



... And Justice for All: Ethnicity, Gender, and Preferences for Dispute Resolution Procedures
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Ethnicity, Gender, and Preferences for Dispute Resolution Procedures*

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African American, Hispanic American, Asian American, and European American students rated their procedural preferences in response to a hypothetical conflict scenario and then recalled a real dispute in which they had been involved. Subjects of all four ethnicities and of both genders preferred persuasion and negotiation to other options. There were significant ethnic and gender differences in preferences, as well as differences for the nature of the relationship and the nature of the issue, but these differences were small in comparison to the overall pattern of procedural preferences. Reports of actual procedure use also showed differences in procedure use across genders, ethnicities, and relationship type, but the differences were relatively small. Procedural fairness was the strongest predictor of both procedural preference and affect toward actual procedure use.

Implicit in most American legal analyses of traditional and alternative dispute resolution procedures is the assumption that law and legal institutions should be blind to the personal characteristics of those who come before the courts. While this universalistic approach to law is laudable in its goal of avoiding racial or

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gender prejudice, it carries with it the possibility that law and legal procedures will be ill-fitted to the needs of minorities. American legal procedure relies heavily, indeed almost exclusively, on legal analyses by men of European descent. Thus, the history of American procedural law gives reason aplenty to wonder whether it is congruent with the disputing norms of African, Hispanic, or Asian Americans or with the disputing preferences of women.

Much of the debate about ethnicity and law focuses on the disputing traditions that form the backdrop of legal behavior. Anthropologists and sociologists have long argued that the way disputes are handled in a given society—and in consequence the formal law that develops from disputing traditions—is strongly conditioned by cultural factors (e.g., Felstiner, 1974; Gluckman, 1969; Gulliver, 1979; Nader, 1969; Nader & Todd, 1978). According to theories of disputing in these disciplines, preferred methods for handling disputes reflect cultural values, which are in turn determined by the social and physical environment of the society. Thus, for example, many East Asian cultures are thought to place substantial value on harmony and conflict avoidance, and people from these cultures are thought to prefer indirect or nonconfrontational ways of dealing with conflict. European Americans, on the other hand, are presumed to value fairness, because of the importance accorded that concept in British and Western European culture. European Americans are thought to be willing to use confrontational procedures if these procedures advance fairness considerations. A similar line of thinking has prompted feminist scholars to predict that women, who are generally viewed in sociological analyses as more relationship-oriented than men, will prefer less confrontational, more conciliatory procedures (e.g., Gilligan, 1979, 1982). The view that people in different backgrounds might need different legal forums and procedures represents an emerging policy position, in opposition to the traditional, universalistic approach mentioned above.

The active study of procedural preferences in social psychology began with the work of Thibaut and Walker (1975) in the early 1970s. Thibaut, Walker, and their students studied the extent to which American university students (predominantly of European descent) expressed a preference for using various arbitration, mediation, and negotiation procedures. Thibaut and Walker were mindful of the possibility of cultural variation in procedural preferences, and they conducted a number of cross-national replications of their original studies, comparing the preferences of subjects in the U.S. to those of subjects from a number of Western European nations (LaTour, Houlden, Walker, & Thibaut, 1976; Lind, Erickson, Friedland, & Dickenberger, 1978; Thibaut, Walker, LaTour, & Houlden, 1974). The cross-national studies showed only minor differences in procedural preferences, suggesting that a universalistic explanation of the psychology of procedural preference might be in order. Thibaut and Walker noted that in both the U.S. and Western Europe, procedural preferences were correlated very strongly with beliefs about the fairness of the procedure, and they argued that the primary factor that people consider in choosing a disputing procedure is procedural justice. Implicit in their argument is the idea that what it means for a procedure to be fair might vary from situation to situation, but that procedural justice judgments are always one of the most important criteria for choosing a procedure.

Subsequent psychological studies of procedural preferences have shown that variations in culture and context can sometimes lead to different preferences. For example, Leung (1987; Leung & Lind, 1986) found that Chinese students in Hong Kong had stronger preferences for conciliatory procedures such as mediation than did American students, and Bierbrauer (1990) found a preference for more conciliatory procedures among Kurdish and Lebanese respondents living in Germany. Heuer and Penrod (1986) found that when the dispute involved an issue that was amenable to compromise, negotiation-oriented procedures were better received than one would expect from the original Thibaut and Walker studies. Recent research by Pruitt and his colleagues (e.g., Pierce, Pruitt, & Czaja, 1990) suggests that, except in law-oriented contexts such as those used in the original Thibaut and Walker studies, negotiation is the most preferred procedure, even among Americans of European descent.

But if some of the preference patterns among procedures have been found to hold only in limited circumstances, there has been impressive support for the Thibaut and Walker discovery that procedural preferences are driven in large part by procedural justice beliefs. Lind (1992a, 1992b) reanalyzed data from the Lind et al. (1978) study of preferences in the U.S. and three European nations and data from the Leung and Lind (1986) study of preferences in the U.S. and Hong Kong comparing the extent to which preferences could be explained by judgments of the fairness of the procedure versus judgments that the procedure favored the subjects's side of the dispute. He found that procedural fairness was by far the stronger predictor of preferences, even for the Hong Kong Chinese subjects from the Leung and Lind study.

One final aspect of procedural preference research is of great importance to the question of who prefers which procedure and why. We noted above that anthropological theories of cultural differences in disputing preferences link procedural preference differences to differences in values. A recent study by Leung, Bond, and Schwartz (1990) tested whether procedural preference differences between Hong Kong Chinese and Israeli subjects could be predicted better from measures of values or measures of beliefs concerning the extent to which a given procedure advanced valued goals. Leung et al. found that *value* differences could not account very well for cultural differences in preferences, and that *belief* differences seemed to be a much better candidate for explaining why some people like one procedure and some like another.

The research literature in both psychology and anthropology focuses on three procedural values: fairness, instrumentality, and conflict reduction. Fairness concerns focus issues of procedural fairness: the extent to which the procedure is seen as being trustworthy, dignified, and even-handed (e.g., Tyler & Lind, 1992). Instrumentality concerns focus on the extent to which the procedure favors one's position and gives one control over the conflict (e.g., Brett, 1986; Thibaut & Walker, 1975). Conflict reduction concerns address the ability of the conflict to avoid creating higher levels of conflict and to reduce or ultimately resolve the conflict that activates the procedure (e.g., Bond, Wan, Leung, & Giacalone, 1985; Nader, 1969). The implication of the Leung et al. study is that ethnic and gender differences in preferences might not be due to differences in the weight accorded

each of these procedural values but instead might be due to differences in the extent to which a given procedure is thought to be likely to promote fairness, instrumentality, or conflict reduction.

