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Patterns of Preference for Dispute Resolution in Poland

Abstract: This paper presents information from a nationally representative Polish survey in 2014 on the types of dispute resolution preferred by the respondents. It places the findings in the conceptual background of studies conducted since the mid-1970s in Polish sociology of law on the subject of disputes and the use of the courts. The purpose of the analysis was to identify the more general types of dispute settlement preferred in the popular legal culture in Poland, and the socio-demographic variables that correlate significantly with these preferences. The significance of social position, as measured by a version of the Center-Periphery index, has also been confirmed.

Keywords: dispute, court, compromise.

A careful analytical study of research conducted at the request of the Nuffield Foundation listed more than 20 countries where empirical research has been done on the public's use of the courts (Pleasance, Balmer, Sandefur 2013). Poland is missing from the list. Since the 1990s, international interest in this area has been growing. A few important instances should be mentioned. Socio-legal research into the incidence of justiciable events, that is, problems that can be resolved with the help of courts and lawyers, and the paths to these civil-justice resolutions, was first developed in the United Kingdom through the early work of Hazel Genn, *Paths to Justice* (Genn 1999). Such research remains a standard element in the British Ministry of Justice's empirical evaluations of the justice system (cf. LPRS 2017). In Japan, in-depth research on the use of lawyers to resolve problems has remained in the hands of sociologists of law (Murayama 2011). In the United States, James Gibson and Gregory Caldeira's (2009) deep statistical inquiry into popular legitimation of the Supreme Court has also become a point of reference for studying the court system.

In Poland in the 1960s, a complex research project on lay assessors threw light on the functioning of the justice system. It was modeled after the US Jury Project, and was directed by Sylwester Zawadzki and Leszek Kubicki (1970). They collaborated with—among other people—two eminent Polish sociologists of law: Maria Borucka-Arctowa, whose team studied the public perception of courts; and Adam Podgórecki, who focused on general attitudes towards the law (Ziegert 2013). Interest in the settlement of civil disputes began when Jacek Kurczewski and Kazimierz Frieske prepared a study on the Social Conciliatory Commissions, which were a voluntary informal alternative to courts in the case of petty disputes between neighbors. The study was published as part of the Florence

Access-to-Justice Project headed by Mauro Cappelletti (Kurczewski and Frieske 1978). In the 1970s Jacek Kurczewski (1982; 1993) directed local surveys on the experience of disputes and on dispute settlement patterns, while Małgorzata Fuszara (1989) investigated disputes brought before local courts in the form of private criminal prosecutions (these are allowed by Polish law in cases of a breach of physical or moral integrity such as insult, slander, or minor physical injury). This is the only example of long-term research that makes it possible to compare the use and perception of the courts or other options during the communist period with attitudes to dispute settlement in the post-1989 period of democracy and a market economy. Though the historical comparison has already been made elsewhere (Kurczewski & Orzechowski 2016, Kurczewski & Fuszara 2017), the historical context of the above research must be borne in mind in order to explain the specific choice of variables and concepts in the research discussed here. The Polish school of sociology of law as developed by Podgórecki (cf. Motyka 1993) was based upon the empirical theory of law proposed at the beginning of the twentieth century by Leon Petrażycki, who was a professor first at St. Petersburg Imperial University and later, after 1920, at the University of Warsaw (Podgórecki 1980).

Theoretical Premises

The current paper deals with an aspect of dispute settlement patterns conceptualized earlier on the basis of the Petrażycki/Podgórecki empirical theory of law. Petrażycki described law as embedded in (social) consciousness, arguing that the empirical reference point for law lies in the inner emotions experienced by people—lawyers or not—where the sense of obligation x which A has to perform towards B is associated with the sense of a right that B may claim x to be performed by A. This is the basic juridical relationship (*nexus iuris*) already established in Roman jurisprudence and recognised in all normative cultures. This two-way connection (*obligatio-attributio*) defines the legal phenomena that may be subjected to empirical investigation. When Petrażycki was writing, standard sociological public-opinion research methods had not been developed, but empirical psychology, dominated by an introspective methodology, was beginning to emerge. Petrażycki, among others, proposed the introspective-experimental method of systematic and controlled arousal of emotion by presenting and imagining various external stimuli. His emblematic example of emotion was appetite (to be differentiated from physiological hunger); he proposed imagining (or even better experiencing) a live spider in one's soup to check for appetite. By analogy, he suggested a researcher could imagine a heinous crime like matricide in order to check what law-related emotion might be stimulated. Petrażycki's theory was not limited to law. Looking at "moral emotions," he proposed that they involved a sense of duty without a correlative right, and thus he interpreted the Christian rule not to reciprocate a wrong as a purely moral duty, there being no associated right to harm the victim or the perpetrator. Moral consciousness differs in his theory from legal consciousness as the emotions of duty and obligation differ in the two cases. Emotions, in his theory, are active; they activate human behavior following a basic "repulsion-attraction" equation (Petrażycki's concept referring to the basic negative/positive motivation). Normative emotions exceed the scope of

ethical (legal and moral) ones as they also include esthetic emotions, where attraction and repulsion are often difficult to explain, but “beauty”—however defined or undefined—remains the criterion.

