Understanding the Tethered Generation: Net Gens Come to Law School

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I. INTRODUCTION

> Young Americans are no less intelligent, motivated, ambitious, and sensitive than they ever were, and they are no less adolescent and fun–loving either. It's not the under–30–year–olds who have changed. What has changed is the threshold into adulthood, the rituals minors undergo to become responsible citizens, the knowledge and skill activities that bring maturity and understanding.[1]

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1. MARK BAUERLEIN, THE DUMBEST GENERATION: HOW THE DIGITAL AGE STUPEFIES YOUNG AMERICANS AND JEOPARDIZES OUR FUTURE (OR, DON'T TRUST ANYONE UNDER 30) 160 (2008).

Prior generations are often seen as romanticized versions of what young people coming of age during that time period actually experienced. Through movies and literature, for instance, Americans have glamorized the Lost Generation of the 1920s, picturing Ernest Hemingway and F. Scott Fitzgerald writing in Paris cafes and attending extravagant parties with flappers while listening to the new sounds of jazz. But the young people that shaped this generation had survived two world wars and the Depression,[2] and their generation "reflected a variety of emotions and mannerisms: weary cynicism at a young age, risk–taking, binge–like behavior, [and] disdain for a pompous 'older generation.'"[3] As such, individuals coming of age in the 1920s became known as the Lost Generation.[4]

Every generation has a peer personality[5] that reflects the common events and occurrences of that generation, even though not every member of that generation possesses all of those generations' attributes.[6] The youngest generation in the United States, "Net Gens," born at the earliest in 1994,[7] are currently receiving a bad rap from the media, teachers, and employers for being constantly connected to their smartphones and being overprotected by their parents. Net Gens are a tethered generation: they are tethered to technology, social media, and their parents. Even though each member of that generation may not be deserving of some of the negative connotations given to them by the older generations, each member of Net Gen has experienced the same cultural phenomena related to online media, educational reforms, and societal changes. Each one of them grew up as a digital native, never knowing what it means not to have easy, constant access to online resources; and, they are also all experiencing the effects of a terrible job market even though they are one of the most educated generations in history—with the student loans prove it.[8] Every member of Net Gen shares a set of unique cultural events, and, though they are all

2. *See* WILLIAM STRAUSS & NEIL HOWE, GENERATIONS: THE HISTORY OF AMERICA'S FUTURE 1584–2069, 247–48 (1991).

3. *Id.* at 58.

4. Gertrude Stein supposedly told Ernest Hemingway, "You are all part of a lost generation," and Hemingway quoted her in the epigraph for *The Sun Also Rises*. *See id.* at 250. Thus, the Lost Generation was born. *See generally* ERNEST HEMINGWAY, THE SUN ALSO RISES (Scribner 2006).

5. "A peer personality is a generational persona recognized and determined by (1) common age location; (2) common beliefs and behaviors; and (3) perceived membership in a common generation." STRAUSS & HOWE, *supra* note 2, at 64.

6. *Id.* at 8–9.

7. Kristi A. Dyer, *Challenges of Maintaining Academic Integrity in an Age of Collaboration, Sharing and Social Networking,* TCC 2010 PROC. 168, 171 (2010).

8. *See* Emily Esfahani Smith & Jennifer L. Aaker, *Millennial Searchers*, N.Y. TIMES, Dec. 1, 2013, http://www.nytimes.com/2013/12/01/opinion/sunday/millennial-searchers.html.

unique individuals, they are collectively bound by the effects these events have had on their generation.[9]

The first wave of Net Gens could start their 1L year as early as Fall 2015.[10] For professors to best teach these students and understand a generation with such a different historical and social context, professors must first know what events comprise Net Gens' unique viewpoint and why those events are different from the combined experiences of prior generations. Therefore, this article examines Net Gens' relevant cultural experiences so educators can better understand the students that will be entering our schools and begin to think about how we might want to, or need to, change some of our methodology based on their unique cultural markers.[11]

The Net Gens are the fourth generational cycle that, combined with the three prior generations, completes the current Millennial cycle of American generations. To that end, Part II of this article briefly describes the three other generations in the Millennial Cycle: Baby Boomers, Gen X, and the Millennials. Part II also examines how the developing Net Gens fit into that Millennial cycle. Then, Part III identifies the unique cultural markers that define the Net Gens' peer personality. Part III is divided into multiple sections, each one analyzing a different cultural marker. To begin with, Net Gens are the first group of students to be part of No Child Left Behind, a sweeping educational reform that mandated testing in public schools that had unintended consequences on students' ability to write and think critically. Second, they have seen writers, athletes, and business men ignoring ethics and rules to get ahead

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9. *See* STRAUSS & HOWE, *supra* note 2, at 8–9 ("[Y]our generation's collective mind–set cannot help but to influence you . . . .").

10. *See* Dyer, *supra* note 7, at 171. Dyer identifies 1994 as the first year of birth for the youngest Net Gens. *Id.* Therefore, 2015 would be their first year of law school, assuming they started at the age of 21. Strauss and Howe's work, however, suggests that the Net Gen generation likely started in the late 1990s or early 2000s depending upon the prior generational cycle's length. This indicates that 2020 would be the first year Net Gens enter law school. *See generally infra* notes 22–28. Because a generation's cycle is determined after it has come to completion, the exact start and finish of the Net Gen generation will only be known in the future. *See, e.g., id. But see* STRAUSS & HOWE, *supra* note 2, at 39 (predicting 2004 in a 1991 publication); WILLIAM STRAUSS & NEIL HOWE, THE FOURTH TURNING 272, 296 (1997) [hereinafter THE FOURTH TURNING] (predicting in a publication six years later that this generation would have already entered early childhood by the beginning of 2000). Therefore, this article notes that 2015 is the first potential year when Net Gens will enter their 1L year of law school, but their 1L year could start later depending upon future studies that further define the parameters of each generation in the Millennial cycle.

11. This is the first article in a series of articles analyzing the upcoming generation of students entering law schools. The next articles will focus on how law schools currently teach ethics and the problems that will arise given this generation's different viewpoints on ethics and cheating as analyzed in this article, and what teaching methods should change based upon the research on this generation's unique cultural viewpoint.

without suffering any negative consequences, which has created a lack of understanding of what constitutes cheating. Third, Net Gens perceive education's purpose to be a purely consumer transaction, a means meant only to get to the next step in life. Finally, Net Gens are the only generation to have grown up in a completely wired culture with constant access to social media.

II. THE MILLENNIAL CYCLE: BABY BOOMERS, GEN XERS, MILLENNIALS, AND NET GENS

The first three generational cycles in the current Millennial cycle provide context for those shifts and events that are shaping the last generation in the cycle—the Net Gens. Each generation in a cycle is not only defined by a parameter of years, but by the culturally unique experiences that shape it.[12] According to Strauss and Howe's groundbreaking book *Generations: The History of America's Future 1584–2069*, since the beginning of the country, American generations have been moving through discrete cycles that coincide with specific historical events.[13] To date, those cycles are the Colonial from 1584 to 1700, the Revolutionary from 1701 to 1791, the Civil War from 1792 to 1859, the Great Power from 1860 to 1942, and, the current one, the Millennial, which began in 1943.[14] Thus far, the Millennial cycle "has been a cycle of relative peace and affluence, mixed with growing individualism, cultural fragmentation, moral zealotry, and a sense of political drift and institutional failure."[15]

With the exception of the Civil War Cycle,[16] each cycle has lasted about eighty–five years.[17] Additionally, each cycle contains four

12. Jean M. Twenge et al., *Generational Differences in Young Adults' Life Goals, Concern for Others, and Civic Orientation, 1966–2009*, 102 J. OF PERSONALITY AND SOC. PSYCH. 1045, 1045 (2012).

13. STRAUSS & HOWE, *supra* note 2, at 85.

14. *Id.* at 84.

15. *Id.* at 298. Notably, in 1997, Strauss and Howe predicted that around 2005, Americans would experience a terrorist attack, an impasse over the federal budget, and growing anarchy throughout the former Soviet republic. THE FOURTH TURNING, *supra* note 10, at 272–33.

16. The Civil War Cycle lasted only sixty–four years because it is the only cycle without the third generation type, the Civic type. *See generally* STRAUSS & HOWE, *supra* note 2, at 84–85, 90–92.

