





ASIAN-AMERICAN LAWYERS:

Differences Abound

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Asia is the largest and most populous continent on Earth, covering almost one-third of the planet's total surface area. Asia is so vast that it stretches from Japan in the east all the way through Russia in the west. It is understandable then, that Asians speak numerous languages, practice an abundance of distinct religions, and follow a multitude of customs.

What is hard to comprehend, however, is why people from Asia are often called "Asians" as a whole, especially when the continent has so many unique cultures and characteristics. Chinese customs vary greatly from those in India, and life in Turkey certainly differs from life in Pakistan. The term "Asian" implies a likeness among all people from Asia, which simply is not accurate.

Moreover, Asian Pacific Americans in particular often are grouped together as one, homogeneous group. In the legal profession, Asian Pacific American (APA) attorneys especially are often characterized as one "identity" or one subset of diversity. Lawyers and law students are often cast under a broad umbrella of Asian-American groups, such as chapters of the Asian-American Bar Association (AABA), as opposed to more specific memberships, such as the National Asian Pacific American Bar Association (NAPABA). Even within these specific groups, however, Asian-Americans could be classified more distinctly (e.g., the Indian American Bar Association (IABA)).

Perhaps the broad categorization is attributable to the fact that there are so few Asian-American lawyers. According to the American Bar Association, the number of Asian-American attorneys in 2000 accounted for only 2.2 percent of the total number of lawyers in the United States.¹ Whatever the reason, the purpose of this article is to highlight some of the distinctions among Asian Pacific American citizens within the legal field.

Common Misconceptions About Asian-American Lawyers

Overview of Asian-American Ethnicities

The Asian population in the United States is comprised of many different groups who speak different dialects and observe diverse traditions. Asian-Americans are not all alike, but misclassifications have existed for years. Despite the various ethnic groups that comprise Asian-Americans, broad and generic terms are used to describe them.

The "Asian-American" group is defined as people having origins in any of the original peoples of the Far East, Southeast Asia,

or the Indian subcontinent.² According to the 2008 Census Bureau population estimate, there are 15.5 million Asian-Americans living in the United States.³ Asian-Americans account for almost 5 percent of the nation's population.⁴ In 2008, the following states had the largest Asian-American populations: California, New York, Hawaii, Texas, New Jersey, and Illinois.⁵

More specifically, "Asian Pacific American" is a term that was used by the U.S. Census Bureau from 1990 to 2000 to include both Asian-Americans and Americans of Pacific Islander America. Based on how members of these two groups self-identified themselves, however, the U.S. Census Bureau divided these two groups after 2000.⁶ Now, Asian-Americans and Pacific Islanders are two separate groups on the Census.

The term "Asian Pacific Islander" is currently defined by the U.S. Department of Labor, Office of Federal Contract Compliance Programs, as "[a] person with origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Republic and Samoa; and on the Indian Subcontinent, includes India, Pakistan, Bangladesh, Sri Lanka, Nepal, Sikkim, and Bhutan."⁷

According to the United States 2000 Census, among the 10 million Asians in the United States, the five groups that had more than 1 million members in their populations were Chinese, Filipino, Asian Indian, Vietnamese, and Korean.⁸ When completing your United States 2010 Census form, you may remember questions asking about race. The first three groups listed were "White," "Black, African American, or Negro," and then "American Indian or Alaska Native." The categories that followed reflect the growing recognition of differences among the Asian Pacific American population:

- Asian Indian
- Japanese
- Native Hawaiian
- Chinese
- Korean
- Gamanian or Chamorro
- Filipino
- Vietnamese
- Samoan
- Other Asian (e.g., Hmong, Laotian, Thai, Pakistani, Cambodian, etc.)
- Other Pacific Islander (e.g., Fijian, Tongan, etc.)

Demographic Factors that Differentiate Asian-Americans

Demographics play an important role in defining Asian-Americans. There are key differences in language, education, and economics. Within the APA classification itself, there are marked disparities in these categories.⁹

Language Fluency: According to the Office of Minority Health at the U.S. Department of Health and Human Services, the percentage of people 5 years or older who do not speak English at home varies among Asian-American groups: 62 percent of Vietnamese, 50 percent of Chinese, 24 percent of Filipinos, and 23 percent of Asian Indians are not fluent in English.¹⁰ Of a total 894,063 Korean speakers, 264,420 indicated their English-speaking level was "not well" or "not at all."¹¹ By comparison, out of 477,997 Japanese speakers, 89,677 rated their English-speaking ability as "not well" or "not at all."¹²