As for the social function of law, Petrażycki’s main point is that, except in crisis situations, everyday social interaction goes smoothly due to basic agreement on the fundamental normative “rules,” that is, we share similar normative emotions. Only in pathological cases does the need arise to turn to an external body such as the court to provide a normative decision. There is official law and unofficial law, intuitive law and positive law, and followers of Petrażycki are still in dispute about how to interpret these categories (Kurczewski). Strictly, if a person accepts the verdict of a court, the person adheres to official positive law (state court verdict), but if a person feels he or she has a right that was not recognized by the court and appeals the verdict, the action is motivated by an intuitive legal emotion. If the case is submitted to arbitration by friends, the result is an unofficial legal decision unless legitimized by the state. The novelty of Petrażycki’s position was that—in the 1900s—he allowed for a plurality of legal, official, and unofficial fora to be discovered under a unifying over-all concept of law, liberated from the legal monopoly of the state.

As Petrażycki observed as early as 1906, apart from the procedural and internal arrangement of the institutions of power, the

[...] actual base of the proper social ‘legal order’ and real driver of socio-legal life in this respect in this area is in essence not positive law but intuitive law. Only in exceptional, pathological cases of conflicts, or abuses, is the application of positive law needed (Petrażycki 1960: 260).

Along these lines, Kurczewski concluded in his study of disputes that

conflicts rarely move into the official sphere, and within this sphere rarely enter the courts. If the frequency of disputes expressed at the official forum is the tip of the iceberg for conflicts of various types in which an individual is involved, then the disputes already publicized at the official forum form an iceberg tipped by the dispute in a court as the pathologization of conflict at the second level (Kurczewski 1982: 95).

Methodology

The focus of our research is the normative consciousness of Polish society, that is, its declared preference for various forms of dispute settlement. We are therefore analysing here not actual but ideal patterns of behavior. The actual patterns were covered in another part of the project, which has already been published (cf. Fuszara’s chapters in Kurczewski and Fuszara 2017). We believe that our interest in the continuity, change, and diversity of such normative patterns is justified for two reasons: because the study of legal awareness is of intrinsic academic value—not limited to the frame of Petrażycki and Podgórecki’s empirical theory of law—and because we adhere to the widespread view that normative emotions (in Petrażycki’s sense) have direct influence as factors that may explain the actual conduct of people. A strict analysis of that causal relationship would, however, need a large panel survey, which was beyond our means. In this limited exploratory study we can only study people’s declared intent to use a particular form of dispute settlement; we can not relate the intention to subsequent actual behavior.

Nevertheless, by studying the respondents' declared preference for different forms of dispute settlement we were able to evaluate the role played by the government administration of justice in the landscape of disputes and options for dispute settlement. On the imaginary line that starts with passive resignation and exit from conflict (Felstiner 1975), and ends with a government court, there are many other options. They have different names but are basically composed of two-party or third-party arrangements, that is, direct negotiations, or respectively, conciliation, mediation, and arbitration. The actual content of this intermediary zone is complex as it may involve unofficial court-like institutions, officials acting informally as mediators, and family members, friends, or colleagues who act in the interest of the parties but at the same time may aim to limit the scope and intensity of the conflict. A proper ethnography of disputes and dispute settlement would include the identification of all such significant persons and linkages. Again, this is not the aim of the present study, which examines general preferences for dispute resolution and not concrete cases.

Using the CAPI method, face-to-face interviews were conducted with a random sample of 1,065 people living in Poland by CBOS [Public Opinion Research Center]. The questionnaire included closed and open-ended questions on general patterns of dispute settlement, as well as on ways out of a conflict, on the basis of several specific examples of types of conflict between an individual and other private persons, or between an individual and public bodies such as the local government, police, or health service.

Social Position as a Strategic Variable

An alternative sociological theory of disputes looks at the social status of parties to a conflict. Our pre-1989 study, which looks at divergence in status between parties at the individual level (Kurczewski 1982), might be re-stated in more general terms with reference to Donald Black's theory of law (1976). In Black's terms the use of official agencies of dispute management, especially the courts, is equivalent to increasing the amount of law in interpersonal or inter-group relations. Status divergence is important, as the "top-dogs" will be more likely to use official law against the "underdogs" than vice versa. It might also be expected that there is less "law" between equals than between people of different status (Black uses a narrow definition of law as conveying the threat of coercion, in contrast to the conciliatory style of social control). The earlier observation that court use is more prevalent among those with higher levels of education (Kurczewski 1983; Kurczewski and Fuszara 2004), which was confirmed in the English study (Genn 1999), could be subsumed under this statement, as could the greater propensity of corporations to sue individuals in the courts than to be sued by them.

The 2014 survey does not, however, include data on both parties, only on the one who happened to be interviewed. Under the circumstances we need to adjust our interpretive scheme by limiting the analysis of the relations of the social "power" of a party vis-a-vis a third actor as yet unmentioned, that is, the state and its justice system. The relative "power" of the social position of an individual is measured by comparing his or her power with that of the state and its actors. The distance between a judge and any citizen is assumed in a democracy, but structural theories of society assume a difference according to individual

social position: the socially unequal are at different distances from the societal center of power where the courts are located. According to these theories, the smaller the distance the greater the trust in state services, such as the administration of justice.

