

CONNECTIONS, SPECIALIZATION, & LAWSUITS:
THE INFLUENCE OF HUMAN AND SOCIAL CAPITAL FORMATION
IN THE LEGAL PROFESSION

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Abstract

Legal profession represents a key labor sector whether in politics or business in any developed or underdeveloped country. What resources do lawyers use for matching the demand to their own services' supply? Private sector lawyers make use of their level of human capital and their social capital for this to be accomplished. This work makes a literature survey focusing on legal profession and their relationships with these capital dimensions. Particular interest is given to the relationship of these capital forms and the effectiveness of professional performance.

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1. INTRODUCTION

This paper surveys theoretical, empiric (and quantitative and qualitative) contributions that deal with the influence of two individual capital dimensions on lawyers' professional performance: human and social capital. Namely, the level of knowledge they acquired and the relationships they make for dealing with professional practice. Initially both take part of the acquisition process for the degree license. However, once in the labor market, interaction between both forms of capital opens diverse and rich layers of analysis. For instance, market size (jointly with another constraints) conditions the organizational structure and human capital formation procedures. Inside big markets, competition emerges and becoming specialist use to pay better than to remain as generalist. But also in big markets competition rewards client-getting tasks, so social capital acquisition is also better pay.

This work is organized as follows. Section 2 reviews specific legal professional issues that would important for the rest of the paper. Section 2 gives an introduction to human capital topics and describes main findings. Section 4 uses a similar framework for describing social capital findings. Section 5 studies complementarities issues between two capital dimensions. Section 6 concludes the survey.

2. ISSUES ON THE LEGAL PROFESSION EVOLUTION

Legal profession has been usually associated with government, politics, and business in almost any modern society. Like every profession, it has emerged from task specificity. Historically, lawyers acquired political relevance at the time monarchies fall. During republican life their knowledge was appreciated and lawyers became indispensable for public affairs' organization and administration. Finally, a constitutional power of the state would be settled only for members of this profession, political parties would take advantage of the social status and educational level of these professionals for office formation with many of them succeeded in conforming new governments.^{1,2} However, private professional practice has witnessed profound changes during the last decades.

Law firm research has received strong academic interest due to the growing importance of the profession in economic life. For instance, the percentage of USA's GDP allocated in legal compensations has triplicate in the last 30 years (from 1.1 to 3.5%.) The causes of this increment can be attributed to factors combination, the main two could be:

¹ For instance, it has been detected current preeminence of this profession among counselors and representatives in the parliament of Argentina. See A.L. Gastrón, *Dime quién eres... ¡y te diré con quién andas! Un perfil educativo de los legisladores y asesores parlamentarios en la Argentina*, Reforma política para la República, Buenos Aires, mimeo, 2003 (in Spanish) and A.L. Gastrón, *De leyes, sospechas y pizarrones: El perfil educativo de los senadores de la Nación*, Reforma política para la República, Buenos Aires, mimeo, 2003 (in Spanish).

² A sketch of the political influence of liberal profession members in developing countries could be seen in E.A. Krause, *Professional Group Power in Developing Societies*, CURRENT SOCIOLOGY 49, 2001.

- (i) Through a long and extremely competitive process American big law firms reached an organizational transformation that allow them industrial-level billings (increasing internal technology), and
- (ii) American legal system has been acquiescent in accepting billion dollars lawsuits, which has created strong economic incentives for career choice of many professionals (increasing supply and demand of services.)³

In a parallel way, it has been observed across developed and undeveloped countries a considerable augment of the yearly quantity of lawyers accessing the job market while in this case no such strong economic incentives persist. In the American case, as described by Heinz and colleagues, lawyers fraction in USA increased from 1/572 in 1971 to 1/303 lawyer per inhabitant in 1995, while from 1972 to 1992 charges for legal services increased also from 37 to 101 billions in constant dollars.⁴ In Latin America, a similar trend is observed with an increase in the number of graduates throughout the subcontinent⁵ while there is no available data on litigated amounts. This trend includes China⁶ showing even a slightly

³ See H.M. Kritzer, *The Fracturing Legal Profession: The Case of Plaintiffs' Personal Injury Lawyers*, INTERNATIONAL JOURNAL OF THE LEGAL PROFESSION 8, 2001 at 226.

⁴ See J.P. Heinz, E.O. Laumann & R.L. Nelson, *The Scale of Justice: Observations on the Transformation of Urban Law Practice*, ANNUAL REVIEW OF SOCIOLOGY 27, 2001.

⁵ See R. Pérez Perdomo, *LOS ABOGADOS EN LATINOAMÉRICA: UNA INTRODUCCIÓN HISTÓRICA*, (Santiago de Chile Press, 2002) (in Spanish) at 128.

⁶ See E. MICHELSON, *UNHOOKING FROM THE STATE: CHINESE LAWYERS IN TRANSITION*, Department of Sociology, The University of Chicago, PhD thesis, 2003 at 476.

increase in Cuba.⁷ In the case of Latin American countries also, law careers produce the largest quantity of graduates.⁸

This bias in career choice has been substantially sustained upon the improvement in education access rate across the World in the last decades, including university education. Given that professional services sector is intensive in human capital, it has become the main absorbent of these incoming qualified labor worker flows. Though at the end, there is still lack of academic research that explains why this phenomenon seems to be universal.

Sociologists early study legal profession. While there were initial research work in several particular features related to law firms (for instance, Ladinsky studies social conformation of private practice in Chicago⁹; Smigel investigates recruitment techniques adopted by New York law firms¹⁰; Wood performs case studies that shed light on ways of informal work present in criminal law practice, as examples¹¹), the contributions that guide actual bibliography on the way law firms operate mostly come from academics from Law itself (Law professors who describe specific facets of the practice), management, sociology with some contributions of

⁷ See Pérez Perdomo *supra* note 5 at 120.

⁸ See Pérez Perdomo *supra* note 5 at Ch. 4.

⁹ See J. Ladinsky, *Careers of Lawyers, Law Practice, and Legal Institutions*, AMERICAN SOCIOLOGICAL REVIEW 28, 1963.

¹⁰ See E. Smigel, *The Impact of Recruitment on the Organization of the Large Law Firm*, AMERICAN SOCIOLOGICAL REVIEW 25, 1960.

¹¹ See A. L. Wood, *Informal Relations in the Practice of Criminal Law*, AMERICAN

economists.¹²

Job market is associated to enter in the state bureaucracy or being part of the private sector. Lawyers in the private sector appreciate their professional independence that use to be the main reason for “embracing the Law”. Partnership, on the other hand, serves for business office costs reduction and for offering a more diverse set of legal services; in more theoretical terms, partnership outlines a good practice in sectors that are intensive in human capital utilization because final product is difficult to observe.¹³

Into the private sector, lawyers can work as corporate employee in the legal department or as litigant lawyer. This last category will be focused by this survey. As litigant lawyer she can perform as independent lawyer (solo practice) or partner in different combinations (with one or more associates or partners, with or without employee, among other possibilities.) For instance, Sauer analyzes job mobility in law graduates from University of

JOURNAL OF SOCIOLOGY 62, 1956.

¹² Precisely in economic terms, performance in professional service sector becomes difficult to measure with standard procedures in comparison with another productive sectors because the complexity on determining what's the final product. Kox studies the Dutch professional service sector, that includes legal services, and finds two factors that persist in the analysis: firms are mostly small and productivity (in terms of *production*) remain stagnated for years. Market has a high entrance of incumbents and high quitting rate of small players. In general, he finds an economic sector composed by many and small firms that maintain levels of work relatively similar year after year and they manage to survive with that. See H. Kox, *Impact of monopolistic competition on productivity and industry structure in business services*, Working paper III/2000-8 (Netherlands Bureau for Economic Policy Research), Netherlands, 2000.

¹³ See J. Levin and S. Tadelis, *Profit Sharing and the Role of Professional Partnerships*, Stanford University, working paper, 2001.

Michigan.¹⁴ Working with a database he tries to identify lawyers' job choices classified in common professional choices (independent practice, non-profit organizations, elite law firms, non-elite law firms, and intern in a firm.) Calibration shows that through job life these lawyers has a low probability to enter elite law firms though elite law firm experience is a key for entering to any other market sector under analysis. Reputation and acquired experience crucially help for this. Such inter-firm human capital transference depends on the economic possibilities of each firm itself for attracting this highly qualified labor force. However, non-profit organizations offer lower salaries than firms or solo practice but this option offers higher non-pecuniary profits, for example, a greater probability of being offered positions in a non-elite law firm (small law firms).

Heinz & Laumann already observed the sensitive change in American law firms upon the client-based approach:¹⁵ client-type preeminence shaped firm's organizational form. They detected two *hemispheres*: in one hand, big law firms composed by elite university graduates focused in serving corporate clients and, in the other hand, those firms composed by non-elite university graduates dedicated to individual client serving. The first ones were correlated with high office buildings and the *up-or-out* system, which

¹⁴ See R.M. Sauer, *Job Mobility and the Market for Lawyers*, JOURNAL OF POLITICAL ECONOMY 106, 1998.

¹⁵ See J.P. HEINZ & E.O. LAUMANN, CHICAGO LAWYERS: THE SOCIAL STRUCTURE OF THE BAR, (Northwestern University Press, 1982).

will be summarized in the next section, while the second ones were associated with small law firm dynamics. Sensitive changes have taken place in big law firms. These transformations had been originated in USA in the early 20th century. All the same, professional life seems to show relative similar dynamics in small law firms whether in developed¹⁶ or undeveloped¹⁷ countries.

A common job option in USA that is not that common in the rest of the World is to enter in a big law firm. Why big law firm' organizational structure has not be spread out across the World? One explanation could be that circumstances that generate American big law expansion are not jointly present outside USA. For instance, Brock and colleagues enumerate these change forces as:¹⁸

- (i) Deregulation: Institutional authorization granted by bar associations for commercial advertising and free inter-jurisdictional operations both allowing law firms competition, among others.
- (ii) Competence: Due to the growing number of graduates and the imitative process of competing firms' generation.
- (iii) Technology: Digitalization of judicial work allows for non-

¹⁶ See C. Seron (1996), *THE BUSINESS OF PRACTICING LAW*, (Temple University Press, 1996).

