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**DRAFT**

The Legal Problems of Everyday Life

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June 2007

## **Introduction**

This is a study of the legal problems that, for the most part, people do not take to the formal justice system to resolve. It looks at legal problems not from the narrow lens of problems that come to the attention of some aspect of the formal justice system or are assumed to require the services of a lawyer. Rather, it takes as a starting point the much broader lens of the legal problems that are experienced by the public in their daily lives. This does not mean that these problems are less important than the ones that are resolved in the courts or by legal counsel. It is now a familiar theme in the literature of access to justice that many problems encountered in people's everyday lives have legal aspects, potential legal consequences and potential legal solutions. However, the legal option may not be the best or most sensible approach to resolving the problem. These problems may represent the "little injustices"<sup>1</sup> that are a part of everyday living for many people and they are important because people care about them. If we are interested in justice *writ large*, in justice as a social institution, not limited to the formal laws and system of justice, this is the terrain that is relevant.

## **The 2006 Survey of Civil Justice Problems**

The analysis is based on a survey of 6665 adult Canadians 18 years of age and older carried out in February and March 2006. Interviews were conducted by telephone. The objective of the research was to estimate the prevalence of civil justice problems in Canada, to examine the how people respond to problems of this sort and the consequences of experiencing problems. The survey instrument consisted of five major sections. A problem identification section asked respondents if they had experienced any of 76 specific problems carefully designed to have legal aspects. The set of problems was based on questionnaires used in other national surveys and on the experienced gained from a similar survey carried out in Canada in 2004. Respondents were asked to indicate if within the three years prior to the interview they had experienced problems that were 'serious and difficult to resolve'. Subsequent sections of the questionnaire asked respondents what steps they had taken to resolve problems, about connections between problems where people experienced multiple problems and about the social impacts of experiencing legal problems. Respondents were also asked questions covering basic socio-demographic information. The civil justice problems examined in this research are self-reported by respondents as opposed to problems that are counted because they come to the attention of the formal justice system. The self-report methodology is the an important feature of this research. The implications of this fundamental methodological feature will be discussed in greater detail below.

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<sup>1</sup> Laura Nader, *No Access to Law*, Academic Press, New York, 1980.

### **The Incidence of Justiciable Problems**

Two defining features of modern societies are that civil laws are pervasive in the activities of everyday life and, second, that justiciable problems experienced by the population are ubiquitous. Civil laws regulate relations of the market such as the sale and purchase of goods and services, commercial transactions, and lending and debt. Conditions relating to employment and the loss of employment, and relating to occupying rental housing are situations where regimes of civil law touch the security and well-being of a large segment of the population. For the poor, access to shelter and income to which others have access through the market, are regulated by civil laws. The law regulates intimate personal relations between domestic partners, defines responsibilities related to the care of children and with respect to managing the affairs of those no longer able to do so competently on the own.

So many aspects of ordinary daily activities are life are lived in the shadow of the law, it should not be at all surprising that a study of the extent or incidence of civil justice problems should reveal that a large proportion of the population should experience problems that have a legal aspect. Two recent large-scale surveys carried out in Canada confirm that common feature shared with other similar countries, the ubiquitous nature of civil justice problems. A survey carried out in 2004 with a sample of 4501 adult Canadians<sup>2</sup> estimated that 47.7% of the population had experienced one or more problems within the three-year period covered by the survey.<sup>3</sup> The survey on which this paper is based was carried out in 2006 with a sample size of 6665 estimated that 44.6 % of adult Canadians had experienced one or more justiciable problems within a three-year period.<sup>4</sup>

The results of the two Canadian surveys are roughly similar to studies carried out elsewhere, to the extent that they are comparable. All of the surveys in Table I share the same general approach pioneered by the comprehensive legal needs study carried out in the U.S. and the paths to justice research conducted by Hazel Genn in the U.K.<sup>5</sup> However, most used somewhat different types and numbers of problems in the problem identification part of the questionnaires, the surveys cover different time periods within which respondents could report having experienced problems, and employ different methods for gathering the data. Each of these factors can have an effect on the estimated incidence of problems.

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<sup>2</sup> The survey was limited to the low- to moderate-income population, including individuals with incomes up to \$35,00 per year and families with incomes up to \$50,000 per year.

<sup>3</sup> A. Currie, *The Civil Justice Problems Experienced by Low- and Moderate-Income Canadians; Incidence and Patterns*, *International Journal of the Legal Profession*, Vol. 13, No. 3, November 2006

<sup>4</sup> A Currie, *The Legal Problems of Everyday Life: Department of Justice: The Nature, Extent and Consequences of Justiciable Problems Experienced by Canadians*, Ottawa, 2007a

<sup>5</sup> See the section below dealing with the justiciable problems paradigm, p. 6

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Table I: International Comparisons of the Incidence of Justiciable Problems

Study, Country, Date of Data Collection	Time Frame	Percent Experiencing One of More Problems	Methodology
American Bar Foundation, United States, 1994 <sup>6</sup>	1 year	47 % (low income) 52 % (moderate income)	telephone interviews
Hazel Genn, England and Wales, 1997 <sup>7</sup>	5 years	40 %	in-person interviews
Hazel Genn and Alan Paterson, Scotland, 1998 <sup>8</sup>	5 years	26 %	in-person interviews
Pascoe Pleasence, et. al., England and Wales, 2001 <sup>9</sup>	3 ½ years	36 %	in-person interviews
Pascoe Pleasence, England and Wales, 2004 <sup>10</sup>	3 ½ years	33 %	in-person interviews
Legal Services Agency, New Zealand, 2006 <sup>11</sup>	1 year	29 %	in-person interviews
B. van Velthoven and M. ter Voort, Netherlands, 2003 <sup>12</sup>	5 years	67 %	internet questionnaire
Tony Dignan, Northern Ireland, 2005 <sup>13</sup>	3 years	35 %	in-person interviews
A. Currie, Canada, 2004 <sup>14</sup>	3 years	48 %	telephone interviews

<sup>6</sup> ABA Consortium on Legal Services and the Public, Report of the Legal Needs of the Low-Income Public, Findings of the Comprehensive legal Needs Study, Chicago, American Bar Association, , Chicago, 1994 and ABA Consortium on Legal Services and the Public, Report of the Legal Needs of the Moderate-Income Public, Findings of the Comprehensive legal Needs Study, Chicago, American Bar Association, Chicago, 1994

<sup>7</sup> Hazel Genn, *Paths to Justice: What People Do and Think About Going to Law*, Oxford, Hart Publishing, 1999

<sup>8</sup> Hazel Genn and Alan Paterson, *Paths to Justice Scotland: What People in Scotland Do and Think About Going to Law*, Oxford, Hart Publishing, 2001

<sup>9</sup> Pascoe Pleasence and Alexy Buck, Nigel Balmer, Aoife O’Grady, Hazel Genn and Marisol Smith, *Causes of Action: Civil Law and Social Justice*, Legal Services Commission, 2004

<sup>10</sup> Pascoe Pleasence, *Causes of Action: Civil Law and Social Justice, Second Edition*, Legal Services Commission, 2006

<sup>11</sup> Legal Services Agency, *Report on the 2006 National Survey of Unmet Legal Needs and Access to Services*, Wellington, New Zealand, 2006

<sup>12</sup> B.C.J. van Velthoven and M. ter Voert, *Paths to Justice in the Netherlands*, paper presented at the Fifth International Legal Services Research Conference, Cambridge, 2004

<sup>13</sup> Tony Dignan, *The Northern Ireland Legal Needs Survey*, paper presented at the Sixth International Legal Services Research Conference, Belfast, 2006

<sup>14</sup> *Supra*, footnote 3

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A. Currie, Canada, 2006 <sup>15</sup>	3 years	45 %	telephone interviews
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Using data on the year of occurrence of the problem, it was possible to adjust the data from the 2006 Canadian survey to estimate the incidence of problems occurring over a 15-month period.<sup>16</sup> The estimated proportion of individuals experiencing one or more justiciable problems for this time period was 25 %. This figure is somewhat more comparable to the results of other surveys with shorter time frames.

The percentage of individuals experiencing one or more justiciable problems translates into what, on the surface, appears to be strikingly large estimates of the absolute numbers of people experiencing problems. Based on the January 2006 Statistics Canada estimate of the Canadian population aged 18 years of age and older, approximately 25.9 millions, about 11.6 million Canadians experienced one or more justiciable problems within the three-year survey period. Table II shows the percentage of respondents reporting one or more problems, the sample number and the estimated number in the population experiencing one or more problems in each of the 15 problem categories covered by the 2006 survey.

Table II: The Incidence of Civil Justice Problems in Canada

Problem Category	Percent of Respondents Reporting at Least One Problem in the Category	Number of Respondents	Estimated Number of People in the Population (95% Confidence Interval)
Consumer	22.0%	1469	5,698,000 (5,441,700 to 5,954,400)
Employment	17.8%	1184	4,619,200 (4,379,000 to 4,859,400)
Debt	20.4%	1356	5,263,600 (5,010,900 to 5,516,300)
Social Assistance	1.2%	78	310,800 (241,700 to 380,100)
Disability Benefits	1.0%	66	259,000 (196,300 to 321,700)
Housing	1.7%	116	440,300 (361,900 to 518,700)
Immigration	0.6%	40	155,400 (105,100 to 204,700)
Discrimination	1.9%	130	492,100 (408,000 to 575,300)
Police Action	2.0%	133	518,000 (429,900 to 660,100)
Family: Relationship Breakdown	3.6%	239	932,400 (815,900 to 1,048,900)
Other Family	1.4%	93	362,600 (287,542 to 437,658)
Wills and Powers of Attorney	5.2%	348	1,346,800

<sup>15</sup> Supra, footnote 4

<sup>16</sup> The data were collected during March 2006. The fifteen month estimate covers the period January 2005 to March 2006.

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			(1,197,300 to 1,482,827)
Personal Injury	2.9%	192	751,100 (646,800 to 855,500)
Hospital Treatment or Release	1.6%	108	414,400 (337,700 to 491,100)
Threat of Legal Action	1.2%	82	310,800 (245,100 to 376,400)

The numbers in brackets in column three represent the confidence interval of the estimate at the 5 % level of statistical significance.

