



Trial experience, satisfaction and incentive to bring another lawsuit: Does aspiration level influence winners and losers?



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ARTICLE INFO

Article history:

Received 26 October 2010

Received in revised form 11 January 2013

Accepted 24 September 2013

Available online 2 October 2013

JEL classification:

K40

K41

L52

Keywords:

Trial experience

Lawsuit satisfaction

Future lawsuit

Winner

ABSTRACT

This paper used individual level data in Japan to explore how a complainant's past trial experience influences their satisfaction and incentive to bring a future lawsuit. Controlling for kinds of incidents and a complainant's individual characteristics, the major findings were; (1) there is a positive relationship between the experience and satisfaction for winners, whereas there is a significant negative relationship for losers, and (2) experience exerts a positive effect on the intention to bring a future lawsuit, not only for winners but also for losers. These results imply that, for losers, a past experience enhances the incentive to bring a future lawsuit, although the experience decreases a complainant's satisfaction.

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1. Introduction

In 1999, the Japanese government established the Justice System Reform Council (JSRC hereafter) with the aim of modifying the legal system. A central issue behind the creation of the JSRC was to facilitate greater access to Japan's legal system and to enable a greater number of people to initiate lawsuits. For this to occur, policy makers must investigate the incentives for people to use the legal system. However, empirical studies using precise statistical analysis on this matter are rare. Hence, the purpose of this paper is to explore how a complainant's past trial experience influences their satisfaction and incentives to bring a future lawsuit. In this analysis, aspiration effect and learning effect are explained as forces to determine the sign of focused effects within the framework of recently developed behavioral economics. It has been found that the experience of higher income increases aspiration levels, reducing the positive effect of an increase in income on satisfaction. This can be called the negative aspiration effect. From this, I derive the argument that a previous positive experience has a negative effect on satisfaction via the aspiration effect.

Individuals appear to adapt to circumstances as time passes (Myres, 1992, 2000). That is, experience can be considered to cause adaptation. In terms of welfare, it has been proposed that experience and previous conditions change people's aspiration level through an adaptation process that reduces people's satisfaction (e.g., Frey and Stutzer, 2002a,b; Stutzer, 2004). Change of aspiration level is useful for explaining the finding that economic growth is not associated with the happiness of people in developed countries over time (Easterlin, 1974, 1995). Besides the relationship between income and happiness, aspiration change has a significant role in the determination of people's satisfaction about outcomes of various economic behaviors. With respect to human behavior, as presented in habit formation theory, preference change is reflected in demand behavior (e.g., Pollack, 1970; Carroll et al., 2000). Hence, aspiration level is anticipated to influence not only satisfaction but also behavior.

There appear other channels through which experience has an effect on satisfaction and behavior. People can accumulate know-how through experience, resulting in improvements in efficiency. The more affluent people's experiences are, the lower cost people incur to achieve the same result. Hence, experience leads people to repeat the action. Also, assuming that people can acquire the same benefit from the action, people are more satisfied if the cost for the action becomes smaller. If this is the case, experience is positively related to satisfaction as well as behavior. The focus of this paper is

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to examine the extent to which learning from experience has an effect on satisfaction and behavior.

If the positive learning effect outweighs the negative aspiration effect on satisfaction, experience has a positive effect on satisfaction. On the other hand, if the latter outweighs the former, experience has a negative effect. Considering change of aspiration and efficiency improvement together, whether experience is positively associated with satisfaction and behavior is not evident. The effect of experience might depend on the degree of benefit people obtained. This is why, for instance, a negative aspiration effect on satisfaction disappears when the benefit becomes larger than the aspiration level. This paper, therefore, attempts to divide its sample according to benefit, and then to examine how experience affects not only satisfaction but also behavior.

In legal reform in Japan, policy makers aim to encourage people to bring lawsuits and so raise the satisfaction of those involved. For this purpose, a survey of those bringing civil actions was conducted. The survey data includes variables regarding the past experience of bringing a lawsuit, the result of the present lawsuit, self-rated satisfaction about the result of the lawsuit, and intention to bring a future lawsuit (for the purposes of this paper, “to reuse”). This data is seen as valuable for an analysis of satisfaction and behavior. Thanks to information about the result of the present lawsuit, the sample can be divided into winners and losers according to the relevant benefit from the lawsuit. The present paper uses this survey data since it allows me to compare the experience effect for winners with that for losers in the lawsuit.

The remainder of this paper is organized as follows. Section 2 establishes the setting for the study. Section 3 explains the data and methods used. Section 4 discusses the results of the estimations. The final section offers concluding observations.

