The invention of primitive society

Transformation of an Illusion

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CHAPTER 1. THE IDEA OF PRIMITIVE SOCIETY

This book is a history of the ways in which anthropologists have thought about primitive society. Speculations about primitive society have a long and complicated ancestry, but I am concerned with the distinctive and novel version of this idea which crystallized, with anthropology itself, in the 1860s and 1870s and which persisted until very recently (indeed, still survives, if no longer within mainstream anthropology). The idea of primitive society is intimately related to other potent and beguiling notions concerning primitive mentality, primitive religion, primitive art, primitive money, and so on. Nevertheless, the sociological thread in this discourse can be separated out quite easily, and I hope it will become apparent that it does make sense to treat it as a distinct topic.

The rapidity with which the anthropological idea of primitive society was worked out is very striking, but its persistence is perhaps yet more extraordinary. Conventional histories of anthropology describe a succession of quasi-philosophical theories —evolutionism, diffusionism, functionalism, structuralism, etc. Each reigned briefly and then was rudely overthrown. Yet all these theoretical traditions addressed the same idea of primitive society. The persistence of this prototype for well over a hundred years is the more remarkable since empirical investigation of tropical 'primitive' societies only began in a systematic way and on any scale in the last decade of the nineteenth century.

Darwin and Maine

The moment at which the new idea took shape can be fixed only roughly. Darwin's *The Origin of Species* appeared in 1859. During the following two decades a series of 'sociological' monographs appeared dealing with primitive society. These included classic studies by Bachofen, Maine, Fustel de Coulanges, Lubbock, McLennan, Morgan and Tylor. All shared a concern with the nature of 'primitive' society and religion. Virtually all assumed a direct progression from primitive society through various intermediate stages to modern society. Nevertheless, although these writers would all be lumped together as 'evolutionists' by later generations, Darwin's theory was not their common inspiration.[1]

There is a paradox here, for Darwin's triumph stimulated a very un-Darwinian anthropology. As Darwinism won ground in Britain, broadly evolutionist kinds of thought gained fresh currency. Associates of Darwin like Huxley, Galton and Lubbock established a new space for evolutionary anthropological investigations within the field of the natural sciences and even in the humanities. Nevertheless, those untrained in biology were very likely to prefer a Lamarckian to a Darwinian view of evolution, if, indeed, they recognized the differences. Herbert Spencer — a crude Lamarckian — had at least as much impact on Maine or even Tylor and Durkheim as did Darwin.

Perhaps the main difficulty which Darwin's theory presented was his idea that evolution did not imply direction or progress, that it did not follow any plan. Darwin argued that natural selection worked upon more or less random individual variations. And while environmental changes were of decisive importance, they were unpredictable. Natural selection was an ineluctable process, but particular adaptations were the product of chance. It followed that history was not unilinear. Groups with the same origin would develop in different ways if they were isolated in different environments. One could accordingly trace the history of a species backwards in time, but there was no way of predicting its future path. It was also very difficult, if not impossible, to assess 'progress'.

These were new and radical ideas which were not in general shared by those contemporaries of Darwin who wrote about primitive culture or primitive society. They were much more likely to believe with Spencer that human history was a history of progress, and that all living societies could be ranked on a single evolutionary scale. They also generally accepted the classic Lamarckian ideas: that evolutionary change took the form of revolutionary leaps between one stage of development and another; that the impulse for these changes was internal rather than external: and that acquired traits were transmitted by heredity.

I would not wish to overstate the case. Some early anthropologists were indeed directly influenced by Darwin. Rather more were inspired (perhaps at second-hand) to adopt broadly evolutionist frameworks of argument. Only a few – including Henry Maine — took very little notice of Darwin or even of Spencer. But it is certainly correct that the early anthropologists were seldom Darwinians in the strict sense.

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[1] This argument was made powerfully –but perhaps with some rhetorical exaggeration– in J. W. Burrow's *Evolution and Society* (1966).

Nor is this altogether surprising, since the study of primitive society was not generally regarded as a branch of natural history. Rather it was treated initially as a branch of legal studies. Many of the key authors were lawyers. including Bachofen, Kohler, Maine, McLennan and Morgan. The issues which they investigated — the development of marriage, the family, private property and the state — were conceived of as legal questions. The initial source — the common case-study – was provided by Roman law. This shared legal background also distinguished the lawyer-sociologists from other contemporary 'anthropologists' such as Tylor or Darwin's friend Lubbock, whose primary concerns were with material culture and the development of religion. It was Tylor indeed who commented in 1865 that the study of such an issue as exogamy 'belongs properly to that interesting, but difficult and almost unworked subject, the Comparative jurisprudence of the lower races, and no one not versed in Civil Law could do it justice'.[2]

When I come to discuss individual authors, the diversity of their intellectual sources will be evident. There were obvious continuities with writers of the Scottish and French Enlightenment., and more immediately with Herbert Spencer and the Utilitarians in England, and with Comte and the Positivists in France. Victorian constitutional historians like Macaulay, Stubbs, Freemen and Froude were transforming the tradition of universal histories associated with the Scottish Enlightenment. This new historiography particularly influenced Maine, but its impact can be traced upon other social evolutionists of the 1860s and 1870s.[3] Some of the new anthropologists were also stirred by the findings and the methods of German philology, mediated in Britain by Max Müller.[4] And each particular author had his own idiosyncratic intellectual interests and drew on distinctive specialities — Maine on Roman law, Robertson Smith on Biblical scholarship, Frazer on the classics, and so forth.

Nor were the anthropologists responding to a single political concern. The Morant Bay rebellion in Jamaica and the Civil War in the United States revived earlier European debates on slavery. The development of the Indian Empire and the colonization of Africa raised fundamental questions about the nature of government and of civilization itself. Intellectuals were also concerned — some almost obsessively — with the consequences of extending the franchise to new social classes. Particularly in continental Europe, there was great interest in the vitality of nationalist movements. All these political questions seemed apt for anthropological commentary, but they did not impinge upon every anthropologist to the same degree or in the same sort of way. For many, religious questions seemed still more urgent, as intellectuals began to come to terms with the challenge of Lyell and Darwin to the authorized Biblical account of history. One can in fact identify a transition in the 1870s from a central concern with political issues to a greater interest in religion.

In the end, however, it may be that something yet more fundamental than political and religious concerns informed the new wave of interest in human origins, In the second half of the nineteenth century, Europeans believed themselves to he witnessing a revolutionary transition in the type of their society. Marx defined a capitalist society emerging from a feudal society; Weber was to write about the rationalization, the bureaucratization, the disenchantment of the old world; Tönnies about the move from community to association; Durkheim about the change from mechanical to organic forms of solidarity. Each conceived of the new world in contrast to 'traditional society'; and behind this 'traditional society' they discerned a primitive or primeval society.

The anthropologists took this primitive society as their special subject, but in practice primitive society proved to be their own society (as they understood it) seen in a distorting mirror. For them modern society was defined above all by the territorial state, the monogamous family and private property. Primitive society therefore must have been nomadic, ordered by blood ties, sexually promiscuous and communist. There had also been a progression in mentality. Primitive man was illogical and given to magic. In time he had developed more sophisticated religious ideas. Modern man, however, had invented science. Like their most reflective contemporaries, in short, the pioneer anthropologists believed that their own was an age of massive transition. They looked back in order to understand the nature of the present, on the assumption that modern society had evolved from its antithesis.

The prototype of primitive society

The inspiration behind the new wave of books on primitive society was therefore very diverse. Darwin's theory was by no means the common source of the pioneer anthropologists. If one book is to be

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[2] Tyler (1865). *Researches into the Early History of Mankind*, 277.
[3] See Burrow (1981), *A Liberal Descent: Victorian Historians and the English Past*.
[4] Max Müller gave a distinctly evolutionist cast to his historical reconstructions. Moreover, Darwin drew on theories of language development in *The Origin of Species* (1859). Nevertheless, the philological tradition was generally speaking evolutionist, if at all, only in a vague and old-fashioned way.

placed at the head of what became a new series, it is perhaps more appropriate to begin two years after the publication of *The Origin of Species*, with the appearance in 1861 of Henry Maine's *Ancient Law*. Although most of Maine's specific ideas were soon discarded, he placed on the agenda most of the central questions which were to preoccupy his rivals and successors for the next half-century. His contribution was not at the level of theory. Rather, he re-established and embellished a classic notion of the original human condition, and he made it seem directly relevant to the intellectual concerns of his contemporaries.

Maine's history (like the Old Testament and many classical sources) assumed that man was originally a member of a corporate family group ruled by a despotic patriarch. Later, patriarchal power provided the basis for larger associations. Later still, waifs and strays were brought in by adoption. The principle of patriarchal authority was diluted. Local association became increasingly important. Ultimately, societies based on kinship were replaced by societies based upon the state. This transition from blood to soil, from status to contract, was the greatest revolution in human history.

In the very year in which *Ancient Law* was published, a Swiss professor of Roman Law, Johannes Bachofen, had appealed to some of the same sources — particularly Greek myth and Roman law — but he had concluded that man's original family structure was matriarchal. Bachofen's strange book had little impact, however. In 1864 the French scholar Fustel de Coulanges published *La Cité Antique*, which neglected both Maine and Bachofen, but gave an account of mankind's social and political history similar to Maine's, while introducing a new determinant, religious progress. In 1865 a Scottish lawyer, J. F. McLennan, reached a similar conclusion to Bachofen, but in ignorance of his work and directly in reaction to Maine. The publication of his *Primitive Marriage*, in turn, inspired an American lawyer, Lewis Henry Morgan, to develop the most influential of these new images of early society. His best-known book, Ancient. Society, appeared sixteen years after Ancient Law. It echoed Maine's title and belonged to the same universe of discourse.

By the late nineteenth century two authorities had established themselves in Anglo-American anthropology, F. B. Tylor and J. G. Frazer. They sifted the arguments in every branch of the new discipline and asserted an orthodoxy. Together they adjudicated the disputes between Maine and his rivals, and settled the broad characteristics of primeval human societies. Primitive society was originally an organic whole. It then split into two or more identical building blocks. (This idea went back to Spencer.) The component units of society were exogamous, corporate descent groups. By the 1880s it was generally agreed (despite Maine's continued dissent) that these groups were 'matriarchal', tracing descent in the female line. Women and goods were held communally by the men of each group. Marriage took the form of regular exchanges between them. These social forms, no longer extant, were preserved in the languages (especially in kinship terminologies), and in the ceremonies of contemporary 'primitive' peoples.

It is striking how much agreement there soon was even on matters of detail. By the last decade of the nineteenth century, almost all the new specialists would have agreed with the following propositions.

1. The most primitive societies were ordered on the basis of kinship relations.
2. Their kinship organization was based on descent groups.
3. These descent groups were exogamous and were related by a series of marriage exchanges.
4. Lake extinct species, these primeval institutions were preserved in fossil form, ceremonies and kinship terminologies bearing witness to long-dead practices.
5. Finally, with the development of private property, the descent groups withered away and a territorial state emerged. This was the most revolutionary change in the history of humanity. It marked the transition from ancient to modern society.

These ideas were also linked to the theory of primitive religion. The original religion was 'animism', a belief that natural species and objects had souls and should be worshipped. In the most primitive societies each descent group believed that a. was descended from an animal or vegetable god, which it revered.

The persistence of an illusion

The rapid establishment and the endurance of a theory is not particularly remarkable if the theory is substantially correct. But hardly any anthropologist today would accept that this classic account of primitive society can be sustained. On the contrary. the orthodox modern view is that there never was such a thing as 'primitive society'. Certainly, no such thing can be reconstructed now. There is not even a sensible way in which one can specify what a 'primitive society' is. The term implies some historical point of reference. It

presumably defines a type of society ancestral to more advanced forms, on the analogy of an evolutionary history of some natural species. But human societies cannot be traced back to a single point of origin, and there is no way of reconstituting prehistoric social forms, classifying them. and aligning them in a time series. There are no fossils of social organization.

Even if some very ancient social order could be reconstituted. one could not generalize it. If it is useful to apply evolutionary theory to social history, then it must direct attention to variation, to adaptation to all sorts of local circumstances, and so to diversification. And it does seem likely that early human societies were indeed rather diverse. Surviving hunter-gatherers certainly do not conform to a single organizational type.[5] Since ecological variations constrain social organization, especially where technology is simple, there must have been considerable differences in social structure between the earliest human societies. Not to put too fine a point upon it, the history of the theory of primitive society is the history of an illusion. It is our phlogiston, our aether; or, less grandly, our equivalent to the notion of hysteria. This conclusion, commonplace enough amongst modern anthropologists, raises all sorts of problems for the historian.

If there is a current orthodoxy in the humanities and social sciences, then it is perhaps relativism. It is indeed from within the social sciences that the present wave of unjudging and relativistic history of science is being attempted. The model is often the anthropological treatment of other cultures. The aim is to avoid culture-bound misapprehensions, to achieve phenomenological validity. It may even be suggested that to understand all is to forgive all.

However, it is one thing to set an argument in its context; it is quite another to pretend that it cannot be rejected. I start, on the contrary, from the supremely unrelativist assumption that the theory of primitive society is on a par with the history of the theory of aether. The theory of primitive society is about something which does not and never has existed. One of my reasons for writing this boob is to remove the constitution of primitive society from the agenda of anthropology and political theory once and for all. (This is quite unashamedly a story with a moral.)

At the same time, criticism is not my main concern. I am more interested in accounting for the genesis of the illusion, and more particularly for its persistence. The persistence of the model is peculiarly problematic since various of its basic assumptions were quite directly contradicted by ethnographic evidence and by the logic of evolutionary theory itself. The difficulties were clearly stated by some of the leading scholars in the field (notably Westermarck, Boas and Malinowski). Notwithstanding, social anthropologists busied themselves for over a hundred years with the manipulation of a fantasy – a fantasy which had been constructed by speculative lawyers in the late nineteenth century. This is a fact which must provoke thought, and not among anthropologists alone.

There are basically two ways of accounting for the persistence of the old styles of thinking. One would appeal to continuing features of the political environment. The idea of primitive society could and did feed a variety of ideological positions. Among its most celebrated protagonists were Engels, Freud, Durkheim and Kropotkin. Its birth may be related to the late Victorian surge of imperialism, and its perhaps terminal decline in the last two decades may be related to the end of the Empire. The rise and fall of nationalism is probably equally relevant. The idea of primitive society fed the common belief that societies were based either on blood or on soil, and that these principles of descent and territoriality may be equated with race and citizenship, the contrasting components of every imperialism and every nationalism. Yet the idea of primitive society was never merely an imperial myth, or a charter for nationalism. Nor, at the other extreme, was it ever exclusively identified with Marxism, despite the adoption of Morgan's theories by Engels. The evolutionist framework did offer both communists and colonialists the hope that although social institutions varied from society to society, they formed a single hierarchy, through which all would eventually progress. Yet while it could serve so many ideological purposes, it could at times also serve none.

Moreover, as anthropology became increasingly academic, so ideological factors became less decisive (though they were seldom insignificant). Increasingly the idea of primitive society was sustained by forces internal to the discipline of anthropology. Maine and his contemporaries established primitive society as the object of social anthropology. They posed strategic questions about the origin of the family, the state and religion. They also prepared a specialized set of tools. Primitive society then became the preserve of a new discipline, which soon developed a sophisticated, quasi-mathematical set of techniques for kinship studies. When this happened, the survival of the idea of primitive society was ensured.

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[5] However, this diversity is arguably a consequence (at least in part) of the relation-ships which have formed over recent centuries with settled agricultural populations.

As an initial rough approximation, the classic idea of primitive society persisted within anthropology – or with anthropology – because it was 'good to think'. It referred to ultimate social concerns, the state, citizenship, the family and so on. And it generated a specialized tradition of puzzle-solving.

The idea of primitive society probably could not have persisted within anthropology if it had remained static. But it did not. On the contrary, it lent itself to the most dazzling play of variations. This capacity for renewal facilitated accommodation to virtually any theoretical or political discourse, a process which allowed generations of scholars to feel that they were making genuinely novel contributions to their science.

Transformation

How best to conceive this combination of conservatism and innovation? The most famous modern characterization of scientific change is that of Thomas Kuhn. For Kuhn, significant changes are sudden and radical. The switch from one 'paradigm' to another involves a sharp break in continuity.

