

## Educational Background and Stratification in the Legal Academy: Invasion of the Body Snatchers . . . or More of the Same?

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Despite the ongoing debates about whether the rise of interdisciplinarity has strengthened law schools by broadening legal curricula and scholarship or reduced the autonomy of the law in the university by introducing alien ideologies and practices, there is little reliable or comprehensive evidence concerning where and when interdisciplinarity has entered the legal academy. To fill this gap, the authors use data-science methods to gather and analyze “big data” on the educational backgrounds and career histories of all faculty who held tenured and tenure-track positions in all accredited law schools in the United States in the 2011–2012 academic year. The analysis reveals a persistent increase in law school faculty with PhDs, but most of those are faculty with both PhDs and JDs. This suggests that, rather than replacing traditional law school culture and practices, the influx of PhD-trained faculty is more likely to be promoting a hybrid that involves taking only selected external elements and adapting them to fit traditional law school culture and practices. Rather than reducing the autonomy of the law, such hybridization yields more of (almost) the same culture and practices.

The analysis further reveals that although PhD-trained faculty are concentrated in the most prestigious law schools, the influx of PhD-trained faculty has trickled down the ranks to many less prestigious schools. This finding suggests that PhD credentials have become an important axis of competition in the law school market. Prospective law professors increasingly accumulate advanced degrees to compete for law school positions, and law schools increasingly hire candidates with multiple advanced degrees to compete in prestige and media rankings.

Finally, as the data disclose law professors’ gender, the authors compare the educational backgrounds of male and female law professors to reveal a hitherto ignored relationship between interdisciplinarity and gender stratification in the legal academy. Male law professors are far more likely than their female counterparts to hold PhDs, but male professors are also far more likely than their female counterparts to be employed by top-tier law schools when they do *not* hold PhDs. The gender gap in the stratification of law faculty across the law school

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prestige hierarchy indicates that even though the training of legal academics has changed, patterns of inequality in achievement have persisted.

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## I. INTRODUCTION

Since the 1960s, law schools have seen an influx of faculty with graduate training and research in fields outside of the law—primarily in the social sciences, statistics, and the humanities, but also in biology and medicine—which has brought “interdisciplinarity” into law schools, in the form of scholarship under the fill-in-the-blank banners of “law and [ ]” or “critical [ ] studies.”<sup>1</sup> We believe that, as their names suggest, these lines of inquiry either seek to extend traditional legal scholarship with complementary insights from external disciplines, or else seek to question (if not overturn) traditional legal scholarship based on such insights. The rise of interdisciplinarity has been discussed in depth, with some scholars arguing that the rise of interdisciplinarity has strengthened the legal academy by broadening legal curricula and legal scholarship beyond traditional disciplinary law, and others averring that the rise of interdisciplinarity has reduced

<sup>1</sup> See, e.g., Robert J. Borthwick & Jordan R. Schau, *Gatekeepers of the Profession: An Empirical Profile of the Nation's Law Professors*, 25 U. MICH. J.L. REFORM 191, 194, 213 (1991) (finding that in the 1988–1989 academic year, 5% of tenure-track faculty in all U.S. law schools had PhDs outside the law); Richard E. Redding, “Where Did You Go to Law School?” *Gatekeeping for the Professoriate and Its Implications for Legal Education*, 53 J. LEGAL EDUC. 594, 599 (2003) (discussing that between 1996 and 2000, 10% of newly hired law professors had PhDs).

the autonomy of law in the university by introducing “alien” ideologies and practices.<sup>2</sup>

Despite this debate, there is little reliable or comprehensive evidence concerning where and when interdisciplinarity has entered the legal academy. Specifically, where and when scholars with training outside the legal academy have appeared are questions inadequately answered by previous research. Most published studies are dated, providing little information about what has happened since the turn of the twenty-first century.<sup>3</sup> Published studies with recent information focus mostly on the most prestigious law schools<sup>4</sup> or, if they cover all law schools, evaluate only new hires.<sup>5</sup> The lack of recent information about the full range of faculty at the vast majority of law schools that are outside the top ranks limits the conclusions we can draw about the rise of interdisciplinarity in the American legal academy.

To fill this gap in our knowledge, we use data-science methods to gather and analyze “big data” on the educational backgrounds of all faculty who held tenured and tenure-track positions in all accredited law schools in the United States in the 2011–2012 academic year.<sup>6</sup> These data are richly detailed and comprehensive,

<sup>2</sup> See, e.g., Richard A. Posner, *The Present Situation in Legal Scholarship*, 90 YALE L.J. 1113 (1981); Richard A. Posner, *The Decline of Law as an Autonomous Discipline: 1962–1987*, 100 HARV. L. REV. 761 (1987); Jane B. Baron, *Interdisciplinary Scholarship as Guilty Pleasure: The Case of Law and Literature*, in LAW & LITERATURE 21 (Michael Freeman & Andrew D.E. Lewis eds., 1999); David E. VanZandt, *Discipline-Based Faculty*, 53 J. LEGAL EDUC. 332 (2003); Stephen M. Feldman, *The Transformation of an Academic Discipline: Law Professors in the Past and Future (or Toy Story Too)*, 54 J. LEGAL EDUC. 471 (2004); Jack M. Balkin & Sanford Levinson, *Law and the Humanities: An Uneasy Relationship*, 18 YALE J.L. & HUMAN. 155 (2006); David A. Hollander, *Interdisciplinary Legal Scholarship: What Can We Learn from Princeton's Long-Standing Tradition?*, 99 LAW LIBR. J. 771 (2007); Tom Ginsburg & Thomas J. Miles, *Empiricism and the Rising Incidence of Coauthorship in Law*, 2011 U. ILL. L. REV. 1785, 1795 (2011); Olufunmilayo B. Arewa et al., *Enduring Hierarchies in American Legal Education*, 89 IND. L.J. 941, 965 (2014).

<sup>3</sup> Borthwick & Schau, *supra* note 1, at 194 (studying the 1988–1989 academic year); Deborah Jones Merritt & Barbara F. Reskin, *Sex, Race, and Credentials: The Truth About Affirmative Action in Law Faculty Hiring*, 97 COLUM. L. REV. 199, 210 (1997) (studying the 1990–1991 academic year); Redding, *supra* note 1, at 599 (studying the years 1996 to 2000).

<sup>4</sup> E.g., Joni Hersch & W. Kip Viscusi, *Law and Economics as a Pillar of Legal Education*, 8 REV. L. & ECON. 487, 488–89 (2012) (finding that in the 2010–2011 academic year, 27% of tenured and tenure-track faculty in the twenty-six law schools ranked highest by the *U.S. News & World Report* had PhDs outside the law); Lynn M. LoPucki, *Dawn of the Discipline-Based Law Faculty*, 65 J. LEGAL EDUC. 506, 511 (finding that 24% of a random sample of 218 professors in 2009–2010 holding tenure-track positions at the twenty-six law schools ranked highest by the *U.S. News & World Report* had PhDs); Justin McCrary et al., *The PhD Rises in American Law Schools 1960–2011: What Does It Mean for Legal Education?*, 65 J. LEGAL EDUC. 543, 553 (2016) (stating that in 2011, 28% of tenure-track professors in the thirty-four law schools ranked highest by the *U.S. News & World Report* had PhDs).

<sup>5</sup> LoPucki, *supra* note 4, at 506 (finding that 21% of tenure-track hires by all American law schools from 2011–2015 had PhDs).

<sup>6</sup> Data science is an interdisciplinary field that uses theories and automated techniques from mathematics, statistics, information science, computer science, and linguistics to gather, process, manage, analyze, and display richly detailed datasets and communicate findings from analyzing them. These datasets are often quite large (1,000 gigabytes or more), so the term “big data” is commonly



covering all law professors' full career histories and gender. This information allows us to chart temporal trends in interdisciplinarity and compare the educational backgrounds of male and female law professors to reveal a hitherto ignored relationship between interdisciplinarity and gender stratification in the legal academy.

Our analysis reveals a persistent increase in law school faculty with PhDs, but most of those are faculty with both PhDs and JDs. This suggests that law schools have *not* been invaded by PhD-toting "pod people" importing alien values and practices from the arts and sciences.<sup>7</sup> Rather than reducing the autonomy of the law, the influx of PhD-trained faculty is more likely to be promoting an academic culture and practice that are a hybrid of traditional legal studies and the arts and sciences. This involves taking only selected external elements and adapting them to fit traditional law school culture and practices, rather than adopting them to replace traditional law school culture and practices. Such hybridization yields more of (almost) the same culture and practices.

Our analysis also reveals that although PhD-trained faculty are concentrated in the most prestigious law schools, this influx has trickled down the ranks to many less prestigious schools. This suggests that PhD credentials have become an important axis of competition in the law school market. Prospective law professors increasingly accumulate advanced degrees to compete for law school positions, and law schools increasingly hire candidates with multiple advanced degrees to compete in prestige and media rankings.<sup>8</sup>

Finally, our analysis shows that male law professors are far more likely than their female counterparts to hold PhDs, but male professors are also far more likely than their female counterparts to be employed by top-tier law schools when they do *not* hold PhDs. These findings are consistent with other research on

used to describe them, although there is no clear boundary between "big" and "small" data. Data-science methods are making inroads into the social sciences and the humanities, as well as interdisciplinary legal scholarship. See generally, e.g., Kevin Lewis et al., *Tastes, Ties, and Times: A New Social Network Dataset Using Facebook.com*, 30 SOC. NETWORKS 330 (2008); Franco Moretti & Dominique Pestre, *Bankspeak: The Language of World Bank Reports*, 92 NEW LEFT REV. 75 (2015); Lee Epstein et al., *Ideological Drift Among Supreme Court Justices: Who, When, and How Important?*, 101 NW. U. L. REV. 1483 (2007).

<sup>7</sup> INVASION OF THE BODY SNATCHERS (Walter Wanger Productions 1956) (coining the term "pod people").

<sup>8</sup> Because surveys of academic reputation, like LSAT scores and post-graduation outcomes, are a key component of the influential *U.S. News & World Report* law school rankings, law schools may be competing for faculty with PhDs much like they compete for students with high LSAT scores and for strong relationships with the law firms who hire those students. See generally William D. Henderson & Andrew P. Morriss, *Student Quality as Measured by LSAT Scores: Migration Patterns in the U.S. News Rankings Era*, 81 IND. L.J. 163 (2006) (discussing how rankings competition forces law schools across all tiers to compete for students with high LSAT scores); Andrew P. Morriss & William D. Henderson, *Measuring Outcomes: Post-Graduation Measures of Success in the U.S. News & World Report Law School Rankings*, 83 IND. L.J. 791 (2008) (showing law schools seek to maximize each post-graduation placement to compete in rankings).

gender and employment in academia.<sup>9</sup> This includes research that finds that when evaluating job candidates, universities do not give female professors equal credit for equal credentials.<sup>10</sup> The gender stratification of law faculty across the law school prestige hierarchy indicates that even though the training of legal academics has changed, patterns of inequality in achievement have persisted.

In Part I of this Article, we explain our methods and why we focus our study on tenured and tenure-track professors. In Part II, we present our empirical findings. We identify temporal trends in the educational backgrounds of law professors overall, as well as trends in law professors' educational backgrounds by law school prestige and law professor gender. In Part III, we discuss the importance of these findings for ongoing debates about interdisciplinarity and the autonomy of law, as well as inequality in the legal academy.

## II. METHODOLOGY

We study tenure-track professors in American law schools because they influence the professional training of the next generation of lawyers, the development of legal doctrine, and the public understanding of the law and its consequences.<sup>11</sup> Law professors "are instrumental in shaping careers of the U.S.'s most powerful individuals" and "are the incubators of ideas affecting law and society."<sup>12</sup> Therefore, studying law professors offers insights into the trajectory of law schools in particular and the legal profession in general.

Law professors stand at the intersection of the law school and the rest of the university. As our analysis shows, some law professors have credentials that match those of practicing lawyers (JDs), others have credentials that match those of academics in other fields (PhDs), while still others have "hybrid" credentials that combine those of practicing lawyers with those of academics in other fields (joint JD-PhD degrees or JDs and PhDs earned separately).<sup>13</sup> Some observers have argued that the increasing number of law professors with PhDs (with or

<sup>9</sup> See generally, e.g., Donna K. Ginther & Shulamit Kahn, *Women in Economics: Moving Up or Falling Off the Academic Ladder*, 18 J. ECON. PERSP. 193 (2004); Stephen Ceci et al., *Women in Academic Science: A Changing Landscape*, 15 PSYCHOL. SCI. PUB. INT. 75 (2014) (discussing that while the gender gap among doctoral degree recipients has been shrinking for decades, and in some disciplines reversing in recent years, particularly in non-STEM fields, women continue to be significantly underrepresented among professors in virtually all fields, especially among tenured faculty).

<sup>10</sup> Heather Sarsons, *Recognition for Group Work: Gender Differences in Academia*, 107 AM. ECON. REV., May 2017, at 141 (finding that female economists receive less credit than male economists for coauthored publications when being considered for promotion to tenure, especially for publications that include both a male and a female author; this finding is not explained by any first author preference because in economics, authors are listed alphabetically).

<sup>11</sup> Bruce D. Fisher & Paul Bowen, *The Law School Compensation Systems at Three Top Quartile State Law Schools: Factors Correlating with Law Professors' Salaries and Suggestions*, 19 N. ILL. U. L. REV. 671, 675-78 (1999).

<sup>12</sup> *Id.*

<sup>13</sup> See ASS'N OF AM. LAW SCH., THE AALS DIRECTORY OF LAW TEACHERS, 2011-2012 291-1441 (2011) [hereinafter DLT].

without JDs) fundamentally alters the relationship between law schools and other parts of universities by eroding the autonomy of law, making the law more susceptible to influence from other disciplines.<sup>14</sup> But sociological research on academic training and institutional logics suggests that law schools are not likely to import “alien” cultures and practices of the arts and sciences in a wholesale fashion; instead, they develop hybrid systems by selectively combining elements of the disciplinary logic of the arts and sciences and adapting them to the doctrinal legal logic of the law school system.<sup>15</sup>

We analyzed trends in professors’ educational backgrounds to find out the extent to which law’s autonomy has been eroded by the rise of interdisciplinarity, where this erosion is most pronounced, and interdisciplinarity’s impact on gender stratification in legal academics. To assess trends in law professors’ academic backgrounds, we used data-science methods to compile richly detailed and comprehensive data covering law professors’ educational histories, personal attributes, and careers. These data cover all accredited law schools in the United States, so they will allow us to describe the entire field of legal education and scholarship and to trace temporal patterns in the rise of faculty who received graduate training outside the legal academy.

