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ARTICLE

THE RELIGIOUS BELIEFS, PRACTICES, AND EXPERIENCES OF LAW PROFESSORS

JAMES LINDGREN*

I. INTRODUCTION

Very little is known about the religious beliefs and practices of American law professors. In the drive for diversity, religion usually takes a back seat at university campuses. About two decades ago, I surveyed law faculties at the top one hundred law schools, asking professors about their religious affiliations.¹ I found that Christians were represented at only about half their percentages in the larger population, while Jewish and nonreligious law professors were substantially overrepresented.² This article begins with an update of that study, but unlike the 1990s survey, this one probes much deeper, presenting data on belief in God, church attendance, and religiously motivated discrimination.

While the pattern of underrepresentation in Christian religious sects today is similar to that of the 1990s, the differences in actually believing in God are much larger than for mere religious affiliation. Law professors today are far less likely to believe in God than the general population, even compared to that segment of the population with graduate and professional degrees.³ Indeed, even compared to other professors, law professors are

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1. James Lindgren, *Measuring Diversity: Law Faculties in 1997 and 2013*, 39 HARV. J.L. & PUB. POL'Y 89 (2016). The sample was drawn from the top one hundred law schools (professors, assistant and associate professors, head librarians, and head deans with professorial rank, weighted by 1996–97 Association of American Law Schools data on race and gender).

2. *Id.* at 109.

3. *See infra* Figure 10.

much less religious.⁴ Additionally, law professors are substantially less likely to attend religious services than their non-professorial counterparts.⁵ Yet only a relatively small percentage of law professors report that they have experienced religious discrimination in doing or seeking their academic jobs.⁶

II. METHODS

The data were collected by an ad hoc research undertaking, the Law School Atmosphere Project, to which I served as an unpaid consultant. Professors at Association of American Law Schools (AALS), accredited law schools in Washington D.C. and the fifty states, were selected from the published 2016–17 Directory of Law Teachers using systematic sampling (a scientific sampling method also called pseudo-simple random sampling⁷). Those with a job title including the words or phrases “professor,” “associate professor,” “assistant professor,” “chair,” or “chaired” were included in the sample; those with the words “adjunct” or “emeritus” were excluded. In all, 5,358 professors were contacted by email in August and September 2017. Of the total, only 576 professors responded by answering at least one question, an 11 percent response rate. Twenty-five of these respondents were excluded because they identified their position as an adjunct or retiree, leaving 551 who answered at least one question.⁸

This response rate is fairly low for an academic survey, but higher than most public opinion polls. As the journal *Week* explained: “‘In the late 1970s, we considered an 80 percent response rate acceptable,’ says [Cliff] Zukin [former president of the American Association for Public Opinion Research]. ‘By 2014, the response rate had fallen to 8 percent.’ . . . ‘Telemarketing poisoned the well,’ says Charles Franklin, director of the Marquette University survey.”⁹

4. Compare *infra* Table 1, and Figures 9–10, with 2 GARY A. TOBIN & ARYEH K. WEINBERG, RELIGIOUS BELIEFS AND BEHAVIOR OF COLLEGE FACULTY 19–23 (2007).

5. See *infra* Figure 9.

6. See *infra* Figure 10.

7. Researchers (especially in law) sometimes falsely claim to have used random sampling when they instead used systematic sampling. In systematic sampling, after a random start, one samples from a list or book at fixed intervals of names or pages. The sample should perform about as well as a true random sample unless there is some periodicity to the list or book.

8. In addition, 505 respondents answered the last substantive question, 501 answered the first demographic question, and 480 answered at least one of the last two demographic questions. Respondents were not forced to respond in order to go to the next question. If the contacted nonrespondents included the same percentage of adjunct and emeritus professors as the respondents, then the percentage beginning the survey was 10.8 percent, and the rate for completing the substantive questions were 9.9 percent. If, on the other hand, all the respondents who were adjunct and emeritus were treated as nonrespondents (which they were not), then the response rate would be 10.3 percent, and the rate of completing the substantive questions would be 9.4 percent.

9. *The Problem with Polls*, THE WEEK (Apr. 10, 2016), <http://theweek.com/articles/617109/problem-polls>.

The typical 8 percent response rate for public opinion polls has probably fallen further since 2014. In 2010, the prediction website FiveThirtyEight estimated that response rates for the Rasmussen poll might be as low as 1–2 percent.¹⁰

One way of assessing how representative the approximately five hundred professors surveyed might be is to compare the racial makeup of the sample to known data on the race of law professors. If the racial makeup of the sample is similar to the racial makeup of the population from which the sample was drawn, then that reduces the probability of serious nonresponse error. In 2013, the American Bar Association (ABA) released data on the ethnic background of law professors.¹¹ The 2013 percentages for African Americans, Asians and Pacific Islanders, Latinas/Latinos, and Native Americans are each within 1 percent of the 2017 survey percentages in this study, and the 2013 percentage for whites is within 1.5 percent of this survey's percentage of whites. In other words, the 2017 sample's ethnic makeup is extremely close to the 2013 data for law professors more generally, providing some support for the representativeness of the 2017 data presented here.

