Restructuring in Corporate Law Firms: Implications of a Changing Division of Labor for Organizational Inequality

by

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ABSTRACT

How do organizations contribute to inequality? An organization’s division of labor is posited to
codify inequality through the allocation of work tasks and matching of workers to given jobs. To
explore this argument, I employ an actor- and task-based analytical framework to a recent wave
of restructuring among corporate law firm associateships. Drawing from an interview study in
the Boston and New York legal markets, I argue that restructuring the division of labor in this
context generates nuanced, textured forms of inequality that reach beyond compensation. Such
forms of inequality are borne out of the precise tasks allocated to workers, and include unequal
distribution of opportunities to engage in upskilling, demonstrate competence and autonomy in
the work process, and access and utilize valuable social relationships in the upper echelons of
firm hierarchy – all shown to be crucial for advancement within firms and the profession. In the
context of corporate law, these outcomes are associated with the sorting of lawyers into
hierarchal strata of associateships based on law school affiliation, representing a new use of a
known sorting mechanism in the legal labor market.

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INTRODUCTION

Growing inequality represents a pressing research and policy inquiry. The reception of Piketty’s (2013) analysis of divergent income growth and disproportionate gains among top earners in the United States, and subsequent debates regarding inequality’s causes, consequences, and policy responses, highlights the importance of understanding the phenomenon in both academic and public realms. Notably absent from much of this discussion, however, is the role of organizations in generating inequality. A growing body of evidence suggests that it is worth taking another look at this shortcoming. The organization in which one works, the argument is, matters in explaining growing wage variance - even among similar workers who labor in the same occupation or industry (Davis & Haltiwanger, 1991; Groshen, 1991; Barth, Bryson, Davis & Freeman, 2014).

Responding to early calls to “bring the organization back in” to studies of inequality (Baron & Bielby, 1980; Leonard, 1999), multi-disciplinary research has attempted to untangle the organizational role from micro- and macro-level considerations (e.g., individual attainment and larger structures of stratification, such as those based on occupation). Scholars have examined organizational features such as human resource management, conditions at founding, or worker interests and power in order to pinpoint the ways in which opportunities and rewards are unequally distributed, often in relation to groups defined by attributes such as gender or race (Kalleberg et al., 1981; Kalleberg & Van Buren, 1994; Philips, 2005; Stainback et al., 2010; Castilla, 2011). The underlying organization of work and tasks, however, is frequently missing from these analyses. Broadly, I argue that such analysis extends our understanding of inequality beyond compensation to include more textured and nuanced outcomes, such as the distribution of opportunities to build skill or social capital, that are important for economic advancement. Moreover, focusing on the division of labor as it relates to this expanded definition of inequality reveals how such distribution is codified in organizational structure, thus ensuring its durability and persistence (Stainback et al., 2010; Havemen et al., 2011).

The division of labor comprises an “arc of work” involving the “project action...made up of many tasks done over time, and divided up according to various criteria among actors” (Strauss, 1985:2). Drawing from this definition to systematically assess changes in the division of labor, I examine implications for inequality among associateships in large law firms that serve corporations. Despite the high earnings profile of this occupational group, inequality within corporate law firms has never been starker. Partner earnings ratios relative to the rest of the firm have reached record levels (McQueen, 2015; Press, 2013; Combs, 2010; Plagianos & Triedman, 2010). At the same time, acute demands for price reduction from clients in the post-2007 recession period are driving firms to rein in costs of their associate ranks (Smith, 2012), giving rise to an emerging divergence in compensation levels among associates.
Restructuring the division of labor through the disaggregation of labor-intensive, routine
tasks that make up entry-level legal work is one way in which firms are attempting to
meet this demand. These tasks are allocated to a growing lower tier of associates, who, in
hiring patterns that diverge from historical precedent, are predominantly drawn from non-
top tier law schools and who remain off of the “partner track” that characterizes
traditional paths of mobility within firms. This reallocation and sorting in effect creates
“two-tiered” associateships that are characterized by stark differences in remuneration
and divergent organizational pathways. In 2015, the base market rate for many entry-
level associates in major urban markets was $160,000. At the same time, salary ranges for
this emerging group of entry-level lawyers, ranged from $50,000 to $90,000 (National
Association for Law Placement, 2015).

I leverage this recent wave of restructuring through a qualitative interview study
conducted with current and former corporate law firm associates to examine the
following question: how does the restructuring of the division of labor affect the
distribution of opportunities and rewards within an organization, and through what means
are such opportunities allocated? I find that organizational restructuring in this setting
results in nuanced forms of inequality that emerge from the allocation of specific task
types to workers and the subsequent transformation of the labor process. This
reorganization is associated with disadvantage for lower-tier attorneys in acquiring
resources necessary to advance within firms and the occupation. Such resources include
opportunities to engage in upskilling, demonstrate competence and autonomy in the work
process, and access and utilize valuable social relationships in the upper echelons of firm
hierarchy.

Similar to findings of other scholars (Oyer & Schaefer, 2009, 2012; Sterling & Rider,
2014), I argue that law school affiliation is a sorting mechanism through which inequality
is realized within firms. However, I argue here that this mechanism does not hinge solely
on relational factors hypothesized to matter for inequality in corporate law firms, such as
favoritism rooted in shared law school affiliation (Parkin, 2006). Rather, this known
sorting mechanism is being integrated into firm structures and business models in a new
way, and in the process is altering well-established patterns of stratification that have long
characterized the profession.

I begin with a discussion of organizations and inequality, and present a theoretical
framework for evaluating a restructured division of labor in this context. I demonstrate
how this framework can be theoretically and empirically traced through the extensive
scholarly examination of corporate law. I then present the research design and
methodology before turning to an analysis of interview data which addresses the question
of how the division of labor can produce inequality in organizations. I conclude with a
discussion of theoretical implications for the study of inequality, organizations and, more
broadly, stratification in the legal profession.
INEQUALITY, ORGANIZATIONS, AND THE DIVISION OF LABOR

Understanding inequality through the organizational division of labor

Strauss' concept of the division of labor – an arc of work performed over time by various actors – is centered on tasks and actors; the labor process entails skills and actions which are needed to actually perform work. The extent to which the arc of work and its segments are routine or complex shapes the allocation of tasks and, importantly, their matching to workers within the firm (Strauss, 1988). A host of related factors are considered central to understanding the work process, such as the locus of authority in the work process; decision-making regarding the arc of work and its clusters of tasks; the undertaking of tasks themselves and skills required to do so; and mechanisms to ensure accountability (1985:16-17). These factors situate the division of labor within the larger organizational context: devising the division of labor and the underlying allocation of tasks are central components of the organizational process through which work is articulated and performed (Strauss, 1988). Examining the restructuring of the division of labor from this theoretical perspective leads to a close look at the variation in jobs that result, their underlying tasks, and the workers matched to specific jobs.

Understanding this variation is relevant to understanding inequality and organizations (Baron, 1984; Kalleberg & Van Buren, 1994; Havemen et al., 2007; Stainback et al., 2010). The allocation of work tasks and processes influences earnings as well as job satisfaction, learning and skills, and opportunities for mobility (Havemen et al., 2007). The allocation of tasks in the work process reflects organizational decision-making and related patterns of inequality that become firmly embedded in its policies, procedures, and practices (Stainback et al., 2010). Social and cultural aspects of the firm similarly are influenced by the division of labor. As such, patterns of stratification become entrenched when embedded in structural and cultural organizational dimensions related to the allocation of work and tasks. Moreover, this entrenchment ensures continuity and maintenance of stratification over time, as new employees enter the organization after the division of labor has already been established (Haveman et al., 2007).

Despite the importance of the division of labor to organizational inequality, however, relatively little scholarship has explicitly assessed the importance task allocation and the related underlying labor processes in this regard. On one hand, scholars in economics have demonstrated that organizations account for wage variation in multiple ways. Wage variation within manufacturing establishments, for instance, is argued to account for wage divergence among individuals through features such as firm size, over and above characteristics of workers such as occupation or human capital levels (Davis & Haltiwanger, 1991; Groshen, 1991). Similarly, a recent assessment of establishments across multiple industries reveals that increased wage variance is associated with increased variation in average earning levels among establishments (Barth et al., 2014).
Sociological examinations of organizations and inequality, on the other hand, offer insights into the precise mechanisms within organizations that facilitate such outcomes. These include institutional explanations, such as a firm’s response to its external environment or the extent to which an organization’s conditions at founding imprint patterns of inequality among certain groups (Stainback et al., 2010; Philips, 2005). Organizational inequality is also posited to reflect workers’ interests and power (Kalleberg & Van Buren, 1994; Kalleberg et al., 1981) and human resource and management practices concerning promotions, evaluations, and the like (Castilla, 2011). By turning its attention to the organization of tasks and actors that underlie jobs and work processes scholarship, however, scholarship may develop a more robust understanding of organizational inequality and the extent to which it becomes embedded in the labor process.

