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RITUAL AND LAW – AN OUTLINE

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This outline is the very first draft of research into bibliographical material concerning ritual within the field of law and legal practices. Therefore this paper will not present, as you might have expected, a full report of the research that could have and has been made. Neither will the result be a complete bibliography. This sketch follows a very fine track that traces the interstices between ritual, religion, law, historical and anthropological studies. Some highlights (here in italics) will function as tokens or as road signs for those who want to follow my steps.

On ritual there do exist excellent bibliographies. Among the Anglo-American studies, to which I want to confine myself,¹ the most recent bibliography I have found was that made by *Grimes*, whose background lies in religion studies. It is a good start to begin with his bibliography, which includes, unusually, a (combined) rubric on politic and law. I also consulted studies on secular rites, like *Moore & Myerhoff*, *Kertzer*. The *Journal of Ritual Studies*, the first volume appearing in 1986, has no contribution in this respect until 1991 (the last volume I was able to consult). In addition, I searched among the bibliographical notes of some of the (classic or specialized) authors on the subject 'ritual'. *Mauss*, *Van Gennip*, *Girard*, *Turner*, *Bell*. But the experience until now has taught me that the subject (of court) of law and other legal practices are not a topic among these scholars. Exceptions are of course those authors who are also known as founders or specialists in legal anthropology, for instance *Durkheim*, *Gluckman*, *Hoebel*, *Moore*, *Geertz*.

My field of inquiry, direct in line, was legal anthropology and

¹ I have added some exemplary studies written in French; I hope to add more publications from other languages in the future.

ethnography. To what extent does ritual belong to their interest? Therefore I have searched among their bibliographical notes. A bibliographical article of *Nader et al.*, which includes abstracts of all listed titles, has functioned as a useful start. Unfortunately it is an ancient article (published in 1966). Searching for more recent articles, I looked through the *Journal of Legal Pluralism and unofficial law*, the successor of *African Law Studies*, the first volume appearing in 1981. This journal gathers articles of the legal anthropological discipline. Besides the two contributions with references to our subject that I will mention further on, the journal contains one keynote article on court studies. This article of *Galanter* is worth mentioning here, since it put together three interesting titles.

Furthermore, some legal anthropological monographs have been consulted. But mostly terms like 'ritual' or 'ceremonial' are hidden as adjectives and consequently do not appear in the contents or lists of subjects of these studies. We have to search in the proximity of dispute settlement and conflict resolution, social and legal control, supernatural sanction and magical evidence, territory and property, ancestral and social security, etc. to uncover some descriptions of legal rites or rituals. Hopefully, the subject 'ritual' is going to appear more from now on and to emerge frequently on the future agenda of all who are interested in the subject that is now heading our session.

Another useful entry into material on ritual within the context of law and legal practices will be found in the legal history and the legal studies themselves. Yet, as in social studies, we seldom find the term 'ritual' as the keynote. Fortunately there are a few exceptions: *Garapon* and *Winn*. It is more than interesting to note that both authors daily practice in courts of law (one as a judge, the other as an attorney) and only occasionally appear at universities, in lectures and conferences.

On the other hand, we often find legal and legal historical studies which mention practices of which the ritual aspect is evident. Oath and Ordeal, Wigs, Robes and Rods (Verges), Proceedings and Processions, Forms and Formula, Justice and Vengeance, for example. Most arbitrarily I want to mention *Beugnot* as one from a huge library. This 'archaeology of law' has many links with ethnographical studies, as the results of seminars of the Nanterre Centre Droit et Culture (such as that on La Vengeance, Le

Serment or Le Jugement, cf. *Verdier*) have proved.

Before I start presenting various studies on Law and Ritual, which I have determined, there is one track towards ritual that I would like to make the reader acquainted with. It is the way I became interested in rituals. This will give me the opportunity to mention the work of some scholars, who I am obliged to. In time and in preference they come before those who I have mentioned already.

