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### CHAPTER THREE

## TECHNOLOGICAL MEDIATION AND THE EMERGENCE OF TRANSNATIONAL MUSLIM PUBLICS\*

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Contemporary Islam is swept up in transformations that move discourse conventionally bound to institutions into more open "publics," alter the balance of topics and emphases of public talk, and forge new alliances for cultural production, all the while attempting to exploit, expand, or renew ideas and discussion about what "being Muslim" now entails. These moves involve all media from down-market cheap print and cassette tapes to the mass market of satellite television and the increasingly transnational hypermarket of the Internet. These new media bring messages into the forums of mosque, *madrasa*, and other sites of conventionalized discourse of and about religion that range from religious courts to the more informal settings of lesson circles and others characterized by "lay" hosting. On the Internet, particularly, they range from "chat" groups, to old-line religious schools' posting scholarly texts, to a mushrooming of sites dedicated to women asking for and discussing religious guidance. In these contexts, mediated messages and channels complement, displace, and expand discourse of and about Islam, much as the arrival of print a century ago facilitated new people and ideas moving into the public sphere of Islam. Then as now, religious renewal movements, the rise of religious parties, increasing levels of literacy, and new modes of consumption facilitated by rising mass education are leading to a technological reshaping of the political economy of meaning. Both technologically and sociologically, the Internet represents a similar leading edge: it includes

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features of other media and forges a new public sphere through its capacity for potentially infinite linkages, notably within diaspora populations but today also with a growing "native" audience, reshaping public priorities, interests, capacities, and practices deemed Islamic. As the print revolution fostered new classes, styles, and sites of Islamic interpretation complementing the 'ulama-based ones of mosque and *madrasa*, the Internet provides a similar site and body of technical practice in the contemporary public spheres of the Muslim majority world. The aim of this chapter is to tie the emergence of new Muslim publics to particular forms of media.

#### *Mediated Communication and the Public Sphere*

Connections between media and the public sphere are widely assumed to be pervasive and profound, but the generalizability of models linking them is problematic. The basis of modern media studies is the general theory of communication first articulated by Claude Shannon (Shannon and Weaver 1949), who drew on new theories of information as the reduction of uncertainty to conceptualize communication in terms of improving choices (Rogers 1994). This had the effect of focusing on the enhancement of individual decision making or agency by receivers of messages, and in time converged with the development among European theorists of more reflexive "reader-response" theories (Holub 1992) concerned with "completion" of messages in reading or their use as structural features of input loops. Such views applied particularly to mass media, with their structure of few senders and many receivers, and focused on analyzing the responsibility of recipients of messages, in both critical-deconstructive (European) and pragmatic-applied (American) perspectives on media. Manipulation, conscious or unconscious, critical or not, by but above all of receivers, is central in such perspectives.

Such narrowing of focus to receivers' agency and of its scope to effects on their choices, even in resistance and reflection, is sociologically weak. It discounts the material base and social fields of media and of communication generally, and treats the nodes in systems of communication as black boxes. More comprehensive interpretive approaches can open up the black boxes by providing fuller accounts of senders and receivers. Even these, however, can still fall short of accounting for the social life of media to the extent that they

focus on messages in a unified fashion. Thus, an unreflective emphasis on "impacts" and global measures deflects attention from the social organization of communication and techniques of media (Anderson 2000). It also leaves aside accounts of the wider social settings that are the context of mediated communication, except to assume that they are modern. Where media actually "fit" is only thinly described, implicitly modeled on the mass media and generalized from their modern form (e.g., Lerner 1958), thereby limiting sociological analysis to the assembling of audiences and to identifying the public sphere with a consensus of opinion or market share.

In contrast to these approaches, the perspectives of Jürgen Habermas (1962) and Benedict Anderson (1990) start instead from the mechanisms of communication in the public sphere. Each places media in crucial, even causal, relation to the emergence of bourgeois public spheres, although neither is specifically focused on the media per se. Both focus more on the content of messages, although for some critics their approach is still insufficiently attentive to gender, class, and non-European experience. In particular, they draw attention to the social contours of media as the practical composition of the public sphere. Each locates the process in the social dynamics of the onset of modernity rather than in the later or "high" modernity of mass industrial society that is the focus of most media studies theory.

For Habermas, the public sphere has prototypical sites where relatively unrestricted communication flourishes and becomes established as a normative alternative, such as the salons and coffee houses of early modern European cities. In these locations, diverse people gather outside the restricted spheres of private domesticity and the public sphere of ritual communicative acts that enact privilege and justify status. Instead, relatively unencumbered by responsibilities for ritual representation, speakers' words and utterances must convey their own responsibility without the crutch of the speaker's status. Habermas's various elaborations of this view (most systematically in Habermas 1989 [1980]) have been roundly criticized for, among other things, disregarding gender distinctions, the implicit privileging of the bourgeois over other social classes, and equating "rationality" with "freedom" and even more narrowly with modernity (for example, see Calhoun 1992, Benhabib 1992, Fraser 1992). From an anthropological perspective, in which communication is seen as a socially organized process, the value in Habermas's analysis is less in identifying a public sphere of opinion, which is still problematic, than in identifying a

more pragmatic sphere of communication relatively free from demands of status representation, particularly representation of authority (royal or ecclesiastical). Semiprivate but quasi-public in its original type-sites, Habermas's bourgeois public sphere emerges structurally over time. It develops from an intermediate site between the private and the public into an arena of debate within a limited public identified with appropriate communicative skills, and finally as a generalized social space with a new and evolving kind of authority that is not fundamentally dependent on status and ritual responsibilities.

Another virtue of Habermas's view is that it is developmental, which makes it useful in contexts beyond the unfolding of early European modernity in which he set it, and which is obscured by retrospective views of the public sphere from within its later settings, which Habermas himself came to view with suspicion as a late bourgeois counterpart to earlier royal and ecclesiastical spectacle. The public sphere unfolds through practices that in time set their own generalized context. Although concentrating on responsibility to the exclusion of other issues, his concept of a bourgeois (as opposed to a royal or ecclesiastical) public sphere usefully calls attention to the relocation of responsibility in alternative sites of communication, and thus to its dispersal or—from the point of view of existing authorities—its dilution. A more serious limitation lies in its flattened view of communication that limits it to denotative rationality (Habermas 1989: 77ff.) that ultimately becomes a type of ritual, which was his point of departure.

Benedict Anderson compensates for this shortcoming in Habermas's theory by locating the origin of a public sphere earlier in creolization. Anderson's (1990) approach, like that of Habermas, is situational and dialectical but more strongly tied to an experiential and material base in an alternative sense of community (of dynastic states or religious identity) that became attached to shared linguistic practice in the earliest period of European expansion in Latin America and Southeast Asia. There, Anderson identified a new sense of community—of a “public” in Habermas's terms—in the experience of “creole journeys” on the margins of empire that found expression in the form and medium of “print capitalism.” Anderson focused on how shared ideas of ethnolinguistic community emerged as seemingly “natural” with no experiential basis other than common language and a growing sense of “reading together” in a shared time-out-of-time.

His notion of creoles lacks a full linguist's sense that they are not so much mixed languages as intermediate speech communities; but it is sensitive to how language expresses identity and feeling beyond referential meaning, and to media. Central to his whole theory is the emergence of print capitalism—with forms and genres of writing from newspapers to novels to standardized “national” languages—as magnifying and focusing the experiences, practices, and techniques of creole journeys. The public sphere for Benedict Anderson—although he does not use the term, preferring instead to speak of “imagined community”—is thus a mediated one conveyed by and exemplified in media that separate messages from senders into a separate marketplace of and for ideas and alternative ways of expressing them.

Our interest is in the generalizable features of the close identifications of emerging public spheres with changing practices of communication and institutions of new *mēdia*. Public spheres develop out of practices of communication that become instantiated in media, which in turn have careers that leave their own origins and originators of messages behind. State and market are part of this context, evolving with it and, as Anderson noted, beyond it to the point that they seem natural. The Muslim world today is experiencing something similar to Anderson's creole journeys in seeking to extend the margins of what being Muslim can mean in the modern world, and something similar to the structural transformation of the public sphere that Habermas identified with the emergence of bourgeois consciousness as its frame. We would insist that this is a contingent and ongoing process that has to be placed in historical context to avoid anachronism. Key features of this development include the emergence of intermediate social-communicative spaces with media as their tools and expressions. These public spheres are mediatized in ways not predicted by models derived from mass media of mature modernity, but are similar to earlier print revolutions. We suggest the utility of directing attention to the relatively neglected material base and practical techniques of media and to the social milieu in which they become new resources or factors of production that help project communicative practices aligned with new—often but not always emergent—social strata. Social milieu, material bases, forms of communication, techniques of media, intermediate social spaces, and wider bodies of practice compose this public sphere and its habitus in the actions of individuals drawn to it.

*The Media Ecology of Islam Today*

The leading-edge communication technology in the Muslim world today is arguably the Internet. Less popular or less widely utilized than television, or even print, structurally it includes their features of multiple channels and thus of choice, to which it adds its own hypermedia of potentially infinite links. The ease of creating such links blurs distinctions between cultural production and consumption, and at a very low cost opens production as much as consumption to new participants and to deeper participation in cultural production through more interactive engagements than mass media provide. Early theorists of the social impact of the networked computing model in the Internet (for example, Pool 1990) put this as convergences of information streams, user control that reverses the mass media revolution, and the “death of distance” including social distance (see also Cairncross 1997). To the mass media world of few senders and many receivers, the Internet counterposes a many-to-many model of communications, interactivity, and an underlying mode of production more comparable to the early days of print than to the later days of broadcasting.

The Internet in the Muslim world likewise has a trajectory more like that of the print revolution than like broadcasting, which everywhere in the Muslim world was until recently a state monopoly and closely tied to the centralizing, nation-building states of the independence period of the mid-twentieth century. Widespread use of print came relatively late to the Muslim world in comparison to Europe and as a late-stage accompaniment to industrialization, urban growth, and modernization in the era of colonial domination. Print brought newspapers in a relatively developed form—not as shipping news, from which they originated, but as political news and commentary into which they developed under nineteenth-century “official” nationalism. Mechanical printing stimulated book publishing, including Islamic publishing, and the new voices that came, like newspapers, with projects to inform and to express sensibilities attendant upon or stimulated by challenges of modernization under the conditions of imperialism. Among their innovations was Islamic publishing in the vernacular and for what were no longer conceived as classically trained audiences (see Gonzalez-Quijano 1991).

In this new creole space, intermediate between classic and vernacular discourse and between secular rulers and the masses, the exemplary,

defining figure might be Muḥammad Rashīd Riḍā (1865–1935). Riḍā was the scion of Syrian village notables; he obtained both a religious and modern education and became a journalist in Cairo in the 1890s (Cole 1983). In a city of 168 periodicals and newspapers, he founded a religious journal with the aim of linking orthodox Sunni jurisprudence to journalism in order to “guide the faithful in the ways of progress and civilization” (Hamzah 2002). Hamzah describes his expository technique as a “discrete” and “discontinuous” journalistic style that Riḍā applied to writing about religion, in contrast to the intensely intertextual style of the ‘ulama, a style that requires their professional guidance to read. Although the content of his writings is about Islam, his style is not the rigorous demonstrative one of jurisprudential categories or of religious rulings (fatwa) but the “omniscient and omnipresent” style of writing in science or medicine (Hamzah 2002). Articles were in turn to be assembled into books, previously the domain of the ‘ulama, whom Riḍā invited to join him in his mission to free Muslim lands and institute a viable political system compliant with both Muslim identity and modern conditions. Hamzah points out that Riḍā’s approach also involved a knowledge of market conditions and required a determination to shape the public sphere through both commentary and public debate.

The result was thoroughly the product of a creole journey tied to an emerging public sphere, which Riḍā conceptualized as the “common good” (*al-maṣlaḥa al-‘amma*) that was forged partly through the new print media of his day and that found its way to India, repeated across the range of Muslim responses to British imperialism from Deobandi revivalists to Aligarh integrationists (Metcalf 1982). In this context, Riḍā is an intermediate figure, who collaborated with Muḥammad ‘Abduh, a key leader of the Salafī renewal movement among nineteenth-century ‘ulama, and influenced the Muslim Brotherhood, founded in 1928, that came to define political Islamic activism in the twentieth century.

Riḍā’s efforts and the contexts they addressed help identify the material bases and social fields of a mediatized public sphere. The contexts include rising levels of education, but more mixed forms of education than the classical disciplines imparted in *madrasa* are implied by the alternative style of writing about Islam that aims to persuade on its own rather than by adherence to demonstrative conventions. Riḍā represents more than an alternative voice using a new medium. New vehicles of communication, from mechanical printing itself to

the newspapers and the book trade (Gonzalez-Quijano 1991), were profoundly modifying the shape of the intellectual field as a mode of production, as well. Riḍā's activities were part of the diversification of discourse of and about Islam initiated in the religious-intellectual field through a new medium (journalism) tied to a material base (mechanical printing) in a social context of rapid urban growth in a colonial economy that, more than fully formed institutions, was the setting of creole journeys like his that made the links.

Today, a similar pattern is playing out with the advent of digital technologies. Arabic word processing first appeared in the mid-1980s, which facilitated a recreation of Arabic newspapers to reach a worldwide readership through the Internet. These range from the explicitly transnational *al-Sharq al-Awsat*, published in London since 1978, to the conversion of the Lebanon-based *al-Ḥayāt*, to a fully computerized editorial process after 1987 (Gonzalez-Quijano 2003). Nearly every major Arabic-language newspaper now has an on-line edition, and hundreds of Arabic publications are available on the Internet: some six hundred are linked on a site, [www.mafhoum.com](http://www.mafhoum.com), maintained by a Syrian computer technologist in Paris. Preceding and surrounding this development is a burgeoning of publishing activity in venues small and large that include local and regional papers (Eickelman and Anderson 1997) and a new genre of modern "Islamic books" that address contemporary topics and are written in the vernacular (Gonzalez-Quijano 1998), all facilitated by the spread of personal computers and Arabic-language software.

The context of all this activity includes other media technologies. Since the 1970s and the period leading up to the Iranian revolution, sermons have circulated on audiocassette tapes, which are widely available in audio shops alongside popular music and oral performances of folklore. Religious shaykhs now routinely appear on television dispensing fatwas to callers, engage in question-and-answer exchanges with moderators, and offer formal televised lessons and Friday sermons, later sold on video tapes or even CD-ROM. These various media share a common body of technique and patterns of consumption as well as the technology. Religious texts and teaching materials, particularly for children, are widely produced by software companies, which often acquire the content from others and then "program" it much as they do calculus lessons or large text databases of secular material from parliamentary proceedings and government regulations to business guides and the archives of newspapers, such as currently

on offer from *al-Ḥayāt*. These new media combine production values and intellectual techniques shared with contemporary products of popular culture and what Starrett (1996: 11) has called a "functionalist" approach to education as training that imparts syncretic and highly creolized qualities to the Islamic discourse that migrates to these media. In turn, consumption of that discourse is set not only in well-established religious practices but also in the habits developed around commercial popular culture (see Hirschkind 2001).

This migration is importantly a function of another wave of people who join the new technology and contemporary Muslim discourse in the intermediate public space that their activities are forming. These activities range from conscious efforts like Riḍā's to open Islamic discourse to wider audiences through alternate discursive forms, broadening its authority, to the forging of new links and practical alliances not based on ideological motives but in the practices of organizing and delivering media on a market basis. These new links and alliances unfold in contexts where computer use and Internet growth are hemmed in by costs and limited infrastructure that initially shape the social field. Although the extension of Islam's emerging public sphere to the Internet is in its infancy, the Internet's "horizontal" format, in which peers comment on one another's ideas and arguments, especially among the rising generation, bypasses the more "vertical" hierarchies of authority and creates a public beyond earlier, established religious authorities.

Like the earlier print revolution, the Internet today involves a material base and social field that is already transnational. This includes the Internet itself, but also a recentring of the worldwide Muslim diaspora in a transnational sphere associated with middle classes, professional educations, and the global diffusion of an emerging industrial regime centered on practices of what are called "knowledge industries" (e.g., Pool 1990) or, more prosaically, on the service sectors that make it work and to a considerable extent are its work. Their roles and influence are both functional and expressive. Beginning in the 1980s, these middle classes acquired the skills and access to the technology before the national governments and ruling elites in Muslim countries from Malaysia to Morocco came (in the later 1990s) to see the Internet's potential role as a development tool and as a potential development sector in itself (Anderson 1997). They were not only drawn to the Internet professionally, however, but also early claimed a place for Islam in it.

*A Tri-Phased History of Islamic Media*

At the time that the Internet itself was being formed in the 1980s, students who went from Muslim countries to leading Western universities and research institutes that were developing it soon followed the example of their colleagues by bringing avocational interests into what began as an engineers' work tool (Anderson 1998). In pious acts of witness, they scanned and placed on line texts of the Holy Qur'ān and *ḥadīth* of the Prophet. These students and a penumbra of émigré and other diaspora Muslims who joined them on line engaged in often fierce discussions of how to apply Muslim rules and interpretations to conditions of modern life—particularly modern life in non-Muslim-majority societies that lacked many familiar reference points, extended family life, and public institutions. Their discussions were often focused on conditions of diaspora life in Western societies, international affairs, and practical issues such as how to find a mosque or a *ḥalāl* butcher, cheap flights home, or matrimonial services that betoken continuing links.

These discussions were characterized by an absence of contributions from 'ulama, and they did not show much training in religious hermeneutics. Used to the methods of the physical sciences, contributors to these discussions had a habit of sanctioning interpretation by quick recourse to texts treated analytically as sources to be reasoned about objectively (Anderson 2003), much as Eickelman (1992) has described with the spread of modern education in Muslim countries themselves. This gave early on-line discussion of Islam a widely ranging character that, as much as the medium, attracted the attention of more conventional spokespersons of official Islams and of oppositional or militant voices as the Internet became more public with the advent of the World Wide Web in the early 1990s (Fandy 1999, Mandaville 2001, Sreberny 2002). Citing needs to present interpretations and views of Islam that they define as "correct," Muslim governments and oppositional movements or parties began establishing publication-like websites that purvey more institutional views of religious establishments and of oppositions to them. Some classic *da'wa* organizations brought their conventional apologetics on-line in a context of free-for-all *ijtihād* (see Bunt 2000). Most were also located in the Muslim world's émigrés to Europe and North America, where Internet expertise and infrastructure were available and were also being tapped by Arab media conglomerates that were likewise establishing initial presences in cyber-

space (Anderson 1997). Generally, these second-round Web sites were static, often directly transposed from other media, and preserved their formats and the diction of formal, official pronouncements.

This second phase is giving way to a more modulated one, orthodox in theology and mainstream in interpretation but more dynamically attuned to developing an audience or public on line. This phase takes technological advantage of the development of the World Wide Web to provide more interactive content and sociological advantage of the Internet's demographics to reach a transnational population of middle-class professionals. Their habits of work and often of leisure bring them on line for news and information that they extend to finding an Islam that is expressively and in its focus attuned to their interests, problems, resources, and practices of information seeking. These sites use the latest Web techniques of instant polling, searchable databases, on-the-fly formatting of results, and email queries to engage a base of users and build sites that respond to their interests and grow with them. This may include databases of fatwas and also of advice of a more social and psychological sort, material for religious instruction of children as well as formal sermons, news with a Muslim interest and other kinds of religious commentary on current issues. The format is shared with portals that organize and provide links to other sites and with newspapers whose on-line editions adopt continuously changing content, searchable databases, other query features, and user-modifiable interfaces that invite interaction of users with a website. Indeed, the style is indistinguishable from that toward which news, and newspaper, sites have evolved, exemplified in the completely on-line multilingual news portal, Albawaba.com, produced in Jordan.

These sites are distinguished by the ideological profiles they project and their practical profiles. An example is the website of Shaykh Hussein Faḍlallāh, the spiritual authority of Hizbullah, in Lebanon, which has replaced Hizbullah's own earlier static collection of pronouncements and position papers with a growing collection of the shaykh's fatwas, sermons, and links to extensive Shī'a websites in Iran that provide access to libraries of digitized religious documents, including those produced by 'ulama. From the Sunni world, the website of Islamonline.net features perhaps the currently most famous Sunni preacher, Shaykh Yūsuf al-Qarādawī, and a cohort of other "young Azharis" (Zeghal 1999) who contribute sermons, fatwas, social and psychological advice, lessons, and commentary that is modern in expression, orthodox in theology, and middle-of-the-road in interpretation.



This fully bilingual site is produced in Arabic and English versions by a company in Qatar that also designed and maintains the website for al-Jazeera Satellite Television. Its content is produced in Cairo, where Shaykh Yūsuf and his colleagues are based near al-Azhar University. Others range from strict Salafī and Wahhābī to Sufi “outreach,” and from Iran’s religious universities to hybrid organizations of local and national Muslim organizations in Western countries. Whatever their ideology, their styles are modern, engaging, and oriented to pious middle-class professionals who seek an Islam that is orthodox and accessible and that addresses how to lead a Muslim life in a modern society, whether Muslim-majority or where Muslims are a minority and immigrants.

These phases are not mutually exclusive. The first phase is characterized by technological adepts in diasporic settings who reached out through the Internet for a shared Muslim community, which they primarily found with each other. They were tied not only by the Internet but also to the world of universities and research centers that produced it and housed them and provided their skills and social base. This is a contemporary diaspora population that in addition to students includes professionals pursuing careers in adopted countries as well as exiles and other émigrés. They place online an Islam of textual objects and intellectual techniques rooted more in professional milieus into which they have been tracked from early schooling than in the hermeneutics that is the forte of ‘ulama training and interpretation that requires them.

A second phase was dominated by content providers who restored interpretive contexts that surround the texts, and hence claims to interpretive privilege, both in traditional and in political Islams. Here, technological prowess took a back seat or was purchased, often from outsiders with additional media skills lacking among the technological adepts of the initial phase. Formal and formulaic expression returned, often in the conventional apologetics of *da‘wa*, or missionary (literally, call) organizations, but primarily in English, the lingua franca of the Internet—it was in but not of the diaspora. A third phase presents a coming together of content providers and programmers in a transnational population of Arabic speakers, Muslims, and modern professionals including modern shaykhs, who are at home with the Internet, with which many of them work and which some of them are building. What they are building is a transnational composite of business practices and religious outreach, both of which are mobile and can

be produced from multiple locations, just as the Internet is consumed in multiple locations. Indeed, these initiatives open alternatives in cyberspace that may not be available locally and which produce a new “deterritorialized” Islam specific to the Internet (Roy 2002).

The result is not an interest-group Islam, for it lacks the sharp edges and singular focus distinctive to special interest groups and their activism. It is multidimensional, user-oriented, modulated to the settings and concerns of professionals, and set within the concerns of pious middle classes. It implicitly mobilizes Muslim traditions of choice in seeking guidance by providing more rather than less information through the linking capabilities of the World Wide Web’s technology, which is not only hyper-linked but also increasingly interactive. Above all, this is a social field of people on the move or potentially ready and able to move. Through cyberspace they find organized expressions of Islam and communities that are unavailable closer to home. In this respect, they mirror the model of the creole journey, forming a sort of inner diaspora that is a counterpart in the region to the diaspora outside it and in some respects continuous with it.

This is an “inner” diaspora in several respects. It is scattered in modern occupations and high-tech corners in the Muslim world, but rarely in numbers sufficient to constitute a local community with enough patronage to shape a distinctive religious profile. It is highly mobile population, like Benedict Anderson’s creole journeymen, or the technological adepts of the first phase, but also able to pursue modern careers from their homelands through the Internet without emigrating, or in moves within the region or to neighboring countries and on shorter cycles than long-term international migrants. These practices carry over to seeking out others like themselves in cyberspace and extending to religious lives the habits of working with others at a distance developed through the Internet. The diaspora of the third phase is also inner, in that the process of bringing Islam on line that began in the external diaspora and centered on its characteristics comes full circle in a transnational public whose primary concerns are increasingly post-Islamist (Roy 1999; see also Kepel 2002).

The institutional side of this process is deeply enmeshed in the market, but in an unexpected way. Just as Arabic-language newspapers have not been commercial ventures but are supported by special interests, so also getting Islam on line has been an important motive and a source of support for companies that develop and provide services and products for Arabic text processing. In the experimental

period marked by technological adepts, a fully searchable Arabic text of the Holy Qur'an was the first product of what developed into the largest Arab software firm with a full range of programs for processing Arabic text. Although some content activists turned initially to foreign firms, religious patronage has been crucial in developing the businesses that Arabize content, and crucial to businesses created to provide web hosting, site design, text-processing software, and graphics that today compose Web technology. Services that were often sought initially from foreign firms are shifting to local firms, which assemble their own network of suppliers that further embed the Internet in institutions and practices of the marketplace and make religious interests important factors in that market's priorities.

*Technological Mediation and the Public Sphere*

Transnational Islam is recentering diasporic contexts, and in those contexts is linking new sensibilities of minority status to the concerns and habits of professionals, middle-class priorities, and marketplace practices. Much attention has focused on political and particularly on militant Islam; but contemporary Islamic-oriented discourse actually engages a much broader range of concerns and practices. It ranges over social, personal, and identity issues, psychological matters and behavioral issues, over questions of authority that are often implicit and made problematic by increasing choice. Indeed, it has been argued (Kepel 2002) that the discourse of political Islam is receding at least partly in favor of social and psychological discourses focused more on personal and behavioral issues than on political constitution and governance. If this is so, it is not yet clear how much it is an artifact of observation, although the observation gains strength as attention turns from intellectuals (for example, Moussalli 1992, Lawrence 1989, Rahnema 1994) to wider publics that would be called "lay" in Christian terms. Issues engaged in this context have focused on authority, its multiplication, and the dilution implicit in that. Evidence suggests that the range is broader still, and that it includes the techniques of media, from journalism's pithy formats that feed the discursive style of political Islam to the capacities for linkage that make the Internet "smart" and increasingly interactive.

Little of this is captured in easy dichotomies such as Barber's pop-

ular "Jihad vs. McWorld" (1996) and others that would relegate Islam and information technologies to clashing sides of a great divide or project one as the impediment of the other. Such formulas draw on too narrow views of both Islamic activism—not to say of Muslims—and information technology that not only excise their histories but also miss the real sociology of their intersections. Those intersections include the spread of mass education and before that of print in Muslim countries, on the one hand, and the diasporas of Muslims, on the other hand, that increasingly extend to mobile professionals in the global information economy. They also miss the more interesting contribution of religious patronage in actually developing this information economy, both internationally and in Muslim-majority countries, and the contemporary internal diaspora of professional middle classes that it unites through the medium of information technology.

