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Introduction: The Making of Lawyers' Careers

Five Lawyers' Careers

Alicia, Paula, James, Lynden, and Constance are lawyers. Though all spent part of their careers in a business-oriented law firm with more than 100 attorneys, they have followed distinctive career trajectories. Alicia, a White woman, attended a lesser-ranked urban law school and started in a litigation defense firm. Paula, a Latina, attended an elite law school and, like most of her classmates, initially worked in a prestigious corporate law firm. James, a White man, graduated from an even *more* elite law school (consistently ranked in the top 6), held two federal clerkships, and joined a prestigious law firm known for high-profile criminal defense work. Lynden, an African American man, graduated from a top-20 law school and became an associate in a leading DC litigation law firm. And Constance, also a Latina,[1] attended law school at night while working as a full-time social worker in child protective services (CPS), where she impressed a district attorney who offered her an internship in another unit and hired her as a staff attorney on graduation.

Comparing these five divergent career trajectories reveals important truths about the legal profession's early twenty-first-century structure of opportunity and the strategies individual lawyers employ to navigate its possibilities and constraints. We start with Alicia.

Alicia With an LLM in international business, Alicia originally set her sights on a large, major-market firm. "When people say, 'You're from one of those firms,' they're impressed," Alicia said, noting their "great resources," "incredible reputations," and "considerably better" pay. We do not know whether she had access to such jobs, but she ultimately decided those firms were a poor fit for her goals: "I really wanted somewhere . . . that was a family orientated firm, that if something happened, they understood. That I could have a weekend

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life, I had a social life." Thus, she was pleased to begin her career at a midsize law firm with more than 100 lawyers. Primarily an insurance defense firm, it tended to hire graduates from tier 3 schools like Alicia's and paid beginning associates just over half the largest firms' starting salaries. Her hire may have been facilitated by a family connection, though Alicia avoided mentioning it while interviewing—she told us she wanted to get the job on her own merit.

In our first interview with Alicia, she was three years into her career and exuded personal and professional confidence. She observed that she was outperforming other associates, gaining significant responsibility on trial matters, and on the partner track: "I know I definitely, within five years, will be married and will have at least one child . . . and most likely two. And I know that my goal is to be partner within five years from now." By the second interview, six years later, her narrative was less optimistic, peppered with warning signs about her future at the law firm. For instance, she said when she started at the firm it took "approximately six to eight years" to make partner but that now it was more like eight to ten years: "I'm hitting that nine-year mark. I was up [for partner] last year, and obviously I didn't get it. I'll probably be up again this year." Putting in close to twelve-hour days and using the weekends to "catch up," she was beginning to see her firm as "somewhat discriminatory," suggesting that "some of the other gentlemen who've made partner just from [her] group" were not working as hard or as productively as she was. Just as she had reassessed her goal to work in a large corporate law firm, she was now reassessing her goal of making partner at this smaller insurance defense firm.

Describing it as an "epiphany," Alicia nonetheless seemed to be trying to justify her assertion that she did not "need the title *partner* to be a good lawyer": "At this stage, I don't need to be partner. I don't need the title. Would I like it? Yes, but I don't need it. If I don't make it this year, that's fine. If I don't make it ever, that's fine. It doesn't change my work quality; it doesn't change who I am; it doesn't change anything about me at all. . . . It's an honor, but it's not a necessity." She also reported some personal disappointments—a breakup and the vagaries of the dating scene—but, when we asked where we would find her in three or four years, she still answered "probably right here."

In our third interview with Alicia, she was 12 years into her career. She had been passed up for partner again, a senior male partner intimating that the decision had been closely contested but that, ultimately, he suspected that some partners deemed her "not pretty enough," and Alicia noted that she had failed to land corporate clients. She struggled for another year at the firm before securing an inside counsel position in a large financial company in the same city on the strength of her wide-ranging litigation experience and ability to think strategically.

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Reflecting on her job change, Alicia conceded that being passed over for partner had been "very painful" yet ultimately positive. Moving to the bank position "changed [her] way of thinking about the law": "It changed my way of thinking about me. . . . The past two years have been amazing. I work really hard, yes, but me as a human I'm happier." She did not mention marriage or children, and she was working roughly similar hours for slightly less pay, but she was "back . . . to feeling excited about being a lawyer." She had adapted her practice, spoke in glowing terms about the diversity of her corporate law department, and appreciated that her coworkers accepted her bold style (including choosing to wear brightly colored hair and drive a sports car). As of 2021, her LinkedIn page shows her in the same city, holding an even more senior inside counsel position at another financial institution.

Paula The daughter of Mexican immigrants, Paula followed her older sister out of the family's working-class roots and into a law career. She attended a top public university, graduated from an elite law school, and began in corporate practice with a leading national law firm where she had spent her first summer as an intern. She started in a relatively small office in a major legal market. She was interested in partnership but reckoned chances were slim "because the corporate practice at that time had one, two, three partners and . . . maybe about five associates": "I didn't see there was a way." During her early years at the firm, Paula considered herself fortunate to gain informal mentorship from a female equity partner: "She was good in the sense that some of the practices she taught me I still have to this day." Still, she never felt that the partner would really go to bat for her: "I don't think that she was . . . the sort to, like, 'I'm going to adopt you, and I'm going to make sure you make it, too.'"

After a few years, Paula married and moved to a new city so that her husband could be closer to his ailing father. The firm transferred her to an office there, and she hoped it would provide a "fresh start." Unfortunately, it became apparent that it was "pretty tough as a woman" in the new environment, an "old boys' kind of club." After her father-in-law died, Paula and her family decided to move back to their original city.

With her education credentials and experience, Paula found it easy to move to another prestigious firm. The new job, however, proved short-lived. After just a year and a half, she left, explaining:

> I think at that point, I just really was frustrated . . . with practice in a big law firm; by that point it wasn't what I really wanted anymore. . . . In a way, it was lack of fit, too. . . . I did have a very good mentor at [the second firm], but

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> he wasn't in general corporate practice. He was not in my practice group. . . . And he was very honest and . . . told me what he thought it took to become a partner, . . . but I saw what it took from his side, and . . . he worked all the time. Networked all the time.

Noting that this mentor had a stay-at-home wife, she recalled: "And so at that point I think it was more a decision about 'what kind of lifestyle do I want?' Do I want [work and networking] to be my primary focus in my life? Or do I want to—and I was married . . . but I did not have children . . .—have more of a balanced lifestyle?" With the help of a headhunting firm, she hit the market again.

