8 Turbulence and Turnover

One of the main themes in this dissertation is the array of difficulties lawyers face in their everyday practice, difficulties that are associated with their emancipation from the state. As we have seen, and will continue to see in Chapter 10, these difficulties are particularly pronounced in, but not limited to, criminal defense practice. Lawyers are subject to frequent and varying degrees of abuse at the hands of the *gongjianfa*, and the financial rewards for bearing this risk are typically quite low, as we will see in more detail in Chapter 11. The obvious question, then, is, why would anyone want to be a lawyer?

This question motivated an analysis of attrition and retention in the Beijing bar. According to one lawyer I interviewed, the bar’s attrition rate is significant. "In recent years there have been a lot of lawyers leaving the bar. Why? The lawyers that leave the bar tend to be those we call the hot-blooded youth. In the beginning they are the most enthusiastic of all lawyers. But after working for a year or so they discover that the values and ideals in the bar are not what they had originally imagined" (em11).

Although the population of lawyers in Beijing grew by 4,082 between 1992 and 2000, a total of 9,558 individuals in Beijing passed the lawyers examination in the same time period and were therefore qualified for admission into the bar (see Tables M.1 and M.10). Between 1980 and 1997, 7,360 individuals were granted lawyer licenses in Beijing, many of which were granted before an examination was required (Zhao 1999: 174). Thus, by any method of counting, the number of lawyers is dramatically lower than the number of individuals eligible to practice as lawyers. Nationally, the population of lawyers grew by 71,546 between 1992 and 2000, yet a total of 114,166 individuals passed the lawyers examination in the same time period (see Tables M.3 and M.11).
These numbers reflect a major discrepancy between the number of lawyers in practice at any given time and the number of lawyers licensed and qualified to practice as lawyers. Many of these individuals made conscious decisions not to enter the bar. Some of these individuals retired, became incapacitated, or died. However, this massive discrepancy also clearly reflects a significant attrition rate, a widespread phenomenon of lawyers leaving law.

The analysis in this chapter uses publicly available data from published lists of law firms and their lawyers published by the BLA (see Chapter 2, footnote 2). The Beijing lawyer rosters were first published in 1993. Owing to the incompleteness of the early rosters, my analysis includes information contained on the rosters published between 1995 and 2000. The rosters contain the following information: the names of law firms, the names of lawyers within law firms, law firm addresses (including postal code), law firm telephone numbers, and sometimes but not always the administrative overseeing authority, either the BBJ or the MOJ. Obviously I was able to add an additional variable: year of observation. In addition, I was able to deduce the following individual-level variables: the first year of observation; year of entry into the Beijing bar (if the first observation point is after 1995, owing to left-censoring); the last year of observation; year of exit from the Beijing bar (if the last observation point is prior to 2000, owing to right-censoring); and a lateral move between firms (if a lawyer name unique to firm \( x \) disappears from firm \( x \) the year before it reappears as a lawyer name unique to firm \( y \)). Finally, I was able to deduce the following firm-level variables: the first year of observation; year of entry (if the first observation point is after 1995, owing to left-censoring); the last year of observation; year of exit (if the last observation point is prior to 2000, owing to right-censoring); firm size in each year of observation; and change in firm size between years. Although I did not code and analyze this information, it would
also be possible, on the basis of the published addresses and postal codes, to analyze the risk of firms' relocating.

The data remain deficient in many ways for the purposes at hand. When a firm name disappears, we cannot be certain that the firm itself disappeared. Alternative possibilities include a name change associated with privatization, a division of a firm into separate entities, or a merger of firms into a new entity. Thus, when a new name appears, we cannot be certain that the firm is a new entrant. Similarly, when a lawyer's name disappears, we cannot be certain that she exited the bar. A more fundamental problem is the identification of unique individuals. The popularity of certain individual names combined with a very limited supply of surnames in China renders this problem particularly sticky. If there are ten individuals with identical names in year \( x \) and five individuals with this very same name in year \( x+1 \), it is impossible to determine how many of the ten lawyers in year \( x \) exited, how many of the five lawyers in year \( x+1 \) moved between firms, and how many of the five lawyers in year \( x+1 \) are new entrants. The difficulty identifying unique individuals problematizes the estimation of exit rates and the estimation of firm-level determinants of moves and exits. I discuss these methodological problems in more detail in Appendix H.

