

# ORGANIZATIONAL DETERMINANTS OF LAW FIRM INTEGRATION

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## INTRODUCTION

Although women and people of color have been entering elite law firms at an increasing rate, the most powerful and remunerative positions still tend to be held by white men. A 1989 survey of the nation's leading law firms found that over 90% of the partners were men and more than 98% were white.<sup>1</sup> Similar patterns are found in accounting firms,<sup>2</sup> universities,<sup>3</sup> and business corporations.<sup>4</sup>

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1. See Rita Henley Jensen, *Minorities Didn't Share in Firm Growth*, NAT'L L.J., Feb. 19, 1990, at 1 (finding that of 23,195 partners, 2139 (9.2%) were women; 210 (.9%) were black; 111 (.48%) were Hispanic; and 123 (.53%) were Asian American or Native American). See *id.* at 28.

2. See Theresa A. Hammond, *The Socio-Economic Determinants of the Demographic Composition of the Public Accounting Profession* (1990) (unpublished Ph.D. dissertation, University of Wisconsin, Madison) (on file with *The American University Law Review*).

3. See Richard H. Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537, 538 (1988) (reporting that in 1986, 20% of full-time law professors were female and 3.7% were black); Paula Dressel et al., *The Dynamics of Homosocial*

The social science literature offers competing explanations for the lack of integration in top-level professional jobs. Most of the debate revolves around the relative importance of individual-level "supply-side" determinants (such as variations in individual qualifications), versus structural or institutional "demand-side" determinants (such as the distribution of employment opportunity).<sup>5</sup>

According to the supply-side explanation, the lack of integration in top-level jobs primarily reflects a shortage of qualified women and minority candidates.<sup>6</sup> According to the demand-side explanation, the lack of integration in top-level jobs primarily reflects the persistence of employment discrimination and the institutionalization of advancement criteria favoring white men.<sup>7</sup>

This is an important debate within present policy context, because it speaks to the need for continuing legal intervention into the employment relationship. If gender- and race-based employment inequality can be attributed to individual-level differences in skill or experience, then employment discrimination can be located in the past and continuing inequalities can be explained as its residue,<sup>8</sup> or

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*Reproduction in Academic Institutions*, 2 AM. U. J. GENDER & L. 37, 40-43 (1994) (discussing underrepresentation of female and minority professors in tenured and central administrative positions within universities); Deborah J. Merritt et al., *Family, Place, and Career: The Gender Paradox in Law School Hiring*, 2 WIS. L. REV. 395, 398-411 (1993) (describing underrepresentation of women among tenured professors at elite law schools).

4. See generally Richard L. Zweigenhaft, *Minorities and Women of the Corporation: Will They Attain Seats of Power?*, in POWER ELITES AND ORGANIZATIONS (G. William Dumhoff & Thomas Dye eds., 1987) (stating that white males tend to hold positions of upper management in corporations); *The Glass Ceiling in Federal Agencies, A GAO Survey on Women and Minorities in Federal Agencies: Hearings Before the Senate Comm. on Gov'tal Affairs*, 102d Cong. 75-77 (1991) (statement of Bernard Ungar, Dir., Fed. Hum. Resource Mgmt. Issues, U.S. G.A.O.) (stating that women and minorities are underrepresented in federal civilian workforce and constitute bulk of lower-level job grades and that white males tend to occupy upper level job grades).

5. See *infra* notes 45-70 and accompanying text.

6. See, e.g., Solomon William Polachek, *Sex Differences in College Major*, 31 INDUS. & LAB. REL. REV. 498, 508 (1978) [hereinafter Polachek, *College Major*] (linking occupational sex segregation to sex differences in choice of college major); see also Solomon William Polachek, *Occupational Self-Selection: A Human Capital Approach to Sex Difference in Occupational Structure*, 63 REV. ECON. STAT. 60, 68 (1981) [hereinafter Polachek, *Human Capital*] (developing economic model of why women in most societies pursue different occupations than men).

7. See, e.g., Paula England, *Occupational Segregation: Rejoinder to Polachek*, 20 J. HUM. RESOURCES 441, 442 (1985) (stating that occupational segregation occurs due to combination of discrimination, structural factors, and gender role socialization); Barbara F. Reskin, *Bringing the Men Back In: Sex Differentiation and the Devaluation of Women's Work*, 2 GENDER & SOC'Y 58, 61 (1988); see also Elizabeth Bartholet, *Application of Title VII to Jobs in High Places*, 95 HARV. L. REV. 947, 948-49 (1982) (stating that legal efforts to combat discrimination in workplace have been aimed largely at lower level jobs, resulting in relatively few blacks in elite professions).

8. See William L. Corbett, *Providing and Defending Employment Discrimination Claims*, 47 MONT. L. REV. 217, 218 (1986) (stating that supply-side argument is a defense for employers in employment discrimination lawsuits). If there are not enough qualified candidates, then the underrepresentation at issue can be attributed to past discrimination—and past employers—rather than to the practices of the defendant. See *id.*; see also *Wards Cove Packing Co. v. Atonio*, 490 U.S. 642, 642-43 (1989) (holding that prima facie case of discrimination was not

as the product of individual choice.<sup>9</sup> If variations in individual qualifications cannot account for gender or race inequality, then employers' practices remain suspect, and continuing legal intervention may be justified.<sup>10</sup>

By focusing on the relative importance of "supply-side" versus "demand-side" determinants, however, this debate ignores the role of organizations in shaping both the supply of qualified workers and the demand for workplace integration.<sup>11</sup> Recent studies indicate that employees' achievement levels and employers' propensity to discriminate may vary significantly across different organizational settings, even controlling for variations in labor supply and demand.<sup>12</sup>

established despite statistical evidence that almost all low-paid workers were minorities and few were in high-paying positions because of the possibility that minorities did not seek high-paid jobs due to lack of interest); *Bazemore v. Friday*, 751 F.2d 662, 674 (4th Cir. 1984) (holding that lingering effects of pre-Title VII racial discrimination are not actionable and plaintiff must demonstrate that alleged employment discrimination is not merely vestige of past discrimination).

9. Employers have avoided liability in sex discrimination suits by arguing that women are not interested in the position at issue. See *EEOC v. Sears, Roebuck & Co.*, 628 F. Supp. 1264, 1305 (N.D. Ill. 1986), *aff'd*, 839 F.2d 302, 320-21 (7th Cir. 1988) (holding that although EEOC's statistical analysis demonstrated sex segregation among Sears' employees, court concluded that statistics were not relevant because female employees were not as interested in certain jobs, such as commission sales jobs, as males). The "lack of interest" argument assumes that women and men prefer different kinds of work and that these preferences are unrelated to labor market opportunities. See Vicki Schultz, *Telling Stories About Women and Work: Judicial Interpretations of Sex Segregation in the Workplace in Title VII Cases Raising the Lack of Interest Argument*, 103 HARV. L. REV. 1749, 1754 (1990). Similarly, some scholars attribute occupational segregation to women's choices. See Polachek, *College Major*, *supra* note 6, at 508.

10. Some legal scholars argue that the persistence of gender- and race-based employment inequality justifies the use of group-based, "structural" remedies such as quotas. See Bartholet, *supra* note 7, at 958; David A. Strauss, *The Law and Economics of Racial Discrimination in Employment: The Case for Numerical Standards*, 79 GEO. L.J. 1619, 1655-56 (1991) (proposing institutional structures to address employment discrimination); see also ROSABETH MOSS KANTER, *MEN & WOMEN OF THE CORPORATION* 282 (1970) (calling for "batch" hiring of women into traditionally male organizations to counter structural effects of tokenism).

11. See James N. Baron, *Organizational Perspectives on Stratification*, 10 ANN. REV. SOC. 37, 47 (1984) (linking specific organizational structures, such as unions, to stratification outcomes); James N. Baron & William T. Bielby, *Bringing the Firms Back In: Stratification, Segmentation, and the Organization of Work*, 45 AM. SOC. REV. 737, 738 (1980) (examining structural explanations for socioeconomic inequality); Ross M. Stolzenberg, *Bringing the Boss Back In: Employer Size, Employee Schooling, and Socioeconomic Achievement*, 43 AM. SOC. REV. 813, 813-14 (1978) (finding that effect of workers' educational level on earnings and socioeconomic status increases logarithmically as function of size of their employer).

12. See, e.g., Paul D. Allison & J. Scott Long, *Departmental Effects on Scientific Productivity*, 55 AM. SOC. REV. 469, 469-70 (1990) (finding that effect of departmental affiliation on productivity is more important than effect of productivity on departmental affiliation); James N. Baron & Andrew E. Newman, *For What It's Worth: Organizations, Occupations, and the Value of Work*, 55 AM. SOC. REV. 155, 157 (1990) [hereinafter Baron & Newman, *For What It's Worth*] (finding that work done disproportionately by non-whites and women is devalued most in job categories that are traditional, non-unionized, and have ambiguous performance criteria); James N. Baron & Andrew E. Newman, *Pay the Man: Effects of Demographic Composition on Prescribed Wage Rates in the California Civil Service, in PAY EQUITY: EMPIRICAL INQUIRIES* 107, 125-26 (Robert T. Michael et al. eds., 1989) [hereinafter Baron & Newman, *Pay the Man*].

Organizational characteristics also may affect employers' responses to antidiscrimination law.<sup>13</sup>

These studies suggest that organizations may play a critical role in "mediating" both supply-side and demand-side sources of employment inequality: "[T]he organizational context . . . is critical, not simply because organizations mediate—and sometimes depart from—market forces, but also because organizational policies and practices often help *define* the relevant 'market' in the first place."<sup>14</sup>

This study investigates the effects of organizational characteristics on the process of gender and race integration within law firms. I focus on the effects of "structural" characteristics (such as size, bureaucratization, promotion structure, and geographic structure), as well as "practice" characteristics (such as the nature of the firm's client base). The purpose of the study is to identify law firm characteristics that lead to increased gender and race integration.

I build on an emerging "organizational" perspective in the social science literature that emphasizes the importance of organizational conditions in accounting for patterns of gender and race stratification.<sup>15</sup> However, whereas most previous studies examine how organizational conditions affect wage inequality<sup>16</sup> or individual productivity,<sup>17</sup> I examine how organizational conditions affect the process of organizational integration.<sup>18</sup> In addition, whereas

13. See Lauren B. Edelman, *Legal Ambiguity and Symbolic Structures: Organizational Mediation of Civil Rights Law*, 97 AM. J. SOC. 1531, 1567-69 (1992) [hereinafter Edelman, *Symbolic Structures*] (finding that organizational characteristics such as size and proximity to public sphere affect both rate and type of organizational response); Lauren B. Edelman, *Legal Environments and Organizational Governance: The Expansion of Due Process in the American Workplace*, 95 AM. J. SOC. 1401, 1435-36 (1990) [hereinafter Edelman, *Legal Environments*].

14. Baron & Newman, *For What It's Worth*, *supra* note 12, at 173; see also Edelman, *Symbolic Structures*, *supra* note 13, at 1532 (discussing organizational "mediation" of Equal Employment Opportunity law).

15. See generally James N. Baron et al., *The Structure of Opportunity: How Promotion Ladders Vary Within and Among Organizations*, 31 ADMIN. SCI. Q. 248, 271-72 (1986) (relating characteristics of jobs and organizations to structure of internal promotion ladders); Baron, *supra* note 11, at 47-53 (linking specific organizational structures to stratification outcomes); Baron & Bielby, *supra* note 11, at 738 (examining structural explanations for socioeconomic inequality); Jeffrey Pfeffer, *Toward an Examination of Stratification in Organizations*, 22 ADMIN. SCI. Q. 553, 566 (1977); Stolzenberg, *supra* note 11, at 825-26 (discussing relationship between establishment size and effects of schooling on occupational status and earnings).

16. See, e.g., Baron & Newman, *For What It's Worth*, *supra* note 12, at 157; William P. Bridges & Robert L. Nelson, *Markets in Hierarchies: Organizational and Market Influences on Gender Inequality in a State Pay System*, 95 AM. J. SOC. 616, 617 (1989); Jo Dixon & Carroll Seron, *Stratification in the Legal Profession: Sex, Sector, and Salary*, 29 L. & SOC'Y REV. 381, 404 (1995).

17. See, e.g., Allison & Long, *supra* note 12, at 469-70.

18. For a study that took a similar approach, see James N. Baron et al., *Targets of Opportunity: Organizational and Environmental Determinants of Gender Integration Within the California Civil Service, 1979-1985*, 96 AM. J. SOC. 1362, 1362 (1991) (analyzing effect of organizational dynamics on rate of gender integration within California Civil Service).

previous studies focus on either gender<sup>19</sup> or race,<sup>20</sup> I examine both gender and race, and I compare the effects of law firm characteristics on the representation of lawyers from different demographic groups.<sup>21</sup>

### A. *Research Setting*

My analysis is based on annual (1980-90) employment data for a sample of ninety-seven elite law firms. "Elite" law firms are large urban law firms that serve national and multinational corporations.<sup>22</sup> These law firms pay the highest starting salaries of all legal employers and have a reputation for providing the best lawyers with complex and challenging work.<sup>23</sup> Senior partners in such firms tend to enjoy a great deal of professional and political influence: they run local and national bar associations; they sit on legislative drafting committees; and they occupy positions on the executive boards of client corporations.<sup>24</sup>

Their privileged and highly visible position makes elite law firms an important arena for studying gender and race integration.<sup>25</sup> Al-

19. See, e.g., KANTER, *supra* note 10, at 15-28 (studying role of men and women in administration of corporations); Baron et al., *supra* note 18, at 1362 (linking organizational change to social inequality and gender integration); Bridges & Nelson, *supra* note 16, at 617 (examining organizational influences on gender inequality); Dixon & Seron, *supra* note 16, at 381-83 (demonstrating effects of human and social capital on income of male and female attorneys); Jeffrey Pfeffer & Alison Davis-Blake, *The Effect of the Proportion of Women on Salaries: The Case of College Administrators*, 32 ADMIN. SCI. Q. 1, 1 (1987) (examining effect of proportion of women administrators on salaries of both men and women in administrative positions in colleges and universities).

20. See generally Hammond, *supra* note 2 (analyzing determinants of racial integration within accounting profession).

21. I perform separate analyses for female, black, Hispanic, and Asian American lawyers. My analysis focused on these four groups because these are the categories used on the NALP survey form. Unfortunately, the data do not allow for the examination of interactions between gender and race, because raw figures for law firm composition are not broken down by gender within different racial categories. Data for the legal profession as a whole indicate that a higher proportion of minority than white lawyers are women—31% versus 13%. See RICHARD L. ABEL, *AMERICAN LAWYERS* 102 (1989). In 1984, women represented a higher proportion of all minority professionals than of white professionals. See Andrew Hacker, *Women vs. Men in the Workforce*, N.Y. TIMES, Dec. 9, 1984, § 6 (Magazine), at 124.

22. See generally Marc S. Galanter & Thomas M. Palay, *Why the Big Get Bigger: The Promotion-to-Partners Tournament and the Growth of Large Law Firms*, 76 VA. L. REV. 747, 756-65 (1990) (discussing development and characteristics of large law firms).

23. See *id.* at 747. See generally ROBERT L. NELSON, *PARTNERS WITH POWER: THE SOCIAL TRANSFORMATION OF THE LARGE LAW FIRM* (1988) (exploring patterns of organizational change in large law firms).

24. See Terrence C. Halliday & Charles L. Cappell, *Indicators of Democracy in Professional Associations: Elite Recruitment, Turnover, and Decision Making in a Metropolitan Bar Association*, AM. B. FOUND. RES. J. 697, 758-62 (1979) (considering political structure of bar associations).

25. See Robert L. Nelson & David M. Trubek, *Arenas of Professionalism: The Professional Ideologies of Lawyers in Context*, in *LAWYERS' IDEALS/LAWYERS' PRACTICES: TRANSFORMATIONS IN THE AMERICAN LEGAL PROFESSION* 177, 192-98 (Robert L. Nelson et al. eds., 1992).

though urban law firms employ only a small fraction of all lawyers,<sup>26</sup> these law firms dominate the market for private legal services in the United States,<sup>27</sup> and their relative market share is increasing.<sup>28</sup>

Moreover, the institutional significance of elite law firms far exceeds the number of lawyers they employ. In many respects elite law firms serve as the bellwether of the profession,<sup>29</sup> institutionalizing styles of recruitment, training, and work organization that are emulated by other law firms in the United States and abroad.<sup>30</sup> Some argue that the interests of elite law firms dominate legal education and professional socialization.<sup>31</sup>

Finally, from the standpoint of research design, elite law firms present a timely context for comparative organizational research. Large, urban law firms have been a central arena for many recent changes affecting the legal profession as a whole, including rapid growth, increased competition, changes in work organization, and increasing demographic diversity among lawyers.<sup>32</sup> However, these

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26. In 1980, 68% of all lawyers were in private practice. Only 7.3% of these lawyers worked in firms of 50 lawyers or more (5% of the total lawyer population). See BARBARA A. CURRAN ET AL., *THE LAWYER STATISTICAL REPORT 13-14* (1985). In 1991, 72.9% of all lawyers were in private practice, and 78% of all lawyers under the age of 40 were in private practice. Of all lawyers engaged in private practice in 1991, 12.6% worked in law firms of 101 lawyers or more. See BARBARA A. CURRAN & CLARA N. CARSON, *THE LAWYER STATISTICAL REPORT 24-25* (1994).

27. See NELSON, *supra* note 23, at 270-72.

28. See MARC GALANTER & THOMAS PALAY, *TOURNAMENT OF LAWYERS: THE TRANSFORMATION OF THE BIG LAW FIRM 40-41* (1991); Richard H. Sander & E. Douglass Williams, *Why Are There So Many Lawyers? Perspectives on a Turbulent Market*, 14 L. & SOC. INQUIRY 431, 435-40 (1989).

29. See NELSON, *supra* note 23, at 270-90.

30. See GALANTER & PALAY, *supra* note 28, at 18-19.

31. See, e.g., DUNCAN KENNEDY, *LEGAL EDUCATION AND THE REPRODUCTION OF HIERARCHY: A POLEMIC AGAINST THE SYSTEM* (1983); Stephen C. Halpern, *On the Politics and Pathology of Legal Education*, 32 J. LEGAL EDUC. 383, 389-90 (1982); Karl E. Klare, *The Law School Curriculum in the 1980s: What's Left?*, 32 J. LEGAL EDUC. 336, 338-39 (1982). Some socio-legal scholars have criticized research on elite law firms, especially in the context of gender stratification, because this focus "accepts and assimilates to conventional sociological and popular cultural notions of what is important." Carrie Menkel-Meadow, *Exploring a Research Agenda on the Feminization of the Legal Profession: Theories of Gender and Social Change*, 14 L. & SOC. INQUIRY 289, 307 (1989). Menkel-Meadow argues that women lawyers may not necessarily adopt the "monetary and prestige" criteria for success put forth by "conventional male-constructed sociology." *Id.* This point is well-taken; the desirability of working in an elite law firm could be disputed on a number of grounds. However, to assume that women are less interested than men in holding lucrative and prestigious jobs is extremely problematic. See Schultz, *supra* note 9, at 1754. Furthermore, whatever position one takes as to the desirability of their institutional influence, as a practical matter, elite law firms play a central role in intraprofessional stratification. See Menkel-Meadow, *supra* at 304-12.

32. See Sander & Williams, *supra* note 28, at 478. Sander and Williams note:

Large, elite law firms . . . have been critical catalysts of many recent changes. Nowhere has the growing demand for legal services been as great as among the customers of elite firms. Nowhere have the changes in the organization of legal work been so fundamental. And the trend of increasing concentration of legal work in large firms . . . seems to be accelerating.

changes have been "partial and conflictual,"<sup>33</sup> as firm leaders and factions within firms grapple with various strategies for adapting to change.

As a result, significant firm-level variations in the structural and cultural conditions for individual advancement presently exist.<sup>34</sup> Understanding these conditions and their effects on law firm demographics could provide important insights into the dynamics of law firm integration and the role of firm-level processes in accounting for market- or profession-wide employment patterns.

### B. Data and Research Design

Data for the sample firms are drawn primarily from *The Directory of Legal Employers*, published each year by the National Association for Law Placement ("NALP").<sup>35</sup> The population from which the sample was drawn consists of all the private law firms listed in the NALP Directory from 1980 through 1990, whose principal locations are Chicago, Los Angeles, New York City, or Washington, D.C. (n=540).<sup>36</sup> Within each city, "elite" firms were selected on the basis of starting salary for associates. Starting salaries were measured at three time points (1981, 1985, and 1990),<sup>37</sup> and the top-paying firms in each city were identified (n=161).<sup>38</sup> Fifty-six firms with fewer than six entries over the eleven year period were dropped, as were eight specialty firms.<sup>39</sup> The final sample covers ninety-seven firms:

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33. NELSON, *supra* note 23, at 288.

34. See *infra* notes 183-85 and accompanying text.

35. The NALP Directory includes more than 1000 legal employers including private law firms, public interest organizations, government employers, and corporations. Entries providing descriptive information about the type of employer, the nature of the practice, and the size, structure, and demographic composition of the workplace are submitted by employers in early spring of each year. The NALP directory is used primarily by law school placement offices. See NATIONAL ASS'N FOR LAW PLACEMENT, DIRECTORY OF LEGAL EMPLOYERS (1990) [hereinafter NALP DIRECTORY].

36. For sampling purposes, each firm was assigned one principal location: the location of the firm headquarters if one were designated or the location of the oldest or largest office when no "headquarters" was designated. For example, a New York-based firm with offices in Los Angeles and Washington, D.C., was counted only once, as a New York firm. In most cases, when the firm named a headquarters, the headquarters was the oldest and largest office maintained by the firm.

37. The measure was based on the starting salary that firms reported for the previous year, rather than the projected salary for the following fall. As a result, the salaries upon which firms were selected were the starting salaries paid in 1980, 1984, and 1989, but reported in the 1981, 1985, and 1990 Directory listings.

38. Firms were selected if the starting salary paid to associates was at or above the city median at all three time points or if the combined salary for all three time points was above the combined median for that city. These criteria yielded roughly the top-paying 30% of all firms in the population (161 of 540 firms).

39. Specialty (or "boutique") firms are firms offering legal services in one primary area of law (such as tax or patent law). Specialty firms were dropped from the sample because initial



nineteen in Chicago; twenty-two in Los Angeles; thirty-nine in New York City; and seventeen in Washington, D.C.<sup>40</sup>

I sampled on the basis of location and starting salary<sup>41</sup> in order to minimize unmeasured variation in firms' labor supply at the entry level. It is impossible to measure directly the relative qualifications of law firm applicants, or the pool of potential applicants for any given firm. However, law firm recruitment is highly competitive. Within most large cities, there is a cluster of top-paying law firms whose entry-level salaries move together over time. Therefore, I assume that within a given city, the top-paying law firms operate within the same external labor market.<sup>42</sup>

Parts of the quantitative analysis are supplemented by interviews with elite firm lawyers conducted between 1989 and 1992.<sup>43</sup> The interviews focused on various issues related to the organization of work and careers in elite law firms and the nature of advancement opportunities for women and minority lawyers. Respondents were selected to provide gender and racial diversity, as well as regional variation and variation in employment status (junior associate, senior associate, partner, managing partner). Direct quotes are referenced in the text according to the race, gender, and position of the respondent.<sup>44</sup>

Part I of this Article explains the theoretical context of my research and defines the questions that the study will address. The central

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examination revealed that they tend to recruit from a different external labor supply than "general practice" firms.

