GOING TO COURT: STRATEGIES OF DISPUTE MANAGEMENT IN AN AMERICAN URBAN NEIGHBORHOOD

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An analysis of the strategies of disputing pursued by the residents of a polyethnic American urban neighborhood reveals that they frequently resort to courts to manage interpersonal and crime-related disputes. Because the legal machinery available to them rarely resolves these disputes, however, the court functions as a sanction rather than a dispute settlement forum. In the absence of effective alternative informal or formal modes of resolving disputes, disputants resort to violence, avoidance, and endurance, a pattern of tolerating ongoing conflict.

I. INTRODUCTION

In recent years, legal anthropologists have increasingly focused on the process by which disputes are settled, rather than on the substance of the law which emerges from legal decisions (e.g., Nader, 1969; Gulliver, 1969; Abel, 1973; Collier, 1973; Yngvesson, 1976; Nader and Todd, 1978). These studies adopt a transactional perspective (cf. Barth, 1966), investigating the strategies actors use to manage disputes and the choices they make between alternative modes of dispute settlement. Of recurring interest are the conditions under which disputants resort to courts rather than more informal modes of dispute settlement such as gossip and scandal. Although we know something about the role of courts in dispute settlement strategies in relatively stable, homogeneous, and close-knit communities such as Mexican, Lebanese, and Turkish peasant villages (Nader and Metzger, 1963; Nader, 1965; Hunt and Hunt,

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1969; Starr and Pool, 1974; Collier, 1973; Starr, 1978), small Ghanaian towns (Lowy, 1974; 1978), and Atlantic fishing villages (Yngvesson, 1976; 1978), we know relatively little about the situation in complex, heterogeneous urban neighborhoods. This paper investigates the role of criminal courts in dispute management strategies in a polyethnic American urban neighborhood. Many of the poor, relatively uneducated residents of this neighborhood use criminal courts extensively as part of their arsenal for managing disputes, and have become quite sophisticated in manipulating the courts for their own ends.

A detailed analysis of disputing in this heterogeneous urban housing project supports Schwartz's (1954) hypothesis that disputants turn to formal mechanisms of social control in social settings where informal social controls are ineffective. However, despite frequent appeals to the criminal courts in disputes within ongoing relationships, the formal legal system fails to resolve most disputes in the sense of providing a mutually acceptable settlement that terminates the dispute.[1] Consequently, courts come to serve simply as a sanction—a way of harassing an enemy—and an alternative to violence for those unable or unwilling to fight. Ultimately, the only resolution of disputes occurs through avoidance, the "exit" of one or both disputants from the neighborhood.

This analysis of urban disputing addresses four general questions: 1) To what extent do the residents of this neighborhood, including minorities and the poor, have access to courts and to pre-court hearings? 2) Under what conditions do they appeal disputes to court? 3) How are these disputes handled by the court? 4) How are disputes terminated, and what role does the court play in ending disputes? My findings suggest that the nature of the social structure surrounding disputants significantly affects their strategies of dispute management.

Understanding the conditions under which such urban disputants resort to courts is of particular interest, since the legal profession has in recent years become concerned over the continuing failure of the courts to resolve minor disputes effectively (ABA, 1978; Erickson, 1978; Bell, 1978). Overcrowding,

[1] I am defining ongoing social relationships as interactions between two individuals which persist over time. The critical feature of such relationships is that the participants know one another as distinct individuals rather than as strangers. Since their identities, reputations, and habits are known, they can locate one another again in the future to impose sanctions on them. The content of such a relationship ranges from friendship to enmity: those who fight regularly are also in an ongoing social relationship.

delay, lack of access for the poor, and limitations on the applicability of adjudication to such disputes limit court effectiveness (Fuller, 1971; McGillis and Mullen, 1977; ABA, 1978). Legal scholars concerned both with court congestion and with the quality of justice available to the poor have recommended various forms of community dispute settlement centers to mediate minor conflicts within the community (Danzig, 1973; Fisher, 1975; Sander, 1976). At the 1976 Conference on the Causes of Popular Dissatisfaction with the Administration of Justice, the American Bar Association, the Judicial Conference of the United States, and the Conference of Chief Justices recommended the establishment of Neighborhood Justice Centers (Erikson, 1978; Bell, 1978). In 1978, the U.S. Department of Justice initiated three pilot programs to mediate minor disputes in ongoing social relationships—particularly domestic, neighbor, and landlord-tenant squabbles. My study is thus of particular significance in revealing how such disputes are managed in a neighborhood similar to those targeted for the Neighborhood Justice Centers.

The appeal to courts to settle disputes in a heterogeneous urban neighborhood conforms with the general hypothesis that formal mechanisms of social control assume greater importance when informal controls are not effective (Redfield, 1967; Schwartz, 1954; 1976; Nader and Metzger, 1963; Nader, 1965). Black suggests this relationship as a general theoretical proposition: "Law tends to become implicated in social life to the degree that other forms of social control are weak or unavailable" (1973: 53).[2] However, Felstiner argues that in technologically complex, rich societies, such as the United States, disputants

[2] In his study of police behavior in three cities, Black finds that police officers are more likely to make an official report of a crime, thus invoking the law, when the disputants are strangers to one another than when they know one another (1970: 740). The police are also more likely to arrest a suspect when his relationship to the complainant is distant (1971: 1097). In felony cases, for example, when the complainant presses for arrest, 45 percent are arrested if the suspect is a family member, 77 percent if he is a friend, neighbor, or acquaintance, and 88 percent if he is a stranger (Black, 1971: 1097).

Black argues that the most important difference between people influencing their choice of dispute processing is the nature of the relationship between the parties (Black, 1976: 40-48). The way people deal with a dispute depends on the "relational distance" between them. The greater the relational distance, measured by duration, frequency of interaction, degree of interdependence, and number of dimensions along which interactions between parties occur, the more likely the disputants are to employ public, formal, narrow, and all-or-nothing procedures to deal with disputes (Black, 1976). As the "relational distance" increases from 1) family member to 2) friend, neighbor, or acquaintance to 3) stranger, the police are more likely to oversee the relationship. Thus, legal control intervenes where it is most likely to be the only system of control (1970: 740). He finds indications that the same pattern occurs in civil as well as criminal legal activity: formal litigation is more likely as relational distance increases (1971: 1108).

do not turn to courts to settle interpersonal disputes when economic stakes are low (1974; 1975). The courts' specialized and alien rules demand hiring an expensive lawyer, and the backlog of cases slows down adjudication. Instead, they use avoidance, a strategy of "limiting the relationship with the other disputant sufficiently so that the dispute no longer remains salient" (1974: 70). He argues that avoidance is a common and relatively inexpensive way of settling disputes in complex societies (1974: 76-77) and criticizes Black's hypothesis, arguing that ". . . he does not consider the possibility that as 'communities' and their informal controls disappear, the need for any external civil dispute processing between individuals may also substantially fade" (1974: 83). He points out, however, that we have very little data on patterns of self-help, negotiation, and avoidance and do not know if avoidance is an empirical reality or simply a sociological possibility (Felstiner, 1974: 86). My study suggests that law intrudes into urban social life where informal controls are absent, as Black hypothesizes, but that because courts fail to settle cases, avoidance is ultimately the only successful mode of terminating disputes, as Felstiner argues.

The decision to appeal to court in this neighborhood depends to a great extent on the nature of the relationship linking the disputants and the wider network of social ties enveloping them. Unlike patterns of disputing described in small, close-knit, and isolated communities such as Atlantic fishing villages (Yngvesson, 1976; 1978), highland Maya towns (Collier, 1973), and small Bavarian settlements (Todd, 1978), residents use courts as a resource against insiders as well as outsiders.[3] In small, bounded societies, disputants often fear that court action

[3] In her study of an isolated Atlantic island fishing village, Yngvesson finds that residents use courts only in disputes between insiders and outsiders, not in conflicts between insiders (1976; 1978). The latter are handled by a long period of non-action, a "cooling-off" pause in which the deviant behavior is assessed and informal sanctions applied or the deviant is slowly reclassified as an outsider. Meanwhile, the deviant behavior is simply endured. These cases are not taken to court, since a court confrontation would seriously disrupt ongoing relationships within the community. In conflicts between insiders and outsiders, however, court action is swift.

