

Reflections on

# POWER



Alan Macfarlane

Dedicated to the students who attended my lectures and to those whom I have had the privilege of supervising and learning so much from over the years.

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# Preface

This is one in a series of short books reflecting on issues which have interested me through my adult life. At school I did not think explicitly about power, though I was of course subjected to power and increasingly exercised it in various ways. At University I learnt mostly political history, but found it rather dull as I had never experienced much of what I was reading about. I did, however, greatly enjoy the paper on political philosophy – Aristotle, Hobbes, Rousseau and Marx.

It was really only when I began to study anthropology, and particularly when I began to be involved in political decision making as a member of boards and committees and running organizations as a teacher at Cambridge University that I began to appreciate the subject. I did not teach much in the field of political anthropology, but was concerned with legal anthropology and the history of violence, building on earlier work on the history of witchcraft.

In the 1990's I made a study of a number of great theorists who had worked on power, from Montesquieu and Tocqueville through to Fukuzawa and Maitland. I also travelled more widely beyond Nepal, to Japan and later to China, and experienced different kinds of political system in action.

My reflections on power were crystallized when I decided in 2003 to try to explain what I had learnt in my forty years as an historian and anthropologist to my grand-daughter. I wrote a number of letters to Lily, imagined to be about 18 years old, explaining what I thought on such questions as Violence, War, Democracy and Justice. These letters were published in 2005 as *Letters to Lily*. Recently I decided to read them out and film them and these readings are included below.

In the year *Lily* was published, I was asked to give a set of four lectures for first-year students at Cambridge University who were starting either on the social and political science or archaeology and anthropology degree. This was my first attempt to lecture directly on power and I decided to use the occasion to reflect and summarize what I had learnt over a period of teaching and researching on issues of power and its uses.

I assumed that my audience could be interested but that most of them, like me when I was eighteen, might not have considered these issues very explicitly in their previous schooling. So I tried to keep the level suitable for very bright, but as yet untaught, young people.

The lectures covered four main areas or themes. Here is the rough plan when I set out to write them over Christmas 2005.

**A first rough plan for four part 1 political anthropology lectures 15/12/05**

**Lecture 1: a map of the territory: some tools for the job**

What is politics, what is power? Politics and politics.

The general theories of political theorists: key concepts from Aristotle to Foucault, by way of anthropologists

Some key terms and ideas explained further

The four major systems: uncentralized – bands and tribes, centralized, states and chiefdoms and how they work roughly.

The reasons for transition to the State.

Major state systems in the world – aristocracy, democracy, communism etc.

**Lecture 2: nations and violence**

The nature of the nation and theories of nationalism

How the nation imagines itself – symbolism and ideology

Warfare and violence: feuding and war

**Lecture 3: law and order – types of legal system in the world**

Legal settlements in societies without a State

Inquisitorial and confrontational legal systems

Judges, juries, rule of law etc. etc.

**Lecture 4: the State and the individual – threats and counter-threats**

The rings of threat:

(war), bandits, mafia, heretics/terrorists, civil society

\*

The lectures were filmed by Zilan Wang and have been roughly edited by myself. They were given as part of a series of eight lectures (the other four were on economic anthropology).

I received back 101 questionnaires after the lectures, ranking the lectures in terms of Interest and Presentation on a four-point scale. Here is my brief summary of the comments sent to the Department.

“This was the first year of doing the 4 on politics (as well as 4 on economics last year). I think it went well and I certainly enjoyed giving them. The numerical ratings were:

*Interest:* Excellent (4) – 81; Good (3) – 18; Reasonable (2) – 2

*Presentation:* Excellent (4) – 91; Good (3) – 10

The students, as ever, particularly liked the level, the plan on the board, a short rest after 40 minutes. It was my first full use of a website behind the lectures and both from the very enthusiastic comments and the hundreds of ‘hits’ this seems to have been a good resources. The superlatives were perhaps higher than I have ever had. I look forward to next year! No real complaints repeated by more than one student, except two who said it was too fast, and one who said it was too slow.”

\*

It should be noted that the lecture notes are rough and unchecked. There are allusions to authors which are not fully documented. Thanks to the Internet it should be possible to follow up the references. For those who want to see the edition of the book I took the materials from, there is a catalogue of my library at:

<http://www.alanmacfarlane.com/FILES/library.htm>

The basic readings I suggested to go with the lectures will become dated. But they may still be a useful start for those wanting to follow up some of the ideas in the lectures.

\*

Because I was lecturing in a new lecture room which had internet connections, I experimented with the idea of incorporating films and other materials into the lectures. I always allowed a five minute break in my lectures, and used this to show materials from my website, [www.alanmacfarlane.com](http://www.alanmacfarlane.com)

To give an idea of this experiment, and a few examples of other people talking about power and violence, and a few of the technologies of war, I have included at the end a few films which were taken as part of six part television documentary series broadcast in 2000. This was filmed in 1999 as background to the Millenium series 'The Day the World Took Off', made for Channel 4 by Windfall Films. I was an advisor and presenter in the series. The films are included with the kind permission of David Dugan, the Chairman of Windfall Films, and of Simon Schaffer and Christopher Cullen, who appear in the films.

\*

Two final points. The lectures and book for Lily were written within a couple of years of each other. So there is some overlap, and I used some parts of the book in my lectures, as will be seen.

Secondly, the letters were written at a time when the Iraq and Afghanistan invasion had fairly recently happened and the rhetoric about the 'war on terror' was at its most high-pitched and contentious. This context, and other contemporary references in the lectures to the world which the students were experiencing in 2005/6 should be remembered. Ten years is a long time in the history of the world, and if I were giving the lectures now I would clearly not say all of the same things.

# PART ONE

## SOME LETTERS TO LILY

The original letters are contained in my book *Letters to Lily; On How the World Works* (Profile, 2005). Here I have added the questions which I put to myself in writing the letters, as I thought I might have asked when I was aged about eighteen, put into the voice of my grand-daughter Lily. My answer is in the filmed reading of the letter.



# Is violence necessary?



<http://downloads.sms.cam.ac.uk/1377536/1377541.m4v>

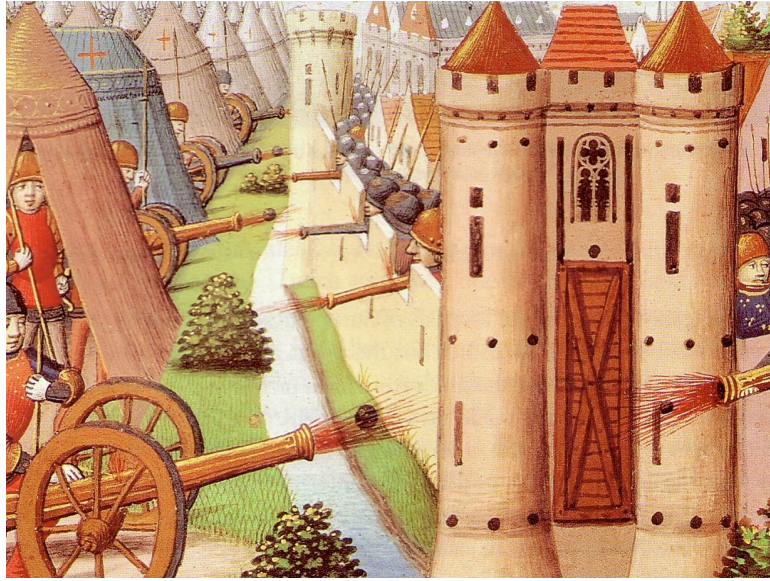
*We're constantly being told to be loving, to turn the other cheek, that humans are kindly. Yet you just have to turn on the television or open a paper and the catalogue of wife beatings, child abuse, rapes, murders, cruelty to animals and all sorts of acts of violence seem endless. Why are we so very violent?*

*And come to that, what is violence? If I kick my sister that is 'violence', but if I push her in certain games we don't think of it as violence. Is violence just physical? When the mafia threaten people, is that violence? If a man comes home drunk and curses his wife, is that violence? Can we, as I've heard, even call certain kinds of music, architecture or even speech – for instance what*

*happened at Hitler's rallies with all those dreadful marches and songs and flags, - a form of violence?*

*From your experience of what you tell me was once a very peaceful society in Nepal, but is now filled with fighting, as well as all your other travels and reading, could you explain some of the patterns behind much of what seems random and pointless? Then I could perhaps face it all better.*

## What is war and why do we fight?



<http://downloads.sms.cam.ac.uk/1377553/1377558.m4v>

*The world seems awash with wars. Not world wars, perhaps, but nasty little brutish wars where people are maimed and killed, precious resources destroyed, hatreds sown. Why do we, as a species, fight so much? I do wish I could see the patterns which lie behind a history of blood and vengeance which stretches back in my history books to the earliest Empires and before.*

*Much of the most awful bloodshed seems to come out of something which I feel is different from regular wars. It seems nearer to what I've heard called 'feuding', such as what is happening in Israel and Palestine, Kashmir, Sri Lanka, many parts of Africa. Are these really feuds and, if so, what is a feud?*

*It's obvious that there are many kinds of war – conquest, booty, revenge, fear, greed, all sorts of motives seem to be there. Some warfare seems to be like a game, with rules and prizes just like a violent sport. Other wars seem to be about religion and spiritual things, whether seizing the magical power of others (head-hunting) or spreading one's beliefs (crusades).*

*It seems to me that you might be able to help me make sense of some of this awful activity if you could stand back and give me a wide (war in lots of types of society) and deep (war patterns over thousands of years) account. Then perhaps the next time my country asks for my support in war, or war panics are spreading, I'll be better able to decide what to think and do. Please help me to understand the horrors of war.*



## Who are the terrorists?



<http://downloads.sms.cam.ac.uk/1377587/1377592.m4v>

*Who are the terrorists? I mean, if a terrorist is someone who makes people feel extreme fear or terror, surely a person or government which unnecessarily whips up extreme fear can just as fairly be called 'terrorist', or at least 'terrorizing', as those who are opposed to the government and let off bombs?*

*Also, it seems to me that terrorism is very much in the eyes of the beholder. When the early Zionists in Israel bombed the British they were called terrorists – until they came to power and became heroes. Likewise with the leaders of the African*

*National Congress, most notably Nelson Mandela. Overnight his release turned him from terrorist to freedom fighter. I've heard of numerous examples.*

*So I'd like you to explain what terrorism is and why, as far as I know, we are engaged for the first time in history in a 'war on terrorism'.*

*Or is it the first time? Were there such wars in the twentieth century? Are there similarities between this war and the earlier wars of 'civilized peoples' against heretics, Jews, witches, communists and others? How do such moral panics, if that is what they are, work?*

*Could you also explain the ways in which changing the laws influences what we find and what other effects spreading a terror of terrorism has. Surely there must be various different ways of reacting to those whom we judge to be threatening our way of life?*

## How well does Democracy work?



<http://downloads.sms.cam.ac.uk/1377703/1377708.m4v>

*You often remind me that when I first came across the word 'Democracy' I pronounced it 'Demo-Crazy'. Maybe I was right! It does still seem to me a little crazy. But I'll be voting soon and I'd really appreciate it if you could explain simply what it is about.*

*What does the word mean? Why is democracy (according to some people) so important? Where did democracy come from?*

*Perhaps you could explain how it is that a system which hands over power for four or more years to a bunch of people who often seem to forget why we voted for them or listen to what we say is so great? I heard someone joke that it is the worst of all*

*possible systems – except for the rest, which are even worse. Is that all that can be said for it? Is it a bit like the cautionary tale you used to read to me about the boy eaten by a lion in the zoo:*

*‘But always keep a hold of nurse,  
For fear of finding something worse’*

*There are lots of things I’d like to know. What is meant by the ‘tyranny of the majority’? What happens when democracies are threatened.? What makes them collapse? Can democracy last? Why has England been so important in the development of democracy?*



## Where does freedom come from?



<http://downloads.sms.cam.ac.uk/1377728/1377733.m4v>

*Where does freedom come from? Indeed, what is freedom? Is it the same as liberty? Is it a universal human right, or just an accident that occurs by chance in certain societies? Should we force people to be free, even if they don't wish to be? And will free individuals and free societies continue long into the future?*

*There are so many questions here which I've never really thought about, but now start to intrigue me. Perhaps it is partly because a whole heap of large civilizations which were closed before are trying to make a go of freedom, the former Soviet Union and Eastern Europe, China and a number of dictatorships. They look to our traditions. But when they ask us*

to explain what our freedom means, what it is upheld by, where it came from, then I am really not able to say much.

I'm also interested because I'm just reaching the age of freedom – from my parents and from school. I'll soon be able to vote and make certain legal contracts. What do these freedoms mean?

It seems that freedom give us the right to do things, but does it also bring responsibilities? And is freedom only possible if there are also rules and constraints?

People often tell me that freedom of speech, of rights to join with others, are very important and somehow linked to something people talk a lot about nowadays called 'civil society'. What is this? And how did it emerge and is it really important?

## What is bureaucracy for?



<http://downloads.sms.cam.ac.uk/1377753/1377758.m4v>

*I find it odd how much time I seem to spend taking exams, filling in forms and going to meetings. Why do I have to do all this? And why are there so many people around just organizing other people to do things? Surely we don't need all these petty rules and regulations interfering in our lives, do we? What is this all about?*

*Anyway, it's an odd word 'bureaucracy'. Where does it come from?*

*Why does the amount of paperwork and clip-board people seem constantly to expand? And in the face of this rising tide what can I do to preserve my time and freedom?*

*Why am I constantly being asked to account for everything, to 'audit' my life, to make everything transparent so that people can check on everything, inspect everything as if they didn't trust me? Why are there constant exams and tests? And why are there so many people warning us of risks and trying to stop us doing anything adventurous?*

*Could you explain this as I seem to be growing up in a world where we are in danger of drowning in rules and meetings. Could you show me what parts of bureaucracy are necessary and useful, which are like a spreading disease.*

*This might help me to keep some freedom amidst the red tape. I might avoid the prying eyes of suspicious and officious people constantly dedicated to close me in an 'iron cage' (a nice phrase I heard on the radio – someone called Weber said it I think).*

# How do we get justice?



<http://downloads.sms.cam.ac.uk/1377778/1377783.m4v>

*How can we find a way to settle our disputes fairly? Is there a difference between law and justice? Is justice and the judicial process the same everywhere in the world? Where did our well known system of English Law come from?*

*You may be surprised that I'm asking you these rather abstract questions, but I've begun to realize two things. The first is how very important our legal system is for our sense of security and freedom. The second is that I am abysmally ignorant about the basic principles of how our system works. When visitors from other countries ask me what the 'rule of law'*

*means, or why juries are so important, or whether the English have ever included torture in their legal procedures, I haven't a clue.*

*Surely the way we face the constant conflicts in our society – between people, between people and governments, about ideas and ideologies – should be really interesting? After all, detective stories and even legal series on TV can be really gripping. So it should be possible for you to explain my legal world and how it differs from those in other societies in a way which is both comprehensible and not dull.*

# PART TWO

## FOUR LECTURES ON POWER

A sociological and historical overview given in a series of lectures to first year students at Cambridge University in January 2006.

