CHAPTER 4

ARENAS OF JUDGEMENT:

An analysis of matrimonial cases brought before different types of courts in the Eastern Region of Ghana in the nineteen-thirties and nineteen-sixties.

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Conflict is a potential element in any system of social interaction - from a marriage, to a political party, to a nation-state, to the global situation. One of the most sophisticated analysts of social conflict, George Simmel, was interested in the effect of the numbers of parties involved on the way in which a conflict develops or is resolved. In his famous essay on the dyad and the triad, he discusses the implications of the introduction of a third party into a conflict:

> "A third mediating social element deprives conflicting claims of their affective qualities because it neutrally formulates and presents these claims to the two parties involved. Thus this circle that is fatal to all reconciliation is avoided: the vehemence of the one no longer provokes that of the other which in turn intensifies that of the first and so forth, until the whole relationship breaks down. Furthermore, because of the non-partisan each party to the conflict not only listens to more objective matters, but is also forced to put the issue in more objective terms than it would if it confronted the other without mediation. For now it is important for each to win over even the mediator" (1950: 147).

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Simmel, however, alsostressesthe potentiality of the third party for making the conflict worse. True impartiality is difficult to obtain -

> ".... where an already existing hostility urges each party to seek the favour of a third, the outcome of this competition - the fact that the third party joins one of the fight. Inversely, two elements may curry favour with a third independently of one another. If so, this very fact may be the reason for their hostility, for their becoming parties" (1950:155).

Do cultures differ in the way in which third parties are introduced into a conflict situation? I looking at Ghanaian society an initial, and perhaps superficial, impression might be that conflicts between individuals are brought before a third party for settlement earlier than similar conflicts in a s ciety such as the United States. To "put a matter before someone" or to "settle a case" seems to be much more a feature of everyday life in both rural a urban areas of Ghana than in American communities an neighbourhoods. Such procedures vary in formality. M.J. Field in her study of a community in the Akim area of Ghana describes some of these variations in the following passage:

> "When two people with a dispute take it to a big man, it is necessary, in the ordinary way, to call in enough additional elders to make a considerable bench. These have to receive thanking-rum for their trouble , witnesses have to be called and compensated for their time and trouble, and there is always fuss and a certain amount of publicit Meanwhile, the plaintiff has perhaps relente He may desire only the formal vindication of his honour or his friends may persuade the t parties that conciliation is the better part of litigation. An abbreviated form of hear is then available; in fact, there are five different kinds of curtailed hearing to choo from.

These in descending order of length are:

(1) The late Evening Hearing (Anadwosem di). The whole case must be heard and judgment delivered before retiring to rest that same night.

(2) The Sun Hearing (Awiasem di). The whole case must be heard and judgment delivered before sunset.

(3) The Eating Hearing (Didi ase asem). The whole case must be heard and judgment delivered within the time taken to eat a meal.

(4) The Bathroom Hearing (Edwaree sem di). The whole case must be heard and judgment delivered within the time necessary for taking a bath.

(5) The Latrine Hearing (Tiefi asem di). The whole case must be heard and judgment delivered within the time taken to go to the latrine and return" (1948 :127-8).

Can such a system of informal arbitration be combined with a system of codified law? This was one of the greatest problems in colonial administration and is a continuing problem as the governments of the independent states attempt to integrate the different systems of law within their countries. Perhaps Field was stating the case rather strongly when she mentioned in the study described above,

> "When the Government decides to give official recognition to any native institution, immediately this recognition is given the institution suffers a rapid degradation. This is not, of course, because there is anything degrading or unwholesome in Government influece as such, but simply because the institution is no longer dependent for its existence and prestige on the support of the people whom it serves, which support in turn depends on the quality of the service rendered ..... Among all the private courts I have attended I have never heard a case either handled in a manner I could not admire or judged unjustly or harshly. But in the registered tribunals I have frequently been ashamed to reflect that the proceedings could claim British sponsorship" (1948 :128-9).

M.J. Field was writing in the colonial period. What relevance might her comments have to the post-independence situation? One approach to some of these questions is an actual examination of cases brought before the various courts during both the colonial period and the period after independence. This paper is an attempt to look at some of these cases in a systematic way to see what hypotheses might be suggested regarding this combination of different methods of dispute settlement. Hopefully some of these hypotheses could then be tested in a comparative setting in other parts of Ghana or in other countries. The area of conflict will be confined to that of family disputes regarding male-female relationships, in other words, these are largely matrimonial conflicts but also include conflicts involving accusations of seduction of unmarried girls, breach of contract of marriage, settlement of debts between lovers, etc.

