

P. H. Gulliver, Disputes and Negotiations: A Cross-Cultural Perspective. New York: Academic Press, 1979. pp. xxii. 293. § 19

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With Social Control in an African Society (1963), P. H. Gulliver set new and demanding standards for other legal anthropologists. His case data appeared then, and still appear today, to be of intimidating quality; and he took great pains to draw in the socio-cultural background against which they were presented. These achievements constituted technical improvements upon what had gone before; and they were accompanied by two other features which gave Gulliver's work lasting importance. First, he managed to combine concern for structure with a focus on the activities of living men and women. Thus, despite the strong "interpretive" flavour, rules and institutions retained an importance which they lost in much other work within a "transactional" paradigm. Rules and action were looked at together and seen to be related. Secondly, there was Gulliver's concern to introduce greater rigour and analytical clarity into the study of dispute settlement processes, which led him to isolate "structurally different modes" of settlement process and in doing so to formulate a distinction between negotiatory and adjudicatory processes. In this departure he broke with an established tradition, stretching from Maine (Ancient Law, 1861) to Pospisil (Kapauku Papuans and Their Law, 1958), under which all third-party intervention in disputes had been accorded a judicial character.

In Disputes and Negotiations Gulliver pursues his interest in negotiatory modes of settlement; reassessing, expanding and concluding earlier work. This book retains roots in his earlier field studies of East African societies, but his efforts to generalize lead him to the work of social scientists who had pursued related questions in different contexts, and to a specific focus upon industrial negotiations. His concern is

thus specifically cross-cultural: "to show that patterns of interactive behaviour in negotiations are essentially similar despite marked differences in interests, ideas, values, rules and assumptions among negotiators in different societies."  
(At p. xv)

In the first chapter Gulliver introduces "the process of negotiation," stressing the elements of "information exchange" and "learning" which he sees as distinctive and crucial features. In the next two chapters he considers the body of theory which has grown up around the study of negotiation, and discusses conceptual and terminological problems. Here, as in his earlier work, a robustly empirical approach is evident. Epistemological and methodological problems are recognized, but he refuses to get bogged down by the doubts which are inevitably raised. For some readers his approach to theory will appear admirable; to others it will prove infuriating. In Chapters 4 and 5 he proceeds to lay out two "processual models of negotiation." One of these is a model of "the repetitive, cyclical exchange and interpretation of information through which negotiators develop and adjust their expectations and preferences and attempt to influence and alter those of the opponent." The other depicts negotiation as "a flexible sequence of overlapping phases, in each of which there is a distinctive kind of interaction and effective purpose. Each phase makes the succeeding one possible in a patterned progression towards an outcome." (At p. xviii) Chapter 6 is concerned with the "propulsive dynamics of negotiation." Here Gulliver weighs the relative importance of "rules" and other sources of power in moving negotiations towards an outcome. Following a further chapter in which some illustrative empirical data are presented, he concludes with some tantalizingly brief remarks about future directions which the study of negotiations might take. Coming after some sober and painstaking analysis, the ideas outlined at this point provide an exciting end to the book.

As I argued at the beginning of this review, Gulliver's work has always been exceptional in that he has generally managed to escape the constrictions which an opposition of rule centered and processual approaches must involve. While recognizing the transactional element in social life, he has never turned his back upon the operation of normative constraint. In the concluding paragraphs of Disputes and Negotiations (pp. 274-275), he takes up explicitly the problem of how the domain of rules and the domain of action can be related to one another. He there suggests that in addition to "perceiving a social relationship in terms of roles, rules and content, we can also perceive it as the ongoing, cumulative results of more or less

constant negotiation." Such negotiations and their outcomes "modify and direct the relationship." He then concludes:

Indeed, it should prove possible to perceive a dialectic between the rules (and norms and values) and interactional problem-solving. On the one hand, there is no need to conceive of everything as up for grabs, plastic and almost without form at all; on the other hand, we should not ignore the inherent quality of plasticity nor the processes of problem solving and their continuing effects on the relationship.

With this idea that particular social relationships involve recurrent negotiations that affect and in part determine and change their form and content, it is a logical extrapolation to the conception that negotiations, both private and public, contribute to and perhaps largely determine a whole social order involving many persons and the ongoing organization of an interconnected set of social activities.

Of course, it is a big jump which Gulliver suggests from the development of a single relationship to the development of a whole social order. It is also a considerable leap from the small, relatively homogeneous groups that Gulliver has spent most of his time studying to large, stratified, centralized societies like our own. But here, surely, Gulliver has sketched out for us a preliminary model which might be used to comprehend one aspect of normative change. In doing so he also offers what seems to me an unanswerable argument for continued emphasis on the study of dispute. For the observer, disputes offer a privileged access to rules; they are occasions upon which the continual process of articulation and reformulation takes its clearest form, and may be seen in relation to the interests and objectives of real people. The approach which Gulliver is urging seems to me to offer a valuable lead in one of the directions which the anthropology of law must now take.

This is an important book. It is also a profoundly hopeful one in that it links explicitly an existing tradition of scholarship with one to be developed in the future.