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We Put Our Heads Together: Dispute Mechanisms in 18th Century Old Calabar

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Adam Boyd Gilman

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ABSTRACT OF THE THESIS

We Put Our Heads Together[1]: Dispute Mechanisms in 18th Century Old Calabar

by

Adam Boyd Gilman

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Professor A. Edward Alpers, Chair

The purpose of this study was to investigate the role of dispute mechanisms in the institutional and social dynamics of 18th century Old Calabar. In addition, this thesis considered the value of dispute records as historical sources in examining the sociopolitical and cultural transformation of Atlantic West African societies during the expansion of the slave trade. The thesis analyzed references to the legal and extralegal dispute strategies of Old Calabar's

[1] Antera Duke, "Extracts from the Diary of Antera Duke," in *The Diary of Antera Duke, an Eighteenth-Century African Slave Trader*, ed. Stephen D. Behrendt, A. J. H. Latham, and David Northrup (New York: Oxford University Press, 2010), 185.

inhabitants in the diary of Antera Duke, an influential Efik trader. The analysis of the diary revealed the institutional role of the legal arenas and enforcement mechanisms of the *Ekpe* society in the management and settlement of disputes, as well as the existence of extralegal strategies used in place of, or concurrently with, legal mechanisms. The principal conclusion was that disputes served an important role in the transformation of Old Calabar's sociopolitical order during the late 18th century.

The thesis of Adam Boyd Gilman is approved.

Andrew Apter

Ghislaine Lydon

Edward A. Alpers, Committee Chair

University of California, Los Angeles

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DEDICATION

This thesis is dedicated in loving memory to my grandmother,
Ruth Boyd, who never gave up on me.

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I. Introduction

On the morning of July 4, 1786, Duke Ephraim, *obong* or king of the Efik community of Old Calabar in modern-day Nigeria, was buried secretly along with nine of his slaves.[2] As a result of his death, Old Calabar entered a period of political instability that lasted well over a year and perhaps as long as five.[3] During this period, the leadership of Old Calabar, through a series of rather convoluted disputes, maneuvered to redefine the socio-political order, to select a new *obong*, and to control the slave trade with the European ship captains anchored off the town's shores. By January of 1788, one candidate was firmly in control of the struggle for the *obong*-ship, although, according to a "garbled" second-hand account written in 1826 by British ship surgeon Robert Jackson, the conflict between the top two contenders may very well have lasted into 1792.[4] Despite questions raised by Jackson's story, it is apparent that within a year and a half of Duke Ephraim's death, disputes had destroyed, strengthened, or realigned the key sociopolitical relationships within Old Calabar. Concomitantly, alliances had been forged around the major candidates for *obong*, and a transformed leadership group had stepped in to regulate trade with the Europeans, operating under renegotiated guidelines.

According to traditional accounts, Old Calabar owes its very existence to the transformative power of dispute. The original settlement at *Ikot Etunko*, later known as Creek Town, was founded after a dispute between an Ibibio woman and an Efik woman led to the exile

[2] Duke, "Extracts," 183.
[3] Stephen D. Behrendt, A. J. H. Latham, and David Northrup, *The Diary of Antera Duke, an Eighteenth-Century African Slave Trader* (New York: Oxford University Press, 2010), 36-43.
[4] Ibid, 43.

of the Efik from the town of Idua.[5] Whether or not this story of the Old Calabar's origins is accepted, the linguistic evidence does support the claim that the Efik broke off from the Ibibio approximately 400 to 500 years ago and migrated south along the Cross River, settling first in Creek Town and later on, by the mid-18th century, in Old Town (*Obutung*) and Duke Town (*Atakpa*).[6] The impact of dispute can be seen again in the origins of Old Town at the beginning of the 17th century, as it was founded as a result of conflict among Creek Town's five main lineage groups.[7] By the late 18th century, the three main settlements of Creek Town, Old Town, and Duke Town, along with several smaller compounds, made up the "enlarged village" of Old Calabar.[8]

Old Calabar is located in the Oil Rivers region in the southeastern corner of modern day Nigeria. The town lies approximately 30 miles inland from the Atlantic Ocean, nestled on a narrow ridge in the deltaic zone of the Cross, Calabar, and Great Kwa Rivers. It is surrounded primarily by brackish water, mangrove swamps, and rain forest.[9] The name Calabar is thought to come from the Portuguese word *calabarra*, meaning "the bar is silent," and perhaps describing the calm waters of the town's anchorage.[10] The majority of its inhabitants are Efik, an ethnic group closely related to the surrounding Ibibio peoples. There are also small minorities of Efut

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[5] D. Simmons, "An Ethnographic Sketch of the Efik People," in *Efik Traders of Old Calabar*, ed. Daryll Forde (London: Oxford University Press, 1956), 3-4.
[6] Ibid.
[7] A. J. H. Latham, *Old Calabar 1600-1891: The Impact of the International Economy upon a Traditional Society* (Oxford: Clarendon Press, 1973), 9.
[8] Stephen D. Behrendt and Eric J. Graham, "African Merchants, Notables and the Slave Trade at Old Calabar, 1720: Evidence from the National Archives of Scotland," *History in Africa: A Journal in Method* 30 (2003): 39, accessed June 7, 2008, http://www.jstor.org/stable/3172081.
[9] Rosalind I. J. Hackett, *Religion in Calabar: The Religious Life and History of a Nigerian Town* (Berlin: Mouton de Gruyter, 1988), 19.
[10] Ibid, 20.

and Qua, but the majority speaks Efik, a language classified under the Benue-Congo branch of the Niger-Congo family.[11]

Prior to the rise of European trade in the region, particularly the slave trade, the Efik were known for their prawn fisheries at the mouth of the Cross River.[12] By the beginning of the 18th century, however, Old Calabar, due to "a favorable anchorage for European ships,"[13] had become "regional market center and nexus of overseas trade."[14] The slave trade between Efik merchants and European ship captains grew steadily from the 1630s on and, by 1720, the major merchant families of Old Calabar had begun "to monopolize commerce in the Lower Cross River region."[15] A typical slave raid upriver might net 50 captives, who would then be divided among the European ships, primarily British, although the Portuguese, Dutch and French also traded with the Efik at various periods in Old Calabar's history.[16]

Between the years 1650 and 1838, approximately 255,000 slaves were traded to European ship captains anchored off of Old Calabar in exchange for a variety of goods and currencies, including textiles, firearms, liquor, gunpowder, beads, and iron and copper rods.[17] In addition to the revenue in goods garnered from the sale of slaves to the Europeans and from the payment of the "comey," a port duty based on total tonnage carried away on European vessels, the wealthy merchants of Old Calabar also maintained plantations in the surrounding region. The plantations were worked by slaves and provided the elite of Calabar with necessary foodstuffs, as

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[11] Joseph H. Greenberg, *The Languages of Africa* (Bloomington: Indiana University Press, 1970), 9.
[12] G.I. Jones, *The Trading States of the Oil Rivers* (Oxford: James Currey, 2000), 20.
[13] Simmons, "An Ethnographic Sketch," 4.
[14] Behrendt and Graham, "African Merchants," 39.
[15] Ibid, 56.
[16] Simmons, "An Ethnographic Sketch," 7; Behrendt and Graham, "African Merchants," 41; & Behrendt, et al, *Diary*, 51.
[17] Behrendt, et al, *Diary,* 51 & 55-7.

well as palm oil, the new export commodity desired by European merchants after the British abolition of the slave trade in the 19th century.[18]

Old Calabar's role in the Atlantic slave trade influenced its social, political, economic and cultural organization and development throughout the seventeenth, eighteenth, and early nineteenth centuries. By the late 18th century, Old Calabar had been transformed from a fishing village into a cosmopolitan, trans-national, trans-cultural trading port nearing the peak of its regional power and influence. Not only did Old Calabar dominate the region's slave trade with the Europeans, it was also the hub of a considerable regional trading network covering approximately 30,000 square miles.[19] It was through this network that the Efik traders procured slaves to sell to the Europeans and, in exchange, distributed European goods to their interior trading partners and dependencies.[20]

The record of this period, including the events surrounding Duke Ephraim's death described above, comes almost entirely from the diary of Antera Duke (c. 1730 – c. 1809), also known by his Efik name, Ntiero Edem Efiom. Antera kept his 10,510-word diary, written in trade English, from 1785 until 1788.[21] His writings, though sporadic and at times frustratingly vague, give the historian a valuable account of Old Calabar's sociopolitical, religious, and economic life.[22] He was a prominent merchant; the ward head of the Ntiero family, a wealthy and influential lineage from Duke Town; and a high-ranking member of *Ekpe*, a secret "leopard society" that served as the Efik's primary religious, sociopolitical and economic institution. As

[18] G.I. Jones, *Trading States*, 13.
[19] Behrendt, et al, *Diary*, 102.
[20] Latham, *Old Calabar*, 25-7.
[21] Behrendt, et al, *Diary*, 2-3.
[22] Ibid, 44.

such, he was a major participant in the events of the day and his considerable influence over and access to leadership decisions is evidenced by his description of those events.

The irregularity of the entries, along with their apparent informality, suggests that the journal was a personal exercise and not meant as an official record of Old Calabar's commercial activity. Antera Duke's writing is devoid of analysis and consists mainly of basic descriptions of weather, the time and location of certain commercial or social events, the quantity of goods exchanged on a given day, and the occurrence of major events, such as the death of Duke Ephraim. Whether or not the journal was meant as an official record to be passed down through posterity, it is certain that the views of the author were biased toward his own judgment of an event's importance, causality, and blame.

While this fact might call into question the validity of the source, it does so mainly in regard to the author's primary decision whether or not to record an event and his secondary decision of which particulars should be stressed or, on the other hand, entirely omitted. The lack of analysis or judgment in Antera Duke's writing lessens this effect and, for the most part, his diary presents a rather straightforward, fact-driven narrative of the events during the period from January 1785 to January 1788. There is a third decision, one that was not made by Antera Duke, which may affect the validity of the diary. In 1907, Reverend Arthur W. Wilkie transcribed the version of the diary that has survived. It is possible, as the editors and translators of the most recent edition of the diary, Stephen D. Behrendt, A. J. H. Latham, and David Northrup point out, that Wilkie made errors in his transcription or omissions in his selection of what he determined to be valuable entries. They also note that the omission of certain entries Wilkie perceived as "repetitive" or "pedestrian" makes it difficult for the historian to quantify information recorded

in the diary.[23] Despite these potential problems, however, the diary still remains one of the most valuable resources available to historians of Atlantic West Africa.

Obviously, extracting useful data from a source recorded in an historical context about which relatively little is known is far more difficult than doing so within an historical context about which there is an abundance of information.[24] There are several European-authored sources describing Old Calabar during and immediately following the period covered by Antera Duke's diary, mainly account books, letters, and memoirs penned by ship captains, sailors, and missionaries, as well as some surviving letters written by Efik merchants to their European counterparts.[25] There are also the letters of the Robin Johns, the "two princes" enslaved following the Massacre of 1767, who Randy Sparks has brought to life in his study of the creolizing effects of the slave trade in the Atlantic World.[26] Serious concerns over the identities and motives of the authors do not negate the fact that these rare and valuable sources can contribute to the historian's understanding of the late precolonial and early colonial periods in Africa.[27] For the purposes of understanding the sociopolitical, economic, and cultural history of Old Calabar during the late 18th century, however, Antera Duke's diary is unrivaled.

Attempting to extract information on the dispute processes of Old Calabar from these sources poses a far greater challenge. Of these documentary sources, only a small portion contains evidence of the legal arenas and extralegal dispute strategies of precolonial Old Calabar.

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[23] Ibid, 124.
[24] Kristin Mann and Richard Roberts, eds., *Law in Colonial Africa* (Portsmouth: Heinemann Educational Books, 1991), 45.
[25] Behrendt, et al, Diary, 3 & 13-4.
[26] Randy J. Sparks, *The Two Princes of Calabar: An Eighteenth-Century Atlantic Odyssey* (Cambridge: Harvard University Press, 2008), 2.
[27] Thomas Spear, "Section Introduction: New Approaches to Documentary Sources," in *Sources and Methods in African History: Spoken, Written, Unearthed*, ed. Toyin Falola and Christian Jennings (Rochester: University of Rochester Press, 2004), 172.

Despite this lack of sources, there is value in analyzing the available evidence of dispute processes and in tying that analysis to existing historical knowledge of the societies' larger organizational systems. If handled properly, these informal dispute records, such as those contained in Antera Duke's diary, have the very potential Kristin Mann and Richard Roberts have recognized in colonial court records, namely, to provide insights into the "dynamics of legal, social, and cultural change" and "the beliefs and interests, thoughts and actions, understanding and experience of African…players" during the precolonial period.[28]

If the historian is to receive any benefit from the study of disputes, it is first necessary to see them, in the words of Simon Roberts, as "normal and inevitable" occurrences.[29] Lynn Mather and Barbara Yngvesson describe dispute as the phase in a social relationship in which a dyadic conflict between two individuals or groups is aired before a third party.[30] At every level of social organization, from the family to the community to society as a whole, parties disagree and then adopt various strategies, some overt and others hidden, to resolve these disagreements in their favor. As Mather and Yngvesson have noted, these disagreements, or grievances, often evolve into disputes, at which point the participants struggle to define the form and content of the dispute to meet their interests.[31]

The notion that dispute represents a disruption in an ideal social order is surely as nonsensical as the idea that written codification of a society's laws can tell us all we need to know about the manner in which that society resolves its disputes. Disputes have an important

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[28] Mann and Roberts, *Law*, 48.
[29] Simon Roberts, "The Study of Dispute: Anthropological Perspectives," in *Disputes and Settlements: Law and Human Relations in the West*, ed. John Bossy (Cambridge: University Press, 1983), 4.
[30] Lynn Mather and Barbara Yngvesson, "Language, Audience, and the Transformation of Disputes," *Law & Society Review* 15, No. 3-4 (1980-81): 776, accessed August 12, 2012, http://www.jstor.org/stable/3053512.
[31] Mather and Yngvesson, "Language," 776-7.

role in social systems and they are often resolved without the intervention of a central judicial authority. For this reason, social scientists studying legal systems and the social function of disputes have moved away from the *rule-centered paradigm*, which views dispute resolution as a formulaic application of a society's normative rules and control mechanisms to "put right" a "malfunction" in the proper social order.[32] In its place, legal scholars, including Sally Falk Moore, John Comaroff, Simon Roberts, as well as Mather and Yngvesson, have developed a methodology known as the *processual paradigm*, which seeks to discover the way in which a dispute process unfolds on the ground and how it ties in with innumerable other social systems operating concurrently. In this approach, the legal system is not only defined by its rules, but also by "those social processes which operate outside the rules," which are "inescapable aspects of the use of rule-systems."[33]

The pioneering work of these scholars has opened up the world of disputes to the historian. All of the methods, legal and extralegal, by which a society transacts its disputes, reveal numerous characteristics of that society's structures and the historical forces acting upon them. Disputes serve numerous purposes, some overt, others concealed. It is in these purposes, in the planned or unconscious effects of disputes, that their historical value can be seen. Informal records of disputes show how people actually behaved and interacted, how they disagreed and clashed and reconciled with each other, how they strategized and maneuvered to gain the upper hand, how they used the legal and extralegal strategies available to them, and how social order was "constantly renegotiated" and "made up" by these events.[34] An analysis of a community's

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[32] John L. Comaroff and Simon Roberts, *Rules and Processes: The Cultural Logic of Dispute in an African Context* (Chicago: The University of Chicago Press, 1981), 5.
[33] Sally Falk Moore, *Law as Process: An Anthropological Approach* (London: Routledge & Kegan Paul, 1983), 4.
[34] Roberts, "Study of Dispute," 4 (see also Mather and Yngvesson, 818).

dispute processes will expose institutional hierarchies, power relations, economic activities, social behavior, cultural beliefs and practices, and the change in all these factors over a given period of time.

