The Past, Present, and Future of Interdisciplinarity: A Faculty Roundtable Discussion
To anchor this issue’s theme about interdisciplinarity at the University of Chicago Law School, the Record asked Professor Alison LaCroix to moderate a discussion with six other faculty members who heavily engage in interdisciplinary work. As you will read in their comments, the history of interdisciplinary work goes back to the founding of the Law School and continues in top form today, bringing an unmatched spirit of collegiality and rigor to the Law School community, as well as some unique challenges for its scholars.

ALISON LACROIX: Welcome to this conversation about interdisciplinary work at the University of Chicago Law School. I’ll ask everyone to quickly introduce themselves.

RICHARD HELMHOLZ: I have a PhD in history, and I’m interested in medieval and early modern European history. I teach property law and connected subjects.

BRIAN LEITER: I have both a law degree and a PhD in philosophy. I teach jurisprudence, evidence, and a variety of law and philosophy-related topics.

ANUP MALANI: I have a PhD in economics here from the university and a JD also from the University of Chicago. I teach law and economics and health economics.

DAVID WEISBACH: I think I’m the only person on the panel without a PhD. I have just a JD, and I teach tax law and also do a lot of research in climate change.

MARTHA NUSSBAUM: I guess I’m the only person without a JD. I’m in the Philosophy Department and the Law School at this University, and I work on moral and political thought. I teach theories of social justice, feminist philosophy, and other related issues.

THOMAS MILES: I have a law degree and a PhD in economics. I write and teach in the areas of criminal law, securities regulation, and judicial behavior.

LACROIX: And I have a PhD in history and a JD. I teach constitutional law and American legal history and related subjects. I think it is interesting how each of us came to teach in the Law School but have this interest and expertise in another field. Let’s start with that.

HELMHOLZ: My story is pretty simple. After I got a PhD in history, I was going to be a history teacher and was hired as one, then discovered that I was going to be fired after my first year. But the law school at Washington University where I then taught history was desperate because they increased the size of their class. They were so desperate that they hired me (in May). I found out that I liked teaching in the law school and they kept me on. It’s as simple as that for me.
HELMHOLZ: I had already been to law school so I guess they had some excuse.

LEITER: I think my own story is a similar sort of happenstance.

HELMHOLZ: Really!

LEITER: Yeah, I went to law school first, and I went to practice in New York with a large firm, then I reapplied to the PhD program at the University of Michigan. This was 1992, before Al Gore invented the internet … there was no information and so I didn’t know how and when to go on the law teaching market. By happenstance I had written something in a law review. In fact, the subject of it was the misuse of philosophy by law professors, a topic that Martha and I are well familiar with. (It was much worse twenty years ago than it is now.) Various law professors told me how to go on the law teaching market, and so I just went at the last minute. I got a job in a law school and have never looked back. I’ve never taught legal philosophy or jurisprudence to undergraduates, and I have no desire to because the big advantage of teaching it to law students is they actually know something about the law. It’s much more satisfying teaching it to law students.

MALANI: My story is much more complicated than Dick’s. After I graduated I applied to law schools and econ grad schools, got in here, but you had to choose when I decided, and so I chose economics first. I thought I was going to become an econometrician and then I met Judge Richard Posner, who intrigued me with his research, and we got to talking and he convinced me to give law another shot. And after law school it was just timing that determined what I did. I hadn’t quite finished my PhD, but I had my JD and it was easy to go on the market in law and so I did.

LACROIX: Mine is also a little bit complicated. I went to law school straight out of college, where I had been a history major. Right at the beginning of law school I also started thinking about history graduate school seriously, and then in law school I learned that one actually could blend history and law in a way I had never realized. I decided to finish law school and do law on its own terms before thinking again about whether to do history graduate school. I started working at a big firm, and I gave myself a deadline of two years and I thought, “If I like it, great, but if I don’t, I’ll apply to history PhD programs.” From the beginning I thought that I probably wanted to teach in a law school because I thought that the subjects I was interested in would require more of a legal framework as opposed to being purely historical. In many colleges and undergraduate history departments there’s more of an awareness now of legal history as a methodology, where not that long ago it was more something that was done in law schools.

