

11 Inequality

There are relatively few lawyers in China, especially on a per capita basis. Yet there are calls for actually reducing the number of lawyers (Shao 2000). The available evidence, however, suggests that the problem is not with the number of lawyers, but with how the market is divided among these lawyers. The Chinese market for legal services is polarized; it is characterized by extreme inequality. The relatively high average income of lawyers belies a highly skewed distribution and the more bleak reality of widespread financial insecurity. According to official government data, in the year 2000, average annual income among all Beijing residents was 15,000 *yuan* (BSB 2001: Table 19–2).¹ According to other sources, the average annual salary in Beijing in 2000 was 16,000 *yuan* (lower than Guangzhou's 20,000 *yuan* and Shanghai's 18,500 *yuan*) (Lu 2002). Contrary to popular belief, the vast majority of lawyers in Beijing are not doing much better.

According to our Beijing survey data from the same year, lawyers' gross income averaged just over 100,000 *yuan*. This average is being pulled up, however, by the eleven lawyers reporting gross personal incomes of 500,000–999,999 *yuan* and the five lawyers reporting incomes over 1 million *yuan*. Excluding the top 10 percent, therefore, yields an average income of almost 50,000 *yuan*; excluding the top 20 percent yields an average income of just over 35,000 *yuan*, which is close to the median of 38,000 *yuan* for the full Beijing sample. In the multi-city sample, average gross income is 47,000 *yuan*. This average is being pulled up by the fifteen lawyers reporting gross personal incomes of

¹ Average annual per capita disposable income was 10,350; for every individual generating income, there were 0.4 people without income. Therefore, $10,350 \times 1.4 = 14,490$. Since this is "disposable income," gross income is presumably even higher. The exchange rate was approximately US\$0.12 per 1 *yuan* in the year 2000 (8.3 *yuan* per US\$1).

200,000–499,999 *yuan* and the seven lawyers reporting incomes over 500,000 *yuan*. Excluding the top 10 percent, therefore, yields an average income of almost 25,000 *yuan*; excluding the top 20 percent yields an average income of 17,000 *yuan*, which is close to the median of 20,000 *yuan* for the full multi-city sample.² Although this income remains higher than average, lawyers are taxed at relatively high rates, are often responsible for more expensive, unsubsidized housing, are typically responsible for their own health insurance and retirement arrangements, and so on.³ I will return to these social security issues in the next section.

The market for legal services in China is very much a winner-takes-all market, as is the American market (Sandefur and Heinz 1999). Indeed, "winner takes all" is the expression Chinese observers use (*yingjia tong chi*) (BJQNB 2001b). Lawyers, keenly aware of this polarization, offer ballpark estimates of the magnitude of competition. A lawyer I interviewed asserted that 90 percent of lawyers in Beijing are barely making a living. As he put it, they are "hustling for the sake of survival" (*wei shengcun er benbo*); "they don't know where their next meal is coming from" (*chi shang dun mei xia dun*). This lawyer continued by estimating that only 9 percent enjoy high incomes. The final 1

² These analyses beg the question, are the income data believable? Although data on lawyer receipts diverge from official government data, we can be cautiously optimistic that this divergence is in the direction of reality as opposed to an artifact of sampling bias, item nonresponse bias, or measurement error. In Beijing, lawyer receipts officially totaled 1.1 billion *yuan* in 2000 (personal interview, BBJ). This total divided by Beijing's 6,300 lawyers in 2000 equals an average of about 200,000 *yuan* in billings per lawyer. According to our survey data, however, lawyer billings averaged 330,000 *yuan* in the same year, or aggregate receipts of 1.6 billion *yuan* (see Chapter 5). Given that the official government figure was calculated according to lawyer registration data and given anecdotal accounts of widespread underreporting of income and tax evasion, this discrepancy is not particularly surprising.

