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ABSTRACT

Cultural and institutional influences on Chinese Americans' use of legal services are examined. General background information was gathered on clients who used the local office of a federally sponsored legal services program (LOLSP) in a major western city during 1978. Data were also collected through intensive interviews with LOLSP Chinese American staff, a randomly selected sample of 20 Chinese families, and the leaders of several community organizations. The 399 Chinese clients were also compared with 3,815 non-Chinese clients. Higher percentages of Chinese than non-Chinese were over 45, married, had never before used a lawyer, and were referred by community sources. Despite the potentially wide range of legal problems that their social and economic circumstances might be expected to generate, the Chinese tended to use LOLSP mainly for administrative immigration problems. Two factors explain the situation. First, for more than 100 years Chinese Americans have developed internal procedures for solving disputes outside the historically hostile formal legal systems. Second, when the LOLSP began to undertake social action strategies, it created the impression that it was no longer interested in handling individual problems. Also, community leaders involved in class action suits against the LOLSP threatened its funding and reduced its activism. (KC)

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Race and the Use of Legal Services:
A Case Study of Chinese Americans*

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Race and the Use of Legal Services:

A Case Study of Chinese Americans

Past research on the use of legal services has frequently been guided by a limited and static perspective (Mayhew, 1976; Marks, 1976). This perspective assumes that sets of felt legal needs exist within specific populations and that lawyers can and do use their specialized knowledge to alleviate these problems. Therefore, persons in need should and, in fact, will seek legal assistance. Usually individuals can afford this help and know about available lawyers and services so they are in a position to make choices and receive honest, competent, and appropriate aid. The problem of the distribution and delivery of legal services is consequently viewed as one of facilitating individual access. Barriers to use are seen as primarily involving cost and lack of information or legal sophistication. While this perspective might be criticized in a variety of ways, of concern here is the person-centered focus it presents of legal services use. Individual characteristics alone appear to provide a sufficient explanation for nonuse.

Some investigators have begun to examine legal services use within broader frameworks which incorporate the influence of cultural, social, and institutional factors (cf. Ladinsky, 1976). Such factors might include the role of significant associates (Lochner, 1975; Johnson, 1978), group problem-solving styles (Marks, 1976), or the availability of nonlegal alternatives and the accessibility and organization of legal institutions (Mayhew, 1976). Certain person-centered barriers to legal services use like cost, difficulty in obtaining information, attitudes toward lawyers

and the law, and previous negative experiences can be readily integrated into these broader frameworks.

As with many social phenomena, knowledge concerning the significance and operation of cultural, social, and institutional influences on legal services use--and even on the use of social services in general--can be enhanced through intergroup comparisons. Unfortunately, there has been little explanatory work on legal services use by minority groups, and the few existing studies do not examine use within broad perspectives (cf. Dooley et al., 1980). This research investigates the use of legal services by Chinese Americans within historical-community and organizational contexts.

Data Collection

This study was conducted in a low income area of a predominately Chinese community in a major western city. A low income area was selected because of its potential for containing persons with pressing legal needs (cf. Curran and Spaulding, 1974) and because of the limited alternatives typically available for addressing these needs. In this particular area, the local office of a federally-sponsored legal services program (LOLSP) was the primary source of formal legal assistance and, as such, became the focal point for this research.

Two procedures were used to gather data. General background information on the clients who used the LOLSP in 1978 was collected from existing records; for comparison purposes, similar information was obtained from the other offices of the legal services program. In addition, descriptive data were gathered through intensive interviews with the Chinese American staff of the LOLSP (program attorneys, paralegals, volunteer attorneys, and law students), a randomly selected sample of twenty area Chinese families, and the leaders of several Chinese community organizations. These interviews

focused on perceptions of area legal needs and the effects of various historical, organizational, and community characteristics on legal services use.

Since all interviewees were promised complete anonymity, this discussion will not contain any specific identifying information about the LOLSP or the Chinese community. However, it can be noted that the legal services program of which the LOLSP was a part was not unlike other moderately activist, medium-sized programs described in the literature in terms of staff, caseload, and legal activities (cf. Masotti and Corsi, 1967; Finman, 1971; Handler et al., 1978). At the time of the study, the Chinese community numbered well over 15,000 inhabitants. Chinese settlement in this city dates back to the nineteenth century, and the more recent population contained elderly prewar immigrants, three generations of American-born families, and post-1965 immigrant families from Hong Kong, Taiwan, and the People's Republic of China. Chinese from low income backgrounds faced serious problems due to substandard housing, unemployment or underemployment, poor health and mental health, lack of appropriate social services, high neighborhood crime rates, and economic and social discrimination. General historical and contemporary descriptions of the Chinese experience in America can be found in Nee and Nee (1973), Lyman (1974), and Steiner (1979).