WEISBACH: My history is a little different because I don’t have a PhD. I came here because it’s a great law school and a great place to teach. For the first five or eight years of teaching or writing, I really wrote in tax as a tax lawyer. It’s only in the last five to ten years that I’ve really been doing interdisciplinary work, mostly because of my interest in climate change. Here, basically you walk across campus and say hello to some scientists and next thing you know we have an NSF center with 10 or 20 people at it that is doing interdisciplinary work on climate change with large-scale computational modeling of the problem, and you can actually use that modeling to think about legal issues. I really came to interdisciplinary work later in my career, and I stayed at Chicago rather than going somewhere else because of its welcoming nature for interdisciplinary work.

NUSSBAUM: I taught for more than fifteen years in a philosophy department before I ever had any connection with law school. But I found myself getting these invitations to present my work at legal theory workshops and I thought, “What’s this all about? I’m not talking about law.” I found when I got there that there were debates about the nature of legal reasoning that really tracked debates in philosophy about the nature of practical reasoning—debates between utilitarians and people who are somewhat critical of utilitarianism. Then I was invited to visit at this law school and I really loved the visit, I loved the culture. We haven’t talked about literature yet … what I was teaching was law in literature, and ever since I’ve come here I have regularly taught law and literature, often with Richard Posner. That’s another thing that attracts me to this law school: the potential for thinking about the impact of literary texts in the law, the role that literature plays in engaging critically with legal cultures. Every two years we give a law and literature conference [see page 10]. Many of our faculty, including law and economics faculty, give papers on literature, so that’s another remarkable and lovely instance of border crossing.

MILES: I also feel like my trajectory is peppered with these random chance events. I came to the University of Chicago to get a PhD in economics. I was always interested in understanding what the economic effects of regulation were and what the economic sources of regulation were. When it came time to sit down to write what would be
my first scholarly article in economics, I was studying something that had causes of action that arose in tort and others that arose in contract. And I remember reading that, thinking, “What is the difference between a tort and a contract? I have no idea.” It occurred to me that if I wanted to make a career of this, I really needed formal training. That prompted me to go to law school.

**LACROIX:** Let’s talk about the history of interdisciplinary work at the University of Chicago and think about how what we do at the Law School might be different from other law schools, given the history of the university and its commitment to interdisciplinarity.

**NUSSBAUM:** Ernst Freund, who was a political scientist from Germany who had an American law degree, was really the chief founder of the University of Chicago Law School in 1902. His idea was that practitioners really need a broader study of society because they’re going to go out there and they’re going to have to think about social problems. They really need sociology, economics, history, philosophy, and other related disciplines to think in a more critical and detached way. So from the very beginning that’s what we tried to do.

**MALANI:** Law and economics has deep roots at the University of Chicago Law School. Things started with Aaron Director, who was just a PhD, but taught at the Law School and had a huge influence on legal scholarship here. He taught a famous antitrust course with Ed Levi that was famously combative and got the tradition of law and economics started. We also had Ronald Coase join the faculty, the only Nobel Prize winner in economics at a law school.

**WEISBACH:** We also had Henry Simons on the faculty, too. He was a pure economist.

**LEITER:** Richard Posner came here because of Aaron Director. He was originally out at Stanford while Aaron Director was visiting, and he was so impressed by Director that Dick decided to give up northern California weather and come straight to Hyde Park and never left.

**LACROIX:** A related question is, how relevant is a PhD in each of these areas? Among us here we have legal history, law and philosophy, law and economics, law and medicine. What does everyone think about having actual PhD training or not?

**NUSSBAUM:** I think in philosophy PhD training is pretty important because all the different areas of philosophy are pertinent to thinking about law. There are so many ways in which philosophical concepts intersect with the law in different areas, so if you don’t have the kind of broad-based training that includes logic, epistemology, metaphysics, and moral and political philosophy, and the history of all
those, then you’re probably not going to be well equipped to figure out what the interesting problems at the interface of law are.

WEISBACH: In law and economics, it used to be the case that most of the people doing it did not have PhDs. Now increasingly it’s the case that virtually everyone doing it has PhDs, and I think the trend will only be enforced in the future as those people feel like it’s a more and more technical field.

