

PATTERN, PROCESS, AND DECISION-MAKING
IN
NEW GUINEA HIGHLANDS DISPUTE HANDLING

A Dissertation Presented

by

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to

The Graduate School

in partial fulfillment of the requirements

for the degree of

Doctor of Philosophy

in

Anthropology

State University of New York

at

Stony Brook

August 1978


STATE UNIVERSITY OF NEW YORK

AT STONY BROOK

THE GRADUATE SCHOOL

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Abstract of the Dissertation

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This dissertation, based on data collected during six months of intensive field research in the Chimbu Province, Papua New Guinea, focuses on the inter-relationship between dispute processing and social relationships. It is particularly concerned with the factors which are influential in decision-making leading to observable patterns of action. The aim is threefold: to present descriptions of the decisions to be made at various points in the disputing process; to discuss the alternatives open at each decision point; and the explication of the criteria by which actors select among these alternatives, i.e., make decisions.

Data concerning the Mul community were collected through a community oriented participant observer approach, interviews, life histories, genealogies, memory cases of past disputes, and recording of observed disputes. Sixty five observed cases were recorded and transcribed.

It was found that there are five alternative means used in handling grievances: appeal to the supernatural, self-help, private discussion, unofficial courts, and official courts. These cannot be fit into a neat linear hierarchy, but neither are they randomly used. A flow chart is presented which describes the social organization of these procedures and the frequency of their use. Of central interest are the unofficial courts which have evolved since contact with the outside world. During these unofficial procedures local government councilors, elected to what is officially an administrative position, act as mediators. These courts, which combine aspects of both the traditional forms of self-help and contemporary government courts, handle the vast majority of disputes which erupt at the local level.

In order to uncover the criteria by which actors make decisions resulting in the observed patterns of

action, an analytic unit temporally antecedent to these actions, and referred to as the grievance situation, is defined. Analysis reveals that four main criteria are influential in decision-making, viz., the nature of the grievance, the structural distance between the disputants, the history of past relations between the disputants, and the history of relations between the groups to which they belong.

Viewing the relation between these criteria and actions as causal, the concept of goals is employed as an intervening variable in order to explain the relationship between these criteria and actions. Goals are found to correspond to three types of restitution: giving or receiving of an equivalent for loss or damage, restoration of status or prestige, and the restoration of persons to harmony. A disputant may emphasize one or a combination of these goals depending upon his or her evaluation of the grievance situation. Indeed, different criteria may suggest opposing goals making decisions difficult. The actions taken by a disputant are those which he or she perceives as the best means of attaining these goals.

Disputes are minimally dyadic. The actions of one disputant may effect the other's perception of the

grievance situation and cause him to reevaluate his position. Thus, the dispute process must be viewed as an ongoing action-reaction, or transaction, process involving the continual reevaluation of the grievance situation, goals, and actions.

I believe that viewing the interdigitation of these criteria and the concomitant complementarity, or opposition, of goals in this fashion allows for a large degree of variation in human behavior and provides insight into why discussions of dispute behavior in face-to-face communities cannot be understood by reference to stated norms regarding dispute processing. Moreover, it is suggested that this variation is normal and necessary in the handling of disputes in small scale face-to-face communities where social relations are necessarily multiplex.

To Ronnie

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PREFACE

The data on which this dissertation is based were collected during six months of field research from January 1976 through June 1977 in the Chimbu Province of the Papua New Guinea Highlands. This dissertation does not pretend to provide a full ethnographic account of the life of the Chimbu people. Indeed, the Chimbu are already one of the most fully documented and best known of all Highland peoples.

My focus is on how a particular group of Chimbus handle disputes which arise in the local community. Moreover, as an anthropologist, my concern is with social relationships and how they influence, and are influenced by, the dispute handling process. As a result, when designing the study, I opted for a community oriented participant observer approach. My plan was to live in a local community where I would be able to observe disputes and follow each one through whatever procedures are used to handle it. Before leaving for the field, it was my belief, and one which I still hold, that the impression that day-to-day life in New Guinea Highland societies

is one filled with violence, or that violence is the primary means by which Highlanders deal with conflict, is an erroneous one. This led me to give equal attention to those lesser quarrels which do not expand into violent confrontation but which, nevertheless, provide an important source of data on the interrelationship between social relationships and dispute handling.

THE CHOICE OF THE RESEARCH COMMUNITY

After arriving in the Chimbu Province, I spent several days inquiring into and visiting potential research sites. While in Kundiawa, the provincial capitol, discussions with government officials suggested that the Gumine area, thirty two miles to the south, might see the introduction of a Village Court (see Warren 1976) in the not too distant future. Though no specific dates could be given, this, I felt, would allow for the study of dispute handling before the introduction of these courts and would, therefore, provide an opportunity to return during or after their introduction in order to examine the effects on the community. This reaffirms the suggestion made by Paula Brown that the Gumine region would be an appropriate choice for fieldwork.

Leaving my wife and son near the capitol, I made

two trips to Gumine before finalizing my choice of a research area. During these visits, there was intense tribal fighting in the Yani/Gomgale area a few miles west of the Gumine government station. Since my research concerned disputing, I found it quite tempting to locate in this area. However, two considerations restrained me from making such a move. First, my research was aimed at a different aspect of dispute management and locating in an area experiencing heavy tribal fighting would necessarily change that emphasis. Second, I was concerned about being suspected of government or police affiliations and therefore developing poor rapport with the members of the community. I therefore began exploring the areas to the east of Gumine. During these visits, I was able to arrange for temporary housing on the government station.

I chose a community named Mul, approximately three miles east of the government station, for my house site on the basis of accessibility to persons and places involved in dispute activities. Lying at the center of the Kobulaku tribal territory, Mul is a focal point of activity. Its ceremonial ground is frequently used for airing grievances. Furthermore, due to interesting historical factors, two clans live intermixed within Mul proper and the two councilors representing these

clans live in close proximity. This residential arrangement facilitated the study of disputes between co-members of the same clan and between members of different clans. Moreover, a central location allowed for frequent visits to clan areas east and west of Mul.

ESTABLISHING RAPPORT

After the site was selected, a field assistant was hired who lived with us at the government station. Each day we walked to Mul and helped with the construction of our house and evenings were intensive sessions in Pidgin English. During these early stages of fieldwork, my central concern was with establishing rapport. For nearly two weeks, I did not take out my field notebook in public. I began taking note in public only gradually, each time asking those people around me if they would mind if I wrote down what they were saying or doing. Before long, people began telling me to take notes about particular activities or information. The use of a cassette recorder was introduced in the same fashion at a later time.

Although neither note taking nor tape recording appeared to alter people's behavior, the use of photographic equipment frequently disrupted or altered ongoing

activities, and, as a result, were not systematically used. Persistent use may have, over time, eliminated this problem.

My wife and I also took positive steps to assure that our presence in the community was desired rather than merely tolerated. Not only did we provide income at a fair wage to those people who helped construct our house or worked as research assistants, but also contributed to projects which would benefit the community at large. For example, members of the clan with which we were most closely associated had constructed the walls for a trade store at the Mul ceremonial ground. They wished to cover the store with a corrugated iron roof, but after two months had not been able to gather the money together and were concerned that the walls would rot before they could do so. In gift form, my wife and I contributed over fifty percent of the cost of the roof, arranged for the iron to be transported the forty five miles from the mission where it was purchased, and helped in the construction of the roof.

Probably our greatest direct contribution to the members of the community was in the form of medical assistance. Throughout the length of her stay, my wife spent an average of five hours each day in treating a

variety of ills ranging from tropical ulcers or scabies to bandaging fingers which people had cut off as a sign of mourning. Although people seldom said thank you in words, they would usually return at some later date with gifts of foo, firewood, or just to sit and talk casually about nothing in particular.

As a result of these activities, there were always people in and out of our house. Seldom did we spend an evening alone. Typically, two or three, and sometimes over twenty, people would drop by in the evening to drink tea, tell stories, or sing songs. Indeed, one of our problems during the early stages of fieldwork was how to tell people that we would like them to leave by midnight without risking offending them. Although the lack of privacy was, naturally, somewhat frustrating at times, these evening sessions provided an ideal time for collecting general background information, i.e., life histories, genealogies, and cases of disputes recalled from days past.

METHODOLOGY

The most productive approach for the understanding of the dispute process has been the detailed analysis of case materials. As Hoebel (1942:966) points out, "primitive law, like common law, must draw its generalizations from

particulars which are cases, cases, and more cases."

Case materials on law have long been used by anthropologists. Barton's (1919,1949) studies of the Ifugao and Kalinga and Pospisil's (1958) more recent work among the Kapauku employ case materials to provide concrete data on substantive rules and sanctions. Malinowski (1926) uses cases as anecdotes as well as to document his conclusions. The first researchers, however, to use the case as the unit of analysis were Llewellyn and Hoebel (1941). These authors felt that "the study of a series of ... crises offers a possibility of study of a culture at work on and through its people, for which no schematization of 'norms' can substitute" (ibid.:28). Later, Hoebel (1954:35) suggested that the case method is inductive and should, therefore, be used to arrive at general norms. Cases, as such, are not an end in themselves but become the basis for analysis. About the same time, Gluckman (1955) used cases in this fashion in his analysis of The Judicial Process among the Barotse. However, Gluckman (1961:8) himself notes that a general methodological weakness of these early case studies, including his own, was the lack of any "regularly established connection between the series of incidents in cases cited at different points in the

analysis...". He suggests that "the fullest use of the case method... treats each case as a stage in an ongoing process of social relations between specific persons and groups in a social system and culture" (ibid.:9). By viewing an ongoing dispute in both its temporal and contextual setting, the researcher is able to trace the actual alliances and decisions of individuals and groups. The implication is that social processes can be used to illuminate dispute processes (cf. Gulliver 1971), and that decisions made during dispute processing can illuminate social processes (cf. Turner 1957).

Abel (1969) has pointed out the advantages of case materials for the study of customary law over other techniques such as rule-directed interviews. But as Nader and Yngvesson (1973:892-903) have pointed out, there are many interesting questions which are not amenable to the case method. Black and Metzger (1965), for example, demonstrate a formal eliciting procedure "designed to discover the boundaries of particular conceptual subsystems within particular cultures" (ibid.:141), while Collier (1973) employs informal interviews to determine Zinacanteco motivations and rationalizations for quarreling.

Although informal interviews, simple discussions,

and the collection of life histories were employed to uncover motivations, rationalizations, and perceptions relating to dispute processing, the data which provide the strongest base for analysis are case materials. Cases were derived from three sources which must be kept analytically distinct: government records, memory cases, and observed cases.

Government court records were utilized. Court records provide easy access to large quantities of data. However, how cases reach the government courts and to what degree such records are representative of the types and frequencies of disputes which actually occur at the local level are empirical questions. For this reason, I did not approach these questions by assuming, a priori, that the corpus of cases found in the government court records were representative of the pattern of disputes in a New Guinea society. This body of data was, therefore, kept distinct from the other types of cases and employed for the purposes of comparison.

Memory cases and government patrol reports were used to increase the time depth by providing information on past relations. These types of cases are selective and it cannot be assumed that memory cases, no matter how fully recorded, represent the pattern of disputes in even the recent, let alone the traditional, times.

Furthermore, such cases provide only a personal view of cases recalled by informants or recorded by Australian patrol officers. Many of the intergroup animosities which remain today are the result of past grievances. Typically, the nature of the past grievance has been forgotten. In those cases where informants do claim to recall why a fight began, say twenty years ago, there is often little agreement between informants interviewed independently. There are numerous possible explanations for this phenomenon, but any which I could put forward at this time would be little more than idle speculation.

Observed cases provide the best approximation to the actual pattern of disputes as well as, the most complete source of data. Although dispute cases are frequently brought to one of the four leading men who live in close proximity to our house, the genesis of a dispute and the initial, and sometimes sole, response to the grievance may take place anywhere in the region. This presented problems which I believe are inherent in the collection of observed cases. The central problem concerns the factors of settlement pattern and terrain, in combination with the transiency of the dispute phenomenon. As I shall discuss more fully in a later chapter, the Chimbu do not live in villages but rather

are widely dispersed over an extremely rugged and mountainous terrain. There is no way for a researcher to adequately cover this terrain on foot hoping to hear disputes. During the early portions of the fieldwork period, I made numerous day long trips further into the "bush". Although I was able to gather background information, on none of these trips did I observe disputes. Frequently, upon returning, however, I would learn that I had missed hearing one which had occurred at Mul during my absence. Disputes are a transient phenomenon. Unlike the collection of kinship and other sorts of anthropological data, the researcher cannot return at a later date to record what he or she has missed. The recording of a case which occurred even a few hours earlier presents some of the problems inherent in the collection of memory cases. It does not allow the researcher to observe the actions, attitudes, tones of voice, and the actual dialogue of the case. After long and careful consideration of the alternatives, I chose to remain in the central region around Mul, moving between those three or four areas where disputes were frequently aired. As a result, I can report little about occurrences further into the bush.

These considerations raise the issue of sampling

and representativeness. I can be fairly certain that the cases which I collected are substantially all of those which were aired in the central portion of the tribal territory, that is, all those cases which occurred between persons who live in this area as well as those brought to this area for public airing. I do not believe that any particular category of grievance was particularly concealed from me. I am less certain as to what extent the time during which I lived in Mul is typical of the past or future of that community, though I have no reason to suspect that this time period was unusual except for my presence. Moreover, I am unable to ascertain, at this point, to what degree the patterns and processes revealed in the following analysis are representative of other areas of the Chimbu Province.

During the fieldwork period, sixty-five dispute cases were recorded. Most of these were recorded on tape and transcribed, in full, into my field notebook. There were several reasons why some were not fully recorded, such as equipment difficulties, arriving in the middle of a dispute, or too many people talking or shouting at the same time so that transcription was not possible. The collection of verbatim data permitted insight into the subtlety of dispute handling, in terms of why people

were following particular courses of action, which, I feel, would not otherwise have been possible.

These sixty-five cases, supplemented by information gained through participant observation, interviews, and the collection of life histories and genealogies, are the data upon which this dissertation is based. Although only ten observed cases are analysed in the text, all sixty-five cases have been incorporated into the statistical analysis and in the flow chart which diagrams the options for pursuing a grievance and the frequency of their use.

The names of the participants in the ten cases have been changed to western names. Not only does this make the cases more readable, but also protects the anonymity of the participants. No two persons are given the same pseudonym.

I have tried to make use of a number of analytic methods. For example, the extended-case method (cases one through three) has been used to reveal the effects of a series of disputes between the same two individuals, while descriptive statistics have been used to show that persons in particular relationships are more likely to dispute over particular things. This, it seems to me, is not a confounding of methodologies, but rather, the

use of the appropriate technique to answer a particular question.

ACKNOWLEDGMENTS

In looking back over my years as a graduate student, I find that I am indebted to many people: to my wife, Ronnie, for her moral support and constant encouragement, to my professors for the knowledge they have imparted and the guidance they have given, to my fellow graduate students for their stimulating ideas and criticisms, to my friends and colleagues in Papua New Guinea for their help and understanding, and to various agencies for providing me with funding.

My deepest gratitude is to my research advisor, Professor Paula Brown. Dr. Brown introduced me to the world of the Pacific Islanders in 1974 and since that time has strongly influenced my thinking in all fields of study. The breadth and depth of her knowledge in all fields of anthropology has been a constant inspiration. As a model of scholarship, Dr. Brown's influence on my perception of academics has been profound.

I am also particularly indebted to Dr. June Starr, whose stimulating courses drew me from a passing interest in anthropology into the graduate program. Her

guidance in the anthropology of law is evident throughout this dissertation.

I also wish to express my gratitude to Dr. Richard E. Gardner. Dr. Gardner's training in research design and the application of quantitative methods to anthropological data has been invaluable.

Professor Pedro Carrasco and Dr. Forrest Dill have kindly read and commented on earlier drafts of this dissertation.

My thanks are also owed to persons in Papua New Guinea for help during various stages of fieldwork: Mr. Mathew Towa, Acting Provincial Commissioner of the Chimbu Province; Professor Bill Clarke, Department of Geography, University of Papua New Guinea, and his wife Antje; Bill Standish, Department of Political Science, Australian National University; and Frank Cotton, District Officer at Gumine, and his wife Sue.

A special debt of gratitude is owed to the people of the Mull community. I came as an intruder into their lives and left as a friend. To Council Sago Mal, who adopted my wife and me as his children; to Kuria Sago and Witne, our field assistants, who were like brothers; and to Mal Gui; Kowali; Member of Parliament Ninkama Bomai; Wai'a Mal; Bomai; Kaupa; Dongo Sago; Council Maima;

Council Kora; Koma; Gunabia; and others too numerous to mention, thank you.

I would also like to acknowledge the funding of the National Science Foundation, the Department of Anthropology and the Graduate School of the State University of New York at Stony Brook.

CHAPTER ONE

INTRODUCTION

This dissertation is a study of dispute processing in a contemporary Chimbu community in the highlands of Papua New Guinea. Of central concern are the processes by which the members of this particular community handle disputes and the factors which are influential in decision-making leading to observable patterns of action. The focus is on the individual and his options within the constraints of the norms and values of society which are crosscut by interests involving the gain or restoration of prestige and maintaining ongoing social relationships.

In 1965 Nader noted that anthropologists were no longer attempting to prove the presence or absence of law by reference to any single definition of the term. She pointed out, however, that "The dispute case, unlike any particular form of adjudication or class of disputes or functions, is present in every society" (Nader 1965a: 24; see also Epstein 1967a). In directing our attention to the range of grievances and means by which societies

handle disputes, Nader provided a direction for much of the future research in the anthropology of law. Unlike Nader (1965a:24), who refers to such acts as theft or homicide as "the dispute or grievance", Gulliver (1969a:14) suggests that no dispute exists unless and until someone actively raises the disagreement from the level of dyadic argument into the public arena, with the express intention of doing something about it. Finding difficulty in operationalizing "the public arena", Epstein (1974a:9) defines a dispute as "any kind of behavior that points to a contention based on opposing claims and involves the taking of sides between persons or groups". In order to include such activities as the private discussion of the grievance between the disputants, the latter definition has been adopted.

Following any of these definitions, disputes may be said to range from global wars to arguments between children over marbles. The many terms used to describe the process by which persons or groups deal with conflict, such as dispute settlement, dispute management, dispute handling, dispute processing, and conflict resolution, all, by definition, imply a concern with this full range of dispute activities. The present research focuses on a segment of this range of activities,

viz., those aspects of dispute processing which one would conceptualize as law; as distinguished from warfare on the one hand and minor arguments or quibbling on the other. The focus on the dispute, rather than "the law", avoids difficulties in establishing a single, universally acceptable, definition of the latter. We shall see, in the second chapter, that the discussion of law, in the context of traditional New Guinea Highlands societies, has been problematic.

Methods of social control are geared to operate within, and meet the needs of, particular social systems (Lawrence 1969). Whereas western legal systems are secular and compartmentalized, procedures of dispute management in New Guinea and many other face-to-face societies are part of an integrated social and cultural system. These generalized systems do not contain separate institutions designed to maintain law and order.¹ Rather, social transgressions are controlled through the initiative of the aggrieved party, that is, through self-help.

Self-help systems are those in which each person is responsible for pursuing any matter in which he or she feels injured (Gulliver 1963:211). Three qualities which characterize self-help systems are

1 Footnotes for Chapter I are to be found on page 17.

noted by Moore (1972:67-68). First, self-help is undertaken "in the name of right". Second, societies in which self-help is widely used normally have well established frameworks which can support either conciliation or fighting. Third, societies characterized by self-help systems "usually permit the mobilization of a number of persons in an individual's cause, given suitable circumstances". As Moore notes, some disputes remain disputes between individuals while others, concerning the same substantive matters, expand into confrontations between groups. Expansion or containment of a dispute may depend not so much on the grievance as upon the "desirability of the confrontation from the point of view of the social units involved, and...whether the relative social positions of the parties lend themselves to opposing alignments" (ibid.:75). Furthermore, "The legal dispute between individuals of opposing groups can serve as a simpler, more concrete way of talking about and thinking about alignments based upon those more profound problems which are less easily delineated and less easily resolved" (ibid.:78).

Throughout the anthropological literature, the term self-help is used in two overlapping, though different, ways. Since both are employed in this

dissertation, we feel it to be advantageous to point out the distinction between them. In the first sense, employed above, self-help refers to the location of responsibility for bringing grievances to public notice or to the attention of a third party intervener. In this sense, the term refers to a characteristic of the system. In systems characterized by self-help, it is the responsibility of the aggrieved party, rather than some third party or agency, to take the initiative in pursuing the grievance. This definition places no restriction on the style of behavior, whether hostile or amicable. Frequently, however, the term self-help is employed to mean overt and violent means of redressing a grievance, such as striking the offender, ripping out his crops, burning his house, or stealing or killing one of his animals. The distinction will be made clear by the context within which it is used.

Social relationships are, of course, never static; disputes seldom occur in a social vacuum. As the active pursuit of a grievance is brought to an end, social relationships between individuals and groups are indeed altered. Relations may be permanently or temporarily adjusted or aggravated, and such realignments predicate new relations of cooperation or conflict. The

outcome and processing of a dispute, in effect, defines, or redefines, statuses, rights, and obligations between persons and groups (Gulliver 1969a:16).

In 1958, Pospisil focused on disputes in an attempt to uncover a corpus juris, or list of wrongs, which would be useful in understanding the Kapauku legal system. Since that time, anthropological studies have indicated that: a) disputes in face-to-face communities arise as a complex series of events rather than as isolated acts (Burrige 1957, Collier 1973, Epstein 1973, Gulliver 1971, Starr and Yngvesson 1975, Turner 1957, Young 1971); b) disputes often serve the political interests of individuals (Turner 1957, Young 1974); c) some disputes expand into affairs between groups, and personal rivalry may become political rivalry (Burrige 1957, Epstein 1973, Gulliver 1963, Standish 1973, A.J. Strathern 1972, 1974); d) greater social distance between disputants results in less efficient settlement mechanisms (Epstein 1973, Gulliver 1963, Koch 1974a, 1974b, see also Collier 1973, Colson 1953, Evans-Pritchard 1940), and greater likelihood of escalation into a political contest (Young 1974); and e) that all disputes in stateless societies (Bohannan 1965:39) or at least those between persons involved in a multiplex (Gluckman 1955)

or highly valued (Gulliver 1963) relationships are settled by compromise (but see Starr and Yngvesson 1975 and see below).

Nader (1965:24; see also Collier 1975:128; Starr 1978a) points out that in every society there are alternative means of handling a dispute and a variety of dispute processing institutions. Pospisil (1971:98-99) tells us that "every functioning subgroup of a society regulates the relations of its members by its own legal system". Thus, an overview of grievances and their mode of handling would reveal a distribution of cases over a variety of institutions. As Abel (1974:228-229) points out, "The number of paths a dispute could conceivably follow is, of course, very large.... Nevertheless, in every society most of the disputes will fall into a relatively limited number of patterns". We suggest that the distribution of cases over procedures of handling disputes (institutions), or what Collier (1975:128) refers to as "case loads", reveals patterns of action which result from the purposive choices of individuals. Moreover, as will be shown in chapter VI (figure IV), these patterns may be combined into a single schematic diagram, or flow chart, in which the choices and alternatives open to members of the society at the

various stages of the disputing process are revealed.

Collier (1975:128) has noted that "interest has gradually shifted from the structural determinants of case loads to a vision of case loads as the end result of a series of individual choices". We certainly subscribe to the notion that case loads may be viewed as a result of a series of individual choices. However, we find that the structural relationship, i.e., the relative positions of the disputants in a given segmentary system, between disputants is one of the main criteria by which decisions are made. Therefore, rather than shifting our attention from structural determinants to individual choice-making, we seek to combine the two. But these are not the only type of decisions which disputants must make, nor are structural determinants the sole criteria by which decisions are made.

Throughout, we are concerned with three types of decisions or choices. First, choices as to which mode, or institutions, will be used to handle a particular dispute. Second, choices, either conscious or not, as to what attitude or style of behavior to take during the processing of the dispute. And third, the choice of what is the desired or acceptable outcome. Decisions of the latter two types occur not at a single point in time,

but rather, throughout the process. Each verbal transaction has the potentiality of altering the disputants' perception of the social situation and therefore suggesting that original decisions be reevaluated. Decisions of the former type tend to occur at particular points in the disputing process.

Only two decades have elapsed since the first European contact the people of Mul. During this time period a system of local level dispute handling, employing third party mediators, has developed. The system combines ideologies and procedures drawn from both the introduced Australian legal system and the pre-contact society and culture. This system of kots (Pidgin English for courts) handles the vast majority of dispute cases which arise in the contemporary Mul community. In the contemporary Mul community, individuals may choose between using these kots, resorting to self-help, sorcery, private discussion, or the official court system. The material in this dissertation is organized around these choices. Because of the ongoing nature of decisions regarding attitudes and outcomes, these aspects will be discussed at appropriate points within this organizational framework.

Our aim is essentially threefold. First, to

present descriptions of the decisions to be made at various points in the disputing process. Second, a discussion of the alternatives open to members of the society at each decision point. And third, the explanation of the criteria by which actors select among these alternatives, i.e., make decisions.

In order to define and explain the criteria by which individuals make choices, we must concern ourselves with factors which are temporally antecedent to those choices. This is, of course, a requisite of causation. When a dispute occurs, numerous social factors are influential in decision-making leading to observable patterns of action. The sum-total of these factors can be referred to as the grievance situation.

Epstein (1974a:8) has discussed some relevant terminology. He points out that Freeman (1971:71) has suggested the term "contention situations" for circumstances where "the behavioral intentions of two or more animals (in respect to food, territory, sexual objects and the like) come into direct competition". And, in a personal communication to Epstein, Freeman notes that the term conflict situation implies that fighting has already begun. The term grievance situation takes a middle position. Unlike "contention", which points to a source of tension which may be endemic to a particular

type of social system, the term grievance situation points to a grievance act, rather than mere "behavioral intentions". Yet, unlike "conflict situation", it does not imply that fighting has already begun. Moreover, the offended party enters into the grievance situation the moment he or she learns of the specific offence, whether he decides to pursue the matter publically, privately, or not at all.

We view the grievance situation as a particular type of social situation as defined by Gluckman (1958:2, 9; original 1940), and, like Gluckman, we believe that when the behavior of individuals during such situations is analysed and compared, the analysis reveals those factors which are of primary importance in defining the situation and therefore influencing behavior. The use of the term social situation, as defined by Gluckman (1958), should not be taken to imply the use of the extended-case method (Gluckman 1961), nor does it imply adherence to the suggestions made by van Velsion (1967:129) that "situational analysis" attempts to incorporate conflict as normal rather than an abnormal part of social progress. Moreover, we believe that imbedding such conclusions as a necessary part of an analytic method distorts the objectivity of that method.

The factors which define the grievance situation

can be divided into two broad categories; the nature of the grievance itself, and the social context of the dispute. Epstein (1974a:11) is, no doubt, correct in asserting that the classification of dispute cases by the specific offence is of little utility for cross-cultural comparison in New Guinea, as well as in arguing that dispute cases have so complex an aetiology and that relationships are so intricately intermeshed that it is impossible to encompass the issues within a single rubric. However, the inability to classify cases under a single rubric does not mean that the nature of the specific offence, i.e., homicide as opposed to property damage by animals, has absolutely no bearing on how the offended party chooses to redress the grievance. It is possible that the nature of the offence has no effect on dispute processing, but this is unlikely. Moreover, this is an empirical question. We must ask: what is the range and variation of offences; what are their frequencies; and how are specific offences perceived, i.e., do some offences, such as adultery, tend to create greater breaches in the social fabric than do other offences, such as damage to the crops in a persons garden by a foraging animal which belongs to another?

The second category of variables within the

grievance situation is the social context of the dispute. As Epstein (ibid.:12) notes, "how a particular act is interpreted, and more importantly, what reaction follows it, will depend very much on the social relationships and interests of the parties involved". Two aspects will be considered. First, those effects arising from the social structure and the relative position of disputants in that structure. Here, we are concerned with rights, obligations and expected modes of behavior which are imbedded in the structure of the society. In a society composed of segmentary groups conceived in a kinship idiom, we may speak of the structural distance between groups. Peters (1967:277) notes that among the Bedouin of Cyrenaica "some structurally distant groups are neighbors by virtue of their propinquity, while some structurally proximate groups are far removed territorially". When dealing with disputes between individuals, it is useful to speak of the structural distance between these individuals. Persons who are members of the same sub-clan, for example, may be said to be structurally closer than members of the same clan who are members of different sub-clans. In order to determine the effects of structural distance on dispute handling, one must examine the rights, obligations, and expectations which

underlie relations between individuals at each level of segmentation, as compared to other levels of segmentation. Moreover, the importance placed upon social solidarity and maintaining ongoing relations at each level must be contrasted to its importance at other levels.

The second aspect of the social context of a dispute which will be considered is the effect arising from the past history of relations between the individual disputants as well as the past relations between the groups to which the disputants belong. This includes such factors as the history of past and present disputes, cooperative activities between persons and groups, friendships, and non-agnatic kin ties.

The many factors which make up the grievance situation, some of which have been discussed above, are temporally antecedent to decisions regarding how to handle a particular grievance. They may, therefore, be considered to be independent variables with regard to the initial choices made in dispute processing. However, as will be demonstrated in the final chapter, the actual processing of the dispute may effect changes in the grievance situation. The issue under dispute itself may be redefined as may the relationship between the parties involved. The transactional nature of the disputing

process necessitates that individual disputants continually reevaluate the grievance situation and gauge their actions according to these reevaluations.

Chapter two reviews the literature relevant to dispute handling in the New Guinea Highlands in order to provide a background for the understanding of the contemporary scene. Chapter three discusses the post-contact procedures of dispute handling, viz., the official and unofficial courts. Chapter four provides a brief ethnographic account of the community in which fieldwork was done. Chapter five provides an overview of the various modes or procedures of handling disputes in the contemporary society. For purposes of clarity, each is discussed in isolation with little regard to their interconnectedness. Chapter six interconnects these procedures by beginning with the grievance at the community level and following each grievance through whatever path it is taken. The range and frequency of each type of grievance is discussed and a closer examination is made of the most important categories. Case materials are used to show how particular types of grievances are perceived and to draw attention to the structural and situational variables which are influential in decision-making. A model is presented

which describes the flow of cases and shows how the various procedures for dispute handling function as a single coherent system. Finally, the criteria which influence decision-making are enumerated. In chapter seven the links between the observable structural and situational criteria and social actions, in terms of choices, is explained by reference to an intervening variable, viz., goals.

NOTES FOR CHAPTER I

- 1 Here, we refer, of course, to traditional Papua New Guinea societies.

