Chapter 3
Cross-Cultural Variation in Altruism: Traditional Parental Manipulation and Ancestor-Descendant Conflict

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3.1 Introduction

This chapter starts with the assumption, familiar to evolutionary theorists, that to understand the current cross-cultural patterns in human altruism, you must understand how the forms of altruism unique to humans evolved, and to understand this, you must understand that "We were made for a world that has mostly disappeared, . . . a world in which all activities were enmeshed in webs of kinship . . . a world in which things rarely changed much over the course of a lifetime" (Cronk, 1999, p. 119). While our thesis builds on evolutionary thinking, it deviates from other evolutionary explanations of human altruism because we argue that all of the aspects of our ancestral environment just described are the result of traditions (the behaviors of parents replicated by their offspring). Traditions, by definition, kept human behavior from changing much from one generation to the next over many hundreds and even thousands of years. Traditions are also the *only* mechanism that could have produced the large webs of kinship that constituted the social environment of our ancestors. Most importantly, as we argue in this chapter, traditions were essential underpinnings of the altruistic behavior of the individuals who formed the networks of kin that constituted the social environment of our ancestors. Further, many aspects of altruism, or the lacks thereof, found in much of the world today are the result of the diminishing influence of traditions. Evolutionary explanations that

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ignore the role of traditions in human altruism in any time or place are ignoring what has been a significant influence on human behavior.

We start our support of these propositions by describing the fundamental dichotomy between traditional and nontraditional societies. We then propose that an explanation of these differences requires an understanding of how traditions encouraging altruism toward co-descendants could have produced the altruism that characterizes the webs of kinship that formed the social environments of our ancestors. We will do this by describing how tantalizingly close several evolutionary theorists have come to this realization over the past 40 years. Then we will describe how patterns of altruism change when societies become less traditional and start to include individuals identified as non-kin.

3.2 Traditional Societies and Distant Kin

One of the most incontrovertible facts of human existence for tens of thousands of years before the Neolithic revolution, and in many parts of the world until even more recently, is the intergenerational "retention and duplication" (Campbell, 1975) of human behavior (p. 1106). This "traditionalness" of human behavior was recognized by Kroeber (1948), who observed that "cultures are ... inclined to be persistent …[e]ven in times of the most radical change and innovation there are probably several times as many items of culture being transmitted from the past as there are being newly devised" (pp. 256–257). Thus, it is not surprising that nearly anywhere you look in the anthropological literature, you will see references to "traditional" societies. The mere use of this term implies that in the midst of the seeming chaos of cultural diversity in the world, there exists a recognizable dichotomy between traditional societies and nontraditional societies. Although this dichotomy is obviously a continuum, we suggest that when terms are carefully defined, it is a useful place from which to approach the cross-cultural study of altruism.

We define traditional societies as those in which cultural behaviors tend to have been copied from ancestors for *many generations*. These copied behaviors include not only the rituals that are stereotyped and repeated from one generation to the next but also the everyday behaviors related to subsistence and, most importantly, social interaction. As all humans lived in traditional societies until the last few thousand years, even long after the development of agriculture, societies still referred to as traditional resemble in fundamental ways those earlier societies (see discussion in Coe, 2003; Palmer, 2010). Such societies typically consist of *individuals identified as being kin to one another by virtue of being perceived as descended from common ancestors*. Nontraditional societies are those in which traditions have been replaced with cultural behaviors copied from people other than ancestors. The earliest forms of nontraditional societies are often referred to as early nation states. Such early states typically strove to include *multiple* kinship-defined traditional societies (e.g., a number of distinct tribes) and thus were vulnerable to splitting along these kinship divisions (van den Berghe, 1979; Salter, 2002). It is in this period that we see the emergence of fundamental changes in altruistic behavior.

The fundamental difference between traditional societies and nontraditional societies involves kinship. However, the change in kinship occurred primarily at genealogical distances far beyond the close kin where behavior is seen as potentially explainable by kin selection. Thus, the fundamental difference in kinship between traditional and nontraditional societies has gone largely unnoticed by mainstream evolutionary explanations of altruism that tend to restrict their conception of kinship to the close genealogical distances relevant to kin selection (i.e., closer than first cousins). To understand the importance of this difference between traditional and nontraditional societies, it is first necessary to fully grasp the importance of *distant* kin in traditional societies.