### **The Significance of the Nearly Normal**

Reporting the incidence of justiciable problems using absolute numbers introduces a level of concreteness that is absent with percentages. The numbers presented in Table II are large, so large, in fact, that they give the appearance of being nearly normal features of everyday life. There is no doubt that the numbers represent statistically reliable counts of the problems that respondents reported. However, they give pause for reflection about what the numbers, representing problems that are serious and difficult to resolve, truly represent. The reader should keep in mind that the numbers represent estimated numbers of problems occurring over three years.<sup>17</sup>

A brief glance at the magnitude of some other justice numbers is an interesting although limited first attempt to test the reality presented by the numbers of civil justice problems. In 2005 there were 2.6 million incidents involving the Criminal Code, drug and other federal statutes. There were about 550,000 adults charged with offences in these categories. This represents about 2.4% of the adult population of Canada.<sup>18</sup> The results of the General Social Survey indicate that about one third of the adult population reported that they were a victim of some type of crime in 2004.<sup>19</sup> This would amount to roughly eight million Canadians. Among all forms of victimization, there were over 2 million incidents involving violence.<sup>20</sup> If the estimated numbers of civil justice problems are converted to a fifteen-month period to be more comparable to these annual numbers, about 2.5 million Canadians experienced one or more serious and difficult consumer problems, about 2.0 million experienced at least one employment problem and about 2.3 million experienced a serious debt problem. About 410 thousand people experienced a relationship breakdown problem that was serious and difficult to resolve, presumably where the resolution was not consensual. The numbers of serious and difficult to resolve civil justice problems begin to look reasonable on the surface against the other *justice* numbers.

More fundamentally, to have credibility, the results of the research must stand or fall on the paradigm assumptions and the methodology that has produced them.

The reader unfamiliar with the paradigm assumptions underlying the approach to measuring civil justice problems and the methodology that follows might rightly ask: what has been measured and how serious? Thus a brief discussion of the literature that forms the genealogy of this research will be informative.

<sup>17</sup> A three-year time period has advantages for data analysis because the larger numbers of problems and individuals allow for more robust statistical analysis.

<sup>18</sup> Statistics Canada, *Canadian Crime Statistics*, Catalogue 85-205, 2006.

<sup>19</sup> Kathy AuCoin and Diane Beauchamp, "Impacts and Consequences of Victimization, GSS 2004", *Juristat*, Canadian Centre for Justice Statistics, Statistics Canada, Catalogue 85-002-XIE, Vol. 27, No. 1 2007. p. 2.

<sup>20</sup> *Ibid.*, p. 1

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Much of the legal needs research from the 1930's<sup>21</sup> to the 1970's<sup>22</sup> equated legal need to the problems for which people seek the advice of a lawyer<sup>23</sup>. However, during the 1970's a critique of the lawyer-centered approach emerged that significantly broadened the definition of legal problems from problems that require the services of a lawyer to problems that are legal in nature but for which the formal justice system is only one, and perhaps not the best, option for resolving it.<sup>24</sup> From this critique a body of paradigm assumptions<sup>25</sup> emerged that have guided most research beginning with the 1994 American Bar Association Comprehensive Legal Needs study.

- People may not recognize that the problems they experience have a legal aspect or a potential legal solution.
- People may experience a variety of barriers (financial resources, knowledge about what to do, a strong sense of self-efficacy) to accessing assistance to resolve justiciable problems
- While justiciable problems are legal in nature, the formal justice system may not be the most appropriate or effective way to resolve the problem.

Thus the Comprehensive legal Needs Study carried out in the U.S. in 1994 defined legal need as "specific situations in which members of households were dealing with that raised legal issues – whether or not they were recognized as such or taken to some part of the civil justice system".<sup>26</sup> Similar to the American definition, Hazel Genn in the paths to justice research defines a justiciable 'event' as "a matter experienced by a respondent which raised legal issues, whether or not it was recognized by the respondent as being "legal" and whether or not any action taken by the respondent to deal with the event involved the use of any part of the civil justice system."<sup>27</sup> In the definition, Professor Genn uses the word 'event' in preference to the word problem. However, elsewhere it seems clear that a justiciable 'event' is equivalent to a problem or a potential problem where she writes that "questions included on the screening questionnaire covered the widest possible range of potentially justiciable problems, not merely the more obvious events that people would recognize as being potentially "legal" problems."<sup>28</sup>

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<sup>21</sup> C. Clark and E. Corstvet, *The Lawyer and the Public: An A.A.L.S. Survey* (1938) in *Yale Law Review*, 47, 1972-73.

<sup>22</sup> Barbara Curran, *The Legal Needs of the Public: The Final Report of a National Survey*, American Bar Association, Chicago, 1977.

<sup>23</sup> A brief review of the early literature is found in Pascoe Pleasence, Alexy Buck, Tamara Goriely, Jenny Taylor, Helen Perkins and Hanna Quirk, *Local Legal Need*, Research Paper 7, Legal Services Research Centre, London, 2001, pp. 8 – 11.

<sup>24</sup> P. Lewis, "Unmet Legal Need" in P. Morris, R. White and P. Lewis, *Social Needs and Legal Action*, Martin Robertson, Oxford, 1973; F.R. Marks, "Some Research Perspectives for Looking and Legal Needs and Legal Services Delivery Systems", *Law and Society Review*, 11, 1976; J. Griffiths, "A Comment on Research into Legal Needs", in E. Blankenburg (ed.), *Innovations in Legal Services*, Oelgeschlarer, Gunn and Hain, Cambridge, Mass., 1980.

<sup>25</sup> The term paradigm as used here follows the work of Robert Merton. Merton used the term to refer to the body of assumptions, concepts, empirical facts and basic propositions that guide the research questions and methodology in a field of study; see Robert K. Merton, *Social Theory and Social Structure* (enlarged edition), The Free Press, 1968. p. 69. This contrasts with the much broader and more common use of the term paradigm by Thomas Khun that refers to the set of assumptions adopted by a scientific discipline in a historical epoch; see T. S. Khun, *The Structure of Scientific Revolutions*. In the narrower use of the term according to Merton, the set of assumptions, facts, concepts and propositions guide the accumulating body research in a field of study

<sup>26</sup> *Supra*, footnote 7, p.

<sup>27</sup> Genn, 1997, p. 12

<sup>28</sup> *ibid.*, p. 15

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The paradigm assumptions underlying the entire body of contemporary research on justiciable or legal problems have one main implication for methodology. The basic data on the incidence of problems must be gathered by means of survey research in which people self-report the occurrence of problems with legal content.<sup>29</sup> The basic form that the research takes is similar to all the studies noted in Table I. A screening section presents a comprehensive set of problems carefully designed to have legal content. Thus the legal content of problems is not problematic. In order to limit problems to those that are serious or non-trivial, threshold language is used in the questionnaire, asking respondents to identify problems that were "difficult to resolve"<sup>30</sup> or problems that were "serious and difficult to resolve."<sup>31</sup> An important feature of this method is that self-reported problems that are serious and difficult to solve are subjective judgments by respondents. The subjectivity gives rise to a degree of caution in interpreting the data on incidence of problems and, even more so, when the occurrence of justiciable problems is so ubiquitous as to approach a normal state of affairs. Given the subjectivity inherent in the method, the robustness of the threshold language for identifying truly serious problems is a concern.

In the present study respondents were asked two questions near the end of the interview in order to further examine the level of seriousness they attached to the problems they reported in the problem identification section of the questionnaire. Respondents were asked how difficult the problem had made their daily lives and how much they had wanted to resolve the problem. Responses to each of the questions was scored on a four point scale ranging from extremely difficult to not difficult at all and extremely important to not important at all, respectively.

Overall, 58.9 % of respondents said that the problem had made their day-to-day lives somewhat to extremely difficult and 86.7 % said that resolving the problem was somewhat to extremely important. This second look represents subjective assessments of respondents, as are the meanings attached to the threshold language in the screening questionnaire. It has both the virtue and the vice of looking at the problems from the point of view of the people experiencing them. Nonetheless, it gives a reassuring assessment of the robustness of the threshold language.

Table III shows the percentages of respondents who indicated that the problem was somewhat or extremely disruptive and who said it was somewhat to extremely important to resolve the problem, separately for the fifteen problem types.

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<sup>29</sup> This applies to survey research that can be generalized to large populations. Jon Johnsen suggests that action research studies using legally competent interviewers could more accurately assess the legal nature of problem situations. See Jon Johnsen, "Legal Needs Studied in a Market Context", in Francis Regan, Alan Paterson, Tamara Goriely and Don Fleming, *The Transformation of Legal Aid: Comparative and Historical Studies*, Oxford University Press, Oxford, 1999. p.216.

<sup>30</sup> *Supra*, Footnote 27, Appendix C, p. 290

<sup>31</sup> Questionnaire for the Causes of Action research, *supra* footnotes 10 and 11; and A. Currie, *supra* footnote 4



Table III: The Perceived Seriousness of Civil Justice Problems

Problem Type	Problem Was Disruptive to Daily Life				Important to Resolve Problem			
	Extremely or Very	Somewhat	Not Very or Not At All	Number	Extremely or Very	Somewhat	Not Very or Not at All	Number
Consumer	12.6%	29.9%	57.5%	1463	47.5%	33.7%	18.8%	3402
Employment	33.8%	34.8%	37.4%	1413	63.9%	24.2%	11.9%	1821
Debt	18.7%	30.9%	50.4%	1432	55.4%	28.5%	16.1%	1737
Social Assistance	37.5%	39.6%	22.9%	48	62.5%	12.5%	25.0%	24
Disability Pensions	60.4%	29.2%	10.4%	48	83.3%	16.7%	0.0%	36
Housing	31.2%	36.6%	32.2%	93	65.8%	26.3%	7.9%	114
Immigration	35.3%	47.1%	17.6%	34	92.8%	7.2%	0.0%	42
Discrimination	38.5%	31.9%	29.6%	91	41.9%	25.6%	32.5%	93
Police Action	27.5%	29.4%	43.1%	102	45.2%	38.7%	16.1%	93
Relationship Breakdown	41.2%	44.0%	14.8%	243	86.3%	6.9%	4.8%	219
Other Family Law Problems	52.9%	39.7%	7.4%	68	93.8%	3.1%	3.1%	96
Wills and Powers of Attorney	28.0%	40.4%	31.6%	322	81.9%	11.9%	6.2%	480
Personal Injury	53.1%	31.3%	15.6%	160	86.5%	10.5%	3.0%	201
Hospital Treatment or Release	55.4%	24.1%	20.5%	83	86.0%	8.0%	8.0%	75
Threat of Legal Action	21.6%	35.3%	43.1%	51	40.0%	30.0%	30.0%	30

