

# GRIEVANCES, CLAIMS, AND DISPUTES: ASSESSING THE ADVERSARY CULTURE

RICHARD E. MILLER\*  
AUSTIN SARAT

The existence of a dispute has typically been the starting point for inquiries into dispute processing and resolution. This paper explores the origins of disputes in grievances and claims. It reports on a survey of households estimating the rates of grievances, claims, and disputes which could have been processed by a civil court of general jurisdiction. The paper also explores multivariate models of the probabilities that households experience substantial grievances, that claims for redress are made, and that disputes result. The models assess the contributions of household and problem characteristics to these transitions. By treating disputes as problematic outcomes of injurious experiences, the paper contributes to an assessment of the adversariness of American society.

## I. INTRODUCTION

What is the origin of disputing? How do disputes develop? At what rate are different problems transformed into disputes? These questions are rarely addressed (but see Felstiner *et al.*, 1981), despite the centrality of the study of disputes in the sociology of law and the growing body of empirical work about the disputing process (Abel, 1980a: 813). The emphasis of the dispute processing perspective has been on the linkage between law and legal institutions and a broader array of dispute processing mechanisms. But this perspective has limited our understanding of disputing as a social process.

Disputes are generally taken as givens. The existence of a dispute typically becomes the starting point for inquiry into its subsequent development and resolution (Mather and

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Yngvesson, 1981). The origins and content of disputes are seldom considered. The occurrence of disputes or the social context of disputing is seldom a subject of inquiry.<sup>1</sup> One result has been a virtually complete isolation from theories which themselves focus on the meaning of disputing and its consequences in American society.

We have often framed the study of disputing as an inquiry into choice processes (see, for example, Sarat, 1976). Dispute processing mechanisms are described; their characteristics become an important part of the calculus of choice. Courts, for example, are said to provide all-or-nothing decisions (Aubert, 1967) in which one party is vindicated and the other found to be blameworthy. People with ongoing relationships are, as a result, unlikely to choose to bring their disputes to court (Macaulay, 1963).

One of the most important characteristics of dispute processing is the degree to which it emphasizes or requires adversariness (Aubert, 1963; Katz, n.d.: 9; Felstiner *et al.*, 1981). The comparison of mediation and other techniques is frequently structured as a comparison between conciliation and contention. Criticism is often directed against legal professionals and legal processes for unnecessarily intensifying hostility between disputants (Sander, 1976; Danzig, 1973). As Simon (1978: 115) describes it, this intensification occurs because lawyers treat disputes through the adversarial forms prescribed by the legal order and thus remove them from their natural context (for examples in a specific context, see O'Gorman, 1963).

Many theoretical statements about dispute processing reflect this concern for its adversarial elements (see Abel, 1973; Felstiner, 1974; Galanter, 1974; Sarat and Grossman, 1975; Aubert, 1963). Theories of dispute transformation examine techniques for "heating up" or "cooling down" disputes (Felstiner *et al.*, 1981; Mather and Yngvesson, 1981). Dispute processing researchers typically favor methods of resolution which minimize adversarial elements; informality and reconciliation are preferred over formality and coercion (e.g.,

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<sup>1</sup> This is, of course, not true of most anthropological studies of law (Nader and Yngvesson, 1973; Koch, 1979; Gulliver, 1969). It is also not true of some who are interested in disputing as a dynamic social process (Felstiner *et al.*, 1981).

Danzig and Lowy, 1975).<sup>2</sup> Dispute processing research has thus acquired its own ideology which, apart from its intrinsic merits, further obscures the social context of disputing. It denies, implicitly, that disputes and disputing are normal components of human association.

Disputes begin as *grievances*. A grievance is an individual's belief that he or she (or a group or organization) is entitled to a resource which someone else may grant or deny (Ladinsky and Susmilch, 1980: 5; Katz, n.d.). People respond to such beliefs in various ways. They may, for example, choose to "lump it" so as to avoid potential conflict (Felstiner, 1974). They may redefine the problem and redirect blame elsewhere. They may register a *claim* to communicate their sense of entitlement to the most proximate source of redress, the party perceived to be responsible. As Nader and Todd (1978: 14) suggest,

The grievance or preconflict stage refers to a circumstance or condition which one person . . . perceives to be unjust, and the grounds for resentment or complaint. . . . The grievance situation . . . may erupt into conflict, or it may wane. The path it will take is usually up to the offended party. His grievance may be escalated by confrontation; or escalation may be avoided by curtailing further social interaction. . . .

Consumers, for example, make claims when they ask retailers to repair or replace defective goods. Claims can be rejected, accepted, or they can result in a compromise offer.

If the other party accepts the claim in full and actually delivers the resource in question in a routine manner ("Yes, we'll repair your new car; just bring it in"), there is no dispute. Outright rejection of a claim ("The car was not defective; it broke down because of your misuse") establishes an unambiguous dispute; there are now two (or more) parties with conflicting claims to the same resource. A compromise offer ("We'll supply the parts if you will pay for the labor") is a partial rejection of the claim, which initiates negotiation, however brief, and thus constitutes a dispute. A delayed reaction by the claimee construed by the claimant as resistance is considered to be a rejection of the claim. Encountering difficulty in obtaining satisfaction of an ostensibly accepted claim also creates a dispute. *A dispute exists when a claim based on a grievance is rejected either in whole or in part.* It becomes a civil legal dispute when it involves rights or resources which could be granted or denied by a court.

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<sup>2</sup> Recent revisionist work on mediation suggests that mediation, at least in the United States, all too often fails to achieve conciliation. As a result, revisionists believe that either it must be reformed or still other techniques tried (see Felstiner and Williams, 1980; Tomasic, 1980; Merry, 1980).

Table of Definitions

	Belief that one is entitled to a resource controlled by another party	Voicing that belief to the other party	Rejection of claim	"Litigable" claims
Grievance	X			
Claim	X	X		
Dispute	X	X	X	
Civil legal dispute	X	X	X	X

Our task is to describe and explain the incidence of grievances, claims, and civil legal disputes.<sup>3</sup> We are, of course, not the first to be interested in the generation of disputes. Previous studies can be summarized under three main categories. The first group is that concerned with particular types of disputes. The most important of these studies have been concerned with consumer product quality or consumer debt problems; others have focused on automobile accidents.

<sup>3</sup> Disputes may be bilateral, at least in our view, wholly contained within dyadic relationships. Indeed, most of the dispute processing experiences in any society consist of disputes which have no public aspect to them unless or until some third-party processing is invoked. By accepting that disputes may exist within dyads, we depart from a tradition of anthropological research which defined disputes as having a public aspect. Gulliver (1969: 114), for example, argues that "... no dispute exists unless and until the right-claimant, or someone on his behalf, actively raises the initial disagreement from the level of dyadic argument into the public arena. . . ." In another place Gulliver writes (1979: 75) that disagreements are conflicts concerning relationships or what to do in particular matters of interest which are dealt with:

[B]y dyadic and private problem solving between the parties themselves. There is a general, repetitive process of dyadic adjustment, whether that leaves the relationship more or less as it was or whether it changes or reinforces that status quo . . . A dispute becomes imminent only when the two parties are unable and/or unwilling to resolve their disagreement. . . . A dispute is precipitated by a crisis in the relationship. That crisis comes from the realization by at least one party that the dyadic adjustment is unsatisfactory or impossible and that the continued disagreement cannot be tolerated. That person, therefore, attempts to take the disagreement out of the private, dyadic context and to put it into a public domain with the intent that "something must be done."

What is meant by putting a disagreement into the public domain is made clear by Nader and Todd (1978: 15): "... the *dispute* stage results from escalation of the conflict by making the matter public. A third party . . . is now actively involved in the disagreement . . . . Thus, the dispute stage is at least triadic and involves a third party who intervenes . . . [emphasis in original]."

We reject these definitions for several reasons. First, while they introduce a useful analytic distinction between disagreements and disputes, they do so in order to suggest the abnormality of disputing. In our view disputing is neither

The study of consumer grievances and the reactions to those grievances is a vast enterprise. Little of it has penetrated into the sociology of law literature (see, for example, Day, 1977; Hunt, 1977; Warland *et al.*, 1975; King and McEvoy, 1976). Table 1 summarizes six of the best-known studies of consumers plus one study of automobile accident problems. Comparisons are difficult. First, the studies did not employ precisely similar definitions of each component of the disputing process. Second, the precise type of problem, as well as the sample employed, varies considerably from study to study. What Table 1 does reveal, however, is a wide range of variation in the willingness to make a claim in response to a grievance. Most of these studies ignore the dispute phase; they ask whether or not consumers complain about their problems and whether responses to their complaints are more or less satisfactory, but not whether their complaints led to disputes.

A second kind of study which provides useful data on the antecedents of disputes goes by the label "legal needs" (see Curran, 1977; Clark and Corstvet, 1933; Koos, 1949; Mayhew and Reiss, 1969; Abel-Smith *et al.*, 1973; Cass and Sackville, 1975; Schuyt *et al.*, 1976; Levine and Preston, 1970). This type of research seeks to document the incidence of a range of problems for which the law is assumed to provide some remedy. The goal is to measure the extent to which legal services currently play a role in dealing with those problems and, implicitly, to assess the market for expansion of such services (see Marks, 1976). In our terms, the baseline against which the legal needs studies assess the market for legal services is a mix of grievances ("Do you believe you yourself have ever been denied a job, or promotion in your job, because of your race, sex, age, nationality, or religion?" [Curran, 1977: 309]), disputes ("Have you . . . ever made a major purchase—such as a freezer, boat or car—and had a serious disagreement with the seller over the quality or condition of the goods purchased. . . ." [Curran, 1977: 302]), and routine transactions (e.g., drawing up a will). The failure of legal needs research to clearly define an unmet legal need (Lempert, 1977: 176-178)

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abnormal nor necessarily dangerous to relationships. The volatility of relationships is, of course, a variable and is one which should be made problematic. Second, by locating the defining traits of disputing in their public aspect, such definitions remove from the scope of dispute processing research much bilateral behavior, behavior which we suspect is the most frequent mode through which disputes are processed and/or terminated. Third, while such definitions may be necessary and appropriate for an observational methodology which requires behavior in public as its data source, they are neither necessary nor appropriate for survey techniques which do not rely on such behavior.

Table 1. Results of Selected Problem-Specific Studies

Study	Sample	Grievance Rate	Claim Rate	Dispute Rate	Litigation Rate	Success Rate
Best and Andreasen (1977) (Consumer problems)	34 cities N=2419	20%	33%	X	X	60%
Caplovitz (1963) (Low-income consumers' problems)	New York City N=464	60%	40%	X	X	"few"
Hunting and Neuwirth (1962) (Automobile accidents)	New York City N=640	X	87%	X	X	79%
King and McEvoy (1976) (Consumer problems)	National N=2513	32%	72%	X	X	60%
McNeil <i>et al.</i> (1979) (Used car problems)	Iowa, Wisconsin, Minnesota N=1212	45%	60%	X	X	"most"
Ross and Littlefield (1978) (Household appliance problems)	Denver N=398	20%	80%	X	X	82%
Warland <i>et al.</i> (1975) (Consumer problems)	National N=1215	35%	50%	X	X	X

makes it difficult to use in studying grievances, claims, and disputes.