Social position in our study was measured using a version of the holistic Center-Periphery index developed by Johan Galtung (*Wiberg et al. 2009*). This index assumes that there are various planes of social differentiation at both the individual and collective level, and in defining social position we must take this variation into account. Following our earlier experience with CPI we arbitrarily allotted the value of 1 to the following socially privileged positions—male gender as opposed to female; university-level education vs. lower; being of middle age (35 to 50 years) vs. being young (up to 34 years) or old (above 50 years); being permanently or temporarily employed vs. being unemployed, pensioned, etc.; evaluating one's own and one's family's living conditions as being above the local average vs. evaluating it as average or below average; living permanently in a city of at least 20,000 inhabitants vs. a village or small town. The idea behind the index is that the higher the score the closer a person is to the social Center, and the lower the score the further out a person is on the social Periphery. The coding (with 0 for the underprivileged—the “underdog” position, in Galtung's term) led to the following distribution of scores on the index in the 2014 data:

Scores	0	1	2	3	4	5	6	Total
N	63	194	316	265	140	50	8	1036
%	6.1	18.7	30.5	25.6	13.5	4.8	.8	100.0
Cumulative %	6.1	24.8	55.3	80.9	94.4	99.2	100.0	×

Further analysis using the Social Position Index was made using the four-score quartile index with Quartile I = 0–1; Q2 = 2; Q3 = 3 and Q4 = 4–6, with the original scores bringing it closer to the normality of distribution.

Between Authoritative Settlement and Friendly Mediation

Historically, this issue is of primary importance. The crucial question in our study concerned the choice between, on the one hand, an official institution (e.g., a court) that has the power to impose a settlement, and on the other, an informal mediation of the dispute. This was followed by a series of general questions on law and justice, including two structurally similar questions asking the respondents to choose between a settlement fully satisfying the claims of one of the disputants at the expense of the opponent versus a mutually agreed compromise, and to choose between a settlement strictly in line with the law versus a flexible compromise. These questions were previously posed in 1974 in a survey of a representative nationwide sample (*Kurczewski & Frieske 1978*), using a methodology similar to that applied in 2014. The findings after the passage of 40 years show that the largest change consists in an increase in popularity of the authoritative official settlement (courts and similar institutions) and a decrease in popularity of informal settlements.

Apparently, the shift from a totalitarian regime (in which the independence of the judiciary was reduced to the individual conscience of a judge) to the democratic rule of law

Table 1

Patterns of Dispute Settlement in National Public Opinion Polls in 1974 and 2014

Patterns of dispute settlement		1974 (n = 974)	2014 (n = 1031)
1. What is better	a. Full satisfaction of claims made by one party	12%	10%
	b. Mutual agreement	79%	85%
2. What is better	a. Strictly according to law	28%	39%
	b. Mutual compromise	60%	54%
3. What is better	a. Official settlement, e.g., by a court	32%	52%
	b. Informal mediation	52%	38%

(in which the judiciary is constitutionally an independent branch of power) resulted in an increase in willingness to rely on the courts rather than to resort to informal ways of dealing with violations of legally protected rights. It might therefore be argued that amicable resolutions, based on the concept of restorative justice, are particularly popular not only when some of the roles of the state are taken over by various organizations as part of the state's reconfiguration (Banaszak, Beckwith and Rucht 2003), but also when the state and its legal system are not particularly trusted by the citizens.

It is important to note, following Braithwaite's argument (2003), that a belief in restorative justice can also produce rather dangerous outcomes. For example, it can empower a community to such an extent that its members feel authorized to employ drastic solutions going far beyond the law, such as corporal punishment or even lynching. In the scripts we presented to the respondents, "self-help"—including the use of physical force—was often described as justified in response to the prior conduct of one of the parties to a conflict. It is not the community that has this feeling of being excessively empowered, just the individual perpetrators. However, there is acceptance of such conduct, which means that the fears expressed by Braithwaite might actually materialize.

On the other end of the spectrum, there is the concept of legal empowerment, which posits that a reliance on law and legal procedures may be used to improve the situation of those who are underprivileged or marginalized. In this case, law is used as an instrument for pursuing their interests and improving their position: "Legal empowerment occurs when poor or marginalised people use the law, legal systems and justice mechanisms to improve or transform their social, political or economic situations" (Domingo and O'Neil 2014: 4).

While self-help and mediation reflect a departure from strictly legal procedures, legal empowerment and legal mobilization favor the opposite approach. Studies conducted in this framework focus on demonstrating "how and why law and legal entitlements are employed, often strategically, by and on behalf of marginalised groups and minorities, as well as by various kind of actors who seek to influence social change on their behalf" (Anagnostou 2014: 205). These two concepts match the two sets of attitudes towards law as an instrument of conflict resolution that we take into account in our research. The first consists in reliance on the law to pursue one's interests; the other entails reliance on other instruments, such as amicable methods of conflict resolution, mediation, or ultimately self-help. Thus we begin with a statistical (regression) analysis of the relationship between socio-demographic and social-position variables and the binary variable of choice between

Table 2

**Multiple Logistic Regression on the Question: In Your Opinion, Which is Better:
(0—settlement imposed by an official institution that has authority, like a court;
1—settlement mediated by third parties which can only advise)?**

Socio-demographic variables:	Odds ratio	p
Constant	1.01	.945
Gender—male (0/1)	0.95	.722
Age—older than 50 yrs (0/1)	1.17	.279
Education—post-secondary and more (0/1)	1.08	.652
Financial status—good or very good (0/1)	0.56	.001***
Employment status—permanent, part-time, or sporadic employment (0/1)	0.76	.060
Size of locality of residence—above 20,000 (0/1)	0.76	.049*
Wald's $\chi^2(6) = 23.52, p = 0.001***, Nagelkerke's R^2 = 0.03, Hosmer \& Lemeshow's Test p = 0.073.$		

Significance level: * p < 0.05, ** p < 0.01, *** p < 0.001.

declaring a preference for official dispute settlement or informal, third-party dispute settlement.

