Organization-Bound Professionalism: 
Essays on Contemporary Expert Work 

by 

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Abstract

The three essays of the thesis explore the role of organizations in professional work and the role of professionalism in organizations, by analyzing novel data from three distinct empirical cases. The first essay uses the case of retail clinics firms in the U.S. market for primary care, to investigate how firms can penetrate the barriers of exclusive professional licenses and enter markets for professional work. The second essay uses the case of tax preparation work in the U.S., to study effects of (pseudo-) professional identity on firm performance in the context of non-professional work. The third essay uses the case of pro bono accounting work, to examine the process by which moral motivation of professional work translates into efficient, but morally contradictory outcomes. Together, the essays show that professionalism is a powerful cultural and sociological concept that has effects across a wide range of organizational phenomena.
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Introduction

The dissertation explores the contemporary organization of professional work in three essays. The first chapter analyzes the role of organizations in the macro-level division of expert labor. Using an empirical case of retail health clinics organizations in the U.S., the chapter builds a theoretical process model to explain how organizations external to the division of professional labor can claim some of the professional jurisdiction and capture the related monopolistic rents. In the case, retail clinics organizations were able to insinuate themselves into a jurisdictional settlement between the nursing and the physician profession, which allowed them to wrest control over performance of professional tasks in primary care and to capture the associated rents. Analysis of the case suggests that resource-rich organizations can capture professional jurisdiction by recruiting front-men professionals who provide their professional licenses to legitimate the jurisdictional capture. Organizations then tightly control the performance of expert work with technological tools based on codified knowledge generated by the profession, and extract monopolistic rents from professional work, while maintaining the benefits of scale.

The second chapter uses a case of a large tax preparation services firm to explore the consequences of the firm’s efforts to promote and to control professionalism of its workers. Qualitative and quantitative data in the case suggest that workers in objectively low-status, temporary jobs perceive that they are performing high-status, professional work and show commitment and motivation consistent with such perception. Far from being cultural dopes, the workers are acutely aware of the unattractive objective conditions of their employment. Their glorified view of their work and their commitment and motivation are
then puzzling. Building on theoretical critique of agency theory, this chapter proposes a mechanism by which dissatisfaction with the unfair employment conditions may cause higher motivation and commitment to work, if the work allows the workers to assume a professional identity. In contrast with the health professionals discussed in the first chapter, who are externally validated professionals, yet are struggling to get respect of their clients because of the organizational context in which they work, the tax preparation worker are not formally professionalized and draw their professional identity from their relationships with clients. The chapter discusses the implications of this organizationally-induced pseudo-professionalism. First, organizations can benefit from this process by saving on the cost of labor, because the workers effectively treat access to professional identity as part of their compensation. Second, this process can be costly to the organization when the work tasks do not fit with the professional ideal of work as perceived by the workers, because worker are not motivated to perform those tasks.

The third chapter explores the relationship between moral motivation of expert work and organizational constraints faced by expert workers. Using rich ethnographic data from a pro bono tax clinic participating in the federally sponsored Low Income Tax Clinic (LITC) program, the chapter analyzes why the professionals at the clinic fail to fulfill their goal of reducing inequality of access to vital professional services. The professionals are motivated to achieve that goal and have sufficient control over their work, yet their efforts not only contribute to continued disparities in access to vital professional services, but also benefit individuals who undermine the core institutional values. Analysis of this puzzling case reveals two general reasons for failure of the clinic’s efforts. First, attempts to correct
institutional inefficiencies like the disparate access, when carried out using institutional means, may systematically fail, because agents in charge of correcting institutional inefficiencies are not adequately equipped to perform the assigned task. The same systemic conditions that result in the disparate impact of policies make the attempts to compensate for the disparities fail. This leads to a decoupling of productivity metrics for agents in charge of fixing the institutional failure from their actual progress and to the agents’ frustration about the trade-off between accountability and performance. Second, the agents’ need for a consistent professional identity results in a retrospectively biased and myopic assessment of their past efforts. The biased assessment is sustained with the performativity of the decoupled productivity metric and prevents the professionals from initiating systemic changes to the organization of their work. This finding contributes to the theories of case processing and social control, by unpacking the assumption of weak agents dominated by organizational structure. The professionals at the clinic are capable of organizational change, yet their actions are guided by biased assessment of performance and their bias is validated with the de-coupled formal record of their past performance. As a result, the professionals’ actions are consistent with the lack of agency assumption, which may mislead efforts to correct the underlying institutional problem.

The three essays comprising the dissertation thus contribute to the body knowledge on professional work. By highlighting the roles of professional license, technological control over performance of tasks, professional identity, and the moral motivation of work, the essays offer a nuanced analysis of the processes that shape the performance of expert tasks in the context of contemporary organizations.
Chapter 1. Organizational Powers: Capture of Professional Jurisdiction in the Case of U.S. Retail Clinics

Abstract

This chapter offers a revision of the ecological model of interprofessional competition to explicitly account for the role of organizations in the division of expert labor among professions. Drawing on Abbott’s (1988) theoretical model, the chapter analyzes a case of jurisdictional disruption between nurse practitioners and physicians that occurred when nurse practitioners began to practice within a new organizational form of retail health clinics. Using archival and interview data, the chapter shows that retail clinic firms, as employers of the nurse practitioners, have inserted themselves into the competition of professions as meta-professional entities and changed a longstanding jurisdictional settlement in primary health care, gaining control over performance of professional work and distributing related economic rents. Since the existing ecological model cannot explain this outcome, the chapter elaborates the model, drawing on an insight that possession of equal rights by social actors does not imply possession of equal means to use the rights. By re-conceptualizing professional jurisdiction as a set of rights and their use, and recognizing the problem of professional collective action, the chapter arrives at an improved ecological model that can account for the role of organizations in professional competition and better explain the division of expert labor.
Introduction

The performance of many of the most critical tasks in our economy is governed by an organized division of labor that assigns “jurisdiction” over such tasks to particular professions. As defined by Abbott, a professional jurisdiction is a “link between the profession and its work,” represented by the profession’s exclusive rights to perform a category of tasks, and together jurisdictions constitute an idealized “map” of the professional division of labor (Abbott 1988:20, 61). Two interlocking factors imply that this division of labor is in fact dynamic: (a) jurisdictional boundaries depend on definitions of expert tasks and are inherently ambiguous; and (b) professions seek to grow their valuable jurisdictions and often invade others. The value of professional jurisdiction comes from its exclusive nature that prevents the individuals otherwise fully qualified for the performance of expert tasks from performing them if they do not have the required license. Such social closure and barriers to entry result in monopolistic rents accruing to professions holding the jurisdictions. The “system of professions” is thus one of uneasy truces or “settlements” around jurisdictional boundaries.

But what is the role of organizations in the division of expert labor? Virtually all contemporary professional work is carried out in organizations, and therefore organizations are centrally important for the actual performance of expert tasks. And yet none of the five types of jurisdictional settlements listed in Abbott (1988)—exclusive jurisdiction, standoff with division of labor, intellectual control, advisory function, and subordination—describes a role for organizations. While there is an extensive discussion of

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organizations as worksites, or contexts of professional work in Abbott (1988:125, 1991), and in the related organizational research (e.g., Zald 1971; Barley 1986; Heimer 1999; Bechky 2003; Kellogg 2009), the micro-level analysis does little to link the findings back to the institutional-level model of jurisdictional competition. As a result, understanding how individual members of professions negotiate the performance of tasks at hand with other professionals in shared worksites and how the coordination of expert work is influenced by characteristics of the worksites does not help us define a systematic role for organizations in the system of professions.

Despite calls for inclusion of organizations into theories explaining the division of expert labor (cf. Tolbert and Barley 1991; Leicht and Fennell 1997; Hafferty and Light 1995), progress towards a comprehensive model has been slow. A few notable attempts to expand the list of actors in the system of professions beyond occupational groups followed Abbott’s seminal book (e.g., Krause 1996; Freidson 2001; Light 2008). These studies made the important steps of generalizing the ecological theory of professions by including institutional actors other than occupational groups—e.g., the state, consumers, corporations—into the models explaining professions’ historical paths. However the models share an important limitation: the macro-historical perspective on the division of professional labor does not explicate the mechanism of the competition between professions and other kinds of actor—e.g., the models do not explain how organizations are able to participate in the competition for professional jurisdiction. Since the outcome of the jurisdictional competition is assignment of rights to qualified individuals to perform a category of work, the competition would seem to exclude entities like organizations, which are incapable, by constitution, of performing such work. Thus organizations appear to be
excluded from direct participation in the professional division of labor by professions in the same manner as the unlicensed individuals. How can organizations then systematically affect jurisdictions of professions?

By analyzing a case of jurisdictional disruption in the medical profession, this paper builds on Abbott's ecological model and on the insights of the subsequent work to propose a model of interprofessional competition that explicitly includes organizations in the division of expert labor. The emergence of a new organizational form in primary health care—retail clinics—triggered a jurisdictional dispute between nurse practitioners (NPs) and primary care physicians (PCPs), resulting in a change in the jurisdictional settlement between the two professions that does not fit any of the five standard types of jurisdictional settlement. Both professions involved in the dispute suffered as a result of the change, while the retail clinic organizations benefited. The case suggests that organizations are, in fact, capable of capturing professional jurisdiction. Analysis of this puzzling case reveals two weaknesses in the ecological model of professional competition: (a) the core concept of professional jurisdiction has not been adequately defined; and (b) collective action by professionals can be problematic. The first weakness results from conflation of two distinct components of jurisdiction: the rights to perform a set of tasks that comprise a category of expert work and the means to use and enforce these rights. The possession of rights does not imply possession of means to use the rights. The second weakness is in the assumption of coordinated collective action by professions in the jurisdictional competition. Without relaxing this assumption we cannot explain cases where external entities are capable of shaping the division of expert work. In the case of the jurisdictional disruption that followed the emergence of the retail clinics, organizations
that were external to the medical profession were able to exploit a tension in the existing subordination settlement between nurse practitioners (NPs) and primary care physicians (PCPs). By co-opting individual professionals as “front-men,” the retail clinic organizations managed to play the nursing profession against the physician profession in order to legitimate the change in the settlement and insinuate themselves into the jurisdiction of medical work, capturing the professions’ rents.

This paper advances the theory of the division of expert labor by revising the definition of professional jurisdiction and elaborating the problem of professional collective action, thereby showing how organizations can wrest control of a professional jurisdiction. In the next section, I review the existing ecological model and set the stage for the case by describing the division of labor between physicians and nurse practitioners in the U.S. prior to the jurisdictional disruption. I then introduce the case and analyze its deviations from the existing theoretical model. I conclude by proposing a revised ecological model and discussing its generalizability.

**Abbott’s Ecological Model and the Subordination Settlement in Medicine**

The ecological perspective on development of occupational groups offered in Abbott (1988) has been the *de facto* standard in the literature on professions and occupations for over twenty years. It builds on a long tradition in the professionalization literature that focuses on exclusive control over performance of a category of expert work through an occupation’s self-governance and control over membership (Wilensky 1964), professional training and socialization (Becker et al. 1961; Becker and Carper 1956), and production and strategic use of abstract knowledge (Freidson 1973, 1986; Larson 1977). Abbott’s ecological perspective on professional competition has at least two distinct advantages
over the "old" professionalization perspective. First, instead of accepting professionalization as a unidirectional development of an occupation, Abbott presents a process model, in which professions can win and lose jurisdictional battles, sometimes expanding and sometimes deteriorating. Thus the model allows for deprofessionalization that is not a direct result of the structural features of a profession (Haug 1988). Second, Abbott addresses the definitional challenges that have long beset scholars of professions by situating professions as the product of boundary struggles, rather than as existing units on the path of professionalization.

Despite its advantages, Abbott's ecological model focuses on occupational groups as the only relevant collective actors, designating other types of actors—e.g., the state, the consumers of professional services, and the corporations that facilitate expert work—to the environment of the interprofessional competition. This creates a problem of explaining institutional-level changes in the division of expert labor that result from participation of entities like organizations in the jurisdictional competition. Subsequent work on professions sought to correct the narrowness of the model by including collective actors other than occupational groups. In a cross-national comparison of professionalization cases, Krause (1996) proposes that three interrelated forces—state, capitalism, and professions—create and maintain the division of professional labor. Similarly, Freidson (2001) proposes that three conflicting ideal-type logics—market, bureaucracy, and professional service—shape performance of professional work and explain development and demise of professions. In the most general expansion of the ecological model, Light (2008) proposes that configurations of countervailing powers of any significance (professions, corporations, clients, the state, etc.) explain the state and the history of a
profession. These models provide a key insight on which this paper builds—because professions are embedded in the context of other institutions, collective actors other than occupational groups are capable of carrying out institutional-level changes in the division of expert labor. However these models do not resolve the problem of ontological difference between occupational groups and organizations and do not explain when and how organizations can overcome this difference and usurp individual professionals’ rights that comprise the profession’s jurisdiction.

The profession’s jurisdictional claim is the key element of Abbott’s model, as the claim establishes a link between the profession as an institutional entity and the work that members of the profession perform in worksites. When a profession claims a jurisdiction, it claims for its members authority to interpret specific human problems as tasks within its expertise and to perform work exclusively in relation to those tasks (Abbott 1988:59). That authority is legitimated by the profession’s abstract knowledge that informs performance of the tasks and supported with control over training, certification, and work of individual practitioners. Thus, a successful jurisdictional claim results in a license to practice a category of work and a mandate to govern the profession’s affairs and control the public’s view of its work (Hughes 1958:78-87). In return, the profession offers an implicit guarantee to the society of the most effective and efficient solution to the category of problems (Abbott 1988:60). Professions are rarely successful in claiming a complete and exclusive jurisdiction over a category of tasks, and competing claims for the same jurisdiction from different professions result in another key feature of the ecological model—jurisdictional settlements. The settlements define the terms on which professions share a jurisdiction, accounting for most historical cases of shared jurisdictions. The
The typology of settlements offered in Abbott (1988:71–77, 139) is not systematic, but the categories approximate the power balance between pairs of professions sharing a jurisdiction. Abbott lists five types of jurisdictional settlements: [i] complete jurisdictional control by one profession, and the exclusion of all outsiders (e.g., the police); [ii] shared jurisdiction with a division of labor (e.g., tax attorneys and accountants) or client differentiation (e.g., chiropractors and physicians); [iii] intellectual and cognitive control (e.g., psychiatrists in psychotherapy work of psychologists and social workers); [iv] advisory function (e.g., clergy in medicine); and [v] subordination (e.g., nurses and physicians).

The context for the case in this paper is the subordination settlement between nurse practitioners (NPs) and primary care physicians (PCPs). As the building blocks of occupational hierarchies, such settlements harbor two interlocking, yet conflicting dynamics that are the main internal sources of change in the system of professions: the "hiving-off" of low status work to subordinate professions and the "workplace assimilation" of superordinate responsibilities by subordinates (Hughes 1958:135; Abbott 1988:65–68; Nelsen and Barley 1997:621). Hiving-off allows a profession to maintain its status and restricted supply of practitioners while collecting rents from supervision (i.e., legitimation) of the work delegated to a subordinate profession. But hiving-off may also result in work assimilation that occurs when performance of the delegated tasks in worksites by the subordinate profession gradually gains legitimacy of its own, allowing the subordinate profession to claim the tasks of the superordinate profession as part of its jurisdiction. Such claims, when successful, disrupt the existing jurisdictional settlements and lead to
accumulation (or loss) of jurisdiction over time, resulting in expansion (or deterioration) of the profession.²

The economic logic of subordination settlements is illustrated in figures 1 and 2. Figure 1 shows how a collective action of professionals, implemented through institutional entities like professional associations, may result in a jurisdictional boundary to exclude illegitimate practitioners from performance of professional tasks. The same action then creates a category of underserved clients who represent potential, uncaptured rents in the jurisdiction. Figure 2 illustrates how occupational hierarchies provide a solution to this problem: subordinate professionals (previously excluded from performance of professional tasks controlled by the superordinate profession) attend to the clients otherwise not serviced by the profession and share the newly captured rents with the superordinate professionals. In the case of medical work, a physician facing a physical limit on how many patients she can see employs advanced nurses such as NPs to circumvent that limit. Thus, PCPs employ NPs to admit more patients to their practices and, through ownership of the practice, collect a portion of the patients' payments to the NPs. The NPs, who may otherwise be excluded from primary care medical work, are given legitimacy to practice primary care in exchange for a share of rents, and most importantly, subordination to physicians.

<< Figure 1 about here >>

<< Figure 2 about here >>

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² The decoupling of the jurisdictional settlement from the actual division of labor in worksites can be remedied, to a degree, by impression management on the part of professionals, as cases of architects (Abbott 1988:73) and nurses (Katz 1969) demonstrate. At some threshold, however, the decoupling leads to a disruption of the jurisdictional settlement and creates an opportunity for the competing professions to redraw the jurisdictional boundaries.
These extra rents come at a cost of tension with the subordinate profession because of the induced work assimilation. With the legitimacy delegated to NPs by physicians, the performance of medical work by nurses can become taken for granted independently of the actual subordination, threatening the jurisdictional settlement with physicians. In fact, multiple studies report the increasing encroachment of the nursing profession upon the physicians’ jurisdiction (Cooper, Henderson, and Dietrich 1998; Nancarrow and Borthwick 2005; Cooper 2001; Perry 2009). NPs in the U.S. have gradually won legal autonomy, rights to prescribe drugs, and authority to get reimbursed by health insurers as primary care providers (Perry 2009); and some observers claims that they are able to perform the tasks within PCPs jurisdiction with equal or superior quality (Brown and Grimes 1995; Mehrotra et al. 2009).

NPs’ jurisdictional gains, however, have not resulted in a complete capture of the jurisdiction, but have instead led to an imbalance between NPs’ rights to perform work in primary health care and the means to do so. The struggle of NPs to change the public’s perception of their profession illustrates this imbalance. For example, the American Academy of Nurse Practitioners states:

“Terms such as ‘midlevel provider’ and ‘physician extender’ are inappropriate references to NPs …they call into question the legitimacy of NPs to function as independently licensed practitioners …[and imply] that the care rendered by NPs is ‘less than’ some other (unstated) higher
standard. In fact, the standard of care for patients treated by an NP is the same as that provided by a physician... in the same type of setting."³

The statement points to the legacy of the original settlement with the physician profession (Katz 1969), which is manifested in the way nurses' subordination to physicians is assumed in the worksite organization of medical work (Dunn and Jones 2010). Thus, the tension in the jurisdictional settlement between NPs and PCPs stems from overlapping rights to perform medical work, but different cultural, political and economic resources to benefit from the jurisdiction. This decoupling of the profession's rights and their effective use is central to the theoretical developments in this paper, and I consider this decoupling of rights and means in more detail in the following sections.

So far, most of the relationship between NPs and PCPs fits Abbott's model of subordination settlement, but the jurisdictional dispute, which I describe next, resulted in a settlement that does not fit any of Abbott's categories. The remaining sections of the paper describe and analyze this new form of settlement. In the next two sections I describe the data for the case, introduce the new organizational form of retail clinics, and note the key features that allowed retail clinic organizations to exploit the tension in the settlement between NPs and PCPs. I then describe the events in the jurisdictional dispute that followed the emergence of the retail clinics and show how these events conform to the logic of the ecological model of professional competition. I also show that some actions in the dispute, and most importantly, its outcome—the changed jurisdictional settlement—do not fit

Abbott’s ecological model and require a revision of the model. I propose the revised model and discuss its generalizability in the sections that follow the case.