III. RESULTS

A. *Religious Preference*

The first issue in assessing the religion of law professors is their denominational preference. The religious affiliations of the 2017 sample of law professors is presented in Table 1. Compared to 1997,¹² the percentage of Catholics in 2017 has held steady (moving only slightly from 13.7 percent to 13.5 percent), while the proportions have declined for Protestants (dropping from 32.3 percent to 25.4 percent) and Jews (dropping from 26.7 percent to 19.8 percent). Conversely, the percentages for No Religion (including atheists and agnostics) has risen from 26.3 percent to 37.4 percent.

10. Nate Silver, *The Uncanny Accuracy of Polling Averages**, Part IV: *Are the Polls Getting Worse?*, FIVETHIRTYEIGHT (Oct. 4, 2010, 11:56 AM), <https://fivethirtyeight.com/features/the-uncanny-accuracy-of-polling-averages-part-iv-are-the-polls-getting-worse/>.

11. Lindgren, *supra* note 1, at 140.

12. *See id.*, at 108.

TABLE 1: RELIGIOUS PREFERENCES OF LAW PROFESSORS

Law School Atmosphere Project 2017 Survey (n=489)

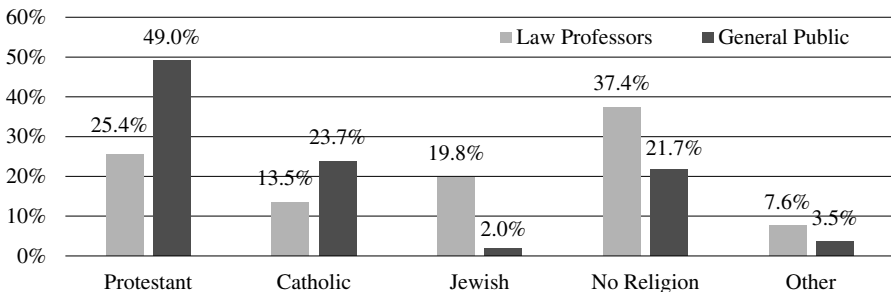
PROTESTANT	124	25.4%
Protestant	94	19.2%
Non-Denominational Christian	22	4.5%
Mormon / Latter Day Saints	8	1.6%
CATHOLIC	66	13.5%
Roman Catholic	62	12.7%
Orthodox or Other Catholic	4	0.8%
JEWISH	97	19.8%
NO RELIGION	183*	37.4%
Agnostic	51	9.3%
Atheist	59	10.7%
None	77	14.0%
OTHER RELIGION	37*	7.6%
Spiritualist	8	1.6%
Buddhist	6	1.2%
Pagan / Pantheist	5	1.0%
Muslim / Islam	3	0.6%
Deist	3	0.6%
Hindu	3	0.6%
Other	10	2.0%

*Individual categories sum to more than 100% because of multiple responses.

Figure 1 compares law professors in the 2017 survey to the general public, surveyed in the NORC 2016 General Social Survey (GSS).¹³

FIGURE 1: RELIGIOUS PREFERENCE OF LAW PROFESSORS COMPARED TO THE GENERAL PUBLIC

Data: 2017 Survey of Law Professors, n=489
2016 General Social Survey, n=2849



13. Tom W. Smith, Michael Davern, Jeremy Freese & Michael Hout, *2016 General Social Survey*, GSS DATA EXPLORER, <https://gssdataexplorer.norc.org/variables/287/vshow> (last visited Oct. 13, 2018). The General Social Survey is generally recognized as the leading omnibus academic survey in the world.

As Figure 1 shows, Protestants are represented at only about half of their share of the general public and Catholics are represented at less than 60 percent of parities with the general public. On the other hand, Jewish and nonreligious professors are highly overrepresented on law faculties.

A 2007 study of college faculty by the Institute for Jewish & Community Research found that 56 percent of faculty reported being Christian, much larger than the 39 percent Christian makeup of law faculties in this study.¹⁴ In the broader university community in 2007, Jews comprised just 5 percent of faculties and atheists and those with no religion comprised 22 percent, a finding that contrasts with this study (which found 19.8 percent Jews and 34.7 percent atheist, agnostic, and no religion).¹⁵

