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*Language, Culture, and the Culture of Language
International JD students in U.S. Law Schools*

(Chapter IN: Power, Legal Education, and Law School Cultures

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Language, Culture, and the Culture of Language

International JD students in U.S. Law Schools

Higher education in the United States has witnessed an increasing trend of international student enrollment and just in the last three decades, international students have more than doubled in enrollment, both in terms of actual numbers and as a rate of proportionate representation within the larger student population.¹ Yet, situated in context, these numbers encompass more specific and nuanced institutional trajectories. For instance, international students comprise a more significant proportion of graduate-level enrollment than they do of students enrolled in all academic levels combined, but this graduate enrollment is not constant across programs.² Specifically, these students are more likely to pursue – or, rather, more likely to be admitted to – master’s level (often self-funded)³ programs rather than (often more selective and institutionally funded) doctoral programs.⁴ Moreover, enrollment in professional degree programs is even more limited than in other graduate programs, with international students accounting for only approximately 1% of professional degree students.⁵ While these are not insignificant numbers, seen this way, these percentages reflect what we know about the push and pull factors that ground the transnational processes of human capital flow more generally: shorter and specialized graduate programs that are universally transferable have more institutional resources, incentive and support to attract international students. In contrast, professional programs that are jurisdiction-bound have more circumscribed “legs” and much less appeal for investment by international students.

To some extent, law schools mirror these larger national patterns, with higher international enrollment in graduate programs than in their core professional program, the JD. Indeed, in many law schools the trend is more pronounced than the national figures, with international students comprising all or at least the lion’s share of students in LLM – equivalent to a master’s degree - and SJD programs – equivalent to a PhD in law (Hupper 2015, 2007). But although a much smaller proportion of the main professional degree program (the JD) is international, the last decade has witnessed a new growth spurt of international students even within this program. This is because, despite the JD traditionally being considered a “domestic” and mainstream law degree (ABA 509), it offers a more plausible route into the U.S. legal labor market for those who seek it. This shift in focus is in no way to suggest that programs tailored for international students are losing popularity. In fact, significant numbers of international

¹ International students accounted for approximately 5.5% of all enrolled students in U.S. higher education in 2017-2018, when 1,094,792 students came to the U.S. for their studies. In contrast, three decades earlier in 1987-1988, 481,280 international students came to the U.S. for higher education and accounted for 2.8% of all enrolled students. (IIE 2018).

² In 2016-17, for instance, international students comprised 5.3 percent of all enrolled students (IIE 2017), and about 13 percent of all enrolled graduate students (IIE 2017; National Center for Education Statistics 2017).

³ According to research focused on international students studying in Australia, “most international students are self-funded and seek a return on investment in the form of graduate employment in the host country.” (Gribble, Rahimi and Blackmore (2017), p. 16) (

⁴ More than 20% of all international student enrollment was centered in master’s degree programs (225,883 students in 2017-18), compared to approximately 11% in doctoral programs (123,500 students) and only approximately 1% in professional degree programs (13,020 students) (IIE Academic Level).

⁵ IIE reported 13,020 students in professional degree programs (IIE Academic Level).

students continue to be admitted to U.S. law schools in such programs (Adams 2017; Muller 2016; National Jurist 2014). However, this trend – especially in elite law schools – has continued alongside the rising entry of international students into *JD* degree programs.

These demographics have shaped the scholarship that has emerged around international law students. Over the last few decades, the robust research on legal education in the U.S. has expanded to include narratives about international student participation and experience (Lazarus-Black 2017; Garth 2015; Garth 2015; Lazarus-Black and Globokar 2015; Ballakrishnen 2012; Silver 2012; Silver 2010; Spanbauer 2007; Goldhaber 2005; Silver 2002) but this has almost exclusively focused on students in international-friendly (and, often, international-specific) programs like the one-year master’s level LLM⁶ or the research-focused doctorate in law, the SJD. There are indications in this research about why interest may be shifting to the JD among some international students. Specifically, unlike the one-year “capstone” style program of the LLM (which has varying levels of credibility in U.S. and international labor markets (Silver 2010, Ballakrishnen 2012) and the more academically oriented SJD degree (used almost only by students interested in academic job markets, typically in their home countries), the JD promises a more immersive U.S. experience and a path into the legal market based in the U.S.. Indeed, this path even extends to foreign legal markets like China and Korea where U.S. law firms exert a significant influence. However, despite these factors that might make the JD more attractive to these students, there still is very little that is known about the experience of these students, and how their experiences compare to those of students in more traditionally internationally-focused programs. Our research seeks to bridge this gap.

To understand how being international matters in a “mainstream” law school setting, this Chapter draws from interviews with 58 international JD students to shed light on student perspectives across three distinct levels of analysis. We *first* address the importance of studying these students by mapping the historic rise of international students in law school, especially in contrast to other trends in higher education. In doing so, we explore the supply side dynamics that feed into this situated context and argue that this increase might be attributed to the technical – rather than perceived - limitations of the more traditional international tracks in these schools. *Second*, we consider the ways in which interactions with classmates, faculty and others in the law school buffer students’ experiences in law school. Specifically, our focus here is on interactions around language and culture that include and exclude students in different contexts and constellations of law school participants. We suggest that language and, beyond literal language, the cultural extensions of language are particularly significant in determining students’ senses of identity and belonging. *Finally*, we draw on the ways in which international students and their interactions are embedded within institutional pressures and contexts. Shedding light on the variations in this experience, we show that the backgrounds of students might affect their identity and experience, but it is within the context of the structures they are embedded in that valorization is afforded to them. Altogether we argue

⁶ We refer to all post-graduate master’s-level degrees earned by graduates of foreign law degrees as an “LLM” here, although there are other names for this degree; the University of Michigan, for example, offers a Master in Comparative Law degree (MCL) that requires fewer credits than does its LLM degree. At the same time, certain law schools offer an LLM degree that requires two years rather than one; see, e.g., Georgetown Two-Year (describing a two-year LLM with a Certificate in Legal English). Additional variation on the basic degree framework goes beyond these, too; see, for example, Stanford SPILS, which is a one-year or longer program to prepare foreign lawyers to apply for an SJD.

that the language of law school privileges a certain kind of ideal student and this expectation has implications for schools as well as the various actors that increasingly have to navigate them.

1. Trends of International Students in U.S. JD Programs

International students in law schools are a fraction of the enrollment for international students in fields like engineering and business that are seen as more transportable than law.⁷ Even so, at many law schools, graduate programs host a higher proportion of international students than the 13% that international students represent in graduate level enrollment in the U.S. overall (IIE Academic Level, NCES Digest). For at least two decades, a significant proportion of U.S. law schools have offered postgraduate master's-level degree programs (typically leading to an LLM degree) specifically for international law graduates—meaning students who earned their first degree in law from a school situated outside of the U.S. The popularity of the LLM for international law graduates is reflected in the growth in the proportion of law schools offering them: in the mid-2000s, approximately 40 percent of all American Bar Association (ABA)-approved law schools offered at least one LLM program open to international law graduates (Silver 2006); today, this has increased to more than 75 percent of all ABA-approved law schools.⁸ Information about the proportion of LLM students who are international is not easy to determine because it is not required to be reported by law schools, but application information for LLM programs suggests that as many as three-quarters of U.S. LLM applicants are international law graduates.⁹ Moreover, even specialist LLM programs like tax, which used to require a U.S. JD as a condition to entry, now openly embrace international law graduates in their application and marketing materials (Georgetown Law 2018; Northwestern Law 2018b; University of Florida 2018). Overall, LLM programs generate important revenue for law schools in light of the decline in JD enrollment in the last several years, and importantly they do this without affecting the U.S. News ranking of the law schools. Today, LLM and other post- and non-JD degree programs account for a larger proportion of law school enrollment compared to the JD (ABA Law School Data 2017), and in this way, the students contribute to internationalizing their law schools.

In contrast to these graduate programs, a much smaller percentage of students in JD programs in U.S. law schools is international. Still, as we show in recent work, this percentage is rising and emerging to be crucial, especially when compared to other minority populations, particularly in elite law schools (Ballakrishnen and Silver 2019). Some of this rise is the historic

⁷ On enrollment by international students in these areas, see IIE Fields 2014-2016 (reporting that the three most popular fields of study for international students studying in the U.S. are (i) engineering (216,932 international students), (ii) business and management (200,312 international students) and (iii) math and computer science (141,651 international students)).