Scientific development depends in part on a process of non-incremental or revolutionary change. Some revolutions are large, like those associated with the names of Copernicus, Newton, or Darwin, but most are much smaller. like the discovery of oxygen or the planet Uranus. The usual prelude to changes of this sort is ... the awareness of anomaly, of an occurrence or set of occurrences that does not fit existing ways of ordering phenomena. The changes that result therefore require 'putting on a different kind of thinking-cap', one that renders the anomalous lawlike but that, in the process, also transforms the order exhibited by some other phenomena, previously unproblematic.[6]

A number of historians of science have questioned the Kuhnian idea that science changes by way of radical changes of paradigm, or epistemological breaks (to use the continental phrase). They point to the continuities and demonstrate that many famous discoveries were anticipated, at least in part. A more original reaction is that of I. Bernard Cohen. While emphasizing the striking conservatism of even the most celebrated 'scientific revolutions', he is not tempted by those at the other extreme who are content to trace the sources of a new theory and then to describe it as a 'synthesis'. Instead he suggests that great instances of creativity — literary as much as scientific — may best be described as 'transformations'.[7] He argues that Newton, for instance, 'certainly did not merely combine in a synthetic "stew" the principles of Copernicus, Kepler and Galileo, Descartes, Hooke and Huygens. Rather, he carefully selected certain ideas ... and *transformed* them, giving each of them a new form which only then was useful to him'.[8] Another example Cohen chooses is Darwin's 'transformation' of ideas which had been developed by Lyell and by Malthus. Darwin had been persuaded by Lyell's idea that whole species were in historic competition for a place in the sun. Then he read Malthus and realized that he had to consider rather the chances of individual survival.

An observation of special relevance to the present book is that some ideas are especially apt for transformation, and that this particular quality may increase the chances of their survival, even if they turn out to be quite wrong. Cohen instances some of the crucial ideas which 'undergo successive transformations and continue to live on for a long time in science, such as atom, energy and impetus', but refers also to ideas like aether ('transformed into the imponderable fluids of heat, electricity and magnetism') which have a measured but fruitful existence and survive only as archeological remains in the scientific language'.[9]

Precisely what Cohen means by 'a transformation is not entirely clear. Some of his examples seem to involve no more than a revision. more or less radical, of a specific idea; a scientist incorporates an older idea, but changes it slightly, or applies it in a new context At other times Cohen invokes the notion of a mathematical transformation. This suggests a different kind of process, involving systematic shifts in a whole conceptual structure. In this sense, transformations might be as radical and complete as Kuhnian paradigm changes. Cohen also refers to the work of both Mach and Foucault, who certainly envisaged something in the nature of structural shifts in the development of scientific ideas.[10]

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[6] Kuhn (1977), *The Essential Tension*, p. XVII. Critics had pointed out the difficulties in his use of the terms 'paradigm' and 'paradigm shift', and Kuhn here adopted Butterfield's homely allusion to putting an another thinking-cap.
[7] Cohen (1980), *The Newtonian Revolution,* especially Chapter 4.
[8] *Op, cit*., 158.
[9] *Op. cit*., p. 197.
[10] Cohen, *op. cit.,* hit. 280-9. Cf. Foucault 1972:. *The Archaeology of Knowledge*, Mach (1898), *Popular Scientific Lectures.*

I am persuaded that the notion of transformations is a powerful tool in the history of science, but I would like to introduce the specific idea of transformation which has been developed by Levi-Strauss, most systematically in his writings on myth. Levi-Strauss argues that in mythology the mind

> operates essentially through a process of transformation A myth no sooner comes into being than it is modified through a change of narrator ... some elements drop out and are replaced by others, sequences change places, and the modified structure moves through a series of state, the variations of which nevertheless still belong to the same set.

Moreover, these transformations of a myth do not simply result in minor changes, differences which can be reduced to 'small positive or negative increments'. Rather the transformations are accomplished by systematic manipulations of the myth as a whole, yielding 'clear-cut relationships such as contrariness, contradiction, inversion or symmetry'.[11]

Levi-Strauss believes that the human mind acts upon its raw materials in a highly constrained manner. It establishes structures and then manipulates them, almost mechanically. Moreover he insists that the kind of thinking which anthropologists have identified in exotic mythologies – what he calls mythologic – or in the ethno-science of hunters and gatherers is no different in principle from the most sophisticated scientific thought.[12]

Like Cohen, Levi-Strauss also believes that similar kinds of innovation can be found in the arts and in the sciences. He refers approvingly to the remarkable first chapter of D'Arcy Thompson's masterpiece, *On Growth and Form* (1917), which cited the use of transformations in mathematics and in natural history, and equally in the botany of Goethe and the art of Dürer.[13]

If Levi-Strauss is right, then scientists think rather like artists, and perhaps we all think, at least at times, like Amazonian Indians. Moreover, scientific theories may have a great deal in common with Amazonian myths. Yet there is one evident difference between the established ideal of scientific thought and what Levi-Strauss calls 'the logic of the concrete', which operates by transforming structures. Scientific thought is ideally progressive. Each stage of understanding should be an advance on its predecessor. One does not go backwards in science. But if an argument proceeds — to put it crudely — by turning a previous argument on its head, then at some stage someone will effect a further transformation by setting it back in its former position. In short, a series of structural transformations is quite likely to end up where it began.[14]

I think that this is true, at least for much of anthropological discourse. It cannot be denied that formal transformations of the Levi-Straussian kind abound in the history of the idea of primitive society. The various models of primitive society are typically straightforward, even mechanical, transformations of their predecessors. Indeed, this book is very largely an account of the transformations of an illusion within an increasingly hermetic professional discourse.

But that is not the whole story. There are also syntheses on the lines of Cohen's transformations. Different ideas are yoked together, sets of data placed in fresh juxtapositions. And some of the most influential figures did not effect significant transformations of any kind. Rather they gave current ideas an authoritative form. At the other extreme, a few individuals attempted to step outside the bounds of the

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[11] Levi-Strauss (1981), *The Naked Man*, p. 675.

[12] In a famous passage he wrote that:
the kind of logic in mythical thought is as rigorous as that of modern science, and that the difference lies, not in the quality of the intellectual process, but in the nature of things to which it is applied ... man has always been thinking equally well; the improvement lies, not in an alleged progress of man's mind, but in the discovery of new areas to which it may apply its unchanged and unchanging powers. (Levi-Strauss (1963), *Structural Anthropology*, p.230)

[13] At this stage the notion of transformations may seem a little mystifying. I hope that it will he clarified by examples, but in the meantime it may he helpful to recall something that the distinguished anthropologist Meyer Fortes used to tell me, to put me on my guard against the dodges of the English. The public-school types, he said, were trained to take the accepted arguments and to turn them upside-down; a purely mechanical trick, but one which produced the appearance of originality.

[14] In an interview with me, Edmund Leach insisted that 'the sequence is always dialectical'. He illustrated this thesis from his own experience:
There was ... a point in my anthropological development when Malinowski could do no wrong. In the next phase Malinowski could do no right. But with maturity I came to see that there was merit on both sides. I see this as a Hegelian process, a very fundamental element in the way that thinking in the humanities develops over time. But when this sequence leads you round in a circle, you are not just back where you started. You have moved on a bit, or you have moved somewhere else. But always the process involves the initial rejection of your immediate ancestors, the teachers to whom you arc most directly indebted. (Kuper (1986), 'An interview with Edmund Leach', p. 380)

established discourse. The recurrent characteristic mode of the innovators is, however, the structural transformation.

I concede that this book is not a good advertisement for the creative value of structural transformations. It is very largely a record of intellectual failures by famous anthropologists. My colleagues may in consequence accuse me of spreading despondency and gloom, or of wasting my time on ideas which have in any case been abandoned.

At this stage I would enter three defences. First of all, the ideas I deal with have not by any means been universally discredited. They may be unfashionable in mainstream anthropology, but they still flourish in the backwaters and are paraded in too many lecture courses before the wondering eyes of undergraduates. Secondly, the idea of primitive society was never the exclusive preserve of social anthropology. It infused the political and historical consciousness of several generations. Its history must be of consequence, even for many who are otherwise content to remain quite ignorant of anthropology. Finally, although the history I shall trace is rather deplorable, similar accounts could be given of many other intellectual traditions. We need to consider the ways in which we delude ourselves. If this book helps to explain the persistence of an illusion, then perhaps it may even hold out the promise of an escape from illusion.[15]

This book, then, is a critical history of an idea, its crystallization, transformations and persistence. I have not attempted to be exhaustive, to track down its every expression, to document every variant form it took. I am dealing with the central orthodoxy of social anthropology, and so it has been possible to focus on some central writers. They were especially influential, both in their own time and after. By and large they also produced the most powerful variants of the central model. Each of the writers with whom I shall be dealing can also stand for many others, since each refracted the concerns and influences which defined the study of 'primitive society' within a particular intellectual arena.

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[15] This may even be taken as a defence of anthropology, or at least of a sort of anthropology.

PART I. THE CONSTITUTION OF PRIMITIVE SOCIETY
CHAPTER 2. PATRIARCHAL THEORY

Henry Maine's *Ancient Law* (1861) could almost have been designed to illustrate the differences between Cohen's idea of transformation and Levi-Strauss's. Maine drew upon various sources, most particularly the German traditions of Roman legal history and of philology. He made his own synthesis of these, not simply by welding them together but by selecting certain themes, combining them in new ways, and giving them a fresh application. This would certainly constitute a transformation in Cohen's sense; but Maine's synthesis was really only a means to an end. His real purpose was political. Broadly, he wanted to refute the radical theory of government and of law which was associated with Rousseau and — in Maine's generation — particularly with Bentham and the Utilitarians. Specifically, he was out to discredit the application of this theory to the Indian Empire. His strategy was to take Bentham's theory and stand it on its head. In consequence, *Ancient Law* also exemplifies transformation in Levi-Strauss's sense.

Henry Maine (1822-88)[1]

Raised in conditions of shabby gentility, Henry Maine went up to Cambridge in 1840 where he enjoyed a brilliant undergraduate career, marked by such Cambridge triumphs as the award of the Chancellor's medal for English verse (for a poem on the birth of the Prince of Wales), and election to the Apostles. In 1844 he became Senior Classic and accepted a fellowship at Trinity Hall, a law college, where he began to specialize in Roman Law. In 1847 (a friend's father having the decisive voice) he was appointed Regius Professor of Civil Law at Cambridge, at the age of twenty-five. According to a friend, James Fitzjames Stephen, the professorship was an 'ill-paid sinecure', and in 1852 Maine took a Readership in Roman Law in the Middle Temple, resigning his Cambridge chair two years later.

On moving to London in the early 1850s, Maine became an active political journalist. A Peelite Whig, and one of the founders of *The Saturday Review*, he championed aristocratic forms of government and set himself against the extension of the suffrage and the erosion of established authority. He also defended the traditional form of the Indian Empire, then in a state of upheaval.[2]

The Utilitarians and India

The future of India, perhaps the central political question of the mid-1850s, raised legal and philosophical issues of intense interest.[3] The Indian government was committed to respect indigenous law and custom by the theory of dual rule, and officials of a Burkean persuasion genuinely wished to conserve customary legal arrangements. Yet the Permanent Settlement of Bengal in 1793 had already introduced Whig principles of government, above all the principle that individual rights in land should be established and maintained by law. The extension of these policies was advocated by the 'anglicizing' party, a coalition of evangelists, free traders, *dirigiste* bureaucrats and philosophical radicals.

The Utilitarians were prominent members of this party. Jeremy Bentham, the prophet of Utilitarianism, had long taken an interest in Indian affairs. He had even hoped that India might provide the laboratory for his system of law. This was derived from a 'calculus' of individual interests, which was designed to promote the rational pursuit of happiness. The purpose of law was to prevent individuals from impinging upon the liberty of others and to foster the common good. This doctrine was related to the traditional radical belief in the social contract, particularly to Hume's formulation of this doctrine. Individual

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[1] Biographical information on Maine has been drawn largely from George Beaver (1969), *From Status to Contract: A Biography of Sir Henry Maine*, *1822-1888*. J. W. Burrow discussed Maine's intellectual development in (1966) *Evolution and Society*, pp. 137-78. Maine's life is actually rather poorly documented. One reason is that Lady Maine did not preserve her husband's papers. She threw away his letters from famous writers after cutting off their signatures for sale. There was no typical Victorian 'Life and Letters'. W. Stokes' *Life and Speeches of Sir Henry Maine* contains only a brief memoir as a preface to long extracts from Maine's speeches.

[2] 'That wonderful succession of events which has brought the youngest civilization in the world to instruct and correct the oldest, which has reunited those wings of the Indo-European race which separated in the far infancy of time to work out their strangely different missions, which has avenged the miscarriages of the Crusades.' (W. Stokes (1892). *Life and Speeches of Sir Henry Maine*, p. 16)

[3] The outstanding source for the debate on India, and the ideas of the Utilitarians, is E. Stokes (1959), *English Utilitarians and India*. I have drawn heavily on it.

adherence to contracts and the attachment to a state flowed independently from a rational perception of self-interest. The state, represented by the sovereign, enacted the laws which protected the individual in his pursuit of private happiness.

Bentham and his disciple John Austin developed elaborate legal codes which were designed to promote communal happiness and rational individual freedom. These remained largely theoretical, but Bentham died in the hope that his theories might be applied in India. One of the most powerful men in the India Office, James Mill, was a Utilitarian, committed to reform. 'Mill will be the living executive,' Bentham declared, 'I shall be the dead legislative of British India.[4]

Fortunately there seemed to be no practical or moral hindrance. Mill's study of Indian history had convinced him that India was in terrible shape, and with no internal resources for reform. On the contrary, 'despotism and priestcraft taken together, the Hindus, in mind and body, were the most enslaved portion of the human race'.[5] Consequently the Indian government had both a duty and art opportunity to institute radical changes. Mill wrote:

> As I believe that India stands more in need of a code than ally other country in the world. I believe also that there is no country on which that great benefit can more easily he conferred. A Code is almost the only blessing –perhaps it is the only blessing– which absolute governments are hinter fitted to confer on a nation than popular governments.[6]

As he became more powerful in the India Office, Mill was able to promote his policies. His protege, Macaulay, who became legal member of the Viceroy's Council, designed a penal code on pure Benthamite principles in 1835. But despite this promising start, the Indian reform movement lost its impetus. Mill died, and Macaulay's plans were shelved.

In the 1850s there was a mild revival of the reform programme, and in 1856 a law commission recommended the preparation of a code of civil law, which was to be based on simplified English law, modified to suit Indian conditions. In 1857 the Sepoy Mutiny occurred, giving a new impetus to plans for reform and Macaulay's penal code was finally enacted in 1860.

Maine had no interest in the penal code, commenting dismissively that 'nobody cares about criminal law except theorists and habitual criminals'.[7] But civil law was a different matter entirely. He was fiercely opposed to the radical programme for the reform of Indian administration and civil law and published a series of articles in *The Saturday Review* urging the maintenance of the dual system in India. He then proceeded to write *Ancient Law* (1861), which was constructed as a weightier vehicle for similar arguments.

However the book was not just about India. It was a broad ideological statement, a general assault on radical *a priori* social philosophy as represented especially by Bentham. The radicals believed that government was based on a social contract, entered into by individuals for the protection of property. Maine proposed to demonstrate that on the contrary the original societies were based on families, not individuals, related by status, not contract, and held property in common. The radicals also believed that in a state of nature man had been free, the master of his own fate. Maine insisted that in primitive communities man was subject to the whims of a 'patriarchal despot'. Finally, he rejected the radical conviction that popular demand would impose progressive reforms. History —in Maine's hands— demonstrated that progress was rare. Where things did improve, this was probably thanks to an elite of lawyers (though occasionally Maine credited it rather to the force of the Greek spirit).

Sources for a conservative critique

Maine taught Roman law, which was dominated in his day by German scholars. His familiarity with the work of Savigny and Jhering must immediately have suggested parallels between the Indian debate and the learned controversy about the reception of Roman law in early German societies. The German debate had raised precisely the same issue. How could codification and legal reform be reconciled with a respect for tradition?[8]

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[4] Stokes (1959): uses this striking remark as the motto of his *English Utilitarians and India*.
[5] James Mill (1817), *The History of British India*, col. 2, p. 167.
[6] Cited by E. Stokes (1959), *English Utilitarians and India*, p. 219.
[7] Cited by G. Feaver (1969), *From Status to Contract*, pp. 102-3.
[8] See Kantorowicz (1937), 'Savigny and the historical school of law' for a lucid English account of his career and theories. M. Smith (1895), 'Four German jurists' is also useful, particularly on Jhering's contribution. An assessment of Maine's debt to these writers can he found in Vinogradoff's (1904) *The Teaching of Sir Henry Maine*. For modern

Savigny, a conservative Prussian nobleman, had achieved early fame with a pamphlet published in 1814 attacking a proposal to codify the civil law. Codification was associated with French domination and generally with radical plans for rationalization and change. Savigny put the case against codification in both theoretical and nationalist terms; in terms, indeed, that provided a theoretical foundation for a nationalist law policy. He argued that a legal system, like a language, grows out of the historical experience of a nation; it expresses what came to be called a *Volksgeist*. Such a complex historical growth should not be subjected to radical reform, though there might be a case for carefully judged amendments which would bring the law into line with modern conditions.

