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VOLUME 5, SPRING 2013

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Intersectional Disadvantages in the Emergence and Transformation of Legal Disputes

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Intersectionality theory asserts that individuals' social experiences differ based on the different social locations individuals occupy within society. In addition, sociolegal research suggests that individuals possess different experiences in the emergence and transformation of legal disputes but, to date, has not empirically incorporated intersectionality theory into its analysis. This paper asks, how can intersectionality theory enhance and further develop sociolegal research on legal disputing? By using Felstiner et al.'s (1980) framework for describing and analyzing the emergence and transformation of legal disputes and drawing on existing sociolegal scholarship, this paper argues for the importance of taking into account the different experiences of individuals within society when examining the emergence and transformation of legal disputes. I further argue that intersectionality theory should be incorporated in sociolegal research to elucidate the disparate ways legal disputes emerge and are transformed for different individuals and the various disadvantages that may exist for certain social groups in asserting legitimate legal claims. Public policy implications and examples are discussed.

Introduction

Sociolegal scholarship broadly examines the role of law in society. Various studies exist examining the social context of law after a legal dispute has formally been recognized, in terms of legal consciousness (Merry, 1990), judicial relationships (Shdaimah, 2009), and legal processes and outcomes (Best et al., 2011). For example, Corey Shdaimah (2009) examines the reciprocal working relationships of legal service lawyers and the clients they serve to elucidate their understandings of the work they mutually perform and the role their work plays in the justice system as a whole. However, because many disputes never materialize into formal legal claims, it is also important to examine the ways legal disputes are created and declared as such.

Felstiner et al. (1980) provide a framework for describing and analyzing the emergence and transformation of legal disputes by positioning individual citizens, as opposed to legal institutions, centrally to the examination of law. While the work is not an authority on intersectionality theory

(and, in fact, was written before most contemporary intersectionality theory was systematically articulated) Felstiner et al.'s work is seminal in sociolegal studies. The authors argue that, while the idea that the United States is an overly-litigious society is widely accepted, the study of the emergence and transformation of legal disputes suggests that this is not the case. Conversely, they argue that, in our society, too few formal legal disputes emerge either because most injuries are never recognized as such or because most injuries that are acknowledged are never

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addressed by our society's legal institutions. Therefore, Felstiner et al's work provides theoretical support that intersectionality theory should have a central position in sociolegal work because the recognition of injuries and the formal acknowledgement of legal disputes resulting from these injuries may be unattainable to certain people based on their subordinated positions within society.

For Felstiner et al. (1980), legal disputes are socially constructed phenomena, meaning that they are developed in specific social contexts. Specifically, the scholars argue that legal disputes emerge and are transformed through a process that involves perceiving an event as injurious ("naming"), attributing the named harm to a person, group, or institution ("blaming"), and expressing the injury to the entity believed culpable ("claiming") (p. 635). However, the emergence and transformation of legal disputes are not only contingent upon social context, but also upon structural constraints (Albiston, 2005; Felstiner et al., 1980), individual agency (Albiston, 2005), and individual psychological factors (Felstiner et al., 1980).

Felstiner et al. (1980) assert that the transformation of an unidentified harm to a legal dispute possesses several characteristics. Transformations are subjective because the presence of recognizable or perceptible behavior is not required for a dispute to emerge (p. 637). Additionally, transformations are unstable, reactive, and complicated. The transformation of an injury to a legal dispute reflects the feelings and perceptions of the individual(s) involved which are transformed, redefined, reinforced, and/or challenged over time based on the existence of new, sometimes ambiguous, information, various actors representing complex social institutions, social structural factors, and conflicting values and objectives (p. 637-638). Finally, transformations are incomplete because legal disputes are produced from and often create further legal conflicts (p. 639).

