The Path of the Law Review: How Interfield Ties Contribute to Institutional Emergence and Buffer against Change

Daniel N. Kluttz

Early neoinstitutional theory tended to assume institutional reproduction, while recent accounts privilege situations in which alternative models from outside an organizational environment or delegitimizing criticism from within precipitate institutional change. We know little about institutions that persist despite such change conditions. Recent advances in sociological field theory suggest that interfield ties contribute to institutional change but under-theorize how such ties may reinforce institutions. Extending both approaches, I incorporate self-reinforcing mechanisms from path-dependence scholarship. I elucidate my framework by analyzing the student-edited, student-reviewed law review. Despite its anomalous position relative to the dominant peer-reviewed journal model of other disciplines, and despite sustained criticisms from those who publish in them, the law review remains a bedrock institution of law schools and legal scholarship. I combine qualitative historical analyses of legal scholarship and law schools with quantitative analyses of law-review structures and field contestation. The analysis covers law review's entire historical trajectory—its emergence, its institutionalization and coherence of a field around it, and its current state as a contested but persistent institution. I argue that self-reinforcing mechanisms evident in law review's ties to related fields-legal practice, law schools, the university, and legal periodicals—both enabled its emergence and have buffered it against change.

Law reviews are the primary outlet for legal scholars, and the law review system is unique to legal education. People in other fields are astonished when they learn about it; they can hardly believe their ears. What, students decide which articles are worthy to be published? No peer review? And the students chop the work of their professors to bits? Amazing. And then they check every single footnote against the original source? Completely loco. Can this really be the way it is?

Lawrence Friedman (1998: 661)

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Sociological scholarship on organizations and institutions has developed rich accounts of institutional diffusion and change. But it is limited in its ability to explain institutional emergence and subsequent persistence in the face of change pressures. Neoinstitutional theory holds that diffusion and institutionalization of organizational forms and practices are driven primarily by organizations' desire for legitimacy. An institution should change when it is subjected to sustained, delegitimizing contestation and criticism, particularly if opponents have an alternative, highly institutionalized model on which to draw. How do we explain institutional persistence despite such change conditions?

The answer, I argue, requires developing more comprehensive historical accounts of institutional trajectories and expanding our theoretical toolkit by integrating insights from other scholarly traditions. My theoretical framework leverages neoinstitutional theory's understandings of legitimacy-based institutionalization, field theory's attention to interfield relationships, and path dependence's toolkit of self-reinforcing mechanisms. Fields structured around institutionalized practices are difficult to change, delegitimize, or dismantle. Yet, most contemporary institutional scholarship—and even the few field-based studies that explicitly account for interfield ties—tend to focus on cases of institutional change. Drawing from path-dependence scholarship, I argue that self-reinforcing mechanisms evident in the ties between fields can buffer against change.

I demonstrate my framework empirically through an historical analysis of a bedrock institution of American legal education and scholarship: the student-edited law review. I take a mixed-methods approach to explain why the law-review model has persisted as the dominant institution of scholarly legal journal publishing. First, through a qualitative historical analysis, I trace the origins, formation, and institutionalization of law reviews from the mid-nineteenth century through the mid-twentieth century. Second, through quantitative and qualitative analyses of contestation among law-review actors and the coevolution of related fields since the mid-twentieth century, I explain how the law review has resisted change.

The key to explaining the persistence of this seemingly paradoxical institution is to trace its ties to related fields—the law school, the university, legal practice, and legal periodicals more generally—throughout its historical development. As I show, self-reinforcing mechanisms evident in these interfield ties—legitimacy, complementarity, sequencing, the pursuit of field-structured self-

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interests, and institutional layering—enabled the law review's emergence, institutionalization, and, despite sustained criticisms and its anomalous position relative to the model followed by other disciplines, have buffered it against change.

Features of Student-Edited Law Reviews

As the primary publication outlets for the American legal academy, law reviews became notably similar to one another in structure and practice shortly after their emergence in the late nineteenth century and remain so today. Yet they differ greatly from scholarly journals in other disciplines.[1] Most obviously, law students—not faculty experts or professional editors—manage the journals, review submissions, edit manuscripts, and select articles for publication. Other core features of law reviews include allowing simultaneous submission to multiple journals, an "expedited review" system permitting authors to signal a manuscript's worth by alerting editors of an acceptance elsewhere, lengthy articles often containing hundreds of detailed footnotes, single-blind review (student reviewers know authors' identities), and a sponsoring law school that houses, subsidizes, and publishes the journal. Table 1 compares law reviews to scholarly journals in other disciplines.

Since the mid-twentieth century, the student-edited law review has been the subject of significant, sustained contestation between students, faculty, and practitioners. As I will show, among those who write in and manage law reviews—law professors, practitioners (attorneys and judges), and student-editors—faculty are law reviews' harshest critics and student-editors their staunchest supporters. When surveyed, law professors express considerable dissatisfaction with student-run law reviews, believe they require major changes, and most often call for the expert-managed, peer-reviewed system of other disciplines (Wise et al. 2013). Yet, despite its outlier status among academic journals, and despite sustained criticism, law review's core structures and practices persist. Meanwhile, law reviews continue to proliferate: every law school sponsors at least one, and the number of student-edited specialty journals grows (Wolotira 2012). According to Washington & Lee School of Law's law-journal database, there were 636 active student-edited law reviews among 205 ABA-approved American law schools in 2015.

[1] They also differ from non-American law reviews. Canada's, for example, are mostly peer-reviewed. I limit analysis to the American law review and its institutional environment here.

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Table 1. Core Features of Law Reviews Vs. Other Scholarly Journals

	Law Reviews	Other Journals[1]
Managers	Students	Faculty; professional publishers
Editors	Students	Faculty; professional editors
Reviewers	Students[2]	Peer referees
Article selection	Students	Faculty; professional editors
Publishers	Host law schools	Professional publishers; associations; Host schools
Primary funding source	Host law schools	Subscriptions; fees
Anonymity	Single-blind	Double-blind; single-blind[3]
Exclusive submission?	rare[4]	Yes
Authors decline acceptance and publish elsewhere?	Common	Rare
Rounds of review	One	Multiple
Footnoting	Extensive	Limited

[1] Ideal-typical features. Some variation across disciplines and journals.
[2] A few journals may practice "soft" peer review, with students consulting faculty on select submissions. This is not the norm and nevertheless leaves screening and/or ultimate article-selection authority to students.
[3] Double-blind predominates. Some natural- and life-science journals, and a few social-science journals (e.g., American Economics Association journals), are single-blind.
[4] Some journals occasionally require exclusive submission on a per-volume/per-issue basis.

Theory Development

Institutional Change and Stability

Institutions are self-reinforcing through taken-for-granted social practices that become infused with value and meaning (Berger and Luckmann 1966; Selznick 1957). Organizational structures and practices become institutionalized through isomorphic processes aimed at reducing uncertainties (DiMaggio and Powell 1983), through normative obligations or "rational myths" taking on a rule-like status (Meyer and Rowan 1977), and through observers perceiving them as part of the objective, external world and capable of repetition without changing their meaning (Zucker 1977). Over the process of institutionalization, these structures and practices not only diffuse but become highly legitimate and stable, eliciting shared meanings and providing cultural models for action (Suchman 1995). Institutionalized practices thus have an agreed-upon meaning and are perceived as the most legitimate way to act.

Scholars criticized early neoinstitutional accounts for undertheorizing individual agency and change within institutional structures (DiMaggio and Powell 1991). Institutional change has now dominated the literature over the last two decades (Dacin et al. 2002; Schneiberg and Clemens 2006: 217–220). Drawing from theories of institutional entrepreneurship and social-movements scholarship, these accounts often focus on how internal field criticism and contestation—openly questioning an institution's legitimacy—precipitate institutional change (DiMaggio 1988; Greenwood and Suddaby 2006; Schneiberg and Lounsbury 2008). Yet, neoinstitutional scholars still tend to avoid probing mechanisms by which

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institutional *stability* occurs, instead simply assuming that institutions reproduce absent change conditions (Scott 2014: 152).