40. See Appendix, *infra* pp. 745-46, for a list of firms in the sample.

41. Size serves as the most common benchmark for identifying "elite" law firms. See NELSON, *supra* note 23, at 1 (describing large firms' significant influence over legal issues); Marc Galanter & Thomas Palay, *The Transformation of the Big Law Firm*, in *LAWYERS' IDEALS AND LAWYERS' PRACTICES: TRANSFORMATIONS IN THE AMERICAN LEGAL PROFESSION*, 31, 52-53 (Robert L. Nelson et al. eds., 1992) (noting large law firms' reputation for quality). However, the firms sampled on the basis of salary also are among the nation's largest. Seventy-six percent (74) of the firms in the sample ranked among the 250 largest law firms in the nation in 1989. See Appendix, *infra* pp. 745-46.

42. Because most elite law firms recruit nationally as well as regionally, the relevant labor market is partly a national one. However, to the extent that the elite firm labor market is a national labor market, it is dominated by the four cities included in the sample. In 1980, these four cities had the largest lawyer populations, private practice populations, and law firm populations in the country. See CURRAN, *supra* note 26, at 579-83. The 1980 rankings for number of law firms were: (1) New York City (1790 firms); (2) Chicago (974 firms); (3) Los Angeles (838 firms); and (4) Washington, D.C. (823 firms). See *id.* at 267, 320, 560, 567.

43. The respondents do not necessarily represent the same law firms included in the sample. There were a total of 26 respondents, three of whom were interviewed twice. Of the 26 lawyers interviewed, 14 represented firms that are included in the sample. Most of the interviews occurred in a group setting, with other lawyers and researchers participating.

44. For instance, a white male partner is represented as "WMP," a black female associate as "BFA." When more than one respondent from a category is quoted, each is given a unique number ("WMP1," "WMP2"). All interview transcripts are on file with the author.

question is: Why are some elite law firms more integrated than others?

Part II establishes the empirical context for the analysis: How much do elite law firms vary in the gender and race composition of lawyers? To what extent are firm-level differences determined by variations in the external labor supply or by other labor market determinants such as geographic location, starting salary, or the firm's demand for labor in general (measured by firm growth)?

Part III analyzes the effects of various organizational characteristics on the gender and race composition of the sample firms. Controlling for labor supply and demand, to what extent do firm-level characteristics affect the level of law firm integration? Which characteristics are most important? Are their effects the same at different levels of the law firm hierarchy? Are they the same for different demographic groups?

I summarize my findings in Part IV and discuss their implications. My main findings are: (1) that firm-level characteristics significantly affect the level of law firm integration, even controlling for variations in labor supply and demand; and (2) that the determinants of law firm integration are significantly different for different demographic groups. These different predictors of group representation suggest different underlying mechanisms for change. I conclude by discussing the implications of this argument for theoretical debates about employment inequality, as well as for the future of gender and race integration within law firms.

## I. THEORETICAL CONTEXT

The social science literature on employment inequality traditionally has been dominated by a debate between functionalist "supply-side" theory, which suggests that individual attributes are the primary determinants of employment outcomes, and "demand-side" critiques of functionalism, which emphasize the importance of social, structural, and institutional determinants. The central issues in this debate are: (1) how much employment inequality can be attributed to *individual* versus *structural* causes; and (2) whether present inequalities ultimately are self-correcting or self-perpetuating.

A. *The Supply-Side Model: Individual Attainment*

The supply-side model stems from human capital theory in economics and status attainment theory in sociology.<sup>45</sup> This model conceptualizes economic advancement as an *individual attainment* process: Individuals invest in and accumulate human capital assets such as education and work experience; these assets then determine employment outcomes, such as occupation, position, and wage.<sup>46</sup>

The supply-side model assumes that employers and other evaluators are economically rational. That is, it assumes a competitive labor market, good information, and the use of performance-based (or productivity-based) evaluative criteria.<sup>47</sup> The supply-side model also assumes economic rationality on the part of individuals investing in attainment. It treats individuals' employment aspirations as exogenous to the labor market, and it assumes that individuals' human capital investments are rational choices intended to maximize earnings over time.<sup>48</sup>

These assumptions of economic rationality rest in turn on a functionalist theory of employment stratification which holds that in order to adapt and survive, societies must promote a meritocratic matching of employees to jobs.<sup>49</sup> Functionalist theory assumes that there is some basis for consensus about which jobs are most important and about which behaviors constitute good performance. That is, it assumes that there is societal consensus about what constitutes "economic rationality."<sup>50</sup>

According to the supply-side model, gender- and race-based employment inequalities result primarily from individual-level differences in choice, education, and effort. Supply-side proponents

45. See Margaret Mooney Marini, *Sex Difference in Earnings in the United States*, 15 ANN. REV. SOC. 343, 348-58 (1989) (reviewing "supply-side" explanations for low female wages). See generally Paula England & Dana Dunn, *Evaluating Work and Comparable Worth*, 14 ANN. REV. SOC. 227 (1988) (reviewing economic and sociological theories of inequality).

46. See generally GARY S. BECKER, *HUMAN CAPITAL* (2d ed. 1975) (analyzing economic effects of continuing education); JACOB MINCER, *SCHOOLING, EXPERIENCE AND EARNINGS* (1974) (analyzing economic effects of both education and work experience).

47. See E.M. Beck et al., *Stratification in a Dual Economy: A Sectoral Model of Earnings Determination*, 43 AM. SOC. REV. 704 (1978) (summarizing "supply-side" theorists' analytical framework); Patrick M. Horan, *Is Status Attainment Research Atheoretical?*, 43 AM. SOC. REV. 534, 538-39 (1978) (discussing assumptions underlying "supply-side" theories of attainment).

48. See Polachek, *College Major*, *supra* note 6, at 500-01 (discussing male and female choices of college major as individual rational choices); Polachek, *Human Capital*, *supra* note 6, at 60-61 (analyzing occupational segregation by sex).

49. See Kingsley Davis & Wilbert E. Moore, *Some Principles of Stratification*, 10 AM. SOC. REV. 242, 242-43 (1945) (introducing functionalist theory of stratification).

50. See England & Dunn, *supra* note 45, at 241-43 (criticizing functionalist assumptions of "rationality").

do not deny the existence of structural constraints: as an empirical matter, researchers acknowledge the potential for employer bias, occupational sex segregation, and other factors that interfere with the meritocratic matching of employees to jobs.<sup>51</sup> As an analytical matter, however, the supply-side model brackets these constraints, treating them as temporary distortions that will be corrected through the operation of market forces. Thus, the supply-side model predicts progressive gender and race integration at all levels of employment:

[T]he human capital framework . . . holds that discrimination (ascriptive criteria) will be eroded by the competitive operation of the marketplace because discrimination is held to cost those who discriminate . . . . [T]he human capital model also predicts the decline of voluntary segregation that may result from women's choices. Increasing wages lead more women into the labor force for longer spells which in turn leads them to invest more heavily in labor market skills which in turn should reduce the sexual differentiation of occupational choices.<sup>52</sup>

### B. *The Demand-Side Model: Structural Constraints*

The demand-side model emphasizes the structural constraints on individual attainment. According to the demand-side argument, individual employment outcomes cannot be understood apart from structural conditions affecting labor market competition and the distribution of advancement opportunities across industries, organizations, and jobs.<sup>53</sup> Because of its emphasis on opportunity structures,

51. See generally Robert M. Hauser, *On "Stratification in a Dual Economy": Comment on Beck et al.*, 45 AM. SOC. REV. 702 (1980) (acknowledging existence of structural variations but rejecting importance of structural variables in accounting for gender- and race-based wage inequality).

52. Jerry A. Jacobs, *Long-Term Trends in Occupational Segregation by Sex*, 95 AM. J. SOC. 160, 161 (1989) (citations omitted).

53. See generally Robert P. Althaus & Arne L. Kalleberg, *Firms, Occupations and the Structure of Labor Markets*, in SOCIOLOGICAL PERSPECTIVES ON LABOR MARKETS 119 (Ivar Berg ed., 1981) (positing that internal labor markets act independently of economic sectors); Baron et al., *supra* note 18, at 270 (concluding that political and organizational forces both within and without firms shape promotion and hiring policy); Beck et al., *supra* note 47, at 706-08 (describing "dual economy" theories to explain wage differences in labor force); Robert Bibb & William H. Form, *The Effects of Industrial, Occupational and Sex Stratification on Wages in Blue Collar Markets*, 55 SOC. FORCES 974 (1977) (proposing that traditional human capital economic theory inadequately explains unequal wages for female workers and embracing "demand-side" model); Paula England, *The Failure of Human Capital Theory to Explain Occupational Sex Segregation*, 17 J. HUM. RESOURCES 358, 369 (1982) (rejecting Polachek's theory that intermittent employment reduces women's wages); George Farkas et al., *Structural Effects on Wages*, in INDUSTRIES, FIRMS AND JOBS 93 (George Farkas & Paula England eds., 1988) (analyzing how structural characteristics of businesses interact with employees' bargaining power to affect wages); Randy Hodson & Paula England, *Industrial Structure and Sex Differences in Earnings*, 25 INDUS. REL. 16 (1986) (assessing impact of industrial characteristics on wage gap between men and women); Patricia A. Roos & Barbara F. Reskin, *Institutional Factors Contributing to Sex Segregation in the Workplace*, in SEX SEGREGATION IN THE WORKPLACE: TRENDS, EXPLANATIONS, REMEDIES 235 (Barbara F. Reskin ed.,

this line of argument is called the "structuralist" (or "new structuralist") perspective.<sup>54</sup>

The structuralist perspective challenges assumptions of economic rationality<sup>55</sup> and the functionalist theory of stratification that underlies them.<sup>56</sup> Structuralist writers have been particularly critical of their assumption of economic rationality on the part of employers. For instance, although competition may encourage employer "rationality" and the use of performance-based criteria,<sup>57</sup> critics argue that large segments of the labor force are isolated from competition because they work in internal labor markets<sup>58</sup> or bureaucratic personnel systems<sup>59</sup> where wages and evaluative criteria are institutionally determined.<sup>60</sup> Evidence suggests that women and minorities have unequal access to internal labor markets<sup>61</sup> and that bureaucratic pay scales favor jobs held by white men.<sup>62</sup>

1984) (discussing formal barriers to women's employment in predominantly male jobs); Stolzenberg, *supra* note 11 (analyzing characteristics of both employers and employees to understand wage differences).

54. Baron and Bielby introduced this label. See Baron & Bielby, *supra* note 11, at 737 (using term "new structuralism" to describe emerging stratification research focusing on structure over individual characteristics).

55. See Beck et al., *supra* note 47, at 708 (asserting importance of considering not only individual factors but also variables in economic sector); Horan, *supra* note 47, at 538-39 (noting that basic theoretical assumption that employers act rationally colors conclusions derived from research).

56. See England & Dunn, *supra* note 45, at 238-39 (noting that functionalist theory, which predicts greatest financial rewards for most functionally significant jobs, cannot explain lower salaries for women who are in same functionally significant jobs as men).

57. See Armen A. Alchian & Reuben A. Kessel, *Competition, Monopoly, and the Pursuit of Money*, in ASPECTS OF LABOR ECONOMICS 156, 174-75 (H. Gregg Lewis ed., 1962) (suggesting that competition counteracts movement toward labor market conformity and provides disincentive to discrimination); Donald J. Cymrot, *Does Competition Lessen Discrimination? Some Evidence*, 20 J. HUM. RESOURCES 605, 611 (1985) ("Competition may be a more effective tool for lessening or eliminating discrimination than a legislative or judicial edict").

58. See PETER B. DOERJINGER & MICHAEL J. PIRE, INTERNAL LABOR MARKETS AND MANPOWER ANALYSIS 32-34 (1971) (noting that acts to increase security in internal labor market also result in limiting access to external competition). See generally Althausser & Kalleberg, *supra* note 53, at 124-28 (redefining internal labor markets to account for variations in traditional model).

59. See Sanford M. Jacoby, *The Development of Internal Labor Markets in American Manufacturing Firms*, in INTERNAL LABOR MARKETS 23-30 (Paul Osterman ed., 1984) (describing gradual development of personnel bureaucracy at expense of foreman's ability to influence wages).

60. See Bridges & Nelson, *supra* note 16, at 617-18 (rejecting efficiency models because such models cannot adequately explain institutional influences on lower pay rates for "female" jobs).

61. See DAVID L. FEATHERMAN & ROBERT M. HAUSER, OPPORTUNITY AND CHANGE 429-544 (1978) (analyzing ethnic minorities' access to labor market); William H. Sewell et al., *Sex, Schooling and Occupational Status*, 86 AM. J. SOC. 551, 579-80 (1980) (concluding that segregation by sex in workplace limits women's access to higher-paying jobs and does not limit men's access to jobs).

62. See, e.g., Baron & Newman, *Pay the Man*, *supra* note 12, at 125-26 (evaluating wage data indicating significantly lower wages in jobs containing large numbers of women and minorities); Paula England et al., *Explaining Occupational Sex Segregation and Wages: Findings from a Model with Fixed Effects*, 53 AM. SOC. REV. 544, 555 (1988) (arguing that economic incentives to avoid turnover also reduce incentives to hire women); Pfeffer & Davis-Blake, *supra* note 19, at 20-22

Furthermore, even within a competitive market, employers and other evaluators may lack information about employees' abilities and potential.<sup>63</sup> Some critics suggest that a lack of information benefits employees from the already-dominant group. Because employers know more about the abilities of white male workers—or at least believe they know more<sup>64</sup>—they may hesitate to hire and promote members of other groups, regardless of their apparent qualifications. Thus, a lack of information may produce “statistical discrimination.”<sup>65</sup>

Finally, some critics challenge the rationality of the evaluative criteria themselves. These critics argue that, especially in professional and managerial jobs, where performance criteria are subjective and uncertain, employers tend to fall back on social bases for trust; that is, ascriptive criteria such as gender, race, and social class.<sup>66</sup> As a result, homogeneity among organizational and occupational elites tends to be self-reproducing.<sup>67</sup>

Based on these critiques, structuralist writers challenge individualistic explanations for gender- and race-based employment inequality. According to the structuralist account, gender- and race-based employment inequalities primarily reflect extra-individual causes, such as the persistence of employment discrimination and the institutionalization of labor markets favoring white men.<sup>68</sup>

Structuralist writers also challenge the supply-side prediction of progressive integration. The structuralist perspective suggests that rather than being corrected through market forces, gender- and race-

(concluding that jobs employing large proportion of women tend to pay lower wages).

63. See James C. March & James G. March, *Performance Sampling in Social Matches*, 23 ADMIN. SCI. Q. 434, 450 (1978) (proposing that performance evaluation relies on imperfect information gathered through observation).

64. See KANTER, *supra* note 10, at 58-59 (describing how social similarity helps compensate for other sources of uncertainty that managers face).

65. See generally Dennis J. Aigner & Glenn G. Cain, *Statistical Theories of Discrimination in Labor Markets*, 30 INDUS. LAB. REL. REV. 175 (1977) (interpreting theories of economic statistical discrimination to explain race and sex discrimination in wages); Shelly J. Lundberg & Richard Startz, *Private Discrimination and Social Intervention in Competitive Labor Markets*, 73 AM. ECON. REV. 340, 346 (1983) (recognizing correlation between lack of information and economic discrimination).

66. See KANTER, *supra* note 10, at 52-54 (discussing corporations' preference for promoting employees on basis of “social homogeneity”); see also Ellen R. Auster & Robert Drazin, *Sex Inequality at Higher Levels in the Hierarchy*, 58 SOC. INQUIRY 216, 226 (1988) (suggesting that employers' reliance on ascriptive characteristics increases the status of the job); Baron & Newman, *For What It's Worth*, *supra* note 12, at 172 (finding lower wages for women and minorities, particularly for jobs without specific evaluative criteria); Bartholet, *supra* note 7, at 955-59 (calling for increased regulation of professional employment decisions under Title VII).

67. See KANTER, *supra* note 10, at 52-54 (noting direct correlation between lack of information and promotions based on “social similarity”); Dressel et al., *supra* note 3, at 40-43 (discussing problem of “homosocial reproduction” in academia).

68. See generally England, *supra* note 53, at 367; Reskin, *supra* note 7.

based employment inequality tends to be structurally self-perpetuating.<sup>69</sup> "From our view, the different experiences of females and blacks . . . are not anomalies but regularities which can be better understood by focusing on social and economic structure . . . ."<sup>70</sup>

### C. *The Limits of the "Structuralist" Critique*

Structuralist arguments are an important antidote to the individualism of the supply-side model. Structural sources of employment inequality may be particularly important in the context of the professions in which competition is restricted<sup>71</sup> and evaluative criteria are subjective and uncertain.<sup>72</sup>

However, although structuralist theory has challenged the relative importance of individual-level determinants, it has not directly challenged the supply-side conception of individual attainment<sup>73</sup> or offered an alternative theory.<sup>74</sup> Instead, structuralist research primarily focuses on what the supply-side model leaves out. In most research, the supply-side model provides the analytical (and methodological) starting point: How much inequality can individual-level variables explain? Structuralist arguments are built around the variation left unexplained.<sup>75</sup>

69. See Beck et al., *supra* note 47, at 708-09 (describing race and sex as variables indicating lower economic opportunities); Roos & Reskin, *supra* note 53, at 250-52 (detailing structural barriers to promoting women such as biased job ladders and informal networks).

70. Beck et al., *supra* note 47, at 713.

71. See ABEL, *supra* note 21, at 112-26 (describing how legal profession defends its monopoly against lay competitors); Arne L. Kalleberg et al., *Economic Segmentation, Worker Power, and Income Inequality*, 87 AM. J. SOC. 651, 659 (1981) (comparing professions to other types of jobs).

72. See Auster & Drazin, *supra* note 66, at 218-19 (linking sex bias to evaluative uncertainty resulting in wage discrimination).

73. See generally Michael R. Smith, *What's New in "New Structuralist" Analyses of Earnings?*, 55 AM. SOC. REV. 827 (1990) (rejecting "structuralist" analysis as inadequate); Ronnie J. Steinberg, *Social Construction of Skill*, 17 WORK AND OCCUPATIONS 449, 476-77 (1990) (urging development of "structural" conception of skill).

74. See Baron & Bielby, *supra* note 11, at 737 ("Unfortunately, the 'new structuralists' have yet to offer a coherent and consistent representation of the structurally contingent nature of attainment processes.").

75. For instance, the typical strategy for measuring "demand-side" discrimination is to establish separate wage equations for men and women (or for whites and blacks) and then to apply each group's coefficients to the other group's attainment variables. For a review of this approach, see Marini, *supra* note 45, at 348-58. To the extent that women could earn men's wages with men's qualifications, wage differentials are attributed to variations in qualifications. To the extent that unexplained variations remain, it is interpreted as a measure of discrimination effects. For a more sophisticated description of this technique, see Randall W. Eberts & Joe A. Stone, *Male-Female Differences in Promotions: EEO in Public Education*, 20 J. HUM. RESOURCES 504, 506-07 (1985); Solomon W. Polachek, *Discontinuous Labor Force Participation and Its Effects on Women's Market Earnings*, in SEX, DISCRIMINATION, AND THE DIVISION OF LABOR 108-11 (Cynthia B. Lloyd ed., 1975). A similar strategy guides research on the impact of federal antidiscrimination policy, except that impact studies focus on changes in the level of unexplained variation before and after the imposition of Title VII or related legislation. If Title VII can be shown to have reduced unexplained variation (in wage levels, promotion rates,

In this context, the structuralist account essentially becomes a series of caveats to supply-side attainment theory. Supply-side writers emphasize the importance of individual attainment; "demand-side" writers emphasize structural constraints on attainment. In analyzing gender and race inequality, supply-side writers cite the progress that has been made; demand-side writers stress the barriers that remain.

The problem is not with structuralist theory, as some have suggested.<sup>76</sup> The problem is that a "structural" theory of attainment cannot be developed within the supply-side/demand-side research paradigm. The supply-side/demand-side dichotomy treats individual attainment as prior to, and relatively independent of, labor market conditions. That is, individual attainment is treated as an *input*.

Whether critical of functionalist theory or human capital theory, the dozens of studies on wage determination processes accepted as unproblematic that skill differences among individuals were observable and objectively measurable . . . . [B]oth general studies of wage determination and more recent studies of wage differentials by gender and race continued to rely on simple, individual-level measures of skill, even as they introduced other structural variables into equations.<sup>77</sup>

The most provocative aspect of structuralist theory is that it rejects this positivist concept of attainment.<sup>78</sup> Structuralist theory suggests that individual attainment is, to some significant extent, structurally contingent. It is constructed and reconstructed over time within concrete social, structural, and institutional contexts.<sup>79</sup>

Structuralist theory therefore requires a *dynamic* concept of attainment. For structuralist theory, the relevant question is not *how much* individual attainment matters, but rather, how is individual attainment *constructed*? That is, under what conditions are gender and

employment shares, etc.), the implication is that the legislation was effective, in that discrimination contributed to the original disparity. See, e.g., Andrea H. Beller, *The Impact of Equal Opportunity Policy on Sex Differentials in Earnings and Occupations*, in PAPERS AND PROCEEDINGS OF THE NINETY-FOURTH ANNUAL MEETING OF THE AMERICAN ECONOMIC ASSOCIATION, 72 AM. ECON. REV. 171, 172-73 (1982) (relying on this indirect measure of discrimination).

76. See Smith, *supra* note 73, at 827.

77. Steinberg, *supra* note 73, at 451.

78. See Elizabeth Chambliss, *New Partners with Power? Organizational Determinants of Law Firm Integration* 30-33 (1992) (unpublished Ph.D. dissertation, University of Wisconsin, Madison, on file with *The American University Law Review*).

79. See *id.* at 33; see also Marc Granovetter, *Toward a Sociological Theory of Income Differences*, in SOCIOLOGICAL PERSPECTIVES ON LABOR MARKETS 29 (Ivar Berg ed., 1981) ("It seems likely that occupations and industries vary systematically in the social structure of work groups . . . . In any comparison of occupational or industrial groups, this should account for part of the wage variation.").



race inequalities more or less likely to be alleviated?<sup>80</sup> “While the [structuralist] emphasis on continuity [of inequality] has been an important strength, the structuralist perspective should attempt to identify conditions under which the degree of sex segregation would be expected to change.”<sup>81</sup>

#### D. *The Organizational Perspective*

The “organizational”<sup>82</sup> perspective represents an effort to reorient the structuralist research agenda. Rather than focusing on the relative importance of “supply-side” versus “demand-side” variables, the organizational perspective focuses on the *interaction* of supply and demand within particular organizational contexts. And rather than focusing on the structural perpetuation of gender- and race-based employment inequality, the organizational perspective examines *variations* in organizational inequality and the sources of these variations.

By focusing on the interaction of supply and demand, the organizational perspective provides an alternative to the positivist conception of attainment. Rather than viewing individual attributes as pre-existing and determining, the organizational perspective treats individual attributes as themselves the product of an interaction (or interactions) between individuals and organizations. Thus, rather than asking “how much does individual attainment matter,” the organizational perspective asks “how do organizations construct individual attainment.”<sup>83</sup>

Further, by focusing on *variations* in organizational inequality, the organizational perspective provides the basis for a “structuralist” theory of change. Like the structuralist perspective, the organization-

80. See Baron et al., *supra* note 18, at 1364, 1397; Granovetter, *supra* note 79, at 11, 14, 33, 36, 37; Chambliss, *supra* note 78, at 33.

81. Jacobs, *supra* note 52, at 172.

82. “Organizational” is my label. Baron, who is the leading proponent of what I am calling the “organizational” approach, rejects this label because he regards it as advertising a unified “organizational” theory of employment inequality. See Baron et al., *supra* note 18, at 1365.

Organizational theories such as population ecology, resource dependence and institutionalization are typically portrayed as distinct or mutually exclusive paradigms. However, they often focus on different organizational phenomena . . . so it is often not clear to what extent they represent rival perspectives . . . Accordingly, rather than develop a single, stylized ‘organizational theory’ of gender integration, we draw instead on multiple perspectives . . .