Another data deficiency is the absence of individual-level information. Since we have no information on lawyer gender, it is impossible to determine if women are more likely than men to abandon legal practice, a pattern than has been confirmed among lawyers in North America (Hagan and Kay 1995; Kay 1997; Reichman and Sterling 2002). Similarly, we have no information on the circumstances surrounding an exit from the bar, such as whether the lawyer moved to another city, took a temporary leave of absence (such as a maternity leave), died, or retired, for example. Since the exit rates I calculate include lawyers who in actuality did not leave the bar but merely experienced a
temporary spell outside the law or who moved to another jurisdiction, my estimates surely exaggerate the true attrition rate.

Many of these problems could have been remedied by analyzing data from the internal database compiled and managed by the BBJ's Lawyer Administration Section. Unfortunately I was not granted access. Given the limitation of the data I analyze, the findings reported in this chapter must remain tentative.

**Firms Exits**

Of the 462 firms observed between 1995 and 2000, 159 (or 34 percent) were observed in all six years. Of the 397 firms that first appeared before the year 2000, 302 (or 76 percent) were still alive by the year 2000 and 95 (or 24 percent) had either died or changed names (due to ownership changes, splits, or mergers). Given the relatively short period of analysis, there is a lot of censored data: 220 firms were first observed in 1995 and are therefore left-censored because we have no way of knowing if they were born in this year or in an earlier year; an additional 208 firms that were observed in 2000 are right-censored because we have no way of knowing if or how long they survive past the year 2000. This means we can only be sure that 462–220–208=34 firms failed (or changed names). In order to estimate exit rates, we must first exclude the 220 left-censored cases, leaving 242 firms. Among the 242 firms that first appeared after 1995, there were 637 opportunities to fail (i.e., there were 637 firm-years, the sum of the life spans of the 242 firms). This is an average exit rate of 5 percent (34/637=5.3 percent).

The risk of failure increases with exposure. As we can see in Table 8.1, in terms of surviving a longer period of time, among all firms that entered between 1996 and 1999, 19 percent were gone by 2000 (34/(242–65)=19.2 percent). Among all firms that entered at any time before 2000 and had not yet exited by 1995 (i.e., that appear on the 1995 roster), 24 percent were gone by 2000 (95/(220+59+36+40+42)=23.9 percent).
Limiting the analysis to the population of 242 firms first appearing between 1996 and 1999, the probability of surviving one year is 93 percent, two years 91 percent, three years 84 percent, and four years 79 percent. These estimates assume that the best way to understand the risk of exit is in terms of tenure in the bar, that duration matters equally across calendar years, that the exact year of entry and exit is less important than total duration. By showing a spike of exits in 1999, possibly a reflection of the tuogou privatization drive following the 1998 administrative reforms, Table 8.1 suggests that this assumption may not be true. However, the annual probabilities of entering and staying do not vary greatly from year to year.

Table 8.1. Law Firm Attrition and Retention, Beijing, 1995–2000

<table>
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<tr>
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<tbody>
<tr>
<td>1995</td>
<td>227</td>
<td>220</td>
<td>15</td>
<td>—</td>
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<td>—</td>
</tr>
<tr>
<td>1996</td>
<td>263</td>
<td>264</td>
<td>24</td>
<td>59</td>
<td>205</td>
<td>7</td>
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<tr>
<td>1997</td>
<td>280</td>
<td>276</td>
<td>11</td>
<td>36</td>
<td>240</td>
<td>5</td>
</tr>
<tr>
<td>1998</td>
<td>294</td>
<td>305</td>
<td>17</td>
<td>40</td>
<td>265</td>
<td>6</td>
</tr>
<tr>
<td>1999</td>
<td>319</td>
<td>330</td>
<td>28</td>
<td>42</td>
<td>288</td>
<td>16</td>
</tr>
<tr>
<td>2000</td>
<td>345</td>
<td>367</td>
<td>—</td>
<td>65</td>
<td>—</td>
<td>—</td>
</tr>
<tr>
<td>TOTAL</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>18%</td>
<td>—</td>
<td>34</td>
</tr>
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</table>

NOTE: N=462 firms. "Leavers" refers to firms that stop registering. "Stayers" refers to firms that continue to register in the following. In each year, the population of law firms consists of those registering for the first time (new entrants) and those who registered in the previous year (stayers). The sum of these two categories equals the total firm population. The population of firms in a given year is calculated as the previous year's population minus the previous year's leavers plus the current year's new entrants. Yearbook data correspond to the figures presented in Table M.2.