With this research literature in mind, we sought to test the impact of ethnicity and gender on procedural evaluations. The issue has considerable applied importance. If women or members of non-European ethnic groups feel uncomfortable with the disputing traditions that have given rise to American law, they might either be dissatisfied with legal institutions or avoid contact with the law altogether. This, in turn, would deny these groups the benefits available to those who are more comfortable with traditional U.S. disputing fora. At a more general level, we were interested in whether the universalistic model seen in legal scholarship and in much of the psychological analysis of procedure holds or whether, in contrast, there are strong ethnic and gender differences in the preferred way of handling disputes. More fundamentally, we wanted to know whether the psychology of procedural preference differed across ethnic and gender groups.

We turn now to a description of the specific hypotheses we tested. We studied four ethnic groups: African Americans, Hispanic Americans, Asian Americans, and European Americans. The anthropological literature, when considered in conjunction with psychological studies of cultural differences, leads to some specific predictions with respect to the preference ordering of three of the four groups. One of the most widely used distinctions in cross-cultural social psychology is that between individualistic cultures and collectivistic cultures: People in individual cultures spend most of their time and energy on themselves as individuals, while people in collectivistic cultures spend more of their time and energy on their ingroups (Hofstede, 1980; Triandis, 1989). Collectivists are thought to prefer more conciliatory procedures for handling conflict.

Hispanic and Asian Americans tend to be more collectivistic and European Americans tend to be more individualistic (Hofstede, 1980; Triandis, 1989; Triandis, et al., 1986). African Americans may well be less individualistic than European Americans: Anthropologists (e.g., Stack, 1974) have described the communal nature of relationships among African Americans living in urban environments. In addition, Triandis (1989; Triandis, Bontempo, Villareal, Asai, & Lucca, 1988) suggests that there is an inverse relation between collectivism and affluence, suggesting that economically disadvantaged groups such as African and Hispanic Americans may be collectivistic for that reason. For these reasons, the cultural difference hypothesis would predict greater preference for conciliatory procedures among African, Hispanic, and Asian Americans than among European Americans.

Predictions concerning the procedural preferences of men and women follow much the same logic as those concerning differences among ethnic groups. If it is assumed, as theorists like Gilligan argue, that women are more relationship-oriented than men, then one would expect that women would prefer more conciliatory procedures. Similarly, a gender-difference variant of the value hypothesis would predict that men and women would differ in the weight they accorded procedural fairness, instrumentality, and conflict avoidance, while a gender-difference version of the belief hypothesis would predict instead similar weights but mean differences mirroring any preference differences.

In summary, one can delineate two possible positions in the literature, and each can be applied either to procedural preferences or to the psychological processes underlying procedural preferences. A cultural difference theorist would predict that different ethnic and gender groups would prefer different procedures. A cultural difference theorist would also predict that different ethnic and gender groups would differ in the weight they accord such underlying concerns as fairness, individual favorability, and conflict reduction. In contrast, a universalistic theorist would predict that ethnicity and gender would make little or no differences in procedural preferences and that weight accorded the concerns underlying the preferences would also be largely the same.

To give additional breadth to our study of ethnicity and gender, we manipulated three factors in hypothetical dispute scenarios that we presented to the subjects: the nature of the relationship between the subject and the other person in the dispute, whether the dispute involved money or a personal insult, and whether the other person was of the same ethnic group as the subject or not. The nature of relationship and same-versus-different ethnic group manipulations were included because there was reason to suspect that they might interact with ethnicity in affecting procedural preferences. Research and theory on cross-cultural differences in individualism-collectivism (Leung, 1987, 1988; Leung & Wu, 1990; Triandis et al., 1986, 1988) show that collectivists are more cooperative than individualists when the interaction involves ingroup members. Because ethnic group identification and close personal relationships could both be signs of ingroup membership, it seemed quite possible that they might interact with ethnicity in determining which procedures are preferred. In particular, the more collectivistic ethnic groups were expected to prefer conciliatory procedures (e.g., giving in, negotiation, and mediation) to an even greater extent when the other disputant was from the same ethnic group or when there was a prior close personal relationship.

The manipulation of the nature of the dispute was suggested by recent findings suggesting that bargaining-based disputing procedures are more readily invoked when the dispute is over some concrete, divisible outcome (e.g., Heuer & Penrod, 1986; Ling et al., 1990). When the dispute involves money, it seemed to us, there might appear to be more room for compromise and greater preference for using negotiation. When the dispute involves a personal slight or insult, there is perhaps an all-or-nothing quality to the dispute outcome, and one might prefer to use methods that involve confrontation or trying to persuade the other person to abandon their position altogether. In addition, people might be more willing to risk abandoning social connection following an insult. If they are owed money, they might be more inclined to try to salvage at least some partial payment through negotiation.

METHOD

Subjects

Three hundred nine subjects—135 Asian Americans, 76 European Americans, 50 Hispanic Americans, and 48 African Americans—participated in the

study.¹ One hundred sixty-eight subjects participated in partial fulfillment of a requirement for an introductory psychology course; 141 participated for payment of \$7.00 each. The subjects were undergraduates at the University of California, Berkeley. The undergraduate population is ethnically diverse: No single ethnic group, including European Americans, constitutes a majority of the student body.

Design

The study reported here is composed of two parts. The first part is a scenario experiment designed to study subjects' proactive preferences for disputing options and procedures for dealing with a hypothetical dispute situation. The second part is a study of disputing choices and reactions to experiences in a real past dispute recalled in response to instructions in the survey instrument.

The proactive scenario manipulated three factors in the between-subjects design: the relationship between the disputants (other disputant a friend vs. an acquaintance), ethnicity of the other disputant (same as subject vs. different), nature of dispute issue (insult vs. money). These three factors were crossed with two nonmanipulated between-subjects factors: ethnicity of subject and gender of subject. Each subject was asked to rate each of seven procedures or options for dealing with the hypothetical dispute: social influence, ignoring the situation, giving in, persuasion, negotiation, mediation, and arbitration (see descriptions below). Thus the design was a $2 \times 2 \times 2 \times 4 \times 2$ between-subjects \times 7 within-subjects factorial.