*Id.* I use this label more generically to distinguish the perspective I am articulating from the traditional “structuralist” perspective, which for the most part does not focus on organization-level processes.

83. See Baron, *supra* note 11, at 57-59 (“When job attributes evolve around [high status, powerful, or senior employees], career outcomes depend on the idiosyncratic relations between the worker and the organization . . .”).

al perspective emphasizes the importance of "demand-side" determinants of employment inequality. However, unlike the traditional structuralist account, the organizational perspective does not view the influence of these environmental conditions as monolithic or static. Instead, the organizational perspective emphasizes the relative autonomy of organizations from their economic and institutional environments, and the role of organizations in constructing these environments. Thus, rather than asking why organizations are not more integrated, the organizational perspective asks: Why are some organizations more integrated than others?

### 1. *The interaction of supply and demand*

Individual attainment depends on three types of influences: individual attributes, structural attributes, and the process by which individual and structure are "matched."<sup>84</sup> Whereas the supply-side/demand-side debate focuses on the relative importance of individual versus structural attributes, the organizational perspective focuses on the process by which individual and structure are matched.

The organizational perspective views economic organizations as the central arenas within which this matching process occurs:

Empirical associations between structure and attainment can be explained only by attending to organizational arrangements within firms . . . . Firms link the "macro" and "micro" dimensions of work organization and inequality. Within firms, labor is priced and allocated, techniques of production are arranged and implemented, and power is organized and executed. Social and economic mobility are achieved within and between economic organizations.<sup>85</sup>

Thus, according to the organizational perspective, organizations should be the central unit of analysis in "structuralist" research. "Comparative organizational research is essential if we are to understand opportunity structures and the processes through which workers and jobs are matched . . . ."<sup>86</sup>

### 2. *The organizational construction of supply and demand*

Organizations are more than just a location for matching supply and demand. According to the organizational perspective, organizations play an active role in *constructing* supply and demand because organizations mediate both individual and structural attributes.

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84. See Granovetter, *supra* note 79, at 14; Baron & Bielby, *supra* note 11, at 740.

85. Baron & Bielby, *supra* note 11, at 741.

86. Baron, *supra* note 11, at 61.

Organizations impinge on [individual employment] outcomes in two important ways. First, the division of labor among jobs and organizations generates a distribution of opportunities and rewards that often antedates, both logically and temporally, the hiring of people to fill those jobs. Second, organizational procedures for matching workers to jobs affect the distribution of rewards and opportunities within and across firms . . . .<sup>87</sup>

For instance, individuals' "choices" of employment may depend significantly on the organizational opportunities that are available to them.<sup>88</sup> Many women in the Marine Corps<sup>89</sup> and other traditionally male jobs such as construction and mechanics<sup>90</sup> report that they initially were attracted to their jobs because the employing organizations made active efforts to recruit them, not because they had been seeking non-traditional work.<sup>91</sup>

Alternatively, organizations may define jobs in such a way as to discourage women or minority applicants. Although Title VII prohibits explicit gender- and race-based employment criteria,<sup>92</sup> courts have been reluctant to recognize the role of employers in constructing their applicant flow.<sup>93</sup> As a result, organizations may

87. *Id.* at 38.

88. See KANTER, *supra* note 10, at 15 (calling attention to domination of large organizations over economic and political life in United States and abroad); Jacobs, *supra* note 52, at 160 (demonstrating long-term trends in occupational segregation by sex in farm and non-farm employment); Schultz, *supra* note 9, at 1815-39 (downplaying role of women's preferences in accounting for occupational sex segregation). See generally CYNTHIA COCKBURN, *MACHINERY OF DOMINANCE: WOMEN, MEN AND TECHNICAL KNOW-HOW* (1985) (examining the accommodation of sexual division of labor in technology-based employment).

89. See generally CHRISTINE L. WILLIAMS, *GENDER DIFFERENCES AT WORK: WOMEN AND MEN IN NON-TRADITIONAL OCCUPATIONS* (1989) (discussing gender stratification in U.S. Marine Corps).

90. See generally MOLLY MARTIN, *HARD HATTED WOMEN* (1988) (presenting narratives of women's experiences in skilled trades); JEAN REITH SCHROEDEL, *ALONE IN A CROWD: WOMEN IN THE TRADES TELL THEIR STORIES* (1985) (providing anecdotal accounts of women's experiences in traditionally male jobs); MARY LINDENSTEIN WALSHOK, *BLUE-COLLAR WOMEN: PIONEERS ON THE MALE FRONTIER* (1981) (examining women's motivations to undertake nontraditional work, their experiences in such employment, and impact of their taking nontraditional jobs on their other, more traditional roles).

91. As one former secretary explains, "I didn't start thinking about non-traditional work until I heard the carpenters were looking for women . . . . But as soon as the possibility was mentioned, my imagination went with it." SCHROEDEL, *supra* note 90, at 35. A woman who became a sailor said, "[I]t wasn't until I moved to Seattle when I was surrounded by organizations and groups that seemed encouraging of this—just seeing flyers about workshops on women in non-traditional trades, having *Mechanica* available where you could learn the details about steps in joining a union. That's when it became a real possibility." *Id.* at 77.

92. See 42 U.S.C. § 2000e-2(a) (1994) (defining unlawful employment practices).

93. See Schultz, *supra* note 9, at 1769-99. In a landmark sex discrimination suit against Sears Roebuck, the court found that Sears screened applicants for its high-paying commission sales positions by asking questions such as, "Have you ever done any hunting?", "Have you ever served in the military?", and "Do you swear often?" See *EEOC v. Sears, Roebuck & Co.*, 628 F. Supp. 1264, 1300-04 (N.D. Ill. 1986) (holding that Sears did not engage in nationwide pattern of discrimination by gender in its hiring, promotion, or payment practices), *aff'd*, 839 F.2d 302 (7th

play a significant role in constructing their "external" labor supply through advertising, recruitment, and screening practices, as well as through the maintenance and perpetuation of identifiable organizational cultures.<sup>94</sup>

Organizations also may play a significant role in constructing their internal labor supply through formal mechanisms such as job classification and the organization of internal mobility ladders, as well as through informal mechanisms such as "tracking."<sup>95</sup> Numerous studies have demonstrated that the availability of internal mobility ladders affects employees' aspirations for advancement and thus their performance on the job. People in jobs with little opportunity for advancement tend to adapt to their situation by lowering their aspirations, focusing their attention on non-work activities, and expressing little interest in promotion.<sup>96</sup> People in jobs with greater advancement opportunities tend to raise their aspirations and to commit themselves both to their work and to their own advancement.<sup>97</sup>

Even when internal mobility is available uniformly, as in most professional organizations, organizational leaders may "track" individual employees, informally grooming them for success (or

Cir. 1988). Items sold on commission included automotive supplies, appliances, and tools, but not jewelry, cosmetics, or apparel. *See id.* at 1289, 1306-07. Nevertheless, the court accepted as a defense Sears' argument that women were "not interested" in applying for commission sales positions. *See id.* at 1352-53.

94. *See* Schultz, *supra* note 9, at 1815-16 (emphasizing role of structural incentives and social relations in shaping women's aspirations within work organizations).

95. *See* KANTER, *supra* note 10, at 133-34 (addressing mobility and tracking).

96. Kanter's research on secretaries suggests that rather than focusing on salary or personal recognition for their achievements, the women in these low mobility jobs tended to focus on symbolic rewards such as flattery and access to inside information. *See id.* at 87; *see also* ELY CHINOY, *AUTOMOBILE WORKERS AND THE AMERICAN DREAM* 86, 110-22 (1955) (suggesting that value placed by automobile workers on employment success is not as important as overall satisfaction with lifestyle away from job); Robert Dubin, *Industrial Workers' Worlds: A Study of the "Central Life Interests" of Industrial Workers*, 3 *SOC. PROBS.* 131, 134-40 (1956) (arguing that industrial workers attach themselves to work and workplaces but do not value or invest in social experience of work); Robert H. Guest, *Work Careers and Aspirations of Automobile Workers*, 19 *AM. SOC. REV.* 155, 157-58 (1954) (providing evidence that automobile workers do not expect opportunities for increase in economic or social status with present employer even though they have hope for change in job control or nature of employment).

97. A woman in Kanter's study who had been a secretary for 20 years suddenly was upgraded from assistant manager to manager. *See* KANTER, *supra* note 10, at 135. The woman told Kanter that before her promotion, she never had wanted to be anything but a secretary and that she was, in fact, reluctant to take the new job. *See id.* Once she was promoted, however, "her aspirations soared." *Id.* "Now I'm ambitious, probably overly so. I will probably work twenty more years, and I expect to move up at least six grade levels, maybe to vice-president. Isn't that something . . . ?" *Id.* *See generally* Jerry A. Jacobs, *The Sex Typing of Aspirations and Occupations: Instability During the Careers of Young Women*, 68 *SOC. SCI. Q.* 122 (1987) (explaining extent to which socialization affects women's career aspirations); Schultz, *supra* note 9, at 1827-32.

failure) by controlling their access to choice work assignments, personal mentoring, and extra-curricular social interaction.<sup>98</sup> To the extent that employees internalize employers' informal expectations, such expectations may prove self-fulfilling:

Those people set on high mobility tracks tend to develop attitudes and values that impel them further along the track: work commitment, high aspirations, and upward orientations. Those set on low mobility tracks tend to become indifferent, to give up, and thus to "prove" that their initial placement was correct.<sup>99</sup>

Organizations also may play a significant role in constructing the labor market and other demand-side influences. For instance, recent studies of wage determination indicate that organizations play a critical role in determining "market" rates for traditionally female jobs.<sup>100</sup> In their study of the Washington State pay system, Bridges and Nelson find that although market forces influence wage rates, market forces are "heavily mediated" by organizational factors such as custom, political expediency, and the power balance among internal organizational constituencies.<sup>101</sup> They argue that "much of the gender inequality in the system is . . . the direct product of organizational decision-making,"<sup>102</sup> and conclude that "[t]he definition of 'market rates' is itself an organizational process . . . . [T]he market is to some extent socially constructed by the employing organization . . . ."<sup>103</sup>

Baron and Newman reach a similar conclusion in their study of the California State civil service system.<sup>104</sup> They analyze the effects of organization and job characteristics on prescribed pay rates for positions held disproportionately by women and nonwhites. They find that the propensity toward the "devaluation" of such jobs varies significantly across different organizational settings, depending on factors such as the age of the job, the number of job-holders, the objectivity of performance criteria, and the availability of union representation.<sup>105</sup> Like Bridges and Nelson, Baron and Newman conclude that organizations play a significant role in constructing "market" demands:

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98. See KANTER, *supra* note 10, at 133-34 (describing "fast track" and incentives produced by such opportunity).

99. *Id.* at 158.

100. See Baron & Newman, *For What It's Worth*, *supra* note 12, at 172-73; Bridges & Nelson, *supra* note 16, at 653-54.

101. See Bridges & Nelson, *supra* note 16, at 654.

102. *Id.*

103. *Id.* at 647.

104. See Baron & Newman, *For What It's Worth*, *supra* note 12, at 172-73.

105. See *id.* at 172.

[T]he . . . distinction between market and political determinants of wage rates may . . . be specious . . . . How positions and their relevant markets are defined is often greatly influenced by organizational politics and social custom . . . . [T]he organizational context of wage determination is critical . . . .<sup>106</sup>

"Structuralist" critics traditionally have advocated legal intervention as the cure for market defects. The initial structuralist research agenda was tied closely to legal debates about the need for (and efficacy of) equal employment and comparable worth legislation;<sup>107</sup> and structuralist theory continues to animate doctrinal debates within Title VII scholarship.<sup>108</sup> However, recent studies of legal compliance suggest that just as organizations mediate the impact of market forces, organizations also mediate the impact of law, particularly antidiscrimination law, where enforcement is weak and compliance standards are ambiguous.<sup>109</sup>

Furthermore, in her nationwide study of 346 organizations, Edelman finds that organizations vary considerably in their responsiveness to federal antidiscrimination law with organizational characteristics such as size, visibility, and proximity to the public sector affecting both the type and rate of organizational response.<sup>110</sup> Furthermore, Edelman argues, organizational responses to law affect broader legal and societal definitions of what constitutes "compliance."

Laws that regulate the employment relationship set forth broad and ambiguous principles that give organizations wide latitude to construct the meaning of compliance. Such laws set in motion a process of definition during which organizations test and collectively construct the forms and boundaries of compliance . . . .<sup>111</sup>

106. *Id.* at 173.

107. *See, e.g.,* KANTER, *supra* note 10, at 265-87; Beller, *supra* note 75, at 171; England & Dunn, *supra* note 45, at 243-45; Eberts & Stone, *supra* note 75, at 504.

108. *See* Martha Chamallas, *Structuralist and Cultural Domination Theories Meet Title VII: Some Contemporary Influences*, 92 MICH. L. REV. 2370, 2402 (1994) (exploring legal discourse on theories of workplace inequality since passage of Title VII and implications for 1990s); Schultz, *supra* note 9, at 1749 (discussing theories of "choice" and "coercion" as sources for workplace segregation by sex in context of Title VII cases).

109. *See* Edelman, *Symbolic Structures*, *supra* note 13, at 1532; *see also* Lauren B. Edelman et al., *Internal Dispute Resolution: The Transformation of Civil Rights in the Workplace*, 27 L. & SOC'Y REV. 497, 511-13 (1992) (describing how employees' use of internal grievance procedures alters interpretation and impact of EEO law); Lauren B. Edelman et al., *Legal Ambiguity and the Politics of Compliance: Affirmative Action Officers' Dilemma*, 13 LAW & POL'Y 73, 74-79 (1991) (arguing that employers significantly affect scope of EEO regulation through definition of internal EEO positions and selection of key internal regulatory personnel).

110. *See* Edelman, *Symbolic Structures*, *supra* note 13, at 1554-69. Edelman's study was based on a national, stratified probability sample of organizations, which included private firms, colleges and universities, and government agencies. *See id.* at 1569.

111. *Id.* at 1532.

### 3. *Variations in organizational inequality*

By emphasizing the role of organizations as *agents* of stratification, the organizational perspective calls attention to the dynamics of stratification as an interactive process. Organizations not only filter environmental demands and mediate their impact; organizations also act back on their environments, altering environmental (or “market”) demands. Organizations act back on their environments when they foster or retard individual advancement, when they reify or challenge traditional pay scales, and when they endorse or resist structural change.

Thus, although the organizational perspective does not deny the importance of external (supply-side or demand-side) constraints, it emphasizes the importance of variations within those constraints. The organizational perspective suggests that even within the same labor market, organizations may vary considerably in their levels of gender and race inequality. These organizational variations matter because organizational policies and practices help *construct* the labor market—for individual workers and for other organizations.

#### E. *An “Organizational” Model of Law Firm Integration*

The organizational perspective is particularly appropriate for studying the process of gender and race integration within elite law firms. First, private law firms are a key arena for “matching” new lawyers to jobs and—perhaps more importantly—to opportunities for further training. Many law students work in large firms during the summer and immediately after graduation simply for the training such firms can provide.<sup>112</sup> This initial “match”—the way new lawyers perform, and the way they are typed by the firms that employ them—may have significant long-term consequences for lawyers’ careers.<sup>113</sup>

Second, the evaluation of lawyers’ work is relatively subjective. Lawyers’ work tends to be non-routine even within the same area of practice, and different kinds of cases require different kinds of work products. Thus, there rarely is an objective basis for comparing the

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112. See Dana Coleman, *Finally! Jobs for Law Grads*, N.J. LAW., Aug. 19, 1996, at 1 (reporting that 56% of 1995 law graduates took jobs in private law firms); Michael Gebhardt, *Doing the OCI Dance*, THE RECORDER, Oct. 20, 1995, at 1 (reporting that many law students take jobs with large firms for training, for debt-relief, and because they do not know what else to do).

113. See Ralph L. Blankenship, *Organizational Careers: An Interactionist Perspective*, in COLLEAGUES IN ORGANIZATION: THE SOCIAL CONSTRUCTION OF PROFESSIONAL WORK 206-22 (Ralph L. Blankenship ed., 1977) (emphasizing effect of first job on “career”).

quality of different lawyers' work. Furthermore, lawyers in elite firms typically work in teams,<sup>114</sup> which complicates the assessment of individual contributions:

Ultimately, the assessment of A's [an associate lawyer] output comes down to a subjective evaluation of performance by those charged with observing him. Because of the inherent subjectivity of the assessment, A cannot verify it. He cannot, for instance, look up his performance and say, "Hey, you miscalculated my contribution." In addition, neither P [the supervising partner] nor A can easily separate one individual's contribution to the production of legal services from that of other participants.<sup>115</sup>

As a result, law firm entry and promotion standards also are subjective. In describing what it takes to make partner in his firm, one partner reports:

I'm trying to figure out what it is . . . . There is some quality, some *je ne sais quoi* quality, that is very vital. Because here's a person that otherwise you're willing to have around at a relatively high title for the rest of your life, and there is something, just something missing. It's not diligence. It's not ability. It's not, certainly, many, many things, because you've screened them, you've screened them . . . . (WMP1)

The subjectivity of the evaluation process leaves law firms significant room to "construct" their own labor supply at both the associate and partnership levels. For instance, law firms construct their associate supply simply by choosing the law schools from which they recruit and choosing the lawyers who conduct on-campus interviews: "[Law firms] have a perception of what the top 20 law schools are, and that may differ from firm to firm, but they don't worry about where those law schools are, they recruit at all of them . . . ." (WMP2)

[O]ne thing that . . . not a lot of people know is that a lot of firms . . . have at least one school where some of their partners went, and they wouldn't ordinarily recruit there if that hadn't been the case. But it is; they go there a lot. For [my firm] it's [x], which isn't normally a school that would be hit up a lot by a firm like [my firm]. (WMA1)

Law firms also may shape their associate supply through the identification and perpetuation of distinctive firm cultures that are known to

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114. See Galanter & Palay, *supra* note 22, at 748.

115. *Id.* at 776-77.



students and other firms, and that typically are a source of firm pride.<sup>116</sup>

Law firms also construct their own partner supply, most importantly through the allocation of work and training opportunities among associates. For instance, anecdotal evidence suggests that associates with distinctive incoming credentials get better initial work assignments and more attention from firm leaders than other associates:

Credentials tend to impress people at law firms . . . and [they] may affect the kind of work you are given. I think I was able to work with certain people and indeed to do corporate work rather than being assigned to the litigation department . . . in part because I had very good credentials.<sup>117</sup>

In some cases, partners may track individual associates whom they regard as particularly promising, giving them special assignments and nurturing their progress:

[T]he firms almost from the beginning, I think, have different notions about the lawyers that are coming in. And if anything, a kind of implicit secret tracking system in which some young lawyers very soon, if not the day after they arrive or the day before they arrive, are identified as superstars and get special assignments and are sought after by all the partners who have a chance to compete for them. I do this. I have a very sexy practice. I dangle it before the people who seem to me the best in the associate pool . . . . I train the hell out of them because that's part of the bargain . . . . The larger number are not going to have that happen . . . and they're going to do a lot more routine work . . . . (WMP3)

Associates with less distinctive incoming credentials, on the other hand, tend to get less specialized attention and may suffer disproportionate criticism by their evaluators.

If you come from a lesser school it is harder to prove yourself and you have to go against the expectation that you won't be as good. So if you do a brilliant piece of work, people are inclined to see the flaws more quickly and people are inclined not to give you a second

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116. See James Agger, 1996: *A Moving Experience*, THE LEGAL INTELLIGENCER, Dec. 23, 1996, at 1 (discussing cultural barriers to mergers between law firms); Nancy E. Lasater, *The Fine Art of Finding a Firm*, THE CONN. L. TRIB., May 6, 1996, at 29 (emphasizing the importance of considering firm culture as part of lawyer's job search); Joel A. Rose, *How a Firm's Culture Plays a Part in Success*, N.Y. L.J., Oct. 1, 1996, at 5 (explaining the importance of addressing firm culture as part of long-term financial planning); *What's So Special About D.C. Firms*, LEGAL TIMES, May 8, 1995, at S38 (describing allure of Washington, D.C., firms for young lawyers); see also William G. Ouchi & Alan L. Wilkins, *Organizational Culture*, 11 ANN. REV. SOC. 457, 461-62 (1985) (tracing evolution of study and analysis of organizational culture).

117. Harvard graduate, *quoted in* David Weitz, *Career Paths of Harvard Alumni: A Case Study on Corporate Law Practice* 44 (1984) (unpublished paper, on file with *The American University Law Review*).

chance if you make a mistake. Whereas if you go to a school like Harvard . . . it's a little bit of an inside track.<sup>118</sup>

Differential access to work and training eventually produces real differences in ability—differences that matter when it comes time for promotion. In *Ezold v. Wolf, Block*,<sup>119</sup> for example, Ezold was turned down for partnership at Wolf, Block, in part because she lacked experience handling “complex cases.”<sup>120</sup> Ezold had complained about her work assignments—specifically, the lack of complex cases—on several occasions throughout her years with the firm, but due to her average incoming credentials and, Ezold argued, her sex, her opportunities for training were systematically limited.<sup>121</sup> Ezold sued under Title VII and won in district court,<sup>122</sup> but the Third Circuit reversed, holding that the firm was not accountable for the deficiencies in Ezold's training:

Title VII requires employers to avoid certain prohibited types of invidious discrimination, including sex discrimination. It does not require employers to treat all employees fairly, closely monitor their progress and insure them every opportunity for advancement.<sup>123</sup>

Finally, as *Ezold* suggests, law firm employment decisions are subject to very little legal regulation under Title VII.<sup>124</sup> As recently as 1980, a court held that law firm partnership decisions were not covered under Title VII.<sup>125</sup> Although this decision was later

118. Another Harvard graduate, *quoted in Weitz, supra* note 117, at 45; see RANDALL COLLINS, *THE CREDENTIAL SOCIETY: AN HISTORICAL SOCIOLOGY OF EDUCATION AND STRATIFICATION* 147-59 (1979) (outlining development of legal profession and its institutions).

119. 983 F.2d 509 (3d Cir. 1992)

120. *Ezold v. Wolf, Block*, 751 F. Supp. 1175, 1179 (E.D. Pa. 1990), *rev'd*, 983 F.2d 509 (3d Cir. 1992).

121. *See id.* at 1176-78. Ezold was told when she was hired that she would have trouble succeeding at Wolf, Block because she was a woman, because she had attended Villanova (a non-elite law school), and because she had not served on law review. *See id.* at 1177.

122. *See id.* at 1192.

123. *Ezold*, 983 F.2d at 542.

124. *See* Jeffery D. Horst, *The Application of Title VII to Law Firm Partnership Decisions: Women Struggle to Join the Club*, 44 OHIO ST. L.J. 841, 875-80 (1983) (criticizing courts' tolerance for the use of subjective employment criteria by professional employers generally and within law firms in particular); Jane Howard-Martin, *A Critical Analysis of Judicial Opinions in Professional Employment Discrimination Cases*, 26 HOW. L.J. 723, 723 (1983) (criticizing weakness of Title VII regulation in the professional employment context); Ramona L. Paetzold & Rafael Gely, *Through the Looking Glass: Can Title VII Help Women and Minorities Shatter the Glass Ceiling?*, 31 HOUS. L. REV. 1517, 1520 (1995) (describing the failure of Title VII to promote integration in upper-level jobs). *See generally* Barthelet, *supra* note 7 (comparing regulation of upper- and lower-level jobs under Title VII).

