Law and Anthropology:
Notes on Interdisciplinary Research

KLAUS-FRIEDRICH KOCH – *Harvard University*

Almost two decades ago Reisman (1951) published an article in which he criticized the lawyer for his ethnocentric view of law and invited the anthropologist to study the organization and functions of American legal institutions and the activities of lawyers. Very few anthropologists have done so. In fact, few anthropologists have made the general study of law their special area of research. In this country, there are perhaps a dozen or two. However, the field is now beginning to attract more people. As a look at the tables of contents and the indexes of ethnographic monographs published in recent years will show, most anthropologists still neglect to report on the law of the people they have studied–yet rarely fail to have chapters on social organization, economy, religion, and the remaining traditional categories with which we "domainize" the culture of a society. Legal scholars, on the other hand, often in cooperation with sociologists and political scientists, have increasingly turned to the kind of research which Schubert (1968) has called, "behavioral jurisprudence." Outside the United States, this interdisciplinary focus in the study of law and society has been very productive in Scandinavia (see Blegvad 1966).

I propose to outline some of the areas of research in the anthropology of law and to discuss our methodology. You will notice that communication between lawyers and anthropologists is, at times, difficult because of a certain lack of lexical competence on the part of the anthropologist in talking about the "lawyer's law" on the one hand, and the lawyer's unfamiliarity with anthropological concepts on the other. Today, certainly,

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few anthropologists accept Lowie's view (1927: 51): "What to an anthropologist is naturally the most important thing is the relationship of anthropology and law, to wit, how his own discipline may benefit from a neighboring branch of knowledge."

Perhaps it is wise to eliminate from discussion one question that has proven to be a very unprofitable ground for debate, although it might appear to some to be central to any talk about law. (If so, I should like to disqualify myself for such debate.) The question is: "What is law?" It is true, when I say I do research on the law of a people, I should know what it is that I study. But for me this requires only a very rough delineation of a particular focus on some fields of social relations and the ideology connected therewith. If this were not so, it might indeed be awkward to speak of the law of an illiterate tribe where no courts, lawyers and police exist. Definitional discussions have usually proven to be very sterile exercises, especially if they are pursued with minimal reference to empirical data and do not result in a categorization of variables and a conceptualization of pertinent research strategies. No one has ever disputed the universal existence of something we call economy. Australian aborigines knowing no metal or pottery and living solely on edibles gained in exploitative hunting and gathering have economy in spite of their primitive technological inventory and their simple system of transfer of goods and services. If economy has to do with "how people make a living," law—for me—has to do with "how people make living a relatively ordered social existence." And if one can have an economy without a decimal system of accounting, without money, and without banks, I suppose one can have, or even must have, law without codices and courts. As soon as we begin to be curious about the *ways* in which people attempt to settle disputes, resolve conflicts, and control violence, these traits of our own legal system (courts, codes) become examples, not standards, of cultural experimentation in the legal domain. I am content to state that law is a polysemic *concept* whose diverse cognitive aspects permit its use as a labeling category in manifold ways. The heuristics of scientific inquiry demand selectivity and emphases as required by the purpose and aim of our investigation. The anthropological study of law concerns the description and analysis of processes and institutions by which people manage to maintain what has been termed a "practical equilibrium," mitigate frictions that are bound to arise, and resolve conflicts that issue from unmitigated friction.

One more introductory remark: There seem to be two major schools of thought in the science of society. One views a social system essentially as a stable network of ordered social relations integrated by a commonly accepted value system. Dahrendorf (1959) has labeled this view, "integration theory." The other view, "coercion theory," in Dahrendorf's termi-

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nology, assumes that every society is constantly in a process of change and displays ubiquitous dissensus and conflict, which must be channelled and controlled by coercion facilitated by an inherently differential distribution of power. Obviously, these different conceptual models of society result in, even require, different methodological approaches. The first will tend to view conflict as somewhat deviant behavior; the second as normal and inherent in the structural arrangements of social relations. Whatever the epistemological background of the two conceptualizations of society may be, either one is useful for the explication of certain aspects of its organization. In my own research I find it useful to elucidate the structure of social relations through an analysis of conflict. In other words: I attempt to find out something about integration, consensus, and stability by looking at events which reflect competition for valued goods and positions, dissensus over norms, and conflicts of interest. In short, I try to understand the culture of a society by investigating where it doesn't work out, so to speak. A look at American society in 1969 might immediately indicate some strategic advantages of this methodological orientation.

