

COMMUNITY DISPUTES  
VIOLENCE AND DISPUTE PROCESSING  
IN A LEBANESE MUSLIM IMMIGRANT COMMUNITY (\*)

Michael Humphrey

The legal order of modern states is essentially plural in character, consisting of multiple legal levels that stand in a dominant-subordinate relationship to each other. In this paper I explore the way disputes involving conflict and violence are processes and move between competing legal levels in a Lebanese Muslim immigrant community in Sydney, Australia. I characterise these as "community disputes", disputes between men, as opposed to "family disputes", disputes between men and women, which I have discussed elsewhere (Humphrey, 1984). (1) As a dispute expands it articulates the nature of the interests involved, the underlying issues of conflict, and the kind of ideological and organisational forms that have emerged in the immigrant community to regulate members' actions. In disputes involving violence the police and courts invariably intervene. When this occurs, and as the dispute expands into broader political and legal arenas of the community and the courts, the boundaries between legal levels are negotiated and defined. As the courts seek to control a dispute by transforming it into a legal case the limits of state intervention and of resistance to that intervention are revealed.

Community disputes occur between men acting as individuals or as representatives of groups. These include households, families, village factions, associations, or sects. Though women often become involved in disputes it is always in subordinate roles

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(\*) This paper is based on fieldwork conducted in Sydney and Lebanon during 1978-1980 (Humphrey, 1982).

represented by men. Generally community disputes involve interpersonal violence ranging from verbal insult to physical assault and occasionally homicide. They are the product of conflicts which have been made a matter of public knowledge and as such, demand a response. Though family disputes usually are contained within the domestic arena circumscribed by kin relations, community disputes expand to involve a wider range of social relations.

(2)

A dispute may become a public matter through the deliberate actions of a party to expand a conflict or as a consequence of official intervention because of violence. Individuals may seek the support of kin, community associations, and personal networks. But the most common reason for the intervention and involvement of others is an act of violence. Such acts represent a threat to the continuation of social relations and are interpreted as challenging the status and honour of an individual or family. When violence occurs mediation processes are initiated in order to limit the conflict and reach an accommodation between the parties, though they do not always succeed.

Conduct in the public arena is evaluated according to a code of honour, sum'a (individual honour) which is both a moral scheme and a status ranking system. Though sum'a is distinct from sharaf (family honour) the two concepts are interdependent, for individual honour readily can become a matter of family honour.

(3) In an immigrant community the ideology of honour provides an ordering framework within which individuals and families seek to re-establish ranked relations. Honour (sum'a) is an ideology of incorporation based on an ethical individualism. It attributes honour to all men, and in that sense is egalitarian, but it also acknowledges that in fact individuals must be judged according to their capacities.

In an immigrant community honour is unable to circumscribe and regulate all relations between men especially where violence has occurred. Australian police and courts intervene as agents of public order and law enforcement. The expansion of a dispute into Australian courts, whether resulting from the act of a disputant or from police intervention, transforms the dispute into a legal case. In this transformation the dominant law system renders irrelevant the competing cultural and legal definitions and determines the facts of the case through well defined procedures and modes of legal argument. Though the courts may largely eliminate competing definitions and cultural meanings on the grounds of legal relevance, these continue to have currency in the community, where a resolution must also be achieved.

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Because police and court intervention is difficult to avoid in cases of violence, the court arena becomes integrated into the overall strategies of disputants. Individuals display their relative power and influence by obtaining a favourable legal outcome, for instance, the conviction of an opponent or the dismissal of charges. The court hearing and decision become a moment in the history of a dispute which may influence but will not necessarily determine the outcome. The loss of a case in court is interpreted in the community as an indication of the relative strength or weakness of the parties and their contacts in Australian judicial and political institutions. It also often is regarded by the loser as an indication of the inadequacy and incompetence of the judicial process, something that must be put right within the community by negotiation or, more likely, self-help. Thus self-help, mediation, and adjudication co-exist as competing interdependent systems of dispute processing for Lebanese Muslim immigrants.

### I. DISPUTES BETWEEN MEN

Disputes between men are expressed in terms of honour and threaten social devaluation. Characteristically, these disputes involve interpersonal violence and concern four main areas of community life: competition over women, economic transactions, community politics, and official intervention in family or community affairs. Violence in these cases is intentional, an act of provocation, retaliation or revenge.

Status relations in immigrant communities are located within the common class position and marginal cultural and linguistic situation of most immigrant families, turning on relatively small differences in status, wealth, and power reinforced by the politics of ethnicity, which distinguishes old and new settlers.

Status is measured in terms of honour, which itself becomes an increasingly important focus of competition in the absence of control over more substantial economic and political resources. (4) The concern with honour in an immigrant community emphasises the problem of maintaining a moral order in the face of threats from the social and economic structures of Australian society. The economic demands of wage labour and the institutional intervention of schools, welfare agencies, government departments and courts, undermine family and community as spheres of social autonomy. Hence disputes over honour articulate conflicts at two levels, the interpersonal and the structural.

A. Women

I have discussed the role of women in family disputes elsewhere (Humphrey, 1984). Three main areas of conflict were identified: appropriate sex roles, the modesty of women, and marriage and divorce. These disputes also may expand to involve the community.

Women figure quite prominently as a catalyst in violent disputes. Because men locate family honour in their women the latter become objects of male protection as well as vulnerable targets. If an opponent wants to get at a family all he has to do is appear to compromise the reputation of their women, for loss of control over one's women reflects on the reputation of a head of household in the community.

B. Economic transactions

Economic transactions also can be the source of disputes, although usually these do not result in violence. The most common occasion is the failure to meet financial obligations. Often these do not have any formal legal basis but are embodied in agreements between family or friends. They range from small debts to the dealings of business partnerships. These debts generate an obligation that is more than financial. The personal character of economic transactions means that there always is "face" invested in them. If one borrows from a friend or enters into a more enduring economic partnership, economic obligation goes hand in hand with personal relationship. Indebtness is merely the currency of obligation.

Economic transactions include loans, debts, and donations between individuals or groups. They may create ties of dependence, mutual economic interest or reciprocity. Individuals often are reluctant to go into debt or create any situation that could be constructed as imposing an obligation, because this can create dependence. To do someone a favour is to create a debt, to pay for it makes it a service and implies no further obligation.

Debts also can provide the basis for mutually beneficial ties. Partnerships between family or friends can create the opportunity to raise capital in order to purchase a property or a business. (5) However, such partnerships are vulnerable to changes in social relationships. Brothers may fall out over a conflict between their wives, or a partnership between friends may fail because of changes political allegiances. (6)

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On the other hand donations can signify respect and create ties of reciprocity. These transactions most commonly occur when associations hold fund raising functions. Representatives from various other associations attend and contribute donations, the success of which reflects the status and influence of the host association. These collections are conducted in an ebullient and public style so that everyone knows who has donated and how much. But the donations are reciprocal in character. Every association in its turn holds its own function and the beneficiaries eventually reciprocate. Thus, though large sums of money are collected on these occasions, the money in fact circulates.

C. Community politics

Violence can occur as the result of competition and conflict within and between community associations. Within associations, disputes generally arise over the political "prizes" of the association, i.e. leadership, executive office, and prestige. Between associations, disputes arise over the recruitment of members, arguments about political ideologies, attempts to gain control of arabic media outlets, as well as competition to secure welfare grants. Violence generally is triggered by a personal attack on an individual's honour. Insults, accusations, and gossip may be used to undermine an opponent. Personal insult, attacks on the reputation of a wife or daughters, and physical assault all may be used in a dispute.

Internal and inter-associational disputes express the main ideological cleavages in the community and also highlight the organisational fragility of community life. Associations may form a focus for group mobilisation, exploiting kin, village, and urban ties to recruit support during association elections or at a time of political crisis. An association can be divided into "core" members consisting of a single family or members of a few families linked by friendship and village ties, and "support" members: kin or village members linked to a core member. (7)

The organisational fragility of an association often is exposed in internal disputes between "core" members who compete for the "prizes" of office, leadership, and prestige. Such disputes may be resolved by mediation, exploiting the kin networks and status relations of the group, or they may lead to the fragmentation of an association. If a party feels aggrieved about the progress or outcome of a dispute he can leave and seek the support of another association or he can take his supporters with him and form a rival association.

