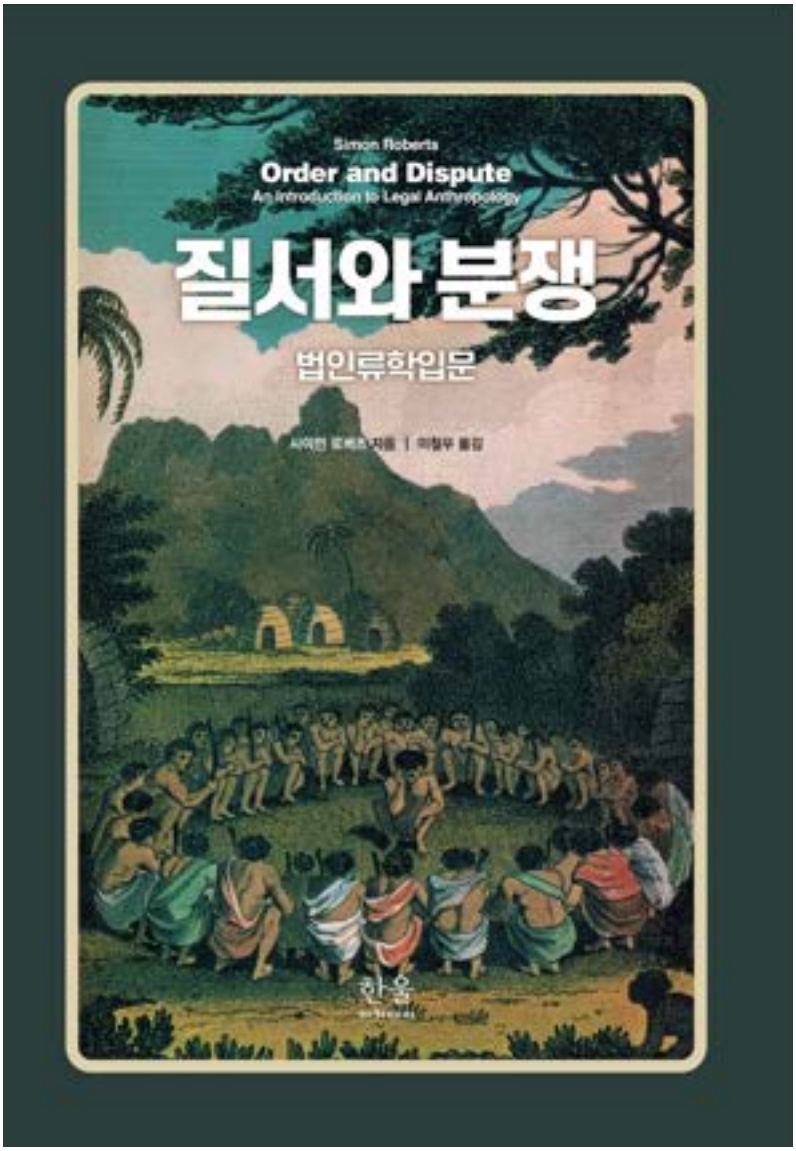
In Celebration of the Work of Simon Roberts (1941-2014)

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[A] INTRODUCTION

The three short essays that follow celebrate the scholarship of Professor Simon Roberts (1941-2014), a distinguished scholar primarily in the field of legal anthropology, whose academic career was spent as a leading figure in the Law School at the London School of Economics and Political Science (LSE). In Simon's honour, Professor Chulwoo Lee has translated his seminal study, *Order and Dispute: An Introduction to Legal Anthropology* (1979; 2013a), into Korean, so that it might be more accessible to Korean legal and other scholars, and included here are his thoughts on the task of translating the study into Korean. The two accompanying essays are reproduced here also in celebration of Simon's work and will be included in the translated volume in Korean.