Collier notes a similar pattern in Zinacantan, a remote Maya village in Mexico (1973). Plaintiffs appeal to the Mexican court only when they seek to demolish an enemy or political rival and have no interest in preserving the relationship (1973: 55). In his study of a Bavarian village in Germany, Todd finds that it is primarily social outsiders who appeal to formal institutions of control—the village reconciliation agency and the lower courts—while insiders use informal mechanisms of social control (1978). The outsiders have no significant relationships with insiders to preserve. These and other studies indicate that this pattern occurs only in disputes which do not concern control over scarce resources, however, since in such cases disputants may choose to sacrifice personal relationships in the interest of winning (Starr and Yngvesson, 1975; Nader and Todd, 1978). Moreover, it is restricted to disputes in relationships the plaintiff wishes to preserve (Todd, 1978; Jones, 1974).

will disrupt important social ties and that the gains of an uncertain victory are not worth the cost of social opprobrium. Recourse to court also appears to be disruptive to social relationships within this urban setting, but the implications of such disruption are quite different in the urban context. If the hostility of neighbors is too intense, urbanites have the option of withdrawing from the social system, though usually at some cost, and initiating new social relationships elsewhere. Such a shift is far more difficult in an isolated, rural society. In the complex urban environment, disputants have greater freedom to terminate ongoing relationships, to offend their neighbors and escape social pressure, and to move away from stressful situations. Many social relationships between neighbors in this neighborhood are fragile, and residents are relatively indifferent to their perpetuation in the future. Consequently, they are far less constrained from seeking redress in court than are members of bounded, closed societies. Although studies have frequently discussed the significance of ongoing social relationships to modes of dispute processing (Felstiner, 1974), the crucial variable here is not the duration of a relationship in the past, but its future.

II. THE SOCIAL ORGANIZATION OF HETEROGENEITY

Dover Square is a pseudonym for a ten-year-old housing project of 1150 inhabitants in a polyethnic East Coast port city. Located in the inner city, Dover Square is surrounded by ethnic neighborhoods and the city's skid row. Chinatown abuts the project on one side; and James Hill, a mixed neighborhood of Syrian-Lebanese, Greek, Irish, Chinese, black, Hispanic, and white professional residents borders it on the other. The area has almost the highest crime rate in the city: in the summer of 1976, according to police statistics, it had the highest per capita rate of robberies and assaults in the city; and in 1969 it ranked third in rate of robberies, fourth in assaults, and eighth in residential burglaries among 81 neighborhoods in the city (Cardarelli, n.d.).[4] The project was constructed on the rubble of a white ethnic neighborhood destroyed in conjunction with a

[4] The *Uniform Crime Report* of the Federal Bureau of Investigation defines these crimes technically as follows: aggravated assault—"an unlawful attack by one person upon another for the purpose of inflicting severe bodily injury usually accompanied by the use of a weapon or other means likely to produce death or serious bodily harm"; robbery—"takes place in the presence of the victim to obtain property or a thing of value from a person by use of force or threat of force"; burglary—"unlawful entry of a structure to commit a felony or theft"; and larceny—"taking or stealing property or articles without the use of force, violence, or fraud" (U.S. Department of Justice, 1975: 20-30).

major urban renewal project. It contains 300 low-rise garden apartments for families (two, three, and four-bedroom units). Dover Square houses a very heterogeneous population: 55 percent Chinese, 26 percent black, 9 percent white, and 9 percent Hispanic, living primarily in nuclear families. Although income ceilings restrict tenancy to families with low or moderate incomes, the occupations of the tenant families as shown in Table 1, are highly diverse, ranging from a few teachers and social workers to welfare families. This is not conventional public housing, but mixed[5] housing for moderate-income families with 20 percent leased for poorer, public-housing tenants. Much of the population holds steady, semi-skilled jobs; 14 percent are on welfare. Sixty percent of the families have lived in the project since it opened. The rate of turnover is only five percent a year; yet this is not an urban ethnic village with deep roots in the past (Gans, 1962). The heterogeneity of the population and its limited history maintain anonymity between ethnic groups and consequently undermine informal social control in the project as a whole.

Table 1. Occupation of Head of Household

	Chinese		Blacks		Whites		Hispanics		Total	
	N	%	N	%	N	%	N	%	N	%
White collar, Professional, Managerial	11	8%	9	12%	2	5%	2	11%	24	9%
Skilled Manual and Technical	5	4%	20	26%	8	21%	2	11%	35	13%
Unskilled Manual	15	11%	9	12%	4	11%	4	21%	32	12%
Maintenance, Custodial, Domestic	1	1%	14	18%	3	8%	2	11%	20	7%
Semi-Skilled and Unskilled Food Service	101	75%	6	8%	12	32%	1	5%	120	45%
Welfare or Relief	1	1%	19	25%	9	24%	8	42%	37	14%
Total	134	100%	77	100%	38	100%	19	100%	268	100%

[5] This housing was constructed under a federally subsidized housing program, Section 221d3 of the 1964 National Housing Act. A private developer constructs and owns the housing under an arrangement where the federal government insures the mortgage and subsidizes the interest payments. The program was designed to entice private developers to high-risk ventures, such as rebuilding urban renewal areas. Unlike conventional public housing, owned and operated by the government, this housing was designed for moderate- and low-income families who could pay moderate rents.

The four ethnic groups in the project are culturally and economically very different. In the Chinese population of 650 individuals, most of the adults were born in mainland China and speak little or no English, while their children are American-born and speak little Chinese. Economically, the Chinese families are tied to the Chinatown commercial establishment. Eighty-six percent of the heads of house work as chefs or waiters in Chinese restaurants or clerks in Chinatown shops. Sixty-five percent of the women work, 89 percent of them in garment factories in Chinatown or nearby downtown areas. Ninety-nine percent of the families have two parents living in the household.

The black population of 300 individuals displays a wider range of occupations. One-fourth of the families are on welfare, while another quarter do skilled manual and technical work; 12 percent have white-collar, professional, or managerial occupations. About half the families are female-headed, at least ten percent of which are headed by widows. Some black residents are recent immigrants from the South, but most have lived in the North for 15 to 20 years or longer. About 25 black youths, the children of 20 project families (about 7 percent of all project families), form a stable group which has grown up in the project together and whose members are one another's best friends, lovers, and bitter enemies. Four children have been born to unions between group members. Several of the leaders of this group are active in crime and have spent one or more terms in prison. These youths form a local social group which lounges regularly in the playground in the center of the project, where they are joined by a few white and Hispanic youths.

The 100 white residents are the remnant of a larger white population which moved in when the project opened. Most are older couples whose children have grown and left; only about four white families with young children still live in the project. One-third of the white families form a cohesive Syrian-Lebanese community, while the other families are a potpourri of white ethnics including Irish, Italian, Greek, and Jewish families. The white families are largely working class, with two-thirds engaged in skilled or unskilled manual work. Forty-two percent of the households are female-headed. The 100 Hispanic residents are a small minority, marginal to the social life of the project. About half are on welfare, and one-tenth are young couples with white-collar jobs.

No ethnic group occupies a distinct territory within the project. The policy of the project management is to integrate the

neighborhood, and as a result, members of each ethnic group are scattered evenly throughout the project (Merry, 1979). Residents find that their neighbors are often members of different ethnic groups. Since friendships and kin ties are generally restricted to members of the same ethnic group, neighbors of different ethnicity are usually strangers. The social organization of the project consists of nonlocalized social networks linking members of the same ethnic group in different parts of the project.