Although some traditional societies are small, the tradition of passing descent names or other cultural markers (e.g., body decoration) from ancestors to descendants over many generations enables some traditional societies to become very large, as vast numbers of kin become, over many generations, identified explicitly. As van den Berghe and Barash (1977) explain, unilineal descent "can be seen as a cultural adaptation enabling up to millions of people to organize" (p. 404). Among the Tiv, for example, "the whole population of some 800,000 traces descent by traditional genealogical links from a single founding ancestor" (Evans-Pritchard, 1951, p. 29; Keesing, 1975, pp. 32–33).

While traditions that dictate the use of descent names make it possible to *identify* large numbers of individuals as kin, the mere identification of kin is not sufficient to account for altruism toward individuals identified as kin. Other traditions that encourage altruism toward kin are necessary to produce the altruistic social relationships that form these individual kin into networks commonly called a society (Coe, 2003; Palmer & Steadman, 1997). Traditions encouraging such altruism constitute much, it not all, of the moral codes in traditional societies. Santos Granero (1991) reported that tribal people such as the Peruvian Amuesha regularly claim that "'yi' (morality), which promotes such kinship responsibilities as love and generosity," is crucial to the existence and perpetuation of harmonious and enduring social relationships (p. 226). "Immoral" behaviors, in contrast, are those that are "antisocial," demonstrating selfishness or "greediness or meanness" (Santos Granero, 1991, p. 226) in their "disregard for kinship duties and failure in one's duties towards other fellow Amuesha" (Santos Granero, 1991, p. 45). The claim that altruism directed toward kin is a duty supports a suggestion made by Gibbons (see Chap. 4, this volume) that altruism directed toward kin may be seen as an expectation.

Such traditions encouraging altruism toward kin, and originating from the common ancestors of those kin, are apparently a human universal. Most scholars would agree that the practice of having and enforcing behavioral codes is ancient and that the origin of these codes and the system that enforces them were our ancestors, who, "from time immemorial," were the "primitive custodians of the unwritten, uncodified, unclassified rules of conduct" (Rattray, 1929, p. 3). Primitive law was *ancestral*: "All of it [primitive law]," Culwick and Culwick (1935, p. 8) write, "is neither more nor less than the rules of behavior ordained by the ancestors and practiced by them" (Edel & Edel, 1957, p. 87; Sumner, 1907, p. 232). As Sumner (1907) poetically worded this, these systems "contain in themselves the authority of the ancestral ghosts" (p. 232). Leaders were often, if not universally, claimed to be the

representatives of the ancestors. Bandalier (1972) wrote that the primary role of the lineage of clan chief is that he is the representative of the ancestors, "who transmits the words of the ancestors to the living, and those of the living to the ancestors" (p. 99). Shamans were also often said to communicate the wishes of dead ancestors to their living descendants (Steadman & Palmer, 1994).

Moral systems often have no justification other than "we do it this way because the old men say it is wiser" (Sun, 1942, p. 268), or "it was the custom of their ancestors" (Tyler, 1881/1960, p. 252), and it is now our "duty" to our ancestors to behave the way they specified (Edel & Edel, 1957; Johnson, 1984; Westermarck, 1912). It is often claimed that the ancestors who gave the rules still participate in social life, rewarding those who obey and punishing those who violate their rules (Santos Granero, 1991), a claim that may be universal in all traditional societies (Steadman, Palmer, & Tilley, 1996). Among the Ndembu, the "moral man" is one who "honours his kinship obligations" and "respects and remembers his ancestors" (Turner, 1979, p. 374), and Turner points out that these "moral values and . . . ethical code . . . would be recognized as valid by all human groups" (Turner, 1979, p. 374). Middleton (1960) sums this central aspect of human altruism by this simple quote from the Lugbara: "the rules of social behaviour are the 'words of our ancestors'" (p. 27). To act morally is one's duty to the ancestors; morals are not justified by a claim that they are just or fair.

Given the claim that moral codes come from ancestors, it is not surprising that the *scope* of moral codes in traditional society is defined by kinship, not geography (Edel & Edel, 1957, p. 16; King, 1972, p. 37). Specific codes often correspond to specific categories of kin (Coe, 1995; Palmer & Steadman, 1997). Birth and descent alone indicate "those who count in it reckoning and take part in its proceedings" (Edel & Edel, 1957, p. 16). Although descent names can be associated with ancestral lands, *birth* (i.e., descent) is what appears to be important because clans and tribes are merely widely spread categories whose members are identified by descent names or other markers and rarely if ever gathered into one geographic "group" (Edel & Edel, 1957; Palmer & Steadman, 1997).

