

The Ethnography of Law: A Bibliographical Survey

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INTRODUCTION

THIS BIBLIOGRAPHY, A SELECTED SAMPLE of the world's literature on law, has been prepared to encourage and facilitate contemporary social science research in law. Although a major portion of this bibliography has been annotated, we have included items that have not been available for annotation. Since this bibliography makes no pretense of being exhaustive or final, corrections and additions will be appreciated.

FACTORS THAT INFLUENCED THE SELECTION

Work by a variety of professionals is represented: (a) empirical field work on law by professional anthropologists; (b) studies by missionaries and administrators in societies where either no other material is available or the material is particularly good (e.g. sources on African peoples such as Hoffman on Sotho law, 1934, or Howell on Nuer law, 1954); (c) works by lawyers (e.g., S. Y. Seymour on South Africa, and T. O. Elias on West Africa) and judges (e.g., N. Smith on the Maori); (d) reports by travelers and lay observers (e.g., G. Feifer on Russian law, 1964); and (e) studies by a few philologists (see the German literature in particular).

We have been primarily interested in reports by

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The present article, submitted to CURRENT ANTHROPOLOGY 28 v 65, was sent for CA★ treatment to 43 scholars of whom the following responded with additional titles and annotations: James H. Chaplin, Bernard S. Cohn, A. L. Epstein, Meyer Fortes, Walter Goldschmidt, H. Huber, Dr. Eva Lips, Dr. Julius Lips, Rudiger Schott, G. van den Steenhoven. The supplementary titles and annotations submitted for publication have been incorporated into the author's Bibliography.

first-hand observers. However, some studies based on historical records have been included (e.g., Trimborn's analysis of the Royal Records documenting native life in the New World). Works dealing solely with written laws or with codes have generally been omitted. Works dealing with conflict resolution in societies without court systems have been selectively included.

Although English and German literature is surveyed most thoroughly, a few references in French, Dutch, Portuguese, and Spanish are included (see below—Supplementary Aids). Within our language limitations we intend a world coverage of law in preliterate societies and of customary law in rural literate societies. A few classic ethnographic studies made by professional and nonprofessional observers of the Western legal scene have also been incorporated. We have not attempted to include empirical work of specific interest to sociologists such as, for example, studies of the legal profession, delinquency, drug addiction, analysis of prisons and Western legal institutions. We have consciously excluded purely theoretical treatises as being for the most part non-ethnographic.

ORGANIZATION OF THE BIBLIOGRAPHY

Since the interest in legal ethnography has been oriented to general coverage rather than "problem" or "topic," we have arbitrarily chosen to classify the items in seven broad geographic areas: *Africa* (excluding North Africa); *Asia* (including India, Japan; China, Ceylon, Burma, Asiatic Russia, Mongolia, and Formosa); *Europe*; *The Middle East* (including North Africa, the Arab states, Turkey, Iran, Afghanistan, and Pakistan); *North and Central America*; *South America*; and *Oceania* (including Australia, Melanesia, Polynesia, Micronesia, Indonesia, and the Philippines). We believe that it would be premature to organize this bibliography in terms of topical interest such as judicial decision making, problems of substantive law, procedure, analyses of court institutions, legal pluralism and/or contact problems. We have, however, included a brief section on cross-cultural and comparative studies.

COMMENTS ON SUPPLEMENTARY BIBLIOGRAPHIC AIDS

A. THE DUTCH SOURCES. Bibliographic references to Adatrecht (Indonesian native customary law) are compiled in:

1. *Literatuurlijst voor het adatrecht van Indonesië*

(1927). Published by the Adatrechtstichting, Leiden. 's-Gravenhage: Martinus Nijhoff.

2. *Aanvullende Literatuurlijst voor het adatrecht van Indonesië* (1927, 1 Sept. 1937). In *Adatrechtbundel* (1938) 40:295-451.
3. Schiller, A. Arthur (1936). Native Customary Law in the Netherlands Indies. (Pacific Affairs Bibliographies No. II) *Pacific Affairs* 9 (2):254-263.
4. Haar, Barend ter (1939). *Beginselen en Stelsel van het Adatrecht* has partially annotated bibliography on adat law. For English translation see Haar (1948) *Adat Law in Indonesia*. New York: Institute of Pacific Relations, bibliography pp. 228-248.
5. Section: "Indonesia." in *The Future of Customary Law in Africa*, ed. by the Afrika Instituut-Studiecentrum-Leiden in collaboration with the Royal Tropical Institute, Amsterdam (1956) pp. 300-305. Leiden: Universitaire Pers Leiden.
For good review articles see L. Adam (1948), and B. Ter Haar (1939).

B. THE GERMAN SOURCES. References to general works in German pertaining to the ethnography of law and comparative jurisprudence (theoretical, methodological, encyclopaedic) and to historical-descriptive studies in legal folklore, early codified law (including Biblical, Talmudic, and Islamic law) are compiled in:

1. Adam, Leonhard (1937). "Quellennachweis" (to the article "Ethnologische Rechtsforschung"—which is still the best review of the development of German legal ethnology). In Preuss, Konrad Theodor (ed.), *Lehrbuch der Völkerkunde* pp. 302-306. Stuttgart: F. Enke.
2. *Zeitschrift für Vergleichende Rechtswissenschaft* (1878 to date).

It did not seem worthwhile to provide annotations to the hundreds of articles in this periodical that deal with primitive, Chinese, Indian, early European (Celtic, Germanic, Greek, Roman), Hebrew, and Islamic law, with legal folklore, and with a variety of topical matters. Ethnological contributions suffer from inadequate methodology, first evolutionistic (Kohler *et al.*), later "culture-historic" (Trimborn *et al.*) and from serious theoretical faults. Although only a few articles contain information that can be used in anthropological research on legal behavior, the series constitutes a valuable source for bibliographic purposes. Very few treatises concerning comparative law, written during the first quarter of this century and earlier, have escaped the notice of the editors, and many articles (particularly those by Kohler) are brief summaries and reviews of such publications. The series is thus a good source for tracing both the development of comparative jurisprudence and the ethnography of law. Extensive indexes were prepared for volumes 1 to 20 and 21 to 50; they will aid anyone interested in using *ZFVR* for purposes such as are outlined here.

"Generalregister zu den Bänden I-XX" (1878-1907), in *ZFVR* 20:345-481, has subject index, geographical index, author index, and book review

index. "Generalregister zu den Bänden" 21-50 (1908-1936), in *ZFVR* 50:333-378, has bibliographies of articles and monographs concerning comparative jurisprudence, and comparative legal ethnology. It also lists book reviews, and contains an author index.

See also *Kohler-Bibliographie* (1931). Bearbeitet von Victoria Eschke und Arthur Kohler. Berlin: Grunewald.

More recent studies published in *ZFVR* are distinguished from earlier contributions by a more thorough and critical method. (Cf. the series of essays dealing with "early history of property," next ten references.)

Wolfgang Bauer	1961	Asia
Joseph Henninger	1959	Middle East
Irene Hilgers-Hesse	1961	Oceania
Heinz Kelm	1962	Oceania
Gerard Koch	1959	Oceania
Irm Lang	1963	South America
Rüdiger Schott	1957	Oceania
Rüdiger Schott	1957	North America
Rüdiger Schott	1959	Africa
Waldemar Stöhr	1963	North America

C. THE AFRICAN SOURCES. Extensive bibliographies of works in African customary law, as well as the Administration's law, can be found in *The Future of Customary Law in Africa*, Leiden, 1956; Afrika Instituut-Studiecentrum-Leiden (in collaboration with the Royal Tropical Institute, Amsterdam).

This volume contains papers presented at an international symposium held at Amsterdam in April 1955. The problem of adapting native customary law to changing sociopolitical conditions was emphasized.

The bibliographic lists cover the Belgian Congo, the British Territories, French Territories, Portuguese Territories, the Union of South Africa, as well as Indonesian customary law. The lists include references to other bibliographies, for example, p. 291, G. H. Bousquet (1952), "Pour l'étude des droits berbères," in *Hespéris*.

See also C. K. Meek (1948), *Colonial Law: A Bibliography*. Oxford University Press for Nuffield College. This is particularly concerned with indigenous African systems of law and land tenure. It is arranged by area and topic. Titles are listed under topics, such as comparative law, primitive and ancient law, Hindu, and Mohammedan.

We have made no attempt to include the mass of recent publications on developing African law such as published by Sweet and Maxwell and African Universities Press in the Development of the Law in Africa series.

[D. A BELGIAN SOURCE. A beginning has been made on a projected six-volume, loose-leaf series entitled *Bibliographical Introduction to Legal History and Ethnology*, edited by John Gilissen of the University of Brussels. "... conceived with a view to providing legal historians, historians, jurists, ethnologists and sociologists with recent bibliographical information on the various aspects of the evolution of law throughout the world. An important place has been reserved for juridical ethnology. Sections are also devoted to the bibliography of colonial law."]

[GVDS☆]

SELECTED BIBLIOGRAPHY

Africa

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By Chief Justice of Sudan. Discusses jurisdictions of *Shari'a* and Civil Law divisions. Includes materials on Chiefs' Courts as well as examples from recent cases.
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See introduction to this bibliography.
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By Deputy Commissioner for law revision in Western Region, Nigeria. Analyzes and evaluates relationship between English and customary law. Considers past, present, and future developments.
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- . 1959. The Unity of African Law. *Journal of African Administration* 11: 72-84.
- . 1960. *Essays in African Law*, with special reference to the law of Ghana. London: Butterworths.
Deals with reception of English law in Africa. Consequent impact of English law in indigenous systems of law. Includes chapters on "History of Native Courts in Ghana," "Effect of Marriage on Property in Ghana," and promising chapter on "Arbitral Proceedings in Customary Law." Based largely on published reports of Colonial Appeal Courts.
- . 1961. The Changing Law in a Changing Africa. *Sociologus* 11:115-131.
Surveys administration of justice in British colonies and ex-colonies. Special mention of criminal, land, and personal law. Trend towards uniform law in the new nations does not necessarily imply a uniform resemblance to British law (e.g. Ghana's legalized polygamy). [RS*]
- [—]. 1962. *Judicial and Legal Systems in Africa*. London: Butterworths.
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- ANDERSON, J. N. D. 1954. *Islamic law in Africa*. Colonial Research Publication No. 16. London: His Majesty's Stationery Office.
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- . 1957a. Law and Custom in Muslim Areas in Africa: Recent Developments in Nigeria. *Civilisations* 7:17-31.
Discusses "Moslem Court of Appeal Law" and "Native Courts Law" enacted by Northern Region Legislature in 1956.
- . 1957b. The Conflict of Laws in Northern Nigeria. *Journal of African Law* 1:87-98.
Analyses two published decisions. Discusses differences between Islamic (Maliki) law and Nigerian Criminal Code.
- . 1958. Reforms in Family Law in Morocco. *Journal of African Law* 2: 146-159.
Discusses 1957 Moroccan Commission. Proposes to consider how radical or how conservative Moroccan reformers are proving themselves to be.
- . 1960. Relationship between Islamic and Customary Law in Africa. *Journal of African Administration* 12:228-234.
Address to London Conference on future of law in Africa. "The main distinction that can be drawn... is between those territories where Islamic law is regarded as a special variety of native law and custom, and those territories where it is considered to be a third, distinct system."
- [Anonymously. 1957. The Ankole Landlord and Tenant Law, in *Land Tenure in Uganda*. Entebbe, Uganda: The Government Printer, pp. 27-30.
The first publication of a law enacted in 1937.] [WG*]
- [Anonymously. 1957. The Land of Bunyoro, in *Land Tenure in Uganda*. Entebbe, Uganda: The Government Printer, pp. 23-26.
This brief article gives an account of aboriginal land law. It carries the following notation: "This article is an adaptation of a note in the C.M.S. archives at Hoima. It is known to be earlier than 1933 and judging from the last sentence was probably written in 1931 for the Rubie and Thomas Committee. The author is believed to have been Kosa Kahubire Labwoni, who was then a zaza chief, and the account was transcribed by Archdeacon Bowers. The order and contents of the original have not been materially altered." [WG*]
- [APTROPHE, R. J. 1962. Rulers of Law and Social Organization in West Africa. *Proceedings of the 8th Conference of N.I.S.E.R.*, Ibadan.
- . 1964. Opium of the State—Some Remarks on the Law and Society in Nigeria. *The Nigerian Journal of Economic and Social Studies* 6:139-153.
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- ARNOTT, D. W. 1958. Councils and Courts among the Tiw: Traditional Concepts and Alien Institutions in a Non-Moslem Tribe of N. Nigeria. *Journal of African Law* 2:19-25.
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- ASHTON, HUGH. 1952. *The Basuto*. Published for the International African Institute. London and New York: Oxford University Press.
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- [BEATTIE, JOHN. 1957. Informal Judicial Activity in Bunyoro. *Journal of African Administration* 9:188-196. Discusses the kind of dispute that comes before the council of neighbors and the way in which procedure there differs from that in the more formal Nyoro courts.] [ALE*]
- BEIDELMAN, T. O. 1961. Kaguru Justice and the Concept of Legal Fictions. *Journal of African Law* 5 (1):5-20.
Considers aspects of concept of legal fiction. Indicates some means by which a local African court avoids potential conflict between African customary law and European law. By an anthropologist.
- BENTI-ENCHILL, KWAMENA. 1964. *Ghana*

- Land Law*. London: Sweet & Maxwell and African Universities Press.
- "... the author presents a lawyer's analysis of the indigenous tribal land law, so far treated only by anthropologists. The approach then adopted is to give a full account of the development of this law by decisions of the Courts, and of its modification by statute. It follows that the author provides a detailed study of the extent to which concepts from other legal systems, notably English, have been received and incorporated into the present Ghanaian system."
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- By anthropologist. Studies native courts and lineage councils in Nigeria, 1949-1952. Presents 73 cases and 5 moots in some detail. Material on procedure illustrates variety of crimes and torts. Maintains Tiv system best understood in Tiv terms, not in terms of Western legal systems. One of best ethnographic legal studies to date.
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- By Native Commissioner of South Rhodesia. Pamphlet expanded and published as *The Maibona* (1928).
- . 1928. *The Maibona: The Indigenous Natives of S. Rhodesia*. Cape Town and Johannesburg: Juta.
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- BUSIA, K. A. 1951. *The Position of the Chief in the Modern Political System of Ashanti: A Study of the Influence of Contemporary Social Changes on Ashanti Political Institutions*. London and New York: Oxford University Press for the International African Institute.
- Criticism of Rattray (1929) based on ethnographic field work. See especially "The Administration of Justice" (chs. 3-4).
- [BYAGAGAIRE, J. M., and J. C. D. LAW-RANCE. 1957. The Effect of Customs of Inheritance on Sub-division and Fragmentation of Land in South Kigezi, in *Land Tenure in Uganda*. Entebbe, Uganda: The Government Printer, pp. 17-22. An analysis of the familiar problem of fragmentation of land in peasant societies by two officials, one a native of the area.] [WG*]
- CAMPBELL, MICHAEL J. 1963. *Law and Practice of Local Government in Northern Nigeria*. London: Sweet & Maxwell, Lagos; African Universities Press.
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- COKER, G. B. A. 1958. *Family Property among the Yorubas*. London: Sweet & Maxwell.
- By Solicitor, Supreme Court of Nigeria. "This book is primarily intended for members of the legal profession" (p. xi). Based on published cases.
- COLSON, ELIZABETH. 1953. Social Control and Vengeance in Plateau Tonga Society. *Africa* 23:199-212.
- Anthropologist's account of Northern Rhodesian society "where there are no obvious political institutions concerned in the maintenance of order" and where "control rests eventually on... a resort to vengeance" by non-corporate matrilineages (p. 199).
- . 1958. *Marriage and the Family among the Plateau Tonga*. Manchester: University of Manchester Press.
- Contains twelve excellent family law cases. Most concern husband-wife relationships. Chapters 5 through 11 (pp. 95-354) each devoted to topic such as husband and wife, breaking of marriage bond, creation of a marriage. By and anthropologist.
- [CORY, HANS. 1953. *Sukuma Law and Custom*. London, New York, Toronto: Oxford University Press.] [ALE, HH, RS*]
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- Administrator considers customs of Ngoni, Awemba, and others. Political organization, land tenure, marriage, and deviance customs noted.
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- Position of woman in Belgian Congo under customary law. New decrees and laws attempt to increase status of women through restrictions regarding bridewealth and polygyny.
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- Fragmentary ethnographic information. Of little use to ethnographers.
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- By native of Akan state of Akim Abakwa, trained in British law. Sections on judicial procedure, rules of evidence, oaths. Coverage emphasizes politics and government. Chapters on "Satisfaction for Adultery," "Marriage," "Succession," and "Property."
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- Discusses rules governing marriage and methods of treating an adulterous woman before white contact (death, slavery, payment in kind) and after.
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- A conflict situation and its remedy agent. Provocative dances by Baule women, and wanton songs insult enemies, while praising own village men and leaders.
- DEVITT, NAPLER. 1934. *Memories of a Magistrate*. London: H. F. and G. Witherby.
- By first criminal magistrate of Johannesburg. Purpose in writing book "has been to record some of my experiences and views acquired during 45 years residence in South Africa" (p. 3). Contains descriptions of specific trials (chs. 4, 8, 30) and observations on Johannesburg courts, litigation, procedure, revenue, pleas, pun-

