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4 THE EXPANSION OF DUE PROCESS IN ORGANIZATIONS

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This chapter examines why and how due process arrangements are extended within organizations. Although much has been written about the recent rights explosion generally, we have little understanding of the social sources of various kinds of legal protections, their development, and institutionalization. Organizations constitute a significant element in modern social structure, and it is important to understand why and how they have incorporated legal protections. We focus on two types of due process arrangements: grievance procedures and affirmative action structures.

Organizations theorists have not often explicitly addressed the expansion of due process arrangements. But if these developments are viewed as a special instance of the more general process of increased formalization, then much theory becomes relevant because explaining the origins of formalization in organizations has been a central focus of attention. Classical arguments see formalization of rights and relations increasing as a function of scale, technological complexity, and interdependency. Differentiation, specialization, and formalization are viewed as functional solutions to the problems posed by increasing size and complexity (Weber 1947 [1922]; Blau 1970; Blau and Schoenherr 1971; Pugh et al. 1969).

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A second set of arguments emphasizes natural system, or political, explanations. These posit that self-interest and survival concerns dominate organizational actions. Both industrial relations and Marxist versions focus on conflicts of interests between workers and managers, emphasizing control strategies by managers and collective organization and unionization by workers. Due process structures are then viewed either as genuine protections won by workers in their struggles with managers or as more sophisticated mechanisms for suppressing conflict and controlling workers (Miller and Form 1964; Edwards 1979; Braverman 1974; Clegg and Dunkerly 1980). For instance, internal labor market theorists stress due process protections as among the benefits that core industries offer trained employees to discourage them from exercising their skills for some other employer (Marglin 1974; Gordon, Edwards, and Reich 1982).

A third, institutional, approach suggests that many structural features of organizations can be viewed as transmitting models established in the environment. The environment itself is viewed as highly structured and as requiring organizations to incorporate elements such as due process systems or as giving advantages in the form of increased resources or legitimacy to those that do (Meyer and Rowan 1977; DiMaggio and Powell 1983; Meyer and Scott 1983). This approach also draws on the literature on diffusion of organizational innovations focusing on the features of organizations or their environments that lead them to adopt new technologies or administrative procedures (Kimberly 1981; Kimberly and Evanisko 1981; Tolbert and Zucker 1983).

These lines of argument are not necessarily inconsistent. They call attention to different processes that may account for the emergence of formal structures. It is possible that some arguments apply more to some types of organizations than to others or that they are characteristic of certain periods rather than others. To explore these possibilities, we selected a convenience sample of fifty-two organizations from the San Francisco Bay area, including diverse organizations that varied greatly in age, size, technology, unionization, and involvement with the public sector. For each organization, we collected data in the summer and fall of 1983 on the timing of the adoption of two types of due process protections—grievance procedures and affirmative action structures—and on the specific characteristics of the arrangements established. We attempt to identify factors affecting the expansion of employee rights. By comparing organizations of different sorts, we can identify what kinds of organizations are most responsive to these forces. By examining changes over time, we can discern variations in the wider legal environment and note their affects on and interactions with organizational features.

Our focus is on the formalization of employee protections—on the adoption of codified procedures or the establishment of specialized rules

or offices—not on the extent to which these arrangements are actually used or the extent to which genuine protections are offered. The creation of organizational structures that embody and represent employee rights is worthy of attention and explanation.

Structures of Due Process

We are interested in the formalization of the employee/organization relationship and particularly in the extension of employee rights: the explicit commitment to formal (consistent and nonarbitrary) procedure and to substantive fairness. Some organizations leave every aspect of employment unspecified, with no guarantee of impersonal hiring, promotion, or right to continued employment; no procedures for resolving employee complaints; and no statement of employee rights in relation to status (such as race and sex) or work demands (such as protection against unusual demands on time and energy). Such organizations are undoubtedly the most common sort historically. There has been a widespread change in this area accompanying the pervasive formalization and bureaucratization of all aspects of employment (Edwards 1979; Jacoby 1985).

Organizations are increasingly likely to formalize rules and procedures. They often create special offices and functionaries to protect and make explicit employee rights. Many define employee rights in detail in matters of work, recreation, safety, health, and other areas and provide special procedures for processing complaints. And many have begun to formalize the rights of targets of previous discrimination (such as minorities, women, the young, the old, or the handicapped), which are now legally protected. Less frequently, organizations formalize the rights of new categories of employees (such as gays, lesbians, nonsmokers) who are not legally protected but claim public support for their special status. But these kinds of changes have appeared irregularly and have spread unevenly across organizations. We are interested in the source of such due process protections and the cause of their variation.

One reason for examining grievance and affirmative action is simple: These are the two most significant types of formal protections of employee rights found in contemporary organizations in the United States. Grievance procedures are designed to protect employees against a wide spectrum of arbitrary management behavior: indiscriminate firing, failure to promote, safety violations, unequal application of discipline, sexual harassment, and contract violations. Affirmative action structures seek to prevent unequal treatment in hiring, firing, and promotion on the basis of status and in some cases to redress past injustices. A second motivation for focusing on these two areas of rights elaboration stems from the different timing and causes of their adoption. Viewed historically, the

U.S. expansion of organizational due process seems to reflect two broad patterns, occurring through different mechanisms and mainly in different periods and creating two different types of due process mechanisms.

The older process reflects the general progressive expansion of formalization through localized pressures on organizations, beginning in the United States at the turn of this century and running through World War II (Baron et al. 1986). The due process structures involved are *procedural*: the legitimation of unions, the construction of personnel departments and personnel rules, and the creation of grievance processes. Grievance procedures may be viewed as attempted solutions to employer/employee conflicts, solutions that diffuse through the organizational environment in a decentralized way. By contrast, affirmative action has originated through movements occurring in the national political environment and represents an attempt to extend and elaborate the rights of specific disadvantaged groups. Affirmative action emphasizes group or class rights to compensation for past deficiencies in due process; thus the focus is more *substantive*, such as the specification of rights of particular categories of persons, for example, blacks or women. Unlike grievance procedures, affirmative action has been centrally mandated by the nation state and is legally imposed on organizations meeting specified criteria.