**Restructuring the division of labor in corporate law firms**

Corporate law firms provide a compelling empirical setting through which to take on this task. The events of the 2007 economic recession brought firm compensation structures and business models front and center as the competitive environment of law underwent dramatic change. The effects of acute decline in demand for legal services rippled throughout firms, most notably through mass layoffs and the departure of partners and senior attorneys. Firms reduced their incoming associate classes, marking a sharp shift from the pre-recession period during which ever-growing associate-partner ratios were leveraged for revenue (Ribstein, 2010; Burk & McGowan, 2010). Deferred associateships and declining hiring rates in turn affected law school application rates, which shrunk to levels not experienced since the 1970s (Smith, 2013). All of these sources of pressure and uncertainty left firms searching for new ways to respond to a changing competitive environment that threatened to destabilize their business models.

One of the many ways in which firms are responding to these changes is through the disaggregation of legal work. Disaggregation is the unbundling of work into smaller tasks and processes (Susskind, 2008; Regan & Heenan, 2010), and their subsequent reallocation to different sources of production. Historically, legal work has been rarely unbundled beyond the project level, remaining within the confines of the firm (Regan & Heenan, 2010). As such, firms incorporated a growing roster of actors into their internal hierarchies as work became further disaggregated. Skyrocketing demand for legal services during the 1980s, for instance, spurred the expansion of the associate-partner ladder. Permanent, non-partner track roles, such as specialized counsel positions, became commonplace as clients relied on firms for more specialized knowledge (Nelson, 1988; Gorman, 1999). So too did non-lawyer personnel such as paralegals and human resource managers (Nelson, 1988, Abel, 1989), who shifted jurisdiction of relevant tasks out of lawyers’ realm (Regan & Heenan, 2010).

In the more recent evolution of law firm structure, non-equity partnerships and lateral hiring of attorneys represent new ranks and points of entry into law firms (Malhotra et al.,...
The disaggregation of work beyond the firm and project level is also growing: third-party suppliers, such as staffing agencies and legal process outsourcers, are increasingly used by corporate clients who balk at paying inflated hourly rates for entry-level associates to take on relatively routine work. Such providers are a new source of competition, and are emblematic of the changing competitive environment to which firms must respond. Figure 1 illustrates these trends as they relate to firm organization.

Restructuring the division of labor today: two-tiered associateships

Concerned about reputational, ethical and liability risks that come with contracting out work,1 many firms have opted to keep the execution of disaggregated associate work housed within their own boundaries (Regan & Heenan, 2010). These arrangements are periodically observed throughout the literature on the legal profession, although to a limited degree (Abel, 1989; Galantar & Palay, 1991; Sherer & Lee, 2002). Although reliable data on two-tiered associateships is unavailable, by many accounts they are growing, with managing partners in large firms reporting widespread current and permanent use of such structures (Citi Private Bank & Hildebrand Consulting, 2014).

Two-tiered associateships are delineated by whether or not an associate is considered to be “on track” – theoretically on the ladder to become partner, although today the odds of doing so are increasingly slim (Raasch, 2007). Such “non-traditional” associate jobs (National Association for Law Placement, 2013 and 2014) include titles such as “career associates,” “discovery attorneys,” “litigation analysts,” or “staff attorneys,” among others. Lower-tier lawyers largely perform routine or commoditized work which tends to be repetitive and price sensitive, and which is not expected to become increasingly complex over time (National Association for Law Placement, 2013:3). Work may include, for example, document review in litigation cases, or the management of electronic discovery software used in performing due diligence for transaction work.

Two-tiered associateships are bifurcated along a number of dimensions. In addition to lower compensation, limited opportunities for mobility to partner track positions segments the associateship structure of the firm. Geographical separation makes this division even more pronounced, as a growing number of firms are locating their off-track associates in low-cost areas – such as the Midwest or the South – that reside outside of the more costly major urban legal labor markets such as New York or Washington, D.C.

Perhaps most significantly, associates in two-tier structures are also bifurcated by the ranking of the law schools from which they graduated. Consistent with historical patterns

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1 Concerns over risks and liability are illustrated through, for example, guidance in formal opinion and professional conduct statements from the American Bar Association. See especially: American Bar Association Committee on Ethics and Professional Responsibility, Formal Opinion 08-451 (2008).
of occupational stratification, corporate law firms continue to draw predominantly – although, it should be emphasized, not exclusively – from top-tiered law schools to fill their on-track associateship positions. Increasingly, however, firms diverge from this pattern as they fill the lower rungs of two-tiered structures with graduates from less elite institutions (see, for example, Merritt, 2016). This marks a shift in the long-held patterns of stratification, based on law school affiliation, which largely kept less elite graduates excluded from prestigious corporate law sector (Heinz & Laumann, 1982). The new use of this known sorting mechanism is therefore upending these occupational patterns, while also creating stratified employment patterns within firms as work becomes further disaggregated, as is illustrated in Figure 2.

EVALUATING THE RESTRUCTURED DIVISION OF LABOR

How should this restructuring be evaluated? Emphasizing tasks, actors, and interactions – that which provides the pieces and the “glue” in the division of labor (Strauss, 1985) – leads to a close look at variation in jobs and their related skills, interactions with authority, discretion in undertaking work, and other dimensions identified by Strauss. The well-established job design model (Hackman & Oldham, 1980) offers a complementary theoretical approach, one that also emphasizes the importance of workflow in analyzing job outcomes—i.e., moving from task to task, person to person, and job to job. In this model, workflow shapes job characteristics such as skill variety and task meaning, the degree of autonomy on the job, and availability of performance feedback – all argued to be instrumental in job effectiveness (Hackman & Oldham, 1980). Together, these theoretical approaches offer a cohesive framework (illustrated in Figure 3) through which to evaluate a changing division of labor and variation in jobs that result. I organize my analysis around three conceptual categories lifted from these streams of literature: tasks and skills; autonomy and control, and socialization and mentorship.

Tasks and skills: In Strauss’ framework, the nature of tasks is part of the foundation through which other dimensions of jobs are evaluated. Hackman and Oldham’s (1980) model offers more concrete features of tasks that influence job design. These include the variety of skills needed on the job; the extent to which tasks comprise a complete work process with a visible outcome; and the extent to which tasks are deemed important, either to the end product or within the organization (1980:78-79). Such features are influenced, in turn, by the degree to which tasks fall on a continuum of routinization to complexity within an organization (Strauss, 1988).

Autonomy and control: Autonomy refers to discretion in determining how work get done (Hackman & Oldham, 1980) but also includes strategic control over substantive skills and their application (Wallace & Kay, 2008). In professional settings, autonomy over the execution and substance of work allows workers to meet changing, conflicting expectations of multiple managers (Kirkland, 2005; Wallace & Kay, 2008) and engage in
decision-making regarding abstract knowledge that undergirds organizational performance (Meiksins & Watson, 1989; Hodson, 2001). Moreover, autonomy on the job and control over skill acquisition is a critical factor in determining mobility up professional ladders, both within the firm and the occupation—especially so for workers who are employed in peripheral positions of organizations (Baron et al., 1986; Kalleberg, 2003).

Socialization and mentorship: In Strauss' (1985) conceptualization, the “glue” linking tasks and actors is interaction. Interaction is one means through which socialization occurs—the direct and indirect learning of both technical and behavioral skills that impart norms within organizations and professions (Seron, Silbey, Cech & Rubineau, 2015). Hackman and Oldham’s model addresses this concept in a limited way, mainly through the concept of performance feedback on the job. Other work extends this idea to include socialization through peer relationships and mentoring, and stresses its importance in terms of building relational capital, accessing interesting work, and acquiring mentors who can act as advocates (Anderson-Gough et al., 2000; Kram, 1985; Kram & Isabella, 1985; McGinn & Milkman, 2013; Kay, Hagan & Parker, 2009). Socialization also allows for the accumulation of “insider knowledge” that professionals use to demonstrate skill and occupational competence (Hodson, 2001).

The literature suggests that in the case of corporate law firms, associates who remain concentrated in the higher strata of associateships will have the upper hand along these dimensions. Freed from the heavy burden of routine, mundane work of legal matters, on-track jobs are hypothesized to return, at least in part, to the “Cravath model” of large firms in which associateships functioned more closely to an apprenticeship (Burk & McGowan, 2010). With such change brings greater opportunity for mentorship and socialization, upskilling, and increasing autonomy over work and skills. Relevant literature regarding corporate law also suggests that these advantages are due to law school affiliation (Oyer & Schaefer, 2009), which facilitates more advantageous outcomes through favoritism (Parkin, 2006) or differentials in human capital (Garicano & Hubbard, 2005), among other factors. The findings I present, however, are more nuanced than the literature would suggest.