CHAPTER TWO

REVIEW OF THE LITERATURE ON DISPUTE HANDLING IN NEW GUINEA HIGHLANDS SOCIETIES

Less than fifty years ago the peoples of the New Guinea Highlands were unknown to the outside world. Then, on March 8, 1933, Michael Leahy flew over the Waghi Valley and "laid to rest for all time the theory that the center of New Guinea was a mass of uninhabitable mountains" (Leahy and Crain 1937:150). Since that time, the New Guinea Highlands have been the subject of many studies by anthropologists, geographers, historians, and political scientists. These researchers have often noted the high frequency of intercommunity fighting despite a closely interdependent network of kin, marriage, and exchange ties. Warfare in the Highlands has been spoken of as chronic, incessant, or endemic, and is said to have been accepted as part of social living in most areas (Berndt 1964:183). Glasse (1965:29), for

example, states that "until the 1950's warfare was the dominant orientation of Huli society". Langness (1964a: 144) asserts that "...the pattern of warfare in at least major portions of the Highlands was one of the most continuous and violent on record". He further emphasizes the importance of this variable by concluding that the constant fighting and scattering of people makes groups based on unilineal principles difficult to maintain. "Thus for expediency one need not be too particular respecting someone's genealogy, so long as he can fight" (ibid.:145-146).

Both researchers and laymen alike have often associated Melanesian warfare with headhunting or cannibalism (see Chowning 1973:25). An early pictorial account by Leahy in the Illustrated London News (December 29, 1934) is titled "Never Before Seen By White Men: Cannibals' Villages in New Guinea". Years later, in the ninth volume of the Smithsonian Institution War Background Studies, M.W. Stirling (1943) writes: "Headhunters and cannibals a generation ago, most of the natives of British New Guinea have now become so accustomed to the ways of the whites that they have been trained as workers and even to assist in administering the white man's law". Even into the nineteen seventies, we find people questioning

the nutritional value of New Guinea cannibalism (Dornstreich and Morren 1974) or discussing "Warfare and Anthrophagy" (Koch 1970).

We do not deny that warfare in the New Guinea Highlands was intense, nor do we wish to deny the importance of its study. However, the proliferation of studies on warfare can be contrasted with the paucity of works dealing explicitly with the less violent, flamboyant, or "primitive" aspects of strained social relations. As Meggitt (1969:4) points out, the most obvious gap in the published record of the New Guinea Highlands is the treatment of law (see also Epstein 1974a:2).

The overriding emphasis on warfare in New Guinea Highlands ethnography, coupled with the notion that military operations "are indicative of the absence, inadequacy, or breakdown of other procedures designed to settle conflicts" (Koch 1970:43) led us to believe that a review of Highlands literature, with an eye towards uncovering the less violent means of conflict resolution, was necessary.

In reviewing the literature on the New Guinea Highlands, it became apparent that the divergence of opinion on the existence of law in traditional societies stemmed primarily from three sources. First, differences

in the conceptualization , by researchers, of what constitutes "law" (Pospisil 1958:144). Second, the failure of researchers to delineate bounded units within which warfare was prohibited and to inquire into the process of handling disputes within those units. And third, the unusual properties of leadership, power, and authority found throughout the Highlands.

Indeed, Hatanaka (1973:61-62) states that "The developed concept of "law" and related notions are not easily applicable to activities in the traditional societies of New Guinea. There is a virtual absence of authority, leadership, and law as usually understood". But we have no way of knowing what is ment by "developed concepts of 'law' and related notions" nor by "authority, leadership, and law as usually understood" (emphasis added).

On the following pages of this chapter we draw together the bits and pieces of existing evidence in order to reveal to what extent processes existed whereby persons attempted to contain and settle disputes as well as to elucidate some of the basic characteristics or features of these processes. Before begining, however, the reader unfamiliar with New Guinea Highlands ethnography will require some background discussion of

terminology used for kin and territorial groups as well as the nature of leadership.

Throughout the Highlands of Papua New Guinea, people live in segmentary groups, usually conceptualized in an agnatic descent idiom and referred to as phratries, clans and smaller patrilineal descent groups. In most areas, clans are territorial or localized (see Brown 1967:50-51) but phratries are not. The term parish, which was introduced by Hogbin and Wedgwood (1953) to refer to the largest local group forming a political unit, is widely used, as is the term tribe, defined as "a politically coherent and autonomous group, occupying or claiming a particular territory" (Notes and Queries on Anthropology 1951:66). Numerous other terms or combinations of terms which have been used by particular researchers (i.e., district; clan cluster; great clan; level I, level II, etc. groups; sovereignty; alliance; clan-parish; phratry-tribe; etc.) can be defined when and if necessary in the course of discussion.

Within each political unit, there are usually one or more men, known as "big-man", who achieve a position of influence. In a classic paper contrasting leadership in Melanesia and Polynesia, Sahlins (in Vayda 1968: 163, original 1963) points out that "It is not

accurate to speak of 'big-man' as a political title, for it is but an acknowledged standing in interpersonal relations...." The big-man is not the holder of an office or existing position of leadership over a political group. He is, rather, a man who, through intelligence, hard work, and ability in oratory and manipulating exchange relations, achieves the respect of his peers and attracts a following.

The influence of big-men, in particular their oratorical prowess, is frequently acknowledged to be important in handling disputes, making peace speeches, and arranging exchanges between hostile groups. However, the degree to which big-men are able to control the behavior of their followers has been the subject of controversy. In 1963 Brown (1963a:3) argued that "tribal leadership changed in a generation from the absence of any fixed authority ('anarchy') to a system giving officials the opportunity to dominate ('satrapy)". Salisbury (1964:225), however, argued that in Siane society, though the indigenous ideology was one of democratic equality and competition, "the empirical situation was one of serial despotism by powerful leaders". It is Salisbury's opinion that the introduction of the administrative system reduced the arbitrariness

of despotic control. Strathern (1966:363) has countered, however, that the Siane lineage-head, who is the steward of movable lineage property, has no equivalent in the Mt. Hagen region, and furthermore, that the participation of the followers of big-men in Mt. Hagen is "voluntary and personal" (ibid.:365; see also Brandewie 1971).

Based on these characteristics of leadership, it is clear that big-men cannot act as adjudicators, if taken to mean a third party intervener who has the official authority to render a judgment (Koch 1974:27). Even in Siane, a strong ideology of individual autonomy is maintained and the Siane lineage-head cannot be considered an adjudicator who can make authoritative judgments (see Salisbury 1962:30-31).

The extent to which the ethnographic information on dispute handling can be considered "traditional" is problematic. In all areas of the Papua New Guinea Highlands which are to be discussed in this chapter, government appointed headmen, known as luluais (see chapter III), were appointed prior to the anthropologists' field research. Read, who initiated fieldwork in 1950, notes the intervention of luluais in disputes, and Reay (1974) points out that luluais were appointed in the Minj area in 1951, two years prior to her fieldwork.

A number of researchers have discussed and distinguished pre- and post-contact dispute handling procedures (Berndt 1962; Brown 1963, 1972; Meggitt 1957, 1965, 1977; Nilles 1953; Reay 1959, 1974; and M. Strathern 1972a, 1972b). Salisbury describes the procedures contemporary to his fieldwork, noting the actions of government appointed bosbois, as well as the pre-contact procedures (Salisbury 1962), and Read (1965) has described what he feels is the traditional form of debate, though noting the intervention of a luluai. Others have discussed what was apparently the contemporary situation at the time of their fieldwork (Bowers 1968; Cripser 1967; DuToit 1975; Glasse 1959; Hatanaka 1972, 1973; Langness 1964a; Newman 1965; Rappaport 1968). In the latter group, some have noted the existence of luluais but have not specified how post-contact influences have affected the traditional process of dispute handling, while others have made no mention of luluais in the context of dispute handling. This is not intended as a criticism of any of these approaches, but rather, as a cautionary note to the reader.

In reviewing the literature, we begin with the westernmost Highlands peoples, the Kapauku of Irian Jaya, and move in an easterly direction.

WEST IRIAN (IRIAN JAYA)

KAPAUKU

The Kapauku, who reside in the Kamu Valley, far west of the Balim Valley, have been studied by Pospisil (1958, fieldwork 1954-5). Pospisil pointed out that the usual definitions of law at the time of his fieldwork were so narrow that many "primitive cultures" were considered to be without law. He, therefore, felt it more suitable to conceive of law in "functional" rather than formalistic or descriptive terms.

By focusing on disputes and their attempted resolution, Pospisil was able to present the first (and we believe only) corpus juris of a New Guinea people. This was done primarily by examining dispute cases reported during private interview sessions. Like many others who have done research in Melanesia, Pospisil (ibid.:80) recognized that economic institutions play an important role in the political and legal structure because it is through economics that big-men are chosen. However, unlike other researchers, Pospisil (ibid.:162, 249, 257) attempted to separate legal decisions from political ones. Cases were grouped into categories (assigned by the author), based upon the content of the

prohibition. In addition to cases, a large number of abstract rules are presented by the author.

DANI

Based upon his research among the Dugum Dani, Heider (1970:102; 1972:21, fieldwork 1961-1962, 1965) argues that the Dani have "minimal law" if taken to mean a formal mechanism of social control including a moral code, a system for deciding trouble cases, and a means of enforcing decisions. However, he does note that "There are a few general principles which people may invoke to explain why a trouble case has been resolved...", but he asserts that these are "... post-facto rationalizations rather than predictive moral statements"(Heider 1972:21). However, one of his own examples is instructive: after the theft of a pig, "the important men in the Neighborhood quietly gathered at the men's house of the most important man, discussed the case, and agreed that A should give B two pigs" (ibid.)

In a preliminary report on law among the Grand Valley Dani², Bromley (1960), a missionary who had spent four years in the area (1954-1958), used Hoebel's (1954)

² Footnotes for chapter II are to be found on page 62.

method of setting out the basic "postulates" and concomitant "corollaries" of law. He notes (ibid.:253) that there are three levels to the "legal System". Within the "local linked-lineage group", offenses are handled directly between the "plaintiff and defendant", usually without groupings of armed men on either side. The "gain man" (a form of big-man) can arrange compensation or intervene to stop fighting. Punishment may be eviction from the group or a non-fatal spear thrust. When trouble is between members of different local linked-lineage groups, killing or feud is more likely. However, there exists strong pressure to limit intra-confederacy feuding. Here again, an outstanding "gain man" may intervene and arrange for compensation. When the trouble is between allied confederacies, feuds may be of long standing and can shift to war. Bromely concludes that "one of the primary legal forces in the society is the prestige and power of the gain man" (ibid.), who seems to have the privilege, or right, to punish (ibid.:254). Fear of feud, asserts Bromely, also "assumes major proportions in the legal system" since it disrupts economic and social reciprocity (ibid. 255).

Referring to the Bokodini, a group of Dani speakers living in the upper catchment area of the

Hablifoeri, Pleog (1966:265, fieldwork 1960-1962) finds that big-men "have little power to intervene in quarrels between fellow-parishioners. They can only try to persuade them orally or to deter them by threats. They do not have groups of followers or helpers they can rely upon and with the help of whom they would be able to enforce their decisions".

Referring to another Grand Valley Dani group, H.L. Peters (1975:6, fieldwork 1959-1964) also reports the existence powerful leaders called gain. Numerous war specialists are described. Some are even said to be supported by the community so that their full attentions may be directed towards war activities, e.g., spying. Peters points out that the Dani do not fight for territorial expansion, though this may sometimes occur. Rather, "the Dani men speak about warfare as a necessity of life" and they say that "warfare is good; when there is no war it is bad" (ibid.:76). War alliances, called confederacies or patrilineage combinations, are formed by the union of patrilineages from one, or usually more than one, clan (ibid.:51). Battles are fought between traditional enemies across stretches of land known as "no man's land". Throughout, the violent nature of Dani life is emphasized. No mention is made of disputes between

neighbors within the patrilineage combination. Thus, the picture of Dani society presented by Peters is one of killing, revenge, and an overall lack of law or non-violent dispute settlement procedures.

O'Brien (1969:201, fieldwork 1961-1963) points out that ideally warfare does not occur within the confederacy among the Konda Valley Dani. The confederacy, with a population of one hundred or less, is a socio-political unit composed of two subconfederacies, each being part of a different clan. The subconfederacies, ideally, intermarry. However, elsewhere O'Brien and Ploeg (1964:282) find that people seem to remember the time before the arrival of the mission and government as one of continual fighting, both within and between the political communities. It may be that a distinction is drawn between mere fighting and warfare.

One obtains a similar notion from Koch's (1974b, fieldwork 1964-1966) study of the Jalé, a Dani-speaking group residing east of the Balim or Grand Valley. From the onset, Koch (ibid.:31) points out that Jalé society lacks even "forums convened to discuss a dispute". He aims, therefore, to show why the weak procedures of mediation have not developed into a viable triadic system of conflict management rather than a tendency for

aggrieved persons to resort to violence (ibid.:32). He concludes that "the frequent use of coercive and violent methods of conflict management in Jalé society results from its fragmented political structure and a correlated absence of third party institutions" (ibid.:136).

SOUTHERN HIGHLANDS

HULI

In a very interesting paper, R.M. Glasse (1959, fieldwork 1955-1956 and 1959-1960) has analysed the way in which revenge and redress prevent powerful groups from emerging as political units in Huli society. Though the emphasis is on external breaches, i.e., those which take place between members of different local descent groups (whose territory Glasse refers to as a parish), some mention is made of internal disputes. Glasse notes that "A conflict generally begins between two persons. If these two persons belong to the same local descent groups, usually the conflict will be settled by the intervention of other members who prevent overt aggression" (ibid.:286). However, it is also pointed out that:

in cases of breach within the local descent group, vengeance may be resorted to by the injured person: but the form of vengeance is likely to be less serious in character [than in external disputes]. Internal breaches are usually resolved by hand-to-hand fighting or with sticks; afterwards compensation is usually paid to mend any hurt feelings which remain (ibid.;283).

Both in this paper and in other works (e.g. Glasse 1968), many references are made to the payment of compensation. Such payments are arranged between comembers of the local descent group; they are occasionally arranged between enemies, and they are paid by war initiators to any allied local descent group that has sustained losses in their service (Glasse 1959, 1968). Of interest would be the process and procedure by which such compensations are arranged.

WESTERN HIGHLANDS

ENGA

As with many other Highland peoples, the Mae Enga distinguish between warfare (using bows, spears, and axes) and brawling (with fists, sticks, and stones). They assert that warfare should not occur between sub-clans of the same clan, though this does sometimes occur. Older clansmen generally intervene to arbitrate between

individuals or small groups of men (Meggitt 1958:273, fieldwork 1955-1957).

Meggitt (1957:137) argues that:

There was no judicial procedures whereby clans could litigate or arbitrate on interclan disputes. Within clans, there were similarly no courts; but there was more chance of reconciliations being effected without serious violence. Disputants know they would need clansmen's help in certain economic transactions affecting their own prestige, so would not press them too far lest they alienate them completely.

The situation appears somewhat different if we view it from the individual's, rather than the group's, perspective. Meggitt points out (ibid.:135) that during a battle individuals would not come directly into conflict with affines in opposing clans. Furthermore, if a clan contemplated an attack, the men were usually careful to keep their plans from clansmen who had relatives or trade partners among the intended victims.

In a later work, Meggitt (1965) describes a divorce case where disputants discuss the reimbursement of bride price. He notes that "Important men and, nowadays, luluais of both clans attend the discussions and try to keep order, soothing the heated participants and suggesting compromises in the matching of disputed articles. Rarely, a luluai of a third clan may be called in as an independant

arbitrator...." (ibid.:147). He further points out that a breakdown of negotiations may, in fact, bring about desired results. In a marital case, for example, the breakdown of negotiations resulted in reuniting a man and his wife, "an outcome that the other men had secretly intended all along" (ibid.).

The only generalization which Meggitt feels safe in making is that "quarrels within the clan (and, more emphatically, within the smaller groups it comprises) are more likely to end in compromise and peaceful settlement than those between members of different clans" (Meggitt 1977:12).

KAKOLI

Among the Kakoli, the clan (the largest exogamous group) is also the largest group which can regularly be recruited to defend the interests of its components or members. Within the clan, disputes are often "settled" by force, but war weapons are never used. Within the smaller territorial group, the clan section, disputes which affect only part of the clan section, a dance ground group, or lineage, are "arbitrated" by other members of the clan section acting as disinterested parties (Bowers 1968:145-147, fieldwork 1961-1963).

MT. HAGEN

In her study of contemporary legal assumptions and expectations in Mt. Hagen (fieldwork, for this project, September 1970-January 1971), Marilyn Strathern suggests that the expectations about the function of official courts are derived from the manner of their own settlement process, which she describes as follows:

Hageners had no traditional system of courts - specialist institutions that gave persons authority to adjudicate in matters of dispute - nor even regularly convened moots at which trouble cases were aired. Nevertheless, in their handling of trouble cases they did recognize three processes which in combination gave rise to a court like situation: non-violent confrontation of disputants willing to talk out rather than fight out their grievances; interference of big-men as arbitrators or mediators; and adjustment of claims through compensation payments (M. Strathern 1972a:14).

Strathern further notes that the reaction of the offended party depended not so much on the type of offense as on its relative scale and on the relationship between offender and victim (ibid.:17) as well as on the residential and political relation between the groups to which the disputants belong.

In traditional Hagen society, big-men were able to act as "simple mediators, as active negotiators, or as judges who would pronounce what they considered a

proper settlement would be" (ibid.:24-25). In the latter situation, a big-man might make either overt or covert attempts to impose his point of view.

KUMA

Among the Kuma, the clan-oriented parish is the group which ultimately unites against outsiders. There is no central authority able to maintain law and order within the parish (Reay 1959:56, fieldwork 1953-1955). However, "some sort of law and order has to be maintained, and consequently there must be some authorized exercise of power" (ibid.:113). The term power, as used here, refers to "influence over other people's actions" (ibid.). The administration of justice within the group as a whole depends upon effective integration of subdivisions which tend to govern themselves separately" (ibid.:56). The segmentary nature of the subdivisions are described with reference to dispute behavior.

If the parties to a dispute belong to only one sub-subclan, the group formed by the sub-subclan is the part of the public affected, and its leader adjudicates. If the disputants belong to different sub-subclans within the same subdivision of the parish, the audience is drawn from the entire subdivision and the subclan orator, the spokesman of the subdivision, adjudicates. Disputes occurring between people of the

same subdivision are aired in the section of the parish territory they inhabit. If disputants belong to different subdivisions of the parish, a meeting is held to discuss the issue in some public place - it may be the ceremonial ground, or a junction of the roads linking the areas occupied by different subdivisions. Leaders of the affected subdivisions preside jointly (Reay 1959:126-128).

The procedure for handling disputes clearly described by Reay is the antithesis of the picture of Highland societies generally given. As we continue to elucidate this procedure, we might well query the use of the term "adjudicate". Nevertheless, the triadic system described is of substantial interest.

A leader to whom an aggrieved person has complained may formally call a public meeting. More frequently, the complainant goes to a public place where such meetings are held and either calls out for his antagonist to come and discuss the matter or directs a loud stream of abuse towards the place where the man who offended him is likely to be. Alternatively, he may go straight to the man and storm at him angrily; other people gather to watch and to intervene, and to insist on the disputants voicing their grievances at a meeting where the authorized leaders are in attendance. When a dispute develops in a public place, the leaders are summoned to adjudicate.

For an authorized leader to be effective, his decisions in the settlement of disputes must be acceptable to his followers. There is free expression of opinion, and often the authorized leaders part is limited to urging the disputants to settle their differences quickly so that everyone can get back to work.... [But] it is also the authorized leader's duty to decide the nature and the amount of indemnities to be paid.... but He rarely attempts to impose a judgment that is not in accord with public opinion as expressed by the participants in the dispute and their interested supporters.... Acceptance of indemnities

signifies that the dispute has been settled satisfactorily and there is no further cause for complaint... (ibid.).

In the first of these paragraphs, we learn that disputes are brought to public attention through the initiative of the aggrieved party. This is done either by bringing the complaint to a leader or by publically vocalizing the complaint. This fits well with Gulliver's (1963:211) notion of a self-help system. From the second paragraph, we may conclude that the role of the intervener, or third party, is more akin to an arbitrator or mediator than an adjudicator. Below we learn something of group solidarity, the nature of liability, and the degree to which behavior is assessed according to rules and standards of behavior.

During disputes between different subclans, re-criminations are exchanged recalling offenses committed by the opposing groups in the past. Kunump, in the sense of theft but not adultery, is regarded as an act of aggression on the part of one group against another. If compensation has to be given, the group as a whole is responsible for providing it, and the group's members (guided by their leaders) determine who will donate the articles to be given. On one occasion, when the owner of a stolen pig identified the thief from information given by a youth of the thief's subclan, it was this young man, not the thief himself, whom the subclan orator commanded to provide a pig to compensate the owner. In this case, the adjustment of the Kuma idea of justice to the interests of particular groups can

be seen clearly. The act of stealing was acknowledged to be wrong, so the group accepted the responsibility of compensating the owner. But the group itself was judged to be more important than an outsider's loss. In a discussion held by members of the subclan after the public dispute, when they were deciding upon who would provide a pig as compensation, everyone sympathized with the thief for being caught. His action of stealing a pig from another group was understandable; the young man's actions in helping outsiders to identify him was reprehensible.

Everyone is free to contribute to the discussion in a public meeting.... Precedent is cited, particularly if it can be turned to the advantage of the speaker's group.

Members of the disputants' groups who are not themselves directly concerned reiterate maxims referring to standards of conduct, ideas of justice, and the proper settlement of disputes in general.... The common value system, as expressed in the frequently reiterated rules or ideal standards of behavior,... provides a standard against which everyone measures the actions being discussed. Settlement of disputes by reference to these rules or ideal standards to some extent attains and maintains them. It provides an opportunity for segmental interests to be expressed and resolved in the interest of a wider group. Through the resolution of differences openly voiced, it welds the component groups of the clan-oriented community into a constituent whole. The rules or ideal standards of conduct are the basis on which solidary segmentary groups can associate in the pursuit of common ends. The rules do not apply to relations with outsiders. Paradoxically, the expression of conflict within the community provides the only occasions, apart from the widely spaced ceremonials, for people to form assemblages drawn from all sections of the community - assemblages concerned, not with perpetuating conflict, but with resolving it (ibid.).

In a later paper on "Changing Conventions of Dispute Settlement in the Minj Area", Reay (1974) discusses both the traditional mechanisms and those which came about after the appointment of luluais in 1951, which,

it should be noted, was two years prior to her fieldwork.

MARING

Rappaport (1968:110, fieldwork 1962-1963) notes that among the Tsembaga Maring, every instance of hostility between previously friendly groups, followed violence between individual members of the two groups. Such episodes, however, did not invariably lead to intergroup armed conflict. Two factors seemed to have been crucial: 1) the results of the violence, and 2) the previous relationship between the two groups.

Even homicides were sometimes settled peacefully while less-than-fatal injuries occasionally led to intergroup fighting. "If the antagonists were members of different clans within a single local population it was likely that the trouble would be resolved without battle" (ibid.).

Rappaport (ibid.:110-111) goes on to suggest why such fighting was contained. He points out:

That such fights, which are referred to as inside fights (ura aman) or brother fights (gui bamp), were usually contained may well have been due to the great number of affinal and cognatic ties binding the several agnatic groups that form a local population. These ties not only provided a set of relationships through which compensation might be attempted but also provided

strong incentives for local neutrals as well as antagonists to seek settlement. It is likely that every, or almost every, local neutral, because of the high degree of local endogamy, would have close relatives among both sets of antagonists. If "brother fights" were allowed to proceed, the relationships would be seriously damaged. If armed hostilities were not speedily resolved, a pair of full brothers from a neutral clan who had wives from the opposing antagonists would be likely to find themselves staring at each other across raised shields on a fighting ground, for military assistance is recruited through affinal connections. Even if the situation did not quite come to this, normal intercourse of those related to the antagonists might well be inhibited. There are taboos against eating food cooked over the same fire or grown in the same garden, as that of one's enemy, and neutrals must make a choice⁴. If the natal group of the wives of brothers become enemies, either the brothers must choose between eating with each other or with their respective wives, or one or both of the wives must refuse to adopt the interdining taboos of her natal group. If a woman refuses to adopt the taboos of her natal group she may no longer dine with them. In any case, the dyadic relations, which are heavily loaded both economically and with sentiment, are subjected to rather serious symbolic and behavioral impediments by unresolved disputes.

This explanation of the forces and pressures exerted on antagonists reveals that the Tsembaga peoples are subject to many of the same constraints found in other areas of the world, viz., that people who reside in, and wish to maintain, face-to-face relations cannot allow unresolved disputes, which may disrupt day-to-day social and economic life, to remain unresolved.

Rappaport also lists several other incentives for the peaceful settlement of disputes which are of

importance to the Tsembaga. First, like many other low density New Guinea Highlands peoples, individuals within the local population share access to non-domesticated resources anywhere in the territory, and garden land is interspersed. Thus, uncontained conflict would necessitate a radical redispersion of the population (ibid.:111). Second, the local population forms a single military formation which would be debilitated by intrapopulation disputes. Third, Rappaport suggests that local populations may be regarded as congregations. Thus, the need for cooperation in the performance of certain rituals may provide yet another imperative for resolving disputes within the local population.

Unfortunately, for our purposes, Rappaport moves on to a discussion of fighting between separate local populations rather than discussing the process or procedures by which disputes are resolved within the local population.

CHIMBU PROVINCE

CENTRAL CHIMBU

"Although in some parts of the New Guinea Highlands, traditionally, fighting was prohibited or

quickly stopped within a clan or local group, intraclan fights and killings occurred in Chimbu, and no authority existed for settlement" (Brown 1972:57, fieldwork began in 1958). "Even within the local group there was no maintenance of law and order by headmen who could settle disputes and prevent violence, and It was never possible to be certain whether a dispute would provoke a destructive war or be received with the exchange of valuables and friendly relations" (ibid.:55).

In Chimbu, each social group is concerned with its property in land and its reputation. In instances of conflict, nearly all member will combine to defend these. However, the individual involved in a personal conflict cannot expect regular and reliable support. Individual disputes may, however, be seen as conflicts between the groups if the previous relations between the groups were hostile or if the offense was of a very serious nature. In cases of homicide, for example, vengeance might be taken against any member of the murderer's group. Thus, the issue becomes one of group concern. As Brown (ibid.: 56) points out, "The intensity of reaction to any conflict of interests varies with the previous relations between the parties, their characters, and the relations between the groups of which they are members".

The expansion of disputes into group action may be viewed in terms of segmentary opposition. "The scale of any dispute depended upon the relations between the largest exclusive groups to which the disputants belonged" (Brown 1963:4). If both disputants were members of the same clan, an exogamous group of about six hundred persons, the two sub-clans would be opposed, possibly drawing allies from within or outside the clan. "There was a serious effort made by leading clansmen to resolve differences within the clan, rather less within the tribe, and none between tribes" (ibid.). Brown reasons that no permanent hostility is possible within the sub-clan and clan because; since "men must pass through one another's land to assemble, neither side can enlist a large group of allies, and there is pressure by fellow-clansmen to settle disputes" (Brown 1960, in Vayda 1968:456).

Similarly, Father Nilles (1953:19, who has resided in Chimbu from 1937 to the present) points out that the traditional view was that a wrong done in a community should be settled by the two parties concerned. He states that "The native's legal code...applied only to his own small social group - we can hardly speak of inter-clan law..." (ibid.:21). Throughout his discussion of law, Nilles emphasises the traditional importance of compensation

and the inadequacy of the practice, initiated by the Australians, of jailing the offender, for the settlement of disputes.

SINA SINA

Working in the Sina Sina sub-district of the Chimbu Province in 1965 and in 1969, Hatanaka also found that "Nowhere was there any political centralization or formal authority empowered to resolve disputes" (Hatanaka 1972:27). However, she points out elsewhere (Hatanaka 1973:62) that:

Disputes and fights within the clan or sub-clan were not difficult to settle because of the authority exercised by the clan leader, a wealthy big-man called yal bil.... No big-man could force a person to accept his order but the people tended to respect him because of his past achievements and his oratory was enough to determine public opinion.

UPPER CHIMBU VALLEY

Criper (1967:39, fieldwork 1962,3,4) presents a case from the densely populated Upper Chimbu Valley. He was able to observe a meeting, referred to as an "informal court", which gathered when a breach of the exogamic rule became likely. A boy and a girl of two formerly exogamous groups, Gadin and Koraxku, had been singing

together (courting).

They were brought into the open at a pig festival ground for an individual court and made to listen to a whole series of rhetorical questions whose import was that at this time Gadin and Koraxku were one group; they built their pig houses together; they were brothers together and now this boy and girl had started singing together and were trying to split the group into two, make them separate entities. If this was what they wanted, they were told, they could go ahead and marry. If their aim was to split Gadin-Koraxku they had just to say they wanted to marry each other and it would be arranged for them. If they did not want this to happen they would have to promise not to sing again nor see each other again.

This case is of particular interest. Though we cannot be certain to what extent this case represents the traditional system, the arguments adduced seem to be of a traditional nature. First, we note the existence of a public forum, the pig festival ground, where the discussion takes place. Second, we note the appeal to norms of behavior, viz., that, though the groups were formerly separate exogamous units, they were undergoing a process of fusion and, therefore, members of the group should no longer marry. Third, we see clearly that the intended sanction was public opinion. Finally, it is of interest that this public discussion should have taken place at such an early stage of this "social drama". The entire case would seem to fall within the bounds of what

Turner (1957) called the prehistory of a dispute. The "breach" had not yet been completed.

EASTERN HIGHLANDS

GURURUMBA

Among the Gururumba, an Asaro Valley society, warfare is not prohibited within the tribe, a group of approximately 2,300 people (Newman 1965:33, fieldwork 1959-1960). Though warfare may break out within the tribe, the phratries do not consider themselves traditional enemies. Within the phratry (population average 1,121), weapons are restricted to sticks, stones, and hands. Furthermore, a settlement of the dispute which gave rise to fighting within the phratry can be reached by non-violent means (ibid.:31).

In his discussion of the traditional role of the big-man, Newman points out that they become noticeable during specific contexts, such as the settlement of disputes, food exchanges, ritual, and discussions concerning matters which may effect the group as a whole. If disputes are seen to affect groups, the leading men of these groups attempt to arrange a meeting attended by most members of the groups involved. The leading men do not conduct the meeting nor do they sit as judges, "Rather, they tend to stay in the background while

disputants in the case speak to the points involved; occasionally they will step forward to emphasize a point, clarify an issue, or voice a strong stance" (ibid.: 43).

