

## **Tradition As A Modern Strategy -**

**A methodological note on the study of power, rationality, authority and legitimacy for the analysis of the land tenure reform in Niger**

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### **Introduction**

Niger has since 1986 been engaged in an institutional reform of the land tenure system - a Rural Code - to improve possibilities for sound natural resource management. A central element in the reform has been not to create entirely new rules of tenure; instead the reform basically consists of elevating traditional tenure rights to formally recognized laws of tenure. One central element has been to give modern legal title to land which could be claimed through reference to traditional rights. The political intentions were thus a merger between tradition and modernity rationalizing the tenure system without breaking with tradition. This process has, however, made a host of more latent conflicts erupt. The conflicts are fought over access rights to natural resources essential to the livelihood of the farmers and herders of the region. And with the tenure reform approaching there is a rush to get traditional rights to land recognized. These claims are, however, not restricted to land people themselves cultivate. For the past four years, increasingly farmers are now claiming that they originally owned another farmer's land. Usually it is claimed that the great grandfather of B only borrowed his fields from the great grandfather of A. Therefore, according to traditional law, A should be considered the formal owner. B, on the other hand, claims that his great grand father was given the land outright. In many cases, A's claims are recognized and family B is evicted. They in turn address themselves to C, whose land they claim following the same procedure. The process repeats itself until either, the claimant is not granted rights or the evicted does not have ancestral lands in the region to claim. They then end up leaving the region or more frequently cultivating the remaining pockets of common property grazing land in the agricultural zone.

These claims to ancestral lands and the subsequent eviction of use right holders have become so widespread and frequent that even the smallest villages have had several cases every year. The actual number of cases is less important than the fact that the entire rural

population is aware that land is increasingly changing hands without the consent of both parties. Tenure rights are now felt to be more uncertain than ever before. Land transactions are increasingly being recorded in writing at the local administration - the Sous Prefecture. In principle, everybody can expect someone to present a claim to his land.

There is no clear division of responsibilities for conflict resolution and conflicts are brought before the traditional leaders as well as the modern administration. Since none of these institutions have formal jurisdiction in tenure questions, one overrules the other and vice versa in an apparently confused manner.

The Rural Code seen as being in limbo, during which everybody must try to maneuver into as favorable a position as possible to benefit from the anticipated provisions of the Rural Code.

These conflicts are thus also conflicts over who defines which rules should prevail: Under what form of domination and with what kind of legitimacy are the traditional rules established, being contested and abided by? And if a traditional rule is elevated to law, is it then still a traditional rule and falls under the jurisdiction of the traditional leader or is it a law falling under the jurisdiction of the civil administration? In principle it could of course be decided by decree "once and for all". The Rural Code, however, stipulates incremental rule making and the process of defining the rules probably also will be decisive for which social group will have the substantial say in future interpretation of the laws of tenure. This social conflict over rights and resources is the focus of the analysis.

In order to undertake an empirical analysis in this battlefield a methodological and theoretical framework is essential. From a brief fieldwork in early 1993 it was evident that the conflicts are not merely a "war of worlds" between traditional and modern elements of Nigerian society; a more complex picture seems to emerge (Lund 1993).

The aim of this note is thus twofold. First, it is the ambition to undertake a theoretical discussion of power, authority, legitimacy and rationality inspired by i.a. Weber. This should indicate how to get to an understanding of a society with two distinctly different dominant social actors, namely the State bureaucracy and the traditional leaders each apparently referring to different social structures and each endowed with different sources of power. The approach is to take the point of departure with Max Weber who has been one of the most influential sociologists in the theoretical and

conceptual demarcation of the battlefield of authority, legitimacy and rationality.<sup>1</sup> His arguments will be opposed, tempered, clarified, refined and discussed with the help of other theoretical viewpoints.

Second, the note serves as an occasion for raising interesting questions for a future fieldwork in Niger. The challenge is thus to point to specific research tasks, and this will be done as an integral part of the discussion of the theoretical concepts.

### **Dissolving the dichotomy**

Max Weber's theory on legitimation of State and social domination is basically departing from the notion that through modernization of society the social order and domination goes from being essentially secured by authority to being essentially secured by economic power. Concurrently the traditional authority and legitimacy are transformed to legal types of authority and legitimacy.

This process is characterized by a transformation of the socially prevailing mythical world view to a disenchanting purpose rational world view and an institutionalization of purpose rationality in all social spheres at the expense of value based motivations for action. This sweeping theory is persuasive, but through a more detailed investigation of modernization of African societies a host of counter movements and contradictions are uncovered. Weber constructed the concepts as ideal types which would of course not fit exactly with the real empirical world but indicate essential features of societies. He further constructed constellations of ideal types to describe different types of societies. It should, however, be borne in mind that his aim was to analyze and understand occidental modernization, and that the concept of modernization henceforth largely has described this historical process. Quite different constellations of authority, legitimation and rationality may thus prevail in other societies. Here one could expect that not only do the constellations of ideal types not fit exactly - they don't fit at all.

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<sup>1</sup> In order to bring forth the central elements of Weber's definitions and arguments I have not quoted verbatim unless marked by quotation marks.