In the highly competitive environment of 18th century Old Calabar, disputes were seemingly omnipresent, informing the lives of every inhabitant and serving a variety of roles in the management of the community's economic and sociopolitical systems. Disputes also served an instrumental role during Old Calabar's transition to a slave trade economy, helping the Efik and their trading partners transform their modes of interaction, navigate rapid social and cultural change, and adapt their political institutions to address the steady expansion of their market and the corresponding increase in competition. The high concentration of Antera Duke's diary entries describing disputes illuminates the legal and extralegal mechanisms within these changing systems.

Antera's descriptions reveal the myriad dispute strategies employed by the Efik to control and manipulate the instability caused by the death of an *obong*, to renegotiate relationships and redefine the sociopolitical order, to protect the business interests of Efik and European merchants, to marginalize political rivals, and to pursue individual and collective goals. In the following pages I will present an analysis of the disputes recorded in Antera Duke's diary, raising and attempting to answer questions regarding their place and function in the larger social systems of Old Calabar, and concluding with a discussion of the major themes revealed by such a pursuit, as well as the potential gains. But first, I will discuss the history of 18th century Old Calabar, with a focus on its sociopolitical and economic institutions, as well as the legal arenas and extralegal strategies available to Efik disputants.

II. Sociopolitical & Economic Institutions of Old Calabar

Old Calabar had two separate, seemingly competitive sociopolitical structures, a traditional lineage-based system stressing ward autonomy and a unifying political system dominated by the *Ekpe* society. In terms of the former, the Efik community was divided into towns, wards, and ward sections, or family compounds. According to the pioneering ethnographic work of G.I. Jones, the inhabitants of Old Calabar had no traditional sovereign authority and, as such, the local wards and settlements were semi-autonomous units initially bound together only by common customs, interests, and rituals.[35] The early sociopolitical organization of Old Calabar was based on kinship and economic ties.

The towns that collectively made up Old Calabar were broken down into semi-autonomous units known as "houses," "wards" or, in terms of kinship, "maximal lineages."[36] The Efik used the term *ufok* to describe these agnatic social units.[37] The maximal lineage making up each ward would have a head and a council composed of the sublineage heads and other influencial householders.[38] The lineage heads and councils would deal primarily with the external relations of the wards. They would rarely interfere in the lineage group's internal affairs, unless called upon by disputants to resolve a conflict through arbitration. The lack of a traditional authoritative body within the maximal lineages and within the Calabar community as a whole

[35] G. I. Jones, "The Political Organization of Old Calabar," in *Efik Traders of Old Calabar*, ed. Daryll Forde (London: Oxford University Press, 1956), 120.
[36] Ibid, 122.
[37] Behrendt, et al, *Diary*, 16; & Simmons, "An Ethnographic Sketch," 13.
[38] Jones, "Political Organization," 122.

was offset by the necessity of projecting a "united front" to other wards within the community, which, Jones notes, was often enough to guarantee the cooperation of its component parts.[39]

By the beginning of the 17th century, and possibly as early as the mid-16th century, five "founding fathers" comprising two main lineage groups, Ema and Efiom Ekpo, had established the original Efik settlement at Creek Town (*Ikot Etunko*).[40] These two lineage groups expanded and subdivided throughout the next century, with the establishment of new sublineages often corresponding to disputes within the original group and the founding of new settlements. The settlements of Old Town and Duke Town are linked to the advent of new lineage groups.[41] Latham has recognized the existence of seven lineage segments, or wards, by the mid-18th century, six subdivisions of the two original groups and one ward established by a non-Efik "outsider" and freed slave, Eyo Nsa (Willy Honesty).[42]

Within the traditional sociopolitical structure of Efik society, there were several positions of influence, often held by the heads of the most powerful wards. Despite the European traders' use of the terms "king" and "duke" to describe the holders of these offices, they did not have sovereign powers and did not represent, by means of their title alone, a central authority in Efik society.[43] Behrendt, Latham, and Northrup recognize the existence of three distinct "kingships" in Old Calabar during the late-18th century. They reference, and appear to validate, the observations of John Ashley Hall, a British sailor who visited Old Calabar in 1775, and who wrote of the division of political power into these three offices: the *obong*, or head of the civil government; the *eyamba*, or head of the legal system and president of the *Ekpe* society; and

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[39] Ibid, 123.
[40] Latham, *Old Calabar*, 9 (see Sparks, *Two Princes*, 35, for earlier estimate).
[41] Behrendt, et al, *Diary*, 16 (see also Latham, *Old Calabar*, 9; and Sparks, *Two Princes*, 36-37).
[42] Latham, *Old Calabar*, 33 (see also Behrendt, et al, *Diary*, 16).
[43] Latham, *Old Calabar*, 42-3 (see also Sparks, *Two Princes*, 36).

"King Calabar," or *Oku Ndem Efik*, who was the religious head as the leader of the town's cult of *Ndem Efik*, a water-based spirit that was the "tutelary deity at Old Calabar."[44]

The *obong*, as head of the civil government, did not possess sovereign powers but functioned as the chair of the village council, as well as the primary contact between the Efik and foreign traders.[45] The *Oku Ndem Efik*, as head of the once powerful "fishing cult," had no political authority and the office declined in influence during the 18th century, as the economic activity of Old Calabar shifted away from fishing towards the slave trade.[46] By the mid-19th century, the *Ndem* priest had been banned from trading with Europeans and the missionary Hope Waddell noted that only the holder of the office in 1847 was an impoverished old man who often had to beg for his dinner.[47] This decline in the influence of the *Oku Ndem Efik* mirrored the increase in the influence of the *eyamba*, as the *Ekpe* society became the primary authority in Old Calabar during the slave-trade era.

The transformation of the religio-cultural institution of *Ekpe* into a political institution provided the Efik with the nearest thing they had to a centralized authority. The *Ekpe* society of Old Calabar seems to have emerged, or at least transformed into its political form, during the 18th century, most likely due to the spread of trade with Europeans in slaves and, later, palm oil. The significant increase in the wealth of a small percentage of Old Calabar's merchants led to new patterns of Efik stratification.[48] Along with this increase in wealth, the growing division between the wealthy and poor, and the constant presence of European ships anchored in the Cross River,

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[44] Behrendt, et al, *Diary*, 28-32.
[45] Latham, *Old Calabar*, 43.
[46] A. J. H. Latham, "Witchcraft Accusations and Economic Tension in Pre-Colonial Old Calabar," *The Journal of African History* 13, No. 2 (1972): 253, accessed on July 5, 2008, http://www.jstor.org/stable/180854.
[47] Behrendt, et al, *Diary*, 30-1.
[48] Jones, "Political Organization," 123-4.

there came a need for a more effective means of regulating economic activity, interactions with the Europeans, as well as, to a lesser extent, the social behavior of the inhabitants of Old Calabar.[49] The *Ekpe* society had become, by the time Antera Duke began his diary in 1785, the Efik's primary socio-political institution.

Although *Ekpe* eventually developed into a quasi-governmental institution, the society's foundations were decidedly religious. *Ekpe* is the word for "Leopard" in both Efik and Ibibio, the society's name derived from the common belief that the "invisible forest spirit" worshiped by the society took the form of leopard in its interactions with humans.[50] Only initiates of the cult could see the fearsome *Ekpe* and perform the "esoteric ritual ceremonies" necessary to control and placate the spirit, many of which took the form of masquerades.[51] *Idem Ikwo,* a masquerade known as a "messenger" or "runner" and dressed in a hooded raffia and cloth costume, represented *Ekpe* in the majority of these ceremonies. The runners, bells fastened to their backs and ankles and carrying long whips, would patrol the town and terrorize non-initiates, including women, children, poorer freemen, and slaves.[52] The most elaborate public ceremonies involved the ritual capture of *Ekpe*, who would be hidden in a container, carried through town by the society's high-ranking members, and eventually released back into the forest. Each ward had an *Ekpe* palaver house, a "large, low shed with a thatched roof supported by giant mangrove posts" and one enclosed end where the society's secret ceremonies were performed.[53]

There are differing opinions on the origins and evolution of the *Ekpe* society in Old Calabar. Historians agree that the Efik did not develop *Ekpe* on their own and that the Efut,

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[49] Sparks, *Two Princes*, 58-9.
[50] Behrendt, et al, *Diary*, 31.
[51] Hackett, *Religion in Calabar*, 35.
[52] Behrendt, et al, *Diary*, 32; Hackett, *Religion in Calabar*, 35; & Sparks, *Two Princes*, 61-2.
[53] Sparks, *Two Princes*, 61.

living to the east of Old Calabar, are the most likely source of the society's secrets. Some oral traditions date its arrival in the mid-17th century, as the slave trade began a period of rapid expansion, when Old Town or Creek Town merchants bought the secrets of the *Ekpe* society from an Efut man named Archibong Ekondo.[54] Paul Lovejoy and David Richardson suggest that the foundation of the Old Town ward in the mid- to late 17th century was directly linked to the introduction of *Ekpe* in Old Calabar, and perhaps represented an effort to control its secrets.[55] Behrendt, Latham, and Northrup argue that the lack of any reference to *Ekpe* in the writings of James Barbot (1698) or Alexander Horsburgh (1720) suggests the advent of the society in Old Calabar occurred at some point in the early- to mid-18th century.[56]

Ekpe was a graded society and entrance fees increased for each grade; therefore, the men who belonged to the highest grade and exercised authority over the *Ekpe* and the local communities of Old Calabar were by default its wealthiest inhabitants.[57] During the period covered by Antera Duke's diary, there were four to five grades in the society, although there would be as many as ten by the mid-19th century.[58] Members of *Ekpe's* highest grade, *Nyamkpe*, would receive money from members entering any of the grades, including *Nyamkpe*.[59] The society's leading members, due to their control of local trade networks, also received the largest share of anchorage fees, known as "comey" or "coomey" payments, from European ship

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[54] Sparks, *Two Princes*, 59 & Hackett, *Religion in Calabar*, 34.
[55] Paul E. Lovejoy and David Richardson, "Trust, Pawnship, and Atlantic History: The Institutional Foundations of the Old Calabar Slave Trade," *The American Historical Review* 104, No. 2 (1999): 347, accessed on July 5, 2008, http://www.jstor.org/stable/2650369.
[56] Behrendt, et al, *Diary*, 32.
[57] Jones, "Political Organization," 137.
[23] Monday Efiong Noah, *Old Calabar: The City States and the Europeans, 1800-1885* (Uyo, Nigeria: Scholars Press, 1980), 31.
[59] Behrendt, et al, *Diary*, 44.

captains.[60] *Ekpe* became a means by which its members, already the wealthiest inhabitants of Old Calabar, continued to grow their considerable wealth and influence.

While these men did exert the most control within Old Calabar, it is wrong to assume that *Ekpe* represented a formal governmental institution. However, in the late 18th century, the *Ekpe* society did shape almost every feature of social, political, legal, religious and economic life among the Efik of Old Calabar. Any political, legal, or religious office separate from *Ekpe* at this time would have still been, at the very least, informed by the overarching authority and dominant influence of *Ekpe* in the Efik sociopolitical order of the late 18th century.

The day-to-day operations of the *Ekpe* society, including its major rulings and enforcements, seem to have been left to the members of the fifth and highest grade, the "Yampy" (or *Nyamkpe*), more than to the titular head of the society.[61] Behrendt, Latham, and Northrup note that although Antera Duke "did not hold a specific Ekpe office," he was still "close to all important decisions" as a prominent member of *Nyamkpe* grade.[62] It is entirely likely that the authority wielded specifically by the office of *eyamba* fluctuated with the relative social influence, wealth, and political power of its holder; namely, his position within the *Nyamkpe* grade.

Related to the rise of *Ekpe*, there were much deeper social and political changes occurring in Old Calabar as a result of the slave trade. The lineage-based houses that had always defined the sociopolitical order of Efik society were slowly being eclipsed in political influence and economic power by a new form of familial organization, the "canoe house." The rise of the major "canoe houses" was a direct result of the consolidation of wealth and political power by a

[60] Sparks, *Two Princes*, 13.
[61] Behrendt, et al, *Diary*, 33-34.
[62] Ibid, 35.

small number of prominent merchants who controlled *Ekpe* and, therefore, received the majority of the profits derived from the Old Calabar slave trade. These powerful merchants established and headed houses in which "leadership passed to the wealthiest member of the house," as opposed to the oldest member of the family, as was the practice in the traditional lineage-based houses.[63]

By the time Antera Duke sat down to write the first entry in his diary, the *Etubom*, or father of the canoe, had replaced the *Ete Ufok*, or father of the house, as the primary political force in Efik society. The symbolism of the title *Etubom* clearly "highlights the importance canoes played in the lives of the traders," as the number of canoes in a trader's fleet was directly related to his potential profit from the slave trade.[64] Evidence from the diary, as well as corresponding evidence from British supercargo accounts of comey payments, suggest the sociopolitical and economic power of Old Calabar was firmly in the hands of six to seven families from Duke Town and Creek Town by the 1780s.[65] This evidence corresponds to the genealogical breakdown of Old Calabar offered by Latham.[66]

These major houses, whether headed by an *Ete Ufok* or an *Etubom*, certainly operated as "canoe houses," expanding rapidly as a result of their involvement in the slave trade and taking on the structure of a trading company.[67] The social and political changes evident in the rise of *Ekpe* and the shift in familial structure towards trade-oriented "canoe houses," along with the corresponding cultural exchange between Efik and European merchants, reveal the true impact the Atlantic slave trade had on African coastal communities during the seventeenth and

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[63] Sparks, *Two Princes*, 40.
[64] Ibid.
[65] Behrendt, et al, *Diary*, 20, 26 & 60-1.
[66] Latham, *Old Calabar*, 33.
[67] Sparks, *Two Princes*, 40 (see also Noah, *Old Calabar*, 25-6).

eighteenth-centuries. As such, it is important to acknowledge the European presence and its potential impact on the history of Old Calabar during this proto-colonial period in any study of its institutions or sociopolitical processes.