### Preliminary readings

Christopher Hann, *Social Anthropology* (1998) , chaps. 10-14

David Nugent and Joan Vincent (eds.), *A Companion to the Anthropology of Politics* (2004)

John Gledhill, *Anthropological Perspectives on Politics* (1994)

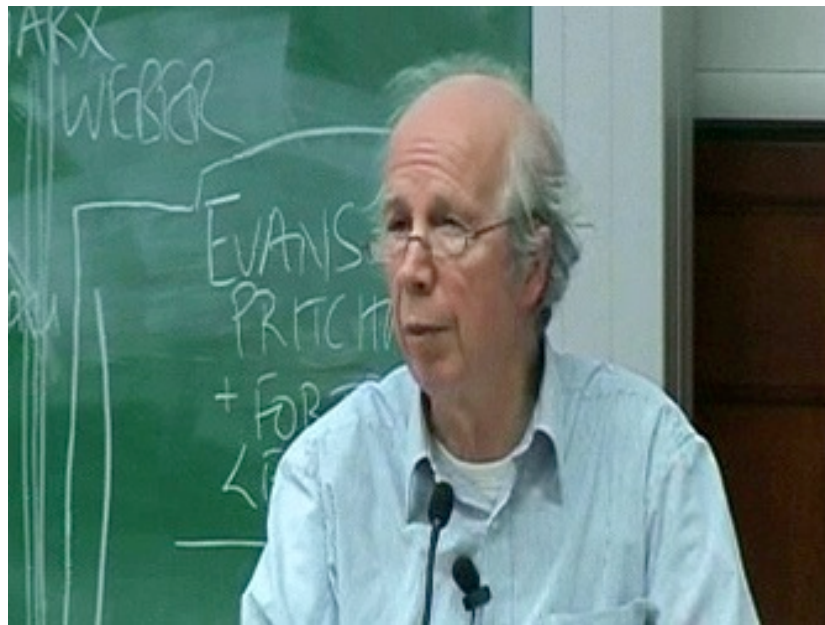
Simon Roberts, *Order and Dispute* (1979)

For specific topics it is almost always worth starting with *The Encyclopaedia of the Social Sciences* (1968). Also there are some useful articles in Tim Ingold (ed), *The Companion Encyclopaedia of Anthropology* (1994).



# 1 (a) Theories of power (b) the State

A broad view of political systems in all of human history; the state and systems of law; a genealogy of political theory from Aristotle onwards; the anthropological contribution to the understanding of politics.



<http://downloads.sms.cam.ac.uk/1411628/1411633.m4v>

## *Readings*

Hann, C., *Social Anthropology* (2000), chapters 10-11

E.E.Evans-Pritchard, *The Nuer* (1965)

Edmund Leach, *Political Systems of Highland Burma* (1954)

F.G.Bailey, *Stratagems and Spoils* (1969)

Abner Cohen, *Two Dimensional Man* (1974)



## NOTES ON WHICH THE LECTURE WAS BASED

### AN OVERVIEW

Overview – welcome to the lectures and explain their purpose and structure.

A sad and bloody tale, full of pain and confusion.

The first lecture will give the broad picture; what politics is; some key terms and ideas; an overview of the major theories of political forms and life up to anthropology; the anthropological approaches to politics; the present

The second lecture will look at nationalism and violence – feud and war

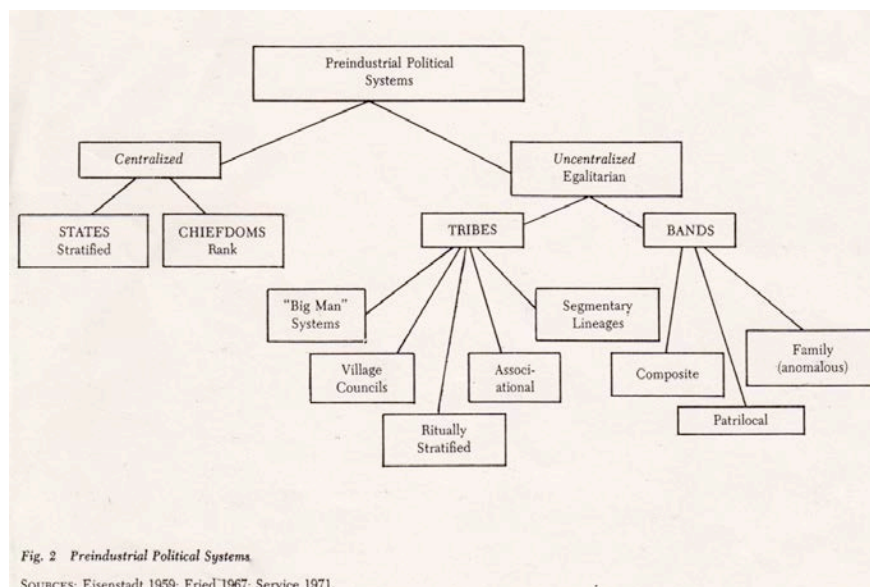
The third lecture will look at law and dispute settlement

The fourth lecture will look at the tension between the State and its citizens, in four forms – bandits, mafia, heretics/terrorists, civil society

### A first mega-plan or trailer of the plot

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See ‘Preindustrial Political Systems’ – classificatory scheme based on several authors.



Preindustrial Political Systems: Centralized - Uncentralized  
Centralized: divided into States (stratified), Chiefdoms (ranks)  
Uncentralized: divided into tribes and bands  
Tribes: divided into 'Big Man' systems, associational, segmentary lineages, ritually stratified, village councils  
Bands: divided into – composite, patrilocal, family

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Let us take the broad view. *Homo sapiens sapiens* has been around for well over 100,000 years. For over 90% of that time (until about 10,000 years ago) there was no such thing as 'Politics'. That is to say, there was plenty of power exercised, but it was mingled up with kinship, ritual, economic life.

If you had said to someone in a HG band or tribal society, 'take me to your leader', they would have looked puzzled, in the same way as a member of Cambridge Univ. is puzzled when a tourist asks him or her to 'take me to the University' or the centre of the university.

Power is diffused, these are known as acephalous societies:  
**Acephalous society**: Literally a "headless" society. Refers to a highly decentralized and relatively egalitarian form of political organizations.

Politics in the western sense is absent in HG and tribal society – there is no instituted process. How to conceptualize 'politics' in such societies, which have dominated most of history until recently has been one of the central tasks of modern anthropology.

The first great revolution was when 'heads' appeared. There were two major forms, chiefs and chiefdoms, states and civilizations.

**State**: (1) A political entity that exercises sovereign rights over a territory and exercises power through centralized, hierarchical political institutions of control, revenue extraction, and enforcement of law and civic duty. (2) A political unit with centralized decision-making affecting a large population. Most

states have cities with public buildings; full-time craft and religious specialists; and “official” art style; a hierarchical social structure topped by an elite class; and a governmental monopoly on the legitimate use of force to implement policies.

This occurred perhaps ten thousand years ago and gives rise to the great civilizations of China, India, the Middle East, South America and the chiefly states of Africa and elsewhere. This is the difference between centralized and de-centralized. This is the first great revolution, equivalent to economics as an instituted process or the setting up of religious systems with priests and writing.

Later examples of such a world more familiar to many of us are the classical civilizations of Greece and Rome in the west.

The second great revolution is the further separation out of politics, what we might describe as the rise of the modern political world. This was, in E.P. Thompson’s metaphor, a long arch from about the C12-C18, consolidated and made widely apparent in the French and American Revolutions.

This consists of demarcating out politics still further. Previously politics was still embedded to a certain extent in religion and to a certain extent in economics and kinship. Now there is a separation of politics from religion above all, where it had remained embedded and from economics.

So the second revolution completes the first.

The first great change had sliced the apple in half, leaving it in two bits politics-religion, society-economy (as in part IIA and peasant societies). The second sliced each of these two parts into two, leaving us with modernity – politics, society, religion, economics as instituted and theoretically separated spheres. So in many ways world history is reflected in our Tripos. Year one is tribalism and HG, part IIA is peasantries and partial slicing. Part IIB is modernity and full slicing. [In a Ph.D. you bring them all together in the post-modern world which merges all the distinctions!]

# Law

The same approach could be made towards law. The normal process is again a double revolution. Hunter Gatherers and tribal groups have plenty of laws, but no Law. If you asked ‘take me to your court or judge’ or even asked what the laws were, there would be blank looks. So the first move is from embedded law, where there are many laws (a.k.a. customs, traditional ways of doing things) but no Law, to Law as an instituted process. This occurs at the same time as the disembedding of politics – and possibly for similar reasons (literacy, new technologies, population density etc.). A world without Law has been again an intriguing problem for legal anthropologists.

This is the world again, with modifications by the Romans etc., until the middle ages. Then again there is a long arch up to the eighteenth century, when two major legal systems vie for supremacy. One is a continuation of the older system – the Roman law tradition based on birth-status, with different laws depending on rank, gender etc. The second is Anglo-American law which is based on the premise of contract, of largely equal citizens within a modern contractual state. This is the famous shift I shall describe later, formulated by Sir Henry Maine, from status to contract. We now not only have Law, but Law totally disembedded, even from politics (in theory).

Now all of this may sound like a very evolutionary story, and to a certain extent it is. But there is neither teleology (it had to be like this, tending in a direction), nor do all civilizations necessarily follow this route.

By the end of the nineteenth century, many westerners thought that we had reached ‘the end of history’, that all major political forms had been mapped and understood, and that the best (‘democracy’) had been found, the survival of the fittest. Now in the twenty-first century we realize that much more was in store – not just the discovery of societies without politics and law by anthropologists; not just new forms to make politics totally dominant by making the State all powerful (fascism) or supposedly abolishing it and making it even more powerful

(communism). There were also increasingly successful nations which tried out systems of law and politics which were hybrids and new innovations – as is happening in China, India and much of the world today.

So there are many surprises in store. I have come across just such a surprise. Using my western sociological framework of separations, I have recently been examining the history and structure of Japan. I am increasingly realizing that while having the semblance of these modernities and separations, in fact below the surface (or behind the mirror) has not disembedded politics, nor law, so that, strangely it could be argued that it has no State (take me to your leader will get you nowhere in Japan) and no Legal system (there are courts, but people avoid them like the plague).

### **Conceptual schemata to establish and make explicit the major changes**

But let us start with a genealogy of political theory to anchor us in something.

The first great separation, about ten thousand years ago, was the institutionalization of politics as a separate sphere, as ‘Politics’.

The most famous formulation of this great shift is in Aristotle’s brilliant is the first brilliant overview of Politics as an instituted process – the different forms of government which could be envisaged when there are political institutions, although they are still largely status-based (non-slave etc., cities etc). He distinguished Politics from other spheres of action – what happened in the Polis (city) among those who had power. He made the famous distinctions between forms of government: aristocracy, plutocracy, oligarchy, democracy.

Aristotle on the aims and primacy of politics: (Written c. middle of C4 B.C.)

Aristotle, Politics, p.28 ‘Hence it is evident that the state is a creation of nature, and that man is by nature a political animal.

And he who by nature and not by mere accident is without a state, is either above humanity, or below it... Now the reason why man is more of a political animal than bees or any other gregarious animals is evident.... Man is the only animal whom she has endowed with the gift of speech.'

'Thus the state is by nature clearly prior to the family and to the individual, since the whole is of necessity prior to the part... For man, when perfected, is the best of animals, but, when separated from law and justice, he is the worst of all...'

From the analysis, The Classification of Constitutions:

p.12 'The aims of the state are two; to satisfy man's social instinct, and to fit him for the good life. Political rule differs from that over slaves in aiming primarily at the good of those who are ruled. Constitutions are bad or good according as the common welfare is, or is not, their aim. Of good Constitutions there are three: Monarchy, Aristocracy [the best people are the rulers], and Polity [half way between oligarchy and democracy]. Of bad there are also three: Tyranny Oligarchy, Extreme Democracy. The bad are perversions of the good....

'Democracy is the rule of the poor; oligarchy is that of the rich. Democrats take Equality for their motto; oligarchs believe that political rights should be unequal and proportionate to wealth. But both sides miss the true object of the state, which is virtue.'  
....(p.14) 'Of Democracies there are four kinds. The worst, extreme Democracy, is that in which all offices are open to all, and the will of the people overrides all law.'

The book describes revolutions, how states should be arranged etc. etc. the ideal state etc. Fascinating.

This formulation largely held for nearly two thousand years, though there were, of course, major Christian and Islamic scholars who amended and glossed it.

The second great separation is the separation out of Politics from religion, society and economics. This took almost half a millenium, but there are several high points.

Then **Machiavelli (The Prince, 1513)** is among the first to think of a non-religious analysis, dividing off systems etc. Another landmark:

An assumption of the base nature of humans: ‘If men were entirely good this precept would not hold, but because they are bad, and will not keep faith with you, you too are not bound to observe it with them’ (Prince, 142) Hence the world of pre-emptive strike and power politics etc...

Separation of politics and ethics: ‘...for if everything is considered carefully, it will be found that something which looks like virtue, if followed, would be his ruin; whilst something else, which looks like vice, yet followed brings him security and prosperity’ (Prince, 123)

The choice of evils: ‘...because it is found in ordinary affairs that one never seeks to avoid one trouble without running into another; but prudence consists in knowing how to distinguish the character of troubles, and for choice to take the lesser evil’ (Prince, 181) – as Churchill on democracy – the worst of all systems, except others which are even worse!

Machiavelli and the two major types of political system – republicanism (Italy), with balance of power and constant oscillations, and absolutism and extreme centralization as he thought he detected in parts of the Islamic world – the big divide

The next landmark: **Thomas Hobbes (Leviathan, 1651)** and the social contract – the ‘natural’ state of human beings and how the State delivered the individual from universal fear. A mythical story, but explaining how we gained from this. And notably it made no reference to the divine origin of power – Leviathan was a contractual matter, but limits on power were only the right of the individual to his own life.

