

Eskimo Law in Light of Self- and Group-interest

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The considerable literature on Eskimo law is replete with contradictory descriptions of matters such as the functions of leadership, the imposition of sanctions, the involvement of the community as a whole in juridical matters, and the presence or absence of specific methods of conflict resolution. Rather than accuse certain ethnographers of error, I would judge that all the well-known accounts are substantially accurate.

The major disagreements are between those who have taken the position that Eskimo society exhibits very few legal structures and processes, as claimed by Hoebel (1954, 1941) and van den Steenhoven (1956a, 1956b, 1959), and those who claim that there are or must be present instituted politico-legal structures and mechanisms of adjudication (Pospisil, 1964;

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Koch, 1967). The antithetical positions stem from inconsistencies from area to area and within single areas. These conflicting descriptions reflect the real state of Eskimo social organization and behavior and are not to be simply explained away as a product of differential observational techniques' divergent conclusions. From my own considerable field experiences with the Eskimos and from the reports of others, I find there has long been apparent a great deal of variant behavior among the Eskimos not only in the field of law, but in such other fields as social organization, contact with the white man, and reactions to anthropologists. Such variety is, I believe, reducible to certain basic themes of Eskimo life and character which are consistent, but when structured into a variety of situations produce a complex pattern of observable phenomena.

Pospisil (1964) has suggested that one may examine *levels* of Eskimo law in terms of the group level involved.¹ Van den Steenhoven, on the other hand, eliminates consideration of the authority of the family head as law and finds that for the Caribou Eskimos there are no legal structures at higher levels (1956a: 78). Hoebel (1954), after a very extensive examination of the literature, lists some "postulates," those social values which appear to control the direction of Eskimo social behavior. He describes a great variety of conflict-resolving behavior but comes to no definite conclusions as to the prevalence or dominance of particular juridical practices or structures. For me, Hoebel's account is most satisfying in terms of the variety of behavior illustrated.

This variety and inconsistency is but one illustration of the *flexibility* of the Eskimos (compare with Willmott, 1960). Eskimos, acting in accord with the few basic values listed below, judge each situation of conflict (or anything else) in terms of the apparent factors present, which importantly include the personalities of the people involved. This flexible approach produces a wide variety of reactions to superficially similar events, as illustrated in some of the case studies included in this paper (and in Graburn, 1968b). Thus we must always bear this in mind in our analyses, in order to produce results more meaningful than classifications or fitted definitions.

THE CULTURAL UNDERPINNINGS OF REACTIONS TO CONFLICT

While behavioral responses to conflict situations and social deviance appear to vary considerably, it also appears that certain overt and covert² values dominate the thinking of the Eskimo and direct the choice of particular strategies of life. These values underlie the vast majority of reactions to stress and conflict, as well as many other life situations.

- (1) For men life is a competition for prestige involving:
 - (a) the acquisition of women by any means possible;
 - (b) the production of as many children as possible (especially males); and
 - (c) the procurement of sufficient game to feed as many wives and children as possible, with enough left over to be generous to others.
- (2) Times of plenty are a time for cooperation and generosity. In such times, the company of everyone else is to be enjoyed, but the search for prestige remains a salient consideration.
- (3) Life goods and some of the marks of prestige are frequently so scarce as to be unavailable to a seeker unless he makes a concerted effort to deprive another of these goods.
- (4) The future is by no means entirely predictable and is often subject to forces beyond one's control.
- (5) Life loses its value for one when one can no longer participate effectively in the prestige competition.

The correlates of these belief statements are found in behavioral directives, personal strategies employed in the realization of life goals and the avoidance of life traumas.