The great example of successful conservative legal reform was ' the reception of Roman law in medieval Germany. Savigny argued that the German *doctores juris* had made innovations which were in the spirit of the national law, permitting the *Volksgeist* to manifest itself even through Roman borrowings. This was the central theme of his life-work, the multi-volume (1834-50) *Die Geschichte des Römischen Rechts in Mittelalter*, sections of which continued to be published until 1850.

The so-called 'Germanists' disputed the value Savigny attached to the reception of Roman law. There were also 'Romanists', notably Jhering, who developed a less nationalistic and altogether more pragmatic version of the argument. Maine appears to have been influenced particularly by Jhering, but the internal differences of the German scholars were not critical to his own enterprise. What he took from them, above all, was a substantive description of how Roman law influenced Germanic societies.

Savigny and many of his followers were concerned not only with legal history but more generally with national culture. This broader concern drew them particularly to the study of language and folklore, in the belief that language and myth crystallized the anonymous genius of a people. Moreover, philologists had demonstrated that the Germanic languages were ultimately related to classical Greek and Latin and even to Sanskrit, so furnishing an immense historical perspective within which the development of the *Volksgeist* could be traced.

The existence and extent of the Indo-European language family had been firmly established by the time Maine began to write *Ancient Law*. A central figure in this great triumph of nineteenth-century linguistics had been a student of Savigny, Jacob Grimm. Grimm had identified regular consonant-shifts in Proto-Indo-European (Grimm's Law), and reduced to simple rules the processes involved in sound shifts between languages as different as German, Greek and Sanskrit. He had also, even more famously, with his brother Wilhelm, collected Germanic folktales as documents of popular wisdom.

It was quite widely assumed that the Indo-European family of languages coincided with a cultural tradition. Contemporaries examined parallels between German folklore and the mythology of ancient Rome and Greece, and even India. Grimm believed that there had been a very widespread ancient type of Indo-European folk community, which he identified with the old German mark. This mark was the original village unit, patriarchal and democratic, in which land was held and worked in common; and it was the forge of the political virtues of the race.

In the second half of the nineteenth century this German philological and folkloristic enterprise was represented in Britain by Max Muller, who became professor of Sanskrit at Oxford. A superb intellectual publicist, he helped to build up support for the German theories in Britain. At the same time, the theory of the *mark was* developed by a school of Anglo-Saxon historians. John Kemble, a student of Grimm, introduced the model into English historiography, arguing that the Saxons had brought the mark-community with them to England. His book *The Saxons in England*, published in 1849, inspired a school of British constitutional historians who dominated the field for the next quarter of a century. Stubbs, Freeman and Green treated the *mark* as the basis of medieval English politics and the direct ancestor of Westminster government.[9]

In *Ancient Law*, drawing on these German models, Maine offered a solution to the apparent conflict between Indian and British legal ideas. There was, he suggested, a path which could he traced in the legal history of the Indo-European family of nations. It led from India and ancient Germany through Rome to Britain. British law was, as it were, a mature and civilized outgrowth from Indian law. He could therefore reconcile his conservatism with a touch of reformist optimism. India might move forward under British

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assessments of some central arguments see Peter Stein (1980), *Legal Evolution*: *The Story of an Idea*, and P. Atiyah (1979), *The Rise and Fall of Freedom of Contract.*
[9] See J. W. Burrow (1981), *A Liberal Descent: Victorian Historians and the English Past.*' In his essay on the 'German school of history' published in 1886, Acton linked Maine and Fustel de Coulanges with Humboldt, Savigny, Grimm and Ritter. 'They trifled for a time with fancy, but they doubled the horizons of Europe. They admitted India to an equality with Greece, mediaeval Rome with classical.' Reprinted in Acton (1907), *Historical Essays and Studies*, quotation from p. 346.

guidance, as Germany had done by grace of Rome. And so, while Victorian historians were writing constitutional histories of Britain, Maine wrote a comparable constitutional history of India in *Ancient Law*. It was a prospective constitutional history –at once Whig and Burkean– of the India he hoped to see.

'Ancient Law'

When he came to write *Ancient Law*, Maine therefore had a primarily political agenda. His book is best read as a two-pronged attack on his radical opponents. He was after them root and branch – the root being their belief that modern society was wicked, natural society good; and the branch being the conclusion that modern societies (India, for instance) should he reformed by the application of reason.

Maine associates Bentham, rather unfairly, with the traditional radical postulate that there had been an original state of nature., in which free men agreed to a social contract, electing a leader to govern them and to pass laws in the common interest. Unfortunately leaders had eventually arisen who had betrayed this trust. pulled the wool over the eyes of their followers. Government everywhere had become a conspiracy of the rich.[10] Born tree, man was now everywhere in chains. It was necessary to start over again from scratch. The philosopher should imagine himself back in a state of nature, and apply his reason to working out a rational and just system of government.

Maine regarded this kind of thinking with scorn, and traced it right back to the ancient theory of Natural Law. This was a Greek notion, but the Romans had adopted it when faced with the problem of administering foreigners whose customs were very different from their own. Trusting to the Greek assumption that certain legal principles were universal, the Romans had developed rules based upon abstract principles of justice. There was an implicit notion that somewhere, once, these universal abstract principles had ruled. Justice might therefore be identified with some former natural condition. The theory obviously provided an open invitation to speculation. The Romans had, however, used this licence in a sober fashion, and so had been spared the worst excesses of a philosophy which Maine called 'the ancient counterpart of Benthamism'.[11]

The radical philosophers, however, had made precisely this leap from the idea of natural justice to the vision of an original state of grace. They even believed that this original state of nature provided A model for a future society based on just principles. 'Rousseau's belief was that a perfect social order could be evolved from the unassisted consideration of the natural state, a social order wholly irrespective of the actual condition of the world and wholly unlike it.'[12] Nor was this speculation an innocent intellectual sport. The theory had

> helped most powerfully to bring about the grosser disappointments of which the first French revolution was fertile. It gave birth, or intense stimulus, to the vices of mental habit all but universal at the time, disdain of positive law, impatience of experience, and the preference of a priori to all other reasoning.[13]

The foolish belief in the state of nature could only be countered by applying the historical method. The origin of social forms must be reconstructed scientifically. This imperative should be evident to all. Indeed, Maine insisted that

> whenever (religious objections apart) any mind is seen to resist or contemn that mode of investigation, it will generally be found under the influence of a prejudice or vicious bias traceable to a conscious or unconscious reliance on a non-historic, natural, condition of society or the individual.[14]

The evidence from which the 'rudiments of the social state' could be reliably reconstructed was of three kinds — 'accounts by contemporary observers of civilisations less advanced than their own, the records

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[10] Nor was this point of view restricted to radicals. In Adam Smith's uncompromising formulation,

Laws and government may be considered ... in every case as a combination of the rich to oppress the poor, and preserve to themselves the inequality of the goods which would otherwise he soon destroyed by the attacks of the poor, who if not hindered by the government would soon reduce the others to an equality with themselves by open violence.

This quotation is taken from Ronald Meek's (1975) *Social Science and the Ignoble Savage* (p. 123), Chapter 4 of which provides an excellent account of the 'anthropological' theories of the Scottish school, with which Maine and McLennan were familiar.

[11] Maine (1861), *Ancient Law*, p. 76.

[12] *Op. cit.*, p. 85.

[13] *Op. cit.*, p.88.

[14] *Op. cit.*, p.87.

which particular races have preserved concerning their primitive history, and ancient law'.[15] ('It will at least be acknowledged that, if the materials for this process are sufficient, and if the comparisons be accurately executed, the methods followed are as little objectionable as those which have led to such surprising results in comparative philology.'[16])

The conclusion of these investigations was very different from' Rousseau's. There was no original Eden, but instead a primordial patriarchal despotism. 'The effect of the evidence derived from comparative jurisprudence is to establish that view of the primeval condition of the human race which is known as the Patriarchal Theory.'[17]

Patriarchal theory is in fact a direct inversion of Rousseau's state of nature. In Rousseau's construct, free and equal individuals had decided to band together, entering into a contract for their better government. This ancient state of liberty and equality was contrasted with the degenerate despotism of the modern world. In Maine's ancient world, on the contrary, man was originally confined in societies which completely suppressed individual interests.

This was a world not of free individuals but of solidary family corporations, ruled by totalitarian patriarchs.

> Men are first seen distributed in perfectly insulated groups held together by obedience to the parent. Law is the parent's word ... society in primitive times was not what it is assumed to be at present, a collection of *individuals*. In fact, and in the view of the men who composed it, it was *an aggregation of families*. The contrast may he most forcibly expressed by saying that the unit of an ancient society was the Family, of a modern society the Individual.[18]

Intriguing evidence for an original state of despotism came from the Roman doctrine of agnation. In Roman law 'agnates' are kin who are related to each other exclusively through male links. Maine argued that this was the original category of relatives. In the primeval human society the patriarch ruled. Daughters moved away on marriage, and their children came under the rule of their fathers-in-law. Consequently they were no longer counted as relatives. Only the children of sons remained members of the original patriarchal corporation.[19]

How was this ancient patriarchal despotism reformed? The first step was to draw waifs and strays into family groups by means of the first and greatest of the legal fictions, adoption (ritually consecrated by shared sacrifices). Soon it must have been evident that the theory of *patria potestas* was being stretched to accommodate a very different reality, that agnation no longer described the relationship between members of the corporation. 'The composition of the state, uniformly assumed to be natural, was nevertheless known to be in great measure artificial.'[20] Initially the new accretions had been welcomed as strengthening the group, but gradually the hereditary members of the inner core began to discriminate against the individuals who became attached to them through weakness. As these second-class citizens came to constitute a majority, they developed an alternative ideology of civil rights.

> Their sternness in maintaining the central principle of a system under which political rights were attainable on no terms whatever except connexion in blood, real or artificial, taught their inferiors another principle, which proved to he endowed with a far greater measure of vitality. This was the principle of local contiguity, now recognized everywhere as the condition of community in political functions.[21]

As the corporation had loosened its grip, so individuals became more independent. Finally, of the end of many aeons of development, the social contract had been introduced. Individualism and contract were the fruits of the highest civilization.

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[15] *Op. cit.*, p. 116.

[16] *Op. cit.*; p. 118.

[17] *Op. cit.*, p.116.

[18] *Op.cit.*, p. 121.

[19] The foundation of Agnation is not the marriage of Father and Mother, but the authority of the Father. All persons are Agnatically connected together who are under the same Paternal Power, or who have been under it or who might have been under it if their lineal ancestor had lived long enough to exercise his empire. In truth, in the primitive view, Relationship is exactly limited to Patria Potestas. (*Op.cit.*, p. 144)

[20] *Op. cit.*, p.125.

[21] *Op. cit.*, pp. 127-8.

The movement of the progressive societies has been uniform in one respect. Through all its course it has been distinguished by the gradual dissolution of family dependency and the growth of individual obligation in its place. The individual is steadily substituted for the Family, as the unit of which civil laws take account ... Nor is it difficult to see what is the tie between man and man which replaces by degrees those forms of reciprocity in rights and duties which have their origin in the Family. It is Contract. Starting, as from one terminus of history, from a condition of society in which all the relations of Persons are summed up in the relations of Family, we seem to have steadily moved towards a phase of social order in which all these relations arise from the free agreement of individuals.[22]

Maine used the term 'status' to refer to ascribed rights and duties, which derived particularly from the family. In that sense 'status' was the opposite to 'contract' (which was the mark of liberty and the clarion call of the radicals). Relationships of status characterized early societies, while free contractual relationships characterized modern societies. Contract marked the liberation of the individual from the primordial constraints of status. As Maine summed it up in his most famous generalization, 'we may say that the movement of the progressive societies has hitherto been a movement *from Status to Contract'*.[23]

Ancient sources commonly assumed that families were the original units of society. These had gradually aggregated to form a gens or house. Houses had then joined together to form a tribe. Finally. tribes had associated in a commonwealth. This picture had been endorsed by writers from Aristotle to Grote. In the tradition of Lamarck, however, Maine argued that history had not progressed gradually by small reforms from one stage to another. Political progress had been punctuated by a great revolution. This was the change from societies based upon family relations – upon blood – to societies based upon territory and the state.

The history of political ideas begins, in fact, with the assumption that kinship in blood is the sole possible ground of community in political functions; nor is there any of those subversions of feeling, which we term emphatically revolutions, so startling and so complete as the change which is accomplished when some other principle – such as that, for instance-of local *contiguity* – establishes itself for the first time as the basis of common political action.[24]

Maine noted that his image of ancient society corresponded closely to the society of the patriarchs as described in the Bible. It was also rather similar to Aristotle's idea of early society. Similar ideas were taken for granted by the writers of the Scottish Enlightenment. More recently, James Mill (1817) in his *History of British India* had traced an evolution, from scattered family groups to divinely-inspired authorities and so to monarchy, which clearly anticipates Maine. His image of the village community, especially, was very like that adopted by Maine:

it was the usual arrangement in early stages of society, for the different members of a family to live together; and to possess the property in common. The father was rather the head of a number of partners, than the sole proprietor ... The laws of inheritance among the Hindus are almost entirely founded upon this patriarchal arranagement.[25]

Maine added little to this idealized picture of the Indian village,[26] but he linked it to the German notion of the mark community, which had been introduced into British historiography by Kemble (1849) in *The Saxons in England*. Kemble described the *mark* communities as 'great family unions ... some, in direct descent from the common ancestors ... others, more distantly connected ... some admitted into communion by marriage, others by adoption ... but all recognising a brotherhood, a kinsmanship'.[27] In his second book, *Village Communities in the East and West* (1871), Maine made these sources more explicit, and developed the parallels between the German *mark* and the Hindu village.[28]

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[22] *Op. cit.*, p.163.

[23] *Op. cit.*, p.165.

[24] *Op. cit.,* p. 124.

[25] Mill (1817), *History of British India*, vol. 1, p. 146.

[26] Maine played down the complexities of Indian land tenure and the internal hierarchy of the village, and he did not locate the village in the broader political system. As Dumont commented, he 'hardly ever looked at the Indian village in itself, but only as a counterpart to Teutonic, Slavonic or other institutions' (Dumont (1966), 'The "village community" from Munro to Maine', p. 85). Cf. Dewey (1972), 'Images of the village community' and Srinivas (1975), 'The Indian village: myth and reality'.

[27] Kemble (1849), *The Saxons in England*, pp. 56-7.

[28] See, e.g., Dewey (1972), 'Images of the village community: a study in Anglo-Indian ideology'.

Maine's account of the origin of society controverted the classic radical version on every point. That was to strike at the root of radical political philosophy. In dealing with the branch –the theory of law developed by Bentham and Austin – his tactic was the same. He presented a version of Bentham's construct, and then turned it upside down.

Bentham believed that law should be made consciously and by the political authority. Not precedent but legislation should form the basis of the legal system. Maine remarked that Bentham and Austin 'resolve every law into a *command* of the lawgiver, an *obligation* imposed thereby on the citizen, and a sanction threatened in the event of disobedience'. This was a fairly accurate description of the conditions of 'mature jurisprudence', but

> it is curious that the farther we penetrate into the primitive history of thought, the farther we find ourselves from a conception of law which at all resembles a compound of the elements which Bentham determined. It is certain that, in the infancy of mankind, no sort of legislature, not even a distinct author of law, is contemplated or conceived of.

On the contrary, in ancient times 'every man, living during the greater part of his life under patriarchal despotism, was practically controlled in all his actions by a regime not of law but of caprice'.[29]

The first laws took the form of judgments which were believed to derive from divine inspiration. In time an aristocracy displaced the divinely-inspired leaders; in the west a political oligarchy, in the east a priestly caste. The new elite took over the judicial role of the king, but did not pretend to divine inspiration. Instead the elite claimed a monopoly of knowledge of custom. With the invention of writing the oligarchy lost its monopoly of knowledge; the customs were set down in codes. This was of course the great Benthamite moment, for Bentham favoured not only legislation but the creation of complete legal codes. Maine objected that codes really restated custom, although he complicated matters by suggesting that somehow there was a moment when a legal system was ripe for codification. The Roman code, the Twelve Tables, had been compiled at a stage when usage was still wholesome, though further delay might have been fatal. The Hindu codes, however, had been corrupted. The masses had got their hands on the law and contaminated it with irrational superstitions.

But if codes simply ordered custom, how could rational and useful changes be introduced in the law? Maine believed that there were a few progressive societies in which educated opinion had seen the necessity for improvements, and where appropriate legal reforms had been introduced. The Roman system was the best documented of these, and Roman legal history demonstrated that three mechanisms operated successively to bring about Legal change. These were legal fictions, equity, and legislation.

This may seem a curious trinity of instruments of reform. To grasp the logic of the argument one must once again consider its relevance to the theories of Bentham and Austin. They had given all the credit for legal progress to legislation. Maine argued that legislation had not been a significant factor until recent times. The Utilitarian theorists had also emphasized the significance of equity, with its appeal to natural principles of law. Maine debunked the logic of equity, and played down its historical importance.

