

# State Legal Institutions and Amicable Settlement in the Rural Philippines

KIT G. MACHADO\*

*A thorough investigation of personal disputes filed with the Batangas' Municipal Courts and Court of First Instance illustrated how and where the Philippine state legal institutions fit into the broader patterns of dispute-processing in rural Philippines. The examination revealed the low reliance on state adjudication and the strong dependence on "amicable settlement" in dispute-processing even among the most serious cases. Factors influencing dispute-processing were identified, i.e., (1) the feature of the community where the dispute took place; (2) the interests and behavior of its politicians and local officials; (3) the costs and likely outcome of alternative means of dispute-processing; and (4) the intentions, prior relationships and comparative resources of disputants.*

Personal disputes among Filipinos, whether trivial or grave, are most commonly processed<sup>1</sup> through "amicable settlement."<sup>2</sup> Many disputes, however, enter the legal system as criminal cases first and state legal proceedings are frequently part of the

"settlement" process. A useful starting point for determining how and where Philippine state legal institutions fit into broader patterns of dispute-processing in rural society is the examination of how courts are actually used and how court usage and "amicable settlement" are related. In treating this here, I will show the extent to which alternative means of processing disputes are used and elaborate on one of the several factors explaining this, the intentions of disputants. I will also attempt to indicate the extent to which changes in the political/legal order following the imposition of martial law in 1972 have affected these matters.<sup>3</sup> Answers to these questions are among the prerequisites to understanding the role, operation, and development of Philippine state legal institutions.

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\*Professor, Department of Political Science, California State University at Northridge, California.

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<sup>1</sup>I prefer to use the term dispute-processing rather than the more common designations — dispute-settlement or dispute-resolution. The latter terms imply outcomes that may or may not result from efforts to deal with disputes. For an explication of this point, see William L. F. Felstiner, "Influences of Social Organization on Dispute Processing," *Law And Society Review*, Vol. IX (Fall 1974), note 1, p. 63.

<sup>2</sup>As this term is common usage in the Philippines, it is used throughout. It is in quotes to remind the reader that this pattern of dispute-processing may or may not be "amicable" and that it may or may not result in "settlement." The Spanish term *arreglo* (arrangement) is used interchangeably with "amicable settlement" by Filipinos.

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<sup>3</sup>For analyses of political developments since 1972, see: David Wurfel, "Martial Law in the Philippines: The Methods of Regime Survival," *Pacific Affairs*, Vol. L (Spring 1977), pp. 5-30; and David Rosenberg, ed., *Marcos and Martial Law in the Philippines* (Ithaca: Cornell University Press, 1979).

My research was done in 1975-1976 in Batangas province. I collected data primarily on personal disputes that did result or might have resulted in criminal cases. I observed court proceedings; conducted a survey of presiding judges; interviewed retired judges, police chiefs, fiscals, court clerks, interpreters, lawyers, barrio leaders, and present and retired politicians about both present and past dispute-processing patterns; interviewed disputants and others involved in the details of specific disputes and why they were processed in the way they were; and collected documentary and quantitative data on the nature and disposition of criminal cases over time in a number of courts.

Batangas is a province of approximately one million persons in the southern Tagalog region of Luzon.<sup>4</sup> It is very much within the orbit of Manila, the country's political and economic center. It stands above provincial means on such indicators of "modernity" as literacy, work force in non-agricultural occupations, and motor vehicles per capita. Agriculture and fishing combined, with nearly half the work force, constitute the single largest economic activity. Concentration of landownership is comparatively high. Batangas is more diversified economically than the average province. There are many medium and small business and commercial enterprises in the province, and almost a third of the work force is engaged in manufacturing, crafts, and sales.

<sup>4</sup>Data on Batangas from Republic of the Philippines, National Census and Statistics Office, *1970 Census of Population and Housing: Batangas and Manila*. For other details on the province and its history and politics, see my "Leadership and Organization in Philippine Local Politics," (Ph.D. dissertation, Political Science, University of Washington, 1972).

The province's characteristics are reflected in legal activity. For example, cases based on commercial disputes and motor vehicle accidents are more common in Batangas than in less "modern" provinces. Similarly, cases rooted in agrarian disputes are more common than in provinces with lower tenancy rates. Batanguenos have somewhat better access to legal services than persons living farther from Manila, as many Batangas lawyers practice in the metropolitan area but are also available to take cases in the province. While legal activity in Batangas cannot be regarded as typical of that in the rural Philippines as a whole, it is probably fairly representative of that in other more "modern" areas.

### The Philippine Legal System

The Philippines is a unitary state divided into 71 provinces and 61 chartered cities.<sup>5</sup> Provinces are divided into municipalities, of which there are nearly 1,500. In rural areas, municipalities and chartered cities include both a poblacion and its surrounding barrios. At the national level, there is a Supreme Court, and a Court of Appeals in Manila. Local courts are Courts of First Instance (CFI), City Courts, and Municipal Courts. These have been under the administrative supervision of the Supreme Court since 1973.<sup>6</sup>

<sup>5</sup>Unless otherwise indicated, figures given for units of administration, number of courts, etc., refer to the situation in the early 1970s.

<sup>6</sup>On the organization of the Philippine Courts, see The Judiciary Act of 1948, Republic Act No. 296, as amended up to June 1971, with Allied Special Laws (Manila: Central Book Supply, Inc., 1971). Administrative powers over local courts were transferred from the Department of Justice to the Supreme Court on May 7, 1973 under Presidential Decree No. 185.

Local courts are widespread in rural areas. There is at least one CFI in every province, but most provinces have several branches. There are 355 CFI branches throughout the country. There is one City Court, also sometimes with several branches, in every chartered city. At the bottom of the judicial hierarchy, there was until 1978, one court in every municipality, no matter how small or remote. Municipal Courts were circuitized by a presidential decree in the latter year, giving some of them jurisdiction over two or more municipalities.<sup>7</sup> Their total number was thereby reduced from nearly 1,500 to just over 900.

All but minor criminal cases occurring in municipalities are disposed off by a CFI.<sup>8</sup> Municipal Courts have very limited criminal jurisdiction and try only petty cases, but they play a central role in the legal system, because criminal cases normally begin there. Municipal judges conduct preliminary investigations of criminal complaints and determine whether there is a *prima facie* case that would warrant its referral to the CFI for disposition. A criminal complaint may be filed directly with the CFI if it falls under that court's jurisdiction, but this very rarely happens. City Courts have broader criminal jurisdiction than Municipal Courts. Cases falling beyond their jurisdiction are not the subject of preliminary investigation at this level but are filed directly with the CFI.

There is a Fiscal's Office in every province and chartered city. Fiscals

come under the administrative supervision of the Department of Justice. If a municipal judge forwards a case to the CFI for disposition, the provincial fiscal decides whether or not to prosecute.<sup>9</sup> Municipal police chiefs commonly act as prosecutors in cases brought before Municipal Courts. They also decide what charges are to be the subject of preliminary investigation by a municipal judge. Any complaining party may hire a private attorney to handle prosecution, although the latter is formally under the supervision of the fiscal when acting in this capacity.