Data Analysis

The data collected from the offices of the legal services program were analyzed to furnish an overview of client characteristics. In 1978, 498 Chinese sought help from the LOLSP (as did 133 persons of nonChinese background). Of these, 99 were referred elsewhere--for example, criminal cases were referred to the public defender's office--or were rejected because they exceeded the program's income guidelines. The analysis described below

is based on the remaining 399 clients and comparisons with the 3,815 non-Chinese clients accepted by the offices of the legal services program.

A series of two-group discriminant analyses were performed to determine which variables best distinguished Chinese clients from whites, Chicanos, blacks, and Native Americans respectively. Table 1 contains the four sets of standardized canonical discriminant function coefficients. In examining these functions, it should be remembered that each coefficient represents the relative importance of a particular variable in distinguishing between Chinese and white (or Chicano, black, or Native American) clients while controlling for the effects of all other variables.

(Tables 1, 2, and 3 about here)

A review of the four functions reveals some differences in the relative magnitudes and ordering of specific variables within each function. Nevertheless, certain variables appear to be important in all four functions, specifically age, marital status, previous attorney use, referral source, and having an administrative and family problem. Additional data on these variables crosstabulated by group appear in Table 2. Table 2 shows that higher percentages of Chinese clients, compared to those of other groups, were over age 45, married, had never before used a lawyer, and were referred by community-based sources (for instance friends, relatives, and community organizations) as opposed to legal or social service agencies. Also, the Chinese had a higher proportion of administrative problems--mostly dealing with immigration matters--while the other groups had larger percentages of family problems. Table 3 lists the general categories of legal problems of the Chinese clients. The cases involving immigration were usually concerned with immigration, naturalization, and

citizenship procedures although some were related to the rights of non-citizens with respect to governmental benefits and services (for example, income maintenance benefits or education and employment services).

The Chinese-nonChinese differences discussed above regarding age, marital status, prior nonuse of attorneys, and the proportion of immigration problems reflect the numbers of Chinese clients (over two-thirds) who were post-1965 immigrants. The tendency to be referred by community-based sources may likewise be associated with the numbers of recent immigrants, but it is further related to a general reliance by Chinese and other Asian Americans on indigenous community care and support networks for information and assistance (Fujii, 1978; President's Commission, 1978; Murase, 1979).

While the above analysis provides information on client characteristics, it gives only a partial picture of the legal needs of the low income Chinese in this area. As all of the interviewees including the LOLSP staff pointed out, the LOLSP was probably not handling all of the existing legal problems of the low income Chinese. One indication of this was the apparent underutilization of the LOLSP by prewar immigrants and American-born Chinese who made up about half of the area's low income population. Furthermore, even the recent immigrants, whose proportion of the LOLSP caseload had been increasing for several years, used the LOLSP mainly for immigration concerns despite the potentially wider range of legal needs that their social and economic circumstances might be expected to generate (cf. Dooley et al., 1980, pp. 109-135).

As mentioned earlier, a traditional, person-oriented perspective would explain patterns of use in terms of determinants like knowledge of legal rights, methods for redressing grievances, and availability of services. These might offer a partial explanation, but the descriptive interview data

that were collected support a much broader cultural, social, and institutional interpretation. Such an interpretation can best be presented by examining the use of the LOLSP within historical-community and organizational contexts.