As a major coastal trading center, the cultural identity of Old Calabar's inhabitants was shaped significantly by the customs and ideas of the Europeans anchored off their shores. Sparks notes in his introduction to *The Two Princes of Calabar*, the "explosion of commercial and cultural exchange" during that period created a number of "creolized trading communities" like Calabar.[68] These communities were often characterized by transformations in organizational structures and cultural institutions that accompanied the more overt changes in economic activity.

The advent of an "Atlantic Creole" trade language based on English, which was spoken and written by Old Calabar's merchant class, as well as the use of European symbols of authority such as ensign banners among the nobility, illustrate the level of cultural exchange occurring at the time of Antera Duke's diary. The Efik elite adopted additional European cultural trappings, such as dress, furniture, house-wares, technology, and other luxury goods symbolizing a connection between this "self-fashioned elite" and their European counterparts. Though his description of this process of this cultural blending as a "quest for civility" places an artificially inflated value on European culture, Sparks has suggested a viable explanation for the adoption of these cultural features.[69] He argues that this process of cultural exchange helped to "bridge the distinctions that separated [Efik merchants] from their European trading partners" and to establish the "personal bonds vital to the trade."[70] Andrew Apter has observed a similar logic in

[68] Sparks, *Two Princes*, 9.
[69] Ibid, 46.
[70] Ibid.

the origins of 19th and 20th century cultural institutions and ceremonies in the Niger River Delta, which developed as a result of "*transvaluation*," a process of cultural mediation and synthesis through the vector of trade.[71]

As such, the process of cultural exchange, marked by a shared trade language and the Efik's adoption of European cultural trappings, served a specific purpose in an economy of trade based on credit, pawnship, and, above all, trust. The strength of social relationships was a necessary component of an economic model based on the advance of trade goods on credit and the turning over of pawns from the leading Efik merchant families as collateral. The very practice of advancing credit was known as "trust," which was precisely what the processes of cultural exchange and relationship building were aimed towards achieving.[72] As Paul Lovejoy and David Richardson have recognized in their study of the institutional foundations of Old Calabar's slave trade, the "forms of accommodation" that allowed the trust system to operate successfully, including the establishment of strong personal bonds, were all the more important in a trade relationship between parties lacking a common ancestry and cultural traditions.[73] Ghislaine Lydon, in her study of trans-Saharan trade networks, has noted that trust was "fundamental to the success of trade across dispersed markets," even in trade relationships connected by common cultural heritage.[74]

The management of social relationships in the market of Old Calabar was of the utmost importance, as were the maintenance of sociopolitical order and the appearance of a unified authority on both the European and Efik fronts. The slave trade carried on at Calabar during the

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[71] Andrew Apter, *The Pan-African Nation: Oil and the Spectacle of Culture in Nigeria* (Chicago: University of Chicago Press, 2005), 139 & 295.
[72] Ibid, 46-8.
[73] Lovejoy and Richardson, "Trust," 334.
[74] Ghislaine Lydon, *On Trans-Saharan Trails: Islamic Law, Trade Networks, and Cross-Cultural Exchange in Nineteenth-Century Western Africa* (Cambridge: University Press, 2009), 391.

time of Antera Duke's diary entries was based on a locally derived system of pawnship, under which Efik merchants would hand over their own relations to the European captains in order for the latter to secure goods they had advanced on credit against the future procurement of slaves.[75] Lovejoy and Richardson suggest the credit and pawnship system was "an extension of local credit arrangements to British ship captains enabling them to enforce repayment of debts in compliance of customary law."[76] This arrangement, backed by the institutional authority of Ekpe, local custom, and the strength of established social bonds, represented a mechanism of control and enforcement that was essential to the successful operation of the slave trade. Economic historian Avner Greif has noted the importance of such "community responsibility systems," institutions put in place to ensure the proper behavior of traders and, thus, to protect the reputation of trading communities, in the development and expansion of early long-distance trade networks.[77]

For the credit/pawnship system to operate properly, it required not only the trust resulting from close personal relationships between European ship captains and Efik merchants, but also the institutionalized authority provided by *Ekpe* and its corresponding sociopolitical hierarchy. The oligarchic structure fostered by the rise of *Ekpe* and the advent of the major "canoe houses," as well as the adoption of shared customs and cultural trappings, helped to establish strong relationships between the major Efik and British traders. However, as Lovejoy and Richardson point out, these relationships alone were "insufficient to provide the security necessary to allow

[75] Lovejoy and Richardson, "Trust," 336.
[76] Lovejoy and Richardson, "Trust," 336.
[77] Avner Greif, "Impersonal Exchange without Impartial Law: The Community Responsibility System," *Chicago Journal of International Law* 5, No. 1 (2004): 110-114, accessed on August 14, 2012, http://heinonline.org.

British merchants to 'trust' goods on credit to their [Efik] counterparts."[78] The pawnship arrangement played a major role in establishing the necessary collateral, but, as both debt-enforcement agency and the primary political authority and control mechanism in Efik society, *Ekpe* was the linchpin in the trust-based economic system of Old Calabar.

Historians recognize the advent and rapid rise of *Ekpe* as a direct result of a need for a new and effective mechanism of sociopolitical control in the complex economic environment created by the Atlantic slave trade. Sparks argues that the sociopolitical changes stemming from the rise of the slave trade were mirrored by a shift towards increased centralization of authority over the trade and Efik society as a whole.[79] Behrendt, Latham and Northrup suggest that one of *Ekpe's* main roles was to alleviate tensions arising from increased economic competition and to stabilize the business environment by creating an effective system of dispute settlement and debt enforcement.[80] Lovejoy and Richardson note that *Ekpe* served to "support and protect commercial exchange" and to stimulate the growth of the pawnship/credit system that allowed the slave trade to thrive.[81] Latham goes so far as to argue that *Ekpe* was an economic institution adopted primarily to address the issue of bad debt in the credit based economy of the slave trade.[82] There are some problems with this one-dimensional understanding of the causality behind the rise of *Ekpe* to its prominent position in the political structure of Efik society, namely, the absence of any reference to the religio-cultural significance of *Ekpe*. However, it is clear that the advent and transformation of the secret society into a quasi-governmental institution did correspond to very specific needs in 18th century Old Calabar, the needs for a mechanism of

[78] Lovejoy and Richardson, "Trust," 336.
[79] Sparks, *Two Princes*, 58.
[80] Behrendt, et al, *Diary*, 35.
[81] Lovejoy and Richardson, "Trust," 346-7.
[82] Latham, *Old Calabar*, 29-30.

control and a legal arena for dispute settlement in the highly competitive environment of the slave-trade economy.

III. Legal Arenas & Extralegal Dispute Strategies in Old Calabar

Despite being a "private voluntary association," *Ekpe* constituted a *de facto* central government in Old Calabar, with legislative, executive, and judicial capacities.[83] Each of the towns of Old Calabar had its own branch of the society. The head of each branch, together with his fellow *Nyampke* grade members, "enforced laws…mediated or adjudicated in disputes, led armed forces in time of war, and arranged peace pacts with neighbors."[84] The branch heads and the high-ranking members were also charged with ensuring the recovery of debts and protecting the property of society members.[85] At the top of the society's hierarchy, integrating the various branches into a centralized institution, were the society's president, *eyamba*; vice-president, *ebunko*; and the "grand council," made up of the highest-ranking members of the *Nyamkpe* grade.[86] The decisions of the *Nyamkpe* grade were binding and would be carried out by members of the lower grades.[87] As Simmons notes, together with its legislative and judicial roles, the society filled an enforcement role through the use of mechanisms such as capital punishment, fines, the seizure of property, and "trade boycotts against European traders or other Efik towns," thus providing Efik and Europeans alike with legal arenas for the resolution of their disputes.[88]

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[83] Behrendt, et al, *Diary*, 119.
[84] Simmons, "Ethnographic Sketch," 16.
[85] Sparks, *Two Princes*, 60.
[86] Latham, *Old Calabar*, 39.
[87] Behrendt, et al, *Diary*, 34.
[88] Simmons, "Ethnographic Sketch," 16 (see also Behrendt, et al, *Diary*, 34).

Along with the combined economic, political, and martial power of its members and its integral role in the health of the local and regional economies, *Ekpe's* executive authority was derived from its religio-cultural foundations as well. As Rosalind I. J. Hackett notes, in her comprehensive study of religion in Old Calabar, members of the society would use "the fearful aspect of the cult to enforce law and order," claiming that, in doing so, they were "interpreting the desires of Ekpe who had to be propitiated for the well-being of the community."[89] The religio-cultural foundations of the society served to strengthen and legitimize further its sociopolitical authority.

Many of the enforcement mechanisms of *Ekpe* had religious components. In their most common ceremonial role, the *Ekpe* runners, such as the messenger *Idem Ikwo*, would "run" *Ekpe* through the ward, whipping any non-initiates they encountered. Lovejoy and Richardson compare "running *Ekpe*" to a mafia protection racket, meant to encourage and even to force non-members into joining. The religious functions of the society, they argue, were "subordinated to commercial and political ends" as this ritualized coercion served to grow the society's ranks and increase its political and economic authority over Old Calabar.[90] Behrendt, Latham and Northrup suggest that the *Ekpe* "runners," in addition to their ceremonial role, served as the enforcement arm of the society, and would often travel with the *Ekpe* figure to the houses of individuals who had broken *Ekpe* law.[91]

One of *Ekpe's* most powerful methods of enforcement, and one that could be utilized in certain disputes, was the act of "blowing *Ekpe*" against an individual. The society's "grand council" had the authority to "blow" *Ekpe* on individuals, both Efik and non-Efik, after which

[89] Hackett, *Religion in Calabar*, 35.
[90] Lovejoy and Richardson, "Trust," 348.
[91] Behrendt, et al, *Diary*, 34.

those individuals could not engage in commercial transactions until the dispute in question was resolved or a judgment was rendered and carried out by *Ekpe*. Efik merchants and European ship captains alike feared the significant economic burden of this sanction, not to mention the potential damage to their reputations.[92] Clearly, for one party in a dispute to have *Ekpe* "blown" on the opposing party, there would have to be evidence that the latter had violated *Ekpe* law in some fashion, perhaps by refusing to pay an outstanding debt or to return pawns. As such, it was not an arena open to all disputants at all stages of a dispute.

Other *Ekpe* sanctions could be equally severe, and equally effective as dispute mechanisms, including seizure of property, capital punishment, and the levying of punitive fines. Of these, the most commonly used and effective mechanism was the levying of fines. Sparks refers to a dispute between Great Duke Ephraim, son of the Duke Ephraim in Antera Duke's diary, and Creek Town leader, Eyo Nsa (Willy Honesty) in the early 19th century, as the former maneuvered to increase his control over Old Calabar's transition to the palm oil trade. Great Duke Ephraim, as *obong* and *eyamba*, used his political influence to have the *Ekpe* grand council levy a charge against Eyo Nsa (Willy Honesty) and "impose a fine so great that it virtually ruined [him]."[93]

Ekpe also served to bring the various Efik villages, or wards, that made up Old Calabar under a single unified authority, which, more often than not, prevented the intense competition between wards for control of the slave trade from breaking out into open conflict.[94] The *Ekpe* "grand council" had the authority to pass and enforce laws that applied to every ward in Old Calabar. Although the different wards were more or less autonomously governed by their

[92] Behrendt, et al, *Diary*, 35; Sparks, *Two Princes*, 61; & Lovejoy and Richardson, "Trust," 348.
[93] Sparks, *Two Princes*, 65 & Behrendt, et al, *Diary*, 35.
[94] Sparks, *Two Princes*, 64 & 67.

respective heads, the laws and regulations of *Ekpe* still held jurisdiction over them.[95] As Hackett notes, because of the society's focus on trade-related issues, it was able to develop into the "central organ of government" during the slave trade, so that even the *obong* was "subject to its edicts and laws."[96]

It was through the centralized authority of *Ekpe* that "the Efik traders presented a united front to the European slavers."[97] From the European standpoint, this "united front" was a tradeoff; on the one hand, it gave the Efik more power to control the slave trade by setting prices and "comey" fees and by the threat of embargos or boycotts against traders who violated *Ekpe* law. On the other hand, it provided European traders with an enforcement mechanism they could trust and gave them the necessary security to advance goods on credit, as every Efik trader fell under *Ekpe* jurisdiction.[98] Clearly, this trust was an essential component in the development of Old Calabar's slave trade economy.

Using the society's rules, rituals, and sanctions, and motivated, in part, by a "powerful mutual interest" in the "material rewards" of the slave trade, Efik merchants and their local trading partners established a regional judicial authority to resolve disputes and maintain stability and cohesion throughout the decentralized trade networks of the Cross River.[99] Moore's observation that "law is the practical working out of the values of a society"[100] held true in Old Calabar, as the laws and rituals prescribed by *Ekpe* had as their primary goal the continuance of business as usual. Examining the enforcement capacity of *Ekpe*, it is clear that many of the

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[95] Ibid, 59-60 (see also Noah, *Old Calabar*, 30).
[96] Hackett, *Religion in Calabar*, 36.
[97] Sparks, *Two Princes*, 60.
[98] Behrendt, et al, *Diary*, 35.
[99] Ibid, 118-9.
[100] Moore, *Law as Process*, 11.

society's control mechanisms were focused on settling trade-related disputes, easing the tension of inter-ward competition, and maintaining a sociopolitical order conducive to a robust trade.

Ekpe provided the primary legal arena for the management or settlement of disputes in Efik society. Within *Ekpe's* structure and by means of its procedures**,** reflecting a continuum of practices based in socio-religious custom, the inhabitants of Old Calabar pursued, resolved, and transformed their disputes with each other and with regional or overseas trading partners.[101] In place of a traditional centralized political authority, *Ekpe* provided the Efik with "the accepted criteria of association" [102] and the means of maintaining order by guiding disputes through various ritualized procedures and by enforcing the society's laws.

Ekpe's rules, rituals, and practices provided the Efik, and to a lesser extent their European counterparts, with what John Comaroff and Simon Roberts recognize as the "symbolic grammar" used to construct reality "in the course of everyday interaction and confrontation."[103] Dispute mechanisms such as those listed above were often the most readily available to disputants and had the added impact of *Ekpe* backing. In addition, control or influence over the *Ekpe* society's "grand council" translated into control over the society's dispute mechanisms and, as such, the higher a disputant's rank in *Ekpe*, the greater their interest in settling the dispute within the legal arenas established by *Ekpe* rules and procedures. Any attempt to conduct an historical study of dispute processes and modes of conflict within Efik society must look first and foremost, though not solely, at the institutional capacity of *Ekpe* and its ritual grammar of challenge and riposte.