Procedural Rights: Grievance Procedures

The proximate causes of grievance procedure formalization seem to lie in the internal political processes of organizations and their immediate social environments. Behind these factors has been the broader legal, political, and cultural environment supporting a more rational and legalized employer/employee relationship. In particular, union recognition and the widespread institutionalization of grievance procedures gained impetus from the National Labor Relations Act of 1935. But particular forms of governance were worked out at the organizational level, often through collective bargaining with unions. The NLRA set forth criteria for recognition of unions and required good-faith bargaining with elected representatives of workers; it did not prescribe a master plan for employer/employee governance nor did it specify the substantive content of the contracts that would be reached through collective bargaining.

Procedural formalization was not restricted to unionized firms. During the 1920s and 1930s many employers formalized policies concerning disability and illness, pensions, unemployment, stock options, and employee representation even in nonunion firms (Brody 1968). Brody attributes these developments to a combination of pre-NLRA paternalism and attention to employee needs in the interests of efficiency. Union

avoidance and the spread of Taylor's scientific management doctrines may be alternative explanations. Thus during the early stages of procedural formalization, the implementation of formalized personnel rules and grievance procedures seem to come with unionization or its prevention. These factors are internal to organizations or properties of their immediate environments.

In recent decades, such arrangements as formal personnel departments and rules and grievances procedures seem to have become widely legitimated in both union and nonunion contexts. They have become institutionalized and are viewed as an essential component of the standard apparatus of any large, modern "rational" organization. Their diffusion may be less influenced by internal organizational characteristics such as unionization.

Substantive Rights: Affirmative Action

Although certain substantive protections were instituted during the earlier period (such as health and safety requirements with specific application to women and children), the widespread specification of substantive rights of employees has occurred within the last two decades. During this period the national government has acted to specify the rights of certain categories of organizational members.

In the first half of the century status-related protections took the form of child labor laws or conditions-of-work legislation concerning women and were reflected in organizational structures and procedures guaranteeing the special protection of women and children. Early protections were aimed at creating unequal conditions of employment for disadvantaged groups. More recent affirmative action legislation, in contrast, is aimed at eliminating inequality among groups through the invention of rights to equal treatment. These rights enter an organization only partly through internal action or exchanges with the immediate environment. They are legally mandated, usually by the federal government. They grew out of the civil rights movements of the 1950s and 1960s that resulted in the Civil Rights Act of 1964. Title VII of this act prohibits discrimination on the basis of race, color, religion, sex, or national origin and applies to both public and private work organizations. It is administered by the Equal Employment Opportunity Commission. The EEOC controlled only the private sector until 1972, when the Equal Employment Opportunity Act brought the public sector under its coverage. Affirmative action was first mandated for government contractors and subcontractors by Executive Order (EO) 11246, issued by President Johnson on September 24, 1965. EO 11246 also established the Office of Federal Contract Compliance Programs (OFCCP) to administer and enforce the order.

Affirmative action requirements are largely reporting requirements. All employers with 100 employees or more (until 1982 the cutoff was fifteen) must submit the EEO-1 form annually, detailing staffing data categorized by sex and race. Some government contractors are also required to submit rather complex affirmative action plans, which outline programs to meet future minority employment goals. Organizational responses to these requirements vary considerably, from assigning someone in the personnel department the task of filling out the EEO-1 form to surpassing legal requirements by establishing new offices and functionaries to develop and administer affirmative action programs. No discussion of the emergence of affirmative action structures in modern organizations would be likely to ignore direct governmental pressures. The environment is centralized, and organizations with specified characteristics are expected to adopt and comply with a set of mandated procedures. But a high degree of variation in how they go about implementing affirmative action allows us to analyze the organizational response to legally mandated change.

Hypotheses and Levels of Analysis; Organizations, Environments, and Offices

We propose that three levels of analysis contribute to an explanation of the diffusion of these due process protections: (1) organization characteristics, (2) characteristics of environments, and (3) variations in the structure of offices and rules internal to organizations. The most common approach focuses on *organization-level* variables, characteristics of organizations themselves that lead them to elaborate formal rules and procedures to guarantee due process protections. At this level, as noted, two types of explanations for formalization of employee rights have been developed — one emphasizing the demands of efficiency and the rational coordination of work processes and the other stressing conflicts between workers and managers and dominance tactics by managers. The variables suggested by these arguments include size of organization, unionization, skill level of participants, and type of technology employed.

Shifting to the *environmental level*, many of the same types of arguments and variables are applicable. Organizations are involved in varying contexts or sectors that themselves differ in terms of extent of unionization, type of technology employed, or skill level of workers. However, the environmental dimension that we regard as especially relevant to understanding the extension of due process in organizations is proximity to the public sphere. Variation in the public status of an organization is important in two senses. First, organizational sectors closer to the public sphere are likely to be more influenced by new conceptions of citizenship, models that often derive from the state. As Philip Selznick noted in his classic

study of the development of legality in organizations (1969), the model of a polity on which private organizations draw comes from the public tradition of the law (Baron et al. 1986). Thus an organization's conception of employee rights may be affected by its proximity to the public sphere. Such proximity is expected to be particularly important for the timing of adoption of due process rights.

