

Pound called for the development of popular forums to hear and settle small disputes. Over time these courts became the small-claims courts we know today. Here neighbors, friends, lovers, spouses, former spouses, parents and children, siblings, and small businessmen and their clients can gain access to state-recognized legal solutions for disputes and quarrels. Later, in the 1970s and 1980s, a new wave of mostly law-inspired legal forums were developed to mediate the same kinds of disputes. While small-claims courts are staffed by lawyer-judges who have graduated from three years of study at accredited law schools and passed the state bar exam, most mediators are not lawyers. They are lay persons, trained in mediation skills for approximately 45 hours over several weekends. Mediators are often unable either to recognize legal issues in dispute or to discriminate between substantiated evidence and fanciful storytelling. Nor can they apply legal rules or even legal maxims in seeking a solution. What they do is concentrate on the relationship between the disputants. Their training teaches them to get disputants to articulate problems and to rank their preferred outcomes. These are then matched against their opponent's preferential list. Through joint discussions with disputants and private side discussions with individual parties, mediators try to get disputants to accept the best possible joint outcome for themselves. If they agree, the result is solemnized in a signed and witnessed agreement.

Those who introduced mediation into the lower court system had two goals: to free the legal system to hear more momentous problems where great sums of money and great legal issues are debated, and to provide compromise rather than zero-sum outcomes for everyday disputes.

Sally Merry's intellectually compelling argument concerns plaintiffs' critiques of the legal forums they are offered. It is the first full-scale account of litigants' and judges attitudes toward the disputes and issues that—occurring in small-claims and criminal courts—are referred to mediation centers. Through cases, verbatim statements, linguistic sequences, and reflective passages, Merry explains what litigants hoped to gain from using courts and mediation, that most are disappointed with their experiences with the law, and that others have yet to recognize and define the problems in their social relationships or will not accept their present deteriorating status. Some plaintiffs hoped the law could restore the past, while others had yet to define what they hoped to achieve through opening a lawsuit. What all these working-class plaintiffs and defendants shared is a common discontent with the solutions arrived at. Discontent is also expressed by at least one judge, who said that the trial courts are asked to deal with social problems but that judges are trained to convert social problems into legal problems in order to solve them through law (p. 107).

Mediated cases are distinguished by the language in which judges approach them: through legal, moral, or therapeutic discourse (pp. 111–114). This results in framing and interpreting issues differently and hence produces a different outcome (p. 130).

The final chapter, the "Paradox of Legal Entitlement," develops Merry's theory of working-class

resistance to the court. Judges often are reluctant to send defendants to jail and so recast the issues in social and moral terms. Lay plaintiffs' definitions of the legal frequently differ from the judges' and the lawyers' definitions, and what lay plaintiffs want neither the court nor mediation can give. However, expectations continue to run high, and plaintiffs struggle to keep their definitions of the "legal issues" in the forefront and to assert their claims for protection of what they (in their lay perceptions of the law) think are "their rights," despite some judges' attempts to tell them what the law can and cannot do for them. Another paradox of going to court is that the plaintiff gains freedom from neighborhood and community control at the expense of inviting impersonal state officials to examine personal problems, to shape and name them, and to suggest a solution (p. 181).

Thus, the American legal system over the past century has become more open and accessible to those with everyday disputes, although it has not yet found the "right formula" to send away contented clients. The rationality, formality, and ceremony of the law can neither cure these litigants' social ills nor offer them healing rituals that ease the social pain of anger, separation, hatred, and loss of love. Perhaps what litigants really want is bread and circuses, mysticism, transformative visions, and the illusion of happy endings.

This richly textured, authoritative book is equally appropriate for undergraduate and graduate students. It should find a wide audience among anthropologists, sociologists, undergraduate legal students, scholars of urban studies, and the new mediation/conflict resolution professionals.

**Auctions: The Social Construction of Value.** CHARLES W. SMITH. New York and London: Free Press, 1989. xii + 225 pp., appendix, notes, bibliography, index. \$24.95 (cloth).