Given Felstiner et al.'s (1980) framework for describing and analyzing the emergence and transformation of legal disputes, including the process by which disputes are created and transformed and the characteristics of the progression, it is important to take into account the ways the transformative processes described will vary for different people based on where they are positioned within society. Studies exist examining the effects of individuals' unique social locations on the likelihood of successful litigation. For example, Best et al. (2011) examines how intersecting social locations disadvantage plaintiffs in discrimination cases both in terms of demographic intersectionality (i.e. legal officials discriminating against plaintiffs who possess multiple social characteristics) and claim intersectionality (i.e. plaintiffs who claim that discrimination occurred as a result of their possessing multiple social characteristics). However, as asserted previously, by focusing on claims that have been successfully declared by plaintiffs, Best et al.'s (2011) examination fails to elucidate how individuals may be disadvantaged in making legal claims and how this disadvantage may vary based on where individuals are uniquely located within society.

This paper asks, how can intersectionality theory enhance and further develop sociolegal research on legal disputing? Specifically, this paper argues for the importance of taking into account the different experiences of individuals when examining the emergence and transformation of legal disputes. I further argue that intersectionality theory should be incorporated in sociolegal research to elucidate the disparate ways legal disputes emerge and are transformed for different individuals and the various disadvantages that may exist for certain social groups in asserting legitimate legal claims. In this paper, I first outline intersectionality theory and connect it to Felstiner et al.'s (1980) framework for examining the emergence and transformation of legal disputes. Subsequently, by using existing literature, I argue for the importance of using an intersectional framework to examine how disputes are recognized and are formally acknowledged as legitimate legal claims because of the variation that exists among social groups in terms of the emergence and transformation of disputes.

The Role of Intersectionality Theory in the Emergence and Transformation of Legal Disputes

Intersectionality theory asserts that individuals' social experiences differ based on the different social locations individuals occupy within society. Specifically, intersectionality scholars argue that individuals' lived experiences are rooted in the intersection of various social characteristics, including, but not limited to, race, class, and gender (For example see Baca Zinn & Thornton Dill, 1996; Burgess-Proctor, 2006; Collins, 2000; Crenshaw, 1991). Based on an intersectional framework, the multiplicative influences of various social characteristics produce distinctive social arrangements of power and inequality based on structural constraints and differential access to power and resources. For example, as Best et al. (2011) assert, social discrimination that is unique to black women cannot be accounted for as simply a summation of racism and sexism (p. 993) but produces a specific, multiplicative influence that must be taken into account.

Intersectionality theory is relevant to Felstiner et al.'s (1980) framework for describing and analyzing the emergence and transformation of legal disputes and is, thus, important to consider when examining how legal disputes emerge and are transformed over time. Felstiner et al. assert that legal disputes are socially constructed phenomena that are a reflection of the subject's definition and perception of the experience (p. 631-632). The recognition of an injurious experience, including social injustices and physical or mental harm, can only exist if an individual perceives it as injurious (Felstiner et al., 1980, p. 632). In accordance with the assertions of the authors, this recognition differs among individuals based on the subjective and changeable nature of the transformation of legal disputes. Similarly, based on an intersectionality framework, individuals' experiences differ based on the multiplicative influence of the various social characteristics they possess. Thus, it is reasonable to assume that the recognition of an injurious event will differ based on where individuals are positioned within society.

Felstiner et al. (1980) assert that examining the emergence and transformation of legal disputes means studying a developing social process as it unfolds by examining the social and structural conditions associated with individuals perceiving experiences as injurious (or not perceiving them as injurious) and their responses to the unjustified experiences (p. 632). Thus, "naming" (Felstiner et al., 1980) an injurious experience is not the only phase in the emergence and transformation of disputes in which intersectionality theory is useful. Individual's various social locations and the differing degrees of structural and institutional constraints individuals face also influence how individuals respond to such injuries and, thus, if a formal legal dispute is recognized and claimed as such. Felstiner et al. (1980) assert that structural and institutional arrangements constrain the decisions, whether legal or extralegal, available to potential disputants (p. 636). Based on an intersectional framework, these restrictions will vary across social groups. For example, according to the transformative perspective, various agents of transformation, which include individuals and institutions within society, shape the transformation process. But, again, the relevance and influence of these agents vary by individuals' positions within society and are subject to social structural constraints. Thus, variations exist in individuals' experiences of and opportunities to file a formal legal dispute.