17. *Id.* at 85.

generational types that always occur in the same order. These generational orders start with a dominant generation[18] and then a recessive[19] generation, in the following order: (1) idealist generation (dominant), (2) reactive generation (recessive), (3) civic generation (dominant), and (4) adaptive generation (recessive).[20] In this way, the three prior generations in the current Millennial cycle—the Boomers, Generation X, and the Millennials—lay the ground work for the Net Gen's generational characteristics. In the Millennial Cycle, Baby Boomers are the idealist generation, Gen Xers are the reactive generation, Milliennials are the civic generation,[21] and, therefore, Net Gens will be the adaptive generation.[22]

A. Baby Boomer Generation

The first generation of the Millennial cycle, the Baby Boomer Generation, born between 1943 and 1960,[23] is most identified with the sweeping changes of the 1960s that triggered "America's most furious and violent youth upheaval of the twentieth century."[24] This generation begins the four–part cycle of personality types, as an idealist generation, which means that this type of peer personality "grows up as increasing indulged youths after a secular crisis;[25] comes of age inspiring a spiritual awakening;[26] fragments into narcissistic rising adults; cultivates principles as moralistic midlif-

18. Dominant and recessive generations describe the intervals at which a social moment occurs. A social moment is an era that usually lasts a decade "when people perceive that historic events are radically altering their social environment." *Id.* at 71. Two types of social moments exist: secular crisis and spiritual awakenings. A secular crisis occurs "when society focuses on reordering the outer world of institutions and public behavior" and a spiritual awakening occurs "when society focuses on changing the inner world of values and private behavior." *Id.* So, during these social moments, dominant generations are going into adulthood and older age, while recessive generations are entering their youth and midlife. *Id.* at 72–73.

19. Here, in the Millennial cycle, both Gen X and Net Gens are recessive generations. *Id.* at 74, 84. Both these generations are considered recessive because they do not experience social movements as adults, but as children. *Id.* at 74.

20. *Id.* at 73–74.

21. *Id.* at 84.

22. In 1974, when Strauss and Howe published *Generations*, they did not yet know what this generation would be called or the exact year parameters that would make up its membership. *See id.* at 84 (Eighteen American Generations chart). However, they identified the Boomers, Generation X, and the Millennials as the first three cycles, leaving open the fourth cycle for the Net Gens as an adaptive generation. *See id.*

23. *Id.* at 8. Well–known Boomers include Janis Joplin, Steve Martin, David Letterman, Oprah Winfrey, and Steve Jobs. *Id.* at 300–01.

24. *Id.* at 299.

25. *See generally supra* note 18.

26. *Id.*

ers; and emerges as visionary elders guiding the next secular crisis."[27] Boomers "resist[ed] permanent linkages to mates, children, corporations, and professions" and instead focused on their own self–identity.[28]

Baby Boomers got their name largely because they were born during a boom of births.[29] Most of these children grew up being taken care of in the home by either their mother or another family member, with only 2% attending any sort of formalized day care.[30] During their childhood, Dr. Spock became popular and he encouraged parents to be permissive and involved in their Boomer children's lives,[31] resulting in children–focused houses and less authoritarian homes than the previous generation.[32] Further, during their youth, major medical breakthroughs occurred, such as vaccinations against polio and fluoride water to protect teeth.[33] Because this generation is most widely known for coming of age during Vietnam, the most common characteristic shared by this generation is the number of Baby Boomers who avoided serving in Vietnam.[34]

B. Generation X

The second generation in the Millennial cycle, Generation X, encompasses the years 1961 to 1981,[35] and its name comes from the Douglas Coupland's 1991 novel *Generation X: Tales for an Accelerated Culture*.[36] This generation was born after all the upheaval of the 1960s, but with none of the benefits associated with those changes.[37] Gen X constitutes the second personality type, the reactive generation, which "grows up as underprotected and criticized

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27. STRAUSS & HOWE, *supra* note 2, at 74.

28. *Id.* at 302.

29. *Id.* at 305. Baby Boomers were born to both young Silent Generation parents and older G.I. Generation parents. *Id.*

30. *Id.*

31. *Id.* at 308.

32. *See id.* at 307.

33. *Id.* at 305.

34. *Id.* at 306 (as opposed to the numbers that actually did serve in Vietnam).

35. *Id.* at 317. Several well–known members of this generation include Jon Bon Jovi, Tom Cruise, Tracy Chapman, Mary Lou Retton, and Michael Jordan. *Id.* at 318.

36. Though Coupland coined the term "to signify the generation's random, ambiguous, contradictory ways," he later disowned it. M.J. Stephey, *Gen–X: The Ignored Generation?*, TIME (Apr. 16, 2008), http://content.time.com/time/arts/article/0,8599,1731528,00.html; *see generally* DOUGLAS COUPLAND, GENERATION X: TALES OF AN ACCELERATED CULTURE (1991).

37. *See generally* STRAUSS & HOWE, *supra* note 2, at 317. As Tracy McGaugh explains in her article analyzing Gen X's learning styles and educational differences:

> If the Boomers had a front row seat to America's greatness, Xers have had a front row seat to its decline. Some of the seminal events for Xers were Watergate, the energy crisis, the introduction of the personal computer, Three Mile Island, the Iran hostage crisis, the Challenger disaster, the stock market crash of 1987, the savings and loan

youths during a spiritual awakening; matures into risk–taking alienated rising adults; mellows into pragmatic midlife leaders during a secular crisis; and maintains respect (but less influence) as reclusive elders."[38]

This generation's youth experienced one of the most divorced generations in America[39] and the greatest increase in working mothers than any prior generation.[40] While Gen X teenagers faced a significantly lower risk of dying from disease than prior generations, they had a much higher risk of dying from accidents, murders, and suicide.[41] Further, Gen X is also the most heavily incarcerated of any prior generation.[42] This generation came of age in an era that was "a nightmare of self–immersed parents, disintegrating homes, schools with conflicting missions, confused leaders, a culture shifting from G to R ratings, new public health–dangers, and a 'Me' decade economy that tipped toward the organized old and away from the voiceless young."[43]

C. Millennials

The Millennials[44] are the third generation type, born approximately from 1982 to the late 1990s.[45] At the time Strauss and Howe published *Generations* in 1991, they had identified that the Millennials would be a civic generation, the third personality type, based on the prior generational cycles.[46] The civic generation "grows up as increasingly protected youths after a spiritual awakening; comes of age overcoming a secular crisis; unites into a heroic and achieving

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scandals, the fall of the Berlin wall, the Rodney King beating, the L.A. riots, and the O.J. Simpson criminal and civil trials. In the words of Dennis Miller (a Boomer): "It's no wonder Xers are angst–ridden and rudderless. They feel America's greatness has passed. They got to the cocktail party twenty minutes too late, and all that's left are those little wieners and a half–empty bottle of Zima."

Tracey McGaugh, *Gen X in Law School, the Dawn of the Light or the Dawn of New Day?*, 9 J. LEGAL WRIT. 119, 121–22 (2002).

38. STRAUSS & HOWE, *supra* note 2, at 74.

39. A Gen X child in the 1980s had a two times higher likelihood than a Boomer child in the 1960s and three times higher than a Silent child in the 1950s. *Id.* at 324.

40. *Id.* at 325. Further, as teenagers, Gen Xers committed suicide more frequently than any other previous generation, except the Lost Generation. *Id.* at 326–27. And, both Gen X and the Lost Generation, according to Strauss and Howe, are reactive generations. *Id.* at 84.

41. *Id.* at 326.

42. *Id.* at 326–27.

43. *Id.* at 321.

44. The Millennials have also been called Generation Y or Generation Me. Twenge et al., *supra* note 12, at 1045.

45. At the time of Strauss and Howe's book in 1991, they estimated the Millennials' generation began in 1981. STRAUSS & HOWE, *supra* note 2 at 84; *see also* Twenge et al., *supra* note 12, at 1045 (defining Millennials as born between 1982 and 1999).

46. *See* STRAUSS & HOWE, *supra* note 2, at 84.

cadre of rising adults; sustains that image while building institutions as power midlifers; and emerges as busy elders attacked by the next spiritual awakening."[47] At the time of publication, Strauss and Howe did not have the necessary information to fully analyze the Millennial generation as it had only just begun. However, civic children typically grow up with idealist parents who "look upon these children as special, an instrument through which their inner visions can be achieved or defended."[48] Further, "[t]he child environment, now perceived to be dangerous, is pushed back toward greater protection and structure."[49]

Prior to the Millennials, the G.I. Generation from the Great Power cycle, born between 1901 and 1924,[50] was the last civic generation to occur.[51] This generation, as might be suspected from its name, was identified by strong and high youth spirit despite being born into the Great Depression and the First World War.[52] This generation is also known for coming together during World War II, especially after the bombing at Pearl Harbor.[53] The G.I. generation came after the reactive Lost Generation,[54] which in many ways had experiences similar to Gen X's experiences, and the G.I. Generation "shunned the Lost cynicism and instead looked forward to solving problems."[55]

D. Net Gens

Currently, the Net Gens are in their youth, and they were not even in existence at the time of Strauss and Howe's 1991 publication. However, according to Strauss and Howe's predictions, Net Gens will be an adaptive generation and the beginning of the fourth generation in the Millennial Cycle.[56] An adaptive generation "grows up as overprotected and suffocated youths during a secular crisis; matures into risk averse, conformist rising adults; produces indecisive midlife arbitrator–leaders during a spiritual awakening;

47. *Id.* at 74.
48. *Id.* at 361.
49. *Id.*; *see also infra* notes 143–146 and accompanying text for further analysis of the Millennial generation and their identities as part of a more protected generation.
50. STRAUSS & HOWE, *supra* note 2, at 261.
51. *Id.* at 84.
52. *Id.* at 270–71.
53. *Id.* at 271.
54. *See generally id.* at 247–60.
55. *Id.* at 271.
56. *Id.* at 84.