DEVELOPMENT BEFORE 1954

Let me now give a very brief review of the development of the anthropology of law. In the history of ideas, as in any history, dates and names are used to divide history into periods marked by events which we assume changed the course and manner of thought about nature and culture. In the nineteenth century, inspired by the work of the economist and demographer Malthus, biologists (especially Darwin) and social scientists (especially Spencer) developed theories of evolutionary processes that crucially altered traditional modes of thinking about the origins and evolution of culture.[1] Anthropologists in the last quarter of the nineteenth century and in the early decades of this one were busy searching libraries for data with which to illustrate the development of cultural institutions. The development itself was seen as a more or less fixed sequence of intellectual, technological, and moral accomplishments–a model that did much to delay the development of a science of culture which requires that explications be made in reference to a model, itself derived from an analysis of the data to be explained. Legal scholars like Post and Kohler used ethnographic records to compile inventories of law codes for primitive societies which were then fitted into some sort of evolutionary scheme. Their frame of inquiry was their own legal systems and much of their labor was spent on a cataloguing of rules. The social context of legal activity was lost, and the conditions under which conflicts arose were rarely retrieved.

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Considering the adverse circumstances under which the data were collected, one arrives at the sad but realistic judgment that most of their work has not produced any insights into legal ideology, or the processes of dispute settlement that are of value either to comparative jurisprudence or to anthropology. A notable exception to be mentioned is certain ideas in Maine's *Ancient Law.* Devoid of its universalistic premise, Maine's theory concerning the legal implications of the sociology of status relationships indicated exactly those relationships that critically, though not exclusively, structure the sociolegal domain in most societies commonly studied by anthropologists.[2]

Anthropologists, however, didn't do much better. The legal scholar Ehrlich (1936) had early demonstrated that law cannot be studied as something apart from the social context in which it is operative. He argued convincingly for the necessity of relating form and content of law to social organization.[3] Anthropologists, however, continued to neglect this contextual focus, and their descriptions remained inaccurate because of uncritical categorizations set in terms of western jurisprudence. Moreover, much energy was wasted on questions such as, "Is law universal?" or, "Do all societies have law?" Today we find such questions not only uninteresting, but truly unproblematic as well. That is, they do not direct our attention to problems we wish to explain.

The reorientation of anthropological inquiry from historical ethnology to a functionalistic analysis of social relations in their cultural context became dramatically evident in the work of Malinowski, four decades ago. While Malinowski's only empirical study of law, *Crime and Custom in Savage Society* (1926) represents a grossly inadequate account of assorted observations made among the Trobriand Islanders, his theoretical contributions to the study of law were important in their programmatic compass.[4] Empirical long-term field studies were now recognized as the conditio sine qua non of anthropological research. Among the first ethnographically useful studies on law were those by Barton (1919) on Ifugao Law, Kroeber (1925) on the law of the Yurok Indians, and Gutmann (1926) on the law of the Chagga.

A really significant advance in legal anthropology was made with the work of Hoebel among the Indians of the Great Plains. His *Political Organization and the Law-Ways of the Commanche Indians* (1940) and *The Cheyenne Way* written with Llewellyn (1941) represent the first successful attempts to study law in relation to the ethos and organization of society. The importance of the latter work lies in a rigorous application of the case method. In fact, this approach has proven to be the most effective heuristic device in legal anthropology, and no study of value has subsequently been done in this field that is not based on cases. In 1954, Hoebel published his

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The Law of Primitive Man. While it gives a useful survey of the range of legal institutions and procedures encountered among illiterate peoples, its attempt to analyze total legal systems in terms of Hohfeld's scheme, reformulated along lines suggested by Radin (1938), is largely unsuccessful. The final chapter of the book, incidentally, is the last attempt—for the time being—of a noted anthropologist to establish a relative chronology for the development of legal institutions.