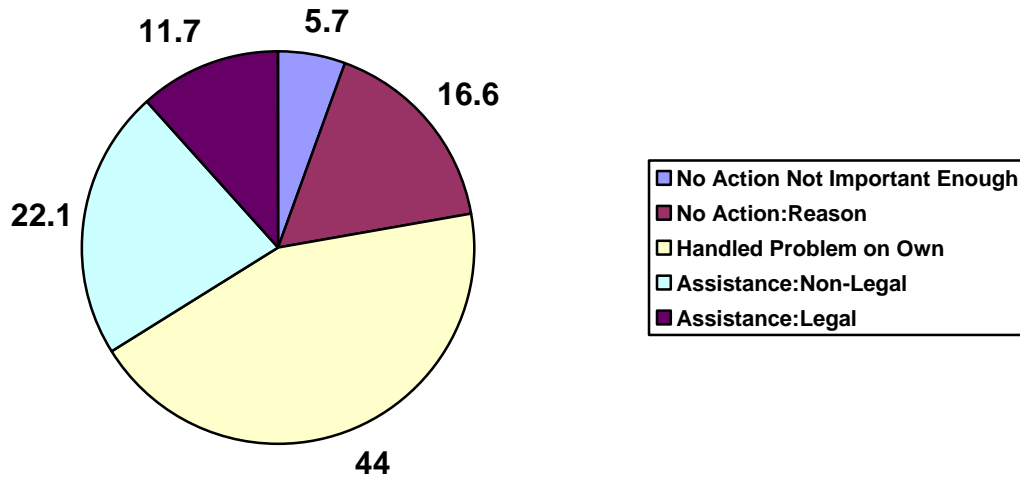
These responses could be applied to the incidence levels of problems initially established using the problem identification section of the questionnaire, reducing the incidence of problem types.<sup>32</sup> However, on strictly logical grounds, a problem need not be disruptive of one's day-to-day life to be a serious or potentially serious legal problem. Similarly, strictly speaking, it is not necessary that a respondent want to resolve a problem for it to be a serious or potentially serious. There is a degree of elasticity in the incidence of problems due to the fact that problem identification is based on subjective responses. However, it seems clear that the methodology produces reasonably robust results. The ubiquitous quality of civil justice problems is a real feature of modern life. The fact that problems are so frequent as to be nearly normal is more a cause for concern than for dismissing them as merely the problems of everyday life.

<sup>32</sup> See Currie, 2007a, Chapter 4 for a more detailed analysis.

### What People Do About Civil Justice Problems

Overall, only 11.7% of all problems in this survey were resolved in a court or administrative tribunal. Thus it is of interest in research of this type to examine how people attempt to resolve their legal problems and how well they manage. Figure I presents the basic types of responses made by respondents to their justiciable problems.

Figure I: Responses to Justiciable Problems



In the largest percentage of cases, 44.0%, respondents said they solved the problem on their own with no other form of assistance. The second most frequent response was to seek help from a source other than a legal professional, 22.1 %. Respondents sought legal assistance in only 11.7 % of problems. In total, respondents said they took no action to resolve 22.2 % of all problems. This included 16.5% in which no action was taken because the respondent faced some barrier or inhibition to talking action and 5.7 % in which the respondent felt that the problem was not serious enough.<sup>33</sup>

Because most people do not obtain professional advice to deal with their problems it is important to know something about the kinds of problems that are related to the different responses, the types of people who respond in different ways and the success those people have dealing with problems.

#### I Took No Action Because the Problem Wasn't Important Enough

Overall, respondents said they chose not to attempt to resolve the problem, thinking that it was unimportant in about the problem in 5.7% of all problems. The type of problem that respondents

<sup>33</sup> Respondent's saying that the problem was not important enough to take action is certainly a contradiction with the threshold language of the questionnaire, "serious and difficult to resolve". These responses are used as a triviality screen and eliminated from the sample. (See Genn, 1999, p. 13) However, respondents could incorrectly perceive a problem to be unimportant, only to discover later that it had serious unanticipated consequences. This is consistent with the paradigm assumption that people may not recognize the legal aspects of their problems. This it seems reasonable to include these problems for all parts of the analysis.

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were most likely to feel was not important enough to attempt a resolution were problems related to police action. Respondents took no action because the problem was not important enough in 11.7 % of all police action problems. This was followed by problems related to discrimination, in which respondents said that 9.9% of problems of this type were not important enough to attempt to find a solution. The percentage of respondents for whom the problem was not important enough to attempt a solution was above the average of 5.7% for three other problem types. These were employment problems, 7.4%, consumer problems, 6.8%, and problems related to hospital treatment and release, 5.8%. In total the five problems for which a greater than average percentage of respondents experiencing problems of that type made up 71% of all problems falling into the no action: not important enough group. In all of the other problem types a smaller than average percentage of respondents said the problem was not important enough.<sup>34</sup>

Young people aged 18 to 29 and members of visible minority groups were the only two groups that were likely not to respond to problems thinking that problem was not important enough. The results of the binary logistic regression examining predictors of this response are presented in Table IV. The relationship between fairness and experiencing a problem is expressed as an odds ratio.<sup>35</sup> Notably, younger people are twice as likely as all others, with an odds ratio of 2.0, to take no action because of a perception that the problem is unimportant. Intuitively, an odds ratio of about 2.0, indicating that respondents in one category are twice as likely as all others to be in some other category, is substantively significant.

Table IV. Predictor Variables for Taking No Action: Not Important Enough

Predictor Variable	Estimate	Chi-Square and Probability	Odds Ratio and (Confidence Interval of the OR)
Intercept	2.6	$\chi^2 = 76.2, p = <.0001$	
Age18 to 29	0.69	$\chi^2 = 7.4, p = .007$	2.0 (1.2 to 3.2)
Visible Minority	0.40	$\chi^2 = 7.5, p = .006$	1.5 (1.1 to 2.0)

<sup>34</sup> The total “n” for this subgroup was 317. The chi-square value for the source table was 1299.9, p. =<.0001

<sup>35</sup> The odds ratio expresses the number of times more likely people experiencing one or more problems are to feel that the laws and the justice system are unfair.

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### I Took No Action, But I Had a Reason

A second group of respondents took no action to resolve the problem, but failed to act because of a variety of perceived barriers. Table V shows the barriers to action reported by respondents.

Table V. Barriers to Action

Reasons for Not Taking Action	Number	Percent
Thought nothing could be done	317	33.6%
Was uncertain of my rights	99	10.5%
Didn't know what to do	22	2.3%
Thought it would take too much time	94	10.0%
Thought it would damage relationships with the other side	83	8.8%
Thought it would cost too much	60	6.4%
Thought the other side was right	47	5.0%
Was too afraid to take action	25	2.7%
Thought it would be too stressful	49	5.2%
Other reasons	146	15.5%
Total	942	100.0%

Taking all problem types into account, respondents took no action for one of the reasons in Table V in 16.5% of all problems on average. There were six problem types for which respondents took no action more than the average. The two problem types for which respondents most frequently took no action because of a perceived barrier were, first, discrimination and second, police action. The percentages of problems for which this response occurred are significantly greater than the average of 16.6; 39.6% for problems related to discrimination and 36.9% of problems related to police action. These are the same two problems for which respondents were most likely not to take action because the problem was not important enough. Respondents were more likely than the average not to take action for a reason in four other types of problems. In order of the magnitude of the difference from the average, these were 19.2 % of employment problems, 19.3% of employment problems, 18.6% of problems relating to hospital treatment and release, 17.8% of consumer problems, 17.1% of immigration problems and 16.7% of problems involving disability pensions. In total the eight problems for which a greater than average percentage of respondents experiencing problems of that type made up 97% of all problems falling into the no action: for a reason group.

Four vulnerable groups were likely to fail to respond to problems because of some perceived or actual barrier to accessibility of assistance. These were immigrants, Aboriginal people, people with less than high school education and people with incomes of less than \$25,000.

Table VI. Predictor Variables for Taking No Action: Barriers to Accessibility of Assistance

Predictor Variable	Estimate	Chi-Square and Probability	Odds Ratio and (Confidence Interval of the OR)
Intercept	1.6	$\chi^2 = 72.9, p = <.0001$	
Immigrants	0.53	$\chi^2 = 29.2, p = <.0001$	1.7 (1.4 to 2.1)
Aboriginal	0.65	$\chi^2 = 16.6, p = <.0001$	1.9 ( 1.4 to 2.6)
Less Than High School	0.60	$\chi^2 = 17.0, p = <.0001$	1.8 (1.3 to 2.4)
Less Than \$25,000 Per Year	0.27	$\chi^2 = 5.3, p = .02$	1.3 (1.0 to 1.7)

### I Took Care of It On My Own

The most frequent response to problems was to attempt to deal with it on one's own. Self-help was the response to 44.0% of all problems. The percentage of respondents who chose the self-help option exceeded the average in four problem types. These were debt, 59.4%, consumer problems, 58.7%, problems related to social assistance, 55.1% and problems related to hospital treatment and release, 48.8%. Taken together, these four problems for which a greater than average percentage of respondents experiencing problems of that type made up 71% of all problems falling into the no action: for a reason group.

Analysis of demographic variables related to being a self-helper suggests that middle age<sup>36</sup> and middle income<sup>37</sup> respondents were most likely to choose the self-help option. The relationships were statistically significant although very weak. These relationships were not statistically significant in the multivariate analysis.

Respondents in the self-help group were less likely to feel that the outcome of the problem was unfair, 39.5%, than fair, 58.7%. This contrasts with the two groups where respondents took no action in which respondents were more likely to perceive the outcomes to have been unfair. In addition, the self-helpers were relatively unlikely to have abandoned attempts to resolve their problems. Only 6.8% of the self-help group reported having abandoned attempts to resolve problems compared with the 13.2% and 15.3% in the took no action because it was not important and took no action for a reason groups, respectively.