Focus should not only be given to the institutions of enforcement, however, but also to the dispute processes that occurred outside of those established arenas. Having *Ekpe* "blown"

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[101] Behrendt, et al, *Diary*, 34.
[102] Roberts, "Study of Dispute," 7.
[103] Comaroff and Roberts, *Rules and Processes*, 247.

against an individual trader, for instance, would first require the careful management and manipulation of sociopolitical alliances, as a decision of that magnitude could not be made without the support of a majority of the "grand council." Even an event as ubiquitous as "chopping doctor," a term describing the ceremonial sharing of food and drink among peers,[104] could represent the testing, renewal or redefinition of social bonds and could therefore be seen as an important stage of the dispute process. It is remarkable that such an important sociopolitical practice goes unmentioned in almost all the major historical studies on Old Calabar.

In addition, it can be assumed in most cases, before such a drastic measure was taken, there would have been earlier stages in which one or both of the disputants attempted a resolution through negotiation or the use of informal third party mediators. It is also possible, as entries from Antera Duke's diary suggest, that disputants used multiple channels, both legal and extralegal, to manage and potentially resolve their disputes. In other cases, disputants' apparent short-term goals in a conflict brought before *Ekpe* were secondary to their unstated, long-term interests. During periods following the death of an *obong* or *eyamba*, it was even more likely for *Ekpe* to be "invoked to marginalize rivals" in any protracted power struggle, as "elders forged alliances to support candidates from specific families."[105] In such cases, it is important to remember that the observable features of a dispute often represent only a moment in an ongoing conflict; there is a rich subtext that must be acknowledged, even if it cannot be adequately reconstructed.

[104] Behrendt, et al, *Diary*, 37.
[105] Ibid, 36.

Extralegal Dispute Strategies

In the historical record of Old Calabar there are several examples of conflicts operating entirely outside of the legal arenas defined by *Ekpe* norms and procedures. Whether these strategies were seen as more efficient or effective than the accepted *Ekpe* channels, or the disputants involved were simply unable to pursue their interests in the established legal arenas, there was clearly logic behind them. While these conflicts may seem at first to signal breakdowns in the control or dispute mechanisms of Efik society, it is in these apparent aberrations that the historian can see the true forces at work in shaping Old Calabar in the 18th century. Many of these disputes centered on the control of *Ekpe* and, through it, control of the slave trade and its potential profits. At the very least, the parties involved in these disputes had an interest in the reconfiguration of relationships, either intra-Efik or among the Efik and their European trading partners, and a redefinition of the sociopolitical order of Old Calabar.

Efik merchants, acting outside of standard *Ekpe* legal arenas, would occasionally capture European sailors "as commercial hostages to redress grievances."[106] Hostage taking was not the only common "aberration" in the dispute processes of Old Calabar. European ship captains, in an effort to drive down prices, would on occasion block Efik canoes from traveling upriver, effectively shutting down the slave trade. According to Sparks, there were also reports of "English ship captains firing their cannons either into or over the towns in Old Calabar to force [Efik] traders to the table."[107] Examining the evidence of these extralegal dispute mechanisms, it is clear that *Ekpe* did not always provide the desired dispute channels for both Efik and European merchants, who were often forced to look elsewhere in pursuit of their interests. The credit/pawnship arrangement also suffered apparent breakdowns that were likely evidence of

[106] Ibid, 79.
[107] Sparks, *Two Princes*, 54; Behrendt, et al, *Diary*, 24.

wider ranging disputes among the parties involved. These breakdowns usually involved European captains sailing from Old Calabar with Efik pawns still on board their tenders, which would not happen were the relations among the parties normalized.[108]

Witchcraft accusations and the related *esere*, or Calabar bean, ordeals, in which the accused parties ingested an extract of the toxic bean to determine their guilt or innocence, were also a remarkably common extralegal strategy in intra-Efik disputes. Gudrun Ludwar-Ene, in his study on "explanatory and remedial modalities of personal misfortune" in West Africa, notes that Old Calabar has always been "notorious for its fears of witchcraft, witchcraft persecutions, and purges."[109] It could be argued that witchcraft accusations and *esere* ordeals belong in a description of Old Calabar's legal arenas, due to the fact that they followed a clearly proscribed and highly ritualized procedure. However, Latham points out that the ordeal did not come under *Ekpe* jurisdiction until 1850, and then primarily in an effort to limit its use.[110] These practices, then, during the late 18th century, occurred outside of the established legal arenas provided and managed by *Ekpe* and were, therefore, extralegal.

The use of witchcraft accusations and ordeals was particularly common during periods of political instability, such as those following the death of an *obong* or *eyamba*. Individuals suspected of involvement in the death of an Efik dignitary would be rounded up and forced to partake in an ordeal, often *en masse*.[111] The accused parties were made to drink an extract of the highly toxic Calabar bean (*Physostigma Venenosum*), or, in certain cases, to chew the bean

[108] Lovejoy and Richardson, "Trust," 336.
[109] Gudrun Ludwar-Ene, "Explanatory and Remedial Modalities for Personal Misfortune in a West African Society with Special Reference to Witchcraft," *Anthropos* 81, No. 3/4 (1986): 556, accessed on July 20, 2012, http://www.jstor.org/stable/40461231.
[110] Latham, "Witchcraft Accusations," 250.
[111] Latham, *Old Calabar*, 113.

whole, a variation of the ordeal known as "chopping nut."[112] If the accused survived the *esere* ordeal, often by vomiting the extract immediately, they were proven innocent; if they died, their guilt was revealed.[113] Ordeals resulted in multiple deaths and could be relied on to eliminate large numbers of political rivals in the succession struggles that followed the death of an *obong*, *eyamba*, or *ebunko*.[114]

Latham has argued that witchcraft accusations in Old Calabar relieved "tensions which arose from the repressed [social] conflict[s]" and overt political disputes that resulted from the social upheaval and economic competition of the slave trade period.[115] Elsewhere, he notes that the use of ordeals, together with the mass sacrifice of a powerful man's slaves during his funeral ceremony, which weakened potential successors from within his immediate family, prevented succession disputes from breaking out into open warfare between wards.[116] Perhaps the clearest example of these mechanisms at work is the succession dispute following the death of Great Duke Ephraim in 1834. The mass sacrifice of slaves and the killing through *esere* ordeal of forty members of the Duke ward allowed the Eyamba ward to claim the *obong*-ship and the *eyamba*-ship without resorting to open conflict.[117] The frequency of witchcraft accusations and *esere* ordeals in the history of Old Calabar not only reveals their effectiveness as extralegal dispute strategies, but also serves as an excellent indicator of concurrent levels of social tension and change during a given historical period.[118]

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[112] Noah, *Old Calabar*, 34.
[113] Latham, "Witchcraft Accusations," 250.
[114] Latham, *Old Calabar*, 113.
[115] Latham, "Witchcraft Accusations," 249.
[116] Latham, *Old Calabar*, 113-4.
[117] Ibid, 115.
[118] Latham, "Witchcraft Accusations," 249.

Ekpe was not only a mechanism of control, a means of resolving disputes and enforcing debt payment that was "central to the efficient conduct of the slave trade,"[119] but also one of the central causes of conflict in Old Calabar. This was particularly true of inter-ward conflict. Sparks notes that the society was originally dominated by Old Town merchants but, by the 1760s, a struggle for control over *Ekpe* had led to increased tension between Old Town and Duke Town, with Creek Town aligning itself with the upstart Duke Town ward.[120] Lovejoy and Richardson suggest that the very establishment of Duke Town, in the first half of the 18th century, "appears to have been an attempt to counteract the influence of Old Town and its control of *Ekpe*."[121] The rationale behind such a struggle seems clear, as the ward that controlled *Ekpe* also controlled the slave trade and access to its potential revenue streams.[122]

Obviously, any dispute with the desired goal of rearranging the very institutions in place to resolve disputes, or the social order that defines those institutions, must utilize mechanisms outside of the normative legal arenas. As such, the competition among Old Calabar's principal wards for control of *Ekpe*, and, through it, the slave trade took on a variety of extralegal forms outside of the "accepted criteria of association."[123] One of the more effective strategies employed by the combatants was the use of violence and subterfuge.

The Massacre of 1767

The Massacre of 1767 was the most visible and decisive moment in the long-term struggle for control of the slave trade in Old Calabar. Not only do the events of 1767 illustrate

[119] Sparks, *Two Princes*, 64.
[120] Ibid, 65.
[121] Lovejoy and Richardson, "Trust," 348.
[122] Ibid.
[123] Roberts, "Study of Dispute," 7.

the extreme strategies used in the conflict over control of *Ekpe* and the reordering of Old Calabar's sociopolitical order, but they also reveal the potential impact of European interference in the affairs of Old Calabar. Throughout the 1750s and 1760s, a conflict between Old Town and Duke Town over control of the Old Calabar anchorage and its *Ekpe* society had severely disrupted the operation of the slave trade, to the point that "each side was preventing the other from sending slave-raiding expeditions up the Calabar River."[124]

In the summer of 1767, Duke Town traders, under the leadership of Duke Ephraim, formed an alliance with Creek Town and several British ship captains in an effort to win a decisive victory in the conflict with Old Town and its leader, Grandy King George (Ephraim Robin John). Five British captains, frustrated by poor treatment at the hands of Old Town merchants and the slowing of the slave trade as a result of the conflict, agreed to use subterfuge to draw the Old Town traders into an ambush. Offering to serve as mediators to resolve the conflict, the captains invited Grandy King George and his fellow Old Town merchants to spend the night on their ships before the representatives from Duke Town were to arrive in the morning. This maneuver allowed the Duke Town and Creek Town forces to get into position for a surprise attack, which killed approximately 300 to 400 men, including many of Old Town's leading traders.[125]

Although Grandy King George survived the massacre and the conflict between the wards continued for several more years, the events of 1767 "completely altered the politics of Old Calabar."[126] The enormity of the stakes involved in controlling *Ekpe* are revealed by the fate of Old Town in the wake of the inter-ward conflict in the late 1760s. Old Town, once the dominant

[124] Sparks, *Two Princes*, 13-4.
[125] Behrendt, et al, *Diary*, 23; & Sparks, *Two Princes*, 10-22.
[126] Sparks, *Two Princes*, 24.

force in the management of the slave trade, never again posed a serious threat to Duke Town's control of *Ekpe* and the Old Calabar anchorage. It is interesting to note that, after resorting to the extreme extralegal measure of open warfare and collusion with the European ship captains to subdue Old Town, the Duke Town merchants, once they had gained control of the society, reverted to traditional *Ekpe* dispute mechanisms in the next stage of the conflict. In 1773, Grandy King George wrote a letter to British ship captain, Ambrose Lace, telling him that the Duke Town merchants had blown *Ekpe* against Old Town's leading trading houses, further weakening their position in the slave trade.[127] By 1780, according to Behrendt, Latham, and Northrup, Grandy King George "had been marginalized, and so had the market power of Old Town," leaving Duke Ephraim and his fellow Duke Town merchants firmly in control of *Ekpe* and the Old Calabar slave trade.[128]

The violent conflict between Old Town and its two chief rivals reveals a great deal about the dispute strategies used by the Efik of Old Calabar. Duke Ephraim and his compatriots had succeeded in wresting control of the slave trade from Old Town through the use of a variety of strategies: building alliances with Creek Town merchants and British ship captains,[129] reordering Old Calabar's sociopolitical order, engaging in open warfare, and, ultimately, using *Ekpe* enforcement mechanisms to cripple its rival's commercial operation. Duke Town's victory would not have been possible without resorting to strategies well outside of the "accepted criteria," since Old Town had been in control of Old Calabar's normative dispute mechanisms at

[127] Ibid, 66.
[128] Behrendt, et al, *Diary*, 24.
[129] Sparks, *Two Princes*, 15.

the onset of the conflict.[130] From an historical perspective, the most fascinating and informative strategy employed was the alliance with a group of complicit British ship captains.

The continual presence of European merchants in the waters off Old Calabar had, by the late 18th century, effected a considerable change in Efik society. The very notion that the British traders would have been called upon to mediate a major dispute between two rival wards reveals a great deal about their growing influence in Old Calabar's sociopolitical and economic spheres. The motivation behind the ship captains' involvement seems perfectly clear; the slave trade was at a standstill and time and money were being wasted trying to conduct trade with both warring factions. They had tried several less severe methods to reestablish trade, including holding Efik traders hostage "until they agreed to sell slaves at a reasonable price" and blockading the river "to cut the Efik off from their supply of slaves."[131] Their decision in the summer of 1767 was purely economic. If their ploy were successful, the massacre of Old Town's leading traders would bring an end to the conflict and lead to a complete restructuring of Old Calabar's sociopolitical order. Then, not only would the slave trade be revived, but they would also be dealing with a new leadership group still working to consolidate its position of authority over the trade, a position that they owed in large part to the British traders.

This reality could not have escaped the Duke Town traders or the British ship captains, particularly the Liverpool merchants who had acted as the primary co-conspirators in the massacre, as they resumed trade in the wake of their decisive action. The resulting relationship between Duke Town and their principal trading partners from Liverpool was informed by their cooperation in the events of 1767, by the close personal relationships that were formed, but also by the knowledge of how little those relationships would matter if either side decided that their

[130] Lovejoy and Richardson, "Trust," 348.
[131] Sparks, *Two Princes*, 18-9.

economic interests were once again being threatened. As Behrendt, Latham and Northrup suggest, the alliance between traders from Duke Town and Liverpool continued into the 1790s, when Liverpool ship captains strengthened "Egbo Young Ofiong's and [Great] Duke Ephraim's positions in Efik society" and "allowed Duke Town to dominate [the slave] trade."[132] The clear evidence of European agency in the political machinations of Old Calabar's powerful merchant houses, the instrumental role Duke Ephraim played in holding together the alliances that had completely rearranged the sociopolitical order of Old Calabar, as well as the simmering political tension between Old Town and Duke Town, give an historical context and logic to the disputes recorded in Antera Duke's diary, including the actions taken by Duke Town's leaders following the death of Duke Ephraim in 1786.

Arenas of Dispute in Late 18th Century Old Calabar

The sociopolitical and economic structures of Efik society in the 18th century were completely transformed by Old Calabar's involvement in the Atlantic slave trade. *Ekpe* provided Efik merchants from the leading wards with an effective mechanism of control and a system for managing and resolving trade related and non-trade related disputes while causing only a minimal disruption to the slave trade. Obviously, as the events of 1767 reveal, there were certain notable exceptions to this rule. *Ekpe's* enforcement capacity and its creation of legal arenas for dispute management also provided European merchants with the necessary security to advance credit to the Efik traders. By the mid-1780s, the successful machinations of Duke Town's leading merchants, including Antera Duke, led to their control of *Ekpe* and rise to prominence in

[132] Behrendt, et al, *Diary*, 78-9.

the slave trade alongside their Liverpool partners, who controlled access to the trade from the European side.[133]

The one-on-one disputes and wider conflicts of 18th century Old Calabar were not always resolved or even contested within the legal arenas provided by *Ekpe*. For a variety of reasons, some overt and others obscure, parties would often use extralegal strategies in conjunction with or in place of *Ekpe* dispute mechanisms. Extralegal strategies used by the Efik in the late 18th century Old Calabar ranged from the rather mundane—one-on-one negotiation, informal third-party mediation, and alliance building—to the extreme—witchcraft accusation and *esere* ordeal, subterfuge and violence. A disputant's position in the community's sociopolitical hierarchy, or the relative position of his opponent, was one possible determinant among many in the selection of strategies to manage or resolve the dispute. In addition, wider scale political disputes during periods of instability tended to involve a high degree of extralegal strategies, as the goals of the parties involved were not always obtainable through legal channels alone.