*Simple model of some of Weber's concepts for pre-modern and modern societies*

	Pre-Modern Society		Modern Society
Most important source of power	Authority		Economy
Prevailing Rationality	Value		Purpose
Prevailing Legitimacy	Traditional Values	Affection	Positive enactment believed to be legal
Prevailing Authority	Traditional	Charismatic	Legal

The simple model makes two assumptions very tempting. First, that the movement from pre-modern to modern constitutes a universal model which could be divided into phases and provides a checklist for societies reaching a modern stage. One of the notorious examples of this is Rostow's trend setting theory of the Stages of Economic Growth (Rostow 1990 [orig. 1960]) Much more recent work, like Hydén's (Hydén 1983) or exponents for the New Institutional Economics, continues much in the same vein. (North 1989; 1990) This vision is somewhat crude (though far from as grotesquely simple as often depicted) and, I believe, not entirely correct. My main objection is that the counter movements, variations and ruptures in history are far too interesting to be set aside by "the long run", and that the "long run" should produce a globally uniform modern society I find unconvincing, to put it mildly. It can be argued that while it was not the intention of Weber to construct a theory of phases, an unintended consequence of his theory construction was the inspiration of such theories. (Bendix 1984: 6; Collins 1980: 934-6) Phases are if any the leitmotif (both before and after Weber) in social science in general and Development Studies in particular.

The second temptation is to employ the model as describing two contemporary co-existing societies in one: On the one hand a coherent traditional society of farmers and herders dominated by

traditional authority legitimate through reference to tradition and spun into a web of non-economic value rationality; and on the other hand a coherent modern capitalist society with a State run by legal authority, legality and purpose rationality. This is an inadequate caricature of two separated compartments of social life - in my mind, a more erroneous vision than the above. Reality is much more messy.

If the use of Weberian concepts entails this risk of being seduced into fallacies; why employ them at all? I shall give three reasons.

First, while the dichotomy does not exist in a real sense - we are not dealing with simple phases or compartmentalization of society but - as I shall argue - with coexisting mutually influencing forms of power, rationality etc; while this is so, people occasionally maneuver *as if* the world could be divided into compartments. The Nigerian legislation operates with modern and traditional forms of authority (the latter being defined as not modern and vested in traditional leaders); the administrative structures of the State stipulates special roles and functions for modern and traditional - auxiliary -bureaucrats respectively; and the modern bureaucrats and the traditional leaders recognize and refer to themselves as representing relatively "un-contaminated" compartments or sectors. The creation and continuous re-creation of a modern-traditional segregation is thus in a permanent state of tension with the flexible and opportunistic maneuvering by adept social actors. It is my argument that important elements to an understanding of the institutional and political problems imposed upon the Nigerian land tenure reform are located in this tension, and analysis of the political process along these lines will prove fruitful.

Second, Weber constructed the ideal types to fuel and not to substitute sociological imagination. The ideal types are heuristic instruments; a conceptual backdrop upon which empirical findings are transposed; the ideal types thus enable the researcher to question his empirical findings in ways which highlight their salient qualities. (Weber 1963:396) With his faiblesse for constructing sub-, sub-sub- and even sub-sub-sub-types Weber seems, however, to be somewhat confusing. Are these ideal types also heuristic instruments or are they empirical findings? No need to dwell excessively upon the answer but for the sake of mentioning that it points to the inherent problem of using ideal types as heuristic instruments. Weber himself is painfully aware of the risk that "the logical classification of analytical concepts on the one hand and the empirical ar-

rangements of the events thus conceptualized in space, time and causal relationship on the other, appear to be so bound up together that there is an almost irresistible temptation to do violence to reality in order to prove the real validity of the construct". (Weber 1963: 407) I see no elegant way out of this dilemma. When employing ideal types one must simply be aware of this and be suspicious if one finds what one expects. To overstate the point: If the ideal types and the empirical findings fit convincingly well, the empirical study is probably poor and the analysis wrong. Bendix here points to the polarities of the ideal types as outlining the tension of real phenomena to be analyzed empirically. (Bendix 1977: 390-411; 1984: 43) Going further along those lines, I believe that the conceptual disjunction of the concepts of power, authority, legitimacy and rationality gives room for the study of their intricate and complex combinations cross cutting the labels of traditional and modern.

One might argue that the applicability of the concepts is limited due to their historical nature, developed as they were by Weber in his attempt to understand occidental modernization. It might further be argued that Weber conceptualized his contemporary capitalism positively and conceptualized pre-capitalism negatively through contrasts to capitalism. I shall nevertheless maintain that concepts like power, rationality, authority and legitimacy are trans-societal and as such can be analytical fix points for socio-economic analysis in any society. I should further stress that the analysis is not one of pre-modern Niger catching up, but one of contemporary Niger where analysis along the lines of aforementioned concepts is regarded as promising.

The third reason for taking the point of departure with Weber's concepts is that they point to a broad institutional analysis of society neither annihilating nor giving exclusive primacy to economic, political or ideological explanations of social development. Much of the commonly held Weberian view of capitalism stems from the interpretation of *The Protestant Ethic* (Weber 1981b) as a contrast to materialist marxist analysis. In Weber's later works (1968; 1981a), however, the "Spirit" plays a much smaller part, and his analyses demonstrate a very comprehensive and ontologically open approach. (Callaghy 1986; Collins 1980, 1986; Martinussen 1975) The broad scope of Weber's work makes it, I believe, an inspiring outset for discussion and critique in the search for specific research questions.

In the following I shall discuss the concept of power as a capacity of individuals and groups and its exercise as intentional or not. I shall thereafter proceed to concentrate on rationality, the authoritative resources of power and its legitimacy.

## Power

Weber's basic notion of power is that it is the actor's capacity to impose his own will upon the behavior of other persons. Domination is a specific variant of power referring to the probability that a command with specific content will be obeyed. (Weber 1968: 53)<sup>2</sup>

### Resources

Weber operates with a very useful ideal typical distinction between two types of resources, namely power based upon economic resources and power based upon authority. (Weber 1968: 941-8) Economic power is attained by control over economic goods i.e. through a market of commodities or employment and where the degree of monopoly determines the degree of power. In a capitalist society the capitalist thus exercises power over the worker by virtue of his monopoly control of the means of production upon which the proletarian worker depends for survival. Authority, on the other hand, denotes the relationship between obedience and command. Here it is important to stress that power is relational - not a fixed quantum possessed by an individual or group but only conceivable as a capacity in a social relation. Hence, resources are only resources of power when employed in social relations.

