Introduction: Dialogues in Legal Anthropology

June Starr and Jane F. Collier

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Several types of questions unite the chapters in this book: What legal resources are available to groups competing for state power? How do legal ideas privilege some at the expense of others? How do weaker groups overcome obstacles created by the legal order? What explains the lengthy continuities among certain legal ideas and social orders? Historical analysis thus becomes a dynamic aid in understanding the role law plays in changing asymmetrical power relationships among social groups, and how that role is limited. Instead of treating change and power differences as variables that complicate a struc[illegible]al or structural-functional analysis of dispute management, most of tors to this volume focus on power differentials to under

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course of legal change and the persistence of certain legal ideas and processes through time. Rather than ask how societies achieve the peaceful resolution of disputes, most ask how individuals and groups in particular times and places have used legal resources to achieve their ends. Instead of focusing on either normative systems or dispute processes, the chapters analyze the relationship of law to wider systems of social relations. We have thus modified the field of legal anthropology in the process of revitalizing it.

Breaching subdisciplinary boundaries has allowed most of us to enlarge our vision of legal anthropology in a decade that finds some law researchers questioning the usefulness of a separate subfield of "anthropology of law." Several scholars have called for abolition of the anthropology of law, while others predict its demise (Comaroff and Roberts 1981; Snyder 1981a, 1981b; Chanock 1983; Francis 1984). Comaroff and Roberts, for example, doubt "the value of distinguishing 'the legal' as a discrete field of inquiry" (1981:243). Arguing that the aim of social anthropology is to study total social systems, they suggest that instead of isolating dispute processes or rule systems for separate study, anthropologists should study disputes and invocations of rules for what they reveal about systemic processes. Snyder also suggests that legal anthropology is too narrow: "The anthropology of law is a myth if conceived as the search for ahistorical or cross-culturally valid features of law, or alternatively, as the reduction of historically and culturally specific normative forms to ethnographic descriptions of individual behavior" (1981b:164). He also advocates redirecting anthropologists interested in legal issues toward the study of a total system, but his "system" is the historical expansion of Western capitalism. The future development of legal anthropology lies "not only in elucidating the relationships between social action and cultural ideologies, but also in grasping the extent to which these relationships and the wider social processes of which they form a part are the product of specific historical and economic conditions" (ibid., p. 164).

Questions about "usefulness" and predictions of demise have also been directed toward other subdisciplines in social anthropology (see, e.g., Schneider 1984; Ranger 1983; Smith 1985; Wolf 1982:21). Studies of kinship, anthropological economics, "tribal" politics, and the anthropology of religion have also been criticized for being too isolated from major integrative theory in social anthropology. Once "narrowness" was useful for theory-building at a particular stage in social anthropology's development. But many social anthropologists, viewing subdisciplinary study as too limiting in the 1980s, have returned to studying the interrelatedness of institutions and social action as they bring history and

political economy into their ethnographies. Eric Wolf has stated that we need to relate both the history and theory of the development of modern world markets "to processes that affect and change the lives of local populations," that we need "theoretically informed history and historically informed theory . . . to account for populations specifiable in time and space, both as outcomes of significant processes and as their carriers" (1982:21).

This volume grew out of a 1985 conference at Bellagio, Italy. Focusing on complex societies, all the contributors are concerned with aspects of how law changes over time, how conflict develops among groups that have different access to legal resources and different ideas about how conflicts should be resolved. The conference's focus on change within world historical time meant that all contributors studied societies marked by asymmetrical power relationships.

Each chapter addresses one or more overarching themes, such as the transmission of power relationships through time as these are embodied in particular social and legal forms; the role of law and legal ideas as contested metaphors for and determinants of social order; or the relationship between law and culture, with the latter defined as the production and reproduction of social forms, symbolic orderings, and hegemonic systems of domination. Some emphasize cultural form, others emphasize the person as a social agent. Some focus on the cultural construction of power relations and social hierarchies, others portray culture as less important than different access to material resources in separating the powerful from the powerless. Many of the chapters document ways that groups in power enable the law to change rapidly. But the law is not viewed as a seamless web, nor is it seen as neutral. All the chapters view law not as a natural occurrence, as in "natural law," but as a "thing" constructed by human agency that is advantageous to some at the expense of others. Most of the chapters treat legal rules as formulations that have been discussed, argued over, and arrived at through negotiated settlements among conscious agents.

A summary of recent developments in the subdiscipline of anthropology of law will show how this volume builds on and differs from previous and current research.

Developments in the Anthropology of Law in the 1960s and 1970s

Within the subdiscipline of legal anthropology, dispute management as a cultural system was the focus of two important conferences held in

the 1960s and organized by Laura Nader (Nader 1965a, 1969b).[2] Before these conferences, anthropologists interested in law followed Malinowski (1926) to understand how social control was maintained through the interconnectedness of social institutions, or they followed Radcliffe-Brown (1933) in studying disputes to discover the rules (i.e., "laws") whose supposed enforcement by third parties was credited with maintaining order in particular societies (see also Llewellyn and Hoebel 1941). The two conferences marked the replacement of a concern for rules with a concern for processes.

The focus on disputing processes that dominated research in the 1960s and 1970s highlighted what had been slighted in the former concern for rules.[3] Anthropologists and others studying dispute management focused on litigants' use of law to attain their own ends, rather than on law's role in maintaining social order. They examined the political and economic interests of those who quarreled, instead of assuming that public disputes reflected a breach of norm by some wrongdoer; they focused on litigants, rather than on third parties or judges; and they emphasized the role of relative power in shaping outcomes, rather than assuming the impartiality of dispute-settlers or judges. In the process, rich case materials for analyzing the interplay of interest groups were discovered.[4]

But in focusing on processes rather than laws, interests rather than rules, litigants rather than judges, and power rather than order, anthropologists who studied dispute management found themselves limited by the analytic dichotomies their projects created. They realized that law has a limited autonomy, even as it is embedded in political and legal systems. In the process of examining litigants' options, they found they had to consider rules, if only to treat them as resources that litigants could use in pursuing private interests. Further, they found they had to consider how law maintained the powerful, even as they examined its role in aiding the powerless. Many anthropologists who studied dispute management in the 1960s and 1970s experienced a sense of paradigm crisis by 1980, as did most social anthropologists, because functionalist theory (the framework within which we previously worked) was increasingly criticized. Once functionalism was called into question, many legal ethnographers believed that the central questions and the organizing rationale of anthropological study was lost. What is kinship if it is not about reproduction? And what is the anthropology of law if we doubt that legal systems settle conflicts?

Although many social anthropologists turned to the study of structuralism and symbolism based on the notions of Claude Lévi-Strauss in the 1960s and 1970s,[5] this approach had little or no impact on anthropology of law. Faced with a crisis of paradigm, many legal anthropologists wondered where organizing ideas and theory might be found. Paradoxically, this occurred at a time when some legal scholars were looking to anthropologists for insights on dispute management,[6] just as earlier anthropologists searching for legitimate rules had looked to legal scholars for guidance.

