Rethinking Inclusion: Ideal Minorities, Inclusion Cultures, and Identity Capitals in the Legal Profession

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Using preliminary observations from three parallel projects that employ a range of methods (network and content analysis, surveys, focus groups, and interviews), this article traces the experience of navigating different kinds of identity as useful capital within the legal profession. Identity is not the first kind of non-economic capital to influence professional navigation, but it is distinct in that it is owned and deployed primarily by minority actors. Adding to scholarship that has located the extensions for identity as capital, three interrelated contributions follow from this research. First, it reveals the prevalence of a diffuse field of diversity consciousness where, regardless of outcome, there is a sense that diversity is useful capital. Second, despite being notionally useful, these multi-method sources reveal the ways in which navigating such capital is simultaneously complicated for both actors within visible (e.g. race and perceived gender) and invisible (e.g. some disability, genderfluidity, and religion) identity categories. The isomorphic diversity posturing by organizations fosters a system where being a minority is seen as an advantage, but inclusion feels like accommodation either because it demands certain portrayals of precarity or because it leaves individuals unsure of their worth beyond the expected performance of their identity. As a result, even though the new version of the ideal professional norm might valorize identity as capital, it continues to serve organizations rather than individuals. Finally, these data make the methodological case for the usefulness of the periphery as an analytical vantage point to assess systemic inequalities in legal profession research.

Over the last few decades, there has been an increasing interest in tracking diversity demographics and trends within the US legal profession.[1] This growing research on minority actors has offered important insights into the complexities of identity, culture, and belonging within professional hierarchies (e.g. Wilkins and Gulati 1996; Carbado and Gulati 2000; Wald 2015; Melaku 2019; Blanck et al. 2020). One explanation for this increased attention might be the organizational impetus law firms have to strategically signal commitments to equity, diversity, and inclusion (EDI) as these issues garner more mainstream cultural significance (Wald 2015; 2016; Leong 2021). Still, despite the lessons in this rich strain of knowledge, the legal profession has not made big strides in becoming more heterogenous, and despite the rhetoric of corporate responsibility toward diversity issues, most organizations are much more likely to use EDI to reach symbolic rather than substantive ends (Berrey 2015; Pearce, Wald, and Ballakrishnen 2015). The ABA National Lawyer Population Survey (2021), for example, reveals that the percentage of lawyers[2] of color in the United States has grown less than 3 percent over the last decade with only about 14 percent of all lawyers identifying as something other than non-Hispanic white. The racial representation in law firms is slightly higher—closer to a fourth of all lawyers[3]—although there are slow gains in these organizations too. Beyond inclusion at entry, gains, even when they exist, are much more likely to appear in lower tiers of professional stratification and have trouble "trickling up" (Spade 2009). In 2021, for example, 55 percent of all summer 1L associates were diversity fellows (NALP 2022b) but only 26.5 percent were associates of color and although firms reported the highest ever number of partners of color, it was only 10.2 percent (ABA 2021).

This dissonance between posturing and performance matters because organizations and individuals are often differently advantaged by EDI efforts, and even between individuals, flows of advantages could be complicated by existing power dynamics. For example, even if EDI efforts might include previously excluded actors, they might simultaneously impact the ways in which diverse candidates feel included in professional spaces at different stages of their career (Mackenzie and Abad 2021), and it is possible that it impacts different kinds of peripheral actors differently once within organizations (Paik et al. 2023). Considering who benefits from EDI programs helps clarify the ways in which these programs might strain further the very actors it professes to help.

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1. For example, the American Bar Association (ABA) and the National Association for Law Placement (NALP) each publish public annual surveys with demographics and trends across a range of diversity metrics (the ABA has some diversity information since 1940, diversity data in annual lawyer population surveys since 2009; NALP some diversity information since 1993, annual diversity reports since 2016). Since 2009, the Leadership Council on Legal Diversity (LCLD) publishes periodic impact reports on growth and retention of diverse lawyers among its membership organizations (mostly corporations, but also a significant number of law firms). See LCLD 2018 for most recent report.

2. These numbers might be conservative estimates given that most state bars and licensing agencies do not track race and ethnicity in the profession (twenty-five states in 2021, only marginally higher than seventeen a decade ago in 2011).

3. The 2021 data shows that 26.5 percent of all associates and 10.2 percent of partners in law firms are of color. This is a jump from a year ago in 2020, where the same data reported 25.4 percent of all associates and 9.6 percent of partners in law firms as persons of color (and 19.7 percent and 6.1 percent respectively a decade earlier in 2010), with wide variations based on area (Miami, in 2020, the most diverse at 35 percent, versus Indianapolis, the least diverse, at 3 percent).

Furthermore, while categories of race, gender, and, to a lesser extent, class[4] have received increasing attention in diversity research, less is known—despite increasing efforts to collect data[5]—about other intersecting identity categories, like queerness, disability, international status, or the experiences of religious minorities, veterans, and first-generation entrants. Without advocating for hierarchy between these identity categories, and despite exceptions (e.g. Blanck, Hyseni, and Atlunkol Wise 2020 (on disability and queerness); Ballakrishnen and Silver 2019 (on international students); Pearce and Uelmen 2004 (on religious lawyering)), scholars have registered an urgency for research to go beyond demographic data to help better understand the rich lived narratives of these constituencies (e.g. Nelson et al. 2019; Neumeier and Brown 2021). This attention becomes even more important while considering the diffuse culture (Ridgeway 2009) and changing rhetoric of "diversity climate" (Holmes et al. 2021) in the legal profession where some kinds of minority candidates are given signals about their attractiveness for hiring compared to others,[6] and further still, little is known about their experiences of navigating such "advantage" within professional spaces. It is the experience of owning and deploying what other scholars have recognized as "identity capital" (Leong 2021; Wald 2015; 2016; Garth and Sterling 2018), especially from the perspective of the peripheral actors who are seen as having this capital, that is at the core of this article. *In cultural contexts where diversity is seen as a valuable resource, what is the experience of having and wielding this resource? How is identity experienced by those who are called on to "work" it?*

Using multi-method data from three interrelated projects focusing on the social networks of professional US law students, their narratives of cultures in large law firms, and the work of diversity as an obscuring category of performative capital, this article archives the ways in which different kinds of minority actors[7] experience the pressures of navigating a professional market that is aggressive about its interest in recruiting them. Across these data, in response to environments that signaled their investment

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4. NALP for example, started asking about parental education as a new metric in its class of 2020 and the data show important trends for first-generation students (i.e. students without parents who have any college, not just a JD). For continuing-generation students, having a JD did not matter as much as having parents with higher education more generally (63 percent versus 14.4 percent respectively) although there were some racial differences. See Chart 1 in NALP (2021).