Research design and methods

As the spread of two-tiered associateships is relatively understudied and recent, I draw primarily from qualitative data collected between 2013 and 2016. Forty-nine semi-structured interviews were conducted with corporate lawyers and industry actors, including representatives of professional associations, law school deans and career counselors, senior attorneys and managers of human resources at law firms, third-party suppliers, and consultants involved in organizational restructuring among law firms. The purpose of the interviews are three-fold. First, the interviews allowed me to explore the relatively recent emergence of two-tiered associateships, about which there is little empirical work. Second, the interviews provided insights into how lawyers experience
work and the division of labor in their firms, and, in turn, the process through which firms allocate opportunities to associates. Finally, the interviews were a means through which I identify the more nuanced forms of inequality in the labor process, and understand the mechanisms through which they are distributed. Findings from the interview data were assessed in conjunction with extensive review of over 200 articles sourced from law reviews, legal journals, industry organizations, and the media.

Thirty-five of the interviews conducted were with current or former corporate associates who entered the job market in the last 10-15 years, with particular attention paid to cohorts in the pre- and post-recession periods – periods in which the visible presence of two-tiered associateships changed drastically among firms. Interviews were secured in conjunction with law school alumni networks in some cases, while in other cases I relied upon personal referrals and contacts from interviewees. Drawing from Trost (1986) and Small (2009), I used a model of sequentially-based stratified non-random sampling to determine the types of cases from which I could draw comparisons between the experiences of graduates from high- and low-ranked institutions in corporate law firms. The majority of lawyer interviewees are graduates of top-tier law schools, ranked among the top 10 law schools by the US News and World Report, and lower-tier schools for which US News rankings are not publicly available, in the New York City and Boston markets. Most of the interviewees either currently work in corporate law offices, primarily in New York City or Boston markets, or had done so upon graduation from law school. Figure 4 illustrates the conditions of the stratified sample.

Interviews, when permitted, were recorded and transcribed. When not permitted to record an interview, I took extensive notes by hand and completed a detailed write-up following the interview. I analyzed these transcripts and field notes using Atlas.ti, drawing from a 75-category coding scheme that was both inductively and deductively generated, repeating rounds of coding after my initial analysis to ensure consistency.

ASSOCIATESHIPS AND Restructuring

Illustrating disaggregation in detail

How does disaggregation unfold, and what implications are raised for the three measures of concern here? To lay the analytical foundation for answering this question, I first present a detailed illustration of disaggregation. I focus on the sequencing of tasks and roles in the document review process in litigation work, as two-tiered structures in this practice area are the most commonplace - by some industry estimates, accounting for about two-thirds of work disaggregated by firms (Interviews, 2015) - and thus the most familiar to interviewees. Figure 5 illustrates the process and its overarching task clusters as it is described below.
Document review involves coding what can be tens of thousands of documents—emails, internal memos, and the like—into a given set of categories deemed important to a particular matter. A senior associate in New York explained the initial tasks of setting up a document review process in terms of assessing both documents (i.e., data analysis) and strategy relevant to a matter:

The junior and mid-level associates in these cases are involved in virtually all of it [the document review]. So at the outset we have to figure out who is potentially relevant to the investigations, and send them a document hold...and figure out how to collect their data. So that's a process, you know, who are these people, what kind of work do they do, where would they have data, are they people who we've said are the best, and if so what's their file structure? Are they storing it in the internet? Are they storing it on their desktops? Are they—what about their email system? So it's a lot of technical stuff....Once you get the data collected, you have to coordinate getting the data uploading into the doc review system. And then, once it's all uploaded, you can start the review in earnest.

In order to begin the process in earnest, however, on-track attorneys must take two additional steps. First, they work closely with more senior attorneys and the firm's technical staff to set search terms and categories that align with the matter’s legal strategy. Then, they must oversee the creation of a review platform that can be used by the ranks of lawyers—lower-tier associates, for example, or some combination of such with third party vendors—who will perform the coding itself, and train them on the case strategy, search terms, and the platform. On-track associates discussed writing protocols and guidelines for training purposes. Others mentioned out-of-state travel to offices in order to lead trainings, or preparing a more junior associate to do so. After this step, on-track attorneys coordinating the process then begin to strategically release documents for review, based on their importance or urgency to the matter at hand.

Documents pertaining to large matters may go through numerous rounds of review. The goal, as one senior associate in New York described, “is to have the least expensive people do the first level of review, and then have them elevate the most interesting documents to the lawyers. And the more interesting the document is, the more senior it gets.” A matter consisting of tens of thousands of documents might number a “reasonable” two thousand by the time it reaches on-track associates. How this process unfolds varies across firms, but is guided by similar principles of cost reduction and elevation of interesting, relevant material. Echoing the New York associate, a senior associate in Boston described the process accordingly:

This is going to sound horrible, but I'm going to put in economic terms. So the contract attorneys charge the lowest rate per hour, so they do the first round of document review, because that's the most time consuming and it's cheapest to have it done by them. The attorneys in [location] who are employed by [firm], charge more than them, but they're significantly lower than us, and they are
reviewing quality level of the first review on a subset of the documents. And then, we do quality control even for the second level, for the [location] team.

As implied, quality control is an ongoing part of the review process for both levels of associates. One attorney described how in her firm, lower-tier associates are assigned “binders” of documents on the digital review platform. After each attorney codes documents in a given number of binders, the documents are reshuffled and redistributed among the group. The associates then recode the documents, in the process checking the work done in the previous round and correcting any mistakes. Lower-tier attorneys are also expected to be proactive in raising questions and calling attention to potentially useful information, elevating either to an attorney higher up in the hierarchy. In describing this process, one on-track associate described his lower-level counterparts as “better at this than the average attorney, because they just have so much more experience” in document review.

Quality control takes on different forms for on-track associates. They might determine a rate of error or recategorization based on how much coding changes from one round of review to the next. Others conduct searches for key terms or individuals involved in the matter, and spot check the coding in completed reviews. At the end of this process, the more substantive legal analysis relevant to the matter begins with the on-track associates, who use the end product of the document review process as the foundation for the next set of relatively skilled, higher-order tasks involved in a matter:

So once... we get through that whole process, then they [the staff attorneys] elevate certain documents to us... We review them. We figure out which ones are most notable. We develop a timeline of key documents, key events. We develop outlines of questions to ask certain witnesses. We develop talking points of here are the key issues, and here’s what we learned from the documents, and here are how the key documents fit in to all of that. And then from there we actually go and [create an] outline – someone, a lawyer, will go interview the witness.

Lawyers described reviews lasting anywhere from a few months to multiple years, depending on the size and complexity of the matter. Subsequently, the amount of lower-tier labor needed also varies. A critical feature of document review in a disaggregated setting, however, is common throughout: much of the “grunt work” or “less glamorous work,” as interviewees have phrased it, is removed from entry-level jobs of on-track associates and reallocated to lower ranks of attorneys. This is transforming the extent to which entry-level associate jobs are burdened with increasingly routine work that has proven so profitable to firms in the past (Henderson & Zaring 2005). One staff attorney in New York described this transformation as so:

[Interviewer]: When you first started out [in 2002], what was your job like as a first-year associate?
[Respondent]: My responsibilities were few. I spent probably half of my first year doing document review, which is something that you wouldn’t do any more...I think that junior associates still probably have to do some kinds of doc review, but they don’t do the first-pass doc review, which is what I definitely was doing... you don’t need half the person any more.

Without a need for “half the person,” what fills this void? The effects of this reallocation ripple throughout the firm, reaching not only entry-level, junior associates but also mid-levels associates (who generally have at least three to four years of experience) and senior-level associates (generally with six or more years). In the process, the skills, autonomy, and social resources available to associates throughout the hierarchy also undergo change. These are discussed in turn, organized around implications for two groups: 1) lower tier, off-track attorneys and 2) upper tier, on-track attorneys consisting of both junior and mid- to senior-level associates. Table 1 summarizes findings along these dimensions.

Transformation in the nature of skills and tasks

Implications for off-track associates: Trickle down learning, and skills

In the process of document review, lower-tier associates are removed from the analytical steps that shape routine work processes. Decisions regarding the approach to coding, the structure of the review platform, and the identification of key issues and individuals are all undertaken by associates and other lawyers higher in the firm hierarchy. Instead, lower-tier associates first enter the work process through the initial training on review strategy that is generated by on-track associates. They learn about the matters on which they are working, and the strategies supporting them, primarily from information that “trickles down,” in the words of one interviewee, from partners and counsel to on-track associates, who then pass along whatever is needed by the off-track attorneys to do their job.