‘The masterpiece is always the revelation of the universal predicament in the local and transitory mischief...’ (Oakeshott in intro. To Leviathan – in Civil Wars).

‘No arts; no letters; no society; and which is worst of all, continual fear and danger of violent death; and the life of man, solitary, poor, nasty, brutish and short’.  
‘The condition of man is a condition of war of everyone against everyone’ (Hobbes Leviathan, pt. 1, ch.4)

‘For warre, consisteth not in Battell only, or the act of fighting, but in a tract of time, wherein the will to contest by Battell is sufficiently knowne’ (quoted in Sahlins, Tribesmen’)

Sahlins on Hobbes. ‘...the Hobbesian vision of humans in the natural state is almost the ‘origin myth’ of western capitalism’.  
(Morris, Western, 139)

NB. No religious justification – just for fear of something worse.  
No moral justification for the state etc. Just order.

The next landmark: **John Locke (Treatises on Government, c.1689)** and the contract theory – a social contract, power is tamed. The idea was that the contract was: an individual bound to obey the state as long as it preserved life, liberty, property – the basis for American constitution etc. But if any of these threatened, the contract is over. (and vice versa) Purely secular – and nothing to do with patriarchy, paternalism etc.

‘political power, then, I take to be a right of making laws with penalties of death, and consequently of all less penalties for the regulating and preserving of all property’ (Government, 4)

‘the end of law is not to abolish or restrain, but to preserve and enlarge freedom’ (Government, 29)

‘the great and chief end of men’s uniting into commonwealths and putting themselves under government, is the preservation of their property’ (Government, 63)

‘Every man is born with a double right; first, a right to freedom to his person, secondly, a right before any other man, to inherit with his brother, his father’s goods’ (Government, 96)



‘Men being, as has been said, by nature all free, equal and independent, no one can be put out of this estate, without his own consent’ (Government, 49)

- fundamental attack on patriarchal and ritual power
- a great narrowing of politics down to economics and liberty

The next landmark: **Montesquieu** and the separation of powers (**Spirit of the Laws, 1748**): Montesquieu surveyed all of history of political theory, the experience of France and England, and thinking about Islam (*Persian Letters*). How England had liberty – by dividing and balancing the powers. Classic formulation of division of judiciary, executive, legislature etc. Again absorbed into America.

Adam Smith then explains further (**Wealth of Nations 1776** and lectures on laws), and how the market is to be kept separate from the State – separation of politics and economics. The night watchman state.

All this encapsulated into the American and French revolutions.

The American Declaration of Independence of 1776 started ‘We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness.’ Such an assertion would have struck almost everyone who ever lived as complete nonsense. It has been very generally assumed that some humans are by nature better, more intelligent, more gifted. Furthermore, no-one has unalienable rights to anything.

There is then a backlash or questioning or probing or suggesting of other systems:

- there is **Rousseau’s** absolutist and romantic view of the ‘general will’; the idea that we should surrender all our power to the centre, which would benevolently give it

back to us, the sort of nonsense that later flourishes in communism

- there is **Edmund Burke's** counter-attack on revolutions 'Reflections on Revolution'
- there is **Tocqueville's** questioning of whether democracy could not lead to the dictatorship of the people; the tyranny of the majority, the dangers of equality and social atomism, the bleak vision of the future of America

-  
'I am trying to imagine under what novel features despotism may appear in the world. In the first place, I see an innumerable multitude of men, alike and equal, constantly circling about in pursuit of the petty and banal pleasures with which they glut their souls. Each one of them, withdrawn into himself, is almost unaware of the feat of the rest.... Over this kind of men stands an immense, protective power which is alone responsible for securing their enjoyment and watching over their fate. That power is absolute, thoughtful of detail, orderly, provident, and gentle... It likes to see the citizens enjoy themselves, provided that they think of nothing but enjoyment. It gladly works for their happiness but wants to be sole agent and judge of it...' (Democracy, ii, 898)

- there is Marx's romantic desire to abolish the State and return to the earlier, pre-Aristotelian days, a romantic idea that we can through the abolition of property and the abolition of class, make the people the rulers again, in an undivided world – somewhat like Rousseau. The next landmark: Karl Marx and the return to Eden and abolition of the State and the inversion of Hegel

### **The extension of models outside the west.**

Many of the thinkers above from Montesquieu onwards moved outside the Christian vs. Islamic theorizing which Machiavelli had started and tried to see how China, India etc. could be fitted in. But the real work of trying to set up world theories of political systems is the task of the re-born social sciences of the second half of the nineteenth century.

So the third phase is the attempt to expand the western framework to the three-quarters of the world outside the west.

An early attempt is **Sir Henry Maine (Ancient Law, 1861)** – types of political system, contract and status etc. Maine had worked in India and was deeply knowledgeable about non-modern legal systems. He put forward two main arguments, which revolve around a stark contrast.

Maine's central aim was to explain how modern civilization had emerged in certain 'progressive' societies. His most important generalization was that concerning the movement from societies based on status (kinship, tribe) to societies based on contract (the State). One part of this theory is shown in his treatment of individual rights. His wide sweep allowed him to see 'by what insensible gradations the relation of man to man substituted itself for the relation of the individual to his family, and of families to each other'; 'Ancient Law...knows next to nothing of Individuals. It is concerned not with individuals but with Families, not with single human beings, but groups.'<sup>1</sup>

This contrast between group-based and individual-based society is part of that movement from status to contract which Maine thought was the greatest of all changes. 'Starting, as from one terminus of history, from a condition of society in which all the relations of Persons are summed up in the relations of Family, we seem to have steadily moved towards a phase of social order in which all these relations arise from the free agreement of Individuals.'<sup>2</sup> Thus, the relations of parent to child, master to slave, male to female, based on birth and ascribed status, melt before the negotiated relations of free individuals. It is in this sense that 'we may say that the movement of the progressive societies has hitherto been a movement *from Status to Contract*.'<sup>3</sup>

The second great attempt here is that of **Max Weber**. He started with the west (from classical times), but later worked deeply on Islamic, Indian and Chinese civilizations. He made three especial

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<sup>1</sup> Maine, **Ancient Law**, 185, 258

<sup>2</sup> Maine, **Ancient Law**, 169

<sup>3</sup> Maine, **Ancient Law**, 170

contributions. Firstly, the idea of ideal types, simplified models which could be used cross-culturally. In relation to politics, he distinguished between power and authority, explained what a state was, and delineated the three major forms of authority (traditional, charismatic, bureaucratic-rational). Later comparative sociologists – Eisenstadt, Wittfogel, Perry Anderson and others have expanded his work.

**Charisma, charismatic:** a quality, coming from a person rather than from an office, that inspires intense loyalty and devotion; often has religious significance, linking prophet and followers.

‘Today, however, we have to say that a state is a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory. (note ‘territory’)... The state is considered the sole source of the “right” to use violence. Hence, “politics” for us means striving to share power or striving to influence the distribution of power, either among states or among groups within a state.’ (From Max Weber, ‘Politics as a Vocation’, p.78)

### **The anthropological contribution**

The other major thread is within those encountering other political systems: namely anthropologists working in 3<sup>rd</sup> world countries.

The discovery of many societies and civilizations which did not fit this whole western paradigm – in particular ‘acephalous’ societies. The famous preface to ‘Political Systems’ rejects all western political philosophy as useless

‘We have not found that the theories of political philosophers have helped us to understand the societies we have studied and we consider them of little scientific value; for their conclusions are seldom formulated in terms of observed behaviour or capable of being tested by this criterion. Political philosophy has chiefly concerned itself with how men ought to live and what form of government they ought to have, rather than with what are their political habits and institutions.’ (Fortes and E-P, African Political Systems, 1940, p.4)

‘It will be noted that the political systems described in this book fall into two main categories. One group, which we refer to as Group A, consists of those societies which have centralized authority, administrative machinery and judicial institutions – in short, a government.... The Zulu, the Ngwato, the Bemba, the Banyankole and the Kede. The other group, which we refer to as Group B, consists of those societies which lack centralized authority, administrative machinery, and constituted judicial institutions – in short which lack government ... This group comprises the Logoli, the Tallensi, and the Nuer.’ (Fortes and E-P, African Political Systems, p.5)

‘In our judgement, the most significant characteristic distinguishing the centralized, pyramidal, state-like forms of government... from the segmentary political systems... is the incidence and function of organized force in the system...’ (p.14)

**The nature of bands** (most of history) and how they work – equality and dispersion.

Give a brief account of band systems and how they work – perhaps with diags.

Features (as from Ember and Ember, p.204 ff)

- the band the political unit, usually H-Gatherers, nomadic usually, small size and low population density; usually egalitarian; little private property; politics informal, no leaders, there may be an informal headman, but no authority, just respect for wisdom etc. No fixed authority. The !Kung have a very weak headman ‘He is generally held responsible for the way the band makes use of its food resources... cope with quarrels, his consent is necessary for an outsider to be admitted to the band’ – much like Head of Dept. in Social Anthropology.
- In cases like the Hadza (Woodburn) ‘minimal politics’, with consensus and ostracism and no leadership positions at all

The nature of segmentary feuding societies – Evans-Pritchard's famous study of the Nuer, and Bohannon on the Tiv.

- give a brief account of this, including the famous E-P diagram. The idea of people being joined by hate rather than love (Mr and Mrs Pugh; cold war etc.), balance of forces, feuding, the idea of segmentation of loyalties, Sahlins idea of predatory systems and their advantage – as with Nuer versus Dinka etc. State of perpetual 'cold war', of 'ordered anarchy' etc., as with Iraq and much of middle east.
- the diagram of segmentation: based on the British army? A split into a1, a2, a1 into parts etc. They unite in opposition to others. [see diag. Hann, p. 126]  
In such a situation, peace is kept by mutual opposition. But if broken, the role of the Leopard skin chief – rather like arbitration council, no power, but some authority – also like Gellner's Saints of the Atlas, and like the Emperor of Japan. Authority (ritual) but no formal instituted power (e.g. police).
- another system, 'Big Men', as in Melanesia: Andrew Strathern, Ongka's Big Moka, very temporary, through distribution (as in schools, marbles etc. ) Through distribution and partying and obligations and debts. **Big Man**: Figure often found among tribal horticulturalists and pastoralists. The big man occupies no office but creates his own reputation through entrepreneurial expertise and generosity to others. Neither his wealth nor his position passes to his heirs.

**The start of centralization:** but this ordered anarchy, as we shall see when we deal with blood feud etc., does not continue for ever. There is the puzzling question of the origins of States.

#### **Theories of origins of the state:**

- control over some productive resource, e.g. in the Nile Valley, the labour and management, hydraulic civilizations etc. (cf Wittfogel)

- population growth, circumscription – combined with warfare; narrow coastal valleys, no way out etc. people forced under (perhaps combined with climatic changes?)
- local and long-distance trade, in southern Iraq or the Mayan highlands, may have stimulated.
- conquest states (Lowie)

In fact, no one theory works everywhere, and a combination of these and other factors needed. 'It is still not clear what the specific conditions were that led to the emergence of the state in each of the early centres'. (Ember and Ember, 217)

How chiefdoms work – Malinowski and co; basically through mobilizing a combination of kinship and tribute, and re-distribution of wealth.

Feudalism as rather similar, except that instead of kinship the relations are contractual and the system of patronage is through bonds of allegiance.

How States work – literacy, bureaucracy etc. taxation, standing armies etc. The classic definitions – monopoly of the use of force etc.

The major types and forms of state system: much as outlined by classical theorists.

- hydraulic civilizations
- democracies
- communisms
- Japan and China

### **Ways of approaching political systems by anthropologists.**

Anthropologists tend to work in places where conventional political theory does not work – so they have to invent new frameworks. Here are a few of the most famous.

Traditional structural-functionalist: the E-P generation and the working of feuds

Dynamic equilibrium models: Leach and the moving equilibrium of Kachin

An attack on the concept of 'the tribe' and on equilibrium. In *Political Systems of Highland Burma* (1954) he argued that the Kachin region in Burma might look like one system of another at a point in time, in but in fact it was constantly oscillating back and forth between a relatively egalitarian form of politics, known locally as *gumlao*, and more hierarchical forms known as *gumsa*, in which local leaders tried to consolidate power into little chiefdoms. Rather similar to the oscillating equilibrium model of Ibn Khaldun in the C13 – with equality turning to inequality and back again in the battle between tribesmen and settled folk...

Individualistic transactionalism and factions of F. Barth, *Political Leadership among Swat Pathans* (1959). He 'documented the ways in which individual Pathan chiefs competed with each other to secure followers and optimise their positions' – some inspiration from game theory. Emphasized the way politics was like economics in that individuals were playing games where maximizing individual actors tried to 'win' (rather similar to formalist economics). He did not pay much attention to Islamic ideas and the role of religion.

Extension of this to all political life: games and arenas – F.G.Bailey: politics very like a game, with arenas, rules, factions and teams, cheating, etc. Studied in India and elsewhere. Especially in Strategies and Spoils.

While a good deal could be explained in terms of an individualist and transactionalist model, there was a danger of going too far. E.g. Abner Cohen in *Two Dimensional Man* (1974) criticised this and suggested that the symbolic dimension, the manipulation of symbols etc. extremely important.

This has opened up a whole new area, or returned to one which was always present in Fortes and co. Thus we have extensive work on the role of rituals of succession, the nature of political language (M. Bloch), political symbolism (Kertzer), the use of traditional ritual symbolism to foment revolution (Lan), the way



in which in many parts of the world it is ritual and drama that holds the system together (as in Geertz's theatre state) rather than secular mechanisms. I shall draw on some of these later in the lectures.

The developments in political theories, and the disputes about the best ways to approach political systems cross-culturally took place in parallel in approaches to law. In the third lecture I will look at this, particularly in relation to the famous dispute about whether western legal models work elsewhere.

### **The current world**

- empires and new powers (India, China, Japan etc.)
- new communications and interpersonal relations (television, internet etc.)
- the collapse of communism and dominance of one power
- the threat of terror and the threat to democracy

Because of all this, much more suitable for anthropological than any other kind of approach, since many varieties, and the application of classical western models much less satisfactory. We also feel that the separations of modernity are at a price, and fictions – as Latour 'We Have Never Been Modern' or the penetration and dominance of power, as in Foucault's various works.

So we have to use whatever tools we have, and the ideas of anthropology, which incorporate and try to stretch outside the famous western tradition of political analysis particularly apposite and important.

