THE "HAVES" AND "HAVE-NOTS" WITHIN THE ORGANIZATION

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I

INTRODUCTION

Marc Galanter's 1974 groundbreaking article, *Why the "Haves" Come Out Ahead: Speculations on the Limits of Legal Change*, and its insightful differentiation between legal players[1] are crucial components of the foundation of law-and-society scholarship. His distinction between "one-shotters," who use the legal system only occasionally and often involuntarily, and the "repeat players," who use the legal system more frequently and strategically,[2] highlights a key difference between types of litigants. More importantly, it also differentiates between the resource-rich, well-positioned "haves," who are often these repeat players, and the resource-poor, more vulnerable "have-nots," who are usually in the role of the one-shotters.[3]

Although Galanter's article focuses on the use of the court system by the haves and have-nots, the influence of his analysis extends to research on dispute resolution in nonlitigation contexts as well, such as dispute resolution within organizations.[4] Indeed, as organizations become increasingly legalized,[5] asking how and whether the haves still "come out ahead" within the semi-legal context of organizational grievance-resolution procedures is a logical place of further inquiry. When "would-be litigants" are, instead, "would-be grievants," who acts—or does not act—from positions of advantage?

While the have-nots from Galanter's article are often envisioned as less-affluent individual litigants and the haves as wealthy individuals or corporations, the composition of these categories varies with different

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1. Marc Galanter, *Why the "Haves" Come Out Ahead: Speculations on the Limits of Legal Change*, 9 LAW & SOC'Y REV. 95 (1974).

2. *Id.* at 97–103.

3. *Id.* at 103.

4. *See id.* at 124.

5. Lauren B. Edelman & Mark C. Suchman, *The Legal Environments of Organizations*, 23 ANN. REV. SOC. 479, 480 (1997).

situations.[6] In examining the context of employment disputes, rather than litigation, one still encounters haves and have-nots—but to discern their different statuses, one needs to look closely at what power various workers enjoy.

Although most previous research has considered only the official power of employees,[7] their unofficial power is also essential in identifying which employees are the haves and which are the have-nots. In this article I explore the dispute-resolution options of haves and have-nots within organizations by comparing the dispute-resolution strategies of workers with great official and unofficial power (the haves) and those of workers with little official or unofficial power (the have-nots).[8] I selected three very different industries, and, within each industry, I selected a worker cooperative (nonhierarchical workplace where all workers are co-managers and co-owners) and a similar conventional, hierarchical business, matched in size and gender ratios: (1) coal mining—Coal Co-operative and Valley Colliery; (2) taxicab driving—Co-op Cab and Private Taxi; and (3) organic food distribution—Organix Co-op and HealthBite Distributors.[9]

II

THE OFFICIAL AND UNOFFICIAL POWER OF THE "HAVES"

Workers were categorized by the amount of official and unofficial power they had, thus creating two operational dichotomies. The haves were workers with high official and unofficial power, the "have-somes" were those with high official but low unofficial power, and the have-nots had little official or

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6. *See* Galanter, *supra* note 1, at 103.

7. *See, e.g.*, JAMES TUCKER, THE THERAPEUTIC CORPORATION (1999) (examining dispute resolution in organizations lacking traditional forms of authority); Lauren B. Edelman, Christopher Uggen & Howard S. Erlanger, *The Endogeneity of Legal Regulation: Grievance Procedures as Rational Myth*, 105 AM. J. SOC. 406 (1999) (examining equal-employment-opportunity grievance procedures); Patricia A. Gwartney-Gibbs & Denise H. Lach, *Gender and Workplace Dispute Resolution: A Conceptual and Theoretical Model*, 28 LAW & SOC'Y REV. 265 (1994) (discussing gender effects in workplace dispute-resolution); Dean Tjosvold, Motohiro Morishima & James A. Belsheim, *Complaint Handling on the Shop Floor: Cooperative Relationships and Open-Minded Strategies*, 10 INT'L J. CONFLICT MGMT. 45 (1999) (examining employee–supervisor dispute resolution in industrial workplaces). *Cf.* KRISTIN BUMILLER, THE CIVIL RIGHTS SOCIETY: THE SOCIAL CONSTRUCTION OF VICTIMS (1988) (discussing dispute-resolution strategies of victims of discriminatory treatment in society generally); Trina Grillo, *The Mediation Alternative: Process Dangers for Women*, 100 YALE L.J. 1545 (1991) (examining mandatory custody mediation); Susan Silbey & Austin Sarat, *Dispute Processing in Law and Legal Scholarship: From Institutional Critique to the Reconstruction of the Judicial Subject*, 66 DENVER U. L. REV. 437–87 (1989) (discussing dispute processing in the legal field generally).