The most comprehensive legal needs study (Curran, 1977) reports that across a range of 29 problems, the mean number of “problems” per respondent was 4.8. The proportion of households which have ever experienced these problems varied significantly according to the type of problem, ranging from less than 10 percent for problems involving violations of constitutional rights to over 50 percent for torts (1977: 103). More than 80 percent of those who experienced a problem reported taking action to deal with it. The concept of taking action is quite broad: the number reporting taking action varied considerably, from a low of approximately 25 percent in landlord problems to about 95 percent experiencing tort or post-divorce problems (1977: 136). Use of a lawyer—a subset of taking action—displayed similar patterns of problem-specific variation. Despite the difficulty of fixing the precise meaning of “problem,” this work is valuable for its scope and explicitly comparative focus.

A third type of research on the antecedents of disputes follows the ethnographic method of legal anthropology (see Koch, 1979). Concentrating on one community or one neighborhood, this research examines the emergence and processing of a range of disputes, some primarily economic in nature, some whose object is interpersonal, and some with more overtly political overtones (for examples see Engel, 1980; Merry, 1979; Baumgartner, 1980b; Buckle and Thomas-Buckle, 1980). Ethnographic studies of American communities have uncovered varying patterns and styles of contentiousness in different types of communities. Merry (1979), for example, describes avoidance, “endurance,” the threat of violence, and actual violence in a poor urban neighborhood. Baumgartner (1980), on the other hand, finds a sharp division in responses to grievances in a middle-class suburban community. Where the grievance arose in ongoing relationships—among family members, for example—confrontation was infrequent and matched by a clear desire to keep the problem quiet. Other types of problems evoked a more positive confrontational response.

## II. DISPUTING AND THE ADVERSARY SOCIETY

The manner and rate at which disputes are generated is sometimes taken as an indicator of societal “health.” This view is most characteristic of the work of historians writing after

World War II (see particularly Hofstadter, 1948; Hartz, 1955). They presented a picture of American society as a stable balance between conflict and calm, a society in which all disputes were resolved within a framework of consensus. Some may question the validity of that picture as a description of *any* period in American life (see Potter, 1971; Bell, 1976), but the experience of the last two decades has certainly undermined both the social basis upon which the balance of conflict and calm may have existed (Kristol, 1978: Ch. 7) and its viability as an ideology or a system of legitimizing beliefs (Gross, 1980: Ch. 12). We increasingly hear the voices of those who perceive and fear the growth of an "adversary society" (e.g., Rehnquist, 1978), a society of assertive, aggressive, rights-conscious, litigious people ready and eager to challenge each other and those in authority (see Huntington, 1975; Nisbet, 1975; Kristol, 1979). Images of our allegedly unprecedented assertiveness, of the ingenious ways which we have found to fight each other, flow through the popular culture, from *New Yorker* cartoons about children threatening to sue their parents for forcing them to drink their milk to palimony suits against celebrities.

There is, of course, another view of contemporary American society, a view which suggests that we are, in fact, relatively uncontentious and even passive (see Steele, 1977: 675; Sarat, 1977: 448-454; Nader and Serber, 1976). Americans are said to be reluctant to admit that their lives are troubled and conditioned to accept circumstances and treatment which are far from ideal (see Lindblom, 1977: 208-213). Since our institutions respond slowly, inefficiently, and reluctantly, we learn not to complain, not to pursue our grievances or claim our rights. Even when we do, we find that appropriate institutions do not exist (Nader, 1980). As our society becomes ever more complex and expansive, it becomes easier to avoid conflict or to ignore it merely by moving on (Felstiner, 1974). People unable or unwilling to assert their rights or defend their interests may be easily victimized by self-interested organizations seeking to perpetuate a social and economic status quo (Nader and Serber, 1976). Proponents of this view typically question the adequacy of existing political, social, and economic arrangements to achieve justice.

It is ultimately both an empirical question and a matter of definition as to whether ours is a society of rights consciousness and conflict, or one of acquiescence and equilibrium. Arguments about the level and consequences of



conflict in American society, to the extent that they are based on data at all, are often rooted in comparative analyses (e.g. Ehrmann, 1976) or cyclical interpretations of history (Potter, 1971). But there is another approach which might be employed to describe and assess levels of conflict in the United States. Lempert (1978: 98, 135) has suggested that the occurrence of particular types of conflict can be measured against a pre-established baseline. The baseline might be a measure of the number of transactions of a particular type, the number which result in injury, or the number which result in grievances and the making of claims. For example, the level of conflict about the quality of medical care might be measured by comparing the quantity of medical service—e.g., visits to doctors—to the amount of conflict generated by such services—e.g., the number of medical malpractice suits. Malpractice suits might also be compared to some measure of medical ineptitude such as rates of unnecessary or unsuccessful surgery. The baseline approach seeks to identify the realization of a social condition—e.g., conflict—against its potential.

We employ such an approach to describe and analyze the generation of disputes in American society. This paper presents a conceptual map of the process of dispute generation and develops empirical estimates of the incidence of grievances, claims, and disputes. We also present and test a variety of propositions about the generation of disputes. The data are neither fully comprehensive<sup>4</sup> nor the most appropriate for testing the adversary society argument, but they are relevant to, and illustrative of, the central themes in that argument.

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<sup>4</sup> To forestall misinterpretation of the data obtained from our Household Screening Survey, it is appropriate to set forth clearly and openly what is not claimed or intended. The survey *does not constitute a definitive estimate of households' incidence rates of all grievances, claims, and disputes*, for at least the following reasons:

a) The role of the survey in the CLRP's research design was to identify civil legal disputes which could be processed bilaterally and which involved a household member acting as a private individual in a nonbusiness capacity. (These disputes were the subject of lengthy followup interviews, which were also administered to other disputants sampled from court records and non-judicial third-party institutions.) Therefore, the survey did not cover a definitive list of possible problem areas for individuals and ignored the problems of groups, organizations, or other collectivities. Restricting our focus to civil legal disputes eliminated many kinds of troublesome experiences. Intra-household conflicts were ignored; few such conflicts (at least at the present time) are resolved by the courts. Problems with business or rental property, difficulties in collecting fees for professional services, and problems

### III. SAMPLE AND METHODOLOGY

Data for this article are derived from a telephone survey of households conducted as part of the Civil Litigation Research Project (see Kritzer, 1981; Trubek, 1981). That project was designed to explore the contribution of courts to civil dispute processing and to describe and explain patterns of investment in disputing and dispute processing. The survey was administered in January, 1980, to approximately 1,000 randomly selected households in each of five federal judicial districts: South Carolina, Eastern Pennsylvania, Eastern Wisconsin, New Mexico, and Central California.

The survey sought to identify the occurrence in the general population of civil disputes of the type that might be brought to the courts or nonjudicial alternatives. Our approach was to focus on three stages of the disputing process: grievances, claims, and disputes. In the grievance stage an injurious experience is perceived as a problem, and some other party is blamed for it. While recognition of problems and attribution of causes are in theory separate activities (see also Coates and Penrod, 1981), we are unable, because of our retrospective research design, to treat them as such. Respondents were asked whether anyone in their household had experienced one or more of a long list of problems within the past three years and, if so, about how that problem was handled.<sup>5</sup> Where

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encountered on behalf of businesses, professions, or organizations generally, were excluded by the restriction to private, non-business problems.

b) Disputes in which courts *must* play some role, such as suits for divorce or estate settlements, were excluded because they could not be bilateral disputes.

c) The survey was conducted in five judicial districts. Even though these districts were chosen for their geographic and demographic diversity, they are not a random sample of the nation.

d) Additional biases include ignoring households and individuals without telephones and relying on one person to report the experiences of all in the household.

<sup>5</sup> The use of a fixed list of problems to inquire about disputing (e.g., Curran, 1977) has been subject to some important theoretical and methodological criticism. Raymond Marks (1976: 195) argues, for example,

Such a technique has a built-in bias that cannot easily be avoided: a problem is legal because the researcher says it is. The researcher inevitably draws heavily upon his knowledge of or sense about what people have used lawyers for in the past. This also has elements of a legal intelligence test. . . . The approach, in other words, is norm referenced for legal services users. It carries with it the possibility that those who did not take problems to a lawyer will not admit to having had the problems.

Marks' argument suggests, first, that the fixed list approach is inherently conservative in that it concentrates on problems already defined as legal and does not inquire about problems which might someday become legally cognizable. We think that this criticism is important but not dispositive. The household screening survey from which our data is taken was designed to find and identify bilateral civil legal disputes—that is, disputes for which there were available legal remedies, but which were not brought to courts or nonjudicial

possible the interviewer tried to establish whether a household was significantly *at risk* of a particular type of grievance.<sup>6</sup> In addition, for most problems they were asked whether that problem involved \$1,000 or more. This threshold served as an operational definition of the kind of “middle-range” disputes which were the exclusive preoccupation of the Civil Litigation Research Project.<sup>7</sup>

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dispute processing institutions. This is a kind of market research, an inquiry into how much of the universe of currently defined dispute processing business is being handled by existing institutions. We recognize that the parameters of that business are quite volatile, and we do not believe that only currently recognized disputes are legitimate. Our interest, however, remains one of assessing disputing and its precursors within the frame of an interest in legal institutions.

Not only do the problems included in a fixed list represent a potentially biased subgroup of problems people face, but Marks also argues that those who have not used the legal system will under-report the incidence of problems that are on the list. Indeed, there is reason to believe that even some legal services users are reluctant to discuss their problems with a telephone interviewer. Our interest in legal institutions makes the question of bias most salient, however. We tried to avoid the bias Marks describes by careful question sequencing. All probes were reserved until the end of the entire list of problems so that respondents were not cued to our interest in dispute development and dispute processing (and to the consequent lengthening of the interview's duration) until after they had identified their grievance experiences.

Another source of bias is more difficult to address. It is perceptual in nature, arising from the factors which lead some people to label a situation as a problem while others perceive or define the identical situation as something else (Felstiner *et al.*, 1981). We inquired about objective events when possible (“Were you involved in any auto accidents?”), but most problems have to be labeled as such by the respondents, and for some problems, such as discrimination, the labeling process may be quite subjective.

<sup>6</sup> Households differ in both degree and type of exposure to risks of grievances, depending upon the amount and the kinds of interaction they have with the outside world. People who do not rent, for example, cannot have landlord-tenant problems: they are not in a relationship from which such problems could arise. The more a person drives a car, the higher the risk of an auto accident, all else being equal. We ascertained the following kinds of risks: owning real property, owning a home built within the last five years, holding a mortgage, having recent home repair work, renting a home or apartment, being divorced, and owning property jointly with someone outside the household.

<sup>7</sup> Many grievances, such as those involving torts or debts, had clear monetary stakes. We asked respondents to estimate the potential or actual value of some other types. For example, those reporting consumer grievances were asked “Would it have taken \$1,000 or more to resolve the problem, including other expenses it may have caused?” Appendix I notes which grievances were monetized; grievances involving less than \$1,000 were screened out. Some other kinds of grievances could not easily be monetized. We judged that discrimination grievances involving employment—being denied a job or promotion, losing a job, being paid less, and so on—were very likely to entail damages of at least \$1,000. Similarly, problems collecting government benefits or obtaining government services and post-divorce problems with child support or alimony were likely to involve the minimum stakes over time. Other types of discrimination (schooling or housing) or post-divorce (child custody, visitation) problems and civil rights violations were judged to be of a serious enough nature to qualify as middle-range. Similarly, property problems such as questions about zoning or boundary lines were included. Landlord grievances were limited to “serious problems.” We reviewed many cases with nonmonetary stakes, and relatively few had values below the minimum, as judged, for example, by their appropriateness for a small claims court.