Public status affects organizations in a second, and more direct, way, particularly in the area of affirmative action. Organizations with closer ties to the public sphere are more exposed and visible and more likely to be subject to close governmental scrutiny. Indeed, private organizations differ in their legal status vis-à-vis federal civil rights laws depending on whether they receive government contracts or grants and thus fall under the jurisdiction of Office of Federal Contract Compliance Programs (OFCCP) regulations. Organizations such as utilities that depend on government regulation, even though they carry no special burden of compliance with federal civil rights policies, operate in an area continually subject to public scrutiny and can hardly afford to appear indifferent to the standards of citizenship and due process important in the public sphere. Private organizations that maintain nonprofit status may be strongly influenced by public-sphere models of governance, both because they interact continually with public agencies and because they depend on public support for their activities in order to defend their nonprofit status. Finally, even monopoly-sector private organizations are in some ways close to the public sphere because they are highly visible and thus subject to public scrutiny and because they are necessarily engaged in a continuing process of negotiation with the state—in voiding antitrust prosecution, pressing for federal subsidies and protections, lobbying for tax relief, and so forth.

Our conception of public status, then, is a continuum, in some ways akin to Shils's (1975) center/periphery distinction. Organizations in the competitive, private sector are further from the public, political center than are monopoly-sector private organizations or those that depend on federal contracts, and these in turn are further than regulated profit-making organizations such as utilities, nonprofit organizations, and public organizations themselves. Although this exploratory study has not allowed us to measure variations in public status with the full subtlety that we would like, we have experimented with various measures, seeking to determine the ways of understanding the public status of an organization's domain that are most fruitful empirically.

In addition to organization-level and environmental variables, we also point to an important set of variables *internal to organizations*. These are various structural components within organizations—personnel offices,

legal departments, industrial relations departments—through which employee rights are administered. These aspects of an organization's governance structure are intervening variables, shaped by both organizational and environmental forces, but in turn perhaps having an independent effect on employee rights. One of the most important questions about legalization in organizations is whether it stimulates the formation of new offices, rules, and officials that in turn provide an additional basis for institutionalizing access to rights.

The existence and elaboration of such offices may lead to the codification of employee rights in several ways. First, these offices mediate the relationship between the organization and its environment. The personnel or affirmative action office can provide a direct channel through which models of rights elaboration enter the organization from the wider environment. When personnel officers go to their professional conventions, they discuss new guidelines or models for documenting compliance with affirmative action, for handling employee grievances, for updating the classes of employees covered by affirmative action guidelines, and so forth. After labor unions, personnel offices may be the most important channel through which new conceptions of rights enter organizations.

Second, personnel offices and other governance structures within organizations may create an internal constituency for the elaboration and enforcement of employee rights. These officials formalize and codify personnel procedures as a part of the process of justifying and extending their role in the organization. New rights that do not become embodied in some regular organizational structure or procedure will be evanescent, while those that do find such an organizational home, or generate new organizational structures of their own, have at least the prerequisites for full incorporation into normal organizational practice.

Finally, offices and governance structures are also interesting because the extension of new rights to new categories of employees is experienced as disruptive when it fails to fit within the existing governance structure. Organizations that change their structure to incorporate new rights may be viewed as more committed to employee protections than those that try to fit new rights into the existing governance structure. Thus, tracking changes in organizational structure provides crucial insight into sources of both organizational support for, and resistance to, expanding employee rights.

The literature on organizational innovation is also suggestive for our purposes. In general, such organizational features as size, differentiation, specialization, and integration into the external environment have been found to be positively related to the adoption of innovations by organization (Kimberly 1981; Kimberly and Evanisko 1981). These organizational characteristics, however, are less able to predict administrative than

technical innovation, so that only organization size is a strong predictor of the kind of administrative innovations we consider here (Kimberly and Evanisko 1981). The work of Tolbert and Zucker (1983) on the adoption of civil service reform by cities during the period 1880 to 1935 is particularly relevant to our study of due process protections. They show a distinctive, rapid pattern of adoption in states where civil service reform was legally mandated. In states where civil service reform was not legally mandated, the power of particular city characteristics to explain adoption was apparent in early decades but then decreased with increased diffusion of the reforms, as the reforms became institutionalized as aspects of rational and legitimate organization.

To summarize, then, our theoretical model attempts to explain two different phenomena — grievance procedures and affirmative action structures. Both are aspects of the extension of employee rights in organizations, but they emphasize different aspects of rights (procedural protections versus substantive rights), and, we hypothesize, they are adopted in organizations through different processes. We see grievance procedures as attempted solutions to employer/employee conflict that are diffused through the organizational environment in a decentralized way. Affirmative action, on the other hand, is centrally mandated, and the important sources of variation concern how soon, how energetically, and in what organizational form organizations comply with federal law. For both the decentralized diffusion of grievance procedures and the centralized imposition of affirmative action programs we analyze variations among organizations in the timing of rights elaboration and in the comprehensiveness, procedural complexity, and organizational location of the rights they create.

Research Hypotheses

The data will be examined both cross-sectionally and longitudinally to see where and when structures of due process procedures and substantive affirmative action rights appear. We propose the following hypotheses:

1. We expect due process structures to appear most frequently in organizations that are (a) large, (b) unionized or in unionized sectors, and (c) public, or closer to the public sphere.
2. Longitudinally we expect all sorts of due process rights and procedures to be formed at higher rates in more recent periods.
3. For historical reasons, we expect organizational and local environmental pressures to be more important in explaining grievance procedures and public status to be most important in accounting for affirmative action structures.

4. We expect the spread of due process protections to be linked to the growth of personnel departments within organizations.

Figure 4-1 diagrams our model of due process expansion.

Methods and Measures

The fifty-two organizations in our convenience sample range in size from thirty to more than 10,000 employees, in age from three to 130 years, and from nonunionized to 100 percent unionized. Fifteen organizations are public, and thirty-seven private. The organizations come from the following sectors: manufacturing (ten), publishing, (four), financial (three), retail (five), utilities and transportation (eight), government (seven), service (eleven), and medical (four).

