



Portraying Asian Americans in the Law

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Portraits last longer than the portraitist or the persons portrayed. This is why Mickey Rooney’s portrayal of Mr. Yunioshi continues to offend despite its age. (“Breakfast at Tiffany’s” was released in 1961.) It’s why, too, “Everything Everywhere All at Once” is of special importance to Asian Americans today. The stories we tell matter. Both “Breakfast at Tiffany’s” and “Everything Everywhere All at Once” tell a story about whether Asian Americans are characters in their own stories or caricatures for someone else’s.

In the 1960s, another story about Asian Americans was born: the model minority. Distinguishing them from “problem minorities,” sociologist William Petersen described Japanese American upward social mobility, which he attributed to their academic achievement, strong sense of community, and relative low incidence of “social pathology.”¹ By the 1980s, the model minority myth had solidified, with print and cast media celebrating Asian American success.²

This myth remains resilient today. As Bethany Li, legal director of the Asian American Legal Defense and Education Fund has explained, current attacks on affirmative action are based on the model minority myth, “depicting Asian Americans as a ‘successful’ monolithic group that ‘deserves’ to attend elite universities.”³ But the myth has problems: Asian Americans are not a monolith; they are underrepresented politically; and the stereotype of academic and economic success is overstated.⁴

CONTINUED ON PAGE 20

Portraying Asian Americans in the Law

In 2017, just three years after the Students for Fair Admissions brought its lawsuits against Harvard and the University of North Carolina (UNC) challenging affirmative action, the National Asian Pacific American Bar Association (NAPABA) wrote “A Portrait of Asian Americans in the Law” to explore the reality of Asian American experiences in the legal profession. In 2022, just two years after the COVID-19 pandemic began and the nation saw a horrific uptick in anti-Asian American violence, NAPABA updated it with a “2.0” version. The reports give Asian American law students, lawyers, law professors, and judges an opportunity to tell their own story.

The 2017 Portrait Project

The 2017 Portrait shows that Asian American lawyers are doing well. Between 1983 and 2013, Asian American enrollment in law schools quadrupled (compared to African American enrollment, which doubled, and Hispanic enrollment, which tripled).⁵ Asian Americans tended to graduate from law school with the lowest level of debt into the highest average salaries of any other demographic group, with 70 percent of Asians working in law firms two years after bar admission. *Id.* at 15. Indeed, Asian Americans have been the largest minority group in major law firms for almost 20 years. *Id.* at 17.

But the 2017 Portrait also reflects room for improvement. Though Asian Americans represented roughly 10 percent of graduates from top law schools, they only accounted for 6.5 percent of federal clerkships and only 4.6 percent of state clerkships. *Id.* at 12. (For reference, Asian Americans represent about 6 percent of the U.S. population.) In firms, Asian Americans are underrepresented

in management positions. *Id.* at 18. And the attrition rate for Asian Americans in firms is disproportionately high. *Id.* at 19. Similarly, though Asian Americans are well-represented among line prosecutors, the numbers “dwindle[] at the supervisory level and is vanishingly small among United States Attorneys and elected district attorneys.” *Id.* at 20. And, as of 2017, Asian Americans only made up 3.4 percent of federal judges and only 2 percent of state judges. *Id.* at 24–25.

Of particular note, the 2017 Portrait identified obstacles. Firm lawyers complained about “inadequate access to mentors and contacts, colleagues’ lack of willingness to work together, and insufficiency of good assignments.”

Id. at 29. More Asian American women than men reported these obstacles. *Id.* Respondents to the Portrait’s survey reported being perceived as “hardworking, responsible, logical, careful, quiet, introverted, passive, and awkward”—longstanding stereotypes of Asians—while correspondingly reporting they were not perceived as “creative, assertive, extroverted, aggressive

or loud”—the absence of these traits, also being an Asian stereotype. *Id.* at 31.

The 2017 Portrait concludes by noting the need to “enhance the portrait ... with more focused and ongoing study of diversity in the legal profession ...”

The 2022 Portrait Project

The 2022 Portrait shows positive trends for Asian American lawyers, but also similar struggles as the 2017 Portrait.⁶ The 2022 Portrait also shows what are likely results of the social and cultural shifts of 2020, as well as anti-Asian sentiment regarding COVID-19. *Id.*

In 2017, the lowest numbers of Asian Americans were enrolled in law school in more than 20 years, but as of 2021, the



enrollment increased by 14.5 percent. *Id.* at 12–13. From 2017 to 2022, the desire “to change or improve society” increased from the fourth- to the second-leading motivation to attend law school. *Id.* at 15. Additionally, a desire to gain a pathway into government or politics increased from 5 percent to 13 percent. *Id.* Despite this increased interest, however, as of 2020, Asians were still the least likely ethnic group to be working in government or public interest within the first year out of law school. *Id.* at 26.