8. One hundred and sixty-six interviews were conducted: forty-one at Coal Co-operative, thirty-eight at Valley Colliery, twenty at Co-op Cab, fourteen at Private Taxi, thirty-five at Organix Co-op, and eighteen at HealthBite Distributors. The confidential identification number for each interviewee is shown after each quotation.

9. The coal-mining and wholefoods-distribution industries were studied in the United Kingdom; the taxicab industry was studied in the United States. All businesses in this study had a formal system for grievance resolution, employed at least thirty workers, were more than two years old, and were not part of a larger organization.

unofficial power.[10] No workers were found with high unofficial power but low official power—an empirical, not structural, zero. This produced three categories for analysis.

Official power, derived from explicitly stated rights or entitlements, is often written down and formally part of the organization. So the inquiry into official power began with the various employee handbooks and other documents that stated employee privileges, rights, and entitlements within the businesses. Rather than take what was "on the books" at face value, inquiries were made to ensure that the explicitly stated official power was, in fact, realized.[11] Although official power is experienced at the individual level, it is rooted in the power structure of the organization. Thus, the amount of official power in each business was the same for every worker in that organization. Although this might not be true in larger businesses with extensive hierarchies, all businesses in this study were relatively small (250 employees or fewer), and by including only the interviews with the nonmanagerial workers, each business in this study evidenced the same level of official power for all of its workers.

In contrast, unofficial power within the organizations was not always uniform since it derived from a number of sources.[12] In some businesses, the degree of unofficial power varied among individual workers, while in other organizations, all employees had similar levels of unofficial power. For example, female workers in Co-op Cab, who were a numerical minority, lacked unofficial power, even though they held as much official power as their male coworkers. They were not part of the established networks of male workers and did not have access to much informal information about how the company ran or how to circumvent various official rules.[13] Unofficial power is not part of the organizational structure in that it does not exist independently of personnel, nor

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10. That is, either the worker's organization gave her (or him) official power, or it did not; either the interviewee mentioned some way in which she had unofficial power, or she made no mention of any unofficial power (nor had unofficial power been described by other interviewees). Thus, rather than seek a continuous measure of degrees of official and unofficial power (as might exist between workers), these two types of power appeared as dichotomous variables, since, for each individual, each type of power is dichotomous (one either has it or does not). This study focuses specifically on the individual level in order to explore workers' dispute-resolution strategies.

11. For example, all members in the cooperatives were entitled to vote. They were asked whether they all actually could; for example, were mechanisms available for absentee ballots? Similarly, members could be elected to worker-management positions, so they were asked if there were any bars to being elected, such as certain jobs' hours being viewed as incompatible with management meetings. The inquiries did not reveal any inconsistencies with regard to official power in these organizations.

12. Although official power comes directly from the organization, and so could be uniform within smaller organizations (such as those within this study), unofficial power comes from various sources. Workers with high levels of unofficial power might be key contacts for other coworkers (for example, members of multiple networks), might be able to influence others or generate change in the organization, might have knowledge of institutional history (for example, company seniority), or might have certain credentials or personal characteristics that provide them with greater influence and confer greater authority to their speech. Race, class, and sex often—but not always—mattered.

13. See generally Elizabeth A. Hoffmann, *Dispute Resolution in a Worker Cooperative: Formal Procedures and Procedural Justice*, 39 LAW & SOC'Y. REV. 51 (2005) for a further discussion of these dynamics at Co-op Cab.

does it come from an organization's rules, but rather from workers' informal, personal statuses.[14]

III

POWER AND DISPUTE-RESOLUTION STRATEGIES

Grievance behavior included four distinct strategies: (1) formal processes—any disputes resolved through official action; (2) informal processes—similar types of disputes, but resolved through negotiation rather than a formal procedure; (3) toleration—taking no action to resolve problems, but instead developing coping skills or greater tolerance of the problems; and (4) exit—quitting the job as a way to solve the workplace problem, not merely leaving for reasons unrelated to workplace disputes. Although toleration and exit are not means for resolving disputes, they are, nevertheless, options for handling disputes. The study revealed that the degrees of official and unofficial power that individual workers enjoyed greatly affected their dispute-resolution strategies.