DEVELOPMENT AFTER 1954

After 1954 a small number of excellent studies in the anthropology of law have appeared: Gluckman's work (1955) on Barotse courts in Zambia, Bohannan's study (1957) of the Tiv in Nigeria, Pospisil's study (1958) of law among the Kapauku in New Guinea, and Gulliver's book (1963) on the Arusha in Tanzania. Each of these authors makes at least one significant contribution: Gluckman showed the advantages of comparative study for elucidating principles both of Western legal systems and those of tribal societies, and he presented one of the finest expositions of judicial reasoning in its social context.[5] Bohannan warned us of the difficulty and often the impossibility of applying our concepts to an analysis of law in non-Western societies. Pospisil reminded us that law exists on different, often hierarchically ordered, levels in society, each level comprising groups of the same type and the same degree of inclusiveness.[6] Gulliver demonstrated that an understanding of certain legal processes requires not only the knowledge of the sociocultural context of dispute settlement, but equally so a knowledge of past conflicts between parties concerned in any particular case.

Principally, the anthropological study of law proceeds on the following premises:

(1) The law of a people, or the legal system of a society, must be investigated in the context of its political, economic, and religious systems, as well as within the social structure of interpersonal and intergroup relations.

(2) Law can best be studied through an analysis of the procedures that deal with the resolution of disputes, or—in a broader perspective—with the management of conflict.

(3) Procedures, in turn, will become apparent if research is focused on the trouble case as the unit of description, analysis, and comparison.

(4) In order to render a valid report on the law of a people, two separate but related tasks have to be worked out. One is to ascertain the cognitive categories by which the people whose legal system is

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> to be studied structure *their* ideas of wrongs and *their* ideas of forms and procedures of redress to be taken. The other task requires a translation of these categories into our medium of communication. This is an exceedingly difficult job, for it demands both that the essential features of the native system not be distorted *and* that they be cast into a scientific terminology which makes cross-cultural comparisons possible.

The range of problems in the field of law investigated by anthropologists is, of course, rather extensive. They include the following:

(1) What are the types of adjudicating or mediating agents operating in society?

(2) What is the basis of their authority to exercise these roles in dispute settlement?

(3) Which disputes are amenable under specific conditions to negotiated compromise settlements and which require adjudication?

(4) Which procedures are taken for each type of dispute under given conditions? (This question implies inquiries into such aspects as apprehension of the accused, locale, evidence, etc.)

(5) How are juridical decisions enforced?

(6) What exosystemic functions and effects attach to legal processes? (This includes inquiries into the network of social, psychological, economic and political relationships between the parties, their representatives or supporters, and the authorities.)[7]

(7) How does law change?

Given this methodology and these problems, comparative anthropological research seeks to establish the existence of patterned correlations between specific factors indicated by the questions listed. These correlations may concern legal aspects only, or they may concern the co-occurrence of particular legal institutions and particular social-structural, economic, religious, and political systems or aspects thereof. Occasionally discovered correlations lead to the formulation of a hypothesis that has predictive value. (Compare Nader, 1965 and Whiting, 1965.)

My own research (1967) among the Jalé people in the interior of New Guinea resulted in an examination of the sociological and psychological factors that are correlated with the absence of any third-party adjudication. Following the cross-cultural approach, I extracted sufficient information from research done in other societies to causally link the absence of third-party adjudication to a prevalence of violence (including intrasocietal warfare) in processes of conflict management. Furthermore, both features were shown to be correlated with (a) the existence of multiple independent

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political units on the community level, (b) the presence of power groups composed of coresident members of patrilineages, (c) the absence of cross-cutting group affiliations, and (d) certain specific processes of socialization.

ANTHROPOLOGY'S CONTRIBUTIONS TO LAW

What are the potential practical contributions of anthropology to jurisprudence? There are three general areas in which I anticipate anthropological research to be useful. The first concerns the law of newly independent nations; the second, aspects of law in our own society; and the third, problems in international law.

Law in Newly Independent Nations

A recent report (Salacuse, 1968) estimated that African nations after independence have enacted "nearly a quarter of a million pages of legislation" despite efforts to "nationalize" much of the colonial law. Obviously, the problem of granting validity to multiple unwritten customary legal systems (plus variants of Islamic law in some of the East and West African nations) required more knowledge of the workings of these diverse systems than lawyers trained at French and British law schools could mobilize. Sometimes an assumption such as, "A uniform law was necessary . . . for the effective administration of justice" (Salacuse: 40) precluded *eo ipso* uniformly beneficial legislation. On the other hand, any special provisions for particular ethnic groups could easily be interpreted as discriminatory. Other major problems concerned the need for laws that could protect and foster the development of social services and a modern economy.[8] Whether the Ethiopian legal experiment serves this purpose is questionable. In Ethiopia, a country without a colonial legal heritage, the Emperor commissioned a Frenchman to write the civil code, an Englishman to write the criminal procedure code, and a Swiss lawyer to write the penal code. The premises upon which the French draftsman of the Ethiopian civil code proceeded with his research boded failure for the whole project. Its author wrote:

> Vouloir établir un Code sur la base des coutumes m'a paru . . . illusoire. Les coutumes éthiopiennes n'existent, en effet, qu'au sein de communautés de village ou de tribu, sociétés fermées, *dans lesquelles la notion de droit n'a pas sa place;* elles n'ont pas le caractère de coutumes juridiques. L'essentiel n'est pas dans le procès de donner à chacun son dû [suum cuique tribuere] comme veut le droit; l'essentiel est de maintenir les bons rapports, la cohésion et l'harmonie dans la communauté. [David, 1962: 6-7; emphasis added][9]

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After my discussion in the first part of this paper, any comment on this nonsense seems superfluous.

Anthropological studies would certainly be useful to assess the needs for and advantages of plural legal systems and to evaluate the effects, desirable or undesirable, of enforcing national legal codes on the "village level," especially with regard to issues involving land tenure and kinship relations, including customary patterns of succession, inheritance, marriage, and divorce.[10] To my knowledge, few anthropologists have been asked to serve as consultants, but Schapera (1938) has done an excellent job in such a capacity.[11]

What may happen if legalistic doctrine dominates in colonial legislation is illustrated by regulations enacted in the British colony of the Gilbert and Ellis Islands in the South Pacific. Regulation No. 27, 2 reads as follows:

> Persons going to latrines shall not tear leaves from coconut trees which do not belong to them for latrine purposes. Fine, 2 s.

Regulation No. 27, 5 stipulates:

> It is prohibited to defecate or urinate above high water mark on any beach between villages. Persons forced by nature to defecate in the bush must cover the feces with not less than six inches of soil. Fine, 1 s to 2 s.

One wonders, indeed, how these regulations were enforced, how evidence was secured and produced before the Crown's magistrates. Did, for example, the exact amount to be paid by a careless person whom nature drove into the bush depend on the measured difference in thickness of soil cover required by law and that actually supplied?

In another British colony in the Pacific, in Fiji (where I did field work in the summer of 1968), a dual legal system has been in force since annexation in 1874: one for the Fijians, the other for all the other residents in the colony: Europeans, Chinese, Polynesians, and the Indians who began to outnumber the native Fijians by 1945). The purpose of special courts and the regulations was, to quote from the record of a Fiji Legislative Council debate in 1944,

> to enable people living in remote villages to settle their differences according to their way of life, judged by men who undoubtedly make mistakes in procedure, but who know the people and to a very great extent give them satisfaction. . . . It is more satisfactory for a native litigant to go to a Fijian magistrate nearby whom he knows and lay his complaint than to go miles to a government station where he might have to go wait hours for the District Officer and in the end perhaps be misunderstood. [Knox-Mawer, 1961: 646-647]

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Yet, in 1968, with independence to come in the near future, these provisions were repealed. The reasons for this change given to me by government officials and members of the judiciary were manifold. There was some discussion about the need for a uniform legal system with the onset of independence, some talk about special courts degrading the Fijians to second-class citizens, and pronouncements such as are reflected in the following quote from Legislative Council Paper No. 13 (1959): "There seems to be no good reason why the archaic system of peripatetic courts should be maintained in the age of the motorbus" (Knox-Mawer: 647). To my knowledge, no provision was made, no funds were set aside, to study the effect of this change on the "administration of justice" in general. Given the nature of transport facilities, what will happen, for example, in an interpersonal conflict where the parties are villagers who may have to travel many hours on foot to get to the nearest bus stop?

There is another item from Fiji that any legal anthropologist would find interesting and worth a detailed study: A clerk in the Supreme Court at Suva, who is an Indian of high status, settles more than half of all civil cases involving Indians before the complaint is ever put on paper. The man does this work on the corridors of the court building, in his office, and if invited, in the homes of the disputants. The estimate was made by a judge at the Supreme Court, who also expressed approval and admiration of the clerk's activity. A study of the informal techniques used by this clerk would, for example, result in the recognition of some features that are greatly adaptive to the specific requirements of procedures for the settlement of disputes among members of the Indian communities.