As a result of fragmentation the dispute expands and becomes public, reducing the potential for mediation. Only where prestigious religious or political leaders intervene as mediators is reconciliation possible. Thus the organisational weakness of an association can be exploited through a deliberate strategy of expansion.

Factors influencing the conduct and expansion of a dispute include the broader context of community political rivalry, the career interests of Australian bureaucrats and politicians, and the administrative, political and legal structures of the state. An individual's claim to leadership is premised on his ability to look after the political and welfare interests of the association and to assist individual members with problems. This necessitates knowledge of and extensive personal links with a wide range of community leaders and Australian bureaucrats and politicians.

A leader's personal network and knowledge are even more important in inter-associational disputes where confrontations can quickly be politicised. Violence can be deliberately used to provoke retaliation and thereby escalate a dispute. In these cases, court intervention does not remove the dispute from the community but merely introduces another arena for competition in which parties mobilise a wide range of resources, including bureaucratic, political and juridical connections. Disputes that become legal cases provide disputants with an opportunity to display their relative strengths in the wider Australian political and judicial structures.

#### D. Official intervention in family relations

Another situation in which violence occurs is where police or government officials intervene in the domestic arena. Official intervention in family matters is regarded as a demeaning intrusion into a sphere of male authority. In addition it is perceived as radically undermining the social position and honour of the male head of household. Typically official intervention occurs when a wife or child commits a minor legal offence such as truancy or shop-lifting, or where domestic violence is reported to police. On these occasions the appearance of the police (and a host of welfare workers in their train) on the doorstep humiliates the head of household. To his Lebanese neighbours and the community it shows he has failed in his domestic responsibilities.

More often than not a husband responds by physically punishing those who are the source of his shame, his wife or children. This only aggravates the domestic situation since once a family is officially defined as needy or problematic or the husband as po-

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tentially violent the family comes under close scrutiny. Any sign that a husband has been violent simply increases the frequency with which welfare workers call. This can lead to greater shame and devaluation of male authority if welfare workers threaten to remove the children from the father's custody and make them wards of the state.

## II. COMPETING FRAMEWORKS

In Sydney disputes involving violence are formulated in terms of honour but also forced into the framework of Australian criminal law. The former expresses a moral order in which individuals and families are ranked in the community according to their actions, whereas the latter represents the institutionalised legal order of the state. The public character of violence invariably projects a dispute into both the community and the court, so that it simultaneously is formulated in terms of honour and criminal law.

Traditionally in Lebanese society, honour is an ideology of social incorporation in which the powerful and the weak are placed within the same moral universe. Wealth, political power and status are reduced to a single moral evaluation. In immigrant communities the ideology of honour persists because it provides an overarching framework in which to order and regulate the relations of immigrants from a similar class background and as a means of defining social identity and worth for individuals largely denied participation in the wider social and economic structures of Australian society.

Characteristically the social world of honour is public. Status is achieved by making public claims about one's acts and affirmed when threats to an individual's or family's honour are countered by public action. Gilsenan (1976: 20) describes these as "situations of ultimate reference":

The status-honour ethic sets the terms of reference and provides ... situations of ultimate reference within which and in the light of which men transact their socially significant selves.

These situations include sexual impropriety and personal confrontations taking the form of verbal insult, physical assault, and homicide.

The imperative character of honour and its socially disruptive demands for public redress imply another, secret arena of action. The serious consequences of public confrontations resulting in physical assault and occasionally homicide give honour a dual public/private character. (8) Once an act or event is defined as challenging the social position of an individual or group the possible responses are narrowed. A point is reached where an individual must act or be socially devalued or even outcast, but until that time "appearances" constantly are negotiated.

In immigrant communities the socially disruptive demands of honour also can lead individuals and families to limit its social significance by defining honour as pertaining only to members of the family or "potential household". This is manifested in the reconstitution of highly conservative households as collective economic units practising endogamy, particularly between kin members separated by migration. Such families attempt to exist as self-sufficient and independent households minimizing contact with other Lebanese immigrants.

Others, such as community leaders, may exploit the ideology of honour as a system of power based on personal ties and obligations. They espouse the values of honour in order to reinforce their own claims to authority and leadership. This is done by affirming religious and cultural values through public acts. For example a sheikh may insist that his daughters wear head scarves to school, even though other Lebanese Muslim girls do not. Through this gesture he not only affirms his piety and religious standing but also provides an example for others. A community leader, on the other hand, may actively promote his image as a powerbroker by appearing in public with influential Australian bureaucrats and politicians.

Mediation also helps to contain disputes because it is conducted in private by a respected third party whose interests coincide with those of a mutually inclusive group, e.g. a family, village community, political faction, voluntary association or sect. A suitable mediator might be a family head, a village leader or broker, a political leader, the president of an association, or a sheikh/priest.

The chances of success are greatly reduced and the likelihood of direct confrontation increased where there is no incorporating group. The success or failure of the mediation process usually reflects on the reputation of the mediator and influences his future capacity to intervene and mediate. To be seen to act selflessly but fail also can be honourable. But community influentials will be reluctant to mediate where there is little chance of success and will not identify publicly with the negotiations until a



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resolution appears assured. In such cases a sheikh or community leader may appear to act as an adjudicator by making a public pronouncement which, while presented as his own decision, in fact announces a negotiated agreement. (9)

Violence generally marks the transition between private mediation and public confrontation. An act of violence may be a calculated strategy to escalate and expand a dispute into a broader arena, a tactic designed to demonstrate an opponent's weakness, or the consequence of a failure of mediation. But under no circumstances can it be ignored without cost to reputation and status.

Violence in tribal contexts traditionally mobilised the support of corporate lineages. In immigrant communities, however, the shallow generational depth and the narrow social basis of corporate obligation limit the number and range of male consanguines ready to support a member in cases of honour. In the absence of viable kin networks, responsibility to avenge honour is left to individuals or assumed by non-kin groups. If individuals find themselves socially isolated they can revenge only by private and covert means. Satisfaction is achieved indirectly by devaluing an opponent's status, attacking his reputation by spreading rumour and gossip about his wife's or daughters' sexual immodesty, or contributing to his political downfall in the community without revealing one's own hand. This all depends on an opponent's strength. Without adequate kin support, physical assault on a stronger opponent would be regarded as socially reckless. Only young married men can afford to act with bravado and confront an opponent alone. Married men with family must be conscious of their responsibilities and cannot jeopardise their dependents' future by reckless acts. (10)

Alternatively an individual may decide to mobilise support among village, political, or religious community associations. This tends to politicise a dispute so that it becomes a contest between rival groups, articulated in terms of honour. Where this occurs a dispute is likely to acquire multiple meanings and to be reinterpreted as a facet of a broader ideological conflict between rival groups.

The intervention of the police and court also politicises a dispute. The court is perceived as another arena of competition in which to display relative power. Though the intervention of the court is irresistible, judicial appropriation and transformation of a dispute into a legal case is not. Knowledge of the formal and informal processes and access to individuals who know it forms the basis for a second order strategy translating the interests of the parties into legal forms and procedures. Recruitment of "informed" counsel, "sharp" legal practice, the ability to schedule a

hearing before a particular magistrate or judge, and the use of adjournments all are part of conducting the dispute as a legal case.

The adversary style of Australian advocacy contributes to an image of the court as another political arena. Parties, witnesses and supporters experience the court as confrontational and divisive. In this environment judge, jury and legal counsel are looked on as partisan. In the minds of the Lebanese litigants and their supporters the whole court is divided into opposing camps and actors are identified as having been intimidated or compromised by an opponent's influence and powerful connections.

Legal procedures and forms of argument provide another framework in which knowledge and information are transacted publicly and the performances of disputants assessed. The court is a public arena in which parties seek to regulate the flow of information about acts and events. Although the versions and "appearances" presented in court are removed from the language of honour, they remain informed by it. The contest proceeds through strict legal argument and rules of procedure but simultaneously explanations of the acts and intentions of actors are injected into the legal discourse in an attempt to modify the perceptions of magistrate, judge, or jury. Such "cultural" explanations can be counter-productive if judge and jury reject the performance as indicating an "unreliable" or "non-credible" witness.