Today, Paula is the deputy general counsel at a Spanish-language media company. She has been there for 15 years and hopes one day to become general counsel (whether with this company or another). She speaks Spanish at work, she is satisfied with her position, and she is pleased that "the hours here at work are very nice" because she now has three children. Conceding that motherhood has involved opting out of networking opportunities, she does note that a significant career shift could be tough: "I think I've missed out, probably a lot, by not going to all these networking events. [These events can make] a connection for another job. I mean, I'm not there to meet people."

James James's story helps illustrate the operation of large law firms' fast track to partnership. At his first interview, James had been working in his firm for six years. Though he did not come from privilege, his father was a respected professional, and he went to a top-10 undergraduate institution and a top-10 law school. After clerking for two federal judges, he essentially had his pick of jobs. He received an offer from the Justice Department Honors Program, which he believed would give him "a lot of opportunities to do things as a young lawyer." One of his coclerks, however, had an offer from a prestigious national law firm and suggested James might find it attractive. Indeed, he did. At his interview, James remembered, he liked everyone he met and thought the work was "very interesting." When he accepted the position, he was not gunning for partnership:

> I never really thought that I would be the big firm lawyer for a long time. I think coming in from the outside I sort of expected that going to a big, known firm, that it would be insurmountable hours and I would burn out relatively quickly. And I came in thinking, "I'll just see how it goes," . . . and nothing has driven me away. I mean I've had a good experience, and so . . . I wouldn't have told you coming in that this is something I was looking for, but I've been happy while I've been here.

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The mentorship environment—particularly informal mentorship, which helped him learn "things [he] should be trying to do" and "people to work with or avoid"—facilitated his success, and he was grateful to "have had people look out for me in terms of getting the breadth of experience" he needed. For him, it fit with the firm's emphasis on building relationships rather than simply generating business. "While I'm sure no one would look down their nose at you if you were out there trying to gather business, it's not something that is stressed," he said.

Unsurprisingly, in our wave 2 interview, James had been elevated to his firm's single tier of equity partners. He remained modest, saying: "It certainly was not my dream all along to be a partner at a big law firm, but the fact was I enjoyed what I was doing and sort of kept checking in every couple of years and realizing things seemed to be going well." Making partner simply felt like a good fit: "So . . . if it's possible, I guess I feel more included than before." He made clear, however, that becoming partner was based on doing excellent work. His work straddles the line between civil and criminal practice, which is a hallmark of his law firm. He has gained more responsibility, but his has been a gradual process of accumulating more stature in the firm.

When we asked during his wave 3 interview what it took to become a partner, James responded that partners must have a "broad range of skills" and "fit the culture." He also conceded that these criteria are "easy to say and . . . harder to identify": "But that is it. I mean, you're looking for . . . the next generation of people we think are stars." One must fit within the firm and possess some quality that the existing partners recognize but cannot define. With respect to diversity, James felt that his firm was more committed to diversity than most large firms, but he flagged the often-mentioned problem of attrition among minorities.

As for work/life balance, James noted in his third interview that, "selfishly, [he didn't] know how [they] would have made it through" a particularly time-consuming trial if his wife were not currently a stay-at-home parent to their two children. When the couple met, both worked as lawyers at the same firm; when they married, she moved to a government position. By the wave 3 interview, James reported that she "didn't go back [to work]" after their second child and was "trying to decide what she's going to do next": "And it's driving her crazy. She wants to be back at work, yes. . . . She was never the, she will tell you, the 'stay-at-home mom.' "

Lynden Lynden is an African American lawyer who was pushed out of a large law firm and typifies the fate of many African American lawyers in law firms. Raised by a single mother who worked as a maid, he had overcome

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those disadvantages to attend an elite undergraduate school and after graduation land a science-oriented position with the federal government. He then attended a top-20 law school and became an associate in a prestigious DC law firm. Seeking a litigation practice, he moved to another well-regarded DC law firm that focused on litigation. From the beginning he felt like an outsider and worried that he was perceived as lacking the requisite "businessperson type of personality" that would make him partnership material. At our first interview, he had not yet been considered for promotion to partner. He had two children, and his wife essentially stayed at home, allowing him to throw himself into the partnership tournament.

But, at the wave 2 interview, Lynden had been turned down for partnership, had been given notice of his termination, and was trying to figure out his next move. In discussing what went wrong, he suspected he was left out of practice groups on account of his race—which kept him from being able to bond with partners. He did not find powerful mentors who might help him take care of "what would be necessary" for him to make partner. Worse, when the practice groups began to splinter from the law firm in the recession, groupless Lynden was simply terminated. No one in the firm protected him. No one led him to another opportunity. Reflecting back on his experience, he recognized that he had never made it into a "silo" within which he could prosper. That left him "bouncing around the outside." He was grateful to fall in with others "who were not in a silo": "And those people were very nice to me, gave me great advice, but they can't help me maneuver, so I was on the outside bouncing around, . . . and they were bouncing with me." Prompted to discuss why he thought he was a perpetual outsider at the firm, he said: "Well, you know, this is not completely unrelated to race and background and things like that. It's part of what world you grow up in . . . it's . . . the comfort level in networking . . . in an all-White, mostly all-White world. . . . Seems like . . . but I'm not sure it's race." Could it also be related to social class—the "background" he mentioned? Lynden conceded that he had lacked common cultural capital with the partners: "Right, I've been asked if I could be a fourth for some golfing, and I've never . . . I've never even been on a green."

By the third After the JD (AJD) Project interview, Lynden had returned to working in the federal government, this time as a lawyer for a regulatory agency. Unlike in the law firm, in his new job he had the opportunity to appear regularly in court to represent his agency.

Constance Constance started her career very differently than did Alicia, Paula, or James. She worked full-time as a CPS social worker while attending the night program at a midtier law school. On one of her CPS cases, her hard

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work and intelligence impressed the district attorney. This led to an internship during her last year of law school and, eventually, a job in the district attorney's office on graduation. After starting her career in the domestic violence unit, she was promoted to felony assaults, then gang prosecutions. It was considered a plum assignment, though she said it prompted "really good advice" from a lawyer who had left the district attorney's office: "Try your first murder case, and get out. . . . You've got everything you are going to get out of the office from a training perspective, and then they're going to suck you dry." Constance took the advice to heart. She tried her first murder case while pregnant with her second child, then took advantage of a serendipitous relationship.