In drawing these processes together, it is easy to overstate the role of new media. Muslims throughout the world have multiple channels for religious expression and for seeking religious guidance. Many such messages, and messengers, "migrate" to new media, whose contribution is to delocalize choices and voices. In this sense, newer media join older ones as channels for religious expression and outreach, but do not necessarily accept all their established conventions. Each has a material base, a corpus of practices, and a network of actors who produce them. Migrations of Islamic discourse into new media are accompanied by vernacularization, whether in print or on television or on the Internet, and by their location in the market space of commodities (Starrett 1995, Gonzalez-Quijano 2003: 72–76) rather than as circulated ritual objects. Thus, an Osama bin Laden might pose before a library of bound classical commentaries while recording a video message in ordinary Arabic, whereas the traditional 'ulama deploy classical Arabic and a more esoteric diction that recalls books that are out of sight. Not apparent on the surface but implicit in such migrations and the transformations that accompany media-tization are altered conditions of cultural production that bring new skills, practices, and habits, and a new constellation of actors to the media ecology of Islam.

Applying models of mass media to the Internet aligns modes of consumption but not their modes of production, which with the Internet reduce social distance between producers and consumers. The Internet joins the mass media of modern print and broadcasting



by adding to an already expanding range of choices for consumption. In this model, a newsstand, a television with fifty or two hundred channels delivered by cable or satellite, and the Internet are equated as media characterized by choices, which in modern media theory express the agency of actors (Rogers 1994). Such comparison makes them contemporary, but at the expense of recognizing the different stages at which each is present. Print is relatively mature and broadcasting a maturing medium in comparison to the Internet, whose early stages are not yet obscured by years of later development, history of reconceptualization, and reflexive understandings that have their own lives.

One important history that is obscured by the comparison to mass media is the technological development of the medium itself. Here, the Internet stands apart in that the basic technologies diffused quickly and then experienced local development, not just application, in context that already included the print and broadcast computing technologies, mass education, and economic globalization which particularly privileges the technologically adept and the knowledge worker. Development, which had commenced in Arabic text processing that made on-line Arabic newspapers practical, has been followed by Internet-servicing businesses that draw support from religious customers and utilize the highest available Internet technology to service their needs and capabilities to interact with users, who are not just an audience but also a community, this time in "cyberspace."

More than a century after the widespread diffusion of print technology in the Middle East, cultural production under conditions of globalization also ties the Internet particularly to a diasporic sphere. The Internet revolution is fluid, transnational, and connects stocks of knowledge, common orders of practice, and similar social actors. Islam on the Internet began in the diaspora; and the Internet increasingly resonates in Muslim-majority countries as a channel for expressions, interests, populations, and projects of an inner diaspora that is the late modern counterpart to early modern creole journeys. Likewise, its habits and techniques are the practices of the emerging public sphere that is transnational, not because it is Muslim but because those practices are.

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We are not calling on those who are afraid of Internet to join. Let them stay away . . . We are all Muslims and I see no reason for things to be imposed on us.

. . . He [the interviewee] is one of many professionals . . . who have had to forego using the Internet at home (many Sudanese adults live with their parents) due to parental opposition. 'My father has warned me from using the Internet. He has threatened to beat me,' the 37-year old told IPS.<sup>53</sup>

According to the report, Sadiq took his computer to a friend's house, to explore the web and avoid parental restriction. This example highlights important issues relating to access, and the restraints within different political and cultural Islamic contexts. Issues emerge relating to intergenerational differences of understanding, together with wider societal pressures and family pressures relating to Sadiq's Internet access. Clearly, from a political angle, the enthusiasm in some sections of Muslim societies for the Internet is not universal.

#### 4.2.7 Saudi Arabia

Saudi Arabia is another arena in which these arguments are played out. Patterns of Internet access are slowly changing, and during 1998 Saudi Arabia opened invitations to tender for national Internet providers. The commercial aspects of such provision have long been recognized by Saudi companies, who seek to build on the opportunities technological innovation provides in a global marketplace. Interest in the potential of the Internet was articulated from within the immediate Saudi royal family. Kingdom Holdings, owned by Prince Alwaleed bin Talal (King Fahd's nephew), invested heavily in the Netscape Communications Corporation and Apple Computers. In 1998, he was active with Netscape's decision to join up with the America Online service provider and Sun Computers in order to create a serious competitor to Microsoft. Prince Alwaleed has also been keen to promote regional satellite communications, which could be utilized for the Internet, through the SilkiNet holding company.

Some might see a paradox in Prince Alwaleed's interests, and the restraint that Saudi Arabian society has exercised in terms of allowing their subjects access to the Internet. On the other hand, regionally this could mean that the control of aspects within Internet service provision will become part of the Saudi royal

sphere of interest, extending outside the geographical borders of Saudi Arabia. The restraints have emerged primarily from the zone of religious authority, which has hesitated to introduce easy access to the web for Saudi subjects.

Saudi Arabia has now completed a study on how to prevent objectionable material that is against the country's religious and moral values from entering the kingdom through the Internet.

Efforts are ongoing to provide the best of modern technology, while ensuring that this does not conflict with the traditions and culture of the region . . .<sup>54</sup>

Singapore was seen as a model for ensuring that 'appropriate access' to the web was guaranteed. In 1999, the options in terms of religious material emerging directly from Saudi sources were limited. There is a need in any analysis to distinguish between expatriate-authored sites, and those produced by organizations located within Saudi Arabia. There are a number of grey areas here, for example the sites produced by Saudi Arabian embassies. A number of portals to Saudi information on Middle Eastern services, such as Arabia Online, provide material generated from academic and news sources with strong Saudi connections. Few of these are located inside Saudi Arabia, and do not present opposition perspectives (those against the current regime) which additionally maintain a strong web presence.

Up until 1999, inhabitants in Saudi Arabia who wished to surf the Internet had to access Internet service providers outside the kingdom. This was potentially an expensive process, involving long-distance telephone calls. However, several local Internet service providers emerged, supervised by the King Abdul-Aziz City for Science and Technology. A projected twenty service providers were licensed to come online in Saudi Arabia during 1999.<sup>55</sup>

In terms of Cyber Islamic Environments, examples of websites in Saudi Arabia include the King Faisal Institute, a multi-million-dollar organization which has a remit to 'preserve Islamic culture' through the funding of various philanthropic projects. The site's interface is dominated by a photograph of King Faisal ibn Abd Al Aziz (1906-75) praying; his son, King Fahed ibn Abd Al-Aziz Al Saud, appears on initial entry to the site, together with *basmallah* Arabic calligraphy. The site includes images from the Qur'an, and uses the English language throughout.<sup>56</sup>

The impact of the current developments in Internet service provision on Cyber Islamic Environments, especially the generation of further Sunnī 'authorities' online, is another area which will require observation and analysis in the coming years. The prospect of minority and dissident voices emerging from within the kingdom onto the Internet is also significant.

### 4.3 'Dissident' voices

In relation to Saudi Arabia and Islam online, the greater proportional presence in cyberspace is that of opposition to elements of the current ruling family and government. Muhammad Al-Mass'ari of the CDLR (Campaign for Democracy and Legal Rights) made extensive use of e-mail and faxes to propagate his views against the Saudi regime (and others). Based in London, Mass'ari's activities have been restricted because of financial insolvency, but up until 1997 he was regularly publishing *Monitor* online. This review and commentary on aspects of Saudi politics was vociferous enough for Mass'ari and his organization to be targeted by the British government, anxious not to alienate Britain's diplomatic and economic relations with Saudi Arabia. Mass'ari also made other pronouncements interpreted as overtly hostile to the UK, and his name was linked with other 'Islamic organizations' and 'terrorist' agendas. The CDLR site is hosted by Islamic Gateway, and contains material to download and browse in various formats in Arabic and English. Its central message is aimed directly at the Al Sa'ūd family. The CDLR accused them of the following:

Invited the infidel American forces to occupy the holy land of Al-Haramain!

Abuse the visitors of the holy precincts in Makkah and Madinah and treat them with utmost contempt!

Insult and reject Muslims, while respecting and co-operating with the Kuffar [unbelievers]!

Betrayed the trust of the Ummah by steeling over five hundred Billions Dollars from its wealth!

Watched, inactive, the burning and trampling to death of thousands of Hujjaj in the recent Mina fire 1997!

... and many, many more crimes! [sic]<sup>57</sup>

CDLR might qualify as a Cyber Islamic Environment in its assertion of basing activities (and ideals) firmly on the Qur'ān and Sunna. According to CDLR, it seeks to promote 'Islamic human rights' in Saudi Arabia, and 'abides by the method of peaceful and constructive criticism and dissociates itself from all and any attempt to effect reform by force'.<sup>58</sup> In undertaking this agenda, CDLR promotes the application of varied mass media but has been banned from publishing or broadcasting within Saudi Arabia. This makes the application of the Internet very important (although not the only means of communication).

A split within CDLR led to the formation of the Movement for Islamic Reform in Arabia (MIRA), which has similar objectives and indeed a very similar website format, although it appears to have better resources. MIRA contains further articles and updates, such as 'Prince of the month', highlighting alleged corrupt Sa'ūd family members. The site provides a 'History of dissent in Saudi Arabia' [sic], and material clearly sympathetic with the objectives of Osama bin Laden, a Saudi Arabian expatriate blamed for attacks on United States embassies during 1998.<sup>59</sup> For some surfers, there may be conflict of interest in reading sites such as MIRA, advocating human rights on the one hand, and supporting the position of Osama bin Laden on the other. MIRA also seeks to analyse current events with a weekly, updated 'Arabia in the media' section, including commentary on religious matters.

CDLR and MIRA can be examined in conjunction with the Al-Saūd House website, organized by the Committee against Corruption in Saudi Arabia. (CACSA). This site focuses on the web as a means of disseminating regularly updated materials, from a broad range of sources, many of which refer to 'Islamic' ideals and concepts, although in different language from the Saudi Arabian 'official' sites:

C.A.C.S.A. is a peaceful organization whose sole purpose is to change the Saudi Arabian status quo using the Internet as a worldwide campaign tool. C.A.C.S.A. is not associated or affiliated with any political or religious group. C.A.C.S.A. condemns violence, fundamentalism, and extremism and supports the interests of both the United States and Saudi Arabia.<sup>60</sup>

CACSA proactively applies e-mail to lobby political and media sources, listing avenues and addresses which surfers might apply

to disseminate their opinions (including ambassadors). The topic of corruption figures strongly in this site, focusing on the ruling family in Saudi Arabia, and producing a 'scale of corruption' of individuals based on a set of criteria. Important central Saudi family figures are alleged by CACSA to have been involved in nebulous and corrupt activities, and the site also lists alleged 'front men', in industry and merchant families, who aid in these alleged affairs.<sup>61</sup>

One example is the entry for 'Abd al 'Azīz ibn Sa'ūd, which alleges that he falsified records suggesting he was a direct descendant of the Prophet Muḥammad:

To hide his inconsequential background, Abdul Aziz resorted to falsifying records. This kind of corrupt behavior is too evident today in almost all of his children and especially the Sudeiri Seven. Having failed to convince the world of this unconscionable act, the al-Saud today ignore totally the subject except when they are reminded that the Hashemites are the true Guardians of Mecca and Medina.<sup>62</sup>

The site's authors accuse other individuals of profiting from prostitution, drugs smuggling and kickbacks from arms-deals. Many 'scandals' are extensively documented in the site's archives. In the area of human rights, the position of dissidents is discussed, victims of alleged torture are listed, and questions relating to abducted children are introduced (through related links).

Whilst these are all important areas in terms of their religious implications, Islamic religious concerns are also addressed directly, notably a copy of a Religious Petition signed by the Saudi Arabian Muftis (including Sheikh Abdul Aziz ibn Baz), which contained twelve articles promoting Islamic concepts. Issues addressed include corruption, aspects of media control, human rights, foreign policy and justice, which the petition's signatories wanted improved according to an 'Islamic Shar'īa' model. This petition has been taken onto the site by CACSA, and could be interpreted, in view of other materials on the site, as an implicit critique of the Saudi regime by the signatories.

The issue of Islam and politics within governmental settings could be expanded, to analyse all nations with Muslim populations. Many other contexts have similar concerns to some of those discussed above, and models of Internet activism and

Muslim websites could be constructed.<sup>63</sup> At this point in the discussion, it is proposed to examine briefly some of the diverse Muslim platforms operating online outside immediate governmental or opposition contexts, including those that can be defined as paramilitary concerns. Unlike the activism and expression of CACSA, certain sites and organizations possess a military agenda and an Islamic agenda, and they create their own specific Cyber Islamic Environments. They are often linked into more conventional Cyber Islamic Environments, including student pages.

Issues associated with Palestine and Israel maintain an extensive web presence. Given the Palestinian and Jewish Diaspora, the web would seem a perfect medium for rapid dissemination of information – and would also engender communal senses of identity.<sup>64</sup> Many Palestinian organizations with Muslim associated agendas have recognized this, and a variety of opinions can be located online. Outside the political and academic sites associated with the Palestinian government, there are several websites with Muslim identities directly associated with political and paramilitary activities.

Hamas has a number of sites associated with it, with varying degrees of official capacity. For example, the Unofficial Hamas Website (closely linked to the official site in Arabic) provides the following mission statement:<sup>65</sup>

This website is not affiliated to any national government. Its sole purpose is to provide information and educate the general public on the nature of the organization and bring light to the fact the Palestinian people are living in horrific conditions under Israeli occupation. The site providers do not and will not accept any financial support from any government and rely solely on contributions from private individuals concerned about bringing the truth to the public . . .

The developers of this web site are not affiliated with Hamas in any way. They are a group of individuals concerned about bringing the truth to the public. They do not and will not accept any funding from any source, especially from governments or individuals representing any governments. The goal is to educate the public and provide a more equitable point of view to the situation in the Palestine.<sup>66</sup>

Despite these assertions, the material contained on the site closely reflects Hamas ideologies. The pages open with *basmala*

calligraphy, and a photograph of the Al-Aqṣā Mosque in Jerusalem. Subjects include 'The birth of the Zionist entity in Palestine', 'Facts about Israel', 'Test your knowledge of the Middle East', 'Palestinian news', and 'Images from the uprising'. The message is effective, in that each short paragraph presents its point succinctly, so that the casual browser is not overwhelmed with too much information (a criticism that could be levelled elsewhere on the web!). Whilst it is assumed that this site is produced outside Palestine, and the pages state that it is not affiliated with any platforms, the very short paragraphs contained in each linking headline demonstrate an editorial standpoint sympathetic with Hamas. There is, however, no direct 'Islamic' content, such as Qur'ān links or quotations. So can it be described as a Cyber Islamic Environment? The Hamas acronym stands for Harakat al-Muqawama al-Islami or Islamic Resistance Movement, and the Arabic word has connotations associated with bravery or courage. There is a paradox operating here of an 'Islamic' organization represented, albeit unofficially, by a site without immediate religious content or indications of affiliation. The site does link to Islam-related Palestinian sites, and the link to the official Hamas pages provides access to Arabic documentation with an overtly Muslim nature.<sup>67</sup> This includes references to the Masjid Al-Quds (Mosque of Al-Quds) in Jerusalem, and a plethora of uploads of speeches and articles with activist titles. A linked *Palestine Today* page contains extensive daily news, suggesting that this 'official Hamas site' is well resourced and produced.

The Islamic Association for Palestine, produced by expatriates in Texas, also contains news in Arabic, pictures and patriotic songs; sound files include the journalist Robert Fisk commenting on Lebanon, Yasser Arafat's comments on Hamas, and a sound recording (from Israeli Broadcasting) of Hamas leader Sheikh Yassin. This site presents a more overtly religious perspective, including detailed opinions on Jerusalem's position within Islam, based upon interpretation of the Qur'ān, focusing on the Al-Aqṣā mosque. A banner proclaiming 'The Islamic Cause' dominates the site's opening page, adjacent to the *basmala* and photos of Jerusalem. The site offers hyperlinks to several journals, including the *Assabeel* magazine, which broadly reflects Hamas opinion.<sup>68</sup>

There are a number of formatting parallels between the Hamas unofficial website and the Hezbollah's 'unofficial' website,

suggesting a shared authorship. There is very little in the way of Islamic content, and the site also includes a disclaimer:

The developers of this web site are not affiliated with Hezbollah in any way. They are a group of individuals concerned about bringing the truth to the public. They do not and will not accept any funding from any source, especially from governments or individuals representing any governments. The goal is to give a more equitable point of view to the situation in the Southern Lebanon.<sup>69</sup>

The site details Hezbollah (Ḥizb Allāh or Party of God) aims and activities in Lebanon, and links into the official Arabic version, which, unlike Hamas, *does* have an English-language version.

The official Hizbollah Central Press Office utilizes Qur'ānic calligraphy (adjacent to a logo in the shape of a machine-gun, spelling out *Hizb Allāh* in Arabic), and defines itself strongly as 'an Islamic freedom fighting movement founded due to the Israeli military seizure of Lebanon in 1982 . . .'<sup>70</sup> Another dimension within this site was within the field of Christian-Muslim relations, with the reproduction of a letter from Ḥizb Allāh to Pope John Paul II discussing commonalities and making an attempt at dialogue, in the light of a papal visit to Lebanon. The official site contains a 'resistance statement' (in Arabic), and photographs of the Qana massacre of 1996, in which 106 people were killed in an Israeli attack: the photos include dead bodies, damaged houses and books (including a Qur'ān) within the smouldering ruins.<sup>71</sup> These clearly would produce an emotive reaction, especially amongst many Muslim surfers. An extra dimension for some would be the association of this attack with concepts of martyrdom.

This association with martyrdom is strongly articulated in related Ḥizb Allāh sites. The Islamic Resistance Support Association site incorporates details of its activities in Arabic and English, and is updated daily to provide Ḥizb Allāh perspectives on Lebanese issues. These include transcripts of reports from foreign media. One particular feature of this site is its messages directed at those individuals sympathetic to Israeli aims, in particular people living in Israel. Particular reference is made to an Israeli marine raid into Lebanon at Insariye, which was thwarted by Ḥizb Allāh in 1998. Twelve commandos, members of an élite marine squad, were killed. Extensive details of what went



wrong for the Israelis are provided, together with the Islamic justification for the success of the Hizb Allāh:

Salutation to the five martyrs of Kfour, few weeks ago, to the brave and honest Mujahideen who were positioned at every suspected place of infiltration, and to the great martyrs of Occupied Jerusalem, who executed their operation a day before which made the enemy feel that he is on the path of defeats [sic].<sup>72</sup>

Photographs of the remains of the commandos are shown on this website, with the caption 'Soldiers' families':

Be aware that you are dispatching your beloved sons to their destined final place. The death is awaiting them behind every rock, at every valley and mountain and at every inch of our soil their foots stepped on. The land is ours . . . So, get out . . .<sup>73</sup>

This demonstrates effective application of propaganda material, and awareness that many Israeli surfers, including military personnel, will visit the site. The webmaster describes the 'humanitarian' reasons behind the depiction of these photos online:

These photos show every part alone, just to be sure that the 'Israeli' Army not only doesn't respect your beloved sons when they are alive but when they are dead as well. Obviously, it sends disdainfully and recklessly your beloved sons to the death.

Moreover, the commanders don't even venerate their soldiers when they pass away for the military command had covered up the truth and didn't inform you that your buried sons' corpses had mixed with others or not completed.<sup>74</sup>

Desecration of bodies, mutilation and improper burial are issues both within Judaism and Islam, but the depiction is seen as appropriate on the Hizb Allāh site. This emotive material would clearly impact upon Israeli surfers.

The Islamic Resistance Support Association site also features one of several galleries of Muslim 'martyrs' on the web, with an A-Z index of their names and photos. Extensive biographical information on the individual martyrs is provided, together with their places of death, and their marital status. The photos are placed within a symbolic artwork frame, representing a shroud

and doves.<sup>75</sup> 'Martyrdom' also features in other sites, including the Hamas-centred Al Kassam Shuhada Memorial: '. . . the only site in the web devoted to the brave mujhidun who fought and gave their life, during the Holy War for our land . . . Allahu Akbar.'<sup>76</sup>

This site makes extensive use of Islamic iconography, such as pages from the Qur'ān, and calligraphy, together with a 'burning memorial flame'. Each fighter in the gallery is described as a *shahīd*. One of the 'martyrs' depicted is Yahya Abd al-Latif Sati Ayyash (1966–96), known as the 'Engineer' because of his abilities with explosives; he was responsible for many car bombs, and was eventually assassinated by Israeli forces in Gaza. The site is run by the Al-Kassam Brigade (Kataib al-Kassam), a militaristic wing associated with Hamas. It clearly explains its definition of *jihād* as being *jihād bil-sayf* or '*jihād* with the sword', although recognizing other forms of the concept:

We the followers of the great shahid Izz Al-Din Al-Kassam, chose the 'JIHAD WITH THE SWORD', which we thought was the only effective way. The way that is inspired by the history of Islam and Allah's commandments in the KORAN. The way of hard, bloody war – the JIHAD.<sup>77</sup>

This assertive statement of what some commentators describe as militant Islam demonstrates that the spectrum of Cyber Islamic Environments is broad and encompassing, even though not all other shades of opinion would necessarily endorse the viewpoints of the Al-Kassam Brigade.

Similar issues do emerge in other contexts, and it is impossible to survey them all here. However, a couple of areas worthy of reference in terms of this forms of Islamic interpretation include sites associated with El-Djama'a El-Islamia El Mosalaha or Groupe Islamique Armée (GIA). This Algerian organization is one consequence of the cancellation of democratic elections in the country, and the control of power by a government associated with the Algerian military. The GIA policy has been centred on violent tactics against government and other targets, fulfilling a *fatwā* issued by the group's founder Shaykh Abdel Haq el-Ayadia. At the time of research, it appeared that GIA-related sites were inaccessible, suggesting one example of censorship online. An

(allegedly) related American Islamic Group (AIG) was also 'closed' at the time of research. It is feasible that the GIA could locate a friendly server over time, in order to promote their message globally, so this absence might be a temporary one.<sup>78</sup> However, the Front Islamique du Salut political party that won the election in 1992 does have a substantial web presence explaining its policies and linking into friendly media. The photographs of victims of the crisis are extremely graphic. The Islamic content of the site, in terms of Qur'ānic quotations, images and sermons, is limited to the provision of a quotation from the Qur'ān.<sup>79</sup> There are a number of other sites in cyberspace devoted to Algerian issues, especially in the French language.

Islam has formed a significant component in discourses and conflicts elsewhere, and the breadth of related websites demonstrates this. Together with the Algerian crisis, the break-up of Yugoslavia (and its aftermath) was an early example of the power of computer-linked communications to spread news rapidly to interested parties. Organizations such as Bosnia-Net utilized e-mail in order to propagate their perspective, bombarding (and in many cases overloading) servers.<sup>80</sup> Related Muslim organizations also used these facilities – although it is not in any way suggested that religion forms a significant part of every platform associated with the crisis. The Internet forms part of contemporary dialogues relating to Bosnia, including the expatriate population.<sup>81</sup> A Bosnian Webring links related sites together.<sup>82</sup> During the Sarajevo siege, e-mail was used to inform outsiders of the situation. The extent to which Islam informs the identity of individual websites varies considerably, with some promoting the concept of a multi-religious society, and others seeking a stronger Muslim identity, or even a 'Bosnian Jihad'.

Platforms that seek to transcend ethnic or national boundaries also exert a presence on the Internet, and apply it to inform their own members, and recruit newcomers in different political and social contexts. Certain platforms network with diverse political perspectives elsewhere, including minority contexts. Thus, the London-based Al-Khilafah Movement in the United Kingdom, seeking a return to the ideals of a single Muslim leader or caliph, provides a regularly updated website, primarily a medium for distribution or perusal of its magazine, but also containing daily

news updates. The movement is associated with Hizb ut-Ṭahrīr (Party of Purity), which has established a presence amongst Islamic societies on UK campuses. The organization's proclamations in support of various 'jihāds', and its assertion of militant Islamic positions in Bosnia, Israel-Palestine, Kashmir and Afghanistan has led to severe criticism by opponents, including other Muslim groups as well as Jewish student groups. Hizb ut-Ṭahrīr has also attacked elements in various Muslim platforms in the UK, especially what they perceive as ineffective leadership. The Hizb ut-Ṭahrīr website clearly states its agenda and history:

Hizb ut-Tahrir is a political party, with Islam as its ideology, whose aim is to resume the Islamic way of life and to convey Islamic da'wah to the world. It works within the Islamic Ummah and together with her, so that she adopts Islam as her cause and is led to restore the Khilafah and the ruling by what Allah (swt) revealed. The Islamic Thought is the soul of its body, its core and the secret of its life.<sup>83</sup>

Hizb ut-Ṭahrīr was banned in Jordan, where it was founded by Sheikh Muhammad Taqiuddin (1909–77) in 1953. The presence on the web (and other activities) of Hizb ut-Ṭahrīr have alarmed many Muslim-majority countries that have friendly diplomatic relations with the United Kingdom. Hizb ut-Ṭahrīr was accused of making anti-Semitic statements, to the alarm of Jews both within and outside the United Kingdom.

A more extreme interpretation of the *Khilafah* ideology is expressed by the breakaway organization Al-Muhājiroun led by 'Sheikh' Omar Bakri Muhammad.<sup>84</sup> Its objectives include:

Bonding the Muslim community in the west with the Muslims globally in order to create an unbeatable bond within the Ummah and for them to be part of the preparations for the world-wide Islamic revolution.

This can be achieved by addressing the vital issues effecting [*sic*] Muslims world-wide such as that of the conspiracies of their corrupted regimes and rulers, the occupation of their land by the non-Muslims and by the arrangement of funds and help for the world-wide Islamic movements in their struggle against these corrupted rulers and occupiers.<sup>85</sup>

Al-Muhājiroun's website illustrates the organization's objectives, and makes copious references to the Qur'ān. The site is



networked to the Islamic Gateway (through provision of web-space), and is regularly updated with interpretations of current events. Subjects in 1999 include support for Osama bin Laden, the 'persecution' of Al-Muhājiroun members by various authorities and alleged bribes being offered by America for information on terrorist activities. Back issues of a related magazine, *As Sahwa*, included potentially controversial topics that might be difficult to express in other media. Titles included: 'Muslims will hound Blair wherever he goes!' and 'British Government's New laws to stop Islamic Activity!' There was also an article about the Conference of Islamic Revivalist Movements attended by the Omar Bakri Muḥammad, Abu Hamza of the Supporters of Shariah, and representatives of the CDLR and the Taliban.<sup>86</sup>

Omar Bakri Muḥammad also acts as self-styled judge of the 'Shari'ah Court of Britain', a registered charity operating with 'The Society of Muslim Lawyers'. He claims the power to issue a 'juristic fatwa' (which he describes as a 'Divine Decree') and provides the 'evidence' justifying assassination of the *Satanic Verses* author Salman Rushdie.<sup>87</sup> Omar Bakri Muḥammad's son also established a website associated with his father's activities. Much of this was under construction at the time of writing, but material included links to related organizations, biographical details on Omar Bakri Muḥammad, and 'Islamic Concepts' on a variety of issues.<sup>88</sup>

#### 4.4 Concluding comments

Despite the difficulties in defining politics in certain religious contexts in contemporary understandings of the term, the Internet is clearly important in disseminating a broad range of Islamic political-religious opinions and concerns to a global audience. The above brief survey has shown that many politically active Muslim organizations now regard the web as an integral part of their information strategies. The Internet's application, in conjunction with related computer applications such as 'chat rooms' and e-mail, makes a significant impact in creating a cohesive electronic identity in cyberspace for Islamic political agendas and concerns. Whether this means that it also contributes to a global electronic *umma* could be open to question: many political platforms *are* interlinked, but the concept of a free-

flowing dialogue and shared agendas between all shades of opinion remains an aspiration rather than a reality. Whilst issues regarding accessibility still remain, increasingly for participants as well as observers with access to the Internet, Cyber Islamic Environments are a primary medium for religious, political and ideological guidance.