The “grunt work” most commonly reallocated by firms consists of tasks characterized by a lack of skill-intensity and a high degree of repetition (National Association for Law Placement, 2013). As one litigation staff attorney wryly commented, “you could learn how to do doc review in five minutes.” This was a widely-held sentiment: an on-track associate who conducted review work while a first-year at his firm described it as so:

Litigation work involved reading a lot of emails and marking them as either responsive or non-responsive. So I didn’t really learn a lot of law, I mostly learned a lot about the private lives of [the client’s] employees, which wasn’t why I became a lawyer.
Adding to the routine nature of tasks is repetition. Coding processes, for instance, can become iterative when legal strategy is altered. The constantly-changing “inputs and outputs” that develop over the course of a matter can require subsequent recoding of documents with new categories and search terms (Regan & Heenan, 2010; Brooks, 2012). In other situations, unrelated events simply outside associates’ jurisdiction or control – such as a client discovering that the scope of a litigation issue is much larger than initially expected – reinforce the repetitive nature of tasks. Lastly, quality control processes, such as those that include shuffling and redistributing already-coded material, contribute to the overall iterative nature of work most frequently allocated to off-track associates.

Despite their absence from initial analytical activities, lower-tier attorneys are expected to understand the strategy associated with a matter, which informs not only the execution of tasks but also their capacity to bring forth potential questions and issues as a form of quality control. A senior, on-track associate who supervises large review processes spoke of the need to “empower [staff attorneys] to tell us when they’re seeing new issues, and tell them broadly about the issues, so that they can think for themselves.” Others, however, alluded to a different idea: that the “trickle down” nature of knowledge relevant to their work – paired with high-volume, routine tasks – renders this expectation problematic.

Nevertheless, lower-tier lawyers’ capacity to engage in more diverse tasks and complex work is not completely limited by the structure and nature of tasks. Variation can be found in project management work as firms appoint lower-tier attorneys to positions of leadership on their work teams, charging them with coordinating disaggregated work processes with on-track counterparts. Variation can also be found in relation to different sub-practice areas, the size of matters, and the client being served. One litigation staff attorney described, for instance, how her work with a four-person case team over multiple years, involving different matters with a single client, allowed her to become more deeply immersed in knowledge relevant to the client. As such, she eventually took on work considered to be more skill-intensive. At first, this came in the form of reviewing privileged documents, a task which she undertook after months of performing standard document review with other staff attorneys on her team. Eventually, she worked on a deposition outline. Other staff attorneys in her firm had similar experiences, participating in tasks such as legal research or memo-writing. Observations by this attorney underscored, though, the degree to which upskilling is realized depends on the nature of the matter itself and structure of the work assignment: she witnessed other staff attorneys in her firm, assigned to a large matter with a single client, spend multiple years engaged with little other than routine coding.

Implications for on-track associates: Osmosis, jumps in learning, and thinking on your feet
Although the reallocation of routine work lessens the burden of “grunt work” for on-track associates, particularly those at the entry or junior level, jobs among this group still remain characterized by some degree of lower-skilled work. Junior associates in various practice areas undertake what interviewees refer to as “secretarial” or “clerical” work, which includes tasks such as generating signature pages for transactions, organizing documents and making binders, proofreading and form-checking, and undertaking due diligence or document review. The nature of these tasks might vary with practice area: due diligence in the corporate side of practice, for instance, can be more complex and fast-paced than document review, and as it directly informs legal strategy can carry potential risk should something be overlooked.

The reduced time allocated to routine tasks means that junior associates are exposed to substantive work earlier during their tenure. In the example of document review, junior associates in litigation see only documents that have been deemed interesting or necessary, and engage in more analytical methods of quality control. Reallocation also allows them to be assigned to more complex tasks that occur simultaneously with the review process. Often these are discrete tasks, such as working with a partner to interview a witness or preparing a deposition for the opposing party, that represent opportunities to upskill traditionally undertaken later in an associate’s tenure. This is viewed as advantageous for junior associates: a third-year off-track associate in New York observed that partners in her firm used its two-tiered structure as a “recruitment tool” for summer associates, selling them on the notion that they would not be involved in as much of the grunt work as they might otherwise expect.

These relatively simple or discrete tasks gradually give way to more substantive work for entry-level associates, such as legal research, memo-writing, or drafting sections of documents, that is typically performed under the supervision of a more senior associate. As a third-year associate in Boston described:

...it’s all a matter of scale. I’m working on a small scale now, and soon I’ll be on a bigger scale. I do have some involvement in the larger documents, but it’s just not on the drafting side. It’s more reading, making sure that something makes sense, making sure that if there’s a mathematical component, does the math work out... I do know that next week we have to walk through something with the client that we’ve been working on, and the senior associate told me that I would be primarily responsible for walking the client through it. Going through it, asking questions, and confirming that they understand it. So that’s an example I guess of being aware that I’m growing in the role, somehow.

Given these differences in tasks, junior associates describe their opportunities for task and skill advancement in very different ways than off-track associates. A second-year associate on the corporate side of practice in a New York firm described her trajectory in terms that are starkly different from that centered on “trickle down” learning:
The learning curve is more staggered, it’s not like a consistent slope up. There are times when you jump from one level to the next in terms of what you’re learning and doing. I feel as though I’m just about at a point where I am going to make another jump, after being here for about a year and a half, in the next six months or so.

The end goal is to demonstrate what one associate referred to as “thinking on your feet,” or legal competence. A former corporate and litigation associate described this concept as follows:

When you’re working as an associate, you have to be quick. You have to take in everything that the partner or other attorney is saying, all the information, all the rules, and – [here, [he] made a motion as though computing everything in his brain, the wheels turning] – come up with the one-word answer. You have to think about it and answer quickly, and you need the one word answer.

Disaggregation raises a question relevant to the learning curve for these associates, however: does the execution of more routine tasks matter in terms of building a foundation of legal knowledge and skill? In describing her role in diligence work in a firm’s intellectual property department, a former corporate law associate asserted that the importance of such processes is to learn through “osmosis;” without going through the task of diligence work, she would not know how to evaluate negotiation and drafting work she undertook later in her job. In particular, she learned “what’s market” in transactions – i.e., what would be deemed reasonable and acceptable to widely-held standards in a market transaction – and argued that without this learning, she would lack a baseline against which to evaluate agreements and negotiations with clients. Another attorney, in litigation work, reflected upon the same in a more ambiguous way:

[The first-pass doc review] made it so that you could get behind the personalities of all of the people involved because you were reading their emails and saw all of the different steps and the way things were going down. I don’t know that that helped me...[but] I don’t know how you jump right into that without understanding when people make stupid moves in emails or if you read some handwritten notes. If you never get to see that stuff, it’s hard to tell, or to dream up what might be happening behind the scenes.

When asked about this potential loss of learning opportunities, a litigation and intellectual property partner in a New York firm countered that even with disaggregation in areas such as litigation, opportunities for learning through “osmosis” are still present – underscoring the point, as described by the associate who learned mostly about the private lives of clients instead of law, that a lack of routine work in certain practice areas does not appear to adversely affect overall learning:
Juniors still have to do doc review and read the relevant documents to the case – they just don’t have to do the initial relevant-irrelevant classification that is so labor intensive and high volume. Doc review is a useful tool. It’s what lawyers use to educate themselves on a topic or a case around which they might eventually become an expert.

Mid- and senior-level associates experience a different transformation in their tasks and roles. They become the coordinators – the “nexus” of the process – who undertake all the “nitty-gritty” of overseeing disaggregated work, thus shielding more senior attorneys and partners from becoming involved in the minutiae of day-to-day tasks. They oversee the execution of tasks and are responsible for working with various members of the team assigned to a case, including junior associates, partners, specialized counsel, technical staff, and often counsel of the opposing party. Increased supervision of less-tenured associates accompany these coordinating responsibilities, and widespread understanding that they are accountable for mistakes made under their watch incentivizes increased investment in good performers.

More tenured associates also must master knowledge of the case, the legal strategy, and the unfolding content of work performed beneath them. In the example of document review, this requires them to “be the person who understands what’s this investigation about, what are the documents telling us, and what does that document mean.” The interpretative dimensions of these tasks relate back to the strategy of the matter, and are critical for undertaking subsequent tasks that, when completed, indicate upskilling and progression.

Transformation of more tenured associates’ tasks and roles, then, is bifurcated into what one senior associate terms “process-oriented goals” and “substance-oriented goals” with the disaggregation of work. Achieving some these goals requires a different, non-legal skill set more akin to project management, but in his perspective, the outcome in terms of engagement with substantive legal matters remains unclear:

...instead of reviewing the documents themselves, which is fairly limited, maybe the associates who would have been reviewing documents themselves are now overseeing a team that is reviewing those documents, and it’s just as big a task because all of a sudden the firm can take on these massive investigations and staff them sort of the same way. So you’re still tied up in the world of document review, even though you’re not having to flip through all the documents yourself. Which, I think, is an improvement, but it’s not a seismic change, I don’t think.