Before martial law, judges and fiscals owed their appointment to politicians. Municipal judges were most often thus indebted to the Congressman from their home district and CFI judges and fiscals to political leaders at higher levels. After 1972, all were directly beholden to President Marcos for their continuation in office. In 1975-1976, however, most local judges were still the ones appointed before martial law. Court of First Instance judges may not preside in their home provinces but Municipal judges may and normally do, although only a minority preside in their home municipalities. Judges usually come from political families and many were themselves active in politics prior to their appointments. Before martial law, police chiefs and policemen were appointed by the elected municipal mayor. Since martial law, however, mayors have been appointed by the President.<sup>10</sup> On

<sup>7</sup>Circuitization took place under Presidential Decree No. 537 of August 12, 1974, which was not actually implemented until mid-1978.

<sup>8</sup>On the jurisdiction of courts, see Judiciary Act of 1948, as cited.

<sup>9</sup>On criminal procedure in the lower courts, see Jose N. Nolleto, *Criminal Procedure: Rules 110 to 127, Rules of Court*, 1971 Revised Edition (Manila: National Book Store, 1971).

<sup>10</sup>In 1978, elections of local officials including mayors were conducted.

the other hand, municipal police forces have been "integrated" with the Philippine Constabulary (PC), the branch of the armed forces that acts as a national police force, and are now under the control of its provincial commander.<sup>11</sup> In 1975-1976, most mayors and police chiefs were the same persons holding those positions before 1972. In some cases, long established relationships between mayors and police were little changed; in others, the power of the mayor over the police had been reduced or eliminated.

The large number of local courts and the pattern of recruitment of legal system personnel are important factors in explaining how legal institutions are used and thereby linked to rural society. Philippine legal institutions have long represented a widespread stage presence in, if not real penetration of, rural society. Although travel to appear in court can be a heavy financial burden on the rural poor, the comparative accessibility of courts is one factor in disputants' calculations. This inevitably shapes the ways in which the courts are used. As local legal system personnel have long been part of local patterns of political and economic conflict and power, state legal institutions are frequently used for local purposes. They are often instruments in conflicts over local political and economic control and an additional arena for carrying on local disputes of all kinds. When local legal system personnel have, for whatever reason, an interest in the outcome of a dispute, they can influ-

ence it significantly, in part by restricting the means of processing realistically available to disputants. The circuitization of Municipal Courts, elimination of electoral politics, and efforts to assert tighter state control over local government since 1972 have reduced the importance of the foregoing factors to some extent, but these have far from eliminated them.

### "Amicable Settlement" and the Legal System

"Amicable settlement" is normally a process of mediation and sometimes of arbitration<sup>12</sup> between disputants involving one or more third parties.<sup>13</sup> "Settlements" may be quick and simple or protracted and complex. They may be freely entered into by both parties or they may be accepted by one or both parties only under pressure. They may be reached completely outside the legal system or after a dispute has become the subject of criminal proceedings. The number and type of third parties involved depend on the dispute's complexity, the relationship between the dispu-

<sup>12</sup>On distinctions between various conventional categories of dispute-processing, see Laura Nader and Harry F. Todd, Jr. (eds.), *The Disputing Process - Law in Ten Societies* (New York: Columbia University Press, 1978), pp. 8-11. In mediation, the third party does not have the authority to make a binding decision as in arbitration.

<sup>13</sup>In the Philippines third party go-betweens are used extensively in everything from arranging marriages to making requests of others. On the prevalence and characteristics of this practice, see: Frank Lynch, "Social Acceptance," in Frank Lynch (ed.), *Four Readings on Philippine Values* (Quezon City: Ateneo de Manila University Press, 1964), pp. 1-21; and Mary Hollnsteiner, *The Dynamics of Power in a Philippine Municipality* (Quezon City: University of the Philippines/Community Development Research Council, 1963), pp. 80-83.

<sup>11</sup>The "integration" of police forces took place under Presidential Decrees Nos. 421, March 21, 1974; 482, June 13, 1974; and 531, August 8, 1974.

tants, and how far into the legal system the dispute has moved. Third parties may include mutual friends or relatives of the disputants, employers or landlords of one or both parties, barrio leaders, police, fiscals, judges, politicians, and lawyers.

"Amicable settlement" normally appears to be initiated by the accused, although it may in fact be initiated by interested third parties or by the complaining party, who may send out "feelers" indicating willingness to consider a "settlement." Usually the complaining party is "approached" by someone who exerts an influence on him and who can convey an offer or request a proposal of terms for a "settlement." This person may be "someone who cannot be refused," one to whom the aggrieved is obligated through a relationship of dependence and/or reciprocity.<sup>14</sup> If the accused or interested third parties do not have immediate ties with such an individual, personal networks are mobilized in an effort to find one who can and will make the "approach." In some instances, parties are pressured or coerced into agreement by official or unofficial allies of their opponents. In the event that disputants agree in principle to a "settlement," third parties act as go-betweens in working out the terms.

When final agreement is reached concerning "settlement" the disputants usually meet with the third parties to execute the terms. The complaining party may make some overt indication of forgiveness. If formal legal proceedings have been

initiated, he/she must do whatever is necessary to ensure that the case will be dismissed. This must be worked out with the police or fiscal. The accused may offer a written or oral apology, promise not to engage in offending behavior again, make restitution for damages, and/or agree to leave the community.

Four patterns of relationship between "amicable settlement" and the legal system may be identified. These are distinguished by the extent to which the dispute enters the legal system.

*Pure "amicable settlement"* occurs when a dispute is "settled" completely outside the legal system. Most commonly, a relative, friend, barrio leader, or other interested third party able to influence one or both of the disputants mediates a "settlement" in such cases.

*"Amicable settlement" with appeal to legal authority* occurs when the "settlement" process involves an appeal to an official of the legal system without the initiation of formal legal proceedings. In such instances, the aggrieved party registers a complaint with the municipal police or the PC, but the latter either quickly patches up the dispute themselves or defer action to allow time for others to work out a "settlement."

*"Amicable settlement" with the initiation of legal proceedings* occurs when a dispute formally enters the legal system but is ultimately "settled" before a final judicial verdict is rendered. This is not legally permitted in most classes of criminal cases. Judges and lawyers say, "the law cannot be compromised," but the law is routinely circumvented to permit

<sup>14</sup>On the latter, see Mary Hollnsteiner, "Reciprocity in the Lowland Philippines," in Frank Lynch (ed.), *Four Readings. . . , op. cit.*, pp. 22-49.

"settlement." The most common device is provisional dismissal of the case due to an insufficiency of evidence while it is still under investigation by a municipal judge or fiscal. This occurs on motion of the police chief or fiscal following desistance by the complaining party, who must execute an affidavit recanting the crucial part of his/her original sworn complaint and indicating a lack of interest in pursuing the case. If a hearing has begun, dismissal may be granted on the ground that the accused is entitled to a speedy trial if complaining witnesses fail to appear on successive occasions. If prosecution witnesses have given testimony, they must recant it or give further testimony that detracts from their credibility so there will be no evidence with which to convict.

Use of the *judicial process until a verdict is rendered* rarely occurs without some representation regarding "amicable settlement" being made by the accused. In some cases, this is only a last resort after all "settlement" efforts have failed.