¹⁷ See F. FUCITO, *EL PERFIL DEL ABOGADO DE LA PROVINCIA DE BUENOS AIRES. INVESTIGACIÓN CUALITATIVA*. (Colegio de Abogados de la Provincia de Buenos Aires, 1996) (in Spanish) and PÉREZ PERDONO *supra* note 5 at 131-134.

¹⁸ See D.M. Brock, M.J. Powell & C.R. Hinings, *The Changing Professional Organization: Towards New Archetypes and Typology*, Academy of Management, Organization

professional or paralegal personnel to do the job.

(iv) Globalization: Expansion of supply to external markets.

There are other dimensions that differentiate one organizational form from the other. For instance, association goal among big law firms' members is profit sharing while in small law firms is usually office-maintenance-cost sharing. That creates incentives for small law firms not to expand too much, because monitoring problems could arise. In big law firms, on the other hand, profit-sharing foundation goal makes firm growth always an option for recruiting potential associates and partners where more profits could be obtained and shared.

Another dimension to be taken upon account is client property. De la Maza makes the point that in American big law firms, clients belong to the firm, not to the specific lawyer (junior, associate, or partner) that serves them.¹⁹ That creates incentives for law firm's members to remain in the firm given the low probability of taken clients with her if she decides to leave the firm and begins solo practice. In small law firms, especially in Latin America and other countries that found their legal system in the Continental Civil Right, clients belong to the particular lawyer that attends them. So the incentives are that once a big clients portfolio is created, lawyers leave the firm and opens her owns by taking clients with her. Following with some

Management & Theory Division, Toronto, Canada, mimeo, 2001.

¹⁹ See I. De la Maza, *Lawyers: From the State to the Markets*, Stanford University Law

aspects of the Latin American case, big industrial firms in Latin America often have enormous legal departments (the case of Venezuela's main oil company –PDVSA– is investigated by Gómez²⁰) so they don't usually require external legal advice. Another possible cause of the lack of presence of big law firms outside USA could be that in the case of countries that base their legal system on the Continental Civil Right tend to have lesser quantity of lawyers, in general, and less lawyers in the private practice, in particular, compared with those based on Anglo-Saxon Common Law. In the same manner, these last ones have shown a trend in deregulation private practice through institutional authorization of inter-jurisdictional practice and professional advertising.²¹

Independents lawyers or small partnership lawyers are prone to survive in a more informal framework. They just work with clients as they arrive and, depending on market size, they decide whether to specialize or to remain as generalist. Practitioners' economic and social backgrounds are also more diverse. Although it remains as an independent job it is also true that is subject to variable earnings.

Small law firm practitioners and Law professors sustain a more conservative opinion on what Law practice means, distanced away from any

School, master thesis, 2001.

²⁰ See M. Gómez, *Los abogados de negocios en Venezuela*, Stanford University Law School, mimeo (in Spanish), 2002.

²¹ See W.H. Starbuck, *The Success Secrets of the Best American Lawyers or How to Keep an Elephant and a Butterfly in a House of Cards*, JOURNAL OF MANAGEMENT STUDIES 30,

business-like view of it, and they often have posted ethical statements.²² Big law firm' practitioners appeal with pragmatism: society and business evolution have made necessary and profitable big law firms emergence.

The asymmetric scenery has been sketched: on one hand, few giant actors (big law firms), and in the other hand thousands of little actors (most of the rest of private practice), just like the elephant and the butterfly playing in a house of cards mentioned by Starbuck.²³ This asymmetric trend is expected even more demarked in the future.²⁴

Next we will review literature on human capital and performance.

3. HUMAN CAPITAL AND PERFORMANCE

Human capital theory sustains that knowledge provides individuals with increasing cognitive skills that conveys in potentially more efficient and productive activities.²⁵ Academic literature has shown through several papers the positive relationship between human capital variables and firm performance.²⁶

Firm looks always for better human capital levels. Increasing human

1993.

²² This discussion is well described in SERON *supra* note 12 at Ch. 1.

²³ See STARBUCK *supra* note 21.

²⁴ See H.W. Arthurs & R. Kreklewich, *Law, Legal Institutions, and the Legal Profession in the New Economy*, OSGOODE HALL LAW JOURNAL 34, 1996 at 44.

²⁵ See G.S. BECKER, HUMAN CAPITAL (University of Chicago Press, 1964) and see also T. Schultz, *Investment in man: an economist's view*, SOCIAL SERVICES REVIEW 33, 1959.

²⁶ For a comprehensive survey on this specific subject see A. Teixeira, *On the Link Between Human Capital and Firm Performance: A Theoretical and Empirical Survey*, WORKING PAPER No. 121, FACULDADE DE ECONOMIA, UNIVERSIDADE DO PORTO (Portugal), 2002.

capital implies increasing labor productivity. However, ways for increasing this kind capital are numerous. Individual capital grows up by acquiring knowledge tacitly or explicitly. Education and experience years are the variables more usually applied to approach this latent dimension. We learn tacitly by doing a task repeatedly (learning by doing) and explicitly by accessing to such knowledge by external sources (training, formal education). Under this last case, external sources could take several forms for lawyers: mentorship (through tutors that accompany juniors' career development process), postgraduate programs (masters, PhD), updating courses and seminars (in specific law branches), and the like.

As remarked in Section 2, we must distinguish to highly different labor worlds: Big law firms, on one side, and the rest of the private practice, on the other. Following section initiates the description of contributions that show how human capital is generated in big law firms.

A. Human Capitalists & Cravath's Mechanism

For those who enter to big law firms as potential associates, literature reveals an extremely time and personal demanding professional improving process. Several articles detailed this human capital formation internal dynamics.²⁷ Common observed patterns are:

²⁷ See R.J. Gilson & R.H. Mnookin, *Coming of Age in a Corporate Law Firm: The Economics of Associate Career Patterns*. STANFORD LAW REVIEW 41, 1989; M.S.

(i) Firms hire young professionals on career background (university of graduation, GPA, job attitude and legal potential, among others).

In the case of Canadian firms they use to sign apprenticeship contracts for young graduates even before they even pass the bar exam.²⁸

(ii) Young graduates get into the firm for a fixed time period as junior lawyer (usually, 1 or 2 years contract.) During this period begins the internal competence called *tournament* that allow these young apprentices to show their potentiality by assisting in associate and partner lawyers' work. This stage helps senior lawyers to identify future associates.

(iii) Passed this first period, a group of entrants is selected by the firm board on grounds of effectiveness on the job and they are offered the position of *associates*. People from non-selected group have to quit and look for another job somewhere else. This process is usually called the "*up-or-out*" system.

(iv) For the newer *associates* now begin the race for becoming *partner* of the firm. Firm board expects associates to dedicate all of their time to the issues of the firm's client. Associates earn a fixed

GALANTER & T.M. PALAY, *TOURNAMENT OF LAWYERS: THE TRANSFORMATION OF THE BIG LAW FIRM* (University of Chicago Press, 1991), and F.W. Lambert, *Business Lawyering and Value Creation for Clients*, OREGON LAW REVIEW 74, 1995.

²⁸ See F.M. Kay, *Flight from Law: A Competing Risks Model of Departures from Law Firms*, LAW & SOCIETY REVIEW 31, 1997, at 328.

wage while partners share profits usually according to seniority. This unchains another assessment period (in average of 5 to 8 years, depending on the firm.) At the end of this period, the board again assess the merits of each associated in terms of hours billed, clients brought to the firm, level of prestige in the local legal community, among others (due to the level of competition observed this stage it is usually named in the literature as *rat races*). *Up-or-out* system is applied here for the second time.

Historically the law firm Cravath, a today's American big law firm, was the first in implementing this system so it's usually called the Cravath system.²⁹ It has been detected three main internal groups that conforms this human capital formation process.³⁰ These are: the *finders* or associates, whose job is to find new clients and sustain the existing ones, the *supervisors* or manager partners, who organize operations, schedule deadlines, determine compensation policies and promote training programs and, finally, the *grinders* or young professionals whose job is to accomplish most of the routine work. This permanent recruitment dynamics allow that the law firm could handle on average more cases per partner and associate. That is, young *grinders* are assigned for most of the routine job with the

²⁹ See P. Tolbert & R. Stern, *Organizations of Professionals: Governance Structures in Large Law Firms*, in P. TOLBERT & S. BARLEY (EDS.), *RESEARCH IN THE SOCIOLOGY OF ORGANIZATIONS*, Vol. 8 (JAI Press, 1991).

³⁰ See Y. Kor, *Generating and Sustaining Rents in Professional Service Firms Through Firm-specific Human Capital*, *PROCEEDINGS OF THE MIDWEST ACADEMY OF*

goal of helping and sustaining partners and associates' efforts. This facilitates that one associate or partner alone could manage more cases than what she could handle by herself. The procedure is called *human capital leverage* because it acts like a low fixed cost (apprentices' wage) that levers greater and variable income (hours billed for associates and partners). This process drives for the attainment of finest human capital quality.³¹ As Galanter & Palay remark, this organizational structure enables to transfer human capital from those who have more (senior partner and associates) to those who have less (junior lawyers and newer associates).³² Work in big law firms, as seen, requires to be highly specialized in specific tasks and law branches.

A more controlled and less competitive way of transferring human capital is by using mentors. Mentorship becomes key in specific human capital transfers. In big law firms, mentors are chosen among the senior partners (usually just before they retire). They have developed an eye for recognizing people with high professional potential, so they are in charge of guiding and advising these recruits for them to catch up to their professional maturity as soon as feasible. Mentorship smoothes the ruthless process of human capital transfer framed into the big law firm internal tournament.

MANAGEMENT, 1999.