- ishments (chs. 14, 17-23).
- DRIBBERG, J. H. 1928. Primitive Law in East Africa. *Africa* 1:63-72. Limited sketchy survey of non-Bantu pastoralists. On lobolo, land tenure, witchcraft.
- DUNCAN, PATRICK. 1960. *Sotho Laws and Customs*: a handbook based on decided cases in Basutoland together with the laws of Lerotholi. Cape Town: Oxford University Press. By former Judicial Commissioner of Basutoland, 1950-1952. Summarizes ethnographies, court decisions, and his personal experience. Often draws on Sotho proverbs to make point. Appendix contains laws drafted by Basutoland Council under Lerotholi, 1903.
- DUNCANSON, D. J. 1949. Sir'at' Akeme milgà—a native law code of Eritrea. *Africa* 19:141-147. Brief, superficial discussions of substantive rules of land inheritance and ownership, dowry, marriage, homicide, feud, vergeld. Touches none of complexities of these subjects.
- DUNDAS, CHARLES. 1915. The Organization and Laws of Some Bantu Tribes. *Journal of the Royal Anthropological Institute* 45:234-306. Largely surveys pre-contact situation among the Wakamba, Kikuyu, and Tharaka. Considers problem of European laws in contact with African laws. European laws give new rights traditionally not upheld in indigenous system. Includes tables showing customary compensation for certain injuries. Looks at law as evolving through time by trial and error and sanctioned by custom.
- . 1921. Native Laws of Some Bantu Tribes of East Africa. *Journal of the Royal Anthropological Institute of Great Britain and Ireland* 51:217-278. Based on personal experience with the Wakamba, Kikuyu, Tharaka, Digo (of Kenya) and Seguha, Wapare, and Chagga (of Tanganyika). Interest in revealing common features in laws of several tribes. Aims to discover principles common to Bantu people as whole. Claims divergent characteristics of African and European law are patent. Voluntary means of redress through arbitration, induced by expediency. Versus inexorable law manipulated by judges. Considers problem of native witnesses with regard to truthfulness and language.
- EDGERTON, ROBERT B. and FRANCIS P. CONANT. 1964. Kilapat: the "Shaming Party" among the Pokot of East Africa. *Southwestern Journal of Anthropology* 20:404-418. Shaming party as technique for resolving marital conflict. Two firsthand descriptions of such events. Discussion of marital relations. Sources of conflicts. Sanctions. By anthropologists.
- ELIAS, T. OLAWALE. 1951/62. *Nigerian Land Law and Custom*. London: Routledge and Kegan Paul. By the Attorney-General. Based on statutes and published court decisions.
- . 1954. Customary Law: The Limits of Its Validity in Colonial Law. *African Studies* 13:97-107. Discusses implications of phrase—"any native law or custom not being repugnant to natural justice, equity, or good conscience."
- . 1954/63. *The Nigerian Legal System*. London: Routledge and Kegan Paul. Formerly published as "The Groundwork of Nigerian Law." Contains section on history (chs. 3-11). Attempts primarily "to present a systematic account of Nigerian Law in the form of a textbook" (p. vii). Largely based on Nigerian Law Reports.
- . 1956. *The Nature of African Customary Law*. Manchester University Press. Synthesizes existing evidence supplemented by author's own personal views and inferences. See "The Customary Judicial Process" (ch. 12).
- . 1957. Fulani inheritance. *Nigeria* 54:198-207.
- . 1962. *Ghana and Sierra Leone: The Development of their Laws and Constitutions*. London: Stevens and Sons. Largely historical accounts. Sections on law based on published court decisions.
- EPSTEIN, A. L. 1951. Some Aspects of the Conflict of Law and Urban Courts in Northern Rhodesia. *Human Problems in British Central Africa (Rhodes-Livingstone Journal)* 12:28-40. [Discusses two aspects of conflict of law: (1) where there is a clash because litigants are of different tribes and are appealing to or invoking different legal rules; and (2) where African legal notions clash with those of English law administered in the superior courts.] [ALE★]
- . 1953. The Role of African Courts in Urban Communities of the Northern Rhodesia Copperbelt. *Human Problems in British Central Africa (Rhodes-Livingstone Journal)* 13:1-17. Two fully-reported divorce cases show: "The approach of the African court differs markedly from its English counterpart ... The African court is more concerned with the wider implications of the relationships which link husband and wife, son-in-law and parents-in-law."
- . 1954a. *Judicial Techniques and the Judicial Process: A Study in African Customary Law*. Manchester University Press for the Rhodes-Livingstone Institute, No. 23. A pamphlet (37 pp.) on Urban Native Courts in the Copperbelt, Northern Rhodesia. By anthropologist-lawyer with Rhodes-Livingstone Institute.
- . 1954b. *The Administration of Justice and the Urban African: A Study of Urban Native Courts in Northern Rhodesia*. Colonial Research Studies No. 7. London: His Majesty's Stationery Office. Discusses problems in administering customary law in urban, culturally diverse community.
- . 1954c. Divorce Law and the Stability of Marriage among the Lunda of Kazembe. *Human Problems in British Central Africa (Rhodes-Livingstone Journal)* 14: 1-19. One of series of publications based on author's study of urban courts in Northern Rhodesia. Presents three divorce cases from culturally pluralistic region. States divorce law is of recent development and primarily handled by tribal courts. [Explores meaning to be given in customary law to the expression "grounds of divorce."] [ALE★]
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- Based on field work, (1950-1952). Mar-139-144.
- da. *Journal of African Administration* 8:riage and land-tenure customs by an anthropologist. How judges "unconsciously mould the existing law to fit new conditions" (p. 141).
- . 1962. Customary Law in the New African States. *Law and Contemporary Problems* 27 (4):605-631. Shows present condition of customary law in an area suffering from cultural fragmentation and welter of indigenous bodies of law. Studied Busoga District, Eastern Province, Uganda, when still a British protectorate. Anthropologist describes day in court and the one case presented. Concludes system of courts has deep roots in traditional society now modified by colonial administration. Courts show flexibility but remain "efficient instrument for adjudication of disputes, particularly in spheres such as landholding and marriage which are most closely bound-up with the village social order."
- FALSIROL, OLINDO. 1955. Il diritto dei Pigmei africani dell' Ituri nelle sue relazioni con l'economia e la religione [the law of African Ituri-pygmy: its relations to economics, and religion], *Rivista Di Antropologia* 42:82-132. Brief discussion based on published sources, of relationship between habitat, economy, law, and religion. Economically independent social unit, "the sept," is also most inclusive juridical unit. Its legal relations described as "a prevalent juridical-economical sept-communism." Religious and legal rules, although constituting parallel bodies of norms, have same contents and influence each other.
- [FLEMING, J. T. 1961. *Recent Developments in Customary Kisoga Land Tenure*. Entebbe, Uganda: The Government Printer. An analysis of land rights of clans, of chiefs and of individuals, and legal aspects of land transfers, prepared by a governmental barrister who was provincial courts native officer in the province in which the Soga live. Excellent.] [WG★]
- FORTES, M. and E. E. EVANS-PRITCHARD (eds.). 1940/61. *African Political Systems*. London, New York, and Toronto: Oxford University Press for the International African Institute. (Paperback edition 1961.) Articles on Zulu (by Gluckman), Tswana (see Schapera, 1955), Bemba (Richards), Ankole (Oberg), Nupe-Kede (Nadel), Bantu Kavirondo (Wagner). Tallensi and Nuer by editors. Articles discussed in preface by Radcliffe-Brown. Editors and most contributors are anthropologists.
- FRANCOISE-MARIE, SISTER. 1951. La femme indigene dans la legislation coutumiere au Nepoko, in *Rapports et Comptes rendue de la XXe Semaine de Missiologie de Louvain*, Brussels, 1950, pp. 210-223. Legal status of both unmarried-and married women. Bridewealth discussed.
- [GAYER, C. M. A. 1957. Report on Land Tenure in Bugisu, in *Land Tenure in Uganda*. Entebbe, Uganda: The Government Printer, pp. 1-16. An analysis of land rights in relation to the clan system with emphasis on native practices but concern with modern usage

- and problems of fragmentation, prepared by a government officer.] [WG★]
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Detailed and systematic analysis of a few selected cases "to establish a relationship between one of a society's basic values, i.e. strong and unchallenged respect for authority and the nature of that society's judicial procedures and results." By an anthropologist.
- . 1963. The Kpelle Moot: A Therapeutic Model for the Informal Settlement of Disputes. *Africa* 33:1-11.
Describes quasi-legal supplement to formal courts. Based on implicit use of principles of psychotherapy.
- GLUCKMAN, MAX. 1955a. *The Judicial Process Among the Barotse of Northern Rhodesia*. Manchester University Press, for the Rhodes-Livingstone Institute.
Anthropologist's study of native courts, 1940-1947. Bohannan calls this "the best collection of cases in African law" (also see Bohannan 1957). Some cases described in his B.B.C. talks (see below). Title of series explains Gluckman's interpretive approach to native law. Four-fifths of the sixty cases presented concern marital disputes.
- . 1955b. The Reasonable Man in Barotse Law: (I) The Case of the Violent Councillor. *Journal of African Administration* 7:51-55.
B.B.C. talk based on Judicial Process among the Barotse: "He [the reasonable man] was the means by which the judges applied the fixed rules of general law... to the varied circumstances of Barotse life" (p. 51).
- . 1955c. The Reasonable Man in Barotse Law: (II) The Case of the Eloping Wife. *Journal of African Administration* 7:127-131.
"This last case suggests that the Barotse have a picture not only of reasonable and customary right ways of behaviour, but also a picture of the reasonable wrongdoer... By this paradox, I sum up the fact that wrong-doers in any society also behave in customary ways" (p. 130).
- . 1955d. *Custom and Conflict in Africa*. Glencoe, Illinois: The Free Press.
Six lectures for B.B.C. with a short reading list [not part of the 1955-1956 series]. Considerable non-African comparative material included in discussing general problem of social control.
- . 1956a. The Reasonable Man in Barotse Law: (III) The Case of the "Dog-in-the-Manger" Headman. *Journal of African Administration* 8:101-105.
How laws are interpreted in a manner consistent with morality, using concept of the reasonable man.
- . 1956b. The Reasonable Man in Barotse Law: (IV) The Case of the Disrespectful Councillor. *Journal of African Administration* 8:151-156.
How laws are applied to changing conditions, using the concept of reasonable compliance. This case and 3 cited above illustrate 4 ways in which concept of the man used in Barotse courts.
- . 1959. The Technical Vocabulary of Barotse Jurisprudence. *American Anthropologist* 61:743-759.
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- . 1962. African Jurisprudence. *The*

- Advancement of Science* 75:439-454.
An excellent and stimulating article. Surveys the process of adjudication (rather than law), that is "the process by which, in African tribes with courts, judges take and assess the evidence, examine what they regard as the facts, and come to a decision in favour of one party rather than another." Discusses comparison vs. cultural uniqueness approach to procedure, native ideas of jurisprudence, and general study of social control in context of societal relations.
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Good supplement to Gluckman 1955a. Discusses all 4 cases from above as well as others from first Barotse book.
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- . 1965. *Politics, Law, and Ritual in Tribal Society*. Chicago: Aldine Publishing Co.
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- GOODY, JACK. 1957. Fields of Social Control among the Lo Dagaba. *Journal of the Royal Anthropological Institute of Great Britain and Ireland* 87:75-104.
Ethnographic account of a society of Ghana. In avoiding inter-locality conflict "descent groups as well as local ritual congregations are important. But it is upon the ritual areas that most emphasis is laid in the maintenance of social control" (p. 103).
- [GRAY, J. 1958. Opinions of Assessors in Criminal Trials in East Africa as to Native Custom. *Journal of African Law* 2.] [RS★]
- GULLIVER, P. H. 1961. Structural Dichotomy and Jural Processes among the Arusha of Northern Tanganyika. *Africa* 31:19-35.
By an anthropologist. "Corporate groups and many other categories of people are divisible into two parts..." (p. 19). "The only reliable conciliators in Arusha eyes, are men who are neutral in terms of the principal dichotomy observed in the particular case" (p. 34).
- . 1963. *Social Control in an African Society: A Study of the Arusha, Agricultural Masai of Northern Tanganyika*. Boston: Boston University Press.
Based on field work, 1956-1958. One of best anthropological studies of conflict situations available. Judicial process in a society without courts or judges. Role of age-set system, lineage-club system, and parish assembly in conflict resolution. Cites many cases at length. Briefly describes modern imposed court system.
- GUTTMANN, BRUNO. 1926. *Das Recht der*

- Dschagga. Mit einem Nachwort des Herausgebers: Zur Entwicklungspsychologie des Rechts. Arbeiten zur Entwicklungspsychologie (ed. by Felix Krueger), siebentes Stück. *Abhandlungen der Sachsischen Staatlichen Forschungsinstitute/Forschungsinstitut für Psychologie/Nr. 7*. By a missionary who lived 20 years in East Africa. Despite theoretical misconceptions this extensive work contains good information on legal aspects of kinship, territory, stratification, crimes, and procedure, with occasional functional interpretations.
- GUTTMANN, E. 1956. Land Tenure among the Azande People of Equatoria Province in the Sudan. *Sudan Notes and Records* 37:48-55.
By Lecturer in Law, University of Khartoum, Sudan. Based on field work. Discusses the ownership of land and termite-heaps.
- HALL, R. DE Z. 1938. The Study of Native Court Records as a Method of Ethnological Inquiry. *Africa* 11:412-427.
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- HAMILTON, R. W. 1910. East African Native Laws and Customs. *Journal of the Society of Comparative Legislation* 11: 181-195.
One-page sketches on Galla, Masai, Bantu Kavirondo, Wakamba, Kikuyu, and others. Tables of compensations for injuries. Some questionable interpretations.
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A lecturer in Law, Kumasi College, suggests "what is needed is a systematic research into native customs, based primarily on the unpublished divisional court cases and those of native courts" (p. 131).
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- ses of complaints brought to the Bureau as compared with those brought to (a) other remedy agents in the town and to (b) the Ndula Rural Court. Data, collected over 2 years' time span, from Bureau and Court records.
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Anthropologist reviews books by Howell (1954), Bohannon (1957), and Gluckman (1955a). Good summaries and discussion.
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"...attempts to catch the spirit of indigenous litigation, as well as as some of its basic principles and practices, by a detailed description of a single case." Followed by an analysis.] [GvdS★]
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"...since the merits of the tribal system have been seriously doubted, especially by those who have never attended a tribal process, ... it might be useful if I gave you an idea of some of its principal characteristics." [GvdS★]
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- JAULIN, R. 1958. Questions concerning women, in *Elements et aspects divers de l'organisation civile et penale des groupes de Moyen-Chari: groupe sara madjingaye et groupe mbye*. *Bulletin de l'IFAN* 20(B) (1-2):170-184, Dakar.
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- . 1952. *Samsonic Suicide or Suicide of Revenge among Africans*. *African Studies* 11 (3):118-122. [RS★]
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- KRÜGER, FERDINAND. 1935. Das Recht der Sotho-Chuana-Gruppe der Bantu in Südafrika. *Mitteilungen des Seminars für Orientalische Sprachen* 38 (3):53-144.
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- KWAYEB ENOCK KATTE. 1960. *Les institutions de droit public du pays Bamileke, Cameroun: evolution et regime actuel*. Bibliotheque d'histoire du droit et droit Romain, vol. 5, Paris: R. Pichon et R. Durand-Auzias.
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An anthology, with "some articles written primarily for the lawyer and others written mainly for the layman" (p. vi).
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- [LIPS, JULIUS E. 1930. *Das Recht der Eingeborenen Kameruns*. Stuttgart: 127-209.
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Mossi women have no legal rights. Respect for indigenous customs prevented reforms. Customs should be changed through legal reforms.
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- MERKER, M. 1902. *Rechtsverhältnisse und Sitten der Wadschagga*. (Ergänzungsheft No. 138 zu Petermanns Mitteilungen) Gotha: Justus Perthes.
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A collection of six essays on political functions of segmentary lineages. Articles on Lugbara, Konkomba, Mandari, Dinka, Bwamba, and Tiv.
- [MILLS, M. E. ELTON and MONICA WILSON. 1952. *Land Tenure*. Keiskammahoeck Rural Survey, Volume 4. Pietermaritzburg: Shuter and Shooter.] [RS★]
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- . 1962. *Principles of Customary Land Law in Ghana*. London: Sweet & Maxwell. Lagos: African Universities Press.
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- O'SULLIVAN, T. H. 1910. *Dinka Laws and Customs*. Journal of the Royal Anthropological Institute 40:171-191.
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- Jurist's account of English and customary law. Also between customary and English law.
- [PAULME, D. (ed.) 1960. *Femmes d'Afrique Noire*. Paris, Le Haye: Mouton.
- Contains field studies of anthropologists on various African peoples, viz. M. Ges-sain (Coniagu), M. Dupire (People nomades du Niger), A. Laurentin (Nzakara), E. M. Albert (Urundi), S. Faladé (Dakar), and a general paper by A. M. D. Lebeuf.] [HH★]
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- POST, ALBERT HERMANN. 1887. *Afrikanische Jurisprudenz*. Ethnologisch-juristische Beiträge zur Kenntnis der einheimischen Rechte Afrikas. 2 vols. Oldenburg und Leipzig: Schulzische Hof-Buchhandlung und Hof-Buchdruckerei.
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- Concerns legal status of women in Africa. According to law, they have no status. Are sold, loaned, inherited according to father or husband's whim. Colonial influence thought to be changing biological constitution of society.
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- [---. 1953. *Rassegna di Studi Etiopici. Raccolte dall'assemblea dei suoi notabili ad iniziativa del Commissariato Regionale di Addi Ugri*. Supplemento al Volume XI. Roma: Tipografia Pio X.] [RS★]

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- SCHUMACHER, P. P. 1912. Das Eherecht in Ruanda. *Anthropos* 7 (1-2):1-32.
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- . 1928. Die Expedition des P. P. Schumacher zu den zentralafrikanischen Kivu-Pygmäen. Rechts-, Gemeinschafts- und Eigentumsverhältnisse. Individualcharakteristiken. *Anthropos* 23 (3-4): 395-435.
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- . 1953/60. *Native Law in South Africa*. Cape Town and Johannesburg: Juta.
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- [---. 1958. Usos e Costumes Juridicos dos Fulas da Guiné Portuguesa. *Publicacoes do Centro de Estudos da Guiné Portuguesa* No. 20. Bissau: Tipografia das Missoes.] [RS☆]
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- . 1956. African Women and the law in South Africa. *The Listener* 55 (1416): 626-627, 644.
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- Condition of women before European contact under Congolese customary law.
- Condition of women under customary law in 1956. Legal and statutory impediments to improving status of Congolese women and suggestions for change.
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- SOHIER, A. 1939. Evolution de la condition juridique de la femme indigene au Congo Belge. Contribution to the 24th session of l'Institut Colonial International, Rome, 1939, pp. 149-217.
- Legal status of girls and married women under customary law, as well as in relation to legal system of independent Congo State.
- . 1960. Les problèmes juridiques posés par le rôle de la femme dans le développement des pays tropicaux et subtropicaux. *Problèmes Sociaux Congolais* 51:64-71.
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- Based on Natal Code of Native Law (1932) and Native High Court decisions. By an ex-magistrate and attorney. Very complete survey. Sections on kraal heads, Lobolo, medicinemen and herbalists, civil procedure and offences.
- STEINMETZ, S. R. 1903. *Rechtsverhältnisse von Eingeborenen Völkern in Africa und Ozeanien*. Beantwortungen des Fragebogens der Internationalen Vereinigung für wirtschaftslehre zu Berlin. Berlin: Julius Springer.
- Compiles sundry legal rules and general ethnographic data.
- TAIT, DAVID. 1963. A sorcery hunt in Daggamba. *Africa* 33 (2):136-137.
- First-hand description of how charges of sorcery affect two communities. Two cases described. By an anthropologist.
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- Reviews social structure of the society. No distinction between civil and criminal law. Distinction between private and public delicts. Private delict defined by aggrieved individual bringing case before recognized judicial authority in defense of his own interest, with a view of obtaining a ruling. Public delicts bring reaction from whole community. Most cases show actions taken by community unanimously are only against real dangers to its corporate entity.
- TENNENT, J. R. M. 1961. The Administration of Criminal Law in Some Kenya African Courts. *Journal of African Law* 5 (3):139-144.
- "To an outsider the most striking feature of an African court hearing is the comparative neglect of evidence of the facts at issue and the minute examination of circumstantial evidence" (p. 142). By and administrator.
- TROMP, J. VAN. 1948. *Xhosa Law of Persons: A Treatise on the Legal Principles of Family Relations among the Amaxhosa*. Introduction by J. W. Sleigh. Cape Town: Juta.
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- Compilation of protectorate appeal cases in 1907. Mentions the Kikuyu, Waboni, Wateita, Masai, Wataveta. "...The evidence goes to confirm the opinion of

- Maine, that the penal law of ancient communities is not the law of crimes but of wrongs or torts—the injury being conceived as done to the individual, not to the state" (p. 175). Nothing on procedure.
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Discussion of *disandi* (adultery) and treatment of adulterous woman.
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- WARNER, ESTHER SIETMANN. 1955. *Trial by Sassafras*. London: Gollancz.
Case materials on social control in Liberia. Collected by novelist who lived there.
- WELSH, A. S. 1958. Native Customary Law in the Union of South Africa. *Journal of African Administration* 10:83–94.
By Lecturer in Administration. Resumé of Native Administration Act of South Africa.
- WHITFIELD, G. M. B. 1929/48. *South African Native Law*. Cape Town and Johannesburg: Juta.
Based on Native Appeal Court reports, ethnographies (e.g. Schapera 1938) and personal experience. A "guide to practically all the tribes inhabiting the Union of South Africa" (p. iv) Bapedi, Zulus, Swazi, Mashona, Tswana, Ama-Xosa. Chapters on "Customary Unions" (4), "Succession and Inheritance" (6), "Contracts" (8), and others. Nothing on procedure.
- [WICKERS, SERGE. 1954. *Contribution à la connaissance du droit privé des Bakongo*. Bordeaux: E. Taffard.] [RS★]
- WIEDEMANN, CURT. 1909. *Die Gottesurteile Bei Den Bantuvölkern, Sudannegern und Hamiten*. Diss. Leipzig, Weida I. Th.: Thomas & Hubert.
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Written under stimulus of Prof. Malinowski (1926), by a social anthropologist. Treats social control among Tanganyika agriculturalists—role of age-villages, Native Courts, and great-commoners.
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- stitution of a Traditional State* (Foreword by Walter Goldschmidt). Berkeley, Los Angeles: University of California Press.
A detailed account by an anthropologist of the politico-legal structure of a small lineage-structured state in Tanzania.] [WG★]
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Little legal data. Of little use to ethnographers.
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- . 1950. Criminal law and procedure in Nepal a century ago: notes left by Brian H. Hodgson. *Far Eastern Quarterly Journal of Asian Studies* 9:146–168.
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- ALEXANDROWICZ, C. H. 1958. *A Bibliography of Indian Law*. Madras, Oxford University Press.
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- ALINGE, CURT. 1934. *Mongolische Gesetze*. Darstellung des geschriebenen mongolischen Rechts (Privatrecht, Strafrecht u. Prozess). Leipziger Juristen-Fakultät, Heft 87 Leipzig: Theodor Weicher.
Comments and historical introduction to a valuable collection of Mongolian codices and other legal documents dating from 13th century, (Yasa of Chingis-Khan) to Chinese Code for Mongolia of 1789. Critical use of pertinent literature. German translation of texts appended.
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Extended review of "The Evolution of Ancient Indian Law" (see Sen Gupta 1953). "The growth of ancient Hindu law was not a linear development from one original source, the Vedas, by a process of logical reasoning and analysis" (p. 205). Discusses legal fiction, culture contact, and effects of changing customs.
- AO, T. 1957. *Ao Naga Customary Law*. Mokokchung, Tarip Kaba Ao, XIV, Assam.
- [BAILEY, F. G. 1960. *Tribe, Caste, and Nation: A Study of Political Activity and Political Change in Highland Orissa*. Manchester: Manchester University Press.
The focus of the study is on politics in a mixed aborigine, Hindu area of high-
- land Orissa in Eastern India. There is considerable case material and discussion of norms, law, and dispute in the study within the context of Bailey's discussion of politics.] [BC★]
- BAKER, J. E. 1928. Chinese Views of Truth and Justice. *Asia* 28:532–539.
By advisor to Chinese Ministry of Communications for ten years. Relates pre-Communist China's concepts of justice to values and attitudes drawn from family and village life. Draws interesting contrasts between Chinese concepts of justice and Western ones (pp. 538–539).
- BARTELS, MAX. 1910. Über europäische und malaiische Verbotsscheine. *Zeitschrift des Vereins für Volkskunde* 20 (2):202–207.
Superficial talk at a meeting of the Society on parallels between Malayan Matakäu, a magically effective pole against thieves, and survivals in European folklore.
- BAUER, WOLFGANG. 1961. Die frühgeschichte des eigentums in China. *Zeitschrift für Vergleichende Rechts-Wissenschaft* 63:118–184.
- BEALS, ALAN. 1962. *Gopalpur: A South Indian Village*. New York: Holt Rinehart and Winston.
Chapter, "Patterns of Action," describes several conflicts that involve, enough villages to threaten village harmony. Conflicts and remedy agents, as well as pressures and procedures for conflict resolution available within village framework, described. Good ethnography, full of detail, examples, anecdotes, brief case histories.
- . 1961. Cleavage and Internal Conflict: An Example from India. *The Journal of Conflict Resolution* 5:27–34.
Demonstrates that there is a correlation between size and structure of villages within a South Indian district (Gulbarga), and incidence of dispute. Hamlets in which there are single castes, and medium size villages dominated by a single landlord family or caste have little conflict. Small villages and large villages have considerable conflict. Based on a survey of thirty villages.] [BC★]
- [BERREMAN, GERALD D. 1963. *Hindus of the Himalayas*. Berkeley, Los Angeles: University of California Press.
Brief discussion by a cultural anthropologist as part of a general ethnography of dispute and dispute resolution (pp. 269–283). Classifies kinds of disputes which have arisen in the community, e.g., disputes of property, assault, social status, in relation to what kinds of "legal" action was taken, e.g., village council, self help, supernatural or taking to officials or courts.] [BC★]
- BODDE DERK. 1963. Basic Concepts of Chinese Law: The Genesis and Evolution of Legal Thought in Traditional China. *Proceedings of the American Philosophical Society* 107:375–398.
Historical account by a Professor of Chinese. "How law in imperial China became the embodiment of the Ethical norms of Confucianism" (p. 376). For those interested in Chinese philosophy.
- . 1953a. A Type of "Wakamonogumi" [an age group of young men]. *Hoshakai-gaku [Sociology of Law]* 3:50–64.
- . 1953b. Conception and Significance of "Keiyaku" [community agreement].