**Data and Method**

The data for this case come from two sources: archival records and fourteen in-depth interviews with key participants in the dispute. The archival records represent all major parties involved in the dispute under study. I collected press releases, meeting protocols and policy statements of four professional associations—the American Academy of Family Physicians (AAFP), the American Medical Association (AMA), the American Academy of Pediatrics (AAP) and the American Academy of Nurse Practitioners (AANP)—and one trade association—Convenient Care Association (CCA), the only collective representative of the retail health clinics industry to date. The meeting notes, policy statements, catalogs of policy transactions, and news articles produced by the associations were collected from the associations’ public online repositories and from the Internet archive (archive.org). The associations’ academic and industry publications were collected through the JStor database or directly from the associations’ websites. Using LexisNexis database, I collected newspaper articles covering the emergence of retail clinics and the subsequent dispute with the physician profession. Lastly, I collected the marketing material and the press releases of retail clinic organizations.

To identify the relevant documents, I used a multi-step, iterative search approach. First, I searched for key terms (e.g., “retail clinics”), using a conservative time frame—from 2000, the year the first retail clinic was opened, to 2010. I read the content of the results, identifying possible alternative keywords (e.g., “convenient care clinics,” or “retail medicine”) and repeated the search until saturation. In the next step, I used qualitative data
analysis software (Atlas.ti) to identify and code important and reoccurring themes. I then repeated the search for documents using keywords for the themes I identified. In the final step, in 2009 I conducted a series of fourteen in-depth, open-ended, semi-structured interviews with key participants of the dispute. I interviewed three categories of actors: (a) six individuals from the professional associations in the sample who drafted the policy statements related to the case; (b) four former executives of a large retail clinics organization who were active participants in the jurisdictional dispute discussed in this paper; and (c) four NPs who are employees of a large retail clinics organization in the Eastern United States. Interviews were conducted in person and over the telephone and lasted from 30 to 90 minutes each. Using the themes identified in the archival data as my guide, I triangulated the data by asking for subjects’ accounts of events in the jurisdictional dispute and for justification of language used in statements produced by the subject’s organization. After each interview I updated the archival dataset using the new information and repeating the first two steps of the search. This iterative approach resulted in a saturated dataset in which different sources were in agreement about existence of a given event, yet provided a variation in the event’s interpretation.

The final dataset contains 847 primary documents, from which I constructed the historical case of the jurisdictional dispute. Figure 3 shows a timeline of the retail clinics industry growth and the volume of publications about the industry in newspapers, industry journals and press releases. The trend in the media coverage suggests that the early period of industry growth, around 2006, have prompted the highest level of media attention, and that the news media have been rapidly losing interest in the industry from 2007 to 2010, despite the industry’s continuing growth. The medical profession’s reaction to proliferation
of clinics culminated in policy statements by professional associations issued in 2006, and the same year was pivotal for the retail clinics industry—the largest drug store retailer CVS acquired the largest retail clinics firm, MinuteClinic. Considered together, these facts suggest that the core of the jurisdictional dispute occurred in 2006 and 2007, and that the jurisdictional disruption settled by 2010.

<< Figure 3 about here >>

The New Organizational Form of Retail Clinics
Since the early 2000s, when NPs throughout the United States began practicing in small clinics located inside retail stores, providing medical services to patients with routine medical conditions, the total of the NPs practicing in these retail settings has not exceeded one percent of all of the NPs in the country. This would seem to imply a relatively minor change in the way primary care was delivered in the U.S., yet the new practice prompted a strong criticism from professional associations that represent PCPs. Physician associations saw the new practice as a threat to the existing jurisdictional settlement between the physician and nursing professions and attempted to de-legitimize the new practice with policy statements, commentaries and legislative action.

Some core features of retail clinics were instrumental in their capture of the primary care market, because these features were a drastic departure from the way acute health care services were usually dispensed in a typical PCP's office in the U.S. The retail clinics were much more convenient to patients—open late evenings and weekends as a "walk in" service that does not require a prior appointment; had a narrow focus on most profitable services in primary health care, by offering a limited set of services for a fixed fee; and had

4 The estimate is based on the AANP 2008 Annual Report, available at http://www.aanp.org/
a wide geographic market coverage by operating within nationwide retail store chains (e.g., CVS, Walgreens, Target, and Walmart) with access to customers inherent in the store location decisions. The convenience and narrow scope of the new practice threatened to divert some of the most profitable patient visits—those that involved low-cost diagnosis and treatment of routine medical conditions—from PCP offices to retail clinics.

The most important characteristic of the clinics for understanding the PCPs’ defensive reaction was the lack of a physician on site. Formally, the NPs in the clinics were supervised by a “collaborating physician” —a term used by NPs to describe a physician with whom they are legally required to have a consulting relationship. The nature of this relationship and the requirements for its existence vary by state, but in the case of most retail clinic organizations, the supervision often included only a periodic review of a random sample of medical records generated by patients’ visits. Usually, one physician—a medical director for a particular state—reviewed samples of records from all the clinics in the state, making the involvement of the physician profession in the clinics’ operation distant and essentially nominal.5

Because NPs in retail clinics provided diagnosis and treatment of routine conditions, ostensibly without a direct supervision by a medical doctor, PCPs perceived retail clinics as substitutes for their services and a threat to the physicians’ jurisdictional control over primary health care. The rapid proliferation of retail clinics became a catalyst for the physicians’ collective reaction (see figure 3). Physicians responded to the threat in a way consistent with the ecological model of professional competition and engaged in collective

5 Sources: interview with an executive of a large retail health clinics organization in 2008; interviews with NPs practicing in retail health clinics in 2009
action against the NPs' practice in retail clinics, aiming to de-legitimize the new practice and regain control of the jurisdiction.

**Events Consistent with the Ecological Model: Defensive Collective Action by the Physicians**

The collective action of PCPs against retail clinics followed the fierce early resistance of some vociferous individual physicians. The following quote from an interview with a physician association executive illustrates the sentiment:

"[Some members] reacted very defensively... The first clinics that opened up were in [Tee-Rx drug] stores [and] we had members [who] said that they would refuse to phone in a prescription to [the Tee-Rx drug] store, in protest... and then [the physicians] would call us, as their membership organization, and [say] 'What are you guys gonna do about [the retail clinics]? [These] people need to be squelched, shut down, and they are bad for patients!'" (author interview 2009; name of the store is changed to preserve anonymity)

Prompted by the resistance of individual members, the physician profession engaged in coordinated action through professional associations. The strategy of the physician profession's actions followed the logic of professionalization theories and Abbott's ecological model, and had three interrelated components: (a) assertion of subordination to PCPs as the only legitimate settlement in primary health care; (b) assertion of exclusive control of the physician profession over the abstract knowledge which is required for performance of any work in the jurisdiction; and (c) strategic use of the physicians' topmost position in the formal occupational hierarchy to exert direct influence on the state
and enlist the state to police the jurisdictional settlement. I review these components of the physicians’ strategy in turn.

Preserving occupational hierarchy in primary care

The first way in which the PCP’s collective action was consistent with Abbott’s ecological model of professional competition was the explicit boundary work (Gieryn 1983) of the physician associations. Policy statements that asserted the necessity of physicians’ direct participation in any primary care work were the main tools in the effort to preserve the profession’s jurisdictional boundaries. These statements reinforced the exclusive legitimacy of the subordination settlement between the nursing and the physician professions.

For example, the AAFP was the first physician association to engage in the collective action against the clinics in that way. It formed an internal “task force”—a committee of prominent members and executives of the AAFP—that met regularly for several months, deliberating on the course of action to address the proliferation of retail clinics. The task force proposed an AAFP policy statement, which became a model for other physician associations, and called it a “list of desired attributes” of retail clinics. The statement made legitimacy of the practice contingent on PCPs’ control over work in retail clinics, requiring direct supervision of retail clinics by physicians, and referrals of the clinics’ patients to PCPs. These demands were justified in the statement with a “need to provide continuity of care,” and the ideal of “team-based approach” to primary care practice. In addition, the
statement called for retail clinics to have a "well-defined and limited scope of clinical services," to mitigate any future damage to the jurisdictional boundaries.\(^6\)

Other physician associations, including the AMA and the AAP, soon followed the AAFP’s example, issuing their own statements of disapproval of the new retail clinics. These statements contained requirements for the clinics similar to those in the AAFP’s list, but they also emphasized the importance of control over abstract knowledge in medicine as a prerequisite for safe and adequate care.

**Confronting the efficiency of retail clinics with abstract knowledge**

The second way in which the physicians’ collective action followed Abbott’s ecological model was the use of abstract medical knowledge as the ultimate weapon of the physician profession. When retail clinic organizations made a carefully crafted *routinization argument* to justify their jurisdictional claim, the physician associations seized the opportunity to use the profession’s formal control over abstract medical knowledge to counter the clinics’ argument. In making the routinization argument, the clinics organizations described themselves as efficient and cost effective not only for the patient, but also for the industry. They made the argument in various forms, but a senior executive of a large retail clinic organization put it most succinctly. In talking to physicians, he pointed out to them: “You didn’t go through medical school to [then] do throat swabs,” (author interview 2009) referring to a routine test for strep throat. Such a routinization argument is a rationalization of the hiving-off of low-status work in terms of economic efficiency, not only occupational status (Hughes 1958), and is characteristic of the U.S. health care policy discourse since the rise of the managed care model (Timmermans and

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Oh 2010). It articulates the familiar claims that organizations are more reliable and accountable than individual actors and are capable of carrying out routine tasks in a consistent and standardized way (Hannan and Freeman 1984; Zuckerman 2010), which in health care translates into higher clinical quality, fewer medical errors, and better outcomes for patients.

The logic of the clinics’ argument conforms to one of the core scenarios of external entry into a jurisdiction in Abbott’s ecological model (Abbott 1988:91–96). However, the argument is a double-edged sword since a profession with a complete jurisdiction (such as the physician profession), through its cultural authority, can have the last word on what can and cannot be routinized. Indeed, the rhetoric in the physician profession’s reaction to the argument cited inherent dangers of treating any medical condition as routine. The AAP for example, emphasized the importance of patient-physician relationship that results from many repeat visits of the patient to the same physician and allows the physician to detect asymptomatic, “underlying” diseases or “co-morbidities.” These statements implied that NPs in retail clinics have neither the ability to diagnose such conditions, nor the perceptiveness to recognize the need for a referral of such a patient to the primary care practice. With these statements, the physician profession was defending its jurisdiction by defining tasks within the jurisdiction as impossible to routinize, thus reasserting control through its monopoly over abstract medical knowledge.

Attempts to co-opt the state
The third way in which the PCPs’ collective action was consistent with Abbott’s ecological model was the profession’s use of its special relationship with the state. Because of

physicians’ superordinate authority in the jurisdictional settlement with NPs, physicians represent medical work in front of the state (Freidson 1970, 1986; Starr 1982). Indeed, some state chapters of the physician associations went beyond just the rhetoric and proposed state laws to tightly regulate retail clinics and put them under control of the physician profession. The proposed regulations aimed to make the clinics closer to the model of a traditional PCP office, by prescribing standards for minimum acceptable room size, dedicated restrooms, and setting a maximum number of clinics that can be supervised by a physician (usually four). The first two requirements would make it more costly for retailers to open clinics in their stores, while the third requirement would include more physicians in the existing operation of the clinics, and would favorably (for the physician profession) affect the distribution of rents in the jurisdiction.8

The proposed regulations were not enacted, however, mostly because of the physicians’ own reliance on the autonomous practice of NPs—the key professionals in the retail clinics’ strategy were also key in the PCPs’ own offices. In states with large rural population (incidentally, those were the states where chapters of the physician associations were most opposed to retail clinics), many PCPs relied on NPs to run the physician’s office in remote rural locations. The proposed regulations would necessarily and adversely affect such standalone NP-operated practices.

In short, the physician profession used complementary strategies in its collective action to protect professional jurisdiction against the claim effectively put forth by the new practice in retail clinics. These strategies—the affirmation of the existing jurisdictional

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settlement, the use of abstract professional knowledge, and the enlistment of support from the state—followed the logic of the existing theory of professional competition. Despite their efforts, physicians were not able to avoid the loss of control over medical work in primary care and the loss of associated economic rents that resulted from the proliferation of retail clinics. The next section describes the counter-action to the physicians’ collective action and discusses how the capture of the physicians’ jurisdiction by the new practice does not fit the existing theory of professional competition.

Deviations from the Ecological Model: Who Acts and Who Wins

In describing professional competition for jurisdiction, Abbott’s ecological model assumes that professional bodies (such as associations) act on behalf of individual professionals—the licensed practitioners who are capable of holding the jurisdiction—as well as in their collective interest. In light of this assumption, two aspects of the action on the side opposing PCPs in the dispute are puzzling: first, the location of agency in the capture of PCPs’ jurisdiction, and second, the outcome of the dispute—the changed jurisdictional settlement. I consider these puzzles in turn.

Who acts: “misplaced” agency in the capture of PCPs’ jurisdiction

Throughout the jurisdictional dispute with PCPs, the nursing profession, which would seem to be the target beneficiary of the jurisdictional change, occupied a surprisingly passive position. Instead, retail clinic organizations were the collective actor who confronted physician associations in defense of the new practice. The clinics organizations made public

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While measuring the exact economic loss by PCPs is outside the scope of this paper, recent work supports the existence of such loss. First, Ahmed and Fincham (2010) provide evidence that a sizeable part of the retail clinics’ patients use clinics as a substitute for a PCP office. Second, Perry (2009) provides quantitative evidence for NPs’ broad negative impact on PCPs’ salaries, and connects this impact with the NPs’ jurisdictional advancements. Insofar as retail clinics reinforce the NPs’ jurisdictional gains, such evidence would also be in support of the PCPs’ economic loss as a result of the retail clinics’ proliferation.
statements and appealed directly to the three important audiences in the U.S. primary health care industry—the public, the insurers, and the medical profession—adamantly defending the jurisdictional change that the new practice entailed. Retail clinic organizations often made these statements “on behalf” of NPs, highlighting legitimacy of the NPs’ expanded role in the primary health care delivery.

In addressing the first of the three audiences—the public—retail clinic organizations praised NPs’ professional qualifications and insisted on legitimacy of retail clinics as one of the forms of NPs’ practice. A description of retail clinics on the website of Convenient Care Association—the main trade association of retail clinic organizations—exemplifies that approach:

“[Retail health clinics] are usually staffed by NPs, who have proven through their 40-year history to provide high quality, patient centered, compassionate care. [Research] has shown that they provide care comparable in quality to that provided by Primary Care Physicians.”

In addressing the second important audience—large health insurers, who are the influential actors capable of legitimating new practices in the U.S. health care by acting as custodians of financial resources in the market (Weisz 2005)—the clinics organizations emphasized the cost efficiency of NP-based practices. Such emphasis helped to persuade the private health insurers to include NPs practicing in retail clinics into the insurers’ “physician networks.” That was a crucial step in entering health care services market, since it ensured that visits to retail clinics would be reimbursed through the patients’ medical insurance policies in the same manner as visits to PCP offices, and would lower the

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patients' cash expenses. The co-optation of the insurers was done in two steps: retail clinic organizations would open their clinics on campuses of large, self-insured firms to demonstrate (to the firms) the cost efficiency of the new primary care delivery model. The clinics organizations would then ask the firms to demand an inclusion of the clinics into the “physician networks” of the private health insurers that managed the firms’ health plans. In the negotiations with the employers and the insurers, the clinics organizations argued that NP-based primary care practice without a direct physician involvement is cost efficient because an NP can do the same professional tasks as a PCP at a fraction of the PCP’s cost. Thus, the retail clinic organizations were legitimizing the NPs’ recent gains in jurisdictional rights among the influential institutional actors and challenging the assumed subordination settlement with PCPs on behalf of NPs.

Finally, the retail clinic organizations addressed the third important audience—the physician profession—by directly responding to the physician associations’ collective action against the new practice. On behalf of the nursing profession, the clinics organizations defended the new NP-based practice in retail clinics as an efficient and safe alternative to the existing PCP-based model of care delivery. They framed the inefficiencies of the existing model in terms of widely discussed problems—the longstanding PCP shortage11 and the crisis of quality in the U.S. health care (Institute of Medicine 2001)—which retail clinics were equipped to solve. Proliferation of the NP-based practices would address the shortage of PCPs, while the new organization of work in retail clinics would address the quality crisis. For the latter, the core strengths of the new organization of work were automation and standardization of the NPs’ work in the clinics, achieved with the use

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of software tools that guided NPs in their daily practice. Thus, the clinics organizations argued that NPs' cost-efficient expertise, combined with reliability and accountability of the organization-controlled delivery of services (Hannan and Freeman 1984; Zuckerman 2010) was a practical solution to one of the most urgent societal problems in the United States.

In short, retail clinic organizations defended the change in the jurisdictional settlement between NPs and PCPs by supporting and legitimating NPs' recent gains in the jurisdiction. In doing that, the clinics organizations participated in the jurisdictional dispute on behalf of NPs—an aspect of the case that doesn't fit the existing theory of professional competition. This could be considered a minor deviation from Abbott's ecological model, were the clinics organizations generally acting as the faithful representative of NPs' interests. But in fact, as the next subsection shows, NPs as a profession not only failed to benefit from the clinics organizations' actions, but also suffered a loss in their professional standing.

Who wins: negative gains for NPs from the jurisdictional capture

In some respects, retail clinic organizations' actions seemed to further NPs' interests. But two key aspect of the case amount to a major deviation from the organizations' role as NPs' benefactor: (i) the increased autonomy of practice that the clinics organizations promised to NPs did not bring the benefits implied in jurisdictional control—professional discretion, control over referrals, and rents—to the NPs working in retail clinics; (ii) the worksite-level organization of NPs' practice in retail clinics stripped NPs of any remaining control over work and was detrimental to their professional development. These aspects deserve a closer look.
(i) Self-sufficiency of operation instead of discretion

The first aspect of the NPs' practice in retail clinics that undermines the retail clinic organizations' role as NPs' benefactor is the strategic use of different meanings of autonomy. The organizations used one meaning of autonomy—professional discretion—to recruit NPs and yet another—self-sufficient operation—to achieve cost efficiency of NPs' practice in the clinics. As a result, NPs recruited to work in the clinics have not gained the kind of autonomy that would better their professional standing.

The recruitment of NPs was crucial for the legitimacy of retail clinics' operation, because of the NPs' jurisdictional overlap with PCPs and the NPs' license to (mostly) independent practice. The historically recent jurisdictional expansion, which resulted in the overlap with PCPs, created a need for a higher level of NPs' actual professional discretion in worksites. After winning the rights to independent practice, NPs as a profession could not fully benefit from these rights while working in the context of physician-owned practices. Given this tension, retail clinic organizations have successfully used the first meaning of autonomy—professional discretion—to recruit NPs, as the following quote from a "careers" section of MinuteClinic's website illustrates:

"This time, expect to have a real voice in health care.