Historical-Community Context

For more than one hundred years, Chinese American communities have developed and maintained internal procedures for resolving disputes outside the formal legal system. These procedures range from the very informal use of trusted friends as go-betweens who attempt to bring about a conciliation between disputing parties to the somewhat more structured use of merchant, religious, educational, or cultural organizations or family, district, or benevolent associations. The specific nature of these practices depend upon the seriousness of the problem as well as the backgrounds and organizational affiliations of the disputants. Generally, benevolent associations handle the most serious matters which have widespread family or community implications, and they serve as the final body for appeals. Dispute settlement processes are designed to reconcile differences and preserve relations between parties through moral persuasion, education, and appeals to decency, reason, and common interests. Harmony and personal satisfaction are important, and these are not seen as achievable within the formal legal system where concrete issues are sharpened and brought under abstract laws in bitter adversarial proceedings. Decisions, whether reached by mediators or worked out by the disputing parties themselves, are not based on written rules or precedents but instead on basic notions of equity, fairness, and individual or group necessity. Decisions can be enforced through various social pressures including the moral authority of the mediating body or the threat of ostracism and tarnished reputation. (Doo, 1973; Kahng, 1977).

7

Chinese American dispute settlement practices originated as part of a larger defensive, institution-creating response to the violent anti-Chinese racism of the late nineteenth century in the West, particularly in California. During this period laws were passed or enforced in ways that subjected the Chinese to discriminatory taxes, limited their access to numerous occupations, segregated them to separate schools and residential neighborhoods, and denied them the right to become naturalized citizens, to intermarry, or to own or lease land. In addition, several exclusion laws were enacted by Congress between 1882 and 1924 which severely limited Chinese immigration (Saxton, 1971; Wu, 1972).

In their encounters with the formal legal system, Chinese were seldom able to obtain justice and protect their civil rights. In 1854, the California Supreme Court ruled that Chinese could not testify in court against whites; until this ruling was later nullified by legislation, few white offenders were convicted in cases involving Chinese. The Chinese also faced other obstacles. Language difficulties and lack of familiarity with the formal legal system placed them at a disadvantage. As noncitizens, they were excluded from the practice of law. Even though adverse lower court rulings could sometimes be overturned on appeal, Chinese could ill afford the expense of these efforts. Finally, courts frequently refused to handle cases between Chinese parties for reasons ranging from an inability to understand Chinese dialects or the cultural/community circumstances surrounding specific problems to outright discrimination. Understandably, most Chinese came to believe that the formal legal system could not redress grievances with whites or other Chinese and this view provided an impetus for the creation of separate dispute settlement mechanisms. Such mechanisms were further influenced at the outset by cultural patterns which stressed

the importance of group cohesion, mutual obligations, and communal interdependence and the consequent need to settle grievances through mediation in which compromise and the preservation of harmony were major considerations. Redress through internal procedures was preferred, and this preference became a necessity given the hostile environment outside Chinese communities (Doo, 1973).

Over time, Chinese American dispute settlement practices became institutionalized to the point where they functioned even as the more virulent forms of white racism subsided. However their use has decreased in recent years as acculturated generations of American-born Chinese have preferred to take their problems to the formal legal system. In addition, internal procedures have come to have a more limited applicability for settling issues with non-Chinese, and the ability of various organizations to exert the social pressures necessary to enforce decisions has diminished.

Yet despite the above, the more informal forms of dispute settlement were used by many low income residents of the Chinese community examined in this research. Some of this use could be attributed to individual mistrust of all formal institutions based on previous negative experiences with public agencies and services. As a subpopulation, the elderly prewar immigrants were the most apt to use internal procedures because of language difficulties, a desire to maintain old friendships, or out of habit and custom. But even among American-born Chinese, informal practices like the use of go-betweens were often seen as a potentially beneficial first step which, if unsatisfactory, would not preclude going to the formal legal system. Use of dispute settlement practices accounted for some of the underutilization of the LOLSP by these two subpopulations, especially for problems involving other local Chinese. Recent immigrants, who usually

did not identify with the older community organizations and patterns, did not make use of internal dispute settlement processes, and were therefore more likely to go to the LOLSP.

Organizational Context

Given limited resources, all legal services programs have had to determine the relative emphasis they would place on the delivery of individual services and the pursuit of social action strategies--primarily the reform of laws and institutional policies/practices through test case/class action litigation--but also advocacy on behalf of community organizations, educational efforts such as workshops or widely publicized campaigns against unscrupulous targets, and the promotion of local economic enterprises. Proponents of social activism have argued for the avoidance of incremental remedial approaches and the need to alter structural conditions which make the poor victims of injustice; furthermore, actions with widespread consequences are seen as critical given any program's inability to handle more than a small portion of existing legal problems. Proponents of a service emphasis have noted the urgency of addressing individual problems, the immediate tangible benefits which usually occur, the desirability of maintaining constant involvement with low income residents, and the broad deterrent effects on institutional offenders and the legal sensitization of the poor which result from handling a large volume of individual cases; in addition, there is the potential for manipulation or abuse of community organizations in class action suits, and social action strategies require a sizable commitment of resources, particularly class actions which might even lead to unsatisfactory rulings or institutional noncompliance and backlash. Pressures for greater social activism have often originated from the moral concerns and ideological commitments of program founders and staff attorneys,

