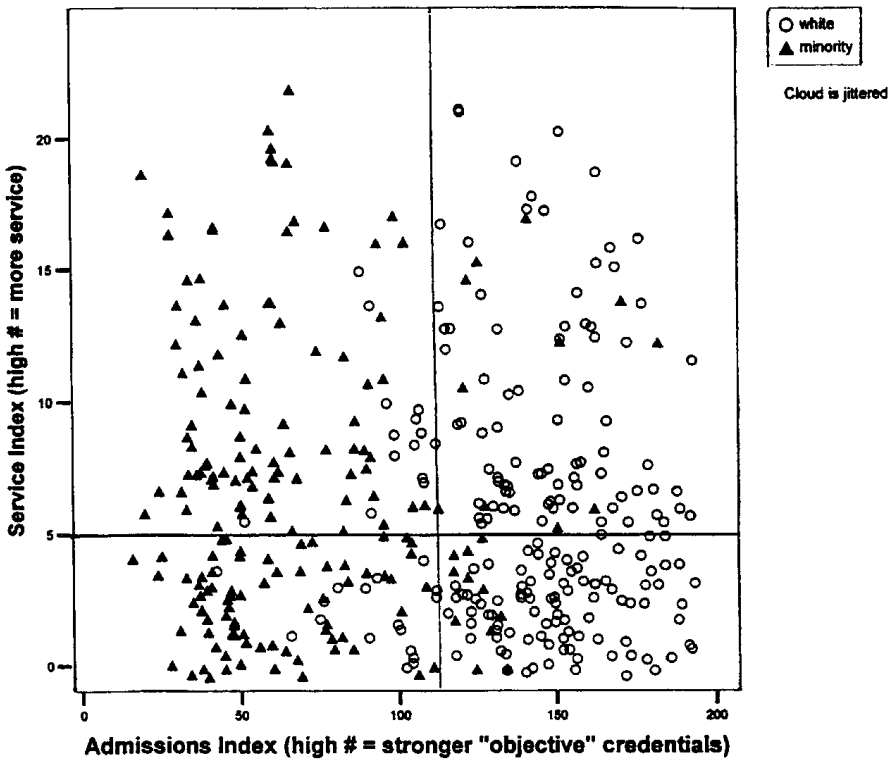
FIGURE 7
Relationship between Admissions Index Scores and Service Index Scores for 1970-79 Minority and White Alumni



compete with LSGPA in explaining variance. Thus it appears that whatever it is about law school grades that predicts higher income has little to do with what the index tells us about a student's likely law school performance. Even if a high LSGPA predicts high income largely because it is a credential that leads to better-paying jobs, one would expect the UGPA/LSAT index, because of its correlation with LSGPA, to explain more of the variance in income than it does. But the index is not even a good proxy for that aspect of LSGPA which relates to future earnings. Instead, it appears from our results that a high LSGPA reflects something, perhaps an innate love for the law, or a sense of mission, or maybe a capacity for hard work under pressure, which relates to income success in practice. This capacity appears to be largely orthogonal to whatever it is that UGPA and LSAT measure.

These results do not necessarily mean that the traits that LSAT scores and UGPA measure have no relationship to the likelihood of later high incomes. They just indicate that there is no relationship among the students Michigan admitted. When we think about how the admissions process works, this may not be so surprising. First, at a school like Michigan, the difference between admittees with higher and lower index scores is not a

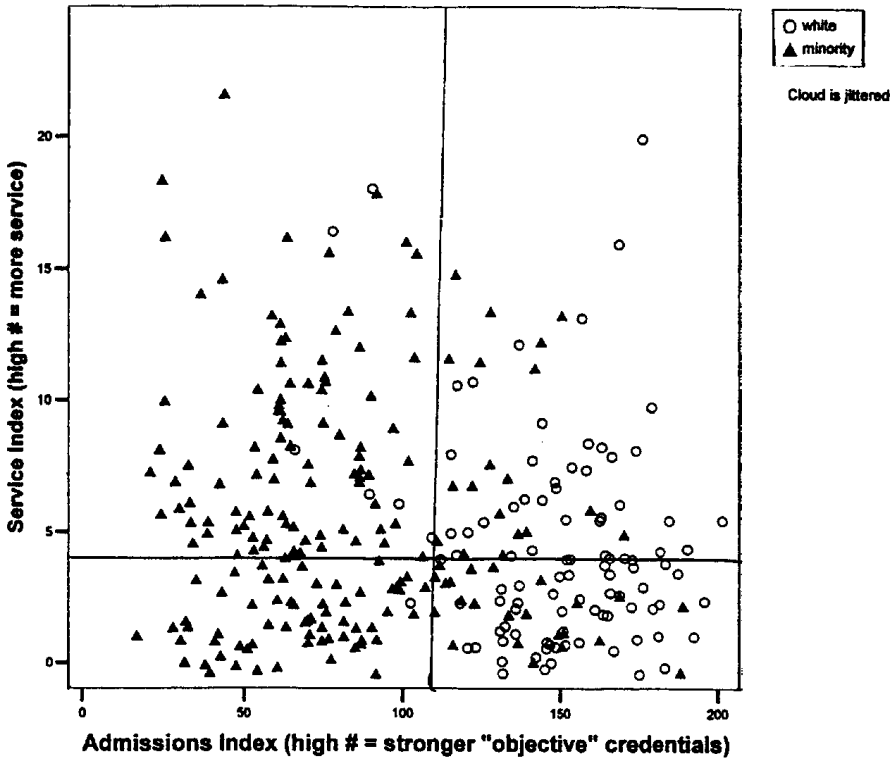
FIGURE 8
Relationship between Admissions Index Scores and Service Index Scores for 1980-89 Minority and White Alumni



difference between likely competence and incompetence in doing law school or later legal work, but may be a distinction between competence and supercompetence. The marginal income returns to supercompetence may in practice be low. Second, when students have very high index scores, their files may not be perused for other evidence of their likely ability as lawyers. When students have relatively low index scores (which at Michigan are usually still high in national terms), the admissions officer is likely to examine files closely and admit only those who, on the basis of evidence other than the index score, seem likely to succeed. Thus a student admitted despite relatively low index scores may have, for example, exceptionally strong letters of recommendation, a record of leadership or accomplishment that bodes well for career success, or a personality or intellectual commitments that so impress the admissions officer in an interview that the officer will bet the applicant has what it takes to succeed. Similar characteristics might later impress potential employers and clients and contribute to career success.

For most of the graduating classes in our study, Michigan's regular admissions process was actually designed to ensure that for many students a

FIGURE 9
Relationship between Admissions Index Scores and Service Index Scores for 1990-96 Minority and White Alumni



special emphasis was given to soft credentials. The school's policy was to admit half the class largely on the basis of index scores, and then to choose the other half from a group with the next highest index scores that was twice as large as it had to be to fill the class's remaining places. Within this group, index scores were not supposed to figure at all in the selection process. The admissions officer was instead instructed to look carefully at the "whole applicant," a type of inspection that since the beginning of affirmative action at Michigan has been given to minority applicants with relatively lower index scores. Proceeding in this way, a capable, experienced admissions officer might well make decisions that in large part negated any association between the skills that LSAT and UGPA measure and success in law practice. It is also not surprising that an association between these hard measures and LSGPA persisted despite the officer's desire to negate it. LSAT scores and UGPAs are more closely related in their nature or design to how a student performs on exams, while softer countervailing factors often relate far more strongly to accomplishments outside the classroom. Although we cannot show it to be the case, the lack of correlation between index scores and career accomplishments may be a sign that during the pe-

riod we have studied, Michigan's admissions process, which called on its admissions officer to balance on a case-by-case basis an applicant's hard and soft credentials, worked well and as intended.

In most respects, models 1 and 2 are similar. The variables that were significant in model 1 remain significant in model 2, and their directions remain the same. However, minority status, which had no significant effect on logged income in model 1, is significantly related to income in model 2. Controlling for job sector and LSGPA, minority graduates tend to earn more than their white counterparts.[59] The key control is job sector; in a model not presented, which includes the model 1 variables plus LSGPA but not job sector, the coefficient on minority status is not statistically significant ($p = .238$). Thus, minority graduates tend to earn more than their white counterparts with similar grades when they are in the same job sector. But the difference does not appear to be substantively important because minority status explains little of the variance in logged income.

Model 2A indicates that all groups that make up our minority alumni group, as well as Asians, tend to do better than white graduates once LSGPA and job sector are controlled. Although only the coefficient for Asians is significant ($p = .032$), the coefficients for Latinos and Native Americans are marginally so, with p values of .078 and .083 respectively. In other respects, using specific ethnicity and including Asians in the sample does not change the pattern we saw when we looked at just white and minority students.

---

59. In fact, because we oversampled white graduates with low LSGPAs, this coefficient will be slightly biased in favor of white students if law school grades measure abilities that are also reflected in earned income. If we think of law school grades as a pretest that measures earnings-relevant abilities with some error, the ability scores of those whites we oversampled, who are at the extreme low end on this "test" should regress toward the white mean when they are remeasured on a different test, namely earned income. Empirically, this does not seem to be a great concern. LSGPA explains only 4.8% of the variance in earned income, suggesting that the abilities that high earnings reflect are, for the most part, not the abilities that law school tests measure. With just LSGPA in the model and not practice sector, minorities tend to earn more than whites other things being equal; but until practice sector is added the difference is not statistically significant. The same regression problem could, in theory, also bias the coefficient on the ethnicity variable when self-reported satisfaction or service are dependent, if law school grades measure abilities that are also reflected in how satisfied people feel about their careers and how much service they do. But LSGPA is not significant in the models for either of these variables, so we do not feel there is a problem here. The opposite problem could diminish the incremental variance explained by adding ethnic status to the model before LSGPA, since in these unweighted regressions the group of whites will have "too many" low LSGPA graduates who may earn less or otherwise do worse than those with higher grade-point averages. But the limited association between LSGPA and earnings, the lack of association between LSGPA and our other dependent variables, and the fact that controlling for grades, minorities tend to earn more than whites lead us to believe there is not a serious problem here. Moreover, in oversampling whites with low grades we were also oversampling whites who graduated longer ago, a factor far more strongly related to all our dependent variables than LSGPA. When a control for years since graduation is omitted, and ethnic status follows only age at law school entry and gender in our log income equation, the incremental variance that minority status explains increases to 1.2%.

Satisfaction

Tables 33 and 34 report data from regressions involving the satisfaction index. While the variables we used did a relatively good job explaining income, together they explain only 5.1% percent of the adjusted variance on the satisfaction index. And the little variance explained is largely attributable to practice sector, as the other variables that passed our screen for inclusion together explain only 1.5% of the adjusted variance in satisfaction scores. In model 1 we see that none of the variables known at the admission stage contributes significantly to an explanation for satisfaction, nor, we see from model 2, does final LSGPA. All that matters is time since graduation (those out longer are more satisfied) and job sector.[60] Michigan graduates with jobs in government, legal-services/public-interest law, and education are significantly more satisfied than those working in the private practice of law even though, as we saw in table 31, they have significantly lower incomes. Graduates in the business/finance and other categories do not differ significantly from private practitioners in their reported career satisfaction. Models 1A and 2A show that only Native Americans differ significantly from white graduates in career satisfaction as measured by our index. Because we have so few Native Americans in our sample, and as the block of ethnicity variables taken together do not explain a significant portion of the variation in satisfaction, we are not inclined to make much of this.

Unremunerated Service

Tables 35 and 36 report the results of regressions involving the service index. We see from model 1 that years since graduation continues to be an important predictor of behavior. The longer people are out, the more service they do. Of the other variables known at the time of the application, minority status is the most important. Minority graduates do more service

60. Time since graduation seems to matter only because it is a proxy for income. If we enter the log of current income as the last variable in the model, we lose about 70 cases because of missing data, but in the cases that remain, log of income is a highly significant predictor, time since graduation is no longer significant, and the adjusted variance explained in this subsample rises from .055 to .097 when logged income is entered. The significance of all other variables remains as it is in tables 33 and 34 except that those with current jobs in the "other" category are also significantly more satisfied than those with careers in private practice. Gender, ethnicity, the admissions index, and LSGPA still do not relate significantly to our career-satisfaction index. People are happier with their careers if, other things being equal, they earn more money and, except for those in business or finance, if they are in careers other than the private practice of law. There is a paradox here. High earnings figure importantly in career satisfaction, but those in the highest earning career sectors are less satisfied than those in careers that are on the average much less remunerative than the private practice of law. Thus, it appears that within job sectors, income is important to satisfaction, but across sectors job characteristics other than income, like a sense of balance between family and professional life, are more important than earnings to career satisfaction.

TABLE 33
OLS Regression Coefficients for Satisfaction Index

	Model 1 (n = 970)		Model 1A (n = 1,042)		Model 2 (n = 970)		Model 2A (n = 1,042)	
	b	Std. Error	*b*	Std. Error	*b*	Std. Error	*b*	Std. Error
Constant	36.416***	2.483	38.840***	2.479	35.003***	2.958	36.183***	2.919
Years since graduation	.176***	.040	.179***	.039	.165***	.040	.167***	.039
Sex (M = 0, F = 1)	.585	.599	.603	.574	.056	.596	.071	.569
Age entering law school	.047	.077	.036	.077	.020	.076	.003	.076
Minority or white (W=0, M=1)	1.283	.823			.985	.814		
Ethnicity (whites omitted)								
Asian			.883	1.078			.830	1.058
Black			.959	.904			.466	.892
Latino			1.070	.972			.849	.958
Native American			3.928*	1.570			3.994*	1.545
LSAT/UGPA index	.012	.008	.010	.008	.009	.009	.008	.009
Final LSGPA					.006	.007	.004	.007
Job sector (private practice omitted)								
Business/Finance					.347	.712	.368	.682
Government					4.031***	.755	4.173***	.726
Legal Svc/Pub Int					5.634***	1.585	5.564***	1.547
Education					3.300*	1.345	3.597**	1.304
Other					.227	1.135	.046	1.092
	(R^2=.020), (Adj.R^2=.015)		(R^2=.024), (Adj.R^2=.016)		(R^2=.062), (Adj.R^2=.051)		(R^2=.067), (Adj.R^2=.055)	

*p < .05 **p < .01 ***p < .001

TABLE 34
Incremental Variance Explained by Satisfaction Predictors

Order of Entry	Change in R Square	F Change
Years since graduation	.016	15.908*** (1,969)
Gender and age	.001	.693 (2,967)
Minority status	.001	.508 (1,966)
LSAT/UGPA index	.002	2.109 (1,965)
Final LSGPA	.000	.343 (1,964)
Job sector	.041	8.405*** (5,959)

***$p < .001$

NOTE The numbers in parentheses are the degrees of freedom associated with the F statistic for each variable when it is entered.

than white graduates. The coefficient on the minority variable is significant, and when minority status is entered into our model, it adds 2.9% to the explained variance. As with satisfaction and income, the UGPA/LSAT index we constructed is statistically insignificant and explains only a minuscule portion of the variance. Undergraduate humanities majors are less likely to do substantial service than social science majors, but college major explains little variance, and we would not make much of this association.

Model 2 reveals a significant negative association between LSGPA and the amount of service done and a strong effect of job sector. Graduates working in all areas except legal-service/public-interest jobs are significantly less likely to do substantial service than those in private practice. The effect is so strong that adding job sector to the regression more than doubles the amount of variance the model explains. The controls for LSGPA and job sector do not, however, undercut the tendency of minority graduates to do more service than white graduates, for the strength of this association hardly varies when these controls are added.

Models 1A and 2A show an ethnicity effect that we did not see when we looked at our other two measures. The tendency of minority graduates to do more service than whites is largely driven by a tendency for black graduates to do more service than whites, although based on what is known at admission, Native Americans can also be predicted to do more service than

TABLE 35
OLS Regression Coefficients for Service Index

	Model 1 (n = 1,055)		Model 1A (n = 1,131)		Model 2 (n = 1,055)		Model 2A (n = 1,131)	
	b	Std. Error	*b*	Std. Error	*b*	Std. Error	*b*	Std. Error
Constant	4.471**	1.466	4.551**	1.443	7.643***	1.658	7.327***	1.621
Years since graduation	.121***	.023	.120***	.022	.138***	.022	.137***	.022
Sex (M = 0, F = 1)	−1.023**	.349	−.955**	.331	−.442	.332	−.488	.314
Age entering law school	.036	.045	.030	.045	.042	.043	.044	.042
Minority or white (W=0, M=1)	1.293**	.475			1.302**	.449		
Ethnicity (whites omitted)								
Black			1.380**	.513			1.570**	.486
Asian			−1.058	.628			−.835	.591
Latino			.912	.557			.728	.526
Native American			2.487**	.942			2.460**	.888
LSAT/UGPA index	−.005	.005	−.005	.005	−.004	.005	−.003	.005
UG major (social science omitted)								
Humanities	−.741	.379	−.674	.362	−.683	.357	−.620	.341
Nat. sci.	.153	.771	.321	.729	.398	.725	.454	.686
Engineering	−1.129	.864	−1.144	.769	−1.173	.812	−1.294	.724
Business/economics	−.450	.427	−.405	.410	−.425	.404	−.424	.387
Other	−.201	.648	−.286	.625	−.367	.610	−.492	.588
Final LSGPA					−.008*	.004	−.008	.004
Job sector (private practice omitted)								
Business/Finance					−3.039***	.400	−2.979***	.380
Government					−3.651***	.417	−3.528***	.399
Legal Svc/Pub Int					−.996	.897	−1.019	.868
Education					−3.306***	.655	−3.360***	.620
"Other					−4.414***	.613	−4.399***	.582
	(R^2=.072), (Adj.R^2=.063)		(R^2=.093), (Adj.R^2=.083)		(R^2=.186), (Adj.R^2=.174)		(R^2=.204), (Adj.R^2=.191)	

*$p < .05$; ** $p < .01$; ***$p < .001$

TABLE 36
Incremental Variance Explained by Service Predictors

Order of Entry	Change in R Square	F Change
Years since graduation	.030	33.075*** (1,1054)
Gender and age	.007	3.888* (2,1052)
Minority status	.029	32.083*** (1,051)
LSAT/UGPA index	.001	1.190 (1,1050)
UG major	.005	1.078 (1,045)
Final LSGPA	.002	1.803 (1,1044)
Job sector	.113	28.772*** (5,1039)

*$p < .05$ ***$p < .001$

NOTE The numbers in parentheses are the degrees of freedom associated with the F statistic for each variable when it is entered.

whites (p = .008), and Asians tend to do less (p = .093). Model 2A confirms the special propensity of black and Native American graduates to engage in substantial service, but Asian graduates no longer do significantly less service than whites. LSGPA and the job sectors variables behave as they did when just minority and white graduates were examined.

The tendency of those who earned higher grades in law school to do less service than those who earned lower grades is disquieting even if the effect is quite small in terms of explained variance. One explanation is that the law school in its admissions process accepts applicants with somewhat lower LSATs and UGPAs if they demonstrate a propensity for community service by a history of volunteer service during college. A related explanation may be that those prone to do service later will have done some in law school as well, at some cost to their grades. The relation of lower grades and greater service may also capture relative tendencies to prioritize assigned work. In law school an intense focus on assigned work probably leads to better grades; after law school, one of its consequences is that a person has little time for service. This is consistent with our observation in note 48 that LSGPA has a strong negative correlation with what we labeled the *separate spheres* dimension of satisfaction. Those likely to have concentrated most on getting good grades while in law school may be more likely than others to dedicate themselves to their jobs and to narrowly defined job responsibilities. The result is that they tend to earn more than others, but

they also tend to do less service and to feel less satisfied because their jobs are so consuming.

The importance of job sector to service done is almost entirely a function of the opportunities for pro bono work that the private practice of law can furnish and encourage. When the job-service index is stripped of its pro bono component and the equations rerun (results not shown), the incremental proportion of the adjusted variance explained by job sector in model 2 diminishes from 11% to .7%, and minority status is second only to years since graduation in variance explained.[61] Only those in government positions and our "other" job category have service scores that are significantly lower than those in private practice, but those in government have arguably chosen a career of public service and may face "Hatch Act" or other restrictions on their political or pro bono activities. Other relationships, including the significant tendency of those with higher LSGPAs to do less service, remain the same. The UGPA/LSAT index explains nothing ($p = .585$). Controlling for job sector, those majoring in the humanities or engineering ($p = .074$) tend to do less service than those majoring in the social sciences, but the increment in adjusted variance explained when college major is added to the model is only 0.6%. Looking at the specific ethnic groups when the service index is stripped of its pro bono component presents essentially the same picture that we get from model 2A, in table 35, although the tendency of Asian graduates to do less service than white graduates is statistically significant.

Summary of Regression Analyses

These regressions confirm what we saw in our graphs and tables, and provide additional information as well. LSAT and UGPA, which in many law schools are the most prominent admissions screens, have almost nothing to do with our measures of achievement after law school despite their high correlation with LSGPA and the latter's relationship to earned income. The demographic categories of age when starting law school and gender affect future income regardless of job sector: Men earn more, and those who start law school at older ages earn less. But these categories bear no relationship to career satisfaction or to the amount of unremunerated service done by graduates. With respect to ethnicity, we see a different pattern. Neither minority status nor ethnic group affects future earnings or

61. Here our decision not to weight the regressions makes an important difference. A tendency for minorities to do more service than whites does not emerge in the weighted regression ($p = .420$). Also, practice sector is more important as a block, explaining 2.7% of the variance in service, which is second only to time since graduation in this regard. The effects of other variables are similar in the weighted and unweighted models, except that those in business and finance do significantly less service than those in private practice.

satisfaction, but they do relate to service by the school's graduates. Minority graduates do more service than white graduates, and among the minority graduates, the black and Native American graduates do the most service relative to whites. Time from graduation is universally important. The longer a person has been out, the more successful he or she is likely to be on all our achievement measures. Job sector is important in different ways. Private practitioners earn more than those in all fields except business and finance, but they are less satisfied than those in all sectors except business and finance and our "other" category. Private practitioners do considerably more service of the kinds we identify than do other graduates, with the exception of those in legal service and public-interest positions, but outside of their pro bono work, the tendency of private practitioners to do more to serve others is substantially diminished and seems largely to exist in relation to those working in government and a few miscellaneous occupations lumped together in our "other" category. The most important results are two:

- Controlling for variables known at admissions and for two key variables after admission, minority students are as successful as white students.
- An additive index that ranks students on their combined relative LSAT and UGPA performance does nothing to explain variance in future incomes, self-reported satisfaction, or service to others.

What If Admissions Had Been Based Solely on Hard Criteria?

LSAT scores and UGPAs drive the admissions process for most applicants at most law schools. Moreover, when opponents of affirmative action claim that law schools are admitting minority applicants who are "less qualified" than white applicants, they typically point to discrepancies in these measures both to justify this claim and to evidence impermissible attention to race in the admissions process. In the lawsuit against the University of Michigan Law School, for example, the plaintiff introduced as expert evidence a statistical report purporting to show that the odds that a minority applicant will be admitted to Michigan may be 500 times greater than the odds for a white student with a similar LSAT/UGPA index score.[62] The model implicit in the plaintiff's expert's statistical analysis that yielded

62. Although no one disputes the fact that LSAT scores and UGPAs are important in the selection of both white and minority law students, analyses like those of the plaintiffs in the Michigan lawsuit do not necessarily show that this is the case. Even when the odds that a minority student with certain hard credentials will be admitted are hundreds of times what they are for a white student with similar credentials, the evidence does not *necessarily* mean race was the crucial factor, or even that it figured in the admissions decision. As to any given student, it may be the case that some factor other than race, such as leadership ability, was the crucial factor in the decision.

these odds estimates is one in which only LSAT scores and UGPAs count in a law school's admissions process; in other analyses by the plaintiff's expert, resident status, gender, and application fee-waiver status are allowed to count as well.

We can draw on the work of Michigan Law School's statistical expert, Dr. Stephen Raudenbush (1999), a professor at the University of Michigan's School of Education, to estimate the effect that an admissions procedure which ignored minority status and turned largely on LSAT scores and UGPA would have on minority enrollments at the University of Michigan.[63] Working with data from the applicant pools of 1995 and 1996 and using a mixed model for logistic regression that allows random effects, Dr. Raudenbush concludes that if LSAT scores, UGPA, residence status, and gender were the only factors that figured in Michigan's admissions decisions, 3.1% of the group offered admission to Michigan in 1995 would have been minority students compared to 18.3% in the group actually offered admission. This reflects a reduction from 182 to 29 in the number of minority students offered admission. In 1996 the expected change would be from a group offered admission that was 17.6% minority to one that was 4.7% minority, or a drop from 182 to 47 in the number of minority students offered admission. The actual number of minority students attending Michigan would be still smaller, for Michigan enrolls about 30% of its admitted applicants, and the minorities it would be offering admission to without an

---

A thought experiment can make this clear. Suppose, for example, that neither minority status nor an LSAT/UGPA index counted in Michigan's admissions process, but students were instead admitted based on a factor, say proven leadership potential, which was similarly distributed among white and minority applicants and orthogonal to or only weakly correlated with the LSAT/UGPA index. Because most minorities in Michigan's applicant pool have index scores that are below the index scores of most whites in Michigan's applicant pool, admitting students with no attention to ethnicity could be expected to yield groups of minority and white matriculants whose index scores, on average, would differ substantially. Of course, if Michigan ignored index scores and admitted applicants on apparent leadership potential, its white applicant pool would soon come to include many people with low index scores and strong evidence of leadership, and the gap between white and minority applicants on index scores probably would diminish. However, looking historically, differences in index scores do not necessarily tell us much about the degree to which ethnicity as opposed to letters of recommendation, a history of overcoming adversity, a history of outperforming standardized tests, leadership ability, impressions in a personal interview, or other factors dominated Michigan's admissions process or the admissions process in any law school.

63. In a part of this supplemental report and Professor Raudenbush's original report (which we don't draw on), the appropriateness of the plaintiff's expert's logistic analysis and the relative odds of admission that are derived therefrom are seriously called into question. Dr. Raudenbush points out, among other things, that the plaintiff's odds estimates purport to apply to all black and white applicants, but no single number can characterize the relative chances that white and minority applicants will be admitted. At some combined LSAT/UGPA levels, virtually all applicants, white or minority, will be admitted, and at other levels none will be admitted; and in between these levels the relative odds of admission will vary. For the admissions years of 1995 through 1998, the net result of Michigan's admissions decisions is that approximately equal proportions of minority and white applicants were admitted.

affirmative action program would all be likely to have attractive offers from other highly selective schools.

Using a different simulation method in which applicants are placed in cells on a grid based on the conjunction of LSAT scores and UGPAs and assuming that the proportion of admitted minorities in a cell would be the proportion of all applicants in the cell who are admitted, Dr. Raudenbush estimates that 6% of the 1995 offerees and 5% of the 1996 offerees would have been minority applicants. Again, the actual proportion of minority matriculants at Michigan might have been far lower than the proportion admitted. Dr. Raudenbush regards the results of his second method as "quite conservative" as an estimate of the likely detrimental effects of ignoring minority status in the admissions process, and he views his first method as "somewhat liberal" (1999, 10). But even the lower estimates of the first model are likely to overestimate the proportion of minority applicants who would have been admitted to Michigan through most of the period we have examined. This is because Michigan enrolled, and presumably was admitting, a smaller proportion of minority students during the 1970s and 1980s than during the middle years of the 1990s, and hard admissions credentials, particularly LSAT scores, have over the years increased more rapidly among minority applicants than among white ones, at least over the range where Michigan admits students.

We saw earlier that minority alumni who graduated in the 1990s look much like their white counterparts on most career-related variables. Indeed, 1990s minority alumni in private law firms tend to earn slightly more than white alumni, and in non-private practice settings they are more likely than their white counterparts to have risen already to supervisory and managing attorney positions. Minority graduates of earlier decades have careers that diverge more from the careers of white alumni, but they have very high earnings, are as satisfied with their careers as white alumni, and tend to do more service. If racial and ethnic diversity had been an impermissible consideration in admissions decisions, it is probable that only a handful of these students would have attended and graduated from Michigan. Raudenbush's study tells us that basing admissions decisions largely on the so-called hard credentials of LSAT scores and UGPA would have prevented most of Michigan's minority alumni from attending Michigan. On the other hand, if Michigan had ignored LSAT scores and UGPA, it might have admitted more minority students, but these students would probably not have performed as well in law school as the students it did admit because, as we have seen, the index scores of Michigan's minority students are moderately predictive of their law school grades, as are its constituent measures.

LSAT scores and UGPA can, in short, help a law school admit students who will perform well in their classes. But they also can be a mechanism for keeping most black, Native American, and Latino students from

attending elite law schools like Michigan, even though, if what we have found holds generally for graduates of elite law schools, these credentials bear no clear relationship to success after law school and have, if anything, an inverse relationship with some kinds of valued achievements. Considering both the relationship of LSAT and UGPA to law school grades and their relationship to practice success, it makes sense for a law school like Michigan to select which minority and which white students it wants to admit partly on the basis of LSAT scores and UGPA, since schools want those they admit to perform well in class, but at least above a certain threshold[64] it makes little sense to use LSAT scores and UGPA to choose between minority and white applicants since Michigan's goals in admitting students focus far more on the kinds of lawyers they will be than on the grades they will receive while in law school.

CONCLUSION

The test of a school's admissions policy is whether it meets the school's goals with respect to overall class composition and the kinds of persons the school seeks to enroll. Throughout the period we have studied, the University of Michigan Law School's various admissions policies have sought to achieve diverse classes and to this end treated ethnicity as an element that might alter admission probabilities. The Law School's admissions policies appear to have succeeded well in enhancing diversity through increased minority enrollment. In 1967, shortly after the Law School started its minority admissions program, only two black students attended the law school, members of the class of 1968. Records do not reveal whether any Latino or Native American law students attended Michigan at that time, but if they did, there were very few of them. Largely because of its minority admissions program, during the decade of the 1970s, 7.6% of Michigan's graduates, or 300 individuals, were black, Latino, or Native American. In the 1980s, the proportion of graduates with these backgrounds rose to 10.2%, or 378 individuals. During the years from 1990 through 1996, 382 individuals, or 15.4 % of the school's graduates, have been members of these groups. Had Michigan not considered ethnicity as an element in admissions decisions but relied largely on LSAT scores and UGPAs, it is likely that during the period we have studied only a handful of the students in each class, perhaps under 3% in the 1990s and even fewer in earlier decades, would have been of black, Latino, or Native American ethnicity.

64. Bowen and Bok (1998, 59, 60) found in their study that there was an SAT threshold above which test score differences made little difference in graduation rates. The same could be true of law schools and LSATs.

Our respondents' current recollections reveal that substantial proportions of minority group members and white women have long regarded ethnic diversity as contributing considerably to their classroom experience. Among white males the proportion of 1990s graduates expressing this view is double the proportion of 1970s and 1980s white male graduates with similar opinions, and few white male students feel it made no contribution at all. We have suggested that this increase is related to the large proportion of minority students (including here Asians as a minority) in the graduating classes of the 1990s and perhaps to the fact that when gender is taken into account, white males in the 1990s found themselves in the minority. Regardless of the explanation, our data suggest that if the recollections of alumni can be trusted, increasing diversity has served Michigan's larger goal of increasing the quality of the education it offers all students.