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Charles W. Smith provides an insightful account of a variety of auctions that are currently practiced in the United States. The book is significant on at least three different levels: (1) it provides a fascinating ethnography of a unique economic institution which has rarely been the subject of serious social analysis; (2) it offers a convincing sociological critique of a neoclassical model of the auction economy; and (3) it contributes to a growing body of literature on the "social life of things," and, in particular, it documents the transformation of the meaning/value of objects as they are moved through the auction process from one category of signification to another.

The need for an auction arises when there is a high degree of uncertainty regarding the inherent value or legitimate ownership of a particular object or an entire class of items. The auction resolves such ambiguities by making social the very process by which value and ownership are established. Smith identifies three types of auctions which are differentiated according to the items being sold. The first kind of auction, known as "commodity-ex-

change," is primarily associated with the sale of perishable goods such as fish, flowers, and tobacco. Because price limits are set by the constraints of a secondary market, this type of auction functions mostly as a means of allocation rather than pricing (which is always collective and usually established before the auction even begins). The second type of auction, referred to as "collectible-dealer," is associated with such diverse sales as antiques, oriental rugs, race horses, and publication rights. Because many of these commodities are not intended for immediate resale, the price is not restricted by the capacity of a secondary market. Through consensual evaluation by a community of buyers, these auctions serve to determine the price of an item whose exact value is not known. The third category of auction, which the author calls the "one-of-a-kind-sale," can often overlap with the previous auction type. These are the auctions with which the public are most familiar: the multimillion dollar sale of a masterpiece painted by Van Gogh, a colt sired by Secretariat, or a psychedelic Rolls Royce once driven by John Lennon. The amount paid for these items has nothing to do with the actual market value of the objects themselves. In these cases, price is determined by a small number of buyers who are competing for very personal reasons for the right to ownership.

The book can also be read as a critique of a neo-classical model of the auction economy. According to microeconomic theory, an auction is an ideal example of rational economic behavior. It is a socially uncontaminated mechanism for matching the individual preferences of buyers and sellers. Smith counters the formal economic model by arguing that the analysis of auctions must also take into account the noneconomic (irrational) interests of buyers and sellers, the social relationships among participants, and the social traditions and norms which govern the auction process. Rather than *reveal* market forces and constraints, the author takes the view that auctions actually *generate* these same forces and constraints within a determining social milieu.

The auction is portrayed as a complex social process which is embedded in layers of community ritual. It is a rite of passage which serves to establish the social identity of objects. It is a symbolically bracketed forum where unacceptable social behavior (that is, the confrontational, irrational, and self-

centered actions of buyers) is temporarily sanctioned within the auction context. Appropriate clothes mark the boundaries of legitimate auction participants. The cowboy hat and boots, for example, worn by the organizer of a cattle auction helps authenticate the auction process itself. Even the auction chant is reminiscent of the performative style of magical words. Instead of establishing price (since it is often unintelligible speech), the chant functions to orchestrate the auction rhythm and introduce form and structure where uncertainty is otherwise prevalent.

Finally, the book can be read as an important addition to understanding what Igor Kopytoff has called the cultural biography of things. Objects are "reborn" during auctions. They acquire new values, new owners, and often new definitions. Sometimes objects even acquire a new history or pedigree of ownership which becomes an integral part of its social value. The transformation of objects is discussed in several auction contexts. In ancient Rome, auctions were held to distribute the booty brought by soldiers returning from war. Objects of questionable provenance were transformed from alien into native goods. In the block auctions of slaves, which were once practiced in the American South, the central concern was not to establish a fair price or even proper allocation, but rather to validate publicly the new social identity of slaves—marking the passage from freedom to servitude. When an African statue sells in New York at Sotheby's for more than its apparent economic value it is transformed from artifact into art, from "fetish" into masterpiece, from a ritual item into a valuable social object.

*Auctions* is a fascinating book not only for what it contributes to social theory, but also for what it tells us about the role of auctions in our everyday world. Even if one has never attended an auction, one's life is touched constantly by the outcome of an auction sale: an auction regulates the daily price and variety of fish at our local grocer; an auction influences what art objects can afford to hang in the galleries of our museums; an auction determines which manuscripts will be read as novels and which novels will be seen as films.

For all the reasons suggested above, I would highly recommend this book to anyone involved in the study of economic anthropology, the sociology of commodities, or the ethnography of capitalism.