

## COMMUNICATIONS AND THE LAW OF EXTENDED APPLICATION

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Whenever a new approach to the solution of an old problem has appeared in history it has generally been regarded for a period of time as merely an extension of the old solution. That is, the potential of a basically new idea or development to reorganize and change the conception of the existing situation is seldom immediately recognized. This tendency can be seen in the building of the first automobiles as though they were carriages, indeed in the name "horseless carriage." Again, when the printing press was invented it was used almost exclusively for many years to simply continue the production of theological and classical treatises of medieval scholars. This proclivity to overlook for a time the real nature of change I shall call the Law of Extended Application.

On a grander scale, the workings of the Law can be seen in the rise of national Europe from the domination of the Church in the sixteenth and seventeenth centuries. With the increase of secularization and the consolidation of national power by national leaders, both kings and subjects, ruler and ruled, saw the right to rule as a divine one. With time, however, "divine right" was no longer necessary to justify the rule of the monarch. Perhaps the most interesting case of Extended Application is in the changing concepts of social organization in Western Europe. As noted above, the idea of religious control extended beyond the fact of religious control into the period of secular monarchy. By the eighteenth century, however, it had become unnecessary to base secular power on religious justification. Natural philosophy had developed a theory of Nature as deterministic and rational, and men such as Thomas Hobbes were finding government a necessary part of Nature.

Natural laws provided a new basis for government and state control, but with an important difference from a religious basis. No longer was relatively arbitrary autocratic power seen as a necessity, or acceptance of it as an obligation. Now governments were thought to be legitimate, among those who thought about it, only when they attempted to be rational, international, and enlightened. This is an important point. The interpreters of social organization became convinced that a society was correct and lasting only when it obeyed the laws of rational and progressive behavior. Social Control was natural and had to be practiced in accordance with natural laws.

In the midst of this generally deterministic outlook, a basic reorganization of society began. Increasing technological skills led to a movement of workers from the land to the factories and to the beginnings of specialization and a fundamentally new division of labor, in what is known as the Industrial Revolution. This occurred first in England, and thus it is there that the Law of Extended Application can be observed most clearly. The social philosophers saw quickly how their theories would and must apply to the new phenomena. Technological achievement was seen as a verification of the natural and progressive state of man. Above all, this technology must be left to act naturally, that is, rationally. To assure the best possible result, in fact the only decent result, technology and the economy must be left to work without interference, without control from outside. Thus the economy was also subject to natural laws. To a remarkable degree this doctrine was realized, "laissez-faire" was approximated for a time. That it did not lead to the expected best possible result, nor even to a particularly decent result, is illustrated by Karl Polanyi (1944) among others.

Soon Karl Marx developed a theory discarding the rationalistic, natural views of social organization, which he observed not to be working properly. He realized that a new element had been introduced into society, an interdependent economy which, being a construct, could

not be expected to obey natural laws; that would, in fact, follow its own logic. Thus it must be controlled by men. His theory, then, saw the economy as the basic fact of man's social life; economic laws must always determine and support social organization. After him others began to interpret society in terms of its economy, and though they saw it as obeying different laws, each agreed that it was the fundamental factor of the society. This idea of the primacy of the economy has grown in stature to the present, where government of and by the economic system is widely accepted and the various views of the good life are generally reflections of economic preference.

Indeed it would be hard, if not impossible, to challenge in a meaningful way the importance of the modern integrated economy to the conditions of social life and the entire social organization. But let us reflect. At each stage of social control the element which was to replace the prevalent view had not yet developed and thus the determining factor at the time was taken to be absolute. When religious control was firm there was no possibility of national power and control. As semi-arbitrary monarchs arose there was no possibility of leaders applying the as-yet-unknown rational laws of nature to society. But this possibility came about and was accordingly approximated to various degrees throughout Western Europe.

