

The Power of Titles in the Legal Academy

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My first academic position, now 15 long years ago, was at the University of Georgia. I was one of two Assistant Professors hired that year; the other was [Erica Hashimoto](#), who is now a Professor at Georgetown. We were about the same age, quickly became close friends, and taught similar courses — Prof. Hashimoto, criminal law; me, evidence. Yet our experience with students couldn't have been more different. I was automatically referred to as “Professor Heller,” despite my friendliness with students and categorical refusal to wear anything more formal than khakis and a button-down shirt. I even had to convince my own research assistant to call me Kevin — and I'm pretty sure she never really got used to it. I knew students gossiped about my personal life, and there was a flattering rumour going around that I was gay. (“Because you're really clean, came here from L.A., and are so openly pro-woman in class,” my RA explained — which says more about men in the South, I think, than about me.) But no student was ever openly disrespectful to me. Not one.

Prof. Hashimoto's experience was, shall we say... not the same. Despite not being informal with students and always wearing a suit to work, she was routinely referred to by male students — directly and to me — as “Erica.” Men used to ogle her openly, and at least one asked her out. A few male students even gossiped to me about her private life, requiring a mini-lecture on respect. I was genuinely shocked by how Prof. Hashimoto was treated by students (a minority of them, to be sure), and I'm not easy to shock about such things.

I shouldn't have been shocked, of course. The explanation was obvious: white male; Asian woman. Therein lay the (sole) difference.

This self-indulgent personal reflection is by way of recommending to readers a very important [short article](#) by Drexel's [Rachel E. Lopez](#), “Unentitled: The Power of Designation in the Legal Academy.” Here is the abstract:

Last December, the Wall Street Journal published an op-ed that questioned whether Dr. Jill Biden should more appropriately be addressed as Madame First Lady, Mrs. Biden, Jill, or even kiddo, characterizing her desire to be called doctor “fraudulent” and a “touch comic.” Many were understandably outraged by the lack of respect afforded to Dr. Biden, which had a distinctly gendered dimension. More recently, after a controversial decision by the University of North Carolina’s board of trustees to deny her tenure, Nikole Hannah-Jones, a Pulitzer Prize and MacArthur “genius grant” winner, was instead appointed as a “Professor of Practice” on a five year fixed term contract. These high-profile examples put in sharp focus what many women of color in the legal academy already know all too well: labels have an innate power to confer or diminish status. This Essay explores the role that titles play in the legal academy and, in particular, their often depreciative consequences for women of color. Drawing from my story, those relayed to me by others, and other empirical evidence, I will show how titles perpetuate stereotypes and entrench existing racial and gender hierarchies in the legal academy, although they appear race- and gender- neutral.

It is no secret that the legal academy is extraordinarily hierarchical, with women and people of color often populating the lower ranks of the totem pole. There is a stinging irony to this. As Ruth Gordon eloquently put it, “many of us spend our professional lives contesting hierarchy and exclusion—whether on the basis of race, gender, or class—but when it comes to academia—and I would suggest especially legal academia—we appear to have finally found a hierarchy we can believe in.” There is a problem of academic exceptionalism in the legal academy—hierarchy and exclusion are others’ problems, not our own.

Labels, in the form of titles, help cement these disparities, concretizing them into a caste system that justify unequal pay, less power in faculty governance, and, at times, abusive behavior. While doctrinal professors are “Professors of Law,” the academic archetype, the legal academy has developed a virtual cottage industry of other professional designations. These titles denote “the other teachers” in the legal academy: Clinical Professor, Professor of Practice, Teaching Professor, and Legal Writing Instructor, to name a few. The message is that “Professors of Law” are the ones who really teach the law, while those with the other titles teach something else less important.

If law schools truly aspire to be anti-racist institutions, as so many have pledged to be, we must acknowledge and hopefully someday soon address the racial and gendered (often intersectional) dynamics of titles in the legal academy.

I came across Prof. Lopez’s article not long after reading yet another salacious *New York Times* [story](#) on the controversy surrounding Prof. Amy Chua at Yale Law School. I was immediately struck, as I’m always struck when reading the NYT about academia, by how the article referred to Prof. Chua as “Ms. Chua” and Dean Heather Gerken as “Ms. Gerken.” I am no fan of Prof. Chua’s writing (an understatement), but she is a professor, a full one, and should be referred to as such. And Dean Gerken is... a Dean. Of Yale Law School. The first female Dean in the law school’s 197-year history. Referring to her as

“Ms. Gerken” is — for all the reasons Prof. Lopez discusses — wrong and demeaning, even if it is the NYT’s house style for both men and women. (The NYT story refers to Jed Rubenfeld as “Mr. Rubenfeld.”)

Because Prof. Lopez’s article focuses on the US legal academy, it doesn’t address an aspect of academic titles that I’ve thought quite a bit about over the years: namely, that anyone who teaches a course in an American law school is referred to as “Professor.” That is true whether the teacher is an Assistant, Associate, or full Professor; whether the teacher is doctrinal or clinical; whether the teacher is tenure-track or on a fixed contract; or whether the teacher is a full-time teacher or a practicing lawyer who adjuncts from time to time.

That kind of title inflation is essentially unheard of outside the US. (I say “essentially” because I’m not sure about Canada.) You don’t call someone “Professor” in Australia, the UK, the Netherlands, or Denmark (the countries where I’ve taught) unless they are a full professor. I learned that the hard way while teaching at the University of Auckland, my first non-American academic position. A senior colleague heard me call myself “Professor Heller” and reminded me, gently but firmly, that I was a Senior Lecturer (basically the equivalent of Assistant Professor) and was not entitled to call myself “Professor,” an appellation reserved for those who had climbed the academic ranks and been formally awarded the title. I never made that mistake again!

To be sure, there are some positives to US practice. Given that the US does not restrict “Professor” to full professors, I think anyone who teaches in a law school full-time should be referred to that way. Doing so is particularly important, as Prof. Lopez explains in her article, for clinical faculty and legal writing instructors, who are disproportionately women and women of colour and who are usually viewed as something less than “real” professors. (Two facts that are obviously inextricably entwined.) Such faculty are no less important to a law school than doctrinal professors, and there is absolutely no justification for referring to them differently — much less in a way that devalues their contribution.

I do have a problem, though, with the US practice of referring to all adjuncts as “Professor.” I am not talking about young scholars and practitioners who are trying to break into the academy and who are often — and increasingly — exploited by law schools as cheap labour. Again, if your primary job is teaching law, your job security should not determine your title. But I don’t think the Skadden Arps partner who teaches the occasional securities regulation course at his alma mater or the local law school should be called the same thing as either the academic who has spent her entire career climbing the academic ranks or the adjunct who teaches four courses per semester while trying to publish law-review articles or land a position in a law clinic. In my view, calling the Skadden partner “Professor” devalues the title and the work that full-time law teachers (doctrinal or clinical, tenure-track or fixed contract) do to deserve it. And I suspect that the cachet of being called “Professor” encourages lawyers — particularly men — to want to do a bit of adjunct teaching, thereby making the job market even worse for young lawyers trying to find job security in the academy.

I don't know if I'm right about this. I am leaving comments open and hope readers will weigh in — not only on the adjunct issue but also on titles in legal academia more generally. And I encourage everyone to read Prof. Lopez's article.