⁸ The 75 percent figure is based on data reported by the ABA Section of Legal Education and Admissions to the Bar regarding law schools with post-JD and non-JD programs, and a review of the websites of listed law schools. As per these data, 154 U.S. law schools supported at least one LLM or other postgraduate program open to international law graduates.

⁹ The Law School Admissions Council (LSAC) reported that 7,194 of 8,601 LLM applicants as of August 2015 were graduates of non-U.S. law schools (LSAC 2015). Note, however, that these LSAC data likely do not represent all applicants to all U.S. LLM programs because certain schools allow applicants to bypass the LSAC credentialing service.

context of this emergence: U.S. law schools struggled to maintain enrollment after 2008,¹⁰ leading to a nurtured interest from international applicants and a subsequent rise in their enrollment. Arguably as a result, in the same period, international enrollment increased more significantly compared to other kinds of domestic minority student enrollment (Ballakrishnen and Silver 2019). In 2017, for example, international students (defined by the law schools in terms of their non-resident alien status¹¹) accounted for 3.32% of JD enrollment, still the smallest segment compared to Asian/Asian American students (6.20%), Black students (8.42%), Latina/o students (12.60%) and white students (60.83%) (ABA Standard 509 Requirement Disclosures 2017). But these figures belie the growth spurt: the percentage of international students enrolled in JD programs grew by nearly 87% from 2011 to 2017, compared to the increase for Latina/o students (slightly more than 37%) and Black students (nearly 18%) during the same period (Ballakrishnen and Silver 2019). Perhaps equally important, the growth of international enrollment in JD programs was more pronounced at schools in the highest positions of the US News ranking, where these students accounted for nearly 8% of the JD population in 2017, up from just over 4% in 2011 (ABA 2011, 2012, 2013, 2014, 2015, 2016, 2017). We argue that this growing significance of international students in JD programs calls for some urgency in understanding their experiences, both as an important research insight to their navigation of these processes, as well as a broader lens for gaining a more nuanced view of the experiences of other populations of diverse students.

Particularly, these rising demographics of international students reflect a range of interrelated mechanisms at play. For instance, at least some of these shifts can be explained more generally by the internationalization of higher education (IIE 2016). The shift to the JD specifically reflects certain overseas legal markets becoming anesthetized to the U.S. LLM (Silver and Ballakrishnen 2018). At the same time, declining enrollment in law school also has been crucial in directing schools to embrace and seek out new applicant pools (Sloan 2017; McEvers 2016; Douglas-Gabriel 2015; Hansen 2015; Olson and Segal 2014; Silver 2012b; Tamanaha 2012). For example, international applicants may experience law schools' shift to embracing the GRE in admissions as increasing accessibility. Moreover, it is possible that law school leaders perceive that being international is necessary in order to maintain their schools' reputations as elite organizations, just as this phenomenon has characterized law and other professional service firms. And from the perspective of international applicants, the change of course towards the JD might reflect students' seeking superior returns from their law degree in the United States, seeing a U.S. job as an important step in their careers.

In this Chapter, our analysis takes shape from the interaction of these institutional perspectives with students' actual experiences and choices. Navigating the JD is complicated by expectations of faculty and administrators, classmates and even prospective employers. These challenges often are discussed under the umbrella of "language" difficulties, but as we show below, language involves considerably more than technical syntax and vocabulary. In highlighting this role of language and the way it intersects with students' actual lived experiences, this research extends other work on the role of different kinds of legal language

¹⁰ Sloan 2018

("The number of new law students at ABA-accredited law schools fell 29 percent between 2010 and 2015").

¹¹ See Ballakrishnen and Silver 2019 for a discussion of the ways in which international identity compares to immigration status.

and culture in reproducing hierarchy (e.g. Mertz 2007, Kennedy 1982) to this new and increasingly relevant demographic.

3: *Data & Methods*

In order to study international students, it was necessary to come to some understanding of what it means to be international for purposes of U.S. legal education. Essentially, we could not pursue this research simply by obtaining a law school list of its “international” students.¹² Instead, we pursued a two-pronged approach to generate as diverse a sample as possible in terms of law school attended, home country, gender, year in school and path to the JD program. On one hand, we invited students identified as non-resident aliens by their law schools to participate in the research,¹³ and on the other hand we used a snowball sample method by asking each interviewee to identify other students who they thought would be interested in participating, who we then invited to an interview. Approximately one-third of the interviewees were obtained through snowball sampling, with the rest coming from law schools’ direct or indirect outreach to their students (together, these conversations with 58 JD students are referred to here as “interviews”).¹⁴

The interviewees attended a set of 17 distinct law schools that are diverse in terms of ranking, size and affiliation.¹⁵ Thirty-eight percent of the interviewees were enrolled in one law school, while 28% graduated from 8 different law schools at which between 2 and 7 interviewees were

¹² The starting point for this was learning that U.S. law schools categorize students according to their visa status, so that “international” students are those individuals classified as non-resident aliens according to immigration regulations. This is the basis for law schools’ reporting to the ABA and is reflected in their enrollment reports. But non-resident alien status is only one way to identify who is international, and in order to avoid inadvertently reproducing the judgment of law school administrators, faculty or students about what it means to be international, we explored the symbolic notion of being international directly in our research (Dezalay and Garth 1995, 31). In this way, we are able to explore the seeming cohesiveness of the category as well as how students select themselves and are sorted into more nuanced subsets.

¹³ Two law schools provided Silver with the contact information of every non-resident alien JD. One of these schools had fewer than 10 such students, and Silver invited each of the students to participate through an interview; approximately 75% of these students participated in the research. The other school enrolled approximately 50 non-resident alien students in its JD program, and Silver selected students from this list in order to balance the general interview pool that was developing simultaneously. To that end, first-year students and students from particular home countries were excluded because of a concern that these populations were over-represented in the existing sample. Approximately 75% of students who were solicited at this second school participated in the research. Three other law schools facilitated the research by indirect means. At one of these schools, the administration emailed its non-resident alien students about the research and directed interested students to contact Silver directly. Another school included a message about the research in a student newsletter, indicating students should contact Silver. The third school arranged for Silver to meet with a group of 7 non-resident alien students.

¹⁴ As a complement to this research, Silver also conducted individual interviews with 12 international LLM students or recent LLM graduates; all but one of these students earned their LLM at a single law school that also enrolled certain of the international JDs who participated in this research.

¹⁵ Of the 17 law schools represented among the interviewees, 7 schools were rated by *US News* within the top 14 spots in 2014, which was the year when most interviewees were considering and applying to law school. Half of the remaining schools were in the 15-50 ranked positions, and the other half of the schools were in the 51-unranked positions.

enrolled. The remaining interviewees each graduated from a different law school.¹⁶ The interviewees also came to their JD programs by way of varied paths, which we have discussed in more detail in other work (Silver and Ballakrishnen 2018). Sixteen students earned a first degree in law outside of the U.S., and half of these earned a U.S. LLM before beginning the JD.¹⁷ Twenty-one interviewees earned a U.S. undergraduate degree,¹⁸ and three earned a non-law master's degree in the U.S. before matriculating in the JD. Three students were in a JD-MBA program. In addition, certain students varied in their paths based on transferring within the JD program,¹⁹ or spending fewer than 3 years in the JD program.²⁰ Each of these distinctions might exert an important influence on students' experiences in the JD program. Of the interviewees enrolled in a three-year JD program (including transfers), 13 were 1Ls when we interviewed them, 15 were 2Ls and 16 were 3Ls. Four students had graduated the year before their interview.

Women comprised approximately 60% of the interviewees, and students claimed citizenship in a total of 17 countries. Chinese citizens accounted for approximately 45% of the interviewees. While a smaller segment of the sample, citizens of South Korea and Canada also represented significant segments of our interviewees (16% and 10% respectively). It is not possible to determine whether this break-out reflects the general population of international JD students because law schools are not required to report students' home countries in their ABA reports. Nevertheless, in extrapolating from two sources that provide some insight into this issue of sending countries, our sample is generally reflective of the significance of China, South Korea and Canada as the three largest sending countries for JD students,²¹ although in our sample, students from China are over-represented. In addition to China, South Korea and Canada, multiple interviewees also claimed citizenship in Mexico (three interviewees, one of whom held citizenship in two other countries, including the U.S.), Hong Kong (two, in each case holding dual citizenship) and the U.S. (five interviewees, one of whom held citizenship in two other countries). In addition, four interviewees either held or anticipated obtaining permanent residency status in the U.S. in the immediate future.

