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Legal Consciousness and Dispute Resolution:
Different Disputing Behavior at Two Similar Taxicab Companies

Elizabeth A. Hoffmannⁱ

Abstract

This article examines how workers perceive the laws and rules that regulate their workplaces and how these perceptions differ between organizations with high levels of worker-manager cooperation and those with more conventional hierarchies. Specifically, this article explores how these different perceptions of laws and rules encourage alternate understandings of available choices and the means for resolving disputes. It expands the current socio-legal literature on legal consciousness by focusing on formal and informal workplace grievance resolution and perceptions of workplace rules. In exploring the critical decision-making regarding grievance resolution, this article begins an important discussion about workplace empowerment and legal consciousness.

Employee choice-making is explored in two taxicab businesses to examine how ordinary people construct and understand the rules that govern their lives. This work uses qualitative methods to examine thirty-three open-ended interviews. The use of qualitative methods permits a vibrant dialog that illustrates the legal consciousness of the subjects. By using the subjects' own words, their comprehension of rules, regulations, and procedures can be better explored in the context of the individual relationships with the grievance resolution options in their workplaces.

I. Introduction

To shout at a cheating co-worker or to slash the tires of his car? To approach a manager who treated you unfairly or to bring a formal grievance? To accept your unfair treatment without taking any action, or to quit outright? These are the types of decisions discussed in this article on legal consciousness. Here, I examine legal consciousness in two different taxicab companies: a conventional company, hierarchically organized and privately owned, and a worker cooperative, democratically run and cooperatively owned. Drawing on data from open, in-depth interviews with workers at both companies, this research explores how members of these two organizations frame their choices about everyday job-related problems.

Although both taxicab companies were similar in many ways -- for example, both had formal grievance procedures -- the workers of each company offered very different displays of legal consciousness. The contrasted legal consciousnesses at each company led workers to generate different responses to grievance issues. Empowered or constrained by the particular schemas and frames of their specific company, workers decided what actions were possible.

The members of the conventional cab company were much less likely to use the grievance procedure to resolve a dispute or complaint. They were more likely to tolerate or “lump” unpleasant situations [Edelman, 1993 #50], negotiate informally with a superior, speak with the offending party, or quit the job altogether. Although these workers had formal grievance procedures, they seldom saw the raising of formal grievances as a useful option. In contrast, the members of the cooperative cab company were much more likely to bring formal grievances or to speak informally with a manager or co-worker. These workers rarely mentioned the possibilities of exiting or confrontation as potential solutions.

A key factor in these cab drivers’ legal consciousness was the grievance culture of their company, i.e., how did each company view workplace problems and how actively did each

enable its workers to use the grievance resolution mechanisms. Thus, the main question in examining legal consciousness at these cab companies became: did the workers' grievance culture view formal grievance procedures as important rights and value educating members in how to use these procedures? Those at the cooperative cab company did; those at the conventional cab company did not.

II. Legal Consciousness

Scholars have defined legal consciousness as how people make sense of law and legal institutions and how they give meaning to their experiences and actions [Ewick, 1998 #172]. Legal consciousness provides people with important interpretive frameworks, even outside formal legal institutions [Sarat, 1995 #105]. Therefore, instead of focusing on laws and official legal actors, legal consciousness research examines “the meanings, sources of authority, and cultural practices that are commonly recognized as legal, regardless of who employs them or for what ends. In this rendering, people may invoke and enact legality in ways neither approved nor acknowledged by the law” [Ewick, 1998 #172: 22]. The legal consciousness framework understands that people interpret their experiences by drawing on a collaboration of law and other social structures [Sarat, 1995 #105]. These interpretations may be highly individualized, based on each person's social characteristics and her or his own previous contact with the law. Thus, some people might use the law to address social problems, while others in similar circumstances will hesitate to engage the law, even in harmful situations where the law purports to provide relief [Nielsen, 2000 #173]. In this way, legal consciousness is each individual's “participation in this process of constructing legality” [Ewick, 1998 #172: 45].

While this article examines internal company rules and formal grievance procedures rather than laws and courts, interviewees' legal consciousness within their workplace culture is

comparable to legal consciousness in the more traditional sense.ⁱⁱ For example, the rules and grievance procedures of the workplaces explored in this article are all associated with fairness, rule determinacy and rights -- key symbols of law and legal authority [Sarat, 1990 #100].

Employees' daily activities incorporate their understandings of the world, their workplace, and the rules and procedures governing them as workers -- in short, incorporate their legal consciousness. One way to explore legal consciousness is to study the decision of whether or not to bring a lawsuit, or, as I inquire in this article, whether or not to bring a formal grievance.

The raising of a formal grievance is not a simple decision. Workers must go through several stages in order to raise formal grievances. The first step in bringing a grievance is transforming the experience into a dispute. To do this, the wronged party must realize that a problem exists ("naming" the experience), then attribute the problem to another person ("blaming"), and, third, bring her issue to the attention of the blamed party and seek some remedy ("claiming"). A claim becomes a dispute when the blamed party rejects it. To become a formal grievance, the dispute must be defined as public and, therefore, as appropriate to be addressed in a formal grievance procedure [Felstiner, 1980-81 #4]. All of this affects and reflects one's legal consciousness.

Ewick and Silbey explain that "(l)egal consciousness is produced and revealed in what people do as well as what they say" [, 1992 #97: 46]. Legal consciousness is both about how people *acted* and about how they *anticipate* their future behavior. This study of legal consciousness examines both what people report having done and also what people predict about their future behavior. In looking at their past and future behavior, interview subjects construct the boundaries of their legal consciousness [Ewick, 1998 #172].

In constructing their legal consciousness, people create meaning for themselves: what they name as actual harm, what they feel is appropriate blame, and what they claim as possible

remedies. However, this is not done in isolation [Felstiner, 1980-81 #4]. Legal consciousness is collectively constructed and is constrained by its setting as well as by people's own interpretation of meaning. As such, legal consciousness is an ever-changing, context-based concept, constantly altered by different experiences and interactions [Ewick, 1998 #172].

