
Gluckman as always is very fertile in his ideas and pleasant to read. These are six radio talks, published as given without addition, except for a bibliography, and most of the ideas are greatly elaborated in *Politics, Law and Ritual in Tribal Society* published nine years later. His general thesis is that custom creates conflict within social groups in order to stimulate cohesion within larger social groups. Thus in the first essay, *The Peace in the Feud*, he tries to show that the feuding parties are themselves divided, and elements of each united with elements of the opposing group, which tends to retard the conflict and press for its resolution. Divisions are brought about by exogamy, primarily. He notes that the divisive elements in groups increase as the size of the groups decrease, which corresponds with the fact that with increasing contact between members of these smaller groups, there is increasing conflict and therefore increasing need for resolution. A similar point is made by the last essay, *The Bonds in the Colour Bar*, which is in effect a working out of the above principle in the relations between the opposed groups of Zulu and White in South Africa, based on his own experience and research.

The Frailty in Authority, is the statement of an idea which forms the basis for a whole chapter in his later book - namely that there is a necessary conflict between the ideal of authority positions and the persons who fill them, and also between the need for authority and the resentment of the ruled, and these conflicts are expressed and resolved in rebellion which, in contradistinction to revolution, preserves the social order by permitting challenge to the incumbent without attack on the position. A similar idea is developed in his essay on the License in Ritual - i.e., that the license is a demonstration that the discontent with the existing system is not radical but can be contained by that system. Another apparent contradiction is resolved in his essay on the Estrangement in the Family, where he shows how the weakness of family bonds, indeed the hostility between family members, e.g. Hu and Wi, Hu and WiBr, Wi and Hupatrilinage, etc. prevent the family group from becoming too ingrown, from monopolizing sociable impulses, thus freeing emotional attachment for the larger groups of society. These several ideas - that conflicts within the feuding group, and within the family, anti-normative conduct in ritual, and rebellions, are all productive of a greater harmony within the society, appear in effect to be an elaboration, or rather sophistication, of R&W's ideas about functionalism. Each of the institutions of society tend to perpetuate the whole. If certain institutions appear to be destructive one must merely look at a larger whole. (this is an example of "the circular nature of reasoning in all systems of social thought" p. 104 - mentioned by which G mentions to explain the self-fulfilling nature of witchcraft beliefs). The difficulty, of course, about such an all embracing functionalism is that proof or disproof would only be possible if a society could be discovered with dysfunctional institutions which led to its destruction, and none is known (perhaps the Shakers with their total prohibition on sex?). If G were to particularize his correlations - i.e. sexual taboos between H and W with greater cohesion in male military groupings and female work groups, then they would be stronger; it is the attempt to deduce universal rules
that leads to tautologies.

The attempt to show that all institutions are functional also creates potential conflict with ethical judgment. In the essay, the Logic in Witchcraft, C merely repeats the accepted interp. of witchcraft beliefs - they attempt to explain why misfortune affected this particular man, and they do so by revealing hidden conflicts between individuals which are thus resolved. This functional interp. of witchcraft demonstrates its value for the perpetuation of a social group, and hence within that society the beliefs are by definition good. But an outsider, looking at the institution is unwilling to accept that society's judgment of the value of the institution - he wants a judgment based on an absolute scale. Unfortunately, we have found that such "absolute" judgments have in the past been based instead on the evaluator's society's values. Moreover, although most scientists no longer believe in absolute values, a scientist should work without values, but the formulation of the functionalist theory tends to imply values - whatever is there is good because its presence is by definition functional, and anything that tends towards the persistence of the society must be good within its terms. The conflict leaves one uncomfortable without knowing of a solution.