### III. WHERE DISPUTES BELONG

Generally, two interdependent processes are set in motion when interpersonal violence occurs: mediation in the community and adjudication in the courts. But what determines how and in which arena a dispute will be ultimately resolved? Interpersonal violence usually is the result of ongoing conflict between individuals, families, factions or associations and represents a serious rupture in social relations. It is necessary to repair these relationships while defining the status and influence of the parties involved.

In Sydney the resolution of disputes involving violence is organisationally and legally problematic. Family membership varies considerably and so do the size and influence of community associations. They cannot be regarded as corporate entities but rather foci for group mobilisation in different social, economic and political situations. Similarly the much greater potential for state

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intervention in Sydney (compared with Lebanon) limits the scope of local mediation practices. Mediation is most effective within associations where strong kin and friendship ties link members. The difficulty facing all mediation attempts is the problem of containing disputes in the urban Australian environment. The high visibility of acts of violence to non-Lebanese neighbours, passers-by, and ambulance and hospital personnel results in reports to the police. Disputants no longer can prevent the matter from reaching the court.

Although the threat of an expansion of the dispute usually mobilizes mediation within the community, violence also stimulates intervention by the police and courts. In Sydney, mediation and legal intervention function as parallel but interdependent processes. A party cannot use the threat of court intervention as a strategy to force mediation (as in Lebanon), and police intervention is not negotiable in matters of personal violence. The chances of disputants being able to keep a dispute out of court are slight, and only occasionally through a combination of persuasion, intimidation, and petty corruption do individuals succeed in having charges dropped.

The success of mediation in achieving a settlement and influencing the way a dispute is conducted in court will depend on who becomes involved in the dispute, what issues and interests are at stake, the possible solutions, and the seriousness of the charges made by the police. If the act of violence is relatively minor and parties can come to an agreement before the case proceeds too far, the prosecution can be derailed by a strategy of co-operation in the court. By contradicting original statements made to police, the victim can terminate the proceedings at the committal hearings. On the other hand the prosecution of a serious act of violence, especially a homicide, is much less susceptible to such strategies mainly because the parties cannot be reconciled as readily. Police are particularly reluctant to intervene in domestic disputes because they have no power to act before a crime has been committed and, even where violence has occurred, it is difficult to obtain a conviction in view of the unwillingness of the complainant (usually a wife) to testify against the accused (her husband). (11)

A. The Nakhoul case: abduction and marriage right

The Nakhoul case involved the abduction of a fourteen year-old girl under the claim of cousin-right by a boy and his four brothers and cousins. Walid wanted to marry his first cousin Wafa, but there were two problems. First, Wafa's older sister still was unmarried and her father wanted Walid to marry the

first-born sister. Second, Wafa had rejected her cousin for another Lebanese whom she planned to marry when she turned fifteen years of age (12) and whom her father approved. With Wafa's birthday only a month away Walid decided to make a last desperate bid to persuade her to marry him. He intercepted her on her way to work one morning and insisted she come with him to an aunt's place to talk. She submitted reluctantly and was bundled into the back seat of a car, where she found Walid's brothers and cousins, whom he had brought along for support. He took her to an aunt's place where they all discussed the marriage until early afternoon. Wafa remained firm and eventually asked to telephone her uncle who came and collected her. It might have ended there had it not been for a newspaper photographer who captured "the abduction" on camera and emblazoned the pictures on the front page of the afternoon edition of the newspaper. Later that afternoon the police charged all the cousins with abduction. After several adjournments the committal proceedings were heard in a magistrate's court some months later. The police prosecutor's questioning of the five accused revealed that they had not harmed Wafa in any way and had taken her to a house and family she knew. Wafa conformed this story, adding that she had not been frightened, since there were other women in the house, and had viewed the incident as just an immature prank. The magistrate dismissed the case and rebuked the cousins for behaving in such a puerile manner.

The abduction represented a final bid by Walid to claim his "cousin-right" before Wafa had the chance to marry someone else. The dispute was confined to two households - an uncle, his daughter, and his brother's son. The incident which brought the dispute into the courts and transformed it into a legal case had only been designed to persuade and not to terrorize. Walid's intent was to get Wafa onto neutral ground where he could speak to her freely. At home she was always surrounded by her family and boyfriend. Neither party had sought police intervention. It was only through the coincidental presence of a newspaper photographer that the dispute became an abduction with police pressing for a conviction and the newspapers seeking a good story.

By the time the case came before a magistrate, the dispute between the two families had been resolved. The seriousness with which the court viewed the charge was at no time shared by the disputants. Once Walid had failed to persuade Wafa to change her mind about marrying him there was little more he could do. A month later, on her fifteenth birthday, Wafa married her boyfriend. The issue of cousin-right was dead. At the court hearing Walid and Wafa simply confirmed this version of the events and rejected any suggestion that violence or threats had

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been used during "the abduction". As a result of the co-operation between the families, the police prosecutor could not substantiate the charges. At each hearing a journalist from the newspaper which had originally scooped the story was present to keep the public informed and the story alive.

In the Nakhoul case, the impact of legal intervention was minimised because the dispute occurred between two households belonging to the same family and the confrontation was relatively minor. The common interests of the households hastened mediation and encouraged them to close ranks against interference in their domestic affairs. However, where serious violence occurs between non-kin, the opportunities for mediation are few and the court becomes the main arena of competition. The disputants are forced to conduct their dispute in the court.

B. The Khalil case: cross-sect homicide

Two Lebanese men were involved in a street brawl outside the factory where they worked. Fuad, a Sunni Muslim had attacked Khalil, a Maronite Catholic, with a lump of wood. During the fight Khalil had drawn a knife and stabbed Fuad, causing a fatal wound. Khalil left the scene but was arrested soon after and charged with murder. At the Coroner's Court he was committed for trial but he was later acquitted through lack of evidence. On his release he was forced to leave Sydney (and his family) in order to avoid the revenge threatened by the deceased's aggrieved family.

Fuad and Khalil both had emigrated from North Lebanon in the early 1970s, the former from Tripoli and the latter from a village in the Akkar. Fuad was 36 and lived with his wife and three young children. Apart from these, he had few relatives in Australia, the closest male consanguine being a paternal cousin. Khalil, on the other hand, was only 22 years old, unmarried and the eldest son. His household included his parents, an uncle, and his four unmarried brothers and sisters. The two men were workmates, lived a few blocks from each other, and occasionally met when visiting mutual friends. They were acquaintances, not good friends.

The incident that provoked Fuad's attack on Khalil began the previous evening when both were visiting the Salim brothers. Khalil took offence at a comment by Fuad that it was well known that people of Akkar readily followed leaders. Khalil left the house without saying any more. After going home he went with his uncle to lie in wait, and when Fuad passed they beat him

with sticks. It was this attack that provoked Fuad's response outside the factory the following day.

For both Khalil and Fuad the issue was one of honour. Khalil had been insulted by a comment about Akkar men and had responded by beating Fuad. Fuad had been outraged and insulted by Khalil's attack and he had publicly retaliated the following day to avenge his dishonour. The circumstances surrounding the two attacks are significant. The first was committed late at night with the assistance of an uncle, the second in broad daylight, alone, and in a crowded street at the change of an afternoon shift. The former was secretive, minimising the likelihood that anyone might come to the assistance of the victim, whereas the latter was public, witnessed by many people who might stop the attack and prevent serious injury.

If Fuad's attack had resulted in minor injuries and not death, mediation through friends might have been possible. In fact, the previous evening Khalil's father had attempted to set mediation processes in motion. Late that evening he had sent his ten year old son to summon the eldest Salim brother to his house immediately after Khalil had attacked Fuad, but the brother was outraged at the attack and refused to mediate. However, Fuad's death the following day made the affair much more serious, emphasising the sectarian and regional divisions between the families involved and the absence of any encompassing institutional framework in which mediation could be initiated. Mutual friends were no longer sufficiently influential to mediate. The imperative was for revenge.

The burden of responding fell on a first cousin, Usman, the closest male consanguine living in Sydney. Publicly Usman was under great pressure to avenge his cousin's death and care for his widow and three children. However, Usman was restrained from seeking revenge against Khalil and his family by several considerations. First, Usman was a well known intermediary in the community, and a revenge killing would not only jeopardise his livelihood but also his wife and children's future. Second, after the homicide he had become the principal contact the police used to solicit information and interview people. Third, because Khalil had been arrested very soon after the homicide, immediate revenge was not possible.