**Autonomy and control over skill-building**

*Implications for off-track associates: Limitations and variation in autonomy*
Given the narrower scope of tasks that lower-tier attorneys undertake in disaggregated processes, what are the subsequent implications for their use of discretion on the job? One of the clearest ways to illustrate this change is through the opportunities they lack relative to on-track associates. On-track lawyers stress the importance of finding opportunities to demonstrate that one can "think on your feet" in order to exhibit competence in both operational (i.e., coordinating work processes) and substantive tasks. Having discretion over tasks, authority to make decisions, and the responsibility to oversee work processes are ways in which "making yourself valuable" generates organizational trust with more senior attorneys and lessens oversight. As I discuss below, on-track attorneys experience changes in each realm of autonomy - of coordinating and of substance - that provide various types of opportunities at different levels of tenure. Cumulatively, these opportunities facilitate access to resources such as social relationships or assignment to more complex work, which in turn can be leveraged for advancement. Notable among off-track, lower-tier associates interviewed for this study, however, are the different outcomes faced in pursuing the same.

For off-track associates, demonstrating the principles of "thinking on your feet" and "making yourself valuable" can be curtailed by the tasks they are allocated, and are influenced by contextual factors such as practice area, client type, or assignment structure. Lower-tier attorneys are removed from the opportunity structures encompassed within work of on-track lawyers. In the example of document review, this begins with their lack of exposure to upfront tasks preceding the processes. Limited feedback and "trickle down" knowledge sharing further hinder efforts to display autonomy. Accessing higher-order tasks such as assisting with witness interviews, working directly with a partner, or making decisions with clients and opposing counsel thus become difficult to attain given limitations, borne out of firm structure, over tasks and the opportunities they generate.

Capacity for autonomy and control over substance - tasks undertaken, skills acquired, and discretion in applying them - illustrate this clearly. The aforementioned staff attorney from New York who discussed task variation in document review observed:

...I feel like have autonomy in my work, but it's really only because I've worked in the same team, on matters for the same client. A lot of other staff attorneys have less direction. There are review cases where larger teams, maybe 10 to 15 staff attorneys, are working with six to eight associates. The staff attorneys are doing primary document review, sometimes for two years. Sometimes they'll put together chronologies [of events], but when doing doc review, they have zero supervision...and no one would review the findings. So they do the quality control too. The quality control is not good.

When asked to explain her experience of autonomy, this lawyer described instances of self-initiated demonstrations of "thinking on your feet." These demonstrations involved discrete work products, such as creating summary of relevant documents with references
to a review’s findings, a chronology of events, or a portion of a memo drafted for senior associates. Again, her capacity to pursue such products was facilitated by her assignment to various matters of one client, which allowed her to develop a more comprehensive working knowledge of relevant matters. Beyond reaching the on-track associate supervising the case, however, she was unsure whether senior attorneys or partners were aware of her initiative and contribution. Whether or not that occurred, she speculated, would depend on whether a more senior associate made her role known to higher-ups.

Evidence suggests that opportunities for operational, or technical, autonomy may be more forthcoming. In certain two-tiered settings, for instance, off-track attorneys may be assigned positions as team leaders or “captains,” becoming the main point of communication and coordination with on-track associates. One career associate in New York explained that although she felt her work had not changed in terms of complexity or skill requirements over the nearly ten years she had been in her position, she eventually came to distribute work assignments to other off-track associates and to coordinate with clients in some matters.

Implications of both operational and substantive remain unclear as they relate to an associate’s occupational trajectory. The lower-tier attorney who undertook discrete work products on her own eventually transferred out of the litigation staff attorney ranks to a permanent associate position – one that was still off-track, with lower salary, and fewer opportunities for promotion than that of on-track associates. By her account, she was the first staff attorney to make such a transition, and her movement up was kept so tightly under wraps by the firm that she herself did not fully understand a transition was underway. The ten-year staff attorney who oversaw the work of others in her unit was looking to transition out at the time of our interview, frustrated by her lack of progression and the fact that, despite being theoretically available, no staff attorney to her knowledge had ever been able to make the transition to an on-track position in her firm.

Implications for on-track associates: “I think I’m becoming a lawyer!”

For on-track associates, discussions over autonomy and control are characterized by a dichotomy. On one hand, associates clearly speak of the need to demonstrate “thinking on your feet” as a way to earn organizational trust, take on increasing portions of tasks or processes, and have authority to engage in higher-order tasks such as negotiations. On the other hand, numerous interviewees displayed the well-documented frustration with a lack of control over their working lives, the need to “always be available,” and “fake fire drills” that often fall beyond their control and yet require significant amounts of their time and attention.

For junior associates, both of these considerations are relevant, yet the clearest implications of disaggregation come with the opportunities to demonstrate “thinking on your feet.” Even those that felt they had little control over their workloads recognized the importance of autonomy for their progression, and often spoke of this in terms of
organizational trust. As one associate in Boston observed that over time, “the level of oversight that I get has decreased a little bit. People trust me to do more, to know what I’m doing.”

For many, autonomy and control over the substance of work is realized gradually over time, often not conscientiously, as exemplified by an intellectual property associate in New York:

_Slowly, you’re given more responsibility for reviewing and marking up a document. Then eventually you have to get on a call with another lawyer and negotiate this decision. All of a sudden you’re negotiating with someone who is 20 years my senior and I have no idea... The client is on the call, the partner is not there to back you up, and all of a sudden, you realize, “Oh! OK, I think I’m becoming a lawyer.” But it’s gradual. You take it for granted once you’re there._

Despite “taking it for granted,” on-track associates can exert some control over their trajectory, most notably through case assignments. In some instances, firms rotate their junior associates through different practice areas in their first year, giving them the opportunity to make their work preferences known and then attempting to place them accordingly. Associates also rely on formal and informal means of acquiring desired assignments. These include utilizing their firm’s case managers to control work assignments, or, more informally, working directly with senior associates and partners to be placed on desired projects. Most interviewees explain the latter in terms of demonstrating competence – thinking on your feet – which, once proven, could secure an invitation from a senior lawyer or partner to work on a particular matter, or generate a referral to a partner whose work may be of interest. Many firms also reinforce the importance of benchmarks indicating autonomy in their evaluation process with associates, stressing measures such as independent interaction with clients as a sign of progression.

Some junior associates spoke of autonomy as a way of responding to the challenge of “know[ing] how to make yourself valuable” and “making yourself useful when you have no use.” One junior attorney in a large New York firm described taking on tasks that fell outside his firm-assigned responsibilities, such as introducing new ways of analyzing data. He stated:

_There are ways to progress faster. That’s to find partners, to show initiative, to actually take ownership. It’s real easy not to take ownership over stuff like that. It’s dull, mind-numbing work that is most easily done by putting yourself into it._

Others described taking on lower-profile matters in order to be able to have some degree of control over their work – or, in the words of one associate, “just so I could be my own lead dog.”
These strategies for seeking autonomy – acquiring experience in different practice areas; exerting control over case assignments and assignments with partners; taking initiative through extra tasks; or seeking control through lower-profile matters – are resources available to on-track attorneys, the utilization of which holds different outcomes than those able to be realized by off-track associates. Progression in terms of task complexity and upward movement through the firm’s ranks are two such outcomes. Access to higher-level resources such as partners, which are critical for advancement, is another such outcome. Although associates in some cases displayed ambivalence about how far these strategies could carry them – some mentioned feeling frustrated and “stunted” in building skill and having autonomy – it is notable that many agreed that in disaggregated work processes, these opportunities arrive earlier in an associate’s than they had in the past.

Perhaps the most visible transformations of autonomy due to disaggregation comes with the authority to coordinate work processes, such as is observed in the role of on-track, mid- and senior-level associates in the document review process. In this capacity, senior associates described having the freedom to choose their own working and supervisory styles – for instance, by being as “hands on” as they deemed necessary in their training and supervision of reviewers – and expressed not only increased discretion in their work but also ownership over their responsibilities. In describing the transition from a junior attorney to a mid- or senior-level attorney, one fifth-year associate stated:

One day, you wake up and realize that you are responsible for setting the wheels in motion to get things done. It’s not like when you’re a junior associate and are given an endless number of tasks to do, with little discretion on the job.

Similarly, a former associate in New York recounted:

By the end, I would be pretty much running my... If it was a commercial agreement, I would be handling it primarily, with partner supervision. The level of supervision depended on the complexity of the agreement and the preferences of the partner. But by the time I left, I was operating somewhat independently.

