

COURTING DIFFERENCE: ISSUES OF INTERPRETATION AND COMPARISON IN THE STUDY OF LEGAL IDEOLOGIES

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This article explores the connections between the interpretive and comparative dimensions of ideology by analyzing ethnographic data from an American town. The town is undergoing a rapid process of urbanization, and townspeople are absorbed in the analysis of the changes around them and their town's prospects as a community. The article compares interview data and courtroom observations in which local understandings are shown to be constituted in pervasive cultural distinctions: past and future, insiders and outsiders, harmony and conflict, gender, and various forms of family life shape local views of change and conflict. The conclusion relates an analysis of the symbolic terms in which these distinctions are expressed to general issues of the nature of ideologies and their truth claims.

I. LAW, INTERPRETATION, AND COMPARISON

Current interpretivist approaches in sociolegal research represent a relatively recent branch of an old intellectual genealogy in the social sciences. At the branching point, social scientists question natural science models as representations of human experience, and, in different ways, embrace the premise that the meanings of cultural and social forms are constituted in their use (Skinner, 1985: 7). This article examines two major implications of

In thinking about this paper, I have benefitted from a number of conversations. First, it is a pleasure to acknowledge Professors David Engel and Barbara Yngvesson, with whom I enjoyed extensive conversations comparing analytical problems and findings in our three independent ethnographic studies of court use in American towns. Their contributions are cited as Engel (1987) and Yngvesson (1986). The earliest version of this paper was the basis for my contribution to a series of presentations that we gave jointly at the Law and Society Association annual meeting, the Cornell Law School, and the American Anthropological Association annual meeting, all in 1986. A second debt is to organizers and participants in the American Bar Association's workshop on "Teaching America: Pluralism and Community in a Republic of Laws" who provided an occasion for developing some of the implications of the ethnographic material presented here. I am grateful to the College of Arts and Sciences, Cornell University, for the study leave during which I wrote the first draft. I am also indebted to Professor P. Steven Sangren, Professor Austin Sarat, and anonymous readers for this special issue for their comments.

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the multifaceted interpretive approach in law and society research.¹

First, any interpretivist stance implies the importance of what anthropologists call "difference." This term refers to the social and cultural processes by which things (genders, races, individuals, nations, and so on) come to be recognized as differentiable. The cultural premises that establish criteria of "like" and "unlike" are embedded in symbols and the relationships among symbols. "Difference" in this sense is fundamental to the reproduction of social forms and values. "Difference" refers not (or not only) to the "fact" that societies, regions, communities and small groups might have different "cultures," but rather, to the question of why and how categorical distinctions are drawn in the first place. In other words, the interpretivist's starting premise is that differences, of any kind, are not intrinsic but are culturally defined according to extrinsic criteria of representativeness. A rough translation of this idea would be to say that difference is in the eye of the beholder, and that when an interpretivist looks at difference, it is not at any particular distinction, but at the whole system of values and meanings by which distinctions are drawn, symbolized, defended, reproduced, and modified.

Second, the view that difference is constructed, or invented, in the course of social experience requires examination of (among other things) the symbolic processes by which arbitrary distinctions become legitimate "givens" of public life. If symbols have no intrinsic meaning (Schneider, 1968), they can be useful in communication only to the extent that they relate to other symbols. Indeed, to be effective, symbols must mark both what they represent and what they do not represent; this double-sidedness is literally crucial to their meaning. Thus, an interpretivist project is inevitably comparative in that its very subject (symbolic representations of difference) is itself comparative.

This article seeks to clarify the connections between the comparative and symbolic dimensions of interpretivism through a selective examination of a particular legal ideology's criteria of difference. Geertz's (1973: 220) reference to ideologies (and the plural form is significant) as "maps of problematic social reality and matrices for the creation of collective conscience" serves well as an orientation point in the discussion that follows. The criteria of difference I discuss emerge from people's efforts to portray the world they live in, and to juxtapose and reconcile that world to the worlds they imagine might have been in the past, or might become in the future. Most of what follows consists of ethnographic data from a suburban town in the United States, a place I call

¹ For discussion of interpretive approaches in law and society disciplines, see Hunt (1985), Silbey and Sarat (1985), Silbey (1985) and Starr and Collier (forthcoming).

Hopewell.² That research centered on local cultural conceptions of law in both broad and narrow senses, in that I was interested in Hopewell's court as an institution, particularly as a symbol in local systems of meaning. The court is an important symbol in Hopewell in that it marks the convergence of multiple lines of differentiation: between past and present, insiders and outsiders, harmony and trouble, and more. (Parallel concerns are expressed elsewhere; see Engel 1987 and Yngvesson 1986.) Since this complex of meanings converges in questions of law and social order, I refer to them together as the local legal ideology.

As Hunt (1985: 33) states, legal ideologies are not meaningful in and of themselves, but become meaningful in context. This proposition draws on the principles of semiotics referred to above, specifically, the arbitrariness of signs and their meaning in relation to other signs. A related proposition is that legal systems are systems of knowledge inseparable from other local systems (Geertz, 1983). Putting these two ideas together, it can be said that legal systems are meaningful in local terms.³

In addition, norms and rules do not necessarily account for behavior; instead, they represent different sorts of claims to legitimacy by speakers of various sorts (Greenhouse, 1982, 1985). Thus, legal ideologies and ideologies in general involve conventionalized invocations of norms and rules that simultaneously suggest and eliminate competing ideologies by elaborating locally significant categories of meaning. Ideologies represent strategic claims concerning the nature of normative orders. It follows that any reference to ideology in the singular is a concession to a particular set of claims (i.e., by its adherents) concerning that ideology's truth value.