- (1) Consider one's own self above all others in all things.
- (2) Take every opportunity for self-enhancement of prestige or self-preservation.
- (3) Never risk self or prestige unless such risks are unavoidable.
- (4) Test every situation and person to see how much one is likely to be able to get away with safely.
- (5) Manipulate one's social situation to every advantage.
- (6) Beware of and take steps to appease the many forces of the supernatural.
- (7) Accept situations when they cannot be helped, when they are beyond one's control (*afurngnamat*). In such situations there is no use in "crying over spilled milk." [Willmott, 1960]

The highly individualistic self-seeking ethos controlling one's response to life situations has a direct impact upon the character of social relations within the Eskimo communities. A relationship with others may be affected at any time by the emergence of the guidance principles governing individual behavior. Some of the more apparent effects of the operationalization of these principles upon collective behavior are that

- (1) the weak, deformed, and incompetent are laughed at and may be done away with whenever they become burdens;

- (2) there is an almost constant atmosphere of competition which leads in turn to frustration, aggression, reaction, and violence;
- (3) close-kin and marital relationships may fail to provide a necessary restraint upon violent social interactions;
- (4) secular leadership (*isumatak*) is only followed when it is to one's social and economic benefit, and the office holder remains leader only as long as he benefits his followers.
- (5) When both the shaman and the *isumatak* are the same person a very different, "un-Eskimo" type of social organization results. (See below.)

ESKIMO REACTIONS TO CONFLICT

The above values, interacting with stress and conflict situations, produce the following variety of behavior. Rather than describing only these phenomena which might fit within one or another definition of "law," I believe that it would be more realistic to outline very briefly Eskimos' reactions to social conflict; these processes cannot be called conflict resolution for, as will be seen, conflicts are by no means always resolved.

General Approaches

(1) *Killing*. This mechanism was most common as a means of getting rid of a persistent irritant, such as one who frequently stole, lied or made advances to the women of others. Usually it was performed by one or more of the offended parties, with or without expressed community backing. Usually there was a leader of the killing group (as exemplified in case studies below) who acted out of self-interest as much as community interest; in most cases he had more to lose or gain. Killing was very often a preventive measure used against those who appeared to be threatening. Killings were practically never signalled to the one about to be executed, though he might well fear such an end. If possible, they were carried out with the least risk to the killers. Eskimo has no special word for murder, as opposed to preventative measures or selfish violence. However, killing a person (*inuaktuk*) may be distinguished from killing in general (*tuqusijuk*).

(2) *Self-detachment*. This is explained in terms of "running away" to another social group or to live away from the group for a while. Such a solution was common to those who believed they were not powerful enough to face or do away with the irritant or problem (be they weak or guilty). Such self-detachment is known as *qivituk*, which in some areas has become a synonym for suicide.

(3) *Ostracism*. This is the reverse of the above, wherein the community detaches itself from those who irritate it. It may be a prelude to preventive killing if the irritating offender does not leave the group or mend his ways.

(4) *Avoidance Reaction*. This is explained in terms of "pretending the problem doesn't exist." This is the common reaction to minor irritations. Thus the problem may not be solved. Many Eskimos other than the boldest are loathe to escalate a conflict, for such measures very commonly lead to killings. This avoidance solution is often combined with preventive measures; e.g., if there is a petty thief, people may hide their portable belongings when he comes around, or, when a notorious philanderer is in the community, men may watch their wives carefully. In such cases no one says anything to the offender, hoping he will "go away."

(5) *Deference to dominion authority*. By far the most common reaction in post-World War II Eskimo society is "leave it to the white man." This is at times carried to extremes of irresponsibility, but is a result of: (a) an unwillingness to place oneself in the position of risking violence or quarrelling when one can get out of it; (b) the white man's insistence on taking over the solutions of certain types of serious conflicts; and (c) the Eskimos' ready admission that the white man has infinitely "better" methods of settling almost all types of conflicts than the Eskimos ever had.