Educational Attainment: According to the 2007 U.S. Census data, roughly 86 percent of both all Asians and all people in the United States 25 and older had at least a high school diploma. However, 50 percent of Asian-Americans versus 28 percent of the total U.S. population had earned at least a bachelor's degree. Among Asian subgroups, Asian Indians had the highest percentage of bachelor's degree attainment at 64 percent. With respect to employment, about 45 percent of Asian-Americans were employed in management, professional, and related occupations, as compared to 34 percent of the total U.S. population. Of note, the proportions employed in high-skilled and managerial sectors varied from 13 percent for Laotians to 60 percent for Asian Indians.¹³

Economics: In 2007, the U.S. Census reported that the median family income of Asian-American families is \$15,600 higher than the national median income for all households.¹⁴ This aggregation of data contributes to the "model minority" myth discussed below, making it harder for Asian-Americans living in poverty to be identified.

The Identity of Asian Pacific American Attorneys

As noted above, there is a very small percentage of Asian-American attorneys as a whole in the United States. Asian Pacific American bar organizations and affinity groups exist to promote the general goals of APA attorneys by pooling resources and making programs available to a broader audience. But what about the unique interests of South Asian attorneys, East Asian attorneys, North Asian attorneys, etc.? How should divergent interests be represented within the legal community?

"In Arizona, we are having discussions on whether breaking the APA groups apart dilutes the strength of the Asian bar as a whole, especially in terms of seeking resources at the state bar level," comments Melissa Ho, a Chinese-American associate at Polsinelli Shughart PC in Phoenix and a District 4 representative of the Arizona Bar Young Lawyers Division. As an active member of several legal and civic organizations, including the State Bar of Arizona and Arizona Asian-American Bar Association, she notes the conflict between a "strength in numbers" approach for the general Asian bar groups, versus the ability of distinct Asian Pacific American groups being able to address issues, political involvement, or activities unique to their specific agendas.

Sharon Hwang, a Chinese-American Shareholder at McAndrews Held & Malloy Ltd. in Chicago, comments that, while the numbers of APA attorneys in Chicago is growing, "[W]e are still lacking significant numbers in partnerships and management positions. We have a disproportionately small number of APA judges (federal and state). APAs were also disproportionately affected by the recession in terms of lay-offs."

She goes on to note that, "Even within the Chinese community, there seems to be a big difference between mainland Chinese, Taiwanese, Singaporeans, Hong Kong natives, etc. When you factor in other nationalities, such as Koreans, Japanese, Filipinos, and Indians, all of whom each have their own unique cultures and heritages, it is actually ridiculous and somewhat demeaning that all APAs are clumped together. However, given the present demographics in this country, APAs can and should unite around common causes because our numbers are otherwise too small to be heard."

"It is important that Asian-American attorneys seek out opportunities to not only highlight commonalities between the Asian-Amer-

ican community, on the one hand, and the mainstream community, on the other hand, but also educate others about unique aspects of our culture,” notes Ajay Mago, an Indian-American associate at the Chicago office of Jones Day. “Many, if not all, communities have stereotypes that tend to set the context, and in some cases, define the community to outsiders. It is important that we all do our part to invite people into our homes and learn more about what makes us unique.” He has personally found that non-Asians have become very interested in the Indian subcontinent and go away feeling that they have learned something valuable.

Overall, there is a desire to validate the need of those APA lawyers who desire opportunities to bond with others from their same ethnic group, but also foster the notion of a pan-APA legal community that has already shown that it is essential, for example, in securing nominations for more federal judges of APA ancestry.

Stereotypes of Asian Pacific American Attorneys

As noted above, Asian Pacific American attorneys as a whole are underrepresented in the practice of law. Ho attributes the low statistics to the fact that Asians historically have been counseled by their parents to enter the fields of medicine or engineering, and only in recent years have the enrollments of Asian Pacific American students in law schools increased. She notes, however, that there still is an incorrect perception that most Asian lawyers are transactional or intellectual property attorneys.

Asian-American attorneys are often stereotyped as the “model minority.” When asked how they view Asian-American lawyers within their firms or legal communities, non-Asian attorneys interviewed for this article overwhelmingly responded that they regard them as having a strong work ethic and being very hard working. On the whole, Asian-American lawyers were described as obedient, rule-abiding citizens of their firms or organizations. The image of the Asian Pacific American attorney is someone who was raised to be conservative, respectful, and traditional. Additionally, supporting this image is the fact that family values were ranked as a high priority among APA lawyers.