Now, when the economy of England and other countries underwent drastic changes in the late eighteenth and nineteenth centuries, the Law of Extended Application went into effect. These changes were interpreted as ones of degree rather than kind and thus perfectly capable of being analyzed and understood in terms of existing social theories. What the theorists failed to notice was that a basic, hitherto stable, element of social structure was changing in form. Up to that time, Europe's economy was generally one of subsistence based on self-contained family units fulfilling most or all of their own needs. Merchants and aristocracies existed above these units but strongly depended upon them.

In fact the entire social organization rested upon them; no other method for fulfilling economic necessities existed. While this was true, there was clearly no need for theories of social control to consider economic factors; they were constant. The theories were rather concerned with justifying social authority within a framework of what were possible alternatives: doctrine or heresy, secularization or theocracy, arbitrary personal power or rationality. But, as Marx noticed, when the economic conditions began to change, these possibilities were no longer the determining factors of social organization. They were all built upon the existence and stability of a certain form of economy, which was taken for granted. With the Industrial Revolution, the economy of a society was revealed as the substructure upon which social relations and organization must be based.

The question arises, then, is there another element inherent in society which has remained basically unchanged in the past and is even more fundamental to society and to social organization? And if there is, is its nature changing; and how will this change affect the prevalent social theories which, as in the case of the economy, were developed based upon a particular, stable form of this element in society?

Such a change is taking place in the area of communications. The nature of communications has been relatively stable in the past, undergoing only two or three real changes: the inventions of the phonetic alphabet, writing, and the printing press. Since the invention of the printing press in 1447 there has been little real change in the modes of communication until the present, when perhaps the most important change in terms of its effects has occurred. This change is the use of electricity in communications. The nature of the change due to electricity has been in two directions: the possibility of instant speed in communications, and, directly related to this, the possibility of uniform and even identical communications to large numbers of people.

A few examples might be pertinent. Television, radio, telephone, telegraph come immediately to mind when considering speed. Control of television and radio by three or four networks all with similar interests, control of newspapers and their stories by two or three chains and two or three news services, use of loudspeaker systems by speechmakers, businesses, schools, etc., all are relevant. Another use of electricity in communications, one that is just beginning to be noticed, is the development of elaborate, secretive listening devices capable of being concealed anywhere. All the uses of electricity in communications are not yet known, and the effects of those that are known are certainly not clearly understood. I would, however, like to indicate a few of the observable and imaginable results, after which I shall attempt to show, with a few examples, how these results may affect some economic theories of society.

All the effects I see are obvious, but they are not always noticed. First, the existence of centralized communications implies the possibility and even the necessity (in terms of volume) of centralized control of communications and thus of information. It is quite clear that, in matters of fact and often of logic, if no information is available except on one aspect of a subject, that aspect is universally considered as right and, if necessary strongly supported, especially if it is not known that information is being withheld. Thus it is possible and even natural that for those in control of centralized communications to use their position to gather support for favored policies. That this is presently being done in the United States, Russia, and China needs no elaboration. It might be pertinent, however, to point out that this has often been done in the past, but never with the efficiency and resultant credence of today. This use of communications serves to negate, among other things, the basic principles of democracy, a compromise based upon the rationality and best interests of the majority. There can be no use of rationality nor consideration of best interests if

decisions and support are founded upon incomplete and perhaps false information. However, there is an even more important effect of modern communications upon democracy which will be noted in a moment.