About 40 percent of households sampled reported at least one grievance for which the time frame and amount at issue criteria were met. Those who reported a grievance were asked whether they had sought redress from the allegedly offending party, indicating that the claims stage had been reached. Finally, we inquired about the result of that claim. Did the parties reach an agreement? If so, was there any difficulty involved? An unresolved claim or one resolved only after initial resistance was overcome was recorded as a dispute.<sup>8</sup>

Supplementary questions sought information about the timing, nature, and results of reported disputes. Respondents were also asked whether either side had used a lawyer or had sought assistance from some other third party. They were asked if they had any prior relationship with the opposing party and, if so, whether that relationship had been changed by the dispute.

In the next two sections, we present our data in two ways. First there is descriptive data on the incidence of grievances, claims, and disputes for each of the types of transactions or events about which we inquired. Additional data describing the success of claims and the frequency with which lawyers and courts are employed in dealing with problems are also presented. In this descriptive section we picture the emergence of disputes in relation to the dispute potential established by grievance and claim rates. A second section presents multivariate analyses of the incidence of grievances, claims, and disputes as well as of the relative success of claimants in obtaining redress for their injuries. There we test propositions about the factors associated with the occurrence of grievances, claims, and disputes.

#### IV. DESCRIBING THE STRUCTURE OF CONFLICT: GRIEVING, CLAIMING, AND DISPUTING

##### *Grieving*

Disputes emerge out of grievances. Consequently we look first to the incidence of grievances to establish the baseline potential for disputes. There is, however, a conceptual problem. Grievances are composed of concrete events or circumstances which are relatively objective, but they are also

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<sup>8</sup> This operational definition of a dispute differs from the conceptual definition offered earlier, which added that a compromise agreement indicates a partially rejected claim and thus a dispute, however brief. The result is a conservative estimate of dispute rates.

Table 2. Grievances, Claims, and Outcomes: Rates by Type of Problem<sup>a</sup>

All		Grievances	Torts	Consumer	Debt	Discrimination	Property	Government	Post-Divorce	Landlord
		41.6% (5147)	15.6% (5147)	8.9% (5147)	6.7% (5147)	14.0% (5147)	7.2% (3798) <sup>c</sup>	9.1% (5147)	10.9% (1236) <sup>c</sup>	17.1% (2293) <sup>c</sup>
Grievances <sup>b</sup> (Percents of Households)										
Claims	71.8 (2491)	85.7 (559)	87.3 (303)	94.6 (151)	29.4 (595)	79.9 (193)		84.9 (240)	87.9 (51)	87.2 (307)
Terminated Grievances)										
Disputes:										
(Percents of Claims)										
a. No Agreement	32.0	2.6	37.1	23.9	58.0	32.1		40.7	37.7	55.0
b. Agreement After Difficulty	30.6	20.9	37.9	60.6	15.5	21.8		41.4	49.3	26.7
c. Dispute	62.6 (1768)	23.5 (467)	75.0 (263)	84.5 (142)	73.5 (174)	53.9 (154)		82.1 (203)	87.0 (45)	81.7 (267)
Lawyer Used <sup>d</sup> (Percent of Disputes)	23.0 (1100)	57.9 (107)	20.3 (197)	19.2 (120)	13.3 (128)	19.0 (84)		12.3 (163)	76.9 (39)	14.7 (218)
Court Filing <sup>d</sup> (Percent of Disputes)	11.2 (1093)	18.7 (107)	3.0 (197)	7.6 (119)	3.9 (128)	13.4 (82)		11.9 (159)	59.0 (39)	7.3 (218)
Success of Claims (Percent of Claims)										
a. No Agreement (0)	32.0	2.6	37.1	23.9	58.0	32.1		40.7	37.7	55.0
b. Compromise (1)	34.2	85.4	15.2	23.5	11.3	9.7		18.3	35.5	10.3
c. Obtained Whole Claim (2)	33.8	11.9	47.7	52.6	30.7	56.3		41.0	26.8	34.6
d. Success Scale Mean <sup>e</sup>	1.02 (1782)	1.09 (479)	1.11 (265)	1.29 (142)	0.73 (174)	1.26 (154)		1.00 (203)	0.89 (45)	0.80 (267)

<sup>a</sup> Observations were weighted by the population of each judicial district so that the five samples could be combined. Weights were calculated to preserve the actual number of observations. Numbers in parentheses are the total upon which the reported proportions are based. The miscellaneous "other" category (see Appendix 1) is included in the "all grievances" column but omitted as a separate item from this and subsequent tables (3.5 percent of households reported an "other" grievance).

<sup>b</sup> Proportions are of households reporting one or more grievances of each type.

<sup>c</sup> These are proportions and numbers of households at risk. Households at risk of property problems are those owning their own home, apartment, or land within the three-year period (73.8 percent of all households). Households at risk of post-divorce problems were the 24.0 percent of all households which had a divorced member. The 44.2 percent of households which rented within the three years were at risk of landlord problems.

<sup>d</sup> The number in these rows differ slightly due to missing data.

<sup>e</sup> The success of claims was scaled 0, 1, or 2: 0 if no agreement was reached, 1 if the agreement was a compromise, and 2 if the entire claim was met.

composed of subjective perceptions, definitions, and beliefs that an event or circumstance is unwarranted or inappropriate (Coates and Penrod, 1981; Felstiner *et al.*, 1981). Individuals may react differently to the same experience. One buyer of a defective good may find it unacceptable and remediable; another may regard the bad purchase as “inevitable” and “lump it” or write it off to experience. According to our definition, the first individual has a grievance; the second does not. Grievance rates reflect both the occurrence of certain events and a willingness by the participants to label those events in a particular way. Care must be taken to avoid confusion between the expressed rate of grievances among our survey respondents (as well as the claims and dispute rates which flow from it) and the degree of injury which they may be said to have suffered.

The survey began by asking about the occurrence of 33 types of problems.<sup>9</sup> These have been aggregated into nine general categories (see Appendix 1). The first line in Table 2 shows the percentage of households reporting grievances of each type.<sup>10</sup> Slightly over 40 percent of the households in our sample had some middle-range grievance within the three-year period surveyed; approximately 20 percent reported two or more different grievances. We cannot say whether this number is high or low, since there is no baseline of potential grievance-generating events or relationships against which to compare that number. However, two things can be said. First, experiencing significant grievances is by no means a rare or unusual event. Smaller grievances no doubt occur more often, larger ones less frequently. Second, the incidence of middle-range grievances provides a substantial potential for conflict.

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<sup>9</sup> Problems involving less than \$1,000 were usually screened out early in the interview (see Appendix I and note 7). There were very few which involved more than \$10,000. Our probing of problems was limited to those which occurred during the past three years in order to minimize difficulties of recall, which a pretest showed begins at about that point.

<sup>10</sup> The household was the aggrieved party in most cases for several reasons. Fully twenty-two of the thirty-three specific problems for which we probed were household grievances by their nature; eight could involve a grievance both of and against the household; and three involved grievances against the household. This apparent bias largely reflects our focus on disputes arising from members acting in a private non-business capacity. It also reflects our methodological expectation that households would under-report grievances against themselves, an expectation that seems to have been accurate. For example, 2.8 percent of the households reported some property damage or personal injury other than auto accidents “through the fault of someone else” which involved over \$1,000. In contrast, only 0.5 percent reported that a household member had “been accused of injuring anyone or of damaging someone else’s property, either accidentally or on purpose.”

The range of reported grievance experience varies considerably. On the low end, 6.7 percent of the households surveyed reported a grievance arising out of the payment or collection of debts, while 17.1 percent of the households which rented had experienced grievances in dealing with landlords. The range and distribution of grievances reported in Table 2 is quite similar to what has been found in other studies, both in the United States and abroad (cf. Curran, 1977; Sykes, 1969; Abel-Smith *et al.*, 1973; Cass and Sackville, 1975). Grievances involving racial, sexual, age, or other discrimination in employment, education, or housing were reported by 14 percent of the households. It is likely that the level of discrimination grievances has risen in recent years as a result of increased public awareness and sensitivity to this type of problem, although we cannot confirm this with longitudinal data. At the same time, public attention to the problem of discrimination may have produced a decline in instances of discriminatory behavior. Here again we recognize the problematic relationship between experience and perception in the generation of grievances and the evaluation of grievance rates.<sup>11</sup>

### *Claiming*

Given the perception that some event or circumstance is unacceptable and remediable, we can ask how assertive those who experience grievances are in seeking a remedy. Possible responses, as previously mentioned, range from avoidance (Felstiner, 1974), through repair without direct confrontation, registering a claim, to a demand for monetary compensation. Unless a claim is made, a dispute cannot occur. Other responses, such as avoidance, may be accompanied by feelings of bitterness or resentment which could lead to later conflict.

The second line of Table 2 shows that claiming is a frequent response to middle-range grievances.<sup>12</sup> Apart from

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<sup>11</sup> One reason for this relatively high grievance rate may be that the survey was careful to remind respondents both of a number of potentially illegal discriminatory grounds ("... race, sex, age, handicaps, union membership") and of discriminatory actions ("Have you or anyone in your household been denied a job or promotion or lost a job because of discrimination? ... had any problems with working conditions or harassment, or being paid less? ... had any other employment problem because of discrimination? ... any problem with discrimination in schooling or education? ... in buying or renting housing? ... any other problems of discrimination because of race, sex, age or anything else?").

<sup>12</sup> Only grievances which were settled or abandoned at the time of the interview were pursued in later sections of the questionnaire because of the sampling goal of locating *terminated* disputes. Thus the proportions are probably underestimated, since making and processing a claim extends the

discrimination problems, there is considerable uniformity in behavior across problem types. The range of claiming fluctuates between 79.9 percent (real property) and 94.6 percent (debts). While most of the problems are substantial (see note 9), there is, nevertheless, considerable variation between problem types in stakes, situations, and the configuration of the parties. This variation makes the uniformly high claiming rates all the more significant.

The one exception to this pattern is found among discrimination grievants, of whom only 29.4 percent made a claim. This finding is not entirely surprising. Curran reports virtually the same proportion of job discrimination grievants "taking some action" (1977: 137). There are several explanations for this anomaly. First, it may be that remedies for discrimination are less available and accessible than those for other types of problems. The evidence is mixed. Remedial devices such as equal opportunity commissions are not recent developments (Mayhew, 1968). Indeed, a review of specialized nonjudicial dispute processing agencies in the five geographic areas covered by our survey found that for discrimination problems there are "many alternatives available with low access costs" (Anderson, 1980: 15). The assertion that a lack of available mechanisms for processing rejected claims may explain many cases where grievances are lumped or endured (Nader, 1980) is challenged by this finding. But, availability is not accessibility; just because mechanisms exist does not mean that they are, in fact, attractive to, or usable by, people seeking redress. This seems especially true in the discrimination area where available mechanisms have been found to be inefficient and ineffective (Crowe, 1978).

Perhaps people do not make claims unless they feel confident that something can be done should the claim be accepted. Perhaps a lack of assertiveness has more to do with the substance of the problem itself. In discrimination situations it seems easier for those who believe that they have been unfairly denied a job or home just to keep on looking. Securing a job or home is likely to be much more pressing and important than filing a claim for something which is made undesirable by the very act that generates the grievance. "I need a job, and who would want to work there anyway" would not be an inexplicable response. For this reason, the survey

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time a grievance is active. Respondents who asked were told: "By 'over' we mean either an agreement has been reached ending the problem, or no one is doing anything more about it."



asked whether discrimination grievants who made no claim had nonetheless registered a complaint without asking for anything, and we found that an additional 26.6 percent had done so.