In the first place I would like to mention *La passion du règle* of *Baudrillard* (Paris). It appeared in 1978 and its distinction between 'rule', that directs games and rituals, and 'law', that controls reality and social institutions, attracted me, graduate law school student at that time, and urged me on to reading *Homo Ludens* of *Huizinga*. Baudrillard elaborated his distinction in *La cérémonie du monde* published in 1981. This article made me familiar with the thesis that ritual respects the void and the non-significance. It was a pleasant surprise to read similar theses on the meaninglessness of ritual by *Staal* (Berkeley) and also by *Schipper* (Paris) that came to me in the mid eighties through interviews and articles in the Dutch national press. I was fortunate in joining the Nucleus Group On Ritual that *Staal* and *Schipper* (both scholars in religion studies) had organized for the Netherlands Institute of Advance Studies (NIAS) in 1986-1987.

Presenting the material that I have determined (sometimes deliberately falsely interpreted), I will make up a classification that is dictated by the material itself. The articles and monographs listed are going to function as exponents, just as the references of this introduction do.

References

(In case of publication all details will be added.)

- Baudrillard, Jean (1978) *La passion du règle*. (1981) *La cérémonie du monde*.
- Bell, Catherine (1992) *Ritual theory, Ritual practice*.
- Beugnot, Arthur Auguste (1828) *Dissertation sur les cérémonies symboliques: usitées dans l'ancienne jurisprudence française*.
- Blondeau, Anne-Marie, Kristofer Schipper (eds.) (1988) *Essais sur le rituel*
- Durkheim, Emile cf. Lukes & Scull (1983) *Durkheim and the law*
- Huizinga, Johan (1938) *Homo Ludens*
- Garapon, Antoine (1985) *L'âne portant des reliques. Essai sur le rituel judiciaire*.
- Galanter, Marc (1981) *Justice in many rooms: courts, private ordering, and indigenous law*.
- Geertz, Clifford (1983) *Local Knowledge: fact and law in comparative perspective*.
- Girard, René cf Robert
- Gluckman, M. (1965) *Politics, Law and Ritual in Tribal Society*.
- Grimes, Ronald L. (1985) *Research in ritual studies: a programmatic essay and bibliography*.
- Hoebel, E.A. () *The law of primitive man*
- Journal of Legal Pluralism and unofficial law*
- Journal of Ritual Studies*
- Kertzer, David I. (1988) *Ritual, politics and power*
- Mauss, Marcel () *Essai sur le don*, () *Une théorie general du magie*
- Moore, Sally F. (1978) *Law as process*
- Moore, Sally F., Barbara G. Myerhoff (eds.) (1977) *Secular Ritual*.
- Nader, Laura, Klaus F. Koch, Bruce Cox (1966) *The ethnography of law: a bibliographical survey*.
- Schipper, Kristofer M. (1982) *Le corps taoïste*. (1988) cf. Blondeau
- Staal, Frits (1979) *The meaninglessness of ritual*
- Staal, Frits (1989) *Rules without meaning*
- Turner, Victor (1969) *The ritual process*
- Van Gennip, Arnold (1901) *Rites de passage*.
- Verdier, Raymond (1980-84) *La vengeance*. (1991) *Le serment*. (n.d) *Le Jugement*
- Winn, Peter A. (1992) *Legal ritual*.