Integrating Sociological Field Theory

Recent advances in sociological field theory provide some analytical leverage to explain institutional persistence. Traditionally, sociologists have focused on two related but distinct variants: social fields as popularized by Bourdieu and the "organizational fields" of neoinstitutional theory (DiMaggio and Powell 1983). A third, Fligstein and McAdam's (2012) recent elaboration of field theory, shares a common foundation but offers novel insights into the effects of interfield relations on field change and stability (Kluttz and Fligstein 2016).

Fields are constructed social arenas oriented around a common issue or institution, within which field actors (organizations and individuals) occupy certain positions and contend with one another for resources, influence, and legitimacy (Fligstein and McAdam 2012). Fields are institutionally defined, meaning that field actors (individuals or organizations) have a shared sense of the field's centralized meaning system, which is embedded in institutionalized structures and practices. Field actors pursue their own interests and perceive the field in line with those interests, but institutions shape and constrain the means and ends of interest-driven behavior (Friedland and Alford 1991). And within a field, interests are further shaped by one's field position, itself based on one's power and role relative to others in the field. Roles, sources of identity and meaning, thus help motivate field actors' material interests (Scott 2014: 64–65).

Fields are not, however, isolated or closed social systems; they stand in relation to other fields (Fligstein and McAdam 2012; Moore 1973). Interfield ties thus affect whether fields—and the institutionalized practices around which they revolve—emerge, change, and reproduce. Sociological research on fields prior to Fligstein and McAdam's advancement undertheorized the effects of interfield relations, instead privileging analysis of internal field dynamics. The few institutionalist studies that situate fields in a broader field environment overwhelmingly focus on how actors, events, and ideas outside or at the boundaries of a field drive *change* within a field, rather than institutional emergence or persistence (e.g., Edelman 2007; Holm 1995; Morrill 2002; Sauder 2008). Bourdieu tends to analyze fields—e.g., the university (Bourdieu 1988), the juridical field (Bourdieu 1987)—as relatively autonomous social spheres, influenced by external fields usually only to the extent that they mirror or diverge from the general ordering of positions in an abstract "field of power" (Bourdieu 1996a). He viewed academic disciplines,

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especially scientific disciplines, as having a high degree of field autonomy, meaning that they tend to operate according to a logic independent of other fields and that field actors tend to orient their actions only to others within the field (Bourdieu 2004).[2]

Fligstein and McAdam's conception of fields builds on Bourdieu's ideas but more explicitly and concretely theorizes implications of interfield ties for field emergence, change, and reproduction. They contend that interfield relations are based primarily on field dependency, or the extent to which a field relies on a proximate field—one "with recurring ties to, and whose actions routinely affect, the field in question"—to function (Fligstein and McAdam 2012: 18, 59). They define field dependency based on authority and resource dependencies (Pfeffer and Salancik 1978). Dependent field relationships yield unequal power relations and unidirectional influence by a dominant field, making a nondominant field susceptible to change when there is crisis or change in the dominant field.

More pertinent to my analysis, Fligstein and McAdam do suggest that field interdependencies can buffer *against* change to a focal field or institution, but their framework lacks empirical support and theoretical specificity. To resist change initiated by challengers, they propose, field incumbents rely on reciprocal resource dependencies—symbolic legitimacy benefits or material resource flows—that their field shares with related fields (Fligstein and McAdam 2012: 59–61). The more the two-way dependency is shared (i.e., reciprocal), the greater the stabilizing effect. However, neither they nor any subsequent field-based study demonstrates this empirically. Moreover, limiting the theorized cause of institutional reproduction to reciprocal resource dependency underspecifies the object of study, as not every driver of persistence is reducible to such dependency. This is especially so if one examines interfield ties historically, as factors influencing institutional emergence may differ from those influencing diffusion or reproduction (Stinchcombe 1968: 103–104; Tolbert and Zucker 1983).

Path Dependence, Self-Reinforcing Mechanisms, and Institutional Persistence

To extend field theory, I draw from path-dependence scholarship and specify new mechanisms for institutional emergence and persistence. Path dependence holds particular promise for explaining cases like the student-edited law review because it assumes the

[2] Although underdeveloped in studies that employ a Bourdieusian approach to fields, "field heteronomy" implies that the logic of a field (or actors situated at the heteronomous pole) is influenced by other fields (Bourdieu 1996b). Inviting empirical study, Gorski (2013: 330) hypothesizes that the field of law schools, influenced by the field of legal practice, is more heteronomous than, say, fields of history or sociology departments.

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existence of a "highly interdependent system" (Leblebici 2013: 255), recognizes the importance of self-reinforcing processes as drivers of enduring and theoretically unexpected social patterns (Mahoney 2000: 508), and possesses well-established mechanisms of institutional persistence (Beyer 2010). As I will show, these self-reinforcing mechanisms can stabilize an institution even when sustained contestation and a dominant institutional alternative threaten its legitimacy, the key driver of institutional reproduction in neoinstitutional theory.

Economic historians first identified self-reinforcing mechanisms to explain the persistence of inefficient technologies, namely high set-up or fixed costs, learning effects, coordination effects, and adaptive expectations (Arthur 1994; David 1985). Political scientists (Pierson 2000a) and historical sociologists (Mahoney 2000; Schneiberg 2007) have gone beyond economists' focus on economically inefficient outcomes by theorizing how nonmarket institutions develop and persist. They expanded self-reinforcing mechanisms to include legitimacy, complementarity, sequencing, the pursuit of self-interest, and institutional layering.

Legitimacy is the key driver of institutionalization in neoinstitutional theory and is borrowed from that literature (Mahoney 2000: 523). As rules or practices are increasingly perceived as legitimate, they become internalized as the appropriate way to act and diffuse across a field. Even if technical considerations drive initial adoptions, legitimacy becomes the reason later actors adopt, which further reinforces legitimacy and institutional structures (Tolbert and Zucker 1983). For example, Rubin (2015) shows how early adopters of the state-prison model innovated to address local problems of deteriorated and overcrowded proto-prisons, but later adopters acted more to avoid criticisms of being backward and illegitimate.

Comparative political economists recognize that national political economies can persist (or change only gradually) because of *complementarities* among the interconnected institutions of a broader political-economic system (Hall and Soskice 2001). Complementary institutions exert positive feedback effects on one another: the functioning of one institution enhances the functioning of another, and a drastic change in one undermines other institutions on which it relies. Complementarity is similar to the reciprocal resource dependence Fligstein and McAdam (2012) propose as their interfield mechanism of institutional reproduction. I submit, however, that reciprocal resource dependence differs from institutional complementarity. The former emphasizes the extent to which dependencies between two fields are reciprocal (i.e., as dependencies between A and B approach equivalence, the stabilizing effect increases). Complementarity is broader,

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focusing on increasing returns between institutions but not requiring equivalent returns for maximum stabilizing effect.[3]

Sequencing requires attending to the temporal ordering of key influences over an institution's entire history. One aspect of sequencing is a "critical juncture," which is a period during institutional emergence or formation that triggers a process of self-reinforcement (Pierson 2000b). Although the path-development sequence begins before a critical juncture, once events and conditions during the critical juncture end, alternative paths narrow and institutional patterns exhibit increased deterministic properties (Mahoney 2000: 537). A second aspect of sequencing is the important role of timing: "[b]ecause earlier parts of a sequence matter much more than later parts, an event that happens 'too late' may have no effect, although it might have been of great consequence if the timing had been different" (Pierson 2000a: 263). If we apply this well-established premise to field-level studies of institutional history, then we should expect that, all else equal, potentially change-inducing events or processes emanating from related fields (e.g., infiltration of outsiders, institutionalization of alternative arrangements in related fields) will exert less effects on the focal institution the later they take place relative to those that occur during institutional path-formation.

The *pursuit of self-interest* is another self-reinforcing mechanism that contributes to institutional reproduction. In calculating the costs and benefits of changing existing institutional arrangements, actors may maintain the status quo when it furthers their self-interest (Mahoney 2000: 525). A field-theoretic approach accepts that individuals and groups act strategically to advance their interests, but those interests are shaped by the field's structural constraints, normative obligations, and power relations (Bourdieu 1989; DiMaggio 1988). Consistent with Fligstein and McAdam's (2012) conception of field actors who operate in multiple overlapping or nested fields simultaneously, strategic pursuit of one's interests with respect to one field may work to change or reinforce an institution in another field.