Elizabeth Hoffmann (2009) asserts that socially marginalized groups may have difficulty accomplishing the transformation of a legal dispute because the same power and status differentials that caused the initial harm may also obstruct the recognition and formal realization of a legal claim. Specifically, she asserts that, "naming, blaming, and claiming are often stringently discouraged for less powerful groups, preventing disputes from being fully developed and rights from being fully asserted" (2009, p. 496). Therefore, consistent with the intersectional perspective, members of socially marginalized groups may be precluded from making legitimate legal claims because of their subordinated status and relative lack of power within society.

Thus, the transformative perspective encourages a critical examination of how legal disputes emerge and are transformed based on individuals' social positions to elucidate how social inequalities play out in the legal process (p. 633, p. 673). Felstiner et al. (1980) assert that, access to justice by means of the legal system should be a method to moderate the asymmetrical distribution of socially allocated power, resources, and advantage of certain groups within

society but, ironically, may amplify social inequalities between social groups by precluding certain individuals from obtaining legal justice (p. 637). As the authors assert:

the study of transformations should illuminate both the ways in which differential experience and access to resources affect the number and kinds of problems that mature into disputes and the consequences for individuals and society when responses to injurious experiences are arrested at an early stage (p. 649-650).

Thus, structural inequalities may advantage some individuals and disadvantage others in the ability to recognize and formally claim legal disputes.

Marchetti (2008) argues that law and legal processes are not equipped to consider how ascriptive characteristics, such as class, race, gender, and disability, complicate legal issues and create unique experiences of marginalization. Therefore, it is imperative for sociolegal scholarship to actively take into account the unique social experiences of individuals when examining the emergence and transformation of legal disputes. Specifically, intersectionality offers the opportunity to elucidate how structural disadvantage in legal claims making differentially affects various groups and advantages certain groups over others.

Legal/Rights Consciousness, Social Location, and the Emergence and Transformation of Legal Disputes

Many studies exist examining the legal consciousness of individuals throughout society. For example, Ewick and Silbey (1998) explicate three primary orientations, or types of legal consciousness, individuals can possess in relation to law: “before the law”, “with the law”, and “against the law”. In “before the law”, individuals view legality as disconnected from everyday life. But, in this orientation, legality is also perceived as authoritative, predictable, rational, and objective (p. 47). Thus, individuals who possess this orientation towards the law recognize and are deferential to “the law’s claim to autonomy” (p. 47). In “with the law”, individuals describe law as a game to be played and won by utilizing already existing and newly formulated rules. In this legal orientation, individuals value the usefulness of law to accomplish desired outcomes over concerns regarding law’s procedural legitimacy (p. 48). Finally, in “against the law”, individuals feel that law supersedes their personal ability to either orientate “before the law” or “with the law”. Thus, people who identify with this legal orientation often end up resisting the system as a way of organizing and managing the perceived power law has over their own lives. Importantly, the three types of legal consciousness elucidated by Ewick and Silbey (1998) are not mutually exclusive categories and must be understood relative to one another (p. 224).

Existing scholarship also illustrates how individuals’ legal consciousness is often shaped by where they are positioned within society. Ewick and Silbey (1998) assert that the categories of legal consciousness they delineate are variable and can be articulated by the same people in different times and spaces. They state, “legal consciousness varies across time (to reflect learning and experiences) and across interactions (to reflect opportunity, different objects, relationships or purposes, and the differential availability of schemas and resources)” (p. 53). However, they also assert that specific types of legal orientations may be associated with specific groups of people. For example, the scholars suggests that individuals who are marginalized within society are more likely to articulate being “against the law” because of their relative lack of power within society (p. 235). Therefore, based on intersectionality theory and existing legal consciousness literature, the ways individuals view the law and legality in their own lives will vary based on where they are positioned within the social order.