Furthermore, there may be some stigma attached to the grievance itself or to the act of assertion. Victims, for example, may blame themselves for the unfair treatment (Ryan, 1971; Coates and Penrod, 1981). In discrimination grievances, especially, victory may turn into defeat. Those who are assertive, even if vindicated, are branded as troublemakers. Furthermore, grievants may be uncertain about the fit between their own perceptions and definitions of grievances and those embodied in statutes or otherwise recognized in their community. Indeed, both the law and popular expectations in this area of relatively new rights appear unsettled. Many who experience discrimination problems are, as a result, uncertain whether their grievance constitutes a sustainable claim.

Whatever the explanation for the low claiming rate for discrimination problems, what remains striking in our data is uniformity, not variation. Our data indicate the existence of a widespread readiness to seek redress of substantial injuries. Contrary to what some believe, Americans are assertive when the stakes are substantial—able and willing to seek redress from wrongdoers.

### *The Incidence of Disputes*

When a claim is made, the allegedly offending party may accept responsibility and accede to the demand for redress. If this happens there is no dispute. Claims are made and promptly satisfied. But resistance may be engendered, responsibility denied. Even if responsibility is accepted, unacceptable levels of redress may be offered. Resistance to accepting responsibility or providing redress establishes adversarial interests.

Table 2 reveals that among the 1768 claims made by respondents experiencing grievances almost two-thirds (62.6 percent) were rejected or resisted and thus resulted in disputes. These disputed claims are almost equally divided between those which were completely rejected and produced no agreement—32 percent of all claims (Table 2, Row 3a)—and those in which initial resistance gave way to some agreement about responsibility and remedy—30.6 percent (Row 3b). The dispute rate of 62.6 percent is subject to many interpretations. We do not have trend data. (Indeed, to our knowledge, ours is

the first attempt to collect and report data of this kind.) It seems, however, safe to say that among middle-range grievances, adversarial relations result in a substantial majority of situations in which claims are made. Whether this is too high or too low, conducive to a healthy social life or deleterious in and of itself, we leave for others to decide.

While problem-specific variation is somewhat greater in disputing than in claiming, here again we are struck by the patterned uniformity among six of the eight problems. Putting aside torts and property matters, the incidence of disputing varied only from a low of 73 percent in discrimination claims to a high of 87 percent in those arising in response to post-divorce problems, with over 80 percent of claims to landlords, former spouses, debtors, creditors, or government agencies leading to disputes. Tort claims are least likely to be contested. This reflects, we believe, a highly institutionalized and routinized system of remedies provided by insurance companies, and the well-established customary and legal principles governing behavior in this area.<sup>13</sup>

### *The Role of Lawyers and Courts*

The language of rights and remedies is preeminently the language of law. One might logically ask where, in all of this, the law and legal institutions play a role. There is relatively little empirical work on the role of lawyers and courts in disputing (see Curran, 1977; Mayhew and Reiss, 1969; Friedman and Percival, 1976a; Sarat and Grossman, 1975; McIntosh, 1981). An assessment of the role of law, legal institutions, and legal services in the development of, or response to, conflict requires us to confront the problem of baselines. We agree with Lempert's (1978: 95) comments about the methodology needed for evaluating the dispute resolution role of courts, and would extend his suggestion to the role of lawyers as well.

A fundamental problem is to develop a measure of judicial involvement in community dispute settlement that can vary over time. . . . For most purposes, the base should relate to the number of occasions on which the court might be asked to settle disputes.

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<sup>13</sup> As we suggested earlier, the most appropriate baseline for measuring disputes seems to us to be provided by the existence of claims. But, one might also want to examine disputing as an outcome of the experience of, or the willingness to acknowledge, having a grievance. While most grievants made a claim for redress, and most claims generated disputes, the overall disputes to grievance ratio is slightly less than 1/2 (44.9 percent). When the disputes to grievance ratio is examined for each type of problem, two types are found to have particularly low ratios: torts, 20.1 percent, reflecting the low rate of disputes relative to claims, and discrimination, 21.6 percent, reflecting the low rate of claiming.

The ideal base is probably the number of cognizable disputes arising within a court's jurisdiction. At any point in time, the degree to which a court is functioning as a community dispute settler could be measured by the percentage of such disputes brought to it for resolution. Unfortunately, information on disputes that are not officially processed is seldom available over time.

Our survey covers only one point in time, but we are able to estimate the rates at which lawyers and courts are used in relation to the number of reported disputes in our sample. Thus we can provide an empirical estimate of the rate of direct participation of lawyers and courts in these middle-range disputes.<sup>14</sup>

Examining Table 2 (Row 4), we find that relatively few disputants use a lawyer's services at all. Lawyers were used by less than one-fourth of those engaged in the disputes we studied. There are, however, two significant exceptions to the pattern. The role of lawyers is much more pronounced in post-divorce and tort problems (cf. Curran, 1977: 143-144). In the former, the involvement of lawyers is a function of the fact that many of these problems, e.g., adjustment in visitation arrangements or in alimony, *require* court action. In the latter, the contingent fee system facilitates and encourages lawyer use.

Few disputants (11.2 percent) report taking their dispute to court. Excluding post-divorce disputes, where court action is often required, that number is approximately 9 percent. These findings do not mean that courts or lawyers play a trivial role in middle-range disputes. Claims are made, avoided, or processed at least in part according to each party's understanding of its own legal position and that of its opponent; that understanding reflects both the advice that lawyers provide and the rights and remedies which courts have in the past recognized or imposed (see Galanter, 1980; Mnookin and Kornhauser, 1979).

### *The Success of Claims*

Overall, 68 percent of those who made a claim eventually obtained part or all of what they originally sought. This is roughly comparable to the results of previous research (see Table 1). Those who claim may do so because they are confident their claims are justified. Indeed, the modal pattern among middle-range grievances is for claims to be made,

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<sup>14</sup> We recognize, of course, that lawyers and courts do more than process such disputes; much of their activity is administrative or aimed at dispute prevention. We also recognize that the role of lawyers and courts may be very different in small or large disputes than it is in the area of middle-range disputes. Nevertheless, our data provide a first, albeit tentative and limited, overview of their role in those disputes.

disputes to result, and agreements to be reached. Claimants who reached an agreement after some difficulty—and so had disputes—were more successful than claimants reporting no difficulty reaching an agreement. Fully two-thirds (66.7 percent) of the first group obtained their whole claim, while only a little over one-third (39.7 percent) of the second got all they asked for. Conflicts, disputes, and difficulties are often engendered by the desire for, and are necessary in order to obtain, complete satisfaction.

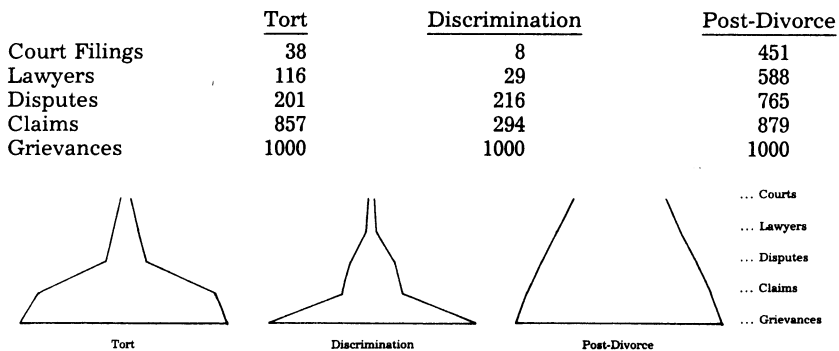
Some important specific variations do, of course, show up in the results of claims. Virtually no tort claimants (2.6 percent) were unable to reach an agreement, but note that, of the 97.3 percent of tort claimants recovering something, very few obtained all of their original claim. One might expect tort claims to be inflated for negotiating purposes, an expectation reinforced by the low proportion reporting any difficulty reaching an agreement. This pattern also suggests an acceptance by claimants of insurance companies' valuations of damage, perhaps reflecting a reluctance to dispute with such organizations.

While most tort claims resulted in a compromise agreement, other claims were much more likely to have all-or-nothing outcomes. To some extent this reflects the nature of many problems. For example, property disputes involving permission to build are not amenable to compromise. Some

Figure 1A. A Dispute Pyramid: The General Pattern  
No. per 1000 Grievances



Figure 1B. Dispute Pyramids: Three Deviant Patterns  
No. per 1000 Grievances



opposing parties were unlikely to offer anything: more than half of all discrimination (58.0 percent) and tenant (55.0 percent) claimants failed to obtain any redress at all. Such claimants are apparently in a particularly weak bargaining position and also may lack effective recourse to any third-party remedy system. We shall take up this point again.

### *Summary*

We can visualize the process of dispute generation through the metaphor of a pyramid (see Figure 1A). At the base are grievances, and the width of the pyramid shows the proportions that make the successive transitions to claims, disputes, lawyer use, and litigation. Figure 1B presents three contrasting patterns—the disputing pyramids for torts, post-divorce, and discrimination grievances.

Torts show a clear pattern. Most of those with grievances make claims (85.7 percent), and most claims are not formally resisted (76.5 percent result in immediate agreement). As a result, disputes are relatively rare (23.5 percent of claims). Where they occur, however, lawyers are available, accessible, and are, in fact, often employed (57.9 percent). Moreover, the same can be said for the employment of courts (at least in comparison with other problems). The overall picture is of a remedy system that minimizes formal conflict but uses the courts when necessary in those relatively rare cases in which conflict is unavoidable (see Franklin *et al.*, 1961; Conard, 1964).

The pattern for discrimination grievances is quite different. Seven of ten grievants make no claim for redress. Those who do are very likely to have their claim resisted, and most claimants receive nothing. Only a little more than one in ten disputants is aided by a lawyer, and only four in a hundred disputes lead to litigation. The impression is one of perceived rights which are rarely fully asserted. When they are, they are strongly resisted and pursued without much assistance from lawyers or courts. Of course, we do not know how many of these or any other grievances would be found meritorious in a court of law. Nonetheless, as perceived grievances, they are a source of underlying tension and potential social conflict.

Post-divorce problems engender high rates of grievances, claims, and disputes, and are characterized by frequent use of lawyers and courts. As a result, almost half of all grievances lead to court involvement. While the court's activity in many, possibly most, of these cases is more administrative than

adjudicative, this is, at least formally, the most disputatious and litigious grievance type we have measured.

Dispute pyramids could be drawn for the other types of problems, but they would all be quite similar: high rates of claims (80 to 95 percent of grievances), high rates of disputes (75 to 85 percent of claims), fairly low proportions using a lawyer (10 to 20 percent of disputants), and low litigation rates (3 to 5 percent of disputants). Indeed, the most striking finding in these descriptive data is again the general uniformity of rates at each stage of the disputing process across very different types of middle-range grievances.

#### V. GRIEVANCES, CLAIMS, AND DISPUTES: ANALYSIS OF VARIATION

In this section we examine models of grieving, claiming, and disputing probabilities and of claims success. Previous research suggests two kinds of factors which might be expected to influence those probabilities. One focuses on the characteristics of the people encountering problems; the other on the characteristics of the problems encountered.