This situation persists because members of each ethnic group maintain close social and work relationships with their own ethnic neighborhood. The nearby ethnic neighborhoods provide friends, social services, recreational opportunities, and jobs. These ties serve to bind members of a single ethnic group both to the ethnic neighborhood and to their co-ethnics living in the project. In contrast, ties with neighbors of different ethnicity are fleeting. They are strangers, in Simmel's classic formulation: people who come today and stay tomorrow, but never give up the potential of leaving; people who are in a social system but not of it (1950: 402). Further, substantial cultural differences between neighbors of different ethnic groups foster misunderstanding and suspicion and serve to maintain social distance. No leaders in the project are able to draw together residents of different ethnic groups. The project lacks even local shopowners or businesspeople who could serve as a social center for the whole project, a role store owners did perform in the heterogeneous New York neighborhood described by Jacobs (1961).

At the beginning of this research I was interested in how residents of a high-crime neighborhood cope with living in a dangerous environment. I wanted to know who and what they perceived as dangerous and whether there was any relationship between their perceptions, crime rates, and patterns of social control in the neighborhood. I chose a family housing development where it appeared that at least some of the crimes were committed by the residents themselves. This enabled me to compare processes of social control of resident criminals with that of strangers. During this research, I discovered that many residents appealed to outside third parties to settle their disputes with neighbors and friends and noted that some residents frequently used the personnel of the criminal courts—clerks, probation officers, and judges—as resources in disputes

with individuals they knew in ongoing relationships. I therefore became interested in the conditions under which disputants took cases to court.

From March, 1975, to September, 1976, I participated in and observed the social life of the neighborhood. I collected information on all dispute cases I heard about. I was able to watch two cases unfold and heard daily reports from participants about two more. The others are "memory cases," with all the flaws usually attributed to such cases (e.g., Nader and Todd, 1978: 7). But I cross-checked my information with two or more witnesses in most cases and in the more complex, long-term disputes relied on several different sources. I gathered relatively little information about disputing in the Chinese community, in part because most disputes are handled through gossip and informal social pressure within the community. The bulk of my study of disputing was done in the black and white communities. The data is fairly representative of disputes within the latter two ethnic groups, but probably has gaps in its coverage of disputing within the Chinese community. Time constraints limited my attention to the small Hispanic community. All told, I observed or heard about 33 cases, 9 between neighbors over noise, trash, and dogs, 10 initiated by a "criminal" attack, and 14 over disrupted interpersonal relationships between friends, lovers, spouses, and neighbors who were friends.

III. STRATEGIES OF DISPUTE MANAGEMENT

A dispute is a disagreement which stems from the perception by an individual or group that rights have been infringed and is then raised into the public arena (Gulliver, 1969: 14). Nader and Todd's (1978: 14-15) division of disputes into three stages is useful in this context. The first stage is *grievance*, a situation which one person or group perceives to be unjust and grounds for a complaint. The second phase is *conflict*, when the aggrieved party opts for a dyadic confrontation with the offending party. The third stage is the *dispute* itself, when a conflict escalates to the public arena and a third party becomes involved.

Disputes in Dover Square are rarely settled by an agreement which satisfies both parties and terminates the conflict. Most disputes persist for years, with varying levels of salience and intensity, ending only when one of the disputants moves

out of the project. Thus, it is more appropriate to discuss dispute management than dispute settlement.[6]

Gossip is the most common dispute management strategy employed by Dover Square residents (cf. Gluckman, 1963). While gossip accompanies all kinds of disputes, it appears to have little impact within ethnic groups and virtually none across ethnic boundaries. It is most influential within the Chinese community, where some disputants manage their cases using gossip as their sole strategy, but even here it does not stop the errant husband from sleeping with white women or the stingy woman from failing to reciprocate enough tea cakes. One Chinese woman, for example, lived with both her handicapped husband and a lover, despite considerable gossip about this very irregular union. Gossip within the black community appears to have even less impact. A black woman, for example, discovered that the new redwood gate on her back fence had vanished and reappeared gracing the back fence of a black neighbor whose son had a reputation for stealing. She discussed the incident freely, and it became widely known throughout the black community. When the victim confronted the possessor of the gate, however, the latter claimed that her son had found it. Despite the widespread gossip and consensus that the boy had stolen the gate, it was not returned.

Not unexpectedly, gossip by members of one ethnic group about the misdeeds of individuals in another has no impact at all. Some of the black youths who are leaders of the youth group and active in crime have a project-wide reputation as "bad characters," but they are quite indifferent to their notoriety among Chinese, white, and Hispanic residents. To be effective in managing disputes, gossip must rely on implicit threats to reputation. Whatever potential exists for using gossip this way within an ethnic group, little or no impact is likely across ethnic boundaries.

A second common mode of managing disputes is actual or threatened violence. The injured party gathers friends and attacks the offender. This option demands skill in street fighting and/or a pool of readily mobilizable allies who can fight. It can

[6] Both anthropologists and lawyers have pointed out this feature of conflict. Abel, for example, prefers to talk of the outcomes of disputes, not their resolution, since the outcome of most conflicts is simply another conflict (1974: 227). Starr and Yngvesson also note that anthropological research in law has been influenced by a Durkheimian emphasis on the harmony of interests and shared goals which biases their view of dispute management, particularly in ongoing, multiplex relationships (1975: 559).

only be used in disputes when the aggressor can be identified and located again if retaliation is not immediate.

Disputants also appeal to third parties outside their social system. Grievances about dogs, noise, and trash are regularly taken to the office of the project manager with requests for restraining or evicting the offender. The project managers perceive their role as purely custodial, however, and make no effort to mediate such disputes or to evict families on the basis of disputes with neighbors. Managers in the project have always been white and middle class; none have spoken either Chinese or Spanish. They listen sympathetically, but do not intervene.

The police are a frequent resource for stopping events perceived as crimes and for halting some kinds of offensive behavior by neighbors. If they arrive in time, they will stop the offending behavior, but their intervention rarely leads to significant mediation or arbitration of the underlying conflict. One woman, for example, summoned the police to stop her Chinese neighbors from exploding firecrackers on their shared porch during Chinese New Year, unaware of how that holiday was traditionally celebrated. The police did stop the firecrackers but did not formulate a compromise which would avoid such conflicts in the future. Nor did they address the wider range of other issues which had persistently led to conflict between these two families.

A third outside party to which disputants appeal is the court. Courts are also instruments of the state, but the mode of access to them and implications of turning to them differ significantly from calling the police. Once the police have stopped an altercation, their role, for the most part, is completed. But the consequences of filing criminal charges are more enduring. In this jurisdiction, any person can file an application for a complaint in the clerk's office of the local district court alleging some form of criminal behavior on the part of the defendant, usually assault, kidnapping, attempted murder, or occasionally rape. Incidents must be serious crimes; this strategy is not used in disputes over noise, trash, or slovenly neighbors. The process of filing an application is easy and cost free: the courthouse is a five-minute subway ride away, and a police officer or clerk of courts is always available during working hours to write out the application. The application must specify both the charge and the name and address of the accused. This information is essential, since the accused then receives a summons to appear for a hearing in the court to determine if a

complaint should be issued. Without this identifying information, such a strategy is impossible. Therefore it is never used against a stranger.

In this state, district courts have jurisdiction over misdemeanors and minor felonies. They also conduct probable cause hearings in more serious cases which are then heard in the superior court, the higher criminal court (Buckle and Buckle, 1977). Before the district court will issue a complaint (a criminal charge), it conducts a "show-cause" hearing to determine whether the evidence is sufficient. In many district courts these hearings are conducted by clerks, but in the court which serves Dover Square, it is held by a judge. Almost all who apply for such a "civilian complaint" are granted this preliminary hearing, but the judge often does not issue a complaint. He may feel that the case is too weak or that another mode of handling the conflict would be superior. No records are kept of these hearings, and judges have considerable discretion. In some "show-cause" hearings, the representative of the court, either judge or clerk, makes some effort to mediate the dispute. Often, based on the defendant's promise to correct the offending behavior, the case is continued for a period of time.