Specific Mechanisms

(1) *Resort to the shaman*. The shaman (*angakuk*) was expected to be able to divine the sources of many ills, the majority of which were due to social or supernatural improprieties. The shaman's curing performance in public questioning (or "lifting") was often a relief to the unfortunate and to the social group as a whole, though in some instances it could lead to escalation of the conflict if a specific malefactor was divined to be in the local group or nearby. Shamans themselves were a common source of conflict for, being clever people, they often took advantage of their superior powers with the supernatural in order to satisfy their appetites or enhance their prestige. Shamans were rarely killed themselves, for most were greatly feared and often deemed essential media for appeasing or divining the supernatural. The extent to which a shaman's reputation inhibited the response of an Eskimo community is shown in the following narrative of the Eskimo Putulik concerning the murders by Itiq and Ijijak on the Akpatuk Island during the earlier years of this century.

PUTULIK: When we arrived at the place called Tudlak some of the younger people ran to our boat and without introducing themselves asked if we could take them back to the land. I did not know the people well but Aanaqatak did and asked what happened. They said that two of the older men, Itiq and Ijjak, had lost their minds. During the winter they had all been very hungry for the walrus had been few in the fall. Some had died and others had eaten them, Itiq and Ijjak included. These two had eaten some of their children as had the rest of them, and being widowers they continued to live together alone. When they started getting seals in the spring, some people occasionally went over to their igloo to take seals or seal meat. These evil old men had waited at the entrance of the igloo, inside, and stabbed the person coming and eaten him, leaving the seals in the porch and later stowing them in the meat cache. Three of our young men died this way and it was only after a moon that they found out—because someone was following the first man and heard him being stabbed. The following one stayed in the porch and listened . . . after that no one ever took any more meat. Aanaqatak asked if they were still alive and why hadn't anyone tried to do anything to them, but they replied that Itiq had in his younger days been reputed to be a shaman and that they were scared. They said that the two were still alive probably eating the old seal meat that they had saved, but that they had only dared watch them in the distance. Instead of hunting there until the time of the caribou fawns, we planned to leave the old men behind and sail back to the Eider Duck Islands during the night.

IGGIJUK: Was Itiq a real shaman? I have never been to that area. . . .

PUTULIK: He was from the area towards the sun and I never met him. But my father-in-law's brother Talirkpik was our shaman at Aivirk-tuk and he occasionally talked about a shaman of this name. Aanaqatak said he had heard the same too. [Graburn 1968b: 13-14]³

A shaman's influence and reputation may extend to his close-kin. Community reaction against a malefactor who was close-kin to a shaman may not be averted, but it can be delayed, impeded, and saddled with feelings of reservation on the part of the sanctioners. An example of the extended inhibiting influence of the shaman is provided in the Mansel Island case study of Usuakjuk, as related by Qalingo.

QALINGO: I am happy to be back on the land. I was scared when we went over there last fall. I took some goods with me that the trader wanted me to exchange for skins, but I was not the boss. Pakvik was. Usuakjuk came along with his wife Silakirk and their children, but I didn't want him to be with us—his father Alariak is a shaman and nearly came with us too. I'm glad that one returned

to Cape Dorset. Ijukak came too, always quarrelling and wanting to fight. He had no wife. In the fall we began to notice that Usuakjuk had a bad look in his eyes, particularly around my wives and Illutak's wife Aqiaruk. I was scared. I wanted to return to the mainland, but the others wanted me to stay, as I had the trade goods, and they said I was a good hunter. So after the ice came, we had to live together for the winter. Usuakjuk started saying he could beat anyone fighting, but no one wanted to fight him because his sense was gone. He was not just playing. Once or twice, too, we thought he was stealing from our caches. . . . I told Pakvik I did not like Usuakjuk coming to trade, for he wanted more than his skins were worth. I felt sick when he came to me. Ijukak isn't usually frightened but he got scared too and he and I and Pakvik and your [Tusi's] brother Manguik talked about it. Poor little Illutak—we didn't want to ask him . . . also his wife is going blind and he left his igloo as little as possible. Pakvik said that we should kill Usuakjuk soon—maybe when he was trapping. Ijukak agreed. They even seemed to enjoy the thought. Qumak and I said no. We should try to live until the spring and then leave him there. But we all agreed to keep our eyes on Usuakjuk and never leave the women in the camp alone. Actually, I think that maybe Pakvik wanted to fornicate with Usuakjuk's wife Silakirk. I don't think she would say no, and Pakvik's wife is an "old woman." Usuakjuk started to tell stories of killing a man in Cape Dorset and saying that he could work magic like his father Alariak, maybe just to scare us.