Chulwoo Lee was Simon's PhD student at the LSE and, after graduating, remained a lifelong friend; his "Translator's Afterword" to the Korean edition opens the collection. Marian Roberts was, of course, married to Simon, and cooperated intellectually with Simon especially in linking theory and practice in areas of alternative dispute resolution (ADR) such as mediation; her preface to the Korean translation follows. Michael Palmer co-taught with Simon from the late 1980s one of the first courses on ADR in the United Kingdom, and together they co-authored *Dispute Processes: ADR and the Primary Forms of Decision-Making*, the text now in its third edition (2020); his commentary on the enduring contributions of *Order and Dispute* completes the set.

[B] TRANSLATOR'S AFTERWORD

Chulwoo Lee

The author of this book was my doctoral supervisor and mentor. In 1987, while pursuing a Master's degree at an American law school, I wrote to David Schiff, who was then teaching in the Department of Law at the LSE, seeking his advice about the prospect of pursuing doctoral study there. I knew of David through a chapter he had contributed to an edited volume on the sociology of law. Having considered my research interests, David kindly advised me to state in my application that I wished to work under the supervision of Simon Roberts and Tim Murphy. I followed his advice, and both of them went on to become my supervisors. It was a great blessing for me.

At the time, I was interested in questions of law and (under) development in the Third World and was attempting to explain the reception of Western law in colonial societies through macro-

level theories such as theories of imperialism and world-systems theory. Simon helped me narrow my perspective to a manageable scope and led me into the world of legal anthropology, cultivating in me an ethnographic sensibility. In the Law and Social Theory seminar, in which four leading scholars—including my two supervisors—and around ten students engaged in discussion, Simon was the most active in seeking to impart his perspectives and knowledge. Despite supervising many doctoral students, he was unstinting with his time and enthusiasm. Full of humour and always precise, his remarks brought us much laughter and indelible clarity.

Simon understood normative rules not as clear signposts externally constraining conduct, but as a loosely constructed repertoire of resources invoked to justify action; and order not as something determined by given rules, but as a state of affairs repeatedly constituted through the process of disputing. On the basis of this theoretical perspective, grounded in field research, he sought to correct the traditional legal perspective that ranks modes of dispute processing according to the extent to which they involve the application of established rules, thereby according a privileged status to adjudication. This line of argument, which runs throughout this book, offers a way of seeing order and dispute in contemporary society in all their complexity, extending far beyond the societies with which the book itself is concerned. Simon's scholarly message also offers a practical lesson for our own society, where we need to be wary of the belief that law can solve every social problem and of the pervasive judicialization of social life.

The first edition of this book ought to have been translated when I received my doctorate and began teaching socio-legal studies at university. From the 1990s onwards, Korean socio-legal scholars, including Dohyun Kim and Seung Heum Hwang, drew on Simon Roberts' work as an important theoretical resource for the study of disputes. That this translation did not appear in step with this vigorous stream of scholarship in Korea—or, at the very least, in response to Simon's continuing scholarly endeavours after his retirement—was due to my own great procrastination. Simon passed away in 2014 at the age of seventy-three, to the great sadness of many. Conscious of my failure to see this translation into print during his lifetime, and spurred by the publication of the second edition a year before his passing, I felt a strong obligation to see the project through, only to let more than ten years pass without doing so. It was only as

I approached my own retirement that I finally managed to complete the work. I feel fortunate to have done so at last, but at the same time deeply regretful that it has taken me so long.

In translating this book, I have tried to remain as faithful as possible to Simon's conceptual and theoretical intentions. I gave priority to accuracy over elegance of prose, trying to preserve even the smallest details of the original, at the risk of occasional awkwardness. I sometimes consulted artificial intelligence (AI) about possible expressions, but there is not a single sentence that I accepted from it as it stood. In the end, beyond offering advice on the choice of particular expressions, AI was of little assistance. I am grateful to the editorial team at Hanul M-Plus for respecting my determination to retain my own style and expressions, and for editing the manuscript with meticulous care, refinement, and the highest professionalism.