*Cyber Islamic futures*

Cyber Islamic Environments offer insight into aspects of Islam, Muslim identities and issues associated with the 'Islamic' worlds. Computer-mediated communication provides a sense of commonality, associated with shared expressions and understandings, which might be described or associated with the concept of *umma*. The Internet also gives indications of the diversity associated with these Muslim expressions and understandings.

This is not the full picture as far as contemporary Islam goes. Many sectors, platforms and perspectives do not have, and may not wish to have, a presence online. The nature of computer-mediated communication suggests that it is the educated élite, who are literate, use English as a primary language and have access to the web and skill in presenting their message online, who are currently dominating Cyber Islamic Environments. This may mean that specific perspectives of interpretation associated with these groups, and even senses of 'mission', dominate when casual browsers look up 'Islam' using search-engines or surf the net for Islamic themes.

Other perspectives are also 'out there'. How many are found and read by those outside specific frameworks and circles of understanding? How will Cyber Islamic Environments change, when under-represented languages such as Urdu, Persian and Arabic start to emerge in greater depth online? What will the impact on Islam and Muslim understanding be, when areas with limited web access become further 'enfranchised', and the technological medium itself shifts to adopt further innovations and developments which transform the nature of the web and

how it is utilized by users? These are subjects for future observation and research.

There is no single Cyber Islamic identity or community. The probability of one emerging, even if desired, becomes less and less likely as more perspectives emerge online. These perspectives may or may not choose to connect with each other, or accept the notions of 'authority' presented by those sites representing Islam on the web. They may or may not accept approaches to ritual, interpretation and sources, nor wish to be linked to a 'portal' claiming to represent the Muslim world online. They may or may not represent the 'success' of their perspective or their website by the number of hits or visitors to their site, or the number of times a search-engine places them at the top of the Internet 'hierarchy' for a particular subject. They may or may not care whether other Muslim perspectives agree with them or 'digitally' ostracize them.

Given these and other issues, and the unstructured nature of the web, observers and net users are faced with issues of how they personally approach the sites and the material contained on them. The net is changing on a daily basis. Millions of new sites emerged annually, a proportion of which contain Islam-related material. 'Old pages' and versions of perspectives may disappear, without being recorded or stored for posterity. How does one approach a constantly evolving and updating library of material about Islam and Muslims, whose shelves may 'change virtually' as soon as the reader enters the door?

In the past, a scholar of Islam may have learnt about Islamic law through a set pattern of education, utilizing texts that had remained unchanged for centuries. New opinions could only be accessed through travelling long distances to sit at the feet of scholars. Books may have been rare, and hand-copied. The descendants of these scholars, whilst utilizing similar sources, can now access many of them from their desktop computers. They can encounter the opinions and interpretations of others throughout the world, sharing perspectives and ideas, formulating approaches to knowledge. The more material that becomes available online, perhaps the more such scholars will experience information overload. They may also feel that their position is threatened when digital networks transcend traditional systems of knowledge and authority. Who needs scholars, when surfers can

The extent to which this 'control' is exercised may be open to question, even if members of the club are not involved directly. Who is to say when it is appropriate to hack an alternative Muslim perspective, or a non-Muslim site such as SuraLikeIt?

A number of Islamic agendas may see it as entirely appropriate within an 'information war' to hack rivals, to introduce viruses into computers, to simulate 'crashes', or to disrupt systems at will. This can operate at many levels. The Indonesian government, representing a Muslim-majority country, attacked a 'Virtual East Timor' during 1999, disrupting its webpages and replacing them with alternative messages. A 'neutral' Internet service provider was temporarily forced to close as a result.<sup>2</sup> On the other hand, technologies to prevent hacking are also becoming more sophisticated, causing some activists to suggest that a 'golden era' of hacking is over.<sup>3</sup> Whether this is true or not, a number of governments have invested in technologies to prevent (or induce?) hacking activities. Deficiencies were highlighted by the 1999 'Melissa' e-mail virus, which resulted in an extensive FBI search for its creator.<sup>4</sup> The United States of America Defense Department has invested heavily in this area, having identified it as an issue of strategic vulnerability, pointing to the nature of information about itself available online and the potential avenues for hackers.<sup>5</sup> This may mean less information about strategic issues, and reduced avenues for hackers. Governments are clearly worried: 'What we're concerned about is in the future, nations will have that same capability to destroy each other's infrastructure, not by bombs, but by cyber attack.'<sup>6</sup>

However, in the past, the skills of such individuals and groups have often eclipsed those of governmental and other platforms. Given the strategic orientation of the United States Defense Department against specific activist Muslim platforms, it could be assumed that there is a fear of Muslim hackers drawing on commonly available information to disrupt computer systems in either military or civilian contexts.

This fear is also expressed by governments in many Muslim-majority countries, in relation to their being infiltrated or hacked by Islamist or other opposition parties.<sup>7</sup> This has led to caution in the development of web service provision by some, who are concerned about their inability to 'control' the Internet. They may have observed the ironic situation of Malaysian Prime

Minister Mahathir Mohamad, an advocate of information technology in Malaysia, who was unable to control the online pronouncements of reform-centred opposition platforms (including Muslim groups) during the 'Anwar crisis'.<sup>8</sup>

One result of such 'fears' may be increased filtering of all Islam- and Muslim-related sites, even those (in the majority) with no political agenda or association with those platforms deemed activist or dangerous. Filtering technology that prevents a user from accessing sites containing specific key words raises the issue discussed earlier, of what a browser receives when inputting the words 'Muslim girls' into a search-engine facility, just as those inputting 'Islam' may locate sites which are not deemed representative by others. Filtering technology may prevent access to *any* site related to Islam, the Qur'an, Muslims and other key words. These could include 'innocent' Muslim sites providing information about religious practices, specific decision-making structures, or linking disparate communities. Such filters could also prevent access to news and information about Islam provided by the many news providers online.<sup>9</sup>

This technology raises broader censorship issues, and some interesting paradoxes in terms of Cyber Islamic Environments. Some Muslim platforms and services might endorse filtering and censorship when associated with other issues, for example those related to sexuality, but actively protest when it is related to Islam. Whether any censorship or regulation is appropriate, or indeed fully technically feasible, is an issue that cannot be dealt with here. However, to highlight this issue, it is worth considering a report from Cyber Rights and Cyber Liberties (UK), centring on filtering software. The report noted that the Electronic Privacy Information Centre (EPIC) in the United States conducted a survey of filtering software in relation to 'family-friendly' filters, comparing levels of filtering when specific software was utilized to search for sites. EPIC notes serious discrepancies in the software, meaning that 'innocent' sites were also filtered out:

The Wisdom Fund . . . which promotes social justice and interfaith understanding by disseminating The Truth About Islam, and by providing concise statements of Islamic values, beliefs, news, commentary, and resources for concerned Muslims, citizens, and activists was for example blocked by I-Gear, a filtering software

(I-Gear is used in many schools in the US, particularly in Virginia where its manufacturer, Unified Research Laboratories, is based) in a test conducted by Peacefire . . . SmartFilter, blocked such web sites as Understanding Islam and the Muslims . . . and Welcome to Saudi Arabia: The Land of Islam pages . . .<sup>10</sup>

There may be, for some, an irony in pages promoting Saudi Arabia themselves becoming victim to a filtering technology that many in authority there wish to promote for their own subjects.

These questions of control emerge in a medium through which anyone with access to the appropriate technology can 'publish' (even if their creativity might not be browsed or read!). Issues associated with how individual Muslims project themselves and present notions of Muslim identity need to be considered in future research. Will the Internet allow assertive, and perhaps anonymous, Muslim identities to extend further? How fluid will these notions of identity be, given that current technology allows individuals to take on several 'identities' simultaneously on webpages, and through other associated electronic media, such as e-mail and chat rooms?<sup>11</sup> An individual's community or family Muslim identity could differ considerably from an anonymous online construct. Such differences *may* also be seen in other contexts, although specific platforms and interests are unlikely to 'cloak' themselves in the same way.

In the decade leading up to the millennium, Cyber Islamic Environments have emerged, evolved and proliferated. Considerable further work in observation, analysis and discussion of aspects within these environments needs to be considered. At the beginning of the 1990s, one could probably talk about such sites and list them on a single sheet of A4 paper. Now that is impossible, and research needs to become more specialized, whilst being aware that there is an interconnectivity between many sites in terms of concepts, ideals and identities. There are notions of what it means to be Muslim online. Constructs of Islam can be approached and analysed. Perhaps there should also be consideration of how the 'unique' aspects of Cyber Islamic Environments will simply become part of the ordinary representation of Islam and Muslims, as a generation of Muslims with specific social and cultural parameters grows up with a familiarity with the web. Why should it be different from books,

television programmes, radio broadcasts and other media seeking to represent Islam and Muslims?

The Internet theorist Nicholas Negroponte asserts that the digital revolution is over, and that the Internet has become an everyday technology and not something that is extraordinary or bizarre.<sup>12</sup> Whilst there are many communities and individuals, Muslim and non-Muslim, who are not 'wired', the phenomenon itself is well established in many contexts, and has become more affordable and accessible for many. The English-language monopoly has been broken, and other languages are increasingly applied to express Muslim opinions or concepts. There is nothing extraordinary about the existence of Muslim platforms and perspectives online. The Internet has opened new opportunities for communication. The methods in which that communication takes place may themselves now evolve further, contained within the broad parameters of information technology, and becoming further accepted as a means by which individual and group Muslim thought and expression can be presented to others.

Cyber Islamic Environments are in a transition period. Technological shifts will mean that other interfaces could be applied to access the web, such as digital telephones or televisions, perhaps circumnavigating controlled networks. The access speed to websites may also increase, although paradoxically the success of the web has slowed access as millions of new sites emerge on a regular basis. The desire to 'publish' online is unlikely to diminish, increasing the plethora of Islam-related sites. Tools to assist in selecting which material to read are likely to be popular, including guides and 'roadmaps'.

The distractions of the net (well known to all surfers) and the different ways through which texts can be accessed and read are likely to increase. How can an individual possibly obtain the information about Islam that she or he requires? Whereas several years ago the choice of Qur'ān translations was relatively small, now there are many different versions and formats. Basic information, for example, relating to the pillars of Islam, has in a way become less accessible, as the number of sites about each foundation of the religion increases daily. Obtaining a sense of direction for casual readers and surfers may become progressively more difficult. A considerable amount of material is repeated on different sites, and some readers may be unable to distinguish

between different interpretations and constructs, many presenting themselves as definitive authorities. Individuals with the time and inclination to 'surf beneath the surface' may be few in numbers, encouraging those able to manipulate the system.

Methodologies of approaching hypertext are in their infancy compared with print media, and the random nature of the web presents issues of accessing information. Unlike checking a library index of relatively fixed data, it is possible to miss crucial sites in a fluid and ever-changing environment where the choice of material is linked to a multiplicity of factors 'outside the library'. Even in the great library of Al-Azhar University, a physical browser knows that the material on Islam and Muslim issues is probably going to be in the same place as on previous visits, and that the books themselves remain the same. It is said that an individual can never 'finish' reading the Qur'ān, because of the levels of understanding and complexities contained within it, as well as the text's esoteric qualities. The same could be said for certain online versions of the text, whose presentation and commentaries are constantly being updated to accommodate shifts in perspective and technological innovation, whilst the essential translation of the meaning may remain the same, and the Arabic text is universally constant.

Elements of participation in Cyber Islamic Environments may increase, enhancing the 'globalized' aspects of specific movements and platforms. The disconnected nature of interacting with text or pictures may shift. Why discuss issues through typing on screen in real time, when a camera mounted on the monitor will allow face-to-face interaction? Why send e-mail to an authority, when an individual can interact personally online with a 'real person'. These aspects may not be desirable in certain contexts, or indeed technically possible given that many Cyber Islamic Environments have hundreds or thousands of visitors a day. How will such interaction shift, and who will determine the 'Islamic' etiquette and boundaries?

There is no doubt that any Muslim platform that successfully approaches an educated élite and communicates with them on a regular basis will exert influence and power that transcends traditional networks. Those networks that disregard such developments, believing them inappropriate for their social and cultural context, may be unable to react to, or catch up with, the

speed of technical progress. Given that technology is becoming cheaper and potentially easier to use, who is to say that small village mosques, even those without electricity, would not be influenced by the donation of a portable computer with satellite access, linked to a 'decision-making' network? As a tool for religious and political mobilization beyond conventional and/or state-controlled media, this could be effective and relatively inexpensive. Sermons could be heard and broadcast in real time and opinions on specific issues presented. It is feasible for this technology to empower and inform those who cannot progress through traditional channels, such as some women living in religious-cultural systems that may inhibit their freedom of movement or self-expression, including *purdah*. In practice, there may be issues of access to the appropriate equipment and networks. Those operating in minority contexts may also utilize Cyber Islamic Environments to express themselves.

Power struggles for the hearts, minds and souls of Muslims can now be enacted online. It may be only a small percentage of the billion-plus Muslims in the world who actually utilize the Internet. That percentage will increase, and so will the influence of certain parties operating in the medium. This is a formative period, and a great deal still has to be learnt by those operating in Cyber Islamic Environments (and observing them) about how the full potential of systems can be applied to suit specific agendas and purposes. The motivation cannot be expected to be uniform, nor at times altruistic.

Much is done by Muslims in the name of Islam that is dismissed as inappropriate, or worse, by other Muslims. Not every surfer (Muslim or non-Muslim) is able to make appropriate judgements, or possess the knowledge to determine 'the truth'. Perhaps this is just part of a dialogue that transcends the Internet and its relatively short history. It is a wider philosophical and theological question that has been dominant throughout civilization. Earlier generations of scholars in Muslim and non-Muslim contexts would recognize the arguments, which have informed and shaped human history.

Whilst there is talk of new frontiers being transcended through the Internet, the human aspect is often subsumed by the technological one. Taking a step back, one can observe a longer process relating to how knowledge is transmitted and interpreted. Within



specific Islamic networks, information operated on 'circuits' between authorities and scholars, whom the curious with the accessibility and economic power to do so visited to acquire knowledge. This information was stored, and transmitted to others through the same network. It was commented on, and reinterpreted and presented in diverse languages and cultural contexts. It shared a common label, although notions of identity and conceptual frameworks differed in varied contexts. Reliance was placed by some on particular interpretations, whilst others remained in the 'minority' or were dismissed or even attacked. Notions of ritual and ultimate authority might be constant, with minor variations. Concepts associated with esoteric dimensions of interpretation remained on the fringes for some, and central to others.

With the Internet, networks of communication may have become quicker. Levels of interactivity have been enhanced, and notions of identity transformed for many. At the heart of the system, Islam contains elements that are shared, even as hundreds of new 'Islam' sites emerge monthly. This constancy is itself an important facet of Cyber Islamic Environments, a commonality that can be detected by Muslim and non-Muslim observers and surfers, even if it is not always recognized by site authors themselves. This is not to arrogate a predetermined identity, simply to recognize the shared symbols, ritual, sources and identities that coexist in Cyber Islamic Environments that are not necessarily mutually interactive or pacific. Is it necessary to distinguish between, for example, Sūfī sites and Wahhabi sites? On one level, perhaps, they are all 'Virtually Islamic'.

Whether Cyber Islamic Environments assist or detract in the quest for knowledge or the enhancement of Islam is a question for future discussion. The Qur'ān itself identifies the nature and complexities of knowledge, and how much is still 'unknown': 'Say: "If the ocean were ink (wherewith to write out) the words of my Lord sooner would the ocean be exhausted than would the words of my Lord even if we added another ocean like it for its aid."' <sup>13</sup>

The importance of acquiring and preserving knowledge about Islam is emphasized in several sources, and education is seen as a key element in the development of identity and community. The transmission of knowledge is interpreted as a duty, and special

status attributed to transmitters. Differences in opinion within this knowledge can be acceptable, although there is evidence of conflict amongst Muḥammad's close companions relating to the recording of knowledge, even when he was on his deathbed.<sup>14</sup> The Qur'ān seeks that differences of opinion are brought to God, and to Muḥammad.<sup>15</sup> Certain differences are acceptable, on specific issues, perhaps relating to the meaning of words or the historical context of a verse, if not the overall impact or essence of meaning of verses. Dialogues associated with such differences have extended into cyberspace.

To conclude, Muslim individuals, platforms and communities may configure their identities in relation to the Internet, and inform themselves and others through Cyber Islamic Environments. As a key to understanding aspects of contemporary Islamic developments, the Internet is an important resource for rapidly updated information. As a system of knowledge provision and dissemination, it can erode certain traditional networks, but also has the potential to enhance or increase the power and influence of platforms and individuals. As an area for research, the subject is currently under-represented, and requires further in-depth study on specific aspects associated with Cyber Islamic Environments. Theories relating to levels of patronage, attitudes to representation, and concepts of identity and authority require analysis over a broad time frame, to accommodate technological and social developments and reactions to the Internet.

*Virtually Islamic* has been an attempt to provide an introductory snapshot of Cyber Islamic Environments. It is hoped that this will initiate dialogues and provide a platform for future work in this area. Muslim and Islamic developments in cyberspace should be seen as part of an evolutionary process, stretching back to the initial Revelation received by Muḥammad on Mount Ḥirā' in the year 610. Many of the dialogues and interactions contained on the web have precedents elsewhere in Islamic history.

At the time of writing, transformations of identity are taking place and concepts of knowledge evolving online. Whether these are more rapid in computer-mediated contexts than in other contexts is open to question. Such shifts are not unique to cyberspace, or to this period in history. In this book, it has been possible to note certain changes and transitions on the web in relation to Islam. However, to paraphrase the computer

'prophets', it has been said that a 'web year' is the equivalent of several years' real-time development. Whilst technological evolution may be compressed in terms of 'web years', humanity still operates in real time. It will only be through the distance of decades that the overall impact of the Internet can really be assessed, in order to establish whether Cyber Islamic Environments are *really* a significant turning-point in communication about Islam and Muslims.



## Civil Society as Idea and Ideal

*Adam B. Seligman*

THERE CAN BY NOW be little doubt that the idea of civil society has become over the past decade a much used, perhaps even overused, concept. Indeed, and just as the slogan arose in Eastern Europe in the 1980s as a cudgel to batter the totalitarian State, it has emerged in the 1990s in Western Europe and in the United States by critics of the existing political order to press home their claims. Interestingly (and in a way that should be a warning to us all), the idea of civil society is used by political groups and thinkers on both the right and the left, and though in Europe in general it is most often the province of the left, in the United States it has been appropriated by both groups to advance their political agenda.

Thus, for right-of-center thinkers as well as for libertarian followers of Friedrich von Hayek, the quest for civil society is taken to mean a mandate to deconstruct many of the powers of the State and replace them with intermediary institutions based on social voluntarism. For many liberals, civil society is identified with social movements, also existing beyond the State. And while many of the former refuse to recognize that voluntary organizations can be of a particularly nasty nature and based on primordial or ascriptive principles of membership and participation that put to shame the very foundations of any idea of civil society, the latter are blind to the fact that the Achilles' heel of any social movement is its institutionalization, which—one way or the other—must be through the State and its legal (and coercive) apparatus. In the meantime, both communitarians and liberals continue to assimilate the idea of civil society to their own terms, invest it with their own meanings, and make of it what they will. Right, left, and center, North, South, East, and West—civil society is identified with everything from multiparty systems and the rights of citizenship to individual voluntarism and the spirit of community.<sup>1</sup>

To some extent these contradictory usages are rooted in the concept itself; the early-modern idea of civil society emerged in the eighteenth century as a means of overcoming the newly perceived tension between public and private realms. In fact, what stood at the core of all attempts to articulate a notion of civil society in that period, and since, has been the problematic relation between the private and the public; the individual and the social; public ethics and individual interests; and individual passions,

and public concerns. More pointedly, the question of civil society was, and still is, how individual interests could be pursued in the social arena and, similarly, the social good in the individual or private sphere. What is ultimately at stake in this question is, moreover, the proper mode of *normatively* constituting the existence of society—whether in terms of private individuals or in the existence of a shared public sphere.

If constitutive of civil society is some sense of a shared public (as I believe all would agree), so is the very existence of the private. It is after all the very existence of a free and equal citizenry—of that autonomous, agentic individual, of the private subject—that makes civil society possible at all. The public space of interaction is a public space only insofar as it is distinguished from those social actors who enter it as private individuals. Where there is no private sphere, there is, concomitantly, no public one—both must exist for sense to be made of either one. As the following essays make clear, the issue of public and private realms (and interests) continues to define the different conceptions of civil society, from contemporary feminist perspective to more classically liberal ones and, of course, to those still more indebted to the different religious and natural law traditions where more premodern ideas of community and communal obligations hold sway. The very plethora of uses made of the concept would, however, seem to dictate a brief historical overview of the early-modern emergence and use of the concept, to which this chapter is devoted.

#### JOHN LOCKE AND THE SCOTTISH ENLIGHTENMENT

Much as it has done today, the idea of civil society as normative ideal emerged in the later-seventeenth and eighteenth centuries as the result of a crisis in social order and a breakdown of existing paradigms of the idea of order. The general crises of the seventeenth century—the commercialization of land, labor, and capital, the growth of market economies, the age of discoveries, and the English and later North American and continental revolutions—all brought into question the existing models of social order and of authority. Whereas traditionally the foundations or matrix of social order was seen to reside in some entity external to the social world—God, King, or even the givenness of traditional norms and behavior itself—these principles of order became increasingly questioned by the end of the seventeenth century. By the eighteenth century, people began more and more to turn inward, to the workings of society itself, to explain the existence of the social order. The execution and, more importantly, the trial of Charles I in 1649 (which put the King firmly under the laws of the Realm); the incipient market economy and the Physiocratic doctrine of the economic as a self-regulating arena; the discovery of diverse traditions and models of or-

ganizing social life in non-European lands; as well as the later, eighteenth-century image of a clockworker God all brought into question the idea of the source of social order as external to society.

The image of civil society as an ethical model for conceiving the workings of the social order emerged from within this major and radical reorientation of European social thought in the seventeenth and eighteenth centuries. As such, it represents a critical new attempt to argue the moral sources of the social order from within the human world and without recourse to an external or transcendent referent. This challenge and, with it, that of squaring the newly emerging interests of increasingly autonomous individuals with some vision of the public good provided the theoretical and ethical ground for the idea of civil society.

Of major significance in the early-modern reorientation of social thought was the work of John Locke. Locke is, in this context, very much a transitional figure—building on the tradition of individual rights (so central to the civil society tradition) through a “liberal” reading of Hugo Grotius and other medieval political theorists, but, as John Dunn pointedly reminds us, rooting these rights in a religious vision.<sup>2</sup> For Locke, in the *Second Treatise*, civil society is still coterminous with the political realm in toto, and there does not yet exist that latter differentiation of civil society from the State that we find in late-eighteenth- and nineteenth-century thought. Civil society is that realm of political association instituted among men when they take leave of the “state of nature” and enter into a commonwealth.<sup>3</sup> Political or civil society is, for John Locke, that arena where the “inconveniences” and insufficiencies of the state of nature are rectified through the mutuality of contract and consent.<sup>4</sup>

Without entering too much into an analysis of the *Second Treatise*, we can say that what is of central importance to our argument is the ontological status of the rights and privileges that Locke posits as the basis of civil society. These of course draw on the traditions of natural law, but also on a specific Christian, if not Calvinist, reading of man’s relation with God. The normative status of civil or political society for Locke turns on the state of nature, that “state all men are naturally in, and that is a state of perfect freedom to order their actions and dispose of their possessions and persons as they think fit within the bounds of the law of nature, without asking leave, or depending upon the will of any other man.”<sup>5</sup> This state of liberty (though “not of license”) is, however, itself rooted in a theological matrix—rooted in fact in the medieval Christian tradition of right reason and Christian Revelation. Moreover, and as Locke makes clear, the very limits on liberty (as for instance in the prohibitions on suicide or self-enslavement) as well as the sources of this liberty are rooted in a certain set of theological presuppositions. “For men being all the workmanship of one omnipo-

tent and infinitely wise Maker—all servants of one sovereign Master, sent into the world by His order, and about His business—they are His property, whose workmanship they are.”<sup>6</sup>

Locke was positing not a historical reality of equality and freedom as the bases of civil society, but a theological axiom whose ontological status was not given to empirical evidence or questioning.<sup>7</sup> He posits an ethical and inherently Christian ideal that need not bear any relation to the given historical reality (and inequality) of seventeenth-century English society or, indeed, of any other society. Locke’s concern (on the substantive and not polemical level) was to find a point beyond the status and property differences in society, beyond what John Dunn termed “the tangle of seventeenth century social deference,” where the moral integrity and autonomy of the individual (male) social actor could be validated and so could serve as the basis for a vision of social order. This ground was to be found only in a set of theological principles that were in fact a natural theology of a uniquely Calvinist variant.<sup>8</sup> The individual is, as quoted above, God’s workmanship, even His property. Man’s existence is still rooted in what Charles Taylor termed, in a different context, an ontic-logics<sup>9</sup>—that is to say, in a cosmic scheme where the existence of man’s calling as well as his reason are validated in terms of a specific soteriology.

If with John Locke the supporting struts of civil society are those of an unproblematic and rationalized theology where God’s will and right reason still work in a coordinate state (resonant of the Calvinist unity of nature and grace), by the mid-eighteenth century the conjectural basis of the social order had become more problematic. In the writings of Francis Hutcheson, Adam Ferguson, and Adam Smith, a new appreciation of the problematic existence of individuals in society appears that was absent from the thought of Locke. To a great extent the developing idea of civil society is—within the Scottish Enlightenment—an attempt to find or, rather, posit a synthesis between a number of developing oppositions that were increasingly being felt in social life. These oppositions—between the individual and the social, the private and the public, egotism and altruism, as well as between a life governed by reason and one governed by the passions—have in fact become constitutive of our existence in the modern world.