Thus, a civilian complainant is assured a preliminary hearing before a judge in a courtroom, although it is likely that the judge will not actually issue a criminal complaint. Nevertheless, this pre-court arraignment procedure has several benefits for the complainant. The complainants I talked to believed that defendants were forced to appear for the hearing; and in all the cases I recorded, the defendants did appear. This procedure also carries the possibility that a criminal charge will be issued, with the attendant inconvenience of a trial and risk of a permanent criminal record and incarceration. In a few cases, defendants were convicted. Recourse to the courts suggests to the offender that the complainant has access to a powerful set of sanctions which, even if they are not imposed in the present, might be in the future if further offensive behavior occurs. And finally, it is free for the complainant, requiring neither a court fee nor payment for a lawyer, since the state conducts the hearing and prosecutes the case if a complaint is issued.

Avoidance is a very common response to conflict. One party may move out of the project, or both may strive to avoid one another within the project. Moving out is not an easy or inexpensive solution, however, despite the fact that this is a tenant population not rooted by home ownership. The project

offers good housing at low rents, particularly for racial minorities, and the waiting list is long. Rates of turnover are under five percent a year. Avoiding a neighbor in such a dense settlement is also difficult, so that unresolved conflicts are frequently exacerbated by periodic encounters. But even successfully avoiding one's adversary does not necessarily terminate the dispute. Thus, it is useful to distinguish between avoidance and "endurance," the latter a situation in which a disputant simply endures an ongoing state of conflict because the costs of real avoidance—i.e., moving out—are too high. This may seem identical to the phenomenon Felstiner describes as "lumping it" (1974: 81). However, the term "lumping it" simply refers to the end point in a dispute in which the offended party gives up and declines to assert his rights. It does not describe situations in which a dispute persists for long periods, broken by periodic eruptions of conflict, before it is finally terminated either by a settlement, real avoidance, or "lumping it" in the sense of giving up. In other words, "lumping it" is a mode of terminating disputes, while endurance is a phase in the disputing process. Avoidance can be either a strategy for managing disputes or for ending them. Endurance persists as long as the disputants find the costs of avoidance or resolution higher than the costs of putting up with a conflict situation. Endurance is a frequent pattern in Dover Square, where disputants have relatively few alternatives for settling disputes and are financially constrained from moving out.

IV. CATEGORIES OF DISPUTES

Disputes in Dover Square typically fall into three categories, differing according to the substance of the dispute, the time depth, the nature of the relationship between the disputants, and the characteristic modes of managing and settling the disputes. These are summarized in Table 2.

Property Crimes (Pre-Dispute)

Crimes initiated by an impersonal desire for gain are very common in the project, but do not themselves constitute disputes. Robbery, burglary, larceny, and some cases of assault typically occur between strangers and across ethnic lines. Crimes are intended to enrich the thief, not to express personal animosity toward the victim. Victims are selected according to

Table 2. Categories of Disputes

	Substance of Dispute	Number of Cases	Time Depth and Phase of Disputes	Nature of Relationship Between Disputants	Primary Modes of Management* (number of cases)	Settlement or Termination (number of cases)
I.	Property Crimes (Pre-Dispute)	200	Short—grievance only	Strangers	Police	"Lumping It" (no settlement)
II.	Crime-Initiated Disputes	10	Short—grievance and one or two moves	Ongoing, acquaintances	Police (7) Violence (7) Gossip Alone (1)	"Lumping It" (5) Court (2) Settlement through violence (2) Still in process (1)
III.	Neighborhood Social Order	9	Long—one to ten years, multiple moves	Ongoing, acquaintances, neighbors	Management Office (5) Police (2) Threat of Court (1) Violence (1) Avoidance (1)	Endurance (6) Avoidance (3)
IV.	Interpersonal Conflicts	14	Long—one to ten years, multiple moves	Ongoing, intimates, friends, kinsmen, or neighbors	Court (9) Violence (6) Gossip (2)	Avoidance (11) Endurance (3)

* Equals more than total number of cases because more than one mode used in a single case.

apparent wealth and vulnerability. The victim rarely learns the culprit's identity. According to my victimization survey of 200 households, these families suffered 89 burglaries; 50 robberies, attempted robberies, and purse snatches; 19 larcenies; and 42 auto thefts during their residence in the project. These property crimes are frequent but rarely lead to a dispute, in the sense of a confrontation moving into the public arena. They can more appropriately be described as grievances. Time depth is very short, usually not extending beyond the incident itself, and the only mode of managing such events is to call the police. Settlement, in the sense of the termination of the conflict, rarely occurs, and the prevailing mode of dealing with such grievances is "lumping it."

Crime-Initiated Disputes

In a few cases the victims knew or discovered the identities of the culprits and initiated one or more responses. In about half of these incidents the aggrieved party simply confronted the offender with an expression of injustice; thus it only reached the level of conflict. But half moved into the phase of dispute itself by drawing in an outside third party. I recorded ten cases of this latter type, all but one occurring between individuals acquainted with one another and members of the same social network but not close friends or kin. In one case, the robber assumed a false identity, but inadvertently selected one the victim knew; she was able to detect the deception and trace the real culprit.

Only four out of ten occurred across ethnic boundaries. In most of the cases time depth was short, involving a grievance (the crime) and only one or two "moves" in response. A "move" is any act designed to prosecute the dispute, and can itself constitute a grievance which initiates a new move.[7] The most frequent moves are calling the police or coercive self-help, primarily violent attacks or threats against the person who commits a crime or retaliation against those who call the police. In half of the ten cases observed, the infringed party gave in and "lumped it." Two were settled by the court and two by violence. One case was still in court and not yet resolved at the end of my research.

[7] Starr refers to similar steps as disputing techniques (1978). I prefer "move" since it makes clear that these are usually balanced, with each one generating a reciprocal or escalating move.

Neighborhood Social Order Disputes

A second kind of dispute erupts between neighbors over physical and social order: over the disposal of trash, barking and biting dogs, noise late at night or through the walls, and standards of cleanliness for shared porches, stairwells, and back yards. The inevitable frictions of dense living are exacerbated by differences in life style and culture. One Chinese family, for example, found its white neighbor's dog noisy, dirty, and frightening, since they came from a world in which dogs are not common. I heard of nine neighborhood order disputes, and I suspect there were many more.

These disputes occur between people who are acquainted with one another but are not friends and do not share a similar culture or life style. Five crystallized between neighbors of different ethnic groups, and the other four erupted between individuals who belonged to the same ethnic group but were divided in other ways. One older couple, for example, had emigrated from a peasant village in rural China where they had lived much of their lives. They fought bitterly with their Americanized Chinese neighbors, whose teenage children spoke no Chinese and lived a very American way of life. The older couple accused them of making too much noise and throwing beer cans into their back yard.

The time depth in such disputes is typically long, perhaps as long as ten years. In that time the feuding neighbors may execute many moves against each other. The most common, utilized in about half the cases, is to appeal to the management office to curtail the offensive behavior and/or evict the offender. The management is loathe to get involved, however; so disputants adopt a number of other strategies—principally calling the police, threatening court action, violence, or avoidance. Settlements, in the sense of a termination of the conflict, occur only when one of the disputing parties moves away. By the end of the research period, two families had moved out; but in six cases, the neighboring disputants simply endured an ongoing state of enmity and conflict over dirty stairs, loud noises, and offensive dogs. In the last case, neighboring families constructed a fence between their shared back yards, an example of more or less successful avoidance rather than simply endurance.

Interpersonal Conflicts

The third kind of dispute concerns breaches in ongoing social relationships stemming from personal rivalry, sexual jealousy, public insult, or physical injury. Most are sparked by some act of violence between friends, lovers, and neighbors of long standing.[8] I recorded 14 cases of this kind of dispute, nine within the same ethnic group and the other five between close friends or the allies of close friends in different ethnic groups. Eight took place between blacks and one between Chinese residents, although the latter, involving a man who had affairs with white women and neglected his wife, as already noted, never moved beyond the stage of gossip.