³¹ See T.J. Morris & A.H. Pinnington, *Beyond the 'War for Talent' Hype: Capacity Constraints and Archetype Change in Professional Firms*, PROCEEDINGS OF THE ASIAN-PACIFIC RESEARCHERS IN ORGANIZATION STUDIES at 5.

³² See GALANTER & PALAY, *supra* note 5.

Likewise it gives to who receives the mentorship more emotional restraint and allows for higher intellectual security in a focused and ordered human capital transfer. Mentorship in women professional career could be seen through Wallace.³³ She finds that women with male tutors were associated to higher income but those with female tutors found more career satisfaction, they were also more motivated to continue in the profession and exhibited less labor pressure (about this last issue, Kay finds similar results.)³⁴

This organizational structure has remarkably showed its efficiency along the firms who adopted it. Between 1975 and 1985, big law firms in United States grew up at a rate of 8 per cent annually.³⁵ Between 1968 and 1987, average size of the top twenty big law firms increased four times. Between 1975 and 1987, mean and median firm size increased almost three times among the top 200 law firms (from a mean of 82 and a median of 68 in 1975 to a mean of 233 and a median of 205 in 1987). As long as big law firms' growth rates accelerated the same growth rate was observed in their total legal services market share. This has constrained small and solo practices because they are many more and they have to share a decreasing

³³ See J. Wallace, *The Benefits of Mentoring for Female Lawyers*, JOURNAL OF VOCATIONAL BEHAVIOR 58, 1991.

³⁴ See F.M. Kay, *Balancing Acts: Career and Family among Lawyers*, in S. BOYD (ED.), CHALLENGING THE PUBLIC/PRIVATE DIVIDE: FEMINISM, LAW & PUBLIC POLICY (University of Toronto Press, 1997).

³⁵ See GALANTER & PALAY, *supra* note 5 at 46.

market share.³⁶

Big law firm's exponential growth has several explanations. Galanter & Palay summarize that growth rate depends on:

- (i) Ratio of associate/partner,
- (ii) Percentage of associate promoted to partners,
- (iii) Period of time between an associated get into the firm and is promoted to partner, and
- (iv) Number of partners that leave the firm.

Any of these variables are feasible of modification by the firm board, though central question is to fix (i) to a wished level and then adjust the rest of the indicators to keep constant such ratio.³⁷

In the same manner, the *up-or-out* schema is modeled with economic theory under a system of recursive contracts by Bardsley & Sherstyuk.³⁸ Their conclusions, while preliminary, are extremely interesting given the empirical evidence and justifications that will be noted later. In this model, agents are asked to choose their effort level given a wage structure. Under adverse selection conditions, future wage contracts are offered on equal

³⁶ See E. Michelson, E.O. Laumann & J.P Heinz (2000), *The Changing Character of the Lawyer-Client Relationship. Evidence from Two Chicago Surveys*. In J. WEESIE & W. RAUB (EDS.), *THE MANAGEMENT OF DURABLE RELATIONS: THEORETICAL MODELS AND EMPIRICAL STUDIES OF HOUSEHOLDS AND ORGANIZATIONS*, (ThelaThesis, 2000).

³⁷ See M.S. GALANTER & T.M. PALAY, *Large Law Firm Misery: It's the Tournament, Not the Money*, *VANDERBILT LAW REVIEW* 52, 1999 at 964.

³⁸ See P. Bardsley & K. Sherstyuk, *Rat Races and Glass Ceilings: An Analysis of Career Path in Organizations*, Department of Economics, The University of Melbourne, mimeo, Australia, 2002.

rights basis for all applicants³⁹ respecting labor regulations or current social conventions. They found that given the promotions incentives schema, the equilibrium outcome was work hard ('rat races') and an unequal promotion rate ('glass ceiling'). This outcome has nothing to do with an internal discriminatory policy but with the different initial conditions of the applicants. Women tend to have a higher exit value than men because they value more to form a family and raise children, so incentives force them to quit the rat race sooner than men.⁴⁰

It is equally noted that excess in human capital leverage could show adverse effects in firm's profitability.⁴¹ This way, it would be hard to find new partners because it would be low the probability for associates to ascend. This would also diminish the work motivation for current employees that ultimately affect the quality of the service. Lastly, this risk would make firms to offer higher wages for attracting new associates, which redound in lower benefits to share. Another problem it is observed

³⁹ Authors made clear that actually women have higher payment for quitting the job than men because it is valuable to form and raise a family. In the other hand, minority members could also have disadvantages on educational background. That contradicts the contract on equal rights basis.

⁴⁰ This incentive framework has been assessed under experimental conditions. See H. Oosterbeek, R. Sloof & J. Sonnemans, *Promotion rules and skill acquisitions: An experimental study*, Working paper No. 19-01, Department of Economics, University of Amsterdam, 2001. They find evidence that this system is better supported when there exists reciprocity and trust among the participants. Without these features present, it is usually observed that employees over-invest in their training because they mistrust that the promotion will be granted (again, rat races with glass ceiling)

⁴¹ See M.A. Hitt, L. Bierman, K. Shimizu, & R. Kochhar, *Direct and Moderating Effects of Human Capital on Strategy and Performance in Professional Service Firms: A Resource-based Perspective*, ACADEMY OF MANAGEMENT JOURNAL 44, 2001.

when two or more firms merge.⁴² Mergings tend to deeply affect internal labor markets by shocking the promotions scheme and leading to dismissal of high human capital personnel. In the same way, this process influences the level of identification of the actors towards the new firm that could affect their productivity level as well.

However, Cravath system has been adapted to a whirling market. Three contributions⁴³ describe recent changes in this selection process associated with dealing with an increasing numbers of lawyers in the labor market. This way, competition conditions have been reformulated for big law firms lawyers: now it is been admitted to dismiss partners (once an untouched issues until the professional retire) through lateral hiring (it means to supplant him/her with an equal hierarchy and seniority partner from another law firm⁴⁴), temporary contracts for lawyers to attend an specific case, creation of counselor lawyer, modifications to profit sharing rules ('eat-what-you-kill' rule displaces seniority-based sharing rule), among others. Many of these changes tried to make more flexible the rigid promotion structure with the ultimate goal of facilitating the emergence of *entrepreneurs* in the organization that adapt or change to specific

⁴² See L.H. Rohrer, *The Effect of Mergers on Human Capital in Professional Service Firms*, Harvard Business School, mimeo, 2004.

⁴³ See HEINZ *supra* note 4; E. Michelson, E.O. Laumann & J.P. Heinz *supra* note 13 and J.P. Heinz, E.O. Laumann & E. Michelson, *Chicago Lawyers and their Clients, 1975-95: A Client-Based Approach to the Social Transformation of the Bar*, Proceedings of The Management of Durable Relations: Theoretical and Empirical Models for Households and Organizations, Zeist, Netherlands, 1997.

environments or tasks.⁴⁵ Another well-documented feature is the raise of paralegal employment hiring.⁴⁶ At last, the organizational efficiency of these firms makes them bearers of a highly desirable know-how, hardly duplicable in another markets. Many firms opt, that way, for internationalizing its portfolio by opening branches overseas.⁴⁷

The success of this human capital promotion scheme, on the other side, has lead to another kind of service firms' adoption, for example, financial⁴⁸ and management services consultants.⁴⁹ Academic environment has also subtly adopted some lessons and the "up-or-out" has been translated into "publish-or-perish". This Darwinian dynamics selection process can end up exhausting many well-prepared lawyers but less enthusiastic for such an intense competition (this case is mentioned in the legal literature as the *lawyers' misery*⁵⁰) that they prefer to quit big-law firms. These circumstances that are observed as excesses in the profession also generate rejections. Ethical considerations are usually evoked as main concerns⁵¹.

⁴⁴ See KOR, op.cit. at 13.

⁴⁵ See Morris & Pinnington, op. cit., at 15.

⁴⁶ For an empirical analysis of this issue see R.M. Feinberg, *Paralegal and Associate Lawyers: Substitutability within the Law Firm, 1977-1987*, THE REVIEW OF ECONOMICS AND STATISTICS 76 1994.

⁴⁷ For instance, a description of the expansion of Australian law firms in Asia could be seen in N. Malhotra, A. Pinnington & J. Gray, *The distinctive features of Australian law firm internationalisation*, Proceedings of Asian-Pacific Researchers in Organization Studies Annual Conference, Sidney, Australia, 2000.

⁴⁸ See A.V. Bhidé, *Building the Professional Firm: McKinsey & Co.: 1939-1968*, Harvard Business School, lecture notes, 1995.

⁴⁹ See J.A. Christiansen, *Management Consulting Organizations*, Working Paper 97/01/SM, INSEAD, France, 1997.

⁵⁰ See K. Hull, *Cross-Examining the Myth of Lawyers' Misery*, VANDERBILT LAW REVIEW 54, 1999, and Galanter & Palay *supra* note 15.

⁵¹ Discussions about the deep changes on the professional identity abound in American law

Some authors argue that under this organizational scheme, profession only defends corporative interests, because only big corporations can pay such expensive bills.^{52,53}

Next, we are going to survey human capital on small law firms.

B. On Boutiques & Butterflies

For those who practice law in an independent private way or in minor partnerships⁵⁴ human capital acquisition process seems simpler and more outcome-oriented. That's because whatever investment in human capital small law firms do, they still rely on a more disperse and with a relative lower economic power demand than big law firm clients.

Small law firm lawyers can improve their human capital by acquiring

literature (for instance, see P.J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, VANDERBILT LAW REVIEW 52, 1999, and M.J. Kelly, *Thinking about the Business of Practicing Law*, VANDERBILT LAW REVIEW 52, 2001). Professional ethics and deep professional orientation on profit are main concerns for institutional proposals like PRESERVING THE CORE VALUES OF THE AMERICAN LEGAL PROFESSIONS, NEW YORK BAR ASSOCIATION, 2000.

⁵² See R. Nelson, PARTNERS WITH POWER, (University of California Press, 1988).