SIANE

As in many Highland societies, the Siane maintain an ideology that " all individuals are their own masters, acting autonomously and subject to no man..." (Salisbury 1962:31, fieldwork 1952-1953). Nevertheless, Salisbury (ibid.:14) notes that warfare is forbidden within the phratry, a group which maintains a belief in common agnatic descent and which, in Siane, is exogamous. The sovereign political unit in Siane society is the clan-village of 200-250 members (Salisbury 1965:50), a territorial and exogamous group which maintains a belief in common agnatic descent. For the most part, Siane clans are "corporate wholes" and one can, therefore, speak of a wedding or a dispute, as being between clan A and clan B (Salisbury 1962:27). From the clan point of view, the world is divided into two parts: friendly clans of the same phratry, and hostile clans which surround them. Alliances may shift. Any dispute between clans can result in warfare; in the case of wife stealing the dispute may

be settled by discussion and payment. "The only other way in which disputes can be settled is by self-help in the form of a blood feud" (ibid.:26). However, even in the pre-contact situation, disputes within the clan were settled after long public discussion. As Salisbury (ibid.: 30-31) notes:

The principal parties, backed by other members of their own group, either lineage or men's house, start by violently abusing one another, as happens in inter-clan fights; the verbal intervention of neutrals eventually causes them to calm down, and suggestions about means of settling are made; when the principals finally decide that they no longer wish to continue their mutual hostility, one of them makes a conciliatory gesture by offering large 'presents' to the other; a return 'present' is then offered 'to make the belly smooth'. The net result of the exchange is that one person pays an amount of compensation as suggested by the neutral interveners, but by giving it as a 'present' he preserves the fiction of his autonomy in coming to a decision and gains a reputation for generosity.

Salisbury (ibid.) suggests that there are three kinds of factors which lead to the settlement of disputes. First, the Siame place a high value on the maintenance of good relations with others. Second, segments of a clan usually align with co-members who are engaged in a dispute with a member of another segment. This segmentary principle seems to apply to lineages within a men's house as well as to men's houses or ward groups within a clan.

Such alignments threaten group unity and result in suggestions of settlement between the principals so as to avoid splitting the group, be it clan or men's house group. The third factor inducing settlement is the opposite of the second, viz., the lack of group support of one of its members.

As Salisbury points out, such "diffuse sanctions" are not repugnant to the strong Siane ideology of individual autonomy.

GAHUKU GAMA

One of the earliest fieldworkers (1950) in the New Guinea Highlands, K.E. Read, found that a:

pattern of unceasing hostility crisscrossed the [Asaro] valley from end to end, ... Permanent conquest was not the principal end of warfare, so in most cases victors did not take over the lands of a defeated foe; indeed, after some time had elapsed, it was not unusual for them to invite the exiles to return to their homes. But...the two groups were almost certain to resume their hostile relationship in the long run. Enemies seem to have been as necessary as friends for the satisfactions generally sought by the Gahuku (Read 1965:34-35).

However, Read did not allow the matter to rest here. Rather, he made the effort to specify within what range of social relations and between which groups such

hostilities were endemic.

Read found that inter-tribal relations were of two types, enmity or friendship. Friends intermarried, exchanged wealth, and gave sanctuary in times of need. When disputes arose, peaceful settlement was expected, though fighting did sometimes occur. However, this was not regarded as warfare. Between traditional enemies, on the other hand, no excuse was needed, though battles were usually triggered by some breach, i.e., homicide, sorcery, or theft (ibid.:33). He also found that "Within a tribe [a territorial group of about 750 persons which maintains a belief in common agnatic descent] there was a normal expectation of peace. If any of its clans [a territorial exogamous group of about 100 persons] opposed one another in a dispute, moral ideals required them to settle their differences amicably without resorting to force; they were 'as brothers' and therefore should not fight each other" (ibid.).

The process of settlement is made fairly clear in a case given by read (ibid.:225-228). Golwaizo had attacked Gameha with an axe. By the time Read reached the parties, others who were indirectly involved through a relationship with the disputants had arrived and were sorted into opposing factions. The details of the

incident were as follows: Goluwaizo justified the action by pointing out that Gameha's pig had broken into his garden four times and that she (Gameha) had been warned. Furthermore, he might have killed the pig, which would have been a greater offense than cutting down the palm. Gameha countered with a calculated insult; the accusation that Goluwaizo had not yet repaid her son for his contribution to Goluwaizo's bride price. This insult enraged Goluwaizo to such an extent that he struck the old woman with his axe. Fortunately, with the back side of the blade.

The dispute was further complicated by the rivalry of the two groups. A government appointed headman, or luluai, intervened. He pressured the disputants to accept what Read calls "the traditional form of debate". Finding fault on both sides and pointing out that no harm had been done, he suggested that it was proper to end the matter by just forgetting about it. Read (ibid.:228) goes on to note that:

All too frequently, the magistrate's court at Humeleveka was used only by opportunists who hoped to obtain a reversal of decisions that had been reached in the villages. Indeed, the existence of this alien, superior tribunal served more often to undermine the traditional basis of law and order than to promote the ends of justice. Those who had recourse to it were often not seeking equity as much as a decision favorable to them,

regardless of the merits of their case.

If Gameha refused to accept the counsels of reason that seemed to express the objective and collective opinion of those who heard her complaint in the grove, then there was no one who could prevent her from carrying her appeal to Humeleveka, for no one commanded any instruments to enforce the decisions reached in the give and take of the debates. The authority of such decisions rested on the fact that they expressed consensus; their sanctions were intrinsic to the system of personal relationships in which the litigants were placed. At most, pressure could be brought to bear upon persons who were not disposed to listen to reason. They could be reminded of obligations transcending the passions aroused by their present sense of injury, but there was no explicitly coercive power to enforce what they refused to accept.

BENA BENA

Langness has pointed out that among the Bena Bena, like other Eastern Highlands groups, warfare (which involves killing, bows and arrows, and spears, as opposed to fighting, which involves sticks, fists, and no killing) is prohibited within the district (1968: 185 or tribe 1964a, fieldwork 1961-2), a group of about 750 people. It is believed that fighting between subgroups should not be allowed to get out of hand. If this appears to be the case, individuals may intervene in an effort to prevent escalation of the conflict. Langness (1964a:115) refers to this process as "arbitration".

The most interesting feature of this intervention by a third party is that it can and does take place at

all levels of organization. If two brothers fight, a third person intervenes and brings them together. If two sub-clans, a third intervenes, if two clans, still another becomes involved and this procedure can even involve two tribes because a clan or clans from one tribe will, under certain circumstances, intervene in the internal affairs of another (1964a:116).

KAMANO, FORE, USURUFA, AND JATE

In his study of the Kamano, Fore, Usurufa, and Jate, Berndt (1962, fieldwork 1951-2 and 1952-3) describes methods of social control ranging from socialization to cannibalism. Various modes are described as "legal" or "non-legal", a distinction which Berndt finds dependent on the extent of majority backing. Many dispute cases are presented using a format which suggests their authenticity. What they have in common is their dramatic violence and brutality. For example, in the chapter on intradistrict disputes, two such cases are presented (ibid.:295). The outcome of the first was that the father of the murderer was killed and eaten along with his pig, dog, and cassowary, "each being cooked in a separate oven". In the second case, the victim was exhumed and his body cut up for a feast. A careful reader will learn from a footnote, however, that "slightly different versions of these two cases obtained from women" can be found in Catherine Berndt's Ph.D. thesis. Thus, one learns that these were

not observed cases (see Brown 1963b).

The final main section, "The Judicial Procedure", begins by tracing the "development of the court". According to Berndt, as the Administration extended its control, it forcibly banned most of the "approved and traditional ways of settling grievances" (ibid.:314). The official court was seen as an alternative mode of settling grievances. Emulation of these courts resulted in what Berndt calls "embryonic courts". The embryonic courts spread through the region by diffusion; thus, they would be in operation in a region before the area was visited by a government patrol. Berndt (ibid.:315) recounts what is "said to have happened in the first embryonic court held at Kemiju, in about 1947" (four years before the period of field study). He quotes a local man as saying "Other people are making courts, why shouldn't I?" Thus, a dispute over a woman who had deserted her husband was settled by compensation.

Once this sort of developmental scheme is presented, all observed modes of conflict management which do not fit the pattern of dispute behavior reconstructed through the use of memory data can be attributed to the effects of alien influence.

SOUTH FORE

In South Fore society "Quarrels among [parish (or what Berndt calls the 'district')] members were to be settled peaceably, but failing this, only sticks should be used as weapons. If in the last resort arrows were to be fired at group members, the vital parts of the body were to be avoided" (Glasse and Lindenbaum 1971:365, fieldwork 1961-3). In an earlier paper, Glasse (1969:21, see also Lindenbaum and Glasse 1969:166) had referred to the clan-parish as the group which ideally settled internal quarrels without intentional killing. The parish is the largest local aggregate to form a distinct political entity. The size of such groups range from 40 to 525 members. The average size is 180, and two thirds of the groups have between 100 and 200 members.

These ideals of behavior may not have been strong enough to prevent clashes within the group, however. Each parish is divided into two or more "sections". These are not genealogical units but usually consist of one or two hamlets known by a single name. As the authors point out, the section was, in fact, the effective political and jural unit. "In the past, the section mobilized immediately when threatened or attacked. Now it usually settles internal grievances without resort to

arms..." (Glasse and Lindenbaum 1971:368). From the context we assume that "internal", in the above quotation, refers to disputes within the parish rather than within the section. We are left to query the mode of dispute handling used between members of the same section.

AUYANA

Warfare itself is the central focus of Stirling Robbins' study of Auyana, a group residing about 12 miles southwest of Kainantu. Within the largest political unit, referred to as a "sovereignty", fighting was restricted. Members did not shoot to kill and after fighting they would make up and share food. They did not work sorcery on one another (Robbins 1970:57, fieldwork 1962-3 and 65-6). Unfortunately, the data is based on twenty five years of fighting. Furthermore, people did not want to discuss fighting within Auyana because, Robbins (1970:288) reports, it meant that they remembered it, or even that the grudge was still held.

GADSUP

DuToit (1975, fieldwork 1961-2) divides the forces which may be brought to bear on persons for

misconduct into two types; coercive and judiciary. In the context of Akuna (Gadsup), coercive forces might be applied in the realm of inter-clan and inter-community relations (DuToit 1975:74). Within the village, most disagreements are discussed, argued, and evaluated between the persons concerned, supported by interested members of their own groups. If discussion fails, or if the matter is too grave to be dismissed lightly, it may be thrown open for discussion in the village court.

The court is informal and begins when the local yikoymi (big-man) comments briefly on the issues. Flamboyant orators negotiate and suggest acceptable outcomes and actions but the court cannot impose a decision. Unfortunately, it is not altogether clear whether "court" refers here to an innovative but unofficial institution or to a traditional form of dispute handling.

SUMMARY

Although these data on New Guinea Highlands societies do not support Collier's (1975:138) generalization that "an actual low level of violence and fairly efficient processes for settling disputes by negotiation" stand out in tribal societies, they do suggest that in the pre-contact and early post-contact periods, there were

restrictions on warfare within particular social groups and that within these units there were means, though vaguely defined, by which disputes could be resolved without resort to violence. Throughout the Highlands, dispute processes are initiated by the offended party, i.e., self-help. The process appears to frequently have involved the use of a third party intervener, though the occupant of the role was not typically a strong force in arriving at a settlement. The intervener has generally been referred to as an arbitrator or mediator rather than an adjudicator and the role does not appear to have been highly differentiated (Abel 1974) from other leadership roles. The relative group affiliation of the disputants and the past history of relations between groups is also widely noted as an important factor. The theft of a pig, for example, from a man of another group is understandable (see Reay, above) while similar behavior towards a member of one's own group is not. Moreover, where a series of grievances characterize the relationship between the two groups to which the disputants belong, the particular offense is likely to be seen as but one in a series of offenses and, as a result, become an issue between the groups rather than remain an issue between the disputants alone. Important here is the notion of collective

responsibility; that is, the group, as a whole, is considered to be responsible for the actions of its members. In the case of homicide, vengeance (payback) may be exacted against any member of the killers group. Finally, throughout the Highlands, the payment of compensation is necessary, though it may not be sufficient, for the reduction of animosity leading to the settlement of disputes.

The data in this chapter also suggest a direction for further research, viz., an examination of the variation, across Highland societies, in the size of the groups within which warfare is prohibited or restricted. Building on the work of Brown and Podolefsky (1976), we suggest that there might be less variation in the territorial area of such groups than in their population. Such an analysis is beyond the scope of the present dissertation and will be taken up elsewhere.

One of the first goals of the Administration in the Papua New Guinea Highlands, pacification, appeared to have been achieved until the early 1970's. Since that time, there has been an apparent rise in the incidence of intergroup fighting (see Paney et al 1973; Standish 1973; Strathern 1974). However, these phenomena are the exception, rather than the norm, in the day-to-day

conflicts which arise in Highlands societies. Although these statements seem contradictory, this is not the case. What is referred to as the ecological fallacy makes it clear that the properties of groups do not always signify the properties of individuals (see Robinson 1950). The finding of an increase in the frequency of intergroup fighting in the Highlands does not require that there be an increase in the frequency of fighting within each and every one of the societies or communities within the Highlands. Nor does it even require that there has been an increase in the frequency of fighting within or between most Highlands communities.

Although disputes do erupt between drunks or over road accidents which have no precedent in traditional times, our data will show that most disputes in the contemporary Mul community arise over issues which are essentially the same as those which arose in pre-contact society (i.e., land, pigs, and women). However, the mechanisms of dispute management have, within a few decades, changed essentially from fighting, or mediation within small groups, to the use of government courts or informal mediation procedures which have been referred to as "unofficial courts" (Strathern 1972a; 1972b). In the following chapter, we will discuss these post-contact dispute handling mechanisms.

NOTES FOR CHAPTER II

- 2 Also known as the Grand Baliem Valley or the Baliem Valley (Ploeg 1966).
- 3 Reay (1959:113-117) distinguishes between authorized leaders and spontaneous or secondary leaders. The former is primus inter pares. There is but one in each sub-subclan and the position is said to be hereditary, though Reay finds that only 64% of present authorized leaders have succeeded their fathers.
- 4 A similar fire taboo is reported among the Kuma (Reay 1959:91-92).

CHAPTER THREE

POST-CONTACT PROCEDURES OF DISPUTE HANDLING

OFFICIAL COURTS

The official legal system in use in Papua New Guinea today follows the Australian model. The highest court is the Supreme Court, followed by the District Court, and the Local Court. The law introduced was primarily English common law. The distinction between criminal and civil law has been maintained and, although both types of cases are heard by the same courts, the rules of procedure and evidence are somewhat different. For criminal offenses, the Queensland Criminal Code was adopted wholesale. This is said to have been justified by the lack of any readily identifiable pre-existing alternative (Barnett 1972a:61). S.H. Johnson (1969:101) states that before Europeans came to Papua New Guinea,

there had been no system of public justice and little in the nature of communal punishment of crime. On December 23, 1974, the Papua New Guinea Criminal Code came into being, and on January 11, 1975, it was put into operation displacing the Queensland Code. However, the new code is modeled on the earlier one and neither provide for consideration of native customary law.

Until 1966, cases involving Europeans were heard in the official court system, which did not yet include Local Courts, while cases involving indigenes were heard in Courts of Native Affairs, presided over by government patrol officers. A special set of simply-defined regulations prohibited minor criminal offenses, such as theft and fighting, and "administrative offenses", such as not following a patrol officer's orders, census regulations, or hygiene rules (Barnett 1972a:60-61). In civil disputes, these courts "were expected to do justice and to encourage harmonious and peaceful settlement" (ibid.). In New Guinea, as opposed to Papua, formal recognition was given to native customs, save when they were repugnant to the general principles of humanity (Barnett 1972b:618).

At present, recognition and enforcement of native custom is guided by the Native Customs'

(Recognition) Ordinance 1963, which requires all courts to take account of native customs in civil cases involving land (or rights to rivers and seas), marriage, divorce, child custody, trespass by animals, and transactions intended by parties to be governed by custom or where the court considers that by not taking custom into account injustice will or may be done to a person. Native custom is not taken into account in a criminal case except for ascertaining the defendant's state of mind or for deciding upon the reasonableness of an act, default, omission, or excuse. Custom may also be considered when deciding whether to convict a guilty party and in determining the penalty to be imposed.

The Local Court is the only one which sits regularly at Gumine. Data to be presented in a later chapter will show that courts above this level are of very little relevance to members of the Mul community. Therefore, in discussing the official court system, we will be concerned primarily with the Local Courts.

JURISDICTION

The Local Court has jurisdiction over all offenses of the law of the territory which may be dealt with summarily (i.e., without a jury), civil actions, native

matters arising out of native custom except those within the exclusive jurisdiction of the Lands Titles Commission, and any contravention of Local Government Council rules. Parties may elect to have matters dealt with by the District Court rather than the Local Court (Local Court Act 1963-1966).

POWERS

In civil matters, the Local Court is empowered to award damages or compensation, order restitution or the return of property, order the specific performance of a contract other than a contract of service, or to make any other order which justice requires. The value of damages or compensation ordered cannot exceed two hundred kina (about U.S. \$250.00). The complainant cannot divide the cause of action to make two or more complaints, though he may abandon the excess so that the case may be heard in the Local Court. The court is also empowered to grant a certificate that a marriage has been dissolved if the parties were married according to native custom (Local Court Act 1963-1966).

A Local Court magistrate may mediate in a civil matter at any stage or before the hearings with a view

to the just and amicable settlement of the matter. He may also postpone a hearing if he thinks parties may be able to settle it themselves. Once such a settlement has been arrived at, it can be embodied in the official decision without a further hearing (Local Court Act 1963-1966).

In criminal cases, the court is empowered to order a fine, not exceeding K 100.00 (U.S. \$130.00), or sentence the defendant to a term of imprisonment not to exceed six months. The court may also order additional payments of compensation up to K 200.00 (U.S. \$260.00) as the justice of the case requires. Fines may be paid in installments. In default of payment of the fine, the court may order imprisonment subject to the justice of the case (Local Court Act 1963-1966). The following scale is presently in use:

Table I

FINE - PRISON SENTENCE EQUIVALENTS	
Fine (in kinas) ¹⁴	Maximum Prison Sentence
K 4 - 10	1 month hard labor
10 - 30	2 months hard labor
30 - 50	3 months hard labor
50 - 70	4 months hard labor
70 - 90	5 months hard labor
90+	6 months hard labor
200+	12 months hard labor (District Court only)

PROCEDURES

During civil cases, both parties should be present and the complaint should be read out loud and explained to the defendant in a language he or she can understand. The defendant must be advised that he has the right to have the matter heard in District Court and is not obligated to make any defense before the Local Court. If the defendant does not admit the complaint, the court first hears the evidence of the complainant followed by the witnesses and then proceeds to hear the evidence of the defendant followed by his witnesses. After each party has given evidence, the opposite party is entitled to cross-examine him and his witnesses. A magistrate may ask questions at any stage of the proceedings and the court may recall the parties or witnesses at any stage. After hearing the evidence, the court considers a verdict which is pronounced in open court. The procedure in the criminal court is the same except that it is the prosecutor, rather than the complainant, who brings witnesses and gives evidence. The defendant is not required to testify or to give evidence (Local Court Act 1963-1966).

T.E. Barnett (1972a:61) has pointed out that the

Australian Administration's insistence upon a highly centralized official court system, run by Australians according to Australian rules without, until recently, any indigenous participation above the level of interpreter has resulted in the development and continuance of a flourishing unofficial court system.

UNOFFICIAL COURTS: KOTS

A frequently used means of handling grievances throughout the Highlands is through mediation by local government councilors and their assistants (komitis) referred to by the Pidgin term kot (court). The term mediation refers to a procedure during which a third party (mediator) aids the disputants in achieving an agreement (Koch 1974:27). These procedures have been referred to by Strathern (1972a; 1972b) as "unofficial courts" since they are not recognized by the Papua New Guinea government.

An understanding of the role played by the councilors and komitis in the procedure necessitates a concern with the historical development and contemporary legitimacy of these kots. It appears that the legitimacy of the unofficial courts stems from three sources: a) the early contact experience and the historical

development of the kot, b) the necessity for the readily available means of handling the day-to-day conflicts which arise in the community without resorting to violent self-help, which had been prohibited by the colonial government, and c) the contemporary reinforcement of the system by administrators and magistrates.

During the early contact period of the 1950's, luluais and tultuls, who had been for a brief period preceded by bosbois, were appointed by government patrol officers (kiaps).

The duties of a luluai may be thus summarized: He acts as the representative of the Administration in his village, and sees that all orders and regulations are observed. He is responsible for maintaining good order, and he reports promptly to the Administration any breach of the peace or irregularity that may occur. He adjudicates in quarrels and minor matters of difference among the people...

The tultul's duties are to convey to the people any orders or information received by the luluai from the Administration. He is simply a means of communication between those in authority and the people...

The principal element in the bringing of a village under Government influence was the appointment, or recognition, of the luluai as the agent of the Government (Report 1923:40, quoted in Brown 1963:2).

As Brown (1972:70) points out regarding luluais and tultuls, "their position depended more upon administration support than upon the authority which they

naturally held as big men within their groups". As a result, "tribal leadership changed in a generation from the absence of any fixed authority ('anarchy') to a system giving officials the opportunity to dominate ('satrapy')" (Brown 1963:3). Following Brown's (1963) paper, the extent to which the traditional situation could be considered "anarchy" throughout the Highlands became an issue of debate (see Salisbury 1964, A. Strathern 1966, and Brandeiwie 1971). However, Brown's characterization of the post-contact period as one of government backed satraps has seen little criticism. The period of elected councilors which followed the luluais can be seen as an attempt to return some control over their local leaders to the people.

The original Native Local Government Councils Ordinance 1949-1960, authorized councils to maintain peace, order, and good government but did not provide for specific magisterial duties (M. Strathern 1972a:95). At present, local government councils are constituted according to the Local Government Ordinance 1963, which came into effect in 1965. Under this ordinance, councils are charged with the control, management, and administration of the council area. Thus, under the ordinance, councilors are seen as administrators rather than

justify sending cases back to the councilors on four grounds: a) councilors are best able to deal with matters which concern local custom, b) in civil matters, settlement is ideally reached through agreement which is more likely to occur when cases are heard at the local level, c) criminal cases are often referred back when the offender is aged and imprisonment might be seriously detrimental to his or her health, and d) officials realize that if they attempted to hear all disputes which arose at the local level, the court would be inundated with cases.

If one considers the minimal degree of third party intervention in the traditional society, there is little wonder that councilors and komitis are considered to be the only local community members with the "power to straighten the talk", i.e., settle disputes.

CHAPTER FOUR

ETHNOGRAPHIC BACKGROUND

The Chimbu Province is an area of 2,270 square miles (5,879 square kilometers) containing an indigenous population of about 160,000. Thirteen languages are spoken in the province. Linguistic groupings range in size from 66,000 to 1,500 speakers (Howlett et al 1976: 20; following Wurm 1975). The largest, Kuman (Chimbu proper), is rapidly becoming a provincial standard. Research was undertaken amongst a group of Chimbu peoples who speak Golin (Marigl), the second largest language grouping (26,700 speakers), living in the northeastern corner of the Marigl Census Division in the central portion of the province (see map I, below). The area can be found at 6 degrees 12 minutes south latitude, 144 degrees 57 minutes east longitude. Mul, the community which is the geographic focus, lies approximately three miles east of the Gumine District Headquarters. The provincial capitol, Kundiawa, is thirty two miles north of Gumine. To the south lies the Karamui District.



MAP I*

* Adapted from Howlett et al 1976:VII.

Peoples in the Karamui, which is the southernmost district in the province, can be classified as fringe highlanders and are socially and culturally different from the Chimbu (cf. Wagner 1967,1971). Though the people of the Gumine District are geographically intermediary between the centralmost Chimbu and these fringe highlands peoples, they cannot be said to form a culturally intermediary type.

Since there exists a large body of literature concerning the Chimbu peoples, it is unnecessary to present a full ethnographic account here (see Aufenanger 1959; Bergmann 1971; Brookfield 1973; Brookfield and Brown 1963; Brown 1960,1961,1962,1963,1964,1966a,1966b, 1967,1969,1970a,1970b,1972,1974; Brown and Brookfield 1959, 1967; Brown and Winefield 1965; Cripser 1968; Hatanaka 1972,1973; Hide 1971, 1973,1974; Howlett et al 1976; Nilles 1950, 1953; Schafer 1938; Standish 1973). Rather, after describing this particular area of the province, we will turn to those aspects of Chimbu society which are relevant to decision-making in dispute processing.

BACKGROUND

Mul must be understood to refer to a community

rather than to a well defined territorial or descent group. When in Kundiawa a person will refer to himself as being from Gumine, or, if he wishes to be more specific, from Mul, indicating the region east of the Gumine government station. When in the local area, however, Mul is seen to be a vaguely defined core area within the larger tribal area.

Mul is the site of the first government rest house (fallen down but "soon" to be rebuilt) east of Gumine station. In earlier times it provided a first stopping off point for patrols into the Salt, Nomane, Bomai, and occasionally the Karamui areas. At present, the rest house site is a focal point for such government activities as census taking, tax collection, and voting.

Patrols into the Gumine region began in the late 1940's and continued through the early 1950's. The Gumine patrol post was established in 1954⁵ and was elevated to sub-district headquarters status in 1966. During the early 1950's, a Lutheran mission and government airstrip were established at Omkalai and a Catholic mission was established at Dirima. The airstrip at Omkalai, approximately seven miles from Gumine, has

⁵ Footnotes for chapter IV are to be found on pages 117-118.

a short runway on a gradient of 17 degrees and, therefore, does not service larger planes⁶. During the early 1960's, a road was constructed from Kundiawa to Gumine and shortly afterward was extended through Mul. An administration school was established in Gumine during 1963. Students wishing to continue their education beyond the elementary level must live and study in either Kerowagi or Chuave to the North. A few young men are now taking courses at the University in Lae and one has completed technical college at Rabaul.

Most men from Mul between the approximate ages of ten and forty are conversant in Pidgin English, the lingua franca of Papua New Guinea. Most men in the forty-to fifty-year age bracket have some understanding and are able to utter a few words. None of the very old men either understand or speak pidgin. Though some of the young to middle age women seem to understand pidgin, few will admit readily to such an understanding and very few speak the language.

ENVIRONMENT AND TOPOGRAPHY

The Marigl Census Division is bounded on the north by the Marigl River, across which lie the Wikauma Census Division of the Gumine District and the Gunanggi

Census Division of the Sina Sina District. To the west, it is bounded by the East Kambia Census Division of the Minj District, the Kubor Range, and the Western Highlands border. In the south, the Marigl is bordered by the Bomai Census Division and, to the east, by the Salt Census Division. (see map I, above).

The topography of the area is dominated by two central features, the Wikauma Peak and the gorge of the Marigl River.

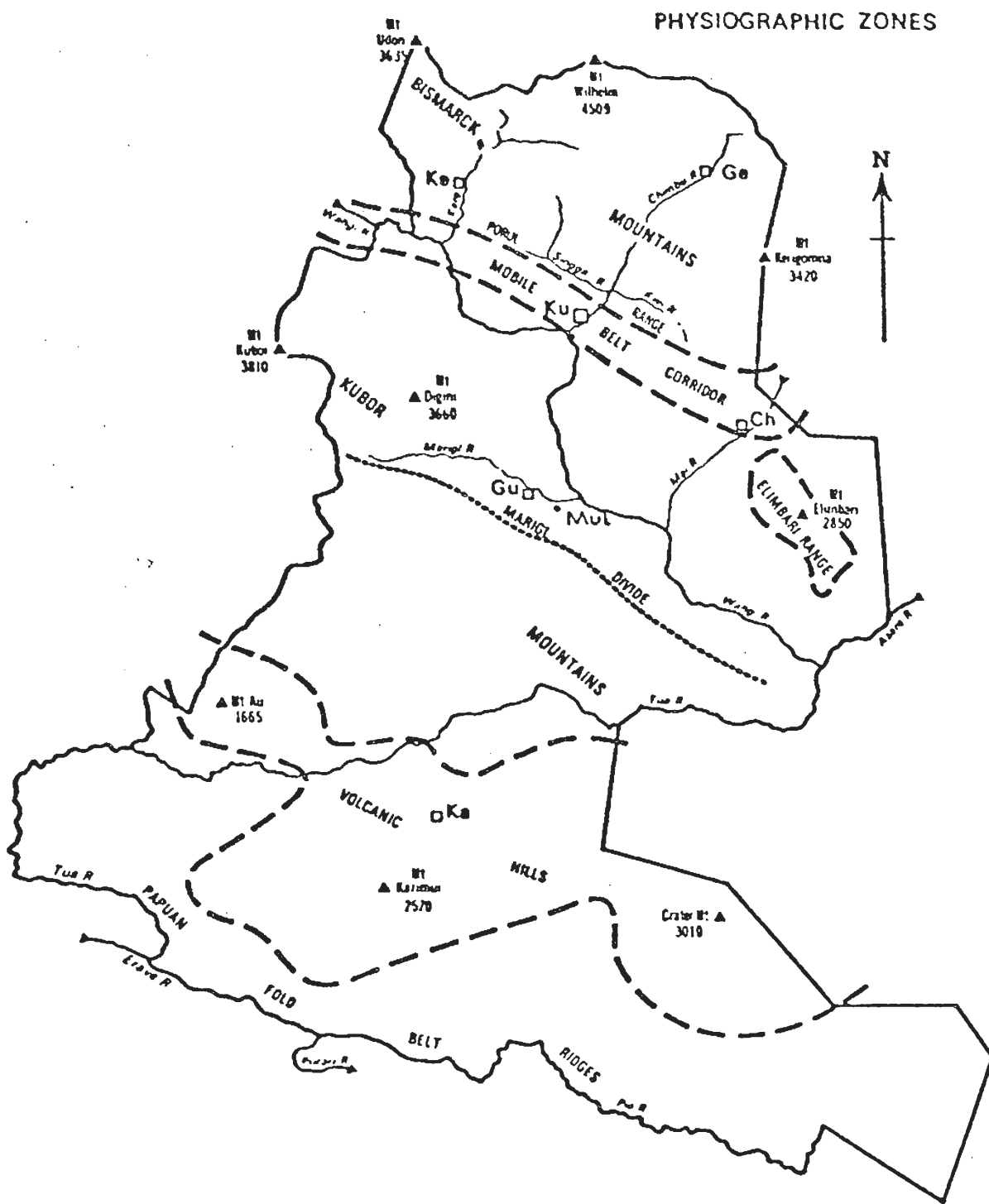
Mount Wikauma lies across the Marigl River and slightly to the west of Mul. The peak is an imposing sight with its lateral ridges and deeply incised gorges of the Wahgi, Mon, and Marigl Rivers. In most instances, the slopes exceed fifty degrees from the tops of the ridges themselves, the only exception being a large area at a slope of twenty degrees near Omkalai, and which is the only section cultivated in its entirety. In the valley below, uncultivated lands are almost entirely a mixture of pit pit, kunai (sword grass), and shrub regrowth. Some stands of mid-montane rain forest still exist on the higher slopes of Mt. Wikauma and its ancillary ridges (Patrol Report 1969).