Correspondingly, Kathleen Hull’s (2003) study of the legal consciousness of same-sex couples illustrates how legality, in the absence of official law, plays a role in the marital rituals of homosexual couples and how variations exist in the ways homosexuals view, perceive, and enact law and legality relating to marriage. Hull (2003) conducted interviews with same-sex couples to examine how legal consciousness was expressed through practices and views of marital rituals.

Homosexual couples are important to examine because they are socially disadvantaged in relation to the culturally valued definition of marriage because, on the whole, they are prohibited from entering into legally recognized marriages.

Hull found that, even though all same-sex couples do not use the law for marital purposes, legality, beyond the official law of the state, continues to be present in their lives. For example, for some couples, religious enactments of marriage often operated as a proxy for state law as a source of legality relating to marriage. Specifically, the representation and authority of religious officials and religious marital rituals often produced a sense that the marital union was “real” in the minds of the participants. Thus, based on structural constraints, religious practices are one way same-sex couples performed marital rituals in the absence of formal law.

However, Hull (2003) also argues that her findings illustrate that legal consciousness, particularly in terms of legality, should be understood as a “layered phenomenon” because of the diverse views same-sex couples possess regarding cultural practices of marital rituals (p. 653). Specifically, the views and enactments of legality by same-sex couples are not universal. Thus, the views of law and legality the homosexual couples in Hull’s study possess relating to marriage are a direct reflection of their social location. In addition, based on an intersectional framework, we would expect homosexual and heterosexual couples to possess different views of the relationship between law, legality, and marriage.

Studies examining legal/rights consciousness also exist illustrating how law interacts with particular social systems of meaning to differentially shape individuals’ rights consciousness and their mobilization of the law (Albiston, 2005). Catherine R. Albiston (2005) asserts that law and legal rights are cultural resources whose negotiation only exists within the context of structural constraints and individual agency. In her view, culture restricts individuals’ rights consciousness which, in turn, reproduces and perpetuates existing social values and structures. So, structural constraints in the form of mainstream cultural beliefs regarding specific systems of meaning, such as gender and disability, can prohibit individuals from utilizing legal resources.

However, in addition to finding that employees’ rights mobilization are constrained by cultural values and structural constraints, Albiston (2005) found that individuals can also employ law as a way of challenging existing, hegemonic ideas regarding, specific to her study, employment and leave. Specifically, individuals who influence the lives of employees, known as agents of transformation (Albiston, 2005; Felstiner et al., 1980) are capable of shaping and influencing an employees’ decision to make a legal claim regarding leave. As Felstiner et al. (1980) argue, social networks, reference groups within which to contextualize an injustice, access to legal officials, and the influence of disputing institutions, such as courts, all influence the emergence and transformation of legal disputes (p. 644-649). However, based on an intersectionality framework, the specific agents available to certain people and their specific influence differs based on where the potential disputants are located within society. Thus, it is important to use an intersectional framework when examining the legal/rights consciousness and legal mobilization of individuals within society to elucidate the structural constraints certain groups of people face in utilizing the law.

Similarly, Engel and Munger (2003) argue that social context, individual identity, and structural constraints shape and influence individuals’ legal rights consciousness and the mobilization of law. The scholars argue that a constitutive effect exists between rights and identity in which legal rights and identity reciprocally affect one another. Specifically, in this view, laws create individual identities and beliefs which, in turn, shape and influence their use of the law. Additionally, as with much of the current sociolegal scholarship, while Engel and Munger examine race, class, and gender independently of one another in terms of how individuals who possess these social characteristics and identities differentially mobilize the law, they do not examine the multiplicative effects of intersecting disadvantages on identity and rights mobilization. However, as asserted previously, sociolegal scholarship would benefit from examining law and legality from an intersectional perspective because of differential structural constraints and society’s allocation of social power and resources.