The ethnographic material presented herein tells the following story. Residents of Hopewell explain the court's role by draw-

² My research in Hopewell extended from 1973 to 1975, with a brief return in 1980. The initial period was funded by a training grant from the National Institute of Mental Health to the Department of Anthropology, Harvard University. The second period was funded by a Faculty Research Grant from the College of Arts and Sciences, Cornell University. The principal aims of my study in Hopewell centered on local Southern Baptists' conceptions of conflict and conflict resolution as intrinsic elements of their religious faith. I was interested in accounting both for the negative valuation they accord conflict, and the terms in which conflict is devalued (Greenhouse, 1986). This paper emerges, in part, out of my efforts to relate local Baptists' views to other local commentaries on conflict in Hopewell. While there are many parallels (since Baptists draw on a distinctly local set of symbolic referents); there are also differences. Essentially, where Baptists in Hopewell insist that restraining conflict is a sign of spiritual maturity and an index of one's faith in personal salvation, the view I outline here holds that restraint is an index of social acceptability, i.e., of one's capacity to form "community" ties. These may be two sides of the same sociocultural coin; indeed, the boundaries between the Baptist congregation and "the world" are flexible and permeable both in theory (evangelicalism) and practice (conversion or loss of faith).

³ I should add, *when* legal systems are meaningful; i.e., I have set aside questions of legitimacy for the moment.

ing on their understandings of the basic terms of their social existence: personhood, way of life, harmony, conflict and change, to list some examples. Local speakers use these terms to mark the boundaries among locally constructed social categories. (These in turn represent symbolic resolutions of important local struggles that lie outside the scope of this paper; see Greenhouse 1986). Thus, the ideas Hopewell residents hold concerning the nature of social order are not merely epiphenomena of some underlying social process, but themselves constitute the very terms of local social organization. Importantly, these are the same terms in which even very personal quests for meaning are expressed. Informants present such terms as absolutes (e.g., insider v. outsider, saved v. damned), but in practice they are highly flexible idioms of negotiation and concern.

My major ethnographic argument is that while people claim to evaluate the newcomers to their town in terms of their reputation as conflictful and litigious, in fact, their ideology works the other way around. Local understandings of conflict and the court depend on prior assessments of the town's social groups and its patterns of change. I base my argument on an analysis and comparison of two sorts of data: interviews with key informants on the nature and causes of change in Hopewell, and observations of court cases. It is the pervasiveness of a few social distinctions and their invocation by local people as explanations of conflict across the interviews and the cases that are particularly compelling. My purpose is not to suggest in any way that people in Hopewell misperceive their social reality and construct an ideology to accommodate those misperceptions, but the opposite: the nature of ideology, at least a successful ideology, is to be self-fulfilling.

II. THE IDEA OF COMMUNITY IN HOPEWELL

The town I call Hopewell is now a suburb firmly adjoined to a major Southern metropolis, but at the time of my research there, it still stood apart within the boundaries of the small rural market town it had been for most of its history. Hopewell is the county seat, with a population of about 4000 in a county of about 100,000 (as of 1970). Beyond Hopewell at the time of my research, the town quickly faded into farmland, or just wasteland where farms had been before World War II spelled their collapse. The city, not more than thirty miles away, was booming. The town and the city are an important polarity for Hopewell residents in both practical and symbolic terms.

Townpeople express and demonstrate a profound ambivalence toward the city. On the one hand, they recognize it as the keystone of the local economy: almost two thirds of the workers from Hopewell and Hopewell county commute there daily. But the city also looms as a menace to an ill-defined but nonetheless

valued way of life. It is unclear whether people from Hopewell would be conscious of this way of life in the absence of the city's burgeoning growth. Indeed, Hopewell is in the midst of very rapid and profound social change. On the one hand, people welcome change; on the other, they dread what it might mean for the future of their community, as they call it (see Varenne, 1977 and 1986 for a discussion of community as an American cultural construction emergent in contexts of perceived social change). Given the city's rapid growth and proximity, the city stands in rather easily for the local people's sense of their town's future, as if Hopewell were somehow destined to evolve into its twin.

In rather specific ways, when Hopewell residents talk about what the growth of the county will mean for their town, harmony is an important word, as is the phrase way of life. Indeed, both ideas consolidate complex issues of local identity in a single temporal and spatial framework. Whatever harmony means in Hopewell (more on this later) its antithesis is the specter of a faceless suburb, whose residents are merely occupants of their private dwellings, with no commitments to each other, their neighbors, or their town.

It is in this context that the local court acquires its symbolic meanings. Relative to local visions of the future, the town's past is thought of as harmonious. The future is defined as conflictual; conflict augurs the loss of a former way of life defined as harmonious.⁴ People assume both that the court regulates the community for its own good, and that use of the court is a signal of the town's decline.⁵ Such reasoning makes the present the test of both the past and the future. Hopewell Past and Hopewell Future are two towns; they exist side by side in the minds of Hopewell's residents. People who think of themselves as being from Hopewell try to assure themselves that the future will reflect the past. They fear an unfamiliar future, in which harmony and Hopewell's way of life will be forever lost. Such thinking symbolically divides insiders from outsiders—"we" would pass the test of change if "they" had not intervened. The question of how the relationships among these categorical distinctions (of past and future, insiders and outsiders) are organized offers the main theme of the ethnographic data below. The stakes in maintaining these categories are high.