the desires of the latter for personal/professional challenges and growth, the rising expectations of low income communities and their liberal supporters which may require high-profile program activities, and the political needs of emerging community organizations. Pressures for an increased service emphasis have resulted from the sheer numbers of actual or potential clients and the influence of public/private agencies and interest groups that might become targets of legal activism. Though these concerns have stirred considerable discussion, only a minority of legal services programs nationwide have vigorously carried out social action strategies to a significant degree (Sykes, 1969; Hannon, 1969; Borosage et al., 1970; Carlin, 1970; Finman, 1971; Brill, 1973; Johnson, 1978; Handler et al., 1978).

It was against a backdrop of national debate over individual services and social activism that the LOLSP and the legal services program of which it was a part began operations in the mid-1960's. After considering the specific local implications of many of the issues presented above, the program decided to stress the delivery of individual services.

Given this initial orientation, several methods were used to generate large numbers of clients for the LOLSP. Bilingual Chinese staff attorneys and paralegals were hired. Bilingual advertisements were placed in newspapers and on the radio, and notices were posted throughout the Chinese community. Hours for the LOLSP were extended into the evenings and weekends. The LOLSP staff established referral linkages with most Chinese community organizations and area human services agencies and conducted several well-attended informational classes. Outreach efforts were extended beyond established groups to informal natural helpers like teachers, shopkeepers, and community elders. Through its successful handling of a majority of its cases, the LOLSP gradually established a reputation for providing credible

and effective assistance. Because of the above organizational attributes, LOLSP caseload levels increased for several years. This increase is not surprising since most of these organizational characteristics have been found to facilitate the use of services by Asian Americans (Fujii, 1978; Murase, 1979); also, a study by the Legal Services Corporation (Dooley et al., 1980, pp. 1-109) has reported that access to legal services by Asians of limited English speaking ability is enhanced by the existence of bilingual/bicultural staff, active outreach efforts, and publicity.

In the early 1970's, the LOLSP began a modest movement away from its focus on individual services. This shift was influenced by close ties with an activist Asian American civil rights organization dominated by young professionals and college students and by a program-wide emphasis on legal reform promoted by new high-level administrators.

The changing orientation of the LOLSP was manifested in several ways, most notably in their work with the civil rights organization and the development of class action suits against several city agencies. The former included the providing of legal advice concerning possible organizational actions, legal counsel for individual members, and help with negotiations; the latter was typified by lawsuits designed to alter patterns of housing code enforcement thereby compelling owners of the dilapidated units in which many low income Chinese resided to create safer and healthier living conditions.

The pursuit of various social action strategies produced many of the intended benefits, but it had negative effects on the volume of new clients for two reasons. First, several organizational adjustments were made in order to redistribute resources to nonservice activities. Among other things, these adjustments resulted in a cutting back of office hours, the

curtailing of outreach efforts, a lengthening of the amount of time needed to dispose of all but the simplest cases, and a less successful record in the handling of cases. Such outcomes, along with the high visibility of nonservice activities, created the widespread impression that the LOLSP was no longer anxious to handle individual problems. This impression may have especially deterred potential clients with complex legal problems thus partly contributing to the eventual predominance of the usually more perfunctory procedural immigration matters in the LOLSP caseload.

A second reason for the decline in the numbers of new clients had to do with the multiple impacts of social activism on the established business and political leaders of the Chinese community. For instance, community leaders were part owners of much of the substandard housing in the area. Furthermore, lawsuits against public agencies jeopardized longstanding and carefully crafted political ties between city officials and community leaders. Faced with threats to their vested interests, the community leaders fought back and, by threatening the funding for the LOLSP, managed over time to curtail much of its legal activism. Whatever its other consequences, this conflict prevented many persons with legal needs from going to the LOLSP because of their desire to avoid any association with a major community controversy. However recent immigrants, who tended to reject the influence of community leaders, were less reluctant to use the LOLSP and began to make up an increasing proportion of its clientele.