What are the determinants of firm exits? Both the size of a firm and changes in the size of a firm are important predictors of firm exits. The most straightforward
interpretation is that size and growth are proxies for organizational health. While the overall average attrition rate was 5 percent and only 2 percent among large firms (at least 15 lawyers), among small firms (5 or fewer lawyers), the average rate was 12 percent. Similarly, while the average exit rate of firms that grow in size since the their first observation was only 2 percent, among firms that do not grow since their first observation (i.e., that remain constant or shrink) the average exit rate was 14 percent. We can see this pattern in Figure 8.1. After four years from the time of entry, 92 percent of firms that had grown in size since their first observation were still alive, while among firms that did not grow, only 50 percent were still alive after four years.

Figure 8.1. Law Firm Survival Rates of Exiting by Law Firm Size Change, Beijing, 1995–2000

NOTE: Kaplan-Meier survival estimates.
On the basis of the five years of data under analysis, the predicted average life expectancy of a law firm in Beijing is 21 years. But among firms that do not grow in size since their first observation, the average life expectancy is only 7 years. Similarly, among small firms, life expectancy is only 11 years.¹

**Lawyer Exits**

Individual attrition is more dramatic than firm attrition. Of the 6,706 lawyers observed between 1995 and 2000, only 1,049 (or 16 percent) were in the bar during the entire observation period. Of the 5,269 individuals who had entered before 2000 and had not exited by 1995 (i.e., that appear on the 1995 roster), 2,250 (or 43 percent) had exited before the year 2000 (2,250/(2,082+701+826+827+833)=42.7 percent). Among all lawyers who entered the bar between 1996 and 1999, 38 percent were gone by the year 2000 (1,217/(4,624–1,437)=38.2 percent). The foregoing estimates were calculated according to the information contained in Table 8.2.

As with the firm data, there is severe censoring among individual lawyers. In order to calculate attrition rates, we must first exclude the 2,082 left-censored observations observed in 1995, because we have no way of knowing their year of entry into the bar. In addition to these left-censored cases that must be dropped, there are an additional 3,407 right-censored cases that are observed in 2000; we have no way of knowing how long they will survive in the bar. Among the 4,624 individuals who entered the bar after 1995, the average exit rate is 13 percent: of 9,602 lawyer-years (opportunities to exit), there are 1,217 exits.

As with firms, the individual risk of exiting the bar is highly dependent on exposure. After one year the risk of survival is 81 percent, after two years 74 percent, ¹ These life expectancy estimates are known as "extended means" for right-censored data. The mean survival time is calculated by exponentially extending the survival curve to zero.
after three years 69 percent, and after four years 65 percent. A lawyer's risk of exiting is highly dependent on the health of her firm. As we can see in Figure 8.2, among lawyers in the bar for four years, 69 percent survive if their firm survives, compared to only 17 percent if their firm fails (or changes names).

Figure 8.2. Lawyer Survival Rates of Exiting Bar by Law Firm Survival, Beijing, 1995–2000

Even among firms that do not fail, the changes in the size of the firm over time is an important predictor of lawyer attrition. Firm size is a statistically significant determinant of lawyer survival (lawyers in large firms are more likely than lawyers in small firms to survive), but this effect disappears once change in firm size is introduced into the model (see Table H.4). We can see in Figure 8.3 that among lawyers in the bar
for four years, 85 percent survive if their firms grow in size, while only 53 percent survive if their firms do not grow in size (i.e., shrink or stay the same size).²

Figure 8.3. Lawyer Survival Rates of Exiting Bar by Law Firm Size Change, Beijing, 1995–2000

NOTE: Kaplan-Meier survival estimates.

Average attrition rates also vary significantly by firm failure and firm growth. Among the 4,624 lawyers who entered after 1995, the average exit rate was only 11 percent in firms that survived. In firms that exited, the average attrition rate was a much higher 32 percent. Similarly, in firms that grew in size, the average attrition rate was only

² It is important to note that in the individual-level analyses, firm size is defined as the maximum size of the firm over the course of the time the lawyer was observed in that particular firm, and change in firm size is likewise change over the course of the time the lawyer was observed in that particular firm. This is in contrast to the firm-level analyses in which firm size is defined as the size of the firm in the final year in which it was observed.
4 percent, whereas it was a far higher 20 percent among lawyers in firms that did not grow.

Among the 4,624 lawyers observed entering the bar over the five years spanning 1996 and 2000, the average predicted life expectancy of their lawyer careers in the Beijing bar is 12 years. But among lawyers in firms that fail, the average life expectancy is only 3 years, compared to 13 years among lawyers in firms that survive. In firms that do not grow in size, the average expected life span of a lawyer career in 8 years, compared to 31 years among lawyers in firms that do grow in size.