The interviews were conducted either in person or through a video call platform (Skype or FaceTime) by Silver, with the exception of three interviews that were conducted by her trained

¹⁶ Four of the law schools that our interviewees attended or graduated from are part of public universities. Forty-seven of the interviewees attended a law school situated in the Midwest. All but five of the law schools included in the study are located in major metropolitan areas. Schools ranged in the size of their student bodies: 11 schools enrolled between 500 and 1000 JD students; 5 were larger and 1 was smaller. Each of the schools also enrolled post-JD students (including LLMs).

¹⁷ Half of the LLM graduates and half of those who earned a first degree in law in their home country enrolled in a top-14 ranked law school for their JD program.

¹⁸ Citizenship for interviewees who earned a U.S. undergraduate degree includes Korean (5), China (5), U.S. (4) and one each in Canada (dual citizenship with another country), England (dual), Hong Kong (dual), Japan, Poland, Viet Nam and a small Eastern European county.

¹⁹ Six interviewees transferred from one law school to another within the JD program.

²⁰ Ten interviewees spent fewer than 3 years in their JD program, either because they received advance standing on the basis of earning a U.S. LLM or because the program otherwise was abbreviated in recognition of their earlier legal studies.

²¹ The two sources are data from the Law School Admissions Council and data on visa approvals for students studying law in the U.S. in a doctoral level program (which is categorized to include the JD), according to immigration records for the years 2008-2012. These are discussed fully in Ballakrishnen and Silver 2019. Our research sample is more heavily weighted toward China than either of these comparison groups.

research assistant, who also was an international JD student at the time. The interviews were open-ended and semi-structured. Interviews were recorded (with the exception of two, for which detailed notes were taken), and recordings were transcribed and coded using a scheme of 174 codes. Both authors were involved in developing the interview questions, determining the coding scheme and in the analysis of the interview data. Interviewees here are referred to by a pseudonym derived from published information about common given and family names in the home countries of our interviewees. Certain interviewees used American names, and for these we followed this pattern and assigned American names to them.²²

4. Interactional Identities of Being An International JD Student

Law schools categorize students as being international based upon their immigration status as non-resident aliens, and this also serves as the basis for their reporting international student enrollment to the ABA.²³ But immigration status, as we have demonstrated in recent research, does not always coincide with students' self-perception of their identities (Ballakrishnen and Silver 2019). Instead, our data reveal that being international is a more fluid category that depends on experience at least as much as on formal status. For example, while technical status certainly had its advantages, for many students in our study who were born in the U.S. or who later obtained citizenship or permanent residency, status was not determinative of their sense of identity.

For example, Daisha Robinson, who was born in the U.S. but grew up in another country, returning only for college at age 18 (I1535), described herself as both technically an American student and yet very much also identifying as an international student. Similarly, Robert Silva, who held U.S. citizenship (based upon his father being a U.S. citizen) as well as passports in two other countries described himself as not feeling entirely at home in the United States, despite his citizenship. Robert's sense of flexible identity is striking in the way he describes his first visits to the U.S.: "I consider myself an immigrant, even though I have the citizenship, and I'm not a . . . immigrant, but some things are similar to an immigrant, where the networks in your family and the people there to help you out when you first arrive is very important." (I1542, p. 12). Other students with permanent residency status also identified as being international. It was common for such students to describe themselves as having a "dual-identity." Among those who referred to this notion was Daniel Tao, a third-year student from China, who described that "most of the time, I just consider myself both ["Chinese or to be more Chinese American or Asian American"], as one package, if that makes any sense." (I1528, p. 5)

²² Interviews are cited by reference to a numerical code in the format of "I1501," where "I" refers to interviews conducted with a single interviewee, "G" to those conducted in a small group, "15" or "16" refers to the year when the interview was conducted (2015 or 2016) and the last two digits reflect the numerical code for the particular respondent (e.g., "01"). Page references to interview transcripts are indicated following a comma, where relevant.

²³ See Guide to Compilation – All Schools' Data, ABA Standard 509 Information Report Spreadsheets, accessible at <http://www.abarequireddisclosures.org/>, "Guide to Data" (describing that under the heading "JD Enrollment and Ethnicity" the "spreadsheet reports on the gender, race, ethnicity, and non-resident status of the study body as a whole and of the first-year class . . .").

In this meaning making around their international identity, language was a predominant moderator for many students. Seohyun Lee, for example, was a U.S. permanent resident who had moved to the U.S. with her family from South Korea when she was ten. During our interview, she described how introducing herself to American peers always included interactional discomfort because she had to navigate saying her name in ways that felt easy or comfortable to people who did not speak Korean. She admits that although she now pronounces it just as she “would say it to other Korean friends,” historically she tried to pronounce her name “the way Americans do” but never “felt comfortable” doing so and “always hated icebreakers” because she’d have to say her name (I1533, p. 16). Similarly, for Michael Choi, who was in the process of getting his green card (based on his wife’s citizenship status), language continued to operate as a constant reminder of his outsider status. He spent his high school and college years in the U.S., but despite having “spent a good amount of time in the U.S.,” he admitted that the fact that English was not his “mother tongue” was “always in the back of his mind,” affecting his confidence in law school, particularly when he was on call in the classroom and had to speak in front of his peers (I1524, p. 6-7).

These examples illustrate that even for students with the right to remain permanently in the U.S., their international status and identities were moderated by a range of abilities and expectations about language. Of course, as we show in other work (Ballakrishnen and Silver 2019), beyond technical classifications, not all students felt they fit within the one fixed category of “international student,” and for a few – especially those that had spent a lot of time in the U.S. or were native English speakers for other reasons - being international was more a logistical annoyance than an unbridgeable cultural hurdle.²⁴ Instead, identity was mediated through a range of personal and professional interactions that students navigated in law school. Across different settings, while formal and informal status remained pertinent, so too did perceptions about identity and the ways in which they were differently signaled and received in interactions (Ballakrishnen and Silver 2019).

At the same time, for a number of students in our study, their choice of the JD program as opposed to the more traditionally-international LLM or SDJ degree programs, reflected an important signal of both their professional ambition as well as their desire to distinguish themselves from other kinds of international identities within the law school. Interviewees described core advantages of the JD program, even if there were steep costs associated with it. For example, Yu Wei, a 1L from China, explained, “If I want to stay in United States, of course I will choose JD. Even though it's, like, three years program, you need to put efforts and time in it, but it's worth it.” (I1517, p. 12) And several students emphasized the JD as the best option for those who intend to make their careers in the U.S. Liang Min, another 1L from China, commented: “But for law students, especially LLM students, Chinese LLM students, most of them will go back to China. Yeah, especially for all the students that just graduate from China and they come to U.S.. They don't have any working experience. It's very hard for them to get job here.” (I1507, p.17)²⁵ Relatedly, interviewees also described the advantages of

²⁴ A classic example of this was David Zamora, a non-resident alien according to his law school’s categorization but someone who did not consider himself international. David, when approached, declined to participate in the study, explaining: “I’m not exactly your target audience. I have lived in the U.S. since I was 7, so I feel more American than international. The only respects in which I’ve had a different experience have been with visa issues/concerns.”(I1557).

²⁵ Another interviewee commented on the differences between LLM and JD graduates: “I have some LLM fr... students and they are my friends. And they come back... They came back to China and they applied job. ...

the JD as including more time in law school (three years versus the LLM's nine months), the credibility on the job market and the overall feeling that their legal training was more solid. Some of them even – despite not knowing the exact extensions of the LLM degree - felt that they were better prepared to take a bar exam if they went through the JD program. (I1517, p. 11).