Tableau of bibliographical material on ritual and law

It might have been an elegant beginning to start with a definition of ritual, especially of legal ritual, to be followed by an enumeration of publications. But defining ritual, as many scholars in ritual studies would agree, is a hard thing to do. Ritual is like sand. If you try to grab it too hard, it will slip through your fingers. Yet, like sand, ritual will be the same after such a grasp as it was before. Its existence is obvious. The moments when its performance occurs, are indisputable. How to perform a ritual is evident. In some cases it might, however, cost you a lot of experience, exercise and sometimes courage. But to understand a ritual other than by its elements of action, we notice that scholars will expand in every direction of the world of meaning, like their locations for fieldwork reach each corner of the universe. Therefore I would like to try another way of understanding or perhaps an ancient way of thinking, more familiar with that of the eighteenth than the nineteenth or twentieth century. Instead of trying to determine the particular from the general characteristic, as those who are in favour of symbolism do, I would like to find the general element within the particular. This implies more than a simple inversion. The common search for rituals is built upon the idea that a ritual expresses underlying emotions, cultural values and human strategies. It stands for something else. If we are able to uncover those fundamental motivations, we assume that we know all there is to know about ritual. But, the ritual in itself is not focused on latent 'essentialia'. Ritual is fixed on its manifestation. It binds participants to perform observing all the particular rules and prescriptions. Its characteristics are carried on the outside. Hence, I have to leave aside the common search for rituals that reduces all these elements to an inner end. And respecting each particular ritualistic, instead, I prefer to collect and present each of them in an as various assortment as possible. This method in depicting the 'ritualia legis et iuris' will confront us with empty places which have to be filled to complete the picture of legal ritual. (I would be very obliged to those who join our session and who are able to fill in some blanks.)

Still the question remains as to what legal rituals are. Which rituals are we going to call legal rituals? There is not any convention or tradition

within the ritual studies in this respect. To my knowledge there are only two authors who use 'legal ritual' as their title (Winn 1992; Dale 1871), but each of them use the word 'legal' in a different sense. One concerns the world of law, lawyers and litigants; the other means 'legitimate'.

Looking for rituals within law settings, we will find that it is as hard to determine rituals which are typical for the legal world, as it is for those who study religious rituals to isolate them for the religious world. Boccock (1970) has argued in his article 'Ritual: civic and religious', that the distinction between religious ritual and civic ritual can not be clearly made, because of the fact that rituals within the context of religion still could be very civic. He mentioned morning and evening prayer, marriage and confession. We could add oath taking, greeting, thanksgiving, parading. Some of those practices do exist within legal practice. So, for the moment it is better to assume that there are only rituals, pure rituals which could appear in different contexts. We might even have to conclude that there exists no ritual which is exclusive to the legal world, or it must be because of a specific variant. In case of a clothing ritual, for instance, the protagonist will wear a wig within the court setting, a mitre in a liturgical setting.

In listing the studies located, this bibliography will first follow several law settings, in which rituals occur. Secondly, it will specify legal matters that do not appear before actual official judges, courts or legal scholars, but occur in social settings with ceremonial aspects. This bibliography will end by listing rituals that appear when we would have expected legal procedures or behaviour with certain legal consequences.

References

In case of publication all details will be added.

Boccock, (1970) Ritual: civic and religious.

Dale, James Murray (1871) Legal ritual.

Winn, Peter A. (1992) Legal ritual.

I. Ritual within law

A. Ceremonial aspect of a court setting, the judicial rituals and rites:

- Garapon, Antoine (1985) *L'âne portant des reliques. Essai sur le rituel judiciaire.*

This book describes the events (in civil and penal cases) within the court building and the courtroom as a judicial ritual using the famous guideline of the three unities of classical theatre: the unity of time, space and act that is constituted by robe, actors, gesture, and word.

- Ball, Milner S. (1975) *The play's the thing: an unscientific reflection on courts under the rubric of theatre.*

Galanter: "Ball calls for cultivation and cherishing the theatrical 'live performance' of courts - as dramatic embodiments or presentations of a normative image of legitimate society - dramatizing the seriousness, importance, dignity, rights and duties of citizens, surrounding them with ceremonious defence."

- Hayden, Robert M. (1984) *A Note on Caste Panchayats and Government Courts in India: Different Kinds of Stages for Different Kinds of Performances.*

In reviving traditional justice Indian government created in the fifties 'nyaya panchayats'. They operate as village courts with "their model task (...) to determine facts through a process of hearing evidence" (44). But in case of the traditional caste panchayats "[t]he participants already know what happened in a given matter" (44). The caste panchayats were operating within the dharmasastra, that must be regarded not as a law system but as 'living science'. "Dharma is to law as panchayats are to court." (47) This include the distinction between pandits or guru's and judges, lawyers or legal scholars.