5. Starting in 2020, the ABA National Population of Lawyers survey started asking questions regarding attorneys who identified as LGBTQ+ and/or as having a disability. As of the 2021, however, results were insufficient and could not be included in the report. See ABA 2021b. NALP has been better about collecting these data and as early as 2003 reported on disabled and "openly gay" attorneys (0.1 percent identifying as disabled and less than 1 percent as openly gay). The first infographic on these populations was not until June 2016 (0.39 percent associates and 0.30 percent partners reported as having disabilities) and the report that year included trends on lawyers who identified as LGBT (2.48 percent). As of 2021, 1.31 percent of all lawyers reported having a disability and 4.16 percent of all lawyers identified as LGBTQ, both sub-populations with committed analysis in the annual reports (Tables 12–14, Chart 8). NALP also now collects data on non-binary individuals (since 2020)—a population it had not historically collected data on. All NALP reporting on diversity can be found at https://www.nalp.org/reportondiversity.

6. In 2021, for example, NALP had posted seventy diversity focused fellowships and jobs on their website.

7. Note that I use the term "minority," "periphery," "diverse," and "non-normative" actors and students interchangeably to reference students who were a demographic minority in their institutions across these three projects. Although, as these data themselves suggest, treating the experience of different groups of actors as interchangeable is problematic for diversity efforts, observing these data simultaneously allowed for important synergies to emerge.

and interest in diversity, students felt the need to both highlight the ways in which they were unique while simultaneously needing to prove they were legitimate despite such difference. These portrayals highlighting their trauma and precarity had individual costs for those seeking employment and they re-entrenched notions of hierarchy even as institutions looked structurally welcoming to new actors. Historical justifications of minority subjectivity have been bound to its perspective as "a problem" (Du Bois 1903)—this focus on minority actors and their navigation of a market where they are seen as having an advantage approaches a slightly different conundrum—*what does it mean to seemingly be part of a solution?*

The order of analysis priority in focusing on once-excluded actors centrally rather than as exceptions to the "norm" is intentional. The methodological impetuses within sociolegal research on the profession are primed to start with the experience of the assumptive normative actor and then trace the experience of diverse actors in contrast. So, when race or gender is included in an analysis, it is the "effect" of these deviations that is being traced when compared to the normative category (i.e. "white" in the case of race, "male" in the case of gender). Even in case-focused research (e.g. low-income lawyers or women of color in the profession), non-normative experiences are traditionally studied against more normative experiences because normative accounts offer baselines to make sense of the findings; indeed, the elimination of normative experience could be seen as diminishing the credibility of the research (Ballakrishnen and Lawsky 2022). At its core, the theoretical push to rethink inclusion research agendas is a methodological intervention. As sociologists have started to recognize, choice of reference categories, despite illusions of arbitrariness, are intrinsically meaningful— and political—choices (Johfre and Freese 2021) and selecting a culturally dominant group as the reference can "subtly reify the notion that dominant groups are the most 'normal.'" This article roots itself in the corollary: How do institutions look when they *start* their ideas of inclusion from the perspective of the peripheral actor? What if these existing institutions, as one diversity officer lamented, "that were never set up to hold the heterogeneity they now do" did more than just "tweak at the margins?" What could progress look like if they did more than treat diversity as a "standalone project" (Adediran 2018)?

Of course, altering normative models run the risk of reimplanting new standards rather than doing away with stratification altogether. Still, focusing on the changing nature of heterogeneity in the legal profession—both in kinds of diversity, as well as the degree and nature of inclusion—is significant for many reasons. New actors, capitals, and satisfactions may call our attention to new kinds of invisible inequalities that demand new scripts of inclusion that are more nuanced and targeted, especially at different stages of entry and socialization. New actors allow for a possible reimagining of pre-existing hierarchies in spaces because "background frameworks" of how things "ought to be" have not yet emerged to define or constrain their experience (Ridgeway 2009; Ballakrishnen 2021). But new inhabitants of spaces also allow for a rich rethinking of the idea of identity, culture, and belonging within professional spaces because their experiences might not fit existing narratives of problematic exclusion. Similarly, new spaces might complicate what existing "good inclusion" analysis looks like and paying attention to multi-actor perspectives across positionalities and contexts could allow for new dimensions of acceptable inequalities to be made salient.

Recognizing consumption practices that fit a specific moment in time as a response to market conditions or cultural expectations might not be the most effective way of doing the critical work of recalibrating internal organizational cultures. Finally, using identity as a resource to facilitate structural inequality, often with "clean hands" or in ways that systematically "others" new actors despite including them at entry (Mackenzie and Abad 2021), reinforces structures of problematic *identity capitalism* (Leong 2021) that deserve our attention. Focusing on peripheral actors then, can allow for a shift in perspective from the self-obsessive "iron cage" (Riles 2006) that plagues so many organizations.

IDEAL WORKERS, INCLUSION CULTURES, AND IDENTITY CAPITALS IN LEGAL PROFESSION RESEARCH

While deliberating on inequality in the legal profession, scholars have focused on a range of factors including fit, worth, and satisfaction to explain the ways in which, despite a range of developments, professional and social hierarchies remain relatively persistent (e.g. Hagan and Kay 1995; 2007; Kay and Hagan 1999; 2003; Wilkins, Dinovitzer, and Batra 2007; Payne-Pikus, Hagan, and Nelson 2010; Adediran 2018; Nelson, Sendroiu, Dinovitzer, and Dawe 2019; Dinovitzer and Garth 2020). Garth and Sterling (2018), for example, observe that a main reason for the low minority partnership numbers in large law firms despite the increase in minority applicants in schools, is a function of comfort and "fit," with class being an important decider.[8] Inherent across these explanations is the theoretical premise that there are certain background frameworks and expectations that embody an ideal kind of professional (Acker 1990; Ridgeway 2009; Ballakrishnen 2021) and that a range of contextual capitals are required for the production of such idealness. Particularly, following Pierre Bourdieu's work (1986; 2011), there is an increasing acknowledgment that although economic capital and its incumbent structures continue to be relevant to produce ideality, distribution of rewards for individuals simultaneously follow additional categories that might be valorized in each society, resulting in a certain malleability to the construction of "good," "useful," or "ideal" capital beyond purely economic resources.

Following in this tradition of observing capital with more nuance, research on professional work has remained cognizant of the role of a range of "merit"-adjacent factors that determine the experience of its inhabitants (e.g. Gorman 2015; Reid 2015; Rivera 2016; Laurison and Friedman 2016; Seron, Silbey, and Cech 2016). For example, it is relatively well established that although categorical assessments like formal schooling and credentialing history have important impacts on professional success, factors like appeasing colleagues and clients (Heinz et al. 2005; Beckman and Phillips 2005;

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8. Class, of course, is only one moderator. Garth and Sterling also find that while those from privileged backgrounds (regardless of race) have advantages in cultural navigation within these firms, those who are more likely to stay (often white and male lawyers) are those who feel like they had to "fight" to enter the spaces. Similarly, other research shows that although "urban" school graduates have fewer social capital advantages, they have more incentives to commit to long-term careers in large law firms (Wilkins, Dinovitzer, and Batra 2007). I highlight this as a reminder that other kinds of capital can work in nuanced ways as well.