The second major feature is the gorge of the Marigl River. Walls rise almost vertically from the

river and there is, therefore, no rich valley bottem land. A short distance along the river to the east of Mul is the confluence of the Wahgi and Marigl Rivers. Down the valley created by these two rivers one has an inspiring view of the sheer face of Mt. Elimbari.

Mul itself lies just south of the Marigl River at an elivation of about 5,500 feet. Here, the terrain rises steeply to a ridge running east-west at an elevation of about 8-9,000 feet known as the Marigl Divide (see map II, below). The majority of the population live either along the road or along knife like ridges. These slopes rising from the Marigl River are either cultivated or are bare grass and schrub regrowth, a result of many years of intensive cultivation. There are scattered stands of trees and a yearly increasing number of coffee gardens. The area is so barren of trees, and wood so hard to come by, that some have taken to digging trenches five feet deep and three feet wide around their gardens to prevent the intrusion of hungry pigs foraging nearby. To reach the forested clan-owned bush region, one must traverse three mountains, a trip which requires a full day, even for these sturdy hikers.

Though the present research was carried out entirely within the valley of the Marigl River, a brief



MAP II *

Elevation in metres

0 5 10 15 20 25
Kilometres

* Adapted from Howlett et al 1976:70.

discussion of the southern Marigl Census Division is of interest because one of the clans is residentially split between the two regions.

To the south of the Marigl Divide the terrain consists of a series of ridges running at right angles to the Marigl Ridge and roughly parallel to the Kubor Range. These ridges run southward and eventually level out into the lower altitude Bomai Plateau and the Tua River. Informants report that the southern portion of the census district is covered by dense timber. The land is said to be fertile and wild pigs, carpul and cassowary, and other birds highly valued for their feathers, are said to be abundant.

POPULATION

Determining population density has long been a problem for researchers (see Day and Day 1973; Brown and Podolefsky 1976). The problem lies not only in the accuracy of the data but also in the choice of the unit of analysis. As one moves from the larger to the smaller units of analysis, or vice versa, the density figures will necessarily change; unless one is in the very unusual circumstance of having a uniform population distribution throughout the larger unit. This is

markedly not the case in this portion of the Chimbu Province. We will, therefore, begin with the larger units and move toward the smaller in an attempt to provide the fullest possible picture. Data for the larger units, i.e., census districts, are taken from the 1973 Village Directory.

As can be seen by looking at map I and table II in conjunction, the population distribution in this region is quite uneven.

Census District	Population	Area(mi ²)	Population Density
Gunanggi	8,860	31	285.80
Marigl	15,941	227	70.22
Wikauma	9,311	172	54.13
Salt	10,828	202	53.60
Nomane	4,645	222	20.92
Karimui	3,101	160	19.38
Daribi	3,132	320	9.79
Bomai	804	220	3.65
East Kambia	765	448	1.71
Pio	189	370	0.51
Tura	97	380	0.26

Table II

CENSUS DIVISION
POPULATION AND AREA DATA

The extreme southern regions of Tura and Pio can be said to be almost uninhabited, with densities of only .26 and .51 persons per square mile respectively. Slightly higher densities are found in the Bomai (3.65), Daribi (9.79), Karimui (19.38), and Nomane (20.92) census divisions. To the east of the Marigl, the East Kambia Census Division also has an extremely low density (1.71). The densities of the Salt, Wikauma, and Marigl Census Divisions rise to 53, 54, and 70 person per square mile respectively. And the Gunanggi Census Division has 285 persons per square mile.

An environmental factor influencing the tradition population distribution is the effect of disease. It is well known, particularly to those interested in problems of resettlement, that these low altitude districts in the southernmost portion of the province were disease ridden places. High mortality rates were due, to a large extent, to malaria and, probably since the 1930's, tuberculosis and whooping cough. These deaths are usually attributed to witchcraft, sorcery, or spirits and the areas became known as bad places. This is one reason given by Mul residents who have land rights in the southern portion of the census division, for not settling there permanently. Other reasons

include the lack of access to roads for cash cropping and the unavailability of schools and medical aid posts.

We have previously mentioned that the Marigl River forms the border between the Marigl and Wikauma Census Divisions. The Wahgi River flows south forming the border between the Wikauma and Gunanggi Divisions. It is on the slopes rising from these rivers that populations are most heavily concentrated.

Of the 15,941 people in the entire Marigl Census Division, approximately 13,600 are crowded into the Marigl Valley (Census Report 1968). The southern portions of the census division, therefore, have a population density comparable to that of Bomai or Karimui.

In a census of 93% of the area covered by the Gumine Local Government Council in the Wikauma and Marigl Census Divisions, 21,701 people were found residing on approximately 80 square miles, a density of 271 persons per square mile (Patro Report 1969). Since portions of the Local Government Council Area lie outside the valley, we would estimate the density in the Marigl Valley area to be somewhat higher than this figure. Howlett et al (1976:96, citing Smith 1975) point out that densities on cultivatable land in the Gumine, Mul, and Dirima communities is 295 per square mile. We feel these

figures correspond to our own since within these com-
munities most land is indeed cultivatable.

GROUPS

The people of Mul conceptualize their social groupings as agnatic. The structure can be seen as having the segmentary nesting characteristics of a patrilineal mechanical model. The founders of the largest group is said to have had sons whom he sent out to form the sub-groups and, in turn, the sub-group founders had sons who founded the lower groups in the hierarchy, and so on. Hierarchical segments, therefore, link themselves as father/son, while parallel segments are seen as brothers. However, this hierarchical descent construct is seldom of concern to individuals. Rather, individuals interact in terms of opposition between groups. Although individuals within a particular clan were able to enumerate the subclans of their own clan and the subclan sections of their own subclan, difficulty was encountered in eliciting the names of the subclan sections of other subclans within their own clan or the subclan names of other clans.

The hierarchical nature of the descent construct can be seen in the origin story. It is said that

in the distant past a man, whose name as Nemeru Temai, lived, with his wife, in the Yani area, about ten miles west of Mul. The male children of Nemeru Temi were sent out to begin new groups in the various surrounding areas. Most renditions of this story list these children as Kobulaku, Nilki Bomai, and any of a diverse number of groups who reside yet in the Yani area. Kobulaku is the name of the group to which the people of Mul belong. Kobulaku, in turn, had four sons whose names correspond to the traditional clan groupings within Kobulaku. Each of these clan founders married and the names given for their offspring correspond to the names of the subclans and, frequently, the subclan sections (see figure I).

Following Brown (1972), we refer to the most inclusive of these segmentary groups as a phratry. We have seen that though there was little disagreement concerning the name of the phratry founder, we were unable to arrive at agreement as to its composition. As manifest in Mul, the phratry is not named and has no corporate function, their sole tie being the belief in common agnatic descent with a vaguely defined set of groups to the west. Obviously this is not a solidary group and there has been a long standing history of

animosity between the Kobulakus and peoples from Dirima whom some include as members of the phratry. Due to hostility between the Kobulakus and the Dirimas, there was no intermarriage during recent pre-contact times, though temporary truces were able to be arranged so that group members might be able to attend the large pig feast without the eruption of open hostilities.

Following this descent schema, the group referred to as Kobulaku must be considered a subphratry. However, based on territorial criteria, it is also a tribe. Kobulaku is a territorial group which encompasses almost all lands resided on or used by the members of the clans which compose the subphratry. The single exception is 372 persons who permanently reside to the south of the tribal territory. These persons do not form a single group; rather, they are parts of a group which had migrated, in pre-contact times, due to warfare. Most members of these groups have returned to the tribal territory since pacification (see below). The 3,944 members of the Kobulaku subphratry-tribe, including those living to the south, combine to give food and pigs at pig feasts and, in the past, combined occasionally in warfare.

The story of how the Kobulakus came to reside at

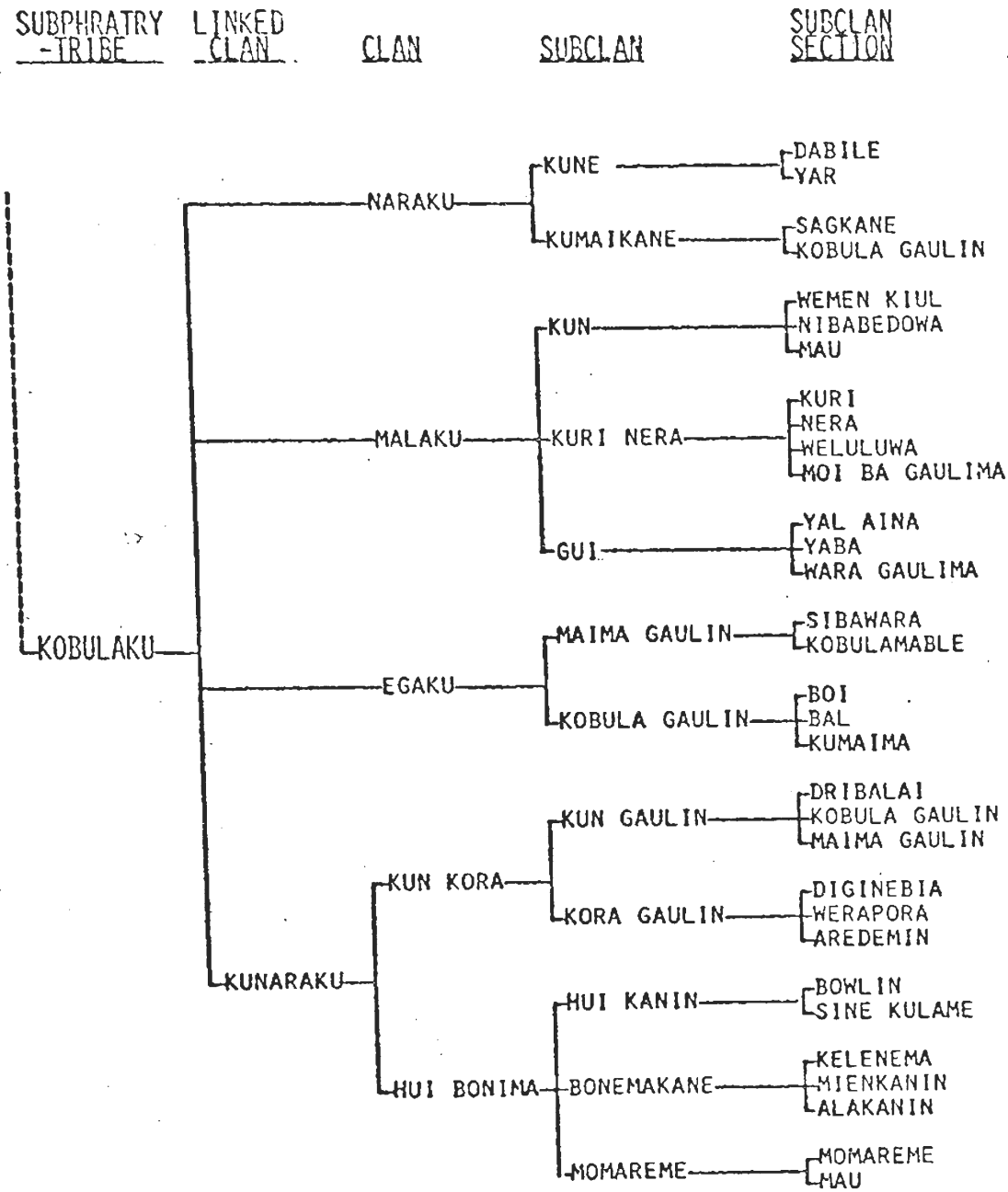


Figure I

STRUCTURE OF SOCIAL GROUPS

Mul has many variations. All agree that the people who now make up the Kobulaku tribe came from the Yani area. Most of the older men agree that a fight occurred between several Yani groups during the time of their great grandfathers, though one man insists that it happened when he was eight to ten years old. It is agreed that the fight began over the theft of some ripe bananas. We were told that since they did not have courts to settle things, the only thing to do was to fight. The vanquished group moved east along the north side of the Marigl River, avoiding the Miens at Gumine and making several stops of undetermined length. Seeing the good land on the other side of the river, the groups came across, routing the previous residents who moved south towards Bomai.

Different versions of this story do not agree as to which of the present clans came first, and some say they all came at the same time. The various versions do not strictly correspond to the clan affiliation of the speaker. Moreover, some suggest that Kobulaku was a named group before this migration, while others argue that the clan groups were united and given a common name after they had already taken up residence around Mul. A result of this migration is that the Kobulaku tribal territory is not contiguous with the territories

of any of the groups named as co-members of their phratry. At present, the tribal boundaries are the River Sible on the west and the River Sua on the east. On the north, some gardens are maintained, though with great difficulty since the foot bridge was washed out, on the northern side of the Marigl River. There is a forty acre plot of land named Minibe on this side of the river which has been the subject of dispute for over twenty years and has not been cultivated since that time⁸. To the south, the tribal territory extends into the bush and some members of the Naraku clan maintain permanent residence in Kalwari, a full days walk south. This latter group participates fully in clan and tribal activities and a great deal of visiting occurs between the residents of the two areas. Many of the men from Mul own pandanus nut orchards in Kalwari and, frequently, pigs owned by Mul residents are cared for by kinsmen or affines in Kalwari.

The subphratry-tribe was, until recently, segmented into four clans: Naraku, Malaku, Egaku, and Kunaraku. The latter group, however, has recently segmented into two intermarrying clans and, hence, the name Kunaraku, at present, refers to a linked pair of clans, Kun Kora and Hui Bonima (see figure I). Clans

in Chimbu are usually territorial, exogamous, named groups (Brookfield and Brown 1963:11). However, exceptions are numerous.

The tribal territory is divided into three areas by boundaries running approximately perpendicular to the Marigl River and extending into the bush. Each area, therefore, contains a variety of altitudinal and ecological zones. The western territory is occupied by the Kunarakus, the central portion by the Narakus and Malakus, and the eastern territory by the Egakus. Though these territorial arrangements are recognized and boundary lines can be pointed out, these territorial areas are defined by the distribution of individually owned plots rather than a group territory. Individual plots may be given to non-agnatic kin. As a result, not all land within the territory is owned by members of the group and, conversely, some members of the group own plots of land outside the group territory.

As previously mentioned, the Kunarakus were, until recently, a single exogamous clan. At present, the five subclans are combined into two exogamous groups which intermarry. The subclans of Kun Gaulin and Kora Gaulin refer to themselves as Kunkora and the subclans of Hui Kanin, Bonimakane, Momarame refer to themselves

as Hui Bonima. The former has a population of 789 and the latter 367 members. However, members of Kunaraku refer to themselves as a single group and hold bush land in common which is available for use by members of either Kun Gaulin or Kora Gaulin.

Numerous inquiries were made into the reason for this split. We were told that when the white men came, they told the Kunarakus (present population 1,156) that since they were a large clan, their members could intermarry. We repeatedly inquired as to whether there had been strife between these two segments of the original clan and each time were told that there had not. Members of the even larger Malaku clan (present population 1,254) report that they had been given the same advice but have not, as yet, split into two intermarrying groups.

Brookfield and Brown (1963:11) have pointed out that, traditionally, clan fission occurs in two ways: "defeat sometimes forced a part of a clan to migrate and sever its ties with the part which remained;... [or] two clan sections grew large enough to allow intermarriage, and the sections subsequently took on other functions of independent clans,..." The process described above appears to be of the latter type. However, it must be

noted that the stimulus came from an outside influence. Moreover, one of the resulting clans, Hui Bonima, has only 367 members and is far smaller than any of the other Kobulaku clans. Also, either because the stimulus for the split was external to the group, or because of its recent occurrence, the sections, or new clans, have not yet, with the exception of clan exogamy, taken on the functions of independent clans. These factors have presented some difficulty of classification, viz., shall we follow the descent construct and refer to the Kunaraku as a clan with two intermarrying sections or shall we employ the exogamic rule as the defining feature of the clan and hence refer to Kunkora and Hui Bonima as linked clans. Brown's (1969:81) statement that "the clan is defined most clearly as the exogamic group" would appear to support the latter alternative for purposes of ethnographic description. However, during disputes, which are the activities with which we are most concerned, members of Kunaraku speak of themselves as a single clan. Thus, when referring to "the clan" in the context of dispute behavior, the Kunaraku will be considered to be a single clan. By this classification the clans in the Mul area have a mean size of approximately 1,000 persons⁹.

The central portion of the tribal territory is of primary importance since Mul itself lies within this area and a large portion of the disputes which form the data base in the chapters which follow involve one or the other or both of the two clans which reside and garden in this central area. The 1,254 members of the Malaku clan live intermixed with between 306 and 430 (see below) of the 802 members of the Naraku clan. The remaining Narakus live to the south in Kalwari. This settlement pattern is the result of past intertribal warfare.

Approximately forty years ago the central portion of the tribal territory was divided into two territories. The Naraku clan resided within one and the Malakus within the other. As one story has it, a presentation of pigs was given to the Kobulakus by a group from the Yani area. The majority of the pigs were given to the Narakus whereupon the Malaku and the Egaku clans became jealous and a fight ensued. A second version has it that the fight occurred over a stone axe. A third version reports that a Malaku woman was killed in the bush and, though the Narakus denied the charge, a fight broke out. The final story is as follows. Some young boys went to the water and were playing flutes. They

began to argue over a small pig debt which Naraku owed to Malaku. The boys began to fight. They returned home and all their "parents" joined in the fight. That night spears and shields were made ready. The Narakus attacked and burnt the houses of the Malakus who ran and hid in the bush. The Malakus, aided by the Egakus, then burnt the houses of the Narakus who ran and stayed with the Kunarakus. The Narakus came back and killed a big-man of the Malaku clan. The Narakus were finally routed by the two opposing clans.

These stories were all taken from people who were young men at the time and who actually fought in the battles. They vividly demonstrate the problem inherent in the collection of memory cases of past disputes. It is impossible to determine with any degree of certainty which of the stories is correct or if the various stories somehow join to form a complete picture.

In any case, all the stories agree that the combined forces of Egaku and Malaku were able to chase the Narakus south to what is referred to as the "Bomai side" of the Marigl Divide. The Narakus took up residence at Kalwari where a portion still remain. The presence of government influence during the 1950's allowed the Narakus, either under the expressed or implied

protection of the government, to return to Mul where they were given land by the Malakus. This history has resulted in the present pattern of land holdings in the central area of the tribal territory and the residential division of the Naraku clan into two areas.

Not only is the Naraku clan residentially divided, but so are its subclans and their respective subclan sections. Table III shows the residential distributions of the Naraku clan. The data for table III was derived by listing all 802 members of the Naraku clan as given in the government census, then inquiring amongst a group of knowledgeable informants as to the primary residence of each clan member.

This past history of conflict between the Naraku and Egaku clans led us to inquire to what degree animosity remained between the Narakus and the other groups. Respondents uniformly pointed out that these things were from the past and that they no longer felt any hostility toward the opposing groups. Nevertheless, during a dispute over the theft of a few roles by an Egaku man from the trade store owned by a man of the Naraku clan, the argument became heated and these past incidents were vengefully recounted. Nothing of a similar nature occurred during disputes between Naraku and Malaku.

Table III

POPULATION OF NARAKU SUBGROUPS BY TERRITORY OF RESIDENCE

Clan Subclan Subclan section	Naraku				Total
	Kune		Kumai Kane		
	Dabile	Yar	Sagkane	Kobula Gaulin	
<u>Residence</u>					
Mul	99	91	105	11	306
Kalwari	0	134	85	153	372
Both	<u>0</u>	<u>0</u>	<u>0</u>	<u>124</u>	<u>124</u>
Total	99	225	190	228	802

This may have been fortuitous or it may be that the Narakus feel well-disposed towards the Malaku since the Malakus returned, in gift form, the large plots of land on which the Narku now reside. Moreover, the interdigitation of individually owned plots of land within the central area provides for constant contact between members of the two clans and allows for much intermarriage and mutual aid. As a result of these developments, a higher value is placed upon social relations between Malaku and Narku than Narku and Egaku, despite the fact that the root of the original trouble was between the Narakus and Malakus.

Clan members see themselves as a solidary group vis a vis members of other clans. In the past, clans were a frequent unit in warfare and therefore joined together in making compensation payments to other clans. All deaths during warfare require compensation. Whether victim or vanquished, clans are responsible for paying compensation for persons killed by their group. Moreover, clans are responsible for compensating allied clans which were called upon to come to their aid. This same principle holds at all levels of segmentation. The failure to compensate adversary or allied groups may develop into hostility which outlasts the memory of the

breach which precipitated the original conflict.

Brookfield and Brown (1963:11) point out that "intratribal competition takes the form of interclan food exchanges and display at ceremonies" and that "when a tribe visits a ceremonial ground to sing during the pig festival, it usually divides into clan units".

Like the phratry and the clan (ranging in size from 200 to 500 persons), subclans are named after their founder, who is believed to have been descended in a direct line from the original phratry founder. Members of the subclan maintain a belief in common agnatic descent. At times, especially during disputes, individuals may refer to one another as being "one-blood", though they may not, in fact, be members of the same "one-blood" group (subclan section; see below). In such instances, the "one-blood" idiom is used to emphasize the importance of a social relationship which is being threatened by rising hostilities between the disputants.

Individual plots of land owned by members of the subclan are not randomly distributed throughout the clan territory in a pattern which would result from chance alone. Rather, land owned by members of the subclan tend to cluster in a particular portion of the clan territory

(see Brown and Brookfield 1967:124, 136). Residents are able to locate particular subclans by pointing out particular ridges or series of ridges and their accompanying slopes. Exceptions, however, are numerous and, though we have no quantitative data on the geographic distribution of land ownership, it is clear that the majority of persons who own land outside this vaguely defined subclan area usually do so within the clan territory. As a result, the subclan is more geographically dispersed within the clan territory than the clan is within the tribal territory. Succinctly stated, "within the tribe the fragmentation of group holding increases with segmentation" (Brookfield and Brown 1963:13).

Because of the lack of wood for fence building, a number of men will frequently enclose their individual garden plots within a single fence. Such cooperation is most frequent between members of the same subclan or subclan section. Plots owned by men from other subclans within the clan or other clans within the tribe are sometimes included, though with decreasing frequency.

Although it is the garden owner's responsibility to build and maintain these fences, observed dispute cases reveal that the owner of a pig which damages garden crops is held responsible for the damage regardless

of the condition of the fence through which the pig entered the garden.

The subclan is active in marriage arrangements and ceremony. When a young man wishes to "buy" a wife, he informs his father, his brothers and the big-men of his subclan section and, today, the councilor for his clan. Though the majority of the large contributions come from members of his subclan section, most members of the subclan will contribute. Other close relatives of the groom, such as his sisters and their husbands, are also expected to make contributions. The collected bride price is given to the parents of the bride who, in turn, distribute it among the members of their own subclan and subclan section.

Marriages initiate, or serve to maintain, long standing relationships of exchange and friendship between the individuals, and hence the groups, involved. Moreover, the collection and distribution of goods within the respective groups remind the members of each of the groups of their mutual interdependence. This serves to reinforce social solidarity within the subclan and subclan section.

Each subclan is segmented into several (between 2 and 5) subclan sections (on-blood groups). The only

accurate population data on subclan sections which we have are for the four sections of the Naraku clan. These sections range in size from 99 to 288 persons, with a mean size of 200.

The subclan section is the first unit to mobilize for warfare. Such conflict may remain between the subclan and the opposing group, or it may expand to include allied groups on either side. The potentiality of expansion depends to a large degree upon whether the relative position of the groups in the segmentary system lends itself to opposing alignments at the higher levels of segmentation and upon the past relations between the groups. However, there is no automatic submission to this segmentary principle. The actual recruitment of allies appears to depend more upon interpersonal ties between persons and group. We have already mentioned the alignment of Malaku and Egaku clans against the Narakus. In a more recent example, the death of a high school student of the Kun subclan of the Malaku clan in August, 1976, led to fighting between the boy's father's subclan and his mother's subclan after a delay in making the agreed upon compensation payment. Though the latter group is a segment of a different tribe residing in the Salt (Salt/Nomane) Census Division, the conflict did not

expand to include other groups of the larger tribal or clan units.

Unlike subclans in most Highland societies (see Brown 1967:50-51) there is no restriction on fighting between sections of the subclan. Indeed, our arrival in the field coincided with the culmination of fighting between the Sagkane and Kobula Gaulin subclan sections of the Kumai Kane subclan living in Kalwari. This fighting resulted in three deaths, two by arrows and one by axe.

The subclan section is the only group which places restrictions on internal fighting. If co-members become extremely angry, individuals may attack each other with fists, clubs, or staffs, but not with axes, arrows, or spears. These restrictions are related to the notion that members of the subclan section are closely related genealogically and have "one-blood". Why this restriction is not extended to the subclan, as amongst other Chimbu peoples (Brown 1967:51), is not known.

Although co-members of the subclan sections consider themselves agnatically related and having one-blood, genealogies are extremely shallow and people cannot trace connections to a large proportion of their co-members. Figure II presents, in simple form, the genealogical knowledge (names recalled) in the male line, of

a sample of eighteen men. In this table an X in a particular column indicates that the informant recalled the name of that kinsmen.

<u>No.</u>	<u>age*</u>	<u>F</u>	<u>FB</u>	<u>FBC</u>	<u>FF</u>	<u>FFB</u>	<u>FFBC</u>	<u>FFF</u>	<u>FFFB</u>	<u>FFFBC</u>
1	YM	X	X	X	X	X	X	X**	X	X
2	M	X	X	X	X	ONE	X			
3	A	X	X	X	X			X		
4	Y	X	X	X	X	X				
5	M	X	X	X	X	X				
6	LM	X	X	X	X	X				
7	Y	X	X	X	X					
8	M	X	X	X	X					
9	LM	X	X	X	X					
10	M	X	X	X	X					
11	Y	X	X	X	X					
12	Y	X	X	X	X					
13	YM	X	X	X	X					
14	M	X	X	X	X					
15	A	X	-none-		X					
16	A	X	X	none	X					
17	A	X	X							
18	YM	X	-none-							

Figure II

GENEALOGICAL KNOWLEDGE IN THE MALE LINE

* Y-young; M-middle age; A-aged (LM-late middle age).

** The man referred to was the subclan section founder. This may be a telescoped, rather than real, connection.

Although there is not much variation, we can view this as a Guttman scale if it has a high degree of reproducibility (see Pelto 1970:341). The coefficient of reproducibility is:

$$\text{Rep} = 1 - \frac{\text{number of errors}}{\text{number of entries}}$$

In this case $\text{Rep} = 0.99$. This can, therefore, be considered a unidimensional scale. The question which arises is why are some persons high on genealogical knowledge while others are low? By looking at the second column of figure II, it can be seen, without the use of elaborate statistics, that age is not a causative factor. Residential mobility may have been thought to be a factor but there is no difference between the mobile Narakus and the more sedentary groups.

Without a better explanation, we can only attribute this variation to individual idiosyncrasy. We should like to reemphasize, however, the low degree of variation and the shallowness of genealogical knowledge. This is important when one considers that the FFBC and their children are ego's elders and peers within the subclan section. For this reason, it will be more important, when discussing disputes, to note whether disputants consider themselves co-members of the same subclan

section, subclan, clan, or tribe than to trace actual genealogical connections between the disputants as did Gulliver (1971) in his study of an African Society.

Brookfield and Brown (1963:13) point out that in the central Chimbu, subclan sections may have five or more parcels of land and individuals may own one or more plots in each one of them. This pattern was also reported by members of the Mul community. Garden land enclosed within a single fence consists predominantly of plots owned by members of a particular subclan section. These men cooperate in the initial burning of the fallow cover and in the maintenance of the enclosure.

Men also cooperate in the construction of men's houses which are often, though not always, associated with a particular subclan section. However, residence in the men's house is not restricted to members of the subclan section and overnight visits are frequent. During the evenings men sit in the men's house telling stories of past events and recounting the day's activities. Plans are discussed for initiating new garden sites or exchange activities. There is no formality in these discussions. While some men talk, others may sleep, play cards or dice, or go off to visit. Frequently, the men can be heard singing long into the night.

Members of the men's house group, the subclan section and, to a lesser degree, the subclan, expect gifts of food, and to be able to borrow tools or money, when needed. Members of the subclan section refer to one another as brothers or sisters and interact, or are expected to interact, in a fashion which is consistent with that terminology.

"The solidarity of a group, quasi-group, or collectivity", according to Cohen (1968:135), "is a readiness to act in concert for certain purposes". It "may derive from interests which stem from internal social relations, or as is common, it may result from both" (ibid.). It can be seen that in terms of proximity of land holdings and residence, cooperation in gardening, house construction and ceremonial exchange and the willingness of groups to unite for common defense, the solidarity of the social groups which we have described is inversely related to their position in the segmentary hierarchy.

Brown (1970:99-100) notes that, in Chimbu, transactions between clans and tribes are competitive while those within a clan are reciprocal, leading to mutual assistance and support. Her discussion (ibid.:103) of the pattern of cooperation within the clan suggests

that the greatest degree of mutual aid and cooperation is within "a close group of agnates" and decreases as the social unit becomes more inclusive.

AFFINAL AND OTHER NON-AGNATIC RELATIONS

While the segmentary structure of Chimbu society provides the framework for intergroup relations and, therefore, provides guidelines for norms of behavior towards others, each individual is the center of a network of social relationships. We have noted, above, that marriage serves to initiate or maintain a mutually valuable relationship involving the periodic exchange of goods and frequent aid between persons and their affines and other non-agnatic relatives. At the individual level, these relations transcend structural relations. In situations of conflict, non-agnatic kin stress the importance of maintaining the valued relationship existing between them. Moreover, non-agnatic kin ties cross-cut hostile relations and relations of opposition between groups and, as Brown (1970:100) points out, "good relationships between affines lessens the likelihood of a dispute leading to a fight between groups".

LAND OWNERSHIP AND LAND USE

Highlands agriculture presents many variations on the classic swidden or shifting cultivation system, in which "impermanant clearings are cropped for shorter periods in years than they are fallowed" (Conklin 1961: 27). In the less densely populated areas, such systems of agriculture are used for both primary and secondary crops, but in these core areas of high population density, complex and intensive agricultural techniques are used. Such techniques allow for permanent or semi-permanent cultivation of a single area.