Law in Contemporary Society

As I have said, very few anthropologists have studied aspects of American law, although it is often a matter of useless definition to categorize a study as being sociological or anthropological. Skolnick's recent book, *Justice Without Trial* (1967) certainly qualifies as a well-conceived and well-executed ethnographic study of law enforcement agencies and the behavior of their officers, especially because it contains a great amount of data gathered by "participant observation," rather than data exclusively compiled from interviews, questionnaires, census charts, and records. An anthropological orientation toward issues in American law is also seen in the work of Professor Herma Kay of Berkeley Law School. Focusing on the kinship systems of American society, Kay (1965) examined court decisions on the legitimation of children born illegitimate and discovered that the California courts have developed a legal concept of the family that is derived from empirical reality and is "based upon the common residence

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pattern of father, mother, and child within the setting between persons not biologically related." As this concept implies a definition of the family that is by no means in accordance with the commonly held and culturally approved ideology, a gradual convergence toward the legally sanctioned domestic arrangements is predicted.

Bohannan, an anthropologist, has reviewed the sociocultural consequences of divorce adjudication (1967). He noted that the form and manner of divorce in American society makes no satisfactory provision for the existence of the "ex-family," and that the legal termination of a marriage often signifies the serious failure of our legal system to provide formal means for reconciliation of marital conflicts. In many societies these means are an integral part of the general jural relationships created by the connubium and the formation of the conjugal household.

If these studies indicate something of importance, it appears to be this: perhaps more than ever before, in his efforts to adapt his principles and codes to changing sociocultural conditions, the lawyer cannot be content with retrospectively mining statutory and case law and adhering to the doctrine of *stare decisis*. Instead, if the expression "good law" means anything, legislator, judge, and legal scholar will have to look ahead and anticipate the needs of the future by recognizing the trends of social (and technological) change. It seems obvious that the cooperation of the social scientist would help the lawyer make the law an effective instrument of deliberate and guided change. Within the technological field, Ralph Nader's efforts have shown the potential benefits of an "activated law," which does not depend on reasoned argumentation alone, but demands empirical research.[12]

As regards criminal law, Swett's article (in this issue) analyzes cultural biases in the American legal system as they are reflected by police behavior and in adjudication in the criminal courts.

In respect to these and similar problems, anthropologists could provide the legal profession with useful data derived from an analysis of empirical situations. Moreover, the day may come when expert testimony will include that of the sociologist and anthropologist in addition to that of the technician and psychologist. Precedents exist: Anthropologists have, on occasion, served as expert witnesses in cases involving Indians. On a larger scale anthropology might find some practical application in suggesting guidelines for legislative and administrative policies in areas where current provisions are inadequate to deal with new problems brought about by rapid sociocultural change. However, few anthropologists have so far been trained to competently study "complex societies" or have applied their skills in the field of "urban anthropology"[13]

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International Law

Finally and briefly, there is the problematic nature of international law. It appears that legal scholars and political scientists concerned with the formulation and effective application of internationally binding rules have drawn predominantly from national legal ideologies of European tradition. Any analogous constructs, however, would presuppose global and administrative systems like those of modern states. In many ways, the problems of a global legal system resemble those encountered by the newly independent nations trying to agglomerate a diversity of legal systems into a synthetic whole—only the dimensions are much greater and even more complicated (Luard, 1968: ch. 10). Again the comparative perspective of the anthropologist might aid at least in gaining a more accurate conceptualization of these problems. Some insights into practicable systems might, indeed, be gained from a more comprehensive knowledge of plural legal systems that operate under different premises, fulfill different purposes, and employ different procedures. With due recognition of all dimensional discrepancies, is it not so that tribal societies without an integrative political superstructure represent a microcosm of the international scene?[14] If anthropology cannot provide the answers, it may at least suggest the directions in which to look for the appropriate questions.

NOTES

1. For an extensive recent discussion on the development and interrelationships of biological and sociocultural theories of evolution, see Harris (1968: chs. 4-7).

2. Compare Gluckman's appreciative comments in his *Ideas of Barotse Jurisprudence* (1965 XVI and throughout) and Redfield's (1950) discussion of Maine. Concerning the evolutionary significance of the "Mainean shift" from status to contract, Hoebel (1954: 329) explained that the most decisive shift in the development of law has been a procedural adaptation by which "privilege-rights and responsibility for the maintenance of the legan norms are transferred from the individual and his kinship group to the agents of the body politic as a social entity."