Ballakrishnen 2021) and other invisible resources that determine their "fit" within their professional field (e.g. class indicators like extracurricular activities, performative affect, and language) are at least as crucial (Rivera 2016; Neely 2022). As a result, even when there is expansion of access into professional spaces, the ability to benefit upon entry is differently predicated for new actors depending on their pre-existing advantages and associated capitals (Harrington and Seabrooke 2020).

Seen from this perspective, the performance of access equality without substantive change is dangerous because it might obscure invisible advantages while continuing to proliferate social hierarchies. This decoupling between structure and reward is especially true in the field of law where social relationships and power are built into the architecture of the field. In his landmark text (1986) on the "juridical field," Bourdieu suggests that the very codes of the field—i.e. the social, economic, psychological, and linguistic practices which, while never being explicitly recorded or acknowledged, underline the law's explicit functioning (807)—gives a "deceptive appearance of autonomy" while in fact being an operationalization of social power (808). Much like Max Weber's "formal rationality" (1978 (cited in Bourdieu 1986, 809)), Bourdieu suggests that law has an inherent tendency to "formalize and codify everything that comes into its field of vision" and in doing so, obscures the symbolic violence that is inherent in its structure. Sometimes these rewards are material (i.e. capital either in an economic form or capable of being converted to such economic capital) and at other times they are symbolic, waiting to be "activated" within a given field where their relevance can be valorized.

Bourdieu's theoretical frameworks have had important implications for inequality in the legal profession and research has confirmed their resilience across a range of identity categories. Earlier accounts about lawyers in elite law firms have consistently shown the range of systemic disadvantages that new entrants, no matter the nature of their welcome or access to spaces, have had to endure predicated on their access and ability to mold capital (e.g. Epstein 1993; Pierce 1996). In their study on women lawyers, Hagan and Kay (1995) reveal that even when structures changed to include more women at entry, sexual equality remained compromised in the legal profession by institutional frameworks that were not made with women in mind. Similarly, their research on gendered implications for law firm partnership reveal how expectations of capital ownership and performance disadvantaged women even when they seemed "equal" at face value (Kay and Hagan 1998). Altogether, with fewer gains at promotions, compromised partnership rewards, and lesser respect, women encountered a range of structural glass ceilings (1999, 530) which, over time, left them much less likely to trust the institutions they were embedded within and, consequently, leave these inhospitable spaces (Kay and Hagan 2003). These kinds of contestation against structure are not unique to women, but this line of research highlights the broader ways in which even when sought out at entry, new actors at any given time are consistently compared with ideal worker norms that are likely to code them as deficient regardless of their effort and lubricate their exit.

Beyond accounts of deficit, another key to inequality analysis is understanding the way that different kinds of capital advantage those with pre-existing privilege across different kinds of identity categories. Just as research about (predominantly cis-gendered) women from a few decades ago helped calibrate understandings of institutional inequality within the profession, contemporary updates have employed comparative

and intersectional lenses to focus on newer kinds of minority actors. Not surprisingly, this line of scholarship theorizing identity within the legal profession (e.g. Wilkins 1998; Sommerlad 2007; Tomlinson, Muzio, and Sommerlad 2016) has revealed similarly fraught identity dissonances for minority entrants (Wilkins 1998) and cultures that "despite change, remain largely unwelcoming to outsiders, inducing assimilation or exit" (Sommerlad 2007, 194). Although many of these structural biases and ceilings continue to plague the experience of racial minorities (e.g. Melaku 2019), less is known about the experience of more invisible kinds of minority actors (like non-binary or trans lawyers[9]) or the experience of diversity more generally within cultural environments that valorize certain kinds of visible identity as capital (Leong 2021). Law firms, for example, rely on visible diversity markers to signal their commitments, but categories of inclusion tend to focus on more recognized categories of diversity like race and gender. Content analysis of the top fifty law firms' websites show that only one law firm does not have a diversity page, and 70 percent of all law firms have a diversity page on their landing page. In these pages, 72 percent have photos, images, and videos, 60 percent publish statistics, and 56 percent mention awards for diversity and inclusion. Partner visibility for these same firms was deeply dissonant from these numbers—only 15 percent of partners were non-white in these firms and less than 0.5 percent were non-binary. To the extent research exists, it replicates similar patterns of inequality as observed with more normative minority categories like race and gender (e.g. Nelson et al. 2019; Blanck, Hyseni, and Altenkol Wise 2020), as well as more specific and intersectional biases particular to these more newly legitimate categories of minority identities. Peter Blanck, Fitore Hyseni, and Fatemi Altenkol Wise (2020), for example, show that accommodations for persons with disability decline with age for racial minorities and women, even though these are precisely the categories of actors who are most likely to request and require accommodations.

Further, as Brady (2018) cautions, while theories of professions have moved to relational, ecological (Abbott 2005) and action-oriented approaches, they have not considered the ways in which such relational processes implicate identity categories (124). Eli Wald (2016), for example, outlines the ways in which identity has worked differently as capital for white male lawyers when compared to minorities at different points in history. Similarly, cis-gendered women, racial minorities, and queered and disabled actors might all be demographic minorities and consider their own identities as personally significant, but the value of their identity capital within an organization is likely to be relational both vis-à-vis the organizations they are embedded in as well as each other. Further, even if they were to be seen as comparably valuable diversity from the perspective of a hiring organization, their experience of embodying and deploying such capital might be intrinsically different depending on their personal experience and history. It is this comparative analysis of the experiences of different kinds of minority actors within a diffuse cultural environment that aggressively signals the value of diversity that is the focus of this article.

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9. According to the National Center for Transgender Equality's recent survey, for example, more non-binary people (12 percent) reported having negative experiences with legal services providers when compared to transpersons (5 percent), but we know little—if anything—about non-binary lawyers and their navigation of the legal profession and even research that studies LGBTQ persons does not include non-binary or asexual or other kinds of queer identities (i.e. the IA+ subpopulations).

Identity capital is not the first kind of value to moderate the experience of elite professionals, but it might be the first that is seen to advantage those that are traditional minorities within these spaces. Paying attention to variations in this capital and its operationalization from the perspective of peripheral actors who are seen as having them offers new insight into our theorizing of value within new socio-cultural environments. While the value of identity capital at the individual level can derive from the opportunity for self-expression (Côté 1996), its transaction costs cannot be ignored (Gely 2007). Further, since capital, at its essence, needs to circulate to have value, its interactional performance demands attention, especially when the kind of capital owned and deployed has changed in nature and form over time. Research about diversity cultures and markets highlight the ways in which minority identities are typically leveraged by elites and ingroup members to further entrench their positions of power while leaving the benefits of commodification to more normative actors and elite institutions (Feenan, Hand, and Hough 2016; Leong 2021; Deo 2021). Still, not all accounts are dismissive of the workings of this capital. Bryant Garth and Joyce Sterling's accounts of longitudinal legal careers (2018), for example, suggest that minority actors might be wielding their identity capital with more agency—even when it does not look like it—and that their exits from firms might be serving them in what they call their "off Broadway" careers. Yet, even in this explanation of minority lawyer exit, where capital gain has transmittable long-term value, it remains that law firms profit from the very inequities they profess to remedy with inclusion. Altogether, the capacity to use identity as capital—whether its individuals using it to enter organizations, or organizations using it to signal values, or even define themselves—has offered a complicated set of ethical circumstances from which to evaluate institutional equity.