Throughout the Highlands, the length of the fallow period is related to the type of land tenure. Land tenure falls into two broad types: individual rights in land and group rights in land. Brookfield and Brown (1963:39-40) point out that the precision and permanence of individual claims to land vary directly with the frequency of land use. Furthermore, "There is a very clear correlation with land classes, so that it is possible to speak of 'high use' land as more highly valued, not only in the qualitative estimate of Chimbus but also in the tenacity with which individual rights are maintained and group interests are protected against

encroachment" (ibid.). They note further that there is individual ownership of high use land but general claim to low use land (ibid.:41).

In a survey of seventeen New Guinea Highland societies, Brown and Podolefsky (1976) found a perfect one-to-one correspondence between those areas where gardens are under permanent or semi-permanent cultivation (very short fallow period) and those societies in which there are individual rights to land. They concluded, therefore, that land tenure might be considered a social concomitant of the length of the fallow period.

With the exception of men's houses and ceremonial ground sites, all land which is part of the Kobulaku tribal territory and which lies within the densely populated Marigl Valley is individually owned. Moreover, the lands bordering the Kobulaku tribal territory on the east, west, and north are individually owned by members of other groups. The southern portion of the tribal territory is forested bush. To reach this area, a person from Mul proper must traverse three mountains. This forested area is divided into four sections, each said to be owned by one of the original four clans. Any member of the clan may cut trees, plant gardens (and enclose them), or hunt in the section owned by his group,

but such activities are forbidden to members of the other clans. The soil in this forest area is said to be fertile and sweet potatoes grown here are more highly valued than those grown in the densely populated areas where land is in frequent use.

The primary mode for the transmission of land ownership rights is patrilineal inheritance. Before marriage, a young man relies upon his mother, sisters, and his brothers' wives for subsistence needs. He may be given a few banana trees or stands of sugar cane to care for and use as his own. Upon marriage, a man's father will allocate a portion of his land to his son. The young groom continues to live in the men's house while he constructs a house for his wife, usually either in the vicinity of his men's house or garden area. If a man dies without allocating all his land, it is distributed amongst his sons and, sometimes, brothers. If a man has daughters, but no sons, he may make loans of parcels of land to the husbands of his daughters in usufruct. These loans may become long term and eventually permanent gifts if the husband takes up residence with, and participate in, the activities of his wife's father's group. Residents recognize that this often led to the incorporation of the children of the uxorilocally

resident husband into the group of his wife's father. They point out, however, that the present practice of census registration reminds people of their natal origin and mitigates against such changes in group membership.

Another means of acquiring land is by encroachment. In this densely populated area, land is tenaciously held. Along the borders, encroachment by members of one group into land of another may rapidly lead to intergroup fighting and even brothers may fight over land which was not divided before their father's death.

The primary subsistence group is the elementary family. Garden plots, owned by the husband are dispersed, and usually each family has more than one plot under cultivation at any given time. As a result, most families have alternative gardens available in the event that a pig breaks into and damages one of them.

In initiating a garden, it is the man's responsibility to clear the ground of grass, scrub brush, and trees as well as to build a fence around the garden. If the plot is within an area which will be enclosed by a group of men, they will cooperate in fence construction. The cut grass and scrub brush are turned until dried by the sun and then burned, always beginning at the top of a hill to prevent the fire's spreading upward out of

control. The owner of the ground then subdivides his plot, using rope and sticks for markers. Some of these horizontal boundary markers will be reinforced for purposes of soil retention; sometimes ditches are dug along the horizontal to prevent erosion. People from Mul are aware of the gridiron ditching technique used by the central Chimbu, but say they use this technique only in wet places and that most gardens are so steep as to not require drainage. We saw no gridiron ditches in Mul, though we did see them on relatively steep slopes in the Dom area to the north. The initial breaking of the ground is done by men.

Most sections of the garden will be used by the owner's wife. However, some portions will be lent in usufruct to the owner's sisters, affines, or friends. Thus, the interdigitation of land use is even greater than land ownership.

Though the wife of the owner of the ground may have been involved in deciding who is to use the ground, she has thus far made little contribution to the labor required. At this point, however, gardening activities are turned over to women with only occasional help in weeding or fence repair by men. The final preparations of the ground are made and yams and sweet potatoes are

planted in mounds approximately two feet in diameter. Most gardens are planted as a mixture of leafy vegetables, cucumber, corn, winged beans, sweet potatoes (15 varieties), yams (16 varieties), and taro (10 varieties). Crops mature in approximately this order and, as a result, the gardens contain only sweet potatoes, yams, and taro after about four to five months from the time of planting. In the higher altitude gardens, onions and cabbage are frequently included, while taro and yams are eliminated. Throughout the area, people also plant and consume ten varieties of bananas, eight varieties of sugar cane, and four varieties of edible pit pit. After the crops are harvested, pigs are put into the garden to root out remaining tubers. Typically, the garden will be replanted only in sweet potatoes. After two to four harvests, the ground is allowed three to five years fallow, though a seven to ten year fallow period is possible for those men who have sufficient ground.

Beginning in 1959, coffee was introduced as a cash crop in the Mul area. Only ten coffee trees were planted in 1959, but, by 1965, there were 30,975 coffee trees in Mul (Patrol Report 1965). At the time, this was the largest number of coffee trees in any rest house

area of the Gumine sub-district (ibid.). Pyrethrum and passion fruit were introduced after coffee but were not found to provide comparable returns; pyrethrum because of the labor involved and passion fruit because of the low return and bulk of produce (Patrol Report 1971).

The introduction of cash crops is important in dispute settlement for two reasons. First, it is the primary means by which people obtain the money which is used in making compensation payments. People report that, in the past, they fought over such incidents as pigs breaking into gardens because they had nothing to pay compensation with. Second, the introduction of coffee has put additional pressures on land, particularly plots which are near to the road, making the transport of the dried beans feasible.

Damage to gardens by pigs is an ever present threat. With the exception of small piglets, pigs are seldom seen tethered as we observed in the central Chimbu. After foraging during the day, they return home for an evening meal whereupon they are, ideally, confined in some manner. However, though this is the stated ideal, it is recognized not to be the norm unless a particular pig has had a history of damaging gardens. Even under

these circumstances, pigs are not always adequately confined (see cases 1, 2, and 3 below). People say that pigs are both their pride and their agony.

NOTES FOR CHAPTER IV

- 5 Different patrol reports give either 1954 or 1956 as the date for the establishment of the patrol post. Howlett et al (1976:10) use the 1954 date.
- 6 Howlett et al (1976:131) point out that the Omkalai airstrip is the steepest commercial airstrip in the southern hemisphere. Patrol reports list the gradient as 13 degrees.
- 7 All such population data were derived from census materials available at the Gumine Local Government Council office. Group populations, therefore, include all those who list themselves as members of a particular group for census purposes. This usually includes male group members, unmarried sisters, wives, and their children. Census unit names do not always correspond to group names, but the data was derivable from census units.
- 8 An informant, now in approximately his mid-thirties, reported that when he was a little boy he went to the garden with his father and another man. While they were working, arrows began to fly and the other man was wounded. All three were able to retreat back across the Marigl River. He reported that the land remained fallow and that years later when people again began to clear the land fighting broke out and many men, including the present councilor, were arrested.

This report is supported by letters written by I.D. Burnett, Patrol Officer in Charge, between 1959 and 1960. In a letter dated September 1, 1959, Burnett reports a dispute over 40 acres of land named Minibe which had been fallow for seven years. He notes that full ownership is claimed by the Sipigon clan of Omkalai stemming from a decision in the court of native affairs given by "Masta Sen" who, as Burnett points out, is identified only as second in charge to Assistant District Officer Kelly in approximately

1954. Full ownership is also claimed by the Kobula Gaulin, Malaku, and Naraku groups. Burnett refers to these as clans but the Kobula Gaulins are a sub-clan of the Egaku clan. These groups claim continual occupancy in the pre-colonial era.

A year later, in a letter of September 10, 1960, Burnett reports serious fighting between about 300 men from Mul and Omkalai. One hundred men were arrested and sentenced. He suggests that, since the facts were not in dispute (though we believe they were), the dispute could be handled in a week by a Native Lands Commissioner.

Although the land was eventually divided, both groups protest the right of the others to use their portion, and the ground has remained uncultivated.

- 9 If Kunaraku is considered a single clan, then the Kobulaku sub-phratry has four clans ranging in size from 729 to 1,254, with a mean size of 986. If, on the other hand, the Kunarakus are considered to be two clans, then the sub-phratry has five clans, ranging in size from 367 to 1,254, with a mean size of 789.

CHAPTER FIVE

OPTIONS FOR PURSUING A GRIEVANCE

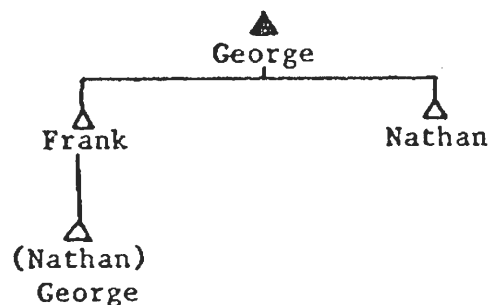
Chimbus are contentious people and lean heavily toward disputation rather than non-action when they feel aggrieved. They are loathe to avoid an antagonist as "a procedure of indirect conflict" (Koch 1974:6-29) or to allow a "cooling off period" (Yngvesson 1976). Rather, if no action is taken it is only because the offender is unknown, unavailable, or has been found, through previous direct interpersonal dealings with the aggrieved party, to be intransigent.

The notion of avoidance must be clarified in terms of avoidance as an action verses avoidance as a reaction. In the first sense, referred to above as a process of indirect conflict management, avoidance is employed to cause discomfort, i.e., bring about a loss of prestige to, or increased social pressure on, the offender. It may be intended as an instrument of retribution to force the opponent to reconsider his intransigent position. It is in this action sense that avoidance is

rare in Chimbu. In the second sense, avoidance is a reaction to an offense, or series of offenses, where a person, or group, opts out of an untenable situation. This may result in a residential movement. Avoidance as a reaction may result in the loss of prestige to, or social pressure on, the offender. The distinction lies at the level of intentions or goals, i.e., to cause discomfort or to opt out. Avoidance in the latter sense does occur in Chimbu.

The following case, which provides an example of avoidance as a reaction, was reported by Nathan (all names have been changed).

MEMORY CASE 1



About twenty years ago, George died without dividing his land between his two sons, Frank and Nathan. Five years later, Frank's son was born, whom he named Nathan after his brother. He then planted a small coffee garden which he said was to belong to his

son when he grew older. But Nathan said that Frank would have to remove the trees and plant them elsewhere. The two brothers fought and the ground was divided.

The two brothers now live in different men's houses and have not spoken to one another for fifteen years. Frank went so far as to insist that his son's name be changed from Nathan to George in the government census book.

The alternative means of handling a grievance can be divided into five categories: 1) appeal to the supernatural, 2) self-help, 3) private discussion, 4) unofficial courts (hereafter referred to by the Pidgin term kot), and 5) official courts.

THE SUPERNATURAL: WITCHCRAFT, DIVINATION, AND SORCERY

Withcraft is an inherent quality where divination and sorcery are learned. Witches use no rite, no spell and no medicines - witchcraft is a psychic act. Sorcers use magic rites with bad medicines. Divination is a method of discovering what is unknown and often what cannot be known, by experiment and logic (Evans-Pritchard 1937). The study of these features of Highland social life have focused primarily on accusations rather than acts.

For societies with stable local organizations,

i.e., permanent settled descent groups, such as in Mul, the hypothesis has been advanced that these societies, "in the absence of wars for territorial or other economic aggrandizement, can preserve their identity only by mutual suspicion, rivalry, and hostility. Sorcery accusations act here both as an important medium for expressing enmity and as an excuse for initiating warfare, which is ultimately the most effective means of relieving feelings of aggression" (Lawrence and Meggitt 1965:17). In the case of the Kainantu peoples, the rate of sorcery has risen since the administration banned warfare (ibid.: 18). The Mae Enga, warlike in the past, were little interested in sorcery and have not developed it since pacification (ibid.). This is attributed to the existence of alternative means of channeling aggression and to the Mae's preference for the use of the Administration's Court of Native Affairs rather than traditional processes for settling disputes (ibid.).

Working among the Fore, Lindenbaum (1971) found that sorcery accusations may result from residential mobility among individuals who lack the security of membership in solidary groups. The Fore, among whom Kuru is endemic, believe sorcery to be at the root of all illness and death.

In a later paper, Lindenbaum compares the Fore to the Mae Enga and "relates the presence of sorcery¹⁰ to ecological variables" (1972:241). She argues that disease and death are considered to result from ancestors in societies with high population pressure on rare resources and from sorcery in societies with little population pressure on rare resources (ibid.:242). Witches, she suggests, appear in the middle of the continuum. "Witches are not connected with the important survival issues but are concerned with the lesser dangers of infant mortality, small property loss, and constitutional conflicts. Important survival issues are left to the gods or to sorcers" (ibid.:251).

Hayano (1973) also addresses the general theoretical issue of how small autonomous socio-political units maintain their identity. Focusing on accusations of sorcery among the Tauna Awa, he argues that as physical distance increases, rates of social interaction, including sorcery accusations, will decrease. And secondly, that sorcery accusations "will tend to be projected more often on those groups or individuals who are perceived to be more dissimilar and negatively stereotyped than those who are thought to be similar and

10 Footnotes for chapter V are to be found on page 152.

positively stereotyped" (ibid.:181).

A recent paper by Reay (1976) on the Kuma discusses the killing of five accused witches (all male). She notes that, in most Kuma cases, the killing or banishment of an individual is a demonstration of solidarity, i.e., the welfare of the group over the individual. Focusing on the killing of witches is much more straightforward than on the accusations which precede. Like the Zande (Evans-Pritchard 1937) "a Kuma looks for witches among people he dislikes, but when he finds one there no one believes him" (Reay 1976:8). Many of the accusations coincide with grudges and the implication made by Reay is that the community sees through the accuser's motives and ignores the accusation. In a similar light, Lindenbaum (1971:284) points out that "Sorcery accusations do not appear to be mechanisms of social control, rather sorcery beliefs operate as an expression of present political reality" (see also Berndt 1962:220).

It appears that it is not towards accusations of sorcery or witchcraft that we must turn as responses to particular grievances, but to the acts themselves. That is, the who, how, and why of witchcraft, divination, and sorcery.

WITCHCRAFT

Witchcraft regularly appears in disputes which are outside the law. These typically concern matters which are either too petty to receive formal legal treatment, or too involved to be brought to court. They may, however, follow court cases when the unsuccessful party seeks to redeem his position by recourse to these extra-legal (and illegal) processes.

(I.M. Lewis 1976:82)

In Mul, witchcraft is used only by women. The Pidgin English term sanguma is used to refer to the creatures which women use to carry out their nefarious tasks as well as the spirits who roam the paths at night. It is said that in the past each woman had her own sanguma but that today many young women do not. No contradiction is seen between this and their belief that a witch's powers are passed through the blood in the female line. If a mother had a sanguma, so will her daughter - she cannot rid herself of it.

Sanguma are thought to be dogs, rats, bats, snakes, or other creatures which reside in the witch's abdomen. Women are able to speak to the sanguma and order them to go out and kill any man, woman, or child, by day or night. Emphasis is usually placed on the death of males. Some believe that the sanguma asks the woman for permission to go out and eat a certain person

and; that if she allows it, it will go, but if she says no, then the sanguma cannot leave her stomach. It is said that sometimes the sanguma only makes its victims sick, but other times he eats his "liver" and he dies immediately. Men do not realize what is happening to them, they just feel ill and die.

If a woman who comes from another group, particularly another tribe, is believed to have killed a man by witchcraft, the victim's group will be cross with the witch's group, but it is said that this did not usually result in intergroup fighting. However, fear of witchcraft attacks from women prevented intermarriage with opposing groups during hostilities.

In the past, witches were dealt with by tying a black rope around their necks and throwing them into the Marigl River to drown. Accused witches often pointed out others as responsible, or as accomplices, and several might be killed. This sometimes led to fights between the witch's husband and his own group who killed her. One man complained about the ban on killing witches since the arrival of Europeans. He reported that they had tried bringing the witches to the government court, but that the Europeans did not believe their accusations. Now, he said, women can just go around killing people.

Despite this belief, there were, to our knowledge, no accusations of witchcraft during our stay in Mul.

The following case, which occurred in August, 1976, was reported to us independently on several occasions.

MEMORY CASE 2

A, a member of clan X, had completed his schooling at Gumine and was attending high school at Kerowagi. As such, it was considered that in the future he would be a highly valuable community member. During the month of August he returned to Mul to spend a month with his relatives. Three days after he had returned to school he died. The men say that the doctor at Kerowagi told them that he had cut the boy open and found his liver to have been eaten (if he did say such a thing he certainly did not intend it to be understood to mean that it was the result of witchcraft).

Ten of the boy's classificatory mothers were rounded up. Ropes were placed around their necks and they were pulled up into the trees. The women at last admitted that the boy had stolen a taro from them and they became angry so they ate his insides. One said she had a dog in her abdomen. They asked where she had gotten it and she replied that her mother had given it to her. When asked where it was now, she answered that when the men tied her up it ran away into the bush. She told them that she had not killed the boy, the dog

dog had. A second woman said that her sanguma was a snake; but her snake had not killed the boy. The third woman also had a snake; the fourth a cassowary; the fifth a dog; the sixth a rat; the seventh a rat; the eighth a pig; the ninth a horse; and the tenth a cow. They told the men that when they want to kill a man they join together. they also said they able to bring men up out of the grave, whereupon they take them into the bush, cut them up like pigs and give the parts to their friends from areas Y, Z, and elsewhere. Each woman then eats a bit of the body.

The women were not killed nor were they banished from the area.

An admission of witchcraft made under duress certainly does not prove that the women actually believe themselves to be witches (see Evans-Pritchard 1937). Witches, as the people of Mul conceive them, certainly cannot exist. The crucial question, for our purposes, is whether or not women, in fact, believe that they have these sanguma and make use of them as a response to a grievance as was suggested in the above case. It is possible that each woman believes that their are witches but that they themselves received no sanguma from their mother and, therefore, are not witches. This would result in the absence of people who believe themselves to be witches despite the generalized belief that they

do exist. It is also possible that the entire thing is a belief construct on the part of males which reflects male/female antagonism.

At this point, we can only answer that we have no evidence that any woman, at any given time, believes herself to be a witch and consciously makes use of her sanguma to redress a grievance.

DIVINATION AND SORCERY

Divination and sorcery are linked, in Mul, in that both require recourse to a man of special knowledge who manipulates objects to obtain the desired ends. We were told that divination and sorcery had been used in pre-contact times but that there never were many specialists and their knowledge was not comparable to that of the people to the south in the Bomai and Karimui areas (who the Muls repute to have been cannibals as well).

Today, there is only one man, K, in the entire Kobulaku tribe who possesses this knowledge. People are not certain why he is the only one nor where he obtained the knowledge. They believe he may have learned it in "Goroka or Karimui, or somewhere". Anyone can avail themselves of K's services; for a fee.

The use of divination was discussed only in regard to cases of theft where previous natural methods of detection, such as following footprints, have failed. At times, the victim of a theft may put bamboo spikes around the base of a tree so that the owner will be able to follow the bloody tracks of the next thief. Today, man-traps have been made illegal but divination has not become more frequent as a result.

The divination procedure involves bringing an object which had been associated with the stolen item, such as part of a banana tree in the case of stolen bananas, to K who places it on one end of a bamboo tube which has a small hole drilled in it about half way up. K then begins to call out names. When the name of the guilty party is mentioned an insect is said to crawl up the bamboo tube and into the hole. The aggrieved party is then able to confront the accused. In the lone case which occurred during the fieldwork period, the two men accused of stealing bananas denied the charge and the issue was dropped. We were able to obtain no coherent answer regarding why no further action was taken except that if someone becomes ill or dies due to sorcery, the person responsible, i.e., the person who paid the sorcerer, is said to be liable for compensation.

During our stay in Mul, there were, to our knowledge, no acts of sorcery and no sorcery accusations. We were told that following divination the bamboo tube could be used by the sorcerer to make the accused person sick, die, or at least have an accident. The object associated with the stolen item is placed, along with a special leaf, inside the bamboo tube. The opening is sealed with dirt and the tube is heated in a fire. After the tube gets tight from the heat, it explodes, bringing cheers from the onlookers. Shortly afterwards, it is said, the thief's stomach swells up and he or she dies. An alternate technique is to hold up the bamboo tube and a chicken, call out the name of the thief and kill the chicken. It is said that that night the culprit will have diarrhea and die. Several variations on this theme were also described. The threat of sorcery may also be employed as a response to a grievance; as the following case shows.

THE THEFT OF SOLOMON'S OIL PANDANUS

On the night of February 8, 1977, three oil pandanus fruit were stolen from the garden of Council Solomon. To the young people the oil pandanus fruit is just a vegetable, but as Council Solomon explained, to the older men like himself "it is their blood".

Moreover, these fruits were particularly large ones which Council Solomon had been planning to use as part of a prestation to be made two weeks later. The occasion was part of a series of exchanges initiated a few months earlier by the marriage of a Naraku man to an Egaku woman and, as the councilor of the Naraku clan, Solomon was to play a prominent role in the ceremonies.

It was reported to us by residents near the government station, who seemed quite concerned, that the Councilor had come to the small market at the station and announced that if his pandanus were not returned the following day, he would use sorcery to make the thief die.

That night, Solomon had a good laugh while we inquired about his behavior at the market. He said that he was just walking around and letting people know what had happened; hoping that maybe, if they were ashamed, they would return his oil pandanus fruit. As far as sorcery goes, he said that he does not know any; "you need a special man". K was at this time not in the Mul area. He also emphasized that, as a councilor, he would not be setting a good example if he used sorcery. Furthermore, he noted emphatically that if he did use sorcery and someone died as a result; he would have to make a large compensation payment.

In sum, we see that though divination, sorcery, and the threat of sorcery are, indeed, alternative responses to a grievance, in fact, their frequency of

use is minimal. Present knowledge of these behaviors is extremely muddled and residents of Mul concede that even in the past they did not have powerful sorcerers. In this, they, by their own estimation, align themselves with the central Chimbu to the north, as opposed to the Karimui and Bomai peoples to the south.

SELF-HELP

Self-help refers to physical reprisals against an offender's person or property, or occasionally, though this was more common in the past, against the property or person of other members of the offender's group. Self-help is legitimized by its prominent place in traditional society where it seems to have been the primary means of redressing a grievance. In today's society, government attempts at pacification, plus the existence of viable alternatives, have relegated self-help to a secondary role and it is, therefore, used only in situations where the aggrieved party sees no other possible course of action.

Self-help includes such actions as shooting a pig which has gone into a garden, pulling out another's coffee or pandanus trees, or physically attacking the

offender.

Although we must await the presentation of the data before discussing the structural and situational determinants which tend to lead to the use of self-help, we can, at this point, suggest that in any society there are individuals, if not categories of people, who are thought to be more prone to violence than are the majority of the population. In Mul, this is verbalized in regard to the older men who grew up before contact with Europeans and who behave in the "fashion of their grandparents".

We are here distinguishing self-help as a particular course of action from the more general meaning of a self-help system. The latter, as was pointed out earlier, refers only to the notion that bringing the grievance to public attention is the responsibility of the aggrieved party, rather than the duty of a third party.

PRIVATE DISCUSSION

By private discussion we mean the non-violent confrontation between disputing parties without the aid of third party intervention. Private, therefore, refers to the lack of publicity. Such discussions may

be loud and hostile or subdued and amicable. They occur in public places such as the ceremonial ground or on the road, in the semi-privacy of a bush track or men's house, or in the privacy of a woman's house or a garden.

The non-public nature of many of these private discussions presents problems for quantification, particularly where residence is dispersed as in Chimbu. Several were observed, and discussions which followed gave us an understanding of their place in the overall system of dispute handling. However, the data cannot be considered an adequate sample for comparison, in terms of frequency of use, with other aspects of the system.

UNOFFICIAL COURTS: KOTS

In three of the four clan areas of the kobulaku tribe, kots occur spontaneously when the two disputants come to the councilor or komiti and advise him that they have a dispute which they would like him to hear. In the fourth clan area (Egaku) all kots are heard on Monday, except in those disputes where open hostility presents an immediate threat and therefore demands the councilor's immediate attention to prevent the outbreak of violence. Clan members usually bring disputes to their

own councilor, but this is not required and some councilors and komitis who have a particular acumen for handling cases complain of being overburdened.

Although disputants are usually males, women frequently are involved, as principals, in kot cases. If a pig damages a woman's garden crops, she may bring the issue to kot herself or it may be brought by her husband. In the latter case, it is not uncommon for a man to ask his wife if she will consider a particular amount of compensation, which has been offered, as sufficient. After a settlement is arrived at, the compensation payment is divided between the owner of the ground (male) and those women whose crops were damaged. In one particular case, the kot was becoming long and was about to break up because a male disputant would not accept the offered compensation. His wife, however, said she would take it.

Casual observers and supporters of the disputants generally sit intermixed unless the issue is volatile, in which case the disputants and their supporters will maintain a safe distance between one another. Children play freely during the proceedings and casual observers come and go as they please.

The kot usually begins with the injured party

stating the grievance or the councilor reviewing the situation as he understands it. As the talk proceeds, any interested party, male or female, may make comments relevant to the issue under dispute.

The overt goal of all kot cases is settlement by the payment of compensation to the offended party, usually in cash, though in some cases the payment of a pig is required. It is the responsibility of the offended party to set an acceptable price. The offender can then pay up, bargain, or reject altogether his opponent's desire for compensation. There is no distinction made between civil and criminal cases. However, as we shall see later, the payment of compensation performs different functions in categories of cases which could roughly be drawn along these lines.

When the kot is concluded, councilors or other influential people may take the opportunity to discuss community problems which are of a similar nature as the preceding case. The problem of people failing to tether their pigs at night was frequently discussed after cases of property damage caused by pigs roaming freely at night. Increased theft by youngsters was also a common topic of discussion. Kots also provide an occasion where the tenants of proper behavior can be disseminated. During

a kot over a man who hit his mother, whom he suspected of selling some of his coffee, Komiti Kevin made the following pronouncement.

You people of Chimbu - children must look out for their parents and when they are close to death they will thank their children. If you make rubbish customs towards them, they will think that when you were little they took care of you and cleaned your bowel movements and now you do not treat them well. When they die, they turn their backs on you. If that happens, your fate will be bad. All things you do, like raising children, pigs, and gardens will come out wrong. You must look out for your mother.

Of the sixty five observed cases recorded in our field notebook, forty nine, or seventy five percent, made use of mediation by councilors or komitis at some point in the dispute handling process. Table IV presents a breakdown of the frequency of these cases, classified by the nature of the offense as it was presented to the councilor, rather than by the underlying grievance.

Table IV (below) highlights certain important aspects of the process of dispute handling. The categories of physical injury, threat of injury, and pig death are, in a sense, inflated or phony categories, for in Chimbu, as elsewhere, people do not hit one another for no

apparent reason. Rather, these were instances of self-help which occurred in response to other grievances. It is interesting, however, that in these cases the primary issue during the kot was the injury rather than the original offense. Moreover, it is precisely this conversion process which, as we shall see below, makes self-help a useful, and sometimes necessary, alternative in the system.

Table IV

FREQUENCY OF <u>KOI</u> CASES		
CLASSIFIED BY TYPE OF CASE		
	<u>N</u>	<u>%</u>
Property damage	24	49
Physical injury	6	12
Theft	5	10
Adulterous behavior	5	10
Land encroachment	3	6
Pig death	2	4
Pig debt	1	2
Threat of injury	1	2
Child custody	1	2
Insult	1	2

The role of the councilor in dispute processing is a complex one. He must behave as a neutral third party,

though he is not in a structurally intermediate position as is the case in the Ndendeuli society discussed by Gulliver (1969b). In fact, the very notion of having one elected councilor for every clan is incompatible with intervention by a third party who is structurally intermediate between the two disputants. He must present himself as a man who understands and follows the new government laws but is, at the same time, cognizant of traditionally appropriate values and behaviors. He should maintain a low profile during the kot, allowing disputants to talk out the grievance, though he must occasionally interject to ask questions which clarify the issue or to specify what the law of the government says about a particular issue. If disputants become intransigent or hostile, the councilor attempts to reconcile them by emphasizing the importance of the social relationship between the disputants. Councilors realize that to truly settle a dispute it must be discussed in full, often involving past issues. Yet, councilors believe that there is a government rule that past grievances should never be brought up during a kot. If the kot does not proceed smoothly to a quick conclusion, councilors may try to cut the talk short by announcing that "it is bad if your mouths become tired and heavy" or "the sun is

cooking us and we must all go and work in our gardens". Although his primary role is one of mediator, a councilor may, at such times, set a compensation price which he tells the offender must be paid. Yet, he lacks sanctions to enforce such commands.

In a recent paper on mediators, Gulliver (1977: 26) describes the strategies of mediators as lying along a continuum "from virtual passivity to 'chairman', to 'enunciator', to 'prompter', to 'leader', to 'virtual arbitrator'". As he points out, these are not typologies but indices along a continuum. Councilors in Mul make use of all but the last of these strategies; employing them in a decreasing order of frequency. Though, of course, some councilors tend to be more or less passive than others. Moreover, as Gulliver (ibid.:34) points out, mediators may vary their strategies during a particular case. As a mediator during disputes, the councilor is primarily passive. His presence encourages positive communication and interaction and constrains the parties to observe minimal courtesies. At times, the councilor may act in the role of "chairman", viz., keeping order and tending to direct procedure as well as announcing or reiterating points of agreement. The mediator as "enunciator" may go beyond this by specifying or

reciting rules and norms, either traditional or those of the Administration. The instance noted above, regarding behavior towards parents, is a case in point. Moreover, mediators often point out that the disputants are "one-blood", or note that "this is not an outside kot", meaning that the disputants belong to some inclusive group. In the role of "prompter", the councilor makes suggestions in order to draw the two parties together while as a "leader" he may attempt to "force" the issue when parties come to an impasse.

OFFICIAL COURTS

The courthouse is the largest building on the Gumine government station (approximately three miles from Mul). The walls are constructed from woven pit pit (a type of sugar cane with stems about $\frac{1}{2}$ inch in diameter) and the roof is thatched with kunai (sword grass). On two opposing sides, the walls stand only about four and one-half feet tall. This allows onlookers to observe the hearings taking place inside. Court hearings frequently attract a very large crowd of onlookers.