In the correlational, reactive survey, the subjects were asked to recall an interpersonal dispute they had recently been involved in and to answer questions about the conflict. Half of the subjects were asked to recall a conflict with someone of their own ethnicity and half were asked to recall a conflict with someone of a different ethnicity.²

Materials

The experimental materials began with a two-paragraph description of the dispute scenario. In the condition where the dispute was over an insult and involved an acquaintance of the same ethnicity as the subject, the description read as follows:

Imagine the following. You are involved in a dispute with a casual acquaintance who is from the same ethnic background as you. You do not know this person very well and do not share many friends with him or her. Suppose you feel this person treated you rudely or insulted you in the course of a personal encounter, and you think that he or she should

¹ Fifteen additional subjects took part but did not indicate membership in any of these four general ethnic groups. Some of these 15 subjects were Native Americans, and others were of mixed ancestry. Because of their small number, data from these subjects were excluded from the analyses reported below.

² The same level of the ethnicity-of-other factor was used in both the proactive and reactive sections of the study. Thus, if a subject had been asked to imagine a dispute involving someone of different ethnicity, he or she was asked to recall a dispute involving someone of different ethnicity. If the subject had been asked to imagine a dispute involving someone of the same ethnicity as himself or herself, the recalled dispute was also to involve someone of the same ethnicity.

apologize and make amends. The other person says that it was you who acted badly and that you should apologize and make amends. Assume that you consider this to be a very important matter.

As the person who is complaining, you have some choice about how to handle the dispute. We are going to describe seven different ways that you might deal with the dispute. Please read each description carefully and think about how you would feel if you handled the dispute in that way. After you read the descriptions, we will ask you a few questions about how you feel about each possible way of handling the dispute.

In the friend condition, the other disputant was described as a good friend, whom the subject knew quite well, and with whom the subject shared many friends. In the money condition, the subject was asked to imagine that the other person owed him or her money from a past business encounter. In the different ethnicity condition, the other disputant was described as someone who is from an ethnic background different from the subject's own.

The page following the scenario contained descriptions of seven procedures in the following order: social influence, ignoring the situation, giving in, persuasion (a procedure sometimes termed "confrontation" in the literature on disputing), negotiation, mediation, and arbitration. The procedures were labeled "ways of dealing with a dispute." The description were as follows:

Social influence. Use your social influence and power over the other person to try to get them to do what you want. This includes telling other people how you were harmed and how the other person acted unreasonably. You could also try to convince your friends to pressure the other person to do what you want.

Ignoring the situation. Ignore the situation and avoid contact with the other person. You would try to disregard what the other person says and what he or she does.

Give in. Give in to the other person's demands.

Persuasion. Try to persuade the other person you are right by using convincing arguments.

Negotiation. Negotiate with the other person to try to find a compromise that both of you will feel is acceptable.

Mediation. Seek the assistance of an impartial third party who would serve as a mediator to the dispute. The mediator would help you to discuss your problem with the other person and would give you advice about solutions you might both want to accept to resolve the problem. The mediator merely offers suggestions and has no authority to make decisions that either you or the other person would have to follow.

Arbitration. Seek the assistance of an impartial third party who would serve as an arbitrator to the dispute. The arbitrator would listen to your arguments and the arguments of the other person and would then make a decision about how to resolve the problem. The arbitrator has the authority to make a final and binding decision. Both you and the other person would be required to follow this decision.

After the descriptions of the seven procedures, the materials contained a page asking subjects to rate their willingness to use each procedure to deal with the dispute described in the scenario. Subjects were asked to rate each procedure on a 7-point scale. One end of the scale (7) was labeled *very likely to use this procedure*, the other end (1) was labeled *very unlikely to use this procedure*. After rating their preferences for using each procedure, the subjects were asked to rate each procedure on 14 7-point rating scales. Among these scales were items asking

for ratings of the extent to which each procedure (a) was a fair method for dealing with the dispute, (b) favored their side of the dispute over the other side, and (c) would increase conflict between the disputants (negatively scored).

After completing the materials on procedures for the hypothetical dispute, the subjects were asked to recall and briefly describe an interpersonal dispute they had had with someone in the past. The subjects were told that the dispute could have been either of a serious nature or of only minor importance. The other disputant could be someone they knew well or someone with whom they had only a brief interaction. The subjects were constrained, however, to recall a dispute with someone either of the same ethnicity or of a different ethnicity, depending on their assignment with respect to the same–different ethnicity manipulation. The subjects were then asked a number of questions about their relationship with the other disputant, about the nature of the conflict, and about how the conflict was resolved.

The subjects were then given descriptions of the seven dispute resolution procedures included in the proactive preference portion of the study. They were asked to rate the extent to which they had used each of the seven procedures to resolve the dispute. These ratings were followed with ratings of how the subject felt about the dispute, the resolution process, and the outcome to the dispute. These items included questions about the affect generated by the disputing experience, the fairness of the dispute resolution procedures, and the extent to which the conflict had increased or decreased during the conflict resolution process and afterwards.

Finally, the subjects were asked a number of questions designed to assess their global attitudes and values and the degree to which they identified with their own group, as opposed to American culture in general.

Measures and Analyses

The ratings of subjects' willingness to use each of the seven procedures to deal with the dispute and the ratings of the fairness and favorability of the seven procedures and the extent to which each procedure would increase conflict served as measures of procedural preference and its principal potential antecedents (procedural fairness, instrumentality, and conflict reduction). The subjects' ratings of the extent to which they had used each procedure to deal with the real dispute they recalled served as a measure of procedure use. In order to eliminate any scale artifacts due to across the board differences among the ethnic groups, we standardized each of these scales within ethnic groups across the seven procedures. For example, we computed the overall mean preference rating and the standard deviation of preference ratings across all seven procedures for African American subjects and used these values to standardize each rating for this ethnic group. The same process was repeated for each of the three other ethnic groups.³

³ The standardized scores are easier to interpret, but the results with the standard scores did not differ substantially from those obtained from nonstandardized data (see Leung, Bond, Carment, Krishnan, & Liebrand, 1991; Leung, Au, Fernández-Dols, & Iwawaki, 1992, for similar use of within-group standardization in cross-cultural research).

The measure of affect with the real disputing experience was the mean of ratings on five items asking the extent to which the experience had left the subject feeling frustrated, angry, satisfied, bitter, happy, and pleased (the first, second, and fourth items were recoded so higher values indicated more positive affect). The measure of procedural favorability for the recalled conflict was the difference between ratings of how fair the outcome was to the subject and how fair the outcome was to the other disputant. The measure of conflict reduction in the recalled conflict was the mean of ratings of conflict during the use of the procedure and conflict after the use of the procedure. The procedural fairness measure for the recalled conflict was a single item which asked whether the methods used to resolve the dispute were very fair. The written description of the real dispute was used to code the nature of the relationship between the disputing parties and the nature of the issue.

