

US Law Professors at the Edge of Change

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At the Edge of Change

- * the past 15+ years as a time of change in society and for law schools

- *law professors poised on the edge of many aspects of change:

 - **integration, diversity

 - **core values of the profession

 - **the market for legal services & the “business” and pedagogical models used by law schools

ABF After Tenure Study: Part I -- National Survey

- ▶ **Random sample stratified by gender with “minority” oversample**
 - 814 men, 814 women, 447 “minority” oversample
 - (total N= 2,076)
- ▶ **Response Rate**
 - 1,222 usable responses (65.6% of the eligible sample; 28% of all tenured law professors in the U.S. at the time)
 - 486 men, 493 women, 232 oversample

ABF After Tenure Study:

Part II -- Interviews

- ▶ **102 follow-up interviews** with survey participants (96 in-scope, 4 out-of-scope, 2 unusable interviews)
- ▶ Target numbers for satisfaction, experience, gender, race, geography, eliteness
- ▶ Open-ended questions (NORC)
- ▶ Interviews transcribed off-site and de-identified prior to analysis at ABF
- ▶ Double coded using Atlas.ti

Atlas.ti Coding

- ▶ Coding categories emerge first from “ground-level” readings of the interviews (two coders, cross-checked coding)
- ▶ Each response also coded for:
 - location in interview
 - which question it addressed (and ordering within question: 1-1, 2-1, etc.)
 - expresses SAT or DIS (strong/weak) or AMB
 - qualitative coding themes
 - if refers to situation at current or previous law school
 - reflects a change in positive or negative direction
 - prompted or unprompted
 - additional features (anecdotes, metaphors)

Themes from Qualitative Codes

- ▶ Academic freedom
- ▶ Administration/administrative staff
- ▶ Amenities
- ▶ Climate
- ▶ Role of Clinical Faculty
- ▶ Committee Work
- ▶ Conflict
- ▶ Dean
- ▶ Diversity
- ▶ Facilities
- ▶ Faculty interaction/Colleagues
- ▶ Fairness/Bias
- ▶ Family/Personal
- ▶ Flexibility
- ▶ Funding
- ▶ Gender
- ▶ Hiring
- ▶ Identity
- ▶ Institutional concerns/workplace
- ▶ Job benefits
- ▶ Law schools in general
- ▶ Lawsuits
- ▶ Legal education in general
- ▶ The legal field in general
- ▶ Legal writing
- ▶ Library/Librarians
- ▶ Office support, location, etc.
- ▶ Parking
- ▶ Power
- ▶ Professional development, promotion
- ▶ Publishing/scholarship/research
- ▶ Race/Minority
- ▶ Service work
- ▶ Students/teaching
- ▶ Tenure
- ▶ Values, Voice, Work

Diversity and Satisfaction among Post-Tenure U.S. Law Professors

Substantive findings:

- Overall, tenured law professors are *quite happy*
- **BUT there are significant differences in job satisfaction among tenured professors by race & gender**
- Divergent perceptions of *voice/respect* and *institutional culture* within law schools are pathways through which this race & gender dynamic operates

Methodological insights:

- **Benefits of combining qualitative & quantitative methods to assess “internal” and “external” viewpoints**
- Addressing the tension between essentializing and complex categories for studying identity

Satisfaction by Race & Gender

Demographic	% & # Population	Mean Satisfaction	% & # Very Satisfied	% & # Dissatisfied
TOTAL	97% (1188)	4.1	53% (580)	12% (165)
<i>RACE/ GENDER</i>				
White Men	61% (433)	4.3	58% (242)	8% (36)
Men of Color	13% (222)	3.9	47% (95)	16% (31)
White Women	19% (398)	3.9	47% (181)	18% (70)
Women of Color	7% (157)	3.8	38% (56)	19% (27)

Tenure: Quantitative Results

Attitudes toward the tenure process

When I was first reviewed for tenure at a law school...

- I found the tenure process easy.
 - I found the tenure process fair.
- ▶ 47% agreed/strongly agreed “easy” , 76% agreed/strongly agreed “fair”
- ▶ But statistically significant differences between white male professors and everyone else, with **female professors of color the least likely to feel the process is fair or easy**

Similar findings regarding overall job satisfaction

Tenure: Qualitative Results

▶ **Common *positive* themes:**

- **some report no bias in tenure process**
- **change for the better in some institutions**

▶ **Common *negative* themes:**

- **differential impacts of institutional structures and cultures**
- **some note effects of implicit bias in the tenure process**

Overall Satisfaction

*SURVEY RESULTS:

- Overall positive, with white men differentially positive, women of color least satisfied
- Structural Equation Modeling points to VOICE/RESPECT and INSTITUTIONAL CLIMATE

*INTERVIEW RESULTS

- Mixed, stories of positive experiences, especially over time but also of disappointment and DISENGAGEMENT in response to not being heard or respected

“Different Communities of Support”

- ▶ “Well, I’ll tell you what– the way I’ve made things work for me now is I have national colleagues. I have– because my study areas are uh, interdisciplinary ...I am um, affiliated with some of the top [scientists in areas pertaining to her legal expertise] in the world. I have connections with some of the best minds in um, these issues, and I am validated in that way, no matter what goes on here. And I...think that’s what a number of other women have had to do, is to find other kinds of ways to um, deal with the bad situations institutionally. I mean, I cou– I am a very much an institutionally-oriented, systemic-oriented person, who tries to be constructive, but um– and I think other women are– many other women that I know are, as well. But uh, for me, it’s– my adaptation has been to create um– is to be far less focused here and to try to let whatever’s happening here be noise. ..because the penalties for speaking up, even in a– a trying to help to generate a better situation for all, are huge.