- Hoshakaigaku [Sociology of Law] 4: 154-166.
- . 1954a. A Case Study of Legal Sense of Japanese in Tokyo by the Sample Observation Method. *Jimbun Gakubō* [Journal of Social Sciences and Humanities of Tokyo, Metropolitan University] 11:61-73.
- . 1954b. Positive Laws Regulating Social Order of Rural Communities. *Horitsu Jibo* [Journal of Law] 26 (9): 919-923.
- . 1955. Socio-legal types of a village community life, in *Sonraku Kozo No Kenkyū: Koyadaira-mura in Tokushima Prefecture* (A Study of village structure: Koyadaira-mura). Susumu Isoda (ed.). Tokyo: University of Tokyo Press pp. 227-250.
- . 1957. Local Government vs. National Government: A Case Study of the Mode of Enforcement of the Local Tax Law. *Koho Kenkyū* (Public Law Review) 16: 100-109.
- . 1957/1958. A Study of Japanese Shinto Rituals and Festivals: A Preliminary Analysis from the Standpoint of Legal Sociology. *Hogaku Shirin* [Review of Law and Political Sciences of Hosei University] 55 (3):1-38; (4):65-107.
- BOSE, N. K. 1961. Crime: Its Origins. *Man in India* 41 (1):1-5.
- BOURLET, P. A. 1913. "Jugement de dieu" chez les Thay, Birmanie. *Anthropos* Vol. 8. Brief note on religious aspect of evidence and punishment.
- BURLING, ROBBINS. 1963. *Rengsangri*. Philadelphia: University of Pennsylvania Press. Chapter X (pp. 242-271), "The Settlement of Disputes," discusses procedures and types of grievances among the Garo. False accusation, violence, property, land, and family disputes. A few cases quoted as illustrations.
- CARSTAIRS, G. M. 1953. Case of Thakur Khuman Singh: A Culture-Conditioned Crime. *British Journal of Delinquency* 4: 14-25. A psychiatrist proposes "to discuss briefly the sociological background of a case of double murder which took place in a Rajput village of northern India some four and a half years ago" (p. 14).
- . 1955. Attitudes to Death and Suicide in an Indian Cultural Setting. *International Journal of Social Psychiatry* 1 (3): 33-41.
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- COHN, BERNARD S. 1959. Some Notes on Law and Change in North India. *Economic Development and Cultural Change* 8:79-93. Describes dispute settlement in local region in north India. Effects of British rule on indigenous dispute settlement procedures. Based on field work in Uttar Pradesh, 1952-1953. Describes remedy agents available in village, judicial procedure, factors that influence judicial proceedings, legal changes of British period. Indian and British values relevant to dispute settlement compared. Provides most systematic description and analysis of dispute settlement at village level in India presently available. (Compare with Derrett.)
- . n.d. Anthropological Notes on Disputes and Law in India. *American Anthropologist*, Special Issue: The Ethnography of Law (in press). Anthropologist orders data relating to Indian Law in terms of local law ways versus lawyers' law ways. Detailed description of local law ways. Typology of villages based on number and power positions of castes and caste members. Conflict frequencies and differences between law systems explained on basis of politico-procedural distinctions—one caste villages versus various types of multi-caste villages.
- COLLIS, MAURICE. 1938. *Trials in Burma*. London: Faber and Faber Ltd. Good first-hand account of several trials, complete with dialogue, during British period in 1930's. By former civil servant.
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- DATTA, BHUPENDRANATH. 1957. *Hindu Law of Inheritance: An Anthropological Study*. Calcutta: Nababharat. A cultural historian's criticism of Maine's views of Indian village-community (see Maine 1861).
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- . 1961a. The Administration of Hindu Law by the British. *Comparative Studies in Society and History* 4:10-52. Article on legal history. Examines historical background of British administration of Hindu law in India, British presuppositions and reactions of Indian public.
- Sources of law recognized by British compared with former systems of Indian law. Concludes "if Hindu law 'stagnated' under the British, Islamic law died."
- . 1961b. Illegitimacy: A Test for Modern Hindu Family Law. *Journal of the American Oriental Society* 81:251-261. General discussion of illegitimacy followed by definition of illegitimacy under legal system prior to 1956. Analyzes Hindu Family Law on illegitimacy, 1956 legislation.
- . 1962. The history of the Juridical Framework of the Joint Hindu Family. *Contributions to Indian Sociology* 6:17-47. Primarily history of Hindu joint family as a legal institution. Shows "how far Dharmashastra texts and related material available to historians provide a background against which observed facts of Hindu family life may be seen in perspective." Three-fold classification of Hindu law: Sastric law (from Dharmashastra), AHL (Anglo-Hindu Law), and MHL (Modern Hindu Law, i.e. 1955-1956 legislation).
- EDWARDES, S. M. 1924. *Crime in India*. A brief review of the more important offenses included in the annual returns, with chapters on prostitution and miscellaneous matters. London and New York: Oxford University Press. Reviews major common offenses in India. Notes frequency and special characteristics by concrete cases from recent official annual reports of crime.
- EKVALL, ROBERT B. 1964a. Law and the individual among the Tibetan Nomads. *American Anthropologist* 66 (5):1110-1115. In absence of effective system of official law enforcement, a process of reprisal, self-help, and feuding developed. Communal pressure for mediation and/or joining a different nomadic group tended to mitigate against continuance of feud situation. By an anthropologist.
- . 1964b. Peace and war among the Tibetan Nomads. *American Anthropologist* 66 (5):1119-1148. Feud, warfare and description of peace-making process. By an anthropologist. Mediators as one remedy agent in conflict resolution.
- ELSIN, VERRIER. 1943. *Maria Murder and Suicide*. Bombay: Oxford University Press for Man in India. Based on police records, 1921-1941, and interviews in Bastar, Central Provinces. Describes "transition from a social order where everything was settled by the tribe to a state of affairs where everything is settled by outsiders." Includes a table of 100 Maria homicides (pp. 222-245).
- FREEDMAN, M. 1950. Colonial Law and Chinese Society. *Journal of the Royal Anthropological Institute* 80:97-126. "I set out in this paper to do two things: firstly, to answer the question 'What is the family law applicable to Chinese in the Colony of Singapore at the present?' and secondly, to discuss the problem of the relationship between 'government' law in Singapore and the customary law of the Chinese" (p. 97).
- FYZEE, ASAF A. A. 1949. *Outlines of Muhammadan Law*. London, Calcutta, and New York: Oxford University Press. Written by a lawyer and civil servant. A very readable brief textbook on Mu-

- hammadan law as administered in India and Pakistan. Sections on ancient Arabian customs and Sunnite and Shiite inheritance.
- GALANTER, MARC. 1961. Caste Disabilities and Indian Federalism. *Journal of the Indian Law Institute* 3:205-234.
- . 1961. Equality and "Protective Discrimination" in India. *Rutgers Law Review* 16:42-74.
- . 1963a. Law and Caste in Modern India. *Asian Survey* 3 (2):544-559. Professor of Political Science takes a legal view of caste. Discusses how legal system recognizes and regulates caste. How legal rules influence caste as an institution discussed under headings of personal law, caste autonomy, precedence, and disabilities. Contrasts period of British in India, 1880 to 1930's, with post-independence. Discusses only statutes and does not refer to actual cases.
- . 1963b. *The role of law in Indian studies*. (Mimeo.) Chicago.
- GANGULY, P. and A. PAL. 1961. Some Aspects of the Judicial System in Chowra Island. *Folklore* 2 (3):153-160, Calcutta. By anthropologists. Five cases tried by village headmen, presented from this isolated part of Nicobar Islands.
- GILPATRICK, M. P. 1950/51. The Status of Law and Lawmaking Procedure under the Kuomintang 1925-1946. *Far Eastern Quarterly* 10:38-55. By Political Science professor. Examines role of law in modern Chinese society. Special attention to hierarchy of legislation formulated and enacted by Kuomintang from 1925-1946.
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- GOONESEKERE, R. K. W. 1958. The Eclipse of the Village Court. *Ceylon Journal of Historical and Social Studies* 1 (2):138-154. By Lecturer in Law, Ceylon University. Reviews different phases of indigenous institution which began as *gansabbava* or village court, became the Village Tribunal and finally the Rural Court. "To see how far the change of name reflects the culmination of a series of steps by which the machinery of a simple village court was transformed to almost that of a regular court" (p. 138).
- GRAY, JOHN HENRY. 1878. *China: A History of the Laws, Manners, and Customs of the People*. (2 vols.) London: Macmillan and Co. An account of 19th century life by Archdeacon of Hongkong. Chapters on "Prisons and Punishment" (3), "Divorce" (8), "Suicides" (13), "Sumpuatory Laws" (15), "Pawnshops" (20), and "Aboriginal Tribes" (31).
- HAIKERWAL, B. S. 1934. *Economic and Social Aspects of Crime in India*. London: George Allen and Unwin. A pioneer work on Indian criminology from Department of Economics and Sociology, Lucknow University. Attempts to analyze social and economic factors of crime in India. Data derive from field work and records. Underlying theme is need for reform of legal code, penal institutions, and criminal tribes and castes (i.e. those in which crime is hereditary occupation). Contains chapter on operation of village council as a court.
- HAENISCH, E. 1959. Die Jagdgesetze im Mongolischen Ostreich [The hunting laws in the Eastern Mongolian empire]. I. L. Kluge, *Ostasiatische Studien* 59: 85-93.
- HARPER, EDWARD B. 1957. Hoylu: A Belief Relating Justice and the Supernatural. *American Anthropologist* 59: 801-816. By an anthropologist. Shows how particular religious concept, called a *hoylu*, is related to social control and social structure of a caste-stratified village in South India. How expression of this belief changes as other aspects of culture change.
- HASS, S. 1960/61. Massnahmen und Vorstellungen die bei den Dschaunsari Recht und Brauchtum schützen [Ways of behavior and ideas which protect right and custom among the Jaunsari]. *B. schweiz. Ges. Anthropol. Ethnol.* 37:46-48. India.
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- . n.d. *Conciliation and Japanese law—Tokugawa and modern*. University of Washington Press. (In press.)
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- HOEBEL, E. ADAMSON. n.d. Fundamental Cultural Postulates and Judicial Lawmaking in Pakistan. *American Anthropologist*, Special Issue: The Ethnography of Law (in press). Anthropologist presents cases to show mechanisms of legal change in Pakistan. Illustrates relation between religious values of society and legal reasoning of high-court decision makers. Cases do not refer to statutes or codes. Cases based on Koran or related *hadith*. Observes that high court seeks to "identify basic postulates of Islam and to relate them to contemporary needs through Formal National Law."
- HOWORTH, SIR HENRY HOYLE. 1876/1927. *History of the Mongols from the 9th to the 19th century*. (4 vols.) London: Longmans and Green. Not primarily a study of law. Some information on Jenghiz Khan's legislation.
- HOZUMI, BARON NOBUSHINGE. 1901. *Ancestor Worship and Japanese Law*. Tokyo: Z. P. Maruya. By a lawyer trained in England. Examines function of descent groups in former times and continuing role of kinship in law.
- HSU, F. L. K. 1944. Some Problems of Chinese Law in Operation Today. *Far Eastern Quarterly* (3):211-221. Presents eight court cases. By an anthropologist. Shows "Chinese law in action." Refutes contention of a previous field worker (Tali area) who argued that Chinese law is governed by the principle of "non-action" and of "face" (pp. 211-212).
- HTIN AUNG, MAUNG. 1962. *Burmese Law Tales: The Legal Element in Burmese Folklore*. London and New York: Oxford University Press. "A juristic tale illustrates a point of law or describes a clever decision by a judge, and it has some official authority, for it could be cited by a disputant or his advocate before a court of law ... They were meant to guide ... the honorary justices of the villages and small towns" (p. 2). 65 annotated tales.
- HUDSON, A. E. and E. BACON. 1941. Social Control and the Individual in Eastern Hazara Culture, in *Language, Culture and Personality, Essays in Honor of Edward Sapir*, L. Spier, A. I. Hallowell, and S. Newman (eds.). Menasha, Wisconsin: Sapir Memorial Publication Fund, pp. 239-258. Two more or less formal channels of social control found among the Hazaras (a Shia Moslem group of Central Afghanistan): Islam versus civil administration. Most powerful factor of all, however, is public opinion.
- HUMMEL, S. 1957. Strafen und torturen der Tibetaner [punishments and torture among the Tibetans]. *Geographica Helvetica* 12 (2):121-124.
- JOLLY, JULIUS. 1896/1928. Recht und sitte: einschliesslich der einheimischen litteratur. (Translated by Batakrisna Ghosh as *Hindu law and custom*.) Calcutta: Greater India Society. Usage and custom in India. Based partly on ancient texts.
- JURRIAANSE, M. W. 1954. The Compilation of the Customary Law (Thesawalamai) of Jaffna, in 1707. *Bijdragen tot de Taal-land-en Volkenkunde* 110:293-304. Based on archival research. A Tamil-speaking Province of Ceylon. *Thesawalamai* is in Dutch, comments are in English.
- KIKANI, L. T. 1912. *Caste in Courts or Rights and Powers of Castes in Social and Religious Matters as Recognized by Indian Courts*. Rajkot: Ganatra Printing Works.
- . 1918/19. Caste Customs, Caste Questions and Jurisdiction of Courts. *Hindu Law Journal* 1:32ff.
- KIRFEL, HARALD. 1953. Das Gewohnheitsrecht in China. *Sinologica* 3 (1):52-64. Brief introduction to historical aspects of customary law within total legal system. Illustrative data.
- KROKER, EDUARD J. M. 1959. Gerechtigkeit im chinesischen Gewohnheitsrecht. [Justice in Chinese Customary Law.] *Archiv für Rechts- und Sozialphilosophie* 45 (3):321-368. Discussion of legal records of Chinese customary law focusing on sociological context of economic relationships and legally relevant aspects of cosmic forces. Comparisons with Western ideas of justice. See also Kroker's "Das Gesetz im Altertum Chinas unter Besonderer Berücksichtigung des Shang-Kün-shu," an

- historical introduction to early Chinese jurisprudence (3rd century B.C.).
- . n.d. *Sachenrechtliche Gewohnheiten in der Provinz Feng-tien (China)* [Customary property law in the province of Feng-tien, China]. *Zeitschrift für Vergleichende Rechts-Wissenschaft* 62 (60): 1-84.
- . n.d. *Sachenrechtliche Gewohnheiten in der Provinz Kansu (China)* [Customary property law in Kansu province, China]. *Folklore Studies: Tokyo* 19 (60): 273-362.
- . 1965. *Die amtliche Sammlung chinesisches Rechtsgewohnheiten. Untersuchungsbericht über Gewohnheiten in Zivil- & Handelsachen*. Erster Band. Verlag G. Kaffke, Bergen-Enkheim. Translation of Chinese government's collection of customary law. Author has written many articles on basis of this collection. A second volume to be published.
- LASCCELLES, FRANCIS. 1880. *Reminiscences of an Indian Judge*. Gurnsey.
- LEVI, WERNER. 1945. The Family in Modern China. *Far Eastern Quarterly* 4 (3):263-273. Reviews Chinese family law according to the Civil Code of 1931. With emphasis on Europeanization versus Traditionalism.
- LI, A. C. T. 1936/37. Organization and Administration of Justice in China. *China Quarterly* 2: 103-140. Uses data from Chinese judicial publications. Outlines court system under Sun Yat-sen's government. Discusses administration of justice under categories such as new laws, types of judges, admission of lawyers, kinds of prisons, etc.
- LINGAT, ROBERT. 1936. *La Responsabilité Collective Au Siam. Revue Historique de Droit Français et Étranger* 4 (15):523-539. By professor of law and counselor to the Bangkok court of appeals. Discusses two kinds of collective responsibility—family versus territory—which flourished in Siam until end of 19th century. King Chulalongkorn's sweeping political and legislative reforms made collective responsibility illegal.
- . 1937. *Vinaya et droit laïque, études sur les conflits de la loi religieuse et de la loi laïque dans l'Indochine himalayenne*. *Bulletin de l'École Française d'Extrême Orient*. 37:415-477, Hanoi. To be a Buddhist man must renounce his wife and possessions. How secular laws in Indochina and Siam deal with this problem.
- . 1950. Evolution of the concept of law in Burma and Siam. *Journal of the Siam Society* 38 (1):9-31. Presents no cases. Asserts that Hindu concept of law spread to every country where Buddhism accepted. States that Buddhist concept of "dharma" influential in formation of Siamese law.
- LIPSTEIN, KURT. 1957. The Reception of Western Law in India. *International Social Science Bulletin* 9:85-96. Summarizes discussion between two judges of Indian Federal Supreme Court, (French and English experts in Hindu and Mohammedan law) and sociologist Professor Dumant. Held at Meeting of International Association of Legal Science, Barcelona, 1956 on problems of reception of Western law in India. Brief discussion of Indian judicial system of pre-British times. Analysis of influence of British on indigenous system—from problem of perjury of witnesses to deliberate changes in Hindu law by legislation (i.e. especially marriage and succession acts of the 1940's and 1950's). Conference concluded that Western law, associated mainly with commerce, procedure, and criminal proceedings, did not touch Indian society. Greatest impact of Western law in India was "in sphere of general principles of constitutional government." Article ends with five propositions about influence of Western law in India.
- LIU, HUI-CHEN WANG. 1956/59. *The Traditional Chinese Clan Rules*. Monograph 7, Association for Asian Studies. Locust Valley, New York: J. J. Augustin for the Association for Asian Studies. Attempts to study systematically a number of clan rules as means of social control. Information drawn from prefaces to genealogies of 151 clans, printed 1912-1936.
- LUSCHINSKY, MILDRED STROOP. 1963. The Impact of Some Recent Indian Government Legislation on the Women of an Indian Village. *Asian Survey* 3:573-583. Based on field work in a North Indian village. By an anthropologist. Recent government legislation has little effect on status of women in rural India. Interviewed women concerning Hindu marriage Act (1955), Hindu Succession Act (1956), and Hindu Women's Remarriage Act (1956). Argues that Acts, which Parliament passed in order to raise the status of women in India, have had little effect for economic and cultural reasons.
- MAEDA, T. 1960. *Nihon Sonraku ni okeru Soen Suhai to Sozoku no Jirai* [The influence of ancestor worship on inheritance in Japanese village communities. Some case studies]. *Shakaisaku Hyoron* 10 (2):87-105.
- MAINE, H. S. 1883. *Dissertations on Early Law and Custom*. London: J. Murray. Chapters on "The Sacred Laws of the Hindus," "Ancestor Worship," "Classifications of Property" (i.e. legal classifications used by various societies), "Religion and Law" (ch. 2) seems principal theme.
- MASAO, TOKICHI. 1905. Researches into the indigenous law of Siam as a Study of comparative jurisprudence. *Journal of the Siam Society* 2 (1):14-18.
- MAUNG, MAUNG. 1963. *Law and Custom in Burma and the Burmese Family*. The Hague: Martinus Nijhoff. Useful addition to limited number of legal studies of Burma. By Burmese Supreme Court Judge. Analyses substantive rules of Burmese family law. Briefly describes legal profession and its relation to Burmese State.
- MCCORMACK, WILLIAM. n.d. The development of Hindu law during the British period. Berkeley, California, Center for South Asia Studies, (hctro), 1959. Analyses development of Hindu substantive law. Based upon court decisions, during British period, 1860-1930. Professionalization of Hindu law. Place of special customs. Hindu *varna* theory. Interaction of castes and courts. (See also Galanter 1963a.)
- MILLS, J. V. 1949. Marriage and Kindred Subjects in England, Singapore and China. *Journal of Comparative Legislation* 3 (31):25-36.
- By member of the Malayan Civil Service. Compares English and Chinese law as pertains to marriage, matrimonial property, legitimacy and adaptation of children, and inheritance when one spouse is (or was) Chinese and the other is English.
- MIYAMOTO, T. 1954. A Historical Consideration on the Family Rights Law in Ancient Japan, Taking the Law of Succession as the Focus. *Palaeologia* 3 (4): 365-384.
- MOOR, L. 1905. *Malabar Law and Customs*. Madras.
- MORSE, H. B. 1922. A Chinese Court of Justice. *Journal of the Royal Asiatic Society* 2:573-575. Briefly describes arrangement of a Chinese court, hearing murder case in 1807. Description based upon painting portraying first trial at which Europeans were permitted to be present.
- MUKHERJEE, B. N. 1955. Family structure and laws of residence, succession and inheritance among the Urali of Travancore. *Vanyajati* 3 (3):99-104.
- NEEDHAM, JOSEPH. 1956. *Science and Civilization in China*. Vol. 2. Cambridge: Cambridge University Press. By a biochemist, assisted by a Chinese scholar, Wang Ling. See especially "Human Law and the Laws of Nature in China and the West" (ch. 18).
- NICHOLAS, RALPH W. and T. MUKHOPADHYAY. n.d. Politics and Law in Two West Bengal Villages. *Bulletin of the Anthropological Survey of India*. (In Press.) By two anthropologists. Examines legal and political systems in two rural villages. Discusses elements in traditional systems which affect or impede *panchayati raj* (village tribunals)—an institution designed to make villages politically and legally autonomous ... of more distant authority" (p. 1).
- PAUL, GEMINI. 1959. Sherdukpens: Crime and Festivals. *Vanyajati* 7 (1):4-10. Based on field work, 1956. Last of a series of articles on people of Northeast Himalayan frontier of Assam, India. How village councils deal with theft, adultery, and rape.
- RATAN, RAM. 1960. Adjudication of Disputes and Justice Among the Kumbarhag Paharias. *Anthropos* 55 (5-6): 874-875. Field work in 1957. A brief useful note on *Panchayati* (village council) consisting of headman, assistant, and male elders of a Santal Pargana village (pop. 137) Bihar State.
- RIASANOVSKY, V. A. [Riazanovskii]. 1929/37. *Fundamental Principles of Mongol Law*. Telberg's International Bookstores, Tsingtao, China. Revised and translated from earlier works. Mostly describes recent codes, except for sections on social organization, state structure, punishment, family, and private property (ch. 4).
- . 1931. The Influence of Chinese Law Upon Mongolian Law. *Chinese Social and Political Science Review* 15 (3): 402-421. Briefly reviews Chinese substantive law and punishments. Examines similar laws, and punishments in Mongolia. Discusses differences between Mongolian law in theory and in practice. Asserts that three centuries of Chinese rule caused Mongolian law to assimilate aspects of Chi-