As for the socio-demographic variables, the correlation of preference for the authoritative settlement (such as through the courts) with better than average self-assessment of a person's living standard, and living in a city, suggested a further verification of the above-described aggregate index of social position. We present the results of the model including only the Social Position Index in order to avoid over-estimating the role of the individual component variables.

Table 3

Social Position as Independent Variable

Social position as independent variable in bi-variate regression:	Odds ratio	p
Constant	1.35	.095
Social Position Index—Me and higher (0/1)	0.78	.000***
Wald's $\chi^2(1) = 13.57, p = 0.000***, Nagelkerke's R^2 = 0.02, Hosmer \& Lemeshow's Test p = 0.484$		

Significance level: * p < 0.05, ** p < 0.01, *** p < 0.001.

We must note, however, that the strength of the bi-variate logistic regression on such an index and the choice of ideal settlement procedure are drastically weak as measured by Nagelkerke's $R^2 = 0.02$ and lower even than the already low ($R^2 = 0.03$) in a model including several individual socio-demographic variables, as in [Table 2](#).

Between the Courts and Informal Settlement in Everyday Conflicts

In the questionnaire we included eight vignettes or scripts that could be considered controversial, even if legally the situations described are quite clear. Observation of social practice and analysis of court files suggest that on many occasions the parties to such conflicts refrain from using legal or other formal steps, resorting instead to "self-help" measures or simply choosing not to act on their claims. Previous research suggests that some persons

declare they would never go to court at all, or they would never go to court against some categories of persons, for instance, family members (Fuszara 1989). We compiled several short, potentially controversial vignettes (“scripts”) and asked the respondents what they believed the victims in them should do. The respondents had to choose between the following reactions: “(a) don’t react, do nothing; (b) reach agreement and compromise; (c) use self-help to achieve in private what one considers due; (d) go to court; (e) go to another public body” (such as the police, the local administration, etc.).

The first three scripts concerned conflict between non-related individuals; the subsequent three were conflicts between an institution and an individual; and the last two were between spouses:

1. An adult administered corporal punishment to his neighbor’s children because they were generating a lot of noise under his windows.¹ The most frequent reaction chosen was to reach agreement and compromise with the neighbor (59.1%).
2. A person responded to defamation (in the form of being gossiped about) by slapping the person who was spreading the gossip. The most frequent reaction chosen was to reach agreement and compromise with the opponent (67.7%).
3. The next script of a conflict between two individuals involves a lender and a borrower. When the loan was not repaid on time, the lender took an item that belonged to the borrower, and that was equal in value to the amount of the loan. Here as well, the most frequent reaction chosen was to reach agreement and compromise with the opponent (64.9%).
4. An employer asks a hospital to reveal information about a patient’s health status. This information, once revealed, is used against the patient. In this case, the most frequent reaction chosen was to go to court (50.7%).
5. The next script concerns an abuse of power by the police on intervening during a brawl. The police officers used their batons, which hit not only the brawlers but also innocent bystanders. In this case also the court option was most often chosen (47.0%).
6. The last script that involves an individual and an institution considers an order to demolish a house. The reason for the order is that the local area development plan (the masterplan) has changed. Here also, the court was most often chosen (51.4%).
7. This script concerned financial conflict within a marriage. The wife has inherited a sum of money (10,000 Euros) and has deposited it in her own private account rather than in the joint account which she has with her husband.² The most frequent reaction chosen was to reach an agreement and compromise with the wife (71.5%).
8. In the last script, a jealous husband beats up his wife. This is, of course, a crime, and one liable to be prosecuted by the public prosecutor. However, practice demonstrates that in such circumstances cases of violence are only rarely reported. Testimony con-

¹ Legally, there is no doubt that the parents can go to court in defence of their children. However, people in Poland are generally quite accepting of corporal punishment of children, and the children did misbehave by playing noisily.

² In terms of the law, she was fully within her rights to do so: funds that are inherited form a part of the heir’s private property and are not automatically included in the community property. Therefore, the husband would stand no chance in court if he argued that the money was part of the community property. Nonetheless, in the popular perception spouses who have agreed to the community property regime should share all the money each of them comes into, regardless of the laws, which is why we proposed this script.

cerning domestic violence appears in courts not only in cases of abuse or assault but also in divorce cases. This is why we asked the respondents who suggested going to court in this instance whether they would suggest a criminal court (to punish the perpetrator) or a divorce case (with no crime report filed). The most frequent reaction was to compromise and reach an agreement with the husband (55.4%).

The distribution of answers in the above eight cases shows that they can be conveniently divided into three types:

- a) Those where the majority of respondents support mutual negotiation as the best possible option, while an important minority (from one fourth up to one third) opt, already at this phase, for moving the conflict into the public forum, whether a court or another public office—away from the police to local counselors or the head of the local government. This includes all private disputes involving physical violence (case scripts nos. 1 and 8).
- b) Those where the majority select a third-party public forum and only a minority opt for the choice of informal direct negotiations with the opposing party. This includes all three cases of conflict with a corporate actor such as a hospital, the police, or local government (case scripts nos. 4, 5, and 6). For convenience we call these the “public disputes.”
- c) Those where informal direct negotiations are selected as the dominant preferred solution and the dispute is kept, by an overwhelming majority, out of the public forum. This includes all private disputes from the set presented in the survey that do not involve physical violence except in its symbolic dimension (case scripts nos. 2, 3, and 7).