Just between 2019 and 2022, for instance, in one law school that gave us access to its recruitment database, the number of campus recruitment jobs focused substantively on diversity more than tripled (from twenty-two positions in 2019 to seventy-three positions in 2022). It is within this context where there is an increasingly "diffuse" expectation (Ridgeway 2009) and understanding of diversity as a useful—even if not substantively important—value, that the experience of a range of actors with this capital, and the variations in their experiences, become significant. While there is an increasing focus on the ways identity might work as capital in the legal profession, we have little information about the lived experiences, especially of those who inhabit multiple or more understudied categories of exclusion. This is especially true in professional markets where the meaning of this capital—and in turn, the kind of professional best positioned to use it—are being constantly updated. The focus on experience allows for a way to consider both value of such capital at the individual level, as well as its extensions for interactional exchanges and institutional valorization. Using findings from three distinct collaborative research projects on the experience of minority actors seeking to enter the legal profession in the United States as a starting point, this article suggests new sightlines for understanding the workings of inequality in these spaces. In doing so, it asks: How do we understand theories of capital when its burdens are borne by the very people who are seen to be advantaged by it? In fields where logics of diversity are shaping what is seen as valuable capital, how are negotiations of this capital constructed, especially for lesser studied identity categories? What framework, in short, allows for the most equitable understanding of these new kinds of capitals and

performances? It is in this vein of inquiry about the politics of inclusion and the work of identity markets, that this research seeks to follow and extend from the perspective of peripheral actors.

LENSES OF INCLUSION: DIVERSITY NETWORKS, DRIFTS, AND AESTHETICS

This article draws from three interrelated but distinct empirical projects on diversity in the legal profession. In the *first* of these projects (Project "Networks"), colleagues[10] and I trace student networks and homophily to understand how a range of minority students navigate their legal socialization. In the first two waves (we are in the process of collecting and analyzing data for the next two) using a longitudinal sample of 744 students, we employ exponential random graph models to estimate the effect of intersectional homophily on network ties. We consider several specifications accounting for intersections of shared characteristics—such as race, gender, national status, class, sexual identity, disability, and political orientation—and test their explanatory power across three differently ranked law school contexts that each feed into the same cosmopolitan legal market. To supplement this comprehensive network and survey data, we also conducted eighty-eight in-depth interviews at two points in respondents' law school careers (Fall 2019, Summer 2020) which, incidentally, happened to capture a natural experiment observing students before and after the onset of the global COVID-19 pandemic. This mixed methods approach has produced an innovative and invaluable data set that allows us to observe diversity and temporal trends in social assimilation, capital formation, and identity navigation through law school.

In the *second* of these projects,[11] colleagues and I use an interactive focus group method to moderate longitudinal conversations with Black law students across four different schools. We use these collective conversations to make sense of how these students are experiencing their legal education and navigating career aspirations in the aftermath of the country's most recent reckoning with anti-Blackness (2021–). Although not designed with this purpose in mind, this project has, in addition to shedding light on the specific national and political context, helped extend findings about raced homophily in *Project Networks*. Using observations of these students' internal conversations in focus groups (fourteen groups across two years from four differently ranked law schools, each leading to a different market for legal services) as well as post-observation surveys, we try to understand, among other things, the ways in which the current political moment has influenced Black students' self-conception as lawyers and any impacts it may have had on their initial goals and commitments (Project "Drifts").

To triangulate the findings from these two collaborative projects and to provide some analytical variation to think about inclusion research more comprehensively, in Fall 2020, I started preparing to study parallel samples of minority law students alongside data about diversity programs and recruiters preparing to hire them. Following the network findings that suggested a range of identity synergies within minority

populations, this *third* project[12] on diversity aesthetics, affect and performance (Project "Aesthetics") tracks legal workplaces' diversity officers and programs as well as actors who embody more "invisible" identities as they navigate professional spaces. For this project, alongside law school affinity groups that the network data did not effectively capture, and to contrast the narrative of minority actors more directly targeted as "valuable," I started to trace the ways in which students with other kinds of diversity or identity capital navigated professional labor markets. Primarily using in-depth interviews (current N = 60) from students with a range of understudied identities within the legal profession—i.e. students who identify as Muslim, students who are non-binary and/or trans, students who self-identify as having disabilities, and students who are first-generation—I paid attention to how more invisible identities were internalized, primed, and deployed by these students. Alongside student perspectives, I also collected supplementary interview data from EDI professionals and employment administrators in legal organizations and law schools (current N = 5). These interviews helped "match" the experiences of minority actors with professionals who are tasked with unearthing this valuable diversity on behalf of their organizations. Finally, alongside these interview data, this project also collected systematic data on AmLaw 100 law firm websites to trace the ways in which they signaled their commitments to diversity and inclusion to prospective candidates using a range of what I term as "aesthetic demographics" (e.g. use of bodies of color and visuality and placement of their diversity commitments and practices) and "transparency metrics" (e.g. mentions of affinity groups, visibility of contacts, and priority of leaders handling EDI issues).

Together, data from these projects offer a sort of recursive portrait of diversity demand in the field as well as of its reception and navigation by actors who this demand is supposed to serve and sustain. In studying organizations and their pipelines with an iterative grounded theory approach, these data allow for a layered reconfiguration of the kinds of capital that are valorized and flattened within existing diversity logics in the legal profession. The range of methods and the focus on different kinds of identities also help queer our understandings of representative inclusion by revealing the ways in which seemingly "inclusive" institutional signals might be received and experienced as exclusionary. To be clear, this is not an exhaustive overview of all the projects, or the extent of the data analyzed within each of them, but rather a synthesis of their comparative findings to allow for the emergence of a larger theory about the performance of inclusion within legal organizations across different levels of analysis. By paying attention to the similarities in accounts of discrimination and narratives of isolation across contexts, it allows for an intersectional theory that transcends individual experience to pinpoint the ways in which institutions are systematically inhospitable, despite any signaling to the contrary, to a range of minority actors.