New Formulations

Calls for abolition of the anthropology of law thus reflect an emerging idea that anthropological understanding of legal processes needs to be based on a broader vision. This means constructing research questions that return to issues, and research agendas that are important to social anthropology as a whole. Such questions might involve viewing dispute management procedures as affecting relations among kin, the production and distribution of goods, political hierarchies, and ideas of ultimate order. We certainly hope such studies will continue to emphasize, as this volume does, the importance of power relationships and historical contextualization in understanding legal and social change.

This volume begins the preliminary work of conceptualizing anthro-

[2]In 1964, Laura Nader organized a small conference of social anthropologists at the Center for Advanced Study in the Behavioral Sciences in Stanford, California. The goal was to discuss their work and current trends in the field (Nader 1965a:v). In 1966, Nader organized a larger conference, held for ten days at Burg Wartenstein, Austria, to stimulate more and better research in areas "the potential of which has not yet been well mined" (Nader 1969b:vii).

[3]Earlier anthropologists, studying peoples who might be said to lack "law," developed methodologies for finding the legitimate rules of particular peoples. See Llewellyn and Hoebel 1941; Gluckman 1955; Bohannan 1957; Pospisil 1958; Epstein 1954.

[4]Studies on disputing that flourished during the 1960s and 1970s are Collier 1973; Gibbs 1963; Gulliver 1963, 1971; Hamnett 1977; Nader and Todd 1978; Koch 1974; Lowy 1978; Merry 1981; Starr 1978; Todd 1978; Witty 1980; and Yngvesson 1976. Of course, other types of anthropological studies were influential too. See Moore 1978 and also Burman and Harrell-Bond 1979.

[5]See Turner 1967; Dolgin, Kemnitzer, and Schneider 1977; and Leach's (1970) book on Lévi-Strauss.

[6]Abel (1974, 1981a, 1981b), Danzig and Lowy (1975), Galanter (1983), Felstiner, Abel, and Sarat (1980–81), Roberts (1979), and Trubek (1980–81a, 1980–81b) were directly influenced. Auerbach (1983) seems to have been influenced indirectly.

pology of law not as a subdiscipline "apart from" social anthropology, but as a theory-building "part of" social anthropology. Ideas from political economy especially have proved fruitful for several chapters, but other cross-fertilizations, from philosophy, sociology, and cultural analysis, are also in evidence. At the same time, this volume makes a strong argument for the value of maintaining orderly subdisciplinary discourse in anthropology of law. Although legal anthropology at some future point might well dissolve (along with other anthropological subfields) into a renewed social anthropology, that time has yet to come. There is still much to discover from subdisciplinary discourse as we reach better understandings of how all legal processes are embedded in social relations. Meanwhile, some contributors to this volume recognize the convergence between their interests and the interests of the Critical Legal Studies Movement. Both ask how law acts to legitimate particular ideologies and asymmetrical power relations, and both seek to analyze the mutual construction of legal and social orders in historical time (*Critical Legal Studies Symposium*, 1984).

Common Themes

Asymmetrical Power Relationships and Legal Change

Although the chapters in this book share common assumptions about the ways legal systems encode asymmetrical power relationships, they differ in the way they conceptualize power asymmetries and in the amount of attention they devote to power differences. Some focus directly on the antagonistic relationship between economic classes in emerging and developed capitalist societies. Vilhelm Aubert, Anton Blok, George Collier, and June Nash, for example, use class analysis as a way to conceptualize particular historical struggles or general trends in legal development. Although these contributors may recognize the role of legal orders in establishing property rules that motivate class antagonism, they treat economic classes as given, because they are analyzing not the creation of new legal orders, but only struggles within existing legal orders.

The contributors who analyze the creation of new legal orders focus, not unexpectedly, on ruling groups rather than on antagonisms between economic classes. Bernard S. Cohn, analyzing the development of British rule in India, and Said Amir Arjomand, analyzing the creation of an

Islamic theocracy in Iran, discuss rulers who were in the process of establishing legal systems that were clearly designed to grant special privileges to their own ethnic, national, or religious group over others. Ruling groups are not monolithic, however. Joan Vincent, for example, discusses how conflicts between factions of the British ruling class structured colonial legislation in Uganda. Francis G. Snyder, too, analyzes how legislative rules and legal structures of the European Economic Community create interest groups and organized coalitions.

Even those who do not focus directly on the power asymmetries established by particular legal systems share the assumption that legal orders incorporate inequality. Those who discuss subordinated groups may focus on social relations within these groups, but they accept implicitly the idea that the legal ideology of the wider political system puts constraints on the possibilities for subordinated peoples. For example, the power imbalance between colonizer and colonized is assumed by Laura Nader and Sally Falk Moore when they discuss actions localized groups took to preserve areas of autonomy. In discussing the problems of the Surinamese entrepreneurs in Amsterdam, Jeremy Boissevain and Hanneke Grotenbreg also recognize the asymmetry between Dutch residents and recent migrants who lack legal resources, legal knowledge, and kinship ties to the members of the parliament. Cultural systems also embrace inequalities, as revealed in Lawrence Rosen's analysis of the ways Moroccan courts incorporate popular understandings about the relative worth of the testimony of men and of women, and of the testimony of rich men and poor men.

Because all the contributors hold the view that legal orders create asymmetrical power relations, they also share the assumption that the law is not neutral. The legal system does not provide an impartial arena in which contestants from all strata of society may meet to resolve differences. For example, conflicts between factions of a ruling class may shape the possibilities open to subordinated groups.

The neutrality of law fitted well with an older ahistorical, functionalist view of a "timeless, classless, custom-ridden" Third World. It masked the restructuring of societies by the Spanish, British, French, German, and North Americans. As early as 1961 the concept of law as a neutral arena was directly challenged by the anthropologist J. A. Barnes, who in a pointedly titled article, "Law as Politically Active," illustrated the ways that African political elites passed new legislation and used it for their own purposes (Barnes 1961:178). Not only was the law not passive, but it was actively created by and for groups in power. In addition, complex

legal situations existed within African societies themselves. Paul Bohannan had earlier criticized the idea of dual legal systems: "The mark of a colonial situation might be said to be a systematic misunderstanding between the two cultures within the single power system, with constant revolutionary proclivities" (1965:38–39).

A contemporary overview of precolonial societies in Africa has shown that the "closed corporate consensual system" that came to be accepted as characteristic of "traditional Africa" rarely existed (Ranger 1983:248). The boundaries of tribal polity and the hierarchies of authority within them did not define the horizons of Africans. Ranger notes that most Africans had multiple identities. An African might define himself "at one moment as subject of this chief, at another moment as a member of that cult, at another moment as part of this clan, and at yet another an initiate in that professional guild" (ibid.). In addition, nineteenth-century Africa "was *not* characterized by a lack of internal social and economic competition, by the unchallenged authority of the elders, and by an acceptance of custom which gave every person . . . a place in society which was defined and protected" (ibid.).

The finding that Africa was not "tribal" and "custom-bound" when Europeans began migrating there has opened up a new way of conceptualizing group relationships and the evolution of legal orders in Africa. Peter Fitzpatrick, for example, described ways in which colonists "created reserves and other enforced settlements; restricted mobility beyond the 'tribal' area; required a continuing attachment to that area in indenture, vagrancy and pass laws; confined people to the amount of land deemed adequate for 'subsistence' and appropriated so-called waste and vacant land; prohibited or restricted wide-ranging political activity and food gathering; and in varying forms, erected systems of so-called indirect rule." He argues that "with colonialism existing social relations were taken, reconstituted in terms of its imperatives and then, as it were, given back to the people as their own. In this, history was denied and tradition created instead" (1985:479).