As it happened, Constance had prosecuted a criminal defense attorney for engaging in a conspiracy to bribe a witness. The expert witness she hired to testify on the legal obligations of the defense lawyer was impressed by her work and told her he would be happy to hire her when she was ready to leave the district attorney's office. Later, when she completed that first murder trial, she accepted the offer. Constance and her mentor now working alongside each other in a small branch office of a large law firm, the two were building a practice advising and representing lawyers on ethical issues. Through extensive publications and speaking engagements, they grew their practice and attracted attention. An even larger and more national law firm recruited them both to join as lateral partners, bringing their whole group with them.

Constance became a nationally recognized expert in the niche practice area of advising and defending lawyers on ethical issues. In our last interview, she spoke of her satisfaction with her somewhat unanticipated career trajectory: "I don't think anybody in law school knows that this is a thing . . . that you can have a very successful national practice based entirely on representing lawyers and law firms and it's really, really fun." Not only is she professionally prominent and well compensated, but she also has considerable flexibility in her work schedule: "Nobody knows where I am. So I work at home a lot. I'm on the road. So I don't think I have a typical day. I'm a single parent, so I have a lot of here and there obligations. . . . I'm usually out of [the office] by 3:30 or 4:00 P.M. . . . Last night I took my daughter to practice . . . drop her off, and then go to like a Starbucks or a place nearby and work for two hours while she's in practice, and go back and get her." Nevertheless, Constance mused that she might consider changing practice areas within her firm once her children graduated from college. LinkedIn shows that she subsequently moved to a partnership position in a large international law firm in the same city before relocating to a national legal market where she now works as a partner and deputy general counsel for a large global law firm. The average

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partner compensation at her firm—including both equity and nonequity partners—is reportedly $1.25 million per year.

Inequality and Opportunity: Connecting Agency and Social Structure

These five stories are rooted in and take meaning from the structures of the American legal profession. They also reveal the role of personal agency in the making of lawyers' careers. Large-scale social structures—hierarchies such as gender, race, class, law school status, and macroeconomic conditions—all shape lawyers' career prospects, yet they are not necessarily determinative. Social hierarchies structure the careers of lawyers. They do not function as a caste system, yet they also do not disappear just because someone has achieved success by beating the odds to obtain a certain position.

Keying into personal narratives allows us to see that social and professional hierarchies hold contingent power: sometimes they are background conditions, and other times they emerge as dynamic factors. Paula drew on her elite credentials (as well as her Spanish-language proficiency) to move in-house, a shift that reflects the changing organization of corporate legal services. Constance worked her way up from the ground level, from night school to a local government job, a boutique law practice in a satellite office of a regional firm, a partnership in a national law firm, a partnership in an international law firm, and, finally, a partnership and a deputy general counsel position in a global firm (a new kind of position that underscores the importance of her emerging specialty, representing lawyers). With her credentials, it is unlikely Constance could have obtained an entry-level position in her current firm; instead, at each stage, she impressed powerful mentors who facilitated her upward movement. In fact, as Paula's story showed, it is even less likely that Constance could have risen through the ranks to equity partnership—the old-boy network remains pervasive in many firms, just one of many structural obstacles for those outside majority power broker groups. Paula saw the limitations of mentorship when she realized her mentor was not willing to push for her success, and Alicia, who appeared on the cusp of partnership after nine years in her firm, found sexism prevented her advancement. Both were still able to convert their experience into successful careers outside corporate law firms. Lynden experienced how largely White law firms may hire African American attorneys who then still may feel as if they are social class outsiders. Without powerful mentors, they will bounce around the power centers of the firm and get fired when the economy sours. After this disappointment, Lynden followed a track that many African American attorneys take—moving into a government position.

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Parenting and partnerships also arose as important to success. Certainly, Constance's career narrative is one among many proving that female attorneys *are* able to parent while maintaining high-powered professional careers. Yet part of Constance's strategy involves full-time domestic help; another is her ability to work on the move, unconfined at this point by an office schedule. Interviews reveal that this is not a viable strategy for many other women, who joke about their need to have a wife who can take care of childcare and domestic responsibilities. Men typically do not face the same trade-offs of career and family, nor do they equally share homemaking with their wives (Bianchi et al. 2000; Kan et al. 2011; Offer and Schneider 2011). James attributed his own success in part to his wife's decision to put her career as a lawyer on hold in order to look after their children even though she had never aspired to do so and appeared eager to get back to work. Paul noted that her husband works from home and that, at the time of our third interview, the family had a nanny. Still, she suggested that to accommodate her family she had not done the kind of networking she thought might help her realize her ambition to become a general counsel.

These individual narratives are framed by the deep structures of the American legal profession, structures conditioned by the market and by enduring legal and professional hierarchies. Through historical processes of iterative social construction, the market and the hierarchies are racialized and gendered and classed. Despite considerable change, inequalities remain inextricable from the operation of the market and the professional opportunities that are open or closed to individual lawyers—or perceived as such.

In these five stories, for instance, we can see the division between public sector law and private sector law and their correlated inequalities—the higher pay and status afforded the private bar vs. government and public interest practice and how stepping into one track or the other can have career-long impacts on mobility and earnings. All five lawyers introduced thus far came to ply their professional skills in private practice in the service of resource-rich business and professional clients (two-thirds of the lawyers in our study were, by the time they entered the profession, dedicated to serving business clients, from small to large businesses). The career opportunities and rewards of the public sector are dwarfed by those of private practice, particularly for those representing business clients. Those lawyers who begin their careers in the public sector frequently receive the advice Constance was given: to convert public sector capital into private sector opportunity as soon as possible. It is not entirely unusual for lawyers like her to cross this structural boundary, though her story is exceptional in that she moved from state prosecutor to partner in a large corporate law firm. Paula, meanwhile, represents what

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is becoming a well-trod elite path from a top-tier law school to a large law firm to a well-paid and increasingly prestigious in-house counsel position. This path provides, as we will see, an outlet for the many lawyers who will never make partner at the law firms they initially join—a reality particularly significant for women, who have flocked to in-house counsel positions in recent years.