The reasons that the processing of any particular dispute follows one rather than another of the foregoing patterns are varied and complex. Most explanations of preference for informal means of dispute-processing in ex-colonial Third World states stress cultural and social characteristics incompatible with the norms underlying legal institutions introduced by western imperial powers. Such factors are clearly important in understanding the prevalence of "amicable settlement" in the Philippines. The assumption underlying the transplanted legal system that the public is an aggrieved party when certain acts defined by

law as criminal are committed, is not widely shared by Filipinos. Such acts tend to be regarded as private matters between the parties and their families rather than matters of public concern. Personal vengeance or "settlement" are responses more consistent with this outlook than cooperation with prosecution by the state. In small rural communities at least, where Filipinos have many-faceted, enduring relationships with neighbors and relatives, there is also a general presumption in favor of compromise and reconciliation rather than further disruption of community relationships by resorting to criminal prosecution.<sup>15</sup>

Beyond the foregoing general considerations, more immediate factors influencing the way any particular dispute is processed are: features of the community where the dispute takes place such as patterns of political and economic conflict, the interests and behavior of its politicians and legal officials, and the costs and likely outcome of alternative means; and the intentions, prior relationships, and comparative resources of the disputants. In the following analysis, I will first examine the use of alternative means of dispute-processing and then give detailed consideration to the importance of disputant intentions in shaping the way particular disputes are processed.

<sup>15</sup>For explanations based on the conventional assumptions about societies in "transition" from "tradition" to "modernity" see, Richard L. Abel, "A Comparative Theory of Dispute Institutions in Society," *Law and Society Review*, Vol. VIII (Winter 1973), pp. 217-304 and Felstiner, "Influences of Social Organization. . .," *op. cit.* On cultural value determinants of "amicable settlement," see Frank Lynch, "Social Acceptance. . ." *op. cit.*, who stresses the importance to Filipinos of maintaining "smooth interpersonal relations."

### Use of Alternative Means of Dispute-Processing

In the Philippines, as in all societies, the vast majority of personal disputes are processed outside state legal institutions. It is impossible to know what portion of disputes that might result in criminal complaints are simply let go, dealt with in violent fashion, or "settled amicably." Interviews with barrio captains and anthropological accounts suggest that pure "amicable settlement" is very common, particularly in minor disputes.<sup>16</sup> The incidence of "amicable settlements" with appeal to legal authority varies by type of dispute. Most incidents involving slight physical injuries or slander and many that could result in complaints of attempted murder or homicide are "settled" without a formal complaint being filed. By contrast, cases involving killings and serious motor vehicle accidents are rarely "settled" prior to the filing of a formal complaint. Interviews with police chiefs and other local officials indicate that the bulk of disputes reported to the police are comparatively minor and that, on the average, probably no more than 20 percent of the total that might result in complaints actually do.

The distribution of types of complaints which did come before Batangas courts in the early 1970s is indicated in Table 1. Shown are data on the usage of one-half of the Municipal Courts (16) for 1970 and 1974 and

one of the province's eight CFI branches from the time it was established in mid-1972 through 1974. The Municipal Courts were chosen to vary by both size and geographical location, and the CFI was chosen because its jurisdiction included only rural municipalities and no chartered cities. Because the focus of my inquiry is on personal disputes, cases originating from public officials for such things as public drunkenness, gambling, vagrancy, or traffic violations are excluded from the tabulation. In any event, such official cases constitute only about one-seventh of the total. The figures for the Municipal Courts best indicate the aggregate distribution of types of cases in rural areas because virtually all criminal cases occurring in municipalities begin here. The CFI receives most of its cases from the Municipal Courts. The CFI has a larger proportion of cases involving persons and a smaller proportion involving property than the Municipal Courts because of differences in jurisdiction between the two courts and because the latter are more likely to send cases involving persons than property to the CFI.

Disputes resulting in charges of crimes against property were the most frequent. Among these, charges of theft were most numerous. Some theft and robbery cases result from the activities of ordinary pickpockets, housebreakers, or cattle rustlers. Some theft and other property related cases, particularly malicious mischief, grow out of disputes about other things among persons well known to each other. Such charges are, for example, sometimes made by landowners against tenants in an effort to gain leverage in a tenancy dispute. Estafa (swindling) cases very often involve persons who

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<sup>16</sup>Barrio Captains take great pride in their ability to keep disputes from reaching the police through their skill in effecting "settlements." This also increases their control over barrio affairs. For anthropological accounts, see, for example, William and Corinne Nydegger, *Tarong: an Ilocos Barrio in the Philippines* (New York: John Wiley and Sons, 1969), pp. 63-67.

Table 1. Frequency of Criminal Cases – Batangas Courts

Crimes	16 Municipal Courts 1970 and 1974 <sup>a</sup>		Court of First Instance – Lemery Mid-1972 – 1974 <sup>b</sup>	
	Number	Percentage	Number	Percentage
Against Property	740	38.5	48	28.1
Theft	408	21.2	22	12.9
Estafa	138	7.2	10	5.8
Robbery	72	3.7	14	8.2
Other	122	6.4	2	1.2
Against Persons	623	32.4	72	42.1
Frustrated/Attempted Murder/Homicide	280	14.6	46	26.9
Physical Injuries	232	12.1	5	2.9
Murder/Homicide	111	5.8	21	12.3
Against Security	177	9.2	14	8.2
Threats	115	6.0	7	4.1
Other	62	3.2	7	4.1
Criminal Negligence	161	8.4	17	9.9
Reckless Imprudence- Property Damage/ Physical Injuries	134	7.0	12	7.0
Reckless Imprudence- Homicide	27	1.4	5	2.9
Against Chastity	146	7.6	20	11.7
Rape	29	1.5	9	5.3
Other	117	6.1	11	6.4
Against Honor	74	3.9	–	–
Totals	1921	100.0	171	100.0
Unknown	–	–	11	

<sup>a</sup>Tabulated from the Criminal Dockets of the following Batangas municipalities: Tanauan, San Juan, Nasugbu, Lemery, Sto. Tomas, Calaca, Taal, San Jose, Ibaan, Calatagan, Mabini, Taysan, Cuenca, Alitagtag, Agoncillo, and Sta. Teresita.

<sup>b</sup>Tabulated from the Criminal Docket of the Court of First Instance, Lemery, Batangas. Tabulation begins in July 1972, because that is when this court was established.



have a commercial relationship and represent an effort to collect debts. Frustrated or attempted murder or homicide and physical injuries cases constitute the bulk of crimes against persons. Many such cases as well as many murder and homicide cases are the result of fights (often drunken fights), among relatives, fellow villagers, neighbors, or youths in public places. This, it should be noted, is similar to the character of violent crime in America today.<sup>17</sup> Among the less common cases, many charges of crimes against security, such as threats, and crimes against honor, such as slander, are the result of quarrels occurring under similar circumstances. Criminal negligence cases are almost exclusively the result of motor vehicle accidents. Rape cases sometimes result from acts of sexual violence, but they sometimes represent efforts to force a marriage to or financial support for a pregnant daughter or to punish an errant lover. Other crimes against chastity grow out of such things as parentally disapproved elopements (consented abduction) or a husband's extramarital affair (concubinage).