LACROIX: That’s also been a trend in legal history. For decades it was something that followed naturally from property or constitutional law and there were a lot of people who looked at historical sources, but legal history has really burgeoned in the last few decades. Now most people have joint degree training or graduate-level training in history as well as a JD.

HELMHOLTZ: I’d like to sound a note of caution on that. It’s certainly true what Alison says about the rising number of joint PhD-JD members of law school faculties, but if you think back about the great legal historians, it’s not true that they all had PhDs. It’s certainly possible to do really good work with just a law degree and even with just a history degree. Charles Gray was a wonderful legal historian on the faculty here for a very long time and had only a PhD, but he fully understood law and made some real contributions to the field. Certainly he did so to the benefit of the University of Chicago.

MALANI: I do agree that lawyers can make an important contribution to law and economics without a PhD and, in fact, a lot of the seminal work has been done by lawyers who do not have a PhD. But I think that that becomes harder and harder over time as the fields become more technical on both the theoretical side and the empirical side. That said, we also find really interesting work that’s being done by pure PhDs without a JD in law and economics. The only shortcoming of that work is the lack of knowledge about institutional design and specific laws, but more general theories have been quite insightful.

WEISBACH: My strategy has been to coauthor with PhD economists, and that allows me to have knowledge of the law and legal institutions combined with their technical apparatus to produce papers. I’ve been doing a series of coauthored papers now with economists or with scientists in climate change.

LACROIX: There are many historians of law or historians who have used legal sources. But it’s also true that to the extent you want to talk about legal institutions, bigger pictures about kind of how law develops or how it’s interacting with politics, it would be hard to do that if you were completely detached from law. That’s where our interdisciplinarity dovetails really well with the fact that our law school is so committed to law and knowing about how law actually functions on the ground. It’s not ethereal “law and”—it’s rooted in these different ways in law.

NUSSBAUM: Freund himself, who had a PhD in political theory, did pioneering work on the police power. He was the first person that argued that the free-speech rights of dissenters in wartime were protected by the First Amendment. He needed the PhD to do that at the level of depth that he did, but he also needed immersion in the law. Philosophers often go and write about free speech or some other legal issue, but if they don’t have enough immersion in the culture of the law school sometimes it just doesn’t work properly. Maybe you don’t need the JD, but you do need that detailed immersion, and in my case I don’t feel that I could have gotten that by coauthorship. That’s why I moved from a very good philosophy department that didn’t have a law school to this wonderful university which does have a law school.

LACROIX: What about the student experience or teaching? All of us teach in different ways in interdisciplinary courses as well as more purely doctrinal courses.

WEISBACH: I teach a course in climate change, and I was thinking about the history of the teaching of environmental law at this law school. Back in the 1970s David Currie
cotought a course with Steve Berry in the chemistry department on environmental policy and law. So we’ve been doing interdisciplinary teaching for many, many decades. Indeed, in the 1970s it would have seemed extraordinary at any other law school to offer such a course.

**NUSSBAUM:** I do three sorts of things. Since I’m appointed in the Philosophy Department, I teach a graduate seminar in philosophy, which law students can take. They can take it only if they have some background in philosophy, so those are the zealots. But then I deliberately offer courses for law students. Right now I’m offering a course in Rawls’s Theory of Justice, and it’s to give them a critical perspective on justice, which they might not get from the law courses alone. Then the third thing is coteaching, and I coteach regularly with David Weisbach. We’ve done a seminar on distribution taxes and social justice and also one on global inequality. There are the two sorts of expertise—we learn from each other, we challenge each other, and I think the students get a lot out of that.

**MALANI:** I teach in different departments and what I find to be the best value that I can add is teaching people new perspectives. If I’m teaching in the Law School, whether it’s a course on health law or on law and economics, I assume the students know law pretty well. What I try to do is add the economic components. Conversely, when I teach a law and economics course in the econ PhD program, I’ll spend a lot more time on law and legal structure, give a lot of details on institutional design. That’s the value added. That’s the stuff that they can’t pick up just by reading economics articles. I think that that’s a really big deal—it opens their eyes to other ways of thinking and the fact that there are other scholars out there asking and answering different questions.