B. Ceremonial aspects within a court setting, a specific judicial ritual or rite:

- Hess, Ron, Hayden, Robert M. (1981) *Courts and councils.*

Ethnographic film. Between an hearing before a 'nyaya panchayat' under the direction of a local school teacher and a district court, the film shifts to an animated circle of bull traders and bull tenders settling disputes following traditional 'panchayat' procedures. Rhetoric style, rhythmic shouting, speaking turns like a match.

- Rouveroy van Nieuwaal, Emile A.B. van (1980) *In search of justice.*

Ethnographic film. Traditional courts versus 'Juge du Paix'. Speaker, who is master of ceremonies.

- Armstrong, Robert G. (1954) *West African Inquest.*

A transcript ("minus the spokesmen's repetitions" 1057) of an inquest concerning the death of a prominent chief. It developed

into a witchcraft trial of a senior elder. In giving an account he has chosen the form of a play. "This does no violence whatever to the nature of the inquest, which is a ritual drama in which the principal actors are the corporate groups concerned in the case." (1051) He has contrasted his transcription with the report of a most literate Idoma who had court experience. (1072)

"Partly because all speakers are old men and partly this is the normal way of conducting a meeting in central Idoma, all the speeches are delivered in a sort of antiphony, through a spokesman. The speaker says a sentence, and the spokesman shouts a paraphrase of it across the council ground." (1058)

- Schreiner, Agnes (1991) *Circumstance and circumscription.*

The bailiff's fortnightly processions marked the territory of law. In order to be present, the court had to outline the law. The ceremonial procession provided the opportunity, or rather the privilege of appearance. When the cross heads the procession, Christianity appears. Likewise appeared law when the Verge of Justice was used. The route covered by the bailiff draws a square, a foursquare (in Dutch 'vierschaar' also the ancient term for tribunal), and he even draws this square four times since he organises four so called 'loospandingen'. The fourth loospand is held in four days in addition to which the procession itself is divided into four pieces and is repeated with the full cast in order to fulfil one of the four sequences of the legal calendar.

C. Ceremonial aspect of the verdict, the execution of law and punishment:

- Kirk-Greene, A.H.M. (1955) *On Swearing: an account of judicial oaths of Adamawa Province of North Nigeria.*

Historical development of how to perform judicial oaths and to execute the verdict 'swearing'. In order to determine which party is guilty. Brief descriptions of several principal oaths (like 'shafa') and ordeals (like by cock fighting, by drinking sasswood). Objects, performances and formula.

- Earhart, H.B. (1966) *Ishikozume: Ritual Executions in Japanese Religion, Especially Shugendo.*

A mode of execution (or corporal punishment) and a mode of burial linked by ritual: by stoning, by stoning to death, by crushing to death, by burying alive with stones, by covering over with stones. (117) 17th century examples. "In Shugendo this 'public spectacle' was carried out as a Shugendo trial." (123)

- Auto de fe.

D. Rituals codified by law:

- Neusner, Jacob (1975) *Ritual without myth: The use of legal materials for the study of religions.*

"In the case of early Rabbinic Judaism (...) we have a considerable

corpus of laws which prescribe the way things are to be done but make no effort to interpret what is done. These constitute ritual entirely lacking in mythic, let alone theological, explanations." (91)

- Fishbane, Michael (1974) *Accusation of Adultery: A Study of Law and Scribal Practice in Numbers 5:11-31.*
- Canonical law, liturgical books and manuals.

- Schreiner, Agnes (1991) *Le geste du serment.*

Legal prescription of the proper gestures for oath taking

- Roodenburg, Herman (1993)

Shake hands to conceal a treaty, pact or settlement.