<sup>17</sup>Lynn A. Curtis, Director of the Anti-Crime Program at the U.S. Department of Housing and Urban Development, speaking of the situation in America, says, "The most typical murders involve poor young minority males victimizing other minority males of the same age or older - friends, acquaintances, or strangers living in close, ghetto-slum proximity to the offender. The attack most commonly occurs in the course of a relatively trivial altercation. Often the victim provoked the offender, and often one or both parties had been drinking. Another common murder pattern involves lower-income couples or other family members caught up in domestic quarrels and altercations." See "Something Americans Still Excel At: What's New in Murder," *The New Republic*, Vol. CLXXXII (January 26, 1980), pp. 19-21.

The figures for the Municipal Courts aggregate cases filed in 1970 and 1974 and thus obscure a sizeable increase in the total number of cases and some important differences in distribution among types of cases between those years. For example, there was a significant decline in the number and proportion of murder and homicide cases and a big increase in the number and proportion of trivial cases, such as crimes against honor. These differences are generally consistent with national patterns in the years shortly before and after the 1972 declaration of martial law and reflect mainly the immediate consequences of new policies. The aggregate figures may, thus, be taken as representative only of that five-year block of time. Since 1976, the most serious crimes have climbed to and perhaps surpassed pre-martial law levels.<sup>18</sup> Figures for a longer time period would show a different pattern of distribution, primarily a larger proportion of crimes against persons. The CFI in focus was only established in early 1972, so it is not possible to compare pre- and post-martial law patterns. Since nearly all cases come to the CFI from the Municipal Courts under their jurisdiction, however, the distribution of cases in a CFI at any given time directly reflects activity in these courts.

When a dispute results in a formal complaint, it is entered in the court docket, and its ultimate disposition is also recorded here. Hence it is possible to make quite reliable esti-

<sup>18</sup>See Richard Vokey, "Law and Order: The Criminals' New Society," *Far Eastern Economic Review*, Vol. CVI (September 21, 1979), pp. 35-36. The following chart, taken from the above article, shows totals of index crimes for the first six months of years from 1971 through 1979.

mates of the proportion of such disputes that are "settled" with the initiation of legal procedures and determine the proportion resulting in a judicial decision. The percentage of cases dismissed provides a rough indicator of the proportion so "settled." There are, however, other reasons that a case might be dismissed, such as the death of the accused, discovery that the case has been fabricated, or a genuine inability on the part of the prosecution to collect necessary evidence. Examination of case records indicates that in Municipal Courts over 90 percent and in the CFI a sizeable majority of cases are dismissed because a "settlement" has been reached. To some extent, offsetting cases dismissed for other reasons is a group of cases listed as pending or archived that will eventually be or have been "settled."

Table 2 gives an estimate of the total percentage of cases of each type that were dismissed and that resulted in a judicial verdict as they passed through the Municipal Courts and the CFI in the early 1970s. The percentage of total cases dismissed was estimated by calculating the percentage dismissed (55.8%)<sup>19</sup> and sent to the CFI (20.0%) by the 16 Municipal Courts in 1970 and 1974 combined, calculating the percentage dismissed by the CFI from mid-1972 through 1974 (43.9%), applying the latter to the percentage of cases sent to the CFI (43.9% of 20.0%) for an estimate of the percentage of all cases dismissed by the CFI (8.8%), and then adding this to the percentage dismissed in the Municipal Courts for

the percentage of all cases ultimately dismissed (64.6%). This procedure was followed for each type of case. The percentage dismissed, discounted perhaps ten percent, represents a rough approximation of the proportion of cases "settled" while they were before these courts. The ten percent discount is an estimate of the proportion of cases dismissed for some other reason minus cases listed as pending or archived that will be or have been "settled." Roughly six out of seven "settlements" of this kind occur while the cases are still with the Municipal Courts. The proportion of all cases resulting in a judicial verdict in the Municipal Courts and CFI combined was estimated in essentially the same way as the percentage of all cases dismissed. It should be noted that most judicial verdicts are convictions. Over 90 percent of the defendants in the Municipal Courts and over 60 percent in the CFI were found guilty. A widespread perception among Filipinos of this likely outcome of the judicial process is certainly one factor shaping views of alternative means of dispute-processing.

As Table 2 shows, some kinds of cases were more likely to be dismissed or to result in a judicial verdict than others. Between 75 and 80 percent of all cases involving crimes against security and honor, most of which were comparatively trivial, were dismissed. Between 70 and 75 percent of all crimes against chastity and persons were also dismissed. Many of the crimes against chastity other than rape, such as those growing out of parentally disapproved elopements, were not so serious; hence, they could be "settled." Rape cases that were essentially the weapon of choice in a "shotgun wedding" were

<sup>19</sup> Figures in parentheses are derived from court records and are included here to aid understanding of the procedure used in calculating the percentage of total cases dismissed.

Table 2. Dismissal and Judicial Verdicts in Criminal Cases – Batangas Courts.

Crimes	Estimated Percentage of Total Dismissed – Municipal Courts/CFI <sup>a</sup>	Estimated Percentage of Total Judicial Verdict – Municipal Courts/CFI <sup>a</sup>
Against Security	77.5	12.0
Against Honor	75.7	6.8
Against Chastity	73.0	18.0
Rape	82.4	10.7
Other	69.4	21.2
Against Persons	72.6	17.6
Frustrated/Attempted Murder/Homicide	79.9	12.0
Physical Injuries	74.2	18.0
Murder/Homicide	49.5	32.4
Criminal Negligence	64.0	15.7
Reckless Imprudence- Homicide	80.8	19.2
Reckless Imprudence- Property Damage/ Physical Injuries	61.0	14.9
Against Property	52.3	33.2
Robbery	67.9	23.3
Estafa	67.7	11.3
Theft	42.1	47.4
Other	58.2	16.6
Totals	64.6	22.8

<sup>a</sup>Calculated from Criminal Dockets of Municipal Courts and CFI cited in notes a and b, Table 1.

more easily "settled" than those which grew out of acts of sexual violence. Examination of comparable figures elsewhere suggests that the very high percentage of rape cases dismissed was probably an idiosyncratic figure resulting from the very small number of cases in the CFI. Not surprisingly, physical injuries and frustrated/attempted murder/homicide cases were more likely to be "settled" than murder/homicide cases. The overwhelming majority of physical injuries cases were classed as slight (requiring medical attention and/or incapacitating someone for no more than nine days), and some frustrated/attempted murder/homicide cases actually involved comparatively minor injuries. Cases involving crimes against property were the least likely to be "settled." In the eyes of many Filipinos, and certainly among those in positions of legal authority, some of the crimes against property are seen as among the most serious. This is partly because they are seen as always being purposeful acts committed by one person against another while many other crimes grow out of unfortunate misunderstandings or accidents for which both parties probably bear some responsibility. In many property cases, as might be expected, the complaining party is of higher status and greater wealth than the accused. This fact also sometimes makes "settlement" less likely than it would be in a case involving a dispute between equals.

The limited use of the courts in processing personal disputes is not unique to the Philippines. Although for different reasons, only a fraction of crimes reported in the United States are processed by the legal system, and of those, only a minority of felonies reach the court level at which they

would be tried.<sup>20</sup> What is perhaps unusual in the Philippines is the extent to which "amicable settlement" is freely and commonly used in processing even the most serious cases. As has been shown, there is considerable variation in the extent to which different types of cases are dismissed, but the rate is quite high for all types. The cases least likely to be "settled," theft and murder/homicide, had dismissal rates to about 42 and 50 percent respectively. While there appears to be some association between the nature and seriousness of a dispute and the manner in which it is likely to be processed, some very trivial cases go to trial and some of the gravest ones are "settled" promptly. Understanding this clearly requires consideration of more central factors determining the use of alternative means of dispute-processing.