Writers like Mann (1986: 1-33) and Wrong (1979: 21-121) go to great length to refine, specify and subdivide power further into ideological, economic, political and military power and force, manipulation, persuasion and authority respectively. It is beyond the scope of my endeavour to indulge in extensive conceptual refinement, but one point in their vein should be made. Power can also be based upon the resources of physical violence. Here, it is not the relationship between obedience and command which is at play but

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<sup>2</sup> The difficulties of uniformly translating the German "Macht", "Herrschaft" and "legitime Herrschaft" in Weber's writings is well illustrated in Roth's annotation in *Economy and Society* (Weber 1968:61 note 31). I shall, as proposed by Giddens (1971:156) refer to Power as the broadest term and consider Domination as a narrower and Authority as yet a narrower term.

one of fear and violent physical sanction. Weber mentions this point himself but downplays it (Weber 1968: 946-7). I think that authority should be seen also to encompass a dimension of threat/violence where the concept of authority is not only conceivable as respect but also as fear of sanction. Where the threat of physical violence exists it can thus be conceived of as a "last resort". While keeping this in mind, I will elaborate on the dimensions of authority and economy.

Weber stresses that power always is a combination of economic power and authority which is at play when social power is exercised. Giddens adopts and elaborates upon this perspective (strangely without acknowledgment of Weber) and makes it into one of the leitmotifs of his own writings. Both Weber and Giddens argue - with due reserve - that authoritative resources are the main sources of power in feudal and other pre-modern societies while economic resources are the prime sources in modern capitalist societies. (Weber 1968; 943; Giddens 1984: 254-62)

It follows from the above that social power hardly can be reduced to relations between individuals and two questions to the concept of power are therefore called for: 1) How should one conceptualize power exercised by a group?; and 2) Is the exercise of power intentional?

### *Power and group*

Concerning the first question, Mann, referring to Parsons, points out that Weber's notion of power is restricted to a zero-sum game where a fixed amount of power is distributed between two individuals. A collective aspect whereby the cooperation of actors further their power over third parties should also be considered. (Mann 1986: 6) Weber is, however, quite restrictive regarding collective concepts: "Action ... exists only as the behavior of one or more *individual* human beings" (Weber 1968: 13) It suggests that the idea of Weber as a methodological individualist is that if the power of individuals can be aggregated to the power of a collectivity, then social forces can be disaggregated to individual action. There, I believe however, Weber is mistaken or at least can be misused for inert analysis.<sup>3</sup> Social power is of a different order than individual personal gifts - as mentioned above power is relational - and

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<sup>3</sup> The reason that I temper the critique of Weber on this point is that he, more than most, stresses organization as a decisive social factor. His "Individualism" I believe, should be seen in the light of his crusade against vulgar structural functionalism based exclusively on collective concepts.



furthermore, the power of a collectivity is in some cases more than merely the power of the individual actors put together.

In the development of his three-dimensional view of power Lukes thus states: "Of course ... collectivities and organizations are made up of individuals - but the power they exercise cannot be simply conceptualized in terms of individuals' decision or behavior". (Lukes 1974: 22) This points to the simultaneously constraining and enabling character of social structures:

1) The celebrated paragraph by Marx that men make their own history but not under circumstances they themselves choose (Marx 1979: 240), points to the relative path-dependence of social action.

2) Structures are, however, also enabling. The social action -the exercise of power in a social relation be it the feudal lords or the capitalists forcing the serfs or proletarians to work - establishes a structure of social rules with economic, political and ideological ramifications. This structure constitutes a resource for each feudal lord or capitalist in his exercise of power; it is from his position in the social structure he is endowed with social power. The individuals are empowered by the social structures which they act to create. It does not mean, however, that the power lies in "uninhabited" structures; acts are carried out from positions in structures. What Weber and later Giddens (1984) stress as important is to recognize that the structures (of power) are not something which exist by themselves. Only by continuous action - essentially by individuals - do structures become and prevail.

Furthermore, as Mann and many others stress, organization is a crucial element in releasing and amplifying power. The power of a group of workers is thus potentially more than the individual powers each and everyone exercise in their relations with "their" capitalist. The reason that "the masses do not revolt ... [is, however, that they]...are organizationally outflanked" (Mann 1986: 7)

Abandoning a purely individualistic perspective on power for one concerned with structural empowerment, a comment on structuralism is in its place.

Radically opposite to the individualistic outset of Weber one finds the structuralist Marxists with Poulantzas as the most eminent representative. Poulantzas proposes that power be conceptualized as "la capacité d'une classe sociale de réaliser ses intérêts objectifs spécifiques" (Poulantzas 1968: 107) At first glance it may seem to be a "collective paraphrasing" of the Weberian definition referring to capacity and interests. However, Poulantzas only accepts "power" if