³ To make a fair comparison I should also examine either the median income or the mean income of the bottom 80 percent in Beijing as a whole. Unfortunately such data are not available. However, it is known that levels of inequality in China as a whole, while high, are not as extreme as among lawyers. For example, the gini coefficient for income in China as a whole in 1998 was .403 (World Bank 2000), which is high, but considerably smaller than the gini coefficient of .639 for lawyers' income in both Beijing and multi-city samples. Furthermore, the World Bank gini coefficient includes both urban and rural China; it would certainly be lower were it limited to urban China. In short, the gap between mean and median income is significantly smaller in the general population than in the bar.

percent of lawyers, he claimed, are actually chasing goals, have political ideals and political aspirations (em19). In a speech at a conference in Beijing on lawyers, a participant declared that 30 percent of lawyers get 70 percent of the work, while the remaining 70 percent of the bar fights over the remaining 30 percent (conference notes).⁴

The ballpark estimates of income inequality provided by interview subjects are actually quite accurate. In terms of income, in Beijing the top 20 percent of the bar earns 70 percent of total income, while the top 5 percent of the bar earns 39 percent. The bottom 60 percent earns only 15 percent of total income, while the bottom 80 percent earns only 30 percent. In the multi-city sample, the top 20 percent of bar earns 68 percent of income, while the top 5 percent earns 38 percent. The bottom 60 percent earns only 14 percent of total income, while the bottom 80 percent earns 33 percent. In terms of billings, inequality is even more extreme. In Beijing the top 5 percent of the bar earns 49 percent of billings, with the bottom 80 percent earning only 23 percent. In the multi-city sample, the top 5 percent earns 39 of total billings and the bottom 80 percent is left to fight over only 32 percent. The magnitude of inequality in the Chinese bar surpasses that of Chicago lawyers, where in 1995 the richest 10 percent of lawyers earned 40 percent of total income (Sandefur and Heinz 2000). As one of Wang and Gao's (2000: 8–9) informants described:

There are lawyers in Wuhan making a lot of money, even some making one million *yuan*, but there are hardly any like this, only a few, about 6 or 7. Income levels are very unequal. Famous [law school] professors in Wuhan, such as those

⁴ With all the emphasis on internal competition, we should not ignore the intense competitive pressure from outside the corps of lawyers—from corporate house counsel, patent and trademark agents, and unlicensed practitioners, for example. It is also important to point out that lawyers' external competition is actually reinforced by the MOJ. After the 1998 administrative reforms, the MOJ was handed regulatory jurisdiction over (1) legal consultants in enterprises and public organizations (*shiyè danwèi*), (2) lawyers and rice-roots legal workers (*falü gongzuozhè*), and (3) workers in legal departments of military and government units. These three groups all fall under the administration of MOJ even though they have separate licensing requirements and procedures. This is yet another way the MOJ works against the interests of those under its administration.

at Wuhan University or South-Central University of Political Science and Law have *dangshiren* streaming in, and they charge these *dangshiren* high fees. Their annual salaries are typically 100,000 *yuan*. But there are also a lot of full-time lawyers doing poorly, some making only 1,000 *yuan* per month. But this is still a little better than factory wages.

Information on car ownership is also consistent with the idea that while lawyers are doing better economically than the average person, they are certainly not exceptionally better off. In 2001, 12 percent of all households in Beijing owned a private car (Xie 2002). In the Beijing sample, 27 percent reported having private cars. Among lawyers making less than 25,000 *yuan* per year, this proportion drops to 12 percent, and among those earning 125,000 *yuan* or more, this increases to 71 percent. The multi-city pattern is similar: among lawyers in the multi-city sample, 12 percent report having cars. However, among those earning less than 5,000 *yuan*, this ownership rate drops to only 1 percent, and among lawyers earning over 50,000 *yuan*, it increases to 37 percent.