## 2. Nations, feud and war

Nations and nationalism, the invention of nations; theories of nationalism; consequences of nationalism; the invention of identities; organized violence through history; feuds and feuding; the development of war and its causes.



<http://downloads.sms.cam.ac.uk/1411646/1411651.m4v>

### Reading

Hann, *Social Anthropology*, chs. 12, 14

Thomas H. Eriksen, *Ethnicity and Nationalism* (2<sup>nd</sup> edn., 2002), ch.6

Ernest Gellner, *Nations and Nationalism* (1983)

Benedict Anderson, *Imagined Communities* (1991)

J. Black-Michaud, *Cohesive Force* (republished as *Feuding Societies*) (1975)

David Riches (ed.). *The Anthropology of Violence* (1986)

## NOTES ON WHICH THE LECTURE WAS BASED

### **Part 1: Nations and nationalism: the inventions of nations**

If I asked you, what is your nationality – what would you answer?

If I asked you how long nations had been around – including yours, how long would you say?

Behind your answers there is the idea of the nation, that is a bounded political, linguistic, cultural and territorial unit. You might assume that your idea of belonging to a nation-state is common, indeed universal, and has long been the situation of most people on earth. This can be questioned.

There is a large argument about what nations are, when they emerged and what caused such an emergence.

Let us start with a definition: Anthony Smith, one of the clearest thinkers on nationalism, writes that “‘Nationalism’ signifies both an ideological doctrine and a wider symbolic universe and fund of sentiments. The ideology holds that the world consists of separate, identifiable nations, each with its peculiar character; that the nation is the sole legitimate source of political power; that every individual must belong and owe supreme loyalty to one and only one nation; and that nations must be autonomous, preferably in states of their own, for only then can global freedom and peace be assured. To this ‘core doctrine’, nationalists add their own secondary elaborations...’ (in ed. Ingold, p.725)

Now, with these definitions, let us look at the broad types of historical society.

Clearly HG’s have no nation; there are identities, but no nation.

Tribes have no nations (except in the sense of ‘first nations’ in America etc.)

Most peasant civilizations have no nations.

*The nation state as a modern invention.*

Many people now argue that the nation-state is really an invention of the last two hundred years in most of the world.

For example, the sociologist Michael Mann (in Hall, ed. Transition, p.138) writes that ‘...’nationalism’’, both as ideology and movement, is a wholly modern phenomenon’

The two famous theorists who have discussed this are the so-called ‘modernists’, Ernest Gellner (Nations and Nationalism) and Benedict Anderson (Imagined Communities).

They pointed out that there were no nations in India or Africa, or in the Near or Far East in 1800. There were states and Empires, but if you asked people ‘What nation do you belong to?’ they would not have understood your question. If you had changed the question to ‘What is your people?’ or ‘What do you call yourself?’, you would have got surprising answers. Even in France, Italy, Germany or Spain by 1850 people did not think of themselves as French, Italians, Germans or Spanish, but rather Bretons, Gascons, Lombards, Basques, Andalusians and so on.

Most of the inhabitants of France only began to think of themselves as primarily French after about 1870, and the same was true in all the countries of continental Europe. The change occurred even later in the rest of the world such as Eastern Europe or the Middle East. In many parts of the world it is only just happening. When I went to the Himalayas in the late 1960’s the people I worked with in the central hills referred to the Kathmandu Valley alone as ‘Nepal’. They thought they lived outside Nepal, in their own village and group and region, though on the map it was all ‘Nepal’.

*Invented communities*

In the famous phrase of Benedict Anderson, the title of his book, nations are ‘invented communities’, where people who do not know each other and often have little in common come to think of themselves as ‘the British’ or ‘the French’.

In fact, the idea that as people move out of small communities where they know everyone, they have to ‘invent’ or ‘imagine’ a community with a much wider group often extending to millions of people was put forward also by De Tocqueville in the early C19.

He explained that the Americans had created an ‘imagined community’ to hold together, through ideology, an equal peoples who thus needed few police, no central bureaucracy, no standing army. Using “ideal” in the sense of imagined, he wrote that ‘The government of the Union rests almost entirely on legal fictions. The Union is an ideal nation which exists, so to say, only in men’s minds and whose extent and limits can only be discerned by the understanding.’ (Democracy, I,202) This ‘imagined’ community was highly artificial, manufactures, yet it felt “natural”.

As for the causes of this imaginative construction, there are various theories.

Tocqueville put it down to the American ability to form numerous associations with strangers for all sorts of purposes. He also saw the role of printing and newspapers.

This second argument has been repeated by many since. For example, Innis (**Communication**, 55) wrote in the early C20 that ‘By the end of the sixteenth century the flexibility of the alphabet and printing had contributed to the growth of diverse vernacular literatures and had provided a basis for divisive nationalism in Europe’. His disciple Marshall McLuhan in **Understanding Media** (175-6) made the idea famous. ‘Of the many unforeseen consequences of typography, the emergence of nationalism is, perhaps the most familiar. Political unification of populations by means of vernacular and language groupings was unthinkable before printing turned each vernacular into an extensive mass medium. The tribe, an extended form of family of blood relatives, is exploded by print, and is replaced by an association of men homogeneously trained to be individuals...’ He suggested that electric media, which were just starting in his time, would undermine nationalism, leading to the famous ‘global village’.

It is curious that Anderson, who fails to mention Tocqueville, also has no mention of Innis or McLuhan when he talks about the effects of print-capitalism, as he calls it, in creating nationalism.

Talk of capitalism, takes us into the second major set of theories. There is Anderson's that the market economy, with its impersonality, monetized values, urban way of life, division of labour individualism, ironing out of regional differences, was one of the two great factors behind nationalism. He dates this from the eighteenth century, though any deep knowledge of history would have reminded him that capitalism is much older than that.

A variant of this is found in Ernest Gellner's theory that the root cause is the economic and social shift from agrarian to industrial societies. A new world is born on endless growth, a high division of labour, high social mobility. In order for this to work efficiently, the high culture of the elite must permeate down to all levels and this is achieved through the educational system and the manipulation of symbolic capital so that everyone feels that not only do they belong to a state but also a nation. So with this theory, the development of nationalism more or less parallels the growth of industrialization. England became industrial from the 1780's, Germany and France from the 1860's, and this coincides with nationalism. The emphasis on education and symbols is brilliantly executed, but the fit is not perfect. As Mann writes, 'a cursory review of the historical evidence might suggest that industrialisation – and state-funded universal education – came a little too late to explain nationalism' (Mann in Hall, ed. **Transition**, 139).

So Mann instead suggests that there were two causes, which take it back a little in time, 'the emergence of commercial capitalism and its universal social classes' and 'the emergence of the modern state and its professional armed forces and administrators' (which turns it into something C16-C17). (Hall, **Transition**, 162).

In fact, there are probably two strands. There is the continental European tradition with which Gellner, Anderson, Hobsbawm and

others mainly are concerned, which are very recent, and then another, older strand. This is the subject of Anthony Smith's work on the Ethnic Origin of Nations.

He talks of 'two kinds of nation: the "old, continuous" nations of Western Europe (France, England, Holland, Spain, Sweden) and the new 'nations of design' in Central and Eastern Europe and Asia. The first type of nation preceded the rise of nationalism in the eighteenth century, and was the result of unplanned processes. The second type followed the rise of nationalism and was largely the result of political movements and nationalist programmes, often in the wake of wars and treaties.'

In fact, I think it would be better to separate off the European into the middling old – France, Spain) the older (Portugal, Sweden, Holland) and the very old indeed – England.

For, by chance, those who live in England (or Japan) happen to live in a somewhat older nation. Because they live on a small island which early adopted a common language, law, economy and set of political institutions, these islanders have been becoming a nation for a thousand years. If you had asked someone what nation he belonged to five hundred years ago he might well have said 'England'. Then the English became British when the King of Scotland also became the King of England in 1603 and Scots and English people settled in Ireland from the seventeenth century. Now they are becoming English, Scottish, Welsh or Irish again.

### **The consequences of nationalism**

We fight wars and discriminate against outsiders and immigrants as if there were such things as nations, but they are just lines on a map. Nations are constructed and deconstructed. There is nothing natural or given about them. They are imagined, invented, concepts and there is no British nation, English nation, except in our imagination. Some even say that they are short-lived fictions and that the age of the nation-state will soon be over as we merge in a global world. And not before time according to

many of those who have suffered the vicious effects of nationalism like the refugee Albert Einstein who wrote that 'Nationalism is an infantile disease. It is the measles of mankind.'

Certainly what it means to be 'English' and 'British', as you will find, will fluctuate over your lifetime and your feelings of national identity will alter enormously. As it shifts back and forth, is aroused by war cries or lulled by talk of European integration, it is good to remember what a constructed thing it is. The same is true of those who live in most of the nations of the world, whether in Cyprus, Israel, Japan, North Korea, Vietnam or elsewhere. The pulse of national identity slows and quickens, and the very meaning of 'being' of a certain nation changes deeply as the world changes around a group of people.

### **The invention of identities through amnesia and eliding**

We also invent our origins. We easily slip into the idea that the things around us were discovered, or at least basically adapted, by our own society. Yet if you think for a moment you will find that almost everything was invented in other civilizations.

The anthropologist Ralph Linton described the average American as follows. He 'awakens in a bed built on a pattern which originated in the Near East.... He throws back covers made from cotton, domesticated in India, or linen, domesticated in the Near East... He takes off his pyjamas, a garment invented in India, and washes with soap invented by the ancient Gauls... Before going out for breakfast he glances through the window, made of glass invented in Egypt, and if it is raining puts on overshoes made of rubber discovered by the Central American Indians and takes an umbrella, invented in south-eastern Asia... On his way to breakfast he stops to buy a paper, paying for it with coins, an ancient Lydian invention... His plate is of steel, an alloy first made in southern India, his fork a medieval Italian invention, and his spoon a derivative of a Roman original.'

We have only reached breakfast and through the day the assemblage of world cultures continues. Nevertheless, at the end,



‘As he absorbs the accounts of foreign troubles he will, if he is a good conservative citizen, thank a Hebrew deity in an Indo-European language that he is 100 percent American.’

So we are all composites of history, built up from our past. England is a particularly obvious example of this because, being part of a small island near a great Continent, and being a trading and imperial nation, it has sucked in almost all of its culture from abroad. There is scarcely anything, in music, painting, architecture, science and knowledge, up to the eighteenth century at least, which was not largely the result of borrowings.

Many of the characteristically ‘local’ things were imported from elsewhere. Much of modern India is of British origin, just as Britain is of Indian origin. Much of modern Japan was imported from China, just as much of present China was ‘made in Japan’. Australia, just like North America, is a basket of foreign imports. We borrow, imitate, trade and steal and then conveniently forget.

### **How do we invent our lives?**

Since nations are invented and there is no actual thing out there which is essentially ‘American’ or ‘British’ or ‘French’ or ‘Japanese’ or whatever. It is worth thinking about how we construct these categories and come to accept them. As a number of analysts such as Hobsbawm and Ranger, David Kertzer and others have explained, nations are built by using political symbols to make us believe in their unity.

As Anthony Smith points out, there is a wider ‘culture of nationalism’, that is ‘the panoply of symbols and rituals associated with the drama of the nation.’ As he puts it, ‘the union of the citizens in a political community is founded upon a myth of fictive descent and heroic destiny’. And to support this, there is ‘the whole gamut of symbols that express the culture and evoke the salvation drama of the nation. In the nation’s flags and anthems, its memorials and monuments, its parades and ceremonies, its coins and insignia, its capitals and assemblies, its arts and crafts, and its music and dance (and food! AM) are

distilled the pride and hope of a 'community of history and destiny' which seeks to shape events and mould itself in the image of its ideals.' (Smith in ed. Ingold, pp.725-6)

As Smith points out, it is all very Durkheimian. 'There can be no society which does not feel the need of upholding and reaffirming at regular intervals the collective sentiments and the collective ideas which makes its unity and its personality.' (quoted on p.726)

So our identities, of which the national is an important one, is the result of playing with history – re-writing the past and inventing the future.

The art of creating a nation is the art of forgetting as Ernest Renan pointed out over a century ago. That is to say forgetting the many things that divide us and concentrating on those that unite. The wounds in many parts of the world such as the Balkans or Ireland will only be healed when people learn to forget, or at least put on one side, past bitterness and memories. This is not just a negative process of amnesia. There is also a positive building up of unifying symbols, what is known as the invention of tradition.

Humans are very good at accepting common traditions, shared histories and ways of doing things, which after a very short time appear to have been there for ever. This is universal. For example, the famous horse-race in Siena called the Palio, which many people think has been continuously held for 600 years was, in fact, abandoned centuries ago and has been invented, or re-invented, recently.

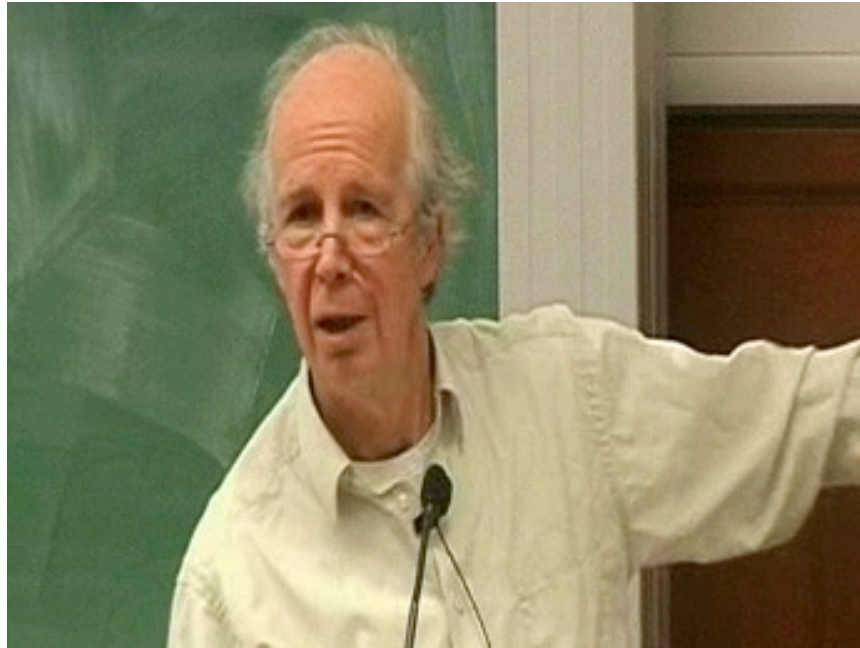
In England there are new 'traditions' being invented all the time. In Cambridge, for example, the very 'traditional' festival of Nine Lessons in King's College, which has become an icon of Englishness when it is beamed all over the world on Christmas Eve, was invented in the early twentieth century. Admittedly it has bits and pieces of older words and music in it, but the form and structure is twentieth century.