While these may be positive traits in and of themselves, there seems to be an unspoken opinion that Asian Pacific American lawyers may be more timid and more afraid to take risks than their non-Asian counterparts. The problem is that they are viewed as less assertive and perhaps less creative, which could mean that supervising attorneys and clients are less likely to use them. An opinion that an APA lawyer is not career-driven, of course, will sabotage chances for long-term success. Mago finds that “people in the past tended to interpret reserved as being too meek” when dealing with APA attorneys.

Physical attributes and body language also play a role. One Indian-American partner in New York notes that Asian Pacific American females, for instance, tend to be petite and demure—not something people generally associate with an aggressive litigator. She remarks, “I was told by colleagues and clients that when they first met me, they thought I was shy and reserved; only once they got to know me did they realize that I am an outgoing, skilled, and forceful advocate. Over time, I learned to become more assertive right out of the box.”

Many Asian Pacific American attorneys in current in-house positions admitted that they felt it was “up or out” for them in terms of career advancement, driving them to seek alternate positions. “There are a lot of government and corporate in-house lawyers that are Asian-American. Of course, some seek those positions voluntarily,

but some of us are ‘forced’ into seeking non-law firm jobs because we do not see long-term success at the firm as a viable option,” observes a Chinese American attorney who works for an international telecommunications company.

When asked if ethnicity plays a role in this trend, another Asian Pacific American corporate lawyer who works for a construction company answers, “True, there are not many highly successful Asian-American law firm managing partners. But it’s not a question of conformity or assimilation; to me, it is a question of contributing to the bottom line of an organization. In law firms, that means having a lucrative book of business. In in-house or government jobs, it means accomplishing top results on time and within budget.”

A Korean American attorney who works in the legal department for a nonprofit organization in Miami offers a dissimilar view. “I think ethnicity is a factor, because you have to impress clients. At a law firm, clients include external clients and your managing attorneys. Unless you adapt to their work style and ingratiate yourself, you will not be getting business or billable hours, which translates into no future at the firm. In my current job, I feel more connected to my peers and clients. I think my minority clients identify with me, even if they are not exactly like me.”

One senior non-Asian Pacific in-house attorney even candidly reported, “the Asian lawyers I’ve met at social work functions don’t really drink because they can’t handle alcohol.” Though it is one isolated comment, this remark is fascinating but troubling for several reasons. For instance, it suggests an even greater stigma against Asian-American attorneys as being antisocial and introverted. It also suggests an opinion that *all* Asian-American lawyers are teetotalers. Moreover, it indicates that social drinking may be expected in order to be part of the “in” group.

Conversely, Asian Pacific American attorneys who were interviewed for this piece projected a different image of themselves. Most acknowledged that they are hard workers, but noted that any successful lawyer, regardless of nationality, is willing to go the extra mile. When questioned about family values, APA attorneys said they seek a healthy work/life balance, just like other attorneys. Asian Pacific American lawyers are cognizant of the lack of role models and managing partners who look like them, but not all were discouraged about their prospects for advancement in their careers.

A third-year Korean attorney in St. Louis comments, “Just because my managing partner is Caucasian does not mean that firm leadership is turning a blind eye towards me. Success at my firm is based on a variety of factors . . . I think I have a good shot at making it here.” He did admit, however, to being the only minority—let alone Asian-American—in the room during many firm and client meetings. According to one lawyer, “It can be isolating to be only a handful of minorities at my [branch] office, but it is even more isolating to be the only Bangladeshi in the entire firm. There just aren’t enough lawyers like me yet.”

Yet, others were not so optimistic. A female Korean-American attorney at a smaller firm in Dallas observes, “All the lawyers above me are white men. They exclude me from most firm outings, and I do not receive the type of coaching and one-on-one training that I expected at a boutique firm.” A junior Japanese-American lawyer in Houston opines, “Soft tasks like scheduling meetings get pushed on me, while my Caucasian classmates are handling substantive projects.” Admittedly, there may be other underlying circumstances contributing to these situations, but how should these Asian Pacific

American attorneys tackle these perceived obstacles? Without a trusted mentor at the firm, it may be more difficult for them to voice their concerns. What can the legal community as a whole do to foster and encourage dialogues about these issues?

Building Relationships

"I think that it is important for APA attorneys to get out there and to be involved in the legal community and the community at large. As people get used to seeing more APAs in leadership positions and get to know more APAs through various bar organizations and events, we will have a better opportunity to educate people about our various cultures and our beliefs—thus enriching our community," advises Sharon Hwang.