This theme emerged in many interviews we conducted. One lawyer declared in an interview that the popular idea that lawyers are all rich is a myth (lfi05). Another argued that the interests of lawyers are subordinated to the needs of the legal system and subjected to the pressures of the market. "Consequently lawyers are hunting and killing each other. At the same time, I'm on the hunt to kill as well. Lawyers are not like people think they are. They do not find justice [*taohui gongdao*], they do not bring the truth out [*yi zhenshi mianmu*], and they do not restore the truth of law....Most lawyers consider only their basic survival" (lfi02; see Chapter 7, note 4 for similar language invoked by lawyers in India). A different lawyer talked about how unfair lawyer competition is, how lawyers end up pushing the price for their services down in the competition for business, thereby undermining the interests of all lawyers (lfi12). A lawyer I interviewed insisted that many lawyers are idle with no work. Since the role of lawyers is not popularly recognized, he argued, many lawyers can't make a living (em11). The first task of lawyers is to ensure basic financial security (*shenghuo baozhang*) (em02). Weak

collegiality in the bar is reflected in an instance of one lawyer we observed in a law firm stealing a client from another lawyer. Thus even lawyers within a firm are competing with one another.

But not all the competition is from other lawyers. Lawyers perceive much of the competition coming from unlicensed practitioners. One lawyer insisted that the so-called rice-roots legal workers (*faliu gongzuozhe*), by stealing their business and engaging in unethical practices that tarnish the public image of the bar, are the bane of lawyers' efforts to secure a monopoly (em11). In my survey I asked lawyers to rate the degree of prevalence of the statement, "Many people without legal training are doing the work of lawyers" (see Table 10.2). Answers were highly skewed towards top of the scale, with 54 percent of lawyers choosing the top two ("most prevalent") categories.

Legal professions often develop institutional innovations to cope with economic pressure (on the American case, see Michelson et al. 2000). In China, lawyers' heavy tax burden adds to their pressure to eke out a living. The result has been the widespread emergence of advertising, contingency fees, toll-free legal consultation hotlines, and so on. Additional institutional innovations include legal service plans. Akin to a legal insurance plan, one arrangement covers all personal and family legal needs for 2,000 *yuan* per year (Zhang 2001), while another offers answers to legal queries delivered by email for 68 *yuan* per query (Cheng 2001; Zhao 2001).⁵ In the United States the contingency fee developed as a way for lawyers to expand the low-income individual-client market. In China, however, as we saw in Chapter 7, the contingency fee is positively associated with corporate clients and negatively associated with individual clients.

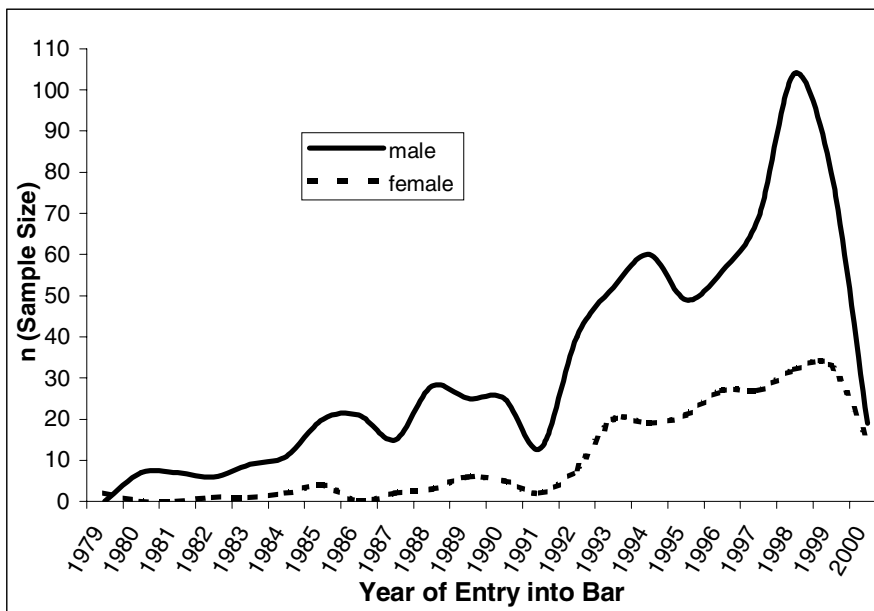
⁵ <http://www.chinese315.net>, accessed July 10, 2003.