These are usually complex disputes in which the parties engage in numerous moves and countermoves over the years. Emotional involvement with the other party and with the conflict is high. Such disputes are rarely "settled" except by avoidance. Eleven ended when one of the parties left the project. The other three were not settled; at the end of my research period the disputants continued to endure a situation of unresolved conflict. Even in those disputes ended by avoidance, this termination was preceded by a long and stressful period of conflict. Avoidance appears to be a very prevalent mode of terminating interpersonal disputes, but only after a phase of endurance.

In sum, all of these disputes concern conflicts between individuals involved in ongoing relationships, yet each category is quite different in substance and process. They contrast markedly with most crimes—incidents between strangers which do not evolve into disputes. Disputes in all categories are appealed to third parties, but none of these third parties is very effective in providing satisfactory resolution. Violence seems to be effective and is thus frequently employed. The most frequent mode of "settlement" is avoidance. Of the cases I observed, 44 percent were settled in this manner. Six percent were settled by court action and six percent by violence. Some form of nonsettlement, and an enduring state of conflict in which one party temporarily or permanently refrained from pressing its legitimate claims, occured in 44 percent of the cases.

[8] Black notes that the dearth of domestic violence cases in this catalogue contradicts our understanding of the prevalence of fighting in lower-class families. Since I heard about few domestic violence cases beyond those reported, I presume that either they did not occur or, more likely, that they rarely escalated into the public arena.

Since the crime-initiated and neighborhood disputes occur between people who are distantly acquainted but not intimate and between people distinct in ethnic and cultural traits, this use of outside third parties conforms to Black's hypothesis about the role of formal social controls where informal ones are absent. However, disputes between intimates are also commonly appealed to an outside third party, the court, although in these relationships one would expect informal social controls to be more effective. As a detailed analysis of patterns of court use reveals, this anomaly occurs because the heterogeneity and complexity of the city undermine informal social sanctions and allow disputants to jettison hostile or disapproving relationships if necessary. Thus, the costs of using formal mechanisms for resolving disputes are less than in isolated, small-scale societies where one must continue to confront the consequences of disruptive actions long into the future. Breaking off an ongoing relationship or moving away, although often undesirable, are at least possible in this urban setting.

V. RECOURSE TO COURT

Analysis of when and why disputants in Dover Square seek court intervention uncovers a complex pattern of moves and counter moves aimed at dispute resolution (cf. Moore, 1973). Indeed, disputants often lose track of who is ahead and which moves may exacerbate the conflict or restore an uneasy truce. As disputants become more emotionally committed to the dispute, their moves and reactions to counter moves of their opponents intensify and often escalate in frequency and level of violence. Recourse to the courts and resort to violence are most frequent. The following cases illustrate the complexity of these patterns of interaction.

The Case of the Jilted Lover's Slap

The case of the jilted lover's slap erupted between a young black man and his ex-lover, a young black woman, both about 20 years old. They had lived together for three years and had a baby, but two weeks before the incident, the young woman, Renee, packed up her belongings and the baby and moved back to her mother's apartment in another part of the project, where she had lived the previous eight years. George, her boyfriend, was lounging in the project one morning after her departure when she walked by. Surrounded by a group of their mutual friends, he complained that she had taken their daughter for a ride in the car of his bitter enemy and rival, and she responded

that she was free to do as she pleased and didn't like him "jumping up in her face." He was angered and slapped her. Infuriated, she raced home to her mother.

A few minutes later, Renee's older brother Bill, aged 21, and a close friend of his, Fred, who lived in the project and had a reputation as a tough person, appeared in the local hangout in the project looking for George. Bill had a pipe thinly concealed in his pants pocket. Renee's mother appeared brandishing a bent aluminum lawn chair leg, not an effective weapon but a symbolic one, followed by her boyfriend feebly waving a wooden chair leg. Bill told his mother to go home, that he would take care of George. George was nowhere to be seen, but no one made any effort to look for him, remaining in the same hangout for two hours waiting for him to return. When I asked why no one even went to George's apartment, about 100 yards away, to look for him, Bill explained to me that it would be risky as well as inappropriate, since according to "people's law," if you break into someone's house, they have the right to do whatever they want to you since you have no right to be there.

An audience of other project residents, mostly black, quickly gathered to join the vigil waiting for George's return and his punishment. Renee's mother announced that George was a homosexual, that "he does it with little boys, right here in the playground." Several said that George had no right to slap Renee. Yet no one mentioned that while George and Renee were together, he had hit her frequently. I suspect that the slap generated this response because once the relationship was terminated, he no longer had the same rights to hit her. Further, as one of his friends observed, his real offense was not simply that he hit her, but that he hit her in public.

Later that afternoon, Renee's mother, whose brother was a policeman, went to the courthouse and took out an application for a complaint against George. When the news traveled through Dover Square, listeners were impressed with the severity of her action. She charged George with assault against her daughter. I have only reports of what happened in court, since I did not attend. The first day the case was heard, both Bill and George were in the courtroom. Bill threatened to beat up George, so George filed an application for a complaint against Bill, charging him with assault. At the next hearing, both cases came up before the judge at the same time, and he dismissed them both.

Two weeks after this incident, George spotted his bitter enemy and rival for Renee's affection a few blocks away and attacked and injured him. He also gossiped that Renee was robbing him by clearing out the apartment that he had deserted and that her daughter was actually not his but belonged to his rival.

The incident of the slap and the surrounding events did drive George from the project. He did not return to his apartment but left all his clothes and belongings there and moved in with a friend a few blocks away. Five months after the incident, when I last observed the state of the conflict, he had still made only fleeting visits back to Dover Square and regularly "hung" in another park.

Thus, the festering dyadic conflict between George and Renee expanded to a dispute when a public breach occurred, drawing in other members of the community who had their own long-standing grudges. Renee's family used several strategies simultaneously, and George reciprocated. Renee's family threatened violence, slurred George's reputation, and took him to court. George employed similar strategies. The court did not adjudicate the case, however, and termination of the conflict occurred only when George moved out (unwillingly).

The Case of the Neighbor Rapist

Two black families, the Smiths and the Jacksons, lived next door to one another for ten years and, during this time, alternately fought with and socialized with one another. On at least three previous occasions one family had filed a complaint against the other. One of the women, Mrs. Jackson, was about 40 and lived alone with her six children. One of her children had been arrested several times, was friendly with the local teenage gang, and invited them to her parties. A leader of this group, James Smith, lived next door with his three sisters, a brother, grandmother, and his girlfriend and baby. James had been arrested several times and served at least one prison sentence. In the past, Mrs. Jackson had taken two neighbors to court over disputes arising from fights between her children and others in the neighborhood.

Following a minor quarrel, Mrs. Jackson accused James Smith and his brother of breaking into her apartment and attempting to rape her and took out a complaint to this effect. James was angry and confronted her on the stairs between their apartments wielding a gun. Mrs. Jackson then charged

him with intimidating a witness. The two brothers were arrested and sent to jail for two weeks pending the hearing on this charge. Mrs. Jackson was working as a traffic supervisor for the police department at this time and was encouraged to take this action by the policeman she worked with, who was anxious to develop a case against James Smith, because the police considered him a "troublemaker."

While the two brothers were in jail pending trial, a robber broke into the Smith house with a shotgun and ransacked the house, holding the family up. The Smiths could not identify the culprit since he had a stocking over his face, but called the police afterwards to report the incident. Through the gossip network they heard that the robber was a long-standing enemy of James', and blamed the incident on Mrs. Jackson, whom they suspected of inciting the robber in order to get revenge.