Yet, over and above these rational, logical distinctions, international students viewed the JD program as offering other soft advantages. In particular, it provided an opportunity to divorce themselves from the normal routes pursued by international students – i.e., the LLM or SJD – and gave them a chance to unstick themselves from what felt like an “othering” identity, a chance to avoid “seeming like LLMs.” This distancing from what was considered a less than ideal status often was framed in terms that included a reference to language. For example, Victoria Zeng, a Canadian student of Chinese descent, explained why students – especially those whose first language was not English - would want to signal that they are *not* LLM candidates, that their international status ought not to be the singular thing that defined them:

“I do feel like people whose, let's just say if English isn't their first language and they sound like they may be an LLM or they're international I feel like there is a bias kind of that people don't necessarily want to work with them.” (I1539, p. 12)

Victoria was not including herself in this at-risk group; she felt that she fit in in her law school for the most part (she explained that “I feel like ... people generally don't even realize that I'm international. . . . I've been told I sound like I'm from California” (I1539, p. 11-12)), so her comment reflected her perception of *other* international JDs rather than a revelation about how her peers responded to her. Similar to Victoria, Adam Marquez, a student from Mexico, also put himself in a different category from international LLMs. Adam was pursuing a joint JD-MBA degree, but his reasons for why the LLM category was a non-ideal one went beyond language:

“[F]or some reason I've seen a lot of negative comments, I hear them all the time from JDs about LLMs. And I think a lot of it has to do with the language barrier and sometimes LLMs don't know how to express themselves very good in class and so it slows down the class or And some people criticize the LLM, like [they] think that many LLMs don't take studying as seriously, like they're more here or some of them are just here for a year and they go back to the law firm and they're more like having a good time and they're not going to be as prepared for class. And some people get upset about that, things like that.” (I1525, p. 17)

In Adam's description, the unattractive association of the LLM category went over and above just sounding foreign. Instead, it consolidated his desire to disassociate from stereotypical characteristics about international students that he had internalized from his interactions with classmates (e.g. that LLMs might be read as transitory, less hard working and generally not fully committed to the program). Of course, not all students chose to distance themselves from their LLM peers and some – especially if they were otherwise able to distinguish

They say their... the... the hiring manager, look, their resume, they think their LLM is not... It's not ... JD. ... If you have a JD program in your resume, it's better to apply to job in China.” (I1512, p. 47).

themselves as cosmopolitan – sought the community of LLM students who shared other kinds of cultural identities with them like a common language or country of origin.²⁶

Still, despite this meaning making that prompted students to invest in the JD degree, the shift in academic programs alone often was not enough for them to necessarily reap the corresponding anticipated benefits of identity they so desired. Sometimes, their awareness of this seemed almost to unfold during our conversation, especially when they spoke about their ability to access resources within the law school from their position as JD students. For example, Yu Wei, a 3L student, described her disappointment with her career advisor: “Like career service, I got an advisor. She – I don’t think she, like, she showed much interest in my background . . . when we talked about my Chinese background . . .” (I1517, p. 11). Other students described their career advisor as helpful but uninformed about the particular needs of international JDs, especially around international placements and visa policies of hiring firms (I1518, p. 34-35). In other contexts, too, international JDs experienced the consequences of institutional conflation of being international with the LLM degree program. For example, Victoria, mentioned earlier, recognized that the distinction between LLM and JD students could work against her and other international JDs in the way that the university – in this case, the International Office – identified “international” as equivalent to “LLM” in the context of the law school, resulting in her feeling overlooked by an orientation presentation allegedly aimed at all international students but perceived as being pitched to the particular problems of LLMs.²⁷

Alongside each other, these interactions signal the perception that international JDs still remained “different” from the average ideal student in the law school. For these international students, the ‘fit’ with their respective environments, notwithstanding their possible intention to assimilate, still was an uncomfortable compromise between their actual and imagined identities.

5. *Language, Culture, and the Culture of Language*

A significant context for being perceived as an international student was the law school classroom, and although the reasons varied across respondents, it was a particularly grueling

²⁶ For example, Emily Ye, a 3L who held passports in Canada and Hong Kong, commented: “I was asked to speak on a panel about marginalized voices on campus. . . . where they brought in marginalized voices. . . one of the voices that they brought in was an LLM student from the Caribbean, and she was speaking about the foreign student and LLM student experience. I think having her on the panel that I was a part of really brought in another layer of marginalized voices, because she was bringing forth to all the professors the fact that there are students from different places who have a different perspective to bring into the classroom, that sometimes aren’t invited to bring it, so they feel awkward, or they feel like it’s unnecessary, and so they just don’t say anything. So, I’ve seen it through other people. I don’t necessarily know where I’ve been put in that situation, except for I’m taking a seminar right now on nationalism and cultural identity, which I love. It’s amazing. Everyone there is like me and has these weird mixed identities.”(I1545, p.17)

²⁷ “. . . [D]uring orientation week there was this panel for international students hosted by the IO, the International Office. And a lot of international JD students walked away from it feeling really unsatisfied because although it was marketed as a panel for all international students the focus was really on the LLMs. They talked about all the issues that the LLMs were faced and for the JDs we felt like we had to raise our hands and be like, wait a minute, what about us? What do we do in this situation? And it just seemed like IO wasn't very concerned about the JDs.” (I1539, p. 24).

space for many interviewees. Broadly, the culture of the classroom posed a milieu of hurdles for the average international student, including trouble with expressing their opinions, participation and, especially if they were not (or, worse, not seen to be) native English speakers, language. It is worth noting that the international JD students in our sample (and generally) did not suffer because of the absence of language proficiency per se. They satisfactorily completed the LSAT exam as an entrance requirement, and many graduated from English-speaking programs (in or outside of the U.S.) in college and even high school. Notwithstanding this, language operated as more a coded cultural term – used by the students, their peers, faculty and staff for what it meant to communicate in the law school classroom. Violet Min’s description of the classroom space she navigated as a language outsider summed up the classic obstacles that many students whose first language was not English felt about the hardship of keeping track of their foreign surroundings:

“I think in law school there are basically two things that struggle me. ... One is the language problem ... And I have to pay more attention to ... the class. And sometimes I ... have to sit in the front row. ... And I can listen clearly. And ... I’m trying to be more involved in class ‘cause I noticed that some other American people, they answer the question frequently and carefully, but most of Chinese people won’t answer the questions, even though they know the answer, they don’t want to hands up and answer that. ... And the second ... thing is about the ... way you think. ... Just like what I talk about, about the legal system, and the different teaching method that you should get used to that. ... I think this semester is getting better. ... Last semester it just ... even though I read, I finished my reading, I did not understand it. ... So I cannot do great job during class and answer the question.” (I1511, p. 41-42)

Violet’s description of her setback in the classroom is not unlike other accounts of international students in American higher education (Roseman 2017; Liu 2016). But a few things make what seems like a standard case of “language trouble” extra pertinent. For one, unlike other graduate programs where language might be incidental,²⁸ law and the legal profession are constructed in ways that emphatically privilege language. We have to wonder how different these students’ experiences are because they are studying law. Specifically, it raises the question whether the way law is taught and studied in the U.S., with the heavy emphasis on verbal skills and absence of particular pre-requisites, is responsible for the divide that many of the interviewees described. Insight was offered by several interviewees who also had experience in another higher education program in the U.S., whether business school or an engineering program (notably, both of which are among the fields that draw in most international students). These students described law school, in comparison, as more segregated and generally less international. But it is, perhaps, the emphasis on language in the law school culture as well as curriculum that is a significant distinction. Michael Choi contrasted law school to his college engineering studies:

“One thing that I wanted to mention is that being an international student as an engineer [his undergraduate major] in college ... it’s just very different, because in engineering, especially, more than half the students were all international and predominantly Asians in the class. So when I first came to law school, my first classes,

²⁸ In fact, the fields that draw in most international students are the more language-agnostic fields of engineering, business and management, and math and computer science. See IIE Fields 2014-2016, n. 7 supra.

that was very strikingly different. And also a lot of words instead of numbers, so that's also different.” (I1524, p.11)

Similarly, Timothy Cho, a JD-MBA student, drew distinctions between the typical law and business student, among other things:

“[A]t the law school you can see a lot of the American students will hang out with the American students and, like, the LLM students hang out the LLM students, like international students hang out with themselves. . . . But we don't really see that at [the business school] because everybody is so international both in terms of perception and experience. . . . somehow they [i.e., those in the business school] get by, I think. Because if half the students don't speak English fluently, I mean don't quote me on this but, I mean, if half the students aren't as fluent in English as, like, the American JD students here, then it kind of becomes normal and they really don't, you know, have a problem at all. And people who don't speak fluently don't feel uncomfortable at all. Whereas, if you think about it, the American JD students here are really very, very bright students who are very well spoken even among, like, the Americans, right? They talk very fast, they're very eloquent, they're very quick and smart, so, it could be pretty difficult for someone who don't speak English very well to socialize with them, I think.” (I1521, p. 29-30)

Together, these comments indicate that it was not just the lack of technical language skills, or law as a field, that made Violet feel inadequate in the classroom – it was also her cultural praxis that held her back from being in sync with what she saw as the rest of the class, or, in some sense, her view of the ideal student. In Violet's terms, even if she had an answer to a question, she might not put up her hand to answer it “even though she knows the answer” and “unlike some other American people” who, as she says “answer the question frequently and carefully.” This learned pattern of how to be present in an American classroom no doubt comes from a cultural expectation around exchange and communication that goes beyond technical ability. Hui Qiao, another Chinese student, similarly identified the combination of English being her second language and the U.S. law classroom dynamics where she felt misunderstood and unheard as leading to her sense of frustration with being invisible in class:

“Sometimes I need to speak out. Like, I need to tell my other U.S. classmate my... my thought. They maybe don't consider what I'm thinking. . . . Because they cannot understand what your position, what's your difficulties when you study. So I hope my classmates will understand me and just give me a chance to express my opinions. Because sometimes . . . some classmate, they are very talkative.” (I1512, p. 56)

While we use Violet and Hui Qiao to make the case about invisibility and presence in communication, their position of feeling like they could not articulate their thoughts because of lapses in language was not shared by all of our respondents. The layered relationship with communication was common among many students for whom English was not a first language, but most students in our sample did not report experiencing direct language barriers. Instead, they described feeling more subtle barriers that marked the hesitation in interactions: an accent, for example, or a confidence lapse in specific interactions, or culturally specific affect in conversations. (Ballakrishnen and Silver 2019). And while the challenge of invisibility loomed against many – if not most – of the students in our sample, this was addressed differently by different students. Zhang Wei, for example, a second-year male student from

China who had earned a master's degree in finance in a different U.S. university before beginning law school, described gaining confidence from watching the interactions of other international students in class:

“In the beginning, . . . I was feared of talking out loud and this weird accent. But then you get used to it and just what really matters is your confidence. So I think even those LLMs from Spain, they talk really even weirder accent, just my personal opinion. And they're confident . . . They are expressing their opinions, their thoughts, and that's good for the community. They bring different aspects, they bring their knowledge from Spain. So that's good and I could do the same. . . . And I think I get more time to prepare for each class, I felt more, I think, more about class for each subject so I talk more in class. And that feel good.” (I1510, p. 18-19)

This account of Zhang's sounds much like any law student who might be intimidated by a U.S. law classroom – language then, was much more about, as Zhang puts it, “confidence,” than it was about language itself. Still, at the same time, while it was certainly a good ideal, many students never gained the sort of comfort that Zhang described. Some considered the risk of embarrassment at being an obvious “other” too high, like Minsoo Lee, a 3L from Korea:

“And I'm, you know, frankly speaking, I'm . . . I'm always afraid to make mistakes in front of American students who are in class. Then I'll get really embarrassed. So I try not to speak when I know that it's . . . when I'm not too confident with grammar. I only speak in class when I'm confident enough that I won't make any grammar mistakes. So even though my English . . . even though I can communicate and I'm capable of conveying my thoughts in . . . in English, I'm always self-conscious about the fact that my English . . . isn't perfect.” (I1518, p. 30)

Minsoo's comments were all the more significant because it was unlikely that someone could have determined his identity based just on his accent. But it also reminds us how pertinent extensions of language such as accent, cultural assumptions about clarity and confidence – rather than technical language itself – were critical in making students feel like they were accepted within these environments. Another Korean student, Jennifer Shin, also was acutely aware of language as a distancing factor, and here she goes further than Minsoo in describing how she had been the brunt of comments she perceived as critical regarding the perfection of her spoken English. Jennifer had been in the U.S. since high school; in fact, even earlier through summer camp experiences. Nevertheless, her interactions with her American law school classmates were colored by anxiety about those characteristics that most clearly identified her as international:

“Koreans are very diligent and disciplined, and . . . so they try their best, but I guess that happens to everyone in law school. But international students have to take another additional step to be on the same level as other people. Some people make fun of my grammatical mistakes or talk to others that, oh, she makes a lot of grammatical errors, and it just – not all of them, but there are some people who will do that. That could hurt my dignity. But I don't think this person would generalize the U.S. students” (I1519, p. 31)

Interactions with faculty in the classroom context also contributed to international students feeling ignored or specifically targeted. Often this was not related to a professor intentionally trying to exclude or include the student. Rather, the palpable difference came from a failure to acknowledge that this new type of law student needed some adjustment in the classroom. Minsoo Lee, for example, relayed an experience when his professor intentionally refused to acknowledge that his international background might implicate distinct challenges:

“I actually asked my professor once that I want to record his class, because . . . because English is not my first language. He, and he actually refused, saying if, if you’re a JD student, and if you’re here, I don’t think you will have any problem. And so he was very respectful in, in his refusing my request. But that was his . . . response. . . . I accepted it, and I, you know, sink or swim.” (I1518, p. 21-22)

Minsoo’s disheartened acceptance of the “sink or swim” response from a faculty member demands attention not because faculty ought to mollycoddle students (although allowing someone to tape in a classroom can hardly be considered “mollycoddling”), but rather because the silencing of Minsoo’s problem comes from making him invisible within a more cohesive category of what it means to fall within the ideal type of a JD student²⁹. If the ideal – or, worse, the only – type of JD student is one who “will not have a problem” understanding English, then making an exception for Minsoo seems unnecessary and impossible. Yet, this rejection, which Minsoo had no choice but to accept, signals a rejection by faculty of the reality of a more diverse student body. Given the rising demographic of international students in these classrooms – many of whom are not native English speakers – the construct of the ideal JD student may itself need to shift. Essentially, if law professors are to best serve all of their students, they may have to re-imagine who comes within their vision of the “ideal” or even the “typical” JD student.

In another aberration from this ideal type of American law student, a Korean student, Seohyun Lee, relayed an experience she had in class where she felt singled out for different treatment for reasons related to her international identity:

“So I had one professor who cold called everybody by their first names, but I don't blame him at all, I think it's natural, but he referred to me and this other Korean JD MBA by our last names because it was easier. I wasn't offended by it, but it just feels more distant. That's one. And I'm not sure if this . . . If professors also think about this consciously, but I never get cold called in the beginning of the semester. And I like to think that it's because my name is not . . . When you're looking at the seating chart it's not the first thing that pops up. It's not the easiest I think for professors to say, that's my guess.” (I1533, p.21)

Seohyun here related events that made her feel uncomfortable - first her exclusion from a normal classroom exchange (i.e., at not being “called on” – an important part of law school life in the United States) and then her expressly primed minority status (i.e. of being referred to by her last name while others were not). However, she explained these as unintentional

²⁹ It also is worth noting that many students, for a range of reasons, could have made a similar request to tape a lecture and yet the request was denied not because of a standard policy against recordings in the classroom, but, rather, on the specific grounds of Minsoo being an international that once “here” should not “have any problem” understanding him.

slights -- done merely for the professor's convenience and therefore, relatively in-offensive to her personally. And recall, Seohyun's comment earlier about her own discomfort with pronouncing her name in a way that aligned with American expectations and the Korean language. These comments remind us that exclusion need not stem – and most often does *not* stem - from an intention to target or exclude a specific student. Nevertheless, even unintentional exclusion still may have salient repercussions. Li Min, for example, a Chinese 1L, told us about her professor referring in class to the television show, *The Simpsons*, and calling her out as the only student in the class who “doesn't not know [The] Simpson[s].” She described this as the “worst experience, but . . . [the] only one bad experience in law school.” (I1507, p. 21-22). Language, then, is not just about words used, but, rather, interactional contexts conflated with popular culture that may be inclusive or isolating to different students. One can imagine that Li Min's professor was only trying to make the class more relatable, but it sets up one more way in which language is not just language, but its extensions within the confines of a very specific cultural context that can add further alienation.

These examples of exclusion and express inclusion highlight two important things to consider in increasingly diverse classrooms. First, students might, even when professors do not intend it, feel alienated if they are in classrooms where they are expressly treated differently because they are not part of the dominant group (in this case, not being seen as domestic students). Second, students might be underreporting or, as in Seohyun's case, explaining away with logic, actions that might alienate others and even themselves. As researchers who study these newly diverse environments, we have to pay attention both to the position and the relative standing of international students as they navigate these terrains. After all, even targeted alienation, in the eyes of a student who has structurally less power, can seem “just another quirk.” In addition, this alienation might escape being flagged as problematic by the students because, in addition to having less power in these situations, students have incentive to pay less (rather than more) attention to these divisive classroom dynamics; from their vantage point, after having worked so hard at trying to fit in, who would want to make a scene about how they are expressly being made to stand out?