Finally, *institutional layering* occurs when new institutional rules, strategies for action, or practices are added to or alongside an existing institution without changing or displacing core components (Thelen 2003). Historical institutionalists in political science typically describe institutional layering as a mechanism of gradual, endogenous change. But the concept should appeal to field-oriented sociologists because field theory's multilevel, relational approach—conceptualizing fields as guided by institutional rules

[3] Measuring each empirically, while beyond the scope here, would be a useful contribution.

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and understandings but also influenced by and nested within other fields—implies that institutional layering can cause change in a broader field but, in the process, reproduce an institution around which a nested field is oriented. In other words, if an institutionalized practice is subject to change pressure, then the layering of alternative norms, rules, or practices onto the broader field environment can alleviate pressure toward more transformative change of an institution's core elements in the focal field.

Analytic Strategy

Theories of institutional change would predict that the student-edited law review is ripe for change: it differs dramatically from the dominant professionally managed, peer-reviewed scholarly journal model and has been contested and criticized by legal actors for decades. This case is thus a strategic site to develop theory. Throughout the paper, I examine law review's connections with related fields and explain how self-reinforcing mechanisms evident in those ties contributed to its emergence, institutionalization, and persistence.

The analysis proceeds in two parts. The first covers the preformation period preceding the first student-edited law review in 1875 then follows law review's emergence, institutionalization, and coherence into a field up to the 1940s. I relied on law-school and law-review archives, as well as histories of scholarly peer review (e.g., Zuckerman and Merton 1971), the American legal profession (e.g., Friedman 2005), legal education (e.g., Stevens 1983), and legal scholarship (e.g., Swygert and Bruce 1985). To assess the diffusion of law-review organizations across law schools, I also constructed a longitudinal database of all law schools and their flagship law reviews from the first student-edited law review in 1875–2010.

In the second part, I examine law-review contestation and persistence in the post-war era. Here, I continued to draw from law-school and law-review archives. To show the institutionalization and stability of law reviews, I gathered evidence about their structure and content by drawing random samples of 20 law reviews at the first year of each decade from 1940 to 2010, collecting full texts of every volume published from HeinOnline (2018). I coded characteristics of each volume, including number of issues, pages, and articles (total and by type).

I also built and analyzed a database of hundreds of scholarly legal journal articles published from 1950 to 2010 that contest the student-edited law review. I define a law review for these purposes as any student-edited, general-interest journal hosted by a

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law school that is fully approved by the American Bar Association (ABA) and confers JDs. As of 2010, there were 198 ABA-approved law schools, and each law school maintained a student-edited, general-interest law review. This part of the analysis begins in 1950 because the structures, practices, and meanings of law reviews had become highly institutionalized by the early 1940s.[4]

Drawing from full-text, online databases of all law reviews plus the peer-reviewed *Journal of Legal Education*, I constructed a dataset of 164 articles that offered normative discussions of law review's strengths, weaknesses, or position in the legal academy. I coded each article for its overall sentiment toward law reviews (critical or supportive). To map actors' positions in the field of law reviews and understand how contestation has evolved, I estimated logistic regression models to assess the effects of publication year and author role—faculty, student, and practitioner—on the sentiment of articles contesting law reviews (see Supporting Information Appendix A for more detail). I then conducted qualitative textual analyses of the articles in the dataset to reveal common themes and to situate law-review contestation and actors within their broader field contexts. Triangulating sources to understand key events and capture sentiment from observers and stakeholders whose views I may overlook if considering only those expressed in published law journals, I also relied on hundreds of accounts in newspapers, legal magazines, and blogs debating law reviews (Supporting Information Appendix B provides a representative list).

Historical Origins and Institutionalization

Writing in 1956, attorney Kenneth Burgess (1956: 10, 16) remarked that the law review had "not changed basically from the days of its infancy" and had become "a recognized institution in our law school world." In this section, I discuss the precursors, birth, and institutionalization of the student-edited law review over the nineteenth and early twentieth centuries. The law-review field cohered during the first decades of the twentieth century as core organizational practices around which the field is centered became institutionalized. The law review's early path was shaped by self-reinforcing mechanisms evident in its ties to related fields: law schools, the university, legal practice, and legal periodicals generally. Figure 1 depicts the law-review field and these related fields.

[4] Indeed, published discussions of law reviews were rare until the mid-twentieth century. I discovered only 21 articles published from 1875 through 1949 with law review as the primary topic; 17 such articles appeared in the 1950s alone.

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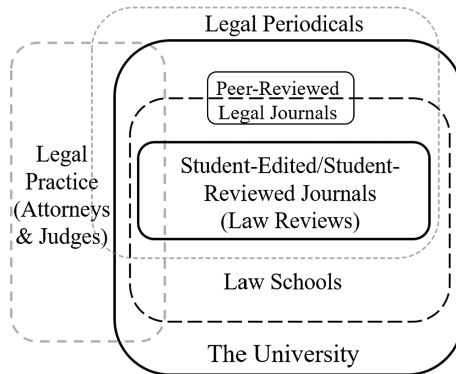

Figure 1. Field of Law Reviews with Nested and Overlapping Fields.

Preformation Field Environment

Broader conditions were important precursors to the first student-edited law review's emergence in 1875. I begin with the field of law schools. During the eighteenth and nineteenth centuries, most aspiring lawyers apprenticed under an experienced attorney (Stevens 1983). Formalized legal education began in private legal academies, where students studied legal treatises under tutelage of practicing attorneys. In the early 1820s, colleges began absorbing these academies or hiring the attorneys as instructors. Starting about the 1850s, as part of a broader movement toward building formal educational institutions to support the professions, law schools proliferated with the rapidly increasing number of colleges and universities (Reed 1921: 152–159). By the end of the nineteenth century, apprenticeships had declined substantially in favor of university-based law schools (Friedman 2005).

After 1870, American law schools underwent radical innovations, which were initiated at Harvard Law School by Dean Christopher Langdell. Langdell regularized entrance requirements, championed the Socratic method of teaching, and expanded the curriculum to 3 years (Reed 1921: 354–368). Lang dell's case-based method of learning, in which students analyze court decisions to extract doctrinal logic applicable to particular fact patterns, came to dominate American legal education (LaPiana 1994; Stevens 1983). This emphasis on doctrinal analysis of case law provided content for law reviews, which began a few years later and contained case reports and analyses of judge-made law.

More broadly, American universities, led by innovators like Johns Hopkins and Harvard, emulated the German university model and began emphasizing their faculties' scholarly pursuits during the mid- to late-1800s (Veysey 1970). As professional schools tightly linked to the practice of law, law schools were

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marginalized in the university field, and law-school faculties consisted primarily of practicing attorneys who, when not teaching, spent more time practicing law than researching or writing scholarship. By the end of the nineteenth century, though, and especially at elite schools, sentiment had steadily grown among administrators and (increasingly full-time) faculty that law schools would gain prestige and legitimacy by encouraging more academic, scholarly endeavors (Hibbitts 1996). Law reviews were an ideal outlet, as Clarence Ashley (1899: 12), dean of New York University Law School would argue:

> In short, there should be a demand for broad legal scholarship going beyond the requirements of actual practice, and to create this demand an interest should gradually be awakened among such students as have time and inclination to pursue courses of this character …. We are all indebted to the *Harvard Law Review*, and its articles have proved an inspiration in the direction I have indicated.

Thus, innovations at law schools, the growth of universities, and the rise of scholarship as a signal of university quality set the stage for law reviews to be perceived as legitimate endeavors that boosted the reputation of their host schools.

Ties to the broader field of legal periodicals also contributed to law reviews' emergence. American legal periodicals originated in 1808 with the *American Law Journal and Miscellaneous Repertory* (Brainerd 1921). Until about the 1880s, legal periodicals mostly consisted of commentaries on recent court decisions, which were proliferating rapidly (Friedman 2005: 474–475). Practicing lawyers did not have the time or money to collect and read the increasing volume of case reports. Legal periodicals helped by reporting in whole, summarizing, or commenting on important cases.