When the case came to court, James was convicted on charges stemming from a previous arrest for a burglary, while his brother was acquitted. The day the brother returned home, Mrs. Jackson moved out of her apartment to another part of the city. She did not want to leave her apartment, but moved because she feared retaliation by James and his brother. (James was released periodically during his sentence on a prison furlough program.) He and his family blame Mrs. Jackson for his conviction.

The Case of the Averted Robbery

An older white man averted a robbery by warning an elderly Chinese man that he suspected a group of youths was plotting to rob him on his way home from the laundromat. One of the youths, a white boy, was furious at the old man and verbally threatened and abused him. The older man then went to the courthouse and filed an application for a complaint against the youth. When the clerk of the court told him he could not make a strong case on the basis of a verbal assault, he changed the charge to physical assault, explaining to me that the judge would believe him, an older respectable citizen, not the youth who had a record. The case did not come to court, however, since the boy was on probation and his probation officer warned the boy not to give the older man any trouble or he would be in jail. The boy did not harass the older man any further, and was actually quite polite to him. The older man moved out of the project three months later, and had been planning his departure at the time of the incident. He told me

that his plans to move had given him courage to confront the local gang of criminals.

The Case of the Revengeful Brothers

This final case suggests the conditions under which disputants resort only to violence and do not appeal to an outside third party. In this case the plaintiffs, young Chinese males, were able to fight and were wary of the court. A teenage white boy who lived in the project began to date a teenage Chinese girl, also a project resident. The boy tried to persuade this girl to work for him as a prostitute and introduced her to drugs such as Valium. The Chinese girl did spend at least one night out with a customer, to my knowledge. Late that night when she did not return home, her brothers came to look for her boyfriend, angry that he had turned their sister to drugs and prostitution. The boy was nowhere to be found. The next day the brothers did find him and beat him up. The white boy and Chinese girl were not seen together again.

These four cases reveal a complex process of unfolding moves and counter moves in which some parties used violence and others resorted to the police and the courts. The threat of court did serve as a deterrent, since court action did occasionally lead to the imposition of sanctions. However, it was most effective when the accused already had a reputation for crime with the police. These cases also suggest that gossip has little impact in deterring misbehavior, although it did play an important role in providing information. In contrast, violence appears to be a very effective mode of dealing with disputes.

When all the cases in which violence or the courts were used as disputing strategies are broken down into their component moves, it is possible to analyze the characteristics of individuals who resorted to each. Of 32 such moves, 15 were appeals to the court through the civilian complaint procedure, and 17 violence or threats of violence. In only one case did the same individual use both strategies. Overall, those who considered or actually did resort to the court reflected the economic and educational diversity of the population. Of the 15 court moves, 12 were by individuals with temporary, unskilled jobs or those on welfare and three by persons with steady, skilled jobs. Nine of the 15 were by individuals who had less than a high school education, and of the six with high school or further education, only two had any college training.

Striking differences existed between those who used the court and those who turned to violence. Courts were used by

physically weaker individuals less capable of defending their interests by fighting. As shown in Table 3, it was primarily women who went to court and men who resorted to violence. Of the four men who used the court, one was elderly and another a juvenile transvestite unskilled in fighting. Those who used violence were almost entirely young males experienced in street fighting.

Table 3. Dispute Processing Moves*

		Court Number of Moves N = 15	Violence Number of Moves N = 17
Sex	Male	4	17
	Female	11	0
Ethnicity	Black	12	12
	White	3	1
	Chinese	0	4
Previous Criminal Record	With Record	0	7
	Without Record	15	10
Special Knowledge of Court	With Knowledge	13	11
	Without Knowledge	1	5
	Unknown	1	1

*This table refers to responses to grievances, not the initial grievance.

Second, court use was disproportionately high among whites and low among Chinese. About half the blacks turned to court and half to violence, but three quarters of the whites used courts, and no Chinese did. This difference probably reflects each group's familiarity and past experience with American courts. Third, those with a criminal record or a history of arrests did not turn to the court but used violence instead. As one older white man said, he expected that the judge would believe him rather than his protagonist, a youthful offender with a long record. Insofar as the judge, lacking clear evidence and being a stranger to both parties, must rely on his own assessment of the credibility of the parties in making a decision, the party without a record is clearly at an advantage. Fourth, those who turned to court generally had some special, inside knowledge of court operations, either through a close friend or relative on the police force or the past encounters of kin with arrests and court appearances. One exception was a nun who was persuaded to press charges against an armed robber. However, an equal number with inside knowledge of the court chose violence instead, some because they had a record and did not expect to be treated favorably.

Special knowledge seems to be a precondition for using the court, but does not guarantee it. Here, in an interesting twist on Galanter's (1974) argument, the "repeat players" who were knowledgeable about the courts were the "have-nots" rather than "haves." The youths involved in crime were often quite sophisticated about criminal courts. One youth, for example, said that he avoided kicking or knocking down old women when he robbed them since he believed that would change the charge from a minor one, larceny, to a more serious one, assault. Another youth pointed out that he sometimes committed crimes which a judge would find so improbable that he would be acquitted. For example, he once robbed a clerk who knew perfectly well who he was, in the laundromat in broad daylight. In fact, the victim did not prosecute, justifying his inaction on the basis that the offender already had so many other charges against him. These youths knew several detectives and even a few judges by name, and discussed their propensities and foibles. This knowledge of court operation extended to their families as well. When one youth's sister was, in her opinion, unjustifiably beaten by a police detective, she lodged a complaint with the city's police commissioner.

Chinese residents, on the other hand, had no experience in court and shied away from any involvement in American legal institutions. Because of immigration laws, in effect from 1882 to 1965, excluding most categories of Chinese immigrants, a large proportion of Chinese entered the country illegally and have studiously avoided American police and courts (see Doo, 1973; Lee, 1960). Many spoke little or no English. Only in the last two years has this Chinatown had a Chinese-speaking lawyer.

The nature of the relationship between the disputants also influenced the decision to appeal to court. But it was neither the "relational distance" nor the ongoing quality of the relationship, but its future, which was most significant. Residents filed charges against opponents who were known personally but with whom their relationships were terminating or could easily be terminated. In each case in which a Dover Square resident took another to court, the relationship, despite its long duration, had a limited future. In the conflict between George and Renee, for example, their relationship had ended. One boy took his friend to court over a bike after he had eased out of his friendships in the project. Both Mrs. Jackson and the older white man moved out of the project soon after taking their protagonists to court. In ten of the 15 moves using the court, one of the disputants subsequently moved out of the project or

broke off his social relationships with its residents. In a neighborhood with such separate, disjunctive social worlds and so few institutions to tie neighbors together, it was sometimes possible to avoid an enemy without moving away. However, for neighbors or individuals involved in the same social networks, avoidance without physically leaving the project was difficult. Moving out of the project was usually an expensive and undesirable solution to conflicts, but it is generally easier to move away and construct a new set of relationships elsewhere in an urban setting than in isolated rural villages.

Residents' choice of court appeal was also influenced by the extent to which they were encapsulated in a cohesive community. Disputants who were not linked into a tightly knit ethnic community were more likely to appeal to court for settlement than those who were. This partially explains the substantial differences between ethnic groups in patterns of dispute management. The Chinese residents of Dover Square, who were closely tied to the cohesive Chinatown community, did not go to court to settle disputes within the group, while the black and white groups, neither of whom was involved in a close-knit social network and community, used courts to settle disputes between intimates as well as strangers.

Chinese residents of Dover Square were dependent on connections to Chinatown for jobs in Chinese restaurants and shops, where most of them worked, and for partners and capital if they chose to establish their own restaurant. This represented the only chance for economic mobility for Chinese who spoke no English. Chinese residents were socially tied to Chinatown as members of family associations, churches, political parties, martial arts clubs, and circles of friends and relatives. Most of their social and recreational life took place in Chinatown, whether shopping in Chinatown shops or attending large wedding banquets, family association outings, traditional holiday celebrations, or social gatherings of kin from the same village in China. Those who spoke no English were dependent on Chinatown for Chinese-speaking bankers, doctors, social workers, and lawyers. Community opinion was a powerful form of informal social control in Chinatown, and Dover Square residents took this into account when contemplating a deviant act such as dating a white person. Chinese residents could not easily escape the social consequences of their misdeeds against other Chinese without severing their ties to Chinatown altogether, a difficult and costly experience.