Sharing the views of Fitzpatrick and Ranger that legal orders inevitably create conflict, the chapters here assume that conflict, and not consensus, is an enduring aspect of any legal order. In studying how changes in power relations between groups create changes in legal systems, the contributors do not assume the existence of static cultural traditions either. Instead, they explore how cultural concepts are used by people acting in particular times and places within particular systems of unequal power relations. Each author is careful to separate the concept of "indigenous law," defined as the reconstruction of precontact

native law by an anthropologist, from "customary law," defined as the outcome of historical struggles between native elites and their colonial or postcolonial overlords.

The recognition that inequality inheres in legal systems, in combination with the idea of continuously evolving cultural traditions, has led the contributors to think beyond the concepts of legal pluralism and dual legal orders. No contributor uses the term "legal pluralism" or "dual legal system" when analyzing complex social systems. Both words, "pluralism" and "dual," carry connotations of equality that misrepresent the asymmetrical power relations that inhere in the coexistence of multiple legal orders. Various legal systems may coexist, as occurs in many colonial and postcolonial states, but the legal orders are hardly equal. A comparison of the chapters in this volume will show that legal ideas and processes maintained by subordinated groups are constrained in ways that the legal orders of dominant groups are not.

The above terms also imply that coexisting legal systems evolve independently after coming into contact with each other, a notion that misrepresents the contributors' collective view that coexisting legal orders evolve together. Moore, for example, observes that Chagga "customary law" is a product of long interaction between the Chagga people and those claiming to rule their country. Nader's chapter on the ideology of social harmony reveals that the legal orders maintained by Mesoamerican "closed corporate communities" evolved in relation to pressures from outside conquerors.

Thus, we share Kidder's observation that "the command model of law is inadequate. It oversimplifies the process known as law because it is static, treating imposition as a fait accompli rather than an interactional process affected by power differentials" (1979:291). A concept of imposed law also implies a false assumption of complete cultural incompatibility between the dominating and dominated peoples (ibid.), thus making it difficult to analyze the ways that subordinated peoples invoke wider legal orders to achieve their ends. Legal orders should not be treated as closed cultural systems that one group can impose on another, but rather as "codes," discourses, and languages in which people pursue their varying and often antagonistic interests.

Legal Ideas and Processes as They Shape and Change Dynamic Relations among Groups

The contributors avoid the terms "micro" and "macro" in conceptualizing group or geographic relationships. There are several reasons

for this. First, the ruling groups may not be localized, and they may consist of coalitions of a number of different ethnic and interest groups. Second, complex disputes involving the interests of a number of groups may stretch outside a nation-state or may unite groups at different levels within a nation or empire. For example, nineteenth-century manufacturers in England had interests in common with plantation owners in Africa, and these interests differed from those of the British Crown (see the chapter by Vincent).

Legal ideas and processes emerge as important factors in upholding or changing systems of inequality when a society is studied in a historical context. The view that rules are systemic resources permits analysis both of the power of law to shape events and of the fact that legal rules do not exist except as invoked by people pursuing particular ends. The contributors came to accept the notion that transmission of legal ideas, embedded as they are in cultural and social processes, gives legitimacy to hegemonic groups (see Williams 1977).

As shared understanding grew among the contributors that legal and societal change evolved through changing power relationships between social groups and economic classes, we found ways to conceptualize the persistence of *some* legal ideologies in time and space. This perspective provided greater understanding of conflict between groups, as well as of conflicts between groups and "the law" itself (see Leach 1977). Thus, conflict is conceptualized as an interactional, ideological, and institutionalized process. Differing concepts of power and of legitimacy may explain why some groups look to the legal system and to changing the laws as a way to gain rights, while other groups shun national law, using banditry, violence, and revolution as a way to make their interests known and to legitimize their goals.

A unifying focus on the historical context in which legal ideas are shaped by groups, and how limits for changing laws are also set by dominant groups, became a way to illuminate systems of hegemony through time and across many societies. June Starr's reanalysis of selected Roman legal categories demonstrates that unchallenged ideas can dominate theoretical assumptions too. Thus, these chapters present a coherent view of an emerging interest within legal and political anthropology in history and power relations in the study of law.

By dividing history into transformational sequences, a researcher can understand why groups in power prefer and use certain sociolegal forms and institutions and neglect others. Once the contributors began to look at dominant groups and the cultural ideas embedded in a legal form,

they were able to make generalizations about how certain countries exported and extended their colonial experience. For example, the British colonial experience began in Ireland and soon led to a movement of both administrators and ideas from Ireland to India. Later, Indian colonial officials brought many of their symbols of rule and administration (such as the concept of "customary law" and the institution of "district officers") with them when they moved to Africa. A historical framework allowed comparison of British ideas of how to rule "native peoples" with those held by the sixteenth-century Spaniards who debated how to govern ancient American civilizations.

Although not all the contributors would subscribe to Giddens's theory of structuration (Giddens 1976, 1979), three of his propositions are germane to our volume. First, the realm of human agency is bounded: people "produce society, but they do so as historically located actors, and not under conditions of their own choosing." Second, "structures must not be conceptualized as simply placing constraints upon human agency, but as enabling." And third, "the processes of structuration involve an interplay of meanings, norms and power" (1976:160–161).

Law as Culture

The concern in this volume is more with the continuities between legal orders and wider cultural systems than with differentiating law from custom or morality. Although several contributors might accept Bohannan's proposition that laws are customs that have been lifted out of daily life to be "reinstitutionalized within the legal institution" (1965:36), they focus on the ways in which legal ideas permeate daily life and how common-sense understandings of the person, time, and causality inform legal processes. Rosen, for example, traces the ways everyday concepts are used in Moroccan courtrooms, and other contributors stress that legal systems are part of wider cultural systems.

Not only anthropologists, but also the peoples they study, assume that legal systems are cultural systems. As a result, people treat legal orders as appropriate vehicles for asserting, creating, and contesting national identities. In the modern world, where the ideology of "nationhood" mandates a congruence between cultural and legal entities, legal orders and ethnic groups are mutually defining categories. To create a legal order is to write into law a sense of national unity and purpose, as Arjomand shows in his analysis of Iran's 1979 constitution and as revealed in Carol Greenhouse's tracing of key American cultural concepts

to the founding documents of the United States. Similarly, attempts by colonial powers to recognize "customary law" or grant limited autonomy to local groups foster ethnic identities among these enjoying such privileges or aspiring to them (see the chapters by Moore, Nader, Vincent, Cohn, and Boissevain and Grotenbreg).

Because legal and cultural orders are mutually defining, the contributors assume that the groups they study are not objective units that have endured through time or exist outside of time, but rather that they are conceptual entities produced by particular historical processes. For example, when Aubert writes about Norway, or Greenhouse writes about North America, or Starr writes about Roman legal categories, they refer to conceptual entities created by founding documents. A sense of history thus enters into the way the contributors constitute their objects of study.

