LAW AND SOCIAL CHANGE: THE SEMI-AUTONOMOUS SOCIAL FIELD AS AN APPROPRIATE SUBJECT OF STUDY

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> *"We must have a look at society and culture at large in order to find the place of law within the total structure."*
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> E. Adamson Hoebel, *The Law of Primitive Man* Cambridge, Massachusetts, 1954 p.5.

In our highly centralized political system, with its advanced technology and communications apparatus, it is tempting to think that legal innovation can effect social change. Roscoe Pound perceived the law as a tool for social engineering (1965: 247-252). Some version of this idea is the current rationale for most legislation. Underlying the social engineering view is the assumption that social arrangements are susceptible to conscious human control, and that the instrument by means of which this control is to be achieved is the law. In such formulations "the law" is a short term for a very complex aggregation of principles, norms, ideas, rules, practices, and the activities of agencies of legislation, administration, adjudication and enforcement, backed by political power and legitimacy. The complex "law," thus condensed into one term, is abstracted from the social context in which it exists, and is spoken of as if it were an entity capable of controlling that context. But the contrary can also be persuasively argued: that "it is society that controls law and not the reverse . . ." (Cochrane, 1971: 93-4). This semantic morass is partly the result of the multiplicity of referents of the terms "law" and "society." But both ways of describing the state of affairs have the same implication for the sociological study of law. Law and the social context in which it operates must be inspected together. As Selznick has said, there is no longer any need "to argue the general interdependence of law and society" (1959: 115). Yet

although everyone acknowledges that the enforceable rules stated and restated in legal institutions, in legislatures, courts and administrative agencies, also have a place in ordinary social life (Bohannan, 1965), that normal locus is where they are least studied. (See, for example, the emphasis on the study of official behavior in the recent Chambliss and Seidman, 1971, and on dispute settlement in much of the recent anthropological literature, *cf.*, Moore, 1969. A significant exception is the emphasis on "law-in-society" in Friedman and Macaulay, 1969.)

Both the study of official behavior and the study of dispute settlement have been very productive. Schapera, in his study of Tswana chiefs, has produced the only anthropological study of tribal legislation and social change, and a very interesting work it is (Schapera, 1970). Thus it is without any critical animus that this paper will suggest that there are other productive approaches as well, that it may be useful for some purposes to return to the broad conceptions of Malinowski who set out to "analyse all the rules conceived and acted upon as binding obligations, to find out the nature of the binding forces, and to classify the rules according to the manner in which they are made valid" (1926: 23). Malinowski looked at ordinary Trobriand behavior to find this material. For reasons I hope to make clear, this breadth of approach applied to a narrow field of observation seems particularly appropriate to the study of law and social change in complex societies.

The approach proposed here is that the small field observable to an anthropologist be chosen and studied in terms of its semi-autonomy — the fact that it can generate rules and customs and symbols internally, but that it is also vulnerable to rules and decisions and other forces emanating from the larger world by which it is surrounded. The semi-autonomous social field has rule-making capacities, and the means to induce or coerce compliance; but it is simultaneously set in a larger social matrix which can, and does, affect and invade it, sometimes at the invitation of persons inside it, sometimes at its own instance. The analytic problem of fields of autonomy exists in tribal society, but it is an even more central analytic issue in the social anthropology of complex societies. All the nation-states of the world, new and old, are complex societies in that sense. The analytic problem is ubiquitous.

Much as we may agree with Professor Hoebel that force, legitimately applied (or the threat of its application), is a useful criterion for distinguishing legal norms from others for

certain analytic purposes, an emphasis on the capacity of the modern state to threaten to use physical force should not distract us from the other agencies and modes of inducing compliance (Pospisil, 1971: 193-232; Weber, 1954: 15). Though the formal legal institutions may enjoy a near monopoly on the legitimate use of force, they cannot be said to have a monopoly of any kind on the other various forms of effective coercion or effective inducement. It is well established that between the body politic and the individual, there are interposed various smaller organized social fields to which the individual "belongs." These social fields have their own customs and rules and the means of coercing or inducing compliance (see Pospisil on "Legal Levels and Multiplicity of Legal Systems," 1971: 97-126). They have what Weber called a "legal order." Weber argued that the typical means of statutory coercion applied by "private" organizations against refractory members is exclusion from the corporate body and its tangible or intangible advantages, but that they also frequently exert pressure on outsiders as well as insiders (Weber, 1954: 18-19).

Weber also recognized the difficulties of effectuating successful legislative coercion in the economic sphere. He attributed these difficulties partly to the effects of the complex interdependence of individual economic units in the market, partly to the fact that, "the inclination to forego economic opportunity simply in order to act legally is obviously slight, unless circumvention of the formal law is strongly disapproved by a powerful convention. . ." (Weber, Shils and Rheinstein translation, 1954: 38). He was also very much aware of the chances of getting away with non-compliance, among other things, because:

> it is obvious . . . that those who continuously participate in the market intercourse with their own economic interests have a far greater rational knowledge of the market and interest situation than the legislators and enforcement officers whose interest is only ideal. In an economy based on all-embracing interdependence in the market, the possible and unintended repercussions of a legal measure must to a large extent escape the foresight of the legislator simply because they depend upon private interested parties. It is those private interested parties who are in a position to distort the intended meaning of a legal norm to the point of turning it into its very opposite, as has often happened in the past (Weber, *Ibid.*).

This paper will argue that an inspection of semi-autonomous social fields strongly suggests that the various processes that make internally generated rules effective are often also the immediate forces that dictate the mode of compliance or noncompliance to state-made legal rules. It will also argue

a methodological point: that the semi-autonomous social field is *par excellence* a suitable way of defining areas for social anthropological study in complex societies. It designates a social locale to which anthropological techniques of inquiry and observation can be applied in urban as well as rural settings. By definition it requires attention to the problem of connection with the larger society. It is an area of study to which a number of current techniques could be fruitfully applied in combination: network analysis (Mitchell, *et al.,* 1969), transactional analysis (Barth, 1966), the analysis of negotiation (Gulliver, 1963, 1969), the politics of corporate groups (Smith, 1966), situational analysis and the extended case method (Garbett, 1970; Van Velsen, 1967; Turner, 1957) and the analysis of public explanations made in normative terms (Gluckman, 1955, 1965; Moore, 1970).