Respondents who indicated they had attempted to resolve the problem on their own were asked if, in retrospect, they thought the outcome of their problem would have been better if they had obtained some form of assistance. About 42% (42.1%) of the self-help group thought that assistance would have improved the outcome for them.<sup>38</sup> This was most pronounced for respondents with immigration problems. Respondents with immigration or refugee problems who attempted to help themselves indicated that assistance would have improved the outcome for 72.7% of all problems. Following closely were respondents with problems in the other family law category. Self-help respondents indicated that some assistance would have improved the outcome in 71.4% of all other family law problems. In descending order, respondents felt that, in retrospect, assistance would have resulted in a better outcome in 62.5% of problems involving disability benefits; 55.0% of personal injury problems; 54.5% of problems stemming from police action; 52.5% of employment problems; 48.1% of problems related to wills and powers of

<sup>36</sup> Age 45 to 64,  $\chi^2 = 6.4, p = .01$ , Odds ratio = 1.2, Confidence interval of the odds ratio = (1.0 to 1.3)

<sup>37</sup> Income \$45,000 to 64,000,  $\chi^2 = 7.6, p = .005$ , Odds ratio = 1.3, Confidence interval of the odds ratio = (1.1 to 1.5)

<sup>38</sup> n = 2442

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attorney; 47.8% of discrimination problems; 46.7% problems related to hospital treatment and release; 44.4% of social assistance problems; 42.3% of consumer problems; 41.4% of housing problems (n = 29); 38.8% of relationship breakdown problems and 36.8% of problems related to the threat of legal action.<sup>39</sup>

Overall 67.6% of respondents who said they believed in retrospect that some assistance would have improved the outcome of their justiciable problem felt that public legal information would have been beneficial, while 30.4% felt that having someone explain the law and assistance in completing letters and documents would have brought about a better outcome. Only 1.2% of respondents felt that an advocate to intervene on his or her behalf would have improved the outcome.<sup>40</sup>

### Non-Legal Assistance

Respondents sought non-legal assistance for 22.1% of the problems they had experienced. There were eight problem groups in which respondents were more likely to seek non-legal help than the average. The problem type for which respondents said they sought non-legal assistance was, somewhat surprisingly, personal injury, 42.2%. This was followed by employment, 35.8%, wills and managing the affairs of a relative unable to do so on his or her own, 35.7%, housing problems, 33.6%, disability pensions, 33.3%, Other family law problems, 23.5%, problems related to social assistance benefits and hospital treatment and release, 24.5%. The eight problems for which a greater than average percentage of respondents experiencing problems of that type (the average of 22.1% that sought non-legal assistance) made up 70% of all problems falling into the sought non-legal help group.

It is surprising that respondents sought non-legal help for problems in several of the problem categories. For instance, it might be expected that people would be less likely than average to seek non-legal help and more likely to seek the advice of a lawyer for personal injury problems. Similarly, for problems related wills and managing the affairs of infirm relatives, matters for which powers of attorney are required, one would not expect that people would be more likely than the average to seek non-legal assistance. This might reflect the reality that legal and non-legal aspects of problems are very much interrelated and that in some cases people did not think of the problem in legal terms. It could also reflect a lack of knowledge about what to do about a problem. Similarly, one would not expect this to be the case for family law problems. However, in this case, the course of action in certain cases might depend on the stage of the problem. People might well seek out non-legal sources of advice in the early stages of attempting to resolve the problem.<sup>41</sup> The survey did not collect sufficient detail about the sequence of different sources of advice and this cannot be explored further.

The groups that were most likely to seek non-legal help were the disabled, middle age and middle income people. The odds ratios indicate that the relationships are quite weak.

Table VII. Predictor Variables for Seeking Non-Legal Assistance

Predictor Variable	Estimate	Chi-Square and Probability	Odds Ratio and (Confidence Interval of the OR)
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<sup>39</sup> Source table : $\chi^2 = 81.3$ , p = .0001, Phi = .18

<sup>40</sup> n = 1051

<sup>41</sup> This category includes becoming the guardian of a child, child apprehension by the state, getting independent legal representation for a child, actual or potential child abduction and child suspended from school unfairly.

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Intercept	1.5	$\chi^2 = 66.7, p = <.0001$	
Disabled	0.41	$\chi^2 = 21.8, p = <.0001$	1.5 (1.3 to 1.7)
Age 45 to 64	0.40	$\chi^2 = 7.2, p = .007$	1.5 (1.1 to 1.9)
Income \$45,000 to \$64,000	0.18	$\chi^2 = 3.7, p = .05$	1.2 (1.0 to 1.4)

Similar to the self-help group, the people seeking non-legal assistance are less likely to feel that the outcomes of problems were unfair, 37.8 than fair, 60.0. They are not very likely to abandon attempts to resolve problems, 6.6%.

The non-legal assistance group sought information, advice and assistance from a variety of sources. Labour unions and government offices were the most frequent sources, followed closely by friends and relatives. The internet and print

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Table VIII: Sources of Non-Legal Assistance

Source of Assistance	Number	Per Cent
Unions	317	20.0%
Government Offices	241	18.3%
Friends and Relatives	216	13.7%
Other Organizations	83	5.3%
Police	63	4.0%
Support groups	30	1.9%
Internet	9	0.5%
Libraries/books	3	0.2%
Other sources	616	36.1%
Total	1578	100.0%

material are reported rather infrequently. Whether people who approached government offices and unions actually received printed or human contact assistance is unknown. However, these results may mean that people have a strong inclination to seek assistance from familiar sources or sources offering face-to-face contact.

The people who sought non-legal advice were, overall, highly satisfied with the assistance they received. Satisfaction was measured on a four-point scale ranging from "very satisfied" to "not satisfied at all". Combining all problems, respondents were very or somewhat satisfied with the non-legal assistance received for 89.9% of all problems. Table IX shows the percentage of respondents reporting they were satisfied with the assistance received, combining the very or somewhat satisfied responses, and those who were to some degree dissatisfied.

Table IX. Satisfaction With Assistance

Type of Assistance	Satisfied	Not Satisfied
Non-Legal Assistance	89.9% (152)	10.1% (17)
Legal Assistance	76.6% (49)	23.4%(15)

$$\chi^2 = 19.6, p = .001$$

#### Sought Legal Assistance

Respondents sought legal advice for 11.7% of all problems. It is not unexpected that respondents were far more likely than the average to seek legal advice for family law: relationship breakdown problems. People took this form of action for problems related to relationship breakdown in 48.8% of problems. Respondents sought legal advice for 47.1% of other family law problems. Respondents reported that they sought legal advice in 35.3% of problems in which they were served with a summons or received a threatening letter from a lawyer representing another party. The 35% figure seems low in this type of circumstance. Legal advice was the response by respondents in 21.2% of problems relating to wills and powers of attorney, 20.4% of problems resulting from police action, 16.8% of housing problems, 16.7% of problems relating to disability pensions and in 15.5% of personal injury problems and, finally, in 14.3% of problems relating to immigration and refugee matters. The nine problems for which a greater than average percentage of respondents experiencing problems of that type made up 50% of all problems falling into the sought non-legal help group. The lower percentage of problems for which respondents sought legal assistance more often than the average compared with other response groups is explained by the fact that people tend not to seek legal advice for the most frequently occurring problem types; consumer, debt and employment problems.



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As a group, the disabled are statistically likely to seek legal assistance. Problems with disability pensions are one of the problem types from which respondents are more likely than average to seek legal assistance. Second, people receiving social assistance are likely to seek legal assistance. However, social assistance is not a problem type for which people are likely to seek out legal help. It is possible that people on social assistance are more likely than others to use legal assistance because they are eligible for legal aid. Finally, respondents with small families, no children or one child, were likely to seek legal assistance. Although there are variations by problem type, combining all problems, higher income is not, as one might have expected, related to the use of legal assistance.

Table X. Predictor Variables for Seeking Legal Assistance

Predictor Variable	Estimate	Chi-Square and Probability	Odds Ratio and (Confidence Interval of the OR)
Intercept	2.3	$\chi^2 = 95.3, p = <.0001$	
Disabled	0.24	$\chi^2 = 4.7, p = .03$	1.3 (1.1 to 1.6)
Receiving Social Assistance	0.21	$\chi^2 = 3.4 p = .05$	1.2 (1.0 to 1.5)
None or One Child	0.27	$\chi^2 = 5.1, p = .02$	1.3 (1.0 to 1.6)

Interestingly, people who chose legal assistance as a response to problems are more likely to feel that the outcome of problems was unfair, 41.6% compared with 56.2% who felt that the outcome was fair. Table X presents the data on perceived fairness of outcomes for all response groups.

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Table XI. Responses to Problems and the Unfairness of Outcomes For All Response Groups

Outcome	Problem Responses				
	Took No Action Not Important	Took No Action Reason	Handled it on My Own	Non-legal Assistance	Legal Assistance
Fair	39.5%	31.8%	58.6%	60.0%	56.2%
Unfair	55.6%	64.4%	39.5%	37.8%	41.6%
Not Sure	4.9%	3.8%	1.9%	2.2%	2.2%

$\chi^2 = 159.9, p = <.0001$

As well, referring back to Table IX, a higher percentage of respondents who received legal assistance were not satisfied with the assistance they had received, compared with people having non-legal assistance. This is consistent with the results of a study carried out by the Canadian Forum on Civil Justice that found that some respondents felt that their situation had become worse after a lawyer had become involved in the case.<sup>42</sup> This effect maybe explained by the fact that the legal process can be lengthy with people experiencing a further loss of control and some exacerbation of the collateral damage to their lives.

Although they indicated they did not take action because they felt the problem was unimportant, a much higher percentage of respondents in this problem response group felt that the outcome of problems that had been resolved were unfair, 55.6% rather than fair, 39.5%. Compared with respondents who took some action to resolve the problem, a higher percentage felt that the outcome was unfair. Overall, 53.9% of all problems had been resolved at the time of the interview and, on average, for 44.3 % of these, respondents perceived the outcome to be unfair. It is interesting that the percentage of resolved problems for which respondents felt the outcome to be unfair is larger for the "did nothing; not important enough" response group is higher than the average. This may be taken as some indication that the problem was not entirely unimportant after all.<sup>43</sup>

### Multiple Problems

Problems frequently do not occur in isolation. A significant percentage of respondents had experienced multiple problems within the three-year period. Table XII shows the percentage of respondents with multiple problems.