Not surprisingly, the attempt to return to the eighteenth-century idea of civil society is today an attempt to readmit that synthesis of private and public, individual and social, egotistical and altruistic sources of action that such an ideal represents. Prior to any synthesis, however, lies the very awareness of conflict. And, to be sure, the developing economy of market relations in the eighteenth century problematized social existence in new ways. The freeing of labor and of capital developed together with a new awareness of individuals acting out their private interests in the public

realm. By the middle of the eighteenth century it became increasingly difficult to square the traditional image of the individual as bounded by and validated within the network of social relations with that of the autonomous social actor pursuing his (not yet her) individual interests in the public realm. The very grounding of new forms of social action and motivation based on self-interest (indeed, on the very concept of the self) made it imperative to posit a new moral order that would accommodate and in a sense “hold” the development of interpersonal relations based not on a shared vision of cosmic order, but on the principle of rational self-interest.

The first expression of this need and the problems it implied in any attempt to “think” society as something over and above its individual parts can be found in the central and growing realization that man is motivated by two divergent and contradictory principles: altruism and egoism. Alasdair MacIntyre has claimed that, following Malebranche, Shaftesbury (who was Locke’s pupil) was the first of the moral philosophers to have understood this defining contradiction in human nature and motivation.<sup>10</sup> Its appreciation, however, played a salient role for all of the thinkers of the Scottish Enlightenment and continued into the end of the nineteenth century, where we can find it, redefined in more sociological and what were then assumed to be scientific principles, in the work of Emile Durkheim. It was, moreover, the cognizance of this distinction and the need to overcome it, to posit some unitary framework for ethical action (that could no longer be based on God’s dictates), that led eighteenth-century thinkers to the idea of moral affections and natural sympathy, which in turn served as the basis for the idea of civil society.

Moral sentiment, by which “men are united by instinct, that they act in society from affections of kindness and friendship,” was for the thinkers of the Scottish Enlightenment an axiomatic property of the human mind.<sup>11</sup> On the epistemological level it is an attempt to ground the existence of the social order in an intimately human propensity of innate mutuality. With society no longer conceived in the hierarchic and holistic terms of medieval orders but of discrete individuals, a new bond between its particulars had to be found. This takes the form with Adam Smith, for example, of *The Theory of Moral Sentiments*, which argues that the moral basis of individual existence is the need for recognition and consideration on the part of others. “To be observed, to be attended to, to be taken notice of with sympathy, complacency and approbation” are for Smith the driving forces of “all the toil and bustle of the world . . . the end of avarice and ambition, of the pursuit of wealth.”<sup>12</sup> Thus, and as tellingly pointed out by A. O. Hirschman, economic activity itself is rooted, in *The Theory of Moral Sentiments*, in the noneconomic needs for sympathy and appreciation.<sup>13</sup> It is for Adam Smith our interest in “being the object of attention and approbation” that leads to the complex of activity that defines economic life.

What is central to this perspective is the idea of the arena of exchange (which is that of civil society) as rooted in a sphere of values predicated on the mutuality of individual recognition. This stress on mutuality and recognition runs through all the writings of the Scottish Enlightenment on civil society and serves to underpin that “propensity to exchange” that is at the heart of market transactions.

Preceding Adam Smith, we can find Adam Ferguson asserting that “[t]he mighty advantages of property and fortune, when stripped of the recommendations they derive from vanity, or the more serious regards to independence and power, only mean a provision that is made for animal enjoyment; and if our solicitude on this subject were removed, not only the toils of the mechanic, but the studies of the learned, would cease; every department of public business would become unnecessary; every senate-house would be shut up and every palace deserted.”<sup>14</sup>

Vanity here is crucial and plays the same role as Smith’s “attention and approbation.” It builds on the social nature of our existence and on our individual validation in and through the eyes of others. The public arena of exchange and interaction—the realm of civil society—is not simply a “neutral” space of market exchange where already fully constituted individuals meet to exchange property and develop commerce, manufacture, or the arts. It is itself an ethical arena in which the individual is constituted in his individuality through the very act of exchange with others. Vanity is that which links us to the social whole as we become who we are through the other’s perception of us (a sort of “Meadian” social self *avant la lettre*).

What is novel in the thought of the Scottish Enlightenment is of course not the mere positing of shared social space as an ethical arena. This had always existed within the political and philosophical traditions of Western civilization. What was new in the eighteenth century was the very terms in which that ethically validated and validating social space could be conceived. Not yet totally throwing loose its moorings in a Godly benevolence, it nevertheless came to be characterized by increasing innerworldliness—that is to say, by human attributes that themselves had to support a vision of the social good.

Indeed, as the Deism of the eighteenth century no longer accepted a model of human, this-worldly activity framed in theological terms, it had no recourse but to posit in its stead a new philosophical anthropology. In fact, this move or turn inward to a natural, inworldly, and ultimately human source of social order can be seen by a brief comparison of the opening chapters of Locke’s *Second Treatise* and of Adam Ferguson’s *Essay on Civil Society*. Both begin with the “State of Nature.” But whereas for Locke this state of nature is, following Hooker, based on the common subordination of humans to God, for Ferguson, it is nothing more than a short course in

natural history with no reference, or indeed need of reference, to a divine being. Ontology has, as it were, been replaced with epistemology.

By positing the sources of natural benevolence within the human world, the distinction between public and private lives attained a saliency, indeed a recognition, it had never had before, which in fact brings us to the heart of the image of civil society as a moral vision. What made the classic vision of civil society unique was its positing of the social space of human interaction as a moral sphere—that is, not simply as a neutral arena of exchange—where moral attributes were derived from the nature of man himself. What was unique was precisely the coupling of a vision of society with that moral field implied by the term *civil society* while, at the same time, rooting this field in an innerworldly logic and not in a transcendent reality. This, as history has shown, was a fragile synthesis that could not support either the expansion of capitalism or the growth of rationality. It rested on a particular view of the relations between men’s passions and their interests and of the crucible of civil space where a synthesis between them could be achieved.

What the idea of civil society meant to the thinkers of the Scottish Enlightenment was primarily a realm of solidarity held together by the force of moral sentiments and natural affections. These forces provided a “moral grid” that severely attenuated any attempt to think of rational self-interest in terms of either disengaged reason (i.e., reason or interests freed from the “passions”) or of the self freed from the eye of the other. We have seen above how for Smith himself the very focus and motivating force of economic activity, of the hustle and bustle of worldly affairs, was the search for recognition on the part of others. The need for respect and approval, man’s very *amour de soi*, rested on the praise of others. Therefore, the individual self could never, in this reading, be totally disengaged from society, nor could reasoned self-interest be abstracted from those passions which, through the moral sentiment, rooted man in society.

It was these passions that set men over the animals and the basic life of material substance and which “reserved for man to consult, to persuade, to oppose, to kindle in the society of his fellow-creatures, and to lose the sense of his personal interest or safety, in the ardor of his friendships and his oppositions.”<sup>15</sup> This vision of sociability and mutual recognition rested, moreover—and this was its Achilles’ heel—on a particular understanding of reason that, while embracing the concept of interest, went far beyond any utilitarianism. Indeed, the idea was of a reason that was itself an element of the natural affections. Reason and rationality in thinkers such as the Third Earl of Shaftsbury brought us, through our innate benevolence, to an understanding and so a love of the whole—of the universal. Natural affections, which bound societies together (a type of social

solidarity), emerged from a happy confluence of Reason and benevolence that allowed us to put the good of the whole above the good of the parts and so the public or social good above our individual interests. Reason in its universal sense (that is, as part of the passions) takes us beyond particular interests to affirm the universal good where the particular and the universal, the private and the public, are united within one field of meanings. This unity of Reason and moral sentiment was not to stand the test of time, however, and would in fact begin to unravel already in the thought of David Hume.

#### HUME AND KANT

The challenge posited by Hume to that tradition of thought that saw civil society as ethical model or ideal was disarmingly simple. He simply tore asunder the unity of Reason and moral sentiment upon which the model rested. Hume's distinction between "is" and "ought," upon which was based what Alasdair MacIntyre has appropriately termed his "subversion from within" of the Scottish Enlightenment, was, as well, an outright attack on the tradition of moral sentiment and universal benevolence upon which the idea of civil society rested.<sup>16</sup> In terms most germane to our own problematic, of the moral basis of the social order, the most succinct formulas of the above, taken from *A Treatise on Human Nature*, has it that "[s]ince morals, therefore, have an influence on the actions and affections, it follows, that they cannot be derived from reason; and that because reason alone, as we have already prov'd, can never have any such influence. Morals excite passions, and produce or prevent actions. Reason of itself is utterly impotent in this particular. The rules of morality, therefore, are not conclusions of our Reason."<sup>17</sup> Thus, for Hume, "the ultimate ends of human action can never . . . be accounted for by reason, but recommend themselves entirely to the sentiment and affections of mankind."<sup>18</sup> A strict "boundary" in Hume's phrase is posited between what is *ascertained* by reason and what the *motives* are for human action, which can only be understood in terms of sentiment. The fragile concomitance of both upon which the unity of the individual and society, private and public, had been seen to rest no longer holds. Reason has no place in a psychology of human motivation—which is solely relegated to the passions, which, in turn, have no privileged knowledge—indeed, none at all—of universal truths.

However, if the working of Reason can only bring us to universal truths that are beyond the field of morality or virtue, how can a representative vision of the social good be posited? How, in this reading, can society be conceived as a normative order? It was Hume's answer to these questions that had such a strong impact on later liberal theory; in fact, Hume abstained from positing the social order in terms of any morally substantive good.

The universal good was nothing beyond the calculus of individual or particular good, and the public good was supported solely by the workings of private interests.

The role of Reason in the Humean idea of society was fixed within this calculus—allowing the individual to ascertain his own benefit as deriving from following certain universally applicable rules of conduct. In itself, Reason has no other role and certainly no autonomous moral validity. Of these rules, the three fundamental ones for the workings of society are the stability of possessions, their transfer by consent, and the performance of promises.<sup>19</sup> These, as Hume emphasizes, are "artifices" of society—necessary for its workings, but not rooted in any historical, mythical, logical, or transcendental status. ("In the state of nature, or that imaginary state, which preceded society, there be neither justice nor injustice.")<sup>20</sup> Fore-shadowing Hegel, Hume well realized that "justice," as well as the rules governing the exchange of property and indeed the whole edifice of civil society (of which the obligations to fulfill promises and thus secure a realm of continued human interaction was central), "takes its rise from human conventions." They are decidedly not to be found in any set of natural principles—cosmic, transcendental, or otherwise.<sup>21</sup> Moreover—and crucially, in terms of the death toll of the Scottish Enlightenment—men, in the Humean reading, would follow the rules of justice not because they represented some universal, constitutive good, but simply to maximize their self-interest. In the social reality as Hume conceived it, characterized by people's "selfishness and limited generosity" joined with the scarcity of goods "in comparison with the wants and desires of men," men's only recourse to realize their *own* interests was to follow universally validated rules of justice.<sup>22</sup>

It is this proposition, Hume asserts, and not a "regard of public interest or a strong extensive benevolence," that leads us to follow the rules of justice.<sup>23</sup> Not only is moral sentiment here distinguished from the *rules* of justice, but the *sense* of justice, which is historically contingent and takes different forms in different societies, is divorced from Reason. It is founded, Hume argues, not on any set of "eternal, immutable and universally obligatory relations between ideas," but solely on our "impressions." In this reading what is *deemed* moral has no foundation in Reason, as the latter is indeed uncoupled from any moral sentiment. And while it is reasoned self-interest that leads us to follow the rules of justice, justice itself has no more than an instrumental value and no autonomous standing beyond those particular interests that are served by following its dictates (those three rules quoted above).

With Hume the distinction between justice and virtue, between a public sphere based on the workings of self-interest (in conformity to law) and a strictly private sphere of moral action (predicated on such consideration



as those of friendship, for example), is presented in its starkest form. It was this distinction and its attendant dilemmas that the Scottish Enlightenment and the whole civil society tradition attempted to avoid. The ensuing dilemma—of how to posit a prescriptive and not just descriptive model of the social order, given this distinction between abstract and general rules of justice on the one hand and the particular desiderata (of either rational self-interest or such other-regarding sentiments as friendship) on the other—has defined the modern period from Hume onward. Its theoretical challenge was first addressed by Kant, who, despite his theoretical innovations, remained very much within a Humean problematic.

With Kant a number of themes that had been central—if still somewhat latent—in the thought of the Scottish moralists achieve a new recognition. The problems of the relation between the particular/individual and the universal/social and, with this, of the proper mode of representing social life, which were inherent in the civil society tradition, take on a new rigor. It was, in fact, only in the writings of Immanuel Kant that the above-noted problems, of properly representing the public and private spheres (as well as the relation between this and the idea of Reason), were first fully articulated.

In certain respects Kant continued (and of course substantially deepened) the thought of the Scottish philosophers, making the themes of freedom and equality central edifices of his philosophical anthropology. Similarly, and of equal if not greater importance, he united these ideas with the progressive workings of a universal Reason through which individual rights (to civic freedom and political equality) were articulated. Reason supplied that ideal (or model, *Urbild*) through which our judgment is guided by the moral law.<sup>24</sup> Right (*Recht*, embracing both personal “rights” and the very notion of justice) is ensured through the autonomous and agentic individual subject following the dictates of a Reason that, in its very universality, bridges the distinction between private and public, individual and social. As mankind comes into his own, that autonomy, freedom, and equality of each individual (which must be assured in the juridical community of citizens) itself engenders—through a universal reason—the workings of the moral law.

Kant’s famous strictures on never using any individual as a means cut to the heart of the civil society debate. They provide a new, more analytic formulation of the realm of moral sentiment and natural sympathy upon which the Scottish philosophers constructed their idea of civil society. In Kant however, this injunction is not founded on any “natural” endowment but—and this is precisely its critical importance—on following the strictures of reason itself. For Kant reason, more concretely practical reason, was realized in the juridical community of citizens and as such represented the crowning achievement of human freedom in the modern world.<sup>25</sup> Reason

and equality were thus firmly united in the representative vision posited by Kant of the social or political order.<sup>26</sup>

Moreover and central to the whole Kantian conception of practical reason was the existence of a shared public arena where the workings of reason were substantiated.<sup>27</sup> As Hannah Arendt has made clear, the category of the “public” was central for the Kantian synthesis of reason, equality, and freedom.<sup>28</sup> It was for Kant within the public arena of critical discourse that reason and equality, and with them the preconditions for the “kingdom of ends,” were validated.<sup>29</sup>

On one level, Kant’s notion of publicness would appear as a more fully developed and more highly theorized concept than that mutuality inherent in the Scottish Enlightenment idea of natural sympathy. With Kant a labile and subjective idea takes a rigor and objective form in and through its unity with Reason. Similarly, with Kant a new, more rigorous vision of social differentiation began to develop. The State is no longer viewed as coterminous with civil society because the publicness of rational debate and critique is seen (and indeed emphasized) as the province of civil society in its distinction from the State.

In Kant’s objections to the absolutist state, this role of a critical citizenry freed from civil constraint is salient. The very legitimation of constitutional rule rests on the idea that its laws would be such that had all the (rational) citizenry debated them, they would have arrived at the same conclusion.<sup>30</sup> Kant, thus, would appear to overcome (through his very synthesis of Reason with the public realm) that distinction between individual (interests) and social (good) with which the moralists of the Scottish Enlightenment wrestled.

This synthesis however, contained the critical distinction between the juridical and the ethical that was to prove so important for further theoretical attempts to articulate an ethical vision of societal representation. The public arena was for Kant the sphere of right (*Recht*), of mutual and rational consent to the individual and collective will (*Willkur*) of others.<sup>31</sup> It was not, however, the realm of the ethical, which was reserved for the private workings of inner life.<sup>32</sup>

In Kant’s writings the (private) sphere of morality and ethics is thus divorced from the representative vision of society as juridical community. The public arena as the realm validating the juridical equality of citizens is thus invested with value, while concomitantly remaining removed from the realm of the ethical. Kant then, more than anything else, absolutized that distinction noted above by Hume, rather than overcame it. This solution (and distinction) to the dilemma of how to represent the public good, still critical in the discourse of liberal political theory—in debates over a politics of right versus a politics of the Good—perpetrated rather than resolved the tension between public and private realms. By distinguishing right or duty from ethics and reserving the later for the private realm, Kantian the-

ory left unresolved the critical issue of ethical representation and of the status of the public sphere: Did it embody a shared vision of the Good, or was it circumscribed to the guarantee of individual “rights” only (issues that appear in some contributions to this volume, such as those by Walzer and Lomasky)?

#### HEGEL AND MARX

It was this separation of the juridical from the ethical that gave rise to the Hegelian critique of Kant. Hegel’s criticism and development of Kant’s philosophy turned, precisely, on this point—the divorce of public right from private morality and so the mediated and incomplete realization of reason this entailed.<sup>33</sup> Leaving morality as a “regulative principle” only, and one not fully integrated into the domain of Right (that is of Law), meant, in Hegel’s reading of Kant, the abdication of morality from its proper place in the ethical representation of society. Marx, as is well known, followed in Hegel’s footsteps in attempting to unite the private realm, now conceived of as individual interests (rather than simply private moralities) residing in civil society, with the public realm (of political concerns). As opposed to Hegel, he posited this unity as a prescriptive for future development and not as embodied in the actually existent state. What unites both thinkers, however, is a concern with the proper integration of the ethical realm (hitherto conceived of as private) within the public arena.

With Hegel and Marx we come in fact to the end of the civil society tradition as a normative model of social life. Both, in different ways, seek to overcome that distinction between public legality and private morality, between juridical community and ethical life, that was first posited by David Hume and “absolutized” by Immanuel Kant. For both Hegel and Marx this distinction was a fatal flaw in the idea of civil society, and both sought to provide the theoretical means for a reconstruction of civil society as idea and praxis. In their different reconstructions, however, the very distinction of the idea of civil society as it had been articulated in the eighteenth century was overcome and transformed. However great the difference between Hegelian and Marxist models of civil society, they can (both) be understood only in terms of an attempt to reintegrate the two realms of legality and morality that stood at the core of the original normative idea of civil society. In doing so, both thinkers stressed the shared, collective nature of morality, its sources in group interests and, most critically with Marx, in the relative position of these groups within the relations of production. Both nevertheless sought, in different ways, to realize that model of civil society as an ethical vision for which the ideas of moral affections and natural sympathy were no longer sufficient. The difference between both thinkers was of course in the realm where this ethical vision was real-

ized and the contradictory injunctions of public law and private morality—that is, of the contradictory nature of civil society—finally overcome.

While Hegel clearly distinguishes civil society from the State and provides an acute analysis of the workings of particular interests within civil society, civil society is not, in itself, that realm of ethical realization. As he makes clear, civil society as such is the realm where the Idea of Freedom is only present in its “abstract moment,” as an “inner necessity.”<sup>34</sup> “It is the system of the ethical order, split into its extremes and lost.” The heterogeneity of interests and classes which make up civil society are, in Hegel’s thought ultimately self-defeating—so long as they remain within *that* “moment” where universality is not concretely (but only abstractly) realized. Hegel’s whole analysis of civil society turns in fact on the overcoming of the contradictory desiderata of particular interests (those of different strata, classes, occupational groups, and so on), and so the realization of ethical life through its embodiment in a universal framework that begins *but* does not end with the sphere of civil society.

Rather, as is well known, the true overcoming of particularity, of the individual interests of burghers, Corporations, or Estates (which comprise civil society) is achieved only in the realm of the State proper (and more concretely the universal interests represented by the class of civil servants) which is the sole representative of the universal idea.

Thus, interestingly enough, one way of reading Hegel is to see in his writing an attempt to maintain the reciprocity and mutuality of the classic civil society tradition while placing it on a firmer foundation than that of innate and natural sentiments. Indeed, he artfully shows how civil society is itself the object of historical development and not a predetermined natural state. Moreover, his new synthesis seeks to sidestep the critical Kantian (and Humean) distinction between legality and morality, which left the latter beyond the realm of concrete ethical action in the world. In squaring this circle and overcoming the dichotomies of both the Scottish Enlightenment and Kantian theory, Hegel, however also “overcame” the very autonomy of the concept of civil society—positing its very realization in the State.

If Hegel “resolves” civil society into the existent and ethical (universal) entity of the State, Marx, it can be said, resolves it into itself. It is a resolution, however, that will be achieved only in the future negation of the existent distinction between civil society and the State and a future unity of human existence within which true freedom will be achieved. Following Hegel, Marx rejected all “myths and fantasies” of the eighteenth century on the natural origin of civil society.<sup>35</sup> He was, however, aware, as they were, of the abiding contradiction of modern existence between the philosophically posited autonomous and isolated individual and his (and with Marx and Engels we begin to have her) social existence. For Marx, the

eighteenth century, that epoch of civil society, produced both the isolated individual as well as the most highly developed forms of their social relations. This dichotomous reality stands in contrast to that view of a "society of free competition," where "the individual *seems* detached from the ties of nature." Marx's castigation of the eighteenth-century philosophy of the Scottish Enlightenment stems from its penchant to resolve both aspects of modern existence into a mythical and abstracted reading of human nature.

The division of human existence into disparate realms of civil society and the State, or political life, was for Marx the defining characteristic of modernity as a civilization, and belied any attempt to posit the autonomous, individual pole of this dichotomy in terms of true human nature. Marx rejected both the anthropological naïveté of the eighteenth century as well as the abstract idealism of Hegelian thought. He saw the very emergence of civil society as identical with the political emancipation of the eighteenth century and not as in any way preceding it (ontologically or historically). The emergence as well as differentiation of both resulted ultimately from the overthrow of the unified feudal order where "the vital functions and conditions of life of civil society remained . . . political."<sup>36</sup> In feudalism the components of civil society were not individuals as such, but estates, corporations, guilds, and privileged groups. These were the participatory actors in a public sphere. The destruction of feudalism "abolished the political character of civil society" and at the same time broke up civil society into its individual components—setting up on the other side the realm of political community as "the *general* concern of the nation, ideally independent of those *particular* elements of civil life."<sup>37</sup> Consequently, "a person's distinct activity and distinct situation in life were reduced to a merely individual significance. They no longer constituted the general relation of the individual to the state as a whole."<sup>38</sup> Existence in civil society thus became one of conflicting individual interests devoid of that communal mutuality that was relegated to the political province proper. This atomization of society—conceived of as "the emancipation of civil society from politics"—is at the same time a removal of those "bonds which restrained the egoistic spirit of civil society," that is, that mutual responsibility that was part and parcel of feudal ties and obligations and that was based on the relative "holistic" model of the social order represented by feudalism.<sup>39</sup>

Marx is, as we can see here, fundamentally concerned with the same set of problems that led his philosophical forerunners one hundred years earlier to their own idea of civil society. With them, however, the very idea of civil society was a solution to the problem of how to posit a social whole beyond the particular interests that define individual existence. With Marx (here following Hegel) civil society is itself that realm of conflict between particular interests that must be somehow overcome in another (ethical)

unity. However, and whereas this conflict was for Hegel overcome in the State, for Marx the State was itself subservient to the conflicting forces of civil society. Their resolution was only to be in the future, when true human history would begin.

#### CONCLUSION

From the eighteenth century through the nineteenth, what was of major concern to all social philosophers was the possibility (that is to say, the normative possibility) of positing a unified vision of the social order that, at the same time, recognized the legal, moral, and economic autonomy of its component parts. The idea of civil society emerged at the beginning of this period as just such a solution. Its fundamental premises, rooted in a theological anthropology and combined with a naive belief in the congruence of reason and sentiment, were critically undone within a short sixty years—as the writings of Hume and Kant testify. The problem first addressed by Hutcheson, Shaftsbury, and Ferguson—of the proper relations between the individual and society, between the public and private realms—remained, however, as the defining problem of social thought.

The writings of Hegel and of Marx, however, attest to the continuity (of sorts) of the civil society paradigm into the nineteenth century. In their own work however, its viability as a normative concept and model of social representation disappears. In Hegel it disappears into the universal state, in Marx in the future reunification of civil and political society. "Only" Marx asserts at the end of *On the Jewish Question*,

[W]hen the real, individual man re-absorbs in himself the abstract citizen, and as an individual human being has become a species-being in his everyday life, in his particular work, and in his particular situation, only when man has recognized and organized his "forces propres" as social forces, and consequently no longer separates social power from himself in the shape of political power, only then will human emancipation have been accomplished.<sup>40</sup>

With this, the classic idea of civil society comes to an end. Its shadow, however, continually remained in the background of both liberal and socialist theory and politics into the twentieth century. In liberalism, the idea of the morally (and economically) autonomous individual, which served as the basis of the idea of civil society, remained as the fundamental premise of political life. However, the loss of the early-eighteenth-century notion of natural sympathy and moral sentiments made it increasingly difficult to root this individual in a community and so present a coherent vision of society beyond its individual members.

The contemporary condition characterized by a questioning of many of the core assumptions that have guided postwar social life (on the bound-



aries of public and private realms, the role of the State and corporate groups in the making of social policy, the nature of work, the family, gender roles, etc.) has led contemporary social theorists to return to the original Scottish Enlightenment idea of civil society as a possible resolution of contemporary impasses. Posited as a panacea, the idea of civil society has reappeared among writers across the political spectrum, in many different countries, and the term itself has taken on many different meanings. And though our concern here has been more with the original idea of civil society as formulated in the Scottish Enlightenment, it would do well to briefly note some of these usages—if only to highlight their distinction from the classical meaning of civil society.

There are at least two broad uses of the term in current social and political practice; usages whose differences become especially salient when we compare the thoughts of those writing in such cities as Bucharest, Budapest, Vilna, and Prague to those writing in Princeton, Chicago, Toronto, or Boston. What characterizes the demand for a “return” to civil society for those living “East of the Elbe” is most essentially a call for the institutionalization of those principles of citizenship upon which modern liberal, democratic polities in the West are based. In this sense, for many in East Central Europe, civil society is but a different term used to characterize those institutional features that are taken to define democratic regimes, and that are based on the principles of civic, political, and social citizenship first adumbrated by T. H. Marshall in midcentury.<sup>41</sup>

Indeed, I would hazard the guess that the use of the term *civil society* instead of *democracy* in Eastern Europe to describe the organizational features of social life that we identify with civil society is to be found less in any additional analytic weight carried by the idea of civil society and more simply in the fact that *civil society* as a term was neutral and uncorrupted by forty years of State propaganda, whereas the term *democracy*—as in People’s Democracy—was heavily tainted by the past and as a political slogan was not as unencumbered as *civil society*. In a sense, then, what civil society means to writers in contemporary East Central Europe are the formal, legal, and institutional venues through which the individual as an autonomous moral agent can act out his and her needs and desires in the social and political spheres.