According to its current admissions policy, the University of Michigan Law School seeks to admit students who will go on not just to successful careers as practitioners but also to careers that involve community leadership and service in the tradition of past generations of graduates from one of the nation's great law schools. If students admitted with diversity in mind did not succeed in these ways after law school, the school's admission policy would be working at cross-purposes with respect to major admission's goals. The data we have reviewed indicate that the purposes do not conflict. Not only has the consideration of ethnicity as a factor in admissions not detracted from achieving these admissions goals, but in some respects, such as community leadership and public service, the school's goals seem to have been better met than they would have been without a minority admissions program.

Although the University of Michigan's current minority admissions policy is motivated by the faculty's interest in realizing the academic benefits of classroom diversity, policies like Michigan's can have larger social ramifications. In a series of cases beginning in the 1940s and culminating in *Brown v. Board of Education*, the Supreme Court promoted the transformation of this country from a segregated to an integrated society. For many years after *Brown*, however, the bar, particularly its higher echelons, remained de facto segregated. Michigan's admissions policies during the past three decades, together with similar policies at Michigan's peer schools, have brought a degree of integration to the bar, and to the most elite firms within it, that otherwise could not have been achieved. Evidence in this study indicates that in doing so these policies have increased the availability of legal services to members of disadvantaged minorities. They have also, if we can judge by Michigan's minority alumni, created a group of African American, Latino, and Native American lawyers who are prospering in every sense of the word and are helping foster a degree of integration never before possible in the middle and upper reaches of American society. Had

Michigan not considered ethnic diversity as one goal of admissions decisions, attention primarily to LSAT scores and UGPAs in admitting students would have meant that most of the minority graduates we have surveyed would not have attended Michigan, even though LSAT scores and UGPAs seem to bear little or no relationship to post–law school success among Michigan's graduates.

Current attacks on law school affirmative action programs ignore the costs both to legal education and to society that outlawing such programs would entail. Perhaps this is because until now no one has looked closely at the educational value that practicing lawyers, including whites, place on the diversity they encountered in law school classrooms, thanks in large measure to affirmative action; and no one has looked at how the beneficiaries of race-conscious law school admissions fare in practice, or at whom they serve, or how much they give back to their communities. This is also the first paper which indicates that LSAT scores and UGPAs, the admissions credentials that the opponents of law school affirmative action would privilege for their supposed bearing on "merit" and "fitness to practice law," bear for one school's graduates little if any relationship to measures of later practice success and societal contribution. Although we did not expect our research to question the place of these credentials in law school admissions decisions, our findings suggest that law schools might want to reconsider the weight they give them and to augment them with other instruments that are better predictors of practice success.

Our research uncovered other relationships that we also did not set out specifically to investigate. Our data indicate, for example, that those who make careers in the private practice of law are, except with respect to income, less satisfied with their careers than those who work in other settings. We also see in our data a strong tendency, particularly in the two most recent decades, for lawyers to move from early jobs in law firms to later jobs in other settings. This suggests that the *relative*[65] dissatisfaction with the private practice of law is greater than our career-satisfaction data indicate, because one would expect those who are least happy with private practice jobs to be the most likely to leave them.

Perhaps the core finding of our study is that Michigan's minority alumni, who enter law school with lower LSAT scores and UGPAs than its white alumni and receive, on average, lower grades in law school than their white counterparts, appear highly successful—fully as successful as Michigan's white alumni—when success is measured by self-reported career satisfaction or contributions to the community. Controlling for gender and career length, they are also as successful when success is measured by in-

65. We emphasize the word *relative* because, on balance, the private practitioners in our sample are more satisfied than not with their careers, although they are somewhat less satisfied than those who are in careers other than the private practice of law.

come. Some people we have told of this result suggest that it simply reflects the fact that minority graduates benefit from affirmative action throughout their careers. What they seem to mean by this is not just that minority graduates are advantaged by their race or ethnicity in securing jobs, but also that they do not perform as well in these jobs as whites would. Thus, they challenge the idea that our indicators of practice success reflect genuine accomplishment. Their view seems to be that because of their ethnicity, our minority respondents do better than one would expect given their skills and work habits and, in particular, that they get paid throughout their careers more than the market value of their skills, effort, and business-getting ability.

It may well be that at times in their careers some of our minority graduates have benefited from forms of affirmative action, but as a general matter we do not find this explanation to be a plausible one for the evidence of practice success that we have uncovered. As an initial matter, affirmative action is not a good explanation of why Michigan's minority alumni seem similar to its white alumni in career satisfaction and seem to do even more professional and community service. When we consider satisfaction, we see that as compared to white alumni, minority graduates are least satisfied with their incomes, although income satisfaction is the dimension where one might expect affirmative action to make the most difference. Minority alumni are, on the other hand, just as satisfied as white alumni with the intellectual challenge of their work, and many take great pleasure in it. If minority alumni were hired and retained by law firms and other employers because of their race, one might expect them to receive less challenging work and not only to sense this but also to resent it.

Affirmative action hiring also does not seem to explain well the relatively high incomes of Michigan's minority graduates. One would expect affirmative action hiring to be most important at the start of careers and to matter less in promotions and lateral moves, when a firm has a record of past job performance to scrutinize. Most respondents in our sample have been out of law school for many years, during which time they have changed jobs and even job sectors. Even if our minority graduates benefited from affirmative action when they were first hired, the benefits would likely have dissipated over time. Consider also the experience of minority lawyers who are on their own or in small firms, a group unlikely to benefit significantly in their current practice from affirmative action. The minority lawyers we surveyed from the 1970s who are in solo practice or in small firms had average incomes in 1996 of $154,400. Their median income was $95,000. The minority graduates of the 1980s in solo practice and in small firms averaged $78,500, with a median of $76,000. (White graduates from the 1970s in solo practice and small firms average somewhat less than their minority classmates; white graduates from the 1980s average somewhat

more.) To be sure, all lawyers are hired from time to time for reasons other than their abilities or their reputations for ability—they are golf buddies of the client or are married to a client's cousin. But, on average, one would expect that most clients with a legal problem look for someone with a reputation for competence and that lawyers who do not develop such a reputation are likely to pay a heavy financial price. From an economic perspective, these solo and small-firm minority practitioners seem to have demonstrated their competence in the marketplace.

In addition, although the Professional Development Survey did not ask about summer clerkships, responses to our Alumni Survey indicate that minority graduates are very likely to have had either a prior job, other than a judicial clerkship, before being hired by their current law firm employer or a summer clerkship with the firm that employs them. Among minority graduates working in firms with more than 50 attorneys, this is true, for example, of 61.9% of 1970s alumni, 83.6% of 1980s alumni, and all responding minority graduates of the classes of 1990 and 1991.[66] These data do not show that law firms are not giving some weight to race when they hire minority attorneys, but they do show that even if they are, they typically have considerable evidence, apart from law school grades, on which to base hiring decisions. The data also suggest that to the extent firm hiring involves any affirmative action, it is unlikely to lead to hiring lawyers who are unable to do the firm's work. Firms have no reason to want to hire incompetent attorneys, and when hiring minorities, they usually have a performance basis for judging professional competence. Moreover, as we discussed earlier,[67] among those who have taken initial jobs in large firms, there is no statistically significant difference between the length of time that our minority graduates and our white graduates stay in their jobs.

If the benefits of continuing affirmative action cannot explain the high incomes, substantial career satisfaction, and considerable public service of Michigan's minority graduates, the question is how to explain them.[68]

---

66. Because attorneys more commonly move from larger to smaller firms, prior job experience is even more common among minority alumni working in firms with 50 or fewer attorneys. The data indicate that minority graduates are more likely than white graduates to have had either prior jobs or second-year summer clerkships with their current employers. Because the alumni survey data are not collected with as intense follow-ups as the PDS, and the same kind of bias checking is not done, we cannot be confident in the specific numbers we present, but we are confident of the accuracy of the general picture, which shows that when firms hire minority attorneys they usually can evaluate them based on how they have performed in a practice setting.

67. See text that follows shortly after note 37.

68. Arguably, all that needs to be explained is the service done by minority graduates since this is the only accomplishment measure on which there is a statistically significant difference between the accomplishments of minority and white graduates. But the fact that Michigan's minority alumni received significantly lower law school grades than its white alumni and entered a world where they might encounter discrimination both in their professional ands extra-professional lives might reasonably lead one to believe that these minority

Service is perhaps the easiest to explain. We believe that the service of minority graduates exceeds that of white graduates for several reasons. First, we expect that the typical minority attorney, either because of ethnic or experience-based identification with the less well off or because of family and community pressure not to forget one's origins, is more likely than the typical white attorney to feel an obligation to help the less fortunate, particularly those of his or her own race.[69] Second, we expect that minority attorneys, because they are minorities in the practice of law, have on average, more requests for service made of them than are made of white attorneys. These two reasons can work in concert. Both might, for example, lead a senior black or Latino attorney in a largely white law firm to take a special interest in the progress of the young black or Latino attorneys the firm hires. White attorneys, on the other hand, are likely to feel a more diffuse sense of responsibility for mentoring young white attorneys, since many people are potentially available to perform the role.[70]

In addition, ethnicity is sometimes regarded as a criterion for service. Community organizations often feel a need for board members of varied ethnic backgrounds in order to maintain ties to and legitimacy in different constituent communities. An organization with this need may know of many possible white representatives but few minority representatives to choose from. Thus, a prominent white attorney may be asked to join one or two community boards, but a prominent black attorney may be asked to join five or six. In this way something akin to affirmative action may play a role in the higher levels of service that minority graduates exhibit. But this process should not lead to the selection of minority members who are less well qualified than whites who might serve. Rather it seeks out (and burdens) minority attorneys because in addition to desired skills, they have attributes, like ties to segments of a minority community, that are important to the success of the project or organization the board serves.

Our data do not allow a strong test of these suppositions, but consistent with them, the only one of seven specific activities we inquired about in which the proportion of participating white alumni exceeded the proportion

---

graduates would not be earning high incomes or be satisfied with their careers, either absolutely or relative to Michigan's white graduates.

69. Year after year on the law school's annual survey of its graduates five years after law school, Michigan's minority graduates report themselves as more liberal politically than its white graduates report themselves. They are also more likely than white graduates to recall that they started law school with a plan to work in government, politics, or public-interest work.

70. This diffusion-of-responsibility effect has been most commonly documented in the context of apparent emergencies, where numerous social psychological studies report that when responsibility is diffused there is a tendency for no one to act, even though most of those who could act would be likely to do so if they thought themselves the only help available. See, e.g., Darley and Latane (1968a, b).

of participating minority alumni was PTAs and other school organizations.[71] School organizations, among the activities we inquired about, are likely to be the ones where the racial pull to serve is least. Minority attorneys often will have their children in schools with numbers of children from their own ethnic background, meaning that many parents will be available to represent specific ethnic concerns or to help the school maintain ties to ethnic communities. Even when a minority attorney's children are in a largely white school, white parents will often be able to serve as effective advocates for the high-quality education the minority attorney values.

An additional possible explanation for the greater service done by Michigan's minority graduates is that Michigan Law School's admissions process gives students several opportunities to provide evidence of leadership experience and community service. If these factors are given more importance for minorities than for whites—perhaps because when LSAT scores and UGPAs are weaker the whole file is more closely scrutinized—and if they reflect enduring traits or commitments, minorities admitted to Michigan would be expected to do more community service than whites, even if the propensity to do community service is not associated with ethnicity in the applicant pool. The service difference could thus reflect not just structural factors that impinge on careers after graduation, but also an admissions process that sometimes, and proportionately more often for minorities than for whites, selects for service-related traits and commitments.

Finally, we note that Bowen and Bok in their study of the graduates of 28 colleges also found that minority-group members, particularly those with advanced degrees, tended to do more civic and social service than comparably educated whites (1998, 158–74). These corroborating results do not explain why minority-group members do more service, but they increase our confidence in what we found and suggest that features of the backgrounds or social positions of highly educated minority-group members, and not just of those who are lawyers, are in some way responsible.

The explanation for the high incomes and substantial career satisfaction of Michigan's minority alumni lies, we suspect, largely in the same factors that explain the high incomes and substantial career satisfaction of Michigan's white students: ambition, considerable intelligence, a capacity for hard work, the quality of a Michigan education, and the prestige and network benefits that go with a Michigan degree. The way in which social conditions affect how law is practiced also seems important. What seems most important is the continuing salience of race and ethnicity in society. We have seen that lawyers and clients of the same race tend to find each other. As blacks, Latinos, and members of other minorities achieve political

71. The activities were electoral politics; nonelectoral politics; PTAs, PTOs, and other school organizations; college or law school alumni organizations; charitable organizations; religious organizations; and bar organizations.

power or positions of business responsibility, lawyers with similar backgrounds may develop a market value sufficient to offset any diminution in their market value that lingering discrimination by the white majority may entail. If law firms search out senior minority attorneys and treat them well, they likely do this not from an abstract desire to increase diversity but for the same reason they search out senior white attorneys—namely, the ability to bring in new business and to satisfy existing clients. Largely minority firms can also prosper when members of minority groups have a role in determining who gets a municipality's or business firm's legal business. This prosperity is not necessarily because minority group members seek to place their legal business with minority attorneys any more than the flow of white legal business to white attorneys necessarily reflects an intention to choose white attorneys because they are white. Rather, legal business often follows friendship lines or other patterns of personal contact. Given the pervasiveness of race and ethnicity as organizing dimensions of American society, minority attorneys are likely to have more informal contacts than white attorneys with minority business and political elites who are in a position to place substantial legal business. They are also more likely to have informal ties to people of their own race with lucrative one-time legal problems, such as serious personal injuries.

The idea that the success of Michigan's minority graduates, particularly their high incomes, is something that needs to be explained while the success of Michigan's white graduates requires no special explanation is probably rooted for most people in the assumption that law school grades are an important predictor of success as manifested in high income.[72] The assumption is reasonable if one believes that high grades are closely associated with the kind of skills, intelligence and diligence needed to succeed in legal practice and/or if high grades are an essential entry credential in securing positions with the highest paying large law firms. The assumption is, however, easy to overweight. Controlling just for time out of law school and gender, the partial correlation of final LSGPA with logged income is .214, which means that grades explain only about 4.6% of the variance in future income among those in our sample. Among minority students, the correlation is .205 (explained variance = 4.2%) and among white students the correlation is .253 (explained variance = 6.4%). Thus one need not resort to ideas like ongoing affirmative action to explain most of the income success of Michigan's minority graduates relative to that of its white ones. Nor does rejecting

72. Alternatively, it could be rooted in the expectation that Michigan's minority alumni would encounter discrimination after law school that would impede their earning ability. Our data suggest that discrimination in legal job markets is today not a great problem for most Michigan graduates, or at least not so great that most minority graduates cannot overcome it. It may have been a more serious problem for minority graduates of the 1970s, who were much less likely than minority graduates of later decades to take first jobs in the private practice of law.

the affirmative-action story mean that one must claim that LSGPA has no bearing on lawyer competence. There are, however, many aspects to lawyer competence, such as negotiation skill, a gift for rain making, and the ability to persuade juries. If LSGPA relates somewhat to some dimensions of lawyer competence,[73] it is probably orthogonal to many others, and may even have a negative relationship to some.

If one accepts the view of affirmative action's critics, affirmative action after law school would presumably give minority lawyers opportunities on account of their race that more competent white lawyers are denied. Yet the only basis for assuming that Michigan's white alumni are more competent as a group than its minority alumni as a group is the former's higher mean LSGPA. Even among Michigan's white graduates, however, law school grades explain little of the differences in later income. Just as one does not need an affirmative-action story to explain why many of Michigan's white graduates now earn more than classmates who ranked higher on grades at graduation, so one does not need an affirmative-action story to explain why Michigan's minority graduates are mostly higher earners, with many now earning more than many of their white classmates.

What needs to be explained is the income success of all Michigan alumni, both white and minority. Surely an important shared ingredient in the job success of Michigan's alumni is graduation from Michigan. While we cannot determine the importance of a Michigan education for future income in a study that looks only at Michigan graduates, it appears that graduates of the nation's most prestigious law schools earn substantially higher starting salaries than graduates of less prestigious ones (*U.S. News & World Report* 1999). Moreover, students of the legal profession have shown that graduation from a so-called elite law school is associated with work in large law firms and with generally high status and lucrative legal specialties (Heinz and Laumann 1982; Nelson 1988). Also, the elite-school credential may help graduates who do not choose large-firm practice to find employment niches that are well suited to their particular skills and other income-earning resources.

Because of the association between law school status and subsequent legal careers, we do not claim that our findings will generalize to the gradu-

73. The income/LSGPA correlation, though not great, is consistent with an association between LSGPA and lawyer competence. It could also, however, be explained in whole or in part by the role LSGPA plays in initial hiring. Those with high LSGPAs are more likely than those with lower LSGPAs to get the most lucrative initial positions. We hope to explore in a later paper the degree to which lucrative initial positions predict higher current incomes. Although one would expect a high correlation, it may be substantially attenuated by the tendency of lawyers to leave large, high-paying firms. This may also attenuate any relationship between LSGPA and income that reflects a joint relationship to lawyer competence. Regardless of relative competence, lawyers who, after a number of years, leave high-paying jobs in large firms for lower-paying jobs in smaller firms or government may for a while, or even throughout their careers, earn less than those who started and remained in such settings because of the sector- or employer-specific capital that the latter have acquired.

ates of all law schools with admissions policies giving weight to diversity.[74] But there is little reason to think that graduates of schools that are Michigan's peers on the prestige hierarchy have careers much different from the careers of graduates in our sample. However one measures success, attendance at an elite law school appears to attenuate the effects of substantial differences in the entry credentials of students entering law school. Michigan's minority admissions policies have produced lawyers who are for the most part high earners, satisfied with their careers, and through unremunerated service, giving back to their communities. This picture is consistent with what Bowen and Bok found when they looked at the careers of black students who graduated from elite undergraduate institutions. The congruence of Bowen and Bok's findings with our own gives us considerable confidence in our findings and supports the validity of their results.

Our study, together with Bowen and Bok's study, suggest that affirmative action programs in elite higher education are working much as their proponents hoped they would.[75] It would be a tragedy if the current legal assault on affirmative action, which is fueled, in part, by the argument that these programs ignore "merit" and graduate people who are less competent than those whom they displace, were to succeed just when empirical research is telling us how successful the beneficiaries of affirmative action have been in their own lives and in giving back to society. Indeed, if future empirical research yields results like ours, a case can be made that without an affirmative action component, law school admissions policies that are heavily oriented toward LSAT scores and UGPAs discriminate against minorities.

Bowen and Bok use Mark Twain's portrait of the Mississippi River as a metaphor to describe the route minority students traverse at selective undergraduate schools and beyond. We now see a part of the "beyond" more clearly. There are, to be sure, shoals that exist when the river runs through

74. Indeed, we are confident that neither the white nor minority graduates of schools substantially less prestigious than Michigan will do as well financially as Michigan graduates, and we expect from the literature on the legal profession that they will be less satisfied with their careers. However, it may be that, just as at Michigan, minority graduates from these schools will be similar to their school's white graduates in post–law school career success. One cannot conclude from our results that this is either likely or unlikely.

75. The only other similar study we could find has results remarkably consistent with ours except it finds no special propensity of minority professionals to serve people of their own ethnicity. Davidson and Lewis (1997) looked at graduates of the University of California at Davis Medical School over a 20-year period. They find that students admitted under an affirmative-action program do worse than a matched control group of regularly admitted students on grades in key medical school courses, but the two groups do not differ significantly in the rates at which they completed their initially chosen residency; academic difficulty in residence programs; special honors as residents; most popular residency disciplines; later board certification; general practice characteristics; involvement in teaching; or satisfaction with their choice of medicine as a career, their choice of medical specialty, or their current practice. Minority respondents did, however, express significantly more satisfaction with life overall.

law school, but most minority admittees get past them to sail proudly, and equally with their white counterparts, on the sea.

REFERENCES

Bowen, William, and Derek Box. 1998. *The Shape of the River: Long-Term Consequences of Considering Race in College and University Admissions*. Princeton, N.J.: Princeton University Press.

Carlson, A. B., and C. E. Werts. 1976. Relationships among Law School Predictors, Law School Performance, and Bar Examination Results. In *Reports of LSAC-sponsored Research: Volume 1, 1949–1969*, Report no. LSAC 76–1, pp. 264–69. Princeton, N.J.: Law School Admissions Council.

Darley, J. M., and B. Latane. 1968a. Bystander Intervention in Emergencies: Diffusion of Responsibility. *Journal of Personality and Social Psychology* 8:377–83.

———. 1968b. *The Unresponsive Bystander: Why Doesn't He Help?* New York: Appleton-Century Crofts.

Davidson, Robert, and Ernest Lewis. 1997. Affirmative Action and Other Special Consideration Admissions at the University of California, Davis, School of Medicine. *Journal of the American Medical Association* 278:1153–1158.

Heinz, J. P., and E. O. Laumann. 1982. *Chicago Lawyers: The Social Structure of the Bar*. New York: Russell Sage Foundation; Chicago: American Bar Foundation.

Keith, Stephen, et al. 1986. Acts of Affirmative Action in Medical School: A Study of the Class of 1976. *New England Journal of Medicine* 313:1519–1525.

Komaromy, Miriam, et al. 1996. The Role of Black and Hispanic Physicians in Providing Health Care for Underserved Populations. *New England Journal of Medicine* 334:1305–1310.

Lin, P., and L. G. Humphreys. 1977. Predictions of Academic Performance in Graduate and Professional School. *Applied Psychological Measurement* 1(2):249–57.

Moy, Ernest, and Barbara A. Bartman. 1995. Physician Race and Care of Minority and Medically Indigent Patients. *Journal of the American Medical Association* 273:1515–1520.

Nelson, R. L. 1988. *Partners with Power*. Berkeley and Los Angeles: University of California Press.

Orfield, Gary, and Dean Whitla. 1999. Diversity and Legal Education: Student Experiences in Leading Law Schools. Civil Rights Project, Harvard University.

Raudenbush, Stephen W. 1999. Supplemental Expert Witness Report, *Grutter v. Bollinger et al.* No. 97–75928 (E.D. Mich.), 3 March.

Rhode, Deborah. 1999. Cultures of Commitment: Pro Bono for Lawyers and Law Students. *Fordham L. Rev.* 67:2415.

Ross, A. S. 1971. Effect of Increased Responsibility on Bystander Intervention: The Presence of Children. *Journal of Personality and Social Psychology* 19:306–310.

Smigel, E. O. 1969. *The Wall Street Lawyer: Professional Organization Man?* Revised edition. Bloomington: Indiana University Press.

U.S. Bureau of the Census. 1997. *Annual Demographic File of Current Population Survey*. Public Use Microdata Sample; Bureau of the Census. Washington, D.C.

U.S. News & World Report. America's Best Graduate Schools, 29 March 1999, 74–115.

Wightman, L. 1999. Beyond FYA: Analysis of the Utility of LSAT Scores and UGPA for Predicting Academic Success in Law School. Report prepared for the Law School Admission Council, Princeton, N.J.

Wilkins, David, and G. Mitu Gulati. 1996. Why Are There So Few Black Lawyers in Corporate Law Firms? An Institutional Analysis. *California Law Review* 84:493–625.

Winterbottom, J. A., B. Pitcher, and P. Van R. Miller. 1976. Report of the Readministration of the LSAT to Third-Year Students. In *Reports of LSAC-sponsored Research: Volume 1, 1949–1969*, pp. 255–66. Report No. LSAC 63–3. Princeton, N.J.: Law School Admission Council.

***

COMMENTARY
Law School Affirmative Action: An Empirical Study

The Shape of the Michigan River as Viewed from the Land of *Sweatt v. Painter* and *Hopwood*

Thomas D. Russell

> If general ideas and theories about what's going on in society are going to be anything other than moonshine, they have to be rooted in hard-bought knowledge of what in fact is happening in people's lives.
>
> —J. Willard Hurst (1910–96)

There are 5 African Americans among the 433 students in The University of Texas School of Law's class of 2000. There are 7 in the class of 2001, and 7 in the class of 2002. With 1,387 students, the UT School of Law is big. The 19 African American students comprise 1.4% of the total.

This year and for the two previous years, the percentage of African Americans in the entering class at The University of Texas School of Law has been lower than in the fall of 1950, the first year UT admitted African Americans to the law school. With their June 1950 decision in *Sweatt v. Painter*, the justices of the United States Supreme Court ordered the integration of the university's law school and graduate school. In the fall of 1950, Heman Sweatt—the plaintiff in the NAACP-supported case—and five other courageous African Americans enrolled at the law school. With a total entering class of around 280 students, these 6 students comprised 2.1%

Thomas D. Russell is professor of law and history, The University of Texas. thomas.russell@mail.utexas.edu http://legalhistory.net. I thank Elvia Arriola, Lani Guinier, Sandy Levinson, Rachel Moran, and David Wilkins for their helpful comments. The ideas I express here are my own and do not represent the views of others at The University of Texas.

0897-6546/00/2502-507$01.00

of the entering class. Today, the UT School of Law is behind the fall of 1950. Seen differently, UT has come full circle.

A number of recent steps or factors have led to the near nonrepresentation of African Americans at UT's law school. In 1992, four white plaintiffs filed a lawsuit—*Hopwood v. Texas*—in which they challenged the UT School of Law's use of race in admissions. Attorneys from the Center for Individual Rights assisted the reverse-discrimination plaintiffs (Center for Individual Rights 2000a). In 1996, a three-judge panel of the United States Court of Appeals for the Fifth Circuit ruled that the law school could no longer use race as a factor in admissions (*Hopwood* 1996). Texas's attorney general at the time, Dan Morales, subsequently issued an opinion that broadened the application of *Hopwood* to include admissions and financial aid at all state universities and colleges (Morales 1997). Under the influence of the *Hopwood* opinions of the Fifth Circuit and General Morales, the UT School of Law admitted the classes of 2000, 2001, and 2002.

Texas legislators and some University of Texas administrators have responded to the elimination of race as a tool in admissions. Texas's lawmakers passed legislation that guaranteed admission to The University of Texas for the top 10% of every Texas high school's graduating class, and UT's undergraduate admissions officers began to use a more-complicated admissions scheme that takes into account a variety of socioeconomic and cultural characteristics of applicants. The 10% plan and new admissions procedures have returned to pre-*Hopwood* levels the percentage of students of color who entered the university as undergraduates in the fall of 1999 (UT Office of Public Affairs 1999). At the law school, however, the 10% plan has no application, and although the law school's admissions committee has recrafted the criteria for admission, African American and Latino law students have not returned to pre-*Hopwood* levels.

After 1996, *Hopwood* bounced back to the trial court on remand and presently is on appeal again to a full panel of the Fifth Circuit. Some of the law school faculty helped the state's attorney general prepare the brief, which argues in favor of a continuing though limited use of race in admissions (Cornyn et al. 1999). My personal view is that most of the law school's faculty are fully committed to the theoretical proposition that the university and law school's use of race in admissions is constitutionally permissible. However, my personal view is also that the UT law faculty are less committed to the practice of admitting African American and Latino law students than they are to the constitutional theory that would support such a practice. In Texas, persons of color are disappearing into this gap between theory and practice.

I. HARD-BOUGHT KNOWLEDGE AND MOONSHINE

The University of Michigan now faces the same legal challenge that The University of Texas faced beginning in 1992 when Cheryl Hopwood and three other white plaintiffs filed their reverse-discrimination suit (Center for Individual Rights 2000b; University of Michigan 2000). The state of Michigan is within the jurisdiction of the Sixth Circuit Court of Appeals, so the Fifth Circuit's *Hopwood* decision has no application in Michigan. Lawyers for the Center for Individual Rights, who represent the Michigan plaintiffs and who also assisted the *Hopwood* plaintiffs, would like to bring to the Sixth Circuit the *Hopwood* principle that universities may not consider race in admissions. Eventually, the Center hopes to eliminate race-conscious affirmative action within the entire federal system (Center for Individual Rights 2000).

Now come the University of Michigan's Richard Lempert, David Chambers, and Terry Adams with a study that the Center for Individual Rights's lawsuit against Michigan's law school has inspired. These three University of Michigan researchers have patterned and titled their study "Michigan's Minority Graduates in Practice: The River Runs Through Law School," after William Bowen and Derek Bok's important 1998 book *The Shape of the River*. In their book's conclusion, Bowen and Bok observed that "So much of the current debate [concerning the use of race in university admission] relies on anecdotes, assumptions about 'facts,' and conjectures that it is easy for those who have worked hard to increase minority enrollments to become defensive or disillusioned" (Bowen and Bok 1998, 275). Bowen and Bok sought to cheer up and empower those who favor continued or increased enrollment of undergraduates of color. The authors, former presidents of Princeton and Harvard, collected and analyzed empirical data about the in-college and postgraduation performance of students admitted under race-conscious schemes, and they found that these students succeeded during and after college. Lempert and his coauthors have a more focused, parallel goal with their study: examination of how well Michigan Law School's students, particularly students of color, fared as law students and also how successful they have been with their subsequent careers. That is the neutral, social-scientific description of their research aim, but there is no reason to be coy about the study really being a defense of the University of Michigan Law School's use of race as a criterion in admissions. That policy is presently under attack in litigation, and in order to defend the policy, Lempert, Chambers, and Adams have marshaled what the late, great legal historian Willard Hurst would have called "hard-bought knowledge of what in fact is happening in people's lives" (Hartog 1994, 390). In the lingo of sociolegal scholarship, the pull of the policy audience is strong in this study (Sarat and Silbey 1988).

As with Bowen and Bok's *Shape of the River*, the data that Lempert, Chambers, and Adams have adduced are useful to check the truth of anecdotes, assumptions, and conjectures about race-conscious affirmative action. Or, to quote Willard Hurst's down-home language, these data help to expose as "moonshine" some arguments concerning the use of race in admissions.

From my vantage point at The University of Texas School of Law, two of the conclusions of Lempert, Chambers, and Adams merit special attention. The first is the central conclusion of the study, namely that the numerical criteria that figure most prominently in admissions—Law School Admissions Test (LSAT) scores and undergraduate grade point average (UGPA)—have almost no predictive value with regard to the success after graduation of Michigan Law School's alumni (Lempert, Chambers, and Adams 2000, 465–466). This finding can dispel some moonshine.

The second point I will emphasize in this comment is that the Michigan data show that law students value diversity as an aspect of their educational experience (Lempert, Chambers, and Adams 2000, 413–414). As I am a UT legal historian, this point is particularly important to me. Fifty years ago the justices of the United States Supreme Court ruled in *Sweatt v. Painter* that the Texas State University for Negroes (TSUN) School of Law, a "separate but equal" law school that the state and university had cobbled together in order to fend off Sweatt and the NAACP's integration challenge, was not equal to the UT School of Law because, in part, the African American students of TSUN could only receive an inferior legal education in a school that lacked racial diversity (*Sweatt v. Painter* Archive 2000). Another reason that the issue of diversity is particularly interesting to a UT professor is because before 50 years would pass from the Supreme Court's *Sweatt* decision, the Fifth Circuit would debase diversity as a goal of admissions with its 1996 *Hopwood* decision.

The third and final point I will make in this comment is that Lempert, Chambers, and Adams do not emphasize sufficiently that the University of Michigan, like The University of Texas, is a state university. As such, each state offers preference in admissions to its citizens as well as tuition subsidy. In Texas, my observation is that the debate over *Hopwood* has reinforced the assumption that the elimination of race as a criterion in admissions somehow makes admissions a meritocratic process. But, at state universities, this just ain't so, as applicants from within the state gain admission with lower numerical credentials than out-of-state applicants.[1] Rumor has it that the faculty of Michigan Law School think of their law school as a private

1. In her comments concerning the Lempert, Chambers, and Adams study, Professor Lani Guinier refers to the "ironic impulses of the British sociologist Michael Young, who coined in 1958 the term 'meritocracy' to satirize the rise of a new elite that valorized its own mental aptitude." Professor Guinier explains: "Young argued that a meritocracy is a set of rules put in place by those with power that leaves existing distributions of privilege intact while

school, and the tone of the Lempert, Chambers, and Adams study does nothing to disprove this rumor. As part of the defense of race-conscious affirmative action at state universities like Michigan and UT, the faculty and administrators, as well as their lawyers, ought to think hard about the aims of the universities in light of their character as *state institutions*.

