

Legal Environments and Organizational Governance: The Expansion of Due Process in the American Workplace

Author(s): Lauren B. Edelman

Source: *American Journal of Sociology*, Vol. 95, No. 6 (May, 1990), pp. 1401-1440

Published by: The University of Chicago Press

Stable URL: <http://www.jstor.org/stable/2780330>

Accessed: 11-12-2017 19:30 UTC

JSTOR is a not-for-profit service that helps scholars, researchers, and students discover, use, and build upon a wide range of content in a trusted digital archive. We use information technology and tools to increase productivity and facilitate new forms of scholarship. For more information about JSTOR, please contact support@jstor.org.

Your use of the JSTOR archive indicates your acceptance of the Terms & Conditions of Use, available at <http://about.jstor.org/terms>



JSTOR

The University of Chicago Press is collaborating with JSTOR to digitize, preserve and extend access to *American Journal of Sociology*

Legal Environments and Organizational Governance: The Expansion of Due Process in the American Workplace¹

Lauren B. Edelman

University of Wisconsin—Madison

This article examines the effect of legal environments on the expansion of due process in organizational governance. Event-history analyses of personnel practices in 52 organizations show that the civil rights mandates of the 1960s created a normative environment that threatened the legitimacy of arbitrary organizational governance. This precipitated a diffusion of formal grievance procedures for nonunion employees. Proximity to the public sphere, number of employees, and structural differentiation of the personnel function rendered organizations more vulnerable to normative pressure. Variation along these dimensions explains variations in the rates of rights expansion across organizations.

I. INTRODUCTION

Since the mid-1960s, there has been a dramatic expansion of formal due process protections for nonunion employees in American work organizations (Westin and Feliu 1988).² Yet, unlike earlier attention to due process

¹ I would like to thank Howard Erlanger, Charles Halaby, Ross Matsueda, Lawrence Wu, Murray Edelman, David Stark, William Barnett, Anne Miner, Stephen Petterson, and anonymous reviewers of *AJS* for their helpful comments on earlier drafts of this paper. The data collection for this paper was funded by the Russell Sage Foundation and conducted at Stanford University as part of a research project on organizations and due process. I thank the other participants in the Stanford project (Ann Swidler, W. Richard Scott, John W. Meyer, and Frank R. Dobbin) for their contributions in the early stages of this research. Requests for reprints should be sent to Lauren Edelman, Department of Sociology, 1180 Observatory Drive, University of Wisconsin, Madison, Wisconsin 53706.

² Westin and Feliu (1988) report that in a sample of 64 organizations, about one-third of companies with 100 or more employees had formal complaint procedures for nonunion employees in 1984, compared with 10%–15% in 1979. My data, which show an exponential increase in the number of nonunion grievance procedures between 1964 and 1983, are consistent with those findings.

in the workplace, the expansion of due process protections in nonunion governance cannot be attributed to any direct government mandates or union demands. In this article, I ask why a growing number of employers have implemented due process protections for their nonunion employees in the absence of any direct mandates to do so. I develop a “legal environment” theory of the relationship between law and organizations that asserts that law and the legal environment foster change in organizational governance, which I define as the set of rules and processes by which employers govern employees.

Of course, law often intervenes directly in the employment relationship. Laws regulate hours, wages, and union recognition, and laws prohibit some forms of discrimination. But the legal environment theory posits an important *indirect* effect of law on organizations: law creates, and helps to constitute, a normative environment to which organizations must adapt. Thus I argue that the civil rights movement and the mandates of the 1960s created a normative environment in which legitimacy was conditioned on fair governance. Pressure from that normative environment led employers to create formal protections of due process rights.

Theoretical Perspectives on the Expansion of Due Process

Little has been written specifically about due process in organizational governance, but its expansion in organizations may be viewed as part of a longer-term evolution of bureaucratic forms of governance that has received considerable attention recently. Most explanations of this evolution stress intraorganizational and union-related determinants of bureaucratization while treating environmental factors as important but peripheral to intraorganizational dynamics. Classical organizations theorists and economists emphasize the quest for efficiency as the underlying motivation for the formalization of organization governance (Weber [1906–24] 1946; Stinchcombe 1959; Hage and Aiken 1969; Blau and Schoenherr 1971; Williamson 1975). Neo-Marxist theories emphasize the conflict in interests between capitalists and workers and explain the evolution of bureaucratic governance as a means of exercising control over workers (Edwards 1979; Clegg and Dunkerley 1980; Goldman and Van Houten 1981; Gordon, Edwards, and Reich 1982). And historical and industrial relations accounts emphasize the role of organized labor in the bureaucratization of organizational governance (Slichter 1919, 1941; Montgomery 1979; Foulkes 1980; Freeman and Medoff 1984; Curtin 1970; Jacoby 1985).

The theory I develop in this article considers the legal environment a central determinant of organizational change; it emphasizes legitimacy and survival over efficiency and control as the imperatives that define the

form of organizational governance. This article does not offer a test of alternative explanations of bureaucratic governance, nor does it assert that the classical, neo-Marxist, or historical/industrial relations accounts of change in organizational governance are wrong. Indeed, it would be very difficult to distinguish empirically between such disparate motives for the formalization of due process rights as efficiency, control, and legitimacy. Furthermore, we cannot overlook the role of either employers' efforts to reduce labor conflict or unions' efforts to negotiate governance in the formalization of due process.

Nonetheless, this analysis indicates that none of the extant explanations of the development of bureaucratic forms of organizational governance recognize the crucial role of the legal environment. To the extent that the legal environment can engender significant change in the protection of employees' rights, even in the absence of any legal rules that directly mandate such change, the role of law must be incorporated into a general theoretical explanation of organizational governance. Employers' ideas about efficiency may in fact be influenced by legal and societal ideas about what constitutes legitimate governance.

The legal environment theory builds on the institutional perspective in organizations theory, which emphasizes the influence of the normative environment on organizational structure and behavior (Meyer and Rowan 1977; DiMaggio and Powell 1983; Scott and Meyer 1983; Scott 1983). This perspective views the quest for legitimacy as a major motivation for organizational attention to the environment. In their seminal article, Meyer and Rowan (1977) suggest that, to mobilize legitimacy, organizations attempt to become isomorphic with their environments by adopting "institutionalized models" of organizational structure. Recent work has pointed to several key factors in the process by which bureaucratic forms of governance are institutionalized: the professionalization of personnel management, the work of labor unions, and the influence of the state (Stark 1980; Jacoby 1985; Baron, Dobbin, and Jennings 1986). I consider the influence of these factors, as well as that of the legal environment, on the institutionalization of due process protections.

The literature on organizations' normative environments establishes a foundation for a sociological understanding of the interplay between the public legal order and organizational governance. But, curiously, with the exception of Selznick's early work (1969), researchers have paid little attention to law and the legal environment as important normative influences on organizations.

This article uses data on the changes in personnel practices of 52 organizations during and following the civil rights movement of the 1960s to analyze the process by which law and the legal environment engender attention to due process in organizational governance. It contributes to

the literature on institutionalization in two ways. First, it examines the extent to which the public legal environment engenders due process protections that become instilled in organizational life. Second, it examines the patterns and timing of the diffusion of due process protections among organizations. The diffusion of institutionalization structures is a key feature of institutionalization processes, but there have been only a few empirical studies of diffusion processes (e.g., Tolbert and Zucker 1983; Fligstein 1985; Baron et al. 1986).

The balance of this article is divided into five main sections. Section II gives a brief overview of due process rights in the American workplace. Section III lays out the legal environment theory and presents specific hypotheses on the expansion of due process in organizations. Section IV discusses the use of event-history analysis to model the expansion of due process and the sample and data-collection methods. Section V presents the results of the analysis. Conclusions and implications of this research are discussed in Section VI.

II. DUE PROCESS RIGHTS IN THE WORKPLACE

I focus on the creation of nonunion grievance procedures as a measure of organizational attention to due process. Due process is a right guaranteed by the Fifth and Fourteenth Amendments to the U.S. Constitution, which declare that no person may be deprived of life, liberty, or property, without due process of law.³ The principle of due process seeks to guarantee fair treatment by constraining the actions of those with authority to rule. Thus, the right to appeal the actions or decisions of those in authority is a basic element of due process.

Due process has been a formal right of citizens in public matters for almost 200 years, but that right was traditionally abandoned at the entrances to private institutions. The legal model of the early capitalist employment relation was basically one of a contract in which wages were exchanged, not only for labor, but also for acceptance of the ultimate authority of the employer (Selznick 1969). Acceptance of employment in effect constituted a waiver of the rights to due process held in the wider society; the actions of an employer in the workplace were final and not subject to appeal. Employers (or their foremen) had complete discretion to determine the conditions of the workplace and often governed in an extremely arbitrary manner, showing favoritism and dismissing employees with little or no cause (Edwards 1979; Jacoby 1985).

Due process protections in the workplace can be traced to the War

³ The Fifth Amendment, ratified in 1791, applies to the federal government. The Fourteenth Amendment, ratified in 1868, applies to state and local governments.

Labor Board, established by President Wilson, after the United States entered World War I, to arbitrate labor disputes that threatened to cripple wartime production. The policy of the War Labor Board was to grant workers the right to organize and bargain collectively but deny them the right to strike. In response to this policy, employers quickly established company-run unions to preclude the establishment of worker-run unions. To quell labor militancy, company unions set up formal grievance procedures—written procedures that provide for appeals of managerial decisions or actions and for evaluation and response to those appeals by officials with authority to redress grievances (Edwards 1979).

Because employers largely controlled company unions, grievance procedures in the company-union context usually covered only a very narrow range of grievances (Edwards 1979), but they did provide a means to resolve some labor-management disputes. Perhaps more important, the grievance procedures constituted an important symbol of workers' right to due process protections—protections that offered at least some limitations on the exercise of managerial authority. Thus, when the war ended, the American Federation of Labor actively sought the continuation of wartime labor innovations. From the end of the war until the labor legislation of the 1930s, however, the labor movement encountered significant managerial and legal obstacles (see Tomlins [1985] for a good discussion of the labor history of this period).

The passage of the National Labor Relations (Wagner) Act of 1935 (and for railroads, the Railway Labor Act of 1926) gave workers the right to choose their representatives and to bargain collectively. Labor unions were then able to bargain not only for grievance procedures but also for the breadth of their coverage, which led to the widespread institutionalization of grievance procedures in unionized firms (Slichter 1941; Selznick 1969; Montgomery 1979). But unlike due process rights in the public legal order, which pertain to all citizens, due process rights in the workplace were, until recently, largely limited to unionized employees. In the nonunion context, employers retained the largely unfettered prerogative to choose whom they employed, whom they promoted, and whom they fired.

Since the mid-1960s, however, in both legal doctrine and organizational practice, employees' claims of rights to appeal adverse managerial actions appear to have gained considerable legitimacy and formal recognition (Westin and Feliu 1988; Foulkes 1981). I now turn to why a growing number of employers have created formal appeals procedures for nonunion employees, thus recognizing rights to due process similar to those of citizenship. Although other changes in the personnel practices of nonunion firms (such as the institution of warning the employee before discipline or discharge) also represent attention to fair treatment, I restrict

my analysis to the creation of formal grievance procedures for nonunion employees because the right to appeal managerial decisions is the clearest and most significant manifestation of a due process right.