The key aspect of these traditional moral codes is that they consist of rules encouraging individuals to be altruistic toward distant co-descendants as if they were close kin. As Briffault (1931, p. 57) observed, there are rules of "kindness, love, help, and peace applicable to members of our own clan, tribe, or community, the other of robbery, hatred, enmity, and murder to all the rest of the world" (p. 57). Outsiders [non-kin] in traditional "static" (or unchanging) societies are considered to be less than human (Hoebel, 1949; Santos Granero, 1991).

In kinship-based traditional societies many, perhaps most, rules may be unspoken and are transmitted by copying or modeling, or through verbal behaviors (Van Baal, 1981; King, 1972). Even if unspoken, individuals are quite conscious of a high valuation placed on certain behaviors. Children in all societies are educated about behavioral codes and "the specific consequences that will follow if a rule is not obeyed" (Hoebel, 1949, p. 363). This teaching most often was done in the family. Thus, *the transmission of moral codes consists of parents manipulating the behavior of their offspring to be more altruistic toward co-descendants and to replicate this manipulation when interacting with their own offspring in the future*.

The persistent transmission of unwritten moral codes unchanged from one generation to the next requires considerable effort, often including guided practice and ritualized memorization. Ironically, although writing makes it easier to maintain codes unchanged, it was the written legal codes of early states that often underwent rapid change because they allowed legislative enactments (Diamond, 1951; Wines, 1858, p. 79). In contrast, the unwritten moral codes of traditional kinship societies were passed through both verbal and nonverbal behaviors with little change (Van Baal, 1981; King, 1972). "Numerous writers," Hoebel (1949) explained, "have commented upon the relative absence of legislative enactment by primitive government" (p. 845). Often there was no authority competent to make a new rule: "It is seldom in the heads of a people to alter those customs which have been held sacred from time immemorial" (Westermarck, 1912, p. 162). This is because, as Lowie (1934) points out, the aim was "rather to exact obedience to traditional usage than to create new precedents" (p. 358). Indeed, as Sumner (1907, p. 355) explained, "The ghosts of the ancestors would be angry if the living should change the ancient folkways" (p. 355). Furer-Haimendorf (1967) claimed that Gond philosophy "leaves no doubt that the rules of behavior laid down in the ancestor's time remain binding for present generations" (p. 148).

The codes regulating interactions in traditional, kinship-based societies are said to focus on the roles of, and altruistic interactions between, kin. Four codes were said to be of fundamental importance because without these codes men would be "held down by low animal appetites and passions" (Morgan, 1877/1963, p. 41), return to a state of savagery, and live in misery (Tyler, 1881/1960). These consisted of codes which promoted motherhood (Edel & Edel, 1959), governed mate choice and marriage (Briffault, 1931; Coulanges, 1864/1955; Kroeber, 1948; Lowie, 1934; Malinowski, 1932; Rivers, 1998; Tyler, 1881/1960; Westermarck, 1912), encouraged respect for the elderly and the ancestors (Diamond, 1951; Santos Granero, 1991; Tyler, 1881/1960; Westermarck, 1912), and encouraged altruism toward kin (e.g., a male's offspring, one's siblings, *and far more distant kin*) (Edel & Edel, 1957; Tyler, 1881/1960; Westermarck, 1912). Given the overwhelming evidence that these traditional moral codes were crucial to the occurrence of much of the altruistic behavior that has characterized the social existence of our species, there is a need for an evolutionary explanation of these codes.

3.3 Parental Manipulation: Evolutionary Theory on the Verge of Understanding Traditions

Nearly 40 years ago, West-Eberhard summarized the evolutionary explanations of human altruism generated by the theoretical breakthroughs of Hamilton, Williams, Trivers, and Alexander: ". . . there are three general ways in which selection can act to produce beneficent social behavior: through kin selection, parental manipulation, and reciprocity" (West-Eberhard, 1975, p. 17). West, Mouden, and Gardner's (2011) recent review of the literature on the same subject demonstrated how kin selection and reciprocity have been widely used, and how group (or multilevel) selection

has rebounded in popularity. However, West et al. (2011) make no mention of West-Eberhard's third evolutionary explanation of altruism. The recent relative neglect of the concept of parental manipulation is regrettable because evolutionary explanations of altruism based on parental manipulation stood on the verge of an explanation of the previously described traditional moral codes and the altruism they produced.

