Conjoined Book Review by M.G. Smith
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BOOK REVIEWS


There are several good grounds for discussing these books together. Both are products of the East African Institute of Social Research, both deal with overlapping socio-cultural areas, and both books treat similar problems of political organization and change. Moreover, both are works of a very high standard, and in their presentation, analysis and fieldwork belong with the best in current anthropological monographs. They reflect credit on the East African Institute of Social Research as well as on their authors. The information which they supply and the analyses which they provide cannot fail to be stimulating and valuable to academic and practical men alike. It is a pleasure to review such excellent work.

Dr. Southall discusses the political organization of the Alur, a Luo-speaking Nilo-Hamitic people who live on both sides of the border between Uganda and the Belgian Congo. Dr. Fallers' people, the Busoga, are Bantu, also living at the Northern shore of Lake Victoria in Uganda. The Busoga number about half a million or about the same as the Alur. But Alur have been expanding their territory for some generations, with the result that many groups living within Alur society, such as the Lendu, Okebo, or Madi, are not true Alur. Dr. Southall therefore has to show how the processes by which the Alur expanded their dominion relate to the type of dominion which they developed, and he faces this problem squarely in terms of "the incorporation of diverse ethnic groups into a single social structure" (p. 23, Alur Society).

Dr. Southall defines the problems produced by Alur expansion at two levels; historically, as a problem of growth and spread of Alur domination over Bantu tribes; morphologically as the problem of unity of divergent cultural and structural patterns. He shows clearly (p. 180 ff.) that subjection of neighbouring people to Alur rule was voluntary, and not a result of conquest, and that the conquest theory of the origin of state systems needs revision, in so far as Alur political organization has the form of a state (p. 245 ff.)

The morphological problem is rather more tricky. Here, Dr. Southall is concerned with the type and unity of the Alur political system as a system and with the boundaries of the area to which this system applied. The significant variations of political form and organization which he reports in detail would suggest that the Alur political system has only a conceptual or analytic unity; that is to say, the numerous Alur chiefships and sub-chiefships only form a common political system in the sense that they share certain characteristic patterns and processes, namely, expansion without conquest or war, the institution of chieftainship, segmentary lineage organizations, and the like.

Dr. Fallers' Busoga are another society in which chieftainship and segmentary lineage organization are found together. But Soga development provides no problem of historical expansion for Dr. Fallers to wrestle with; and he is rather concerned with the consistency or inconsistency of corporate lineages, chieftainship, and patron-client relations in the traditional Busoga States on the one hand, and in their present relations with Western-type bureaucracy on the other. This is the problem of integration and conflict of political institutions, defined and analysed with great clarity and insight by Dr. Fallers. There can be no doubt that Dr. Fallers proves his case of the conflict between lineage, clientship, and bureaucracy in modern Busoga. With regard to the "functional incompatibility" of corporate lineage and the traditional patterns of Busoga state organization, there is more room for doubt, and Dr. Fallers' generalizations about the "inevitability of conflict between lineage and state" require careful qualifications and definitions before they are testable comparatively.

These two studies, dealing as they do with similar problems in somewhat similar types of societies, share a similar form. After brief historical and geographical introductions, they proceed to describe the system of segmentary corporate lineages among the Alur and Soga. The account of Alur lineage organization provides an opportunity for Dr. Southall to illustrate the processes by which the complex society of Alur has developed. Dr. Fallers, dealing with the Soga, uses survey data on the composition of households and villages to illustrate various aspects of lineage and local organization such as kinship span, scatter, depth, extra-village marriage frequencies, etc. He also gives a clear account of Soga family relations, and describes the relations between lineage organization and the patterns of inheritance and succession, distinguishing between the Soga "succession" lineages and the pure type of segmentary lineage such as the Alur have. Dr. Fallers next gives an account of traditional Busoga state institutions and organization which is, unfortunately, the weakest part of the book (pp. 126-143). Concerning the character of traditional Alur chiefship, Dr. Southall gives a fuller account, discussing its religious and ritual characteristics, and its processes of growth and decay in detail.