At MinuteClinic, our innovative practice model puts talented practitioners like you, out front: making independent decisions about your patient's care and acting as the single point of contact for your patients. It's a challenging role. Yet, no other setting gives you so much ownership of
your work, and lets you provide the kind of patient-centered, high-quality care you believe in.”

However, the high level of NPs’ professional discretion could be detrimental to the efficiency of retail clinics model, since that efficiency was based on standardization and automation of tasks in primary care—features antithetical to professional discretion, which implies a possibility for idiosyncratic practice.

In reality, the autonomy promised by the retail clinic organizations to the prospective NP employees was not about professional discretion, but referred to the mundane administrative tasks in the clinics—i.e., the autonomy in the sense of self-sufficient operation. The NPs working in retail clinics were responsible for all aspects of the clinics’ day-to-day operation—they were expected to process billing and insurance paperwork for patients, maintain patients’ medical records, order supplies for the clinic, and in some organizations, to clean the examination rooms. All those duties were in addition to the actual medical practice. An excerpt from an interview with an NP at a retail clinic illustrates that:

“When they hired me, I never thought of it like that. They never said ‘Heather, you’re going to be the receptionist, you’re going to be the cashier, you’re going to be the janitor, and then you’re going to be the nurse practitioner.’ …And, they never said ‘You need to, you know, solicit the business.’ They want us to go out and greet people that enter the store and, you know, ‘Are you familiar with Retail Health Clinic?’ And I didn’t know

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I was going to have to do that.” (author interview 2009, names are changed to preserve anonymity)

Such treatment of the concept of autonomy benefitted retail clinic organizations, because it was consistent with the model of cost-efficient organization of health care delivery, but it did not benefit the NPs’ professional standing. Janitorial duties and open solicitation of customers in retail stores, perceived as low-status tasks, could instead have a negative impact on the professional status of NPs and go counter to their goal of securing professional standing equal to that of physicians (Abbott 1981; Sandefur 2001; Phillips, Turco, and Zuckerman 2011).

Moreover, since virtually all of the NPs working in retail clinics were salaried employees of retail clinic organizations, the autonomy of practice, in a sense of running one’s own business implied above, did not bring NPs control over economic rents from their jurisdiction. Thus, instead of accessing the benefits of the newly gained jurisdiction—i.e., securing the higher professional standing and control over the economic rents by practicing without physicians’ oversight—NPs in retail clinics traded their collective professional license for little (if any) professional development in return. They contributed to the legitimacy and cost-efficiency of retail clinics operation, only to become subject to a new, non-professional form of control in return. This exchange ostensibly moved NPs practicing in retail clinics even farther away from the desired professional autonomy.

(ii) Bounds of the scripted practice

The second aspect of the NPs’ practice in retail clinics that points to the lack of professional gain for NPs is the actual operationalization of medical work in the clinics. Data from
interviews with NPs working in retail clinics and with retail clinic organizations executives suggest that to achieve efficiency in primary care delivery, retail clinic organizations tightly controlled the medical practice of the NPs through technological means. For example, when asked about the main goal of the software that NPs were mandated to use during all patient visits to the clinics, the executive replied:

"The first goal [of the software] was to guide the treatment, the diagnosis and treatment. So if a nurse practitioner did not follow the protocol that was embedded in the software, based on national guidelines, the system 'froze,' and the nurse practitioner [was] unable to electronically generate a prescription, was unable to print the education sheet, and was unable to complete the visit and provide the patient with their diagnostic record. So the first goal of the software was to ensure absolute top quality services." (author interview 2009)

Such tight control over performance of professional tasks seems incompatible with a high level of professional discretion, but when combined with the limited scope of services offered at retail clinics, amounts to a degradation of the NPs' professionalism. Supporting that conclusion, NPs reported in interviews a feeling of relative loss of professional standing in comparison with the work in non-retail setting, because their work with patients in retail clinics is tightly and rigidly scripted by the software system. The following quote from an interview with an NP working in a retail clinic illustrates that:

"My scope of practice [as a family NP outside of a retail clinic] is: I can see basically everybody except for women giving birth. That’s it. That’s the only thing I don’t do. And I see newborns, I do, you know, everything."
'Cradle to grave' is what they call it for family nurse practitioners. But what I'm doing [at the retail clinic] is, like, one percent of what my scope would allow me to do in this state... And so, for that reason I don't know how much longer I would stay there. Because I recognize that my scope of practice—legally what I'm able to do, what I'm trained to do, what I'm capable of doing—is very limited in a retail environment.” (author interview, 2009)

As the quote illustrates, the software-driven practice in retail clinics systematically separated NPs from their expertise, making their work in the clinics counterproductive to the profession's efforts to improve its standing. In addition to restricting NPs' professional discretion, the software also controlled referrals of the patients visiting retail clinics—i.e. it fulfilled the role of the health care system's gatekeeper, previously occupied by PCPs (Bohmer 2007). Therefore, NPs practicing in retail clinics did not gain another benefit of the PCPs' jurisdiction that the NPs' recent jurisdictional gain implied. Thus, the actual organization of work in the clinics stripped the NPs working in retail environment of most privileges of their professional status and withheld them from the most important benefits of their professional license. This outcome is reminiscent of classical cases of de-skilling (Braverman 1974), in which organizations achieve complete dominance over occupational groups, although the broader context of the retail clinics case makes it difficult to fit into that theoretical tradition (more on that below).

To summarize, the change in the settlement between NPs and PCPs that resulted from the emergence and proliferation of retail clinics seems to benefit neither profession. PCPs loss of the gatekeeper role in the health care system, control over performance of
medical work, and most importantly, control over economic rents from that work did not translate into NPs' gains. Moreover, NPs working in retail clinics ostensibly lost some of their professional discretion and the related professional standing. Therefore, while acting on behalf of the nursing profession in defending the encroachment of the new practice onto the PCPs’ jurisdiction, retail clinic organizations did not fit the role of NPs’ benefactor.

Instead, the clinics organizations have captured the “missing” rents, the control over work and the power over referrals lost by PCPs. Thus, the change in the jurisdictional settlement resulting from emergence and proliferation of retail clinics was detrimental to both professions in the settlement, but beneficial for the organizations enacting the change. This outcome does not fit any of the settlement categories of Abbott’s ecological model of professional competition and, combined with the similarly unexplainable location of agency in the dispute, is puzzling.

**Revising the Ecological Model**

This analysis of the emergence of retail clinics demonstrates that organizations are capable of capturing jurisdiction in the system of professions. But how do organizations overcome the ontological difference from occupational groups to become participants in the competition for professional jurisdiction? Since organizations are not persons and cannot directly claim the rights of professional actors, organizations cannot capture professional jurisdiction *per se*; instead, they must follow a strategy that allows for an indirect, yet effective control over jurisdictions. The existing ecological model of professional competition does not offer a way to comprehend such strategies. Since the goal of a general model of the division of expert labor is to account for all mechanisms of distribution of expert tasks and corresponding economic rents among social actors, we require a revision
of the model to account for the heretofore unexplained cases of organizational capture of jurisdictions.

Drawing on the analysis of the case of retail clinics, I revise Abbott’s ecological model in two steps. First, I reconsider the core concept of professional jurisdiction by recognizing the decoupling of the distribution of rights to expert work and the distribution of benefits related to those rights in the division of expert labor. Second, I draw on the case of retail clinics to explicate the problem of coordination in professional collective action to explain how external entities can breach jurisdictional boundaries that would seem to be collectively guarded by professionals. These steps result in a revised ecological model that explains cases where entities external to the system of professions access the benefits of a jurisdiction and execute effective control over performance of expert tasks without explicitly holding the jurisdiction.

*Professional jurisdiction as rights and their use*

The first step in revising the existing ecological model is to untangle the two important components of professional jurisdiction that are conflated in the existing ecological model. The concept of jurisdiction requires close attention because jurisdiction over a category of expert work is the main prize in the competition of professions; jurisdiction brings control over definition and performance of expert tasks and allows for monopolistic economic rents, and thus is the vehicle of professionalization and the currency of “professional powers” (Freidson 1986; Timmermans 2008). Abbott defines jurisdiction in terms of rights that can be assigned to (or captured by) a profession and which result in social and cultural control over work (1988:86). Thus, Abbott’s definition draws heavily on the concepts of occupational license and professional mandate proposed by Hughes (1958). Individual
professionals use the jurisdictional rights to control performance of expert tasks in worksites and to collect the corresponding economic rents. This conceptualization entwines license and mandate with rent, jurisdiction with benefit. To explain cases where jurisdiction and benefits are decoupled, the ecological model of professional competition has to allow for situations where some social actors extract benefits from a jurisdiction without actually holding the jurisdiction (e.g., retail clinic organizations), while other social actors hold the jurisdiction without being able to access some of its benefits (e.g., NPs in their settlement with PCPs).

The possibility that formal control over professional jurisdiction may not fully explain the distribution of benefits tied to the jurisdiction arises from a core sociological insight that use and enforcement of any right requires resources, and some social actors can access more resources than others (Galanter 1974; Kritzer and Silbey 2003). Therefore, we can define professional jurisdiction as having two components: possession of a set of rights in relation to expert work by a profession and the effective use of the rights that is conditional on means the profession possesses. In the ecological model, a profession's gains in both components of jurisdiction result in a higher level of control over its work (i.e., autonomy and discretion), and higher rents. As a consequence, when a profession's control over the two components of jurisdiction is not in balance—i.e., if resources required for the use of the profession's rights are not under the profession's control—the profession's jurisdictional control is weaker, and the holder of the resources can exert influence over the profession's work, despite the exclusive nature of the profession's jurisdiction.

Considering the complexity of modern professional work, we should expect cases where resources are controlled by a multitude of actors and therefore the distribution of benefits
from jurisdictional rights is not under complete control of the profession holding the jurisdiction.

One category of actors—organizations—whose main features are reliability and accountability (Hannan and Freeman 1984; Zuckerman 2010), are exceptionally well suited for the role of custodians of valuable resources professions require to perform expert work (Briscoe 2006). Indeed, most of the expert work is done in organizational context, and influence of that context on the performance of expert tasks is well documented (Zald 1971; Barley 1986; Tolbert, Barley, and Bacharach 1991; Scott et al. 2000; Briscoe 2006). But the case presented in this paper suggests that organizations' influence on the performance of expert work can be of a qualitatively different nature: when the influence is sufficiently high, and the professional resistance is sufficiently low, organizations may act as “meta-professions,” defining professional work and extracting professional rents. Such possibility requires strategic mediation of professional access to resources by organizations, which is possible because of the decoupling of the rights to expert work and their use. However, it is not sufficient for organizations to just control the access to resources, because organizations ultimately cannot hold a professional license and thus are subject to jurisdictional boundaries of professions. As the next step suggests, understanding how organizations can overcome this ontological hurdle requires a close consideration of contingencies of the professional collective action.

The problem of coordination in professional collective action
The second step in revising the ecological model of professional competition is to explain how the decoupling of the two components of professional jurisdiction—rights and their use—may result in non-professional entities acting as meta-professional bodies. The key to
understanding such cases is to consider the link between the two levels of professional action—institutional and individual. For the institutional-level boundary work of a profession to be effective, it must be linked to the individual-level actions of professionals. Abbott’s ecological model of professional competition assumes that individual professionals act in the interest of their collective professional group, and therefore collective action of professions in the jurisdictional competition is largely unproblematic. But, for at least two reasons this assumption may not hold: (a) individual members of professions may not agree with every action the profession collectively undertakes, as evidenced by the problem of professional elites (Hafferty and Light 1995), and (b) insofar as there are limits to the amount of control professional bodies can exert over their individual members, the individual professionals may be able to pursue self-serving goals that do not align with the collective interest of the profession (Bucher and Strauss 1961; Berman 2006; Meiksins 1986).

Because professional license is held by individual practitioners, collective professional action can be compromised by disjoint actions of the individual license holders pursuing personal gains. In particular, entities external to a profession can enlist individual holders of the license and use the licenses to legitimately participate in the performance of expert work. Even in the cases where the profession is outright hostile to the external entities, like PCPs were to retail clinic organizations, the entities can co-opt individual professionals (with enough incentives) and thus sustain legitimate operation. Such co-optations need not be overly costly to the external entities, since the legitimating professionals are perfect substitutes for each other, as long as they hold equivalent
licenses. Thus, using the core weakness of collective action (Olson 1965), foreign entities can breach the profession’s jurisdictional boundaries.

As the retail clinics case suggests, subordination settlements are particularly susceptible to such jurisdictional entry through co-optation of individual professionals. The nature of subordination jurisdictional settlements is such that performance of a whole set of expert tasks is legitimized with the existence of a formal relationship with the superordinate professionals. Professional license of a superordinate professional serves as a “pre-signed mandate” for the subordinate professionals to traverse the jurisdictional boundaries and to access the underserved portion of the market circumscribed by the superordinate profession’s jurisdiction (see figures 1 and 2). But because the limits of the core legitimation mechanism in the subordination settlements—i.e., how many professionals a superordinate professional can legitimately supervise—are rarely defined, external entities can capture a disproportionately high share of the market by replicating the subordinate relationships. As figure 4 illustrates, by aggregating subordinate professionals, external entities such as organizations can traverse the jurisdictional boundaries with minimal legitimation from the jurisdiction holder and capture a large portion of the market, starting with clients underserved by the superordinate profession.

Thus, the subordination settlement allows organizations to effectively control professional jurisdiction without holding it, by using a two-component strategy: (i) recruitment and control over work of a relatively weak (subordinate) profession; and (ii) legitimation of such operation with the enlistment of a few individual members of a relatively strong (superordinate) profession. The dual nature of jurisdiction—i.e., the de-
coupling of a profession's jurisdictional rights and their use—allows for the first component, because organizations can strategically mediate the weak profession's access to resources, thus controlling the actual performance of expert tasks and the flow of rents from that work. The disjoint action of professionals (as a consequence of the problem of collective action) allows for the second component, in which the established control over work and rents of the subordinate professionals is legitimized (at a relatively low cost) by a few "front-men" recruited from the ranks of the superordinate profession.

"Front-men" and the jurisdictional capture by retail clinics

The two-component strategy of organizational capture of jurisdiction is evident in the case of retail clinics: the clinics organizations followed that strategy in recruiting NPs, controlling their work, and legitimating the clinics' operation with "front-men" physicians. As a result, PCPs could not effectively stop the new practice of NPs in retail clinics because the clinics replicated structural features of the occupational hierarchy in primary care, and thus operated within the bounds of the law. Despite their professional powers, PCPs faced the problem of coordination of collective action: the clinics organizations used the large, heterogeneous population of professionally licensed physicians to recruit the "front-men" physicians, which made it nearly impossible for PCPs to stop the clinics' operation. A quote from an interview with a physician association executive illustrates that:

"[Under] Missouri and Kansas law, [retail clinic organizations] had to engage with physicians to serve as supervisors for the clinics, and nobody would give them [that]. So when they opened the first clinics, they

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contracted with an emergency physician group to serve as the supervising physicians.

“So, on the one hand you had some of our members who said ‘we can’t have anything to do with them.’ [But] when [the clinics] signed with the ER group, the members said: ‘How dare they not sign on with [primary care] physicians?’ and ‘How dare they go to the emergency physicians?’ Well, the reason they went there is because most [primary care] physicians told them to take a hike!” (author interview 2009)

Because the “front-men” physicians made practice in retail clinics legal, the associations had very little control over the actual organization of work in the clinics. A special report on retail clinics prepared by the AAFP task force points out the relative weakness of the profession:

“It is important to note that [retail clinics] are for-profit business entities, and while they are willing to accommodate AAFP’s views in many cases, the Academy has no real leverage to control their business model.”

As a consequence, once formal legitimacy of the retail clinics operation was validated by members of (the stronger) physician profession, the clinics organizations could exercise tight control over the work of (the weaker) nursing profession. Since NPs were the professionals actually performing the expert tasks, retail clinic organizations, by controlling NPs’ work, effectively controlled the part of PCPs’ jurisdiction that overlapped

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with the jurisdiction of NPs. Thus, the clinics organizations have achieved the control over performance of expert work and the flow of rents arising from that work without explicitly holding the jurisdiction.

Advancing Theory with the Revised Model
The revised ecological model suggests that while the assignment of rights to perform expert work to collective actors may occur through competition or other form of coordination and control, it is the use or non-use of those rights that determines the operational structure of the professional work and explains the variation in the distribution of benefits in economy of expert work. This section shows how the revised ecological model described above advances theories of professional work in two ways: (i) re-conceptualization of professional jurisdiction allows for a parsimonious and systematic organization of types of jurisdictional settlements and (ii) the revised model allows us to reconcile two seemingly conflicting theoretical perspectives on the role of organizations in professional work.

Parsimonious theorizing of jurisdictional settlements
The first way in which the revised ecological model contributes to the theories of professional work is better organization of the established cases of jurisdictional competition. Defining professional jurisdiction as having two distinct components—rights to expert work and their use—allows us to improve the typology of jurisdictional settlements proposed in Abbott (1988). Accounting for the cases of non-exclusive jurisdiction—when occupational groups share a jurisdiction on some terms—Abbott (1988) proposes the typology of settlements that is based on historical cases of jurisdictional competition and is organized based on strength of jurisdictional control of
the settlement participants. To that end, Abbott (1988:71-78) lists five general types of settlements that seem intuitive when considered against the cases from which they are derived, yet seem overlapping and unsystematic when abstracted. Figure 5 illustrates the logic of the five settlement types as proposed in Abbott, by arranging them along a scale that represents the level of jurisdictional control. If profession A (black square in the figure) is the only legitimate holder of a jurisdiction, then profession A’s jurisdiction is complete and represents the highest level of jurisdictional control. In a subordination settlement, profession B (while square with a solid line boundary) shares the jurisdiction with profession A, but has a very weak jurisdictional control (i.e., the difference in the level of control between the two professions is the greatest). Holding level of profession A’s jurisdictional control constant and moving profession B up along the jurisdictional control scale yields the rest of the settlement types (white squares with dotted boundaries).

Such typology of settlements has two significant drawbacks: (a) the crudeness of categories makes it difficult to account for finer variation in settlement terms that is central for understanding cases of historical change in the division of expert labor (e.g., how can we reliably define when a settlement “crosses over” from cognitive control to advisory function?); and (b) the typology does not account for the systematic influences of external entities, such as the cases of organizational capture of professional jurisdiction.

The revised ecological model allows us avoid these drawbacks and to theorize variation in settlement terms in a more parsimonious and systematic way by approximating every occupational group’s position in the system of professions with two characteristics: a set of rights the group possesses and a level of resources the group can
access to use and enforce the rights. Thus, a profession’s jurisdictional control may be represented by the profession’s position in two-dimensional space that reflects the professions’ secured rights to perform expert tasks, and its level of means to use those rights.