On the other hand, Bentham and Austin had heaped scorn on the use of 'irrational' legal fictions. According to Bentham, legal fictions were amongst the mystifications upon which despots relied to retard progress. A legal fiction was 'a wilful falsehood, having for its object the stealing of legislative power, by and for hands which could nor, or durst not, openly claim it, and but for the delusion thus produced could not exercise it'. 'Fiction of use to justice? Exactly as swindling is to trade.'[30] Maine accordingly chose legal fictions as his favoured mode of reform.

Following Savigny and Jhering,[31] Maine argued that legal fictions were not originally instruments of reaction. On the contrary. they were mechanisms of progressive reform. Under the cover of fictions the elite introduced reforms, while maintaining the illusion, so much cherished by the conservative majority, that nothing had really been altered. They 'satisfy the desire for improvement at the same time that they do not offend the superstitious disrelish for change'.[32]

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[29] Maine (1861), *Ancient Law*, pp. 7-8.
[30] L. Fuller's *Legal Fictions* (1967) includes an account of Bentham's and Maine's theories. The citations from Bentham are taken from Fuller.
[31] Fuller (1967), pp. 59-63.
[32] Maine (1861), *Ancient Law*, p. 25.

After a period of reform by way of legal fictions, the Romans had briefly adopted the principle of equity 'initially in dealing only with foreigners?. Finally, as the laws became more and more unwieldy and complex, the imperial constitutions attempted to codify them.

This view of legal history (presented in the first three chapters of *Ancient Law*) controverted the Benthamite *a priori* by the creation of an 'historical' sequence. Legislation and codification marked the peak of legal evolution, not its origin.

It would be wrong to treat *Ancient Law* as a work of high scholarship. The history is very compressed and reveals little evidence of original research. There is in fact nothing in Maine's history which could not have been gleaned from Gibbon's famous forty-fourth chapter, in which he reviewed the development of Roman law. According to his friend J. F. Stephen, 'Neither Maine himself, nor I suppose, anyone else in England, knew anything whatever about Roman Law at that time.'[33] ('I suppose he knew the Institutes, but I doubt if he ever knew much of the Pandects.') But this did not imply that *Ancient Law* was worthless. Stephen conceded that 'being a man of talent and originality, coming close to Genesis, Maine transfigured one of the driest of subjects into all sorts of beautiful things, without knowing or caring much of its details'. However, Maine's use of legal history was primarily rhetorical; he was out to trounce the radicals. As Stephen concluded. 'He was enabled to sniff at Bentham for knowing nothing about it, & writing in consequence about English law, in a merely revolutionary manner'.[34]

The origins of the law having been traced, Chapters 6 to 9 of *Ancient Law* gave an account of its development to modern times. The thesis was that primitive society had been based upon communal family groups. Consequently private property as well as contract and testaments were the product of an historical evolution.

The early family was a corporation which survived its members ('Corporations never die'[35]). Succession to the patriarch's position passed by seniority among those subject to the same *patria potestas*. But sometimes there were no obvious heirs, and contingency arrangements had to be developed. Wills introduced flexibility. The Roman invention of the will created 'the institution which, next to Contract, has exercised the greatest influence in transforming human society'.[36]

The comparative method

Maine insisted that in contrast to Bentham he employed a scientific 'historical method'. On many points, however, he was obliged to deny the evidence of his own sources. For example, he was confronted by the difficulty that even the earliest Roman sources unambiguously recognized individual rights, or placed great emphasis upon cognatic relationships. His response was that Roman jurisprudence had been transformed by the theory of natural law. The lawyers had then applied themselves to rewriting the past.

Fortunately, however, Maine was equipped to reconstruct the authentic origins of Roman law because he was armed with the comparative method. The Indo-European peoples formed a family, but some members of the family had done very much better than others. The poor relations still lived in the way we had once lived ourselves. Therefore the customs of backward branches of the family could be used to provide evidence for the ancient practices of its more progressive members. It was not necessary to rely on Roman sources which had systematically rewritten history. Maine could appeal to India, for Hindu law seldom 'east aside the shell in which it was originally reared'.[37]

The Roman sources might talk in terms of individual property rights, but

> among the Hindoos, we do find a form of ownership which ought at once to rivet our attention from its exactly fitting in with the ideas which our studies in the Law of Persons would lead us to entertain respecting the original condition of property. The Village Community of India is at once an organized patriarchal society and an assemblage of co-proprietors.[38]

Yet however riveting, the Indian evidence was still by no means always unambiguous. Maine was obliged to be selective. On the question of ancient community of property, for instance, he cited a rather murky passage from Elphinstone in his favour, but he ignored the testimony of George Campbell, whose

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[33] Quoted in Feaver (1969), *From Status to Contract*, p.25.
[34] *Ibid*.
[35] Maine (1861), *Ancient Law*, p. 180.
[36] *Op. cit.*, p. 188.
[37] *Op. cit.*, p.252.
[38] *Op. cit.*, p.252.

Modern India, published by John Murray in 1852, must have been known to him. Campbell admitted the existence of village communities 'comprised of a number of families, claiming to be of the same brotherhood or clan', but insisted that

> they do by no means 'enjoy to a great degree the community of goods', as Mill supposes. I never knew an instance in which the cultivation was carried on in common, or in which any of the private concerns of the villagers were in any way in common, and I very much doubt the existence of any such state of things.[39]

On the matter of contract Maine found himself on still weaker ground. He disparaged the Roman sources but here Indian sources, however selectively used, were also of no help. Maine was now obliged to appeal to German sources, on the argument that although the Romans had introduced their principles of contract to the German tribes, feudal laws otherwise differed little from primitive usages.

Maine in India

Ancient Law was obviously relevant to the debate on Indian legal reform. It sent a straightforward message to the politicians. India had initially been like ancient Germany, a society based on communal ownership and the patriarchal family. However, while the German societies had been civilized by the reception of Roman Law (and especially by the introduction of contract law) and by the development of private property, India had stagnated, a prey to obscurantism and despotism. The Indian Empire should now introduce British legal principles to some of the most backward of the Indo-European peoples, just as the Roman lawyers had reformed German societies.

In 1861, shortly after the publication of *Ancient Law*, Maine was appointed legal member in the Viceroy's Council, effectively becoming the head of the Indian legal system. In India he distinguished himself by a hectic legislative activity. He remained legal member from 1862 to 1869, longer than any other nineteenth-century incumbent of the office, and as his biographer remarked, he 'strove to make the major theses of his *Ancient Law* a self-fulfilling prophecy'.[40] He passed laws which extended freedom of contract, and promoted individual land rights. In speeches to the Council he cited his own theories, and drew parallels between the imposition of British law in India and the reception of Roman law by the Germans.[41] In the field of education he also advocated the progressive introduction of European scholarship (as had his predecessor, Macaulay). In 1866, as Vice-Chancellor, he told the graduating class of Calcutta University that 'their real affinities are with Europe and the Future, not with India and the Past'.[42]

It is conceivable that Maine wrote *Ancient Law* in order to become legal member. He was certainly enough of a pragmatist to have done so. Lord Acton, who as a young Whig MP had put Maine's name forward for the position after his book appeared, later wrote in disillusion to Mary Gladstone that Maine's nature was 'to exercise power, and to find good reasons for adopted policy'.[43]

In 1871, shortly after he returned from India, Maine was appointed to the newly-created Chair of Jurisprudence at Oxford, but although he was to be an academic for the rest of his life he retained political interests and ambitions. He sought the Permanent Under-Secretaryship at the India Office and was the first person to be appointed a life member of the Council of India. When he resigned his Oxford chair in 1878, he received offers from the Indian government and the Foreign Secretary. Although he chose rather to accept the position of Master of Trinity Hall, Cambridge, he later toyed with other possible government appointments. Nor did he lose his political interests. His penultimate book, *Popular Government*, published in 1885, was a tract against the Reform Bill and democracy.

All this time his academic career continued to prosper. In 1887, the year before his death, he was named to the Whewell Professorship of International Law at Cambridge. And yet his most famous scholarly contribution, his patriarchal theory, had by then been almost universally abandoned.

Matriarchy: the critique

In 1861, the year in which *Ancient Law* appeared, a Swiss jurist, Johannes Bachofen, had published a book entitled *Das Mutterrech.* Himself a product of the German school of Roman historical legal studies,

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[39] G. Campbell (1852), *Modern India: A Sketch of the System of Civil Government*, p.86.
[40] Feaver (1969), *From Status to Contract*, p.73.
[41] *Op. cit.*, pp. 87-8.
[42] *Op. cit.*, p.90.
[43] *Op. cit.*, p. 179.

Bachofen took classical myths as his main source, in the manner of Grimm. These suggested to him an original condition in which societies were controlled by women rather than by patriarchs.

Maine paid virtually no attention to Bachofen, and his ideas had little direct influence in Britain or America. Soon, however, the 'matriarchy' thesis was to be propounded in Britain by a formidable polemicist, J. F. McLennan.

John Ferguson McLennan was born in Inverness in 1827, the son of an insurance agent.[44] He was educated at King's College, Aberdeen, and at Trinity College, Cambridge. Going down from Cambridge without a degree, he spent two years on Grub Street, writing for *The Leader* and other periodicals. In 1857 he was called to the bar in Edinburgh. At the same time he contributed the entry on 'Law' to the *Encyclopaedia Britannica*, in which he sketched the conventional theory of political development, from the patriarchal family to the tribe to the state.

McLennan's legal career was unspectacular, though he was for a while secretary of the Scottish Society for Promoting the Amendment of the Law. Then (as Tylor remarked in an obituary of McLennan in *The Academy*) 'in 1865 he published a law-book which had the natural and immediate effect of losing him half his briefs. This was *Primitive Marriage*, the work by which he made his mark in the scientific study of man.'[45]

McLennan admitted that he had been in some measure anticipated by Bachofen, but claimed that he had read *Das Mutterrecht* for the first time only in 1866, and certainly the structure of his argument is very different.[46] A much more significant influence on *Primitive Marriage* is Malthus. In Chapter 3 of his *Essay on the Principle of Population* Malthus had speculated on the ways in which primitive communities had restricted their populations to a number which could be supported by their resources. He pointed to the great 'vices' of famine, epidemic and war, and also to abortion and infanticide, writing of a 'prodigious waste of human life occasioned by this perpetual struggle for room and food'.

Female infanticide was actually discovered by British administrators among some high-caste groups in North India. In 1857 Cave-Browne published a detailed account, *Indian Infanticide. Its Origin, Progress and Suppression*, and his book aroused considerable controversy. Like many contemporaries, McLennan assumed that primitive peoples had been driven to kill female children in their struggle to survive.

> Foremost among the results of this early struggle for food and security, must have been an effect upon the balance of the sexes. As braves and hunters were required and valued, it would be in the interest of every horde to rear, when possible, its healthy male children, It would be less in its interest to rear females, as they would be less capable of self-support, and of contributing, by their exertions, to the common good. In this lies the only explanation which can be accepted of those systems of female infanticide still existing.[47]

Primitive Marriage was also directly and obviously inspired by Maine's *Ancient Law* — but Maine stirred McLennan to opposition rather than emulation. 'Maine is McLennan's chief antagonist', Rivière has commented, adding that 'besides his theories Maine was also an ideal representation of everything to which McLennan was either antagonistic or to which he had aspired and had failed to achieve', for Maine was a successful jurist, a prominent journalist, and an uncompromising reactionary.[48]

The notion that primitive peoples went in for wholesale female infanticide suggested to McLennan a way in which to attack patriarchal theory. The practice of large-scale female infanticide must have obliged them to look for wives elsewhere, leading to a measure of outmarriage (for which McLennan coined the term

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[44] Rivière provides a biography of McLennan in his introduction to the 1970 reprint of *Primitive Marriage* published by the University of Chicago Press.

[45] Tylor's obituary appeared in *The Academy* in 1881. *Primitive Marriage* was published in 1865. McLennan reprinted this monograph together with some subsequent essays under the title of *Studies in Ancient History* in 1876. (That is the edition used here.) In 1885 his brother edited and completed some further writings by McLennan and published them under the title *Patriarchal Theory*. McLennan's ideas on the evolution of marriage and the family remained essentially unchanged from 1865, but in 1869–70 he published an influential essay on totemism, in which he linked this early state of the family to early religious forms. This theory will be discussed in a later chapter.

[46] In a chapter on Bachofen in his *Studies in Ancient History* (1876), McLennan commented, and with reason, that Bachofen's book was 'mystic' and difficult to read, counselling readers rather to consult Giraud-Teulon's French summary, which appeared in 1867 (*La mère ches certains peuples de l'antiquité*). Giraud-Teulon for his part cited Baron Eckstein as his own immediate authority and as a predecessor of Bachofen. Ferdinand Eckstein (1790–1861) studied philology and Sanskrit in Germany early in the nineteenth century and worked mainly as a journalist but wrote books about German and Indian cultures.

[47] McLennan (1876). *Studies in Ancient History*, p 132.

[48] Rivière, Introduction to 1970 edition of McLennan's *Primitive Marriage*, pp. xxxiii and xxxv.

'exogamy'). Since a perpetual struggle was going on between different communities, exogamy could not have been organized in a peaceful fashion; men would have had to capture wives. Wives would nevertheless have remained in short supply, and so men shared the wives captured by their group. (McLennan called this arrangement 'rude polyandry'. 'Rude polyandry' evidently stood to polyandry proper much as coarse fishing stands to fishing.) In such conditions it would have been difficult to establish who a person's father was. Consequently the first kinship systems would have been based on blood relationships traced through women only.

In time, the 'ruder' forms of wife-sharing would have given way to a more refined arrangement, in which uterine brothers, recognizing a degree of solidarity, held a wife in common. This was the type of 'Tibetan polyandry' which McLennan posited as a general stage of the development of marriage. 'Tibetan polyandry' implied that a woman's children also shared common descent from a set of brothers. This was a step in the direction of the recognition of fatherhood. Polyandry might then yield to a more advanced system, the levirate. The idea of fatherhood would become firmly established. Its development would be stimulated by a parallel growth in economic well-being, which would create a need for rules to govern the transmission of property between generations. The way was now open for the development of agnation.

> Paternity having become certain, a system of kinship through males would arise with the growth of property, and a practice of sons succeeding, as heirs direct, to the estates of fathers; and as the system of kinship through males arose, that through females would – and chiefly under the influence of property – die away.[49]

In essence, McLennan inverted Maine's patriarchal theory. The classical assumption had been that the family was the original social group, that it had gradually yielded the gens, which developed into the tribe, and that eventually tribes had coalesced to form the state. Maine had amended this familiar story in two crucial ways. First of all, he had stressed the 'patriarchal' nature of the original family group. Secondly, instead of a gentle progression from family through tribe to state, Maine had introduced the idea of a radical break in human history, a revolution, as the principle of blood gave way to the principle of territory. In McLennan's version, the first kin-based systems were matrilineal. Moreover, the whole traditional series of developmental stages was inverted, and the family was placed at the end instead of the beginning of the story. 'The order of social development . . . is then, that the tribe stands first; the gens or house next; and last of all the family.'[50]

McLennan's sources were very various. He cited Indian examples of infanticide and polyandry but did not limit himself to Indo-European comparisons. Unlike Maine, he was prepared to draw on any descriptions of 'primitive' behaviour to support his speculations.[51] This was because he assumed, in the traditional Scottish philosophical way, that the development of social institutions had everywhere followed a similar path.[52]

There was also a more directly 'evolutionist' element in his procedures. Like Lubbock and Tylor he was looking for fossils, for what Tylor termed 'survivals'. Here the indirect. influence of Lyell and Darwin is evident. There might be no material relics of ancient social institutions, but McLennan believed that the equivalent of fossils was to be found in 'the symbols employed by advanced nations in the constitution or exercise of civil rights. These symbols reflected earlier institutional forms – 'wherever we discover symbolical forms, we are justified in inferring that in the past life of the people employing them, there were corresponding realities'.[53] The symbol which McLennan used as his point of departure in *Primitive Marriage* was the pretence, which so often cropped up in marriage ceremonies, that the bride was being forcibly abducted. This referred hack to a state of affairs in which men really had gone out and captured their wives.

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[49] McLennan (1865), *Primitive Marriage*, p. 196.

[50] *Op. cit.*, p.333.

[51] This feature of McLennan's writings has led some commentators to make quite unwarranted claims on his behalf. Evans-Pritchard (1981) even asserted that McLennan 'was the first to make a comprehensive analysis of everything known about primitive people' (*A History of Anthropological Thought*, p. 66). However. Waitz's encyclopaedic compilation of comparative ethnography had begun to appear in 1859, and an English translation of the first volume was published in 1863. Tylor, a contemporary of McLennan, also drew on a much wider range of ethnographic materials.

[52] McLennan (1876), *Studies in Ancient History*, pp. xiv–xv.

[53] *Op. cit.*, p.7.