Only defendants and officials are allowed inside the courtroom during criminal cases, while the victim

must stand outside along with other curious onlookers. At one end of the building is the office where the magistrate, a Highlander from Goroka, holds informal mediations and where the court records are kept (there is one magistrate who lives and works on the government station). Inside the courtroom, adjacent to this office, the magistrate sits behind a large desk. Opposite is a table and chair reserved for the prosecutor, in police uniform. To the prosecutor's left, is the witness box. A translator stands, or occasionally sits when he is not being used, off-center between the magistrate and the witness box. In the rear, a policeman and the defendants awaiting trial, stand on the bare earthen floor. Waiting defendants may sit, if they so desire.

The Local Court, which is the only court to sit regularly in Gumine, is divided into criminal and civil sectors. During the 1976 calendar year four hundred ninety cases were brought to the criminal sector. Table V summarizes the types and frequencies of these cases. In 148 of the 490 cases the defendant was found guilty and fines were ordered. However, in every case defendants elected to default on the payment and serve an appropriate (see table I) prison term instead.

Table V

GUMINE LOCAL COURT (CRIMINAL) - 1976

	<u>N</u>	<u>%</u>
Behaving in a riotous manner	138	28.0
Spreading false reports	6	1.2
Failing to give information to the police	2	0.4
Contravening a reasonable direction by the police	1	0.2
Obstructing the police in their duty	1	0.2
Resisting arrest	2	0.4
Giving false name and address to the police	1	0.2
Escape (or attempted) from police custody	11	2.2
Possession of a police uniform	1	0.2
Possession of offensive weapons	19	3.8
Behaving in an insulting or offensive manner	6	1.2
Behaving in a threatening manner	8	1.6
Unlawful striking or use of violence	44	8.9
Unlawfully laying hold	12	2.4
Theft	49	10.0
Possession of stolen property	3	0.6
Trespass	12	2.4
Adultery	9	1.8
Debt (pig)	1	0.2
Urinating in public	1	0.2
Obscene language	5	1.0
Property damage	7	1.4
Betting and playing an unlawful game	43	8.7
Selling liquor without a license	2	0.4
Drunk and disorderly in public	6	1.2
Drinking on a moving vehicle	10	2.0
Driving while drinking	2	0.4
Driving negligently	3	0.6
Driving without a license (failure to show license)	6	1.2
Unregistered motor vehicle	1	0.2
Uninsured motor vehicle	1	0.2
Entering motor vehicle without consent of driver	6	1.2
Interfering with a motor vehicle	2	0.4
Driving Administration car without consent	3	0.6
Failure to pay local government council tax	71	14.5
Failure to do share of local government council work	3	0.6
Use of a used postage stamp	1	0.2
Use of unregistered firearms	1	0.2
	<u>490</u>	<u>100.0</u>

Chimbus appear extremely ill at ease when brought into court and placed in the witness box, though they do not appear as much so during informal mediations in the magistrates office. It is clear that despite efforts by the magistrate or policemen, local residents do not fully comprehend the system or their rights under the system. It was indicated earlier that parties may elect to have their case heard by the District Court rather than the Local Court. It is unlikely that, at this time, persons from this area of the province, who have only some familiarity with Local Courts, would elect to have their case tried in a District Court which sits regularly in the capitol of the province and with which they are even less familiar than with the Local Courts.

Of the 490 criminal cases heard during 1976, only ten (2%) were referred to the District Court. Five of these cases involved persons who were charged with trespass, obscene language, and driving the administrator's car without his consent. These were not local level disputes nor were they typical local community members. Rather, these were government personnel who had come from other areas and were far more knowledgeable about dealing with government agencies than were the local

community members.

Most civil matters which are brought to the Local Court magistrate are handled by mediation and no court records are kept.

The civil court register of the Local Court shows only thirty six cases for the 1976 calender year, twenty seven of which were crossed out indicating that they were not heard by the magistrate. The nine cases which remained are summarized in table VI. The largest proportion of cases (6 cases) were brought by husbands whose wives had run off.

Table VI

GUMINE LOCAL COURT CASES (CIVIL) - 1976

<u>BREACH</u>	<u>OUTCOME</u>
Wife deserts husband (6 cases)	- Wife ordered to return (3 cases) - Bride price to be returned (2 cases) - Agree to remarry (1 case)
Debt of one pig	- Wrong defendant appears, case dismissed.
Five men charged with removing parts from a vehicle	- no appearance (3 cases) - Fined K50.00 (2 cases)

OFFICIAL AND UNOFFICIAL COURTS

In her study of official and unofficial courts in Mt. Hagen, Strathern (1972a:20, see also 1972b) has pointed out that "There is a gap between Hagen's model of the present legal system, and the Administration's (and informed Europeans') model". Where Hageners view the entire system as a hierarchy, administrators view the official legal system and the technically unofficial kots as qualitatively different.

In this rural area of the Chimbu Province, five years after Strathern's study, this same dichotomy can be said to exist. Though here it is more one of emphasis.

Magistrates and administrators are, of course, aware of the legal distinction between the official and unofficial hearings. Yet, they encourage councilors to settle grievances in the local community when possible. They realize that most grievances which arise in the local community do not reach the official court and that most cases which are heard by the court do not come, as "appeals", from kots.

Local community members are also aware of the qualitative difference between courts and kots. People have observed members of the police force or the kiaps

(patrol officers) make arrests in the community. They realize that this leads to a court process which is quite distinct from that which is used at the local level in terms of both procedure and ideology. However, their main concern is with the use of the official court system as an alternative when local processes fail to contain the issue. Their focus, therefore, is on the hierarchical nature of the combined system.

As has been implied above, these perceptions are manifest in the two ways in which cases reach the official court system. In the first, information, either directly or by rumor, reaches the police that a breach of the law, usually of a violent nature, has occurred or is in the process of occurring. A party of unarmed policemen ranging in number from two to five is dispatched to the scene. When they reach the area, they inquire into the grievance and what has occurred. If it seems like a small matter which can be resolved locally, they advise the councilor(s) to do so; if not the offender(s) is arrested and brought to the police station along with councilors, witnesses, and others concerned. Upon returning to the police station, charges are filed and the arrested person(s) is put into the kalabus (jail) where he or she is held until able to raise bail or the case is heard by the magistrate in criminal court. The

way in which cases reach the court system is when disputants and councilors bring the case to the police. Here, we find both civil and criminal cases which have failed to be resolved in the local community. The case is then screened by the officers who decide what to do with it. It may be referred back to the councilors, sent to the magistrate for informal mediation or hearing in the civil court, or the offender may be arrested and the case placed on the criminal court calendar. While the second of these means of bringing an offense to the magistrate's attention is part of the overall self-help system, the first is not.

People from Mul do not make extensive use of the judicial facilities available at the government station in Gumine. Of the sixty five cases, only six (9.2%) went beyond the level of mediation by councilors. All six were first brought to the police station where the constables weighed the various factors before deciding what to do with them. In three cases the police advised the councilors that they should handle the case themselves. As a result, only three cases (4.6%) ended up in any part of the official court system. Two of these cases were heard by the magistrate in informal mediation. After advising disputants of their rights under the law,

one was referred back to the councilor and in the other, the issue was dropped. Only one case (1.5%) reached the official court (see case 5 below).

We may conclude this chapter by drawing attention to what we believe is an important difference between the official and the local level dispute handling process.

At the local level the ideal concern is the settlement of the grievance - "to make the belly cold" or "to straighten the talk". This can only be achieved, according to Chimbu ideology, when the offended party receives a compensation payment which he or she considers satisfactory (even this, however, does not guarantee the settlement of the dispute). The center of attention, therefore, is the offended party. In the criminal sector of the official court system, on the other hand, the primary concern is with the punishment of the offender through fine or imprisonment. No compensation is offered to the offended party and from his or her point of view the grievance has not been alleviated because compensation has not been paid. This understanding of the criminal court is carried over to the civil court and to informal mediation by the magistrate. For this reason disputants and councilors make use of the official

court system only when no other alternatives are open to them.

NOTES FOR CHAPTER V

- 10 The content of the paper suggests that Lindenbaum is, here, referring to sorcery accusations rather than acts of sorcery.
- 11 All information on witchcraft was obtained during interviews with men. Kelly (1976:47) points out the difficulties of a male anthropologist discussing witchcraft with women.
- 12 In several cases the disputants could not find a councilor and, as a result, settled the issue privately. In other cases, councilors were close at hand but did not participate. These cases have not been classified as kots.
- 13 In all but one case, where a dog ate a chicken, property damage refers to pigs breaking into gardens.
- 14 K 1.00 (one kina) = U.S. \$ 1.25-1.30.

CHAPTER SIX
PATTERN, PROCESS,
AND
DECISION-MAKING

In the preceding chapter, the procedures of dispute handling were described from above. The various parts of the system were presented with little regard to their interconnectedness. The present chapter follows more closely the attitude taken during fieldwork, viz., to begin at the community level and follow each grievance through whatever path it is taken. To do so, we first describe the range and frequency of the various types of grievances. Following this, we make a closer examination of each of the five most frequent categories of grievance. Case materials are employed to show how particular types of grievances are perceived and to draw attention to structural and situational variables which are influential in the decision-making process. Finally, a model is presented which describes the flow of cases and shows how the various procedures for dispute handling

function as a single coherent system.

THE RANGE OF GRIEVANCES

During the course of fieldwork, sixty five dispute cases were observed and recorded. Each case begins with a grievance, that is: a cause of uneasiness or distress felt to afford rightful reason for reproach, complaint, or resistance (Webster's Third New International Dictionary - unabridged 1970) and ends with the cessation of overt conflict between opposing parties. It is clear that grievances can lie beneath the surface, seething for weeks or years. However, these grievances are seldom visible to the researcher in the field. Interviews provided numerous accounts of intergroup warfare between neighboring or distant groups, but on no occasion did informants respond or imply that the grievance still remained "in their stomachs". There were, however, several cases during which past events were brought to the surface, which suggests that past injuries had not been forgotten. The question of temporal order, i.e., whether seething grievances precipitate conflict or whether conflict brings to mind past injuries, is problematic. Herein, we are concerned with overt acts which are seen as grievances and which bring about a response

by the offended party.

Cases which were observed and recorded during fieldwork have been classified, by grievance, under eleven headings which are shown in table VII.

Table VII
FREQUENCY OF CASES
CLASSIFIED BY TYPE OF GRIEVANCE

<u>Type of Grievance</u>	<u>N</u>	<u>%</u>
Property damage by animals	34	52.3
Theft	8	12.3
Adulterous behavior	5	7.7
Land encroachment	4	6.2
Marital disputes*	4	6.2
Insult	4	6.2
Disputes over children	2	3.1
Over cards	1	1.5
Pig killed by car	1	1.5
Pig debt	1	1.5
Child custody	1	1.5
Total	65	100.0

* This category includes disputes between husband and wife as well as disputes between co-wives.

During our discussion of each category of grievance, we will point out that certain types of grievances

occur more frequently between persons who are closely related than would be expected if the distribution of cases were a result of chance alone. By closely related, we refer to the relative structural distance between the disputants. As we have shown in previous chapters, individuals think in terms of group affiliations rather than genealogical connections. For example, norms of behavior are circumscribed in terms of how one should act towards another member of an individual's own one-blood group rather than by genealogical connection, i.e., FBS. As a result, it is possible to rank order relationships according to structural distance. The following categories are suggested in order of increasing structural distance: 1) members of the same subclan section (one-blood group), 2) members of the same subclan but different subclan sections, 3) members of the same clan but different subclans, 4) members of the same tribe but different clans, and 5) members of different tribes. This ranking is analogous to the notion of segmentary opposition; however, we are, here, referring specifically to ideal behavioral patterns of individuals rather than the alignment of groups. We will argue in a later chapter that there is an inherent conflict in modern Chimbu society between these ideals of behavior

and the fact that groups do align according to the notions of segmentary opposition and structural distance.

Two other categories of non-agnatic relations are also important: matrilineal relatives and affines. Both categories signify affectional relations and mutual aid.

FIVE CENTRAL CATEGORIES OF GRIEVANCE

PROPERTY DAMAGE BY ANIMALS

Over one half (34 cases, or 52.3%) of all cases involved the destruction of property by animals. All but two of these cases involved pigs going into gardens, sometimes by breaking a fence, and eating copious quantities of sweet potatoes, taro, yams, or sugar cane. On some occasions, more than one pig may go into a garden. When this occurs, the garden owner brings all the pig owners together (if possible) and the issue proceeds in the same manner as if only one pig had entered. For this reason, each of these cases has been classified as a single case. It is interesting to point out that in the thirty two cases there were forty seven persons whose pigs had gone into gardens, making a total of forty nine offenders in cases of property damage by animals.

Table VIII classifies these thirty four cases according to the structural distance between the disputants.

Table VIII

PROPERTY DAMAGE BY ANIMALS
CLASSIFIED BY STRUCTURAL DISTANCE

<u>Relative affiliation of disputants</u>	<u>N</u>	<u>%</u>
same subclan section	20	40.8
same subclan, different sections	8	16.3
same clan, different subclans	14	28.6
same tribe, different clans	7	14.3
different tribes	0	0
Total	49	100.0

In twenty (41%) instances, the animals did damage to the property of a person who was in the same subclan section as their owner. This is, of course, attributed to the tendency towards localization of the members of the subclan section rather than to any knowledge on the pig's part. In fact, people readily point out that "pigs have no sense" but merely smell the food and go into the garden. They also point out that once a pig goes into a garden, it is likely to remember the place and return to it again.

Because pigs have no sense, people do not take

affront when a pig damages their crops. Pig owners are, however, considered responsible for the actions of their pigs and should do their utmost to prevent damages to the gardens of others. A series of three short cases between the same disputants can serve to highlight this point.

In each of these cases, the owner of the pig is Gary and his wife is Ann. The owners of the garden are Kevin Smith and his wife Sally. Both men are members of the Naraku clan, Kune subclan, and Dabile subclan section.

CASE 1

On May 7, 1977, a pig belonging to Gary went into the bush garden of Kevin Smith. Kevin's wife, Sally, saw the pig in the garden and went to tell her husband. Together they went to see Gary privately. At first Kevin asked for a K 10.00 compensation payment for the damaged crops but when Gary said that he did not have that much money, Kevin accepted K 4.00, which he handed directly to Sally.

As far as all parties were concerned, the case was settled. However, two weeks later the same pig again went into the same garden. And again a private discussion was held between the disputants.

CASE 2

On May 19, 1977, Gary's pig again went into Kevin's garden. As before, a private discussion was held between Kevin, Gary, and their two wives Ann and Sally. The disputants discussed the recent Gumine Local Government Council suggestion that the appropriate rate of compensation for garden damage by pigs is K 10.00. They also discussed the fact that they are "brothers" and a price of K 6.00 was arrived at. After the payment was made, Kevin passed the compensation money to his wife. The case had been brought to an amicable conclusion.

During this case, as in the previous one, all was amicable and the case was considered settled by the payment of compensation arrived at by mutual agreement. However, fourteen days later Gary's pig once again went into Kevin's garden. This time Kevin became quite angry and appeared ready to fight with Gary. Sally returned the K 6.00 which she had received in the previous case and complained that the garden was now ruined altogether and a large compensation payment would be required. A kot was convened at the Mul ceremonial ground with Council Solomon acting as mediator. The kot was opened by the offended party, Kevin:

CASE 3 (DIALOGUE)

Kevin:

I am telling the truth. There is nothing left in the garden. The pig has turned up all the ground and eaten everything. Now I will let the grass come up and then plant a new garden.

Council Solomon:

Gary, you understand. If your pig goes into a garden and eats a little only once, then you can just fix the fence. But now your pig is too strong and finished off the whole garden. You must give a large compensation payment. That is the law. Now there is no garden left so Kevin thinks there is no reason you must rebuild the fence. Just give him a payment.

The law says that if your pig goes into a garden and you fix the fence quickly, the compensation payment required will be small. That is what the law book says.¹⁵ Now your pig went inside the garden a third time and there is no use in rebuilding the fence. You must give payment to Kevin.

When Kevin planted the garden, I helped bring wood for the fence. He planted cabbage, beans, onions, pit pit, sweet potatoes, taro, and greens, and they were all coming up well. This is good ground. It is close to the bush. I saw, with my own eyes, that the sweet potatoes were large good ones.

15 Footnotes for chapter VI are to be found on page 214.

Kevin:

I have already harvested some of the greens and cabbage and given it out. The sweet potatoes were almost ready and I was going to give them out to people but now the pig has eaten them and so I cannot give any to you.

It is a long way to this garden. You must travel over two mountains to get there. I would like to give K 4.00 to Council Solomon so he can go over there and look at the garden. You [all] think I am fooling so I can give you [Council Solomon] K 2.00 [sic] so you so you can go to see the garden and know that I am not lying.

Sally:

That is right! We can give you K 4.00 so you can go look at the garden.

Council Solomon:

Before, you came and reported this and said we should go look at the garden. Now I hear you say it again. Before, you brought the leaves and vines from the damaged plants to show me and to Council Morris [of the Malaku clan] as well.

Gary has some money. If you want it let us finish this quickly so we can bring your father to the aid post.

Kevin's father, Irving Smith, is sick. A stretcher has been made and they were about to bring him to the aid post at Gumine when this kot began. Gary

leans over to Council Solomon and tells him that he has brought K 10.00 to give to Kevin.

Council Solomon:

Gary has K 10.00. Do you want it or is it not enough money?

Sally:

You talk of K 10.00. I had K 10.00 but Irving was sick and so we spent it in one day on blankets and things. K 10.00 is not much. I do not want K 10.00.

Council Solomon:

Alright, if you do not want the K 10.00, let us bring the old man to the aid post.

Gary leans over to Council Solomon and tells him that he has K 8.00 more which he can give to Kevin.

Council Solomon:

Gary says he will give K 8.00 more. That is K 18.00. Is that enough?

Sally:

You are the councilor. You must go look at the garden first. I worked hard to plant this garden on good ground close to the bush. Now it is all ruined.

Council Solomon:

I asked Gary if the garden was ruined. He said he had seen it and that it was true that it was totally

ruined.

William:

I have seen the garden and can say that it was a really good one with large sweet potatoes.

Sally:

One time a small animal came into the garden but it only ate a little, by the edge. Now this pig has come into the garden and eaten everything.

Council Solomon:

Tomorrow we will go look at the garden.

On Saturday, we went with Council Solomon, Kevin, and Gary to look at the garden. All agreed that the pig had ruined the garden. Gary agreed to kill a pig and give it to Kevin at a kot the next day. However, on Sunday Gary came to the kot at the Mul ceremonial ground with cash rather than the promised pig.

Council Solomon:

Yesterday I went and looked at the garden. I went to Gary's house and he said that he would like to give Kevin a small pig. I thought that, since they are members of the same one-blood group, Gary should not give Kevin a pig because people may think it was too much pay and another argument may come up later. But, Gary said he wanted to give Kevin a small pig. I went home thinking

that it would be better if Gary killed the pig and sold it in the market. Then he could give Kevin the proper payment and keep the rest for himself.

If this happened during the time of our grandparents, we could kill the pig and give it to the garden owner. But that is not the way we do it now.

On Friday, Gary brought K 18.00 but Kevin did not want it. Now he has brought K 6.00 more. That is K 24.00 altogether. This is not up to me. It is up to the owner of the garden. Do you want the K 24.00 or not? If you do not want it, you must speak up quickly because it is starting to rain.

Kevin:

Before, I did not want the K 18.00. I do not want to talk angrily again. Gary is not from outside. He is my one-blood. It is not up to me, but up to my wife. If she wants the K24.00, then we will take it.

Sally:

The pig went inside the garden. The garden is far away so Kevin could not go to fix the fence quickly. The food is all eaten. It is not good for us to talk a long time and become angry. Gary brought K 24.00 and he can give it to me.

Council Solomon:

I saw the garden and there was really no good fence, so it was easy for the pig to go inside. The fence is your [Kevin's] responsibility, but if you want you can come and take the money.

Sally:

It is our garden, true. But we gave parts to Betty, Joan, Mary, and Jane and their husbands did not come and make the fence. I do not want to keep talking because Gary will get tired of us.

Council Solomon:

I thought, last night, that if Gary gave Kevin a pig, he [Gary] would be angry and not tie up his other pigs and they would continue to ruin gardens. Now if you pay the money you can all go and rebuild the fence and plant a new garden again.

Gary:

If a pig of ours goes into the garden of an outsider, we can talk a long time [become hostile]. But we are "brothers" and my pig ruined your garden. My big pigs did not go in the garden, just a few small ones. If the big ones had gone in, we could kill them. The small pigs were out foraging for insects and when they came back they could walk right into the garden because there was no fence.

Now I have given you the money and you can help me and together we will go put a fence around the garden. I thought of bringing my pig it is not fat and I was ashamed for people to see it. If we work together, we can rebuild the fence.

I remember that Sally gave me food from her garden so I want to help rebuild the fence.

Gary gives the money to Council Solomon, who hands it to Kevin. Kevin, in turn, divides K 9.00

amongst the four women who had gardens on his plot of land and then gives the rest to his wife Sally.

By presenting this series of three cases, we are able to observe how grievances effect and redefine social relations between the individual disputants. It is clear that in the first two cases the disputants, realizing that pigs have no sense, emphasized their close relationship as members of the same one-blood group. After the third incident, however, Kevin was disgruntled because Gary had not taken adequate precautions by restraining his pigs during the night. In a sense this was an affront because Gary was not adequately looking out for the property of his "brother". Notice that the K 24.00, which was accepted, less the K 4.00 which they said they would give to Council Solomon, is only K 2.00 more than the K 18.00 offered by Gary during the first kot session. It is obvious that having all those parties trek to the bush garden was intended for more than reaffirming the facts, which everyone had previously conceded. Though a few vines of the damaged crop are usually brought to the kot as "evidence", this is the only case in which disputants actually went to a garden to assess the damage. Moreover, Gary's offer to give Kevin a pig may be seen as an attempt to restore

his own prestige and to indicate to Kevin his strong desire to restore amicable relations between them. To give a piglet, valued at K 20.00, is a symbolic gesture which goes beyond the giving of an equivalent in cash.

THEFT

Eight disputes over theft ((12.3% of all cases) were recorded during the field period ("theft" of women and land are considered separately below). Although theft is nothing new in Chimbu, only three of the eight cases involved the theft of traditional items, viz., garden produce (2 cases) and a pig (1 case). The five remaining cases involved non-traditional items, viz., coffee (2 cases), rice (1 case), bread stolen from a trade store (1 case), and unknown objects from the house of a Papua New Guinean missionary (1 case)¹⁶. In two of the eight cases, the offenders were young boys. One informant reported that "in the past the law was strong; if a boy stole, they would cut off part of his ear, cook it, and force him to eat it". However, people would neither corroborate nor deny this statement. We suspect that it was not general practice.

Unlike cases over pigs, these eight cases show

no relation between the frequency of theft and the structural distance between the disputants (see table IX).

Table IX

CASES OF THEFT
CLASSIFIED BY STRUCTURAL DISTANCE

<u>Relative affiliation of disputants</u>	<u>N</u>	<u>%</u>
same subclan section	2	33.3
same subclan different section	1	16.7
same clan different subclan	0	0.0
same tribe different clan	1	16.7
different tribe	2	33.3
TOTAL	6 ¹⁷	100.0

It should not go unmentioned that non-traditional items commonly "disappear" from one's own men's house. Our field assistant, for example, always kept his salary safe in our house rather than in his own men's house. Indeed, there is a great deal of "borrowing without asking" which occurs between members of the same one-blood group, and particularly within the same men's house. Theft may occur without anyone being accused. Such incidents may not properly be classified as disputes.

In and of itself theft is not considered to be offensive to the prestige of an individual, although

past relations between individuals or groups may complicate the issue, except in cases of land, women, or pigs. The two former categories will be dealt with separately below.

Pigs play an important role in maintaining personal and group prestige throughout the Highlands. They are used by men for maintaining exchange relationships and as contributions to the bride price payments of young men of their own subclan section. As a result, the theft of a pig may impede the maintenance of ongoing exchange relations and thereby diminish individual and group prestige.

The following case involves the theft of a pig belonging to Bill, of the Egaku clan of the Kobulaku tribe by Alan of Deri, a tribal area east of the Kobulaku area and bordering on the land of the Egaku. The case was heard by two councilors, Kenneth from the Egaku clan and Nathan of Deri.

CASE 4

Bill had left two of his pigs with a matrilineal kinsman, Milton, at a place called Dowa. The two pigs left Dowa together. One arrived home but the other did not. Four months later, Bill's wife found the second

pig at Deri. She asked who the pig belonged to and was told that it was Alan's. She then asked Alan where he had purchased it. Alan replied that the pig had been lost and that he took it in and cared for it. With little else said, she returned home and informed her husband of what she had learned. Bill returned to Deri with Council Kenneth and a kot was convened.

During the kot Bill said that the two pigs were returning home; that one had arrived but Alan had stolen the other. The argument became heated.

Council Kenneth said that since Alan had not killed the pig he must now return it to its rightful owner. He added, furthermore, that since Alan had kept the pig for four months without informing its owner, he must pay compensation as well. Alan argued that he had no money but Council Kenneth suggested that he find some so that the kot could be concluded quickly.

Alan was able to collect K 10.00 which he handed to Council Kenneth. Not to be completely outdone, Alan then demanded payment for feeding Bill's pig for four months. Council Kenneth responded that Bill should not have to pay compensation because Alan stole the pig rather than Bill asking him to look after it for him. Alan conceded that, though he had wanted pay, he "hears the words of the councilor and it is all right".

In this case, we see that Bill not only obtained the return of his pig and was spared having to feed it for four months, but also received K10.00 compensation. It should also be remembered that Alan, in reality,

waylaid the pig on its way home and did not come, under the cover of darkness, and steal the pig away from Egaku territory. Indeed, Alan may not, in fact, have been aware of the pigs rightful owner. These facts, no doubt, mitigated in his favor.

ADULTEROUS BEHAVIOR

The definition of adultery as "voluntary sexual intercourse between a man and someone other than his wife or between a married woman and someone other than her husband" (Webster's Third New International Dictionary-unabridged 1970) is certainly not acceptable for cross-cultural purposes.

Marriage in Chimbu is polygynous, i.e., men are permitted more than one wife. After their marriage, men may continue to participate in courting activities. A sexual relationship between a married man and an unmarried woman is not an adulterous relationship. A sexual relationship between a married woman and either a married or unmarried man is adulterous and is not condoned. It is, therefore, the marital status of the woman which is important in determining whether a sexual relationship is, or is not, considered adulterous behavior in Mul.

Adulterous behavior may thus be defined as sexually oriented advances made by either party, or sexual intercourse, between a man and a married woman. Five cases (7.7% of all cases) of adulterous behavior were recorded. In all cases, the man was considered the offender. As Brown (pers. comm.) has suggested, a wife does not become a complainant if her husband commits adultery. Typically, the husband of the woman involved is considered the offended party. However, in two cases where the woman's husband was not in the local area, the woman, herself, acted as the complainant.

Table X
ADULTEROUS BEHAVIOR
CLASSIFIED BY STRUCTURAL DISTANCE

<u>Relative affiliation of disputants</u>	<u>N</u>	<u>%</u>
same subclan section	4	80
same subclan different section	1	20
same clan different subclan	0	0
same tribe different clan	0	0
different tribe	0	0
TOTAL	<u>5</u>	<u>100</u>

Table X shows that cases of adulterous behavior are far more likely to occur between persons who are

structurally close. This we attribute to the volatile nature of this type of grievance. Adulterous advances towards a woman are considered an affront to the prestige of the husband as well as his social group.

Within the one-blood group, adulterous advances toward the wife of a "brother" are serious offenses and cannot be condoned. However, parties can be reconciled by a compensatory payment which, in effect, is an indication that the offender wishes to make amends and serves to restore the prestige of the husband. Advances towards married women of other groups are not seen as offenses by a man's own group and, therefore, as structural distance increases so does the admissibility of such actions vis a vis the offenders own social group. However, as the notion of segmentary opposition suggests, the greater the social distance the greater the likelihood the act will be viewed as an offense against the group and, concomitantly, the greater the irreconcilability of the parties and the likelihood of violent hostility. Certainly, at this point, the history of past relations between the opposing groups plays an important role. In short, disputes of this nature between persons who are structurally close can be settled, while such a dispute between structurally distant parties may tend to lead

to fighting or, minimally, require a large compensation payment.

Three cases of adulterous behavior are now presented. Each reveals interesting turns of events in the process of dispute handling.

CASE 5

Ralph (Egaku clan, Kobulamable subclan section) had gone to Lae seeking wage labor while his wife, Kathy, remained at home. On Friday night, March 11, 1977, Fred (also of the Kobulamable section) came to Kathy's house bringing five pieces of firewood. He called to Kathy and offered her the firewood, saying he would like to come inside. Kathy replied that he could not come inside, and that the house belonged to one of his "brother". But Fred was insistent. At last, Kathy relented and told him to come inside and sit down. Fred entered and sat on Kathy's bed. After a few minutes, Kathy went outside, shut the door to her house, and locked Fred inside. She then called out for all the people to come look, saying that she is a married woman and all the people should come see the man she has locked in her house.

People came and asked Fred why he, a married man, had gone into a married woman's house. He hid his face and explained that he was just bringing firewood.

Monday morning, a kot was convened by Council Kenneth. Discussion centered around the payment of compensation, but Fred was intransigent. At last, Council Kenneth advised Fred that he had broken the law by going into Kathy's

house and that he must pay compensation to her. Fred said he had nothing to give her.

Since the case could not be settled locally, all parties walked to the police station at Gumine. The police put Fred in jail and advised Council Kenneth and Kathy to return on Wednesday. The case was not heard until the following Monday as there was, at this time, no official magistrate in Gumine and the district officer in charge (DOIC¹⁸) was burdened with holding court as well as his normal duties.

On the day of the court hearing Council Kenneth and Kathy came to Gumine but, as Fred pleaded guilty, their testimony was not needed. As a result, Kathy never entered the courtroom and, in fact, due to the large number of people who gathered outside the courthouse, could not get close enough to observe the proceedings.

Fred was convicted and fined K. 14.00. In default of payment he was sentenced to one month in jail.

During the kot we noticed that Council Kenneth's behavior in the role of mediator shifted from the typical passive mediator to behaving like an arbitrator who has the authority to pronounce a decision.

When his decision was not followed the councilor brought the case to the police who, in effect, backed his decision. During the court proceedings Fred pleaded guilty and did not claim that he had been merely bringing

firewood. Kathy received no compensation and as a result felt only partially satisfied by the outcome of the case. The several informants with whom the case was discussed agreed that, had the intruder been from another clan, fighting may have erupted.