II. LSAT AND UGPA ARE UNRELATED TO CAREER SUCCESS

In law-and-society parlance, the Lempert, Chambers, and Adams work fits the classic paradigm of a "gap" study. Gap studies, an important even though not currently fashionable form of sociolegal scholarship, examine whether a particular rule or law in practice has brought about the results theoretically anticipated or formally expressed. For instance, if legislators passed a law guaranteeing a chicken in every pot, a gap study would check pots looking for chickens; the term gap stems from the frequency with which researchers have found pots outnumbering chickens. In this case, Lempert and his coauthors looked at two possible gaps. First, they examined the aims the Michigan Law School faculty had formally expressed for their admissions policy, and second, they checked whether the criteria for admission helped to predict the post–law school success of alumni.

"The test of a school's admissions policy," Lempert and his coauthors observe, "is whether it meets the school's goals with respect to overall class composition and the kinds of persons the school seeks to enroll" (Lempert, Chambers, and Adams 2000, 494). In 1992, the Michigan law faculty adopted a policy in which they expressed a goal of admitting students who were likely to become "esteemed practitioners, leaders of the American bar, significant contributors to legal scholarship and/or selfless contributors to the public interest" (Lempert, Chambers, and Adams 2000, 396).[2] The Michigan researchers find no gap with regard to this policy aim. In particular, Lempert, Chambers, and Adams find that Michigan's alumni of color—1,100 of whom the law school has graduated since 1970—have gone on to successful careers after leaving the law school. Lempert and his coauthors find that the success of alumni of color is not distinguishable from that of white alumni in measures of career satisfaction, contributions to the community, or income.[3] The hard-fought data of Lempert and his co-researchers

convincing both the winners and the losers that they deserve their lot in life" (Guinier 2000, 573).

2. Lempert, Chambers, and Adams offer no evidence as to whether this formal expression of policy is actually meaningful to the Michigan faculty. For example, I cannot tell whether an associate dean wrote the policy and the faculty approved it without discussion or whether the faculty debated and thoughtfully considered the policy.

3. See, however, the companion comment of Professor David Wilkins. Professor Wilkins, an expert on the legal profession with a particular interest in the career paths of African

expose as moonshine the claim that by admitting students of color using race-conscious affirmative action policies, Michigan is merely setting those students up for failure after graduation. Whether graduates of other law schools—particularly less elite law schools—achieve the same career success is a question that must await further study.

The gap that the researchers did discover is more intriguing. Lempert, Chambers, and Adams found that the numerical criteria for admission are largely irrelevant to career success. Right-thinking people should expect that the criteria that professional schools use to select students would have some predictive value concerning how well the students perform once they enter their chosen profession. When we visit our doctors, we expect that our doctors' medical schools admitted them as students based on criteria tending to indicate that they would become good doctors. However, Lempert, Chambers, and Adams find that Michigan—like other law schools including Texas—has emphasized admissions criteria that predict (sort of) how well the students will do while in law school, but the admissions criteria do nearly no work in predicting how successful Michigan's students will be as members of the legal profession (Lempert, Chambers, and Adams 2000, 468). Lempert and his fellow researchers write that "LSAT scores and UGPA scores, two factors that figure prominently in admissions decisions, correlate with law school grades, but they seem to have no relationship to success after law school, whether success is measured by earned income, career satisfaction or service contributions" (Lempert, Chambers, and Adams 2000, 401). That is to say, the criteria for admission help predict success while a student, but there is a gap between the imagined predictive ability of the admissions criteria and the performance of graduates as professionals. This is true for all alumni, whatever their hue.

The Michigan researchers also found surprisingly little correlation between how well students did in law school and their later success in the profession, as measured by income (Lempert, Chambers, and Adams 2000, 477). In future analysis of their data, the researchers will provide more details with regard to this finding, but they now report that the grade point average that students earned while in law school (LSGPA) explained less than 5% of the future variance in income (Lempert, Chambers, and Adams 2000, 479). They note that "If LSGPA relates somewhat to some dimensions of lawyer competence, it is probably orthogonal to many others, and may even have a negative relationship to some" (Lempert, Chambers, and Adams 2000, 502). The researchers also suggest that the correlation between LSGPA and income "may be explained in whole or in part by the role LSGPA plays in initial hiring" (Lempert, Chambers, and Adams 2000,

---

American and other lawyers of color, finds that even when minority lawyers achieve the same levels of success as white lawyers, they often travel different and more difficult routes (Wilkins 2000).

502 n.73). So, the Michigan researchers report that LSAT and UGPA do not help to predict the career success of Michigan Law School graduates, but LSAT and UGPA do some work in predicting how well law students do in law school, as measured by their grades. However, LSGPA predicts only a bit of the variance in the income of alumni. I will use these findings to cheer up law students who do not get the highest grades in their classes.

I can imagine that some law professors would say that we have done a sufficient job if we admit students who will do well in law school, even if we know that the criteria we use for admission do not predict how well they will do as lawyers.[4] I would like to think, though, that anyone who is not a law professor would expect that we admit students whom we expect to become good lawyers. Imagine, for example, if law schools rejected applicants with letters that said "We reject your application for admission based on our prediction that others are likely to earn higher grades in law school than you, even though we really have no clue as to whether you would be a better lawyer than those whom we are admitting. Good luck in some other profession." Honest law schools will start sending that letter in the next admissions cycle.

The Michigan findings identify as moonshine the facile equation of LSAT and UGPA with merit. In arguments about law school admissions, these numerical indexes often serve as representations of merit. Lempert and his fellow researchers note that theirs is "the first paper which indicates that LSAT scores and UGPAs, the admissions credentials that the opponents of law school affirmative action would privilege for their supposed bearing on 'merit' and 'fitness to practice law,' bear for one school's graduates little if any relationship to certain plausible measures of later practice success or societal contributions" (Lempert, Chambers, and Adams 2000, 496). One small criticism here is that Lempert and his coauthors should recognize that both proponents and opponents of affirmative action privilege LSAT and UGPA as representations of merit. After all, even Michigan relies on these numbers in admissions, and opponents of affirmative action did not craft Michigan's admissions policy.

4. Professor Guinier makes a similar point with regard to Lempert, Chambers, and Adams's finding of a lack of relationship between LSAT/UGPA and public-spiritedness of alumni: "Some may doubt the significance of this finding that traditional test-centered entry-level predictors are failing us. Skeptics of the study," Guinier predicts, "might remain resolutely committed to the conventional predictors on the grounds that although such indicators fail to correlate with public service, that is not their 'job.'" The skeptics will argue, Professor Guinier suggests, that "Predicting who will do public service or be public spirited is arguably not the role of entry-level admission tests" (Guinier 2000, 570). As I note below, the citizens and legislators of the states, when they subsidize education, may indeed expect that their investment will yield some return in the form of public-regarding behavior by alumni of their state's law school.

III. THE VALUE OF DIVERSITY

The second important empirical finding on which I would like to comment concerns the value of diversity. During the 1998–99 year at UT, I taught a small, year-long torts class with just 28 students. One day, we discussed the issue of whether the reasonable person standard of torts was a gendered norm (Bender 1988, 20–25). For this discussion of gender, I split the class into halves, with 14 men on one side of the room and 14 women on the other. After class, I joked with my African American student that in the next class, I would put all the African Americans—him, that is—on one side of the room. In the fall of 1999, I taught a small torts class of 32 students but could not reuse this joke, as our registrar had not allocated 1 of the 7 African Americans in the first-year class to me. If I were teaching one of our large first-year classes of 120 students, I might have had 2 African American students. Imagine teaching a first-year law school class in such a nondiverse environment. How possible would it be to draw meaningfully on the life experiences of your students in order to examine, say, constitutional law issues that implicate race?

Lempert and his fellow data hounds find that law students value diversity. The researchers surveyed alumni concerning the value to them of ideological, gender, and ethnic diversity as part of the law school classroom experience. They found that women and students of color from the 1970s, 1980s, and 1990s placed considerable value on diversity (Lempert, Chambers, and Adams 2000, table 5A). White men who graduated in the 1970s and 1980s found much less value in diversity than did white women and students of color. Before the 1990s, less than a quarter of white men found value in ethnic diversity, but in the 1990s, nearly half of Michigan's male graduates say that they placed considerable value on the ethnic diversity of their classrooms (Lempert, Chambers, and Adams 2000, table 5B). One wonders whether the federal judges who will decide challenges to race-conscious affirmative action plans come from older cohorts of white male law school graduates who value diversity less than the law school graduates of today.

Lempert, Chambers, and Adams disclaim political correctness as the explanation for sudden ethnic sensitivity of Michigan's men of the 1990s and speculate that the shift toward more white men valuing diversity may have something to do with white men becoming a minority in the law school of the 1990s (Lempert, Chambers, and Adams 2000, 417). Even so, I think that readers will suspect that pressure to give the "right" answer explains at least a component of the 1990s shift. In any case, the data do support the presumption of many educators that diversity enhances the educational experience of students. Indeed, Michigan's law professors may be interested to learn that Lempert, Chambers, and Adams have found that in

the 1990s, Michigan's students value diversity more than they value the faculty's scholarship (Lempert, Chambers, and Adams 2000, table 4; table 5A). Given the value that educators claim for diversity and the value that students report placing on diversity, the editors of *U.S. News and World Report* might consider adding diversity as a factor in the system by which they rank law schools. Doing so would help to offset the penalty in *U.S. News* ranking that law schools with active, race-conscious affirmative action plans suffer by admitting students with relatively lower LSAT scores (*U.S. News* 1999).

IV. THE MISSION OF STATE LAW SCHOOLS

More than 100 of the 375 Texans admitted as part of the UT School of Law's class of 2000 would not have gained admission to the law school but for a quota that the legislature has established for Texans. In Texas, state law requires that 80% of the students the law school admits be Texans (Appropriations Act 1999; see also Levinson forthcoming). At the undergraduate level, the Texan quota rises to 90%.

The language the legislators use to craft the Texas admissions quota is remarkable for its frank acknowledgment of the potentially weak academic qualifications of Texans so admitted. In the Appropriations Act, the legislators threaten to withhold all money for university salaries if in any semester UT's law school were to admit more than 10% nonresidents and deny "admission to one or more Texas residents who apply for admission and who reasonably demonstrate that they are probably capable of doing the quality of work that is necessary to obtain the usual degree awarded by [the law school]." This language corresponds neatly with Professor Guinier's idea for how state universities might reduce their reliance on standardized tests. "[P]ublic universities," she suggests, "might consider using the tests as a floor, below which no one in recent memory has succeeded in graduating from the institution. Above that test-determined floor," Professor Guinier proposes that "applicants could be chosen by several alternatives, including a lottery" (Guinier 2000, 579). In Texas, the idea of such a floor already has legislative backing, though not yet for the use that Professor Guinier intends.

In the fall of 1997—the first post-*Hopwood* semester—I performed a simple experiment to check the impact of the 80% quota. I asked the director of admissions for the numerical data but not the names of applicants. After plugging admissions data for all applicants for the law school's class of 2000 into a spreadsheet, I sorted applicants by their Texas Indexes—a combination of LSAT and UGPA—*without* regard to their residency. That is, I omitted the usual preliminary step of the UT admissions process, which is to separate the applicants into resident and nonresident pools. Taking into

account that admitted Texans have about a 60% likelihood of enrolling while admitted non-Texans have about a 20% chance of enrolling, I used the spreadsheet to "admit" a class of 475 students. I then checked those I had admitted in my experiment against those the law school had actually admitted. I discovered that around 109 of the 375 Texans who were part of the class of 2000 would not have been admitted but for the 80% set-aside that state law requires. Given the differential rate of enrollment of admitted nonresidents, the state's residence-conscious affirmative action plan resulted in the rejection of more than 300 out-of-state applicants with higher Texas Indexes. Using the language of opponents of race-conscious affirmative action—for a moment—I could say that more than one-quarter of Texans at the UT School of Law gained admission under an affirmative action plan that treated them as members of a group rather than as individuals and that in so doing, the law school rejected three times as many better-qualified applicants.

My small admissions experiment led me to several conclusions and thoughts. I saw that smug claims that the elimination of race as a criterion for admission had restored a system of merit were moonshine. I also noted that the great beneficiaries of this affirmative-action plan for Texans were white, and yet they were largely unconscious of the great advantage in admissions they received. I knew that during periods when race was included among the criteria for admission, students of color were always conscious of the benefit they might have thereby gained and also always conscious that other students and faculty might think of them in such terms. For example, when students of color answer questions, they sometimes give wrong or mixed-up answers—like every other student. When they misspeak in class, students of color carry the additional burden of knowing that other students and/or the professor may be viewing them as less qualified beneficiaries of affirmative action. The color of their skin puts them under suspicion. I knew, though, that white Texans admitted only because they were residents never carried the same burden in class as students of color. White Texans were free to err without calling into question their qualifications for admission as students.

I conceived a dastardly plan to bring to light—in the harsh glare of the classroom—the advantages that "less qualified" Texans were enjoying in admissions. That is, my plan would emulate the socially constructed stigma of skin color in the classroom and subject white Texans to the suspicion and stigma of having been admitted on some basis other than merit. My plan was this: Any time a student with a clear Texas accent gave a wrong answer during classroom discussion, I would ask curtly, "Are you a Texan?" I would then abruptly move on to question another student, preferably a non-Texan.

Just kidding. I never implemented such a horrible scheme. I try my best to be humane in class and do not engage in ritual humiliation. But the thought experiment helped me see more clearly the advantages that many white students enjoyed, advantages that never come up for discussion when *Hopwood* is the topic of conversation. One advantage is preferential admission for Texans. Another advantage, though, was the ability to enjoy the first advantage without detection. Preferences for alumni—more important at other schools than at my own—operate in much the same way. Imagine if professors said to every student who said a dumb thing in class—"Is your father an alumnus?"

My spreadsheet admissions experiment led me to think more broadly about the reasons that Texas legislators set aside four-fifths of the law school seats for Texans. First, one should begin by admitting that the set-aside is *necessary*. Texans cannot win the spots on their own. For one thing, Texans have to compete with all the rest of the country, and there are a lot of qualified applicants outside the Lone Star state. However, Texas is also a state that underfunds primary, secondary, and higher education. Therefore, Texans are unprepared to compete on a level playing field with all other law school applicants. They need the boost.

I also thought about the preferential admission of Texans in instrumental terms. Following the broad, general lessons of Willard Hurst, I conceived of the law school as an agent of the state and an instrument of state policy. Just as a state might choose to subsidize a particular industry—say, the lumber industry in Wisconsin—Texas legislators had chosen to subsidize legal education for Texans (Hurst 1964; see also *Law and History Review* 2000). Not only do Texans enjoy a subsidy with regard to admissions standards, they also enjoy a tuition subsidy, as UT School of Law's tuition is at least $10,000 below the market rate. In effect, the admissions committee of the law school delivers a three-year, $10,000 per year educational subsidy to each admitted Texan. This amounts to roughly $11 million dollars per year. Again, thinking of law as an instrument that legislators and others use to achieve particular ends, I wondered whether the way the admissions committee distributed the $11 million per year would be satisfying politically to legislators. What if, for example, a small immunization program with funding of $11 million delivered vaccinations almost exclusively to children in a few white neighborhoods of Texas? Such a result would be politically unacceptable.

The state institutional character of UT and also the University of Michigan—where resident applicants also benefit from an admissions advantage—opens up the possibility of a different sort of gap study. The citizens of both states—or their legislators—might ask whether the admissions practices of the state universities are advancing the goals of tuition subsidy and *residence*-conscious admissions. What value does the state receive by

making admission easier and tuition lower for its residents? Lempert, Chambers, and Adams focus on the goals of the Michigan faculty; they might also broaden their inquiry by conceiving of the faculty goals as expressions of *state* policy. We can ask whether the chickens are getting into pots, but we should also ask whether the right pots are getting chickens. Such a study would require that state law schools, state universities, and legislators first define just what the goals of state universities ought to be. This definitional project is underway in a number of states already. With the goals of state-sponsored professional training in mind, educators and legislators can work together to determine whether present patterns of admissions will best meet these goals and serve the needs of states in the twenty-first century. Perhaps educators and politicians will agree that the best practice is to subsidize the educations of those who have the highest test scores. I suspect, though, that a thoughtful inquiry will yield a more diverse result.

V. CONCLUSION

In the aftermath of *Hopwood*, the number of students of color at The University of Texas has declined to a trickle, putting us behind the fall of 1950. The University of Michigan Law School is now engaged in litigation that will determine whether its affirmative action policy can endure or whether instead the University of Michigan's river of alumni of color will also turn to a trickle. Richard Lempert, David Chambers, and Terry Adams's study is valuable in the narrow context of Michigan's litigation but also important within the broader national debate taking place over race-conscious affirmative action. The hard-fought data that these able Michigan researchers have collected and analyzed help to dissipate some moonshine. Most important from my point of view, Lempert, Chambers, and Adams have shown that LSAT and UGPA—the numerical criteria on which Michigan and so many other law schools rely in admissions—have almost no predictive value concerning the success graduates will have with their careers after they leave Michigan. Put simply, LSAT and UGPA are not proxies for merit. The Michigan researchers also show that Michigan law students value diversity and regard a diverse legal education as a better education. These two findings, coupled as I think they should be with serious thought about the instrumental role of state law schools as agents of state policy, can assist judges, educators, and other policymakers in crafting and maintaining admissions policies that meet the goals of states seeking to train professionals to meet the diverse challenges of the twenty-first century.

REFERENCES

Bender, Leslie. 1988. A Lawyer's Primer on Feminist Theory and Tort. *Journal of Legal Education* 38:3–37.

Bowen, William G., and Derek Bok. 1998. *The Shape of the River: Long-term Consequences of Considering Race in College and University Admissions*. Princeton, N.J.: Princeton University Press.

Center for Individual Rights. 2000a. http://www.cir-usa.org

———. 2000b. Michigan Lawsuits. http://www.cir-usa.org/mich1.htm

———. 2000c. Civil Rights. http://www.cir-usa.org/cr-aa.htm

Cornyn, John et al. 1999. Brief of the State of Texas, et al., Petition for En Banc Rehearing, *Hopwood v. Texas* (5th Cir.)(No. 98-5056). http://www.law.utexas.edu/hopwood/texas41999.htm.

Guinier, Lani. 2000. Confirmative Action. *Law & Social Inquiry* 25:565–583.

Hartog, Hendrik. 1994. Snakes in Ireland: A Conversation with Willard Hurst. *Law and History Review* 10:370, 390.

Hurst, J. Willard. 1964. *Law and Economic Growth: The Legal History of the Lumber Industry in Wisconsin, 1836–1915*. Cambridge: Harvard University Press.

Law and History Review. 2000. Special Issue: Engaging Willard Hurst: A Symposium. *Law and History Review* 18:1–221.

Lempert, Richard O., David A. Chambers, and Terry K. Adams. 2000. Michigan's Minority Graduates in Practice: The River Runs Through the Law School. *Law and Social Inquiry* 25:395–505.

Levinson, Sandy. Forthcoming. Diversity. *University of Pennsylvania Journal of Constitutional Law*.

Morales, Dan. 1997. Texas Attorney General Letter Opinion 97-001. http://www.law.utexas.edu/hopwood/morales.htm.

Sarat, Austin, and Susan Silbey. 1988. The Pull of the Policy Audience. *Law and Policy*. 10:97–166.

Wilkins, David. 2000. Rollin' On the River: Race, Elite Schools, and the Equality Paradox. *Law and Social Inquiry* 25:527–556.

Sweatt v. Painter Archive. 2000. http://ccwf.cc.utexas.edu/~russell/seminar/sweatt/sweattindex.html.

University of Michigan. 2000. *Information on Admissions Lawsuits*. http://www.umich.edu/~urel/admissions/.

University of Texas (UT) Office of Public Affairs. 1999. Fall 1999 Enrollment Totals 49,034 at UT Austin. http://www.utexas.edu/admin/opa/news/99newsreleases/nr_199909/nr_enrollment990913.html.

U.S. News and World Report. 1999. America's Best Graduate Schools, Law. http://www.usnews.com/usnews/edu/beyond/bclaw.htm.

CASES

Appropriations Act, 76th Leg. R.S., ch. 1589, art. III-231, § 13, 1999 Tex. Sess. Law Serv. (Vernon).

Sweatt v. Painter, 339 U.S. 639 (1950). http://ccwf.cc.utexas.edu/~russell/seminar/sweatt/docs/sweatt_ussc.html.

Hopwood v. Texas, 78 F.3d 932 (5th Cir. 1996). http://www.law.utexas.edu/hopwood/94-50569-cv0.htm.

Hopwood v. Texas, 861 F.Supp. 551 (W.D.Tex. 1994). http://www.law.utexas.edu/hopwood/hoptxt.htm.

***

Minority Graduates from Michigan Law School: Differently Successful

Robert L. Nelson and Monique R. Payne

Lempert, Chambers, and Adams (2000; hereafter LCA) make an important contribution to both the debate on affirmative action in legal education and the sociology of the legal profession. We find their empirical results credible and agree with their interpretations of the data related to arguments about the role of affirmative action in Michigan's admissions policies. Yet, in crafting an analysis to demonstrate the similarities in the career outcomes of minority and white graduates, they have minimized evidence that points to substantial continuing patterns of inequality by race and gender within the legal profession. Moreover, LCA only begin to illuminate the mechanisms that produce the career patterns they document. Of particular importance is the question of how race, class, and gender interact to shape lawyers' careers—a topic LCA largely reserve for future analyses.

We first address some salient methodological concerns that go to LCA's argument about affirmative action and professional success. We then discuss a different interpretation of LCA's results and suggest the need for further research to focus on issues of gender, race, and class in the career outcomes of lawyers.

Robert L. Nelson is professor of sociology, Northwestern University, and senior research fellow, American Bar Foundation. **Monique R. Payne** is a minority graduate fellow, National Science Foundation, and graduate student, Northwestern University.

0897-6546/00/2502-521$01.00

MINORITY STATUS AND AFFIRMATIVE ACTION

LCA compare the performance of minority and white students, whether or not these minority students would have been admitted solely based on "hard" indicators of ability—LSAT scores and UGPA. They cite expert testimony from litigation pending against Michigan that only about 3% of entering classes would have been minorities if chosen only based on test scores and grades, compared to 18% minority admissions under current policies. Minority status is then an imperfect indicator of whether an applicant was admitted preferentially on the basis of race. In an article primarily concerned with assessing the effects of affirmative action policies, blurring the distinction between *minority* and *preferential admissions* is problematic because it may obscure some fundamental differences within the group labeled *minority*. For example, perhaps those minorities who were admitted without preferential treatment were more likely to succeed than others granted admission. Also, while the scatter plots of admission index scores (LCA, figures 1 to 9) suggest that minorities cluster toward the lower end of the index compared to whites, we do not gain a straightforward understanding of the relative credentials of the two groups compared to each other or the larger pool of law school applicants. Are Michigan's minorities clustered toward the lower end of a restricted range of very high index scores, meaning that they met very high threshold levels before being admitted? It would be helpful to understand the Michigan results, as well as how they might generalize to less elite law schools, if these data were disclosed.

RESPONSE RATES

LCA achieve response rates of 51.4% from minority graduates and 61.9% from white graduates. While the level of response and difference in response rates across groups raise some concerns about the representativeness of their sample, and in particular whether response bias might minimize the estimated differences between minorities and whites, LCA effectively answer these concerns. Most persuasive is their ability to demonstrate from law school records that there appears to be virtually no evidence of a difference in the practice locations of respondents and nonrespondents for either minorities or whites.

THE CONTINUING SIGNIFICANCE OF RACE

In LCA's attempts to highlight the similarities between minority and white alumni, they minimize the continuing existence of racial stratification within the legal profession. In the context of the debate on affirmative

action, this is understandable. Yet, it also is quite remarkable that when we examine the graduates of the same elite law school, we find quite consistent patterns of inequality by race. At least four dimensions of racial inequality stand out. First, minority and white lawyers graduate with different debt burdens, a difference that has remained within the more recent cohorts. In 1996 dollars, minority lawyers average $11,000 to $13,000 more debt than white lawyers. Second, minority lawyers are more likely to work in the government and public-interest sectors of the profession than white lawyers, both at the beginning of their careers and at the time of the survey. For the 1970s and 1980s cohorts these differences are statistically significant. In the 1990s cohort, the differences are not statistically significant, but minorities are still more than twice as likely to work in government (20% versus 9%) as whites. This has a significant impact on the earnings profiles of the two groups, because government and public-interest jobs pay less than private practice.

Thus, the third difference of note is that minorities on average make about three-quarters of what whites make. The income differences are statistically significant for the two older cohorts, but largely disappear for the 1990s cohorts. Interestingly, the multivariate analysis of income shows no statistically significant negative effects for minority status, and indeed reflects higher earnings for minorities when sector of employment is controlled. Minorities in government make more than whites, apparently due to the nature of the positions they hold (e.g., judgeships, high government posts). LCA's discussion of their analysis of income does not completely satisfy our curiosity about these results. Obviously there are complicated and crosscutting relationships between minority status, experience, gender, employment sector, and earnings. We would have appreciated seeing minority status entered first in an equation to see if it was significant, rather than after the inclusion of years in practice and gender. LCA report that a larger percentage of minority graduates are women (38% versus 24% for whites) and that gender has a significant negative effect in all the earnings models. While further analysis should seek to untangle these relationships, the bivariate relationship between minority status and earnings is an important social fact in its own right. For whatever reason, Michigan's white graduates to date earn significantly more than their minority counterparts.

Fourth, the legal profession continues to be segregated by the types of clients served. Minority lawyers are more likely to serve low-income clients. This difference has diminished in statistical significance in the 1990s cohort but still exists. The difference in the ethnicity of the clients lawyers serve, however, has remained significant. Black and white lawyers tend to represent clients from their own ethnic groups. Black graduates report that 53% of their clients are black, while only 39% are white. As LCA note, this pattern also can be counted as a mark of success by the Michigan admissions

policy—a more diverse student body may result in more representation for traditionally underrepresented groups. Yet if the market for legal services is racially segmented, this may work to the disadvantage of both minority lawyers and minority clients. Whatever the advantages and disadvantages of such a social structure, it appears that race continues to matter in the organization of legal services.

THE INTERACTION OF GENDER, RACE, AND CLASS

LCA largely focus in this analysis on the effects of minority status. They acknowledge that gender plays a significant role in the career paths of lawyers, but they attempt to bracket the effects of gender as it relates to racial differences. They are almost completely silent on the issue of class (that is, parents' socioeconomic attributes), except that they report that minority students carry more debt out of law school, and they describe in general terms that a large proportion of minority and white graduates hail from elite undergraduate institutions. There can be little doubt that gender is enormously important to stratification processes in the legal profession. Hagan and Kay (1995), Kay and Hagan (1998), and Hull and Nelson (1999), among others, have demonstrated that women in urban law practice tend to start in different practice settings, are less likely to make partner in law firms, and must demonstrate different sorts of accomplishments than men to make partner. LCA also find significant gender effects on choice of practice setting. But because they do not find a significant interaction effect between gender and race in job choice or in regression models on income, satisfaction, and service, they do not pursue the matter. They indicate that they plan to return to a full-blown discussion of gender in future work.

We recognize that it is impossible to do everything in one article. Yet we want to underscore the importance of looking at the relationship between race and gender in legal careers. Michigan's minority graduates are more likely to be women than are Michigan's white graduates; and gender has direct effects on income and job choice. These patterns suggest that a comprehensive analysis of minority-majority differences must look at race by gender relationships. We look forward to a more in-depth treatment of this intersection in future work on the Michigan alumni.

We also hope that LCA are moved to give more attention to the interaction of race and class as it affects legal careers. LCA introduce no measures of class in their analysis, even though class may be strongly associated with "hard indicators" of ability and enrollment in the sorts of undergraduate institutions from which elite law schools tend to recruit. LCA cite Bowen and Bok for the proposition that minorities benefit from elite undergraduate education in much the same way that white students do. That is, affirmative action at such institutions tends to endow some of the same

benefits of human, social, and cultural capital on minorities that the children of the upper class typically have gained from such institutions. It would be interesting for LCA to pursue more explicitly some of the links between socioeconomic status, undergraduate education, performance in law school, and performance in the profession. LCA make a preliminary attempt in this direction by testing whether variables for type of undergraduate college had statistically significant effects when added to regression models of career outcomes. The effects were nonsignificant. Later LCA speculate about some of the links between undergraduate college, race, and success in law school and the profession, but they do not attempt a more fine-grained analysis. LCA's own speculation suggests that professional achievement may well depend on the subtle interplay between race, wealth, pre-professional training and experience, and law school as an educational and credentialing process.

LCA have shed important new light on the relationship between admissions credentials, law school performance, professional achievement, and minority status. They have made some progress in testing explanations for the relative inability of admissions credentials to predict professional achievement. We suggest that we may learn yet more by mining the Michigan data to explicitly examine the interaction of race, gender, and class in different phases of career progression. And it will be necessary to examine data from other less elite law schools to determine whether similar patterns hold in other contexts. While LCA have made a significant contribution to understanding the potential contributions of affirmative action by elite law schools, their findings also suggest that the legal profession remains a social system stratified by race, gender, and class. Minorities and women, even those graduating from an elite law school like Michigan, appear to occupy a distinct position within the legal profession—one that is less well paid, even if equally satisfying and more responsive to the needs of professional service. They are, it appears to us, differently successful than white male attorneys as a group. This record can be celebrated as an accomplishment deriving from law schools' efforts at diversity; it also suggests that the legal profession does not yet offer equal employment opportunities to all social groups.

REFERENCES

Hagan, J., and Kay, F. 1995. *Gender in Practice: A Study of Lawyers' Lives*. New York: Oxford University Press.

Hull, K. E., and Nelson, R. L. 1999. Assimilation, Choice, or Constraint? Testing Theories of Gender Differences in the Careers of Lawyers. Typescript. On file at American Bar Foundation, Chicago.

Kay, F. M., and Hagan, J. 1998. Raising the Bar: Gender Stratification of Law Firm Capital. *American Sociological Review* 63:728–43.

Lempert, Richard O., David L, Chambers, and Terry K. Adams. 2000. Michigan's Minority Graduates in Practice: The River Runs Through Law School. *Law and Social Inquiry* 25:395–505.

COMMENTARY
Law School Affirmative Action: An Empirical Study

Rollin' On the River: Race, Elite Schools, and the Equality Paradox

David B. Wilkins

Big Wheel Keep on Turnin'
Proud Mary Keep on Burnin'
And We're Rollin'
Rollin'
Rollin'
Rollin'
Rollin' On the River[1]

Lempert, Chambers, and Adams's superb new study of the careers of minority and white graduates of the University of Michigan Law School will come as welcome news to those who value diversity on this nation's college and professional school campuses. Alongside the Bowen-Box study (1998),

David B. Wilkins is Kirkland & Ellis Professor of Law and director of the Program on the Legal Profession, Harvard Law School. Rick Lempert, Terry Adams, Elizabeth Chambliss, Lani Guinier, and Tom Russell provided helpful comments on an earlier draft.