[white female, 10–19 years experience, non–elite school]

Disruptive Voices...

- ▶ “...so there’s a lot of hypocrisy, there’s a lot of suppression of uh, of uh, of uh, dissent. Uh, there is a lot of marginalization, if not active– active suppressive– suppress– I mean...you– you can just marginalize people. You can let them speak and then not react and– and just, you know, leave it at that. (LAUGHS) So there’s a– there’s enormous process of marginalization that happens in law– in my...law school, if you are a person who stands for some values and want to fight for it. Because you are viewed as a– as a disruptor.”

[male scholar of color,

10–19 years experience, non–elite school]

Unheard Voices....

- ▶ “Um, and like I say, I – I do think that, um, I think that law schools also reflect the broader society. And so that, you know, comes back to what I was describing in sort of the context in which the law school and everything is situated. And I – and I think, um, so, I think society has stereotypes about women---for instance. And I think that they’re carried into the – into the – into the legal arena and including in law schools. Uh, so I think that happens---as well. So, for instance, um, at meetings, at faculty meetings, I would say that, uh, s– – something I have observed is that a woman will make a suggestion and, um, you know, they’ll, you know, the other people will talk. And then a man will make the same suggestion and then the man’s suggestion will get more recognition --than the – the suggestion, even though it was made by the woman first. That kind of stuff...”

[female scholar of color, 10–19 years experience, non–elite school]

“True Opportunity for Everybody”

“I think that this– it’s a place where there’s– there’s true opportunity for everybody, regardless.... [my previous university] had an affirmative action agenda, so that you could say ... “We want a– this year, we– we’re going to hire women,” or “We’re going to hire people of color.” That would never happen at [this university]. You could never have ... an agenda item be to um, this year, make a point of hiring a black person or Asian or people of color or women. Instead, we look at the pool and we look at appli– you know, and we look at the résumés and applications and who’s interesting and...if it happened to be women or– of color or– or women or– or men of color, that’s great, but nobody’s going out of their way to make sure that we– we reach any sort of goals or quotas. ...

And that I would– so– so, you know, one of the disadvantages of being in– in a context in which you’re expected to play a certain kind of– a certain kind of affirmative action game, is that you, as a black person, sometimes end up doing this, if you have to support people you don’t believe in, because of their color. I don’t have that problem at [this university]. I really feel like um, when there’s a good one, you know, they’re going to hire ‘em. (LAUGHTER) And I can put all my energies into that and feel totally good about it.

[TALK OF DIVERSITY IN HIRING GETS IRRITATING] ...but...I don’t know if you’ve ever belonged to a– a church or a synagogue where there are just certain things you’re tired of hearing about. Like at my church, people are talking about, “Oh, So–and–so’s faith journey,” you know, the faith journey, the faith journey. What about faith journey? And um, while there’s– there’s something very important behind that idea...uh, I sometimes think if I have to hear about it one more time, I’m going to scream. You know? Um, it’s that sort of thing, where it isn’t that it’s not important. Uh, it isn’t that I don’t believe in, you know, in the institution or in the goals. But there’s something about the discourse that gets to be um, irritating. ...And you almost want people to find– to– to not be so comfortable putting it that way, or to– being too comfortable with um, a particular formulation of the goals and– and people sometimes lose sight of what’s really at stake because they’re so comfortable with the language.” **African–American female professor, elite law school, 20+ years experience**

Institutional Culture

- ▶ “... but being a minority faculty, in many cases, certainly African American faculty, you ... you tend to live in two worlds. And, you know, a lot of people disagree that we have two cultures or societies, but... but, we probably have more than two. But you live in two worlds where the white faculty member probably... white male faculty member never has to do that. So, yeah, you do have to be very careful because you're going to be one, in some cases the only one and in other cases, one or two. And, you know, ...if there's four Black faculty members on your staff and the four of you are together in one office, people look at it with suspect. But no one would look at that if there were four white male faculty members.”
- ▶
- ▶ “... let me say at first that I have always found that there has been a fairness, at least I've perceived a fairness, an equality as it relates to... as related to compensation and teaching assignments. Those have been fine, and the awarding of research grants, particularly. I've never found anything unfair about that. I think it's more of a social piece ... and to some degree an advancement piece. I think... there's a level of (SIGHS) sort of subtle inequality in... who's going to get whatever the next advancement is... “