Dr. Fallers observes that "the institution of corporate unilineal descent group membership and the institution of patron-clientship interfered with each other". But the evidence from Alur suggests that this need not always be so Alur chieftainship expanded, as Dr. Southall's data show, by enlisting localized corporate lineages as "clients". Among the Hausa of Northern Nigeria,
dynastic lineages flourish under state conditions, while persons of commoner status lack unilinear corporate descent. The Hausa example is indeed almost the reverse of certain traditional Soga conditions. Such comparisons suggest that the statement about the inevitability of conflict between clientage and lineage may need some qualification.

Dr. Fallers concludes his discussion of the traditional Busoga state with the remark that "although the state was unstable from the point of view of its concrete personnel, this very instability was, from the point of view of the system in the abstract, a kind of stabilizing influence. The presence of potential rebel princes provided a ready source of leadership for revolt against serious misrule or breach of custom by the ruler. . . . Traditional revolt frequently resulted in changes of personnel, but did not alter the system." Indeed, in so far as the evidence presented permits judgment, it may be the case that revolt or the threat of revolt was essential if the "system" was to persist in its current form. Yet if this is admitted, the "functional incompatibility" of lineage and state must be abandoned. What we have in traditional Busoga is a combination of these two principles to produce a type of equilibrium and system, the maintenance or change of which depended ultimately on the interaction of its constitutive principles, namely, lineage, clientage and chiefship.

Alur government, despite its peaceful expansion, rested on the same ultimate basis. The chieflet who could not maintain the minimum of order soon lost his supporters; while his neighbour who ruled despotically found that his people had also withdrawn. Rain making powers of Alur chiefs corresponded, as Dr. Southall shows, with their chiefly power, and this in turn was adjusted nicely in relation to the power and freedom of the people over whom they ruled.

It is this problem of power which is ultimately crucial in political order. Dr. Southall considers that Alur government belongs to a special category of political organization which he calls the "segmentary state." (p. 248 ff.) Segmentary states are distinguished from "unitary states" decisively by the fact that "several levels of subordinate foci may be distinguishable, organized pyramidal in relation to the central authority." Similar powers are repeated at each level with a decreasing range, every authority having certain recognized powers over the subordinate authorities articulated to it . . . .

Dr. Fallers, who defines his study in terms of the integration or conflict of Busoga political institutions, begins (Chapter 1) by a beautifully clear and systematic definition of each of these concepts, and regards "political institutions simply as the rules governing the legitimate use of power, and not as the social units to which such rules apply." The British Parliament is not a political institution but rather a specialized social unit to which British political institutions allocate overriding legitimate power" (p. 5). This concept of institutions raises various problems. If the British Parliament is not an institution, it is difficult to see why the Uganda Administration or the African
consideration of the nature of government, of authority and power, their differences, inter-relations, and implications for equilibrium or change, is also necessary. It is not the least merit of these two books that they both propose and suggest general ideas about the lines along which these problems might be fruitfully studied. Allur Society and Bantu Bureaucracy are notable contributions to the anthropological study of government and to the documentation of African change and life.

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The Judicial Process among the Barotse of Northern Rhodesia. By Max Gluckman. With a Foreword by A. L. Goodhart, K.B.E., Q.C., F.B.A., Manchester. Manchester University Press, on behalf of the Rhodes-Livingstone Institute, Northern Rhodesia, 1953. With 11 plates, 2 maps, 6 diagrams, xxiii and 386 pp. 37s. 6d. net.