As figure 6 illustrates, relative positions of two or more professions sharing a jurisdiction intuitively capture the professions’ relative power in the settlement and help explain the settlement dynamics. This space subsumes the old typology—in a small subset of possible configurations, two professions sharing a jurisdiction will be arranged along the 45 degree diagonal that represents a “balanced” jurisdictional control (when all the rights under profession’s control are supported with the means to use them), in which case the settlement will represent one of Abbott’s five types (discriminated by the distance between the two professions on the diagonal). But the two-dimensional representation of settlements is capable of capturing a much finer variation in settlement terms among two or more professions sharing a jurisdiction. Consider, as an illustration, professions A and B shown in figure 6. The jurisdictional control of each profession—measured by the level of jurisdictional rights and the level of access to means to use the rights—locates them, respectively, in points A1 and B1. In the old typology, this settlement could have been represented by the professions’ projections onto the “balanced jurisdiction” diagonal: A2 and B2, if only the rights were taken into consideration, and A3 and B3, if only the means under the professions’ control were considered. Therefore, conflating the professions’ jurisdictional rights with their use could lead to an arbitrary assessment of the difference in the professions’ jurisdictional control and would place the settlement into an ambiguous category. But representing the settlement in the two-dimensional space can capture recent
gains or losses in jurisdictional rights that did not (yet) result in the change in the profession's access to resources required to perform expert work. Thus, representing jurisdictional settlements in such two-dimensional space addresses the first drawback of the old typology and allows for a parsimonious presentation of variation in terms of any number of settlements.

<<Figure 6 about here>>

Importantly, the two-dimensional model of settlement terms also addresses the second drawback of the old typology, as the new representation of settlements is capable of capturing influence of external entities like organizations on the jurisdictional dynamics. Since external entities cannot hold an occupational license, they are logically "confined" to the vertical ("means") dimension of the jurisdictional space. Nevertheless, by strategically mediating a profession's access to resources needed for the effective use of accumulated jurisdictional rights, the entities can exert a systematic influence over the part of jurisdictional space they support. As an illustration, consider the presentation of the retail clinics case in figure 7. For simplicity, the figure shows PCPs (black square) as having a balanced jurisdiction, with a total area \( C \) of the jurisdictional space, while the position of NPs (white diamond) in the jurisdictional space reflects the tension they face in the subordination settlement with physicians by having accumulated rights to medical work without the means to use these rights. Area of the NPs' jurisdictional control \( A \) in the settlement is, therefore, larger than it would be, had NPs' not accumulated jurisdictional rights that exceed their profession's resources (in which case the area would be \( a_R \times a_M \)), but smaller than the area \([A+B]\) that would represent NPs' jurisdictional control in the settlement, had their resources matched their jurisdictional rights.
The remaining part of NPs' jurisdiction \( B \) is supported by retail clinics (dotted circle centered on the "Means" axis), who can provide to NPs the difference in resources \( b_{R} \) required for the balanced jurisdiction. Retail clinic organizations can extract a heavy toll for the provided jurisdictional support, by exerting control over jurisdictional area \( B \) and extracting rents from that part of the jurisdiction, so that the fully balanced jurisdictional control in the settlement is a result of an NP-retail clinics hybrid entity (white diamond in a white circle on the diagonal), that represents retail clinic organizations' entry into the jurisdictional space as a meta-professional actor. Thus, the two-dimensional modeling of jurisdictional settlements allows for a direct representation of external entities that systematically influence the division of expert labor.

Reconciling the underemphasized and overemphasized views of organizations

The second way in which the revised ecological model advances our understanding of professional work is a consequence of the model's ability to explain cases of non-professional entities' systematic influence on the division of expert work. By allowing organizations' participation in the jurisdictional competition, the revised model helps to reconcile two views of the role of organizations in the realm of expert work: the traditional sociology of professions and the de-skilling literature perspective.

In the sociology of professions, some scholars have considered the influence of organizational context on the work of professionals (Weber 1978; Blau and Scott 1962; Zald 1971; Freidson 1986; Walsh 1987) and others documented occupational groups' use of organizations as tools to develop the occupation (DiMaggio 1991; Dobbin and Kelly 2007) or to maintain a profession's existing standing (Moore 1996). No work in that
literature, to my knowledge, has addressed the possibility of organizations strategically using one profession against another—the dynamic suggested by the case presented in this paper. But in the de-skilling literature, some scholars have treated organizations as powerful, dominating actors. Following Marx, sociologists and economists studying labor have long maintained a view of organizations as collective actors capable of dismantling the occupational structure maintained by craft guilds (Stone 1975; Braverman 1974). The core premise of these accounts is the organizations’ ability to replace skilled labor with a combination of unskilled labor and technology, thereby undermining the ability of craftsmen to extract rents from their control over skill. These accounts of de-skilling are peculiarly disconnected from the literature on professions. Cases of de-skilling do not consider an occupation’s successful resistance to organizations, let alone instances of professional dominance, and thus seem almost antithetical to the literature on professions in their acceptance of complete dominance of capitalist organizations over occupational groups.

The case presented here suggests a way to reconcile these disconnected perspectives. Each of the two perspectives overemphasizes one of the components of jurisdiction. The literature on professions considers cases where strong exclusive rights of occupational groups to perform expert work are supported with means to use and enforce these rights, allowing the occupational groups to be influential social actors. The de-skilling perspective considers cases where occupational groups do not have a strong hold on their jurisdictional rights and are faced with powerful, means-rich organizations, whose goal is complete domination of the jurisdiction. The scholars of professions thus overemphasize
the jurisdictional rights, while the de-skilling theories overemphasize the importance of resources needed to perform expert tasks.

With the new ecological model we can explain cases of organizational capture of professional jurisdiction, like that of retail clinics, without subscribing to either “professional powers,” or “organizational dominance” perspective—the clinics organizations could not use lowest-cost unskilled labor and had to employ professionals who are, essentially, overqualified for the job; but consider the success of the organizations in the face of hostility from the physician profession. Instead, the dynamics of such cases can be understood by situating all actors involved in the space of rights to expert work and means to use the rights.

References


Figure 1. Jurisdictional boundary controls supply of providers and increases rents.
Figure 2. Subordination settlement creates hierarchy and increases rent capture.
Figure 3. Timeline of growth and media coverage of the retail clinics industry. Data on retail clinics establishments over time was kindly provided to the author by MerchantMedicine.
Figure 4. Organization-aggregator emulates subordination and captures available rents.
Figure 5. Types of jurisdictional settlements in Abbott's ecological model, organized by difference in jurisdictional control between a pair of professions sharing a jurisdiction.
**Figure 6.** An example of a jurisdictional settlement between professions A and B in two-dimensional space, with possible (ambiguous) projections onto the diagonal that represents the old typology.
Figure 7. Organizational capture of jurisdiction in the case of retail clinics: organizations get partial jurisdictional control in exchange for resources to use and enforce accumulated jurisdictional rights.
Chapter 2. Disgruntled organizational citizenship and induced professional identification

Abstract

Studies of workers' contribution to organizational performance, safety and compliance show that workers' citizenship behavior positively contributes to organizational performance and mitigates organizational risks. Good faith in the relationship between workers and their organization is assumed as an antecedent of citizenship behavior. Using data from a study of tax preparation industry in the U.S., this chapter shows that a functional equivalent of organizational citizenship behavior can result from a worker's perception that her employment arrangement is unfair. To explain this puzzling phenomenon, the chapter draws on the critique of agency theory that posits that extrinsic motivation can hinder intrinsic motivation of workers. The chapter proposes that workers who perceive their employment relationship with their organization as unfair, identify more with their profession to justify their continued work, and consequently behave in a way consistent with organizational citizenship, while showing less commitment to their organization. The organization can benefit from the disgruntled citizenship behavior only to the extent work tasks fit with the professional ideal of work.
Introduction

I have limited commitment to my employer but considerably more to the nature of the work I actually do. This year is the eleventh that I have worked [as] part-time seasonal [employee] for TaxCo, and the singular feature that keeps me coming back each year is the continuity of interaction with clients, of which I have many returning ones each year. Much lower in my motivation is any positive feeling about working for TaxCo as a corporate employer. I am retired from regular full-time professional work, as many TaxCo employees are, and it is not possible to make a "living" from this seasonal work. Tax-preparers are paid little more than hourly hamburger-flippers at MacDonald's. So there is obviously some other motivation than financial compensation that keeps us coming back tax season after tax season.

(From a TaxCo tax preparer's e-mail to the author.)

Recent studies of citizenship behavior in organizations have focused on the relationship between the behavior and organizational outcomes with respect to organizational long-term performance (Organ 1988), risk management, safety and compliance (cf. Silbey 2011). The findings show that formal employment contracts and formal organization of work process may be ineffective for increasing organizational performance and mitigating organizational risks, unless workers behave as organizational and sociological citizens. Organizational citizens have broader organizational and institutional goals in mind, so their approach to work in an organization motivated by these goals and not by the formal employment contract. As a result, citizen-workers' effort and contribution to the work process may exceed the formal requirements (Van Dyne, Graham, and Dienesch 1994), and they can adapt rigid organizational rules to the local context, mitigating organizational risks and contributing to system safety (Huising and Silbey 2011). Thus, organizational citizenship behavior contributes to organization's effectiveness and long-term performance.
But why do workers behave like organizational citizens? To understand the patterns and the limits of the citizenship behavior, we need to understand its origins. The literature on organizational citizenship behavior links the origins of the behavior to worker’s intrinsic motivation (Organ 1988; Kunz and Pfaff 2002), that makes the worker contribute beyond the formally prescribed employment requirements. Further, Social Identity (Dutton, Dukerich, and Harquail 1994), Self-Categorization (Ashforth and Mael 1989), and Cognitive Evaluation (Deci 1975) theories developed by social psychologists link intrinsic motivation with worker’s identification with and commitment to her organization. These theories propose that membership in an organization is a multi-faceted relationship between the organization and the worker, and that the worker’s perception of the organization and of the organization’s treatment of the relationship have significant effect on worker’s motivation to contribute to the organization's success. The implication for the theories of organizational citizenship is that workers enact the good faith in their (perceived) relationships with organizations as citizenship behavior (Bachrach and Jex 2000; Messer and White 2006), and as a result, organizations benefit from the workers’ input more than would be expected from formal satisfaction of employment contract.

While such positive view of organizational citizenship behavior has an intuitive appeal, the theory does not give much guidance for establishing the scope conditions for the behavior. In particular, the theory has no prediction of whether organizational citizenship can arise in conditions other than harmonious worker-organization relationships. Moreover, the theory explains citizenship behavior by considering the form of the worker-organization relationship and does not consider the apparent variation in the content of work performed in the context of the relationship. Can workers who are not entirely
satisfied (or are entirely dissatisfied) with their employment arrangements have high level of work commitment that is consistent with organizational citizenship? Common cultural examples tell us that commitment and dedication to work despite the lack of "good faith" in the worker-organization relationships is at least possible (e.g., consider the popular culture archetype of a rogue police detective, who relentlessly proceeds to solve a case despite poor and deteriorating formal relationship with his employer). The empirical case of tax preparation work in the U.S., considered in this paper, suggests that such "disgruntled citizenship" behavior may even be systematic.

Data from interviews and a survey-experiment with tax preparers suggest that high level of work commitment and behavior consistent with organizational citizenship behavior may result from worker's dissatisfaction with her employment arrangement. Tax preparers consistently reported their deep dissatisfaction with the terms of employment at a large tax services organization and perceived their employment arrangements as unfair. Yet they also displayed strong motivation and commitment to the work they do at the organization. How can we reconcile the two seemingly opposing findings? To explain this puzzling pattern, this paper draws on and extends a line of critique of agency theory that considers effects of extrinsic incentives on intrinsic motivation of agents (Kreps 1997; Williamson 1993; Baron 1988; Kunz and Pfaff 2002). The critique posits that introduction of new extrinsic incentives to an agent already performing a task (e.g., if a worker starts receiving payments for a task he previously volunteered to do without remuneration), may hinder the agent's subsequent performance on the task, because it adversely affects the agent's intrinsic motivation. I argue that this effect need not be unidirectional, and that under certain conditions, the lack of adequate extrinsic incentives will induce higher level of
agent's intrinsic motivation. Specifically, when performance of the work allows the agent to assume a salient and desirable professional identity, he will be motivated to perform the task with effort and commitment well above the level that his perception of extrinsic incentives would predict.

This general pattern is evident in the interviews with tax preparers and is confirmed with the results of the survey experiment conducted as part of this study. In interviews, tax preparers described their employment conditions as disappointing and, often, unfair. Such descriptions are consistent with the actual terms of the preparers' employment contracts, since most of the preparers are seasonal, temporary workers and receive relatively low wages. At the same time, preparers reported feeling committed to the content of their work. They described their core work tasks as satisfying and rewarding, indicating that the positive aspects of the content of their work compensate for the negative aspects of employment arrangements. Analysis of the experimentally manipulated survey presented in this paper supports this general pattern, showing that tax preparers primed for a critical assessment of their employment arrangement score higher on identification with their profession. Significantly higher identification and commitment scores for those without a college degree further suggest identity and status-based mechanism of identification.

Citizenship behavior that arises from dissatisfaction with the worker-organization relationship in the presence of a salient and desirable professional identity has both benefits and costs for organizational risk management. On one hand, professional identity that workers assume while performing work at a firm may be a substitute for wage, so that the firm can save on labor costs. On the other hand, when workers derive their motivation
from professional identity, they may be more reluctant to perform work tasks that would undermine that identity, even if the tasks benefit the organization. Thus the disgruntled citizenship behavior benefits the organization, but only insofar as work tasks fit with the professional ideal of work.

By revisiting the antecedents of citizenship behavior in organizations, this paper draws attention to the content of work that organizational and sociological citizens do. Thus, the models of organizational citizenship and agent-based organizational risk management need to include the occupational and professional context in which agents perform their work. Next section describes the data and methodology of this study. Then, the case of tax preparation work is presented and the empirical results that require the development of the theory are discussed. The development of the theory and discussion of its implications for the agent-based model of risk management in organizations conclude the paper.

**Data and Method**

This paper uses data from the author’s larger study on tax preparation industry in the U.S. Using a mix of qualitative and quantitative methods, this paper used the part of the data that consisted of interviews with tax preparers and their responses to an experimentally manipulated survey. In the first, inductive stage of the study, the author conducted 38 in-depth, open-ended exploratory interviews with tax preparers across different organizational settings. Inductive analysis of the interviews produced several central themes about work motivation, commitment, and management of client-related risks. This paper focuses on work motivation and commitment themes.
The inductive stage resulted in theoretical proposition of the relationship between work commitment, professional identity, and employment conditions. The second stage of the project tested the hypothesized relationship. To do that, the author invited tax professional working at TaxCo (a pseudonym), one of the three large national tax services firms, to fill out an online survey. Subjects were recruited from a geographically stratified, national random sample of tax professionals who worked at TaxCo in 2012. From 6,109 preparers who received the invitation, 725 have started and 479 have completed the survey, yielding a response rate of 7.84%. Of those, 61 were excluded from the analysis due to missing data or priming non-compliance, producing a dataset with 421 individual-level responses.

Three parts comprised the survey: [i] an experimentally-manipulated priming, that (a) asked the respondent to critically assess her job, (b) induced professional identity, (c) induced organizational identity, or (d) asked a work-unrelated question as a control; [ii] standard instruments to measure professional or organizational identification and affective commitment; and [iii] a list of questions to gather demographic data from the subject—their race, gender, age, professional experience, level of education, etc. The survey data were analyzed in two steps. In the first step, the author analyzed the content of subject’s responses to priming to establish generalizability of the themes that were central in the data from interviews. The priming question allowed for free-form text response with no limit on the length of the answer. Actual length of responses in the sample varied from 10 to 3,063 characters, with the median response length of 127 characters.
In the second step, data from the survey were analyzed with least-squares regression models that regressed priming condition indicators and individual covariates on measures of professional and organizational identification and affective commitment. Results of the qualitative and the quantitative parts of the analysis are presented next.

**Disgruntled Citizenship and Professional Identification in Tax Work**

The main observation from the interviews with tax preparers working at TaxCo was the inconsistency between the preparers’ objective employment conditions and their attitudes towards their work. The objective employment conditions qualify a typical tax preparation job as a low-wage, low-skill, seasonal clerical work, yet tax preparers perceive their work as professional, entrepreneurial activity that requires expertise and is rewarding in much the same way as are other kinds of professional work. The most puzzling aspect of this inconsistency is that tax preparers perceive their work in this seemingly overly-glorified way while being acutely aware of the objective conditions of their employment.

*Objectively low-status job*

Three major aspects of employment conditions in tax preparation qualify it as low-skill, low-status work: (i) low wages and seasonal nature of the employment, (ii) firm’s complete control over preparers’ relationships with their clients, and (iii) the scripted nature of the work. First, virtually all of the tax preparers working for the three largest firms in the U.S. are employed as seasonal workers, for the duration of a tax season (generally, from January to the end of April), with no guarantees that they will be hired again in the next season. The hourly wage paid to tax preparers at TaxCo ranges from about the level of federally or
state-mandated minimum for the least experienced workers to about twice the minimum wage for the most experienced preparers.\textsuperscript{15} The employment provides no benefits like health insurance or pension plan contributions. A quote from an interview illustrates the common understanding of the low-wage nature of the job (see also the quote at the beginning of this paper):

\begin{quote}
Every two weeks there's a payday...[T]hey do it, I guess, as a courtesy because people need something to live on, [although] you know, it’s not a living wage. I mean, frankly, you’re not gonna make much money doing this. You can't make a living doing it. And it’s seasonal, for heaven’s sake. \\
\textit{(Tax preparer with 11 years of experience.)}
\end{quote}

Second, in addition to the low pay, tax preparers' relationships with their clients are closely controlled and “owned” by the firm, which implies that tax preparers are completely interchangeable, thereby reducing the expert-client relationships to a relationship between a customer and a service clerk. Specifically, the terms of employment prohibit preparers from any interaction with their clients outside of providing explicitly authorized services at the firm and for the benefit of the firm.

Finally, the performance of the core tax preparation work tasks is scripted and controlled by proprietary software, the use of which is mandatory for every preparer. Although tax preparers do not find this aspect of the work particularly troubling and talk about the software as something that provides support by automating mundane tasks and

\textsuperscript{15} The typical compensation arrangement at TaxCo guarantees the hourly wage (although it does not guarantee the number of work hours), but also provides incentives to produce more returns and to sell related products, by adding bonus compensation based on gross revenue generated by the preparer during the season. However, the paid hourly wage is counted against the total accumulated bonus, and the preparers only receives the part of the bonus that exceeds the total hourly wage she received. Because of that arrangement, the actual wage of the less experienced preparers—those who worked with the firm for three or fewer years—equals their hourly wage. More experienced preparers can benefit from the bonus, but available (scarce and non-systematic) data suggest that even for the most experienced preparers, the actual hourly rate that includes the bonus usually does not exceed a rate that is about three times the minimum wage.
allowing the preparers to be more diligent (e.g., by listing questions to be asked of the client during data gathering phase of tax return preparation), scripted performance of the core work tasks is the hallmark of low-skill work, and is usually resisted by professional workers in other contexts (Galperin 2011; Stone 1975).

[ Table 1 about here ]

Tax preparers’ awareness of the poor objective employment conditions is further evident in their survey responses. When asked to critically assess their job, tax preparers most often mentioned low or unfair pay (37% of the respondents; see Table 1 for a detailed list of grievances). Other grievances on the list that pertain to the quality of employment arrangements included low work hours (mentioned by 14% of respondents), required uncompensated work (12%), no recognition, appreciation, or respect from the firm (10%), seasonal, temporary nature of employment (6%) and no opportunity for advancement (2%). For example, one of the answers reads:

Doing [verification work] for no compensation may help TaxCo but has no renumeration (sic!) for me. I consider it a waste of my time despite the fact it helps TaxCo. ...[F]or a man with a masters in Finance, CFP, CLU and five years of teaching Law school, the $9.00 per hour is a joke. I do it because I love people and doing taxes.