125. *See Hishon v. King & Spalding*, 24 Fair Empl. Prac. Cas. (BNA) 1303 (1980) (holding that law partnerships are not protected by Title VII because professional partnerships do not constitute “employment relationship” under meaning of statute), *rev'd*, 467 U.S. 69 (1984). “In a very real sense a professional partnership is like a marriage. It is, in fact, nothing less than a ‘business marriage,’ for better or worse . . . . To use Title VII to coerce a mismatched or unwanted partnership too closely resembles a statute for the enforcement of shotgun weddings.”

reversed,<sup>126</sup> courts remain reluctant to second-guess professional employers absent blatant evidence of discrimination.<sup>127</sup>

Thus, to the extent that "organizational" conditions matter in accounting for patterns of occupational segregation and integration, they should matter in elite law firms particularly. Relative to other private employers, elite law firms exert significant control over their own labor supplies and over the standards by which labor is evaluated.<sup>128</sup> Furthermore, changes in the market for legal services have produced changes in the organization of work within firms, and thus significant variation among firms in the conditions for individual advancement. Thus, to the extent that organizational conditions affect gender and race integration, we should be able to see it in elite law firms during this period of reorganization and change.

## II. EMPIRICAL CONTEXT

Part II establishes the empirical context for my research: How much do elite law firms vary in the gender and race composition of lawyers? To what extent can variations in the level of law firm integration be explained by variations in the external labor supply, or by other labor market determinants (such as geographic location, starting salary, and growth rate)?

### A. *The Gender and Race Composition of the Sample Firms*

The lawyers who work in elite law firms historically have been white Protestant men who graduated from prestigious law schools such as

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*Id.* at 1305.

126. See *Hishon v. King & Spalding*, 467 U.S. 69, 79 (1984).

127. See *Ezold*, 983 F.2d at 527; see also Jay P. Krupin, *Operating a Law Firm by the Book; Attorneys Often Fail to Realize That Labor Law Applies to Their Firms*, LEGAL TIMES, Apr. 26, 1993, at S38 ("While law firms in the United States have begun to view themselves from a business perspective, few seem to realize that, as businesses, they are subject to the web of regulations affecting employers generally. Because of the professional atmosphere in which firms exist, legal requirements for employment-related decision-making are seldom taken into account.").

128. See Bartholet, *supra* note 7, at 947 (criticizing courts' deference to professional employers); see also Andrew Abbott, *THE SYSTEM OF PROFESSIONS: AN ESSAY ON THE DIVISION OF EXPERT LABOR* 134-42 (1988) (discussing sources of professional power); Eliot Friedson, *PROFESSIONAL POWERS: A STUDY ON THE INSTITUTIONALIZATION OF FORMAL KNOWLEDGE* 200-05 (1986) (discussing professionals' control over product and personnel standards).

Harvard, Columbia, and Yale.<sup>129</sup> As recently as 1970, women and people of color were almost completely excluded.<sup>130</sup>

Since 1970, the gender and race composition of elite law firms has changed considerably at the associate level. By 1980, 23.2% of the associates in the sample were women; by 1990, 36.2% of associates were women (see Table 1a).<sup>131</sup> Although the level of racial diversity is much lower, it too has increased. By 1980, 3.6% of associates in the sample were minorities; by 1990, 6.5% of associates were minorities (see Table 1a).<sup>132</sup>

At the partnership level, elite law firms still are predominantly male and almost exclusively white. Of 6509 partners in 1990, 5841 (89.7%) were male, and 6382 (98.0%) were white (see Table 1b).<sup>133</sup>

At both the associate and the partnership levels, however, there are significant variations among firms. In 1990, the percentage of female associates per firm ranged from 18% to 56% (see table 2a). The percentage of black associates ranged from 0% to 7%; the percentage of Hispanic associates ranged from 0% to 12%; and the percentage of Asian American associates ranged from 0% to 13%. The same year, the percentage of female partners per firm ranged from 3% to 28%; the percentage of black partners ranged from 0% to 6%; and the percentage of Asian American partners ranged from 0% to 8%.

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129. In 1962, more than 70% of the lawyers in New York's leading law firms had graduated from Harvard, Yale, or Columbia law schools; 30% were listed in the Social Register. See ERWIN SMIGEL, *THE WALL STREET LAWYER: PROFESSIONAL ORGANIZATIONAL MAN?* 39 (1969). Heinz & Laumann report similar patterns in Chicago. See JOHN P. HEINZ & EDWARD O. LAUMANN, *CHICAGO LAWYERS: THE SOCIAL STRUCTURE OF THE BAR* 182 (1982).

130. See ABEL, *supra* note 21, at 99, 105 (citing near absence of women and minority associates in elite law firms until early 1970s); CYNTHIA FUCHS EPSTEIN, *WOMEN IN LAW* 22 (1981) (stating that pressure from black organizations and women's groups, as well as government regulation, opened law firm structure and increased opportunities during late 1960s and early 1970s).

131. The representation of women among the associates in the sample appears to be somewhat higher than in large law firms generally. *The National Law Journal* reports that in 1981, 23.9% of associates in the nation's largest 151 law firms were women (compared to 25.9% within the sample). See Jensen, *supra* note 1, at 28. In 1989, 33% of associates in the largest 251 firms were women (compared to 36.3% in the sample). See *id.*

132. Minority representation among associates also appears to be somewhat higher in the sample firms than in the nation's largest 251 law firms. *The National Law Journal* found that in 1989 approximately 3% of associates were people of color, compared to 5.7% in the sample. See *id.*

133. The representation of women and people of color among the partners in the sample tracks their representation in large law firms generally. In 1989, the percentage of female partners in the sample was 9.9% (compared to 9.2% in the largest 251 firms); the percentage of black partners was 0.7% (compared to 0.9% in the largest 251 firms); the percentage of Hispanic partners was 0.4% (compared to 0.5% in the largest 251 firms); and the percentage of Asian American partners was 0.5% in both the sample and in the largest 251 firms. See *id.*

**Table 1: The Gender and Race Composition of the Sample:  
Changes Over Time (1980-1990)**

**Table 1a: Associate Composition**

Year	# Assoc.	# Female (%)	# Black (%)	# Hispanic (%)	# Asian American (%)
1980	4849	1125 (23.2)	100 (2.1)	31 (0.6)	44 (0.9)
1981	5910	1530 (25.9)	125 (2.1)	39 (0.7)	69 (1.2)
1982	6673	1918 (28.7)	151 (2.3)	56 (0.8)	88 (1.3)
1983	7980	2370 (29.7)	193 (2.4)	67 (0.8)	107 (1.3)
1984	8536	2686 (31.5)	215 (2.5)	82 (1.0)	134 (1.6)
1985	8859	2919 (32.9)	222 (2.5)	90 (1.0)	138 (1.6)
1986	9027	3014 (33.4)	221 (2.4)	107 (1.2)	170 (1.9)
1987	9980	3489 (35.0)	228 (2.3)	95 (1.0)	191 (1.9)
1988	10853	3908 (36.0)	255 (2.3)	137 (1.3)	231 (2.1)
1989	11594	4209 (36.3)	271 (2.3)	160 (1.4)	249 (2.1)
1990	11457	4143 (36.2)	295 (2.6)	153 (1.3)	295 (2.6)

**Table 1b: Partner Composition**

Year	# Assoc.	# Female (%)	# Black (%)	# Hispanic (%)	# Asian American (%)
1980	3225	84 (2.6)	12 (0.4)	6 (0.2)	4 (0.1)
1981	3885	115 (3.0)	17 (0.4)	8 (0.2)	3 (0.1)
1982	4189	161 (3.8)	20 (0.5)	12 (0.3)	5 (0.1)
1983	5015	219 (4.4)	32 (0.6)	19 (0.4)	7 (0.1)
1984	5413	278 (5.1)	40 (0.7)	17 (0.3)	18 (0.3)
1985	5645	356 (6.3)	43 (0.8)	19 (0.3)	22 (0.4)
1986	5661	393 (6.9)	38 (0.7)	19 (0.3)	20 (0.4)
1987	6092	485 (8.0)	42 (0.7)	24 (0.4)	26 (0.4)
1988	6422	586 (9.1)	48 (0.7)	29 (0.5)	26 (0.4)
1989	6656	661 (9.9)	49 (0.7)	27 (0.4)	33 (0.5)
1990	6509	668 (10.3)	54 (0.8)	32 (0.5)	41 (0.6)

Furthermore, variation among the sample firms tends to increase over time, especially at the partnership level. At the associate level, the standard deviation from the mean increases over time in the case of Hispanics and Asian Americans, but was relatively stable for women and blacks (see Table 2a). At the partnership level, however, the standard deviation from the mean increases for all groups except Hispanics (see Table 2b).

**Table 2: The Gender and Race Composition of the Sample: Variations Among Firms**

**Table 2a: Associate Composition**

Year	(n)	Proportion Female				Proportion Black			
		Mean	(SD)	Min	Max	Mean	(SD)	Min	Max
1980	(73)	.239	(.079)	.12	.46	.018	(.017)	.00	.07
1981	(80)	.260	(.074)	.06	.44	.019	(.017)	.00	.06
1982	(80)	.285	(.066)	.10	.45	.020	(.016)	.00	.05
1983	(91)	.292	(.085)	.00	.48	.023	(.021)	.00	.09
1984	(96)	.313	(.078)	.04	.48	.026	(.022)	.00	.10
1985	(96)	.330	(.068)	.17	.50	.025	(.022)	.00	.11
1986	(91)	.342	(.067)	.15	.51	.029	(.025)	.00	.14
1987	(94)	.361	(.070)	.20	.58	.025	(.023)	.00	.12
1988	(95)	.372	(.079)	.13	.55	.024	(.022)	.00	.10
1989	(91)	.378	(.081)	.10	.55	.025	(.017)	.00	.10
1990	(82)	.386	(.074)	.18	.56	.028	(.017)	.00	.07
1980-1990		.326	(.087)	.11	.50	.024	(.020)	.00	.09

Year	(n)	Proportion Hispanic				Proportion Asian American			
		Mean	(SD)	Min	Max	Mean	(SD)	Min	Max
1980	(73)	.007	(.012)	.00	.05	.009	(.015)	.00	.09
1981	(80)	.007	(.011)	.00	.04	.012	(.017)	.00	.08
1982	(80)	.009	(.012)	.00	.05	.013	(.017)	.00	.07
1983	(91)	.009	(.012)	.00	.05	.013	(.018)	.00	.08
1984	(96)	.011	(.014)	.00	.08	.016	(.023)	.00	.12
1985	(96)	.011	(.017)	.00	.10	.015	(.023)	.00	.17
1986	(91)	.013	(.018)	.00	.09	.019	(.027)	.00	.13
1987	(94)	.009	(.012)	.00	.05	.019	(.023)	.00	.12
1988	(95)	.014	(.015)	.00	.06	.021	(.022)	.00	.10
1989	(91)	.016	(.020)	.00	.11	.020	(.020)	.00	.10
1990	(82)	.017	(.021)	.00	.12	.025	(.025)	.00	.13
1980-1990		.011	(.016)	.00	.07	.017	(.022)	.00	.11

**Table 2: The Gender and Race Composition of the Sample:  
Variations Among Firms**

**Table 2b: Partner Composition**

Year	(n)	Proportion Female				Proportion Black			
		Mean	(SD)	Min	Max	Mean	(SD)	Min	Max
1980	(73)	.026	(.023)	.00	.09	.003	(.009)	.00	.03
1981	(80)	.030	(.026)	.00	.10	.004	(.010)	.00	.06
1982	(80)	.038	(.030)	.00	.14	.004	(.010)	.00	.06
1983	(91)	.043	(.034)	.00	.16	.006	(.011)	.00	.05
1984	(96)	.051	(.038)	.00	.21	.006	(.011)	.00	.05
1985	(96)	.062	(.041)	.00	.22	.007	(.011)	.00	.06
1986	(91)	.070	(.043)	.00	.22	.006	(.010)	.00	.04
1987	(94)	.078	(.042)	.00	.19	.006	(.009)	.00	.03
1988	(95)	.089	(.044)	.00	.20	.007	(.012)	.00	.06
1989	(91)	.100	(.048)	.00	.23	.007	(.011)	.00	.05
1990	(82)	.109	(.046)	.03	.28	.009	(.012)	.00	.06
1980-1990		.064	(.047)	.00	.18	.006	(.011)	.00	.05

Year	(n)	Proportion Hispanic				Proportion Asian American			
		Mean	(SD)	Min	Max	Mean	(SD)	Min	Max
1980	(73)	.003	(.013)	.00	.09	.001	(.006)	.00	.03
1981	(80)	.003	(.011)	.00	.08	.001	(.005)	.00	.03
1982	(80)	.004	(.012)	.00	.08	.001	(.006)	.00	.03
1983	(91)	.004	(.013)	.00	.07	.002	(.006)	.00	.03
1984	(96)	.004	(.012)	.00	.07	.003	(.014)	.00	.12
1985	(96)	.004	(.011)	.00	.07	.004	(.014)	.00	.10
1986	(91)	.004	(.012)	.00	.08	.004	(.013)	.00	.08
1987	(94)	.005	(.013)	.00	.07	.005	(.012)	.00	.07
1988	(95)	.006	(.013)	.00	.07	.005	(.011)	.00	.05
1989	(91)	.005	(.013)	.00	.07	.006	(.013)	.00	.07
1990	(82)	.006	(.012)	.00	.06	.008	(.013)	.00	.08
1980-1990		.004	(.012)	.00	.07	.004	(.011)	.00	.06

### *B. Sources of Change over Time*

Changes in the composition of the sample over time reflect changes in the composition of the legal profession generally. Since about 1970, women and people of color have been entering law school at an increasing rate, and they make up a growing proportion of elite law school graduates. These changes have had a significant effect on the elite firm labor supply.

### 1. *Changes in national law school enrollment*

Table 3 reports law school enrollment figures for American Bar Association approved law schools. The most remarkable change over the past twenty years has been the growing number of women entering law school. The percentage of women law students increased from 8.7% in 1970 to 42.5% in 1990 (see Table 3). And while overall law school enrollment increased approximately 60% between 1970 and 1990, the enrollment of women increased more than 700 percent—from 6682 in 1970 to 54,097 in 1990. Thus, the increase in the number of women enrolled (47,415) accounts for more than 95% of the total increase in law school enrollment (49,243).

**Table 3: National Law School Enrollment (1970-1990)\***

Year	Total	# Female	(%)	# Black	(%)	# Hispanic	(%)	# Asian American	(%)
70-71	78,018	6682	( 8.7)						
71-72	91,225	8567	( 9.4)						
72-73	98,042	11878	(12.1)						
73-74	101,675	16303	(16.0)						
74-75	105,708	21283	(20.1)						
75-76	111,047	26020	(23.4)						
76-77	112,401	29343	(26.1)						
77-78	113,080	31650	(28.0)	5304	(4.7)	2531	(2.2)	1382	(1.2)
78-79	116,150	35775	(30.8)	5350	(4.6)	2788	(2.4)	1424	(1.2)
79-80	117,297	37534	(32.0)	5257	(4.5)	2817	(2.4)	1547	(1.3)
80-81	119,501	40834	(34.2)	5506	(4.6)	3013	(2.5)	1641	(1.4)
81-82	120,879	43245	(35.8)	5789	(4.8)	3188	(2.6)	1755	(1.4)
82-83	121,791	45539	(37.4)	5852	(4.8)	3406	(2.8)	1947	(1.6)
83-84	121,201	46361	(38.2)	5967	(4.9)	3496	(2.9)	1962	(1.6)
84-85	119,847	46897	(39.1)	5955	(5.0)	3507	(2.9)	2026	(1.7)
85-86	118,700	47486	(40.0)	6051	(5.1)	3679	(3.1)	2153	(1.8)
86-87	117,813	47920	(40.7)	5894	(5.0)	3865	(3.3)	2303	(1.9)
87-88	117,997	48920	(41.5)	6028	(5.1)	4074	(3.4)	2656	(2.2)
88-89	120,694	50932	(42.2)	6321	(5.2)	4342	(3.6)	3133	(2.6)
89-90	124,471	53113	(42.7)	6791	(5.4)	4726	(3.8)	3676	(2.9)
90-91	127,261	54097	(42.5)	7432	(5.8)	5038	(3.9)	4306	(3.4)

\* These figures represent total J.D. enrollment in American Bar Association approved law schools (excluding enrollment in Puerto Rican law schools). See AMERICAN BAR ASS'N, A REVIEW OF LEGAL EDUCATION IN THE UNITED STATES, 65 (1990). Data for minority enrollment are not available before 1977.



Law students also have become more racially diverse. Between 1980 and 1990, the percentage of black law students rose from 4.6% to 5.8%; the percentage of Hispanic law students rose from 2.5% to 3.9%; and the percentage of Asian American law students increased from 1.4% to 3.4% (see Table 3). In fact, during the period for which data are available, the number of Asian American law students has increased more than any other group relative to their initial representation. The number of Asian American law students increased 212% between 1977 and 1990, compared to a 71% increase in the number of women students, a 40% increase in the number of black students, and a 99% increase in the number of Hispanic students during the same period.

## 2. *Changes in the composition of elite school graduates*

Women and people of color also make up an increasing proportion of the graduates of elite law schools.<sup>134</sup> Table 4 reports the number of J.D. degrees awarded per year by thirteen elite law schools—the “feeder” schools for the firms in the sample.<sup>135</sup> Comparing the percentage of women enrolled nationally (from Table 3) with the percentage of women graduating from elite law schools (from Table 4), these figures show that elite law schools graduate roughly the same percentage of women as are enrolled in law schools nationally—about 42% in 1990.<sup>136</sup>

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134. Previous studies have reported that women are less likely than men to attend elite law schools, see EPSTEIN, *supra* note 130, at 35, and that minority law students are less likely to graduate from law school than whites, see NELSON, *supra* note 23, at 133. See ABEL, *supra* note 21, at 103 (stating that nine out of ten white law students remain enrolled by third year, but only seven or eight minority students out of ten are enrolled by third year). The data presented here suggest that these patterns may be changing, however. See Table 4.

135. See AMERICAN BAR ASS'N, A REVIEW OF LEGAL EDUCATION IN THE UNITED STATES 10, 12, 14, 19, 28, 31, 39, 50, 59 (1990). The data cover the following 13 schools: Berkeley, Chicago, Columbia, Georgetown, Harvard, Michigan, Northwestern, NYU, Pennsylvania, Stanford, UCLA, Virginia, and Yale. I selected these schools based on information provided by the sample firms about where they recruit and about the educational backgrounds of firm members. The list may not be completely accurate in that some “feeder” schools doubtless are omitted, and others may have been named as status-symbols by firms that do not draw heavily upon their graduates. However, I could have made essentially the same list on the basis of lawyers' common knowledge regarding law schools' reputations and elite firm recruitment practices. See HEINZ & LAUMANN, *supra* note 129, at 15-16 (stating that various ratings for law school groupings have yielded consistent and similar results); see also BARRON'S GUIDE TO LAW SCHOOLS (1994). Although Barron's does not rate law schools as “elite,” students entering the schools I am calling “elite” have some of the highest LSAT scores and undergraduate GPAs.

136. The correlation between the percentage of law students who are women and the percentage of elite school graduates who are women is .95.

**Table 4: Elite Law School Graduation Rates (1980-1990)**

Year	# J.D.s Awarded	# Female	(%)	# Minority	(%)
1980-81	3757	1199	(31.9)	472	(12.6)
1981-82	3777	1312	(34.7)	578	(15.3)
1982-83	3999	1328	(33.2)	483	(12.1)
1983-84	3680	1373	(37.3)	561	(15.2)
1984-85	3748	1386	(37.0)	583	(15.6)
1985-86	3827	1455	(38.0)	572	(14.9)
1986-87	3428	1361	(39.7)	556	(16.2)
1987-88	3905	1582	(40.5)	625	(16.0)
1988-89	3929	1567	(39.9)	600	(15.3)
1989-90	3901	1585	(40.6)	718	(18.4)
1990-91	3927	1653	(42.1)	739	(18.8)

**Table 5: Correlations Between the Composition of Associates in the Sample (1980-1990) and the Composition of Law Students Nationally (1980-1990)**

Composition of Associates in Sample	Composition of Law Students			
	Proportion Female	Proportion Black	Proportion Hispanic	Proportion Asian American
Proportion Female	.9982*** (11)			
Proportion Black		.6400*** (11)		
Proportion Hispanic			.9375*** (11)	
Proportion Asian American				.9505*** (11)

\* p &lt; .05

\*\* p &lt; .01

\*\*\* p &lt; .001

(2-tailed)

The percentage of elite school graduates who are minorities appears to be somewhat higher than minority enrollment generally. In 1990, 18.8% of the law degrees awarded by elite law schools were awarded to minorities (see Table 4), yet minorities made up only 13.1% of law students nationally (5.8% black, 3.9% Hispanic, and 3.4% Asian American) (see Table 3).<sup>137</sup>

### 3. *Relationship to associate composition*

These changes in law school enrollment and elite school graduation rates directly affect the external labor supply for elite law firms. Table 5 reports the correlations between the gender and race composition of the associates in the sample (from Table 1) and the gender and race composition of law students enrolled nationally (from Table 3) over the eleven-year time period (1980-90). These figures show that changes in the composition of associates in the sample are significantly correlated with changes in the composition of the law student population, with correlation coefficients exceeding .90 for all groups except blacks. Changes in the composition of associates in the sample also are significantly correlated with changes in the composition of elite school graduates (see Table 6).

Among the four groups, correlations with the external labor supply are strongest for women (see Table 5). Although female law graduates traditionally have been less likely than men to enter private practice and more likely to take public interest or government jobs,<sup>138</sup> the career patterns of male and female lawyers have been converging over time,<sup>139</sup> and *within* private practice, women are more likely than men to practice in large firms.<sup>140</sup> As a result, the

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137. Part of the difference may reflect the fact that the enrollment figures reported in Table 3 are race-specific, whereas the elite school graduation data from Table 4 are aggregated by race. The two sets of figures are not directly comparable because the category of "minority" in Table 4 includes Native Americans and Alaskan Natives, who are not represented in the national enrollment data. Compare *supra* Table 3, with *supra* Table 4. However, this explanation cannot account for all of the disparity because the number of Native American and Alaskan Native law students is extremely low (the total number enrolled in law school in 1990-91 was 554). A more plausible explanation is that elite law schools enroll and graduate more minority group members than law schools generally, perhaps as a result of their superior resources, high visibility, and increased external pressure for inclusion.

138. In 1970, approximately 60% of all female lawyers were in private practice, compared to about 70% of male lawyers. See ABEL, *supra* note 21, at 95. The proportion of females working in government was more than twice that of men (37% versus 18%). See *id.*

139. In 1983, the proportion of female law graduates entering private practice (56%) approached that of men (58.5%), as did the proportion of women taking government or public interest jobs (16.9% of female graduates, compared to 12.4% of male graduates). See *id.* at 96.

140. Among all lawyers in private practice in 1980, 12% of the female lawyers practiced in firms with 50 lawyers or more, compared to 7% of male lawyers. See CURRAN ET AL., *supra* note 26, at 40. This difference does not simply reflect the fact that female lawyers are younger on average than male lawyers, as the disproportionate representation of female lawyers in large

representation of women among the associates in the sample closely tracks their representation among new lawyers generally.

Correlations between associate composition and the external labor supply are weakest for blacks. The correlation between national enrollment and associate representation is only .64 for blacks, compared to .99 for women, .94 for Hispanics, and .95 for Asian Americans (see Table 5). Correlations between associate composition and elite school graduation rates reflect a similar pattern (see Table 6).<sup>141</sup>

Part of the explanation for the relative underrepresentation of black associates may be that black law graduates are less likely than other law graduates to enter private practice<sup>142</sup> and may be less likely to pass state bar examinations.<sup>143</sup> However, part of the difference probably reflects the persistence of racial discrimination by elite law firms.<sup>144</sup>

firms becomes even more pronounced within younger admission cohorts. For instance, considering only those lawyers admitted to private practice between 1971 and 1979, 14.2% of the female lawyers practiced in firms with 50 lawyers or more, compared to only 8.6% of the male lawyers. *See id.* at 46.