The contributors also share the assumption that legal rules, procedures, and concepts exist only as they are invoked by people. Legal orders endure because people act as if they do, and people change legal orders by invoking new rules and abandoning old ones. As a result, the contributors understand legal continuities and changes by tracing the historical processes that shape people's actions by shaping their material interests and cultural understandings.

While recognizing the constraining effects of legal orders, especially the ways in which legal orders constrain weaker groups, the chapters focus on the enabling aspects of law. People and groups use legal rules to accomplish particular ends, even if such uses often have unintended consequences. Legal orders may embody asymmetrical power relations, but power is always an interactional process. Dominant groups enjoy legally protected privileges, but they are also constrained by the law. And subordinated groups that suffer under particular legal systems may find that law offers them, the less powerful, a measure of protection from the powerful, just as it sometimes offers them resources for action (Thompson 1975:262–263).

When subordinated groups use the laws of more powerful groups for personal or group gain, however, they tend to find themselves in the position of endorsing, both materially and symbolically, social orders that they might prefer to change. The Surinamese migrants described by Boissevain and Grotenbreg who applied for licenses to do business in Holland granted legitimacy to licensing laws designed to protect Dutch businessmen. And even migrants who sought to change the laws nevertheless granted legitimacy to Dutch legislative procedures. To use

laws is to admit membership in the group regulated by that legal order. To refuse to participate in legal activities—like the Baptists described by Greenhouse or the Bokkerijder bands described by Blok—is to declare symbolically one's estrangement from a legal order.

Legal Change

The contributors implicitly define legal change as a change in the way power and privilege are distributed through legal means. Because they share the assumption that legal orders invariably create inequality, changes in asymmetrical power relations among groups are treated as the defining feature of legal change.

Some contributors focus on actual changes in legal rules or procedures, arguing that such changes signal or cause a change in power relations. Blok, for example, suggests that the change from theatrical punishments to imprisonment in eighteenth-century Europe indicated an increase in the power of elites to control the population, while George Collier discusses a situation in which previously deprived groups in a Spanish village were empowered by new legislation. Cohn and Arjomand write about elites who created new legal orders giving controlling power to their own groups. Vincent and Snyder, by contrast, focus less on how legal changes empower already recognized groups and more on the role of law in structuring interests and in organizing the alignments of groups and individuals.

Others focus on continuities that are apparent or actual. For example, Aubert, Starr, and Moore argue that apparent continuities in key legal concepts—such as "the rule of law" in Norway, or the early occurrence of "private property" under Roman law, or "customary law" in Tanzania—can in fact mask changes both in power relations and in the substance of legal rules. Nash, Nader, and Boissevain and Grotenbreg are less concerned with changes than with analyzing struggles for power within existing legal frameworks. Rosen and Greenhouse focus on continuities. They write about those central cultural concepts that people continue to invoke despite historical changes in power relations.

Because the contributors to this volume focus on both change and continuity, they choose processes, rather than entities defined in space and time, as the units of their analyses. Instead of focusing on "societies," communities, or institutions abstracted from time, they tend to choose a process, an extended case, or a set of concepts to follow across spatial and temporal boundaries.

Some contributors focus on specific historical events. Cohn, Arjomand, Blok, and George Collier, for example, take particular happenings, such as the writing of constitutions, the passing of legislation, or specific trials, as points of entry for studying ongoing processes. Other contributors focus on the processes themselves. Aubert, Vincent, Moore, Nader, and Nash seldom mention specific historical events, preferring instead to chart ongoing processes. Finally, Greenhouse, Boissevain and Grotenbreg, Rosen, and Starr refer to specific historical events, but treat them less as points of entry than as evidence of ongoing processes.

Just as the contributors treat historical events as indicators of larger historical processes, so they treat specific field sites as embedded in wider spatial units. When such contributors as George Collier, Nash, Nader, Boissevain and Grotenbreg, Greenhouse, and Moore write about the villages, towns, and cities they studied, they do so not to focus on local customs and events, but to treat such customs and events as examples of wider regional, national, and international processes.

Organization of the Chapters

Although such diverse chapters may be grouped in several ways, we decided to divide them into four sections that highlight shared interests in understanding inequality and historical processes of change and continuity in legal systems. After discussing how the chapters in each section relate to one another, we discuss themes that divide the contributors to the volume—that is, things they disagreed about, sometimes vehemently.

In Part I, "Resisting and Consolidating State-Level Legal Systems," the chapters are arranged chronologically to emphasize the importance of understanding the historical moment and the historical sequence for analyzing legal changes. Blok, Aubert, and Nash chronicle developments in Western legal systems in the eighteenth, nineteenth, and twentieth centuries, and Arjomand picks up this thread by tracing recent efforts by Iran's Islamic rulers to create a constitution (a Western legal idea) for the return to an Islamic state.

At the end of the eighteenth century in Europe, there was a transition from public executions to imprisonment, and Blok highlights changes in legal and social thought that accompanied this transition. He analyzes court records of sentences imposed on more than 500 members of robber bands in the Lower Meuse between 1741 and 1778 and discusses the

change from public spectacles of torture and execution to confinement of wrongdoers in workhouses and prisons. Blok suggests that attacks began as a form of social protest by marginalized members of a politically fragmented rural society. These night raiders attacked large farms and church institutions. The court records chronicling the trials and sentences of robber bands reveal a steady decline in the theatricality of executions. In the 1740s, robbers were executed in public spectacles of torture, but by the 1770s the condemned were no longer burned or dismembered before being hanged, and several convicted robbers were merely jailed or banished. Blok suggests that both the decline of public executions and the decline of robber bands were due to the state's development of more efficient means for controlling the population.

Blok's analysis of state control is extended by Vilhelm Aubert's attempt to make sense of legal changes in nineteenth-century Norway. When the Norwegian state adopted the Enlightenment idea of the "rule of law," which was prevalent at the end of the eighteenth century, the concept meant only the state's commitment to provide its citizens with access to legal remedies against unlawful exertions of state power. The state relied on penalties to discourage unwanted behaviors. But by the twentieth century Norway used the concept of the "rule of law" differently. It meant the state's attempts to encourage desired behaviors through fiscal allocations. Aubert suggests that the state's wealth may have been a determining factor in the change from a liberal state protecting individual rights to a modern welfare state. A poor state can only use punishment for those whose behaviors violate the rights of others. A rich state can afford to reward those who perform desired acts through the selective allocation of economic rewards.

Nash also seeks a way to understand the role of state power in allocating the products of social production. She argues that one myth of twentieth-century North America is that we have "free enterprise." In fact, what are often treated as simple economic transactions have a political dimension because of the complex intermingling of government interventions, promoted by corporations through laws designed to protect individuals from the centralization of economic power. Such laws also prevent the polarization of wealth inherent in unfettered capitalist accumulation. By focusing on "redistributive processes" enacted into law, Nash develops a way of analyzing the policies of a modern state at work in the households, factories, and public agencies of a small industrial city in New England.