B. Religious Discrimination

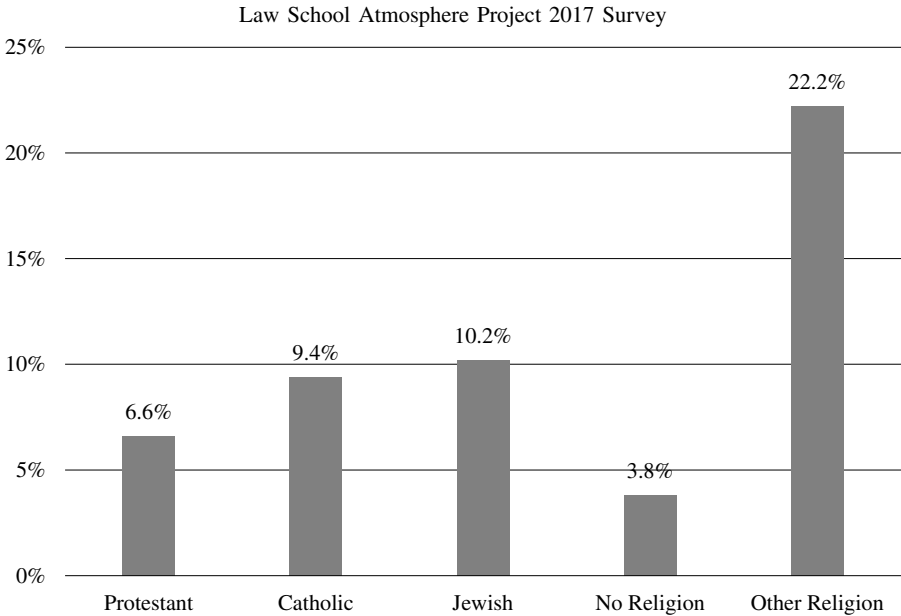
In the 2017 survey, law professor respondents were asked whether they had experienced discrimination: “What types of discrimination, if any, have you personally experienced while seeking or doing your job as a legal academic? Discrimination because of . . . Religion.” About one in ten Catholics (9.4 percent) and Jews (10.2 percent) reported experiencing religious discrimination in their jobs. The small number of adherents to less common religions among law professors were about twice as likely (22 percent) to report religious discrimination. Atheists, agnostics, and those without a religion¹⁶ were the least likely to report religious discrimination (3.8 percent).

14. See TOBIN & WEINBERG, *supra* note 4, at 19–22.

15. Compare *id.*, with Table 1, and Figure 1.

16. See *supra* Table 1 (reflecting that these three nonreligious categories are combined into the “No Religion” category in Figure 2).

FIGURE 2: LAW PROFESSORS REPORTING RELIGIOUS DISCRIMINATION IN SEEKING OR DOING THEIR JOBS



Even if individual faculty members did not report being victimized by religious discrimination, perhaps they witnessed their colleagues or administrators preferring one religion to another in faculty hiring. Figure 3 presents responses in 2017 supporting a preference for non-Christians over stronger Christians in faculty hiring at their law school. The question asked was: “While you were on a law school faculty, in faculty hiring which of these preferences have you personally observed your faculty or administration engaging in? In faculty hiring . . . Preferring a non-Christian candidate over a stronger Evangelical, Catholic or other Christian candidate?”¹⁷ While the percentages reporting that their faculty or administration preferred non-Christians was fairly small (5.1 percent), the pattern was dramatic. Only 1–2 percent of nonreligious and Jewish law professors reported witnessing anti-Christian bias in faculty hiring, compared to 8–11 percent of other religious respondent groups reporting such a negative preference against Christians.

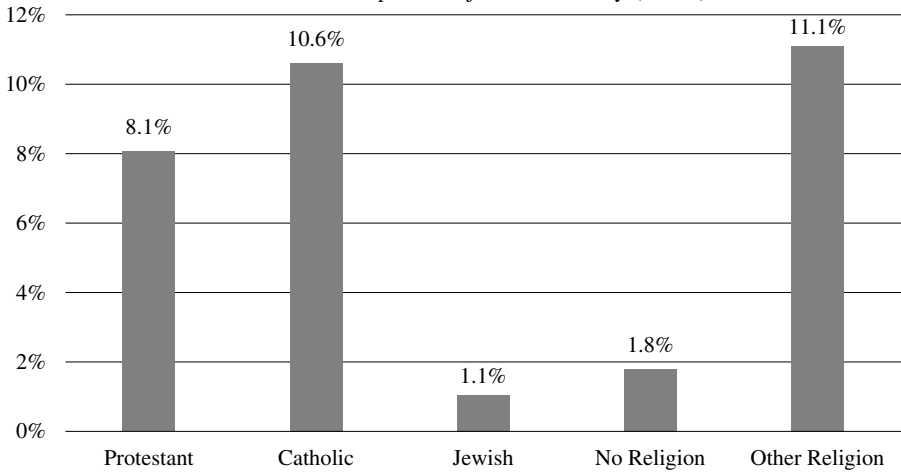
There are several possible explanations for such different results. First, the reported bias could be mostly real, but nonreligious and Jewish law

17. What constituted a stronger candidate for a faculty appointment was left to the respondents. The phrase “strong candidate” or “stronger candidate” is one that I have often heard in the context of faculty appointments. The survey specifically avoided using the phrase “more qualified” because many candidates are equally “qualified” if they meet the minimum qualifications for the job (as a technical matter at most law schools, anyone with a law degree is “qualified” to be a law professor).

professors do not notice it because they share fewer links with the disfavored group. Second, the reported bias could be mostly imagined, with Jewish and nonreligious law professors seeing things clearly while Christian and other religious law professors are themselves biased judges of what is happening. It should be noted, moreover, that at least 78 percent of all the religious groups in Figure 3 do not believe that their faculty favors non-Christians in faculty hiring.