Usman found himself in a contradictory position, highlighted when other friends of Fuad threatened to attack Khalil's family in an act of vicarious revenge. Usman responded by warning the police about the threat and advising them to guard the family's house. Although no attack eventuated, the actions of the police

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in visiting Khalil's family to warn them were demeaning - as if to say, "Even the police take our threats seriously, so must you!"

The arrest and jailing of Khalil on a charge of murder quickly foreclosed the choice of arena. Usman entered into an ongoing dialogue with the police and prosecutor in order to provide them with a detailed picture of events and behaviour that demonstrated the guilt, not only of Khalil, but of his whole family. He pointed out that a man does not act alone in such a serious crime but with the support and backing of his family. In several Mediterranean cultures, to act alone is the mark of a stupid man. (13)

In the Lebanese community, the events and behaviour that showed the intention of Khalil and his family to kill Fuad were as follows:

1. That Khalil's family came from a wild and hot-headed region of Lebanon, Akkar.
2. That Khalil's family had been standover men during the Lebanese Civil War and (it was alleged) Khalil personally had been responsible for killing six people.
3. That immediately after Fuad's death Khalil's uncle had left for Lebanon, thereby confirming his complicity.
4. That in a chance meeting between Khalil's mother and Usman's aunt in a shopping centre, Khalil's mother had said that her son had been very bad to kill a man with three children.
5. That Khalil had a reputation for intimidating people with his knife and having a very aggressive character.
6. That Khalil told his father just before the latter's arrest following a car accident that he should take his brothers away because there would be retaliation.
7. That Khalil had admitted to the police that he had wanted to kill Fuad.

In brief, community opinion held that Khalil had a reputation for being hot-tempered, aggressive, and too ready to use a knife, and intentionally had killed a married man with a young family. Fuad, the deceased, had only attacked Khalil after extreme provocation and had only intended to give him a good beating, which he amply deserved. This opinion coalesced within the mosque association. It was principally in this forum that information was exchanged about the history of Khalil's family, their current movements, and the developments in the case. The main

concerns of the community were: what could or would Usman, the first cousin of Fuad and an executive of the mosque association, do to avenge his cousin's death? Would there be justice in the court?

As long as Khalil remained in custody awaiting trial, the main arena of contest was the court. Friends who supported Fuad's family sought to assist the prosecution's case by providing statements to the police about Khalil's character and the motivations behind Fuad's attack. Despite continuous objections from the defence counsel, the prosecution used this in the committal proceedings to establish that Khalil had beaten Fuad the evening before, that Khalil often was violent in public, and had menaced friends with a knife in previous arguments. (14)

The legal issue at this stage was not guilt or innocence but on what charge, if any, the accused should be committed for trial, and whether he was eligible for bail. Khalil was charged with murder and refused bail.

Yet, though this evidence was accepted in the community it proved valueless in the court because it was either insufficiently detailed or irrelevant. The sole legal issue was whether Khalil's action in drawing a knife was legitimate self-defence or whether he deliberately returned to stab the deceased after numerous people had separated them and restrained Fuad?

The case for the prosecution finally rested on Khalil's interview immediately after his arrest, in which he stated he had wanted to kill Fuad, and witnesses who had seen the full sequence of the fight.

Khalil's confession was excluded because the interrogator had used a Lebanese Arabic-speaking detective instead of an accredited interpreter. One of the main eye witnesses, a Greek employee of the factory, had sold his house and returned to Greece shortly after the committal proceedings in the Coroner's Court.

As might be expected in such a sensitive case, the community was dismayed by Khalil's acquittal. For them the only question had been the severity of the sentence. They felt cheated because they had to accept a government prosecutor, whereas Khalil's family could buy the best legal defence. They also regarded the jury of ordinary people, ignorant of both Australian law and Lebanese culture, as inadequate to make such an important decision. The not-guilty verdict, the presence of a well-known Lebanese legal tout, and the convenient disappearance of a principal prosecution witness, all suggested interference in the judicial process. The Australian court system had failed. Self-



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help, sometime in the future, was the only remedy remaining. If Khalil got away with this homicide, they argued, he always would be able to intimidate people. (15) Khalil, for his part, knew that he had no option but to leave Sydney and his family on his release because of the threats of revenge. He had won in court at considerable financial cost to his family and the added social humiliation of his expulsion from the Sydney community.

In the Khalil case the court became the principal arena of the dispute and the parties were restricted largely to influencing the legal outcome by seeking to have their own cultural interpretation of events admitted as relevant evidence. The court arena dominated because of the circumstances surrounding the homicide, the presence of many independent witnesses to the fight and the prompt arrest of the accused. In other words, the parties had the opportunity neither to regulate the flow of information to the police nor to engage in self-help. This contributed to making the legal issues fairly straightforward: Did the accused use excessive force in self-defence? Was the accused's confession obtained under acceptable conditions?

In contrast, where information can be monopolised by one party, legal intervention can be minimised. Disputants may be able to withdraw from the case and prevent the prosecution from constructing a viable case. An example occurred in the killing of Assaf.

C. The Hamdeh case: cross-sect homicide involving rival political associations

Two young Lebanese men from Tripoli, Hamdeh (a Maronite Catholic) and Assaf (a Sunni Muslim), had an argument while visiting a friend early one evening. They exchanged angry words about Lebanese politics and threatened to fight.

Later that evening Mohammed saw his friend Assaf arguing with an unfamiliar man. He approached them but they ran off and disappeared around a corner. By the time he had parked his car and reached the corner he found Assaf lying on the footpath bleeding from a chest wound. There was no one in sight, and Assaf died soon after in Mohammed's arms.

All other information the police received about the events surrounding the stabbing was vague and almost valueless as evidence. The only other witness to the fight happened to be Mohammed's own son who was walking on the other side of the street at the time. He was regarded as unreliable because he had

been left alone with his father in the back of a police car before being interviewed. Similarly, two children who told how Hamdeh had come to their house that evening with a wounded hand and told them that he was fleeing from some attackers also were thought to be too greatly influenced by their parents. In any case, they provided no signed statements.

The following day Hamdeh presented himself to the police with his solicitor because he had heard they were looking for him. He made a statement describing how Assaf and another man had attacked and beaten him. Hamdeh said Assaf held him from behind while the other thrust at him with a knife. When he ducked his attacker stabbed Assaf. Hamdeh was arrested and charged with murder. The Coroner found a prima facie case and committed him for trial. However, the Crown Prosecutor concluded there was insufficient evidence and Hamdeh was released and left Sydney before the other party knew about it.

The background to this dispute is the rivalry between Lebanese political associations in Sydney. Generally such conflict is restricted to a war of words in the Arabic media or to isolated acts of interpersonal violence. Only rarely does it erupt in major group confrontations. (16) In this dispute the accused and the deceased were members of hostile political groups. When the homicide occurred the dispute simultaneously was thrust into two arenas: the courts, through the intervention of the police, and the community, with the mobilisation of the support and resources of the respective political groups. The latter shaped the accused's legal strategy which ultimately secured the dismissal of the charges.

The police investigation focussed on two main issues: the fight and the movements of the accused immediately after the fatal stabbing. The evidence obtained was inconclusive. No one actually had seen the stabbing or even was able to verify that the accused was at the scene of the crime. (17) Moreover, those who had seen the accused immediately after the attack declined to make written statements to the police.

The accused was able to withdraw his friends and family from the judicial inquiry. Using the contacts provided by his political association he was able to secure invaluable legal advice before he was interviewed by police. He was accompanied to the police station by his solicitor, who protected him against incriminating himself unwittingly. His family and friends refused to make any statements about what he had said or done after the stabbing. Although his political association could not influence the judicial proceedings directly, it helped to raise bail.

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As in the Khalil case, Hamdeh's release was followed by his immediate flight from Sydney to avoid revenge by Assaf's brothers. In both cases, serious violence precipitated police intervention which the parties could not resist. The critical difference between the cases was the ability of the parties to regulate the flow of information to the police and the court.