PITSIULAK: No. It is true, but we didn't gossip much about it, for Usuakjuk's father is a shaman. Usuakjuk killed Qupapivinirk when they were fighting. He wanted to have Qupapivinirk's sister Pula-mirk, but she was betrothed to someone else. As her father was dead, Usuakjuk told the brother he was going to steal her. Qupapivinirk refused to let her go and they fought, it is said. Usuakjuk stabbed him with a long snow knife and hid his body under some rocks in a small river. However the body was found and Alariak the shaman must have heard about it. No one blamed Usuakjuk directly, for Alariak is feared. But Alariak arranged his son to marry Qirnuajuak's daughter Silakirk and that was just before the whole family came over here. My father advised Alariak to leave the area just before he died, because he knew there would be more killings.

QALINGO: I didn't know this. Silakirk never told us. She was very quiet the whole winter. Even her children rarely played with our children. One night she slipped into Pakvik's igloo when I was visiting. She said her husband was sharpening his knives and talked of nothing but killing. He had just left to feed his dogs, though he took only a knife but no meat! We told her to return home and that we would think about it, and Pakvik suggested we look for him and all kill him together. Manguik came in and we told him and he went to get Ijukak. He couldn't be found, so we all

returned home and blocked our igloo doors. The next morning before dawn we met at Pakvik's. He told us to get our guns and some knives. Although it was still dark, he had found Usuakjuk's tracks leading to his igloo and we thought he was still at home. We were to go to the outer porch and wait there until he came out and to kill him. I ran to tell Illutak not to visit there, and then we all crept up to the sides of the porch, with caribou skin pads to sit on, and waited with shells in our guns. There were no sounds inside. The sun rose and the wind howled. It was very cold. The sun started to go down again, and still no sounds from the igloo. I was hungry and suggested that we give up, but Pakvik disagreed, saying that if we went home, Usuakjuk would get us. I was feeling sick; as the sun approached the horizon I dropped my gun and ran off to Illutak's. I asked for some meat to eat, and my wife, who was waiting for me there, gave me some frozen polar bear but I vomited. Nearly falling, I went outside for air and noticed moving people at Usuakjuk's. I ran and heard a shot. They all fired at him. He ran up and out the entrance with his eyes scaring like spirits. They shot again and again. He ran to me, but dropped in front of me. I got my gun and we all shot him again. . . .

Enter old Paksauruluk; he sits down in silence but seems to have heard the conversation.

QALINGO: He didn't die. He [was] shouting at us; we were scared. Even a walrus dies when shot from so close. Pakvik and Ijukak beat him with their rifle butts as we had run out of ammunition. Silakirk came out, saw what was happening, and screamed. She was white like the snow. Her children followed but soon went back inside. Silakirk fell to the snow mumbling and finally Usuakjuk's breath-soul left him. I vomited again, and Manguik [was] crying.

PAKSAURALUK: I know. Evil men do not die, I having seen it. It was the spirits of his father. And Mansel Island has many spirits of former evil people, including my brother Pamiuktuk, who died there. [Graburn, 1968b: 2-4]

(2) *Boxing Contests.* *Tillutijuk* was a form of hitting in which each man took it in turn to hit the other on the temple with his fist and the winner was the one standing at the end. This was usually a public event, in which two antagonists fought on the basis of strength and endurance. In case of a serious conflict only those who thought they had a chance of winning would agree to enter such a fight. (Others would probably opt for an approach of avoidance.) *Tillutijuk* was more commonly a prestige winning effort by someone who thought he was very strong and wished to impress others. Such a man might travel long distances to meet and contest others whom he had heard also boasted of their strength. *Tillutijuk* often resulted in severe injury or death.