Merry's work on legal consciousness found that "the ability to name and interpret is ... a central feature of the power exercised by those who handle problems" [Merry, 1990 #91: 4]. In her study of court mediators, she found that mediators and lower courts tried to reframe disputants' problems. The disputants themselves resisted these attempts and tried to establish their own names for their problems.

In this study, the workers at each company created grievance cultures which guided the naming of problems -- naming, in particular, which responses were considered appropriate for each situation: formal grievances, informal resolution, self-help, and resignation. An important component of joining the cooperative company was learning the company's naming: understanding what was an appropriate formal grievance and reframingⁱⁱⁱ as a formal grievance which elsewhere would have been considered one's own problem, insufficient for formal action, or grounds only for resignation. While both companies imparted their naming culture to their members, only the cooperative company had explicit ways of teaching new members the company's culture. Naming has powerful effects on the legal consciousness of the companies' members, since this naming establishes which understandings will be privileged and what actions are considered appropriate [Merry, 1990 #91]. The employees' understandings strongly affected what they anticipated would be their future behavior.

By examining legal consciousness in the workplace rather than in a dispute-processing institution such as courts or neighborhood mediators' offices, I investigate perceptions of harm, blame, and appropriate remedy without the biases possibly imposed by drawing from subjects

already present in dispute-processing settings. Because much of the legal consciousness research is conducted within dispute-processing institutions [Merry, 1990 #91; Sarat, 1990 #100], many interview subjects have already had their legal consciousness prompted and focused by their contact with these institutions before they become part of legal consciousness research [Marshall, 2000 #106]. Additionally, subjects who sought out certain forms of dispute resolution prior to participating in research studies and who, thus, self-selected into the studies, might experience a legal consciousness that is less characteristic of the general population.

This research circumvents these methodological difficulties by interviewing people in their workplace and asking them about a wide range of workplace issues. The interview topics included the culture of the company, jobs held, interpersonal dynamics, positive and negative aspects of the job, gender dynamics at work, and comparisons to previous jobs. The workplace, a familiar place for the interview subjects, is not associated specifically with dispute resolution or other legalistic procedures. Thus, in the same spirit as the work by Ewick and Silbey, [, 1998 #172], this study located interview subjects who had not self-selected into the category of “grievants” and, thus, permitted the interview subjects to share their “everyday” legal consciousness without focusing them on specific forums or events. The wide, loosely-structured focus of the interviews attempted to avoid prompting subjects or suggesting responses about legal consciousness. I explain my methodology in the following section.

III. The Research

This study explores how legal consciousness is constructed at two taxi cab companies, one collectively owned and organized as a worker cooperative,^{iv} appropriately named Coop Cab, the other privately owned and organized hierarchically, named Private Taxi.^v While the two companies are similar in many ways, this study found that the members of these companies

varied substantially in their legal consciousness and grievance culture. Below, I will explain and my methods for studying these companies and describe the taxicab industry, the community, and the companies I studied.

Both companies are located in the same medium-sized, progressive, Midwestern college town, called Prairieville.^{vi} The presence of a large university affects the character of the cab companies in that they are known as having overly-educated drivers, often with advanced degrees. This article focuses on two taxicab companies: Coop Cab and Private Taxi. Coop Cab is the oldest and largest cab company in Prairieville and charges the highest rates. Private Taxi is nearly as large as Coop Cab and about ten years younger.^{vii}

The Companies

The two companies are similar in many ways. They both draw from similar groups of people for workers: locals in the area and those presently or formerly associated with the university. Affected, perhaps, by the university, they both operate within a similar political atmosphere of semi-raised consciousness about issues of sexism, racism, classism, and homophobia. They are also similar in size and run their business similarly: both allow only single calls (except for airport runs), both use a commission system, and both have several employees who both drive and dispatch, rather than hiring separately for these jobs.

Both cab companies have management structures, discipline procedures, and grievance procedures. Like other larger worker cooperatives, Coop Cab has some aspects of conventional management structures; Coop Cab has four full-time managers, a formal grievance system, and a board of directors that is elected by the membership. Private Taxi has an owner, one manager, and a formal grievance system. In addition to managers, dispatchers at both cab companies have a minimal level of disciplinary authority over the drivers during their shifts.

Private Taxi was begun in the late 1980's by two men, starting with only a few vehicles. As the company grew, one of the partners tired of the long days of dispatching, customer relations, vehicle maintenance, and occasional driving shifts. In 1990, this partner sold his half to the other and left the taxicab business. In the 1990's the business continued to grow, gaining more on-going contracts for service as well as greater name-recognition. It is now about 75 percent of the size of Coop Cab.

Coop Cab was founded in the late 1970's out of a strike and subsequent closing of two other cab companies. A handful of out-of-work cab drivers decided to try to circumvent management-labor disputes in the future by opening the new cab company as a worker cooperative. Prairieville, in which Coop Cab is located, is supportive of various alternative ways of conducting business and is the home of a number of food, housing, and producer cooperatives, as well as other smaller worker cooperatives. This may contribute to Coop Cab's commercial success, despite its having the most expensive rate of Prairieville's three cab companies. Although Coop Cab expresses a strong commitment to democratic and cooperative ideals, economic survival -- not ideology -- was the primary reason for its creation. Founding members were first concerned with providing a living for themselves and other cab drivers; the then-recent cab strike and subsequent cab company closings had left many drivers unemployed. Even today, although the identity of being a worker cooperative is important to the company and its members, they defined themselves as first being a cab company; second as a cooperative.

Cab Driving

Cab driving is not a typical job; cab drivers do not occupy a single designated station, window, or office. Instead, they roam the streets continuously. In addition, their income is always uncertain: it can be affected by road conditions, generosity of passengers, skillfulness of

dispatchers, personal ability, and luck. For women, cab driving is often considered an unconventional occupation, yet women comprised approximately 15 % of the drivers at both companies.

A consequence of the mobile nature of the cab driving job is that the driver rarely deals with any one customer on an on-going basis [Davis, 1959 #14]. This makes the job both more exciting, with its constant variety, and more dangerous, with more unknowns. Potentially unpleasant situations can range from stick-ups to harassment by drunken passengers to fare-jumpers to harboring persons fleeing the police [Davis, 1959 #14]. For these reasons, many taxicab drivers feel that cab driving can be extremely dangerous and unpredictable [Onishi, 1994 #16; Wolf, 1993 #17].