At first Maine tried to minimize the threat posed to his theory by McLennan and his supporters, who soon included the influential Lubbock. Whatever such critics might say to the contrary, Indian villages were firmly based on *patria potestas*. There was little evidence that India, as least, had passed through a 'matriarchal' phase.[54] Furthermore, *patria potestas* turned out to he the original condition not only of the Indo-Europeans, but of all civilized peoples including the Semites and the 'Uralians' (the Turks. Hungarians and Finns). The arguments of McLennan might or might not apply to less civilized races, but they 'do not concern us till the Kinship of the higher races can be distinctly shown to have grown out of the Kinship now known only to the lower, and oven then they concern us only remotely'.[55]

However, in 1871 a more elaborate version of McLennan's thesis was published by an American lawyer, Lewis Henry Morgan. Morgan followed this up in 1877 with a book, *Ancient Society*, which provided another bold account of social and political evolution which, like McLennan's, started with a matriarchal group and ended with the simultaneous apotheosis of the state and the family. These competing models won over many of the leading authors of the day, but it was only in 1833, two years after both Morgan and McLennan had died, that Maine published an all-out attack on their work, in a section of his *Dissertations on Early Law and Custom* entitled 'Theories of primitive society'.

Maine could not content himself any longer with the simple assertion that his rivals were talking about something else entirely, that their model might apply to savages but had nothing to do with the higher races. By now the Darwinians had won a crucial battle, and it was no longer respectable to assume that different human races had quite distinct origins. This issue — which split the anthropological world in the 1860s — had been broadly resolved by the 1880s in favour of the 'Monogenistic School', who took the Darwinian view that the various human races shared a common ancestry.

Maine therefore had to accept that the arguments of McLennan and Morgan represented an alternative to his own — indeed, as he pointed out, they were a direct inversion of it.[56] However, he drew attention to the contradictions and lacunae in the models, and showed that McLennan and Morgan differed with one another in their view of the stages through which horde-societies passed before reaching the patriarchal stage. Moreover their evidence for the original horde was based chiefly on dubious reports of contemporary 'savage societies' which traced relationships for some purposes through women only. Yet even in these societies ignorance of paternity was not general.[57]

But Maine's central arguments were drawn — for the first time in his work — from Darwin. In *The Descent of Man*, published in 1871, Darwin had taken issue with McLennan, arguing that sexual jealousy was a fundamental emotion, and that it must have contributed to the early establishment of orderly mating arrangements amongst men. Promiscuous hordes were counter to man's sexual nature. Maine concluded that 'sexual jealousy, indulged through power, might serve as a definition of the Patriarchal Family'.[58]

Maine also appealed to another tenet of Darwinian theory, which denied the likelihood of parallel evolutionary developments.

> So far as I am aware, there is nothing in the recorded history of society to justify the belief that, during the vast chapter of its growth which is wholly unwritten, the same transformations of social constitution succeeded one another everywhere, uniformly if not simultaneously. A strong force lying deep in human nature, and never at rest, might no doubt in the long run produce an uniform result, in spite of the vast varieties accompanying the stern struggle for existence; but it is in the highest degree incredible that the action of this force would he uniform from beginning to end.[59]

It was a powerful counter-attack, but when Maine published this final denunciation of his rivals, his reputation was already past its peak. Moreover, the German model upon which he had relied was itself under

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[54] Maine (1871), *Village Communities in the East and West*.

[55] Maine (1875), *Lectures on the Early History of Institutions*, p.67.

[56] The other theory which is now opposed to that long called Patriarchal is the theory of the origin of society, not in the Family but in the horde ... It derives the smaller from the larger group, not the larger from the smaller. Founded, as was the Patriarchal theory, on observation, but on observation of the ideas and practices of the now savage races, it deduces all later social order from the miscellaneous unorganised horde. (1883, *Dissertations on Early Law and Custom*, pp. 199-200)

[57] Maine cited Fustel de Coulanges' remark that 'the problem of procreation' was to the ancients 'very much what the problem of creation is to the moderns'. (1883, *Dissertations on Early Law and Custom*, p. 203)

[58] *Op. cit.*, p.209.

[59] *Op. cit.*, pp. 218-19.

attack. The romantic image of the *mark* began to erode under the pressure of conflicting evidence. A revisionist school of writers introduced a new interpretation of the *mark* community, stressing the existence of private property, serfdom, the relation-ship of the *mark* to the feudal manor, the transmission of property through women, and even the ownership of property by women.[60]

For their part, the new evolutionist models of McLennan and Morgan had drawn more powerfully and persuasively on ethnographic materials, and their models incorporated the ideas of technological and intellectual evolution which were advocated by Tylor and Lubbock. It is hardly surprising that the matriarchal thesis came to dominate the anthropology of the next generation; above all, in the version of Lewis Henry Morgan.

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[60] See Vinogradoff (1892), *Villainage in England*. Cf. Meinhard (1975), 'The patrilineal principle in early Teutonic kinship'. Soon Vinogradoff could remark-in a public lecture on Maine — 'It is not unusual nowadays to talk in a rather supercilious manner of the lack of erudition and accuracy, of the allusiveness and vagueness of Maine's writings'. (1904, *The Teaching of Sir Henry Maine*, p. 2)

CHAPTER 3. LEWIS HENRY MORGAN AND ANCIENT SOCIETY

An American, Lewis Henry Morgan, was to prove the most influential of those who developed the anthropological idea of primitive society, His influence on his immediate successors was so great, indeed, that it forms a serious barrier to a fresh reading of his work today. His theory was appropriated early on by Engels, whose particular interpretation still has committed supporters. Later. Boas made Morgan the special target of his critique of evolutionism. In consequence, Morgan's theses became the battleground for two generations of American anthropologists. Precisely on account of this intense controversy, Morgan's ideas have very often been misrepresented and misunderstood.[1]

In order to recapture the intended meaning of what Morgan wrote, one must try to ignore what was to come, and to concentrate upon the immediate sources and contexts of his thinking; to recreate his intellectual milieu, which he assumed his readers would share. This is an intriguing exercise in itself, and it is an essential preliminary if one wishes to specify the kinds of transformation which characterize his work. Morgan reacted to his contemporaries, but not in the radical way which led Maine and McLennan to select particular adversaries and then to turn their ideas on their heads. He collected enormous quantities of data and drew with considerable expertise upon a variety of theories (including McLennan's); but in the end he reworked his materials to fit the models which had become current among the British scholars in his field.

Yankees, Presbyterians and Darwinism

Morgan's immediate intellectual circle is perhaps best approached by way of his closest friend during his early adult years In Rochester, New York, the Rev. J . S. Mcllvaine, who was the Presbyterian minister of Rochester from 1848 until 1860. Mcllvaine was intimately associated with Morgan's research, and he was instrumental in securing the eventual publication of Morgan's *Systems of Consanguinity* (1871). A formidable intellectual, he was a philologist, and a recognized authority on Sanskrit. Mcllvaine was associated with the Smithsonian Institution, and when he left Rochester it was to take up an academic appointment at Princeton.

He was also a minister of religion. He did his best –with the support of Morgan's wife– to ignite Morgan's Christian faith, hut with only partial success, though he claimed that Morgan's heart lay in the end with the Christian religion; and Morgan was certainly at the least a Deist, and was prepared to respect Mcllvaine's faith. An earlier generation sometimes represented Mcllvaine as a censor, who checked the free expression of Morgan's Darwinian beliefs for theological reasons. This interpretation derived some plausibility from Mcllvaine's own claim:

> that whilst his great work on 'Ancient Society' was passing through the press, I called his attention to a passage which inadvertently might have found its place there, and which might be construed as an endorsement of these materialistic speculations in connection with evolution, and he immediately cancelled the whole page, although it had already been stereotyped.[2]

This view of Mcllvaine's role altered as the context of the evolutionist debate in the United States was better appreciated. Indeed Morgan's second biographer, Carl Resek, concluder that on the contrary Mcllvaine had inspired Morgan's evolutionist hypothesis.[3]

Morgan and Mcllvaine's branch of the Presbyterian church participated in a markedly liberal movement within New England-Calvinism in the second half of the nineteenth century.[4] It repudiated slavery and affirmed a faith in democracy and utilitarian political ideas. On scientific matters, it was equally determined to accommodate the most enlightened modern theories. Nor was the theory of evolution a special problem. Evolution might even be reconciled with Calvinist ideas of predestination — 'Evolution', as one divine explained, 'is God's way of doing things'.[5] The new chronology could also be taken on board. 'I

[1] Cf. E. Service (1985), *A Century of Controversy*, Chapter 3.
[2] Mcllvaine (1923), 'The life and works of Lewis H. Morgan, LL.D: an address at his funeral', p. 57
[3] Resek (1980;, *Lewis Henry Morgan: American Scholar*.
[4] For discussions of contemporary American Calvinism, its attitudes to slavery and to Darwinian theory, see. Winthrop Hudson (1965), *Religion in America*, James Moore (1979), *The Post-Darwinian Controversies*; H. Smith *et. al.* (1963), *American Christianity*; and R. Wilson (1967), *Darwin and the American Intellectuals*.
[5] Quoted in Hudson (1965), *Religion in America*, p. 267.

cannot find sufficient data in the Scriptures for a revealed chronology', Mcllvaine commented. 'Neither, as I read the first chapters of Genesis, does it appear that man was created in a high state of development, though certainly in a state of innocence.'[6]

The northern Presbyterians in fact welcomed Darwin's witness with respect to one very sensitive political issue. This was the question of the unity of origin of the human species. They were up in arms against their southern Presbyterian brethren, who justified slavery on the grounds that God had created several distinct species of man, each with a particular destiny. During the Civil War an 'American school of anthropology' developed in the South which propagated this view. It drew the support even of Agassiz, the eccentric Lamarckian biologist of Harvard.[7]

According to the northern Presbyterians, this 'polygenist' thesis was a denial of the truth, to which both the Bible and the Declaration of Independence bore witness, that all men were created equal. Darwin unequivocally supported the view that all the races were simply varieties of one species, with a common origin. This aspect of Darwinian theory was particularly stressed by Asa Gray, Agassiz's rival at Harvard, and the leader of the American Darwinians.

On one vital matter, however, Darwin's views were unacceptable to many, indeed most, Christians. He posited the mutability of species and — despite his inital caution — it became evident that he believed man had evolved from non-human primate forebears. This theory of the transmutation of species was clearly irreconcilable with the Book of Genesis, but there were many respectable scholars who believed that it was also at odds with biological facts. A great number of mainstream biologists in the 1860s believed that the species were fixed. Agassiz's version of Cuvier's typology even allowed for the separate creation of each individual species. Morgan, a competent amateur biologist, sided with Agassiz on this issue. He wrote a naturalist's study of the American beaver (which won Agassiz's admiration) in which he strongly affirmed his faith in Cuvier and in the separate creation of the human species.[8]

One could, however, believe that the species were fixed without having to believe that they were changeless. Agassiz and many of his colleagues might rule out 'transmutation', the change of one species into another; but they still believed that a species could develop along appropriate lines. Each species might realize an inner potential, which gradually unfolded. Those who thought in this way commonly conceived of the development of species on the analogy of the evolution of the embryo. The tadpole might become a frog, but that did not amount to a change of species. Indeed, ontogeny, the development of an individual, might recapitulate phylogeny, the history of a species. The term 'evolution' itself was generally used in this embryological sense until about 1880, and neither Darwin in *The Origin of Species* (1859) nor Morgan in *Systems* (1871) or *Ancient Society* (1877), used the word 'evolution' at all.[9]

Agassiz's version of evolution assumed that the world had been designed by God. Particular species had been created in order to fit into particular ecological relations. They were, moreover, programmed to develop as the whole cosmological order itself progressed. Adaptation was a sign of planning rather than of selection. Agassiz was quite explicit that evolution was comprehensible only as the gradual unfolding of a divine plan. Species were incarnations of a divine idea. 'Natural History must, in good time, become the analysis of the thoughts of the Creator of the Universe, as manifested in the animal and vegetable kingdoms.[10]

Agassiz's theory of development was the biological equivalent of a common New England Calvinist belief that human history, since Christ, was a record of progress and moral improvement inspired by God, in which every group had its preordained role. This idealistic view was in stark contrast to the scepticism of Darwin or the pessimism of Malthus. 'I believe in no fixed law of development', Darwin had written in *Origin*, and when Christian intellectuals attacked his 'materialist' theory they meant in particular his view that history is contingent, unplanned, without a goal, the product simply of random mutation and natural selection. Mcllvaine, similarly, objected to the thesis of Malthus because it left no place for divine planning.[11]

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[6] Mcllvaine (1923), 'The life and works of Lewis H. Morgan', p. 56.

[7] See especially William Stanton (1960), *The Leopard's Spots: Scientific Attitudes toward Race in America 1815-1859*.

[8] Morgan (1868a), *The American Beaver and His Works*.

[9] See Bowler (1975), 'The changing meaning of "evolution"'. Morgan's first biographer, Stern, wrote:

It was undoubtedly out of deference to the pressure of Mcllvaine ... that Morgan nowhere in his books uses the word 'evolution' or has a word of praise for the writers on this subject, although his works are permeated by their influence'. (1931, *Lewis Henry Morgan: Social Evolutionist*, p. 23)

This was a complete misrepresentation of the true situation.

[10] See Mayr (1939), 'Agassiz. Darwin and evolution'. The passage front Agassiz is cited on p. 171.

[11] Mcllvaine (1867), 'Malthusianism'.

This belief in progress according to a divine plan had a political counterpart in American political thought, which commonly represented political 'development' as a series of progressive approximations to the principles of government which had been set our in the Declaration of Independence. This was perhaps Morgan's most important theme. Mcllvaine rightly emphasized it in his funeral oration, praising Morgan's

> demonstration that progress is a fundamental law of human society, and one which has always prevailed – progress in thought and knowledge. in industry, in morality, in social organization. in institutions, and in all things tending to, or advancing, civilization and general well-being.[12]

But these were only the broadest considerations which informed Morgan's thinking. His more immediate concern was with questions of American ethnology, and his initial inspiration was drawn from philology and history rather than biology. These intellectual roots of the early Morgan are similar to those which sustained Maine.

`The League of the Iroquois'

Lewis Henry Morgan, the ninth of thirteen children, was born in 1818 in Aurora, New York (then `still a wilderness surrounded by Indians'[13]). His father, a wealthy farmer, a state senator, and a devout Presbyterian, died when Morgan was a boy of eight. In 1838 he went to Union College, a school distinguished for its Whig politics, which found fashionable expression in the idealization of the democratic civilization of Athens.[14] In 1844 he received a licence to practise lave, and established himself in practice in Rochester, New York.

In Rochester, Morgan set up a fraternity. There was an Iroquois reservation nearby, and the fraternity took the name Iroquois and considered organizing itself on the fines of the Iroquois League. Morgan began to visit the nearby reservation and to collect ethnographic information. He also intervened successfully with Washington on behalf of an Iroquois group on a land question.[15] Eventually he wrote up his ethnographic findings, so discharging an undertaking which, he thought, had now come to an end.

> With the publication [of *The Leugue of the Iroquois*] in January 1851 laid aside the lndian subject to devote my time to my profession. My principal object in writing this work, which exhibits abundant evidence of hasty execution, was to free myself of the subject.[16]

Although primarily a descriptive work, *The League of the Iroquois* is informed by a progressive spirit. Like Maine, Morgan was impressed by a model of ancient history, and his particular inspiration was Grote's vastly influential Utilitarian study of Greece. The Greeks, according to Grote, had evolved from a family-based polity to city-states. Initially there were separate, independent families. There then joined together in groups, the gens, phratry and tribe. The gens was particularly significant, and Grote described it as a kinship and political unit, democratic in nature, and with religious functions. In their political evolution the Greeks passed from a democracy based on kinship groups to a stage of monarchy and despotism, eventually in the case of Athens achieving a higher democratic form.

In *Ancient Society* (1877) Morgan was to reject the priority of the family over the gens and phratry. He also came to deny that all societies had to endure a stage of monarchy and despotism. In *The League of the Iroquois* (1851), however, he accepted Grote's argument. Echoing Grote, Morgan asserted that:

> there is a regular progression of political institutions, from the monarchical, which are the earliest in time, on to the democratical, which are the last, noblest, and the most intellectual. This position can be established by the rise and development of the Grecian institutions, and may be further illustrated by the progressive change in the spirit and nature of other governments.[17]

Despotic monarchy was a form of government 'natural to a people when in an uncivilized state, or when just emerging from barbarism'.

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[12] Mcllvaine (1923). 'The life and works of Lewis H. Morgan'.

[13] Stern (1931), *Lewis Henry Morgan*, p. 3.

[14] See Resek (1960), *Lewis Henry Morgan*. p. 9.

[15] See R. Bieder (1980), `The Grand Order of the Iroquois: influences on Lewis Henry Morgan's ethnology', and E. Tooker (1983) , 'The structure of the Iroquois League: Lewis H. Morgan's research and observations'.

[16] Quoted in White (1957), `How Morgan came to write *Systems of Consanguinity and Affinity'*, p. 257.