Another response reads:

I truly believe that the complex way they pay us is designed to screw over the tax pro. Every year we work harder AND WE GET PAID LESS FOR WHAT WE DO!

(Emphasis in original.)

The quotes also illustrate an important component of tax preparers’ perception of their employment arrangement: the wage is not just low, it is unfair. Content analysis of responses to “critical job assessment” priming reported in Table 1, shows that sixteen
percent of the respondents, when listing low wage as a major deficiency of the job, explicitly qualified the wage as unfair. But the desire of fair pay presumes understanding of the value or worth of the work being done. While there is no objective or commonly accepted set of rules to estimate a worker's fair share of the firm's profits, tax preparers at TaxCo base their notion of fair compensation on their perception of the status their work should be accorded.

*Subjectively high-status work*

Tax preparers suggest two main reasons to qualify their work as high-status, professional work: (i) the level of expertise required to navigate the complex tax code, and (ii) the clients' respect and commitment to individual tax preparers, rather than to the firm. These two aspects of the work are interrelated: most clients, especially those who return to the same preparer year after year, show respect for the tax professional's apparent expertise and ability to navigate the overwhelmingly complex tax code. While tax preparers often comment that the clients' views of the tax system as impenetrable and esoteric are exaggerated, preparers nevertheless value the respect of the clients and emphasize the importance of continued training and deep knowledge of the tax system for their professional identity. Some preparers embrace the role of expert and mentor:

> One of the reasons that I like this work is because I get to work with a lot of different people. I like to explain to the clients the meaning of taxes. People come in and they just want to get it over with. They just want to get that check—that's their mentality. They don't think that as an entire society, taxes pay for some of the benefits that we get. They don't have that knowledge...So one of my ideas...I work with a lot of Spanish-speaking people, I explain to them that taxes are not just about taking a check, that as a society we have a responsibility. So I try to teach them about what taxes are all about.

(*Tax preparer, 4 years of experience.*)
Others point out the tendency of clients to inflate the difference of expertise between them and the tax preparer, but nevertheless embrace the status that such difference suggests:

[The relationships with repeat clients do] make you feel like somebody really respects what you know, and they treat you as an expert, and they look to you for advice. And that's a very powerful feeling...[Y]ou can actually give people advice that they can use in their daily lives. The kind of advice I give to people, sometimes I'll tell them, "You know, you're really a smart person. You should be doing your own tax return." I tell people, I tell a lot of people that, and they keep coming back to me. It's pretty amusing. They don't want to do their own tax return. They'd rather pay me to do it.

(Tax preparer, 11 years of experience; emphasis added.)

Finally, while preparers assure their clients that "taxes are not rocket science," as one of the interviewed preparers put it, such assurances can be interpreted in two ways: as preparers' insecurity about the high status accorded to them by the clients, but also as a claim that the formally unlicensed and unprofessionalized tax preparers at firms like TaxCo are not that different from certified tax accountants, whose high professional status is formally and widely recognized. The following quote illustrates that:

[M]y first happy experience doing taxes, my first year when I wasn't...Well, I certainly wasn't very advanced in skill level, was as I went back and I examined my previous year's taxes, and realized that my tax preparer, who was a CPA, had left several thousand dollars lying on the table for me...So one of the first things I did was amend my own previous year's return and got back this money, which by the way, the IRS never questioned, so I was right...I was sitting there, just staring at it and suddenly, "Oh shit. [laughter] This guy missed...There could be a few bucks here." There was actually more bucks than I had thought there was, and...That was a personal test actually, in addition to being a financial one.

(Interviewer: So there was the satisfaction of being in control of your own tax return?)

Yeah, there was satisfaction in this case of my CPA wasn't so fucking smart.

(Tax preparer and office manager, 7 years of experience.)
Tension between the two perspectives on the work

Given the subjectively high status of the work tax preparers do, they experience cognitive dissonance when this status is considered against the objective employment conditions. The dissonance is evident in tax preparers’ discussions of why they keep working at TaxCo. The most common explanation usually involves relationships with clients:

I can’t quite figure out why I keep doing this exactly. You have to consider I only work seasonally, but I enjoy working with people.

(Tax preparer, 8 years of experience)

Some tax preparers mentioned income from the job as one of the reasons for doing it, but almost universally they emphasized relationships with clients as the main reason for continuing working at TaxCo and delegated income to a minor reason, as the following quote illustrates:

My partner keeps asking me, “Why do you go work for that company that you can’t stand? ” I make barely enough money to put into Roth IRA. It’s my only earned income as a retiree but qualifies to be put into a Roth IRA. So I want to keep adding...It’s a minor feature, it’s not a big deal and I do have a small amount of other income, I do too...So it’s the earned income, but it’s the clients. These people, a lot of them are neighbors in my neighborhood. I see these people around town, gotten to know them over 10 years or so. It’s this annual event we go through when they come in to get their tax return done. It’s been really quite pleasant. I mean, I have seen young couples get married, have babies since I’ve known them, you know, and I’ve done their tax returns. It’s been kind of interesting. It’s really a slice of human nature...So there’s that feature. And then you stay abreast of tax law, but I can do that without working for TaxCo, certainly. And so you can do your own tax return feeling confident you know how to do it, you know, and stuff like that...Sometimes I think some other reasons...But it’s a very good question why do we keep coming back, very good.

(Tax preparer, 11 years of experience.)

The emphasis on the minor importance of income does not mean it is an unimportant reason for having the job, but it does show tax preparers’ need to portray their job as
having meaningful content, that they value despite the seemingly unattractive formal employment characteristics.

Further analysis of the preparers’ critical evaluation of their job at TaxCo, presented in Table 1, suggests that preparers want their job to be closer to the professional ideal. Particularly, five types of grievances are consistent with the view of the job as not fitting an ideal image of professional work: [i] unfair pay that presumes higher value of the work than what is recognized by the firm (mentioned by 16% of the respondents), [ii] no control over fees charged to the client, a grievance that suggests the need for autonomy and discretion (16%), [iii] low-level marketing tasks like giving out fliers on the street, which are low-status, dirty work outside of the scope of relevant professional expertise (11%), [iv] expectation to sell to clients corporate products like audit insurance and small loans, which is problematic to the preparers, because these products are also outside of the job’s core professional expertise and jeopardize professional ideal of service (6%),16 and [v] lack of recognition, appreciation and respect from the firm (10%). Overall, almost half of the respondents asked to critically assess their job at TaxCo (47%) mentioned at least one of these grievances.

How can we explain this persistent dissonance? Why do tax preparers keep working their low-paying, low-status jobs and keep perceiving that they do high-status, rewarding work? The dominant theories of citizenship behavior and worker’s motivation would predict that as workers learn true characteristics of their job, they either adjust their perception of the job, leave the job, since it does not deliver on their view of what the job

16 Particularly troubling for the preparers were products like Refund Anticipation Loans and Refund Anticipation Checks, that have long been recognized as predatory lending practices (Wu and Fox 2011). More on the importance of this grievance below.
should be, or if the exit is costly and difficult, they shirk and satisfy the terms of their employment just enough to keep the income. The observed empirical dynamic is then puzzling, considering that exit is relatively easy in the context of tax preparation industry—most tax preparers employed at firms like TaxCo are seasonal workers without continued benefits and are laid off every May without a promise to be rehired in January. The next two sections provide an answer to these questions by building on the critique of agency theory and testing the hypothesized relationship between motivation and incentives with data from the survey-experiment.17

Identity-based critique of principal-agent models

The empirically documented inconsistency between the formal terms of employment contract and actual behavior and performance of workers is not new (Baron 1988:494), and have lead to a broad critique of agency theory models of employment (Kreps 1997; Frey and Oberholzer-Gee 1997). The critique is based on observations in social psychology (Deci 1975; Lepper, Greene, and Nisbett 1973) that intrinsic and extrinsic motivations may be incompatible in some cases, so introduction of extrinsic incentives—e.g., a payment for performance of a task—may have a negative effect on the individual’s intrinsic motivation to perform the task. Application of this insight to then dominant in economics principal-agent model of employment produced a theoretical explanation for empirical findings that did not fit the agency theory models (Frey and Oberholzer-Gee 1997). The conclusion was that a worker’s performance can be partly (or even primarily) influenced by intrinsic motivation to perform the task well (and to contribute to the welfare of the employer), so

17 Of course, using the sample of currently employed TaxCo preparers introduces survival bias, as those who did quit the job are not represented in the sample. The question, however is prompted by those who stayed—the systematic inconsistency in their perception of the work prompted these questions.
that an increase in monetary compensation may adversely affect the worker's performance, because "the relationship [with employer] is muddied[...] A worker who previously internalized the employer's welfare is sent signals that the relationship is a market exchange and reacts accordingly, taking fuller advantage of opportunities presented to him." (Kreps 1997:363).

Driven by the empirical question of why introduction of various compensation regimes (i.e., paying more for the work) may not have the desired positive effect on workers' performance (or may have a negative effect), the critique has not, to my knowledge, considered the opposite dynamic—when a decrease in extrinsic incentives has an effect on intrinsic motivation and work performance.\(^\text{18}\) I argue that under certain conditions, the relationship between extrinsic incentives and worker's motivation can work in the other direction, and that this relationship can explain the puzzling persistence of tax preparers' two conflicting perspectives on the status and value of their work. Particularly, I argue that the case of tax preparers shows that inadequate extrinsic incentive can result in higher motivation that workers will draw form the content of the work, which will manifest in higher identification with tax preparation profession and lower commitment to the employer. I propose that this is a general dynamic that will work when the content of work allows the worker to assume a salient professional identity. Next section presents the first empirical test of this theory.

\[^\text{18}\] Social psychologists looked at the effect of reduced extrinsic motivation on intrinsic motivation and found no effect. However, in these studies the decrease in extrinsic reward always followed an initial introduction of the extrinsic reward where none was present before.
Results from the experimentally-manipulated survey

As part of the broader study of tax preparation industry in the U.S., a survey was administered electronically to a random, nationally representative sample of tax preparers working at TaxCo. The survey included standard measures of identification (Mael and Ashforth 1992) and affective commitment (Allen and Meyer 1990), adapted to create organizational and professional identity and commitment metrics (see Appendix 1 for the sample survey instrument). Respondents indicated how much they agree with a series of statements (e.g., "When someone criticizes TaxCo, it feels like a personal insult.") from the instruments using a five-point Likert scale, from “Strongly agree” to “Strongly disagree.” The professional (organizational) identification and commitment metrics were derived by averaging respondent’s responses on and identification, affective commitment, or both (see Table 2 for factor reliability metrics). Prior to the questions measuring identification and commitment, survey respondents were randomly assigned to one of four priming conditions. In each condition, they were asked to type in a text box a response to the priming question. The priming questions sought to (i) prompt a critical perspective on the subject’s employment conditions, (ii) make salient the respondent’s professional identity, or (iii) make salient the respondent’s organizational identity, with the last priming (iv) serving as control. Given the hypothesized relationship between inadequate extrinsic incentives and intrinsic motivation in the presence of a salient professional identity, two hypotheses were tested with this survey instrument. First, we expect tax preparers who focus on the negative aspects of their employment will assume a stronger professional identity, therefore:

19 The control priming asked subjects to list three things that help them have a productive day.
Hypothesis I: A critical view of employment conditions will increase the level of professional identification.

At the same time, we expect identification with and commitment to the firm to decrease, as tax preparers focus on the shortcoming of their employment condition. Therefore:

Hypothesis II: A critical view of employment conditions will decrease identification with and commitment to the employing organization.

To reduce survey fatigue, respondents were randomly presented either the professional or the organizational version of the identity and commitment instruments. This assignment created two sub-samples on which identical regression models were fitted. Summary statistics for each sub-sample are presented in Table 2.

[Table 2 about here]

The hypotheses were tested with ordinary least squares regression models, in which indicators for priming assignment and individual-level covariates were regressed on measures of professional (Models 1-3) and organizational (Models 4-6) identification and affective commitment.

[Table 3 about here]

Regression results support Hypothesis I, however Hypothesis II received only weak, partial support. These results provide support for the existence of relationship between the inadequacy of extrinsic incentives of employment and identification with the content of the work—core tasks that relate the work to an ideal-type profession.
Implications for the Theories of Citizenship Behavior in Organizations

The case of tax preparation work suggests a mechanism that allows workers who are unhappy with their employment conditions to justify their continued work and contribution to the welfare of the employer. This mechanism can therefore produce "disgruntled organizational citizens," whose contribution to the organizational performance is not based on good faith relationship with their employer and is above the level of performance their wage would predict. While this dynamic is similar to the dynamic explored in studies of workers' consent (Burawoy 1979), the role of the salient professional identity in sustaining workers' performance has two important implications for the theories of organizational citizenship.

First, these findings suggest that organizations can strategically employ professional image of the job to secure workers' performance at a wage that is below market wage. In other words, the ability to assume a professional identity can be a part of the compensation package from the worker's perspective. To the extent organizations can provide this identity to workers at a low cost, the organizations can save on the overall cost of labor. This finding is consistent with Stern (2004) finding that scientists accept lower wage in exchange for the ability to publish their research—a core task of the academic profession. At TaxCo, the firm's emphasis on the professional identity of the tax preparation job was evident in the branding, training, and marketing materials, and in the internal communications from the corporate headquarters to tax preparers. TaxCo was very careful to refer to tax preparers only as "tax professionals" and emphasized professionalism in all of the internal and external communications. I can only speculate whether such an approach was strategic and was aimed at reducing labor cost, since portraying TaxCo
workers as professionals can also increase value of the firm’s service in the eyes of the
customers. But the effect of labor cost reduction would be consistent with the data and the
analysis presented here.

Second, commitment to work based on professional identity can be costly to the firm if
some of the work tasks contradict the professional ideal of work. At TaxCo, tax preparers
were reluctant to perform marketing and sales tasks because these tasks were not part of
their core expertise—tax preparation. Moreover, tax preparers perceived that marketing
and sales tasks lowered their professional status, and some of the corporate products (e.g.,
products promoting predatory lending) undermined the core source of their professional
identity—their relationships with clients—as well as the profession’s moral imperative of
service for the benefit of the public. Since marketing and sales tasks can be important
contributors to the firm’s short and long-term performance, TaxCo could be suffering the
cost of the professional identity-based commitment to work. This suggests that costs of the
disgruntled citizenship, in addition to affecting long-term organizational performance, may
be present in other aspects of organizational work in which citizenship behavior is
important. In particular, disgruntled citizen’s contribution to organizational risk and safety
may be qualitatively different from what recent risk and safety studies suggest (Huising
and Silbey 2011; Canales 2011), and may be contingent on the fit of the task and the
relevant rules with the professional ideal of work.

References
Allen, Natalie J., and John P. Meyer. 1990. “The measurement and antecedents of affective,
continuance and normative commitment to the organization.” Journal of Occupational


Table 1

Table 1. Frequencies of Listed Reasons for Job Dissatisfaction at TaxCo

<table>
<thead>
<tr>
<th>Reason</th>
<th>%</th>
<th>n out of N=131</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low or Unfair Pay (combined)</td>
<td>37</td>
<td>48</td>
</tr>
<tr>
<td>Low Pay</td>
<td>21</td>
<td>28</td>
</tr>
<tr>
<td>* Unfair Pay</td>
<td>16</td>
<td>21</td>
</tr>
<tr>
<td>Lack of Leadership or Support from Management</td>
<td>20</td>
<td>26</td>
</tr>
<tr>
<td>* No Control over Fees</td>
<td>16</td>
<td>21</td>
</tr>
<tr>
<td>Poor Technological Resources</td>
<td>14</td>
<td>18</td>
</tr>
<tr>
<td>Low Client Volume / Low Work Hours</td>
<td>14</td>
<td>18</td>
</tr>
<tr>
<td>Required Uncompensated Work</td>
<td>12</td>
<td>16</td>
</tr>
<tr>
<td>* Marketing Tasks</td>
<td>11</td>
<td>15</td>
</tr>
<tr>
<td>* No Recognition, Appreciation, or Respect From the Organization</td>
<td>10</td>
<td>13</td>
</tr>
<tr>
<td>Corporate HQ Office Is Ignorant of Job Realities</td>
<td>10</td>
<td>13</td>
</tr>
<tr>
<td>Lack of Proper Administrative and Scheduling Support</td>
<td>10</td>
<td>13</td>
</tr>
<tr>
<td>Lack of Adequate Training</td>
<td>8</td>
<td>11</td>
</tr>
<tr>
<td>Lack of Adequate Staffing</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td>Clients Uncultured in Taxation</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td>Uncooperative Colleagues</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td>* Push to Sell Corporate Products to Clients</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>Seasonal, Temporary Work</td>
<td>6</td>
<td>8</td>
</tr>
<tr>
<td>Untrained Colleagues</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td>Lack of Technical Support in Office</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Unfair Scheduling</td>
<td>4</td>
<td>5</td>
</tr>
<tr>
<td>Pressure to Produce Revenue</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Confusing and Inconsistent Set of Corporate Products</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>No Opportunity for Advancement</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Unfair Allocation of Clients in the Office</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Dishonest Clients</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Unprepared Clients</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Brand Marketing Disconnected from Office Reality</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>No Respect from Clients</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>High Client Turnover</td>
<td>1</td>
<td>1</td>
</tr>
</tbody>
</table>

* Note: Asterisk denotes grievances related to lack of fit with professional ideal of the work.
Table 2. Summary statistics, by model sample