This study demonstrates that the amounts of official and unofficial power directly affected grievance behaviors. Workers with great official power, as well as great unofficial power, relied less on formal grievances, instead preferring informal, grievance-resolution strategies. Workers with high official power but low unofficial power mostly anticipated using formal grievance-resolution mechanisms to address workplace disputes, seldom attempting informal means. Workers with little official or unofficial power often did not anticipate resolving disputes at all, but rather learned coping skills or simply quit. However, when these workers did anticipate addressing their grievances, they were more likely to discuss informal over formal means. Below, I examine each of these three categories.

IV

WORKERS WITH BOTH OFFICIAL AND UNOFFICIAL POWER—THE "HAVES"

The haves enjoyed the official power derived from their membership and ownership in the cooperatives, as well as unofficial power personally enjoyed both in the organizations and in greater society that stemmed from their gender, class, race, and implementation of an egalitarian ideology. This haves group

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14. To gauge unofficial power, individual workers were asked about the informal resources available to them, such as access to information about the company. Workers cited most by interviewees as people from whom they would seek assistance were also noted. The investigation of unofficial power examined both organizational and individual components, because unofficial power involves the organizational level as well as the individual level. The organizational level was not analyzed simply as an aggregate of the power of the individual workers, but as part of the organizational structure and culture. Although the actual dispute-resolution strategies—the precise focus of this study—are caused by individual-level power, this relationship cannot be understood without also studying the organizational structure and culture. Individuals' dispute-resolution styles emerge from the culture and structure of their organizations in that the organizations' structure and culture affect the individuals' amounts of power.

includes all of the miners from Coal Co-operative as well as some members from Co-op Cab and Organix Co-op. Additionally, at Coal Co-operative, workers also gained substantial unofficial power through the implementation of the cooperative ideology; thus, at this company, all the workers had a substantial amount of unofficial power.

In contrast, white men from any background at Co-op Cab and middle-class white people (for example, with university degrees and middle-class accents[15]) at Organix Co-op[16] enjoyed greater unofficial power. Compared to their coworkers who lacked unofficial power, these haves enjoyed greater closeness with worker–managers, greater access to information, usually longer tenure, and more institutional knowledge—all of which enabled them to resolve more grievances informally.

Workers with great official and unofficial power seldom listed formal grievance resolution among their dispute-resolution strategies. The miners at Coal Co-operative were those who were the most likely of this group to consider formal resolution—specifically, forty-six percent of the miners mentioned formal grievances. Notably, after the conversion of the coal mine to a worker cooperative, the miners were able to bring additional formal grievances on certain topics that they were not able to raise previously. One electrician, for example, spoke of how issues that would have been deemed not sufficiently important to bring as a formal grievance when the mine was run by British Coal were acceptable to be raised in the cooperative. He described a formal grievance about the toilet paper brought soon after the mine reopened as a cooperative.

> Another thing they wanted changed when we came back as a co-operative was the toilet paper. The toilet paper [the miners used], they were the old government bloody thick paper. A simple thing like that. And the managers, under British Coal, their toilets up there, they had the soft, bloody soft, pink paper.[17]

However, only nine percent of the workers at Co-op Cab or Organix Co-op listed formal grievances as one of their dispute-resolution strategies. For these haves—and for the majority at Coal Co-op as well—their heightened unofficial power enabled them to opt to not exercise their right to formal grievances and, instead, resolve their grievances informally. Informal grievance resolution is a more subtle use of power that circumvents much of the public debate inevitable with formal grievances. One middle-class member of the Organix Co-op reflected on this, describing how informal processes often worked:

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15. Most people with university degrees also had middle-class accents, usually signified as a Southern or London accent. Organix Co-op was located in a working-class area in the North of England, where members drawn from the local population did not have a higher education and did have a northern, working-class accent.