All this leads to the question of the socio-demographic characteristics of people who prefer particular types of reaction: Are those reactions correlated with experience of the courts and is the choice of reaction in particular types of conflict correlated with general attitudes toward dispute settlement? Regressions were made for each of the reactions advocated in each of the 8 case scripts (see [Appendix A](#)) and later the overall additive indices of frequency for each type of reaction (compromise, court, all official authoritative solutions) or non-reaction (that is, withdrawal, and private pursuit) were coded for all the cases of “private” disputes—that is, the five cases of disputes with other individuals, from within or outside the family (case scripts nos. 1, 2, 3, 7, and 8) and the three “public” disputes, that is, with corporate bodies such as a hospital, the police, or the municipal administration (case scripts nos. 4, 5, and 6). The latter results are presented in [Table 4](#) below.

As for significant relationships between the socio-demographic variables and aggregate indices of preference for this or another type of reaction to a dispute situation, the following observations can be made.

The preference for compromise in private disputes with people from outside the family is significantly related with being female, in average or lower living conditions, and living in the cities. The preference for compromise in public disputes (with the police, the municipal administration, or a hospital administration) is significantly related with being older, currently unemployed, and living in the countryside.

The preference for use of the courts in private disputes is significantly related with younger age, living conditions that are assessed as being above average, and living in the

Table 4
Multi-variable Linear Regression Models for Aggregate Indices of Reaction Advocated in Hypothetical Public and Private Cases

Dispute settlement Predictors	No. of times compromise chosen (in private disputes 0-5/in public disputes 0-3)		No. of times court chosen (in private disputes 0-3)		No. of times any official option chosen (in private disputes 0-5/in public disputes 0-3)	
	Beta	p	Beta	p	Beta	p
Socio-demographic variables:						
Constant		0.000		0.000		0.000
Gender—Male(0/1)	-0.082	0.010**	0.039	0.220	-0.008	0.792
Age—older than 50 yrs (0/1)	0.189	0.000***	-0.207	0.000***	-0.301	0.000***
Education—post-secondary (0/1)	-0.056	0.094	-0.028	0.395	0.087	0.006**
Living conditions—better than average (0/1)	-0.068	0.031*	0.111	0.000***	0.088	0.505
Employment—permanent or sporadic (0/1)	0.045	0.185	-0.033	0.333	0.019	0.001***
Residence—above 20,000 (0/1)	-0.137	0.000***	0.099	0.001***	0.144	0.000***
Model fitness	F(6;1000) = 14.02, p = 0.000***, R ² = 0.07		F (6;1000) = 12.49, p = 0.000***, R ² = 0.06		F(6;1000) = 32.64, p = 0.000***, R ² = 0.16	
	F(6;1000) = 12.93, p = 0.000***, R ² = 0.07		F (6;1000) = 17.80, p = 0.000***, R ² = 0.09		F(6;1000) = 23.17, p = 0.000***, R ² = 0.12	

Significance levels: * p < 0.05, ** p < 0.01, *** p < 0.001

Dispute settlement Predictors	No. of times private pursuit chosen (in private disputes 0–5/in public disputes 0–3)				No. of times withdrawal chosen (in private disputes 0–5/in public disputes 0–3)			
	Private disputes		Public disputes		Private disputes		Public disputes	
	Beta	p	Beta	p	Beta	p	Beta	p
Constant		0.000		0.011		0.077		0.626
Gender—Male(0/1)	0.081	0.013**	-0.006	0.852	0.068	0.038*	0.033	0.304
Age—elder than 50 yrs (0/1)	-0.130	0.000***	0.025	0.460	0.123	0.000***	0.126	0.000***
Education—post-secondary (0/1)	-0.038	0.269	-0.003	0.928	0.000	1.000	-0.022	0.513
Living conditions—better than average (0/1)	0.008	0.810	0.018	0.582	0.013	0.685	-0.008	0.811
Employment—permanent or sporadic (0/1)	-0.064	0.067	-0.021	0.559	-0.050	0.151	-0.043	0.220
Residence—above 20,000 (0/1)	0.011	0.723	-0.049	0.124	0.005	0.878	-0.010	0.755
Model fitness	F(6;1000) = 3.92, p = 0.000***, R ² = 0.02		F(6;1000) = 0.71, p = 0.000***, R ² = 0.002		F(6;1000) = 4.07, p = 0.000***, R ² = 0.02		F(6;1000) = 4.25, p = 0.000***, R ² = 0.02	

Significance levels: * p < 0.05, ** p < 0.01, *** p < 0.001

cities. In the case of public disputes the pattern is repeated except that living conditions give place to being currently employed in whatever way (permanently or temporarily).

When referral to all official bodies, including the courts, is taken into account, the pattern changes slightly in comparison to preference for the courts considered in isolation. Again, the younger urban group is significantly more prone to advocate the use of authoritative dispute-settlement bodies in both types of disputes—private and public—but this applies also to the better educated and those living in better than average conditions in regard to private disputes, and to employed persons in regard to public disputes.

Withdrawal was significantly related with being older and female, while men and younger people were more likely to prefer the ambiguous category of “self-help” or “private dealing with the matter on one’s own,” which could involve the arbitrary action of taking compensation for a loan as described in case script no. 3, or slapping someone’s face as in case script no. 2, or any type of revenge or compensatory action without official legitimacy. These findings made us look again at the aggregate Social Position Index as the predictor of dispute settlement patterns.

Contrary to our expectations, withdrawal as a reaction to a conflict situation was not significantly related to social position. The same lack of effect was disclosed on checking the relationship between private pursuit and social position.