The subjects also rated their agreement with several items adapted from the Triandis individualism–collectivism scale (Triandis et al., 1986) and to rate the importance they accorded to each of the values on the Schwartz (1992) value scale.

RESULTS

Preliminary Analyses

Because the study used a very specific sample of subjects—students at the University of California, Berkeley—one might wonder if ethnic group differences were attenuated by socialization into the dominant culture. We asked the subjects to rate, using 5-point scales, the extent to which they shared the values of their own ethnic group and the extent to which they shared the values of Americans in general. By subtracting the own-ethnic-group rating from the Americans-in-general ratings we computed an index of identification with own group rather than identification with Americans in general. These difference scores were subjected to an analysis of variance with ethnicity and gender as factors. A test of the grand mean of the difference scores showed a significant positive difference, indicating that the subjects in general identified more with the values of their own group than with the values of Americans in general, $F(1,301) = 296.03, p < .001$; grand mean = 1.61.⁴

We also asked the subjects to answer some questions designed to tap their endorsement of individualistic or collectivistic beliefs. A MANOVA testing for ethnicity and gender effects and their interaction showed a significant effect for Ethnicity; multivariate $F(12,900) = 3.73, p < .001$. Asian Americans agreed more

⁴ The questions asked about the extent to which the subject found his or her own values to be different from those of other members of their ethnic group or other Americans; the responses were recoded so that higher numbers indicate greater similarity. There were significant ethnicity and gender effects on the index, but no significant interaction. African Americans and Hispanic Americans and women of all ethnicities showed somewhat higher levels of ingroup identification, but within each cell of the design there was greater identification with the ingroup than with Americans in general.

strongly than the other groups with an item stating "One does better work in a group than working alone"; African Americans and Hispanic Americans disagreed more strongly than the other groups with an item stating "Life is happier when one is independent of other's influences." Thus, the Asian, African, and Hispanic American groups gave more collectivistic responses than did the European Americans.

Additional evidence of the diversity of cultural values among the various ethnic groups is found in a comparison of the four ethnicities in terms of their endorsement of various dimensions of the Schwartz cultural value inventory (Schwartz, 1992). A MANOVA with ethnicity and gender as factors showed a significant Ethnicity main effect, $F(30,879) = 3.44, p < .001$, and a significant Gender main effect, $F(10,291) = 5.10, p < .001$. The Ethnicity by Gender interaction was not significant. Univariate analyses of variance showed significant Ethnicity main effects on the values of tradition, conformity, benevolence, maturity, and power. The African American, Hispanic American, and Asian American subjects placed greater importance on the values of tradition, conformity, and benevolence than did the European American subjects. These differences in values are congruent with the suggestion above that the European Americans were more individualistic than were the other ethnic groups. The differences on the extent to which subjects valued power over others were due to higher ratings by the African and Asian American subjects relative to the Hispanic and European American subjects. The ethnicity effect on ratings of the value of maturity was due to relatively high ratings by the Hispanic American and Asian American subjects and lower ratings by the African American and European American subjects.

The Gender main effect on the Schwartz value items was due to univariate main effects for power, maturity, benevolence, conformity, and tradition. The female subjects gave lower importance ratings for the values of power over others and higher importance ratings for the values of maturity, benevolence, conformity, and tradition than did the male subjects. These value differences are in line with those predicted by Gilligan and other feminist scholars.

Procedural Preferences

We conducted a repeated-measure analysis of variance of the procedural preferences ratings.⁵ To protect against spurious significance caused by the large number of effects generated by the large experimental design, we conducted overall tests of each order of main effect and interaction and conducted individual effect tests only when the overall test was significant. The analysis showed a significant Procedure main effect, $F(6,240) = 6.57, p < .001$; a significant Ethnicity by Procedure interaction, $F(18,726) = 1.83, p < .02$; a significant Gender by Procedure interaction, $F(6,240) = 2.47, p < .03$ a significant Relationship by

⁵ The repeated measures analyses used a multivariate approach to estimating and testing within-subjects and within- by between-subjects effects. This approach makes fewer assumptions about the interrelationships among ratings. Tests using a "pure univariate" approach produced the same pattern of effects.

Procedure interaction, $F(6,240) = 3.80, p < .001$; and a significant Issue by Procedure interaction, $F(6,240) = 5.74, p < .001$. Several of the findings are especially noteworthy. First, the preference ratings show a massive Procedure main effect. The effect size for the Procedure main effect (.606) is far greater than that of any other effect in the design (next largest effect = .125 for the Issue by Procedure interaction). Clearly the subjects differentiated among the seven procedures and clearly they preferred some procedures to others.

There were no other main effects or two-way interactions that were significant. None of the higher-order interactions met our significance testing criteria. Because they are relevant to previous theoretical discussions of ethnicity, gender, and disputing, it is worth noting specifically that there were no significant effects for the Ethnicity by Gender by Procedure interaction, the Ethnicity of Other by Ethnicity of Subject by Procedure interaction, or the Ethnicity by Relationship by Procedure interaction.

Ethnicity and Procedure

Figure 1 shows the mean preference ratings for each procedure by each ethnic group. There is clearly substantial communality in preference ratings: Subjects in all four ethnic groups gave relatively high ratings to persuasion and negotiation, moderate ratings to social influence, ignoring the problem, and mediation, and relatively low ratings for giving in and arbitration. There are some ethnic differences in preferences, however, as evidenced by the significant Ethnicity by Pro-