Tarun Chandran, an associate of Indian origin at the Chicago office of Paul Hastings, agrees. He suggests that, in an effort to educate others about the differences within the Asian community, Asian Pacific American lawyers "be visible and active members of their local bars, and not just minority bars. I think that the best way of combating stereotypes is by replacing those stereotypes with positive examples."

There are successful Asian-American partners in big law firms, and "[t]hose individuals are helping to pave a path for rising associates by both educating the community at large about our culture and also by assimilating and becoming involved in many mainstream causes and activities (i.e., serving on boards of local hospitals, museums, etc.)," notes Mago.

An Indian-American associate considers it best to be direct and clear if an issue concerning nationality or ethnicity is raised. "There is a difference between X and Y communities/nationalities. When we brush little things aside, it sends the message that grouping together is okay." Helen Din, a Chinese American associate at Locke Lord Bissell & Liddell in Chicago suggests, "I've noticed that Asian Americans are typically regarded as highly proficient with the technical sciences but not the humanities. In the field of law, some presuppose that Asian-Americans are not as good at writing. My writing has helped me overcome those biases."

What You Say and How You Say it Matter

Being aware of differences among Asian-Americans is critical in forming bonds with colleagues and clients. When asked what might prevent them from asking about an Asian Pacific American's nationality, some non-APA attorneys stated that they were worried about offending someone or being intrusive. Asian Pacific American attorneys generally responded that they do not view it as offensive to inquire about their ethnicity, so long as it is appropriate (for instance, not during a job interview). "It is important that you are inquiring for the right reasons and at the right time (i.e., after you have gotten to know more about the person, as opposed to any initial introductions or meetings)," recommends Mago. One APA attorney maintains, however, "They should not inquire at all, since in a professional environment the issue is irrelevant."

An associate of Indian descent gave the following example: "I once went to lunch with two senior level partners. This was relatively early in my first year. And one of the first questions that was asked of me out of nowhere was whether I watch Bollywood films.... I didn't think it was a big deal, but highlighted the fact in my mind that when partners see me, they don't see a young associate, they see a young associate of color that is different than [them]."

Many APA attorneys relayed a desire that people not automatically assume they are of one Asian descent without asking first. "Diplomacy can go a long way in asking me about my ethnicity," advises one biracial attorney from Los Angeles who is Filipino and Korean. An Indian-American attorney who has been mistaken for Pakistani comments, "I don't really mind, I correct them. I would suggest, if you are curious and want to raise the issue, to ask [someone's] nationality instead of assuming. What I would never ask is 'where are you from' or 'where are you really from.' I don't think anything is quite as offensive to me as saying that."

Helen Din discloses, "Often people like to 'guess' my ethnicity. I've gotten everything from Hawaiian to Native American. I just correct them and note that I couldn't 'tell' a person's ethnicity by merely looking at that person." Another assumption made of Asian Pacific Attorneys is multilingual skills. While many Asian-Americans (whether born overseas or not) speak more than one language, many do not. "It has been assumed that I am bilingual or trilingual—which I wish was true but is not," declares a Chinese American associate.

Many of the Asian Pacific Americans interviewed for this article relayed instances where they were mistaken for another ethnicity or nationality. While all agreed that the "they all look alike to me" syndrome is prevalent, generational differences may play a role in how it is received and addressed. Some of the senior APA attorneys were not as incensed by misidentifications as some of the junior lawyers. "I have seen enough and heard enough to know that people are just confused. It may be intentional bias in some cases, but I think it is more a matter of educating people so they become aware of differences within the Asian subgroups," notes one senior Japanese American lawyer.

Shareholder Sharon Hwang says that she is not offended when people ask about her background and ask her what her nationality is. "I am clearly not white, and I am proud to be a Chinese-American. I also enjoy learning about the ethnic backgrounds of people that I encounter, whites or non-whites included. However, I do think it is ignorant when people tell me that I speak very good English, ask me whether I speak English, or tell me that all Asians look alike."

Is ignorance an excuse? A junior Pakistani attorney in Atlanta does not think so. "It's like me saying all blond-haired, blue-eyed people all look the same to me. Or saying everybody in Kentucky is married to a blood relative. It's prejudice and it's just not right ... people need to be sensitive in how they ask about my background and heritage."

"When discussing diversity, I once told my [non-APA] mentor I felt accepted at my firm. She answered, 'It's because you don't *look* Indian,'" confides one second-year lawyer. "I did not even know what to say to that! What does that even mean?"