E. Codifications became rituals, and ritualization:

- Winn, Peter A. (1992b) *Standing on ceremonies: legal rituals, regulative rules and the metaphysics of jurisprudence.*

This article radiates to all area's of legal practices: from the 'Miranda' warning by policemen to use of the catalogue with standard construction contracts of Blumberg Company New York. "Legal rituals must be understood as things which are 'done, not' said. The execution of a will, the conveyance of real estate, the entry of a guilty plea, the enactment of a statute, the filing of a complaint or answer, the execution of a trust document, all are concrete events in time and space, transforming the social situation of the participant. This active transforming character of ritual is more important than its expressive character." (2)

F. Rituals sanctioned by law:

- Dale, James Murray (1871) *Legal ritual. The judgments delivered by the Privy council and Dean of Arches in the recent cases of Martin v. Mackonochi and Elpinstone v. Purches and Herbert v. Purchase, with notes and suggestions for the guidance of incumbents, churchwardens, and parishioners.*

Church ritual gets a legal status.

- Fenn, Richard K. (c1982) *Liturgies and trials: the secularization of religious language.*

Religious testimony, eventual speech and prophecy in the matter of Quinlan and the matter of Cueto and Memkin are being transformed by the change from one ritual context (the liturgy) to another (the courtroom). "A successful (judicial) ritual will therefore dramatize certain values as sacred in such a way as to incorporate the best interest of the state with the deviant visions of recalcitrant witness, conscientious objectors, religious organizations, and communities whose social and economic life is inseparable from their religious beliefs." (140)

- Royal approval.

G. Ritual as a subject or argument of legal disputes:

- Cole, Douglas (c1990) An iron hand upon the people: the law against the potlatch on the Northwest coast.
- Renteln, Alison D. (1987/88) Culture and culpability: a study of contrast. *Cultural defense in American courts in case of sacrificial suicide, ritual butchering, marriage by capture, bigamy, refusal of blood transfusion, snake or drug handling for religious rites. In other countries: killings based on belief in the supernatural.*
- Borrooloola Aboriginal Community, Carolyn Strachman, Alessandro Cavadini (1981) Two laws. *Ethnographic film. In front of a judge: claiming the land by singing ceremonial songs.*
- Milner, Neal (1992) Ownership rights and the rites of ownership. *Litanies in claiming the land.*
- Freed, Ruth S., Freed, Stanley A. (1966) Unity and Diversity in the Celebration of Cattle-curing Rites in a North Indian Village: A study in the Resolution of Conflict. *"An epidemic of cattle disease led to a dispute between orthodox and reform Hindus over the holding of Akhta, a traditional cattle-curing rite that involved a number of features in conflict with the reform teachings of Arya Samaj. The dispute was rather easily resolved, and the ceremony was held. We suggest that this happened principally because of the existence of a few cultural themes of great antiquity held in common by all villagers. In addition, parts of akhta have been eliminated, modified, or reinterpreted to reconcile them with Arya Samaj teachings." (673) Even an ritual reconciliation.*

II Law within ritual

A. Ancestral or supernatural tribunals:

- Schipper, Kristofer M. (1985) La représentation du substitut dans le rituel taoïste. *Even the ancestors have to defend themselves.*

B. Supernatural sanctions:

- Huber, Hugo (1959) Ritual Oaths as Instruments of Coercion and Self-Defense among the Adanjme of Ghana. *"The oath becomes an effective means of self-defense in the hand of one who swears it. The gods and ancestors are called as witnesses of one's grievances and as protectors of one's rights against*

usurpation, unjust detention, or ill treatment." In case of swearing by the deity, by Wednesday of the dead spirits, by the coffin (ritual libations and curses) "it takes the form of a challenge, which at the same time, has the character of an ordeal: one party challenges the other's right by provoking the judgement and sanction of the supernatural agent." (48)

- Dillon, Richard G. (1976) *Ritual Resolution in Meta' Legal Process. Three cases of ritual conflict resolution in Meta' society (Cameroon). "First the treatment of homicide will be considered as an illustration of immediate ritual conflict resolution used to resolve a dangerous situation. Second, cases involving 'acts of symbolic aggression' will be discussed in order to demonstrate how disputants sometimes deliberately induced the ritual resolution process to stimulate settlement of a chronic conflict. Finally the way in which sickness and other signs of 'ndon' (i.e. bad luck - AS) were used to encourage men to atone for past offenses against their affines will be considered as an instance of delayed ritual resolution." (p. 290)*