Consider now the case of an industry in the United States. When a union is not present the situation is somewhat as above. There is one source of communication and information, the management, though with the modification of possible but often restricted access to the national media. This situation obviously offers a potential for fairly tight control of the workers by the management. But here we see a case of the new methods of communication serving to limit control, for now the possibility of arbitrary action by the employer and the willingness of the workers to accept it is restricted to some degree by the prospective publicity available through the instant and mass media. In an article on the fight of southern industry to restrict union formation, Harry Golden notes, "The employers knew too that with modern television and radio communication, with the reporters from the national press roaming the region, the old hose-'em-down beat-'em-up technique would have to go overboard" (1966:16). With a union present, there are at least two conflicting local sources of communications and information, though the usefulness of the information available on points of contention is open to some question. In this situation centralization of information will tend to make issues seem clear-cut, black and white, but they will to some degree remain issues. Perhaps it is relevant here to simply imagine the uses to which secretive listening devices could be put by both management and union. We see then that the effect of centralized and mass communications seems to be that of simplification of issues and restriction of alternative possibilities, a combination generally accompanied by superficiality of analysis and strong, passionate convictions.

We have yet to consider the effect of the time factor, the fact that communications are now immediate. This has implications in both government and industry. It has led to the increasing use in both areas of what I shall call the Principle of Government by Self-Fulfilling Prophecy. There are clearly many times today when only a brief period is available after information is received in which to make decisions and to act. If action is hesitant or delayed, often the opportunity is gone or at least an advantage is lost. Thus decisions, which are generally vital, or else they could be postponed, are required to be made when the new information is perhaps incomplete, false, or exaggerated, when emotional reaction to it is highest, and when, perhaps, the men making the decisions are fatigued from other activity. Even if these factors are minimized, there is in these cases no time for reflection and generally no opportunity for significantly different views or opinions to be heard, since men with decision-making power usually gather around them other men of similar opinions. Apropos of this is a review in The New Republic of The Missile Crisis, by Elie Abel, a book concerned with the activities of President Kennedy and his staff during the Cuban crisis in 1962. The reviewer, Jeremy J. Stone (1966:28), notes the dilemma of "a President who--leadership demanding what it does--hardly could wait to reflect upon the dangers of as yet undrafted alternatives before choosing between the two postures available to him..." But primarily Mr. Stone is impressed by the lack of dialogue. "There is first and foremost the willingness to risk all on the basis of arguments uncontaminated by serious and sustained criticism. In this, the participants convict themselves by their own testimony." An example of acting upon inaccurate and uncriticized information would seem to be the decision to invade the Dominican Republic in April, 1965. As J. N. Goodsell, Latin American correspondent for The Christian Science Monitor, reports in The New Republic (1966:29-30), "Indeed, one suspects that Washington acted without really knowing what was happening

in Santo Domingo on those tragic days in late April." Ted Szulc of The New York Times agrees: "I am inclined to conclude that the original error of the United States was to misjudge the nature of the rebellion, largely because of the inability of the United States diplomats in Santo Domingo to understand the forces at play." This type of situation clearly prevents any but the most theoretical democratic or even representative participation in government decision-making. And there are clearly situations in which a similar requirement for speed would strongly affect decision-making in business and industry.

But perhaps even more insidious than this necessity for haste is the fact that, after the forced decision is made, the entire governed body seems obliged to justify and defend it; thus it becomes policy. In an article on cognitive dissonance, Dr. Leon Festinger presents studies which verify his statement that "Any time a person has information or an opinion which considered by itself would lead him not to engage in some action, then this information or opinion is dissonant with having engaged in the action. When such dissonance exists, the person will try to reduce it either by changing his actions or by changing his beliefs and opinions. If he cannot change the action, opinion change will ensue" (Schramm 1963:18-19). Thus it seems the leaders and consequently a large part of the governed body will find themselves supporting and believing in policy based upon quick decisions and sketchy information rather than reflection and dialogue. Here we begin to see the workings of the Principle of Government by Self-Fulfilling Prophecy. For in addition to this predilection of men to believe in their actions, speed in communications is having the effect of forcing those who are affected by the decisions of others to take actions which will substantiate and justify those decisions. That is, the situation which a leader either believes or desires to be real will often become real because of his decision. This is also an old phenomenon, but never has its application to government been so intense and



immediate as today. Thus it seems we are approaching a time when a leader or leaders can make no "wrong" decisions, only, perhaps, fatal ones. A governed body will have no knowledge of practical alternatives and thus little choice but to support their leaders who are reacting properly to external circumstance, which, perhaps, they help to create. The most obvious example of this is an arms race, but after the Dominican intervention, as Mr. Goodsell observes, "...if the Communists took on new importance in the rebel cause...they did so because they assumed the role of being the only 'friends' of Dominican democracy" (1966:30).