Another third-year Chinese American attorney feels frustrated in his inability to discuss issues openly. "[Race] is a very touchy topic." He believes his supervising attorneys would be put off by a discussion on ethnicity and the differences within the Asian-American community. "Why would I go out of my way to make them uncomfortable?"

Perhaps the time has come for APA and non-APA attorneys to get out of our comfort zones in order to meaningfully appreciate one another and build upon our respective talents. The sense of an APA identity, while in many ways an artificial political construct, nevertheless has practical applications and may even be the first of many steps to move toward a model of inclusion beyond diversity. By mov-

ing beyond stereotypes and looking at hard data from the National Association for Law Placement, the fact remains that APAs are the only racial minority group whose numbers entering and graduating from law schools is growing. As reported in the 2004 *Miles to Go Report*, APA lawyers are the minority group most likely to enter private practice directly out of law school. Yet, the number of APA attorneys who advance to partnership in their firms remains relatively small. How does the APA legal community translate these anecdotes of stereotypes into an understanding of the resultant issues?

Asim Bhansali, an Indian American partner at Kecker & Van Nest LLP in San Francisco, recognizes that there is no particular answer that readily accounts for these statistics, but notes two issues might factor into the analysis. First, cultural attributes of APA attorneys may play a role in their appreciation of time and flexibility concerns. He relays that Indians, for example, tend to have a heightened sense of familial obligations, sometimes making it hard for them to excel professionally in the private law firm setting. “It is not an unwillingness to work hard,” he notes, but rather that some Asian-American lawyers may have a more difficult time balancing extended family expectations—which often includes parents, not just children.

Second, he observes that some APA attorneys might hit the proverbial glass ceiling because they enter firms with a specialized competency that does not translate easily into other skill sets in law. As an example, he has seen Asian-American attorneys at other firms who come in with strong technical skills such as in the patent field, but for whatever reason—whether ones of external perception or lack of skills training—cannot translate that technical ability to stand-up courtroom or deposition skills. Ultimately, those stand-up skills are required to excel in a litigation practice, even a technically oriented one.

There are palpable differences within the legal community, and there is no doubt that the profession of law (whether as an attorney in a private firm, in-house counsel for a corporation, or a government lawyer in a nonprofit setting, etc.) is a demanding one. Adding to the challenge of the profession is maintaining the identity of each unique individual, while at the same time fostering integration within the career setting. Until more APA attorneys represent a larger share of the lawyer population, another difficulty is how to maximize the value of the APA membership as a whole within the legal community. Hopefully, recognizing the differences among Asian Pacific American attorneys can play a role in overcoming these challenges. ©



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Endnotes

¹new.abanet.org/marketresearch/PublicDocuments/Lawyer_Demographics.pdf.

²*Id.* at page 2.

³minorityhealth.hhs.gov/templates/content.aspx?ID=3005.

⁴*Id.*; quickfacts.census.gov/qfd/states/00000.html.

⁵minorityhealth.hhs.gov/templates/content.aspx?ID=3005; www.prnnews.com/news-releases/us-census-bureau-facts-for-features-asian-pacific-american-heritage-month-may-2010-86012507.html

⁶*See* www.census.gov/prod/2001pubs/cenbr01-1.pdf.

⁷www.dol.gov/ofccp/regs/compliance/fccm/ofcpc1.htm

⁸U.S. Census Bureau, “We the People: Asians in the United States, Census 2000 Special Reports,” page 4, December 2004, U.S. Department of Commerce, Economics and Statistics Administration.

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¹⁰U.S. Department of Health & Human Services, The Office of Minority Health, Asian-American/Pacific Islander Profile: minorityhealth.hhs.gov/templates/content.aspx?ID=3005.

¹¹U.S. Census Bureau, “Language Use and English-Speaking Ability: 2000,” page 4, October 2003, U.S. Department of Commerce, Economics and Statistics Administration.

¹²U.S. Department of Commerce, Economics and Statistics Administration, U.S. Census Bureau.

¹³*Id.*

¹⁴U.S. Department of Health & Human Services, The Office of Minority Health, Asian-American/Pacific Islander Profile: minorityhealth.hhs.gov/templates/content.aspx?ID=3005. These statistics may not be representative of children of Asian refugees, however. By categorizing all people of Asian ancestry as one group, the educational achievement data does not distinguish between refugee children and over-achieving 5th generation Chinese and Japanese American students who skew the data making it harder for the children of Asian refugees to have their educational needs addressed.

¹⁵Census Bureau, 2008. Income, Poverty, and Health Insurance Coverage in the United States: 2007, www.census.gov/prod/2008pubs/p60-235.pdf (last accessed Nov. 4, 2016).