Indeed, the experiences of these three women stand in sharp contrast to the narrative shared by James. A White man with elite education credentials, he began as an associate in a large law firm, was nurtured and coached, and seamlessly transitioned to equity partner, all while feeling right at home. In a profession dominated by elite White men, his is the traditional path, flowing from first year to partnership. Although Paula and Constance underscore that women—including some Latinx, African American, Asian American, and Native American lawyers—are key players at the country's top law firms, their career trajectories are nonetheless nontraditional for the structure of their profession. James was obviously devoted to his wife (formerly a fellow lawyer at his firm) and spoke warmly of her interest in returning to practice, perhaps in a public sector or nonprofit organization, though he noted frankly that her decision to leave the labor market facilitated his high-level litigation practice. He had also imbibed the firm's common sense regarding diversity (that it was desirable but hard to achieve because minority lawyers rarely stayed long) and continued to judge potential partners on the subjective standard of fit. Lynden exemplifies how lawyers of color from disadvantaged backgrounds do not achieve fit and may be characterized by firm leaders as an example of the difficulty of retaining attorneys of color when in fact they were left unprotected in the law firm and pushed out.

This book is based on the AJD Project, a unique longitudinal study on which five of the coauthors have worked for over two decades. The project has followed more than 5,000 lawyers who began practice in the year 2000 and were selected as a representative national sample of new lawyers. Its unprecedented data set includes over 10,000 survey responses and 219 in-depth interviews, allowing us to investigate lawyers' careers from many angles. For instance, we can tease out the role of social hierarchies of race, ethnicity, and gender as well as hierarchies of prestige like those associated with law school selectivity and more or less esteemed legal specialties. We can consider how education debt affects the lives and careers of law school graduates. Putting these data in conversation with a robust social scientific literature clarifies the contours of the legal field at a moment when many commentators—even a fair number of lawyers—suggest the legal profession is undergoing

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a significant transition, perhaps even a crisis (Barton 2015; Campos 2012; Garth 2017; Monahan and Swanson 2019; Tamanaha 2012; Yoon 2014).

A good portion of the scholarly literature, for instance, documents and laments the disproportionate exodus of women and minorities from law firms prior to partnership consideration. When questioned, the firms posit that women usually leave because of lifestyle and family commitments and that minorities leave for other opportunities, pursuing work in politics or government. Our study suggests, instead, that law firms have been built on a specifically White and masculine structure that has begun to take up the rhetoric of diversity but changed only slightly in relation to external pressure. All women—even those who do not have children—are penalized in the profession and may leave when they believe they have maxed out their advancement potential, while people of color (especially African Americans and Native Americans) are not primarily lured away by other opportunities but pushed out by discrimination, alienation, and a lack of supportive, effective mentorship.

There are many versions of the perpetual literature on the downside and limits of lawyers' careers. We address many of the themes in these introductory chapters and in chapter 14. One strand reasons that, because of the high debt that most law school graduates incur, individuals should not attend law school unless they are reasonably sure that they can secure the high starting salaries of corporate law firms. By extension, one should not attend lower-ranked law schools since their students are seldom granted access to corporate positions. We find, however, that the vast majority who graduate from law schools across the rankings find ways to succeed that lead them to value their law degree and their decision to attend law school. There are many stories of upward mobility.

One way the upward mobility story is told in the legal profession is expressed in the statement that, once a lawyer begins to practice, law school pedigree no longer matters. What matters is the quality of the lawyer's work. Although graduates from almost all law schools are found in almost all legal positions, we find that the advantages associated with law school prestige—which include entrée to corporate law firms and then to a host of other positions that are most available to those who began in corporate positions—accumulate and over time widen the gap between those who graduate from highly ranked law schools and those who graduate from lower-ranked schools. We see this in income, in the ability to repay debt, and in the status of the positions attained. That these elite law school graduates are also more likely to come from privileged social backgrounds underscores the degree to

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which our study shows how opportunity and upward mobility exist in a market that is overwhelmingly characterized by the reproduction of advantage in school attended, race, gender, ethnicity, and social class.

This book's combination of quantitative, qualitative, and public records data provides a unique lens through which to consider the American legal profession. We are able, in these chapters, to address the ways structural stasis and change interact with individual agentic strategies to shape lawyers' careers and to consider the evidence for some of the most common, often contradictory critiques of the profession. As scholars write about the crisis of American law, many charge that it has become too commercialized, abandoning a traditional commitment to public service and reasoned deliberation in the pursuit of profit (Glendon 1996; Kronman 1993; Linowitz 1994). The fact that most Americans have virtually no access to legal services stands as the most potent and visible manifestation of this critique (Hadfield 2016; Sandefur 2014). Further, the rewards of a legal career are not equally attainable, and scholars rightly underscore disparities in the incomes and opportunities available to women and minorities—particularly in elite settings—as evidence of ongoing discrimination (Epstein et al. 1995; Sterling and Reichman 2016; Wilkins and Gulati 1996). Others argue, instead, that a growing professional instability (venerated firms failing, incomes slipping against the cost of living, widespread layoffs) has made legal careers less desirable. In other words, a law degree is no longer considered a ticket to a secure and lucrative career (Merritt 2015; Susskind 2013). From blogs to the legal press, stories in this vein abound: a rewarding legal career is all but out of reach amid grinding hours, crushing education debt, and a lack of meaningful work (see the references in Monahan and Swanson 2019). The 2008 global financial crisis accentuated these concerns. Suddenly, fewer than 60% of law school graduates were able to find a job requiring a JD, leading law schools saw their enrollments plummet from historic highs, and a few closed their doors for good (American Bar Association 2016; Leipold and Collins 2016; Merritt 2015; Rampell 2013; Tamanaha 2012). With law firms shuttering (Yoon 2014) and disruptions in the form of legal process outsourcing, paraprofessionals, and alternative legal service providers proliferating in other arenas, from technology companies to the Big Four accounting firms (Wilkins and Esteban Ferrer 2018), commentators have speculated about "the death of big law" (Ribstein 2010) and "the end of lawyers" (Susskind 2008).

To be sure, the crisis commentary is neither new (Garth 2013; Solomon 1992) nor generally based in valid research methods (Monahan and Swanson 2019). It may simply reflect the positions of elites and/or those critics who benefit from participating in public debate (Garth 2013). Still, these widely

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shared critiques are influential in public and professional conceptions of the legal profession, so they merit serious consideration. Our sociological inquiry also recognizes that the recurring but evolving crisis rhetoric is itself part of the process of professional change and reproduction. The crises are evoked as entrepreneurs/brokers argue that their suggestions and corrections—more use of technology, more diversity, more family-friendly workplaces, larger intellectual property departments, better compliance with professional standards—are essential to the legitimacy and/or survival of the profession. So, too, are the rebuttals, in which hierarchies are reiterated and professional ideologies clarified in recommitments to public service and meritocratic standards.