⁴ It is not only in Hopewell that the temporal dimension is experienced as competing sociologies. Engel (1987) describes the multiple visions people in "Sander County" have of their own "community"; these are expressed in terms of different images of time. Engel shows that temporal discourse offers speakers potentially different rhetorical strategies in discussions of social change.

⁵ This ambivalence is deeply rooted in Western thought (Unger, 1975, 1976), American political philosophy (Pocock, 1975), and contemporary debates about the meaning of litigiousness (see Engel, 1984; Galanter, 1983).

They constitute a world view and, as such, the tools with which Hopewell's people shape their public and private futures.⁶

III. COURT AND COMMUNITY IN HOPEWELL: LOCAL VIEWS

When people discuss the role of the court in Hopewell, their common keynote is change.⁷ For the judge and clerk of the Superior Court, the talk of change is very specific, focusing on the kinds of cases the court hears, the nature of the community, and, more broadly, human nature. For others, the question of the role the court plays in town evokes general statements concerning the growth of the town and its relatively urban atmosphere compared to some undefined point in the past. In this section, I focus on local meanings of change in Hopewell, and the values implicit in conventional representations of change. My key informants on these issues are the judge and the clerk, both of whom are considered local experts on questions of the state of Hopewell's current social order.

The clerk of the court began his service in the early 1950s. He is the son of the former judge, and is the descendant of a long line of active Hopewell citizens. This man began his commentary on the court by observing that twenty-six years ago, the civil and criminal dockets combined totaled not more than fifty cases; now there are over 1500 civil cases filed. In the old days, he says, the only defendants were either outsiders or "village characters," i.e., known deviants such as "moonshiners." Today, he says, the town's problems are different, the "color" is gone, and he maintains, the court reflects as no other public institution does the impact of Hopewell's proximity to the city. The clerk describes the new role

⁶ The purpose of this section has been to sketch generally where the court sits in the multiple contingencies that define the social system of Hopewell to people who live there. Beyond this, the perspective I present is clearly a particular one, that of people who consider themselves insiders. I hasten to add that in practice, insiders and outsiders are utterly flexible and permeable categories that shift according to the same sorts of criteria I discuss later in this paper.

⁷ Since Hopewell is a county seat, its citizens have ready access to the courts and its services. The county comprises its own circuit, unlike smaller counties that must share a court and a judge with neighboring towns. Hopewell's Superior Court has two full-time judges, one of whom hears domestic relations cases almost exclusively. Two retired judges sit regularly on a part-time basis to ease the burdens of the docket on the bench. The size of the bench remained stable for the ten years prior to the research, i.e., during the period of Hopewell's most intense growth and change. The facilities of the courthouse itself did increase: an annex was added to the old Victorian building that more than doubled the courtroom and office space of the building. The resident lawyer population also doubled in size, to twenty-seven. In contrast to this physical and professional expansion of legal activity in the town, the actual business of the courtroom itself has contracted. The number of suits filed has increased, but the number of cases brought to a verdict has declined. The role of the judge as third party has expanded somewhat beyond adjudication. See footnote 10 for a discussion of the Superior Court's dockets.

of the court in terms of changes in the kinds of suits filed. He cites three sources of change in the court's docket; explanatory notes under each category paraphrase his remarks:

1. Changes in the law: Divorces once required three jury verdicts before separation was final; now, no jury is necessary and a divorce can be obtained in thirty days.
2. Technological change: The extension of the interstate highway near Hopewell and the increase in the number of cars have, in the clerk's view, generated an increase in the number of property damage claims.
3. Social change: The influx of outsiders has, according to the clerk, led to a decline in trust and a resulting change in credit relations. He says that this trend is manifested in an increase in collection cases. In his view, urbanization has also eliminated the market for moonshine and increased the market for illegal drugs.

According to the clerk, the single most important source of change in town is the rise in its population. For him, increased population density is both problematic in itself, and it exacerbates whatever negative developments relative crowding might bring. He attributes local growth to "white flight" from the metropolis to the suburbs. Hopewell is ninety-eight percent white, and its residents are predominantly moderately affluent and college educated. The proximity of the city makes parts of Hopewell County a bedroom community; however, it is not only newcomers who commute to the city. In Hopewell County, abundant land and low property taxes now encourage residential development, as did an ample water supply and sewerage facilities in the early years of the town's post-war growth (water and sewerage are severe problems today). The clerk says that the absence of a zoning ordinance provides for unrestricted opportunities for speculators and developers whose new high-density subdivisions and apartment complexes lured outsiders (and the implication here is undesirable outsiders) into the county and town. Things might be different, he suggests, if the growth were due to local births, rather than an influx of newcomers.

The clerk's analysis of the town's recent changes involves several lines of differentiation. First, he distinguishes between insiders and outsiders and attributes the changes in the court's role to the outsiders. This is clearly a negative development, in his view, since he sees any increase in the use of the court as a signal of social fragmentation. Legal and technological change provide the basic material for such fragmentation, but such changes would not themselves be problematic if people were inclined to "get along" rather than litigate.

For the clerk, change in itself is negative, if inevitable, in Hopewell. His own vantage point daily confirms his view that so-

cial life has lost some of its value: "I think that people are being thrown together more now, and they are quicker to go to court. People with good neighbors don't need courts—people just don't *want* to get along now" [his emphasis]. He adds that the result of this situation is more regulation: "There is a lot of law being made." He offers this observation as one measure of the losses imposed by the town's recent changes.