The geographical area chosen for this analysis in Ghana is the Akwapim state. This area is a mixture of Akan, Guan, Kyerepong and Akwamu ethnic groups, but the estate is organised along the Akan lines of a military confederation or Oman. The cases are taken from the records of the Tribunal in Akropong for the period October 1930 - October 1931; the District Commissioner's Court at Mampong from January 1932 to December 1932; the Local Court at Akropong from January to December 1960. Cases were also taken from the Divisional Court for the Eastern Region for 1930 and the High Court in the Eastern Region for 1960. Since the churches have played such an important role in informal arbitration, an attempt was made to get a few scattered cases from the Session Records in the Akwapim area and those cases which were recorded in English were used from a time period of 1940 to 1949.

The use of these cases involves several kinds of comparisons. First a comparison between time periods which are approximately a generation apart; second, a comparison between different types of courts in one local area - a Paramount Chief's Tribunal, a church court and a colonial court; third, a comparison between local courts and higher, urban courts for both time periods.

The choice of the time periods was in some ways

arbitrary depending on the availability of the case materials. The thirties was an interesting period, however, because this was not long after the passing of the Native Administration Ordinance (1927) which was a controversial measure - particularly as it affected the court system, with many of the younger educated men fearing that it put too much power in the hands of the Paramount Chiefs. The year nineteen sixty was three years after independence and this also reflected a basic change in the court system, particularly in the Eastern Region when the Local Courts Act (1959) came into effect, changing the native courts which were manned by a panel of three into a local court presided over by a District Magistrate. The distribution of types of matrimonial cases heard in these various courts is shown in Table I.

What are some of the questions that can be directed towards this data? First of all, one might ask to what extent other forms of dispute settlement are mentioned in the cases. There is more reference to this in the tribunal records and in the local court records. Table II gives a more detailed picture of the extent to which such other forms of hearings were mentioned and the sequence in which they were utilized.

At different periods, these "courts" represented different spheres of authority. One differentiating factor which was probably more important in the thirties than it is today was the difference between Christians and non-Christians. This distinction often paralelled the difference between literate and illiterate. One could hypothesize that both groups had more cohesion and their leaders had more power over their respective followers in the thirties than in the sixties. The High Courts or Divisional Courts (as they were called in the thirties) dealt with matrimonial cases arising out of marriages contracted under the Ordinance, modelled very much along British lines. The Chief's Tribunals or Local Courts dealt with matrimonial cases arising out of marriages contracted under customary law. The District Commissioner's courts in the thirties dealt with some appeal cases from Native Tribunals, although there were some attempts to use these courts as courts of first instance, particularly by

"strangers" or, in some cases, by women who felt they might have a better chance of having their case heard if they were not in a Tribunal. The inter-play back and forth between these courts was considerable, however, as Table II shows. This Table, of course, only refers to the kinds of courts or arbitrations mentioned in the testimonies. There may have been many more unmentioned. There was also, at times, an overlapping of personnel among the different courts. Occasionally a minister or head man of some stranger group sat on a Chief's Tribunal. Interpreters or representatives of chiefs might be utilized by the District Commissioner. Church Sessions also had members of the royal family present in some cases.

Conflict over spheres of authority

One of the topics we will examine in more detail is the nature of the conflicts that were likely to arise among these different realms of authority. One illustration of this is the conflict among the missions, the chief's Tribunals and in some cases the courts of a fetish presided over by a priest or priestess regarding their capacity to hear certain types of cases.' Another example is the ambiguity over what constitutes a valid marriage, particularly where there are several different bases for validation, such as the families, the church and the court. The criterion on which adultery fees are assessed is another sphere in which membership in a variety of groups can give rise to conflicting claims, for instance does one's occupational or religious status begin to take precedence over one's traditional status?

The missions, particularly in this part of Ghana, played an important role in the process of informal arbitration. A contemporary writer from Ashanti expresses the continuing role of the churches in this area:

"Ashantis detest exposing their private quarrels to the public view and therefore always try to settle their disputes by arbitration. Arbitration may take several forms. Arbitration by a member of the family may be used to redress a minor complaint. The head of the clan and two other independent members of the community may arbitrate over a serious complaint.