#### A. Data Sources

Our study population is all tenure-track law professors who worked in fully accredited American law schools in the 2011–2012 academic year.<sup>16</sup> To identify members of our research population, we turned to the 2011–2012 *Directory of Law Teachers (DLT)*.<sup>17</sup> The *DLT*, published by the American Association of Law

<sup>14</sup> See generally PIERRE BOURDIEU, *HOMO ACADEMICUS* 151 (1988) (analyzing conflicts in French academics between those who have social power (administrators) and those who have expert power (researchers), as well as between old, established disciplines, such as history and philosophy, and newer, less legitimate disciplines, such as psychology and sociology). *Contra* sources cited *supra* note 2.

<sup>15</sup> See generally, e.g., ELEANOR D. WESTNEY, *IMITATION AND INNOVATION: THE TRANSFER OF WESTERN ORGANIZATIONAL PATTERNS TO MEIJI JAPAN* (1987); DOUGLAS GUTHRIE, *DRAGON IN A THREE-PIECE SUIT: THE EMERGENCE OF CAPITALISM IN CHINA* (1999); Amy Binder, *For Love and Money: Organizations’ Creative Responses to Multiple Environmental Logics*, 36 *THEORY AND SOC’Y* 547 (2007); Elizabeth Popp Berman, *Explaining the Move Toward the Market in US Academic Science: How Institutional Logics Can Change Without Institutional Entrepreneurs*, 41 *THEORY & SOC’Y* 261, 267–68, 292 (2012) (discussing that new or external models of organization are not adopted wholesale, but rather selectively, and they are combined with models of organization already in place to create hybrid systems).

<sup>16</sup> There were 191 fully accredited law schools included in our analysis. See *DLT*, *supra* note 13, at 291–1441. We excluded four from analysis: the Judge Advocate General’s School of the U.S. Army, which draws faculty exclusively from among military officers, and three Puerto Rican schools: University of Puerto Rico, Inter American, and Pontifical Catholic University. The applicant pool for faculty positions in these four schools is very different from the applicant pool for other accredited law schools. *Id.*

<sup>17</sup> There were 11,334 individuals listed in the *DLT* that academic year, of whom 11,071 worked at the 191 fully accredited schools we analyzed. *Id.*

Schools (AALS), contains biographical information about every law professor at every fully accredited law school.<sup>18</sup>

The *DLT* is the primary source for most variables. Since 1922, the AALS has been publishing an annual directory containing biographical sketches of full-time faculty and professional staff working at all member and fee-paid law schools in the United States.<sup>19</sup> According to the AALS, the *DLT* is “the most widely used ‘desk-book’ of deans and law teachers,” and the association will continue to publish the directory yearly for the foreseeable future.<sup>20</sup> It has been used to map the demography and educational backgrounds of law professors in several studies.<sup>21</sup> We used the *DLT* for the 2011–2012 academic year, the most recent available online in machine-readable form.

The *DLT* includes each individual law professor’s name, current position, and current school, as well as a biographical sketch provided by each individual, which usually contains the individual’s birth date, gender, education, professional work history, markers of distinction (e.g., Phi Beta Kappa, Order of the Coif), subjects taught, and memberships in professional and academic associations. In cases where an individual did not provide complete information on his or her educational background in the *DLT*, we obtained the missing information from the pertinent law school’s website or from additional web searches.

#### B. Preparing the Data for Analysis

We downloaded the *DLT* as a raw text file in ASCII format<sup>22</sup> from HeinOnline. The *DLT* is a rich source of historical and current biographical information on law professors and can be a rich source of data for scholars interested in law professors and their career trajectories. But the semi-structured format of the *DLT* (many terms, such as abbreviations for job titles and for names of educational institutions, vary across law professors) makes it difficult to extract data in a format usable for researchers. The length of one year of the *DLT* alone (in 2011–2012, there were over 11,000 individual records on law professors) makes hand coding an improbable method for extracting comprehensive data

<sup>18</sup> See *Frequently Asked Questions About the Directory of Law Teachers*, ASS’N OF AM. LAW SCH., <http://www.aals.org/about/publications/directory-law-teachers/> (last visited Apr. 6, 2018).

<sup>19</sup> See *Publications*, ASS’N OF AM. LAW SCH., <http://www.aals.org/about/publications/> (last visited Apr. 6, 2018).

<sup>20</sup> *Id.*

<sup>21</sup> See, e.g., Donna Fossum, *Law Professors: A Profile of the Teaching Branch of the Legal Profession*, 1980 AM. B. FOUND. RES. J. 501, 528–38 (1980) (using data for the 1975–1976 academic year); Borthwick & Schau, *supra* note 1, at 194 (using data for the 1988–1989 academic year); Merritt & Reskin, *supra* note 3, at 210 (using data for the 1990–1991 academic year); Redding, *supra* note 1, at 599 (using data for the 2000–2001 academic year).

<sup>22</sup> ASCII stands for American Standard Code for Information Interchange. Because computers can only understand numbers, to analyze character data (e.g., letters such as a or b, or characters such as @ or &), characters must be translated to a special machine-readable code. ASCII is the most commonly used code of this sort. See CHARLES E. MACKENZIE, *CODED CHARACTER SETS: HISTORY AND DEVELOPMENT* (1980).



from the text and reconciling differences across professors in how information is recorded. That is why previous research using this data source either focused on a small number of law schools in the top tier<sup>23</sup> or relied on teams of research assistants to code the data by hand, a process that can take several years even when the analysis is limited to new hires.<sup>24</sup> To transform all of the *DLT*'s raw text strings into a form that could be read by computer programs, and then turn these strings into variables that could be used for statistical analysis, we used Python, a flexible computer language that can handle large quantities of textual data and that is often used in data science.<sup>25</sup>

Our Python scripts automatically extracted usable data from the *DLT*'s raw text and created a cross-sectional dataset containing one observation per law professor covering demographic information, educational background, employing law school, title held, courses taught, marks of distinction, consultantships, memberships in professional or academic societies, published books, awards, and an identification number unique to each professor. Because this process is entirely automated, when subsequent years of the *DLT* become available on HeinOnline,<sup>26</sup> these scripts could be easily used to extract data from and create a longitudinal dataset (containing one observation per law professor per year) or new cross-sectional datasets. Moreover, this process can flexibly recode information, such as abbreviations for job titles and names of educational institutions, to create variables that can be reliably compared among professors at any point in time and over time.

After processing, the file had scattered misspelled or missing information. We cleaned the data by reviewing and, where appropriate, correcting each observation that contained any incongruent or clearly mistaken value for any variable (e.g., where the value for gender was "Northwestern"). With the help of a research assistant, we also reviewed and manually corrected observations that contained missing values for educational background variables. The first reviews and corrections were done by looking up the relevant professor's biographical sketch in the raw *DLT* text file. For individuals who did not provide complete educational background information in the *DLT*, we obtained the missing information from their curricula vitae or resumes posted on their current law schools' websites or, as a last resort, on their personal websites or vocational social media websites, such as LinkedIn. The resulting dataset can be easily imported into various statistical programs (e.g., Excel, Stata, SAS) or programming languages (e.g., R, Python). The dataset can be used on its own or merged with other data, such as law school rankings, for a variety of analyses.

<sup>23</sup> E.g., Hersch & Viscusi, *supra* note 4 (analyzing the twenty-six law schools ranked highest by the *U.S. News & World Report*); McCrary et al., *supra* note 4 (analyzing the thirty-four law schools ranked highest by the *U.S. News & World Report*).

<sup>24</sup> E.g., Merritt & Reskin, *supra* note 3, at 199 n.\* ("Over the years, many research assistants contributed to the database analyzed in this Article.")

<sup>25</sup> JAKE VANDERPLAS, PYTHON DATA SCIENCE HANDBOOK (2016).

<sup>26</sup> HEINONLINE, <https://home.heinonline.org> (last visited Apr. 6, 2018).

### C. Population

To ensure that our study population included only tenure-track law professors, we used titles listed in the *DLT*.<sup>27</sup> While this data source does not identify tenure-track status directly, several scholars have explained "that the titles 'assistant professor,' 'associate professor,' and 'professor' usually denote tenure-track . . . status."<sup>28</sup> We limited our study to law professors with those titles.

We refined our focus by excluding two groups of professors: (1) those who taught exclusively legal research and writing courses or clinical, trial, or appellate advocacy courses, and (2) those who held law library appointments. Most faculty in the excluded groups lack tenure-track status; even when faculty in the excluded groups do have that status, their credentials tend to differ greatly from those of other faculty, and they tend to be drawn from a different hiring pool.<sup>29</sup> For the same reasons, we also excluded visiting professors and faculty who hold deanships, such as deans, vice deans, assistant deans, or associate deans. The former positions are temporary—either equivalent to short-term post-doctoral fellowships in arts and sciences departments or held by faculty visiting for short periods from another institution where they have permanent appointments—while the latter involve responsibilities and selection criteria that are very different from those involved in selecting tenured and tenure-track law school faculty.<sup>30</sup> After making these exclusions, the final study population includes 6,710 law professors. We analyzed the entire study population.

### D. Measures: Law Professors

We created a series of six dichotomous indicators for type of degree held. The series captured whether or not the focal law professor held: (1) a bachelor's degree (BA, AB, BSE, etc.); (2) a Juris Doctor degree or the equivalent (JD or LLB); (3) a bachelor or master of law degree (BCL, LL.M., or MJur); (4) a doctor of the science of law degree (JSD, SJD, LLD, JCD, DCL, or MSBL); (5) a non-professional master's degree (MA, MS, MPhil, MSL, MJ, JSM, etc.) or a professional (non-law) master's degree or doctorate (MBA, MD, MEng, MPP, etc.); and (6) a non-professional doctorate (PhD, DLS, or DPhil). Each dichotomous indicator was set to one if the focal law professor had the focal degree and was set to zero otherwise. We also coded the year each type of degree was earned. When a law professor had more than one degree within a category (e.g., two non-professional master's degrees), we used the most recent year.

After examining the data to assess the distribution of educational backgrounds across these categories, we created an additional series of

<sup>27</sup> See *DLT*, *supra* note 13.

<sup>28</sup> Merritt & Reskin, *supra* note 3, at 209; see, e.g., Fossum, *supra* note 21, at 503-04; Elyce H. Zenoff & Jerome A. Barron, *So You Want to Be a Law Professor?*, 12 J.L. & EDUC. 379, 397 (1983).

<sup>29</sup> See Elyce H. Zenoff & Kathryn V. Lorio, *What We Know, What We Think We Know, and What We Don't Know About Women Law Professors*, 25 ARIZ. L. REV. 869, 871-72 (1984).

<sup>30</sup> Hersch & Viscusi, *supra* note 4, at 488-89 (excluding visiting faculty and those with dean titles).

dichotomous indicators to capture each law professor's educational background: (1) less than bachelor's degree; (2) bachelor's degree but no advanced degree; (3) bachelor's plus non-law master's degree; (4) bachelor's plus law degree (either JD or LLB, including any advanced law degree such as SJD or JSD); (5) bachelor's plus law degree plus non-law master's degree; (6) bachelor's plus law degree plus PhD (including non-law master's degrees); and (7) bachelor's plus PhD but no law degree (including non-law master's degree).<sup>31</sup> We also assessed the incidence of joint JD-PhD training, with a dichotomous indicator variable if the professor's PhD conferral year was within two years of his or her JD, LLB, LLM, or JSD conferral. For example, the variable indicating bachelor's plus law degree was set to one only if *both* the bachelor's indicator *and* the law degree indicator equaled one.

We determined the gender of each law professor from the professor's self-designation in the *DLT*. Professors are offered the opportunity to designate their gender but not required to do so. Almost half of the professors in our study population (3,042/6,710) did not list their gender.<sup>32</sup> For professors who did not designate their gender, we relied on their first names. To map first names onto gender, we used data from the Social Security Administration on the frequency with which first names are given to men and women in the United States. Specifically, we used the "National Data on the relative frequency of given names in the population of U.S. births where the individual has a Social Security Number" for the year 1953, because it was the mean and median birth year in the study population.<sup>33</sup> A small number of common names conferred that year (those given to 1,000 or more babies, such as Robert and Mary) accounted for the vast majority of births, while a large number of rare names (those given to 250 or fewer babies, such as Aileen and Rory) accounted for a small fraction of births.<sup>34</sup>

We used two thresholds to automatically code names as male or female. Names that were frequently (1,000 times or more) given to one gender *and* rarely or never (250 times or fewer) given to the other gender were coded as denoting the more frequent gender. All other names—(i) those given 1,000 times or more to one gender *and* more than 250 times to the other; (ii) those given fewer than 1,000 times to one gender *and* more than 250 times to the other; and (iii) those given fewer than 1,000 times to one gender *and* 250 times or fewer to the other—were coded as ambiguous. By applying these classification rules to the 1953 names data, we were able to automatically code gender for 2,583 of the 3,042 law professors who did not list their gender. We then looked up the remaining 459 law

<sup>31</sup> Non-law master's degrees include master's degrees conferred by law schools to non-lawyers (for example, a Master of Studies in Law). See *M.S.L. Program*, YALE LAW SCH., <https://law.yale.edu/studying-law-yale/degree-programs/graduate-programs/msl-program> (last visited Apr. 6, 2018).

<sup>32</sup> See *DLT*, *supra* note 13.

<sup>33</sup> *Popular Baby Names*, SOC. SEC. ADMIN., <http://www.ssa.gov/oact/babynames/limits.html> (follow "National data" hyperlink) (last visited Apr. 6, 2018).

<sup>34</sup> *Id.*

professors' biographies on their current law school and personal websites and designated gender based on the pronouns used in the biographies. Using this method, we were able to code gender for all but six professors in the dataset. We dropped these six professors from analyses of gender but kept them in all other analyses.

#### E. Measures: Educational Institutions

We identified the law school that conferred each professor's law degree and analyzed it against several measures of law school prestige. To begin, we used data from the *U.S. News & World Report (USNWR)* rankings of law schools to create a subjective ordinal measure of law school prestige. These rankings are controversial, having been attacked by observers on multiple grounds.<sup>35</sup> Nevertheless, they dominate the field and have strong effects on law school administrators, prospective students, and recruiters.<sup>36</sup> We also created a measure of law school prestige that divides law schools into six hierarchical categories: (1) the fourteen top-ranked law schools, according to *USNWR*; (2) the schools ranked 15 to 25; (3) the schools ranked 26 to 50; (4) the schools ranked 51 to 100; (5) the schools ranked 101 to 150; and (6) the schools ranked 151 to 191. This variable allows us to assess qualitative differences between law schools that are in different prestige categories.