However, few of the drivers at either Coop Cab or Private Taxi felt that they were in constant danger. The potential for danger was never far from their minds, but few described regularly fearing for their safety. Both cab companies had radio codes that drivers could broadcast in the event that they needed the police or other cabs to come to their immediate assistance. Everyone knew these codes and most interviewees had one or two stories about someone actually using them. Nevertheless, nearly all the drivers emphasized that driving in Prairieville was unlike driving in larger cities, such as New York or Chicago. Many drivers said that they loved driving in Prairieville, but would never dream of driving cab someplace else. As one woman cab driver at Private Taxi said, “[Prairieville] is a very domestic town. The crime rate is low. The unemployment rate is low. This is the best place to drive cab -- the only place I’d drive cab.”

Workers at both companies believed that, while cab driving demanded a lot of skill to do well, the low unemployment in the city meant that jobs, including cab driving jobs, were easy to get. This attitude was more prevalent at Private Taxi where managers and drivers alike believed

that anyone would be hired off the street to drive cab; Coop Cab, alternatively, had an elaborate hiring procedure with a hiring committee to interview, test, and screen applicants. Some Coop Cab members were aware of the lack of rigorous hiring procedures at Private Taxi and cited this as proof of their company's superiority. Even the manager of Private Taxi confessed, "Breathing is about the only requirement for driving taxi nowadays."

Grievances

While Private Taxi and Coop Cab were similar in many ways, substantial differences in legal consciousness existed between the workers at Private Taxi and those at Coop Cab. Correspondingly, these two groups of workers relied on different strategies to address their workplace disputes, even though both companies provided grievance procedures for their employees. Coop Cab had an elaborate system for formal grievances that was well-known by the members, but Private Taxi's grievance procedure was both less elaborate and less well-known. In fact, some employees at Private Taxi did not even know that the procedure existed.

Private Taxi's grievance system was a single procedure. Employees could appeal a disciplinary decision or bring a formal complaint by filling out a grievance form, available in the breakroom or from the manager. This form would be given to the manager or owner. If given to the manager, the manager would meet with the party filing the grievance and any other parties involved and then make a decision. The manager's decision could be appealed to the owner. If the grievance is given directly to the owner -- for example, if it is against the manager -- no appeal is available.

Coop Cab developed a two-prong formal grievance system. To appeal discipline decisions, workers came before the Workers' Council, a randomly-selected, rotating committee of members. To initiate discipline against another member, workers brought grievances before

the elected Board of Directors. Workers were more likely to have brought grievances before the Workers' Council than the Board.

Management could give disciplinary letters to members who had violated policy or work rules. These letters were accompanied by certain numbers of points which affect the member's income: each point represents an additional fifty cents per shift that the member must pay for the following fifty shifts.^{viii} To dispute a disciplinary letter and its accompanying points, a member brings a grievance before the Workers' Council. The Workers' Council is comprised of five to eight randomly-chosen members who hear both the grievant's side and a presentation of the reasons for giving the discipline by either the general manager or the specific manager who gave the discipline (who might be the general manager). The grievant may bring an advocate, often a fellow worker, who will present the grievant's case and may argue on the grievant's behalf. The Workers' Council must decide between upholding the letter and its amount of points, or overturning the letter completely.

In addition to disputing discipline decisions, members also could use the grievance system to discipline other members. For example, if one member sexually or racially harasses another member, that second member can bring a grievance against the harassing member before the Board of Directors, six people elected from the membership. This second grievance system is less used. Workers could also bring grievances to the Board to address more general complaints rather than rule infractions or discipline contestations, such as allocation of company funds. While this was possible, it was very rarely done.

Methods

I conducted a total of 33 interviews. The sample interviewed is evenly divided both in terms of gender and company with 14 people (43%) from Private Taxi and 19 (57%) from Coop

Cab; of the sample, 15 were women (45%) and 18 were men (55%). The slightly higher percentage from Coop Cab reflects the company's slightly larger size. The fairly even numbers of women and men, however, do not represent their actual proportions in the companies, where women comprised approximately 15% of each company's workforce. This oversampling of women was intentional in order to include more women subjects than the mere five woman count that would be produced by sampling only 15% of the workers.

The interviews averaged 2 1/2 hours; the shortest one ran just under an hour, and the longest duration was nearly 5 hours. All interviews were open-ended. I used a set of questions as initial probes on a wide variety of work-related topics. Follow-up questions were based on each interviewee's response. In each interview, I encouraged the informants to tell me "anything they thought applied." Most of the interviews were conducted in public places, such as coffee houses and restaurants, and at the companies themselves, in the parking lots and the breakrooms.

In addition to the interviews, I also observed meetings, attended two Coop Cab Workers' Council meetings, and "hung out" in the break rooms of both companies. Although these are not specifically cited in this paper, they contributed to my knowledge of these cab companies.

As with any study, the potential for self-selection may bias the results. Therefore, volunteers were not requested nor was a notice posted to find interviewees. Because the focus of this study is legal consciousness, the assertiveness and extroversion necessary to volunteer to be interviewed at length by a stranger may be correlated with legal consciousness and legal mobilization.^{ix} I selected people to be interviewed using a general snowball method. At the close of each interview, I asked each informant to refer me to other present or past co-workers and later tried to interview as many of these people as possible. A few were out of town; others had unlisted telephone numbers. Some were too busy to be interviewed during the time I had allotted. None directly refused to be interviewed. Interestingly, as this project progressed, I

found that I was often referred back either to people I had already planned to interview or to those whom I had already interviewed. Although this could be taken as implying that I only interviewed one circle of friends, this was not the situation. Many of the people recommended by interviewees were not people with whom they socialized; they only had contact with them at work, sometimes more by reputation than direct interaction. Therefore, these confirmed referrals reassured me that I was actually interviewing those perceived as the ones worth contacting. In addition to these referrals, I randomly approached additional interviewees at work in order to include those people not found through this snowball method.