The semi-autonomous social field is defined and its boundaries identified not by its organization (it may be a corporate group, it may not) but by a processual characteristic, the fact that it can generate rules and coerce or induce compliance to them. Thus an arena in which a number of corporate groups deal with each other may be a semi-autonomous social field. Also the corporate groups themselves may each constitute a semi-autonomous social field. Many such fields may articulate with others in such a way as to form complex chains, rather the way the social networks of individuals, when attached to each other, may be considered as unending chains. The interdependent articulation of many different social fields constitutes one of the basic characteristics of complex societies.

The concept of a semi-autonomous social field puts emphasis on the issues of autonomy and isolation, or rather, the absence of autonomy and isolation, as well as focusing on the capacity to generate rules and induce or coerce conformity. It is the issue of semi-autonomy which principally differentiates this definition of the problem from a purely transactional one. In Barth's model, he has analyzed the ways in which new values and norms can be generated in transactions (1966). But in each of the cases of change he discusses, the chain of change has been initiated outside the transacting field, whether it is technological change in the case of the herring fishermen, or a road and imposed peace in the case of the Swat Pathans, or a demographic change in Iraq. In Barth's examples, it is after the initial change reaches the social field that transactions generate new norms and values. In Barth's model rules

"evolve." They emerge from many individual transactions and choices which cumulate in new norms and values. There is no doubt that some norms develop in this way and that his model is very useful. But norms are also legislated by governments, or dictated by administrative and judicial decisions, or imposed in other intentional ways by private agencies. These impinge on semi-autonomous social fields which already have rules and customs.

One of the most usual ways in which centralized governments invade the social fields within their boundaries is by means of legislation. But innovative legislation or other attempts to direct change often fail to achieve their intended purposes; and even when they succeed wholly or partially, they frequently carry with them unplanned and unexpected consequences. This is partly because new laws are thrust upon going social arrangements in which there are complexes of binding obligations already in existence. Legislation is often passed with the intention of altering the going social arrangements in specified ways. The social arrangements are often effectively stronger than the new laws. It is not with any optimism about practical consequences that it is suggested that semi-autonomous social fields are of anthropological interest. It is rather because studies in the nature of the autonomy and the quality of their self-regulation may yield valuable information about the processes of social life in complex societies.

To illustrate these points, this paper will sketch the outlines of two quite different social fields — one in the United States, and one in Africa today. The first is a small segment of the dress industry in New York. I have not done field work in the garment industry; the information comes from having spoken with some people involved in it and reading some books. No attempt has been made to deal directly with the issue of change in the dress industry example, since the purpose of the illustration is simply to show how a semi-autonomous social field works, some of the internal and external links it has, and how legal, illegal and non-legal norms all intermesh in the annual round of its activities. The African material was gathered in field work among the Chagga of Mount Kilimanjaro in 1968 and 1969.

MUTUAL OBLIGATION, LEGAL AND NONLEGAL, IN THE BETTER DRESS LINE

The production of expensive ready-made women's dresses in New York is divided beween the *jobber's* establishment

where the designing is done, and in whose showroom garments are displayed to retailers, and the *contractor's* workshop, where the cloth is cut and the dresses are actually made. Some jobbers are themselves designers, some hire a designer. In either case the designing is done at the jobber's end of the arrangement. Sometimes the jobber also maintains a small workshop, an "inside shop" to produce a few garments, but if he is doing well, the inside shop is never large enough to handle all his manufacturing, so he must use outside contractors in addition. The view from the contractor's shop is the one taken here as this was the part of the industry with which my informant was associated.[1]

The garment trade at this level is very volatile, dependent upon the vagaries of fashion, subject to great seasonal changes. At one moment there may be a great glut of work and not nearly enough machines or workers or time to meet some burst of demand for a particular line of garments. At other times business may be very slack, with barely enough work to keep things moving. It is a piecework industry.

The jobber makes a sizable capital investment in the showroom, in the designer, in other skilled personnel, and in the fabric with which a garment is to be made. The jobber supplies the fabric to the contractor. If the jobber does not have the capital to buy the fabric, he may borrow from a *factor* who lends money for this purpose for interest. The jobber may not get his money back on his investment until the next season, and so the factor may have to wait some months for his repayment. Two key people in the establishment of the jobber are his production man, who works out the details of the arrangements concerning the contractors (how much work is to go to each contractor, which style, what the price paid to the contractor is to be for each style, etc.), and his examiner, who looks over the garments after they have been made by the contractor to see that they meet the designer's specifications and the jobber's standards. She sends garments back for reworking if she does not find them up to the standards of the house.

On his side, the contractor must have a going establishment, a capital investment in a workshop and machinery, and a group of skilled workers in his employ, the most important of whom is the "floor lady." The "floor lady" not only supervises much of what goes on in the shop, on the workroom floor, but she also is strategically important in negotiations

with the jobber's production man, since she and he are the people who bargain out what the price of any garment shall be. She is also the principal trade-union representative in the shop, and represents the workers vis-a-vis the contractor. She leads in deciding what garments they are willing to make and which they are not, since some work is much harder than other work.

There is another figure of importance, on the union side, and that is the union business agent. He is a full time employee of the union, and it is his job to see that union rules are obeyed both by the boss-contractor and by the union workers. He also collects dues and has other administrative functions. The basic union contract in which these rules are spelled out is a contract between an association of contractors and jobbers and the International Ladies' Garment Worker's Union. This contract specifies such things as wages and hours. However the exigencies of the business are such that it would be impossible to make a profit unless the precise terms of these contracts were regularly broken. For one thing, when the opportunity arises to do a lot of work it has to be done quickly or there is nothing to be gained. A design will sell at one particular moment, and not at any time thereafter. Hence when business is plentiful, workers and contractors must produce dresses in a hurry and put in many more hours than the union contracts permit. On the other hand, when business is slack, workers must be paid even when they are not in fact working. The floor lady, for example, since she is the person in the most favored position in the contractor's shop, may be paid while she cruises around the world on vacation. It is simply understood between the union's business representative and the contractor that he will not not enforce the contract to the letter. Presumably any alteration of the labor contract which would make its terms more closely approximate the actual seasonal conditions of the dress business would have undesirable side effects. That part of the bargaining position of the union that depends on overlooking violations would be impaired.