In 1879, however, West Publishing Co. began publishing its first regional digest and the *National Reporter System*. Because this system provided a more uniform and efficient way to access case law across jurisdictions, it "undercut the reasons for being of many law magazines[,]" such that by the 1880s, their "day was almost done" (Friedman 2005: 481). With the dominance of case-reporting waning, law-review founders faced less pressure to conform to the previously dominant model in the field of commercial legal periodicals. The *American Law Record* (1887: 689) magazine recognized this in its review of *Harvard Law Review's* first issue, noting that because "the system of weekly reporters has been carried to such perfection by the West Publishing Co. … there is no great demand for legal periodicals in addition to those already in

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the field." Indeed, student-edited law reviews, subsidized by law schools, would see themselves less as competitors to commercial legal periodicals and more as vehicles for communicating law-school news and academic essays.

Institutionalization, Field Structuration, and Path-Formation (1875–1940)

The law review's path-formation phase began in 1875 with the founding of the first student-edited law review and continued until the early 1940s. By that point, the law-review field had stabilized, as all law schools published student-managed, student-edited law reviews following a standardized format. In this section, I show how ties between the emerging law-review field and related fields—spurred by self-reinforcing mechanisms of legitimacy, complementarities, and sequencing—helped set law review's path during this formation period.

In 1875, Albany Law School students founded the first student-edited law review, the *Albany Law School Journal*. They followed the format established by the *American Law Review*, which took a more scholarly and national approach than prior legal periodicals (Swygert and Bruce 1985). The second law review was the *Columbia Jurist*, founded in 1885. Both publications were short-lived, however. Albany's lasted just 1 year and Columbia's one and a half years. The two available contemporaneous descriptions of the *Albany Law School Journal* describe it as an effort by "boys" at Albany Law School to create a volume of legal journalism, more devoted to communicating law-school news and brief legal notes than substantive scholarship (*Central Law Journal* 1876: 136; *Albany Law Journal* 1876). My reading of the only surviving issue of *Albany Law School Journal* (vol. 1, no. 17, April 1876) confirms these descriptions, and historians agree that it was not all that influential to subsequent student-led law reviews (Goebel 1955: 103; Swygert and Bruce 1985: 768).

The *Harvard Law Review*, on the other hand, was crucial for institutionalizing the law-review model and structuring a field of law reviews.[5] Its founding in 1887 and subsequent development demonstrates the importance of ties between early law reviews and related fields: law schools, the university, and legal practice. And its reorganization in 1902 marked the end of a "critical

[5] Other early movers met varied levels of success. Law-school-based law reviews at Yale (1891) and the University of Pennsylvania (1896) continue today. Others, including those at Columbia (1885–1887; 1887–1893; 1901–present) and the University of Iowa (1891–1901; 1915–present), made several attempts before finding enduring success. Still others, such as the *University Law Review* at the University of the City of New York (1893–1897), failed altogether (Hicks 1933).

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juncture" within law review's evolution. After this point, law reviews cohered around the form and practices set by the Harvard model.

In 1887, having read the *Columbia Jurist,* an eight-member club of Harvard law students gathered the support of alumni and a few professors and began publishing the *Harvard Law Review* (Harvard Law School 1918: 139–140). The student-founders stated their goals in the first issue:

> Our object primarily is to set forth the work done in the school with which we are connected, to furnish news of interest to those who have studied law in Cambridge, and to give, if possible, to all who are interested in the subject of legal education, some idea of what is done under the Harvard system of instruction. Yet we are not without hopes that the Review may be serviceable to the profession at large. (*Editors* 1887: 35)

Ties to two related fields—legal practice and law schools—and self-reinforcing mechanisms of *legitimacy* and institutional *complementarities* were particularly important. First, exemplifying the close connection between fledgling law reviews and the field of legal practice, Harvard alumni practitioners were a primary intended audience.[6] As graduates of America's most prestigious law school, Harvard alumni had organizational capacities, financial resources, and a geographically dispersed alumni network that law-review founders at Albany and Columbia lacked. As co-founder John Wigmore (1937: 862–863) recalled, the *Harvard Law School Association* alumni organization had already "aroused and organized loyalty of the School alumni from Massachusetts to California. Could we not rely upon them to underwrite the *Review* as annual subscribers?" Indeed, during the journal's early years, this alumni organization paid for a year's subscription for each member, permanently increasing the subscription base (Harvard Law School 1918: 140).

Harvard student-founders invited faculty to help them manage the journal, but the faculty felt that the "interests of the paper would be more advanced by their remaining in the background" (Harvard Law School 1918: 140). Why would faculty, at Harvard and elsewhere, cede control of these outlets so easily? Complementarities between the law-school and legal-practice fields were critically important. First, as part of law schools' effort to become the sole training ground for lawyers, faculty and administrators viewed student-edited law reviews as an opportunity to credential students

[6] Subsequent law reviews echoed Harvard student-founders' desire to strengthen alumni ties (e.g., Editors 1897: 1; Editors 1902: 58).

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in ways the master-apprentice model could not. Indeed, very early on, practicing lawyers looked favorably upon student-editorship as a symbolic marker of distinction for law-school graduates on the labor market (Updegraff 1929: 130; Goebel 1955: 185). Second, most law faculty maintained busy schedules as practicing attorneys in addition to teaching duties (Stevens 1983: 24). Third, law professors were also facing major increases in the hours they were required to devote to instruction (Reed 1921: 362–363). Last, the field of legal practice, increasingly reliant on law schools to train future lawyers, also counted on law schools to keep an increasingly diverse and complex American bar updated on local legal developments and law-school news. Practically speaking, then, law faculty had neither the time, experience with publications, nor fully formed identities as scholars to devote efforts at managing journals. Equally important, early law reviews were perceived as practical vehicles for communicating with practitioner audiences and training future lawyers.

Finally, the *Harvard Law Review* was significant for its role in a "critical juncture" of the law review's development. In 1902, it reorganized its governance structure and policies upon incorporation of the *Harvard Law Review Association*. This reorganization increased the number of editors, barred first-year students from editorships, and made membership dependent on grades. The editorial board also elaborated systematic standards for selecting lead articles written by legal scholars, lengthier "notes" written by student editors with a scholarly focus, short "recent case" reviews written by student-editors and aimed at practitioners, and book reviews (Harvard Law School 1918: 140–43). Initiated by an organ of the most prestigious law school and leading law review, the action formalized standards and rules for the entire law-review field by providing a blueprint that all subsequent law reviews would follow (Goebel 1955: 183; Burgess 1956: 14). Three decades later, legal scholar Fred Rodell (1936: 44) sarcastically observed the resultant isomorphism and field structuration (see DiMaggio and Powell 1983):

> I wonder why all the law reviews, so far as lay-out and general geography are concerned, are as like as a row of stiffs in a morgue. Why do they all start out with a fanfare of three or four leading articles and then dribble back diminuendo through variations on the same sort of theme until they reach the book reviews at the end? The answer … is that they have all been sucked into a polite little game of follow-the-leader with the *Harvard Law Review* setting the pace.

The 1902 reorganization at *Harvard Law Review* thus marked a critical juncture for law review's developmental path. The

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contingency, uncertainty, and variation that characterized founding conditions and structures of the earliest law reviews gave way to a clearly established model. Other law schools quickly established law reviews according to the Harvard model. Despite input from faculty at a few journals (Updegraff 1929), student control of law reviews begun after 1902 was the norm. Even the two reviews that began as faculty-edited, the *Michigan Law Review* (1902) and Northwestern's *Illinois Law Review* (1906),[7] "adhered to the general format" of the Harvard model and had students assist faculty (*Northwestern University Law Review* 1956: 2; *see* Swygert and Bruce 1985). By the late 1930s, the Michigan law faculty served merely as advisors to student-editors (Brown 1959: 331–332), and by 1932, students at Northwestern had sole control (MacChesney 1952). Any other variation in the law-review field did not last: students controlled all law reviews by the 1940s, not only editing but also selecting articles and overseeing daily operations (Hibbitts 1996).