1. Fogerty 1968. The song's lyrics are as follows:

Left a good job in the city
Workin' for the man every night and day
And I never lost one minute of sleepin'
Worryin' 'bout the way things might have been
Big wheel keep on Turnin'
Proud Mary keep on burnin'
And we're rollin'
Rollin'
Rollin'
Rollin'
Rollin' on the river

0897-6546/00/2502-527$01.00

to which the authors link their work, the Michigan data provide powerful evidence of the many benefits of affirmative action for both minority and majority students, as well as for a constituency that is often overlooked in the debate over affirmative action—namely, the people these aspiring professionals are intended to serve. More important, the authors' careful analysis reveals what many have long suspected. LSAT scores and undergraduate GPAs "seem to have no relationship to success after law school, whether success is measured by earned income, career satisfaction, or service contributions" (Lempert, Chambers, and Adams 2000, 401).

Although the Michigan study therefore provides important ammunition to the defenders of race-conscious admissions policies, it also exposes an important and largely unexplored paradox in the manner in which diversity advocates characterize the careers of minority professionals. On the one hand, defenders of affirmative action in elite school admissions policies emphasize the postgraduation success of the minorities who are admitted under these programs. The gist of this claim, persuasively articulated by the Michigan authors, is that minority students, notwithstanding their lower entering credentials, go on to achieve levels of career success that meet or surpass the levels achieved by their white peers. This portrait of equal career outcomes, however, differs sharply from the reports of diversity advocates who study the careers of minorities in the workplace. These advocates point to the dramatic underrepresentation of minorities in high-level jobs—large law

---

Cleaned a lot plates in Memphis
Rollin'
Pumped a lot of pain down in New Orleans
But I never saw the good side of the city
'Till I hitched a ride on a river boat queen
Big wheel keep on turnin'
Proud Mary keep on burnin'
And we're Rollin'
Rollin'
Rollin'
Rollin'
Rollin' on the river.

If you come down to the River
Bet you gonna find some people who live
You don' have to worry 'cause you have no money
People on the river are happy to give
Big wheel keep on turnin'
Proud Mary keep on burnin'
And we're Rollin'
Rollin'
Rollin'
Rollin'
Rollin' on the river.

Of course, what cannot be duplicated here is the *way* Tina Turner sings this particular song. For those who have never witnessed this miracle of human movement, I recommend reruns of *Soul Train* or *American Bandstand*. Song lyrics courtesy of Fantasy, Inc. All rights reserved. Used by permission. © 1968 Jondora Music (BMI).

firms, executive board rooms, investment banks—and argue that a "concrete ceiling," as one prominent report concluded, continues to limit the opportunities of minorities in the workplace (Federal Glass Ceiling Commission 1995). The gist of this claim is that notwithstanding their academic credentials, minorities continue to face special obstacles that prevent them from achieving the same levels of career success and satisfaction as their white peers (Knapp and Grover 1994, 303).

These two positions are not flatly contradictory. One might conclude, as the present authors suggest, that although "discrimination in legal job markets is today not a great problem for most . . . graduates" of Michigan and other elite schools (Lempert, Chambers, and Adams 2000, 501 n.72), minority graduates from non-elite schools continue to encounter substantial barriers based on race. Alternatively, one could contend that the apparent success of the minority graduates in the Michigan and Bowen-Bok studies masks important differences in the careers of minority and white graduates of even the best schools. As I argue below, each of these potential reconciliations has bite. The first underscores the crucial importance of attending an elite educational institution for the future career success of minority lawyers. The second highlights the complexity of measuring success in a world where both relative and absolute indicia of accomplishment are highly context dependent.

Nevertheless, it is fair to say that these two commonly articulated positions are in substantial tension with one another. The more the careers of Michigan's minority and white graduates appear to be "equal," the more credible the "pool problem" becomes as a response to why so few minorities hold high-end jobs in the profession. As so many hiring partners claim, there simply are not enough minorities graduating from Michigan (and the other top law schools) to make a dent in the racial composition of the profession's elite. By the same token, the more "unequal" the careers of minority and white graduates from the country's best institutions appear, the more those who criticize affirmative action in law school admissions will claim that the minority students admitted under these programs are not "qualified" to become competent and successful practitioners.

In this response, I will argue that rather than either resigning ourselves to glacial progress on integrating the profession's elite or dismantling affirmative action in law school admissions, recognizing that the differing characterizations of minority career success found in the two strands of the diversity literature constitute a true paradox is the key to making real progress on this crucial issue. On average, the careers of minority lawyers *do* look substantially like those of their white peers. At the same time, race continues to *structure* the careers of minority lawyers, including those from the nation's top law schools, in complex ways that, once again on average,

make it more difficult for these talented women and men to succeed in certain professional environments.

Unraveling this paradox, I submit, requires challenging one of the bedrock assumptions of traditional professional culture, and indeed of modern American society—to wit, that success is primarily a matter of individual talent and effort. Without question, the minority beneficiaries of affirmative action bring a wealth of talents to their legal careers and have worked extremely hard to get where they are today. While one cannot go far without these individual attributes, however, neither are they sufficient to guarantee professional success. In addition to his or her individual talents and dedication, a minority lawyer's success—like the success of his or her white peers—depends on gaining access to the right institutional structures and opportunities. The need to gain access to these opportunities does not lead minority lawyers to careers that differ in kind from those of their white peers. The great achievement of the past three decades is that most minority lawyers attend integrated schools and work in jobs that are part of the mainstream legal and business economy. It should come as no surprise that their careers are pushed along by the same large-scale economic, social, and attitudinal forces that have transformed the profession as a whole since the so-called golden age of the 1960s.[2] At the same time, however, the fact that minority lawyers are *minorities* means that they are especially vulnerable to various aspects of these winds of change in ways that many of their white peers are not. We should therefore also not be surprised when we find fewer minorities reaching the profession's highest echelons, or that those who do travel different and in many cases more arduous routes to the top than similarly situated whites who rarely have to cope with the implications of *their* racial identity.

I base these conclusions on my ongoing research on black lawyers in the corporate "hemisphere" of law practice (Wilkins 1999a, 1999b; Wilkins and Gulati 1996; Wilkins 1993).[3] After more than a decade of studying the careers of black corporate lawyers, including more than 250 in-depth interviews in connection with a forthcoming book, I have found ample evidence of both sides of this "equality paradox" (Wilkins forthcoming). For black graduates of elite law schools such as the University of Michigan, the most important determinant of their future career success is the very fact that they *graduated* from such a prestigious institution. To keep with the river metaphor that Bowen and Bok have indelibly stamped on the affirmative action debate—but to give it a resonance with the group that both these authors and I study—the "big wheel" of the University of Michigan "keep[s] on turnin[g]" throughout the careers of all its graduates, allowing both

2. For an account of the transformation of the corporate legal sector during the past 30 years, see Galanter and Palay 1991.

3. For an explanation of the "hemispheres" thesis, see Heinz and Laumann 1982.

blacks and whites to roll on rivers that are off limits to most law school graduates who cannot "hitch a ride" on a similarly elite "river boat queen." How far one travels on this mighty river—and what work one has to do to get there—however, vary considerably. For those "who never saw the good side of a city" before entering law school, the shoals that can derail a career are likely to be—and equally important, are likely to be seen as being—considerably more perilous than for those whose backgrounds have better prepared them for this often dangerous journey. Nor should we be surprised that even on a difficult voyage, those sleeping in the nicer cabins on the upper decks are more likely to have the stamina and commitment necessary to travel to the end of the line than those who must endure the river's fury from the boat's lower berths.

None of this means that those booked in steerage cannot successfully complete the trip. Nor does it mean that those who jump ship before the final port of call will find their careers unsatisfying. After all, even the lowest berth on a river boat queen beats "workin' for the man every night and day." What it does mean, however, is that notwithstanding all the progress that has been made since *Brown v. Board of Education*—progress that has been made possible in large measure by the affirmative action programs the Michigan authors defend—the careers of black lawyers continue to be shaped in important ways by race. For all its compelling data documenting the fundamental similarity between the careers of minority and white graduates, the Michigan study, as its authors frequently note, also provides important evidence of the racialized reality within which minority and white graduates continue to live and work. In the balance of this comment, I explore this evidence in light of my own understanding of the careers of black corporate lawyers.[4] In so doing my goal is not to undermine the authors' persuasive claims about the success of Michigan's minority graduates. Rather I hope to ensure that when we talk about diversity, we keep both

4. Like Bowen and Bok, but unlike the Michigan authors, I concentrate on the experiences of blacks. For reasons that I explain elsewhere, I believe that there are good reasons to suspect that the careers of black lawyers differ in important respects from those of other minorities, most especially Asians (see Wilkins and Gulati 1996, 501 n.12). The Michigan authors report that for most of the areas they discuss, they found no significant differences among the careers of blacks, Latinos, and Native Americans, the three groups that comprise their minority sample. Given that Asians were generally excluded from both the white and minority samples (their numbers were too small prior to the 1990s cohort [Lempert, Chambers, and Adams 2000, 399 and n.5]) and the small percentage of Native Americans (5.9%) (Lempert, Chambers, and Adams 2000, 399 n.4), I do not find this result particularly surprising. Blacks and Latinos tend to look more like each other on many important dimensions than either group looks like Asians or whites (see, e.g., Kornhauser and Revesz 1995, 860–65). Moreover, to the extent that these two groups differ (and the authors do acknowledge differences, some of which I discuss below), they are likely to flow from the kind of subtle interaction among race, community, culture, and professional opportunity that is difficult to pick up through a survey methodology. Finally, two-thirds of Michigan's minority sample is black, so it is likely that their findings about "minorities" are heavily weighted toward the experiences of blacks.

sides of the equality paradox firmly in mind. When we do so, the success of the intepid minorities who have navigated the increasingly treacherous waters of the American legal profession during the last three decades—and the implications that their success holds for our understanding of professional careers more generally—become even more significant.

I. HITCHIN' A RIDE ON A RIVER BOAT QUEEN

If anything, the Michigan authors are too modest about the implications of their analysis. They claim that their data demonstrate that the river described by Bowen and Bok "runs through law school" and that notwithstanding some shoals along the way, most minority admittees end up sailing "proudly, and equally with their white counterparts, on the sea" (Lempert, Chambers, and Adams 2000, 504). This, for reasons that will be abundantly clear to anyone who reads their careful text, they do brilliantly. But in so doing, the authors also cast doubt on some of the standard orthodoxy of the American meritocracy. For as the authors correctly insist, the only reason to think that "the success of Michigan's minority graduates . . . is something that needs to be explained while the success of Michigan's white graduates requires no special explanation" (Lempert, Chambers, and Adams 2000, 501) is the standard presumption that there is a strong correlation between "objective" credentials such as grades and test scores—both those that are used as a criteria for admission to law school and those that typically define success in law school—and future professional success. The Michigan study persuasively demonstrates that this standard presumption is false.

Undergraduate grades and LSAT scores appear to have no predictive power in explaining the future career success of either minority or white graduates, and law school grades explain less than 5% of the variance in income across the entire sample (Lempert, Chambers, and Adams 2000, 501). This conclusion, as my colleague Lani Guinear points out in her contribution to this volume, has profound implications for the admissions criteria that law schools should use for selecting *all* the students for the entering class, particularly in light of the Michigan authors' finding of an inverse correlation between LSAT scores and future service to the community (Guinier 2000). Equally important, the study's debunking of the standard assumptions about the strong correlation between grades and test scores, on the one hand, and career success on the other should also finally persuade us to shift at least some of our focus away from the *individual* attributes that particular lawyers bring to their work, and onto the *institutional* settings in which young attorneys develop and express these attributes.

Once we discard the misleading assumption that "objective" credentials designed to measure individual accomplishment or potential such as LSAT scores, undergraduate grades, and even law school grades accurately

and completely predict future career success,[5] the real issue that needs to be explained "is the income success of all Michigan alumni, both white and minority" (Lempert, Chambers, and Adams 2000, 502). "Surely," as the authors insist, "an important shared ingredient in the job success of Michigan's alumni is graduation from Michigan" (Lempert, Chambers, and Adams 2000, 1408). As they go on to note, graduates of elite schools earn substantially higher incomes and work in more prestigious parts of the profession than those who earn their degree from less highly rated institutions. Consequently, they conclude, "attendance at an elite law school appears to attenuate the effects of substantial differences in the entry credentials of students entering law school" (Lempert, Chambers, and Adams 2000, 503). Professional success, in other words, is highly correlated with catching a ride on the right riverboat. To the extent that minorities and whites continue to share passage in some of this nation's most elite law schools,[6] we should expect to see their careers following broadly similar courses.

What the Michigan study hints at but cannot fully demonstrate, in large measure because it focuses only on Michigan graduates, is that attending an elite law school "has higher career returns to . . . minorities"—and most especially to blacks—"than it does to white men" (Lempert, Chambers, and Adams 2000, 419). In order to succeed, black graduates must find ways to counteract the lingering but nevertheless powerful effects of the pervasive myth of black intellectual inferiority. One common strategy self-consciously employed by many of the black lawyers I have interviewed is to acquire as many elite credentials as possible in order to signal to employers, colleagues, and clients that despite what they might be inclined to believe, this particular black lawyer is capable of doing their work. As one inter-

5. It is important not to overstate this point. Neither the Michigan authors nor I claim that law school grades have "no bearing on lawyer competence" or professional success (Lempert, Chambers, and Adams 2000, 502). Grades may be related to some lawyering skills such as analytic ability and an aptitude for mastering complex subject matter, but relatively unrelated to others, such as teamwork, oral presentation skills, and the ability to inspire confidence. More important, grades may act as *signals* for qualities such as the ability to respond under pressure and competitiveness that, although unrelated to the substance of what is being taught in the classroom, may nevertheless be valued by potential employers. Finally, employers may value high grades purely for their *instrumental* value—for example, as a means of signaling a firm's quality to clients and future recruits (e.g., "We must be the best firm. We only hire students who were on the law review."). My point simply is that even taking all these potential uses into account, law school grades (and other traditional indicia of academic merit) are only loosely correlated with future career success, and perhaps more to the point, with the substantive skills and dispositions of good lawyering. For a more detailed discussion of the complex relationship between grades and the hiring and promotion decisions of elite firms, see Wilkins and Gulati 1996, 549–54. See also Rebitzer and Taylor 1995, 690 (showing no statistically significant correlation between traditional measures of academic success such as law school grades and law review membership and partner income).

6. Needless to say, to the extent that the *Hopwood* decision, California's Proposition 209, and the current lawsuit against the University of Michigan diminish the chances for minority students to attend elite law schools, this pattern will change. I return to this possibility later in this article.

viewee succinctly stated, Harvard law school is like an "H bomb." Whenever he drops it in a professional setting, the conversation invariably takes on a new, and typically more respectful, tone.

There is ample evidence that this H bomb (or in the case of Michigan, M bomb) effect is not simply a figment of the collective imagination of black lawyers. Consider the following statistics, none of which are conclusive, but all of which suggest the special value that blacks gain from their elite school credentials. In 1995, I surveyed the nation's largest 250 law firms to determine how many associates these firms hired in the past year, how many of these new entrants were black, and where all their recruits had gone to law school.[7] A third of the firms responded to the survey. In these firms, the percentage of blacks graduating from one of eleven specified elite schools[8] was somewhat higher (57.3%) than the number of white graduates (51.7%) from these same institutions. The differences grow larger, however, if one concentrates on the top end of the elite spectrum. For example, in the two cities with the highest response rates, New York (51%) and Washington (50%), more than 50% of all black associates hired graduated from either Harvard or the top schools in the local market—Columbia and NYU in New York or Georgetown in Washington, D.C. The corresponding number for whites was 40.4% in New York and 23.2% in Washington, D.C.[9]

When we turn our attention to partners, the percentage of blacks who have broken into this exclusive club who are also graduates of elite law schools is even more startling. For example, in 1993, 77% of the identifiably black partners profiled in the ABA's directory of minority partners in majority corporate law firms were elite school graduates as I have defined that term (Wilkins and Gulati 1996, 563–64 and appendix table 5). As with the previous comparison, this percentage is somewhat, but not dramatically, higher than the percentage of elite school graduates (70%) in a sample consisting of the partners in five of the top law firms in five large legal markets around the country. Once again, however, when we look more

7. For a more detailed description of this study, see Wilkins and Gulati 1996, 561–63 and appendix, tables 3 and 4.

8. For purposes of this survey, the following schools were considered elite: Harvard, Yale, Stanford, Chicago, University of Michigan, Columbia, NYU, Berkeley, Virginia, Pennsylvania, and Northwestern. Although no list of "elite schools" is free from controversy, we felt it important to specify what we meant by this elastic term in order to avoid ambiguity. One of my few disagreements with the methodology employed by the Michigan authors is their decision to use an open-ended list of elite schools ("Berkeley, Harvard, Michigan, Yale, etc.") in their survey question regarding the number of a respondent's colleagues who graduated from "elite" schools as opposed to giving respondents a fixed list of which schools fall into this elusive and expansive category (table 16A).

9. Although Georgetown was not one of our 11 elite schools, it is the best law school in the Washington, D.C. area. Given the substantial local effects in the market for lawyers, although Georgetown may not count as an elite school nationally, it does in the Washington, D.C. market.

closely, it becomes clear that black partners are concentrated at the top end of the range of elite schools. Thus, nearly half (47%) the black partners in the directory graduated from either Harvard or Yale. Although two firms in the sample (Boston's Ropes & Gray and New York's Cleary, Gotlieb) have percentages of Harvard and Yale partners that rival this total, the average for all five firms was 33%. An analysis of the black partners listed in the 1996 directory of the Chicago Committee on Minorities in Large Law Firms reveals a similar pattern. Seventy-three percent of those listed are elite school graduates, with 53% being the graduates of only three institutions: Harvard, Michigan, and Northwestern. As a rough comparison, 67% of the partners at Chicago's Sidley & Austin, one of the largest and most prestigious firms in the city, are elite school graduates, with a little over one-third (38%) coming from the three schools that contributed over half of the entire population of black partners.

None of these comparisons definitively establishes that blacks get more mileage out of their elite school credentials than comparable whites. Nevertheless, they are consistent with the countless anecdotal reports I have collected from respondents concerning the importance of elite school credentials for black corporate lawyers. As one black partner in Chicago put it in a recent news account, "If you're not from Harvard, not from Yale, not from Chicago, you're not adequate. You're not taken seriously" (Davis 1996, 22).[10] Whether or not this is literally true, it does appear that black lawyers are likely to be taken *more* seriously if they have elite educational credentials.

Michigan's minority graduates appear to be aware of this effect. Thus, "minorities place a higher value on the prestige of a Michigan Law School degree than whites do." (Lempert, Chambers, and Adams 2000, 419) As the authors speculate, minorities recognize that "a high prestige law degree can open up career opportunities" for those who face special obstacles as a result of their demographic status (Lempert, Chambers, and Adams 2000, 419). Moreover, these traditional outsiders understand that the value of their Michigan education consists of more than the sum total of the human capital that they acquired through their classes and the prestige of attending one of the country's premier educational institutions. It also inures in the relationships and contacts that are made at a school like Michigan. The Michigan authors report that minorities are "significantly more likely than whites to feel that they benefited from friends made at Michigan and from contacts with Michigan alumni after graduation" (Lempert, Chambers, and Adams 2000, 418 n.30). Although the gap between minorities and whites on the

10. Davis erroneously attributes this quote to a partner at Chicago's Sidley & Austin. The black partner who made the statement however was actually from another Chicago firm. I am grateful to Eden Martin for bringing this to my attention.

importance of the "relationship capital"[11] they developed at Michigan closes over time, this is almost entirely due to the increasing value that succeeding generations of *whites* place on networking (table 6).

These trends are consistent with the way in which race differentially colors the perceptions of blacks and whites about their own success. For whites, the standard version of the American Dream posits that people succeed on the basis of their individual talents and efforts (Hochschild 1995, 18–25). This classic story has always had particular saliency for lawyers who have traditionally viewed themselves as autonomous professionals whose primary attribute is their specialized knowledge and judgment. White lawyers steeped in this potent combination of national and professional ideology tend to discount the importance of relationships to professional success. Thus, in my interviews many white partners deny that they had mentors who helped them along the way, believe that they choose associates for plum assignments solely on the basis of the associate's "candlepower," and insist that clients come to them simply because "they are good lawyers."

Blacks tend to have less faith in this standard account (Hochschild 1995, 64–65).[12] By the time they come to law school, most blacks have seen the American Dream fail far too many times to deliver on its promise of equal rewards for equal work. At the same time, the central lesson of the civil rights movement for many blacks is that individual accomplishment depends on collective struggle. As a result, it is not surprising that blacks and other Michigan minority graduates have from the beginning placed a high value on their Michigan contacts.

What is more interesting is that their white contemporaries appear to be coming around to the same point of view. With each passing decade, the legal profession has had a harder and harder time delivering on the promise that those who do "good work" will, by virtue of this fact alone, succeed. No matter how much "candlepower" a young lawyer possesses, an associate will not be able to succeed unless he or she gains access to the kind of good work and training opportunities that have become increasingly scarce in today's elite firms with their high associate to partner ratios. And even those who do manage to gain access to what I have elsewhere called the training track will not become partners—or be able to stay partners—if they do not demonstrate that in addition to having superior legal abilities, they are also likely to attract significant amounts of business to the firm (Wilkins and Gulati 1998). Given these realities, it is not surprising that white graduates increasingly put the same value on contacts as blacks and others who are

11. Wilkins and Gulati 1998, 1678–80 (discussing the importance of "relationship capital" to the internal labor markets of large law firms).

12. And when they do believe it, the results can sometime be disastrous. For my own take on one particularly poignant example, see Wilkins 1999a.

less inclined to believe the standard meritocratic account place on this resource.

Although Michigan's minority and white graduates are reaching consensus on the importance of their Michigan contacts, this should not fool us into thinking that the two groups have the *same* contacts. Most black respondents in my study left law school with a mix of black and white friends. In addition, most have found ways to network with alumni beyond their actual circle of law school acquaintances. Nevertheless, for many of the black lawyers in my sample, the majority—often the vast majority—of their social and extracurricular activities during law school, and their professional interactions with fellow alumni after law school, were and are with other blacks. This reality, as the Michigan data underscore, pushes their careers in directions that, although still successful, nevertheless differ from those of their white peers.

II. WORKIN' FOR THE MAN EVERY NIGHT AND DAY

The Michigan authors rightly emphasize the growing similarity between the career trajectories and outcomes of white and minority graduates. The percentage of minorities entering large law firms and other prestigious and financially lucrative areas of the profession, for example, rose dramatically between the 1970s and 1990s cohorts (table 11). So did the percentage of each succeeding cohort who remain in these positions today (table 14). By the 1990s, the careers of Michigan's minority graduates are functionally indistinguishable from their white peers on most major dimensions that the authors measure.

Lurking behind this important similarity, however, are some telltale signs of difference, particularly for Michigan's black alumni. As late as the 1980s, for example, Michigan's black alumni (as opposed to minority alumni as a whole) were substantially less likely than their white counterparts (64% to 85.1%) to start work in private practice (Lempert, Chambers, and Adams 2000, 424 n.35 and table 10). Although this gap appears to have closed in the 1990s,[13] blacks continue to be underrepresented in this sector. Moreover, when we look more closely at where this most recent cohort is working in the private sector, an interesting pattern emerges. Although the total number of minorities starting work in firms with fewer

13. The study does not report the percentage of blacks who took jobs in private practice during the 1990s. However, the authors do note that in the 1990s, blacks constituted a smaller percentage of minorities taking government jobs than they did during the 1980s (2000, 424 n.36). Nevertheless, the percentage of blacks taking government jobs during this period was close to the average for all minorities (15.4% versus 15.8%), and the percentage of all minorities in private practice in the 1990s remains below that of whites (table 10).

than 50 lawyers has declined markedly from its peak in the 1970s (45% as compared to 77.8%), the percentage of Michigan's minority graduates who begin their careers in smaller firms remains substantially larger than the percentage for whites (45% as compared to 17.7%) (table 11). At the opposite end of the spectrum—firms over 100 lawyers—the trend toward minorities going to work in the largest firms (those with over 150 lawyers) appears to have slowed dramatically during the past decade. In the 1970s and 1980s, minorities who joined large firms were much more likely to take jobs in firms with more than 150 lawyers. Between the 1980s and 1990s, however, almost the entire increase in percentage of minorities working in the large-firm sector is accounted for by minorities who moved into firms with 101–150 lawyers (table 11). By contrast, the percentage of Michigan's white alumni who started at the nation's largest firms jumped 22.8% during the same period, while the percentage going to large firms with fewer than 150 lawyers declined by 3.4% (table 11).

These same trends are evident when we look at the current jobs of minorities and whites in private practice. Not surprisingly, little has changed for the most recent cohort.[14] For the 1970s and 1980s cohorts, however, minorities remain overrepresented in solo and small-firm practice while consistently losing ground to whites in large firms. Thus, nearly half the minorities in the 1980s cohort work in firms with fewer than 10 lawyers (up from the 14.9% who started in such firms), as compared to less than 28% of whites (table 14). At the same time, the gap between the percentage of whites and minorities from this cohort currently working in large firms nearly doubled (21.9% versus 11.5%) from the comparable percentages for the first jobs taken by these graduates (tables 11 and 14). The widest part of this gap is accounted for by the disproportionately large decrease in minorities in firms over 150 lawyers (a 12.5% decline for minorities as compared to a 5.5% decline for whites). The numbers from the 1970s cohort tell a similar story, with 66.1% of minorities (as compared to 38.8% of whites) in firms with fewer than 10 lawyers and a gap between whites and minorities working in large firms that has nearly quintupled (3.3% to 16.3%) since the time these lawyers graduated from Michigan (tables 11 and 14). Once again, despite a remarkable consistency in the percentage of minorities from the 1970s cohort who started and who currently work at the nation's largest firms (8.9%), a subject to which I will return below, it is in this sector that the gap between whites and minorities has grown the largest since the time these graduates entered practice (0.1% to 11.2%)—this time as a result of a sharp increase in whites who currently work at the nation's largest firms (9% to 20.1%).

14. It is interesting to note, however, that the percentage of white alumni in solo or small-firm practice nearly doubled (17.7% to 34.3%) during the six-year period (1990–96) in which this cohort was tracked (compare tables 11 and 14).

These differences place an important gloss on the equality story the Michigan authors tell. Without question, Michigan's minority graduates have made impressive strides in gaining access to the once-lily-white world of large law firms. Indeed, Michigan's minority graduates have penetrated the corporate sector in numbers that are likely to far surpass the national average. For example, a remarkable 10.7% of Michigan graduates from the 1970s cohort work in firms of more than 100 lawyers, with just under 9% in firms larger than 150 (table 14). Given their age, it is fair to assume that virtually all these lawyers are partners.[15] At the national level, minorities make up less than 3% of the partners in the nation's 250 largest law firms (which roughly correlates with firms over 100)(Davis 1996). It is likely that Michigan graduates make up a disproportionate share of this total, particularly among minority partners who graduated in the 1970s. The same is probably true for the 1980s cohort as well.[16] Once again, the fact that Michigan's minority lawyers appear to fare better in larger law firms than the average minority lawyer provides additional support for the claim that law school status is especially valuable to minorities.

The study's findings about retention rates further bolster his conclusion. Michigan's minority alumni may also have longer than average tenures at their first law-firm jobs. Thus, the study finds no statistically significant difference between the length of time (4.1 and 4.7 years, respectively) that minorities and whites in the 1980s cohorts stay with their first firms (Lempert, Chambers, and Adams 2000, 426). The national numbers, however, tell a different story. In a nationwide study of retention rates at large law firms conducted by the National Association for Law Placement (NALP 1998), 8% of all white male associates leave their law firms in the first year. Almost 42% leave by the third year, and over 68% have left by year six. The corresponding numbers for minority men are 11%, 54%, and 73%. Minority women leave at an even faster rate. Over 12% are gone by the end of the first year, nearly 52% by year three and more than 82% by year six. Although some of the differences between the NALP and Michigan studies may reflect a cohort effect,[17] it is also plausible that on average Michigan's minority graduates fare better than minorities in general in gaining access to the good work and training opportunities that lead to longer tenures in large law firms.

---

15. Although, as I note below, some of these lawyers may be "nonequity" partners or "of counsel."

16. More than 25% of Michigan's minority graduates from the 1980s currently work in firms with more than 100 lawyers (table 14). Even if one compares this to the percentage of minority associates working in the top 250 law firms, roughly 10% as of 1996, it seems likely that Michigan alumni are doing significantly better than the graduates of most other law schools (Davis 1996).

17. The Michigan authors focus on the 1980s cohort while most of NALP's data come from the 1990s, when by most accounts, attrition rates have been on the rise.

Although the "big wheel" of the Michigan law school has helped to propel its minority graduates to points along the river that few of their minority contemporaries at other schools are likely to see, their grip on the corporate sector is nevertheless tenuous, particularly with respect to the nation's largest firms. Proportionately fewer of Michigan's minority graduates than white graduates are likely to end up 10 to 15 years after graduation at firms with more than 150 lawyers. If the trend exemplified by the latest cohorts continues, a smaller percentage of minorities are likely to start their careers there as well. Instead, many will find themselves in small minority firms serving a clientele that is disproportionately minority. This is particularly true for blacks, who, if they work in firms with fewer than 10 lawyers, are the most likely to have colleagues and clients of the same race (Lempert, Chambers, and Adams 2000, 435 and tables 16B, 18, and 19).

The fact that black Michigan graduates are more likely to end up practicing in small firms that disproportionately serve black individuals and institutions has, as the Michigan authors note, many important benefits. By any measure, the black community (like most minority communities) is badly underserved by the profession. Anything that increases this community's access to legal services should therefore be considered an important social benefit. Black private practitioners from the 1980s cohort spend significantly more of their time serving low- and moderate-income individuals—most of whom are black—than any other group from that period (Lempert, Chambers, and Adams 2000, 438 n.42). By increasing the number of black lawyers available to do this work, Michigan's minority admission's policy has performed a valuable service.

As the authors concede, however, their findings about the continuing saliency of race in the careers of minority lawyers also has more troubling implications (Lempert, Chambers, and Adams 2000, 438). In a prescient article written almost 30 years ago, University of Michigan law professor (now United States Circuit Judge for the District of Columbia Circuit) Harry Edwards (1971) criticized Michigan's affirmative action efforts for too actively steering black graduates toward "service to their communities" and away from careers in large law firms and other mainstream sectors of the profession. Such efforts, Edwards warned, ran the risk of deflecting attention from society's obligation to remedy the conditions of black poverty while leaving the corporate sector virtually all white. These unintended consequences, Edwards concluded, not only deprived black graduates of the financial and professional rewards associated with large law firms but also removed these new leaders from the centers of power where many important decisions affecting the black community are made. Today, no one at Michigan or any other law school would approve of an institutional policy that systematically steered minority graduates away from pursuing careers in large

law firms.[18] The trends noted above, however, suggest that the dangers that Edwards articulated almost a generation ago may nevertheless have come to pass.