and maintains influence (but less respect) as sensitive elders."[57] They are the children of a more dominant generation, meaning they are raised in an "intensively protective, even suffocating style of nurture. Children are expected to stay out of the way of harm—and of busy adults. Though assured of their collective worth, children are told their individual needs take a low priority as long as the community is struggling for survival."[58]

To gain some perspective on the fourth personality type, the most recent adaptive generation was the Silent Generation, the fourth generation in the Great Power cycle.[59] During the Silent Generation's coming of age, American youth had never "been so withdrawn, cautious, unimaginative, indifferent, unadventurous—and silent."[60] In 1949, when this generation was just completing college, *Fortune* magazine wondered whether the Silent Generation was "so tractable and harmonious as to be incapable twenty or thirty years hence of making provocative decisions."[61]

Though Strauss and Howe did not have access to the unique cultural markers that would make up these last two generations, Part III of this article examines the historical events and occurrences impacting the peer personality of the Net Gen generation. Part III also analyzes Net Gens by using research on the Millennials because the line where one generation starts and the other ends is still not clear to researchers.[62] Morevoer, the Millennials are the most recent youth generation and some of the key cultural markers of the Millennial generation have continued and are magnified in the Net Gen generation.[63]

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57. *Id.* at 74. Other adaptive generations include the Enlightenment, 1674–1700 from the Colonial time; the Compromise, 1767–1791, from Revolutionary time; and, Progressive, 1843–1859, from Civil War time. *Id.* at 84.

58. *Id.* at 363. Further, "[n]ot old enough to participate in the crisis as adults, they fail to experience a cathartic rite of passage—and fail to acquire the self–confidence of their next–elders . . . . [These] [y]oung adults infuse popular culture with new vitality and provide encouraging mentors to new youth movements that hit too late for them to join." *Id.*

59. *Id.* at 84 (born between 1925 and 1942).

60. *Id.* at 279 (quoting WILLIAM MANCHESTER, THE GLORY AND THE DREAM: A NARRATIVE HISTORY OF AMERICA, 1932–1972 (1974)).

61. STRAUSS & HOWE, *supra* note 2, at 283. However, women from the Silent Generation made up nearly half of America's prominent feminists, most likely because during that time there were virtually no women in engineering or architecture despite women's advances during World War II. *Id.* at 284. Similarly, this generation produced many major figures in the Civil Rights Movement, such as Martin Luther King, Jr., Malcolm X, Cesar Chavez, and the youth at the Greensboro lunch counter. *Id.* at 285.

62. *See supra* note 10.

63. Depending upon the events occurring during overlapping or back–to–back generations, certain personality shifts can be seen increasing or decreasing across the Millennial cycle. For instance, in a study that examined life goals of American first–year college students from the Boomers, Gen Xers, and Millennials, psychologist Jean Twenge found that the importance of being well off financially increased through the generations with 44.6% of

III. THE FINAL MILLENNIAL GENERATION: NET GENS AND THEIR UNIQUE CULTURAL VIEWPOINT

This generation's unique cultural context comes from several different social and historical changes. First, this generation grew up under No Child Left Behind, a sweeping educational reform intended to bridge the education gap for all children that, ultimately, taught them how to take tests, but not how to make judgments in ambiguous situations that require critical thinking and writing.[64] Second, this generation of students has grown up seeing cheating as an acceptable, and perhaps necessary, way to survive in the modern world.[65] As a result, they have a different understanding of what constitutes cheating and whether cheating is really even wrong. Third, Net Gens often view higher education as a commodity, not as an educational experience, but as a transaction that takes place between expensive colleges and universities and their customers, the students.[66] Finally, the Net Gen students are really in a unique position because of their constant access and familiarity to online resources and their developed "horizontal peer groups" from these online tools.[67] Basically, these students have been able to form an entirely constricted peer group based on their Facebook friends, texting, and other social forums with little to no interaction with a "vertical" group consisting of more experienced people.

A. Testing Measures Learning Instead of Assessing Critical Thinking through Writing

Net Gens are the first generation coming out of the federal No Child Left Behind policy, which encouraged a testing culture in schools and devalued critical thinking and reasoning.[68] These students have been trained to study for a test and rewarded for choosing the correct answer in a multiple choice exam; however, the time spent preparing students for a multiple choice exam took away from

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Boomers indicating it was important while 70.8% of Gen Xers did and Millennials continued that trend with 74.4% finding it to be important. *See* Twenge et al., *supra* note 12, at 1049 (Table 2). Similarly, Twenge's study found that developing a meaningful philosophy decreased across the generations: 73% of Baby Boomers said it was a priority; while 46.9% of Gen Xers responded that it was a priority; and only 44.6% of Millennials thought it to be one. *Id.* at 1049 (Table 2).

64. *See infra* notes 68–90 and accompanying text.

65. *See infra* notes 91–127 and accompanying text.

66. *See infra* notes 128–152 and accompanying text.

67. *See infra* notes 153–165 and accompanying text.

68. Tenniell L. Trolian & Kristin S. Fouts, *No Child Left Behind: Implications for College Student Learning*, ABOUT CAMPUS, July–Aug. 2011, at 5 (citing Theoni Soublis Smyth, *Who is No Child Left Behind Leaving Behind?* THE CLEARING HOUSE, Jan./Feb. 2008, at 133–37).

learning that encouraged writing and working with students on problems that do not have a clear answer.[69] Furthermore, teachers have said that they felt forced to "teach to the test" because their compensation and school's funding were tied to the yearly assessment test and, as a result, many of them have focused on memorization and testing strategies for the yearly assessment test instead of comprehension, critical thinking, or applied learning.[70]

In 2002, when the oldest potential Net Gens would have just been entering grade school, President Bush signed the No Child Left Behind legislation, which expanded the federal government's influence and oversight to over 90,000 public schools.[71] The purpose of No Child Left Behind was "to ensure that all children have a fair, equal, and significant opportunity to obtain a high–quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments."[72] Though the Act lists twelve ways that its purpose may be met,[73] perhaps one of the most controversial measures and the most relevant to Net Gens was the legislation's requirement that states conduct yearly student assessments so that they could identify schools failing to make the appropriate progress.[74] The Act then provides

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69. *Id.*

70. *Id.* The new focus on achieving particular test results may also explain why some schools and teachers engaged in outright cheating. *See*, *e.g.*, Jack Gillum & Marisol Bello, *When Standardized Test Scores Soared in D.C., Were the Gains Real*, U.S.A TODAY (Mar. 3, 2011), http://usatoday30.usatoday.com/news/education/2011-03-28-1Aschooltesting28_CV_N.htm (the investigation that broke the alleged D.C. cheating scandal noted a suspiciously high number of erasures evidencing that teachers erased wrong answers and changed them to right ones); Kim Severson & Robbie Brown, *Divisions form in Atlanta as Bail is Set in Cheating Case*, N.Y. TIMES, Apr. 2, 2013, http://www.nytimes.com/2013/04/03/us/atlanta-cheating-scandal-jailing-educators.html (grand jury indictment against Atlanta superintendent and other teachers for conspiracy to secretly raise standardized test scores to get bonuses and ensure job security); Motoko Rich, *Scandal in Atlanta Reignites Debate over Test's Role*, N.Y. TIMES, Apr. 2, 2013, http://www.nytimes.com/2013/04/03/education/atlanta-cheating-scandal-reignites-testing-debate.html (noting cheating scandals in Texas, Chicago, Atlanta, Seattle, and New York). For a more complete story on how this pressure to cheat affected teachers, see Rachel Aviv, *The Wrong Answer*, THE NEW YORKER, July 21, 2014, at 54 (explaining the Atlanta teachers' perspective and explanation of motivations behind the teaching scandal).

71. Thomas S. Dee & Brian Jacob, *The Impact of No Child Left Behind on Student Achievement*, 30 J. OF POL'Y ANALYSIS AND MGMT. 418, 418 (2011).

72. 20 U.S.C. § 6301 (2013). No Child Left Behind's goal was to have all children showing math proficiency by 2013–2014. Dee & Jacob, *supra* note 71, at 418. And, in particular, No Child Left Behind's legislative goal was to close the gap between children from different socio–economic backgrounds within the schools, districts, and states. 20 U.S.C. § 6301.

73. 20 U.S.C. § 6301.

74. *See* Dee & Jacob, *supra* note 71, at 418.

for sanctions and rewards based on a school's adequate yearly progress as measured by a state's accountability system.[75] The hope was that by publicizing school performance and imposing sanctions, public schools would become more productive.[76]

Twelve years after its implementation, many teachers' and critics' greatest fears have materialized. When No Child Left Behind was first introduced, teachers worried that they would be required to "teach to the test" to meet the yearly state assessment instead of teaching broader cognitive skills or other subjects that are not tested by the state.[77] Teachers were concerned about "students becoming passive learners and task–oriented 'do–ers' . . . students expecting answers to be handed to them, rather than learning the methods to discover answers for themselves."[78]

Though it is still too early to fully measure the effects of No Child Left Behind,[79] for students who have been taught solely for the test, their undergraduate and graduate professors' expectations "can present dissonance for students who have been rewarded throughout primary and secondary education for performing well on standardized tests and are now expected to think critically, contextualize learning, and clearly write about their learning in the college classroom."[80] One study showed that students who were taught largely in this testing culture engaged in a "performance–oriented classroom structure," which resulted in poor forms of adaptive coping when in the presence of a challenge or the possibility of failure, a

75. 20 U.S.C. § 6311; *see also* Trolian & Fouts, *supra* note 68, at 2 (breaking down the Act into five main components: accountability for results, flexibility and local control of funds, scientifically proven teaching methods, expanded options for parents, and defining a "high quality" teacher).