3. For a recent appraisal of Ehrlich's work, see Littlefield (1967).

4. This is essentially evident in Malinowski's last-written treatise on the subject (1942). For critical discussions of Malinowski's work on law see Hoebel (1954: 177-210) and Schapera (1957). Incidentally, the often mentioned book of Hogbin, *Law and Order in Polynesia* (1934), written while the author worked with Malinowski at London University, presents very sketchy ethnography with a few fragmentary cases interspersed in the account, and the analysis is confined to statements paraphrasing Malinowski's ideas.

5. Gluckman's study has received wide and varied critical recognition. Chapter ix of the second edition (1967) discusses the major reviews of the first edition in great detail.

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6. This recognition is, of course, not new, and it is shared with legal scholars. Both von Gierke and Ehrlich wrote about these phenomena. And in the work of Gray, whose writings did much to eliminate rigid fundamentalist legal dogmatism from jurisprudence, we find statements that appear contemporaneous with those of our own day. For example: "If any organized body of men has persons or bodies appointed to decide questions, then that body has judges or courts, and if those judges or courts in their determination follow general rules, then the body has Law and the members of the body may have rights under that Law" (1921: 109).

7. For an analysis of the effect of legal activities on leadership and social control in a society without formal political offices and the sanctioned use of physical coercion, see Frake (1963).

8. For other studies in the field of law in developing societies, see Afrika Instituut (1956) which has extensive bibliographies; Kuper and Kuper (1965); Anderson (1968); and Lundsgaarde (1968). (Lawyers and legal draftsmen are becoming more aware of the relevance of a thorough knowledge of customary law as a prerequisite to "legal engineering" projects undertaken in developing nations. Indications of such a trend are noted in a collection of essays edited by Hutchison [1968].)

9. Translated [by author] as follows:

> To wish to establish a code on the basis of customs seemed to me . . . illusory. In fact, Ethiopian customs exist merely in the midst of village or tribal communities, closed societies in which the notion of law has no place; they don't have the character of jural customs. The essential is not in the process of giving everybody his due [*suum cuique tribuere*] as the law demands; the essential is to maintain good relations, cohesion, and harmony in the community.

10. For a useful discussion concerning the problem of legal pluralism and a unified national law, see Jaspan (1965).

11. I might add here that historical jurisprudence could provide some comparative information if the records on the introduction of Roman law into early German legal systems, for example, are sufficiently detailed, but this remains to be researched.

12. The question of which regulatory powers should be given to administrative agencies and which are best left to the courts is another issue to which empirical research may be applied.

13. For a recent collection of pertinent articles see Banton (1966).

14. As Hoebel (1954: 331) put it, "International law, so-called, is but primitive law on the world level." This recognition is also evident in the work of political scientists. Compare with, for example, Masters (1964) and Barkun (1968). It should be noted, however, that Barkun's book (and other contributions from political science) contain numerous factual errors which, expressed as categorical generalizations about "primitive societies," apparently derive from untutored reading of the ethnographic literature. Furthermore, the usefulness of such abstract systematics as presented by Barkum (1968: ch. 8) will have to be assessed by application in comparative empirical research.

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APPENDIX

The references listed below will direct the reader to a few selected studies in the anthropology of law. Most of these I have personally found useful for introductory courses, in addition to the works listed in the text of this paper. For additional titles, see Laura Nader, Klaus F. Koch and Bruce Cox (1966) "The Ethnography of Law: A Bibliographic Survey," *Current Anthropology* 7: 267-294. This is the most comprehensive annotated bibliography of anthropological studies available (about 700 entries). It contains an introductory section that explains the selection and organization of the material and includes references to other specialized bibliographies. For books and articles published during and after 1965, consult the sections entitled "Traditional Legal Framework and Moral Codes," "War," "Problems of Administration of Law," "Modern Judicial Processes," and pertinent index entries in the *International Bibliography of the Social Sciences–Anthropology* (volumes XII and the following).

Compendious reviews of the development, scope, and aims of the anthropology of law are provided in the following articles:

NADER, L. (1965) "The anthropological study of law." Amer. Anthropologist 67, 6 (Part II): 3-32.

POSPISIL, L. (1968) "Law and order," pp. 201-222 in J. A. Clifton (ed.) Introduction to Cultural Anthropology. Boston: Houghton-Mifflin.