**Lawyer Inter-Firm Lateral Moves**

The fact lawyers are more likely to exit the bar than move to another firm bespeaks the unusually high attrition rate in the Beijing bar. Yet the inter-firm mobility rate is also substantial. As we saw in Chapter 6, lawyers with prior firms account for 50 and 44 percent of lawyers in the Beijing and multi-city samples respectively.³ The average length of time lawyers had spent in their current firms at the time of the survey was only 3.6 and 4.7 years in the Beijing and multi-city firms respectively. The average tenure in previous firms (not including current firm) was 3.9 and 5.1 years respectively, or an overall mean of 4.5 years. This is only slightly longer than the average of 4.0 years lawyers report working in their current firms, affirming the image of law firms as revolving doors. This should not be surprising given the loose relationship most lawyers have with their firms, an arrangement that closely resembles a landlord-tenant relationship in which the firm charges rent to the lawyer for the privilege of membership (Chapter 7). A lawyer's failure to meet minimum billings quotas in any given year may contribute to high attrition and high lateral mobility between firms. Of all other jobs

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³ In the Beijing sample, 38 percent report one prior firm and 12 percent report two or more prior firms. In the multi-city sample, 34 percent report one prior firm and 10 percent report two or more prior firms.
(excluding farmers and getihu, for which there are only n=3 lawyers), only stints in rice-root law offices—averaging 3.4 years—are shorter than stints at law firms. The average number of years is 4.9 years in house counsel positions, 7.9 years in the gongjianfa, 7.8 years in unspecified law jobs, 7.6 years in government positions, and 11.4 years in military positions.  

Before estimating inter-firm mobility rates using the official lawyer rosters, it was necessary first to make assumptions about whether the same name observed in different years is the same lawyer or different lawyers who happen to have the same name. Appendix H contains a description of how I dealt with this methodological predicament. Overall, of the 5,269 individuals who had entered before 2000 and had not exited by 1995 (i.e., that appear on the 1995 roster), 1,447 (or 27 percent) had switched firms before the year 2000 (1,447/(2,082+701+826+827+833)=27.4 percent). Among all lawyers who entered the bar between 1996 and 1999, 23 percent had switched firms by the year 2000 (723/(4,624–1,437)=22.7 percent). The foregoing estimates were calculated according to the information contained in Table 8.2. The average rate of switching firms is 8 percent (723 moves out of 9,602 opportunities to move). But the rate of moving is highly dependent on whether or not one's firm exited. If one's firm exited, the average annual lateral mobility rate was 29 percent, compared to only 6 percent if one's firm remained in the bar.

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4 Years in a job type is calculated as year of exit – year of entry + 0.8. Mean times are calculated in two stages: within-lawyer means were first calculated for lawyers with multiple instances of the same job type before the grand mean for all lawyers was calculated.
Table 8.2. Lawyer Attrition and Retention Rates by Calendar Year

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</thead>
<tbody>
<tr>
<td>1995</td>
<td>2,787</td>
<td>2,353</td>
<td>2,082</td>
<td>378</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>18%</td>
<td>21%</td>
<td>16%</td>
<td>13%</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1996</td>
<td>3,758</td>
<td>2,657</td>
<td>2,405</td>
<td>502</td>
<td>701</td>
<td>209</td>
<td>1,495</td>
<td>1,704</td>
<td>248</td>
</tr>
<tr>
<td></td>
<td>21%</td>
<td>29%</td>
<td>9%</td>
<td>6%</td>
<td>62%</td>
<td>71%</td>
<td>70%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1997</td>
<td>4,480</td>
<td>2,987</td>
<td>2,729</td>
<td>432</td>
<td>826</td>
<td>202</td>
<td>1,701</td>
<td>1,903</td>
<td>264</td>
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<tr>
<td></td>
<td>16%</td>
<td>30%</td>
<td>7%</td>
<td>6%</td>
<td>62%</td>
<td>70%</td>
<td>70%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1998</td>
<td>4,968</td>
<td>3,451</td>
<td>3,124</td>
<td>412</td>
<td>827</td>
<td>257</td>
<td>2,040</td>
<td>2,297</td>
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<tr>
<td></td>
<td>13%</td>
<td>26%</td>
<td>9%</td>
<td>6%</td>
<td>65%</td>
<td>74%</td>
<td>74%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1999</td>
<td>5,017</td>
<td>3,787</td>
<td>3,545</td>
<td>526</td>
<td>833</td>
<td>305</td>
<td>2,407</td>
<td>2,712</td>
<td>403</td>
</tr>
<tr>
<td></td>
<td>15%</td>
<td>23%</td>
<td>9%</td>
<td>6%</td>
<td>68%</td>
<td>77%</td>
<td>77%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2000</td>
<td>5,495</td>
<td>4,776</td>
<td>4,456</td>
<td>—</td>
<td>1,437</td>
<td>474</td>
<td>2,545</td>
<td>3,019</td>
<td>—</td>
</tr>
<tr>
<td></td>
<td>32%</td>
<td>11%</td>
<td>11%</td>
<td>5%</td>
<td>57%</td>
<td>68%</td>
<td>68%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>—</td>
<td>—</td>
<td>6,706</td>
<td>2,250</td>
<td>4,624</td>
<td></td>
<td></td>
<td></td>
<td>1,217</td>
</tr>
</tbody>
</table>