FINDINGS: EQUITY AND DIVERSITY PERFORMANCE(S) IN LEGAL ORGANIZATIONS AND PIPELINES

Across sites, there was a certain acknowledgment among students, early professionals, administrators, and recruiters that diverse identity was a form of capital in the

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current market. Administrators in law schools preparing students for the job market would describe the recruiting environment as "amazing for students" or convey enthusiasm for "how hot the market is now" and how there were "not enough [minority students] to go around." There was also a sense that although EDI as an organizational goal had been growing in importance over the last decade, the last few years had intensified the importance of this commitment, or at least its performance. As one law school administrator offered:

> BLM is the marker where verbiage changed . . . it was about that time when conversations in particular started moving in that direction [of diversity and inclusion] . . . all the firms started jumping on that bandwagon

This "change in verbiage" was reflected in a range of ways administrators spoke about the slow shift in standards for recruitment away from old notions of merit. Instead, benchmarks for "desirable diversity" had moved from what used to be "a more diverse group with high GPA" to, at least in some cases, a lowering of GPA standards to attract a wider pool of minority candidates. At least some part of this was in response to the increasing recognition that objective categories of merit were not serving the very students firms said they were interested in attracting. As one key informant, a senior administrator of color, explained the inequality of these "objective" criteria (that continued to be used by many firms):

> A lot of times, these students [are] first-generation . . . a lot of times other things are happening in their lives. And it's a harder adjustment to law school, right? So, maybe they don't get straight As their first semester, fall semester. Maybe they're getting Bs or B-minus or even Cs. And those places are never going to hire them.

> So, my big frustration—and . . . I've had this conversation with my friends who work at firms. GPAs are not objective measures of student's capacity. And you know that. So, why do you insist on that?

> There are five law schools here [in this city], chock full of Black and Brown people [*laugh*]. You have chosen not to recruit from there. And then you're sitting there, acting like it's our fault we're not in the teaspoon that you boiled the ocean down to. . . . And yet, it's a meritocracy.

Combined with this diffuse sense of EDI as an important merit-adjacent factor for recruitment was the increase in more opportunities for having exposure to law firm culture. Since 2006 (from when there is record of—and interest in—these data), there has been an increasing number of diversity fellowships and opportunities for creating more diverse pipelines into law firms and administrators and students alike knew that it mattered to law firms to be able to show these numbers increase. Still, these numbers were most concentrated at entry-level positions. From 2006–2021, for example, change in diversity percentages were 8 percent for women, 18 percent for people of color, 13 percent for women of color, and 7 percent for LGBTQ+ individuals, and in 2021, 41.34

percent of summer associates were people of color, an increase in 54 percent from 18.91 percent in 1993.[13] In turn, this signaling by firms as well as advice from administrators cemented a sense in minority students that identity was a form of capital that could be exchanged for entry into firms, as well as, over time, as Garth and Sterling (2018) find, for longer-term rewards. But how did students experience the owning and wielding of such capital in an employment market where the signaling of EDI was such a diffuse social and cultural norm?

Most minority students across sites recognized that they possessed—or were seen as possessing—this capital but they also experienced it as a complicated form of capital that had to be operationalized in specific ways depending on context and their particular identities. For many intersectional minorities (i.e. candidates who identified with more than one diverse identity category) inclusion just on the grounds that they were a diverse minority candidate felt inauthentic and they did not want to be a "minority hire" and sought to select out of the process altogether. For example, as a non-binary Latinx student shared, they decided not to go into big law altogether because they assumed—perhaps rightly—that they were unlikely to be valued for their authentic selves and did not want to be a "first-gen hire" or a "POC hire." At the same time, there were intersectional reasons that made other students uncomfortable about leaning into their minority identities—for example, many white genderqueer students and a few white disabled students felt like they should not take up "too much of the diversity space" because of what it come at the cost of for other historically disadvantaged minorities.

Similarly, initial data from the *Drifts* project, has started to reveal how freshman Black law students across school contexts have had to manage new kinds of aggressive diversity messaging from firms seeking to hire them with their personal commitments to community justice during this time of racial reckoning. As a third-year public law school student shared, she could no longer "consider a future career that was devoid of social justice because of the kinds of signals that might relay" to her community. Yet, at the same time, not all students could afford to make the choice to ignore the valence of their capital. For many students, especially from less elite schools, there was an understanding that firms were capitalizing on their identities, but this understanding sat alongside the personal pressures that made them consider the advantages of elite professional work and the emancipatory possibilities such work could offer their communities over time. As one first-generational Black law student whose family was evicted multiple times during her childhood explained, the choice to go into Big Law was not a function of interest, as much as it was about securing stability for those beyond herself, an investment that other scholars have referred to as the "obligation thesis" (Wilkins and Gulati 1996):

> That's not like, that goes against my interests. But there's also an interest in trying to make sure I have a living so I can like create generational wealth but

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13. Pure percentage increases, which NALP reports, show even more drastic increases, but they highlight percentage increases of small populations. Per this metric, law firm partners increased by 31 percent for women, 53 percent for people of color, 64 percent for women of color, and 52 percent for LGBTQ+ individuals (NALP 2022 Minority Report).

> you're going against yourself to like helping to, you know, better yourself and better your family, but then also tearing down the same community that you might, that, that you live in.

This narrative of obligation also informs the literature on the "drift" (Bliss 2018) between students' initial goals of public interest and eventual careers in private practice which does not always consider the converse: which is that many minority students *wish* to enter elite jobs but are nevertheless not seen as competitive because they are held to unequal but seemingly neutral standards. Students spoke about how law school advisors were often discouraging about their capacity to enter law firms by reminding them that "these positions were really competitive" that caused them to doubt whether they had any chance of entering these positions with their "objective" talents and selecting out of positions that they might have been eligible for. For these students, diversity programs were an illusory opportunity just out of reach unless they could, in addition to their identity capital, also accumulate other kinds of resources. As one student recalled an exchange with a recruiter advising her on her candidacy:

> And she told me, um, "I'm just telling you [as] an insider that you need to use your Blackness to go all the way, um, because Black women are a hot commodity right now in the legal field. Um, so that's, you're going to get, you know, you're going to get hired anywhere, but you also need to at least apply, and you need to increase your GPA."

Even those for whom the trend in more expansive standards helped expand access to jobs, entry exacted a heavy toll since these institutions took for granted a range of safety nets that many students simply did not possess. As one Black law student, who had to accept a public interest internship because she had not heard back from law firms in time lamented that although she finally had the option to choose between six or seven law firm jobs, these offers came so late that it was a mixed blessing:

> Yeah. Um, it was … it felt really nice. It was just, I guess (laughs) … I don't mean to feel ungrateful, like I was very grateful (laughs) to have a lot of job offers that I know it's really hard to get them. Um, so I was very fortunate for that, but it was actually very, very stressful.

In addition to this circumscribed interest in being recruited, there were other costs to balancing the value of identity with candidates' perception of their authentic selves. For some this cost was especially high because of what they saw as the expectations of needing to display their precarity to have a chance at entering these spaces. First-generation and low-income students of color lamented at the toll needing to rehash their families' financial and social precarity took on their psyches. Many students relayed some version of this exhaustion of performing their precarity as a way of operationalizing their identity capital:

> I'm the Black girl applying to the program and I'm hoping that they're going to pick me, and then I get to tell them my whole traumatic life story so that

they can choose me, um, which is like really, you know, difficult … [and one repeats this] every time you have to interview with someone.