In return for his "reasonableness," the union representative receives many favors from the contractor. He may be given such tokens as whiskey in quantity at Christmas. The contractor may make dresses for his wife (which at the rate of $300 retail value per dress means that three dresses constitute a sizable present). He may present gifts on all the oc-

casions of domestic rites—a child's birth, a child's graduation, marriage, or whatever. The contractor may, over the long term, develop a relationship with the union business agent, in which he visits him in the hospital when he is ill and has a general stance of solicitude and concern for his affairs. Like a concerned kinsman, the contractor may put the union man in touch with a doctor he knows, or try to get occupational advice for the union man's son. The person who is in charge of the gift of dresses to the union man's wife is the floor lady, who will either make them in part herself or supervise their production. She also is a significant figure in the making of "gift" dresses for other persons, most notably for the jobber's production man, whom the contractor must sweeten regularly in order to assure himself that business will come his way. A contractor may develop the same kind of solicitous relationship of giving gifts and performing favors with a few important production men. The examiner is another person who also must be given gifts to insure that everything will go smoothly when she looks over the finished garments produced at the contractor's shop.

All these givings of gifts and doings of favors are done in the form of voluntary acts of friendship, and the occasions when they are given are holidays such as Christmas or other times when this would be in keeping with a relationship of friendship. None of them are legally enforceable obligations. One could not take a man to court who did not produce them. But there is no need for legal sanctions where there are such strong extra-legal sanctions available. The contractor has to maintain these relationships or he is out of business.

The union contract with the association is legally binding, and the activities of the union man and the contractor regularly violate these legally enforceable provisions. They both recognize the business necessity of doing so and engage in repeated exchanges that demonstrate mutual trust. The union man closes his eyes, and the contractor makes dresses for the union man's wife. A satisfactory balance is achieved.

The contractor also depends on his workers to keep mum on this subject, to work the extra hours when these are needed in return for other favors at other times. He also may depend on his workers in other ways. As the garment workers, many of them married women, normally put a substantial part of their earnings into savings banks, they represent a source for loans when the contractor needs capital. The contractor himself may

be a convenient source for loans to production men. Production men are salaried in the jobber's establishment, but not infrequently have outside deals in which they want to invest to earn extra dollars. They may appeal to the contractor to help them out. The jobber, too, may depend on the contractor for what are virtual loans. He may count on the contractor not to press for payment of what is owed him for the work done. This amounts to many months' extension of credit, and virtually an interest free loan.

The discussion thus far of the exchanges of favors has not mentioned flattery and sexual attentions which are also used in the relationships between the contractor and the various women, both in his own establishment and in the jobber's place. Not only gifts, but other attentions may well accompany the more concrete evidence of esteem.

All these extra-legal givings can be called "bribery" if one chooses to emphasize their extra-legal qualities. One could instead use the classical anthropological opposition of moral to legal obligations and call these "moral" obligations, since they are obligations of relationship that are not legally enforceable, but which depend for their enforcement on the values of the relationship itself. They are all gifts or attentions calculated to induce or ease the allocation of scarce resources. The inducements and coercions involved in this system of relationships are founded on wanting to stay in the game, and on wanting to do well in it.

What general principles are suggested by this material on the dress industry? What processes can be identified? For one thing, there would appear to be a pervasive tendency to convert limited instrumental relationships into what are, at least in form and symbol, friendships. It may be that just as fictive kinship is associated with societies in which public organization is ideologically conceived as based on criteria of descent and marriage, so, in societies like our own, in which public organization is ideologically conceived as voluntary, many obligatory, public, strongly instrumental relationships take on the forms and symbols of friendship (see Paine, 1969, on friendship and its definition). One might call these "fictive friendships." These fictive friendships are part of the process by which scarce resources are allocated. The flow of prestations, attention and favors in the direction of persons who have it in their power to allocate labor, capital, or business deals, may be thought of as the "price of allocation." The "price of allo-

cation" is symbolically represented as an unsolicited gift, the fruit of friendship.

Despite the symbolic ambience of choice, there are strong pressures to conform to this system of exchange if one wants to stay in this branch of the garment industry. These pressures are central to the question of autonomy, and the relative place of state-enforceable law as opposed to the binding rules and customs generated in this social field.

This complex, the operation of the social field, is to a significant extent self-regulating, self-enforcing, and self-propelling within a certain legal, political, economic, and social environment. Some of the rules about rights and obligations that govern it emanate from that environment, the government, the marketplace, the relations among the various ethnic groups that work in the industry, and so on. But many other rules are produced within the field of action itself. Some of these rules are produced through the explicit quasi-legislative action of the organized corporate bodies (the Union, the Association) that regulate some aspects of the industry. But others, as has been indicated, are arrived at through the interplay of the jobbers, contractors, factors, retailers, and skilled workers in the course of doing business with each other. They are the regular reciprocities and exchanges of mutually dependent parties. They are the "customs of the trade." (Compare an anthropological account of three garment shops in Manchester, Lupton and Cunnison, 1964).

The law is obviously a part of this picture. Surely were it not for the vast amount of pertinent labor law, the union representative would never have come to have the powerful position he occupies. He would not be an allocator of scarce resources. He may not, in fact, enforce the actual terms defining wages and hours in the contract with the union, but it is his legal ability to do so that gives him something to exchange. Were it not for the legal right of the contractor to collect promptly the bills owed him by the jobber, his restraint in not pressing for collection would not be a favor. It is because he has the legal right to collect and does not do so that he has something to give. Thus legal rights can be used as important counters in these relationships. Stewart Macauley has called attention to a number of these issues in his paper on "non-contractual relations in business" (1963).

Many legal rights in this setting can be interpreted as the capacity of persons inside the social field to mobilize the state

on their behalf. Just so the capacity to mobilize the union or the association of jobbers and contractors are important counterweights in the business dealings which are carried on in the dress industry. Looked at from the inside, then, the social field is semi-autonomous not only because it can be affected by the direction of outside forces impinging upon it, but because persons inside the social field can mobilize those outside forces, or threaten to do so, in their bargainings with each other.