For purposes of this analysis, a formal nonunion grievance procedure is defined as a written appeals policy with more than one step (i.e., provision for the managerial action in question to be reviewed at two or more higher levels). The requirement that the procedure have more than one step serves to exclude the "open door policies" that nonunion firms have often used. Traditional open door policies typically state that employees may discuss a problem with one or more management officials but do not explicitly provide for review of (and the possibility of overruling) a managerial decision.

In general, the nonunion grievance procedures are like union procedures in that they provide for multiple levels of review and specify the steps that must be taken to appeal a decision, the decision-making body for each level of the appeals process, and the time limits for reaching a decision and notifying the parties involved. Nonunion procedures are less likely than union procedures to allow employees to be represented by counsel, provide for bilateral representation in deciding appeals, or provide for a final appeal to an impartial third-party mediator or arbitrator. Nonetheless, these procedures constitute formal recognition of the right to appeal and resemble the formal protections that characterize the public legal order.

III. A LEGAL ENVIRONMENT THEORY OF THE EXPANSION OF DUE PROCESS

Change in an organization's legal environment poses a dilemma: the organization must comply (or at least appear to comply) with the law in order to maintain legitimacy yet, in the interest of efficiency, must minimize the extent to which the law disrupts its activities. When a new law provides the public with new expectations or new bases for criticizing organizations, or when the law enjoys considerable societal support conditions, apparent noncompliance is likely to engender loss of public approval. Thus, independently of formal legal sanctions, a new law can exert strong pressures on organizations to adopt structures or practices that demonstrate attention to normative expectations.

The 1960s saw a series of new legislative, executive, and administrative regulations concerning civil rights in the workplace that created precisely such a threat to the legitimacy of organizational governance. These civil rights mandates, together with the social movement that gave rise to them, recognized new membership-based rights to fair treatment, thus providing a basis for criticism of organizational governance by em-

ployees and the general public as well as by legal actors. I briefly review these mandates before discussing their impact on organizational governance.

Civil Rights Law and the Institutionalization of Due Process

The civil rights mandates that have the greatest effect on organizations are Title VII of the Civil Rights Act of 1964 (hereafter, Title VII), which became effective on July 2, 1965, and Executive Order 11246 (hereafter, EO 11246), issued by President Johnson on September 24, 1965. The passage of the Civil Rights Act in 1964 represents a major turning point in employment relations and in society generally.⁴ Title VII precludes private employers and labor unions with 15 or more employees from discriminating on the basis of race, color, religion, sex, or national origin. It was amended by the Equal Opportunity Act in 1972 to cover public sector employers. The 1964 act also created the Equal Employment Opportunity Commission (EEOC) to enforce Title VII.⁵ The EEOC issues guidelines for employers and requires covered organizations with 100 or more employees to file annual reports on the racial, ethnic, and gender composition of their applicants and workforce.

Under EO 11246, federal employers and private contractors, subcontractors, and unions doing work under or related to a federal contract of \$10,000 or more are required to engage in affirmative action. Employers who have federal contracts of \$50,000 or more are required to establish an affirmative action plan. Executive Order 11246 established the Office of Federal Contract Compliance, now the Office of Federal Contract Compliance Programs (OFCCP) in the Department of Labor, to enforce the order.⁶

⁴ Two previous acts, the civil rights acts of 1866 and 1871 (secs. 1981 and 1983, respectively, of the U.S. Code), had lain dormant for years but were revitalized in the 1960s (in the wake of the civil rights movement and new civil rights mandates). Sec. 1983 was revived in 1961 by the Supreme Court in *Monroe v. Pape* (365 U.S. 167) (Zimmer, Sullivan, and Richards 1988). Sec. 1981 had been considered unenforceable because of a series of Supreme Court decisions but was resurrected by a 1968 Supreme Court case, *Jones v. Mayer* (392 U.S. 409), as a remedy for discrimination in private sector organizations (Burstein 1985).

⁵ Originally, the EEOC was authorized only to negotiate with discriminating employers through conference, conciliation, and persuasion. The 1972 amendment, however, gave the EEOC authority to file suit in the federal district courts.

⁶ Executive Orders banning employment discrimination date back to 1940 for federal government employers and to 1951 for government contractors. Executive Order 10925, issued by President Kennedy in 1961, was the first order to require (and to use the term) affirmative action. Executive Order 11246, however, broadened the government's enforcement capabilities by empowering the secretary of labor to issue regulations implementing the order, investigate complaints, conduct compliance reviews, hold hearings, and impose sanctions (Jones, Murphy, and Belton 1987).

There are several other prominent civil rights mandates that affect the employment relation. The Equal Pay Act (EPA) of 1963, which was enacted as an amendment to the Fair Labor Standards Act of 1938, forbids sex-based wage discrimination when male and female employees perform equal work on jobs in the same establishment. The Age Discrimination in Employment Act (ADEA) of 1967 protects employees between the ages of 40 and 64 who work for public employers or private employers with 20 or more employees. The Rehabilitation Act of 1973 requires equal employment opportunity and affirmative action for the handicapped on the part of federal employers, federal contractors, and recipients of federal grants. The Vietnam Era Veterans Act of 1972 and the Vietnam Era Veterans Readjustment Act of 1974 specify the rights of Vietnam veterans working for federal contractors and employers.

It is important to emphasize that none of the legal mandates or administrative guidelines that grew out of the civil rights movement required employers to establish grievance procedures for their nonunion employees. Thus, the creation of nonunion grievance procedures cannot be explained as the result of direct legal or state coercion. But the civil rights mandates did open organizational governance to public scrutiny, and they legitimated employees' demands for fair treatment. The result was normative pressure on employers to give the appearance of governing employees in a nonarbitrary manner. The actual constraints that civil rights mandates place on organization may be less important than the fact that those mandates create a more rights-conscious environment for organizations, which encourages employers to worry about fairness and due process.

The civil rights social movement of the period lent significant normative clout to the mandates governing the employment relation by focusing public attention on civil rights issues. The early 1960s saw such highly publicized social actions as the Freedom Rides, designed to test the Supreme Court ruling outlawing segregation in terminal facilities; the lunch counter sit-ins in Albany, Georgia, which culminated in the arrest of Martin Luther King, Jr., and more than 2,000 other civil rights protesters; voter-registration campaigns and protests; lawsuits by northern blacks against segregated schools; the famous Children's Crusade in Birmingham, Alabama, in 1963; and the March on Washington in August of 1963. In these and other civil rights actions, resistance and violence against the social activists publicized and fueled the movement (Blumberg 1984).

Although organizations can be quite masterful at resisting legal regulation, including civil rights law (Stone 1975; Vaughan 1983; Wirt 1970; Blumrosen 1965), the turbulent social and legal climate of the 1960s meant that overt resistance would create a legitimacy problem for some

organizations. Organizations that were most susceptible to social pressure began to look for models of governance that would appear fair and nonarbitrary—to employees, the public, and legal authorities.

But where do organizations find legitimate models of governance? The public legal order, with its formal protections of due process rights, provided a model solution to the legitimacy problem. Due process is the element of the public legal order that most clearly symbolizes fair treatment. The right to appeal contributes to due process by constraining arbitrary use of authority. In formalizing the right to appeal, employers have a visible means of responding to pressure from the legal environment to treat workers fairly.

If the civil rights mandates created a legitimacy dilemma that led organizations to seek a new model of governance, a significant number of organizations would be expected to create grievance procedures in a short period of time after the 1964 enactment of Title VII and the 1965 issuance of EO 11246. Thus:

- H1. There should be a visible increase in the overall rate at which organizations adopt nonunion grievance procedures shortly after the enactment of Title VII and the issuance of EO 11246.

The Diffusion Process

As due process protections become institutionalized, their value as symbols of fair governance increases and organizations become increasingly likely to adopt them. By creating the conditions under which due process protections became a source of legitimacy, the civil rights mandates of the 1960s precipitated a process of “institutional isomorphism” in which organizations attempted to become isomorphic with institutionalized elements of their environments.⁷ The isomorphism process led to a gradual diffusion of due process protections.

The mechanisms of the diffusion process are complex and change over time. In the case of rights expansion, organizations that respond early to legal change look to the public legal order for a legitimate model of governance. Organizations slower to respond to normative pressure may copy the apparently successful solutions of other organizations instead of looking directly to the public legal order.⁸ But given the long-standing

⁷ The concept of institutional isomorphism is developed in Meyer and Rowan (1977), DiMaggio and Powell (1983), and Tolbert and Zucker (1983).

⁸ Organizational response to the legal environment may be viewed as involving a combination of what DiMaggio and Powell (1983) have called “coercive” and “mimetic” forms of isomorphism. Coercive isomorphism occurs where organizations

tradition of unfettered managerial prerogatives and the apparent costs (both monetary and in terms of diminished managerial power) of implementing due process rights, significant resistance to any form of legalization may be likely.

How, then, does normative change in the legal environment erode the old pattern of governance? In the case of rights expansion, several factors seem especially significant: (1) societal pressure for fair governance increases; (2) there is a gradual change in employers' calculus of efficiency; (3) legal definitions of fairness incorporate changing organizational practices; (4) the personnel profession plays a crucial intermediary role by conveying models of governance; and (5) all these factors interact, hastening and reinforcing the diffusion process. I begin by discussing the intermediary role of the personnel profession, which is in a sense the "engine" that drives the diffusion process. I then show how the personnel network conveys and reinforces societal expectations of justice, notions of efficiency, and changing legal definitions of fairness.

The intermediary role of personnel professionals.—Personnel professionals, working individually and through networks, conventions, and professional personnel journals, are important in the diffusion of particular responses to the legal environment. The frequent movement of personnel in the corporate world spreads ideas and governance practices among organizations. Professional personnel networks provide another means for the development and interchange of ideas about organizational practices.

The professional personnel journals not only contribute to the diffusion and institutionalism of organizational structures and practices but also provide documentation of their evolution. I will, therefore, use a few brief excerpts from professional personnel journals to document the increasing societal pressure for fair governance and the change in managerial views of the costs and benefits of due process over the 1964–83 period.

Societal expectations of justice.—I argued above that the civil rights movement and legal mandates of the 1960s lent legitimacy to workers' claims to fair treatment by management. Examples from professional personnel journals depict—and help convey—the business world's developing perception of societal expectations of fair governance. As Isadore Silver states in a 1967 *Harvard Business Review* (HBR) article, "If justice

are threatened by a powerful entity and become more isomorphic with that entity in order to reduce any threat it poses. Mimetic isomorphism refers to a process in which organizations imitate other "successful" organizations. Thus the process by which due process protections diffuse among organizations is likely to exhibit characteristics of coercive isomorphism in its early stages and mimetic isomorphism in its later stages.

is a dominant value of American life, there can be no question that corporate employees bring this value into the office. An employee who feels that his legitimate grievances are being justly dealt with cannot help but be a better employee" (1967, p. 78).