[African-American male professor, top-20 law school, 10-15 years experience, moderate satisfaction]

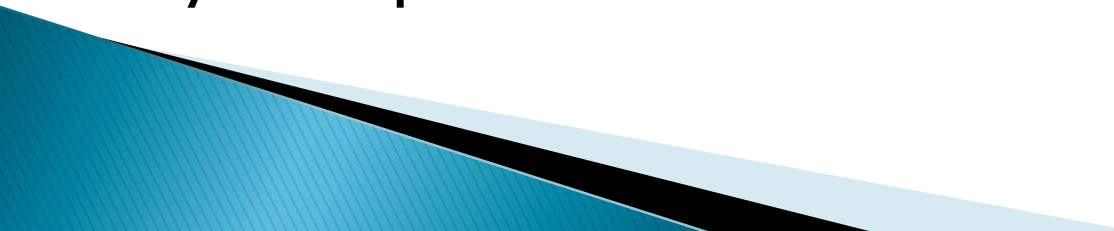
At the edge of changes....

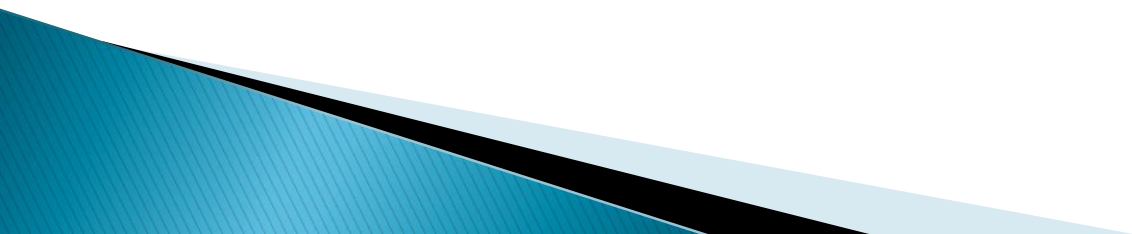
His view is “very old–fashioned view or it’s a view which is very driven by the original values of the school, and school has departed and moved away from that. But.....I don’t ever feel excluded in terms of being heard.”

“...the whole– whole universe has moved far beyond those values, and we are not even struggling to maintain most of them. ...So you’re heard, but– but um, uh, you– you don’t necessarily feel that uh, that hearing has any uh, ultimate value in terms of the decision process.....Because the decision process, as I said, if it is being driven by, let’s say hypothetically by Bar results...uh, then no matter what you say about why we should not worry about the Bar results uh...or why we should worry about uh, focusing on basic jurisprudence or historical law or a perspectives uh, teaching.....um, and the reality is that– that– that if also the faculty or the dean or the university feels that, you know, we don’t give a crap about uh, those wonderful, flowery ideas (LAUGHS).”

New emphasis on reports “by the US news media which says the school is bad just because they have a bad result, Bar– Bar passage result...” has moved the school “far away from what the values of the institution were...started it um, and those values are still (rock bed) values for– for– for– for creating a better world – which I believe in.” [male scholar of color, 10–19 years experience, non–elite school]

Complexities

- How to balance practical needs of changing profession and older images of mission
 - To continue a struggle for voice and respect within the institution or to look outside of it and disengage?
 - To acknowledge positive changes toward inclusion in many institutions but still keep an eye on places where bias lingers
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SURVEY: Comparative Distributions of Race and Gender in Respondents, Sample, and National Populations

	AT Respondents		AT National Sample		ABA Tenured Law Professor Stats	
	% (weighted)	N (unweighted)	% (weighted)	N (unweighted)	%	N
Female	25.08	558	25.21	823	25.10	1,054
Male	74.78	664	74.79	1,039	74.90	3,145
RACE						
White	85.91	832	81.52	1,184	87.38	3,669
Native American	0.48	14	0.36	18	0.29	12
Asian	1.71	54	2.12	93	1.69	71
Black	6.58	204	8.05	358	7.14	300
Latino/a	2.28	75	2.50	118	3.31	139
Multiracial	1.13	32	1.08	49	–	–
Missing	1.91	11	4.36	42	–	–
TOTAL	100	1,222	100	1,862	–	–

Comparative Distribution of Respondents and Nationwide Population by Law School Tier

	AT Respondents	Total Full-Time Faculty ^b
Ranking Tier ^a	% (weighted)	%
Tier 1 (Rank 1–20)	17.46	19.62
Tier 1 (Rank 21–50)	17.22	18.00
Tier 2 (Rank 51–102)	28.83	27.95
Tier 3 (Rank 103–136)	14.67	13.71
Tier 4 (Rank 137–179)	20.96	19.41
Not ranked (Provisional)	0.59	1.31
Missing	0.26	0
TOTAL	100	100

^aBased on the *U.S. News and World Report* rankings of law schools in 2005.

^bFrom the *ABA- LSAC Official Guide to ABA- Approved Law Schools*, 2007 edition. The data for the 2007 edition was collected in fall 2005.