Further, and in addition to these direct interactions, were the perceptions informed by informal interactions and observations that are central to framing the impressions of international students in the eyes of other JDs. In the context of relaying his own experiences as an international JD, James Wilson, a 2L from Canada, also explained typical preconceptions about certain international students that limited the potential for meaningful interaction:

“I think particularly toward international students from East Asian, East and Southeast Asia there's a presumption among many American students that their English ability will be limited or that their cultural understanding will be limited. That may not always be true, and that that presumption can actually hinder what could otherwise be fruitful discussions. . . . Never anything quite so overt as rolling eyes, but cutting conversations short early because of a slight language barrier or conversations among westerns where people just sort of express an attitude of like, what's the point of talking to that person or like referring to someone as like some random Asian chick or whatever. . . . I mean I've had those interactions where I'm at an event and it might be a loud, crowded event and someone tries to have a conversation with me and I just literally can't understand what they're saying. And I'm like, I don't want to be dismissive, but I just cannot understand between the noise and the accent and the vocabulary.” (I1540, p.9-10)

Crucial to this explanation is the difference between what *actually* marks a student's identity (their language, cultural references) and what is *seen* as marking their identity. These kinds of differences (here, for example, between what a student is *seen* as versus what as the way they actually identify) can foreclose any chance of communication or exchange with international students, thereby reinforcing a social gap that might already be at play in these interactions. As James highlights above, there *are* cases where the language gap is real, but assuming that it always exists just comes in the way of "what could otherwise be fruitful discussions."

Yet even as these examples of language-related hurdles in the classroom were widely prevalent, they were only one more form of distancing that international students described encountering in the classroom. Of course, not all international students were similarly disadvantaged. And as we show in other work (Ballakrishnen and Silver 2019), certain students experienced these environments very differently, whether because of their English proficiency or *perceived* English proficiency. But among the students who could not "pass," the disadvantage was real and students seemed to understand that language was not just about whether they could speak English but, rather, a more layered cultural expectation.

In fact, for many students in our study, one of the anticipated benefits of the JD program was a chance to be part of an environment that could socialize them more completely into an American law school, as well as into the wider American culture, both of the legal profession and generally. But the bias these students experienced in interactions with peers, particularly in class, was a powerful, if indirect, exclusionary force. As a consequence, for many students, their social interactions did not integrate them to a wider network of friends and, in some cases, even further distanced them from being part of these new social circles. Particularly in interaction with peers, there still was a bias against international students, one that many perceived in indirect – but no less powerful – ways from their environment. Consider the description by Hillary Han, a 3L who earned her undergraduate degree at a Big Ten university and was enrolled in a law school at another Big Ten school, of how excluded she felt in her first-year Civil Procedure course – a required class for most first-year JD students. Her description of both feeling like she did not know what was going on *and* that she did not feel comfortable enough in her surroundings to ask for clarifications, sets up exactly the kind of hostile environment that many international students have to endure:

"So for the Civil Pro class – I had never taken any law class before, because we don't have a law degree in the U.S. And I never had any legal background. . . . And then I find out that I had a problem understanding what the professor is talking about in Civil Pro. And I felt so awkward to ask questions, because I feel everybody else around me knows what is going on, except myself. And I still remember one day one of my classmates asked me a question. I have no idea what she's talking about. And she gave me a really dirty look. . . . it just feels so hard." (G1659, p.7)

Similarly, Ya-ting (Anna) Chang, a Taiwanese 3L student, echoed Hillary's comment: "When there is class discussion and when I am paired with other people, and when I talk, people don't have eye contact with me. I wonder why. And then I tend to not like those classes with class discussions." (I1655, at p. 6) These examples point at ways in which students may self-select themselves out of classes when they feel like they are not seen or heard ("I tend to not like

those classes with class discussions”) – actions that may both further isolate these students but also give schools a convenient excuse to suggest that such isolation is of the students’ own accord.

6. *Navigating Law School: Peer Networks and Career Goals*

In this section, we highlight two additional themes in these interactions that moderated the status of being international. As we saw earlier, identity creation for most students was a complicated process that was motivated by a variety of reasons. Student identity and experiences were shaped by technical markers like citizenship and language proficiency, but they similarly were shaped by more subtle motivations (e.g. the need to signal that they were not a certain kind of “international”). Particularly, interactional factors were crucial and international students had to face a range of hurdles in classroom interactions and more diffuse peer interactions that distanced them from peers and colleagues both because of the ways in which they communicated as well as the ways in which they did not – or could not – communicate. But language and culture also had effects beyond general perception and reception of these students to determine more particularly the kinds of groups, networks and cliques that students were part of in these institutions. Of course, who their friends were depended on these preceding two mechanisms and yet, at the same time, their friendship groups set up an extended reflection of how they saw their environments. Similarly, these law school experiences contributed to students focusing on different kinds of activities and coursework in law schools, choices that had implications for their career goals and trajectories. Our data does not afford us complete information about either these networks or their future career choices more generally,³⁰ but the kinds of choices students in our study were making allude to several interrelated and iterative processes that defined the ways in which international student experience in law schools may impact their early careers more generally. Together, then, these mechanisms offer an interactional tapestry that buoyed each student’s particular fit within their surroundings.

Friends Networks, Cliques, Study Groups and Others

Not all students spoke about isolation or exclusion in the same ways. In contrast to students who told us that they were not seen or heard, several described themselves as having acquaintances who found their international experiences interesting. And for some of our (for example, Canadian) respondents who felt assimilated in terms of language and culture, the JD offered a much more cohesive law student experience. Still, the perspective of being perceived as different was not far beneath the surface for most of the students we interviewed, even if they could and did easily interact with American students on a superficial level. (Ballakrishnen and Silver 2019) An example was Andrea Diaz, a Latin American student who was close friends with American students yet still felt like they did not “get her.” Her interactions only further accentuated their differences, as she explains in this discussion about humor:

³⁰ In separate forthcoming research, we are exploring the relationships and networks of law students, including international JDs and LL.Ms. In addition, future research is focused on understanding the career trajectories of international JD graduates and the ways in which being international is perceived as a factor.

“[I]n general, [Americans] have a really different sense of humor from what Latinos have, for example. . . . So a lot of times what happens to me is that I make jokes It's not the same sense of humor. I find that's like a really big barrier because then I have to keep explaining myself all the time when I make jokes that they will never understand. They think I'm being serious. And some of them feel offended. . . . And I just find that happens in general with a lot of Americans. They just don't get me.” (I1534, p. 6)

Like humor, cultural references to things like sports and television shows often were used as ways to establish a comfortable rapport. But unlike Li Min, mentioned earlier, who felt badly because she was called out as having no context for understanding *The Simpsons*, other students recognized these cultural references as mechanisms of assimilation, even as they felt disassociated with it themselves. Seungmin Suh, for example, a Korean 3L student, described learning about local sports teams as a way to have a common topic of conversation with law firm lawyers during recruiting. He explained:

“Where you're from leads to, for guys especially . . . leads to sports. . . . Sports is a pretty quintessential topic of conversation. I was having this conversation . . . , so it just dawned on me, there's professional sports and college sports, and I was getting a lecture that those are really different things. Professional sports is just light, but college sports is where you're from. Even though I went to college in the U.S., you don't really have the sense of belonging. And I think of that, a lot of my friends went to college in Korea, and this is not just about guys and sports teams. It's hard not to feel isolated when you're not really immersed in the community. And being knowledgeable enough about sports, and faking it, it's like a get-out-of-jail free card in conversations. If you're not saying anything about sports, people might think of you as a little aloof, awkward. So even though I'm not interested, I make a conscious effort to keep up. I don't really care about the Cubs, but I try to watch them and learn their names.” (I1520, p. 51)

Thus, even in this intentional effort to fit in by investing in learning a topic that was assured to draw in American classmates and others in the legal profession in the U.S., international students experienced a sense of difference. And for those who felt that they were not part of the in-group of English speaking, mostly domestic students, their networks remained quite homogenous, comprised generally of other students from their home country or region. John Oh, for example, who graduated from a Big Ten university and also had spent time in the U.S. during elementary school, explained that his close friends are Korean,³¹ and described that “being Korean” in this context:

“ . . . means that they speak fluent Korean, they have a Korean culture that really matches with me. And I'll give you an example in the law school even. Some students would say they're Korean, but the way they act and the way they interact with people they're just completely Americans. Because Korean culture has this kind of hierarchy by age so you're supposed to respect your elders.” (I1526, p. 4)

³¹ In Oh's definition, “Korean” does not include American students of the same ethnic heritage. He described a gulf even between interactions with such students. For example, in describing the students who were active in an Asian American student association at his law school, he perceived a “wall between Asian-American versus national Asian” students.” (I1526, p. 14)