FIGURE 3: LAW PROFESSORS REPORTING THEIR SCHOOL FAVORED NON-CHRISTIANS OVER STRONGER CHRISTIANS

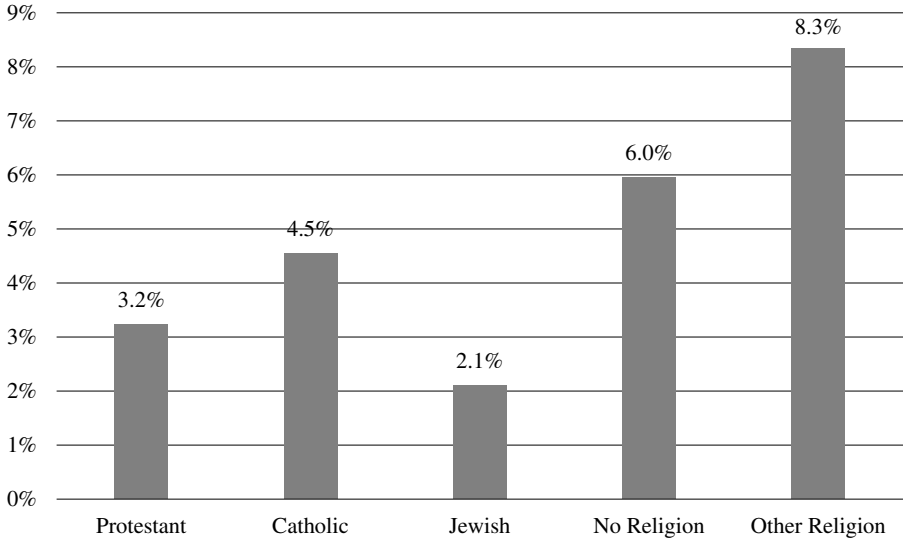
Law School Atmosphere Project 2017 Survey (n=489)



In Figure 4, Christians and Jews were somewhat less likely than the nonreligious and other religions to report the opposite bias—in favor of Christians over non-Christians.

FIGURE 4: LAW PROFESSORS REPORTING THEIR SCHOOL FAVORED CHRISTIANS OVER STRONGER NON-CHRISTIANS

Law School Atmosphere Project 2017 Survey (n=489)



As seen is Figure 5, only 2.9 percent of law professors in 2017 reported that their school favored Muslims in faculty hiring over stronger non-Muslims, while Figure 6 shows that less than one percent of faculty (0.9 percent) reported that their schools favored non-Muslim faculty candidates over stronger Muslim candidates. Such small percentages may reflect a relative lack of preferences for or against Muslims or may instead result from a relatively small number of hiring decisions made by the general faculty about Muslim candidates.

FIGURE 5: LAW PROFESSORS REPORTING THEIR SCHOOL FAVORED MUSLIMS OVER STRONGER NON-MUSLIMS

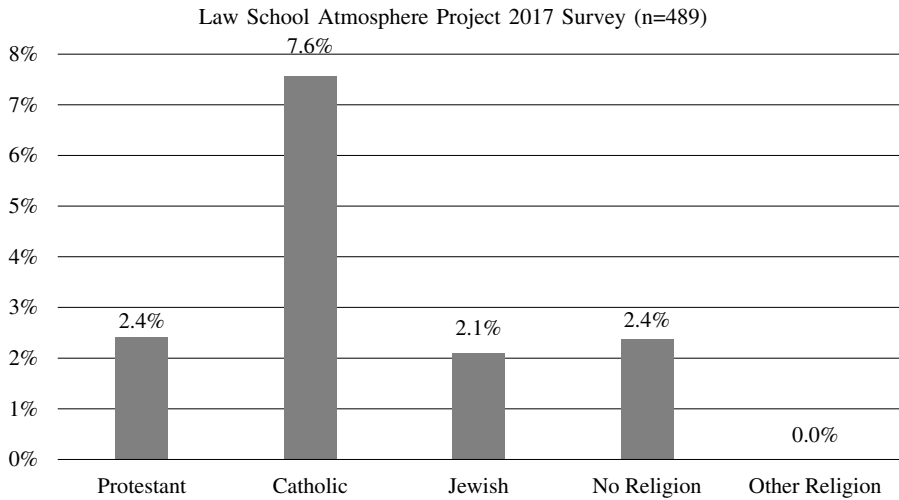
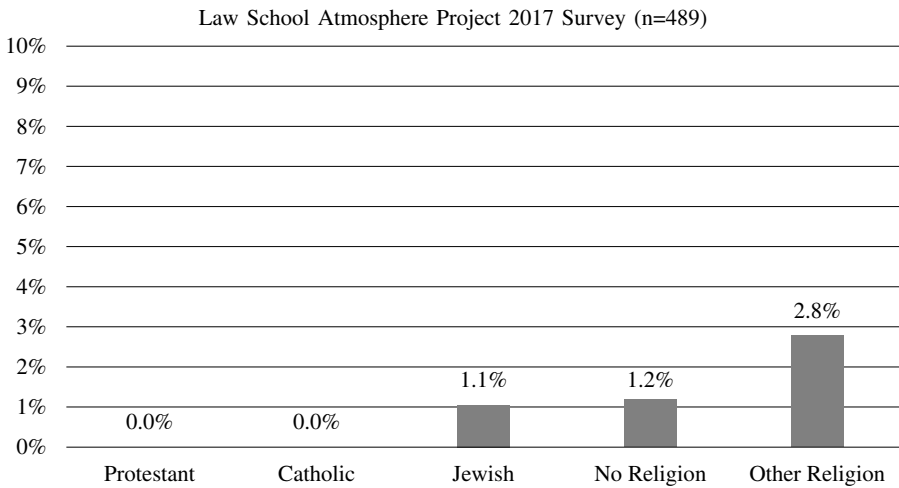