Now let me turn briefly to various effects this development in communications may have on some economy-based theories of social organization. The conflict Marx sees as inherent between workers and management is minimal if not absent when the nation or industry is perceived to be in a state of crisis or threat. Thus, in The New Society, a study of modern industry, Peter Drucker observes that during World War II

War production in many cases...meant little change in the worker's actual operation. . . .But it meant a complete change in the meaning and purpose of the work; the same humdrum routine job was suddenly vitally important to the national effort. The worker suddenly saw that there could be pride in the work, that the job could have meaning. [However, after the war]...the meaning had gone out of the work. The result was a letdown, a deep feeling of frustration and dissatisfaction. (1949:179)

Drucker concludes that this letdown was one of the major factors leading to the "wave of postwar strikes." With the immanent perfection of centralized control of information and government by self-fulfilling prophecy, it was possible to create a constant and pervasive state of crisis, as is presently being done in China, and to some extent in the United States. In this situation economic factors must depend upon the use of the communication media. (In the development of China, by the way, it would seem that the important and fundamentally new phenomena

are the controlled uses of communications, not the form and use of the economy.) Another question which arises here concerns the effectiveness of mass communications in making people accept the necessity and justice of distinct social and economic differences. These differences were accepted by feudal Europe and by the inhabitants of Aldous Huxley's Brave New World. That this can be done by mass communications is now evident, though no consistent modern attempt has been made that I know of. To the extent that it is possible, it will necessitate a new look at theories of social conflict.

One more example. In The Great Transformation Karl Polanyi argues strongly in favor of a controlled market economy. Most of the argument is not relevant here, but we should consider his description of the effects on rural England of a system known as "Speenhamland." Speenhamland was begun in 1795 and lasted thirty-nine years. Under it the poor of England were guaranteed an allowance rate, an income, whether they worked or not. "In the long run the result was ghastly. . . .But for the protracted effects of the allowance system, it would be impossible to explain the human and social degradation of early capitalism" (1944:80). Although the rates were very low, he sees as the main fault of this system the destruction of an individual's respect for himself and his own ability:

Speenhamland precipitated a social catastrophe. . . .It was not that [the laborer] was paid too little, or even that he labored too long...but that he was now existing under physical conditions which denied the human shape of life. . . .Unless he was able to make a living by his own labor, he was not a worker but a pauper. To reduce him artificially to such a condition was the supreme abomination of Speenhamland. (1944:98,99)

Polanyi seems to imply that a similar plan would have similar effects today. Perhaps it would. However, the authors of The Triple Revolution do not think so. In a memorandum sent to the President of the United States in 1964, the Ad Hoc Committee on the Triple Revolution first

points out various deleterious effects of cybernation upon individuals.

The authors continue (1964:13):

Because of cybernation, society no longer needs to impose repetitive and meaningless (because unnecessary) toil upon the individual. Society can now let the citizen free to make his own choice of occupation and vocation from a wide range of activities not now fostered by our value system and our accepted modes of "work"...The economy of abundance can sustain all citizens in comfort and economic security whether or not they engage in what is commonly reckoned as work...We urge, therefore, that society, through its appropriate legal and governmental institutions, undertake an unqualified commitment to provide every individual and every family with an adequate income as a matter of right.

They recognize the danger seen by Polanyi and consider a period of transition to new values. "But major change must be made in our attitudes and institutions in the foreseeable future....Cybernation itself provides the resources and tools that are needed to ensure minimum hardship during the transition process" (1964:13). Chief among these resources, it seems, would be the mass communication media with their enormous educational properties. They can effectively work to change the values of society from pride in work for income to pride in work for personal fulfillment and social needs, thus releasing the individual from the necessity of economic dependence and subjection.