Consolidation of state power in twentieth-century Iran is reflected, although not actually discussed, in Said Arjomand's analysis of the draft-

ing of Iran's 1979 constitution. The state's right and ability to control the population is a premise underlying the attempt of the Ayatollah Khomeini and his followers to replace the defeated Shah's Western-based system of law and order with a Shi'ite theocracy. Arjomand focuses on the revolutionary character of the constitution-drafters' task. Because the Arab and Ottoman empires were built on Sunni ideas of statehood, and the Shah's Western advisers had advocated a separation of "church" and state, Iran's new rulers had no models to follow in adapting Shi'ite law to what they perceived as the needs and prerogatives of a modern Islamic nation. Drawing on Weber's concept of rationalization, Arjomand analyzes the mode of reasoning that Iranian lawmakers used to elaborate the Shi'ite tradition.

The chapters in Part II, "Exporting and Extending Legal Orders," demonstrate how European notions of the rule of law are brought into new continents. Once again the chapters are arranged in rough chronological order.

Noting the unprecedented situation, Cohn documents the huge task facing the British when they set out to find a way to govern India. Earlier British colonies had been treated as extensions of the home country, to be governed by English law, but British officials recognized that India was an ancient civilization, with its own complex political hierarchies and customs. Hoping simply to replace India's rulers, the British first sought to rule through Indian law. Academic disciplines for translating Sanskrit, Persian, and Arabic texts developed out of British attempts to find an authentic, "ancient" Indian constitution, which they could use as the law for governing India. However, what started as a search for authentic ancient codes ended within a century as Hindu law was transformed into English case law.

Vincent's analysis of colonial legislation in Uganda reveals the complex forces at work in the creation of a new legal order too. Arguing that laws imposed by colonial rulers serve the general interests of the ruling class in maintaining its hegemony, the Ugandan case reveals that legislation is rarely a simple reflection of ruling-class interests. Further, it is the outcome of struggles between different factions of that class. Legislation always bears the traces of continually renegotiated disputes and compromises. Many of the laws passed in colonial Uganda reflect not local interests but the interests of Manchester manufacturers, missionary societies, planters in Kenya, and so forth.

In a paper on lawmaking in the supranational European Economic Community, Snyder illustrates the complexity of the legislative process by focusing on what seems to be a paradox—the apparent visibility of

legislative activity and the surprising opacity of the issues and interests involved. Snyder uses this paradox to challenge the idea that interests and coalitions antedate the legislative process. He demonstrates how interests and new affiliations emerge in the negotiations to create new law.

The chapters in Parts III and IV have to do with local-level attempts to use, engage, confront, resist, ignore, and shape the laws that affect people's lives. The authors consider how people at particular times and places have used, or avoided, the legal resources available to them.

In Part III, "Receiving and Rejecting National Legal Processes," George Collier's chapter illustrates Snyder's point that legislative processes may conjure up new interests and affiliations. Collier analyzes how national decrees that were intended to reform agrarian employment led to polarization of a Spanish village in the years between 1930 and 1936. A class analysis reveals a prior conflict of interest between day laborers and proprietors of large estates, but the structures set up by the new legislation created a situation in which intermediate groups of tenant farmers and small landholders were forced to choose sides. The village became split between "workers" and "owners." Although overarching state processes conditioned the possibilities for local action, local economic concerns and cultural understandings of male honor affected the unfolding of events.

In George Collier's revolutionary situation, opposing individuals understood each other only too well; in Boissevain and Grotenbreg's nonrevolutionary situation there are notable cultural misunderstandings. The plight of recent Surinamese migrants to the Netherlands as they tried to establish small businesses is documented in detail. Many of these small entrepreneurs expected Dutch laws regulating small businesses to be the same as those in Surinam. Many did not understand Dutch. All lacked information about the maze of laws governing small businesses in Holland. The degree of compliance varied. Some entrepreneurs operated completely outside the law. Among these who did comply with some regulations, the researchers found many who were seeking ways to further legitimize their operations. They conclude that although many Surinamese entrepreneurs have managed to establish businesses that survived for several years in spite of the law, the overwhelming power of the Dutch state, combined with the fragmented nature of the Surinamese community, will lead Surinamese entrepreneurs who do continue in business to ever greater conformity with the law.

Greenhouse analyzes people who actively reject the local and regional

legal system. Asking why North Americans accuse themselves of having a "litigious" society, she provides answers on two levels. First, the historical situation of Baptists in a Southern town reveals the equation between disputing and unchristian behavior. Then the wider cultural context that provided the Baptists with the symbolic resources they used to formulate their ban on pursuing legal remedies is analyzed. To invoke "outside" authority is to negate the principle of equality enshrined in the American Declaration of Independence. Greenhouse's discussion of North American cultural concepts complements Nash's discussion of conflict over redistributive processes in a New England town. Greenhouse suggests a reason for the difficulty North Americans have in perceiving the state's role in the transactions of daily life.

In contrast to the chapters documenting rejection of the wider legal system, the chapters in Part V, "Constructing and Shaping Law," discuss the ways local people use law to shape the legal orders that affect their lives. In comparing North American conceptions of courts with Moroccan ones, Rosen extends Greenhouse's theories concerning American cultural conceptions of litigiousness, asserting that Americans consider courts as esoteric arenas outside of ordinary social interaction. This has discouraged American anthropologists from analyzing the ways legal concepts in other societies pervade daily life and how ordinary common sense informs legal rules. Arguing that courts are as good a place as any to study a people's world view, in addition to their economic exchanges, religious rituals, or political struggles, Rosen proceeds to show that the mode of fact-finding and the form of judicial reasoning used in Islamic courts in Morocco express conceptions of the person, truth, and social order that are also apparent in the marketplace and other cultural contexts. Over the years, Morocco has adopted a new legal code and reorganized the courts, but the concerns and understandings of ordinary Moroccans continue to shape the way courts operate.

In contrast to Rosen's emphasis on cultural continuities, Moore's historical study of legal change among the Chagga of Tanzania (1986) allows her to argue that "customary rules" are not survivals of a traditional past, but are continually renegotiated as conditions change. Certain aspects of customary forms may appear enduring, such as the concept of "customary law" itself, but the content of customary rules reflects the political and economic circumstances in which they are negotiated. Moore thus suggests that any attempt to understand customary rules in terms of an ahistorical cultural system is doomed to misinterpret them unless it is supplemented by a historical analysis of the political and

economic contexts in which the rules are invoked, challenged, and restated.

Both the cultural continuities and the changing political contexts are considered by Laura Nader, who explains how the ideology of community harmony developed among native peoples. Christian missionaries working actively in the Philippines, in Mexico, in Central America, and in parts of Africa taught colonized people that God's will was Christian submission. Local leaders used this notion in trying to maintain control over local affairs. Anthropologists learned the harmony model from their informants, who were actively using the concepts of their conquerors to preserve some measure of local autonomy. Focusing on the history of a Zapotec village in the mountains of Oaxaca, Mexico, Nader discusses how the political structures introduced by Spanish conquerors and the religious beliefs introduced by Catholic priests in the sixteenth century provided the concepts that villagers continually used and that continued to pervade the village legal processes that she studied in the 1960s. In writing about how anthropologists have used the idea of harmony, Nader concludes that "anthropology was never meant *only* to be the study of other cultures."