### Disputant Intentions

Analysis of data from court dockets provides only a very general overview of the way Philippine legal institutions are used. It cannot provide a comprehensive picture or explanation of legal activity. It does reveal patterns, such as the comparative incidence of "settlement" of different types of disputes, that could not be identified clearly as otherwise. Fuller understanding of the relationship between legal institutions and society and the use and character of "amicable" settlement can best be reached through examination of specific disputes and the ways in which they are processed.

<sup>20</sup> Abraham S. Blumberg, *Criminal Justice* (Chicago: Quadrangle Books, 1970), pp. 50-55.

Many factors come together to shape the way in which any particular dispute is processed. Here, I will examine some specific disputes with a view to elaborating one such factor, that is, disputant intentions.

One point must be emphasized before beginning this analysis. I have shown elsewhere that disputant choice of means of processing is frequently constrained by official behavior.<sup>21</sup> Even when local political leaders and legal system personnel have no particular interest in the disputants or the outcome of their dispute, their behavior often tends to discourage people from using the courts and to encourage them to seek "amicable settlement." When officials do have an interest in the outcome of a dispute, usually as a result of their involvement in local political and/or economic conflicts, they may favor use of either the courts or of "amicable settlement." The latter is more likely, however, because it is usually easier to shape the progress and outcome of "settlement" processes than of judicial activity. Whatever the intentions of disputants, then, their range of choices may be constrained by official behavior. They may also be limited by such factors as resource availability. Nonetheless, disputant intentions are important in determining the likelihood that a case will be "settled." Disputant intentions are likely to have more independent influence on dispute-processing when official or other constraints are weak. To highlight the influence of disputant intentions, most of the cases discussed here are in this category. When officials have an

interest in the outcome of a dispute, the intentions of favored disputants will certainly be more influential than the aims of those not favored.

In making formal criminal complaints, Filipinos may be inspired by a number of different intentions that, singly or in combination, affect the way the dispute is ultimately processed. Since, other things being equal, complaining parties tend to have the upperhand when a dispute reaches this point, their aims are of particular importance. These tend to fall into two broad but not necessarily mutually exclusive categories: (1) punishment of the accused and (2) improvement of leverage in the dispute in order to affect better its outcome. The intentions of accused persons are to avoid punishment, terminate the dispute, to vindicate one's name or position, or to resist and/or counter the effort of the complaining party to gain leverage over them.

When offended parties are interested primarily in punishment of the accused, they may seek prosecution. In such cases, they will be reluctant to yield to pressure for an "amicable settlement." Offended parties may also, however, regard temporary imprisonment, the difficulties of being caught up in the legal system, or humiliation as adequate punishment of the accused. They may be quite willing to agree to a "settlement" when they are satisfied that the accused has been "taught a lesson." When offended parties are of higher status than the accused and have *amor propio* engaged in a dispute, their desire for punishment may be particularly strong. If the accused has done something for which vengeance is deemed necessary, the desire for punishment may be particularly strong

<sup>21</sup>See my, "Politics and Dispute-Processing in the Rural Philippines," *Pacific Affairs*, Vol. LII (Summer 1979), pp. 294-314.

if the offended party has filed a complaint in lieu of taking matters into his or her own hands. In any case, if the accused is able to bring sufficient pressure to bear on the offended party, the latter may be obliged to abandon the commitment to punishment in favor of the most favorable "settlement."

The following is an example of a trivial incident which led to prosecution for theft in a Batangas Municipal Court. The offended party desired primarily the punishment of the accused and was unwilling to consider "settlement." The accused was sentenced to jail. The description is based on court records and an interview with the offended party.<sup>22</sup>

*Case 1:* In April 1974, Ernesto and Corazon Guevara were charged by Mrs. Belinda Malvar with theft of a rooster valued at ₱20. Mrs. Malvar is a middle-aged, middle class woman. She works as an assistant to a municipal official and her husband is an engineer employed by the national government. The Malvars live in a modern home on a main national highway in a barrio a few kilometers from their municipality's administrative/market center. The Guevaras, persons in their early 30s, lived in a nipa house immediately behind the Malvars. Mr. Guevara was a jeepney driver and Mrs. Guevara, a housewife. The former had many relatives in the barrio, and his nipa house was built on land owned by his uncle, but his wife was not a native of Batangas. Mrs. Guevara had occasionally been a *katulong* (servant) in the Malvar household. Mrs. Malvar one day found the Guevaras in possession of a rooster which she claimed they had taken from her house. The latter refused Mrs. Malvar's demand that the rooster be returned, denying that it was stolen and claiming that it had just been given to them. Mrs. Malvar thus filed a formal complaint for theft against the Guevaras. Shortly

thereafter, Mr. Guevara disappeared and his wife was left to face the charges by herself. The dispute between Mrs. Malvar and Mrs. Guevara did not begin with this incident but was, rather, of long standing. They had apparently quarreled on numerous occasions, and whatever the matters involved, Mrs. Malvar had developed an intense hostility to Mrs. Guevara. Apparently the latter was also disliked by some other neighbors and some of her husband's relatives. During the several months that elapsed between the filing of the complaint and the hearing on the theft charge, Mrs. Malvar was approached twice by neighbors who were relatives of Mr. Guevara and who requested her to consider a "settlement." They were primarily concerned that the charges against the still missing Mr. Guevara be dropped. Mrs. Malvar was most intent on seeing Mrs. Guevara punished and would not agree to any kind of "settlement." Mrs. Guevara pled guilty to the theft charge on the advice of her court appointed attorney *de oficio* and was sentenced to and served two months and one day in the municipal jail. While she was in jail, Mr. Guevara was apprehended, and he also pled guilty and received the same sentence as his wife. While both were in jail, Mr. Guevara's uncle tore down the nipa house in which they had been living so that they would no longer have a place to stay in the barrio. After they were released from jail, Mr. and Mrs. Guevara soon parted. He returned to the barrio, and she moved elsewhere.

Rarely do such trivial matters lead to prosecution and conviction. In this case, the offended party had long-standing personal hostility to one of the accused and was of much higher status than either of them. Mrs. Malvar took this incident as an occasion to escalate an ongoing dispute. She was exclusively concerned with seeing Mrs. Guevara punished. The latter had little support from her husband's family, and she did not have the support of anyone who could influence Mrs. Malvar. Mr. Guevara did have a cousin in the barrio who was a powerful municipal political leader and who could have effectively "approached" Mrs. Malvar on behalf of both accused, but he did not do so. As an outsider, Mrs. Guevara lacked ties to others who could "approach" Mrs. Malvar about a "settlement." Mrs. Malvar's intentions

<sup>22</sup>Batangas municipal court records, 1974. Interview, May 20, 1976. Pseudonyms are used throughout the cases presented here. There are obvious limitations to relying on accounts of serious disputes given by interested parties. A full discussion of the cases are presented to illustrate variations in the intentions of disputants and how the latter influence the way the disputes were processed. These accounts are, I believe, reliable enough for this purpose.

were thus the decisive factor in the way this dispute was processed.