An alternative, or supplementary, explanation of presence of protests against the established order impossible in rituals serving to affirm that order is possible. It seems to me that a similar phenomenon can be found in that area of our own life that deals with the presentation, symbolically, of the values of our society, i.e., art. The artist, whether pictorial or linguistic, has always emphasized deviations from social norms, the bad, rather than the good; both artist and recipient have found depiction of the norms themselves uninteresting, undramatic, unemotional, For the norms themselves are not universally accepted; if they were they would be of no interest either for affirmation or rejection. Rather our attitudes towards them are ambivalent, and hence art like ritual portrays this ambivalence, with the result that affirmation, when it ultimately comes, is all the stronger for the difficulty of its victory. Art and ritual, in portraying anti-normative conduct, may also serve to demonstrate that such conduct is possible and attractive and thus maintain the conflict without which the acceptance of values is only half-hearted. Consider, as an example of such a ritual in America, the excitement over civil liberties cases, e.g., the clotheline case in Rye, or the flag salute cases, or the British trial of Lady Chat, where there was ritualistic display of defiance of accepted values, and an acceptance of this defiance by authority, after which defiance was forgotten.
An absolutely fascinating book. Winter studied the Bwamba of Uganda between 1950-52 and has produced two monographs and several articles on them. These life histories were taken down early in his research, largely as a quick means of gaining insight into the culture and society for the purpose of further investigation. However, they were found to have great value in themselves. They appear to have two advantages over traditional anthropological field work and reporting. First, the intervention of the anthropologist is minimized. It cannot of course be eliminated: Winter worked through a Toro translator, and the presence of these two non-Bwamba, both of superior social status, as listeners must have affected the content of the histories. The presence of anthropologist as auditor may even be more intrusive here than where the anthrop is merely a participant-observer. It is in the reporting that the anthrop is no longer an intermediary, since no changes were made nor are the histories commented on. The material thus resembles legal case material, where the reader is his own analyst. The second major advantage is that the informants come over as people, rather than appearing as merely one link in a highly abstract social system which exists, but does not act - the latter being the impression conveyed by most works of English social anthropology. I can never really believe in the societies described by anthropologists - they are too mechanical, too much like clockwork. The abstraction, I feel, should come after the gut understanding of what sort of people these are, what they do, and why - but this fundament is usually omitted. Of course the two - structure and personality - must be understood together; Mpuga's motives may be comprehensible, but his actions themselves would be incomprehensible without an understanding of social structure.

The four individuals portrayed are a man and his two wives, and his first cousin. This variety permits the reader to observe the same event as interpreted by two, often opposed, persons, to understand the different attitudes of the sexes, and to distinguish the characters of the two men, one oriented more towards tradition, the other towards change. For my purposes, the history of conflict cases and there resolution is quite valuable. It might well be feasible to set a student to analyze the book from that point alone, considering each conflict situation, its background, the relationships of the parties, the actions each took to redress or resolve the conflict, the agencies employed, the solution obtained, and subsequent consequences. My own impression of the disputes confirms my belief that neither the institutions of the society nor the personal motivations of the participants work towards an equilibrium solution, but rather to carry the conflict forward, each party motivated by his success or failure to new efforts to achieve status, wealth, power, over his opponents who, in this society, seem to be everyone.
The book also serves as a further illustration of the way in which 'native courts' whether as traditional institutions, modifications of those institutions, or wholly new devices, have been whole-heartedly accepted into the dispute-solving process. They are frequently resorted to, and even more frequently threatened. At the same time they do not displace indigenous institutions or procedures. In one case (I cannot find the reference) a man was punished by being buried up to his neck for several days, in the bush, before being sent into the government for punishment according to the law.
Lorenz, Konrad. On Aggression (1963)

It is always dangerous to reason by analogy from animal to human behaviour. Such reasoning may in part be responsible for the 'organic' fallacy of many anthropologists, and for some of the errors of functionalism. Nevertheless, this book is directly relevant for me in two ways. First, analogies have been drawn in the past between the two frames: it is therefore important to understand precisely the nature of theory in ethology (and evolutionary biology) so as to be aware of the errors derived from a misunderstanding of those theories. In particular, functionalism as Lorenz understands it (the contribution of a behaviour to the survival of the species) is quite different from anthropological functionalism, e.g. that of R-B or Malinowski. Lorenz' theory seems much more applicable to anthropology, taking account as it does of dysfunctional adaptation. Secondly, analogies to ethology are often suggestive and illustrative. Beyond that, I am not convinced by Lorenz (in the chapter: On the Virtue of Scientific Humility) that the behaviour of man can be explained by the instinctual theories he has developed to understand animal behaviour. Perhaps cultural ritual corresponds to phylogenetic ritual, but what corresponds to culture?