Where a dispute involves members of two or more clan units the arbitrating panel may be made up of the village chief and his elders. Recently, with Christianity entering the communal life, the Priest or the local Catechist plays a leading role in settling disputes. He is, in fact, taking the place of the village god or goddess whose priest was looked upon as a medium for compassion when all other members have failed to appease an offended party" (Tufuo and Donkor, 1969:68-9).

Some British authorities had expressed concern at the role of the church in hearing disputes in the 1940s. The District Commissioner at Mampong in 1930 sent a memorandum to the Commissioner of the Eastern Province describing the role of the churches in settling disputes in Akwapim and expressing his alarm at what he thought this was doing to undermine respect for the chiefs. He made a distinction between informal arbitration which he terms nkrobo where fees are not usually charged, and a more formal system of settlement in which hearing fees are charged as well as fines. He sees the nkrobo system as helpful, but he felt the churches were moving beyond this and that part of the reason was that,

> "It is generally admitted that the Christian is reluctant to go before the Chief's Tribunal. He often gets a fairer "trial" and always a cheaper one if he can persuade the local mission "heads" to arbitrate for him."1

How is this conflict between the churches and the official courts illustrated in some of the cases? In one of the cases before the 1930 Tribunal, the question was raised as to whether or not the woman was the legal wife of the Plaintiff. The Defendant was arguing that she wasn't. He admitted that the Plaintiff had done part of the marriage custom, but not all. Furthermore, the Plaintiff had promised to perform part of the custom with the Christians as witnesses and this he had refused to do. The woman's uncle, who had accepted the earlier drinks, had made that a stipulation of the marriage. The Plaintiff had not gone before the Christians and this was seen as further evidence by the Defendant that the marriage was not a valid one.

Towards the end of the case when the uncle was being questioned by the Tribunal, the following exchange took place:

> Q. In case of Christian marriage, how are the head drinks to be sent?
>
> A. A messenger of the Christians should accompany the drinks to the receiver.
>
> Q. If marriage is offered in the native customary way and is not performed before the Christian Elders is that clan (sic) become void because the Christians didn't interfere?
>
> A. No society law can make a marriage according to custom void ....
>
> Q. If the Christian marriage is to be performed, is it to be done before the minister or the father of the woman?
>
> A. Before the father of the woman.[2]

In an interview with a chief in the Akwapim area in 1969, I got the same reference to church law as "society law", that is "The church is a society, so that when you marry in church, you have to abide by the society's rules. The Akan one is the customary law."

The idea that the customary marriage is the basic one and Christian marriage an additional and optional form would seem a fairly obvious impression, but from some sources one gets the idea that the initial impact of Christian marriage - at the time the Ordinance was enacted in 1884 - was to create conditions for an alternative to customary marriage, a marriage that could be considered valid without the family's consent. Therefore, the role of the church became doubly important as a kind of surrogate family. A couple of informants stressed to me in 1969 the importance of the church elders as witnesses to the ceremony so that later if there were conflicts in the marriage, the couple would know to whom to turn. Another informant stressed that in the traditional ceremony, there were people specifically assigned this role - to act as a

kind of counsellor in case of difficulties. The power of the church to hear marital disputes thus took on a kind of quasi-legal aspect.

Another specific point of contention between the churches and the Tribunals was in the scale of fees set for pacification or satisfaction for seduction. The District Commissioner had criticised this in his memorandum mentioned earlier:

> "In some cases missions have fixed seduction and adultery fees, etc. not only as between members of the mission but involving non-Christians, thus a case recently came before my court on appeal where a Native Tribunal had awarded against a "pagan" an adultery fee in excess of that which is customary because the woman's "husband" (not by Christian marriage, however) was a Christian and the Christian rate is laid down (by the Mission) to be a definite sum. I reduced the fee to the customary rate."3

From the case before the Tribunal there was a similar situation where the Plaintiff felt that he had not been given the correct amount as an adultery fee. He was claiming £5 as a Christian. After an arbitration, the Defendant had sent him £14. The Defendant felt that the Plaintiff had not given the proper explanation as to why this was not the appropriate adultery fee. He had said he was a road overseer to the government and thus entitled to more. He took his case to the District Commissioner at Mampong who turned his over to the Omanhene. The Tribunal reached a compromise saying that,

> "the Plaintiff did not sue the Defendant in a proper way and the Defendant too did not send to the Plaintiff the reasonable amount."