It would take this discussion far afield to enumerate all the laws that impinge on the individuals in the garment industry, from traffic laws to the rights and obligations of citizenship, but it is useful to emphasize that of the tremendous body of rules that envelop any social field, only some are significant elements in the bargaining, competing, and exchanging processes, while the rest are, so to speak, in the background. Moreover, the moment that one focuses attention on these processes of competition, negotiation, and exchange, one becomes equally aware of the importance of binding rights and obligations that are *not* legally enforceable. The legal rules are only a small piece of the complex.

The penalty for not playing the game according to the rules — legal, non-legal, and illegal — in the dress industry is: economic loss, loss of reputation, loss of goodwill, ultimate exclusion from the avenues that lead to money-making. Compliance is induced by the desire to stay in the game and prosper. It is not unreasonable to infer that at least some of those legal rules that are obeyed, are obeyed as much (if not more) because of the very same kinds of pressures and inducements that produce compliance to the non-legal mores of the social field rather than because of any direct potentiality of enforcement by the state. In fact, many of the pressures to conform to "the law" probably emanate from the several social milieux in which an individual participates. The potentiality of state action is often far less immediate than other pressures and inducements.

THE CHAGGA OF MOUNT KILIMANJARO

The recent history of the Chagga tribe has been repeatedly looked to as a model of successful "development." A hundred years ago the Chagga were divided into many tiny warring chiefdoms, which raided each other for women, cattle and presumably also for control of the slave and ivory trade routes. Today the Chagga are the most prosperous and worldly

tribe in Tanzania. Symbolic of deeper changes are the visible ones; from a time when they were earringed, spear-carrying Kichagga-speaking warriors, they have become trousered, shirt-wearing, Swahili-speaking farmer-citizens of a socialist state. There is a transistor radio in the village bar. Along with broadcasting government news broadcasts, the radio brings American rock music on the Nairobi hit parade. For eighty years the Chagga have been proselytized by industrious Catholic and Protestant missionaries who enjoyed being posted to the mountain climate. Today most Chagga are Christians, a few are Moslems, and still fewer continue to adhere exclusively to the Chagga religion. Most have been to school and many are literate in some degree. Chagga prosperity comes in a large measure from the production of coffee which has been cultivated on Kilimanjaro for many decades. Since the 1920's the Chagga have sold into the world markets the coffee grown in their family gardens. It has been auctioned off through their African-owned cooperative, the Kilimanjaro Native Co-operative Union. Hence they have long been involved in a partially cash economy.

The myriad concomitant changes, societal and legal, which have taken place in Chagga life in this century are too numerous to specify here, but it is useful to have a look at certain aspects of the Independent Government's recent attempts to legislate socialism into existence, and to consider in some detail how these impinge on an ongoing social system with deep roots in the past. Since we live in a period in which the potential effectiveness of central planning and the use of law as the tool of the social engineer are heavily emphasized, it is perhaps worth stressing what is probably obvious, that by no means all, nor even the most important social changes necessarily get their principal impetus from legislated or other legal innovations, even in centrally planned systems. A corollary proposition is probably equally obvious, that the effect of legislative innovations is frequently not what was anticipated, though perhaps with adequate sociological analysis, it might have been predicted.

Legislation consists of conscious attempts at social direction. But clearly societies are in the grip of processes of change quite outside this kind of control. On Kilimanjaro two such unplanned processes have been under way for some time: the changes consequent on the introduction of the cash cropping of coffee, and the changes in the availability of land after the

explosion of the Chagga population. These have both profoundly affected the context of operation of Chagga law. On the side of intentional social control is much of the recent legislation of the Independent Government intended to promote a socialist egalitarianism. In Chaggaland, some of this legislation can be shown to have had only very limited effects. Traditional Chagga social relationships are proving to have remarkable durability despite the efforts of hardworking social planners in Dar es Salaam to substitute new arrangements for the old.

For example, in 1963, the Independent Government declared that from then henceforth there would no longer be any private freehold ownership in land, since land as the gift of God can belong to no man but only to all men, whose representative was the Government. [The Freehold Title (Conversion and Government Leases) Act (1963). *Cf.* P.J. Nkambo Mugerwa, "Land Tenure in East Africa — Some Contrasts," *East African Law Today* (British Institute of International and Comparative Law, Commonwealth Law Series, No. 5, 1966).] All freehold land was converted into government leaseholds by this act, and improperly used land was to be taken away.

If this Act of 1963 is to be taken as a statement of ideology in an agrarian socialist state, it makes sense. The means of production must not be privately held in such a polity. But as an operationalized piece of legislation in the context of Chagga life, it has had very limited and rather specialized results, since though no one "owns" the land any longer, most people in general have precisely the same rights of occupation and use they had before, to say nothing of contingent rights in the lands of kinsmen, an important element in these days of land shortage. What has been changing drastically over the past few decades in Chaggaland are not the formal legal rules about land rights (these being governed largely by customary law), but the actual ratio of population to land, a change not engineered by any legislation, nor planned by any administrative authorities.

In 1890 land was plentiful on Kilimanjaro. Those were the days when its green slopes were populated by perhaps a hundred thousand Chagga tribesmen who were organized into dozens of small autonomous chiefdoms, each divided from the others by some natural barrier — a deep ravine with a stream, or a wall of high hills. In each chiefdom here and there between the homesteads were some open meadows where

fodder could be cut for Chagga cattle and where newcomers could settle. Today there probably are about 400,000 Chagga living on the mountain. The results of this population explosion are being felt at every hand. The shortage of land will soon be severe. More and more huts and houses are built, on ever-shrinking plots. Each house must have a garden around it to support the household. These gardens are crammed with vegetation. At the highest level are the tall banana plants, below them the coffee bushes, and under these the vegetables. The banana is the traditional staple food of the Chagga and the vegetables are also usually for domestic consumption. The coffee is sold for cash.

Each homestead and garden is contiguous to several others. A tangle of such homestead-gardens forms a several-mile-wide band, the banana belt, that rings the mountain. The open lands are all but gone. As in the past, there are no villages. Dwellings and gardens lie one right next to another for miles with narrow winding footpaths between them. A single main road, wide enough for cars, but unpaved and intermittently muddy for many months of the year, cuts through the central banana belt and winds around most of the mountain. A few feeder roads lead down from it and give access to the hot dry lowlands below. Here and there along the main road today one sees a market place, a school, a church, a courthouse, a small collection of tiny stores, a butcher shop, and a beer shop. These clusters constitute Kilimanjaro's civic centers. Otherwise the banana belt is a continuous string of households and gardens.