2. Setting (Lawsuits in Japan)

The measure by which people choose to solve conflict appears to depend not only on economic conditions but also on psychological and cultural factors. For instance, in Japan, opinions vary about how Japanese people perceive an incident and resolve it. According to the classical work of [Kawashima \(1963\)](#), the harmonious nature of Japanese society discourages people from litigating. By contrast, [Ramseyer and Nakazato \(1999, Chapter 4\)](#) argued that despite the consensual nature of Japanese society, people do not ignore the law and assert their rights. [Ginsburg and Hoetker \(2006\)](#) find no supporting evidence for the hypothesis that cultural factors play a major role in Japan. It has been pointed out that because of the institutional incapacity of the legal system, judges and lawyers are not available in sufficient numbers, resulting in an increased cost of litigation ([Haley, 1978](#)). In response to these arguments, in 1999, the government of Japan established the JSRC to study basic policies for modifying the legal system. To increase the use of lawsuits, the legal reform presented by the JSRC had three pillars in order ([JSRC, 2001, Chapter I Part 3](#)).¹ One was to “meet public expectations”.² Therefore, the justice system would be made easier to use, easier to understand, and more reliable ([JSRC, 2001, Chapter I Part 3](#)).

¹ A number of studies examine the Japan's legal system in the field of economics (e.g., [Kinoshita, 2000, 2002](#); [Ginsburg and Hoetker, 2006](#); [Yamamura, 2008](#)).

² The other two pillars are “establishment of a popular base” and “the legal profession supporting the justice system”. For establishment of the popular base, the people need to deepen their understanding of the justice system through various forms of involvement including participation in certain legal proceedings, and shall support the justice system ([JSRC, 2001, Chapter 1](#)). Therefore, the lay judge system was introduced from 2009. For the purpose of supporting the justice system, and securing a legal profession that is rich both in quality and quantity. To this end, the new bar examination was introduced.

For the legal reform to be successful, and to significantly enhance people's use of lawsuits, a decrease in the cost of such actions would be necessary. Above all, transaction costs such as those involved in searching for a lawyer appear to be large. If people bring a lawsuit, they are likely to acquire know-how about lawsuits through their experience, resulting in a decrease in the transaction costs. Hence, people with experience of a lawsuit are expected to reuse lawsuits because of the smaller cost of the next lawsuit. On the other hand, a user's satisfaction of the system needs to be investigated to ensure the system meets public expectations.³ Therefore, I considered the question of how the experience of a lawsuit influences a user's satisfaction to be important. Satisfaction is thought to be largely due to a decrease in the cost of a lawsuit through past experience, if other things are equal. From the point of view of traditional economics, the learning effect on intention to reuse is expected to be the same as that on satisfaction. This conjecture is, however, not obvious since past experience appears to have other influences on reuse and satisfaction.

Preferences are considered to depend on past experience. Individuals are temporally affected by circumstance changes, though they gradually fully adapt to the circumstances ([Myres, 1992, 2000](#)). The adaptation is thought to cause aspiration change, which influences one's satisfaction ([Easterlin, 2001](#); [Stutzer, 2004](#)). If this holds in the case of a lawsuit, “adaptation” possibly occurs through the experience of the lawsuit, which affects the aspirations about benefits from the lawsuit. Recently, it has been pointed out that whether aspiration tends to change or not depends on domains ([Easterlin, 2005](#)). No speculation has, however, taken place concerning the effect of the past experience on lawsuit satisfaction. Moreover, the existing literature has not examined the question whether aspiration change affects the intention to reuse. It seems interesting to examine how people's aspirations about lawsuits change, thereby making differences in the effects experience have on satisfaction and intention to reuse.

Aspiration level is thought to be affected not only by the number of experiences of a lawsuit but also by the results of lawsuits. Hence, satisfaction and intention to reuse depend on whether one wins or not. From the view point of policy making, the efficacy of the system, however, should not be affected by whether an individual wins or not. It is necessary to encourage people to reuse even if they have previously been a loser. To provide evidence useful for policy making, it is necessary to investigate how the effects of past experience are affected by whether one becomes a winner or not. Hence, this paper attempts to show past trial experience affects satisfaction and intention to reuse, and to compare the effects of the experience of winners with those of losers in lawsuits.

3. Data and methodology

3.1. Data

This paper uses individual level data constructed from the Survey of Civil Action Users conducted in 2000 (SCAU 2000 hereafter) and that in 2006 (SCAU2006 hereafter).⁴ The survey of

³ Various kinds of subjective satisfaction were analyzed ([Frey and Stutzer, 2002a,b](#)). Above all, life satisfaction (e.g., [Easterlin, 1995, 2001, 2005](#); [Stutzer, 2004](#); [Clark et al., 2008](#); [Caporale et al., 2009](#)) and job satisfaction (e.g., [Antecol and Cobb-Clark, 2009](#); [Clark et al., 2009](#); [Jones and Sloane, 2009](#)) drew a much attention of researchers.

⁴ Data for this secondary analysis were from the “Survey of civil action user (Minji Soshō Riyo-sha Chosa)”. The first survey was conducted by Justice System Reform Council (Shiho Seido Kaikaku Shingi-kai) in 2000. The second survey was done by Japan Law Foundation (Nichiben-ren Homu Kenkyu-zaidan) in 2006. These data were provided by the Social Science Japan Data Archive, Information Center for Social Science Research on Japan, Institute of Social Science, The University of Tokyo.

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