<table>
<thead>
<tr>
<th>Study 1</th>
<th>Models 1-4 (N=109)</th>
<th>Models 5-8 (N=120)</th>
<th>Study 2</th>
<th>Models 1-6 (N=90)</th>
<th>Models 7-12 (N=109)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mean</td>
<td>SD</td>
<td>Min</td>
<td>Max</td>
<td>Mean</td>
</tr>
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<td>Professional Identification</td>
<td>3.639</td>
<td>0.589</td>
<td>2.167</td>
<td>5</td>
<td>3.387</td>
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<tr>
<td>Professional Commitment</td>
<td>2.989</td>
<td>0.294</td>
<td>2</td>
<td>3.857</td>
<td>2.059</td>
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<tr>
<td>Organizational Identification</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>3.924</td>
</tr>
<tr>
<td>Organizational Commitment</td>
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<td>0.715</td>
<td>2</td>
<td>5</td>
<td>3.503</td>
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<tr>
<td>Priming 1: Critical Assessment of the Job</td>
<td>0.321</td>
<td>0.469</td>
<td>0</td>
<td>1</td>
<td>0.256</td>
</tr>
<tr>
<td>Priming 2: Professional Identity</td>
<td>0.211</td>
<td>0.410</td>
<td>0</td>
<td>1</td>
<td>0.300</td>
</tr>
<tr>
<td>Priming 3: Organizational Identity</td>
<td>0.257</td>
<td>0.439</td>
<td>0</td>
<td>1</td>
<td>0.244</td>
</tr>
<tr>
<td>Priming 4: Control</td>
<td>0.211</td>
<td>0.410</td>
<td>0</td>
<td>1</td>
<td>0.200</td>
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<tr>
<td>No Four-year College Degree (1=Yes; 0=No)</td>
<td>0.514</td>
<td>0.502</td>
<td>0</td>
<td>1</td>
<td>0.333</td>
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<tr>
<td>No EA, CPA, or JD Certification (1=Yes; 0=No)</td>
<td>0.826</td>
<td>0.381</td>
<td>0</td>
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<td>0.826</td>
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<tr>
<td>Intra-organizational Certification Level</td>
<td>5.835</td>
<td>5.005</td>
<td>0</td>
<td>14</td>
<td>5.556</td>
</tr>
<tr>
<td>Manager (1=Yes; 0=No)</td>
<td>0.312</td>
<td>0.465</td>
<td>0</td>
<td>1</td>
<td>0.283</td>
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<tr>
<td>Gender (1=Female; 0=Male)</td>
<td>0.651</td>
<td>0.479</td>
<td>0</td>
<td>1</td>
<td>0.664</td>
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<tr>
<td>Black or African American (1=Yes; 0=No)</td>
<td>0.128</td>
<td>0.336</td>
<td>0</td>
<td>1</td>
<td>0.056</td>
</tr>
<tr>
<td>Hispanic or Latino (1=Yes; 0=No)</td>
<td>0.046</td>
<td>0.210</td>
<td>0</td>
<td>1</td>
<td>0.056</td>
</tr>
<tr>
<td>Asian or Pacific Islander (1=Yes; 0=No)</td>
<td>0.018</td>
<td>0.135</td>
<td>0</td>
<td>1</td>
<td>0.056</td>
</tr>
<tr>
<td>White (1=Yes; 0=No)</td>
<td>0.807</td>
<td>0.396</td>
<td>0</td>
<td>1</td>
<td>0.823</td>
</tr>
<tr>
<td>Average Experience in the Office (Years)</td>
<td>10.783</td>
<td>4.732</td>
<td>2.5</td>
<td>27</td>
<td>11.370</td>
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<tr>
<td>Count of Certified TPs in the Office</td>
<td>0.983</td>
<td>1.264</td>
<td>0</td>
<td>5</td>
<td>1.906</td>
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<tr>
<td>Number of TPs in the Office</td>
<td>8.563</td>
<td>3.639</td>
<td>2</td>
<td>22</td>
<td>8.546</td>
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<tr>
<td>Vignette (1=Vignette 1; 0=Vignette 2)</td>
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<td>-</td>
<td>-</td>
<td>-</td>
<td>0.478</td>
</tr>
<tr>
<td>Vignette Decision (Conditional Acceptance)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.222</td>
</tr>
<tr>
<td>Vignette Decision (Rejection)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.433</td>
</tr>
<tr>
<td>Vignette Decision (Acceptance)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.344</td>
</tr>
<tr>
<td>Perceived Honesty of Client in Vignette</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>3.444</td>
</tr>
<tr>
<td>Perceived Likelihood of Audit in Vignette</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>4.222</td>
</tr>
<tr>
<td>Perceived TP Responsibility in Vignette</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.522</td>
</tr>
</tbody>
</table>
Table 3. Study 1 - OLS Regression of Identification and Commitment on Priming and TP Characteristics

<table>
<thead>
<tr>
<th>Priming 1: Critical Assessment of the Job</th>
<th>Identification</th>
<th>Commitment</th>
<th>Identification</th>
<th>Commitment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Priming 2: Professional Identity</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Priming 3: Organizational Identity</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No Four-year College Degree (1=Yes; 0=No)</td>
<td>0.286**</td>
<td>-0.084</td>
<td>0.259**</td>
<td>0.353***</td>
</tr>
<tr>
<td>No EA, CPA, or JD Certification (1=Yes; 0=No)</td>
<td>0.180</td>
<td>0.024</td>
<td>-0.581***</td>
<td>-0.681***</td>
</tr>
<tr>
<td>Intra-organizational Certification Level</td>
<td>0.001</td>
<td>-0.001</td>
<td>-0.031**</td>
<td>-0.006</td>
</tr>
<tr>
<td>Manager (1=Yes; 0=No)</td>
<td>0.091</td>
<td>-0.055</td>
<td>0.060</td>
<td>-0.080</td>
</tr>
<tr>
<td>Gender (1=Female; 0=Male)</td>
<td>-0.189</td>
<td>0.208***</td>
<td>-0.073</td>
<td>0.217</td>
</tr>
<tr>
<td>Black or African American (1=Yes; 0=No)</td>
<td>0.187</td>
<td>-0.182*</td>
<td>0.175</td>
<td>0.047</td>
</tr>
<tr>
<td>Hispanic or Latino (1=Yes; 0=No)</td>
<td>-0.452***</td>
<td>-0.023</td>
<td>-0.346</td>
<td>0.368</td>
</tr>
<tr>
<td>Asian or Pacific Islander (1=Yes; 0=No)</td>
<td>-0.179</td>
<td>0.338*</td>
<td>0.322</td>
<td>0.616</td>
</tr>
<tr>
<td>Average Experience in the Office (Years)</td>
<td>0.024**</td>
<td>-0.005</td>
<td>0.019</td>
<td>0.006</td>
</tr>
<tr>
<td>Count of Certified TPs in the Office</td>
<td>-0.026</td>
<td>-0.004</td>
<td>-0.043</td>
<td>-0.039</td>
</tr>
<tr>
<td>Number of TPs in the Office</td>
<td>0.013</td>
<td>-0.000</td>
<td>-0.022</td>
<td>-0.032</td>
</tr>
<tr>
<td>Constant</td>
<td>3.581***</td>
<td>3.066***</td>
<td>2.983***</td>
<td>4.008***</td>
</tr>
</tbody>
</table>

Observations 109 120 120 120 120 120 120 120
R-squared 0.010 0.153 0.014 0.198 0.045 0.217 0.087 0.300

Note: Robust standard errors in parentheses
*** p<0.01, ** p<0.05, * p<0.1
Table 4. Study 2 - OLS Regression of Identification and Commitment on Priming and TP Characteristics

<table>
<thead>
<tr>
<th>Identification</th>
<th>Professional</th>
<th>Commitment</th>
<th>Identification</th>
<th>Organizational</th>
<th>Commitment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Priming 1: Critical Assessment of the Job</td>
<td>(0.592*** 0.679*** 0.651*** -0.012 0.237 0.224 -0.199 0.037 0.036)</td>
<td>(0.209 (0.210 (0.218 (0.086 (0.100 (0.097 (0.167 (0.166 (0.170 (0.208 (0.189 (0.203)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Priming 2: Professional Identity</td>
<td>(0.514*** 0.504*** 0.469*** 0.044 0.056 0.025 -0.044 -0.049 -0.049)</td>
<td>(0.191 (0.212 (0.228 (0.073 (0.082 (0.083 (0.155 (0.152 (0.152 (0.207 (0.199 (0.202)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Priming 3: Organizational Identity</td>
<td>(0.266 0.345 0.280 0.014 0.069 0.014 -0.024 -0.014 -0.014)</td>
<td>(0.247 (0.270 (0.267 (0.081 (0.095 (0.100 (0.156 (0.142 (0.152 (0.201 (0.174 (0.189)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No Four-year College Degree (1=Yes; 0=No)</td>
<td>0.4600 0.471** 0.471** -0.020 -0.012 0.2690 0.303** 0.3911 0.363**</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>No EA, CPA, or JD Certification (1=Yes; 0=No)</td>
<td>0.140 0.155 0.003 0.044 0.166 0.170 0.145 0.170</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Manager (1=Yes; 0=No)</td>
<td>0.266 0.203 0.266 0.203</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gender (1=Female; 0=Male)</td>
<td>0.167 0.149 0.067 0.073 0.233* 0.187 0.095 0.067</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Black or African American (1=Yes; 0=No)</td>
<td>0.345 0.468 0.027 0.031 0.291** 0.252* 0.543*** 0.371**</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hispanic or Latino (1=Yes; 0=No)</td>
<td>0.111 0.133 0.009 0.031 0.191 0.105 0.493** 0.419**</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Asian or Pacific Islander (1=Yes; 0=No)</td>
<td>0.199 0.192 0.252*** 0.349** 0.177 0.260 0.298 0.203</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Average Experience in the Office (Years)</td>
<td>0.025 0.001 0.025 0.001</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Count of Certified TPs in the Office</td>
<td>0.042 0.026 0.224 0.014 0.095 0.081 0.136 0.126</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Number of TPs in the Office</td>
<td>-0.014 -0.016 0.066 0.006 0.025 0.030 0.025 0.020</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vignette (1=Vignette 1; 0=Vignette 2)</td>
<td>0.021 0.024 0.021 0.024</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vignette Decision (Conditional Acceptance)</td>
<td>0.071 0.077 0.071 0.077</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vignette Decision (Rejection)</td>
<td>0.238 0.245 0.238 0.245</td>
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<tr>
<td>Perceived Honesty of Client in Vignette</td>
<td>0.121 0.220 0.121 0.220</td>
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</tr>
<tr>
<td>Perceived Likelihood of Audit in Vignette</td>
<td>0.023 0.053 0.023 0.053</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Perceived TP Responsibility in Vignette</td>
<td>-0.215 0.012 -0.215 0.012</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constant</td>
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Note: Robust standard errors in parentheses

*** p<0.01 ** p<0.05 * p=0.1
Chapter 3. Moral Motivation and Institutional Constraint in Professional Tax Accounting Work

Abstract

This chapter investigates the mechanisms of differential client treatment by professionals with a study of motivation and constraint in pro bono professional work. Using ethnographic data on a low income tax clinic, this paper argues that the theories of social control assume an unnecessarily narrow view of the resource-allocating professional as a weak agent dominated by the immediate organizational structure. The case of pro bono tax work presented in this paper challenges this view. While the resource-allocating professionals in the case appear to be completely constrained by the local organization of their work, they are capable of resisting and changing it, but do not enact their agency. Faced with two persistent problems—unresponsive clients and untrustworthy clients—the professionals at the clinic allocate their resources across the cases in a way that contradicts their own moral motivation for work. While they recognize and regret such allocation, they perceive it to be a short-term problem. The myopic and biased assessment by the professionals of their progress towards the moral goals that prevents them from systematically adjusting their resource allocation results from two conditions. First, the institutional effort to correct an institutional problem leaves the professionals inadequately equipped for the task, so they make short-term trade offs and decouple their productivity metric from actual progress. Second, the need for a consistent professional identity leads to a biased reevaluation of past cases, which is validated with performativity of the productivity metric in the long run. Thus this paper unpacks the concept of dominating structure and reconciles the standard view of case processing work with recent models of agency and organizational change.
Introduction

Why do disparities in access to vital legal, health and social services persist? Despite policy initiatives, efforts of non-profit and non-governmental organizations and the decades of work by social scientists to isolate and mitigate the reasons for the disparities, studies reporting the inequalities of access to the vital professional services suggest little, if any, progress on the matter (Rubineau and Kang 2011). Why do efforts to mitigate the disparities fail? Scholars of organizations have long suggested that the implementation of these efforts may be the hardest part. Theories of social control propose models of case processing, in which the success of implementing any policy to mitigate the disparities rests on the ability of client-facing professionals—the street-level bureaucrats—to carry out the policies. These models are accepted as the standard in criminology (Lurigio and Carroll 1985), law and society studies (Silbey 1980), health care studies (Timmermans 1998) and other studies of street-level bureaucracies (Lipsky 1980), and the classic finding in the case processing literature is that the professionals are severely constrained by the local scarcity of resources and the organizational pressure for productivity. Thereby professionals’ allocation of effort across cases they are processing—i.e., across the clients they face—is dictated by local operational objectives, that are disconnected from the institutional goals of fairness and equality. Thus the organizational constraints draw the larger policy and organizational goals irrelevant (Silbey 1980; Lipsky 1980; Emerson 1983) and completely dictate the allocation of professional services to individuals.

While the resource-allocating professionals in the theories of social control appear to be weak agents, whose actions are dictated by the immediate organizational structure in which they operate, a recent line of work suggests that motivated professionals in
organizations are capable of overpowering the institutionalized work routines and implementing change (Kellogg 2009), resisting tasks that go counter to the professionals’ moral view of the work (Turco 2012), and bending bureaucratic rules to align their work with their moral motivation (Canales 2011; Huising and Silbey 2011). In fact, the ability of even the least powerful organizational members to subvert, resist, or bend the rules and routines that formally constrain their work is a widely documented fact. The two views on the agency of professionals in organizations and on the role of the structural constraints in the performance of their work are then puzzling. The professionals in charge of assuring fair and equitable allocation of vital professional services can be motivated, flexible agents, capable of achieving their moral goals through nuanced control over their work. And yet on average, they seem unable to make progress towards the goals that motivate their work and appear to be constrained by the local organizational structure.

A case of morally motivated professionals working at a pro bono tax clinic, presented in this paper, allows to reconcile these two views on the roles of agency and structure in case processing work. Using rich ethnographic data from the clinic, this paper shows that professionals, who intentionally set out to mitigate the disparities in access to professional representation in tax-related controversies, systematically fail at that task. Moreover, the efforts of the professionals in the clinic inadvertently help the least deserving clients of the clinic—those who deliberately attempted to evade taxes through fraudulent means—at the expense of the most deserving clients—the true victims of inefficiencies in the tax system, who are undergoing a major adversity and are objectively incapable of fulfilling their fiscal obligations. As a result, the professionals at the clinic, with their efforts to correct the
disparities in access to the vital professional services, actually perpetuate these disparities, while supporting clients who undermine the core institutional values.

While the professionals at the clinic experience organizational and institutional pressure for productivity and accountability, these professionals have significant control over their work and are capable of adjusting their work practices to achieve better fit with the broader motivation of their work. The professionals are motivated by the goal of reducing the disparities in access to their services, and yet they not only fall short of that goal, but also direct their efforts to benefit the population of clients they consider the least deserving of their help, at the expense of those who are most deserving of it. The analysis of the case suggests the need to unpack the assumption of street-level bureaucrats as weak agents dominated by organizational structure. What appears as lack of agency in the case is a lack of use of agency by the resource-allocating professionals. The case suggests two general reasons for this outcome: the fractal nature of institutional solutions to institutional problems, which makes professionals ill-equipped for the task of mitigating access disparities, and the professionals’ retrospectively myopic assessment of their efforts. The first reason is specific to the attempts to address disparities generated by inefficiencies in the institutional structure. When these attempts are initiated by the institution and are carried out through institutional means, they may result in a reproduction of the disparities, because the same systemic conditions that prevented clients in need of vital professional services from accessing these services neutralize the focused attempts of the institution to correct the problem. At the clinic, the caseload was dominated by two types of problematic cases: unresponsive clients who did not cooperate with the clinic’s efforts to help them, and untrustworthy clients who were relatively more
cooperative. The fractal nature of the institutional problem manifested in the unresponsive cases, in which the same objective conditions that created the tax controversy (e.g., client's illness or loss of home) prevented these clients from cooperating with the clinic's efforts to help them. The two types of problematic cases competed for a scarce resource at the clinic—the time professionals spent on a case—and the professionals allocated more time to the opportunistic but cooperative clients, than to the unresponsive clients, because the cases of cooperative clients contributed more to the clinic's immediate organizational objectives.

The second reason for the unrealized agency of the professionals is more generally applicable to models of allocative processes and explains why agents appear to have less agency than they really do: while in the short run, the professionals may address organizational pressures by decoupling crude productivity metrics from their nuanced knowledge of actual performance, in the long run the need for a consistent professional identity can bias the retrospective evaluation of the processed case composition. The professionals at the clinic realized that the allocation of resources at the clinic went counter to the moral motivation of work and were frustrated by this problem, but they saw it as a short-term problem. So, when some of them made efforts to dedicate more time to the cases of unresponsive but more deserving clients, such efforts were discouraged by the clinic's leaders and were seen as not worth the time they required. The preference for inaction was based on a biased view of the clinic's past performance—that on average, the clinic makes progress towards its larger goal of ensuring fairness of the tax system. As the clinic made progress on the cases of more cooperative but opportunistic clients, professionals at the clinic saw the progress as a result of a legitimate application of their
core professional skills and perceived the moral fit of the opportunistic clients to be better in retrospect. This biased view was supported by the very metrics created for external accountability that provided an objective, yet misleading record of the clinic’s performance and prevented the professionals from systematically changing the organization of their work.

By modeling the process by which the actions of morally motivated resource-allocating professionals appear to be consistent with a lack of agency, while actually resulting from systematically unrealized agency, the case of pro bono tax work suggests a theoretical explanations for the persistence of disparate outcomes for individuals seeking vital professional services. It helps to reconcile the two seemingly opposing views of agency and structure in the theories of social control by suggesting conditions under which the empirically observed (in)action of agents in organizations is consistent with both views. The remainder of this paper describes and analyzes the case of pro bono professional accounting work in support of the theoretical argument outlined here.

**Existing models of case processing**

The process of case or client categorization has motivated much research in sociology, economics and social psychology. Across the disciplines, researchers have offered three kinds of explanations. The two dominant explanations in social psychology and economics are based on the general models of discrimination and assume that the actions of agents—e.g., health, law, or social services professionals who are in charge of allocating these vital services to individuals—are the central reason for the observed disparities in resource allocation. The first of these explanation is that the disparities result from the agents’ taste
preferences or implicit biases that directly shape their allocative decisions (Becker 1971; Ridgeway and Correll 2006). As biases persist in society, so do the disparities in the legal, health and social services delivery. The second explanation, based on the statistical discrimination model, is that the disparities result from an information problem: agents lack specific knowledge about individuals, like a patient’s future compliance with a treatment, but have information about categories of individuals, like compliance rates by race or gender, and therefore base their allocative decisions on the observed characteristics of individuals (Rubineau and Kang 2011; Arrow 1971; Phelps 1972).

The key feature of both explanations is the consequential allocative decisions by agents who maximize some objective function of services delivery, in a biased way in the first case, and an unbiased way in the second. The disparities persist either because the resource-allocating professionals allow them to persist, or because the professionals are fulfilling the larger goal of the efficient allocation and are willing to accept the local fluctuations in fairness of their decisions. In other words, the standard models of case processing in fields outside of sociology most often assume capable agents, whose individual-level views of the larger goal determine their allocative action.

In contrast, the dominant models of case processing in sociology emphasize the consequential nature of structural constraints in which agents perform their work. Caseloads (Silbey 1980), the lack of adequate resources (Lipsky 1980), crude productivity metrics (Heimer and Staffen 1995) and precedents (Emerson 1983) define the tasks and the cases to which professionals allocate resources, whether or not the professionals agree with the allocation they produce. Therefore the resource allocating professionals are
dominated by the local organization of work so their contribution to the persistence of access disparities, assumed in the first two types of models, should not be the focal point for those interested in finding the solution to the problem.

More recent work in neighboring fields of sociology, however, suggests a more complex view of the agency that professionals in organizations have. When the professionals are morally motivated, they appear to be capable of changing their work structure (Kellogg 2009), resisting it (Turco 2012), or sidestepping it by bending the formal rules (Canales 2011). In light of these studies, the failure of motivated professionals at the tax clinic to overcome immediate organizational constraints does not fit either one of the perspectives on the role of agency in morally motivated work. After introducing the context for the case, the following sections analyze the case to reconcile these theories.