The political and economic advantages derived from the control of the *Ekpe* society provide an historical context and logic to any large-scale dispute involving the renegotiation of Old Calabar's sociopolitical order. This is particularly true of disputes arising from the death of powerful Efik leaders, such as Duke Ephraim, or inter-ward conflicts such as the Old Town/Duke Town rivalry of the 1760s. Such periods gave rise to an interconnected "matrix" of disputes aimed at a transformation and reordering of Efik society, with each of the parties involved having a different idea of how that process should unfold. These disputes led to periods of what Simon Roberts has termed "*ad hoc* accommodations and adjustments,"[134] in which Efik stakeholders would use a variety of dispute mechanisms, operating both inside and outside of

[133] Behrendt, et al, *Diary*, 78-9; & Behrendt and Graham, "African Merchants," 55.
[134] Roberts, "Study of Dispute," 4.

Ekpe, to initiate, settle, or prolong conflicts based on their own interests. These disputes and the resulting alliances and outcomes were the catalysts of the transformation and reordering of the sociopolitical order in Old Calabar throughout the 18th century. The following analysis of Antera Duke's diary will focus on recognizing and contextualizing the types and possible functions of dispute mechanisms employed by the Efik during a period of relative instability and intense competition.

IV. Dispute Mechanisms in the Diary of Antera Duke (1785-1788)

G. I. Jones has noted in his study of Efik political organization that there were "striking contrasts" in the 19th century socioeconomic development of Old Calabar, on the one hand, and Bonny and New Calabar, on the other. The former remained relatively stable despite its seemingly divided sociopolitical hierarchy made up of semi-autonomous settlements and family corporations, while the latter two were caught in a constant cycle of internecine conflict despite their more unified political structure under the rule of a "predominant chiefly dynasty of considerable prestige."[135] These disparate histories, evolving within the same region and among the same ethnic group, reveal the significant variance in these communities' sociopolitical institutions and behaviors, particularly in their methods of managing and resolving internal disputes. What specific characteristics set Old Calabar's institutions apart from those of its neighboring communities in the 19th century? The answer to this question lies in the variety of legal arenas, enforcement mechanisms, and extralegal dispute strategies available to Old Calabar's residents during the period that I describe above.

[135] Jones, "Political Organization," 116.

It is very likely that Antera Duke was not the only Efik merchant who kept a diary in late 18th century Old Calabar. Behrendt, Latham, and Northrup have noted that European ship captains often brought writing implements, paper, and journals as trade goods or gifts for their Efik counterparts.[136] Nearly all of the major Efik merchants, like Antera, would have had a firm grasp of trade English, with a vocabulary of approximately 400 words picked up through commercial negotiations, social interactions, and written correspondence.[137] Based on the limits of Antera's vocabulary and the structure of his sentences, Behrendt, Latham, and Northrup suggest that he achieved literacy in trade English through spoken and written communication with British ship captains.[138] The surviving letters penned by Old Calabar traders to their British contemporaries support this claim. Due to the fact that Antera recorded daily entries, many of which were left out of Wilkie's original transcription for their "repetitive" or "pedestrian" nature, Behrendt, Latham, and Northrup also reason that the transcribed folio and its approximately 1,000 entries was one of several such volumes filled by Antera during the last quarter of the 18th century, and perhaps into the first decade of the 19th century.[139]

Unfortunately, Wilkie's selective transcription of a single folio of Antera Duke's diary is one of only seventeen surviving documents, six of which still exist in manuscript form, of what may well have been a robust written record of Old Calabar's affairs during this dynamic period in its history.[140] Fortunately, however, the transcribed diary entries are a rich source of "local eyewitness history" and "candid account[s] of daily life," unrivalled by the other surviving

[136] Behrendt, et al, *Diary*, 123.
[137] Ibid, 2-3.
[138] Ibid, 120.
[139] Ibid, 3 & 123.
[140] Ibid, 3.

documents written by Africans during this period.[141] This "living picture" of Old Calabar, as Wilkie described it, is made all the more valuable by the wealth and elevated sociopolitical rank of its author. Antera Duke was head of a powerful ward, a member of *Ekpe's* highest grade, a resident of the ascendant Duke Town, a successful trader, and a nephew of the *obong*, Duke Ephraim. These positions afforded him access to the inner-workings of Old Calabar's economic, social, and political institutions, which makes the personal observations and thoughts recorded in his diary all the more valuable.

Old Calabar during the period covered by Antera Duke's diary was defined by the continued growth of the slave trade and the resulting inter-ward competition and tension over the control of market access. It was also marked by significant social, cultural, and institutional change. Not surprisingly during a period of rapid economic expansion and social transformation, there are numerous records of disputes, some detailed and others frustratingly vague, in Antera Duke's diary. He records the majority as isolated incidents, without any reference to motives or to the larger scope of the dispute, fitting in with the general brevity of his entries. However, viewed as a collective whole, Antera's references to dispute reveal a great deal about the legal arenas, institutional mechanisms, and extralegal strategies available to residents of precolonial Old Calabar. They also illustrate the role of disputes as engines of sociopolitical transformation. Comaroff and Roberts have noted a similar relationship between dispute-settlement processes and changes in a society's normative repertoire and sociopolitical order.[142]

In the following pages, I will examine Antera Duke's accounts of disputes that arose among the Efik of Old Calabar and introduce the normative and extralegal mechanisms of Calabar's dispute process. Antera's references to disputes can be classified into two broad

[141] Ibid, 2-3.
[142] Comaroff and Roberts, *Rules and Processes*, 79.

categories. First and foremost, I will introduce evidence of the normative enforcement mechanisms and legal services provided by *Ekpe*. Second, I will look at common extralegal dispute strategies used in place of, or concurrently with, *Ekpe's* normative mechanisms, including subtler mechanisms used to redefine the terms of social relationships and to build political alliances.

Ekpe Legal Arenas & Enforcement Mechanisms

The word *Ekpe* appears in Antera Duke's diary one hundred and fifteen times and there are several other references to the society's ceremonies and functions that do not use its name. In contrast, Behrendt, Latham, and Northrup point out that two other Efik-authored letters from the period contain only brief mentions of the society, which makes Antera's diary the only 18th century indigenous source on the inner workings of *Ekpe*, including its adjudication and enforcement mechanisms.[143] In his introduction to the first edition of Wilkie's transcription of the diary, Daryll Forde notes that Antera's entries provide "an early account by one of [*Ekpe's*] leading members of the way in which [the society] intervened to enforce the settlement of disputes and impose penalties for serious breaches of custom."[144] As the primary legal service provider in late 18th century Old Calabar, it stands to reason that the *Ekpe* society would play a central role in the management of intra-Efik disputes, as well as disputes between Efik merchants and their European trading partners. Antera's diary reveals a variety of *Ekpe* enforcement and dispute mechanisms, including arbitration, adjudication, "blowing" *Ekpe*, "running" *Ekpe*, enforcing debt obligations, and imposing fines and other punishments.

[143] Behrendt, et al, *Diary*, 14.
[144] Daryll Forde, *Efik Traders of Old Calabar* (London: Oxford University Press, 1956), xii.

The very first entry of the surviving transcription, recorded by Antera Duke on January 18, 1785, refers to a minor "palaver," or dispute, between Efik traders, Egbo Young Ofiong and Little Otto. There is no mention of the original offense or complaint that led the traders to bring their dispute in front of Duke Town's "*Ekpe* men," but Antera does record their judgment in favor of Little Otto, providing the diary's first glimpse into the inner workings of *Ekpe*'s legal mechanisms.[145] Egbo Young Ofiong and Little Otto were both required to pay "4 rods," likely of copper, for court fees, but Egbo Young had to pay one goat in addition. According to Behrendt, Latham, and Northrup, the goat provided a feast for everyone in attendance during the adjudication and signified the losing party's compliance with the *Ekpe* ruling.[146] It is interesting to note that both men involved in the dispute paid court costs, a clear indication that the society was a legitimate legal service provider in Old Calabar.

Other entries offer vague descriptions of "*Ekpe* disputes," a term that likely refers to similar adjudicated cases. In an entry from July 1, 1785, Antera briefly mentions a "palaver," or dispute, between Old Town and the "Andoni people," trading partners from a neighboring community to the west of Old Calabar. Another vague entry, from February 17, 1787, mentions an "Ekpe palaver" between Long Dick Ephraim and a "Boostam man" from the village of Unum, another of Old Calabar's regional trading partners.[147] On January 2, 1786, Antera records the arrival "King Tom Salt," a local Efut leader who had travelled to Duke Town "to settle an Ekpe dispute" with Duke Ephraim.[148] In the entry from the following day, Antera writes that Duke Ephraim and King Tom Salt sacrificed a goat and "made doctor" to signify the successful

[145] Duke, "Extracts," 135.
[146] Behrendt, et al, *Diary*, 135n15.
[147] Antera Duke, "Extracts," 197.
[148] Ibid, 173.

resolution of the dispute.[149] On June 10, 1786, Antera once again refers to this dispute, writing that Duke Ephraim had sent representatives to "King Ekpe" (*eyamba*) to distribute "some copper rods that Tom Salt brought for the little Ekpe palaver."[150] Whether these copper rods were paid as a fine or a settlement, Duke Ephraim gave them over to *Ekpe*, albeit six months after the fact, to handle their distribution.

In an entry from May 1, 1786, Antera recalls settling "every bob [dispute]" among the "town gentlemen and women" during a visit to *Akwa Bakasi*, a collection of villages thirty miles downriver from Old Calabar that were part of the "Efik-dominated Lower Cross River trading network."[151] As a high-ranking member of *Ekpe's Nyamkpe* grade, and a representative of the society's influential Duke Town branch, a visit to this outlying member of Old Calabar's trading network involved adjudicating disputes among its local *Ekpe* members. On October 19, 1786, Antera writes that Eyo Willy Honesty, presumably in his capacity as *ebunko*, or vice-president of *Ekpe*,[152] had sent Antera's brother to meet with Esien Duke about "some Curcock dispute."[153] The dispute in question was likely a trade-related complaint between Duke Town merchant, Esien Duke, and merchants from one of Old Calabar's upriver trading partners, the Efik village of *Ikot Offiong* (Curcock).[154]

In the entry from March 24, 1787, Antera records a meeting of Old Calabar's *Ekpe* leadership, at which they settled "every bad bob [dispute]" they had had since the death of Duke Ephraim in July of 1786 and "killed 2 goats" to signify their resolution.[155] On October 1, 1787,

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[149] Ibid.
[150] Ibid, 181.
[151] Behrendt, et al, *Diary*, 111.
[152] Ibid, 31 & 35.
[153] Duke, "Extracts," 187.
[154] Latham, *Old Calabar*, 86.
[155] Duke, "Extracts," 199.

another "Ekpe palaver" involving the trader Willy Curcock was adjudicated before a gathering of "new and old Calabar Ekpe" at the Creek Town palaver house of Sam Ambo, referred to in the entry as "King Ambo" due to his position as the head of an *Ekpe* grade.[156] Clearly, the authority of *Ekpe* provided a legal arena for the settlement, either through arbitration or adjudication, of both intra-Efik disputes and disputes involving Old Calabar's regional trading partners and dependencies.

Ekpe enforcement mechanisms were often invoked in trade disputes to force payment of outstanding debts and to protect the credit/pawnship system. In an entry from May 9, 1785, Antera recalls seeing "Sam Ambo carrying the Ekpe drum to Dick Ephraim" in order to collect a debt on behalf of Ephraim Watt.[157] Ephraim Watt, the creditor in this case, had gone through the dispute channels provided by the society and requested its assistance in forcing payment from Dick Ephraim, the debtor. Sam Ambo, as high-ranking *Nyamkpe* member and office holder, acted on behalf of *Ekpe* and delivered the message to pay the debt or risk further *Ekpe* sanctions. He carried the drum as a symbol of the society's authority. On September 5, 1787, Antera and other high-ranking society members "carried Ekpe," a masquerade figure representing the spirit, to King Ambo's compound and forced him to give one of his sons as a pawn to Liverpool captain John Tatem, to replace a pawn that had run away.[158] An *Ekpe* enforcement mechanism was used to restore balance to a credit arrangement. This illustrates the important role of pawns as security in transactions between Efik and European merchants, as well as the role of *Ekpe* in maintaining reciprocity in debt relationships.

[156] Duke, "Extracts," 209; & Behrendt, et al, *Diary*, 35.
[157] Duke, "Extracts," 149.
[158] Ibid, 207.

On May 4, 1786, Antera writes that he "carried Grand Ekpe" to Jock Bakasi's town (*Akwa Bakasi*) "because they owed [him] goods."[159] Grand *Ekpe* (*Idem Nyamkpe*) was a masquerade figure representing the *Ekpe* spirit and, like the drum, was a symbol of the society's authority.[160] Apparently, Antera Duke's arrival with the Grand *Ekpe* figure was sufficient motivation for the debtors to settle. They paid "1 male slave for [Antera's] goods" along with a "dash," perhaps as a form of interest, of 16 copper rods for Antera and 80 copper rods for Antera's travel companion, Esien Duke.[161] In disputes over outstanding debts, Behrendt, Latham and Northrup note that debtors were often summoned "to appear at the palaver shed for adjudication of the case," although it appears that both of the disputes described above were settled before reaching this stage.[162] It can be assumed that failure to pay the debt once the dispute had entered the legal arena provided by *Ekpe* would have resulted in a punitive sanction from the society.

There are eleven separate references to the act of "blowing" *Ekpe* in Antera Duke's diary. As an enforcement mechanism, the act seems to have had a variety of purposes, but in all instances it supported a decision, sanction, or order of the *Ekpe* society or one of its leading members. In six of the eleven references, the act of "blowing" *Ekpe* is accompanied by the acts of "running" *Ekpe*, "carrying" the *Ekpe* or Grand *Ekpe* masquerade figures, or "carrying" one or more *Ekpe* drums. Each of these related mechanisms represented a symbol of the society's authority and was used to reinforce the *Ekpe* sanction or order resulting from the act of "blowing" *Ekpe*. In several entries throughout the diary, including the above example detailing a debt collection trip to *Akwa Bakasi*, Antera describes these supporting mechanisms being used

[159] Ibid, 179.
[160] Behrendt, et al, *Diary*, 31 & 111.
[161] Duke, "Extracts," 179.
[162] Behrendt, et al, *Diary*, 148-9n66.

independently to the same effect, namely, adding the society's weight to the actions of individual high-ranking members.