In addition to a common model diffusing across organizations, a self-reinforcing norm of *legitimacy* quickly developed around law reviews between 1902 and 1940. This was necessary for institutionalization and field emergence (see Colyvas and Jonsson 2011). As Karl Llewellyn (2012: 105) wrote in 1930, "[The] law review is a scientific publication, on which in good part the reputation of the school depends." Similarly, Roscoe Pound (1929: 264), then-dean of Harvard Law School, proclaimed that every law school "of importance" had a law review, and Justice Benjamin Cardozo (1931:ix) argued that law reviews, as "the organs of university life in the field of law and jurisprudence," had become vital to universities generally. Simply put, to be perceived as legitimate in the field of law schools, a law school needed to publish a student-edited law review. And in order to be a legitimate law review, a law school needed to publish it and students needed to lead it.

Finally, the *sequencing* of law review's path-development relative to that of a different institutional model within the university field—the peer-reviewed scholarly journal—was crucial to its entrenchment. The roots of editorial journal peer-review extend to the scientific academies of the seventeenth century (Zuckerman and Merton 1971). But what we think of today as the peer-reviewed journal system—submission to expert editors, who then send manuscripts to outside, anonymous referees for review—did not become institutionalized in other disciplines until about the 1940s (Burnham 1990), decades *after* the student-edited law review model emerged and institutionalized in law. Similar to how

[7] Its name changed to *Northwestern University Law Review* in 1952.

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the timing of West's *National Reporting System* in 1879 helped steer the path taken by law reviews following Harvard's model, the fact that the law-review field cohered prior to institutionalization of expert-managed, peer-reviewed journal practices in the broader university field illustrates the importance of sequencing to law review's resistance to alternative paths (see Pierson 2000b).

Contestation and Reproduction (1950–Present)

Institutional Stability, Internal Field Contestation, and Criticisms of Law Reviews

Since the early 1940s, the structure and format of the law-review institution has remained largely unchanged. No flagship law review has completely abandoned its student-controlled editorial and management structure. In fact, every new law school has begun a law review, and no new flagship law review has been anything other than student-edited. My survey of random samples of law reviews at each decade from 1940 to 2010 confirms that the standard law-review format—a few lengthy lead articles, followed by student notes, student-written case comments, then (sometimes) book reviews—has not changed substantially since becoming the norm.[8] On a per-volume basis, the mean number of issues (Mn = 4.42; SD = 0.47) and lead articles (Mn = 15.22; SD = 1.77) remained flat, while the mean number of student-written "notes" dropped slightly (from 10.7 in 1940 to 7.75 in 2010). The mean number of book reviews dropped over the middle of the century (from 20.8 in 1940 to 3 in 1970) but then never exceeded three after 1970. Finally, although the mean number of pages per volume jumped starting in 1980, indicating a corresponding increase in article length, the mean number of articles per volume remained mostly stable over the entire period (Mn = 23.42; SD = 2.93).

Despite this persistence, open contestation of the institution, starting with Rodell's (1936) famous critique, began appearing with increasing frequency in the 1950s. Of the 164 articles published about law reviews since 1950 in my database, the vast majority were written by faculty (70 percent; n = 115) and, regardless of author role, critical of law reviews (75 percent; n = 123). Of the 123 critical articles, 90 were written by faculty, 21 by practitioners, and 12 by students. Table 2 shows descriptive statistics and pairwise correlations.

[8] A few aspects have changed, such as manuscript-submission practices and editor-selection criteria, whether due to technological advances (e.g., electronic submission services) or individual journal decisions. In the aggregate, though, core structures and practices have persisted (see Table 1).

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Logistic regression results identify the roles of field actors who contest law reviews and show that law review's legitimacy, reflected in the sentiment of those who write about law reviews, has decreased in the modern era. Even when controlling for author role (supportive students, indifferent practitioners, critical professors), predicted sentiment over law reviews becomes less supportive over the period from 1950 to 2010 ($\beta = -.030$, $\rho = 0.011$, two-tailed). Figure 2, which shows predicted probabilities of supporting law reviews for students, practitioners, and faculty at 5-year intervals, illustrates these differences among groups.

Qualitative analysis of database articles and other archival sources (e.g., legal newspapers, magazines, blogs) enrich the quantitative results by revealing the substance of criticisms and the interfield ties contributing to law review's persistence.

The most common criticism, which faculty especially emphasize, regards *student-editor competence.* Critics question the ability of student law-review members, who sit on editorial staffs with annual turnover, to evaluate articles written by scholars who spend entire careers engaging legal scholarship. As one law professor put it, "[o]ur scholarly journals are in the hands of incompetents" (Lindgren 1994: 527). While some concede that student-editors can effectively evaluate traditional doctrinal scholarship, most argue that law has become too complex and specialized for students to evaluate submissions competently (Cramton 1986: 7–8). The turn away from strictly doctrinal and toward interdisciplinary and/or empirical scholarship has magnified complaints, as critics contend that student-editors lack the theoretical and methodological training necessary to evaluate such writing (e.g., Posner 1995).

Criticisms of law review article-selection practices go beyond editors' competence. Chief among them is the perceived *unfairness of publication decisions* (e.g., Gingerich 2009; Subotnik and Lazar 1999). Critics most frequently blame this on the single-blind review system, which reveals identities and institutional affiliations of authors. Empirical evidence suggests that complaints are justified: student-editors, especially at elite law reviews, often consider authors' past publication records and school affiliations when selecting manuscripts (Christensen and Oseid 2007; Nance and Steinberg 2008). Student-editors also tend to publish disproportionately high numbers of articles written by their own faculty (Yoon 2013). No matter whether student-editors exhibit these biases because they are overburdened with too many submissions (the most commonly reported reason), incompetent, or pressured to publish submissions by powerful faculty, this evidence supports claims of unfairness at the selection stage.

Although the data show that field participants, particularly professors, criticize article-selection most harshly (see *also* Stier

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Table 2. Descriptive Statistics and Pairwise Correlations for Articles

	Sentiment	Year	Student	Practitioner	Faculty	Peer-Reviewed
n	164	164	164	164	164	164
Mean	0.25	40.48	0.13	0.16	0.70	0.20
Std. dev.	0.43	15.05	0.34	0.37	0.46	0.40
Min	0	0	0	0	0	0
Max	1	60	1	1	1	1
Sentiment	1					
Year published	−0.19*	1				
Student	0.19*	0.08	1			
Practitioner	−0.03	−0.06	−0.17*	1		
Faculty	−0.12	−0.01	−0.60**	−0.68**	1	
Peer-reviewed	−0.04	−0.33**	−0.06	−0.06	0.1	1

*$p < .05$.
**$p < .01$, two-tailed tests.
Sentiment measured as critical (0) or supportive (1) of law reviews.
Year published measured as years since 1950.
Peer-reviewed indicates article published in *Journal of Legal Education*.

et al. 1992: 1502; Wise et al. 2013: 45), they also often complain of *overzealous and unfair editorial practices* (e.g., Sanger 1993). Professor James Lindgren (1994: 529), such as many other critics, relayed personal experiences:

> One law-review editor thought that many uses of the word 'the' were errors. Following this bizarre rule of thumb, he took as many 'thes' out of manuscripts as he could, thus reducing many sentences to a kind of pidgin.

Complaints of perceived unfairness based on prestige also extend to editing. Maggs's (1994: 104–105) survey of student-editors supports such complaints, as students at every journal contacted admitted that author prestige "makes a big difference" in how they handle disagreements with authors over revisions.

Other criticisms of core law-review practices abound, including *the "endless multitude" of law-review articles and journals* (Lasson 1990), the "manuscript glut" and gamesmanship caused by *allowing multiple submissions* to hundreds of law reviews at once (Jensen 1989; Wise et al. 2013: 10–12), the *excessive length and footnoting* of articles (Austin 1990), and the *formulaic and incomprehensible writing style* of law-review articles (Church 1989).