This is in contrast to the situation in the West, where the idea of civil society invokes a greater stress on community, on the “reestablishment” of some public (and perforce communal) space to mediate somewhat what are seen as the adverse effects of the ideology of individualism—at least in the United States. Thus we may think of Edward Shils’s dictum that civil society is the “conscience collective” of society or of the recent writings of Michael Walzer and Charles Taylor, which stress the “associational” char-

acter of civil society as, in true Hegelian fashion, a realm of community existing “between” the family and the state.<sup>42</sup> This reading of civil society in the contemporary West is perhaps best summed up by Daniel Bell, who noted that “the demand for a return to civil society is the demand for a return to a manageable scale of social life,” one that “emphasizes voluntary association, churches and communities, arguing that decisions should be made locally and should not be controlled by the state and its bureaucracies.”<sup>43</sup> Interestingly, we find this concern not only among authors most identified with the “communitarian” perspective in American politics, but also among such as Seyla Benhabib, Jean Cohen, Andrew Arato, and others who, from their own emphasis on individual rights and fulfillment (as drawing on what has come to be considered the critical tradition in political theory), offer similar critiques.<sup>44</sup> In all, we find a concern for defining civil society (and indeed citizenship) in terms of some set of highly generalized and universalistic moral bonds obtaining between social actors and that, in turn, are seen as providing the preconditions for that reading of civil society as a self-regulating community existing between individuals yet distinct from their existence as citizens of the nation-state.

The problem with this reading, however, is what it ignores, and what it ignores is precisely the problem of liberal-individualist ideology: that is, of how to constitute a sense of community among and between social actors who are conceived of in terms of autonomous individuals. In slightly different but similar terms it ignores Weber’s problem of the iron cage of increasing rationality which, while furthering the workings of a universal Reason, also cut at the basis of a shared communality. Community or communality is always particular. And not surprisingly most of the more popular cries for a reconstituted sense of civil society in the West stress precisely this need to reassert a sense of shared communality in the face of what is perceived as an individualism devoid of communal referents. The more the relations between individuals are defined by abstract, legalistic and formal criteria, the less the public realm can be defined by a shared solidarity based on concrete ties of history, ideas, love, care, and friendship. As the public space of interaction is increasingly defined by the workings of an abstract, what Max Weber would term “instrumental,” rationality, the less the concrete concerns for mutuality and trust are realized (or perhaps seen to be realized) in the public realm. One consequence of this is the increased difficulty of re-presenting social life in terms of the public sphere and (most salient perhaps in the United States), the positing of sometimes private, sometimes simply particular entities and interests as public concerns—as in fact defining the public good. In fact, I would hazard the claim that much of the emphases of multiculturalism, on the maintenance of (often ethnic, but always particular) group solidarities in contrast with the prior ideology

of the “melting pot” (based of course on the ideology of the individual as moral absolute) are part of this dynamic. However, just as the idea of civil society could not provide a coherent synthesis of the wills and conflicting desiderata of the individual actors with which the Scottish moralists were concerned, so it also fails to synthesize a public good out of the discrete yet more group-based demands of a multicultural citizenry. Whether in the case of ultra-Orthodox Jews, Chicana Lesbians, Christian Evangelicals, or Japanese philatelists, the universalization of particular claims to represent the public and its good(s) remains intractable. Indeed, as a shared public sphere recedes from the affective grasp of the citizenry (through its very formalization and increased institutionalization), the particular and often the private is posited in its stead as an alternative mode of symbolizing society. The renaissance of arguments based on a “republican” conception of citizenship by Sandel, MacIntyre, and others is of course rooted in the self-same dynamic as these, somewhat less theoretically principled, developments.<sup>45</sup> What both are, in the final analysis, challenging is precisely the idea of a political sphere predicated solely on the politics of rights rather than on a shared vision of the collective Good. The inherent particularism of these collectivist or group-based ideas of the Good inevitably, however, come up against the universalist claims of individual rights in ways that none have yet managed to synthesize. The two poles of the civil society dilemma, seek a resolution in contemporary society that has not been possible since the mid-eighteenth century.

The perduring question of how individual interests can be pursued in the social arena and, similarly, the social good in individual or private life thus continues to be a subject of public debate in Western as well as Eastern Central Europe. The idea of civil society that touches on and embraces elements of both community and individualism can however no longer serve as a point of synthesis between these conflicting ideas—for civil society is at the same time that realm of “natural affections and sociability” recognized by Adam Smith as well as that arena where man “acts as a private individual, regards other men as means, degrades himself into a means and becomes a plaything of alien powers”—in Marx’s famous characterization of market relations.<sup>46</sup> It is the realm of “rights” but also of property, of civility but also of economic exploitation. It rests on both the legally free individual, but also on the community of said individuals. Apart from the State, it is nevertheless regulated by Law. It is a public realm, yet one constituted by private individuals.

All these different resonances are contained in the idea of civil society as they reflect the contradictions of modern existence—in the seventeenth century and today. Whether the concept of civil society itself as either analytic idea or normative ideal can bring us any further toward their resolution is, however, open to serious question.

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## NOTES

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## Alternative Conceptions of Civil Society

### A Reflective Islamic Approach

*Hasan Hanafi*

CONTEMPORARY MUSLIMS articulate a number of alternative conceptions of civil society. First, there are some who reject the very idea of civil society as alien to Islam, a concept coming from the West: secular, antireligious, and aiming at Westernizing Muslim societies. This is the radical fundamentalist position. Second, there are some who affirm the concept of civil society as a universal concept, a global ideal irrespective of its Western origins. They accept it as a model, a norm of practice, and an ideal in lifestyle for individuals and societies. In this view, Islamic tradition becomes an archaic expression of bygone values reflective of their own peculiar historical conditions. This is the other radical position—the secular, Westernized alternative. Third, there are some who argue for the possibility of developing the ingredients of classical Islam to reflect modern social needs. They argue that similarities can be maintained and differences can be bridged through creative reinterpretation—or *ijtihad*—of the basic ethical sources of Islam. This final position is the reformist or modernist alternative.

These three broadly defined alternative conceptions of civil society are not merely theoretical constructs. We can find each position reflected in the spectrum of Muslim political societies; in practice, civil society is not one uniform type in the Muslim world. It varies from Lebanon to Afghanistan. In Lebanon today, civil society is reemerging after having been ripped apart by a decade of civil war. It exists because of the relatively equal power between society and state. Lebanon is unified in the public space by the general allegiance to the civil law, in spite of some balancing of power between different religious groups required by its multiethnic and multireligious composition. Still present are some illiberal vestiges of the old Lebanon: a Christian head of state, a Sunni prime minister, a Shi'i house speaker. Nevertheless, the civil war minimized the weight of sectarianism and maximized the feeling of citizenship, which has been reinforced by the resistance to the Israeli occupation in the south.

On the other extreme, Afghanistan under the Taliban offers a strict application of Islamic law, especially in family law and the penal code, the two obsessions of religious conservatism. The same practice in a more sophisticated way exists in Saudi Arabia and Sudan under the banner of applying

Islamic law (*shari'ā*), using religion as a camouflage for patriarchal society and for military dictatorship. Human rights in this type of state are routinely violated and human rights organizations are even banned.

The third practice is a middle course, which is more common in the rest of the Arab and Muslim world, in states such as Morocco, Tunisia, Libya, Egypt, Syria, Jordan, Kuwait, the United Arab Emirates, and Oman, where we find a balance between civil society and the dictates of medieval Islamic law. In the public sphere, the rules of civil society are maintained: citizenship, equality of all in front of the law, the constitution, freedom of expression, democracy, pluralism, and the like. In the private sphere, such as family law, the *shari'ā* is maintained since it is one of the sources of civil law.

It is clear from the above list of states following the middle course that civil society in its fullest sense is still far from realized in most of the Muslim world.<sup>1</sup> But the fact that democracy and respect for human rights are still the exception rather than the norm in the Muslim world does not reflect in my view the validity of either of the two extreme conceptions of civil society that I outlined above. Indeed, I believe that while the concept of civil society may be of Western origin, most of its key features may be found in Islamic ethical theory, and these features are slowly being realized in cultural contexts as different as the Moroccan and the Malaysian. Indeed, as I will argue in this chapter, the development of the third approach to civil society—the reformist, modernist approach—is the only viable one for pluralistic Muslim societies, whether they are African, Asian, or European. An Islamic state is not one that advocates only the application of the penal code or the observance of external rituals, but the state that implements the spirit or intent of the law (*maqasid al-shari'ā*). A state that pursues this spirit may not replicate all the institutions associated with Western civil society, but it will foster and protect many of the values that underlie it.<sup>2</sup>

#### INGREDIENTS

The concept of civil society is a Western concept, coined in the seventeenth century by the English political philosopher Thomas Hobbes as an alternative to Kingdom and Church. The human being is neither a subject of a king nor a believer in a church. He is a citizen of a state, where everybody is equal to everybody, where all citizens are governed by the same law embedded in the constitution. Hegel in his *Philosophy of Right* considered civil society as a step toward the state. The original concept held more political rather than economic connotations: equal citizenship, social contract, equality in front of the law, a constitution, and freedom and democracy.

That liberal concept of civil society was the foundation for liberal economics, and found expression in the rise of capitalism, free enterprise, and private property.

Civil society is not a panacea for the age-old problem of balancing the powers of the state, the society, and the individual. When it does exist, however, it provides a certain balance between the power of the ruler and the power of the people, between power from the top and power from the bottom, between the government and the opposition, which allows state and society to coexist without falling into the extremes of authoritarian rule or popular revolt.

Islamic culture historically has shared this concern for limiting the power of political authorities by diffusing it among a number of formal and informal institutions. If civil society means a system of checks and balances that prevent a preponderance of power residing in either the state or societal institutions, then Islamic theory from the earliest period demonstrates similar concerns. However, indigenous concepts of civil society from within Islamic culture are more innocent concepts, value free and without a hidden agenda. They are more consistent and less opposed than the ingredients of civil society projected from Western culture onto Islamic societies in a misguided attempt to replicate the Western model. The key Islamic ingredients for civil society require less oppositional tension between institutions because in Islam there are no kings or popes, no kingdoms and no churches. Instead we begin with the following salient concepts.

The first is the *umma*, which means a nation without boundaries, a community of believers. Islam views all human beings to be ontologically members of the same family, the same *umma*. And today, even though humankind is fractured into different moral communities (*umam*), Islam upholds the essential similarities that link all human beings with mutual obligations of respect and decent behavior.

All Muslims everywhere are members of the Islamic *umma*, this ideal community irrespective of geography. And yet Islam acknowledges that human identities are never monolithic, but varied and sometimes cross-cutting. So even though Islam posits the moral primacy of membership in the single community of Muslim believers, it also accepts the reality of other societies and nations, sometimes existing within the Muslim *umma* and at other times including non-Muslims as well.

Groups that may or may not connote a religious basis include *qabila*, or tribe; *ta'ifa*, which means an intimate group dedicated to a cause; *milla*, which means a religious community or sect; and *nas*, which could mean either a group of people or the whole human race. All refer to different sizes of human groups.

Related concepts refer to place or abode, such as *madina*, a town or city;

*qariya*, a village; and *wadi*, a populated valley or low-lying area. The important point about these terms is that they refer to inhabitants, not just to place.

Another set of concepts refers to specifically religious groups apart from the Muslim community. The most important such concept is that of *ahl al-kitab*, or "people of the Book," namely Jews and Christians who share with Muslims the revelation of Abraham. The word *ahl* suggests a common family or parenthood. Jews, Nazarenes, and Sabeans all form communities of believers equal to Muslims. They are groups for positive action and common cause.

Some categories refer to social classes, such as rich and poor, the deprived, and the homeless. Others relate to political categories, such as princes and other wielders of power; to religious authorities, such as priests and rabbis; to gender categories, such as male and female. Finally, there are a number of concepts related to the core institution of the family, which establish the rights and duties connecting fathers, mothers, sons, daughters, parents, neighbors, and friends.

The above list may read as an agglomeration of unrelated terms. In fact, the concepts and the groupings outlined above are intrinsically related to one another because they combine to form an integrated whole that is Islam's conception of human society. Islam certainly puts primacy on the rights and obligations incumbent upon Muslims as members of the same religious community. But it does not renounce the possibility of the affiliation of Muslims to nonreligious identities and groups, nor does it obviate the rights and obligations that emerge from such membership. A Muslim man, for example, may marry a woman from the *ahl al-kitab*, thereby becoming a member of a non-Muslim extended family, with all the attendant privileges and duties such an alliance entails. Similarly, a Muslim ruler who contracts with non-Muslim communities residing within the Islamic state incurs obligations toward these communities while retaining the prerogatives of sovereignty.

In short, Islamic theory and practice sustain a number of legitimate human groupings existing between the state and the individual. These groupings are endowed with their own sphere of autonomy free from government intrusion, which made Islamic societies historically far less monolithic and undifferentiated than some Western stereotypes of a theocratic society allow.

Islamic theory also provides a number of institutions that serve to operationalize the concept of civil society. Medieval theorists posited a tension between the wielder of power (variously termed the *imam*, the *khalifa*, or the *sultan*) and the *ʿulama*, namely the intellectuals and legal scholars who were most familiar with the *shariʿa*. The latter are the guarantors of the *shariʿa*'s proper interpretation. They are in theory independent from po-

litical authority, thus maintaining the system of checks and balances in society—similar to the role of the mass media in modern societies.

The judges are also independent from the political authority. They judge according to the law, which is just as binding on the ruler as it is on a common person. The high judge, similar to the supreme court, is appointed by the ruler, but he cannot be removed by him. In case the ruler does not abide by the law, the high judge can lead a revolution against him.<sup>3</sup>

Islamic theory provides for a number of other subsidiary institutions that bridge the executive power of the imam and the judicial authority of the *ʿulama*. One key concept is that of *hisba*, which means the supervision of the application of the law in society, especially in the marketplace, against treachery, mishandling, monopoly, usury, exaggerated profits, and the like. The person performing this function (*muhtasib*) serves as the eye of the law on both state and society.

Furthermore, there is the *diwan al-mazalim*, which served in ways analogous to both a small claims court as well as a court of popular appeal. The *mazalim* court was a tribunal to which every Muslim could go and complain against any form of injustice done to him directly by the ruler or the ruler's agent. It allowed a direct appeal to the highest institutions of the state when the institutions of either the state or society failed to defend a common person's legal rights.

*Awqaf*, or religious endowments similar to scientific, literary, and academic foundations for the development of art and science, are another key autonomous institution in medieval Islamic societies. Individuals could endow *awqaf* so that scholarships, schools, universities, and publications were all supported by the institution without government interference. Likewise, mystical orders (the Sufi *tariqas*) were able to recruit members and form religious autonomous societies that existed largely independently from state control and played extremely important mediating roles between families or tribes and the state in which they lived.

All of these institutions played roles analogous to those of institutions we today identify with civil society. Of course, the relative weight and independence of all these institutions varied according to time and location. What is important to emphasize is that Islamic theory contains within it the idea of an integrated politico-religious community, but with power dispersed among its constituent elements. As modern Muslim states began to emerge in the early-twentieth century, it is no surprise that one of the first targets of their secular, nationalist state-building enterprise was traditional Islamic institutions. The Egyptian state placed *awqaf* under the control of a government ministry at the beginning of the Egyptian revolution. It is directed now in the spirit of doing business and making profit. Similarly, the Sufi *tariqas* were among the first social institutions to be affected (and dissolved) when Mustafa Kemal Atatürk began his nationalist project in



Turkey. And yet despite all attempts to co-opt or crush them, Sufi orders remain a very important autonomous force in such Muslim societies as Morocco, Sudan, Turkey, Eastern Europe, and Central Asia.

#### SOCIETY

The Islamic ideal of the umma is grounded in the concept of unity. The unity of God (*tawhid*) reflects itself in the unity of the umma. The unity of God is not a simple, closed dogma or a reified abstraction, but a whole worldview that affects the individual, society, and history. The individual is one, which means that his powers and energies are one. His internal powers of cognition, feeling, and thinking are one. His thoughts should express what he feels, and what he feels can be rationally demonstrated. Hypocrisy is to think something without feeling it. Fear is to feel something without thinking on it.

Man's external powers of action are also one. His words should be related to his acts; what he says, he should do, and what he does, he should say. Incapacity is to say something without doing it. Automation is to do something without saying it. The unity between the inside world—feeling and thinking—and the external world—saying and doing—makes the human personality one, free of fear, double-talk, double-face; it creates a free individual. To believe is to attest. To declare is to testify. This is the meaning and the significance of *shahada*, the first pillar of Islam, the solemn declaration that there are no other gods except the only God, Omniscient, Omnipresent, and Omnipotent.

All human beings are equal before this Universal Principal, equal in birth and death, equal in life and worth. There is no human genealogy stemming out of royal families, of caste systems, or of social classes. All human beings are the sons and daughters of Adam and Eve. Every human being has a body and a soul, a reason to distinguish good from evil, and a free will to choose the good, not the evil. They are all created from one soul.

Society is a unity of equal individuals. No distinction exists between human beings according to color, language, tribe, or state. All societies, peoples, tribes, classes, and the like, are also equals. They all have the same rights and the same duties. The right to differ is a legal right. Diversity of language, social customs, and manners is part of people's rights. All ought to be treated according to the same international law without any double standard in practice. Peaceful coexistence between peoples is guaranteed by treaties of nonaggression and mutual respect. There is no elected people or chosen tribe or best umma except through the good deed and ethical standards. Election is offered to all, to every individual, according to perfection acquired through ethical performance.<sup>4</sup>

To realize this principle of equality in society, Islam enshrines the notion

of the brotherhood of all believers. Given the natural differences among individuals in aptitudes and talents, which yield different incomes and generate social classes, brotherhood intervenes to bring back equality to its early stand. Those who have give to those who have not. Those who have more give to those who have less. This is not the conventional idea of charity or altruism on the part of the rich toward the poor. In Islamic society, the poor have a vested right in the wealth of the rich, not only through *zakat*, the tax on surplus wealth that is another pillar of the faith, but also through other measures to be taken by the ruler, such as nationalization of public services and confiscation of exploitative monopolized means of production. Public goods, such as water, salt, and mineral resources lying deep below the surface—including oil—cannot be claimed as private property because they touch the lives of all members of society. Even so-called private property is only a deposit or a trust granted conditionally, because absolute ownership can be properly assigned only to the Creator. Property is granted to the individual to use, not to misuse; to invest, not to accumulate; to spend, not to withhold and hoard.

Faith in the unity of God and the unity of His Creation helps to unify Islamic societies, despite their great social, cultural, and economic diversity. While Islamic civil society is differentiated and contains many organizations and subgroups, it forms a coherent society by virtue of a shared commitment to faith and brotherhood. One senses this unity immediately while traveling in Muslim countries, whether it is in Mauretania or Turkey or Malaysia. The universal umma ideal may have little political significance today, but it is alive at the ethical and spiritual level, which unites individuals into a greater whole transcending their own often unrepresentative states. And it does have obvious importance within specific countries, where Islamic values of community pressure elites toward certain policies or even fuel popular resistance to corrupt regimes.<sup>5</sup>

But what is the status of non-Muslim groups? Are they excluded from Islamic conceptions of civil society? On the contrary, Islam has a long tradition of recognizing and accommodating non-Muslim communities. Indeed, the tradition originates from the earliest period of Islam's existence as a coherent society in Medina. In this society, established by the prophet Muhammad, Jews and Christians were granted a status that placed them on equal terms with the Muslims. Every community was accorded autonomy in language, costumes, manners, laws, and the like, within the larger community. The Islamic umma is not composed exclusively of Muslims, but it is a confederal umma composed of many communities bound together by a treaty of nonbelligerence and mutual respect. The millet system practiced by the Ottoman Empire into the twentieth century was de jure an Islamic system. This system acknowledged the right of each religious community to live within the confederated umma and exercise self-

rule in many areas of communal life, while it prevented modern ethnic and religious cleansing.<sup>6</sup>

Today, this concept of Jews and Christians as *dhimmi* has acquired in public opinion a derogatory meaning, that of second-class citizenship. However, the etymological sense of this term is moral commitment. *Ahl al-dhimma* means those with whom a moral commitment is made to protect and defend them against all forms of injustices and aggression, as allies and brothers. In the old law, they have to pay an extra tax (*jizya*) in return for defense and protection, since they are exempted from military service. They have their own courts, and they are judged according to their own law. They have their own customs and manners, their languages, and their cults. But as members of the larger Islamic society, they have their claims to the social welfare provided by the state. They are entitled like all other members of the community to all the rights and privileges of the citizens on an equal basis: education, work, public services, and so forth.

Unfortunately, this earlier Islamic tradition of religious tolerance and inclusiveness is now under threat. In modern times and within contemporary nation-states many false images of the old law have been circulating that view Jews and Christians as second-class citizens, living in isolation from the broader Muslim population and yet subject to Islamic law, especially the penal code. This view is especially current in fundamentalist circles.

These false images need some clarification. The old law was conceived when religious identity was equated to political identity. Now national identity is taking over. All citizens of a nation are equal before the law by virtue of their citizenship and irrespective of their religious affiliations. In the past, Jews and Christians often preferred to take their own disputes to Muslim courts rather than to their proper courts because Islamic law is an objective law based on the idea of impartial justice. The actual civil code in much of the Muslim world today is based on secular, mainly European sources. The exception to this generalization remains family law, but this area is also under revision to cope with modern circumstances. Jews, Christians, and Muslims are equal in front of the civil law and the constitution. The fact that many otherwise secular states declare Islam to be the state religion, and that the head of state must be Muslim, does not mean there are any practical distinctions between ordinary Muslims and non-Muslims. In societies that are overwhelmingly Muslim in numerical terms, it is only natural that the population would want some acknowledgment of the role of Islamic values in their national life. Moreover, given the Muslim majority, it is likely that the head of state would be a Muslim. However, these positive expressions of Islamic values as undergirding national politics should not negatively affect the equality of all citizens before the law and the right of all citizens to participate and contribute to national life. Islamic values

applied properly in politics promote not a communal culture favoring the Muslim population, but a pluralistic, "national" culture to which Muslims and non-Muslims belong.

In addition, the penal code in Islam—which fundamentalists are so eager to impose upon Muslims and non-Muslims—ought to be applied only to Muslims. Jews and Christians are liable under their own laws. Indeed, the severest penalties of the Islamic penal code are rarely applied even to the Muslims. The severity of some punishments is a motivation for the judge and for society as a whole to look for the causes of crimes in order to ameliorate them, to mitigate the chances for the crimes at their roots. The moral purport of Islamic punishments is not so much to punish the crime a posteriori but to prevent it a priori.

Thus, Islamic theory in its general outline does not view Jews, Christians, and others as necessarily or typically second-class citizens within Islamic societies. Indeed, non-Muslims are assured a remarkable degree of communal autonomy aimed at preventing their independent identities and cultures from being overwhelmed by the Muslim majority. In their communal life, they are autonomous from state regulation so long as they acknowledge the sovereignty of the Islamic state and the predominance of Islamic law as the regulatory mechanism across communities. At the same time, they are essential components of the broader, what may be termed quasi-federal, "national" structures. In other words, the Islamic conception embraces a number of limited civil societies with the hope that each will promote the greater civil society of all.

The generally positive picture presented thus far must of course be tempered with some caveats. Certainly, there have been some Muslim scholars who have argued for inequality of treatment and there have been some Muslim rulers who oppressed non-Muslim minorities within their realms. In some countries of the Muslim world today, religion is used to legitimize a political regime that lacks democratic legitimation. Religion is here only a cover for dictatorship. The sectarian clashes occurring in the Muslim world from time to time are not really due to sectarianism but to backward societies that suffer from marginalization of large numbers of people. The clashes are everywhere between poor and rich, between the state and the workers, between the government and the opposition, between the secularists and the fundamentalists. Since the state lacks legitimacy, democratic institutions, and legal opposition parties, apparently sectarian clashes are in reality driven by the economic-political struggle to seize the state, or at least to show its vulnerability and to destabilize the oppressive regimes. These are most often at root political clashes between the disenfranchised and the elites, not religious clashes between the Muslim majority and non-Muslim minorities arising out of a desire to exclude or marginalize non-Muslims because of their faith.

But we should end this section by emphasizing that there are numerous examples where Islamic conceptions of a peaceful, cooperative, pluralistic society are being realized. To cite but one example, Coptic Christians in Egypt (about 10 percent of the population) are equal citizens. They are very active in the political, social, and economic life of the country. They have their own schools, communal institutions, and intellectual presence. They are ministers in the government, generals in the army, and several rank among the eminent leaders of the Egyptian national movement in recent history. The positive facts throughout Islamic history are much more numerous than the negative incidents.<sup>7</sup>

#### VALUES

Individual human beings cannot live alone. They are drawn naturally toward social solidarity. The importance of civil society derives from the need to balance the desires and needs of the individual with the will and needs of society. Where civil society is present, an individual is a part of the body, joined to other members to form an organic whole, as the medieval philosopher al-Farabi describes in his virtuous city.

In Islam, civil society protects the rights of its members by anchoring these rights in a conception of universally binding duties or obligations that resemble Western conceptions of natural law. Within an Islamic framework, the ultimate author of these laws is God, but there is a long tradition in Islamic philosophy which argues that natural law is an objective law that human reason can discern. I shall pursue this line of thinking in outlining what I consider the principal values promoted by this law, which in turn foster civil society. Each of the values discussed below may be said to exist in a cyclical relationship with civil society, reinforcing it and being reinforced by it.

The first value must be the protection of life against all threats bringing death. Life is an absolute value. Genocide, assassination, murder, and even capital punishment are against life as an absolute value. God gives life and God takes it. As the Qur'an says in affirmation of biblical scripture, Whoever kills one person is as if he killed all mankind. But the commandment to preserve life—found in all moral systems—contains both positive as well as negative implications. It is not enough simply to abstain from killing; one cannot stand by passively while thousands, sometimes millions die even though society has the means to save them. The struggle against hunger, drought, disease, malnutrition, starvation, and nakedness is a struggle for human survival and welfare. It is a struggle intimately connected with the struggle for responsive and effective government and a tolerant, responsive society.