141. This comparison must be interpreted with caution, however, because minority graduation data are not broken down by race. *See supra* note 137 (noting that elite school graduation data from Table 4 is aggregated by race).

142. Until 1970, most black lawyers were sole practitioners or worked for the government. *See ABEL, supra* note 21, at 105. Although black-white career patterns are converging, black lawyers still are more likely than whites to enter public interest and government work. *See id.* In 1983, only 45.7% of minority lawyers entered private practice, compared to 58.9% of white lawyers. *See id.* at 106.

143. Abel reports that in 1984, 48.3% of whites passed the California Bar, compared to 30% of Asians, 18.1% of Latinos, and 11.6% of blacks. *See ABEL, supra* note 21, at 103-04. To the extent that this pattern persists, it probably reflects the fact that some black law students enter law school with educational disadvantages, reflected in lower LSAT scores and lower undergraduate GPAs. Among the 1986 graduates of UCLA law school, for example, 83% of students admitted entirely on the basis of LSATs and GPAs passed the California Bar exam, compared to only 26.5% of those admitted through the "diversity" program. *See id.*

144. The legal profession has a long history of race discrimination, against blacks in particular. *See id.* at 99. Although black lawyers were admitted to practice during Reconstruction (to serve newly-freed slaves), the American Bar Association formally excluded blacks until 1943, and many law schools barred blacks until they were forced to admit them under the Civil Rights Act of 1964. *See id.* at 103. Within firms, black lawyers report that they often are viewed as "tokens" or "special admits" who have earned their credentials only as the result of affirmative action in law schools. *See Jensen, supra* note 1, at 28-29 (stating that minority lawyers feel stigmatized by assumptions that they are beneficiaries of affirmative action). Furthermore, some elite law firms continue to discriminate blatantly. *See id.* In 1989, the nation's largest law firm, Baker & McKenzie, was banned from interviewing at the University of Chicago, the University of California at Berkeley, and Georgetown University after a recruiting partner made racially disparaging remarks to a black law student. *See Clare Ansberry & Alice Swasy, Minority Job Applicants Say Slurs Often Surface, WALL ST. J., Feb. 10, 1989, at B1; see also Lisa Green Markoff, Dean Suspends Baker & McKenzie from 1989-90 Campus Interviews, NAT'L L.J., Feb. 13, 1989, at 4* (citing University of Chicago's decision to bar Baker & McKenzie from on-campus interviews after comments by firm's partner). The partner asked a student how she would react to being called a "black bitch" or a "nigger" by adversaries and colleagues. *See Ansberry & Awasy, supra*, at B1. Learning that she played golf, he asked, "Why don't blacks have their own country

**Table 6: Correlations Between the Composition of Associates in the Sample (1980-1990) and the Composition of Elite Law School Graduates (1980-1990)**

Composition of Associates in Sample	Composition of Elite School Graduates	
	Proportion Female	Proportion Minority
Proportion Female	.9422*** (11)	
Proportion Black		.5560*** (11)
Proportion Hispanic		.7629*** (11)
Proportion Asian American		.8226*** (11)

\* p < .05      \*\* p < .01      \*\*\* p < .001      (2-tailed)

#### 4. *Relationship to partner composition*

At the partnership level, the relevant labor supply is associates, not law students or elite law school graduates. However, changes in associate composition create changes in the composition of lawyers who are eligible to become partners. As Table 7 indicates, associate composition is highly correlated with partner composition for the sample as a whole.

Again, the supply-side relationship is strongest for women: The gender composition of associates in the sample is almost perfectly correlated with the gender composition of partners, with a correlation coefficient of .9509 (see Table 7). However, the correlation between associate composition and partnership composition is strong for the other three groups as well (see Table 7).

To a significant extent, therefore, changes in the composition of the sample over time reflect changes in the composition of the external labor supply. The gender and race composition of the associates in the sample is significantly correlated with the gender and race composition of law students nationally and with the gender and race composition of elite school graduates. Furthermore, partner composition is significantly correlated with associate composition.

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clubs?" *Id.* Then, answering his own question, he said, "I guess there aren't too many golf courses in the ghetto." *Id.* For an excellent analysis of the underrepresentation of blacks in large law firms, see David B. Wilkins & G. Mitu Gulati, *Why Are There So Few Black Lawyers in Corporate Law Firms? An Institutional Analysis*, 84 CAL. L. REV. 493 (1996).

**Table 7: Correlations Between the Composition of Partners in the Sample (1980-1990) and the Composition of Associates in the Sample (1980-1990)**

Composition of Partners in the Sample	Composition of Associates in the Sample			
	Proportion Female	Proportion Black	Proportion Hispanic	Proportion Asian American
Proportion Female	.9509*** (11)			
Proportion Black		.8805*** (11)		
Proportion Hispanic			.8476*** (11)	
Proportion Asian American				.9339*** (11)

\* p &lt; .05

\*\* p &lt; .01

\*\*\* p &lt; .001

. (2-tailed)

### C. Sources of Variation Among Firms

Law student enrollment statistics are only a crude measure of elite law firms' external labor supply. National enrollment statistics cannot capture demographic differences between cities, for instance, and the composition of associates in any given year does not reflect the composition of lawyers who actually are eligible to become partners. It takes seven or eight years to become a partner in an elite law firm,<sup>145</sup> and associate cohorts have become more integrated over time. Thus, the percentage of female and minority associates within a firm in any given year is higher than the percentage of female and minority associates who actually are eligible for promotion that year.

145. The mean for the sample firms was 7.21 years for the time period as a whole. See *infra* Table 8.

Furthermore, other labor market variables may affect a law firm's labor supply. For example, even though starting salary was a sample criterion, starting salary still varies somewhat among firms. Firms that pay more at the entry level may be more capable of attracting "the best" minority graduates or of restricting their recruitment to traditional white male labor pools.<sup>146</sup>

In addition, the effects of changes in the external labor supply may vary according to the growth rate of the firm. The legal services industry is one of the fastest growing industries in the country,<sup>147</sup> and most elite law firms have grown significantly over the past several decades.<sup>148</sup> Between 1980 and 1990, the firms in the sample grew an average of 97%, measured by number of lawyers.<sup>149</sup> However, some firms grew as little as 4%, while others grew nearly 300%.<sup>150</sup>

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146. Some evidence suggests that firms compete fiercely for the top female and minority law graduates. See Wilkins & Gulati, *supra* note 144, at 545-64. However, evidence also indicates that law firms are less likely to recruit minorities from the middle of their law school class than whites in the same academic position. See *id.*

147. Between 1970 and 1985, the number of lawyers in the United States increased 141%, compared to 46% in the professions in general and 34% for the entire work force. The value added to national income by the legal services sector was almost \$54 billion in 1986, placing the legal services industry ahead of the steel industry (\$30 billion), the textile industry (\$38 billion), and even the auto industry (\$50 billion). See Sander & Williams, *supra* note 28, at 433-34 (stating that growth trend in legal profession is distinct from growth of other professions as legal profession has grown three times as fast as other professions since 1970). Analysts attribute the rapid growth of the legal profession to a variety of causes: on the "supply" side, the baby boom and the behavior of law schools; on the "demand" side, the rise of in-house counsel and the increase in business litigation. However, most analysts remain speculative as to the relative importance of these causes and the nature of the relationship between them. See *id.* at 478; Galanter & Palay, *supra* note 22, at 800 (stating that various factors have contributed to growth of large law firms but leaving task of defining precise impact of each factor to future research).

148. Although the absolute number of lawyers working in all employment settings has increased significantly during the past several decades, the growth of large law firms has been particularly dramatic. In 1950, the nation's largest law firm had 91 lawyers; in 1984, the largest firm had 697 lawyers and the 50 largest firms had more than 200 lawyers. See NELSON, *supra* note 23, at 44-45. Galanter and Palay argue that law firm growth is driven in part by the law firm incentive structure: Firms must promote a significant proportion of associates in order to maintain promotion aspirations; but in order to maintain profitability, each new partner must be balanced by several new associates. See Galanter & Palay, *supra* note 41, at 33 (stating that firms that cannot or do not grow will be forced to transform or fail). Thus, firm structure creates an exponential growth imperative. See *id.*

149. Over the time period as a whole, the average firm added 7.4 associates and 3.5 partners per year. See *infra* Table 8.

150. In some cases, rapid growth is associated with changes in the level at which firms reported demographic data to NALP. In particular, firms that grew by establishing branch offices sometimes changed from reporting demographic data for the firm as a whole (when the firm maintained only one office) to reporting demographic data for the headquarters only (when the firm began to maintain more than one office). I flagged this issue in the initial coding of the data. In calculating annual growth, I excluded firms that changed their reporting practices from the previous year. Thus, if a firm reported firm-level data through 1985, but in 1986 reported only data for the firm's main office (a typical pattern), I considered that firm missing for the purposes of calculating growth between 1985 and 1986. I also tested whether the level of reporting affected my results by creating a dummy variable for "datatype," to indicate whether the data were reported for the whole firm or for the headquarters only. This variable

Faster-growing firms may recruit more heavily from more recent—and more integrated—graduate cohorts.

I use multiple regression analysis to estimate the combined effects of these additional labor market variables.<sup>151</sup> The “labor market” models include coefficients for location, starting salary, and growth rate, in addition to labor supply. In the models for partner composition, I also include a coefficient for “time” to control for the increasing diversity of associate cohorts.<sup>152</sup>

Firm location is measured using dummy variables for each city, with New York City as the excluded category.<sup>153</sup> Starting salary is measured as the deviation (in thousands) from the mean starting salary paid that year in the city in which the firm is located.<sup>154</sup> Associate and partner growth are measured by the number of associates or partners added by the firm the previous year. Table 8 presents descriptive statistics for the “labor market” variables.

Table 9 reports the results. As these data show, variations in labor market conditions significantly affect the level of gender and race integration within the sample firms.

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had no significant effect on any of my results; thus I omitted it from the analysis.

151. The results presented in Parts II and III are based on ordinary least squares (“OLS”) regression. For a description of this technique, see GENE M. LUTZ, UNDERSTANDING SOCIAL STATISTICS 202 (1983); and WONNACOTT & WONNACOTT, REGRESSION: A SECOND COURSE IN STATISTICS 75-102 (1991).

152. It is not necessary to include “time” in the models for associate composition because changes in the composition of law students correlate almost perfectly with time. The correlation coefficients for time and the proportion of law school enrollment are .97 for women, .92 for blacks, .99 for Hispanics, and .94 for Asian Americans. At the associate level, the inclusion of time does not improve the fit of the model for any of these groups.

153. “Dummy variables” are categorical variables in which the only possible categories are 0 and 1. See WONNACOTT & WONNACOTT, *supra* note 151, at 104-15 (explaining dummy variables). For example, a firm located in Chicago is coded “1” for the dummy variable “Chicago” and “0” for the dummy variables “Los Angeles” and “Washington, D.C.” A firm located in Los Angeles is coded “1” for “Los Angeles” and “0” for the other dummy variables for location. New York firms are coded “0” for all three location dummies.

154. For example, if the 1985 mean for Los Angeles were \$40,000, a Los Angeles firm paying \$42,000 would have a salary deviation of +2.



Table 8: Descriptive Statistics (1980-1990)

	Mean	Std. Dev.
<u>Labor Market (Control) Variables</u>		
Chicago (Dummy)	.196	—
Los Angeles (Dummy)	.227	—
New York City (Dummy)	.402	—
Washington, D.C. (Dummy)	.175	—
Salary Deviation (in Thousands)	-.234	19.158
Associate Growth (Number of Lawyers)	7.417	13.389
Partner Growth (Number of Lawyers)	3.503	4.860
<u>Organizational (Independent) Variables</u>		
Size (Number of Lawyers)	158.227	94.733
Departmentalized (Dummy)	.842	—
Rotation Not Available (Dummy)	.464	—
Years To Partner	7.210	.821
Ratio (Associates per Partner)	1.568	.664
National Branch(es) (Dummy)	.773	—
International Branch(es) (Dummy)	.371	—
Corporate Practice (Dummy)	.629	—
Tax Practice (Dummy)	.237	—
Banking Practice (Dummy)	.186	—
Real Estate Practice (Dummy)	.165	—
General Commercial Practice (Dummy)	.124	—
Administrative Practice (Dummy)	.103	—
Antitrust Practice (Dummy)	.072	—
Government Practice (Dummy)	.052	—
Labor/Employment Practice (Dummy)	.041	—
Foreign Trade Practice (Dummy)	.030	—
Entertainment Practice (Dummy)	.020	—
Percent Litigation	31.415	11.718
<u>Dependent Variables</u>		
Proportion Women Associates	.326	.087
Proportion Black Associates	.024	.020
Proportion Hispanic Associates	.011	.016
Proportion Asian American Associates	.017	.022
Proportion Women Partners	.064	.047
Proportion Black Partners	.006	.011
Proportion Hispanic Partners	.004	.012
Proportion Asian American Partners	.004	.011

Table 9: Effects of Labor Market Determinants

Table 9a: Associate Composition

Variable	Proportion Female Associates	Proportion Black Associates	Proportion Hispanic Associates	Proportion Asian American Associates
Proportion Enrolled	1.7034*** (16.571)	.5518** (2.548)	.7522*** (6.464)	.5767*** (5.136)
Starting Salary	-.0012 (-.888)	-.0002 (-.584)	-.0009*** (-3.254)	-.0005 (-1.371)
Chicago	.0087 (1.198)	.0041* (2.105)	-.0004 (-.315)	-.0049** (-2.507)
Los Angeles	-.0090 (-1.367)	-.0008 (-.448)	.0109*** (8.281)	.0155*** (8.646)
Washington, D.C.	.0432*** (5.759)	.0137*** (6.825)	-.0027 (-1.793)	-.0108*** (-5.330)
Associate Growth	-.0002 (-.906)	-.0000 (-.187)	-.0001* (-2.089)	.0003 (.507)
Constant	-.3533*** (-8.648)	-.0069 (-.629)	-.0142*** (-3.752)	.0038 (1.459)
R2 (n)	.2951 (809)	.0742 (809)	.1595 (809)	.1959 (809)

\* p &lt; .05      \*\* p &lt; .01      \*\*\* p &lt; .001

Regression coefficients are unstandardized.

T-statistics are shown in parentheses.

Table 9: Effects of Labor Market Determinants

Table 9b: Partner Composition

Variable	Proportion Female Partners	Proportion Black Partners	Proportion Hispanic Partners	Proportion Asian American Partners
Proportion Associates	.1347*** (7.687)	.0477** (2.578)	.1021*** (3.690)	.0858*** (4.357)
Time	.0065*** (13.289)	.0003** (2.955)	.0002 (1.422)	.0005*** (4.061)
Starting Salary	-.0011 (-1.723)	.0000 (.266)	.0009*** (3.431)	-.0003 (-1.551)
Chicago	.0126*** (3.424)	.0034*** (3.265)	.0027* (2.367)	-.0017 (-1.517)
Los Angeles	.0272*** (8.254)	.0022* (2.394)	.0065*** (6.073)	.0030** (2.890)
Washington, D.C.	.0081* (2.125)	.0064*** (5.988)	.0031** (2.675)	-.0015 (-1.296)
Partner Growth	.0007* (2.420)	.0000 (.036)	-.0001 (-1.153)	.0000 (.218)
Constant	-.5472*** (-13.916)	-.0276** (-2.703)	-.0158 (-1.367)	-.0480*** (-3.873)
R2 (n)	.4082 (809)	.0778 (809)	.0984 (809)	.0998 (809)

\* p &lt; .05      \*\* p &lt; .01      \*\*\* p &lt; .001

Regression coefficients are unstandardized.

T-statistics are shown in parentheses.

### 1. *Effect of location*

The most important labor market determinant is the city in which the firm is located (see Table 9). In general, firms located in Chicago or Washington, D.C., have significantly higher proportions of black lawyers than firms located elsewhere,<sup>155</sup> and Los Angeles firms have significantly higher proportions of Hispanic and Asian American lawyers.<sup>156</sup> New York firms have the lowest proportions of female and minority lawyers at both the associate and partnership levels.<sup>157</sup>

### 2. *Effect of salary*

Starting salary is significant only in the case of Hispanics. It is negatively associated with the proportion of Hispanic associates (see Table 9a), and positively associated with the proportion of Hispanic partners (see Table 9b).

These findings are difficult to interpret. One explanation is that higher-paying firms are less likely to hire Hispanics, but more likely to promote them once hired. Another possibility is that these findings represent two different types of firms: lower-paying firms that are more likely to hire Hispanics at the associate level; and higher-paying firms that may be more capable of attracting Hispanic partners who have proven themselves elsewhere.

These findings also may indicate a failure of the sampling criteria to control for labor market variation in Los Angeles. Hispanic representation is higher in Los Angeles firms than in firms located elsewhere, and starting salaries vary most among the Los Angeles firms.<sup>158</sup> As a result, the firms sampled from Los Angeles may be more diverse in terms of labor supply than the firms located in other

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155. During the time period as a whole, Washington firms had an average of 3.4% black associates and 1.4% black partners, and Chicago firms had an average of 2.5% black associates and 0.8% black partners. For New York and Los Angeles firms, the average was approximately 2% black associates and 0.6% black partners.

156. During the time period as a whole, the average Los Angeles firm had 2% Hispanic associates and more than 3% Asian American associates. Other firms had an average of less than 1% Hispanic associates and approximately 1.1% Asian American associates. The same pattern was found at the partnership level. In 1990, the average Los Angeles firm had 1% Hispanic partners and 1.4% Asian American partners. Other firms averaged approximately 0.4% Hispanic partners and about 0.4% Asian American partners.

157. For example, in 1990, the average New York firm had only about 8% female partners, whereas the average in other firms was approximately 12%.

158. In 1990, the standard deviation for starting salary was \$1800 in Chicago; \$2900 in Los Angeles; \$2000 in New York City; and \$1600 in Washington, D.C.

cities.<sup>159</sup> (This explanation also is consistent with the suggestion that salary effects simply represent two different types of firms.)

These findings also may reflect a more general problem in relying on the category "Hispanic," which does not correspond to a unified racial or ethnic group. The Hispanic lawyers in the sample could be Mexican American, Latin American, South American, Cuban, or Puerto Rican; and it may be that these different "Hispanic" groups are concentrated in different parts of the elite firm labor market. Of course, this could be true of Asian American lawyers as well, and possibly, of blacks.<sup>160</sup>

Finally, these findings may be an artifact of the low number of Hispanic lawyers in the sample firms. Hispanics are the least represented group in the sample both in terms of absolute numbers and in terms of proportional representation.<sup>161</sup> Furthermore, there are curious "blips" in the data tracking Hispanic integration at both the associate and the partnership levels.<sup>162</sup> I return to this issue at the end of Part III.

### 3. *Effect of growth*

Law firm growth is positively related to the gender composition of law partners (see Table 9). Otherwise, growth has virtually no effect on law firm composition, except that it negatively affects the proportion of Hispanic associates (see Table 9a).<sup>163</sup>

#### D. *Summary*

As these data show, variations in the external labor supply significantly affect the level of gender and race integration within the sample firms. Changes in the composition of law students over time and variation among the cities in which the firms are located appear to be especially important determinants of law firm composition. As I argue in Part III, however, elite law firms still vary considerably in their levels of gender and race integration, even controlling for external labor market conditions. Thus, although external conditions

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159. Over-sampling in Los Angeles may partly explain the relatively higher proportions of minority associates in the sample firms than in large law firms generally. See *supra* note 132.

160. Throughout the time period of the study, NALP used the category "black" rather than the category "African-American," which is more ethnically specific. This Study follows NALP's categorization. See generally NALP DIRECTORY, *supra* note 35 (using term "black" throughout).

161. See *supra* Table 1.

162. See *supra* Tables 1 and 2.

163. If higher-paying firms also are the fastest-growing, this finding is consistent with the suggestion that the Los Angeles part of the sample is over-inclusive, and that Hispanics are best represented in the lower-paying, slower-growing firms.

may set the boundaries for law firm integration, the composition of elite law firms ultimately is determined by the structural and cultural characteristics of the individual firm.

### III. ORGANIZATIONAL DETERMINANTS OF LAW FIRM INTEGRATION

Part III analyzes the role of organizational characteristics in accounting for gender and race variation among firms. That is: Controlling for labor supply and demand, to what extent do law firm characteristics affect the level of law firm integration? Which characteristics are most important? Are their effects the same at different levels of the law firm hierarchy? Are their effects the same for different demographic groups?

#### A. *Structural Characteristics*

I first examine the effects of "structural" characteristics such as the size of the firm, the degree of bureaucratization, and the structure of the internal promotion hierarchy. I also examine the effects of geographic structure; that is, whether a firm maintains offices in more than one city.

##### 1. *Size*

Previous research indicates that among law firms generally, firm size is associated positively with gender<sup>164</sup> and race<sup>165</sup> integration within firms. However, most findings on the relationship between law firm size and integration are based on a comparison between "large" (50-100 lawyers) and "small" (2-30 lawyers) firms.<sup>166</sup> As a result, it is not clear to what extent variations in size continue to matter among "large" law firms generally. Furthermore, most research on the effect of firm size does not control for the effects of other structural characteristics that are associated with size such as bureaucratization, geographic diversification, and the structure of the internal promotion hierarchy.<sup>167</sup> Thus, it is not clear whether the findings on size

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164. For instance, Abel reports that in 1980 women constituted 2.3% of the partners in law firms with 90 lawyers or more (n=107) but only 1.9% of the partners in law firms with 25-89 lawyers (n=218). See ABEL, *supra* note 21, at 97. Similarly, Curran reports that in 1980 all law firms with 50 lawyers or more had at least one female lawyer, whereas 43.4% of firms with 11-20 lawyers had no female lawyers. CURRAN ET AL., *supra* note 26, at 52.

165. See ABEL, *supra* note 21, at 105. Firm size also tends to be associated positively with the representation of black lawyers. See *id.* In 1979, among the law firms in New York, Chicago, Atlanta, San Francisco, and Washington, D.C., black lawyers constituted only 0.4% of all lawyers in firms with 30 lawyers or fewer, compared to 1.5% of all lawyers in firms with 50 lawyers or more. See *id.*

166. See *id.* at 105-06 (comparing large firms with small firms).

167. See *infra* notes 168-69, 177-82, and 188-89 and accompanying text.

represent the effects of size or the effects of other structural characteristics associated with size.

My analysis addresses these two issues. First, to what extent do variations in firm size affect the level of gender or race integration within *large* law firms? Almost all the firms in the sample would be considered large relative to the population of law firms as a whole. Is the effect of size in the sample firms consistent with the effect of size reported in previous research? Second, to what extent does firm size affect the level of firm integration, controlling for other structural characteristics that are associated with size?

I measure firm size according to the number of lawyers in the firm. In 1990, the average size of the firms in the sample was 211 lawyers, and the largest firm had 710 lawyers. The average size of the sample firms over the time period as a whole was 158 lawyers (see Table 8).

## 2. *Bureaucratization*

One characteristic associated with increased size is increased reliance on bureaucratic organizational forms.<sup>168</sup> Whereas the organization of work in elite law firms traditionally has been characterized by informal, fluid work groups, ad-hoc decision-making, and charisma-based leadership, many elite firms have moved toward formal departmentalization, strategic planning, and management by specialized committees.<sup>169</sup> In addition, although associates in elite law firms traditionally began their training with a period of "rotation" among different practice areas, associates today are increasingly likely to be assigned to particular departments and particular work-groups immediately upon their arrival.<sup>170</sup>

Increased bureaucratization could promote law firm integration in a number of ways. Bureaucratization may lead to a formalization of the process by which associates are evaluated. Bureaucratically structured firms may be more likely than other firms to keep written records regarding associate performance and to rely upon standardized evaluations when it is time for associate review. Such formalization could increase the flow of information among partners and decrease reliance on ascriptive criteria for advancement.