Evolutionary theory: "We know that it is the function of an organ that alters its form, in the sense of functional improvement; and when, owing to a small, in itself fortuitous, hereditary change, an organ becomes a little better and more efficient, the bearer of this character and his descendants, will set a standard with which other, less talented members of his species cannot compete; thus in the course of time those less fit to survive will disappear from the earth's surface.

Unless natural selection is at work, the question 'What for?' cannot receive an answer with any real meaning."

This last sentence seems to me to put in question the whole functional theory of anthropology. Is natural selection at work with man? It may be in the long run - cultures do die out. But in the short run, as Lorenz states later, culture changes faster than natural selection can act.

What is the survival value of intra-specific aggression: "Unless the special interests of a social organization demand close aggregation of its members, it is obviously most expedient to spread the individuals of an animal species as evenly as possible over the available habitat."

(N.B. Although aggression may thus have a survival value, its absence may also have one in promoting close aggregation in the herd or flock. This suggests that survival value is not a constant for every species, but must rather be viewed in relation to the whole environment of that species. Similarly, a single cultural element may have different, even opposite functions and survival values in different cultures.)

Other functions of intra-specific aggression: "sexual selection, the selection of the best and strongest animals for reproduction, was furthered by the fighting of rival animals, particularly males. The strength of the father directly affects the welfare of the children in those species in which he plays an active part in their care and defence."
BUT: "Purely intra-specific selective breeding can lead to the development of forms and behaviour patterns which are not only non-adaptive but can even have adverse affects on species preservation. ... If sexual rivalry, or any other form of intra-specific competition exerts selection pressure uninfluenced by any environmental exigencies, it may develop in a direction which is quite unadaptive to environment, and irrelevant, if not positively detrimental to survival." Examples are the antlers of stags which only serve intra-specific competition and may even be a drawback in extra-specific fights. "Sexual selection by the female often has the same results as the rival fights."

The significance of this for the evolution of culture is enormous. Pretty much since the appearance of cultural phenomena man has been engaged almost exclusively in intra-specific competition. True, there are tribes that die of starvation or disease, but this is rare. In many cases, even intra-specific competition does not appear to occur frequently. Consequently, it seems that the following statements can be made. Cultural and social attributes do not primarily serve to preserve the human species in competition with his environment, consequently a 'functional' interpretation of those attributes in that sense is not possible. It is more likely that intra-specific competition accounts for the persistence of cultural and social phenomena, and in that sense they have a function. But intra-specific competition differs for each group, and function can therefore only be determined by a study of the nature of the competition to which each tribe is subject. What is the source of those spontaneous changes in socio-culture which correspond to mutations in biology? Ethology suggests that they may in part be trial and error spontaneous behaviour (in man also motivated by curiosity). Another influence is cultural borrowing and culture contact generally. In both cases, consistency with the existing structure is as important as survival-value. To what extent are the evolutionary changes incorporated into the somatic structure (aggressive instincts) so that they can be passed on by heredity, and to what extent are the cultural, transmitted by education? Presumably some of both: to that extent, cultural evolution reinforces and aggravate physical - those persons possessing valued characteristics pass them on to their more numerous progeny, but even those who don't are permitted to live and reproduce, partly on the condition that they educate their offspring in the accepted mode of life.

From all this I conclude that 'functionalism' has a precise meaning only in that ideal situation of the competition of all against all - Hobbes' state of nature, comparable to the pure competition of classical economics. In the absence of that ideal, an animal may possess non-functional physical and behavioural traits, and a human non-functional physical, behavioural, social and cultural attributes. Consequently, for each attribute it must be asked, not what is its function, but does it have a function in view of the individual's total environment. This does not deny that all physical, behavioural, cultural and social phenomena are inter-related, and that to change one is to affect them all.
"It is more than probable that the destructive intensity of the aggression drive, still a hereditary evil of mankind, is the consequence of a process of intra-specific selection which worked on our forefathers for roughly forty thousand years, that is, throughout the early Stone Age. When man had reached the stage of having weapons, clothing, and social organization, so overcoming the dangers of starving, freezing, and being eaten by wild animals, and these dangers ceased to be the essential factors influencing selection, an evil intra-specific selection must have set in. The factor influencing selection was now the wars waged between hostile neighbouring tribes. These must have evolved into an extreme form of all those so-called warrior virtues which unfortunately many people still regard as desirable ideals."