We focus on several aspects of organizational elaboration and formalization of due process protections for workers. In looking at grievance procedures, we measure the number of formal grievance procedures and the average number of steps in the grievance procedure. Twenty-eight percent of the organizations in our sample had no formal grievance procedure, 30 percent had one, and the remaining 42 percent had more than one procedure. Organizations with more than one procedure often negotiated separate procedures with each union. In the past twenty years an increasing number of organizations have initiated procedures for nonunion employees. We use the average number of steps in grievance procedures as a measure of procedural elaboration. We are interested in whether organizations implement simple systems with just one or two steps (such as a special company official who adjudicates or mediates disagreements) or complex procedures with multiple steps and appeal mechanisms. The average number of steps in all procedures for organizations with at least one grievance procedure was four.

For affirmative action, we look at whether or not the organization has an affirmative action office or affirmative action functionaries. In the analysis below, the two are combined into one variable, scored 2 for an office, 1 for functionaries only, and 0 for neither. Thirty-four percent of our organizations had no affirmative action office; 48 percent had designated affirmative action compliance officers but no formal office. In practice this often means that affirmative action is officially under the rubric of an existing organizational office (usually a personnel department). The remaining 18 percent of the organizations had established special offices for affirmative action.

We also look at whether the organization has an official affirmative action plan and the number of classes of employees explicitly protected under those plans. Forty-four percent of the organizations had such a plan.

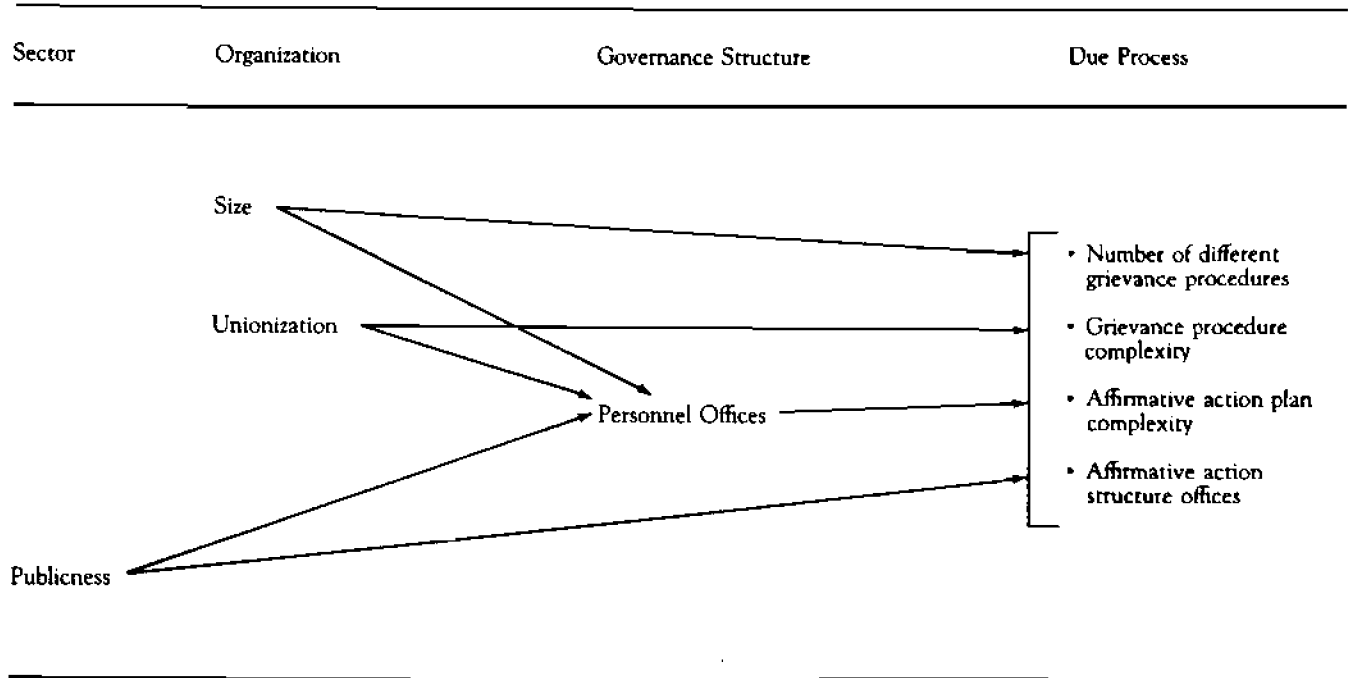


Figure 4-1. Due Process Rights Elaboration.

The number of protected classes ranged from six to thirteen with a mean of eleven. Most organizations began with legally protected categories and added others as they acquired legal status. Some organizations also added classes that were not legally protected.

We employ two modes of analysis. The first is a cross-sectional analysis involving correlation and regression analysis to determine the relationships among our independent and dependent variables at one point in time (1983). The second is an over-time analysis of the formation rates of due process structures.

Cross-Sectional Analysis

Table 4-1 presents the correlations among our independent and dependent variables. Correlations among our five dependent variables are all positive, but not all are significant. As expected, there is a high correlation between the two affirmative action variables and between the two grievance procedure variables. There is a significant correlation between the number of personnel departments and each of the other dependent variables, especially the presence of an affirmative action office.

Three independent variables are central to our explanation of due process formalization: size, unionization, and "publicness" (described below). We measure size as the natural logarithm of the total number of employees in 1983. Size is positively related to all five of our due process indicators. Unionization, measured by the percentage of employees unionized in 1983, is also related to all five indicators but is particularly highly correlated with the grievance procedure variables.

To determine how the public status of an organization operates, we experimented with several measures, two of which are reported here. The first is a simple dichotomy with private organizations coded 0 and public organizations coded 1. In the second, private organizations with no federal contracts are coded 0, local government and private organizations with less than 10 percent of their total income from federal contracts are coded 1, and state and federal government organizations and private organizations with more than 10 percent of their income from federal contracts are coded 2. The correlations between the second measure and our dependent variables are substantially higher than those of the first simpler measure.