The cultivation of coffee has meant that many goods and services purchasable for cash have become available on the mountain. This has opened secondary, non-farming occupations to some men. Land itself, formerly never bought or sold can now be had for cash if the would-be buyer can find someone willing to sell. Long ago in the days of plenitude of land, a man wishing to settle in an area could have obtained a plot quite easily from a hospitable lineage not unhappy to increase its local male strength, or from a chief wishing to increase the number of his subjects. Now a man must inherit land, be allocated it by his father in his lifetime, or buy it. The government has recently added to these options the possibility of moving away from the mountain to pioneer in unsettled areas of Tanzania in return for a plot of land. Most men do not want to move away.

The opportunities to accumulate the cash to buy land are

few. On the whole they are available either to the educated men who have a salary as a source of income, or to the very lucky and enterprising who find ways to launch themselves in small businesses and manage not to fail. What were once open government lands in the immediate area have long since been individually allocated. Thus, for the vast majority of men, the only way to obtain land is to inherit it or to be given it by one's father. The effect of this has been to tighten rather than loosen the attachment of men to their local lineage groups, to stress and strengthen rather than to weaken the importance of that whole body of law and custom pertinent to the mutual rights and obligations of kinsmen and neighbors. For despite "modernization" in many other matters, many thousands of families still live in localized clusters of kin. The government declaration of 1963 that no one owns the land could conceivably have had considerable significance in a region in which there were vast stretches of unclaimed unoccupied territory. But the situation on Kilimanjaro is just the reverse.

As far as I was able to tell, the government declaration directly affected only three categories of Chagga landholders: tenants of the church, who were given the land they occupied; persons holding small pieces of unimproved land; and persons holding land that was originally conveyed to their forebears as a loan, not as a total transfer of interest.

Technically the buying and selling of rights to land goes on just as before the 1963 Act, though previously sales would have been in the form of rights to own land, while now they are construed as rights to use land. But most people, court personnel as well as ordinary farmers, make no such distinction, *i.e.*, barely acknowledge that any change has taken place, since it so little affects the relative distribution of ordinary rights. What has happened to loaned land, however, is that if it has been held under these conditions for a long time, the occupier now is emboldened to demand that the loaning lineage redeem the land immediately or relinquish all further claims to it. Redeeming involves reimbursement, not for the land, but for the coffee trees and banana plants and buildings. Ordinarily the descendants of the original loaner of land cannot produce the cash on demand and the loan is declared to be at an end. People say, "We do not pay *masiro* any longer. The land belongs to no one." *Masiro* is the customary annual payment of beer or produce from the borrowing lineage to the lending lineage. It amounts to public acknowledgment of the "true own-

ership," and there has always been an implication in this that should the owner choose to repay the borrower for all improvements, he could at any time reclaim the land for his own. The 1963 Act has meant a marked improvement in the position of borrowers. Now they have the option of demanding payment or relinquishment of interest. In effect, as locally construed, it has put a time limit on the redeemability of their land holdings (the demand of loanee governs the timing) and once and for all ended these loans.

The other effect the 1963 Act might have had is easy to get around. Theoretically it makes it impossible for someone having unoccupied unused land to sell rights in it, since he does not "own" the land. But it is simple enough to build a small building of some sort on the plot and sell that. It is difficult to believe that this highminded declaration of socialist principle was ever intended to have the curious effect it has had on Chagga life. It was directed against the exploitation of tenant-farmers by estate holders. It could scarcely have been intended to single out three limited categories of Chagga farmers for a change in their rights.

Among other things, this illustrates that although universality of application is often used as one of the basic elements in any definition of law, universality is often a myth. Most rules of law, in fact, though theoretically universal in application, affect only a limited category of persons in a limited number of situations. And beyond this fairly elementary proposition, the limited effect of the 1963 declaration on Chaggaland indicates something of greater moment. All legal rights and duties are aspects of social relationships (see Hohfeld, 1919). They are not essentially rights in things, though they may pertain to things. They are rights to act in certain ways in relation to the rights of other people. The implication of the Chagga reception of the 1963 declaration is clear. It is only insofar as law changes the relationships of people to each other, actually changes their specific mutual rights and obligations, that law effects social change. It is not in terms of declarations, however ideologically founded, about the title to property. Most Chagga are living where they lived before 1963 *as* they lived before 1963. The semi-autonomous social field that dominates rural Chagga life is the local lineage-neighborhood complex; that complex of social relationships having much to do with land rights continues intact and almost unchanged by the 1963 Act.

The most important component of many farmers' lives is the localized patrilineage or patriclan in which men of the regions of older settlement live. These may be comprised of as many as three or four dozen families residing in contiguous plots, but they are usually smaller. In theory all the clansmen are descended either from a common male ancestor or from a group of brothers or patrilateral cousins, but often the precise genealogical ties are lost beyond four or five generations. Some people would doubtless describe these remains of an earlier form of Chagga lineage organization in terms of the survival of often-expressed values, "Kinsmen should help each other," or "Brothers should support each other" (the term "brothers" being extended to all male kinsmen of the same generation), or "Land should never be sold without the consent of one's brothers." However, these values may also be interpreted as the ideological side of a very considerable modern mutual social and economic interest. They are not *merely* a survival from a traditional past.

At one time there would seem to have been a very firm intra-lineage organization of a corporate nature. Lineages had senior officials who had political, religious and jural functions, both within the lineage and in relation to chiefs and other lineages. All this is gone and has been gone for 50 years. Most lineages do not meet as a body any longer, but small localized groups of lineal kinsmen do meet very regularly, not only at all life-crisis rituals when large groups assemble, but to slaughter animals and eat meat together in small lineage segments. Landholding is individual. However, since each collateral line is the potential heir of any close collaterals who might die without male offspring, the brothers and brotherly lines (and cousinly lines) look on one another jealously. Even today the illness of children not infrequently brings accusations of witchcraft or sorcery by the wife of one brother against the wife of another.