The parental manipulation explanation of altruism is based on the concept of parent-offspring conflict. As originally stated by Trivers (1974), the existence of parent-offspring conflict means that ". . . parents are expected to attempt to mold an offspring, against its better interests. . . ." (p. 249). This attempted molding, or manipulation, is the result of the simple biological fact that:

> The mother is equally related to [all of] her offspring. However, the offspring is completely related to itself [i.e., related to itself by 1.0], but only half as related to its full siblings [i.e., related to full siblings by 0.5]. A Hamiltonian offspring should value its personal fitness twice as much as it values any full sib's fitness. (Kurland & Gaulin, 2005, p. 452)

Therefore,

> Each child should, in theory, see itself as twice as valuable as its sibling [i.e., an offspring values itself 1.0 and values a full sibling 0.5], while the parent, being equally related to the two, values them equally. Hence another Darwinian prediction: not only will siblings have to be taught to share equally [i.e., taught to value a sibling as much as itself, or 1.0 instead of 0.5]; parents will, in fact, try to teach them [to value each sibling as much as itself, or 1.0]. (Wright, 1994, p. 166)

This generates the prediction that under certain circumstances, natural selection would favor parents who could *manipulate their offspring to behave as if each of the parent's other offspring were related to them by 1.0* (i.e*., value their siblings as much as they value themselves*). Although the chances of such total victory by a parent have long been the subject of debate (Alexander, 1974; Trivers, 1974), the outcome of parent-offspring conflict is likely to be some degree of compromise between the evolutionary interests of the parent and the offspring. It seems likely that parents who were more successful in this manipulation would sometimes be favored by natural selection over parents who were less successful. The power of this concept in explaining traditional moral codes and human altruism comes from the consequences of this parental manipulation when it is repeated in subsequent generations, a phenomenon made possible by human cultural traditions. Several theorists were tantalizingly close to recognizing the multigenerational consequences of parental manipulation during the 1970s and 1980s, but these consequences were never realized.

Trivers (1974) recognized that the influence of parents could extend far enough in time to alter "the later adult reproductive role of the offspring" (p. 262). Alexander (1974) elaborated on this point by stating that the tremendous potential for parental manipulation in humans is partially due to the long period in which living parents can manipulate their offspring's behavior: ". . . humans are parental manipulators par excellence. Their parental investment is enormous, and their generational overlap is extreme" (p. 367). Alexander (1974) also realized that this manipulation could continue even after the parent's death: ". . . humans may be unique among all organisms in that under normal circumstances a human offspring is never entirely without

parental care, even if it has itself become a grandparent; even if its parents are dead, it will only rarely be without some direct benefits of parental care . . .” (p. 368). Alexander (1974) also appears to have realized that the longer the parent can manipulate the offspring to be altruistic, the better for the parent: “If individual offspring behave selfishly at termination of parental care . . . extensions of parental influence will be favored that encompass the detrimental situation, if they protect the brood from the selfish offspring or suppress the selfish behavior” (p. 345). Alexander (1974) even states that the ability of the parent to increase the altruistic behavior of the offspring does not necessarily have to end: “This multigenerational extension of parenthood has enormous significance in many regards . . . Since there is no obvious time at which parental care terminates . . .” (p. 368).

Two decades later Voland and Voland (1995) appear to be even closer to recognizing the full consequences of an infinitely extended parental manipulation when they propose that the human conscience is a means by which parents caused offspring to resist “selfish impulses” (1995, p. 401). They start by proposing that the existence of the human conscience, and the altruistic behavior it causes, is “not adequately explained by a mere reference to reciprocal altruism or kin selection” (p. 404) and that this represented a major gap in explanations of human altruism because the altruism produced by this extended form of parental manipulation “. . . finds its most remarkable expression in heroes and saints, but is by no means restricted to an ethical elite. It molds our daily life . . .” (1995, p. 404). Voland and Voland also recognized that conscience was one of the ways in which parental manipulation could continue to influence the behavior of offspring after the parent has died and it is no longer able to deter the selfish behavior of the offspring directly:

> The conscience evolved within the context of parent/offspring conflict over altruistic tendencies. As an extended phenotype of parental genes, it governs parental control on the offspring’s behavior in a *lasting* way, even when there are no longer any direct possibilities for parental manipulation. (1995, p. 397; our emphasis)

Voland and Voland also write:

> The behavior of an individual should, therefore, not be hurriedly interpreted as being shaped by natural selection to the reproductive advantage of the gene programs of just this individual. The behavior being questioned can increase the genetic fitness of another individual as well. Consequently, organisms can serve replication interests with their behavior determined by others, either temporarily or *permanently*. (Voland & Voland, 1995, p. 404; our emphasis)

Perhaps the closest any statement came to realizing the full consequences of parental manipulation was: “They [offspring] were raised to ‘voluntarily’ stake at least part of their reproductive fitness for the maintenance and welfare of their families and thus to the long-term advantage of their *lineage*” (1995, p. 407; our emphasis). Unfortunately, instead of following this insight with the final step of realizing that lineages could be benefited through the transmission of a *tradition* of parental manipulation *indefinitely*, the authors return to only measuring the evolutionary success of parents: “The lifetime fitness of the altruist who is guided by his/her conscience and who acts ethically is negative, but not so for this altruist’s manipulative

parents, . . .” (Voland & Voland, 1995, p. 407). Thus, like the earlier theorists, Voland and Voland (1995) realized that parents can manipulate their offspring to engage in “. . . ethical and altruistic behavior—even long after the death of the parents” (p. 406), but they did not fully realize just how long after the death of a parent this production of ethical and altruistic behavior could continue.

All of the theorists just discussed appear to have recognized that parental behavior could produce altruism among offspring and grandchildren, but none of them appeared to have considered the possibility that parental manipulation could hypothetically produce altruistic behavior through an infinite number of generations of descendants if the manipulative behavior became traditional. What makes this situation all the more tantalizing is that several of the same theorists recognized the advantages, if not the necessity of, measuring evolutionary success over far more generations than are typically considered. None of them, however, linked this insight with the long-term influence of parental manipulation.

3.4 Measuring Evolutionary Success by the Effect of Traits on Future Generations

Alexander (1979) writes that it is crucial for evolutionary theorists to ask: “. . . What to measure, and what generation to measure it in, to determine which genetic line is winning (or what in fact constitutes “winning”)” (p. 346). That is, “What is to be measured and when should it be measured? Should we measure numbers of offspring produced, numbers reared, numbers breeding, numbers of grandchildren produced, reared, breeding, *etc*.?” (Alexander, 1974, p. 374; emphasis added). The “*etc*.” is crucial because it indicates a realization that selection might be best measured as far into the future as possible, or at least further measurements would be superior to nearer ones when feasible. This implies that the success of a behavior might be different when measured further in the future than it is in the one or two generations where it is typically measured. West-Eberhard (1975) expands on this crucial point:

> This example raises the question of how far into future generations maternal control could be expected to operate. This raises the further general question of just what it is that selection maximizes—whether number of children, grandchildren, great-grandchildren or *n*th descendents (see Alexander, 1974)—and it shows another way in which classical fitness is an inadequate measure of an individual’s total reproductive (genetic) contribution. Inclusive fitness can include effects on future generations but does not specify how many generations should be included. In threshold cases of hymenopteran sociality there must sometimes be a reduction in the mean fitness of the offspring—a paradox for classical theory. (Hamilton, personal communication) (p. 29)

Dawkins (1982) later made the same point even more clearly:

> Workers who correctly use the concept of fitness admit that it can be measured only as a crude approximation. If it is measured as the number of children born it neglects juvenile mortality and fails to account for parental care. If it is measured as number of offspring reaching reproductive age it neglects variation in reproductive success of the grown offspring.

> If it is measured as number of grandchildren it neglects . . . And so on *ad infinitum*. Ideally we might count the relative number of descendants alive after some very large number of generations. (p. 184)

Unfortunately, the benefits, if not necessity, of measuring evolutionary success after many generations have not been pursued. For example, even when emphasizing the importance of a multigenerational approach, Lancaster and Kaplan (2009) merely refer to a "three-generational system of downward resource flow from grandparents to parents to children" (p. 95). In their previously cited review of the topic, West et al. (2011) feel comfortable in using a one generation measurement: "the quantity maximised by Darwinian individuals" is measured in the currency of "production of *offspring*" (p. 232; our emphasis). We will now explain how traditions extend the consequences of parental manipulation and then combine that with the benefits of measuring evolutionary success over many generations.