This is an important, stimulating and ambitious work. Professor Gluckman writes primarily for the social anthropologist, but is justified in hoping that his work will be of value to administrative officers, comparative lawyers and legal theorists. As for the Barotse themselves he trusts that his record "will preserve not only for them, but also for their descendants, a way of life which, despite its material hardships and its evils, was on the whole good. It may help others to understand them, and them to understand themselves". Not the least interesting aspect of the work is indeed the way in which a picture of the whole life of a society emerges from the record and discussion of sixty cases tried in the Barotse courts. The author was present at the hearing of many of these cases—he spent in all thirty months on field research—and the patent warmth of his regard for the persons he is observing (the Exorbitant Fishmonger, the Forgiving Kinsman, the Quarrelsome Teacher, the Man who Helped his Mother-in-Law Cross a Ford—and many such others) carries with it an assurance of the quality of his understanding. To complete his study of law and ethics in the social structure of the Lozi, the ruling people of Barotseland, two further works are planned, "The Role of the Courts in Barotse Social Life" and "The Ideas of Barotse Jurisprudence". This trilogy should form a unique account of the legal system of a simple agricultural society.

Of special interest to the reviewer is Professor Gluckman’s treatment of the more abstract topics of legal theory. Deeming it his first duty to describe Lozi 'legal' institutions clearly, he has not become involved in complex discussions of the meaning of terms or considered whether the conceptual framework he employs will cover the facts of law in other systems. Realizing however that "specialized, specific, univocal terms" are needed for any careful analysis of empirical observations he gives his own definitions of terms he is proposing to use like 'law', 'corpus juris', 'legal' and 'alegal' rules. 'Law' is to include both 'legal' and 'alegal' rules—that is to say all "rules accepted by all normal members of the society as defining right and reasonable ways in which persons ought to behave in relation to each other and to things, including ways of obtaining protection of one's rights" (p. 229). Of these rules only those which the Courts ought to enforce or observe are 'legal' rules. The remainder are 'alegal'. 'Legal' and 'alegal' rules of law together make up the 'corpus juris' of the society. It may be doubted whether this terminology is the best which can be devised. The reader may find it irritating to have to remember that 'law' may include rules which are not 'legal', and to have to keep wondering, in various contexts, whether the point is important. To rejoin that the Lozi term 'mula' has a similar wide meaning is beside the point. It has already been admitted that it is only by the use of 'specialised, specific, univocal terms in analysis that this sort of ambiguity in current terms can be adequately exposed. Since Lozi judges, where statutes and clear custom fail, may give effect to equity or fairness and other types of conduct norms, it may well be said that the sources of such norms are subsidiary sources of legal rules. In this way one can indicate the close relationship of these social norms to legal rules without adopting a terminology which requires one to say that such norms, even if contrary to statute and custom, are part of the 'law' and the 'corpus juris'—though admittingly 'alegal'. In short the reviewer would deny the name 'law' to norms other than those which courts ought to enforce or observe. It may be on pure grounds of convenience for analysis, with no implications for the meanings which "inhere in . . . words themselves" (p. 306), or for the "nature . . . of law" (p.xv), whatever may be the import of these mystic phrases. A society without norms must certainly be termed abnormal. But is it so hard for the followers of Malinowski to conceive of a society which is without 'law' (because there are no courts) and is yet not therefore to be designated 'lawless'?

A recurrent theme throughout the book, and the title of an important chapter, is "The Paradox of the 'Uncertainty' of Legal Concepts and the 'Certainty' of Law". This paradox results in the simultaneous Lozi convictions that law is certain and litigation a chancey business. The paradox is perhaps better formulated on p. 306 as "the paradox of certainty in the corpus juris and uncertainty in adjudication or legal rulings". Professor Gluckman declines, however, as an anthropologist, to consider "fundamental epistemological problems of how rules exist" (p. 352). But can such problems, in this context, really be avoided? He treats rules as containing concepts, and concepts as being sometimes "flexible". Rules then, for him, exist in a way which permits of being "flexed". This flexibility of rules—which occurs when they contain imprecise or ambiguous concepts like "reasonable", "law", "right"—accounts for the element of uncertainty about the rulings in particular cases. But there are difficulties in reconciling this flexibility with a simultaneous certainty in law. How can a flexible legal rule be flexed and yet remain certain and the same? If one doesn’t know how a rule exists it would seem difficult to say.