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168. See GALANTER & PALAY, *supra* note 28, at 48 (stating that as firm size increases, specialization increases (citing NELSON, *supra* note 23, at 147)).

169. See *id.* at 48-49 (discussing increased specialization and departmentalization within large law firms resulting from increased firm size and corporate case load); NELSON, *supra* note 23, at 7 (stating that bureaucratization of law firms results from changing function of law in society).

170. See NELSON, *supra* note 23, at 150-53 (examining number of attorneys "channeled" into fields of practice).

Bureaucratization also may lead to a formalization of the process by which work is distributed among associates. Rather than allowing individual partners to recruit associates directly, bureaucratically structured firms may be more likely to establish a work assignment committee or to designate an assigning partner.<sup>171</sup> The use of a formal assignment system may decrease the propensity toward informal "tracking" and increase women and minority lawyers' access to choice training opportunities within the firm.<sup>172</sup>

On the other hand, bureaucratization may have no such positive effects because the formalization of internal processes may not alter substantive results. Recent lawsuits against professional firms suggest that the use of written evaluations is no guarantee against the articulation of gender stereotypes or the discriminatory evaluation of female partnership candidates.<sup>173</sup> Similarly, the interview data suggest that the establishment of a formal assignment system does not necessarily prevent informal tracking; in some firms, powerful partners routinely bypass work assignment systems and directly recruit the associates with whom they want to work ("poaching").<sup>174</sup>

171. See *id.* at 150-58.

172. The interview data suggest that the use of a formal assignment system may make the distribution of work and training opportunities more meritocratic:

[In my firm] if you want an associate you must go to the associate assignment partner and say I have this kind of matter; here are my time constraints; it's immediate but it's not urgent; and I need this kind of person. A young associate [or] an older associate - you can always express preferences but it doesn't count for much. . . . The person who is responsible for getting the associate is the assigning partner. Poaching is not permitted. Poaching is not done . . . . [The way that "superstars" get identified] is by doing good work for a lot of different people. Working for a lot of people counts for a lot at our firm. Working for one person is a negative. (WFP2).

173. For instance, in *Price Waterhouse v. Hopkins*, 490 U.S. 229 (1990), a female partnership candidate in a large, bureaucratized accounting firm was told that to make partner she should "walk more femininely, talk more femininely, dress more femininely, wear make-up, have her hair styled, and wear jewelry." *Id.* at 235. Her written evaluations included comments such as "she overcompensate(s) for being a woman," and "[she has] matured from a tough-talking somewhat masculine hard-nosed mgr to an authoritative, formidable, but much more appealing lady ptr candidate." *Id.* In *Ezold v. Wolf, Block*, 751 F. Supp. 1175 (E.D. Pa. 1990), a female partnership candidate won a sex discrimination suit against a large Philadelphia law firm after the district court compared the largely positive written comments in her file (e.g., "exceptionally good," "top notch," "a hard worker") with critical comments from the files of men who were promoted (e.g., "lazy," "slick," and "he simply disappears without notice, sometimes for days at a time"). See *id.* at 1182-88. The *Ezold* ruling was overturned on appeal. See *Ezold v. Wolf, Block*, 983 F.2d 509, 548 (3d Cir. 1992).

174. Consider the following accounts from female associates in two different firms:

We have a formal [assignment system] but it doesn't work . . . . The partners had ignored the stocking partners. They're supposed to go through the stocking partners . . . they weren't doing that. They were jumping on associates. So as a result, some associates were just doing too much work on [x]—the kind of work you want to do—and some associates weren't doing the kind of work they wanted to do at all. (WFA1).

In fact, to the extent that partners do rely on gender or race-based evaluative criteria, bureaucratization simply may formalize informal patterns of workplace segregation. Like informal work groups, formal departments may vary according to the desirability of the work and the power and prestige of the supervising partners.<sup>175</sup> By hiring associates directly into departments and not allowing rotation among departments, bureaucratically structured firms may establish structurally what other firms establish through informal tracking.<sup>176</sup>

I investigate whether the degree of bureaucratization affects the level of gender or race integration within the sample firms. I measure the degree of bureaucratization according to whether the firm is departmentalized and whether the firm requires specialization by department ("No rotation"). Among the firms in the sample, 84% are departmentalized, and 46% require specialization by department (see Table 8).

### 3. *The structure of the internal promotion hierarchy*

Firm size also tends to be associated with the length and competitiveness of the internal promotion hierarchy. For example, in most large law firms the number of years it takes to make partner is increasing.<sup>177</sup> Rather than making partnership decisions in the sixth or seventh year of practice, many firms wait until the eighth, ninth, or even tenth year of practice.<sup>178</sup> Furthermore, in many large law firms the associate-partner ratio also is increasing.<sup>179</sup> Among the fifty largest law firms in 1986, the average number of associates per

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One problem with the assigning partner system . . . is often the assigning partner is somebody who is pretty low on the totem pole, because those are the people who get that kind of routine administrative responsibility . . . . So what ends up happening is . . . a partner would go over the head of the assigning partner and come to the associate . . . and the assigning partner didn't have, you know, the "umph" to say to this very senior partner, "I'm terribly sorry but you know you have to go through me . . . ." (WEA2).

175. See NELSON, *supra* note 23, at 152.

176. See *id.* at 157. According to Nelson:

The leaders of law firms have always controlled the careers of their juniors. This control was exercised more bluntly in the paternalistic era of law firm organization when a few leading partners called the shots. Today firms manage the careers of new members through the apparatus of committees, departments, and assignment partners.

*Id.*

177. See GALANTER & PALAY, *supra* note 28, at 63 (citing NELSON, *supra* note 23, at 141).

178. See *id.*

179. See Galanter & Palay, *supra* note 22, at 784-90 (suggesting that elite law firms try to maintain high associate-partner ratios in order to ensure profitability). One partner Nelson interviewed said that every time an associate is promoted, "the firm must hire four new associates, one to replace the lost associate, and three to work for the new partner." NELSON, *supra* note 23, at 141.



partner increased 28% between 1960 and 1985, from 1.16 to 1.49.<sup>180</sup> This trend is especially evident in New York City firms, where the associate-partner ratio traditionally has been highest.<sup>181</sup>

The length and "breadth" of the internal promotion hierarchy may have a significant effect on the level of gender and race integration among partners. First, the length of the partnership track directly affects the supply of associates who are eligible for promotion. The longer it takes to make partner, the longer it takes for diversity among associates to be reproduced at the partnership level. As a result, elite law firms with longer partnership tracks may be less integrated at the partnership level than elite law firms offering earlier opportunities for promotion.

In addition, some evidence indicates that higher associate-partner ratios may mean lower promotion rates for associates.<sup>182</sup> Because firms with lower promotion rates will promote fewer lawyers from younger, more integrated associate cohorts, firms with high associate-partner ratios may be less integrated at the partnership level than firms with low ratios.

The structure of the internal promotion hierarchy may be particularly important in determining the level of gender integration within firms. As a number of writers have noted, the demanding nature of elite firm practice is especially burdensome for women, who continue to bear primary responsibility for child-rearing.<sup>183</sup> Long hours, frequent travel, and firms' reluctance to allow part-time employment<sup>184</sup> all contribute to consistently higher attrition rates

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180. See Galanter & Palay, *supra* note 41, at 54.

181. See *id.* at 55. Galanter and Palay report that among the firms in New York City, the average number of associates per partner increased by 34% between 1960 and 1985—from 1.36 to 1.82. In firms outside of New York City, the average increased by only 12%—from 1.05 to 1.18. See *id.*; see also NELSON, *supra* note 23, at 9 (discussing "New York system").

182. In New York, for example, the promotion rate was 25.1% for associates hired between 1968 and 1970, but only 18.8% for associates hired between 1978 and 1980. See Edward A. Adams, *Longer Partnership Odds at N.Y. Firms*, N.Y. L.J., July 17, 1989, at 1 (examining sample of large New York City law firms); see also NELSON, *supra* note 23, at 76-77 (observing that many large law firms have low promotion rates); Daniel Wise, *Psst! Wanna Make Partner?*, NAT'L L.J., Oct. 26, 1987, at 1 (discussing difficulties in making partner). But see GALANTER & PALAY, *supra* note 28, at 103 (finding that proportion of associates who make partner has remained relatively stable over time and suggesting that evidence of "lower promotion rates" primarily reflects lengthening of partnership track). See *id.*

183. See, e.g., EPSTEIN, *supra* note 130, at 206-12 (examining difficulties faced by women attorneys with families); Jill Abramson & Barbara Hackman Franklin, *Harvard Law '74: Are Women Catching Up?*, AM. LAW., May 1983, at 79 (evaluating success rate of women from Harvard's Class of 1974); Menkel-Meadow, *supra* note 31, at 295 (enunciating difference between "career track" and "mommy track").

184. See EPSTEIN, *supra* note 130, at 206-12 (discussing difficulties that some women attorneys have working long hours due to family responsibilities); NELSON, *supra* note 23, at 184-88 (analyzing number of hours attorneys work); see also *infra* notes 243-45 and accompanying text.

for women associates than for men.<sup>185</sup> This difference may be exacerbated in firms with longer, more competitive promotion hierarchies. As a result, such firms may have lower proportions of female lawyers.

I examine whether the structure of the internal promotion hierarchy affects the level of gender or race integration within the sample firms. I measure the structure of the internal promotion hierarchy according to the number of years it takes to make partner and the associate-partner ratio. Among the firms in the sample, the length of the partnership track varies from four to nine years with an average of 7.21 years. The associate-partner ratio varies from .55 to 3.77, with an average of 1.57 (see Table 8).

#### 4. *Geographic diversification*

Finally, the size of elite law firms also is associated with their geographic structure. Until about 1970, most elite law firms maintained only one office and were identified closely with the city in which the firm was located.<sup>186</sup> In the 1970s and 1980s, however, many elite law firms began to establish "branch" offices, and since 1980, many firms have moved to a genuine multi-city practice, maintaining numerous offices both in the United States and abroad.<sup>187</sup> Large law firms are more likely than small law firms to maintain offices in more than one U.S. city<sup>188</sup> and may be more likely to maintain international offices.<sup>189</sup>

Law firms that maintain offices in more than one city may tend to be more integrated than law firms that do not. First, many of the benefits associated with increased size also may be associated with geographic diversification. For instance, size tends to have a positive effect on organizations' compliance with antidiscrimination law because increased size makes organizations more visible.<sup>190</sup> For the

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185. See NELSON, *supra* note 23, at 140 (stating that 40% of all associates and 44% of women associates leave their firms).

186. See GALANTER & PALAY, *supra* note 28, at 47.

187. See *id.* Initially, most branch offices were located in Washington, D.C.—in 1980, 178 firms had branch offices there. See *id.* As "branching" activity increased, however, the proportion of branch offices located in Washington, D.C., declined. See *id.*

188. See *id.* In 1980, 87% of the 100 largest law firms had offices in more than one city, compared to 62% of law firms with 50 lawyers or more. See *id.*; see also CURRAN ET AL., *supra* note 26, at 53 (stating that of firms with 50 lawyers or more in 1980, 37.6% had offices in one location, 32.8% had offices in two locations, 16.7% had offices in three locations, and 7.3% had offices in four locations).

189. Although there are no comparable data for smaller firms, in 1980 the 20 largest firms in New York City had a total of 39 international branches. See GALANTER & PALAY, *supra* note 28, at 48.

190. See Edelman, *Legal Environments*, *supra* note 13, at 1408.

same reason, geographic diversification may increase law firms' compliance with antidiscrimination law.

Size also tends to have a positive effect on the "inclusiveness" of law firm recruitment in that larger firms tend to recruit a larger portion of the class from a larger number of schools.<sup>191</sup> Geographic diversification may lead to expanded recruitment as well: Firms that maintain offices in more than one city may recruit students from a wider variety of law schools than firms with only one office.

The firm's geographic structure also may affect the racial composition of the firm's clients. In particular, firms that maintain international offices may have a more racially diverse client base than firms that do not.<sup>192</sup> The racial composition of clients may affect both the demand for and the success of minority associates and partners.<sup>193</sup> As a result, law firms that maintain international offices may tend to be more racially integrated than firms that do not.

I investigate the effects of geographic structure on the level of gender and race integration within the sample firms. I measure geographic structure according to: (1) whether the firm maintains more than one U.S. office; and (2) whether the firm maintains one or more international offices. Among the firms in the sample, 77% have more than one U.S. office and 37% have at least one international office (see Table 8).

### B. Client Characteristics

I also examine whether the nature of the firm's client base affects the level of gender or race integration. Personal relationships with clients are critical to lawyers' advancement within elite law firms. The most powerful partners are the "rainmakers"—those who are personally responsible for attracting major clients.<sup>194</sup> The ability to

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191. See NELSON, *supra* note 23, at 132-33 (describing rise in number of graduates of local or regional law schools hired by large law firms); see also Galanter & Palay, *supra* note 41, at 53 (noting that current trend toward hiring associates based on school performance rather than social status increases firm inclusiveness).

192. For instance, firms that maintain offices in Mexico City may have more Hispanic clients; firms with offices in Tokyo or Hong Kong may have more Asian clients.

193. See *infra* notes 197-98 and accompanying text (discussing importance of client demographics).

194. See NELSON, *supra* note 23, at 277-78. "The leading partners of the law firm are those lawyers who are personally responsible for major clients." *Id.* at 278. "If they lose a client or if their field dries up, they will eventually lose their position of leadership to partners with a growing clientele." *Id.*

attract and satisfy clients also affects promotion decisions<sup>195</sup> and individual compensation.<sup>196</sup>

The importance of clients to a lawyer's success suggests that the level of integration within elite law firms may depend significantly on the level of integration among the firm's clients. First, the gender and race characteristics of clients may affect the distribution of work and other advancement opportunities within the firm. For example, male clients may be more likely than female clients to object to the assignment of a female lawyer.<sup>197</sup> Similarly, minority clients may be more likely than white clients to request the assignment of minority lawyers.<sup>198</sup> Even when clients do not express a preference, firm leaders may "track" lawyers according to clients' demographic characteristics.<sup>199</sup>

195. See *id.* at 55-56 (discussing need for lawyers who will bring in new clients); see also GALANTER & PALAY, *supra* note 28, at 52-53 (noting that "standing within the firm depends increasingly on how much business a partner brings in").

196. See NELSON, *supra* note 23, at 199 (comparing income increases of lawyers who bring in new clients to those who do not); see also GALANTER & PALAY, *supra* note 28, at 52-53 (discussing trend toward reduction of salary for failure to bring in new business).

197. The interview data suggest that the expression of such preferences is not uncommon and that if the client is an important one, firms tend to acquiesce. Consider the following reports from male lawyers at two different firms:

We had a very important client who objected to a young very capable woman partner arguing cases in the court of appeals, [and he] asserted he wanted a more senior male partner to make the argument. In our view the younger partner was more capable . . . and we accepted the lie that it was seniority rather than gender that caused the request and we acceded to it because it was a very important long term client . . . . We were not happy with ourselves but that's what we did . . . . (WMP3).

We had a case where . . . the star witness from our side did not get along at all with the woman associate that was assigned to the case . . . . I understand it was because she was a woman. He had this very macho sort of to hell with them all attitude. She was trying very carefully to be sort of a deliberate lawyer, and they just did not get along at all. And the case sort of rested on this guy's testimony, and knowing that he was going to have to be prepared for this trial by this woman, and then questioned on the stand by this woman, the chemistry was very important and I think the partner of his own initiative replaced her with a man. (WMA1).

198. A lack of exposure to direct client contact traditionally has been cited as one of the biggest barriers to internal advancement of black and Hispanic associates. See Rita Henley Jensen, *Minorities Didn't Share in Firm Growth*, NAT'L L.J., Feb. 19, 1990, at 1, 35 (examining increase of women and minority attorneys in law firms); Claudia MacLachlan & Rita Henley Jensen, *Progress Glacial for Women, Minorities*, NAT'L L.J., Jan. 27, 1992, at 1, 32-34 (observing slow partnership rate for women and minorities). However, recent accounts suggest that minority clients increasingly are pressuring law firms to staff their matters with minority attorneys. See David A. Maister, *Helping Partners Improve*, AM. LAW., Oct. 1992, at 31-32 (stressing importance of collegial law firm environment to help all members of firm attain success).

199. For instance, an Asian American lawyer interviewed in *The American Lawyer* reported that other Asian American lawyers had complained to her that they were "being slotted for East Asian practice." Maister, *supra* note 198, at 31. Although that was her own field by choice, she said, "There are a lot of Asian-Americans who really have no interest in Asia—they just want to be general litigation or corporate lawyers." *Id.*

The gender and race composition of a firm's clients also may affect the ability of women and minority lawyers to generate new business. Lawyer-client relationships tend to be formed through social and professional contacts, and most evidence suggests that clients prefer lawyers who are socially similar to them.<sup>200</sup> As a result, law firms with well-established, integrated client bases may offer increased "rainmaking" opportunities for women and minority lawyers.<sup>201</sup>

Characteristics of the firm's client base also may affect the firm's responsiveness to federal antidiscrimination law. For instance, Edelman finds that firms serving public clients, such as state or municipal government, tend to be more responsive than firms serving predominantly private clients, such as corporations or banks.<sup>202</sup> As a result, law firms that serve public clients may tend to be more integrated than law firms that primarily serve private corporations.<sup>203</sup>

I examine whether characteristics of the firm's client base affect the level of gender or race integration within the sample firms. I measure client base according to: (1) the firm's primary practice areas; and (2) the percentage of the firm's practice devoted to litigation.

### 1. Primary practice areas

All of the firms in the sample are "general practice" firms in that they provide a fairly wide range of legal services; however, firms concentrate in different areas. Based on the "areas of specialization"

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200. See NELSON, *supra* note 23, at 130; see also HEINZ & LAUMANN, *supra* note 129, at 330-32 (examining correlation between levels of client similarity and areas of practice and noting levels of similarity where litigation is involved); KANTER, *supra* note 10, at 47-49 (discussing preferences for socially similar co-workers in managerial setting).

201. Recent evidence suggests that the increase in Asian and Latin American clients has improved business development opportunities for Asian American and Hispanic lawyers. See Kim Horner, *Ronquillo Exits Ronquillo & DeWolf to Start His Own Firm*, TEX. LAW., May 27, 1995, at 4 (discussing success of Ronquillo's international trade practice built around Mexican and Latin American clients); Lorien L.M.M. Golaski, *What's in an Identity? Law Firms Must Have Something to Sell*, ILL. LEGAL TIMES, Dec. 1995, at 1 (describing one firm's market niche among Hispanic clients); Mario Shao, *Diverse in Many Ways*, NAT'L L.J., Oct. 28, 1996, at A1 (describing benefits of a diverse partnership for attracting business from diverse clienteles).

202. See generally Edelman, *Symbolic Structures*, *supra* note 13, at 1548-49 (examining effect of proximity to public sphere on private firms' responses to federal antidiscrimination law); Edelman, *Legal Environments*, *supra* note 13, at 1413-15 (stating that formal structural protections against discrimination tend to occur first in organizations linked to public sphere).

203. Law firms with labor and employment practices also may tend to be more integrated because of firm members' increased awareness of and commitment to equal employment guarantees. As one partner said of the high level of integration in his firm: "It's all pretty simple. . . . We specialize in employment and labor law, and determined early on that we wanted to set a good example for our clients and other firms." MacLachlan & Jensen, *supra* note 198, at 34. On the other hand, many elite law firms in the labor and employment area serve clients from the management side and may be more committed to the preservation of traditional managerial prerogatives. See Heinz & Laumann, *supra* note 129, at 54 (concluding that lawyers' political and social commitments tend to mirror those of clients they serve).

portion of the NALP survey in which firms specify the number of lawyers working in each area of practice, I identified the top two practice areas for each firm.

I initially coded for twenty-three possible primary practice areas.<sup>204</sup> The categories used in the final analysis represent the eleven most common primary practice areas (in descending order):<sup>205</sup> corporate and securities; tax; banking and finance; real estate; general commercial; administrative; antitrust; government;<sup>206</sup> labor and employment; international and foreign trade; and entertainment.<sup>207</sup> I use separate dummy variables to represent each of these eleven areas (see Table 8).<sup>208</sup>

## 2. *Percent litigation*

I also include a measure for the percentage of the firm's practice devoted to litigation. This measure is included because the litigation field tends to present a special case for career development within elite law firms.<sup>209</sup>

First, litigation services tend to be associate-intensive. Much of the preparatory work is routine; yet complex cases can occupy a large number of associates for significant periods of time. Thus, litigation

204. These 23 categories covered each of the different primary practice areas reported by the sample firms. The categories were: corporate and securities; banking and finance; tax; international and foreign trade; probate and estate planning; real estate; labor and employment; employee benefits; health law; intellectual property (including patent and trademark); government contracts; legislation (i.e., lobbying); state and municipal government; administrative regulation; energy and environmental; entertainment; criminal (white collar); antitrust and trade regulation; general commercial; products liability and insurance; bankruptcy and business reorganization; communications; and litigation.

205. In determining the most common practice areas, I did not count litigation. Rather, "percent litigation" is included as a separate variable. See *infra* notes 209-16 and accompanying text (discussing reasons for treating litigation as "special case" when assessing practice area integration).

206. The "government" category covers firms whose top two practice areas include either "government contracts" or "state and municipal government."

207. Entertainment was cited as a primary practice area by only two firms, placing it, in terms of frequency, on a par with bankruptcy (three firms), products liability (two firms), and energy and environmental (two firms). However, my initial investigation revealed that the presence of a large entertainment practice has a significant positive effect on the proportion of black lawyers, whereas the other practice areas had no significant effect on law firm composition. Thus, I included entertainment as a dummy variable.

208. A firm is coded "1" for both of its top two practice areas. Thus, if a firm's top two practice areas are "corporate and securities" and "banking," the firm is coded "1" for both "corporate" and "banking," and "0" for the other practice area variables. In some cases, one of the firms' top practice areas is not represented in the final eleven categories. In these cases, the firm is coded "1" only for the practice area that is represented. If, for example, a firm's top two practice areas are "corporate and securities" and "products liability," the firm is coded "1" for "corporate" and "0" for all other categories.

209. See NELSON, *supra* note 23, at 153-54 (stating that rates of departure and mobility vary greatly between attorneys in litigation and attorneys in other fields).

may limit associates' contact with clients more than other types of elite firm practice.<sup>210</sup>

In addition, the litigation field tends to offer fewer opportunities for associate advancement.<sup>211</sup> Clients want "name" litigators to argue their cases; and many firms recruit reputed litigators laterally from government or from other firms.<sup>212</sup> As a result, litigation associates cannot count on becoming litigation partners; the litigation field thus has one of the highest associate attrition rates.<sup>213</sup>

Because of these undesirable characteristics, Nelson finds that firms must "channel" associates into litigation to a greater extent than other fields in order to meet service demands.<sup>214</sup> Some evidence suggests that women and minority associates may be particularly likely to be channelled into litigation and other practice areas with less client contact.<sup>215</sup> At the partnership level, however, Nelson's work suggests that litigation may be one of the least integrated practice areas because of clients' increased emphasis on lawyers' ascriptive characteristics and related qualities such as appearance and personal authority: "In the litigation fields we find the greatest differences in the tasks and responsibilities of partners and associates."<sup>216</sup>

Given the potential idiosyncrasies associated with litigation practice, I controlled for the percentage of each firm's practice devoted to litigation. The average firm in the sample devotes about thirty percent of its practice to litigation services (see Table 8).