**NUSSBAUM:** I think this kind of coteaching with people from different interdisciplinary subfields is pretty unique at this law school. It’s part of the pleasure of being at a very small law school that we’re all talking to each other all the time, and it’s easy to get joint projects and ideas because we’re all reading each other’s work all the time. I think it is much harder at a larger law school.

**LACROIX:** Do you find that, Brian, in evidence?

**LEITER:** Evidence is tricky. There’s a way in which evidence is applied epistemology, and I sometimes get complaints from the students that I don’t do more philosophy in the class. I used to teach constitutional law and then I switched to evidence many years ago, and one of my teachers said, “Brian, in evidence you can get things wrong and there are actual rules in evidence.” There is a body of clear doctrine they really have to learn in evidence. I do give them one heavy dose of philosophy, however, when we do the famous Daubert opinion, which changed the rules about the admissibility of scientific evidence. There the United States Supreme Court made the grave error of citing both Karl Popper and Carl Hempel, two great philosophers of science who hold opposing views, but they didn’t realize it.

**LACROIX:** What about students after they leave here? Do we have a sense of how this interdisciplinary grounding that they get, affects them—whether they take, as Tom pointed out, courses across the Midway or they’re getting it through doctrinal black letter courses. How does that affect them as alumni or in their careers?

**LEITER:** I will say that every single student that’s ever taken jurisprudence with me who’s gone on to clerk always
comes back and says, “You know what? The legal realists were right.” [LAUGHTER] So I’ve called jurisprudence the practical course that I teach around here.

NUSSBAUM: I’ve found that it often affects their eagerness to do pro bono cases where they can put their interest in social justice to work. I have students who are working at large corporate firms, but then they seek out interesting cases about gay bullying or about mental illness and involuntary confinement.

WEISBACH: I’ve been teaching courses in climate change over the last few years. There having an understanding of the science and the economics of the problem is really central to the practice. The students are just now starting to graduate, and we’ll see how they do in their careers, but I don’t think you can actually practice in environmental law or in climate change without having a good understanding of the scientific aspects of the problem.

LACROIX: More students in recent years have checked back in a few years out to say, “I’m thinking about maybe doing some graduate work or going into legal academia in a more interdisciplinary vein,” and it’s good that they also feel like they have people to come back and talk to. That’s the experience a lot of us have had.

NUSSBAUM: They also know more about the limits of our knowledge. When we teach global inequality, one of the things we want people to realize is all these theories are not very well grounded and people disagree hugely. If people were to just cite one theory and say this is the way things are in the developing world, they would be making a big mistake. We want them to avoid that mistake and be humble about how much we know.

LACROIX: What difference does it make—if it makes a difference at all—that we have a lot of interactions with these other departments? On the one hand, you might say interdisciplinary work makes the Law School very far-flung and each person is doing something in conjunction with the relevant department or school. Yet we have, as people have alluded to, such a tight-knit Law School community.

NUSSBAUM: What’s really important is how it feeds into our own research culture here. I work on some topics that are pretty far from law at times. I even have been known to work on the aesthetics of music. Right now I’m working on the emotion of anger. When I give a Work-in-Progress workshop, the philosophy colleagues might give me comments a year later, but the law faculty will give me very valuable comments right now. No one thinks because it’s this far-flung topic that they’re not going to bother to go to that workshop, and I’m very grateful for that. It really enriches what I’m able to do and, of course, I try to pay back in kind.

WEISBACH: The University of Chicago is unique in your ability to walk across campus and meet people and work with them. But if you do a paper that’s quite technical and there’s a lot of science or a lot of sophisticated economic modeling in it, then it is hard to present it to a general faculty workshop and expect to get really great comments because people just don’t know very much about what you’re talking about. You’ll get some good comments from very smart people, but a lot of stuff you present is foreign to people on the faculty and therefore it’s hard for them to access it.