Female Opportunities and Rewards

Like legal professions elsewhere in the world, the Chinese bar is dominated by men. According to official government data, in the year 2000 the ratio of male to female lawyers was 2.45:1 in Beijing and 4.56:1 in China as a whole (see Figure 2.4). Gender ratios are highly sensitive to historical time and to local economic conditions. Yet the clear trend is increasing numbers of women as a proportion of all lawyers. Figure 11.1 suggests that women started entering the bar in significant numbers with the 1992 drive to expand and privatize the bar.⁶ Among lawyers in the Beijing sample, the ratio of men to women in the cohort entering between 1979 and 1985 is 3.76:1, and drops to 2.13 among those entering between 1996 and 2000. In the multi-city sample, the ratio of men to women in these two cohorts are 8.09:1 and 2.85:1 respectively. Development clearly promotes the entry of women. As we can see in Figure 11.2, the proportion of women increases by 9 percentage points between poor and wealthy cities.

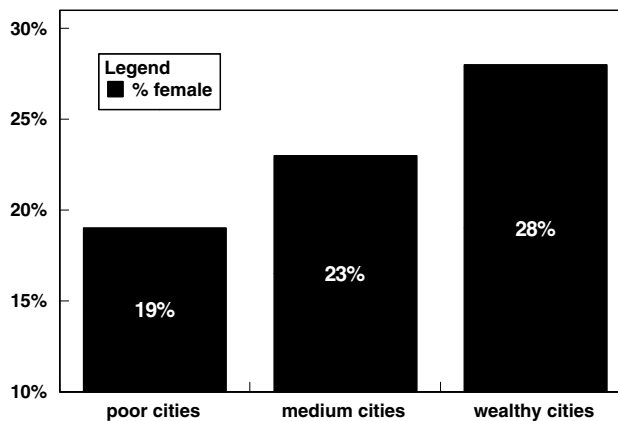
⁶ I say "suggests" because the sample includes only lawyers who survive to the year 2000. If women leave the bar at significantly higher rates than men, as is the case elsewhere (Hagan and Kay 1995: 114–7; Kay 1997; Reichman and Sterling 2002), the apparently improving gender ratios may be partly an artifact of differential attrition rates.

Figure 11.1. Sample Observations by Gender and Year of Entry



NOTE: n=946; males n=716, females n=230. "Year of entry into bar" refers to first year working as a lawyer, and not necessarily to the year of licensing.

Figure 11.2. Gender Distribution by Local Level of Development



NOTE: n=964. Pearson $\chi^2=8.1$, $p<.02$. "Poor," "medium," and "wealthy" cities are defined as those with tertiary sectors accounting for less than 40 percent, between 40 and 55 percent, and over 55 percent of prefecture-level GDP respectively in 1998. "Wealthy" cities include Beijing and Haikou. Overall unweighted mean, 25 percent; weighted mean, 20 percent.

Do women benefit from the increasing feminization of the bar? Are they rewarded to the same extent and in the same manner as their male counterparts? The key question is not whether women can be as successful as men. It is hardly a success story if only super-achieving women reap the rewards enjoyed by the average man. As one of Hagan and Kay's (1995: 34) informants put it, "Real equality...is when mediocre women achieve at the same level as mediocre men."

Female lawyers in China complain about a difficulty finding good jobs. According to He Weifang, a leading legal scholar at the Peking University School of Law, about two-thirds of law majors in China are women (He 2002) while only one-third of lawyers are women. Among recent entrants the situation is a little better: in the Beijing sample, 46 percent of respondents who reported starting working as lawyers in 2000 (n=26) and 36 percent of those starting in 1999 are women (n=67). Clearly there is something about law firm recruiting methods that militate against women. The usual suspects identified by scholars of the American legal profession appear in conversations with Chinese lawyers: the perception that women are more committed to family than to work, and the perception of a corresponding reluctance to work long hours and to make frequent out-of-town trips. The importance of socializing not only with other lawyers but also with clients and key contacts in government bureaus and the *gongjianfa*—which often involves smoking, drinking, and the companionship of female escorts—is another commonly cited reason for the "inconvenience" of being a female lawyer. These are the same perceptions that make it harder for women to get hired into law firms and to get promoted to partner in North America (Hagan and Kay 1995; Reichman and Sterling 2002).