For the clerk, the heart of those losses is revealed in the implicit contrast he draws between people who live in Hopewell as families and neighbors, and others who live in Hopewell alone, without primary bonds in the town. I take this to be the referent of his contrast between actual sources of growth from ex-urbanites and the hypothetical growth from increases in the local birthrate. This is not merely a comment on birthrates, but on gender and the impact on families of women in the workplace. For many people, the new meanings of womanhood entail risks, for marriage, children, and generally, the quality of life. Many people in Hopewell worry aloud about the social significance of the isolation of the thousands of single people or childless couples in the county.

Everyone realizes that the patterns of change they witness are also widespread beyond Hopewell, but the issue of family provides the idiom with which people express other sorts of changes. For example, they recognize the realities of life and the need for occupational mobility; on the other hand, they are ambivalent about a society made up of people who, necessarily or not, place income above family ties. They tend to define newcomers as isolated salary earners, and local people as family breadwinners. Thus, issues of change become bound up in the idioms of gender, family, and interpersonal conflict, since these constitute the symbolic boundary between the past and the future. People imply that one role the law should play is in providing some countervailing force when the family begins to break down. For example, the clerk says that the net effect of the change in the divorce law is to make divorce too easy; divorce would not be so commonplace today if the legal process itself were cumbersome enough to provide some time and incentive for an unhappy couple to "work things out." The cases described below offer various contexts for elements of these ideas.

The judge has a somewhat different view of the current scene. While he has spent all of his life in town, he views Hopewell with somewhat more detachment than the clerk. Indeed, local people say "he is not from here" meaning that his parents were not from Hopewell, but this in no way discredits him. Perhaps they notice that he does not talk about Hopewell in terms of its past. His observations on the changing role of the court focus less on local changes than on recent developments connecting Hopewell and national trends. He, too, articulates these changes in terms of new litigation:

1. **Illegal drugs:** All first offenders are prosecuted in the lower court, where a year of unviolated probation erases the record. Even so, the judge reports that the court is flooded with drug cases involving high school and college students using substances that are increasingly available from the city nearby. The county's undercover narcotics squad and the school board's newly purchased drug-sniffing dog are aimed at deterring drug use.
2. **Consumer suits:** The judge reports a large number (unspecified) of consumer suits against manufacturers for faulty items. He interprets such litigation as a sign of social change, in that in the past, consumers in Hopewell did not use manufactured items from "anonymous" dealers. Further, he adds, if they did purchase manufactured goods, the vendor was a local retailer (more than likely a friend or a relative, according to the judge) who was readily responsive to complaints.
3. **Malpractice suits against professionals.** The judge interpreted this development as a sign of declining trust in contemporary American society.
4. **Suits against judges, under federal law, for denial of civil rights by virtue of or during imprisonment.** The judge explains this category of litigation in the same terms as professional malpractice suits. Both categories reflect his concern with national litigation trends and their social implications.
5. **Damage suits resulting from increased automobile use and accidents.**

As does the clerk, the judge expresses his ideas concerning change in terms of family. While divorce is by no means a new area of litigation, the high divorce rate is a particular concern for the judge. He attributes the divorce rate to couples whose economic needs require both spouses to work. When a glass works plant operated in the county a generation ago, he says, most of the divorce cases were between glass-works employees working incompatible shifts. At that time, Hopewell County was (according to the judge) the only county in the nation in which divorce suits outnumbered applications for marriage certificates. Comparing the present profile of divorce litigants to the workers of a generation ago, the judge focuses on the marital problems of today's two-income white-collar couples. He implies a difference between Hopewell's stable "traditional" families (the term is not his) and the socially isolated newcomers who live in the new developments on the edge of town near the highway that links Hopewell to the city.

Despite their differences, both the clerk and the judge see the amount of litigation in the Hopewell court to be a source of con-

cern, not only because litigation presses the courthouse personnel to their limits, but because it is a sign of social decline. They represent the changes that threaten the town's future as coming from outside of Hopewell: new technology, new law, new residents, new problems, and new social orientations. They describe, again in family terms, the world view of the future as one besieged, i.e., isolated individuals or nuclear families living without social resources and without trust. Their lack of trustworthiness makes trust unprofitable for everyone else; hence, the aggregate loss of community, the new litigiousness, and the critical inability to resolve problems through negotiation or with the aid of traditional third parties outside the court (e.g., vendors).

The judge interprets these changes as the result of Hopewell's integration into the regional and national economy. He does not focus on the loss of a way of life, but on external sources of social change. The clerk, on the other hand, sees Hopewell as the victim of internal changes, essentially generated by an influx of a "kind of person" (this is not his language, but a commonplace local usage) not suited to community life. He defines a harmonious community beyond which social life has perilously little meaning. Importantly, both men see the court as the vanguard of the new Hopewell, the gateway beyond which the future waits.

The clerk's view—of Hopewell lost—is widely shared by others who identify with the town's past. They express concern about the state of contemporary values in general or the values of newcomers to Hopewell. One woman says, "They just came to take our money and make trouble." Another woman refers to the people "with dollar signs in their eyes." A frequent theme in church sermons is avoidance of the temptations of the city; indeed, most young people I knew visited the city only under the most carefully controlled circumstances: never alone, always for some structured activity, planned well in advance.⁸

The judge's view—in a sense, of Hopewell gained—is echoed by the many people interested in the town's development. Long-time residents of Hopewell can cite ample evidence of the town's growth. The term "growth" has positive connotations fully intended, I believe, by those individuals who welcome the new capital and the new sophistication of the town. I do not recall meeting anyone who was nostalgic about the town's past, even though some might relish talking about the old days. In this one respect, the clerk's lament is distinctive; when he talks about the current state of things, it is with evident sadness. The more usual tone is one of bemusement, that change should have come so quickly—and to Hopewell. For many people, whatever the future might bring, the present town is a source of pride, even relief. Women in particular

⁸ I do not discuss Baptist perspectives here; see Greenhouse 1986.

cite the extent to which the old days were confining; they welcome the relative social freedom of the modern town.