In fact, almost always if you look at some royal ceremonial such as a coronation service or wedding, most of it has been invented or heavily adapted for the present purpose. The same is true abroad. The tradition of clapping after a lecture or performance was unknown in Japan in 1870. The first recorded clap was made by a missionary in the speech hall at Keio University. Thereafter the Japanese learnt to clap and thought of it as the normal way to behave.

Very much of what we think of as old and unchangeable and 'natural' in our own culture was a deliberate invention of only a few years ago. Even in the family or school we see this. We invent traditions about Christmas celebrations in one year and then the next year feel as if we had always done them. And it is not just actions. Few people who go on tours round Cambridge realize that almost all the buildings they see are quite recent, less than two hundred years old. The city feels ancient, but it is constantly evolving and being re-invented.

### 3. Law and conflict resolution

Definitions and functions of law; how to compare legal systems; the 'reasonable man (woman)'; status and contract systems; equality and individual rights; the rule of law; how courts work; juries and torture.



<http://downloads.sms.cam.ac.uk/1411663/1411668.m4v>

#### Reading

Hann, *Social Anthropology*, ch. 13

Simon Roberts, *Order and Dispute* (1979) [for a more recent summary, see 'Law and Dispute Processes' in Ingold, *Companion Encyclopedia*, cited above.]

P. Bohannon, *Justice and Judgment among the Tiv* (1957)

M. Gluckman, *Politics, Law and Ritual in Tribal Societies* (1965), section on Law.

P. Bohannon (ed.), *Law and Warfare* (1967)

## NOTES ON WHICH LECTURE WAS BASED

### LEGAL ANTHROPOLOGY

#### **Definitions: what is law and what are its functions**

##### *A definition of law:*

"A social norm is legal if its neglect or infraction is **regularly** met, in threat or in **fact**, by the application of physical force by an individual or group possessing the socially recognized right of so acting". (Hoebel, 1954: 28)

From this it is clear that all societies without a State do not have Law, but may have many laws.

##### *Functions of law:*

Law has four major functions, according to Hoebel:

- “i. to identify acceptable lines of behaviour for inclusion in the culture and to penalize contradictory behaviour
- ii. to allocate authority and to determine who may legitimately apply force to maintain the legal norms
- iii. to settle trouble cases as they arise
- iv. to redefine relationships as the conditions of life change..." (Hoebel, Man in Prim. World, p.484).

#### **Difficulty of comparing legal systems: how do we compare?**

As in all branches of anthropology, there is a tension between 'formalist' and 'substantivist' approaches to the subject.

One can chose between the application of formal models taken from 'modern' societies to 'other' societies, which makes comparison possible - but diminishes accuracy, or the detailed study of each

system in its own rights, which is more accurate but ultimately leads to incomparable studies.

This problem is particularly marked in legal anthropology because of the highly elaborated analysis of law in the western tradition, whether Anglo-American or Roman. As Gluckman admits: "In analysing legal problems in an African society one has to use terms and concepts which have been employed by jurists through two millennia..."(Process,xix). Or as Bohannan writes: "Because of its tremendous field of assumption and undefined premises, 'law' probably has one of the most extensive foundations of ethnocentric metaphysics of any discipline" (Justice, 213).

The peculiarity of western civilization is both a cause of, and manifested in, its legal analysis: "Western civilization and the classical cultures on which it has risen examine their legal institutions from a peculiar point of view" (Bohannon, Soc.Anth, 285). The great danger is to impose this peculiarity on others. "I consider it to be the cardinal error of ethnographic and social analysis: the grossly ethnocentric practice of raising folk systems like 'the law' designed for social action in one's own society, to the status of an analytic system..." (Bohannon, Justice, 69). This is endorsed by Simon Roberts, who describes a number of studies of African customary law which "are all flawed by an underlying assumption that the material they are dealing with can safely be submitted to those forms of analysis which lawyers use upon English law" (Order, 195). All too often, he writes, "the ill-effects of a grounding in western legal theory become apparent in empirical studies". For example, it leads to the artificial isolation of 'legal' data from other relevant material on dispute settlement, and to the imposition of legal concepts; all rules are treated as legal rules, all peace-makers are 'judges' etc. (Roberts, 193)

### **Some attempted solutions to the dilemma; how do we compare?**

One strategy is to distinguish firmly between folk (emic) and analytic (etic) systems. Bohannon thus stressed that we need to distinguish the concepts which are particular to a culture, e.g. the 'folk' concepts of English, Roman, Trobriand, Tiv or other legal systems, from the analytic concepts of a comparative approach - as

partially embodied in the science of comparative jurisprudence (Justice, 5).

We must not give our own legal system a privileged status. We need some superior system (Justice, 214), perhaps something along the value-free, mathematical, notation which Edmund Leach suggested (in *Rethinking Anthropology*), in order to get over exactly the same problems in the use of western ideas like 'marriage', the 'family', 'father' etc.

### **The idea of the reasonable man and what it reveals**

A second approach is to try to find some lowest common denominator: rather like the assumptions of politics (power maximization) or economics (profit maximization).

The major attempt to do this was made by Gluckman to provide a basis for the comparative study of law, and to show that, in essence, all legal systems were the same. This was the concept of the 'reasonable man'.

The importance of this concept, for Gluckman, is fundamental. If it is true, as he argues, that 'the reasonable man is recognized as the central figure in all developed systems of law' (Justice, p.83), then, if the 'reasonable man' can also be found in Lozi and simpler systems, the basic similarity of all legal systems will be established. Their basic premise is the same - just as, if Adam Smith is right that 'exchanging man' is fundamental, then all economic systems can be compared as in formalist economics.

What then, does the concept of the 'reasonable man' mean in western law? Gluckman refers to, and obviously derived the idea from, what he describes as A.P.Herbert's 'magnificent' description of the concept in relation to English law, though he fails to quote Herbert, *Uncommon Law*. It is worth quoting the original essay to establish what we are dealing with.

In defending his client, a woman who had through her reckless motor boat driving caused an aged gentleman's punt to sink, Sir Ethelred Rutt put forward the following argument.

"The Common Law of England has been laboriously built about a mythical figure - the figure of 'The Reasonable Man'. In field of jurisprudence this legendary individual occupies the place which in another science is held by the Economic Man, and in social and political discussions by the Average or Plain Man. He is an ideal, a standard, the embodiment of all those qualities which we demand of the good citizen. No matter what may be the particular department of human life which falls to be considered in these Courts, sooner or later we have to face the question: Was this or was it not the conduct of a reasonable man? Did the defendant take such care to avoid shooting the plaintiff in the stomach as might reasonably be expected of a reasonable man? Did the plaintiff take such precautions to inform himself of the circumstances as any reasonable man would expect of an ordinary person having the ordinary knowledge of an ordinary person of the habits of wild bulls when goaded with garden-forks and the persistent agitation of red flags?"

Now Herbert's particular humorous twist to this definition, is to take the gender literally; namely that there has never been any mention of the reasonable woman, and that therefore most law does not apply to women. But let us look at some of the implications of the concept in the western setting.

- i. There is a considerable emphasis on citizenship, on the requirements of **all** citizens to behave by the same standards towards each other. There is no particularity. The behaviour is universalistic.
- ii. In other words there is no distinction by role or by status. The reasonable behaviour of the rich and the poor, of the policeman or the coal man, of the old person or the young person, of the lord or the commoner, of the married or the unmarried are expected to be identical.
- iii. There is not even gender differentiation; the absence of the 'reasonable woman' can not, in fact, be interpreted as omitting women, but arising from the assumption that there is no implicit difference between the standards and norms of men and women. The 'reasonable person' would be a good substitute.



iv. The purpose of the 'reasonable man' concept is not to use it as a way of judging evidence, of cross-examining, but rather as a way of allocating responsibility. In the breach of an implicit contract, when an injury has been alleged, who is at fault? It helps decision making, judgment.

This is what the idea means in western law. What, then, does it mean among the Lozi, according to Gluckman? Gluckman cites a number of cases which he argues suggest a similar use.

In the first, a man "did not behave as a reasonable man would do when arbitrating in a fight; second, his whole behaviour was not that of a reasonable **induna** (councilor?), following the customs of a good **induna**" (p.87)

Gluckman tells us that the court's main technique in cross-examination is therefore to state the norms of behaviour of a specific position; in other words how the reasonable man is likely to act in a perhaps unique situation. Whenever a party's own account of what they said or did shows deviations from these norms, the judges are able to attack him for lying. In this case it becomes clear that Gluckman has slipped away from the Herbert model and is putting forward the 'Reasonable Man' concept as a tool to establish truth in cross-examination.

Gluckman further shows that it is not the generalized 'Reasonable Man' idea that is used, applying to all citizens, but rather the specific reasonable performance of a particular role. He writes: "The norm of the reasonable man is thus differentiated both in cross-examination and in judgment, according to the social positions of the parties" (p.94). Gluckman half realized the total transformation he is making in the idea in a re-definition which he casually slipped in: "This use of the 'reasonable man' - or rather the reasonable and customary incumbent of a particular social position..." (p.94). This is the complete opposite of the concept as elaborated by Herbert, which is precisely not tied to a 'particular social position'.

Gluckman further elaborates this when discussing whether the Lozi have any word for 'the reasonable man'. He admits that they do

not have such a word, but claims that "the reasonable man is usually implicitly present when they contrast reported behaviour with the norms of behaviour of **particular positions** (my emphasis) (p.125). He elaborates this by saying that "Lozi judges do not make continual explicit use of the general phrase for a reasonable man because in most cases they are giving judgments on the behaviour of persons occupying specific social positions in multiplex relations - they are chiefly concerned with relationships of status. Therefore the judges more often work explicitly with the phrases 'a good husband', a 'sensible induna' and so on." (p.126).

In fact, what it all shows, is the great difference between two major legal systems which reflect two different types of society.

### **The Maine distinction between status and contract**

What Gluckman has, in fact, shown, is the vast difference between legal systems in the modern West and parts of Africa. One way to bring this difference into focus is to set up a simple model of those great contrasts established by nineteenth century thinkers, along the following lines:

Tonnies	Community	Association
Durkheim	Mechanical	Organic solidarity
Maine	Status	Contract

In relation to law, the most famous formulation of this contrast was drawn by Sir Henry Maine. In a famous passage (quoted earlier?) he wrote:

"The movement of the progressive societies has been uniform in one respect. Through all its course it has been distinguished by the gradual dissolution of family dependency, and the growth of individual obligation in its place. The Individual is steadily substituted for the Family, as the unit of which civil laws take account... Starting, as from one terminus of history, from a condition of society in which all the relations of Persons are summed up in the relations of Family, we seem to have steadily moved towards a phase of social order in which all these relations arise from the agreement of Individuals."

For instance, in western Europe, instead of a status relationship (slaves and masters), one has contractual relations - servant and master, worker and employer etc; or again the relations between husband and wife, father and son, and everyone are contractual. Only children and the insane are exceptions and that is because "they do not possess the faculty of forming a judgment of their own interests; in other words, they are wanting in the first essential an engagement by Contract.

Maine limits 'Status' to mean largely birth relations within the family; "All the forms of Status taken notice of in the Law of Persons were derived from, and to some extent are still coloured by, the powers and privileges anciently residing in the Family".

He then ends up with the famous conclusion that "the movement of the progressive societies has hitherto been a movement **from Status to Contract**" (Maine, *Ancient Law*, 169-70; his italics)

From this it can be said that "the society of our day is mainly distinguished from that of preceding generations by the largeness of the sphere which is occupied in it by contract" (*Ancient*, 304).

Thus Bohannan defines status as "a set of rights and obligations that are inherent in social positions (achieved in any other way than by contract), in other words, usually by birth - what sociologists call ascription. 'Contract' he defines as "a set of right and duties initially assumed voluntarily by the parties in the contract" (*Anthropology*, 155); i.e. achievement. Using his definition, we could include under 'status' differences, slavery, caste, nobility-caste relations, age and gender differences in many societies.

This theoretical opposition is of fundamental importance in the comparative study of law. Legal systems reflect the social organization of the societies in which they exist, and if these are entirely different, so will be the legal systems.

### **Some peculiarities of the system flowing from this distinction**

In the majority of societies, the legal process is embedded within social life. When I worked in a Himalayan village, for example, no one would dream of going to a court to sort things out. Villagers would assemble on a verandah and older men and women would deliver their opinion on the matter. After a long period of discussion, the dispute would be settled without a clear winner or loser.

So law in our society is a strange process which in many ways goes against the grain of ordinary life. A court is basically a place where people behave in an odd way. They bring their disputes to a complete stranger and after listening and asking questions he or she says one is in the right and the other in the wrong.

If going to court is a strange thing to do, going to an English or American court is an extreme form of this peculiarity from the viewpoint of most societies. You are asked to 'tell the truth, the whole truth and nothing but the truth'. In most societies there is no belief that there is an abstract thing called 'truth'. There are believed to be many conflicting types of truth, factual, social, religious, mythical. As with the Tiv, there are several words for 'truth'. The same in Japan, where there is no idea that there is a thing called 'the truth'. Each interpretation is 'true' in a different way. Furthermore, no-one but a lunatic or a traitor would tell the court something that would hurt their family or friends. People are expected to lie, or at least to tell partial truths.

Furthermore, there is the famous 'Rashomon effect' after the film of Kurosawa, whereby five people witnessing the same event told a different story – they literally saw a different set of events because of their social relationship to what was happening.

### **The assumption of equality before the law**

Much of law in most societies is concerned with deciding about the behaviour of people who are by birth or achieved position unequal. In Anglo-American law, it is about deciding between people who are considered to be on a level, not

intrinsically unequal, even if they appear strikingly different in their education, sex, wealth, race.

Almost everywhere else, men and women, rich and poor, old and young are assumed to be 'reasonable' in very different ways. Furthermore, reasonable behaviour entirely depends on the social relationship involved. It is reasonable for a man to strike his wife or his son, highly unreasonable for a woman or son to strike back. It is reasonable for an uncle to find a job in his office for his nephew, but not reasonable to find jobs for unrelated people. It is reasonable to pay a bribe to a customs officer or policeman, but not to someone who has no power.