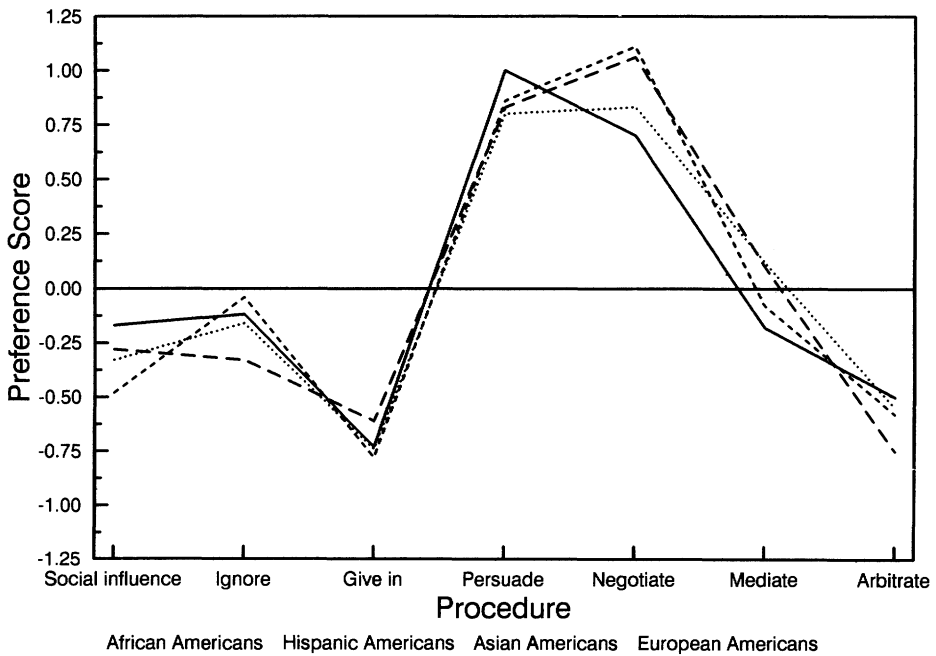


Fig. 1. Preference ratings by four ethnic groups.

cedure interaction. To discover the source of the overall interaction, we conducted separate ANOVA's on the preference ratings for each procedure. To increase the sensitivity of the tests, the ethnicity effect was partitioned into three separate single degree of freedom contrasts comparing each of the minority groups to the European American group. These contrasts seemed to us to capture best the policy question of greatest importance in the study: Which groups are most likely to be uncomfortable with procedures derived from the dominant, Eurocentric legal tradition? The contrasts are nonorthogonal, but all tests were conducted with all three contrasts in the ANOVA, so the variance due to ethnicity was in effect partitioned among the contrasts in a nonredundant fashion.

The Asian American subjects differed from the European American subjects in their ratings of negotiation, $F(1,245) = 5.62, p < .018$; M 's = .83 and 1.06, for Asian and European American subjects, respectively, and they differed marginally in their ratings of arbitration, $F(1,245) = 3.64, p < .057$; M 's = $-.55$ and $-.75$, for Asian and European American subjects, respectively. Thus the Asian Americans were less positive in their desire to use negotiation and somewhat more positive in their desire to use arbitration than were the European Americans.

The Hispanic American subjects showed only one, marginally significant difference from the European American subjects. The Hispanic American subjects' ratings of ignoring the conflict were somewhat higher than those of the European American subjects, $F(1,245) = 3.69, p < .056$; M 's = $-.04$ and $-.33$ for Hispanic and European American subjects, respectively.

The African American subjects gave lower preference ratings for negotiation than did the European American subjects, $F(1,245) = 8.30, p < .004$; M 's = .70 and 1.06 for African American and European American subjects, respectively. The African American subjects also gave marginally lower preference ratings for mediation, $F(1,245) = 2.84, p < .093$; M 's = $-.18$ and $.10$ for African American and European American subjects, respectively, and marginally higher ratings for arbitration, $F(1,245) = 3.36, p < .068$; M 's = $-.50$ and $-.75$ for African American and European American subjects, respectively.

Thus, the strongest ethnic differences were with respect to negotiation. All groups responded favorably to negotiation, but European Americans and Hispanic Americans were more favorable than were African and Asian Americans.

Gender and Procedure

Tests comparing the preference ratings of men and women for each procedure showed significant differences for social influence, persuasion, and mediation, and a marginally significant difference for negotiation. Women gave lower ratings than men for the use of social influence, $F(1,245) = 8.24, p < .004$; M 's = $-.43$ and $-.18$, for women and men, respectively, lower ratings for persuasion, $F(1,245) = 8.57, p < .004$; M 's = .73 and .98, for women and men, respectively, marginally higher ratings of negotiation, $F(1,245) = 3.32, p < .07$; M 's = .97 and .83, for women and men, respectively, and higher ratings of mediation, $F(1,245) = 5.35, p < .021$; M 's = .12 and $-.06$, for women and men, respectively. As was the case for the ethnic differences, however, the gender differences did not much alter

the overall pattern of procedure preferences. For example, women preferred negotiation to persuasion and men preferred persuasion to negotiation, but for both genders both persuasion and negotiation were much preferred to the other procedures. Note that there was no evidence that gender and ethnicity interacted to affect preferences for procedures; the effect of gender was additive with that of ethnicity. Across all four ethnicities, there was a preference on the part of women for less direct, less confrontational procedures.

Relationship and Procedure

The nature of the relationship specified in the dispute scenario affected preference ratings for ignoring the dispute, giving in, negotiation, and, marginally, ratings for arbitration. When the dispute was with a friend, subjects gave higher preference ratings for ignoring the dispute, $F(1,245) = 18.37, p < .001$; M 's = .02 and $-.38$, for friends and acquaintances, respectively, lower preference ratings for giving in, $F(1,245) = 22.01, p < .001$; M 's = $-.88$ and $-.54$, for friends and acquaintances, respectively, lower preference ratings for negotiation, $F(1,245) = 6.01, p < .015$; M 's = .82 and 1.01, for friends and acquaintances, respectively, and marginally higher preference ratings for arbitration, $F(1,245) = 3.84, p < .051$; M 's = $-.51$ and $-.69$, for friends and acquaintances, respectively. The subjects seem to move in the direction of less confrontation with friends than mere acquaintances, but they did not wish to give in to their friends' demands.

Issue and Procedure

The nature of the issue in dispute affected preference ratings for ignoring the dispute, giving in, persuasion, mediation, and arbitration. When the dispute involved an insult, compared to when it involved money, subjects gave higher preference ratings for ignoring the dispute, $F(1,245) = 35.21, p < .001$; M 's = .11 and $-.45$ for insults and money disputes, respectively, higher preference ratings for giving in, $F(1,245) = 18.14, p < .001$; M 's = $-.56$ and $-.87$, for insults and money disputes, respectively, lower ratings for persuasion, $F(1,245) = 10.60, p < .001$; M 's = .70 and .99, for insults and money disputes, respectively, lower ratings for mediation, $F(1,245) = 9.88, p < .002$; M 's = $-.12$ and .18, for insults and money disputes, respectively, and lower ratings for arbitration, $F(1,245) = 28.65, p < .001$; M 's = $-.84$ and $-.37$, for insults and money disputes, respectively. Insults, it seems, are better ignored or acceded to; if they must be resolved, people seem disinclined to confrontation, especially confrontation in the presence of a third party.