Still, the clerk's fears for the future are widely shared. People generally recognize that Hopewell will have to pay a price for its development; when the payment will be due and who will set the price provide the substance of much of the informal talk about the state of Hopewell and its prospects.

IV. THE IDEA OF COMMUNITY IN COURT: SIX CASES

The themes of conflict, change, insiders and outsiders, and family life constitute important criteria of difference in Hopewell. They are significant in many domains; their significance is highly visible in the daily activity of the courtroom.⁹ The following case descriptions show how evaluations of litigants are shaped by the generic differences defined by townspeople, described above by the judge and the clerk. These generic interpretations of litigants work to define important aspects of litigants' courtroom experiences. In more general terms, the cases show how such differences reproduce themselves in social experience.¹⁰

⁹ I spent a brief period observing court sessions in Hopewell's Inferior Court, officially called the State Court (the term Inferior Court is a popular archaicism dating back to the early days of the county's government), at the invitation of its clerk, who was instrumental in arranging access to other local institutions of law enforcement, as well—the police, the jail, the county ordinary's (or probate judge) office, as well as his own, and the Superior Court clerk's offices. The interviews discussed in the previous section were with the judge and clerk of the Superior Court. Both men were widely known (in local opinion as well as in the local press) as astute observers of social change. Although I was interested in the activities of the courthouse, the central questions of my research were elsewhere, as I explained in footnote 3. For this reason—in retrospect, unfortunately—I did not interview the judge of the Inferior Court.

Observing in the Inferior Court was a frustrating business, since most cases were dispatched in a minute or two of conversation among attorneys and other personnel clustered at the judge's bench, and were inaudible to me. The cases I report on here were the business of a single morning. They are presented here in the order in which they were heard.

This state has a Supreme Court, a Court of Appeals, and Superior Court circuits (Hopewell County constitutes its own circuit). The Inferior Court, or State Court, is a county-level court; its appeals are heard in the Court of Appeals. Justices of the Peace are also state judicial officials. They serve militia districts, a sub-county designation. Hopewell has no Small Claims Court and no City Court, although some counties in this state have both, as well as others. Every court in this state below the Superior Court level was established by a separate legislative act; there is no uniform procedure mandated by law, although most state courts follow the procedure of the Superior Courts.

¹⁰ In addition to brief periods of observation in the county courts, I compared the dockets of 1973 and 1962–63, tabulating frequencies of suits by type, both for criminal and civil courts. I summarize these data here, for readers who are interested in the activity of the jurisdiction. My purpose in making these data available is to enrich the context of my ethnographic presentation, not to validate (or invalidate) specific aspects of the judge's, clerk's or other participants' sense of things. Indeed, as cultural propositions, their statements obviate empirical challenge.

Although divorce, drugs, and damage suits contribute important segments of the court calendar, the dockets largely reflect the activities of a commercial

Case 1: Simple Battery

This case came up on appeal from the court of the Justice of the Peace, which consistently refers its cases to this court. The plaintiff was a woman who filed a charge of battery against her son-in-law. They were both present in the courtroom, as were the woman's daughter and a neighbor who was witness to the incident. The defendant was represented by an attorney. After the daughter and neighbor were sworn in, they were escorted to the witness room and told not to discuss the case. The plaintiff was questioned at length over exactly where on her body she had been struck; she answered vaguely and complained that no one believed her when she said she had been struck. Then she was asked whether or not she had provoked her son-in-law, to which she also answered vaguely. A long argument followed between the solicitor (prosecutor) and the defense attorney over how much evidence was admissible before the court, an argument in which the judge did not participate. They resolved the debate by proceeding with the questioning, because, as the solicitor said, "The court will listen to what it wants to."

There were three versions of the events in question. The plaintiff claimed she was struck by her son-in-law when she berated him for his continual unemployment. The defendant claimed he struck her because she swore at him. The neighbor, a witness for the defense, claimed that the plaintiff simply fell. She came to the house when she heard shouting because she thought the defendant and his wife were having one of their frequent arguments. The neighbor said, "I'm a good Christian woman and if I could help bring them together, I would." Under questioning, it appeared that her efforts at reconciliation consisted of pulling the telephone off the wall when the defendant's wife reached for it to call the police. The defendant then said that the plaintiff's charges grew out of an accumulation of past incidents. There had been many earlier arguments and beatings. The defendant said, "A man can take just so much," to which the solicitor responded, "Yes, I understand that." The judge explained that although under state statute, foul language constitutes provocation in simple battery cases, in this case, he found the defendant guilty and fined him fifty dollars.

jurisdiction. The impact of the city, if it is shown in these data, is seen in the growth of commerce. In general, most cases on the dockets have no alternative forum for resolution, i.e., they are problems of administration that require some action by the court. Indeed, a relative minority of cases consists of suits filed by individuals (see Engel, 1984; Galanter, 1983). In 1962 and 1963, as now, the principal litigants were businesses and individuals for whom the law itself leaves no alternative but the court.