76. *See* Dee & Jacob, *supra* note 71, at 418.

77. *See id.* at 420. As one teacher stated to the California Teachers Association: "[There is] no time for art, no time for P.E., no time for them to use their imagination. Then I spend a great amount of time teaching testing strategies and how to fill a bubble properly." Trolian & Fouts, *supra* note 68, at 4.

78. Trolian & Fouts, *supra* note 68, at 4.

79. Dee & Jacob, *supra* note 71, at 418–19. Dee and Jacob's study showed gains in elementary school math that were modest compared to the legislation's goal of universal proficiency, particularly with respect to reading proficiency, and it showed only moderate impacts on disadvantaged groups in math. *Id.* at 419. Though, the Common Core requirements adopted by many states indicate that No Child Left Behind has not met its intended goals. *See, e.g.*, Kenneth Chang, *With Common Core, Fewer Topics But Covered More Rigorously*, N.Y. TIMES, Sept. 2, 2013, http://www.nytimes.com/2013/09/03/science/fewer-topics-covered-more-rigorously.html (Forty–four states have adopted the more rigorous Common Core standards).

80. Trolian & Fouts, *supra* note 68, at 5. And, in response to an increase in student's inability to engage in this type of critical thinking, some university faculty are now using standardized or multiple choice tests as well. *Id.* at 6.

lack of intrinsic motivation, and an inability to abstractly process information.[81]

The problem with a testing culture is that students have largely been told what to learn and how to learn it.[82] A 2008 study by the National Committee on Writing found that only 50% of students say their school work requires writing every day and a mere 35% write several times a week.[83] Of the students writing in high school, an alarming 82% report that their typical writing assignment is only one paragraph to one page long.[84] Further, the 2012 report from U.S. Department of Education reported that only 3% of high school seniors performed at the advanced level of writing, 24% were deemed sufficient, and a shocking 54% performed at the basic level, which means only partial mastery of the skills necessary for a high school senior.[85] Students no longer do a long research paper requiring them to critically analyze texts because teachers no longer have time to grade these papers.[86] Ultimately, poor writing is indicative of a failure to think logically, clearly, and critically, which are essential skills for students entering graduate school or even the work force.[87] All this testing is problematic for law professors too because it means that many students are entering graduate school with little experience writing, researching, and learning on their own—the critical component of a legal education.[88]

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81. *Id.* at 5 (*citing* Judith Meece at al., *Classroom Goal Structure, Student Motivation, and Academic Achievement*, 57 ANN. REV. OF PSYCHOL. 487, 487–503 (2006)).

82. *Id.*

83. THE NAT'L COMM'N ON WRITING, PEW Internet and American Life Project, Writing, Technology, & Teens iv (Apr. 24, 2008), *available at* http://www.collegeboard.com/prod_downloads/prof/community/PIP_Writing_Report_FINAL.pdf [hereinafter Writing, Technology & Teens]; *see also* NAT'L CTR. FOR EDUC. STATISTICS, U.S. DEPT. OF EDUC., The Nation's Report Card: Writing 2011, 33 (Sept. 2012), http://nces.ed.gov/nationsreportcard/pdf/main2011/2012470.pdf (Sixty–eight percent of twelfth–graders reported writing up to three pages for their English or language arts homework in a typical week) [hereinafter Nation's Report Card].

84. Writing, Technology & Teens, *supra* note 83, at iv.

85. Nation's Report Card 2011, *supra* note 83, at 10, 28. The NAEP results are based on nationally representative samples of 28,100 twelfth–graders from 1220 schools. *Id.* at 6.

86. *Id.* at 7.

> While the task of teaching writing has to be shoehorned into the time available during the day, the sheer number of students facing the elementary teacher is not an insuperable obstacle to teaching writing. Many upper–level teachers, on the other hand, face between 120 to 200 students, weekly if not daily. Teachers of English (or history or biology) who ask simply for a weekly one–page paper are immediately overwhelmed with the challenge of reading, responding to, and evaluating what their request produces.

THE REP. ON THE NAT'L COMM'N ON WRITING, The Neglected R: The Need for a Writing Revolution 20 (Apr. 2003), http://www.collegeboard.com/prod_downloads/writingcom/neglectedr.

87. *See* Writing, Technology & Teens, *supra* note 83, at 1.

88. Stephen Lippman et al., *Student Entitlement, Issues and Strategies for Confronting Entitlement in the Classroom and Beyond*, 57 C. TEACHING 197, 199 (2009). As a result of

Another unforeseen result of No Child Left Behind's yearly test score assessments has been that teachers have changed "student responses on answer sheets, providing correct answers to students, or obtaining copies of the exam illegitimately prior to the test date and teaching students using knowledge of the precise exam questions."[89] Students may have seen this behavior and may view it as part of the academic culture, which means that they would continue to do it in college and beyond.[90] This type of educational experience, indelibly, reinforces Net Gen's flexible viewpoint of cheating.

B. Cheating is Not Cheating Anymore

Recently, Harvard was rocked by a cheating scandal when, in August 2012, it announced that almost half of the 279 students registered for an introductory class had cheated on the final.[91] The students had either collaborated on answers on a take–home test, despite a prohibition from working with another person, or blatantly plagiarized their answers.[92] Many of those students admitted to impermissibly collaborating "with fellow students, despite explicit instructions on the test not to do so, but [they] said that behavior was widely accepted"[93] and, therefore, a justification for cheating.

The Harvard cheating scandal illustrates that the Millennials and Net Gens have a different understanding of what constitutes cheating because many of the students stated that they did not think they were "really" cheating. In a recent survey, only 32% of

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these reforms in education and self–esteem, many Millennials are unprepared for the work force, much less for the rigors and stress of graduate school. *See* Twenge et al., *supra* note 12, at 130.

89. Troulian & Fouts, *supra* note 68, at 5 (quoting B.A. Jacob & S. D. Levitt, *Rotten Apples: An Investigation of the Prevalence and Predictors of Teacher Cheating*, 118 Q. J. OF ECON. 843, 844 (2008)). As a result of No Child Left Behind, a "pervasive culture of high stakes testing that [public school activists and teachers' unions] say can contribute to cheating because educators fear the consequences if they do not raise scores." Motoko Rich & John Hurdle, *Erased Answers on Tests in Philadelphia Lead to a Three–Year Cheating Scandal*, N.Y. TIMES, Jan. 24, 2014, at A16. For additional examples of teachers engaging in cheating related to standardized testing, *see supra* note 70.

90. Trolian & Fouts, *supra* note 68, at 5.

91. Richard Pérez–Peña, *At Harvard, Suspects in Cheating Take Leave*, N.Y. TIMES (Sept. 11, 2012), http://www.nytimes.com/2012/09/2012/education/harvard-cheating-suspects.html.

92. *Id.* On the first page of the exam, under exam protocol, the professor wrote: "More specifically, students may not discuss the exam with others—this includes resident tutors, writing centers, etc." Rebecca D. Robbins, *Harvard Investigates "Unprecedented" Academic Dishonesty Case*, THE HARV. CRIMSON (Aug. 30, 2013), http://www.thecrimson.com/article/2012/8/30/academic-dishonesty-ad-board/.

93. *Id.* (some students also attributed the identical answers to shared notes or help from graduate students, which they also thought was allowed). *Id.* As noted in Section II.A., many students may have also seen their teachers cheating.

undergraduates thought that "working with others on an assignment *when asked for individual work*" was a serious offense though 82% of the faculty thought it was.[94] Perhaps, more shocking to older generations, a survey conducted from 2002 to 2005 on fifty undergraduate campuses found that out of 50,000 students, 70% of them had cheated.[95] This flexible attitude toward cheating does not end in undergraduate programs, but continues directly into graduate school programs. For instance, one study found that 56% of MBA students had cheated and 47% of students in non–business programs admitted to cheating,[96] while another 25% of graduate students admitted to unauthorized collaboration, "cut and paste plagiarism," and fabricating or falsifying a bibliography.[97]

Given these studies, do the incoming Net Gens even understand cheating as earlier generations and their professors define it? Most likely not, given what they have seen occurring in this country during their lifetime. Culturally, David Callahan argues that Americans on the whole have become a cheating culture for four main reasons: (1) a competitive marketplace; (2) big payoffs; (3) temptation; and (4) a trickle–down effect.[98]

First, Callahan posits that the competitive marketplace causes Americans to cheat because they believe it is necessary to keep their jobs and stay ahead.[99] Similarly, Net Gen students will be entering into a competitive marketplace, both when they enter graduate school and when they graduate into jobs. As the survey on graduate school cheating shows, the large number of students cheating may be related to the competitive nature of these programs and a "me

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94. Dyer, *supra* note 7, at 174 (emphasis added).