Evidently, higher social position in general (the aggregate index discussed above) predicts a preference for the courts and other authoritative dispute settlement agencies, and a preference against informal dispute settlement by third parties.

Judicial Experience

Two subsets of data were created: one of individuals who declared personal experience of at least one civil case in their life— $n = 313$; and the other composed of those who declared that they had at least once experienced criminal proceedings ($n = 172$). This is important as only minorities in the sample had actual court experience and the effect should be established within these sub-sets. In both sub-sets multivariate regression analysis was performed with patterns of dispute settlement as the dependent variable and socio-demographic variables as independent variables / predictors. Those people who considered that the court verdict in a case in which they were involved was just or at least partially just were coded against those who viewed the verdict as unjust or were unable to assess the court’s judgment. Such a variable was then added and removed from the regression models. For all the possible comparisons only once did assessing the court verdict to be just have a significant effect—the justness of the civil verdict allows us to predict a preference to withdraw from the dispute ($\beta = -.115$, $p < .05$), together with age ($\beta = .148$, $p < .05$), and the model including the justness of the civil verdict was a slightly better fit (corrected R square = .048) than the model that did not include the justness of the civil verdict (corrected R square = .031). We conclude therefore, within the scope of our data, that assessment of judicial decision-making as experienced personally is not associated with a preference for choosing the courts or an alternative dispute settlement procedure. Other factors seem to matter more.

Table 5
**Multiple Regression Analysis of the Aggregate Indices of Preference for Compromise or the Courts and All Other Official Dispute Settlements,
 with Social Position as Predictor**

	Court in private disputes (0—none, 5—in all cases)		Court in public disputes (0—none, 3—in all cases)		Compromise in private disputes (0—none, 5—in all cases)		Compromise in public disputes (0—none, 3—in all cases)		All official in private disputes (0—none, 5—in all cases)		All official in public disputes (0—none, 3—in all cases)	
	Beta	p	Beta	p	Beta	p	Beta	p	Beta	p	Beta	p
Constant		.001		.000		.000		.000		.000		.000
Social Position Index—high (0/6)	0.16	.000***	0.21	.000***	-0.22	.000***	-0.18	.000***	0.29	.000***	0.25	.000***
Model fitness	F(1;971) = 26.03, p = .000***, R ² = 0.025		F(1;971) = 44.54, p = .000***, R ² = 0.043		F(1;971) = 47.09, p = .000***, R ² = 0.045		F(1;971) = 32.90, p = .000***, R ² = 0.032		F(1;971) = 91.81, p = .000***, R ² = 0.085		F(1;971) = 63.38, p = .000***, R ² = 0.060	

Significance level: * p < 0.05, ** p < 0.01, *** p < 0.001

Summary

In 2014 a nationally representative sample of 1,061 Polish people were asked two types of questions concerning their preference for different types of dispute settlement procedure. First, we asked about the ideal general pattern—pressing respondents to choose between settlement by an authoritative official body like a court and settlement by the mediation of other people. Second, we asked the respondents to choose between dispute settlement by a court or other authoritative body or informal direct compromise with the opponent in 8 hypothetical dispute scripts, ranging from intra-family conflict through private conflicts with friends and neighbors to conflicts with public bodies like the police or the municipality. Regression analysis disclosed a positive though very weak influence (if a causal link is assumed) of personal court experience on an individual's decision to choose the courts as the ideal institutional agency for dispute settlement. Two other significant independent non-attitudinal predictors are (lower) age and individuals' (better) self-assessment of their own or their household's living conditions relative to the average in the locality of residence.

As for choosing the best ways out of the conflict situation in the hypothetical disputes, if we begin with the socio-demographic variables the findings are clear and consistent. Independent of the type of dispute—with a private or public opponent—members of the younger age group are more likely to choose the courts or another public referral body as the way out of a conflict situation, while members of the older age group are more likely to choose directly negotiated compromise with the opponent (entailing personal contact). The role of social habitat is also significant: those living in a city prefer public agency and reject personal compromise (regardless of the type of dispute), and choose the courts in public disputes. In the context of the fundamental controversy within the sociology of law about the role of institutional factors and attitudes or cultural factors, our findings speak in favor of the former, as regression analysis pointed to the predictive insignificance of the variables related to attitudes. It seems that at least within the scope of the variables used in our study attitudes matter but not enough to provide a safe basis for predicting preferred legal practices. The clearest general conclusion is that informality and compromise have retained their popularity in Polish legal culture despite a marked increase, during consolidation of the democratic state, in preference for the court settlement of disputes. Though the preference for compromise with an opponent is more popular among the elderly, people living in the countryside, and the unemployed (pensioners, retired persons, etc.) or generally, people on the social periphery, there is also the distinctive cultural factor of religiosity (Kurczewski and Fuszara 2017: 121–125, 127–128), which partially reinforces the trend to settle disputes amicably.

One of the recurrent motifs in the statistical analysis of the parameters of choice between authoritative methods of dispute settlement and unofficial (informal) ones is the social position of the respondents. Whenever the index of social position is in a statistically significant relationship with socio-legal variables then the higher the position the more likely that the court or authoritative settlement will be chosen as proper in a dispute. This is not independent of the type of dispute involved, but if there is a difference then the better-off respondents are more likely to choose the court and not the unofficial alternative. This is a crucial point for understanding the relationship between the “official legal culture” and

the “unofficial one.” The world of power is simply the world close to those who have power even if in life there are shades of power and of influence.