<sup>42</sup> Mary Stratton and Travis Anderson, *The Social, Economic and Health Consequences of a Lack of Access to the Courts*, Department of Justice, Ottawa, 2006

<sup>43</sup> *Supra*, footnote 33

Table XII. Respondents Experiencing Multiple Problems

Individuals Reporting One or More and Higher Order Numbers of Problems		Individuals Reporting Specific Numbers of Problems	
No Problems	55.4%	No Problems	55.4%
One or More	44.6%	One Problem	18.3%
Two or More	26.4%	Two Problems	8.8%
Three or More	17.6%	Three problems	5.7%
Four or More	12.0%	Four Problems	3.4%
Five or More	8.4%	Five Problems	2.4%
Six or More	6.0%	Six Problems or More	6.0%

In addition, the risk of experiencing justiciable problems appears to be cumulative. That is, the risk of additional problems increases as the number of problems already experienced increases. Table XIII shows the proportions likely to experience additional problems given that a certain number have already occurred. The proportion of respondents who experienced one problem who then had a second problem is 0.323.<sup>44</sup> Since a simple proportion can be interpreted as risk, we can say that the risk of experiencing a second problem, having already experienced one problem is 0.323.

Table XIII: Cumulative Risk of Experiencing Justiciable Problems

Number of Problems Already Experienced	Probability of Experiencing Additional Problem
One	Two Problems .323
Two	Three Problems .394
Three	Four Problems .457
Four	Five Problems .406
Five	Six Problems .410
Six	Seven Problems .416
Seven	Eight Problems .385
Eight	Nine Problems .456
Nine	Ten Problems .400

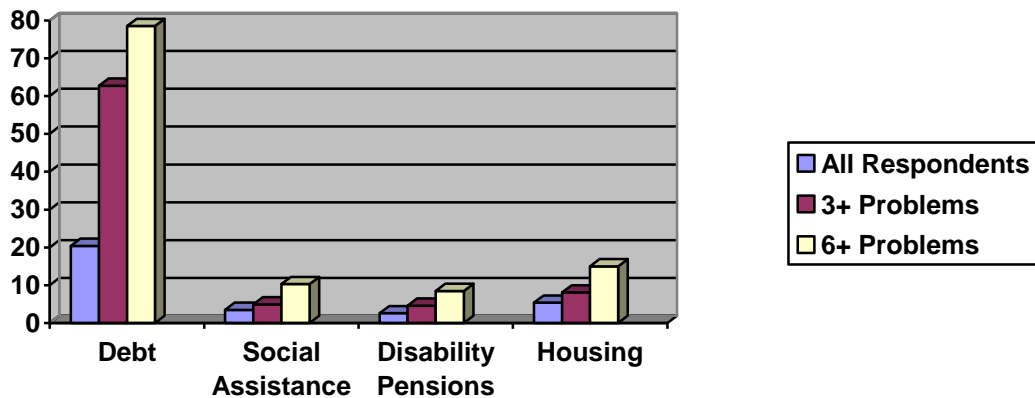
The progression is not perfectly linear. However, probability of experiencing three problems if the individual already has two increases to .394 compared with the probability of .323 of having a second problem for respondents who have already experienced one problem. The probability of experiencing four problems, among those who experienced three, increases to 0.457. After four problems the risk of each additional problem varies but, with one exception, remains higher than the risk of moving from one problem to two or from two problems to three. This provides some evidence that experiencing civil justice problems has a momentum. Problems tend to generate more problems, suggesting the trigger and cascade effect that is the core dynamic of the process of social exclusion.

The term social exclusion describes more than a condition in which people experience a cluster of interrelated problems. According to Giddens, social exclusion may also be viewed as a process by which people fall away from the social mainstream, from lives of self-sufficiency into lives of

<sup>44</sup> This is derived by dividing the number of respondents experiencing two problems (2) by the sum of respondents experiencing one problem (1) plus the number experiencing two problems (2), since those experiencing two problems have already experienced their first problem. Thus  $2/(1 + 2)$  provides a true proportion. Similar calculations are made for calculating the risk of successive problems.

dependency<sup>45</sup> If this is the case, then problems related debt, social assistance, disability pensions and housing should tend to occur more frequently as overall number of justiciable problems increases. This appears to be true. Whereas 20.4 per cent of all respondents indicated they had experienced a debt problem of some type, 62.7 per cent of respondents with at least three problems reported a debt problem, and 78.5 per cent of all respondents who reported six or more problems reported a debt problem. Debt appears to be an overwhelming problem for respondents with multiple problems. However, Figure II shows the same pattern for other problems types related to social exclusion; welfare benefits, disability pensions and housing. A housing problem, for example, was reported by 5.4 per cent of the total sample. About eight per cent of respondents who had three or more problems reported a housing problem and 15 per cent had six or more problems.

Figure II: Multiple Problems and Problems Related to Social Exclusion



respondents experiencing six or more problems reported a housing problem. The pattern of the increasing frequency of experiencing problems with social assistance and disability pensions with multiple problems is the same. Among all respondents 3.5% reported one or more social assistance problems. This increases to 4.9% of respondents among those reporting at least three problems and to 10.3% of respondents who experienced six or more problems. In a similar pattern, 2.6% of all respondents reported a problem with disability pensions. This increases to 4.6% and 8.5%, respectively, for respondents with three or more and six or more problems.

This is not a simple reflection of the random distribution of these types of problems. Taking social assistance problems as an example, 3.5% of all respondents reporting at least one problem have a problem of this type. The 4.9% of respondents with three or more problems having a social assistance problem represents a 40% increase. The 10.3% of respondents having six or more problems reporting a social assistance problem represents a 110% increase over the group with three or more problems. This is a geometric pattern of increase that also holds for both disability pensions and housing problems. Problems related to debt display a different pattern. There is a large 200% increase from the 20.4% of all respondents having at least one problem with a debt problem to 62.7% of all respondents with three or more problems. The percentage increase from the 62.7% of respondents with at least three problems to the 78.5% of respondents with six or more problems is 25%. This is a progressive increase, but not a geometric pattern. Overall, the predominant geometric pattern of increase in the incidence of these types of problems for people with at least one, at least three and at least six problems suggests that the progressively larger number of problems typifying social exclusion is systematic rather than random. It suggests that social exclusion is a property of increasingly large clusters of justiciable problems.

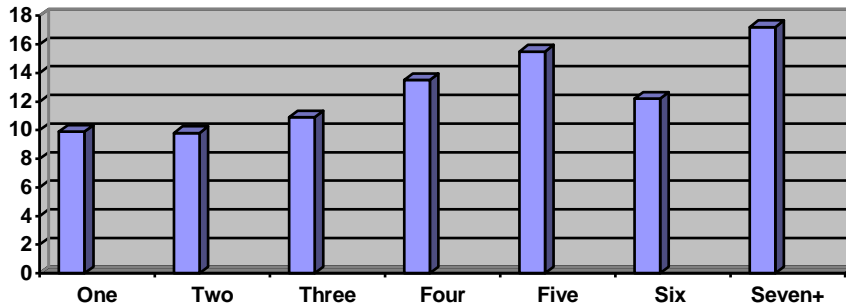
<sup>45</sup> Giddens, A., *The Third Way*, Polity Press, Cambridge, 1998. p.104.

Table XIII: Problems Related to Social Exclusion: Patterns of Increase

Number of Problems	Debt		Social Assistance		Disability Pensions		Housing	
	%	% Increase	%	% Increase	%	% Increase	%	% Increase
At Least One	20.4%	--	3.5%		2.6%	--	5.4%	--
Three or More	62.7%	200%	4.9%	40%	4.6%	77%	8.1%	50%
Six or More	78.5%	25%	10.3%	110%	8.5%	85%	15.0%	85%

It is also true that respondents report that the situation surrounding unresolved problems has become worse as they experience increasing numbers of problems. Figure III shows the percentage of respondents who say the situation surrounding an unresolved problem has become worse according to the number of problems experienced. Whereas 9.9% of people with one unresolved problem said the situation had become worse, 17.2 % of respondents with seven or more problems indicated that the situation had become worse.

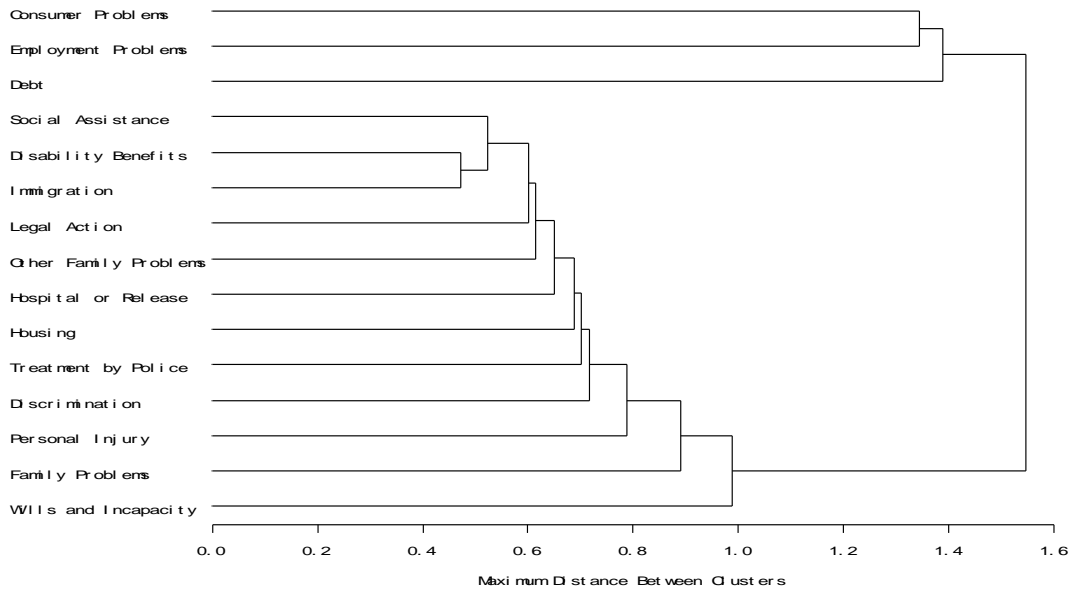
Figure III: Percent of Respondents Indicating That Situations With Unresolved Problems Have Become Worse



### Problem Clusters

Previous research has focused on the clustering of justiciable problems. Not only do problems tend not to occur in isolation, in fact, they tend to occur in according to distinct patterns. In analyses of data collected in 2001 and in 2004 Pleasence has identified a number of problem clusters, connecting family law problems and domestic violence, homelessness and police action and an economic cluster linking consumer, debt and several other problem types<sup>46</sup>. A standard cluster analysis was performed on the data.<sup>47</sup> The tree diagrams shown below present the results of the cluster analysis.