Because this sample is small and nonrandom, these findings may not represent all workers in all businesses, or even all cab drivers. However, I believe that the depth and richness of information that this data achieved balances the lack of generalizability that would have been possible with a more quantitative study. Rather than produce widely generalizable statistics, this study demonstrates how legal consciousness varies between two otherwise similar companies.

IV. Results

The workers at the two cab companies together generated four types of responses to grievances, although workers at each company relied on only three of the possible four responses; Private Taxi workers used a subset of three that was different from the three options embraced by Coop Cab workers. The legal consciousness within each company dictated which of the four options were viewed as available and appropriate.

When faced with interpersonal problems, workers could (1) learn to tolerate the offending behavior, (2) leave the company, (3) use the formal grievance procedures, or (4) engage in various forms of informal grievance resolution.^x Informal grievance resolution

included (a) talking to the co-worker or manager with whom one has a grievance; (b) aggressive confrontation with the person with whom one has a grievance; (c) and seeking unofficial assistance from a manager, owner, or member of the board. Employees at Private Taxi used only three of these four approaches: toleration, informal grievance resolution, and resignation. Members of Coop Cab also used only three of these four: toleration, formal grievance resolution, and informal grievance resolution. In addition, while workers at both companies mentioned informal grievance resolution, the two companies' workers differed in how they informally resolved grievances. When informally resolving grievances, Private Taxi workers spoke with co-workers with whom they had disputes, aggressively confronted these co-workers, and petitioned managers for help. In contrast, Coop Cab members did speak with troubling co-workers and sought help from managers, but did not turn to confrontation, either individually or collectively.

I will first discuss the conventionally organized taxicab company, Private Taxi. Next, I will turn to Coop Cab, whose grievance culture was more encouraging of formal grievance resolution. In the discussion section, I will summarize and explain the differences between these two similar businesses.

A. Private Taxi

The employees at Private Taxi discussed three of the above mentioned four grievance behaviors. In dealing with problems at work, these employees tolerated problems; resigned their position; or engaged in informal resolution, which included self-help, individual or group confrontation, and talking with the manager or owner. Formal grievance resolution was never mentioned by workers at Private Taxi without interviewer solicitation. When directly asked, few Private Taxi employees anticipated using the formal grievance process. Some felt it would not

be effective, some simply didn't like the concept of formal grievances, and some did not even know it existed as an option.

1. Toleration

When asked about problems at work, the members of Private Taxi frequently voiced the credo that one simply could not let oneself get upset and that toleration or "lumping it" was often the best strategy.^{xi} They described cab drivers as people able to roll with the punches and able to resist becoming irritated over anything. In the following quote, Brian, a cab driver who had worked all possible shift times, articulated the belief that if one allows oneself to become upset, that anger will escalate.

You usually can't let stuff like that get to you, it can ruin your whole day really fast.

When you're driving cab, if you let one thing irritate you right at the beginning of the day: that's it! Because most likely you're dealing with the traffic anyway, and sometimes you're dealing with jerks [in your cab]. You just can't let it get to you.

Drivers expressed this belief in controlling one's anger with regard to misbehavior by both passengers and co-workers. They explained that cab drivers came to work to make money, not to get angry -- emphasizing that the two activities were at odds, so money had to be made the priority. Thus, "lumping" [Galanter, 1974 #30] became a financially important skill.

2. Resignation

Nearly all Private Taxi drivers mentioned the option of leaving (as opposed to only five percent of those interviewed at Coop Cab). Even drivers who had been at Private Taxi many

years,^{xii} expressed a willingness to leave. For example, Hank, who has been with the company for over seven years, expressed only mild commitment to the job.

The ultimate thing is, we can always quit. It's just cab driving. It's a nice job, but it's just a job. It's just cab driving. It's not like it's a profession. You can always quit.

While the limited training needed for cab driving might make drivers very replaceable, the low unemployment in Prairieville contributed to the belief by both drivers and the owner that a good driver might not be easily replaced. This gave drivers more power by threatening to leave than they might have otherwise.

3. Informal Grievances

Despite drivers' abilities to tolerate negative circumstances, problems did occur that moved them to action. When Private Taxi employees could no longer tolerate unpleasant situations, they could informally resolve their issues or they could resign. If they decided to stay and resolve their problems informally, they could talk with the offending party, employ individual or group confrontation, or speak to a superior.

a. Conciliation Drivers at Private Taxi often discussed ways they tried to resolve problems by themselves. This self-help sometimes involved simply talking to the other employee involved. When discussing this strategy of conciliation, interviewees sometimes characterized themselves as taking the "friendly way" or being "nice guy(s)" as, Michael, below said.

Well, you can either be confrontational about it or you can try to be a nice guy. I'm a type of guy that would rather talk it through first. Try to talk it through first, to see, 'Okay, what's going on?'

Like Michael, many Private Taxi workers expressed pride in their ability to resolve problems informally, without any formal or informal managerial action and without any aggressive confrontation. Some even described failure to resolve problems through talking face-to-face with the other party as a failure of their personal skill and integrity. For example, Rick explained his belief that, while the easy solution was anger, calmly talking was the better strategy.

Anyone can get nasty. Little kids can act out to get their way. Anyone can. It takes effort to work things out, but that's the thing to do. You can't go getting angry all the time. You have to learn to talk and work out your problems. It's hard; you don't always want to, but that what you gotta do.

However, others employees at Private Taxi favored confrontation as a means of grievance resolution. Although this more hostile action was sometimes used only as a last resort, other times it would be the initial and only action taken, especially if the grievant had had similar problems previously that had not been satisfactorily resolved through "nicer" means.

b. Confrontation Confrontations were either one-on-one or group retaliations against the offending party. Most Private Taxi employees mentioned one-on-one confrontations either by themselves or against themselves. One-on-one confrontations could range from a face-to-face argument, to a shouting match, to more vindictive behavior. For example, Jake described a misunderstanding he had had with a co-worker. The co-worker mistakenly thought that Jake had stolen one of the co-worker's calls earlier in the day. When Jake came back to the company parking lot after his shift, he saw the co-worker, who had just left his own shift, kicking the side of Jake's personal car, trying to dent it.