Discussion

This research describes some features of cultural, social, and institutional influences on the use of legal services by Chinese Americans. In particular, it can be seen that while these influences may have had separate or direct effects, they also exerted joint or indirect ones. For example,

traditional cultural patterns interacted with manifestations of nineteenth century racism to promote the development of internal dispute settlement practices; and, pressures from an Asian civil rights organization and high-level legal services program administrators lead the LOLSP to undertake social action strategies which, in turn, had consequences for service use.

Although this study reemphasizes the significance of cultural, social, and institutional factors for legal services use and adds to the sparse literature dealing with minority groups, further work is obviously necessary. For instance, additional investigation is needed on aspects of use such as the quality of lawyer-client relationships (e.g., the trust and satisfaction of both parties, amount of client participation in defining rights and remedies, sense of client support), and the nature of the services rendered. These other aspects may be especially important for minority groups and populations like the poor where there is a desire to go beyond facilitating standard uses of the legal system.

In conclusion, it should be briefly noted that alternative forms of legal service delivery have been created in a few Asian American communities (cf. Asian Law Collective, 1974; Minami, 1975). Besides responding to previously unmet individual needs, these programs have undertaken types of social action such as class action litigation and the promotion of legal education through workshops and mass support for legal actions. Much social action involves advisory work with community organizations; this relationship is one of mutual benefit as the mass support that organizations are able to mobilize often affects the outcome of legal/administrative proceedings and is sometimes necessary to provide pressure for enforcement of favorable rulings. While legal activism also characterizes a minority of federally-sponsored legal services programs, there is at least one difference between

these programs and the Asian American alternatives. The latter go further in their attempts to be responsive and accountable to community organizations dedicated to social change; use of the law is seen as but one tactic in the broader political strategies pursued by community groups. Such a view can reduce overdependence on legal institutions as a means of redressing social grievances and contribute, over the long run, to a sense of community autonomy and power.

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Table 1. Standardized Canonical Discriminant Function Coefficients for Comparisons Between Chinese and White, Black, Chicano, and Native American Legal Services Program Clients

Variables	Chinese ^f Compared With:			
	Whites	Blacks	Chicanos	Native Americans
Age	-.45	-.45	-.38	-.50
Sex ^a	.09	.04	.15	.06
Marital status ^b	.39	.44	.37	.37
Education	.19	.03	-.19	.09
Occupational status	-.14	-.09	.05	.16
Family income	-.07	.10	.19	.03
Family size	-.20	.01	.22	.10
Length of residence in city	-.04	.19	.16	-.24
Previous attorney use ^c	.31	.30	.27	.36
Referral source ^d	.21	.20	.20	.31
Employment problem ^e	-.05	-.01	-.09	.02
Consumer problem	.16	.11	.36	-.16
Administrative problem	-.50	-.56	-.32	-.35
Housing problem	.17	.05	.12	-.16
Family problem	.22	.20	.30	.35
Miscellaneous problem	.07	.05	.06	-.11
N	1801	1362	588	64
Canonical correlation	.65	.62	.60	.56
Wilks lambda (p < .001)	.58	.61	.63	.68

^a1 = male, 2 = female

^b1 = married, 2 = other

^c1 = no, 2 = yes

^d1 = community-based sources, 2 = legal or social service agencies

^eFor all legal problems: 1 = no, 2 = yes

^fN = 399

Table 2. Selected Characteristics of Chinese, White, Black, Chicano, and Native American Legal Services Program Clients

Variables	Chinese	Whites	Blacks	Chicanos	Native Americans
Percent over age 45	49	26	19	23	6
Percent married	58	30	36	44	41
Percent used attorney before	17	47	40	39	45
Percent with administrative problems	63	16	11	14	17
Percent with family problems	10	33	42	39	57
Percent community-based referral source	72	55	49	49	48
N	399	1801	1362	588	64

Table 3. Legal Problems of Chinese Legal Services Program Clients

Employment problems	4%
Consumer problems	4%
Administrative problems ^a	63%
Housing problems	13%
Family problems	10%
Miscellaneous problems	6%
Total	100%
N	399

^aImmigration problems=52%