Figure IV: Dendrogram For Cluster Analysis Two or More Problems



The cluster analysis including all multiple problems did not distinguish a very clear pattern of clustering. The only clear pattern of clustering links consumer, employment and debt problems.

<sup>46</sup> Pascoe Pleasence, et. al., *Causes of Action* and Pascoe Pleasence, *Causes of Action*, 2<sup>nd</sup> Edition, pp. 65 – 72.

<sup>47</sup> Charles H. Romesburg, *Cluster Analysis for Researchers*, Lifetime Learning Publications, Belmont, California, 1984

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Consumer and employment problems are most closely linked. These two are linked in a cluster of three problem types with debt problems. Immigration problems are linked with disability benefits problems. In turn, this pair is linked with problems related to social assistance. Otherwise the tree diagram seems to grow progressively as the remaining problem types are added as they are added, showing little evidence of clustering.<sup>48</sup>

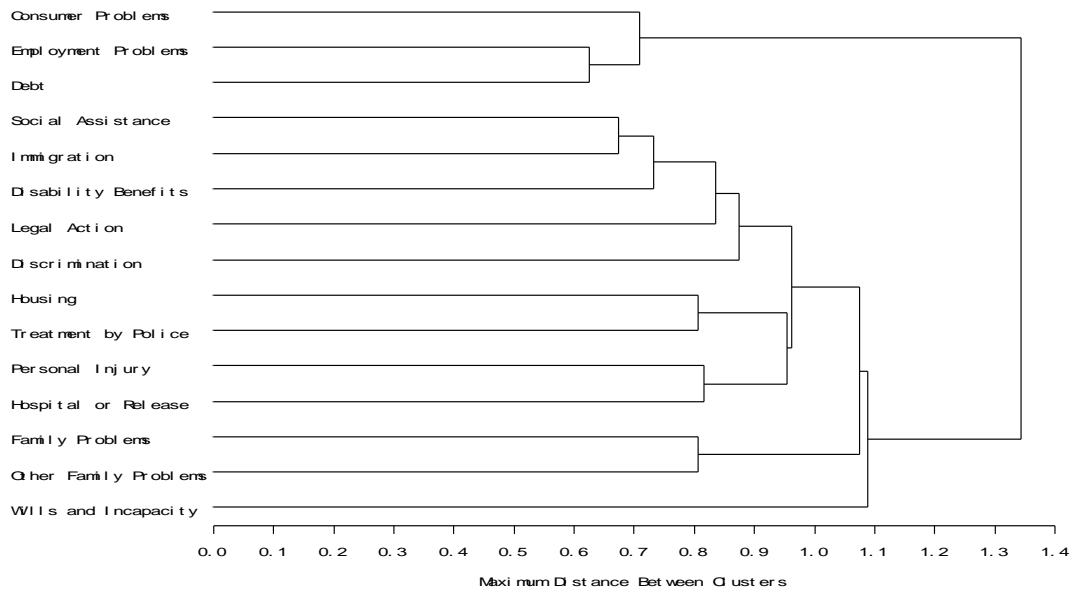
Figure IV shows the results of a similar cluster analysis carried out using respondents reporting five or more problems. Clusters appear much more distinctly for this high order multiple problem group.<sup>49</sup> The same cluster of debt, employment and consumer problems appear clearly. Again, immigration, disability pensions, and social assistance problems appear as a cluster. However, for the multiple problem group, threat of legal action appears as part of the cluster. This could be linked either to appeals related to aspects of the refugee or immigration process, or to problems related to obtaining social services and disability pensions. Problems related to housing and to problems stemming from police action are linked in the tree diagram showing the results of the cluster analysis of multiple problem respondents. The exact nature of the linkage is unclear. It is possible this represents a set of general background circumstances in which the people most likely to report housing problems live in lower socio-economic status neighbourhoods and are more likely to come into contact with the police.

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<sup>48</sup> This pattern resembles the chaining effect described in footnote 29, although the correction for chaining was used.

<sup>49</sup> Cluster analysis was performed for respondents with two or more, three or more and four or more problems. Clear clustering patterns did not emerge for any but the group with five or more problems. Small numbers precluded cluster analysis on respondents with 6 or more problems.

Figure V: Dendrogram For Cluster Analysis Five or More Problems



Personal injury problems and problems related to hospital treatment and release are clearly related. These are linked to the housing and police action problems and, in turn, to the cluster containing social assistance and disability benefits problems. Finally, relationship breakdown problems and other family law problems form a primary link for multiple problem respondents. These two problem types are connected more generally with other types of problems. Finally, problems related to wills and powers of attorney appear to stand apart from the others.

This shows clearly that the clustering of justiciable problems becomes more pronounced for people experiencing multiple problems, especially higher order multiple problems. This draws attention to the process of social exclusion, which can be described generally as a process by which multiple, linked problems. The fact that clustering appears more clearly with multiple problem respondents provides further evidence of social exclusion.

### Trigger Problems

The standard cluster analysis displayed above links problems using statistical methods. The causal connections among the problem types making up clusters are inferred theoretically. Pleasence, et. al point out “[p]roblem types do not have to cause or follow on from one another in order for a connection between them. Connections can also stem from coinciding characteristics of vulnerability to problem types, or coinciding defining circumstances of problem types.<sup>50</sup> However, the extent to which problems are connected is important because of the possibility that one problem can trigger another, and in turn, at least in some cases potentially setting off the cascade effect of multiple problems that produces social exclusion. Respondents with at least two problems were asked if they felt that one of the problems had been a trigger problem for the other(s).<sup>51</sup> In 29.2 per cent of the problems reported, respondents felt that one

<sup>50</sup> Pleasence, et, al, 2006. p. 65.

<sup>51</sup> The questionnaire did not attempt to identify time ordered strings of problems or to ask respondents about causal chains of multiple problems. Experience from the 2004 survey was that asking year and month of the occurrence of problems to allow time ordering produced too much missing data at the month level. Thus the ability to create problem strings was limited. Therefore, in the 2006 survey respondents were asked to identify triggers. In this case, however, it was decided that asking respondents



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problem had been a trigger for subsequent problems.<sup>52</sup> In other words, there had been a causal relationship between the problems. Figure V represents the pattern of trigger and consequent problems. The arrows turning back on the boxes representing

Figure VI: Trigger Effects Among Problem Types

problem categories represent trigger and consequence linkages involving specific problems within problem categories. The arrows between the problem types represent triggers and consequences between problem types. The arrows indicate the direction of the trigger-consequence links. The numbers beside the arrows represent the number of times a problem of that type was reported as a trigger problem.

Problems in ten of the fifteen problem types produced trigger effects within- and between problem categories. Problems related to social assistance, disability pensions, immigration, hospital treatment and release and housing were not triggers for other problems in this sample. The largest number of trigger effects occurred within problem types, with 227 incidents reported across all categories. Employment problems had the greatest number of trigger effects, a total of 90. Other problem types that were triggers within the same problem categories were: family: relationship breakdown (59), consumer (25), debt (25), wills and powers of attorney (12), police action (9) and personal injury (7).

Respondents reported about half as many triggering events between problem categories as within problem categories, 150 in all. Debt problems as a trigger for consumer problems was the most frequently-reported causal connection: debt consumer (25). This was followed by trigger and consequence linkages

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with higher order multiple problems about sequences was too complex and time-consuming for the telephone interview .

<sup>52</sup> The specific wording of the questions was: "Do you feel that any of these problems are connected with one another? That is, one of them might have caused or contributed in some way to the other." Then: "If yes, which one of these problems would you say was the trigger problem?"

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between employment debt (18), relationship breakdown debt (10), relationship breakdown legal action (9), relationship breakdown other family (8), employment consumer (8), debt legal action (8), discrimination employment (8), personal injury employment (8), consumer employment (7), consumer legal action (6), relationship breakdown consumer (5) and personal injury debt (5).

Problems related to police action and problems involving wills and powers of attorney are self-contained, with no linkages to other problem types. Other family problems are related only to relationship breakdown problems. Discrimination problems are related only to employment problems. The threat of legal action is a consequence of three problems, family: relationship breakdown, debt and consumer but has no triggering effect.

#### Problem Clusters Based on Trigger Problems

The standard cluster analysis did not produce clearly defined problem clusters. It is possible, having identified problem triggers, to revisit problem clustering around trigger problems. Approaching the data this way, there are five identifiable clusters. The largest cluster of problem types is triggered by family law: relationship breakdown. Debt, threat of legal action, other family law problems and consumer cluster around relationship breakdown. Another cluster is triggered by consumer problems; legal action and debt. Another, triggered by personal injury involves employment and debt problems.