In sum, existing legal consciousness literature elucidates how individuals view the law and legality in their own lives and illustrates that individuals’ perceptions of law are, in part, shaped

by their social location and their corresponding social identity. As a result, individuals' legal consciousness also shapes the emergence and transformation of legal disputes. As stated previously, legal disputes are socially constructed in that the recognition of an injustice and the response to the perceived injustice are based on the perceptions, views, and experiences of the individuals involved. Additionally, consistent with intersectionality theory, existing legal consciousness literature, and the assertions of Felstiner et al. (1980), the recognition of an injustice and the transformation of an injustice to a formal legal dispute will differ among individuals based their unique social locations and the structural and institutional constraints they must confront.

Influence of Social Location in Legal Claims Making

While existing scholarship does not, on the whole, incorporate an intersectional framework in examinations of the emergence and transformation of legal disputes, current research does exist examining the effects of independent social characteristics on legal claims-making. This body of scholarship suggests that intersecting disadvantages are present in recognizing formal legal claims and, therefore, that emergence and transformation of legal disputes will vary depending on where individuals are uniquely positioned within society. Thus, current empirical research on legal disputes illustrates the importance of taking into account intersectionality theory to examine how legal disputes materialize and are recognized as such.

Scholarship exists illustrating that perceptions of experiences as injurious or as an injustice, such as discrimination, vary by social location (Hirsh & Kornrich, 2008; Hirsh & Lyons, 2010). For example, consistent with Felstiner et al. (1980), Hirsh and Lyons (2010) assert that an important component in the recognition of legal disputes is how individuals name experiences as injurious. Through household and telephone surveys conducted with adults in Atlanta, Boston, Detroit, and Los Angeles, Hirsh and Lyons (2010) found that ascriptive characteristics, such as race, class, and gender, are associated with perceptions of and, thus, the identification of discrimination. In terms of race specifically, they found that Blacks and Hispanics are more likely than whites to perceive racial discrimination in the workplace. However, no statistically significant differences were found regarding perceived workplace discrimination for Asian and white employees. Their findings suggest that "race discrimination may be a more accessible social construct for understanding negative workplace experiences for lower-status racial/ethnic minority workers, yet also confirms important variation in racialized experiences among minority groups" (p. 288). Additionally, their findings imply that structural constraints and access to power and resources affect groups of people differently depending on their unique social locations. Correspondingly, the scholars conclude that individual acknowledgment of discrimination varies by where individuals are located within society (p. 291).

Similarly, Morrill et al. (2010) examine race and the legal mobilization of youth in school settings. They argue that race is relevant in young people's perceptions of legal rights violations because of the awareness youth possess, particularly minority youth, of their subordinated statuses within society (p. 657). They found that Black and Latino youth are more likely than white or Asian youth to perceive legal rights violations within school settings. Consistent with an intersectional framework, they argue that young people who identify with certain racial groups are differentially located within society (p. 658) and, therefore, are confronted with differential structural constraints and access to social power and resources. Thus, again, this examination illustrates that where individuals, youth or adult, are positioned within society shapes how they perceive injustices against them.

In addition, empirical work exists illustrating the problematic and complex nature of recognizing an injustice and filing a formal legal complaint in response to the harm. For example, Bamberger et al. (2008) examine how workplace adversity differentially affects workers of different race and gender groups. They found that, while the overall rate of grievance filing by racial minorities and women were not significantly different than their white or male counterparts, racial minorities (in comparison to whites) and women (in comparison to men) are

more likely to file workplace grievances in response to specific adversary workplace conditions, such as abusive supervision and exposure to workplace hazards. Thus, their findings suggest that the relationship between specific conditions in the workplace, particularly aversive conditions, and the proportion of employees filing grievances against their employees is not the same for all social groups (p. 255).