95. Daniel Owunwanne et al., *Students' Perceptions of Cheating and Plagiarism in Higher Institutions*, 7 J. C. TEACHING & LEARNING 59, 59 (2010). A 2002 study at Texas A&M University found similar results with 80% of their students admitting to cheating. *See* Twenge et al., *supra* note 12, at 27.

96. Owunwanne et al., *supra* note 95, at 60 (survey based on responses from 5331 students at thirty–two graduate schools).

97. Donald L. McCabe, *Cheating Among College and University Students: a North American Perspective*, 1 INT'L J. FOR EDUC. INTEGRITY 3, at 5 (2005). For undergraduates, the study found that it was one–quarter to one–half. *Id.* Some of these habits may also be a result of prior educational experience:

> As an elementary school principal told me last year, when the fifth–grade teachers assign a topic, the kids proceed like this: go to Google, type keywords, download three relevant sites, cut and paste passages into a new document, add transitions of their own, print it up, and turn it in. The model is information retrieval, not knowledge formation, and the material passes from Web to homework paper without lodging in the minds of students.

BAUERLEIN, *supra* note 1, at 94.

98. DAVID CALLAHAN, THE CHEATING CULTURE: WHY MORE AMERICANS ARE DOING WRONG TO GET AHEAD 20 (2004).

99. *Id.* at 20.

first" attitude prevalent in these programs.[100] Consequently, students are also cheating more in school because they view a successful education as the first step in acquiring the right kind of job.

Second, the rewards for cheating are huge,[101] students have grown up in a culture where they have witnessed CEOs who make bad decisions or engage in unethical behavior being protected by a golden parachute.[102] These big payoffs may be why 56% of MBA students feel justified cheating or, at least, are willing to take the risk, particularly after having work experience and viewing the "bottom line" as the best measure of success.[103]

And, even with respect to writing and plagiarism, modern American culture rewards those writers who lie. For instance, Jonah Lehrer, *The New Yorker* writer who was caught plagiarizing and fabricating Bob Dylan quotes in his book *Imagine: How Creativity Works*, recently received a lucrative book deal with Simon & Shuster to write about his plagiarism.[104] And Lehrer is hardly the first to reap financial rewards from plagiarism. Jayson Blair, a former writer for *The New York Times*, and Stephen Glass, a former writer for *The New Republic*, both received six–figure book deals after they had reported lies and plagiarized their articles.[105] It should not be unexpected, then, that Net Gens would balk at "doing your own work" when they have not seen the benefit of adhering to the rules of honesty and have even seen financial benefits for failing to do so.

Third, Callahan argues that people cheat because the temptation to do so has increased greatly and the safeguards against cheating have grown weaker or more lax.[106] For today's students, their access to technology has made it very easy for cheating to occur at universities and graduate schools because the information is quick

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100. Owunwanne et al., *supra* note 95, at 60.

101. CALLAHAN, *supra* note 98, at 60; *see also* Twenge et al., *supra* note 12, at 27 (noting Worldcom and Enron scandals show that lying to make money works). "Because GenMe grew up with this kind of ruthlessness, it should not surprise us that they think little of some occasional homework copying." *Id.*

102. *See* CALLAHAN, *supra* note 98, at 20–21. Financial rewards exist outside of the business community as well. For instance, Callahan points out that after being part of the attack on Nancy Kerrigan right before the Olympics, Tonya Harding received a $160,000 fine and 500 hours of community service. *Id.* at 257. But, within a year, she had received $600,000 for her confession on Inside Edition and was named one of *People*'s and E*squire*'s favorite people for the year. *Id.*

103. Owunwanne et al., *supra* note 95, at 62 ("Success in the workplace is achieved through adhering to the bottom line.").

104. Julie Bosman, *A Fallen New Yorker Writer Signs with Simon & Schuster,* N.Y. TIMES, June 6, 2013, http://www.nytimes.com/2013/06/07/business/media/after-his-fall-jonah-lehrer-shops-a-book-on-the-power-of-love.html.

105. CALLAHAN, *supra* note 98, at 256.

106. *Id.* at 21.

and easily accessible.[107] Additionally, as a result of information being widely available on the Internet in this free and shareable format, they have very different views from prior generations about what constitutes ownership and the boundaries of collaboration and, therefore, plagiarism.[108] For example, in a 2006 survey of 125 private higher education schools in New York, New Jersey, and Pennsylvania, out of the 90% of students that had admitted some sort of cheating, not one of them thought that digital cheating constituted an academic violation.[109] In essence, unlike most professors, these students do not view online cheating as an academic violation.[110]

Finally, Callahan theorizes that Americans have become a cheating culture because of "trickle–down corruption."[111] For Net Gens, it means that they will level the playing field any way they possibly can in order to get ahead, particularly when they see everyone around them cheating and reaping the rewards.[112] Many Net Gens will not throw out their own moral code in order to stay competitive, but that "means playing by our own rules rather than the prevailing rules, [and it] makes life harder in the process."[113] Former professional cyclist Jonathan Vaughters regretted doping because he "lived his dream" but "killed his soul;"[114] yet he still did it because he felt that it was the only way to remain competitive when he saw all the other cyclists doing it:

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107. Owunwamme et al., *supra* note 95, at 61–62; *see also* Dyer, *supra* note 7, at 169 (studies suggest that an increase in technology use relates to increased unauthorized and prohibited collaborations).

108. Dyer, *supra* note 7, at 173. "In a file–sharing, cut–and–paste world, the distinctions between creator, owner and consumer information are fading. The operative assumption is often that if something is digital, it is everyone's property . . . there is no distinction between the owner, the creator, and the user information." *Id.*

109. *See id.* at 170.

110. *Id.* And, in light of these difficulties, many schools have chosen not to enforce academic standards that deter cheating. More and more professors say that they do not get the support from their schools that they need to stop and curb this type of cheating because most academic cheating goes unpunished. *See* CALLAHAN, *supra* note 98, at 229. In 1999, a survey conducted at twenty–one colleges interviewed one thousand professors, and one–third of them stated that they knew their students were cheating, but they did nothing about it. *Id.* Professors cited the bureaucratic hassle of dealing with a cheating incident and, increasingly, fear that parents might sue them. *Id.*

111. CALLAHAN, *supra* note 98, at 23.

112. *Id.* at 23–24. "[I]n America, cheating has become an accepted way to get what you want and to get ahead, and if you don't do it, you're a chump." Dyer, *supra* note 7, at 177 (quoting Jennifer Salopek, *Cheaters & Chumps*, *in* AMERICAN SOCIETY OF ASSOCIATION EXECUTIVES (2004)).

113. CALLAHAN, *supra* note 98, at 26.

114. Jonathon Vaughters, *How to Get Doping Out of Sports*, N.Y. TIMES Aug. 11, 2012, http://www.nytimes.com/2012/08/12/opinion/sunday/how-to-get-doping-out-of-sports.html?pagewanted=all&_r=0.

> Then, just short of finally living your childhood dream, you are told, either straight out or implicitly, by some coaches, mentors, even the boss, that you aren't going to make it, unless you cheat. Unless you choose to dope . . . . I wasn't hellbent on cheating; I hated it, but I was ambitious, a trait we, as a society, generally admire. I had worked for more than half my life for one thing. But when you're ambitious in a world where rules aren't enforced, it's like fudging your income taxes in a world where the government doesn't audit. Think of what you would do if there were no Internal Revenue Service.[115]

Likewise, students might feel entitled to cheat because, if they do not do it, other students who did cheat will get the higher grades. Researchers call this the "cheating effect." In other words, the "knowledge that some students are cheating creates angst on the part of other students and may fuel their own cheating."[116]

Though the Millennials and the upcoming Net Gens have been heavily criticized for being a cheating culture, both in the media and anecdotally, they really are mimicking the current American environment in which they grew up. "Ethics is defined as an individual's personal beliefs about whether a behavior, action, or decision is right or wrong. Ethical behavior is defined as behavior that conforms to generally–accepted social norms."[117] So, Net Gen students will have essentially modeled their behavior on what has become acceptable American behavior during their youth: Wall Street executives walking away with a golden parachute,[118] iconic athletes doping,[119] and plagiarizers getting book deals.[120]

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115. *Id.* Though, as Callahan points out, many law abiding, upstanding citizens do cheat the IRS or steal cable. In Chicago alone, it is estimated that 100,000 houses steal cable service. CALLAHAN, *supra* note 98, at 189. Many might feel they deserve it given a single cable company's vice–like grip on the city. *See id.* at 190. Callahan lists out many other infractions of cheating for a variety reasons, including lying about credentials, diagnosing learning disabilities for cash for standardized admissions tests, and stealing music off the Internet. *Id.* at 8–12.