In the Khalil case, the volume of credible evidence was large, so that the police found it relatively easy to construct a viable case independent of Lebanese witnesses. The Lebanese parties could only instruct the court about the broader social context of the dispute. By contract, police were able to get very little information about the Assaf homicide. From the very beginning the accused carefully regulated all the information obtained by the police and court and ensured that descriptions of his movements and comments were contradictory and vague. The dismissal of the charges was viewed with dismay by Assaf's relatives. They became even more cynical about the role of the court when they discovered that the accused had been released on bail without their knowledge. They believed that the rival association had raised a large sum of money in order to subvert the judicial process.

In some cases of violence, the police find they cannot prosecute because they have no information about the events and are totally dependent upon the co-operation of Lebanese to provide leads. Vindictive individuals are thereby enabled to level false accusations against enemies, knowing that the police are bound to investigate. In this way a dispute over, say, domestic issues, can be transmuted into a prosecution for assault. In other words, the court deliberately can be brought into a conflict in order to deplete an opponent's resources and perhaps even secure his conviction and imprisonment.

An example is the bashing of Tony. The inability of the police to solve this crime was used by one party in a dispute between two village factions.

D. The Samir case: the politics of a village community bashing

Eighteen months after an assault which left a 28-year-old man named Tony seriously incapacitated and disfigured, police charged two men, Samir and Butrous, with attempted murder.

Up to that date the police had had no leads. Then an old man, Abu Nassim, accused Samir and Butrous of the original assault

and also of threatening his life to prevent him from revealing their identity to the police.

In court, the prosecution presented the dispute as a conflict over marriage rights. Abu Nassim testified that both Tony and Samir had wanted to marry his daughter. Samir had claimed cousin-right, but Abu Nassim favoured Tony, who came from the same village but a different family. Samir had become very jealous of Tony and with his friend Butrous had bashed him at his house one evening.

The prosecution's case rested on three main pieces of evidence:

1. The victim's evidence about his movements and recollection of events on the evening of the bashing.
2. Abu Nassim's evidence about the history of the rivalry between Samir and Tony and the threat by Samir and Butrouw to kill him if he revealed them to the police.
3. A handwritten and signed statement to the police by Butrous stating that he and Samir had bashed Tony.

During the trial the defence successfully discredited the testimony of Tony and Abu Nassim as unreliable and contradictory. As a consequence the judge dismissed the charge against Samir. The defence claimed that the police had bashed Butrous and made him sign a blank sheet of paper, but the jury found him guilty and he was sentenced to prison.

The main actors in this dispute were two families that came from opposing factions within the same northern Lebanese village - those of Abu Nassim (to which Samir also belonged) and of Tony - and a third family that came from Beirut, to which Butrous belonged.

The court viewed the dispute as originating in a claim of cousin-right marriage. But this obscured both the reasons behind Abu Nassim's accusations and the actual domestic and village politics involved. In the evidence presented to the court, the underlying conflicts within and between the families were only hinted at.

Abu Nassim's belated charges were tied up with his loss of face over the breakdown of his own marriage, his dealings with an opposing village faction, and his consequent alienation from his brothers. His relations with his wife and children had been deteriorating for several years to the point where a magistrate's court had ordered him to stop beating his wife. He was now living apart from his family. One of the main sources of this conflict was the social and economic independence his wife had gained by working in a clothing factory. There she made several

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friends, including Butrous, who became a regular visitor to her household giving him an opportunity to socialise with girls, something he knew his conservative family would strongly disapprove. For Abu Nassim, Butrous came to symbolise his wife's new-found independence and gradually became an object of resentment.

When the question of his daughter's marriage arose this presented an opportunity for Abu Nassim to reassert his authority over his family and simultaneously strike back at his brothers by denying his nephew's claim of cousin-right. In order to do this he favoured a rival from the opposing village faction, Tony, as his future son-in-law and demanded prohibitive bridewealth from his nephew, Samir. The assault on Tony coincided with these marriage negotiations but it was generally believed that the two events were unrelated. The accepted view was that Tony had been beaten for failing to pay for a consignment of illegal goods he had received. Abu Nassim connected the events to get revenge on his brothers and wife through his nephew and his wife's friend Butrous.

This interpretation of events was largely confirmed during the trial, when Abu Nassim's evidence was discredited, especially his accusation that Samir and Butrous had threatened to kill him in order to protect their anonymity. But though this led to the dismissal of charges against Samir, Butrous had signed a confession that the defence alleged had been obtained through duress. The case turned on the relative credibility of the accused and the police. The jury believed the police.

Butrous' conviction resulted from his ignorance and naivety about the law and police methods of investigation. He was totally overwhelmed and intimidated by the interrogation. Although he consistently denied ever having known Samir, the police refused to believe him. In desperation, he falsely admitted knowing Samir in order to stop the aggressive interrogation and seek help from his relatives, who at that stage knew nothing about his predicament. Butrous told the police he would show them where Samir worked but in fact led them to a Lebanese owned factory where his uncle and cousin worked. Unfortunately for Butrous the ruse failed when the police realised they had previously visited this factory to look for Butrous' cousin. In a bid to reach his relatives Butrous broke away from the police escort but was caught before he could reach the factory door. In the eyes of the police this incident only served to incriminate him further and was introduced by the prosecution as evidence of his deceit and thus of his guilt.

In contrast, Samir had been sophisticated in handling police interrogation. By refusing to answer, demanding legal representation and threatening self-injury, he effectively denied the police any incriminating evidence. But once Butrous had signed a confession, his family had no chance of keeping the dispute out of court. They attempted to get an uncle of the victim to mediate, but he replied: "If you eat garlic you smell of it". Consequently their only alternative was to recruit the best legal counsel available.

The only party who got any satisfaction from the judicial proceedings was Abu Nassim. He effectively managed to get the police to fight a case on his behalf, without having to expend any of his own resources. Although his own evidence was discredited his accusations and the subsequent prosecution compelled the families of Samir and Butrous to incur heavy legal costs. In fact Butrous' family were forced to sell one of their houses to pay for the defence. On balance Abu Nassim, and the village faction with which he had aligned himself, won the court contest. Samir's acquittal was largely a pyrrhic victory, since the legal costs heavily burdened his family. Butrous remained in jail, having lost on all counts.

The strategy of deliberately expanding a dispute into the judicial arena is also used in conflicts between community associations. In one case a political association attempted to have a rival political leader deported as an undesirable immigrant. Lebanese political associations on both the left and the right wanted him removed from Sydney because of his party's dominance and the tactics it employed against opponents.

E. The Aboud case: deportation of a political leader

In August 1981, an appeal was heard in the Federal Court of Australia against the deportation of Aboud (Haj-Ismail) which had been ordered by the Minister of Immigration and Ethnic Affairs. (18) The judge found against the Minister on the ground that Aboud had not yet completed the purpose for which he had been granted a temporary resident's visa, i.e. to complete a Ph.D., and that he had a "legitimate expectation" that he would be allowed to remain until he had completed it. Costs were awarded against the Minister.

Aboud had arrived in Australia in 1972 to act as a political organiser for the SSNP, the Syrian Socialist Nationalist Party, whose headquarters are in Beirut. (19) His task was to form a party branch cutting across sectarian cleavages among the

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Lebanese communities in Sydney. He also enrolled as a Ph.D. candidate at a local university and was granted a temporary resident's visa. Under his leadership the SSNP grew to become the largest Arab political association in Sydney, claiming a membership of over 1,600 by 1979.

The SSNP is a hierarchic association with a broad cross-sectarian membership. Its main activities in Sydney are the promotion of Arabic culture and language. In addition to holding regular community gatherings and functions, it publishes a weekly Arabic newspaper.

The emergence of the SSNP aroused the concern of Lebanese associations on both the left and the right. It regularly was accused of using strong arm tactics against rival associations and Arabic newspapers. On one occasion up to one hundred and fifty people from the SSNP and a rival political group were involved in a brawl in a suburban street. On another the editor of a rival Arabic newspaper who had criticised the SSNP in an editorial was beaten, allegedly by members of that association. (20)

As a consequence of such intimidation, and out of concern over the SSNP's growing following, the leaders of several rival associations lobbied Australian politicians and bureaucrats, informing them about Aboud and the activities of the SSNP. It was this information, together with Commonwealth Police reports, on which the Minister for Immigration and Ethnic Affairs acted when he refused Aboud's application for permanent resident status. The Minister argued that Aboud failed to meet the requirements of "good character" and ordered that he be deported.