Nearly all Private Taxi drivers also described group retaliation. This included instances where one driver would engage in unacceptable behavior, such as stealing calls from other drivers, and, in response, the other drivers would collaborate on a following day to steal each of the offending driver's calls, leaving him or her with little income for that day. For example, Roberta described using this group retaliation technique, which left the targeted co-worker with little income after a long shift.

You're not supposed to steal other people's calls. There're not really rules about that. But there's sort of an etiquette: you just want to be fair to everyone. If you start stealing people's calls, then everyone will get mad. Then everyone else will start stealing all your calls.

We did this to someone a couple weeks ago who was being a real problem. We decided, like for a night, we were going to steal every one of this person's calls. And we did. At the end of the night they'd made \$20 in ten hours, something. They were broke, right? So you just sort of do things like that, sort of like teach them a lesson: 'Be good!'

So how many of you were doing that?

We had at least ten people -- and that was downtown. So if you have ten people downtown, it's a really small area, so you can pretty much always have someone really close to the call [who can get to the passenger before the assigned 'stealing' cab driver].

And the dispatcher was helping because he was upset too.

Many others shared Roberta's belief that this form of group action was both effective and justifiable.

c. Petition of Supervisor The third type of informal grievance resolution used by drivers at Private Taxi was to petition one's supervisor for help in dealing with a problem. Drivers at Private Taxi mentioned speaking with a manager, a dispatcher, or an owner. Although many Private Taxi drivers considered talking to the manager or the owner with problems, few were consistently confident that this path would resolve the issues. People at Private Taxi emphasized the fickleness of management, in that the level of assistance often depended on whether one had developed a more personal relationship with the manager or the owner. Mark, who had been driving for Private Taxi for the past three years, provided a good illustration of this dynamic.

If someone has a good relationship with [the owner], then they'll probably go to him and see what they can do. If someone has a good relationship with [the manager], at this point in time, they'll go to him to see what they can do. In some cases, people will go to the dispatcher and say, 'Hey, you know, listen, I got this problem.'

In some instances, these conferences would resolve the problems at hand; other times they were merely the first attempt to resolve a problem before engaging in aggressive self-help. Still other times, discussions with management were the sole, unsuccessful attempt to solve the problem before quitting the company. The following quote from Chuck, who mainly worked the evening rush-hour shift, succinctly describes the power of the owner. Chuck believed that he and his co-workers were employed at the pleasure of the owner and, therefore, the owner alone had the privilege of dictating how the company ran.

That's the way it is. I mean, this is a business. This is not a democratic thing that's going on. The fact is, he owns the business and he has the right to make decisions. And if you don't like the decisions he makes, then you either swallow it or get a different job. That's just the way it is.

Chuck expressed the widely-held opinion at Private Taxi that one should either learn to deal with one's problems oneself or leave the company ("like it, lump it, or leave").

Thus, employees at Private Taxi had developed several means of dealing with workplace problems. They learned ways to tolerate problems. Others talked with the offending party, more aggressively confronted the offending party, or engaged the help of a manager, as means of informal grievance resolution. Other times they simply quit -- left the job and left the problems behind them. Absent from these ways of addressing problems is formal grievance resolution. Although a formal grievance procedure existed at Private Taxi, it was rarely used and often forgotten by the employees.

B. Coop Cab

Workers' approaches to formal grievance resolution were a main area of contrast in legal consciousness between Coop Cab and Private Taxi. Coop Cab members often mentioned formal grievance resolution as an option during interviews; they anticipated using the formal grievance procedures and felt encouraged to do so. Additionally, very few at Coop Cab (5%) mentioned the possibility of quitting to escape workplace problems and no one mentioned planned confrontation by an individual or by a group.

1. Toleration

Workers at Coop Cab would sometimes choose not to resolve certain problems and rely, instead, on their ability to tolerate unpleasant circumstances. Toleration of negative behavior was more commonly described with regard to disruptive passengers, with whom the driver would interact only briefly and on whom she or he depended for income, but it was occasionally

mentioned as a way to deal with problems within the company itself. For example, Emma, in discussing her toleration of co-workers' annoying behavior, described how she decided not to take any action against a dispatcher by whom she felt sexually harassed.

One of the old dispatchers, he tends to tell a lot of raunchy humor and he would say certain things that could be taken as, definitely as, sexual harassment. But I choose to not look at it that way, because I think he's also extremely fair as a dispatcher, and he would never do anything to mess up my personal income. Because I happen to be a woman, he would never give me a worse call.

Emma prioritized her personal income over her personal comfort level. Although this dispatcher made her feel uncomfortable, she preferred not to say anything because his behavior did not affect her ability to earn money.

2. Formal Grievances

Nearly all members said that they would be more likely to bring a formal grievance at Coop Cab than at other places where they had worked. One cab driver, Laura, expressed her belief that using the grievance process is a reasonable way to address problems, a belief shared by many (75%) members of Coop Cab.

People aren't afraid to bring grievances if they feel they've got one. We're encouraged to use [the grievance procedures] if we feel that we have a grievance...I think there's a sort of a sense that there're very few jobs where you have that opportunity, so make the most of it.

The most common reason Coop Cab members cited for bringing grievances was unfair treatment, either by a manager or a co-worker. Mimi, who had been with Coop Cab for about a year, provides good example of this sentiment.

[I'd bring a grievance if management's action] was not fair. Or if it wasn't accurate in the information that was presented and I thought it was a personally based [discipline] letter. That's what you should do.

When people described their hesitancy to use the formal grievance procedures, they often expressed the importance of being completely blameless before raising a formal grievance. Owen, who worked mostly night shifts, described a winter accident that he did not feel was completely his fault, yet management considered him at sufficiently at fault and assigned disciplinary points. Explaining why he did not appeal the disciplinary letter, Owen said:

Yeah, I had an accident once when it was really icy that was considered my fault. It wasn't totally my fault but I got three points. I considered debating that, but in the end that was the right decision actually, because it was my fault.

Unlike Mimi or Laura, Owen declined to bring a grievance over this disciplinary letter, believing that the option of a formal grievance was inappropriate if he was partially culpable. In short, he was unwilling to engage in blaming, much less claiming, unless he, himself, were blameless.