**Pro bono work at the tax clinic**

Pro bono work is a fitting context to study the problem of differential access to vital professional services, because it is a common institutional response to that problem. There has been an increase in pro bono representation work in the U.S. over the last several decades (Cummings 2004; Granfield 2007). Scholars of law and society attribute this trend to a combination of jurisdictional threats to the legal profession (Sandefur 2007) and to institutionalization of pro bono and public service, reflected by inclusion of pro bono work requirements into law school curricula, state bar requirements and coordinated initiatives among high status law firms (Rhode 2005; Scheingold and Sarat 2004; Granfield 2007). While pro bono work is less common in the accounting profession, which is the immediate context for the case presented here, two factors contribute to a recent increase in the pro
bono representation of individuals involved in tax-related controversies. The first factor is the creation of the federal program—the Low Income Taxpayer Clinics (LITC) grant—to ensure that low income households have equitable access to professional representation in tax-related controversies. The second factor is that tax accountants share their professional jurisdiction with the legal profession (Abbott 1988). The shared jurisdiction means that lawyers can represent pro bono clients in tax-related matters and therefore insights about pro bono in the legal profession are relevant.

The Low Income Tax Clinic program

The Internal Revenue Service (IRS) established the Low Income Taxpayer Clinic (LITC) program in 1999, following authorization of funding for the program by the U.S. Congress (IRS Restructuring and Reform Act 1998; IRS Publication 3319). The LITC program mission is to “ensure fairness and integrity of the tax system by educating low income taxpayers about their rights and responsibilities [and] by providing pro bono representation to taxpayers in tax disputes with the IRS” (IRS Pub. 3319 p. 8). Two kinds of activities carried out in Low Income Taxpayer Clinics (LITCs) support this mission: (i) educational activities that target low-income taxpayers, in particular those for whom English is a second language, and (ii) representation of low-income taxpayers involved in controversies with the IRS. In 2011, there were 165 clinics participating in the LITC program (at least one in each state), of which 149 offered pro bono client representation services.

The LITC program is a grant program, so the IRS neither establishes nor directly manages the clinics. Instead, prospective clinics are established by third parties, who then apply for the program grant on an annual basis. About a quarter of the clinics are based in
accredited universities, most often within the law or the accounting school. The rest of the
clinics are based in community services organizations and pro bono legal centers.

Importantly for the case presented here, the renewal of a clinic’s grant requires that the
clinic compiles a semi-annual report on the number of cases it processed, the nature of the
problems the clinic helped resolve and the amount of money that was contested or won for
the clinic’s clients. The metrics in the report are necessarily crude and force professionals
at the clinics to ignore nuances of the case that may determine the case’s fit with the moral
motivation of work at the clinic, and to report productivity counts on an aggregate level.
The case, presented next, illustrates the important consequences of this crude productivity
metric for maintaining a biased view of the clinic’s past performance.

**Data and Method**

This study was conducted at a Low Income Taxpayer Clinic (thereafter the Taxpayer Clinic,
or the clinic) located in the Midwestern United States and based in an accredited university.
Two organizational parts comprised the Taxpayer Clinic: an administrative office, run by
the clinic’s only full time employee—the program director—and a weekly, two-hour
seminar, run by two members of the university faculty—a professor of accountancy, and a
professor of tax law—with some help from the clinic director. The two professors and the
director—the clinic leaders—were permanent members of the clinic, directly involved in
all aspects of the clinic operation. The majority of the day-to-day work on client cases was
preformed by the third category of clinic participants—graduate students—who signed up for
the clinic seminar, usually for the duration of an academic term, and worked on cases
assigned to them by the clinic leaders.
The clinic had the following division of labor: the program director handled the incoming requests for help from the clinic's prospective clients and, sometimes in consultation with the two faculty members, assigned cases to currently participating students. The students worked on the new cases independently and reported progress during the weekly seminar. During the same seminar, the two faculty members of the clinic gave feedback to the students on their case-related progress, suggested further actions, and discussed broader theoretical and practical points of professional tax accounting work, using current cases as examples. While the clinic leaders were available for consultations to the students outside of the seminar, most of the case-related problems and questions raised by the students were discussed in the seminar to ensure a shared learning experience for all clinic participants.

During eight consecutive months in 2011, I conducted an ethnographic study of the Taxpayer Clinic, participating in the weekly seminar for two full academic terms. In addition, I participated in administrative work at the clinic's office, assisting the program director and observing day-to-day work on the client cases performed by the graduate student members of the clinic. The students used the program director's office to make telephone calls to clients, the IRS and the state department of revenue, to send and receive case-related documents via fax machine and postal service, to access client records (or, occasionally, records from other cases), and to discuss specific, case-related problems with the program director. I observed the part of the students' work done at the program director's office for at least four hours per week during the eight months of the study.
I took handwritten notes or typed my notes directly into a laptop computer during the seminar and while at the program director's office. The university environment and the organization of work at the clinic as an academic seminar allowed for inconspicuous note-taking—most of the graduate student participants at the clinic were typing their own notes at the same time as I was writing mine, and none of the clinic participants has ever expressed any interest in my notes. At the end of each day of observation, I typed up my handwritten notes and added extensive comments to the notes taken on that day. To complement the ethnographic notes, I conducted and recorded interviews with every clinic participant I have encountered during the study (a total of 19 interviews). In addition, I had numerous informal conversations with each of the clinic participants and read weekly case-status updates written by the student participants for the clinic leaders and distributed to all clinic participants before each seminar.

During the two academic terms, the student participants of the clinic actively worked on 70 unique cases (42 cases during the first observed term, and 51 during the second term, with 23 cases spanning the two terms), and the median caseload per student was nine cases (there were five students working at the clinic each term).

I analyzed all of the data using Atlas.ti software in several iterative rounds of coding. Early in my observations, I was struck at the continued frustration of the clinic leaders with the two persistent problems—lack of client cooperation and client opportunism—so during the first round of coding the data, I was looking for evidence of this dynamic. As I coded more data and read in detail cases of clients over time, I began noticing patterns of biased retrospective assessment by the professionals of their performance on the cases and
of the case position on the scale of moral fit. On subsequent rounds, I was combining and refining the categorization of codes that I have developed, noting the emerging themes that related the data to existing theoretical arguments.

**The scarcity of experts’ time and the two types of problematic clients**

It became evident early in my observation of the clinic, that the clinic participants struggled with two persistent problems: unresponsive clients, and untrustworthy clients.

Unresponsive clients were those who did not return clinic’s telephone calls and did not respond to requests for information sent via mail. With their inaction, these clients prevented the clinic from making progress on their cases. Untrustworthy clients were problematic because they provided information that could not be trusted and could not be used to resolve their case. In addition, untrustworthy clients sometimes undermined the control of the clinic over their cases by making unauthorized direct contact with the IRS or the state department of revenue, failing to show up to important appointments, or by changing the narrative of the case after the clinic has acted based on their original narrative. However untrustworthy clients were more cooperative and the clinic could make quicker progress on their cases. As the closer analysis of these two categories of cases reveals, cooperation of the client was a better determinant of allocation of the clinic’s resources across the cases than the fit of the cases with the moral motivation of the clinic’s work.

*Unresponsive clients*

While the nature of services provided by the clinic allowed for representation of the client in tax-related controversies without the presence or direct involvement of the client,
representation by the clinic required some cooperation and input from the client on three basic components of their case: a formal arrangement for legal representation (recorded in a power of attorney document), a detailed explanation of the problem that the client faces (the case narrative), and a snapshot of the client’s current financial situation and past financial history. Without these components the clinic could not contact the IRS or the state department of revenue about the case, and therefore it could not perform any professional work on the case.

For example, to begin his work on a case, a student assigned to the case had to obtain a signed power of attorney form from the client. The student would send the form to the client via mail, would indicate on the form where the client’s signature is required, and would provide instructions on how to mail the form back. Most often, the student would not receive any response from the client, despite repeated attempts. A quote from an interview with a student participant at the clinic illustrates the frustration:

I was given [this] case early in the semester, [and so] I need to get a signed power of attorney from [the client], because I can't really do anything without the signed power of attorney. And I tried calling them, they would never return my calls. I mailed it out to them, they didn’t send it back. And then finally I got in touch with them on the phone, they were like, “Oh, yeah. I got that,” and I mailed it to them three weeks prior, at least. [So the client says] “I'll send it back tomorrow in the mail.” Perfect. Never heard back from them, never got a fax. [Now we] have to drop the case. And I was, like, why did you go to the trouble of contacting us in the first place? I mean, you really didn't have to do anything. All you have to do is pick up the phone, talk to me for two seconds, sign your name on two pieces of paper and then mail it back to me. And then I do all the run around for you.

The clinic participants voiced their frustration with lack of commitment from the clients in every session when cases were discussed, although they understood that the client’s unresponsiveness was expected. Most individuals became clients of the clinic
exactly because their lives were disorganized—e.g., they have forgotten or did not know how to pay their taxes, and so did not file their tax returns, etc. The clinic program director relates the unresponsiveness of clients to the nature of the clinic’s clientele, by comparing it to paying clients in a regular accounting firm:

Usually the people that you’re dealing with in an accounting firm as opposed to the clinic, are people who, for lack of better words, have their situation together. They’re coming to you purely for a tax situation...You’re performing a service. [But for the Taxpayer Clinic’s clients,] the tax problem is usually a symptom of a much bigger problem. You end up listening to a lot of stories. You end up listening to a lot more than you need to know with regards to a tax situation.

In the professional world, when you call a client and you ask them, “I need to have your real estate taxes” for tax period you’re working on. They’ll say, “I can get it for you. I’ll get it for you. I’ll call you back.” And you might exchange pleasantries and that’s usually the extent. Whereas this, there’s a whole story that goes along with why they are in the situation that they’re in. And you usually end up with a story.

While the reason for client’s unresponsiveness may be the same reason that got the client entangled in the tax controversy, the content of the client’s story differentiates cases on the dimension of moral fit. For example, the client’s disorganized life may be a result of a reckless disregard for their fiscal responsibilities, or the client may be objectively incapable of fulfilling her fiscal responsibilities if she is homeless, has a debilitating illness, a mental disorder, or is undergoing other severe adversity. Cases with such objective problems fit best with the moral motivation of the clinic’s work, because they represent individuals to whom the tax system has been unfair, yet the clinic participants were still frustrated with the slowness of progress on these cases. The next vignette describes a representative case of this category.
Vignette 1: Unresponsive client, high moral fit of the case.

Case opened in 2010. A female client has not filed her returns for six years and had about five thousand dollars in combined federal and state tax liability accumulated over six years. She started making partial tax payments and attempted to file her tax return, but was subsequently diagnosed with cancer and stopped her tax payments. The client has been frequently hospitalized for the last three years. The IRS and the state department of revenue have put a levy on the client's bank account, to partially satisfy the client's tax liability by garnering some of her social security and disability income. The goal of the clinic in this case was to prove to the tax authorities that the client is insolvent and that any forced collection of her tax liability imposes severe hardship. If successful, the client's case would receive the Currently Not Collectible (CNC) status at the IRS, which would temporarily shield the client from the collection attempts.

However, to demonstrate the client's insolvency, the clinic required basic information about the client's financial conditions: her current income, savings and expenses. The IRS also required that the client files the tax returns for the missing years. During my observation at the clinic, the students assigned to the case have made repeated, unsuccessful attempts to get the required information from the client. The clinic was not able to collect enough information to file for the CNC status with the IRS. Following this lack of success with getting the required information, the clinic prepared the missing tax returns for the client based on the information from the IRS. (The IRS required the client to file the
missing tax returns before the IRS considers any action on the case.) The clinic then needed the client to sign and file the prepared returns. Multiple attempts to get the signature have failed, until a student assigned to the case has taken an unusual step and physically traveled to meet with the client at the hospital. The student later explained, in an interview, that his actions were motivated by the circumstances of the case:

I went up and saw [the client] when she was in rehab. [She] had to send the tax returns and she was really thankful that I went up there and that I mailed the returns for her and everything. I kinda see it as being part of the job. Clients are really thankful for it and we do a lot of work for them. But at the same time it’s like, who would I have been to go up there, when she’s in a rehab, she’s bed-ridden and I’m like, “Oh, here’s your returns, mail them, I’ll see you later.” You know I couldn’t just leave them there.

After the student’s visit to the hospital, the clinic continued to have little success getting in contact with the client to resolve the remaining issues in the case. The student assigned to the case have made continued attempts to contact the client, and the clinic leaders expressed their frustration with the case, until during the last month of my observation at the clinic, the student assigned to the case learned that the client died two months ago.

When considered as a whole and in retrospect, this case is an example of a high fit with the moral motivations of the professionals at the clinic and with the overall objective of the clinic to provide access to legal representation to those least capable of defending themselves. However, individual cases at the clinic were assessed on their moral fit continuously, as the work on the case unfolded, and these evaluations could change over time. For example the very case presented in the first vignette was discussed with open
suspicion during the clinic sessions, as the clinic leaders attributed the client’s unresponsiveness to a lack of commitment to the clinic’s efforts to help with her problems. Even when the clinic leaders learned that the client is in a hospital, after the student assigned to the case was able to speak with the client’s relative, inconsistencies in the relative’s account about the kind of hospital the client was in and the reason for hospitalization lead the clinic leaders to wonder out loud whether this client really was incapable of cooperation, or was just finding excuses to tell to the clinic.

Moreover, the case demonstrates another important point: it was possible to adjust the clinic’s operation to make progress with this seemingly uncooperative client, as the episode of the student assigned to the case traveling to the hospital to get the required signatures demonstrates. But the short-term pressure to fulfill productivity goals discouraged such change in the organization of work at the clinic. After the student assigned to the case traveled to the hospital to meet with the client, as the vignette explains, the clinic leaders expressed open disapproval of the student’s actions, explaining that these actions are beyond the necessary and acceptable means used by the clinic to resolve its cases, and that the student is “wasting too much time” by focusing on this one case at the expense of other cases. The fact that the assessment of the case fit with the motivation of work at the clinic was dynamic and fluid, combined with the short-term pressure to contribute to the productivity metrics, allowed cases of untrustworthy and opportunistic clients to occupy a central place in the clinic’s active caseload, even though in retrospect and considered as a whole, these cases appear to have low fit with the motivation of work at the clinic. As the next section explains, the clinic dedicated more of its resources to the cases of
unresponsive but cooperative clients, at the expense of the relatively unresponsive clients, despite the untrustworthy clients’ low moral fit.

Untrustworthy clients

Untrustworthy and opportunistic clients was the second persistent problem at the clinic. These clients were relatively more responsive, and they provided the clinic with the required information. However, participants of the clinic did not trust much of the information provided and struggled to obtain objective information about the client’s financial situation. The danger of working with such clients was that the clinic could inadvertently help some individuals to avoid consequences of deliberate fraud, by providing professional expertise to opportunistic tax evaders. However, it was often impossible to establish objective facts about the client’s past actions that resulted in the tax controversy, mostly because conducting an investigation was not part of the clinic’s work. Instead, the clinic participants attempted to establish the moral character of the client from the information they had. The moral character was negotiated during the student’s presentation of the case in the seminar, and was intertwined with the level of progress on the case. The following vignette describes a representative case of this category.

Vignette 2, Untrustworthy, but cooperative client with low moral fit.

The case was opened in 2011. The client has not filed his tax returns for the last decade. His combined tax liability was over seventy thousand dollars. The IRS has placed a levy on the client’s bank account and a lien on the client’s home. The clinic’s goal in this case was to lift the levy, remove the lien, and to put the client’s case at the IRS into the Currently Not Collectible (CNC) category, which
would temporarily shield the client from further collection attempts. In order to achieve these goals, the clinic had to file the missing tax returns and the petition for CNC status with the IRS. The tax returns required information about the client’s past income and expenses, while the CNC petition required a detailed picture of the client’s current financial situation.

The client was relatively responsive—he returned calls and sent in requested information via mail, however the clinic participants did not trust the client’s input. Early on, the student assigned to the case has learned that the client attempted to avoid his tax liability in a systematic way. During the years for which the tax returns were missing, the client owned a small business that was mostly cash-based. The client did not have any tax-related records from that business for the years in question, because he “didn’t want to leave an audit trail” (interview with a student), ostensibly making it harder for the IRS to detect and tax his income.

The clinic continued to work on the case, despite misgivings, as the following quote from the interview with the student assigned to the case illustrates:

It seemed like we had a clear tax evader here. The only thing that made me rebound a little bit from that [was] his openness at this point in time. And he’s telling us, “Okay this is what I did. This is what’s wrong. Here’s the information I have now.” He’s kind of like, “That’s everything. What else can I have?”

We did have a meeting with him, trying to figure out what we could estimate for his expenses like mileage and stuff. And those were a little flaky, to be frank. ...So we weren’t really sure if he was just trying to pull the wool over our eyes, or if he didn’t really know, didn’t remember. You have to listen to what he says and kinda think about it, think of what the implications are and understand that you’re probably
not getting concrete numbers from him. So you have to take everything that he says, jot it all down and then like, “Okay, what’s the theme here? What ties out to what?” And then create your own stuff from [his figures].

The case fits poorly not only with the moral motivation of the clinic’s work, but also with the formal jurisdiction of the clinic, that should not work on cases in which the IRS opens a criminal investigation against the client. A discussion of this case during one of the seminars illustrates, however, that it was not easy for the clinic to drop the case:

Professor [to student]: “This is clearly fraud. So everything he says is subject to disapproval.”

Program Director: “If he is throwing away paper as he told you, because he doesn’t want to have a trail, we have a big problem. If there is a criminal investigation, we’re done. [to Professor] Do we even want to proceed with this?”

Professor, sarcastically: “Want to? No.”

Program Director, mirroring Professor’s tone: “Are we going to? ”

Professor: “Yes.”

By the end of my observation, the clinic’s work on the case was close to completion. The case was rescued from collections department at the IRS and was pending the Currently Not Collectible status.

The case in the second vignette has received more attention and progressed faster than the case in the first vignette, despite the questionable fit of the case with the moral motivation of work at the clinic and the intent of the clinic professionals to stop working on that case. Such difference in attention and effort given to the cases in the two troubling categories was not unique to the cases presented here. In fact, the discussion of cases during seminars
was disproportionally dominated by the cases of untrustworthy and opportunistic (yet relatively more cooperative) clients, while the cases of unresponsive clients received relatively little attention.

In effect, the clinic devoted disproportionately more resources towards helping clients who, in the professionals’ own view, were less deserving of their help, while making little effort to help the client who were most in need of the clinic’s services and who fit best with the professionals’ own moral motivation for working at the clinic. The professionals at the clinic recognized the allocation of resources at the clinic as undesirable and regretted that allocation. The first vignette illustrates that it was possible for the clinic to take extra steps and adjust its operation so that more deserving cases would get more attention. However, the professionals at the clinic did not perceive such adjustment to be justified and necessary, and discouraged the attempts to improve the allocation of the clinic’s resources.

How can we explain such failure of motivated and able actors to adjust the organization of their work to better fit the goals to which they subscribe? The next section demonstrates that the existing explanations for such failure—the organizational constraints that prevent the agents from working towards anything but the immediate productivity goal—are not sufficient. Instead, the persistently inefficient allocation of resources at the clinic resulted from inadequacy of the tools at the clinic’s disposal—a consequence of the fractal nature of the institutional problem faced by the clinic—and from the retrospectively myopic assessment by the professionals of the clinic’s overall allocation of resources. The biased assessment was based on the need for consistent professional
identity, and was supported with the crudeness of the productivity metrics employed by the clinic.