Aboud organised a skillful legal defence and a public campaign against the order. First, he sued several Arabic newspapers in Sydney for defamation and argued that deportation would prejudice his ability to litigate. Second, a Committee for the Defence of Aboud was organised and 5,000 signatures were collected affirming his "good character" and supporting his application for permanent resident status. Third, proceedings were instituted in the Federal Court against the deportation order. His appeal against the Minister's deportation order was successful. He was allowed to remain in Australia as a temporary resident until he completed his Ph.D.

The Aboud case provides an interesting example of how the community can politicise legal proceedings. Aboud's opponents, after some provocation, took advantage of the opportunity offered by his application for permanent resident status under a general amnesty for illegal immigrants. By providing information about his alleged political and criminal activities, they sought to show

that he failed to meet the "good character" requirement. They not only jeopardised his application but almost succeeded in having him deported. They transferred a community conflict into the national political and legal arenas, persuading Australian politicians to support the deportation of the head of an increasingly powerful Arab political organisation that could mobilise Arab immigrant opinion and hence votes.

The use of the courts in political disputes emphasises an essential aspect of successful leadership and brokerage in community associations - the ability to exploit political and bureaucratic networks on behalf of supporters. Leaders and brokers also exploit political and bureaucratic connections to mediate between individuals and government agencies. They may be able to arrange an interview over some difficulty, succeed in having an individual's welfare claim reclassified, or manage to have a particular file reconsidered. They also may be asked by supporters to use political and bureaucratic connections to dispose of minor legal transgressions, for example, to have a fine waived for bringing undeclared goods into the country unintentionally, as gifts for relatives.

Another very important role of community leaders and brokers in transactions between government institutions and individuals is that of cultural informant and mediator. (21) When police and welfare and education officials intervene in domestic relations because of minor offences or breaches of official rules by women or children, this can lead to violence. For example, where women and children are apprehended for shop-lifting or children are caught not attending school, confrontation between officials and husbands or fathers is experienced as humiliating. Two cases highlight this.

F. The Mahmud case: child violence and the cycle of official intervention (theft)

A son and daughter, ten and eight years old respectively, were caught stealing candy and pens at the local newsagency. They were taken home by police officers and their father was told about their activities. The police officers pointed out that shop-lifting was a serious offence. The father, Mahmud, was so angry that, after the police had left, he beat the children severely. A week later their uncle slept overnight at their house and during that visit they stole fifty dollars from his wallet. When their father discovered they were responsible, he felt so humiliated and outraged that he beat them again, this time so severely that he broke bones. When they were treated at the hospital, staff



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reported the case as one of suspected child abuse. The consequence was that a steady stream of police and welfare workers began regular calls, inspecting the children for injuries and threatening that, if the children were mistreated again, they would be made state wards.

Another example of official intervention triggering off domestic violence is the Hussain case.

G. The Hussain case: child violence and the cycle of official intervention (truancy)

A boy of twelve was regularly missing from school. The Principal contacted the parents, demanding to know the reason for his absences. When the father, Hussain, questioned his son the boy denied he had been playing truant. The father accepted his word. However, when he was contacted again over his son's truancy, the father decided to stay away from work and watch his son's movements. He discovered that his son went to a friend's place and not to school. Hussain was so angry and ashamed that he dragged his son home, cut off his hair and painted his scalp with a red dye. He then led the boy to school by a rope fastened around his neck. He took him to the Principal's office and told the Principal that because his son behaved like a dog he deserved to be treated like one. The school and welfare authorities were horrified at the boy's appearance and what they regarded as the father's inhumane treatment, even though he had not inflicted any physical injury. The father was charged with assault and sentenced to six months imprisonment.

In both the Mahmud and Hussain cases the assaults were the result of children humiliating their fathers by bringing outsiders into family affairs. The response of the fathers in both cases, although severe, did not represent a challenge to authority but rather a submission to it, though this was misunderstood by the officials. The fathers agreed that children should not lie and should attend school. What they could not tolerate was that their children should lie to them and publicly humiliate them. In the Mahmud case the family was very poor. The father had suffered a debilitating industrial accident and could not work. Now he was losing control over his family. Welfare workers were threatening to take his children away. He was isolated and could obtain no assistance. The only person in whom he could confide was the interpreter.

The Hussain case had even more serious consequences for the father: imprisonment. His family approached a community broker who managed to secure a review of the case through his political and bureaucratic connections. As a result an appeal was filed with the State Attorney General's Department. The broker became a key informant, explaining that the father was submitting to the school's authority and seeking to enforce it by publicly shaming his son. He wanted his son to have the education that would not have been available to him in Lebanon.

#### V. OUTCOMES

In the disputes discussed above we can distinguish between court decisions and outcomes in the community. But though this may appear to be analytically useful, the distinction actually is misleading and tends to separate interdependent processes. The theoretical source of this separation is the practice of treating modes of dispute settlement as independent systems, each with its characteristic decision-making, procedural and normative structures. For example, in the above analysis of community disputes in Sydney three distinctive models of dispute settlement can be identified - adjudication, mediation, and self-help.

The analytical problem is not simply to perceive the co-existence of different dispute processes but to explain the nature of their normative and institutional interdependence. Treating them as autonomous systems only perpetuates ideological distortions. It also ignores the dominant-subordinate relationship between disputing forms. Just as modes of dispute settlement do not exist independently of particular political and legal structures, so outcomes are not the product of a particular decision-making process but rather the cumulative product of strategies and claims made in different dispute arenas.

The court decisions outlined above reveal the complexity of this interdependent process. Disputants sought to influence court outcomes by withdrawing from or co-operating with the court. The court is central in disputes involving violence, not because of its perceived legitimacy but because it wields coercive force. The fact that the court was a central element in the strategic manoeuvring associated with every dispute also confirmed its status as the dominant arena.

But as was evident in the Nakhoul abduction case and the Hamdeh homicide case, the ability of the court to appropriate disputes can be limited. The information necessary to construct

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legally probative evidence is dependent on the co-operation of the parties and witnesses. The prosecutor can only mobilise legal procedures where there are sufficient "facts" to construct a viable case.

Even where individuals choose to assist the court the amount of information that can be elicited often is restricted. The facts of a case never can be known with certainty since we can only obtain versions and reconstructions of them. The conflicting interests of the various parties limit objectivity. An individual's response to inquiries is influenced by his own interests and his expectations about the judicial outcome. Of course, the extent to which any individual can construct his preferred version of events depends upon the flow of information from other sources. Information is offered in anticipation that others will withhold it.

The problematic nature of "legal facts" and the inherent uncertainty of the legal process facilitates resistance to and co-optation of, judicial intervention. These strategies significantly influence outcomes in both the court and the community. The interesting question is the extent to which the strategies employed in the Australian courts are systematic and organised. There are two separate issues: the status of court decisions in determining outcomes and the character of mediation and self-help as disputing forms in Lebanese immigrant communities in Sydney.

In each of the cases considered above there was a legal outcome. The court or responsible legal authority handed down a decision in the form of a conviction, acquittal or dismissal of charges. Yet though the court could appropriate disputes and impose legal decisions, it generally lacked legitimacy in the community, which regarded the court as another political arena, both partisan and manipulable.

Conflicting ideas about liability, intention, and appropriate punishment all contributed to devalue the authority of the court, particularly in the case of homicide, an act that traditionally demanded revenge or compensation in order to satisfy the demands of honour. The Khalil case highlights these cultural and legal conflicts. Although the aggrieved family had no doubt about the guilt of the accused, he was acquitted. The circumstances of the homicide and the response of the accused's family confirmed their collective guilt. The acquittal only engendered even greater cynicism about the inadequacy of sentences for serious offences, leading one individual to comment that "you could get away with murder" in the Australian criminal system.

(22)

People also expected the court to award compensation to the victims of criminal violence or, in the case of homicide, to their families. (23) In Lebanon the tribal custom of paying blood money (*diya*) had been accommodated in Lebanese criminal law by adopting the French legal practice of allowing a civil claim arising out of a criminal act to be joined with the criminal prosecution. The common law tradition that prevails in Australia always has kept civil remedies and criminal penalties strictly separate. (24) Though there are provisions for compensating the victims of crime, the maximum amount that can be awarded is only A\$4,000. (25) Compensation can be obtained through civil litigation, but this is a long and costly exercise.