This volume includes an essay on Simon Roberts's legal anthropology that was not included in the second edition. I am grateful to Professor Michael Palmer, who worked more closely with Simon than anyone, knows his scholarship intimately, and is himself a leading international authority on dispute studies. An eminent scholar of Chinese law, Michael also provided expert advice on rendering concepts with subtle shades of meaning into terms in Chinese characters. I also wish to thank Keun-Gwan Lee and Joongi Kim for their valuable advice on difficult terms and passages; Young-Kyun Yang and my other colleagues in the Contemporary Cultural Research Methodology Reading Group for suggesting translations of concepts in cultural anthropology based on established usage in the field; and Sung Ho Kim, Hyung Doo Nam, Joon Han, and Chaihark Hahm, colleagues at my university who offered encouragement and advice throughout the process of translation. Above all, I drew strength from the encouragement of Marian Roberts, Simon's wife and companion, who is herself highly respected as a practitioner and scholar of dispute resolution. I hope that this book will bring Marian and the Roberts family at least a small measure of pleasure.

[C] PREFACE TO THE KOREAN TRANSLATION OF *ORDER AND DISPUTE*

Marian Roberts

It is indeed a great privilege to be invited to write this preface to the Korean translation of *Order and Dispute: An Introduction to Legal Anthropology*, sadly in the place of the best person who could have done so, Simon Roberts himself, the author of the two prefaces of previous editions. I can only offer these more personal words but which are informed by the impact of Simon's contribution, as indispensable guide and unfailing support, to my own involvement in the field of dispute resolution practice. We were very fortunate to have been able to enjoy many creative conversations arising from our respective involvements in the field of dispute processes. While I hugely benefitted from the interdisciplinary scholarly writings to which Simon introduced me, he too was delighted to hear of their application in the vivid lived examples I brought home from the coalface of my practice as a family mediator.

As a classic work, the significance of *Order and Dispute* only increases over time. The work assumes a continuing relevance today particularly in the light of contemporary developments associated with the growth of ADR processes, mediation in particular, and the transformation that has occurred in the formal civil justice system, certainly in England and Wales. As Simon's latest ethnographic research confirmed, the primary responsibility of the court is now explicitly identified as one of sponsoring settlement. Consequently, judicially endorsed negotiation leading to settlement of the justiciable issue supersedes the historic primary adjudicative role of the court acting as the agency of rule-based trial and judgment. Official endorsement of what is termed non-court dispute resolution relegates access to court to a last resort in the family justice system.

As an introduction to legal anthropology, the preface to the first edition states that its "primary object here is to provide something for the newcomer, whether an interested layman or the prospective student". There is now a greatly enlarged contemporary prospective audience for whom this work is essential reading—scholars, researchers, policy makers, judges and lawyers as well as arbitrators and mediators. As was observed in the United States in the 1980s and more so nowadays, legal professionals "tumble over each other in their enthusiasm for nonlegal dispute resolution alternatives" (Auerbach 1983: 15). The fundamental

theoretical as well as practical transformation involved in the transition from a primary partisan, representative and advisory role of the lawyer into the non-aligned facilitatory role of the mediator requires the adoption of a new mental universe in which a richer and broader socio-legal dispute process paradigm replaces an ethnocentric legal perspective. This is what this book so lucidly and authoritatively provides.

It is a measure of the highest esteem and warmest respect with which Simon regarded Professor Chulwoo Lee that the safe and expert translation of this, his most loved work, was entrusted. This Korean translation has been the fruit of Professor Lee's remarkable long-term dedication and commitment. This comes with my heartfelt thanks to Professor Lee and to all his colleagues who have contributed to this achievement. How appreciative, proud and honoured Simon would have been to know that his work is now accessible to a new audience in a new country.

[D] SIMON ROBERTS' *ORDER AND DISPUTE*: ENDURING CONTRIBUTIONS TO LEGAL ANTHROPOLOGY, COMPARATIVE LEGAL STUDIES AND CONTEMPORARY DISPUTE RESOLUTION

MICHAEL PALMER

Simon Roberts' *Order and Dispute: An Introduction to Legal Anthropology* (Roberts 1979; 2013a) endures as a foundational text that fundamentally challenges traditional Western-centric conceptions of law and social order. The book's continuing significance rests on several interconnected contributions that continue to shape legal anthropology, comparative legal studies, and contemporary approaches to dispute resolution. I am delighted that Professor Chulwoo Lee has, with great vision and skill, translated this seminal study into Korean so that Korean readers may also enjoy and benefit from the many important insights that the book has to offer.