Additionally, studies show that barriers exist for certain groups of people in terms of making legitimate legal claims. For example, Kristin Bumiller (1998) examines how the transformation of discrimination disputes are shaped by the psychology of individuals labeled and treated as victims. She problematizes the legal protection model, which posits that the law will be utilized by victims of injustices to remedy the wrong doing and to provide future protection. However, instead of being readily accessible to victims, Bumiller found that antidiscrimination laws do not protect victims, particularly women and racial minorities, because of the powerful barriers that exist for these groups in producing valid legal claims. She states:

The model of legal protection assumes that those who have suffered harms will recognize their injuries and invoke the protective measures of law. Since most antidiscrimination laws rely primarily on the victims to identify violations, report them to public authorities, and participate in enforcement proceedings, these laws tacitly assume that such behavior is reasonably unproblematic and that those in the protected classes can and will accept those burdens (p. 2-3).

Thus, Bumiller asserts that the emergence and transformation of legal disputes are indeed problematic, especially for certain segments of the population. Specifically, the victims in her study voiced that powerful barriers exist in terms of perceiving their experiences as prejudicial and in establishing a legitimate claim against discrimination (p. 4). In addition, she argues that anti-discrimination ideology may actually reinforce the victimization and disadvantage of certain social groups, namely women and racial minorities, instead of providing protective measures against victimization (p. 2-3).

Similarly, Gleeson (2010) examines how citizenship documentation influences the legal consciousness and legal mobilization of immigrants employed in the United States. Through interviews with documented and undocumented workers in California and Texas, Gleeson found that undocumented immigrants face various barriers in making legal claims, such as the ubiquitous fear of being deported and the necessity of maintaining steady employment. Therefore, in addition to an individual's social location shaping their perceptions of injurious experiences, social and structural barriers also exist for certain groups of people to make legitimate legal claims against injustices perpetrated against them.

Thus, scholarship exists elucidating the challenges and barriers specific to certain groups of people in making legal claims against injustices based on differential structural constraints and access to power and resources within society. However, as previously illustrated, existing scholarship, generally, does not incorporate an intersectional framework in examinations of the emergence and transformation of legal disputes. Nevertheless, two notable exceptions exist.

First, in addition to the differential affects of a young person's race on their perception of a legal rights violation, Morrill et al. (2010) found that regardless of race, youth in school settings are more likely to utilize extra-legal, as opposed to legal, avenues against discrimination because, for example, of fear of institutional unfairness or not fully understanding how the legal system works. Thus, in addition to the familiar categories of gender, race, and ethnicity, this study illustrates that a person's age also influences the realization of legitimate, formal legal claims.

Second, Marshall (1998) examines the interaction of race, class, and gender in legal mobilization against sexual harassment in the workplace. She found that the multiplicative interaction of the three social characteristics, as opposed to the independent effects of any one social characteristic, produced social distance between sexually harassed women and their employers that resulted in the discounting of the women's complaints (p. 765). For example, the working-class women in Marshall's study experienced social distance from managerial supervisors who were often male. Thus, they experienced a multiplicative effect of

marginalization both for being women and working-class. In any form, the social distance created between the women and their employers rendered extralegal resolution of the women's complaints virtually unattainable. However, the women were able to utilize specific agents of transformation (Albiston, 2005; Felstiner et al., 1980), namely attorneys, to successfully litigate their sexual harassment claims.

It is important to note two primary limitations to the previously mentioned studies that utilize an intersectional framework. First, Marshall's examination of the intersectional disadvantage of the legal mobilization of women in the workplace is relatively dated. While many structural constraints and disadvantages have remained constant over time, it is, nevertheless, important to empirically incorporate an intersectional framework into current sociolegal examinations of the emergence and transformation of disputes. Secondly, sociolegal scholarship would benefit from studies examining various axes of social location by incorporating additional social characteristics into empirical investigations, such as disability, religion, and age (particularly the elderly). While race, class, and gender are arguably the most commonly used social characteristics in intersectional analyses, it is also important to examine how individuals who possess other social characteristics recognize injustices and formally file legal claims.