—, 1956a. The Code of Northern Mongolia, Khalka Djirom. *Chinese Social and Political Science Review* 20:355-368.

—, 1956b. Mongol Law and Chinese Law in the Yuan Dynasty. *Chinese Social and Political Science Review* 20:266-289.

—, 1957a. Customary Law of the Kirghiz. *Chinese Social and Political Science Review* 21 (2):190-220.

Customary law of a nomadic tribe of mixed origin, living mostly in Siberia. Based on records. Discusses substantive law, criminal procedure, punishments, and basic features of social organization.

—, 1957b. Customary Law of the Tunguses. *Nankai Social and Economic Quarterly* 10:173-192.

—, 1957c. Customary Law of the Yakuts. *Chinese Social and Political Science Review* 21 (3):314-329.

Discusses sources and basic features of customary law in a Turki tribe of North Central Asia. Describes substantive law, punishments for crimes, court organization, and procedure.

—, 1957d. The Influence of Ancient Mongol Culture and Law upon Russian Culture and Law. *Chinese Social and Political Science Review* 20:499-530.

—, 1958a. Customary Law of the Nomadic Tribes of Siberia. Tsien.

—, 1958b. The Juristic Customs of the Voguls, Ostyaks and Samoyeds. *Chinese Social and Political Science Review* 21 (4):442-462.

Describes similarities in substantive law, punishments, sources and basic characteristics of tribal law in three groups, which differ in language, subsistence, settlement patterns, and population size. Based on 19th century records.

—, 1943. *Customary Law of the Mongol Tribes*.

English translation from the Russian (1929). Discusses fundamental principles of Mongol law.

SACHCHIDANANDA. 1957. Crime and Punishment in a Munda Village. *Man in India* (Ranchi, Bihar) 37 (2):124-132.

[RS*]
SCHURMANN, H. F. 1956. Traditional Property Concepts in China. *Far Eastern Quarterly* [Journal of Asian Studies] 15 (4):507-516.

By an economic historian. "Two basic characteristics of property relations in capitalist societies are: (1) maximal alienability of property, and (2) identification of property with the individual." See Boorstin 1941 (ch. 9) on "The sacred and inviolable rights of private property" in England, which states "Those historical conditions ... which would have permitted the rise of a capitalist organization for the whole society, were lacking in China" (p. 502).

SEN-GUPTA, NARES CHANDRA. 1953. *Evolution of Ancient Indian Law*. London: Arthur Probsthain.

By an Advocate, Supreme Court of India. Development of rules in period covered by Dharma Sastras is related to changes in custom. For instance, see "Marital Relations" (ch. 6).

SHER, SHER SINGH. 1959. The Panchayat System of the Sanasis of Punjab. *Sociological Bulletin* 8 (1):97-102.

Procedures before clan and tribal councils in this former "criminal tribe."

Water oracles and use of cross-examination by judges are described.

[SHIH-YÜ YÜ LI. 1950. Tibetan Folk Law. *Journal of the Royal Asiatic Society of Great Britain and Ireland*. London: 127-148.] [RS*]

SIDDHI SAYAMKAR, LVANG. 1958. A Bangkok Lawyer's Life. *Standard* 577:10-11, 14-15.

Brief, folksy, journalistic observations on life of a lawyer in and out of court. By an urbane lawyer.

SRINIVAS, M. N. 1952. A Joint Family Dispute in a Mysore Village. *Journal of the Maharaja Savajiro*. University of Baroda 1:7-31.

—, 1954. A Caste Dispute Among Washermen of Mysore. *Eastern Anthropologist* 7:149-168.

Detailed description of intra-caste dispute in village in Mysore, South India. Information derived from panchayat record of case—testimony of litigants and numerous witnesses. Presents facts about dispute and litigating parties gathered in field two and six years after dispute. Discusses vested interests in case. Indicates some factors influencing judicial decisions. Describes judicial procedure in great detail, typical of this and other articles by author devoted to a single dispute. Very relevant not only to study of law in India, but also to study of law in a stratified society. By an anthropologist.

[—, 1962. The Study of Disputes in an Indian Village, *Caste in Modern India and Other Essays*. New York: Asia Publishing House: 112-119.

Discusses the nature-function of dispute in a South Indian village, the value of case material for anthropological analysis in India and the problem of relationship of "village law" to law as embodied in Hindu legal texts.] [BC*]

[STRAUSS, JACQUELINE H. and A. MURRAY. 1953. Suicide, Homicide and Social Structure in Ceylon. *American Journal of Sociology* 57 (5).] [RS*]

SUCHARITKUL, SOMPONG. 1957. The Rule of Law Under the Legal System of Thailand. *International Commission of Jurists, Journal* 1 (1):23-43.

By a jurist. Studies ways legal system protects civil liberties in Thailand. Finds greatest weakness in fact that political will—not only legal machinery or constitutional guarantees—is necessary to secure enforcement of civil liberties (p. 42).

TAMBIAM, H. W. 1958. The Laws of Theswalamai. *Tamil Culture* 7 (4):386-408.

Customary law of Tamil-speaking Ceylon. Attempts to show co-existence of rules peculiar to both matrilineal and patrilineal systems of society. Influence of Portuguese, Dutch, and British Colonial governments. (See Jurriaanse 1954.)

THÉRY, F. Les Coutumes Chinoises Relatives au Mariage. *Bulletin de l'Université de l'Arorer* 36.

VAN DER SPENKEL, S. 1962. *Legal Institutions in Manchou China: a sociological analysis*. London School of Economics Monographs on Social Anthropology, No. 24. Athlone Press of the University of London. Discusses concepts underlying working of government effectiveness of law. Based

on travelers' accounts, ethnographies, and case studies. An important contribution to sociology of law.

VEENA, S. 1961. Law and Justice in the Tribal Community of Patakok. *Vanyajati* 9 (4):145-148.

"Practically all cases except cases of homicide are decided by caste Panchayat. Many acts such as black magic, breaches and annulment of marriage engagements ... are not given serious cognizance by the Indian Law Courts, but are considered as serious offences by the tribal people."

VERMA, B. B. 1956. *Agriculture and Land Ownership System Among the Primitive People of Assam*. Delhi, published by D. Rangaiya for Bharatiya Adimijati Sevak Snagh.

Briefly describes patterns of agriculture, land ownership, and inheritance (28 pp.).

VERNADSKY, GEORGE. 1953. *The Mongols and Russia*. A translation of Volume III of *A History of Russia* by G. V. Kavzopovich. New Haven: Yale University Press. Chapter 2, part 6 discusses customary law among the Yasa, a Mongol tribe.

WALES, HORACE G. QUARITCH. 1934. *Ancient Siamese Government and Administration*. London: Bernard Quaritch, Ltd. By a historian. Standard source for traditional Thai political and administrative institutions. Discusses development of Siamese law, based on law texts and works of two jurists, Lingat and Burney (ch. 7). Describes Siamese court system and legal procedure (ch. 8). No cases presented.

WALSH, SIR CECIL HENRY. 1929. *Indian Village Crimes, with an Introduction on Police Investigations and Confessions*. London: Ernest Benn.

Fourteen fully described trouble cases (20-30 pages each), set down by a British government official for United Provinces, now Uttar Pradesh.

Washington Foreign Law Society. 1956. *Studies in the Law of the Far East and Southeast Asia*. Washington, D.C.: George Washington Law School. Essays on Japan, China, Vietnam, Cambodia, and India by lawyers and diplomats.

WOOD, ARTHUR LEWIS. 1961. Crime and Aggression in Changing Ceylon: A Sociological Analysis of Homicide, Suicide, and Economic Crime. *Transactions of the American Philosophical Society* (Series 2, 51 (8)).

By sociologist. Studies Ceylon's major problem of deviance—homicide. Relates homicide to "strains from land shortages and increasing frustrations from status deprivation" (p. 108). However, "Rates of serious economic crimes are highest in sections that are alienated, demoralized, and oriented positively toward acquisition and social change" (p. 100).

YOSHIDA, TEIGO. 1964. Social Conflict and Cohesion in a Japanese Rural Community. *Ethnology* 3 (3):219-231.

Describes class conflict between tenants and landlords in Morocco, Japan. Remedy agents which kept community cohesion. Describes briefly situations which led to conflict.

YUNG, KIANG. 1924/26. The Development of Modern Legal Institutions and Judicial Reform in China. *China Law Review* 2:19-30, 76-87, 117-134.

- the unwritten law in Albania. *Man* 55: 124-127.
- An extensively annotated bibliography of works (many in English) on Albanian peasant law, by an Albanian Moslem.
- MASEVIČ, M. G. 1956. Onekotoryh pamjatnikah Kazanskogo obyčnogo prava [Some Monuments of Kazakh Customary Law]. *Trudy Sekt. Filos. Prava Akad. Nauk Kazah SSK* 1:89-98.
- MEYER, POUL. 1949. *Danske bylag. En fremstilling af det danske landsbystyre paa vaggergrund af retshistoriske studier over jordfaellelskabets bovedproblemer.* [Doctorsdisp.] Copenhagen.
- MOUSA, MOHAMMAD YOUSOUF. 1961. Législation musulmane et loi française. *Orient* 5 (17):147-150.
- Influence of Islamic law on French common law, later incorporated in civil codes.
- PHILLPOTTS, BERTHA S. 1913. *Kindred and Clan in the Middle Ages and After: A Study in the Sociology of the Teutonic Races.* Cambridge.
- Classic study of feud in Teutonic countries, i.e., in societies organized around bilateral kindred. Contains good excerpts of episodes from written documents. Rich in procedural detail. Itemized wergild payments.
- PIGLIARU, ANTONIO. 1959. *La Vendetta Barbaricina Come Ordinamento Giuridico.* Pubblicazioni Dell'Istituto Di Filosofia Del Diritto Dell'Universita Di Roma, No. 13.
- Discusses vendetta as practiced by people of La Barbagia, Nuoro Province, Central Sardinia. Detailed listing of twenty-three points of Code governing procedure in settling feuds. Chapters on Vendetta in Logic of Action, Custom and Law, Vendetta as Judicial Duty.
- [PITT-RIVERS, JULIAN A. 1961. *The People of the Sierra.* Chicago, Illinois: Phoenix Books, University of Chicago Press. Chapters X-XIII of this study of a contemporary Spanish community by a social anthropologist deal with social control, conflict and conflict resolutions, and cultural values.] [BC☆]
- RIGGS, CHARLES H., JR. 1963. *Criminal asylum in Anglo-Saxon law.* University of Florida Monographs, Social Sciences, No. 18.
- "The history of asylum in the Anglo-Saxon dooms, from the late seventh to the early eleventh century" (p. 1). Role of churches in development of courts.
- SCHLYTER, CARL JOHAN. 1862. Konung Magnus Erikssons Landslag, Vol. 10 in *Corpus iuris Sveo-Gotorum antiqui...* Stockholm: Z. Haeggström, 1827-1877.
- . 1869. Konung Christoffers Landslag, Vol. 12 in *Corpus iuris Sveo-Gotorum antiqui...* Stockholm: Z. Haeggström, 1827-1877.
- SEEBOHM, FREDERIC. 1902. *Tribal Custom in Anglo-Saxon Law, being an essay supplemental to: 1. "The English Village Community" and 2. "The Tribal System in Wales."* London: Longmans and Green.
- Earlier works in subtitle are summarized briefly. Further evidence is introduced from Ireland, Burgundy, Scandinavia, Scotland, and France. Based largely on early codes and dooms. A chapter on "Anglo-Saxon Custom from the Norman point of view."
- SOLEM, ERIK TORALF. 1933. *Lappiske rettsstudier.* Oslo and Cambridge, Mass.: Harvard University Press.
- Concerns customary law of Lapland. Discusses system of primitive law of Lapps.
- TILLHAGEN, C. H. 1958. The Concept of Justice Among the Swedish Gypsies. *Journal Gypsy Lore Society* 37 (3-4): 82-96.
- VINOGRADOFF, SIR PAUL. 1892. *Villainage in England: Essays in English Mediaeval History.* Oxford: Clarendon Press.
- Social History by a Russian scholar. Detailed discussion of "The Legal Aspect of Villainage" (chs. 1-5, part 1) and "The Manorial Courts" (ch. 4, part 2).
- . 1925. *Custom and Right.* Oslo: H. Aschehough for the Institutet for Sammenhengende Kulturforskning.
- Attempts to show that "legal facts and ideas can be studied from a point of view which discloses new vistas for the student of language, of folklore, or religion (p. 1). Chapters on "Custom and Law," "Rights of Appropriations," i.e., property rights. Examples from medieval and modern peasant societies.
- . 1926. "Customary Law," in *The Legacy of the Middle Ages.* C. G. Crump and E. F. Jacob (eds.). Oxford: Clarendon Press, pp. 287-320.
- Highly readable survey by a Professor of Jurisprudence. "Judges settled disputes and rulers issued statutes in accordance with their professional training, their political insight, and their sense of justice, but all of these operations... had to conform in one way or another to the customs of the folk" (p. 319). Examples from all parts of Europe.
- . 1929. "Law of Succession," in *Encyclopedia Britannica*; fourteenth edition, 13:793-795. J. L. Garvin (ed.). London and New York: Encyclopedia Britannica.
- Describes European systems of inheritance through medieval period.
- [WALLACE-HADRILL, J. M. 1958-1959. The Bloodfeud of the Franks. *John Rylands Library Bulletin* 41:459-487.
- A discussion, by a medieval historian, of the nature and function of feud as an adjudication institution among the Franks in Merovingian, France. The Study is influenced by Max Gluckman's *Custom and Conflict in Africa*. It illustrates the usefulness of the application of anthropological studies of law to historical studies of European legal systems.] [BC☆]
- Middle East
- AMMAR, HAMED. 1954. *Growing up in an Egyptian Village: Silwa, Province of Asuan.* London: Routledge and Kegan Paul Ltd.
- Brief first-hand descriptions of the process of mediation (pp. 57-61). Men's councils as traditional agent for maintaining law. Women's councils (pp. 57-61). Conflict among kinsmen (p. 62-65). Cases cited. By an anthropologist.
- ANDERSON, J. N. D. 1950-1965. Recent Developments in *Shari'a* Law. *The Muslim World* 40 (4):244-256; 41 (1): 34-48; (2):113-126; (3):186-198; (4): 271-288; 42 (1):33-47; (2):124-140; (3):190-206; (4):257-276.
- By a legal historian. Traces attempts to codify those parts of *Shari'a* law which are actually applied by courts. Discusses marriage, divorce, inheritance, and other aspects of substantive law in Egypt, Jordan, Lebanon, Turkey with references to other middle eastern countries. No cases, but useful, especially for problems relating to codification of customary law.
- . 1952. The Personal Law of the Druze Community. *Die Welt Des Islams* 2 (1):1-9; (2):83-94.
- Discusses in detail the Personal Status Law of 1948, which concerns marriage, divorce, child custody, dowry, maintenance, guardianship, inheritance. Compares it to Ottoman Family Law of 1917 and other examples of *Shari'a* relating to family law.
- . 1957. Law as a Social Force in Islamic Culture and History. *Bulletin of the School of Oriental and African Studies* 20:13-40. Translated into French, 1959, *Le droit comme Force Sociale dans la culture et dans l'histoire de l'Islam.* *IBLA:Revue de l'Institut des Belles Lettres Arabes à Tunis.* 22:29-54; 157-177.
- Considers various attributes of Muslim law. Its comprehensiveness, its synthesis of the sacred and secular, its variety within orthodoxy. Discusses modern developments—especially new family law codes in Syria, Libya, Egypt, and Turkey—and problems arising from such reforms.
- . 1958. The Family Law of Turkish Cypriots. *Welt des Islam* 5 (3-4):161-187.
- Contrasts Cypriot law and Islamic custom. Minimum age for marriage, polygamy, divorce, legitimacy.
- COULSON, NOEL JAMES. 1956. Doctrine and Practice in Islamic Law: One Aspect of the Problem. *Bulletin of the School of Oriental and African Studies* 18 (2): 211-226.
- By nothed authority on Islamic Law. "There did exist during this early period (ca. 50-300 A.H.), a fairly widespread and deep-rooted dislike, if not dread, of [serving in] the office of *qadi*." Assesses importance of this attitude within general framework of Islamic law (p. 211).
- . 1957. The State and the Individual in Islamic Law. *International and Comparative Law Quarterly* 5 (1):49-60.
- . 1959. Muslim Custom and Case Law. *Welt des Islam* 6 (1-2):13-24.
- "Any appreciation of the part played by custom and case law in Islam must rest upon recognition of the gulf that exists between *Shari'a* doctrine on the one hand and actual Muslim legal practice on the other" (p. 23).
- . 1964. *A History of Islamic Law.* Edinburgh: Edinburgh University Press.
- Discusses origins of *Shari'a* Law. Legal doctrine and practice in mediaeval Islam. Islamic Law in modern times. Concluding section discusses religious law and social progress in contemporary Islam. This and Schacht (1964) are the most authoritative discussions of Islamic Law currently available in English.
- CRIST, R. E. 1957. Land for the Fellahin: Land Tenure and Land Use in the Near East, (iv) Land Tenure in Practice. *American Journal of Economics and Sociology* 17 (4):413-430.
- "For the Near East as a whole... titles