### **The assumption of individual rights**

It is assumed in modern law that individuals have rights. Men, women, children, disabled people, even the unborn foetus or animals have intrinsic 'rights'. Very few societies in the world share this view. It is usually thought that an individual only exists as part of a group, he or she has rights in relation to others, which are inseparable from responsibilities. There are no *innate* rights which come with birth.

The idea that, in the words of the American Declaration of Independence, 'life, liberty and the pursuit of happiness' are intrinsic and inextinguishable human rights would be regarded by a large part of the world, even today, and certainly over most of history, as an outrageous claim. When the idea was imported into India in the nineteenth century by the British it caused immense confusion and disapproval. A member of a lower caste, a woman, a child, had never been conceived of as having the same rights as a high caste person, a man, an adult.

This assumption of individual human rights is a very old feature of English law. It has now spread over the world and become a central doctrine of a new form of mission activity. It has many merits. When taken to extremes, without attention to the counter-balancing rights of communities and groups, or the responsibilities that go with the rights, it is as dangerous as rightlessness.

## **The rule of law**

We often hear about how important the 'rule of law' is. For example, many people looking at the development of China, India or Iraq say that it is essential that they subscribe to 'the rule of law'. But what does the 'rule of law' mean?

The classic exposition is by A.V. Dicey in his *Study of the Law of the Constitution*.

The primary meaning is the supremacy of law in dispute settlement.

"We mean, in the first place, that no man is punishable or can be lawfully made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary Courts of the land. In this sense the rule of law is contrasted with every system of government based on the exercise by persons in authority of wide, arbitrary, or discretionary powers of constraint..." (pp.179-180) - i.e. "the absolute supremacy or predominance of regular law as opposed to the influence of arbitrary power..." (193)

Another aspect of this is that disputes must be settled through legal channels. As Roberts points out, "In its sphere (law) enjoys a position of absolute supremacy: all other normative systems give way to legal rules; and the courts are ultimately the authoritative agencies of dispute settlement. Even though this supremacy is seldom questioned it is jealously guarded and very vigorously defended at the slightest hint of Challenge, by the courts themselves as well as by parliament and the executive. For this purpose the courts have available to them the contempt procedures, a main function of which is to stifle alternative methods of dispute settlement.

In most societies, even where there are judicial institutions, they "do not always enjoy the unchallenged pre-eminence in the business of dispute

settlement which our courts claim and manage to exercise." (Roberts, 26). Other equally important methods are fighting (incl. feud), supernatural agencies (witchcraft, magic), shaming, ridicule, ostracism and withdrawal of reciprocity (cf. Malinowski).

There is, as Roberts points out, a normative bias in our own legal system towards settlement by talking rather than physical violence. This is not unique to 'modern' societies; for example among the S.African Kgatla, documented by Schapera, "settlement-direct talk enjoys pre-eminence as a mode of handling disputes, which such means as violent self-help and sorcery are strongly disapproved" (Roberts,151). The same would be true of the Gurungs of Nepal, where I worked and many other societies.

A second feature, which we have already noted, is equality before the law.

"We mean in the second place,...not only that with us no man is above the law, but (what is a different thing) that every man, whatever be his rank or condition, is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals..." (185) - i.e. "equality before the law, or the equal subjection of all classes to the ordinary law of the land..." (193)

The package which we call the 'rule of law', which underpins modern democratic capitalism, is relatively unusual. It did not exist in most of the world until the twentieth century. Yet we until recently took it for granted. E.P.Thompson rightly comments that the rise of the 'rule of law' "seems to me a cultural achievement of universal significance". (Thompson, Whigs and Hunters, 265).

### **How do courts work when there is a state and law is institutionalized?**

The great problem is to persuade people to accept what you are doing in the legal process. Law is a dramatic and often elaborate affair. People dress up in archaic costumes, the judge

sits high up above the court, long-sounding words are used in a strangely formal way. There are often dramatic public punishments, as in the so-called 'theatre of Tyburn' where criminals were taken through the streets and executed before the crowds in eighteenth century England.

The legal process takes people out of their ordinary lives where they have become entangled in conflicts. It puts them in an arena that is out of normal time and space. The procedure in the court then re-arranges their lives. You have to exert a lot of pressure in order to persuade people to follow a decision which they may think is against their interest. Hence it has to have a high ritual component, otherwise it is unlikely to be persuasive enough. It must mystify and impress. Yet while there is an element of ritual, there is also something of a game – a hybrid or ritualized game.

So the law is like a game of tennis. People go to a 'court'. They play a combative game, either on their own behalf or through their representatives, serving, returning, trying to outwit their opponents. The judge is the umpire. After the case is heard, their world is changed. One side has won, the other lost.

### **What are juries and why are they so important?**

In almost all serious legal cases you have a confrontation between the State and the Citizen or Subject. The State has almost all the power and the single individual is inherently very weak. So if the State says 'you are suspected of an offence' how can you defend yourself?

When you have a jury system, where it is the duty of your equals (or peers) to decide your guilt or innocence, everything is changed. The jury are not themselves on trial but observers and arbiters. It is one thing to grind down a single individual who is already accused of an offence. It is entirely different to be able to persuade twelve, free, moderately affluent and reasonably educated individuals who have been told on oath to judge as fairly as possible without fear or favour.



So the jury acts as a filter to State power, a protection for the single citizen or subject. It is a key institution in any democracy. Most countries in western Europe had juries of a sort a thousand years ago. Yet almost all had given up the jury system by the eighteenth century. England maintained a jury system up to the present. There are now increasing calls by politicians for its abolition in a wide range of cases.

The idea that the final decision that a person should be imprisoned, or even put to death, lies with one's peers is a curious and unique institution originally confined to Germanic- based legal systems. The roots have often been investigated, but never really found. Its existence is always under threat (as e.g. Edward Thompson claimed, *Writing by Candlelight*, since it can be a nuisance to the powers that be.

The fact that it has been so difficult to introduce jury systems into other social structures - the failure in Japan is a particularly interesting negative case - is revealing. The process assumes that the jury and the accused are all of a roughly similar level, though in most societies this is not the case. The fact that no such system was known in continental Europe under Roman Law and in most non-European empires is significant. How could twelve 'impartial', intelligent, people be found; how could they apply abstract principles of citizenship and reasonableness. How could they come to believe in a single fact and a single truth? It is all very odd.

Yet, as Sir Ethelred Rutt pointed out, it is the keystone of our liberties.

"The Reasonable Man is fed and kept alive by the most valued and enduring of our juridical institutions - the common jury. Hateful as he must necessarily be to any ordinary citizen who privately considers him, it is a curious paradox that where two or three are gathered together in one place they will with one accord pretend an admiration for him; and when they are gathered together in the formidable surroundings of a British jury, they are easily persuaded that they themselves are, each and generally, reasonable men." (Uncommon Law, 4).

## **Should we torture people?**

The absence of the use of torture in criminal trials throughout most of English history is a notable feature of its legal system. Very early on the English courts set their face against torture. People believed that if you tortured someone you would not get a true confession. The tortured person would lie in order to make the torture stop. There was also perhaps a certain appreciation of the force in the philosopher Montaigne's remark that 'After all, it is setting a very high price on one's conjectures to burn a man alive for them.'

In English law you did not need the confession of the accused, whereas in what are known as 'Inquisitorial' systems, you do. You proved them guilty or not on the basis of evidence. It has never mattered what the individual thinks after he has been proven guilty. If the jury thinks that you are guilty, you are guilty. You can go to prison or the gallows tree protesting your innocence. That is your right.

This tradition of avoiding the short-cut of torture is also, as you know, under threat. Some of those engaged in the 'war against terrorism' in Britain and America, where torture is currently banned, are now arguing that it should be allowed, or at least the evidence from those tortured by less scrupulous regimes in other countries should be accepted. I shall return to this in the last lecture on the relations between the citizen and the state.

## **How unusual is England?**

As most famously encapsulated in the theories of John Locke, the essence of English law is the protection of the individual and his or her rights: to a certain amount of liberty, freedom of speech, control of his or her body and personal space and to everything that they own. Ownership includes visible things, like bits of land and houses, but also invisible things, such as intellectual property rights and certain things such as the right to a title or office.

In most societies, law is mainly concerned with interpersonal matters of status and physical injuries. England, in contrast, has been obsessed with property, with civil law, that is cases between individuals who use the courts to sort out disputes about who has rights in what.

Nowadays the principles of an old English system have spread through the former British Empire and the United States. They are so widespread that they have become the normal way of proceeding. Many of the fundamental ideas, for instance the absence of judicial torture, the separation of politics from law and the rules of evidence have become enshrined in the European constitution and elsewhere. This makes it easy to forget that if we had looked around the world in about 1750 we would have been astonished at the English exception.

### **Does the English system have advantages?**

The sophisticated development of property law and safeguarding of economic interests have helped to make England and America wealthy. People can afford to trust each other and if that trust breaks down they can use the legal system. The early development of industrial capitalism could not have occurred without the extraordinary development of English law.

The other main advantage of this kind of legal system is that, on the whole, the majority of people feel safe under it. Without a legal warrant from a Justice of the Peace, the police cannot raid a person's house or business. Most people most of the time can rest secure that they will not be subject to arbitrary punishment or imprisonment, except asylum seekers and some racial minorities.

If you are thrown into prison you have the right to call a lawyer and the right to know what you are being charged with, and the right to be freed if no charge is brought within a certain number of hours (*habeas corpus*).

Under the rule of law, an individual is relatively free from censorship of thought and action. Criticism of the authorities,

freedom of speech (within reason), the possibilities of reasoned opposition to the present system, are all tolerated.

Some of these advantages of the rule of law are being whittled away. State officials argue that suspected terrorists and asylum seekers should not be given legal protection, they should be imprisoned without charge or trial for long periods. There are those who now fear that once certain categories of people are denied basic legal protection, it will not be too long before we all find ourselves in the nightmare world of Stalin or Chairman Mao.

### **Are there disadvantages?**

People complain about the slowness, cost, complexity and at times inefficiency of the English system. There is something in the satirist Jonathan Swift's observation that 'Laws are like cobwebs, which may catch small flies, but let wasps and hornets break through.' It is sometimes impossible to convict someone who is clearly guilty. The inquisitorial system, where the judge can call for more investigation, might well avoid some of these difficulties.

Yet the main disadvantage of the English system is that it can generate an antagonistic attitude. Much of the English system of politics and social life (including sports) is confrontational. The English legal system is odd because it believes, or pretends to believe, that disputes are resolvable into one person winning (being right) and the other losing (being wrong). If this is accepted, then the best way to sort out difficulties is to get those in the dispute to carry out as fierce an argument as possible in front of a referee.

In divorces for instance, a confrontational legal system can lead to much bitterness. The people who profit most from this are the lawyers, who sometimes have a vested interest in dragging the case out. There is much in life where right is evenly divided and mediation or arbitration, poorly developed in the English legal system, is a much better approach to settlement.

In a Nepalese village all quarrels are settled outside the court and in Japan nearly everything is done through mediation or arbitration. The aim of the Anglo-American system is to cut ties, to have a winner and a loser. The aim of many dispute settlement systems has been reconciliation. Relationships are complex and multi-stranded. People will have to on living close to each other and inter-acting in various ways. It is best that their quarrel is smoothed over, rather than settled dramatically in favour of one or the other.

#### 4. Enemies and friends of the state

Bandits and the reasons for bandits; mafia type organizations and their functions; heresy and terrorism, the threats of 'evil'; civil society – corporations, associations and the origins of freedom.



<http://downloads.sms.cam.ac.uk/1411683/1411688.m4v>

##### *Reading*

Hann, Social Anthropology, ch.12

Erik Hobsbawm, *Bandits* (1972)

Anton Blok, *The Mafia of a Sicilian Village, 1860-1960* (1974)

Norman Cohn, *Europe's Inner Demons* (1975)

Charles Townsend, *Terrorism: A Very Short Introduction* (2002)

Chris Hann & Elizabeth Dunn (eds.), *Civil Society* (1996)

## NOTES ON WHICH THE LECTURE WAS BASED

We can imagine the threats to the state as a set of concentric rings. In the midst is the State itself, in the outer ring is war; feuding; bandits; mafia; terrorists/heretics; corporate groups (I shall leave out criminals for the moment).

I have dealt with war and feuding separately. Here are bandits, mafia, terrorists and/or heretics, corporate groups and civil society.

### **Bandits**

*What is a bandit?*

‘An Italian word, used of foreign countries in the sixteenth and seventeenth centuries. Literally a proscribed outlawed person, particularly associated with mountain districts of Italy, Sicily, Spain, Greece and Turkey.’ (OED)

*Some theories* (D. Roccapino, *Brigands and Bandits* (n.d. c.1890))

Why so many bandits in Italy?

- a. historical/political – after fall of Rome, Italy broken into small stages, occupied by foreign powers, quarrelling – gives borders for outlaws to flee across [hence Scottish borders, N & S.Ireland, much of Africa now]
- b. geographical – mountains, ravines, forests, caverns afford excellent haunts for protection and concealment – fine temperature etc. makes it possible for them to subsist [hence mountains, forest, marshes]
- c. attitude towards state and law: thinks Latin, Greek and Celtic peoples instinctively question the equity of laws and question those in authority; while Scandinavians and Teutonic, instinctively conservative and law-abiding

[something in this, further north in Europe, the less bandits... why?]

Schneiders, Western Sicily

- d. the importance of animal rustling, extraordinarily lucrative etc. combined with weak police force [cf. narcotics, Colombia, Golden Triangle etc]

Hobsbawm, *Bandits*

Defines bandits as 'a form of individual or minority rebellion within peasant societies', Robin Hood type, not stealing from neighbours etc.

Amazing uniform and found in 'China, Peru, Sicily, the Ukraine or Indonesia' also throughout Americas, Europe, the Islamic world, South and East Asia.

- e. banditry at its worst in times of political or economic dislocation (e.g. Thirty Years War in Europe, or bad times (e.g. 1920's) in China.
- f. While endemic in peasantries, becomes epidemic during the transition from peasantry to capitalism; bandits and peasants linked
- g. Weak political integration of the State, so the peasant community largely autonomous and State unable to police
- h. Geographically on the margins – in forests, fens, mountains, the 'water margin'
- i. Because of pastoral economy, young men unemployed – people have to leave either to fight in foreign armies (e.g. Scots, Swiss, Gurkhas) or as part time bandits preying on the settled inhabitants.
- j.