At three points in this case, the action of the courtroom was explicitly focused on the issues of difference that are central to Hopewell's legal ideology, i.e., the sources of conflict outside the community of Hopewell, the special salience of gender, and the social inadequacies of litigants. First, the plaintiff is required to respond to the question of whether she provoked her son-in-law to violence. Indeed, we have seen that plaintiffs are pre-defined as troublemakers with inadequate skills of self-mastery or reconciliation. Second, the special nature of women as an integrating force in the community emerges in the neighbor's defense of her proactive intervention in the dispute. Third, she invokes the idea of conflict as sin in the same statement: "I'm a good Christian woman and if I could help bring them together, I would." It is the first of these distinctions that predominates in the next case.

Case 2: Simple Battery and Assault

In this case, a woman complained that her husband had beaten her. She claimed he was drunk at the time, and that in the course of an argument, he had thrown her down onto their couch. When she fell, she burned herself with her lighted cigarette, and, to protect herself from further abuse, threw their son's roller skate at him. At that point, the husband reached for his gun, and withdrew only when their sixteen year old son intervened. The husband and wife had been in court under similar circumstances twelve times before, according to the solicitor. The solicitor said to the judge: "They've been at this for twelve years, and can't end it—I think we ought to go in and end it for them." The judge responded that the couple belonged in domestic relations court, not in his criminal court. Finally the judge turned to the husband and said, "I can understand people not getting along and fussing and fighting, but if there's anything I despise, it's a sloppy drunk." The defendant was fined \$100 and sentenced to twelve months in jail.

The solicitor's and judge's remarks in this case reiterate both specific and general versions of the idea that litigants are inadequately and/or inappropriately socialized. When the solicitor says of the litigants that "we ought to go in and end [their marriage] for them" the context is his observation of the long troubled history of their "way of life." The judge speaks in more general terms: "[If] there's anything I despise, it's a sloppy drunk." In both instances, the attribution of excess (conflict, drunkenness) is used to characterize the litigants in contrast to the speaker himself. Another dimension of the generic litigant is suggested in the following case.

Case 3: First Offense Drug Charge

All first-time violators of the marijuana and narcotics laws in this county are treated as misdemeanor cases. (Second offenses are classed as felonies and are heard in the Superior Court.) The Inferior Court judge customarily delivers a stern lecture on the effects of drugs and of a prison term on a person's life. In this case, the young man involved was sentenced to two weekends of janitorial duty in the jail and was required to attend a class on the dangers of drug use. If the defendant were to be arrested a second time, he was told, he would receive full sentences for the first and second offenses. If he fulfilled the terms of his probation, then his record would be cleared. The defendant's wife was called forward to stand with her husband while the judge pronounced his verdict and sentenced him.

The judge's calling the defendant's wife forward to hear the sentence with her husband suggests that she is, in effect, sentenced with her husband. Two cultural issues are involved in this moment. First, we have already seen that women are assigned (and, as in Case 1, sometimes assign themselves) special responsibilities for keeping the peace. Perhaps the judge called the defendant's wife forward as an ally of the court, a potential agent of her husband's rehabilitation. On the other hand, we have also seen that families, like individuals, are evaluated as being predisposed to getting along or making trouble, and that family provides essential elements of the local discourse of conflict and change. If litigants as a category are generically flawed, then the extension of that genre to include their families is not surprising. In local terms, the appropriate social field for rehabilitation (in this case, sentencing) should be the family since the family is regarded as the first source of personal values. People express doubt that an individual can transcend his or her family's "type." This idea—that litigants reflect the social incompetence of their families—concludes the next case.

Case 4: Abandonment

The young, unmarried, pregnant woman in this case was living with her mother, who was collecting welfare for her support. Together, they sued the young woman's boyfriend for support. All three were present, and he confirmed that he was the father of the unborn child. The judge told him that he must pay something toward the care of his child's mother, or go to jail. The judge then turned to the pregnant woman and

said: "It's his job to support you, not mine. I contribute to welfare." He fines the young man \$59.75.

Speaking in the first person, the judge suggests that these litigants would not be in court if they knew what their responsibilities were. The judge assumes that personal effectiveness in mobilizing and sustaining a harmonious family life would preclude litigation, as would more general forms of social competence. One important implication of this assumption is that conflict is described as a matter of maturity and choice; the following case develops this idea.

Case 5: Custody

This case began as an argument between divorced spouses over who was to take care of their son on a particular day. The husband, who was a policeman in Hopewell County, arrived to take him for the day against the wishes of the child's mother. Their case was dismissed after the couple's anger toward each other flared up in front of the judge. The judge admonished the husband for not being in uniform during the day (he is in court in civilian dress), and then said to the couple: "This is the end of it—I don't want to see you down here anymore. There ain't going to *be* any more trouble. You're both grown, and the child belongs to both of you."