16. Men as well as women at Organix Co-op comprised this group with both official and unofficial power. Unlike Co-op Cab, where women were only fifteen percent of the workforce, Organix Co-op had an even number of men and women workers.

17. Interview with Interviewee #129, Coal Co-operative, in S. Wales, U.K. (Feb. 1997).

> I actually find that these formal procedures that we go through [are] much less divisive than the informal ones. The informal ones tend to arrive at a kind of consensus that nobody fully understands. . . . There are no committee meetings: they're informal, you know, passing through the corridor, and having a word, and saying, "What do you think about so-and-so." They happen to be in groups of, maybe, two. Then those two go and meet another two, and so on. So they're not transparent, and I find that rather bad and undermining of the [cooperative] principles.[18]

He believed that informal dispute resolution privileged those with sufficient unofficial power, often affecting the resolution process without overt manipulations and with hidden influence. This covert nature makes such informal actions both very powerful and difficult to identify and counter.

Very few people—under ten percent at each company—with both unofficial as well as official power at Organix, Co-op Cab, and Coal Co-operative spoke of toleration or "lumping it," to use Galanter's phrase.[19] Additionally, only twelve percent of the workers at Organix and Co-op Cab, collectively, mentioned quitting as a way to deal with would-be grievances.

At Coal Co-operative, no one raised this as a possible strategy. This could be tied to workers' concerns over preserving their jobs and keeping the mine open, since many deep-pit mines in the United Kingdom had already been closed. Because the workers saw the jobs at Coal Co-operative as precious commodities, jobs they had to work together to create and even financially to buy into, it is not surprising that no one mentioned leaving. Nor, however, despite the scarcity of good jobs, did workers discuss a willingness to tolerate problems or grievous situations in order to hold on to their positions. This absence of toleration-talk could reflect that workers were so grateful for their jobs that they did not notice otherwise-problematic situations, or that workers had sufficient success with their dispute-resolution strategies that they could resolve problems rather than tolerate them. Although the data do not support one explanation over the other, either explanation is noteworthy.

V

WORKERS WITH ONLY OFFICIAL POWER—THE "HAVE-SOMES"

All members of Valley Colliery, Organix Co-op, and Co-op Cab had high official power. Although at Valley this power derived primarily from the strong mining unions, at Organix and Co-op Cab, official power came from the rules of the cooperatives. However, unlike Valley Colliery, where unofficial power was uniformly low among all workers, at Organix Co-op and Co-op Cab, some workers had low unofficial power—enjoying only official power—while others had high unofficial power—giving them both official and unofficial power.[20] The members with less unofficial power were generally women and people of color at Co-op Cab and the less-educated, nonwhite, or working-class members at

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18. Interview with Interviewee #099, Organix Co-op, in N. England, U.K. (Nov. 1996).
19. Galanter, *supra* note 1, at 124–25.
20. *See* discussion *supra* Part IV.

Organix Co-op.[21] They were less likely to mention informal grievance strategies, instead favoring formal processes, toleration, or exit.

This first group of have-somes—those without unofficial power—spoke proudly of their ability to bring formal grievances (ninety-two percent). They felt that having a realistic and usable formal grievance system was, in itself, very important. Many members at Organix Co-op and Co-op Cab explained that a key advantage of worker cooperatives was that formal grievances were more socially acceptable and easier to raise. For the miners at Valley Colliery, their commitment to formal grievance resolution was tied to their membership in the National Union of Miners (NUM), which protected its members from management retaliation over grievances and created a work atmosphere that validated the bringing of formal grievances as appropriate actions.

Sometimes these workers who lacked great unofficial power preferred resolving even apparently simple disputes formally. For example, one member from the working-class community of Organix's new location[22] described a grievance he had brought that others with unofficial power might have been able to resolve informally.

> My relationship with the department was suffering and I thought that I couldn't get on with my job, so I took the whole of the department to grievance. It turned out that there was something available to me in terms of information or the way my job could be done to work better. So we worked it out quite well.[23]

If this worker had had sufficient unofficial power to locate the information he mentions or to demand the assistance and attention of his department informally, a formal grievance might not have been necessary.

Even those workers who did not anticipate success with the formal grievance procedure believed that their only option was to raise formal grievances. For example, a woman at Co-op Cab described several decisions by worker–managers that she felt were blatantly unjust. She explained that, although she did not think her odds of winning a formal grievance were good, the formal grievance procedure was the only route available to her.