- to rural property, away from the Coast and beyond the 'sphere of influence' of the large cities, are everywhere poorly defined" (p. 413).
- FEROZE, MUHAMMAD RASHID. 1962. Family Laws of the Turkish Republic. *Islamic Studies* 1:131-147. Contains clear, precise statement of laws governing marriage, divorce, legitimacy (pp. 133-143). Discusses problem of using Swiss Civil Code in Muslim state. Summarizes various opinions.
- HABACHY, SABA. 1962. Property, Right, and Contract in Muslim Law. *Columbia Law Review* 62:450-473. An Egyptian attorney considers such questions as: "Does Muslim law extend equal protection to private property and other rights of foreigners? ... To what extent do the Muslim concepts of private property, right, and contract differ from their counterparts in modern Western systems of law?" (p. 450).
- HENNINGER, JOSEPH. 1959. Das Eigentumsrecht bei den heutigen Beduinen Arabiens. [The law of property among the present-day Bedouins of Arabia]. *Zeitschrift für Vergleichende Rechtswissenschaft* 61:6-56.
- KENNETT, AUSTIN. 1925. *Bedouin Justice: Laws and Customs among the Egyptian Bedouin*. Cambridge University Press. Although there is a substantial body of historical literature on formal Islamic law (the *Shari'a*) Kennett's *Bedouin Justice* stands alone as a book on law at the village or tribal level in the Middle East.
- KHADDURI, MAJID, and HERBERT J. LIEBESNY (eds.). 1955. *Law in the Middle East: Vol. I. Origin and Development of Islamic Law*. Washington: Middle East Institute. Edited by a political scientist-jurist team. Articles by Fysee (see also Fysee 1954), the editors, and others. See especially Schacht on "Pre-Islamic Background and Early Development" (also see Schacht 1950). Includes a glossary of legal terms.
- LEVY, RUBEN, 1933-1957. *The Social Structure of Islam*. (2nd edition of *The Sociology of Islam*.) Cambridge University Press. Conflict between ideal and practice in past and present. A chapter on jurisprudence.
- LIEBESNY, HERBERT J. 1956. Administration and Legal Development in Arabia: The Persian Gulf Principalities. *Middle East Journal* 10 (1):33-42.
- MAHMASSANI, SOBHI. 1954. Muslims: Decadence and Renaissance: adaptation of Islamic Jurisprudence to modern social needs. *Muslim World* 44 (3-4):186-201. Lebanese attorney considers "the reasons for the backwardness suffered by Muslims, and the ways and means of rectification."
- MUSA, MUHAMMAD YUSUF. 1955. The Liberty of the Individual in Contracts and Conditions According to Islamic Law. *Islamic Quarterly* 2 (2):79-85; 2 (4):252-263. Discusses interpretations of religious law of two opposite schools of thought. One prohibits contracts and conditions that are not authorized by a text from the law giver. Other permits all those that have not been explicitly forbidden.
- NADER, LAURA. 1965a. Choices in Legal Procedure; Shia Moslem and Mexican Zapotec. *American Anthropologist* 67 (2):394-399. Compares procedures for settling conflicts in two villages, one Mexican, the other Lebanese. Asks what factors affect choice of settling disputes by court or other means? Interested in relation between legal procedure and types of social grouping. Data suggest villages with dual organization incompatible with village court or council systems of settling conflict. Also suggest that wherever village court systems develop, secondary groupings which cross-link citizens will be found.
- . 1965b. Communication between Village and City in the Modern Middle East. *Human Organization* (special issue): Dimensions of Cultural Change in the Middle East. John Gulick (ed.). 24 (1):18-24. Quotes several law cases from a Shia Moslem village in Lebanon to illustrate how village settlement procedures serve to link rural and urban peoples.
- PALLIS, S. A. 1956. *The Antiquity of Iraq*. Copenhagen. Babylonian law codes listed and summarized (p. 528 ff.).
- SCHACHT, JOSEPH. 1935. *G. Bergsträsser's Grundzüge des islamischen Rechts*. Berlin and Leipzig. By a legal historian, specializing in Islamic law. An earlier version of the second part of Schacht (1964).
- . 1950. *Origins of Muhammadan Jurisprudence*. Clarendon Press. "The evidence of legal traditions carries us back to about the year 100 A.H. only; ... Islamic legal thought started from late Umayyad administrative and popular practice, which is still reflected in a number of traditions" (p. 5).
- . 1953. *Esquisse d'une histoire du droit musulman*. Paris. An earlier version of the historical section of Schacht (1964).
- . 1964. *An Introduction to Islamic Law*. Oxford: Clarendon Press. First part outlines present knowledge of history and systematic thought underlying Islamic law. Restricted to Islamic law within Sunni community. Second part systematically describes Hanafi law concerning persons, property, family, inheritance, penal law, procedure. Partial bibliography (pp. 215-285). (Compare Coulson 1964.)
- SETHE, KURT. 1926. Ein Prozessurteil aus dem alten Reich. *Zeitschrift für ägyptische Sprache und Altertumskunde* 61:67-79. By an Egyptologist. Discusses record of a lawsuit. From oldest Egyptian legal document, dated to the VI dynasty.
- STIRLING, PAUL. 1957. Land, Marriage, and the Law in Turkish Villages. Part I. The Reception of Foreign Law in Turkey. *International Social Science Bulletin* 9:21-33. Treats formal and informal system of social control. Based on fieldwork in two villages of central Turkey. Discusses landholding where new laws of land tenure and inheritance are roughly consistent with informal rules, and acceptable to villagers. New marriage laws widely different from informal rules and therefore largely ignored. Concludes "when the law sets out to alter a whole body of related rules built into the informal system, the more it is used as an initiating instrument of social reform, the less efficient it is bound to be as an instrument of social control; and the less it will in fact achieve its aim of reform" (p. 32). One of best papers on importation of foreign law available.
- UBACH, ERNST, and ERNST RACKOW (eds.). 1923. *Sitte und recht in Nordafrika*. Gesammelt von Ernst Ubach und Ernst Rackow und zur Veröffentlichung vorbereitet unter Mitwirkung von G. Kampffmeyer, H. Stumme, und L. Adam. Ergänzungsband of *Zeitschrift für Vergleichende Rechtswissenschaft* No. 40. Publication of partial results of interviews (guided by Kohler's *Fragebogen*) of prisoners of war in German camps from Morocco, Algeria, and Tunisia consisting in narrative accounts of some individuals. Incomplete and little reliable information on various customs ranging from general ethnography to specific marriage rules, property concepts, etc.
- VAN ESS, DOROTHY L. 1959. Arab Customs. *Practical Anthropology* 6 (5):219-222. By a former missionary to Iraq. Concerns honor, vengeance, and curses.
- WESTERMARCK, EDWARD. 1934. "The blood-feud among some Berbers in Morocco," in *Essays Presented to C. G. Seligman*. Evans-Pritchard, et al. (eds.). London: Kegan Paul, Trench, Trubner, pp. 209-226. Ritual and contractual restrictions on vengeance described by an anthropologist, e.g., "49 male members of his kindred can clear an accused homicide by swearing to his innocence" (p. 367).

North America

- BERNARD, JESSIE. 1928. Political Leadership among North American Indians. *American Journal of Sociology* 34:296-315. Fascinating study by a sociologist. "Method used in this study was to secure life histories of Indian chiefs, and thus to get at their personalities, methods, and techniques [of leadership]." Largely based on early accounts by Parkman, Henry Schoolcraft, Catlin, and others.
- BLACK, MARY, and DUANE METZGER. Ethnographic Description and the Study of Law. *American Anthropologist*, Special Issue: The Ethnography of Law (in press). By two anthropologists concerned with field techniques. Describes information available through refined eliciting procedures. Presents data on ethnography of law in United States, in classification of lawyers, and in Mexico, in general statements about Izeltal Indian law. Data demonstrate advantages of sophisticated interview techniques.
- BLAKE, NELSON MANFRED. 1962. *The Road to Reno. A History of Divorce in the United States*. New York: Macmillan. By an historian. Based on state law codes, newspapers, and legislative reports.
- BLOCH, HERBERT A. 1961. "The Dilemma of American Gambling: Crime or Pastime?" in *Crime in America*, H. A. Bloch (ed.). New York: Philosophical Library, pp. 333-335. By a sociologist. Discusses gambling and its place in American life.
- [BROWN, PAULA. 1952. Changes in Ojibwa Social Control. *American Anthropologist* 54:57-70.] [RS☆]
- COHEN, JULIUS, REGINALD A. H. ROBSON, and ALAN BATES. 1958. *Parental Author-*

- ity: *The Community and the Law*. New Brunswick: Rutgers University Press, Vol. 12.
- By a lawyer-sociologist team. Answers question "How do community views of the law compare with *the law*."
- COLLIER, JANE F. n.d. *The Settling of Courtship Problems in Zinacantan*. Manuscript, 1964.
- How courtship disputes are settled illustrates that court considers most important rights and obligations of each person involved in courtship as economic.
- [COLLINS, JUNE MCCORMICK. 1952. An Interpretation of Skagit Intragroup Conflict During Acculturation. *American Anthropologist*, 54 (3):347-355.] [RS★]
- COLTON, H. S. 1934. A Brief Survey of Hopi Common Law. *Museum Notes* (Museum of Northern Arizona, later Plateau) 7:21-24.
- Role of public opinion in a peaceful society is described. Concludes when public opinion is strong, governing bodies can be weak.
- CRANE, W. K. n.d. Kwakiutl, Haida, and Tsimshian: A Study in Social Control. Unpublished M.A. thesis, University of Utah, 1951.
- EZELL, PAUL H. Indians Under the Law: Mexico, 1821-1847. *America Indigena* 15:199-214.
- Historian's study of government policy toward Indians of Sinaloa and Sonora, especially the Yaquis and Mayos. Based on government papers.
- GELLHORN, WALTER. 1954. *Children and Families in the Courts of New York City*. New York: Dodd, Mead and Co.
- GOLDSCHMIDT, VERNER. 1963. New Trends in Studies on Greenland Social Life. Codification of Criminal Law in Changing Greenland. *Folk* 5:113-121.
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- [GOLDSCHMIDT, WALTER R., and THEODORE H. HAAS. 1946. *Possessory Rights of the Indians of Southeastern Alaska*. (Mimeographed) Washington: Department of Indian Affairs, U.S. Department of the Interior.
- Analysis of land ownership with maps delineating land holdings by clans and house groups of most Tlingit and some Haida villages, by an anthropologist and a lawyer. The subtitle reads: "A detailed analysis of the early and present territory used and occupied by the Natives of Southeastern Alaska, except the Natives of the Villages of Kake (partially treated), Hydaburg, and Klawock." [WG★]
- GUERRERO, C. J. N. 1959. El derecho aborigen en Centroamerica y el Caribe [Native law in Central America and the Caribbean]. *Nicaragua Indigena* 3 (26): 13-16.
- HALL, JEROME. 1935. *Theft, Law and Society*. Boston: Little Brown & Co.
- By a lawyer. Based on published cases and statutes from United States and Great Britain.
- [HAMILTON, WALTON. 1941. *Patents and Free Enterprise*. Monograph No. 31, Investigation of Concentration of Economic Power, Temporary National Economic Committee, 76th Congress, Third Session. A detailed analysis of the adaptations in practice of patent regulations in the glass jar and automotive industry, showing how practice can vary under uniform formal regulations.] [WG★]
- HEIZER, ROBERT F. 1955. Executions by stoning among the Sierra Miwok and Northern Paiute. *Kroeber Anthropological Society Papers* (12):45-53.
- First-hand description of chief executing his wife's lover by stoning. Two newspaper versions of stoning of Chief Winnemucca's young wife who was accused of witchcraft. A third account of man and his wife stoning young woman to death. Collected by an anthropologist.
- HERMAN, M. 1956. The Social Aspect of Huron Property. *American Anthropologist* 58:1044-1058.
- Ethno-historical study of a tribe dispersed by Iroquoian League in 1650. Deals with inter-village exchange of gifts, *wergild* settlements, and diplomacy. Attitudes toward gambling, theft, and personal property.
- HILL, W. W. 1936. Notes on Pima Law and Tenure. *American Anthropologist* 38:586-589.
- Anthropologist's remarks on village headman's role in assigning and mediating land and water rights among desert agriculturalists.
- HOEBEL, E. ADAMSON. 1940. Law-ways of the Primitive Eskimos. *Journal of Criminal Law and Criminology* 31:663-683.
- Comprehensive synthesis of pan-Eskimo culture, with some consideration of local variation. Notes on regulated combat and juridical song contests.
- . 1941. *The Political Organization and Law-ways of the Comanche Indians*. American Anthropological Association Memoir 54. Contributions from the Santa Fe Laboratory of Anthropology, Vol. 4. Presents 40 cases from pre-reservation times collected in 1933. Appendix supplies comparative data on "The Political-Judicial Behavior of the Northern Shoshone." Legal action among Comanche merely an individual response to a threatening circumstance. No concept of law as an institution, or even as a set of rules.
- HONINGMANN, JOHN J., and IRMA HONINGMANN. 1959. Notes on Great Whale River Ethos. *Anthropologia* 1 (2):106-121.
- Based on ethnographic fieldwork, 1949-1950. How Eskimo values determine their reaction to Canadian administration.
- HURST, JAMES WILLARD. 1964. *Law and Economic Growth: The Legal History of the Lumber Industry in Wisconsin, 1836-1915*. Cambridge, Mass.: The Belknap Press of Harvard University.
- "A history of roles of law in society—of the distinctive impress which the general life made upon law" (p. vii). Role of legal concepts: "fee simple" versus "cutting license." "Contributions of contract [law] to the Organization of the Market" (ch. 4). Legislation permitting deferred payment of wages (i.e., after spring drive) to persons employed in logging camps (Laws 1889). Role of company stores, dockage system, and other devices of "bootstrap finance."
- KAY, HERMA HILL. 1964. "The Outside Substitute," in *Man and Civilization: The Family's Fight for Survival*. New York: McGraw-Hill.
- Concerns development of American Family Law from 1850 to present. Discusses married woman's change in legal position from article of property to independent legal entity. Change in legal status of children and possible development of a family court. Based on recorded cases. By a law professor.
- . n.d. *The Family and Kinship System of Illegitimate Children in California Law*. *American Anthropologist*, Special Issue: The Ethnography of Law (in press). Lawyer presents case study of change in Common Law of Legitimacy. Role of residence in determining legitimacy traced through a series of cases. Raises more general question, "does change in legal institution of family precede, accompany, or follow change in broader cultural definition of family?"
- KESSLER, ROBERT A. 1962. The Psychological Effects of the Judicial Robe. *American Imago* 19:35-66.
- Hypothesizes that "the judicial robe... is a symbol for the judge's role and for the respective roles of those who appear before him" (p. 39). Interesting ethnographic data.
- KLUCKHOHN, CLYDE. 1944. *Navaho Witchcraft*. Cambridge, Mass.: Peabody Museum of Harvard University.
- Anthropologist views Navaho witchcraft as affirming solidarity by dramatically defining what is bad, "namely, all secret and malevolent activities against the health, property and lives of fellow tribesmen" (p. 110). Excellent structural-functional analysis of witchcraft cases.
- KONIG, HERBERT. 1923-1925. Der rechtsbruch und sein ausgleich bei den Eskimo. (Diss. [Law] Köln) *Anthropos* 18-19 (1-3):484-515; 19-19 (4-6):771-792; 20 (1-2):276-315.
- Criticizes Steinmetz' approach and advocates extensive research in limited geographic area. Much secondary source material on offenses, compensation, and procedure. Careful interpretation. (Sequel article includes law of Eurasian peoples, Herbert König, 1927. *Das Recht der Polarvölker*. *Anthropos* 22 (5-6):689-746.)
- KROEBER, A. L. 1926. Yurok Law. *Proceedings of the 22nd International Congress of Americanists, Rome*, 511-516.
- Presents leading principles of Yurok Law, summarized from account previously given in *Indians of California* (Bureau of American Ethnology, Bulletin 78, 1925). With addition of new data.
- LADD, JOHN. 1957. *The Structure of a Moral Code: A Philosophical Analysis on Ethical Discourse Applied to the Ethics of the Navajo Indians*. Cambridge, Mass.: Harvard University Press.
- Based on residency, 1951-1952, by a philosopher. Not a book on law; however, see "Negative Prescriptions" and "Positive Prescriptions" (chs. 13, 14). Also contains verbatim record of all translated interviews (pp. 335-425).
- LIPS, EVA. 1956. *Die reisernte der Ojibwa-Indianer; Wirtschaft und recht eines erntevolkes*. Deutsch Akademie der Wissenschaften zu Berlin. *Völkerkundliche*