FIGURE 6: LAW PROFESSORS REPORTING THEIR SCHOOL FAVORED NON-MUSLIMS OVER STRONGER MUSLIMS



Turning to a hiring preference for or against Jews, Figure 7 shows that those who adhere to less conventional religions are much more likely (13.9 percent compared to 2–4 percent) to report that their faculty has favored Jews over stronger non-Jewish candidates. The reason for that pattern is far from obvious, but given that the “other religion” category contains a higher percentage of respondents with unconventional affiliations, that may be a bit more idiosyncratic. Figure 8 shows that only 2 percent of respondents believe that their school has shown the opposite pattern—favoring non-Jews over stronger Jews.

FIGURE 7: LAW PROFESSORS REPORTING THEIR SCHOOL FAVORED JEWS OVER STRONGER NON-JEWS

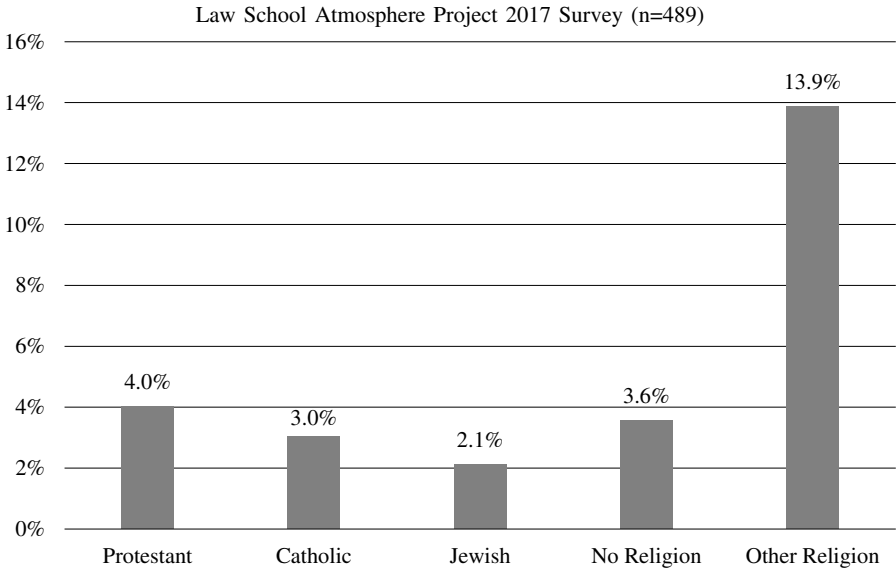
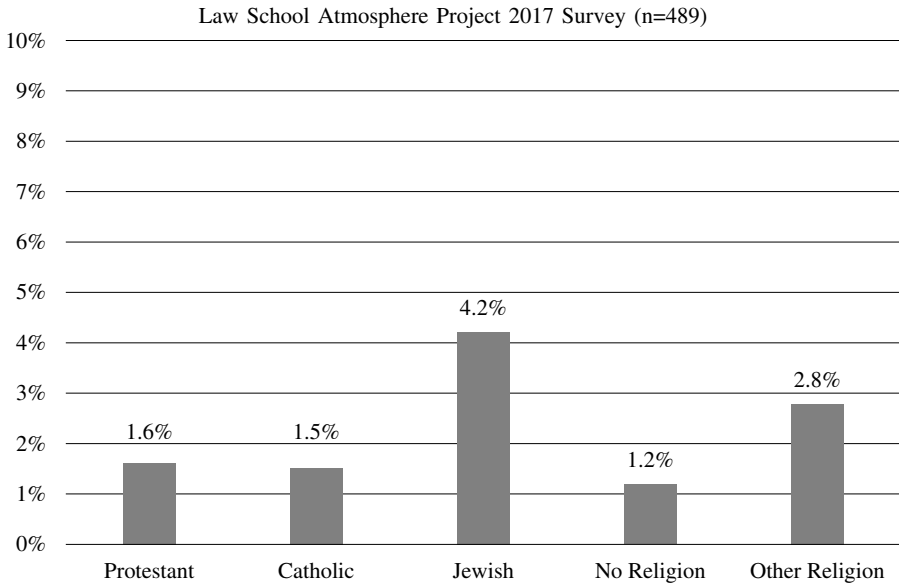