From 2017 to 2022, Asian American representation in federal clerkships decreased from 6.5 percent to 5.8 percent, while representation in state clerkships increased from 4.6 percent to 6.3 percent. *Id.* at 18. Securing clerkships may be correlated to mentorship because “30% of respondents who had more than two mentors in law school obtained a state or federal clerkship, compared to 25% of respondents with one or two mentors and 12% of respondents who had no mentors.” *Id.* at 22.

Similar to the 2017 Portrait, the 2022 Portrait found Asian Americans are well represented in law firms but underrepresented in law firm management positions. *Id.* at 30. “Asian Americans have the highest ratio of associates to partners



formal social justice discussions in the workplace. *Id.* at 67.

Similarly, respondents reported becoming more involved in Asian American bar associations, Asian American community organizations, and advocating for the Black community. *Id.* at 69. Respondents also reported increased canvassing for political candidates, donating to political campaigns, and voting in state elections. *Id.* at 71.

On the other hand, Respondents in 2022 noted the same obstacles in career advancement as they did in 2017: “a lack of formal leadership training programs, inadequate access to mentors and contacts, and a lack of recognition for their work.” *Id.* at 52. A higher percentage of respondents also reported experiencing discrimination because of race through both “overt discrimination” and “implicit discrimination.” Perhaps relatedly, respondents noted an increase in mental health conditions and seeking professional treatment. *Id.* at 58, 60.

Likely as a result of anti-Asian violence, more than 75 percent of respondents reported “feeling less physically safe in the past two years.” *Id.* at 73.

The 2022 Portrait concludes by contrasting the tumultuous prior five years against the rising activism of Asian American lawyers. *Id.* at 75. Against anti-Asian violence (fed by the pandemic) and energized interest in racial justice, “Asian American lawyers have fought discrimination and helped safeguard the rule of law.” Asian American lawyers have a better awareness of “their role in combating discrimination, promoting public safety, and educating the citizenry.” *Id.*

Together the two Portrait projects show progress and problems. But they also show promise: the 2022 Portrait shows Asian American lawyers are responding to the moment by being more involved in their communities, their locality’s politics, and their bar associations. This rise in activism, coupled with increasing numbers on the federal bench, means Asian Americans are free to frame their own stories and portraits. Because isn’t self-portrayal how you get the best picture?

of any racial or ethnic group.” *Id.* at 28. Additionally, the attrition rate for Asian Americans remains disproportionately high. *Id.* at 30.

A staggering finding of the 2022 Portrait is only 0.29 percent of the 2,396 elected prosecutors in the country identify as Asian American. *Id.* at 36. But, from 2009 to 2020, AAPI general counsel of Fortune 1000 companies increased from 19 to 45. *Id.* at 34. Similarly, over the past five years, 25 Asian Americans have been appointed to federal judgeships. *Id.* at 42. These appointments increased the Asian American representation of federal judges from 3.4 percent in 2017 to 6 percent in 2022, which coincides with the Asian American representation in the U.S. population. *Id.* Nearly zero progress, however, has been made in state high court judgeships. *Id.* at 43.

In terms of individuals, in 2022, one of most important reasons people changed professional settings was “to advance issues or values,” which was one of the least important reasons in 2017. *Id.* at 48. In 2022, respondents also noted a significant increase in social justice issues. 85 percent of respondents reported “engaging in more conversations about racial justice since March 2020” and 42 percent reported they increased

ENDNOTES:

1. William Petersen, Success Story, Japanese-American Style, New York Times Mag., at 21, 36–41 (Jan. 9, 1966). Though being widely credited with coining the term, this article actually never uses the phrase “model minority.”
2. See generally Ronald Takaki, Strangers from a Different Shore: A History of Asian Americans 474–84 (First Bay paperback ed. 1998) (1989).
3. Bethany Li, Being race-conscious is a necessary and effective tool to address racism and discrimination—including for Asian Americans, SCOTUSblog (Oct. 28, 2022, 3:40 PM), <https://www.scotusblog.com/2022/10/being-race-conscious-is-a-necessary-and-effective-tool-to-address-racism-and-discrimination-including-for-asian-americans/>
4. Connie Hanzhang Jin, 6 Charts That Dismantle The Trope Of Asian Americans As a Model Minority, NPR (May 25, 2021), <https://www.npr.org/2021/05/25/999874296/6-charts-that-dismantle-the-trope-of-asian-americans-as-a-model-minority>
5. Eric Chung, et al., A Portrait of Asian Americans in the Law 8 (2017), available at <https://www.apaportraitproject.org/>.
6. Goodwin Liu, et al., A Portrait of Asian Americans in the Law 2.0 (2022), available at <https://www.apaportraitproject.org/>.

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