Although most Coop Cab workers said that they were more likely to bring a formal grievance at Coop Cab than at any other job,^{xiii} some members still preferred to resolve grievances informally.

3. Informal Grievances

Like workers at Private Taxi, members of Coop Cab resolved many grievances informally, but, unlike Private Taxi, Coop Cab workers employed fewer types of informal resolution. Coop Cab workers spoke of conciliation with offending parties and of help from supervisors, but they did not engage in individual or group confrontation, nor did they mention resignation as a way to resolve disputes.

a. Conciliation While the members of Coop Cab felt empowered to bring formal grievances, approximately half of them believed they could resolve grievances as well or better through informal resolution. These workers felt that formal grievances could be avoided through skillful discussions. Men at the cab company were more likely to believe this than were their women co-workers, who relied more on formal grievances.^{xiv} The following quote is from Bob, who had been driving for Coop Cab for about four years. His sentiment is representative of the drivers who had great faith in their ability to resolve grievances informally.

I guess my first priority interpersonally, if I had a problem with another employee, would be to work it out with them. If I couldn't work it out with them I would be in a new kind of situation. I've usually been able to work it out.

Jo, a woman cab driver, who also served on the Board of Directors, gives an example of this ethic of first trying to talk to the offending party:

When I first started driving cab, one night I pulled a really, really, really stupid driving move. I did something really dumb with a cab full of screaming people. Another driver saw me do it. Now he could have gone running to the boss and said, 'I saw so and so doing such and such.'

No! He tracked me down. He made it a point to track me down after I dropped off my fare, which entailed him losing income to do that because he could have been getting another fare. He tracked me down and said, 'Look, I just want to say, do you know what you did?' I was so embarrassed. He just basically said, 'Okay, look rookie, from one driver to another, this is the drill. And you gotta learn to deal with this, otherwise somebody's gonna get hurt, and I don't want to see you get hurt.'

And I remembered that because I have [had] the occasion to handle other people's boners the same way. I like that, okay? I like that. If I'm doing my job badly, I want to be told. I don't want to lose my job over it, but I [also] don't want people saying it behind my back either.

Jo explained that talking to another driver, rather than getting upset or taking formal action, was a point of pride with her. It might not always work, she said, but she was dedicated to talking first.

b. Petition of Supervisor Others at Coop Cab emphasized that one could easily go to a manager with a complaint. These workers explained that, because Coop Cab was a worker cooperative, managers were just co-workers who could be approached without trepidation. For example, Bruce, who had been a member several years, said:

There's a whole grievance procedure, yeah, but it's like, you're part of a family. You can just talk to the other people. It's not like the manager is your 'boss.' There isn't any one boss. You can just go talk to him. You can even curse him out if you want to, and he can't really do anything to you. Of course, he won't be pleased. [laughs].

Part of Bruce's pride in his membership in a worker cooperative was that he saw his manager as his friend, rather than as his oppressor, as he had at his earlier jobs.

V. Discussion

Although Private Taxi and Coop Cab were similar in many ways, their workers display very different demonstrations of legal consciousness. Both Private Taxi and Coop Cab had supervisors and dispatchers and both had formal ways to raise grievances. Yet, the members at Coop Cab were much more willing to bring formal grievances than their counterparts at Private Taxi. Drivers at Private Taxi were more likely to talk about toleration, group confrontation, or resignation than are drivers at Coop Cab. A key difference between the two companies was their grievance culture. Coop Cab placed great emphasis on educating members about the options of the formal grievance system and on encouraging them to use the grievance system. Alternatively, Private Taxi's grievance culture emphasized handling conflicts "on one's own" and a certain self-sufficiency pride that dictated that one should not need to use formal grievances.

The de-emphasis on formal grievances and focus on resolving grievances more independently illustrates a grievance culture at Private Taxi that was quite unlike that of Coop Cab, which emphasized the formal grievance procedures. The legal consciousness within the grievance culture of Private Taxi also varied from that of Coop Cab in how workers anticipated resolving disputes and which strategies they saw as yielding the greatest satisfaction. Unlike their counterparts at Private Taxi, Coop Cab workers often spoke about the importance of having a formal grievance procedure. When contrasting the cab company to previous places they worked, Coop Cab members said that they would feel forced to quit at other companies if faced

with certain conflicts, but, at the cooperative, they could take action and resolve the same or similar disputes through formal or informal grievance resolution.

Many emphasized that the key reason for this ability was the availability and accessibility of the grievance procedures. For example, Sarah described problems she encountered at previous jobs, for which she took no action, other than resignation, because there was no grievance procedure available to her.

I've been in situations where I've had wages illegally withheld, where I've not been paid overtime, where I've not been paid Workers Comp, where I've been sexually harassed, where I was disciplined on the job -- a lot of the general gamut of experiences for women in low-wage jobs.

And you didn't bring a grievance then because...

There was no grievance process.

While other jobs offered exit as the only real solution, members of Coop Cab said they were much more likely to resolve problems through the grievance procedures, as Julie, a phone answerer, said:

I think I would be more likely to bring a grievance (at Coop Cab) and a lot more likely to be more assertive about it. I think I would just quit another job.

In contrast to the “like it, lump it, or leave” mentality of other jobs, including Private Taxi, Mimi, who had been at the company for a little over a year, described her attitude in favor of raising a formal grievance to address a complaint.

If I felt somehow that I had been unfairly disciplined, I wouldn't hesitate to appeal because I knew that's what [the grievance procedure] is there for, to hear what I have to say. I would probably, right away, talk to one of the stewards. I think that's pretty much what people do. When they think, on whatever level, they've been treated unfairly, by another coop member, or by management, or by somebody on the board. If they think something's been done inappropriately, they go and talk to a steward [who prepares the grievance]. And I know that happens a lot.

These statements provide a distinct contrast to those from Private Taxi workers, whose grievance culture greatly de-emphasized the formal grievance procedures, nearly removing this option from workers' legal consciousness.