Next, we used two other measures—one subjective and one objective. The subjective measure was based on the reputational component of the *USNWR* ranking ("the peer score").<sup>37</sup> This is measured on a one to five scale, with one indicating "marginal" and five indicating "outstanding." For the objective measure, we used data from *USNWR* and the *ABA-LSAC Official Guides to Law*

<sup>35</sup> E.g., Nancy B. Rapoport, *Ratings, Not Rankings: Why U.S. News & World Report Shouldn't Want to Be Compared to Time and Newsweek—or The New Yorker*, 60 OHIO ST. L.J. 1097, 1098–100 (1999) (discussing that "objective" inputs to the rankings, such as LSAT scores, are not "good indicator[s] of quality" because they don't capture faculty teaching and research quality or school support for students); Richard A. Posner, *Law School Rankings*, 81 IND. L.J. 13 (2006) (arguing the weights assigned to the components of these rankings are arbitrary); Jeffrey Evans Stake, *The Interplay Between Law School Rankings, Reputations, and Resource Allocation: Ways Rankings Mislead*, 81 IND. L.J. 229, 237–44 (2006) (discussing how rankings push schools to over-attend to highly weighted components and to tweak aspects of the admissions process in ways that do not improve education quality).

<sup>36</sup> See generally Michael Sauder & Ryon Lancaster, *Do Rankings Matter? The Effects of U.S. News & World Report Rankings on the Admissions Process of Law Schools*, 40 LAW & SOC'Y REV. 105 (2006); Wendy Nelson Espeland & Michael Sauder, *Rankings and Reactivity: How Public Measures Recreate Social Worlds*, 113 AM. J. SOC. 1 (2007); Michael Sauder, *Interlopers and Field Change: The Entry of U.S. News into the Field of Legal Education*, 53 ADMIN. SCI. Q. 209 (2008); Michael Sauder & Wendy Nelson Espeland, *The Discipline of Rankings: Tight Coupling and Organizational Change*, 74 AM. SOC. REV. 63, 68 (2009) (discussing the substantial effects law school rankings have on the decisions of student applicants, admissions committees, and law firms that hire law graduates; in response, law schools use resources to increase their ranking).

<sup>37</sup> The *USNWR* "peer score" is the only available quantitative measure that purports to reflect reputation among law school peers. Published scholarship has used it for this purpose in the past, showing it has over time become widely accepted and adopted even by law school faculty. See Sauder, *supra* note 36, at 224–28.



Schools to determine the median LSAT scores for each school's entering class in the fall of 2011. This is measured on a scale of 120 to 180.<sup>38</sup> Median LSAT scores and reputation scores were highly correlated (the correlation was 0.95).<sup>39</sup>

#### F. Methods of Analysis

We conducted cross-tabular analyses,<sup>40</sup> counting the number of law professors in each set of categories: law professor educational background, law professor cohort (based on year of highest degree), law school prestige, and law professor gender. We tested the statistical significance of reported associations<sup>41</sup> using the chi-squared test or, where cell counts were small, the Fisher's exact test. To assess the statistical significance of associations between different measures of law school prestige, as well as to assess associations between law school prestige, on the one hand, and law professor educational background, on the other, we used the Spearman rank-order correlation.

### III. RESULTS

We begin this section by showing patterns of law professors' educational backgrounds. Then, we reveal relationships between law professors' educational backgrounds and law school prestige. After that, we examine relationships among law professors' gender, law professors' educational backgrounds, and law school prestige.

#### A. Law Professors' Educational Background

In our study population, there were 6,710 law professors in the 2011–2012 academic year.<sup>42</sup> Table 1 shows the percentage of law professors with various advanced degrees.<sup>43</sup> The overwhelming majority held JDs or the equivalent (LLB), or advanced law degrees (LLM, JSD, SJD).<sup>44</sup> Just over one-eighth held PhDs and over one-third held master's degrees from outside law schools (either

<sup>38</sup> Your LSAT Score, LAW SCH. ADMISSION COUNCIL, <https://www.lsac.org/jd/lsat/your-score> (last visited Apr. 6, 2018).

<sup>39</sup> In using the *USNWR* "peer score" as a subjective measure of prestige and the median LSAT score as an objective measure of prestige, we follow Merritt & Reskin, *supra* note 3, at 212.

<sup>40</sup> THOMAS H. WONNACOTT & RONALD K. WONNACOTT, *INTRODUCTORY STATISTICS* (5th ed. 1990) (explaining that cross-tabular analysis involves assessing the relationship between two or more categorical variables in a matrix and determining whether there is a relationship (usually positive or negative) between the variables under analysis or whether the variables are independent).

<sup>41</sup> ALEXANDER MOOD ET AL., *INTRODUCTION TO THE THEORY OF STATISTICS* (3d ed. 1974) (explaining that statistical significance means that the observed pattern of data reflects differences that are very unlikely to be due to chance or measurement error). Although we analyze the entire population of tenured and tenure-track law professors, we assess the statistical significance of the patterns we uncover in the data in order to assess the potential of patterns emerging due to measurement error.

<sup>42</sup> See *infra* Table 1.

<sup>43</sup> See *infra* Table 1.

<sup>44</sup> See *infra* Table 1.

arts and sciences departments or other professional schools).<sup>45</sup> The fraction of law professors with PhDs was somewhat larger than the fraction reported in studies that used data gathered at earlier points in time: only 5% of law professors in the 1988–1989 academic year had PhDs outside the law,<sup>46</sup> and only 10% of law professors hired between 1996 and 2000 had PhDs.<sup>47</sup> This indicates that the rise of faculty trained outside the law continued after the turn of the century. This conclusion is bolstered by research on a subset of law professors in recent years: based on reports to the legal academy blog, *PrawfsBlawg*, 21% of tenure-track hires by all American law schools from 2011 to 2015 (who can be expected to be at the forefront of new educational trends) had PhDs.<sup>48</sup>

**Table 1: Advanced Degrees Held by Tenured and Tenure-Track Law Professors**

Type of Advanced Degree	Number of Law Professors	Percentage of the Population
None <sup>49</sup>	3	0.04%
Master's	2,291	34.14%
JD	6,531	97.33%
PhD	883	13.16%
Total	6,710	100%

The categories "Master's," "JD," and "PhD" are not mutually exclusive: an individual could appear in all three categories. The category "JD" includes all faculty with advanced law degrees: JDs, LLBs, LLMs, SJDs, and JSDs. The category "None" includes faculty with no advanced degrees.

<sup>45</sup> See *infra* Table 1.

<sup>46</sup> Borthwick & Schau, *supra* note 1, at 213.

<sup>47</sup> Redding, *supra* note 1, at 600 tbl.1.

<sup>48</sup> LoPucki, *supra* note 4, at 506.

<sup>49</sup> One law professor, Joel Garreau, did not hold a bachelor's degree or any higher degree. See DLT, *supra* note 13, at 654. A former reporter for *The Washington Post*, he was a tenured law professor at Arizona State University who taught courses on law and culture. *Id.*; Joel Garreau, LINKEDIN, <https://www.linkedin.com/in/joel-garreau-7a090/> (last visited Apr. 6, 2018). Two law professors, Lissa Griffin and Gordon V. Smith, held bachelor's degrees but no higher degrees. DLT, *supra* note 13, at 704, 1265. Professor Griffin was a former practicing litigator (she was admitted to the Bar after being a law clerk for several years and passing the Bar exam) who was a tenured law professor at Pace University and published extensively on criminal procedure. Lissa Griffin, PACE LAW, <http://www.law.pace.edu/faculty/lissa-griffin> (last visited Apr. 6, 2018). Professor Smith was an intellectual property management expert who held a tenured law professor position at the University of New Hampshire. Gordon V. Smith, LINKEDIN, <https://www.linkedin.com/in/gordon-v-smith-b1116114/> (last visited Apr. 6, 2018).

Table 2 breaks down the distribution of law professors in greater detail, showing the complex variety of law professor educational backgrounds.<sup>50</sup> Most notably, it reveals that the oft-feared (or celebrated) incursion of faculty whose education took place entirely outside the legal academy is miniscule, accounting for only 2.63% of law professors (0.55% with bachelor's plus non-law master's, 2.07% with bachelor's plus PhD).<sup>51</sup> Among law professors with PhDs, the vast majority (744/883, or 87.66%) also had JDs.<sup>52</sup> Faculty with JDs and PhDs constituted just over one-tenth (11.09%) of all law professors.<sup>53</sup> Among law professors with non-law master's degrees (but no PhD), an even larger majority (1,371/1,408, or 97.37%) also had JDs.<sup>54</sup> Faculty with JDs and non-law master's degrees constituted just over one-fifth (20.43%) of all law professors.<sup>55</sup>

**Table 2: Detailed Educational Background of Tenured and Tenure-Track Law Professors**

Degree(s) Held	Number of Law Professors	Percentage of the Population
Less than bachelor's	1	0.01%
Bachelor's only	2	0.03%
Bachelor's + master's	37	0.55%
Bachelor's + JD (but no master's)	4,416	65.81%
Bachelor's + master's + JD	1,371	20.43%
Bachelor's + JD + PhD	744	11.09%
Bachelor's + PhD (but no JD)	139	2.07%
<i>Total</i>	<i>6,710</i>	<i>100%</i>

The categories "Bachelor's + JD + PhD" and "Bachelor's + PhD (but no JD)" include both those with and without master's degrees outside the law.

To understand how this pattern developed, we analyzed temporal trends, distinguishing among law professors employed in the 2011–2012 academic year

<sup>50</sup> See *infra* Table 2.

<sup>51</sup> See *infra* Table 2.

<sup>52</sup> See *infra* Table 2.

<sup>53</sup> See *infra* Table 2.

<sup>54</sup> See *infra* Table 2.

<sup>55</sup> See *infra* Table 2.

by cohort, defined in terms of the year of their highest degree.<sup>56</sup> Because this analysis focused on the contrast between, and confluence of, JDs and PhDs, we excluded from the analysis all law professors without either one or both of those degrees.<sup>57</sup> We also excluded law professors whose highest degree date we were unable to determine, a total of 202. Thus, the population analyzed here included 6,468 professors.

Table 3, which shows these temporal trends, reveals some expected results but also some surprising ones.<sup>58</sup> As expected, the fraction of faculty with JDs but no other advanced degrees outside the law declined steadily and substantially, from over three-quarters (76.67%) for the 1938–1970 cohort to over half (54.38%) for the 2001–2011 cohort.<sup>59</sup> The fraction of those with JDs plus master's degrees outside the law initially rose, from 15.61% for the 1938–1970 cohort to 25.28% for the 1981–1990 cohort, then declined to just over 20% for the 1991–2000 and 2001–2011 cohorts (20.86% and 20.59%, respectively).<sup>60</sup> The fraction of law professors with JDs and PhDs rose steadily and substantially, from 4.55% for the 1938–1970 cohort to almost one-quarter (23.94%) for the 2001–2011 cohort.<sup>61</sup> It is notable that among law professors in the 2001–2011 cohort, the fraction with JDs and PhDs outstripped the fraction with JDs and master's degrees (23.94% to 20.59%).<sup>62</sup> Finally, although the fraction of law professors with PhDs but *not* JDs in the 1938–1970 cohort was almost as large as the fraction with PhDs *and* JDs (3.18% and 4.55%, respectively), PhDs without JDs became increasingly rare, declining to just 1.08% for the 2001–2011 cohort, less than one-twentieth of the faculty with PhDs and JDs in that cohort (23.94%).<sup>63</sup>

<sup>56</sup> The downside of this analysis is that for earlier cohorts, we are missing data on faculty who entered in those years but left the focal law school before the 2011–2012 academic year. This may affect our analysis of gender and interdisciplinarity, since previous research has shown that compared to male faculty, female faculty are more subject to attrition from tenure-track academic positions and are less likely to rise up through the ranks. *E.g.*, Robyn Marschke et al., *Demographic Inertia Revisited: An Immodest Proposal to Achieve Equitable Gender Representation Among Faculty in Higher Education*, 78 J. HIGHER EDUC. 1, 12–16 (2007) (revealing that in a research-intensive university, female faculty are less likely to be promoted to tenure and more likely to leave tenure-track positions than their male counterparts); Marc Goulden et al., *Keeping Women in the Science Pipeline*, 638 ANNALS AM. ACAD. POL. & SOC. SCI. 141 (2011) (finding that in the natural sciences, married female faculty with children are less likely to be promoted to tenure than their male counterparts).

<sup>57</sup> See *supra* note 49.

<sup>58</sup> See *infra* Table 3.

<sup>59</sup> See *infra* Table 3.

<sup>60</sup> See *infra* Table 3.

<sup>61</sup> See *infra* Table 3.

<sup>62</sup> See *infra* Table 3.

<sup>63</sup> See *infra* Table 3.



**Table 3: Temporal Trends in Law Faculty Educational Background**

Advanced Degree(s) Held	Cohort (Year of Highest Degree)				
	1938–1970	1971–1980	1981–1990	1991–2000	2001–2011
JD only	506 (76.67%)	1,142 (70.45%)	1,038 (65.28%)	1,036 (65.49%)	552 (54.38%)
JD + master's	103 (15.61%)	298 (18.38%)	402 (25.28%)	330 (20.86%)	209 (20.59%)
JD + PhD	30 (4.55%)	129 (7.96%)	121 (7.61%)	197 (12.45%)	243 (23.94%)
PhD but no JD	21 (3.18%)	52 (3.21%)	29 (1.82%)	19 (1.20%)	11 (1.08%)
Total	660	1,621	1,590	1,582	1,015

Numbers in parentheses represent the percentage of faculty in a cohort that falls within each education category. The temporal trends for JD only, JD + PhD, and PhD but no JD are each statistically significant, each having a p-value less than 0.01 using a chi-squared test.

Taken together, these data reveal a very different story from that imagined by those who bemoaned (or applauded) the arrival of PhD-trained faculty in law schools. Instead of professors with JDs being displaced by those with PhDs only, faculty with JDs became increasingly likely to hold PhDs.<sup>64</sup> Moreover, among recent cohorts, faculty with JDs and master's degrees gave way to those with JDs and PhDs.<sup>65</sup> In sum, these trends suggest that faculty hiring in U.S. law schools has become a sort of credentialing contest, as the job candidates who are deemed the most qualified for these valuable positions possess a larger number of ever-higher advanced degrees, and more of those degrees include both law degrees and advanced degrees outside the law.<sup>66</sup>

<sup>64</sup> See *supra* Table 3.

<sup>65</sup> See *supra* Table 3.