There is another aspect of communications which has become the subject of some controversy with the publication of Understanding Media by Marshall McLuhan. Mr. McLuhan is concerned with the psychic effects of media, particularly electronic media, which he sees as far more important than the message or content of the media. Simply put, he sees print and a literate tradition as having a fragmenting, linear effect, resulting in increased individualism, detribalization, and appreciation of games like baseball. Electronic media and especially television, on the other hand, create a feeling of involvement, participation, a view of the instant rather than the future, of configurations rather

than fragments. Thus they lead to an appreciation of games like football. McLuhan is not concerned with the possibility of standardized information on a conscious level across society. Rather the primary effects of electric media are on an unconscious level and lead to a retribalization of Western society. Each individual becomes more involved in his society and less capable of detachment. Though the process is different, the effect is similar to establishing the oral tradition of pre-literate societies. "Oral cultures act and react at the same time...[Literate] culture endows men with the means of repressing their feelings and emotions when engaged in action" (McLuhan 1965:86). Electric media undermine this ability to remain separate and uninvolved (1965:247).

The separation of functions, and the division of stages, spaces, and tasks are characteristic of literate and visual society and of the Western world. These divisions tend to dissolve through the action of the instant and organic interrelations of electricity. . . .The tendency of electric media is to create a kind of organic interdependence among all the institutions of society...

These are interesting and, I feel, significant ideas. The possibility of a reestablishment of societal norms through electronic media is intriguing and worthy of consideration. Ralph Linton in The Study of Man (1936) sees the breakdown of community in modern urban society as the result of a myriad of possible personal views of life together with the difficulty of contact between those of similar views. He, of course, also sees other factors. But perhaps television can create similar views throughout the country, or the world, by means of standardized information on a conscious level and standardized attitudes on a psychic, unconscious level. If so, increased contact and perhaps a "modern community," a community of millions, will result.

Closely related to this is the question of art. In a society each art medium reinforces and encourages attitudes in the people which are inherent in the medium and thus necessary for an appreciation of it.

That is, the recognizable "national character" of a country will generally reflect the values and attitudes ingrained in the predominant art forms of the country. What then of television? It is without question a national art form in America, along with musical comedies. It seems destined also to establish itself in most of the rest of the world. What are its values? What attitudes will it reinforce? Some seem to be obvious so far: simplification of issues, superficiality of analysis, stereotyping, negation of individual initiative and independence, inactivity, inhibition of person-to-person communication and involvement, and great reinforcement of the norm. More generally, television seems to require to some extent the surrendering of personal identity, a blending with a median collective identity. This could be a good example, however, of superficiality of analysis. The effects of television as an art form are not generally understood. As McLuhan points out, the deep concern of many of the young generation, the first generation raised on television, with social conditions is remarkable, particularly when contrasted with the previous generation and its primary concern with stabilizing the future. The "hippies," the New Left, the civil rights movement, all could be examples of how electric media and particularly television have weakened the desire for individualism in the young and strengthened a feeling of community and involvement in society. These movements could, of course, be primarily the result of general economic affluence, but this explanation is too simple, I feel, and does not account for the deep passions which are often and easily aroused.

There is no simple answer to the problem presented to society by modern communications. Let me sum up by repeating my concern that we are at present overworking the Law of Extended Application. There has been a basic change in the structure of society which is going largely unnoticed, especially by social thinkers. The validity of theories based on economic factors is being challenged, I believe, for it is becoming possible to broadly influence attitudes and acceptance of

conditions on a large scale. It is somewhat analogous to physics, where modern techniques have demonstrated the inadequacy of many classical theories by revealing a vast sub-layer of particles and reactions, which must to some degree be given primary and causal consideration. I'm not sure that complete understanding and effective use of modern communications are events to be welcomed. Perhaps they are incompatible with the Western idea of individual man. But the increased use of electronic media is inevitable, and hence many social consequences are inevitable. We may survive these consequences, I believe, only if a serious effort is made to replace trial and error as the primary method of understanding their causes.