The decision was that,

> "the Plaintiff, likewise, the Defendant, should make their costs and share among themselves. Each party to pay 10/- as rum for the Tribunal. The Defendant is to pay £28 as adultery fee to Plaintiff".4

This latter fee was the fee generally regarded as appropriate for a commoner or a stranger to be paid. Thus the compromise recognized neither the Plaintiff's Christian status nor his occupational status.

One could see why Christians might have preferred to keep their cases within the church community where the higher assessments would be acceptable. However, session minutes recorded for an Akwapim church in 1940 gave the case of a Christian who was assessed £5 adultery fee by another Christian. The husband had first taken the case to the Tribunal and the church fined him 10/- for taking a congregational case to the Tribunal. Here again the overlapping of jurisdictions is illustrated.

There is one case which illustrates a number of these problems. The case, which involved the accusation of seduction by the guardian of a school girl against a teacher, was first heard before the church authorities who decided in favour of the teacher. The guardian then took his case before the Tribunal which decided in his favour. The defendant then appealed to the District Commissioner who commented:

> "There is, of course, no reason whatsoever to prevent an aggrieved party, dissatisfied with the decision of the Church authorities, taking the matter before the Tribunal, since the Church authorities can only hold an arbitration, the decision in which has no legal binding effect on both parties. At the same time Plaintiff/Respondent himself took the matter before the Church authorities, but evidently he was not prepared to accept an adverse decision, and he gave no satisfactory explanation to the Court as to why he did not go direct to the Tribunal, especially in view of the amount of the damages he was claiming."5

The District Commissioner added in conclusion:

> "The Plaintiff/Respondent first saw fit to take the case to the Church authorities who, he must have known, had no power to award large sums in damages or to enforce any award, and that he, therefore, could not

> have then treated it with the same importance or seriousness as he appears to have done when taking it to the Tribunal and claiming £50 damages "

The District Commissioner, however upheld the Tribunal's decision, although the amount of the award was reduced. The Defendant, appealed still further to the Divisional Court in Accra and this time won, but largely because English law was invoked The Plaintiff's lawyer argued, to no avail, that "the case was not being brought as in England for seduction and the Plaintiff is entitled to recover damages whether there had been confinement or not".6 He quoted Sarbah's Fanti Customary Laws to support his contention

This illustrates the major weakness of arbitration - the need for agreement to abide by the decision When there is no agreement, then there is recourse to some agency which has more public force behind it. This is further illustrated by another case which was heard before a church session - also an accusation of seduction. When the teacher denied it, the Plaintiff secured a court summons to the Tribunal. The teacher then agreed to the charges.

To return to the earlier question of the combining of traditional methods of arbitration with a codified system of law, it seems that in Akwapim, at least, the church played a significant role as a mediating element between the old and the new. One could argue that the Basel or Presbyterian church organization was peculiarly suited for the hearing of disputes with the session or elders headed by a pastor, paralelling in some respects the traditional organization. I even heard reference to the recorder of the session as an okyeame or linguist. One recording of session minutes had an interesting written slip - where one elder made reference to the matter before the court. Court was then crossed out and session written in. The mission heads, as well as chiefs and District Commissioners were concerned about this development. One might hypothesize that in the process of social change one of the first steps maintains the traditional patterns of behaviour, but the personnel and the method of their recruitment changes. This in itself produces a

potential for changes in the patterns themselves.

Trends over Time

The previous examples have illustrated the overlapping jurisdiction among different kinds of courts during the colonial period. What are some of the trends that could be traced over time between the colonial period and the post-independence period? What might the role of the church have been as a transitional force in some of these changes?

First, we might look at some of the changes revealed in the Tables. One change that can be noticed in the local courts is the increasing number of cases arising outside of or prior to a valid marriage (see Table 1). In the higher courts, there are an increasing number of divorces under the Ordinance as compared to the proportion of the population marrying under the Ordinance.[7] This would tend to support the contention that marriages are less stable now than a generation ago - a statement that is often expressed, but which is difficult to document. Another interesting difference in the local courts is in the proportion of cases, initiated by a woman or her family as compared to those initiated by a man or his family. In 1930, 4 out of 35 cases were brought by women or their representatives; in 1960 the proportion was 35 out of 46 - almost an exact reversal.