3.5 Ancestor-Descendant Conflict, Ancestor Manipulation, and Descendant-Leaving Success

Combining the ability of parental manipulation to cause altruism in descendants, the ability of human offspring to replicate the behaviors of their parents (i.e., traditions), and the measurement of evolutionary success over many generations (which we will refer to as descendant-leaving success in contrast to the one or two generational measurement of reproductive success) leads to the concept of "ancestor-descendant conflict" (Coe, Palmer, Palmer, & DeVito, 2010, p. 2). Parental manipulation became traditional when the parental manipulation of offspring that increased the altruism of the offspring toward each of the parent's descendants was *duplicated by those offspring and directed toward their own offspring* and so on and so forth through subsequent generations (see Steadman & Palmer, 1995). An oversimplified example of how parent-offspring conflict could have been transformed into ancestor–descendant conflict is the following three-part exhortation by a parent to his or her offspring: "1) treat all of my other descendants as if they are as valuable to you as you are to yourself, 2) tell your offspring to also treat all of my descendants as if they are as valuable to them as they are to themselves, and 3) also tell your offspring to tell their own offspring these things" (Coe et al., 2010, p. 6). A parent who started a *tradition* of parental manipulation of offspring to be more altruistic toward that parent's other descendants could increase that parent's number of descendants, and thus increase the numbers of copies of that parent's genes, in *distant future generations*.

Combining parental manipulation with tradition and the measurement of evolutionary success over many generations solves a puzzle in the cross-cultural record on kinship and altruism identified by Alexander. Alexander (1979) claims that for "most people in a modern technological society, . . . the significance of distinguishing relatives decreases beyond some level, such as that of first cousins, because of low

relatedness. . . . [This is] obviously consistent with a Darwinian model" (pp. 148–149). The problem for current Darwinian explanations of human kinship is that the ethnographic data from traditional societies are obviously inconsistent with a Darwinian model because humans in every known traditional society are not only able to identify kin far beyond first cousins, but "extensive extra-familial nepotism" (Alexander, 1979, p. 211) also appears to be universal. Quoting Murdock (1949), Alexander describes this pattern by stating that universally:

> …some of the intimacy characteristic of relationships within the nuclear family tends to flow outward along the ramifying channels of kinship ties . . . . [When an individual] needs assistance or services beyond what his family . . . can provide, he is more likely to turn to his secondary, tertiary, or remoter relatives than to persons who are not his kinsmen. (As referenced by Alexander, 1979, p. 156, from Murdock, 1949)

In a recent overview of evolutionary explanations of kinship altruism, Bernstein (2005) elaborates on exactly why this feature of human kinship found in traditional societies is "surprising" to an evolutionist:

> Because the return to fitness of altruism toward distant distant kin [i.e., kin far more distantly related than first cousins] is miniscule, typically less than helping an unrelated person with whom another has a profitable exchange, it may be surprising that such groups often have norms obliging members to favor these distant distant relatives over non-kin . . . If altruism is prescriptive even on occasions when the degree of genetic relatedness is very small, the altruist's fitness will decline depending on the frequency of such occasions. (p. 529)

Bernstein (2005) suggests that such puzzling altruism can be ignored because it primarily occurs in situations such as famine and war. Even if this is true, and it is clearly debatable, it still begs the question of why such altruism, and the norms obliging individuals to engage in such altruism, should occur at all. It also begs the question of why Alexander pointed out that such an extension of altruism appears to be universally found in traditional societies, but not in nontraditional "modern" societies. Thus, mainstream evolutionary explanations of altruism are left with the puzzle that the concept of ancestor–descendant conflict solves.

We now turn to a brief description of how the disruption of traditions of parental manipulation that have led to the reduced scope of kinship altruism in nontraditional societies may have started in early state societies that attempted to incorporate multiple kinship-based societies.