116. CALLAHAN, *supra* note 98, at 202. In defense of his brother, George O'Leary, who had a seven figure deal to coach Notre Dame football until the school discovered that he lied on his resume about having his masters, Tom O'Leary told Sports Illustrated: "Is anyone trying to tell me that resumes are truthful? In the America we live in, the willingness to lie on a resume is an indication of how much you want the job." *Id.* at 221 (quoting Gary Smith, *Lying in Wait*, SPORTS ILLUSTRATED, Apr. 8, 2002, at 70–82).

117. Owunwanne et al., *supra* note 95, at 61.

118. David M. Herszenhorn, *Congress approves $700 billion Wall Street bailout*, N.Y. TIMES (Oct. 3, 2008), http://www.nytimes.com/2008/10/03/business/worldbusiness/03iht-bailout.4.16679355.html?pag ewanted=all.

119. Associated Press, *Lance Armstrong: "Impossible" to win Tour de France without doping*, USA TODAY (June 28, 2013), http://www.usatoday.com/story/sports/cycling/2013/06/28/lance-armstrong-impossible-win-tour-de-france-doping/2471413/.

120. *See infra* notes 105–106 and accompanying text.

Moreover, beyond what they have seen occurring in American society, this cheating behavior may also be the natural consequences of the continual positive reinforcement this generation has received, whether or not they have genuinely accomplished something. Net Gens are growing up in an environment in which positive reinforcement has overridden the need for winners and losers. As a result, when Net Gens experience failure or rejection for the first time later in life, they turn to cheating. Carol Dweck, a psychology professor at Stanford, found that children that have been overpraised, when they have not actually accomplished anything, often emotionally crumble the first time that they experience failure.[121] Therefore, these children say that they would rather cheat than experience failure again.[122] Cheating then becomes a natural coping mechanism, used commonly by their peers as well, to avoid the harsh reality of failure. Because they have not yet been allowed to fail, they never developed a "psychological immunity" to the difficult emotions that come with not succeeding.[123]

As an example of this type of overabundant positive reinforcement, a youth soccer league in Washington, D.C., does not keep score so that none of the kids "feel bad" by losing a game.[124] All of the competition has virtually been wiped out in favor of higher self–esteem. As one coach explained:

> At the end of the season, the league finds a way to "honor each child" with a trophy. "They're kind of euphemistic," the coach said of the awards, "but they're effective." The Spirit Award went to "the troublemaker who always talks and doesn't pay attention, so we spun it into his being very 'spirited,'" he said. The Most Improved Player Award went to "the kid who has not an ounce of athleticism in his body, but he tries hard." The

121. Ashley Merryman, *Losing is Good for You*, N.Y. TIMES (Sept. 24, 2013), http://www.nytimes.com/2013/09/25/opinion/losing-is-good-for-you.html.

122. *Id.* Further, this type of continual praising, often creates lower self–esteem. Instead of acknowledging flaws and learning how to work around them or with them, children find it hard to measure up to the perfect and successful image that they have been given. Lori Gottleib, *How to Land Your Kid in Therapy*, ATLANTIC MONTHLY (June 7, 2011), http://www.theatlantic.com/magazine/archive/2011/07/how-to-land-your-kid-in-therapy/308555/. And, the parents' desire to eradicate competition amongst their children also eliminates part of the fun for children. Twenge et al., *supra* note 12, at 67. Some hypothesize that it may be part of the reason that many people of this generation are suffering from such high rates of depression. *See id.* at 117–18.

123. Dan Kindlon, a child psychologist and lecturer at Harvard, argues that children need to develop "psychological immunity" by experiencing difficult and painful emotions while growing up in his book *Too Much of a Good Thing*: *Raising Children of Character in an Indulgent Age*. Gottlieb, *supra* note 122.

124. *Id.*

> Coaches' Award went to "the kids who were picking daisies, and the only thing we could think to say about them is that they showed up on time. What would that be, the Most Prompt Award? That seemed lame. So we called it the Coaches' Award." There's also a Most Valuable Player Award, but the kid who deserved it three seasons in a row got it only after the first season, "because we wanted other kids to have a chance to get it." The coach acknowledged that everyone knew who the real MVP was. But, he said, "this is a more collaborative approach versus the way I grew up as a competitive athlete, which was a selfish, Me Generation orientation."[125]

This team's experiences are not isolated instances. One Maryland summer program gives awards every day and every hour to participants; in Southern California, a branch of the Youth Soccer Organization gives every player at least one award while at least a third of them receive two awards.[126] This type of positive reinforcement also adds to students' increasing sense of education as a consumer transaction because they have not had to earn grades and praise, but have instead been rewarded for their perceived effort.

C. Education as a Commodity

Consistent with their prior educational experiences and the modern culture of cheating, it is not surprising that Millennials and Net Gens are more likely to view their college education as a consumer transaction, instead of a means to intellectual growth or learning.[127] For their generation, college tuition has almost doubled since the

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125. *Id.*

126. Merryman, *supra* note 121. In fact, trophies and awards are now big business in the United States, an estimated $3 billion–a–year industry in North America. *Id.*

127. Lippman et al., *supra* note 88, at 198; *see also* BAUERLEIN, *supra* note 1, at 87 (noting that there is no longer room for self–reflection and thinking). Harvard's Office of Admissions posts an essay written by the Dean of Admissions and an adjunct faculty member in psychology on its Admissions home page encouraging students to take a year off before attending university and warning them about the fast track that they have been on in an effort to secure the right job. In part, the letter states:

> Of course, the quest for college admission is only one aspect of a much larger syndrome driving many students today. Stories about the latest twenty–something multimillionaires, the astronomical salaries for athletes and pop–music stars, and the often staggering compensation packages for CEOs only stimulate the frenzied search for the brass ring. More than ever, students (and their parents) seek to emulate those who win the "top prizes" and the accompanying disproportionate rewards.

William R. Fitzsimmons et al., *Time Out or Burn Out for the Next Generation*, HARV. C., http://www.admissions.college.harvard.edu/apply/time_off/index.html (last visited June 10, 2013).

mid–1970s,[128] so it is understandable that students want a measurable and positive outcome in relation to the money they are spending. However, this consumerism has altered students' perception of the classroom dynamic and how and why grades are earned.[129] Grades are seen more as part of an economic exchange for tuition, not as part of an earned education that requires learning how to synthesize complex information, reflect on their preconceived beliefs, and challenge their resulting analysis.[130]

Unfortunately, universities are compounding the problem when they treat students like consumers by touting new fitness centers, luxury student living, and gourmet food service in an effort to keep or boost their enrollments despite a decrease in federal funding.[131] "As a result, some students may see themselves as customers, their instructors as service providers, and good grades as something they deserve as a matter of course and as part of the exchange, not something to be earned through diligent and insightful work subjected to careful faculty review."[132] As tuition continues to rise and student loans are readily available, schools are giving students what they want in order to continue to generate necessary tuition dollars.[133]

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128. Lippman et al., *supra* note 88, at 199.

129. *Id.* at 198. Many professors have heard the argument from students that one dean reported: "[B]ecause I paid for it and I'm going to class, I deserve[] an A." BAUERLEIN, *supra* note 1, at 193.

130. *See id.* ("Education requires . . . a modicum of self–doubt, a capacity for self–criticism."). And, this view is not merely anecdotal, but part of a larger generational shift from the Boomers to the Millennials. ARTHUR LEVINE & DIANE R. DEAN, GENERATION ON A TIGHTROPE: A PORTRAIT OF TODAY'S COLLEGE STUDENT 39 (2012) (Table 2.1 shows a 21% decline since 1961 in undergraduates rating "formulat[ing] life values and goals for [their] life" as a reason for attending college).

131. Lippman et al., *supra* note 88, at 198–99. To "keep up with the Joneses," colleges across the country have spent up to $31 million to renovate dining options, including sushi stations and espresso machines, and celebrity chefs. "It's all part of the battle to attract ever more pampered students—and their money." Pooja Bhatia, *College Cafeteria Food Hits New Heights with Etouffee*, WALL ST. J., Nov. 8, 2002, http://online.wsj.com/news/articles/SB1036711327163385908.

132. Lippman et al., *supra* note 88, at 199. More professors are also showing cynicism and less job satisfaction because "students now see professors less as intellectual leaders who are to be respected and more as simply gatekeepers (even impediments) on the students' path to educational completion and the desired better job." *Id.* at 200. And, when students do not get the result they want, they act as they would in any other breach of contract or business situation: Many of them go to court. LEVINE & DEAN, *supra* note 130, at 92 (at least one of eight schools surveyed experienced grievances against faculty and staff members or were taken to court).