Male and female lawyers in partnership firms do not have the same probability of being partners. Given the cross-sectional (single time-point) nature of the data, I am unable to identify the determinants of making the transition to partner. The appropriate

data would contain information on the timing of events as well as information on individuals who exited the bar (see Hagan and Kay 1995: 84–5). My data are left-truncated, meaning successful transitions to partner captured by my survey may overstate the actual transition rate insofar as a certain group of candidates is more likely to drop out before the time of observation. For example, if women are less likely to make the transition to partner and as a result are more likely to exit legal practice—which is the North American pattern—then at any given point in time the pool of women available for observation contains more successful cases than the original pool from which they originated.

Despite the limitations of my data, I model the probability of being a firm partner in the hopes that the findings provide a baseline for future research. Table 11.1 contains the predicted probabilities of partner status. Not surprisingly, the best predictors include years of practice, billings from individual clients, and economic development. Lawyers just starting their practice are very unlikely to be partners, in large measure because of the relevant regulations requiring that lawyers work for at least three years to be eligible for partner status (see Chapter 3). Additional factors include the time necessary to build up a stable client base and to accumulate the capital necessary to buy a share of the firm. Again consistent with the North American pattern (Hagan and Kay 1995: 87), a solid corporate client base is essential to a successful transition to partner. Lawyers with a high concentration of individual clients are 44 percentage points less likely than lawyers with a low concentration of individual clients to be partners.

The data also show that women's best chances for partner status are a disproportionate amount of experience working as a lawyer and practicing in a poor city. All else being equal, women must work as a lawyer for many more years than men to enjoy the same probability of being a partner. At three years of work experience, men are 12 percentage points more likely than women to be partners. At five years of work

experience, men still lead women by 7 percentage points. Only after five years of work experience do women catch up with men, revealing how only above-average women can enjoy the same status opportunities as average men.

In poor cities, almost all women in partnership firms are partners. Indeed, in poor cities the majority of all lawyers in partnership firms are partners, which reflects the weak market for legal services and the small scale of legal practice. As we saw in Chapter 7, in wealthy cities with more developed markets for legal services there are fewer partners as a proportion of all lawyers in partnership firms. The findings in Table 11.1 show that development hurts women's chances even more than men's: in partnership firms in the wealthiest cities, men are almost twice as likely as women to be partners.

As we saw in Chapter 7 (see Figure 7.3), firm size is also a major determinant of being a partner. In larger firms, there are proportionally fewer lawyers at the top of the pyramid. The full results (presented in Table L.13) show that a 50-percent increase in firm size reduces the probability of being a partner by 6 percent ($\ln(1.1) \times -.147 = -.060$).

Table 11.1. Predicted Probabilities of Partner Status

Selected Independent Variables	predicted probabilities	significance of differences
overall probability	31%	
male	28%	
female	41%	
3 years experience as lawyer	8%	
male	13%	
female	1%	
5 years experience as lawyer	19%	
male	21%	
female	14%	
10 years experience as lawyer	43%	
male	37%	
female	73%	***
poor city	64%	
male	54%	
female	94%	***
wealthy city	13%	
male	15%	
female	8%	
billings from individual clients		
80%	6%	
20%	50%	***

NOTE: * p<.10 *** p<.01, two-tailed. n=527 lawyers in 178 partnership firms in 18 cities. "Poor" and "wealthy" cities are defined as those with a prefecture-level tertiary sectors accounting for 25 and 60 percent of GDP in 1998 respectively. Significance tests for predicted probabilities are more conservative than the significance tests for coefficients in the original probit models presented in Table L.13 because they absorb uncertainty about all the variables in the model, not just the variable of immediate interest. Significance tests in the original models consider only uncertainty about the individual variable under consideration. See Table L.12 for variable descriptives and Table L.13 for complete models.