For these on-track associates, command over work processes establishes them as integral contributors to legal matters, most importantly to more senior attorneys and partners. Coordinating disaggregated work processes is part of the means through which more tenured associates become trusted to use discretion. As such, these responsibilities facilitate access to opportunities to deepen relationships with higher-ups in the firm and establish connections with clients – forms of social capital, in other words, that are instrumental to advancement within the firm as well as the occupation.

Socialization and mentorship
Implications for off-track associates: segmentation and stigma

Along with these differences comes a clear degree of social separation between lower and upper tiers of associates. Even in co-located two-tiered associateships unseparated by geography, social distance between off-track lawyers and those above them creates different contexts through which mentorship and access to social resources occurs. By some accounts, for instance, firms treat co-located on- and off-track associates in the same office as near-separate entities, each with their own orientations, trainings, and offices on different floors of firm buildings. These differences led one interviewee to observe that associateships are more “segmented” today than they were in near past.

Segmentation raises implications for the ways in which socialization and mentorship bring advancement in professional settings – through accumulating “insider knowledge,” establishing relationships with advocates who can facilitate opportunities for skill development, and receiving feedback on performance. Among off-track associates, these means of advancement are limited to the extent that the tasks to which they are assigned place boundaries on interaction with other lawyers in the firm. In the illustrated process of document review, off-track attorneys most frequently interact with on-track associates, who pass along “trickle-down” knowledge, supervise training and answer questions. Lacking opportunity to undertake the types of tasks which on-track associates can use to establish relationships, such as preparing a deposition or assisting with an interview witness, can limit exposure to more senior attorneys and partners who may facilitate access to more interesting, complex work. For some off-track attorneys, engagement with partners is limited to purely social interactions that have little to do with the actual work undertaken by the firm. One interviewee, for instance, described happy hours and other social events organized by the firm for off-track associates and partners – the only point of interaction for lower-tier lawyers with firm leadership.

Yet such interactions, and the mentorship and knowledge transfer that comes with them, can be undermined by stigma. Some junior, on-track associates evaluated their lower-tiered peers – some of whom were actually more experienced than the on-track lawyers themselves – dismissively, describing how staff attorneys “had reputations for not being that good” among associates, and how quite a few are “older attorneys that didn’t make it in a firm.” An associate described how her firm’s leadership would lecture associates on the importance of staff attorneys, pointing out that they are “well-qualified, smart attorneys who are working hard,” and emphasizing that they should be treated “with the utmost respect.”

This division in status is reflected in the ways that some firms render staff attorneys and others like them nearly invisible, at times in somewhat surprising ways. It is not unusual, for instance, to find a lack of publicly available lists of lower-tier staff attorneys on firm websites or legal directories where on-track associates are listed. As one junior on-track associate explained, “you would never see their [staff attorneys’] names identified with the firm in some external way.” Others described that even in self-generated listings such
as LinkedIn, off-track attorneys listed their job title as an associate with a corporate firm, "but everyone knows they’re not really associates." In one firm, off-track attorneys were not even given business cards, causing one attorney to resort to making her own cards when looking to transition to another job.

These different structures not only separate lower-tier associates from the social and structural factors that influence upskilling and occupational trajectory, but also send clear signals about how valued such positions are in the firm. Prior research has shown that many lawyers have regarded new positions in the firm hierarchy, such as permanent associates, with skepticism. Often, such positions are considered to be downgraded versions of associate jobs (Malhotra et al 2010). The emergence of off-track associate positions appears to be no different. As one administrator from a top-tier law school described, "they’re seen as kind of the stepchild of associate positions."

Evidence thus suggests that schisms in social distance among associates – and between off-track associates and lawyers higher in the firm hierarchy – are embedded in the structure emerging from disaggregated work and its hierarchy of tasks, around which the social and cultural dimensions of the work process forms. This schism becomes more starkly apparent when compared to how on-track associates rely upon socialization and mentorship as means of advancement.

**Implications for on-track associates: people and relationships as skills**

Among on-track associates, the importance of socialization and mentorship in large law firms is clear-cut. These are means through which associates learn, progress internally, and eventually, secure support for promotions or successful placement out of the firm.

Nearly every associate interviewed mentioned that most of their initial learning occurred through other peers and the senior associates who supervised them. Even when conducting “clerical” work as entry-level lawyers, associates received direct supervision from mid-level lawyers. As a Boston mid-level associate described:

*My first big transaction was an M&A [mergers and acquisitions] deal. As a first year, when I started was at a time when the transaction was closing already. So it was after all the due diligence activities and so on. It was basically putting together all the documents. For that particular transaction, there was a team of third years who were supervising three first years, who were all, generally speaking, just generating signature pages for all the documents that were supposed to signed, arranging them in the right order, in the right place.*

More tenured associates are often crucial sources of information and guidance for completing tasks, particularly those which can be replicated from a model in some form or for which associates receive direct, detailed feedback, such as rounds of edits made by a senior associate to a document draft. A senior associate in New York, reflecting upon
how he learned to do his job when he first arrived at his firm six years prior, described the importance of intrafirm relationships as so:

_The more senior lawyers for the most part have been accessible at my firm... in terms of learning how to do the job, for me, it was a lot of asking peers, have you done this before? Asking more senior associates that I’m working for, or not, can you send me a model of what you did on this?_

The impetus for establishing relationships as mechanisms for learning is reinforced by feelings of obligation and loyalty among the team assigned to a case, as a second-year associate in New York illustrated:

...you feel some loyalty in your team. For example, let’s say the senior I’m working for right now, or the mid-level, when she gives me assignments, it really feels like this one person is relying on you, one person, to do this stuff. And I feel like, ‘Wow, I consider this implicit. You don’t want to get in trouble.’ But then there’s also this loyalty, ‘Oh my gosh, I don’t want to disappoint her or make her look bad because someone else would have to do it.’

As on-track attorneys move up the internal ranks of the associateship, this mentorship role is increasingly overtaken by more senior attorneys or partners. In this context, a sixth-year associate in Boston explained that social relationships and autonomy together generate opportunities for upskilling:

_I think you almost...if you don’t establish a relationship with one or two people early on, that can be a barrier for you. I think it tells you something. I think about it in terms of skills. I just think that my job is really interesting and I just want to be a good lawyer, so I’ve always sought out people who are going to help me be a better lawyer. And a lot of times, that will come in the form of working with so and so because they’ll help you with your writing, or work with so and so and they’re really practical and will help you improve the way you understand the clients._

At the same time, others saw the importance of socialization in terms of having an advocate, or champion, that facilitated movement up the firm ladder. A former on-track associate at a particularly elite corporate law firm in New York observed how important it is for associates to “align yourself with the right senior people and hope that they could carry you up the ladder with them.” As has been argued throughout, the tasks allocated to on-track associates facilitate this alignment and become richer resources for socialization and mentorship as they increase in complexity and opportunity to use discretion.

DISCUSSION

_The new structure of corporate law firms and implications for inequality_
The competitive environment of corporate law, increasingly dominated by the
"productivity imperative" (Henderson, 2012: 25) and fueled by changing demand among
clients, is prompting a wave of restructuring among associateships. Underlying this
growing segmentation in position and remuneration is the allocation of work tasks and
subsequent outcomes regarding skill, control over work and work processes, and the
social means through which associates advance in their jobs.

For on-track associates, the disaggregation of more routine work processes has shifted the
composition of tasks and skills for which they are responsible. By interviewees’ accounts,
this group begins to engage with more interesting and substantive material earlier in their
firm tenure, and as such have earlier exposure and engagement with senior attorneys and
partners. Although not completely rid of “clerical” work, lawyers in these positions are
able to demonstrate competencies – “thinking on your feet” and “setting the wheels in
motion” – that establish them as integral components of case teams and solidify
relationships with higher-ups, who in turn provide resources for skill-building,
mentoring, and advancement. Open for debate is whether the trade-off for this group –
the shifting allocation of “process-oriented” and “substance-oriented” tasks – represents a
return to the associateship as an apprenticeship or simply an intensification of work, as
some interviewees have suggested.

Associates in the lower strata of associateships, on the other hand, face a more limited set
of opportunities in regards to upskilling and accessing resources for mobility. When
confined to the “less glamorous work” in routine processes such as document review,
these attorneys are folded into the firm’s division of labor at precise points in the
sequence of tasks that make up legal work. Structural, social, and cultural impediments to
accessing more complex tasks and learning opportunities with senior lawyers limits their
participation in the “arc of work” at particular junctures in the work process and
constrains how they advance absent policies or procedures which bridge the two tiers.
Although lower-tier associates’ experiences may diverge from these overall trends when
work assignments are structured in ways that allow for accumulation of relatively more
in-depth knowledge, the implications for occupational advancement within the firm
remain unclear.