An *HBR* article by David W. Ewing, based on a survey of 3,453 *HBR* subscribers, both documents changing perceptions of workplace justice and informs the industrial community that managerial attention to due process is well founded: "It may not be illegal to dismiss an employee without allowing him to defend himself or to punish him for refusing on ethical grounds to follow orders, but businessmen now view these and other managerial perquisites with growing disfavor. . . . Somehow they seem to run against the grain of people now, even though it is usually agreed that the boss acted within his legal powers" (1971, p. 22).

And in a 1982 *HBR* article, Ewing documents the growing public expectations of due process rights: "Increasing numbers of Americans find it incomprehensible that an intelligent, capable, well-meaning non-union employee can get fired for protesting perceived wrongdoing" (1982, p. 118).

The changing calculus of efficiency.—To the extent that law and legal norms create and legitimate expectations of fair governance, they are likely to alter the organizational calculus of efficiency. The civil rights mandates increased the value that employees attach to due process rights and therefore the social cost of inattention to due process. For example, Halaby (1986) found that workers' attachment to the workplace is greater where employees view governance as fair. And recent efficiency-wage theorists suggest that employees may work harder if they view fair treatment as a reward or gift for hard work (Akerlof 1982).⁹

Whether or not legitimate governance will actually reduce turnover or increase productivity, employers view the potential for increased productivity as a motivation for implementing due process protections. And as the following example illustrates, the professional personnel journals help to construct and convey the nexus of legitimacy and efficiency. "An effective form of due process has various advantages for a company. It helps to clear the air so that rumors of an abusive discharge or unfair handling of an objector do not circulate. . . . The costs of due process . . . are modest. The out-of-pocket costs are "peanuts" . . . the only *real* cost . . . is the wounded pride of managers and supervisors whose judgments can be questioned" (Ewing 1982, pp. 120–21).

The personnel journals also foster the idea that due process protections

⁹ Earlier related empirical studies by equity theorists show mixed results in examining the effect of higher-than-normal wages on productivity (e.g., Adams and Jacobsen 1964; Lawler 1968).

can deter unions. Although I argue in Section V that union avoidance has been only a minor theme in the expansion of due process, it is one that appears fairly frequently in both the academic management literature (Freeman and Medoff 1984) and the personnel journals (see, e.g., Sherman 1969; Kilgour 1978). Sherman's article claims, for example, that "if handled correctly, the grievance procedure can play an effective part in resolving conflicts between employees and management, and effectively offset a major unionizing appeal (1969, p. 421).

Articles such as this suggest that due process protections that were once viewed as costly impositions on managerial freedom are now increasingly viewed as efficient and profitable. By highlighting the cost-effectiveness of due process protections, such articles are likely to engender a further decline in managerial resistance to the institution of rights.

Legal definitions of fairness.—Legal definitions of fair governance tend to interact with cultural understandings of workplace justice. Since the 1960s, courts have become noticeably less sympathetic to arbitrary dismissals (which violate the principle of due process). In "wrongful discharge" doctrine, which has developed primarily during the 1980s, some state courts have recognized and broadened exceptions to the traditional "employment-at-will" doctrine, which held that employers could dismiss employees without reason or due process.¹⁰

While recognizing employers' duties (under limited circumstances) to treat employees fairly, however, the courts have also reinforced the employers' principal means of demonstrating fair treatment. The courts have begun to reinforce the diffusion of due process protections by considering the existence of organizational grievance procedures to be evidence that workers were treated fairly in suits for unjust dismissals (e.g., Cleary v. American Airlines, Inc., 111 Cal. App. 3d 443 [1980]). And, again, the personnel journals convey this information to organizations. Ewing's 1982 *HBR* article points out that "attorneys believe that an in-company hearing procedure can be helpful . . . in court; that is, evidence that an objector has been turned down in a fair hearing will be admitted into a legal proceeding" (p. 121).

Diffusion as a self-perpetuating process.—The process of diffusion is self-perpetuating because as the prevalence of due process protections rises in the population, the cost of nonconformity also rises. The increasing prevalence of nonunion grievance procedures both engenders a rise in societal expectations of fair governance and reinforces the value of griev-

¹⁰ Important wrongful discharge cases include *Tameny v. Atlantic Richfield Co.* (27 Cal. 3d 167 [1980]); *Pugh v. See's Candies, Inc.* (116 Cal. App. 3d 311 [1981]); and *Cleary v. American Airlines, Inc.* (111 Cal. App. 3d 443 [1980]).

ance procedures as symbols of fair governance. The greater the symbolic value of grievance procedures, the more costly it becomes for employers to retain old (arbitrary) forms of grievance. Conformity with socially legitimated models of organizational governance thus becomes an important strategy for achieving both legitimacy and efficiency. The personnel profession plays a crucial role in conveying this idea to managements and in lowering their resistance to the idea of due process.

The self-perpetuating nature of the diffusion process suggests a contagion pattern of diffusion:

- H2. Once the process of institutionalization begins, the overall rate at which organizations adopt nonunion grievance procedures should increase over time.

The Pattern of Diffusion among Organizations

The discussion above asserts that institutional isomorphism gives rise to a process of diffusion. But where does the diffusion process begin? In this section, I explain variation in attention to due process among organizations by developing hypotheses about the environmental and organizational factors that make some organizations more vulnerable to normative pressure from their legal environments.

Proximity to the public sphere.—I expect organizations' proximity to the public sphere to be the primary determinant of attention to due process. I conceptualize proximity to the public sphere as a continuum rather than as a public/private dichotomy because private sector organizations may have significant regulatory or contractual linkages with the public sphere (Reich 1964; Dobbin et al. 1988). The legal order, together with the federal government and administrative agencies, constitutes the core of the public sphere. Federal contractors as well as heavily regulated organizations such as public utilities have substantial linkages with the public sphere and therefore occupy an intermediate position. Finally, private organizations that operate primarily in the private market are furthest from the public sphere.

Attention to due process should appear earliest among organizations closest to the public sphere. As normative pressure to recognize due process increases and the cost of noncompliance rises, resistance to due process in the private sphere should diminish, resulting in a gradual diffusion of due process protections outward toward the private sphere. A number of interrelated factors make organizations closer to the public sphere more likely to institute due process protections than private market-oriented

organizations, even before 1972, when Title VII became applicable to the public sector.

First, if the civil rights mandates constitute the primary impetus for change in organizational governance, and the public legal order constitutes a normative model for due process in organizational governance, then normative pressure to recognize due process rights should be considerably greater in the public sector than in the private sector. Conversely, especially in the early stages of the diffusion process, competitive pressures in the private sector should constitute a significant bar to recognition of due process; these pressures are largely absent from the public sector.

Government contractors are of course subject to both normative and competitive pressures but may be as likely as public sector organizations to incorporate elements of the public legal order. Reich (1964) points out that government largess both lowers recipients' dependence on the market and binds the recipient to the state, blurring the distinction between public and private. Reich's discussion focuses primarily on the direct regulation of recipients of government largess. However, the merging of the public and private spheres together with the government's legal right to withdraw largess in the interest of public policy should also make government contractors more likely to demonstrate attention to the public interest in the absence of direct mandates to do so.¹¹

Second, organizations closer to the public sphere are more open to public scrutiny and more dependent on public support for survival (Scott and Meyer 1983). They are more vulnerable to public and federal pressure to treat workers fairly because they are evaluated more by their conformity to institutionalized norms (e.g., responsiveness to the public and fairness to various constituencies) than by the quality or quantity of their output. Private organizations that contract with the federal government are also subject to close public scrutiny under those norms.¹² As civil rights mandates focus public attention on fairness in the workplace and legitimate employees' claims to rights to fair treatment, there is less public tolerance for arbitrary or unfair governance of employees.

¹¹ Reich documents the development of case law that supports the government's right to regulate and place conditions on recipients of its largess in a manner that it could not use to regulate private parties. In *Flemming v. Nestor* (363 U.S. 603 [1960]), the Supreme Court held that denial of earned Social Security benefits because of Nestor's membership in the Communist party was not an unconstitutional denial of property without due process. It held that the government could use the "public purse" to further the public interest.

¹² Federal contractors are subject to both desk and on-site audits by OFCCP officials.

Third, the public sphere is an institutionalized environment; it is imbued with a culture of formal rules, rational legal authority, and rights based on citizenship.¹³ Because public sector agencies are part of the state bureaucracy, it follows that the logic of legal rule and formal rights is more institutionalized nearer the core of the public sphere. Since the civil rights movement of the 1960s, moreover, the logic of formal rules and rights (including attention to due process) has become significantly *more* institutionalized in the public sphere because of the complex web of administrative mandates that affect public and contractor organizations but do not apply to private, noncontractor organizations. Additionally, constitutional law on civil rights applies where organizational activities involve state action (state involvement), which is found primarily in public and contractor organizations.

Fourth, the civil rights mandates engender a general formalization of organizational governance. The compilation of statistics required by the EEOC and OFCCP, for example, is likely to result in a formalization of personnel-related record keeping, which may in turn require a formalization of hiring and promotion policies. Furthermore, civil rights mandates engender formalization of rules even beyond their direct requirements because they create a more threatening legal environment. Professional journals and workshops often recommend formal record keeping to create evidence of fair treatment in the event of allegations of discrimination. Formalization tends to facilitate further formalization; once formal rules are in place, there is less start-up cost for establishing grievance machinery.

The institutionalized nature of the public sphere together with the greater public scrutiny of the organizations that operate in it suggests that the more proximate organizations are to the public sphere, the greater the probability they will adopt the normative character of that sphere. Specifically, with respect to due process protections (and including the period before 1972):

- H3. Organizations closer to the public sphere will institute nonunion grievance procedures at a higher rate than will organizations further from the public sphere.

Size.—Organizational size may affect the likelihood of rights expansion in two ways. Classical theories of organizations hold that larger

¹³ Scott and Meyer (1983, p. 149) define an institutionalized environment as one “characterized by the elaboration of rules and requirements to which individual organizations must conform if they are to receive support and legitimacy from the environment.”

organizations will formalize due process rights earlier because of the increased need for coordination of employees (Blau and Schoenherr 1971; Pugh et al. 1969). Neo-Marxist theories also point to a correlation between size and formalization but emphasize the control advantages of formal rules (Edwards 1979). The legal environment theory suggests a different explanation for the same expected effect: larger organizations are more visible to the public and therefore more vulnerable to normative pressure deriving from the public sphere.¹⁴ Thus, independently of their proximity to the public sector, larger organizations should be more responsive to legal and public pressure to demonstrate fair employment practices.¹⁵

H4. Larger organizations will institute nonunion grievance procedures at a higher rate than will smaller organizations.