Reason is another absolute value, which translates into the right to know against withholding information for commercial monopoly and maximizing power. Ignorance and illiteracy are against the function of reason. Maleducation, misinformation through commercial or government propaganda, and blind imitation are all forms of antireason. Through reason man can prove that God exists, the world is created, and the soul is immortal. Reason is the very foundation of faith. Reason is not only deductive but also inductive. It deduces the causes of human behavior from the textual sources as it induces them from human actions. Reason is also the glue that binds individuals into a whole. If reason is not the common standard between human beings in communicating and understanding, the will to power takes over. Might will be substituted for right. Islam opens all avenues toward the promotion of reason and blocks all paths toward anti-reason. Open scientific and spiritual inquiry is one of the hallmarks of classical Islamic civilization. The consumption of alcohol, on the other hand, is prohibited because drunkenness is against reason.

The defense of human honor and dignity is another of the pillars of civil society. Human honor includes all the principles stipulated in the Universal Declaration of Human Rights, including freedom of speech, belief, and movement; the right to privacy; and the respect of the human body against nakedness and torture. Human dignity is not confined to the individual, but applies also to whole communities, requiring for its realization the right for autodetermination and self-rule, the right for independence and respect.

Last comes the preservation of wealth against usurpation, pollution, or waste as the material basis for life. Wealth here does not mean only individual earnings, but national wealth as well, which must be safeguarded against corruption, profligate spending, negligence, and speculation. It has to be spent for development. Public servants including the ruler himself have to set a high example of honesty and integrity.

Private property is one of the Western individualistic human rights that may be incompatible with the communitarian concept of human rights in Islam. It was included in the Universal Declaration of Human Rights in 1948 because of opposition to the socialist regimes emerging after the Second World War and in the context of the cold war. Yet I would question whether it ought to be ranked among essential human rights. It is not, I would suggest, on the same level as the right to live, to survive, to believe, to think, to express, to work, to move, to choose, and to self-rule. Accordingly, in Islamic ethics the right to private property is decidedly lower in importance than the duty to ensure social justice. We noted earlier the positive mechanisms that Islam instituted for the distribution of wealth, including a tax on surplus wealth (zakat) that is collected by the state. In ad-

dition, in case of misuse, monopolization, or exploitation, the political authority has the right to confiscate and to nationalize this private property to become a public one.

But the social justice aims of Islamic ethics are not confined to state action. Indeed, the state is merely an agent of Muslim society in the realization of distributive justice goals. It is the society that bears the obligation to promote these values within itself, even if the state does not or cannot do so. We see how this obligation is taken up by society in many Muslim countries today, where a myriad of nongovernmental organizations, such as mosques, Sufi orders, and charitable organizations, perform social welfare tasks in the name of Islam while the state remains oblivious to its population's problems. This is where Islamic civil society is most active and most visible, though these manifestations of civil society receive scant attention among Western students.

All of the values discussed above are values shared—in varying degrees of emphasis—by all cultures. This convergence alone permits us to generalize the concept of civil society (adjusted according to many confluents) and to avoid taking the Western concept as a yardstick according to which all other concepts stemming out of other cultures are judged. The only difference among cultures is in scope and practice. Many in the West suggest that reason, truth, and honor are relative concepts, changing from one society to another. If life and wealth are absolute values, they are applicable within the geographical borders of the West, not outside them. In Islam the objective values of “natural” law are absolute and universal. They do not change from one society to another, nor are they to be applied in one area not in another. These values, according to the Islamic approach, must be rooted in social consciousness, and they must be implemented foremost by society. If these values are not upheld by civil society, then they can hardly be expected to be enforced by the state.

#### RESPONSIBILITY

Many individuals and institutions are responsible for the good management of civil society and the promotion of its values: the individual, the family, the state, and nongovernmental institutions. They are inseparable given the importance and the commitment of all to the common cause.

The individual is responsible for himself as well as for others. He cannot shirk his social responsibilities, because Islam enjoins upon all believers ordering the right and preventing the wrong (*al-amr bi'l-ma'ruf wa al-nahy 'an al-munkar*). A simple and wise counsel is: “Religion is the advice.” Some conditions attend to the fulfillment of this responsibility. The advice should be dispensed when it may be best received. Thus, the person advising should consider the mood, the readiness, and so forth, of the person

being admonished. The advice has to be in private, not in public, so that the advised should not be blamed publicly. No harm should result out of advising. It is better to accept a smaller harm before advising than to cause a bigger one after. Advising is not criticism from one individual to another, but mutual action for a common cause. It is not a personal matter but a collective work, a reminder for the common good and public welfare.

The family has a large role in maintaining the rights and the duties of individuals in civil society. The family is a microcosm of the larger society, and thus a harmonious family serves a crucial educational function in preparing its members to participate in a harmonious and well-balanced society.

The state is not an oppressive institution but a guarantor of human rights and responsibilities. Political power is wielded by representatives freely chosen by the people, as suggested by the old expression *ahl al-hall wa'l-'aqq* (literally, “those who loosen and bind”), namely, those who speak on behalf of the people. Political power is based on a contract between the ruler and the representatives of the people. The people must obey the chosen ruler as long as he is applying the law. If not, the first remedy is to admonish the errant ruler through public statements in mosques, schools, centers of learning, and even in the markets. If the ruler is still recalcitrant, disobeying the law, he has to be brought to court. If the high judge sentences him to obey the law and the ruler still disobeys, he becomes in contempt of the law and is no longer worthy of obedience. Now and then a revolt against him becomes the last resort and is directed by the *ahl al-hall wa'l-'aqq*. The unjust ruler cannot be obeyed.

Finally, nongovernmental organizations have an eminent role in assuming major responsibilities in the civil society. They are the neighbors, the relatives, the friends, and the comrades of work without institutional forms. Others are more institutional, such as workers' and students' unions, bar associations, press corps, literary and academic societies, university clubs, religious associations for public services such as burial, wedding, health care, social security, tutorship, and the like. They are quicker and more efficient than the state apparatus in dealing with national disasters such as earthquakes or floods. Mosques play extremely prominent social roles. They are not only houses of worship but community centers offering public services. Social annexes to the larger community mosques are more populated than the mosques themselves. Religion and society are intertwined. Helping the needy has more value than praying in the mosque.

#### FREEDOMS AND RISKS

As stated earlier, civil society is not a panacea for all the problems of state and society. If civil society is present and functioning properly, it fosters a

distribution of power in the polity and a balance among the constituent elements of society. That balance allows group autonomy while preserving a wide scope for individual freedom. Nevertheless, maintaining the balance is always a precarious enterprise, and within an Islamic framework the following risks are particularly relevant.

If the state is strong and the power of the ruler becomes absolute, the whole system risks sliding toward theocracy because theoretically the purpose of the state is to apply divine law. The ruler, in order to consolidate his power, gain legitimacy, and tame the opposition, pretends that he is the representative of God on earth, the follower of the Prophet, the guarantor of the application of the law, the right interpreter of religion, and the guardian of public morality and public welfare. He is the custodian of law and order. Any opposition to his power is tantamount to a revolt against God. In this perverted approach, God chooses the ruler, not the people. He nominates him, not the community. Carried to extremes, this ruler sometimes claims that he is even mentioned in the religious text, if not by name, then at least by description, if not explicitly, then at least implicitly.

We find many examples of this theocratic authoritarianism in Islamic history. In this case, there is no difference between Sunnis and Shi'is. Even now many regimes, such as Morocco and Saudi Arabia, are based on religion as a legitimizing device. The rulers in these countries are considered to be following the model of the Prophet, or even to be descended from the Prophet's family. Any protest against them is treated as a violation of the shari'a.

Of course, the balance may tilt the other way, toward the strengthening of societal elements in the face of the loss of state power. This risk is particularly relevant to the Islamic case because of the strongly communitarian bent of Islamic social ethics. An individual's freedom and welfare may be just as jeopardized—perhaps even more so—by a society or smaller social groups convinced of their divine mission as they are by a state with similar ideological convictions.

One subset of Muslim society has historically been particularly vulnerable to overbearing societal pressures: women. Islamic family law is frequently mentioned as violating some values in modern civil society through its sanctioning of polygamy and discrimination against women in divorce, inheritance, witnessing, leadership, and the like. All of these legal limitations can be seen in their historical perspective. The purpose of Islamic laws relating specifically to women was to change gradually the gender situation in Arabia without setback, with the maximum of success and the minimum of loss. Before Islam, polygamy was unlimited, not to mention the taking of concubines and captives of war. In order to abolish this custom, Islam made it limited to four wives *in exceptional cases*, paving the way to monogamy, which conforms to human nature, physically and emotionally. The ex-

ceptional cases are sterility or some other physical handicap, or when the number of females exceeds the number of males, such as following war. Moreover, many restrictions have been put in the old law, such as separate apartments for each wife, the requirement of the first wife's permission, financial capacity, and so forth. All of these restrictions promote monogamy as the Islamic ideal.

Before Islam, women did not have the right of inheritance from their parents' property. On the contrary, women were inherited. Islam gave a woman a half share in order to change the status quo in a society where a female baby was buried alive for fear of shame. The share must be seen in the context of the shareholder's position, namely, as a member of a family. When the woman marries with a half share to a husband with a full share, the outcome is one and one-half shares in the new family. These minimum share requirements notwithstanding, during their lives either parent can distribute their wealth equally among their children regardless of gender, as many pious Muslims do.

Before Islam, women had no legal status. They were not recognized as autonomous characters. They could not buy and sell, witness, or participate in the political process. Islam made a woman a half witness for the same reason as in inheritance, to change her status gradually. In practice, the testimony of an educated woman was preferred to that of an uneducated man.

Women cannot be the head of state in the old law, since the head of the state is also the head of the army, which requires fatigue and hard work unsuitable for pregnant women. Veiling is an old custom in certain parts of Arabia. A simple head cover protects male and female alike from the heat of the desert. All limitations on women in Islam can be so conceived, in their historical perspective, as a gradual social change to be followed by other steps, since history does not stop.

Indeed, many Muslim states have realized that the dictates of the medieval Islamic law must be revised in light of the changed conditions and needs of twentieth-century Muslim societies. Family law has been the last area of the shari'a to be enforced, and wherever reform has been attempted, it has always been met with great controversy. Nevertheless, serious legal changes have been implemented in most Muslim countries that dramatically broaden women's rights and move them toward greater equality with men.

But it is one thing for the state to legislate women's rights and another thing for women to realize these rights. As numerous human rights organizations have documented, Muslim women lag significantly behind Muslim men in many states in key indicators of material and emotional well-being, such as infant mortality, literacy, life expectancy, age at marriage, and jobs. The problem stems often from government indifference toward en-



forcement of rights enshrined in constitutions and statutes. But an even greater obstacle is societal resistance to change in an area that so many view as an essential aspect of their tradition and faith. Women's status for many traditional Muslims falls into that broad area of privacy that their understanding of Islam throws around the family. Within the confines of the family, the state may not intrude. And for most Muslim societies that are heavily rooted in patriarchy, even those rights that the medieval law guarantees women are frequently flouted in the name of social mores and tradition. In this area, the protected, private space occupied by the family, which all civil society rightly fosters, can become an oppressive well of custom and convention.<sup>8</sup>

#### CONCLUSION: REFLECTIONS ON THE PROSPECTS FOR ISLAMIC CIVIL SOCIETY

There are some risks to civil society stemming from Muslim societies that are related not to Islamic conceptions of civil society per se, but to the historical moment Muslim societies are living nowadays, a moment that can be characterized as conservatism dominating the Muslim world for over a millennium. Muslim societies in the first four centuries were pluralistic societies with many philosophical, theological, mystical, and legal trends. No single school of thought equated itself with Islam. In the fifth Islamic century, the great thinker al-Ghazali launched a conservative revolution that stifled this pluralism and transformed Islamic culture and society according to an absolute and state-enforced doctrine: Ash'arism in theology and Shafi'ism in law. All other schools of thought were marginalized, criticized, or anathematized.

Over the last century reformers have tried to revitalize Islamic pluralism again. These efforts have been threatened over the past fifty years or so as secular military revolutions erupted or new traditional kingdoms were institutionalized. Conservatism and unilateralism generated dogmatism and fanaticism that spread in the mass media and in the educational system from the smallest schools up to the university campuses. Muslim societies, which the reformers in the last century wanted to liberalize, and which the military regimes in this century wanted to revolutionize, persisted in their traditional culture. Both efforts failed because the reformers had Western enlightenment as a model, which tended toward Westernization and thus alienation of the masses from the elites.<sup>9</sup> The military, on the other hand, was interested merely in the infrastructure, not in the superstructure.

The failure of both modernist Islam and secular nationalism has in recent decades played into the hands of the fundamentalists. "Authentic" Islam according to these groups is equated with traditional conservatism, and this narrow interpretation is used as a whip against all liberals who continue the work of the reformers of the last century. Since Islamic move-

ments were not legalized as legitimate elements of civil society and indeed have been suppressed by states, they tried to control the mass media, labor unions, professional associations, and to infiltrate other NGOs.

Elements that are not allowed to compete for popular support within civil society will inevitably become as averse to the values of civil society as those who suppress them. It is hardly surprising therefore that fundamentalist groups employ the traditional accusation of anathema, false innovation, and heresy against artists, thinkers, writers, professors—all methods to obstruct any alternative interpretation of Islam. They wage their battles in the mass media to sway public opinion. Sometimes they go to court to sue their opponents in the name of hisba, that is, in the name of the "public good." Sometimes conservative judges rule for them and declare the thinker accused to be an apostate who should suffer penalties including divorce from his wife because a Muslim woman cannot be legally married to an apostate. Such a ruling actually occurred in the famous case of Nasr Hamid Abu Zaid, a professor of literature at Cairo University, because of his studies in the Qur'an and Islamic law.

But acts of intimidation often do not stop with media campaigns or lawsuits. Zealous and ignorant followers of these conservative groups are willing even to murder the declared apostates or "enemies" of Islam, as they did successfully in the case of the journalist Faraj Fouda or unsuccessfully in the case of the Nobel laureate Naguib Mahfouz.

The zealots' call for an Islamic state means essentially the application of the penal code and the replacement of secular elites with religious men like themselves. Once this occurs, religion and politics will be united, they claim. Indeed, religion in Islam is a political system, an economic theory, and a social structure. But this does not mean the imposition by the state on society of any one interpretation of Islam. It means only that Islamic values cannot be divorced from the business of the state, and the foremost values are the free election of the political power, the defense of common interests and public welfare, and the maintenance of a social order exempt from huge differences between classes.

The struggle between fundamentalism and secularism to the point of civil war as in Algeria would completely destroy civil society. In both cases, whether religious groups take power or the secular state survives, human freedom is violated. The oppression is the same, in the name of the army or in the name of Islamic opposition. The major risk for the future is that Muslim societies will be offered only the fundamentalist/secularist alternatives. Unless Muslim advocates of a middle course resume the serious task of developing and implementing pluralistic and representative conceptions of state and society from within the Islamic tradition, Islam will offer no alternative conception of civil society.

As I have argued throughout this essay, such an alternative is possible. In constructing this alternative Islam can learn from the West, and the West

can learn from Islam. Traditional Islamic culture may be based on the idea of duties rather than on the idea of rights (duties of man and rights of God), while modern Western culture is essentially based on the idea of rights rather than duties (rights of man and maybe duties of God). In both cultures, there is a certain imbalance between rights and duties. Muslim societies may have duties without rights while Western societies may have rights without responsibilities. Islam needs a universal declaration of human rights beside the traditional Islamic declaration of human duties. The West needs also a universal declaration of human duties to complete the Universal Declaration of Human Rights.

Pessimism in the short run leads to optimism in the long run. Islamic culture is still strongly bound to conservatism inherited over a millennium. Reformism is a recent phenomenon dating only to the last century. Modernism may have a better chance in the future, as Muslim consciousness achieves a more equal historical presence of both traditionalism and modernism so that a healthy dialogue between the two major schools results. In this progress, the lead must be taken by Muslim intellectuals and modernist scholars practicing *ijtihad*, creatively linking ageless concepts of a just and virtuous society with modern ideals of civil society. As the Islamic aphorism says, The scholars are the heirs of the prophets.

#### FURTHER READING

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#### NOTES

1. A survey of the prospects for civil society in different Muslim states is available in Augustus Richard Norton, ed., *Civil Society in the Middle East* (Leiden: E. J. Brill, 1995–96).

2. Many of the ideas presented in this essay are elaborated in Hasan Hanafi, *Al-din wa'l-thaqafa wa'l-siyasa fi'l-watan al-'arabi* (Cairo: Dar Qiba, 1998).

3. For succinct treatments of Islamic political theory, see H. A. R. Gibb, "Constitutional Organization," in *Law in the Middle East*, ed. Majid Khadduri and Herbert J. Liebesny (Washington, D.C.: Middle East Institute, 1955), pp. 3–27; and Ann K. S. Lambton, *State and Government in Medieval Islam* (Oxford: Oxford University Press, 1981).

4. The Qur'an is very clear on this point: "Those who believe, the Jews, the Christians, and the Sabaeans—whosoever believe in God and the Last Day and do good deeds, they shall have their reward from their Lord, shall have nothing to fear, nor shall they come to grief" (2:62; see also 2:111–12, 4:124–25, 5:69, 18:30, 21:94). "But God is free of all wants, and it is you [Muslims] who are needy. If you turn back [from the path of Islam] He will substitute in your place another people. Then they would not be like you!" (47:38).

5. On modern understandings of *umma*, see Abdullah al-Ahsan, *Ummah or Nation? Identity Crisis in Contemporary Muslim Society* (Leicester, U.K.: Islamic Foundation, 1992).

6. Leading studies of the status of non-Muslims in Islamic societies include: Antoine Fattal, *Le Statut Légal de Non-Musulmans dans le Pays d'Islam* (Beirut: Imprimerie Catholique, 1958); A. S. Tritton, *The Caliphs and Their Non-Muslim Subjects* (London: Frank Cass and Co., 1970); Bat Ye'or, *The Dhimmi: Jews and Christians under Islam* (London: Associated University Presses, 1985).

7. For a more developed argument regarding the place of non-Muslims in Islamic society, see Hasan Hanafi, *Religious Dialogue and Revolution: Essays on Judaism, Christianity, and Islam* (Cairo: Anglo-Egyptian Bookshop, 1977).

8. Three particularly useful discussions of the status of women in Islamic morality and law are: John Esposito, *Women in Muslim Family Law* (Syracuse, N.Y.: Syracuse University Press, 1982); Leila Ahmed, *Women and Gender in Islam: Historical Roots of a Modern Debate* (New Haven: Yale University Press, 1992); and Amina Wadud, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*, 2nd ed. (New York: Oxford University Press, 1999).

9. A penetrating critique of the modernist agenda is available in Fazlur Rahman, *Islam and Modernity: Transformation of an Intellectual Tradition* (Chicago: University of Chicago Press, 1982).



## 2

## The Importance of Being Modular

*Ernest Gellner*

### WHAT IS CIVIL SOCIETY REALLY?

The simplest, immediate and intuitively obvious definition, which also has a certain amount of merit, is: civil society is that set of diverse non-governmental institutions, which is strong enough to counterbalance the state, and, whilst not preventing the state from fulfilling its role of keeper of the peace and arbitrator between major interests, can nevertheless prevent the state from dominating and atomizing the rest of society.

Such a definition conveys the idea contained in the phrase, and also highlights the reason for the newly emerged attractiveness of the slogan in Eastern Europe. Nonetheless, from the viewpoint of a sustained and serious, historically comparative investigation, this definition has a grave deficiency. It is good as far as it goes, but it does not go far enough. The trouble is simple: such a definition would include under the notion of 'civil society' many forms of social order which in fact would not satisfy us, or those who have in recent years felt inspired by this slogan.

The point is this: historically, mankind has not *always* suffered under centralized despotisms. Quite frequently, it has not. The imposition of a despotism is not always an easy matter. Pre-modern polities lack the equipment for first pulverizing and then running the societies they control. They are interested in extracting as much surplus as possible, but frequently, the best way of doing this is to allow local communities to administer themselves, and merely oblige them to supply produce – or labour – on pain of punishment. In favourable circumstances, such as those conducive to mobile pastoralism, or in difficult mountainous terrain, local communities can even become fully independent and resist demands for taxation.

The centralizing logic of successive elimination of power centres, till one only is left, only operates in conditions which favour it, such as river valleys. What all this amounts to is that the traditional agrarian world, though its polities are most often monarchical, is nevertheless very well endowed in highly structured and partly or wholly autonomous communities.

These, however, maintain their cohesion, internal discipline and solidarity by a heavy ritual underscoring of social roles and obligations. The roles are generally conceived and defined in kin terms, and may in fact frequently be filled in terms of the kin positions of their occupants. Political, economic, ritual, kin and any other kinds of obligations are superimposed on each other, and their visibility and authority strengthened by a plethora of ritual reminders: as in a military organization, discipline is enforced by a proliferation of minor punishable transgressions, the avoidance of which puts a burden on each individual and keeps him in awe of the social order as a whole.

So, traditional man can sometimes escape the tyranny of kings, but only at the cost of falling under the tyranny of cousins. The kin-defined, ritually orchestrated, demanding and life-pervading systems of the 'ancient city', in Fustel de Coulanges's sense, do indeed succeed in avoiding tyrannical centralization, but only at the cost of a demanding culture which modern man would find intolerably stifling. The general sociological law of agrarian society runs, roughly, man must be subject to either kings or cousins, though quite often he is subject to both at once. Kings generally dominate societies through the intermediary of local institutions and communities.

So, if we are to define *our* notion of 'civil society' effectively, we must first of all exclude from it something which may be in itself attractive or repulsive, or perhaps both, but which is radically distinct from it. Fustel de Coulanges in *The Ancient City* perhaps did more than anyone else to establish this distinction. His aim was to disabuse his fellow French citizens, who had for some time been eager to invoke the alleged liberties of the ancients as precedents for the liberties they were eager to acquire or to fortify in their own society. But this was a total misunderstanding, Fustel claimed:

The ideas which the moderns have had of Greece and Rome have often been in their way. Having imperfectly observed the institutions of the ancient city, men have dreamed of reviving them among us.

They have deceived themselves about the liberty of the ancients, and on this very account the liberty of the moderns has been put in peril.<sup>1</sup>

Fustel was eager to cure his compatriots of their illusions and thereby guard against the dangers inherent in them.

This particular danger may not be serious in our time: the rhetoric of the recent converts to the idea of civil society does not contain much, if indeed it contains any, invocations of the ancient liberties of the Greeks and Romans. Nevertheless, a proper understanding of what the ideal really means now must refrain from an uncritical invocation of any and every plural society, in which well-established institutions counterbalance the state. Such an equation is not merely in error sociologically, it also has practical misleading consequences which, even if they are not the same as those of the French contemporaries and predecessors of Fustel, are nonetheless important, and must be guarded against.

Fustel is exceedingly eloquent on the matter of how much real individual liberty, in the modern sense, there was in the ancient city:

The city had been founded upon a religion and constituted like a church. Hence its strength; hence, also, its omnipotence and the absolute empire which it exercised over its members. In a society established on such principles, individual liberty could not exist. The citizen was subordinate in everything, and without any reserve to the city . . . Private life did not escape the omnipotence of the state . . . It exercised its tyranny in the smallest things . . .<sup>2</sup>

Fustel was concerned to show how this kind of plural, non-centralized, but socially oppressive society, which for all its political pluralism would not satisfy a modern craving for civil society, was replaced by a new order in which the Christian separation of religion and polity made individual liberty thinkable. In this way, Fustel was not merely the ancestor of those who, like Louis Dumont, seek the religious origins of Western individualism, but also of those who seek to analyse the societies based on principles he had laid bare, and which in due course were to be called 'segmentary'.<sup>3</sup>

Fustel was interested in the disappearance and replacement of such societies, but in fact they had not disappeared from the earth, or even from the Mediterranean. Fustel and his ideas have also become the inspiration of those many investigators, who have since come to be called social anthropologists, who are eager to under-

stand societies which still function in the way which Fustel credited to Mediterranean antiquity. In his own time, Emile Masqueray rediscovered the ancient city, under Muslim camouflage, in the Berber hills of Algeria.<sup>4</sup> More recently, an American scholar has used Fustel, directly rather than mediated by Durkheim as is customary, in studying a long-urbanized Asian population. After summarizing Fustel's segmentary account of society and the way in which each level of segments was sustained by its deities and rites, Levy goes on to comment:

Fustel's portrait contained a deeply felt myth, that of an earthly paradise of orderly, family-based unities prior to a transformation into a larger, impersonal and conflict-ridden state organisation.<sup>5</sup>

Unquestionably, Fustel's materials were used to help foster such a myth, though Fustel himself was rather concerned, as we have seen, to counter an earlier myth, that of the ancient city as a kind of precursor of the French Revolution.

What concerns us now is that the situation is, at the very least, triangular: there are the segmentary communities, cousin-ridden and ritual-ridden, free perhaps of central tyranny, but not free in a sense that would satisfy us; there is centralization which grinds into the dust all subsidiary social institutions or sub-communities, whether ritually stifling or not; and there is the third alternative which is the one we seek. A proper definition must take all this into account: it has at least two contrasts, its essence cannot be seized with the help of a merely bi-polar opposition between pluralism and monocentrism.

#### DAVID HUME ON RELIGION, OR, CIVIL SOCIETY A FAILED UMMA?

There is a fascinating contradiction in the thought of David Hume on this topic, a contradiction which is probably more revealing and illuminating than the consistencies of lesser men. In *The Natural History of Religion*, Hume works out a sociology of religion which is, at the same time, a sociology of the emergence of liberty. His views resemble those of Gibbon and those of the great latter-day follower of both Hume and Gibbon, namely Frazer. They are well in the style and spirit of the Enlightenment, manifesting admiration for the virtues of classical antiquity, and distaste for the monotheist scripturalist and egotistical ethos which has replaced it. Hume does

not yet have the sophistication of Fustel de Coulanges or Benjamin Constant, and he fails to appreciate that the liberties of the ancient would not be altogether to modern taste. The contrast in terms of which he argues is basically one which opposes classical religion – social, civic, this-worldly, communal, traditional, tolerant – to the world religion which replaced it, which by contrast is egotistic, other-worldly, doctrinal and intolerant. His code word for the former is *superstition*, and for the latter, *enthusiasm*. His conclusions are clear:

The tolerating spirit of idolaters, both in ancient and modern times, is very obvious to any one . . .

The intolerance of almost all religions, which have maintained the unity of God, is as remarkable as the contrary principle of polytheists.<sup>6</sup>

The contrast drawn is obvious, and the reasoning persuasive. The priests administering the rites of civic religion inculcate civic virtues, and are not concerned with doctrinal orthodoxy, barely possessing any doctrine or the means for fixing and codifying it. By contrast, the zealots of individual salvation through adherence to doctrine, on the one hand encourage their followers to place the salvation of their own private souls above all else, and, on the other, define members of the community of the saved in terms of commitment to formally defined *conviction*, deviation from which defines heresy, which in turn calls for exemplary punishment.