Nevertheless, both companies did have grievance procedures. Yet their legal consciousness and grievance culture were vastly different. Clearly, the existence of these procedures was not in itself sufficient for the kind of legal consciousness found at Coop Cab. In addition to having these procedures, Coop Cab also had a culture that taught its members that bringing grievances was acceptable and appropriate action. Nearly everyone spoke of feeling encouraged to raise a grievance, as the representative quote by Emma shows. Emma said:

People aren't afraid to bring grievances if they feel they've got one. We're encouraged to use [the grievance procedures] if we feel that we have a grievance. Even if we feel it's a slight grievance, chances are we are still encouraged to do it. It's kind of accepted that management might not be right in every instance, that's why [the grievance procedures are] there. Whereas [at] other jobs, it's like, management says one thing and you do it, basically. Or else you go to the next higher person and you talk to them, which is sometimes hard to do.

However, Coop Cab's legal consciousness did not happen passively or by chance. Organized, more senior members made deliberate efforts to teach members that they had certain rights, such as grievance procedures, and to convince them to use them. Below, Nancy, a member of the Board of Directors, described the training of new members.

[There is] a position called head training coordinator. When people come off probation [when they are first hired], he gives sort of instruction on what a cooperative is and how it works and if they have a grievance and what all that means, what corporate structure possibilities there are, how this one's different from those, and what that means. I'm kind of hoping that that will make people who are coming in, who aren't from a union shop background or a cooperative background, get the idea that if they don't like something they don't have to put up with it just because they like their job. There is probably a reason why they don't like it and it could be fixed.

Another driver, Tom, described the company's efforts to specifically educate members that harassment would not be tolerated and that anyone who is harassed should take action against it.

You'll notice right on the title page is this policy on harassment. When we do orientation for new drivers, one of the first things we tell them is 'We follow this [policy].' We try to follow this. 'If you have any problems, do something about it. Don't suffer in silence, don't put up with it.' So I think that's part of the reason the message sinks in.

Special education efforts, including posted lists of formal grievance advocates, were necessary because many new members joined without the ability to assert their workplace rights. Many workers came from other jobs where they understood themselves to have few rights and

perceived few, if any, options when they encountered problems at work. Therefore, without explicit articulation of their rights and instruction on the available procedures, members might endure many problems unnecessarily, as Jo expressed in the quote below.

The biggest thing that concerns me is that people who don't have any education or background in grievance procedure might view the whole thing [the grievance process] as awesome and more trouble than it's worth. Which is, I think, why there's always been advocates elected and listed on a board.

Although not every worker at Coop Cab had personally brought formal grievances, the formal grievance procedures held important symbolic meaning as part of their grievance culture. Over two-thirds of Coop Cab's members believed that the grievance procedures and rights consciousness were essential elements of their identity as members of a worker cooperative: an egalitarian, less hierarchical, pro-worker business. According to Larry, a member for over ten years, the grievance procedures helped both the individual and the organization as a whole.

I don't think people come in understanding that they can speak their minds without being retaliated against. [Elsewhere] if you have a big problem with your boss at work you might go and try and hint at it. [In other companies] if they don't do anything, you're like, 'Well, they're the boss.' But I guess in my sense in a cooperative, if someone is having a problem, probably other people are having that problem and there could be good reasons why they're having that problem. And correcting it could increase our efficiency [as an organization]. I think people don't come in thinking that way. I think they come in thinking 'Well, the boss wants to do it that way. It's my job. I'll just do it and go home.'

Like Jo, Larry emphasized that this mentality can be foreign to new members, and so they

needed to learn that their rights were respected in a worker cooperative.^{xv}

In contrast, while Coop Cab members focused on the democratic principles behind the company's cooperative ideology, Private Taxi workers, like Chuck who was quoted earlier, emphasized the autocratic management at Private Taxi. This rights-focused culture at Coop Cab is a dramatic contrast to Private Taxi's grievance culture which encouraged "lumping it" and informal grievances resolution. Formal grievances were so unpopular at Private Taxi that some employees did not even know that a formal grievance procedure existed. Of those who thought they had a grievance procedure available -- which was correct -- none had ever brought a grievance nor did they know of anyone ever doing so. Jim's response is tentative, uncertain, and representative of those drivers with knowledge of the grievance procedure. He said:

I think there's a formal complaint process, yeah. I think that you can fill out a complaint form and you can put it back to the office. And, supposedly, someone will sit down with the parties involved and resolve the situation, at least there used to be.

Other drivers at Private Taxi were not only unaware of how to raise a formal grievance, they also felt that such formal actions were inappropriate.

However, Private Taxi workers did view group retaliation appropriate, in contrast to their counterparts at Coop Cab. Although arguments and very occasional one-on-one physical fights did occur at Coop Cab, group retaliation was never mentioned. One could see this as somewhat ironic: the only spontaneous group action was done within the cab company that did not actively encourage collective action, Private Taxi. However, this irony could be understood to demonstrate spontaneous versus institutionalized collective action. Group retaliation was the only way the drivers of Private Taxi worked together to resolve problems, but the members of Coop Cab had many established means of collective action, including committee meetings, board

elections, and membership meetings. All of these could be used as forums for informal grievance resolution.

The comparative grievance culture even affected the way that the companies themselves resolved disputes between each other. The quote below illustrates this difference in attitude between the two companies regarding the use of formal procedures -- with the contrast extending even to the companies themselves and their use of the city's grievance procedures when conflicts arose between the companies themselves. In these cases, the companies, like their members with grievances, had the options of toleration, formal resolution, or informal resolution. The strategies of the companies mirrored the behavior of their members: Coop Cab used the city's grievance procedures and Private Taxi tried to resolve the intercompany problems without formal intervention from the city. In describing confrontations between members of Coop Cab and Private Taxi, Fred, a driver at Private Taxi driver, underlines the difference in the legal consciousness between the two companies as it was played out on a larger scale.

Sometimes people [from Coop Cab and from Private Taxi] get in fights, fist fights. Other times it's just a screaming match that goes on. They get resolved in different ways.

Sometimes someone in management over there [at Coop Cab] will contact someone in management over here and there'll be a little discussion about it. Most of the time, at Coop Cab, there's an attitude of, 'Well, we're just gonna write it up and give it to the city and file a complaint.' Their [Coop Cab's] idea is that the more complaints the city gets about us [Private Taxi], the better. And then we will crack down on some things.