> I have a temper. They [two worker–managers] were hoping I'd lose my temper and tell them to stick the place up their ass and quit. Each time I haven't done that. I've gone through their [grievance] process no matter how much I knew that the odds were against me. Sometimes I win.[24]

For these workers, formal grievance resolution was their sole way to resolve a dispute. Therefore, they reported being more likely to resolve grievances formally, even when they had minimal faith in the formal grievance procedures.

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21. Although it is interesting that the two different worker cooperatives privileged different societal statuses, the particular statuses that conferred unofficial power—gender, class, and race—are not surprising. Female, working class, and nonwhite people throughout society generally experience less power.

22. Organix Co-op's previous location had been in a college town and Organix employed many graduates from the large university there. It moved to a formerly industrial, now economically depressed, working-class town.

23. Interview with Interviewee #145, Organix Co-op, in N. England, U.K. (Nov. 1996).

24. Interview with Interviewee #174, Co-op Cab, in Midwest, U.S. (Mar. 1994).

In contrast to the statements of workers with high unofficial power, these workers usually did not see informal grievance resolution as a viable option. Of those with little or no unofficial power, only thirteen percent considered informal dispute resolution. Although their membership in the cooperatives gave them official power, enabling them to raise formal grievances, they lacked the unofficial power to also have the option of informal grievance resolution. For example, the speaker below was a white man, who had left school at age sixteen. He had joined Organix Co-op two years before being interviewed. He was very conscious of his strong, Northern England, working-class accent and was somewhat intimidated by coworkers who he felt were better educated than he was.

> Some people can get things done by just talking to other people. If there's a problem, they can get it solved quick. They're smart and know about things. They can make new things happen fast. . . . They're well-educated. They don't talk like I do [with a northern, working-class accent]. . . . But that's them. Who listens to me?

> But that's alright. That's why this is a co-op. If I have a problem, I can bring it up, either go to [my section's grievance officer] or put it on the agenda at a meeting. I don't have to [informally] speak to a bunch of people, because I can just raise it [through formal procedures].[25]

His statement provides a good description of how successful, informal grievance resolution was only an option for those members with more unofficial power.

Additionally, some workers (fifteen percent) with little or no unofficial power spoke about coping mechanisms. For example, at Organix Co-op, a Sikh worker who identified himself as Black, having been born in Pakistan and raised in a working-class, Northern England town, felt that neither formal nor informal grievance resolution were successful options for him. Below, he described an incident in which a coworker offended him by deliberately flipping off his head-covering. This time he did bring a formal grievance, but he felt that nothing was done. He asserted that he is usually able to tolerate racist and other offensive behavior because he is strong as an individual. If he cannot get satisfaction when he asserts himself against offensive behavior, he is strong enough to tolerate the circumstances.

> From my sector, like Asia or Pakistan, I'm the only one who has lasted [at the company]. Once an incident actually happened where I felt quite abused. I was wearing a cap, not my turban. I still believe [the coworker] would know [that this cap counted as a head-covering]. And [the coworker] walked past and he just flipped my hat off and it fell on the floor. I was really, really fuming. People know who I am or that my beliefs are that way. I don't have to tell anybody. I brought [a grievance], but nothing actually happened.

> *What do you do then?*

> What do I do? I'd just grit my teeth and just get on with life.[26]

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25. Interview with Interviewee #164, Organix Co-op, in N. England, U.K. (Nov. 1996).
26. Interview with Interviewee #093, Organix Co-op, in N. England, U.K. (Nov. 1996).

Frustration with grievance resolution, either formal or informal, meant that these workers had learned to tolerate problems.

Those who could neither tolerate disputes nor resolve them formally or informally would eventually leave. Of the workers at the cooperatives, few workers (nine percent) who had only official power considered quitting as a means of dealing with disputes. Again, these tended to be workers who faced societal oppression based on more than a single, disempowered status, such as race or class or gender alone. For example, a driver at Co-op Cab described the racism-based grievance of a young African American woman which resulted in her leaving the cooperative.

> We've had very few Black women working for us over the years. [The particular woman] would have racial incidents with customers and not be backed properly. For example, in general, if there's a customer you're having a particular problem with, for whatever reason, you turn down their call. You don't pick them up.