The role of the jury also was regarded with some misgiving in the community. Lebanese felt not only that jurors were subject to undue influence but also that they were socially ineligible to make such weighty decisions. Only people of standing and education should be allowed to sit in judgment. After all, Lebanese asked, what was the juror's commitment to impartiality and truth? Just as a witness' statement must be validated by a respected man, so the integrity and wisdom of a juror must be backed up by his reputation. (26)

Apart from these conflicting cultural and legal expectations, another reason court decisions lack legitimacy is that the court is perceived as another political arena. Disputants are unequal before the court because of differences in their resources, prior legal experience, and the quality of their lawyers. Even though the state assumes responsibility for prosecuting criminal offences, the disputants still regard the case as a contest transposed into the judicial arena, where they are represented by a crown prosecutor and defence counsel respectively. Sometimes the party represented by the prosecutor is thought to be at a disadvantage. One disappointed individual who had identified closely with an unsuccessful prosecution case felt that the defence held an unfair advantage in being able to instruct the best barristers whereas his side had had to make do with a crown prosecutor although they could have matched their opponents' expenditure on top "silk" (Queen's Counsel).

Another reason why Lebanese view the court as a political arena is their ignorance of the law and inexperience with the Australian judicial process. Explanations for decisions invariably were sought in what can be described loosely as "informal" processes. Descriptions of these processes were constructed from assertions, rumours, personal experience, cultural inference, and a catalogue of previous court decisions. The processes included bribery and corruption of police and judicial personnel and intimidation of witnesses, as well as more mundane strategies

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such as scheduling a case before a sympathetic magistrate or judge. The subtleties of legal argument and process were absent from these lay images of the courts. The presence in court of a Lebanese broker who had a reputation for being able to fix compensation claims, the remarkable success of a particular firm of solicitors in defending serious criminal charges against Lebanese clients, and accounts of petty corruption among the police were the stuff from which Lebanese constructed a picture of the informal legal processes. The significance of such images is not their accuracy but the importance they attribute to transactions that occur behind the scenes. In the symbolic politics of reputation, cultivating the impression that one has influence with the court is as important in determining the outcome as the judicial decision itself. Each party interprets developments and statements in court as evidence of the influence of his opponent.

Though the court lacks legitimacy and its decisions are assessed as the products of second-order strategies (27) its impact on mediation and self-help as alternative modes of dispute settlement is considerable. The court's ability to impose its normative and procedural structures on disputes limits the potential of mediation and self-help. The time frame imposed by legal procedures, the investigative powers of the police, the ability to take individuals in custody, and the threat of being cited for contempt of court all restrict the freedom of action of traditional mediation practices. As mentioned above, it is the actual intervention of the police and courts, not the threat of such action, that precipitates mediation in Sydney. Yet once an accused is taken into custody, immediate revenge or the initiation of mediation during a cooling-off period are virtually foreclosed.

The potential network for mediation is determined by the existence of personal ties of kinship and honour. The absence of overarching institutions in Lebanese immigrant communities means that there is no broader basis for accommodation. In Lebanon sectarian identity may be subordinated to the myth of confessional harmony, but not in Australia. (28) Mediators therefore have limited authority across sect boundaries and thus limited power to intervene in disputes.

In the cases discussed here mediation had little influence on judicial decisions and eventual outcomes. The most successful mediation occurred in the Nakhoul abduction case, where the contending households were able to exclude the court and resolve the matter themselves. Otherwise, the power of the police and courts to intervene, and the absence of overarching institutions, resulted in the expansion of a dispute into the judicial arena and its politicisation in the eyes of the disputants. This severely restricted the potential for mediation and left self-

help as the only avenue through which to assert traditional rights denied in the court. Moreover judicial decisions often added insult to injury and encouraged self-help when an accused thought to be guilty was acquitted.

But self-help did not resolve the above disputes, it only deferred them. The threat of revenge generally either led families to withdraw into sect and community enclaves or compelled the accused to flee from Sydney, sometimes with family members. Honour was only partially satisfied by publicly threatening revenge, though people believed that family honour would be vindicated in Lebanon if the opportunity did not present itself in Australia.

#### V. CONCLUSIONS

Disputes that involve violence are projected into court because police and courts have the power to intervene. Even though the court cannot fully appropriate disputes and determine outcomes, it always is a significant element in the history of a dispute. Its influence varies with the ability of prosecution and defence to construct viable legal cases. This, in turn, depends upon the strategies the parties adopt towards the court. They may withdraw from or co-operate with the proceedings, second-order strategies that are formulated within the community.

The consistent intervention of the court in violent disputes severely limits the potential of independent mediation processes. For the most part mediation is circumscribed by kin networks, even in disputes between members of the same association. Mediation beyond the family and village community is limited because of the fragmented nature of community organisation and the lack of a political framework encompassing sectarian groups.

Mediation takes place largely between the community and the court. Mediators seek to restrict the impact of legal intervention by using their judicial and political connections. (29) Thus mediators act as cultural informants for the court, bridges between clients and solicitors, guides to the "informal" legal process, and brokers between clients and obliging police and judicial personnel.

Community disputes reflect not only conflict of legal values and traditions but also the uncertain social and economic future of recent Lebanese immigrants. Resistance to legal intervention and attempts to maintain control over social life are strategies of survival. Lebanese cannot afford to jeopardise their investment

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in the personal ties of family and community in confronting a legal system they experience as insensitive and biased towards the wealthy and powerful.

Notes

1. Disputes in Lebanese Muslim communities in Sydney can be analysed as the product of conflict in two broad areas: relations between men and women and relations among men. In Lebanese culture both social domains are bound by a moral code that gives men responsibility for the organisation and regulation of family and community. The family is considered a private arena in which men have moral, social and economic responsibilities, whereas the community is a public arena in which men are ranked in a status hierarchy according to their wealth, influence, and more diligence.
2. Of all the disputes involving interpersonal violence I recorded, only two were between Lebanese and non-Lebanese. In both cases they were between Lebanese and individuals from other immigrant groups - Greek and Yugoslav - and concerned women. One involved a marriage between a Lebanese man and Greek girl and the other an accusation of adultery between a Lebanese man and Yugoslav woman.
3. There are several terms Lebanese use to refer to honour: sharaf, 'ird, and sum'a. Sharaf is a general term for a family's or individual's standing in the community and is connected with other concepts, such as 'asl (good breeding or stock). 'Ird relates to honour that men have invested in the women of the family. It usually concerns sexual modesty. As Khuri states: "Being the 'ird of men, women (wife-mother, sister-daughter) have no 'ird of their own" (Khuri, 1970: p.614). Sum'a is most often alluded to in conversation by Lebanese and has the meaning of reputation. A man's sum'a is assessed by his public acts and the way he fulfils his family obligations, guards against insults to his 'ird, participates in community affairs, and mediates disputes. Bourdieu (1965) gives a much greater range of terms which refer to honour and dishonour in Kabyle society.
4. Gilson (1976: p.212) also makes this observation about the changing character of honour in a Northern Lebanese village. He argues that honour has become more central as an object of social competition as it is progressively divorced from real ties of power and structural position.

5. An impressive example of economic co-operation was one large association that raised sufficient capital to purchase property for use as a social centre by persuading nearly all its members to take out personal loans of \$6,000 each.
6. A group of kin and friends who held common political views decided to go into business and formed a casual partnership to publish a newspaper. Subsequently they fell out over political and editorial matters. On returning from a holiday one of the editors found he had been ousted from his position by his brother-in-law. To make matters worse, he also discovered that he had no legal claim to what he considered to be his share of the business because the "partnership" had only been an informal agreement.
7. My usage of "core" and "support" derives from Bailey (1969) who refers to core members as having a moral attachment to a leader while followers have a transactional attachment. The situation I am describing differs somewhat in that core members often are kinsmen who act as foci for the mobilisation of supporters on different occasions.
8. My discussion of the dual character of honour owes much to Gilseman's (1976) very insightful article on the concept of "lying" (kizb) in Lebanese culture.
9. A community leader often delegates the intermediary role to a close supporter who seeks to identify possible grounds for an accommodation between the disputing parties. Once these have been established the leader will throw his weight behind the mediation process and convene a formal meeting between the parties at which he will announce the settlement. Sheikhs also pronounce decisions that actually have been negotiated. But a sheikh is more likely to be directly involved in mediation from the beginning and to operate in intra family disputes. When an agreement has been reached he convenes a meeting where he draws up a formal written document outlining the terms of the agreement signed by him and the parties. Though this has no legal force it acts as a benchmark in any future conflict.
10. The notion that men have primary responsibility towards their family members came up regularly in discussions about intentions and what constituted reasonable behaviour in a particular case. It was often put forward as an explanation for why an individual would never commit a particular crime: "But why should I have any reason to do that, I have the future of my wife and children to think of."