Following graduation in 1962, Simon Roberts (hereafter, "Simon") went to southern Africa, spending two years teaching at the law school in what is now Malawi, and subsequently serving as Adviser on Customary Law to the Government of Botswana, during which time he conducted ethnographic fieldwork research among the principal Tswana tribal

groups in Botswana.[1] This direct engagement with a legal culture in southern Africa helped to shape Simon's theoretical approach and gave him a rich empirical foundation for challenging conventional legal theory. As General Editor of the *Modern Law Review* from 1988 to 1995, Simon influenced numerous legal scholars and strengthened the journal's reputation. After he passed away in April 2014, the journal established the Simon Roberts Scholarship in his memory, awarded annually to outstanding research students in legal anthropology, legal ethnography and socio-legal studies.[2] His final book, *A Court in the City: Civil and Commercial Litigation* in London at the Beginning of the 21st Century, applied ethnographic methods to the Mayor's and City of London Court, demonstrating that his anthropological lens could work as powerfully on contemporary English institutions as it had on the Kgatla people decades earlier (Roberts 2013b).

Decentring "law" from formal institutions

Simon contended that legal theory had become too deeply embedded in the formal legal frameworks of Western societies to be of much help in cross-cultural studies of order. By examining societies lacking such formal systems yet maintaining orderly social life, Simon demonstrated to his readers that order emerges not so much from state enforcement but ordinarily through diverse social processes and cultural practices—arrangements that might or might not include official legal institutions, actors, processes and rules.[3] Simon's critique showed comparative legal studies in particular that the reliance of traditional legal analysis on Western institutional arrangements—especially courts of law and their judges—limits the effectiveness of such analysis for cross-cultural study (Roberts

[1] This publication was a major contribution to the project led by Professor A N Allott at SOAS, entitled a *Restatement of African Law*. The project represented a significant scholarly effort to document African customary legal systems during the period of decolonization, though it was not without its critics. Somewhat later, Simon and other scholars raised doubts about whether the restatement approach had been appropriate, pointing out that, as the *Restatement* was largely modelled on Western legal methodology, it failed to capture the processual dynamics and contextual nature of customary law in practice.

[2] In addition, in honour of Simon, the *MLR* Committee published a special issue on alternative dispute resolution and legal pluralism, two core areas of Simon's scholarship.

[3] Simon used the concept of "arrangements" to a significant extent in his writings. It was a choice that reflected his theoretical commitment to refrain from imposing Western categories on other social formations, leaving open what those might be, and suggesting things people have worked out, patterns that exist, without claiming they are necessarily "systems", "structures", or products of conscious design.

1979: 17-29).[4] Simon's work contributed substantially to a fundamental shift in the manner in which social anthropologists and others understood the relationship between law, order and social control. His approach complemented Edward Said's critical observation that among many scholars there was an unfortunate tendency to impose Western frameworks onto non-Western societies (1978; Roberts 1998: 99-100), rather than seeking to understand ordering mechanisms on their own terms.

Simon's early ethnographic observations demonstrated that societies without formal courts employ processes such as avoidance, self-help (including violence, either in ritualized or direct form), negotiation, and mediation, and seek outcomes that prioritize reconciliation and relationship repair over adjudication and its often binary decision-making leading to "win–lose" outcomes (Roberts 1979). Thus, examining the distinctive processes by which Kgatla customary courts handle matrimonial disputes, Simon observed that two crucial features of the judicial process were:

> The involvement of the families of the respective parties and the importance attached to achieving reconciliation or at least a solution acceptable to both sides. Without an understanding of these aspects, the objectives and content of the substantive law are hard to grasp.
>
> One problem encountered in using customary court records as a primary source was that of abstracting principles of general application from the account of an individual dispute. Such principles are not found on the surface of a record, as judgments of Tswana courts seldom contain an express formulation of the abstract rules followed in reaching the decision. General principles have to be reached instead by reading the judgment together with facts related, and assumptions made, by the parties and other speakers in a dispute. To take an example. While many disputes turn upon the question of whether a valid customary marriage has been contracted between two parties, you never find a judgment in which the essential requirements of a valid marriage are expressly stated (Roberts 1972: xi).