In the following attempted homicide case, the offended party filed a complaint with the municipal court primarily because he wanted his attackers to be punished, but he ultimately agreed to a "settlement" when he was satisfied that this had been achieved. The description is based on the court record and the account of the offended party and his parents.<sup>23</sup>

*Case 2:* Jose Reyes, a house painter in his mid-20s, was beaten by three other men in a fight that erupted during a heated basketball game. This incident occurred in 1974 on a public court near Reyes' house in the poblacion of his municipality. Two of his assailants were brothers, and the third was their cousin. Reyes had always known all of the latter. They were not close friends of his, but he had had no prior quarrels with them. During the fight, he was struck across the chest with an iron bar. Reyes was immediately taken by others to a nearby medical clinic, and it was determined that he was not badly hurt. He incurred no expenses for the emergency examination and had no additional medical expenses. He went from the clinic to the police to make a complaint, and the fact that he had been attacked with an iron bar led to the attempted homicide charge. He made the complaint mainly because he wanted to see his assailants punished. The latter were apprehended and incarcerated in the municipal jail to await disposition of the case. The parents of the accused came to the Reyes' home to apologize for the behavior of their children and to request an "amicable settlement." Reyes felt that it would be difficult to refuse this request, because the father of one of the accused was a *compadre* of his father. Nonetheless, he put the parents of the accused off and did not agree to a "settlement" immediately. He told them that he would have to consult with other family members, who did not happen to be at home, before deciding what to do. What he really wanted was for the accused to spend a few more days in jail to "teach them a lesson." He finally agreed to a "settlement" after they had been in jail for ten days, having decided that that was punishment enough. As he had incurred no loss, the accused were asked only to apologize and promise not to do such a thing again. When

all parties agreed, the municipal police prepared a suitable affidavit for Reyes to sign, and the case was dismissed for insufficient evidence.

In this case, the parties were of equal status and had no dispute beyond the immediate incident. This, the fact that no losses were actually incurred, and the fact that the fathers of the offended party and one of the accused were *compadres* combined to make "settlement" comparatively easy. Local officials had no interest in the outcome of the dispute. The police accepted the complaint, apprehended the accused, and waited for the parties to sort the dispute out on their own. As is commonly the case with the poor who cannot afford to post bail, the accused had to remain in jail while awaiting disposition of the case. And as is also common under these circumstances, the offended party was able to impose his own short sentence to punish the latter by delaying agreement to a "settlement" that he knew he was going to accept eventually.

Frequently Filipinos make official criminal complaints mainly to improve their leverage in attempting to affect the outcome of a dispute. They may also be happy to see the accused punished, but may be very ready to accept "settlement" if their main objective is achieved. Or they may initially make a complaint with punishment as their top priority and then come to this position when their tempers have cooled or it becomes clear to them that constraints will make the desired punishment unlikely. In some such cases, offended parties are simply trying to recover losses resulting from specific incidents that are the only cause of their complaints; in others, they are attempting to affect the progress or

<sup>23</sup>Batangas municipal court records, 1974. Interviews, May 28, 1976.

outcome of broader, ongoing disputes in which the incidents complained about are only episodes. The former aim is very common in estafa, criminal negligence, and in some kinds of theft cases where offended parties are trying to collect debts, damages, or losses. It is also common in cases involving physical injuries, whatever the actual charge, when the main aim is to recover medical expenses. In some instances, offended parties may attempt to press the advantage gained in making an official complaint by demanding far more than their actual losses as a condition of "settlement."

The following is very typical of estafa cases in Batangas. The complaint was filed only to ensure collection of a business debt, and the case was readily "settled" when that was accomplished. This account is based on the court records and interviews with the offended party and the judge of the town where the latter conducts her business.<sup>24</sup>

*Case 3:* Mrs. Aurora Natividad, a woman about 30 years of age, is a maker and wholesaler of bed-covers, robes, and pillows. Her business is located on the main street of a mid-sized Batangas municipality. Her goods are sold all over the Philippines by travelling peddlers, who retail the products of many different manufacturers. At any given time, there may be as many as 100 different persons selling her products. Some are persons she has long known, others are strangers. As a wholesaler, she extends credit to the retailers. As is the common practice, however, she obliges them to sign a contract which legally makes them agents working for a commission. Thus, if they fail to make good their debt, they can be charged with the crime of estafa. In March 1973, such a contract was signed with Mrs. Natividad by Efren Tolentino, a travelling peddler from a barrio of a nearby municipality. Under its terms, he took ₱2,237 worth of bed-covers, robes, and pillows, with the understanding that he would return all proceeds or unsold articles within two weeks and that whatever profit he

made would be his commission. Actually, retailers normally pay off their debt to Mrs. Natividad on an installment basis. After one installment, Mr. Tolentino did not make any more payments. Mrs. Natividad's lawyer sent him letters demanding payment and threatening legal action in July, August, October, and November 1973. In January 1974, she filed an estafa complaint ("by means of false pretenses. . . with intent to. . . swindle the complainant, the accused did. . . feloniously induce the complainant to deliver to him several articles (listed). . . but once in possession of said articles, the accused did misappropriate and convert them for his personal use and benefit. . ."). Tolentino was subsequently apprehended and jailed. If a dispute with a retailer reaches this point, Mrs. Natividad will extend no further credit or accept installment payments. In order to "settle" the case, members of Tolentino's family were obliged to pay off his debt in full. This they shortly did. Mrs. Natividad then executed an affidavit asserting that after making her complaint, she learned from her husband that the amount owed by Tolentino had been paid to Mr. Natividad, that he had forgotten to tell her, and that she therefore must withdraw her complaint. The case was then dismissed.

For Mrs. Natividad, a criminal charge of estafa is simply a cheaper, easier, and surer way of collecting debts than a civil suit. It is so routine that she has had printed standardized complaint forms with blank spaces for names, dates, articles, and amounts. When necessary, she fills these out and files them with the Municipal Court. In such cases, the criminal court is being used as a collection agency. This is common practice in many types of commercial relationships.

In the following theft case, the offended party filed a complaint primarily to insure recovery of a loss. He did feel wronged and also hoped to teach the accused a lesson. This was clearly secondary to his main aim, however, and he readily accepted a "settlement" as soon as restitution was offered. The case description is based on the court record and an interview with the complaining party and several members of his family.<sup>25</sup>

<sup>24</sup>Batangas municipal court records, 1974. Interviews, May 18, 1976 and June 30, 1976.

<sup>25</sup>Batangas municipal court records, 1974. Interviews, June 1, 1976.