Table 4-1. Correlations Among Variables.^a

		<i>Pearson Correlation Coefficients</i>							
		1	2	3	4	5	6	7	8
1.	Log size (employees)	1							
2.	Percentage of employees unionized	0.03	1						
3.	Publicness 1	-0.09	0.44 ^e	1					
4.	Publicness 2	0.30 ^c	0.38 ^d	0.50 ^e	1				
5.	Number of grievance procedures	0.20 ^c	0.53 ^e	0.22 ^b	0.37 ^d	1			
6.	Average steps in GP	0.32 ^d	0.24 ^c	0.08	0.34 ^d	0.62 ^e	1		
7.	Number of personnel-function departments	0.61 ^e	0.46 ^e	0.28 ^c	0.44 ^c	0.32 ^b	0.30 ^b	1	
8.	AA officers or office (0, 1, 2)	0.67 ^e	0.30 ^c	0.34 ^d	0.62 ^e	0.42 ^c	0.41 ^c	0.62 ^e	1
9.	Number of groups protected in AA	0.61 ^e	0.25 ^c	0.05	0.57 ^e	0.28 ^b	0.43 ^c	0.46 ^c	0.58 ^c

a. N = 52 except N = 51 in correlations with variable 7. b. p = .10 c. p = .05 d. p = .01 e. p = .001

Note: Publicness 1 : 0 = private; 1 = public.

2 : 0 = private; 1 = local government and < 10% contractors;

2 = state and federal government and > 10% income from federal contracts.

Table 4-2 reports the results of multiple regression analyses of our five due process indicators with logged size, unionization, and the two measures of public status outlined above. Because we have only fifty-two cases, we restrict our regression analysis to linear and additive effects. We use the natural logarithm of organizational size rather than size itself: This reflects the obvious idea that the effect on organizational structure of a move from 100 to 1,000 employees is likely to be much greater than a shift from 10,100 to 11,000.

The effects of size, unionization, and public status on our six indicators differ systematically. Size affects all of the due process measures, which supports the traditional organization-level argument that size motivates structural complexity. Unionization, as we expected, has its primary effects on personnel offices, grievance procedures, and procedural elaboration of the grievance process. Thus, arguments that identify unionization as a major cause of rights elaboration are also supported.

In contrast, the affirmative action variables are much more strongly affected by public status, and the results are statistically significant. With a larger sample, our predictions might be more definitively supported. The results support the argument, then, that federal redefinitions of fairness in the employment relationship over the past two decades have located rights within private organizations—particularly in those private organizations with direct linkages to the public sphere.

Table 4-2 shows that when the dependent variables are regressed on public status along with size and unionization, the measure of public status that takes into account linkages to the federal government produces higher regression coefficients, as well as higher correlations coefficients, than does the simple public/private dichotomy. A third measure, not shown here, which separated federal and state offices, showed that federal agencies were more likely to formalize due process protections than were state offices. Linkage to the federal government is a significant factor in the elaboration of due process rights for both public and private organizations.

Because public status measured by federal linkages produces stronger effects than the simple public/private dichotomy, it seems that public status works at the sectoral rather than the organizational level. Proximity to the federal government and public visibility motivate organizational adoption of federal models of employee rights. The level of public contracting among private firms is salient, as is whether an organization is regulated or whether it is a part of the local, state, or federal government. We might also speculate that one reason why size has such a strong effect on the extension of employee rights is that size itself increases an organization's visibility and thus its receptivity to models of governance originating in the public sphere.

Table 4-2. Effects on Five Indicators of Personnel Structural Elaboration of Organizational Size, Unionization, and Four Different Measures of Public Status: Multiple Regression Analysis.^a

Eq#	Dependent Variable	R2	Constant	Independent Variables			
				Log Total Employment	% of Employees Unionized	Public Organizational Indicators 1 2	
1.	Number of grievance procedures	.31	.04	.19 (.29; .18) ^b	.51 (1.95; .5) ^c	.00 (.00; .45)	
2.		.32	.06	.14 (.22; .19)	.45 (1.74; .49) ^c		.15 (.30; .28)
3.	Average number of steps in GP	.15	.59	.32 (.65; .26) ^d	.22 (1.06; .72)	.00 (-.04; .64)	
4.		.19	.62	.27 (.53; .27) ^c	.13 (.66; .70)		.21 (.55; .39)
5.	Number of personnel function departments	.58	-1.11	.61 (.61; .09) ^d	.36 (.88; .26) ^c	.18 (.39; .23) ^c	
6.		.57	-1.02	.56 (.56; .10) ^e	.39 (.95; .26) ^e		.12 (.15; .14)
7.	Affirmative action office (2); compliance officers only (1); else (0)	.62	-.86	.69 (.50; .06) ^e	.12 (.23; .17)	.33 (.53; .15) ^e	
8.		.65	-.72		.12 (.20; .16)		.41 (.39; .09) ^c
9.	Number of protected groups listed in AA plan	.44	-5.19	.60 (3.16; .57) ^c	.24 (3.09; 1.55) ^b	.30 (.35; 1.38)	
10.		.55	-4.92	.49 (2.57; .53) ^c	.11 (1.40; 1.36)		.39 (2.70; .71) ^c

a. N = 51. Cell entries are standardized regression coefficient (unstandardized coefficient: standard error).

b. p = .10 c. p = .05 d. p = .01 e. p = .001

Note: Publicness 1 : 0 = private; 1 = public.

2 : 0 = private; 1 = local government and < 10% contractors;

2 = state and federal government and > 10% income from federal contracts.

Some qualitative observations strengthen our understanding of why and how public status contributes to the adoption of due process protections. An organization's sense of being in the public limelight is central. The director of personnel at the local plant of a large defense contractor told us that public image was a prime motivator in the adoption of new procedural protections. The vice-president of personnel at a large local utility told us that as a public-trust organization, they had to be a step ahead of other organizations in procedural protections of employee rights. "People like us get sued every day. We make good examples." It became clear as our interviews progressed that susceptibility to public scrutiny was a dimension that differentiated sectors in their adoption of procedural protections. Local government offices felt less subject to public review than did major utilities or government contractors. The superintendent of a local school district, for example, said that he liked to deal with employee problems as they came up and preferred to stay away from procedures except when required by unions or the state board of education. Many of our respondents made it clear that for highly public organizations, it is less the threat of potential economic loss associated with a lawsuit that causes them to develop strong affirmative action programs than the tarnishing effect of such suits on their public image. Organizations adopt formal protections to preclude such suits and allegations.