Despite the exhaustion of this performance, for many, there was a need to be the best kind of minority actor once they were included into these spaces, especially if they were the first of their kind in the space. A first-generation *hijabi* student who had just returned from a 2L internship in a firm, explained how expectations constantly bound her actions because they extended well beyond her individual self to implicate her larger community:

> [T]he expectations to just be so perfect and not do anything wrong. Or, even if you do something or lose your temper; you're like—now everybody is going to think that all Muslims are like this.

Similarly, queer students spoke about how being the first trans student in a space, for example, had the added pressure of needing to be a "good queer" because others might be judged based on their actions.

Although expansive at first glance, this kind of inclusion felt more like accommodation for many of these students because it was restrictive even after entry. For others still, especially those with more invisible identities, the value of capital was unclear, and they remained unsure about being advantaged by it, if they were able to deploy it at all. This was particularly true of students and professionals who were not sure if disclosing their disability or non-binary identity (to the extent each of these were invisible) would serve them during the recruitment process. And for some, there was a worry that disclosing their identity would be a disadvantage because of biased perceptions of mental health and genderqueerness in these spaces. Many students, for example, revealed the well-meaning advice they were given to not include their disability student group affiliations in the resume or to hold off from bringing it up until they needed actual accommodation. While some responded to this advice about ambiguous capital by choosing not to be in spaces that were unaligned with their identities, others built up frames that made their identities personal and inconsequential, to a certain extent, to their professional environments.

Altogether, there was a sense that identity was useful capital, but its performance was dependent on valorization in a given environment and an uneasy balance between the need to perform their precarity and finding ways to still be legitimate on other grounds. Nowhere was this clearer than in the narratives of students across these data talking about the toll that writing diversity statements took on them. Most students were filled with self-doubt based at least in part by the dissonance between the diversity rhetoric (i.e. brochures, programs, etc.) that firms seemed fluent in, and their actual demographics. As one first-generation Black student explained:

> I go through these profiles [on the website] and see nobody that looks like me, so I know what they mean when they really want me.
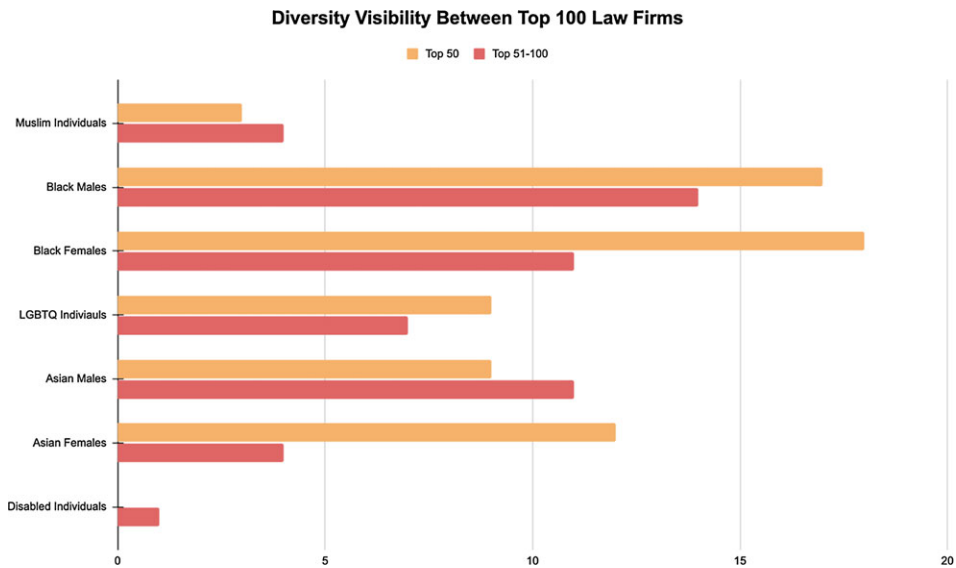
Figure 1.
Diversity Visibility Between Top 100 Law Firms.

Her hesitation is not without merit and new actors using website narratives as a data point to gauge organizational cultures is predictable (e.g. Abitbol and Lee 2017 (regarding cultures of corporate social responsibility); Green and Silver 2021 (on technology capitals)). Preliminary data for the *Aesthetics* project reveal that although Black women were the most commonly used images in profiles of diversity programs in the top fifty AmLaw 100 firms (Figure 1), followed closely by Black men, this was not at all reflected in the partnership data on these same firms or in the larger demographic data on Black law firm partnerships (data from 2020, for example, suggest that 2.1 percent of all law firm partners are Black (NALP 2021)). In contrast, websites had much less—if any—data or signaling regarding first-generational professionals, mental health, non-binary and trans associates, or religious minorities.

At the same time, although everyone's experience of wielding this diversity was varied, their perception of distance from the expectation of an ideal worker was comparable. Just as they were aware of the stereotypes that bound them as representatives of a core identity group, they were also constantly reminded that they were different from the ideal kind of professional in these spaces. As one Muslim student recalled, the most hurtful and helpful advice she received about navigating the job market was a reminder that her best chance at it was to be someone she decidedly was not:

> She (the advice-giver, who was a more senior female Muslim attorney) was like, "When you're walking into an interview, pretend you're a straight white male and just act like you have that demeanor and that confidence." Which I suppose I understand from the confidence perspective. But it also plays into . . . [the idea that this is] the ideal of the professional.

This is not dissimilar to the advice to present as non-disabled until accommodation was required if one could help it, or to not bring up genderqueer identities publicly if one was not entirely sure about the politics of the firm. In each of the cases, the advice was a reinforcement of what was valued as an ideal type, and a reminder that inclusion was not meant to be more than accommodation. As one non-binary student of color described, "diversity emails have a 'catch them all' mentality—a person that is Black, a person that is Asian, etc., but we all know that law firms are mostly cis-het."

Meanwhile, firms remain eager to display their commitments to EDI, leaving those with identity capital navigate a hard balance between authenticity and opportunities. Organizations might feel like they are moving in the right direction because their diversity numbers are rising, and they are able to signal and perform demographics of inclusion. In this way, as Wald argues (2015; 2016), they remain a kind of "serfdom" where, without making substantive changes, they could give the impression of inclusion by purporting to engage in "reciprocal transactions of labor, social, cultural, and identity capital."

DISCUSSION: THE HIGH COSTS OF BECOMING THE IDEAL MINORITY PROFESSIONAL

In investigating how minority actors claim agency, navigate, and excel within structures, these projects cumulatively offer evidence of the need to critically examine the commitments that organizations have toward equity, diversity, and inclusion. Although these data are not meant to conflate all minority experiences, and while there remain gaps in the kinds of minority experiences represented, these interconnected and intersectional perspectives offer a chance for building grounded theory from the periphery about inequalities in the legal profession.