Personnel offices.—In my discussion of the diffusion process, I pointed out that networking and job mobility among personnel professionals are important elements of the diffusion of new forms of governance. Because the personnel profession plays such a crucial intermediary role, the extent to which the personnel function in an organization is structurally differentiated is likely to influence both the nature and rapidity of organizational response to the legal environment. Organizations with separate personnel offices have the earliest access to models of governance that become institutionalized as successful responses to legal change.¹⁶

New complexities in organizations' legal environments, moreover, are likely to result in the creation of new, or more specialized, personnel offices. Organizations may create these offices in response to the legal environment for several reasons: to implement law or public policy, to manage reporting requirements set by federal administrative agencies, to insulate core activities from the legal environment, or to serve as symbols of attention to important issues (e.g., affirmative action).¹⁷

Once in place, personnel offices serve as windows to the legal environ-

¹⁴ Other factors (e.g., strikes) may also make organizations visible. Size is used here as a proxy for visibility.

¹⁵ Because the causal mechanisms by which large size engenders the formalization of rights are ambiguous, size is included in models of rights expansion primarily as a control variable.

¹⁶ Personnel offices refer to separate departments or offices that handle the governance of employees. These can be personnel departments, employee-relations offices, resource-development offices, or other bureaus that perform personnel-related functions.

¹⁷ It is well established in the organizations literature that organizations elaborate their internal structures to manage demands from the environment (Buckley 1967) or to buffer the organization from environmental threats (Thompson 1967).

ment; they increase organizational access to professional personnel networks and allow organizations to “see” state-of-the-art responses to legal change. Furthermore, personnel offices may become an internal constituency for the elaboration and enforcement of employee rights, in part because the office personnel seek to ensure the survival of their positions and functions (Selznick 1949; Merton 1968) and in part because they develop commitments to institutionalized ideals (such as due process) in governance. It is important, therefore, to consider which organizations are most likely to create separate personnel offices.

Because organizations closer to the public sphere are subject to more complex rules and reporting requirements and are more vulnerable to normative pressure from the legal environment (see hypothesis H3), those organizations are likely to create personnel offices earliest. And, independently of proximity to the public sphere, larger organizations are likely to create personnel offices relatively early both because of the increased coordination needs that follow from large size and because size increases public visibility and thus vulnerability to environmental pressure (see hypothesis H4).

The following hypotheses are designed to test the intermediary role of personnel offices.

- H5a. Organizations closer to the public sphere will create personnel offices at a higher rate than will organizations further from the public sphere.
- H5b. Larger organizations will create personnel offices at a higher rate than will smaller organizations.
- H6. Organizations with a more structurally differentiated personnel function will institute nonunion grievance procedures at a higher rate than will organizations with fewer personnel offices.¹⁸

IV. MODELING RIGHTS EXPANSION AS A DYNAMIC PROCESS

Normative environments exert pressure on organizations continuously over time. Although particular legal and social events (e.g., legal mandates and social protests) may alter the levels of pressure, organizations are continuously “at risk” of creating formal rights protections in response to legal and societal pressures. I use event-history analysis to model rights

¹⁸ Since an organization may elaborate the personnel function without creating a new office, it would be preferable to measure the structural differentiation of the personnel function more directly. However, in the absence of such data, the creation of new personnel offices (which may be either the first personnel office or additional offices) should be a reasonable proxy for the structural differentiation of the personnel function in an organization.

expansion as a continuous-time discrete-state stochastic process, that is, one in which the probability of an event (the institution of a nonunion grievance procedure) is continuous over time and in which each organization occupies one of a finite number of discrete states (or values) at all times.

In event-history analysis, one models the *rate* at which organizations institute nonunion grievance procedures (also known as the “instantaneous transition rate”), which is defined as “the transition probability over a unit of time where the unit is infinitesimal” (Carroll 1983). The rate is not directly observable, but it can be calculated from observations of the timing of events.

Event-history analysis has several advantages over conventional static methods for the analysis of diffusion processes such as the expansion of due process rights structures (see Tuma and Hannan 1984). First, I am interested in explaining the *process* by which legal concepts of due process protections diffuse among organizations rather than in explaining the current distribution of due process protections. Modeling rights expansion as a dynamic process allows specification of the process of rights expansion over time and of the factors that affect that process.¹⁹

Furthermore, event-history analysis allows for *changing values* of exogenous variables (e.g., the extent to which organizations depend on federal resources) over time and for *changing effects* of exogenous variables over time. The latter is particularly useful for the analysis of rights expansion; for example, one can test the hypothesis that the effect of proximity to the public sphere on the rate of implementation of rights structures is greater since the 1964 Civil Rights Act than before it. Finally, in modeling the rate of rights expansion, event-history analysis takes into account “right censoring” in the data; that is, the waiting time since birth or since the last event is taken into account in estimating the instantaneous transition rate (see Allison [1984] for a discussion of censored data).

Event-history analysis is appropriate for the study of rights expansion, then, because (1) the institution of rights structures is a discrete-state dependent variable, (2) the risk of new due process structures is continuous over time, and (3) the process of rights expansion is intertwined with changing political, economic, and social conditions.

Sample composition and characteristics.—The sample consists of 52 work organizations in the San Francisco Bay Area. The organizations

¹⁹ Tuma and Hannan (1984) argue that static methods of analysis require an assumption that the process under study is in a state of equilibrium; both the values and effects of variables exogenous to the model are assumed to be stable over time. An assumption that the state of attention to due process rights in organizational governance is in equilibrium would clearly be inappropriate, given the surge in rights-protection structures over the past few decades.

were selected from the yellow pages of Bay Area telephone directories.²⁰ Although this is not a probability sample, the organizations were selected without knowledge about the dependent variable. An attempt was made to create variation in the important exogenous dimensions, such as size and public status. The data were collected through on-site interviews with personnel directors (or persons in similar positions who had knowledge of personnel practices).²¹

The sample organizations ranged in size from 30 to over 100,000 employees, with a mean size of 9,899 employees; in age from 3 to 133 years, with a mean age of 61 years; and from nonunionized to 100% unionized, with a mean of 39.2% of employees covered by union contracts. When I measured professionalization by the percentage of employees exempt from wage and hour requirements of the 1938 Fair Labor Standards Act, the organizations ranged from 1.3% to 97.6% professionalized, with a mean of 32.1%. The organizations came from the following sectors: manufacturing (10), publishing (4), financial (3), retail (5), utilities and transportation (8), government (7), service (11), and medical (4). Of the organizations, 15 were government agencies and 37 were private firms. Of the private sector organizations, the percentages of organizational incomes that came from federal contracts ranged from zero to 90%, with a mean of 16.6%.

The number of nonunion grievance procedures per organization in 1983 ranged from zero to two. Organizations with more than one nonunion procedure generally had separate procedures for exempt (professional and management) employees and nonexempt employees or had a separate procedure for discrimination-related grievances.

Event-history data.—Event-history data record the exact timing of all changes in the dependent variable; they reproduce the “sample path” of the institution of due process structures in each organization by recording the timing as well as the nature of all changes.²² All data on grievance

²⁰ Bias due to the exclusion of “dead” organizations is unlikely because organizational survival is unlikely to be tied directly to the presence or absence of due process structures.

²¹ The chief executive officer (CEO) of each organization was contacted initially, both to gain approval for the interview and to find out who would be most qualified to answer questions about personnel policy. All but four CEOs agreed to allow interviews. We then contacted the person recommended by the CEO to set up an appointment; there were no refusals to participate, presumably because our request was accompanied by a referral from the CEO.

²² The sample path of Y in some interval of time refers to the set of all values that Y takes in the interval together with the time at which each value is taken. Because event histories record the actual pattern of change for the process under study, they provide richer information than other types of longitudinal data (e.g., panel data, which

procedures were collected as event histories; they detail the development of formal rights protections over time.²³ Many of the discrete-state exogenous variables (e.g., types of personnel practices and offices) were collected as event histories. For continuous exogenous variables (such as number of employees, income, and percentage of income from the federal government), there are panel data at three points in time: 1960, 1970, and 1983.²⁴ The variables, variable definitions, and coding are in the Appendix.

Classes of models.—I consider several classes of dynamic models, which differ in their assumptions about historical time dependence. In each of the models discussed below, the term t refers to historical (or calendar) time.²⁵ I measure the rates over historical time because I posit an underlying historical effect on the expansion of due process in organizational governance. Specifically, it is appropriate to measure t as calendar time because my theoretical arguments are that (1) the civil rights mandates of the 1960s precipitated an expansion of due process rights and (2) beginning in the mid-1960s, a diffusion process occurred over time as organizations copied institutionalized models of governance.²⁶

conceal information about events between observations). For a more complete discussion of analysis of event histories, see Tuma, Hannan, and Groenveld 1979; Tuma and Hannan 1984; and Allison 1984.

²³ The data extend back to 1850 for the oldest organizations, which allows me to determine when the rate of rights creation began to increase significantly (see hypothesis H1). There is likely to be some inaccuracy about the timing of events that occurred long ago. Most of my analyses, however, examine the sources of the rights expansion that has occurred since 1964. Data on changes in organizational policy and structure are reasonably accurate for the past 20 years. Respondents often consulted organizational records or other employees when they were unsure about the dates of changes.

²⁴ Data on number of employees were, in most organizations, not available before 1960. Since I am focusing on the period after the 1964 Civil Rights Act, this is usually not a problem. Where I do make comparisons using pre-1960 data, I use the 1960 value of size, rather than make arbitrary assumptions about growth before that time. Because size is correlated with other variables, omitting it altogether would probably produce greater bias than using the 1960 data.

²⁵ In all models, t has been set to the value zero at the year 1850 (the time at which the oldest organization in the sample was founded), and therefore $t = 133$ in 1983. The recoding avoids the misleading effect that large numbers (1850–1983) would have on the value of the constant in the Gompertz model. The recoding affects only the value of the constant in the Gompertz model (in the same way as a linear transformation of the dependent variable in a regression equation would affect only the value of the intercept). The recoding makes no difference in the time-period model because the rates are constant in each time period.

²⁶ There is also empirical support for my use of models that allow the rate to vary with historical time. The nonlinearity of the integrated-hazard function for the creation of nonunion grievance procedures (shown in fig. 1), is computed nonparametrically and

The first class is a constant-rate model, which represents the null hypothesis that the rates at which organizations implement due process protections at time t are not time dependent and depend only on a vector of exogenous variables. It is specified as

$$r(t) = \exp(\mathbf{B}\mathbf{X}),$$

where $r(t)$ represents the instantaneous transition rate over time, \mathbf{X} represents a vector of time-independent exogenous variables that give characteristics of the organizations, and \mathbf{B} represents a vector of coefficients associated with those variables. The transition rates are specified as log-linear functions of the variables in \mathbf{X} .²⁷ This specification allows the rate to vary with changes in the exogenous variables over time but does not allow the rate to change as a function of historical time itself.

The second model is the Gompertz, which specifies an exponential increase in the rates of institution of nonunion grievance procedures as a function of time. It is specified as

$$r(t) = \exp(\mathbf{B}\mathbf{X})\exp(\mathbf{C}t),$$

where \mathbf{X} is a vector of time-independent covariates, \mathbf{B} is a vector of coefficients, and \mathbf{C} is a vector of exogenous variables that interact with historical time. The Gompertz model should provide a good fit to the data in the case of a diffusion pattern, where the likelihood of creating due process structures increases as a function of the number of existing structures in the environment. In a diffusion process the C parameter will have a value greater than zero, which implies an exponential increase in the rate of rights expansion over historical time.