FIGURE 8: LAW PROFESSORS REPORTING THEIR SCHOOL FAVORED NON-JEWS OVER STRONGER JEWS



C. *Religious Belief and Practice*

Asking about belief in God and the regularity of church attendance has long been a staple of opinion polls, including the General Social Survey and the American National Election Studies. Yet to my knowledge, these two

standard religious questions have never been asked of law professors. While about one in four members of the general public reports attending religious services at least once a week, only one in nine law professors report doing so, as shown in Figure 9.

Yet perhaps the most dramatic data in this study resulted from asking about a belief in God. Only 21.2 percent of law professors answer that they “know God exists,”¹⁸ compared to 58.5 percent of the general public.¹⁹ Even more striking, only 4.4 percent of the general public agrees with the atheist statement: “I don’t believe in God,” compared to a whopping 24 percent of law professors.²⁰ Another 7 percent of the general population endorses the agnostic view that they “don’t know whether there is a God,” compared to 18 percent of law professors.²¹

Lest one think that this large difference between law professors and the general public on belief in God is simply a matter of education; there is good evidence that it is not. In the general public, those with graduate and professional degrees are much more like the rest of the public than like law professors. In the 2016 General Social Survey, 4.4 percent of the general public and 5.4 percent of the highly educated do not believe in God. This can be compared to 24 percent of law professors in this 2017 study. Likewise, 7 percent of the general public and 10 percent of the highly educated do not know whether there is a God, which can be compared to 18 percent of law professors.²² Thus, the largest religious differences between law professors and other members of the general public with graduate and professional degrees is the belief in God.

18. *See infra* Figure 10.

19. *See infra* Figure 10.

20. *See infra* Figure 10.

21. *See infra* Figure 10.

22. *See infra* Figure 10.

FIGURE 9: FREQUENCY OF ATTENDING RELIGIOUS SERVICES

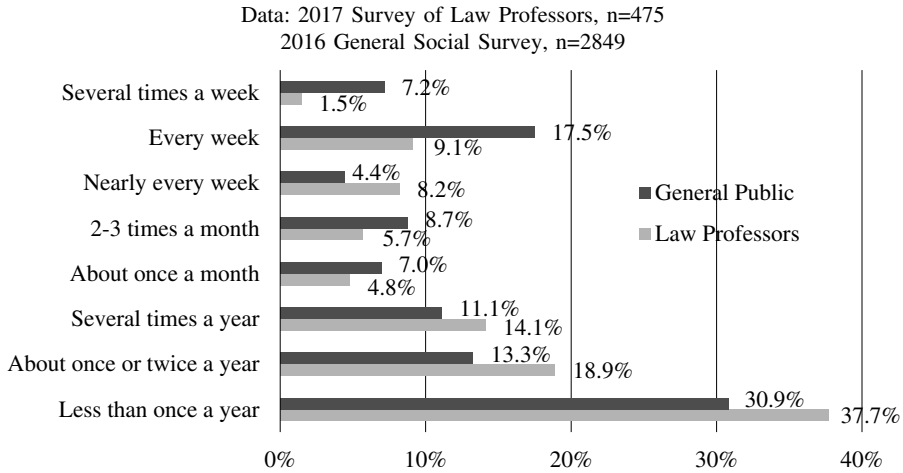
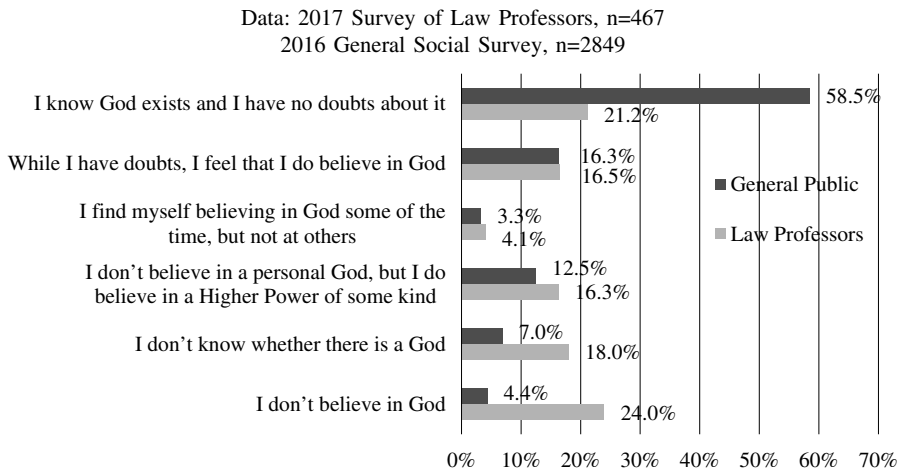


FIGURE 10: BELIEF IN GOD



D. Freedom of Expression

Freedom of expression in universities is a major concern of groups such as the Heterodox Academy. This survey asked law professors: “How free do you feel to express your true beliefs at your law school?” For the 488 professors who both indicated their religious affiliation and answered how free they felt to express their true beliefs, Table 2 shows the basic results. Note that this question did not ask about religious beliefs specifically and there were enough cues about politics, race, gender, and diversity (besides religion) that most respondents were probably not thinking primarily about their religious views.