Sometimes ethnographic information is available to us only through anthropological models. Yet, if knowledge is both cumulative and "situated" in a historical time, as our contributors assume, then we need strategies that "disengage" data from its theoretical use. Starr's essay attempts to open up a gap between a literal understanding of nineteenth-century theory (concerning early and classical Roman society) and the "ethnographic sources" used by nineteenth-century intellectuals. Focusing on the legal ideas and practices concerning the ability of elite married women to hold and manage their own property, Starr reexamines Sir Henry Maine's major source of information to correct certain of Maine's ideas that have been important touchstones for anthropological theory. Starr uses knowledge accumulated by scholars of Roman law to suggest that Roman women were more free in some contexts than Sir Henry Maine imagined, and less free in others. Implicit in this study is the idea that we need to understand each society's legal ideas and resources in the context of its own time.

Divergent Themes

The chapters in this volume are grouped to highlight the contributors' shared interests in historical processes and asymmetric power relations,

but the contributors also disagree over several issues. Many exchanges at the conference were confrontational. Contributors argued, sometimes vehemently, over concepts, ideas, strategies of research, and the nature of knowledge itself. In retrospect, we believe these confrontations were necessary to dislodge accepted assumptions and to open the way to rethinking the anthropology of law.

Cultural vs. Social Analysis

The contributors are divided over the issue of whether power and interests can be analyzed without an examination of cultural concepts. Rosen, Greenhouse, and Cohn, for example, emphasize the role of cultural constructions of reality in shaping social practice. They suggest that ethnographers cannot understand what their research subjects are doing unless they analyze the cultural system that informs subjects' actions. Other contributors, such as Moore, Nader, and Boissevain and Grotenbreg, treat power asymmetries and differences in access to resources as factors that ethnographers can understand and use in their analyses without reference to the cultural categories of their informants.

This division among contributors reflects a deep division among anthropologists over the methods and aims of their discipline, a division that in turn reflects differing views on the possibility and purposes of knowledge. Geertz, for example, suggests that many anthropologists have turned "from trying to explain social phenomena by weaving them into grand textures of cause and effect to trying to explain them by placing them in local frames of awareness" (1983:6). Having become disillusioned about the possibilities of discovering laws of cause and effect for social occurrences and processes, these anthropologists have abandoned the premise that social systems are rule-governed. Instead, they treat cultural phenomena as "significative systems" in need of interpretation (ibid., pp. 3, 10).

This division among the contributors reflects a deep chasm over the nature of knowledge. Superficially, it resembles the argument that came to be known in legal anthropology as "the Bohannan-Gluckman controversy" (Nader 1969a:5). Like the earlier argument, it appears on the surface to be an argument concerning whether Western conceptual categories are appropriate tools for analyzing another culture. Moore once suggested that the disagreement between Bohannan (1957) and Gluckman (1955) was less over methodology than "over the *significance* of legal categories" (1969:346). Bohannan (1969) thought an analysis of

native legal categories could reveal the natives' "system." Gluckman (1969) thought that legal categories did not form such a system because social processes inevitably produced contradictory understandings. Gluckman also suggested that there were universally sound legal ideas, and some legal systems pushed toward these fundamental notions. In sum, the earlier controversy was based on fundamental differences in attitudes about knowledge and about definitions of the object of study.

Although there are resemblances to the earlier debate, this is in fact a new controversy. Some contributors to this volume seek social order in cultural understandings. Others find social order in social processes. There seems to be no way to resolve these fundamentally different stances toward how "objective" reality is constituted.

Differing Perspectives on Law

Different aspects of law and legal systems are emphasized by the contributors. Although there is considerable overlap, three different approaches can be identified: the interactional, the cultural, and the institutional. The contributors who adopt an interactional approach focus on individuals and groups who use laws and legal processes for pursuing their own ends. They take an instrumental perspective and tend to examine particular behaviors. Nader, for example, discusses colonized groups in the Americas who used the ideology of harmony to preserve local autonomy, and Boissevain and Grotenbreg write about how Surinamese entrepreneurs in Holland have either avoided or used Dutch laws regulating small businesses.

The contributors who use a cultural approach tend to treat laws and legal systems as elements of a discourse. They focus on the communicative dimension of law. Rosen, for example, discusses how the concepts and procedures used in Moroccan courts inform and reinforce the common-sense understandings that Moroccans draw on in everyday life. Greenhouse treats North American cultural concepts as resources that people use in their conversations with others to communicate their intentions and positions. Cohn writes about British efforts to find a legal system for India that would communicate the concepts of order that the British wanted to enforce.

The institutional approach used by some contributors leads to a focus on economic and political processes, treating individuals as representatives of particular economic interests or social groups, and laws as repre-

senting particular ideological positions. Moore, for example, carefully identifies the institutional and class forces affecting Chagga use of "customary law." Vincent and Snyder try to identify the interest groups that both create and are created by legislation. Blok identifies the class positions of the eighteenth-century bandits he studied and of their victims and prosecutors. These writers focus on the ordering dimension of law, emphasizing the role of legal processes in preserving or changing established power asymmetries.

Different Problems

The contributors also define their problems differently. Some try to understand major legal watersheds. Blok analyzes the eighteenth-century transition from theatrical punishments to imprisonment. Aubert discusses the nineteenth-century transition from law as repressing undesired behaviors to law as encouraging desired ones. Arjomand, Cohn, and Vincent all focus on the establishment of new legal orders. Other focus less on explicit watersheds than on long-term processes. For example, Moore analyzes the survival of "customary law" in changed form. Nader traces the spread and use of an ideology of community harmony. Starr focuses on the inheritance of legal ideas from nineteenth-century social theory and their need to be "exhumed" from that cultural context and placed back into the context of Roman society, where they originated. Still others focus on the impact of certain pieces of legislation. George Collier analyzes the effects of reformist legislation on a Spanish village before the civil war, while Boissevain and Grotenbreg ask how Surinamese entrepreneurs in Holland cope with the many laws designed to regulate small businesses.

Some contributors are concerned less with analyzing particular historical shifts or continuities and more with building theoretical frameworks to understand legal processes. Snyder seeks a framework for understanding how interests are created by legislation, as well as how interests can be contributors to the creation of legislation. Nash proposes the concept of redistribution as an analytical tool for understanding the role of legal orders in advanced capitalist societies.

Finally, Rosen and Greenhouse want to understand particular cultural concepts. Rosen shows how the assumptions of everyday life enter into Moroccan courts even as legal ideas permeate common-sense understandings. Greenhouse seeks a framework for understanding modern North Americans' fear and condemnation of "litigiousness."

Conclusion

The anthropologists convened by Laura Nader in 1966 welcomed the proliferation of subdisciplines and hoped that creating an "anthropology of law" would allow scholars "to make some systematic progress in data accumulation and theory building" (Nader 1969a:1). These anthropologists encouraged the borrowing of ideas and insights from neighboring subdisciplines, but still hoped that a shared focus on the theme of disputing would allow them to build on one another's work. They were successful. The focus on disputing processes that characterized the subdiscipline for many years did foster a sense of cumulative knowledge and deepening understanding. But the recent questioning of subdisciplinary boundaries and the use of divergent theoretical frameworks has broken down a sense of shared purpose.