In its simplest form, "blowing" *Ekpe* could be used to reinforce an order given to subordinates. In an entry from January 17, 1788, one of the last recorded in Wilkie's transcription, Antera wrote that he "'blew' all wawa [new] Ekpe men to cut firewood…to put in the town palaver house."[163] In his capacity as a member of the *Nyamkpe* grade, he had ordered members of the lowest *Ekpe* grade to perform manual labor, meaning that "blowing" *Ekpe* in this instance simply reinforced a directive given by a high-ranking member to his subordinates. On another occasion, members of the *Nyamkpe* grade, angered for an unnamed reason by a subordinate's trade dispute, "blew" *Ekpe* to force members of the lowest grade "to sleep at the *Ekpe* palaver house."[164] Whether the dispute in question violated the society's procedures or simply went against the interests of the more senior traders, the act of "blowing" *Ekpe* was again used internally, this time as a sanction against undesired behavior from low-ranking members.

"Blowing" *Ekpe* could also be used to control the movements of the town's residents to and from certain areas. In this variation, "blowing" *Ekpe* was combined with "running" *Ekpe*, which involved several *Ekpe* "runners" dressing in masquerade and patrolling the town in search of the uninitiated or anyone violating a specified sanction. When such individuals were found, they were often whipped.[165] In three separate entries, from January 2, 1786; November 10, 1786; and April 30, 1787, Antera refers to "blowing" *Ekpe* to keep the uninitiated residents of Duke Town indoors during secret ceremonies.[166] In an entry from October 14, 1786, Antera writes that he and his fellow high-ranking *Ekpe* members "sent the Ekpe drum to blow all about the town

[163] Duke, "Extracts," 219.
[164] Ibid, 197.
[165] Latham, *Old Calabar*, 37.
[166] Duke, "Extracts," 173, 191, & 201.

for no one to come or go to market."[167] A messenger, once again carrying the *Ekpe* drum as a symbol of the society's authority, shut down Duke Town's market for an unexplained reason.

The mechanism could also be used to protect the town's residents. After hearing reports that Coffee Duke was planning to burn down his compound in Duke Town on January 8, 1788, Antera Duke "took 2 Ekpe drums and 'blew' to forbid any men from sleeping in the houses."[168] Again, the use of the *Ekpe* drums gives additional symbolic authority to the action of "blowing" *Ekpe* and issuing an order to the town's inhabitants. In its general use, this mechanism helped reinforce the *Ekpe's* authority over the entire Old Calabar community by controlling the physical movements of the town's inhabitants and terrorizing the uninitiated with the threat of violence from the *Ekpe* "runners."

According to Behrendt, Latham, and Northrup, the act of "blowing" *Ekpe* on an individual trader was meant to keep that trader confined in his compound or ship and to suspend trading with him until the dispute in which he was involved, usually around the payment of an outstanding debt or another trade-related disagreement, could be settled.[169] The literature on *Ekpe* supports this general description of the sanction[170], but as the above entries have illustrated, this is a simplification of an extremely versatile mechanism. The act of "blowing" *Ekpe* clearly had a variety of meanings and functions. However, the accepted description of the act does reveal its most severe sanction, and therefore its most important function, in the management of Old Calabar's disputes. The boycott sanction associated with "blowing" *Ekpe* was backed up with

[167] Ibid, 187.
[168] Ibid, 217.
[169] Behrendt, et al, *Diary*, 35 & 146n57.
[170] Jones, "Political Organization," 142; Sparks, *Two Princes*, 61; & Latham, *Old Calabar*, 38.

threatened punitive measures, such as the society's confiscation or destruction of an individual's property, fines, or, in some cases, capital punishment.[171]

In his entry on April 12, 1785, Antera refers to Duke Ephraim "blowing" *Ekpe* on one of his sons, Egbo Abashey, a sanction that his son refused to obey.[172] Again, Antera does not refer to the original complaint or offence which prompted Duke Ephraim's action. As punishment for "flout[ing] the authority of the *Ekpe* society," the editors' annotations explain, the leaders of Duke Town's *Ekpe* branch called "runners" to accompany them to Egbo Abashey's house, where they "killed one of his nanny goats."[173] Daniel Offiong, in an article on the functions of *Ekpe*, suggests that once a decision had been made and enforced by the society in a legal dispute, "nobody would go contrary to such a decision because of the very severe consequences that would follow."[174] This diary entry suggests otherwise, revealing that *Ekpe* sanctions were not absolute. It can be assumed that the interests of some disputants were best served by refusing to obey the society's sanctions.

Of course, it can also be assumed that such a decision would have consequences in the form of a punishment meted out by the society, such as the loss of a valuable nanny goat. The entry implies that the members of *Ekpe*, at least members of the *Nyamkpe* grade, were able to exact a punishment for disobedience of an *Ekpe* sanction, but it also shows that these punishments were not always severe enough to prevent violations of the society's sanctions. It is important to introduce a caveat in the analysis of these proceedings, namely, that the dispute is between an *obong* and his son, a relationship that may have changed the nature and severity of

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[171] Behrendt, et al, *Diary*, 35.
[172] Duke, "Extracts," 147.
[173] Behrendt, et al, *Diary*, 146n57.
[174] Daniel A. Offiong, "The Functions of the Ekpo Society of the Ibibio of Nigeria," *African Studies Review* 27, No. 3 (1984): 83, accessed on July 9, 2008, http://www.jstor.org/stable/524025.

the outcome considerably.[175] Lydon, in her study of trans-Saharan trade, has noted that trade networks have been studied mainly "in terms of idealized models" and not "in action."[176] Clearly, the same tendency exists in the study of proto-legal institutions such as *Ekpe*.

The diary contains evidence of other violations of *Ekpe* rules and sanctions and their corresponding penalties. On April 30, 1787, after the leaders of the society's Duke Town branch "blew" *Ekpe* to keep non-members, or possibly lower-ranking members, from witnessing a secret ceremony, a Creek Town trader named Ephraim Watt "was not afraid" and entered the town with seven of his men. For the violation, Ephraim Watt was fined "7 goats," which he promptly paid off with one goat and copper rods equivalent in value to six goats.[177] In his entry from August 11, 1787, Antera records a judgment and punishment against "one of Willy Curcock's men" for killing a mate from the British ship, the *Ellis*. Before a gathering of the British ship captains and high-ranking *Ekpe* members, the grand council ruled that "Willy Curcock's man should have his ear cut off."[178] The fact that the British captains were invited to witness the proceedings underscores the important role of *Ekpe's* adjudicative and enforcement mechanisms in maintaining a stable trading environment in Old Calabar.

On March 17, 1787, three Creek Town traders carried the *Ekpe* figure to Duke Town to request a ruling from *Ekpe* in a dispute Antera refers to as "the Hogan poor boy palaver."[179] It is unclear if the Hogan involved in the dispute was one of the freeborn men named Hogan mentioned elsewhere in the diary, or, as the editors suggest in their annotation, a slave named "Hogan poor boy," but he was apparently a wealthy trader, as he was fined "335 coppers" and

[175] Behrendt, et al, 146n57.
[176] Lydon, *On Trans-Saharan Trails*, 386.
[177] Duke, "Extracts," 201.
[178] Ibid, 207.
[179] Ibid, 199.

made to give "one house-boy to Ekpe for his head to be cut off."[180] Sparks has noted that slaves in Old Calabar could acquire wealth and improve their position within the merchant houses and could even own slaves, so it entirely possible that "Hogan poor boy" was a wealthy slave who had committed a serious violation an *Ekpe* rule or sanction.[181] In his annotation from the first edition of the diary transcription, Simmons notes that a freeborn Efik man "who committed an action which the Ekpe Society judged punishable by death could substitute a slave for decapitation."[182] Perhaps this privilege was extended to wealthy, high-status slaves from Old Calabar's major trading houses, as Antera's entry would seem to suggest.

The legal arenas and enforcement capacity provided by the institution of *Ekpe* were not confined to intra-Efik disputes alone. Disputes between Efik merchants and their European trading partners were also subject to *Ekpe* rules, sanctions, and enforcement mechanisms. As shown above in the entry from September 5, 1787, which describes *Ekpe* interceding to replace a pawn who had run away from a British ship captain, the society's authority could be used to protect European interests and to ensure the stability of the credit/pawnship arrangement. The ability of *Ekpe* to intercede on behalf of European merchants to force payment of outstanding debts, as Behrendt, Latham, and Northrup have recognized, was a fundamental feature of the trade relationship between the Efik and their European partners.[183] However, Efik merchants could also use *Ekpe* mechanisms in disputes against the European ship captains, as several entries from Antera Duke's diary reveal.

In an entry from March 12, 1785, Antera refers to a meeting of high-ranking *Ekpe* members at Duke Ephraim's palaver house "to discuss the dispute with the new ship's captain,"

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[180] Ibid.
[181] Sparks, *Two Princes*, 39-40.
[182] Simmons, "Ethnographic Sketch," 77.
[183] Behrendt, et al, *Diary*, 35.

perhaps the captain of a vessel making its first visit to Old Calabar.[184] The origin of the dispute is unclear, but it can be inferred from the involvement of every major Efik merchant that it was related to a disagreement over collective trading terms or the amount of the "comey" payments the captain was required to pay. The *Ekpe* members present at the meeting wrote a note asking the captain to come ashore, which he refused to do, prompting Antera and two other Efik traders, possibly Willy Honesty and Duke Ephraim, to go on board the ship to attempt a resolution. The three *Ekpe* representatives offered settlement terms, but the captain refused them and decided to depart Old Calabar.[185] With the institutional backing of *Ekpe*, the Efik traders were able to stand their ground against the aggressive bargaining tactics of the "new ship's captain."

Antera records two separate instances of *Ekpe* being blown against British ship captains. In his entry from October 26, 1786, Antera recalls his surprise and anger upon discovering that Creek Town merchants and high-ranking *Ekpe* members, Sam Ambo and George Cobham, had "blown" *Ekpe* on Captain Patrick Fairweather of Liverpool, one of Duke Town's principal trading partners and political allies.[186] As Behrendt, Latham, and Northrup note in their annotation, Captain Fairweather had just sailed from Liverpool on August 26, so *Ekpe* must have been "blown" against him soon after his arrival.[187] Again, the origins of the dispute are not stated, but the fact that it occurred early in his stay suggests that it had to do with either a disagreement over "comey" payments or a trade dispute held over from his previous visit. The possibility of Sam Ambo and George Cobham using such a powerful *Ekpe* sanction without provocation from Fairweather is remote, but it is clear that Antera Duke thought the action was unwarranted.

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[184] Duke, "Extracts," 145.
[185] Ibid.
[186] Ibid, 189.
[187] Behrendt, et al, *Diary*, 188n187

In an apparent violation of the sanction, which, according to Latham, should have "prohibit[ed] anyone from trading or having any other dealing"[188] with Fairweather, Antera calls the captain "to come ashore and break trade first with [his] family for about 15 slaves."[189] While it is possible that the dispute had been settled by the time Antera traded with Fairweather, it is far more likely that his violation of the boycott initiated by two Creek Town traders was a political maneuver meant to signal the continued supremacy of Duke Town in the control of *Ekpe's* enforcement mechanisms and, through them, access to the slave trade. Old Calabar had entered a period of political instability following the death of the *obong*, Duke Ephraim, three months prior. Duke Town's rise to the top of Old Calabar's political hierarchy owed a great deal to Duke Ephraim's leadership, influence, and skill in building alliances.[190] It is entirely possible to view this *Ekpe* sanction against one of Duke Town's principal Liverpool trading partners as a political power play from two of Creek Town's leading merchants and an effort to redefine the terms of their alliance with Duke Town. If so, it was just one of the many "*ad hoc* accommodations and adjustments"[191] made by Old Calabar's political leaders following Duke Ephraim's death. This entry is also further evidence that the normative mechanisms of *Ekpe* were not absolute, particularly when they went against the interests of Old Calabar's most influential trading houses.

In his entry from September 16, 1787, Antera records another instance of *Ekpe* being "blown" against British ship captains. In this case, Antera and his companions, likely fellow members of *Nyamkpe* grade, were the ones who "carried Grand Ekpe to Henshaw" and "blew" *Ekpe* to forbid British ship captains from sailing away from Old Calabar with Antera's pawns,

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[188] Latham, *Old Calabar*, 38.
[189] Duke, "Extracts," 189.
[190] Sparks, *Two Princes*, 14-5.
[191] Roberts, "Study of Dispute," 4.

which he had "given for [his] slave goods."[192] Once again, the "Grand Ekpe" masquerade figure was used to add symbolic weight to the sanction. The details of the dispute are not specified, but it seems likely that Antera was responding to the captains' threats to leave with his pawns, in lieu of the slaves he had promised to deliver. Perhaps Antera was having a difficult time procuring the promised number of slaves in the specified timeframe. The society's boycott sanction gave leading Efik traders like Antera Duke the ability to threaten European commercial interests in order to achieve a desired result in trade disputes.

Relations between Efik merchants and their European trading partners seem to have been strained in September of 1787. The British ship captains, perhaps sensing opportunity in the prolonged period of instability following Duke Ephraim's death, were seeking to redefine their terms of trade with Old Calabar's *Ekpe* leadership. On September 26, 1787, ten days after Antera Duke had blown *Ekpe* against multiple captains anchored at Henshaw Town out of fear for the security of his pawns, he records another dispute with a British ship captain. In this entry, Antera describes a dispute between Old Calabar's *Ekpe* leadership and Captain Foulkes of the Liverpool ship *Searle*, over the amount paid for "comey," or port dues. A contingent of high-ranking *Ekpe*, led by the *ebunko*, Willy Honesty, and Antera Duke, went on board the *Searle* "to settle the 'comey' palaver."[193] Instead of lowering his anchorage fees, Foulkes' dispute ended up costing him an additional "1,000 coppers" in *Ekpe* fines, which were distributed "[among] every Calabar family."[194] These references to *Ekpe* mechanisms being used against British merchants show that Old Calabar's overseas trading partners were incorporated into the society's ritual

[192] Duke, "Extracts," 207.
[193] Ibid, 209.
[194] Ibid.

relations and "symbolic grammar" of confrontation.[195] Antera's diary provides early evidence of the increase in European involvement in *Ekpe*, which culminated in the opening of society membership to Europeans in the late 19th century.[196]

Extralegal & Concurrent Dispute Mechanisms

The Efik of Old Calabar did not always rely on the rules, enforcement mechanisms, and legal arenas provided by *Ekpe* to pursue their interests and manage their disputes. Sally Falk Moore has noted that, in disputes, conforming to rules and following a normative repertoire are not often viewed as the primary objectives of the parties involved. Instead, disputes are usually focused on the personal objectives of individual actors, objectives "to which legal rules are merely ancillary shapers, enablers, or impediments."[197] It can be assumed that the interests and objectives of the individuals described in Antera Duke's diary were not always pursuable through the use of normative dispute mechanisms. In fact, the rules and procedures of *Ekpe* may have been viewed as "impediments" in the pursuit of certain goals or, alternatively, as but one of several channels available to parties seeking to guide their disputes towards a desired outcome, or to define relationships and build alliances in preparation for future disputes. Antera's diary contains evidence of several extralegal dispute strategies used by both Efik and non-Efik actors in the place of, or concurrently with, the normative mechanisms of the *Ekpe* society.