(3) *Song Contests.* *Illuriik* were male partners, sometimes called “song cousins,” who competed against each other in front of the assembled community. They each took turns singing songs which they made up in order to slander and insult each other. These songs sometimes referred to real wrongs about which there was tension, but they also included imaginary and humorous events which made the other partner appear foolish. The winner was the one who most pleased the audience and therefore got the most verbal backing and applause. This institution was more a matter of entertainment than most other areas with which I am familiar, and the relationship was long-lasting. Occasionally it acted as a mechanism for the removal of minor personal irritations without the need for escalation.

It is to be noted that all the above mechanisms are primarily entertainment for the majority of the social group who are not involved. The latter two may also be thought of as part of an array of personal contests, including kajak-racing, wrestling (*paajuk*), archery, games, etc. Thus in each area there were many hierarchies of skill known to all. Also many of these events were occasions for gambling involving stakes which often included women, or almost anything else but children and harpoons. As such, they were also a potential cause of social stress and conflict.

(4) *Scolding Session.* *Suangajuk* sessions were family affairs in which a young adult (usually unmarried) was subjected to scolding by his or her parents, uncles, aunts, and usually all the old women of the community for something involving disobedience like: unusually promiscuous behavior; refusal to “try marriage” with a betrothed; constant avoidance of family tasks, such as fetching water, etc. These sessions lasted for hours and involved a reiteration of the offender’s past delicts and appeals to obedience and respect of elders and parents. Such sessions often broke even young men to tears and reformed their behavior, at least temporarily.

(5) *Malicious gossip.* *Mangatsijuk* or *nangatuk* cannot be considered a reaction to conflict, for it went on all the time with respect to both guilty and innocent people. However, it did keep everyone informed of the pécadilloes (imaginary ones included) of others and did express moral Eskimo values, as well as providing an outlet for jealousy and stimulating imaginative storytelling.

(6) *Probation.* The Eskimo might also place a community malefactor or deviant under simple close scrutiny to see whether the offending behavior indicated a temporary lapse in responsibility or whether it indicated a permanent character change. Such an option was utilized even when the alleged malefactor’s deeds included several acts of violence or were of a

heinous character. Probation was extended even when the malefactor imposed privation and suffering upon an entire community. The probationary reprieve from community sanctions was in force only as long as the probationer exhibited acceptable behavior. If signs of recidivism were noted, the community response was directed toward more drastic sanctions. An example of this approach is provided in the case of Aukgautialuk and the Kovik homicides.

IGGIJUK: I was there when Aukgautialuk killed our neighbors. It was the most frightening thing in our lives. One evening when we were ptarmigan hunting near Kovik, sunwards of here, his wife Qakigak was said to have been visited by a man in her igloo.

PAKSAURALAK: And Aukgautialuk was trying to fornicate with his sister's daughter Arngngajuk. This is very bad—and his wife had scolded him about this—maybe that is why she had another man.

PITSIULAK: I knew his sister Aijau—she came to Cape Dorset on the same boat as Silakirk and her father long ago. . . .

IGGIJUK: This was before you were born, Pitsiulak. Qakigak visited us and said that she was expecting someone to kill her, but she returned home. That evening Aukgautialuk lost his mind . . . I am always scared when I think of it . . . he killed his wife and children and then went to every igloo in turn and tried to kill everyone—maybe he killed more than ten people with his hands or his knife. We heard the noises and screaming and ran outside. In the moonlight we saw people run[ing] in all directions and grabbing dogs and sleds as fast as they could. My father was dead, but my mother and brothers got our sled, piled on our skins and, without any meat, fled inland. One of my sisters starved after we had eaten our dogs and burned our sled. We dragged my younger brother along on a polar bear skin . . . we ate our clothes till we were frozen. My brother Qullialuk's wife's family got a caribou and that kept us alive. We had seen a caribou but my brother was too weak to pull the bow. Then my brother and his in-laws left us, they didn't want to share meat any more. We lived on a few ptarmigan and found a cache from the previous summer. At last we got to Sugluk and I never went back to Kovik.