But surely the functions of aggression are not limited to interspecific predation (and defence). Species also compete for existing resources (men against baboons, fox wild pigs, and birds, for crops; men against carnivores for game). And man may still compete against man for resources - e.g. cattle raiding.

"A principle of organization without which a more advanced social life cannot develop in higher vertebrates is the so-called ranking order." Its functions are: to limit fighting between members of a society; "secondly, a society may derive a beneficial firmness of structure from the state of tension arising inside the community from the aggression drive and its result, ranking order;" high-ranking animals may, to preserve or enhance their status position, seek to protect low-ranking from attacks (cf. Comanche or medieval English champion). Moreover, with the higher animals, greater dependence is placed on individual experience and learning, less on innate behaviour; consequently the role of the old, experienced animal is more important, as leader and teacher. According to Lorenz, the ranking order permit him to play this role, but I fail to see how, if it is a product of aggression - surely the younger males are able to defeat the older in battle. He says that the older cooperate to preserve their position against the younger individualists. If so, this is clearly something more than mere aggression, but rather a ritualization of aggressive instincts.

There is something wrong with a principle of explanation which asserts that either a behaviour contributes to survival, or it does not. This is of course a tautology. And there appears to be no way to determine whether the behaviour is or is not functional.

Instincts are spontaneous, i.e. they do not depend on an environmental stimulus to excite them, but will seek such a stimulus, and employ a substitute if none is present. This suggests a partial explanation for witchcraft, sorcery, and accusations of these, i.e., that they serve to release aggression which cannot otherwise find an outlet. Perhaps a study could be made of the relationship of internal aggression (crime and witchcraft) and external - wars, raiding. Presumably, with the pax britannica and the post-colonial era, internal aggression should increase. This explanation is an alternative to that which sees witchcraft as an attempt to explain, and blame for, the misfortunes that are so frequent in primitive society - illness and death of persons, animals and crops. In other words, the aggression evidenced in witchcraft proceeds from an internal source rather than an external stimulus. One possible test between these two alternatives would be to
see whether witchcraft etc. decreases with better medical and veterinary and agricultural techniques.

**Ritualization.** Primary instinctual behavior may become ritualized (by chance alterations, like mutations?) so that it changes both its form and its function. However, being still instinctual, it is spontaneous. Now it can serve a communcative function, and thus the channel aggression to innocuous outlets, and then to form a bond between two individuals. Lorenz insists that instinctive, animal rituals are analogous to human cultural rituals. This seems dubious. Cultural rituals are not inherited, and are not impervious to deliberate change. It is a mistake, I think, to view primitive society as non-contemplative, and undeliberate. Numerous anthropologists have shown instances where customs were deliberately altered or abolished. Add to this those instances where culture contact caused sudden change, and those individuals who, because deviant, refuse to follow the accepted rituals, and you have a very different situation from the animal. The significance of this difference between instinctive and cultural ritual is again that the latter cannot be fitted a priori, within a functional explanation. Aesthetic impulses, at the very least, must be admitted to the explanatory schema.

Examples of ritualized aggression. "An impressive example of behaviour analogous to human morality can be seen in the ritualized fighting of many vertebrates. Its whole organization aims at fulfilling the most important function of the rival fight, namely to ascertain which partner is stronger, without hurting the weaker." Similarly, a brood-tending parent must possess inhibitions against aggression towards its young. This is increasingly important as the species depends more on learned and less on instinctual behaviour; here the inhibitions may be extended beyond infancy into the period of immaturity during which the animal learns and practices necessary behaviours. "Chivalry" is also shown to females of the species. Here the female may attack the male, and being met by a show of non-resistance, desist. "That not-being-impressed makes a deep impression is a very general principle." Out of these aggression inhibiting techniques come those which serve instead to divert aggression towards the rest of the species, and which also thereby create a bond between the original aggressor and his intended, but projected victim. Numerous instances of aggression re-direction can be noted in primitive society, e.g. between an adulterer and cuckold among the Comanche, aggression is often redirected towards the enemy, such that if both fight bravely, their differences are forgotten.