*Case 4:* Juan Mendoza, 40, is a small farmer in a remote barrio of a Batangas municipality. In October 1974, one of his neighbors saw Edilberto Dinglasan harvesting part of his rice crop and reported this to him. Dinglasan is a relative and neighbor. His mother is Mendoza's first cousin. Upon hearing about this incident, Mendoza went to the latter's house to inquire about it. Dinglasan claimed that he did not expect Mendoza to harvest this rice because the grains were very small due to the long dry season that year. Hence he said he cut it and fed it to his cow. Mendoza and his family had always been on good terms with Dinglasan's family up to this point, but they quarrelled over this incident. Shortly thereafter, Dinglasan left for Mindoro (a nearby province). Mendoza was angry with Dinglasan particularly because of what he regarded as the latter's hostile reaction to his objection over the rice harvests, and he thought that Dinglasan should be taught a lesson. Mendoza was, however, primarily concerned that with Dinglasan in Mindoro he would be unable to recover his loss. Hence he went to the municipal police and made a formal complaint. Dinglasan was charged with theft and a warrant was issued for his arrest. The police told Dinglasan's brothers that they should try to get him to come back from Mindoro. He returned in about one month. He was then arrested and put in the town jail. The next day, Mendoza was approached by Dinglasan's father-in-law, who is also Mrs. Mendoza's uncle. The latter proposed an "amicable settlement" and offered Mendoza ₱100 to cover his loss in full. Mendoza could not refuse his wife's uncle, who was like a second father to him. In any event, his main aim of recovering his loss was met. When the "settlement" was agreed to in the family, they all went to the police and took care of the formalities. Mendoza's witness signed an affidavit prepared by the police saying that he was no longer so sure about his charge because he now thought he actually saw the accused taking away grass cuttings rather than rice. The following day, they went to the town court, where the case was dismissed for an insufficiency of evidence. Mendoza received his ₱100. As a result of this incident, the families are still not on very good terms.

Mendoza's inability to refuse his wife's uncle clearly put him under pressure to "settle" this case. But even though he felt wronged, he did not have to be pressed very hard, since his main aim of recovering his loss was met.

In many cases, offended parties file and/or pursue complaints in order to try to affect the progress or outcome of broader, ongoing disputes. Such

disputes have their roots in differences far greater than the specific incident complained about, such as marital conflicts, local political factionalism, family feuds, or landlord/tenant conflicts. A desire for punishment and/or wish to recover immediate losses may also be present, but they are subordinate to the desire to affect the progress or outcome of the broader dispute. Complaints in these kinds of cases are frequently over real incidents, but sometimes they are quite flimsy or even wholly manufactured. Here the ultimate aim may be to terminate a relationship on satisfactory terms, to harass or weaken political or personal enemies, to gain control over the accused or to resist their control, to gain leverage to force an accused to yield on a matter of importance, or a combination of these concerns.

In the following case, the complaint was the result of a fight in which the offended party did, in fact, sustain slight physical injuries. The fight was the outgrowth of a growing dispute between two young men. The offended party took the case as an occasion neither primarily to punish the accused nor to collect damages from him, but to terminate their relationship permanently. This account is from court records and interviews with the offended party and his wife and with a knowledgeable third party.<sup>26</sup>

*Case 5:* Roberto Atienza, age 23, is a poor farmer who lives with his young wife in a small nipa house in a remote barrio of a Batangas municipality. He is a tenant on a small plot and works as a wage laborer during sugar harvest, and his wife does hand embroidery on a piecework basis for a merchant in the poblacion. Gregorio de Jesus, another young man, was from a neighboring

<sup>26</sup>Batangas municipal court records, 1974. Interviews, June 1, 1976.

province and had in 1974 been residing in the barrio with an aunt for only two years. Roberto and Gregorio were neighbors and had become friends. Roberto had, however, become concerned that Gregorio was coming to his house when his wife was home alone. He therefore requested one of the latter's relatives to ask him not to do this anymore on the ground that it was shameful and would cause bad rumors. Gregorio was offended by this, and his relationship with Roberto became less friendly. They quarreled several times. One day in 1974, while both were fetching water at the artesian well, Roberto got into a fight with Gregorio and one of the latter's cousins. In the course of the altercation, Roberto was hit in the head with a rock and suffered a laceration. He was taken for emergency medical treatment to a hospital in a neighboring municipality. Altogether, his medical costs were less than P200. The day after the fight, he filed a complaint with the municipal police. Gregorio was apprehended and jailed. His relatives very soon approached Roberto and members of his family about a "settlement." An offer was made to pay all of Roberto's medical expenses. His desire was that Gregorio leave the barrio and not come back. After further discussions between members of the two families and consultation with both the police chief and the municipal mayor, this was agreed upon. Roberto signed an affidavit prepared by the police saying that actually he and several others were only engaged in horseplay at the well that day, so he was no longer so sure who inflicted the injury and that, in any event, on reflection he had decided that it was unintentional. The case was dismissed and Gregorio left the barrio permanently.

Under other conditions, this case might easily have been "settled" prior to making a formal complaint. Given the broader dispute between the two parties, a complaint was much more likely. The desire of the offended party was to terminate the relationship, and he used the threat of prosecution to achieve that end. Because the accused was to some extent an outsider, he was less able to resist the demand that he leave the barrio as a condition for "settlement."

The following slight physical injuries and grave threats case occurred in a Batangas municipality characterized by bitter and very long standing factional rivalry and was prosecuted primarily to harass a political oppo-

nent. Because of the underlying character of the dispute, the incident led to conviction of the accused. The description is based on court records, interviews with the offended party and the lawyers for both sides, as well as observation of several hearings of the case in the Municipal Court.<sup>27</sup>

*Case 6:* Felipe Contreras, age 72, is a farmer and proprietor of a small store, which is in the front of his barrio house. Gavino Mercado, age 24 and unemployed, is a neighbor and distant relative by marriage of Mr. Contreras. One night in March 1974, Mercado appeared drunk with a companion at Contreras' store. The two youths wanted to buy some popcorn, but Contreras had none. A quarrel ensued, and Contreras came out of his house. As Mercado and friend were leaving, the former allegedly threatened "*ikaw ay papatayin ko matanda ka*" (I will kill you, you old man) and started stoning Contreras. As a result, the latter received two fairly large bruises which required one visit to a doctor for attention. The following day, after consulting with a cousin, Contreras filed a formal complaint against Mercado. The latter was arrested and released on his own cognizance. Contreras' cousin was a key *lider* (leader) for the municipality's "out" faction in the barrio, and Mercado's father was associated with the faction in power. These two men had long been hostile political opponents. Contreras' cousin took the old man to file his complaint with the Philippine Constabulary (PC). Being prominently associated with the "out" faction, naturally he was reluctant to go to the municipal police. The cousin also got the lawyer who represented members of the "out" faction to act as private prosecutor. Contreras was soon approached by a brother of the accused about a "settlement." On the advice of his cousin, Contreras demanded P1,500 (P500 for medical expenses, P500 for incapacitation, and P500 for his lawyer) and would not compromise on this figure. The amount was clearly excessive, and the family of the accused could not pay it. Hence the accused was obliged to appear for arraignment and trial in May 1974. Mercado was assigned an attorney *de officio* by the court. The trial went through eight hearings between October 1974 and August 1975. In November 1975, the accused was found guilty and sentenced to jail for five days on each count.

Under other conditions, a dispute like this might easily have been "settled"

<sup>27</sup>Batangas municipal court records, 1974 and 1975. Interviews, May 12, 1976, June 21, 1976, and June 24, 1976.

prior to making a formal complaint. According to the lawyers for both sides, Contreras' cousin persisted with the demand for unrealistically high compensation in order to assure that the matter would not be "settled." This gives the appearance of being more reasonable than flatly rejecting "settlement." Had the cousin been willing to accept a more realistic amount, the matter would have been "settled." His aim was, however, to keep the father of the accused tied up in legal proceedings in order to harass that long time political enemy.