In the higher courts, another interesting change can be noted in the status of the wives involved in divorce actions. The 1930 cases reveal that few of the wives had jobs of their own, whereas almost all of the 1960 cases involved working wives. This might reflect an earlier tendency for wives married under the Ordinance to emulate what was seen as the European ideal of full-time housewife, economically dependent on the husband. Ordinance marriages, of course, occur only among a small proportion of the population. From other sporadic impressions, however, it seems that one could question that increasing education of women leads to an increased trend towards a conjugal type of marriage. It might have the opposite effect in that it increases the wife's basis for economic independence. One woman expressed this to me in the following way, referring to her aunt who had been married to her husband under the Ordinance in the 1920s and had gone with

him to all of his stations. The younger woman felt that there was a difference in her own generation. She had also been married under the Ordinance, but was now living apart from her husband, mostly because the jobs open to both of them were in different parts of the country.

What role might the churches have played in some of these changes? One could argue that the missions had the effect of actually secularising some of the customs and sanctions associated with marriage and marital and sexual offences. One of these was the effect of emphasizing money rather than the wine or sheep that traditionally might have been used in exchange and in pacification and satisfaction. For example, in the 1929 Regulations of the Presbyterian Church of the Gold Coast, the following rule is set down for engagements. "No intoxicating spirit must be given or shared at the proposal for engagement, but if custom requires a present of money may be given."[8] It is doubtful that such a regulation could have been enforced, but the emphasis is there. One Akwapim chief stressed to me that it was the wine given after the engagement - the ti-nsa - which makes the marriage "legal". He compared it to a kind of blessing of the marriage through a libation to the ancestors. One could guess that if there was an emphasis on money rather than drink, that some of the supernatural sanctions associated with the drink would be lost.

Another area where the churches seem to have laid an increased emphasis was on the damages assessed for the seduction of an unmarried girl or a virgin as compared to a wife. The 1918 Synod minutes of the Presbyterian Church made the following assessments:[9]

Seduction of a man's wife	£5 to the husband
Seduction of a virgin	£12
Seduction of a girl who has once fallen or delivered	£8
Seduction of a fallen girl not yet admitted to Church membership	£5
Seduction of a virgin by a married man	£12

According to Sarbah, there was traditional precedent

for collecting damages for the shame brought to the family due to the seduction of their daughter, but if one looks at the cases before the Chief's Tribunal in 1930-31 all cases of seduction involve wives. By 1960, the emphasis had shifted to seduction of unmarried women, particularly school girls.

Twenty years later, when the seduction fees for virgins had risen to £20, one Ghanaian minister complained that these "did not help to lessen the offence, but in most cases, it had brought heavy debts on the parents of the offenders. It would, therefore, be better to have the seduction fees reduced." The Synod finally "decided that such a reduction could not be made; but if the offender begged the offended for a reduction and the latter agreed, a reduction could be made. That, however, does not in any way affect the standing rule." (Here again, one can see the difficulties of combining a principle of arbitration within the context of a rigid code).

One could raise the question as to whether or not this emphasis on penalties for seduction of unmarried women, particularly school girls, did not lead to an increased emphasis on the blood tie or tie to the lineage as opposed to the conjugal tie - again rather the opposite of what the church would seem to desire. Part of this may have resulted from the desire of the church to discourage polygamy as a number of the men charged were already married or engaged. But in cases where they were not, the practice may have increased the bargaining position of the girl's family - not only would the man have to pay pacification or satisfaction fees, but the remaining expenses associated with the marriage. Both these tendencies then discouraged marriage in such a situation and threw the girls back onto their own families.

Some church leaders have begun to realize some of the "unanticipated consequences" of some of the actions of the early missions, and I would like to close this section by looking at one of the more creative approaches of the churches to some of these problems. Over the past few years, the Christian Council has been training individuals to act as counsellors in family problems. These individuals participate in a training programme which might last around two weeks and would include some of the following concerns - medical aspects of marriage, child-rearing, budgeting in a family,

reports from workers in the Department of Social Welfare, as well as some of the more psychological and sociological aspects of marriage counselling and the more religious orientation one would expect. In 1969, there were nearly three hundred who had participated in one of these courses. The following data comes from a questionnaire administered to them by mail. There were only sixty five replies, so it it in no way representative, but it is relevant to some of the topics discussed earlier in this paper and might suggest further lines of enquiry.

The conflict situation described in the questionnaire, to which the Advisers were to respond, was worded in the following way:

With the experience you have had as a Family Adviser, how would you deal with the following case?