Moreover, heads of family associations and leaders of the Chinatown Benevolent Association served as mediators for internal disputes. Every individual belonged to a clan or family association which traditionally handled disputes between clan members. Cases between members of different clans and appeals from family associations were mediated by the Chinese Consolidated Benevolent Association, an umbrella organization that included all Chinatown associations but was controlled by the wealthy owners of Chinese restaurants and businesses. Decisions by these associations were not legally binding, but were enforced by social pressure and the considerable economic power of the merchants (cf. Doo, 1973). The Benevolent Association even punished Chinese criminals for incidents in Chinatown. According to a Dover Square resident, for example, a Chinese youth who robbed a Chinese man on the main street of Chinatown was tracked down through the girl he was visiting and punished by receiving a beating from representatives of the Benevolent Association.

Neither blacks nor whites were implicated in this kind of cohesive, organized community with its own community mediators. Their jobs, friends, churches, and voluntary associations were scattered throughout the black and white neighborhoods of the city, and no more than three or four residents participated in the same organization. Similarly, their networks of friends and kin extended to diverse neighborhoods. Only the Syrian-Lebanese residents shared ties to a small ethnic community as the Chinese did. Relations between black or white neighbors were fleeting: they expected that sooner or later they would move out of the project and never see one another again. In contrast, even if Chinese residents moved out, they were still implicated in ongoing relationships with their neighbors through ties to Chinatown organizations and social networks. Blacks and whites recognized no leaders with the ability to mediate disputes either within or between their groups and did not even agree who the overall leaders of the project were. Consequently, blacks and whites turned to the courts to manage disputes within the group, but Chinese did not.

These ethnic differences in use of the court also reflect different values about disputing. Most of those who appealed to the court, both black and white, belonged to cultures which value open confrontation in dealing with disputes, protecting one's rights, and avoiding exploitation by others. Chinese residents, in contrast, stressed the importance of pressing claims

indirectly while preserving the pretense of amity and gossiping about one another's misdeeds (see also Doo, 1973).

VI. THE ROLE OF THE COURT

When Dover Square residents take their cases to court, however, they do not always obtain a negotiated settlement. American criminal courts are not designed to settle interpersonal disputes in the sense that anthropologists conceive of settlement, but rather to determine if a law has been violated and, if so, to punish the offender.[9] Anthropologists view dispute settlement as a restoration of harmony in social relationships, something which "makes the balance" (cf. Nader, 1969). In an American court, however, facts which are relevant to restoring a balance, such as the past history of the dispute and the community reputation of the disputants, may be excluded as irrelevant to the particular case.[10] This style of court procedure contrasts markedly with the Zapotec court style described by Nader, in which the goal of the court proceeding is to arrive at a mutually acceptable compromise which restores equilibrium in social relationships rather than a verdict specifying a winner and a loser (1969: 87-88). American courts are—at least conceptually—formal, public, narrow in their conception of relevance, and "all-or-nothing" in their style of decision-making, in contrast to other modes of settlement, such as a Zapotec court or Kpelle moot, which are informal, define much more of the context and history of the dispute as relevant, seek a compromise decision and restitution, and operate with reference to community norms—not specialized, alien rules.[11] This latter form of court can also exist in a complex urban setting such as a squatter settlement in Chile (Spence, 1978).

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[9] Danzig, an American law professor, observes that in general, the present criminal justice system fails to adjudicate cases such as family disputes, paternity support, juvenile delinquency, landlord-tenant relations, small torts, and breaches of contract involving only community members (1973).

[10] In her observational study of a lower criminal court in a major U.S. city, Mileski argues that this court is more concerned with rule enforcement and sentencing than with dispute settlement (1971: 491). Most pleas (85 percent) are guilty (1971: 493); the attorneys focus on arguing for lower penalties rather than on fact finding (1971: 491). Very rarely does the judge moralize or lecture in the courtroom: in only 15 percent of the cases did the judge give any statement of censure or moral duty, and even these were brief and undetailed (1971: 528). Conflict resolution is time consuming, but the lower criminal court she observed works quickly, processing many defendants in groups in a highly bureaucratized fashion (1971: 481). Thus, this court is far removed from the moots and courts studied by anthropologists in which a careful investigation of the entire dispute occurs in the presence of an interested audience, and a compromise outcome is reached (cf. Gibbs, 1963; Nader, 1969; Gulliver, 1969).

[11] Abel points out that these are not dichotomous characteristics but variables, poles on a continuum (1974: 241).

Because of the number of cases American courts must handle, they are unable to take the time for a full airing of the dispute. Judges often decide not to hear a case at all if the evidence seems inadequate. Since I did not observe what happened when Dover Square cases arrived in court, I am relying on the perceptions of the participants. They frequently mentioned that the judge "threw the case out" and never said that a judge "settled" a case. Furthermore, since the judge is a stranger to the disputants, he cannot rely on his personal knowledge of the situation or on the opinions of their neighbors. When George and Renee's brother accused one another of assault, for example, the judge threw the case out. In an earlier incident between the Jacksons and the Smiths, the judge noted the long history of charges and counter charges between the two families and refused to hear the case. Of the ten cases actually taken to court whose outcome I discovered, six ended before adjudication, and one was handled by a probation officer. In only three did the judge make a decision.[12]

Even the decisions the judges did make did not always address the fundamental conflict between the disputants and succeed in restoring harmony. In one case, for example, although the court's decision appears to be reasonable and conciliatory, it failed to deal with the underlying issues of the conflict and was not carried out.

Bill, a 15-year-old, appeared one day in the project with a new ten-speed bike. His friend, Vernon, aged 20, asked if he could ride it, and Bill refused. Vernon then grew abusive, pushed Bill around, insulted him, took the bike, and rode off on it. Bill never saw the bike again. A policeman standing across the street watching the incident approached Bill and urged him to file a complaint against Vernon for stealing his bike. Vernon was suspected by the police of being responsible for many crimes in the project. Bill agreed, although he was somewhat afraid of Vernon, who was a leader of the youth group and had a reputation as a tough person. Both Bill and Vernon lived in Dover Square and had been friends for years, but in the last

[12] Even when cases come to trial, decisions in the district courts of this city most frequently conclude with release of the offender under the continuing supervision of the court rather than incarceration or a fine. In a three-month observation of defense attorneys in these district courts, 51 percent of their cases led to a resolution of guilty (45 percent) or not guilty (6 percent), and the remainder were continued without a finding (12 percent), filed (7 percent) or dismissed (25 percent) (Buckle and Buckle, 1977: 142). Even among those found guilty, 16 percent were placed on probation and 36 percent on probation with a suspended sentence. In 70 percent of the cases, then, the offender returned to the street restrained only by the threat that the court would take further action if he misbehaved again.

few months before this incident, Bill had been gradually withdrawing from the local youth group and had formed his own group of gay male friends. Consequently, although his relationship with Vernon was of long duration it had a limited future.

The judge required Vernon to repay Bill for the bike within a certain time period and continued the case until then. However, one day before that deadline Vernon had paid Bill none of the money and did not have it. As a clerk explained the system to me, unless Bill reappeared in court on the day of the deadline and reported that he had not received his money, the case would be automatically dismissed. Bill was too frightened of Vernon and his threats of violence to do that. Furthermore, he was angry less about the bike than about Vernon's abusive treatment of him, and since the bike had been stolen in the first place, Bill was more interested in revenge for the insult than in restitution of the bike.

Cases taken to court in Dover Square rarely produce an outcome which settles the dispute and restores good relations. At least for this low-income population, the court serves as a sanction, a way of harassing an enemy, rather than as a mode of airing and resolving disputes. It serves as an alternative to violence for those unable or unwilling to fight.