it realizes "objective interests" i.e. interests prescribed theoretically by the researcher based upon Marx' dialectical method of class analysis. This approach is valid, I believe, if one is interested theoretically in how class struggle is developing and I shall not dismiss his approach entirely but point to three related problems which its application entails. First, it is very abstract and does not capture the tactics and adept maneuvering of individuals and groups shaping the socio-political structure. It is thus immune to other than (abstract) class power. On this point some ambivalence is revealed in Poulantzas' writings on class where they are both effects of structure (Poulantzas 1968/71) and acting through representatives (Poulantzas 1975) Second, since power only refers to the realization of objective interests it becomes unsatisfactory limited in the sense that power is not the capacity of a class to act in one of several ways but a degree to which the theoretical destiny of a class is accomplished. Thirdly, by operating with economic social classes as elements of analysis one has already ascribed primacy to the economic resources as the basic criteria for distinction of groups engaged in social struggle. I will not contest that the struggle is over economy and material goods, but the resources applied in this struggle are authoritative as well as economic as pointed out by Weber. Which are most important can hardly be preestablished and since the social distribution of resources does not entirely coincide the analysis will have to encompass scrutiny of the social distribution of both types of resources. I shall therefore not map out society in class terms before commencing the analysis. Rather, concrete conflicts must be studied in order to identify the contending actors, outline the nature of the resources and how they are employed in conflict by different groups of actors as conflict unfolds in different social areas. Furthermore, the outcome must be studied as a new social distribution of resources, changing power relations and institutions. In other words, it is necessary to combine a structural analysis - outlining *who* exercises power, based upon *which* resources from *what* social position - with a process analysis - *how* are the resources employed, which *tactics* and *strategies* are pursued and which *discourses* are at play.

The combination of a structural and process analysis advocates on the one hand an analysis of the structure of the local government and of the social relations between and within production systems encompassing farmers and herders in terms of control over economic and authoritative resources. And on the other hand the

approach advocates case studies of concrete conflicts displaying the tactic-strategic options of the involved parties. Here it is not the ambition to undertake a purely hermeneutic analysis focusing only on the action as it is perceived by and makes sense to the involved parties. It is essential to view the acts and considerations of the actors from their structural positions in terms of a struggle in pursuit of interests.<sup>4</sup>

Let me first qualify the tactic-strategic dimension of action by dealing with the question of intentionality and power before I move on to the fix points of the process analysis - rationality, authority and legitimacy.

#### *Power and intention*

Departing with the exercise of power as an actors act, one can hardly come to other conclusions than the exercise is intentional if actors are conceived of as, to a certain extent, knowledgeable, reflexive, rational and purposive.<sup>5</sup> Rather than questioning the intentionality of the act, however, the intentionality of the outcome - the exercised power - is in question. Leaning on Boudon (1982, 1984) and Giddens (1984) one would say that the consequences of action always are unintended; they may be more or less unintended but that the degree of unintendedness is too fuzzy for a qualitative distinction between (unintended) influence and (intended) power to be applied.

Admitting to outcomes as unintended, Wrong however argues carefully to distinguish between acts which are propelled by a wish to control and acts which are not, whether the exact form of control was the one anticipated or not. (Wrong 1979: 1-5) One can have a good case arguing that on the individual actor level the controversy is a case of terminological hairsplitting. When one operates at the level of social groups, however, Wrongs argument is revealing: Say that an actor intends the power exercised in his immediate relationship with others. His act has additionally contributed to the structuring of that type of social relation influencing the powers of others. This can also be intentional or not. Whether the actor sees himself as a member of a group and thus perceives of an interest to

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<sup>4</sup> It is obvious that the selection of cases is crucial and I shall return to this at the end of the paper.

<sup>5</sup> This does not prevent him from also being partly ignorant, partly governed by routine, partly impulsive and partly emotional.

further the interests of the other members of the group can be quite important for his tactic and strategic action. Needless to remind of the Klassen-an-Sich/für-Sich-discussion and Marx' notorious potato-parable. Whether the terms influence/power or unintended/less unintended exercise of power should be applied is, to me, a matter of taste. An investigation of the tactic-strategic considerations of the actors seems, however, to be vital to understand *how* power is exercised.

I shall now go on to focus on the rationality of action, the authoritative resources of power and its legitimacy.

One of the specious qualities of Weber's writings on modernization and the legitimation of social domination is the relative coalescence between, on the one hand, traditional authority, traditional legitimacy and value rational motives for social action, and, on the other hand legal authority, legitimacy based on legality and purpose rational motives for social action. The "naked" concepts of domination by authority, legitimacy and rationality are also densely intertwined; often to the extent that they become synonymous. It is therefore useful to untie the three basic concepts and I propose the following working definitions.

Rationality describes (in this context) how the motives of action are organized.

Domination by authority describes how power is organized in more or less formal social structures like bureaucracies or communities.

Legitimacy describes how the institutionalized social order is justified within the society.

## Rationality

Weber is well aware of the fact that rationality is very different things and therefore first distinguishes between theoretical and practical rationality. The first refers to a systematic ideal ordering of a world image, while the second signifies the methodological striving or social action for a given end. (Weber 1958: 293) I shall concentrate on the latter type of rationality.

Weber departs on the discussion specifying four ways in which social action may be oriented. (Weber 1968: 24) It may be:

- 1) Value rational
- 2) Purpose rational

- 3) Affectual
- 4) Traditional

Value rationality signifies action directed towards an overriding ideal determining the behavior independently of its prospects of success. Nonetheless it is coherent within its own bounds.

Purpose rationality signifies a methodological calculation of the efficiency of the application of various means for obtaining specific ends. But it also signifies a rational choice of ends corresponding to given values.

Affectual action is action under the influence of an emotive state and is as such on the borderline of meaningful and non-meaningful conduct.

Traditional action "also overlaps the margins of meaningful and non-meaningful conduct. Traditional action is carried out under the influence of custom and habit. ... In this type, the meaning of action does not have the coherent defined form of those which are pursued in value rationality. In so far as traditional values become rationalized, traditional action merges with value rational action." (Giddens 1971:153) Let me start out with this junction.

#### *Junction between traditional and rational action*

Bourdieu's work is remarkably lucid in its investigation of the junction between traditional social action and post-traditional value rational social action. (Bourdieu 1977) Bourdieu operates with the concept of Doxa as describing what of the social order is internalized by the individuals to a degree where it is taken for granted, self evident, unquestioned and undisputed.<sup>6</sup> This corresponds with Weber's traditional action.