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I have paused long over this review of the second volume of Professor Gluckman's trilogy on the legal activities of the Barotse, faced with an immense difficulty of determining why a book that has so many good things in it is nevertheless so numbing. The reason is not in the data, which everyone knows to be very fine. It is, rather, in the method, which Gluckman--somewhat capriciously, and it seems to me eccentrically--labels "comparative," and also in what Hoebel (1954) would call the "postulates" (most of them unspoken) and the derived guices to action that he would call "corollaries," which lie behind the overt analysis.

The book adds comparatively little data on Barotse legal culture and no cases beyond those already published in Gluckman's first volume Judicial Process among the Barotse (1955), but draws extensively on the case material in that earlier book. The main aim of the present book is to refine the interpretation and to set it into the context of the discipline of English jurisprudence. The main new material is a fascinating discussion of political power and crimes against the state which is, I believe, unique in the literature of anthropology. There are chapters on land, chattels, ownership, contract, tort, and on obligation and debt. In all of these areas, Gluckman has thought through his former positions more deeply. Except for relatively minor matters, however, there is little that is new about the Barotse and much that is new about the jurisprudential context. Gluckman is particularly concerned that Barotse ideas and actions that differ from those of the

West be explained fully in terms of social structure, and the sections in which he achieves this end--particularly his discussion of land and treason--are by far the best in the book.

This book is an expansion of Gluckman's Storrs Lectures at the Yale Law School. In an early passage he says, "If the lawyers concentrate on my anthropology, and the anthropologists on my law, I may possibly say something new to everyone" (xiv). Without wishing to hold against him an introductory bon mot designed to win rapport with a lecture audience, I nevertheless think that that statement holds the key to the problem. However, he goes on to say, "I write as an anthropologist. . . ." Therefore, his book should be judged as anthropology. Doing so immediately takes one into the thorny every-man's land of interplay between anthropology and any other established discipline.

Gluckman deals with the interdisciplinary problems of law and anthropology under the rubric "comparison." If one goes back to The Judicial Process one finds a chapter (VII) called "Some Comparative Implications of the Lozi Judicial Process." In that chapter, there is almost nothing that is cross-cultural, which is what most anthropologists mean by "comparative." Rather, the chapter is interdisciplinary: an examination of jurisprudential writers and the way some of their problems can be illuminated by Lozi material. In the new book, Gluckman adds cross-cultural material, still under the rubric "comparative." Part of the interest in the discussion of political power and treason, which I have already praised, stems from the fact that over half of the passage deals not with the Lozi at all, but with medieval Europe. In many other parts of the book, Gluckman does the same sort of thing: explains his Lozi material by going to information and analyses from other cultures.

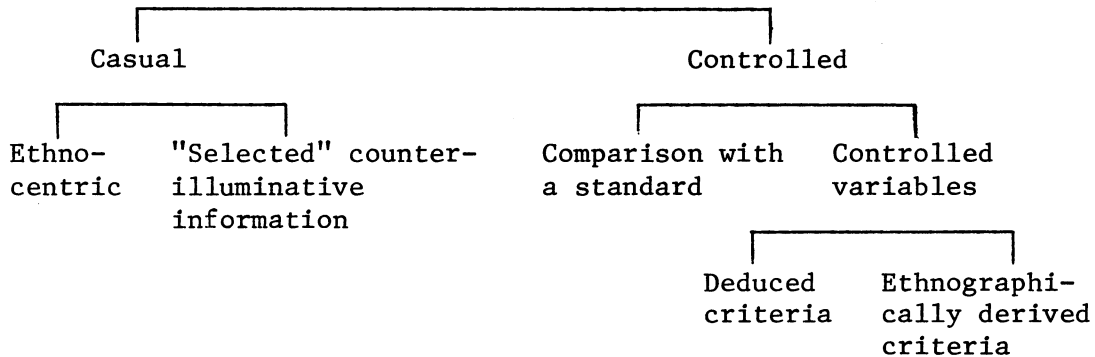
Obviously none of us can object to taking one's illuminative material from wherever it may arise. But we do have to be careful to explain just what examples we took, whether there are negative instances, and what our transcendent aim may be.