It follows that mankind was much better off under the regime of the ancients, and that the adoption of revealed, doctrinal, scriptural, universalistic religion was a disaster. The argument is persuasive, and evidence supports it. Yet something is not quite right. Even in *The Natural History of Religion*, which in the main is devoted to expounding the Augustan theme of the excellence of the ancients and the corruption of the moderns, he comments on the counter-example:

And if, among CHRISTIANS, the ENGLISH and DUTCH have embraced the principles of toleration, this singularity has proceeded from the steady resolution of the civil magistrate, in opposition to the continued efforts of priests and bigots.<sup>7</sup>

The greater liberty of the English and the Dutch clearly contradicts the Augustan thesis, and Hume invokes the not really very ad-

equate *Hilfshypothese* of the civil magistrate and his steady resolution to overcome the difficulty. This won't really do, and elsewhere Hume does rather better. His remarkable essay 'Of Superstition and Enthusiasm' deserves to be counted as one of the earliest, and most perceptive, contributions to the debate concerning the role of protestantism in the emergence of the modern world. In it, he puts forward three propositions:

that superstition is favourable to priestly power, and enthusiasm not less or rather more contrary to it, than sound reason and philosophy.

that religions, which partake of enthusiasm are, on their first rise, more furious and violent than those which partake of superstition; but in a little time become more gentle and moderate.

that superstition is an enemy to civil liberty, and enthusiasm a friend to it.<sup>8</sup>

Here we are no longer in the pre-Fustel world of Gibbon, committed to the equation of the good social condition with the best to be found in antiquity, but rather, in the world of Max Weber, pervaded by the awareness that something very distinctive indeed had happened in the modern world, and that it is connected with the Reformation.

The last of the three propositions sums it all up: the other two offers attempts at explanation of this strange phenomenon, so contrary to the plausible reasoning of *The Natural History of Religion*. The explanation offered resembles what Max Weber was later due to call 'routinization': the religions addicted to 'enthusiasm', that is to firm commitment to abstract doctrine and its serious implementation, though uncompromising initially and thereby inimical to liberty, eventually soften and become tolerant. They make a double (at least) contribution to freedom: first, they destroy the priests, in part by universalizing priesthood and thus terminating the existence of a distinct priestly caste, and, secondly, by being directly inclined to liberty during the period of diminution of zeal. This diminution is further aided by the absence amongst these erstwhile enthusiasts of a special category of people charged with maintaining the flame of faith. That very equalization of the religious condition, which had made the puritans such formidable enemies of liberty at the time of maximum fervour, also made them more tolerant during the time of diminution of enthusiasm.

All this is excellent, and immeasurably superior to Hume's attempt at explaining the liberal potential of enthusiasm in *The*

*Natural History of Religion.* The balance of power in society, as between the enthusiasts and the addicts of superstition, must surely also be taken into consideration. Perhaps the full story could run something like this: the enthusiasts made great inroads on the society, and in fact were, for a time, victorious. Nonetheless, in the end, they were defeated but not crushed. The society as a whole favoured a compromise, a retention of superstition, priestly power and ritual and all, but with limited power and a toleration of the extremists/enthusiasts, who, obliged to renounce their ambition of imposing the rule of righteousness on earth, if necessary by political force, turn instead to pacifism and tolerance. The priests concentrate on combating the enthusiasm of the zealots, and quietly tolerate disbelief provided it is discreet and ambiguous; the zealots turn inwards, to the worldly asceticism of *disinterested* accumulation.

So the coming of civil society, a society liberal in the modern and not in the ancient, non-liberal, cousinly and ritualized though plural sense, presupposed two things: a political stalemate between the rival contestants, such as in fact occurred in seventeenth-century England, leading to a compromise consisting of a watered-down ritualism and mediation at the centre, and a so-to-speak privatized *Umma* at home among the minoritarian enthusiasts; and, prior to all this, the kind of balance between mediation-cum-ritualism (the left-over from communal religion) and universalistic-doctrinal elements, which in fact is found in Christianity.

When doctrinal, soteriological, omnibus world religions partially replaced communal religions in the 'Axial Age', they seldom if ever replaced them completely. The doctrinal, individualist, universalist element was introduced, and the doctrine or illumination offered to any questing and anguished individual was added to the community-defining ritual and its guardian priesthood; but the second element did remain. Henceforth, the religious life of mankind in the more complex societies was due to be the interaction of these two major elements, sometimes fusing harmoniously, something in overt confrontation. The manner in which these two elements met in Christianity and in Islam is interesting: the two cases are almost mirror images of each other.

In Islam, the scripturalist, puritan, universalist, individualist variant prevailed at the centre. Not always endowed with political power, it was generally credited with a kind of normative authority. The ritualistic, mediation-addicted, ecstasy-seeking, hierarchical variants were fragmented, peripheral, popular, and often a little

shame-faced. So we have *Umma* at the centre, community at the periphery and in the lower levels of the social hierarchy. Periodically, conflict erupts between the two: the enthusiasts at the centre for a time prevail over the superstition at the margins, but social factors eventually restore the balance, and the circle repeats itself; in the traditional world, this goes on for ever, it would seem.

Or should one say rather, *because* the circle repeats itself for ever, Islam never breaks out of the traditional world. This is the cyclical, non-progressive dynamic of Islam, analysed by Ibn Khaldun and rather contemptuously noted by Friedrich Engels, in fact echoing Ibn Khaldun without actually citing his name.<sup>9</sup> Come the modern world, however – imposed by extraneous forces rather than produced indigenously – and the new balance of power, favouring the urban centre against rural communities, causes the central faith to prevail, and we face a successful *Umma* at long last. This is the explanation of the secularization-resistant nature of Islam.

In Christianity, the mix of the two religious elements was quite different. Hierarchy, organized mediation, bureaucratized ritual and magic, prevailed in the very central and single Organization, claiming a monopolistic link to the Founder of the religion and the coming of the unique Revelation. The scripturalist, puritan, individualistic, symmetrical, ecstasy-spurning and mediation-repudiating enthusiasts were at the margin. *They* were disunited, the Organization was unique and united (at least most of the time).

It was this mix which in fact engendered, by some internal chemistry, the modern world. Whether only it could have done so, as a very great sociologist claimed, we shall probably never know: we cannot rerun the experiment in order to find out. This mix, plus the fact that the great confrontation between superstitious centre and enthusiastic periphery ended in a draw and in a deadlock, meant that the modern world was produced, and when produced, the compromise led to no general *Umma*, nor even to a series of ghetto-*Ummas*, but to a widespread secularization. And also, and this is what concerns us in the present argument, to a pluralism free of the imposition of the *Umma*, but not resembling the cousinly ritualism of communities either.

We have at least three situations to consider: the Muslim *Umma* which succeeded, the Christian one which failed but engendered civil society and the would-be secular *Umma* of the immanentist, formally materialist socio-historical religion, which signally failed as an *Umma* but has not yet demonstrated its capacity to produce a civil society either. All that the latter has achieved is to generate,

at least amongst a significant proportion of its citizens, an evidently sincere and ardent *desire* for civil society.

#### MODULAR MAN

There are firms which produce, sell and advertise modular furniture. The point about such furniture is that it comes in bits which are so to speak agglutinative: you can buy one bit, which will function on its own, but when your needs or your income or the space available to you augment, you can buy another bit and it will fit in with the first bit, and the whole thing will still have a coherence, aesthetically and technically. You can combine and recombine the bits at will. This makes modular furniture quite different from the ordinary kind: with that, if you want coherence, you have to buy it all at once, in one go, which means that you have to make a kind of irrevocable commitment, or at any rate, a commitment which it will be rather costly to revoke. If you add a new bit of non-modular furniture to an old bit, you end with an eclectic, incoherent mess. You must then either resign yourself to such messiness, or scrap the old and start altogether anew, which is costly.

We are investigating the notion of civil society partly by means of contrasting it with its alternatives, and our point is that not one, but more than one important contrast is involved. We are concerned not merely by the opposition between liberal civil society and an ideological *Umma* (whether the dismally failed secular *Umma* of Marxism, or the strangely successful *Umma* of Islam), but also with the contrast between it and the as-it-were Durkheimian society of ritual-based and communal, rather than doctrine-based and soteriological society. What really marks this distinction is that genuine civil society requires, not modular furniture, but modular *man*.

The main point of Durkheimian sociology, and perhaps of the organicist or communalist tradition in social thought generally, is that man is markedly un-modular. He cannot be bonded into a social organism easily or at will. The Social Contract theorists had thought the opposite, and supposed that a society could be set up as easily as modern man can buy a washing machine on hire purchase. The trouble with them was not merely that their position was logically circular – if it is contracts which bind men, then a meta-contract is required to make the first one binding, and so on forever

– but above all, they were illegitimately generalizing from one kind of man, who takes his own promises and commitments seriously, to man in general.

But man in general is not modular, his individual isolated acts and affirmations are not to be taken seriously or to be relied on, his only real commitment is to a kind of interdependent and ritually orchestrated totality. Before you can trust his promise, it has to be made with trumpets and drama, with witnesses and presentations, dancing and music. By laying on the solemnity, preferably with a sacrifice, by linking the act to all kinds of other social relationships and symbolically fusing it with a whole network of solemn occasions, you can get it to be taken seriously. A traditional wedding involves two entire clans, great expense, much sound and fury; it is modern man who can get married in a quick sober procedure with a couple of witnesses and yet incur legally and socially serious consequences.

Non-modularity is as it were the normal human condition, which can be assumed to obtain unless some very special circumstances make for modularity. But the political and economic consequences of non-modularity are tremendous. The political ones are, above all: the only effective social groups, which alone can engender a social balance of power and counteract arbitrary centralized tyranny, are heavily ritualized, socially pervasive, deeply demanding, stifling social segments. The only alternative to the tyranny of kings is the tyranny of cousins (though of course, you *can* have *both*). The economic consequences of non-modularity are simple and obvious: rigidity, conservatism, stagnation. The bonding of practices and procedures to ritual and to kin group means the freezing of technique. Technical innovation means social disruption and the de-stabilization of that essential social segment, which alone offers protection, and 'life meaning', to man. It obviates the possibility of choosing techniques simply in terms of clearly defined criteria of efficiency, and of nothing else. It imposes instead the need to judge practices, if indeed they are to be subject to critical scrutiny at all, in terms of the multiple, imponderable, complex considerations of their participation in an indivisible, 'organic', cultural totality.

It is the political consequences of modularity which are really important. Modular man can combine into effective associations and institutions, without these being total, many-stranded, underwritten by ritual, and made stable through being linked to a whole set of relationships, all of these then being tied in with each other



and so immobilized. He can combine into specific-purpose, *ad hoc*, limited associations, without binding himself by some blood ritual. He can leave an association when he comes to disagree with its policy without being open to the charge of treason. A properly terminated contract is not an act of treachery, and is not seen as such. A tenant who gives due notice and pays the recognized rent, acquires no stigma if he move to a new tenancy. Yet these highly specific, unsanctified, instrumental, revocable links or bonds are effective! *This* is civil society: the forging of links which are effective even though they are flexible, specific, instrumental. Society is a structure, it is not atomized, helpless and supine, and yet the structure is readily adjustable and responds to rational criteria of improvement.

#### MODULAR MAN IS A NATIONALIST

The modularity of modern man was probably a precondition of the industrial miracle, and is certainly – by definition – a precondition of civil society: civil society is a cluster of institutions and associations strong enough to prevent tyranny, but which are, nevertheless, entered freely rather than imposed either by birth or by awesome ritual.

But the modularity has a price, or at any rate, a precondition, which in turn is liable to raise problems. So far, we have focused on certain moral and intellectual qualities which are presupposed by modularity: what is required is that a man should be capable of undertaking and honouring, deeply internalizing, commitments and obligations by a single and sober act. He will honour his debts and obligations without prolonged and fearful rituals, without involving the honour of all his kin and so forth. It is not so much that his word is his bond, but that his word is his word even when spoken softly, without emphasis, in ordinary circumstances, without artificial heightening of the atmosphere, so to speak. And he must also be capable of lucid, Cartesian thought, which separates issues rather than conflates them and takes them one at a time: the non-conflation of issues, the separation out of the social strands, which makes society non-rigid, presupposes not merely a moral willingness, but also an intellectual capacity. Clear thought is not a birthright but an accomplishment, and somehow it had to be taught and its principles internalized: it is an acquired taste, and the acquisition had to be fostered.

But the modularity, the flexibility of institutions, requires the substitutability of men for each other: one man must be able to fill the slot previously occupied by another. To do this, they need not be identical in all respects: were that so, nothing would be accomplished by the substitution. The substitution or replacement of one man by another only has point if, precisely, they do differ, and the substitution effects an improvement in the totality within which it occurs. But, nevertheless, if it is to be possible and workable as well as constituting an improvement, the connections between the occupant of the slot and his neighbours must be standard, so that communication, interaction, can continue at least at the previous level. The communication symbols employed by the new occupant of the slot must be culture-compatible with those of his new neighbours.

This is indeed one of the most important general traits of a modern society: cultural homogeneity. The old segmentary societies of various kinds highlighted and fortified the boundaries between the segments by cultural differentiation: people spoke, ate, dressed, etc., differently, according to their precise location in a complex, intricate social structure. They had to speak and generally comport themselves as their station required, and to speak in any different manner would have been offensive presumption, if not violation of legal or ritual prescription. There was, in these conditions, not merely no incentive for, but plenty of reasons against, defining political units in terms of identity of culture. This idea, which is the very essence of nationalism, goes against the grain of traditional society. If ever it does exemplify any degree of correlation between political and cultural boundaries, it does so by accident, and not from any kind of inner compulsion.

But not so in the new realm of modular man. It requires men to be modular, for it requires them to be mobile as between social positions in an inherently unstable social structure. It cannot tolerate idiosyncrasies of communication, which would only inhibit the shifting of one social pawn from a given position to another. It cannot tolerate locally idiosyncratic idioms of communication, which, when taken from one position to another where the neighbours are no longer familiar with them, would immediately lead to unintelligibility and the inhibition of the easy flow and comprehension of messages.

The standardization of idiom is in any case imposed on this kind of society by the nature of work, which has ceased to be physical and has become predominantly semantic: work is now the passing

and reception of messages, largely between anonymous individuals in a mass society, who cannot normally be familiar with their interlocutors. Located as is the partner in the exchange of messages at the other end of a telephone or a fax, his identity normally is not even known, let alone familiar. But this being so, it is no longer acceptable that the partner's facial expression, body posture, past history and habits should enter into the determination of the meaning of the message, as a kind of additional but essential phoneme. In the old intimate, closed peasant communities, in which all speakers and listeners were intimately familiar with each other, these as it were personal, privatized phonemes were not merely tolerable, they were, very nearly, the only ones tolerated. Explicitness of speech, which detaches the meaning from these elements and makes it a function exclusively of standardized phonetic elements, independent of context and identity of speaker and listener, is something reserved for, at most, a few scholastics and lawyers. Its practice by others is unthinkable.

All that changes in the society of universal and anonymous communication. Modularity, with its moral and intellectual preconditions, makes civil society, and the existence of non-suffocating yet effective segments, possible; but it makes not only for civil, but also for nationalist society. Modular man is not *universally* substitutable: he is substitutable within the cultural boundaries of the idiom in which he has been trained to communicate, to emit and to receive messages. He has had to be *trained* for this, for the capacity to observe a standardized code cannot be acquired through the informal procedures of daily living, which is the way in which old, folk, popular traditions were, by definition, transmitted. It can only be done by means of formal education, transmitting to its wards the standardized, codified rules of a culture which, precisely in virtue of this codification and its inherent links to a specialized educational institutions, is a *High Culture*. In these circumstances, for the first time in world history, a High Culture, in this sense, becomes the pervasive and operational culture of an entire society, rather than being the privilege and badge of a restricted social stratum.

But it also means, of course, that the territorial or social limits of the use of any one such High Culture at the same time also sets the limits of the substitutability, the possible deployment and social insertion, of the given modular individual who had received his training in that particular culture. For the average person, the limits of his culture are the limits of his employability, social accept-

ability, effective participation and citizenship. His educationally acquired culture is by far his most important possession and investment, for it alone gives him access to all else; and the existence of a secure, preferably extensive political unit identified with that culture, and therefore automatically conferring full status on him as a bearer of it, is his most pressing and powerful political concern. He is not a nationalist out of atavism (quite the reverse), but rather, from a perfectly sound, though seldom lucid and conscious, appreciation of his own true interests.

As indicated, the previous agrarian world was enormously rich in cultural nuance, having used it to indicate and highlight and confirm and sacralize an enormous multiplicity of social distinctions. For the same reasons, it could not use cultural boundaries to indicate and highlight political ones. Now, the reverse is the case. *Inside* political units, cultural differentiation and nuance are to a large extent wiped out, in the interests of furthering that invaluable modularity. But at the same time, as the limits of substitutability are the limits of commitment, political boundaries will tend to converge with boundaries of High Cultures, and indeed, High Cultures will generally displace Low ones.

At the beginning of the social transformation which brought about the new state of affairs, the world was full of political units of all sizes, and of cultural nuances, and hence of men whose own culture did not converge with the one used by the political unit they inhabited. Under the new social regime, this became increasingly uncomfortable. They then had two options, if they were to diminish the discomfort: they could change their culture, or they could change the nature of the political unit, either by changing its boundaries, or by changing its cultural identification. Men generally adopted one or the other of these strategies, sometimes both, whether in succession or simultaneously. The surface result of all this was the nationalist turbulence of the nineteenth and twentieth centuries.

#### FRIEND OR FOE?

The same, or largely overlapping, forces have produced both human modularity and nationalism. Modularity is the precondition of civil society and, according to the most famous and most influential sociological theory, it is itself the fruit of protestantism. It was protestantism which, on this theory, had taught men to stand



alone, to be bound by their word without the benefit of reinforcing ritual and communal context. Protestantism, by making the absence of ritual into its own most potent ritual, and the absence of graven images into its most suggestive fetish, liberated mankind, or rather, a segment of mankind, from that addiction to audio-visual and socio-contextual reinforcement which is so characteristic of most of humanity, and which had prevented the emergence of that modern world to which we are now committed, and whose most valued political features are associated with the notion of civil society.

If civil society and nationalism are both the offspring of the same forces, does this kinship turn them into political allies or enemies?

At the start, they tended to be allies. For one thing, early nationalism was modest and timid, the Herderian defence of the charms of folk cultures against the imperialism of the French court or of British commercialism or the bloodless universalism of abstract man of the Enlightenment. (Later, the philosophical anthropology of nationalism was to become more aggressive, not to say ferocious, but that was yet to come.) But above all, initially liberalism and nationalism had the same enemy, the baroque absolutist state which was indifferent to the folk culture of its subjects, and in any case disinclined to allow them too many liberties or too much participation. So, the claim for greater liberties for the individual, the ratification of that which was to become the normal comportment of modular man, and the claim for greater equality of cultures, could be presented together, and even endowed with an elective affinity with each other, as jointly seeking greater human fulfilment.

But in due course, their paths diverged. The individualism inherent in the condition of modular man, if pushed to its logical conclusion, was hostile to the cult of community. The position was indeed pushed to its extreme logical conclusion by those whose own social situation impelled them in that direction. Nationalism, on the other hand, went in a different direction. Notwithstanding the fact that its real social roots lay in the emergence of a mass anonymous society destined to use a shared and standardized culture, it adopted the pretence (held in all sincerity by its protagonists and propagandists) that it was defending and perpetuating a village, folk culture. Rooted in an emerging *Gesellschaft*, it preached *Gemeinschaft*. In Central and Eastern Europe, it was forced into this stance partly by the fact that new High Cultures had to be forged on the basis of peasant cultures. But the nationalists were hostile not merely to rival cultures, but also, and perhaps with

special venom, hostile to bloodless cosmopolitanism, perhaps because they sensed in it an ally of political centralism, a support for the attempt to maintain the old transnational empires against neo-ethnic irredentism. (They were right: in the end, the liberals, committed to an open market in goods, men and ideas, were the last supporters of centralism, remaining faithful to it, even when the old baroque absolutism and the partisans of the *ancien régime* had given up the struggle.)

So, in the later stages, the push towards an individualist civil society, and the nationalist striving, tended to come in collision with each other. The ambiguity of this relationship was very visible in the Habsburg empire, and the pattern was due in the end to be replayed in the terminal stage of the tsarist-bolshevik empire.

#### THE TIME ZONES OF EUROPE

The manner in which the nationalist aspect of modular humanity manifested itself in Europe varied from region to region, and the differences are both inherently interesting, and important for the understanding of subsequent developments. Roughly speaking, and allowing for certain complications which will be specified later, Europe falls into four time zones, resembling a little those global maps one sometimes sees at airports, which indicate the different times in the various vertically defined stretches of the globe.

It is perhaps useful, if contrary to nature, to proceed from West to East, as in this matter the West is less problematical than the East. The westernmost time zone is that of the Atlantic coast of Europe. The point about this area is that from the late Middle Ages onwards if not earlier, it was occupied by strong dynastic states, which roughly, even if only roughly, correlated with cultural areas. This meant that when, with the coming of nationalism, political units had to adjust themselves to cultural boundaries, no very great changes were required here. History had made a present to nationalism of a broad region, where the nationalist imperative was already, at least in some measure, satisfied before the event. Some turbulence there was, of course, even within this zone: to this day, there is violence in Bilbao and Belfast. One major adjustment of the political map did take place, namely the establishment of the Republic of Ireland. But all in all, the map of this part of Europe in the age of nationalism does not look so very different from what it had been in the age when dynasty, religion and local community had been the determinants of boundaries. The dynastic states,

finding themselves in charge of an area correlating with a culture, tended to identify with that culture, even before nationalism had turned culture into the most potent political symbol. There was no need for very widespread ethnic irredentism when the new order arrived. New cultures did not need to be created, and the attempt to revive one in Ireland failed. The cultures which exist did not need to acquire new political roofs: the roof was ready, waiting for them.

The next zone to the east was different. Far from possessing ready-made dynastic states, it was an area of quite exceptional political fragmentation, endowed with effective political units much smaller than the geographical extension of the two locally dominant High Cultures. The major political meta-unit of the area, the Holy Roman empire, had lost effective reality and, by the time of the coming of the age of nationalism, had ceased to exist even in name. But if the region lacked pre-existing political units ready for the nationalist requirements, it was well equipped with pre-existing, codified, normative High Cultures. Both Italian and German were well codified, ever since the Renaissance and the Reformation respectively, at the very latest.

So here there was a need for polity-building, but not for culture-building. There was no need for schoolteachers, ethnographers, folklorists, and national 'Awakeners' generally, to go out to the villages and construct a national culture from the chaos of regional dialectal variety. It had all been done, before nationalism. Whereas in the westernmost zone, all that needed to be done was to transform peasants sunk in local cultural particularism into properly educated members of the national culture, here (though perhaps this had to be done too), the main thing required was a political change. An existing High Culture had to be endowed with a political roof worthy of it. It took a certain amount of military and diplomatic activity, but not a great deal else. By the latter part of the nineteenth century, the task had largely been accomplished.

It was the next time zone to the east which presented the greatest problems, from the viewpoint of the implementation of the nationalist principle of *one culture, one state*. Here there was an appallingly complex patchwork of diverse cultures, intermixed both geographically and in the social structure, with political, cultural and religious boundaries devoid of any coherence or overlap. Many of the cultures were not clearly endowed with a normative High Culture and educational institutions capable of protecting, perpetuating and disseminating it in a world in which a High Cul-

ture had to become co-extensive with an entire society, rather than defining a narrow minority. Here both cultures and polities had to be created, an arduous task indeed. If the eventual units were to be compact and reasonably homogeneous, more had to be done: many, many people had to be either assimilated, or expelled, or killed. All these methods were eventually employed in the implementation of the nationalist political principle.

Finally, there is Europe's fourth time zone, corresponding more or less to the territories of the erstwhile tsarist empire. The pattern here corresponded fairly closely to that of the third zone – until the end of the First World War. Till then poly-ethnic empires, with a dynastic-religious foundation, managed to survive the pressure generated by nationalist irredentism. But in each case the empire was defeated in the war and disintegrated. But thereafter, the two paths diverge. The tsarist empire was re-established rather quickly, under entirely new management and in the name of a uniquely new, formally secular ideology, though one endowed with all the zeal and messianism of a salvation religion, which in fact it was.

The new faith was imposed with conviction and ruthlessness, and in fact generated a secular *Umma*, a charismatic community which saw its task on earth as the implementation of absolute righteousness, and saw itself as being in possession of the recipe for that righteousness. The faith which was being implemented had undergone, under the leadership and inspiration of Lenin, a kind of inverse Reformation: initially, the faith possessed no clauses which would entail an internal stratification of the faithful. All mankind eventually, and in the meantime at any rate all the oppressed and dispossessed, were granted an equal and symmetrical access and relationship to the truth which was to save humanity. Lenin, however, had come to the conclusion that ordinary humanity was incapable of rising to the perception of the truth (i.e. the unaided working class would merely be reformist rather than revolutionary, would concentrate on improving its position within the existing social order, rather than grasp that its role was to usher in a wholly different new order). This being so, a special dedicated and highly disciplined Order was required, capable of understanding and appreciating the great Message. When, rather surprisingly, the revolution succeeded and, even more surprisingly, survived despite the absence of external aid from fraternal revolutions elsewhere, this Order naturally inherited the governance of all the Russias, and performed the task which had thus fallen to it in a

manner befitting the possessor of an absolute and supremely important revelation. As Lenin observed, the teaching of Marx was all-powerful because it was *true*. A red banner with this quotation continued to hang in the entrance hall of the Institute of Philosophy of the Academy of Sciences of the USSR well into the late 1980s, by which time however it was impossible to draw the attention of any passing Soviet citizen or scholar to it without provoking a wry smile.

Anyway, the new secular *Umma*, under this dedicated and determined leadership, had even less difficulty in containing nationalist irredentism, than had the empires of the erstwhile Holy Alliance during the century which stretched from 1815 to 1918. The new ideocracy, and the institutions it spawned, controlled the entire territory with ease, and obliged its inhabitants to proclaim that their nationalist aspirations were satisfied. A complication of importance, which must be noted, is that as a result of its military victory in 1945, the socialist *Umma* pushed the boundary of the fourth zone westwards, and incorporated large areas which had, between 1918 and the second war, belonged to the third zone. Moscow time, ideologically and politically speaking, now extended to the Adriatic and the Elbe.

For reasons which are of the greatest importance, which have not been adequately elucidated, the world's first secular ideocracy collapsed in the late 1980s, making plain that the faith in this particular salvation creed at any rate had disappeared almost completely in those lands in which its implementation had been attempted. It is of course this very collapse which engendered that craving for civil society, and the revival of the phrase and its elevation to a potent political symbol. The interaction between this aspiration, and the sudden release of nationalist irredentism following the end of dictatorship, calls for further discussion. But this must be preceded by a kind of typology or timetable of the successive forms of nationalism.