A careful examination of the Michigan data underscores the continuing de facto segregation within the profession's elite ranks. Consider, for example, the statistics on partnership. The Michigan authors report that 91.1% of the minority graduates from the 1970s cohort who are in private practice are partners, as are over two-thirds of the 1980s cohort (Lempert, Chambers, and Adams 2000, 432 and table 15). Although these percentages are each less than the comparable percentages for whites (96% and 80%), the differential partnership rates between minorities and whites for the 1980s cohort comparison loses its statistical significance once one controls for the fact that minorities tend to have been with their firms a shorter period of time and graduated from law school more recently than whites (Lempert, Chambers, and Adams 2000, 432). What the authors do not tell us, however, is *where* these lawyers are partners. Given the overrepresentation of minorities in the smallest firms and their disproportionate exodus from large firms, it seems likely that many minority partners (particularly black partners) are located in small, often primarily minority, firms. Similarly, we do not know what *kind* of partners the minority partners are. Many large law firms in recent years have gone to a two- (or more) tiered partnership, where only certain partners have a significant stake in the equity and management of the firm. Other studies and my own work indicate that minority lawyers (and black lawyers in particular) tend to be concentrated in the nonequity tier in firms that have followed this route. Finally, the authors do not tell us (nor could they given their methodology) whether the minority partners in their sample have *power* within their institutions. Even in firms with one-tier partnerships, there is no longer much pretense of equality among partners. Instead, only those partners who control significant client relationships have the power to control their own destinies in the increasingly cutthroat world of the modern elite law firm. Sadly, many

18. This is not to say that many individual faculty members do not encourage students to consider careers outside the corporate sector. Given the widespread view, supported by the Michigan study, that lawyers in government and public service careers often find their jobs more rewarding than those in private practice, many professors caution their students against being seduced by the monetary rewards offered by large firms. Some may also believe that minority lawyers face particular challenges when working in the corporate sector—either because of the kind of racialized barriers discussed below or because much of the work done at corporate firms may conflict with a minority lawyer's important values and commitments (Wilkins 1993, 1986–90 [discussing the latter possibility]). My point simply is that even those who endorse these views would not subscribe to a policy that systematically directs minorities away from some of the profession's highest paying and most prestigious positions. Whether Michigan ever pursued such a conscious policy, or whether, as seems more likely, the preferences about which Judge Edwards speaks resulted from a complex mix of signals from the institution and the minority students' own preferences, I leave for those who were there at the time to decide. For my own take on the issues Judge Edwards raises, see Wilkins 1997, 139–42.

black partners in large law firms have become "partners without power," lacking significant access to each of the three markets that confer success in large law firms: the *internal* market for work from the firm's existing clients, the *external* market for new clients, and the *labor* market for associates (particularly senior associates) (Wilkins 1999b, 23–26).

The fact that black partners have greater difficulty than their white peers gaining access to the markets of power in large law firms underscores that the continuing gap that lies behind the overall similarity in the partnership rates of minority and white Michigan graduates is not, as some are likely to claim, due to the fact that minority partners are incompetent lawyers who have simply been "polished up" by widespread affirmative action to look like law firm partners (Barrett 1999, 55). As a preliminary matter, there is little evidence that law firms engage in much affirmative action *after* a given minority lawyer joins the firm.[19] Consider, for example, the case of Lawrence Mungin, a black Harvard Law School graduate who sued the law firm of Katten, Muchin & Zavis for failing to make him a partner (Barrett 1999). Mungin claimed that the firm failed to evaluate him, forced him to do menial work that should have been done by more junior associates, ignored his request to be included in more challenging work assignments, and generally treated him with disrespect. Although the firm disputed some of these charges, its general response was that the bad treatment Mungin received was no different than the way the firm treated most of its associates. This "equal opportunity management" defense is inconsistent with the claim that firms such as Katten Muchin engage in widespread affirmative action *favoring* black partnership candidates.

Moreover, whatever benefits black lawyers receive because of affirmative action once they begin working at a firm must be balanced against the burdens they continue to bear because of their race. Chief among these burdens is the difficulty black lawyers face in finding powerful mentors who will nurture and support their careers. Studies of cross-racial and cross-gender relationships in the workplace repeatedly demonstrate that white men feel more comfortable working with other white men (Thomas 1999). This natural affinity, when combined with the prevalence of negative stereotypes about black intellectual inferiority and the small number of black partners, make it more difficult for blacks to form supportive developmental relationships. Although blacks who become partners in large firms typically have developed at least one powerful mentor within the partnership, the fact that they tend to have fewer mentors than their white peers who also become

19. Indeed, my own research suggests that much less affirmative action occurs in the hiring process than most hiring partners typically believe and that what there is must be balanced against the many ways that the dynamics of the recruiting process disadvantage black applicants (Wilkins and Gulati 1996, 554–64).

partners continues negatively to affect their chances to become partners with power in the firm.

Contrary to popular belief, the majority of partners get the majority of their work from existing clients of the firm. Many obtain important clients the old-fashioned way: they inherit them from mentors. Those who do not inherit their clients nevertheless often profit from their mentoring relationships by getting referrals of specific projects from their powerful sponsors or from other lawyers inside the firm who respect their mentors' judgment. Once a lawyer is seen as an important recipient of referral business, that lawyer is likely to receive additional referrals from lawyers outside his original network simply because other lawyers see him as a person capable of returning the favor by referring business back. All of this, in turn, helps a partner to generate business from new clients, either through contacts from the lawyer's existing client relationships or through the fact that, as a result of doing referral work, the lawyer has developed a reputation in a particular substantive area.

Black lawyers, regardless of their abilities, are less likely to receive these important benefits. Having had fewer mentors as associates, they are less likely either to inherit clients or to gain easy access to the firm's internal referral market. This difficulty, in turn, reinforces the perception among other partners that their black peers are unlikely to have significant business to refer back, thereby further diminishing a black lawyer's chances of gaining referral business. Without referrals, black lawyers face important obstacles generating the kinds of contacts and high-profile reputation that a lawyer needs to generate business from new corporate clients, most of whom have had little experience dealing with blacks in positions of trust and authority. Finally, savvy senior associates who seek to increase their own chances for partnership are unlikely to want to work for black partners who they perceive as having neither significant relationships with important partners nor clout within the partnership based on their control of important clients. Given both the shortage of senior associates in most firms and the importance of having these able lieutenants to manage the work, black partners who have difficulty in obtaining the services of senior associates must work harder to get existing work done, leaving them even less time to generate new business.

This connected web of problems, in turn, contributes to the exodus of black partners from large firms. In recent years, a surprising number of black partners have left their prestigious positions for what they perceive to be greener pastures in mid-sized or small firms, particularly small minority firms. These workplaces, however, generate their own perils. Both small minority firms and regional (as opposed to national) law firms have proven to be particularly vulnerable to the competition and consolidation that have come to characterize the market for legal services in the 1990s. For example,

in the three years since I began doing interviews in Chicago, only two out of the six predominately black firms with which I have had contact has grown in size. Two have gone out of business, and the others have either significantly contracted or have had to survive dramatic instability. My experience in San Francisco, Atlanta, Detroit, Washington, D.C., and New York, as well as reports from informants in other cities, suggest that the Chicago experience is not unique. Nor will any student of the profession who has watched one medium-sized firm after another either go out of business because of acrimony and defections among the partners or be acquired (either in whole or in part) by larger, more aggressive national firms be surprised to learn that partnership in large local and regional firms has become anything but a secure job. Although blacks sometimes benefit from these consolidations—several of my interviewees have become partners in large national firms as a result of mergers or acquisitions of the regional firms of which they had been a part—others have either been excluded from the new consolidated entity or have ended up as marginal partners, isolated from the web of relationships and client contacts that made them successful in their original institutions.

Even the success stories highlighted by the Michigan study underscore the different and often more perilous route that black lawyers traverse to reach professional success. Consider once again the remarkable percentage of minority lawyers from the 1970s cohort who have become partners in large law firms. Not only is this number impressive in absolute terms, but it also appears to represent a career trajectory for at least some of these lawyers that cuts against the grain—that is, a movement from government service and other public sector jobs into private firms (Lempert, Chambers, and Adams 2000, 442 and table 20B).[20] My own data and the work of others who study minority careers[21] suggest that race played a role in this pattern. As the Michigan study underscores, relatively few minority graduates from the 1970s cohort started their careers in private practice, with only a small percentage going to large law firms. Regardless of whether Judge Edwards is correct in arguing that the law school itself bears some responsibility for this initial distribution, there can be little doubt that the primary cause was the unwillingness of many law firms to hire minority lawyers—even ones with a Michigan law degree. Instead of going to private firms, many of these lawyers went into government service where they developed the kind of human and relationship capital—trial experience, supervisory responsibility, polit-

20. Although the study indicates that 1970s graduates show a net movement into private practice, it is not clear whether any of those who moved in this direction ended up in large law firms. Given the trends discussed in text, however, it seems likely that at least some members of this cohort have found their way into corporate law firms.

21. For an excellent discussion of the ways in which minorities travel different—and often more lengthy and arduous—routes to success in corporate America, see Thomas and Gabarro 1999.

ical contacts—that law firms and their clients value but, for reasons I have written about extensively elsewhere, that few associates at large firms, and even fewer minority associates, have the opportunity to develop (Wilkins and Gulati 1998; 1996). When law firms began to receive pressure from law students, clients, and the press about their slow progress on diversity, these experienced government lawyers often appeared to be ideal candidates for partnership. To put the point bluntly, bringing in an experienced minority attorney from government allows a firm to make a high-visibility statement about its commitment to diversity without having to do the hard work of grooming its own minority associates.

Minorities who become partners under these circumstances, however, face special barriers to success. Because they come from the outside, they often do not have a deep network of relationships within the firm that can help them gain access to the internal referral markets that are so crucial to the success of any law firm partner. Moreover, because they come from government, these newly minted minority partners are also unlikely to have significant client relationships of their own. Instead, what these lawyers typically have are contacts with the politicians and officials with whom they worked. Political connections have been an important route to success for many black lawyers. The Michigan authors' project that as "blacks [and other minorities] achieve political power or positions of business responsibility, lawyers with similar backgrounds may develop a market value sufficient to *offset* any diminution in their market value that lingering discrimination by the white majority may entail" (Lempert, Chambers, and Adams 2000, 500–501, emphasis added). This projection, however, is likely to prove overly optimistic, especially with respect to political clout.

Relying on political connections to support one's career is inherently risky for any lawyer. Given that black lawyers disproportionately rely on this strategy for the very reasons the Michigan authors posit—that is, because the rise in black political power gives them better access to political power than they have in the largely white corporate arena—the inherent instability of a political strategy ironically runs the risk of further entrenching the aggregate disparities between black and white partners. The pre- and post-Harold Washington experience of many black lawyers in Chicago bears this out. Washington, Chicago's first black mayor, made opening up city business to blacks and other minorities a major priority of his administration. As a result, many black lawyers already in large firms began doing substantial work for the city and, over time, several high-level officials in Washington's administration left their positions hoping to build successful private careers around their political connections. When Washington died suddenly, early in his second term, and was replaced by Richard M. Daly (who is white), many of those who had tied their careers to Washington's political coattails saw their prospects die as well. For some, the results were worse than simply

loosing business. Having tied their "business justification" for diversity to the need to have black lawyers who could attract city business, many white partners saw little value in the black lawyers working in their firms after Washington's death.[22] The resulting defections of black partners and associates left many Chicago firms nearly as all-white as they had been before the Washington era. The fact that blacks do not constitute a majority of Chicago's electorate makes the danger of playing a political strategy particularly acute. Recent events, however, underscore that even in situations where blacks are unlikely to lose political power, they can still lose the economic power that typically flows from being in the majority.

Across the country, the very web of racialized contacts and relationships that the Michigan authors point to (Lempert, Chambers, and Adams 2000, 500–501) as a crucial source of value for minority lawyers is itself under political attack. Affirmative action programs in government contracting are being challenged and dismantled. These lawsuits make it more difficult for black mayors even in majority black cities such as Atlanta to ensure that black lawyers have access to city business. Although private employers have so far been largely immune from reverse discrimination suits, the assault on affirmative action in the public arena continually threatens to undermine corporate America's emerging commitment to diversity. In this new climate, black lawyers in corporate legal departments who refer work to black outside counsel run the risk of being charged with favoritism or "reverse discrimination." In the absence of affirmative support from either governments or employers, legal work is likely to flow through the old networks and relationships that have traditionally excluded blacks and other minorities.

Most damaging of all, however, are the kinds of attacks on affirmative action in admissions policies that gave rise to the Michigan study. As the Michigan authors persuasively demonstrate, race and ethnicity continue to play a significant role in the lives of all the lawyers in their study. In such a world, it is crucial that there be a cadre of minority lawyers who can refer work, provide information about career opportunities, and act as formal and informal mentors for each other as they traverse the treacherous waters of the vast and fast-flowing river that is the American legal profession at the end of the millennium.

It is no wonder, therefore, that Michigan's minority alumni place such a high value on their Michigan contacts, many of whom, as I have suggested, are likely to be other minorities. As the Michigan authors stress, these fellow classmates and alumni have succeeded in every corner of the legal profession. Being a part of such a successful network has helped each individual minority graduate succeed in ways that would not have been pos-

22. I discuss the danger of grounding diversity efforts exclusively in the argument that it is "good for business" in Wilkins 1998.

sible had he or she had to go it alone. If the opponents of affirmative action are successful in their attempt to shrink dramatically the number of minority students in succeeding cohorts at Michigan and other similar law schools, they will ironically have undermined the very mechanism that has produced the cadre of successful minority professionals and managers that these same critics point to as proof that programs such as Michigan's are no longer necessary.

Given all these complexities with, and threats to, the careers of even successful minority lawyers, one would predict that minority incomes would continue to lag behind those of whites. Notwithstanding the tremendous strides made by Michigan's minority graduates over the past three decades, the data in this study support this intuition. As the authors stress, Michigan's minority graduates are financially successful by any objective measure. Nevertheless, for the 1970s and 1980s cohorts (the only two cohorts in which one would expect to see a significant difference in income),[23] both the median and the mean incomes of whites in private practice are substantially higher, although not statistically significantly higher, than those of minorities in this sector (Lempert, Chambers, and Adams 2000 453 and table 24). To the extent that minorities remain, on the one hand, concentrated in smaller, more precarious firms and, on the other, subject to barriers that make it more difficult for them to become successful partners in larger firms, some kind of income gap is almost inevitable.

The Michigan authors' finding that the income gap between minorities and whites in private practice seems to disappear once one controls for law school grades (Lempert, Chambers, and Adams 2000, 484 and tables 31 and 32) qualifies but does not refute this conclusion. Grades play a significant role in the hiring decisions of large law firms and other similar employers. To the extent that minority students on average have lower grades than their white peers, they are less likely to get jobs in this sector, particularly in the national firms that pay the highest salaries and have the largest profits per partner. Given that law school grades are at best only an imperfect signal of a lawyer's actual ability or potential, the fact that minorities with lower grades will tend to start their careers in lower-paying jobs in either the private or the public sectors suggests that the resulting income differentials, although explainable by grades, are nevertheless still troubling. Moreover, in an arena characterized by limited and imperfect information about a given lawyer's actual quality, even those minorities who are hired by large firms may find themselves handicapped by their lower grades. In law firms with a "free market" for associates, powerful partners often pick which entering associates to assign to their matters on the basis of their guess about

23. Given that virtually all the minorities and whites from the 1990s cohort are still junior lawyers, mostly at large law firms (table 14) where lock-step salaries for associates are common, one would not expect to see significant salary differentials in either direction.

the associate's academic credentials.[24] If the associate does well, the partner will continue to give him or her work. Associates who are not tapped for these initial assignments often find it difficult to form supportive developmental relationships with similarly important partners, notwithstanding that they are producing quality work for partners with less influence and stature in the firm. Those who are not able to get on the training track are unlikely to have long-term careers with the firm.[25] Black lawyers are particularly vulnerable to this dynamic. Many of those who leave large firms end up in the public sector where, as the authors concede (Lempert, Chambers, and Adams 2000, 480), they will earn substantially less money.

Of course, just because a lawyer leaves a large law firm does not prevent him or her from earning an impressive income. In the mid-1990s, for example, several black lawyers in Chicago left *partnerships* in large firms to form small minority firms precisely because they felt that they could make more money on their own than they could in their old jobs. As I argued above, however, small minority firms are often unstable. Even when they are not, partnership in these institutions often do not bring with them the access, exposure, and contacts that are so important to building a long-term career. The fact that the Michigan study found the largest gap in median income between minorities and whites for the 1970s cohort—a cohort for whom whatever differences in ability that can be measured by law school grades are likely to have been swamped in importance by differences resulting from a lawyer's experience and accomplishments in practice—suggests that the complex ways in which race structures the careers of minority lawyers continue to depress their incomes relative to the incomes of whites.

Finally, once we recognize that a high percentage of Michigan's minority graduates are women, we should understand that whatever income gap exists between blacks and whites will be difficult to close. The Michigan authors argue that differences in income between minorities and whites that seem substantial should nevertheless not be attributed to minority status because most of that difference is accounted for by the twin facts that minorities are more highly concentrated in the more recent classes and that a higher percentage of minorities than whites are women (Lempert, Chambers, and Adams 2000, 453 and table 32). Just as with the use of grades to explain the income gap, this explanation, although accurate nevertheless obscures something important, particularly with respect to gender. It is precisely *because* a majority of minority law students are now women that those

24. I use the word "guess" advisedly. Since partners often do not know an entering associate's actual credentials, they often make judgments on the basis of what they assume those credentials to be. This process often disadvantages minority lawyers (particularly black lawyers) who, because of assumptions about the prevalence of affirmative action in hiring, are often assumed to have poor law school records, even when they do not.

25. For a detailed discussion of this and other related phenomena, see Wilkins and Gulati 1996, 537–42, 568–82.

interested in racial diversity must pay particular attention to gender issues in general and the issues facing minority women in particular. As the authors correctly note, women earn less than men across the profession and irrespective of race. Consequently, even if minority men earned as much as white men and minority women earned as much as white women, there would still be an income gap between "minorities" and "whites" because a higher percentage of minorities than whites are women. Although gender therefore explains at least part of the racial income gap, this explanation only serves to underline the difficulty of achieving real progress for minority lawyers.

Even if minority women only faced the same obstacles as white women, they would still confront a number of daunting barriers to success ranging from disproportionate responsibility for child care (not to mention sole responsibility for childbirth), to exclusion from the "old boys club," to sexual harassment. My own work on black lawyers suggests that in addition to the obstacles that all women face, minority women (and black women in particular) confront additional barriers—including complex interactions with older white men, tensions with black women support staff, and sexism and sexual harassment by black men—that make achieving professional success even more difficult. The fact that the NALP retention study on large law firms found that minority women have the highest attrition rates of any group unfortunately provides further support for this conclusion. Although the Michigan authors note that in no instance did adding gender change the overall significance of minority status in their equations, they acknowledge that adding a variable capturing the interaction between gender and minority status sometimes did "affect the *significance* of the minority status variable" (Lempert, Chambers, and Adams 2000, 400, emphasis added). Unless and until we begin to come to grips with these complex *gender* issues, we will never achieve *racial* equality in a world in which minority women constitute an ever growing percentage of the minority talent pool.

Whether or not minority lawyers achieve true *equality* in the profession, however, should not be confused with the separate but equally important question of whether the recipients of affirmative action in law school admissions policies have been *successful* in their careers—let alone the even more fundamental question of whether minority graduates from Michigan and other elite schools are *competent* to become successful and satisfied practitioners. Nothing that I have said about the differential careers of minority and white graduates in the Michigan study, and nothing that I have discovered in the course of more than a decade of studying the careers of black corporate lawyers, suggests that minority lawyers are, on average, any less competent to pursue successful legal careers than their white peers. This conclusion follows directly from the primary finding of the Michigan study—that neither those signals that are most relied on to admit students

to law school (i.e., LSAT scores and undergraduate grades) nor the signal relied on most by legal employers (law school grades) do even a modest job of predicting career success. Once we step outside our own parochial interests as academics, this too should not be surprising. Law school teaches very little about how to be a successful lawyer (as opposed to a successful law student or, perhaps, law professor), and much of what it does teach—for example, that success is primarily a matter of individual intelligence and effort—is wrong.[26] Good lawyers are made not born, and they are made in the institutions where they learn how to practice.

For most graduates of any color of Michigan and other similar law schools, this formative institution is a large law firm. Just as the "big wheel" of the Michigan law schools can even out differences in entering credentials, the institutional structures and incentives that typify large law firms can either even out or accentuate the capacities and opportunities of the women and men who come to these institutions to learn how to become good lawyers. As I have argued extensively elsewhere, those who get access to good work and training opportunities are much more likely to develop the skills and dispositions of a good lawyer—and equally important, to be *seen* as having developed these skills—than those who do not get these opportunities (Wilkins and Gulati 1998, 1644–51; 1996, 537–42). As minority lawyers face obstacles to entering the kind of supportive developmental relationships that make these opportunities possible, we should not be surprised that they have a more difficult time succeeding—and once again, being seen as succeeding—in elite firms. The fact that many minorities, even those who are "doing well," choose to leave large law firms and pursue other career opportunities is a natural outgrowth of this reality.

None of this means that the minorities who leave corporate law firms for small minority firms, government, or other professional arenas are not successful just because they did not become partners in large law firms. As the Michigan study demonstrates when the authors note the remarkable percentage of minorities in the 1970s cohort who started out in private practice only to become judges (Lempert, Chambers, and Adams 2000, 428), a stint at a large law firm can be an important stepping stone for other opportunities. Nor should we view those who stay and brave the obstacles associated with practicing at a large law firm as somehow failing if they do not manage to establish themselves as powerful partners in prestigious institutions. To the contrary, the fact that so many of Michigan's minority alumni have been able to carve out impressive careers *in spite of* the special obstacles they face should make us even more proud of how far these intrepid riverboat travelers have come. This success is especially impressive once we notice that these women and men perform an amount of pro bono and community service that far exceeds the contributions of the white law-

26. For a detailed version of this critique (some might say diatribe), see Wilkins 1999c.

yers with whom they must compete (Lempert, Chambers, and Adams 2000, 456–457).

The black lawyers I have interviewed around the country have a good sense of how equality, competence, and success differ from each other, and how these factors create the paradox with which I begin this comment. My interviewees freely acknowledge that their careers are successful—often beyond their wildest dreams—without ever losing sight of the extent to which their hard-earned success was harder to come by than it should have been and has carried them less far than they should have gone. A careful reading of the Michigan data suggests that Michigan's minority alumni see themselves in much the same way.

III. WORRYIN' 'BOUT THE WAYS THINGS MIGHT HAVE BEEN

The Michigan authors report that "the great majority of minority graduates in all three decades are satisfied overall with their careers" and that there are no statistically significant differences in overall satisfaction between minorities and whites (Lempert, Chambers, and Adams 2000, 445). Given the impressive accomplishments of Michigan's minority graduates chronicled elsewhere in the study, this conclusion makes perfect sense. Moreover, when we consider the fact that some of Michigan's minority graduates probably come from disadvantaged backgrounds—and many more are from families who have only recently entered the middle class[27]—it would be surprising if these lawyers were dissatisfied with the overall shape of their careers. Although coming from a working-class background (or from a family with strong links to such a background) may not create the kind of systematic reporting bias that would fundamentally distort the study's findings regarding career satisfaction, it would nevertheless be surprising if those who "never saw the good side of a city" before coming to law school were to be dissatisfied overall with a career that, no matter how bumpy the ride, has taken them places that few in their family have come anywhere close to seeing.

When we look more closely, however, we see signs that Michigan's minority graduates understand that their trip down the river has been especially rough. For example, Michigan's minority alumni consistently report being less satisfied than whites with their incomes (table 22A). Moreover,

27. The authors tell us that on average Michigan's minority students come from families with fewer economic resources than the families of the typical white student (Lempert, Chambers, and Adams 2000, 420). If Michigan's minority alumni—particularly its black alumni—resemble the black lawyers I have interviewed, it is likely that some (though by no means all) come from poor backgrounds. Moreover, many black families that have incomes that place them in the middle class have only recently arrived at this status and have strong ties to family members who live near or below the poverty line (see Dawson 1994).

this gap is growing over time. Similarly, although the differentials are smaller, minority graduates are growing proportionately less satisfied with their coworkers (table 22A). For the 1990s cohort, both the differentials in satisfaction with salary and coworkers are statistically significant. The authors suggest that the differential in income is the result of minorities' lower overall wealth (as opposed to income), or alternatively that "some minority graduates may suspect they are getting paid less than their white counterparts, even when they are not" (Lempert, Chambers, and Adams 2000, 446). There are, however, alternative explanations. As the careers of Michigan's minority graduates grow to resemble those of their white classmates, minorities will naturally become more likely to compare their incomes to what they think they would have been *if they were white*. Many minorities believe (with good reason) that, notwithstanding their high incomes, they would have been even *more* successful if they did not bear the additional burdens associated with being a minority. As one of my more courageous informants retorted to a white superior who was berating her for what was in reality the superior's mistake, "If our life circumstances were reversed, you'd be shining my shoes!" It is not surprising, therefore, that a growing percentage of Michigan's minority alumni are less "satisfied" with their incomes than their white peers, even though they would be the first to acknowledge that they make good money (even in some cases marginally more on average than whites) and that they are "satisfied" with their incomes overall. By the same token, it makes sense that as minorities increasingly work in settings where the vast majority of their coworkers are white, they will, in a world still dominated by negative stereotypes about minorities, be less satisfied with their white coworkers than the average white Michigan graduate. Not surprisingly, we see similar trends for the minorities who work in business (table 22C).

Finally, the percentage of alumni who are satisfied with their jobs has declined at a faster rate for successive minority cohorts than it has for whites. For both sets of graduates, the older cohorts appear to be more satisfied with their professional careers than younger cohorts. But the decline in satisfaction between the 1970s and 1990s cohorts is more than twice as steep for minority lawyers in private practice (17.2%) as it is for whites (8.5%) (table 22A). Once again, this is what one would expect to see given the increasing percentage of minority lawyers in later cohorts who are working in mainstream legal jobs, particularly large law firms. As the Michigan authors note, lawyers in private practice are consistently less satisfied than those who work in government (Lempert, Chambers, and Adams 2000, 445). As more minorities enter private practice—particularly large law firms—it is not surprising that more of them are unhappy (or at least not entirely satisfied) with their careers.[28] Given that the Michigan data also

28. But see Hull 1999.

confirm that minorities tend to be more committed to public service than their white peers, this trend is likely to continue as large firms increasingly move away from these values. Moreover, once minority lawyers are in these mainstream environments, the reference point for minority lawyers is not whether they are doing better than their parents (or anyone else in their families) but rather whether they are doing as well as they think that they *should be doing* given their talent, education, and experience. Unfortunately, on this comparison many minorities find their careers, although "satisfactory," less than ideal.

It bears repeating that none of this should detract from the impressive record of accomplishment that Michigan's minority graduates (and other beneficiaries of affirmative action in elite school admissions policies) have been able to achieve over the past three decades. Nor should it reinforce the common, but in my experience, false perception that middle-class minorities are quick to cry racism as an excuse for any setback they happen to encounter in their careers. Quite the opposite. The Michigan data are consistent with my interview experience that a black lawyer's first reaction is to be thankful for his or her good fortune in landing in a financially secure and professionally rewarding career. Only after considerable prodding do these women and men open up about the painful experiences they've had in their climb to the top, and even then with considerable reticence about whether race played a significant role in their troubles.

Such reluctance is understandable. The truth of the first part of the equality paradox underscores that the forces that adversely affect the careers of black lawyers are also likely to adversely affect the careers of at least some whites. As a result, almost every black lawyer who believes that he or she has been treated unfairly can turn around and see a white lawyer who has been treated equally badly—or worse. The truth of the second half of the equality paradox, however, highlights that even in those circumstances where the outcomes are the same, certain factors can make black lawyers more vulnerable to the misfortunes that befall them with greater frequency than similarly situated whites. Blacks and other minorities are aware of this too. As a result, it is hard for these lawyers not to feel a little resentful about the extra burdens they carry simply because they are black, even if some of these burdens (such as providing service to the black community) are ones that most believe they *should* carry because of their privileged position in relation to other blacks.

IV. NICE AND ROUGH

The Michigan authors conclude their path-breaking study with the hope that it will help society see that the shape of the river beyond undergraduate education continues to hold substantial promise for the minority

graduates who attend the University of Michigan and, by implication, other elite law schools (Lempert, Chambers, and Adams 2000, 503). This they have done masterfully. Without the "big wheel" of the Michigan law school to propel them—including the superb education, prestige, and lifetime supply of contacts that come as part of this educational package cruise—many of Michigan's minority alumni would not have been able to lead the kind of productive, secure, and professionally satisfying careers that this study persuasively demonstrates that these women and men currently enjoy. The same, of course, is true for Michigan's white graduates. If we are ever to achieve true racial equality in this country, it is imperative that all Americans have a realistic opportunity to book passage on powerful riverboat queens like the Michigan Law School. Indeed, given that minority graduates appear to get *more* from their Michigan degrees than their white peers (given where each group of graduates would likely have ended up in the absence of a Michigan education), one could argue that a public institution like Michigan should *increase* the number of places going to those who can make the best use of this limited resource (Russell 2000).

We must also realize, however, that securing passage on the *Proud Mary* does not guarantee that one will arrive at the end of the line, and certainly not that one will be relaxed and refreshed along the way. In addition to securing passage on a riverboat queen, "the people on the river" must also be "ready to give" the training, work, and professional relationships that ultimately determine success in the rough and tumble world after graduation. The minority graduates chronicled in this study have had to fight for their success in a legal profession that has become increasingly complex, competitive, and focused on the bottom line. What is worse, because of the subtle but nevertheless pervasive ways in which race continues to color the expectations and experiences of all Americans, the waves that have buffeted the careers of every lawyer during this period have hit these new arrivals on the *Proud Mary* especially hard. The fact that notwithstanding these additional hardships, Michigan's minority graduates have managed to attain levels of success that are comparable, even if not identical, to those of their white classmates, whose majority status has (for the most part) spared them from the worst of the turbulence associated with passage in the lower berths, is as fine a testament as I can imagine to the capacity, commitment, and courage of these professional castaways.

Tina Turner, that ultimate riverboat queen, captures the mixed sentiments embodied in the equality paradox as only someone who has lived life in this contradiction truly can. In introducing *Proud Mary*, Ms. Turner teasingly acknowledges that she knows that the audience would like to hear her and Ike sing a song "nice and easy." But, she warns, "we never ever do *nothin'* nice and easy. We always do it nice and *rough*." It would be far superior for all concerned if the minorities who graduated from elite law schools

during the past 30 years went on to lead professional lives that were "nice and easy." Unfortunately, progress in our color-obsessed world rarely proceeds so smoothly. The fact that affirmative action in law school admissions has not managed to produce an ideal society, however, should not dissuade us from recognizing that, largely as a result of the doors that these policies have opened, a significant number of minorities have been able to lead professional careers that are far nicer than they would otherwise have been—even though they are still rougher than they should be.

Affirmative action in law school admissions has, as the Michigan authors persuasively demonstrate, benefited both minority professionals and society at large. To the extent that these programs have not produced complete parity between minorities and whites, it is largely because of what happens to these graduates *after* law school. Far from an argument for abandoning affirmative action, the differences that remain between minorities and whites should draw our attention to the manner in which the careers of *all* lawyers are structured by institutional forces that continue to be deeply affected by race, even in the absence of intentional discrimination. By keeping our eyes firmly trained on each side of the equality paradox—by keeping the doors of educational opportunity open to all while at the same time recognizing that career success ultimately depends on understanding and adjusting to the ways in which race affects professional opportunity—we can ensure that future Marys and Michaels, Miguels and Magdalenes, Muchikos and Mooks "keep on burnin'" and roll just as proudly—and hopefully even a bit more smoothly and successfully—on the river traveled by the proud women and men chronicled in this excellent study.