A central feature of tradition is that it is "silent ... about itself as tradition" (Bourdieu 1977: 167) Social rules and the social order are not considered as such; they are not even considered to exist as discernible phenomena comparable to other social rules and orders. The social is as given as the natural. The Entzauberung or disenchantment of the world view consists of a "practical

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<sup>6</sup> This universe of the undiscussed, Bourdieu claims, can be imagined to be (almost) all-embracing in ancient societies where (most) action is conducted according to undisputed tradition. In Habermas' words, an enchanted mythical worldview prevails. (Habermas 1991: 48-53) That this vision of a society populated by uninquisitive, uncurious and docile people is a caricatured fiction is besides the point.

questioning of the theses implied in [the] particular way of living ...[which]... is brought about by "culture contact" or by the political and economic crisis correlative with class division." (Bourdieu 1977: 168)

When the internalized social order (Doxa) ensures the continued undisputed social domination the very questioning of this order becomes an area of social struggle. Here, Bourdieu points to the heart of the matter: "The dominated classes have an interest in pushing back the limits of Doxa and exposing the arbitrariness of the taken for granted; the dominant classes have an interest in defending the integrity of Doxa, or short of this, of establishing in its place the necessary substitute, orthodoxy" (Bourdieu 1977: 169) It is the conscious systematization and intended rationalization of tradition which transforms tradition to value rational codes of conduct. One could say that the instant tradition recognizes itself as tradition it ceases to be it. The secularization of culture or tradition is thus based upon self-objectification - of the society as well as the individual - and homogenization of the "objectified and authoritatively fixed socio-cultural "content" or "core" of the community." (Hansen 1991: 37) The extent of this process determines what becomes political; what can be disputed and contested and what remains Doxa.

The social struggle thus has an important dimension in struggle over discourse; what is the legitimate social order, what are the social rules and who defines or creates them ? When it is the label "Tradition" which will profess legitimacy in the tenure reform in Niger, the question, of course, concerns which tradition is adopted and how. Different interpretations of village history and account of infractions of traditional rules and possible subsequent sanctions can provide valuable insight into the process of creation of tradition.

### *Rationality as ideology*

It must be asked if it is reasonable (sic) to operate with one of the two rationalities as a consistent pervasive all-embracing mode of behavior constituting a (modern) life style or as behaviorist principles which apply within delimited areas of action and are not necessarily mutually coherent.

One way of conceiving this is to see value and purpose rationalities as ideologies; as post-traditional discourses about society and the individual and as such never exclusively prevailing but always contested by other ideologies. (see Habermas 1973: 70)

While it is obvious how value rationality can constitute coherent ideologies, Gellner tries to establish the bounds of reach of purpose rationality as "orienting social action" to phrase it in Weber's terms. (Gellner 1985) He argues that for purpose rationality to become an overarching principle of behavior of an actor one presupposes a unitary world view where the multiple forms of social relations can be coherently synthesized. He finds that vision unconvincing and argues that plurality, disparity and incommensurability seems to characterize the actor's world views. He pursues this notion considering social interaction as a set of games of which each actor participates in a number. Each game is constituted by a certain rules, symbols and discourses which are not necessarily logically commensurable.

Couldn't one, Gellner rhetorically asks, be purpose rational in several - read all - games and then conduct a purpose rational life ? He dismisses it intuitively and finds "...plural incommensurable overlapping games much closer to life as I know it." (Gellner 1985:72) Hence he argues, the more an end is specific (say, making money or win a race) and can easily be evaluated for success or failure the less plausible it is as an overall end of the life of an individual. Behind the intuitive dismissal of which I approve, lies, however, a simplification which paves a too easy road for his argument. One should distinguish between purpose rationality as on the one hand an adopted valid ideology; an organizer of intentions, as it were, and on the other hand a principle which characterizes the enacted life in all its facets. Considered as an intention the dismissal of purpose rationality as pervasive and coherent should be tempered. The fact that what is purpose rational in one situation may counter what is in another does not impeach that the adopted intentions in both were purpose rational. I believe it does contain a more thoroughgoing and coherent dimension that the fragmented and contradictory character of the enacted life indicates.

Here it seems useful to turn to routinization as the taken-for-granted character of activities in day-to-day life. When the economic-instrumental purpose rationality seems to have its own spirit of economic accumulation, the routines of pursuing these tangible ends may thus transform (de-value) prior values to conform with this pursuit. Purpose rationality may thus be and adopted as valid ideology alongside other values. The study of the process whereby value rationality constitutes the essential

foundation of purpose rationality should thus be complemented by a study of the process whereby basic values are tainted by purpose rationality, or rather purpose rationality is elevated to value rationality, also calls for investigation.

Neither value nor purpose rationality are thus all-embracing but do exist as overriding ideologies. Conversely, I believe that when studying the enacted value rational behavior (not the intended) the picture emerging will be just as fragmented as the picture of the enacted purpose rationality.

### *Games*

Gellner strikes a nerve in pointing to the actors' participation in a multitude of incommensurate and possibly mutually contradictory games.

The actors are adept, knowledgeable agents when maneuvering between social games. This perspective illuminates an interesting contradiction. Social success can be said to "depend on the ability to switch from one [game] to another and to recognize the clues which make such switches appropriate. But too much savoir-faire is morally suspect. It suggests pliable, adjustable principles." (Gellner 1985: 72) Opportunistic mastering of many contradictory games may thus undermine the legitimacy of the dominating actors be they adroit traditional chiefs with flair for making opportune reference to modern law or lithe bureaucrats employing traditional patron-client structures pursuing interests. An interesting question is thus how this contradiction is tackled by bureaucrats and traditional leaders.