#### **Not in Legal Silos, Societal Impacts of Justiciable Problems**

Because life is more seamless than compartmentalized, justiciable problems occur in clusters, not only of types of justiciable problems, but also with types of problems that do not have clearly legal aspects. Other research suggests there are many connections between justiciable and other kinds of problems.<sup>53</sup>

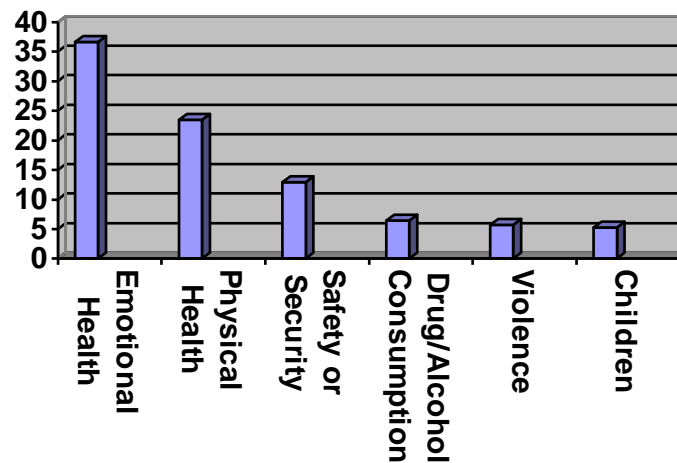
For a large percentage of respondents, experiencing a justiciable problem adversely affected their general quality of life. As noted above in the discussion about the robustness of the threshold language for discerning serious problems, respondents were asked whether the problem(s) had made their daily lives difficult. Almost 60% indicated that this was a consequence of having experienced justiciable problems. About 11% said that the problems made day-to-day life extremely difficult, 14.7% said that their lives had been made very difficult and 33.2% reported day-to-day life was somewhat more difficult as a result of the justiciable problem.

In addition to adverse effects on overall quality of life, respondents were asked if the justiciable problems they experienced had contributed to or caused adverse effects in several areas of life. These were; consequences for physical and mental health, on patterns of alcohol or drugs use, on the occurrence of violence in family and other areas of personal life and on feelings of personal safety and security. Overall, 38.1% of all respondents with one or more problems reported having a health or social problem that they attributed directly to a justiciable problem.

#### Figure VI: The Health and Social Impacts of Justiciable Problems

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<sup>53</sup> P. Pleasence, N.J. Balmer, A. Buck, A. O'Grady and H. Genn, *Civil Law Problems and Morbidity*, *Journal of Epidemiology and Community Health*, 58, 2004 and Alexy Buck, Nigel Balmer and Pascoe Pleasence, *Social Exclusion and Civil Law: Experience of Civil Justice Problems Among Vulnerable Groups*, *Social Policy and Administration*, Vol. 39, No. 3, 2005.



Extreme stress or emotional problems were the most frequently cited impact of experiencing justiciable problems, with 36.6% indicating they had experienced a problem of this nature. This was followed by physical health problems, 23.5%, feelings of threats to one's security and safety, 12.9%, increased consumption of alcohol or drugs, 6.4%, threatened or actual violence, 5.7% and, finally, problems with children, 5.3%.

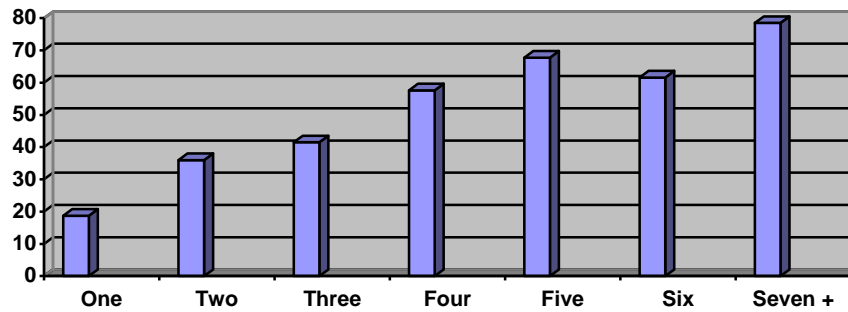
*Problem Types:* The percentage of respondents reporting a health or social problem related to a justiciable problem is considerably higher than the average for particular problem types. For example, respondents experiencing a problem in the other family law category reported that they experienced a health or social problem in 81.7% of all cases. Respondents experiencing problems in the relationship breakdown category indicated that they had a health or social problem that could be related directly to the justiciable problem in 69.0% of all problems. Respondents reported a health or social problem related to 63.1% of all problems related to discrimination. Respondents reported a health or social problem in 37.8% of all consumer problems and in 43.0% of all problems related to debt.

#### Health and Social Problems and the Number of Justiciable Problems Experienced.

Health and social problems that can be directly attributed to justiciable problems are highly related to the number of problems experienced. Figure VII shows the percentage of respondents reporting a health or social problem according to the number of justiciable problems they reported during the three-year period. Clearly, the likelihood of health care or social problem impacts of justiciable problems is very sensitive to the number of justiciable problems experienced.<sup>54</sup>

Figure VII: Percent of Respondents Reporting a Health or Social Problem By Number of Justiciable Problems

<sup>54</sup> One problem = 18.7% (n = 227), two problems = 36.0% (n = 209), three problems = 41.5% (n = 157), four problems = 57.6% (n = 136), five problems = 67.7% (n = 109), six problems = 61.6% (n = 69), seven or more problems = 78.5% (n = 226).  $\chi^2 = 528.3$ ,  $p = .0001$ ,  $\Phi = .42$ .



This suggests that social exclusion, viewed as an interlocking complex of justiciable and non-legal problems, is related to the increasing number of justiciable problems experienced.

#### Vulnerable Groups and the Experience of Health and Social Consequences

People self-reporting as being disabled were 3.3 times more likely than the non-disabled to report all types of health and social problems combined as a consequence of justiciable problems.<sup>55</sup> It is assumed that the disability existed prior to the justiciable problem. Thus the link between justiciable problems and health and social consequences is assumed to represent a generalized high degree of vulnerability of the disabled to a range of consequences related to experiencing justiciable problems. As well, the unemployed<sup>56</sup>, people on social assistance<sup>57</sup> and people with incomes below \$25,000 per year<sup>58</sup> are all somewhat less than twice as likely as others to report health and social consequences. Several other groups also showed weaker tendencies to report health and social consequences of their justiciable problems. Respondents with three or more children were 1.4 times more likely than respondents with children to experience consequences overall.<sup>59</sup> Members of visible minority groups<sup>60</sup> and people aged 45 to 64 years of age<sup>61</sup> were also slightly more likely than other respondents to experience health or social consequences of justiciable problems.

Binary logistic regression showed that being disabled, on social assistance, unemployed, having three or more children and being middle aged (45 to 64 year of age) all have a statistically significant independent effect on experiencing health or social problems as a consequence of justiciable problems. The predictive power

Table XIV: Predictors of Health and Social Consequences of Justiciable Problems

Health and Social Consequences Combined	Estimate	Chi-Square	Probability	Odds Ratio and (Confidence Interval of the OR)
Intercept	- 1.8	71.1	.0001	--
Disabled	1.1	92.4	.0001	3.1 (2.1 to 5.0)

<sup>55</sup>  $\chi^2 = 140.59$ ,  $p < .0001$ , confidence interval of the OR (2.7 to 4.0)

<sup>56</sup>  $\chi^2 = 18.5$ ,  $p < .0001$ , OR = 1.9, confidence interval of the OR (1.4 to 2.5)

<sup>57</sup>  $\chi^2 = 32.0$ ,  $p < .0001$ , OR = 1.7, confidence interval of the OR (1.4 to 2.0)

<sup>58</sup>  $\chi^2 = 32.0$ ,  $p < .0001$ , OR = 1.8, confidence interval of the OR (1.4 to 2.1)

<sup>59</sup>  $\chi^2 = 8.4$ ,  $p < .004$ , OR = 1.4, confidence interval of the OR (1.1 to 1.8)

<sup>60</sup>  $\chi^2 = 7.0$ ,  $p < .0001$ , OR = 1.3, confidence interval of the OR (1.1 to 1.5)

<sup>61</sup>  $\chi^2 = 13.3$ ,  $p < .0001$ , OR = 1.3, confidence interval of the OR (1.1 to 1.5)

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Social Assistance	0.3	7.2	.007	1.3 (1.0 to 1.6)
45 to 64 years of age	0.1	10.2	.001	1.7 (1.3 to 2.1)
Unemployed	0.6	10.8	.001	1.8 (1.3 to 2.2)
Three or More Children	0.5	10.5	.001	1.6 (1.2 to 2.1)
R-Square for the Regression Equation = .15				

of the variables is relatively weak with the exception of disability.

### Perceptions of the Fairness of the Laws and the Justice System

Merely experiencing a justiciable problem is associated with an unfavourable attitude toward the law and the justice system regardless of subsequent negative or positive experience dealing with the problem. This is true even though the vast majority of people have no contact whatever with the formal justice system in the course of dealing with their problems. Respondents were asked to respond to the statement; "You feel that the laws and the justice system in Canadian society are essentially fair".<sup>62</sup> Overall, 67.8 % of the public felt that the laws and the justice system were essentially fair. This increased to 72% for people reporting no justiciable problems, but was only 62.5% for people reporting one or more problems.

Table XV. The Perceived Fairness of the Canadian Laws and Justice System<sup>63</sup>

Laws and the Justice System are Fair	No Problems		One or More Problems		Total	
	%	Partial Cumulative %	%	Partial Cumulative %	%	Partial Cumulative%
Strongly Agree	26.0%	--	21.0%	--	23.8%	--
Somewhat Agree	45.0%	71.0%	41.5%	62.5%	44.0%	67.8%
Somewhat Disagree	15.0%	--	18.5%	--	16.6%	--
Strongly Disagree	8.3%	23.3%	16.5%	35.0%	12.0%	28.6%
Neither Agree Nor Disagree + No Answer	4.7%		1.5%		3.6%	
Total	100% (n=3694)		100% (n=2971)		100% (N=6665)	

Remarkably, experiencing one or more problems in 14 of the 15 problem categories is also associated with a perception that the laws and the justice system are unfair. Table XVI shows the perceived fairness and unfairness of the justice system in relation to experiencing problems of distinct problem types. For this part of the analysis the fairness variable was transformed into a binary or two-category variable and run against the binary variable experienced no problems vs. experienced one or more problems in the category.

Table XVI. The Perceived Fairness of the Justice Laws and the Justice System and the Experience of Problem Types

<sup>62</sup> Responses were recorded on a four point scale ranging from strongly agree to strongly disagree with neither agree nor disagree accepted as a volunteered response.