*Criticisms of these theories: Anton Blok and Barrington Moore*

B-Moore (p.213-4): in China – local peasants the objects of gangsterism. 'the use of violence to prey on the population indiscriminately without the slightest interest in altering the political system... it is necessary to beware of romanticizing the



robber as a friend of the poor, just as much as of accepting the official image. Characteristically the local inhabitants would bargain with the bandits in order to be left in peace. Quite often local gentry leaders were on cordial terms with bandits.'

*Blok on Sicilian Mafia:*

p.497 'I shall argue that the element of class conflict as embodied in certain forms of banditry has received undue emphasis. Rather than actual champions of the poor and the weak, bandits quite often terrorized those from whose very ranks they managed to rise, and thus helped to suppress them...we know that bandits have fulfilled pivotal roles in the demobilization of peasants'

Reasons for Hobsbawm's error:

- a. an over narrow definition of social banditry – lots of kinds
- b. little consideration of relations to wider society, bandits relations to local power holders; often used by local powerful

*Three examples of the difficulty from my experience*

The above models would allow us to predict that bandits will be found:

Where – mountains/ravines/marshes etc.

Where – political boundaries

Where - pastoralism

When – in stage between tribal/capitalist – ie. peasants

When – times of political or economic dislocation (epidemics, famines)

When – when central governments is weak and unable to maintain law

When – in transition from feudal/peasant to capitalist

Upland Nepal in last 100 years fulfils many of these, but not banditry (Buddhism, opportunities in British army, tradition of self enforcement) – but now Maoism, but still no bandits

South-western China: parts are pastoral, borders etc. But politically unified since Mao and no bandits. Likewise no bandits

in Japanese history, though the absence of borders was important there.

Northern England in C17-18: remote, pastoral, upland, 1688 etc. but no bandits (see Justice and the Mare's Ale).

As with much of social theory, we can perhaps specify some necessary conditions – but certainly not sufficient ones.

## **MAFIA AND SIMILAR ORGANIZATIONS**

### **Some characteristics of mafia-type organizations**

Various etymologies discussed in Gambetta: may mean the 'rejected', or 'place of refuge' (Arabic)

stands for a morality based on revenge, blood for blood, stress on silence, vengeance after a delay, **omerta** (manliness)

According to N. Lewis (p.33) it was 'the product of weak government that had developed its own vested interest in governmental weakness... the targets of popular fury were always the same: the landlord, the Church, the police...'

Yet it also becomes an agent of the state and of the Church, controlling crime and ensuring order (Lewis)

### **The ethnography of violence**

Well described by Anton Blok: 'the recourse to violence prevalent in this part of Sicily and expressed in theft, extortion, ransom, arson, shooting, and homicide was taken for granted and accepted rather than questioned.' (p.174)

Every gesture, every organization, every activity was saturated by violence; even everyday language reflects 'the part played by unlicensed violence in Sicilian peasant society' (p.211)

For example, the village of Genuardo, with a population of 2000 to 2500, from 1916-1966 had no less than 93 homicides reported – others probably unreported.

### **Theory 1: Anton Blok and the political interpretation**

We see in Sicily the side effects of the dissolution of a feudal/peasant society under the impact of a market economy and a centralized nation-state. The State formation which had occurred in other parts of Europe in the sixteenth century was replacing 'churches, clans, empires, cities, federations' etc. by the nation-state which only occurred in Sicily during the C19 and C20

The mafia act as brokers, as middlemen, tolerated by the law and landlords as informal agents of order in this in-between situation. They inhabit the interstices between landlord and peasant, city and country, the 'Great' and 'Little' traditions. They grow and decline in relation to the central power; there is an 'inverse relation between the extent and acceptance of private violence and the level of State control over the means of coercion' (xxviii).

The weakness of the State throughout most of the last 150 years, combined with the great poverty, physical hardships caused by climate, disease and terrain and the social atomism of a cognatic kinship system, have combined to produce a situation where informal violence has flourished.

### **Theory 2: Gambetta and the economic interpretation**

Central thesis: 'the mafia is a specific economic enterprise, an industry which produces, promotes and sells private protection' (p.1)

The mafia creates a need for itself by destroying trust, and then supplying it. It deals in the same commodity as the State, i.e. security

It deals particularly in those areas where the State cannot intervene; 'every time the state decrees a particular transaction or

commodity illegal, a potential market for private protection is created'. (p.3)

The core of the thesis: 'When the butcher comes to me to buy an animal, he knows that I want to cheat him. But I know that he wants to cheat me. Thus we need, say Peppe (that is, a third party) to make us agree. And we both pay Peppe a percentage of the deal.' (p.15)

'My claim is that the making market for mafia services is to be found in unstable transactions in which trust is scarce and fragile'.

This is analogous to taxes or insurance premiums.

The mafia are best seen not as 'violent entrepreneurs', but as 'entrepreneurs of violence' (p.77) Their presence 'can be understood as a response to the lack of trust specifically affecting southern Italy'. What they offer is the reputation that they can enforce contracts; they are 'men of honour', those who step out of line will suffer, hence their trademarks such as dark glasses, or a prickly pear leaf placed beside on of their victims.

### **Theory 3: Arlachi and types of social structure**

A study of three small regions in the toe of Italy, Calabria

In Cosentino, there was a traditional small-holding peasantry with a DMP (minifundia). There was no mafia.

In Crotonese, there were large capitalist estates with wage labourers (latifundia) and much poverty. No mafia.

In the plain of Gioia, in between – unstable, medium-sized agricultural holdings, yet a fully working market economy had not emerged. There was 'a war of all against all, families against families, groups against groups' (p.89) The 'social structure was characterized precisely by the absence of this transfer of powers to civil society and central authority'. (p.104)

Hence mafia was widespread: 'Mafiosi became the civil and criminal judges, mediators, protectors, arbitrators, subsuming in themselves many delicate functions normally exercised by the power of the State.' (p.114)

He concludes 'The mafia phenomenon on was born out of a situation of anomic competition for honour, and represented an excellent instrument of social ascent in a system of commercial capitalism...'

### **Conclusion**

Mafia-type organizations are now very widespread in the world; they are found in all large civilizations. Among the most famous are the triads (China), the yakuza (Japan), and criminal organizations in the former Soviet Union and in India.

The *yakuza* are somewhat different, however, since they are a semi-legal organization, who have recruiting offices, public meetings where the police provide parking, physical symbols which are easy to identify (tattoos, missing fingers, dark glasses and stretch limousines), and indeed they need these. It is no good if people do not know they are yakuza. They are the overlords of that world of prostitution, gambling, drinking and so on which the State can neither police (corruption) nor leave unpoliced (too lucrative).

## **Terrorism and Heresy**

Those in power usually feel under threat. At one time it was the Jews who were rumoured to form an international conspiracy to undermine Christian values. They were believed to eat Christian children, engage in obscene rituals and generally to be subversive of all good values. In the twelfth and thirteenth centuries certain beliefs coming in from Asia were declared to be heretical and the Cathars or Albigensians in the south of France were destroyed by sword and fire in a giant and ferocious crusade led by the Pope.

Then in the fifteenth century an even greater menace was thought to have arisen. Satan or the Devil emerged to lead a secret assault on civilization with his army of witches. For two hundred years the international conspiracy of evil was thought to consist of witches. Since they were such a threat and could not be detected by normal means, special measures were needed. Manuals were written, legal codes were bent and amended to deal with the new threat. The previous tools to crush heresy, including the Holy Office of the Inquisition, were now used in the war against supposed witches. Thousands were rounded up, tried, convicted and burnt.

So extreme was the fear that even in countries without the Catholic Inquisition and with a different legal system, the laws were altered to deal with the new threat. In England in the sixteenth century, people who could not normally act as witnesses, children against their parents, a husband against his wife, were permitted to do so in these special circumstances. Previous evidence of behaviour, attitudes and crimes, not normally revealed, could be brought before the court. The individual could be placed under unusual physical and mental pressures in order to find evidence. He or she could be deprived of sleep for long periods, supposedly to see if her 'familiar' (a small diabolical pet) came to visit her, but, in effect, breaking down her resistance. The presumption of innocence was greatly diminished, the necessity for direct proof was waived and circumstantial or 'spectral' (hazy spiritual) evidence was allowed.

In the end, faced with universal fear and loathing, shunned by their friends, told that they were part of a grand conspiracy of Satanic covens or cells loosely joined to each other, the poor creatures confessed and implicated others. They then confirmed that an organization existed whose totally irrational, unjustified and unprovoked aim was to undermine 'civilization' as we know it. So 'civilization' responded by further abandoning the very justification for its existence. Using the special techniques now allowed, it 'proved' the existence of witches and hanged or burnt thousands of them. Only much later did doubt set in. It emerged that the whole conspiracy was a delusion created by the legal

methods used to attack it. Thousands had been destroyed on the basis of an illusion.

Similar panics still occur. In the 1950's it was a panic about a secret conspiracy of 'communists' which led to the McCarthy trials in America and the destruction of the reputation of many innocent people.

Then in the 1980's in Britain a new threat came to light, the so-called paedophile rings. The details of their activities and the widespread sexual abuse of children by their parents were often 'recalled' when children were 'counselled' by sympathetic experts. Satanic rituals in which children were sexually abused and even human sacrifices were supposed to occur, were suddenly believed to be widespread. Hundreds were imprisoned, thousands of children were taken away from their parents in dawn raids. Only later, as the panic declined, was it discovered that most of the accusations were false, created by the very methods of trying to deal with them.

So there are plenty of precedents for the fear of a malevolent Other, and all of them tend to involve the shadowy presence of Evil, the Devil or Satan. Worldwide conspiracies against civilization were thought to have existed for thousands of years. Among them were Christianity and Islam themselves before they came to dominate.

### **What is the 'Axis of Evil'?**

The recent rise in the fear of what a President of the United States called the 'Axis of Evil' is a general umbrella term. Like an earlier President's remark about 'the Empire of Evil', referring to the Soviet Union, it has wider implications once it circulates through the media.

The evil is envisaged as a threat to all civilized values. It is believed to threaten the State and all aspects of a society, just as witches or Jews or heretics were thought to menace the foundations of Christian morality in the past. Some think the threat is sufficiently serious to justify the dismantling of the

protections for 'terrorists'. A vast conspiracy is feared and this tends to be fuelled by the moral panic that is whipped up. This movement appeals to those whose power and prestige is enhanced. They may, as with the great witch-hunters of the past, feel a glow of satisfaction and passionately believe that they are protecting their God and their country.

Looking back after the event, as we can now do with witch hunting, we may well come to feel the same about the current panic. People may conclude that the action of the State in countering terrorism is undermining the very values it claims to protect.

Beliefs in Satan, witches and the Axis of Evil are a perpetual, irrefutable, justification for sweeping counter measures. We are used to the temporary and drastic suspension of normal legal protections and processes during a limited war. In the Second World War, for example, suspected aliens were rounded up and imprisoned without trial, all citizens immediately lost many of their rights, freedom of speech was severely curtailed, loyalty to the State became paramount. Serious criticism was discouraged as being close to treason. If you are not fully for us, it was argued, you must be against us. The State was justified in bullying, lying, deceiving, swooping down, spying on anyone. Truth is said to be the first casualty of war; the freedom and rights of individuals are the second.

Afterwards there may be apologies, as there were, for example, to the large numbers of innocent Japanese rounded up and locked away in America after Pearl Harbour. But that is afterwards. War itself usually spells an end to liberty and equality before the law.

Yet wars, at least the typical wars of the nineteenth and twentieth centuries, had one compensation. They tended to be bounded. There was a period of war and civil liberties and the normal processes of law were suspended. But then there was peace and the luxury of freedom could again be afforded by the State and was demanded by a citizenry who had not forgotten its earlier freedoms. People even persuaded themselves that this is



what they had been fighting for, even if they had had to abandon the rights and freedoms temporarily.

The 'Axis of Evil', whether al-Qa'ida, or the satanic cults of witches, is rather different. This is a world linked to certain tendencies within Christianity and Islam. Those involved on both sides of the struggle believe that there is someone out there who is trying to undermine their way of life and whose motives they cannot fathom. These unseen folk are Evil, whether they are the feared western capitalists or Islamic fundamentalists. They are believed by many to be in league with the Devil.

The defenders of 'our' way of life believe that Evil never sleeps, is always plotting, always invisible, irrationally consumed with a desire to destroy 'our' rational, sane, orderly, pleasant way of life. It lurks menacingly, 'reds under the beds' as the communists were once described, or, to use a more modern metaphor, the 'monster' hiding in the wardrobe of the frightened child in 'Monsters Inc'.

Just as in the past witches were thought to hide behind the outward smiles of neighbours, terrorists are believed by some to conceal themselves as 'students' in our universities. Evil will use any weapons, of single or 'mass' destruction, curses, the poisoning of wells (a well known technique ascribed to witches and Jews in the past), and pestilences (biological warfare against animals and humans) and plagues of caterpillars or locusts.

There may be temporary victories, but there can be no truce or termination. We must fight continuously, for evil is hydra-headed. Cut off one of its manifestations, for instance the Taliban in Afghanistan, and it will spring up again elsewhere. Worst of all, it is not just an external threat, as are the conventional enemies, the Germans, the French, the British or whoever we were fighting against in the wars between nation-states. The minions of the Evil One are in our midst, or so it is alleged.

We are told that terrorism feeds on envy, in the envy of poor immigrants for their hosts, of impoverished Third World people who cannot accept that the fact that they earn one hundredth of

what a westerner in many affluent societies earns is perfectly fair. The poison lurks in the devious practices of people who eat strange foods (not, as was supposed with Jews and witches in the past, babies and other sacrificial victims, but highly spiced and strange substances, or rubbishy fast food), who go through strange rituals (not satanic ones, but worshipping Allah or other Gods), who wear too few clothes (mini) or too many (veils).

Of course there are differences between earlier panics and the present one. Witches, we know, could not actually harm people. A bomb, delivered by whichever side in the battle, kills and maims. The main point, however, is to realize from past experience that it is very easy to get into an almost unending vicious circle of fear. We would do well to remember a line from Edwin Muir's poem. 'We have seen Good men made evil wrangling with the evil, Straight minds grown crooked fighting crooked minds.'

### **Civil society and its enemies**

'Civil society' usually refers to the world of associations and organizations which lie between the State and the individual. In many societies it is the family group and sometimes the religious caste which inhabits this space. Yet in the modern west these are less important.