Important recent discussions of methodological issues are found in the following:

EPSTEIN, A. L. (1967) "The case method in the field of law," pp. 205-230 in A. L. Epstein (ed.) The Craft of Social Anthropology. London: Tavistock.

This is one of the best reviews of the principal method used in the ethnographic study of law and conflict. It presents both a survey of relevant studies in this field and a critical appraisal of the research techniques used.

GLUCKMAN, M. (1965) "Introduction: the process of tribal law," pp. 1-26 in The Ideas of Barotse Jurisprudence. New Haven: Yale Univ. Press.

This chapter is mainly a discussion of judicial principles and legal procedures in certain types of societies in which social relations are principally structured by status relationships.

LeVINE, R. A. (1961) "Anthropology and the study of conflict: introduction." J. of Conflict Resolution 5: 3-15.

This article presents a concise conceptual statement about structural levels of conflict, conflict-indicating culture patterns, attitudinal concomitants of conflict, sources of social conflict, functional value of conflict, and patterns of conflict control and resolution.

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NADEL, S. F. (1956) "Reason and unreason in African law." Africa 26, 2: 160-173.

In this review of J. N. D. Anderson's *Islamic Law in Africa* (1954), Max Gluckman's *The Judicial Process* (1955), and P. P. Howell's *A Manual of Nuer Law* (1954), the author deals mainly with problematic concepts used in these studies.

The following studies emphasize the politics of conflict management:

BEATTIE, J. H. M. (1957) "Informal judicial activity in Bunyoro." J. of African Administration 9, 4: 188-195.

Provides case data to show how informal tribunals operating outside the official court system function to preserve social solidarity and community cooperation.

GLASSE, R. M. (1959) "Revenge and redress among the Huli." Mankind 5: 273-289.

Presents a detailed description of an institutionalized system of revenge and redress in New Guinea which periodically restructures alliances between groups. The data are important for any discussion of social control in societies without a centralized political power structure.

KOPYTOFF, I. (1961) "Extension of conflict as a method of conflict resolution among the Suku of the Kongo." J. of Conflict Resolution 5, 1: 61-69.

This paper examines specific political implications of conflict management and presents a methodological discussion of "culture" and "social structure" as explanatory concepts.

VAN VELSEN, J. (1964) The Politics of Kinship: A Study in Social Manipulation Among the Lakeside Touga of Nyasaland. Manchester: Manchester Univ. Press.

An elaborate analysis of the workings of a highly flexible political structure in conflict situations illustrated by a number of well-documented cases.

Psychological approaches are used, for example, in these studies:

GIBBS, J. L. (1963) "The Kpelle Moot: a therapeutic model of the informal settlement of disputes." Africa 33, 1: 1-11.

This study concerns the integrative function of informal litigation and argues for the necessity of a conjunct analysis of formal and informal processes of conflict resolution. It also demonstrates the usefulness of complementing a structural and procedural analysis of dispute settlement with a psychological one.

LeVINE, R. A. (1962) "Witchcraft and co-wife proximity in southwestern Kenya." Ethnology 1, 1: 39-45.

An examiniation of cross-cultural evidence on the basis of a psychodynamic theory showing that the structure of domestic groups may determine the nature and volume of hostile interaction.

WHITING, B. B. (1965) "Sex identity conflict and physical violence: a comparative study." Amer. Anthropologist 67, 6 (Part II): 123-140.

Based on material from six cultures, this study offers four hypotheses relating socialization practices to specific patterns of conflict behavior.

Other comparative studies on law include the following:

NADER, L. (1965) "Choices of legal procedure: Shia Moslem and Mexican Zapotec." Amer. Anthropologist 67 (April): 394-399.

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This article suggests a hypothesis linking a dual village organization with the absence of community court or council systems of settling conflict.

ROBERTS, J. M. (1965) "Oaths, automatic ordeals, and power." Amer. Anthropologist 67, 6 (Part II): 186-212.

Using statistical techniques for the analysis of cross-cultural data the author concludes that oaths and automatic ordeals function to maintain law and order in societies with weak authority and power deficits.

A collection of articles on a representative variety of topics is to appear in: Nader, L. (1969) [ed.] Law in Culture and Society. Chicago: Aldine Press. These studies and pertinent introductory reviews represent the result of a symposium on the anthropology of law in which many of the leading scholars in the field participated.

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