Simon's fieldwork, conducted over extended periods and revisited in subsequent work with John Comaroff, provided empirical grounding for his theoretical claims about the diversity of

[4] Similarly, Simon sometimes uses "talking" instead of "negotiation" or "mediation", choosing deliberately ordinary language that does not prejudge what is happening.

ordering mechanisms across human societies (Comaroff & Roberts 1981).

From rules to processes: a paradigm shift

A pivotal contribution of *Order and Dispute* is Simon's analytical shift from studying legal "rules" to examining dispute "processes". This turn in perspective, influenced in particular by the work of anthropologists such as Bronislaw Malinowski (1926), Philip Gulliver (1963; 1973; 1979) and Max Gluckman (1955), marked a significant departure from earlier approaches that had focused primarily on the identification and analysis of rules in small-scale societies. The focus thus moves from "rules" and their application as a way of creating outcomes to analysing various dispute "processes", their use, context and the kinds of outcome to which they lead (see Benda-Beckmann & Turner 2018: 259).[5] Malinowski's pioneering work on Trobriand law (1926) was especially important, Malinowski contending that the Trobriand Islanders possessed a well-developed system of "civil law", driven by the principle of reciprocity. Social order was upheld through an intricate network binding individuals with mutual and interdependent obligations. Other important influences included Isaac Schapera's *Handbook of Tswana Law and Custom* (1955 [1938]) and several of his other works (1940; 1943), Karl Llewellyn and Adamson Hoebel's *The Cheyenne Way* (1941); Gluckman's analysis of judicial processes among the Barotse (1955); Victor Turner's examination of the Ndembu (1957); Paul Bohannan's studies on the Tiv (1957); and Philip Gulliver's studies of the Arusha of northern Tanganyika, and the Ndendeuli of Southern Tanzania in regard to issues of social control and dispute settlement (1963; 1973; 2023 [1971]). Simon characterized these works as "classics", drawing on their ethnographic richness as well as their theoretical insights. He also gave due attention to the work of Richard Abel, Laura

[5] Note also the study by Hart & Sacks, *The Legal Process: Basic Problems in the Making and Application of Law* (1994), work that was well-known in law schools in the United States long before its formal publication because it was circulated in mimeographed form in many law schools as a draft edition in the late 1950s onwards. Like the legal anthropological approach, this parallel processual approach rejected the idea that law is simply a matter of applying pre-existing rules mechanically, emphasized that understanding law requires looking beyond formal rules, recognized that rules alone often do not determine outcomes, and insisted that context matters in understanding how law operates. But it seems to have developed in an independent fashion, primarily as a normative response to legal realism, focusing on how judges and officials should reason within formal legal institutions and which institution (court, legislature, or agency) possesses the appropriate competence to resolve particular problems. Their concept of "process" centred on institutional procedures, reasoned elaboration, and principled decision-making within the American legal system. Thus Hart and Sacks worked within Western institutional assumptions to improve legal reasoning, and their approach was therefore not as innovative as that offered by legal anthropologists such as Simon.

Nader and other writers in the emerging field of socio-legal studies of dispute resolution.[6] Schapera occupied a special place in supporting and encouraging Simon's work at the LSE. Simon acknowledged Schapera's "constant encouragement and expert help" throughout the writing of *Order and Dispute*, and expressed regret that Schapera never wrote his own theoretical treatise on law (Roberts 2013a: "Preface" to the first edition. Simon wrote a moving obituary for Schapera, pointing out that Schapera's work "openly portrayed a group of societies already encapsulated in the colonial world, and so avoided any impression of presenting a pristine culture" (Roberts 2003). Simon's Kgatla fieldwork followed in Schapera's footsteps, examining in particular the distinctive processes by which Kgatla customary courts handle disputes.