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11. Under the Evidence Act spouses cannot be compelled to testify against each other.
12. Under the Marriage Act, Part II, sections 11 & 12, the marriageable age for minors is 18 for boys and 16 for girls. However, a boy who has attained the age of 16 years and a girl who has attained the age of 14 years can apply to a judge or magistrate for an order authorising the marriage in exceptional circumstances. In practice, the minimum age at which Sydney magistrates permit girls to marry is 15.
13. There is a similar concept in Greek culture, "idiotes" which also emphasises dependence on family and friends in social life. Disregard of one's social context, especially acting without support or failing to consider the consequences of one's action, is the mark of a stupid man. See Davis (1977).
14. The task of a magistrate at a committal hearing is to assess the evidence, not to determine its admissibility (although this may be a consideration in assessing the viability of the prosecution case), in order to decide whether the accused should be committed for trial. Because this was not understood the disputants felt cheated when they were not allowed to present the full story at the trial.
15. One way a man acquired political power in urban Lebanon was to demonstrate his personal fearlessness, sometimes by committing murder. If he got away with it he commanded a grudging respect. See Johnson (1977, 1978) on qabadayat.
16. One such occasion was the clash between two rival leftist organisations in a suburban street which involved about 150 combatants and spectator-supporters. It was sparked off when a member of one party made persistent advances towards the sister of a member of the rival party. See the Aboud case for details about the political context of this incident.
17. Hamdeh's bag was found lying on the footpath at the scene of the crime. However, no weapon was ever recovered.
18. Haj-Ismail v. Minister for Immigration and Ethnic Affairs, transcript no. G68 of 1981 (Federal Court of Australia, NSW District Registry, General Division).
19. The Syrian Socialist Nationalist Party, also known as the *Partie Populaire Syrienne* (PPS), advocates a non-sectarian socialist state of Greater Syria that incorporates Lebanon. Its recruitment of Arab immigrants in Sydney is only rivalled

- by that of the Lebanese World Cultural Union, a Maronite organisation founded in the early 1920s by Lebanese immigrants to the United States to promote the maintenance of a distinctive Lebanese culture amongst immigrant communities. For a history and ideological study of the SSNP see Zuwiyya-Yamak (1966).
20. This incident was widely publicised at the time in the Arabic and Australian press and helped in the mobilisation of public opinion against the growing threat of "Arab terrorism" in Australia. See "Iraq-Iran war leads to local Arab violence", The Bulletin (11 November 1980) and "Gulf war comes to Sydney suburbs", The Sydney Morning Herald (11 November 1980).
  21. Community leaders explain marriage practices, attitudes towards schooling, the calculation of honour etc. This increases their credibility with government officials as resource persons in the community and reinforces their status with community members as an influential person in the wider society.
  22. It is generally felt that sentences for homicide are far too lenient. Even those convicted receive very light sentences, perhaps only three or four years imprisonment with an early release on parole.
  23. The conflict over compensation emerged most poignantly in a case in which a ten-year-old Lebanese girl had died as a result of being knocked down by a car. Her father, a recent immigrant who spoke no English, attended the coroner's hearing with the expectation that the magistrate was going to award some kind of compensation. The coroner found there was no evidence of negligence on the driver's part and that the girl had died an accidental death. The father was both mystified and humiliated by the proceedings, in which he played no part although he had suffered an enormous personal loss. The police treated the matter as routine and it was processed in half an hour.
  24. For a discussion of the accommodation of the concept of diya in French civil law in Lebanon but not in British common law in Mandate Palestine, see Hardy (1963: p.67).
  25. In one case, a Lebanese father of three was seized at gunpoint by a bank robber who recently had been released from goal on parole. The robber, a Yugoslav immigrant, escaped with his hostage in a stolen police car. During the ensuing chase the police rammed the getaway car and shot the rob-

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ber, killing him. The hostage also was found shot to death, but the coroner's inquest found that he died at the hands of the robber and not as a result of the police shoot-out. But the Lebanese community felt the police had acted hastily and without regard to the welfare of the hostage. They alleged racism - after all, the police were only chasing two "wogs". See "Bank Robber and Hostage Died in Wild Police Chase", Sydney Morning Herald (18 November 1981); "Who Set This Killer Free?" Sunday Telegraph (19 November 1981). After considerable criticism in the press and the community the Premier awarded the widow and her three children A\$25,000.

26. The idea of a jury of twelve good citizens is foreign to Lebanese culture and law. In Lebanon, assertions must be validated by a person in a position to do so, such as a respected mediator or notary. Adjudication also should be the responsibility of respected and learned men, whose experience and reputation qualifies them for this task.
27. "Second order strategies" are those:  
'...through which the agent seeks to put himself in the right. ... (They are) strategies whose purpose is to give apparent satisfaction to the demands of the official rule, and thus to compound the satisfactions of enlightened self-interest with the advantage of ethical impeccability.' (Bourdieu, 1977: p.22)  
See Humphrey (1983) for further discussion of second order strategies in the dispute process.
28. Mograby (1981) makes this point in his discussion of the politics of Arab immigrants in Sydney.
29. Intermediaries act in many different capacities, wherever Lebanese feel uncertain about interacting with government officials. One area where intermediaries are prominent in nearly every non-English speaking ethnics community in Sydney is the application for a driver's license.

References:

- BOTTOMLEY, G. and De Lepervanche, M. (eds.)  
1984, Ethnicity, Class and Gender in Australia. Melbourne:  
George Allen and Unwin.
- BOURDIEU, Pierre  
1965, "The sentiment of honour in Kabyle society", in J.G.  
Peristiany (ed.) Honour and Shame: The Values of Mediter-

anean Society, pp.191-242. London: Weidenfeld and Nicholson.

DAVIS, John

1977, People of the Mediterranean: an Essay in Comparative Social Anthropology. London: Routledge and Kegan Paul.

GILSENAN, M.

1976, "Lying, honour and contradiction", in B. Kapferer (ed.), Transactions and Meaning. Philadelphia: Institute for the Study of Human Relations.

HARDY, M.J.L.

1963, Blood Feuds and the Payment of Blood Money in the Middle East. Beirut: The Catholic Press.

HUMPHREY, Michael

1982, "Disputes and law: a study of Lebanese Muslim immigrant communities in Sydney". Ph.D. Thesis, Anthropology, Macquarie University, Sydney.

1983, "Legal order in state societies: analysis of legal process through disputes", (unpublished paper).

1984, "Religion, law and family disputing in an immigrant community", in G. Bottomley (ed.), Ethnicity, Class and Gender in Australia. Melbourne: George Allen and Unwin.

JOHNSON, Michael

1977, "Political bosses and their gangs: zu'ama and qabadayat in the Sunni Muslim quarters of Beirut", in E. Gellner & J. Waterbury (eds.), Patrons and Clients in Mediterranean Societies, pp.207-224. London: Duckworth.

1978, "Factional politics in Lebanon: the case of the 'Islamic society of benevolent intentions' (Al-Maqasid) in Beirut". Middle East Studies 14: pp.56-75.

KHURI, Fuad

1970, "Parallel cousin marriage reconsidered: a Middle Eastern practice that nullifies the effects of marriage on the intensity of family relationships". Man 5: pp.597-618.

MOGRABY, Abdallah

1981, "The political behaviour of the Lebanese community in Sydney", in M. Humphrey and A. Mograby, Issues in Lebanese Migration, Proceedings of a seminar held at the Milperra (CAE). Sydney: Ethnic Affairs Commission.