Of course, friendship networks – and their homogeneity – also depended on who else was in the law school. Minsoo Lee reflected on this when describing the different experiences he had in his 1L year and after transferring to a new law school. His second and third years were spent in a law school with quite a large Korean student population, and he explained this as leading to him retreating from interacting with American students:

“I think more Korean students there are, then your interaction with American students actually become less because you, you know, hang out with Korean students and there's so... there's a lot. So it's ki-... I guess it's kinda like a self-segregation. . . . 'Cause I mean, if there were no Korean students at all, then you would have to, you know, make friends with Americans, unless you wanna be alone. And that might force you to, you know, go to, like... like social gatherings and events and... and try to make friends that way. But when... When there's... there are so many Koreans, you don't really... You try to remain in your comfort zone. So that actually is, you know, makes less interaction with... with Americans, I think.” (I1518, p. 45)

Even apart from the transfer experience, interviewees described their interactions and friends shifting over the course of their three years in the JD program. Recall Michael Choi, a Korean 3L who attended high school and college in the U.S. “So when I first came to law school I wanted to hang out with as diverse group of people, friends as possible. So I tried that for a little bit, but then just naturally it happened such that the remaining friends that are close to me are Asian-Americans. And that seems to be a two-way street too. It's interesting.” (I1524, p. 9) Andrea Diaz, described earlier, explained these changes as working in two directions – being more willing to engage in small talk with Americans, and at the same time, shifting her friendship relationships towards more students from her home country region:

“if anything I've just met more Latinos and I hang out with more Latinos than I did in my 1L year. I mean, I do, like, say hi to more people in the corridors, with more Americans, I'm like, 'Hi,' or, 'Hi, how are you doing?' It is just a minute or two of small talk and that's all there is. There is more of that than when I started, but actually being friends with people, I'm friends with more Latinos now than I was at the beginning.” (I1534, p.7)

As these students describe, the friendship groups of international JDs are quite focused on classmates from the same home country or region – including even for Canadians, who tended to bond with other Canadians while also easily relating to American students.³² These challenges are not unique to law schools or to the international JD population (Silver 2013, p. 474-475)(Gribble, Rahimi and Blackmore (2017), p. 26). But as a result, the social networks described by our interviewees were even less international and more homogenous than the social networks of even many international LL.Ms who, despite their limited interaction with U.S. JD students, had more culturally diverse cohorts and interactions because of the international nature of their degree program.

³² As Victoria Zeng explained, “I only know a few other international students because the Canadians tend to talk, so those are the people I know. But outside of that all my friends are American.” (I1539, p. 9)

Effects of Institutional Identity on Career Goals and Growth

Law students generally focus on how their coursework will lead to a particular career path. For international JDs, this implicates decisions about where students anticipate living and working once they graduate. In speaking about these decisions, uncertainty was a constant refrain, but this went well beyond the norm for their American peers. International students – assimilated and non-assimilated alike - were uncertain about finding a job in the U.S. because of their international status. Most faced uncertainty related to their immigration status and whether they could obtain a long-term visa, even if their firm or employer would sponsor them (much less pay for these costs). But even for those with citizenship or permanent residency, students voiced concern with other transnational issues of belonging and attachment. Many could not predict their feelings of wanting to be near family when they began their own families or as their parents aged. And similarly, many expressed the hope of contributing to their home countries through their professional roles in the future. In fact, for most of the students in our study, the idea of returning home percolated throughout their law school experience and reflected interrelated considerations, from personal and family concerns to immigration status, opportunities and transportability.

These considerations combine to frame the ways in which students viewed and pursued their legal education. Even if they sought to begin their careers in the United States, these factors suggested a more global career trajectory. And, among other things, how they approached and pursued law school reflected their thinking about how to make their degree and early practice experience portable to their home countries. Many interviewees reflected about moving back to their home country and they generally thought that it would be easier for them to use their practice experience and legal education at home in a transactional, corporate-focused context, rather than in one where their practice focused on litigation. For instance, Liwei Jiang, a Chinese 3L, explained:

“being an international student influences the courses I take and my career path. I can’t say for sure that I would practice litigation and took more litigation courses in law school if I am a native, but I would at least considered that option and perhaps tried it myself. As an international student, I never seriously considered being a litigator. Almost all other international students around me are in corporate practice, this was how they get employed. I think this message was to me that only international students have to focus on transactional practice. . . . The chance of not being able to stay in the U.S. is a big concern for me, and that really convinced me to practice corporate law. If I practice litigation, and had to return to China because I didn’t get the visa, my litigation skills won’t be very helpful in Chinese legal market. On the other hand, corporate skills are much more transferrable. I think this probably explains why almost no international JD students became litigators in the U.S.” (I1549, p.4, 7)

Similarly, Kenneth Luo explained that he did not want to limit his choice to practicing law in the U.S. He discussed his plans of keeping open the option of returning to China, his home country. As a result, when deciding upon which practice area he would focus in his job search, he “tried to look for practices that would allow [him] to work overseas if [he] wanted to.” Because “corporate is a little bit more international than litigation in that aspect,” he eventually chose to pursue a career in corporate law, as opposed to a litigation practice. (I1541, p. 9)

Only rarely did an interviewee describe intentionally ignoring this portability consideration in order to pursue a course of study and first career step that might not transfer to home in the event he decided to move. Richard Jin was that rare international JD, who described himself in just those terms, as “exceptional” with regard to his determination to take litigation-related courses, and this was aligned with his determination to pursue a career in litigation³³:

“Let’s start with courses. Again, I’m exceptional. My view is that I’m here to learn American law, so I’m gonna do litigation or really American law courses. But, most of my Chinese friends, they are taking something useful to them after going back to China, so they are mostly taking commercial law, corporate law, . . .that kind of thing. But, for me, it’s more litigation or criminal, things like nobody takes.” (I1554, p. 6)

At the same time, going home – or interacting with their home country – did not always involve a physical move. It also framed the interest of certain international JDs in creating careers that allowed them to make a positive difference in ways intrinsic to their identities. As Daisha Robinson reflected:

“I have these long-term goals that are not necessarily set in stone, but they still kind of exist in my mind to contribute to my country and region in a certain way. Like whether that means I’m physically there or whether that means I am here and building better connections and networks for my country for business people or for non-profit organizations there.” (I1535, p. 24)

In addition to these portability considerations about being able to utilize their legal expertise if they returned home or worked to benefit their home country, however, international students described their international backgrounds as framing decisions about what they did during law school, including which law school classes to take. A JD degree signals a certain breadth of exposure to American legal education that includes first-year courses, a particular pedagogical approach, and topics that illuminate the ways in which law matters and is used in everyday U.S. society. These common law school experiences distinguish JDs from LL.Ms, too. But in addition to being structured in ways that alienated international students (as illustrated by the Taiwanese student who felt alienated in classes with heavy peer discussions), many courses deeply implicate American history and political culture, and these presented challenges for international students who had not grown up in the U.S. and/or immersed in its popular and civic culture. So interviewees described carefully selecting courses to ensure that they would minimize what Seungmin Suh described as “playing catch-up:”

³³ Richard’s explanation for his focus was, however, substantive and not geography centric. As he explains: “I am interested in practicing litigation. I am interested in litigating a lot, and my first choice is constitutional litigation, which is not that common. Otherwise, I’m really interested in something like white collar crime, or probably just general litigation. I don’t know. Those areas are not common or, not common at all to international JDs, because litigators tend to probably require better language skills or a better understanding of the culture. I don’t know, there’s more strategy involved in litigation than transaction. For most international JDs, I would say they definitely prefer transaction, I guess. Another reason is that, if you are going back to your country sometime after your practice here, it’s a lot easier and more fluid to take those transactional experiences back to your country. I mean, M&A in China and the U.S. is not that different. But, litigation is just really like two worlds.” (I1554, p.10)

“I think Asian students, or at least Korean students, have a general sense of, they generally want to avoid classes that involve a more fundamental, like abstract understanding of the U.S. court system and the government system. So for example, classes like Constitutional Law, Federal Jurisdiction and Administrative Law, I think those classes are ones that we tend to avoid because, especially because if you are . . . in a curved [grading] situation, your, my thought is that . . . I was really worried that I would be . . . having to play a catch-up game with other students who were, you know, born and raised in an environment where they were constantly getting news updates, they would read the papers and they would just have a more, like, a fundamentally solid knowledge of the system to begin with. . . . I generally want to avoid playing that catch-up game. I don’t want to . . . have to . . . go out of my way to, you know, just be at the same level . . . as where a lot of the native-born people here are. So . . . that that kind of ties into . . . class selection. . . . I might have incredibly enjoyed Federal Jurisdiction or . . . Criminal Procedure, those classes. . . . But I think that being an international student kind of affects that judgment in that way, because you know for a fact, at least for yourself, that you’re not at a . . . equal level of understanding as . . . most of the other peers who have really first-hand experience with the system here. . . . But I can get a job just fine by not really, like, sinking my teeth deep into the system here. And like, so that's, I think, something I wanted to mention.” (I1520, p. 46)

A similar comment was made by a Canadian student about the double-burden that international students faced while choosing to take a course like Constitutional Law, which beyond being an foundational law school class, also was thoroughly imbued with the background of American society.