⁵³ On fees determination, a group of researchers studies how bills are determined by American lawyers trying to verify if institutional restrictions, like state bars admission examinations, affect these processes. See D. Lueck, R. Olsen & M. Ransom, *Market and Regulatory Forces in the Pricing of Legal Services*, JOURNAL OF REGULATORY ECONOMICS 7, 1995. They conclude negatively on this behalf but they actually find that market forces affect fees (market size, economic activity level, number of other professional in the market, among others). Following price determination in legal markets, another contribution studies the legal services market in Scotland, trying to verify if bills are affected by advertising after this restriction was removed by 1985. See F.H. Stephen, *Advertising, consumer search costs and prices in a professional service market*, APPLIED ECONOMICS 26, 1994. Results show that only informative advertising (meaning that advertising focused only in the services provided by the professional, on the contrary of persuasive advertising that focus on encouraging clients for asking the service) has statistical influence on determining professional's bills. In this case, a higher level of market advertising will enforce smaller bills being fixed by professionals because the presence of higher consumer information levels would enhance firm competition.

⁵⁴ Literature usually takes 50 lawyers as threshold for discerning between a medium and a

specific knowledge that help to differentiate from another lawyers through practice specialization or through particular training or academic programs, while none of these are excludable. In the first case, practice specialization, is based on the professional experience in a particular law branch, after a career choice has been made, resulting in a long run process because it takes many litigations for accessing the differential knowledge that accrues differential profits. Outcomes usually are observed in the maturity of the professional. The second case is a rather short run one, because it consists in the attendance to postgraduate courses or specialization programs. Lawyer accesses to explicit knowledge though that's not guaranteed the transfer of the versatile tacit knowledge of the experience. However, it is feasible that obtaining postgraduate degrees make more profitable to recover her investment in a more immediate way, so entering to as intern in a firm becomes a highly inviting choice.

Most common organizational form adopted is by far partnership among peers, which usually include friends and relatives.⁵⁵ Good relationships among partners are prone to solidification by friendship and familiar ties. Partnership allows developing a career without pressures, independently and pooling kinship and friendship ties with daily work. Office is informally administrated, with scarce management control, without written

big law firm.

⁵⁵ See SERON *supra* note 12 at Ch.5

performance assessments and with a face-to-face approach. Because of the low quantity of actors, there is no strict tracing of who's going to be promoted and who won't. Here, human capital leverage is given by secretaries, who usually take dictation, sort the written material or go to Court for dealing with lower importance paperwork.⁵⁶ Similarly, the increasing presence of unemployed junior professionals makes them ideal candidates for replacing these workers.

Finally, solo practice represents the top of labor independence: one is her own boss. Advantages are resumed in: free choice of clients, own schedule, and fully business rents appropriation among others. Clear disadvantages are the lack of support during bad economic periods and pressures and rushes of time and money for office maintenance.

The case of small and medium law firms there's evidence of intergenerational transfer of rules and routines with a high dependence of the firm founders.⁵⁷ Similarly, there's also evidence that medium status⁵⁸ law firms are reluctant to innovate because of the risk of affecting their well-known image and social position.⁵⁹ They prefer to keep the status quo.

⁵⁶ See SERON *supra* note 12 at 147.

⁵⁷ See D.J. Phillips, *A Genealogical Approach to Organizational Life Chances: The Parent-Progeny Transfer and Silicon Valley Law Firms, 1946-1996*, ADMINISTRATIVE SCIENCE QUARTERLY 47, 2002.

⁵⁸ See J.M. Podolny, *A Status-based Model of Market Competition*, AMERICAN JOURNAL OF SOCIOLOGY 98, 1993.

⁵⁹ See D.J. Phillips & E.W. Zuckerman, *Middle-Status Conformity: Theoretical Restatement and Empirical Demonstration in Two Markets*, AMERICAN JOURNAL OF SOCIOLOGY 107, 2001.

Such innovation risk provokes that only followers adopt changes⁶⁰. This mimic scheme on business behavior pattern adoption is also observed in other liberal professions like the accountancy firms.⁶¹

The trade off between becoming specialist in one specific law branch or to practice as generalist in American law firms was studied by Jaffe.⁶² Though he focus on medium and big law firms, ratios used can generalized these results to small firms also. Alternatives proposed are to remain small and become specialist by offering custom service through which market size is lopped but bills are higher or remaining open to wider market but with lower bills charged. The author finds that more specialist firms tend to be smaller in terms of number of professionals hired but, in the other side, they growth faster than generalist firms. Business is, when there is higher competence, to differentiate the product (by offering a handcrafted and tailor-made service) and to charge higher bills. These organizational forms are called *boutique* firms in USA and Canada. A good description of this organizational choice can be found in the Bar report on the future of the

⁶⁰ Which coincides with findings on the services sector stagnant productivity. See H. Kox, *Impact of monopolistic competition on productivity and industry structure in business services*, Working paper III/2000-8, Netherlands Bureau for Economic Policy Research, Netherlands, 2000.

⁶¹ See K. Lee & J.M. Pennings, *Mimicry and the Market: Adoption of a New Organizational Form*, ACADEMY OF MANAGEMENT JOURNAL, Special Research Forum on Institutional Theory, 2000.

⁶² See J. Jaffe, *Resource-Partitioning Dynamics and Generalist and Specialist Firm Growth: Evidence from the Austin and Silicon Valley Corporate Legal Markets*, Proceedings of the Academy of Management Meeting, Washington DC, 2001.

legal profession in Quebec⁶³, which suggest it to its members as a profitable alternative in a market with high mountains (small big law firms) and wider plains (numerous small law firms). Boutique firm emerges as a small firm with hour bills similar to big law firms ones. Precisely, Garicano & Hubbard use an enormous classified database from the Bureau of Census for estimating competence fields in all kind of American law firms.⁶⁴ This way they want to profile the sector degree of specialization. They find two main facts: (i) Following Jaffe findings⁶⁵, firms tend to specialize when market size increases, in behalf of differentiate from relatively homogenous competence, and (ii) Lawyers tend to work with same specialty peers, avoiding peers from another law branches. Coincidentally with these findings, Fucito finds that in small and medium cities there is not economic scale for specialization development in any specific law branch.⁶⁶ Most solo professionals and small firms adopt a generalist position in law practice accepting almost any case for 'staying in the business'.⁶⁷ Finally, Kay find that solo practice is one the exits from *lawyer's misery*.⁶⁸ Many professionals with a strong organizational commitment see this choice a smooth transition from the big law firm jungle. Maybe this represents the

⁶³ See BARREAU DU QUEBEC, *LA PRATIQUE DE DROIT AU QUEBEC ET L'AVENIR DE LA PROFESSION*, Canada, 1996, (in French) at 117.

⁶⁴ See L. Garicano & T.N. Hubbard, *Specialization, Firms, and Markets: The Division of Labor Within and Between Law Firms*, Working Paper 9719, National Bureau of Economic Research, 2003.

⁶⁵ See JAFFE *supra* note 40

⁶⁶ See FUCITO *supra* note at 73-76.

most original organizational scheme in the profession: total independence, free schedule choice, and practice flexibility.

In the following section we follow with the other capital dimension under survey: social capital.

4. SOCIAL CAPITAL AS AN ASSET FOR PERFORMANCE IMPROVEMENT

Several definitions still prevail in social capital literature. First, Bourdieu defines social capital social as actual or potential resources related to the possession of a durable network of relations more or less institutionalized of mutual friendship and reconnaissance⁶⁹. Initial studies on social networks looked for detecting mutual relationships group in communities that helps to create cooperative behaviors among its integrants. Bourdieu suggests, on the other side, that every kind of capital could be derived from economic capital. A firm can invest economic capital in activities that conveys to the production of social capital. Corporate philanthropy is a clear example of this. By donating economic capital to social causes a firm can facilitate the development of social networks. Economic capital, in this process, is converted in social capital through time and other resources (money) investment.

⁶⁷ See SERON *supra* note 12 at 169.

⁶⁸ See KAY *supra* note 6.

⁶⁹ See P. Bourdieu, *The Forms of Capital*, In J.G. RICHARDSON (ED.), HANDBOOK OF THEORY AND RESEARCH FOR THE SOCIOLOGY OF EDUCATION, (Greenwood Press, 1986) at 241-258.

On the other side, a first empirical approach belongs to Professor Granovetter. His investigation tries to cope the job finding procedures of a sample of Boston University graduates.⁷⁰ Results revealed that most interviewed found their job thru information provided by light connected people, e.g. people they barely know. Granovetter concludes that in reality people widely and wisely use their loosely tied resources.

Professor Coleman, on the other hand, looks for a connection between social and human capital, specifically how social capital helps in the human capital process formation.⁷¹ He postulates that the degree of network *closure* is what defines the value of social capital; e.g., the closer the extreme nodes are, the greater the acknowledgment and emotional support the individual and the group would get. It also facilitates the punishment towards those who apart from group's norms and costumes.

A definition that refines Granovetter's is that of Professor Burt⁷², who sees cohesive structures as a sign of rigidity when used for managing a complex organization. He advocates for defining network-created-social capital as that composed for the larger quantity of contacts without nodes of non-redundant information (structural holes). Burt shows how firms obtain

⁷⁰ See M. Granovetter, *The strength of weak ties*, AMERICAN JOURNAL OF SOCIOLOGY 78, 1973.

⁷¹ See J.S. Coleman, *Social Capital in the Creation of Human Capital*, AMERICAN JOURNAL OF SOCIOLOGY 94, 1988.

⁷² See R. BURT, STRUCTURAL HOLES, (Harvard University Press, 1992) and R. Burt, *The Contingent Value of Social Capital*, ADMINISTRATIVE SCIENCE QUARTERLY 42, 1997, at 339-365.

competitive advantages for connecting non-redundant nodes. Namely, an actor tied to a highly dense set of connections (with constant, routine, and highly emotive bilateral interactions) makes that the actor access constantly to redundant information flow, e.g. information already accessed that wont bring any potential advantage to be exploited for better performance. In this sense, it is assumed given that to keep a relationship costs equally, in time and dedication, it is convenient to obtain it the best and most diverse available sources of information. For instance, if any agent relates to friends that are, at the same time, friends to each other, then the information of only one of them becomes the original information. The rest only will repeat the first's argument. Burt, at the end, upholds that social capital refers to degree of diverse sources of valuable information (non redundant) that is accessed by the individual or the organization.