A man and his wife are always quarrelling. He works in a Post Office and his wife is a trader. He says that she is too greedy for money; and she says he never stays in the house. The man has gone on transfer to another town and the wife refused to go with him. She takes their two children and goes home to her mother. The man has met another woman in the new town. She is not married and agrees to cater for him and eventually becomes his concubine. When this second woman becomes pregnant, the man says he can no longer support her. She comes to you for advise. What do you think is the best solution in this case?

The accompanying table shows the variety of agencies the members would call upon in trying to settle this case and the order in which they were suggested (see Table III). When an attempt was made to correlate this with ethnic group, there seemed to be a greater tendency among the Akan to involve the family. The Ewe were scattered among the various groups. There does seem to be a strong tendency still to rely on intermediate methods and arbitration before submitting the case to a public agency. One man even stressed; "The second woman should work to support her child and avoid publicity by refraining from going to court." Perhaps a more typical response was the following; "The man must be made to face the consequence of his action squarely through settlement

before a Family Adviser, a pastor, or responsible relatives of the two. All that failing the man must be made to face court action to compensate the woman and maintain her child when born. The man has himself to blame if the last course was taken as he could not bear the language of amicable settlement."

Possibilities for the effective integration of traditional arbitration techniques into a statutory legal system

The challenge still remains - how can the particular skills for arbitration and mediation, which have been noted by a number of observers in Africa, be integrated into a modern legal system? This is a particularly acute challenge in the area of matrimonial conflicts. Would it be possible for a division of labour to develop in which marital cases could be heard by a variety of agencies or groups - then the State could be called in primarily in an enforcement capacity? Such a prodecure already seems to have developed to some extent in the lower courts where the courts have been called upon to enforce arbitration awards. The process of bringing the case to court, however, is time-consuming and costly and one wonders if there might not be a more automatic way of referring defaulters to a State authority. Some suggestions have been made regarding the Maintenance of Children Act that in cases where there is no compliance with the recommendations of the Conciliation Committee, that they automatically be sent to the Court by the Department rather than leaving it to the initiative of the woman to do this on her own. In this way the integration would take place more on the procedural level than the substantive. For example, in a divorce case before a local court in 1960, the magistrate mentions that there had been an "assembly" to settle the divorce and it had been done by the "usual customary procedure" yet he also makes reference to Section 124 of Local Court Procedure Regulations, 1959, on a point referring to the Court's power in this respect. As one magistrate pointed out to me, he could not carry out a customary divorce - that had to be done by the families - but he could order that such a procedure take place and could then enforce the decision. Here it seems that a kind of division of labour has emerged in which the customary arbitration for divorce is preserved, yet it is the government court which can order the arbitration to take place and can enforce the

findings. If, however, the government should codify the grounds for customary divorce, then the basis for arbitration might be lost. Many of the local magistrates are sensitive to some of these issues. In several cases before the local court in 1960, the District Magistrate referred the case back to the family or to a headman or sub-chief for arbitration, or where it looked as if the case had originated in the government court, the desire on the part of the Magistrate seemed to be that it should first be discussed outside the court.

One would hope that many of the traditional Akan skills of arbitration would not be lost in the bureaucratization that is a part of the modernization process. In family law in the West there is an increasing tendency to look more to the techniques of compromise rather than pitting one adversary against the other in matrimonial cases as is seen, for example, in some of the changing divorce codes where the breakdown of the marriage, rather than the blame of one partner or the other is stressed. Speaking in a more general sense, Bohannan has commented that:

> Western judges have lost and are just regaining their rights to compromise within the framework of the adversary procedure. Other societies, such as some of those in Africa, are only beginning to adopt a "decision" procedure in place of or in addition to a compromise procedure (19 : 55).

The study of the possible combinations of these systems cannot only have practical implications but can enrich the sociology of conflict with a distinctively African contribution.