TABLE 2: HOW FREE ARE LAW PROFESSORS TO EXPRESS THEIR BELIEFS?
Law School Atmosphere Project 2017 Survey (n=488)

	Extremely free to express my true beliefs	Somewhat free to express my true beliefs	Neither free nor unfree	Somewhat unfree to express my true beliefs	Extremely unfree to express my true beliefs
Protestant	27.4%	37.9%	4.8%	16.9%	12.9%
Catholic	27.3%	39.4%	1.5%	22.7%	9.1%
Jewish	55.3%	33.0%	1.1%	6.4%	4.3%
No Religion	38.7%	42.3%	1.8%	11.9%	5.4%
Other Religion	38.9%	25.0%	8.3%	13.9%	13.9%

As shown in Table 2, participants who are most comfortable expressing their views are Jewish law professors, followed by nonreligious law professors. Feeling less free to express their true beliefs at work are Christians and adherents to “other religions.”

I next did ordinal logistic regression analyses to tease out the influence of religious affiliation, controlling for other demographic predictors. This approach is generally favored when one has a few levels of the dependent variable that are each ranked in a logical order. One of the assumptions of this technique is that the proportional odds of each category are roughly similar (i.e., not statistically significant). To test this for each of the five models in Table 3, I did a likelihood-ratio test of proportionality of odds across response categories²³; none of the models were even close to failing this test.²⁴

The reference category for Model 1 is non-right leaning,²⁵ straight white male professors with no religious preference. As we move up the five category ladder from extremely unfree to extremely free, the odds that a Protestant would embrace the next (freer) category drops 46 percent with each step. The odds that an Asian or Pacific Islander would express the next freer of the five categories dropped 63 percent with each step toward freedom of speech, being female dropped 45 percent with each step, and leaning right (being or voting Republican or Libertarian) dropped 31 percent with each step. The relationship between feeling free to express one’s true beliefs and other demographic predictors was not significant.

23. *Ordered Logistic Regression — Stata Data Analysis Examples*, UCLA INST. FOR DIGITAL RES. AND EDUC., <https://stats.idre.ucla.edu/stata/dae/ordered-logistic-regression/> (last visited Oct. 24, 2018).

24. I did reject a sixth model with Jewish as the sole religious reference category because the significance of this test was a borderline significant p of 0.07, which was too close for comfort.

25. A respondent was categorized as leaning right if she considered herself Republican or Libertarian or had favored Republican or Libertarian candidates for president in 2012 or 2016.

TABLE 3: ORDINAL LOGISTIC REGRESSION MODEL

Dependent Variable: Freedom to Express Views (5 categories)
 Coefficients are log odds

	Model 1		Model 2	Model 3	Model 4	Model 5
Predictor Variables		% Change in Odds				
Protestant	-0.616 **	-46.0	-0.750 ***	-0.747 ***	-0.650 **	-0.561 *
Catholic	-0.455 ?	-36.6	-0.664 *	-0.588 *	-0.447 ?	-0.432
Other Religion	-0.318	-27.3	-0.376 ?	-0.462	-0.355	-0.201
Jewish	0.427 ?	53.3	0.460		0.429 ?	0.455 ?
African Am.	-0.164	-15.1	0.002	-0.212	-0.119	-0.183
Latino/a	-0.730 ?	-51.8	-0.595	-0.821 *	-0.731 *	-0.712 ?
Asian/Pacif. Is.	-0.986 **	-62.7	-0.872 *	-1.062 ***	-0.952 **	-0.993 **
Native Am.	-1.236 ?	-70.9	-1.209 ?	-1.231 ?		-1.255 ?
Other Race	-0.382	-31.8	-0.407	-0.334	-0.346	-0.442
Female	-0.601 ***	-45.2	-0.472 **	-0.596 ***	-0.599 ***	-0.572 ***
LGBTQ	0.068	7.0	0.185	0.057	0.053	
Leaning Right	-1.076 ***	-31.1		-1.084 ***	-1.071 ***	-1.078 ***
n	454		455	454	454	464
Wald chi²	64.45		52.49	63.30	61.10	63.39
Model Signif.	0.0000		0.0000	0.0000	0.0000	0.0000
Pseudo R²	0.0523		0.0398	0.0501	0.0493	0.0502

***Signif. at <.001; **Signif. at <.01; *Signif. at <.05; ? Borderline Signif. at <.10;

Model 2 in Table 3 drops “leaning right” as a variable in part to see if Catholic professors would join the groups that feel significantly less free to express their views—they do. This result suggests that Catholics feel less free, but the source of that feeling may be more political than religious. Model 3 is the same as Model 1, except that the Jewish variable was dropped. That leads the religious component of the reference category to be made up of the religious groups that feel freest to express their views: Jews and the nonreligious. Compared to them, the same four groups as in Model 1 feel less free, but in addition, Catholic and Latino/a professors feel less free.