### 3. *A caveat*

Primary practice areas are only an indirect measure of clients' demographic characteristics. Although most areas of practice are tied closely to identifiable client groups (corporate practice is associated with corporations, banking practice is associated with banks, etc.), the gender and race composition of these client groups is only generally estimable. Thus, although most banks are run by white men, all banks may not be. Similarly, although most local governments are more diverse than most banks, some may not be.

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210. *See id.* (noting that litigation associates talk to clients less frequently than other associates).

211. *See id.* at 155.

212. *See id.*

213. *See id.* at 153 (stating that nearly one-third of lawyers who enter litigation field depart, but that almost all lawyers who enter office fields remain).

214. *See id.* at 155-56.

215. *See* Maclachlan & Jensen, *supra* note 198, at 31.

216. NELSON, *supra* note 23, at 180.

Furthermore, even if a firm practices in a particular area, the data do not reveal whether particular lawyers in the firm actually practice in that area. For instance, although firms with a significant entertainment practice many tend to have higher proportions of black partners, I cannot measure directly whether the black partners in these firms actually practice in the entertainment area.

Nevertheless, as I argue below, the effects of practice areas on the gender and race composition of the sample firms allow for a fairly consistent interpretation along demographic lines. Thus, despite the flaws in my measure, the results are highly suggestive.

### C. *Methods*

I use multiple regression analysis to estimate the effects of organizational characteristics on the gender and race composition of the sample firms.<sup>217</sup> As in Part II, I use group-specific measures of composition (proportion female, proportion black, proportion Hispanic, proportion Asian American),<sup>218</sup> and I distinguish between associates and partners.

I measure the representation of each group according to its number in the firm divided by the total number of associates or partners. For example, the "proportion of female associates" is measured as the number of female associates in the firm divided by the total number of associates in the firm.<sup>219</sup> In order to test the effects of organizational characteristics, I control for changes in law school enrollment, as well as for other labor market determinants such as location, starting salary, and growth rate.

### D. *Results*

The results indicate that organizational characteristics significantly affect the gender and race composition of the sample firms, particularly at the partnership level. However, different characteristics affect different groups. The most important organizational determinants of

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217. The results presented here are based on OLS estimates, as in Part II. See *supra* note 151 and accompanying text. These models do not take into account the panel structure of my data, in which each firm is observed at 11 time points, and thus do not correct for autocorrelation between the "organizational" variables. The results presented here, however, are consistent with generalized least squares ("GLS") estimates obtained using a model with "fixed effects." See WILLIAM H. GREENE, LIMDEP USER'S MANUAL AND REFERENCE GUIDE VERSION 6.0, at 293-327 (1987) (explaining fixed and random effects models). See generally WILLIAM H. GREENE, ECONOMETRIC ANALYSIS, at ch. 16 (2d ed. 1993).

218. My analysis focused on these four groups because these are the categories used on the NALP survey form. See *supra* note 21 and accompanying text.

219. See *supra* Table 8 (providing descriptive statistics for dependent variables based on time period as whole).



gender integration are the structure of the internal promotion hierarchy and the geographic structure of the firm. The most important organizational determinants of integration for black and Asian American lawyers are the geographic structure of the firm and the nature of the firm's client base.

Hispanic lawyers present a special case for analysis. The most important organizational determinants at the associate level are the geographic structure of the firm and the nature of the firm's client base, as is the case for black and Asian American lawyers. However, at the partnership level, the structure of the internal promotion hierarchy also becomes important, as is the case for women.

Despite this complication, I argue that the organizational determinants of gender and race integration tend to be different, with gender integration being more dependent on the removal of structural barriers and racial integration being more dependent on the removal of social and cultural barriers. I relate the idiosyncratic findings for Hispanic partners to other inconsistencies in my results for Hispanics generally.

### *1. The effects of structural characteristics*

*Size:* As suggested above, size is significantly correlated with other structural variables in the analysis (see Table 10).<sup>220</sup> Controlling for these other structural characteristics, size generally has a negative effect on the level of racial integration within the sample firms (see Tables 11a and 11b); and at the partnership level, size also has a significant negative effect on the level of gender integration (see Table 11b). In general, therefore, the effects of size reported here are the opposite of those suggested by previous research.

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220. In general, these relationships are as predicted: size is positively associated with departmentalization, the length of the partnership track, the associate-partner ratio, and the likelihood of geographic diversification.

Table 10: Correlations Between Structural Variables

Variable	(1)	(2)	(3)	(4)	(5)	(6)
(1) Size						
(2) Departments	.06*					
(3) No Rotation	-.06*	.34**				
(4) Years to Partner	.33**	-.04	-.08*			
(5) Associate/Partner Ratio	.60**	.13**	-.00	.50**		
(6) National Branch(es)	.33**	.24**	.06	.11**	.19**	
(7) International Branch(es)	.54**	.10**	-.16**	.41**	.54**	.06

\*  $p < .05$       \*\*  $p < .01$       (2-tailed)

Table 11a: Effects of Structural Characteristics (Associates)

Variable	Proportion Female Associates	Proportion Black Associates	Proportion Hispanic Associates	Proportion Asian American Associates
Proportion Enrolled	1.6521*** (14.955)	.7263** (3.000)	.8580*** (6.683)	.7072*** (5.784)
Starting Salary	-.0008 (-.559)	-.0003 (-.704)	-.0008** (-2.945)	-.0002 (-.666)
Chicago	-.0063 (-.562)	.0008 (.256)	.0040 (1.791)	-.0052 (-1.705)
Los Angeles	-.0213* (-2.374)	-.0031 (-1.239)	.0129*** (7.104)	.0164*** (6.664)
Washington, D.C.	.0446*** (4.345)	.0140*** (4.908)	-.0017 (-.824)	-.0072** (-2.552)
Associate Growth	-.0003 (-1.523)	-.0000 (-.250)	-.0000 (-1.325)	-.0000 (-.342)
Size (in Hundreds)	.0084 (1.847)	.0004 (.349)	-.0030*** (-3.244)	-.0008 (-.617)
Years to Partner	-.0109** (-2.542)	-.0018 (-1.543)	-.0003 (-.401)	-.0013 (-1.149)
Associate/Partner Ratio	.0026 (.350)	-.0019 (-.933)	.0020 (1.324)	.0002 (.083)
Departments	.0029 (.338)	-.0003 (-.140)	-.0020 (-1.173)	-.0033 (-1.412)
No Rotation	-.0182*** (-3.213)	-.0021 (-1.335)	-.0001 (-.067)	.0008 (.531)
National Branch(es)	.0230** (3.125)	.0055** (2.711)	.0005 (.358)	.0093*** (4.638)
International Branch(es)	-.0328*** (-4.585)	.0003 (.174)	.0062** (4.310)	.0064*** (3.268)
(Constant)	-2.637*** (-5.063)	-.0020 (-.140)	-.0160* (-2.129)	.0041 (.447)
R2	.3481	.0986	.1884	.2373
R2 Change	.0473	.0153	.0269	.0340
F (R2 Change)	7.7988***	1.8324	3.5601***	4.8006**
(n)	(766)	(766)	(766)	(766)

\*  $p < .05$       \*\*  $p < .01$       \*\*\*  $p < .001$

Regression coefficients are unstandardized.

T-statistics are shown in parentheses.

Table 11b: Effects of Structural Characteristics (Partners)

Variable	Proportion Female Partners	Proportion Black Partners	Proportion Hispanic Partners	Proportion Asian American Partners
Proportion Associates	.1242*** (6.934)	.0414* (2.250)	.0982*** (3.464)	.0618** (2.981)
Time	.0080*** (15.498)	.0004*** (3.324)	.0003* (2.341)	.0008*** (5.679)
Starting Salary	-.0009 (-1.384)	.0001 (.591)	.0009*** (3.973)	-.0002 (1.061)
Chicago	.0010 (.186)	.0063*** (4.029)	-.0021 (-1.225)	-.0040* (-2.304)
Los Angeles	.0139** (3.152)	.0040*** (3.222)	.0009 (.603)	.0015 (1.053)
Washington, D.C.	.0150** (2.938)	.0111*** (7.650)	-.0022 (-1.396)	-.0016 (-1.006)
Partner Growth	.0006* (2.182)	-.0001 (-.949)	-.0001 (-.670)	.0000 (.526)
Size (in Hundreds)	-.0057** (-2.473)	-.0003 (-.402)	.0001 (.140)	-.0019** (-2.660)
Years to Partner	-.0147*** (-6.917)	-.0004 (-.619)	-.0031*** (-4.543)	-.0003 (-.923)
Associate/Partner Ratio	.0003 (.098)	.0013 (1.253)	-.0037*** (-3.214)	-.0011 (-.998)
Departments	-.0033 (-.773)	.0037** (3.067)	.0004 (.320)	-.0017 (-1.281)
No Rotation	.0010 (.347)	-.0016* (-2.033)	-.0025** (-2.848)	.0010 (1.104)
National Branch(es)	.0294*** (8.057)	.0027** (2.661)	-.0040*** (-3.450)	.0053*** (4.539)
International Branch(es)	.0135*** (3.793)	.0012 (1.162)	.0017 (1.479)	.0025* (2.213)
(Constant)	-.5804*** (-13.566)	-.0396*** (-3.439)	.0051 (.393)	-.0646*** (-4.982)
R2	.4860	.1335	.1969	.1240
R2 Change	.0705	.0326	.0957	.0329
F (R2 Change)	14.7438***	4.0440***	12.7982***	4.0377***
(n)	(766)	(766)	(766)	(766)

\* p &lt; .05      \*\* p &lt; .01      \*\*\* p &lt; .001

Regression coefficients are unstandardized.

T-statistics are shown in parentheses.

*Degree of Bureaucratization:* Overall, increased bureaucratization also tends to have a negative effect on the level of gender and race integration within the sample firms (see Tables 11a and 11b). In particular, firms that do not allow rotation tend to be less integrated at both the associate and partnership levels. The exception to this general negative effect is that departmentalization has a significant *positive* effect on the representation of black partners (see Table 11b).

The overall negative effect of bureaucratization suggests that increased bureaucratization may operate to increase the level of gender and race segregation within firms. The significant negative effects on the representation of black and Hispanic partners suggest that segregation of black and Hispanic associates may be a particular problem. This interpretation is consistent with recent journalistic accounts describing increasing racial segmentation within large law firms.<sup>221</sup> It also might be consistent with the positive effect of departmentalization on the representation of black partners: perhaps in firms with higher proportions of black partners, all the black partners tend to be concentrated within a particular practice area. I will return to this finding in the discussion of client base below.<sup>222</sup>

*The Structure of the Internal Promotion Hierarchy:* The number of years it takes to make partner has a significant negative effect on the representation of female lawyers at both the associate and partnership levels (see Tables 11a and 11b). The length of the partnership track also has a significant negative effect on representation of Hispanic partners (see Table 11b).

This finding could represent a "cohort" effect: that is, the longer it takes to make partner, the longer it takes for younger, more diverse associate cohorts to advance to the partnership level. If this finding were the result of a cohort effect, however, then length of the partnership track should have a significant negative effect on the level of partner integration *generally*, not just on the representation of women and Hispanics. Furthermore, the cohort interpretation does not account for the effect of the length of the partnership track on the level of gender integration among *associates*.

A better interpretation of this finding is that the length of the partnership track negatively affects the level of gender integration within the sample firms, for reasons stemming primarily from women's increased family and child care responsibilities.<sup>223</sup> The fact

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221. See *supra* notes 198-99 and accompanying text.

222. See *infra* notes 227-28 and accompanying text (discussing positive correlation between certain practice areas and representation of minority partners).

223. See Note, 34 STAN. L. REV. 1263, 1274-75 (1982).

that the length of the partnership track affects women's representation at the associate level suggests that female lawyers may voluntarily "select out" of firms where advancement is a more distant possibility.

This interpretation is supported by the interview data, which indicate that conflicts between work and family are particularly burdensome for women seeking partnership. For example, although most law firms offer maternity leave, many women are afraid to take it for fear of being branded "uncommitted." As one female partner reported:

We did a focus group on this issue and we asked the men at the table whether they would take paternity leave if the firm instituted it and they all said, "Oh no, we couldn't possibly do that, you know, if it was found out, everybody would think you weren't committed." And then we said, "Well how many of you have kids?" And they all raised their hands. And we said, "Well, you know, did any of you take off around the birth of your kids," and they all said "Of course we did." "Well, what did you do?" "Well, we took vacation, we took sick time . . . ." I mean they all had taken time off but none of them felt safe saying that they wanted paternity leave (WFP1).

Those women who do take maternity leave may suffer economic penalties in addition to delayed promotion. As the same female partner recounts:

The year I had my son I took three months. That year I got knocked from the top bonus to the second [bonus] . . . . No one could give me a reason why I got [the] second bonus. No one could give me a single criticism on a single evaluation, a single complaint from a partner or client, anything . . . . No one would admit it was because I took a three-month maternity leave, but that was the answer . . . . Because every other woman who had had children, taken maternity leave, would go back a year . . . . The only reason I was on the eight-year track and not the seven- was because I took three months off and had one son (WFP1).

This gender-based interpretation admittedly does not incorporate the negative effect of the length of the partnership track on the representation of Hispanic partners. However, one possibility is that most of the Hispanic partners in my sample are women. Another possibility is that the structure of the internal promotion hierarchy affects women and Hispanics for different reasons.<sup>224</sup>

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224. The effects of the associate-partner ratio tend to support the conclusion that Hispanic lawyers present a special case for the purposes of this analysis. In general, the associate-partner ratio has a slightly positive effect on the level of gender and race integration among associates, except in the case of black associates where the negative effect is negligible. See *supra* Table 11a

*Geographic Structure:* In general, geographic diversification has a significant positive effect on the level of gender and race integration within the sample firms (see Tables 11a and 11b). Except in the case of Hispanics, the presence of at least one other U.S. office significantly improves the level of gender and race integration among both associates and partners. And except in the case of women associates, the presence of at least one international office also tends to have positive effects (see Tables 11a and 11b).

These positive effects of geographic diversification are consistent with the hypotheses advanced above, regarding the size-like benefits of a more diversified geographic structure.<sup>225</sup> However, the effects of having an international office suggest that the racial composition of clients may be important as well. For instance, the presence of an international office has a significant positive effect on the representation of Hispanic and Asian American associates, but not on black associates (see Table 11a). Because international offices are not commonly located in African countries,<sup>226</sup> or in other countries with significant black populations, this pattern suggests that the positive effects of international diversification may be related to the racial composition of international clients.

This client-centered interpretation also is consistent with the negative effect of international diversification on the representation of female associates, in that female associates may face increased gender bias from foreign clients. I return to the findings on geographic structure in the discussion of client base below.

## 2. *The effects of client characteristics*

The nature of the firm's client base significantly affects the racial composition of the sample firms at both the associate and partnership levels (see Tables 12a and 12b). Furthermore, the pattern of effects for the various practice areas suggests that, especially at the partnership level, the racial composition of the sample firms tends to mimic the racial composition of the firm's clients.

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(illustrating effect of associate-partner ratio on women and minorities). This makes sense: firms with high associate-partner ratios probably offer increased entry-level opportunities for women and minority law graduates. The associate-partner ratio, however, has a significantly negative effect on the proportion of Hispanic partners, and this significant negative effect is peculiar to Hispanics. See *supra* Table 11b (reporting effect of associate-partner ratio on Hispanics). Given the other idiosyncratic findings regarding Hispanics, I conclude that the structure of the internal promotion hierarchy affects the representation of Hispanic partners for idiosyncratic reasons.

225. See *supra* notes 190-91 and accompanying text.

226. Not one firm in the sample reports maintaining an international office in Africa. Most of the international offices are located in Asia, Europe, Latin America, or Mexico.

For example, although some areas of practice positively affect the representation of all three racial groups,<sup>227</sup> most of the effects are group-specific. Thus, the presence of an administrative practice has a significant positive effect on the representation of black lawyers but negligible effects on the representation of Hispanic and Asian American lawyers (see Tables 12a and 12b). Similarly, the presence of an entertainment practice positively affects the representation of black lawyers and Hispanic associates but negatively affects the representation of Asian American lawyers (see Tables 12a and 12b).

Based on crude estimates of the racial composition of client groups, the practice areas that most significantly affect each group tend to be the practice areas offering the most clients and potential clients from that group. Considering both associate and partner composition, the areas of practice that have the strongest positive effect on the representation of black lawyers are corporate, administrative, commercial, and entertainment (see Tables 12a and 12b). Because administrative lawyers tend to work with the federal government or its lawyers, and entertainment lawyers tend to work with entertainers and their agents, one explanation for this pattern is that administrative and entertainment practices tend to offer relatively high proportions of black clients.

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227. The areas of practice that positively affect the representation of all three groups are "foreign trade" and "government." See *supra* Tables 12a and 12b.

Table 12a: Effects of Client Base (Associates)

Variable	Proportion Female Associates	Proportion Black Associates	Proportion Hispanic Associates	Proportion Asian American Associates
Proportion Enrolled	1.7389*** (17.101)	.6004** (2.760)	.7179*** (6.195)	.5649*** (5.170)
Starting Salary	-.0008 (-.635)	-.0004 (-1.125)	-.0009*** (-3.473)	-.0004 (-1.277)
Chicago	-.0063 (-.801)	.0053** (2.707)	-.0002 (-.108)	-.0086*** (-4.071)
Los Angeles	-.0305*** (-3.530)	-.0001 (-.027)	.0106*** (6.173)	.0127*** (5.558)
Washington, D.C.	.0306** (2.569)	.0090** (2.796)	.0009 (.371)	-.0168*** (-5.324)
Associate Growth	-.0002 (-1.001)	-.0000 (-.669)	-.0001* (-2.324)	.0001 (1.293)
% Litigation	.0006* (2.331)	-.0000 (-.527)	.0002*** (3.251)	.0000 (.016)
Corporate	-.0142 (-1.899)	.0055** (2.706)	-.0008 (-.526)	-.0054** (-2.721)
Banking	-.0081 (-.877)	-.0001 (-.041)	.0045** (2.434)	.0022 (.902)
Tax	.0088 (1.084)	.0034 (1.535)	.0010 (.603)	-.0003 (-.139)
Antitrust	-.0019 (-.160)	-.0057 (-1.735)	-.0011 (-.469)	-.0003 (-.088)
Real Estate	.0185* (2.190)	-.0038 (-1.669)	-.0048** (-2.866)	-.0011 (-.499)
Commercial	.0149 (1.549)	.0061* (2.344)	-.0040* (-2.078)	.0097*** (3.823)
Government	.0199 (1.454)	.0070 (1.872)	.0083** (3.062)	.0036 (.987)
Administrative	.0160 (1.252)	.0090** (2.605)	-.0031 (-1.205)	.0015 (.443)
Labor/Employment	.0225 (1.662)	.0017 (.464)	.0024 (.899)	-.0129*** (-3.595)
Foreign Trade	.0638*** (-3.729)	.0022 (.468)	.0130*** (3.824)	.0217*** (4.788)
Entertainment	-.0630*** (-3.293)	.0143** (2.763)	.0104** (2.720)	-.0109* (-2.151)
(Constant)	-.3729*** (-8.802)	-.0138 (-1.185)	-.0190*** (-4.157)	.0080 (1.891)
R2	.3533	.1065	.2284	.2937
R2 Change	.0531	.0454	.0718	.1037
F (R2 Change)	5.2450***	3.2505***	5.9472***	9.3860***
(n)	(785)	(785)	(785)	(785)

\* p &lt; .05      \*\* p &lt; .01      \*\*\* p &lt; .001

Regression coefficients are unstandardized.

T-statistics are shown in parentheses.



Table 12b: Effects of Client Base (Partners)

Variable	Proportion Female Partners	Proportion Black Partners	Proportion Hispanic Partners	Proportion Asian American Partners
Proportion Associates	.1172*** (6.443)	.0155 (.853)	.0822** (2.882)	.0618** (3.043)
Time	.0069*** (13.755)	.0004** (3.394)	.0002 (1.557)	.0005*** (4.526)
Starting Salary	-.0013* (-1.929)	-.0001 (-.732)	.0010*** (4.555)	-.0002 (-1.038)
Chicago	.0120** (2.922)	.0040*** (3.624)	.0029* (2.262)	-.0038** (-3.115)
Los Angeles	.0267*** (6.078)	.0037** (3.125)	.0060*** (4.331)	.0024 (1.819)
Washington, D.C.	.0093 (1.536)	-.0002 (-.128)	.0024 (1.290)	-.0019 (-1.055)
Partner Growth	.0007** (2.593)	.0000 (.465)	-.0002* (-1.951)	.0000 (.162)
% Litigation	.0004** (3.116)	-.0001* (-2.035)	.0000 (1.149)	.0001 (1.750)
Corporate	.0084* (2.226)	.0032** (3.093)	.0006 (.493)	.0023* (2.050)
Banking	-.0004 (-.095)	.0037** (2.985)	-.0034* (-2.336)	.0013 (.963)
Tax	.0097* (2.369)	.0033** (2.970)	-.0026* (-2.067)	.0031** (2.569)
Antitrust	.0091 (1.485)	.0018 (1.089)	-.0024 (-1.272)	.0060*** (3.293)
Real Estate	-.0053 (-1.238)	-.0008 (-.684)	-.0034** (-2.520)	.0084*** (6.681)
Commercial	.0043 (.886)	.0060*** (4.587)	-.0019 (-1.230)	.0064*** (4.405)
Government	-.0014 (-.198)	.0055** (2.924)	.0001 (.032)	.0033 (1.598)
Administrative	.0091 (1.412)	.0128*** (7.296)	.0008 (.416)	.0019 (1.002)
Labor/Employment	.0030 (.447)	-.0035 (-1.991)	.0078*** (3.675)	-.0015 (-.762)
Foreign Trade	-.0155 (-1.779)	.0063** (2.701)	.0084** (3.116)	.0090*** (3.473)
Entertainment	.0047 (.486)	.0108*** (4.130)	-.0035 (-1.170)	-.0054 (-1.875)
(Constant)	-.5939*** (-14.694)	-.0336*** (-3.355)	-.0169 (-1.438)	-.0541*** (-4.893)
R2	.4436	.1765	.1611	.2020
R2 Change	.0373	.1161	.0630	.1041
F (R2 Change)	4.2841***	9.0037***	4.7927***	8.3250***
(n)	(785)	(785)	(785)	(785)

\* p &lt; .05      \*\* p &lt; .01      \*\*\* p &lt; .001

Regression coefficients are unstandardized.

T-statistics are shown in parentheses.

Similarly, for Asian American lawyers, the most significant primary practice areas are real estate, general commercial, and foreign trade (see Tables 12a and 12b). Given the boom in foreign real estate investment on the West Coast,<sup>228</sup> this pattern suggests that Asian American lawyers may be represented best in firms that handle residential and commercial real estate transactions for Asian clients.<sup>229</sup>

Even the findings for Hispanic lawyers support this interpretation. At both the associate and partnership levels, the presence of an international and foreign trade practice has a significant positive effect on Hispanic representation, and the presence of a real estate practice has a significant negative effect (see Tables 12a and 12b). In addition, the presence of a foreign trade practice has a significant positive effect on the proportion of Hispanic partners, whereas banking, real estate, and entertainment practices all have significant negative effects (see Table 12b). These findings tend to suggest that Hispanic partners may be best represented in practice areas involving foreign (perhaps Mexican or Latin American) clients<sup>230</sup> and least represented in practice areas with predominantly white, Asian American, and black clients.

This "demographic" interpretation admittedly does not account for all the practice area effects. It is difficult to explain according to client composition why corporate, banking, and tax practices positively affect the proportion of black partners; or why tax and antitrust practices positively affect the proportion of Asian American partners. The demographic interpretation also does not account for the inconsistent effect of banking on Hispanic associates versus Hispanic partners or the inconsistent effect of corporate practice on Asian American associates versus partners.