There seems to be a social-structure filter on the way from a dispute to the court. We should report here that Petrażycki’s image of judicialized disputes as the tip of the iceberg of everyday interactions has been confirmed in our data, along with the image of double icebergs, or better yet, of pyramids standing on each other: among all those surveyed, 347 (26.2%) declared that they had experienced at least one dispute in the last three years; of these 43 (13.2%) declared that they took the case to court. If all the reported disputes are taken into account then below the visible tip of 49 cases that reportedly were brought to court, 91% of the declared disputes (546 in total) remained outside. But of primary importance seems to be the institutional context of the dispute—whether it is a dispute with an institution (where going to court prevails) or with an individual (where direct negotiations are the preferred option). Still, the sociological external variables seem to matter little; use of the court is either an institutional formal necessity or due to the specific intrinsic traits of the dispute—its substance and context. This necessitates deeper analysis of disputes as such; we have made the first attempt elsewhere (Fuszara 2016; Kurczewski and Fuszara 2017: Chapters III–V).

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References

- Anagnostou, D. 2014. “Law and Rights as Opportunity and Promise for Minorities in Europe? Concluding Observations and Research Agendas,” in: D. Anagnostou (ed.), *Rights and Courts in Pursuit of Social Change*. Oxford: Hart Publishing.
- Banaszak, L. A., Beckwith, K., & Rucht, D. 2003. *Women’s Movements Facing the Reconfigured State*. Cambridge: Cambridge University Press.
- Barlow, A., Hunter, R., Smithson, J., and Ewing, J. 2017. “Mapping Paths to Family Justice,” *Palgrave Socio Legal Studies*.
- Black, D. 1976. *The Behavior of Law*. New York: Academic Press.
- Blankenburg, E. 1991. *Dutch Legal Culture*. Amsterdam: Kluwer.
- Braithwaite, J. 2003. *Restorative Justice and Responsive Regulation*. Oxford: Oxford University Press.
- Domingo, P., & O’Neil, T. 2014. *The Politics of Legal Empowerment. Legal Mobilisation Strategies and Implications for Development*, June 2014, <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/9008.pdf>
- Felstiner, W. 1975. “Avoidance as Dispute Processing; An Elaboration,” *Law and Society Review* 4 (9): 695–704.
- Fuszara, M. 1989. *Codziennie konflikty i odświętna sprawiedliwość*. Warsaw: IPSiR UW.
- Fuszara, M. 2016. “Dignity, Honour and Reputation,” *Societas/Communitas* 2(22): 105–132.
- Fuszara, M., and Kurczewski, J. 2009. “Disputes and Courts in Poland 25 Years Later,” *Societas/Communitas* 7(1): 101–134.
- Genn, H. 1993. “Tribunals and Informal Justice,” *The Modern Law Review* 56(3): 393–411.
- Genn, H. 1999. *Paths to Justice: What People Do and Think About Going to Law*. Oxford: Hart Publishing.

- Gibson, J. L., and Caldeira, G. A. 2009. *Citizens, Courts, and Confirmations: Positivity Theory and the Judgments of the American People*. Princeton: Princeton University Press.
- Kawashima, T. 1963. "Dispute Resolution in Contemporary Japan," in: A. von Mehren (ed.), *Law in Japan*. Cambridge, MA: Harvard University Press.
- Kurczewski, J. 1982. *Spór i sądy*. Warszawa: IPSiR UW.
- Kurczewski, J. 1993. *Resurrection of Rights*. Oxford: Oxford University Press.
- Kurczewski, J. 2001. Sociology of Law in Poland, *The American Sociologist* 32 (2): 85–98.
- Kurczewski, J. 2013. Adam Podgórecki's Empirical Theory of Law, *Societas/Communitas*: 79–96.
- Kurczewski, J., & Frieske, K. 1978. "The Social Conciliatory Commissions in Poland: a Case Study of Nonauthoritative and Conciliatory Dispute Resolution as an Approach to Access to Justice," in: Mauro Cappelletti and John Weisner (eds.), *Access to Justice: Promising Institutions*. Milan: A. Giuffrè; Alphenaaenderijn: Sijthoff & Noordhoff; V. 2. Book 1, pp. 156–427.
- Kurczewski, J., and Fuszara, M. (eds.). 2004. *Polskie spory i sądy*. Warszawa: ISNS UW.
- Kurczewski, J., and Fuszara, M. 2017. *How People Use the Courts*. Frankfurt a/M: Peter Lang.
- Kurczewski, J., and Orzechowski, P. 2016. Dispute Settlement Patterns in Public Opinion. Four Local Studies of Transformation, *Societas/Communitas* 17(2): 253–280.
- L P.R.S. 2017. Ministry of Justice. Surveys and Insight. Analytical Services. *Legal Problem and Resolution Survey, 2014–2015*. UK Data Service. SN: 8169, <http://doi.org/10.5255/UKDA-SN-8169-1>.
- Motyka, K. 1993. *Wpływ Leona Petrażyckiego na polską teorię i socjologię prawa*. Lublin: RW KUL.
- Motyka, K. 1999. Adam Podgórecki's Arguments with Petrażycki, *Proceedings of IASS* 2: 31–45.
- Murayama, M. 2011. Is There a Japanese Way of Dispute Resolution?, *Societas/Communitas* 12(2): 137–154.
- Murayama, M. 2016. What Counts in Navigating Behavior. Do General Attitudes Matter? *Societas/Communitas* 17(2): 235–252.
- Petrażycki, L. 1960. *Teoria prawa i państwa w związku z teorią moralności*. Warszawa.
- Pleasance, P., Balmer, N. J., Sandefur, R. L. 2013. Paths to Justice: A Past, Present and Future Roadmap. Report prepared under a grant from the Nuffield Foundation, <http://www.nuffieldfoundation.org/sites/default/files/files/PTJ%20Roadmap%20NUFFIELD%20Published.pdf>.
- Podgórecki, A. 1980. Unrecognized Father of Sociology of Law: Leon Petrażycki, *Law and Society Review* 15: 183–202.
- Podgórecki, A. 1991. *Sociological Theory of Law*. Milano: Giuffrè.
- Wiberg, H., van der Veer, C. G., van den Berg, H., Hartmann, A., Galtung, J., & Diez-Nicolas, J. 2009. The Centre-periphery Theory Revisited: A Holistic Multidimensional Approach of Social Behaviour, Social Change and Social Conflicts, in: K. van der Veer, A. Hartmann, H. van der Berg, J. Diez-Nicolas, J. Galtung, & H. Wiberg (eds.), *Multidimensional Social Science. An Inclusive Approach to Social Position and Inequality*. Amsterdam: Rozenberg, pp. 161–166.
- Zawadzki, S., and Kubicki, L. (eds.). 1970. *Udział ławników w postępowaniu karnym. Opinie a rzeczywistość*. Warszawa: Wydawnictwa Prawnicze.
- Ziegert, K. A. 1997. Adam Podgórecki's Sociology of Law: The Invisible Factors of the Functioning of Law Made Visible, *Law and Society* 12(1): 151–180.