VII. CONCLUSION

Disputants in Dover Square thus use courts frequently, but rarely successfully, as a mode of settling disputes. Although courts are used where informal sanctions are absent, they cannot fill this vacuum effectively. Rather, courts function as a potential sanction by intimidating one's opponent, and as an alternative to street violence. Courts are used extra-legally, not as a forum for adjudicating disputes according to shared legal principles but as a weapon marshalled by disputants to enhance their power and influence. Disputes taken to court are not adjudicated, but in Gulliver's terms, "negotiated." Negotiation, as used in this sense, is simply a discussion between the parties in which they must come to a mutually satisfactory agreement based on their relative strength (1969: 17-19). The disputant's ability to appeal to court and probability of success in that arena influences his or her relative power to "negotiate" a settlement. The victor is the contender with the greater power, not the party with superior rights.

Although the court is employed in disputes within ongoing social relationships, it is primarily used in those with a limited future. An ongoing relationship has both duration in the past

and potential for the future. A relationship with a long past has little binding power if the participants expect that they will never see one another again. Conversely, even a relationship of relatively short duration may have considerable force if the participants realize they will have to deal with one another for a long period of time in the future. A limited future changes the calculations of costs and gains, making confrontation cheaper. It is the expectation of the future to the relationship, rather than its simple duration, which constrains residents of Yngvesson's fishing village (1976) from taking one another to court over their conflicts.

The extent to which individuals must take account of one another in the future depends, in turn, on the degree to which they are implicated in durable social networks with one another and whether or not they are free to escape these networks. This is a question of the social structure of the community and its articulation with the larger society.[13] The Chinese residents' reluctance to use the court resembles the behavior of disputants in bounded, small-scale societies, suggesting that a cohesive and closed social structure may discourage the use of zero-sum courts to settle disputes.

Felstiner's hypothesis that avoidance is a common strategy for dealing with conflicts in American society is well supported in this neighborhood, but, as Danzig and Lowy argue, it is both more costly and less satisfactory than he implies (1975). Moving away may cost too much, and withdrawal from a social relationship with someone who shares one's stairwell, porch, balcony, and trash area is difficult. Residents resort to court and self-help strategies first, and avoidance only when other approaches fail. It is the inability of the courts to effectively settle disputes which compels residents to rely on avoidance to deal with their disputes. Further, they are often forced to tolerate situations of enduring conflict and hostility. Although it has frequently been noted that courts rarely resolve disputes, few have pointed to the costs of enduring relationships of conflict (Danzig and Lowy, 1975).

This study suggests that in some settings legal machinery is accessible to the poor, minorities, and women. American courts are often described as costly, slow, and alienating (e.g., Danzig, 1973: 43; Galanter, 1974; Abel, 1974; Felstiner, 1974; Erickson, 1978; Bell, 1978), yet members of this community use

[13] In his analysis of social networks in mobile, complex societies, Jacobson delineates conditions under which social relationships persist despite geographic mobility, creating nonlocalized but enduring social systems (1971).

criminal courts and the threat of criminal courts skillfully to further their own interests.[14] Many may be more familiar with the functioning of the courts than are middle-class people to whom courts are thought to be much more accessible. It may be primarily the civil courts which are more available to the more educated parts of the population, while criminal courts are open to all segments of society. However, it is also true that although legal machinery is available, it often does not lead to adjudication and it does not necessarily serve this population well.

Even when disputants do not actually go to court, the option of court action may still influence their behavior. Even if a judge does not adjudicate a case, the accused is still pressured to appear in court, and there is always the chance that he will be arraigned, convicted, and sentenced. Since disputes are managed according to the relative power of the disputants rather than by a third party, the threat of court action increases the power and bargaining position of people such as women and elderly men who can neither resort to violence nor mobilize others who can. The process of dispute management at the local level is influenced by the possibility of recourse to the police and court (cf. Merry, 1980).[15]

The availability of the judicial sanction has empowered about ten black women and one white woman in Dover Square to take an active role in maintaining order and restraining crime in the project.[16] These women call the police when they

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[14] Thus, disputants' strategic awareness of alternative modes of resolving disputes and instrumental patterns of selecting the most beneficial dispute settlement forum approximate the attitudes and behavior of the Zinacantecos of highland Mexico described in Collier's study (1973).

[15] Moore's (1973) concept of the semi-autonomous social field is a useful model for describing such a telescoped structure of dispute settlement processes. Complex societies, she argues, consist of small fields which can "generate rules and customs and symbols internally but . . . [are] also vulnerable to rules and decisions and other forces emanating from the larger world by which it is surrounded" (1973: 720). Both in the situations she describes and in Dover Square, the availability of the rules of the larger system influences the power of the actors and their procedures for settling disputes, including their ability to do favors by not using available laws.

[16] These women do not constitute an organized group in any sense. They come from a wide range of occupational and economic backgrounds. One, for example, is Renee's mother whose brother is a police officer and who works as a clerk; another cares for foster children; a third is on welfare and an active church member who deplores the criminality of the project youth. A fourth serves as a lunch room attendant in a local school. Two are on welfare and although only in their 40's and 50's, care for grandchildren who are in and out of court. These women are not the elite of the project in terms of education and income, but all share long-term residence in the project, have some close friends and relatives who live in the project, are familiar with high-crime environments, and are willing to risk reprisals from the youths. Four of the crime-initiated disputes involved retaliatory burglaries against these women, and in three interpersonal disputes the complainant was one of these women. Based

observe crimes and are not afraid to identify local criminals in court or to testify against them. The criminals see these women as dangerous and pointedly avoid committing crimes in their vicinity. During the 18 months of my research, all of the local youths who were convicted of crimes were caught as a result of the action of someone who knew them personally, despite the fact that the vast majority of their crimes were committed against strangers. The courts provide these women with a weapon which enables them to play a role in controlling crime in the neighborhood. Although the courts do not see their role as settling local disputes, they will take advantage of local disputes to convict individuals whom the police have labeled as criminals. Intriguingly, other studies of relatively egalitarian societies in which a court is one possible mode of settling disputes similarly find that the weaker parties, either social marginals (Todd, 1978) or lower-caste groups (Jones, 1974), appeal to the courts for redress against the stronger parties, while the latter rely on informal modes of settlement within the community (see also Silbey, 1979).

The fact that these urbanites are resorting to courts to deal with conflicts when informal sanctions are inadequate may have implications for the American court system. As society becomes increasingly urban and mobile, and more and more Americans find themselves living in communities where informal sanctions are ineffective for managing disputes with neighbors, growing numbers may turn to courts. Meanwhile, the fleeting quality of most social relationships in a mobile society could lessen the traditional reluctance to resort to courts even in interpersonal disputes. If courts are used more often by Americans at all levels of society, the burden on them could increase (cf. Sykes, 1969). Some form of neighborhood mediation has been suggested as one solution to this problem (cf. Danzig, 1973; Lowy, 1973; Danzig and Lowy, 1975).

Finally, the apparent inability of the courts to adjudicate disputes effectively in this heterogeneous urban community may actually increase the use of violence for managing disputes. When there is no third party able to mediate or arbitrate a dispute, the disputant with the greatest power triumphs. Colson notes that the Bushmen seek out Tswana courts to settle their disputes; this frees them from the burden of using violence to negotiate disputes (1974). Where a third party listens

on my more superficial observations of nearby areas of the city, I have no reason to believe that individuals performing such roles do not live in other neighborhoods as well.

to the entire course of a dispute and arrives at a mutually acceptable compromise, as apparently occurs among the Kpelle and the Zapotec (Gibbs, 1973; Nader, 1969), violence is less necessary. In the Hobbesian world of the inner city, however, where neither courts nor informal sanctions function to settle disputes, the use of force may be an essential strategy for protecting one's personal as well as property rights.

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