The language of individual competence or capability (see Carlin *et al.*, 1966: 62-63) has been frequently invoked to discuss relevant personal attributes. That language suggests that the incidence of grievances, claims, and disputes varies among people with different levels of personal resources, skills, and relevant experiences. Empirical evidence is mixed (cf. Griffiths, 1977: 260; Curran, 1977: 101-102; Warland *et al.*, 1975; Hunting and Neuwirth, 1962: Ch. 2; Best and Andreasen, 1976: 723; and McNeil *et al.*, 1979: 715-717), but we began our analysis with the expectation that variations in resources, skills, and experiences would be important explanatory variables.

At the grievance stage, we expected that the socially advantaged and the experienced would be better able or more likely to protect their interests and thereby reduce their exposure to incidents with potential for generating disputes. It may be, alternatively, that because they have higher expectations about the quality of their lives they have lower thresholds of grievance recognition and definition (Coates and Penrod, 1981). They should, in any case, be well equipped to make claims for redress. This is partly a matter of knowledge, partly a matter of confidence, partly a matter of resources. When we turn our attention to the results of such behavior—namely, success in achieving compensation or redress and the level of conflict which it engenders—thinking about the effect of

individual differences is more complicated. We expected that resources and experience would work to facilitate such success and to enable an individual to pursue a claim should resistance be encountered.

Critical commentaries suggest (e.g., Felstiner *et al.*, 1981), and previous empirical work (e.g., Curran, 1977) indicates, that the incidence of grievances, claims, and disputes is shaped not only by the qualities of the persons experiencing problems, but also by the problems themselves. What one does about a grievance—indeed, whether one defines an experience as a grievance—is obviously a function of what is at stake and how much or what kind of damage was done. People do not make a federal case out of nothing. This reasoning applies to the responding party as well; the extent to which a claim is resisted should be a function of what and how much is at stake. Typical variations in stakes between different types of problems may well account for problem-specific variations in grievance perception, the registering of claims, and the results of claims.

A second element involves the nature of the party purportedly responsible for particular injustices or injuries. Just as the configuration of parties has been found to be significant in explaining how disputes are handled and the existence of differential patterns of success in dispute processing (see Galanter, 1974), one might expect similar patterns in the pre-dispute phase. To the extent that particular types of parties are associated with particular grievances—e.g., insurance companies in automobile torts—grievance, claim, and dispute rates might vary with the nature of the responding party.

### *Grievance Rates*

What explains differences in the extent to which grievances are experienced, perceived, and acknowledged? To answer this question fully would require a somewhat different research strategy than the one we have employed (see Felstiner *et al.*, 1981). Nevertheless, we can examine the influence of a range of factors likely to be associated with differences in grievance experiences. For example, individuals vary in their exposure to potentially injurious experiences. They engage in different kinds of transactions with different frequencies. Such exposure determines their “risk” of encountering an injurious experience. Homeowners, for example, avoid the risks which tenants incur vis-a-vis

**Table 3. Logit Analysis of Grievance Rates<sup>a</sup>**  
 Derivatives at Mean Proportion Reporting Grievance

Independent Variables	Any Grievance (NS)	Tort (.05)	Consumer (NS)	Debt (.05)	Discrimination (NS)	Property <sup>b</sup> (NS)	Government (.01)	Post-Divorce <sup>b</sup> (NS)	Landlord <sup>b</sup> (NS)
Family Income: (Less than \$10,000)	.04	.04*	.028	.006	.016	-.009	-.028*	.096	.027
Family Income: (\$10,000 to \$20,000)	-.016	.023	.024	-.015	.003	.006	-.012	.016	-.017
Family Income: Greater than \$20,000	-.011	.050*	.021	.007	.013	.002	-.009	.015	-.030
Missing	-.058	-.012	.014	-.035	-.037	-.031	-.076**	.018	-.030
Head of Household	.022**	-.010	.008	-.007	.021**	.010*	.011*	.025*	.012
Education (1-4)	-.007**	-.003**	-.001**	-.002**	-.006**	-.002**	-.002**	-.004**	-.003**
Female	.002	-.016	.026*	.000	.037**	-.006	.001	.006	.050**
Ethnicity: (White)	.083**	.014	-.005	.035**	.101**	-.025	.025	.025	.018
Black	.040	.056**	.003	-.013	.042*	.006	.042**	.016	.016
Hispanic	.074**	.026**	.029**	.020**	.036**	.018*	.001	.015	.060**
Number of Adults (1-3)	-.002	-.021**	.006	.006	-.002	.008	.003	.028**	.003
Number of Children (0-3)	.113**	.066**	.047**	.032**	.055**	.038**	.053**	-.002	.028
Legal Knowledge:	.078**	.031**	.021*	.022**	.051**	.011	.003	.032	.081**
Has Used Lawyer	.068*	.019	.017	.005	.034	-.005	.017	.011	.077*
Knows Legal Worker	.110**	.023	.038**	.039**	.077**	.005	.048**	.037	.111**
Judicial District: (S. Carolina)	.039	-.001	.005	.017	.062*	-.020	.033	.040	.038
E. Pennsylvania	.070*	.005	.016	-.009	.027	.002	.014	.068	.086*
E. California									
E. Wisconsin									
Risk Factors:									
Owned Home	.073**	—	—	—	—	All	—	—	—
Bad Mortgage	.035	—	—	.026**	—	—	—	—	—
Owns the Home	.090**	—	.079**	—	—	—	—	—	—
Had Home Repair Work	.180**	—	.057**	—	—	—	—	—	—
Rented Home	.066**	—	—	—	—	—	—	—	All
Owned Joint Property	.115**	—	—	—	—	—	—	—	—
Divorced								All	
Reduction in Predictive Error	.002	.027	.077	.002	.089	.050	.041	.070	.065
G <sup>2</sup> (Max. Likelihood $\chi^2$ )	5888	4149	2733	2289	3589	1739	2944	3344	2056
(Weighted N)	(4959)	(4959)	(4959)	(4959)	(4959)	(3494)	(4959)	(1304)	(2397)
Percent with Grievance <sup>c</sup>	42.1%	15.6%	9.0%	6.7%	14.1%	7.4%	9.4%	11.1%	17.3%

<sup>a</sup> Significance levels are .05(\*) and .01(\*\*) using a two-tailed test. Observations were weighted by district populations. The scale ranges for nondichotomous variables are shown in parentheses. Deleted reference categories for categorical variables are in parentheses; the effects of other categories test differences from the deleted category. The significance of the overall dummy effect is noted opposite the deleted reference categories.

<sup>b</sup> Analysis includes only the subsample at risk of this problem.

<sup>c</sup> Percents may differ slightly from those in Table 2 due to the deletion here of observations with missing data.



landlords, but are exposed to possible grievances involving mortgages, home builders, and home repair contractors.

Exposure to the risk of a grievance is part of every human transaction and relationship, though not in equal degree. To some extent, exposure reflects the ability of individuals to avoid or prevent injurious experiences (Komesar, 1979; Gollop and Marquardt, 1981). Prevention capacity is differentially distributed throughout the population and reflects overall differences in personal resources and circumstances. Older people may be “wiser” in their transactions; wealthier people may purchase better quality goods.

Finally, we have suggested several times that many grievance experiences have an important subjective or psychological dimension. Two people suffering an objectively identical injurious experience may not both label it as injurious or make the same attribution of cause or come to the same belief in entitlement to redress. This psychological component reflects but is not fully captured by one’s “sensitivity” to problems or one’s “rights consciousness”—that is, the psychological propensity to interpret or define situations or experiences as problematic (Friedman, 1971: 189-191; Coates and Penrod, 1981; Marks, 1977). While we have no direct measures of that propensity, we expect to find it at a higher level in households which have experience or familiarity with the legal system and which have enjoyed the benefits of higher education (see Glazer, 1979).

Table 3 shows the results of a maximum likelihood logit regression analysis of the probability that any household will report a grievance.<sup>15</sup> The logit procedure transforms a dichotomous dependent variable into the logarithm of the odds ratio of the two categories. Here the odds ratio is that of a grievance versus no grievance. The procedure permits the estimation of linear models—that is, models where the effects of independent variables are additive. However, the metric or unit of measurement of the dependent variable is the log of the odds ratio—hardly an intuitively interpretable scale. We have

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<sup>15</sup> The logit model transforms the dependent variable into the log of the odds ratio. When the dependent variable is dichotomous, a logit model is preferable to an ordinary least squares regression model for three reasons. First, the OLS model is statistically inefficient and yields biased significance tests. Second, the logit model constrains estimated probabilities to the meaningful range between 0 and 1. Finally, the effect of an independent variable varies over the probability range, being greatest over intermediate values and decreasing as the probability of the dependent variable approaches 0 or 1, thus more plausibly modeling the phenomenon of interest. See Hanushek and Jackson (1977).

elected to translate the effects of independent variables into the more appealing probability scale, so that an effect can be thought of as the change in the probability of a grievance which would be caused by a change of one unit in an independent variable. For a dichotomous explanatory variable such as being female or male, the effect is the difference in probabilities between females and males. These effects, however, are not the same at any point, since the model is not linear, but rather s-shaped, when the dependent variable is in a probability scale. We have chosen to calculate the effects as they are at the overall, or mean, probability of each type of grievance: "the derivative at mean." The table also notes the results of significance tests comparing the logit coefficients to their standard errors. The direction—increasing or decreasing probability—and the significance of an effect are its most salient features for our purposes.

We also report a measure of the goodness of fit of the model to the observed data, the "reduction in predictive error," which indicates the proportion of the total predictive error accounted for by the predictive variables (DuMouchel, 1976).<sup>16</sup> This measure is analogous to the familiar coefficient of determination ( $R^2$ ) used with least squares regression.

Overall, the independent variables did not account for much of the variation in grievance experiences, as shown by the low reductions in predictive error. For example, the model predicting whether a household would report any grievance would be able to reduce predictive errors by only 8.2 percent. These values indicate that, with few exceptions, the variables we have measured are poor predictors of rates of grievance experience, perception, or acknowledgement. Nevertheless, certain associations are noteworthy. For example, risk factors associated with particular transactions or relationships (owning a home, being divorced, and so on) as well as the size

<sup>16</sup> The maximum likelihood chi-square— $G^2$ —is not an adequate overall goodness-of-fit measure in the case of maximum likelihood logit regression. DuMouchel (1976) describes a measure of the reduction in predictive error, which compares the probability of misclassification of the dependent variable without the help of the model to that probability with the help of the model. If  $y_i$  is the variable equalling one if the  $i^{\text{th}}$  household reports a grievance and zero

otherwise, and  $p = P(y_i=1)$ , then the reduction in predictive error =  $\frac{\hat{\pi}_y - \hat{\pi}_e}{\hat{\pi}_y}$ ,

where

$$\hat{\pi}_y = 1 - pP(1-p)^{1-p}$$

the predictive error under the assumption that all coefficients are zero, and

$$\hat{\pi}_e = 1 - e^{-G^2/2N}$$

the predictive error under the estimated model.

of the household (numbers of adults and children) do seem to increase the probabilities of grievances (their effects are positive). Demographic variables are related in obvious ways to certain grievances, such as being female, black, or hispanic and reporting discrimination in employment, housing, or schooling. While educational attainments and legal system experiences and contacts also tend to enhance grievance perceptions, income does not.<sup>17</sup>

### *Variation in Claim Rates*

We have seen that most, but by no means all, grievances result in a claim for redress. The general resources of a household, such as income or education, may affect its capacity or propensity to make claims. Certain specific resources and experiences are also relevant: previous experience with the kind of problem in question and experience with and access to legal advice. In addition to these personal factors, problem-specific factors of the kind discussed previously will likely affect whether a claim is made.