Professor Lin from Northwestern University, on the other hand, defines social capital as an investment in social relationships with expected returns.⁷³ This definition is more general. No matter the strength or closeness in relationships structure: individuals dedicate to establish connections and networks for making profit. For this, Lin considers four explanations on how resources embedded in a social network can bring valuable outcomes for the organization:

⁷³ N. LIN, SOCIAL CAPITAL: A THEORY OF SOCIAL STRUCTURE & ACTION, (Cambridge

a) Information: The previous argument applies here. In imperfect competition situations certain social links strategically placed in network give better information in terms of opportunities and choice not available under other circumstances.

b) Influence: These relationships can exert influence in other agents (for instance, local authorities), which can play critical roles in decisions (to ask for legal services, for example) that involve the actor.

c) Social credentials: Network embeddedness and its acknowledgment by third parties can be considered by agents or organization as social credentials that the individual can access to certain resources thru its social network.

d) Reinforcement: It is expected that social networks reinforce identity and recognition. To be a member of a social network gives recognition to individual labor made inside it as long as it gives identity through individual appraisalment and emotional support.

Coleman-Burt discussion is often resumed in the trade off: deepen existing social relationships using a strong tie approach (*bonding*) or brokering information among disconnected points by keeping weak ties (*bridging*). Professor Lin pragmatically establishes that network matters according to the embedded resources available in it and the degree of access

the individual has. By that, whether more embedded resources are present in the network, the more we should try to connect to this network. Probably real social capital emerges from some intermediate point, in which the individual deepens her links in the social framework where she performs and, when it is possible, she exploits information brokerage opportunities for reaching more valuable resources.⁷⁴

Note that Burt focuses on information obtained because of a network structure while Coleman's approach settles on how a structure facilitates norms creation and enforcement. Both approaches are consistent with their underlying assumptions. The two focus coincide in that it is positive to be a member of larger social networks. However, optimal structures defer. The network that serves us to access to information could not be a good structure for collective action promotion or emotional support.⁷⁵

All the same, not only network size is important but also the diversity of resources lying in it. Hence, it is necessary to access to a big network composed by diverse categories of individuals. That's usually applies for structure with a preeminence of Granovetter's weak ties and Burt's structural holes.

Finally, Lin clearly distinguishes the difference between resource access

⁷⁴ In any case, the lack of a large social network always becomes a disadvantage especially in the case of ethnic minorities. See M.C. Suchman, *Working Without a Net: The Sociology of Legal Ethics in Corporate Litigation*, *FORDHAM LAW REVIEW* 67, 1998 at 837-862.

⁷⁵ See J. Sobel, *Can We Trust Social Capital?*, *JOURNAL OF ECONOMIC LITERATURE* XL, 2002 at 151.

and effective use of them.⁷⁶ Social capital can be understood in economic terms as the present expected value of the resources available for *access* and *use* for satisfying individual utility through her social links. Present value remits to *alters*-possessed-resources that, in case of necessity or just by requirement, can be accessible to an *ego*. Such value must be understood as potential as long as ego does not use the resources available for access in present time. At the end, individuals establish different types of relationships (friendship, camaraderie, superficial knowledge) with other peers for being able to use resources (money, property use, influence, information, advice) from such individuals when they require that way. A distinction that will be made later refers to the relative place where individuals form potentially profitable links. This way, inside the firm's organization people will look for connecting another people that enable a more successful career; we will define this as intra-organizational social capital. At the same time, the firm or the people themselves will also look in the market for profitable links and we will call this as inter-organizational social capital.

We follow surveying theoretical and empirical contributions that relate this capital dimension with agents' performance.

⁷⁶ See LIN *supra* note 51 at 25.

A. Social Capital as an Asset

Granovetter's work on the influence of occasional personal contacts on job matching chances could be the most quoted on the relationship between individual performance and social capital. Mortensen & Vishwanath find again empirical evidence that retorts these findings.⁷⁷

By avoiding relationships scheme that constraint actors' action has been a constant in many social sciences branches, especially Economics. In another article, Granovetter argue that the absence of social context in economic analysis acting as a constraint in firm behavior was a crucial part of the real economics complexity puzzle.⁷⁸ Atomistic analysis would simply going to understand all of these effects in agent decision-making process.

However economic agents do not apparently see these relationships as limitations. Because of that, relationship between agent's performance and social capital has been demonstrated in several studies. Professor Bian studies 188 commercial firms in the Chinese province of Guangzhou.⁷⁹ He finds that the social connections degree between firms' managers and government authorities bestows firms a differential performance. Peng & Luo confirm this evidence while being more robust on their findings on the

⁷⁷ See D.T. Mortensen & T. Vishwanath, *Personal contacts and earnings: It is who you know!*, LABOUR ECONOMICS 1, 1995.

⁷⁸ See M. Granovetter, *Economic Action and Social Structure: The Problem of Embeddedness*, AMERICAN JOURNAL OF SOCIOLOGY 91, 1985 at 481-510.

⁷⁹ See Y. Bian, *Social Capital of the Firm and Its Impact on Performance: A Social Network Analysis*, in A.S. TSUI & C.-M. LAU (EDS.), MANAGEMENT OF ENTERPRISES IN PEOPLE'S REPUBLIC OF CHINA, Ch.12, (Kluwer Academic Publishers, 2002).

importance of social capital on performance.⁸⁰ Although the case of China has particularities especially studied by scholars⁸¹, evidence signals directly to a positive relationship between connections and performance.

Fafchamps & Minten find that agriculture merchants in Madagascar that have more economic success are those related to a higher degree of prestige obtained by past long lasting trust ties among customers and peers.⁸² Aldrich & Davis study American small and medium size firms checking if managers' participation in voluntary associations bestows them some differential advantage.⁸³ Results show that the participation in these non-profit organizations allows them to access to different resources, like professional advice, small credit granting, resources that in other case would be expensive or harder to obtain. In this case there's no evidence of genre disadvantage maybe because, as authors suggest, the sample only include business proprietors.

⁸⁰ See M. Peng & Y. Luo, *Managerial Ties and Firm Performance in a Transition Economy: The Nature of a Micro-Macro Link*, ACADEMY OF MANAGEMENT JOURNAL 43, 2000 at 486-501.

⁸¹ Literature devoted to Chinese social networks (called *guanxi*, connections in mandarin) is profuse and multidisciplinary. For a review could be cited L. Wu, '*Guanxi*' and *Social Network - A comparison of the liaison role of Chinese and New Zealand managers*, Master Thesis, University of Auckland, 2000; W. Chung & G.G. Hamilton, *Social Logic as Business Logic. Guanxi, Trustworthiness, and the Embeddedness of Chinese Business Practices*, in R.P. APPELBAUM & W.L.F. FELSTINER (EDS.). RULES AND NETWORKS, (Hart Publishing, 2001); and an exquisite paper of D. Bell, *Guanxi: A Nesting of Groups*, CURRENT ANTHROPOLOGY 41, 2000 at 132-138. An introduction to *guanxi* into the proper Chinese legal profession could be seen in MICHELSON *supra* note 6. The Japanese case, subtler and more complex in ramifications is denominated *keiretsu*, and can be reviewed with empirical evidence in J. McGuire & S. Dow, *The Japanese keiretsu system: an empirical analysis*, JOURNAL OF BUSINESS RESEARCH 55, 2002 at 33-40.

⁸² See M. Fafchamps & B. Minten, *Returns to Social Network Capital Among Traders*, OXFORD ECONOMIC PAPERS 54, 1998 at 173-206.

⁸³ See H.E. Aldrich & A.B. Davis, *The Organizational Advantage? Social Capital, Gender, and Small Business Owners' Access to Resources*, Working Paper No. 132, University of

Not just in reality but also in controlled environments interaction benefits emerge. Jones makes experiments with subjects that simulated firms operating several departments (marketing, accounting, sales, and the like) in a virtual market.⁸⁴ Game rounds make participants to get related with other 'firms' according to every department requirement. Lastly, firms with higher degree of contacts show better performance in terms of monetary rewards.

Likewise, and as suggested before, friendship network formation among competitors (peers in the same profession or industry) can bring beneficial outcomes for all the participants, by lowering competition levels and by creating norms that smooth business relationships in a competing market.⁸⁵ At the end, social capital can and often includes our competitors.

A recently empowered source of social capital is information technology, which helps to create or substitute social capital. Internet allows people to connect each other in a more flexible way. There it can be obtained information, friendship, casual chat and, more important, potential clients.⁸⁶ In the same manner, this form of connections creation do not

North Carolina at Chapel Hill, 2000.

⁸⁴ See T. Jones, *Capital Effects on Firm Performance: Lessons from the Sandbox*, Working Paper 01-07, Queen's School of Business, Canada, 2001.

⁸⁵ See P. Ingram & P.W. Roberts, *Friendships among Competitors in the Sydney Hotel Industry*, AMERICAN JOURNAL OF SOCIOLOGY 106, 2000 at 387-423.

⁸⁶ See B. Wellman, A.Q. Haase, J. Witte & K. Hampton, *Does the Internet Increase, Decrease, or Supplement Social Capital*, AMERICAN BEHAVIORAL SCIENTIST 45, 2001 at 436-451.

affect already possessed social capital.⁸⁷ Religion, as a cult that relates people in a periodical way under a same system of beliefs is also a structural source of social capital.⁸⁸

However, social network formation and their utilization not only convey benefits. Gabbay & Leenders remind us that it could generate social liabilities too.⁸⁹ If the embedded resources are only ours (e.g., if we are connected to nodes without resources or they use our resources without reciprocity), then social embeddedness, under these circumstances, could rationally be avoided. Another demonstration that in restricted environments social capital could have negative effects it has been observed in totalitarian regimes. Völker & Flap show that the presence of potential government's informers in the neighborhood stimulated citizen to drastically lower their social capital in the former Democratic Republic of Germany.⁹⁰

As observed in section 2, law firms divide organizational forms whether they were big or small law firms. Following we survey literature on big law firms social capital.