Antecedents of Procedural Preferences

To trace the antecedents of the preference ratings, we conducted regression analyses predicting preference scores from ratings of the extent to which the procedure was seen as fair, the extent to which the subjects felt the procedure favored his or her side of the case, and the extent to which the procedure was thought to enhance or reduce conflict. Because our interest was in within-subject,

between-procedure differences, as well as in between-subject variation, we used each subject's ratings of each procedure as the unit of analysis in these regressions. Thus, the number of potential procedure by subject rating combinations was 2163 (309 subjects \times 7 procedures). To avoid inflating the significance of statistical tests, each data point was weighted by .143, so the total N was the number of actual subjects (309).

If the cultural difference theories, which tie procedural preference differences to cultural value differences, are correct, then one would expect that the weights accorded to fairness, instrumentality, and conflict reduction would differ from one ethnic group to another. Statistically, this means that there should be significant interactions between ethnicity (or gender) and measures of fairness, instrumentality, and conflict reduction. Table 1 shows the results of several regression models testing for such interactions. The first column of regression weights is based on a regression equation predicting preference only from procedural fairness, favorability, and conflict reduction (weights for the conflict enhancement/conflict reduction measure have been set to positive when there is a positive relationship between procedural preference and the *reduction* of conflict). The second column of weights adds main effect contrasts for ethnicity and interactions of ethnicity with fairness, favorability, and conflict reduction. Columns three to five show analogous equations with main effect and interaction terms for gender, relationship, and dispute issue, respectively.

The regression results in the first column of Table 1 show that, of the three antecedent variables mentioned most often in theories of procedural preference, procedural fairness is the most powerful predictor of preference. Instrumental

Table 1. Antecedents of Procedural Preference

	Ratings of fair, favor, and conflict reduction	Ratings + ethnicity main effect and interaction	Ratings + gender main effect and interaction	Ratings + relationship main effect and interaction	Ratings + issue main effect and interaction
<i>Standardized regression coefficients</i>					
Procedural fairness	.429**	.425**	.423**	.423**	.422**
Procedure favors S	.227**	.232**	.231**	.226**	.221**
Conflict reduction	.120*	.127*	.118*	.126*	.127*
<i>R² change for</i>					
Ethnicity main effect		.000			
Gender main effect			.000		
Relationship main effect				.000	
Issue main effect					.000
Ethnicity interactions		.003			
Gender interactions			.003		
Relationship interactions				.006	
Issue interactions					.010
Total R	.569	.572	.572	.574	.578

Note. Entries are standardized regression coefficients (for rating variables) and R^2 change for main effects and interactions. ** $p < .01$. * $p < .05$.

concerns, measured here with ratings of the extent to which the procedure was thought to favor the subject over his or her opponent, also accounted for significant variation in procedural preference. Judgments of the extent to which the procedure of disputing option was seen as likely to reduce versus exacerbate the conflict was a distant third among the three predictors, but it did account for significant variation in the preference measure.

The results reported in columns two to five of Table 1 show that differences in the relative importance of fairness, instrumental concerns, and conflict reduction *cannot* explain the differences in procedural preference reported above. The nonsignificant tests of interactions between the between-subject factors and the rating scales mean that there is little or no evidence that the relative weight of the three concerns varied across ethnicities, genders, or situation. We conducted separate regression equations within each ethnic group, each gender, and each level of the relationship and issue manipulations, predicting procedural preference from procedural justice, instrumentality, and conflict reduction. In every instance the relative ordering of the predictors was the same: Procedural justice was strongest, procedural favorability was second strongest, and conflict reduction was the weakest predictor. These findings are contrary to the hypothesis that preference differences are due to differences in the extent to which people value fairness, favorable outcomes, and conflict reduction.

As we noted above, an alternative explanation of the preference differences caused by ethnicity, gender, relationship, and issue is that they result from differences in beliefs about whether a given procedure is fair, favorable, or likely to reduce conflict. That is, everyone might want (i.e., value) fair and favorable procedures, but people of different ethnicities might not agree (i.e., hold different beliefs) about which procedures are fair or which are favorable. Evidence supporting this hypotheses would consist of patterns of effects in the antecedent variables that are similar to those seen on the preference ratings. We counted the number of times that the antecedent variables showed significant or nearly significant ($p < .10$) differences in the same direction as the preference ratings. Of the 18 effects seen on the procedurewise follow-up analyses of preference, 10 could be accounted for by similar differences in procedural justice ratings, 2 could be explained by differences in procedural favorability ratings, and 5 could be explained by differences in the conflict reduction ratings. In total, 12 of the 18 differences in preference ratings could be explained by corresponding differences in the antecedent variables.⁶ These findings are generally favorable to the belief-difference explanation of preference differences.

Reported Use of Procedures

A repeated-measure analysis of variance was conducted on the subjects' ratings of the extent to which they used each of the seven procedures or disputing

⁶ The total number of explained differences is less than the sum of the differences explained by the three antecedent variables because some preference differences could be explained by more than one antecedent variable.

options in the conflict they recalled. The independent variables in this analysis were ethnicity, gender, and the manipulated same-different ethnicity of other factor, as well as the relationship and nature of issue codes generated from the written descriptions. Blocked effect analyses of the type used to analyze procedural preferences showed statistical significance for the procedure main effect and for two interactions involving some of the between-subjects factors and the procedure effect. Follow-up analyses revealed a significant main effect for Procedure, $F(6,244) = 45.84, p < .001$, effect size = .530, and significant interaction effects for Ethnicity by Procedure, $F(18,738) = 2.42, p < .001$, effect size = .056, Gender by Procedure, $F(6,244) = 2.44, p < .026$, effect size = .057, and Relationship by Gender, $F(6,244) = 3.78, p < .001$, effect size = .085. Figure 2 shows the mean ratings of procedure use for each of the four ethnic groups. As was the case with the preference ratings, the use ratings show more similarities than differences across ethnicities, genders, and relationship types. The differences among procedures are generally similar to those seen on the procedural preference ratings, with the exception that giving in was used more frequently and negotiation was used relatively less frequently than one would have expected from the preference ratings.