<sup>66</sup> See generally RANDALL COLLINS, *THE CREDENTIAL SOCIETY: AN HISTORICAL SOCIOLOGY OF EDUCATION AND STRATIFICATION* (1979) (discussing how academic degrees are credentials that signal value in labor markets; both individuals and employing organizations compete over such credentials); ELIOT FREIDSON, *PROFESSIONAL POWERS: A STUDY IN THE INSTITUTIONALIZATION OF FORMAL KNOWLEDGE* 63–92 (1986) (stating credentials are essential to professions such as law, medicine, and academia because credentials underpin professionals' rights, powers, and prestige).

A sizable fraction of law professors with both JDs and PhDs earned joint degrees.<sup>67</sup> Table 4 compares the number of joint and non-joint JD–PhD combinations across cohorts.<sup>68</sup> The fraction of joint JD–PhD combinations increased slightly over time, from one in six in the 1938–1970 cohort to just over one in five for the 1981–1990, 1991–2000, and 2001–2011 cohorts, but this increase is not statistically significant.<sup>69</sup>

This pattern indicates that while the number of law professors with degrees from joint JD–PhD programs has steadily increased over the years, these programs were not a driver of the overall increase in the number of law professors with both JDs and PhDs. Instead, law professors with PhDs earned them separately from their JDs.<sup>70</sup> Three-fifths of law professors with both JDs and PhDs earned their JD first (429/710, or 60.42%), while slightly more than one-third earned their PhD first (250/710, or 35.21%), and less than one-twentieth earned the two degrees the same year (31/710, or 4.37%). This tendency also increased over time. Whereas, among professors with both degrees from cohorts prior to 1991, slightly fewer earned their JDs first (114/244, or 46.7%) than earned their PhDs first (123/244, or 50.4%), among such professors from the two most recent cohorts, those who earned their JDs first outpaced those who earned their PhDs first by a ratio of more than two to one (122/189, or 64.55%, compared to 58/189, or 30.69%, for the 1991–2000 cohort; 193/277, or 69.68%, compared to 69/277, or 24.9%, for the 2001–2011 cohort). These results indicate that law professors were generally trained in traditional legal scholarship *before* acquiring advanced training in disciplines outside the law.

<sup>67</sup> See *infra* Table 4.

<sup>68</sup> See *infra* Table 4.

<sup>69</sup> See *infra* Table 4.

<sup>70</sup> See *infra* Table 4.

**Table 4: Temporal Trends in Law Faculty with JDs and PhDs: Joint versus Non-Joint Degrees**

Degree Relationship	Cohort (Year of Highest Degree)				
	1938–1970	1971–1980	1981–1990	1991–2000	2001–2011
Joint degree	5 (16.67%)	17 (13.28%)	26 (22.03%)	39 (20.10%)	52 (21.67%)
Non-joint degree	25 (83.33%)	111 (86.72%)	92 (77.97%)	155 (79.90%)	188 (78.33%)
Total	30	128	118	194	240

Numbers in parentheses represent the percentage of faculty in a cohort that falls within each education category. The difference in the proportions of joint JD–PhD degrees and non-joint JD–PhD degrees over time is not statistically significant (p-value of 0.3383 using a chi-squared test).

In sum, these data show a persistent increase in law school faculty with advanced degrees outside the law, especially PhDs. Most of the faculty with PhDs also held JDs, however. Further, the likelihood that faculty members with PhDs also held JDs increased dramatically between the oldest and newest cohorts.

#### B. Relationships Between Law Professor Credentials and Law School Prestige

To investigate the correspondence between the prestige of the law schools at which professors work and professors' credentials, we cross-tabulated professors' education and the ranking tier of their current law schools in Table 5.<sup>71</sup> This table reveals four clear trends. First, the percentage of law school faculty who held JDs but no other higher degrees increases as we descend the prestige hierarchy, from just over half (51.71%) of faculty in the top fourteen law schools to just under three-quarters (72.11%) of faculty in the bottom tier of law schools.<sup>72</sup> Second, the percentage of law school faculty who held JDs *and* non-law master's degrees (but not PhDs) is approximately constant across the prestige hierarchy—comprising one-fifth of faculty; the maximum, 21.63%, is seen in law schools ranked 101 to 150, and the minimum, 18.29%, is seen in law schools ranked 15 to 25.<sup>73</sup> Third, the percentage of law school faculty who held PhDs—either with or without

<sup>71</sup> See *infra* Table 5.

<sup>72</sup> See *infra* Table 5. This trend is statistically significant: the chi-squared test yields a p-value less than 0.001.

<sup>73</sup> See *infra* Table 5. Differences in the proportion of JD/MAs across the prestige groups is not statistically significant: the chi-squared test yields a p-value of 0.4192.

JDs—declines steadily as we descend the prestige hierarchy, from over one-quarter of faculty in the top fourteen schools (20.66% PhDs and JDs, 7.42% PhDs without JDs) to just over one-twentieth of faculty in the lowest tier of law schools (5.88% PhDs and JDs, 0.10% PhDs without JDs).<sup>74</sup> Fourth, among faculty with PhDs, the ratio of those with JDs to those without JDs rises steadily as we descend the prestige hierarchy, from almost three to one in the top tier of law schools to fifty-eight to one in the lowest tier.<sup>75</sup>

<sup>74</sup> See *infra* Table 5. This decline is statistically significant: the chi-squared test yields a p-value of less than 0.001.

<sup>75</sup> See *infra* Table 5. This increase is statistically significant: the Fisher's exact test yields a p-value of less than 0.001.



**Table 5: Faculty Educational Background and Current Law School Prestige**

Law School Prestige Group (U.S. News & World Report Score)	Law Professor Degree(s) Held						
	Less than BA	BA only	BA + MA	BA + JD (no MA)	BA + JD + MA	BA + JD + PhD	BA + PhD (no JD)
Top 14	0 (0.00%) <i>(0.00%)</i>	0 (0.00%) <i>(0.00%)</i>	7 (0.80%) <i>(18.92%)</i>	453 (51.71%) <i>(10.26%)</i>	170 (19.41%) <i>(12.40%)</i>	181 (20.66%) <i>(24.33%)</i>	65 (7.42%) <i>(46.76%)</i>
15–25	0 (0.00%) <i>(0.00%)</i>	0 (0.00%) <i>(0.00%)</i>	3 (0.40%) <i>(5.41%)</i>	286 (56.86%) <i>(6.48%)</i>	92 (18.29%) <i>(6.71%)</i>	101 (20.08%) <i>(13.58%)</i>	22 (4.27%) <i>(15.83%)</i>
26–50	1 (0.09%) <i>(100%)</i>	0 (0.00%) <i>(0.00%)</i>	3 (0.27%) <i>(8.11%)</i>	714 (64.56%) <i>(16.17%)</i>	212 (19.17%) <i>(15.46%)</i>	151 (13.65%) <i>(20.30%)</i>	25 (2.26%) <i>(17.99%)</i>
51–100	0 (0.00%) <i>(0.00%)</i>	0 (0.00%) <i>(0.00%)</i>	9 (0.54%) <i>(24.32%)</i>	1140 (67.82%) <i>(25.82%)</i>	353 (21.00%) <i>(25.75%)</i>	160 (9.52%) <i>(21.51%)</i>	19 (1.13%) <i>(13.67%)</i>
101–150	0 (0.00%) <i>(0.00%)</i>	2 (0.13%) <i>(100%)</i>	7 (0.45%) <i>(18.92%)</i>	1112 (71.37%) <i>(25.18%)</i>	337 (21.63%) <i>(24.58%)</i>	93 (5.97%) <i>(12.50%)</i>	7 (0.44%) <i>(5.04%)</i>
150+	0 (0.00%) <i>(0.00%)</i>	0 (0.00%) <i>(0.00%)</i>	9 (0.91%) <i>(24.32%)</i>	711 (72.11%) <i>(16.10%)</i>	207 (21.00%) <i>(15.10%)</i>	58 (5.88%) <i>(7.80%)</i>	1 (0.10%) <i>(0.72%)</i>
Total	1	2	37	4,416	1,371	744	139

Numbers in parentheses represent the percentage of faculty in each law school prestige group that falls within each education category. Italicized numbers in parentheses represent the percentage of faculty in each education category that falls within each law school prestige group.

Together, these trends indicate that there is a clear and strong association between law professors holding PhDs and the prestige of their current law school, one that cannot be due to measurement error. Faculty with PhDs, with or without JDs, were far more likely to be employed in more prestigious law schools, while faculty with JDs but not PhDs were far more likely to be employed in less prestigious law schools. These findings are similar to those from a recent study of a random sample of faculty at the top twenty-six law schools: in 2009–2010, 24% of faculty in that sample had PhDs.<sup>76</sup> In our data, which cover 2011–2012, when we combine the top two tiers of law schools taken together (schools ranked 1 to 25), we find that 26.76% of tenured and tenure-track faculty had PhDs (20.45% with PhDs and JDs, 6.31% with PhDs but not JDs).<sup>77</sup> Together, these findings indicate that even at the top ranks of law school prestige, where the incursion of PhD-trained faculty had been the most pronounced, the growth of this subgroup of faculty continued.

Such strong associations between law school prestige and law professor educational background are not surprising, as we have evidence from previous research that faculty with PhDs are highly concentrated in more prestigious law schools.<sup>78</sup> What is surprising, however, is the extent to which faculty with PhDs have entered less prestigious law schools. A sizable and growing minority of professors with PhDs have become employed at less prestigious law schools.

To assess the sensitivity of our analysis to measuring law school prestige using tiers, we calculated associations between faculty education and both continuous measures of law school prestige: the *USNWR* reputational component, based on the peer score, and the median LSAT score. For the peer score, the Spearman rank-order correlation with faculty education was 0.17. For the median LSAT score, the correlation was 0.16. Together, these results indicate that faculty with advanced degrees were more likely to work in more prestigious law schools. These results also bolster our confidence in the conclusions we drew from the analysis using ordered categories (tiers) for law school prestige.

Among law schools ranked 51 to 100, over one-tenth (10.65%) of faculty had PhDs.<sup>79</sup> Even among law schools ranked in the bottom two tiers, a sizable minority of faculty had PhDs: 6.41% among law schools ranked 101 to 150 and 5.98% among law schools ranked 150 and beyond.<sup>80</sup> The continued rise of faculty with PhDs outside the law indicates that law school hiring practices have become

<sup>76</sup> LoPucki, *supra* note 4, at 511.

<sup>77</sup> See *supra* Table 5.

<sup>78</sup> Hersch & Viscusi, *supra* note 4, at 491 (stating that even among law schools ranked in the top twenty-six by *USNWR*, faculty with PhDs are more heavily concentrated in law schools ranked in the top thirteen); LoPucki, *supra* note 4, at 535 (finding that in 2010–2015, 42% of hires in the top quartile held PhDs, compared with 17% in the second quartile, 13% in the third quartile, and 11% in the fourth quartile); McCrary et al., *supra* note 4, at 551–54 (finding that in 2011–2012, 28% of tenure-track professors in the top thirty-four law schools had PhDs).

<sup>79</sup> See *supra* Table 5.

<sup>80</sup> See *supra* Table 5.

credential wars, as candidates with the “best” credentials are increasingly likely to win these valued positions.<sup>81</sup> Finally, the spread of faculty with PhDs outside of the law to the lowest tier of law schools indicates that credential wars are becoming ever more pervasive.

To pinpoint temporal trends, we focused on law faculty with PhDs and cross-tabulated year of highest degree with the prestige of the current law school. These results are shown in Table 6.<sup>82</sup> Cohorts do not differ significantly in terms of which prestige groups law professors with PhDs (both with and without JDs) work in.<sup>83</sup> The consistency across cohorts is especially evident for cohorts with years of highest degree after 1970.<sup>84</sup>

This finding persists across the prestige hierarchy. In the fourteen most prestigious law schools, the share of law professors with PhDs declines only slightly from 28.73% (for the 1971–1980 cohort) to 26.77% (for the 2001–2011 cohort).<sup>85</sup> In the law schools ranked 1 to 25, the share of law professors with PhDs varies within a narrow range, between 38.78% (for the 1971–1980 cohort) and 43.98% (for the 1991–2000 cohort).<sup>86</sup> Similarly, in law schools ranked 26 to 100, the share of law professors with PhDs varies between 37.04% (for the 1991–2000 cohort) and 43.65% (for the 1971–1980 cohort), while in law schools ranked lower than 100, the share of law professors with PhDs varies between 16.00% (for the 1981–1990 cohort) and 18.98% (for the 1991–2000 cohort).<sup>87</sup> Even when we include the 1938–1970 cohort, the percentage of law professors with PhDs at each of the six prestige groups in Table 6 is not statistically different across cohorts.<sup>88</sup> In sum, Table 6 suggests that the distribution of law professors with PhDs across the law school hierarchy is not a recent development. We can surmise that as more and more law professors with PhDs have hit the market, law schools at each tier have kept pace with hiring their share of such candidates.

<sup>81</sup> See generally COLLINS, *supra* note 66.

<sup>82</sup> See *infra* Table 6.

<sup>83</sup> See *infra* Table 6. None of the cohorts are statistically significantly different from each other in their distribution of law professors with PhDs across the different prestige groups, with chi-squared or Fisher’s exact tests yielding p-values in excess of 0.11 in each case.

<sup>84</sup> See *infra* Table 6. The differences among cohorts after 1970 have p-values in excess of 0.54 in each case using chi-squared tests.

<sup>85</sup> See *infra* Table 6. This decline, having a p-value of 0.95 using the chi-squared test, is not statistically significant.

<sup>86</sup> See *infra* Table 6. This variation, having a p-value of 0.95 using the chi-squared test, is not statistically significant.

<sup>87</sup> See *infra* Table 6. Neither of these two variations is statistically significant, each having a p-value of 0.95 (the former using a chi-squared test and the latter using a Fisher’s exact test).

<sup>88</sup> See *infra* Table 6. P-values are above 0.19 in each case, using chi-squared or Fisher’s exact tests. When we exclude the 1938–1970 cohort, the p-values are above 0.82 in each case, again using chi-squared or Fisher’s exact tests.