However, a demographic interpretation of the practice area effects is consistent with recent journalistic accounts describing the effect of client demographics on the availability of advancement opportunities for minority lawyers.<sup>231</sup> Such an interpretation also is consistent with the demographic interpretation advanced above regarding the

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228. See Teresa Watanabe, *Japanese Make Themselves at Home in U.S. Residential Market*, L.A. TIMES, Apr. 2, 1990, at D3 (explaining that Japanese companies increasingly purchase real estate in California).

229. When included in the client base model, the interaction of "real estate" and "international branches" has a statistically significant positive effect on the proportion of Asian American partners.

230. The presence of a labor and employment practice also positively affects the representation of Hispanic partners, although one can only guess how this might fit in. Labor union representation in Chicago and Los Angeles?

231. See *supra* note 201 and accompanying text.

effects of having an international office.<sup>232</sup> Firms whose primary practice areas include foreign trade tend to have significantly higher proportions of Hispanic and Asian American associates and significantly lower proportions of female associates (see Table 12a)—a pattern that mirrors the effects of international diversification (compare Table 11a).

In addition, a demographic interpretation of the practice area effects is consistent with my interpretation of the positive effects of departmentalization on the proportion of black partners.<sup>233</sup> If black partners tend to be concentrated within particular practice areas, then within firms, black partners may tend to be concentrated in the departments corresponding to these practice areas.

Finally, it is difficult to think of an alternative explanation that is more comprehensive. For instance, the effects of “public” practice areas (such as government, administrative, and labor and employment) are consistently positive for all groups, which tends to support the hypothesis that law firms with more public clients may be more responsive to federal antidiscrimination law—and thus more integrated.<sup>234</sup> However, an interpretation based on firms’ responsiveness to federal law cannot explain the positive effects of international clients on racial integration.

It could be that women and people of color tend to be concentrated in the least prestigious practice areas. The legal profession as a whole is stratified primarily according to the type of client served. Lawyers who serve organizational clients tend to make more money and to have more status than lawyers who serve individuals,<sup>235</sup> and within the “organizational client” sector, the most prestigious fields of practice are those associated with large corporate clients (such as corporate and securities, and banking), rather than those associated with labor organizations or government.<sup>236</sup>

If the effects of practice area stemmed from variations in the prestige of the field, however, the effect of each practice area should be consistent with its prestige, and prestige effects should be consistent across the four groups. Thus, women and people of color should be least represented in practice areas such as corporate, banking, and antitrust and best represented in areas such as government, labor, and general commercial practice. Instead, some of the

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232. See *supra* note 226 and accompanying text.

233. See *supra* note 222 and accompanying text.

234. See Edelman, *Symbolic Structures*, *supra* note 13, at 1542.

235. See HEINZ & LAUMANN, *supra* note 129, at 380.

236. See *id.*

most prestigious practice areas have a positive effect on racial integration; moreover, the effects of most areas are inconsistent across groups (see Tables 12a and 12b).

Consequently, I conclude that the effects of the various practice areas stem from the racial composition of associated client groups. Law firms that practice in areas with higher proportions of black clients tend to have higher proportions of black lawyers than law firms practicing in other areas.<sup>237</sup> Similarly, law firms that practice in areas with higher proportions of Hispanic and Asian American clients tend to have higher proportions of lawyers from those groups.<sup>238</sup>

Furthermore, my data suggest that, at least in the case of black and Asian American partners, the nature of the firm's client base may be more important than labor market conditions in determining the level of organizational integration. For instance, in the case of black partners, the inclusion of client base variables mediates the effects of the internal labor supply. Compare the results in Table 12b with the results for black partners in the model including labor market controls only (see Table 9b). In the control model, the proportion of black associates in the firm is a significant determinant of the proportion of black partners in the firm; in the client base model, the proportion of black associates is insignificant. The effect of being located in Washington, D.C., also becomes insignificant for black partners when the client base variables are included.

A similar result occurs for Asian American partners. Although the effect of being located in Los Angeles is significantly positive in the control model (see Table 9b), it no longer is significant when the variables for client base are included (see Table 12b).

### 3. *Comparing the effects of structure and client base*

As Table 13 indicates, primary practice areas are significantly correlated with the structural characteristics of the firm. Practice areas such as corporate, tax, and banking tend to be associated with larger, more bureaucratized, more hierarchical, and more geographically diversified firms (see Table 13). In contrast, commercial and administrative practices tend to be found in smaller, less bureaucratized, less hierarchical, and less diversified firms.

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237. See *supra* note 227-30 and accompanying text (describing links between various practice areas and level of racial integration within firms).

238. See *supra* notes 227-30 and accompanying text (arguing that Hispanic and Asian American attorneys may be best represented in practice areas that contain highest number of Hispanic and Asian American clients).

Table 13: Correlations Between Practice Areas and Structural Variables

Practice Area	Size	Departmentalized	No Rotation	Years to Partner	Associate/ Partner Ratio	National Branch(es)	International Branch(es)
Corporate	.21**	.15**	-.10**	.17**	.29**	.30**	.10**
Tax	.02	.16**	.11**	-.07*	.08**	.07*	.02
Banking	.30**	-.08**	-.02	.24**	.38**	.13**	.24**
Real Estate	-.14**	.04	.09**	-.02	-.14**	-.02	-.23**
Commercial	-.18**	-.10**	-.10**	-.24**	-.22**	-.09**	-.16**
Administrative	-.10**	-.41**	-.18**	.07*	-.16**	-.30**	-.05
Antitrust	.01	-.21**	-.02	.09**	-.01	-.04	-.05
Government	-.01	-.03	.06*	.09*	.01	.01	.01
Labor/Employment	.18**	.09**	-.09**	-.12**	.01	-.01	.16**
Foreign Trade	.04	.08*	-.05	.03	-.07*	.10**	.11**
Entertainment	-.09**	.06*	.16**	-.06	-.06	-.09**	.19**

\* p < .05      \*\* p < .01      (2-tailed)

When both structural and client base variables are included in the same model, however, their effects on the level of law firm integration remain the same as those reported above (see Table 14). In general, the most important organizational determinants of gender integration are structural characteristics, and the most important determinants of racial integration are client characteristics.

**Table 14: Summary Statistics for Model Including Structural Variables and Client Base Variables**

Dependent Variable	R2	Structural Variables F (R2 Change)	Client Base Variables F (R2 Change)
<u>Associate Composition</u>			
Proportion Female	.4007	6.3035***	5.3786***
Proportion Black	.1466	2.4588*	3.9333***
Proportion Hispanic	.2662	4.0281***	6.2645***
Proportion Asian American	.3533	6.8522***	11.3116***
<u>Partner Composition</u>			
Proportion Female	.5231	14.4582***	5.4043***
Proportion Black	.2540	8.0614***	10.3319***
Proportion Hispanic	.2626	13.6159***	5.0569***
Proportion Asian American	.2415	7.3625***	9.4656***

\*  $p < .05$

\*\*  $p < .01$

\*\*\*  $p < .001$

#### IV. SUMMARY AND IMPLICATIONS

These results indicate that, even controlling for labor supply and demand, law firm characteristics significantly affect the level of law firm integration. The most important determinants of gender integration are the structural characteristics of the firm such as the length of the internal promotion hierarchy and the degree to which the firm is geographically diversified. The most important determinant of racial integration is the racial composition of the firm's client base.

These findings have important implications for employment stratification theory and research, as well as for the future of gender and race integration within law firms. First, my findings support recent empirical work, which indicates that organizations play a critical role in the perpetuation and alleviation of gender- and race-based employment inequality.<sup>239</sup> The firms in my sample vary significantly in their levels of gender and race integration, and much of that variation is the result of *firm-level*—versus market—conditions. These findings suggest that individual law firms (and firm leaders) bear a substantial responsibility for determining the level of law firm integration.

My research also extends previous work by illustrating the group-specific consequences of various organizational characteristics. Previous studies of organizational and occupational integration tend to focus on either gender<sup>240</sup> or race,<sup>241</sup> or to draw no theoretical distinction between the two.<sup>242</sup> My research suggests that the dynamics of gender and race integration, to some extent, may be theoretically distinct.

In particular, my findings suggest that, at least within elite law firms, structural conditions such as the length of the partnership track are a critical determinant of gender, but not racial, integration. Structural conditions are especially important determinants of gender integration at the partnership level. Similarly, the nature of the firm's

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239. See, e.g., Baron et al., *supra* note 18, at 1364 (proposing that organizational structures and dynamics affect gender desegregation); Baron & Newman, *For What It's Worth*, *supra* note 12, at 172-73 (concluding that job positions and relevant markets are influenced by organizational politics); Bridges & Nelson, *supra* note 16, at 616-17 (positing theory explaining gender inequality based on market and organizational factors).

240. See Baron et al., *supra* note 18, at 1362 (studying effect of organizational factors on gender desegregation); see also Bridges & Nelson, *supra* note 16, at 616 (proposing market-organizational relationship theory to explain gender segregation).

241. See Hammond, *supra* note 2, at 1.

242. See Baron & Newman, *For What It's Worth*, *supra* note 12, at 155-57 (focusing research on women and racial minorities equally).

client base is a critical determinant of racial, but not gender, integration. The nature of the firm's client base is even more important than labor market conditions for determining racial integration at the partnership level. These findings have important implications for the future of gender and race integration within law firms.

### A. *Implications for Gender Integration*

My research suggests that the chief mechanism for increasing gender integration within elite law firms is structural change. Structural change may be especially important for increasing the level of gender integration among partners.

Unfortunately, most evidence suggests that law firms are resistant to structural change—particularly the implementation of part-time employment policies, which many advocate as a means for accommodating lawyers with child care and other family responsibilities.<sup>243</sup> Firms that do make part-time schedules available tend to do so on an individual, ad-hoc basis,<sup>244</sup> and lawyers who opt to work part-time—even temporarily—typically are dropped from the partnership track and suffer disproportionate economic penalties.<sup>245</sup>

Some of the resistance to part-time employment may stem from the relatively rigorous demands of large firm practice for lawyers generally. As the interview data suggest, accommodations for one lawyer may make other lawyers jealous and cause internal conflict and resentment: "Partners share aggravation. And if somebody is going to pass on all the aggravation that involves travel, staying late at night, or giving up weekends, you've got the potential for a lot of resentment." (WFP2). As one partner explains:

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243. See *Few Attorneys Go Part-Time in '96*, THE LEGAL INTELLIGENCER, Feb. 3, 1997, at 7 (reporting that only 2.6% of all lawyers surveyed worked part-time in 1996); Cynthia Fuchs Epstein et al., *Glass Ceilings and Open Doors: Women's Advancement in the Legal Profession*, 64 *FORDHAM L. REV.* 291, 392-414 (1995) (reporting use and disuse of part-time policies in a sample of eight New York law firms); Carol McHugh Sanders, *Big-Firm Presence of Women, Minorities Mixed*, CHI. DAILY L. BULL., Jan. 14, 1997, at 2 (stating that percentage of lawyers working part-time is far lower than percentage in other occupational groups).

244. See Epstein et al., *supra* note 243, at 395-401 (discussing prevalence of ad hoc versus formal part-time policies).

245. See Abramson & Franklin, *supra* note 183, at 82 (noting that women find the option of working part time to be infeasible in large firm context); Lisa Brennan, *Women Still Lagging in Partner Ranks But Finding Ways to Break the Barriers*, N.J. L.J., Apr. 24, 1995, at 1 (reporting that women who opt for part-time and flex-time arrangements "rarely, if ever, regain the momentum they need to make partner"); Maureen Castellano, *Women Still Lagging in Partner Ranks*, N.J. L.J., Apr. 24, 1995, at 1 (stating that partnership prospects become "particularly grim" for women who takes advantage of part-time options); Epstein et al., *supra* note 243, at 395 (reporting that all part-time associates in sample were taken off partnership track while working part-time).



If you talk to young associates it is really extraordinary the number of them who say . . . "Please God let them pay me \$25,000 a year less and let me work that much less, too." And I think the problem is that people would gladly take the cut in pay in order to be able to work less time. It's no punishment . . . . And so the problem with the part-time policy . . . is that if you are going to make it available at a big firm you are going to find all the associates . . . want it. (WFP3).

Part of the resistance also may stem from an ideology of "professional commitment" that treats women's family responsibilities, in particular, as suspect. The interview data suggest that women who take time off to care for their children tend to be labelled "uncommitted," even when time taken off for other reasons would not be considered inappropriate. As one female associate reports: "If I went off to take care of my daughter for three hours, that was suspect . . . [I]f my colleague went off for analysis, or to go to the health club, that was just fine." (WEA1) Female lawyers may be perceived as working less than they actually do, simply by virtue of the fact that they have children. Consider the following account, from a female partner in a large southern firm:

One of the things that a number of us [female partners] had observed was that associate evaluation was just extremely [subjective] and sometimes [perceptions began] to be held about associates very early in your career [and it is] very difficult for an associate to do anything to change that perception . . . . One [incident] that really stands out in my mind in those days was, I remember one partner saying about an associate one time, "She doesn't work very hard," and so we went and got out the hours—hours that were right at the top of the associates . . . . (WFP4).

It is possible that as the proportion of female partners increases, women will challenge this concept of "professional commitment." As one female partner reports, women with children are beginning to "come out of the closet" in elite law firms:

It's like coming out of the closet, and I think it is very important. I have huge portraits of my son all over my office. When clients come out for a good trial, they will be in the office wanting me to work night and day, [but] I tell them I have to go home at six o'clock to relieve the babysitter. And I say, "I can drop you off at the hotel on my way home." It's interesting because the women who—the very, very first woman to make partner . . . had children but it was like a secret. No pictures in her office . . . she was even written up in the [trade magazine] that way [childless] . . . . Now

it is more out in the open, where it's, you know, "I'll be late to work Monday, it's the first day of school . . ." (WFP4).

Some evidence indicates that both male and female lawyers increasingly are rebelling against the pressures of large firm practice, by agitating for "lifestyle" accommodations by their firms,<sup>246</sup>—or by leaving large firm practice altogether.<sup>247</sup>

It is not clear to what extent large law firms can afford to implement part-time policies and still remain competitive in their markets. Some argue that the inherent demands of the work make part-time employment economically inefficient for large law firms, at least at the partnership level.<sup>248</sup> There is little actual evidence on this point, however, and such claims may be more ideological than empirical.<sup>249</sup> What is clear is that without large-scale structural change, the traditional organization of work in elite law firms that rewards long hours and round-the-clock availability will continue to disadvantage women disproportionately and to serve as a barrier to gender integration.

### B. *Implications for Racial Integration*

The effects of client base on the racial composition of the sample firms suggest that a chief mechanism for racial integration within elite law firms is social similarity with clients. Thus, in order to achieve better representation within elite law firms, people of color must achieve better representation among elite firm clients. As one

246. See Claire Papanastasiou Rattigan, *Kids & Work: A Balancing Act*, MASS. LAW. WKLY., Apr. 22, 1996, at B1 (suggesting that men share women's concerns about the availability of alternative work schedules within law firms); Leslie Rogers, *Many Lawyers Seek Flexible Work Alternatives*, IND. LAW., May 1, 1996, at 15 (reporting that young lawyers increasingly are demanding alternatives to law firms' traditional 80-hour work week).

247. See Castellano, *supra* note 245, at 1 (predicting that more and more women will "select out" of large law firms to avoid the inevitable structural conflict between child rearing and large firm practice).

248. See, e.g., Epstein et al., *supra* note 243, at 395, 407 (reporting lawyers' opinions that part-time employment is incompatible with partnership); *Firm Feedback on Part-Time Lawyering*, MASS. LAW. WKLY., Apr. 22, 1996, at B4 [hereinafter *Firm Feedback*] (reporting lawyers' claims that part-time practice is unworkable in some specialties). Law firms' demand for part-time work may be better reflected in firms' increasing reliance on contract (temporary) lawyers hired from outside the firm. See Samuel A. Frederick, *Controlling Compensation Costs by Using Temporary Attorneys*, LAW PRAC. MGMT., July/Aug. 1995, at 34 (reporting that number of temporary lawyers increased from 1300 in 1988 to over 10,000 in 1996 and citing availability of speedy referral networks as key factor in law firms' use of temporary lawyers); Melissa McKee Hackney, *Some Large Phila. Firms Embrace Contract Lawyers*, THE LEGAL INTELLIGENCER, Apr. 15, 1996, at 3 (reporting increasing use of contract lawyers in Philadelphia).

249. See *Firm Feedback*, *supra* note 248, at B4 (reporting that "many partners believe lawyers should be available around the clock" and suggesting that part-time lawyers, who "work more . . . intensively without socializing . . . much during the day," may be disadvantaged when it comes time for promotion); see also Epstein et al., *supra* note 243, at 403-06 (describing "stigma" of part-time law practice).

minority lawyer observed: "The bottom line is, minorities will only stay on at large law firms if we are able to sustain ourselves economically, i.e., if we can bring in business."<sup>250</sup>

The identification of minority lawyers with minority clients may itself become problematic, however, by increasing ethnic segmentation within the firms. As one black lawyer complains: "They expect you to know every black politician in the city and every black businessman in the state."<sup>251</sup> Furthermore, minority lawyers who serve independent client bases may opt to form their own firms rather than work within larger, majority firms.<sup>252</sup>

### CONCLUSION

The future of gender and race integration within elite law firms is unclear. Elite law firms may adjust to changes in their external labor supply by incorporating part-time employees within the firm, for instance, or by serving an increasingly diverse clientele. Alternatively, elite law firms as we know them will fail to respond to supply-side changes, and instead such changes will be reflected in the emergence of alternative work organizations such as contract lawyer pools and minority-owned firms.

Given that this is a story of incremental, organizational change and the incremental, progressive effects of such change, perhaps it is appropriate to conclude by quoting Baron, who suggests an "organizational" theory of integration:

We view job integration as the net result of a series of incremental changes, involving new approaches to recruitment, selection, and promotion; career development; and job analysis and classification. Organizations are pressured to effect these changes by external and internal constituencies . . . . At the same time, not all organizations are equally vulnerable or responsive to pressure . . . . Moreover, there are impediments to change . . . . From a theoretical and a practical standpoint organizational practices and policies are crucial

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250. Arnie Kanter, *Some Other Opinions on Minority Retention*, NAT'L L.J., Mar. 26, 1990, at 21; see also Michael Riccardi, *Law Firm Hiring Diversity: A "Client-Driven" Phenomenon*, PA. L.J., Nov. 6, 1995, at 13 (suggesting that access to clients is a key factor in retaining minority lawyers within large law firms).

251. Kanter, *supra* note 250, at 21; see *supra* note 199 and accompanying text.

252. See Chris Klein, *Minority Firm Battles as Political Tides Shift*, NAT'L L.J., June 24, 1996, at A1 (discussing need to diversify partnerships in "majority" firms to respond to increasing diversity among clients); L.L.M.M.G., *Minority-Owned Identity Can Be a Double-Edged Sword*, ILL. LEGAL TIMES, Dec. 1995, at 20 (discussing increasing competition posed by minority-owned firms with specialized clienteles); *supra* note 201 and accompanying text.

determinants of the rate at which ascription in the labor market is reduced . . . .<sup>253</sup>

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253. Baron et al., *supra* note 18, at 1364, 1394 (concluding that organizational structures affect gender desegregation).

## APPENDIX

## List of Firms in Sample and 1989 Size Ranking

CHICAGO (n=20)

Bake & McKenzie (1)	Mayer, Brown & Platt (11)
Bell, Boyd, & Lloyd (178)	McDermott, Will & Emery (15)
Chapman and Cutler (98)	Ross & Hardies (215)
Gardner, Carton & Douglas (151)	Rudnick & Wolfe (103)
Hopkins & Sutter (90)	Schiff Hardin & Waite (126)
Isham, Lincoln & Beale	Sidley & Austin (5)
Jenner & Block (75)	Sonnenschein Carlin Nath & Rosenthal (85)
Katten, Muchin & Zavis (67)	William Brinks Olds Hofer Gilson & Lione Ltd.
Keck, Mahin & Cate (60)	Winston & Strawn (33)
Kirkland & Ellis (31)	
Lord, Bissell & Brook (70)	

LOS ANGELES (n=25)

Adams, Duque & Hazeltine	Manatt, Phelps, Rothenberg & Phillips
Alschuler, Grossman & Pines	McKenna, Conner & Cuneo (78)
Buchalter, Nemer, Fields & Younger (156)	Mitchell, Silberberg & Knupp (228)
De Castro, West, Chodorow & Burns	Munger, Tolles & Olson
Gendel, Raskoff, Shapiro & Quittner	Nossaman, Guthner, Knox & Elliot
Gibson, Dunn & Crutcher (4)	O'Melveny & Myers (16)
Greenberg, Glusker, Fields, Claman & Machtinger	Paul, Hastings, Janofsky & Walker (36)
Irell & Manella (157)	Pircher, Nichols & Meeks
Kindel & Anderson	Sheppard, Mullin, Richter & Hampton (88)
Latham & Watkins (8)	Stutman, Treister & Glatt
Lillick & McHose (167)	Tuttle & Taylor
Loeb and Loeb (144)	Wyman, Bautzer, Rothman, Kuchel & Silbert (235)
Lyon & Lyon	

NEW YORK CITY (n=42)

Baer Marks & Upham	Davis Hoxie Faithful & Hapgood
Breed, Abbott & Morgan	Davis Polk & Wardwell (30)
Brown & Wood (89)	Debevoise & Plimpton (51)
Cadwalader, Wickersham & Taft (71)	Dewey, Ballantine, Bushby, Palmer & Wood (28)
Cahill, Gordon & Reindel (62)	Fish & Neave
Carter, Ledyard & Milburn	Fried, Frank, Harris, Shriver & Jacobson (21)
Chadbourne & Parke (82)	Hughes, Hubbard & Reed (108)
Cleary, Gottlieb, Steen & Hamilton (34)	Kaye, Scholer, Fierman, Hays & Handler (39)
Coudert Brothers (48)	Kelley, Drye & Warren (26)
Cravath, Swaine & Moore (61)	

Kramer, Levin, Nessen, Kamin & Frankel (236)	Reavis McGrath
Lord, Day & Lord, Barret Smith (135)	Roberts & Holland
Milbank, Tweed, Hadley & McCloy (14)	Rosenman & Colin (102)
Milgram Thomajan & Lee	Shearman & Sterling (9)
Mudge Rose Guthrie Alexander & Ferdon (64)	Simpson Thacher & Bartlett (22)
O'Sullivan Graev Karabell & Gross	Skadden, Arps, Slate, Meagher & Flom (3)
Patterson, Belknap, Webb & Tyler (213)	Stroock & Stroock & Lavan (49)
Paul, Weiss, Rifkind, Wharton & Garrison (35)	Thacher, Proffitt & Wood (26)
Proskauer Rose Goetz & Mendelsohn (44)	Wachtell, Lipton, Rosen & Katz
	Webster & Sheffield
	Weil, Gotshal & Manges (10)
	White & Case (24)
	Willkie, Farr & Gallagher (45)
	Winthrop, Stimson, Putman & Roberts (84)

WASHINGTON, D.C. (n=18)

Arent, Fox, Kintner, Plotkin & Kahn (114)	Howrey & Simon (190)
Arnold & Porter (43)	Miller & Chevalier
Caplin & Drysdale, Chartered	Newman & Holtzinger, P.C.
Covington & Burling (97)	Patton, Boggs & Blow (203)
Crowell & Moring (161)	Ross, Dixon & Masback
Dickstein, Shapiro & Morin (189)	Shaw, Pittman, Potts & Trowbridge (112)
Dow, Lohnes & Albertson (150)	Steptoe & Johnson (127)
Hamel & Park	Sutherland, Asbill & Brennan (107)
Hogan & Hartson (59)	Wilmer, Cutler & Pickering (163)