Some social insects and rats form communities living in a single hive, nest or anthill, and recognize each other by a characteristic smell. Fundamentally, they are members of the same family. Almost all aggression has been eliminated between members of the same community, but hostility between members of different communities is absolute and ruthless. "We can maintain with certainty that those indispensable species-preserving functions of intra-specific aggression which have been discussed ... are not served by clan fights. These serve neither spatial distribution nor the selection of strong family defenders - for among rats these are seldom the fathers of the descendants - nor any of the functions enumerated (earlier)." Is it not possible, however, to conceive of a functional value? Why cannot inter-clan hostility serve to distribute clans evenly just as inter-personal hostility distributes
individuals. Isn't this in fact precisely what happens to humans. And the reason why it is groups rather than individuals that compete is that because of the division of labour, it is groups rather than individuals that exploit the environment. Inter-clan hostility not only serves to distribute animals, but to enforce group cohesion, which is so necessary to cooperative organization.

The Bond - solves the crucial problem. "We must consider what an apparently insoluble problem is here solved in the simplest, most elegant and complete manner: two furiously aggressive animals which in their appearance, colouring, and behaviour are to each other what the red rag (though only proverbially) is to the bull, must be made to agree within the narrowest space, at the nesting-place, that is at the very place which each regards as the centre of its territory, where intra-specific aggression is at its peak. And this, in itself difficult, task is made more difficult by the additional demand that intra-specific aggression must not be weakened in either of the partners." Ritualized bond behaviour must be repeated after every separation, with apparently greater intensity the longer the separation, because "sudden disintegration of the fighting inhibitions dependent on habituation is apparent. a danger that threatens the bonds of partners every time they are separated". "Discriminative aggression towards strangers and the bond between the members of a group enhance each other."

Hatred in love. "the triumph ceremony of such ganders sometimes increases beyond all measure, to the pitch of ecstasy, and then something very remarkable and sinister happens ... the ritualized ceremony loses more and more of those characteristics which differentiate it from the un-ritualized prototype. Thus it regresses, in the Freudian sense, to a phylogenetically earlier primitive condition." The fights which occur are longer and more bitter by far than any other, for instance those between males competing for a female or status. "I am much more inclined to believe that in every case of genuine love there is such a high measure of latent aggression, normally obscured by the bond, that on the rupturing of this bond the horrible phenomenon known as hate makes its appearance."

The relevance of all this for man. "Conceptual thought and speech changed all man's evolution by achieving something which is equivalent to the inheritance of acquired characters. ... Thus, within one or two generations a process of ecological adaptation can be achieved which, in normal phylogeny, and without the interference of conceptual thought, would have taken a time of an altogether different, much greater order of magnitude. Small wonder indeed if the evolution of social instincts and, what is even more important social inhibitions could not keep pace with the rapid development forced on human society by the growth of traditional culture, particularly material culture." "All man's grouble arises from his being a basically harmless, omnivorous creature, lacking in natural weapons with which to kill big prey, and, therefore, also devoid of the built-in safety devices which prevent 'professional' carnivores from abusing their killing power to destroy fellow-members of their own species." Moreover, "present-day civilized man suffers from insufficient discharge of his aggressive drive. ... in prehistoric times intra-specific aggression selection
bred into man a measure of aggression drive for which in the social order of today he finds no adequate outlet." This phenomenon can be found in present day Prairie Indians, the Utes. "During the comparatively few centuries when Prairie Indians led a wild life consisting almost entirely of war and raids, there must have been an extreme selection pressure at work, breeding extreme aggressiveness. That this produced changes in the hereditary pattern in such a short time is quite possible." Perhaps so, but what about cultural influences, which would seem to be far more important in short-term changes like this one. Selection and heredity would in fact work against the intensification of aggressive drives, because those males who possessed them would quickly be killed off, while others who were less aggressive would propagate freely. In this situation aggressiveness might in fact increase, but it would be due to cultural influences and training, not heredity. (By the way, how valid is the theory of ritualized instincts, depending as it does on the inheritance of acquired behavioural characteristics?)