Moreover, brothers are all very much interested in each other's fortunes in the modern setting. Death without male issue is no longer the only way the land of a collateral may become available. Crushing debts may make a man sell land and he is under obligation to offer it to his brothers first. They want it for themselves and for their sons. The situation of land shortage is such, particularly in the socially desirable areas (those in which the kin clusters still live), that kinsmen are not always sad to see their brothers or other neighbors

in financial trouble. It follows from this that though there are no longer common lands held by the lineage as a unit, the residuary and contingent interests of kinsmen in one another's property is considerable and gives the more prosperous and enterprising considerable leverage over those less so. This is a profound bond and one with latent organizational implications.

Though there is usually no formal corporate organization of kinsmen today, agnates nevertheless form a bounded unit of individuals closely connected through their contingent interests in one another's property as well as through ties of tradition, neighborly contiguity, and sometimes affection. In this loosely constituted aggregate, certain men are recognized as leaders, others as far less powerful. The basis is seniority, or education — each is usually found in combination with property (or the control by an old man of sons having education or property).

The potential power of seniors to affect the lives of juniors through the allocation of land and through supernatural effects on their lives permeates all contact between them. The flow of prestations and services and deferential gestures toward these men is continuous. The locus of power is acknowledged ceremonially, not only at the moments of allocation of land. Clear rules about seniority are regularly reiterated in the priorities of distribution of meat every time animals are slaughtered, and in the ways in which beer is given out on those occasions to celebrate a baptism, a circumcision or a wedding. Certain of the older men have it in their power to seal the fate of many of the younger ones. The seniors still have much to say about who shall be financed in school, or in an apprenticeship, or who shall get which parcel of land. Their disapproval of a son's choice of spouse may lead to serious troubles. It is Chagga custom in the Vunjo region that a young man is given a plot of land by his father or guardian when he marries. Youngest sons ultimately inherit the plot and house of the father on his death, but older sons are provided for at marriage. These are not legal rights in the sense that a son cannot bring a lawsuit in court to oblige his father to provide such a plot: he cannot. The option lies with the father, to provide or not provide. Woe to the son who displeases his father, or the nephew under an uncle's guardianship who does not accept his uncle's allocation of land with grace. There are more than economic sanctions involved. Kinsmen can have certain magical

effects on one another. But even more potent, they can have profound social effects on one another. A man must rely on neighbors and kin for security of his person, his reputation, his property, his wife and his children and for aid in the settlement of any disputes in which he may become involved. Thus the lineage-neighborhood complex is an effective rule-making and sanction-applying social nexus. While it is not part of the official legislative or administrative system, that system often has occasion to acknowledge its existence and importance.

A direct attempt to change these local social relationships was made when a system of ten-house cells was set up throughout Tanzania. These were grafted on to the local branches of lineage and neighborhood. At the end of 1964, TANU (Tanganyika African National Union), the national party, set up this system of cells to be the base unit of the party. These were to link TANU more effectively with the rank and file, largely to enable the party to collect and distribute information. There had been an army mutiny early in 1964, and no doubt one of the considerations in setting up the cells was the collection of information relating to security. Bienen indicates that the work of the cells was outlined under three main headings, "bringing peoples' problems and grievances to the party and government, coordinating the work of the cells with the development committees, and ensuring the security of the nation" (Bienen, 1967: 358). On Kilimanjaro every ten households has a ten-house cell leader, chosen by the member households. I was told that the choice was partially governed by the question whether the man could be in the neighborhood all the time. Chagga with jobs in the town, or salaried jobs in schools and dispensaries on the mountain, or who had shops, were not suitable because they could not be available at all times. Thus there was a systematic selection process which militated against the most educated men, in favor of their neighbors whose only occupation was farming. The ten-house cell leader, called the *balozi* by the Chagga, is supposed to be informed of all events of importance in his cell: births, deaths, marriages, divorces, crimes, altercations of all kinds, and the like. He must be present at any meeting of importance involving cell members. Periodically he meets collectively with other ten-house cell leaders, and is given instructions from central party ideologues and planners, which he then conveys to his member households.

Because ten-house cells are units of neighbors, they in-

evitably involve people who have old attachments to one another, attachments of kinship, affinity and neighborhood. The very non-kinsmen who are in a man's ten-house cell are likely to be of such social closeness that he would normally send them a portion of any slaughter share of meat when he got home from a lineage feast. They are persons who would be called on to help in a house-building, or in the cultivation of the *shambas* at the foot of the mountain. They would have been present at any hearing of a law case in the neighborhood that was not strictly an intra-lineage affair, and might even have attended some of those. They would certainly have been at any beer party of any size given in the vicinity. The members of the ten-house cell are, in short, men whose primary identity for one another is as neighbor, affine or kinsman. Only secondarily are they members of TANU cells. This does not mean that the secondary identity is never important. It sometimes does matter, particularly with respect to the ten-house cell leader. For example, if there is need of supporting testimony in the Primary Court, it is useful to have the word of the *balozi*. It is sensible not to make an enemy of him, but then it always was wise to have friendly neighbors. The whole ten-house cell apparatus is an addition to pre-existing neighborhood patterns, not a replacement. What has happened is that relationships that were multiplex in the first place have now had a strand added. Not the *balozi*, but the senior man of each minimal lineage branch, the grandfather of the family, or his elder brother, is the person to whom the most important ritual prestations of beer and meat are regularly made. The office of ten-house cell leader does not, after all, carry with it discretion over the allocation of land, nor any mystical powers at all.

The continuing control exercised by the lineage neighborhood nexus over its members is illustrated by every dispute it settles. No man can hope to keep his head above water if he does not have the approval and support of his neighbors and kinsmen. He may drown in debt, and get no helping loan. He may claim lands that should be his by any normative standards, and find that all local witnesses are against him. He may go to court expecting to get redress there, only to find that his witnesses never turn up. Unless the lineage and neighborhood support him through illnesses, through financial crises, through disputes, he is in deep trouble. The ten-house cell system does not change this a whit, or at least had not in 1969. Only the

educated who have salaried employment can escape some of these pressures through their affluence and outside connections. Their partial independence has undermined and altered some of the localized control. They "know" people in the town, people in local government, people in the school system. They have salaries in addition to coffee money. Their kinsmen must listen to them. They are, by reason of employment, not ten-house cell leaders, and also by reason of employment, enjoy a certain higher status than the *balozi*. But they too are farmers, and are inside the lineage neighborhood nexus as well as having connections outside. Their wives and children are in the neighborhood all day, every day. The ties are still strong. Permeable but dominant, the Chagga lineage-neighborhood complex has never fully surrendered to any government — chiefly, colonial, or independent.