The Intermediary Effect of Personnel Departments

Table 4-1 shows that the number of departments with personnel functions was strongly correlated with the other four dependent variables. Table 4-2 shows the significant effects of size and unionization and the positive effects of public status on the number of personnel function departments. Taken together, this evidence suggests that personnel formalization, as a general dependent variable, is subject to the same influences as the more specific variables concerned with affirmative action and due process. Indeed, with all our dependent variables, we are considering the elaboration of formalized and differentiated personnel structures, and the existence and number of departments is probably a good indicator.

But in our arguments above, the existence of personnel departments is more than a generalized dependent variable. We proposed that such departments play an intervening role in facilitating the expansion of more specific sorts of personnel formalizations. The qualitative data illustrate this point. We were repeatedly struck by the role of personnel professionals in transmitting models of due process among organizations. The professionalization of personnel management in the last twenty years has

made personnel administration increasingly codified and institutionalized (Eilbert 1959; Kochan and Capelli 1984). Several personnel directors that we talked to had been brought into their present positions from firms with state-of-the-art personnel relations in order to modernize the firms to which they moved. We also found that many small and medium-size firms had hired their first professional personnel director in the last five or ten years because they felt that they were falling behind the times, were out of touch with current models of labor relations and personnel management, or wanted to avoid discrimination suits and were unfamiliar with strategies for doing so. Even where the threat of litigation provides the dominant motive for extensions of due process, the professional subculture of personnel specialists is an important determinant of the precise way that due process rights become institutionalized.

Consultants and personnel professionals, then, appear to be an important source of diffusion for models of legalization. They are valued not only for their contemporary solutions to firm-specific personnel problems but also because organizations turn to them as disseminators of the latest personnel technology in order to keep up with new fashions in personnel administration.

The causal role of personnel departments in affecting the other dependent variables in our analysis was examined by reanalyzing the regression equations in Table 4-2 incorporating the number of personnel departments as an independent variable along with the others (size, unionization, and public status). This allows us to complete the testing of the hypotheses outlined in Figure 4-1 — the results could show, for instance, that all the other causal effects on grievance procedures and affirmative action programs are mediated by the existence of personnel departments or, on the other hand, that personnel departments play no causal role in affecting the other dependent variables.

The results of these reanalyses are so consistent that we do not present them in tabular form. The personnel departments variable in *no case* had a significant effect on any of the other four variables. In fact, in half the analyses the (insignificant) coefficients were negative. The results lend no credence to the intuitively appealing and qualitatively supported hypothesis that the personnel profession and the existence of a relevant department facilitate the formalization of more specific aspects of personnel relations. It is unclear what to make of this negative result, and we simply note a few possibilities: (1) Perhaps we have too few cases to properly test the effect of this variable (which is correlated with the other independent variables); (2) perhaps — especially in the case of affirmative action programs — personnel departments are a kind of functional alternative, so

that organizations that have an already elaborated personnel structure are a little less likely to respond to outside pressures by adding a new special program.

Other Factors

Beyond size, unionization, and public status, the addition of other variables, whether technical or institutional, produced only small effects on the elaboration of formalized employee rights. Perhaps this is because we are working with a very small (or *idiosyncratic*) sample. We review briefly here the results of the examination of other variables.

Internal Structural Factors

Beyond organizational size, we explored other measures of organizational complexity that might have been expected to affect the formal elaboration of employee rights. We considered age, professionalization, capital dependence, management/employee ratios, age of unions, whether unions were local or national, and whether governance structures were determined locally or at headquarters. These factors had very small effects.

Environmental Factors

We also pursued aspects of the wider environment (over and above unionization and linkage to the federal government) that might have been expected to affect the elaboration of formal rights. We considered characteristics of the context or sector surrounding an organization, such as whether public trust private organizations such as banks and insurance companies disproportionately elaborate formal rights. In our sample, they did not. We also found that organizations in sectors that are generally unionized were not more likely to elaborate rights in anticipation of unions or to ward them off, once the initial effect of an organization's own unionization was taken into account. We also assessed the percentage of professionals, the percentage of managers, and extent of capital concentration in the sector. None of these had effects on formalization beyond those of their organization-level counterparts.

Despite the failure of these quantitative analyses to show effects of sector and organizational governance variables, the qualitative data convince us that these issues are worthy of more careful study. The professionalization of personnel management and mobility among personnel professionals, discussed above, may be an important source of sectoral differences. In listening to managers, we found that this institutionalization is not uniform but that different models develop in different sectors.

We especially noticed differences between the styles of personnel administration governing public organizations, utilities, and monopolies, in contrast to private organizations. It seems that sectoral models proliferate through the exchange of personnel, use of consultants (such as Hay Associates), interaction at professional conferences, and the popular management literature.

In summary, the cross-sectional analyses showed general effects of organizational size, unionization, and public status on the expansion of formalized due process rights. Organizational size, and probably the complexity that goes with it, affected the formalization of personnel rights across the board. Unionization had a greater effect on the formalization of nonmandated rights, as indicated by grievance procedures. Linkage to the federal government especially affected affirmative action programs. The development of personnel departments did not exhibit an independent effect on the elaboration of due process mechanisms, contrary to our expectations.