133. *See* Geoffrey L. Collier, *We Pretend to Teach, They Pretend to Learn*, WALL ST. J. (Dec. 26, 2013), http://online.wsj.com/news/articles/SB10001424052702303531204579204201833906182 (arguing that the students end up "holding the bag" in a consumerist education culture). In 2012, the average price for the fifty most expensive colleges was $186,000 for four years; private tuition at a four–year college averaged $140,000; and, public tuition for

Further, this consumerism culture has become even more prevalent as a result of anonymous faculty evaluations. "Although this policy gave students a needed voice in their own education, it also may have conveyed upon them a degree of power that has not been entirely positive."[134] Some of the professors who do not have job security, such as untenured or adjunct professors, have admitted that they have made a course easier to be liked by the students and to increase the ratings on their evaluations.[135]

As a result, many faculty members have spoken anecdotally about "students' increasing sense of entitlement—their attitude that good grades should not be too hard to come by and that teachers should give them a 'break,' often accompanied by what teachers see as disrespectful and unreasonable behavior."[136] This behavior includes demanding higher grades and expecting professors and teacher's assistants to do whatever is necessary to meet their unique needs.[137] Some of this behavior may be a coping mechanism when, for the first time, these students see that they are not receiving the grades they think they deserve because they are in a more rigorous academic environment and they are competing with a more selective pool of students.[138] But, this behavior also helps to explain the entitlement culture that has developed around grades and the turn to viewing a degree as something that is purchased in a business transaction, instead of understanding it as evidence of a completed learning experience.

For instance, in the following email, this student argued that she deserved an A, instead of the B+ she received, for doing the bare minimum of what a course required:

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four–year colleges averaged $72,000. Jon Meacham, *The Class of 2025*, TIME, Oct. 7, 2013, at 44. These costs are often higher than a single–family home, which averages $177,000. *Id.*

134. Ellen Greenberg et al., *Self–Entitled College Students: Contributions of Personality, Parenting, and Motivational Factors*, 37 J. YOUTH ADOLESCENCE 1194, 1202 (2008).

135. *Id.* Mark Collier, a psychology professor at South Carolina State University, states:

> It is well known that friendly, entertaining professors make for a pleasant classroom, good reviews and minimal complaints. Contrarily, faculty have no incentives to punish plagiarism and cheating, to flunk students or to write negative letters of reference, to assiduously markup illiterate prose in lieu of merely adding a grade and a few comments, or to enforce standards generally. Indeed, these acts are rarely rewarded but frequently punished, even litigated.

Collier, *supra* note 133.

136. Greenberg et al., *supra* note 134, at 1201. Part of this culture may also have resulted from email, which provides seemingly constant access to professors and which has given students the perspective that their professors should respond to them as quickly as their parents and peers. *Id.* at 1202. In addition, email "seems to have diminished status distinctions and the respectfulness of communications from students to teachers." *Id.*

137. *Id.* at 1194.

138. *Id.*; *see also supra* notes 122–127 and accompanying text.

> After getting my grade for your class a couple of days ago, I keep going over and over what exactly you expected out of your [sociology] students. I'm questioning who/what sets the standard for your class . . . . To me, if a student does/hands in all assignments, misses class no more than two times, participates during lecture, takes notes, attentively watches videos, and obviously observes/notes sociology in his/her life, it would make sense for that student to receive a respectable grade–an A. It seems like the work and time that I (and I'm assuming other students) put into this class didn't create the results that I (or you) wanted. Personally, I can't comprehend how my performance in your class equated to an 87 percent.[139]

This student's focus was on what she perceived to be her hard work and dedication as opposed to what her work actually showed. Unfortunately, for law school educators, if universities treat students as consumers and acquiesce to their desires as opposed to imposing the standard for excellence, then the Net Gens entering law school may likely exhibit similar expectations and be quite surprised to find that many law school's curves cannot accommodate all the As they believe they deserve.[140] In fact, Millennials have received more As compared to Boomer high school students in 1967, and twice as many high school students in 2010 graduated with A averages than prior generations—even though their testing scores have decreased or remained stable, and they report studying for fewer hours.[141]

This consumerism, however, is not entirely the students' fault because many Millennials and Net Gens are part of the "helicopter parent" generation.[142] These are the parents that hovered over their children like a helicopter protecting them from any possible

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139. Lippman et al., *supra* note 88, at 197.

140. Some of this attitude is most likely also compounded by the self–esteem movement. "The self–esteem movement . . . is popular because it is sweetly addictive: teachers don't have to criticize, kids don't have to be criticized, and everyone goes home feeling happy. The problem is they also go home ignorant and uneducated." Twenge et al., *supra* note 12, at 67. Millennials coming of age during this period have been told that they do not have to change any part of their understanding or understand something contrary to their viewpoint as long as they feel good about themselves. *Id.* at 67. In contrast, "Boomer children in the 1950s and 1960s gained self–esteem naturally from a stable, child–friendly society;" whereas, "[the Millennials'] self–esteem has been actively cultivated for its own sake." *Id.* at 55.

141. *Id.* at 66–67.

142. *See* LEVINE & DEAN, *supra* note 130, at 79. These parents have also been called lawnmower and snowplow parents because they "roll everything in their paths to 'defend' their cubs." *Id.*

harm.[143] They argued over their children's grades, chose their classes, and blamed the teacher for their children's poor performance.[144] For that reason, since 2001, a study of higher education schools shows that 90% of four year colleges show an increased frequency of parental involvement.[145] One vice–president from student affairs at a university described the phenomenon:

> We don't want our kids to suffer so we get involved. So they don't learn how to deal with disappointment and frustration . . . . So that when they come to college, when they're hurt, they don't know what to do with it because they have never had to walk through pain. We have a big population of students [who] haven't grown up with the coping skills, the problem–solving skills because of the parent involvement growing up.[146]

Some college deans actually now refer to these students as "'teacups" because they're so fragile that they break down anytime things don't go their way."[147] And, this type of "achievement anxiety"[148] further places the focus on grades instead of the learning process and the feeling of accomplishment that comes with learning.

The effect of this consumeristic attitude towards education affects law schools because many of the changes occurring at the undergraduate level indicate that Net Gens entering law school have discovered that they do not need to work as hard to get the higher grades in their classes when they, or most likely their parents, are

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143. *Id.*

144. Twenge et al., *supra* note 12, at 150, 153–54. In a *Time* magazine article, "[t]eachers described parents that specified that their children were not to be corrected or 'emotionally upset,' who argued incessantly about grades, and even one father who, after his daughter was reprimanded, challenged a teacher to a fist–fight." *Id.* at 154–55 (quoting Nancy Gibbs, *Parents Behaving*, TIME, Feb. 21, 2005). In one study, new teachers ranked dealing with parents to be the most challenging part of their job. *Id.*

145. LEVINE & DEAN, *supra* note 130, at 80 (Table 4.1). Some of the examples given by student affairs officers of parental involvement include a parent calling fifteen times a day because her son was having trouble getting wifi in his dorm room, a mother who wanted to spend the night in the dorms with her son for the first week, a parent who called facilities (instead of the student) when the student became stuck in an elevator, and parents moving students out of resident halls when the students were not present. *Id.* at 81–82.

146. *Id.* at 90; *see also* notes 122–127 and accompanying text.

147. Gottlieb, *supra* note 122.

148. Greenberg et al., *supra* note 134, at 1194*; see also* Gottlieb, *supra* note 122 (noting the high number of adult patients she has that are confused, unhappy, and anxious because of all that their parents did for them). This helicopter parenting may be why deans at universities have also reported that these students are "very needy" and that between 2001 and 2008 counseling services increased 90% at the four–year colleges surveyed. LEVINE & DEAN, *supra* note 130, at 89.

paying a high price for education.[149] And, as law school tuitions continue to rise and students are often taking out loans amounting to $100,000 or more[150] to attend law school, this sense of education as a commodity will likely become even more pronounced in graduate school.

D. Social Media Friends are the New Advisors

Lastly, Net Gens comprise the first generation to be truly insulated by their horizontal peer group, largely created online and through social networking sites. As a result of their horizontal modeling, when they do need to seek advice on an issue, this generation is more likely than any other to seek out the answers from an unreliable source—each other—because they have insulated themselves through their Internet connectivity. While Millennials are often called "digital natives" because they are the first generation to grow up with access to information through Google and to use social media from a young age, including Facebook, Twitter, and blogs,[151] Net Gens are really the "tethered generation" for their constant connectivity through phone apps, digital music, social media, and even school research. Researchers found that Millennials spend "[seventy–two] hours per week of connect time by phone and IM, seeking advice and input on the smallest decisions."[152] And, like Millennials, that means that young Net Gens are spending an average of ten hours a day online.[153]

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149. *Id.*

150. In 2012, the average private school tuition for law school was $40,585 and the average in–state tuition for public law schools was $23,590. Kaela Raedel Munster, *A Double–Edged Sword: Student Loan Debt Provides Access to A Law Degree but May Ultimately Deny A Bar License*, 40 J.C. & U.L. 285, 288 (2014) (noting that average student loan debt amounts to $100,000); *see also* Debra Cassens Weiss, *Average Annual Law School Loan Jumped 50 Percent Since 2001*, A.B.A. J., (May 6, 2011), http://www.abajournal.com/news/article/average_annual_law_school_loan_jumped_50_percent_since_2001.

151. Jean M. Twenge & Stacy M. Campbell, *Who Are the Millennials? Empirical Evidence for Generational Differences in Work Values, Attitudes, and Personality*, *in* MANAGING THE NEW WORK FORCE: INT'L PERSPECTIVES ON THE MILLENNIAL GENERATION 1, 3 (Eddy S. Ng et al., eds., 2012).