Though the lineage-neighborhood nexus has changed again and again over the decades, it has retained considerable autonomy and considerable control over its members throughout. It enforces non-legal arrangements such as the allocations of land by fathers and uncles to sons and nephews, and the attempts by brothers to block the sale of land to non-kinsmen. It conducts illegal hearings on such matters as witchcraft. It also enforces innumerable legal rules from the respecting of garden boundaries to the support of indigent kin. It is both a maker and keeper of rules, its own and those of the state.

Relationships long established in persisting semi-autonomous social fields are difficult to do away with instantly by legislative measures. This is shown in another Tanzanian attempt to legislate egalitarianism as it affected the Chagga: the abolition of chiefship, an institution that was dispensed with by the Independent Government in 1963. This political change was not unwelcome in many quarters of Chaggaland. It completed a process that had been under way since the end of the Second World War. For some years there had been both pressure and legislation in the direction of cutting down the powers of local chiefs. Their self-enriching prerogatives, accumulated in earlier colonial decades, were eroded after 1946 by laws directly cutting down their powers, and also by legislation establishing a few higher executive offices (super-chiefships so to speak) and perhaps most important of all, by enlarging the powers of various representative legislative bodies and councils. What the abolition of chiefship did in 1963 was effectively to give all formal local bureaucratic powers to a new administrative elite, drawn from commoner lineages, and

nominated for office according to the length of their membership in and the degree of their commitment to TANU, the governing party. Thus the legislation reorganized and reallocated certain offices, instituting a new criterion of recruitment to office.

However this legislation did not and could not have abolished completely the informal position of advantage enjoyed by some chiefly families. For one thing, having been better off than many of their subjects for several generations, they were able to afford to pay for the education of more of their children. Their close kinsmen and associates benefitted similarly. Educated men, being few and badly needed in an ever more Africanized administration, occupy many key positions of responsibility, and hence are more powerful than most of their less literate farmer brothers. The ex-chiefs themselves, with a few notable exceptions, are not in these posts; but some of their kinsmen and associates and their children are. Shoulder to shoulder with the new elite are a substantial number of relatives and associates of the old elite who are, so to speak, doubly qualified for office, meeting both traditional and new criteria of recruitment.

An important element in the informal positions of advantage of these men is the network of "connections" that members of chiefly lineages had with persons in positions of power and authority both in businesses and in government. Today such a network is of considerable importance in the chain of relationships that connects rural men to men occupying positions in the cities. Complex links built over many years, ramifying into business, army, church, educational and other posts tie both the old and elements of the newer elite to each other. The chiefs have become ex-chiefs and many are living quietly in welcome political obscurity. But some, and a few of their erstwhile dependents and hangers-on, long ago acquired the skills and connections to swim in the new seas of opportunity. Thus certain kinds of powerful extended networks in which the chiefs were formerly an important link have persisted longer than the offices that were their original starting point.

This has happened before in Chaggaland, for during the colonial period there was a process of consolidation of smaller chiefdoms into larger ones. The more powerful swallowed the weaker, incorporating them. The chiefs of the smaller entities lost their offices. But it is plain from any detailed study of local officeholding in these areas, that the lineages that lost the chiefship did not entirely lose a generalized position of

advantage in the diverse fields of local competition that opened up over the years. Members of such ex-chiefly lineages turn up as small entrepreneurs, such as owners of butcher shops, beer shops, trucks, and as officials of the local Cooperative Society. Often these were the new small capitalists. Though the misfortunes of consolidation had lost these petty chiefs their offices, neither they nor their relatives entirely lost their informal social advantages, and their economic head start.

This Chagga experience of the abolition of chiefships, twice repeated, first in the period of administrative consolidation, and later in the press for equality connected with Independence, has certain very general implications for the study of law and social change. It suggests that those parts of the social system that are most visible to and are considered most accessible to legislative (or other official action) are often the formal parts of the system. Yet the powerful position that comes from the *informal* accretion of economic, educational advantages and network contacts may be far less immediately accessible to formal legal action, and may have great durability over time. The strategic position of general advantage would also seem to have great adaptability as to sphere of operations, while the office has a specified scope.

The reasoning involved here is pertinent to attempts to legislate basic changes in social relationships in our own society, *e.g.,* to desegregation and to civil rights legislation. Social positions and networks that involve the accumulation of informal, spin-off advantages over time are difficult if not impossible to legislate into instantaneous existence, though it is clear that formal changes can create the conditions under which such advantages may eventually be accumulated. For this reason newly acquired formal "equality" of opportunity brought into existence by legislation is often not in fact equal to long held social position.

Three examples of externally imposed formal laws and rules affecting existing semi-autonomous social fields have been drawn from the recent Chagga experience: the abolition of private property in land, the establishment of ten-house cells and the abolition of chiefship. The first two rules were examined insofar as they affected that local, non-corporate social field which I have called "the lineage-neighborhood complex." The third, the abolition of chiefship, was designed to alter a larger scale, higher level corporate social field, the "village." I have suggested that the spin-off products of the old chiefships, the general social position and networks of ex-chiefs

and their families and associates, have had a persistence over several generations of time, despite repeated changes in surrounding formal organization and cultural context. Since such networks and chains of transactional relations may generate fairly durable rules regarding the relative status and mutual obligations of their members, it is useful to analyse them as semi-autonomous social fields. The TANU organization has moved from the status of being a non-legal voluntary organization to being part of the official formal *de jure* body politic. The chiefly networks have moved in the other direction, from being attached to legal offices to the status of completely informal connections.

In the Chagga situation as in most others, much that is new co-exists with and modifies the old, rather than replacing it entirely. For the Chagga, there have been some abrupt changes in the legislated rules of the game and many other rule changes that have been generated more gradually. To understand these rules, legal, non-legal or illegal, it is essential to know something of the working social context in which they are found. There is a general utility in looking at legal rules in terms of the semi-autonomous social fields on which they impinge. It tempers any tendency to exaggerate the potential effectiveness of legislation as an instrument of social engineering, while demonstrating when and how and through what processes it actually is effective. It provides a framework within which to examine the way rules that are potentially enforceable by the state fit with rules and patterns that are propelled by other processes and forces.