REFERENCES

Barrett, Paul M. 1999. *The Good Black: A True Story of Race in America.* New York: Dutton Press.

Bowen, William G., and Derek Bok. 1998. *The Shape of the River: Long-Term Consequences of Considering Race in College and University Admissions.* Princeton, N.J.: Princeton University Press.

Chicago Committee on Minorities in Large Law Firms. 1996–97. *Directory of Minority Partners.* Chicago: American Bar Association.

Davis, Ann. 1996. Big Jump in Minority Associates, But. . . . *National Law Journal,* 29 April, pp. 1, 22.

Dawson, Michael. 1994. *Behind the Mule: Race and Class in African American Politics.* Princeton, N.J.: Princeton University Press.

Edwards, Harry T. 1971. A New Role for the Black Graduate—A Reality or an Illusion. *Michigan Law Review* 69:1407–45.

Fogerty, John. 1968. Proud Mary. Jondora Music (BMI), courtesy of Fantasy, Inc. All rights reserved. Used by permission. Recorded by Ike and Tina Turner. Workin' Together (1971 Liberty Records). Original Sound Record.

Galanter, Marc, and Thomas Palay. 1991. *Tournament of Lawyers: The Transformation of the Big Law Firm.* Chicago: University of Chicago Press.

Guinier, Lani. 2000. Confirmative Action. *Law and Social Inquiry* 25:565–583.

Heinz, John P., and Edward O. Laumann. 1982. Chicago Lawyers: The Social Structure of the Bar. New York: Russell Sage Foundation; Chicago: American Bar Foundation.

Hochschild, Jennifer L. 1995. *Facing up to the American Dream: Race, Class, and the Soul of the Nation*. Princeton, N.J.: Princeton University Press.

Hull, Kathleen E. 1999. Cross Examining the Myth of Lawyers' Misery. *Vanderbilt Law Review* 52:971–83.

Knapp, Vance, and Bonnie Grover. 1994. The Corporate Law Firm—Can It Achieve Diversity? *National Black Law Journal* 13:298–325.

Kornhauser, Lewis, and Richard Revesz. 1995. Legal Education and Entry into the Legal Profession: The Role of Race, Gender, and Educational Debt. *New York University Law Review* 70:829–910.

Lempert, Richard O., David L. Chambers, and Terry K. Adams. 2000. Michigan's Minority Graduates in Practice: The River Runs Through Law School. *Law and Social Inquiry* 25:395–505.

National Association for Law Placement (NALP). 1998. *Keeping the Keepers: Strategies for Associate Retention in Times of Attrition*. Washington, D.C.: Foundation for Research and Education.

Rebitzer, James B., and Lowell J. Taylor. 1995. Efficiency Wages and Employment Rents: The Employer-Size Wage Effect in the Job Market for Lawyers. *Journal of Laboratory Economics* 13:678–701.

Russell, Thomas D. 2000. The Shape of the Michigan River as Viewed from the Land of *Sweatt v. Painter* and *Hopwood*. *Law and Social Inquiry* 25:507–509.

Thomas, David, and John J. Gabarro. 1999. *Breaking Through: The Making of Minority Executives in Corporate America*. Boston: Harvard Business School Press.

U.S. Department of Labor, Federal Glass Ceiling Commission. 1995. *Good for Business: Making Full Use of the Nation's Capital*. Washington, D.C.: Government Printing Office.

Wilkins, David B. 1993. Two Paths to the Mountaintop? The Role of Legal Education in Shaping the Values of Black Corporate Lawyers. *Stanford Law Review* 45:1981–2026.

———. 1997. Social Engineers or Corporate Tools? *Brown v. Board of Education* and the Conscience of the Black Bar. In *Race, Law, and Culture: Reflections on* Brown v. Board of Education, ed. Austin Sarat. New York: Oxford University Press.

———. 1998. Do Clients Have Ethical Obligations to Lawyers? Some Lessons from the Diversity Wars. *Georgetown Journal of Legal Ethics* 11:855–99.

———. 1999a. On Being Good and Black. *Harvard Law Review* 112:1924–75.

———. 1999b. Partners without Power: A Preliminary Examination of Black Partners in Corporate Law Firms. *Hofstra Journal of the Institute for the Study of Legal Ethics* 2:15–48.

———. 1999c. The Professional Responsibility of Professional Schools to Study and Teach About the Profession. *Journal of Legal Education* 49:76–95.

———. Forthcoming. The New Social Engineers. The Making of the Black Corporate Bar and What it Means for America.

Wilkins, David B., and G. Mitu Gulati. 1996. Why Are There So Few Black Lawyers in Corporate Law Firms? An Institutional Analysis. *California Law Review* 84:493–625.

———. 1998. Reconceiving the Tournament of Lawyers: Tracking, Seeding, and Information Control in the Internal Labor Markets of Elite Law Firms. *Virginia Law Review* 84:1581–681.

COMMENTARY
Law School Affirmative Action: An Empirical Study

The Tributaries to the River

Richard Sander

In the field of legal education research, everyone talks about the importance of examining long-term outcomes, but nobody has done much about it—until now. "Michigan's Minority Graduates in Practice" (Lempert, Chambers, and Adams 2000) is pioneering work, providing the most comprehensive look anyone has yet undertaken at the long-term experiences, achievements, and attitudes of specific law school cohorts. Moreover, it is work done at the highest social science standards—a standard not met often enough in this field. The care and professionalism of Richard Lempert, David Chambers, and Terry Adams will rightly give their findings enormous credibility.

Lempert et al.'s article (hereinafter "The River") tracks, through extensive survey research, the current career patterns and retrospective attitudes of a large sample of University of Michigan Law School alumni from the 1970s, 1980s, and 1990s. Most important, the authors argue that the school's minority alumni have been as satisfied and as successful in their legal careers as white alumni, and that minority alumni have in many respects contributed more that white alumni to society through pro bono work and mentoring of younger attorneys. A by-product of this conclusion is a more striking one: the entering credentials (e.g., LSAT and undergraduate grades) by which law school applicants are judged do not, for the Michigan sample, help predict future success; even grades in law school seem to have only modest predictive value. By showing that Michigan's minority alumni (by and large, beneficiaries of affirmative action) have been highly successful, and by documenting the dearth of predictive value in the LSAT

Richard Sander is professor of law at UCLA and director of the UCLA Empirical Research Group. He would like to thank Tina Martinez Jaggers and Doug Williams for their comments on earlier drafts of this comment.

0897-6546/00/2502-557$01.00

and undergraduate grades for long-term career outcomes, the authors make a very impressive counterattack on some of the core premises of affirmative action's opponents.

My reactions to "The River" fall into two categories. First, I have a number of modest complaints about choices the authors made in their analysis; these are outlined in the first three sections below. Second, I fear that the findings of "The River" will be generalized, despite the authors' own cautions, far beyond the special environment that prevails at Michigan. My final section explains why I think it would be premature to conclude from this article that affirmative action's effects in legal education have been generally benign.

THE EXTENT OF AFFIRMATIVE ACTION

Since "The River" is largely an article about affirmative action and its consequences, it is important that we know what sort of affirmative action the University of Michigan Law School practiced. This means that we need to understand how much weight was given to the LSAT, to academic indexes, to race, and to other factors. How extensive a preference has been given to minority applicants, and how has any "credentials" gap changed over time?[1] How has the gap changed with the proportion of minorities in each class (in many schools, the percentage of students who are black increased significantly between the 1970s and the 1990s)? How have admissions policies toward blacks compared with policies toward Hispanics (usually, preferences given Hispanics have been much smaller, and started later)? Where did the blacks and Hispanics who matriculated at Michigan rank in the national pool of law students?

These are, of course, sensitive issues; they are particularly sensitive given the suits against affirmative action that the University of Michigan is currently defending. But it is somewhat silly to discuss affirmative action if we don't know what the "action" meant. Unfortunately, Lempert, Chambers, and Adams are rather coy on these issues, as perhaps they must be, given the Michigan litigation. They suggest, on the one hand, that few of the law school's black and Hispanic graduates would have gotten in without affirmative action; but they also report that Michigan's admissions policies looked very closely at the personal qualities of applicants not captured by the numbers. Much of their discussion on these points sounds like admissions-office rhetoric. The facts are probably more prosaic. From my conversations with admissions officers around the country, and my own research on law school admissions, I believe that most law schools rely overwhelmingly on "the numbers," picking the highest-ranking students within each

1. In many elite schools, it appears that the gap has narrowed over time.

racial group. Hard data are very difficult to come by, but my guess is that over 90% of all admissions choices at American law schools can be explained by LSAT, undergraduate record, and race. Lempert et al. should have dealt with these issues explicitly, but, in what is otherwise a number-heavy paper, none of these admissions issues is made concrete.[2]

OTHER ANALYTICAL DETAILS

"The River" is, in many ways, a model of conscientiousness. The authors present a great deal of data, and they carefully consider alternative interpretations of what their data mean. In a few instances, however, I thought that the authors' analytical choices obscured more than they revealed.

One choice I question is the collapsing, in most of the discussion, of black, Hispanic, and American Indian alumni under the rubric of "minority." This economizes on the discussion, of course. But in an article on affirmative action, it is troubling to collapse groups that are admitted under quite different criteria. Small reported differences between whites and "minorities" might, for example, conceal larger disparities between blacks and whites that are masked by the responses of more assimilated Hispanics.

Another problem was the absence of regression analysis in the first two-thirds of the paper. In discussing many alumni responses, the authors relied on cross-tabulations of the data, arranged in cells by race and decade of graduation. The authors then perform significance tests on the differences within each cell of the tables, and report which differences are statistically significant. Unfortunately, this method leaves out all other factors that might make the differences more or less significant. But even more basically, the method of looking at each decade of alumni separately dilutes the sample size of the study, turning significant differences into nonsignificant ones. For example, in discussing the recollections of alumni about their satisfaction in law school, the authors present 12 comparisons of small samples of alumni and find only 2 marginally significant differences in satisfaction between "minority" and "white" alumni. Hence, they conclude "there is little difference between the overall satisfaction scores of whites and minorities." But if these data are aggregated for all alumni, then almost all the differences *do* become significant. Minorities are less satisfied (using a chi-square test on the reported data) at a $p < .02$ level. I did not perform

2. It is worth pointing out that in all the paper's analyses, "minority" is implicitly used as a proxy for "affirmative action admit." Given the extent of background information the authors had, I suspect they could have identified which students were in fact probably admitted through affirmative action, and which students would have been admitted through a race-blind process. This would have made more convincing those analyses that purport to assess the effects of affirmative action.

similar analyses on all the reported data, but I believe that in at least a dozen cases, overall significant differences between minorities and whites are obscured by the authors' methods.

Likewise, Lempert, Chambers, and Adams minimize the lower reporting rates of minority alumni. In the surveys, blacks and Latinos were almost 20% less likely to respond than were whites. This is potentially important if, as is usually the case in surveys of this sort, the least "successful" alumni (or those least fond of the institution) are the least likely to respond. The authors do discuss the problem carefully. But I believe they overlooked the import of some of their discussion. For example, they observe that "We are . . . certain that among these nonrespondents are a great many high-earning persons. . . . of the 174 minority graduates we know to be working currently in firms of more than 50 lawyers, a group that among our respondents reports very high earnings, 41% were nonrespondents" (2000, 405). This remark implies that nonresponse did not bias the survey; but the data in this observation actually tends to show the opposite. A 41% nonresponse rate among high-earning blacks would be almost identical to the 39% nonresponse rate among whites; it implies that among the rest of the black sample, the nonresponse rate was well over 50%. Though we don't have the data to know for sure, it does indeed appear that the least successful black alumni were those least likely to participate in the study.

One odd omission from "The River" is the lack of discussion of an earlier study of Michigan law graduates (Wood, Corcoran and Courant 1993).[3] For some years, Michigan has collected systematic data from alumni at certain intervals after graduation. Some labor economists studied this data in the early 1990s and found, among other things, that various measures of law school performance were, in fact, quite predictive of later earnings. Since these researchers used a richer set of measures of law school performance, and came up with results somewhat at odds with those of Lempert et al., it is surprising that these results are not even touched upon in "The River."

IS AFFIRMATIVE ACTION BENIGN OR POSITIVE IN ITS EFFECTS?

"The River" shows that the beneficiaries of affirmative action at Michigan overwhelmingly go on to have successful and socially valuable careers. Why is this the case? And what does it imply about affirmative action? The authors consider a variety of possibilities but draw few conclusions on the

3. To cite one finding, this study reports that a one-point change in law school GPA of Michigan law students in the early 1970s produced a 20% increase in earnings 15 years out of law school.

first of these questions; but they do not hesitate to conclude on the second that affirmative action is a resounding success. This conclusion seems premature. First, we don't know how students admitted to Michigan would have turned out had they attended another law school that chose them through race-blind methods. I am inclined to agree with the authors' implicit view that the Michigan credential helped them. But second, the authors do not consider how affirmative action by Michigan affects other schools with less magnetic reputations. All of Michigan's matriculants, of any race, are outstanding students; as "The River" notes, score differences are probably not very important at the very top of the score distribution. But as Michigan reaches down into the pool to admit lower-scoring minorities, then law schools in the next tier, if they wish to avoid self-segregation, must reach still further down into the pool in exercising affirmative action, and this constrains the pool available to still less elite schools. One ends up with a system in which, at the middle- and lower-ranked schools, many minorities are admitted who will have academic difficulty, have a high probability of not passing the bar, and might very well not be very good attorneys if they *did* pass the bar.

Table 1 summarizes results from the Law School Admission Council's (LSAC) national longitudinal study of law graduates from the Class of 1994. Of the nearly 24,000 whites who were in the study in their first year of law school, 74.6% completed law school and passed the bar exam on their first attempt. For Hispanics[4] the analogous rate is 58.1%; for blacks it is 42.5%.[5] Among the white law graduates who sat for the bar exam, 91.9% passed on their first attempt, compared to 74.6% of Hispanics and 61.4% of blacks. Although the LSAC studies did not analyze these data in the most helpful ways, one can infer from their report that the predominant reason behind these differences in success rates are the admission of large numbers of minority students with low "numerical" credentials. For those students who are admitted to law school under these conditions, and are never able to practice law, affirmative action is costly indeed.[6]

4. The LSAC defines three groups—Mexican Americans, Puerto Ricans, and Hispanics—that the U.S. Census, and I, collapse into the general category "Hispanic."

5. This does not mean that all the other students initially in the survey failed either law school or the bar exam; many students dropped out of law school, and in some cases, the survey administrators simply lost track of people. Some students graduate but choose careers in which there is no need to take the bar. But the numbers are, nonetheless, a reasonably accurate indication of what proportion of students who enter law school are eventually eligible to practice law.

6. The same pattern of differential entry into the bar exists at Michigan, in the sense that minorities are more than twice as likely as whites to either not complete law school or not pass the bar; but since the numbers are so small (3.2% for whites, and 7.5% for minorities) at Michigan's level, they seem inconsequential.

TABLE 1
Success Rate of Law Students in Completing Law School and Passing a Bar Exam

Outcome	Blacks	Hispanics	Whites
Students matriculating in law school in 1991 and entering LSAC study panel	1,976	1,342	23,755
Students sitting for the bar, 1994–96	1,368	1,046	19,285
Students passing bar on first attempt	840	780	17,728
Students passing bar eventually (but before end of panel study)	1,062	917	18,644
Students in initial panel completing law school and passing bar on first attempt	42.5%	58.1%	74.6%
Students taking bar who pass on first attempt	61.4%	74.6%	91.9%
Students taking bar who eventually pass	77.6%	87.7%	96.7%

Sources: Wightman 1998, 27, 32; 1995, 13.

NOTES The population reported as "Hispanic" is a combination of populations reported as "Hispanic," "Puerto Rican," and "Mexican" in the original LSAC reports. Some of the attrition between "matriculants" and those "sitting for the bar" may be due to the study administrators' losing track of participants; nearly all the difference, however, appears to be due to attrition—dropping out or not graduating from law school.

It is therefore difficult to evaluate affirmative action, or to conclude that it carries no costs, in the context of a single institution. Michigan's policies have direct implications for the racial environment at other law schools. My fear is that the results of "The River" will be generalized to justify affirmative action across the whole spectrum of American law schools. This would, in my view, be exactly the opposite of what is more probably the case: the success of affirmative action at Michigan comes at the cost of making integrated education more problematic at weaker law schools.

It would likewise be a mistake to believe that the experiences of Michigan's minority alumni typify the experiences of minority lawyers in the United States. Imagine the world facing Michigan's black graduates in the 1970s and early 1980s. They faced the terrible challenge of integrating an all-white, often hostile profession; but many elements of that world, and even more elements of America's public realm, were desperately seeking to facilitate that integration with the most talented blacks available. These graduates would have often encountered discrimination, but they would also have encountered opportunities for judgeships and other public offices at relatively young ages, and tremendous demand for their involvement in civic activities. Their experiences, both positive and negative, would have been sui generis. For the black graduates of more middle-range schools, one

can imagine that the mix of experiences would have been more heavily tilted on the negative side. Thus, to take one example, if we look at the earnings of lawyers in the United States as a whole, earnings of black (and Hispanic) attorneys lag far behind those of whites. The median income of black male attorneys under 45 years of age in 1990, according to census figures, was about $39,000 (around $52,000 in today's dollars); the median for Hispanic male attorneys in the same age range was $40,000 ($53,000 in 1999 $$). The comparable median for whites was $56,000 (about $71,300 in 1999 $$).[7] Over 20% of black and Hispanic male attorneys under the age of 45 were earning less than $20,000 per year at the time of the census.

Thus, I believe Lempert et al.'s analysis of Michigan's graduates would be more illuminating if the authors focused more on the many remarkable circumstances that made their minority graduates' career experiences particularly rich, rather than implying that affirmative action by the law school was the only elixir needed.

CONCLUSION

One benefit of the recent assault on affirmative action is much more open discussion about how racial preferences operate in higher education, and what their effects have been. "The River" is a valuable and singular step along the path of understanding these questions. The ideal next step, in my view, would duplicate the Michigan analysis on a larger scale, covering a wider spectrum of legal education and filling some of the omissions I have discussed here. If we can do this, we may really achieve a comprehensive view of the effects of affirmative action.

REFERENCES

Lempert, Richard O., David L. Chambers, and Terry K. Adams. Michigan's Minority Graduates in Practice: The River Runs Through Law School. *Law and Social Inquiry* 25:395–505.

Wightman, Linda. 1998. *LSAC National Longitudinal Bar Passage Study*. Newton, Pa.: Law School Admissions Council.

———. 1995. *Legal Education at the Close of the Twentieth Century*. Newton, Pa.: Law School Admissions Council.

Wood, Robert G., Mary E. Corcoran, and Paul N. Courant. 1993. Pay Differences among the Highly Paid: The Male-Female Earnings Gap in Lawyers' Salaries. *Journal of Labor Economics* 11:417–441.

7. These figures somewhat understate the differences, since minority attorneys were far more likely to be located in high-cost urban areas, where the cost-of-living is higher. The source for these data is the 1990 U.S. Census, Public Use Microdata Sample.

***

Confirmative Action

Lani Guinier

Lempert, Chambers, and Adams's study of the careers of three generations of students of color admitted to the University of Michigan Law School fills several important gaps in our knowledge about the consequences and implications of affirmative action protocols in law school admission. First, it provides empirical data for the argument that conventional test-based admission policies both mask and support deep flaws in the way we allocate opportunity and privilege. They reward people who then often fail to give back to society. They also fail to identify those who in fact have much to give and do give in service of the profession and its larger goals.[1] Second, it shows that using an alternative measure for admission does not reduce the number of places available to qualified applicants. It simply alters, in an important way, how we view qualifications. It links qualifications at the entry level to the standards and achievements that the school and the legal profession claim to value in law school graduates. Third, the data reveal conflicting values at the heart of an important public institution. The study shows that what the University of Michigan aims for in lawyers and

Lani Guinier is professor, Harvard Law School. Steig Olson, Harvard Law School 2001, provided invaluable assistance in the research of this essay.

1. Some may argue that I am overstating the implications of the study's results. Certainly Michigan's white students also engage in substantial pro bono and other service activities at a level that appears to the authors to go beyond what is formally required. Moreover, the negative correlation between "hard credentials" and service activities may be explained by ethnic status. That is, blacks and Latinos tend to give back more than white students, and the difference in their admission's index does not explain much of the variance. Indeed, in the authors' regression analysis the admissions index variable is not significant after ethnic status is controlled. Finally, the authors are careful to point out that many lawyers give back or feel they are giving back to society in their regular jobs. On the other hand, to the extent the school continues to rely on the so-called hard credentials to admit students, it will in fact be preferring those who are likely to do less service, meaning what lawyers do beyond their regular jobs.

0897-6546/00/2502-565$01.00

what it selects for in law students are not the same things. According to the University of Michigan Law School mission statement, the school "looks for students likely to become esteemed practitioners, leaders of the American bar, significant contributors to legal scholarship and/or selfless contributors to the public interest." The school also expects that all those it admits will "have a strong likelihood of succeeding in the practice of law and contributing in diverse ways to the well-being of others" (Lempert, Chambers, and Adams 2000, 396). Yet this study finds that the criteria the law school employed to admit most of its applicants has little if anything to do with these goals.

Thus, the study deserves attention across the ideological spectrum because of what it finds about not only affirmative action's strengths but conventional admission's weakness. It confirms the value of affirmative action to the intended minority beneficiaries, their white classmates, and society at large. My reading of this study suggests that affirmative action could well become *confirmative action*, in that many of the criteria used to select its beneficiaries should be confirmed and broadened to select all incoming law students.[2] In other words, affirmative action should not be understood simply as a race-based exception to the general admission rule of rank ordering test scores and grades. Instead, it is an experiment that succeeded so well at the University of Michigan Law School it might be used to rethink how that school admits everyone. Rather than ban affirmative action, its critics might urge this law school in particular and other similar institutions more generally to expand their practice and revamp the entire admissions criteria for *all* incoming law students.[3]

I. THE MICHIGAN STUDY FINDINGS

The study looks at the relative postgraduate performance of minority and white alumni of the University Law School starting with the graduating class of 1970, the first class with more than 10 minority graduates. It focuses on race-conscious affirmative action in admissions to one elite institution of higher education. The authors conclude that traditional, "hard," test-score-

2. I thank Jeannie Suk, HLS 2002, for naming this proposal, which is developed further in an essay for the National Urban League's *State of Black America 2000*, by the same title. The concept named *confirmative action* seeks to confirm the lessons of affirmative action as a longitudinal measure of what law schools value in their graduates and to confirm a more holistic approach to individual applicants that links admission criteria to this longer-term and "public-spirited" measure of success.

3. This study only reviewed data from a single law school. Some might reasonably argue that it would be necessary to replicate these findings at other similar institutions before launching a major restructuring of law school admissions protocols. On the other hand, *The Shape of the River* by Bowen and Bok studied students at 25 elite schools and found similar evidence that those admitted pursuant to affirmative action protocols were more likely to become leaders in their communities.

based admissions processes are no better predictors of success after law school—whether success is measured by earned income, career satisfaction, or service contributions—than are "soft," more whole-person selection criteria (Lempert, Chambers, and Adams 2000, 468).[4] Those who graduate from the University of Michigan Law School tend to succeed,[5] whether as applicants they were admitted, on the one hand, pursuant to criteria that emphasize "mental aptitude" for the study of law, or on the other hand, by virtue of expectations about their capacity to contribute to the community of legal education, legal profession, or citizens generally.

That a test-centered approach does not predict success better than a more whole-person approach would not surprise those of us who have been skeptical about current overreliance on aptitude testing to allow efficient, but not necessarily "merit-based" decision making.[6] Even conceding the LSAT's modest ability to "predict" first-year grades,[7] such tests do not predict much beyond a student's performance six months to a few years after they take the test, and then, only in comparable, (i.e., classroom)

4. "Perhaps the core finding of our study is that Michigan's minority alumni, who enter law school with lower LSAT scores and UGPAs than its white alumni . . . appear highly successful—fully as successful as Michigan's white alumni—when success is measured by self-reported career satisfaction or contributions to the community. Controlling for gender and career length, they are also as successful when success is measured by income" (Lempert, Chambers, Adams 2000, 496). While the study does not explore all the criteria employed in Michigan's affirmative action program, race, it appears, may not have been the only or necessarily the most significant factor in the process. Apparently, each applicant was evaluated as a whole person based on letters of recommendation, and evidence of student motivation, as well as some reliance on minimum test scores and grades (from conversation with Richard Lempert, 22 December 1999, in which he carefully chronicled the history of admissions during his tenure; my summary admittedly merges several distinct periods in this history).

Although many variables may have affected each admission decision, one relevant factor would seem to have been leadership potential. On the other hand, the fact that minority graduates demonstrate community leadership may reflect less on demonstrated leadership skills before admission and more on the opportunities for leadership they had while in law school. See notes 17 and 31 below. Alternatively, race itself may have served as a proxy for leadership. See discussion at note 18 below.

5. See David Wilkins's comment (2000) in this issue, in which he emphasizes the importance of the "big wheels" of the Michigan Law School, what others call "branding," that continue to "keep on turning" or open doors for graduates, both white and black.

6. See, e.g., Sturm and Guinier 1996, describing ways in which SAT and LSAT tests correlate as much with parental income as first-year grades. See also Lemann 1999, describing theocracy of testing as a religion in which mental aptitude replaced inherited privilege as the means for identifying the new elite; testing is as much faith based as scientific, since the validity measures are much weaker than most people realize. Test-based admission criteria are certainly bureaucratically efficient, but given their relatively modest ability to predict what we claim to value, Lemann suggests we have promoted efficiency, or pseudo-scientific rationality, to the detriment of other important ideals and goals.

7. LSAT "explains" 14% of performance, for example, at the University of Pennsylvania Law School in the first year. See Guinier, Fine, and Balin 1997. This is about average for law schools. See Selmi (1995, 1264)(correlation coefficients for the LSAT, which is intended to predict first-year law school grades, tend to hover around .35; correlation coefficient of .3 means that the test *explains* 9% of the variation in predicted performance). Or as Linda Wightman stated when she was at the LSAC, nationwide the LSAT predicts first-year law school grades 9% better than random.

examination settings.[8] Indeed, Harvard College did a study of three classes of its graduates over a 30-year period and found that two things predicted success as Harvard measured it: low SAT scores and a blue-collar background.[9]

So what is genuinely striking then about the Michigan study? Not only did the soft processes predict minority alumni career success at least as well as the hard test-based criteria, but they gave birth to several previously undetected rewards: (1) a more diverse student body which Michigan Law students and alumni conclude is an educational good in itself; (2) a student body that will go on to serve historically underrepresented populations; and (3) a student body that will be more involved in giving back to—as well as providing leadership for—the larger community.

The first finding is that both white as well as nonwhite students feel their educational experience is enriched by the presence of a more racially and ideologically diverse student body.[10] This finding is especially interesting in that the only group that expressed an initial resistance to the educational value of diversity was white males, but even that resistance faded beginning in the early 1990s. White women looked more like their African American and Latino peers from the beginning, in that large numbers of the white women graduates consistently valued the opportunity to learn in a diverse classroom community.[11]

The study also found that the minority graduates succeeded—after graduation—in ways that eluded many of their white counterparts. These findings are especially significant because they suggest that measuring the success of affirmative action only during the period students are in school fails to identify its real strength. It is the value of affirmative action in identifying students who actually succeed in the larger world after graduation that has too often been overlooked.[12] Thus, the study finds that (1) minority alumni provide, on average, considerably more service to minority clients than do white alumni; indeed, all Michigan alumni, including white alumni, are "disproportionately likely to serve same-race clients" and (2)

8. The Lempert study does find a modest relationship between LSAT and grades over the three years in law school. In our study at the University of Pennsylvania, we found a similarly modest relationship over the three years of law school. However, most efforts attempt to validate the LSAT primarily on its relationship to first-year grades.

9. Shipler 1995. Harvard, like the University of Michigan Law School study here, measured success in terms of financial and career satisfaction and contribution to the community.

10. Most Michigan graduates now agree that diversity of opinion, background, perspective and race, ethnicity or gender contributed to their legal education (Lempert, Chambers, and Adams 2000, 494 and table 5A).

11. Prior to the 1990s it seemed as if only students of color valued diversity. But when the authors controlled for gender they discovered that the white women at Michigan looked at diversity in ways similar to their colleagues of color. The white men were the only cohort that was indifferent to the value of diversity, and even this cohort changed its views beginning in 1990 (Lempert, Chambers, Adams 2000, 414).

12. The study by Bowen and Bok (1998) was similarly groundbreaking in its effort to study affirmative action using longitudinal measures.

among those Michigan graduates who enter the private practice of law, "minority alumni tend to do more pro bono work, sit on the boards of more community organizations, and do more mentoring of younger attorneys than white alumni do" (Lempert, Chambers, and Adams 2000, 401). The study found, in other words, that minority graduates use the opportunity provided by their legal education to accomplish, at higher rates than their white counterparts, two of the law school's goals. They provide legal service to an underrepresented segment of the population, and they provide community service and leadership to the community as a whole.

While important, these two observations are not the only significant results of this study of almost 30 years of affirmative action at the University of Michigan Law School. If they were, those who already support affirmative-action policies alone might hail this study, but few others would grant it the attention it deserves. The results of the study, however, are entitled to close scrutiny even among the most ardent critics of affirmative action. The study finds that soft admissions criteria are adequate substitutes for hard test-based policies when the baseline is not first-year grades but the actual career paths taken by law school graduates. The study also finds that on all three measures of success—financial satisfaction, career satisfaction, and public service—conventional admissions practices are limited, short-sighted measures that are in many important ways *inferior* to the criteria used to select beneficiaries of affirmative action.

The authors found no relationship between admission indexes and income as an attorney.[13] They found a relationship between high admission indexes and career *dissatisfaction*.[14] They found a negative correlation between high admission test scores and community service.[15] In other words, those with high admission-index scores tend to contribute less to society.[16] While years since graduation is the most important predictor of doing pro bono work, serving on community boards, or providing leadership more generally, minority status is the most important of the other relevant variables. Simply stated, minority graduates realized the expectations of the ad-

13. "In no decade is there a statistically significant relationship between the admissions index and . . . the log of income" (Lempert, Chambers, Adams 2000, 468).

14. There is, in fact, no statistically significant relationship between the admissions index (LSAT and UGPA) and career satisfaction. However, for the 1980–89 cohort, "there is a statistically significant *negative* relationship between UGPA and career satisfaction" (Lempert, Chambers, Adams 2000, 468; emphasis in original).

15. "In all decades, those with higher index scores tend to make fewer social contributions . . . than those with lower index scores, and this negative relationship is statistically significant among graduates in the 1970–79 and 1990–96 cohorts" (Lempert, Chambers, Adams 2000, 468–69).

16. They mentor fewer young attorneys, sit on fewer community boards, and do less pro bono work. This negative relationship is statistically significant among the 1970–79 and 1990–96 cohorts. If one compares the entry-level LSAT scores of Michigan graduates with their "service" index, there is a negative relationship that is statistically significant among 1980s graduates as well (Lempert, Chambers, Adams 2000, 469).

missions' committee that admitted them as students because the committee actually looked at what they had accomplished in the multiple domains of their life.[17] It turns out that those who were leaders in their community before law school also do more relevant community and public service after they graduate.[18]

Some may doubt the significance of this finding that traditional test-centered entry level predictors are failing us. Skeptics of the study might remain resolutely committed to the conventional predictors on the grounds that although such indicators fail to correlate with public service, that is not their "job." Predicting who will do public service or be public spirited is arguably not the role of entry-level admission tests. These aptitude or admissions tests help schools identify the types of people who will succeed in the first year of law school and thus, by implication, in the profession.