Gellner pursues another interesting point when he questions whether this compartmentalized action can at all be adequately understood in the terms of means-ends. First, it presupposes that the actor (and the researcher) is in some way capable of isolating and identifying and that we have criteria for judging whether a purposive act has been crowned with success. Much action, Gellner argues, is not directed towards a specific end but towards gaffe-avoiding, as he puts it, learning as we go along. This does of course not reduce the actor to an impotent re-active creature merely fending for himself to get by, but points to his limited time-horizon as an important consideration. Bendix likewise stresses this when arguing for employing sociological "verstehen" as giving "back to men of the past the unpredictability of the future and the dignity of acting in the face of uncertainty" (Bendix 1984:48) If the time-horizon in most cases is limited it is a question whether social acts



should not at least *also* be considered as the performance of a role where the role is its own reward and not only deliberate means towards some further end-state. The sections on "Plaisir d'offrir, de recevoir, de rendre" by Nicolas (1986:135-49) based on a study from Eastern Niger thus suggests that performing the role reasserts the position of the individual in the society. This can, however, hardly be boiled down to purpose rationality as defined above without rendering to it a disagreeable aftertaste of functionalism and one should be very conscious not to read in specific purposes behind occurred events or acts.

Where does this leave us then ? If we consider how both value and purpose rationality as sets of behavioral motives are organized to justify a given social order, one should not expect a uniform unambiguous overarching motivator for the social action of an individual, nor a society imbued with a uniform rationality. And the opportunism in one area may be contradictory to it in another. Interestingly, one of the key characteristics of affectual and traditional action -incoherence - is thus also to be found between various rationalities. One clue to look for is thus the ability for the rulers in the social order to provide situations where other's opportunistic action reinforces his power. An example could be a traditional leader who authorizes cultivation of certain areas by a group of farmers. If their rights subsequently are questioned by other farmers or pastoralists they have an interest in reassertion of the leaders authority and power. (Lund 1993)

#### *Value versus purpose*

A further question along this line can be raised as to whether purpose rationality (esp. the choice of ends) does not essentially depend on value.

While one could expect confirmation it is not unambiguous. Cohen; Hazelrigg & Pope conscientiously points out that Weber himself with this concept calls the attention to actions of an often very practical nature and to their ordering by their relative urgency and not (always) as the practical translated reasoning and enactment of values. (Cohen; Hazelrigg & Pope 1975: 234; Weber 1968: 26) Purpose rational action can thus sometimes exist in its own right, so to speak. This position does, however, give rise to methodological queries: How do ends distinguish themselves from values in a practical context ? In order to solve this, one should perhaps distinguish between the narrower (instrumental) ends and

broader values. The instrumentally rational pursuit of higher productivity *may* for example conform with a set of values e.g. a better and richer life for all. It hardly constitutes a value in itself though, since a number of other decisions and actions determine whether it actually conforms with the set of values in question. To stress this difference it is useful to refer to the purpose rational pursuit of ends as a pursuit of intermediate ends. This perspective also illustrates the way the instrumental rationality and value rationality do not mutually exclude one another but interact: the intermediate ends as methods or tactics for approaching the ultimate end.<sup>7</sup>

### Domination by authority

Domination is defined by Weber as the probability that certain specific commands will be obeyed by a given group of persons. (Weber 1968: 212) Domination thus expresses a manifest will of the ruler. This means that there is a certain compliance from the obeying parties involved and thus a certain interest in obedience. The compliance is often due to a combination of material and ideal interests, the latter being a combination of custom, affectional ties and specific ideal motives. Weber argues, however, that these motives do not "form a sufficiently reliable basis for a given domination", why the belief in legitimacy constitutes an essential element of domination by authority. He adds "... according to the kind of legitimacy which is claimed ... the mode of exercising authority will ... differ fundamentally." (Weber 1968: 213) I shall turn to legitimacy shortly, but let us first see how Weber operates with 3 ideal types of authority. The three types of authority are:

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<sup>7</sup> A comment is due here. When Weber introduced the distinction between purpose rational and value rational action it was to highlight the inner logics of the capitalist enterprise as a contrast to religiously sanctioned rules of conduct over which they became dominant in the process of modernization. Ironically, Weber's most celebrated work, *The Protestant Ethic and the Spirit of Capitalism*, on the other hand analyzes the unique convergence of means, ends and value rationality; how they combined and were mutually stabilizing and how each stimulated success in the other dimensions. Thus, his analysis neither advocates the determination of the economic sphere (the base) by ideal religious dogma (superstructure) nor the determining invasion of purpose rationality from capitalist production into religious life, as often suggested. (Weber 1981b)

- 1) Traditional authority
- 2) Legal authority, and
- 3) Charismatic authority.

The traditional authority indicates that obedience is owed to the *person* of the chief who occupies the traditionally sanctioned position of authority. The person exercising authority is further considered a personal master whose individual qualities match the sanctity of the history and tradition in the community. Weber distinguishes several sub-types where gerontocracy and patriarchy are based upon the more or less extended household unit. For organizations where administrative staff exists, governed by ties of personal obedience Weber speaks of patrimonialism. *Personal loyalty* and not the official's impersonal duty determines the relations of the administrative staff to the master and staff is primarily recruited from the personal retainers or servants of the ruler and their tasks are not clearly defined. Rules are traditionally sanctioned by virtue of being immemorable. Patrimonial authority is further characterized by no distinction between the treasury and the rulers purse or the state and his personal instruments. Finally, there is no systematic coherent process of law making. Any innovation is administrative rules "can be legitimized only by the claim that they have been "valid of yore" but have only now been recognized by means of "Wisdom". Legal decisions ... can refer only to documents of tradition, namely to precedents and earlier decisions." (Weber 1968: 227)

Diametrically opposite to that, Weber defined legal authority. Here obedience is owed to a legally established *impersonal order* "... extending to the persons holding office by virtue of the formal legality of their commands and only within the scope of the authority of the office." (Weber 1968: 215-16) Relations between superiors and staff in the bureaucracy is determined by a legally defined formal structure of the administration. The administration is rule-bound and every office has a specified sphere of competence. The rules are characterized by being coherent.