External Field Relations and Self-Reinforcing Mechanisms

The Field of Legal Practice

Ties to external fields reveal how the law review can withstand such internal field criticism and resist change. The first interfield relationship, and accompanying self-reinforcing mechanism, buffering law review against change is its continued *complementarities* with the field of legal practice. Overall, my quantitative analysis reveals that attorneys and judges (collectively, practitioners) are

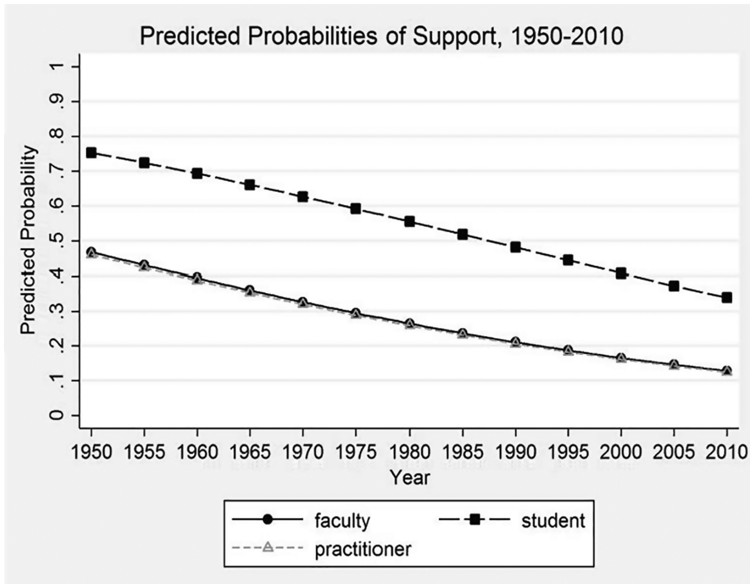

Figure 2. Predicted Probabilities of Supporting Law Reviews.

less supportive of law reviews than students, but they are more supportive compared to faculty (see *also* Wise et al. 2013).

As mentioned in the historical analysis, early commentators recognized complementarities between law reviews and attorney hiring as the law-review model became institutionalized. Indeed, legal historian John Henry Schlegel (1986: 18) argued that "[t]he point of law review from the beginning has been to separate the best from the merely good for the benefit of fancy employers." For students today, law review carries deepest credentialing force in the field of legal practice, as qualitative evidence from my article database and empirical studies repeatedly stress the significant boost that student members receive on attorney and judicial-clerkship labor markets (Stier et al. 1992). Importantly, relations between the law-review field and the legal-practice field are complementary, as law-firm recruiters and judges depend heavily on law-review credentialing to sort student job candidates (Ginsburg and Wolf 2004).

The law review also maintains long-standing complementarities to the field of legal practice via a "rational myth" of training (Meyer and Rowan 1977). As discussed earlier, the primary justification for early law reviews was that they train student-editors in legal research and writing. This continues into the contemporary era, as former Chief Justice Earl Warren (1953: 1) called the "invaluable training" afforded to law-review members the most important function of this "most remarkable institution of the law school world." Indeed, this job-training aspect is supporters' most

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commonly asserted justification for law reviews in my article database (e.g., Baker 2009; Nichols 1987). Students invariably point to this as justification, followed by practitioners, then faculty. Because law-review members read and edit complex articles, become experts in painstaking citation-checking tasks, and write their own articles, the argument goes, they develop legal-writing and research skills. Put differently, by evaluating legal arguments, policing authors' adherence to legal authority, and creating their own heavily researched legal texts, law-review members receive advanced-level training in how to "think like a lawyer" (cf. Mertz 2007). Marketing materials of law reviews and law schools also trumpet lawyerly training as a primary purpose of law reviews. Regardless of whether scholarly editing and journal management actually make better attorneys, this ready-made, rationalized account allows supporters to make sense of the law review and defend it against attacks (see Jepperson 1991).

Finally, law reviews are increasingly *disconnected* to legal practice in terms of actual use by practitioners, both as producers who write in law reviews and as consumers who read them (*compare* Editors 1937 to Posner 2004). Indeed, empirical evidence shows that practitioners write fewer law-review articles than professors (Saks et al. 1996), and judges cite fewer law-review articles compared to prior eras (McClintock 1998; Newton 2012). Practicing attorneys and judges most frequently criticize law reviews for this disconnect, variously attributing it to the rise of overly theoretical interdisciplinary scholarship, a decline in traditional doctrinal articles, and increased publication-based tenure standards in law schools (e.g., Edwards 1992; Posner 2004). Even Chief Justice John Roberts (quoted in Brust 2012) weighed in:

> Pick up a copy of any law review that you see and the first article is likely to be, you know, the influence of Immanuel Kant on evidentiary approaches in 18th-century Bulgaria, or something, which I'm sure was of great interest to the academic that wrote it, but isn't of much help to the bar.[9]

This perceived disconnect from legal practice, perhaps paradoxically, helps law reviews resist change. Compared to professors who produce and consume most law-review content and who take advantage of the law-review system for career advancement, and compared to students who run the journals and receive symbolic benefits of membership, legal practitioners have fewer incentives

[9] Critiques by Roberts and journalists (e.g., Liptak 2013) led some faculty bloggers to defend the relevance, if not always the system, of law-review scholarship (see Caron 2013).

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to care about or demand structural changes to law reviews. But as practitioners' use of law reviews has declined, the more symbolic and historically entrenched complementarities between law reviews and legal practice continue to reinforce the status quo: the rational myth of training remains a ready-made justification, and membership continues to be a meaningful signal of status and competence to practitioners.

The Field of Law Schools

For actors in the law-school field—students, faculty, and law schools themselves—the pursuit of *field-structured self-interests* and *legitimacy* are the most important mechanisms helping the law review withstand internal field criticisms and calls for change. First, although faculty and practitioners occasionally defend law review, student law-review members are overwhelmingly its most vocal supporters. Similar to the symbolic credential provided to law-review members vis-à-vis the legal-practice field, law-review membership is a widely accepted "kind of merit badge, a status symbol, and a mechanism for law students to distinguish themselves" in law school (Oleson 2004: 1139). As a principal channel through which law students establish status hierarchies, law review confers power onto members and thereby incentivizes them to resist change.

As for faculty, despite their criticisms and calls for change, self-interest also discourages professors from overturning the established model because law reviews allow them to attain and maintain their positions in the law-school field. First, the pressure to publish scholarship has increased in law schools over the past 60 years (AALS 1992; Hibbitts 1996; Zenoff and Moody 1986). Indeed, as tenure standards of other disciplines infiltrated law schools, scholarship became the most important requirement for achieving tenure and status within the legal academy (Abrams 1987; Lilly 1995). For instance, a single published article was still common among tenured law professors in the early 1980s. In the last three decades, however, publishing multiple articles, particularly in law reviews, has become the norm for tenure (AALS 1992). Just as rising tenure standards reflect the importance of scholarly publications for promotion, so too does the academic labor market's increased emphasis on scholarly publications when hiring new law faculty (Redding 2003; Denning et al. 2010:x,14). Indeed, George and Yoon (2014: 33) find that, all else equal, having published an article in a top-100 law review increases the probability of receiving a tenure-track job offer by 18 percent, one of the strongest predictors in their models. And law-review membership significantly increases the probability of success on the legal-academic job market (Merritt and Reskin 1997).

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Because scholarly production is the primary means by which law faculty gain position in the field of law schools, professors who act in their field-structured self-interest have incentives to maintain core features of law reviews. First, students carry out time-consuming administrative, editorial, and reviewer duties that faculty would otherwise perform if law reviews were faculty-edited and peer-reviewed (Saunders 2000). This labor-saving consideration gets amplified in light of the proliferation of law reviews and resultant lack of scarcity in publishing opportunities (Friedman 1998: 664; Solove 2013). Second, law review's ranking, multiple-submission, and "expedited-review" systems confer self-reinforcing benefits on authors. With a few mouse clicks, one can check widely agreed-upon journal rankings, submit to hundreds of journals simultaneously, then leverage an acceptance by notifying higher-ranked journals of such in an "expedited review" request (Denning et al. 2010: 126–128). This guarantees placement at the most prestigious journal possible. Third, the quick decision times common in the law-review field, generally within a few weeks, help authors avoid lengthy waits that faculty in other disciplines endure through multiple rounds of review.