Instead there is a multitude of organizations to which people belong, but which are not run by the State. Schools, universities, trades unions, political clubs, sporting clubs, religious groups, scientific and literary clubs, economic institutions, these and many others enable someone to belong to an organization. This can provide strength through numbers and the pooling of resources.

In most civilizations in the past, and in Fascist and Communist nations in the last century, all these institutions were banned, or controlled by the State. Individuals owed their allegiance to the State or Party, not to other organizations. Civil Society was prohibited. How is it, then, that these associations and groups now

flourish in such a lively way in much of the world? And what effect does this have?

### **Where did an open society come from?**

The revival of Roman law, which spread over all of continental Europe between the fourteenth and seventeenth centuries, brought with it a homogenizing, flattening, tendency. This set almost all of Europe along a new path. Yet during this important period England retained its Common (Germanic) Law system.

At this time, a legal accident occurred in England that was to change the world we live in. Lawyers were, as ever, trying to find a way round a tax regime. When a wealthy man died, his landed property, held in the strict feudal system directly of the King, was forfeited back to the Crown. In order for his heirs to re-claim it, they had to pay a heavy death duty on their estates. Naturally the rich did not like this. Their legal advisors saw that the problem could be avoided if they made the man at his death no longer the owner of the property. If he did not hold the property at death, the Crown could not seize it and insist on a tax before it passed on to his heirs.

So the lawyers invented the device of the Trust. A group of friends of the property holder were chosen and the estate was legally conveyed to them. They held it 'in trust for the use of another'. It was legally theirs to do what they liked with, but the owner trusted them to pass it on at his death to his heirs and to carry out his wishes in whatever way he had privately told them.

The Trust created a strange and anomalous thing. Trustees were appointed to work together to hold and administer property and to take collective decisions. The Trust had a name, a separate existence, a body that existed through time. So it was technically a 'corporation', a 'body'. Yet it had not been set up by the State, it had not been 'incorporated' or licensed by the State with a formal document. It had been set up by a group of private citizens, yet it was recognized by national law.

Such entities were threatening to the State if they became powerful since trustees could make their own rules. It also allowed citizens to work together and create alternative loyalties. Consequently Mussolini and Hitler banned during the French, Russian and Chinese revolutionary periods, and trusts. In England, Henry VIII tried to destroy them but it was too late. Abolished for a few years, the Trusts were restored by a technical legal trick.

### **How did we get freedom?**

From very early on the Trust idea spread beyond the simple avoiding of death duties. The idea provided a device which could be used for any need. In the field of economics, any group that wished to set up a mutually-supportive, private, non-State, entity could now do so. Whether it was a great trading organization such as the East India Company, a bank or insurance company such as Lloyds, or even the Stock Exchange, the device of the Trust was ready at hand. Much of the success of Britain came from this form of organization. The United States has widely used the same idea as the foundation of the mighty trusts and corporations which now rule the world.

In religion, the Trust sheltered the growing independence of the Protestant Christian sects. Without the ability to set up meeting places and independent organizations provided by the Trust, the Quakers, Baptists, Methodists and other religious nonconformists could never have flourished. Much of what we call religious liberty was made possible by this device. Without it, in certain Catholic countries, the Jews, Masons, Lutherans and others were persecuted almost to extinction.

When the State becomes more powerful it does not usually tolerate rivals. The growth of parties, of political clubs and organizations, grew out of the Trust concept. The early clubs of the Whigs and Tories, the later clubs and associations of working men, the Trades Union movement, all were based on the legal device of the Trust.

Likewise, the whole system of devolved government, the shires with their magistrates and local power, the parish councils and many other local and regional bodies were given strength by the concept. Local educational and church organizations, grammar schools and vestries, all were trust-based.

Normally rulers come to believe that power is their private property, they own it. The strange thing in Democracy is that power *is held in trust for the people*. The present rulers are trustees, they have been entrusted with temporary power, which is not theirs but has to be passed on to their successors. When they are felt no longer to be performing adequately, they are replaced by another 'board of trustees', or as they are called, the Government. The corruption of power is held in check by the limited period for which it can be held.

### **How did we get social and intellectual freedom?**

The Trust gave the British two of their most famous institutions. There were the social and philanthropic clubs and associations; the Women's Institute, the Boy Scouts and the Girl Guides, Oxfam, Amnesty, the Samaritans, the Salvation Army, the National Trust, the Royal Societies for the Prevention of Cruelty to Animals, for the Protection of Birds, for the Protection of Children, the Lions, the Rotarians. There were numerous working class clubs and organizations, funeral societies, pigeon-fancying, leek growing, discussion groups, sports groups. Many of the clubs and institutions which have spread around the world were invented in Britain on the basis of the idea of non-governmental clubs.

The Universities and learned societies, whether of the elite (the Royal Society, British Academy) or the masses (working men's clubs, local libraries and institutions such as the London Lending Library) were based on the trust idea. Without these, the meetings of engineers, philosophers and others in the coffee clubs and hundreds of small groupings would not have occurred. These clubs had an incalculable effect on the development of scientific and industrial knowledge.

### **What happens if we don't trust people?**

The Trust idea encouraged that rare commodity 'trust' to develop. Without this, the economic, political and social foundations of modern Democracies could not exist. The hybrid device of the Trust runs counter to most of the powerful tendencies in the development of civilizations. Almost always any advance in wealth or power in a society has, after a short while, been gobbled up by the central power. Knowledge is power, so it must be incorporated into the centre. Social status is power, so it must be harnessed. Economic wealth must be absorbed. Religious loyalty must be channelled towards the State in alliance with the clergy. The State demands all of this. If the State is threatened, or pretends to be threatened, its demands are almost impossible to reject.

Other threatening institutions are systematically extinguished or enfeebled, until in the later periods of every Empire, whether in Rome, China, the Habsburgs, the Ottomans or France, the peripheral powers are weak. There develops a central power which aspires to be all-powerful and which is supported by an ever-growing bureaucracy and standing army. When the absolutisms of the twentieth century emerged, with their superior forms of surveillance and advanced technologies of control, even the family group was shattered. Nothing stands between the individual and Joseph Stalin, Chairman Mao or Pol Pot.

The State is like a machine for cutting grass, a lawn-mower with its blade fixed at the maximum setting so it is very close to the earth. It cuts off and absorbs into itself anything that sticks up more than a tiny way. If the universities, the monasteries, the cities, the traders and merchants, the industrial producers or anyone else starts to accumulate visible wealth and power, especially if they start to proclaim their own rules and independent government, the State officials savagely prune or eliminate them. Only two types of organization can survive such a system which confiscates any conspicuous wealth and destroys all

alternative power structures, secret organizations (like mafia, Masons etc.) and the family.

### **How are trust and democracy linked?**

Through an accident, Civil Society, that is the thick layer of organizations which lies between the State and the individual Subject or Citizen, continued and flourished and the civil liberties and rights of free thought and free association became increasingly valued.

Such a flourishing of Civil Society and alternative centres of power has, of course, happened before in history, as in Athens in its great period, or for a time in the Italian city states. Yet in most cases the experiment had been small and short-lived. Only when the trust coincided with two other developments (which it also helped to bring into being) could a new type of civilization be established.

One of these was a new way of obtaining reliable knowledge about the natural world (the scientific revolution). The other was a new way of harnessing that knowledge to generate new power and wealth for humans (the industrial revolution). When these two were joined with the Trust, there developed a powerful form of political and social system, which we often term 'the open society'.

Yet it is well to remember that the creation of an open society was an accident, an unintended consequence of many other forces. It was not the result of superior virtues or intelligence on the part of people living in one part of the world. We should also remember that it is constantly under pressure from forces from both the left and right.

## SOME DEFINITIONS AND TECHNICAL TERMS

(Compiled by Alan Macfarlane: for private use of students. If you would like a full version covering all of anthropology, please see [www.alanmacfarlane.com](http://www.alanmacfarlane.com) under 'Lectures'. The full definitions can be printed out. The sources for these definitions in various textbooks is given there.)

**Acephalous society:** Literally a “headless” society. Refers to a highly decentralized and relatively egalitarian form of political organizations.

**Association:** a social group based on shared interest or voluntary participation.

**Band:** Basic social unit in many foraging populations. Normally includes one hundred or fewer - all related by kinship or marriage.

**Big Man:** Figure often found among tribal horticulturalists and pastoralists. The big man occupies no office but creates his own reputation through entrepreneurial expertise and generosity to others. Neither his wealth nor his position passes to his heirs.

**Bureaucracy:** the specialized administrative organization concerned with the day-to-day running of the state.

**Cargo cults:** revitalization movements that attempt to gain European goods (cargo) by magical imitation of European behaviour and technology; typical of Melanesia.

**Charisma, charismatic:** a quality, coming from a person rather than from an office, that inspires intense loyalty and devotion; often has religious significance, linking prophet and followers.

**Chiefdom:** (1) Form of socio-political organization based on food production, usually agriculture or intensive horticulture, in which kinship remains important and generosity is associated with political office. Often a transitional form between tribal society and state. (2) a political system in which kin groups are linked together through a hierarchy of political and/or religious leadership.

**Civil society:** there are several meanings. One, derived from eighteenth century Enlightenment thought, refers to all associations and activities which lie between the State and its organs on the one hand, and the individual or citizen on the other (e.g. colleges, clubs, sects, firms etc. etc.)

**Contract/Status:** as used by lawyers (esp. Maine), the difference between relations based on choice, some kind of agreement, and those based on birth or non-choice. The movement to modern societies often thought to be the movement from status to contract based systems.



**Corporate Group:** (1) A social group whose members act as a legal individual in terms of collective rights to property, a common group name, collective responsibility, etc. (2) Groups that exist in perpetuity and manage a common estate. Includes some descent groups and modern industrial corporations.

**Ethnic boundary markers:** any overt characteristics that can be used to indicate ethnic group membership.

**Ethnic group:** (1) People whose particular customs and cultural heritage differ from other such groups and from the main body of society (2) a named social group based on perceptions of shared ancestry, cultural traditions, and common history that culturally distinguish that group from other groups.

**Feud, feuding:** (1) Continuing hostility, enmity, and recurrent aggression between social groups. (2) violent extralegal conflicts that occur between subgroups of the same society.

**Feudalism:** a social and economic system whereby land is held, by conferred right, by members of a privileged class, who can command the labour of a lower class that works the land.

**Hydraulic society:** an advanced agricultural society making use of irrigation and tending to have a high degree of political centralization.

**Ideology:** (1) A cultural belief system, particularly one that entails systematic distortion or masking of the true nature of social, political, and economic relation. (2) values and beliefs about how the world is or should be ordered that are consciously and systematically organized into some form of program.

**Law:** a body of social norms in a society, which its members must abide by and which may be enforced by an agency recognized as having political authority in that society.

**Millenarian movement:** a social movement espousing a belief in the coming of a new world (a millenium), in part through supernatural action.

**Nation-state:** socio-political system with a government and sharp contrasts in wealth, prestige and power.

**Nationality:** an ethnic group which claims a right to a discrete homeland and to political autonomy and self-determination.

**Neo-colonialism:** The process whereby industrial nations control the political and economic life of nominally independent countries through investment and support of local elites.

**Race:** a category based upon physical traits.

**Racism:** the explanation of a people's behaviour in terms of genetic endowment, usually associated with a belief in the innate superiority and inferiority of particular groups.

**Rank society:** a society having no socially structured unequal access to economic resources, but having socially structured unequal access to status positions and prestige.

**Revolution:** a fundamental change in the rules governing social, political and other relations, an overturning (as changing cricket to football), as opposed to ‘rebellion’, which is just changing the players.

**Secret societies:** groups that restrict their membership and maintain secrecy about their rituals, group practices, and special esoteric knowledge.

**Segmentary:** Of descent systems, defining descent categories with reference to more remote apical ancestors so that the descent categories form a treelike structure (including successively wider ranges of descendants).

**State:** (1) A political entity that exercises sovereign rights over a territory and exercises power through centralized, hierarchical political institutions of control, revenue extraction, and enforcement of law and civic duty. (2) A political unit with centralized decision-making affecting a large population. Most states have cities with public buildings; full-time craft and religious specialists; and “official” art style; a hierarchical social structure topped by an elite class; and a governmental monopoly on the legitimate use of force to implement policies.

**Succession:** Assumption of an office that has been vacated; the pattern whereby successors are chosen.

**Tribe:** (1) Form of socio-political organization generally based on horticulture or pastoralism, more rarely on foraging or agriculture. Socio-economic stratification and centralized rule are absent in tribes, and there is no means of enforcing political decisions. (2) A small-scale society characterized by a distinctive language and culture with a political identity but not central, hierarchical institutions.

**Voluntary associations:** organizations like burial societies, social clubs, and trade associations that people join.

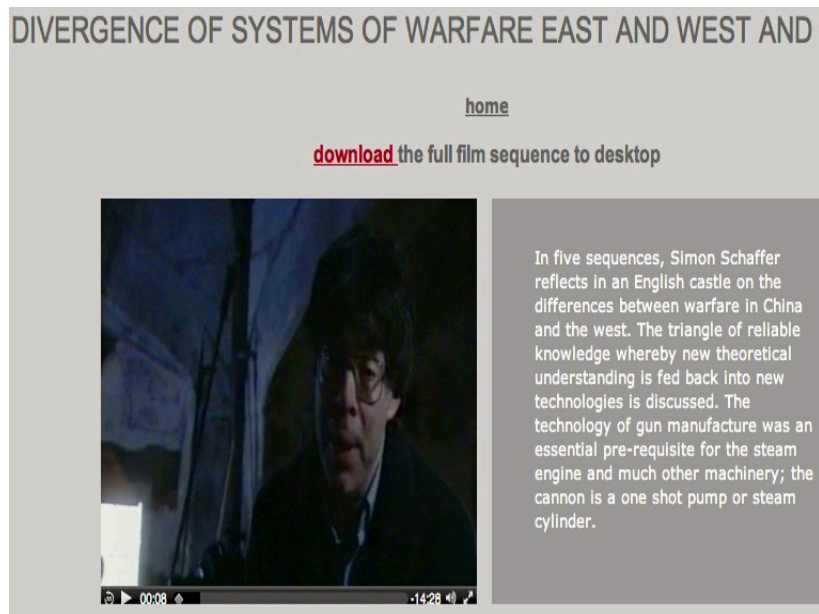
**Warfare:** Formalized armed combat by groups representing rival political communities.

**World system:** A social system encompassing the entire world and entailing a single division of labour.

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