**Table 6: Law Professors with PhDs: Degree Cohort versus Current Law School Prestige**

Prestige Group	Cohort (Year of Highest Degree)				
	1938–1970	1971–1980	1981–1990	1991–2000	2001–2011
Top 14	22 (43.14%)	52 (28.73%)	43 (28.67%)	58 (26.85%)	68 (26.77%)
15–25	4 (7.84%)	20 (11.05%)	21 (14.00%)	37 (17.13%)	37 (14.57%)
26–50	12 (23.53%)	35 (19.34%)	34 (22.67%)	37 (17.13%)	53 (20.87%)
51–100	5 (9.80%)	44 (24.31%)	28 (18.67%)	43 (19.91%)	53 (20.87%)
101–150	5 (9.80%)	17 (9.39%)	16 (10.67%)	25 (11.57%)	28 (11.02%)
150+	3 (5.88%)	13 (7.18%)	8 (5.33%)	16 (7.41%)	15 (5.91%)
<i>Total</i>	<i>51</i>	<i>181</i>	<i>150</i>	<i>216</i>	<i>254</i>

Numbers in parentheses represent the percentage of faculty with PhDs in a cohort that falls within each prestige group.

An increasing subset of law schools now offer PhD degrees. In the 2016–2017 academic year, fifty-two schools offered PhD degrees that were joint with some other, with PhD training administered by outside departments; a few offered PhDs administered by law schools themselves.<sup>89</sup> The increasing prevalence of PhD programs associated with law schools calls into question whether the same relationship between degrees from elite law schools and faculty positions in elite law schools applies to professors with both degrees, and whether any such relationship has persisted or abated over time.

To settle this question, we now investigate law professors with both JDs and PhDs, calculating the percentage of such professors who held law degrees from

<sup>89</sup> Compare *Law Schools with JD/PhD Degrees*, STARTCLASS, [http://law-schools.startclass.com/de/JD-\\_-PhD](http://law-schools.startclass.com/de/JD-_-PhD) (last visited Jan. 26, 2018); see CALVIN MORRILL ET AL., CTR. FOR THE STUDY OF LAW & SOC’Y, FINAL REPORT (2012), [http://www.lawandsociety.org/docs/Grad\\_Schools.pdf](http://www.lawandsociety.org/docs/Grad_Schools.pdf) (articulating how law schools play a supporting role for all but a few of these programs).



each law school prestige group, as well as cross-tabulating the prestige group of the degree-granting law school with the year of highest degree. Table 7 tabulates the distribution of law professors with both JDs and PhDs by degree-granting law school prestige group.<sup>90</sup> It shows that law professors with both JDs and PhDs were more likely to come from the most elite law schools than law professors in general.<sup>91</sup> About three-quarters of law professors with both JDs and PhDs earned their law degrees at one of the fourteen most prestigious law schools,<sup>92</sup> compared with just under 70% of all law professors. A more fine-grained inspection reveals that almost half of the law professors with both JDs and PhDs who earned their law degrees at the fourteen most prestigious law schools did so at the two most prestigious schools: either Yale (139/548, or 25.36%) or Harvard (123/548, or 22.45%).<sup>93</sup> Conversely, the set of all law schools that were not ranked in the top twenty-five in terms of prestige accounted for just 18.01% of law degrees held by law professors with both JDs and PhDs, and one-quarter of those law degrees (34/133, or 25.56%) were from foreign schools, which were not ranked by *USNWR*.<sup>94</sup>

**Table 7: Law Professors with JDs and PhDs by Degree-Granting Law School Prestige**

Prestige Group	Number of Law Professors	Fraction of the Population
Top 14	548	74.15%
15–25	58	7.85%
26–50	54	7.31%
51–100	35	4.74%
101–150	9	1.22%
150+	1	0.14%
Foreign Schools	34	4.60%
<i>Total</i>	<i>739</i>	<i>100%</i>

In addition, Table 8, which cross-tabulates the degree-granting law school prestige group and law professor cohort, suggests that the virtual stranglehold that

<sup>90</sup> See *infra* Table 7.

<sup>91</sup> See *infra* Table 7.

<sup>92</sup> See *infra* Table 7.

<sup>93</sup> See McCrary et al., *supra* note 4, at 553 (finding similar trends); Redding, *supra* note 1, at 600 (finding similar trends at top twenty-five law schools).

<sup>94</sup> See *infra* Table 7.

the most elite law schools have on producing law faculty with both JDs and PhDs has increased over time.<sup>95</sup> This is despite growing opportunities for people to get law-associated PhDs from other law schools. The percentage of professors with both JDs and PhDs who graduated from the fourteen most elite law schools increased by 15.6% from the 1938–1970 cohort to the 1991–2000 cohort (from 68.00% to 78.61%;  $78.61/68.00=1.156$ ) and then increased again by 7% percent from that cohort to the 2001–2011 cohort (from 78.61% to 84.12%;  $84.12/78.61=1.07$ ).<sup>96</sup> This temporal trend is statistically significant.<sup>97</sup>

**Table 8: Law Professors with JDs and PhDs: Degree Cohort versus Degree-Granting Law School Prestige**

Prestige Group	Cohort (Year of Highest Degree)				
	1938–1970	1971–1980	1981–1990	1991–2000	2001–2011
Top 14	17 (68.00%)	94 (74.02%)	80 (72.07%)	147 (78.61%)	196 (84.12%)
15–25	3 (12.00%)	15 (11.81%)	10 (9.01%)	11 (5.88%)	15 (6.44%)
26–50	3 (12.00%)	9 (7.09%)	11 (9.91%)	15 (8.02%)	13 (5.58%)
51–100	1 (4.00%)	8 (6.30%)	7 (6.31%)	12 (6.42%)	6 (2.58%)
101–150	1 (4.00%)	1 (0.79%)	2 (1.80%)	2 (1.07%)	3 (1.29%)
150+	0 (0.00%)	0 (0.00%)	1 (0.90%)	0 (0.00%)	0 (0.00%)
<i>Total</i>	<i>25</i>	<i>127</i>	<i>111</i>	<i>187</i>	<i>233</i>

Numbers in parentheses represent the percentage of faculty with PhDs in a cohort that falls within each prestige group.

<sup>95</sup> See *infra* Table 8.

<sup>96</sup> See *infra* Table 8.

<sup>97</sup> A chi-squared test yields a p-value of 0.03913.

In sum, the results indicate that the proliferation of law professors with both JDs and PhDs did not, as the spread of PhD programs in law schools might suggest, increase the diversity of law schools from which faculty earn their law degrees. This is another way in which our results suggest that the influx of professors with both JDs and PhDs is a hybrid phenomenon, incorporating past law school culture and practices (specifically, scrupulous attention to prestige), rather than replacing them with those belonging to external disciplines (where prestige of the degree-granting institution is less salient). The resulting culture and practices are at best described as *interdisciplinary*, rather than foreign.

### C. Relationships Among Law Professor Gender, Educational Background, and Law School Prestige

To assess the correspondence between law professors' educational background and their gender, we cross-tabulated data on all law professors whose gender we were able to determine. The population under study includes 6,704 tenured and tenure-track law professors in the 2011–2012 academic year. It excludes six law professors for whom we could not determine gender. In this population, 62.60% were male and 37.40% were female.

Table 9 shows the cross-tabulation of educational background and gender.<sup>98</sup> Female law professors were slightly (6.17%) more likely than their male counterparts to have JDs but no other advanced degree (68.29% of female versus 64.32% of male professors;  $68.29/64.32=1.0617$ ).<sup>99</sup> Female law professors were also slightly (7.54%) more likely than their male counterparts to have JDs and master's degrees (21.38/19.88=1.0754).<sup>100</sup> In contrast, male law professors were much more likely to have PhDs, either with or without JDs.<sup>101</sup> The differences were quite large. Male professors were almost one-and-one-half times more likely than female professors to have JDs and PhDs (12.61/8.58=1.4697) and more than twice as likely to have PhDs but not JDs (2.57/1.24=2.0706).<sup>102</sup>

<sup>98</sup> See *infra* Table 9.

<sup>99</sup> See *infra* Table 9.

<sup>100</sup> See *infra* Table 9.

<sup>101</sup> See *infra* Table 9; McCrary et al., *supra* note 4, at 566 (finding similar patterns among the thirty-four law schools at the top of the *USNWR* ranking).

<sup>102</sup> See *infra* Table 9.

**Table 9: Educational Background of Tenured and Tenure-Track Law Professors by Gender**

Degree(s) Held	Number of Law Professors		Percentage of Each Gender	
	Male	Female	Male	Female
Bachelor's or less	2	1	0.04%	0.04%
Bachelor's + master's	25	12	0.60%	0.48%
Bachelor's + JD (but no master's)	2,699	1,712	64.32%	68.29%
Bachelor's + master's + JD	834	536	19.88%	21.38%
Bachelor's + JD + PhD	529	215	12.61%	8.58%
Bachelor's + PhD (but no JD)	108	31	2.57%	1.24%
<i>Total</i>	<i>4,197</i>	<i>2,507</i>	<i>100%</i>	<i>100%</i>

The difference in educational background between male and female law professors is statistically significant (p-value less than 0.001 using Fisher's exact test for count data with simulated p-value based on 1,000 replications).

To assess how these patterns emerged, we cross-tabulated law professor educational background by cohort for both male and female professors. Table 10 shows these results.<sup>103</sup> It reveals that the temporal trends we saw in Table 5 hold for both male and female professors. Among both men and women, there was a steady increase across the cohorts in the number of professors who held both JDs and PhDs (from 4.81% for the 1938–1970 cohort to 25.89% for the 2001–2011 cohort among men, and from 1.75% to 21.59% for the same cohorts among women), and a corresponding decrease in the number of professors who held only JDs (from 76.45% to 53.39% among men, and from 78.95% to 55.51% among women).<sup>104</sup> Table 10 also shows that the share of female faculty dramatically increased since the first two cohorts but plateaued at just under one-half and has stayed remarkably stable since 1980.<sup>105</sup> Whereas women represented less than one-tenth of the 1938–1970 cohort (57/660=0.0864) and less than three-tenths of the 1971–1980 cohort (462/1,619=0.2854), they represented about 45% of each of the last three cohorts (711/1,590=0.4472 for the 1981–1990 cohort;

<sup>103</sup> See *infra* Table 10.

<sup>104</sup> See *infra* Table 10.

<sup>105</sup> See *infra* Table 10.



718/1,580=0.4544 for the 1991–2000 cohort; 454/1,014=0.4477 for the 2001–2011 cohort).<sup>106</sup> Moreover, while there were far fewer women among law professors in the first two cohorts, their educational backgrounds did not differ from the educational backgrounds of their male counterparts. Indeed, in both the 1938–1970 cohort and the 1971–1980 cohort, there were no statistically significant differences between men and women in the likelihood of holding each type of degree.<sup>107</sup>

**Table 10: Temporal Trends in Law Faculty with JDs and PhDs by Gender**

Advanced Degree(s)	Gender	Cohort (Year of Highest Degree)				
		1938–1970	1971–1980	1981–1990	1991–2000	2001–2011
JD only	Male	461 (76.45%)	812 (70.18%)	556 (63.25%)	505 (58.58%)	299 (53.39%)
	Female	45 (78.95%)	328 (71.00%)	482 (67.79%)	530 (73.82%)	252 (55.51%)
JD + master's	Male	95 (15.75%)	208 (17.98%)	210 (23.89%)	193 (22.39%)	111 (19.82%)
	Female	8 (14.04%)	90 (19.48%)	192 (27.00%)	136 (18.94%)	98 (21.59%)
JD + PhD	Male	29 (4.81%)	95 (8.21%)	94 (10.69%)	147 (17.05%)	145 (25.89%)
	Female	1 (1.75%)	34 (7.36%)	27 (3.80%)	50 (6.96%)	98 (21.59%)
PhD but no JD	Male	18 (2.99%)	42 (3.63%)	19 (2.16%)	17 (1.97%)	5 (0.89%)
	Female	3 (5.26%)	10 (2.16%)	10 (1.41%)	2 (0.28%)	6 (1.32%)
<i>Male total</i>		603	1,157	879	862	560
<i>Female total</i>		57	462	711	718	454
<i>Total</i>		660	1,619	1,590	1,580	1,014

Numbers in parentheses represent the percentage of faculty of each gender in each cohort that falls within each education category.

After 1980, however, the educational backgrounds of male and female law professors began to diverge.<sup>108</sup> In the 1981–1990 cohort, men were almost three times more likely to hold both JDs and PhDs than were women (10.69% for men

<sup>106</sup> See *infra* Table 10.

<sup>107</sup> See *infra* Table 10. None of the differences between the male and female percentages of professors with each type of degree in the 1938–1970 and 1971–1980 cohorts are statistically significant. The differences between the genders in the percentage of professors with each type of degree in those cohorts had p-values ranging between 0.1756 (for professors holding PhDs but not JDs in the 1981–1990 cohort) and 0.8800 (for professors holding JDs and master's degrees in the 1938–1970 cohort), using chi-squared or Fisher's exact tests.

<sup>108</sup> See *supra* Table 10.

versus 3.80% for women).<sup>109</sup> In the 1991–2000 cohort, female professors were more than 25% more likely to hold just JDs (73.82/58.58=1.2602), while male professors were almost two-and-one-half times more likely to hold PhDs with JDs (17.05/6.96=2.4497) and slightly more than seven times more likely to hold PhDs without JDs (1.97/0.28=7.0357).<sup>110</sup> This divergence appears to have abated more recently, as none of the gender differences in educational background in the 2001–2011 cohort are statistically significant, although the difference in the share of professors with both JDs and PhDs comes close to being significant.<sup>111</sup> In sum, the stark differences between men and women in educational background that are evident in Table 9 appear to be driven primarily by a disproportionate number of male professors with both JDs and PhDs from the 1981–1990 and 1991–2000 cohorts and a disproportionate number of female professors with just JDs from the 1991–2000 cohort.

These stark differences between male and female law professors' educational backgrounds, in combination with the strong association between law professors' educational backgrounds and school prestige, suggest that male professors will work in more prestigious law schools and that male professors' far greater likelihood of holding PhDs, with or without JDs, will account for at least some of the gender gap in law school prestige. To determine whether this inference is valid, we cross-tabulated professor education background and school prestige separately for male and female professors. These results are shown in Table 11.<sup>112</sup> It shows, as predicted, that male law professors disproportionately worked at the top fourteen law schools.<sup>113</sup> The fraction of men in our population (14.63%) who worked at the fourteen most prestigious schools exceeds the fraction of women in our population (10.34%) at those schools by over 40% (14.63/10.34=1.4149).<sup>114</sup> This disparity is statistically significant.<sup>115</sup> Female faculty, conversely, worked disproportionately at the least prestigious law schools.<sup>116</sup> Female professors were 25% more likely than male professors to be employed by schools ranked 150 or lower in terms of prestige (16.76/13.38=1.2526), a difference that was statistically

<sup>109</sup> See *supra* Table 10. This is a statistically significant result with a p-value less than 0.01 using a chi-squared test. The other differences in the 1981–1990 cohort were not statistically significant, although the difference in the portion of men (63.25%) and women (67.79%) who held JDs only came close (p-value of 0.06 using a chi-squared test).