⁸⁷ See H. Pruijt, *Social Capital and the Equalizing Potential of the Internet*, SOCIAL SCIENCES REVIEW 20, 2002 at 109-115.

⁸⁸ See A. Greeley, *Coleman Revisited. Religious Structures as a Source of Social Capital*, AMERICAN BEHAVIORAL SCIENTIST 40, 1997 at 587-594.

⁸⁹ See S.M. Gabbay & R.T.A.J Leenders, *Social Capital of Organizations: From Social Structure to the Management of Corporate Social Capital*, SOM and University of Groningen, Netherlands, mimeo, 2002.

B. Support and connections at the high mountains

Big law firms have an organization accordant to big cases they attend. They represent the economic and organizational summit of the legal profession. Studies on embedded resources utilization have two dimensions: (i) contributions with a clear intra-organizational approach focusing on the strong internal competence under hierarchical structures in big law firms, and (ii) contributions that describe the effects of market embeddedness on firm performance with an inter-organizational approach. In the first case, authors look for understanding how actors within big law firms make relationships among them procuring to ascend in the professional ladder and getting control of the firm. In the second case, the issue is how the firm through their members moves in the market network for locating in way that facilitate getting more conspicuous clients that pay higher bills.

Intra-organizationally, interaction ways reach a complexity degree that deserves particular studies. Lazega⁹¹ jointly with previous works⁹² represent a unique core in social network research in law firms. Basically his contribution consists in detecting exchange niches created by associates and

⁹⁰ See B. Völker & H. Flap, *Weak Ties as Liability. The Case of East Germany*, RATIONALITY AND SOCIETY 13, 2001 at 397-428.

⁹¹ See E. Lazega, *THE COLLEGIAL PHENOMENON: THE SOCIAL MECHANISMS OF COOPERATION AMONG PEERS IN A CORPORATE LAW PARTNERSHIP*, (Oxford University Press, 2001).

⁹² See E. Lazega & M. Van Duijn, *Position in formal structure, personal characteristics and choices of advisors in a law firm: a logistic regression model for dyadic network data*, SOCIAL NETWORKS 19, 1997 at 375-397, and E. Lazega & P.E. Pattison, *Multiplexity, generalized exchange and cooperation in organizations: a case study*, SOCIAL NETWORKS 21, 1999 at 67-90.

partners of a big law firm in New England where information flows generating a stable environment for future exchange. Most wanted resources are access to loyal work partners, access to colleagues' advice and friendship. However, all resources search is biased mainly towards the more prestigious lawyers. Everybody seems to love prestige. Anyway, the creation of these small social capital redoubts is positively correlated with the performance of the participants. Prevalent structure in these niches is triad, three partners and associates jointly working. As a negative outcome is often mentioned that this excessive cohesiveness conveys to professionals leave the firm taken their clients with them. On the other hand, as a collegiate entity, the firm usually has an awkward task in imposing to its members in productivity assessment. The hardest case use to be the correction of a partner with bad performance, for which it is subtle, required some lateral control (another partner follow him and suggest changes). Firm's board sessions, on the other hand, are often influence by elder partners, whose prestige lied on multiple status (as a professional, as a litigant, as a client-getting person, among others). Something similar is found by Kim who detects la presence of an *endorsement* effect in less prestigious lawyers' social capital (usually because of youth) for whom the closeness to more prestigious lawyers (for joint works) make them to escalate stairs in the professional and social status ladder.⁹³ To work or to

⁹³ See H.H. Kim, *Social Capital, Embedded Status, and the Endorsement Effect*,

serve more prestigious lawyers bestow them better perspectives in the internal job market, as suggested by Lin⁹⁴,⁹⁵.

On the other hand, it is observed gender discrimination problems. Kay & Hagan study the Canadian case.⁹⁶ Even when women, during rat race, accumulate more social capital, thru making connections with big institutional clients that generates more profits to the law firm that is compensated with promotions in the same manner as their male counterparts. It prevails a *glass ceiling* for women in big law firms.⁹⁷ Kay develops a probabilistic model of leaving the profession for Canadian lawyers too.⁹⁸ The paper is rich in empirical results being their main findings the diversity of potential lawyers' labor destinations. Lawyer results a high mobility career: professionals can work in a big law firm and then develop a solo career or join the government in any of the State powers or even leave the practice. Kay again confirms female discrimination:

PROCEEDINGS OF SSRC WORKSHOP ON THE CORPORATION AS A SOCIAL INSTITUTION, Institute of Industrial Relations, UC at Berkeley, 2001.

⁹⁴ See LIN *supra* note 51.

⁹⁵ It is also observed in high-tech industries the existence of key networks inside the organizational structure of the firm. It was observed that promotion rate in firm's hierarchy is statistically related to actor's non-redundant connection (Burt's structure holes) although that's depend on the network's specific structure in which it is embedded. In internal social networks labeled as needed for maintained organizational identity and normative expectations, Burt's hypothesis do not verifies. In this case, strong ties maintenance was the item most valuable for promotion (similar to Lazega's dense triads). See J.M. Podolny & J.N. Baron, *Resources and Relationships: Social Networks and Mobility in the Workplace*, AMERICAN SOCIOLOGICAL REVIEW 62, 1997 at 673-693.

⁹⁶ See F.M. Kay & J. Hagan, *Cultivating Clients in the Competition for Partnership: Gender and the Organizational Restructuring of Law Firms in the 1990's*, LAW & SOCIETY REVIEW 33, 1999 at 517-555.

⁹⁷ More general conclusions on this issue could be viewed in J. Brockman & F.M. Kay, *Barriers to Gender Equality in the Canadian Legal Establishment*, FEMINIST LEGAL STUDIES 8, 2000.

⁹⁸ See KAY *supra* note 6.

women promote to partner 40 per cent more slowly than men and have 60 per cent more chance of leaving law practice at all. Suggestively, small law firms have less success in retaining female peers in the profession than their big counterparts: big law firms members leave the firm for developing a solo career but small law firms members leave the firm for directly leaving the practice. We should remember Bardsley & Sherstyuk theoretical findings: It would not be the internal competition fault but the labor contract that not weight differently to those who are intrinsically different in the *rat race*.⁹⁹

Interaction between intra-organizational social capital and performance is very interesting. Kay & Hagan model promotion-to-partner probabilities.¹⁰⁰ They find that associates whose main responsibility is to bring new clients (the *finders*) have 50 per cent more chances of promotion compared to those who work with current law firm's clients. In the same manner, in associates that are members of professional associations this probability increases in 13 per cent. Here, it is observed how law firms clearly reward activities that increase members' social capital.

Inter-organizationally, big law firms make use of their social embeddedness for price formation in legal services market. Uzzi & Lancaster show how big law firms use social networks for settling a

⁹⁹ See BARDSLEY & SHERSTYUK *supra* note 16

¹⁰⁰ See F.M. Kay & J. Hagan, *Raising the Bar: The Gender Stratification of Law-Firm*

prestige image that enable for increasing their fees.¹⁰¹ Services are analyzed as prestige or Veblen goods, e.g. demand increase as price increases.¹⁰²

It is also interesting to understand why some links that are associated with economic performance could break up and what are the features associated with this event. Kim & Uzzi study the causes of breaking up between a great financial client and a law firm.¹⁰³ Working in a social network analysis framework, these authors find that the size of the financial client's legal department is positively correlated with break up probability but as long as financial firm size increases this probability decreases. Similarly, financial firm's perceived hierarchy is negatively associated with potential break up chance. It is also negatively associated the presence in the financial firm's management board of law firm's attorneys. Positively affects dissolution tie probability the quit of the law firm's CEO, who is usually commanding big operations. Also positively affects the market condition: in a more competitive market (high presence of another law firms) breaking up probability increases because financial firm can find easily a replacement for the departed law firm.

From inside a culture where relationships become crucial for

Capital, AMERICAN SOCIOLOGICAL REVIEW 63, 1998 at 728-743.

¹⁰¹ See B. Uzzi & R. Lancaster, *Legal Charges: Embeddedness and Price Formation in Corporate Law Firms*, Working paper, Northwestern University, 2000.

¹⁰² See T. VEBLÉN, *THE THEORY OF THE LEISURE CLASS*, (Unwin Books, 1899).

¹⁰³ See H.H. Kim & B. Uzzi, *Network Determinants of Interorganizational Tie Dissolution*, PROCEEDINGS OF THE ORGANIZATIONS AND STATE BUILDING WORKSHOP, University of Chicago (Fall Quarter), 2001.

performance, Michelson checks how *guanxi* persists also in Chinese legal profession.¹⁰⁴ Lawyers are encouraged to establish links with as many government and non-government agents as possible for successfully accomplished their lawsuits. Social exchange theory remains vividly present in this case, when actors increase their power because other people dependence on the resources the former possessed.

In a more Western facet of Chinese culture, social capital can also be employed for collective action promotion. Man shows how the level of connections between the Bar Association and the Legal Society of Hong Kong, with lots of member in common, allow them to jointly face glowing political issues soon after the sovereignty transference.¹⁰⁵ Social capital was employed in these cases, the author conjectures, for making coordinating actions that show to the new Chinese authorities the relative weight of the profession in Hong Kong society.

Now on we are going to survey papers that verify the importance of social capital in small law firms.

C. Bridges in the Plains

For small and mid law firms the search for clients is process that becomes gradually acquires greater relevance. Greater number of graduates

¹⁰⁴ See MICHELSON *supra* note 6.

¹⁰⁵ See S.W. Man, *Law, Politics and Professional Projects: The Legal Profession in Hong*

makes the labor market, whether in developed or undeveloped countries, being more crowded of professionals competing for clients. Baker makes the point on the importance of social capital as a firm asset.¹⁰⁶ However, social capital formation process begins in prior educational stages.