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Appendix A
Distribution of Reactions to a Dispute in 8 Case Scripts in 2014 Survey
(100% = 1035)

Case Script 1

Somebody's children were beaten by a neighbour as he could not rest after work due to their noisy behaviour. In your opinion, what should the parents of the beaten children do?

1. Don't react, do nothing: n = 20 (2.0%)
2. Reach agreement and compromise with the man: n = 613 (59.1%)
3. Use self-help to achieve in private what one considers as due: n = 66 (6.4%)
4. Go to court: n = 174 (16.8%)
5. Go to another agency: n = 141 (13.6%)

Case Script 2

An acquaintance of Mr K. was gossiping about him among their friends, so Mr K. slapped him in the presence of others. In your opinion, what should the acquaintance do?

1. Don't react, do nothing: n = 62 (6.0%)
2. Reach agreement and compromise with the friend: n = 701 (67.7%)
3. Use self-help to achieve in private what one considers as due: n = 170 (16.4%)
4. Go to court: n = 45 (4.3%)
5. Go to another agency: n = 16 (1.5%)

Case Script 3

A friend borrowed 250 euros and failed to repay the debt despite repeated demis. The lender came to the debtor's house and took something of that same value. In your opinion, what should the borrower (from whose house the item had been taken) do?

1. Don't react, do nothing: n = 67 (6.5%)
2. Reach agreement and compromise with friend: n = 673 (64.9%)
3. Use self-help to achieve in private what one considers as due: n = 103 (9.9%)
4. Go to court: n = 117 (11.3%)
5. Go to another agency (WHICH?): n = 43 (4.1%)

Case Script 4

An employer asked the hospital for information about the illness for which one of his employees was treated. The hospital provided the information, which was then used against the patient. In your opinion, what should the patient do?

1. Don't react, do nothing: n = 35 (3.4%)
2. Reach agreement and compromise with employer: n = 271 (26.2%)
3. Use self-help to achieve in private what one considers as due: n = 70 (6.7%)
4. Go to court: n = 525 (50.7%)
5. Go to another agency (WHICH?): n = 64 (6.2%)

Case Script 5

In the evening, a brawl started close to a restaurant. A police patrol was called in to calm the situation. Police officers used batons not only against the brawlers but against innocent bystanders as well. In your opinion, what should those bystanders do?

1. Don't react, do nothing: n = 50 (4.8%)
2. Reach agreement and compromise with police: n = 315 (30.4%)
3. Use self-help to achieve in private what one considers as due: n = 51 (4.9%)
4. Go to court: n = 487 (47.0%)
5. Go to another agency (WHICH?): n = 69 (6.6%)

Case Script 6

Somebody built a house but due to a change in the local area development plan, the authorities ordered him to demolish it. In your opinion, what should the person who built the house do?

1. Don't react, do nothing: n = 9 (0.9%)
2. Reach agreement and compromise with authorities: n = 359 (34.7%)
3. Use self-help to achieve in private what one considers as due: n = 34 (3.2%)
4. Go to court: n = 533 (51.4%)
5. Go to another agency (WHICH?): n = 53 (5.2%)

Case Script 7

A dispute arose between spouses when the wife inherited 10 000 euros and placed the funds in her own account, rather than contributing it to the family budget. In your opinion, what should her husband do?

1. Don't react, do nothing: n = 234 (22.6%)
2. Reach agreement and compromise with wife: n = 741 (71.5%)
3. Use self-help to achieve in private what one considers as due: n = 18 (1.7%)
4. Go to court: n = 20 (2.0%)
5. Go to another agency (WHICH?): n = 3 (0.3%)

Case Script 8

A husband battered a wife suspecting her of secretly meeting with another man. In your opinion, what should the woman do?

1. Don't react, do nothing: n = 49 (4.7%)
2. Reach agreement and compromise with husband: n = 574 (55.4%)
3. Use self-help to achieve in private what one considers as due: n = 69 (6.7%)
4. Go to court: n = 138 (13.3%)
5. Go to another agency (WHICH?): n = 128 (12.4%)