> In this particular instance, it was a customer who was an old, white lady who needed assistance to and from the cab. She would have to lean on my friend and while she was doing that she would whisper under her breath, "f*cking n*gger." And so my friend one day tried to refuse to get the call. The dispatcher said, "Go get the call." She said, "I won't pick that person up." He said, "Why not." And she said, "Because the woman calls me a n*gger." He came back and said, "Just get the call." She came back [to the main office] and said, "F*ck you," and walked [quit].[27]

At Valley Colliery, as at Coal Co-operative, no one mentioned leaving as a way to address grievances, most likely for similar reasons.[28]

VI

WORKERS WHO HELD LITTLE
OFFICIAL OR UNOFFICIAL POWER—THE "HAVE-NOTS"

Employees at HealthBite and Private Taxi, two of the hierarchical businesses, had the least workplace power—little official power or unofficial power—of all the sites studied here. They did not have the advocacy and empowerment of union membership, the democratic managerial rights of worker ownership, or the job protection provided by either. Although both Private Taxi and HealthBite had formal grievance procedures, employees rarely used them. Only fourteen percent of employees at Private Taxi and no one at HealthBite used or anticipated using formal grievance resolution. Workers at these businesses lacked the official power to bring formal grievances through the internal, formal grievance procedures. With information-dissemination through neither co-op membership nor union-education efforts (as occurred in the other businesses),[29] employees at HealthBite and Private Taxi lacked the empowerment necessary to use the available grievance procedures. Those few employees who did feel confident in their ability to bring formal grievances

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27. Interview with Interviewee #011, Co-op Cab, in Midwest, U.S. (Oct. 1993).

28. *See* discussion *supra* Part IV.

29. *See* discussion *supra* Parts IV–V.

nevertheless disfavored formal grievances—whether because there was no assurance that using a formal grievance would not provoke retaliation or for personal strategic reasons.

Because employees at HealthBite and Private Taxi did not believe that formal grievance resolution was a realistic option, they turned to informal means to resolve grievances, learned to tolerate would-be grievances, or quit their jobs entirely. Fifty-six percent of the employees at HealthBite and forty-three percent of those at Private Taxi said that they would try to resolve their grievances informally. A driver from Private Taxi explained that people try whatever means they can, with whomever they can, when they attempt to resolve grievances through informal means.

> Everyone goes to whoever they think they're gonna get some satisfaction from. If someone has a good relationship with [the owner], then they'll probably go to [him] and see what they can do. If someone has a good relationship with [the manager], at this point in time, they'll go to [him] to see what they can do. In some cases, people will go to the dispatcher and say, "Hey, you know, listen, I got this problem with this guy that's doing this other shift, and I feel like he's screwed me over. Or whatever."[30]

This quotation illustrates that, when these employees did attempt to resolve their workplace disputes, grievance resolution for the employees at HealthBite and Private Taxi was most likely to be informal. They simply did not see formal resolution as an option.

But even informal grievance resolution was not a consideration for all employees at HealthBite and Private Taxi. Many employees—sixty-one percent of those interviewed at HealthBite and thirty-six percent at Private Taxi—discussed the grievance strategy of learning to tolerate what could be potential grievances. This "lumping it" was sometimes done quietly and accepted and other times done while complaining to others. For example, an employee at HealthBite, whose response is typical of many from HealthBite and Private Taxi, explained that often his preferred path is to do nothing.

> If someone else isn't doing their work and I'm doing it all, what I've learned in the past, is to just shut your mouth and keep doing it. 'Cause that's how it works. I just shut up and keep doing it.[31]

These have-not employees had developed various ways to cope with problems they could not or would not resolve. Their ability to "lump it" allowed them to avoid any sort of grievance resolution without leaving their jobs.

Yet some employees did mention quitting their jobs, both as the ultimate solution to a dispute and as an initial response. At HealthBite, seventeen percent of those interviewed said that they would leave the company as a way to resolve a dispute; at Private Taxi, thirty-six percent—the same percentage that mentioned toleration at this company—said they would leave to resolve a problem. For example, a thirty-year-old woman explained, as did others, that

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30. Interview with Interviewee #063, Private Taxi, in Midwest, U.S. (Nov. 1997).
31. Interview with Interviewee #059, HealthBite, in London, U.K. (Apr. 1997).

quitting was an easy option if employees found themselves unhappy at their jobs.