Theoretical Perspectives

Our analysis in this book draws on the Bourdieusian categories of the legal field (more on this momentarily) and three general theoretical perspectives that have shaped the sociology of the legal profession. The book is, of course, a collaborative project, so as authors we vary in our theoretical orientations. For example, some of us see the crisis literature in Bourdieusian terms as jousting for symbolic power among actors in the legal system, while some of us take the crisis critique on its own terms.

Before we can move forward, readers may appreciate a brief overview of the three interconnected, coconstituted theoretical perspectives most common to the sociology of the legal profession: the hemispheres thesis, social capital theory (and the profession-specific interplay between social and other forms of human capital), and a range of political economy theories that situate the legal profession in the broader economic, social, and political contexts in which lawyers and clients live and work. Again, though we outline these perspectives separately and in terms of their differing orientations and research agendas, each is significantly connected to and informed by the other.

HEMISPHERES

We begin, as has almost every other account of the American legal profession in the past 40 years, with the foundational work of John Heinz and Edward Laumann on lawyers in Chicago. Working under the auspices of the American Bar Foundation, in 1975 Heinz and Laumann conducted one of the first comprehensive studies of lawyers in a single jurisdiction, surveying 777 randomly selected lawyers from every sector of the Chicago bar. In the resulting *Chicago Lawyers* (Heinz and Laumann 1982), they argued against

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standard orthodoxy, regarding lawyers neither as members of a single unified profession nor as representatives of distinct subprofessions based on legal specialty or expertise. Instead, the lawyers in their sample were most usefully divided into two hemispheres by clientele: the *personal plight sector* (those who served individuals and small businesses) and the *corporate sector* (those who served businesses and other large organizations). By way of demonstration, they showed that many other apparent distinctions could be explained by this fundamental divide. Lawyers in the corporate hemisphere, for instance, occupied the socially and economically desirable end of other divides; they hailed from elite social backgrounds, attended top law schools, worked in larger law firms, did prestigious legal work, and earned high incomes. Jews, Catholics, and other ethnoreligious minorities, on the other hand, were largely excluded from the corporate hemisphere and concentrated in the personal plight sector. They tended to graduate from local law schools, work in state and local government or in solo or small-firm practice, handle less prestigious work (like criminal defense and personal injury), and make far more modest incomes. At the time of this initial study, these two sectors of the bar were roughly equal in size—hence the designation *hemispheres*—and largely distinct, with few lawyers moving from one hemisphere to the other. Heinz and Laumann conclude: "Though there are certainly distinctions among lawyers that cut across the line between the two broad classes of clients, this fundamental difference in the nature of the client served appears to be the principal factor that structures the social differentiation of the profession" (1982, 320).

In 1995, Heinz and Laumann, joined by Robert Nelson and Rebecca Sandefur, reprised the 1975 survey of the Chicago bar to determine what—if anything—had changed over the intervening two decades, publishing the results as *Urban Lawyers* (Heinz et al. 2005). Most notably, the changes they documented highlighted the inclusion of women and racial minorities (who were nearly absent from the original study), a near doubling in the size of the profession, and a distinct turn toward bureaucratization. Though the profession had become segmented in ways that could not fully be captured in a binary of hemispheres, their results continued to support the notion of a fundamental cleavage between corporate and personal client lawyers.

There were, however, two important changes in the relative composition and importance of the two hemispheres. First, some of the factors that had been closely correlated with client type in the original study had significantly eroded. Specifically, the stark ethnoreligious segregation between business and personal client practitioners had largely disappeared by 1995, with Jewish and Catholic lawyers represented in elite law schools and large law firms

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in numbers that matched—and sometimes exceeded—their representation in the general population. Similarly, by 1995 elite corporate law firms had expanded into fields such as criminal defense (adding what was called the *white-collar defense* of corporate officers, directors, and other wealthy individuals) and proxy fights (now called *mergers and acquisitions*), which were previously the province of the personal plight hemisphere. Second, the relative size of the two sectors of the bar had shifted dramatically over 20 years. In 1975, the individual and corporate hemispheres were roughly equal in size in terms of lawyers' total effort; by 1995, the corporate sector consumed almost two-thirds of lawyers' work. This shift in relative size was echoed in a widening pay gap, with corporate sector lawyers' earnings rising dramatically and individual sector lawyers' earnings declining slightly.

The orientation and findings reported in Heinz and Laumann (1982) help us assess how much change has taken place in the US legal profession since the late 1970s.

SOCIAL CAPITAL, INTERNAL LABOR MARKETS, AND ORGANIZATIONAL THEORY

The French sociologist Pierre Bourdieu pioneered what is called *field theory*, a sort of extended metaphor that shows how individual actions are contextually structured. In this book, we imagine the legal field as a semiautonomous space of struggle—an arena marked by common rules for game play that can also be contested (see Bourdieu and Wacquant 1992).[2] Actors internalize and naturalize the rules, then adopt strategies to maximize their chances of field-specific success. In general, this involves actors building up the sort of capital that is valued in the field or finding ways to get the field to value alternative capital they already possess.

Rivera (2016)—a study of hiring practices at investment banks, management consulting firms, and elite law firms—is a beautiful example of this kind of approach. Rivera finds that hiring partners tend to look for qualities that are similar to their own—that is, they assign higher value to job candidates who not only have elite education degrees (i.e., types of human capital) but also play the right kinds of sports and take the right kinds of vacations (i.e., types of social capital). In other words, they prefer to hire those who fit with current corporate culture. Similarly, Neely (2022) finds that hedge fund managers protect their interests by building dense networks of Wall Street elites who look and act like them. The social capital perspective recognizes the socially constructed nature of the credentials and status that make up the hierarchies of law.

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Because the actors in the field of law often believe in markers of status and accomplishment, these forms of social capital have real consequences. A social capital perspective also accounts for the dynamics of struggle and competition within the field. The kinds of social capital a field values—that can give an actor a leg up in the competition—are contested and change when, for instance, the stature and resources attached to inside corporate counsel become more powerful or external demands raise the desirability of greater diversity in law firms. By the same token, this perspective reminds us that changes in the legal field do not necessarily topple its existing value structures, although they may temper them.