Perhaps the question at stake is this: what is the role of comparison in analyzing a single society and culture? The vocabulary of ethnography differs markedly from the vocabulary of cross-cultural comparison. In describing the institutions of one society, the analyst must find "technical terms" that expose and explore the association of "factual" items into institutions and the principles on which those institutions are welded into more comprehensive patterns of interaction and culture. The method of cross-cultural comparison, on the other hand, must find what the late Franz Baermann Steiner called "terms of interstructural reference"--words delineating aspects of behavior and institutions that conform to definitions and hence allow model building independent of, but not incongruent with, social action. The term "exogamy," he was fond of pointing out, is almost useless in the descriptive ethnography of a single tribe. But the terms of that tribe for discussing incest regulations and exogamic practices would not, in themselves, be adequate for a generalized hypothesis.

In order to address the question of comparison it is necessary first to separate the interdisciplinary from the cross-cultural (or else overtly treat the other disciplines as separate cultures), and then to examine the use of cross-cultural material. Like many another social anthropologist might, I have come up with a "genealogy." Like most genealogies, it is complete enough for my purpose, but certainly not for any more refined, or even different, purpose. It can be refined or changed by any of my colleagues with "power" to make their versions stick.

## COMPARISON ACROSS CULTURES



There are two fundamental types of comparison. I have called them "casual" and "controlled" comparison. Casual comparison is inserted by a writer in order to aid his reader in adjusting the ethnography at hand to the vicissitudes either of the readers' own culture or other ethnography he already knows. There are two modes of casual comparison. One I have called "ethnocentric" if the comparative examples are taken only from the culture of the writer and reader. The other I have called "selected counterilluminative information," because it is chosen out of a very wide range of possible ethnography specifically because it illuminates the case in hand. This latter is the type of comparison Gluckman has done in the section on treason.

"Controlled" comparison is more complex, and for purposes of the present exposition, I have oversimplified it into two sorts. The simplest form is comparison with a standard, extrinsic to the particular culture in hand. The source of this standard is of considerable moment insofar as the better it is chosen, the farther one can go before bogging down. However, bogging down is, I think, the inevitable end. Ultimately one can only say that something is or is not like something else--that helps, but is limited.

The other is the method of controlled variables. These variables may either be derived from a "mass-theory" such as the Outline of

Cultural Materials trait list, or they can be carefully selected and refined in the variation of this method that Eggan has called "controlled comparison." The criteria for comparison may be either deduced or they may be ethnographically derived. Again, to overstate for purposes of exposition, "deduced" criteria are a priori. The mode of "ethnographic derivation," on the other hand, is one that is similar to the linguist's mode of determining phonemes in any language: if there is a difference in meaning in two sounds, there are two phonemes and hence a legitimate distinction. The "ethnographically derived criteria" are all the legitimate distinctions that are made in the cultures of the sample--they will not all be ethnographically relevant in all situations, although these distinctions may sometimes be instructive by their very ethnographic absence. Therefore, the "bank" of distinctions is constantly enriched by ethnography, and ultimately it must be simplified and arranged and theorized about by students of cross-cultural comparison. This category of "ethnographically derived criteria" resembles what might be called, in presently fashionable lingo, "comparative ethno-science." It is the sort of thing that Goodenough is doing with residence patterns, and the sort of thing that Lévi-Strauss began (but did not finish) in Les structures élémentaires de la parenté (he too early turned one brilliantly delineated model into his standard--that of kinship based on a model of economic reciprocity--never getting to the other modes of economic distribution [redistribution and market] which also obviously function in the kinship sphere).