The third type is charismatic authority. Obedience is owed to a *person* believed by the subordinates to be gifted with extraordinary, supernatural, superhuman or specifically exceptional powers or qualities. (Weber 1968: 241) Relations between the person exercising authority and staff is based upon personal devotion. Weber argued that charismatic authority is a transitory phenomenon which

will end with the gifted person becoming either "traditionalized or rationalized or a combination of both." (Weber 1968: 246)

One problem with the concept of authority as the manifest will of the ruler is that it seems to imply a matching active consent by the ruled. One must ask whether the compliance is a result of active consent or merely absence of opposition. There is probably no clear-cut distinction. One would do well by accepting it to oscillate between the two. Along the same lines, and conforming with the distinction between economic power and authority above, one can never expect authority to prevail entirely. Authority is a state which more or less successfully is tried established through social struggle.

In the selected case studies of conflict it is important to establish how the State bureaucracy and the traditional leaders create and refer to their authority in act and discourse and how different other actors oppose, contest, consent or applaud the various claims to authority.

## Legitimacy

Legitimacy of a social order is achieved by virtue of one of four (Weber 1968: 36):

- 1) Tradition (valid is what has always been)
- 2) Affectual, especially emotional faith (valid is that which is newly revealed or exemplary)
- 3) Value rational faith (valid is what is declared as an absolute)
- 4) Positive enactment which is believed to be legal (either by voluntary consensus or by imposition by an authority which is held to be legitimate)

### *Circularity of argument ?*

A number of questions beg to be raised here. First, the domination based on custom, affectual ties and specific ideal motives were, as stated above, "not sufficiently reliable" but were also accompanied by legitimation. This is, however, achieved through reference to tradition, affectual faith or value rational faith, to take the first three elements. Now, this seems to be a circular argument; custom is not a sufficient basis for domination but is further legitimized by tradition. I can find only one argument carrying the reasoning beyond this impasse. Weber referred to

legitimation as a "cultivated" belief in legitimacy (Weber 1968: 213), i.e. a discursively expressed set of reference points and not merely a tacit understanding embedded in habit or routine. It is thus possible to read Weber as saying that tacit understanding embedded in habit or routine does not suffice for enduring domination by authority but is accompanied by cultivated discursive reference to tradition, affection, values or beliefs in legality. This leads us onto the second question.

How is belief in legality legitimizing for domination; must not legality itself be legitimized? Habermas pushes the question further when asking how legal domination whose legality is based on a devaluation of all grounding can be legitimate at all? (Habermas 1991: 264-5) Habermas admits that legitimation by the belief in legality seems *prima facie* to be obtained by "procedure"; i.e. keeping to procedural prescriptions in administering, applying and enacting law. This routinization is, however, not legitimation in the true sense: "The belief in legality can produce legitimacy only if we already presuppose the legitimacy of the legal order that lays down what is legal. There is no way out of this circle" (Habermas 1991: 265, see also Habermas 1973: 99-113) Belief in legality must thus ultimately refer to a value to be legitimate.

Bendix (1960: 414) argues that the circularity is intentional from Weber's side. It is of course unsatisfactory from a logical point of view, but it nevertheless points to the actual case (as Weber saw it) that the domination in modern society is legitimate because it is legal, which it is because it is legal etc. The circularity of the argument thus points to the immanent tension in modern society between basic value foundations for legality (Natural law in Weber's terminology) and the positive enactment of law as the foundations of its legitimacy. This is thought provoking in two senses.

First, if belief in legality transcends actual law and is essentially referring to value, what then happens to legitimacy if more than one uniform set of values prevail as it is the case in many African societies (a legal framework modeled if not copied from the one existing in the colonial power at the time of colonial rule vs. contemporary local sets of values)? A certain amount of ambiguity, contestation and conflict will probably emerge around legitimacy of the social order.

Second and more generally, if belief in legality is not belief in legitimacy how is the social compliance due to belief in legality then

to be understood. Habermas here points to the fact that rules and regulations that have come about in a rational manner no longer are grasped in their inner rationales by those who deal with them on a day to day basis. (Habermas 1991: 266) Or by those governed by them, one might add. Giddens' writings on routinization add a further facet to the pseudo-legitimizing character of legality. While conceptualizing routinization as the habitual taken for granted character of the vast bulk of activities of day to day social life integral to the continuity of the individual and to the institutions of society, he stresses the ontological security that lies in routine procedures. (Giddens 1984: 60-74) One can argue along those lines that while belief in legality only indicates legitimacy through its' routinization, the routinization itself makes the present social order more secure for the group of persons concerned than changes to any vaguely conceived alternative. Belief in legality may thus produce the same social compliance that legitimacy independently of the basic value underlying the legality if alternative social orders appear less secure than the present one. The question is, however, whether legitimation does not precisely oscillate between two forms; an active, discursive reasserting form where relative coherence is important and a "dormant", tacit, self-evident form not different from what Giddens terms routinization where comprehensive and strict logic coherence is absent or at least not requested. I believe, that this is the nature of legitimacy: When the legitimacy is tacit and embedded in routines is when it is not contested and its coherence not questioned. When, on the other hand, it is contested one of the defenses for legitimacy is to demonstrate it as coherent and intrinsically based on (essentially also contestable) values. Habermas' critique of the lacking logic coherence of legality as legitimacy can thus be seen as such a contestation, but it is hardly useful to define out unsuccessful attempts to legitimacy as something entirely different from legitimacy. In that sense, legitimacy is never complete. It is, like authority, a state which is tried established in social struggle. In struggle over legitimacy one strategy will thus be discursive re-assertion of internal coherence and moral foundation. This conducts us to the duality of ideology.