There are two problems with this claim. First, the University of Michigan asserts that one of its goals is to identify and train those who will be leaders after graduation. Those who do public service and function as leaders are thus "successful" by the schools' own definition of its mission, and those who do not do public service or function as leaders are not.[19] Second, LSAT and UGPA fail to correlate with other post–law school accomplishments, including level of lawyers' income and career satisfaction (Lempert, Chambers, and Adams 2000, 468). And while the admissions index, composed of LSAT and UGPA, modestly predicts about 12.3% of the variance

17. According to Lempert, the school's affirmative-action efforts were initially based on the assumption that if they put people in an environment like the University of Michigan Law School, they would flourish. They were looking to get "the best people" and picked students they thought could do the work. My impression from the study, and from my own experiences, is that the admissions process for minorities considered the "whole person" in deciding whom to admit among competing, qualified applicants. To some extent the school most certainly relied on the test-based credentials for minority applicants; yet again, if as was true at other institutions, they probably used them as a cut-off floor rather than an acutely sensitive ranking system. Early on, as was true at many comparable institutions, minority students may have also played a role in the recruiting and selection process, and to the extent they tried to find student leaders, that may have influenced the admission criteria.

The actual procedures employed should certainly be further investigated, since, those criteria worked to admit students who ultimately became leaders within their profession. In particular, the criteria used to admit the first generation of black students are worth studying since that early generation gave back even more to the community than those that followed. This may not simply be a function of the selection criteria but also of the experience the first cohort of black students had in the law school itself, where they had numerous occasions—outside the classroom—to develop leadership skills.

18. It is also possible that the relevant variable here is not what students did before law school, or even during law school, but their "race." Race may be functioning here as a proxy for commitment to others, to public service, and to giving back. See discussion in Guinier 2000 (discussing idea that those who identify as part of a community are more likely to define their own goals in community-oriented ways). See also note 17, above, and accompanying text.

19. This is also consistent with the public character of the school as an institution of higher education in general, as an institution training graduates to enter a "public profession," and as a public, state-subsidized institution. See discussion below at notes 40, 41, and 45–47 and accompanying text.

in law school grades, even those with high grades throughout law school tend to do less service than those with lower grades.[20] Compared to the admission's index, with its emphasis on LSAT scores, law school grades are better predictors of financial earnings after graduation; yet even grades are not good predictors of career satisfaction or contribution to the community. Moreover, the authors conclude, that whatever it is about law school grades that predict higher income does not translate backwards to redeem the LSAT as a predictor of post-graduation success. The qualities of an individual who gets good grades and then earns lots of money are apparently qualities that have little to do with what the admission index tells us about students' likely school performance: "high [law school grades] reflects something, perhaps an innate love for the law, or a sense of mission, or maybe a capacity for hard work under pressure, which relates to income success in practice. This capacity appears to be largely orthogonal to whatever it is that [undergraduate grades] and LSAT measure" (Lempert, Chambers, and Adams 2000, 481).

Those invested in the conventional admission testocracy[21] might nevertheless remain unpersuaded because of their skepticism about racial diversity as a goal. Racial diversity among those admitted to elite universities has been offered as a major reason for affirmative action. Criteria to assure a diverse class, it is said, were necessarily criteria at odds with or at least supplemental to those criteria necessary to assure a competent or even superiorly "qualified" class. The assumption, shared by both critics and supporters of affirmative action, was that standardized admission indexes (relying on both undergraduate grades and the LSAT) predict one's capacity to learn and, by implication, practice the law. But in order to achieve a diverse class of students it was necessary to compensate for underperformance among minority candidates on these conventional measures of "worth." Thus, under the rubric of "affirmative action," efforts were undertaken to recruit and

20. In "no decade does [the admission's index explain more than 12.3% of the variance in law school grades" (Lempert, Chambers, Adams 2000, 465).

21. I use the term *testocracy* to highlight the ways in which selection policies are heavily dependent on standardized tests. See Sturm and Guinier (1996, 968): "We argue that the 'meritocracy' is neither fair nor democratic, neither genuinely predictive nor functionally meritocratic. . . . Instead, a 'testocracy' masquerades as a meritocracy. By testocracy we refer to test-centered efforts to score applicants, rank them comparatively, and then predict their future performance."

> In fact, the 'testocracy' does not provide a fair playing field for candidates. First many standardized tests are substantively unfair because they assume that there is a single, uniform way to complete the job, and then tests applicants solely upon criteria consistent with this uniform style. In this way, the testing process entrenches the status-quo mode of production, excluding those individuals who may perform the job just as effectively through different approaches. Second, conventional selection methods advantage candidates from higher socioeconomic backgrounds and disproportionately screen out women and people of color, as well as those in lower-income brackets. When combined with other unstructured screening practices . . . standardized testing creates an arbitrary barrier for many otherwise-qualified candidates (1996, 982).

admit minority candidates with less impressive test scores. These candidates were often selected, therefore, based on supplemental criteria such as leadership ability, community service, motivation (as evidenced in their ability to overcome obstacles), and unusual evidence of accomplishment that suggested the ability to follow through on goals.

Part of the skepticism of affirmative action's critics is that while diversity may benefit minority applicants, by giving them access to opportunity they otherwise would not have, it does little for better "qualified" white applicants, whose opportunities to succeed are reduced in kind.[22] The study, however, rebuts this claim in two ways. First, it shows that using an alternative measure for admission does not reduce the number of places available to qualified applicants. Rather, it redefines what it means to be truly "qualified" based on the work one does as a lawyer rather than as a law student. It identifies the need to connect our view of qualifications at the admission stage with competence after graduation. It links qualifications at the entry level to values that the school and others proclaim as measures of career success for those who enter the profession. Second, it shows that white students within the law school, especially white women joined by increasing numbers of white men as well, affirm the value of the racial diversity they experienced there.

II. THE SIGNIFICANCE OF THE STUDY FINDINGS

What is most important about the Michigan study is not its defense of affirmative action in the abstract. The study's major contribution is to confirm the value of affirmative action as a better method for identifying qualified lawyers than conventional techniques. Affirmative action's success, in other words, challenges that widely shared, almost religiously inspired assumption that visible rankings of "natural aptitude" are the most appropriate way to assure competence or even quality among those who perform well on the tests. Test scores and comparable measures of either "legal aptitude" or general intelligence may correlate modestly with law school grades. *But they do not predict or correlate with anything else that we claim to value.*[23]

22. Of course, many other objections have been raised to the use of race as a factor in high-stakes admissions. I do not purport to canvas all the criticisms of affirmative action, nor do I offer unqualified support for affirmative action as it has been practiced at the University of Michigan or elsewhere. My goal here is to suggest that affirmative action cannot be attacked or defended in the abstract but should be viewed in comparison to the strengths, and weaknesses, of conventional criteria.

23. The operative word is "claim" to value. They do tend to correlate with parental income (i.e., with the applicant's socioeconomic status and wealth). But few seem to offer that correlation as a public virtue in a formal sense. Those who defend the current emphasis on aptitude testing do so on grounds of equal opportunity, not preferential treatment for the rich. While they don't justify the tests as preferences, they do concede that those who are already privileged are in a better position to take advantage of the opportunities to learn the

Whatever it is that explains the extremely modest relationship between the conventional admissions' index and law school grades fails to explain the career trajectory, the levels of satisfaction or the community service profiles of law school graduates. As the authors conclude, "LSAT scores and UGPA scores, two factors that figure prominently in admissions decisions, correlate with law school grades, but they seem to have no relationship to success after law school, whether success is measured by earned income, career satisfaction, or service contributions"(Lempert, Chambers, and Adams 2000, 401).

The Michigan researchers, who sought to study the long-term consequences of affirmative action protocols, inadvertently discovered something just as important: conventional admissions procedures are predictive failures in two key ways. They fail to predict career success.[24] They also fail to identify in advance those who will fulfill the mission of this public law school.[25] This discovery, which is especially significant as it applies to a state-subsidized education at a public institution, verifies the ironic impulses of the British sociologist Michael Young, who coined in 1958 the term *meritocracy* to satirize the rise of a new elite that valorized its own mental aptitude. Young argued that a meritocracy is a set of rules put in place by those with power that leaves existing distributions of privilege intact while convincing both the winners and the losers that they deserve their lot in life.[26] That the "winners" of a test-centered meritocracy seem to take their privileged position for granted may then explain why those who should succeed according to conventional predictors do not.[27] It may also explain why the whole-person, particularized selection criteria used to admit minority candidates

---

law that the University of Michigan offers. This argument often contends that upper-middle-class applicants enjoy better preparation, better study habits, and are thus better students. The argument then finds its confirmation in the first-year grades of those who have been selected. But one alternative way of reading the same data, an alternative that this study reinforces, is to conclude that those who are less well prepared take longer to catch up, but when they do, they actually surpass the already privileged along the axis of things we affirmatively value.

24. As Tom Russell writes in his companion piece in this volume: "The gap that the researchers did discover is more intriguing. Lempert et al. found that the numerical criteria for admission are largely irrelevant to career success."

25. The law school's mission statement tracks that of the university itself. See note 39 below.

26. Jerome Karabel, professor of sociology at University of California at Berkeley (1999), described this phenomenon as Michael Young's contribution to "meritocracy's dirty little secret."

27. Michael Young's satire (1958) argues that a test-centered ranking system would encourage the sense of "desert" among those who excelled, and would possibly discourage them, as winners, from doing anything to question their success. On the other hand, Henry Chauncey and others whose commitment to testing for mental aptitude helped propel the SAT and LSAT into the credentializing machines they have become believed that testing people for mental aptitude would not only allow the selection of those who are most competent. It would also allow institutions of higher learning to recruit a leadership class who would discharge their public service responsibilities with renewed vigor. See, Lemann 1999. As this study demonstrates, the association between leadership, service and mental aptitude testing was perhaps the biggest flaw in the Chauncy program.

actually correlate with the career paths and service attributes of minority graduates.[28]

Michael Young's intuition—that those who succeed in a self-described meritocracy begin to take their success for granted—has significant implications that deserve further investigation. One possibility is to look at the socializing effect of the meritocracy's emphasis on visible, rankable test scores. The study does not actually state that a test-centered approach may socialize successful students to believe they have "earned" their success and have no obligation to give back. Nor does the study suggest the potential socializing effect of the current emphasis on aptitude testing—with its multiple-choice and timed protocol that rewards what at least the coaching industry argues is "quick strategic guessing" as to what answer the test maker is looking for rather than what may be a good or defensible position. One can certainly begin to speculate, however, that multiple-choice, timed testing may train successful candidates not to question authority, not to look for innovative ways to solve problems, not to do sustained research or to engage in team efforts at brainstorming, but instead to try to answer questions quickly and in ways that anticipate the desires or predilections of those asking the questions.

Other possible explanations, that the study does support, at least indirectly, include the fact that the test may select for people who are only good at taking tests and lack other social skills that make people effective lawyers; or those who do well on tests and exams may have qualities of mind and habits of work that ultimately deny them a "full" life (they eliminate all other distractions to the exclusion of family and friends).The study suggests that students who get good *grades* in law school are more likely to be persons who do less service because they are likely to prioritize grades over everything else, a consequence of which "is that a person has little time for service" (Lempert, Chambers, and Adams 2000, 489).[29]

There is yet another explanation as to why the minority students selected by whole-person criteria do not perform as well on high-stakes tests, but do end up succeeding in a way valued by both the institution and

28. The study does not explicitly test the effectiveness of whole-person admissions criteria. Rather the authors hypothesize that a plausible reason why they fail to get a correlation between the admissions index and success measures is that in accordance with Michigan's official admission policy, softer measures more indicative of the whole person were considered. One obvious next step, therefore, is for these authors or other scholars to get the resources needed to code the soft data from the admissions files for the alumni in the study in order to provide data that bear directly on the whole-person issue.

29. The study also suggests that the dedication necessary to achieve a high LSGPA may result in long-term career dissatisfaction, because a person with such dedication is likely not good at balancing "separate spheres" of satisfaction: "Those likely to have concentrated most on getting good grades while in law school may be more likely than others to dedicate themselves to their jobs and to narrowly defined job responsibilities. The result is that they tend to earn more than others, but they also tend to do less service and to feel less satisfied because their jobs are so consuming" (Lempert, Chambers, Adams 2000, 489–90).

society. As Claude Steele has discovered (1999), a high-stakes testing environment may trigger stereotype threats in minority students that contribute to their underperformance on both the predictive test and law school exams; yet such high-stakes testing does not reproduce the challenges within the environment in which minority lawyers function and do fine. Steele studied high-achieving students at both Michigan and Stanford and found that the threat of stereotyped expectations depressed blacks students' test performance.[30] Because of the black students' lower test scores, their professors have lower expectations of their law school performance, which expectations triggered Steele's "stereotype threat." These students, who are high achievers, may withdraw from the law school classroom, instead putting their energy into outside activities that actually present greater opportunities for leadership training than in-class participation.[31] In part because they do not perform as well on these tests, minority students may look for other ways to channel their energy, including mentoring, community service, and leadership generally.

What an empirical study like this forces us to do is to become more explicit about what, in fact, a school is attempting to measure or predict when it looks at an applicant and what a school is attempting to do when it then educates or trains the applicant who becomes a student.[32] Usually we think a school is trying to identify a potentially "successful" applicant, and train a potentially successful lawyer. And if we take "success" to mean anything other than high law school grades, including such things as

30. Steele found that the underperformance of black students "appears to be rooted less in self-doubt than in social mistrust" (1999, 44).

31. Although this study does not support that conclusion directly, the first generation of black students, whose test scores were further below those of their white counterparts than succeeding cohorts, were apparently the most likely to become leaders after graduation. Of course, there are many potential explanations for this phenomenon, beyond just the intriguing conclusion that those with the weakest test scores demonstrate the greatest leadership. Indeed their race or ethnic background, and the sense of obligation to others from their community, may help explain this relationship too. See above, notes 17, 18, and accompanying text (minority status is a key variable in predicting community leadership after graduation).

32. The formal school policy states the goal of graduating lawyers who will be esteemed practitioners as well as leaders and "selfless contributors" to the public interest. Tom Russell points out in his comment in this volume, "Lempert and his colleagues offer no evidence as to whether this formal expression of policy is actually meaningful to the Michigan faculty." Russell cannot tell "whether an associate dean wrote the policy and the faculty approved it without discussion or whether the faculty debated and thoughtfully considered the policy." Were the first option true, it suggests the need, as I conclude here, for a larger and much more "transparent" public discussion about the explicit mission and goals of a public law school. Yet according to one of the study's authors, the school's admissions policy was debated in and adopted by the whole faculty, with the policy statement being written by a committee that he, by coincidence, chaired on the two occasions it was substantially revised (phone conversation with Richard Lempert, 22 December 1999). The fact remains, however, that the whole faculty adopted the policy while still pursuing hard credential-based admissions standards for most entering students. Thus, my point still holds that (1) what the school claims to value in its graduates and what it selects for in its students are not the same things, and (2) we need a much more explicit, sustained and transparent effort to link admissions protocols to mission.

contributing to the diversity of the educational experience for all students or providing leadership to the entire community, then the affirmative-action processes of Michigan are the most empirically accountable tools for achieving this. Such processes focus on concrete measures of what applicants have accomplished rather than generic predictors of what candidates are considered capable of doing.[33] They look for qualities within the applicant that may not correlate with excellence in law school as measured simply by grades but that will generate excellence in the profession as measured by career and financial satisfaction as well as public service. It turns out that the affirmative-action practice of recruiting candidates with leadership skills, initiative, guts, and a record of community service is a good predictor that law school graduates with those qualities will actually use them to benefit the larger community. It suggests that the special scrutiny involved in affirmative-action admissions policies offers us a fundamental reason to reexamine not affirmative action but conventional action in admission practices.[34] It also offers us an incentive to rethink the legal-education

33. Indeed, many educational theorists argue that assessment processes that focus on actual student accomplishments are superior means of evaluating student capabilities and potential, particularly in comparison to decontextualized standardized tests. See, e.g., Wallach 1985. Wallach argues that "Given the low association between intelligence test scores and actual gifted achievements, assessing gifted attainments, for example, by judging actual work samples, deserves more emphasis in selection decisions" (1985, 116). A substantial portion of the educational literature is dedicated to attempts to develop such assessment techniques. See, for example, Meisels 1996/1997.

34. Again, the recognition that decontextualized, standardized tests are not ideal assessment techniques has long been a staple of educational theory. Especially in the context of early childhood education, in which the subject of assessment (the child) is envisioned as unformed and with a future undetermined, overreliance on standardized testing has been harshly condemned. See, for example, Vito Perrone 1991. The Association of Childhood Education International takes the position that standardized testing is inappropriate, and argues that "teachers and parents should oppose using test results to make *any* important judgment about a child" (1991, 141).

It may also be appropriate to reconsider the assumption that only those who are already smart can learn, which assumption permeates conventional admission criteria. See, for example, Kristof (1997), who writes about Japanese elementary schools and how they build a sense of community and responsibility, in part because they work from the premise that all children can learn and that each child has some strengths that should be developed to benefit both the child and the larger society. Kristof, who was bureau chief for the *New York Times*, observed "a basic difference between America and Asia in perspectives about education: in opinion polls, Asians say that academic distinction comes primarily from hard work, while Americans tend to credit innate intelligence. As a result, Japanese parents push their children (and Japanese children push themselves) because they think it will make a fundamental difference" (1997, 45). See also Kristof 1998. Here, he describes his American son's experience with Japanese first grade as more fun than American/international school. For Americans, who value individuality and use tests to differentiate those who are "smart" and therefore capable of learning, standards and rigor are necessary to create hierarchy, even in early grades. In Japan, the assumption is that everyone can learn if they work hard, and thus the challenge is to create incentives for everyone to participate in the learning project. For example, "all the children learn to play the piano." Even the math teaching used story problems and other creative methods to drive home the principles of what they were learning.

environment itself and to question whether traditional approaches promote qualities of mind and character that the profession most needs.[35]

This is not as provocative a claim as it might first sound. It does not mean that race-conscious policies should permeate law school admissions or that law school classrooms should abandon their emphasis on argument and critical thinking. It does *not* mean that conventional admissions processes are complete and utter failures.[36] It does mean that, compared to holistic affirmative-action processes, so-called objective measures such as undergraduate GPA and LSAT scores that rank order law school applicants fail to measure students' potential as *law school graduates*. It does mean that admissions practices better serve the mission of legal education in general and the University of Michigan's specific *public* mission in particular when they focus on concrete measures of what applicants have accomplished or challenges they have overcome rather than generic predictors of what candidates are considered capable of doing.[37] It also might mean that conventional criteria fail to predict—and even more may undermine—what the law school purports to value according to the mission of legal education in general[38] and the University of Michigan's specific mission in particular.[39]

---

35. Law practice is changing. Unless we have the freedom to experiment, what we are teaching in law school is increasingly out of sync with what is going on in the practice. See Wilkins 2000; see also Sturm 1997.

36. LSAT and UGPA scores do in fact correlate modestly with high law school grades, and almost without exception, Michigan graduates who were admitted pursuant to such indexes are successful, measured with respect to society at large. On the other hand, whether a particular way of admitting students is a failure turns on two things: (a) the baseline against which it is compared and the goal it is trying to achieve, and (b) the potential of other alternative methods of admission. Thus, if all that Michigan Law School is attempting to do is admit students who will get good grades in law school, one could argue that the conventional indexes are modestly successful. Tom Russell makes a similar point in his comment (2000).

37. See, e.g., Rhodes1999. Rhodes, former president of Cornell University, calls for admissions decisions on an assessment of the student as a whole person, with honest regard for race and ethnicity as two attributes among many others—scholastic promise, analytical skills, comprehension, test scores, grades, essay quality, creativity, artistic and musical ability, athletic skills, community service, leadership ability, motivation, success in dealing with adversity, teacher assessment, career objectives, geographic origin, economic background, interview performance, and more. One by one, person by person, Rhodes says, is the basis for educational success. "It is also the basis for a free society: we should not lightly abandon it for a system which, however swift, however simple, not only judges individuals by numbers, but uses numbers as ambiguous as those of class standing. Even in an age bedazzled by rankings, surely we can do better than that" (1999, A23). This criticism applies forcefully to the increasing tendency, even of elite institutions like the University of Michigan, to rely on rank ordering of applicants based on "the numbers."

38. See, e.g., ABA 1992, 123–221 (better known as the MacCrate report). This was the report of an ABA task force on law schools and the legal profession discusses the professional skills and public values needed in the legal profession and how they are developed.

39. Indeed the mission statement of the university says this: The University of Michigan's mission is "Preeminence in creating, communicating, preserving and applying knowledge, art, and academic values and in developing leaders and citizens who will challenge the present and enrich the future" (Kornhaber 1999).

III. NEXT STEPS

Certainly this study will serve the advocates of conventional approaches to affirmative action well in litigation. Indeed, some critics will argue that this study is not to be taken seriously as scholarship because it was produced defensively in the face of a challenge to the law school's policies of affirmative action. Those who read this study defensively, however, will be missing its fundamental potential. The study's long view of the school's program of affirmative action has allowed us to see what the school values or at least claims to value. Thus, it has given all of us important data to reflect on the school's mission and, potentially, to produce a system of admission that better reflects that mission or that at minimum precipitates a broader democratic evaluation of who this great public law school is—and should be—serving.

At minimum, this study should prompt a much larger reevaluation of how Michigan and other universities might realize their mission to educate and train leaders for a multiracial democracy. Certainly, the data confirm that conventional approaches are not working as they should. Several options might thus be pursued to follow up this study. Law schools, especially public institutions like the University of Michigan, could at least be more explicit and more open about their real mission, and express a willingness to abandon those rigid entry-level criteria that do not predict the kinds of behavior among their graduates that the school purports to value.[40] An even more confirmative response would be for public institutions to supplement their evaluative techniques not only at the admission stage but throughout the three years of law school and in continuing legal education outreach. This requires that more of us join a conversation to help reexamine the "mission" of publicly funded institutions like the University of Michigan. If taxpayers are subsidizing opportunities for students to attend college or law school, what is it that the taxpayers legitimately can expect those students to know how to "do" and be motivated to do well once they attain their degree?[41]

---

40. Given the role of lawyers in our society, it would seem that private law schools are equally justified and perhaps should be compelled to consider similar factors. It would certainly be anomalous if a court were to hold that while public law schools could practice "confirmative action" for the reasons set forth here, private law schools would be violating the Civil Rights Act if they did the same thing. As a profession, lawyers are officers of the court who are publicly regulated. It would seem, therefore, that all law schools should attend to soft variables that seem to produce the kinds of service-oriented graduates the society needs and the profession claims to value. Of course, public law schools enjoy an additional and special reason why they should not be captured by credentials that seem to prefer those less likely to provide service beyond the work they do in their regular job.

41. Here I am optimistic about what such a conversation might produce, based in part on thought experiments like the one Tom Russell (2000) reports at the University of Texas Law School. Russell's musing was prompted by his dismay at the dismantling of affirmative action there and the implications for the law school as an agent of the state and an instru-

One specific approach might be to use a mix of criteria, with a certain number of students admitted based on their test scores in relation, for example, to the predictive validity of such scores—that is, no more than 20% of the entering class. The rest of the class would then be admitted based on a whole-person evaluation that seeks to identify "the distance traveled" by the applicant in overcoming obstacles, the leadership and community service record, and the evidence of the applicant's long-term commitment to making a contribution to the community that is ultimately subsidizing his or her tuition. Or, perhaps more as a heuristic than a practical tool, public universities might consider using the tests as a floor, below which no one in recent memory has succeeded in graduating from the institution. Above that test-determined floor, applicants could be chosen by several alternatives, including a lottery,[42] portfolio-based assessment (Wolf 1989; Meisels 1996/1997), or a more structured and participatory decision-making process (Sturm and Guinier 1996).[43] If efficiency and equal opportunity are the

ment of state policy. According to Russell, white residents of the state of Texas now enjoy a "preference" in admissions and a significant, close to $10,000, tuition subsidy. Russell concludes that a "definitional project" to address the mission of state law schools is imperative. "Lempert et al. focus on the goals of the Michigan faculty; they might also broaden their inquiry by the faculty goals as expressions of *state* policy. . . . Such a study would require that state law schools, state universities, and legislators first define just what the goals of state universities ought to be. . . . With the goals of state-sponsored professional training in mind, educators and legislators can work together to determine whether present patterns of admissions will best meet these goals and serve the needs of states in the twenty-first century. Perhaps educators and politicians will agree that the best practice is to subsidize the educations of those who have the highest test scores. I suspect, though, that a thoughtful inquiry will yield a more diverse result" (2000, 518).

42. Sturm and Guinier (1996, 1018, nn.271, 274, and accompanying text) describe a proposal to use a lottery above an admission-index floor to admit students to a magnet school in San Francisco so that random selection above a baseline of qualification becomes the principle for distributing high-stakes opportunity. A lottery is a useful heuristic because it exposes the arbitrary nature of decision making when high-stakes opportunity is such a scarce resource. The challenge is to distribute such an opportunity, especially when considered a public resource, fairly and legitimately. A lottery may push the "losers" to challenge the scarcity of the resources in the first place, since they have been excluded based on luck not "merit." Thus, the lottery challenges the meritocracy's tendency, at least in the ironic sense in which Michael Young devised the term, to convince the winners and the losers that they deserve their lot in life.

43. When I was on the admissions committee in the early 1990s at the University of Pennsylvania Law School, the process of admitting people who had some "special" quality to be considered—which included being a poor white chicken farmer from Alabama—was openly deliberative. The committee included students who knew about the specific localities in which many of the applicants resided. The applications were redacted to eliminate personal identifying information but were otherwise available to the entire committee. The letters of recommendation were read and considered (by contrast to the 50% of the class who were admitted solely on a mathematical equation based on their LSAT scores, their college rank, and the "quality" of their college as determined by the median LSAT score of its graduating class). In this process, the committee of faculty, students, and admissions personnel had a sense we were admitting a "class" of students, not just random individuals. Thus, we might give weight to some factors over others, depending on the "needs" of the institution to have racial and demographic diversity, but also on our commitment to fulfilling the needs of the profession to serve the entire public and to train private and public problem solvers who would become the next generation of leaders. Thus, not all students were admitted primarily

driving values, then the Texas 10% plan has much to recommend it.[44] Any of these alternatives to the testocracy are by no means easy to implement nor able to deliver without error. Yet, what the Lempert study makes clear is the gross inadequacy of existing conventions and the need at least to experiment with new and more transparent, accountable, and democratic admission practices.

In sum, the major findings of the Lempert et al. study are that LSAT and UGPA are not proxies for merit, that Michigan law students value diversity and regard a diverse legal education as a better education, and that affirmative-action soft processes are better predictors of qualities that the school and profession value. The cumulative effect of these findings is to challenge the conventional faith in the test-driven admissions policy. Thus I join Professor Thomas Russell when he calls for "serious thought about the instrumental role of state law schools as agents of state policy," in order to assist judges, educators, and other policymakers to craft and maintain admissions policies that meet the goals of states seeking to train professionals to meet the diverse challenges of the twenty-first century. This is especially true for state institutions whose mission invariably has a public character.[45]

---

because of their academic talents. We considered those who might be better oral advocates and eventual litigators. Others were already accomplished negotiators or future advocates of alternative dispute resolution practices. None of these students was admitted if we felt they were unqualified to do the work demanded of them at the institution. As far as I am aware, all of them subsequently graduated and went on to satisfying careers.

44. Certainly the Texas 10% plan, in which all those in the top 10% of their high school graduating class are automatically eligible for admission to the two flagship public universities is efficient and, according to the most recent data, quite successful in short-term measures. It has recruited as many Mexican American and black students as under the affirmative action program outlawed in the *Hopwood* case, and the first freshman class that entered under the 10% plan has apparently performed better than its predecessor classes with a higher GPA after one year. The great virtue of what David Wilkins (2000) calls "visible, rankable scoring" mechanisms is their purported efficiency. They relieve faculty and others from the difficult choices involved in the exercise of discretion. On the other hand, their promise of efficiency, at least based on the Lempert study, is both short term and misleading. They offer opportunity to many who fail to take full advantage of that opportunity over the course of their career in ways that deny the citizens, the taxpayers, and the profession legitimate expectations of service and contributions, based on the institution's own goals as well as those of the profession itself. Thus in the long run one could use the Lempert study to argue that "visible rankable" sorting mechanisms are inefficient and arbitrary. This is an important conclusion because it potentially makes room for other admission practices that may be more cumbersome to administer and less immediately efficient. Alternatively, this argument suggests the benefit of a lottery, since it is both efficient and arbitrary without being misleading.

45. See Kornhaber 1999, 10–11: "The mission of . . . selective public universities share three entwined elements that are common to nearly all other institutions of higher education: These institutions are to provide instruction to build students' knowledge in various disciplines. They are also formed to conduct research to advance the boundaries of existing knowledge. The third component, service, originated with American public higher education and may be its key contribution to all universities public and private, here and abroad. In contrast to the aloof medieval institutions of Europe and the colonies, which trained future clerics and oligarchs, American public colleges and universities were specifically constituted to serve the nation's democracy and its economy. They have been established to provide the society with knowledge and technical expertise. Equally as important, they are intended to develop leaders

Yet as Glenn Loury writes in his introduction to the new edition of *The Shape of the River* (Bowen and Bok forthcoming), "the goals and purposes openly espoused by our leading colleges and universities" are also "*public*" purposes (his emphasis). Education, whether provided by elite, private schools or taxpayer-subsidized institutions is a "special, deeply political, almost sacred, civic activity."[46]Admission must be linked to mission. After all (ad)mission is a subset, or should be, of the institution's—and the larger society's—goals.[47]

In addition, the challenge of embedding admissions into the institution's mission should prompt us to reconsider issues of curriculum, learning theory, and the ways to motivate all members of a diverse population to reach their full potential.[48] Thus, Lempert et al.'s study raises serious questions not only about law school admissions practices but about the practice of legal education more generally.

CONCLUSION

This study suggests that if a school wishes to choose students who will have successful legal careers, true to the spirit of a publicly funded university, affirmative-action-type admission processes are far superior to generic test-based ones. In that context, the study confirms the opportunities of

---

and to hone the critical perspectives needed by citizens in a participatory democracy" (citations omitted).

46. Loury applies his argument to private institutions, especially "given their considerable influence on national life and culture."

47. Here I refer to issues of democracy and the ways in which public education should be evaluated based on its transparency (the visibility of its public goals), its accountability (the degree to which its practices are accountable to its public character, both in terms of its goals and the citizens who promote and subsidize the institution), and its ability to deliver on its promise of equality (whether it distributes a public resource and opportunity in a genuinely democratic fashion). The public character of these institutions implicates issues of citizenship as well as the democratic values of public education itself. I develop this argument elsewhere (Guinier 1997/98; 2000).