- Forschungen der Sektion für Völkerkunde und Deutsche Völkunde, 1. Berlin; Akademie Verlag.
- Published source material and fieldwork data collected by Julius and E. Lips among the Ojibwa of Nett Lake, Minnesota, 1947. Ethnographic monograph emphasizing economy of a harvesting people. Slight information on law, illustrating maxim "law is whatever is good for the rice."
- [—, 1962. Zum Wirtschaftswandel der Montagnais-Naskapi-Indianer am Lake St. John, Kanada. *Abhandlungen und Berichte des Staatlichen Museums für Völkerkunde Dresden*. 21: 41–56. Berlin. Field Report on economic and legal changes among the Montagnais-Naskapi-Indians of Labrador Peninsula.] [EL*]
- LIPS, JULIUS E. 1947. Naskapi Law: Lake St. John and Lake Mistassini Bands—Law and Order in a Hunting Society. *Transactions of the American Philosophical Society* 37 (2):378–492.
- Based on fieldwork in Labrador and ethnohistorical research. Role of shamans and public opinion in social control. Cases included.
- [—, 1937. Public Opinion and Mutual Assistance among the Montagnais-Naskapi. *American Anthropologist* 39(2): 222–228.
- Legal regulations during times of need and starvation among the Montagnais-Naskapi-Indians of Labrador Peninsula. Field notes.] [EL*]
- LEWELLYN, K. N. n.d. Introduction to "Pueblo Law and Social Control." Ms.
- LEWELLYN, K. N. and E. ADAMSON HOEBEL. 1941. *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence*. Norman: University of Oklahoma Press.
- Based on fieldwork in Montana, 1935–1936, by a lawyer-anthropologist team. Many cases, collected from informants' memory of indigenous system, which at time of fieldwork no longer functioned. Descriptions of judicial functions of council. Role of military societies in maintaining order. Some cases pertaining to family relations. (See Malinowski 1942 for review of book.)
- LÓPEZ CHÍNAS, GABRIEL. n.d. "Breve estudio sobre la evolución. Social y jurídica de la familiar Zapoteca." Tesis, Escuela nacional de jurisprudencia, Mexico, 1949.
- LOWIE, ROBERT H. 1943. Property Rights and Coercive Powers of Plains Indian Military Societies. *Journal of Legal and Political Sociology* 1:59–71.
- Anthropologist discusses seasonal variations in social organization and social control. Based on fieldwork and early traveler's accounts. (See Provine 1937 for opposing view.)
- [—, 1948. Some Aspects of Political Organization Among the American Aborigines. Huxley Memorial Lecture for 1948. London, Royal Anthropological Institute of Great Britain and Ireland.
- "Within what territorial limits does authority create some measure of solidarity? And what is the nature of the authority encountered?" (p. 1).
- [—, 1951. Eigentumsrecht und zwangsmacht bei militärgesellschaften der Prärie-Indianer. Beiträge zur Völkerkunde Nordamerikas, pp. 43–53. Mitteilungen aus dem Museum für Völkerkunde in Hamburg, XXIII.
- Paper presented at Hamburg University
- on property, law and enforcement in military societies of the prairie Indians. Pertains to no specific era.
- MACLACHLAN, BRUCE B. 1963. On "Indian Justice." *Plains Anthropologist* 8 (22): 256–261.
- Discusses one case in detail. Based on newspaper accounts. In 1908 a Mescalero Apache who had killed a white man was tracked down and killed by an all Mescalero posse. Asserts that this represents precautions taken by Indian leaders to prevent development of inter-community feud.
- [—, 1964. The Mescalero Apache Quest for Law and Order. *Journal of the West* 3 (4).
- Discusses the application of United States Law on the Indian reservation.
- MALINOWSKI, B. 1942. A New Instrument for the Interpretation of Law—Especially the Primitive. *Yale Law Journal* 51: 1237–1254. (Review of Llewellyn, K. N. and Hoebel, E. A., *The Cheyenne Way: Conflict and Case Law in Primitive Jurisprudence*, 1941.)
- MAUSS, M., and M. H. BEUCHAT. 1906. Les variations saisonnières des sociétés esquimaux; étude de morphologie social. *Année Sociologique* 9:39–132.
- Effects of summer dispersal and winter concentration on "la vie juridique." Pioneer study in social anthropology.
- METZGER, DUANE. 1960. Conflicts in Chulato: A Village in Chiapas. *Alfa Kappa Delta* 30:35–48.
- Based on more than twelve months' field research. By an anthropologist. Types of interpersonal conflict and means of reducing them. Discusses court, plaintiff, defendant. Residence and its relation to distribution of power among parties to a conflict analyzed as important variables related to outcome of cases.
- NADER, LAURA. 1964a. *Talea and Jaquila: A Comparison of Social Organization*. A University of California Publications in American Archaeology and Ethnology 48 (3).
- Chapter VI compares kinds of grievances that arise in two neighboring Zapotec villages. Ways such grievances are handled by individuals and/or elected town officials. Court system, family system, and supernatural system discussed as remedy agents. Cases presented. By an anthropologist.
- [—, 1964b. An Analysis of Zapotec Law Cases. *Ethnology* 3 (4):404–419.
- Presents descriptive analysis of a total sample of law cases collected in a Zapotec town during one month. Analyzes specific aspects of Zapotec social life such as kinds of people who use courts, range of grievances taken to court, dyads which appear in opposition, age of delinquency, and relationship between type of conflict and outcome.
- [—, 1965. Choices in Legal Procedure: Shia Moslem and Mexican Zapotec. *American Anthropologist* 62 (2):394–399.
- Announced under Middle East.
- [—, n.d. "Variations in Zapotec Legal Procedure." in *Homenaje al Ingeniero Roberto Weislander*. Mexico. (In press.)
- Court procedures vastly different in two towns, despite same structure of court organization. Explanation relates to contrasting procedural principles. One concerns presence of absence of appeal court. Other concerns degree of court initiative.
- NADER, LAURA, and DUANE METZGER. 1963. Conflict Resolution in Two Mexican Communities. *American Anthropologist* 65:584–592.
- Compares settlement of husband-wife conflict in two Mexican Indian villages. Patterns of authority central to an understanding of distribution of conflict resolution in settlements. In one village material conflicts are predominantly settled by town courts, in the other by family members. Based on fieldwork by two anthropologists.
- NADER, RALPH. 1956. American Indians: People Without a Future. *Harvard Law Record* 22 (10).
- Thorough review of legal status of American Indian.
- NEWELL, W. B. n.d. Crime and Justice Among the Iroquois Indians. Unpublished M.A. Thesis, University of Pennsylvania, 1934.
- NOON, JOHN A. 1949. *Law and Government of the Grand River Iroquois*. Viking Fund Publication in Anthropology, No. 12.
- Based largely on minutes of Iroquois Confederate Council, 1860–1920. Checked by ethnographic fieldwork in Ontario. Chiefs adapted traditional counseling procedures of Confederacy to serve judicial purposes. Council considered "numerous trouble situations which.... [arose] while patterns of reservation life were still to a large degree unformulated" (p. 6).
- NÚÑEZ, L. M. 1937. El derecho precolonial. *Enciclopedia Ilustrada Mexicana*, No. 7, Mexico City.
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- Delineates structure and sub-types of polygyny. Related primarily to residence patterns. Discusses legal position of second wife (pp. 141–142). Position of children in relation to inheritance (p. 142).
- OBBERG, KALERVO. 1934. Crime and Punishment in Tlingit Society. *American Anthropologist* 36:145–148.
- Based on fieldwork in southeastern Alaska, 1931–1932. By an anthropologist. Settling of blood-debts among matrilineal sibs. Analyzes role of rank in disputes. Brief survey of main types of Tlingit crimes and their punishments. Punishments described in terms of amount of goods given in reparation for a crime.
- PALMER, WILLIAM R. 1929. Paiute Indian Government and Law. *Utah Historical Quarterly* 2 (2):35–42.
- Generalized description of property and guest laws. Case studies of child slavery. Sparse statements about judicial procedure and punishment among the Paiute. Apparently based on Mormon records—19th century to 1928.
- PETERSEN, ROBERT. 1963. Family Ownership and Right of Disposition in Sukketoppen District, West Greenland. *Folk* 5:269–281.
- Notes on demography, economy, and territorial rights among Eskimos. References to cases in literature.
- PILLING, ARNOLD R. 1962. Statistics, Sorcery, and Justice. *American Anthropologist* 64:1057–1059.
- Critique of *Paiute Sorcery* (Whiting 1950). "Sorcery became more important only after an external system of superordinate punishment had been imposed on the pre-European system of justice"

- (p. 1058).
- POSPISIL, LEOPOLD. 1964. Law and Societal Structure among the Nunamiut Eskimo, in *Explorations in Cultural Anthropology*, Ward H. Goodenough (ed.). New York: McGraw-Hill Book Co., pp. 395-432. Argues against picture of Eskimo as devoid of political structure, having only a single, monolithic legal system which relies heavily on the "legal mechanism of feuding." Relates their law to social structure. Recognizes multiplicity of legal systems within that society.
- PROVINSE, J. R. 1937. The Underlying Sanctions of Plains Indian Culture, in *Social Anthropology of North American Tribes*, F. Eggan (ed.). Chicago: University of Chicago Press. Surveys published data on Assiniboine, Blackfoot, Crow, Dakota, and Omaha. Emphasizes role of Plains Police or military societies in maintaining order. (Also see Lowie 1943.)
- RADIN, MAX. 1948. *The Law and You*. New York: Mentor Book. "The law is an all-pervading part of our social structure." Readable account of law concerning husband and wife, parent and child, legal procedure. Differences and similarities of Common Law and Civil Law, and other subjects. Of most interest to anthropologists interested in patterns of change in American family law.
- RICHARDSON, JANE. 1940. *Law and Status Among the Kiowa Indians*. American Ethnological Society. Monograph I. Based on fieldwork, summer 1934. Role of military societies, "Ten Medicine Keepers," and kindreds of band chiefs. 92 cases presented and analyzed, most prior to 1880. Seasonal variations affecting law included in description.
- RODNICK, D. 1937. Political Structure and Status among the Assiniboine Indians. *American Anthropologist* 39:408-416. By an anthropologist. A very short description of political system of a Siouan speaking plain tribe. Brief reference to inter-band feuds (p. 409), to soldier society, acting as policing body (p. 414).
- SCHLESIER, KARL-HEINZ. 1961. Die eigentumsrechte der Irokesen [The property laws of the Iroquois]. *Anthropos* 56 (1-2):158-178. Article cites available data on property among the Iroquois. Discusses recognition of limited extent of personal property and social significance of community property.
- SCHOTT, RÜDIGER. 1957. Erbrecht und familiengüterrecht bei den Nordwestküsten-Indianer. *Zeitschrift für Vergleichende Rechts-Wissenschaft* 59:34-82.
- SMITH, M. G. 1956. The transformation of land rights by transmission in Carracou. *Social and Economic Studies: Mona, Jamaica* 5 (3):103-138.
- SMITH, WATSON, and JOHN M. ROBERTS. 1954a. Some Aspects of Zuni Law and Legal Procedure. *Plateau Quarterly* 27 (1): 1-5. Preliminary report of aboriginal system of law-ways and judicial procedure among the Zuni. Based on case material collected from informants. Deals solely with secular law.
- . 1954b. *Zuni Law: A Field of Values*. With an Appendix by Stanley Newman. Cambridge, Mass.: Peabody Museum Papers 43 (1). "The bulk of this report... consists of abstracts of particular cases involving acts by individuals that have led to controversy either with other individuals or with the tribal entity itself, and that have been resolved by various judicial or quasi-judicial processes" (p. 8). 97 cases before Tribal Council or Bow Priests, 1880-1952. Fieldwork by two anthropologists, one of whom is also lawyer. Zuni values demonstrated through analysis of case material.
- STEWART, J. H. 1938. Basin Plateau Aboriginal Sociopolitical Groups. *Bureau of American Ethnology*, Bulletin 120. Anthropologist hypothesizes that unilineal bands of patrilineal, patrilocal type develop where ecology prevents group size from exceeding 50 to 100 members and where emphasis upon hunting or other factors tend toward male dominance. Suggests theoretical counterpart is exogamous, localized, matrilineal band which probably developed among some primitive horticulturists (p. 259).
- STÖHR, WALDEMAR. 1963. Das Eigentum bei dem Indianern Zentral-Kaliforniens. I. Teil. *Zeitschrift für Vergleichende Rechts-Wissenschaft* 65:92-113.
- VAN DEN STEENHOVEN, G. 1962. *Leadership and Law among the Eskimos of the Keewatin District, Northwest Territories*. The Hague: Uitgeverij Excelsior. [An examination of social control in Keewatin (Canada) Eskimo society. Description of ethnographic background, family and community structure, reaction system, trouble cases. Based on fieldwork in 1955 and 1957, and written by a Dutch jurist with anthropological training.] [GvdS★]
- . 1958. Caribou Eskimo Legal Concepts. *Proceedings of the 32nd International Congress of Americanists (Copenhagen)*: 531-538. [GvdS★]
- . 1959. *Legal Concepts among the Netsilik Eskimos of Pelly Bay, NWT*. Report 59-3 of the Northern Co-ordination and Research Centre (Ottawa.) [GvdS★]
- VAN VALKENBURG, RICHARD. 1936. Navajo common law: (I) notes on political organization, property, and inheritance. *Museum Notes (later Plateau)* 9:17-22. Based on intermittent fieldwork, 1932-1936. By an anthropologist. Tribal assembly (pre-1863 exile) and Tribal Council (post-1922).
- . 1937. Navajo common law: (II) Navajo law and justice. *Museum Notes* 9:51-54. Sections on witchcraft (see also Kluckholm 1944), homicide, and breeches of exogamic law (i.e., intra-clan marriages). Ostracism and role of clan vengeance. Mostly pre-1900.
- . 1938. Navajo common law: (III) Etiquette—Hospitality—Justice. *Museum Notes* 10:37-45. Presents table on "Attitude of Navajos and Indian Courts on Delinquency" (pre-1863, 1870, 1920; post-1938). Indian Bureau established series of courts. Navajo judges guided by code of Indian Service. However, Navajo behavior determined more by their primitive philosophy than by white man's laws.
- VIRTUE, MAXINE BOORD. 1956. *Family Cases in Court: A Group of Four Studies Dealing with Judicial Administration*. Durham, North Carolina: Duke University Press. By a lawyer. Discusses structure and procedure of Family Law Courts in San Francisco, Chicago, Indianapolis, Milwaukee. Comparative data from Ohio and Michigan. Focuses on ways judges handle divorce and related cases in court.
- WHITING, BEATRICE BLYTH. 1950. *Paiute Sorcery*. New York: Viking Fund Publications in Anthropology, No. 15. By an anthropologist. Sorcery as a means of social control. Based on intermittent ethnographic fieldwork in Harney Valley, Oregon, between 1936 and 1938. Introduction and final chapter comprise "A Cross-Cultural Study of Sorcery and Social Control." Hypothesizes sorcery more prevalent in societies with decentralized political systems, less common in societies with centralized political systems.

South America

- Anonymous. 1954. Legal Conditions of the Indians in Brazil. *Civilisations* 4 (2): 241-254.
- Anonymous. 1954. Legal Conditions of the Indians in Columbia. *Civilisations* 4 (2): 255-258. On government's Indian Administration.
- BUSTAMANTE CISNEROS, RICARDO. 1919. *Condición jurídica de las comunidades de indígenas en el Perú*. Lima: Universidad de San Marcos. Proposal for putting Indian lands directly under control and protection of government.
- CASAFRANCA GAMARRA, LINO. 1959. El derecho penal en el Inkario [Penal law among the Inca]. *Peru Indígena* 8 (18-19): 162-177. Based on early chronicles. Trial by combat, deportation, question of composition (i.e., whether payment to an injured party permitted, or only punishment used).
- GILLIN, J. P. 1934. Crime and Punishment Among the Barama River Carib. *American Anthropologist* 36: 331-344. By an anthropologist. Excellent ethnographic account of British Guiana hunting peoples. Discusses various forms of self-help—poisoning, sorcery, and boycotts. Claims law and justice highly personal. Only when individual makes himself public nuisance do members of troupe take united action against him.
- LANG, IRM. 1963. Die Eigentumsrechte der Tupinambá. *Zeitschrift für Vergleichende Rechtswissenschaft* 65:29-91.
- MARTINEZ, M. A. 1957. Nota sobre la idea de alboroto y desorden en Venezuela. *Archivos Venezolanos de Folklore* 6:7-100.
- MOORE, SALLY FALK. 1958. *Power and Property in Inca Peru*. New York: Columbia University Press. Excellent utilization of sources for precise information on law and government. "To inquire into land law is to start at the base of power structure and see who had a right to what. In the taxation system, the government is seen hard at work keeping itself going" (p. 2). Critical examination of early and current theories (e.g., Trimborn) and scrutinization of

available records lead to a modification of traditional views of Inca State. Appendix: "Forbidden Acts and their Penalties." By an anthropologist and lawyer.

ONDEGARDO, POLO DE. 1837. "Report," in *Narratives of the Rites and Laws of the Incas*. Translated by Clements R. Markham. London, pp. 150-171.

PETRULLO, V. 1937. Composition of "Torts" in Guajiro Society. *Philadelphia Anthropological Society* 1:153-160. Cites seven brief cases to show family of injured person seeks own compensation in this stratified society.

TRIMBORN, HERMANN. 1925. Straftat und Sühne in Alt-Peru. *Zeitschrift für Ethnologie* 57 (3-7):194-240. Connection between state organization and adjudication examined from early Spanish reports on Inca.

---. 1930. Das Recht der Chibcha in Columbien. *Ethnologica* 4:1-55. Reconstructs legal system of Chibcha at time of conquest. Sixteenth- and seventeenth-century Spanish records critically used.

---. 1935. Der Ehebruch in den Hochkulturen Amerikas. Ein Beitrag zur Entstehungsgeschichte der Hochkulturellen Rechtsmentalität. *Anthropos* 30 (3-4): 533-547. Historical study of legal development, emphasizing punishment, in pre-Columbian Inca, Chibcha, and Mexico. Based on Spanish sources of sixteenth and seventeenth centuries.

---. 1937. Der Rechtsbruch in den Hochkulturen Amerikas. *Zeitschrift für Vergleichende Rechtswissenschaft* 51:7-129. Typical example of German culture-historical approach to study of law. Different phases in development of "legal mentality" with regard to penal laws outlined by comparing bibliographic data on Aztecs, Chibcha, and Inca.

---. 1939. Die Stellung des Caucaats in der Rechtsgeschichte des alten Amerika. *Zeitschrift für Ethnologie* 70 (6):457-462. Spanish records reviewed to illustrate a theoretical assumption regarding relationship between development of penal law and state organization.

---. 1959. Rechtsgebräuche der Cueva in Panama. *Mitteilungen aus dem Museum für Völkerkunde in Hamburg* 25:130-137. Summary of available data on legal customs of Cueva at time of conquest.

Oceania

ADAM, LEONHARD. 1948-1952. *Methods and Forms of Investigating and Recording the Native Customary Law in the Netherlands East Indies before the War*. Leiden: Afrika-Instituut. Méthodes et modalités d'investigation et de relevé du droit coutumier indigène aux Indes orientales néerlandaises avant la guerre. [Translated to French by V. Gelders.] *Kongo-Overzee* 14 (5):280-304. Concise review article on Dutch studies of adat law. Discusses role in NEI court system.

ANELL, BENGT. 1956. The Polynesian Cities of Refuge. *Orientalia Suecana* 5: 189-210. Summarizes data on institutionalized sanctuaries for political and criminal offenders. Temple-like character in Hawaii

and Tonga, more secularized elsewhere in Polynesia. Relationship to sacro-political power of chiefs. Similar asylums in Micronesia and Melanesia. Judicial function—prevention of "civil war and social chaos." Includes bibliographic sources.

Anonymous. 1911-1955. *Adatrechtbundels I-XLV*. Edited by Koninklijk Instituut voor Taal-, Land- en Volkenkunde (Commissie voor het Adatrecht). Main source of Dutch studies on native customary law in Indonesia. (First 39 volumes indexed and annotated in *Adatrechtbundels* XL:5-293. Less extensive index of titles only for volumes XLI-XLV is given in Vol. XLV:xiii-xxi.) (See B. ter Haar 1948.)

Anonymous. 1914-1936. *Pandecten van het Adatrecht*. 10 Vols. Edited by Koloniaal Instituut te Amsterdam. Along with *Adatrechtbundels* (1911-1955), these volumes comprise major single source of prewar adat law studies. Provides first-hand description of cases and other material. Covers procedural aspects of civil, criminal, and family law.

BARNETT, H. G. 1959. Peace and Progress in New Guinea. *American Anthropologist* 61 (6):1013-1019. Chronological report on workings and decline of "system of warrior capitalism" based on sacred cloth pieces (imported from Ceram or Timor) as exchange valuables in Ajamaroe District, Vogelkop, West New Guinea. Increasingly exploitative transactions and investment policies of wealthy men i.e., bohots) in important social affairs leads to societal disorder, shown by increased number of suicide cases. Finally system abandoned at District Officer's suggestion, effecting changes in leadership qualification and residence pattern. Individual's role in culture change noted. (For supplementary data see J. Pouwer 1957. "Het vraagstuk van de Kain Timoer in het Meijbratgebied [Ajamaroe-Meren]." In *NGS* 1 (4): 295-319.)

BARTON, R. F. 1919. "Ifugao Law," *University of California Publications in American Archaeology and Ethnology* 15 (1): 1-186. Pioneer study by an anthropologist. Early use of cases to illustrate conflict situations and method of settlement. Although theoretical sections outdated, useful descriptions of family, property, and penal law, emphasizing both substantive and procedural aspects. Lists, according to social status, amounts of fines usually paid for kinds of offenses. Classic anthropological description of how go-between functions to settle disputes in a society which has neither courts nor police force. Fieldwork among Ifugao, Mountain Province, Northern Luzon Philippines, based on more than eight years of residence.

---. 1930. *The Half Way Sun: Life Among the Headhunters of the Philippines*. New York: Brewer and Warren. Primary material on Ifugao. Includes excellent description of functions of go-between. First-hand descriptions of conflict situations between individuals, and between groups in head-hunting, feuding.

---. 1935. *Philippine Pagans: The Autobiographies of Three Ifugaos*. London: George Routledge and Sons. More case material on law, collected in autobiographies of two men and a woman. Types of conflict situations

related to individual's position in life cycle.

---. 1949. *The Kalingas: Their Institutions and Custom Law*. Introduction by E. Adamson Hoebel. Chicago: The University of Chicago Press. Rich body of data presented in 104 cases collected in field, Mountain Province, Northern Luzon, Philippines. Intelligently analyzed with reference to sociological background. Dispute settlement through mediator who has power to enforce decisions. Good descriptions of informal training of mediators. Frequent comparisons with Ifugao (Barton 1919) make this book particularly useful.

BERNDT, RONALD M. 1955. Interdependence and conflict in the Eastern Central Highlands of New Guinea. *Man* 55:105-107. By an anthropologist. Brief summary of research later reported in *Excess and Restraint* (1962). "Control mechanisms operative within one district to achieve regulation, conformity, and solidarity against outsiders, support the continuation of opposition and conflict between the districts which make up this zone" (p. 106).

---. 1961. Tribal Marriage in a Changing Social Order. *University of Western Australia Law Review* 5:326-346. Excellent description of case involving native couple and white man. Shows conflict of traditional customary marriage rules, with law of administration and church.

---. 1962. *Excess and Restraint. Social Control Among a New Guinea Mountain People*. Chicago and London: The University of Chicago Press. Fieldwork among Kamano, Usurufa, Jata, and Fore-speaking groups in Eastern Highland of New Guinea, (1951-1953). Largely descriptive. Cases, which take up substantial part of volume, limited to incidents involving sexual aggression (see index of cases). Part 5 "Judicial Procedure" contains some good observations and acceptable interpretation. Overall coverage is questionable.

---. 1964. Warfare in the New Guinea Highlands. *American Anthropologist* 66 (4):183-203. Surveys types of warfare in highlands. Asserts some groups fought against units from which they received and expected to receive wives. Others found warfare incompatible with marriage. Economic aspect of peacemaking.