Preference for the low-fit cases

The allocation of resources at the clinic towards the less deserving but more cooperative clients may at first glance appear to be a consequence of the organizational constraints faced by the professionals at the clinic, and thus to fit the models of resource allocation in case processing proposed by the theories in the social control literature (Silbey 1980; Lipsky 1980; Lang 1981; Emerson 1983; Heimer and Staffen 1995). However, the level of control over work the professionals at the clinic had does not fit the extant theory. In fact, the amount of agency displayed by the professionals in the case is consistent with the recent studies that argue for the systematic ability of individual members to resist or overcome the organizational constraints, when such constraints contradict their moral motivation for work (Kellogg 2009; Canales 2011; Turco 2012; Huising and Silbey 2011). If the professionals at the clinic were able to adjust their work practices to achieve the moral goals motivating their work, how can we explain their actions that appear to be completely dictated by the organizational constraints?

Analysis of the case suggests that the organizational constraints appear to have dictated the allocation of resources across the cases at the clinic for two reasons: first, fractal nature of the institutional problem faced by the clinic left the clinic ill-equipped to solve the problem is was created to solve, which lead to a decoupling of the productivity metric employed at the clinic from the actual operation of the clinic. Second, the need for a consistent professional identity lead to a myopic retrospective assessment of the moral fit
of the cases on which the clinic made progress. The decoupled productivity metric helped maintain the biased assessment by the professionals of the long-term composition of the clinic’s caseload and therefore the clinic’s fulfillment of its goals.

**Organizational constraints: scarcity of expert time and the productivity metrics**

The clinic as an organization had to satisfy two broad goals: to contribute to the institutional mission of the LITC program, by ensuring “fairness and integrity of the tax system” (IRS Pub. 3319), and to satisfy the formal requirements for a professional seminar at the university. But the problem of unresponsive clients indicates that the clinic was poorly equipped to satisfy these goals.

**The goal of fair representation and the two categories of citizens**

From the perspective of the IRS, the core sponsoring institution of the LITC program, the clinic was an attempt to address a problem generated by the implementation of the fiscal system in the U.S. Based on an immensely complex tax code, the taxation system assumes a responsible, able and competent citizen, who understands his duty to pay taxes and is able to recruit professional help (or otherwise understands the tax code at the sufficient level) to fulfill his tax obligations in a timely manner. When a citizen appears to have not fulfilled those obligations, the IRS assumes that he is unwilling, rather than unable to fulfill them, and employs its bureaucratic machinery to punish the citizen and thus to force him into compliance. This approach disparately and adversely affects those who are unable to comprehend their tax obligations, are incapable of fulfilling them, or both.

The clinic’s goal from the perspective of the IRS was to help those adversely affected taxpayers and thus to alleviate the burden of the punitive system design that is particularly
and unjustly harsh on these citizens. But the tools at the clinic’s disposal made the clinic unable to address the core problem at stake. To get help from the clinic, the clinic’s clients needed to be competent and capable of cooperation with the bureaucratic requirements of the formal tax representation process. Yet the objective conditions—e.g., illness, homelessness, inability to understand their tax obligations, lack of language skills—that made the citizens fail on their fiscal responsibilities, made them unable to cooperate in a timely and competent manner with the professionals at the clinic. Thus, the incompetent and incapable victims of the bluntness of the tax system became the unresponsive and uncooperative clients of the clinic.

In contrast, opportunistic and fraudulent citizens who experienced a punitive action from the IRS, could recruit the clinic as a means of legal recourse, precisely because the IRS does not distinguish citizens incapable of fulfilling their fiscal responsibilities from those unwilling to pay their taxes. These opportunistic clients, while untrustworthy, were able to cooperate with the clinic’s efforts, just like they were able (but not willing) to comply with the tax code. The ability to cooperate, combined with the lack of distinction by the IRS between the unwilling and the unable violators of the taxation process made the cases of opportunistic clients suitable for the clinic. In addition, the more professionally challenging content of the opportunistic cases, as compared with the mundane problems of the most disadvantaged non-compliant taxpayers, made the cases of opportunistic clients more suitable for the second organizational objective of the clinic—the professional training.
The objective of professional training and the preference for quick progress on the case

The second organizational goal that influenced short-term decisions at the clinic was the goal of providing to the student participants practical experience representing clients in tax controversies. The terms of the LITC grant from the IRS require that clinics receiving the grant get a matching grant from another source (IRS Pub. 3319). The university at which the clinic was located provided this matching grant in return for the seminar format of the clinic discussions. The format allowed professional graduate students interested in tax law representation work to receive practical experience by participating with the clinic. A formal requirement for the participation with the clinic was a successful completion of a sequence of courses on tax law. As a result, all of the student participants at the clinic had foundational abstract knowledge applicable for representation of clients in tax courts and before the IRS, however most students lacked practical experience of client-focused work.

The unresponsive clients were also poor contributors to the goal of professional training, but for a different reason. Whereas the unresponsive clients did not contribute to the goal of fairness of the tax system because the clinic was poorly equipped to make their cases count towards that goal, they contributed very little to the goal of professional training because the ratio of case content (i.e., the amount of professionalism required to solve the problem in the case) to the time spent on the unresponsive case was too low. Simply put, an academic semester—the usual amount of time a student participated with the clinic—was too short to meaningfully experience tax representation work with the unresponsive cases. A quote from the clinic program director illustrates how unresponsive clients undermine both of these organizational objectives:
I have a pile right now of [cases where] I need to send letters [to threaten cancellation of the case, unless the client responds to the clinic’s requests]. That’s ten people who never responded. We have limited amount of students, limited amount of cases they can hold or handle. It would be a waste of their...They’re not learning anything if they have to just chase these people down for basic paper work.

I mean, they’re not getting to get involved in what the situation is or get the practical experience that they’re looking for if they’re just trying to get one piece of paper or two pieces of paper. [...] A lot of times we assign the case [when the clients] call in, but [then the clients] can’t even get you the basic documents—then you can’t even help them. You can call them and listen to their story over and over again, how they feel the tax system is unfair and they shouldn’t have to pay this and all that. But you’re not progressing with their situation.

Both of the organizational objectives at the clinic therefore required rapid progress on the case, which made client responsiveness and cooperativeness an important dimension of case quality. The clinic participants clearly understood the importance of timely progress on the case. During an orientation session for new student participants, one of the professors leading the clinic emphasized the importance of timely progress to the students: “You need to approach each case with a sense of urgency. If you don’t have the sense of urgency, I can guarantee you that your clients do not have it either. You have to make the client work. You have to make the client address the issue.” But because of the inherent inability of most clients to cooperate with the clinic’s efforts, no matter how hard the student assigned to their case would try to “make them address the issue,” the unresponsive clients often continued to be unresponsive. As a result, the clinic devoted more resources to the cases of more cooperative, even if more opportunistic clients. Because of the crudeness of the productivity metrics employed at the clinic, discussed next, such allocation of effort solved the problem of addressing the main operational objectives, although at the cost of frustration for the morally motivated clinic participants.
Decoupling of the productivity metrics as a coping mechanism

The LITC grant that supported the clinic required semiannual formal reports of the clinic’s caseload and of the aggregate outcomes on the cases closed during the reporting period. The productivity metrics supported the importance of client cooperativeness as the key feature of the case because the moral fit dimension was absent from the metric. While the clinic’s caseload had to satisfy certain client income requirements, the clinic was not required to report on how deserving the client is of the clinic’s services on the dimension of moral character. Indeed, the assumption of the IRS that all violators of the tax requirements are guilty until proven innocent made the clinic assume the role of the defender for all clients that it represented.

The lack of the moral fit dimension on the productivity reports allowed the clinic to include the cases of untrustworthy clients into its productivity measures. In this way, the formal accountability requirement made the dimension of moral fit of the case less relevant and the dimension of client cooperativeness much more relevant for the satisfaction of the clinic’s first operational objective. The clinic’s performance on the second operational objective—the professional training of students—did not have a formal measurement instrument, yet the perception of that performance by the clinic leaders was an important additional reason to prefer the untrustworthy but cooperative clients to the unresponsive clients.

As the earlier quote from the clinic director illustrates, making progress on a case was seen as the only way to get the relevant professional experience for the students. But the

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20 The majority of the clinic’s cases had to be below the standardized poverty levels.
cases of opportunistic clients were a better fit for the purpose of professional training for two more reasons: the inherently higher complexity of the case content, and the higher professional skill required to successfully defend a clearly guilty client. First, the professionals at the clinic favored more complex cases over mundane ones in their seminar session discussions, and cases of opportunistic clients tended to be more complex. The complexity allowed to connect practical experience at the clinic to more areas of abstract knowledge that the students have acquired in other courses. Second, the pure form of professional practice makes characteristics of individual clients irrelevant to the solution of the abstract problem that the case represents (Abbott 1981). But successfully defending someone who clearly deserves to be punished is evidence of exceptional professional skill. This fact was important for the subsequent reevaluation of the cases by professionals, who saw the moral character of the client retrospectively less important in light of the impressive application of their professional skills in the case.

The productivity metrics at the clinic therefore allowed and encouraged the clinic participants to allocate resources to the cases of more cooperative clients, even when those clients were the least deserving of the clinic services. Although such allocation satisfied the operational objective of the clinic, immediately during the allocation, the professionals at the clinic were experiencing persistent frustration with the lack of fit between the moral motivation of their work and the actual allocation of their effort.

*Frustration about the allocation of resources and the fluidity of the organizational constraints*

The allocation of resources at the clinic that favored untrustworthy but cooperative clients' cases over the cases that had ostensibly higher fit with the moral motivation of work at the
clinic was frustrating to the clinic participants. Their failure to adjust the allocation by changing the organization of work at the clinic is all the more puzzling when considered against the professionals' awareness of the problematic allocation of their effort and their ability to resist existing work routines.

*Awareness of the lack of moral fit*

The understanding of the challenge that the clinic faced with the unresponsive clients and of the reasons for the unresponsiveness was present during all of the case discussions. During the orientation for new student participants, the professors explicitly referred to that understanding. While warning the students that many of their clients will appear unresponsive and would not be able to supply the requested information, a professor said, for example: “You have to remember, these people have a lot of problems. ...It’s a lot of work for them to remember what their actual expenses are.” As a result of that understanding, the unresponsive clients, in abstract, were assumed to have legitimate reasons for the lack of cooperation with the clinic's efforts. However, in the immediate discussions of concrete cases, the lack of progress on a case was often attributed to the lack of effort on the client side, even when there was no apparent evidence for the client's intent to not cooperate or of his laziness.

The cases of the opportunistic clients were also discussed with open suspicion, and that suspicion turned into frustration whenever evidence of the client’s opportunistic, dishonest behavior would appear. Such cases occupied most of the clinic’s discussion time during the seminars, and the clinic leaders were visibly frustrated with the amount of time they were spending discussing how to help a client who is manipulative, dishonest and opportunistic.
During several of such discussions, for examples, one of the professors would proclaim “Enough is enough!” and would suggest that the clinic stops working on the case and sends the client a closing letter, outlining what the clinic has done and suggesting that the client proceeds with his case on his own. But during the next discussion seminar, if there had been a significant progress on the case, there would be little evidence of the frustration, and the clinic leaders would return to the nuanced treatment of the case, thereby continuing the clinic’s work with the client.

**Ability to resist the existing routines**

In addition to recognizing that the factual allocation of the clinic’s resources benefits the wrong kind of client, the clinic participants have demonstrated that it was possible to adjust this resource allocation to better fit the moral motivation of work. Because the major part of the work on cases was done by the student participants, and because student participants at the clinic changed every semester, some of the students periodically resisted the established logic for allocation of their effort across the caseload. The students took extra steps to make progress on the cases of unresponsive clients: they left their personal contact information with the client (instead of the official clinic contact information, as the clinic leaders would recommend), encouraging clients to call day or night; they traveled to the client’s homes or hospitals (as the first vignette illustrates); and one student recruited his mother as a pro bono translator for another student’s client, when it became apparent that the unresponsiveness of the client was caused by a language barrier. Finally, the students challenged the bureaucratic formalities like the sequence in which the documents needed to be signed in order to begin the work on the case. During the case discussion time, the students criticized the existing bureaucratic process as ill-
fitted for the task at hand, and some of them have bended the formal rules to make quicker progress on a case.

In most of these instances of resistance to the existing work routines, the student leaders publicly, during the case discussion time, discouraged the students from repeating their deviant actions. Although the clinic leaders were not opposed to most of these steps in principle,\textsuperscript{21} which was evident from the leaders' own considerable flexibility and commitment to meet with clients and to make progress on their cases whenever the client would show as much as a hint of cooperation, the clinic leaders felt that the students need to learn the boundaries of professional involvement in casework. They therefore discouraged the students' attempts to challenge the existing routines, deeming those attempts as unsustainable.

In sum, the clinic participants were aware of the allocation of resources to clients that contradicted the moral motivation of work, they were frustrated with that allocation and they periodically challenged that allocation by changing the job routines. But why did the recognition of the problematic allocation of the clinic's resources across cases and the attempts to correct this allocation did not translate into a systematic change in the organization? The answer is in the perception by the clinic leaders that the problematic allocation of effort at the clinic is a short-term problem and that in the long run, the sacrifice of the moral fit of the work to satisfy the immediate operational objectives—the productivity count and the better content for the professional training—was balanced by the progress towards the main goal of the clinic's work—the increased fairness of the tax

\textsuperscript{21} The clinic leaders were strongly opposed to bending the formal rules of the bureaucratic process, and I witnessed a heated discussion of this topic during the analysis of one of the cases in the seminar.
system. In other words, the professionals at the clinic had a biased view of their past performance that did not recognize the actual allocation of resources at the clinic as undermining the core motivation for the clinic’s work. The next section explains how the need for a consistent professional identity and the performativity of the formal productivity metric can allow for such myopic retrospective assessment.

**Performativity of crude productivity metrics and the myopic view of the systemic problem**

The failure of the clinic professionals to recognize the systemic character of the problematic allocation of resources at the clinic resulted from a biased assessment of the clinic’s long term performance. The clinic leadership believed that as a whole, the clinic makes steady progress towards its goals, and that the low moral fit of some of the cases is a temporary trade off that is required to keep the clinic in operation. The quote from an interview with the clinic director illustrates this view:

And of course, [I may later learn] that the information [the client initially] gave me was not correct, and they weren’t honest to begin with. So that’s frustrating. Does it bother me? It does. But I guess it’s offset by the people who do need the help and do need the assistance and want to resolve their situation. So I try not to get hung up on them.

It was evident in the discussion of cases at the clinic, that two aspects of the work at the clinic allowed to maintain this biased view: the need for a consistent professional identity that biased the dynamic assessment of the moral fit of cases, and the performativity of the crude productivity metrics that the clinic compiled for its external stakeholders.
Professional identity in the clinic's work

The importance of professional identity at the clinic was built into the design of the clinic as a laboratory for aspiring professionals—student participants. Professionalism is what was tested with the hands-on work at the clinic, and therefore the notion of professional identity dominated the discussions at the clinic. As noted above, professional identity was at play in preference for opportunistic clients over unresponsive clients, for at least three reasons: [i] cooperation of the client with the efforts of professionals at the clinic represented respect for the professional authority, whereas lack of cooperation and unresponsiveness could signify a lack of respect; [ii] when treated as a set of abstract professional problems, the cases only differ on content, making the moral character of the client irrelevant, so when a professional makes progress on a case, it contributes to the professional identity even if the feelings are mixed; and [iii] the more opportunistic clients had more challenging professional problems and higher absolute monetary amounts at stake than the cases of unresponsive clients,\(^{22}\) so solving their problems was a stronger validation of the professional identity.

But the inconvenient fact that by dedicating more time to opportunistic clients, the professionals at the clinic were helping ostensibly fraudulent individuals to avoid responsibility for their actions, required reconciliation. And the professionals achieved that reconciliations by ignoring, in retrospect, that the clients in successful cases were often the least deserving of help and assuming that the majority of the cases solved by the clinic were deserving of the effort. Such biased assessment was possible because cases were assessed

\(^{22}\) Although, of course, in relative terms, it may well be that for the ill and homeless individual, a smaller absolute amount of money may be tremendously more important that a larger amount for someone who is not in a desperate situation.
dynamically, and every additional bit of information on the case, including progress made or the lack of progress, triggered reevaluation of the case’s moral fit. The bias in the assessment of past performance was then reinforced with the productivity metrics that the clinic produced for its external stakeholders.

_Performativity of crude metrics_

The semi-annual productivity reports compiled by the clinic as a requirement for renewal of its federal grant were created in a decoupled manner. While the goal of the reports was to ensure accountability of the clinic and to assess the clinic’s progress towards the institutional goal of ensuring “the fairness of the tax system,” the lack of the moral fit dimension in the metrics employed by the report made the report blind to the nature of clients counted towards the progress and therefore oblivious to the legitimacy of these counts as true metrics of performance. The decoupling of the metrics thus allowed the clinic to maintain legitimacy of operation by using the crudeness of the metrics to its advantage and including all cases in the counts. Importantly, in doing that, the professionals did not intend to mislead anyone—the reports asked for specific numbers and the professionals dutifully and carefully calculated the numbers. The crudeness of the metric resulted from the institutional design of the tax system. But by creating the honest and objective (although crude) record of the clinic’s performance, the clinic participants were also creating a basis for the organizational memory. The record of past performance supported the clinic’s lore about unlikely victories and about large amounts of money won for clients, without bringing into focus the fit of those clients with the moral motivation of work at the clinic. Even the sheer number of cases solved during the history of the clinic was a source of organizational pride, although the cases counts did not tell anything about
the kinds of clients they represented. In this way, the performativity of the record initially created for an external audience, strengthened the biased assessment of the clinic’s case composition and facilitated the myopic assessment of the clinic’s long-term progress towards its core institutional goal.

Implications for the theories of social control

The case of the Low Income Tax Clinic presented here has important implications for the theories explaining the persistence of disparities in access to vital professional services. The main lesson is that the view of service-allocating professionals as weak agents who are dominated by the organizational structure and therefore lack agency to change the organization of work can be misleading. What appears as the lack of agency at the clinic is in fact the lack of use of agency by the professionals who are otherwise capable of resisting and changing the existing organizational routines. This finding reconciles the apparent incompatibility of the recent findings that morally motivated organizational actors are capable of resisting work that goes counter to their motivation (Kellogg 2009; Turco 2012; Canales 2011; Huising and Silbey 2011) with the longstanding assumption that structure overwhelms agency whenever immediate performance objectives is at stake.

The second contribution of this paper is the process model that traps well-intended professionals in a myopic assessment of their efforts and thereby produces inaction that is consistent with a lack of agency. This process model highlights the importance of the dynamic nature of case categorization and of the effect of professional identity on this categorization. Some studies in social control have argued for the importance of dynamics categorization of cases by professionals for the maintenance of professional identity (Van
Maanen (1978) and for the fulfillment of operational objectives of the organization (Heimer and Staffen 1995), but the theories did not consider that this very property of case work can systematically bias retrospective assessment of cases to help professionals sustain a coherent identity.

References


Arrow, Kenneth. 1971. Some models of racial discrimination in the labor market. Santa Monica Calif.: Rand.