It is worth noting that despite the increasingly diffuse acknowledgement of diversity as valuable, diversity as value has not always been historically obvious. Garth and Sterling (2018), recall that even in the 1970s, data on lawyers reflected the propensity for homogeneity in law firms, and even in the relatively recent theorizing of the "elastic tournament," Marc Galantar and William Henderson (2007) concede that firms did not have incentives to invest in non-economic appendages like diversity. The *Aesthetics* project has started to reveal that this timeline is even more constricted—and that opportunities for minority students, although steadily increasing over the last decade, have transformed into a stable institutional goal only as recently as the last half decade.

At the same time, even in the contemporary climate that recognizes minority identity as important capital, the experience of having this value remains checkered across contexts. One explanation for such variance is structural. Unlike other kinds of capital reproduction that has been observed in global "big law" contexts (e.g. Wilkins and Gulati 1996; Dezalay and Garth 2010, 2021; Gomez and Perez-Perdomo 2018; Ballakrishnen 2021), minority identity capital is unique in that although it is symbolic capital produced by multilevel processes (Dezalay and Garth 1996, 11), it is not value derived from some kind of "objective virtue" (18) and it is increasingly also wielded by actors without other kinds of capital. The internalizations of those who are seen to have this capital give us new ways of making sense of how this capital works and who it serves

when it works. Although the methods, sites, and identities of interest have varied across these projects, several interrelated themes respond to these prompts.

First, these data show that across sites, minority actors recognized that they were not what firms thought of as ideal candidates (Acker 1990) and felt the need to embrace, pass, "bleach out," or otherwise negotiate this image of ideality (Granfield 1991; Wilkins 1998; Reid 2015). Yet even though this knowledge was common, the capacity to "work" their respective identities (Carbado and Gulati 2000) was an advantage only some actors could access. Further, even when accessed, it did not reward all actors equally and it was predicated on a range of factors (e.g. institutional status, legibility of identity, and individual moderators like class and social capital) and stages of career. Particularly, while diversity capital was useful to a limited extend in getting historically marginalized candidates through the door, it was less important for promoting the same people into positions of leadership. Further, even when having this capital served actors, its performance—especially without other more stable capitals at the institutional or personal level—was a recurring reminder of their lack of fit within these spaces, and produced an isolation other scholars have observed across professional contexts (e.g. Rivera 2016; Wingfield 2019). Overall, these data confirm that identity capital of outsiders was different than those of traditional insiders (Wald 2016; Leong 2021) and even when new kinds of capital could serve new actors (e.g. Garth and Sterling 2018; Dinovitzer and Garth 2020), value from identity capital was best served to enter rather than succeed in elite professional spaces, and most resilient when it existed alongside other, older capitals (e.g. Payne-Pikus, Hagan, and Nelson 2010; Headworth et al. 2016).

Second, even for students who fit what the senior administrator called a "teaspoon" criterion of merit, assimilation into elite spaces required interpretations of ambiguous social codes and performances that had steep costs. Even if they possessed the capital that allowed them to be what Leong (2021) calls an "identity entrepreneur," students received mixed signals about how to be "valuable candidates" and felt the pressure to both "bleach out" into ideal-typed norms that were inauthentic, as well as "do their identity" in order to get their jobs. In turn, these scripts of ideality forced them to put on a performance of complicated precarity that cost them even as it served them. In making diverse students wonder why someone that "looked like them" would be valuable to these spaces, different costs were extracted from seemingly similar actors while leaving the organizations with clean hands for having tried to diversify their habitus. Alongside the exhaustion of displaying their traumas and vulnerabilities, minority actors felt othered (Mackenzie and Abad 2021) both when they succeeded and when they did not. In contrast to students who felt exhausted by the demands for vulnerable precarity, others buttressed by other forms of capital were better positioned to navigate these expectations. But once within these elite spaces, they second-guessed their place within these institutions. As a result, recruitment processes involved both a hyper-signaling of identity alongside a debating of its credibility and value.

Third, the inconsistencies of seemingly neutral structural expectations posed different challenges for different kinds of students. For instance, social expectations that involved meals after work or alcohol, made parents and Muslim students feel like they were losing out on important career opportunities that these firms were going out of their way to offer. Similarly, although law schools were seen as committed benefactors

that gave important advice to their minority students about navigating the job market, students often felt unclear how best to implement many "neutral" tips for success. Students, for example, were called upon to make social connections and network as an important part of law school, but what it meant to "network well" was an ambiguous social script that did not help all students equally (e.g. Ballakrishnen 2023 on gender-queer students). As a result, some students like Terrell, a first-generation Black law student in an urban school, felt that "one's network was one's net worth," while others like Susan, an Asian student in an elite law school graduating in the same city, described networking as "superficial and not very conducive to making actual connections." It is striking that both students acknowledged the same pressures of having to perform merit-adjacent activities to access the profession without a clear sense of what it meant to effectively produce such performance. However, the difference between their personal and institutional advantages buffered them differently from these seemingly neutral expectations—Terrell probably knew that networking was not a choice but a necessity, whereas Susan's environment allowed her to judge it more critically. Altogether, beyond these directives that postured a semblance of equity (for example, across schools, students were being given the same objective signals and across firms, courting rituals had the same air of informal inclusivity), the cost of indulging in these interactive rituals was greatest for students least capable of bearing it. Since older and more stable capitals (like resources to access elite credentialing) were harder to access for new entrants, the diffuse environment of diversity allowed for a veneer behind which the symbolic violence of repackaged hierarchy could hide in plain sight.

Fourth, beyond individual variations in additional resources, different kinds of minority identities had different kinds of value within these environments. Findings from *Networks* show that minority students circulated in relatively homogenous networks through law school, but the cost of this isolation was different for different groups (Paik et al. 2023). For many students on the periphery, this lack of fit was further complicated by what their membership signaled to their own communities. This chasm was particularly striking while comparing those whose identities were visible (e.g. professionals seen as "BIPOC" in the current economy) verses others with less obvious identities (e.g. first-generation, non-binary/trans, and non-visibly disabled). Those with minority identities that were illegible to institutions felt devalued and even more excluded, and forced to resign themselves to the inequalities they were embedded in. Meanwhile, those with more visibly valued minority identities felt they had to parade their precarity in specific ways, conceding that even if they were to be "successful," it would be inevitably marked by such posturing. For most of these actors, the performance of identity within an intensely primed diversity culture made them feel spent when they over-shared, inauthentic when they had to "puff" their narratives and plagued with an impostor syndrome regardless.