Hansen finds that social capital is crucial for better job findings only in higher social class's law graduates.¹⁰⁷ She studies a sample of Norwegian lawyers who show a high inequality on income levels even when they have obtained similar academic results. The puzzle is finally solved when lawyer's social origin is identified. Those who proceed from higher social classes possess social networks that include prominent people that help for better job findings and deal with best pay lawsuits. However, Lee & Brinton article finds in South Korea that private social capital created by graduating from an elite university don't bring any special feature for job finding.¹⁰⁸ In fact, in this country the best way for getting a good job is by applying for an interview. Also Bian refutes Granovetter's hypothesis by finding that successful job finding in China is positively associated with a strong tie structure.¹⁰⁹ These works clearly suggest the influence of culture on accessing embedded resources in a network.

Kong, SOCIAL & LEGAL STUDIES 10, 2001 at 483-504.

¹⁰⁶ See W. Baker, *Building Social Capital As an Organisational Competence*, University of Michigan Business School, mimeo, 2001.

¹⁰⁷ See M.N. Hansen, *Closure in an Open Profession. The Impact of Social Origin on the Educational and Occupational Success of Graduates of Law in Norway*, WORK, EMPLOYMENT & SOCIETY 15, 2001.

¹⁰⁸ See S. Lee & M.C. Brinton, *Elite Education and Social Capital: The Case of South*

One aspect demarked by Seron and Fucito is lawyer socialization for strengthen their professional identity. Lawyers meet each other to share and discuss job issues, but also for friendship tie formation with another members of the legal community. This enhances a dense social network among local professionals that helps for identifying ‘what means to be lawyer in this community’. Felstiner quoted below, finds the dark side of this relation, given that this interaction also strengthens bad practices.¹¹⁰

At the same time, both investigations detect the presence of professionals that become aware on the need of using their social networks to survive beyond local bar norms and regulations. Many testimonies reflect this:

“Getting clients was facilitated because of my embedding as employee in ... (a public office). I advised [another] employees, I make myself known... Clients come to me because I’m sociable, I go to meetings, and that makes me more trustable and helps to get more litigations.”¹¹¹

“In past times a typical lawyer sat down and said: ‘let the clients come’. Now if you do something and good, one has to go out and spread it out. Clients don’t come for themselves, one has to go and search them... I had client-subtraction problems. But there’s the [charges] ‘auction’. Clients see several lawyers, each one asks for a lesser bill that he is willing to pay, [then, with this process] he takes a decision.”¹¹²

“Clients come here for [personal] recommendations, that is typical in

Korea, SOCIOLOGY OF EDUCATION 69, 1996.

¹⁰⁹ See Y. Bian, *Bringing Strong Ties Back*, AMERICAN SOCIOLOGICAL REVIEW 62, 1997.

¹¹⁰ See W.L.F. Felstiner, *Professional Inattention: Origins and Consequences*, in K. HAWKINS (ED.), THE HUMAN FACE OF THE LAW, Ch. 6 (Clarendon Press, 1997).

¹¹¹ See FUCITO, *supra* note 44 at 77 (translated from original in Spanish).

¹¹² See FUCITO, *supra* note 44 at 77 (translated from original in Spanish).

provincial towns. I was born here, I'm well known and have several clients, some of them were former primary school or high-school pals, another are known from the neighborhood, and another are sent by the first ones."¹¹³

"I'm union trustee, I was union registrar. That gave me [a level of] knowledge that allows me today to have clients. I had a public office job in the area that gave me clients too. Union attendance, at the same time, gives me independent work."¹¹⁴

"I get clients in the most diverse ways. I don't any arrangement with any institution; they come because of relations, friendship, and acquaintances. Colleagues of mine get clients in the most diverse ways [also]: some [of them] are connected with political, social institutions. There are people who organize all of their social life in function of his work, for getting cases..."¹¹⁵

"My source of clients is political relationships because I militate [in a political party]."¹¹⁶

"Clients, households in majority, come here recommended and mainly because of friendship, a typical thing in small town life. I have a local political office."¹¹⁷

"I'm a Protestant shepherd's wife and most of my clients come from church; I mean, I have many clients in the religious community..."¹¹⁸

"In any small firm, suburban or country, when you begin to practice... you have to rely ... in meeting people, and the way you do that is you join ... clubs. You join the Elks... In my case, it was the Jaycees and the B'nai B'rith and the local Democratic Party and the local political party. And that's how you meet people, because you become active and involved in things. [I've been] past state council for the Jaycees; ... [I've] been an officer in the Elks; I headed up the town's United Way [campaign].... You help; you work with your community."¹¹⁹

"... Once I put an advertisement in the newspaper... and I dare to state that nobody goes to a lawyer because of a newspaper advertisement. He goes because he knows him or because he knows who recommends him. It's an issue of personal relationship. I was city councilor, I'm [political] party member... and because of that I have participation in many non-profit entities in town."¹²⁰

¹¹³ See FUCITO, *supra* note 44 at 78 (translated from original in Spanish).

¹¹⁴ See FUCITO, *supra* note 44 at 78 (translated from original in Spanish).

¹¹⁵ See FUCITO, *supra* note 44 at 79 (translated from original in Spanish).

¹¹⁶ See FUCITO, *supra* note 44 at 80 (translated from original in Spanish).

¹¹⁷ See FUCITO, *supra* note 44 at 80 (translated from original in Spanish).

¹¹⁸ See FUCITO, *supra* note 44 at 82 (translated from original in Spanish).

¹¹⁹ See SERON *supra* note 12 at 52.

¹²⁰ See FUCITO, *supra* note 44 at 82 (translated from original in Spanish).

“Client’s source is usually friends that recommends another. Men get clients because they go to a club or because they meet in a [social club]...”¹²¹

“I daresay I probably get 75 percent of my clients from clients... Is that high? Well, 65 to 75 percent –somewhere in that neighborhood. And I get maybe what? 5 percent of new clients who just walk in off the street. Some referrals from family and friends and social connections, that type of [thing], which basically boils down into friends also.”¹²²

“I obtain cases by entailment and advertisement. But there’s an enormous constraint in the Province, in concerns of advertisement because they don’t allow spotting the law firm specialty, nor the curriculum vitae, finding us in great disadvantage relate to other professionals. The local bar is highly conservative and inflexible towards norm enforcement.”¹²³

“Clients are sent by another clients. Here people label lawyers. For instance, it is assumed that women practice Family [law] and if there is a person who dedicates to successions, then he gets all wills but he seldom will have an execution, because everybody think he doesn’t do it.”¹²⁴

These statements give a fast survey on the ways social networks shape professional practice y serve as bridges over the practice restrictions that impose local Bars. Social capital and its sources (religion, non-government entities participation, political parties, public exposure, word-of-mouth diffusion¹²⁵, among others) are accounted across these testimonies. It can also be compared similarities between Seron and Fucito’s findings. They both coincide on the description of several features at the plains of the practice, whether in New York suburbia or in small towns and cities of the

¹²¹ See FUCITO, *supra* note 44 at 83 (translated from original in Spanish).

¹²² See SERON *supra* note 12 at 53.

¹²³ See FUCITO, *supra* note 44 at 85 (translated from original in Spanish).

¹²⁴ See FUCITO, *supra* note 44 at 86-87 (translated from original in Spanish).

¹²⁵ Other researchers also detect word-of-mouth advertising as main lawyers’ client-getting tool. See H.M. Kritzer & J.K. Krishnan, *Lawyers Seeking Clients, Clients Seeking Lawyers: Sources of Contingency Fee Cases and Their Implications for Case Handling*,

province of Buenos Aires.

With a strong focus on female professional participation, Seron detects again differences in the social capital formation and use according to gender.¹²⁶ This way, men have greater socialization levels than women because of full utilization of previously built social networks that are completely exploited for the professional practice. They have also greater time availability and greater peer connections, as mentioned above that convey subtle information flows on how and where to obtain clients. On the other hand, women lack such time versatility for socializing and neither they exploit their previously built social network for promoting their services. Finally, it is portrayed a little dark side of social capital: family members and friends that arrive for free legal advice. These end wasting valuable time without payment and the possibility of denying results in punishments *à la* Coleman.

However, the survey leaves question of capital crossed effects unanswered. We continue by exploring these interaction effects between both capital dimensions.

5. CROSSROADS: CAPITAL INTERACTIONS

Under diverse circumstances it is difficult to determine if some

LAW & POLICY 21, 1999.

¹²⁶ See SERON *supra* note 12 at 65-66.

professional achievement has been obtained because of individual preparation or through the use of some embedded resource or maybe both. Individual preparation, in the professionals' case, has been obtained thru the pass from university. However, this very same experience usually generates a solid social network that is later used with labor purposes. Likewise, the search for a specific knowledge or expert advice in law firms could allow them to amplify their contact network that enhances its social capital. In these examples, human capital is upgrading by the use of social capital but the inverse could be observed also. We're going to survey papers that establish these complementarities.

An interesting subject is the importance of religion in human capital formation. This way, an exploratory work as Lehrer suggests that membership to determined religious groups, with the consequent norms and believes acceptance, can affect the level and quality of acquired human capital.¹²⁷ In a parallel way, and as Greeley suggested¹²⁸, Heinz, Laumann & Nelson find that religion is associated to certain professional patterns in Chicago Bar. For instance, religion is a significant variable that explains the number of voluntary work lawyers get involved to.¹²⁹ And this is directly related with their social capital level. Both papers illustrate on how a same

¹²⁷ See E. Lehrer, *Religion as a Determinant of Educational Attainment: An Economic Perspective*, SOCIAL SCIENCE RESEARCH 28, 1999 at 358–379.

¹²⁸ See GREELEY *supra* note 88.

¹²⁹ See HEINZ, LAUMANN & NELSON *supra* note 21 at 13.

source generates both capital dimensions.