---. 1965. Law and Order in Aboriginal Australia in *Aboriginal Man in Australia: Essays in Honour of Emeritus Professor A. P. Elkin* (ed. by Ronald M. Berndt and Catherine H. Berndt). Sydney: Angus and Robertson Ltd., pp. 167-206. Briefly surveys first-hand descriptions of Australian systems of social control. Asserts two main elements in aboriginal society are (1) maintaining *status quo*, and (2) articulation of all social relationships in kin terms. Discusses moots, councils, elders, courts (pp. 177-183). Notes that "principle of reciprocity" significant in all cases where attempt is made to resolve a difficulty which has arisen in ordinary cause of living. Other methods of resolving disputes (pp. 186-190, 198-201). Collective action (p. 190). Some cases.

BROMLEY, M. 1960. A Preliminary Report on Law Among the Grand Valley Dani of Netherlands New Guinea. *Nieuw*

By mission linguist (CAMA) in Baliem Valley. Case material "from texts collected for language analysis and from memory." Legal levels recognized, basic postulates formulated, and a fusion of legal principles with religious notions (fetish) asserted. Based on four years' residence. Twenty illustrative trouble cases presented.

- . 1963. From Anarchy to Satrapy. *American Anthropologist* 65 (1):1-15. By an anthropologist. Sketchy analysis of change in political system induced by Australian Administration of the Chimbu, Highlands, New Guinea. "Tribal leadership changed in a generation from the absence of any fixed authority ('anarchy') to a system giving officials opportunity to dominate ('satrapy')." Implications for administrative policy, problems of adjudication, and native leadership outlined. Supplementary data from Melanesia and Africa. Based on fieldwork and government reports.
- . 1964. Enemies and Affines. *Ethnology* 3 (4):355-356. Studies the Chimbu of New Guinea Highlands. Relation between hostility and marriage in exogamous groups. Fighting and peacemaking (pp. 348-352).
- BURRIDGE, KENELM O. L. 1957. Disputing in Tangu. *American Anthropologist* 59 (5):763-780. Interesting observations. Illustrated by four cases on relationship between law and political authority based on system of economic equivalence. Political management of shifting household alliances possible only if these are of political importance. Fieldwork in Madang District, north coast of New Guinea.
- DJOJODIGONO, M. M., and RADEN TIRTA-WINATA. 1940. *Het adat prijarrecht van middeljava*. Batavia: Department van Justitie.
- ELKIN, A. P. 1947. Aboriginal Evidence and Justice in North Australia. *Oceania* 17 (3):173-210. Very instructive review of problems in evaluating testimony of aborigines. Special reference to courts and procedure. Documentary data given.
- FORTUNE, R. F. 1947. Law and Force in Papuan Societies. *American Anthropologist* 49 (2):244-259. Native attempt "to describe fairly the laws of this Papuan tribe." They had "not much law." Disjointed record of sorcery case among Arapesh. Correspondence on case between author and government official provide useful information on relationship of law and religion. Tribe located at headwaters of Kamamentina River, central New Guinea.
- FRAKE, CHARLES O. 1963. Litigation in Lipaya: A Study in Subanun Law. In *The Proceedings of the Ninth Pacific Science Congress*, 1957 3: 217-22. A most interesting article on the functions of litigation. "Litigation... cannot be fully understood if we regard it only as a means of maintaining social control."
- GLASSE, ROBERT M. 1959. Revenge and Redress Among the Huli: A Preliminary Account. *Manikind* (Sydney) 5 (7):273-289. Detailed description of institutionalized system of revenge and redress which periodically restructures alliances between

groups, preventing formation of powerful factions. A "doctrine of responsibility" is jurial basis of warfare as well as of social control within local membership groups, making centralized authority unnecessary. How revenge and redress promote social order. Fieldwork in Tari Subdistrict, Southern Highlands, T.P., New Guinea. (See also author's "The Huli: Descent System. A Preliminary Account," *Oceania* 29 [3].)

GOODALE, JANE C. 1962. Marriage Contracts among the Tiwi. *Ethnology* 1 (4):452-466.

Describes types of marriage contracts. Factor of relative age is major determinant of unilateral cross-cousin marriage in first marriages for worth. Wide variation in secondary marriages for women does not affect preferred marriage pattern until second generation.

GROVES, WILLIAM C. 1937. Settlement of Disputes in Tabar. *Oceania* 7 (4):501-519.

Interesting data from society where grievances "are discussed in open assemblies at which practically the whole village community is present." Proceedings well described and illustrated by three cases. Legal principles isolated. Changes in legal system through government influences outlined. Fieldwork in New Iceland, 1931-1933.

HAAR, BAREND TER. 1915. *Het Adatprocees der Inlanders*. Amsterdam: A. H. Kruyt. Important early systematic study of Adat judicial procedure. By Dutch jurist.

---. 1939-1962. *Beginstelen en Stalief van het Adatrecht*. Groningen-Batavia: J. B. Wolters. (English translation, 1948, *Adat Law in Indonesia*) E. Adamson Hoebel and A. Arthur Schiller (eds.). New York: Institute of Pacific Relations. Comprehensive, systematic study of procedural, and substantive aspects of laws governing land, inheritance, marriage, divorce, legitimacy. Attention to differences between cultural groups. Summarizes most of Dutch studies and provides comprehensive introduction to their methods. "Adat Law Literature" (ch. 15: 234-248) contains annotations to most important titles.

---. 1950. *Verzamelde geschriften*. 3 Vols. Djakarta: Kolif. Three volumes of writing on various legal problems by leading *adat* law scholar.

HARRASSER, ALBERT. 1936. *Die Rechtsverletzung bei den Australischen Eingeborenen*. Ein Beitrag zur monographischen Darstellung des Strafrechts der australischen Primitive. Beilagezeitung der Zeitschrift für Vergleichende Rechtswissenschaft, 50.

Systematic recording in quasi-codified form of available data on offenses, with distributional comparisons. Nothing useful on procedure.

HILGERS-HESE, IRENE. 1961. Das Eigentumsrecht bei den Toba-Batak in Nord-Sumatra. *Zeitschrift für Vergleichende Rechtswissenschaft* 63:185-217.

HOGBIN, H. IAN. 1934. *Law and Order in Polynesia: A Study of Primitive Legal Institutions*. Introduction by B. Malinowski London: Christophers. Analysis of fieldwork material from Ontong Java, a Polynesian settlement in

Solomon Islands. Uses Malinowskian approach. Functional interconnections between kinship system, organization of groups, belief in spirits, and ceremonies within legal system described. Compared with data from Tonga, Samoa, and Hawaii.

---. 1935. Sorcery and Administration. *Oceania* 6 (1):1-32.

Sorcery on Wogeo Island, New Guinea compared to Malaita and Guadalcanal, Solomon Islands. Sorcery "creates and maintains proper respect for the law and at the same time permits angry individuals to secure redress for their wrongs—at least to their own satisfaction—without causing inconvenience or general disruption in the community." Recommendations for administrative policy added.

---. 1938. Social Reaction to Crime: Law and Morals in the Schouten Islands, New Guinea. *Journal of the Royal Anthropological Institute* 68:223-262.

Report on cases of adultery and theft observed during fieldwork on Wogeo Island, 1934. Data support Malinowski's suggestion that "the reaction to crime is not in any sense a unanimous rising in support of accepted moral principles" (Durkheim), but depends on kinship, rank, and personal factors of people involved. Demonstrates importance of social and spatial distance among litigants for conflict. (For elaborate description of one case see Hogbin 1940. See also Hogbin 1935, "Native Culture of Wogeo." *Oceania* 5 (3):308-337.)

---. 1940. The Father Chooses His Heir: A family dispute over succession in Wogeo, New Guinea. *Oceania* 11 (1):1-39. Detailed account of complicated inheritance dispute. Some verbatim opinions recorded. (See also Hogbin 1938. *Journal of the Royal Anthropological Institute*, Vol. 68.)

---. 1944. Native Councils and Native Courts in Solomon Islands. *Oceania* 14 (4):257-283.

Native reactions to establishment of Native Councils and Courts in British Solomon Islands Protectorate. Appendices on native customary law (rules). Includes document stating duties of district officials and native courts (procedural rules) together with its pidgin translation. (For a revised form of this document see, Hogbin (ed.) 1945. "Notes and instructions to native administrations in the British Solomon Islands." *Oceania* 16 (1): 61-69. For comparative material see, Hogbin 1946. "Local government for New Guinea." *Oceania* 17 (1):38-66. This article advocates establishment of native councils and courts on experimental basis in Busama, Huon Gulf, north-eastern New Guinea. Pre and post-contact legal matters discussed and illustrated by case data.)

---. 1947. Shame: A Study of Social Conformity in a New Guinea Village. *Oceania* 17 (4):273-288.

Data from Busama show how fear of negative public opinion operates as effective psychological sanction in preventing conflict. How it retards formation of leadership necessary under changed social, religious, and economic conditions.

HOLLEMAN, FREDERICK DAVID. 1923. *Het adat-grondrecht van Ambon en de Oel-*

- ... sers. Delft: W. D. Meinema.
- . 1927. *Het Adatrecht van de afdeling Toeloengagoeng*. Leiden: Burgersdijk & Niermans.
- . 1930. *Verslag van een onderzoek inzake adatgrondenrecht in de Minabasa*. Zie Mededeelingen van de afdeling Bestuurszaken der Buitengewesten van het Departement van binnenlandsch bestuur. Serie A (11).
By a Dutch jurist. Studies land law in Sulawesi. Based on residency.
- JOSSELYN DE JONG, P. E. 1960. Islam versus Adat in Negri Sembilan (Malaya). *Bijdragen* 116 (1):158-203.
Conflict between traditional matrilineal clan system (based on *adat* law) and Islamic law. Among Minangkabau settlers in Negri Sembilan, west coast of Malay Peninsula. Seen in series of events in 1951 (recorded by author two years later). Role of political authorities involved. Arguments used by protagonists of both parties in conflict. Factors determining individual's choice of standpoint. Description followed by theoretical discussion of social conflict and change.
- KABERRY, PHYLLIS M. 1941/42. Law and Political Organization in the Abelam Tribe, New Guinea. *Oceania* 12 (1):79-95; (3):209-225; (4):331-363.
Analysis of fieldwork, 1939-1940, as learned from Malinowski. Describes rights and obligations associated with kinship and concomitant sanctions. Discusses implications for a theory of law. Fine observations on legal aspects of Yam cult. Problems of administration compared with issues in international law.
- KAUFFMAN, H. E. 1950. Weiderecht bei den Naga. *Zeitschrift für Ethnologie* 75: 73-78.
Four brief cases involving claims to grazing territories. Taken from records of Khónoma D.C. Office, Naga Hills.
- KELM, HEINZ. 1962. Die eigentumsrechte auf Samoa (Polynisien). *Zeitschrift für Vergleichende Rechtswissenschaft* 64: 131-230.
- [KEUNING, J. 1961. Nederlandse Strafrechtspraak aan de Wisselmeren (Central Nederlands Nieuw-Guinea). *Bijdragen tot de Taal-, Land- en Volkenkunde*, 117, part 1:25-40.
Reports of criminal cases from central New Guinea are used as basis for a consideration of the task of the judge, representing a foreign authority in an archaic society. Formulation of guiding principles and of the inherent dilemma. Pages 40-50 contain Netherlands anthropologists' comments on the article and the author's reply.] [GvdS★]
- KITCHING, H. S. 1961. Observations of Customs Associated with Kadaitja Practices in Central Australia. *Oceania* 31 (3):210-214.
Executions by sorcery following breaches of tribal law in pre-contact and modern times.
- KLEIWEDE DE ZWAAN, J. P. 1913. Vorstellungen über den Eingeborenen des indischen Archipels. *IAFE* 22:234-255.
Loosely organized data on legal practices and religious beliefs connected with property and theft.
- KOCH, GERD. 1957. Das Eigentum auf Neukaledonien. *Baessler-Archiv* 5 (2): 233-266.
Summary of data from literature on property, i.e. kind, acquisition, expropriation, delicts, and punishment.
- . 1959. Das Eigentum auf den Gesellschafts-Inseln. *Zeitschrift für Vergleichende Rechtswissenschaft* 61:57-100.
- KORN, VICTOR EMANUEL. 1932. *Het adatrecht van Bali*. 's-Gravenhage: G. Naeff.
Basic study of Balinese adat law. By Dutch civil administrator.
- LEACH, E. R. 1959. Social Change and Primitive Law. *American Anthropologist* 61 (6):1096-1097.
Critique of Pospisil 1958b. "Pospisil's primitive legislator... did not change the law only its application" (p. 1097).
- LEEDEN, A. C. VAN DER. 1955. Inheemse arbitrage in het binnenland van Sarmi. *Bijdragen* 3 (2):202-215.
Notes on ceremonial technique of conflict resolution among intermarrying groups in a bilaterally structured society, the Mukraka and Kwerba, northern West New Guinea. Illustrated by one extensively described case.
- LEHNER, STEPHAN. 1935. Sitten und Recht des Melanesierstammes der Bucawac. (Deutsch-Neuguinea, Hüongolf-Nordküste) *Archiv für Anthropologie* 23 (4): 239-284.
Asserts that Bucawac ethic is determined by a religiously founded communism and based on an extreme egoistic utilitarianism. Sketchy description and questionable interpretation.
- LOGEMANN, J. H. A. 1957. Rechtsgroepen in Nieuw-Guinea. *Nieuw Guinea Studiën* 1 (3):179-196.
Compare Cowan, H. K. J., 1957, De rechtspositie der niet-europese bevolkingsgroepen in Nederlands-Nieuw-Guinea. *Nieuw Guinea Studiën* 1 (4):275-294.
- . 1958. Nogmaals: rechtsgroepen in Nederlands-Nieuw-Guinea. *Nieuw Guinea Studiën* 2 (1):1-10.
Controversial discussion on utility and desirability of recognition of native customary law (Logemann) vs. uniformity of codified law (Cowan). Problems of interpreting relevant section of NNG Constitution. Importance to acculturation. Compare H. K. J. Cowan 1958. De rechtsacculturatie van de Papoea en Artikel 126 B.N.G. (een dupliek). *Nieuw Guinea Studiën* 2 (2):85-93.
- MALINOWSKI, B. 1925. The Forces of Law and Order in a Primitive Community. *Proceedings of the Royal Institute of Great Britain* 24:529-547.
First discussion of legal mechanisms by an anthropologist who made important theoretical contributions to ethnology of law. An earlier draft op Malinowski (1926).
- . 1926. *Crime and Custom in Savage Society*. London: Kegan Paul, Trench, Trubner & Co., Ltd.
Outline of Malinowski's theoretical assumptions about primitive law based on psychological definition. Rejects theories of Rivers, Hartland, Durkheim, and German legal ethnologists. Considers law as social mechanism of reciprocal force of mutual obligations. Data from northwest Melanesia, Trobriand Islands, illustrate concepts of primitive law and order and primitive crime and punishment. Good discussion of sorcery and suicide as legal influences. Conflicting legal principles (e.g. mother-right vs. father-right). Distinguishes between strict law and legalized usage. Broader theoretical statement of his "functional theory of effective custom" can be found in his "Introduction" to Hogbin 1934, pp. xvii-xxii.
- . 1934. "Introduction," in *Law and Order in Polynesia* by H. Ian Hogbin. New York: Cristophers.
Far-ranging theoretical discussion of law and social control with examples from Oceania. Similar in approach to "Crime and Custom" (1926). Historical section on "Older Anthropological Theories of Law" and "Early Theories of Marriage."
- MALLINCKRODT, JACOB. 1928. *Het Adatrecht van Borneo*. Leiden: M. Dubbelde-man.
Basic study of adat law in Kalimantan. By Dutch jurist.
- [MORRIS, ALBERT. 1955. Some Aspects of Delinquency and Crime in New Zealand. *Journal of the Polynesian Society* 64 (1):5-15.] [RS★]
- MOSS, C. R. 1920. Nabaloi Law and Ritual. *University of California Publications in American Archaeology and Ethnology* 15 (3):207-342.
Section II of monograph records Nabaloi law "as told by the Nabaloi themselves." English transliteration consists of a catalogue of rules of varying specificity. Four cases are described. Author had twelve years' residence with Nabaloi-Igorot, Mountain Province, Northern Luzon, Philippines.
- NEWMAN, PHILIP. 1964. "Wild Man" Behavior in a New Guinea Highlands Community. *American Anthropologist* 66 (1):1-19.
Good first-hand description of one case of running amuck. Relates concept of legal responsibility. By an anthropologist.
- PERANIO, ROGER. 1959. Animal Teeth and Oath-Taking Among the Bisaya. *Sarawak Museum Journal* 9 (13-14):6-13.
Ritual objects formerly used by British-recognized headmen in trying cases. By an anthropologist.
- PILLING, ARNOLD REMINGTON. Law and Feud in an Aboriginal Society of North Australia. Unpublished Ph.D. Thesis, Anthropology. University of California, 1957.
"The report... is designed to explore the function of feud and its relationship to law in a group which traditionally lacked formal courts and other adjuncts of what western culture regards as normal legal procedure" (p. ii). 107 trouble cases, most pre-1911, described. Collected on Bathursts Island, 1953-1954.
- POSPISIL, LEOPOLD. n.d. Law among the Kapauku of Netherlands New Guinea. Unpublished Ph.D. thesis, anthropology, Yale University. New Haven, Connecticut, 1956.
- . 1958a. Kapauku Papuans and Their Law. *Yale University Publications in Anthropology*, No. 54.
By an anthropologist. "The purpose of the monograph is to demonstrate with the help of the Papuan data the effectiveness of a theory of law formulated on the basis of a comparative study of thirty-two cultures and a survey of an additional sixty-three" (the author's unpublished M.A. thesis, University of Oregon). Case material presented and analyzed in relation to "legally relevant aspects of religion, politics, economy and customs in general both of society as a whole and its subgroups." Law characterized by four coexisting attributes: authority, intention of universal application, obligation, sanction. Distinction between authoritarian and customary law