3.6 Changes from Moral Codes Toward Kin to Law Toward Non-kin in Early States

Although often appealing to earlier aspects of traditional moral codes for legitimacy, the earliest laws associated with the emergence of the commonwealth (e.g., Mosaic law, Hammurabi's codes) were not themselves traditional. Instead their *source* was a *new* supernatural revelation. The laws of Moses were said to have come to him through divine revelation from the ancestor, Yahweh, who created them; those of Hammurabi of Babylon were said to have been revealed from the Sun-God Samas,

the judge of Heaven and Earth (Johns, 1903). Mosaic laws were said to have been revealed to the prophet Moses in order to regulate the behavior of a group of individuals who were "not community of blood, or of land, or of government…but a crowd of mixed ancestry which fled Egypt" (Suelzer, 1964, p. 90). Laws also are said to be "enhanced by the belief that they are fair and just" (Schwartz & Rosenbaum, 1983, p. 241). However, this may be mere rhetoric. It seems clear that "equity is not a necessary condition for the constitution of law; even a shockingly unjust decision…can be law" (Van Baal, 1981, p. 111).

In early nation states the *scope* of laws is geographic, including the entire nation state, and thus includes non-kin. This shift makes the concept of "a group" more plausible. Schapera (1956) explained that a state or commonwealth is not a closed group with membership determined solely and permanently by descent. It is rather an association into which people may be born, absorbed by conquest, or admitted as immigrants and from which they may depart voluntarily or be driven by the fortunes of war. Hammurabi's code, for example, brought together in one geographic area two unrelated groups, Sumerians and Semitics (Diamond, 1951). The foundation of Israel, according to Suelzer (1964), was not "community of blood or land, or of government," it was "alliance with the lord [which] united the crowd of mixed ancestry which fled Egypt" (p. 90). In other words, early law created metaphorical kinship ties among non-kin, united by a prophet, Moses, who spoke for an ancestor, Yahweh, who was the father of all men. The boundaries of the Promised Land were said to have been established by God (Deut iv 6). Tribes living outside the geographical area and not sharing the Hebrew God were neither protected by nor subject to Mosaic law (Wines, 1853).

In kinship-based moral system, the codes focus on altruism toward kin and come from the ancestors of those kin, and obeying them is a duty owed to one's ancestors. The codes specify altruistic kinship behavior and the most serious offenses against the ancestors, and his/her descendants, are exile, or the loss of all kinship ties. The source of the codes in a legal system is also said to be an ancestor, actual or metaphorical. The ability to influence behavior, in both systems, whether of an elder or a leader, depends upon ancestral endorsement and leadership in both systems and is defined more by obligations than privileges. Leadership is legitimate when it has both an ancestral endorsement and evidence of responsiveness to followers (co-descendants) and fulfillment of obligations to them.

In a moral system, there is no system for the creation of new codes, as the codes themselves are largely immutable. Legal systems, however, have methods and mechanisms in place for legislative enactment. Although legal systems also have immutable codes (which are said to be ancestral and which focus especially on such things as honoring the elders), a new type of code has emerged. These codes, which are mutable, focus on temporary relationships between buyer and seller.

The system found in the early state differs from the one found in kinship-based, traditional societies primarily in the degree of formality because, for example, the laws have been written down. There is also a difference in the power of authority. To some extent, the education of children, or transmission of knowledge about the system and its rules, is not accomplished by modeling, storytelling, or other

informal methods but rather has been taken out of the hands of parents and placed in the hands of the state. In order to finance the system, tributes are specified and must be paid on a regular basis. Tributes are no longer made, as sacrifices, to the ancestors but are given to the ancestor's living representative. In this system, attention is paid to the punishments specified for particular offenses (e.g., the punishment for treason is death), and less credence is given to contingencies that may have influenced why one committed an offense.

3.7 Conclusion

Thomas Hobbes (1651) exemplifies the common view that before there were legal social contracts, there was "war of all against all." The cross-cultural study of traditional pre-state societies, however, leads to a very different conclusion. Before the legal systems of early states, there were traditional moral systems aimed at promoting altruism among co-descendants, including vast numbers of very distantly related co-descendants. While legal codes are aimed at regulating selfishly motivated interactions among non-kin, moral codes are aimed at promoting the well-being of descendants. Evolutionary psychology may currently have no theory that allows us to explain the "axiom of kinship amity" or the cooperative treatment of those identified by descent from a common ancestor. As the behavior is so widespread, however, now may be the time when hypotheses, such as the one based on cultural traditions, are proposed and tested against the cross-cultural evidence.

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