Disputes, while often pursued through legal channels, are fundamentally social and political in nature. Wendy Davies and Paul Fouracre have recognized this theme in studies of early medieval legal systems. They argue that cases brought before courts in early medieval

[195] Comaroff and Roberts, *Rules and Processes*, 247.
[196] Latham, *Old Calabar*, 80.
[197] Moore, *Law as Process*, 4.

Europe tended to be expressions of the existing "network of local social relationships" out of which the original dispute arose.[198] As such, the regular negotiation and redefinition of social relationships, the expression of political unity, and the formation of alliances within these existing local networks were of the utmost importance in the management of disputes. The Efik traders of Old Calabar, along with their regional and European trading partners, formed just such a network, and examples of their efforts to redefine or affirm social relationships, express their political unity, and build alliances can be found throughout Antera Duke's diary, particularly in the entries following the death of Duke Ephraim in July of 1786.

In his entry from June 14, 1785, Antera records the details of a commercial negotiation between representatives of Duke Ephraim and a representative of Commrown Backsider Bakassey, an Efut trader who supplied slaves to the Old Calabar market. Duke Ephraim had paid "560 coppers" as credit for the future delivery of slaves and, as additional security for this advance, Commrown's representative "'chopped doctor' [took an oath]" promising "to obtain slaves for Duke."[199] In Old Calabar, "chopping," "drinking," or "making" doctor were all terms used to describe this type of oath-swearing ceremony.[200] The swearing of the oath was accompanied by the consumption of a small amount of *mbiam*, a liquid extract with the purported power to kill individuals who swore falsely, which would be mixed with water, to "drink," or sacrificial food, to "chop," or eat.[201] In his annotations, Simmons notes that a common "doctor" ritual involved each oath-taker swearing, "that he will refrain from cheating

[198] Wendy Davies and Paul Fouracre, eds., *The Settlement of Disputes in Early Medieval Europe* (Cambridge: University Press, 1986), 233.
[199] Duke, "Extracts," 151.
[200] Forde, *Efik Traders*, 71 & Behrendt, et al, *Diary*, 37.
[201] Simmons, "An Ethnographic Sketch," 20 & Behrendt, et al, *Diary*, 37.

the other[s] on penalty of sickness or death" caused by the *mbiam*.[202] These rituals were important strategies used in securing credit with regional trading partners, normalizing or reaffirming intra-Efik relationships, building political alliances, and settling disputes. Behrendt, Latham, and Northrup compare the rituals to "swearing on a holy text."[203] Less elaborate drinking ceremonies involving alcohol were also an important aspect of normalizing trade relationships with Europeans, occurring "before and after individual barters" with the ship captains.[204]

Moore recognizes that interpersonal relationships within local social networks "may be minutely renegotiated, or reaffirmed, or both, with every meeting," even in times of relative stability.[205] During periods of sociopolitical instability, these social practices become all the more significant. After Duke Ephraim's death, which Antera recorded in his diary entry from July 4, 1786, Old Calabar's *Ekpe* leadership turned inward and initiated a process of testing and renewing ties between individuals and groups. This process may have had multiple purposes. As Behrendt, Latham, and Northrup note, Old Calabar's leading wards sought alliances with other powerful families, "in anticipation of possible internecine violence."[206] However, the focus on strengthening social relationships and affirming political unity also highlights the "powerful mutual interest" of Old Calabar's merchants in maintaining the efficient operation of the slave trade.[207] The doctor ceremony was the primary mechanism used in redefining existing social

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[202] D. Simmons, "Notes on Antera Duke's Diary," in *Efik Traders of Old Calabar* (London: Oxford University Press, 1956), 72.
[203] Behrendt, et al, *Diary*, 37.
[204] Ibid, 65.
[205] Moore, *Law as Process*, 40.
[206] Behrendt, et al, *Diary*, 37.
[207] Ibid, 118-9.

relationships and forming new political alliances to fill the vacuum created by the death of a powerful *obong*.

Antera's entries from the weeks following Duke Ephraim's death contain several references to making, drinking, or "chopping" doctor. The majority of these entries describe ceremonies held with other high-ranking *Ekpe* members and ward heads from Creek Town, Duke Town, and Old Town, as well as Old Calabar's smaller neighboring communities. On July 10, Antera and his family chopped doctor with "all the Cobham Town gentlemen…at George Cobham's yard" and, later in the evening, drank a "family doctor" with fellow members of the Ntiero ward.[208] The next evening, they chopped doctor with the Henshaw Family in Duke Town.[209] On July 18, King Aqua, the leader of the Qua communities to the east of Old Calabar,[210] arrived with "157 men and 16 women" and drank doctor with all the leading Efik merchants and elders. The following day, Antera's family held a private oath-swearing ceremony with King Aqua and, later in the evening, drank doctor with Willy Tom Robin of Old Town.[211]

Each of these ceremonies was an important sociopolitical maneuver. The oath sworn, and sealed with the drinking of *mbiam*, would likely have included a pledge of friendship and cooperation between the participants. After two or more parties had "chopped" doctor, they were assumed to be on good terms; the conditions of their relationships were either reaffirmed or redefined. Extralegal mechanisms like the oath-swearing ritual, according to Simon Roberts, can be viewed as "normal and inevitable" strategies employed by people struggling "to secure their objectives" in the course of everyday life.[212] After the death of a strong leader such as Duke

[208] Duke, "Extracts," 183.
[209] Ibid.
[210] Behrendt, et al, *Diary*, 37.
[211] Duke, "Extracts," 183.
[212] Roberts, "Study of Dispute," 4.

Ephraim there is bound to be a divisive period of "*ad hoc* accommodations and adjustments" in any society lacking a fully established and institutionalized central government.[213]

The oath-swearing rituals described in these entries, which obviously represent only a small percentage of those held in Old Calabar during this two-week period, illustrate the mechanism's important role in the immediate aftermath of Duke Ephraim's death. Collectively, these ceremonies redefined the social and political relationships of Old Calabar's leading merchants and high-ranking *Ekpe* members, as well as Old Calabar's political and economic relationships with important trading partners from the surrounding Efik, Qua, and, presumably, Efut communities. In doing so, they ensured that the Old Calabar's sociopolitical structure would not unravel from the center and allowed its leaders to focus their attention on maintaining their external authority over the region's trade networks.

There are several examples in Antera'a diary of strategies used to stress the unity of Old Calabar's *Ekpe* leadership in order to prevent external challenges from their regional and overseas trading partners following Duke Ephraim's death. Under Moore's definition of the "domination/autonomy struggle," individuals, as both members and outsiders, will often challenge a corporate group's assumptions of "what is settled and what may be competed for" in an effort to shift the "terms and conditions of competition" in their favor.[214] Obviously, such a challenge makes the most sense when the corporate group is going through a period of relative instability or redefinition, as Old Calabar's *Ekpe* society was in July of 1786.

It was precisely this type of action that the high-ranking members of the *Ekpe* society were seeking to prevent, or at least discourage, by stressing their unanimity. After burying Duke Ephraim's body in secret, the *Ekpe* leaders' first action, *en masse*, was to inform the European

[213] Ibid.
[214] Moore, *Law as Process*, 26.

ship captains of the *obong's* death. In his entry for July 6, Antera Duke writes that he and other high-grade *Ekpe* members "went on board every ship in 5 canoes to let all the captains know."[215] The five canoes demonstrated the continuity of a unified *Ekpe* authority to the European captains. The Efik traders filling those five canoes, having likely participated in or witnessed the massacre of 1767, were well aware of what the Europeans would do to ensure continuity and order in trade relations.

The first reference of a challenge to the continuity of Old Calabar's authority from a regional trading partner is recorded in the entry for August 9, 1786. On that day, Antera Duke mentions the arrival in the Old Calabar region of a trader from Bakasi, who had "feared to come…when Duke Ephraim was alive."[216] Whether the "Bakasi gentleman" was a party to what he had assumed was a dormant dispute, or was simply a trading rival looking to assess the strength of Old Calabar's *Ekpe* leadership, his arrival was a significant event. Antera writes that he and his fellow high-ranking *Ekpe* members "put [their] heads together" to capture him and put him, along with two of his slaves, "in irons."[217] Once again, Old Calabar's leaders acted in unison and took decisive punitive action against an external challenge to their authority. The capture and imprisonment of the "Bakasi gentleman" can be viewed as an important step in the process of reestablishing Old Calabar's authority over its trade networks and stabilizing the "domination/ autonomy" hierarchy of the Cross River region.

There are several references to powerful Efik merchants adjudicating disputes outside of *Ekpe* legal arenas, primarily domestic disputes within their own wards, and enforcing their decisions through the use of punitive measures. Domestic disputes seem to have been arbitrated

[215] Duke, "Extracts," 183.
[216] Ibid, 185.
[217] Ibid.

or adjudicated by ward heads, but not necessarily in their official capacities as high-ranking *Ekpe* members. There are very few references to Efik women pursuing disputes in Antera's diary, unless they were related to him or his fellow *Ekpe* members, but it is rather apparent that, on their own, they had no recourse to the legal services and institutional mechanisms provided by the *Ekpe* society.

In his entry from September 3, 1785, Antera recalls going to Duke Ephraim's "yard" to discuss a dispute between Coffee Sam Ephraim, a resident of Duke Town, and his wife.[218] The fact that the discussion of this dispute took place in Duke Ephraim's "yard" and not his palaver house suggests that it was not viewed as an *Ekpe* related issue. While the dispute was being discussed, and perhaps arbitrated, Coffee Sam Ephraim's sister arrived and "fought with her brother's wife."[219] The entry does not mention a decision being made in the matter, but it does clearly document the involvement of family members in some marital disputes.

In his entry from May 27, 1787, Antera records the details of a domestic dispute between two of his younger brother's wives, which had again expanded to involve other members of their families. One of Egbo Young Antera's wives, the daughter of Captain John Ambo of Creek Town, "fought with another wife" and had her teeth knocked out.[220] The complaint did not originate with the injured party, but was brought to Antera by "Captain John's family."[221] As head of the Ntiero ward, Antera himself adjudicated the dispute, deciding in favor of the complainant and ordering his relative, Jimmy Antera, "to take out the teeth of the [other]

[218] Ibid, 161.
[219] Ibid.
[220] Ibid, 203.
[221] Ibid.

wife."[222] This entry shows, in the punitive response of the Ntiero ward, that domestic violence was an acceptable mechanism in the adjudication of familial disputes.

Antera records the details of yet another domestic dispute involving one of his younger brothers in two entries from September 19 and 20, 1787. Once again, the origin of the dispute is unclear, but on September 19, Antera writes that his brother, Yellow Hogan Abashey Antera, had "shot at his wife with a gun but the shot did not touch [hit] her."[223] On the following day, Antera writes that his brother's wife, Eba, came to see him and "said she had 'eaten doctor,'" possibly carrying out his judgment from the previous day's dispute. Skeptical, Antera sent his wife to investigate and, upon discovering that Eba had vomited the *mbiam* extract, he ordered his wife "to give her more doctor to drink."[224] Later that day, he received word that his brother's wife had died after both eating and drinking doctor on his orders. These disputes were not adjudicated within the legal arenas provided by *Ekpe*, and the details seem to suggest that Antera had authority, as a ward head, to issue and carry out punishments in domestic disputes involving the members of his ward.

The Efik of Old Calabar used a variety of extralegal strategies and mechanisms in managing their disputes and pursuing their interests. Using the legal arenas and institutional enforcement mechanisms provided by *Ekpe* was not a strategy available to all disputants, nor was it necessarily the best, or only, channel available to individuals seeking to "secure their objectives."[225] The spectrum of extralegal strategies described in Antera Duke's diary is astonishing in its scope, from the relatively mundane oath-swearing ceremonies described above to the far more extreme measures of kidnapping, murder, and witchcraft accusations.

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[222] Ibid.
[223] Ibid, 209.
[224] Ibid.
[225] Roberts, "Study of Dispute," 4.

In his entry from October 15, 1786, Antera reveals uncertainty and anxiety over the fate of his "cabin boy," who he had sent to Curcock (*Ikot Offiong*), presumably to deliver a message to one of the village's traders.[226] Afraid that his "cabin boy" had been "caught," Antera was so distraught that he could not eat until the "cabin boy" returned in the evening.[227] Based on the evidence from his diary, Antera's fear was well founded. Kidnapping, of both slaves and freeborn men and women, was a common extralegal dispute strategy, as well as a mechanism of enslavement, among the Efik of Old Calabar and their neighbors in the Cross River region and is described in multiple diary entries.

On July 1, 1785, Antera writes that the "Andoni people were 'catching wives,'" stopping and seizing women as they travelled to market, and threatening to kidnap Efik men and women until a dispute with Old Town was settled. In his entry from July 17, 1785, Antera Duke recalls sending five of his people to the home of "Yellow Belly's daughter" to "seize" one of her female slaves.[228] Antera's explanation for this action is rather convoluted, but it seems that he seized the slave to compensate for the loss of another one of his female slaves, who was given to Captain Fairweather without Antera's permission. There is no reference to *Ekpe* or to an adjudicative process in this entry and it appears that Antera acted unilaterally. Antera's entry from January 29, 1786, makes reference to Sam Ambo's seizure of "3 Egbosherry men," Ibibio peoples from villages to the west of Old Calabar,[229] and his entry from April 20 of that year refers to multiple kidnappings on both sides of a dispute between Eyo Duke and a large group of traders from an unnamed neighboring community.[230]

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[226] Duke, "Extracts," 187 & Behrendt, et al, *Diary*, 187n184.
[227] Duke, "Extracts," 187.
[228] Ibid, 155.
[229] Ibid, 175.
[230] Ibid, 179.

Violence and murder were also common extralegal strategies in the disputes of Old Calabar, as evidence from Antera's diary clearly shows. On October 27, 1785, Antera describes a violent altercation between Tom Salt or Captain Andrew—Antera is not clear on the details – and British sailors on board a long boat.[231] Tom Salt and Captain Andrew were leaders from Tom Shott's Town, an Efut settlement on the western side of the entrance to the Cross River, an ideal location from which to launch occasional attacks on European ships. It is not clear what prompted this particular attack, but it could have been one phase in a larger trade dispute, or perhaps an effort to negotiate better trading terms with Old Calabar or a share of "comey" payments.