Simon's analysis distinguishes between "ordering" (the maintenance of social peace through ongoing social mechanisms) and "disputing" (the specific handling of disagreements when they arise), revealing how disputes are "named, blamed, and claimed" differently across cultures (Roberts 1979; Felstiner,& Ors 1980-1981). His identification of key processes—negotiation (bilateral, face-to-face communication, with the parties sometimes assisted by partisans, sometimes not), mediation (communication facilitated through a third-party channel), talking as emotional de-escalation, alongside social sanctions such as ritual, shaming, or ostracism—provides a framework for understanding dispute management well beyond adversarial litigation and adjudication (Roberts 1979). This processual approach proved highly influential in the subsequent development of legal anthropology. Comaroff and Roberts' later collaborative work, *Rules and Processes: The Cultural Logic of Dispute in an African Context* (1981), further elaborated this framework, demonstrating how the cultural logic of dispute resolution must be understood in relation to broader patterns of social relationships and normative understandings.[7] The emphasis on processes rather

[6] See, for example, Abel (1982a; 1982b) and Nader (1979; 1993).

[7] See, for example, Lee (1998) who utilized Simon's insights for a better understanding of law and dispute resolution in his analysis of international economic law and development issues. Lee's essay applies Simon's legal anthropology framework to show that New International Economic Order (NIEO)—1970s proposals initiated by developing nations (via the United Nations and its G77 states) to restructure the global economy and aimed at reducing dependency on wealthy nations and eliminating post-colonial economic inequalities—operated as flexible discursive resources rather than rigid legal rules. Both developing and developed nations strategically invoked these principles to advance their competing interests—demonstrating Simon's insight that law often functions as a "loosely constructed repertoire" deployed in practice. This perspective revealed international legal principles as functioning as malleable tools in political-economic struggles, especially when formal legal status remains ambiguous.

than rules shifted attention from static normative systems and the imposition of rules to the dynamic, contextualized ways in which people actually manage interpersonal disagreement and maintain social order.

Cultural logic over legal formalism

Simon thus encouraged us to attend to the "cultural logic" underlying dispute resolution, where social, economic, and political factors—not just legal rules—shape outcomes (Roberts 1979). This emphasis on cultural logic represented a significant departure from what Bohannan had termed the danger of imposing "folk systems" from one's own society onto others as analytical frameworks (see also Bohannan 1957: 5).

Simon also argued that understanding dispute processes requires grasping the unexamined, underlying meanings and patterns that give coherence to seemingly diverse practices—what Clifford Geertz described as the interpretative dimension of ethnographic work (Geertz 1973; Roberts 1998: 99-100). In Simon's analysis, the effectiveness of any dispute resolution process is not something that is to be assessed abstractly. Instead, it must be understood in relation to the social bonds, economic dependencies, and political structures within which it operates. Drawing on Georg Simmel's insights into dyadic and triadic social situations, Simon saw an important difference between bilateral decision making and third-party intervention in which the intermediary figure either has the authority to impose an outcome (adjudication) or does not (mediation) (Simmel 1955).

This approach has profound implications for how we understand what "law" is and does. Rather than identifying law with a particular set of institutions or formal rules, Simon's framework encourages us to examine how social order is actually produced and maintained through diverse mechanisms that may not be recognized as "legal" in Western terminology (Roberts 1979). This insight proved foundational for subsequent work in legal pluralism, even as Simon himself later voiced scepticism about some directions in legal pluralism scholarship (Roberts 1998; 2005). In addition, Simon's emphasis on cultural logic shared important affinities with the emerging "law in context" perspective, both rejecting autonomous legal analysis in favour of holistic, embedded understanding. However, while the "law in context" movement in British legal education (prominent from the 1970s

onward) emphasized situating law within social, economic, and political structures, Simon's more anthropological approach added a crucial dimension: the need to grasp the internal cultural logic through which members of a society understood their own dispute processes, rather than imposing external analytical categories.

ADR and the recovery of "alternative" mechanisms

Well beyond its ethnographic value, *Order and Dispute* offers critical tools for understanding contemporary ADR and broader questions about the nature of legal ordering in modern societies (Roberts 2013b). Simon's work encourages reflexive examination of Western legal systems through an anthropological lens, revealing formal adjudication as merely one approach—often neither the most effective nor the most culturally appropriate—to managing "social messes".