The principal ethnicity differences were in the use of giving in, which was used less by the African American subjects than by the European American subjects, $F(1,249) = 11.25, p < .001$, M 's = $-.63$ and $-.12$ for African and European Americans, respectively, in the use of mediation and arbitration, which were used more by the African Americans than by the European Americans,

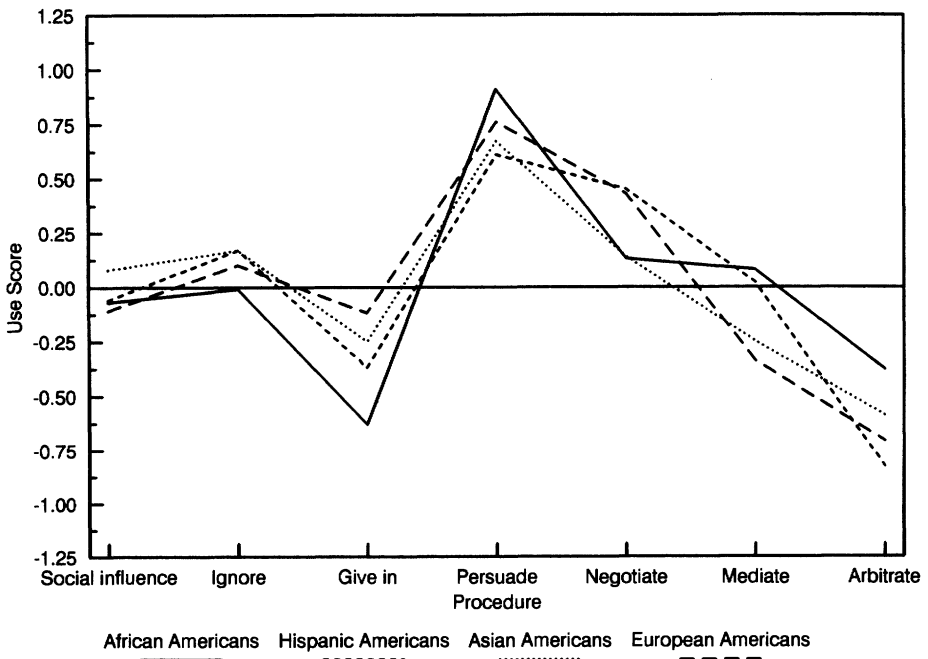


Fig. 2. Procedure use by four ethnic groups.

$F(1,249) = 5.11, p < .025$, M 's for mediation = $+ .08$ and $-.34$ for African and European Americans, respectively, and $F(1,249) = 7.80, p < .006$, M 's for arbitration = $-.36$ and $-.71$ for African and European Americans, respectively, and in the use of negotiation, which was used less frequently by Asian Americans, $F(1,249) = 4.42, p < .037$, and African Americans, $F(1,249) = 2.66, p < .104$, than by European Americans (M 's = $.13, .14$, and $.43$ for African, Asian, and European Americans, respectively).⁷

The gender differences in procedure use were due to greater use of persuasion by men than women, $F(1,249) = 7.79, p < .006$, M 's = $.97$ and $.39$, for men and women, respectively, and greater use of arbitration by men than by women, $F(1,249) = 6.68, p < .01$, M 's = $-.54$ and $-.72$ for men and women, respectively. The relationship differences in procedure use were due to differences in negotiation and arbitration. In disputes involving personal relationships, negotiation was more frequently used, $F(1,249) = 5.02, p < .026$; M 's = $.26$ and $.12$ for close and less close relationships, respectively, and arbitration was less frequently used than in disputes involving less close relationships, $F(1,249) = 18.87, p < .001$; M 's = $-.81$ and $-.41$ for close and less close relationships, respectively.

Procedural Antecedents of Affect

Use of a procedure does not always lead to a positive experience. We analyzed reported affect in an analysis of variance with gender, ethnicity, relationship type, issue type, ethnicity of other disputant, and most used procedure as factors.⁸ The analysis showed no ethnicity or gender main effects or interaction. There were significant main effects for most used Procedure, $F(6,137) = 3.54, p < .003$, effect size = $.134$, for Gender, $F(1,137) = 3.93, p < .05$, effect size = $.028$, and for Relationship type, $F(1,137) = 4.57, p < .034$, effect size = $.032$. By and large all subjects reported negative affect in their reactions to the disputing experience; the grand mean of the affect measure was significantly below the scale midpoint, $F(1,137) = 6.41, p < .012$, grand mean = 2.47 , scale midpoint = 3.0 . The overall procedure effect on affect mirrors that on preference with two notable exceptions: Persuasion produced less positive affect than one would expect from its high preference scores, and arbitration produced more positive affect than one would expect from its relatively low preference scores. The Gender main effect occurred because women reported more negative affect than men, regardless of procedure. Subjects reported more negative affect when the dispute involved more distant relationships than when it involved close relationships (M 's = 2.55 for close relationships and 2.35 for distant relationships). There were no interactions between procedure and ethnicity, gender relationship, ethnicity of other, or issue type.

Tyler's (1990) previous research on ethnicity and affective reactions to dis-

⁷ These F -values are generated by contrast analyses similar to those used to analyze the preference rating data.

⁸ The most-used procedure was defined as the procedure that received the highest use rating by the subject. This analysis included only main effects and interactions between the between-subjects factors and procedure because missing cells precluded analysis of higher-order interactions.

Table 2. Antecedents of Affect

	Ratings of fair, favor, and conflict reduction	Ratings + ethnicity main effect and interaction	Ratings + gender main effect and interaction
	<i>Standardized regression coefficients</i>		
Procedural fairness	.366**	.342**	.366**
Procedure favors <i>S</i>	.219**	.218**	.227**
Conflict reduction	.279**	.271**	.272**
	<i>R² change for</i>		
Ethnicity main effect		.012	
Gender main effect			.008*
Ethnicity interactions		.016	
Gender interactions			.005
Total <i>R</i>	.582	.606	.593

Note. Entries are standardized regression coefficients (for rating variables) and R^2 change for main effects and interactions. ** $p < .01$. * $p < .05$.

puting suggests that there are few differences attributable to ethnicity, in terms of differences in the weight accorded to procedural fairness.⁹ We regressed the affect measure on measures of procedural justice, instrumentality (procedural favorability), and conflict reduction in the recalled dispute resolution experience. Table 2 shows the results of these analyses. As was the case with the preference ratings, affect appears to be influenced by all three predictors, with procedural justice the strongest predictor, conflict reduction the next strongest, and procedural favorability the third strongest. As can be seen from the second and third columns of the table, there is no evidence that either ethnicity or gender affected the weight accorded to the three predictors.

DISCUSSION

We began our consideration of ethnicity and disputing by pointing out the policy significance of ethnic and gender differences in disputing preferences. If people of different ethnic backgrounds exhibit profound differences in how they want their disputes handled, then it will be difficult to satisfy everyone with a single approach to dispute resolution. The implication of cultural value critiques of a Euro-centric legal system is that people who do not share the cultural background of those who created the system will be ill-served by the courts.