The relative impact of the background and general resource variables, the specific resources, and the grievance characteristics are assessed in Table 4. Each of the first three columns is a separate model; the entries are logit coefficients. The last column translates the logit coefficients of model 3 into the probability scale—the derivative at the mean percent making a claim. The first model (column 1) includes only general household attributes.<sup>18</sup> The probability of a claim increases steadily with income and educational levels, as shown by positive coefficients, but the overall predictive power of this model is low (1.9 percent reduction in predictive error). The second model (column 2) adds resources which might be specifically relevant to claiming. These resources add a small but statistically significant amount to the fit of the model. The third model (column 3) improves the fit substantially by including the type of grievance and whether the other party

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<sup>17</sup> The lack of income effects was somewhat surprising to us. It may be that this result is a function of the particular types of grievances we studied. It may be that income effects would be clearer were we to focus on the total number of grievances experienced, or were we to weight each grievance in terms of its potential impact upon a household. This would require determining what was at stake relative to the resources or assets of each household. Were we to do so we would expect that lower income would be associated with more substantial grievance impacts.

<sup>18</sup> The judicial districts, which accounted for some variation in grievance rates, are deleted from this and subsequent models because their conceptual meaning is not clear. They did not add to the explained variation in any subsequent model.

Table 4. Logit Analysis of Claim Rates: All Grievances<sup>a</sup>

Independent Variables	Logit Coefficients for Models			Derivative at Mean <sup>b</sup> (Model 3)
	(1)	(2)	(3)	
<b>A. Background and General Resources</b>				
Family Income: (Less than \$10,000)	(.001)	(.001)	(.001)	
\$10,000 to \$20,000	.438**	.403**	.694**	.141
\$20,000 to \$30,000	.736**	.668**	.845**	.171
Greater than \$30,000	.929**	.896**	1.005**	.204
Missing	.568**	.511**	.669**	.136
Head of Household:				
Education (1-4)	.118**	.100**	.203**	.041
Age (years)	.007*	.007*	-.006	-.001
Female	-.070	-.088	.229*	.046
Ethnicity: (White)	(NS)	(NS)	(NS)	
Black	-.216	-.207	.246	.050
Hispanic	.010	-.244	-.150	-.030
<b>B. Specific Resources</b>				
Has Used Lawyer		-.096	-.285**	-.058
Knows Legal Worker		.188*	.285**	.058
Previous Problem of This Type		-.488**	-.180	-.036
Previous Serious Disagreement		.462**	.549**	.111
<b>C. Grievance Characteristics</b>				
Organizational Opposing Party			1.144**	.232
Type of Problem: (Tort)			(.001)	
Consumer			-.215	-.043
Debt			1.031**	.209
Discrimination			-3.063**	-.622
Property			-.111	-.022
Government			.846**	.172
Post-Divorce			.426	.086
Landlord			.677**	.137
Other			-.807**	-.164
$\chi^2$ (df) for Additional Variables	—	39 (4)	1270 (9)	
$\chi^2$ Significance Level	—	.001	.001	
G <sup>2</sup> (Max. Likelihood $\chi^2$ )	4662	4623	3353	
Reduction in Predictive Error	.019	.025	.240	
Intercept	-.181	.002	-.034	

<sup>a</sup> Significance levels are .05(\*) and .01(\*\*) using a two-tailed test. The 2370 observations were weighted by district populations (weighted N is 4037). Deleted reference categories are in parentheses; the significance of overall dummy effects is noted opposite those reference categories.

<sup>b</sup> The mean percent making a claim was 72.0 percent when observations with missing data were deleted.

was an organization. This agrees with findings reported by Curran (1977) and Griffiths (1977).

Although particular variables may not have much impact on all grievances taken together, it is possible that they have important effects on claiming in particular kinds of grievances. Table 5 suggests, for example, that race is a much better predictor of claims in consumer, tort, and discrimination problems than in any other category. The precise meaning of these race effects is, however, difficult to discern. Blacks are *less* assertive than whites in dealing with consumer and tort problems (Best and Andreasen, 1977), but are significantly

Table 5. Logit Analysis of Claim Rates by Type of Problem

Independent Variables	Derivatives at Mean Proportion Making Claim <sup>a</sup>						
	Tort	Consumer	Debt	Discrimination	Property	Government	Landlord
<b>A. Background and General Resources</b>							
Family Income: (Less than \$10,000)	(NS)	(.001)	(NS)	(NS)	(.01)	(NS)	(.001)
\$10,000 to \$20,000	.062	.519**	-1.194	.072	-.029	-.018	.104*
\$20,000 to \$30,000	.164*	.526**	-1.235	.067	-.078	-.120	.184**
Greater than \$30,000	.101	.720**	-1.383	.042	.104	-.002	-.009
Missing	.080	.140	-1.066	.084	1.185	-.063	.787
Head of Household:							
Education (1-4)	.017	-.022	.115*	.053**	.044	.008	.036*
Age (years)	-.003*	-.002	-.011*	-.005**	.004	.002	.001
Female	.080	.154*	-.489*	-.040	.016	.008	-.002
Ethnicity: (White)	(.001)	(.001)	(NS)	(.001)	(NS)	(NS)	(NS)
Black	-.219**	-.242**	.310	.165**	-.014	.067	-.057
Hispanic	.038	-.261**	.239	.020	-.025	.010	.010
<b>Specific Resources</b>							
Has Used Lawyer	-.062	.093	.530*	-.130**	-.015	-.084	-.011
Knows Legal Worker	.006	.062	1.217	.014	.139	.137**	-.008
Previous Problem of This Type	-.259**	.193*	.669	-.181**	.396	.157*	-.014
Previous Serious Disagreement	.032	.764	-1.133	.272**	-.056	.243**	.074
<b>C. Grievance Characteristics</b>							
Organizational Opposing Party	.658**	-.969	.036	.126**	-.019	— <sup>b</sup>	-.001
Reduction in Predictive Error	.501	.137	.792	.068	.143	.087	.078
G <sup>2</sup> (Max. Likelihood $\chi^2$ )	333.9	182.7	21.5	1037	262.9	273.3	301.2
(Weighted N)	(887)	(500)	(278)	(938)	(333)	(391)	(470)
Percent Making Claim <sup>c</sup>	85.1%	88.2%	94.9%	29.7%	81.5%	86.8%	88.7%

<sup>a</sup> Significance levels are .05(\*) and .01(\*\*) using a two-tailed test. Observations are weighted by district populations; they included only terminated grievances. Deleted reference categories for categorical variables are in parentheses, the significance of the overall dummy effects is noted opposite the deleted reference category. The sample of post-divorce grievances was too small for further analysis.

<sup>b</sup> This problem involved no private organization.

<sup>c</sup> Percents may differ slightly from those in Table 2 due to the deletion here of observations with missing data.

more likely than whites to make claims when they experience discrimination problems. This may reflect the greater centrality of discrimination in black consciousness and experience as well as the clarity of racial grounds for raising discrimination claims.

One additional finding is particularly noteworthy. First, in discrimination problems, those who had previously experienced a grievance were *less* likely to make a claim in the instant case. Repetition of the grievance may inhibit claiming by suggesting that there is little or nothing that can be done to prevent recurrence. On the other hand, those whose previous grievance led to a dispute were *more* likely to raise a claim in the present instance.

### *Variation in Dispute Rates*

Why do some claims lead to disputes while others result in an agreement without conflict? We are able, at this stage, to add to our analysis more precise information about the nature of the claim itself—namely, whether the claim was for money, the amount of money claimed, and whether the other party made a counter claim. We expected that nonmonetary claims would be more likely to lead to disputes, because compromise would be more difficult, and that large monetary claims would be likely to be both pursued by claimants and resisted by respondents. Moreover, where claims were made against organizations we would expect, given their typical advantage in dispute-relevant resources (Galanter, 1974), that they would be better able and more likely to resist claims. Our ability to further specify and test such hypotheses is unfortunately limited, since we did not interview both sides to a claim and were unable to collect detailed information about the opposition from our respondents.

The models in Table 6 predict the occurrence of disputes over all claims. The first model (column 1) shows the logit regression for dispute probabilities which includes only background characteristics and general resources of households. The reduction in predictive error is quite low. The addition of our measures of specific resources (column 2) adds only marginally to the power of the model. However, addition of grievance characteristics adds somewhat to the model's explanatory power (columns 3 and 4; reduction in predictive error with full model is 18.1 percent). *The likelihood that a dispute will occur, like the probability that a claim will be*

Table 6. Logit Analysis of Dispute Rate: All Claims<sup>a</sup>

Independent Variables	Logit Coefficients for Models				Derivative at Mean <sup>b</sup> (Model 4)
	(1)	(2)	(3)	(4)	
<b>A. Background and General Resources</b>					
Family Income: (Less than \$10,000)	(.01)	(.02)	(.01)	(.02)	
\$10,000 to \$20,000	.161	.148	.292	.202	.047
\$20,000 to \$30,000	-.064	-.087	.115	-.050	-.012
Greater than \$30,000	.394*	.378	.556**	.501*	.117
Missing	-.218	-.227	-.118	-.187	-.044
Head of Household:					
Education (1-4)	.132*	.096	.082	.065	.015
Age (years)	-.019**	-.019**	-.017**	-.015**	-.004
Female	.397**	.371**	.386**	.366*	.086
Ethnicity: (White)	(.05)	(NS)	(.05)	(NS)	
Black	.084	.056	-.089	-.053	-.012
Hispanic	-.347*	-.326*	-.420*	-.381*	-.089
<b>B. Specific Resources</b>					
Has Used Lawyer		.044	.071	.022	.005
Knows Legal Worker		.181	.187	.158	.037
Previous Problem of This Type		.003	.004	.164	.038
Previous Serious Disagreement		.902**	.863**	.550*	.129
<b>C. Grievance Characteristics</b>					
Organizational Opposing Party			-.947**	-.061	-.014
Nonmonetary Claim			.296	.842**	.197
Monetary Claim Scale (1-6)			-.038	.367**	.086
Claim Data Missing			.181	1.910**	.447
Claim by Opposing Party Also			.105	.158	.037
Type of Problem: (Tort)				(.001)	
Consumer				2.649**	.620
Debt				3.108**	.728
Discrimination				2.433**	.570
Property				1.426**	.334
Government				3.042**	.712
Post-Divorce				2.423**	.567
Landlord				3.031**	.710
Other				2.708**	.634
$\chi^2$ (df) for Added Variables	—	30 (4)	94 (5)	342 (8)	—
$\chi^2$ Significance Level	—	.001	.001	.001	—
G <sup>2</sup> (Max. Likelihood $\chi^2$ )	2167	2137	2043	1701	—
Reduction in Predictive Error	.020	.030	.061	.181	—
Intercept	.622	.546	.927	-2.279	—

<sup>a</sup> Significance levels are .05(\*) and .01(\*\*) using a two-tailed test. The 1533 observations were weighted by district populations (weighted N is 1680). Deleted reference categories are in parentheses; the significance of overall dummy effects is noted opposite those reference categories.

<sup>b</sup> The mean percent of claims disputed was 62.0 percent when observations with missing data were deleted.

*made, is somewhat more dependent upon problem-specific factors than on claimants' capacities.* We note that this is but a relative judgment. Considering briefly the effects of particular variables, we see that disputes are more likely when the claimant is from a high-income or female-headed household and, as expected, when the claim is nonmonetary or for larger monetary amounts. What is most apparent is the relatively modest explanatory power of our measures of either grievance characteristics or personal capacities.