“I feel the same way about Con Law, too. . . . it’s something about not being raised with these issues in mind, that you feel like a disconnect with them. And you feel like you’re learning a lot of stuff for the first time, too. So whilst I feel like a lot of my peers have like this advantage of being . . . of having the historical context and understanding what this country has been through, you’re sort of trying to learn that whilst also talk about this in a complex legal manner. Which is a barrier in itself. I mean, because you’re learning two things versus one.” (G1656, p.5)

These patterns illustrate how the international backgrounds of these students intersected with the schools’ various institutional factors to shape not just experiences, but also agentic choices. Law school grading curves were combined with competitiveness, choices about enrolling in important law school classes came enmeshed with the worry that these students might never escape their status, or that their lack of cultural familiarity and comfort might inevitably lead to their detriment. While students navigated their identities for themselves, they also had to continually struggle to navigate them against set perceptions and institutional patterns that were established without them in mind. And it is within this context that many international students were forced to acknowledge their otherness of not being an ideal student.

7. *Conclusion*

This Chapter highlights the importance of taking into account a range of supply-side narratives as the demographics of U.S. legal education starts to change. International students are no

longer just specialized actors outside the “mainstream” logics of the U.S. law school. Their parallel admission and graduation trajectories can no longer be explained away as different from what the “regular” law student does or wants. Instead, these rising trends within the JD program signal a need to rethink what these notions of “regular” and “mainstream” can mean for students and schools alike. While our research is by no means comprehensive in its ability to report on the varied experiences of international law students, it highlights the fact of variation and the ways in which this interacts with the individual and institutional characteristics and contexts to shape the experience of international students, as well as that of their environments and its other participants. As we repeatedly suggest, there is not one kind of international law student or experience that is most reflective of this collective whole. But as law schools admit more international students, it is useful to consider the ways in which inclusion may still remain exclusive to a specific kind of law student. Further still, schools might gain from considering their part in creating and fostering this inequity of access.

A central pattern in our research, as we elaborate in this Chapter, is the importance of language to the international student experience. At first appraisal, it might seem like a straightforward extension – language is an obvious hurdle in any educational setting and international students who are non-native English speakers are most poised to have to deal with it. However, as we show, language is seldom just technical language. Rather, in the construction of this more layered interactional language, culture and the cultural connotations of language were key. Other scholars have argued evocatively for a reconsideration of the institutional effects of this kind of “language” in the law school. Beth Mertz (2007), for example, argues that language, operating in terms of a set of institutionalized thought and speech processes that translate into trusting the ability of learned legal analysis in the law school context functions to reproduce race and privilege under the guise of meritocracy. Similarly, other research shows that the kinds of cultures that law schools breed have important implications for isolating certain kinds of students and faculty alike (Deo 2019, Young 2018, Pan 2017). Research on language and international students more generally recommends that with increasing numbers, rethinking pedagogy and assimilatory strategies for students is key (Wu 2015, Unruh 2014). Silence and speech across contexts might not have the same meanings (Brista 2011) for example, and without being able to unpack this, we might be seemingly welcoming to new entrants at the institutional level without being substantively inclusive. Our research confirms that for many international students the language of law school is obfuscated for reasons beyond syntax and grammar. It complicates and challenges relationships with classmates, faculty and staff, and shapes perceptions in ways that extend well beyond individual choices and experiences.

From the student’s standpoint, the fact that English is a hurdle that many of them will face remains an important, but altogether expected and unchangeable part of the system. Those accessing professional educational systems in the United States do so knowing that language proficiency is one that they will have to encounter, much like it might be for an English proficient if they chose to study in a country where the medium of instruction was *not* English.³⁴

³⁴ Law school application requirements include TOEFL scores or other indicia of fluency for non-English speaking applicants to the LLM program, but schools may not demand such evidence of fluency from international applicants to the JD program because they rely on the LSAT as a filter for language proficiency. See, e.g., Columbia University Law School’s International Student FAQ, avail. at <http://www.law.columbia.edu/admissions/jd/apply/faq/international> (explaining that TOEFL is not required for JD admissions).

But the struggle with language in the traditional law classroom is not just about student capability. In fundamental ways, language – understood broadly as described in this Chapter - implicates the policies and embedded structure of law schools in nurturing students' development of their professional identities, and this continues as students strategize about their early careers.

The implications reach beyond the international student population. For instance, a predominant theory to understand why women and underrepresented minorities are consistently treated unfairly in organizations (even, that is, as they make spirited gains at admission) is that organizations are constructed around an “ideal” often white, male worker and aberrations (i.e. women and minorities) are rationally seen as “bad” or deviant from the norm (Acker 1990, Thornton 2013). What is true for organizations extends theoretically for understanding the minority experience within the American law school as well. If schools are set up to cater to a certain kind of “ideal” student – i.e., one who does not need to record notes in a classroom, one who is confident in interactions, one whose learned behavior reflects a commitment to being – or, at least seeming – American, then of course everyone who does not look, sound, prep, socialize or learn in ways that conform to the standard must seem like deserved outsiders. But one can imagine that this “ideal” category is not just about being “American” and each process of such exclusion – whether it be on the basis of gender, race, national identity – can be problematic and lead to persistent inequalities in their own ways. Similarly dangerous are characteristics like participating vocally in class that seem neutral but instead can unfairly disadvantage new entrants and minorities (Guinier, Fine and Balin 1994).

From the school's standpoint, the increase of international JD enrollment likely challenges existing policies and approaches. A recent article describing the decline in international enrollment overall in the U.S. highlighted this issue, recalling a “backlash from American students who complained that their international classmates changed the campus environment, from parents who worried that there would be fewer spots for their children, and from professors who struggled to cope with the newcomers' different learning styles.” (Fischer 2019) For law schools, the common approach thus far has been to think about the challenges international students face as an *international student cost* or *problem for the international students*, which helps schools disassociate from thinking about the hurdle as a shared one. In many law schools, faculty have not had to come to terms with what the changing demographics of their law school student body means for what is required to be an effective teacher. Law schools do not privilege teaching generally, and policies that schools developed to purportedly support international students enrolled in LLM programs may have isolated and segregated those international students into particular internationally-identifiable classes, thereby enabling certain faculty to bypass these students. These separation policies may have been seen as supportive for students, but they also removed the challenge of teaching classes with broadly diverse students. The rise of international enrollment in JD programs makes this “solution” untenable. Moreover, international students also require support outside of classrooms, too, including career strategizing and preparation. This might take the form of discussions aimed at contingency planning around the risks associated with visa uncertainties, for example, or of developing expertise around law firm policies that support the sort of mobility implicated in international legal education and careers. At this point, international students may develop this expertise outside of the law school's resources, but this is an incomplete, inefficient and temporary solution. The evidence in this chapter suggests that beyond these quick fixes, it might be time to reconsider our established notions of an ideal

student – or at least time to recognize that committing to such an ideal type does a disservice to the equal opportunity we purport to inhabit as educators. Schools cannot just include new kinds of diverse entrants without including a substantive and cohesive commitment to rethinking what we valorize as actors within this institution. Adhering to objective criteria of merit without critically considering the kinds of inequality such meritocracy masks can only further reinforce existing inequalities.

While still only a small proportion of the law student population, international students are no longer the aberrant other that we can continue to ignore. In fact, as we compare them to other kinds of under-represented “domestic” minorities, the salience of this group becomes even more prominent – they become a sort of “other” diversity that demands attention in the context of a more general endeavor to make the law school more inclusive. But while international students serve as an important lens into dissecting the experiences of all under-represented minorities in these settings, they also are deserving of this attention on their own, reflecting the increasingly global worlds that *all* institutions and actors must now navigate. Our research begins to address these challenges, but research alone is insufficient. As this important group grows and begins to take root, it is going to need not just scholarly thoughtfulness but a deeper institutional commitment to managing these students’ flexible – but still very vulnerable – academic citizenship.

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