The book's insights resonate particularly strongly in understanding the proliferation of ADR mechanisms—mediation, arbitration, restorative justice programmes and so on—that has emerged (or reemerged) in many jurisdictions since the book's initial publication in the late 1970s. Simon's framework helps us understand these not as novel inventions but as recoveries of dispute-resolution logics that have always existed alongside, and often in tension with, formal adjudication. His analysis reveals that the "alternative" in ADR might more accurately be understood as the normative baseline from which state-centred adjudication represents the real departure (see also Sander 1976; Twining 1993).[8]

Simon's subsequent work co-teaching ADR on the University of London Intercollegiate LLM and jointly authoring the text *Dispute Processes: ADR and the Primary Forms of Decision-Making* (2020—now in its third edition), extended these insights by providing a comprehensive analysis of negotiation, mediation, and umpiring as "primary forms" of decision-making (Palmer &

[8] Although not a form of ADR in which Simon took a special interest, this and other insights have been especially salient also in the development of restorative justice approaches, many of which explicitly draw on indigenous and other non-Western dispute resolution traditions (Hankes & Ors, 2012). Contemporary indigenous restorative justice programmes in North America, New Zealand, and elsewhere demonstrate the ongoing vigour of the kinds of ordering mechanisms Simon documented, even as they adapt to modern contexts (Canadian Institute for the Administration of Justice 2016; van Schilfgaarde 2024). As Native American justice practitioners have themselves noted, traditional peace-making processes—bringing together victims, offenders, and their supporters to restore harmony and balance—long preceded the Western "rediscovery" of restorative approaches (Yazzie 1998; Zion 1999).

Roberts 1998; 2020; Roberts & Palmer 2005). This work was greatly encouraged by William Twining (Palmer & Roberts 2020: "Acknowledgments"), and also benefitted very significantly from the work and insights of Marian Roberts, drawn from her practical experience of mediation-based dispute handling, especially in family matters (see, for example, M Roberts 2014). The text demonstrates several key points, including: first, how early anthropological insights about dispute processes in non-Western societies usefully illuminate contemporary debates about civil justice reform across diverse jurisdictions; and, secondly, how empowering disputants to handle better their disagreements represents an important value.

Legal pluralism and multicultural societies

Roberts' emphasis on the "cultural logic" of dispute resolution also remains vital for understanding legal pluralism in multicultural societies and postcolonial contexts (Twining 2010). His insistence that we look beyond formal rules to the social, economic, and political factors shaping dispute outcomes provides analytical tools for examining how different normative orders coexist, conflict, and negotiate accommodation within single jurisdictions (Tamanaha 2008).

This is particularly important in contexts where state legal systems interact with indigenous, customary, or religious legal orders. More recent scholarship on indigenous justice systems, conflicts over resource rights, and the role of customary law in postcolonial states (Benda-Beckmann & Benda-Beckmann 2006; Gebeye 2017) builds directly on the analytical framework Simon established. His work helps us understand that what appears as "legal pluralism" from a state-centric perspective may be better understood as the normal condition of social ordering, in which multiple normative systems and dispute resolution mechanisms coexist and interact (Merry 1988).

However, as noted above, Simon himself later expressed reservations about the direction of legal pluralism scholarship, particularly what he saw as an "enlargement of the legal domain" that risks imposing a specifically "legal" framework onto social phenomena that participants might not themselves recognize as law (Roberts 1998: 95-106).[9] This sceptical stance reflects Simon's consistent concern that

[9] See also his essay in which Simon urges caution in extending legal discourse to negotiated orders at local or global levels while they remain significantly different from state-level legal orders (Roberts 2005).

analytical categories should emerge from careful ethnographic attention to how people actually understand and manage social order, rather than from theoretical commitments imposed from outside (see also Tamanaha 2021: 167).