Looking at variation in dispute rates within problem types reveals several interesting patterns. We are best able to explain such variation for debt problems (see Table 7). For most of the others we can explain virtually none of the variation in dispute rates. Several effects are, nevertheless, rather striking. First, Hispanics have significantly higher dispute rates than whites for debt problems, and significantly lower rates for consumer and discrimination problems. Blacks, on the other hand, are no more likely than whites to be involved in disputes. The latter finding is contrary to reports of other research (Curran, 1977). Second, no variables show consistent effects across the various types of problems which are consistent in direction or significance. This was also the case in our analysis of claim rates. It suggests that, despite the general uniformity in the overall rates of claims and disputes for different problems, explanations of the probability that a given household with a particular type of grievance will make a claim or experience a dispute may depend on the nature of the grievance.

### *Explaining Variation in the Success of Claims*

As we suggested earlier, high claiming rates in middle-range problems seem “justified” in light of the general pattern of successful recovery. This is not to say that there is no variation to be explained; indeed, recalling Table 2, almost equal numbers of claimants recovered nothing, reached a compromise result, or were completely successful. When we began our research we assumed that the task of explaining such variation would be relatively straightforward. We expected that success in pursuing a claim would vary directly with the resources and experience (capability) of the claimant and with the nature of the claim—that is, stakes, nature of opposing party, and the availability of remedy systems which could be invoked should claims be rejected. The theoretical coherence of an argument predicting that more capable people making claims against “weaker” opponents over matters for which the law provides clear remedies would be more successful seemed so obvious as to hardly merit elaboration.

In Table 8 we present an ordinary least squares regression analysis of “success.” In spite of our expectations, the models presented in that table indicate that neither claimant capabilities nor the type of problem nor other claim attributes account for much variation in success rates. There are several possible explanations for this result. First, since the success of



Table 7. Logit Analysis of Dispute Rates by Type of Problem<sup>a</sup>

Independent Variables	Derivatives at Mean Proportion of Disputes						
	Tort	Consumer	Debt	Discrimination	Property	Government	Landlord
<b>A. Background and General Resources</b>							
Family Income: (Less than \$10,000)	-.032 (.10)	274* (.10)	-.351 (NS)	.023 (NS)	-.035 (NS)	.216* (.10)	-.026 (.05)
\$10,000 to \$20,000	-.136	258	-.547	-.034	-.238	.159	.002
\$20,000 to \$30,000	.024	311*	-.365	.063	.063	.090	.120
Greater than \$30,000	-.164	.004	-.1108	-.013	-.110	1.287	1.200
Missing							
<b>Head of Household:</b>							
Education (1-4)	-.042	-.086*	.265**	-.011*	.165**	-.004	.071*
Age (years)	-.006**	-.006*	.000	.010*	.004	-.003	-.003
Female	.102	.164*	-.207	.067	-.007	.000	.066
<b>Ethnicity: (White)</b>							
Black	-.124	240 (.02)	.045 (.05)	.143 (.05)	.198 (NS)	-.087 (NS)	.166 (.10)
Hispanic	-.082	-.250**	.719*	-.268*	.257	.686	-.101
<b>Specific Resources</b>							
Has Used Lawyer	-.041	-.001	-.050	-.090	.365*	.030	-.042
Knows Legal Worker	.150**	.122	.013	-.044	-.096	.014	.010
Previous Problem of This Type	.072	-.049	-.344*	.220	.238**	.238**	-.062
Previous Serious Disagreement	.097	.158	1.314	-.051	.812**	1.049	.102
<b>C. Grievance Characteristics</b>							
Organizational Opposing Party <sup>b</sup>	—	—	.414	.209*	.274*	—	.043
Nonmonetary Claim <sup>c</sup>	.100**	.038	-.026	.150	—	-.121	.137
Monetary Claim Scale (1-6) <sup>d</sup>	-.469**	-.124	.481	1.057	—	.072	.033
Claim Data Missing	—	—	—	—	.581**	—	-.113
Claim by Opposing Party Also <sup>e</sup>	—	—	—	—	—	—	—
<b>Reduction in Predictive Error</b>							
G <sup>2</sup> (Max. Likelihood $\chi^2$ )	.118	.082	.532	.130	.231	.136	.2061
(Weighted N)	4229	2506	5009	154.8	146.7	150.7	206.1
Dispute Rate (% of Claims) <sup>f</sup>	23.8%	74.6%	84.3%	73.9%	54.5%	82.0%	80.7%

<sup>a</sup> Significance levels are .05(\*) and .01(\*\*) using a two-tailed test. Observations were weighted by district populations. Deleted reference categories are in parentheses; the significance of the overall dummy effects is noted opposite the reference category. The sample of post-divorce grievances was too small (N=45) for further analysis.

<sup>b</sup> Deleted from models where virtually all opposing parties were private organizations (tort, consumer) or none were (government).

<sup>c</sup> Deleted from models where virtually no claims were nonmonetary (tort, consumer, debt) or almost all were (property).

<sup>d</sup> Deleted from models where almost no claims were monetary (property, discrimination).

<sup>e</sup> We did not ascertain the presence of counterclaims for tort, consumer, discrimination, and government problems. Almost no claims to landlords were met with or preceded by claims by landlords.

<sup>f</sup> Percents may differ slightly from those in Table 2 due to the deletion here of observations with missing data.

Table 8. Regression Coefficients for Success Scale:  
All Claims<sup>a</sup>

Independent Variables	Model			
	(1)	(2)	(3)	(4)
Constant Term	.92	.94	.98	1.22
<b>A. Background and General Resources</b>				
Family Income (1-8)	.06**	.06**	.06**	.04**
Head of Household:				
Education (1-4)	-.03*	-.03*	-.02	-.01
Age (Years)	-.004**	-.004**	-.004**	-.004**
Female	-.02	-.01	-.02	.00
Ethnicity: (White)				
Black	-.21**	-.22**	-.17**	-.17**
Hispanic	.06	.05	.05	.04
<b>B. Specific Resources</b>				
Has Used Lawyer	—	-.06**	-.08**	-.09**
Knows Legal Worker	—	.03	.02	.02
Previous Problem of This Type	—	-.07*	-.06*	-.05
Previous Serious Disagreement	—	.00	.00	.03
Used Lawyer This Dispute:				
Household	—	.13**	.11**	.13**
Opposing Party	—	-.11**	-.10**	-.09*
<b>C. Grievance Characteristics</b>				
Organizational Opposing Party	—	—	.02	-.04
Nonmonetary Claim	—	—	-.20**	-.24**
Monetary Claim Scale (1-6)	—	—	.02	-.02
Claim by Opposing Party Also	—	—	.23**	.00
Type of Problem: (Tort)				
Consumer	—	—	—	-.03
Debt	—	—	—	.17**
Discrimination	—	—	—	-.20**
Property	—	—	—	.31**
Government	—	—	—	-.06
Post-Divorce	—	—	—	-.16
Landlord	—	—	—	-.30**
Other	—	—	—	-.26**
R <sup>2</sup>	.018	.021	.037	.063
Increment to R <sup>2</sup>	—	.003	.016	.026

<sup>a</sup> The success of claims was scaled by assigning a value of zero when no agreement was reached, one if a compromise, and two if the whole claim was recovered. The coefficients are unstandardized; significance levels are .05 (\*) and .01 (\*\*). The 1780 observations are weighted by district populations. The effects of categorical variables are relative to the mean of the deleted category.

claims as well as the occurrence of disputes depends heavily on the response of the party to whom the claim is made, information about the resources, perceptions, and experiences of the opposing party and the nature of past and desired future relations between the parties might greatly improve the predictive power of these models. Second, we have no indicator of the strength or merit of the claims which we are studying. One would expect that development and inclusion of

Table 9. Regression Coefficients for Success Scale by Type of Problem

Independent Variables	Tort	Consumer	Debt	Discrimination	Property	Government	Landlord
	.89	1.15	.76	2.20	2.54	1.71	.84
<b>A. Background &amp; General Resources</b>							
Constant Term							
Family Income (1-8)	.03**	.05	.11**	.00	.12**	.06**	.05
Head of Household:							
Education (1-4)	.00	.13**	-.14*	-.06	-.26**	.04	.00
Age (Years)	-.004**	-.004	-.010*	-.017**	-.011**	-.008	-.001
Female	-.08**	-.10	-.07	.19	.10	-.04	-.09
Ethnicity: (White)							
Black	-.08	-.24	-.24	-.67**	-.37	-.25	.07
Hispanic	.05	-.12	.34	.00	-.12	-.27**	.08
<b>B. Specific Resources</b>							
Has Used Lawyer	-.06**	-.14	.15	-.07	-.39**	-.21**	.12
Knows Legal Worker	-.02	-.31**	.26**	.20*	.30**	.07	-.17*
Previous Problem of This Type	.00	-.22	-.21	-.27*	-.26	-.45**	.32**
Previous Serious Disagreement	.04	.12	.24	.34**	.06	-.41**	-.40**
Used Lawyer This Dispute:							
Household	.14**	.06	-.13	.00	.20	.65**	.01
Opposing Party	-.10**	.02	-.09	.33*	-.06**	.18	.04
<b>C. Grievance Characteristics</b>							
Organizational Opposing Party <sup>b</sup>	—	—	.13	-.60**	-.47**	—	.06
Nonmonetary Claim <sup>c</sup>	—	—	—	-.22	—	-.77**	-.56**
Monetary Claim Scale (1-6) <sup>d</sup>	.08**	-.12**	.11**	—	—	-.28**	-.19**
Claim by Opposing Party Also <sup>c</sup>	—	—	.33**	—	-.37**	—	—
(N)	.103	.039	.051	.128	.268	.128	.050
Mean Success Scale	1.09	1.11	1.29	0.73	1.26	1.00	0.80
R <sup>2</sup>	(479)	(265)	(142)	(174)	(154)	(203)	(267)

a The coefficients are unstandardized; significance levels are .05 (\*) and .01 (\*\*). Observations are weighted by district populations. The sample of post-divorce grievances was too small (N=45) for further analysis.

b Deleted from models where virtually all opposing parties were private organizations (torts, consumer) or none were (government).

c Deleted from models where virtually no claims were nonmonetary (torts, consumer, debt) or almost all were (property).

d Deleted from models where almost no claims were monetary (discrimination, property).

e The survey did not measure counterclaims for tort, consumer, discrimination, and government problems. Almost no claims to landlords were met with or preceded by claims by landlords. Tort claims against households and claims by governmental units, landlords, creditors, and debtors to the household were ascertained but are excluded from this analysis.

such indicators would improve our ability to explain variation in the results and consequences of claiming.<sup>19</sup>

The models in Tables 8 and 9 highlight the effects of several factors. First, there are clear and significant race effects. Blacks do less well, independent of income, education, etc., than do whites. When our models are applied separately to each type of problem (Table 9), we find that the disadvantage of black claimants exists in almost every type of problem, but is accentuated in discrimination matters. Second, claimants who consult and use a lawyer tend to be more successful. Lawyers were particularly useful in tort problems—for which disputants frequently use them—and in claims against the government. Interestingly, claimants in discrimination problems were more successful when the opposing party used a lawyer, although this may simply indicate the existence of particularly meritorious claims. Overall, the fact that claimants using a lawyer are more successful may result from the strategic significance attached to hiring a lawyer as well as the particular expertise and services that lawyers may provide.