The following case is a very complex, ongoing land dispute and family feud that had between 1965 and 1976 involved two cases in the Batangas Court of Agrarian Relations (CAR) and 14 criminal cases filed with the municipal court in the community where the disputed land was located. At issue in the land dispute was the desire of the owner to eject a tenant and of the tenant to resist this and purchase the land himself. The criminal cases had been filed primarily by the landowner to promote his broader aims, but they had also been fueled by personal hatred and a corresponding desire for punishment. The account is based on court records, observation at hearings, and interviews with the contending parties and several third parties and court personnel who had direct knowledge of this dispute.<sup>28</sup>

*Case 7:* Abelardo Santos, age 40, is a poor tenant farmer. He lives with his wife in a very small and run-down nipa shack on the land that he tills in a barrio of a Batangas municipality. A bachelor brother and a sister and brother-in-law,

<sup>28</sup>Batangas municipal court records, 1971-1976. Documents submitted to CAR and Supreme Court, 1965-1976. Interviews, May 17, 1976, May 20, 1976, and June 30, 1976.

Conchita and Ramon Castillo, live nearby in their own, equally small and dilapidated nipa shacks. The Santos family has been tilling the same land since the 19th century. It was part of a large estate. In 1965, an heir of the original estate owner sold off his 164 hectares. The 3 hectares that Abelardo's father was at that time working as a tenant was bought by Eustacio Luna. The latter, a man in his late 60s, was a municipal worker at the time of purchase, but he subsequently retired. He lives in a run-down old house immediately adjacent to the public market of a nearby municipality. Luna wanted to work the land himself, so after purchase he sought to eject Abelardo's father. Under Philippine law, a landowner is obliged to notify and give first refusal to tenants before selling the land they are tilling. The original heir to the land failed to do this before the sale. Claiming that he wanted to buy the land, Abelardo's father filed suit against Luna for the right of preemption in the CAR. He did this with the assistance of a lawyer noted for his activist advocacy of tenants' rights in western Batangas. Immediately thereafter, Luna filed an ejectment suit in the CAR against the senior Santos. In 1969, Abelardo's father died before either case was decided, and it fell on Abelardo to pursue one case and defend himself against the other. In late 1970, both cases were decided in favor of Abelardo Santos. Thereupon, Luna began the process of appeal. From 1973 on, Abelardo was represented by an attorney of the Department of Agrarian Relations. Finally, in 1976, the Supreme Court decided in Santos' favor. At issue and still to be decided by the CAR was the amount to be paid for the land. Santos claimed that it should only be the 1965 purchase price of P5,000 per hectare, but Luna argued that it should be the P30,000 per hectare, the amount he claimed was offered to him for the land if it were not the subject of litigation.

After the 1970 CAR decision, there was a series of criminal cases which were for the most part intended to affect the outcome of the land dispute, but these were also connected with a feud in the Santos family. The latter centers on an ongoing conflict between Abelardo and his sister's husband, Ramon Castillo, but other immediate family members are lined up on opposing sides. The first serious, violent episode in this feud occurred in early 1971, when Santos and Castillo got into a fight and the former was severely hacked in the chest and stomach with a bolo. As a result of this, Santos filed a complaint for attempted homicide. This case was subsequently "settled" for partial compensation of medical costs incurred and a promise by the Castillos that they would move. The latter did not do this, however, and by the end of 1971, another fight broke out that resulted in further criminal charges. The actual origins of this feud are unclear, but of primary interest here is that Luna has been able to take advantage of it in his dispute with Abelardo Santos. The Castillos also live on the land owned by Luna, but they are

not tenants. Because of (or perhaps at the root of) the Castillos' conflict with Santos, they have sided with Luna and acted as his witness in a series of complaints that he filed against Santos and his wife since 1974. These were three separate theft charges (taking coconuts and bamboo away from the land), three charges of estafa (defrauding the owner of his share of the sugar harvest in three past years), one charge of grave threats, and two perjury complaints (in connection with a counter-complaint by Santos' wife of attempted homicide against Luna). Since martial law, municipal judges have been under instruction to refer criminal complaints that appear to be inspired by agrarian disputes to the Department of Agrarian Reform for disposition. The perjury charges were dismissed by the municipal judge as groundless, and the remainder were referred to the DAR. In 1976, the estafa cases were pending before the CAR, and the grave threats/attempted homicide counter-charges were on trial in the CFI. Luna had offered to drop all charges and to pay Santos ₱5,000 if he would leave the land, but Santos was not prepared to budge. In mid-1976, Castillo appeared at the municipal police with knife cuts on his hands and arms to lodge yet another complaint against Abelardo Santos.

Some of the complaints that Luna and his allies filed against Santos between 1974 and 1976 were clearly groundless. Others may have had some basis. Luna's aim was not prosecution, however, but to drive Santos off his land. If Santos had been willing to go, all cases would have been "settled." Similarly, Mrs. Santos' complaint against Luna for attempted homicide was primarily to improve the Santos' ability to resist Luna's pressures. These criminal cases, then, were filed primarily in an effort to affect the outcome of the larger land dispute.

### Conclusion

I have attempted to show how Philippine local courts are used and how court usage and "amicable settlement" are related as a first step in describing and explaining how and where Philippine state legal institutions fit into broader patterns of personal dispute-processing in rural society. Data on the disposition of

cases collected from Batangas local court dockets have been presented in support of an estimate of the extent to which alternative means of dispute-processing are used. The comparatively limited reliance on state adjudication and the very extensive reliance on "amicable settlement" of all kinds of disputes is clear. Specific cases have been presented primarily to indicate the influence of disputants' intentions in determining the way in which any particular dispute is ultimately processed. One reason for the high incidence of "amicable settlement" with the initiation of legal proceedings is that formal complaints are frequently made primarily to influence the outcome of the "settlement" process rather than to secure a judicial verdict. I emphasize again that disputant intention is only one among a number of determining factors. Moreover, under some circumstances, as when local officials have a strong interest in the outcome of a dispute, its importance will be greatly diminished.

The cases also reveal the complexity and variation of linkages between state legal institutions and Philippine society. They suggest the range of social, economic, and political realities that lie behind abstract legal categories of crimes and the practice of "amicable settlement." The range of things that may be going on when it is said that a complaint has been made over, say, slight physical injuries or that a case has been "settled," is quite broad. The cases also indicate the very personal purposes to which ostensibly impersonal legal institutions are regularly used. The disposition of disputes is much more likely to be determined

by the interested behavior of officials or the intentions of the disputants than by the legal norms or the requirements of legal procedures. If the disputants are approximately equal in status and resources, the intentions of the offended party are likely to be most important. If they are not, the intentions of the more powerful are likely to be most important. When the requirements of state law and Filipino social practice are inconsis-

tent, the latter frequently carries the largest weight in determining the outcome of personal disputes. The full importance of these points can only be assessed within a framework which makes clear what is and is not unique in the relation between law and society in the Philippines. In any event, the factors discussed here shape the way state legal institutions are used by Filipinos and help to explain their operation and development.