CONCLUSIONS

The concept of the semi-autonomous social field is a way of defining a research problem. It draws attention to the connection between the internal workings of an observable social field and its points of articulation with a larger setting. Bailey (1960) used a similar set of concepts when dealing with political change. Theoretically, one could postulate a series of possibilities: complete autonomy in a social field, semi-autonomy, or a total absence of autonomy (*i.e.,* complete domination). Obviously, complete autonomy and complete domination are rare, if they exist at all in the world today, and semi-autonomy of various kinds and degrees is an ordinary circumstance. Since the law of sovereign states is hierarchical in form, no social field within a modern polity could be absolutely autonomous from a legal point of view. Absolute domination is also difficult to conceive, for even in armies and prisons and other rule-run

institutions, there is usually an underlife with some autonomy. The illustrations in this paper suggest that areas of autonomy and modes of self-regulation have importance not only inside the social fields in which they exist, but are useful in showing the way these are connected with the larger social setting.

The law (in the sense of state enforceable law) is only one of a number of factors that affect the decisions people make, the actions they take and the relationships they have. Consequently important aspects of the connection between law and social change emerge only if law is inspected in the context of ordinary social life. There general processes of competition — inducement, coercion, and collaboration — are effective regulators of action. The operative "rules of the game" include some laws and some other quite effective norms and practices. Socially significant legislative enactments frequently are attempts to shift the relative bargaining positions of persons in their dealings with one another within these social fields. The subject of the dealing and much else about the composition and character of the social field and the transactions in it are not necessarily tampered with. Thus, much legislation is piecemeal, and only partially invades the ongoing arrangements. Hence the interdependence or independence of elements in the social scene may sometimes be revealed by just such piecemeal legislation.

Examples from two very different settings have been briefly described to illustrate these points. Activities in the garment industry analyzed at one point in time show very clearly what is meant by the concept of a self-regulating social field and the important but limited place of law in it. The key figures in this part of the dress industry are the allocators of scarce resources, whether these resources are capital, labor, or the opportunity to make money. To all of those in a position to allocate these resources there is a flow of prestations, favors, and contacts, producing secondary gains for individuals in key positions. A whole series of binding customary rules surrounds the giving and exchange of these favors. The industry can be analyzed as a densely interconnected social nexus having many interdependent relationships and exchanges, governed by rules, some of them legal rules, and others not. The essential difference between the legal rules and the others is not in their effectiveness. Both sets are effective. The difference lies in the agency through which ultimate sanctions might be applied. Both the legal and the non-legal rules have similar immediately effective sanctions for violation attached. Business failures can

be brought about without the intervention of legal institutions. Clearly neither effective sanctions nor the capacity to generate binding rules are the monopoly of the state.

The analysis of this illustration also suggests that many laws are made operative when people inside the affected social field are in a position to threaten to press for enforcement. They must be aware of their rights and sufficiently organized and independent to reach and mobilize the coercive force of government in order to have this effect. A court or legislature can make custom law. A semi-autonomous social field can make law its custom.

The second example, that of certain attempts to legislate social change in Tanzania, shows the same principles in a less familiar milieu. Here neighborhood and lineage constitute a partially self-regulating social field that, in many matters, has more effective control over its members and over land allocations than the state, or the "law." The limited local effect of legislation abolishing private property in land and establishing a system of ten-house cells demonstrates the persistent importance of this lineage-neighborhood complex. The way in which this legislation has been locally interpreted to require only the most minimal changes suggests something of the strength of local social priorities and relationships. The robustness of the lineage-neighborhood complex, and its resistance to alteration (while nevertheless changing) suggests that one of the tendencies that may be quite general in semi-autonomous social fields is the tendency to fight any encroachment on autonomy previously enjoyed. The advantageous situation enjoyed by some of the kinsmen and associates of ex-chiefs shows that the momentum of such an interlocking set of transactional complexes may not be entirely arrested by legislative alterations of parts of its formal organization.

These examples all involve at least two kinds of rules: rules that were consciously made by legislatures and courts and other formal agencies to produce certain intended effects, and rules that could be said to have evolved "spontaneously" out of social life. Rules of corporate organizations, whether they are the laws of a polity or the rules of an organization within it, frequently involve attempts to fix certain relationships by design. However, the ongoing competitions, collaborations and exchanges that take place in social life also generate their own regular relationships and rules and effective sanctions, without necessarily involving any such pre-designing. The ways in which state-enforceable law affects these processes

are often exaggerated and the way in which law is affected by them is often underestimated. Some semi-autonomous social fields are quite enduring, some exist only briefly. Some are consciously constructed, such as committees, administrative departments, or other groups formed to perform a particular task; while some evolve in the marketplace or the neighborhood or elsewhere out of a history of transactions.

Where there is no state, a wide range of legitimately socially enforceable rules are counted by anthropologists as law. When there is a state, two categories are recognized by lawyers — state-enforceable law, and socially enforced binding rules. Pospisil has argued that it should all be called "law," with the qualifier added that it is the law of a particular group. He argues that there are in society a multiplicity of legal levels and a multiplicity of legal systems (1971: Ch. 4). Pospisil is certainly right about the multiplicity and ubiquity of rule-making and rule-enforcing mechanisms anchored in social groups. In fact he may not even go far enough, since, as this paper suggests, not only corporate groups, but other, looser transactional complexes may have these rule-making and rule-enforcing capacities. But on the point of melting it all together as "law," this is a question of what one is trying to emphasize for analysis. If the bindingness of rules is the issue, then the argument can be made for looking at all binding rules together as products of common processes of coercion and inducement. But there are occasions when, though recognizing the existence of and common character of binding rules at all levels, it may be of importance to distinguish the sources of the rules and the sources of effective inducement and coercion. This is the more so in a period when legislation and other formal measures — judicial, administrative, and executive — are regularly used to try to change social arrangements. The place of state-enforceable law in ongoing social affairs, and its relation to other effective rules needs much more scholarly attention. Looking at complex societies in terms of semi-autonomous social fields provides one practical means of doing so.

FOOTNOTES

[1] The information on which this account is based was obtained from an informant who has had many years of close contact with the dress industry in New York.

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