[17] Morgan (1851), *League of the Iroquois*, p. 122.

The Iroquois represented a yet earlier condition, in which 'Family Relationships' still provided the fundamental scheme of government.

> These relations are older than the notions of society or government, and are consistent alike with the hunter, the pastoral and the civilized state. The several nations of the Iroquois, united, constituted one Family, dwelling together in one Long House; and those ties of family relationship were carried throughout their civil and social system, from individuals to tribes, from tribes to nations, and from the nations to the League itself, and bound them together in one common, indissoluble brotherhood.[18]

Morgan also described the unfamiliar Iroquois terminology for kin, which was 'unlike that of the civil or canon law; but was yet a clear and definite system. No distinction was made between the lineal and collateral lines, either in the ascending or descending series'.[19] He linked this system with the use of consanguineal relationships to build up large political units. There is no suggestion of his later theory that the kinship terminology reflected exotic forms of marriage or family relationships. Indeed, Morgan clearly described the Iroquois marriage forms, remarking mainly on the absence of affection between man and wife, Marriage was in essence a contract arranged between the mothers of the couple, who acted for larger family units.

The American Indian

With the publication of his book, Morgan believed that he had put Indian ethnography behind him. He now concentrated on business, and prospered. In 1855 he became a director of the Iron Mountain Rail Road Co., and he soon extended his interest to other railway companies. 'From the close of 1850 until the summer of 1857,' he recorded in his Journal, 'Indian affairs were laid entirely aside'.[20]

As he became rich, Morgan was able to devote more time to outside interests. He took up politics, serving as Republican congressman and then senator in the state assembly between 1861 and 1869, and became chairman of the Indian affairs committee of the assembly. He also angled for federal preferment, but it never came. At the same time, he maintained his intellectual interests. With McIlvaine he founded the Pundit Club in Rochester, at which papers were read dealing with such matters as Lyell's geology, Sanskrit, and ethnology.

In 1856 Morgan was elected to the Association for the Advancement of Science. This encouraged him to return at last to his Iroquois notes in order to prepare a paper for the following annual meeting. The paper he wrote, entitled 'Laws of descent of the Iroquois', dealt mainly with their system of classifying kin, which he considered a unique invention of the tribe. Soon, however, a fresh discovery was to change his mind.

In the summer of 1858 Morgan found that the Oiibwa, who spoke a different language from the Iroquois, nevertheless had essentially the same system of classifying kin.

> Every term of relationship was radically different from the corresponding term in the Iroquois; but the classification of kindred was the same. It was manifest that the two systems were identical in their fundamental characteristics.[21]

In the following year he recorded in his journal the extraordinary hypothesis which this discovery suggested to him.

> From this time I began to he sensible to the important uses which such a primary institution as this most have in its bearing upon the question of the genetic connection of the American Indian nation, not only, but also, on the still more important question of their Asiatic origin.[22]

It was now — at the age of forty — that his most important research began.

To appreciate what Morgan had in mind, it is necessary first to consider the state of play in American ethnology at the time. This had just been thoroughly and critically reviewed by Samuel Haven, in his

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[18] *Op. cit.*, pp. 56-7.
[19] *Op. cit.*, p. 81.
[20] White (1957), 'How Morgan came to write *Systems of Consanguinity and Affinity*', p. 262.
[21] Morgan (1871), *Systems of Consanguinity and Affinity of the Human Family*, p. 3.
[22] Quoted Stern (1931), *Lewis Henry Morgan*, p.73.

Archaeology of the United States, which was published by the Smithsonian Institution in 1856, precisely at the moment when Morgan's interest in American ethnology was quickened once again.

The central issue raised in Haven's summary was familiar and of vital importance. This was the polygenist—monogenist controversy. Haven conceded with some reluctance that 'The subject of American ethnology passes ... insensibly into the general question of the original unity or diversity of mankind.'[23] He reviewed in detail the linguistic studies of American languages, emphasizing Gallatin's conclusion that the Indian languages shared a common and distinct character, probably resulting from a very long period of isolation. This unity existed despite wide variations in vocabulary: 'however differing in their words, the most striking uniformity in their grammatical forms and structure appears to exist in all the American languages'.[24] According to Gallatin, the most characteristic structural feature of the Indian languages was what Von Humboldt had called 'agglutination', i.e. glueing together; 'a tendency to accumulate a multitude of ideas in a single word', as Haven defined it.[25]

Haven then covered the physiological studies which had been carried out, dealing very fairly with the polygenist school. though finally rejecting their conclusions. He also surveyed the discoveries of the archaeologists. His final conclusion was that:

> The deductions from scientific investigations, philological and physiological, tend to prove that American races are of great antiquity Their religious doctrines, their superstitions ... and their arts, accord with those of the most primitive age of mankind. With all their characteristics affinities are found in the early condition of Asiatic races[26]

The evidence therefore apparently supported the monogenist argument, while (in Haven's view: not necessarily contradicting the received chronology.

Haven's most striking data came from philology, and this was a field which Morgan must have learnt from McIlvaine. McIlvaine was a Sanskritist, but this meant that he was an Indo-European man, and the models of Gallatin and other American linguists had been taken over directly from the Indo-Europeanists.

The Indo-European philologists had established relationships between languages hitherto regarded as completely distinct. They agreed that most of the European languages were distantly related to Sanskrit, and that their point of origin was in India. The Semitic languages were similarly interrelated, and they too had an Asian point of origin. In the 1860s some scholars mooted the possibility that the Indo-European and Semitic language stocks gene also ultimately related to each other.

The Professor of Sanskrit at Oxford, Max Muller, propagated the view that there was a third stock, which he called 'Turanian'. It was divided into a European, northern branch (Turkish, Finnish, Mongolian, Basque, etc.) and a southern, tropical branch. This tropical language family included most if not all of the other languages in the world, including Tamil (the main Indian language which is not related to Sanskrit'. and the languages of the American Indians.

It seemed a very diverse group. Superficially at least, its members had few linguistic features in common. But then Muller did not expect these languages to be very similar. He believed that the people who spoke Turanian languages were typically nomads, with the consequence that their languages were liable to rapid change and much dialectical variation. He instanced the terms for kin, explaining that these were stable in Aryan languages but not in Turanian. Yet although words themselves changed, underlying concepts might be constant. At this level the Turanian languages

> share much in common, and show that before their divergency a certain nucleus of language was formed, in which some parts of language, the first to crystallize and the most difficult to be analysed, had become fixed and stationary. Numerals, pronouns, and some of the simplest applied verbal roots belong to this class of words.[27]

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[23] Haven (1856), p. 81.

[24] *Op. cit.*, p. 65.

[25] *Op. cit.,* p. 67. This was a simplification of the then current technical linguistic notion of agglutination, but Morgan was at best an amateur philologist, and his own semantics of 'classificatory systems' fit in well with Haben's definition of agglutination. For a sophisticated (essentially grammatical) definition of agglutination by a contemporary, see Max Müller's (1861) *Lectures on the Science of Language.* especially Chapter 8.

[26] Haven, *op. cit.*, pp. 158-9.

[27] Müller in Bunsen (1854), *Outlines of the Philosophy' of Universal History Applied to Language and Religion,* vol. 1, p. 478.

They had something else in common, too, for Muller believed that they all exhibited Von Humboldt's 'agglutinating' tendency.

Were these three linguistic stocks – all, probably, ultimately of Asian origin – independent? Were there any traces of an original language spoken by a once-united human race? (If this, too, was located in Asia, perhaps the Book of Genesis was accurate after all!) Muller could find no philological basis for such a conclusion, but he proposed an alternative resolution of the issue. Using Von Humboldt's typology, which classified languages according to grammatical principles that he termed 'isolation, agglutination and inflexion', Muller argued – as indeed Schleicher had argued before him – that language stocks could be ordered on a scale of progressive development. The most primitive languages were 'isolating'. Each word consisted of a single, stable root. At a more advanced level they were characterized by 'agglutination' – roots were 'glued together' to form new words. The most developed languages went in for 'amalgamation', developing inflected forms in which the original roots, once simply glued together, merged to form quite new words.

There were difficulties with this scheme. Chinese, for instance, was classified as an 'isolating language' (i.e. each word consists of a single, stable root). Yet it was hard to believe that Chinese was exceptionally primitive. Muller tried to resolve this particular difficulty by providing Chinese with its own private evolutionary track. But for the rest, the southern Turanian languages could be classified as 'agglutinating', while the northern (or European) Turanian languages could be classified with the Semitic and Indo-European languages as 'amalgamating'. They had, however, once been 'agglutinating' themselves. 'Amalgamation' was a direct advance on 'agglutination'. The classification therefore cross-cut the established boundaries of language families and yielded a new classification, in which the languages of Europe, the Middle East and North India were associated together and opposed to most of the languages spoken in the tropics. But this did not contradict the idea that all men – and all languages – had a common origin. The languages of Europe were certainly more advanced, but they had once been 'agglutinating', and even 'isolating' themselves.

Muller also linked this scheme of linguistic development with the models of technical and social progress constructed by the writers of the Scottish Enlightenment, borrowing their famous four-stage model. ('The four stages of society are hunting, pasturing, farming and commerce' to quote Adam Smith's classic formulation.) These economic stages had from the first been associated with a model of political development from anarchic communism to private property and the state.[28] Müller now added a theory of linguistic progress.

Some Indo-European scholars had tried to find philological clues to the early condition of the Indo-Europeans. Had they been nomads or agriculturalists? At what stage might they have shifted from nomadism to agriculture? Muller's synthetic model opposed a category of primitive, anarchic, dispersed nomads, speaking agglutinating languages in a state of continual dialectical flux, and civilized, centralized, agricultural societies, with literate elites and, consequently, more stable and advanced languages characterized by 'amalgamation'. In the long essay on these issues, which he contributed to a book by his patron, Bunsen, he summarized his ideas (see Figure 3.1).

The beauty of Müller's model was that it both divided and united humanity. Müller endorsed the division of humanity into 'higher' Aryan and Semitic and 'lower' southern Turanian people. At the same time, his model assumed that all men had a single origin.

Asian origins

After stumbling upon the fact that the Ojibwa had substantially the same system of classifying relatives as the Iroquois, Morgan checked with Rigg's lexicon of the Dakota language and found that they lumped relatives together in the same 'classificatory' manner as the Iroquois and Ojibwa. The question now arose: How widely was the system distributed? In December 1858 he sent schedules out to Indian areas to be filled in by missionaries and Indian agents. The results were disappointing, perhaps not surprisingly, since the questionnaire ran to eight printed pages and its completion demanded considerable time and effort. But is few satisfactory schedules were returned, and Morgan carried out his enquiries in person in reservations in Kansas and Nebraska. By mid-1559 he was convinced that the system of classifying relatives was fundamentally uniform throughout North America. This he took as evidence that the North American Indians had a common origin.

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[28] See Meek (1975), *Social Science and Ignoble Savage*. These ideas were becoming very fashionable at the time in America. See Stevens (1975), 'Adam Smith and the colonial disturbances'.
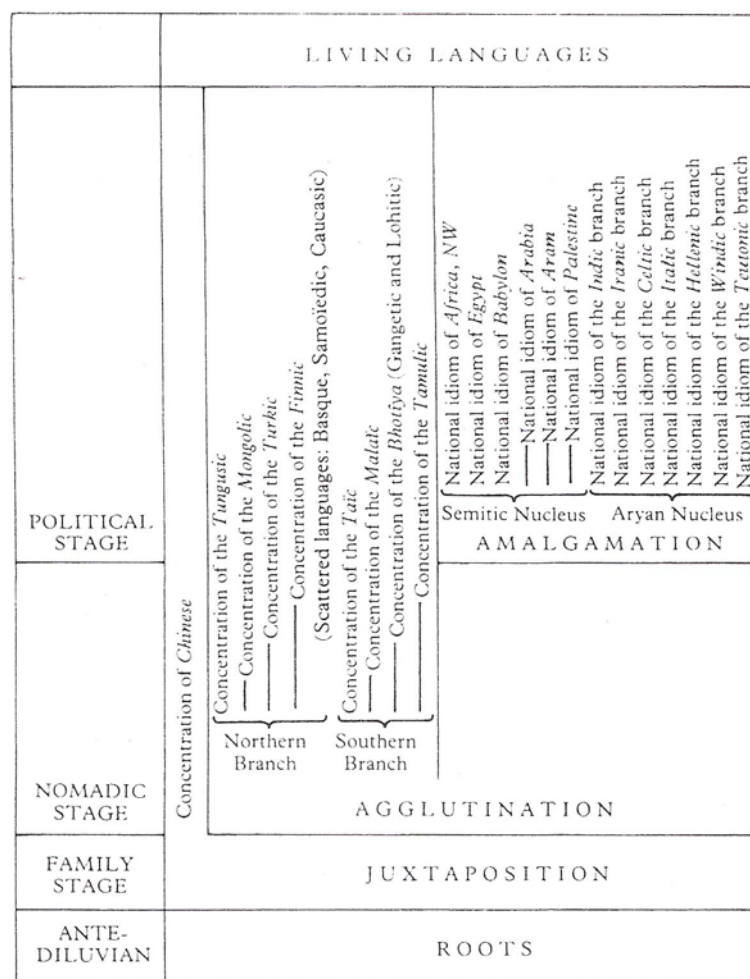
Figure 3.1 Müller's summary of linguistic progress (from Max Müller's contribution to C. C. J. Bunsen (1854), *Outlines of the Philosophy of University History applied to Language and Religion*, 2 vols, London, Longman).

But if the Indians were ultimately one group, where had they come from? Morgan was inclined to accept the hypothesis of Schoolcraft and other specialists, supported by Haven, that they were ultimately of Asian origin. Obviously they were not 'Aryan', and so Morgan looked for connections among Müller's prototypical Asian Turanians, the Tamils. Accordingly, he invited an American missionary, Dr Scudder, to prepare a schedule for Tamil and Telugu.

Mcllvaine testified that at this time Morgan:

> lived and worked often in a state of great mental excitement. and the answers he received, as they came in, sometimes nearly overpowered him. I well remember one occasion when he came into my study, saying, 'I shall find it. I shall find it among the Tamil people and Dravidian tribes of Southern India'. At that time I had no expectation of any such result; and I said to him. 'My friend, you have enough to do in working out your discovery in connection with the tribes of the American continent – let the peoples of the old world go'. He replied, 'I cannot do it – I must go on, for I am sure I shall find it all there'.[29]

When the Tamil-Telegu schedule came hack, Morgan laid it side by side with the Seneca-Iroquois system and concluded that it had the same structure. He wrote to Scudder 'that we had now been able to put our hands upon decisive evidence of the Asiatic origin of the American Indian race'.[30] In Systems he expressed the same conclusion more grandiloquently:

> When the discoverers of the New World bestowed upon its inhabitants the name of *Indians*, under the impression that they had reached the Indies, they little suspected that children of the same original family, although upon a different continent, stood before them. By a singular coincidence error was truth.[31]

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[29] Mcllvaine: (1923), 'The life and works of Lewis H. Morgan', pp. 50-1.
[30] Stern (1931), *Lewis Henry Morgan*, p. 27.
[31] Morgan (1871), Systems of Consanguinity and Affinity, p. 508.

Morgan concluded that all the members of Muller's southern Turanian family had what he called 'classificatory' kinship systems. The Aryans, Semites and northern Turanians all had 'descriptive' systems. These two types of systems were quite distinct. Indeed, they were virtually inversions of each other.

In descriptive systems there are different terms for father and mother, husband and wife, brother and sister, and son and daughter, and none of these terms is applied outside the nuclear family. Morgan argued that such systems mirror the reality of biological kinship, clearly marking the degrees of blood relationship.

Classificatory systems, in contrast, did not reflect the natural degrees of kinship. They lumped relationships of different kinds together under one term. The same word might refer, for example, to father, father's brother, father's father's brother's son, and also perhaps to other relatives, confusing different kinds and degrees of biological relatedness. 'It thus confounds relationships, which, under the descriptive system, are distinct, and enlarges the signification both of the primary and secondary terms beyond their seemingly appropriate sense.'[32] The classificatory principle immediately suggested the mechanism of 'agglutination'. Moreover, the languages which according to Morgan applied one kin term to various degrees of relationships were precisely those which Muller regarded as 'agglutinating'.