The anthropologists who met in 1985 to share the papers that became chapters in this volume and to exchange and defend ideas came to recognize by the end of the conference that a new integrative framework was available even as we agreed to differ over the use of social or cultural categories as primary modes of research. World history emerged as the relevant integrative framework. Moore proposed that anthropologists should study and compare transformational sequences, such as the changes experienced by small landholding farmers under population pressure. Here we might seek regularities in transformational processes. Cohn and Greenhouse, in contrast, wanted to understand the logic of cultural systems by examining the specific historical conditions in which concepts were developed and used.

When conference participants began putting their studies end to end in historical time, we began to recognize recurring sequences, such as the usefulness of the "harmony" model for local groups attempting to maintain some autonomy from state power. We also recognized the multiple cultural logics occurring and spreading in world history. Thus, we did develop a framework for cumulative knowledge despite our divergent philosophies. Also, we found we could use each other's work constructively in our own projects by conceptualizing law and social change as categories that shape and are shaped by asymmetrical power relationships. This allowed us to build a more powerful image of the spread and consolidation of legal ideas and legal forms in the British Empire (see above).

Thus, the chapters in this volume expand the concerns that characterized the decades of anthropology of law since the 1960s. Rather than

embracing the idea that law creates order in a society, the chapters treat law as the symbolic representation of interests of particular groups, especially groups in power. Rather than assuming a functionalist, legal-evolutionary bias in attempting to understand the growth of legal institutions, law and legal forms are considered as rising from particular historical negotiations between and among groups, or as resulting from particular systems of hierarchy and domination. In writing about legal forms, J. A. Barnes argued that social anthropologists should take the political struggle as given and examine how in that struggle various institutions, including the law, are used (1961:194). The chapters in this volume do that. Law is conceptualized as a historical product rather than as a universal category. Some of the chapters present law as dependent on social agents and social groups rather than as an institution existing above the concerns of human actors. Others view law as dependent on economic and political processes of a more global nature.

When law and legal forms are viewed as historical products, we no longer assume the "essential comparability" of law per se. Law and lawlike forms are analyzed as embedded in and created both by particular historical circumstances and by interrelationships between local, national, and international events. From local "tribal law" to the law of modern industrial states, the chapters express concern with understanding the specific historical form, which is shaped by cultural and interest-group configurations.

By separating law from the study of disputes, the chapters in this volume have demonstrated the view of E. P. Thompson (1978:96) and Robert Gordon (1984:123) that law has a tendency to intrude into all kinds of relationships, from those of economic production to those of philosophical treatises where it hides in the guise of ideology. Although elites may exercise a disproportionate influence on the forms that go into the making of legal relationships, "the forms are manufactured, reproduced, and modified for special purposes by everyone, at every level, all the time" (ibid.).

In analyzing systems of hierarchy and domination, we have not used the concepts of "legal pluralism" and micro- or macro-analysis. Fresh looks at "pluralistic" situations and how these situations have developed through time have led to a new recognition of the place of history, power, and domination in shaping the role of law in society. As Peter Fitzpatrick (1985:6) remarked, in assessing any data base, there is the need to know history and to assess the relevant forms and traditions of knowledge that inhere in its collection.

Some of the chapters attempt a general historical understanding of the

development of legal forms and ideas and of the transmission of power relationships within a given society (Cohn, Moore, Vincent, Aubert, Nash), but some view law as a contested metaphor that represents and reproduces a social and symbolic ordering system and that changes as groups of human agents seek new social forms (Blok, Greenhouse) or even a new society (Arjomand, G. Collier).

In answer to the question "How autonomous is law in the last instance?" E. P. Thompson wrote:

> Well, for most of the time when I was watching, law was running quite free of economy, doing its errands, defending its property, preparing the way for it, and so on. . . . But . . . I hesitate to whisper the heresy . . . on several occasions, while I was actually watching, the lonely hour of the last instance *actually came*. The last instance like an unholy ghost, actually, grabbed hold of law, throttled it, and forced it to change its language and to will into existence forms appropriate to the mode of production, such as enclosure acts and new case-law excluding customary common rights. But was law "relatively autonomous"? Oh, *yes*. Sometimes. Relatively. *Of course*. (1978:96)

Like Thompson, most of the contributors to this volume also view law as having limited autonomy and in the "last instance" as responsive to economic forces.

Thus, we have moved from a focus on dispute-processing to an attempt to understand situations where legal forms and legal understandings are called into existence. We find legal activity at every level but within systems of domination. And we have moved from a focus on disputes and disputants to a view that treats elites and less powerful groups as active agents in legal change.

The anthropologist I. M. Lewis argued that "time-centred historical inquiry" needed to take its place alongside timeless structural analysis before social anthropology could satisfactorily analyze social change (1968:xxii). In the present volume, dedicated to the understanding of legal change, we present new ways of looking at law, society, legal ideas, legal institutions, and culture, using historical analysis and the study of power as important dimensions. The chapters indicate a continuing vitality in legal anthropology as we move into the next decade with fresh views of ways to study and conceptualize legal, societal, and cultural change.

REFERENCES

Abel, Richard L. 1974. "A Comparative Theory of Dispute Institutions in Society." *Law and Society Review* 8(2):218–347.

———. 1981a. *The Politics of Informal Justice: The American Experience.* New York.
———. 1981b. *The Politics of Informal Justice: Comparative Studies.* New York.
Auerbach, Jerold S. 1983. *Justice without Law? Resolving Disputes without Lawyers.* New York.
Barnes, J. A. 1961. "Law as Politically Active: an Anthropological View." In Geoffrey Sawer, ed., *Studies in the Sociology of Law*, pp. 167–196. Canberra.
Bohannan, Paul. 1957. *Justice and Judgment among the Tiv.* London.
———. 1965. "The Differing Realms of the Law." *American Anthropologist* 67(6), part 2, pp. 33–42.
———. 1969. "Ethnography and Comparison in Legal Anthropology." In Laura Nader, ed., *Law in Culture and Society*, pp. 401–418. Chicago.
Burman, Sandra B., and Barbara E. Harrell-Bond. 1979. *The Imposition of Law.* New York.
Chanock, Martin. 1983. "Signposts or Tombstones? Reflections on Recent Works on the Anthropology of Law." *Law in Context* 1:107–125.
Collier, Jane F. 1973. *Law and Social Change in Zinacantan.* Stanford, Calif.
Comaroff, John L., and Simon Roberts. 1981. *Rules and Processes: The Cultural Logic of Disputes in an African Context.* Chicago.
Critical Legal Studies Symposium. 1984. *Stanford Law Review* 36(1–2).
Danzig, Richard, and Michael Lowy. 1975. "Everyday Disputes and Mediation in the United States: A Reply to Professor Felstiner." *Law and Society Review* 9(4):675–694.
Dolgin, Janet L., David S. Kemnitzer, and David M. Schneider, eds. 1977. *Symbolic Anthropology: A Reader in the Study of Symbols and Meanings.* New York.
Epstein, A. L. 1954. *Judicial Techniques and the Judicial Process.* Rhodes-Livingstone Papers 23. Manchester, Eng.
Felstiner, William, R. L. Abel, and Austin Sarat. 1980–81. "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming." *Law and Society Review* 15(3–4):631–654.
Fitzpatrick, Peter. 1985. "Is It Simple to Be a Marxist in Legal Anthropology?" *Modern Law Review* 48(4):472–485.
Francis, Paul. 1984. "New Directions in the Study of African Law." *Africa* 54(4):81–88.
Friedman, Lawrence, and Stewart Macaulay. 1969. "Preface." In *Law and the Behavioral Sciences*, pp. xiii–xvii. First edition. Indianapolis. Second edition 1977.
Galanter, Marc. 1983. "Reading the Landscape of Disputes: What We Know and Don't Know (and Think We Know) about Our Allegedly Contentious and Litigious Society." *UCLA Law Review* 31(1):1127.
Geertz, Clifford. 1983. *Local Knowledge: Further Essays in Interpretive Anthropology.* New York.
Gibbs, James Lowell, Jr. 1963. "The Kpelle Moot: A Therapeutic Model for the Informal Settlement of Disputes." *Africa* 33:1–11.
Giddens, Anthony. 1976. *New Rules of Sociological Method.* London.