PUTULIK: I remember the arrival of your people. I was with my imitation-father Pallijak and we fed you all. Itualuak had arrived earlier with some of his family but they were so scared that they went on to Wakeham Bay, another five sleeps!

PAKSAURALAK: And I heard that others went south to Povungnituk and even Kogaluk, they were so scared. Aukgautialuk's son got away and went to Ivujivuk where he met your father, Peter-Tusi.

PETER-TUSI: I was a small boy but I remember. He was so starved that we did not find out what happened until others arrived. Many left their own children behind—and the old. It is said that Aukgautialuk ate them.

IGGIJUK: Yes. The sons of my mother's friend Pulammirk went back and found the bones—the bones of grown men, probably Qupirgualuk, the first husband of the mother of Silakirk, who is here now.

PAKSAURALAK: And his father Kumailitak too, an old man. Silakirk's father Qirnuajuak fled over the moving ice to the Ottawa islands. That was where he took Silakirk's mother Qoitsak for a wife and where Silakirk and her brother Tikituk were born . . . my father's group were not at Kovik at the time, but were at Qalliik trying to hunt walrus. We only heard the news during the late winter. The next spring going south to hunt the arriving caribou, someone said that we should beware of Aukgautialuk if he was still alive. Getting to Ijaituk, north of Kovik, we saw a small tent—it was slit on all sides so that one could see out. My son Qirnuajuak was actually the first to spot the tent. We all wanted to kill Aukgautialuk but were afraid of his evil. . . . My father Sallualuk had been a friend of Aukgautialuk and did not think him so dangerous as we younger men. At the time, I did not yet know how my brother Qupviluk was one who tended to kill, although I was scared of him. Our father, our leader, told us to line up abreast as we approached the tent, not in file. That way Aukgautialuk would know there were many of us. Aukgautialuk called out "You saw me first, before I saw you" and started immediately to explain that someone else had started the killings. My father Sallualuk went in and sat down beside Aukgautialuk who had a knife between his legs and a bow and arrows at his other side. Sallualuk nudged him to see if he would fight but he didn't, so my father came out and said that we should not kill him unless he appeared dangerous again—maybe he was better. My father said he could live with us and we should keep an eye on him. All the summer and fall he lived and hunted with us. He thought he was an ordinary man again and asked for a wife, as his own was dead. To keep him happy we gave him an old-woman widow, but at night we got scared from the strange noises that came from his tent . . . we made sure that he never had knives of his own. In the fall we thought that he had stolen something from Surusilak's cache. Then, while they were chatting in the tent one night, he told my brother Surusilak that he could still kill—maybe more people than before. Surusilak told my father and said that he was going to kill Aukgautialuk. My father didn't say anything. The whole family was fed up with Aukgautialuk by then. They had watched him playing with two knives in someone's tent—they had left them there to test him. Surusilak knifed him in the back—it was not difficult. My father was sad but did not blame Surusilak, even though he still liked Aukgautialuk's company at times. They had been brought up together. [Graburn, 1968b: 9-11]

(7) *Exculpation*. Exculpation is a possible alternative when the community sees that the alleged violator was under such pressures for survival as to make imperative the saving of his own life at the expense of another's. Exculpation would also appear to go beyond simple mitigation of community sanctions and would more closely resemble pardon. However, as the following example shows, pardon does not mean complete forgiveness and the already considerable level of intracommunity suspicion remains at an even higher level for those who have committed cannibalism or murder upon another adult.

PUTULIK: But another killing on Akpatuk happened while Aanaqatak was there before I followed him. There was great hunger. Qisaruaciak killed his sister and ate her, and then ate his older and younger brothers too. He was not scolded for everyone was eating people, but his wife left him and they deserted him, for they were afraid of him. He was too fond of human meat.