The finding that women need more work experience than men in order to enjoy a share of firm profits provides further support for the "superwoman" thesis, that women must be more qualified than men in order to enjoy the same opportunities and rewards. As we can see in Table 11.2, at low levels of work experience, men are more than twice as likely as women to enjoy a share of firm profits. Only after working as a lawyer for ten years or making the transition to partner do women catch up to men.

Table 11.2. Predicted Probabilities of Share of Firm Profits

Selected Independent Variables	predicted probabilities
overall probability	24%
male	25%
female	20%
3 years experience as lawyer	26%
male	30%
female	14%
10 years experience as lawyer	22%
male	22%
female	23%
15 years experience as lawyer	21%
male	20%
female	26%
partner	79%
male	74%
female	93%
billings from general civil/family fields	
80%	19%
20%	38%

NOTE: No differences are statistically significant. n=687 lawyers in 261 partnership and state-owned firms in 25 cities. Significance tests for predicted probabilities are more conservative than the significance tests for coefficients in the original probit models presented in Table L.17 because they absorb uncertainty about all the variables in the model, not just the variable of immediate interest. Significance tests in the original models consider only uncertainty about the individual variable under consideration. See Table L.14 for variable descriptives and Table L.15 for complete models.

Does the distribution of opportunities and rewards vary by ownership sector? The general pattern for China as a whole, and not just for Chinese lawyers, is that women do better in the state sector than in the private sector. The gender gap with respect to income is wider in the private sector than in the state sector (Tang and Parish 2000: 227–9). This

is hardly surprising given the egalitarian ethic governing socialist institutions. Consistent with this general pattern, female lawyers in state-owned firms are more likely than their counterparts in partnerships to hold leadership positions. However, this pattern does not hold for income; ownership form does not significantly reduce the gender gap with respect to income in the Chinese bar. Predicted probabilities of holding a firm leadership position are displayed in Table 11.3. The most striking finding is the degree to which women's opportunities suffer in the private sector. In partnership firms, all else being equal, a male lawyer's probability of holding a leadership position is, on average, over five times greater than that of a female lawyer (12 percent versus 2 percent). The difference drops to 4 percentage points (14 percent versus 10 percent) in state-owned firms. Gender differences are also sensitive to economic conditions. In Beijing, men are just as unlikely as women to hold leadership positions in partnership firms. In Beijing's state-owned firms, on the other hand, women are four times more likely than men to hold leadership positions.

Work experience exhibits a now familiar pattern: years of practice is a major predictor of holding a leadership position, but is more important for women than for men. At low levels of experience, men are far more likely than women to hold leadership positions. Only after working for over 10 years do women catch up to men.

Education also seems to be a significant criterion for firm leadership, as reflected in the 30-percent greater likelihood that lawyers holding degrees from Renmin University of China are firm leaders (see Table L.17). It is noteworthy that only in this context does CCP membership makes a difference; nowhere else is CCP membership relevant to legal practice or its outcomes. CCP members are 6 percentage points more likely than non-members to be firm leaders (see Table L.17). The importance of CCP membership is undoubtedly attributable to the fact that directors of state-owned law firms are appointed by the local bureau of justice (see Chapter 3), and are evaluated and selected, at least to

some extent, according to political criteria. It is therefore somewhat puzzling why this effect does not vary by ownership; an interaction term for "CCP membership × partnership firm" was not statistically significant.

Table 11.3. Predicted Probabilities of Holding Firm Leadership Position

Selected Independent Variables	predicted probabilities			significance of male/female differences
	overall	male	female	
overall	10%	13%	4%	*
partners	44%	45%	40%	
firm ownership type				
partnership	8%	12%	2%	***
state-owned	13%	14%	10%	
in Beijing				
all firms	3%	2%	5%	
state-owned firms	3%	3%	12%	*
partnership firms	2%	2%	2%	
outside Beijing				
all firms	10%	14%	4%	**
state-owned firms	14%	15%	9%	
partnership firms	9%	13%	2%	***
experience working as a lawyer				
3 years	3%	7%	0.1%	**
10 years	14%	15%	11%	
15 years	21%	19%	28%	

NOTE: * p<.10 ** p<.05 *** p<.01, two-tailed. n=778 lawyers in 259 partnership and state-owned firms in 25 cities. A firm leader is defined as either a director or associate director. Significance tests for predicted probabilities are more conservative than the significance tests for coefficients in the original probit models presented in Table L.15 because they absorb uncertainty about all the variables in the model, not just the variable of immediate interest. Significance tests in the original models consider only uncertainty about the individual variable under consideration. See Table L.16 for variable descriptives and Table L.17 for complete models.