The third model I consider is the time-period model, which assumes that rates vary between specified time periods but are a constant function of time within periods. The time-period model is specified as

$$r_p(t) = \exp(\mathbf{B}_p\mathbf{X}_p),$$

where p represents the time period and $\mathbf{B}_p\mathbf{X}_p$ represents vectors of period-dependent covariates and coefficients. The time-period model is appropriate where a major event or change in conditions causes a change in the rate under study. Even where there is no clear change in the rates between periods, the time-period model may be used to test the hypothesis

therefore provides empirical support for my use of historical time. Furthermore, there were neither theoretical nor empirical reasons to allow t to vary according to durational time (organizational age); the integrated hazard-rate function over time elapsed since the birth of organizations was linear.

²⁷ The log-linear form is used to constrain the transition rates to be nonnegative as required by probability assumptions.

that the sources of change vary (as shown by the changes in the coefficients of the exogenous variables) between time periods. I use the time-period model to test the hypothesis that the factors that lead organizations to institute nonunion grievance procedures and personnel offices are different before, during, and after the civil rights movement.

Both the Gompertz and time-period models, then, explicitly allow the baseline rate to vary with historical time since 1850. The use of models with time-varying baselines permits tests of the assertion that the rates are in fact higher after 1964.²⁸ Specifically, the Gompertz model permits a test of the argument that the probability of an event increases rapidly with length of exposure, beginning in the mid-1960s. The time-period models are especially flexible because the rates are allowed to vary between specified periods; these models permit tests of the assertion that particular variables affect the rate of rights expansion during the specified periods.

V. RESULTS

In this section, I first discuss the rates of rights expansion over time, which provide important information on the effect of the civil rights movement. I then address the sources of variation in those rates in order to examine my hypotheses about the diffusion of due process protections across organizations.²⁹

Rates of Rights Expansion over Time

By 1983, 34 of the 52 sample organizations had created at least one nonunion grievance procedure. Of the 34, 10 organizations had created two nonunion grievance procedures and one organization had created three procedures; thus a total of 45 nonunion grievance procedures had

²⁸ Since time is operationalized as historical (or calendar) time since 1850, the log likelihood for a hazard-ratio model is as follows:

$$\log \mathcal{L}_i = \delta_i \log r_i(t) - \int_{t_0^i}^{t_i} r_i(s) ds,$$

where t_0^i is the time in years since 1850 when organization i was founded, t_i is the time in years since 1850 when organization i created a nonunion grievance procedure or was censored, and δ_i equals one if the organization created a nonunion grievance procedure and is zero otherwise.

²⁹ I used Tuma's (1979) RATE program, which uses the method of maximum-likelihood estimation, to estimate the models discussed above. Maximum-likelihood estimators are consistent as well as asymptotically normal, and they perform well in small samples (Tuma and Hannan 1984).

been established.³⁰ During the period preceding the 1964 Civil Rights Act, which spans more than a century, only nine of the sample organizations created nonunion grievance procedures (one of those created two such procedures).³¹ During the decade immediately following the 1964 Civil Rights Act, another seven organizations in the sample created their first nonunion grievance procedures (there were a total of eight procedures created during this period). And during the final eight years of the observation period, another 16 organizations created their first procedures (a total of 25 procedures were created between 1975 and 1983).³²

The expansion of due process in nonunion organizations since the mid-1960s becomes even more apparent when viewed dynamically. Figure 1 shows the integrated hazard function for the creation of nonunion grievance procedures over time. The slope of the line gives a nonparametric estimate of the rate of rights expansion over time.³³ The area under the curve shows the cumulative probability over time that an event (the creation of a nonunion grievance procedure) will occur.

Figure 1 shows that attention to due process rights for nonunion employees was rare before the 1960s but has been increasingly rapidly since the mid-1960s, when civil rights gained increasing societal and legal attention. The significant rise in the rate during that small interval of time between 1965 and 1968 is consistent with hypothesis H1, which asserts that the civil rights laws of the mid-1960s precipitated a surge of rights-protection activity. That surge may be viewed as the beginning of the expansion of due process in organizational governance.

³⁰ When asked whether their organizations had grievance procedures for nonunion employees, a number of the respondents were quick to volunteer that the procedures were rarely used. Articles in the professional personnel journals also make this point (e.g., Drought 1967). Although I did not collect any systematic data on employees' use of or perceptions of nonunion grievance procedures, it would not be surprising if employees were reluctant to use the procedures; they may fear retaliation or view the possibility of redress as unlikely (Bumiller 1987).

³¹ Forty-seven of the 52 organizations were founded before 1964. The remaining five organizations were founded between 1964 and 1975.

³² Two respondents were unable to give founding dates for their organizations' nonunion grievance procedures. All the information on when organizations created grievance procedures is gathered from the 43 events for which dates were available.

³³ The integrated hazard function provides a nonparametric estimate of the integral of the instantaneous transition rate. It is calculated from the proportion of organizations at risk of experiencing an event at any point in time that do in fact experience that event. An organization is at risk if it exists at the moment immediately before the event. The integrated hazard function is closely related to the survivor function, which is more commonly used in social science applications of dynamic analysis (e.g., Carroll and Delacroix 1982). I use the integrated hazard function rather than the survivor function because one can more easily detect time dependencies in the rate (Tuma and Hannan 1984).

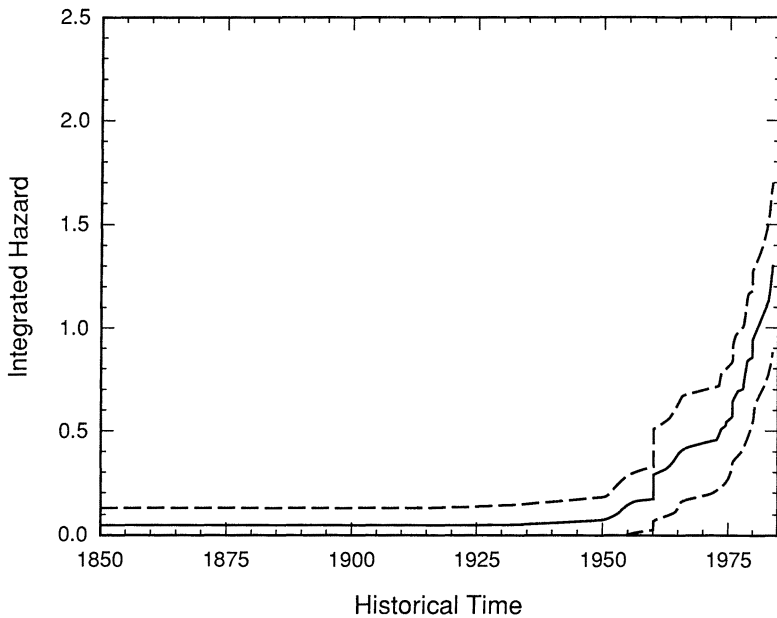


FIG. 1.—Integrated hazard plot of the creation of nonunion grievance procedures (1850–1983). The dashed lines represent the 95% confidence interval.

The exponential rise in the integrated hazard rate after the mid-1960s suggests that the rate at which organizations adopt nonunion grievance procedures increases over time as a function of the prevalence of such procedures in the population. This pattern is consistent with hypothesis H2, which asserts that a diffusion of nonunion grievance procedures occurs after 1964. Since the Gompertz model should provide the best fit for a diffusion process, a comparison of fit between the Gompertz and constant-rate models for the period 1964–83 provides an indirect test of hypothesis H2.

Table 1 shows a comparison of fit of the constant-rate, Gompertz, and time-period models, exclusive of exogenous variables, for both the entire period of observation (1850–1983) and the period since the passage of the Civil Rights Act (1964–83). The Gompertz and time-period models can be tested against the constant-rate model by using a likelihood-ratio test. The test statistic is twice the positive difference between the log likelihoods of the two models, which under the null hypothesis of no difference will have an asymptotic χ^2 distribution (Allison 1984).³⁴ As shown in table

³⁴ The likelihood-ratio test may be used to compare nested models where the parameters have been estimated by maximizing the likelihood function. It may be used to test the improvement in fit given either by a set of exogenous variables (this is similar to

TABLE 1
 A COMPARISON OF FIT FOR VARIOUS SPECIFICATIONS OF TIME-DEPENDENCE
 FORMATION OF NONUNION GRIEVANCE PROCEDURES (CONSTANT-RATE,
 GOMPERTZ, AND TIME-PERIOD MODELS)

Model (Time Period)	$-2 \log \mathcal{L}$	Improvement in χ^2 Due to Specification of Time Dependence (df)
No time dependence:		
Constant-rate (1850–1983)	454.64	
Time dependence:		
Gompertz (1850–1983)	384.48	70.16 (1)***
Time-period 1		
(1850–1964, 1964–83)	411.23	43.41 (1)***
Time-period 2		
(1850–1964, 1964–75, 1975–83)	406.26	43.38 (2) ^a ,***
No time dependence:		
Constant-rate (1964–83)	327.62	
Time dependence:		
Gompertz (1964–83)	288.95	38.67 (1)***

^a The three-period model fits significantly better than the two-period model: $P < .05$.
 *** $P < .001$.

1, the χ^2 for the Gompertz model from 1964–83 is 38.7 (1 df), which is a significant improvement in fit over the constant-rate model for the same period. Rights expansion does appear to follow a diffusion pattern after the Civil Rights Act, which supports hypothesis H2.

Sources of Variation in Rights Expansion

Figure 1 shows that there is historical time dependence in the rates of rights expansion; thus models of variation in rights expansion must specify the nature of that time dependence. Table 1 also shows that over the entire period of observation (1850–1983) both the Gompertz and time-period models provide a significantly better fit to the data than does the constant-rate model.³⁵ I present and discuss both Gompertz and time-period models below. Gompertz models are appropriate, given the func-

testing for the increment in R^2 given by adding explanatory variables to a regression equation) or by the specification of time dependence. Since the constant-rate model is a special case of both the Gompertz and time-period models, the likelihood-ratio test can be used to test the improvement in fit given by either of the time-dependent models.

³⁵ The likelihood-ratio test cannot be used to compare Gompertz and time-period models directly, since the two models are not nested.

tional form of the time dependence in the creation rate for nonunion grievance procedures (as shown in fig. 1), since a Gompertz model should provide a good fit to a rate that increases exponentially over time. Time-period models, however, are useful because of their flexibility; the periods can be defined in such a way as to determine whether certain exogenous variables exert a greater influence during some time periods than during others. I use time-period models to compare the effects of exogenous variables before the 1964 Civil Rights Act, during the decade immediately following the act (1964–75), and after 1975, when the social and political support for civil rights begins to subside.