C. Equality of arms:

- Malinowski, Bronislaw (1926) *Crime and custom in savage society. Countermagic*

D. Debts towards ancestors and spirits:

- Robolos, Zenaida M. (1964) *Promissory and debt aspects of the folk ritual in Misamis Oriental.*
"For any harvest realized, farmers feel and believe they owe the 'spirits' a 'debt' (a 'debt of gratitude' which cannot be paid - AS)." Interviewed after a harvest ritual performance, a farmer (called 'master of ceremonies' during his harvest ritual) said: "If this were a debt that can be repaid then it would have been paid by this ritual. But it is not such a debt." (97) "The rituals probably have a second function besides the manifest function of appeasing the 'spirits'. Very probably, they also serve to relieve the farmer of very deep anxieties regarding the quality and quantity of his crops, regarding his and his family's health, and regarding their property." (100)
- Baerends, Els A. (1988)
Own observations of the ceremony of corpse carrying (cf. Rattray c1930) or coffin carrying (cf. Field 1960) or mat oracle (Schott 1980) to settle (disputes on) the inheritance
- Tabu and Land or Crop ownership.
Title, some harvest rituals

III Ritual instead of law

A. Avoidance of legal procedure:

- Schreiner, Agnes (n.d.) How it is done. Transl. (1990) Nu is het dus zo.

Creating order in a chaotic world is a function that belongs to the law and to other systems. Laws are in fact made in order to fulfil this function. Their universality and indisputable validity guarantees their implementation in any number of realms. They are burdened with moral values. There is no greater opponent of all that is confused, arbitrary and lacking in certainty than the law. It is a mistake to think that rituals have the same characteristics as the law or that they fight the same struggle against chaos. Ritual does not introduce any order in a chaotic world. It invents an order - one that exists parallel to the world. An order that is as exclusive as ritual itself. It is simply not concerned with the everyday world, chaotic or otherwise. In contrast to the law that institutes order in the world, ritual initiates an order that is itself a momentary world.

- Bowden, Ross (1979) Tapu and Mana: ritual authority and political power in traditional Maori society.

"Leadership in Maori society was not a single or unitary phenomenon but was composed of two complementary yet quite distinct aspects - ritual or religious authority on the one hand and political power on the other. Ritual authority, such as the authority to perform and determine when life-cycle and other rites were to be held, was directly correlated with rank genealogically defined. Ritual authority, moreover, was inherited (ideally patrilinearly and by primogeniture) and it was inalienable. The exercise of political power operated along very different lines. Persons of high rank were not 'ipso facto' leaders in the wider political sphere but only acquired and retained leadership if they demonstrated the personal skills required of a leader. (...) Ritual authority and political power were conceptualized and defined quite differently in terms of the concepts of 'tapu' and 'mana' respectively." (50)

- Brana-Shute, Gary (1976) Social conflict and ritual restoration: a case of lower class creole mating in disequilibrium.

A description of one man's domestic, household, and mating problems. The man had to resort to ritual therapy to cope with and to solve his dilemma. "Magical symbols were used rather than the formal state organs of police, courts, churches and insane asylums." (62) Ritual expertise of a magician, a 'bonoeman'. "The categories overlap and depending on the situation or rite to be performed a practitioner may be a 'loekoeman' (diviner or diagnostician, a 'bonoeman' (practitioner of therapeutic magic, or a 'wisiman' (practitioner of black magic).

- Cavender, Gray (1988) A Note on Voudou as a mechanism for addressing legal problems.

"[F]or some who feel distanced from the legal system, voodoo offers an alternative means of handling legal disputes." (4) "The voodoo priests and priestesses act in their clients' interests, not according to a prescribed set of legal rules. Moreover, these practitioners are less expensive than attorneys, thought to be more effective, and available for cases that lawyers reject or that would cause hardship or embarrassment. Finally, because the social distance is less, the priests and priestesses are more accessible than attorneys." (8)

B. Ritual behaviour that provokes the law:

- Nieburg, H.L. (1970) *Agonistics: Rituals of Conflict*.