#### *Duality of ideology*

Geertz (1973: chapter 8) distinguishes between two main perspectives for the analysis of ideology; the interest theory and the strain theory. In the first, ideology is a weapon in the hands of the

dominant social classes used in the deception of the dominated classes masking with false consciousness the social reality in which they have an objective interest to revolt. In the second, ideology is a symptom of the "mal-integration" of society; a balm against the self contradictions, tensions and discontinuities between norms in different sectors of society soothing society as a whole. "In one, men pursue power, in the other they flee anxiety." (Geertz 1973: 201) <sup>8</sup>

Geertz, rightly in my mind, states that ideology may do both simultaneously and that the perspectives do not necessarily contradict one another. Nevertheless, he proceeds to dismiss the interest theory for being too crude. Admittedly, some theories of interest and ideology are purely functionalist. Althusser (1970) thus states that in the interest of the dominant classes every social formation needs to reproduce its own relations of production and thus needs the ideological State apparatuses to perform the function of producing false class consciousness. A more general weakness in the interest perspective of ideology is, however, that it does not explain why those who do not share the same interest share the same ideology or belief in legitimacy. Geertz puts it this way: "...[the interest perspective] turns attention away from the role that ideologies play in defining (or obscuring) social categories, stabilizing (or upsetting) social expectations, maintaining (or undermining) social norms, strengthening (or weakening) social consensus, relieving (or exacerbating) social tensions." (Geertz 1973: 203)

While recognizing this argument for a broader non-functional vision of ideology, Merquior attacks Geertz' perspective as unconvincing for class societies. (Merquior 1979: 7-20) He argues that the strain perspective sees ideology as the catharsis of society as a whole and cannot capture the struggles of ideology and legitimacy of a society with multiple and often conflicting belief systems. He goes on to state that as the strain perspective operates with one ideology and legitimacy equally accepted by all in society, the problem of accounting for the beliefs of those who do not have an interest therein is thus not solved - the does problem simply not arise.

One way out of this trap seems, to me, to be to conceive of ideology and legitimacy as man made phenomena arising out of

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<sup>8</sup> While ideology cannot always as such be equated with legitimacy I venture to do so in this context since the discussion illuminates an identical double-dimension of both ideology and legitimacy.

social struggle. Referring to the classic agency-structure nexus, social action can be seen as intentional (interest seeking) and the structure (economic, political and ideological) as the aggregated unintended (or not fully intended) consequences of the social action. (Giddens 1984 and Boudon 1982; 1984) Three points come out of this:

First, being man made, legitimacy and ideology retains a tactic-strategic dimension. Social dominant groups act to mask social injustice for other groups; they may, however, fail. Second, the more an aggregated level upon which the unintended consequences are analyzed the more difficult it is to identify and isolate interests behind them and the more difficult it is to ascribe a legitimate order to the actions of a specific group. However, and this is the third point, if we consider actors as intelligent and reflexive they can of course view a "universally" prevailing ideology as a resource. They may thus refer to specific elements of it and capture it as a weapon in the construction of their ideological discourse. This is not a functional perspective. Ideology and legitimacy is not seen as having their existence as a function. But socially produced set of beliefs can perform a function if captured by a social group. This position enables us to see an ideology or legitimacy as simultaneously possessing a liberating and suppressing potential. It should also liberate us from what Bendix (Bendix 1984: 55) eloquently has termed "retrospective determinism"; things are like they are because it could not have happened otherwise.

In the case studies of conflict it is important to establish how the State bureaucracy, the traditional leaders as well as the other involved contenders each claim legitimacy for their policy in concrete cases and whether the claims are consistent throughout the conflict or change ideal type, so to speak. In particular (flexible-opportunistic) discrepancies between the basis of authority and the legitimacy of policy must be looked for: e.g. civil servants claiming legal authority for themselves while suggesting that their policy in conflicts accord with local tradition and traditional leaders claiming traditional authority for themselves while insisting that their rulings comply with the legal framework of the modern Nigerian State. Convergence of discrepancies, so to speak. It is interesting here to relate the local discourses to the national discourses especially those concerning the Rural Code and the elevation of tradition to modern legality.



## Selection of cases

The classic problem when selecting cases is that while moving from general to specific detailed knowledge in order to further the insight there is a risk of losing the generalizability and relevance beyond the case. One way of reducing this risk is to combine a selection of *extreme* cases, *critical* cases and a high *variation* of cases. (Flyvbjerg 1991: 137-58)

An extreme case often provides more interesting information than an average case. The case of a particular intense and/or enduring conflict will activate more actors and display more social mechanisms than an "average" conflict.

A number of extreme "displaying" cases should be held up against a number of critical cases of strategic significance in relation to the general problematique. To indicate that certain phenomena are general one should investigate a case where the probability of finding it is low - are the phenomena still found it can be argued that evidence suggests generality. Inversely, to indicate that certain phenomena do not prevail the case where it would be most probable to find it should be investigated.

When the problematique is to show that the local social and political struggles transform the Rural Code process away from its original intentions, extreme cases will display that. To show that the social and political conflicts are not confined to the extreme cases, a number of (apparently) conflict-free village and agro-pastoral settings must be studied.

Finally, considering the variation in the production systems from pure agriculture to agro-pastoralism and the variation in absolute land shortage, cases from different areas should be selected to establish whether and possibly how these factors influence the local social and political conflicts.

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