The models I discuss in this section are designed to test my legal environment theory; thus primary attention is given to the effects of proximity to the public sector, size of the organization, and presence of personnel offices on the rates at which organizations create nonunion grievance procedures. I also include unionization in some of the models since a number of extant theories of the formalization of rights in nonunion organizations posit that employers grant rights to nonunion employees in order to discourage unionization (e.g., Freeman and Medoff 1984), and I discuss the effects of organizations' ages and degrees of professionalization.

Table 2 shows two Gompertz models of the diffusion of nonunion grievance procedures, which differ only in the way proximity to the public sphere is measured. Model 1 uses a measure of proximity to the public sphere that incorporates private organizations' linkages to the public sector (PUBLIC LINKAGES). To create the PUBLIC LINKAGES variable, public organizations and private organizations that derive at least 10% of their gross incomes from contracts with the federal government were coded as public; other private organizations were coded as private. Model 2 uses the public/private dichotomy (PUBLIC/PRIVATE). For the PUBLIC/PRIVATE variable, public organizations were coded as public, and private organizations (regardless of contractual linkages) were coded as private. The magnitude of the coefficients together with their *t*-ratios can be compared to determine the boundaries of the public sphere with respect to the diffusion of due process protections; similar effects of the PUBLIC/PRIVATE and PUBLIC LINKAGES variables would indicate that the public sphere includes contractors. The antilogs of the coefficients can be intuitively understood as the multipliers of the base rate.

Both measures of proximity to the public sphere produce significant positive effects on the rates of rights expansion, which supports the hypothesis that an organization's proximity to the public sphere affects its vulnerability to the legal environment. The antilog for the PUBLIC LINKAGES variable in model 1 shows that when the boundaries of the public sphere are drawn around those organizations with administrative

TABLE 2
GOMPERTZ MODELS OF THE FORMATION OF NONUNION GRIEVANCE PROCEDURES

	MODEL 1: PUBLIC LINKAGES*			MODEL 2: PUBLIC/PRIVATE†		
	Parameter	t-ratio‡	Antilog	Parameter	t-ratio‡	Antilog
B vector constant	-15.91	6.38		-16.94	6.57	
Public linkages	.83	2.34	2.3			
Public/private				1.33	3.45	3.78
Log size	.39	2.05	1.48	.58	2.70	1.80
Percentage unionized	-.0003	.82	.99	-.0007	1.42	.99
Personnel departments	.18	.83	1.2	.10	.48	1.11
AA structures	-.03	.75	.72	-.04	.89	.67
C vector constant (coefficient of time)	.09	4.59		.10	4.77	

* Model 1 has the following characteristics. $-2 \log \mathcal{L} = 369.76$; improvement in χ^2 over constant-rate model = 84.87 (6 df, $P < .001$); improvement in χ^2 due to exogenous variables = 14.71 (5 df; $P < .025$).

† Model 2 has the following characteristics: $-2 \log \mathcal{L} = 363.60$, improvement in χ^2 over constant-rate model = 91.04 (6 df; $P < .001$), improvement in χ^2 due to exogenous variables = 20.88 (5 df; $P < .005$).

‡ When a one-tailed test with 40 df is used, t-ratios larger than 1.68 are significant at the .05 level, t-ratios larger than 2.42 are significant at the .01 level, and t-ratios larger than 2.70 are significant at the .005 level.

or contractual linkages to the public sector, organizations closer to the public sphere are 2.3 times more likely to institute nonunion grievance procedures. Model 2 shows that when only federal agencies are defined as being within the boundaries of the public sector, public organizations are 3.78 times more likely to institute such procedures.

The similar effects of PUBLIC LINKAGES and PUBLIC/PRIVATE suggests that private organizations with linkages to the public sector create nonunion grievance procedures at approximately the same rate as organizations in the public sector. Thus the boundaries of the institutionalized public sphere may be broader than most social scientists suppose. The greatest variation in response to the legal environment is in the private sector rather than between the public and private sectors. Indeed, private organizations with significant federal contracts are 3.2 times more likely to institute nonunion grievance procedures than are private organizations without such contracts ($P < .05$).

Table 3, sections A and B, which show time-period models that use, respectively, the PUBLIC LINKAGES and PUBLIC/PRIVATE indicators of proximity to the public sphere, shed more light on the diffusion of due process protections.³⁶ The time-period models show that proximity to the public sphere, measured either by PUBLIC/PRIVATE or by PUBLIC LINKAGES, affects the rates at which organizations institute nonunion grievance procedures primarily during the period immediately following the 1964 Civil Rights Act (1964–75).³⁷ Difference-of-coefficients tests between periods are also consistent with the argument that organizations in the public sphere created due process protections at a higher rate during the civil rights movement. When the PUBLIC LINKAGES variable is used, a one-tailed difference-of-coefficients test between time periods 1 and 2 yields a *t*-statistic of 1.25, which approaches significance in the hypothesized direction. The difference-of-coefficients test between time periods 2 and 3 yields a *t*-statistic of 1.63, which is significant at the .1 level.³⁸

Due process protections appear to diffuse from the core of the public sphere outward. During the period when federal and public support for

³⁶ For table 3, the number of events in each time period is 10 (1850–1964), 8 (1964–74), and 25 (1975–83).

³⁷ The time-period model assumes a constant rate of diffusion within periods. Although the first period is significantly longer, it is unlikely that the model is misspecified during the early period because, as the integrated hazard plot shows, the rate remains relatively unchanged until the period of the civil rights movement.

³⁸ The same tests using the PUBLIC/PRIVATE variable produce similar but weaker results. For the difference between time periods 1 and 2, the *t*-statistic is .328, which is not statistically significant. For the difference between time periods 2 and 3, the *t*-statistic is 1.49, which is significant at the .1 level with a one-tailed test.

TABLE 3
TIME-PERIOD MODELS OF THE FORMATION OF NONUNION GRIEVANCE PROCEDURES

	1850-1964			1964-75			1975-83		
	Parameter	t-ratio*	Antilog	Parameter	t-ratio*	Antilog	Parameter	t-ratio*	Antilog
A. Model 1 (public-linkages model): †									
Constant	-7.09	5.92		-6.29	5.21		-3.80	4.91	
Public linkages	.46	.67	1.59	1.78	2.23	5.94	.26	.55	1.30
Log size	.47	1.38	1.61	.51	1.58	1.67	.08	.30	1.08
Personnel departments	.27	.52	1.31	-.07	.16	.94	.46	1.56	1.59
B. Model 2 (public/private model): ‡									
Constant	-8.21	5.04		-6.55	4.75		-4.03	4.81	
Public/private	1.42	1.62	4.12	1.78	2.53	5.95	.50	1.02	1.66
Log size	.76	1.76	2.14	.76	1.95	2.15	.18	.60	1.20
Personnel departments	.23	.49	4.12	-.13	.35	.87	.38	1.26	1.46

* When a one-tailed test with 40 *df* is used, *t*-ratios larger than 1.68 are significant at the .05 level, *t*-ratios larger than 2.42 are significant at the .01 level, and *t*-ratios larger than 2.70 are significant at the .005 level.

† Model 1 has the following characteristics: $-2 \log \mathcal{L} = 386.85$; improvement in χ^2 over constant-rate model = 67.79 (11 *df*; $P < .001$); improvement in χ^2 due to exogenous variables = 24.41 (9 *df*; $P < .005$).

‡ Model 2 has the following characteristics: $-2 \log \mathcal{L} = 383.28$; improvement in χ^2 over constant-rate model = 71.35 (11 *df*; $P < .001$); improvement in χ^2 due to exogenous variables = 27.97 (9 *df*; $P < .001$).

civil rights was the strongest, organizations closer to the public sphere created nonunion grievance procedures at the highest rates, which provides support for my argument that these organizations were especially sensitive to the pressure created by the civil rights mandates to recognize due process rights.

I show in tables 2 and 3 that larger organizations created nonunion grievance procedures at a higher rate than did smaller organizations, as predicted by hypothesis H4. The time-period models show that the effect of size is significant during the period of the civil rights movement but is no longer significant in the 1975–83 period. This finding supports my argument that, because larger organizations are more vulnerable to threats from the legal environment, they adopt institutionalized solutions to those threats earlier, but as the pressure to adopt increases, smaller organizations follow suit. The general effect of size on rights expansion is also consistent with the classical argument that larger organizations tend to develop formal procedures to promote efficiency and with the neo-Marxist argument that larger organizations formalize rights as a means of control.

It is interesting that, in my sample, unionization (measured by the percentage of the work force covered by union contracts) did not have a significant effect on the creation rate of nonunion grievance procedures (table 2). Other measures of unionization (whether or not there were any unions and the number of unions) and the threat of unionization (unsuccessful union organizing attempts) also showed no effect on the rate of creation of nonunion grievance procedures.³⁹ These findings contradict arguments in the organizations literature that employers create formal rights for nonunion employees primarily as a means of forestalling unionization (Freeman and Medoff 1984).

However, some of the anecdotal evidence suggests that union avoidance motivates at least some decisions to implement rights structures. A number of respondents mentioned that employees are happier, and therefore less likely to support a union, when avenues for redress of grievances are provided. It may be, therefore, that legal environments influence the manner in which employers attempt to avoid unions. In light of the legal environment, overt union busting may be a less successful technique for discouraging unionization than the formalization of rights.

A number of other organizational factors that are often found to be correlated with formalization had no effect on the rate of rights expansion

³⁹ Consistent with that result, earlier regression analyses on the same data (Dobbin et al. 1988) showed that the level of unionization in the industry to which the organization belonged did not produce significant effects on the creation of grievance procedures.

and are not included in the models shown. Neither the age of the organization nor its professionalization had significant effects on the rates of institution of nonunion grievance procedures. The organizational level at which personnel policy was made did not produce any effect on the rates at which organizations instituted such procedures. Various measures of technology and industry were also not statistically significant. The absence of organizational influences on the rate of rights expansion provides further support for the argument that the legal environment is the major determinant of attention to due process in organizational governance.⁴⁰

Descriptive accounts of the rationale for instituting formal grievance procedures for nonunion employees also point to the importance of environmental pressure to treat workers fairly. When asked why they had created each nonunion grievance procedure, respondents were able to provide reasons for 22 of the 45 procedures created by 1983.⁴¹ For 10 of those procedures, respondents gave primary reasons that concerned public conceptions of fairness or propriety (e.g., “seems fair,” “the fair thing to do”); for 11 procedures, respondents gave primary reasons that concerned the legal environment (e.g., “to avoid lawsuits,” “because of a lawsuit,” “because of affirmative action requirements”). In comparison, internal organizational factors related to employee morale were cited as primary reasons in only six cases (e.g., “employee complaints,” “attitude surveys,” “to resolve disputes quickly,” “copy of union procedure for nonunion employees”).⁴² Reasons that may be related to either internal or external factors were given in three cases (e.g., “new management,” “growth”).⁴³

To examine the role of personnel departments in transforming legal

⁴⁰ The dummy variable “AA Structures” indicates whether the organization had affirmative action functionaries or an affirmative action plan; it was introduced as a control variable but had no significant effect on rights expansion. This finding may indicate that general organizational personnel structures rather than structures specific to affirmative action react to the normative environment by implementing general due process rights. However, since affirmative action functions are often incorporated into general personnel structures, the finding is inconclusive.