Case six (below) concerns a man, Frank, of the Naraku clan, Kumai subclan, Sagkane subclan section, who entered the house of Gail, whose husband, Ben, is of the same subclan section as Frank. The case was first heard by Komiti Dennis at the hamlet of Baune. It seemed to have been concluded when Frank insulted Gail and the case was reopened and brought to Council Solomon at Mul. As we observed only the kot in Mul, only the dialogue from that portion of the case will be presented. However, the disputants do describe the earlier kot.

CASE 6

Gail:

At night, I was sleeping. I heard something at the door and went to let the dog out, but there was a man in my house. I was startled, but he told me not to be afraid. I added wood to the fire and sat down on the other side of the room but did not talk. He asked if I had any sweet potatoes because he was hungry. I said I did not. I had eaten some vegetables and gone to sleep.

I had some sweet potatoes, but wanted to bring them to sell at the market the next day. Frank said that he would give me two kina and, when I go to the market, I could buy sugar and tinned milk for him and I could keep the extra. I took the two kina and went to sleep. Frank told me he would leave, but if he felt cold, he would come back again. He went out and I closed the door, but I had no lock. He left and I went to sleep. Later, I heard the door open; I thought it was the dog again, but Frank was back at the fire. He put his hands out and held my arm and leg. I pulled away and he ran out. I saw his face and now I have come to tell everyone.

Fränk:

One time, a teacher from Salt/Nomane came to Mul and we sat down together. I sold him some coffee and got money. I gave some to some women and children. A man from Gumine had been engaged to a Kuri Nera woman, but she did not like him so they were going to give back the pay and I went to watch and listen. I went over to another Malaku men's house and played cards. My brother came later and, after we finished there, we went over to one of the Gui Gaulin men's houses. After playing cards there, we went back to the other men's house. Raphael cooked some food. Jack and Gerry came up and we told them we were waiting to eat. So we just sat a while. Raphael gave me two kina. We left and went to Baune. Jack had a lamp, so I said we should walk over to Gaulima and play cards there. Jack had not eaten yet, so he went to eat, and my brother and I went to Gails house. My brother went in first, got a blanket, and went off to sleep. Then I went inside

and asked for some sweet potatoes. Gail said she did not have any. I had lost thirteen kina playing cards. I left and went to Gaulima to watch them play dice. I wanted to play but there was no room for me. I was tired of standing so I went to sleep on a bed. I got up in the morning and left.

Gail said I came in twice but I did not come back the second time. At eight o'clock I went to Gaulima and did not come back. I lost all of my money except for the two kina which I had given to gail. I asked her to buy the food for me and I left.

Gail:

You came later; at eleven or twelve o'clock because the radio was finished. I saw your face - I am not lying. You came after I was sleeping.

Frank:

You are not telling the truth. Before, you did not give times. Now you heard me and you are saying times. You are lying, just following my talk.

Gail:

What are you thinking. That is not your house, it belongs to my husband. My husband went to Mt. Hagen and I was there by myself. Why did you come inside? That was wrong.

Komiti Dennis:

The first time Frank came inside, no man was there only an old woman slept. You did not tell us about the first time Frank came in and told you he would

come back. You are not talking clearly to the kot [his implication is that she should have gone immediately to tell someone that Frank said he was coming back]. Before, when we were talking about this, you did not give us the whole story. I do not like this.

Frank:

She did not talk clearly. She just followed what I said.

Gail:

Before, we finished this on top at Baune and Frank gave me two kina but then he began to talk crossly to me. He told me that I was not good looking or fat. He said that I am skinny like a chicken.

Thomas (Gail's husband's father):

So what if that is true. Why did you talk like that to her? She is a man's daughter and we do not talk like that to people.

Frank:

I became angry because she spoke crossly to me. I told her that I had helped to pay the bride price for her and asked her why she is talking like that to me. She asked why I tried to fool around with her. I said that I had not and that I had helped "buy" her. Then I became angry and spoke crossly to her.

Komiti Dennis repeats each story and points out that they do not mesh and that someone is lying. Gail says that she wants four kina and not two kina as compensation.

Council Solomon, who has thus far not said a word, is holding the two kina previously given.

Komiti Dennis:

If I had four kina I would give it to her, but I do not. I gave two kina to Council Solomon because Frank has no money.

Frank:

I did not break the door as she says. Leonard sat on it and broke it before. They did not put it back well so it fell down by itself.

Council Solomon:

Did you see Frank's face. Do not lie.

Gail:

Yes, it is true. I am not lying.

Council Solomon (to Frank):

Did you hear the woman call out for the men to come look at the intruder?

Frank:

No, because I was at Gaulima.

Council Solomon:

Did the Malaku people see you?

Frank:

Yes, they all saw me. I slept there until dawn.

Council Solomon:

We do not know who is telling the truth. Frank did not really "steal" her, so this is really a kot over nothing.

Walter:

He did not really "steal" her, but the law of the government says that when her man is away, other men cannot go into a woman's house. You went in and gave her two kina, so you broke the law. Give her four kina.

Council Solomon:

Gail, do not be cross with me. The stories are conflicting and I do not know whom to believe. Besides Frank did not really "steal" you.

Gail:

If it was just that I would take the two kina. But he spoke crossly to me. I want two kina for that - four kina all together.

Council Solomon:

We do not know about the broken door or Frank coming inside, but he did call you skin and bones, so four kina is all right.

The kot breaks up with Frank saying that he will try to find two kina more and give it to Gail that afternoon.

This case is an example of a conflict of fact; that is, did or did not Frank break the door and enter Gail's house the second time. Though it would seem to be a simple matter of calling witnesses from Gaulima, this was not done. Instead, the case was maneuvered so that these issues became secondary. It was, in fact, known that Frank had gone into the house on the first occasion and that he had called Gail skinny during the kot. On these grounds Frank did not find making a small compensatory payment unacceptable. Gail, at the same time, received payment for both offenses. By maneuvering the issues in this fashion, the councilor and Romiti were attempting to provide an avenue through which the dispute could be concluded without further injury to ongoing social relations.

The final adultery case involves disputants who are members of the same subclan of the Egaku clan but different sections, Boi, and Kumaima. After the grievance became known, the two groups readied spears and bows and arrows, but Council Kenneth was able to convince both sides to hold a kot the following day. As we have suggested above, greater social distance corresponds to a greater likelihood of escalation. In this case the issue was

compounded by past relations between the disputants' respective groups. The kot itself lasted for over three hours and included two brief cooling off periods of approximately one half hour each. The dialogue was often hostile and frequently groups of men were shouting at the same time. For this reason, a full transcription of the case was not possible and what we do have is quite lengthy.

Two past events made for increased hostility during the present case. Both were brought up repeatedly during the kot.

About thirty years ago, a large fight occurred between the Egaku clan and the Keriwiwiku clan of Deri. The trouble began between members of the Boi subclan section and the Keriwiwikus, though no one recalls the reason. During the fighting none of the Bois were killed but many of the Kumaimas died helping the Bois. It is said that the Kumaimas were a very large group. Late one night, the Keriwiwikus came and blocked the door of the Kumaima's men's house and then burnt it to the ground. "All the Kumaimas died, but a few got away" [sic]. They went around and slept in women's houses or in pig's houses. In the meantime, the Bois prospered. When the white men came, the Kumaimas began to grow in number

and are now a large group. However, they remember that many died helping the Bois and no compensation was given to them for their losses. All agree that this is the reason why now, when any small trouble comes up between members of the two groups, they are ready to fight.

The second issue which was brought up was a recent case of adultery. In this instance, a Kumaima man committed adultery with the wife of a man from Boi. It could not be settled at a kot so the man was brought to the police station. He was tried in court and sentenced to jail. The issue which remains, according to the Kumaimas, is that he is now out of jail but has not yet given them any compensation. Viewed from the other side, offenders who pay compensation and go to jail often feel they have been doubly punished. Kambu et al (1974) note that in such instances occurring in other parts of the Chimbu Province an individual may demand the return of some of his compensation payment and the refusal to do so may result in fighting.

CASE 7

On Saturday, May 5, 1977, a small party was held to celebrate the completion of a house which one of the most important men of the Egaku clan, James, had

built for one of his daughters. Mark and his wife, Lois, of the Boi subclan section attended, as did Raymond of the Kumaima section. Much beer was consumed. Some time during the evening Lois and Raymond went off together. The following morning Lois told her husband what had happened and asked if he would kot Raymond. Mark said that he would not, thinking that Raymond had been only fooling around. But Lois was insistant and explained the details of what had gone on. That night the two groups were close to fighting when Council Kenneth, who is a Kumaima, convinced the that they should try to straighten things out at a kot the following day.

As soon as the trouble came to the surface, the Kumaimas sent forty kina to the Bois but the Bois returned the money saying "what is that, we buy rice for forty kina and eat it in one day".

A kot was convened the following day. Council Kenneth's opening remarks indicate the hostility and potentiality of violence in this case.

Council Kenneth:

All you men must stand far apart. Bois on one side and Kumaimas on the other and I will stand in the middle. You old men and young ones know that now we have laws. Things like this do not lead to fighting. Fighting is a rubbish custom. Now we have good times and must all sit down quietly together. When any small trouble came up between these two groups it became a big thing. Now you from Boi must decide what you want for compensation and we must give it to you. Now we can try to settle this and give compensation. If we cannot, we will have to go to the patrol officer in Gumine. This will double the

trouble and we should be able to settle it ourselves. You two groups should not think that I am on one side or the other. I stand in the middle. You cannot think badly of me.

Now let us start.

You must all talk easy back and forth and give some pay so that we can straighten this out. Last night I heard that people were ready to fight. Now I have come and we can settle this. You older men; do not try to incite the young men to fight. If all the young men fight they will get bloody noses and their noses will swell up.

On Sunday [sic], we all went to James' house and drank plenty of beer. That night Raymond began to fool around with Mark's wife, Lois. That night they went home and in the morning Lois told Mark what had happened and asked him if he would kot Raymond or not.

I am very cross with this woman. When the man began to fool around with her she should have told him to go away — that she is married to one of his "brothers". Or, she could have gone to James or Mark and they could have koted him right away. Instead, she fooled around with Raymond and then told her husband in the morning.

Both sides agreed with Council Kenneth that Lois had not acted properly. Some on each side pointed out that they must forget the past and that now is the time of kots not fighting. They also emphasized that they are one lain, in this context meaning members of the same subclan. Others, however, persisted in bringing up the two past grievances referred to above. The members of the Boi section reported that they were

also upset because the councilor and all of the komitis are members of the Kumaima section and the Bois have no councilor or komitis in their section. As a result, they feel they do not have a fair chance.

After hours of heated discussion, the two sections agreed that the payment of a pig would be acceptable. A medium sized pig (valued at about K 150 - K 200) was brought, killed, and given to Mark. Several of the men from Boi were upset because they had not been given the opportunity to examine the pig before it was killed, while others were happy the case was over. One of the Kumaimas put ten kina on top of the dead pig saying that he was happy the case was finished. However, others began shouting that Raymond can no longer come into Boi territory where some of his gardens are. The Kumaimas responded that the Bois could not start that kind of trouble and the two sides argued back and forth. Shortly thereafter the kot broke up.

During the kot few words were heard from either of the two original disputants. The structural distance between them allowed for expansion into a conflict between the groups, which in this case was specifically related to past grievances which had not been settled by the payment of compensation. By referring to the two groups as "one-blood" at several points during the kot, Council Kenneth highlighted the fact that, though they are separate sections, they are members of the same subclan and should, therefore, try to avoid fighting. He also

pointed out that the laws of the government and of the church both forbid fighting. Although peace was maintained and Mark may have felt satisfied, the larger issue of intergroup hostility was not resolved.

LAND ENCROACHMENT

Land encroachment was involved in only four (6.2%) cases. In the densely populated Marigl Valley, land may certainly be considered a scarce resource. This is reflected in the tenacity with which people hold on to, and dispute over, land. In three of the four cases, self-help was the first choice of procedure. The lone case in which self-help was not used involved siblings quarreling over a coffee garden.

Attempts to encroach upon another's land can be seen as a blow to a man's prestige. More important, however, is that the reduction of a man's land holdings reduces his productive capacity and also his capacity to raise pigs. This has the long range effect of a reduction of his prestige and that of his heirs. If the encroacher is from outside the group, this results in the lowering of the overall productive capacity of the group and will, in the long run, affect their prestige.

Thus, encroachment by an outsider may expand into a group concern. This, we believe, results in the pattern revealed in table XI.

Table XI
LAND ENCROACHMENT
CLASSIFIED BY STRUCTURAL DISTANCE

<u>Relative affiliation of disputants</u>	<u>N</u>	<u>%</u>
same subclan section	3	75
same subclan different section	0	0
same clan different subclan	0	0
same tribe different clan	1	25
different tribe	0	0
TOTAL	4	100

The explanation which we believe accounts for the pattern shown in table XI is analagous to that presented with regard to adultery cases which showed the same overall pattern, namely, that fear of the expansion of individual disputes into group conflict mitigates against the culturally approved action of encroachment on the land of outsiders while the resolvibility of such disputes between insiders, which is culturally disapproved, allows such actions to proliferate.

CASE 8

On April 2, 1977 a land dispute erupted between Lewis and Robert, both of the Kobula Gaulin subclan section of the Kunkora clan (Kunaraku). The ground in question was a long strip about eight feet wide lying on the border between the gardens of the two men.

Lewis claimed the land was his and had belonged to his father's father and that Robert had moved the marker while planting his own garden. Robert replied that his father had planted a garden on this ground and that it therefore belonged to him.

The argument became heated and the two men began to fight. The fight ended when Lewis was injured. The men called out for Komiti David of the Maima Gaulin subclan section since their own section had no councilor or komiti.

A kot was convened by Komiti David. He pointed out that the ground was not important, but that Lewis and Robert were of one-blood and should not fight. He suggested dividing the ground so that each man would have a strip four feet wide. This was accepted. Robert also paid an additional six kina to Lewis to compensate for his injury. The two men shook hands and left.

During the kot, Komiti David emphasized the importance of the relations between the disputants over that of the ground. The injury incurred during the fight was brought up as a separate grievance and compensation

was paid without regard to whose fault the fight had been. This two part settlement, i.e., splitting the ground and paying compensation, was the best possible alternative for restoring ruptured social relations. To have given the ground to either party would have risked creating lasting enmity between the two men.

CASE 9

On April 2, 1977, Kevin Smith (Naraku clan, Kune subclan, Dabile subclan section; see also cases 1, 2, and 3) began the construction of a new house for his wife on ground which, as it turned out, belonged to Dick Jones, a member of the same one-blood group as Kevin.

Early on the morning of April 5, Dick and his brother John came down the mountain from their men's house at Baune. Without warning, the two brothers attacked Kevin's father, Irving, who was sitting on the ground in front of his men's house in the Mul ceremonial ground. Using staffs six to eight feet long and over two inches thick which had been lying about, Dick and John attacked Irving who was hit on the head, arm, and finger before he was able to get up and defend himself. The three old men fought as bystanders attempted to break them apart. People were at last able to disarm the three fighters but occasionally one of the three would grab a staff and run towards his opponent. We noted, however, that though John had an axe in his belt, he would run for a staff rather than draw his axe for use in combat.

Council Solomon, a member of the same men's house as Kevin's father, Irving, was extremely upset and torn between retaliation and the proper behavior for a leader and councilor.

When we inquired into why Dick and John had attacked Irving, we were told that it was because "he should have taught his son better", i.e., not to build a house on someone else's land without asking permission first.

Since Kevin was out working in his garden at the time, there was a pause while he was sent for. During this time Dick added insult to injury by herding pigs onto the site where Kevin had been working on the house. At last Kevin arrived looking extremely cross and carrying his axe, bush knife, and a long sapling. He walked directly past Dick without a word. When he reached the ceremonial ground where most of the men were gathered, he quickly fashioned a fighting staff out of the sapling. Bystanders were able to restrain Kevin. By this point it was clear that the issue had shifted from one of land, which no one had contested because it was common knowledge that the land did, indeed, belong to Dick, to one of physical injury. Although Kevin had been physically restrained, the situation remained tense as verbal abuse between Dick and John (who occasionally had to be physically restrained) on the one hand, and Irving, Kevin, and Council Solomon, on the other. Seeing no movement towards settlement, Irving's younger son, Phil, took his father to the police station at Gumine. Shortly after they had left a few men called after them asking them not to go to the police ("to put Dick in jail") and saying that Dick would give Irving a chicken. Phil and Irving later reported that

After arriving at the government station, the case had been reported to the police. The police suggested that since Dick was an old man and jail would be detrimental to his health, the councilors should settle matters on their own. Being outside the police station, as well as the hour long walk from Mul to the government station which provided a cooling off period, assured that violence would not erupt during this stage of dispute processing.

DIALOGUE:

Council Solomon:

I was not at the men's house, but at my wife's house. I heard the fighting so I ran to look. Dick and John were hitting Irving. I was sorry for the old man and so I told them 'that's enough. The old man did not build the house, his son did'. I got angry, Kevin came down, and now we have come to the police station.

I brought Irving to the police station [sic] but the others were "big-heads" and stayed at Mul. All right, now Dick has come, though John has not, and we can 'straighten it'.

Council Morris:

John did not come. All right, we can 'straighten it' anyway and then go back to Mul.

Two men joined together and beat up one man. If you broke his head altogether, you would have to run to the police station. Now, you just scraped his head, so we

can 'straighten it'. Now, I have brought Dick, but he is an old man. It will not be good if they put him in jail, so we can 'straighten it' outside the police station.

If young men and middle age men fight, that is all right, but not old men. If they get put in jail, people from all around will be ashamed and ask why we could not 'straighten it' ourselves.

Council Solomon:

All right, I was at my wife's house. I saw them come down and hit him hard. I saw it. Irving got a stick and went to fight back. Plenty of young men broke up the fight. Morris did not see the beginning, I did. I will talk clearly so that you can 'straighten' the kot.

Council Morris:

I think that Council Solomon came first with Irving and that you would like to put Dick in jail. Dick thinks the same. Council Solomon should have 'straightened it' at Mul and not come to the police station. Now we can 'straighten it' outside the police station and then go back to Mul.

The law of the court is that we must all come to the police station. If we are friendly about it, the police are happy. But, if half the people stay at Mul, angry, that is not good.

Council Solomon:

True, we came first and Dick and John stayed at Mul so it is hard work. But now Dick has come and we can 'straighten it'.

Kevin:

I was building my house and went to the bush to get more materials early in the morning. Dick and John should have asked where I was, and when I came back they could have fought with me or koted me. But they should not have beaten up my father. I could break their heads too.

It is hard work to find wood for the house so I had to go a long way. I began to build the house and Simon [Dick's son] came. I asked Simon if I could build the house there and he said that it was all right. Now the two men come down angry! Simon thought that the ground was red and not good anyway. If I put a house there, the ground will be good later and they can put a garden there. So Simon said that it was all right for me to build a house there.

Ex-luluai Harold (says to Dick):

You do not think. On red ground you must cook food, etc.; then the ground will become good and you will be able to grow food on it.

Irving:

Many times I have given them pigs, kinas large mother of pearl shells, and all kinds of things. They did not give them back to me. Now they all come and fight with me. Now they must go find plenty of money and pigs to give to me. I do not want a little chicken. You must give me something big.

Early in the morning I heard them 'talking cross' about me on top [of the mountain at Baune] but I did not

yell back. Then they came down and fought with me. I am older than Dick. When he was a little boy I looked out for him well, like his brother. I used to give him food and so he grew up big. Now he is old and too proud, so he comes and fights with me.

Council Solomon:

That is all true. Now you are old men and we must 'straighten' this.

Ex-luluai Harold (asks Irving):

He is like your brother. He is an old man now too. Do you want to put him in jail or do you want payment?

Irving:

He is old. It is not good if I put him in jail. He will die. He can give me payment and I can take it.

Kevin:

I had to work hard to get wood to build this house and I am angry now. If I was there I could have fought with them. But I was out in the bush. After they beat up my father, I was called back and so I came. I broke a stick [i.e., made a fighting staff]. I wanted to hit them but Council Solomon and the others said I should not break the law, so I dropped my stick. Now John and Dick must give pay to my father.

Council Solomon:

All right, this is something just between us. Let us 'straighten' it and go home.

Ex-luluai Harold:

Dick, you do not know what it is like in jail. You stay only at your place. Now you and John go home with your children who are big now, collect pay and give it to Irving. Before [during the time before independence], when people were put in jail they got good food. Now they do not get good food. If you go into jail on Monday then; Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday, you sleep without eating. It is not good; your stomach will break and you will die. You had better run to your place and gather up pay and give it to Irving.

Dick:

In the morning I sang out and then came down [from Baune to Mul]. I asked whether Kevin was here or not. One young man yelled 'shut up'. So I got very angry. John and I ran down. We looked for Kevin but he was not there. John got a stick and ran down. He did not really hit him, but marked him twice [a threatening gesture with a weapon, as if to hit but not actually strike]. So I broke a stick [made a fighting staff] and came down and hit Irving. The old man said, angrily, that it was not good ground. He said 'the good ground is still there. This ground is red. Why are you so angry over this ground of yours?' I got angry and hit him twice on the head, the third time on the arm, the fourth on the hand, which brought blood. That is all. We did not talk too much.

Ex-luluai Harold:

You are good for bringing out the root of how it

happened. It is good that you 'talk straight'.

Dick:

It is true. I hit my number one brother. I am number two. I will go back and get one chicken. I will kill it, cook it in a saucepan and give it to Irving.

Irving:

If you kill it and give it to me, I will not eat it. Give me a live one and I will care for it.

Dick:

All right, I will give you one chicken and six kina as well. You can take it. We are not outsiders. We are 'brothers'. I have hit you, so I can give you a little payment. I hit you and drew blood. You went to hit me but all the men came and held us back so you did not hit me.

Ex-luluai Harold:

You are not outsiders, but 'brothers' fighting. You can go to Mul and give him some money and a chicken. It is up to you and the councilors to 'straighten' it at Mul.

Irving:

If he gives me a live chicken and some money it will be all right.

Council Morris:

All right, Council Solomon and I have come to hear

this. Harold has 'straightened' it and it is over. [Council Morris takes two kina and puts it in Dick's net bag]. I am giving you two kina to help you. Now I am like the Member [of Parliament, i.e., a big-man]. Now, you all see me give two kina to Dick. None of you do that, but I have good ways so I do it.

Ex-luluai Harold:

Oh, that is a very good way! Now you give two kina to Dick to help 'straighten' the kot. You can put it in Dick's net bag.

Walter:

Kevin went to the bush. I was with Irving when the two men came and hit him. John and Dick and their children must pay Irving.

Kevin:

The talk is over. Let us go finish it at Mul.

Dick:

Walter, why are you talking? This is between my 'brother' and me.

Walter:

He is a very old man. You must give him plenty of money. Buy some fish and rice, cook it, and we can sit down and it will be over.

Simon:

Walter, you are nothing. Me too. I own the ground but I am nothing. We did not fight, only them. It is

something between them. We should not interfere.

Council Peter (Kunaraku):

It is over now. Go get the chicken and some money and give it to the old man. Now you all go.

At this point all parties returned to Mul. Two days later, Dick and John gave the chicken and six kina to Irving.

In this case we see that even close kinsmen, members of the same one-blood group, make use of self-help when their land holdings appear to be threatened. The most striking aspect of this case, however, is that after the initial attack the issue of the land encroachment is almost completely dropped and replaced by the issue of physical injury. Once it was brought to public attention, everyone knew that Kevin should have asked Dick before beginning construction of a house on Dick's land. With regard to the original grievance, Dick was the offended party. However, his resort to self-help which resulted in injury (though minor) to Irving, created a new grievance and caused a shift in roles, viz., Dick became the offender and Irving became the offended party.

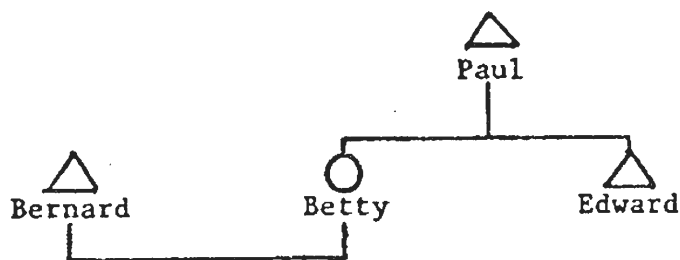
The scene which took place at the Mul ceremonial ground, and which brought Dick's displeasure over Kevin's encroachment onto his land to public notice, was one of open violent hostility. Although, after the initial fighting the disputants were physically restrained, there was tension in the air and we felt as though renewed fighting might break out at any moment. By bringing the disputants to the government station and holding the kot in front of the police station, the potentiality of violent confrontation during the kot hearing was eliminated, or at least substantially reduced. The police and the councilors agreed that old men should not be put in jail and, as a result, the police advised the councilors to handle it themselves rather than forwarding the case to criminal court.

Over two months after the chicken and the six kina had been given to Irving, he was still upset with Dick and John, though superficially they were able to interact in public. Despite the seriousness of the case, few persons outside the immediate families took an active part in the proceedings. The dispute did not result in animosity between groups or the creation of factions within the subclan section. It was, rather, attributed to "the ways of old men".

MARITAL DISPUTES AND DISPUTES BETWEEN CO-WIVES

Marital disputes and disputes between co-wives usually remain within the nuclear family, though occasionally a third party may, informally, offer advice or aid. In a dispersed community, it is, therefore, difficult to obtain an adequate sample. Certainly, the four cases (6.2% of all cases) are not representative of the relative frequency of this type of case as compared to the other categories of grievance. In some instances, situations occur which cause the dispute to expand into an issue between the husband's group and that of the wife.

CASE 10



Bernard, a man from the Keriwiwiku clan from Deri, is married to Betty who was born into the Egaku clan, Maima subclan, and Kobulamable subclan section of the Kobulaku tribe. After they had been married a short time, Betty's younger brother, Edward, came to stay with them.

On the morning of May 6, 1977, an argument occurred

between Bernard and Betty. Bernard had come to his wife's house expecting breakfast but it had not yet been prepared. He told Betty that she must rise early, cook his food, and then go to work in the garden. When Betty explained that she had just awoken, Bernard became angry and struck her. She went off to work in the garden.

But Bernard was still angry and in a fit of rage, set fire to his wife's house. Little did he realize that his wife's younger brother, Edward, was still asleep inside. While in her garden, Betty saw the smoke rising from her house. She called out to the men and they all ran to save the child. Fortunately, they were able to break down the door and rescue the child.

The people from the Maima Gaulin subclan were quite upset over the threat to the child's life. They said that in the past they fought with the Keriwiwikus and the Keriwiwikus had burnt many of their houses and killed many of their people. They said that now they are trying to raise up new children and the Keriwiwikus are trying to burn them in their houses again. They got ready to fight. The Maimas were restrained by the words of Council Kenneth. Two weeks later a kot was convened with Paul bringing the action against his daughter's husband Bernard.

During the kot the argument became quite heated but all ended well due to Bernard's generosity. Bernard said that he had not known that the child was inside; and admitted that he had broken the law of the government (as understood by the community members). As compensation, he gave a large pig, forty kina, and a goat.

Paul and the other Maima Gaulins were very happy with the payment because, as they said, Bernard gave a

big payment, despite the fact that the child had not died.

The initial dispute was over Betty's failure to cook Bernard's breakfast. However, in this case, as in others which have already been presented, self-help (in the form of burning Betty's house) precipitated a new grievance (the near injury to Edward). The new grievance then became the central issue of dispute. The issue was further compounded by the past relations of enmity which existed between the groups to which the two disputants (Bernard and Paul) belonged. Although the dispute did expand into the concern of the two groups, in this case, unlike the case of adultery (case 7) described above, the new grievance and the particular disputants remained as the central focus throughout the procedure.

The extremely large compensation payment made by Bernard to his wife's father, Paul, indicates his concern with maintaining harmonious ongoing social relations with his affines. His admission of guilt and his generous compensation payment did as much to raise his own status in the eyes of the Maima Gaulins as obstinacy would have done to lower it. Here again, we see that it is generosity and a willingness to pay up quickly, rather than compromise,

which served to restore the valuable social relationship between affines.

The five categories of types of grievance, which have been discussed above, account for fifty five cases, or 85% of the sixty five cases collected in the field. The remaining ten cases are distributed over the six remaining categories, four of which contain only one case each. The categories of insult (four-cases) and disputes over children (two cases) contain grievances which are so diverse as to make the comparison of cases, and, therefore, generalization, within these categories, meaningless.




In the following section, all sixty five cases are used to present an overview of the flow of cases through dispute-handling procedures.

THE SOCIAL ORGANIZATION OF DISPUTE-HANDLING PROCEDURES

As the data presented have shown, disputants frequently make use of a number of alternative procedures before being brought to a conclusion. The various procedures which were outlined in the previous chapter do not fall into a neat linear hierarchy, but neither are they used in a random fashion. Initial choices are

guided by social and situational factors. Once an initial choice is made, new alternatives open and others close. The case may then proceed through various stages and then loop back, returning to one of the earlier procedures.

Figure IV, titled "options for pursuing a grievance", may be considered a model of the social organization of dispute-handling procedures available to members of this society. Moreover, it highlights the points at which decisions must be made by the disputing parties and presents the alternatives open to them at that particular point in the process.

The focus of this "decision flow chart" is on activities, viz., decision points () or outcomes of decisions (). We refer to the lines which connect them (solid or dotted) as action paths. It is during the activities shown as decision points that disputants must weigh all the factors and make a choice as to which action path to follow in pursuit of the grievance. Of course, at any decision point, the offended party also has the option of dropping the issue (represented by ) if he or she feels the gains will not override the costs of pursuing the matter any further.