"`Agonistics' is a term used by ethologists to denote animal conflict behaviour that is playful, symbolic, or ritualistic. The ethological literature shows a remarkable consensus about the social function of agonistic animal behaviour: it is political. (...) Through an intense agonistic phase, the young members discover, learn, and communicate their place in an ordered set of relationships. Such structures endure as the animals mature, accommodating themselves to the existing relationships and maintaining a set of behaviour norms and culture patterns which perpetuate the group. (...) The potential for disruptive, revolutionary change by escalated violence and internal warfare is always present, unpredictable in its outcome costly in its logistics, dangerous in the secondary conflicts which may be engendered; ritual controls and moderates these undesirable tendencies." (56)

- Norbeck, Edward (1963) *African Rituals of Conflict*.

"This paper presents a description of rites expressing social conflict among various African societies and offers suggestions concerning their functional significance. In doing so, it examines critically hypotheses and supporting data (concerning `rituals of rebellion' - AS) presented by Max Gluckman ..." (1254) Norbeck argues that there is no actual rebellion or catharsis in those customs. "They are acts that constitute sharp departures from everyday norms but do not in any readily perceivable way `violate' rules of everyday behaviour in a moral sense." (1255) Therefore he classifies and reinterprets the ritual expressions of apparent social conflict. (...) "The rites reviewed here make it clear that African customs allow periodic freedom from restraints of many kinds." (1272)

- Gluckman, M. (1966) *The licence in ritual*.

id. misschien ruilen met opening

- Todd, J.A. (1936) *Redress of wrongs in South-West New Britain*.

Nader: "Descriptive material from a society which `lacks any central body of law or authority to enforce it'. Notes on conflict-preventing ceremonial combats between opposed villages, settlement of debts. Importance and limit of rank, sanction of shame, legal aspects of secret society and sorcery. Some case

material."

- Hoebel, E. Adamson (1940) *Law-ways of the primitive Eskimos*.
Nader: "*Comprehensive synthesis of pan-Eskimo culture, with some consideration of local variation. Notes on regulated combat and juridical song contests.*"

C. Ritual reconciliation and solution:

- Arno, Andrew (1976) *Ritual of reconciliation and village conflict management in Fiji*.

"The role of the `i soro' is puzzling: its performance effects the resolution of conflict and the reconciliation of the parties, but it makes no provision for the discussion and evaluation of the issues of the case. Since it lacks procedures of fact finding and the application of relevant norms (...) the `i soro' seems oddly truncated as a conflict management process. (...) [I]t can be recognized as part of a larger system that utilizes well-defined channels of gossip and other kinds of communication within the community." (p. 50)

- Koch, Klaus F., S. Altorki, Andrew Arno, Letitia Hickson (1977) *Ritual Reconciliation and the Obviation of Grievances: A Comparative Study in the Ethnography of Law*.

"This paper is an attempt to examine the organizational and ideological context in which reconciliation rituals (ritual services of a curer, ceremonial mediation and apology - AS) occur. It describes and compares this mode of conflict resolution as a strategy of obviation among three different peoples." (270) "If our structural analysis has a general validity one should expect to find the rituals in association with more or less formalized states of prior avoidance that serve to contain a conflict between the members of a group whose collective interests would be endangered by an escalation of the conflict." (282)

- Hickson, Letitia (1975) *The `i soro': ritual apology and avoidance of punishment in Fijian dispute settlement*.

The Fijian ritual `i soro' must "be expressed by appropriate demeanour of the supplicant; sitting in the `lower' end of the offended person's house, wearing clothing that is neither frivolous nor casual, bowing his head, and remaining silent during the performance. An intermediary must accompany the offender to speak for him, present the token of ritual wealth (usually a `tabua', a polished whale's tooth), and the petition for forgiveness. (Koch et al.: 279)"

- Effigies, `charivari', `rough music', popular justice.
75ceremonial quasi executions and ritual punishments