Two other findings, one concerning the nature of the claim and the other the nature of the opposing party, are noteworthy. Nonmonetary claims are less likely to be resolved in favor of the claimant than are monetary ones. This may result from the difficulties of proof typically associated with the injuries or violations of rights which give rise to such claims, from the difficulty of compromise when what is at issue is not readily divisible, or, as Aubert (1963) suggests, from the greater “intensity” associated with conflicts over values rather than conflicts of interest. Finally, based on previous research on party capability (see Galanter, 1974), it is not surprising that claims against organizations were, in general, less successful than claims by one individual upon another.

Overall, the various effects of claimant capacities and grievance characteristics do not explain much of the variation in success for most types of problems. There *is* variation to be accounted for, as Table 2 indicates. We believe that more information about the other party, the relative power and relationship between parties, and about the merit of the claim, would contribute greatly to that explanation.

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<sup>19</sup> As obvious as this is, or perhaps because it is so obvious, such indicators are rarely employed in studies of claiming, disputing, or litigation (see, for an exception, Rosenthal, 1974). They were omitted from this research quite simply because the question of accounting for success of claims was not, at the time the research was designed, a major concern.

## VI. SUMMARY AND CONCLUSION

Four things stand out in our investigation of the generation of disputes. *First*, at least with respect to the kind of middle-range problems which we studied, rates of claiming and disputing are substantial. Over 70 percent of those who experience problems make claims for redress, and almost two-thirds of those claims lead to disputes. *Second*, with the exception of discrimination and tort problems, claiming and disputing rates are relatively similar among different types of problems. Discrimination problems generate an unusually low number of *claims*, but an average number of disputes; the pattern is reversed for torts, where the claiming rate is not unusual but the dispute rate is comparatively low. *Third*, lawyers and courts seem to play a relatively minor role in most middle-range disputes. Their involvement, when there is involvement, is consequential, and their indirect effects cannot be overlooked. *Fourth*, we had relatively little success in accounting for the variation among households in grievance, claim, and dispute rates. We began our research with rather firm expectations about the analytic importance of class (income and education) and other demographic factors. Our results do not show powerful effects on grievances, claims, or disputes. What does all of this say about disputing in American society?

Because our data speak to a somewhat limited range of disputes, there are limits to the generalizations we can make. We believe, however, that the disputes we studied are especially important precisely because they occupy the middle ground between the kind of everyday annoyances which lead more often to frustration than to conflict and the kind of major social grievances whose conflict generating properties are so widely recognized (Himes, 1980: 149; Dahrendorf, 1958; 1959). How middle-range disputes are handled is thus symptomatic of the intensity, depth, and consequences of adversariness in our society.

We have found that, when measured against a baseline of perceived injustices or grievances, disputing is fairly common. But we are in no position, absent historical or comparative data, to determine just how substantial or significant it is. Our own belief is that where there are grievances there ought to be claims, and that where there are claims conflict is not necessarily an undesirable or unhealthy result. Those who fear conflict or who advocate acquiescence in the face of grievances fear threats to the social status quo. They bear a substantial

burden in showing how people benefit from lumping or enduring injurious experiences or the denial of rights or how the status quo is served in the longer run as frustrations increase and legitimacy decreases. Indeed, it may be that the most significant aspect of our data, at least to those interested in arguments about the adversary culture, is the relatively low grievance rate for most of the transactions or relationships which we studied. Either those transactions are routinely efficient and satisfactory or people are reluctant to perceive or acknowledge trouble as it occurs. The incidence of social conflict ultimately hinges both on the rates at which injurious experiences are inflicted upon people and on what people define as acceptable performance of obligations or tolerate as acceptable conditions of life. The fact that almost 60 percent of our respondents report no recent middle-range grievance indicates a relatively low level of "injury" and/or a relatively high level of satisfaction or acquiescence.

Levels of "real" and perceived injuries, and the way people respond to them, are not self-generating. Economic, social, and political forces shape the context in which problems are perceived and conflicts generated, just as they affect the kind and amount of problems which occur. Thus we found, for example, that grievance rates were affected not only by the risk factors of particular transactions, statuses, and relationships, but also by educational levels and legal contacts. Particular concerns and not others come to be seen as worthwhile; particular responses and not others are legitimated; and those who declare trouble or who participate in conflict are differentially rewarded or stigmatized (cf. Kidder, 1974; Redfield, 1964; Kawashima, 1963).

We wonder whether a survey of discrimination problems conducted twenty or thirty years ago would have found, as we did, that female-headed households reported a higher incidence of such problems or that blacks with such grievances were more likely to make a claim for redress. Not only have social and economic changes increased the number of women at risk of discrimination in employment or housing, but concomitant political and cultural changes have brought both increased sensitivity to and legislative condemnation of such discrimination. We have no basis on which to speculate about changes, if any, in blacks' "sensitivity" to racial discrimination, but social and political developments clearly have both reflected and enhanced the willingness and ability of blacks to resist such behavior.

Sex discrimination is a classic example of a movement from unperceived injurious experiences (unPIEs) to perceived injurious experiences (PIEs), which Felstiner *et al.* (1981) argue lies at the heart of the process through which new grievances emerge and new types of disputes arise. With each newly recognized injurious experience comes a strengthened or reinforced sense of harm and entitlement, both of which prepare the way for higher rates of grievances and conflict. Such cultural labeling is often matched by the use of official declarations, particularly the declaration of legal rights, as a device to regulate grievance perception and the response to grievances (Flathman, 1976). The political forces that lead to declaration of legal rights may also result in the establishment of specialized remedy systems. Such systems may arise from other sources as well, such as an economic incentive to share risks. In any case, it is possible that the balance of rights declared and remedies provided is important in cueing responses to middle-range problems.

Problems differ in terms of the availability and kind of *institutionalization of remedy systems*. By institutionalization of remedy systems we mean the extent to which there are well-known, regularized, readily available mechanisms, techniques, or procedures for dealing with a problem. Take, for example, automobile accident and discrimination problems. The remedy system for auto accidents is highly institutionalized (see Ross, 1970; Franklin, 1961). There are routinized, well-known, and widely available procedures for dealing with such problems. The problem itself is one which has been recognized and acknowledged in the society for a long time, and the principles—at least, the legal principles—involved are relatively settled. The result is a high claim rate, a low dispute rate, and considerable success for claimants.

The same cannot be said for discrimination problems (see Mayhew, 1968; Crowe, 1978). Neither a clear and widely accepted definition of discriminatory behavior which creates an entitlement to redress nor notions about appropriate kinds of redress have yet evolved. Existing legislated definitions are not well understood by the public, and those definitions are themselves in flux. Furthermore, remedy systems are less well developed and certainly less accessible (see, for example, Crowe, 1978). One simply doesn't pick up the phone and call one's insurance agent about a discrimination problem, and the principles governing redress are both rather unsettled and highly controversial. Under these circumstances, it is not

surprising that, while quite a few households report some discrimination grievance, only three in ten of these asked for any redress of their grievance.

The institutionalization of remedies affects grievance perception, claiming, and disputing in two ways: first, by legitimizing action, and second, by shaping the objective probabilities of success should action be taken. The institutionalization of remedies alone suggests that the frequency and importance of a problem, as well as the appropriateness of action taken in response to it, is recognized. Where remedies are institutionalized, the probability of successful action can be more accurately assessed and prospective action thereby more clearly shaped and considered. Higher levels of institutionalization, everything else being equal, would be associated with higher rates of grievance perception and claiming, lower rates of disputes, and higher rates of success in recovery for meritorious claims.

Disputing is minimized where remedies are most and least institutionalized. Conflict can be avoided where automatic remedies are provided for felt grievances or where the demand for redress is discouraged by making it uncertain and hard to obtain. It is easier, on the whole, for societies to declare rights than to provide remedies (Friedman, 1971); indeed, the development of remedies almost inevitably lags substantially behind the recognition of rights. The inability to vindicate rights discourages their expression and thus helps avoid a precondition for overtly adversarial relations. At the same time, of course, the gap between rights and remedies contributes to feelings of frustration and alienation which breed adversity between individuals and institutions (Himes, 1980). It is this tension which drives the development of remedy systems. Where rights are not realized or realizable over a long period of time and among a substantial portion of the population, where raised expectations are disappointed, interpersonal conflict is discouraged at the price of social and political strain. The balance of rights recognized and remedies provided is, in our view, important to an understanding of the generation of disputes and adversarial behavior (see for a general discussion Dworkin, 1977, and for a specific treatment, Fiss, 1979).

Thus, a tension is built into the very fabric of rights and remedies—a tension between the aspect which facilitates social control and promotes social order and the aspect which promotes conflict (Katz, n.d.: 7). No-fault remedies, for



example, provide, at least in theory, efficient and less costly mechanisms for compensating the injured and, in so doing, restoring social harmony. At the same time, and as a result of the same qualities, they promote claims for redress. They “promote both the clearing up of trouble and its declaration or social emergence” (Katz, n.d.: 7).

The effects of these differences in the institutionalization of remedy systems are seen in the low claim rates by discrimination grievants and low dispute rates among tort claimants. Nonetheless, it cannot be argued that similarities in rates for the other types of grievances are attributable primarily to equally intermediate levels of development of remedy systems. We doubt, for example, that aggrieved creditors and aggrieved tenants share comparable rights and remedies, whether those are socially or legally defined. We can only say that the pursuit of redress is the norm across a wide, range of problems and people.

Our research points the way toward yet a further “backward” movement in the sociology of law. Legal realism moved the study of law from an exclusive preoccupation with courts and in so doing helped establish the intellectual respectability of dispute processing and other sociological studies of law; we think that it is now necessary to examine the roots of disputes and other proto-legal phenomena. There have been hints of such a movement already (Abel, 1973; Felstiner, 1974; Trubek, 1977). Our findings suggest the great distance between law and society. What may be most problematic remains outside the legal system. Charting the generation of injurious experiences and grievance perception (the movement from unPIE to PIE [Felstiner *et al.*, 1981]), requires longitudinal data. Obtaining it is the logical next step in understanding the origins and social consequences of disputes and disputing.

**For references cited in this article, see p. 883.**

## APPENDIX I

### Specific Grievances Aggregated Into Problem Types

Note: \* denotes grievances ascertained for households at risk;  
\$ denotes grievances involved over \$1000

1. Tort  
Auto accident (\$); work injury (\$); other injury to or damage to property of a household member (\$).
2. Consumer  
Problem with a major purchase (\$), medical services (\$) or other services (\$); problem with home builder (\*\$) or a home repair or improvement contractor (\*\$).
3. Debt  
Problem collecting money from an employer (\$), debtor or insurance company (\$); disagreement with a creditor (\$) or other problems paying debts (\$); problems with a mortgage (\*\$).
4. Discrimination  
Employment problems (denied a job or promotion, lost a job, problems with working conditions, harassment, or being paid less because of discrimination), problems in schooling or education, buying or renting housing, or any other problems because of discrimination.
5. Property  
Problems over what was permissible to build (\*), boundary lines (\*), someone else using the property (\*), or other problems with ownership or use (\*), excluding problems with business or rental property.
6. Government  
Problems collecting social security, veterans, or welfare benefits or tax refunds, obtaining services from local government, obtaining any other government benefits or services; problems with any agency which claimed household owed money; other problems with a government office or agency.
7. Divorce (\*)  
Post-divorce problems: property division, alimony, and child support, visitation, or custody.
8. Landlord-tenant (\*)  
Problems over rent, eviction, condition of the property, or other problems with a landlord.
9. Other  
Problems cited in response to a final, general probe for other problems; problems with the ownership or division of property jointly owned with someone outside of the household (\*\$); problems involving violation of civil rights, other than discrimination.