<sup>63</sup>  $\chi^2 = 154.5$ ,  $p < .0001$

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Problem Type	Odds Ratio (Confidence Limit of the Odds Ratio)	Chi Square and Level of Statistical Significance
Consumer	1.6 (1.4 to 1.8)	$\chi^2 = 50.1, p < .0001$
Debt	1.7 (1.5 to 1.9)	$\chi^2 = 65.1, p < .0001$
Wills and Powers of Attorney	1.7 (1.4 to 2.1)	$\chi^2 = 22.5, p < .0001$
Employment	1.8 (1.6 to 2.1)	$\chi^2 = 80.6, p < .0001$
Disability Pensions	1.9 (1.1 to 3.1)	$\chi^2 = 6.2, p .01$
Housing	1.9 (1.2 to 2.7)	$\chi^2 = 10.5, p .001$
Discrimination	1.9 (1.3 to 2.7)	$\chi^2 = 12.3, p < .0001$
Family Law: Relationship Breakdown	1.9 (1.5 to 2.6)	$\chi^2 = 23.2, p < .0001$
Social Assistance	2.1 (1.3 to 3.3)	$\chi^2 = 10.6, p .001$
Hospital Treatment and Conditions of Release	2.5 (1.7 to 3.9)	$\chi^2 = 23.5, p < .0001$
Personal Injury	2.5 (1.9 to 3.3)	$\chi^2 = 40.2, p < .0001$
Threat of Legal Action	3.2 (2.1 to 5.0)	$\chi^2 = 30.6, p < .0001$
Police Action	3.7 (2.6 to 5.3)	$\chi^2 = 60.7, p < .0001$
Immigration	Not statistically significant	

Respondents having problems related to police action are 3.7 times more likely than other respondents to feel that the laws and the justice system are unfair. On the lower end of the spectrum, respondents who experienced a consumer problem are only 1.6 times more likely to feel that the laws and the justice system are unfair.

Overall, combining all problem types, if the problem was resolved but the outcome was perceived to be unfair respondents were less likely to view the laws and the justice system as fair than those who felt that the resolution of their problem to have been fair. From Table VII we see that 66.9% of respondents felt the outcome of their problem was fair also felt that the laws and the justice system are fair. The percent feeling that the laws and justice system are fair declines to 57.9% for respondents who felt that the outcome of their problem or dispute was not fair.

Table XVI. Perceived Fairness of Resolved Problems and Perception of the Fairness of the Laws and the Justice System

Perception of the Laws and the Justice System	Perceived Fairness of the Outcome of Problems That Had Been Resolved		
	Fair	Not Fair	Not Certain
Fair	66.9% (1271)	57.9% (914)	% (44)
Unfair	31.2% (592)	39.5% (625)	% (39)
Not Sure	1.9% (36)	2.6% (41)	% (4)
	100.0% (1899)	100.0% (1582)	100.0% (87)

$\chi^2 = 39.1, p < .0001$

As one might expect, being dissatisfied with the assistance received is also related to perceived fairness of the justice system. For this summary analysis the level of satisfaction with all ten possible sources of assistance, scored with the same four point scale as described above,<sup>64</sup> were summed to create an overall index ranging from I to 4, from very satisfied to very dissatisfied. Splitting this index into a binary variable, satisfied and not satisfied, it was run against the binary variable indicating whether respondents perceived the laws and the justice system to be fair or unfair. The outcome is shown in Table XVII.

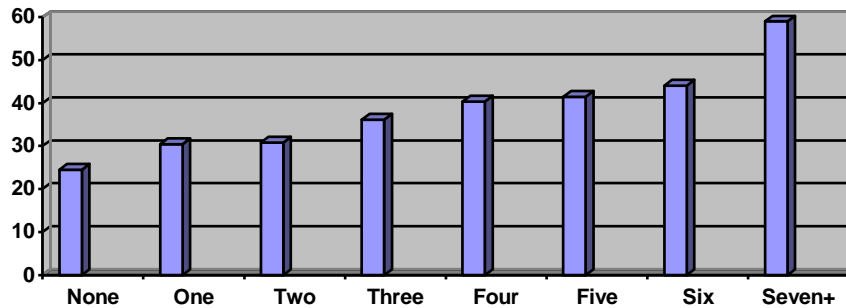
Table XVII. Perceived fairness of the Laws and Justice System and Satisfaction With Assistance

Perception of the Laws and the Justice System	Satisfied With Assistance	Not Satisfied With Assistance
Fair	62.5% (122)	53.1% (17)
Unfair	37.5% (73)	46.9% (15)
Total	100.0% (195)	100.0% (32)

Finally, experiencing multiple problems is also associated with the perception that the justice system is unfair. Figure VIII shows the percentage of respondents experiencing an increasing number of problems who perceived the laws and the justice system to be unfair.

<sup>64</sup> Supra, footnote 54

Figure VIII: Perceptions of Unfairness and Number of Problems<sup>65</sup>



The figure shows a generally linear progression in which 24.5% of respondents reporting no problems felt that the laws and the justice system were unfair, increasing to 59.0% for respondents reporting seven or more problems.

The laws and the justice system have the symbolic power and value of all important social institutions, and embody the core values of the society. Fairness is one of those values. Raymond Breton and his colleagues assert that “[F]airness is one of the yardsticks against which .....laws and regulations.....and the administration of justice....are assessed. ‘That’s not fair!’ is a definitive condemnation of the state of affairs in any domain of life.”<sup>66</sup> Thus the laws and the justice system are lightning rod for discontent that attract the negative attitudes of people who experience civil justice problems, even though they may never actually come into contact with the formal justice system. Because the justice system is a central social institution it is also one of the important dimensions along which people are integrated into the society.

## Conclusion

The paradigm shift that took place in the 1970’s and found its early expression in research in the 1994 Consortium on Legal Needs Research in the U.S. and in the 1997 Paths to Justice research in the U.K. focuses attention on a very broad framework for understanding the legal problems of the public. The results of the body of research that has grown in the wake of these two pioneering studies has documented that very large percentages of national and regional populations experience serious justiciable problems, and that problems are ubiquitous features of modern bureaucratic societies with extensive systems of civil law. It is frequently observed in the literature that justiciable problems are, from the point of view of the people who experience them, aspects of their everyday life. It might be easy, particularly from a conceptual vantage point outside the justiciable problems paradigm, to questions why these “problems” should be viewed as deserving of attention, especially if that attention comes at a cost to the public purse, and not just a sort of sociological truism, a natural consequence of societies characterized by extensive regimes of civil law.

This paper provides some reasons why justiciable problems as they are documented in this and other research are worthy of attention. Justiciable problems are important because they can adversely affect the quality of modern life. They matter to the people who experience them. The vast majority of people who experience problems want to resolve them. For a smaller number of people, but still a majority, the justiciable problems they experience range from somewhat to

<sup>65</sup> The chi-square for the source table is 205.2,  $p < .0001$ ,  $n = 6417$

<sup>66</sup> Raymond Breton, Norbert J. Hartman, Jos L. Lennards and Paul Reed, *A Fragile Social Fabric? Fairness, Trust and Commitment in Canada*, McGill-Queen’s University Press, Montreal, 2004, p. 32



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extremely disruptive to their daily lives. Justiciable problems are experienced in the seamless mesh of people's day-to-day lives. Thus a number of health and social problems can develop as a consequence of experiencing justiciable problems.

Justiciable problems appear to be integral aspects of patterns of disadvantage, alternatively described as social exclusion. Experiencing justiciable problems has an additive effect or a momentum. People are increasingly likely to experience additional problems with each problem already experienced. Approximately one fifth of the population represented by this study is likely to experience multiple problems. The larger the cluster of justiciable problems, the greater the likelihood of experiencing problems related to debt, housing, social services and disability benefits, problem types that may be among the signatures of social exclusion. The larger the number of problems experienced, the more likely that people will experience health and social problems that they attribute directly to the justiciable problems they have experienced and that are integral elements in the clusters of problems they experience.

People who experience justiciable problems are more likely to feel that the laws and the justice system are unfair. Fairness reflects a core value of justice as a social institution. The laws and the justice system seem clearly to be a lightning rod for discontent, even though the majority of people have had no contact with the justice system with respect to the problems they have experienced. The experience of justiciable problems may have implications for social cohesion, as well as for social exclusion. As a social institution, justice may be viewed as one of the institutions along which people are integrated into a society. The negative attitude toward the justice system, expressed as perceived unfairness, can be interpreted as a lack of social integration.

Of course, not everyone experiencing justiciable problems experiences adverse consequences. Most people appear to encounter problem, deal with them, and get on with life. However, this is not to say that even these people would not benefit from some level of assistance. A large percentage of the self-helpers in this study said, upon reflection, that some limited assistance would have improved the outcome of their problem.

It makes sense to look at need as a continuous, rather than as an "either/or" concept. A great deal of work remains before we understand how the occurrence of one or two problems takes on the trigger and cascade effect characteristic of the process of social exclusion. With respect to the provision of assistance to help people resolve the justiciable problems they face, the results of this research suggest that a continuum of service approach that is characterized by early stage intervention and preventative approaches. A continuum of service approach can be easily visualized as a cone lying on its side, the full range of justiciable problems at the wide end and the problems that will be resolved by the formal aspects of the justice system at the narrow end. The continuum of service approach is one that provides the appropriate response to the problem at hand, through public legal education and information and advice to assist self-help, mediation and other forms of out-of-court dispute resolution, and legal representation – progressive forms of assistance as appropriate for the resolution of problems. The continuum of service approach requires citizen friendly, accessible places to seek assistance, places that are the point of entry and the hub for referrals to a seamless network of access to justice services and to related social and health care services.

Figure IX. A Continuum of Service Model

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This approach to research on justiciable problems views legal problems and concepts of justice and of access to justice from the point of view of the people who experience them. This perspective locates access to justice in a broader policy framework than might be customary. Access to justice policy and services are linked to broader issues of public policy that reside outside of the traditional justice domain. The provision of access to justice services can play a part not only in alleviating or preventing justiciable problems, but also a broader range of social and health problems. This is because experiencing justiciable problems is one aspect of a larger process by which social disadvantage is created, as justiciable problems trigger both other justiciable problems and a range of health and social problems. Access to justice services can therefore play an important role in building an inclusive society, diminishing social disadvantage, dependency and the related cost to public services. Access to justice gives effect to full citizenship, assisting people without the means to do so themselves to resolve or avoid the problems that might limit their ability to enjoy the benefits that are the fundamental purposes of society.

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May, 2007  
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