This was not the only example of the Efik and their trading partners using violence in the pursuit of their interests. The three Ibibio men seized by Sam Ambo on January 27, 1786, had "killed one of his men," likely as part of a larger dispute.[232] In his entry from August 11, 1787, Antera describes the murder of a British ship's mate by an Efik trader from *Ikot Offiong*.[233] After being accused of causing Duke Ephraim's death through witchcraft and pressured to undertake the *esere* ordeal, a desperate Coffee Duke threatened to burn down his compound in Duke Town. Antera recorded Coffee Duke's threat in his entry from January 8, 1788.[234]

In his entry from April 20, 1786, Antera describes a series of legal and extralegal strategies employed in a dispute between a group of traders from Enyong, a cluster of villages in the Cross River region, and an Efik trader named Eyo Duke. According to Antera's version of events, Eyo Duke had kidnapped several Enyong traders who owed him money. On April 20, the "Enyong people" arrived in Duke Town to carry out a variety of dispute strategies to shift the

[231] Ibid, 165.
[232] Ibid, 175.
[233] Ibid, 207.
[234] Ibid, 217.

conflict in their favor. The extralegal strategies used included theft, kidnapping, and threats of violence, but it is interesting to note that the Enyong traders appear to have made a simultaneous effort to resolve the dispute through the legal channels of *Ekpe*, as Antera writes that he was called "to go up into the King's [*Ekpe*] palaver house" to hear the traders' complaints.[235] This is a prime example of the countless trade-related disputes that developed in the competitive economic environment of Old Calabar and one that shows the wide spectrum of strategies, both legal and extralegal, that could be employed concurrently in pursuit of individual or group interests.

The Efik of Old Calabar used witchcraft accusations as an extralegal strategy in political and domestic disputes. As Latham has noted, the use of these accusations and the resulting *esere* ordeals were most common during periods of instability after the death of a strong leader, and were used as a mechanism to remove rival candidates during the resulting succession struggles. In the 19th century, the death of a powerful *obong* or *eyamba* would routinely result in mass accusations and ordeals, often deciding succession struggles between the two most powerful Duke Town wards.[236] Based on evidence from Antera's diary, witchcraft accusations and ordeals were already being used as extralegal dispute mechanisms in the 1780s, albeit on a lesser scale. It may be argued that the oath-swearing ceremonies, in which participants ingested the far less toxic *mbiam* extract, served to normalize social relationships and stabilize the political order after the death of a prominent leader and therefore prevented the wide-scale implementation of the *esere* ordeals during the late 18th century. It is interesting to note that the Efik referred to both the *esere* ordeals and the *mbiam* rituals as "drinking doctor," which again suggests a shared functionality between the two mechanisms.

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[235] Ibid, 179.
[236] Latham, "Witchcraft Accusations," 254.

Although the mass accusations and ordeals seen in the 19th century are not evident in the diary, even after the death of Duke Ephraim, there are two isolated cases of witchcraft accusations recorded in the diary, as well as several vague mentions of ceremonies that may have been *esere* ordeals. In terms of the later, the above-mentioned case involving Antera's sister-in-law, Eba, who died after being forced to both "eat" and "drink doctor" may have involved a witchcraft accusation, although Antera's entry does not suggest a motive for his actions.[237] In his diary entry from June 15, 1787, Antera mentions hearing a report that King Aqua had "made all his wives 'drink doctor,'" killing eleven of them, and on September 26 of that year, he refers to two wives of an unnamed Efik man who "drank doctor" together.[238] If Antera was indeed referring to *esere* ordeals in these cases, it would suggest that the mechanism was used in domestic disputes as well as succession struggles. That said, there is no mention in Antera's entries of the motives behind any of these actions, so it is impossible to know if witchcraft accusations were involved. Behrendt, Latham, and Northrup note that there are twelve separate references to "drinking doctor" in the diary[239], but only two can be clearly and unquestionably linked to witchcraft accusations.

In three entries from January of 1788, Antera records the events surrounding the death of Captain John Ambo (King *Ekpe*), a prominent Creek Town trader and *Ekpe* official. On January 3, 1788, Captain John died while attending an *Ekpe* meeting at the Old Town palaver house and, perhaps owing to the rivalry between the two settlements, rumors began to circulate that witchcraft had caused his death.[240] Four days later, in his entry from January 7, Antera mentions the arrival in Duke Town of a messenger from Young Robin John, who had apparently emerged

[237] Duke, "Extracts," 209.
[238] Ibid, 205 & 209.
[239] Behrendt, et al, *Diary*, 124.
[240] Duke, "Extracts," 217.

as the chief suspect. The messenger asked a group of prominent Duke Town *Ekpe* members if they wanted Young Robin John "to go and 'drink doctor' to see if he had killed Captain John King Ekpe [by witchcraft] or not."[241] It is possible that Young Robin John was trying to gauge where the leading members of *Ekpe* stood on the issue; as the most powerful branch, Duke Town's support would likely save him from having to undergo the *esere* ordeal.

While Antera does not record the response given to the messenger on January 7th, it apparently encouraged Young Robin John to channel the dispute into *Ekpe's* legal arena. On January 9, Antera records the arrival of "Old Robin John," presumably the elder statesman of the Robin John ward, at the Creek Town palaver house, where he publically acknowledged the accusations being made against his relative and asked the gathered *Ekpe* leaders for a consensus decision on their validity. In his entry for that day, Antera recalls that "everyone agreed" the witchcraft accusations against Young Robin John were not true, which seems to have put the matter to rest.[242]

While this may not have been an example of *Ekpe* adjudication, the informal agreement of the society's leadership functioned as a *de facto* ruling in the case and saved Young Robin John from the fate of an *esere* ordeal. While the witchcraft accusation and ordeal were not under the official jurisdiction of *Ekpe* in 1788,[243] it appears that the society could still influence their effectiveness as dispute mechanisms. In theory, assuming witchcraft accusations were truly beyond *Ekpe's* institutional control, the Ambo family could have continued to call for Young Robin John to face the *esere* ordeal, but without the institutional support of the Duke Town *Ekpe*

[241] Ibid.
[242] Ibid, 219.
[243] Latham, "Witchcraft Accusations," 250.

branch, it is hard to imagine that such an ill-conceived political maneuver would have advanced the collective interests of the Ambo ward.

The other witchcraft accusation recorded in Antera's diary was the primary dispute mechanism in a political succession struggle between Coffee Duke, one of Duke Ephraim's cousins, and Egbo Young Ofiong, a prominent Duke Town trader who already held the office of *eyamba*. Both men were trying to attain the *obong*-ship, which had remained vacant in the year following Duke Ephraim's death. The dispute came to a head in October of 1787, as Egbo Young and his *Ekpe* allies marginalized Coffee Duke by leveraging a witchcraft accusation that had been brought against him. In his entry from October 22, Antera makes his first reference to the succession dispute, writing that one of Duke Ephraim's sisters had accused Coffee Duke of killing the *obong* with witchcraft.[244]

Antera had apparently decided to support Egbo Young's claim, as had Willy Honesty (Eyo Nsa) and Sam Ambo of Creek Town. The three prominent *Ekpe* members, along with Egbo Young, had "drunk doctor" and sworn an oath that they would "not settle" with Coffee Duke until he had taken the *esere* ordeal with his accuser.[245] Seeing the most powerful wards in Duke Town and Creek Town forming alliances with his rival, Coffee Duke must have known that he had very few options remaining. In fact, with all the traditional legal and extralegal dispute mechanisms closed off to him, he had opted to "run away on board" Captain Fairweather's ship, requesting sanctuary from the most influential British merchant in the Old Calabar trade.

The institutional authority of *Ekpe* was used to leverage the witchcraft accusation against Coffee Duke into a mechanism in the succession dispute. Willy Honesty sent "2 Ekpe drums to carry Coffee to his house," using the authority of the society to hold Coffee Duke in his

[244] Duke, "Extracts," 211.
[245] Ibid.

compound until he agreed to take part in the *esere* ordeal. It appears that Coffee Duke managed to evade the *Ekpe* sanction and flee Duke Town. The next time Antera mentions the dispute, several months later in his entry from January 8, 1788, he writes that Coffee Duke had threatened to return to Duke Town to "set fire to all his houses."[246] It seems that the threat of violence was the only dispute strategy still available to Coffee Duke after evading the *esere* ordeal. Behrendt, Latham, and Northrup note that Jackson's secondhand account, recorded by the British ship surgeon in 1826, describes the losing candidate in a political succession struggle setting fire to the town and committing suicide with a blunderbuss.[247] While this source is questionable at best, if it does refer to Egbo Young's victory over Coffee Duke, then it also shows the effectiveness of the witchcraft accusation as a dispute mechanism, even in the absence of the *esere* ordeal.

V. Conclusion

The importance of disputes in highly competitive market environments cannot be overstated. Eighteenth-century Old Calabar was a community in flux, reinventing itself in response to new market pressures, the brutal commodification of human beings, and a lively intercultural exchange of ideas, symbols, and technologies. The rise of trade-oriented "canoe houses" and the expansion of the regional authority of *Ekpe* superseded traditional lineage-based sociopolitical structures and institutions, which were tied to outdated economic models.[248] Disputes served a variety of functions during this period, allowing prominent Efik merchants, as well as their overseas and regional trading partners, to navigate the community's transformation

[246] Ibid, 217.
[247] Behrendt, et al, *Diary*, 43.
[248] Sparks, *Two Princes*, 40.

from a fishing village into an important market in the Atlantic slave trade. Through dispute, the Efik and their partners constantly redefined and renegotiated Old Calabar's economic structures, political hierarchies and institutions, religio-cultural identities, legal arenas, and social networks in response to the rapid expansion of the slave trade market. As such, disputes were catalysts in the transformation and reordering of Efik Society during the late 18th century and important indicators of the larger historical forces that shaped Old Calabar's development in the precolonial era.

This constant process of adaptation through dispute helped to stabilize the sociopolitical order and normalize trade relations even in times of heightened tension. Unlike the open warfare between rival political factions that plagued the neighboring polities of Bonny and New Calabar during this period[249], dispute in Old Calabar was a heavily ritualized and regimented process, although, as evidence from Antera Duke's diary illustrates, it still allowed for a great deal of improvisation on the part of disputants. The management and settlement of disputes in Old Calabar relied on a variety of legal and extralegal strategies, an assortment of options available to the Efik in the pursuit of their individual and group interests.

By analyzing the dispute mechanisms described in the diary of Antera Duke, my intention was to examine the role of dispute in the larger social, economic, and political systems of Old Calabar, specifically in the transformation of those systems during the expansion of the community's slave trade. The diary is a rich source of information on the dispute processes of late 18th century Old Calabar. Behrendt, Latham, and Northrup, in an introductory chapter on the history of Old Calabar, note that Antera Duke "came of age during heightened competition

[249] Jones, "Political Organization," 116.

among the principal families living in Creek Town, Old Town, and Duke Town."[250] Antera Duke's lifetime was marked by intense rivalries, disputes, and occasional warfare among merchants vying for control of the slave trade in a highly competitive commercial and political environment.[251]

As such, his diary entries record details of numerous disputes channeled through the enforcement mechanisms and legal arenas of *Ekpe*, which had become the *de facto* government of Old Calabar by the late 18th century, and describe these mechanisms within the context of the town's daily life. A close look at the diary reveals that much of the literature on *Ekpe* contains simplified or incomplete descriptions of certain complex mechanisms, such as the acts of "blowing" and "carrying" *Ekpe*. The diary also shows that parties often implemented extralegal strategies to channel their disputes away from the society's legal arenas or to establish concurrent channels to support or potentially supplant them. Many of these extralegal strategies were used to alter the terms under which the dispute was managed and resolved, usually to shift those terms in favor of one of the parties involved, a process Mather and Yvgesson refer to as "rephrasing."[252] Other events, those following Duke Ephraim's death in particular, do not at first appear to be dispute mechanisms, but in fact served valuable roles in the disputes that renegotiated and reshaped Old Calabar's sociopolitical order during the late 18th century.

There are great strides being made in the historical study of dispute in African societies. Recent works by Kristin Mann, Ghislaine Lydon, and Roger Gocking have incorporated analysis of dispute and court records into broader studies of African legal arenas, economic models, political structures, and cultural and social systems. Mann has examined court records from early

[250] Behrendt, et al, *Diary*, 44.
[251] Ibid.
[252] Mather and Yngvesson, "Language," 777.

colonial Lagos, using cases involving the renegotiation of patron-client relationships during the "gradual demise"[253] of slavery to understand the role of dispute in the community's sociopolitical reorganization under British rule.[254] Lydon has shown how recently discovered records of inheritance disputes among members of an important trans-Saharan trade network reveal the inner-dynamics of the trade network model, including the role of Islamic legal service providers in dispute resolution and the "limits of cooperative behavior" among the network's membership.[255] Gocking's work, through an analysis of court records from a 1945 "ritual murder" case in Gold Coast Colony, has shown that traditional extralegal dispute mechanisms continued to be used concurrently with colonial legal mechanisms in local struggles over succession and political control.[256]

These studies, like the pioneering scholarship of Moore, Chanock, Comaroff, and Roberts, highlight the importance of dispute and legal processes as both indicators and agents of historical change. While a great deal has been done, through the analysis of court records and legal arenas, to understand the role of dispute in the transformation of West African societies during the colonial era, historians have yet to apply a similar approach to records of dispute from the precolonial period. An increased understanding of the various mechanisms in place in precolonial Atlantic West African communities to manage and, ultimately, resolve disputes will illustrate the larger social dynamics at work in reshaping their market structures, cultural

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[253] Kristin Mann, *Slavery and the Birth of an African City: Lagos, 1760-1900* (Bloomington: Indiana University Press, 2007), 277-8.
[254] Kristin Mann, "Interpreting Cases, Disentangling Disputes: Court Cases as a Source for Understanding Patron-Client Relationships in Early Colonial Lagos," in *Sources and Methods in African History: Spoken, Written, Unearthed*, ed. Toyin Falola and Christian Jennings (Rochester: University of Rochester Press, 2003), 214-5.
[255] Lydon, *Trans-Saharan Trails*, 383-6.
[256] Roger Gocking, "A Chieftaincy Dispute and Ritual Murder in Elmina, Ghana, 1945-6," *Journal of African History* 41, No. 2 (2000): 219, accessed on July 5, 2008, http://www.jstor.org/stable/183433.

identities, sociopolitical institutions, and external relations with neighboring polities and overseas trading partners. The inhabitants of these rapidly changing communities were not mere automatons following the norms of an immutable social system; they were a historical force, negotiating the transformation of that social system through dispute.

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