The Stratification of the Legal Profession in Canada

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Summary of Proposed Research

The legitimacy of law as a democratic institution is intimately tied to the structure of the legal profession. It is through lawyers that we gain access to “law,” with the profession playing a central role in mediating state-citizen relationships more generally. But if lawyers represent one of our central democratic institutions, the legitimacy of the profession is thought to depend on the assumption that individuals from any background will have the opportunity to practice law, and second, that legal services of sufficient quality are available for individuals and corporations, rich and poor.

Research to-date has provided an empirical basis from which to question these assumptions. Studies from across Canada have documented the various sources and structures of inequality in the legal profession. Yet with the population of lawyers in Canada now reaching about 100,000 (FLSC 2005) and with the increasing pace of change in the profession itself – from increasing law school tuition, increasing diversity, and widening gaps between private sector and public sector salaries – we need data on the new generation of lawyers to understand how the profession is navigating this changing terrain. More importantly, while prior research has made a significant contribution to knowledge about the profession, there has been no national study of lawyers in Canada. By pursuing a nationally representative sample design, therefore, the proposed research seeks to provide a uniquely Canadian account that addresses issues of regional differences, varying labour markets and varying markets for legal services, and the importance of local legal culture to the practice of lawyering and the provision of legal services.

The main objective of this research is to explore inequality within the Canadian legal profession today, and it seeks to answer three interrelated questions: 1) What is the internal stratification in the Canadian legal profession in terms of salary differentials and professional status afforded to different sectors, settings and fields of law; 2) Which lawyers allocate their time to serve individuals or the public good and which serve private business interests; and 3) Relying on the multidimensional concept of capital, what are the mechanisms that underlie this stratification. In short, while this project will provide a valuable snapshot of the Canadian legal landscape, it also seeks to document the mechanisms by which the profession has produced and reproduced patterns of inequality by identifying the various forms of capital – social, cultural and economic – that come together in the construction of lawyer careers. For instance, social class, law school attended, connections, organizational leadership, government service, and expertise are all forms of advantage that are accessed and valued differentially across the legal profession. By examining the capital that individuals bring to their careers and how they are rewarded in the job market, this study will provide important insight about the forms of capital that are valued and rewarded within the legal profession and the variations in this professional valuation by gender, ethnicity, class and ever geographic location.

The proposed work will focus on a cohort of newly minted lawyers across Canada. By relying on a sample of lawyers who all began to practice law in the same year, issues of inequality, mobility, and practice can be documented without the confounding effects of time in career that have affected most prior studies of the legal profession. The mail and web survey will build on expertise the PI has from working on projects of a similar methodological format studying lawyers in the U.S. and in regions of Canada. The survey will consist of questions designed to elicit information with which to measure stratification and with which to evaluate the types of capital employed by lawyers beginning their careers. By studying the experiences of this new cohort of lawyers, and by focusing on how individual resources, whether in the form of human capital, social contacts, or even cultural habits, structure individual careers (e.g. Bourdieu 1986:242, 1987; Dezalay and Garth 1996), this study will provide unprecedented data on the structure of the legal profession in Canada.