———. 1979. *Central Problems in Social Theory: Action, Structure, and Contradiction in Social Analysis.* Berkeley and Los Angeles.
Gluckman, Max. 1955. *The Judicial Process among the Barotse of Northern Rhodesia.* Manchester, Eng.
———. 1969. "Concepts in the Comparative Study of Tribal Law." In Laura Nader, ed., *Law in Culture and Society*, pp. 349–373. Chicago.
Gordon, Robert. 1984. "Critical Legal Histories." *Stanford Law Review* 36(1–2):57–125 (January).
Gulliver, Philip H. 1963. *Social Control in an African Society.* Boston.
———. 1971. *Neighbours and Networks.* Berkeley and Los Angeles.
———, ed. 1978. *Cross Examinations: Essays in Memory of Max Gluckman.* Leiden.
Hamnett, Ian, ed. 1977. *Social Anthropology and Law.* New York.
Kidder, Robert L. 1979. "Toward an Integrated Theory of Imposed Law." In S. E. Burman and B. Harrell-Bond, eds., *The Imposition of Law*, pp. 289–306. New York.
Koch, Klaus F. 1974. *War and Peace in Jalemo.* Cambridge, Mass.
Leach, Edmund. 1970. *Lévi-Strauss.* London.
———. 1977. *Custom, Law, and Terrorist Violence.* Edinburgh.
Lévi-Strauss, Claude. 1969. *The Elementary Structures of Kinship.* London. First published in France in 1949.
Lewis, I. M. 1968. "Introduction." In *History and Social Anthropology.* London.
Llewellyn, Karl, and E. A. Hoebel. 1941. *The Cheyenne Way.* Norman, Okla.
Lowy, Michael. 1978. "A Good Name Is Worth More Than Money: Strategies of Court Use in Urban Ghana." In L. Nader and H. Todd, eds., *The Disputing Process: Law in Ten Societies*, pp. 181–208. New York.
Malinowski, Bronislaw. 1926. *Crime and Custom in Savage Society.* London.
Merry, Sally Engle. 1981. *Urban Danger: Life in a Neighborhood of Strangers.* Philadelphia.
Moore, Sally Falk. 1969. "Introduction" to section on "Comparative Studies." In Laura Nader, ed., *Law in Culture and Society*, pp. 337–348. Chicago.
———. 1978. *Law as Process.* London.
———. 1986. *Social Facts and Fabrications: "Customary" Law on Kilimanjaro, 1880–1980.* Cambridge, Eng.
Nader, Laura, ed. 1965a. *The Ethnography of Law. American Anthropologist* 67(6), part 2. (Special issue).
———. 1965b. "The Anthropological Study of Law." *American Anthropologist* 67(6), part 2, pp. 3–32.
———. 1969a. "Introduction." In Laura Nader, ed., *Law in Culture and Society*, pp. 1–10. Chicago.
———, ed. 1969b. *Law in Culture and Society.* Chicago.
Nader, Laura, and Harry Todd, eds. 1978. *The Disputing Process: Law in Ten Societies.* New York.
Ortner, Sherry. 1984. "Theory in Anthropology since the Sixties." *Comparative Studies in Society and History* 26(1):126–166.

Pospisil, Leopold. 1958. *Kapauku Pupuans and Their Law.* Publications in Anthropology 54. New Haven.
Radcliffe-Brown, A. R. 1933. "Primitive Law." In *Encyclopedia of the Social Sciences*, 9:202–206. New York.
Ranger, Terence. 1983. "The Invention of Tradition in Colonial Africa." In Eric Hobsbawm and Terence Ranger, eds., *The Invention of Tradition*, pp. 211–262. Cambridge, Eng.
Roberts, Simon. 1979. *An Introduction to Legal Anthropology.* Harmondsworth, Eng.
Schneider, David. 1984. *A Critique of the Study of Kinship.* Ann Arbor, Mich.
Smith, Carol A. 1985. "Local History in Global Context: Social and Economic Transitions in Western Guatemala." In B. R. DeWalt and P. J. Pelto, eds., *Micro and Macro Levels of Analysis in Anthropology*, pp. 83–120. Boulder, Colo.
Snyder, Francis. 1981a. *Capitalism and Legal Change: An African Transformation.* New York.
———. 1981b. "Anthropology, Dispute Processes, and Law: A Critical Introduction." *British Journal of Law and Society* 8(2):141–180.
Starr, June. 1978. *Dispute and Settlement in Rural Turkey: An Ethnography of Law.* Leiden.
Thompson, E. P. 1975. *Whigs and Hunters.* New York.
———. 1978. "The Poverty of Theory." In E. P. Thompson, *The Poverty of Theory and Other Essays.* New York.
Tigar, Michael E., and Madeleine R. Levy. 1977. *Law and the Rise of Capitalism.* New York.
Todd, Harry. 1978. "Litigious Marginals: Character and Disputing in a Bavarian Village." In Laura Nader and Harry Todd, eds., *The Disputing Process: Law in Ten Societies*, pp. 86–121. New York.
Trubek, David M. 1980–81a. *Dispute Processing and Civil Litigation* (Special Issue). *Law and Society Review* 14(3–4).
———. 1980–81b. "Studying Courts in Context." *Law and Society Review* 14(3–4):485–501.
Turner, Victor. 1967. *The Forest of Symbols: Aspects of Ndembu Ritual.* Ithaca, N.Y.
Williams, Raymond. 1977. *Marxism and Literature.* New York.
Witty, Cathie. 1980. *Mediation and Society: Conflict Management in Lebanon.* New York.
Wolf, Eric R. 1966. "Kinship, Friendship, and Patron-Client Relations in Complex Societies." In Michael Banton, ed., *Social Anthropology in Complex Societies*, ASA Monograph 4, pp. 1–22. London.
———. 1982. *Europe and the People without History.* Berkeley and Los Angeles.
Yngvesson, Barbara. 1976. "Responses to Grievance Behavior: Extended Cases in a Fishing Community." *American Ethnologist* 3(2):353–373.

PART I

Resisting and Consolidating State-Level Legal Systems