<sup>110</sup> See *supra* Table 10. All three of these differences are statistically significant, with p-values below 0.01 using a chi-squared test or a Fisher's exact test.

<sup>111</sup> See *supra* Table 10. The gender difference in the percentage of professors with both JDs and PhDs in the 2001–2011 cohort has a p-value of 0.1276 using a chi-squared test. The other gender differences in the 2001–2011 cohort had p-values ranging between 0.5401 and 0.5543 using chi-squared or Fisher's exact tests.

<sup>112</sup> See *infra* Table 11.

<sup>113</sup> See *infra* Table 11.

<sup>114</sup> See *infra* Table 11.

<sup>115</sup> Using a chi-squared test yields a p-value less than 0.01.

<sup>116</sup> See *infra* Table 11.

significant.<sup>117</sup> Men and women in our population were statistically equally likely to work at schools in the middle four prestige groups.<sup>118</sup>

**Table 11: Law Professor Educational Background and Current Law School Prestige by Gender**

Law School Prestige Group	Gender	Advanced Degree(s)				Total
		JD Only	JD + MA	JD + PhD	PhD, no JD	
Top 14	Male	319	116	123	52	610
		(11.82%)	(13.91%)	(23.25%)	(48.15%)	(14.63%)
		(52.30%)	(19.01%)	(20.16%)	(8.52%)	(100%)
	Female	134	53	58	13	258
(7.83%)		(9.89%)	(26.98%)	(41.94%)	(10.34%)	
		(51.94%)	(20.54%)	(22.48%)	(5.04%)	(100%)
15–25	Male	183	55	71	14	323
		(6.78%)	(6.59%)	(13.42%)	(12.96%)	(7.75%)
		(56.66%)	(17.03%)	(21.98%)	(4.33%)	(100%)
	Female	103	37	30	8	178
(6.01%)		(6.90%)	(13.95%)	(25.81%)	(7.14%)	
		(57.87%)	(20.79%)	(16.85%)	(4.49%)	(100%)
26–50	Male	452	132	105	21	710
		(16.74%)	(15.83%)	(19.85%)	(19.44%)	(17.02%)
		(63.66%)	(18.59%)	(14.88%)	(2.96%)	(100%)
	Female	262	80	46	4	392
(15.30%)		(14.92%)	(21.40%)	(12.90%)	(15.72%)	
		(66.84%)	(20.41%)	(11.73%)	(1.02%)	(100%)

<sup>117</sup> See *infra* Table 11. Using a chi-squared test yields a p-value less than 0.01.

<sup>118</sup> See *infra* Table 11. None of the gender differences in the percentage of professors working at schools ranked 15 to 25, 26 to 50, 51 to 100, or 101 to 150 were statistically significant using chi-squared tests. P-values ranged from 0.14 (for the 26 to 50 group) to 0.39 (for the 15 to 25 group).



51–100	Male	679	208	117	14	1018
		(25.16%)	(24.94%)	(22.12%)	(12.96%)	(24.41%)
		<i>(66.70%)</i>	<i>(19.99%)</i>	<i>(11.49%)</i>	<i>(1.38%)</i>	<i>(100%)</i>
	Female	457	145	43	5	650
(26.69%)		(27.05%)	(20.00%)	(16.13%)	(26.06%)	
		<i>(70.31%)</i>	<i>(22.31%)</i>	<i>(6.62%)</i>	<i>(0.77%)</i>	<i>(100%)</i>
101–150	Male	672	205	68	6	951
		(24.90%)	(24.58%)	(12.85%)	(5.55%)	(22.81%)
		<i>(70.66%)</i>	<i>(21.56%)</i>	<i>(7.15%)</i>	<i>(0.63%)</i>	<i>(100%)</i>
	Female	440	132	25	1	598
(25.70%)		(24.63%)	(11.63%)	(3.23%)	(23.98%)	
		<i>(73.58%)</i>	<i>(22.07%)</i>	<i>(4.18%)</i>	<i>(0.17%)</i>	<i>(100%)</i>
150+	Male	394	118	45	1	558
		(14.60%)	(14.15%)	(8.51%)	(0.93%)	(13.38%)
		<i>(70.61%)</i>	<i>(21.15%)</i>	<i>(8.06%)</i>	<i>(0.18%)</i>	<i>(100%)</i>
	Female	316	89	13	0	418
(18.46%)		(16.60%)	(6.05%)	(0.00%)	(16.76%)	
		<i>(75.60%)</i>	<i>(21.29%)</i>	<i>(3.11%)</i>	<i>(0.00%)</i>	<i>(100%)</i>
Total		4,411	1,370	744	139	6,664

Numbers in parentheses represent the percentage of faculty in the focal gender in the focal prestige group that falls within each education category. Italicized numbers in parentheses represent the percentage of faculty in the focal gender in the focal education category that falls within each law school prestige group.

But do the superior educational backgrounds of men (namely their far higher rates of holding PhDs, with or without JDs) account for their higher likelihood of being employed by the most prestigious law schools, as hypothesized? Surprisingly, they do not.<sup>119</sup> At the fourteen most prestigious schools, women were slightly more likely than men to hold PhDs and JDs (22.48%, or 58/258, for women versus 20.16%, or 123/610, for men), but not at rates that are statistically

<sup>119</sup> See *supra* Table 11.

significant.<sup>120</sup> And, at those schools, men were somewhat more likely than women to hold PhDs but not JDs (8.52%, or 52/610, for men versus 5.04%, or 13/258, for women), but, again, this difference is not statistically significant.<sup>121</sup> Male and female faculty with both JDs and PhDs were statistically equally likely to work at one of the fourteen most prestigious law schools (26.98% for women versus 23.25% for men).<sup>122</sup> The same holds for male and female faculty with PhDs but without JDs (41.94% for women versus 48.15% for men).<sup>123</sup> By contrast, male professors with JDs and no other advanced degrees were more than 50% more likely to work at one of the fourteen most prestigious schools than were female professors with just a law degree (11.82/7.83=1.5096).<sup>124</sup> This difference is statistically significant.<sup>125</sup> Similarly, male professors with JDs and MAs were more than 40% more likely to work at the most prestigious group of law schools than were female professors with the same credentials (13.91/9.89=1.4065), another statistically significant difference.<sup>126</sup> It is this overrepresentation of men with the fewest academic credentials among the top fourteen schools (and not men's higher likelihood of holding PhDs, with or without JDs) that accounts most for why men were so overrepresented among faculty in the most prestigious law schools. A big part of this story is that a large portion of male professors at these most prestigious law schools came from early cohorts,<sup>127</sup> in which there were far fewer female faculty *and* far fewer faculty with PhDs (with or without JDs).<sup>128</sup> Therefore, the disproportionate number of male law professors with weaker educational credentials at the most prestigious law schools may be a legacy of past hiring practices. But, this still begs the question, if it is not better credentials, why do men outnumber women among the most recent cohort of law professors?

<sup>120</sup> See *supra* Table 11. Using a chi-squared test yields a p-value of 0.50.

<sup>121</sup> See *supra* Table 11. Using a chi-squared test yields a p-value of 0.10.

<sup>122</sup> See *supra* Table 11. The difference between the two percentages is not statistically significant: a chi-squared test yields a p-value of 0.33.

<sup>123</sup> See *supra* Table 11. The difference between the two percentages is not statistically significant: a chi-squared test yields a p-value of 0.68.

<sup>124</sup> See *supra* Table 11.

<sup>125</sup> Using a chi-squared test yields a p-value less than 0.01. Female law professors with just JDs, however, are 26% more likely than men with just JDs to teach at schools ranked 150 and below in prestige (18.46/14.60=1.264), also a statistically significant result, with a p-value less than 0.001 using a chi-squared test. See *supra* Table 11.

<sup>126</sup> See *supra* Table 11. Using a chi-squared test yields a p-value of 0.03.

<sup>127</sup> See DLT, *supra* note 13, at 291–1441 (showing that 259 out of 603 (42.95%) of male law professors at the fourteen most prestigious law schools come from the 1938–1970 and 1971–1980 cohorts, and another 114 (18.9%) come from the 1981–1990 cohort).

<sup>128</sup> See *supra* Tables 3 & 10; DLT, *supra* note 13, at 291–1441 (showing that in the fourteen most prestigious law schools, women represented 11.20% of law professors from the 1938–1970 cohort and 23.71% from the 1971–1980 cohort, while in contrast, 34.00% of law professors at those schools from the 1981–1990 and 1991–2000 cohorts were female, as were 42.11% from the 2001–2011 cohort; moreover, 17.60% of law professors from the 1938–1970 cohort at the most prestigious law schools held PhDs (with or without JDs), compared to 27.10% of such law professors from the 1971–1980, 1981–1990, and 1991–2000 cohorts, and 40.00% of such professors from the 2001–2011 cohort).

## IV. DISCUSSION

What do our empirical analyses teach us about the spread of interdisciplinarity? Have law schools really been invaded by “body snatchers” or “pod people”—academics with alien knowledge and values who have been displacing scholars with traditional legal knowledge and values? Or have law schools actually seen more of the same—specifically, new faculty with similar legal training to older faculty? And, has the rise of interdisciplinarity among law professors undermined or reinforced the traditional prestige hierarchy in the legal academy? In this section, we summarize our findings and offer some observations about the impact of these findings.

## A. Law Professors

Our analysis shows that in the 2011–2012 academic year, faculty with JDs but no other advanced degrees constituted just under two-thirds of all tenured and tenure-track law school professors.<sup>129</sup> Just over one-fifth of tenured and tenure-track faculty had master’s degrees outside the law, while just over one-eighth had PhDs.<sup>130</sup> Notably, almost all faculty with PhDs also had JDs, as did almost all faculty with master’s degrees.<sup>131</sup> Our findings indicate that while just over one-third of law school faculty have been exposed to the culture, traditions, and specialized knowledge and methods of external disciplines through their master’s or PhD training, almost all of them have also been exposed to the traditional legal academy through their JD training.<sup>132</sup> Moreover, for most law professors, training in law preceded training in outside disciplines.

Research in sociology has shown that the cultures and practices of all communities, including academic communities, are created through everyday interactions.<sup>133</sup> People continually produce and reproduce shared understandings of what should (or should not) be thought, said, and done, and it is these shared understandings that stabilize people’s social worlds.<sup>134</sup> Culture, in the form of beliefs, values, and norms, “anchors” peoples’ actions, while actions relentlessly recreate culture.<sup>135</sup> Most germane to the analysis of law professors’ educational

<sup>129</sup> See *supra* Table 2.

<sup>130</sup> See *supra* Table 2.

<sup>131</sup> See *supra* Table 2.

<sup>132</sup> See *supra* Table 2.

<sup>133</sup> See PETER L. BERGER & THOMAS LUCKMANN, *THE SOCIAL CONSTRUCTION OF REALITY: A TREATISE IN THE SOCIOLOGY OF KNOWLEDGE* 13–30 (1967) (discussing how social reality is a human construction: we negotiate meanings and values, and as we reach agreement on what constitutes reality, our social constructions become stable).

<sup>134</sup> *Id.*

<sup>135</sup> Ann Swidler, *Culture in Action: Symbols and Strategies*, 51 AM. SOC. REV. 273 (1986) (discussing how culture is a “toolkit” from which people select “symbols, stories, rituals, and worldviews” that they apply to particular situations, thus creating strategies of action); William H. Sewell, Jr., *A Theory of Structure: Duality, Agency, and Transformation*, 98 AM. J. SOC. 1 (1992) (discussing that social actors’ actions are constrained by shared cultural schemas and symbolic and material resources

backgrounds is that the cultures and practices of academics and professionals—the institutionalized understandings, or logics, that underpin their preferences and actions—are strongly shaped by socialization during formal education.<sup>136</sup> Norms about “typical” and “good” members of their community, specifically who they are, what they do, and how they do those things, are inculcated into students in school.<sup>137</sup> It is in law school that students come to adopt a rationalized view of the law, learning how “to think like a lawyer,”<sup>138</sup> “the language of law,”<sup>139</sup> and “legal reasoning,”<sup>140</sup> and are trained to emphasize authority and downplay morality in judgments of human conflict that are reported in legal documents. For other disciplines, it is in graduate academic programs that students “imprint” on academic standards—i.e., where they first learn the theoretical principles guiding academic research, methodological techniques for conducting that research, and norms about research and teaching.<sup>141</sup> And it is in graduate programs that students forge the social networks that reinforce those norms.<sup>142</sup>

available to them, but at the same time, actions reproduce cultural schemas and resources; the upshot is that social actors organize their actions and their interpretation of those actions around established cultural schemas, which both modifies those schemas and establishes new shared meanings for actions).

<sup>136</sup> WARREN O. HAGSTROM, *THE SCIENTIFIC COMMUNITY* 9–69 (1965) (discussing how academic training socializes people into the paradigms associated with particular disciplines); MAGALI S. LARSON, *THE RISE OF PROFESSIONALISM* 2–9 (1977) (discussing how in modern societies, professional values are most effectively transmitted through training in professional schools).

<sup>137</sup> See sources cited *supra* note 135.

<sup>138</sup> Howard S. Erlanger & Douglas A. Klegon, *Socialization Effects of Professional School: The Law School Experience and Student Orientations to Public Interest Concerns*, 13 LAW & SOC’Y REV. 11, 30 (1978) (stating that “think[ing] like a lawyer,” means to distinguish legal from non-legal issues, dispassionately see multiple sides of any problem, and reason logically and unemotionally); ELIZABETH MERTZ, *THE LANGUAGE OF LAW SCHOOL: LEARNING TO “THINK LIKE A LAWYER”* 4–30 (2007) (discussing how the Socratic method symbolically resonates with legal epistemology, pushing students to focus on cold, logical, connections between cases, procedural histories, and on the authority hierarchy among legal texts and legal decision makers).

<sup>139</sup> E. Gordon Gee & Donald W. Jackson, *Current Studies of Legal Education: Findings and Recommendations*, 32 J. LEGAL EDUC. 471, 471 (1982) (summarizing several studies showing that practicing attorneys agreed that dexterity with the language of law is important and is developed during law school).

<sup>140</sup> Bryant G. Garth & Joanne Martin, *Law Schools and the Construction of Competence*, 43 J. LEGAL EDUC. 469, 478–99 (1993) (discussing surveys of practicing attorneys who agreed that legal reasoning, the skill most important for practice, is well taught in law schools).