Our data are uniquely compatible with a social capital perspective on lawyers' careers, because the AJD Project makes it possible to follow individual careers over time. In both the questionnaires and the in-depth interviews, we inquired about many forms of capital that might play a role in the evolution of a lawyer's career.

Paula's experience is helpful here. Taking a social capital approach, we can better see why—the significant increase in the number of women and people of color who begin their careers in large law firms notwithstanding—the institutions' fundamental structure and hierarchy remain unchanged. Like other graduates from her elite law school, Paula had no trouble obtaining an entry-level position in a large law firm even though she is both female and the daughter of Mexican immigrants. That would have been unthinkable during the 1960s "golden age," when expressly discriminatory policies kept even top-of-their-class, elite pedigreed people like future the Supreme Court justices Ruth Bader Ginsburg and Sandra Day O'Connor from being hired. By the mid-1980s, virtually all law firms had responded to changing social norms, demographics, and professional needs by abandoning such policies. Women constituted 40% or more of elite law schools' graduating classes, it was increasingly socially unacceptable (and sometimes illegal) to deny gender equality, and legal firms needed warm bodies if they were to keep operating within an economic model that depended on multiplying the number of timekeepers at the bottom to produce higher profits for those at the top. By the time Paula and her AJD Project classmates entered the bar in 2000, any firm hoping to recruit the best needed to implement gender parity in entry-level hiring and engage in affirmative outreach to Latinas like Paula and other people of color (a norm backed up by the National Association of Law Placement and its annual directory, which published every law firm's hiring record broken down by gender and race and reported the formal antidiscrimination policies adopted by law school placement offices).

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Yet these changes have not disrupted the partner-level social structure of elite law firms. Her social capital had gained value in that it afforded Paula a way in, but, after trying the partnership track in several sites and finding no true sponsors willing to push toward and advocate for her inclusion in equity partnership, she opted to take the off-ramp to a successful career as an in-house counsel. As we indicated above, this relatively recently developed track sees many elite-credentialed women, including minority women, given the opportunity to start in large law firms, but promotional constraints push them to leave for in-house legal departments that value their large-firm experience and sidestep the partner cliff. It is a great strategy for individuals dealing with structural constraints, but it does not break down the structures. It allows corporate law firms to be more open to hiring women (and minorities in similar, but different ways) without disrupting the dominance of lawyers like James at the top of the pyramid. White men with elite credentials and wives at home continue to have a much greater chance at equity partnership.

Indeed, this innovation allows firms to point to their assiduously diverse recruitment efforts, then blame women and minorities for "choosing" to chase other opportunities or prioritize personal lives for the continued homogeneity of the partnership ranks. As Padavic et al. (2020) point out, these scripts are based on assumptions (not data) and on social defenses that divert attention from untenable working demands and the paucity of women in leadership roles (Ely et al. 2014). Meanwhile, the inside counsel revolution has resulted in a corporate consolidation of female and minority talent: 140 of the general counsels of Fortune 500 companies are female (28%), compared to 15%–20% of equity partners and less than 5% of managing partners in top law firms, and 9% are minority identified. They are leading the charge when it comes to pressuring law firms to improve their chronic diversity problems (Wilkins and Kim 2016); where direct calls to action have had limited impact, the very fact of tremendous growth in the size and sophistication of corporate legal departments has been indirectly critical in restructuring the policies and practices of large law firms. Ironically, this includes the acceleration of the 24-7 work culture that pushes many talented lawyers out of large law firms and into in-house legal departments (Heineman 2016).

Social capital theory extends the more orthodox human capital theory famously developed by the economist Gary Becker (1957) to account for patterns of inequality more robustly. In human capital theory, individuals strategically invest in education and other types of training expected to yield economic returns in the marketplace. Employers reward workers according to these investments and other aspects of effort that yield a marginal return.

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The result is (or purports to be) an economically efficient, rational, and meritocratic income determination system. Human capital theory would, for one, attribute racial and gender gaps in earnings to differences in individual human capital investments. Becker allows that discrimination *may* occur in labor markets but should be driven from markets over time because group-level discrimination produces less efficient outcomes for employers.

A pure human capital analysis cannot account for the observable outcomes of law firms' partnership tournaments. Because law firms continue to hire associates on the basis of their pedigree, they have an incentive to protect their investment by giving the best-pedigreed associates preferred access to good work assignments and training opportunities (Wilkins and Gulati 1996), an initial seeding that's self-evidently self-reinforcing. These selected incoming lawyers are more likely than are their peers to develop and to be seen as possessing the kinds of skills and dispositions prized by senior lawyers and clients (Wilkins and Gulati 1998). Partners invest in prized associates on the training track as the others are relegated to less supported, less meaningful, less visible, and less desirable work—and eventually no work at all. One's stock of capital is only as good as its highly contingent, field-specific valuation or exchange rate. However committed to the goal of diversity, corporate law firms were constructed around and continue to reinforce an embedded ideal of a White, male, elite-educated upper echelon.

The structures of opportunity in corporate law firms and in other legal practices are revealed both in quantitative and in qualitative data. The well-worn career paths and strategies—which in Bourdieusian terminology we can refer to as *habitus*—are internalized by actors who implicitly or explicitly recognize their natural fit with particular tracks; the elite track into corporate law firms has widened, but equity partnership tracks within those firms are narrower. Fewer people can successfully take on and leverage that habitus credibly. Others will languish or change tack, destined for in-house positions, boutique firms of corporate expatriates, and the federal government. Other well-worn and internalized habitus are found among the graduates of low-ranked schools, concentrated in the world of solo and small firms and state government.[3]

Our data also help us understand how fields and strategies are nested. The semiautonomous social field of the legal profession fits within the broader social, economic, and political world in which lawyers and clients live and work. The legal profession operates within a context of existing hierarchies, resulting in corporate lawyers in the United States gaining advantage via their proximity to economic power and state power (owing to their historic importance in this specific national context). The theories that help us map this

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contested terrain illuminate and are illuminated by observed patterns in lawyers' careers and lawyers' career narratives.

POLITICAL ECONOMY

Lawyers work at the intersection of the market and the state. Scholarly theories about this relationship range from the classic professions model, in which the state grants professionals monopolies in exchange for self-regulation and an ethical commitment to public values (Carr-Saunders and Wilson 1933; Goode 1957; Paterson 1982; but see Nelson and Trubek 1992), to critical examinations of monopoly as a strategy of self-interest (Freidson 1970) and market control (Abel 1982; Larson 1977). In *The System of Professions* (1988), Abbott asserts that professions should be seen in relation to each other, as a system of professions competing for control over jurisdictions by seeking to valorize their knowledge bases.