- shows validity of a law to be relative to societal level on which it is applied (Relativity of Law). Based on twelve months' fieldwork, 1954-1955, in the Kamu Valley, southwest Central Highlands of West New Guinea. (For summary statement see author's "The Nature of Law" 1956. *Transactions of the New York Academy of Sciences* Ser. II, 18 (8): 746-755.
- . 1958b. Social Change and Primitive Law: Consequences of a Papuan Legal Case. *American Anthropologist* 832-837. For criticism of Pospisil's (1958b) position see E. R. Leach (1959). Letter to the Editor: Social Change and Primitive Law. *American Anthropologist* 61 (6): 1096-1097.
- . 1958c. Kapauku Papuan Political Structure, in *Systems of Political Control and Bureaucracy in Human Societies*. Proceedings of the 1958 annual spring meeting of the American Ethnological Society, V. F. Ray (ed.). Seattle: American Ethnological Society, pp. 9-22. "Traditionally, the law of a primitive society has been described in terms of a well-integrated single legal system with few, if any, discrepancies in its content and application... Such a simplified concept of legal structure failed to be substantiated by the data gathered among the Kapauku. The society cannot be regarded as 'monolithic' in the legal sense; its subgroups have to be treated as semi-autonomous or fully autonomous groupings under authorities of different personalities and experience" (p. 19).
- . 1959. Multiplicity of Legal Systems in Primitive Societies. *Bulletin of the Philadelphia Anthropological Society* 12 (3):1-4.
- . 1960. Papuan Social Structure: Rejoinder to Leach. *American Anthropologist* 62 (4):690-691. Pospisil's study (1958a) together with his reply to Leach demonstrates mechanisms involved in initiation, enforcement, and acceptance of a new law in Papuan society which radically changed social structure of a village community. Of theoretical significance.
- PRINS, JAN. 1951. Adat Law and Muslim Religious Law in Modern Indonesia. *Die Welt des Islams*, 1 (4):283-300.
- PUJOL, RENÉ. 1956. La codification des coutumes indigènes aux Nouvelles-Hébrides. *Journal de la Société des Oceanistes*. Brief survey of difficulties due to ethnic, linguistic, and cultural differences in drafting and administering code of native law. In New Hebrides.
- REAY, MARIE. 1953. Social Control Amongst the Orokaiva. *Oceania* 24 (2):110-118. Northern Division of Papua. Data from William's publications and own observations. Weak system of social control. Sanctions against wrong-doing diffuse and largely ineffective. Offended individual uses sanction of self-injury with purpose of invoking the criminal's pity. Institutionalized friendship has ambiguous effect. Prevents both deviance and punishment of wrongdoers.
- . 1959. *The Kuma: Freedom and Conformity in the New Guinea Highlands*. Melbourne University Press. London and New York: Cambridge University Press. Based on fifteen months' fieldwork, 1953-1955, among Nangamp groups in Wahgi Valley, Western Highlands, New Guinea. "The Rhetoric Thumpers" (ch. 5), contains much data on procedure of dispute settlement and judicial authority. Valuable observations on learning of normative behavior and value inculcation, "The Grim Lessons of Living," (ch. 7).
- . 1959. *The Kuma: Freedom and Conformity in the New Guinea Highlands*. London and New York: Cambridge University Press. By an anthropologist. Based on fifteen months' fieldwork. Briefly discusses situations and cases of suicide (pp. 202-203). Two examples of brothers-in-law disputing over pig-stealing (p. 204). Discusses conflict between local groups (pp. 54-56).
- RICHARDS, A. J. N. 1961. *Sarawak, Land Law and Adat*. Kuching: Government Printing Office. Presents rules governing land tenure.
- ROBERTSON, JAMES A. 1917. "The Social Structure of the Ideas of Law among Early Philippine Peoples, and a Recently Discovered Pre-Hispanic Criminal Code of the Philippine Islands," in Henry Morse Stephens and Herbert E. Bolton *The Pacific in History*. Papers and Addresses presented at the Panam-Pacific Historical Congress held at San Francisco, Berkeley, and Palo Alto, Calif., July 19-23, 1915; pp. 160-191. Code is "part of a manuscript written during the years 1837 and 1838 by a Spanish friar." Original version in Bisaya language dating from 15th century. Review of other relevant material, most citations taken from Blair and Robertson, 1903-1909, *The Philippine Islands*.
- SALSBY, NAJEEB M. 1905. *Studies in Moro History, Law, and Religion*. Department of the Interior, Ethnological Survey Publications 4 (1). Manila: Bureau of Public Printing. Contains translations of legal documents from Magindanao district of Mindanao Island. Consists of *tarsila* (genealogical and historical records), *luwaran* codes, and *sulu* codes. Carefully edited and explained.
- SCHEFFLER, H. W. 1964. The Genesis and Repression of Conflict: Choiseul Island. *American Anthropologist* 64 (4):789-804. Shows how "certain conditions, some of them arising from the nature of membership in the primary residential-proprietary segments themselves, exerted pressures to conflict and, in the end, helped resolve that conflict too" (p. 789). Vengeance, feuding, and war in a society where nominal vengeance group not based on principle of unilineal descent. By an anthropologist.
- SCHILLER, A. A. 1936. Pacific Affairs Bibliographies; No. II: Native Customary Law in the Netherlands Indies. *Pacific Affairs* 9:254-263. Discusses Dutch policy. Similar in approach to Schiller (1942). Extensively footnoted with many English language sources listed.
- . 1942. Conflict of Laws in Indonesia. *The Far Eastern Quarterly (Journal of Asian Studies)* 2 (1):31-47. Jurist outlines studies of judicial decisions in cases of "private international law, interregional law, interracial law, and interlocal law." Rudimentary case data considers relation of Dutch and *adat* law, of Mohammedan and *adat*.
- SCHNEIDER, D. M. 1957. Political Organization, Supernatural Sanctions and the Punishment for Incest on Yap. *American Anthropologist* 59 (5):791-800. Demonstrates that "it may be useful to separate the problem of why an act is deemed wrong from the question of what is done about it and by whom." Hypothesis (restricted to societies where kin groups are autonomous and self-regulating) relates frequency of crime and degree of its disruptiveness to nature and execution of punishment by human or supernatural agents.
- SCHOTT, RÜDIGER. 1957. Die Eigentumsrechte in der Wirtschaftsvordnung der Andamaner. *Zeitschrift für Vergleichende Rechtswissenschaft* 59:12-33.
- . 1958. Die Eigentumsrechte der Trobriand-Insulaner in Northwest-Melanesien. *Anthropos* 53 (1-2):88-132. Compilation of published data in quasi-codified form on property law. No Case material.
- SCHUTZ-EWERTH, ERICH. 1930. Samoa, in *Das Eingeborenrecht, 1929-1930*. Bd. II. Erich Schultz-Ewerth and Leonhard Adam (eds.). Stuttgart: Strecker and Schröder, pp. 657-712.
- SCHULTZ-EWERTH, ERICH and LEONHARD ADAM (eds.). 1929/30. *Das Eingeborenrecht*. Sitten und Gewohnheitsrechte der Eingeborenen der Ehemaligen deutschen Kolonien in Afrika und in der Südsee. Gesammelt im Auftrage der damaligen Kolonialverwaltung von Beamten und Missionaren der Kolonien, geordnet und kommentiert von früheren Kolonialbeamten, Ethnologen und Juristen. Bd. I; Ostafrika. Bd. II: Togo, Kamerun, Südwestafrika, die Südseekolonien. Stuttgart: Strecker und Schröder. Survey authorized by resolution of Reichstag in 1907. Meant to be a "sourcebook of ethnological research in law." Contains carefully edited answers to an enlarged version of Kohler's questionnaire (see J. Kohler in *ZVFR* 12, 1897). Contributions differ in quality. Useful article, Thurnwald (1930). Generally an unfortunate quasi-codification of reported material is attempted. Limited methodological basis and lack of adequate theory evident.
- SMITH, NORMAN. 1960. *Maori Land Law*. Wellington: A. H. & A. W. Reed. Indicates in concise form what Maori land "law appears to be, and... where it can be found." To aid lawyers and students. Written by judge of Maori Land Court, New Zealand. Based on laws and published court cases. Contains history of court, statutory provisions. Laws and cases relating to marriage, adoption, wills, and succession and disposal, ownership, partition, and alienation, etc. Regulations and rules. Altogether a code book with commentaries.
- SMITH, S. S. and R. F. SALISBURY (eds.). n.d. *Notes on Tolai Land Law and Custom*. Port Moresby: Native Lands Commission. (Mimeo.) 1961. Compiles customary laws under which Tolai people, [New Britain], hold their land. Meant as "guide to those engaged in the investigation of land claims." Based on questionnaire answered by el-

derly men recognized as local authorities on land law and custom.

STEINMETZ, S. R. 1903. *Rechtsverhältnisse von Eingeborenen Völkern in Africa und Ozeanien*. Antworten auf Fragen des Fragebogens der Internationalen Vereinigung für Wirtschaftslehre zu Berlin. Berlin: Julius Springer.

Compilation of sundry legal rules and general ethnographic data.

THURNWALD, RICHARD. 1930. Papuanisches und melanesisches Gebiet südlich des Äquators einschließlich Neuguinea. Geordnet und bearbeitet sowie auf Grund eigener Forschungen ergänzt, in *Das Eingeborenrecht*, Bd. II. Erich Schultz-Ewerth und Leonhard Adam (eds.). Stuttgart: Strecker und Schröder, pp. 543-656.

TODD, J. A. 1935. Native Offences and European Law in Southwest New Britain. *Oceania* 5 (4):437-460.

Notes from fieldwork, 1933-1934. Considers types of offence, tasks for administration. Problems of establishing courts for native affairs. Reactions of natives to influences on political structure.

—, 1936. Redress of wrongs in Southwest New Britain. *Oceania* 6 (4):401-440.

Descriptive material from a society which "lacks any central body of law or authority to enforce it." Notes on conflict-preventing ceremonial combats between opposed villages, settlement of debts. Importance and limit of rank, sanction of shame, legal aspects of secret society and sorcery. Some case material.

TRIMBORN, HERMANN. 1930. Mikronesien (Palau, Jap, Truk, Ponape and Nauru), in *Das Eingeborenrecht*, Bd. II. Erich Schultz-Ewerth und Leonhard Adam (eds.). Stuttgart: Strecker und Schröder, pp. 439-541.

VERGOUWEN, JACOB CORNELIS. 1933. *Het rechtsleven der Toba-Bataks*. 's-Gravenhage: Mart. Nijhoff.

Basic study of Toba-Batak adat law. By a Dutch jurist. Soon to be translated into English.

—, 1964. *The Social Organization and Customary Law of the Toba-Batak of Northern Sumatra*. The Hague: Martinus Nijhoff. [RS*]

VERSLUYS, J. D. N. 1947-1948. Sociale structuur en strafrechtspraak op Soemba. *Indonesie* ('s-Gravenhage) 1 (3):253-262. [RS*]

VOLLENHOVEN, CORNELIS VAN. 1931/33. *Het adatrecht van Nederlandsch-Indie*. 3 vols. Leiden: Brill.

Collected writings of the first Dutchman to encourage systematic examination of adat law.

—, 1933. *La Découverte du Droit Indonésien*. Institut de Droit Comparé, Etudes de Sociologie et d'Ethnologie Juridiques, t. 13. Paris: Lovitron. [RS*]

WILLIAMS, F. E. 1941. Group Sentiment and Primitive Justice. *American Anthropologist* 43 (4):523-539.

By a government anthropologist. Region of Lake Kutubu, Delta Division, T.P., New Guinea. Sympathy groups held together by a sentiment of fellowship effect conformity. Preventive function of sympathetic sanction shown in distinction between intragroup and extragroup morality. Thoughtful discussion of certain offences illustrate argument. Based on three months' fieldwork. Interesting information on group versus individual

responsibility in patrilineal society. Discusses nature of wrongs and social reaction to wrongs.

Comparative Studies

ASANTE, S. K. B. 1965. Judiciary Principles in Anglo-American Law and the Customary Law of Ghana—A Comparative Study. *The International and Comparative Law Quarterly*, October 1965. [MP*]

BACON, MARGARET K., IRVIN L. CHILD, and HERBERT BARRY, III. 1963. A Cross-Cultural Study of Correlates of Crime. *Journal of Abnormal and Social Psychology* 66 (4):291-300.

"In a sample of 48 nonliterate societies, frequency of theft and personal crime were separately correlated with a number of variables which were suspected to be causal factors in the development of crime."

BOHANNAN, PAUL J. 1964. "Anthropology and the Law," in *Horizons of Anthropology*. Sol Tax (ed.). Chicago: Aldine Publishing Co., 191-199.

Straightforward exposition of anthropologist's view of nature of anthropological study of law. With Eskimo and African examples of various counteractions to breaches of law taken from ethnographic literature.

COHEN, YEHUDI A. 1964. The Establishment of Identity in a Social Nexus: The Special Case of Initiation Ceremonies and Their Relation to Value and Legal Systems. *American Anthropologist* 66 (3):529-552.

Cross-cultural comparison of 65 societies. By an anthropologist. Presents an explanation of initiation ceremonies which is an alternative to that of Whiting and his students. Focuses on demands imposed on individual in adapting to articulating principles of his culture. Independent variables are legal systems and highly particularized kinship relationships. Dependent variables are certain kinds of experiences in course of growing up.

DIAMOND, A. L. 1951. *The Evolution of Law and Order*. London: Watts.

By a lawyer. Based on printed sources. Societies arranged according to their economies. Food-gatherers, cattle-keepers, non-pastoral peoples. Classification patterned on Hobhouse, Wheeler, and Ginsberg (1915). Sections on "Early Civilization" and "The Modern Age" in Europe. [DIAMOND, A. S. 1935. *Primitive Law*. London. [RS*]]

DURKHEIM, E. 1893/1947. *On the Division of Labour in Society*. Translated by George Simpson. Glencoe, Ill.: The Free Press.

Survey by pioneer sociologist. "Repressive law ought to have as much more preponderance over co-operative law as social similitudes are more extensive, and the division of labor more rudimentary..." (p. xvi).

FUSTEL DE COULANGES, NEMA DENYS. 1864/1956. *La Cité Antique*. Translated by Willard Small as *The Ancient City: A Study on the Religion, Laws, and Institutions of Greece and Rome*. New York: Doubleday and Co., Inc., 1956.

By a very influential and early functionalist. Only Maine ranks higher in 19th century studies of law. Treats differences between classical and later forms

of jurisprudence. Contrasts early Teutons, who owned harvest but not land with Greeks, who held land as private property. First to indicate range of variation in legal institutions. Influenced Morgan's treatment of clan. Insists institutions must be understood in their context. Law cannot be understood apart from religion. GLUCKMAN, MAX. 1963. Gossip and Scandal. *CURRENT ANTHROPOLOGY*. 4:307-315.

How gossip functions in social control among Caribbean peasants, American farmers, Welsh villagers, and Nootka Indians. By a social anthropologist.

HALLOWELL, A. IRVING. 1943. The Nature and Function of Property as a Social Institution. *Journal of Legal and Political Sociology* 1 (3-4): 115-138.

Legal historian's studies Kandyian law, a system of law administered and observed among Sinhalese peoples prior to British rule. Comparison with family law and crimes as set down in *dharmastra*.

HARTLAND, SIDNEY. 1924. *Primitive Law*. London. [RS*]

HELLWIG, A. 1903. *Das Asylrecht der Naturvölker*. Vorwort von J. Kohler. Berliner Juristische Beiträge, J. Kohler (ed.).

Meant to be a contribution to a universal history of law of asylum. Establishes typology. Data from Australia, Pacific, Africa, and America.

HILDEBRAND, RICHARD. 1896/1907. *Recht und Sitte auf den primitivsten wirtschaftlichen Kulturstufen*. Jena: Gustav Fischer. Evolutionary theory of development of law. Not useful for purposes of contemporary scholarship.

HOBHOUSE, L. T., G. C. WHEELER, and M. GINSBERG. 1915. *The Material Culture and Social Institutions of the Simpler Peoples: an essay in correlation*. The London School of Economics and Political Science. Monographs on Sociology, No. 3.

"We have next to inquire how far it is actually possible to establish any correlations between social and political institutions on the one hand and stages of economic culture on the other" (p. 7). Includes "Tables Indicating Methods of Maintaining Order and Redressing Wrongs in the Simpler Societies of Each Economic Grade" (e.g. Lower Hunters, Higher Hunters).

HOEBEL, E. A. 1954. *The Law of Primitive Man. A Study in Comparative Legal Dynamics*. Cambridge, Mass.: Harvard University Press.

By an anthropologist. Good 30-page summaries of law among Eskimo (Boas 1888, Hoebel 1941), Igugao (Barton 1919, 1930, 1935), Trobriand (Malinowski 1926), and Ashanti (Rattray 1929). Shorter summaries of Cheyenne (Llewellyn and Hoebel 1941), Comanche (Hoebel 1940), Kiowa (Richardson 1940), and others. Develops "postulation" approach to law. Includes unclassified, unannotated 300-title bibliography.

[KÖNIG, HERBERT. 1929. *Das Recht der Polarvölker*. *Anthropos* 24:687-664. [RS*]]

[LASCH, RICHARD. 1908. *Der Eid*. Studien und Forschungen zur Menschen- und Völkerkunde Bd. 5. Stuttgart. [RS*]]

[LE VINE, ROBERT A. Editor. 1961. *The Anthropology of Conflict*. *The Journal of Conflict Resolution*, Volume V, No. 1. Ten articles by anthropologists on the

- ethnography and social psychology of conflict. Societies discussed: Arusha (East Africa), South Indian peasants, Portuguese peasants, Morocco, Mossi (West Africa), Suku (Congo), Urban Zulu (South Africa), and Truk (Micronesia). General discussion by Le Vine, and discussion of cross-cultural research on ethnocentrism by Donald T. Campbell and Le Vine. [BC★]
- LIPS, EVA. 1958. Über die Erzwingbarkeit des Rechts bei Völkern mit aneignender Wirtschaftsform. *Ethnographisch-Archäologische Forschungen* 4:152-162. Asserts that people with classless societies have already a clearly defined body of law and effective enforcement mechanisms. Examples from Australia (hunters and gatherers), Eskimo (arctic hunters), Ojibwa (harvesting people), and prairie Indians. Of little use to ethnologists.
- [LIPS, JULIUS E. 1928. Die Anfänge des Rechts an Grund und Boden bei den Naturvölkern. *Festschrift für P. W. Schmidt*. Wien 485-494. First publication of the theory of "harvesting peoples" (Erntevölker), with legal significance of this type of economy.] [EL★]
- [———. 1938. Government. *General Anthropology*, Franz Boas. 487-534. Boston. Legal concepts in certain types of primitive economy.] [EL★]
- LOWIE, ROBERT H. 1928. On Corporeal Property in Primitive Society. *Yale Law Journal* 37:551-563. Examples of rights to incorporeal property drawn from research among Plains Indians and elsewhere. Similar in approach to Lowie (1920). By an anthropologist.
- . 1920/47a. "Property," in *Primitive Society*, ch. 9. New York: Liveright. "... concerned with the manner in which property is held and inherited and with the forms it assumes among primitive peoples;... how far do primitive tribes recognize individual ownership at all."
- . 1920/47. "Justice," in *Primitive Society*, ch. 14. New York: Liveright. "It has now been demonstrated to satiety that the majority of primitive communities recognize not merely wrongs inflicted by individuals upon individuals and precipitating a dispute between their respective kins, but that over and above the law of torts there is generally a law of crimes, of outrages resented not by a restricted group of relatives but by the entire community."
- . 1948. "Law," in *Social Organization*, ch. 7. New York: Rinehart. "The crucial issue is where mere custom ends and law begins. Following Llewellyn and Hoebel (Hoebel 1954), we may place the point at wherever somebody with communal approval or sanction does something about the breach of a norm" (p. 156).
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OUR READERS WRITE

(Continued from page 266)

appoint or chair a Board, or simply choose and train his successor directly. On the positive side, Associates argued that the present Editor's experience gives extra weight to his choice or, conversely, "the election of an Editor by inexperienced people can be disastrous" (Australia) and "I would oppose election of the Editor by a popularity poll of all Associates" (England).

One noticeable trend that has implications for the question of institutionalizing CA is the fact that of 47 Associates who favored the creation of some sort of CA Board, 27 mentioned it only as a means of nominating or electing a future Editor. Several explicitly recommended that such a Board be *ad hoc*, as well ("Any formal committee is a bad precedent for CA" U.S.A.). Of the other 20 (of whom 15 do not specify a function), only five felt that there should be a standing Board to advise the Editor on matters in which there was no clear consensus among Associates, to receive and investigate Associates' complaints, or simply to guard viewpoints different from the Editor's own. One U.S.A. Associate couched his general plea in terms well-calculated to appeal to other anthropologists.

At this point, perhaps, a Board need have no administrative or editorial duties. But *should* it be constituted in such a way that it is cut off from larger participation, if and when the needs arise? Let's be anthropological enough to accept that culture changes! Continuity, yes! . . . but also change.

On the general questions of institutionalization and routinization of CA, there were considerable differences of opinion among Associates. In many cases Associates argued from the same

premise to almost exactly opposite conclusions. That is, of 26 Associates who commented on this topic, all favored the continuation of the open-textured CA philosophy, but they saw the means to this in very different lights. Hence, on the one side, an English Associate wrote:

Sometimes anthropologists who are already part of an accepted and relatively numerous community—for example, in Western Europe and North America—do not realize the full value of CA to those who for one reason or another are cut off from the mainstream. I would oppose any change that altered its spirit and made it more like an ordinary journal. Consequently, I would support: (1) institutionalization of regular decision-making routines; and (2) continuing appeal to Associates' opinions, with some safeguards against a preponderance of Associates in any one country who may tend to slant CA policies towards those accepted in that country.

On the other side, a U.S.A. Associate wrote:

Keep CA a flexible means of communication among anthropologists; write no set rules for editorial policy. After all, the journal should be—as it is now—the journal of all Associates. Since CA is a community of individual scholars joined together because they have knowledge to interchange, there seems to be no need for a formal organization or charter. The bond that keeps together a group of scientists should be the free interchange of ideas, and this should not become a power struggle among nations or discipline.

However, although there is a substantive disagreement between these and other Associates, they are one in the spirit in which their comments are written. The Associates who favor some structuring of CA—usually stressing routines such as multiple refereeing of manuscripts and discussions

of policy in the Letter to Associates, rather than the writing of a charter or the establishment of a governing committee—are, nevertheless, very cautious about the matter. There is, then, a continuum from those who approve a few structural elements to those who prefer none at all—as witness comments like the following:

(1) I think that formal organization is necessary for a group as large as the body of Associates. However, defining that formal organization in such a way as to satisfy all Associates and still function will probably prove difficult (U.S.A.); (2) I think that CA should have the least amount of "organization" possible (Yugoslavia); (3) Minimal elements of institutionalizing certainly need attention, but let's not overdo it (U.S.A.); (4) I would suggest that the present modal operation be kept intact so far as possible, for it would seem the only way to ensure the continuation of an international community of scholars (France); (5) Most of the Associates would agree, I feel, that the less the degree of organization to carry on, the better (U.S.A.); (6) CA is often more interesting for its open-minded outlook than for its actual content. This could easily be destroyed by unnecessary "institutionalization" (Sudan); (7) I'm delighted with CA's unique lack of organization and suspect that much of its enormous value may lie in just this peculiar strength (U.S.A.).

As already noted, Associates seemed particularly wary of the establishment of a governing or advisory committee; although there were exceptions to this attitude. On the other hand, 21 Associates commented favorably on one or another of the editorial decision-making routines that are currently in practice, or approved the idea of carefully developed routines in general (characterized briefly on the inside front cover of CA). Opposed to these were three Associates who felt that the present system for electing new Associates does not solve the seemingly ever-present problems of political or personal "blackballing" and the need for clearer criteria of candidates' qualifications.