For accessing mentorship benefits, mentioned in Section 3.A, relies several times on the social network we possess. Higgins focus in big law firms' women and finds that those who developed a mentorship social network obtain greater levels of career satisfaction.¹³⁰ Finally, Kraimer and his coauthors study an heterogeneous group of university graduates and find again that best connections help for career advancement because they facilitates the access to resources, information and career support (mentorship).¹³¹ On the same way, Fucito¹³² and Seron¹³³ observe that mentorship also appears in small law firms or solo practices. It usually occurs when a mature lawyer take a younger one under his wing and teach him the occupational hazards. But this human capital transference greatly depends on the social networks already created (this is more clearly observed in ethnic minorities neighborhoods) and the embedded resources that could be accessed. Luck plays its part also.

In terms of their effect on income, Dixon & Seron find in USA that many human and social capital variables that have positive effect on men's income don't show effect at all in the case of women.¹³⁴ However, dos

¹³⁰ See M.C. Higgins, *The more, the merrier? Multiple developmental relationships and work satisfaction*, JOURNAL OF MANAGEMENT DEVELOPMENT 19, 2000 at 277-296.

¹³¹ See M.L. Kraimer, R.C. Liden & S.E. Seibert, *A Social Capital Theory of Career Success*, ACADEMY OF MANAGEMENT JOURNAL 44, 2002 at 219-237.

¹³² See FUCITO *supra* note 44 at 39-49.

¹³³ See SERON *supra* note 12 at 9.

¹³⁴ See J. Dixon & C. Seron, *Stratification in the legal profession: Sex, sector, and salary*,

human capital variable are significant on income determination in men and women altogether: experience and perceived class rank (a variable that identifies peers perception on one's reputation).

On the other side, Okamoto also observes the intermediation functions that exert lawyers with higher reputation.¹³⁵ Many top firms drawn upon big law firms instead of their own legal department because of reputation: simply the best firms consult the best law firms. They not only obtain the best legal advice, as results of several years of experience in the practice of a specific law branch, but they share both reputations and increase them too. It is a good deal for both of them. They just simply pool commercially their trademark with that of the best law firm that grants a prime for reputation and status for both.¹³⁶ Definitely, relationships are created for calculatedly affects relevant third part perceptions.¹³⁷

Conceptually it's assumed that professional work time is well demarcated from private lifetime. In fact, a clear distinction between time in the job and time dedicated to home is a keystone in modern labor contracts, including professionals. However, a closer look complicates this distinction. Professional work places are actually fluid and permeable given that they include an open series of processes and informal and implicit demands such

LAW & SOCIETY REVIEW 29, 1995 at 381-413.

¹³⁵ See K.S. Okamoto, *Reputation and the Value of Lawyers*, OREGON LAW REVIEW (Spring), 1995.

¹³⁶ See PODOLNY, *supra* note 58.

¹³⁷ See J.M. Podolny, *Networks as the Pipes and Prisms of the Market*, AMERICAN

as a more intimate relationship with the client for satisfaction assurance or more strict and non-negotiable deadlines.¹³⁸ This not means that professionals don't appreciate their free time¹³⁹ but that firms have become *greedy*.¹⁴⁰ Under this conjecture, Ferris & Seron use data of time allocated at work for pointing out gender differences in time used behavior.¹⁴¹ They find that men get a higher degree of control on their labor schedules but women, with their familiar responsibilities, are prone to make higher sacrifices in terms of promotions. Likewise, being married and having children give more labor autonomy to men and lower to women, making that the same marital status brings opposite results according to gender. The book by Epstein and her colleagues also represents a comprehensive study of this specific subject: time disposition for professional work as a determinant of success in the career.¹⁴² In this case, lawyers are themselves compelled to maintain the reputation and prestige of being 'all time available' to clients with the consistent lack of social and family time make them forced to make a career choice. Again, women are bad positioned for raise time sacrifice and time allocated in childbearing is assessed as lack of

JOURNAL OF SOCIOLOGY 107, 2001 at 33-60.

¹³⁸ See KAY *supra* note 12.

¹³⁹ Dichotomy between professional spirit and stigma of enjoying free time is well treated in R.A. Stebbins, *The Extraprofessional Life: Leisure, Retirement and Unemployment*, CURRENT SOCIOLOGY 48, 2000 at 1-18.

¹⁴⁰ See L. COSER, GREEDY INSTITUTIONS: PATTERNS OF UNDIVIDED COMMITMENT, (Free Press, 1974) at 2.

¹⁴¹ See K. Ferris & C. Seron, *Negotiating Professionalism*, WORK & OCCUPATIONS 22, 1995 at 22-48.

¹⁴² See C. EPSTEIN, C. SERON, B. OGLENSKY & R. SAUTÉ, THE PART-TIME PARADOX,

commitment to the firm. As consequence, they don't are no competition for a male available full-time. This paper shed light on particular aspects of the professional life: visualization after hours is observed as expression of commitment to the firm and extra-work time for social capital formation with other colleagues. They both results key attitudes for obtaining a promotion ('the partner that don't see you, won't promote you', recalled one interviewed). Sterling & Reichman find something similar respect to professional career development areas in law professionals.¹⁴³ Women are hired in similar proportions than men but only a strict minority become firm's associate. This makes that labor mobility in women is higher than men (they quit and (i) go to another law firm, (ii) do part-time practice or (iii) leave the profession.) Their qualitative research basically detects three areas where their male peers poorly assess women: commitment expressions toward firm and ability for mentoring younger peers. At the same time, part-time lawyer stigma and the correlated lack of social capital can be compensated by specializing in the practice, which opens a niche that make them desirable for their supervisors.¹⁴⁴ Here, it's detected a replacement effect between a kind of capital and the other.

A research by Bosma and his coauthors confirm the presence of

(Routledge, 1999)

¹⁴³ See J.S. Sterling & N.J. Reichman, *Re-Casting the Brass Ring: Deconstructing and Reconstructing Workplace Opportunities for Women Lawyers*, CAPITAL UNIVERSITY LAW REVIEW, April 2002.

¹⁴⁴ See EPSTEIN *supra* note 119 at 172.

complementarity between both capitals as a fundamental resource for survival rate of recently born firms, for higher benefit earning, and also for higher job creation.¹⁴⁵ All these are positively related to social and human capital firm level in a sample of 1,000 startup firms in Netherlands. Vinding who models it explicitly could observe another demonstration of complementarity presence.¹⁴⁶ Evidence shows that a firm connecting to knowledge generating institutions provokes an increasing level of its human capital level. These findings are quite interesting towards small and medium firms policies design and implementation that enhance a more flow connection between them and local research centers (universities, collegiate entities, among others.)

Next section concludes the paper.

6. CONCLUSIONS

The underlying subject of this survey backtracks us to basic forms of human evolution: to learn and to interrelate. Efficient management of both notions, which for knowledge categorizing have been sorted as individuals' economic assets, conveys differential results in performance.

Discernment of potential commercial growth in a flowing economic life

¹⁴⁵ See N. Bosma, M. van Praag, R. Thurik, & G. de Wit, *The Value of Human and Social Capital Investments for the Business Performance of Startups*, Discussion Paper 02-027/3, Tinbergen Institute, Netherlands, 2002.

¹⁴⁶ See A.L. Vinding, *Complementarity Between Social and Human Capital in Relation to*

environment allows for the first essays in giving up some lethargy in the traditional way of professional practice. This way big law firms were born that depart from the rest of law private practice.

Big law firms' human capital improvement reaches zeniths of purification in several aspects. The process is highly efficient and demanding with a very neat organizational and economical rationality that posits real survivors in the firm board. In any case, up-or-out system is complemented with training programs and mentoring as with much actual flexibility. Improvement path is translated into job quality and, consequently, to bills what makes that only a big company can hire these services.

On the other hand, small law firms must incur in specialization if firm operates in a big market or if the professional works part-time (supplanting its relative lesser social capital compared to those who work full-time). In smaller size markets, small law firms act usually as generalist, accepting cases as they arrive. Here, mentoring is also possible but this process is not institutionalized as in big law firms and depends also in lawyer's good fortune.

This way, we could see that inside big law firms, social capital has clear intra-organizational facets in issues like efficient labor division, as an

internal control instrument, and as an asset on the *tournament* players. It was also obvious the importance of inter-organizational social capital. Successful embeddedness allows big law firms to fix a reputation prime in pricing their services and facilitates getting new clients too.

In the other hemisphere, intra-organizational social capital may results less relevant because the few actors involved and the usual informal management of these firms so it is hardly mentioned in the literature. However, inter-organizational social capital becomes a very efficient capital dimension specially when upraising competence compel professionals to go out and get clients in an active fashion and to offer clients a satisfying service that assures their fidelity.

But are lawyers prepared for adequately serving themselves of these capital dimensions? Professor Felstiner answers this question negatively. He studies why lawyers recurrently lose clients.¹⁴⁷ He exposes that clients' lack of attention by lawyers has an institutional background. Education and socialization in which lawyers intertwine once they graduated don't help them to understand the importance of client-lawyer relationship, the ways of treating clients correctly and the manners in which they could guarantee that these clients would keep as clients and recommend more clients too. They are educated in this way and interactions with other professionals for reinforcing professional identity also reinforce these bad habits. At the end,

becoming a Law specialist could keep away the professional's source of income: clients.

Finally, both variables are found to be crucial for improving professional practice performance. Legal systems that have not show upgrading behavior in terms of facilitating or promoting bar association restrictions should ease private practice in terms of allowing professional to accomplish some of their business goals. Increasing arriving of competent and just-graduate lawyers to market only hasten entrant and establish lawyers for sharpen their skills in getting clients. Institutional papers from American and Canadian Bar associations do all focus on the same purpose: to alert their members on the expected changes and to suggest adaptation choices. Upgrading human capital level is highly associated to firm's growth which its main *machinery* is lawyer's brain. Good use of social capital, on its behalf, creates stability in demand and strength chances of expansion. Although at the end, the change in itself is a lawyer's choice.

¹⁴⁷ See FELSTINER *supra* note 88.