When Professor Pauline Kim first entered the academic world in 1994, something seemed amiss.

She had just joined the School of Law's faculty after five years of litigating employment discrimination cases on behalf of low-income workers as a staff attorney at the Legal Aid Society of San Francisco. As she plunged into the scholarly literature in her field of employment law, Kim was amazed by the number of scholars arguing in favor of the at-will rule based upon the large numbers of employees who voluntarily worked under at-will contracts without seeking any promises of job security.

"I was immediately struck by the factual assumption underlying this argument," said Kim. "During my years in practice, I counseled countless workers about the implications of the at-will rule and they always seemed surprised--they expected that they could not be fired without good cause." If in fact employees did not know about or understand the at-will rule, she reasoned, the desirability of the legal presumption that employment is at-will can no longer be assumed simply from the failure of employees to seek contractual assurances of job security from their employers.

Skeptical of the assumption that workers know the legal rules governing employee discharges, Kim set out to test its accuracy empirically. Collecting survey data from nearly a thousand workers in Missouri, California, and New York, she found that workers are seriously mistaken about the law. Far from understanding the meaning of the at-will rule, workers consistently overestimated their legal rights. According to Kim, the pattern of responses revealed that most workers believe they have something akin to the just-cause protections provided by collective bargaining agreements, when in fact employers are free to discharge non-unionized workers except for certain narrowly defined reasons, such as discriminatory animus based on an employee's race or sex.


Even before receiving tenure in September 1999, Kim had become a nationally respected figure in her community of scholars. Lance Liebman, the William S. Beinecke Professor of Law at Columbia University School of Law, describes Kim's empirical approach as "courageous, ambitious, and arduous." He also
pointed out the significance of her work on the debate on the law of at-will employment: "What are we to make of a legal regime in which workers can be dismissed without cause, but in which most of them do not know that is the law? Before Ms. Kim's work was published, we did not regard that as an accurate question; indeed, facts [were asserted] quite to the contrary. But I predict that teachers will now accept the Kim results and will ask different moral and theoretical questions as a result."

Kim, who serves on the Association of American Law School's Consulting Group on Empirical Research, plans to pursue further empirical inquiries into the law's effects in practice. "Too often," she said, "legal academics spin out their theories without any factual grounding. I hope my work will provide a reality check in these debates."

Professor Kim holds an AB summa cum laude and a JD magna cum laude from Harvard University. She continues to teach Employment Law; Pretrial Practice and Procedure; Race, Ethnicity & the Law; and Employment Law Clinic.