While this case certainly provides the judge with an opportunity to contrast mature family life with litigation, he suggests that this couple might be an exception to the generic negative type: "This is the end of it. . . ." Moreover, he seems to believe that they can avoid future trouble because they are both "grown," and connected through their child. One aspect of their maturity will be their ability to set aside their differences.¹¹

Case 6: A Continuing Saga

In the morning's final case, the female defendant presented the court with what its "back benchers" suggested to me was a continuing and entertaining melodrama. She was

¹¹ In general, the use of restraint in potential conflict situations to measure maturity and, in a larger sense, the worth of a person, is an essential dimension of local Baptist views of the importance of salvation. Salvation is, to an important extent, measured—in that it is tested—by an individual's ability to avoid disputes. One meaning of salvation is said to be a person's faith that Jesus is the omnipresent and only appropriate proactive agent of one's own cause, which thereby ceases to be one's own.

middle aged, and made a dramatic entrance in a bright pink wool suit, her bleached-blond hair fashionably styled but in disarray. She had obviously been crying. She was in court to ask that her case be put off another month. She had kidnapped a member of her family in an attempt at self help in a situation so complex that I was not able to deduce it from the hearing, nor could the clerk's staff make it clear to me. She had been in court many times before as her situation unfolded. This time, she had hidden her relative in her apartment; when he was found, criminal charges were filed against her.

The defendant had been in court so often before that she was on a first name basis with court staff. When she entered the courtroom, the staff people and the regular spectators, e.g., policemen waiting to testify in other cases, rolled their eyes in mock despair, laughing silently. According to staff members, she comes to court so often, both as plaintiff and defendant, that the court considers her part of its standing business. She also seems to have some special privileges, e.g., the unusual informality in her relationships with the court personnel, and an exceptional permissiveness that leaves her monologues uninterrupted until she has fully vented her complaint. One courthouse secretary explained that any attempt to contain her speech would lead her to protest so strenuously that "we'd never hear another case all week." The consensus around the courtroom seemed to be that this woman was harmless, and that the courtroom sessions provided her with some necessary therapy.

The court personnel and habitual spectators visibly relaxed as they watched this case unfold as a spectacle before them. To some extent, the fact that the defendant was to them a figure of comedy can be seen as a twist on the cultural distinctions that otherwise make her situation parallel to that of the other litigants I have described: the implications of gender, her ineptitude, her lack of self-control, her endless family troubles—all of these were grist for commentary by people around the courtroom. While the therapeutic dimension of her case might seem to represent a departure from the earlier cases, the description of her as a litigant differs only in degree from that of the others.

The cases described in this section offer important parallels to the local view—expressed by the Superior Court judge and clerk—that court users are people who lack essential social and personal resources. In general, the assumption of most people who are interested in the current court is that its dockets are filled by newcomers, since only newcomers could be so dependent on third parties for the resolution of interpersonal disputes. Whereas general evaluations of insiders and outsiders are expressed in terms of

their associations with conflict, the cases show that assessments of the positive or negative aspects of conflict and court use are contingent on prior evaluations of social groups.¹² The categorical differentiation of these symbolic groups and behaviors takes precedence over the content of the categories.

My aim in presenting data from various sources in Hopewell has been to set different “canvases” side by side, and to show the consistent cultural techniques that define their respective images. People might differ in the degree to which they evaluate change as positive or negative, but the canvases reveal a shared and coherent set of representations that substantiate such evaluations:

1. The cultural category of community draws on a fundamental distinction between a past predefined as harmonious and a future defined as perilous. Current concerns about the role of the court and the nature of disputing in Hopewell emerge out of this temporal framework. The temporal framework is itself rooted in valuations of social groups. This view is more explicit in the interview data, but it is implied in the judge’s, attorneys’, and litigants’ suggestions that overt conflict is a sign of social inadequacies of various kinds.
2. Those valuations, in turn, distinguish people who can handle conflict on their own, and people who cannot. In expressing concern over the durability of the town’s way of life, local people devalue conflict and its expression. In expressing their concerns about Hopewell’s future, local people focus on the future of interpersonal relations. They assume that if the courts are crowded, it is because individuals do not choose to get along. Whether or not this is the case, the local interpretation and representation of litigiousness in this way is culturally significant.
3. In conferring approval on people who can get along, and withholding it from people who don’t want to get along, local views distinguish between overt and felt conflict. Value accrues to demonstrations of self-control and self-mastery. Avoidance, silence, prayer—these remedial strategies not only satisfy people’s criteria for assessing the costs and benefits of open dispute (see Baumgartner 1984), they are also culturally preferred.¹³

¹² This is precisely what norms are (Greenhouse, 1982).

¹³ In their ethnographic studies of court use in a midwestern and a New England town, respectively, Engel (1984, 1987) and Yngvesson (1986) note the extent to which people stigmatize litigants in symbolic terms constituted in issues of local identity. Their analyses develop the symbolic importance of litigation in community contexts, as well as the importance of the concept of community in the towns’ current urbanizing contexts. While the court plays somewhat different symbolic roles in the three towns (including Hopewell), the significant parallels are in the symbolic distinctions locals draw between litigiousness and status in the community.

4. One's capacity for self mastery is related by local people to further social distinctions: "belonging" in Hopewell, belonging to a community, and belonging to a family. One group of Hopewell residents, the Southern Baptists, see belonging to a church as the definitive criterion of community (see Greenhouse 1986). Baptists and others point to the quality of family life as one measure of Hopewell's social health. Family ties are positively valued even when they are not happy ones. The widespread distinction drawn between insiders and outsiders, or newcomers, includes the assumption that insiders live in families, while outsiders live alone (a married couple or an isolated nuclear family do not automatically meet the criteria of belonging). The ability to maintain the family bond centers on the contractual ties that are believed to constitute society itself (Greenhouse 1985).