TABLE I
TYPES OF MATRIMONIAL CASES
BROUGHT BEFORE DIFFERENT COURTS

Nature of the Case	Types of Courts* TRIB (1930-31)	D.C. (1932)	DIV (1930)	CHURCH (1940-49)	D.M. (1960)	HIGH (1960)
A. Cases arising outside of or prior to a valid marriage						
1. Seduction of an unmarried girl	0	1	0	2	5	0
2. Claim for return of money spent on pregnancy	0	0	0	0	2	0
3. Claim for maintenance for pregnancy	0	0	0	0	2	0
4. Breach of contract for marriage	0	0	0	0	8	1
5. Order for marriage to take place	0	0	0	0	1	0
6. Caveat against Ordinance marriage taking place	0	0	0	0	0	1
7. Damages for slander vs. lover	0	0	0	0	1	0
8. Claim that woman is not man's legal wife.	0	1	0	0	0	0
9. Claim for debt between lovers	1	0	0	0	2	0
10. Accusation of having sexual relations in the bush	$\frac{1}{2}$	$\frac{0}{1}$	$\frac{0}{0}$	$\frac{0}{2}$	$\frac{0}{20}$	$\frac{0}{2}$

B. (cont. next page

*TRIB refer to cases taken from the Court Record book of the Native Tribunal of the Omanhene of Akuapem in 1930-31 (Oct.3,1930 to Oct.23, 1931)

D.C. refers to cases taken from the Court Record book for the Supreme Court of the Gold Coast colony, Eastern Province held at Mampong from Jan.1, 1932 to Dec. 29, 1932.

DIV. refers to cases brought before the Divisional Court held at Victoriasborg Accra for a one year period in 1930.

CHURCH refers to the cases written in English from a Session Record book for one congregation in Akwapim from 1940-49.

D.M. refers to cases taken from the Court Record book of the Local Court at Akropong, Akwapim, 1960.

HIGH refers to cases brought before the High Court in Accra for a twelve month period (1960)before two judges sitting consecutively. There were a/few other cases for 1960 scattered through other record books.

TABLE I (Cont.)

Nature of the Case	Types of Courts TRIB	D.C.	DIV.	CHURCH	D.M.	HIGH
B. Cases arising with a valid marriage excluding divorce						
1. Claim for adultery fees or damages for seduction of wife	14	2	0	1	2	0
2. Claims against accomplices in seduction of wife	6	0	0	0	0	0
3. Claims for interfering with wife, but not to point of seduction	1	1	0	0	0	0
4. Claim for maintenance by wife for self and children	0	0	0	0	11	1
5. Incest	0	0	0	0	1	0
	21	3	0	1	14	1
C. Suits for divorce or cases arising from dissolution of marriage						
1. Divorce	1	0	5	1	4	32
2. Claim for return of dowry	4	0	0	0	1	0
3. Claim for custody of children	1	0	0	0	1	1
4. Claim for recovery of property from spouse	0	0	0	0	2	1
5. Suit against resumption of marital relations with divorced spouse	1	0	0	0	0	0
6. Cancellation of divorce	0	0	0	0	1	0
	7	0	5	1	8	35
D. Miscellaneous						
1. Claim for payment for an arbitration award or court award in a matrimonial case	2	0	0	0	3	0
2. Damages for slander or interference arising from a dispute between a man and woman	3	0	0	0	1	0
	5	0	0	0	4	0

TABLE II

CASES IN WHICH OTHER COURTS ARE MENTIONED AND THE SEQUENCE IN WHICH CASE WAS HEARD

Court in which Case was recorded and the nature of the case	Type of other court mentioned*							
	ARB	FAM	HEAD	TRIB	FETISH	CHURCH	D.C.	D.M.	DIV
1. Tribunal of Omanhene of Akwapim 1930-31									
A. Recovery of debt between lovers				2			1		
B. Recovery of adultery fees									
1.		1		2					
2.		1,2		3					
3.		1		2					
4.		1		2					
5.	1			3					2
6.	1			2					
7.		3	1,2	4					
8.	1			2					
9.				2			1		
10.	1,2			3					
11.				2	1				
12.			1	2					
C. Claim against accomplices in seduction									
1.	1			2					
	1			2					
	1			2					
D. (Cont. next page)									

*In the above table, the abbreviations stand for the following types of courts:

ARB - Some form of arbitration is mentioned, but no indication i given of the status of the people hearing the case.

FAM - The arbitration was held before the family head, a father, or uncle

HEAD- The case was heard before an Odikro, a Mankrado, or some sub-chief

TRIB- The case was heard before the Tribunal of the Omanhene

FETISH- The case was heard before a priest or priestess

CHURCH- The case was heard before a pastor and his presbyters

D.C. - The Case went before the court of the District Commissi

D.M. - The case went before the District Magistrate's Court (c heard in 1960)

DIV - The case went to the Divisional Court (1930) or the Hig Court (1960)

TABLE II (Cont.)