PETER-TUSI: It is true of people like that . . . why, the four women we found at Deception Bay a few winters ago, they had eaten their husbands and children. They were taken to live in the camp of the two Naliujuks at Sugluk. No one has married them yet, and one has already tried to run away in the winter. Their minds are bent, it is said. [Graburn, 1968b: 15]

CONCLUSIONS

One cannot examine Eskimo law in terms of a simple relationship between offense, resolution mechanism, authority, and sanction, for few such regularities are encountered over any period of time or over any large area. However, great consistencies are found in the cultural underpinnings of reactions to conflict, exemplifying the Eskimos' flexible situational approaches.

The previous discussion reveals a great deal of flexibility in social response to conflict situations. This flexibility may be understood as being an adaptation to the extremely variable ecological and social situations that confront Eskimo individuals and groups. However, there are both personal and social limits upon the choice of behavioral alternatives by actors. One form of the personal limit is temporary madness or "arctic hysteria" (*isumairksijuk*, *qaujimaillingajuk*—the loss of senses and thought; or *piblok-tuk*—he does badly), which is the cause of many instances of stress, conflict, and killing. Frustrations may so build as to finally cause one to run amok. This precludes resort to any of the more rational alternatives listed.

One finds that the group leader may sometimes perform ad hoc adjudications in a conflict situation, but this occurs only if (1) the facts of the cases are common knowledge and are continually assessed by all persons; (2) the leader is the family head of a kin-based residential local group or band [Graburn, 1964]; and (3) the leader is able to advance his prestige with minimum personal risk. As revealed in the Aukgautialuk case, the leader may also control the behavioral alternatives of his group only as long as he maintains its confidence. When his group became disenchanted with Aukgautialuk's presence, Sallualuk's influence was negated.

At a more general level, this paper may illustrate the common anthropological dilemma in which our presumptions and inclinations lead us to believe that beneath the flux and inconsistency of everyday behavior, all social systems and subsystems of societies exhibit an underlying analyzable holistic structure. Such an approach may lead us to stress the absolutes and models which explain the phenomena in the most concrete way. A common version of this approach has been to search for or stress those institutions which are comparable to ones found and understood in our own society. The cross-cultural study of law has sometimes exhibited such tendencies, and that is one major reason why the study of Eskimo society has been so important to this topic, for most accounts describe Eskimo social organization as though law, in an absolute, definitional sense, hardly exists.

I too have tried to show what are the absolute common invariants underlying Eskimo conflict resolution mechanisms but, rather than structures, they turn out to be basic values similar to Hoebel's postulates. Thus the actual social mechanisms themselves seem inconsistently applied if we try to fit them to the nature of certain delicts. An analysis of a very large body of Eskimo conflict cases might lead us to be able to find some situational rules which predict when certain action rules will be applied. However we must be able to operationalize such concepts as power and prestige, as well as Eskimo personality evaluation, in order to do so. Although the Eskimo situation is far more complex, the nature of the problem is the same as that which faced Jane Richardson when she wrote, of the Kiowa (1940: 131):

A few arrogant natures perpetrated murders and did not suffer any repercussion. In these cases if the possibility of a legal death penalty is eliminated, it appears that those of wealth, war record and high status avoided *taido* [a universal supernatural sanction leading ultimately to the death of the offender], while plain people could not. At least their secular power was such that they could be successful without supernatural backing, which really implies that their status was above ordinary social sanctions.

Thus we have the beginnings of the formulation of a set of rules which should predict where “ordinary social sanctions” apply and where they do not, expressed in terms of a certain high degree of “secular power.” This might be termed a very simple case of legal pluralism. Legal pluralism can embrace social structures where there are different sets of rules, sanctions, etc., for different ranks in a hierarchy, in which case it would be vertical pluralism. Or, these multiple sets of rules might apply differentially to different kinds of people at the same status level; e.g., different tribes under one colonial rule, a case of horizontal pluralism. In the Eskimo situation, there are some obviously but badly specified cases of vertical pluralism; e.g., shamans v. nonshamans breaking certain taboos, and there are perhaps cases of horizontal pluralism, where different families normatively react to the same infraction in different ways, yet they remain within the same subculture or even settlement. More correctly, Eskimo legal actions represent a case of *situational* pluralism, and we have not yet defined exactly the operative criteria of the situations.