One takeaway from these comparative narratives is a call to pay attention to actors who are excluded by structures that are seen as neutral, even advantageous. Just as Muslim students felt like social opportunities meant to make the job market more accessible only further excluded them, non-binary students felt the Socratic classroom meant to socialize everyone in professionalism only cemented the invisibility of their identity because it used gendered pronouns and forms of address. These illustrative ways in which inclusion inadvertently excludes those it purports to include might apply in other

cases too (e.g. Ballakrishnen and Silver 2019). Still, some structural factors could produce inadvertent advantages—like when a whole range of accommodations became "reasonable" and available during the pandemic once it was no longer only disabled students who needed them. This dissonance between intention and action could help unveil possibilities for unlikely advantage (Ballakrishnen 2021) as well as account for the sticky ennui of good intentions in organizations (Pearce, Wald, and Ballakrishnen 2015).

Finally, these comparative findings on experience reveal that possessing any strain of minority identity capital is exhausting and remains at the behest of those who have more legitimate capital or institutions that can decide what capital to deem legitimate. Law firm websites, for example, are a direct illustration of the ways in which technology aids in the aesthetic production of structures that look more inclusive but are just redistributing the rewards of identity capital to institutions. Markets use diverse actors for their own ends and on its own terms, but without real substantive change, interest or affective performance of identity alone will not do the real work of inclusion. While firms were procedurally committed to inclusive excellence and their institutional signaling was adept in the language of good diversity, the (often minority) associates in charge of displaying such inclusion felt stuck by structural conditions that did not value diverse mobility beyond initial recruitment. For example, the increasing valorization of queer capital both sheds light on the evolution of what is seen as valuable within the category and the limits of more lagged identities—like non-binary or trans inclusion—which remain fully unconverted to capital. In serving institutions more than actors, performative inclusion that seeks minority actors for their identity takes tolls on the very populations it professes to empower. But acknowledging this violence is crucial to being able to start addressing it. If left unaddressed, this deficit could get calcified over time to reinforce inequalities inherent—and, invisible—within such inclusion.

Research on diversity reveals the many ways in which institutional commitments to inclusion continue to remain alienated from sustainable outcomes or change (Dobbin and Kalev 2016; Headworth, Nelson, Dinovitzer, and Wilkins 2016; Portocarrero and Carter 2022). One reason for this decoupling is that while there are incentives to be ceremonially compliant in environments with external validation (e.g. Knight, Dobbin, and Kalev 2022), real impact relies on everyday practice and creating organizational cultures that reflect structural change (Meyer and Rowan 1977). Simultaneously, there is acknowledgment that performances of identity that signal allyship without nurturing actual solidarity might reinforce existing hierarchies and problematic stereotypes (Deo 2021), or they might alienate new entrants despite inclusion by highlighting their differences (Mackenzie and Abad 2021). These data add to this line of research by presenting that increasing market pressure may have changed the outline of the ideal professional—at the performative level—to an actor with minority identity but this new inclusion comes with several issues.

The shifting nature of these new capitals now transfers the burden of this near-impossible work (i.e. moving beyond entry to sustainable assimilation of minority actors) onto actors with the least power. Law firms may use the new image of a minority lawyer to structure "good diversity" metrics, but to the extent they are not considering the nature of these valorizations, these new capitals remain compromised. Valorization, of course, is tied to visibility. Core to the idea of a performative model of inclusion is

what is seen as acceptable exclusion and who the firms feel legitimate not accounting for when they do "good diversity." Identity capitalism offers a framework allowing us to understand these stratifications. Across these sites, there remained an inherent tension between the actors relied on to perform diversity and the institutions such inclusion advantaged. When seen from the perspective of the peripheral groups as the focus point (rather than as the contrast), these accounts of isolation between each group underscores the tenacity of systems of elite normativity. In particular, it offers a framework for understanding the organizational advantages and the individual disadvantages of extractive diversity economies where each non-normative actor feels differently devalued while the organizations continue to extend the lure—and ethical clarity—of access and inclusion. This perspective clarifies how institutions might be placing the onus on individual actors with least resources and most risk to do the work of "good" diversity, while allowing the organizations to claim the "clean hands" of having done the work they were called upon to do. Drawing from Du Bois's notion of racialized modernity (Itzigsohn and Brown 2020), this pushes us to consider what it even means to "feel like a problem," and in forcing us to critically examine the role of vulnerability and spaces across contexts, this perspective moves past accepted rhetoric of just organizations to unveil the inevitable non-neutrality of these systems.

Together, these broad accounts of understudied discriminations reveal the necessity for both different kinds of data as well as for an intersectional framework of understandings, making observation across levels of analysis key to critical legal profession scholarship. Across these findings, intersectional minorities are least likely to find "fit" or want to "fight' to stay in these organizations. As Melaku's recent work (2019) on Black women in these spaces reveals, beyond a range of barriers to advancement, there is also a reinforcement of elite white hetero maleness as the "background framework" (Ridgeway 2009) that new actors are compared to across professional stages. But even as minority actors succeed, rewards are slim. As Carbado and Gulati (2000) warn, even when they do "race to the top," minority actors are not likely to reform their organizations or create opportunities for others to advance. And to the extent that such diversification by racial minorities is significant, the representation is much more likely to serve as performative capital for the organizations rather than bring about structural change (Adediran 2018). Although professional normativity and ideas of the ideal worker are not static across contexts, there is some generalizability in the ways in which seemingly neutral expectations complicate the reception and valorization of new entrants into professional spaces. It is the nuanced consideration of these neutralities that this article seeks to offer. Responding to the urgent call for a contemporary Du Boisian approach to "emancipatory sociology" (Itzigsohn and Brown 2020) especially within organizations (Ray 2019), it unveils the ways in which the legal profession—across a range of organizational contexts, but with a focus on private practice—is experienced as a "long standing structure built to manage and prioritize" normativity.

CONCLUSION

Organizational signaling of EDI within the legal profession has become increasingly important and minority identity has coalesced into a kind of capital with value

in the profession. Even so, the experience of deploying this capital is complicated for many who possess it. In diffuse EDI environments where the focus is on hiring for difference without substantial changes to structure, inclusion can other even as it looks like it is welcoming because individuals and organizations alike experience such inclusion as strategic accommodation. Individuals using—or seen as using—their diversity capital might shoulder the burden of performing affective precarity and/or feel inauthentic and second guess their place in these institutions. Besides, different kinds of capital work differently depending on the actor and environment and many might worry about revealing their capital if they are not sure about its reception within firms. Further, given the nature of the capital and its unique ownership amongst minority actors, it is possible that those with valuable identity capital also might have to, especially without clear cultures of inclusions within their organization, deal with the structural violence of non-minority peers claiming disadvantage. The only advantage is to the institutions that get to perform and gain from commitment to diversity no matter the eventual outcome.

Being able to theoretically consider the cumulative experience of different identity capitals together allows for a critical introspection of the work of identity capital as distinct in different cases and contexts. In addition, methodologically, to think about the true valence of experience of diverse actors as the starting point rather than as an additive frame of reference helps decenter our current frameworks and locate the periphery within more central coordinates. While this research does not include or explain all kinds of minority experience, this recentering of peripheral perspectives could be crucial to valorize institutional inequality and produce more representative research of the legal profession.

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