Our data suggest that such concerns may be misplaced. To the extent that people find the legal system at odds with their preferred methods of handling conflict, the problem is attributable less to cultural differences than to other problems, problems that are perhaps intrinsic to any system that must impose third-

⁹ Tyler's analyses did not regress affect on procedural fairness. Instead it regressed affect and procedural justice on various antecedents of procedural justice and on other factors. In both instances there were no racial differences in the weight accorded to various antecedent values.

party decisions on disputants. Stated differently, litigant dissatisfaction is probably not unique to any particular ethnic group—European Americans may find the third-party procedures used by the courts as contrary to their preferences as do African, Hispanic, or Asian Americans. People of all ethnic groups expressed preferences for two-party procedures—persuasion and negotiation—over third-party procedures—mediation and arbitration. The relatively small differences between ethnic and gender groups do not come close to altering these widespread preferences for one type of procedure over another. We would note, in addition, that all of the procedures left people with generally negative affect about their disputing experience.

The findings of our study are more supportive of universalistic theories of procedural preference than cultural difference theories. This said, however, it must be noted that there are enough differences in preference ratings and in procedure use to belie any contention that ethnicity and gender do not matter in choosing disputing procedures. The differences, while small relative to communalities in preferences and procedure use, are theoretically quite interesting because they offer us an opportunity to trace the origins of ethnic and gender differences. Our data suggest that, while Americans of diverse origins and of both genders react to disputing and disputing procedures in fundamentally the same way, they do show occasional differences that are linked to their cultural background and gender. The origin of these differences lies, it appears, in different conceptions about *which procedure is most fair*, rather than in differences in *whether fairness is important*.

Theoretically interesting also is our finding that conflict reduction exerted a relatively small impact on preferences. Recall that the conventional wisdom about how collectivists approach disputing was that a desire for conflict reduction is a major factor influencing procedural preferences. All three of our minority groups gave questionnaire responses that were more in line with collectivist values than did the European American group, but none of the groups accorded as much weight to conflict reduction as to fairness or instrumentality. For African Americans, the standardized regression weights were .17, .36, and .24 for conflict reduction, fairness, and instrumentality, respectively; for Hispanic Americans the corresponding standardized regression weights were .06, .51, and .24; for Asian Americans the corresponding standardized regression weights were .07, .46, and .20; and for European Americans, the standardized regression weights were .18, .39, and .24 for conflict reduction, fairness, and instrumentality, respectively. It appears that an overarching concern with procedural fairness united the groups more than concerns with conflict reduction divided them.

Finally, it is interesting to note that there was little or no evidence that gender and ethnicity interacted in affecting procedural preferences or in the use of procedures. It appears that, insofar as there are any differences in preferences, the effects of ethnicity and gender (and relationship and issue) work additively rather than combining in a more complex fashion.

There are some policy implications in the finding that procedural fairness concerns were widely shared and that most of the ethnic and gender differences that did occur were attributable to differences in *beliefs* about how fair a proce-

cedure was, rather than to different *values* about what a disputing procedure should do. Values, especially culturally driven values, are likely to be very resistant to change, while beliefs are probably more malleable, more open to change with new experiences. It may well be possible to ameliorate the relatively small ethnic and gender differences we found by focusing debate and policy research on issues of fairness. Debates about how fair a given procedure is are certainly not easy to resolve, but they may prove in the long run to be more tractable than debates about how much value to accord to different procedural values. One clear implication of our findings is that psychologists and policy analysts would do well to focus their attention on ethnic differences in procedural justice judgments, an area of study that has not received much attention to date.

We should note two potential limitations of our study. First, our proactive data were based on a hypothetical scenario, rather than on any real expectation that preferences would affect future disputing experiences. This approach seemed to us to have some benefits in detecting cultural differences in values and beliefs, because it allows cultural assumptions about disputing free rein in determining reactions to procedures (Lind & Tyler, 1988). Given the relatively small ethnicity effects we found on preferences and the similar, but even smaller, ethnicity effects seen on the reactive survey portion of the study, we are inclined to think that the scenario method did not detect from the validity of the study. Nonetheless, it would be desirable for future studies to look at the preferences of people who are actually in the early stages of a dispute and who are making real choices about how to handle their conflict.

The second limitation is our student sample. Our subjects were not representative of their ethnic groups—they were, after all, selected through the University admission process and they differ from the general population in terms of age, education, and other characteristics. It may be that the lack of differences among the various ethnic groups was due to the use of student subjects. We think, though, that the real question about the sample is whether we were successful in obtaining subjects who identified with their ethnic groups and who, in the case of the minority groups, differed in their values from the European American group. Anthropologists have long argued that the proper approach to studying culture is not to focus on the representativeness of any given sample but rather to be sure that the people studied carry the fundamental views shared by other members of their culture. We have presented data in support of our contention that our sample meets these criteria. Our minority-group subjects did identify more strongly with their own ethnic group than with the dominant culture, and they showed considerable evidence in their beliefs and values of difference from the European Americans and from each other. Of course, it is impossible to ever be sure that any given sample is not for some reason peculiar, but in the present case one would have to argue that these subjects were similar to others of their ethnicity with respect to values and beliefs but different with respect to disputing preferences, an argument that seems to us to be a bit strained.

Additional evidence for the validity of our study is to be found in the similarity between our findings and those of the Tyler (1990) general population survey. Our results with respect to the similarity of concerns across ethnic groups

mirrored those seen in the Tyler study. Tyler used representative, general population samples of Chicago residents and found that European and African American respondents used the same factors in the same way in arriving at an affective reaction to an encounter with authority, just as we found that subjects of differing ethnicities responded to the same factors in the same way in arriving at a preference for using a given procedure. In addition, the Leung and Lind (1986) study found considerable similarity in the antecedents of procedural preferences across samples from the U.S. and Hong Kong. In the face of convergence of findings of this sort, we believe that, at a minimum, the burden of proof is on those who would argue that people of different ethnic groups differ profoundly in what they look for in a dispute resolution procedure.

In summary, we found substantial similarities in how people approach disputing. There are pervasive communalities both of the concerns that people bring to the choice of disputing procedures and in the extent to which they prefer specific disputing options or procedures. There are differences, but these are small and appear to be driven by differences in perspective, not fundamental differences in values. We are, it seems, more alike than many previous researchers had thought.

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