State authority and community-based governance

In an era of growing scepticism about state institutions and increasing interest in community-based governance, Simon's demonstration that order can be maintained without centralized enforcement mechanisms speaks directly to contemporary debates about the scope and limits of state authority (Roberts 2005). His work reminds us that the state's claim to monopolize legitimate dispute resolution is historically contingent and culturally specific, neither universal nor inevitable.

The contemporary relevance of Simon's work extends beyond specific institutional reforms to fundamental questions about how we conceptualize justice, authority, and social order. As legal anthropologists Keebet von Benda-Beckmann and Bertram Turner have argued, Simon's processual approach helps us see that the significance of law derives from its use in social, economic, and political life in general, and not just from the resolution of disputes (2018: 264). This broadened perspective remains essential for understanding how people actually navigate normative complexity in contemporary societies.

Methodological contributions

Finally, Simon's work offers enduring methodological lessons for comparative legal studies. His ethnographic approach—combining extended fieldwork, careful attention to actors' own understandings, and sophisticated theoretical reflection—set a standard for subsequent legal anthropology and remains a model for empirical comparative legal studies (Good 2018; Palmer 2024: 132-134).

The book's accessibility to both specialists and general readers, confirmed by its inclusion in the Classics of Law and Society series and its 2013 second edition with new foreword and afterword by Simon (Roberts 2013a), ensures its continued use in bridging legal theory, anthropology and comparative legal studies. It remains essential reading for anyone seeking to understand the diverse institutional arrangements through which human communities maintain social order across vastly different cultural and political contexts.

Conclusion

Order and Dispute endures because it asks fundamental questions about how humans create and maintain social order, and it refuses easy answers rooted in Western institutional assumptions. Simon's work in legal anthropology demonstrates that order can arise from decentralized mechanisms like kinship, reciprocity, and reputation rather than centralized authority. He reframed dispute resolution as a continuum of processes, repositioning "alternative" methods like mediation and negotiation as primary. Simon highlighted the influence of economic and political organization on the handling of disputes, critiqued the focus on doctrinal clarity in reforms, and argued that rules often function primarily as rhetorical tools. He questioned hierarchical governance, advocated for justice systems beyond the ruler/ruled model, and emphasized the social functions of public dispute processes. Simon was also a strong supporter of the idea that legal pluralism is the norm, not uniformity, and that non-use of formal systems often reflects rational choice. His work remains foundational for understanding law, justice, and dispute resolution in diverse contexts.

About the authors

Chulwoo Lee *was born in Seoul in 1961 and received his LLB and LLM from Seoul National University. After earning an LLM from Georgetown University Law Center and a PhD from the LSE, he held faculty positions at Hankuk University of Foreign Studies and Sungkyunkwan University before joining the faculty of Yonsei University Law School, where he remained for twenty years until his retirement in August 2026. He also served as the Garvey Schubert Barer Visiting Professor of Asian Law at the University of Washington School of Law. See his* profile page *for further details.*

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Marian Roberts *has been in continuous practice as a family mediator at the South East London Family Mediation Bureau since 1982, specializing in high-conflict disputes over children, and is trained in the direct consultation of children and young persons. Qualified as a social worker and as a barrister, she is accredited by the Legal Aid Agency, the Family Mediation Council and the College of Mediators, of which she is a Fellow. She has contributed to the wider development of mediation in England and Wales, including the first national training programme for family mediators*

under National Family Mediation, the professional regulatory framework for family mediators, and mediation initiatives in public law (specialist child-care mediation) and child abduction, having been a member of the European Network of Cross-Border Mediators. She has taught on the ADR Law Masters programmes at both the LSE and the School of Oriental and African Studies (SOAS). Her books include Mediation in Family Disputes: Principles of Practice *(5th edn forthcoming),* Family Mediation: Contemporary Issues *(co-edited with Maria Federica Moscati, 2020),* Comparative Dispute Resolution *(co-edited with Maria Federica Moscati & Michael Palmer, 2020),* A–Z of Mediation *(2014),* Developing the Craft of Mediation: Reflections on Theory and Practice *(2007) and, with Gwynn Davis,* Access to Agreement *(1988). She was married for many years to Simon Roberts.*

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