Nevertheless, within the bonds of the primitive community "natural inclination alone is very nearly sufficient to make men obey the ten commandments - perhaps with the exception of the third. One does not steal another man's rations or weapons and it seems rather dirty to covet the wife of a man who has saved one's life a number of times. One would certainly not kill him, and one would, from natural inclination, honour not only father and mother, but the aged and experienced in general." (This is all highly doubtful, e.g. Eskimos). "The increase in number of individuals belonging to the same community is in itself sufficient to upset the balance between the personal bonds and aggressive drive. . . . That crowding increases the propensity to aggressive behaviour has long been known and demonstrated."

"Most of the vices and deadly sins condemned today correspond to inclinations that were purely adaptive or at least harmless in primitive man. . . . Clearly the task of compensating on responsible moral responsibility increases at the same rate at which the ecological and sociological conditions created by culture deviate from those to which human instinctive behaviour is phylogenetically adapted. Not only does this deviation continue to increase, but it does so with an acceleration that is truly frightening." Moreover, the use of moral restraint is tiring. "The man who behaves socially from natural inclination normally makes few demands on the controlling mechanism of his own moral responsibility. Thus, in times of stress, he has huge reserves of moral strength to draw upon; while the man who even in everyday life has constantly to curb his natural inclinations into a semblance of normal social behaviour is very likely to break down completely in case of additional stress." But moral restraint is not the only force controlling aggression. "Norms of social behaviour developed by cultural ritualization play at least as important a part in the context of human society as instinctive motivation and the control exerted by responsible morality."

Cultural functionalism. "We have no immediate knowledge of the function and/or survival value of the majority of our own established customs, notwithstanding our emotional conviction that they do indeed constitute high values. This paradoxical state of affairs is explained by the simple fact that customs are not man-made in the same sense as human inventions.}
Historians will have to face the fact that natural selection determined
the evolution of cultures in the same manner as it did that of species (?)
In both cases the great constructor has produced results which may not be
the best of all conceivable solutions but which at least prove their
practicability by their very existence. ... The human mind, endowed with
the power of deduction, can quite often find solutions to problems which
natural selection fails to resolve. Selection may produce incomplete adapta-
tion even when it uses the material furnished by mutation and when it has
huge time periods at its disposal. It is much more likely to do so when it
has to determine, in an incomparably shorter time, which of the randomly
arising customs of a culture make it best fitted to survival. ... Also,
 intra-specific selection often plays as dangerous a role in the development
of cultural ritualization as in phylogenesis. The process of so-called
status-seeking, for instance, produces the bizarre excrescences in social
norms and rites which are so typical of intra-specific selection. However,
even if some social norms or rites are quite obviously
maladaptive, this does not imply that they may be eliminated
without further consideration. The social organization of any culture is a
complicated system of universal interaction between a great many divergent
traditional norms of behaviour, and it can never be predicted without a
very thorough analysis what repercussions the cutting out of even
one part may have for the functioning of the whole.” "We do not know
enough about the function of any system of culturally ritualized
norms of behavior to give a rational answer to the perfectly rational question
what some particular custom is good for, in other words, wherein lies its
survival value." So much for the possibility of explanation in anthropology:
we cannot say positively that any norm of behaviour has any survival value,
and even if it does, we can determine what that value may be.
The judicial process as such means for perpetuating rather than resolving conflict.

Writers on customary law generally assert that the principle purpose of judicial processes is to resolve conflict. Field workers have consistently been impressed by the length to which mediators and arbitrators will go to insure that all parties to the dispute are thoroughly satisfied with the result. Many other issues which have been causing friction may be raised, other parties brought in, and discussion continued, ostensibly ad infinitum, until universal satisfaction is apparent.

But is this impression in fact correct. May it not be that observers, struck by the contrast with our own authoritative judgments which decide according to inflexible rules, overstate the emphasis on reconciliation. Clearly the status quo ante cannot always be restored - is it always even desired? And even if the parties profess reconciliation, this does not mean that they are really satisfied with the outcome, in the sense of accepting it as a final decision. In fact, finality is the last characteristic anyone would attribute to customary law; any decision is always subject to review at any later meeting and in any other dispute.