But if classificatory systems did not properly describe biological relationships, they were by no means incoherent. Like the man who thought he was Napoleon, the systems made perfect sense if their underlying axioms were granted. If, for example, father's brother was 'father', then, quite properly, father's brother's wife was 'mother', father's brother's son 'brother', etc. Morgan concluded that

> a system has been created which must be regarded as a domestic institution in the highest sense of this expression. No other can properly characterize a structure the framework of which is so complete, and the details of which are so rigorously adjusted.[33]

The opposition between descriptive and classificatory systems was not always clear-cut. Morgan was aware that the 'descriptive' systems often had 'classificatory' elements. For example, discussing the Dutch kinship terminology, he commented that 'The terms *neef* and *nicht* are applied indiscriminately to a nephew and niece, to a grandson and granddaughter, and to each of the four classes of cousins.'[34] This was the sort of lumping together one might expect to find in a classificatory system. But Morgan argued that the history of the Germanic systems showed that they were originally purely descriptive in form, as some of the Scandinavian systems have remained. The introduction of classificatory terms for 'uncle' and 'aunt', subsequently for 'nephew' and 'niece', and finally for 'cousin', were later rationalizations, which simplified the system while not transgressing its fundamental opposition between lineal and collateral kin. In this particular instance the argument was made more difficult by the fact that the Dutch classified nephews, male cousins and also grandsons together, so indeed confusing lineals and collaterals. Morgan's comment was that the Dutch system 'is defective in arrangement, and imprecise in the discrimination of relationships', which placed the error firmly with the Dutch rather than in his theory.[35]

Nor did the classificatory systems constitute a uniform set. Morgan divided Müller's southern Turanian group into three, on the basis of a typology of classificatory systems. The three types were termed respectively the Turanian, the Malayan, and the Ganowanian (the American Indian group'. He was, of course, particularly interested in the Ganowanian, and his discussion of the American systems is the longest and most detailed, running to 135 pages of text plus 100 pages of tables, or almost 40 per cent of the whole of *Systems of Consanguinity and Affinity*. But he was convinced that the Ganowanian system was closely related to the Turanian, of which the Tamil and Dravidian systems were typical. Chinese and Japanese were also 'Turanian'. The 'Malayan' systems were, however, very different from them.

In both the Turanian and Ganowanian systems, only one set of cousins was identified with siblings and termed 'brother' and 'sister'. These were children of father's brothers or mother's sisters.. Other cousins (children of father's sisters or mother's brothers') were distinguished from siblings. The Malayan systems, in contrast, classed all cousins together with siblings, and all parents' siblings together with parents. This category included not only the peoples of the Pacific but a number of far-flung peoples, and even the Zulu, Morgan's only African group.

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[32] *Op. cit.,* p. 12.
[33] *Op. cit.,* p. 472.
[34] *Op. cit.,* p. 35.
[35] *Op. cit.,* p. 35. It is perhaps worth remarking that the use of the terms *neef* and *nicht* for grandchildren is now obsolete in Dutch.

When his argument had reached this stage, Morgan believed that he had successfully completed a type of philological study. It demonstrated the unity and the ultimately Asian origin of the American Indian languages, and suggested the existence of two great linguistic stocks, one European and north-west Asian, and the other southern, tropical and firmly non-European. Within this framework Morgan wrote up his massive materials, tabulating and analysing 139 kinship schedules from all the over the world, listing over 260 kin-types for each.

In 1865 he submitted the manuscript for publication to the Smithsonian Institution. Joseph Henry, the director of the Smithsonian, was reluctant to accept it, writing to Morgan that 'the first impression of one who has been engaged in physical research is that, in proportion to the conclusions arrived at, the quantity of your material is very large'[36]; but he sent it for consideration to two philologists and Sanskritists—Whitney at Yale, and McIlvaine.

McIlvaine was prepared to accept that the analysis was incomplete. Morgan had demonstrated the inner coherence at classificatory systems, but their meaning remained a mystery. He remarked that at this stage:

> our friend had not perceived any material significance or explanation of the immense body of entirely new facts which he had discovered and collected. He could not at all acount for them. Ir. fact, he regarded this system, or these slightly different forms of one system, as.. invented and wholly artificial, so different was a from that which now prevails in civilized society, and which evidently follows the flow of the blood. During 'all these years, he had not the least conception of any process of thought in which it could have originated, or of anything which could have caused it so universally to prevail. He treated it 'as something which must throw great light upon pre-historic than. hut what light he had not discovered.[37]

And yet, a year before the submission of the manuscript, McIlvaine had discussed with Morgan a plausible explanation of the classificatory systems. In a letter dated March 1864. he wrote:

> I have just lighted upon certain references which throw some light upon the origin of your Tamilian or Indian system of relationships; at least on some parts of it. You remember we were talking about whether a did not point back to a state of promiscuous intercourse You will find in Aristotle's politics Book II chapter 3 where he is refuting Plato's doctrine of a community of wives this sentence, 'Some tribes in upper Africa have their wives in common', and in a note in Bonn's translation of it the following references, 'For example the Masimanes (Herodotus IV, 172) and the Ayseuses (ib. IV, 180)'...
> I am inclined to think that this state of society might, upon full and minute investigation of the remains of antiquity, he found more extensively to have prevailed than is commonly supposed.[38]

The hypothesis was, then, that the mysterious 'classificatory designation of kin was based on real parent-child relationships, as was the descriptive system. Both described a ronsanguiaca' reality. huh the realities were differently ordered. In societies with 'classificatory' terminologies, wives were held in common. A child would therefore not know who its father was. Accordingly, all potential fathers were 'father', all their children 'brother' or 'sister', etc. Similarly, all the women who were actually or potentially the mates of a 'father' were termed 'mother'.

Morgan did not immediately develop this suggestion. It was only after Joseph Henry's rejection of his manuscript that he returned to the idea, and then only after studying, with some jealousy, McLennan's new theory.[39] McLennan's *Primitive Marriage*, which appeared just at this moment, in 1865, described an initial state in which fatherhood was uncertain, since women were held in common. An original condition of promiscuity was later replaced by polyandry, which at least fixed motherhood, and so allowed the tracing of kin ties in the female line. In a higher form, a group of brothers held one wife in common, so permitting the tracing of kinships through men also. Gradually 'gentes' of related men emerged. 'Most probably contiguous tribes would be composed of precisely the same stocks – would contain gentes of precisely the same names, and thus be in the strictest sense akin – kindred', McLennan wrote. These units would eventually unite in a state. 'The order of social development, in our view, is then, that the tribe stands first; the gens or house next; and last of all, the family.' (As he pointed out, this inverted Maine's and Grote's postulated line of development.) Gradually clan property appeared; finally, in the wake of Barbarism, individual property, and

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[36] Quoted by Resek (1960), *Lewis Henry Morgan*, pp. 96-7.
[37] McIlvaine : (1923), 'The life and works of Lewis H. Morgan., pp. 51-2.
[38] Quoted in Resek (1960), *Lewis Henry Morgan*, p. 94.
[39] *Op. cit*., p. 92.

consequently the family. As the family became the vital social unit, so modern forms of marriage emerged. The crucial factor in this shift was the emergence of private property:

> the laws of succession which had sprung up with family property – which were springing up with individual property – were training the people to consider a few persons only as their kinsmen in any special sense ... However strongly implanted the principle of exogamy may have originally been it must have succumbed to the influences which thus disintegrated the old bonds of kinship.[40]

In May 1867 Morgan wrote a paper in which he linked the types of kinship classification with specific modes of marriage, and the following February he presented it to a meeting of the American Academy of Art and Sciences, under the title 'A conjectural solution to the origin of the classificatory system of relationship'.

His audience included Agassiz and Asa Gray, and Morgan was evidently tense. He left hurriedly after the lecture, convinced he had failed, and wrote to a friend that 'Agassiz does not know, nor could the other members present fully appreciate the remarkable character of the system ... I was afraid to show more lest they would not bear it.[41] But in the event the Academy requested the text of his lecture for publication and elected him to its membership. This paper provided the basis for a new final chapter for Systems. Morgan added a lengthy review of the possibility that diffusion and borrowing might account for common elements of classification, but concluded that the facts pointed to the common origin of structurally similar systems. With the addition of this chapter Systems was at last accepted for publication by the Smithsonian, although problems of format and expense delayed its appearance until 1871. It was the most expensive book which the Smithsonian had published up to that time.

The argument Morgan developed was a variant of that sketched by McLennan. McLennan had posited an original condition of promiscuity, which had evolved into polyandry. Morgan rejected McLennan's emphasis upon polyandry. He lighted rather on an institution which had been briefly described by some missionaries in Hawaii, and which he called the 'Hawaiian custom'. This was 'a compound form of polyginia and polyandria', whereby a set of brothers was married collectively to their own sisters. Within this group, husbands and wives were held in common. Such a form of marriage would logically generate a 'Malayan' system of classificatory kinship terminology. For example:

> All the children of my several brothers, myself a male, are my sons and daughters, Reason: I cohabit with all my brothers' wives, who are my own wives as well (using the terms husband and wife in the sense of the custom). As it would be impossible for me to distinguish my own children from those of my brothers, if I call any one my child, I must call them all my children. One is as likely to be mine as another.[42]

Similarly, a man's sisters were his wives, and so their children were counted as his own; and so forth.

The next step was the prohibition of intermarriage between siblings — in other words, McLennan's 'exogamy'. This abolition of marriage between brothers and sisters did not necessarily imply the total abandonment of the 'Hawaiian custom'. A group of brothers would now marry someone else's set of sisters. Marriage would remain a combination of polyandry and polygamy. But the practice of exogamy would result in the separation of the children of brothers and the children of sisters into distinct categories. A man's brothers' children would still count as his children; and a woman's sisters' children as her children. But:

> All the children of my several sisters, myself a male, are my nephews and nieces. Reason: Since under the tribal organization my sisters ceased to he my wives, their children can no longer be my children, but must stand to me in a different and more remote relationship. Whence the relations of nephew and niece.[43]

In the jargon of a later generation, cross-cousins were distinguished from parallel cousins, and parallel cousins were identified with siblings. Other classifications were similarly explained with reference to group marriage arrangements. Problematic features were said to represent survivals of an earlier state of affairs.

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[40] Citations can be found in McLennan (1876), *Studies in Ancient History*, pp. 221, 222 and 225.
[41] Quoted in Resek (1960), *Lewis Henry Morgan*, p. 98.
[42] Morgan (1868b), 'A conjectural solution of the origin of the classificatory system of relationship', p. 465.
[43] Ibid.

The other stages in the development of the family were sketched in the most casual fashion. In conclusion, Morgan presented a fifteen-stage evolution (see Table 3.1)[44] rather like a magician drawing rabbits out of a hat, remarking:

It may be confidently affirmed that this great sequence of customs and institutions, although for the present hypothetical, will organize and explain the body of ascertained facts, with respect to the primitive history of mankind, in a manner so singularly and surprisingly adequate as to invest it with a strong probability of truth.[45]

The one principle which apparently operated throughout human history was a tendency to moral progress. For example:
the Hawaiian custom still embodies the evidence of an organic movement of society to extricate itself from a worse condition than the one it produced. For it may be affirmed, as a general proposition, that the principal customs and institutions of mankind have originated in great reformatory movements.[46]

Table 3.1 THE DEVELOPMENT OF FAMILY TYPES

I.	Promiscuosu intercourse
II.	The intermarriage or cohabitation of brothers and sisters
III.	The communal family (first stage of the family)
IV.	The Hawaiian custom, giving
V.	The Malayan form of the classificatory system of relationship
VI.	The tribal organization, giving
VII.	The Turanian and Ganowanian system of relationship
VIII.	Marriage between single pairs, giving
IX.	The barbarian family (second stage of the family)
X.	Polygamy, giving
XI.	The patriarchal family (third stage of the family).
XII.	Polyandria
XIII.	The rise of property with the settlement of lineal succession to estates, giving
XIV.	The civilized family (fourth and ultimate state of the family) producing
XV.	The overthrow of the classificatory system of relationship, and the substitution of the descriptive

Similarly, the tribal organization 'was designed to work out a reformation with respect to the intermarriage of brothers and sisters', and 'it seems extremely probable that it can only be explained as a reformatory movement'.[47]

More specific mechanisms, however, might explain the change from one stage to another — the need for mutual defence leading to tribal organization, genetic advantages favouring exogamy, and so forth. The only mechanism which Morgan handled in any detail was the development of private estates, which explained the emergence of the `civilized family' and the final 'Overthrow of the classificatory system of relationship, and the substitution of the descriptive'. Morgan ascribed this very last stage of man's social development to the influence of property relationships. Indeed, the emergence of property relationships was the mark of civilization.

With the rise of property, considered as an institution, with the settlement of its rights, and above all, with the established certainty of its transmission to lineal descendants, came the first possibility among mankind of the true family in its modern acceptation ... It is impossible to separate property, considered in the concrete, from civilization, or for civilization to exist without its presence, protection, and regulated inheritance. Of property in this sense, all barbarous nations are necessarily ignorant.[48]

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[44] This table occurs in Morgan's (1868b) 'A conjectural solution....', p. 463 and his (1871) *Systems in Consanguinity and Affinity*, p. 480.
[45] Morgan (1868b), 'A conjectural solution of the origin of the classificatory system of relationship'. pp. 463-4.
[46] Morgan (1871), *Systems of Consanguinity and Affinity*, p. 481.
[47] *Op cit.*, p. 490.
[48] *Op cit.*, p. 492.

This view was commonplace in the Scottish tradition,[49] and was essentially identical to that of McLennan and of Maine.

Encountering the British anthropologists

Morgan visited Europe in 1871, taking delivery of his first copies of Systems in London. He visited Maine, McLennan, Lubbock (whom he found playing cricket), and even Darwin and Huxley; and found himself welcomed as a colleague into the inner circle of the new anthropology.

And 1871 was the year in which Darwin published his *Descent of Man*. This book was, of course, of capital importance to all anthropologists. Darwin paid attention to McLennan's theory of matriarchy, and he raised the question of intellectual development, which was to become the central issue in anthropology in the following decades. Also in 1870–1 Tylor and Lubbock each published his most important book – Tylor his *Primitive Culture*, and Lubbock his *Origin of Civilization*. Both profoundly affected Morgan's thinking.

Lubbock had been responsible for popularizing the new prehistory.[50] He had translated the crucial Scandinavian texts, which introduced a three-stage model of development through stone, copper (or bronze) and iron 'ages'. Following Nilsson, he had identified these archaeological phases with the classical Scottish `stages of progress' – through savagery (hunting and gathering), barbarism (nomadism and pastoralism, and then agriculture) and finally industrial civilization. On the basis of this proven technological advance he and Tylor rejected the hypothesis that men had degenerated from a higher state. The fossils and survivals of human industry demonstrated, on the contrary, a regular progress. Lubbock and Tylor also argued that this unmistakable technological progress was matched by a `mental' progress –physically, in that man's cranial capacity actually expanded, and also in the sense that there was improvement in the beliefs and institutions which man developed. Tylor was particularly interested in the development of religious ideas, but Lubbock recognized the potential interest of the conjectural histories of marriage and the family proposed by McLennan and Morgan. He discussed them at length, and in a friendly, though not uncritical, fashion. Morgan, in turn, took the Lubbock-Tylor model back to America, and applied it to his own ends. He now became a universal historian.

Ironically, however, just as Morgan embraced the British school, it was preparing a rejection of his major theses. In 1876, McLennan published an attack on Morgan entitled `The classificatory system of relationships'.[51] He poured scorn on Morgan's notion that even early man might have been ignorant of his mother (and he pointed out that Darwin had expressed puzzlement on this score in the second edition of The *Descent of Man*). On the contrary, recognition of the tie to the mother was very primitive, and formed the basis of the original condition of matriarchy. Further, Morgan's reliance on the evidence of kinship terminologies was methodologically unsound. The classificatory system 'is a system of mutual salutations merely'.[52] These lines of criticism persuaded most of the leading British scholars, at least for a while, but they did not reach Morgan in time to influence the writing of *Ancient Society*.

'Ancient Society'

Ancient Society, Morgan's most famous book, appeared in 1877. It begins with a resounding affirmation of the antiquity of human history and the uniformity of man's progress through the ages that could well have come from either Tylor or Lubbock. 'It can now he asserted upon convincing evidence that savagery preceded barbarism in all the tribes of mankind as barbarism is known to have preceded civilization. The history of the human race is one in source, one in experience, and in progress.'[53]

Progress had been made on two levels, one technical, the other social. In each field it exhibited different characteristics. Broadly speaking, technical development resulted from invention and diffusion and exhibited sharp discontinuities. Social development, on the other hand, was the product of steady growth.

Part I of *Ancient Society*, entitled `Growth of intelligence through inventions and discoveries', was taken over directly from Lubbock and Tylor. The development of subsistence techniques provided the basis for the classification of cultures into seven distinct `ethnical periods' (see Table 3.2). These ethnical periods had a direct relationship to stages of social progress, for `the great epochs of human progress have been identified, more or less directly, with the enlargement of the sources of subsistence'.[54]

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[49] See Meek (1975), *Social Science and the Ignoble Savage.*

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[51] This paper appeared in McLennan's new volume (1876), *Studies in Ancient History*, which included a reprint of *Primitive Marriage*.

[52] McLennan (1876), *Studies in Ancient History*, p. 366.

[53] Morgan (1877), *Ancient Society*, p. 6.

[54] *Op. cit.*, p. 12.