<sup>141</sup> See, e.g., David Gottlieb, *Processes of Socialization in American Graduate Schools*, 40 SOC. FORCES 124, 124–31 (1961) (discussing how interactions between graduate students and faculty shape students’ attitudes and career preferences); Ann E. Austin, *Preparing the Next Generation of Faculty: Graduate School as Socialization to the Academic Career*, 73 J. HIGHER EDUC. 94, 102–11 (2002) (discussing how socialization in graduate school also occurs among graduate students; through these interactions, graduate students construct new roles and develop new conceptions of academic careers and the faculty role in higher education); Toby E. Stuart & Waverly W. Ding, *When Do Scientists Become Entrepreneurs? The Social Structural Antecedents of Commercial Activity in the Academic Life Sciences*, 112 AM. J. SOC. 97, 108 (2006) (hypothesizing that graduate training has such strong effects on academics because it occurs at the beginning of their professional development).

<sup>142</sup> Stuart & Ding, *supra* note 141.



Of course, students are not “cultural dopes” or passive vessels into which educational institutions pour abstract ideas and normative schemas about how best to deploy them.<sup>143</sup> Instead, students actively reconstruct the logics they learn in school.<sup>144</sup> Through their own actions and interactions with others in their school, they often modify the logics they encounter in unexpected ways.<sup>145</sup> Nonetheless, formal education legitimizes particular ways of thinking, speaking, and acting, and de-legitimizes others.<sup>146</sup>

Applying the aforementioned sociological insights to our findings suggests that training for a JD or an advanced law degree inculcates into law students a doctrinal legal logic, while training for a graduate degree outside the law inculcates into graduate students a disciplinary logic. In terms of academic practice, this means that compared to law professors with only law degrees, law professors with advanced degrees outside the law will be less attached to traditional law school institutions, including doctrinal analysis, the Socratic method, and publishing doctrinal scholarship in student-edited law reviews. Yet, because the vast majority of law school faculty holding PhDs also hold a JD or equivalent, earned their law degrees before their PhDs, and began their teaching careers in law, these professors are likely to promote an intellectual culture that is a hybrid of the traditional legal academy and the arts and sciences by selectively adapting some outside components to the legal academy.<sup>147</sup> Moreover, as recent research of newly-hired law school professors has shown, half of those with JDs and PhDs served as law clerks for judges after earning their JDs, although the fraction of newly-hired law school professors with only JDs who clerked was considerably higher (76%).<sup>148</sup>

One reason why law school faculty with PhDs and JDs will select and adapt elements of the logics underpinning external disciplines, rather than importing those logics wholesale, is the high status of the law vis-à-vis most other academic

<sup>143</sup> HAROLD GARFINKEL, *STUDIES IN ETHNOMETHODOLOGY* 9–13, 108 (1967) (proposing that people are highly attentive to situations and skilled at deciphering them).

<sup>144</sup> Binder, *supra* note 15, at 547 (showing that organizational members’ responses to organizational logics vary with local cultures); Berman, *supra* note 15, at 261 (showing that new institutional logics can take hold in an organizational field when “institutional entrepreneurs” promote it and overcome resistance by existing institutional logics, or when changes in external conditions create new problems for organizations and new logics prove useful for solving those problems).

<sup>145</sup> See sources cited *supra* note 144.

<sup>146</sup> Stuart & Ding, *supra* note 141, at 101, 108.

<sup>147</sup> See generally WESTNEY, *supra* note 15. See also GUTHRIE, *supra* note 15 (showing that selection and adaptation occurs instead of wholesale adoption because (1) existing historical and cultural contexts shape how external standards and practices are understood and evaluated, and (2) existing systems determine what resources are available for putting new (selected and adapted) systems into practice).

<sup>148</sup> LoPucki, *supra* note 4, at 524; see McCrary et al., *supra* note 4, at 544 (showing that in the top thirty-four law schools, the rise of faculty with PhDs has not replaced traditional law school hiring criteria, as the proportion of new faculty with Supreme Court clerkships and law review memberships has remained steady).

disciplines.<sup>149</sup> Law has always been a high-status discipline, and it currently has higher status than the vast majority of the arts, humanities, and social science disciplines (with the possible exception of economics)<sup>150</sup> for several reasons. First, law is a very old discipline—indeed, one of the oldest.<sup>151</sup> Older disciplines are viewed as more prestigious than younger ones, simply by virtue of their long history.<sup>152</sup> Second, the high status of law within the academy is bound to the high prestige of the legal profession in society.<sup>153</sup> As one of the three traditional professions (along with theology and medicine), law has always been a highly prestigious occupation.<sup>154</sup> Law is a highly prestigious occupation precisely because it is a profession whose members claim exclusive authority over the work they do and whose entry requirements (not just advanced degrees, but also passage of exams for professional practice) are extremely difficult to surmount.<sup>155</sup> Law is more prestigious than most occupations that are based on social science training, the disciplinary home that is most common among law professors with advanced degrees outside of law.<sup>156</sup> The high status of the law vis-à-vis other academic disciplines pushes holders of both PhDs and JDs to retain rather than reject the

<sup>149</sup> See ARISTOTLE, *METAPHYSICS* I.1, VI.1 (ranking “theoretical” subjects (theology, mathematics, and physics) above “practical” subjects (ethics and politics), and ranking those above “productive” subjects (fine arts, harmonics, optics, and mechanics)); IMMANUEL KANT, *THE CONFLICT OF THE FACULTIES* 24–29 (Mary J. Gregor trans., 1978) (putting law, medicine, and theology in a category of “higher” disciplines and all other disciplines in a category of “lower” disciplines, but philosophy transcends and links all disciplines).

<sup>150</sup> See KANT, *supra* note 149; Keiko Nakao & Judith Treas, *Updating Occupational Prestige and Socioeconomic Scores*, 24 *SOC. METHODOLOGY* 1, 42–69 (1994) (showing that the occupational prestige score, a measure of social standing, for lawyers is 75 and the socioeconomic index score, which is based on a combination of information on occupational prestige with information on the education required for a particular occupation and its associated income assessed through opinion surveys of nationally representative samples of Americans, is 92; in comparison, for psychologists, economists, and sociologists, the prestige scores are 69, 63, and 61, respectively, and the socioeconomic index scores are 83, 85, and 80, respectively).

<sup>151</sup> See *The University from the 12th to the 20th Century*, UNIVERSITÀ DI BOLOGNA, <http://www.unibo.it/en/university/who-we-are/our-history/university-from-12th-to-20th-century> (last visited Apr. 6, 2018) (discussing how the University of Bologna, the first Western university, was founded in 1088 as a law school focused on the study of canonical and civil law).

<sup>152</sup> See LAWRENCE M. FRIEDMAN, *A HISTORY OF AMERICAN LAW* 65–67 (3d ed. 2005) (explaining that from the earliest days, American lawyers have been highly educated, well remunerated, and well respected, despite several populist movements that scorned elites).

<sup>153</sup> BERGER & LUCKMANN, *supra* note 133, at 97–109.

<sup>154</sup> See generally, e.g., ROBERT A. FERGUSON, *LAW AND LETTERS IN AMERICAN CULTURE* (1984); SAMUEL HABER, *THE QUEST FOR HONOR AND AUTHORITY IN THE AMERICAN PROFESSIONS, 1750–1900* (1991); FRIEDMAN, *supra* note 152.

<sup>155</sup> See LARSON, *supra* note 136, at 4 (discussing how professions claiming expertise in a specialized body of knowledge and techniques, which requires extensive training to master, are singularly authoritative and prestigious occupations); FREIDSON, *supra* note 66, at 63–92 (suggesting that the credential system, which encompasses higher education and occupational entry exams, is the source of professions’ rights, powers, and prestige).

<sup>156</sup> Nakao & Treas, *supra* note 150, at 42–69.

culture and material practices associated with doctrinal legal logic.<sup>157</sup> This suggests that while legal scholarship began to incorporate ideas associated with external disciplines, those ideas were used to make doctrinal arguments. Several empirical studies of how the culture and practices of law professors and law schools changed in the wake of interdisciplinary challenges drew similar conclusions. First, legal studies are shifting from one type of doctrinal analysis to another.<sup>158</sup> Second, the legal academy successfully overcame challenges to its autonomy.<sup>159</sup> Third, the legal academy appropriated only a few elements from outside the law and assimilated outsiders.<sup>160</sup> With regard to sociology, for example, one scholar explained that law:

[W]as a kind of black hole in American sociology. . . . It no doubt had to do with the fact that the lawyers managed to be such impressive people and that they sounded as if they knew everything that ought to be known about the field and that you better not trespass on territory unless you happened to be a lawyer.<sup>161</sup>

The superior status of the law is why challenges to doctrinal legal scholarship from external disciplines always resulted in settlements that preserved law professors' autonomy. That professors with both PhDs and JDs tend to get their JDs before their PhDs (by a margin of almost two to one, or 60% to 35%) further

<sup>157</sup> See Joseph Ben-David & Randall Collins, *Social Factors in the Origins of a New Science: The Case of Psychology*, 31 AM. SOC. REV. 451, 459 (1966) (discussing how individuals moving from one academic discipline to another are in positions of role conflict when choosing between the attitudes and behaviors valued by the old discipline and those valued by the new, but if they derive high status from the old discipline, they may choose to develop hybrid attitudes and behaviors).

<sup>158</sup> See, e.g., Bruce A. Ackerman, *The Marketplace of Ideas*, 90 YALE L.J. 1131, 1131 (1981) ("What is going on is a shift from one kind of doctrinal analysis to another . . . [T]he primary purpose of the modern law professor remains much as it was in the past: to provide disciplined methods for evaluating the flow of legal decisions and to train students in these methods so that they will intelligently practice them in their professional lives.").

<sup>159</sup> Christopher Tomlins, *Framing the Field of Law's Disciplinary Encounters: A Historical Narrative*, 34 LAW & SOC'Y REV. 911, 965 (2000) (discussing how the legal academy has successfully faced down challenges to its autonomy and authority in society from other practitioners of social knowledge through "successful[ly] appropriat[ing] . . . what it could use and . . . discard[ing] . . . what it could not"); Laura Kalman, *Professing Law: Elite Law School Professors in the Twentieth Century, in LOOKING BACK AT LAW'S CENTURY* 337, 354 (Austin Sarat et al. eds., 2002) (arguing that in the face of incursions of social science from the 1960s onward, "the law school embraced just enough reform to preserve law's autonomy").

<sup>160</sup> See, e.g., Bryant Garth & Joyce Sterling, *From Legal Realism to Law and Society: Reshaping Law for the Last Stages of the Social Activist State*, 32 LAW & SOC'Y REV. 409, 461 (1998) (demonstrating that in the 1960s and 1970s, law schools quickly gained control of "the center of gravity of the field of law and social science" and that law schools marginalized social and natural scientists); Kalman, *supra* note 159, at 355 ("[A]cademic lawyers retained ownership of law [and] colonized sociological studies.").

<sup>161</sup> Garth & Sterling, *supra* note 160, at 430 (quoting Richard Schwartz).

ensures the preservation of this autonomy. Among such professors, the law's earlier inculcation tends to give legal doctrine primacy over other disciplines.<sup>162</sup>

Yet there is some evidence that in one respect, law school practices and norms have become more similar to those of outside disciplines, specifically in terms of publications required to earn tenure. The number of articles a law professor must publish to earn tenure increased from one or two in the 1980s to four or more today.<sup>163</sup> But, those articles have generally remained focused on doctrinal analysis.<sup>164</sup> Moreover, tenure rates in law schools remain higher than those in other disciplines, and law schools confer tenure earlier than other disciplines.<sup>165</sup>

Distinguishing among faculty by cohort, based on year of highest degree, we found that the fraction of law school faculty with JDs but no other advanced degrees decreased continuously since the 1970s, while the fraction with PhDs increased continuously.<sup>166</sup> By the 2011–2012 academic year, more than one in eight law school professors had PhDs, while just under two-thirds had JDs but no other advanced degrees.<sup>167</sup> Our data also showed that the fraction of law school faculty with master's degrees decreased after the 1980s.<sup>168</sup> This suggests that law professors are engaged in a credentialing race, with more advanced (PhD versus

<sup>162</sup> See STANLEY FISH, *THERE'S NO SUCH THING AS FREE SPEECH (AND IT'S A GOOD THING TOO)* 231–42 (1994) (arguing that academics' original disciplines have such strong holds on them that interdisciplinarity may actually be impossible).

<sup>163</sup> Although there is a great deal of commentary about tenure standards at law schools, including how they have risen in the past three or four decades, there is no rigorous research documenting those standards. See, e.g., Clyde W. Summers, *American Labor Law Scholarship—Some Comments*, 23 COMP. LAB. L. & POL'Y J. 801, 803 (2002) (stating that to earn tenure, law professors should publish one or more law review articles within five or six years); Devon W. Carbado & Mitu Gulati, *Tenure*, 53 J. LEGAL EDUC. 157, 160 (2003) (stating that to earn tenure, law professors must publish two to four articles within five years).

<sup>164</sup> Ackerman, *supra* note 158, at 1131.

<sup>165</sup> Ass'n of Am. Law Sch., *Report of the AALS Special Committee on Tenure and the Tenuring Process*, 42 J. LEGAL EDUC. 477, 485 (1992) (showing that between 1979 and 1989, 69.9% of law professors eligible for tenure in America were awarded tenure); Richard A. Posner, *Legal Scholarship Today*, 115 HARV. L. REV. 1314, 1323 (2001) (arguing that tenure standards are laxer in law schools than in outside disciplines); John Sanford, *Life on the Tenure Track: A Seven-Year Crucible*, STAN. REP. (Feb. 6, 2002), <http://news.stanford.edu/news/2002/february6/jrfaculty-a.html> (showing that among assistant professors hired at Stanford from 1974–1978, 32.3% earned tenure; rates for those hired 1979–1983 and 1989–1993 were 50.5% and 41.2%, respectively); Deborah Kaminski & Cheryl Geisler, *Survival Analysis of Faculty Retention in Science and Engineering by Gender*, 335 SCI. 864, 864 (2012) (showing that among assistant professors in the fields of science, engineering, and mathematics who were hired between 1990 and 2002 at fourteen research-intensive universities, 64.2% were promoted to associate professor); Brian Leiter, *Why Is It So Easy to Get Tenure in Law Schools?*, LEITER REP.: A PHIL. BLOG (June 24, 2004, 11:53 AM), [http://leiterreports.typepad.com/blog/2004/06/why\\_is\\_it\\_so\\_ea.html](http://leiterreports.typepad.com/blog/2004/06/why_is_it_so_ea.html) (discussing how law school tenure rates tend to be very high compared to outside disciplines).