Analyses Over Time

The data were gathered in 1983, at one point in time. But they are event-history data – that is, data about when in the organization's history due process protections were instituted. With some caution these data can be used to analyze changes over time (see Edelman 1985 for more highly developed models). Some qualifications are in order. As mentioned earlier, because the sample covers only organizations alive in 1983, any selection process by which the variables of interest are related to rates of organizational death would distort the findings. Second, the data are retrospective. The respondents were working from memory or with the assistance of only those historical records readily available to them. This did not appear to cause any significant bias because we were asking about relatively simple issues, such as the date of founding of a personnel office or introduction of a grievance procedure. Recall on such matters may be reasonably accurate over long periods of time. Many of the respondents, moreover, checked with their records or with other employees when they were unsure and reported accurate dates after the interview. Finally, it is not certain that we captured all the due process protections created because some may have been discontinued. But in the period studied most intensively, not a single office or formal right was discontinued. We have little information suggesting that they ever had appreciable death rates. The pressures of the last fifty years, both from unionization and from the political expansion of the federal government, have worked in the other direction.

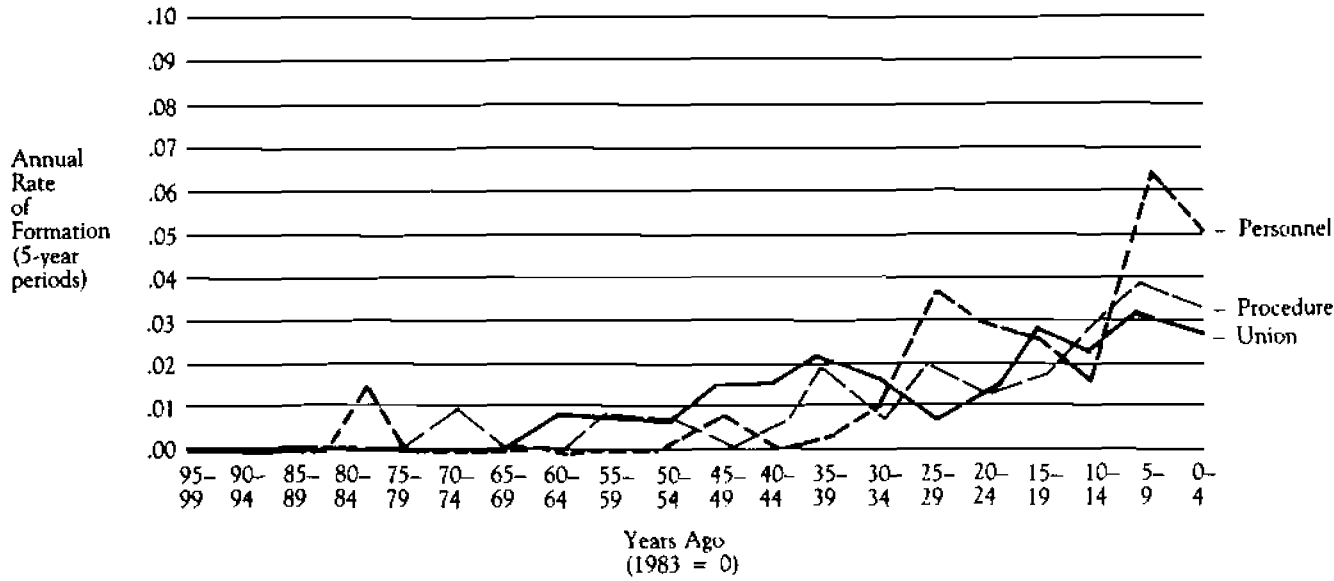
With these qualifications, we can proceed to consider a number of historical indicators of the institutionalization of employee rights. We have the date of occurrence for each of the following events:

- Existence of a personnel department,
- Existence of a grievance procedure,
- Recognition of union(s),
- Presence of an affirmative action program,
- Presence of affirmative action compliance officers,
- Existence of an affirmative action office.

The analysis is restricted to tracking a single coefficient for each of the six indicators, over time. This is the *formation rate*—the probability that an organization lacking the institution will form the institution at each point in time (one-year periods are used). Organizations enter the risk set—the group of organizations considered in the formation rate at each point in time—when they are born. Once the institution is formed in a given organization, that organization is no longer part of the risk set. Thus the base figures for the analysis change continually; they are reported in Appendix 4A-1. We do not include organizations that are born with the structure in the analyses. When organizations are born with the structure, the causal forces are ambiguous. Rather than responding to causal factors in the current time period, the organization may simply be catching up to custom. Thus, for each year only those organizations are included that existed in the previous period and were without the structure in question.

Figure 4-2 shows the formation rates for the first three indicators: personnel departments, grievance procedures, and unionization. Because we have only fifty-two organizations and the structures in question have been forming over a long period of time—sixty or seventy years, the data are lumped by five-year periods to smooth out the curves. The rates themselves, however, are then annualized by dividing by five. Figure 4-2 shows that unionization, grievance procedures, and personnel departments began to be formed fifty to sixty years ago. Their rates of formation increased very slowly and steadily to the present period. The formation rates of the three appear closely related and are probably contingent on one another. Unionization may often lead to the two other structures (Edelman 1985). In the more recent period, unionization and the formation of grievance procedures have continued their slow steady ascent. Organizations without them were more likely to acquire them during the current period than in any earlier period, but the increase is not dramatic. Because the formation rate shown in Figure 4-2 considers only the formation of an organization's first grievance procedure, however, the indicator is somewhat conservative. Many organizations that have had

Figure 4-2. Annual Rates of Formation of Unions, Personnel Offices, and Grievance Procedures among Non-New Organizations Lacking the Structure.^a



^a Cases: Statistics are calculated on the basis of non-new organizations that do not have the procedure. The denominator varies from 17 to 47. Actual cases over time are reported in Appendix 4A-1.

union grievance procedures for years have recently instituted additional grievance procedures for their nonunion employees.