And I feel like, you don't want the city getting too involved in any of this. You want less regulation. Don't complain to them [the city]. It's just gonna be a problem. It's best to resolve it under the table between ourselves. And sometimes things just don't get resolved.

In this way, the legal consciousness within the companies carried over to disputes between the two companies as well. Just as employees of Private Taxi were more inclined to resolve disputes informally, while the members of Coop Cab were more likely to bring formal grievances, when the two companies themselves had a conflict, the Private Taxi company resisted formalizing the dispute, while the Coop Cab company wanted to raise a formal grievance with the city. The employees at each company reflected the positions their respective companies took in the above scenario. In fact, while Coop Cab took pride in their grievance procedures and rights orientation, Private Taxi drivers would express their distaste for formal grievance resolution, explaining that such formal means were only for the weak who were not able to handle things more independently.

VI. Conclusion

This article explored how the members of two similar companies, both with formal grievance procedures, responded with very different displays of legal consciousness. Employees of the privately owned, hierarchically organized taxicab company rarely brought formal grievances, but instead tolerated their problems, resigned, or tried to informally resolve them through peaceful discussion, aggressive confrontation, or petition to supervisor. In contrast, members of the cooperative cab company were much more likely to bring formal grievances. If formal means were not appropriate, they resolved problems informally by speaking with a supervisor or co-worker or, less often, simply tolerated the situation. The use of confrontation, whether individually or as a group, was never mentioned by Coop Cab members and only one person spoke of resigning as a way to resolve a problem.

The legal consciousness at Coop Cab was not accidental or unintentional. The cooperative made deliberate efforts to educate members about their rights and to empower them to raise grievances. Rights talk was very important to workers at Coop Cab. Knowing how to use the grievance system and being encouraged to exercise this right were key aspects of Coop Cab's grievance culture and figured strongly in its identity as a cooperative. Private Taxi, in contrast, had little concern for procedure and rights. This grievance culture emphasized being "tough enough" not to need to bring a formal grievance and to be able to resolve disputes oneself.

Thus, merely having certain structures in place, such as formal grievance procedures, does not guarantee a certain legal consciousness. The specific cultures of the individual institutions, such as the grievance cultures at Coop Cab and Private Taxi, have a great impact on workers' legal consciousness.

References

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- ⁱ Please direct all inquiries to: Elizabeth A. Hoffmann, Sociology and Anthropology Department, Purdue University, Stone Hall, West Lafayette, IN 47906. hoffmanne@soc.purdue.edu.
- ⁱⁱ Moreover, laws and legal institutions inform and reform the grievance procedures and workplace rules employees must negotiate. Often, workplace grievance procedures rules come out of employers' desires to avoid legal liability (Edelman, Erlanger, and Lande, 1993).
- ⁱⁱⁱ "Reframing (an issue) is an aspect of the power of naming, the power to assert what a problem is and what should be done about it" (Merry, S. E. 1990). In Merry's article, the reframing is done by court-affiliated officials who hold certain authority over the participants.
- ^{iv} Worker cooperative is an organization in which all employees are owners, and all owners are also employees. This means, for example, that a worker cooperative cannot have outside share holders or employees who do not also own part of the company.
- ^v Pseudonyms are used for the companies.
- ^{vi} "Prairieville" is an alias, but all descriptions about the city are accurate.
- ^{vii} Prairieville has a third taxicab company, Yahoo Taxi, offers much lower rates by encouraging drivers to double, triple, and quadruple fares -- allowing several passengers with different destinations in the cab at once -- a practice rarely allowed by the other companies. Yahoo is not included in this study.
- ^{viii} For example, a four point letter would mean that the member would be docked a total of one hundred dollars. In addition to the immediate economic harm from acquiring points, if 12 or more points are accumulated by a member within a year, the member can be fired. However, dismissal is neither immediate nor certain with the twelfth point; a number of drivers continue to work at Coop Cab with well over 12 points.
- ^{ix} However, the possibility exists that the workers of these two companies comprise a select group, that the people who would become cab drivers are not typical in terms of their orientation towards resolving workplace grievances.

^x Although some of these options occasionally were used together, they are not ordered in the sense that grievances did not typically escalate through any particular sequences of options.

^{xi} Toleration or “lumping” is different than “turning the other cheek” in that the subject experiences anger, but takes no action. No one ever discussed “forgiveness;” only staying in personal control so that one did not let one’s anger take hold.

^{xii} I define “many years” as being five or more years at the company.

^{xiii} Beverly expressed her concern that a culture affirming active grievance resolution had, in fact, not permeated the company. She felt that worker rights, such as the right to bring a grievance, were not sufficiently well-known and this resulted in managers having too much power.

They’re kept under cover, and a lot of times managers will also try to overuse, overstep their boundaries and create policies that are not within the by-laws. And it’s up to each member to read the by-laws. And to find someone who can represent them perhaps, and to talk to the managers, either personally about it, or set up some kind of formal situation where they can dispute a certain policy that’s been given. Either personally to them, or whatever. But a lot of people don’t do that. So the managers can have free reign over what’s going on.

^{xiv} See Hoffmann (Hoffmann, E. A. 1995) for further discussion of this gender division regarding grievance behavior.

^{xv} A few workers felt that the grievance system was overused, with too many frivolous and unnecessary issues being appealed, and was distinctly not helping the organization. For example, Tim, who had been driving, off and on, for five years, felt that formal grievances were used when people were too cowardly to deal with problems informally. He said:

But I’m not really one to, unless I feel that something is malicious, I think if it’s malicious, then I would do it. I really came close to handling Bob with a grievance because it was pretty malicious. You know what I’m saying? But the rest of it, I think is just, you know, part of the job. If someone did something malicious to me that continued, then I would grievance. I think though that grievances are used too much though. And they’re used as a weapon rather than a real tool to make a better working environment, or they’re used by people who are too afraid to do anything on a personal level. They just want it to be handled by a parental type figure. I don’t have a lot of respect for that.