NOTE: "Leavers" (Column D) refers to lawyers who stop registering to renew their license to practice. "Movers" (Column F) refers to those moving to another firm. "Stayers" (Column G) refers to those staying in the same firm. The population of lawyers in each year consists of lawyers who entered their first law firm (new entrants), lawyers who moved into a firm from a different firm (movers), and lawyers who stayed in the same firm (stayers). The sum of these three categories (Column D + Columns F + Column G) equals the total lawyer population. The lawyer population is also calculated as the population of the previous year minus the previous year's leavers plus the current year's new entrants. Yearbook data correspond to the figures presented in Table M.1.
The risk of making a move to another firm is in large measure a function of exposure. After one year in the bar, 92 percent of lawyers survived the risk of switching firms. After four years, the proportion surviving the risk had dropped to 74 percent. Survival rates vary significantly by the firm characteristics. Figure 8.4 shows that four years after entering the bar, 80 percent of lawyers in firms that survive (i.e., that do not disappear) do not switch firms, while only 18 percent of lawyers in firms that fail (or change names) do not switch firms (all of whom therefore exit the bar).

Figure 8.4. Lawyer Survival Rates of Lateral Inter-Firm Moves by Law Firm Survival, Beijing, 1995–2000

Lawyers in large firms are significantly less likely to move than lawyers in small firms. As we can see in Figure 8.5, among lawyers in the bar for four years, 84 percent in firms that grow in scale survive the risk of switching firms, while only 66 percent in
firms that shrink or stay the same size do not switch firms. Finally, firm size is a significant predictor of lateral moves. After four years at risk of switching firms, 82 percent of lawyers in large firms (30–110 lawyers) will survive the risk, while in small firms (less than 10 lawyers), only 66 percent of lawyers will survive the risk (results not graphed, but see Table H.4).

**Figure 8.5. Lawyer Survival Rates of Lateral Inter-Firm Moves by Law Firm Size Change, Beijing, 1995–2000**

![Graph showing lawyer survival rates by firm size change over 5 years of analysis time.]

NOTE: Kaplan-Meier survival estimates.

**Discussion**

It is worth again emphasizing the need to be careful about how to interpret "exits" from the bar. Exits include all lawyers who disappear from the Beijing lawyer rosters. This includes lawyers who left Beijing to practice law in another city. It includes lawyers who
died or retired. It includes lawyers who moved to a foreign law firm's representative office. It includes lawyers who failed to register (perhaps in protest of the high registration fees). Some lawyers may have been excluded from the roster owing to human error or a technical glitch. An incorrect character in a name caused by a data entry error, for example, would cause a lawyer to appear to have exited.

Another possibility—albeit a far-fetched one—is that the unusually high attrition rate during this period was, at least to some degree, a cohort effect. When lawyers were first revived in 1979 and the early 1980s, a significant proportion were recruited from the ranks of lawyers who had practiced in the 1950s and from law students who graduated in the 1960s and never had a chance to practice given the abolishment of the system of lawyers during the Cultural Revolution. When they entered the bar in the early 1980s, the youngest members of these cohorts would have been in their early forties, and would have likely been retiring in significant numbers in the mid-1990s. Additionally, the specially-appointed lawyer, who was older to begin with, was phased out starting in the early 1990s and eventually abolished altogether in 2000. However, given the small numbers in these groups as a proportion of all lawyers in the mid-1990s, I greatly doubt that they can explain a significant amount of the extraordinarily high attrition rate in the Beijing bar. It is very unlikely that the 43 percent of the lawyers observed entering before the year 2000 failing to survive to the year 2000 can be explained by retirements and moves outside Beijing.