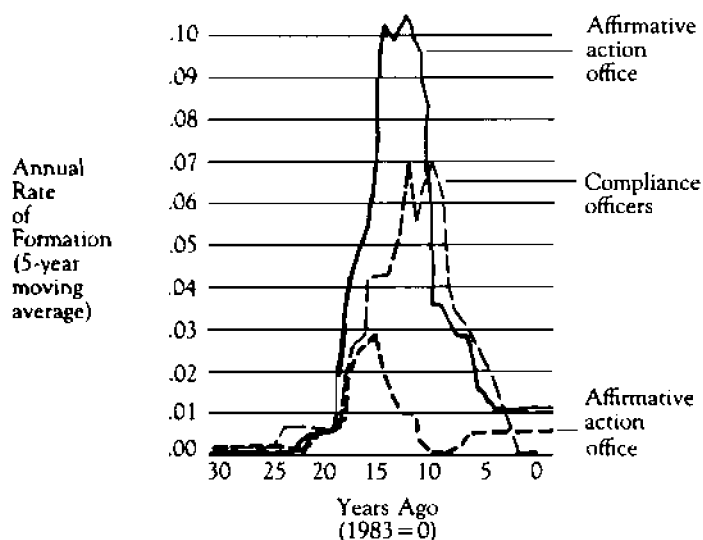
The formation rate of formalized personnel departments has risen more dramatically. In the last ten years, organizations without personnel departments formed them at the very high rate of 5 or 6 percent a year, possibly in response to the increasing number of both institutionalized and legally mandated rules concerning the employment relationship. Figure 4-3 supports this interpretation.

Figure 4-3 shows a parallel analysis of the remaining three variables, all concerned with affirmative action. The formation of these structures occurred only during the last twenty years. In this analysis, we deal with the problem of organizational birth by simply excluding the five organizations born within the last twenty-three years. To smooth out the curves, we calculate five-year moving averages of the formation ratios, rather than rates for the single years. The results are striking. Almost all the formations of affirmative action institutions occurred between five and eighteen years ago. There were no affirmative action offices before the 1965 affirmative action mandates. Between 1965 and 1978 there was a rapid diffusion of affirmative action offices linked to federal pressure. But surprisingly, since 1978 organizations without these special offices have not created them. Although the reporting requirements have not lessened, the decrease in federal pressure has been accompanied by a decrease in diffusion of these structures.

Several large companies that had autonomous affirmative action offices, moreover, have recently incorporated them into their personnel departments as subunits. Although we have no evidence that this "folding in" of distinct affirmative action structures is widespread, we have found that the period in which the rate of affirmative action formation drops off coincides with the period in which the rate of personnel department formation sharply increases (see Figure 4-2). It appears that with the disappearance of special federal pressures in the affirmative action area, these reforms are now incorporated by firms within the regular structure of personnel management, rather than with special organizational symbols of conformity. The change in location of affirmative action within organizations, then, probably signals the end of strong pressures in the affirmative action area. But it may also indicate the routinization and institutionalization of the previous wave.

Summary

We have examined the historical formation of institutions to protect due process rights in a sample of fifty-two organizations. The sample was not chosen randomly but rather to maximize variation on the dimensions of



^a Cases: Statistics are calculated on the basis of non-new organizations that do not have the procedure. The denominator varies from 17 to 47. Actual cases over time are reported in Appendix 4A-2.

Figure 4-3. Annual Rates of Formation of AA Structures among Non-New Organizations Lacking the Structure.^a

interest, such as size, age, unionization, type of work (manufacturing, retail, service, and so forth), and proximity to the public sphere. Further research should sample organizations randomly and should sample all organizations alive during the time when the causal processes of interest began. If the considerable attrition rates that eliminate organizations select them in terms of the variables and processes of interest, then the findings will be distorted. On the other hand, the presence or absence of a grievance procedure, affirmative action program, or personnel office may be little related to the likelihood of organizational survival when other factors are held constant.

The procedural institutions of grievance procedures and personnel departments have arisen over long periods of time. We have evidence that the emergence of formal personnel protections in organizations reflects several causal processes. Consistent with other research, organizational size seems to increase formalization. Unionization increases the extent to which grievance procedures are formalized. And public visibility and linkages to the federal government have increased formalization of due

process protections in a period during which the state became active in this arena. Affirmative action structures have been formed at high rates during the recent period of federal action in this area. Personnel departments are much more commonly formed now than at any time in the past, and these structures may provide organizations with economical solutions to a variety of internal and environmental pressures for the elaboration of employee rights and due process protections. The data presented here do not support the further idea that their professionalized and mobile personnel act as primary sources of generation and diffusion of the other aspects of personnel formalization considered here.

Appendix 4A-1. Cases in Figure 4-2

<i>Period (years ago)^a</i>	<i>Union</i>	<i>Grievance Procedure</i>	<i>Personnel Department</i>
0-4	18	16	12
5-9	21	19	16
10-14	25	28	23
15-19	26	29	23
20-24	29	31	25
25-29	30	32	28
30-34	26	30	28
35-39	25	29	28
40-44	28	31	29
45-49	29	31	28
50-54	27	28	26
55-59	27	28	25
60-64	23	23	19
65-69	22	N.A.	18
70-74	21		17
75-79	23		17
80-84	19		16
85-89	14		13
90-94	12		11
95-99	8		7
100+	7		6

^a 0 = 1983. These are the numbers used as denominators to calculate rates of change. Organizations born with the structure were excluded. New organizations without the procedure were added.

Appendix 4A-2. Cases in Figure 4-3.^a

<i>Years Ago</i>	<i>AAP Cases</i>	<i>AAO Cases</i>	<i>Compliance Officer Cases</i>
1	17	39	23
2	17	39	23
3	17	39	23
4	17	40	23
5	18	40	23
6	18	40	24
7	19	40	27
8	20	40	28
9	20	40	30
10	22	40	33
11	22	40	34
12	27	40	37
13	34	41	40
14	35	42	40
15	37	42	41
16	38	43	42
17	46	45	46
18	46	46	46
19	46	47	46
20	47	47	46
21	47	47	46
22	47	47	47
23	47	47	47

^a Forty-seven organizations were twenty-three years old or older. These numbers were the denominators used, they represent the number of organizations without the practice. C = 1983.

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