These trends are reined in by the nature of different practice areas of legal work, some of
which are more conducive to restructuring than others. As is stressed in the literature
regarding the legal profession, corporate law firms are not a monolith in terms of their
adherence to new, sector-wide innovations in maintaining competitiveness (Henderson &
Zaring (2005:1098)). Variation among firms and practice areas prevent an overly
simplistic account of the implications arising from restructuring, and the mechanisms
which facilitate inequality within an organization, in this context. Moreover, the
importance of firm decision-making in shaping internal labor markets that include two-
tiered associateships cannot be understated (Osterman, 1987).
Implications for occupational advancement

What are possible implications of the described changes over time? Although beyond the scope of this study, findings presented here pose important considerations for future work. Two considerations for on-track associates are relevant. On one hand, legal scholars posit that associateships may become more closely aligned to their original function as an apprenticeship, leading to improved skill development and career prospects for associates (Burk & McGowan, 2010). On the other hand, the reality for most associates at the current juncture is different – declining odds of making partner (Raasch, 2007) and intensification of work through increasing billable hour requirements render these potential gains illusory at best for many in the short-run. As one associate put it, his goal coming out of law school was to “be there [at a firm] for a couple of years, put in the work, get the experience, and then leave.” Likewise, associates with longer tenure are also motivated to transition out of their firms should partnership opportunities be unattainable and remaining in permanent positions be undesirable. As numerous interviewees described, exiting the firm by the seventh year or so is paramount, lest they be perceived by prospective employers to be “too specialized” to be of much use elsewhere.

Exit is therefore an important part of shaping a corporate legal career and occupational trajectory over the long run. For on-track associates, exit may include a transition to a smaller firm or to a client’s in-house legal department, among other settings. Varied pathways to these jobs include assistance from partners, secondments, and the use of legal recruiters. No matter the route, associates describe leveraging relationships with partners, reaching widely-understood skill levels over the course of their associateships (essentially becoming a “known commodity” based on tenure, as one associate described), and demonstrating their value to clients and firms through handling larger portions of matters on their own. A senior Boston associate described how with these elements in place, his firm would “pull out all the stops” to help him transition when ready:

*If it looks like there’s not going to be room for you as a partner, and that you have a good relationship with the partners, I can guarantee that they will pull out all the stops and help you get a good position.*

Given the importance of leveraging such resources for upward occupational trajectory, what is at stake for off-track associates? Existing evidence suggests that, at least with lower-skilled and routine tasks, lack of access to opportunities to build skill, relationships, and autonomy may be consequential for lower-tier associates over the long-run. In his study of temporary attorneys in the Washington DC market, Brooks (2012) describes the long days of document review, categorizing and coding thousands of documents with little knowledge of either the matter at hand or the legal strategy – similar to work done by staff attorneys in many off-track positions. In interviews, Brooks’ attorneys described how the nature of these tasks makes it difficult to move into
other work opportunities, as they are unable to use them to demonstrate their legal competence and skill.

This idea was reiterated by a former corporate associate in New York who transitioned into a private-sector finance job. This interviewee spoke at length about his futile efforts to hire a contract attorney at his current job, expressing frustration that many lacked the "business street smarts" and "know-how" of business deals and their legal requirements despite having worked in numerous contract positions. The problem, he described, is best illustrated through the well-known adage: "a rolling stone gathers no moss." These candidates, in other words, "haven't developed enough knowledge in legal work or in institutional knowledge to be of use, to bring a different perspective to the firm...they aren't immersed in business." My field notes convey his application of this idea to two-tiered associateships:

I asked how the lower tier – the two-tiered structure of associates – compares to this description [of contract attorneys]. He said that they are worse off than the contract attorneys, because they haven't gone through "boot camp." I asked what boot camp is. He explained that they haven't "gone through the misery of being a first year associate," a phrase he returned to two more times in discussing this topic. They haven't written docs, and don't know the norms about them...There are "accepted conventions" on how to swap docs, there is protocol. You only see this as an associate because you are working on dynamic cases. When you're doing the lower level work, you're only seeing one piece. How you fare afterwards is different too. If you first work as an associate in a firm, and then get laid off, and go into contract work, it's different than if all you've done is work in these lower tiers.

While some interviewees refuted the idea that foundational skills are lost without routine tasks such as first-pass document review, this attorney suggests that something different is at stake: the norms, protocols, and general contextual knowledge needed in order to effectively perform work – to understand how the legal dimensions of business deals unfold, and to adhere to the accepted norms and conventions of law firms and their clients – are jeopardized absent opportunities to engage in these norms and contexts, learning through osmosis, relationships, or other means discussed here. For off-track associates, these may emerge to be the portable skills hypothesized to be of utmost importance to occupational mobility among workers employed in peripheral positions of an organization (Kalleberg, 2003).

Legal professional associations and law firms, recognizing this in some form, have already begun identifying policies and procedures that influence the distribution of opportunities and outcomes in the process of restructuring associateships (National Association for Law Placement, 2014). Absent such policies, the consequences of restructuring for inequality remain a potential concern for lower-tier associates – one of numerous groups, which also include contract attorneys and temporary lawyers, that
comprise what some scholars argue is an emerging, “completely separate underclass of staff and contract attorneys” (Burk & McGowan, 2010:82) at the margins of corporate law firms.

CONTRIBUTION AND FUTURE RESEARCH

Prior studies of inequality and organizations posit that inequality will become codified through the division of labor, becoming deeply entrenched in firms’ organization of work, policies and procedures, and norms and practices. Here, I show that the transformation of the division of labor affects the distribution of nuanced resources that lead to advancement, such as opportunity to acquire skills and social resources, which extends our understanding of inequality in organizations beyond measures of compensation and promotion. Consistent with Strauss’ (1988) argument that extent in which work processes and tasks are simple, complex, or routine shapes how the division of labor is experienced, I show how access to these resources is tied to the tasks allocated to different groups of workers within an organization, and show how evaluating the sequences of tasks, roles, and interactions that unfold can lead to understanding organizational inequality in a more textured manner.

The implications of the disaggregation of work for both on- and off-track attorneys remain a critical subject for research as restructuring continues to diffuse throughout the corporate law sector, in particular as the simultaneous growth of other low-cost, alternative sources of labor – agencies that place temporary and contract workers with firms on a project basis, for instance, or the booming legal process outsourcing industry in countries such as India – remain a credible competitive threat that exerts downward pressure on the price of legal service. Future research may also evaluate the conditions under which inequalities borne out of the organizational division of labor may be mitigated. The current study suggests that the structure of work assignments and formal policies that bridge the tiers of law firm associateships are two starting points for such inquiry. The use of third party suppliers in conjunction with two-tiered structures also appears to result in variation, perhaps due to some of the most labor-intensive work leaving the firm. As a greater variety of firm arrangements are taken into account, potential differences in organizational approaches – such as co-locating tiers of associates in a given market or placing lower tiers in different geographical areas – may also illuminate additional factors that influence the distribution of opportunities and rewards within law firms.

Rethinking the traditional conceptualization of stratification in law?

A new role for a known sorting mechanism: Law school affiliation

In the realm of corporate law, a still small literature is evaluating the role of law school affiliation as a mechanism of organizational inequality, specifically examining the effect
of attending an elite law school within firms (Baker & Parkin, 2006; Parkin, 2006; Oyer & Schaefer, 2009, 2012). These accounts illustrate the relatively high returns realized by those who graduate from top-tier, elite schools compared to their non-elite counterparts, and frequently emphasize relational aspects of law school affiliation as a sorting mechanism – shared institutional affiliation, for example, is argued to be associated with favoritism in the promotion process (Parkin, 2006). A number of interviewees expressed some skepticism at this idea; as a former associate from a non-elite school who remained at a corporate law firm for three years stated, “Once you’re in, everyone is the same.” Likewise, a senior-on-track litigation associate from an elite school stated, “At some point it’s just about, how good was the last project that you did and have your proven yourself. It’s certainly no barrier to advancement.” Another argued that “the best associates come from the less elite schools, because they have had to work 100 times harder to get here.”

Alternatively, other work has posited that the ranking of law school is simply a proxy for human capital (Garicano & Hubbard, 2005) and thus explains advantage garnered by graduates of elite schools within firms. This argument has been contested in the recent literature (Oyer & Schaefer, 2009, 2012), which rules out explanations of organizational stratification due to human capital factors and instead reemphasizes the need to understand the role of law school affiliation itself. If relational and human capital explanations rooted in law school affiliation are not sufficient explanations of growing inequality within corporate law firms, how should the phenomena be understood?

Recent work begins to address this question, notably by demonstrating that law school affiliation is associated with allocation to specific practice areas and work relationships (Sterling & Ryder, 2014). The present study builds upon this work, further documenting the extent to which law school affiliation is being used a means through which to allocate labor to specific organizational structures and points within the division of labor. Two-tiered structures may thus represent a new use of a known sorting mechanism in law – one around which emerging firm business models and organizational structures are emerging.