48. The educational literature on learning theory is vast. It suggests that within the classroom, the choice of task and reward structures can have either positive or negative academic and social outcomes for different students. See, for example, the work of Howard Gardner and Mindy Kornhaber, which suggests that a cooperative approach works best for certain learners: those for whom personal relationships can support their ownership of content (Gardner 1991; Kornhaber and Gardner 1993), students of color, and others who need to develop the ability to ask questions when they don't know the answer and who best learn conceptually challenging material in intellectual exchange with peers in informal settings. For evidence of this from the example of mathematics, see Steele 1999 and Singham 1998 (describing work of Professor Uri Treisman). On the other hand, a cooperative approach may be dysfunctional when it is not sufficiently structured. The type of pedagogical structure may yield different outcomes depending on whether the goal is to develop skills, master information, retain and be able to apply information, or promote creativity. See, for example, the work of Teresa Amabile (1996).

affirmative action.[49] What is so interesting is who the beneficiaries of those expanded opportunities are. It is the white students at the school, who increasingly benefit from a diverse learning environment. And it is the public at large, who gain leaders and community-service-oriented professionals, as well as the students who are considered the more traditional beneficiaries. It is also the legal profession and those committed to legal education, who profess a commitment to law as a public profession.

This study may be useful in the litigation facing the law school, but it is important because it convincingly reminds us of the need for a dynamic and ongoing conversation about the mission and practice of legal education in particular and public institutions more generally. The study confirms the benefits of affirmative action to all Michigan graduates. It tells us that affirmative action critics' much-touted reliance on *objective measures of merit* have little to recommend them over the life span of a lawyer. After all, it is the life's work of the graduates that is the big test. Thus, rather than ban affirmative action, the law school might do well to expand its practice and to revamp the admissions criteria for *all* incoming law students.

If the message of this study is heard, affirmative action can become confirmative action, confirming that schools like the University of Michigan Law School should admit and then train everyone as individuals, as citizens, as civic-minded lawyers and as potential public-spirited leaders in a multicultural democracy.

REFERENCES

Amabile, Teresa. 1996. *Creativity in Context: Update to the Social Psychology of Creativity*. New York: Westview Press.

American Bar Association (ABA). 1992. Legal Education and Professional Development—An Educational Continuum Report of the Task Force on Law Schools and the Profession: Narrowing the Gap. Chicago: American Bar Association.

Bowen, William, and Derek Bok. 1998. The Shape of the River: Long-Term Consequence of Considering Race in College and University Admissions. Princeton, N.J.: Princeton University Press.

Gardner, Howard. 1991. Assessment in Context. In *Changing Assessments: Alternative Views of Aptitude, Achievement, and Instruction*, ed. B. R. Gifford and M. C. O'Connor. Boston: Kluwer.

Guinier, Lani. 1997/98. Reframing the Affirmative Action Debate. *Kentucky Law Journal* 86:505–25.

49. This is certainly true for the University of Michigan Law School, and it seems quite likely to be so at least in other elite schools, and possibly more generally. We, of course, await further study to understand better the generalizability of Lempert, Chambers, and Adams's findings. Even without such additional research, however, the study points to likely benefits to society at large, to the profession, and to underrepresented communities when admissions processes are linked to what the institution values, including a commitment to public service in its graduates and to a diverse profession that can serve the legal needs of the public at large.

———. 2000. Confirmative Action in a Multi-Racial Democracy. In *State of Black America 2000*. New York: National Urban League.

Guinier, Lani, Michelle Fine, and Jane Balin. 1997. *Becoming Gentlemen: Women, Law Schools and Institutional Change*. Boston: Beacon Press.

Karabel, Jerome. 1999. What the Deserving Deserve and Whether They Get It. *New York Times*, 23 October, A19.

Kornhaber, Mindy L. 1999. Reconfiguring Admissions to Serve the Mission of Selective Public Higher Education. Typescript.

Kristoff, Nicholas. 1997. Where Children rule. *New York Times*, 17 August, p. 40, sec. 6.

———. 1998. Learning to Love School in the Summer: There's Cleanup. And All That Recess. *New York Times*, 16 August, WK7.

Lemann, Nicholas. 1999. *The Big Test*. New York: Farrar, Straus, Giroux.

Lempert, Richard O., David A. Chambers, and Terry K. Adams. 2000. Michigan's Minority Graduates in Practice: The River Runs Through Law School. *Law and Social Inquiry* 25:395–505.

Meisels, Samuel J. 1996/1997. Using Work Sampling in Authentic Assessments. *Educational Leadership* 54(4):60–65.

Perrone, Vito. 1991. Position Paper: On Standardized Testing. *Childhood Education* 67: 132–42.

Rhodes, Frank H.T. 1999. College by the Numbers. *New York Times*, 24 December, A23

Russell, Thomas D. 2000. The Shape of the Michigan River as Viewed from the Land of *Sweatt v. Painter* and *Hopwood*. *Law and Social Inquiry* 25:507–519.

Selmi, Michael. 1995. Testing for Equality: Merit, Efficiency, and the Affirmative Action Debate. *UCLA Law Review* 42:1251–312.

Shipler, David K. 1995. My Equal Opportunity, Your Free Lunch. *New York Times*, 5 March, E1, E16.

Singham, Mano. 1998. The Canary in the Mine: The Acheivement Gap between Black and White Students. *Phi Delta Kappan* 80(1):9–15.

Steele, Claude. 1999. Thin Ice: "Stereotype Threat" and Black College Students. *Atlantic Monthly*, August, p. 44.

Sturm, Susan. 1997. From Gladiators to Problem-solvers. *Duke Journal of Gender Law and Policy* 4:119.

Sturm, Susan, and Lani Guinier 1996. The Future of Affirmative Action: Reclaiming the Innovative Ideal. *California Law Review* 84:953–1036.

Young, Michael. 1958. *The Rise of the Meritocracy*. New York: Random House.

Wallach, Michael A. 1985. Creativity Testing and Giftedness. In *The Gifted and Talented: Developmental Perspectives*, ed. Frances Degen Horowitz and Marion O'Brien. Washington, D.C.: American Psychological Association.

Wilkins, David. 2000. Rollin' On the River: Race, Elite Schools, and the Equality Paradox. *Law and Social Inquiry* 25:527–556.

Wolf, D. 1989. Portfolio Assessment: Sampling Student Work. *Educational Leadership* 46(7) 35–39.

***

RESPONSE
Law School Affirmative Action: An Empirical Study

Michigan's Minority Graduates in Practice: Answers to Methodological Queries

Richard O. Lempert, David L. Chambers, and Terry K. Adams

Before making a few remarks in response to those who commented on our article (Lempert, Chambers, and Adams 2000), we would like to express our gratitude to the editors of *Law and Social Inquiry* for securing these commentaries and to the people who wrote them. The comments both highlight the potential uses to which our research and similar studies may be put and give us the opportunity to address methodological concerns and questions that other readers of our article may share with those who commented on it.

The responses to our work are of two types. Professors Nelson, Payne, and Sander focus largely on methodological concerns and the limits of what can be learned from our study. Professors Guinier, Russell, and Wilkins draw on our work to pursue their own themes. Except for clearing up some understandable but nonetheless mistaken impressions of Professor Russell, we shall not discuss the Guinier, Russell, and Wilkins essays, for we think they stand on their own as articles and do not call for a response. For those who may similarly seek to draw on our research, however, we wish to emphasize a point that Professor Sander makes and that is at the heart of Professor Wilkins's important contribution. Our study looks at the graduates of only one law school, a school that is among the most selective and prestigious of American law schools. In comparison to the graduates of most law schools, for example, far more Michigan graduates work in large private firms, and far fewer work as solo practitioners or in very small firms. While we are confident in the general validity of our results as they apply to Michigan graduates and believe that our findings are likely to generalize to graduates of most so-called elite American law schools, our findings cannot be safely

0897-6546/00/2502-585$01.00

generalized to graduates of other law schools. We are not saying that our findings will not generalize beyond the graduates of elite law schools, but we are noting that no strong claim can be made that they will.

Russell understandably thinks that our work was patterned on Bowen and Bok's and was undertaken in response to the lawsuit that has been brought to end affirmative action at the University of Michigan. Neither assumption is true. Our data were in hand before we knew of Bowen and Bok's study and, although we knew that Michigan was among the schools that might be the target for a lawsuit, planning for our study began more than a year before the suit was filed.[1]

Russell, along with Guinier, wonders about the Michigan law faculty's involvement in setting the school's admissions policy. Russell writes, "I cannot tell whether an associate dean wrote the policy and the faculty approved it without discussion, or if the faculty debated and thoughtfully considered the policy" (2000, 511 n.2). In fact, a faculty committee (chaired by Lempert) worked on the school's admissions policy for the better part of a year, and the law faculty approved the policy after considerable discussion. Having decided on its admissions policy, the faculty at Michigan has looked largely to its professional admissions staff, in consultation with a faculty admissions committee, to carry out the faculty's wishes.

We turn now to methodological issues. Professor Sander has a number of concerns that we are glad to have the opportunity to address. First, he asks about the weight given to LSAT/UGPA index scores relative, we assume, to letters of recommendation, impressions in interviews, and other softer measures an application reveals. Nelson and Payne are similarly curious about the details of Michigan's admissions process.

It is difficult to specify the relative weights accorded the different factors that figure in Michigan's admissions decisions. The admissions index is almost dispositive in establishing eligibility for consideration for admission. Minority and white applicants with indexes below a certain level are almost always rejected. At the other extreme, applicants with very high index scores relative to the rest of the applicant pool are almost certain to be admitted. But below the top level, there are many more acceptable applicants than there are spaces in an entering class. While at all levels, higher index scores enhance prospects for admission, many people who are admitted have the same or lower index scores than many applicants who are not admitted. Indeed, as our article notes (2000, 482–83), for most of the years of our study, the Michigan admissions system was designed to focus many admissions decisions on softer data, after so-called hard credentials were

1. The study's subject is a long-standing interest of the authors. More than a decade ago Chambers and Lempert applied for, but did not receive, an NSF grant to study minority lawyers in practice, and Adams and Chambers, in their work on the Michigan alumni survey, have for years been interested in the careers of minority alumni.

used to admit some people automatically and to establish a pool for the remaining positions. In practice this process meant that applicants with higher admissions indexes would not always fare better than those with lower ones.

Historically, Michigan's admissions policies have paid special attention to a variety of factors. One is in-state residence. Hence, many Michigan residents are admitted to the law school with index scores below those of most admitted and some rejected out-of-state applicants. A second is the potential contribution of an applicant to the diversity of the school's student body, including especially, its ethnic diversity. Hence, members of certain minority groups are frequently admitted with index scores below those of most admitted and many rejected whites applicants. We can get some perspective on how this latter factor has affected admissions decisions by looking at the LSAT scores and UGPAs of minorities and whites in our sample. Over the 27-year period of our study, the median LSAT percentile ranking of our white respondents is 94, and their median UGPA is 3.51. The median LSAT percentile for minority respondents is 66, and their median UGPA is 3.1. The LSAT scores of Michigan's minority students have, however, increased considerably over time and at a faster rate than the scores of whites have increased. So minority students who graduated toward the end of our sample period have LSAT scores and admissions indexes that are, on average, closer to the average scores of white admittees than are the scores of minorities who graduated toward the beginning of the period we study.

These numbers say something about what affirmative action has meant at Michigan, but one must be cautious in interpreting them as indicators of the extent of affirmative action. We have data only for students who matriculated at Michigan. Accepted students who did not choose to matriculate at Michigan are likely to have had higher scores than those who came. Thus, the credentials of all Michigan admittees are likely to be higher than what we report, and if competition among law schools for high-scoring minority admittees is more intense than competition for whites, the gap between the admissions credentials of white and minority admittees is likely to be less than we report. More fundamentally, the gap in index scores does not necessarily indicate the degree of affirmative action unless the index is the sole determinant of admissions decisions, which it was not. If, for example, the index had played no role in admissions and admission decisions had been based entirely on a color-blind evaluation of other admissions credentials, minority and white admittees might still have index score differences of the magnitude we found. This is because those in the pool of whites who apply to Michigan have, on average, higher index scores than those in the pool of minorities who apply. Any system that selects applicants from these

pools by criteria unrelated to index scores will select a group of minority students with scores below those of white applicants.

Sander criticizes us for collapsing black, Latino, and Native Americans into the category *minority* because, he suggests, small reported differences between whites and minorities might conceal larger differences between blacks and whites that have been masked by our lumping blacks with assimilated Latino. Yet even if Sander were right in suggesting that we did not attend to black-Latino differences, it would still be correct to combine these groups if the goal is to evaluate the effects of Michigan's minority admissions program since the program includes the three groups we treat together. Moreover, combining the groups would be unlikely to disguise substantial black-white differences since about two-thirds of our minority respondents are blacks. But, although we don't highlight black-Latino differences, the claim that we don't attend to these differences is mistaken. In the equations reported in tables 31, 33, and 35, which examine income, reported satisfaction, and service, we present two models, one of which disaggregates the minority group and provides the separate information for blacks, Latinos, and Native Americans that Sander seeks. We see from these models that blacks do not differ significantly from whites on income or satisfaction, but they engage in more service. Although our models do not directly contrast blacks with Latinos, it appears from them that the two groups are unlikely to differ significantly on income or satisfaction, although on service blacks tend to do more. Moreover, our study did not ignore the possibility of black-Latino differences. We looked for differences on most of the variables in our tables and seldom found them to be significant. When we found significant differences between the two groups we mentioned them (2000, nn.18, 32, 42, 44).

Sander is also concerned that by presenting most of our tabular data in decade cohorts, we are biasing our study against finding significant minority-white differences. We understand the source of Sander's concern: in presenting our data by decades, we reduce the sizes of the groups we compare. But we don't think this distorts our findings. Many of our most important findings come from the regression models with which we conclude our data analysis. These models use all available cases. As we have seen, they fail to show significant minority-white differences in income or satisfaction, reveal a difference favoring minorities in service, and indicate that our admissions index is not a significant predictor of subsequent income or satisfaction.

With respect to the tables, we presented our data as we did not to obscure significant relationships, but because graduation year was associated, for cohort or maturation reasons, with many of the variables we examined, and the proportion of minority students in each class at Michigan increased substantially over time. Not dividing the data into time periods

would have meant that more recent law school graduates disproportionately dominated the minority sample, while respondents in the white sample, because of the way we stratified, were somewhat skewed toward the earlier years.[2] Thus, we might have reported minority-white differences that were more properly attributed to differences in graduation dates. Presenting our data by decade cohorts is a compromise between (1) considering each respondent's graduation year so as not to be misled by time-associated changes in outcome and sample composition and (2) maintaining sufficient sample sizes in our tables so that our significance tests have reasonable power.[3] The use of decade cohorts rather than full-sample regressions does not necessarily bias our tables against finding significant differences, for the biases attributable to this compromise work both ways.

To shed empirical light on Sander's concern, we turned to the regressions we constructed to look for gender and gender/minority status interaction effects.[4] These full sample regressions include as dependent variables most variables that figure in our tables.[5] We can extract from these equations the significance of minority status after controlling for time since graduation and age entering law school. What we find in reviewing these results is that in most cases if the minority-white difference was significant at the .05 level or beyond in the regression, it was also significant in at least one of the decade cohorts in the associated table. Differences that were not significant in the regressions were usually not significant in any cohort in the associated tables.

Sander's intuition is, however, sometimes correct in that some differences between whites and minorities that were not significant in any cohort in the related table were significant in the full-sample regressions. We found five such instances. These are (1) the value of law school as career training in table 3 (2) social satisfaction with law school in table 3, (3) the proportion of graduates taking judicial clerkships in table 9, (4) the proportion of elite law school graduates among the other lawyers in respondents' firms in table 16, and (5) the proportion of time those in private practice devote to government clients in table 17. The regression results, however, do nothing

2. The weights we used in constructing most of our tables correct for this.

3. Given our sample size, taking account of each respondent's graduation year would have precluded presenting our data in table form.

4. See the model specified in the text at footnote 6 of our article.

5. The gender-effect models we constructed did not include regressions with income or the satisfaction or service indexes as dependent variables, since the gender variables had been included in the regressions we ran for presentation in tables 31–36. In dealing with our current concern, we did not examine the regressions for the variables that figure in many of the tables that employed chi square tests of significance, but almost all of these report finding at least some significant relationships, so reporting the data by decades and running chi square tests separately for each decade did not disguise significant associations. Also, we did not construct regressions for the dependent variables in some of the subtables we present, such as the tables that look at the dimensions of satisfaction separately for respondents in private practice.

to change our interpretation of the data. We can be somewhat more confident that Michigan's minority graduates value law school as career training more than its white graduates, and that if in private practice they spend a bit more time than its white graduates working for government clients. But these trends seemed likely from eyeballing the tables. We noted the difference between whites and minorities in their social satisfaction with law school, citing the regression analysis, and we also noted that this is not a main effect of minority status, but rather appears due to the low social satisfaction of minority women. Finally, the significance of the difference in clerkship attainment is no surprise because table 9 revealed marginally significant differences ($.05 < p < .10$) in clerkship attainment in the 1970 and 1980 cohorts. The fact that the significance level increases when the full sample is analyzed does not affect the finding that in the 1990s there was no significant difference in the tendencies of whites and minorities to take judicial clerkships. By revealing the lack of a significant difference in the 1990s, along with the marginally significant differences in earlier decades, the table creates the more accurate impression, although it is also right to say that over the period of our study minorities were significantly less likely than white graduates to take judicial clerkships.

These five instances are fewer than the dozen in which Sander thought our decision to present data by cohorts obscured significant differences. Moreover, we did not find a significant difference between minorities and whites in overall satisfaction with law school despite Sander's claim that the table shows a full-sample difference significant at the .02 level. Indeed, we are somewhat puzzled that Sander used table 3 for his example because we report in our article that a full-sample regression revealed no significant white-minority difference in overall satisfaction and that further analysis suggested that the difference in the table is attributable to the fact that minorities tended to receive lower grades than whites. Controlling for grades, minorities appear more satisfied than whites with their law school experience.

Using decade cohorts to present our data, rather than drawing on full-sample regressions, did not create a bias against finding statistically significant differences between whites and minorities. Counterbalancing the five instances where our regressions showed significant differences not present in any decade cohort are six instances where our tables show differences between whites and minorities significant in at least one decade cohort that were insignificant in the associated full-sample regression. These are (1) satisfaction with law school as an intellectual experience in table 3, (2) the value of being called on in table 4, (3) first-job firm size in table 11, (4) attainment of supervisory or managing attorney status in table 13, (5) attainment of partnership status in table 15, and (6) satisfaction with coworker relations in table 22. These results do not necessarily mean that the

statistically significant differences shown in the tables are misleading, for there may have been a statistically significant difference between whites and minorities in one decade but not in all decades taken together.[6]

Sander is also concerned about the fact that the minorities we surveyed responded at a lower rate than whites, a point he emphasizes by making the 10 percentage point difference in the proportion of whites and minority alumni responding appear to be twice that by treating the difference as a percentage of the white response rate. Sander, however, correctly realizes that the issue is not one of response-rate differences, but is rather whether these differences introduced serious biases into our analysis. Here we think Nelson and Payne have it right when they say that we "effectively answered these concerns." Sander apparently disagrees, and to justify his concern he points out that the nonresponse rate among the 174 minority graduates we knew on the basis of pre-survey data to be working in firms of 50 or more lawyers was 41%, only 2% higher than the nonresponse rate for whites. What Sander does not consider is that this effort to identify Michigan's minority alumni working in firms of 50 or more almost certainly missed some alumni. Thus, the minority response rate he constructs is likely to be higher, and may be quite a bit higher, than the actual response rate for minority alumni working in medium-sized and large law firms.

Nelson and Payne echo some of Sander's concerns, and to the extent they do, we have already dealt with them. They would additionally like to know the simple bivariate relationship between minority status and earnings, for they see this as an important social fact in its own right. We disagree. Because time since graduation figures so importantly in earnings (for quite understandable reasons) and because a higher proportion of our minority sample than of our white sample consists of recent graduates, a significant association between minority status and earnings might tell us nothing more than that the minority graduates in our sample have, on average, not been in the workforce as long as our white graduates. Nevertheless, because we believe in empirical answers to empirical questions, we regressed log of income first on time since graduation and minority status and then on

6. There are several reasons why a relationship might be significant in one or more decade cohorts but not in a full-sample regression with time since graduation controlled. First, the relationship may have been strong only in a particular decade, and adding cases from other decades might dilute the strength of the association. Second, the relationship might not have been significant, controlling for time since graduation, even within a decade. As we noted in our article, this seems to be why more white than minority graduates of the 1980s reported being partners at the time of our study. A much higher proportion of minorities than whites graduated late in the decade, and so at the time of our survey would not have been in practice long enough for the partnership decision to have been reached. Finally, most of the tables that report significant relationships not confirmed by the regressions break down a continuous variable into categories. The regressions treat the variables as continuous, which may account for differences in significance and may explain the difference between the significance of the chi square Sander calculated for overall satisfaction with law school and the insignificant t statistic in our regression results.

minority status alone. In the first regression, minority status was insignificant, and the adjusted variance explained by the model actually diminished by .1% when minority status was added to the equation. In the second regression the correlation between minority status and log of income was significant, but it was only .108, which means that although no variables are competing with it, minority status can explain only 1.2% of the variance in logged income.[7] These results are consistent with our suggestion that any correlation of income with minority status might plausibly be explained by a time since graduation. Thus, we do not think that Nelson and Payne's conclusion that Michigan's minority graduates are less well paid than its white graduates is a fair one based on our data.

Nelson and Payne also believe we should have paid more attention to gender and that a comprehensive analysis of minority-majority differences must look at race-by-gender relations. We agree. But we also believe that our decision to deemphasize gender in this article does not affect the validity of our findings regarding minority status. In addition to including gender and a gender/minority-status interaction term in our income, satisfaction, and service regressions (with the interaction term dropped from the models we presented because of its insignificance)(2000, n.56), we also checked to see whether gender effects might distort minority status effects in our tables by doing regression analyses of 84 variables, including most of the variables the tables highlight. Somewhat to our surprise, when gender was entered into our equations immediately after minority status, in no case did it render a previously significant minority-status variable insignificant or a previously insignificant minority-status variable significant. On a few occasions, controlling for the interaction of gender and minority status did change the significance of the minority-status variable. These instances are noted in the text or footnotes of our article. From this we conclude that although gender is important to understanding the career situations of white and minority lawyers, our decision to largely ignore gender in this article provides no reason to question our findings regarding minority-white differences or the lack thereof.

We also agree with Nelson and Payne on the desirability of attending to social class in considering the practice situations of law school graduates. Unfortunately, the data we collected contain no good measure of social class. Thus, we cannot do much to control for or illuminate social-class effects with further analysis of these data.[8] Yet the robustness of our results

7. With weighted data, there was no change in the adjusted explained variance when we added minority status to a model containing time since graduation, and minority status by itself correlated with logged income at .079, which means it explained only 0.6% of the variance.

8. Preliminary analysis of Michigan's annual alumni survey data indicates, as Nelson and Payne suspect, that a greater proportion of minority respondents than of whites, in the classes

to what we can control leads us to believe that attention to social class would not change the picture our data paint.

Nelson and Payne and Sander would all like to know what our results would look like if we had excluded from our minority sample minority graduates who would have been admitted to Michigan without a boost from affirmative action. Their concern is that the success of these graduates explains why minority status and admissions credentials seem not to explain current income or career satisfaction. We understand why they are curious and concerned, but there is a good argument that the groups should not be separated. The success of minorities who would have been admitted to Michigan without affirmative action may be due in considerable measure to the existence of the program. Without an affirmative action program, minority students might be present at Michigan in numbers as small as in the post-*Hopwood* Texas Law School that Russell describes. Standing out, as they would if they were present in such small numbers, and without enough fellow ethnics to constitute a community or support group, they might have felt stresses manifested in poorer law school performance. They also would have had fewer opportunities to develop ties to fellow ethnics while in law school. Lower grades and sparser networks could be expected to have career costs after graduation. Thus, we think it is reasonable to include all minorities eligible for affirmative action not only when our concern is with how Michigan's minority graduates fare in practice, but also in looking at the implications of the school's affirmative action program for the success of all minorities, whatever their qualifications, that the school admitted.

Moreover, if we turn from theory to practice, it is impossible to identify with certainty most of those minority students at Michigan who would have been admitted had the school not had an affirmative action program. Many minority students with admissions indexes in the range of white admittees nevertheless benefited at the admissions stage from Michigan's affirmative action program. This is because, like most of their white counterparts, most minority students with admissions indexes sufficient for admission to Michigan without affirmative action nonetheless do not have quantitative credentials so strong as to guarantee their admission. Their admissions indexes are in a range where some similarly credentialed white applicants are admitted and some (often the greater number of applicants) are rejected. Without diversity-based affirmative action—that is, with a truly race-blind admissions procedure—some of these minority applicants would have succeeded in the competition for places on the basis of their letters of recommendation, extracurricular activities, and other indicators of accomplishment, but others would not. Michigan's concern for diversity meant that all these students presented very strong cases for admission, and we have no way of

---

of 1970–91, report having blue-collar, pink-collar, or clerical/sales parents, and a greater proportion of whites report having professional, executive, or business-owner parents.

distinguishing most of those students who would have made it had a concern for diversity not existed from those who would not have been admitted. Thus, it is reasonable to include in the group of minority graduates, most minority graduates with admissions indexes in the range of white graduates, if the goal is to compare the careers of minority students who benefited from diversity-based affirmative action at admission with the careers of Michigan's white alumni who did not benefit from the school's concern for ethnic diversity.

Although our study's approach seems right, our commitment to giving empirical answers to empirical questions remains. Thus, we tried to do what strictly speaking cannot be done: identify a group of minority students who would have been admitted to Michigan in the absence of an affirmative action program so that we could exclude them from our minority sample, and with the minority group newly defined, redo our crucial analyses. To accomplish this we took four-year moving percentiles of the admissions indexes[9] of the whites in our sample. A minority graduate of a given year was considered to be someone who would have been admitted to Michigan absent affirmative action if that person had an admissions index above the moving 20th percentile of the index scores of whites in our sample for that year. This procedure must label some minorities incorrectly, but for reasons given above, the errors, on balance, should work to classify more minorities as admitted without attention to diversity than would have been the case if Michigan was unconcerned with securing ethnically diverse classes. In other words, without attention to diversity, a number of minorities with admissions indexes above the 20th percentile of the indexes of whites matriculating their year would not have been accepted. This number is likely to exceed the number of minorities with admissions indexes below the 20th percentile who would have gotten in.[10] This procedure identified 78 black,

9. We remind our readers that the admissions indexes we used in our study, which are all we had available for this exercise, were indexes we constructed. We could not employ the admissions indexes the school used when evaluating the applications of those in our sample, since the formula for constructing the school's index changed from time to time, and we did not know what it had been at various times. Our indexes are essentially a linear combination of each respondent's LSAT score and UGPA.

10. We believe our procedures although crude are reasonable. We used moving percentiles to attain greater stability. We specified the 20th percentile cutoff a priori and did not explore any other cutoff points. We did not correct for the bias which results from the fact that we are looking only at students who matriculated at Michigan. Hence, the 20th percentile cutoff we identify is lower than we would have found had we looked at the index scores of all students admitted to Michigan, including those who chose to go elsewhere. We could not control for residence status because of cases without information on this variable, but the distribution of cases suggests this is unlikely to create important biases. Ideally, of course, we would have approached this task differently. Unfortunately we lacked data on the proportion of whites with different index scores who are accepted at Michigan. Had we had that data, we could have established probabilities for the admission of minorities across the range of index scores, and used bootstrap techniques to generate multiple plausible samples of admittees for further analysis.

TABLE 1
OLS Regression Coefficients for Logged Income

	Model 2 (n = 924)	
	b	Std. Error
Constant	9.819***	0.265
Years since graduation	0.090***	0.012
Years since graduation squared	-0.002***	0.0004
Sex (M = 0, F = 1)	-0.175***	0.052
Age entering law school	-0.017*	0.007
Minority or white (W = 0, M = 1)	0.122	0.077
LSAT/UGPA index	-0.002	0.0008
Undergraduate major (social sciences omitted)		
Humanities	0.135*	0.055
Natural Sciences	-0.079	0.115
Business	0.135*	0.062
Engineering	0.009	0.122
Other	-0.039	0.093
Final LSGPA	0.005***	0.0006
Current job sector (private practice omitted)		
Business/Finance	0.175**	0.062
Government	-0.342***	0.063
Legal Svc/Pub.Int.	-0.590***	0.142
Education	-0.624***	0.098
Other	-0.383***	0.103
*$p < .05$	(R^2 = .326), (Adj. R^2 = .313)	
**$p < .01$		
***$p < .001$		

Latino, and Native American graduates in our sample as people who (hypothetically) would have been admitted to Michigan even if the school had not been committed to obtaining ethnically diverse entering classes. With these people excluded from the analysis, we then reran the regressions that

Raudenbush, whose work we cite in our article, had access to data on the proportions of whites and minorities offered admission by LSAT and UGPA ranges for the two years he studied. Unfortunately, we had no similar data for our 27 graduation years. Thus, his estimates of the proportion of minorities who would be admitted without affirmative action are more reliable for the years he studied than ours would have been. These estimates, although higher than ours, are not inconsistent with ours, for the credentials of minorities admitted to Michigan have increased considerably over time, and Raudenbush's estimates are for classes that graduated from Michigan after the end of our time series. His estimates also apply to classes that were admitted under a policy that was different from the one under which all but the last two classes in our time series were admitted.

TABLE 2
Incremental Variance Explained by Logged Income Predictors

Order of Entry	Change in R Square	F Change (DoF)
Years since graduation (years since graduation)^2	.1616	88.835*** (2, 922)
Gender and age	.0237	27.37*** (2, 920)
Minority status	.0009	1.03 (1, 919)
LSAT/UGPA index	.0012	1.41 (1, 918)
Undergraduate major	.0094	2.13 (5, 917)
Final LSGPA	.0485	58.64*** (1, 912)
Job sector	.0798	21.50*** (5, 907)

*$p < .05$
**$p < .01$
***$p < .001$

we report in tables 31 through 36 of our article.[11] Tables 1 and 2 report results when log income is dependent and may be compared to model 2 in tables 31 and 32. We see that eliminating minority students who hypothetically would have been admitted to Michigan without an affirmative-action program hardly changes the results of the analysis reported in tables 31 and 32. In particular, neither minority status nor the admissions index has any significant relationship to future income. We don't present here tables with the satisfaction index or the service index as dependent variables, but the situation is similar in that the results are also like those we report in our article. Neither minority status nor the admissions index is significantly related to the career-satisfaction index, and minorities still score significantly higher than whites on the service index.

Nelson and Payne and Sander both conclude their comments pointing to the need for more research of the kind we have done, with special attention to law schools covering a wider spectrum of legal education. We can think of no better place to conclude our response to their comments than with the same call for research. We hope researchers of the caliber of Sander, Nelson and Payne, and our other commentators can be attracted to

11. Some of these students had not figured in the original analyses because of missing data on included variables.

this task. We can testify that, like Mark Twain, we have found that exploring the river is work, fun, an education, and the source of much that is worth writing about.

REFERENCES

Lempert, Richard O., David L. Chambers, and Terry K. Adams. 2000. Michigan's Minority Graduates in Practice: The River Runs Through Law School. *Law and Social Inquiry* 25:395–505.

Nelson, Robert L., and Monique R. Payne. 2000. Minority Graduates from Michigan Law School: Differently Successful. *Law and Social Inquiry* 25:521–526.

Russell, Thomas D. 2000. The Shape of the Michigan River as Viewed from the Land of *Sweatt v. Painter* and *Hopwood*. *Law and Social Inquiry* 25:507–519.

Sander, Richard. 2000. The Tributaries to the River. *Law and Social Inquiry* 25:557–563.

***