Intersectionality Theory and Public Policy

Felstiner, et al. (1980) assert that the examination of the emergence and transformation of legal disputes opposes the idea that Americans are overly-litigious. Conversely, this perspective suggests that too few formal legal disputes emerge because there are barriers to naming, blaming, and claiming these injustices. An important public policy example is welfare reform. In 1970, in *Goldberg v. Kelly*, the Supreme Court granted welfare applicants the right to appeal if denied benefits through what are known as 'fair hearings'. These hearings provide a voice for low-income people (Lens and Vorsanger, 2005) who otherwise have little influence over the policy decisions that affect their lives. However, according to Lens and Vorsanger (2005), these fair hearings are rarely used by welfare clients. In order for welfare clients to engage in 'fair hearings', they must be able to 'name' an injury (that they have been unjustly denied welfare aid), 'blame' the appropriate entity (welfare agency) for the injustice, and formally 'claim' or appeal the unjust discontinuation or denial of aid.

While we would expect it to be unlikely for welfare recipients to 'name' an injustice and, subsequently, 'blame' an entity for that injustice, Lens (2007) found that this was not the case. Conversely, she found that most of the participants in her study named that they were unjustly denied welfare aid and blamed the welfare agency. Specifically, Lens (2007) found that the recipients believed they have been wrongfully and arbitrarily evaluated as unwilling to engage in employment. However, many of the welfare recipients did not take advantage of the 'fair hearings' because they viewed the welfare agency as inflexible and difficult and, thus, were skeptical of the agencies ability to help them. Therefore, Lens' (2007) study illustrates the importance of naming, blaming, and claiming in the transformation of formal legal disputes. While the participants were able to successfully engage in the naming and blaming stages, many were unable to formally claim an appeal.

However, Lens (2007) study did not use an intersectional lens to examine the emergence and transformation of an injustice to a formal legal dispute. As, Orloff (2002) asserts, race, class, and gender shape public policy outcomes. Welfare policy has historically treated women, particularly white women, as full-time maternal caregivers of their children rather than workers (Orloff, 2002). However, women of color are expected to work full-time (Orloff, 2002), thus, diminishing their caregiving responsibilities. Thus, race and gender overlap to create distinct experiences for people regarding welfare policies. As a result, it is important for sociolegal and public policy research to incorporate an intersectional lens to examine disparities in how different people recognize and respond to injustices.

Conclusion

Empirical research suggests that individuals possess different experiences in the emergence and transformation of legal disputes. The different social positions individuals occupy and the associated structural constraints and differential access to power and resources create unique experiences for people in relation to law. Thus, future scholarship on the emergence and transformation of legal conflicts and disputes would benefit from using intersectionality theory as a framework with which to examine legal claims making and the various constraints different groups of individuals face in successfully making legal claims.

Additionally, Felstiner, et al. (1980) argue that, as opposed to the popular belief that the United States is an overly-litigious society, the study of the emergence and transformation of legal disputes suggests that this is not the case. Conversely, they argue that this perspective suggests that too few formal legal disputes occur in our society because most harms are never realized as such nor are most of the acknowledged harms fully transformed to disputes that are addressed by our society's legal institutions. Based on an intersectional perspective, litigation of legal disputes may be inaccessible to certain people based on their subordinated positions within society.

According to Felstiner et al. (1980), "although the emergence and transformation of disputes is personal and individualized, it has an important political dimension. Ultimately what we are concerned with is the capacity of people to respond to trouble, problems, and injustice" (p. 653). Therefore, it is important to employ an intersectional framework in examining how uniquely positioned individuals differentially recognize and respond to injustices to fully understand the structural disadvantage that individuals of certain social groups face in acknowledging and litigating legal disputes.

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