Court in which case was recorded and nature of case	Type of Other Court Mentioned							
	ARB	FAM	HEAD	TRIB	FETISH	CHURCH	D.C.	D.M. DIV
D. Claim for interference with wife, but not seduction	2	1		3				
E. Divorce		1		3			2	
F. Return of dowry			1	2				
G. Custody of child		1	3	4	2			
H. Suit against resumption of marital relations			1	2				
I. Claim for payment of arbitration award	1			2				
			1	2				
J. Interference in a case			1	2				
II. Local Court of the District Magistrate of Akropong, Akwapim 1960								
A. Seduction of unmarried girl	2							1
		1						2
B. Claim for return of money spent on pregnancy			1					2
C. Breach of contract of marriage								
1.		1						2
2.		1						2
3.		1						2
D. Order for marriage to take place	1							2
E. Damages for slander vs. lover			1					2
F. Claim for debt between lovers		1						2
		1						2
G. Adultery fees	1							2
	1							2
H. Maintenance	2							1
2.	2							1
3.			2					1
I. Incest				1				2
J. Recovery of property between spouses	2	1						3
K. Payment of arbitration award	1	3						2
	1							2
		1						2
		1						2

TABLE II (Cont.)

		ARB	FAN	HEAD	TRIB	FETISH	CHURCH	D.C.	D.M.	DIV
III.	D.C.'s Court Mampong, 1932									
A.	Adultery fees			1				2		
B.	Claims for interference with wife but not seduction			1 1				2 2		
C.	Claim to show reason why Deft. says girl is his wife		1	2				3		
D.	Seduction of an unmarried girl			2		1		3		4
IV.	Division Court Accra 1930									
A.	Divorce					1,2				3
V.	High Court Accra 1960									
A.	Divorce									
	1.	1								2
	2.	1								2
	3.	1								2
	4.					1				2
B.	Custody								1	2
C.	Breach of promise to marry under Ordinance		1							2
D.	Claim for send-off from customary divorce			1					2	3
E.	Caveat against Ordinance marriage	1								2
VI.	Session Records - Akwapim 1940-49									
A.	Adultery fee			1		2				
B.	Seduction of unmarried girl		1	3		2				
C.	Divorce		1			2				

TABLE III

AGENCIES OF HELP SUGGESTED BY FAMILY ADVISERS IN THE ORDER MENTIONED

	Ethnic Group of Family Adviser	No agency suggested other than adviser	Family Adviser	Friend	Family	Pastor	Elders	Soc. Welfare	Court
I.	Akan		1	2	3				
				1				2	
			1	2			3	4	
					2	1		3	4
					1				
					1			2	3
					1				
			1		2				
					1			2	
					1			2	
			1					2	
			1		2				
			1				2		
			1						2
			1					2	
	15								
	16	16							
	31								
II.	Ewe		2		1				
					1			2	
			1		2				
						1			
						2	1	3	
			1					2	
	6								
	10	10							
	16								
III.	Ga-Adangbe		1		3	2			
	2								
	6	6	1		2				
	8								
IV.	Guan		2		1				
	2								
	0	0	1		2				
	2								
V.	Northern and Upper Region							1	2
	2							1	2
	0								
	2								
VI.	Other								
	1								
	5				1				
	6								

Records Cited

1. Secretary for Native Affairs, 1072 Case No. 41/1930, "Ecclesiastical Courts".

2. Records from the Tribunal of the Omanhene of Akwapim, 1930.

3. Secretary for Native Affairs, 1012, op. cit.

4. Records from the Tribunal of the Omanhene of Akwapim, 1930-31.

5. A DM 33/4/88. Records from the Supreme Court of the Gold Coast Colony, Eastern Province, held at Mampong on October 7, 1952, before Sutherland Assistant District Commissioner.

6. In the Supreme Court of the Gold Coast Colony, E.P. held at Victoriaborg on Friday, February 10, 1933 before His Lordship, Sir Deane.

7. According to data from the Registrar-General's Office in 1935 there were 399 marriages under the Ordinance; in 1967, there were 494. The population figures for 1930 and 1960 according to census figures were 3,163,568 and 6,727,000 respectively, so it would appear that the proportion of those marrying under the Ordinance has decreased.

8. Presbyterian Church of the Gold Coast, Regulations, Practice and Procedure (Revised 1929) Walker and Son, Ltd., Scotland, Sect. 184.

9. The Minutes of the Synod at Akropong Church, 14th August, 1918, p.5.

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