Finally, the law-school field exerts self-reinforcing pressures on law reviews through administrators and law schools themselves, which sponsor and fund law reviews. First, because law review is a marker of *legitimacy* for law schools and a marketing tool to potential applicants and alumni, collective-action problems contribute to its persistence. Discontinuing it at any one law school could harm that school's legitimacy without a critical mass of other law schools following suit. Indeed, Friedman (1995: 266) notes that "almost every law school administration today has reached the conclusion that one of the paths to eminence lies in publication of a law review." Second, law reviews maintain a constant supply of free editorial labor for budget-constrained administrators, as student-editors are happy to accept the prestige of law-review membership in lieu of monetary compensation. Third, practices such as free student labor and simultaneous submission allow law reviews and law-review articles, respectively, to proliferate without significant human capital costs. Lastly, because scholarly productivity is an important component of the all-too-influential *US News & World Report* law-school rankings, and because reward systems and anxiety over rankings that pervade the law-school field (Espeland and Sauder 2016) extend to the field of law reviews (Brophy 2007), law schools refrain from limiting their faculty's ability to publish quickly and often.

The failure of Harvard Law School to launch a faculty-edited law journal in the 1980s illustrates how ties to the law-school field inhibit change to law reviews even in the presence of motivated faculty and abundant resources. During the fall of 1983, law-

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school dean James Vorenberg enlisted Professor Richard Stewart to draft a report and initiate faculty discussion about starting a faculty-edited journal (Kelly 1983). In a memorandum circulated to faculty in 1984, Stewart detailed many of the same criticisms of student-edited law reviews described above and outlined five faculty-edited alternative journal models (Kelly 1984). In December 1985, the school announced that faculty had voted unanimously to begin the first law-school-based, faculty-edited, general-interest scholarly law journal (Rance 1986).

The journal was to be led by Professor Laurence Tribe, financed by private donors, reviewed by peer referees, and staffed by a full-time professional manager and several student research assistants, who would perform only "sub-citing and other production-oriented tasks" (Rance 1986: 2). The journal, planned for publication in 1987, would contain shorter articles with fewer footnotes than those in student-edited law reviews. Although the faculty-edited journal would not replace the student-edited *Harvard Law Review*, student-editors rushed to defend law reviews anyway, voicing their concerns to the dean in May 1986 that the proposed journal would siphon readers and contributors from student-edited law reviews (Metaxas 1986). The proposal attracted national attention and sounded alarms at other schools, with the *Wall Street Journal* reporting that "[s]ome educators believe that the change at Harvard—because of its influence and because so many law schools adopt its practices—may eventually diminish the role of student-edited law reviews" (Gray 1986).

Such isomorphic change toward the journal model of other disciplines never took place, however. The faculty journal never published its first issue. Consistent with my argument, pressures from other fields thwarted the change effort. Professor Tribe resigned his editorial post in June 1986, attributing his decision to the "burdens of scholarly work," academic lectures and speaking engagements, and work as counsel in ongoing litigation, all of which prevented him from devoting requisite time to managing a journal (Metaxas 1986; Tribe 1986). The student president of the *Harvard Law Review*, not missing an opportunity to reinforce students' position in the contested field, sarcastically stated that "perhaps one reason why Tribe resigned is that he realizes it may be easier to criticize a publication [the *Law Review*] than it is to run one that makes all people happy" (Povich 1986: 13).

Dean Vorenberg suspended journal plans while he searched for a new editor. Months passed with no progress. By April 1987, former Harvard Law School Dean Erwin Griswold was stating publicly that any remaining faculty support for the still-suspended effort would wane and that faculty-edited journals should not supplant law reviews. He offered familiar justifications for his claims: law reviews

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provide scholarly products via unpaid student labor and valuable experience for future attorneys (Chang 1987). Griswold proved prophetic. The school's decision in December 1987 to place a moratorium on all law-journal proposals, based on stated budgetary and space constraints, effectively ended the most serious attempt to establish a law-school-based, general-interest alternative to the student-edited law review (Mitchell 1988).

The failed effort at Harvard provides evidence that pressures from other fields worked against establishing an institutional alternative: (1) from the law-school field, pressures on faculty to prioritize writing and teaching above all else, (2) from the field of legal practice, the rational myth of training, and (3) from both fields, the pressure on administrators to give, within budgetary constraints, their faculty and students the best chances of success in their two career fields. In correspondence with the author, Professor Tribe confirmed his reasons for abandoning the project and suggested that the time demands emanating from the law-school and legal-practice fields, which continue to weigh heavily on faculty today, prevented the journal from launching after he stepped down.[10] That the wealthiest and most prestigious law school in the country was thwarted in its effort to establish an alternative, especially one not even meant to replace the student-edited law review, indicates how strongly interfield ties have worked to buffer against change.

The only other direct attempt to change the student-edited law review model that I found during the contemporary era was law-school dean Henry Manne's decision in 1991 to replace students with faculty as editors of the *George Mason University Law Review* (students would retain administrative duties) and mandate that all articles published in the journal be student-written (Schkolnick 1992; Tony 1991).[11] The change created such a backlash that students began publishing their own *George Mason Independent Law Journal* in 1993, which retained the traditional form and content of student-edited, student-managed law reviews (Woellert 1992).

Importantly, the pushback against Manne's decision came not only from students but also alumni and local practitioners, who argued that taking away the credential of law-review membership disadvantaged students on the attorney labor market. For example,

[10] L. Tribe (personal communication, June 3, 2017).

[11] A more recent, since-failed alternative to law-review submission initiated in 2009—the Peer-Reviewed Legal Scholarship Marketplace (PRSM)—required authors to submit exclusively to member journals in exchange for review by at least one expert referee. However, students maintained article-selection and editorial duties through the work of the *South Carolina Law Review*, PRSM's host institution. PRSM's popularity remained low among authors from the start (Robertson 2015), and the number of participating law reviews stalled at around 20 after 2012. Correspondence with the *South Carolina Law Review* confirmed that PRSM no longer exists today.

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then-president of the Virginia State Bar, William Rakes, lamented the situation by remarking that "[t]he [way the] market is now … a student needs to distinguish himself or herself in some way" (Woellert 1992). The school caved to the pressure, and the status quo returned when the faculty-edited and student-edited journals merged in 1995 to become the *George Mason Law Review*, which is run according to the traditional student-edited law-review model to this day. This failed change effort illustrates how field-structured self-interests and complementarities between the law review, law schools, and legal practice help law reviews resist change.

The University Field and the Field of Legal Periodicals

Examination of law review's dual ties to the university and legal-periodical fields reveal a final self-reinforcing mechanism—*institutional layering*—that has buffered it against change. A diverse mix of scholarly approaches from university disciplines has entered the legal academy during this era. Of course, interdisciplinary legal scholarship is not totally new to legal academia; obvious links exist between some interdisciplinary schools and Legal Realism of the 1920s and 1930s (Garth and Sterling 1998). Since the 1960s, however, law schools have witnessed an influx of interdisciplinary approaches (Minda 1995; Tomlins 2000).[12] This has coincided with a huge increase of law professors with PhDs. In 1975, the prevalence of PhDs within law faculties was so low that Fossum (1980) did not include PhD as a category of degrees in her profile of law professors. By 1988–1989, 5 percent of all tenured and tenure-track law professors held a PhD (Borthwick and Schau 1991: 213). Most recently, 21 percent of a sample of new law faculty hired from 2011 to 2015 had a PhD (LoPucki 2016). At elite law schools, the increasing presence of faculty PhDs has been most pronounced (McCrary et al. 2016; Redding 2003).

With demographic shifts emanating from the university have come changes in the higher-order field of legal periodicals. For example, empirical scholarship in law reviews has steadily increased, particularly since the late 1990s (Diamond and Mueller 2010; Heise 2011). But most importantly, the surge of approaches and faculty from the disciplines has resulted in the rise of scholarly legal journals that appeal to interdisciplinary scholars and/or subfields (Wolotira 2012). These journals largely employ the dominant structures and practices of university disciplines rather than those of law reviews: expert editors, peer review, exclusive submission, no "expedited review" article-shopping system, and editorial and reviewer feedback beyond line-editing and citation-checking. And

[12] Law and economics, law and society, law and literature, legal anthropology, critical legal studies, etc.