> What I'm getting here, I know I could get in another job. I can go to an agency and get another job. So I'm not fighting for a career here. It's just a casual job and I'm not gonna fight to keep it. If there was something I really couldn't stand, then I would move on.[32]

Thus, while many people at both HealthBite and Private Taxi spoke of enjoying their work, some felt so tied to their companies that they would stay in their jobs if they had disputes they could not resolve or tolerate.

VII

THE "HAVES" COMING OUT AHEAD

These observations of official and unofficial power illustrate and confirm Galanter's thesis regarding the haves and the have-nots.[33] However, in the conceptualization in this study, to be truly advantaged and to enjoy fully workplace-dispute-resolution advantages, one must be a have with regard to both official and unofficial power. This article demonstrates the link between dispute-resolution strategies and the amount of official and unofficial power held by individual workers. The have-somes—those with official power only—were able to utilize the formal procedures offered by their businesses. They often saw themselves as empowered to raise grievances and so make their voices heard in the disputing arena. They compared themselves—either explicitly or implicitly—with those have-nots who lacked official (and unofficial) power. Accordingly, the have-somes perceived themselves as more able to address their workplace grievances than the have-nots, who more often learned to cope or who chose to exit. The haves of both official and unofficial power exercised their power by not resorting to formal grievances. They saw themselves as able to stand apart from the inefficiency and public spectacle of using formal procedures to address their grievances. Instead, they had sufficient power—official and unofficial power—to resolve grievances more casually.

Thus, these data do not imply a simple, monotonic relationship between power and formal grievance resolution. They demonstrate the disinclination toward using formal grievances by workers with the most power. Those who have the option of successful grievance resolution through informal, dispute-resolution strategies will often opt for those informal means, rather than use formal grievance procedures—thus circumventing the various costs of formal grievance resolution altogether.

This echoes Galanter's findings that the more powerful haves will use the formal court system strategically—pursuing only the select few that they are most likely to win or that will change the rules of the game in a way favorable to

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32. Interview with Interviewee #159, Private Taxi, in London, U.K. (Apr. 1997).

33. Galanter, *supra* note 1, at 124 (noting that the have-nots tend to come out ahead because of advantages available to them in different dispute-settlement contexts).

the haves and settling riskier cases or those that will not make strong precedents.[34] The greatest haves in the study—those with high official and unofficial power—seldom used the formal grievance procedures at their workplaces; but, when they did, they used them very deliberately and for specific purposes. These workers rallied to the formal grievance procedures only when they believed they would be unsuccessful at resolving the issue informally or when they wanted to utilize the public nature of the formal grievance forum.

Yet workers had to have sufficient "have-status" to have the option of engaging in formal dispute resolution at all. To consider the formal grievance procedures, workers had to at least be in the have-somes category. Even if these formal procedures were their only means for dispute resolution, they were still better off than the have-nots with even more limited options.

A number of structural factors contributed to the advantaged status of the haves. The haves, who possessed both official and unofficial power, were more likely to be male, college-educated, white, and of middle-class background. Additionally, both the have-somes and the full haves were more likely to be members of worker cooperatives, co-owning and co-running their own workplaces.

Finally, one must acknowledge that—in any study of dispute resolution and the workplace—management is the ultimate have in the employment-dispute context. Although this study did not look specifically at the power of management vis-à-vis workers, the advantages of the repeat-player management are evident. Unlike an individual one-shotter disputant, management can structure the employment relationship to put itself in the most advantageous position in the event of a dispute. When a dispute does arise, management is more able to play for long-run, strategic interests. Additionally, management has greater familiarity with the grievance process and the rules of the company, and so has fewer "start-up costs" in responding to an employee's grievance.

Thus, the haves do still "come out ahead" within the workplace-dispute-resolution context. Those with more power have more dispute-resolution strategies at their disposal. The have-nots are left more vulnerable and more likely to feel forced to quit their jobs or to succumb to silent toleration when they are powerless to resolve their workplace grievances.

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34. Galanter, *supra* note 1, at 97–103.