Now, my objection to Gluckman's "comparative" is that he swings uneasily between what I have called the "single standard" and what I have called "selected counterilluminative information." With the first he lays himself open to the possible charge of imprinting an a priori set of categories and concepts; with the second he lays himself open to the charge of selecting only the positive cases. Both may be unjust--but we are not sure.

Secondly, I want to examine two of the "postulates" on which Gluckman works. This word was introduced into legal anthropology by E. A. Hoebel, who derives the axioms of fundamental values and beliefs from examination of the way people settle their trouble cases. Hoebel then shows that each "postulate" leads to a set of corollaries, which are more or less overt propositions about what ought to be done in that society, including the requirements of the jurists.

I find that Gluckman's primary postulate is that all men are morally equal. At the end of The Judicial Process, he wrote, "I am delighted in every way that this report bears witness to some similarities in social life everywhere, and to the basic similarity of all human beings in very varied conditions" (318). I applaud the moral position, and would not dream of not holding it myself. But it seems to me that there is a "lurking corollary:" dissimilarities are inequalities. If that is the case, we may not examine those very things that are in fact dissimilar. I am not merely plugging for differences over similarities. I am saying something more positive than that--this moral postulate all but inevitably leads to corollaries that cripple inquiry.

The second postulate is that all legal ideas can be expressed in any language. I think this is correct, but one must be very careful of the corollaries to which it is allowed to lead. Gluckman shows that it is possible to translate some English legal ideas into Lozi (and, in another section, into Tiv). Of course it is. But to do so is, if I may put it so, to take up a "blind corollary" that leads nowhere. It is necessary to translate Lozi ideas into English, not to show that it can be done but to communicate these ideas to English-speaking colleagues.

Surely the better corollary would be that every (legal) system may have distinctions that might be taken into a theoretical set of such distinctions and systematically applied (under the method of "controlled comparison by ethnographically derived criteria" above) to examine other systems, whether those systems exhibit these distinctions or not. This,

too, is translation: but it is always translation from the "native language" into the "analytical language." We have now arrived at the heart of the difficulty I find in Gluckman's work: his tendency both in this book and in The Judicial Process to translate "backwards," by starting with the English rather than with Lozi. I do not question that his translations are accurate. I merely think that he obscures the Lozi distinctions and meanings by going in the wrong direction--and translation is not a two-way street. I am on dangerous ground here, I realize, for this may be no more than a method of exposition. But if that is the case, it is a weak method of exposition. I do not find in either book that the interpretations of Lozi material grow out of the very fine Lozi data; rather, they are contentions taken from English jurisprudence that are supported for the Lozi as well.

And that leads me back to Gluckman's statement with which I opened this review. In both his books the method of the judge is in conflict with that of the social scientist. This point is much more in evidence in The Ideas in Barotse Jurisprudence than in the earlier book, but nevertheless it is constant. The difference between science and law is that science must be consistent with itself. Law, on the other hand, need not be--it must be more or less consistent with an external standard. The judge's opinion is reasoned fundamentally on the basis of analogy to the accepted standard, taking the very best authority (whatever that may be) to support a decision: in behavioral science, this procedure leads precisely to the shortcomings noted above. The scientific method of exposition (no matter, at the moment, just how ideas are "hatched") is a matter of pointing out and documenting, not by analogy, but by induction and deduction (and, in anthropology, as we all know, deduction is a very dangerous game when one changes cultures between the induction and the deduction). It tests hypotheses rather than supporting positions.

This book is a brilliant set of judge's opinions. The enviable erudition is manifest on every page. But, by his postulates and his method, Gluckman unnecessarily curtails his contribution to anthropology.

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