Wilkins et al. (2019) expand this focus by proposing an ecosystem metaphor, developed through their studies of corporate legal professions in China and other emerging economies. Within this theoretical model, the legal field's micro-level components—law firms, clients, and legal education—act as gears. Changes to one component produce changes in the structure and functioning of the other gears. The macro-level political economy involves the state, the market, and the bar, which control the legal field. Sharing elements with Bourdieusian structural sociology, this theory holds that the legal field is deeply connected to political and economic power; law and lawyers support existing power structures and provide them legitimacy by ostensibly constraining the powerful to the confines of the law. The position of serving but remaining relatively autonomous from external power also extends power to the legal profession and its hierarchies. The relative autonomy built into professional ideology suggests that lawyers are not just hired guns (Dezalay and Garth 2008; Gordon 1984), though the relational dependence on economic, political, and social power is essential if the profession is to thrive and attract ambitious and well-connected aspirants.

This truism means that, when economic, political, and social power change, such as from the welfare state to the much more competitive neoliberal economy or via societal shifts granting or recognizing more power to women and minorities, the legal field must respond and adapt (Ballakrishnen 2021; Dezalay and Garth 2021). Otherwise, it might lose status and leave its internal structures in disarray. Stories of change and continuity reflect the mix of a changing political economy and the slowly adapting, path-dependent

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structures of the legal profession. The cries of crisis are commonly employed both to slow transformation and to criticize resistance to change.

Constance's career narrative is useful for seeing how, as Wilkins et al. (2019) argue, the micro-level shift in power between clients and law firms is the product of macro-level changes in the relationship between the state, the market, and the bar. Moving from a regional to a national and then global law firm, Constance has carved out a lucrative career advising and defending lawyers on ethical issues. Her niche has boomed in recent years as the rapidly expanding number of statutes, administrative regulations, and common law duties have come to govern legal professionals—and leave them open to lawsuits and criminal prosecutions previously rare to the traditional professional model, in which lawyers were trusted to self-regulate under professionally generated ethical rules rarely enforced by disciplinary authorities (and particularly rarely against corporate lawyers [Steele and Nimmer 1976; Wilkins 1992]).

Since the 1970s, state officials at every level of US government (and, increasingly, other national governments) have shed their traditional deference to bar authorities. Today, they have taken aggressive civil and criminal actions against lawyers and firms. At the same time, dramatic expansions in the size and geographic scope of law firms, the lateral mobility of lawyers like Constance (Galanter and Henderson 2008), and the incidence of business-to-business litigation as a tool of global "lawfare" (Galanter 1986) have swamped even elite firms in disqualification motions, malpractice claims, and other civil liability lawsuits. In attempting to retain legitimacy and relevance, bar authorities have revised the rules of professional conduct to focus on preventing and rectifying financial fraud, but it is clear that the macro-level forces of state actions and the erosion of gentlemanly market norms preventing businesses from settling their disputes through the legal system (Macaulay 1963) are driving the micro-level dynamics of Constance's practice and, therefore, her career.

Another aspect of the political economy of American lawyers is the relationship between lawyers' private practices and their public roles. In a Bourdieusian perspective, lawyers may use or gain power in the legal field from participation in public service and pro bono legal projects that help gain respect (Dinovitzer and Garth 2009). At the profession level, this respect can take the form of legitimating lawyers' professional monopoly and serve as symbolic redress for the vast, persistent inequalities in access to legal services. Individual attorneys may find such public service a means for establishing a reputation by which they gain clients seeking to bolster their own credibility by employing lawyers with good public service reputations (Wilkins 2004a).

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High-profile service may also operate as a marker of social status within the profession, given its cultural orientations; large law firms have institutionalized pro bono activities, and the American Bar Association (ABA) recommends that all lawyers perform 50 hours of pro bono work a year, indicating that public service is a key reputational ideal (Adediran 2020; Bosvieux-Onyekwelu 2018; Cummings 2004).

The political orientations of lawyers are another useful target for theoretical inquiry. Scholars have asked, for example, how individual politics affects lawyers' professional work, whether political party affiliations or economic and social ideologies shape career choices, whether professional practice instead shapes politics, and whether, perhaps, politics and practice are actually decoupled for most lawyers. Heinz and Laumann (1982) and Heinz et al. (2005) found that the Chicago bar was politically fragmented along the lines of client interests but that many corporate practitioners identified as Democrats and expressed liberal economic and social values. Bonica et al. (2016), investigating political orientations through lawyers' campaign contributions, similarly found that attorneys generally lean to the liberal end of the ideological spectrum, compared to other educated professionals, though there is considerable ideological heterogeneity that can be parsed by practice setting, size of law firm, law school attended, field of practice, and geographic location. On the whole, the fact that corporate lawyers tend to share the moderately reformist politics and neoliberal economic values of the educated elites who primarily govern the state and economy indicates the tight coupling of the legal establishment with existing power bases.

Once again, the AJD Project's longitudinal research design gives its data clarifying power. In each wave, the survey collected data on pro bono work, participation in community activities, political party affiliation, and economic and social liberalism. These data reveal the shifting linkages between lawyers' private practices and public roles over the course of their careers.

Research Design and Data

The data analyzed in this book are by far the most comprehensive collected on the careers of lawyers—on the careers of any occupational group, perhaps. In contrast to studies more narrowly focused on the graduates of specific law schools (see Aiken and Regan 2016; Dau-Schmidt et al. 2009; Dau-Schmidt and Mukhopadhaya 2021; Lempert et al. 2001; Monahan and Swanson 2019; and Wilkins et al. 2015) or cross-sectional studies of lawyers in specific cities (Hagan and Kay 1995; Heinz and Laumann 1982; Heinz et al. 2005), this project has produced a nationally representative longitudinal data set for an

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entire cohort of lawyers with three waves of surveys (2002–3, 2007, and 2012) and career mobility tracking through 2019.