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instead of being funded and published solely by law schools, many such journals are sponsored by scholarly associations or published by professional publishers.[13]

Because existing sociological scholarship often theorizes institutional change as a result of exogenous forces and contentious challengers emanating from adjacent fields (Morrill 2002; Sauder 2008), we might expect that the influx of outsider scholars and journals would have hastened the end of law reviews. Instead, every new law school begun during the period established a student-edited law review, and student-edited specialty journals increased dramatically over the latter twentieth century (Wolotira 2012). And, as I have shown, student-edited, general-interest law reviews have remained mostly unchanged and continue as the legal academy's primary scholarly journal outlet.

The self-reinforcing mechanism at work here is *institutional layering*, in which new institutions are introduced alongside existing ones without replacing them (Thelen 2003). Indeed, rather than replace student-edited law reviews, faculty-edited legal journals now provide alternative outlets for many kinds of interdisciplinary and/or empirically inclined scholarship. By accommodating for a peer-reviewed-journal subfield, the broader field of legal periodicals, in which the law-review field is embedded, *has* changed. But its transformed configuration has helped the law review itself resist change. Like economics finding a place within law without replacing it (Tomlins 2000), path-creation at a higher order of analysis has buffered the law review from wholesale institutional change.

Discussion and Conclusion

Sociological institutionalism suggests that institutionalized practices are vulnerable to change when they face sustained internal field contestation and are anomalous to a dominant institutional alternative. Yet the student-edited law review has shown remarkable persistence despite these change conditions. To explain my case, I combined insights from organizational institutionalism, sociological field theory, and path-dependence scholarship. Empirically, I accounted for interfield relationships across law review's entire historical trajectory—its emergence, its institutionalization, and coherence of a field around it, and, finally, its current state as a contested but persistent institution. Throughout, I showed how self-reinforcing mechanisms help explain this institution's emergence and subsequent persistence. Table 3 offers a conceptual and

[13] For example, the Law and Society Association and the American Bar Foundation, both through Wiley, publish *Law & Society Review* and *Law & Social Inquiry*, respectively.

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Table 3. Law Review's Interfield Relations and Mechanisms of Reproduction

Era	Self-Reinforcing Mechanism	Field(s)	Example
Emergence & institutionalization (1875–1940s)	Complementarity	Legal practice; law schools	Law reviews complement growing field of legal practice as attorney training site and vehicle to reach practitioner alumni
	Legitimacy	Law schools; legal practice; university	Law review as scholarly outlet for law schools seeking legitimacy within university
	Sequencing	Legal periodicals; university	Student-edited model entrenched before institutionalization of peer-reviewed model in other disciplines
Contestation & reproduction (1950-present)	Complementarity	Legal practice	Law review as sorting mechanism for employers and as attorney training site
	Legitimacy	Law schools	Law review legitimizes host school in marketing materials and rankings. Law-school sponsorship legitimizes law review
	Pursuit of field-structured self-interests	Law schools; University;Legal practice	Law schools and university incentivize faculty to publish. Current law-review system offers high likelihood of acceptance, ability to leverage acceptance for higher-status placement, quick editorial decisions
	Institutional layering	Legal periodicals; University	Peer-reviewed law journals provide alternatives without replacing law reviews

empirical summary of the analysis by mapping each self-reinforcing mechanism to its interfield relationship and providing examples of how they contributed to law review's emergence, institutionalized, and persistence.

This paper offers three major contributions for scholars of institutions, social fields, and the legal profession. First, by drawing on field theory and path dependence to explain institutional persistence despite change conditions, I filled a gap between two established lines of institutional scholarship in sociology: (1) traditional neoinstitutional accounts of isomorphism and relatively uncontested, taken-for-granted institutions and (2) more recent accounts of institutional change. I also avoided the sample-selection bias often found in contemporary scholarship of privileging situations in which external isomorphic pressures or internal field contestation produce change (see Denrell and Kovács 2008). My approach to explaining how anomalous, contested institutions can persist via self-reinforcing mechanisms and interfield ties suggests an important corrective to existing studies.

Second, I expanded the typical scope of analysis from a cross-sectional study of an institution to a comprehensive historical

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analysis of an institution's coevolution with related fields. In doing so, I answered the call to show how an institution emerges, institutionalizes, and persists as an historical process of interactions with broader social orders rather than beginning by assuming fully formed institutional outcomes (Greenwood et al. 2008: 25–26; Padgett and Powell 2012). I was therefore able to trace my cross-field effects to much earlier than if I began with an already-formed institution. Bringing in concepts from path-dependence scholarship also revealed the conjunctural interplay of events, actors, and meanings that constitute an institution over its entire development.

Finally, I added both theoretical elaboration and empirical evidence to Fligstein and McAdam's (2012) account of social change and reproduction. While they astutely call attention to the role of interfield relations in these processes, they elaborate on only the effects of interfield resource dependencies leading to change, leaving reproduction underspecified theoretically and unexplored empirically. Making a novel theoretical contribution, I incorporated self-reinforcing mechanisms from path-dependence scholarship—at work through law review's ties to related fields—to advance Fligstein and McAdam's limited account and explain how cross-field relationships can reproduce institutional arrangements.

The paper opens several avenues for future research. First, we should pursue further ways to theorize and measure institutional persistence while still recognizing the agentic capacities of field actors to contest and change institutions. If classic neoinstitutional scholarship overemphasized isomorphism and diffusion, more recent accounts swing so far toward agency and change that they miss opportunities to develop theories of reproduction. A starting point is to avoid, as I do, privileging cases of drastic institutional change. I accounted for the stabilizing effects of external field relations without ignoring interest-driven action and contestation within the field. My findings suggested that pressures from the law-school field (e.g., professors' field-structured interest in publishing quickly and often, the legitimacy conferred on law schools by a law review) and complementarities with the legal-practice field (e.g., law review as attorney training site and as credential for attorney hiring) have been particularly important to the persistence of the law review. However, future research could develop better ways to measure the relative importance of different mechanisms by which stabilization (or change) occurs. Field theorists could also advance the framework by specifying conditions under which cross-field drivers of stability are likely to predominate over change.

Second, future research could leverage my approach to connect explanations of stability and change at different levels of analysis, enabling theory to better match real-world complexity in the process. Scaling down, an in-depth, micro-level study of a law

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review could examine the extent to which law-review rituals (e.g., "Bluebooking" training, student "write-on" competitions) reinforce status hierarchies and therefore the institution itself (see Dacin et al. 2010). Such a study would complement my necessarily broad historical analysis of interfield mechanisms driving institutional emergence and persistence. But my framework also allows one to scale up to higher levels of analysis. For example, I showed that interdisciplinary scholarship, discipline-trained scholars, and peer-reviewed journals have not destroyed law reviews. Instead, through a process of institutional layering, these changes have fostered changes in related or higher-order fields, such as law schools and legal periodicals generally. They also contributed to changes in law reviews (e.g., more empirical content) without changing core institutional structures like student control. The takeaway? Institutional reproduction and change are not diametrically opposed, nor is path-dependence fully deterministic. Rather, they are ongoing and potentially constitutive processes, whereby institutional change (or path-creation) at one level of analysis may facilitate institutional persistence (or path-dependence) at other levels, and vice-versa. My approach offers an opportunity to investigate such issues empirically and develop theories that better capture our evolving and interconnected social worlds.

Finally, my study has implications for law & society scholars specifically. The student-edited law review's persistence as the dominant model for scholarly legal journals, coupled with its increasing receptivity to interdisciplinary methods and theories, could be interpreted as evidence of law's appropriation (Tomlins 2000) or assimilation (Garth and Sterling 1998) of the disciplines. But instead of implying a zero-sum jurisdictional struggle between scholars of "law" and scholars of "society," the persistence of the law-review model, when considered *in conjunction with* the growing acceptance of interdisciplinary approaches and peer-reviewed socio-legal journals, may signify law & society scholars' advantageous position from which to study legal institutions. By simultaneously operating outside the center of the traditional law-school-based, law-review-dominated scholarly field but firmly within the broader fields of legal scholarship and the university, law & society scholars can draw on *and* disseminate their knowledge to broader audiences than ever before.

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