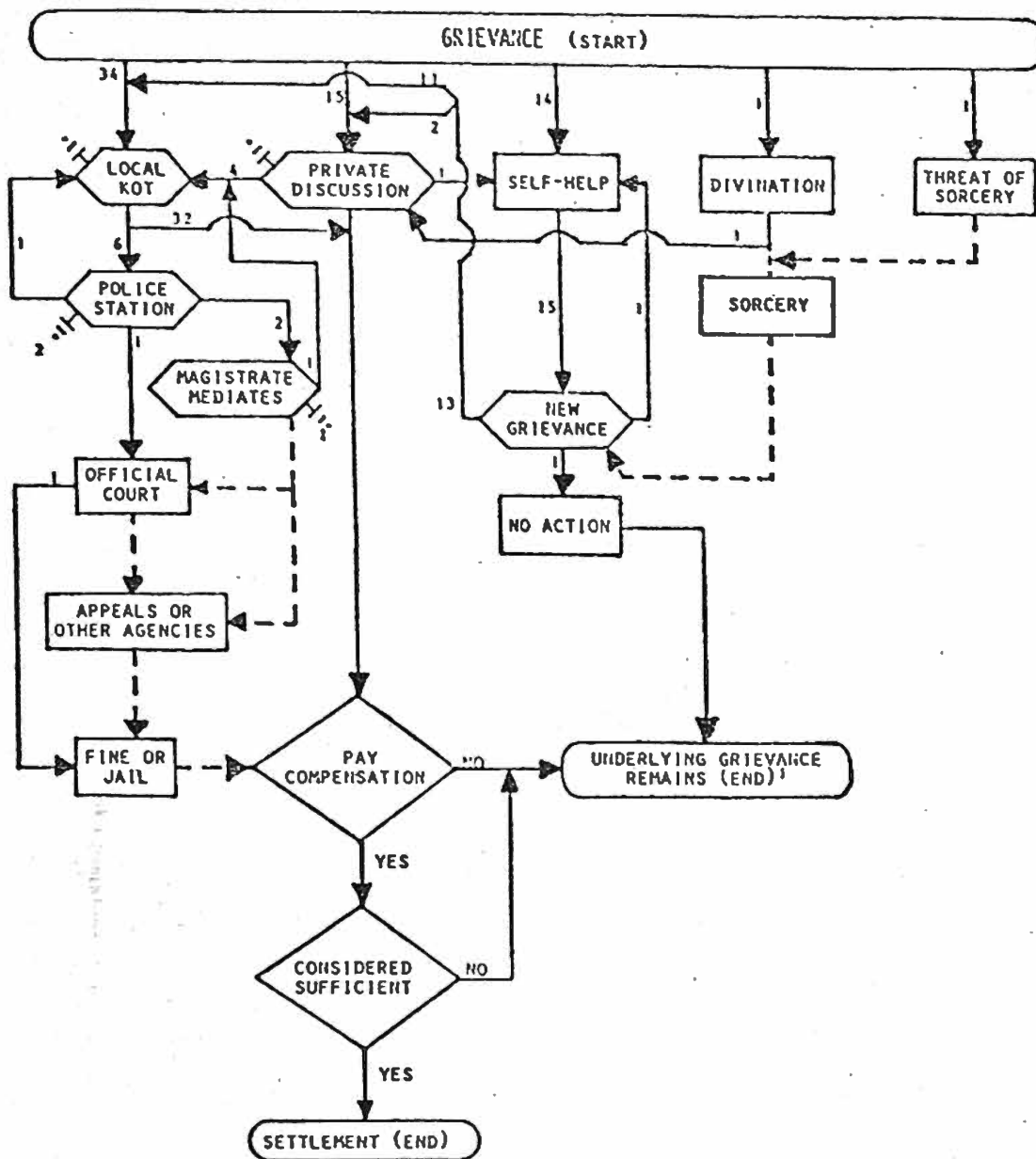
The positioning of the decision points, outcome boxes, and the action paths which connect them, have been

derived from empirical data, primarily in the form of observed cases. Information acquired through interviews with residents of Mul, administrators, or magistrates, but not corroborated by observed cases, are indicated by dotted, rather than solid, lines. A result of this empirical base is that all "logical" connections have not been diagramed since all logical possibilities did not, in fact, occur. It is suggested that actions not shown are not considered appropriate behavior and would only occur under extreme provocation.

It should be noted that all action paths are unidirectional. A person cannot erase his actions from the minds of others. It is possible for disputants to make a series of choices which lead the case back to a forum or procedure through which it has previously passed. However, the grievance situation in the second instance is not the same as it was in the first.

Frequencies have been provided along the action paths. All sixty five cases are included.

A relatively full picture of the flow of cases through the system can be gained by a careful perusal of the flow chart (figure IV). The two cases of appeal to the supernatural, which were discussed in the previous chapter, are shown on the right hand portion of the chart.



- ⬡ DECISION POINT - Activities during which decisions are made
- ◇ DECISION DIAMOND - Basis upon which decisions are made
- ▭ ACTIONS OR OUTCOMES BOX
- 2 ACTION PATHS AND FREQUENCIES
- ||- EXIT - Offended party may opt for discontinuing the pursuit of the grievance
- - - Reported but not observed

1 Although, if the offender has been jailed or fined the grievance is muted.

Figure IV

OPTIONS FOR PURSUING A GRIEVANCE

To their left, we see that in fourteen cases the initial response to a grievance was self-help. In one case, self-help was taken after private discussion. These actions themselves precipitate a new grievance. Interestingly, the use of self-help appears to cause a dislocation of the locus of conflict, resulting in the reversal of roles, i.e., the offended party is now the offender and the previous offender now feels offended. In one case, there was no response to the use of self-help qua new grievance; in one case, the response was itself an act of self-help; in two cases, the disputants got together in private discussion; and in eleven cases, the issue was brought to a kot. In fifteen cases, the initial response to the grievance was private discussion (totalling seventeen cases which were, at some point, privately discussed). In four cases, after private discussion, the disputants brought the case to a councilor for mediation in kot. In one case self-help followed private discussion and the matter was then brought to a local kot.

In thirty four cases, the initial response was a hearing before a councilor at a local kot. Combining these thirty four cases with the eleven which came to kot via the use of self-help and with the four which came via private discussion, we have forty nine cases heard, at

some point in the process, in local kots. Of these forty nine cases, six were taken to the police station. After discussion at the police station, two cases were dropped; one case was sent back to the councilor to try, once again, to handle it at the local level; in one case, the offender was arrested and his case was heard in criminal court; and two cases were referred, by the police, to the magistrate for informal mediation, one of which the magistrate referred back to the disputants' own councilor and, in the second, the issue was dropped at the magistrate's suggestion.

CONCLUSION

The data presented in this chapter reveal that actions, in terms of the choice of action paths for pursuing a grievance, as well as the overall behavior of disputants during dispute handling, are related to four aspects of the grievance situation: first, the type of grievance itself; second, the structural distance between the disputants; third, the past history of relations between the individual disputants; and fourth, the past history of the respective groups to which the disputants are affiliated. These four factors may be said to be the criteria which define the grievance situation and thereby

influence decisions and the actions which result from them. There may, indeed, be other criteria. Moreover, those which we have mentioned might fruitfully be subdivided, thus increasing the specificity of their influence. At this point, however, we are suggesting only that these four criteria are useful in helping to explain a high proportion of the variation encountered in decision-making.

In and of themselves, these findings appear significant in the context of the New Guinea Highlands. But there is something unsatisfying about linking these observable and measurable criteria to observable and measurable actions without understanding why these criteria influence decisions and actions and how the criteria interdigitate or contrapose in response to variations in the grievance situation. To this end an intermediate variable was sought, and found, which would serve to explain the connection between the structural/situational criteria and decisions/actions. The link between these observables is found to lie in the less-observable, but none the less real, notion of goals.

NOTES FOR CHAPTER VI

- 15 Council Solomon, who does not read or speak Pidgin English, is relating his knowledge of the introduced law. He is not referring to a specific law text or code.
- 16 A young boy broke the door and entered the house. It is no known if anything was taken.
- 17 In two cases, which made use of the supernatural, the thief was not known and thus classification is not possible. The theft of two of our own chickens has not been included for the same reason, though we were assure that the thief was from another clan.
- 18 Previously known as assistant district commissioner (ADC).

CHAPTER SEVEN

THE ROLE OF GOALS

IN

DECISION-MAKING AND ACTIONS

In previous chapters, attention has been focused on the patterns of action which result from the choices made during the handling of disputes. Tables, cases, and figures were used to reveal this pattern as well as to highlight the structural and situational criteria which were influential in its formation. In this chapter, we attempt to link these criteria to actions by means of an intervening variable, viz., goals.

Percy Cohen (1968:70) has pointed out that goals are inextricable from actions. He notes that "To say that all human action is directed to the attainment of goals seems obvious and indisputable; indeed, one could argue that goal-orientation is simply a defining quality of action". Often, individuals do not consciously recognize their own goals, e.g., where the goal is one of increasing one's prestige or power (ibid.).

Goals are not observable nor measurable pieces of social data. Indeed, as Cohen (above) points out, they are often not even recognized by the individual actor. They are not empirically verifiable. In that which follows, we employ the concept of goals, and its specific manifestations in the present context, in order to elaborate on the causal relationship between decisions/actions and the antecedent structural and situational variables. We argue that, if a concept is found to fit the ethnographic data and if it serves to explain, or further the understanding of, that data, then the concept has utility. It is in terms of utility for the advancement of knowledge that concepts (and definitions) are judged (Hempel 1952:47, Phillips 1971:39-61, Pelto 1970:10-11). Moreover, the "goodness of fit" of the concept to the data reifies its veracity.

We should like to view these variables in a causal framework. The structural and situational criteria which define the grievance situation are seen to be temporally antecedent to, and causative of, the decisions which lead to actions (see figure V). The concept of goals may then be introduced as an intervening variable as shown in figure VI.



Figure V
CAUSAL RELATION BETWEEN
THE GRIEVANCE SITUATION AND ACTIONS

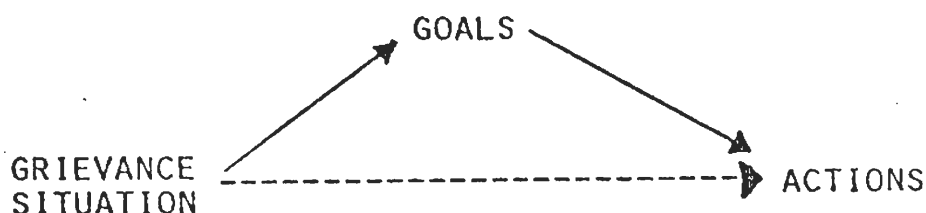


Figure VI
THE INTERVENING VARIABLE - GOALS

The interpretation of figure VI is as follows. At time A, persons are involved in a grievance situation. The criteria which define the grievance situation result in decisions regarding the ordering of goal importance, i.e., define the goals for the particular instance. As a result of these choices of goals, decisions are made as to the best means of attaining them (a strategy). The implementation of these decisions results in observable actions.

The model can be expanded by noting that all disputes are minimally dyadic and should more properly be seen as an action-reaction, or transaction. Moreover,

actions may redefine the grievance situation, and this leads to the on-going nature of the interaction and reevaluation process¹⁹ (see figure VII).

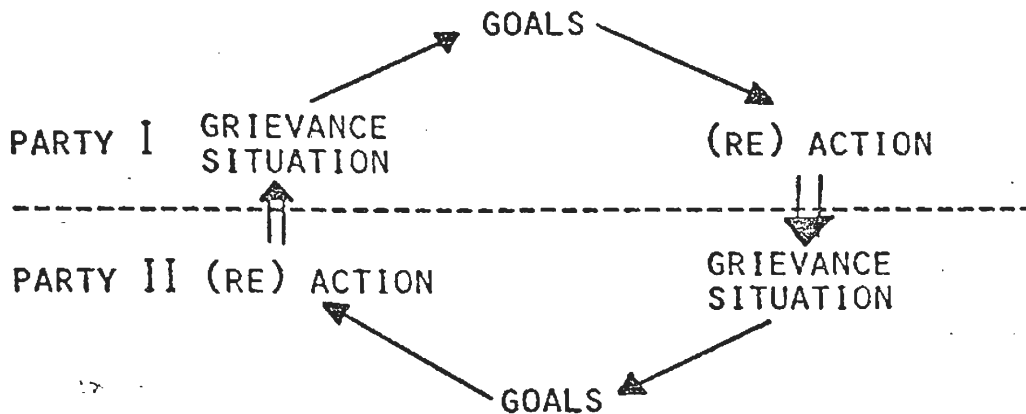


Figure VII
THE DYADIC MODEL

We may now return to our particular context and show how the concept of goals helps us to understand the relationship between the grievance situation and decisions/actions.

It is obvious to anyone who has observed but a few disputes in contemporary New Guinea Highlands communities that at least one conscious and recognizable goal is to obtain a satisfactory compensation payment. The function of this payment, according to residents of

¹⁹ footnotes for chapter VII are to be found on page 240.

Mul, is to "make the belly cold" (i.e., abate anger). It is clear, however, that not all payments result in settlement, and it is equally clear that no settlement can be arrived at without payment of compensation.

The analysis of compensation demands and payments was found to be of little explanatory value with regard to decision-making. A flow chart analysis using compensation payment as the primary goal was found to be inefficacious; that is, we could not arrange the various parts to fit into a chart which would explain the data. The attempted analysis did, however, indicate that in different situations compensation payments performed different functions. At times it was, indeed, the primary goal, but at other times the compensation payment must be seen only as a secondary goal which acts as a means of attaining more basic goals. Cohen (ibid.:72) notes that, in general, the attainment of some goals is sometimes a necessary means to the attainment of others.

We argue that, in the Mul community, the goals of disputants correspond to three types of restitution:²⁰

- (A) The giving or receiving of an equivalent for some loss or damage to property.
- (B) The restoration of status or prestige.
- (C) The restoration of all persons to harmony.

Persons occupying the roles of offended and offender emphasize different aspects of each of these three types of restitution. The goals of the offended party in a particular case may be one or a combination of the following: a) to gain restitution, usually monetary, for the loss of, or damage to, property; b) to regain prestige lost as a result of the offense; or c) the restoration of injured social relations. Similarly, the goal of the offender may be one or a combination of the following: a) the reduction of the amount of compensation which must be paid; b) the restoration of individual or group prestige, which may have suffered as a result of the offender's own actions (this may sometimes be achieved by exceptional performance, i.e., making a quick and generous compensation payment); or c) the restoration of injured social relations.

Thus, we see that the goals of the disputing parties may be either opposing or complementary. In goal type A (above) where monetary restitution is the issue, the goals would appear to be opposing, whereas in goal type C, where reestablishing a social relationship is most important, the goals are complementary. Goal type B, having to do with prestige, is more complex. In some

situations, the offended party's prestige may have been reduced, while that of the offender was not affected, or may even have been raised. In such instances, as in case seven over adultery, the goals of the disputants are opposing since the offended party is trying to obtain a substantial payment in order to raise his prestige while the offender is trying to reduce the payment. However, in cases where the prestige of both parties has been affected, the goals are complementary. In case ten, a quick and generous compensation by Bernard served to raise the prestige of both parties.

The complexity of the interdigitation of goals begins to become apparent in noting that in cases where monetary restitution is the issue and social relationships are valuable, though not yet disrupted, the disputants must press their claims with care, for to do otherwise is to risk a further breach between the two disputants. As Cohen (1968:73) notes, "An actor may enter a situation in order to achieve some goal, and may be lead by it to pursue others in addition to, or in place of the original goal". Thus, goals may shift during the processing of disputes as a result of the behavior of the disputants.

In his discussion of why some goals have priority over others, Cohen (ibid.:72) notes that the

most obvious reason is that "some goals are more highly valued than others". He also points out, however, that "a rank order of goals may change with changing circumstances" (ibid.). Furthermore, "the actor's choice of goals and, in particular, his ranking of goals, is strongly influenced by norms and values. Norms are specific prescriptions and proscriptions of standardized practice. Values, on the other, express preferences, priorities or desirable states of affairs, but not specific forms of conduct" (ibid.:77). Following this line of reasoning, we argue that it is with reference to norms and values that the grievance situation is evaluated and goals are ranked.

Although not framed as a warning, the following statement by Cohen (ibid.:75) may be read as such. "The conduct of an actor may not be explained simply in terms of the situation as it appears to the observer, for the actor's knowledge of the situation may be different from the observer's. It is the actor's knowledge which governs his reaction to a situation." The degree of congruence between the actor's and the observer's knowledge of the situation can never be precisely evaluated and, as such, remains problematic in social science research.

In sum, the grievance situation, as perceived by the actor, is assessed with reference to norms and values. As a result of this evaluation, individuals make decisions concerning goal importance. Following this, decisions are made which lead to actions which the actors perceive as the best means of attaining their goals. At the theoretical level, each action, indeed the very manner of behavior, modifies, to some degree, the grievance situation and, as a result, reevaluation is an on-going process.

SITUATIONAL CRITERIA AS ISOLATES

The four criteria which define the grievance situation (the type of grievance; the structural distance between the disputants; the past relations between the disputants; and the past relations between the groups to which the disputants belong) and which affect the ordering of goal importance, certainly never act in isolation from one another. However, in order to understand their complex interactive effect, it is necessary to consider each separately with only a minimum of concern for the effects of the others. In the following sections we will examine how and why each of the four criteria affects the ordering of goal importance by

reference to the norms and values which are discussed in chapter IV.

TYPE OF GRIEVANCE

The four major categories of grievance, viz., property damage by animals, theft, adulterous behavior, and land encroachment, can be divided into two groups. Grievances which fall into the former two categories are, in and of themselves, not offensive to the prestige (except in cases of pig theft) of the injured party or his group and, by and large, are not disruptive to on-going social relationships. The primary goal resulting from these types of grievances alone, therefore, involves financial restitution rather than the restoration of prestige or social relationships. Grievances which fall into the latter two categories, adultery and land encroachment (as well as pig theft) are injurious to the prestige of the offended party and may result in an immediate breach in the social relations between the disputants. Moreover, if the disputants are members of different groups, the offense may be viewed as an offense against the group. In the case of adulterous behavior, the determinants of whether the primary goal involves the restoration of prestige by itself, or in conjunction

with the repair of ruptured social relations, depends upon the importance of the relationship which was disrupted. In cases of land encroachment these same factors are compounded by the threat of loss of land. We should note that in three out of four such cases the initial response was the resort to violent self-help. As Starr and Yngvesson (1975:560-561) point out, "People who are linked in ongoing relations and who are attempting to gain control over land in a scarcity situation will define themselves as strict adversaries...."

STRUCTURAL DISTANCE

The importance of structural distance has two aspects. First, the value placed on social solidarity can be seen to vary directly with the position of the group in the segmentary system. The ideals of appropriate behavior and the value of maintaining on-going relations between disputing parties are, therefore, reflected in, or measured by, the structural distance between the disputants. This may reflect an increasing need for cooperation against outsiders at the lower levels of segmentation. Second, since the members of these groups reside patrilocally, the corpus of persons who are structurally close corresponds, to a large degree, to

those who maintain multiplex (Gluckman 1955) or mutually valuable (Gulliver 1963) relationships. The second aspect will be taken up under the heading of relations between individuals so as to be made distinct from ideals about groups.

"Solidarity in any social system may derive from interests which stem from internal social relations..." (Cohen 1968:135).²¹ Breaches between members of a social group threaten the on-going social relationships existing between them. Therefore, breaches between members of a social group threaten the solidarity of that group. It follows that the maintenance of social relations between members of a social group is of paramount importance for the persistence of that group.

We have noted that the structure of groups conforms to a segmentary nesting pattern. Members of the smallest groups conceive of themselves as brothers and as being of one-blood. Norms of behavior and the value placed on maintaining relationships correspond to these beliefs. When fights do occur, weapons are restricted to fists or sticks. The use of lethal weapons, such as axes, spears, or bows and arrows, is prohibited. Frequently, a number of men from the same one-blood group enclose their gardens within a single fence. They

help each other in accumulating the bride price needed when a young man of the group wishes to marry and, conversely, bride price payments for young women are distributed among them.²¹ People who are members of different one-blood groups, but members of the same sub-clan, may, though infrequently, refer to one another as "one-blood" during a dispute. However, group sentiments are far weaker than those of the one-blood group. Fighting with lethal weapons is condoned. As groups become more inclusive, i.e., as one moves towards the larger units, the degree of mutual interdependence and mutual aid and affection between members declines. At the highest level, where disputants are members of different tribes, particularly if the tribes are from different regions, disputes may be said to occur in a social vacuum, though in some instances mitigated by a network of matrilineal and affinal ties. We are here reminded of Yngvesson's (1976:369) findings in an Atlantic fishing community. She argues that:

In contrast to the rules for handling grievance behavior within the bounds of an ongoing relationship, grievance encounters across such boundaries occur within the context of an entirely different set of rules for behavior: (1) the act of grievance occurs in what might be called a social vacuum.... Reactions to the grievance need only involve a consideration of its immediate

effects and not the repercussions of the act in a field of enduring social relations. The grievance encounter may itself have no past, present, or future,... and maintenance of the relationship in the future is not of concern.

Thus, it follows that with increasing structural distance (or decreasing closeness) there is a corresponding decreasing of the importance of social solidarity and a concomitant decreasing concern for the readjustment of fractured social relationships. Therefore, structural closeness, the importance of solidarity, and the value of restoring social relations are directly related. As a result, structural closeness corresponds to an emphasis on the goal of restoring social relations over, though not to the exclusion of, the goals of attaining financial restitution or regaining prestige. The latter may, of course, be a necessary prerequisite to attaining a restoration of relations.

PAST HISTORY OF RELATIONS BETWEEN INDIVIDUALS

As the above discussion implies, the notion of multiplex relations, as discussed by Gluckman (1955), and highly valued relationships, as discussed by Gulliver (1963), overlap, in Mul, with structural distance. In general, persons who are structurally close are more

likely to be involved in a relationship which is more highly valued than persons who are structurally distant. The exception of exchange partners, matrilinear, or affinal relatives has been previously noted. There are also individuals of different groups who maintain highly valued relations of friendship and who make occasional loans of land to one another for temporary garden use or aid one another in the construction of garden fences and other labors. However, one may wish to distinguish between those relations which are backed by cultural values relating to group solidarity from those which arise out of transactions between individuals in terms of goods and services (e.g., mutual aid in garden preparation). Moreover, it would be useful to distinguish between more or less highly valued relationships within each category of structural distance.

The impact of past relations can best be understood as a modifier of structural distance. Yngvesson (1976:367) points out that behavior may determine social identity. Though we would not go so far, we do agree that repeated cooperation between outsiders or breaches between insiders may serve to redefine a relationship as more or less valuable than would be expected on the basis of structural distance alone. As such, goal-orientation

is affected.

The first three cases, presented in chapter four, show the changing attitude of the offended party as the result of a series of grievances concerning a member of his own one-blood group. All three cases involved the same pig going into and damaging crops in the same garden. In the first two cases, compensation payments were arrived at and there was no breach of social relations. After the pig went into the garden for the third time, however, it was obvious that the pig's owner was not looking out for the property of his "brother" in the expected fashion, for it is well known that pigs remember, and return to, areas where they have previously feasted on garden crops. As a result, the grievance situation was modified and the ranking of goal importance shifted.

PAST HISTORY OF RELATIONS BETWEEN GROUPS

Norms of social behavior are generally circumscribed as cooperative and harmonious between insiders and competitive between outsiders. However, with the exception of co-members of the same subclan section, these classifications (insider/outsider) are optative. That is, the choice may be made between conceptualizing

the relationship of disputants as co-members of the larger inclusive group or as members of the opposing smaller groups.

Offences committed against a member of a group by an outsider may be seen as an offense against the group as a whole and, concomitantly, the offenders group may be held liable, as a collectivity, for the offensive actions committed by the individual. When this occurs, the dispute may expand from a dispute between individuals to a confrontation between groups. This is a necessary prerequisite to warfare, but not all disputes which expand lead to war. In fact, not all disputes between members of different groups expand. As Moore (1972:97) notes, expansion is "a potentiality within certain social situations rather than an inevitable rule governed by the relative social positions of the parties, or the subject of the dispute".

As was evidenced in case seven over adultery, disputes between individuals provide an opportunity for social groups to bring to the surface long standing animosities which arise out of past grievances and which may have nothing in common with the specific issues at hand. In this particular case, little emphasis was placed upon the restoration of social relations despite the

fact that the disputants were members of the same subclan. Rather, emphasis was placed upon the opposition of sections and upon gaining a large compensation payment, a pig, which would have the effect of restoring the prestige of the offended husband and his social group.

GOALS, DECISIONS, AND ACTIONS

We do not argue that the understanding of the situational criteria, and the goals which derive from them, provide a basis for uniformly predicting decisions and actions. Indeed, as Cameroff and Roberts (1977) have noted, even norms regarding dispute processing, in areas where they are made explicit, are not found to be predictive. We do suggest, however, that the explanation in terms of the four criteria which define the social situation and influence the ordering of goal importance provide an understanding which allows the researcher to make a generalized "best guess" as to the attitude and actions which will be taken by disputants in a particular grievance situation.

We have spoken of the goals of the offended party as being either opposing or complementary. In a similar fashion, the goals of each individual disputant,

as defined by each of the four situational criteria (independent variables) in isolation, may be either opposing or complementary.

Goals may be said to be complementary when each of the four criteria mitigate for an emphasis on the same goal as each of the other criteria. This occurs in such cases as a dispute over garden damage between two members of the same one-blood group who are on amicable terms, or on the other hand, a dispute over land between persons who have had several previous altercations and who are members of different tribes which maintain a relationship of enmity.

Though the goals in each of these idealized situations is different, we can see that in each case there is little internal conflict in ranking goal importance. There is, therefore, less ambiguity in decision-making and actions than in those cases where the situational criteria suggest goals which are opposing. Cases 1,2,4, and 7 exemplify situations where goals defined by the grievance situation were complementary.

It is more common, however, for at least one of the situational criteria to suggest an emphasis on goals different from, or opposed to, the ranking of goal importance suggested by the other criteria. In such

cases (see cases 3,5,6,8,9, and 10) decision-making is more difficult for the party concerned as he or she must assess the various opposing factors before decisions can be made and actions taken.

COMPROMISE AND RECONCILIATION

Starr and Yngvesson (1975:554) point out that one of the major assumptions used by anthropologists interested in dispute processing is that in "face-to-face communities, all parties involved accept balance, reconciliation, and harmony as primary values and thus will be willing to compromise differences." This view has been subscribed to by Gluckman (1955), Gulliver (1963), and Nader (1969). A reanalysis of case materials presented by Starr and Yngvesson suggests that these ideals are frequently not adhered to. This leads Starr and Yngvesson (1975:561) to ask "What might concepts such as compromise and zero-sum mean, as descriptions of outcomes, when the goals of disputants are taken into account."

As we have suggested, outcomes, in terms of monetary payments, may often be best viewed as a means of obtaining more basic underlying goals, particularly when the relations between the disputants are multiplex

or highly valued. Moreover, we argue that there is no automatic congruence between the desire for reconciliation and the observable outcome of compromise. To the contrary, we suggest that various cultural factors at work in Chimbu society are antithetical to the notion that reconciliation is achieved primarily through compromise.

It has been pointed out by Barnett (1972a:64) that "The Melanesian view about compensation for injury caused to a person or property is far more like one of absolute liability than liability bases on fault. It does not seem to matter whether a person injured a victim deliberately, negligently or through no fault of his own. The person injured must be compensated anyway..." This ideology is maintained in Mul and, as a result, the notion of fault cannot be used as a point of argument from which to affect a compromise. Informants state that in the past compensation payments for deaths incurred during warfare were made as large prestations and did not include negotiation of the amount to be given. An insufficient payment led to renewed fighting whereas sufficient payment led to the cessation of hostilities. Moreover, the importance of giving can be seen in the notion that prestations of a sufficient size are necessary for the maintenance of on-going exchange

relationships.

We saw that in case ten an extremely large compensation was given by Bernard to his wife's father, Paul, after his action of burning his wife's house had threatened the life of his wife's brother. Making a large payment, which was, in fact, substantially larger than was expected by Paul, served to restore a valuable social relationship. In a simple case where a pig damages the crops of someone with whom the pig owner maintains a highly valuable relationship, a zero-sum (all or nothing) type payment may be given or a cautious attempt at compromise may be made. To do otherwise is to risk creating a breach of social relations where none had hitherto existed.

In considering monetary outcomes, one must be concerned with the ability of the offender to pay. People from Mul are primarily subsistence agriculturalists. Cash is extremely limited. Thus, during a dispute, an offender may indicate that he would like to pay the amount asked for by the offended party but that he does not have that amount of money. Not infrequently, when this occurs, bystanders begin to ask around for loans to help the individual make the compensation payment asked for. One of the councilors, Council Morris of the Malaku clan, is in the habit of making his own personal

contribution to the compensation payment if the offender is not able to do so. His generosity has won him a fine reputation for handling kots. This situation is seen as distinct from the case of a person who is known to have money but is intransigent in making a payment, though both appear, superficially, to be a "compromise" outcome. It is for these reasons that the analysis in terms of monetary outcomes is of little utility in this region.

→ Despite what appears to be idiosyncratic behavior due to financial instability, the ideal is that offenders who wish to restore or maintain an on-going social relationship can afford to bargain more strongly and thus affect a compromise.

CONCLUSION

Throughout this dissertation we have been concerned with how and why individuals make choices during dispute processing. Like the Berkeley Law Project approach (June Starr, pers. comm.; see also Nader and Todd 1978) we focused upon the disputants' options. We turned to an antecedent analytic unit, the grievance situation, to provide the criteria by which decisions are made and

which lead to observable actions and behaviors. As such, our analysis has remained sociological rather than psychological. We have not been concerned with the cognitive aspects of the decision-making process.

Our focus has been on the individual and his options. We view the statistical pattern which results from the use of various modes of dispute handling (or case loads) as the end result of a series of individual choices. However, rather than ignoring the structural determinants of this pattern, we have incorporated them into our analysis as one of the four criteria which influence disputants' choices and which, in turn, lead to this observable pattern, or case load distribution. Moreover, as we suggested in the beginning, these are crosscut by other aspects of the social context of a dispute, viz., the nature of the grievance and the past history of relations between the individual disputants and their social groups.

In this final chapter, we have relied upon the data presented et passim to elaborate on the causal relationship between the grievance situation and decisions and actions. Viewing the interdigitation of the structural and situational criteria and the concomitant complementarity or opposition of goals in this

fashion allows for a large degree of variation in human behavior and provides insight into why discussions of dispute behavior in face-to-face communities cannot be understood by reference to stated norms regarding dispute processing. Moreover, it is suggested that this variation is normal and necessary in the handling of disputes in small scale face-to-face communities where social relations are necessarily multiplex.

NOTES FOR CHAPTER VII

- 19 In a sense the social situation is always changing, viz., if one views dispute processing as an articulation process whereby each action adds insight into an opponents goals. The confirmation that one understands the information being transmitted by one's opponent may be seen as a redefining of the social situation. Gulliver (1973) characterizes the negotiation process as one of information and learning.
- 20 These types of restitution correspond to the various types of restitution given in Webster's Third New International Dictionary - unabridged (1970).
- 21 Cohen goes on to add "... or it may result from external pressures, or as is common, it may result from both".
- 22 Particularly close individuals make the largest contributions and receive the largest portions of the distribution. however, these payments, and the exchanges which follow, are viewed as a group function and reinforce internal solidarity.

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