Table 11.4 shows that, on average, female lawyers earn 88 percent of what male lawyers earn. Among young lawyers (25 years of age), women's earnings as a proportion of men's earnings drops to 62 percent. Only at older ages do women catch up to men. According to the statistical model (Model 5, Table L.19), by age 45 women have

surpassed men, earning 120 percent of men's average income. Consistent with the image of the Chinese lawyer backing into criminal defense for financial reasons, the average income of lawyers reporting any criminal defense work is only 74 percent of the average income of lawyers reporting no criminal defense work.

Interestingly, the gender gap with respect to income does not vary by ownership, nor does it vary by level of development. Indeed, as we saw in Chapter 3, the probability of being in a partnership firm is highly determined by development. The regression models of the determinants of lawyer income (Table L.19) show that the income benefits from membership in a partnership firm are explained almost entirely by development. At the same time, men and women both benefit equally from development: lawyers in wealthy cities earn an average three times more income than lawyers in poor cities.

Table 11.4. Predicted Gross Annual Income

Selected Independent Variables	predicted probabilities	significance of differences
overall mean	25,535	
male	26,231	
female	23,188	
25 years of age	23,100	
male	25,599	
female	15,988	**
45 years of age	26,087	
male	25,017	
female	30,315	
small firm	26,077	
male	27,537	
female	21,452	
large firm	23,661	
male	21,988	
female	30,767	
enjoy share of firm profits	32,042	
male	27,873	
female	52,786	**
local level of development		
poor city	14,642	
wealthy city	45,089	***
criminal defense practice		
yes	24,017	
no	32,598	*

NOTE: * $p < .10$ ** $p < .05$ *** $p < .01$, two-tailed. $n = 734$ lawyers in 255 partnership and state-owned firms in 25 cities. "Small" and "large" firms are defined as those with 10 and 50 lawyers respectively. "Poor" and "wealthy" cities are defined as those with a prefecture-level per capita GDP in 1998 of 5,000 and 15,000 *yuan* respectively. Significance tests for predicted probabilities are more conservative than the significance tests for coefficients in the original probit models presented in Table K.5 because they absorb uncertainty about all the variables in the model, not just the variable of immediate interest. Significance tests in the original models consider only uncertainty about the individual variable under consideration. See Table L.18 for variable descriptives and Table L.19 for complete models.

Summary

An immature market for legal services combined with very limited support from their firms in terms of social security protection and benefits such as housing as well as in terms of the day-to-day business of finding and representing clients has contributed to intense competition among lawyers and widespread financial insecurity in the bar. To be sure, many Chinese lawyers are rich even by the standards of American lawyers. The prevailing image in the popular imagination is the lawyer driving a flashy sports car and living in a suburban villa, purchased with money earned by morally questionable means. Thus this image is propagated with a real degree of public resentment. The findings presenting in this chapter show that this popular image is exaggerated and undeserved.

The fate of women varies significantly both by ownership sector and by level of development. In general, women get a more fair shake in the state sector: women are more likely to hold leadership positions in state-owner firms than in partnership firms, and this likelihood increases dramatically with development. In contrast, in the private sector development seems to work against women: as levels of development increase, the chances of being a partner diminish much more for women than for men; at the same time, development increases women's chances of holding a leadership position in state-owned firms and diminishes their chances in partnership firms, while showing no effect on men's chances of holding a firm leadership position in either ownership sector. Thus, the unhooking and privatization of state-owned law firms may represent a setback for women in the law.