Fred Gearing, in his stimulating analysis of Cherokee village structure, provides us with an excellent example of what he calls “the notion of structural pose.”

Having discovered the sundry elements of structure, the student usually proceeds to discover fit and ill-fit—systematic interconnection—among the elements, treated as if ever present. In obvious fact all the elements are not operative all the time; one combination of elements operates, then another combination . . . the social [and legal] structure of a society is the sum of the several structural poses it assumes throughout the year. [1958: 1148-1149]

Gearing’s analysis is a model for our own further investigations. He shows that at different times the members of the society act (and are expected to act) so differently that they might as well be members of some other society. A major situational criterion is the season of the year, and so it might be expected for many of the world’s smaller societies and especially the Eskimos, as Mauss was one of the first to point out (1906). However, the season itself is only a guide to the type of social organization, economic activities, leadership, and degree of criticalness in ecological balance. All of these are criteria which partly define the situation and are thus an essential part of any set of rules we wish to write explaining the differential application of legal mechanisms.

We must believe that not only do the Eskimos have different types of camps, and hence leadership and social control, during the different seasons, they also have different kinds of social groups according to the local ecology, the local traditions, and, most important of all, the nature of

the personalities involved at any one time. On one extreme we have the situation mentioned above when the isumatak is also the angakuk, though it is very rare. An atypical social group results, in which (a) the leader has supreme political authority, (b) everything is organized efficiently and with forethought, (c) some men are treated as slaves (*kipaluk*), and (d) conflict, accident, and starvation are minimized or nonexistent. At the other extreme we have examples of shamans breaking nearly all the rules, of the whole group breaking up, of people exhibiting temporary madness or of mass starvation through ill luck, bad organization, or multiple murders among the most able hunters.

Any notions which express invariable behavioral and structural rules for the whole of a population, such as the presence of legal mechanisms at all levels (Pospisil, 1964) or which hypothesize one type of legal mechanism, such as "the presence of a third party adjudicator" (Koch, 1967), must be at best partial truths applicable only in certain definable situations, for some of the people for some of the time. I therefore stress again that in this and other studies, we must keep in mind the goal of being able to write a set of meta-rules, in terms of the crucial criteria, which determine when and where our lower-level rules are applicable.

NOTES

1. Pospisil (1964) notes that given sets of legal norms attach themselves to communities possessing authority figures and a necessary web of mutual relations. These conditions are obtained only within the bounds of the autonomous village communities. Within the multiplicity of autonomous communities marking Eskimo society, he notes that different legal norms, different traditions, and different styles of isumatak leadership make for a difference in approaches to juridical problems as taken by different bands. He indicates further differentiation within given bands as the social structure branches into extended family and nuclear families. At these levels different approaches are indicated in child-rearing and child discipline, in responses to marital problems, and in responses to minor breaches of the peace.

2. After the presentation of this paper in its original form (Graburn, 1968a) Professor Pospisil asked me if these values and strategies that I had hypothesized were overt parts of the Eskimo's folk model of the world or whether they were purely teased out by the analyst. Upon reflection, I can state that Eskimos rarely consciously think about these postulates before acting, but that they would and have voiced *every single statement* at some time or another in conversations about the nature of their own culture. Perhaps it is because they now have the constant mirror of many aspects of Euro-Canadian culture with which to compare their own that they can do so. In traditional times, they may well not have been able to be so incisively introspective.

3. "Inuariat: The Killings" was written as a play. The characters are all real, and the time is 1934, immediately after the last "Eskimo-style" killing in the Hudson Strait area. Thus this and other extracts from this source are in conversational style. Some names have been changed to protect those still living.

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