Table 3.2 MORGAN'S `ETHNICAL PERIODS[55]

I Lower status of savagery	From the infancy of the human race to the commencement of the next period
II Middle status of savagery	From the acquisition of a fish subsistence and a knowledge of the use of fire, to etc.
III Upper status of savagery	From the invention of the bow and arrow, to etc.
IV Lower status of barbarism	From the invention of the art of pottery, to etc.
V Middle status of barbarism	From the domestication of animals on the eastern hemisphere, and in the western from the cultivation of maize and plants by irrigation, with the use of adobe-brick and stone, to etc.
VI Upper status of barbarism	From the invention of the process of smelting iron from ore, with the use of iron tools, to etc.
VII Status of civilization	

Technical and social progress were in turn matched by a correlative growth in the human brain, 'particularly of the cerebral portion`[56]

The different human groups progressed at different speeds, the Aryans taking the lead. 'The Aryan family represents the central stream of human progress, because it produced the highest type et mankind, and because it had proved its intrinsic superiority by gradually assuming the control of the earth.'[57] But inventions are commonly borrowed, and so the Aryans — and Semites — drew others in their wake as they advanced.

The bulk of the hook was devoted to the growth of 'ideas' of civil institutions – the 'growth of the idea of government' (Part II), of the family (Part III) and of property (Part IV) While movement from one phase to another might he triggered by a technical advance, the lines of social development are predetermined and inevitable. Here Morgan adopted the idiom of Agassiz — evolutionary development expressed God's thoughts. The content of these divine ideas was, however, already familiar enough.

The 'growth of the idea of government' recapitulated the phases defined by Maine and by Grote; the movement from a kinshipbased polity to a territorial state which ordered property relations.

> It may be here premised that all forms of government are reducible to two general plans, using the word plan in its scientific sense. In these bases the two are fundamentally distinct. The first, in the order of time, is founded upon persons, and upon relations purely personal, and may be distinguished as a society (*societas*). The gens is the unit of this organization; giving as the successive stages of integration, in the archaic period, the gens, the phratry, the tribe, and the confederacy of tribes, which constituted a people or nation (*populus*). At a later period a coalescence of tribes in the same area into a nation took the place of a confederacy of tribes occupying independent areas. Such, through prolonged ages, after the gens appeared, was the substantially universal organization of ancient society: and it remained among the Greeks and Romans after civilization supervened. The second is founded upon territory and upon property. and may be distinguished as a state (*civitas*).[58]

The gens formed the basis of social organization even as late as the final stages of barbarism, since successively more complex kin-based units developed in its image — `the gens, the phratry, the tribe, and the confederacy of tribes'. This model is once again traceable to Grote, and Morgan cited Grote's description of the Greek gens at length. Another source was obviously McLennan, as both Tylor and Lubbock commented in their reviews.[59]

Since the gentile system survived for most of human history, Morgan devoted over half his book to detailing its development. The stages of its progress were illustrated by five crucial case-studies, dealing

[55] *Op. cit.*, p.19.
[56] *Op. cit.*, p.57.
[57] *Op. cit.*, p.553.
[58] *Op. cit.*, p. 6-7.
[59] Stern (1931), Lewis Henry Morgan, p. 141.

respectively with the Australians, the Iroquois, the Aztec, the Greeks and the Romans. Each of these cases had a special relevance for Morgan.

The Australian case represented the most primitive extant system, only a step away from the initial condition in which brothers married their sisters in an incestuous form of group marriage. The Australians had introduced the improvement which in *Systems* (Morgan, 1871) had been termed the `Hawaiian custom' and now appeared as `the Punaluan custom', whereby a group of brothers had wives in common, a group of sisters husbands in common, but brothers could not marry sisters. This division of the sibling group by sex into marriage classes provided the potential for the development of the gens, since it allowed the unilineal reckoning of descent. Initially the maternal line was used for counting descent and so matrilineal gentes were generated. Once the rule of exogamy was introduced into the gens, the way was prepared for the gentile system itself.

This model was a slight variant of that presented in *Systems*, but the new version was greatly enriched by new Australian materials, provided by the Rev. Lorimer Fison, one of the first converts to Morgan's thesis as presented in *Systems*. Fison was a missionary who had been inspired to conduct anthropological research as a consequence of filling in Morgan's questionnaire for Systems. His fieldwork in Australia was conducted with Morgan's detailed guidance, and although he later mildly criticized aspects of Morgan's rendition of the Australian case, he was on the whole fiercely loyal, and was vituperative about McLennan's critique of Morgan.[60]

Morgan's own Iroquois material was used to illustrate the next stage of evolution, in which the democratic gentes were associated in larger federations.

The following level of development was represented by the Aztecs. Morgan's reanalysis of the Aztec case was extremely influential. Indeed, one of his biographers has suggested that 'Morgan's recognition in America by his contemporaries came primarily through his work on a critical reconstruction of the culture of Mexico and Central America'.[61] His particular concern was to discredit the Spanish chroniclers, who had `adopted the erroneous theory that the Aztec government was a monarchy, analogous in essential respects to existing monarchies in Europe'.[62] He rejected this judgment on *a priori* grounds. The Aztecs were clearly only at the level of `the middle status of barbarism'. If they were indeed monarchical, then monarchy was an early and basic form of political organization. But if monarchies were primitive human institutions, then they should perhaps continue to exist in a modified form (on the Lamarckian theory that primitive stages of evolution were overlaid rather than displaced). Such a line of argument might even justify the survival of European monarchies themselves. But such a conclusion was abhorrent to Morgan. His recent European journey had confirmed him in his detestation of monarchical and aristocratic institutions.[63]

Morgan's solution was to reinterpret the Aztec materials. His criterion for using or rejecting his Spanish sources is very telling:

> The histories of Spanish America may be trusted in whatever relates to the acts of the Spaniards, and to the acts and personal characteristics of the Indians; in whatever relates to their weapons, implements and utensils, fabrics, food and raiment, and things of a similar character. But in whatever relates to Indian society and government, their social relations, and plan of life, they are nearly worthless, because they learned nothing and know nothing of either. We are at full liberty to reject them in these respects and commence anew: using any fact the may contain which harmonize with what is known of Indian society.[64]

Using this convenient formula, he was able to recast the Aztec state as a more advanced version of the Iroquois federation. Once again he inspired an ethnographer, in this case Adolphe Bandelier, who produced data which apparently supported his argument.

Turning to the Greeks, Morgan based his case on Grote's description of the gens, which he quoted at length, commenting that `The similarities between the Grecian and Iroquois gens will at once be recognized'[65] This was not surprising, since Grote's model of the Greek gens had from the first provided Morgan with his model of the Iroquois system. Indeed, all the characteristics of the gentile system had been

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[60] Chapter 5 of this book takes up Fison's story.

[61] Stern (1931), *Lewis Henry Morgan*, p. 109.

[62] Morgan (1877), *Ancient Society*, p. 186.

[63] See his repeated diatribes in White (1937), *Extracts from the European Travel journal of Lewis Henry Morgan*. Stern (1931), commented: `Throughout Morgan's writings, from the first in 1843 to the last in 1880, ran the theme of contrast of American republican institutions with those of the aristocratic institutions of Europe' (*Lewis Henry Morgan*, p. 35).

[64] Morgan (1877), *Ancient Society,* pp. 186-7, fn.

[65] *Op. cit.*, p. 222.

defined by Grote.[66] But Morgan now differed from Grote on two counts. First of all, Grote had erred in placing the family early on in Greek development — even, making it anterior to the gens. Morgan had no doubt that he was mistaken, and did not hesitate to pit his theories against the conclusions of one of the leading classical scholars of the day.

Secondly, Morgan disputed Grote's view that the Greek state had begun as a monarchy. Once more he resorted to a priori argument, phrased in a particularly enlightening form:

> The true statement, as it seems to an American, is precisely the reverse of Mr. Grote's; namely, that the primitive Grecian government was essentially democratical, reposing on gentes, phratries and tribes, organized as self-governing bodies, and on the principles of liberty, equality and fraternity. This is borne out by all we know of the gentile organization, which has been shown to rest on principles essentially democratical.[67]

Finally, Morgan discussed the Romans. He had to admit that their political development had ended in a form of undemocratic government, though he refused to accept that such a development was either desirable or inevitable. The Roman Empire 'was artificial, illogical, approaching a monstrosity; but capable of wonderful achievements … The patchwork in its composition was the product of the superior craft of the wealthy classes.'[68]

In general, however, the development of political institutions demonstrated that a democratic order which builds upon the gentile tradition is natural to humanity.

> As a plan of government, the gentile organization was unequal to the wants of civilized man: but it is something to be said in its remembrance that it developed from the germ the principal governmental institutions of modern civilized states ... out of the ancient council of chiefs came the modern senate; out of the ancient assembly of the people came the modern representative assembly ... out of the ancient general military commander came the modern chief magistrate, whether a feudal or constitutional king, an emperor or a president, the latter being the natural and logical results.[69]

The constitution of the United States is therefore the logical and natural flower of the ancient order of the gens.

Part III of *Ancient Society* described the development of the 'idea of the family', providing, in half the space given over to the gens, a summary of the argument of *Systems of Consanguinity* (1871). A brief chapter offered a revised sequence of family development, linked to the development of modes of subsistence and of gentile organization.

Only the final twenty-nine pages of this 560-page opus were devoted to the growth of the idea of property. Technical development increased the amount of property and its variety The growth of property was a sign of progress, rather than a cause; but it stimulated the change from matrilineal to patrilineal gentile organization, and the development of the monogamous family. These institutions arose in order to deal with fixed property. They allowed a man to settle his possessions on his sons. Morgan regarded this as natural and proper, but he did not countenance the concentration of inherited wealth and privilege which characterized aristocratic societies. There was nothing natural or inevitable about institutionalized inequality.[70]

But his was by no means a materialist theory of history. Political and social progress was ultimately a sign of God's purpose. The heroic achievements of our primitive ancestors 'were part of the plan of the Supreme Intelligence to develop a barbarian out of a savage, and a civilized man out of this barbarian'.[71]

Marx, Engels and the legacy of Morgan

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[66] *Op. cit.*, p. 221-2.

[67] *Op. cit.*, p. 247.

[68] *Op. cit.*, p. 340.

[69] *Op. cit.*, p. 341.

[70] Although several thousand years have passed away without the overthrow of privileged classes, excepting in the United States, their burdensome character upon society has been demonstrated. Democracy in government, brotherhood in society, equality is rights and privileges, and universal education foreshadow the next higher plane of society to which experience, intelligence and knowledge are steadily tending. It will be a revival, in a higher form, of the liberty, equality and fraternity of the ancient gentes. (Morgan, 1877, *Ancient Society*, p. 522)

[71] *Op. cit.*, p. 554.

In later chapters I shall be returning to Morgan's theory, since his work dominated the field of kinship studies for many years, and had direct repercussions for the ethnographic study of North America and Oceania. But another tradition also stems from Morgan's writing, for he was adopted into the Marxist canon by Marx and Engels themselves. Reinterpreted by Engels, Morgan became the most important ancestral figure for Soviet ethnology, and he is a revered – though perhaps seldom read – authority in the broader tradition of Marxist theory.

Marx himelf published little on either non-European or 'pre-feudal' societies. His best-known contribution on these subjects was his model of an 'Asiatic mode of production'. This was a type of society in which a state organization existed in a primitive form. It 'was concerned only with war, taxation and public works, and was superimposed upon a series of otherwise independent village communities. These village communities held land in common and redistributed their agricultural surplus internally, except for a proportion which was appropriated by the state. This model posed serious theoretical problems for later Marxists, in part because it was not evident whether Marx thought of such systems as a geographically-specific Asian development, and in part because it was not clear in what direction societies of this type might subsequently evolve.[72]

Towards the end of his life, Marx took an interest in the new anthropology. He wrote extensive notes on the work of Morgan, Maine and Lubbock, evidently with a view to using them later in a book.[73] After Marx's death, Engels used these notes as a starting-point for his own book (1884), *The Origin of the Family*, *Private Property and State*, which is essentially a popularization and development of Morgan's theories. It was first published in German in 1884. For present purposes it is unnecessary to enquire to what extent Engels exaggerated Marx's faith in Morgan, or to guess at the manner in which Marx himself would have reconciled Morgan's developmental sequence with the existence of an 'Asiatic mode of production'. In the event it was the Morgan as defined by Engels who became crucial for the Marxist tradition.

The element of Morgan's theory on which Engels seized was his 'rediscovery of the primitive matriarchal gens as the earlier stage of the patriarchal gens of civilized peoples'; a discovery which (so Engels claimed in his preface to the first edition) 'has the same importance for anthropology as Darwin's theory of evolution has for biology and Marx's theory of surplus value for political economy'. The evolutionary importance of this discovery was that it opened the way to a history of the development of the family, regarded not as a natural institution but as the product of historical processes. In its modern form, the family was just a way of organizing private property – it 'was the first form of the family to be based not on natural but on economic conditions – on the victory of private property over primitive, natural communal property'.[74]

No more was there anything natural or morally superior about monogamy. The civilized monogamous family was not (as Morgan in fact firmly believed) the ultimate realization of man's best instincts. It was a form of exploitation, comparable to the exploitation of one class by another. 'Within the family [the husband] is the bourgeois, and the wife represents the proletariat.' The family 'is based on the supremacy of the man, the express purpose being to produce children of undisputed paternity; such paternity is demanded because these children are later to come into their father's property as his natural heirs'[75]

The state itself was as temporary and artificial as the family. Morgan had revealed that before the state existed, political systems had been based upon kinship. The state had emerged only as a consequence of the growth of property and the evolution of class conflict; and it would break up when production was ordered on the basis of a free and equal association of the producers.

These ideas all have a recognizable point of origin in Morgan's work, hut Engels himself conceded that he had 'moved a considerable distance' from Morgan on some matters.[76] Morgan would certainly have repudiated Engels' analysis of monogamy, and he would probably have had great difficulty with other aspects of his theory. This is not in itself a criticism of Engels, but it does mean that the Morgan who took his place in the Marxist tradition was already at several removes from the historical Morgan.

In the American anthropological tradition Morgan figures especially in debates about kinship systems. The tradition of analysis which Engels inaugurated was concerned rather with stages of social evolution and with the 'origin of the state'. More recently some feminist anthropologists have found inspiration in Engels' discussion of the monogamous family, so providing yet another context in which the

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[72] There is a large literature on the 'Asiatic mode of production'. See Bailey and Llobera (1981), *The Asiatic Mode of Production for a useful review*. Cf. Krader (1975), *The Asiatic Mode of Production*.
[73] These have been transcribed and edited. See Krader (1974), *The Ethnological Notebooks of Karl Marx*.
[74] Engels (1972), *The Origin of the Family*, *Private Property and the State*, p. 128.
[75] *Op. cit.,* pp. 137, 125.
[76] *Op. cit.,* pp. 145-6.

implications of these ideas may be worked out, but one in which the contribution of Morgan himself can hardly be discerned any longer.

Morgan's transformations

It can be argued that Morgan's greatest influence was in the accumulation of data. He himself collected a great deal of ethnographic material by fieldwork and through questionnaires. He even invented a whole new category of data, kinship terminologies, and persuaded generations of anthropologists that they were the key to defining systems of kinship and marriage. And he inspired others to do fieldwork on his behalf, notably Bandelier and Fison. In the next generation the Bureau of American Ethnology was set up in the Smithsonian Institution essentially to carry out Morgan's programme of ethnological research.

Nevertheless, it must he admitted that Morgan's reputation has depended largely on his theory; and on the face of it this is strange, since his organizing ideas were derivative. His theoretical progress is replete with transformations in Cohen's sense. Again and again he borrowed an established framework and adapted it to his needs. Muller's philology, the `gens' of Grote, McLennan's exogamy and his matriarchy, Lubbock and Tylor's intellectual and technological evolutionism; all were grist to his mill. It is almost as though be believed the person he had last read.

Reviewing his career one cannot fail to be impressed by the contingent nature of his various syntheses. The history of his 1871 Systems, in particular, is an extraordinary chapter o accidents. Perhaps this element of chance is intrinsic to this sort of transformation, since its author depends, like a magpie, on what others have left lying about. To borrow one of Levi-Strauss's images, this is the science of the *bricoleur*. And yet this account seems ultimately unpersuasive; there is clearly an underlying direction behind Morgan's work, at some level at least.

His political inspiration is very evident at several points, perhaps most particularly in his insistence on monogenesis and in his revulsion from monarchies. Nevertheless it would not be easy to account for his model in terms of his politics. After all, it could be used by Engels as an argument for communism, and by Morgan himself in defence of American capitalism and democracy.

I think that the fundamental consistency of Morgan's thinking has to do with religious rather than political beliefs. Ills ultimate aim was to demonstrate that human history made moral sense, that it was a history of progress, and that it united all branches of the species. If he could borrow ideas so promiscuously from Müller and McLennan and Tylor, it was because they all shared this faith.