152. Dyer, *supra* note 7, at 172. Another study found that freshman undergraduate women spend twelve hours a day using social media, mainly texting, music, the Internet and social networking. *Texting, social networking and other media use linked to poor academic performance*, SCIENCE DAILY (Apr. 11, 2013), http://www.sciencedaily.com/releases/2013/04/130411131755.htm.

153. Dyer, *supra* note 7, at 172. Further, a 2011 study of Millennials in undergraduate programs showed that 38% of those surveyed said that they could not go ten minutes without checking their phone. *Digital Dependence of Today's College Students Revealed in New Study from CourseMart*, PR NEWSWIRE (June 1, 2011), http://www.reuters.com/article/2011/06/01/idUS141122+01-Jun-2011+PRN20110601.

Although social media is a very powerful tool that connects people from all over the world and opens information for anyone with access to an online connection,[154] most Net Gens are using these sites as a continual, nonstop connection to their peer group:[155]

> And so, apart from all the other consequences of digital breakthroughs, for the younger users a profound social effect has settled in. Teens and young adults now have more contact with one another than ever before. Cliques used to form in the school yard or on the bus, and when students came home they communicated with one another only through a land line restricted by their parents. Social life pretty much stopped at the front door. With the latest gadgets in their own rooms and in the libraries, however, peer–to–peer contact never ends.[156]

While every teenager and many young adults go through these phases, the Net Gens' situation is unique in that they are able to maintain endless contact through an established online peer group. Unlike prior generations, Net Gens do not have to worry about their parents monitoring phone usage as they own their own smartphones, they talk to friends in chat groups unknown and inaccessible to their parents or teachers, and they often have a wide reaching group of friends—online—that they may have personally never met.[157]

In essence, Net Gens have created a uniquely, solely peer focused horizontal group that continually reinforces their own sensibility and belief system. Undergraduate schools are already experiencing problems as a result of this online horizontal peer group. For example, university student affairs staffs have reported that these students cannot communicate face to face anymore, even within their peer group.[158] In fact, it is becoming common for them to hear about students living in a room together who do not talk, but, instead, text each other non–stop or students coming into the dean's

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154. *See*, *e.g.*, Rebecca J. Rosen, *So, Was Facebook Responsible For the Arab Spring After All?*, ATLANTIC MONTHLY, Sept. 3, 2011 (describing Facebook and Twitter's part in the Arab Spring revolution); Jennifer Preston, *Republicans Sharpening Online Tools for 2012*, N.Y. TIMES, Nov. 19, 2012 (discussing candidates' use of YouTube, Facebook, and Twitter in the 2012 election).

155. BAUERLEIN, *supra* note 1, at 134; *see also* Dyer, *supra* note 7, at 171 (noting that Millennials are "constantly connected to each other"). And, in fact, many Millennials and Net Gens may carry more than one device—such as smartphones, kindles, tablets, and laptops—to maintain this constant connection. *See id.* at 172.

156. BAUERLEIN, *supra* note 1, at 133–34.

157. *Id.*

158. LEVINE & DEAN, *supra* note 130, at 74.

office asking them to fix problems with a roommate when the student had never actually spoken to the roommate.[159]

Perhaps, more troubling, they post every aspect of their lives on social media for their peer groups because they feel a comfort level and connection with this online social peer group, without truly understanding the potential long–term ramifications of posting private information on a public forum. One researcher discovered that:

> [A] number of students interviewed were surprised when they or a friend were confronted by a potential employer with their Facebook profile, were rejected for a job, or were even fired from the job because of their Facebook content. The fact that an employer secured their profile was greeted as almost a magic trick.[160]

Because students are so insulated by their horizontal peer group, it had never occurred to them that someone from an older generation, part of what would have been their vertical group in the Boomer or Gen X generation, could just as easily access that information.

Although online peer communities may be large and expansive given their Internet reach, they are really very narrow in scope because a student who spends most of her days with her peer group could also be limiting herself only to the horizontal group that she creates through social media, while never getting the benefit of interacting with other viewpoints, ages, or experiences. Consequently, she will never know that posting those pictures from the party where she did her first keg stand may result in her not getting hired for a clerking position at a conservative law firm because she has no vertical peer group—no adults—and her horizontal peer group—her contemporaries—see no problem with it. As these studies show, real life education often happens when students engage in other activities and with people outside of their limited social group:[161]

> Maturity comes, in part, through vertical modeling, relations with older people such as teachers, employers, ministers, aunts and uncles, and older siblings, along with parents, who impart adult outlooks and interests . . . . The Web . . . , though, encourages more horizontal modeling, more raillery and mimicry of

159. *Id.*
160. *Id.* at 77.
161. BAUERLEIN, *supra* note 1, at 138.

> the people the same age, an intensification of peer consciousness.[162]

Most young people form strong peer groups; but, the difference for Net Gens, as compared to other generations, is the availability to be online anywhere at any time and their resulting tendency to use this technology for large parts of the day starting at a young age. Younger individuals are, both virtually and literally, able to isolate themselves in their peer group. The fact that many of them suffer from diphobe, which is the fear of being without a digital device that gives them immediate access to their friends and parents through texts, emails, and postings,[163] demonstrates how this younger generation's intense connections to their peers may be limiting them in their ability to navigate adulthood.

IV. CONCLUSION

Although a generation's personality cannot be scientifically pre–determined, Strauss and Howe's generational studies evidence that many traits can be predicted based on repeating cyclical generations. As is typical of prior adaptive generations, the Net Gens have been "overprotected"[164] and "suffocated"[165] by parents and society's efforts to limit the fear of failing in an "intensively protective, even suffocating style of nurture."[166] As predicted, Net Gens, in many ways, are "maturing into risk averse, conformist rising adults"[167] by the nature of entering adulthood later and relying on their horizontal peer groups for advice as opposed to experiencing the world outside of their self–created online groups.[168] Further, their experiences with a testing culture have only reinforced a lack of creative and abstract thought by not allowing them to experience academic failure or originality in writing.[169]

Net Gens, more than any other generation, are growing up in a place where reality is only a construction of perception:

> We have phony rich people (with interest only mortgages and piles of debt), phony athletes (with performance–enhancing drugs), phony celebrities (via reality TV and YouTube), phony

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162. *Id.* at 136.
163. LEVINE & DEAN, *supra* note 130, at 75.
164. *See supra* note 58 and accompanying text.
165. *Id.*; *see supra* note 57 and accompanying text.
166. *Id.*
167. *Id.*
168. *See supra* notes 153–164 and accompanying text.
169. *See supra* notes 68–90 and accompanying text.

> genius students (with grade inflation), a phony national economy (with $11 trillion of government debt), phony feelings of being special among children (with parenting and education focused on self–esteem), and phony friends (with social networking explosion). All this fantasy might feel good, but, unfortunately, reality always wins.[170]

These students will enter higher education having lived their youth surrounded by these misrepresentations, so the reality of the expectations that they must meet at law school could be shocking, overwhelming, and completely unexpected.

Yet, at the same time, Net Gen students have also shown positive traits, including the ability to be uniquely creative based on their ability to use and adapt the Internet, their sympathetic nature towards their classmates as a result of their horizontal peer groups, and their acceptance of differences. This makes them one of the most diverse generations thus far:

> As the first global generation ever, the Net Geners are smarter, quicker, and more tolerant of diversity than their predecessors. They care strongly about justice and the problems faced by their society and are typically engaged in some kind of civic activity at school, at work, or in their communities. Recently in the United States, hundreds of thousands of them have been inspired by Barack Obama's run for the presidency and have gotten involved in politics for the first time.[171]

And, as Strauss and Howe indicated, adaptive generations grow into a "sensitive" older generation[172] that may result in a very stable and upwardly mobile generation as seen in the last adaptive generation, the Silent Generation. As the legal community continues to consider its future and its identity, it should take note at the beneficial and civic strides that the last adaptive generation made. The Silent Generation had the century's highest per capita income per household increase of any other generation and they accounted for the "surge" of helping professionals in the 1960s, including teaching, medicine, ministry, government, and public interest advocacy groups.[173]

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170. W. KEITH CAMPBELL & JEAN M. TWENGE, THE NARCISSISM EPIDEMIC: LIVING IN THE AGE OF ENTITLEMENT 4 (2009).

171. DON TAPSCOTT, GROWN UP DIGITAL: HOW THE NET GENERATION IS CHANGING YOUR WORLD 6 (2009).

172. STRAUSS & HOWE, *supra* note 2, at 74.

173. *Id.* at 284–85.

Net Gens will approach the world quite differently than prior generations based upon their unique cultural experiences. Boomer and Gen X law professors should try to understand these differences so that they recognize why Net Gens may not know the expectation of academic integrity and inquiry that professors expect from students in law school. In reality, law professors have the unique opportunity to work with students in fully explaining what older generations will expect from them in the practice of law and to prepare them to meet those expectations and succeed as a lawyer.