Model 4 in Table 3 drops the Native American category from Model 1, because (with so few Native Americans in the sample) that variable may be a less reliable control variable. Indeed, when that Native American variable is dropped, the Latino/a variable becomes significant. Model 5 is the same as Model 1, except that it drops the LGBTQ variable, gaining ten of the respondents who did not answer that question. The results are extremely similar to those for Model 1, in part because LGBTQ professors express a freedom to speak their mind that is virtually identical to the freedom reported by straight professors. Indeed, the gay-straight differences are the smallest of any of the demographic variables I examined in my models.

IV. CONCLUSION

This first study of law professors' belief in God and attendance at religious services shows that, by these two measures, law faculties are even less devout than mere reports of religious preferences would indicate. Though religious belief in the general population tends to fall with increased education, that phenomenon does not explain or account for the observed magnitude of the differences. For example, while 24 percent of law professors say that they "don't believe in God" and another 18 percent "don't know whether God exists,"²⁶ among those in the general population who have graduate and professional degrees, only 5.4 percent do not believe in God and 10.4 percent do not know whether God exists.²⁷ *Law professors are different.* They are unrepresentative of the larger population, even the highly educated larger population. In the broader public, those with graduate and professional degrees are much closer in their religious preferences, beliefs, and practices to ordinary Americans than are law professors. Accordingly, most law students continue to be exposed primarily to a narrow range of viewpoints.

Further, after several decades of diversity hiring, every large ethnic and gender group in law teaching has reached or exceeded parity with its percentages in the English-speaking full-time working population—or is getting fairly close to parity.²⁸ Just about the only *large* demographic groups still grossly underrepresented in law teaching are Christians and Republicans.²⁹

The reasons for the underrepresentation of Christians have not been well explored. For those who embrace disparate-impact analysis, the numbers themselves are stark enough to suggest at least some degree of systematic discrimination, perhaps forming the basis for litigation. While in this study higher percentages of Christians report religious discrimination than the non-religious, so do higher percentages of Jews and those who embrace "other religions."³⁰ As for their schools preferring non-Christians over Christians, Christians are much more likely to report this behavior than Jews or the non-religious, but the percentages reporting having witnessed this discriminatory preference are still relatively small.³¹ It is likely that, while the questions in this study were well suited to revealing some relig-

26. See *supra* Figure 10.

27. See *id.*

28. See Lindgren, *supra* note 1, at 142. The estimates for 2013 showing near parity for most previously underrepresented groups are also generally supported by the demographic information mentioned in the text accompanying *supra* note 10 and by the so far unpublished results of the rest of the 2017 survey.

29. See *supra* Table 3.

30. See *supra* Figure 2.

31. See *supra* Figure 3.

ious beliefs and behavior, they were not well suited to exposing intentional discrimination.

In the rest of the university, there is some evidence of religious bias among the faculties who do the hiring. For example, a survey of over two thousand academics, mostly in sociology, examined twenty-seven characteristics that might damage or enhance a professor's support for a faculty candidate. According to the respondents themselves, the most positive characteristic was being a Democrat and the most damaging characteristic was being a member of a fundamentalist religion.³² Even for law faculties, there is good scholarship that examines political discrimination and debunks some of the excuses for existing disparities. For example, James Phillips has shown that conservative law professors have generally better credentials than liberal or moderate professors, are more productive, stay productive longer, have more cites, and are nonetheless hired at lower ranked schools than their credentials would suggest.³³ Until the same sort of work is done for religion, the disparate impact analysis for religious law professors remains mostly unconfirmed by evidence of intentional discrimination—or even by careful comparisons of credentials. That is just some of the important work that is yet to be done, work that might not only fill in some of the gaps in our knowledge but also test some of the apparent discrimination against the religiously devout in American universities.

32. See GEORGE YANCEY, *COMPROMISING SCHOLARSHIP: POLITICAL AND RELIGIOUS BIAS IN AMERICAN HIGHER EDUCATION* (2011); Bruce A. Chadwick, *Compromising Scholarship: Religious and Political Bias in American Higher Education* by George Yancey, 51 *BYU STUD. Q.* 182 (2012) (reviewing GEORGE YANCEY, *COMPROMISING SCHOLARSHIP: RELIGIOUS AND POLITICAL BIAS IN AMERICAN HIGHER EDUCATION* (2011)).

33. See, e.g., James Cleith Phillips, *Testing a Beckerian-Arrowian Model of Political Orientation Discrimination on the U.S. Law Professor Labor Market: Measuring the 'Rank Gap,' 2001–2010* (Stanford Univ. Constitutional Law Ctr., Working Paper, 2018), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3224508.