

Survey of Contents

Mottos	V
Preface to the second edition	VII
From the preface to the first edition	IX
Acknowledgments	XV
Table of Contents	XXI
List of illustrations	XIX
Table of abbreviations	XXXI

PART ONE ANTHROPOLOGY OF LAW IN GENERAL

Chapter 1. Anthropology of law as a science	1
I. Definitions. Issues and tasks. Approaches. Types of cases	1
II. Anthropology of law as a social science	8
III. Anthropological meaning of law	23
IV. Legal pluralism	36
V. The structure of anthropology: branches, fields, and subfields	43
VI. Anthropological systems theory	49
Chapter 2. History, schools, and names of anthropology of law	50
I. The history of anthropology in general, and of the anthropology of law in particular	50
II. Traditions and schools	54
Chapter 3. Concepts of cultural anthropology	75
I. Culture and Cultures	75
II. Society	82
III. Civilization. Civilizational stages	83
IV. People	87
V. Nation. Tribe. Clan. Lineage. Ramage	87
VI. Moiety. Phratry	88
VII. Extended family. Nuclear family. Household. Brotherhood	91
VIII. Race. Racism	92
IX. Belief System. Religion. Myth	93
X. Law. Justice	98
Chapter 4. Social norms (fora) (the theory of law, morals, custom, etiquette, habits, religious norms, political force, conscience)	100
I. Social norms	101
II. Kinds of social norms	102
III. Fora issues	107
Chapter 5. Theories of culture and cultures	112
I. Structures of cultures	113
II. Surveys of culture and cultures. Human Relations Area Files (HRAF). Axial age, modes of thought, and law	114
III. Theory of culture and cultures. Cultural holism and pluralism: Cultural time concepts	118
IV. Person. Individuality. Identity. Culture personality. Vita research	131
V. Circles of cultures, based on the "two revolutions" (neolithic, urban) and on the modes of thought (pre-axial age incl. Ancient Egyptian; Southeast Asian; Western; Islamic; secular-totalitarian)	138
VI. Acculturation (an enlarged theory)	183
VII. Culture change and culture loss	191
VIII. Culture transfer, receptions, transplants, internalization. Legal families	193
IX. The anthropology of borders, corridors, trails, and trading routes	196
X. Forms of cultural neighborhood (in situations of cultural boundaries, enclaves, ghettos, "melting pots").	198
XI. The anthropologies of minorities, and second and third state peoples	198

Survey of Contents

XII. Migration	199
XIII. Cultural justice and cultural rights. Intercultural justice. Tolerance and its paradox	200
Chapter 6. Analyses in cultural anthropology	205
I. Ethnocentric analysis. Ethnocentrism and exoticism	207
II. "Vision of the Participants", folkways, and emic-etic analysis. Leyden School of Anthropology	209
III. Componential Analysis	210
IV. Correlational Analysis	213
V. Synépeia analysis. The metatheory	218
VI. Synépeia analysis compared with other analyses, and a summary	229
Chapter 7. Biological anthropology in its relation to the anthropology of law	233
I. Relationship between cultural and biological anthropology. Terminology	233
II. Themes	235
III. A four-function theory of biology for law	245
IV. Sense of justice	253
PART TWO	
THE SUBDISCIPLINES OF ANTHROPOLOGY OF LAW	
Chapter 8. Kinship patterns, and other anthropological aspects of family and gender law	269
I. Shorthand kin identification	269
II. Concepts of kinship	269
III. The Six Terminological Forms of Family Relationship: Eskimo, Sudanese, Hawaiian, Iroquois, Crow, and Omaha	276
IV. A comparative Summary	284
V. The Impact of polygamy on the family systems. Sororate and levirate	285
VI. The conflict between peace-seeking vs. incest avoidance	285
Chapter 9. Societal order, personhood, and human rights (the anthropology of constitutional justice)	287
I. A system of groupings in behavioral science	288
II. Segmentation	295
III. Superaddition, societal order and personhood	317
IV. Liminality. Rites de passages. Probes of courage, skill and endurance. Stratification	345
V. Anthropological suggestions for Europe	348
VI. Anthropological remarks to Islam	358
VII. An anthropological lesson for the introduction of democracy to a formerly undemocratic country	367
Chapter 10. Reciprocity, exchange, gifts, contracting, trust (the anthropology of commutative justice)	370
I. Formalism or substantivism? Two determinisms, the role of empiricism, and a farewell to Neoclassics	370
II. The present mainstream. Markets, property, and competition. Anthropologies of giving thanks and of corruption	378
Chapter 11. Possession, ownership, probate; market and non-market economies; antitrust; cultural property and heritage of mankind (the anthropology of distributive justice)	404
I. Nature and nurture of property	404
II. Some issues	405
III. Inheritance (probate) law	409
IV. Environmental law and anthropology. Are animists true guardians? Human stewardship.	410
V. An anthropology of collective goods. Property in market and non-market economies	412
VI. Protection of belonging to a place (landscapes, city scapes). Homesteading vs. suburban sprawl. The Hopi-Navajo dispute	418
VII. Cultural heritage and traditional knowledge (the anthropology of intellectual property)	420
Chapter 12. Torts, crimes, sanctions. Witchcraft and related issues (the anthropology of compensatory or retributive justice)	424
I. Sanctions	425
II. Internalization	426

Survey of Contents

III. Malinowski and Llewellyn & Hoebel	427
IV. Shame vs. guilt	427
V. Tort, contract, or property?	431
VI. Witchcraft and related concepts	432
VII. International criminal law	434
Chapter 13. Jurisdiction. Procedure and dispute settlement. Conflicts of law (the anthropology of jurisdictional justice, of procedural justice, and of conflicts justice)	439
I. Introductory remarks	439
II. Conflict of jurisdictions	445
III. Appropriate jurisdiction	445
IV. Conflict of procedural laws	447
V. Substantive laws of procedure	447
VI. Conflict of (material) laws. A critique of lex fori in substantive conflict of laws rules cases	448
VII. Force and law. Feud (Pospíšil's graph). The youth bulge phenomenon	475
VIII. Law as (mere) process: A post-modern view	476
IX. Dispute settlement, general and in Indian country. Mediation. Selected sanctions	477
 PART THREE THE LEGAL ANTHROPOLOGY OF ETHNIC GROUPS, AND APPLIED ANTHROPOLOGY OF LAW 	
Chapter 14. Native American law	481
I. General remarks on the relation of Part Three to Parts One and Two	481
II. Federal and state Indian Law = "law for Indians"	483
III. A survey of issues relating to the status of Indian tribes	485
IV. Tribal sovereignty	489
V. Indian tribal law = "law of Indians"	491
VI. Dispute settlement institutions	494
VII. Indian conflict of laws	495
VIII. An Indian law checklist	495
Chapter 15. Ethnic groups. The international law of indigenous peoples. Global human rights ...	497
I. The identification of an ethnic group	497
II. Human Relations Area Files (HRAF)	498
III. Colonialism. Decolonization	498
IV. The international public law of indigenous peoples. The non-governmental organizations (NGOs)	499
V. United Nations activities in the area of cultural anthropology	499
VI. The discussion of worldwide human rights	503
Chapter 16. Applied anthropology of law	506
I. Concept	506
II. Ethical standards	507
III. Failures	508
IV. Theoretical areas	509
V. Problem areas	510
Postscript: The sense of justice resumed	515
Literature	517
List of cases	536
Subjects and names index	537