An analogy to (Clausewitz's?) paradox suggests itself. Just as diplomacy is warfare conducted by other means, so litigation is conflict continued by other means. The object of adjudication is to obtain an advantage over the other party, not to reach an amicable agreement. Such an analysis permits the integration of feuds into the judicial process, a desirable result since feuds have long been recognized as judicial but with an uncomfortable aura of illegality. The objection which many (e.g. Hoebel) have had to treating feuds as a legal process is that they are endless - since each killing leads to another killing rather than a final reconciliation. But if litigation is similarly seen as an endless struggle for advantage, then feuds are not disqualified. Otherwise, feuds meet the criteria: the application (in threat or fact) of physical force by an individual or group possessing the socially recognized privilege of so acting.

Lithigation, or feud, are thus seen as alternative processes for the enactment of aggressive competition, the former being preferable only because it is less destructive. These ideas came in large part from reading: K.O.L. Burridge, "Disputing in Tangu", in Bohannan, Law and Warfare. (See also "Friendship in Tangu", XXVII Oceania 177-89 (1957)).

The article is confusing because Burridge insists that what the Tangu are striving after in their disputes is "equivalence", when his data make quite clear that their real aim is advantage. A further merit of this analysis is that it dispenses with the "equilibrium" hypothesis that so consistently seems at odds with the facts. There may be some value to postulating a mythical, ideal equilibrium, but analysis shows that the system oscillates around that point, without ever passing through it. So it is disequilibrium that is the norm. Cf. Gluckman.
Granting the above hypothesis, the function of customary law then becomes to contain aggression and its consequent disputes within certain approved means (which then include the feud, governed by its own highly restrictive rules, see Hasluck). In a sense this analysis furthers that of Gulliver (Arusha) in assimilating legal and political processes. Again, the two were previously differentiated, inter alia, by their ends—conciliation (and finality) as against maneuvering for advantage. If litigation is seen as an equally open-ended process, with much the same aims, then the two can more easily be placed on a continuum, differentiated by the existence of agreed rules and of more or less authoritative decision-makers.

Is there grounds for differentiating our legal processes and primitive from this analysis? Ours strives to eliminate conflict, and to provide final answers, primitive merely to contain the controversy within the approved means.
Importance of vernacular terms. In doing field work, make sure to get vernacular terms wherever possible. Failure to do so has led to unfortunate vagueness by many authors, for instance with respect to the title of a kinsman (who may be held liable, or is required to perform some specific act), or the kind of animal given as compensation.

Communal self-help. P. Mayer suggests an explanation for the assistance rendered by the group of a victim in redressing a wrong done to him, viz., that the group is motivated by self-interest in protecting its rights in the property of the victim which have been violated, e.g. by theft (of stock), by enclosure on land, by abduction of an unmarried girl (or a married woman?). This of course is not a complete explanation, since there are many instances of assistance where no property right can be found, e.g. where an age-group acts.

Banishment and execution vs. group fission. The casualness with which banishment and execution are allegedly imposed in customary law is so surprising as to raise disbelief; especially since, in a hostile physical and social environment banishment must often have been equivalent to execution. A possible explanation is suggested by Middleton and Winter in their introd. to Witchcraft & Sorcery in E. Af., namely that an accusation of witchcraft was frequently resolved not by the traditionally appropriate punishment, since the defendant's group did not wish to lose a member, but by fission whereby two groups were formed, one owing loyalties to the victim, and the other to the offender. (This accords well with the importance of maintaining group strength; it may even serve to preserve the group at an optimum number. Hypothesis - where the group increases beyond this optimum, the overcrowding increasing social friction, leading to conflict with the result of fission. Something like this occurs in the animal world.) Naturally, fission is limited to those situations where the two parties belong to groups that can divide - perhaps another reason why witchcraft accusations occur mainly between affines since affinal ties are more easily broken than agnatic.

Paramountcy of reconciliation as an aim of law. There are several grounds for arguing that the principle purpose of customary law in dealing with injuries is healing the ill-feelings of the injured party and reconciling the litigants. This can be most forcibly illustrated in the case of homicide, where everything is done to effect a speedy conclusion to the controversy and insure that the family of the deceased will be appeased. To achieve this, a number of potential issues are placed beyond dispute: the amount of compensation (a fixed figure), the issues of causation and mens rea, and the availability of defenses (few are available). Liability is generally absolute. Causation is rather far fetched, on the grounds that it is more disruptive to leave an injury (such as death) unremedied than to cause a man to pay compensation; for the same reason few defenses are available.