⁴¹ In my view, the objective data on patterns of diffusion are more convincing than respondents’ accounts of why nonunion grievance procedures were created. I base this view on the many procedures for which respondents were unable to provide a reason and on the subjectivity involved in their responses.

⁴² Two respondents said that their nonunion grievance procedures were copies of their union procedures. Neither respondent mentioned creating nonunion procedures as a protective measure to reduce the risk of union organizing.

⁴³ The “new management” explanation does not specify whether management was responding to internal organizational factors or external environmental pressure. Similarly “growth” may lead organizations to create procedures either because of internal coordination and control problems or because larger companies are often more visible to the public and to federal regulatory agencies.

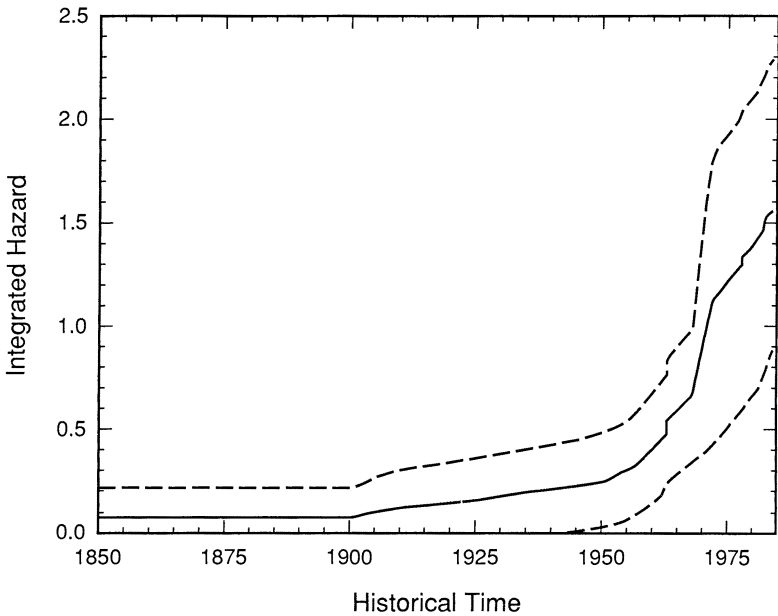


FIG. 2.—Integrated hazard plot of the creation of personnel offices (1850–1983). The dashed lines represent the 95% confidence interval.

and social norms into organizational policy, I look at (1) the effects of legal change and organizational variables on the rates at which organizations create new personnel offices and (2) the effects of the creation of new personnel offices on the rates of institution of due process structures.

As the integrated hazard plot in figure 2 shows, the rate at which organizations have created personnel offices has soared in the past two decades. If personnel offices are an organizational response to environmental pressure (as suggested in hypotheses H5a and H5b), the factors that make organizations more vulnerable to environmental pressure (proximity to the public sphere and large size) should also lead organizations to create more personnel offices.⁴⁴ Table 4 shows time-period models of the institution of personnel offices.⁴⁵ The models show that measures of

⁴⁴ A Gompertz model of the institution of personnel departments showed no effects for both measures of proximity to the public sector; only size was significant. This result can be explained by the fact that proximity to the public sector affects the institution of personnel departments significantly only during the 1964–75 period, as indicated in the time-period models.

⁴⁵ For table 4, the number of events in each time period is 27 (1850–1964), 10 (1964–75), and 17 (1975–83).

TABLE 4
TIME-PERIOD MODELS OF THE DIFFUSION OF PERSONNEL OFFICES

	1850-1964		1964-75		1975-83				
	Parameter	t-ratio*	Antilog	Parameter	t-ratio*	Antilog	Parameter	t-ratio*	Antilog
A. Model 1 (public-linkages model):†									
Constant	-7.217	7.19		-5.70	5.05		-4.31	4.69	
Public linkages	1.07	1.77	2.92	1.22	1.69	3.38	-1.23	1.91	.29
Log size	.52	2.06	1.69	.46	1.61	1.59	.31	1.2	1.36
Percentage unionized	.002	3.01	1.002	-.0003	.32	.99	.001	1.6	1.001
B. Model 2 (public/private model):‡									
Constant	-7.33	6.43		-5.13	4.98		-4.46	4.77	
Public/private	1.07	1.69	2.94	.24	.34	1.27	-.75	1.02	.47
Log size	.65	2.15	1.92	.44	1.54	1.55	.28	1.06	1.32
Percentage unionized	.002	2.99	1.002	.0002	.25	1.00	.001	1.32	1.001

* When a one-tailed test with 40 df is used, t-ratios larger than 1.68 are significant at the .05 level, t-ratios larger than 2.42 are significant at the .01 level, and t-ratios larger than 2.70 are significant at the .005 level.

† Model 1 has the following characteristics. - 2 log L = 378.059; improvement in χ^2 over constant-rate model = 42.87 (11 df; $P < .001$); improvement in χ^2 due to exogenous variables = 25.87 (9 df; $P < .01$).

‡ Model 2 has the following characteristics. - 2 log L = 384.456, improvement in χ^2 over constant-rate model = 36.37 (11 df; $P < .001$); improvement in χ^2 due to exogenous variables = 19.37 (9 df; $P < .05$).

both proximity to the public sphere and size have significant effects on the rate of institution of personnel offices before the civil rights movement but only the PUBLIC LINKAGES measure of proximity to the public sphere is significant during the 1964–75 period. During that period, organizations closer to the public sphere created personnel offices at over three times the rate of private noncontractor organizations.

These results support my argument that structural elaboration of the governance function is a response to threats from the legal environment but suggest that the response is stronger for private contractor organizations than for public sector organizations. After 1975, however, organizations closer to the public sphere create personnel offices at a significantly lower rate than organizations in the private sector, which may indicate that private sector organizations also create personnel offices in response to pressure from their legal environment but that they experience a delayed response to legal change.

What role do personnel offices created in response to the civil rights movement play in the expansion of due process? As can be seen in table 3, section A, the creation of new personnel offices affects the rate at which organizations institute nonunion grievance procedures only during the 1975–83 period.⁴⁶ Thus the formation of personnel offices in response to the civil rights mandates of the mid-1960s and early 1970s is associated with an increase in organizational attention to nonmandated due process rights in the mid-1970s and early 1980s. Since federal contractors are the most likely to create personnel offices in response to the legal complexity of the 1960s, we may conclude that personnel offices play an especially important role in transforming legal norms into organizational policy for organizations in the semipublic contractor status.

Much of my evidence supporting the intermediary role of personnel departments is qualitative, resulting from interviews with personnel officers. When personnel professionals move from one organization to another, they often take with them new techniques for handling environmental pressure on the protection of employees' rights. A number of employers who had experienced labor problems or who believed that their employee-relations strategies were outmoded brought in an expert personnel professional who had successfully implemented contemporary employee-management techniques in another organization. Some organizations gave such a person free reign to create new policies and to act without review by high-ranking company officials.

⁴⁶ The effect of personnel offices approaches significance in the hypothesized direction at the .1 level with a one-tailed test. When the variables that are not significant are removed from the model, the effect of personnel offices becomes statistically significant.

Respondents also repeatedly emphasized the value of the increasingly prevalent personnel workshops (often organized by lawyers) that are intended to demystify many types of federal regulation, especially Title VII. A common theme of such workshops is that by formalizing evaluation and discipline procedures, documenting unsatisfactory work and behavioral problems, and giving written warning before terminating an employee, organizations are more likely to appear to have acted fairly and therefore to prevail in lawsuits. In one such workshop that I recently observed, a speaker spent over half an hour (of a two-day workshop) expounding on the advantages of nonunion grievance procedures for increasing employee morale, resolving problems, avoiding liability in lawsuits, avoiding lawsuits themselves, and giving an appearance of fairness.

VI. CONCLUSION

This study supports the argument that expansion of due process in organizational governance is an institutionalized response to threats posed by the legal environment. The civil rights movement and the mandates of the 1960s altered organizations' legal environments by heightening societal attention to issues of fair governance. In an attempt to conform to normative environmental pressure, organizations that were closest to the public sphere or open to public scrutiny began to turn to the public legal order as a legitimate model of governance. Over time, processes of institutional isomorphism—mediated by the personnel profession and by changing societal, legal, and managerial ideologies of workplace governance—engendered a gradual diffusion of due process protections. Thus the civil rights mandates have had a broad effect on governance in the American workplace, one that goes significantly beyond the direct mandates of the legislation and executive orders of that period.

This study has implications for both organizations theory and the sociology of law. My results illustrate how institutionalized structures diffuse among organizations and organizational spheres and thus provide empirical support for theories of institutional isomorphism (Meyer and Rowan 1977; DiMaggio and Powell 1983). They are consistent with institutional theories that point to the importance of the state in general in creating an environment in which employees formalize governance (Stark 1980; Baron et al. 1986). Moreover, this study elaborates institutional theories of organizations by showing that the legal environment plays a central role in the diffusion of lawlike forms of organizational governance.

In drawing attention to the effect of legal environments on organizations, however, I should note that governance may be more susceptible to legal influence than are other elements of organizations (e. g., most organi-

zational technologies). Governance is, after all, peripheral to organizations' core technical or service activities and therefore likely to be considerably more malleable than core activities. Furthermore, governance is ripe for symbolic manipulation; formal rules that comply with law may be coupled only loosely with actual organizational practices. Because control over labor has historically been more problematic to management than control over raw materials or technology, employers may be especially likely to seek out and follow institutionalized models of governance.

The sociology of law has long been concerned with social processes that affect the influence of law on society. This study suggests that to the extent that legal change leads to the institutionalization of the policy that underlies the law, the effect of law on organizations may be greater—and different—from that intended by lawmakers. The implications of these findings for legal change that does not become institutionalized also seem clear: the effects of legal mandates that do not attain organizational legitimacy are likely to be short-lived.

It is also clear that employment rights do not simply mirror law and public policy. The complexity of the organizational reaction to environmental change means that formal structures that become institutionalized may be relatively unaffected by—or at least slow to respond to—a subsequent loss of public or legal support. Thus the Reagan administration's attempts to weaken affirmative action may have little effect on organizational due process protections that grew out of earlier public and legal attention to civil rights. On the other hand, to the extent that the environment created by the Reagan and Bush administrations is one in which exercising such rights appears less legitimate, formal avenues of appeal may remain intact but become increasingly ineffectual.

It is important to recognize that the formalization of due process rights does not guarantee substantive justice in the workplace. Grievance procedures lend legitimacy to organizations because they give the appearance of fair governance; their symbolic value does not depend on whether employees use the procedures or on whether employee grievances are equitably redressed through the procedures. Thus the creation of a grievance procedure for nonunion employees may well be a symbolic gesture to the legal environment with no real benefit to employees. Furthermore, due process protections may reinforce employers' control over labor by giving the appearance of fair governance while channeling conflict into a forum that, especially in the nonunion context, is unlikely to produce significant reform.