MALANI: The University of Chicago community as a whole—not just the Law School—is actually quite small, so it’s easy to reach out to people in different departments. I’ve been able to work with people in the medical school, in the economics department, psychology, business school, and public policy school, but the geographic proximity is such that it doesn’t feel like I’m going very far to do that. We have a relatively small campus. Plus, as it turns out it’s not just me reaching across the Midway to these individuals, they often write with each other. So I often see that one coauthor of mine wrote with another coauthor. The community feels very tight-knit. I really think it’s the University and not just the Law School that’s intertwined.

LACROIX: Is there a hazard in the increased specialization which we’ve been talking about in the “law and” version of something becoming isolated from its mainstream? So an example in history is that I do sometimes worry that legal history means, for instance, I write on the history of
federalism. Does that become a kind of law school legal history topic as opposed to say a history department legal history topic?

NUSSBAUM: It’s a risk when it’s not done well. Maybe that’s sort of tautologous, but in law journals I do see a lot of bad philosophy done by people in law schools who don’t really know what they’re doing in philosophy. I think they wouldn’t be able to publish those things if the submitted them to a philosophy journal. That’s why I think having close associations with the department in the relevant area and having PhDs on the Law School faculty prevents us from falling into that very real trap.

MILES: I remember that our Law Review hosted a symposium 20 years ago on “The Future of Law in Economics.” They got Gary Becker and Ronald Coase to come and be on a panel, and it’s in the Law Review and one can go and read it. [64 U Chi L Rev 1132 (1997).]

Coase said that he thought that what was going on within economics was that economics departments were becoming theology departments, that the applied work—work about what’s going on in the world and how institutions are functioning—was migrating out of economics departments and into other places like business schools, policy schools, and law schools.

WEISBACH: Well, there is no law and economics really done in econ departments anymore; it’s all done at law schools.

MILES: There is this real choice that we, as interdisciplinary scholars, face in deciding where we want to put our work. Do we want to subject it to the peer review process and put in a peer-reviewed journal, either in a kind of “law and” peer-reviewed journal or a pure disciplinary journal, or do we want to put it into a student-edited law review? Those reach very different audiences. I think that is a really difficult choice for people who are starting out wanting to do interdisciplinary work.

WEISBACH: You do both.

MILES: You have to do both.

MALANI: It’s true not just for law and economics. In general, applied work has migrated out of economics departments. Look at other subfields of economics that are not traditional subjects like labor. A lot of the really good health economics work these days is being done in medical schools and public policy schools (and even in law schools), not so much in economics departments. It’s more of a commentary on economics.

NUSSBAUM: I think in philosophy the work suffers, and I want to know what your view is about economics. People who do bioethics in a way that’s cut off from the philosophy department—and there are a lot of such people—it’s often a kind of cheapo/quicky philosophy where you just say, this is the Kantian position and this is the virtue ethics position, and it gets really boring very quickly. Whereas the best work when we have our Law and Philosophy workshop, it’s interesting that virtually all of them are actually from philosophy departments.

MALANI: If you talk to law and economics scholars today, particularly those with PhDs, what they try to do is every so often write an article that’s really directed toward the general economics journal. To do that you really have to employ cutting-edge economics research technology, whether it’s empirical or theoretical, and that helps keep scholars fresh and up-to-date. I do think that it’s still a challenge getting economists to think that law and economics contributes something general to economics, but that partly has to do with the fact that economics is not an applied field in the way that it once was.

WEISBACH: My fields in tax law and climate change, there’s nowhere to publish interdisciplinary work; it just doesn’t exist. You can’t publish in a law review because no one you care about outside of law schools will read it, and it’s not going to be technical enough to get published in say a scientific journal or a journal of public economics. Placing papers is very, very difficult. You can put it in the Journal of Legal Studies, but no one that will read JLS will be the relevant audience for that kind of thing.

MILES: David, it sounds like a market opportunity.

WEISBACH: I’m not creating a journal, no …

NUSSBAUM: In philosophy that’s not such a problem. The journals like Philosophy in Public Affairs, Ethics, Journal of Political Philosophy, and Journal of Moral Philosophy—those all would gladly publish a really good paper in law so I think we have a lot of choices.

WEISBACH: But if you publish in a law review will any philosopher read it?

NUSSBAUM: Well, if you send it to them. [LAUGHTER] After all, it’s pretty easy to do that!