While courts, then, are widely understood in Hopewell as legitimate institutions of the state, they stand outside the community of meaning which—however indeterminately—defines Hopewell in the view of its residents. Courts, in other words, symbolically guard the gates of Hopewell. In the case of Hopewell, the cultural understanding of conflict, i.e., what conflict is and what it means to people, focuses on conflict's antisocial aspects. Conflict emblemizes the negative meanings of individualism. The symbolic role of the court is relevant here, not as an agency that can "do" anything about the encroachments of change, but as one that marks and measures those encroachments. If, as local people claim, newcomers in Hopewell are without the kinds of social ties that make other people prefer getting along, the court cannot change that situation in any fundamental way. The court reaffirms and sees reaffirmed the important distinctions out of which the local view is constructed. Court personnel emphasize the failures of individuals in interpersonal conflict. They paint a portrait of individualism unchecked, but they add a temporal dimension that disaggregates the characteristics of individualism and associates them with different moments in time. The positive meanings of individualism are associated with the mythical representation of the community's past. The negative meanings of individualism are associated with the representation of the community's future, i.e., with the antithesis of community, whatever that will be.

V. CONCLUSION

In turning from Hopewell to the rest of the world, it is tempting to ask what Hopewell's legal ideology, or any ideology, is about. Hunt (1985: 18–19) warns against too literal an effort along these lines: while metaphors of "reflection" are "ubiquitous," they "[import] a dubious epistemology derived from a naive materialism."

Certainly, it is appropriate to stress that ideologies are fundamentally about themselves, yet still, some ideologies succeed, and some fail. How do adherents of ideologies defend their beliefs against their own inevitable openness, against the skepticism of which they define themselves as free?

The defense of ideology lies in the symbolic distinctions that constitute it. In Hopewell, the social logic I have presented asserts a distinction between newcomers and locals in both spatial (from there to here) and temporal (past and future) terms. Arguably, a second distinction divides the putative materialism of newcomers from more cooperation, or even more spirituality, among the locals. A third distinction defines disputing as a newcomer's trait, and contrasts it with the cooperative or, failing that, restrained interactions of the insiders. In the local view, these three distinctions are causally connected. The newcomers constitute a relatively marked category, and the insiders a relatively unmarked category. The newcomers' mark, in the local view, is their highly individualized pursuit of material gain; its corollary is newcomers' stereotype as having deficient family lives. To local people, these are not merely labels or attributes of social groups in Hopewell; they are explanations of change and the groups themselves.

The importance of maintaining these temporal and sociological distinctions is that they expand the repertoire of social strategies available to insiders. Insiders acknowledge the importance of being able to defend themselves against the newcomers, and so justify an individualistic and materialistic discourse even as they devalue it. Insiders, then, can live in two value systems simultaneously: one (ours) that emphasizes affective ties and cooperation, the other (theirs) that centers on competitive self-interest. They defend legal ideology as the expression of their way of life; however, it is more accurately understood as an appropriation (albeit in the negative) of what they claim are their competitors' values. From one perspective, this might be seen as a functional adaptation to change. Perhaps it is; however, I want to stress another perspective, one from which social change is understood as predefined in the arrangement of the cultural categories out of which local people construct their sociology.

Hopewell's ideology of law provides the symbols in terms of which people comprehend the widening, and to some extent displacement, of their former social hierarchies. Until World War II, Hopewell was a small commercial center in what had been an agricultural area for more than a century. With post-war development, the old agrarian elite lost its status as farming collapsed as an economic venture and newcomers took control of the management of local capital. The business of sustaining interpersonal relations in the midst of this process of social transformation is an awkward one. These changes certainly make it increasingly difficult for people to sustain the old local brand of populism that gave

Hopewell's public life its traditional character. I am not proposing that Hopewell's ideology of law causes or reflects the shifting patterns of haves and have-nots (and the goods in question might be material or intangible), but, rather, that it is in itself an acknowledgment by (self-defined) insiders of the dwindling efficacy of the world view they characterize as their particular tradition.

In other words, the assiduous marking of the rather hypothetical categories of "insider" and "outsider" and the elaboration of the perils of the influx of newcomers in effect gives "insiders" permission to abandon or supplement their old egalitarianism for or with a more individualistic stance. This, I think, is the implication of their view that once materialistic newcomers gain a foothold, "insiders" feel they must become materialistic, too, however reluctantly, in order to defend what is theirs. This motive is no less a construction than some of the more abstract dimensions of local ideology; however, it signals the sorts of social processes that sustain this ideology over time.

Finally, turning from Hopewell and the terms of its social assessments to the larger problem of the significance of difference, a few points remain. First, ideologies are about differences. If any particular ideology claims to exist apart from the cultural and social machinery that defines and sustains the systematization of differences intrinsic to it, then its claims to autochthony and/or autonomy must be examined as cultural facts that relate to the law's enduring capacity to create myth. Ideology is a set of representations of differences and their meanings; any analysis of a particular ideology must take these contingent competitors into account.

This leads to a second, methodological point. If interpretive approaches offer an appropriate set of tools for sociolegal research, it is because the basic premises of social life are invented, negotiated, and reproduced in the context (they *are* the context) of everyday life. I have argued that, taken together, these two points suggest that an interpretive project is inevitably a comparative one.

Finally, the significance of systems of differentiation (such as we have been exploring in Hopewell) is that they reveal the terms in which a society organizes its own contests over the universe of its imagined alternatives. Since ideologies imply each other, and since the boundaries around "social systems" are themselves ideological constructs, the differences *among* sociocultural systems should be approached in the same terms as those *within* systems. Once ideology is understood as entailing an interpretive project, then the internal and external audiences of any particular ideology are inextricably linked.

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