*Shifting hemispheres of the legal profession*

The organizational restructuring of corporate law firms raises an additional implication in regards to the theoretical model of stratification found throughout the extensive literature on the profession. Conceptualized as two distinct segments or “hemispheres,” scholars have argued that the legal profession is stratified around client type, with a powerful core clustered around corporate law and a periphery of organizations serving other organizations, such as government, small businesses, or individuals (Heinz & Laumann, 1982; Abel, 1989). In these accounts, each segment of the profession is characterized by distinct work areas and tasks required for practice, different organizational forms, and, importantly, distinct and separate labor markets, with lawyers from top-ranked law schools funneled into elite jobs of the core, and those from less-advantaged institutions
filling the ranks of the periphery. Throughout the literature, these separate realms are portrayed as isolated from one another; beyond limited mobility of lawyers from one segment to another, the hemispheres of law are cast as more or less static and fixed. The ways in which work is organized and subsequent career paths are structured are thus specific to firms’ respective realms.

Although scholars have recently recognized that the hemispheres of law are not as rigid and cohesive as originally theorized (Heinz et al., 1998), this classic conceptualization of the profession’s organization is still prevalent in the literature. As such, these scholarly models of legal work typically lead to explanations of the division of labor — both within firms and in the broader occupation — that are oriented around client type, in contrast to an orientation of a division based on tasks and specialization (Heinz et al., 1998).

The current organizational restructuring among corporate law firms, however, is upending this model as the boundary between the traditional core and peripheral labor markets becomes more porous. Through restructuring, corporate law firms in the powerful core of the profession are now incorporating graduates of less-elite institutions into their division of labor, blurring the lines of bifurcation that have traditionally characterized the labor supply. The question that emerges is whether this change in employment pathways will subsequently alter patterns of stratification at the occupational level, giving rise to a different conceptualization of the profession than that which is found in the literature. While it is clear thus far that this shift is raising implications for inequality among corporate law associates, its impact on the organization of the profession and its labor markets is less clear. With restructuring, however, corporate law firms provide a window through which to investigate how organizational inequality, when embedded in the division of labor, can mediate between these larger structural patterns at the level of the occupation and outcomes related to individual attainment — an opportunity for future research.

*Figure 1. Changing organizational structure of corporate law firms*
Figure 1. Changing organizational structure of corporate law firms

Under the Cravath model, lawyers entered firms as associate “apprentices” and gradually either worked their way up to partner or exited the firm. Since the 1980s, ranks of lawyers within the firm have grown, incorporating new, permanent positions and increased lateral entry and exit from firms. As such, some scholars hypothesize that the traditional pyramid structure of the Cravath model is breaking down (Henderson 2012). The splitting apart of the associate role through the disaggregation of work is an extension of this trend, spurred in part by competition with less-costly third-party providers. Adapted from: Galanter and Palay (1990); Henderson and Galanter (2008), and Henderson (2012).
Figure 2. Changing organization and composition of corporate law associateships

Traditional, pre-disaggregation model
Predominantly top-tier/elite law school graduates + Smaller share lower-tier graduates

Disaggregated model
Predominantly top-tier/elite law school graduates + Smaller share lower-tier graduates
Upper-tier, "on track" associate positions

Predominantly lower-tier law school graduates
Lower-tier, "off track" associate positions (e.g., staff attorneys, litigation analysts, document review attorneys)
Figure 3. Theoretical connections between division of labor, workflow, and variation in job characteristics
Figure 4. Case selection

<table>
<thead>
<tr>
<th>Corporate Law Firm Associates</th>
</tr>
</thead>
<tbody>
<tr>
<td>New York City and Boston Markets</td>
</tr>
<tr>
<td>Top-Tier Law School Affiliation (USNWR Top Ten)</td>
</tr>
<tr>
<td>Graduated early-mid 2000s</td>
</tr>
<tr>
<td>On-track</td>
</tr>
<tr>
<td>On-track</td>
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<td>On-track</td>
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<td>On-track</td>
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<td>On-track</td>
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</tbody>
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Graduated early-mid 2000s:
- Top-Tier: On-track
- Lower-Tier: Off-track

Graduated mid-late 2000s:
- Top-Tier: Off-track
- Lower-Tier: On-track
Figure 5. Task clusters in the document review process

- Data evaluation & strategy regarding categories of document analysis
- Creation of review procedures and training of lower ranks of attorneys
- Strategic document release
- Review and ongoing quality control by lower tier(s)
- Quality control & funneling up of "interesting" documents to upper tier
- Analysis and next steps
Table 1. Summary of findings

<table>
<thead>
<tr>
<th>Job dimension</th>
<th>Lower tier/&quot;off-track&quot; associates</th>
<th>Upper tier/&quot;on track&quot; associates</th>
<th>Mid- to senior-level associates</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Tasks and skills</strong></td>
<td>Routine, iterative work: &quot;grunt work&quot; or &quot;paperwork&quot;</td>
<td>Some routine (&quot;clerical&quot;) work</td>
<td>&quot;Person who knows what case is about&quot;</td>
</tr>
<tr>
<td></td>
<td>Repetition induced by changing inputs and outputs, quality control processes</td>
<td>Increased opportunity for substantive tasks, &quot;interesting&quot; work</td>
<td>Higher-order tasks relevant to strategy formation, quality control, legal analysis</td>
</tr>
<tr>
<td></td>
<td>&quot;Trickle-down&quot; learning</td>
<td>Discrete, substantive tasks earlier in tenure</td>
<td>Opportunity to oversee entire task processes or clusters</td>
</tr>
<tr>
<td></td>
<td>Variation due to practice area, client type, structure of assignments</td>
<td>Relatively more analytical quality control processes</td>
<td>Increasing portions of workload include managerial, supervisory, and coordinating tasks</td>
</tr>
<tr>
<td></td>
<td>Can include supervisory or coordinating tasks</td>
<td>&quot;Jump&quot; or progression in learning curve</td>
<td>Tension between &quot;process-oriented&quot; and &quot;substance-oriented&quot; goals</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Potential loss of knowledge acquisition through &quot;osmosis&quot; (debated)</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Eventual supervisory/coordinate responsibilities</td>
<td></td>
</tr>
<tr>
<td><strong>Autonomy and control</strong></td>
<td>Limited information which facilitates &quot;thinking on your feet&quot;</td>
<td>Increasing opportunity to demonstrate &quot;thinking on your feet&quot;</td>
<td>Importance of operational autonomy: &quot;setting the wheels in motion&quot;</td>
</tr>
<tr>
<td></td>
<td>Opportunities limited by tasks, lack of feedback, internal labor market</td>
<td>Increased autonomy with affirmation, feedback, and benchmarks</td>
<td>Ownership and determination of responsibilities and work processes</td>
</tr>
<tr>
<td></td>
<td>Variation due to practice area, client type, structure of assignments</td>
<td>&quot;Making yourself valuable&quot; and increased organizational trust</td>
<td>Increased trust, control, authority with clients, opposing counsel, other attorneys</td>
</tr>
<tr>
<td></td>
<td>Potential loss of leverage due to overspecialization and time</td>
<td>Tension with lack of control over work-life balance, &quot;fake fire drills&quot; and &quot;stunted growth&quot;</td>
<td></td>
</tr>
</tbody>
</table>
Table 1. Summary of findings continued

<table>
<thead>
<tr>
<th>Job dimension</th>
<th>Lower tier/“off-track” associates</th>
<th>Upper tier/“on track” associates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Socialization and mentorship</td>
<td>Social and physical/geographical separation</td>
<td>Socialization as learning and progression</td>
</tr>
<tr>
<td></td>
<td>Distinct norms and practices</td>
<td>Informally-structured feedback and mentorship through relationships + replicated work products</td>
</tr>
<tr>
<td></td>
<td>Access to on-track associates, but inconsistent feedback, Limited interaction with partners or other senior attorneys.</td>
<td>Access to advocates and champions, important for within-firm advancement</td>
</tr>
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<td></td>
<td>Conflict over being an “essential function”</td>
<td>Socialization and law school affiliation: “once in, we’re all the same”</td>
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<tr>
<td></td>
<td>Invisibility: websites, directories, business cards</td>
<td>Relationships with other attorneys = resources for skill-building</td>
</tr>
<tr>
<td></td>
<td>Stigma, skepticism, the “stepchild” of associateships</td>
<td>Access to advocates and champions, important for within-firm and within-occupation advancement</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Socialization and law school affiliation: performance, rather than affiliation, more relevant to successful socialization and mentorship</td>
</tr>
</tbody>
</table>

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Works Cited