We selected the sample in a two-stage process. In the first stage, we divided the nation into strata by region and size of the population of new lawyers in 2000. From these, we selected all four major legal markets (those with more than 2,000 new lawyers: Chicago, Los Angeles, New York City, and Washington, DC), five of nine large markets (those with 750–2,000 new lawyers: Boston, Atlanta, Houston, Minneapolis, and the San Francisco Bay Area), and nine smaller markets (those with fewer than 750 new lawyers; New Jersey outside Newark, Connecticut, Florida outside Miami, Tennessee, Oklahoma, Utah, Oregon, St. Louis, and Indiana). In the second stage, we used state bar records to select lawyers who, when combined, would be statistically representative of the national population of lawyers admitted to the bar in 2000. With the assistance of the Law School Admissions Council, we oversampled for race and ethnicity.[4]

The longitudinal survey started with a wave 1 sample of 8,225 lawyers across the 18 sampling areas. With 4,538 respondents, the response rate was 56%. In wave 2, 70% of wave 1 respondents responded again, and 26.9% of wave 1 nonrespondents responded, for an overall response rate of 50.6%. Owing to cost considerations, wave 3 surveys were sent to only those who had responded in a previous wave; we received 2,984 responses, for a response rate of 53%. Ultimately, 2,035 respondents answered all three survey waves. Although by contemporary standards these are high response rates, we conducted web searches to compare wave 3 respondents to nonrespondent members of the initial sampling frame. We found no significant differences in bar status or employment setting. The surveys elicited detailed data on social background, education, employment, earnings, networks, community and professional activities, and job satisfaction.[5]

Figure 1.1 displays the national scope of the sample, with wave 3 respondents' geographic distribution illustrated by the relative size of the circles. Some respondents moved from their wave 1 location, yet the largest groupings of respondents still correspond to the four major legal market cities.

AJD Project principals supplemented these sizable survey data sets by conducting 219 in-depth interviews with survey respondents. Interview respondents were selected from the survey sample to overrepresent lawyers of color, public interest lawyers, and lawyers in small firms and solo practice (Dinovitzer and Garth 2020). Of the 146 interviewees, 47 were interviewed twice, and 26 were interviewed three times. The interviews were recorded, transcribed, and then analyzed using software including ATLAS.ti.

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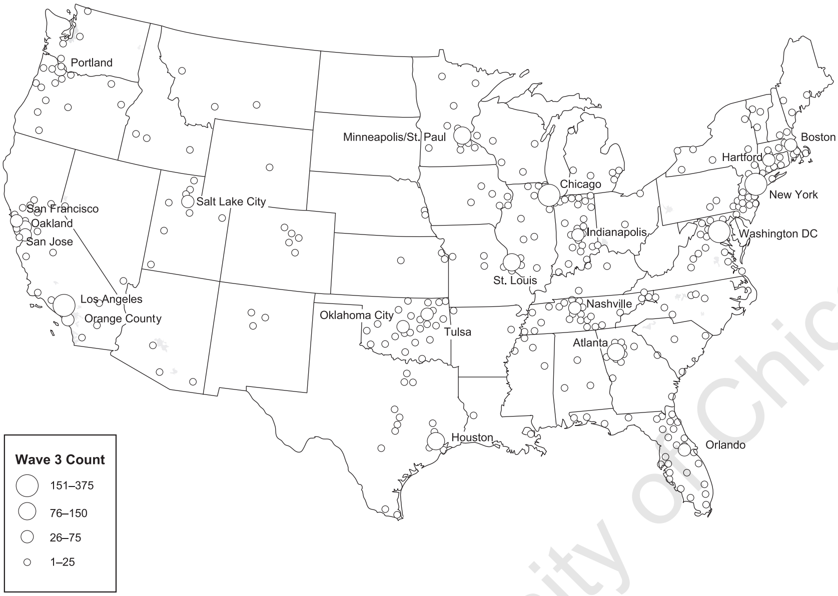

FIGURE 1.1. Geographic distribution of respondents at wave 3

Plan of the Book

We present our analysis of agency and structure in the making of lawyers' careers in five parts. Along with this introduction, part 1 sets the historical context of the AJD Project cohort's careers. In part 2, chapter 3 analyzes the structure of lawyers' careers through the survey data, revealing a series of sequences (or pathways) along which the diversity of lawyers' careers commonly fall. These are assigned to four higher-level categories—those who start in large law firms, those who start in small and midsize law firms, those who work in business (as inside counsel or businesspeople), and those in government and public sector jobs—that tell us a great deal about the structure of the profession. In particular, chapter 4 examines how social background predicts law school status, which in turn shapes career moves, and chapter 5 revisits the measures of specialization by fields of law and client type that laid the basis for the two hemispheres thesis.

Part 3 presents the narratives of lawyers from all four sectors of practice to bring the social capital approach to life. Working from in-depth interview data, we consider the strategies lawyers pursue as they develop their careers and try to navigate and find meaning through their families, relationships, and community engagements. The strategies they employ are molded by class, gender,

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and race, though they affirm lawyers' agency in career-based decision-making. Interview data also grant new insights into the sector-specific operation of status hierarchies, suggesting revisions to some previous literature.

Inequalities of race and gender are the focus of part 4. We begin with an analysis of the enduring racialization of law firms. Racial disparities in exits and promotions to equity partnership leave law firms "White spaces." We then examine education debt over the course of careers and find another form of racialization: the accumulating disadvantage affecting African American lawyers, whose debt levels rise from early to midcareer and outstrip all other racial and ethnic groups' debt levels. We turn to an analysis of the diverging career paths of men and women, in which we see the gendered character of marriage and family and gender inequality in the earnings of lawyers. These patterns can be aptly described as evidence of hegemonic masculinity. Men build their careers and families through the support of women. And men—particularly fathers—earn more in law practice, whereas women, including women without children, earn substantially less across the earnings distribution and despite controls for relevant determinants of earnings.

Part 5 turns to the evolution of lawyers' public roles and personal career satisfaction over the course of their careers. We examine their political orientations, participation in community organizations, and pro bono legal service contributions in order better to understand how their public activities relate to their professional work. We find a dualism in which relatively politically liberal lawyers predominantly serve business interests. We also find a dualism in the ways lawyers pay lip service to the importance of pro bono projects but largely fail individually and collectively to provide significant levels of pro bono representation. Our analysis of career and job satisfaction data belies the contention that lawyers are unsatisfied and suffering from a wide range of physical and psychological maladies. Most lawyers express high levels of career satisfaction. Women and people of color, who face manifold disadvantages over the course of their careers, report satisfaction levels equal to or exceeding those of their peers. This is one of the great ironies of inequality and opportunity in the American legal profession.

We conclude, in part 6, by returning to the relationship between agency and structure in lawyers' careers in light of the uniquely rich data yielded by the AJD Project.

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