<sup>166</sup> See *supra* Table 3.

<sup>167</sup> See *supra* Table 2.

<sup>168</sup> See *supra* Table 3.



master's) credentials becoming an increasingly important axis of competition for law professors.<sup>169</sup>

It is notable that over eight out of ten faculty with PhDs also had JDs.<sup>170</sup> We found that this was due in large part to two parallel trends: law school faculty with JDs became increasingly likely to hold PhDs, and law school faculty with PhDs became increasingly likely to hold JDs. This means that law school faculty with PhDs but *not* JDs became increasingly rare, dropping from just over 3% of the faculty whose law professor careers began before 1971 to just over 1% of the faculty whose law professor careers began between 2001 and 2011.<sup>171</sup> These trends also suggest that instead of adhering to the traditional doctrinal legal logic or adopting pure external disciplinary logics, law schools' cultures and material practices may continue to develop into hybrids that combine most elements of the traditional doctrinal logic with selected and adapted elements of external disciplinary logics.

Yet, this conclusion may be premature, as research in social psychology and sociology has shown that organizational cultures, like many other aspects of organizational structures and activities, are slow to change,<sup>172</sup> even in the face of turnover among organizational members.<sup>173</sup> In the near future, as law schools experience waves of retirements from among the older cohorts of law professors, many of whom held JDs but no other advanced degrees (11.46% of professors with JDs but no other advanced degrees were in the 1938–1970 cohort and 25.86% were in the 1971–1980 cohort), the traditional doctrinal culture may persist because it is sedimented in law school practices, such as the first-year curriculum's emphasis on doctrinal analysis of case law and widespread use of

<sup>169</sup> See COLLINS, *supra* note 66.

<sup>170</sup> See *supra* Table 2.

<sup>171</sup> See *supra* Table 3.

<sup>172</sup> On inertia in organizational structures and everyday activities, see generally Michael T. Hannan & John Freeman, *Structural Inertia and Organizational Change*, 49 AM. SOC. REV. 149 (1984) (proposing eight constraints on organizational change: investment in plant, equipment, and specialized personnel; limits on the internal information received by decision-makers; vested interests; organizational history, which justifies past action and prevents consideration of alternatives; legal and economic barriers to entry and exit; constraints on the external information gathered by decision-makers; legitimacy considerations; and the problem of collective rationality and the general equilibrium). On inertia and the evolution of organizational cultures, see generally LUIGI LUCA CAVALLI-SFORZA & MARCUS FELDMAN, *CULTURAL TRANSMISSION AND EVOLUTION* (1981); EDGAR H. SCHEIN, *ORGANIZATIONAL CULTURE AND LEADERSHIP* 36–37, 95–99, 104–08 (3rd ed. 2004) (proposing that organizational cultures are most malleable early in organizations' history, becoming more inert as time passes because organizational members ignore evidence of problems to safeguard their privileges and their sense of self).

<sup>173</sup> See J. Richard Harrison & Glenn R. Carroll, *Keeping the Faith: A Model of Cultural Transmission in Formal Organizations*, 36 ADMIN. SCI. Q. 552, 567–74 (1991) (showing how even in the face of rapid turnover rates, socialization by peers and superiors can sustain an organization's culture, especially when recruitment considers fit between the existing organizational culture and the values and beliefs of potential recruits).

the Socratic method for teaching law.<sup>174</sup> Moreover, despite criticism, these practices were instituted over 140 years ago at a highly prestigious law school, Harvard, and they are understood by many law professors and by current and prospective JD students, as well as students' prospective employers, as legitimate.<sup>175</sup>

Our analysis also shows that male law professors were far more likely than their female counterparts to hold PhDs, but they were also far more likely than their female counterparts to be employed by top-tier law schools when they did not hold PhDs or other advanced degrees.<sup>176</sup> These findings are consistent with research finding that hiring universities do not give female professors equal credit for equal credentials and may prefer men with inferior credentials to women with superior credentials.<sup>177</sup> The gender stratification of faculty across the law school prestige hierarchy indicates that even though some things have changed, general patterns of inequality persist. It also indicates that, even a half-century after the passage of Title IX,<sup>178</sup> law school recruiting practices have not completely leveled the playing field for women and men. To be sure, women have continued to be underrepresented among law professors—most acutely among the least credentialed professors at the most prestigious law schools—in large part because of “demographic inertia,” meaning that many employment positions continue to be occupied by people who were hired before discriminatory hiring and promotion practices were curtailed, even decades after those changes were made.<sup>179</sup> Although faculty retirements in the near future will present an opportunity to reduce gender inequality, especially at the most prestigious schools, where most male professors came from cohorts who earned their highest degrees prior to 1990 and more than 40% came from cohorts who earned their highest degrees prior to 1980, it will be difficult to overcome demographic inertia if law schools continue

<sup>174</sup> See generally Steven I. Friedland, *How We Teach: A Survey of Teaching Techniques in American Law Schools*, 20 SEATTLE U. L. REV. 1 (1996) (reporting on a survey finding strong use of the Socratic method in first-year courses and less use in large upper-level and small seminar courses); WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* (2007) (surveying legal education practices in the United States and Canada and finding that the case method is common and that it succeeds in making students acquire legal thinking skills).

<sup>175</sup> See generally Russell L. Weaver, *Langdell's Legacy: Living with the Case Method*, 36 VILL. L. REV. 517 (1991) (describing, justifying, and criticizing the long history of the Socratic method and its use in American law schools); Phillip E. Areeda, *The Socratic Method (SM) (Lecture at Puget Sound, 1/31/90)*, 109 HARV. L. REV. 911 (1996) (explaining and defending the Socratic method and offering advice for how to avoid harms cited by critics). *Contra* Michael Vitiello, *Professor Kingsfield: The Most Misunderstood Character in Literature*, 33 HOFSTRA L. REV. 955 (2005) (defending the harsh version of the Socratic method used by Professor Kingsfield in *The Paper Chase*).

<sup>176</sup> See *supra* Tables 10 & 11.

<sup>177</sup> Sarsons, *supra* note 10.

<sup>178</sup> Title IX of the Education Amendments Act of 1972, 20 U.S.C. §§ 1681–1688 (2012).

<sup>179</sup> See generally William E. Feinberg, *At a Snail's Pace: Time to Equality in Simple Models of Affirmative Action Programs*, 90 AM. J. SOC. 168 (1984); Lowell L. Hargens & J. Scott Long, *Demographic Inertia and Women's Representation Among Faculty in Higher Education*, 73 J. HIGHER EDUC. 494 (2002) (discussing how increases in the hiring and retention of underrepresented groups reduces historical inequality only after a time lag that may be decades long).

to hire new female faculty at a rate of less than half, as was the case for the most recent cohort we studied (2001–2011). Finally, the gender gap reported here indicates that even though the training of legal academics has changed, patterns of inequality in achievement have persisted. The rise of interdisciplinarity has reinforced, not reduced, the gender gap in access to tenured and tenure-track faculty positions at law schools.<sup>180</sup>

### B. Law Schools

We found that PhD-trained faculty remain concentrated in the most prestigious law schools, although the influx of PhD-trained faculty has trickled down to less prestigious schools.<sup>181</sup> Schools are increasingly hiring candidates with more and more advanced degrees to compete for prestige via media rankings, causing a credentialing race among job candidates, with more degrees (JDs plus PhDs versus JDs alone) and more advanced degrees (PhDs versus master's degrees) serving as marks of distinction.<sup>182</sup> This suggests that the rise of interdisciplinarity did not erode the traditional prestige hierarchy in the legal academy, but rather reinforced it.

In one sense, the concentration of PhD-toting faculty in the top ranks of the law school prestige hierarchy is surprising, as the incursion of such faculty involved one interdisciplinary movement that occurred far from the top of the prestige hierarchy.<sup>183</sup> The law and society movement was originally (in the early 1960s) based in four law schools (Berkeley, Wisconsin, Denver, and Northwestern) that received funding from the Russell Sage Foundation to establish centers for the study of law and society; these schools were well outside that era's most elite group of law schools (Yale, Harvard, Columbia, and Chicago).<sup>184</sup> But upon reflection, the concentration of PhD-toting faculty in the top ranks of the law school prestige hierarchy is not really surprising, as other interdisciplinary movements originated in the top law schools, most notably law and economics, whose current formulation (1960s onward) is most closely associated with the University of Chicago<sup>185</sup> and whose members constitute the largest fraction of law faculty with PhDs, at least at the most highly ranked law

<sup>180</sup> See Allison K. Shaw & Daniel E. Stanton, *Leaks in the Pipeline: Separating Demographic Inertia from Ongoing Gender Differences in Academia*, 279 PROC. ROYAL SOC'Y B: BIOLOGICAL SCI. 3736, 3736–41 (2012) (arguing that demographic inertia in academia may reinforce structural inertia, or resistance to organizational change); Hannan & Freeman, *supra* note 172, at 149–63.

<sup>181</sup> See *supra* Table 5.

<sup>182</sup> See generally COLLINS, *supra* note 66.

<sup>183</sup> See Tomlins, *supra* note 159, at 953–59. See generally Herbert Hovenkamp, *Law and Economics in the United States: A Brief Historical Survey*, 19 CAMBRIDGE J. ECON. 331 (1995).

<sup>184</sup> See Tomlins, *supra* note 159, at 953–59.

<sup>185</sup> See generally Hovenkamp, *supra* note 183.

schools.<sup>186</sup> Moreover, the rise of faculty with PhDs occurred around the same time that the *USNWR* rankings appeared: the first *USNWR* ranking appeared in 1987 and these rankings became annual starting in 1990, while the percentage of law professors with PhDs rose from 5% in the 1988–1989 academic year<sup>187</sup> to 13% in the 2011–2012 academic year.<sup>188</sup> Although the *USNWR* rankings had dramatic effects on how revenue is allocated in law schools, how scholarships are awarded, how graduates find jobs, and how students are distributed between full- and part-time programs, the positions in these rankings, at least among the top schools, have not changed greatly over time.<sup>189</sup>

More evidence to support the conclusion that the rise of interdisciplinarity reinforced the traditional law school prestige hierarchy comes from our finding that almost three-quarters of law professors with PhDs were trained in the fourteen most prestigious law schools.<sup>190</sup> This is slightly more than law professors in general, among whom 70% come from the fourteen most prestigious law schools. When we look inside the top fourteen, we find even more evidence of interdisciplinarity reinforcing the law school prestige hierarchy: almost half of the law professors with both JDs and PhDs who earned their law degrees in top-tier law schools did so at Yale or Harvard.<sup>191</sup> This pattern has persisted even in the face of a huge increase in the number of PhD programs associated with law schools: in the 1991–2000 cohort, 78.61% of PhD-toting faculty were trained in the top fourteen law schools (including 19% at Harvard and 24% at Yale), while in the 2001–2011 cohort, 84.12% were (including 20% at Harvard and 27% at Yale).<sup>192</sup>

### V. CONCLUSION

Many scholars have debated the rise of interdisciplinarity in law schools and its merits.<sup>193</sup> Some scholars have argued that the rise of interdisciplinarity has strengthened the legal academy by broadening legal curricula and legal scholarship beyond traditional disciplinary law, while others aver that the rise of interdisciplinarity has reduced the autonomy of law in the university by

<sup>186</sup> Hersch & Viscusi, *supra* note 4, at 490 (finding that 26.14% of faculty with PhDs in the top-ranked twenty-six law schools held PhDs in economics, compared with 48.01% in all other social science disciplines combined and 25.85% in all disciplines outside social science combined).

<sup>187</sup> Borthwick & Schau, *supra* note 1, at 194.

<sup>188</sup> See *supra* Table 2.

<sup>189</sup> See, e.g., Sauder & Lancaster, *supra* note 36, at 110–17; Espeland & Sauder, *supra* note 36, at 14. See generally Richard Schmalbeck, *The Durability of Law School Reputation*, 48 J. LEGAL EDUC. 568 (2001).

<sup>190</sup> See *supra* Table 7.

<sup>191</sup> See *supra* note 93 and accompanying text.

<sup>192</sup> See *supra* Table 8.

<sup>193</sup> See sources cited *supra* note 2.



introducing “alien” ideologies and practices.<sup>194</sup> Despite this debate, there is little recent, reliable, and comprehensive evidence concerning where and when interdisciplinarity has entered the legal academy. Recent research has found that interdisciplinarity, in the form of faculty with PhD training outside the law, has gained a significant foothold in law schools, but this research is limited to the most prestigious law schools.<sup>195</sup> Expanding on earlier research, we found that the rise of law school faculty with PhDs was widespread, rather than limited to the most prestigious schools, and that the diffusion of PhD-trained faculty down the prestige hierarchy increased over time.

Furthermore, our results showed something that earlier research, and the broader debate about interdisciplinarity in law schools, has overlooked. Although law schools saw an increasing influx of faculty with PhDs into tenure-track and tenured positions, the vast majority of those faculty also held JDs. We doubt, therefore, that PhD-trained faculty have imported totally alien values and practices from the arts and sciences into law schools and reduced their autonomy. Instead, we argue that the influx of PhD-trained faculty has more likely promoted an intellectual culture and academic practices that are hybrids of the traditional legal academy and the arts and sciences, adapting only selected external elements, rather than adopting all of them; such hybridization has yielded more of (almost) the same culture and practices.

The influx of PhD-holding faculty reinforced, rather than undermined, traditional law school hierarchies in two ways. First, this influx was most pronounced at the top ranks of law schools, and most faculty with PhDs and JDs were trained in the top-ranked law schools, half in Yale and Harvard alone. The diffusion of PhD-trained faculty down the prestige hierarchy over time suggests that PhD credentials have become an important axis of competition for law schools (as well as law professors), as schools increasingly hire candidates with more and more advanced degrees to compete for prestige via media rankings. Second, even though the training of legal academics has changed, patterns of inequality in achievement between men and women have persisted. The rise of interdisciplinarity has not reduced the gender gap in access to tenured and tenure-track faculty positions at law schools, especially in the most prestigious schools.

We anticipate that the fraction of tenured and tenure-track law school faculty with PhDs will continue to rise and that the vast majority will continue to hold JDs. We also anticipate that the impact of interdisciplinarity on law schools, both their practices and the diversity of their faculty, will be limited by hybridization and institutional inertia, even as law schools experience waves of retirements from among the older cohorts of law professors in the near future. A changing of the guard is unlikely to usher in a wave of change for law school academics.

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<sup>194</sup> See sources cited *supra* note 2.

<sup>195</sup> See, e.g., sources cited *supra* note 4.