Nevertheless, the fact that legitimacy requires even formal attention to due process represents a major transformation from the unfettered managerial prerogative that formerly characterized both organizational governance and legal doctrine concerning the employment relation. Further-

more, grievance procedures constitute a forum in which employee interests are given a voice; due process protections create at least a potential for battle over contested terrain.

APPENDIX

TABLE A1
TABLE OF VARIABLES

Variable	Description
Nonunion grievance procedures (NGP)	Event-history record of the creation of nonunion grievance procedures
Public linkages (PUBLIC LINKAGES)	Measure of proximity to the public sphere; coded "1" if federal or state agency or private organization in which 10% or more of the gross income comes from federal contracts, coded "0" for private firms in which less than 10% of the gross income comes from federal contracts
Public/private (PUBLIC/PRIVATE)	Measure of proximity to the public sphere; coded "1" for public, coded "0" for private
Log size (NEMP)	Log number of employees (1960, 1970, 1983)
Governance offices (PD)	Event-history record of the creation of new governance offices
Union (UNION)	Event-history record of whether the organization has signed a contract with any union
Percentage unionized (% UNION)	Percentage of employees covered by union contracts (1960, 1970, 1983)
Union threat (UTHREAT)	Event-history record of unsuccessful union organizing attempts
AA structures (AA2)	Event-history record of whether the organization had affirmative-action functionaries or an affirmative-action plan
Organizational age (AGE)	Number of years since organization was founded (as of 1983)
Professionalization (EXEMPT)	Percentage of workforce that is exempt from the provisions of the Fair Labor Standard Act of 1935 (salaried employees are exempt; hourly employees are nonexempt)

REFERENCES

Adams, J. S., and P. R. Jacobsen. 1964. "Effects of Wage Inequities on Work Quality." *Journal of Applied Psychology* 69:19-25.
 Akerlof, George. 1982. "Labor Contracts as Partial Gift Exchange." *Quarterly Journal of Economics* 97:543-69.

- Allison, Paul D. 1984. *Event History Analysis: Regression for Longitudinal Event Data*. Beverly Hills, Calif.: Sage.
- Baron, James N., Frank R. Dobbin, and P. Devereaux Jennings. 1986. "War and Peace: The Evolution of Modern Personnel Administration in U.S. Industry." *American Journal of Sociology* 92:350–83.
- Blau, Peter M., and Richard A. Schoenherr. 1971. *The Structure of Organizations*. New York: Basic.
- Blumberg, Rhoda L. 1984. *Civil Rights: The Nineteen Sixties Freedom Struggle*. Boston: Hall.
- Blumrosen, Alfred W. 1965. "Anti-discrimination Laws in Action in New Jersey: A Law-Sociology Study." *Rutgers Law Review* 19:189–287.
- Buckley, Walter. 1967. *Sociology and Modern Systems Theory*. Englewood Cliffs, N.J.: Prentice-Hall.
- Bumiller, Kristin. 1987. "Victims in the Shadow of the Law: A Critique of the Model of Legal Protection." *Signs* 12:421–34.
- Burstein, Paul. 1985. *Discrimination, Jobs, and Politics: The Struggle for Equal Employment Opportunity in the United States since the New Deal*. Chicago: University of Chicago Press.
- Carroll, Glenn R. 1983. "Dynamic Analysis of Discrete Dependent Variables: A Didactic Essay." *Quality and Quantity* 17:425–60.
- Carroll, Glenn R., and Jacques Delacroix. 1982. "Organizational Mortality in the Newspaper Industries of Argentina and Ireland: An Ecological Approach." *Administrative Science Quarterly* 27:169–99.
- Clegg, Stewart, and David Dunkerley. 1980. *Organization, Class, and Control*. London: Routledge & Kegan Paul.
- Curtin, Edward R. 1970. "White-Collar Unionization." National Industrial Conference Board, Study in Personnel Policies, no. 220. New York, National Industrial Conference Board.
- DiMaggio, Paul J., and Walter W. Powell. 1983. "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields." *American Sociological Review* 48:147–60.
- Dobbin, Frank, Lauren Edelman, John W. Meyer, W. Richard Scott, and Ann Swidler. 1988. "The Expansion of Due Process in Organizations." Pp. 71–98 in *Institutional Patterns in Organizations*, edited by Lynne G. Zucker. Cambridge, Mass.: Ballinger.
- Drought, Neal E. 1967. "Grievances in the Non-union Situation." *Personnel Journal* 46:331–37.
- Edwards, Richard. 1979. *Contested Terrain: The Transformation of the Workplace in the Twentieth Century*. New York: Basic.
- Ewing, David W. 1971. "Who Wants Employee Rights?" *Harvard Business Review* (November–December), pp. 22–35, 155–59.
- . 1982. "Due Process: Will Business Default?" *Harvard Business Review* (November–December), pp. 114–22.
- Fligstein, Neil J. 1985. "The Spread of the Multidivisional Form, 1919–1979." *American Sociological Review* 50:377–91.
- Foulkes, F. K. 1980. *Personnel Policies in Large Nonunion Companies*. Englewood Cliffs, N.J.: Prentice-Hall.
- . 1981. "How Top Nonunion Companies Manage Employees." *Harvard Business Review* (September–October), pp. 90–96.
- Freeman, Richard B., and James L. Medoff. 1984. *What Do Unions Do?* New York: Basic.
- Goldman, Paul, and Donald R. Van Houten. 1981. "Bureaucracy and Domination: Managerial Strategy in Turn-of-the-Century American Industry." Pp. 189–216 in

- Complex Organizations: Critical Perspectives*, edited by Mary Zey-Ferrell and Michael Aiken. Glenview, Ill.: Scott, Foresman.
- Gordon, David M., Richard Edwards, and Michael Reich. 1982. *Segmented Work, Divided Workers: The Historical Transformation of Labor in the United States*. Cambridge: Cambridge University Press.
- Hage, Jerald, and Michael Aiken. 1969. "Routine Technology, Social Structure, and Organizational Goals." *Administrative Science Quarterly* 14:366–76.
- Halaby, Charles N. 1986. "Worker Attachment and Workplace Authority." *American Sociological Review* 51:634–49.
- Jacoby, Sanford M. 1985. *Employing Bureaucracy: Managers, Unions, and the Transformation of Work in American Industry, 1900–1945*. New York: Columbia University Press.
- Jones, James E., William P. Murphy, and Robert Belton. 1987. *Discrimination in Employment*, 5th ed. St. Paul, Minn.: West.
- Kilgour, John G. 1978. "Responding to the Union Campaign." *Personnel Journal* 57:238–42, 269.
- Lawler, E. E. 1968. "Effects of Hourly Overpayment on Productivity and Work Quality." *Journal of Personality and Social Psychology* 10:306–13.
- Merton, Robert K. 1968. *Social Theory and Social Structure*. New York: Free Press.
- Meyer, John W., and Brian Rowan. 1977. "Institutionalized Organizations: Formal Structure as Myth and Ceremony." *American Journal of Sociology* 83:340–63.
- Montgomery, David. 1979. *Workers' Control in America: Studies in the History of Work, Technology, and Labor Struggles*. Cambridge: Cambridge University Press.
- Pugh, D. S., D. J. Hickson, C. R. Hinings, and C. Turner. 1969. "The Context of Organizational Structures." *Administrative Science Quarterly* 13:91–114.
- Reich, Charles A. 1964. "The New Property." *Yale Law Journal* 73:733–87.
- Scott, W. Richard. 1983. "The Organization of Environments: Network, Cultural and Historical Elements." Pp. 155–75 in *Organizational Environments: Ritual and Rationality*, edited by John W. Meyer and W. Richard Scott. Beverly Hills, Calif.: Sage.
- Scott, W. Richard, and John W. Meyer. 1983. "The Organization of Societal Sectors." Pp. 129–53 in *Organizational Environments: Ritual and Rationality*, edited by John W. Meyer and W. Richard Scott. Beverly Hills, Calif.: Sage.
- Selznick, Philip. 1949. *TVA and the Grass Roots: A Study in the Sociology of Formal Organization*. Berkeley: University of California Press.
- . 1969. *Law, Society, and Industrial Justice*. New Brunswick, N.J.: Transaction.
- Sherman, V. Clayton. 1969. "Unionism and the Nonunion Company." *Personnel Journal* 48:413–22.
- Silver, Isadore. 1967. "The Corporate Ombudsman." *Harvard Business Review*, (May–June), pp. 77–87.
- Slichter, Sumner H. 1919. *The Turnover of Factory Labor*. New York: Appleton.
- . 1941. *Union Policies and Industrial Management*. Washington, D.C.: Brookings.
- Stark, David. 1980. "Class Struggle and the Transformation of the Labor Process." *Theory and Society* 9:89–130.
- Stinchcombe, Arthur L. 1959. "Bureaucratic and Craft Administration of Production: A Comparative Study." *Administrative Science Quarterly* 4:168–87.
- Stone, Christopher. 1975. *Where the Law Ends: The Social Control of Corporate Behavior*. New York: Harper & Row.
- Thompson, James D. 1967. *Organizations in Action*. New York: McGraw-Hill.
- Tolbert, Pamela S., and Lynne G. Zucker. 1983. "Institutional Sources of Change in the Formal Structure of Organizations: The Diffusion of Civil Service Reform, 1880–1935." *Administrative Science Quarterly* 28:22–39.

American Journal of Sociology

- Tomlins, Christopher L. 1985. *The State and the Unions: Labor Relations, Law, and the Organized Labor Movement in America, 1880–1960*. Cambridge: Cambridge University Press.
- Tuma, Nancy. 1979. *Invoking RATE*. Unpublished program manual. Stanford University, Department of Sociology.
- Tuma, Nancy, and Michael T. Hannan. 1984. *Social Dynamics: Models and Methods*. Orlando, Fla.: Academic Press.
- Tuma, Nancy, Michael T. Hannan, and Lyle P. Groenfeld. 1979. "Dynamic Analysis of Event Histories." *American Journal of Sociology* 84:820–54.
- Vaughan, Diane. 1983. *Controlling Unlawful Organizational Behavior: Social Structure and Corporate Misconduct*. Chicago: University of Chicago Press.
- Weber, Max. (1906–24) 1946. *From Max Weber: Essays in Sociology*, translated and edited by Hans H. Gerth and C. Wright Mills. New York: Oxford University Press.
- Westin, Alan F., and Alfred G. Feliu. 1988. *Resolving Employment Disputes without Litigation*. Washington, D.C.: Bureau of National Affairs.
- Williamson, Oliver E. 1975. *Markets and Hierarchies: Analysis and Antitrust Implications*. New York: Free Press.
- Wirt, Frederick. 1970. *The Politics of Southern Equality: Law and Social Change in a Mississippi County*. Chicago: Aldine.
- Zimmer, Michael, Charles Sullivan, and Richard Richards. 1988. *Cases and Materials on Employment Discrimination*, 2d ed. Boston: Little, Brown.