#### THE VARIETIES OF NATIONALIST EXPERIENCE

There is a sense in which the *third* time zone is most typical of the human condition: the transition from the situation in which culture underwrites status but not political boundaries, to the condition in which it does the very reverse, is most manifest in it, and least disturbed by contingent intrusions – by the contingent pres-

ence of dynastic states which just happen to correspond, roughly, to future national ones, or by the contingent presence of a well-codified High Culture, or by the Second Coming of Soteriology or Ideocracy in a secular guise. It is the third zone which proceeded from a blatantly ethnicity-defying, dynastic-religious order to a rabid nationalism, and did so relatively undisturbed by other factors. In this sense, the stages through which it passed can be considered 'normal': they are what one would expect, if no unusual additional factors are operative.

There is the first stage in which the old dynastic-religious system is still operative, as it was at the Congresses of Vienna in 1815. There is the second stage of sustained but, all in all, ineffective nationalist irredentism: the new principle of culture-based states is operative, but cannot prevail against the established order, unless the established order is particularly weak. This was the state of affairs between 1815 and 1918, except for the Balkans, where the unusual weakness of the Ottoman empire permitted the creation of five or six national buffer states. Stage three is interesting: it could be called the Age of Nationalism Triumphant and Self-defeating. It lasted from 1918 till the domination of Europe by Hitler and Stalin in the course of the Second World War. It was characterized by a political system consisting of fairly small states, overtly and proudly self-defined as national states, which had succeeded the old poly-ethnic, religiously validated empires. These new states had all the weaknesses of the old empires: they were just as haunted by minorities as they had been, if not more so. In addition, they had a whole series of additional weaknesses of their own. They were small; they were, in the main, new, and were not hallowed by age; they often had inexperienced, greedy and uncautious ruling classes, more eager to make hay while the sun shone, without expectation of or much concern with stability; and they had, amongst their minorities, members of the erstwhile dominant ethno-linguistic groups, unhabituated to submission and minority status, resentful of it and endowed with external support, in their 'home' national state, which helped and encouraged them to struggle against their newly attributed subordinate status. The consequences of these manifold weaknesses soon became manifest: the system offered virtually no resistance, and in any case no effective resistance (except for Finland), when the two great dictators of the century agreed to carve it up between themselves. The system of supposedly national states, set up in the name of national self-determination in 1918 and 1919, collapsed like a house of cards.

The time when it collapsed was also the period of an unprecedentedly large-scale and total war, in the course of which both the flow of information and the strength of moral susceptibilities were markedly diminished. A century of ineffective national striving, followed by a quarter of a century during which the role of oppressor and oppressed was in part inverted, left the region as a seething mass of ethnic resentments. On top of all that, the dominant power, Hitler's Germany, was committed to a mixture of a communalist and biological ideology, which singled out certain ethnic minorities without a territorial or peasant base as specially noxious and deserving of extermination. The interstitial position with which the most important of such minorities was endowed had in any case made it an object of hatred amongst the 'host' populations.

The hatred and resentments were there, and so was the ideological rationale, and as it happens, so was the political will and the organizational machinery. Wartime secrecy made it all easier. The consequence is known. The Jews, but not only they, were objects of a massive, well-organized and efficient campaign of extermination. But other populations suffered as well, and during the immediate postwar period, though information now flowed more easily, indignation and the desire for retaliation permitted the employment of methods – above all, forcible transplantation of population in disregard of normal principles of justice – as a result of which, in some but not all regions, the previously complex ethnic map was brought into closer relationship with the newly imposed political boundaries, thus satisfying the requirements of nationalism more closely than had been feasible in days of moral restraint.

So much for stage four. Thanks to the crimes of Hitler and Stalin, some but not all areas of Eastern Europe now satisfied the nationalist imperative. At the same time, being subjected to the extended area of domination of the new secular ideocracy, it did not matter too much whether or not they did satisfy that imperative, in as far as the new empire had the will and the means to impose its authority in any case, both in areas in which murder and transplantation had produced ethnic homogeneity, and in areas in which the old complexity continued to prevail.

Eventually, during the second half of the 1980s, the secular soteriological ideocracy collapsed, in some measure because of internal opposition, but in the main because of a loss of conviction and nerve at its centre. The leaders, faced with sustained defeat in both the consumerist and the arms races, turned to liberalization in

the hope of a quick – or only – remedy, and found themselves incapable of arresting its course once it had gathered momentum, or at any rate, unwilling to adopt the extreme measures which would have been required to arrest it. Their predecessors, in the days of faith, would not have hesitated to use them, but ruthlessness on such a scale no longer seems to come easily (to their credit) to members of this political culture.

So the authoritarian system collapsed, sufficiently to reveal both the yearning for civil society *and* the powerful ethnic passions. It is the interaction and the relative strength of these two newly liberated forces which concern us here. At present, their interaction makes up much of the great political drama of Eastern Europe, and the outcome is far from clear, and will presumably remain unclear for quite some time yet. But it is already possible to make a certain number of observations.

Both the economic and the political aspects of civil society are rather difficult to erect, or to stimulate into emergence. Initial political parties tend to be ephemeral clubs of intellectuals, without effective grass roots. It is easy enough to stimulate certain kinds of enterprise, notably the kind of service industry which tends to exist in semi-legal form anyway, in all but the most repressive of dictatorships. A small restaurant required little space, not a great deal of entrepreneurial talent or imagination, little more than a certain amount of gastronomic and visual taste and fastidiousness. But a genuine open market, as opposed to mere networks, and an entrepreneurial class and institutions – it does not seem easy to set these up by fiat. Much the same goes for political institutions.

By contrast, ethnically based and defined associations appear to be capable of almost immediate formation and so to speak crystallization. Solid organization with local branches, shared symbols and sentiments, recognized and respected leadership – it seems to be possible to create these on a nationalist basis with amazing speed and effectiveness. This may be regrettable: one might wish that the other aspects of modular man, other than his eagerness to identify with the social category within which he is, in virtue of his cultural traits and training, substitutable, should make as ready an appearance. The fact is, they do not. We may or may not like this, but we have to recognize it. The sleeping beauty of ethnicity can be awakened with the gentlest and most tender of kisses. The sleeping beauty of civil society may be more desirable, at least to those sharing our taste, but to wake her up is the devil's own job.

Once again, are nationalism and liberalism allies? At first, certainly: both were oppressed by an authority which combined dogmatism with centralism, and those who long for free thought, and those who long for autonomy for their own cultural totem pole, will naturally be in alliance against the centre. Given the speed with which ethnicity can be mobilized, and the slowness with which anything else can be roused, it is probably a good thing to use ethnic bases as fortresses against centralist reaction. This had been, for instance, Boris Yeltsin's strategy in his confrontation with Gorbachov. Some of us doubted the wisdom of such indiscriminate encouragement of ethnic particularism, a weakening of the centre at any cost, but when, in August 1991, both Yeltsin and Gorbachov had to be saved from a would-be violent reaction by the centrists, it was Yeltsin's capacity to fall back on such a base which saved the day . . .

One can sum it all up as follows: the modularity of man, so intimately tied up with an industrial and growth-oriented society, has two aspects, two principal social corollaries: it makes *possible* civil society, the existence of plural political associations and economic institutions; and it makes *mandatory* the strength of ethnic identity, arising from the fact that man is no longer tied to a social niche, but to a culturally defined pool. The one potentiality is a mere possibility, essential in the long term if the society is to be capable of competing with its rivals, but dispensable in the short run; the other, however, is an immediately felt imperative. This is something one must recognize and take into account, whether or not one likes it.

## NOTES

1 F. de Coulanges, *The Ancient City: A Study on the Religion, Laws and Institutions of Greece and Rome* [1864], Anchor Books, New York, 1970, p. 11. It is sometimes claimed that Benjamin Constant had anticipated Fustel on this point in his famous address of 1819 on 'The Liberty of the Ancients compared with that of the Moderns' (Constant, *Political Writings*, ed. B. Fontana, Cambridge University Press, Cambridge, 1988, pp. 309–28). But Constant only stressed that ancient liberty was not *individual* liberty, and in fact opposed such liberty; but he did not specify the role of social sub-groups and their heavy ritualization in the process *both* of depriving the individual of freedom *and* of maintaining social order in the absence of a strong coercive centre. It is *this* perception which makes Fustel the ancestor of modern 'segmentary' theory, of the understanding of a society which is plural but *not*, in our required sense, 'civil'.

2 Coulanges, *The Ancient City*, pp. 219–20.

3 L. Dumont, *From Mandeville to Marx: The Genesis and Triumph of Economic Ideology*, Chicago University Press, Chicago, Ill., 1977. The theory of segmentary society begins, of course, with the first major book of one of Fustel de Coulanges's students, namely E. Durkheim, *The Division of Labour in Society*, trans. W. D. Halls, Free Press, New York, 1984. The theory was used by such scholars as Emile Masqueray, Robert Montagne, Edward Evans-Pritchard and Jacques Berque, all of whose work is discussed in and stands at the back of E. Gellner, *Muslim Society*, Cambridge University Press, Cambridge, 1981.

4 E. Masqueray, *Formation des cites chez les populations sedentaires de l'Algerie* [1886], new edn, ed. F. Colonna, Edisud, Aix-en-Provence, 1983.

5 R. I. Levy, *Mesocosm*, University of California Press, Berkeley, Cal., 1990, p. 21.

6 D. Hume, *The Natural History of Religion* [1757], Stanford University Press, Stanford, Cal., 1956, pp. 49, 50.

7 Hume, *The Natural History of Religion*, p. 50.

8 'Of Superstition and Enthusiasm' [1741], in D. Hume, *Essays, Moral, Political, and Literary*, Liberty Classics, Indianapolis, Ind., 1985, pp. 75, 76, 78.

9 Ibn Khaldun, *The Muqaddimah*, trans. F. Rosenthal, Routledge and Kegan Paul, London, 1958; F. Engels, *Die Neue Zeit*, winter, 1894/5.



particularization, to the concrete unity and synthesis of universal and particular, subject and object, form and content. This synthesis is individuality or concrete universality, or the concept in its truth as Idea. Since the process of its life is a single process, the determinations or particularizations which the concept gives to itself are an organically connected series, and they follow one another in stages of gradually increasing concreteness. The later stages cancel the earlier ones, and yet at the same time the earlier ones are absorbed within the later as moments or elements within them. Hence, although 'ethical life' supersedes 'abstract right' and 'morality', both of these are absorbed into ethical life as its constituents, just as family and civil society are both superseded by and incorporated in the state.

A beginner may perhaps be warned that Hegel's introductory matter, whether his Preface and Introduction or the first few Paragraphs of the three parts of the book, is seldom intelligible without some knowledge of that which it is meant to introduce.

## § 5

Hegel's conception of *civil society* has given rise to misunderstandings. 'Civil society' is used by eighteenth-century writers in contexts where we would now normally speak of 'the state', and Hegel has had his share in this change of linguistic usage. The popularity of the expression 'civil society' in Hegel's Germany was largely due to a translation of Adam Ferguson's *Essay on the History of Civil Society* (1767)—or so Rosenzweig says (*Hegel und der Staat*, Munich and Berlin, 1920, vol. ii, p. 118)—but Hooker uses the expression and it is a commonplace of English writers on political theory after him.

Just as the family is an immature kind of state (i.e. a patriarchal community), so civil society is also a kind of state, though one less immature than the family, because particular differences are explicit within it. It is, for example, an eighteenth-century despotism, under which the citizen, unless he were a civil servant, was conscious of the state, if at all, only as something external to him. His interests were civil and economic, not political, and he felt himself to be not a participant in public affairs, but the subject of his prince. His private affairs had no concern with politics, and political difficulties did not concern him. Universal and particular interests were thus distinct, and hence from the point of view of

the Understanding, civil society *is* the state. It is an abstract universal which rules and commands the particular.

Civil society is not only a kind of state, the kind about which the Understanding's political theories are true enough, it is a moment in the state proper. It grows up into the state, because the educative influence of civil life (especially the life of trade and commerce) makes men realize that they are by nature not self-seeking individualists but creatures of reason; they have a universal side and so can align themselves with the universal without sacrifice of freedom. So long as men regard freedom as freedom to pursue selfish whims, society is possible only if external checks are placed on this freedom; government is then an external organization to meet men's necessities. But if they realize that their true freedom consists in the acceptance of principles, of laws which are their own, a synthesis of universal and particular interests becomes possible. It can be actualized, however, only in and through the political institutions whereby the state proper is distinguished from civil society, notably *limited* monarchy, parliament, and freedom of press and public opinion. In civil society, the law which defends security of property and enforces contracts is regarded as an external force; in the state the law receives its content from parliament and so is the law of the citizens themselves.

Hence the transition from civil society to the state is due to education. When men realize that the cleavage between universal and particular which is characteristic of civil society is only an appearance, or in other words when they realize the concrete unity of universal and particular in their own nature, then this leads at once to the objectification of this concrete though differentiated unity in the political institutions which make the state an organic whole. Civil life then remains as an element in the state, but only as a subordinate moment of it (see, e.g., Paragraphs 287, 314, and the third footnote to Paragraph 270). The acquisition of political interests does not mean that economic interests cease.





as one generation succeeds another. Love, the ethical moment in marriage, is by its very nature a feeling for actual living individuals, not for an abstraction. This abstraction of the Understanding [the *gens*] appears in history as the principle underlying the contribution of the Roman Empire to world history (see Paragraph 357).<sup>39</sup> In the higher sphere of the state, a right of primogeniture arises together with estates rigidly entailed; it arises, however, not arbitrarily but as the inevitable outcome of the Idea of the state. On this point see below, Paragraph 306. [A.]

#### *Transition of the Family into Civil Society*

181. The family disintegrates (both essentially, through the working of the principle of personality, and also in the course of nature) into a plurality of families, each of which conducts itself as in principle a self-subsistent concrete person and therefore as externally related to its neighbours. In other words, the moments bound together in the unity of the family, since the family is the ethical Idea still in its concept, must be released from the concept to self-subsistent objective reality. This is the stage of difference. This gives us, to use abstract language in the first place, the determination of particularity which is related to universality but in such a way that universality is its basic principle, though still only an inward principle; for that reason, the universal merely shows in the particular as its form.<sup>40</sup> Hence this relation of reflection *prima facie* portrays the disappearance of ethical life or, since this life as the essence necessarily shows itself,\* this relation constitutes the world of ethical appearance—civil society.

The expansion of the family, as its transition into a new principle, is in the external world sometimes its peaceful expansion until it becomes a people, i.e. a nation, which thus has a common natural origin, or sometimes the federation of scattered groups of families under the influence of an overlord's power or as a result of a voluntary association produced by the tie of needs and the reciprocity of their satisfaction. [A.]

#### SUB-SECTION 2

#### CIVIL SOCIETY

182. The concrete person,<sup>41</sup> who is himself the object of his particular aims, is, as a totality of wants and a mixture of caprice and physical necessity, one principle of civil society. But the particular person is essentially so related to other particular persons

\* Cf. *Enc.* [1st edn.], §§ 64 ff., §§ 81 ff. [3rd edn. §§ 115 ff., §§ 131 ff.].

that each establishes himself and finds satisfaction by means of the others, and at the same time purely and simply by means of the form of universality, the second principle here. [A.]

183. In the course of the actual attainment of selfish ends—an attainment conditioned in this way by universality—there is formed a system of complete interdependence, wherein the livelihood, happiness, and legal status of one man is interwoven with the livelihood, happiness, and rights of all. On this system, individual happiness, &c., depend, and only in this connected system are they actualized and secured. This system may be *prima facie* regarded as the external state,<sup>42</sup> the state based on need, the state as the Understanding envisages it.

184. The Idea in this its stage of division imparts to each of its moments a characteristic embodiment; to particularity it gives the right to develop and launch forth in all directions; and to universality the right to prove itself not only the ground and necessary form of particularity, but also the authority standing over it and its final end. It is the system of the ethical order, split into its extremes and lost, which constitutes the Idea's abstract moment, its moment of reality. Here the Idea is present only as a relative totality<sup>43</sup> and as the inner necessity behind this outward appearance. [A.]

185. Particularity by itself, given free rein in every direction to satisfy its needs, accidental caprices, and subjective desires, destroys itself and its substantive concept in this process of gratification. At the same time, the satisfaction of need, necessary and accidental alike, is accidental because it breeds new desires without end, is in thoroughgoing dependence on caprice and external accident, and is held in check by the power of universality. In these contrasts and their complexity, civil society affords a spectacle of extravagance and want as well as of the physical and ethical degeneration common to them both.

The development of particularity to self-subsistence (compare Remark to Paragraph 124) is the moment which appeared in the ancient world as an invasion of ethical corruption and as the ultimate cause of that world's downfall. Some of these ancient states were built on the patriarchal and religious principle, others on the principle of an ethical order which was more explicitly intellectual, though still comparatively simple; in either case they rested on primitive unsophisticated intuition. Hence they could not withstand the disruption of this state of mind when

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self-consciousness was infinitely reflected into itself; when this reflection began to emerge, they succumbed to it, first in spirit and then in substance, because the simple principle underlying them lacked the truly infinite power to be found only in that unity which allows both sides of the antithesis<sup>44</sup> of reason to develop themselves separately in all their strength and which has so overcome the antithesis that it maintains itself in it and integrates it in itself.

In his *Republic*, Plato displays the substance of ethical life in its ideal beauty<sup>45</sup> and truth; but he could only cope with the principle of self-subsistent particularity, which in his day had forced its way into Greek ethical life, by setting up in opposition to it his purely substantial state. He absolutely excluded it from his state, even in its very beginnings in private property (see Remark to Paragraph 46) and the family, as well as in its more mature form as the subjective will, the choice of a social position, and so forth. It is this defect which is responsible both for the misunderstanding of the deep and substantial truth of Plato's state and also for the usual view of it as a dream of abstract thinking, as what is often called a 'mere ideal'. The principle of the self-subsistent inherently infinite personality of the individual, the principle of subjective freedom, is denied its right in the purely substantial form which Plato gave to mind in its actuality. This principle dawned in an inward form in the Christian religion and in an external form (and therefore in one linked with abstract universality) in the Roman world. It is historically subsequent to the Greek world, and the philosophic reflection which descends to its depth is likewise subsequent to the substantial Idea of Greek philosophy. [A.]

186. But in developing itself independently to totality, the principle of particularity passes over into universality, and only there does it attain its truth and the right to which its positive actuality is entitled. This unity is not the identity which the ethical order requires, because at this level, that of division (see Paragraph 184), both principles are self-subsistent. It follows that this unity is present here not as freedom but as necessity, since it is by compulsion that the particular rises to the form of universality and seeks and gains its stability in that form.

187. Individuals in their capacity as burghers<sup>46</sup> in this state are private persons whose end is their own interest. This end is *mediated* through the universal which thus *appears* as a *means* to its realization. Consequently, individuals can attain their ends only in so far as they themselves determine their knowing, willing, and acting in a universal way and make themselves links in this chain of social connexions. In these circumstances, the interest of the Idea—an

interest of which these members of civil society are as such unconscious—lies in the process whereby their singularity and their natural condition are raised, as a result of the necessities imposed by nature as well as of arbitrary needs, to formal freedom and formal universality of knowing and willing—the process whereby their particularity is educated up to subjectivity.

The idea that the state of nature is one of innocence and that there is a simplicity of manners in uncivilized (*ungebildeter*) peoples, implies treating education (*Bildung*) as something purely external, the ally of corruption. Similarly, the feeling that needs, their satisfaction, the pleasures and comforts of private life, and so forth, are absolute ends, implies treating education as a mere means to these ends. Both these views display lack of acquaintance with the nature of mind and the end of reason. Mind attains its actuality only by creating a dualism within itself, by submitting itself to physical needs and the chain of these external necessities, and so imposing on itself this barrier and this finitude, and finally by maturing (*bildet*) itself inwardly even when under this barrier until it overcomes it and attains its objective reality in the finite. The end of reason, therefore, is neither the manners of an unsophisticated state of nature, nor, as particularity develops, the pleasure for pleasure's sake which education procures. On the contrary, its end is to banish natural simplicity, whether the passivity which is the absence of the self, or the crude type of knowing and willing, i.e. immediacy and singularity, in which mind is absorbed. It aims in the first instance at securing for this, its external condition, the rationality of which it is capable, i.e. the form of universality or the Understanding (*Verständigkeit*). By this means alone does mind become at home with itself within this pure externality. There, then, mind's freedom is existent and mind becomes objective to itself in this element which is implicitly inimical to mind's appointed end, freedom; it has to do there only with what it has itself produced and stamped with its seal. It is in this way then that the form of universality comes explicitly into existence in thought, and this form is the only worthy element for the existence of the Idea. The final purpose of education, therefore, is liberation and the struggle for a higher liberation still; education is the absolute transition from an ethical substantiality which is immediate and natural to the one which is intellectual and so both infinitely subjective and lofty enough to have attained universality of form. In the individual subject, this liberation is the hard struggle against pure subjectivity of demeanour, against the immediacy of desire, against the empty subjectivity of feeling and the caprice of inclination. The disfavour showered on education is due in part to its being this hard struggle; but it is through this educational struggle that the subjective will itself

attains objectivity within, an objectivity in which alone it is for its part capable and worthy of being the actuality of the Idea.

Moreover, this form of universality—the Understanding, to which particularity has worked its way and developed itself, brings it about at the same time that particularity becomes individuality genuinely existent in its own eyes. And since it is from this particularity that the universal derives the content which fills it as well as its character as infinite self-determination, particularity itself is present in ethical life as infinitely independent free subjectivity. This is the position which reveals education as a moment immanent in the Absolute and which makes plain its infinite value. [A.]

188. Civil society contains three moments:

- (A) The mediation of need and one man's satisfaction through his work and the satisfaction of the needs of all others—the *System of Needs*.
- (B) The actuality of the universal principle of freedom therein contained—the protection of property through the *Administration of Justice*.
- (C) Provision against contingencies still lurking in systems (A) and (B), and care for particular interests as a common interest, by means of the *Police* and the *Corporation*.

#### A. *The System of Needs*

189. Particularity is in the first instance characterized in general by its contrast with the universal principle of the will and thus is subjective need (see Paragraph 59).<sup>47</sup> This attains its objectivity, i.e. its satisfaction, by means of ( $\alpha$ ) external things, which at this stage are likewise the property and product of the needs and wills of others, and ( $\beta$ ) work and effort, the middle term between the subjective and the objective. The aim here is the satisfaction of subjective particularity, but the universal asserts itself in the bearing which this satisfaction has on the needs of others and their free arbitrary wills. The show of rationality thus produced in this sphere of finitude is the Understanding, and this is the aspect which is of most importance in considering this sphere and which itself constitutes the reconciling element within it.

Political economy is the science which starts from this view of needs and labour but then has the task of explaining mass-relationships and mass-movements in their complexity and their qualitative and quantitative character. This is one of the sciences which have arisen out of the conditions of the modern world. Its development affords the interesting

spectacle (as in Smith, Say, and Ricardo<sup>48</sup>) of thought working upon the endless mass of details which confront it at the outset and extracting therefrom the simple principles of the thing, the Understanding effective in the thing and directing it. It is to find reconciliation here to discover in the sphere of needs this show of rationality lying in the thing and effective there; but if we look at it from the opposite point of view, this is the field in which the Understanding with its subjective aims and moral fancies vents its discontent and moral frustration. [A.]

(a) The Kind of Need and Satisfaction [typical of civil society]

190. An animal's needs and its ways and means of satisfying them are both alike restricted in scope. Though man is subject to this restriction too, yet at the same time he evinces his transcendence of it and his universality, first by the multiplication of needs and means of satisfying them, and secondly by the differentiation and division of concrete need into single parts and aspects which in turn become different needs, particularized and so more abstract.

In [abstract] right, what we had before us was the person; in the sphere of morality, the subject; in the family, the family-member; in civil society as a whole, the burgher or *bourgeois*. Here at the standpoint of needs (compare Remark to Paragraph 123) what we have before us is the composite idea which we call *man*. Thus this is the first time, and indeed properly the only time, to speak of *man* in this sense.<sup>49</sup> [A.]

191. Similarly, the means to particularized needs and all the various ways of satisfying these are themselves divided and multiplied and so in turn become proximate ends and abstract needs. This multiplication goes on *ad infinitum*; taken as a whole, it is refinement, i.e. a discrimination between these multiplied needs, and judgement on the suitability of means to their ends. [A.]

192. Needs and means, as things existent *realiter*, become something which has being for others by whose needs and work satisfaction for all alike is conditioned. When needs and means become abstract in quality (see Paragraph 191), abstraction is also a character of the reciprocal relation of individuals to one another.<sup>50</sup> This abstract character, universality, is the character of being recognized and is the moment which makes concrete, i.e. social, the isolated and abstract needs and their ways and means of satisfaction. [A.]

193. This social moment thus becomes a particular end-determinant for means in themselves and their acquisition, as well as

for the manner in which needs are satisfied. Further, it directly involves the demand for equality of satisfaction with others. The need for this equality and for emulation, which is the equalizing of oneself with others, as well as the other need also present here, the need of the particular to assert itself in some distinctive way, become themselves a fruitful source of the multiplication of needs and their expansion.

194. Since in social needs, as the conjunction of immediate or natural needs with mental needs arising from ideas, it is needs of the latter type which because of their universality make themselves preponderant, this social moment has in it the aspect of liberation, i.e. the strict natural necessity of need is obscured and man is concerned with his own opinion, indeed with an opinion which is universal, and with a necessity of his own making alone, instead of with an external necessity, an inner contingency, and mere caprice.

The idea has been advanced that in respect of his needs man lived in freedom in the so-called 'state of nature' when his needs were supposed to be confined to what are known as the simple necessities of nature, and when he required for their satisfaction only the means which the accidents of nature directly assured to him. This view takes no account of the moment of liberation intrinsic to work, on which see the following Paragraphs. And apart from this, it is false, because to be confined to mere physical needs as such and their direct satisfaction would simply be the condition in which the mental is plunged in the natural and so would be one of savagery and unfreedom, while freedom itself is to be found only in the reflection of mind into itself, in mind's distinction from nature, and in the reflex of mind in nature.

195. This liberation is abstract since the particularity of the ends remains their basic content. When social conditions tend to multiply and subdivide needs, means, and enjoyments indefinitely—a process which, like the distinction between natural and refined<sup>51</sup> needs, has no qualitative limits—this is luxury. In this same process, however, dependence and want increase *ad infinitum*, and the material to meet these is permanently barred to the needy man because it consists of external objects with the special character of being property, the embodiment of the free will of others, and hence from his point of view its recalcitrance is absolute.<sup>52</sup> [A.]

(b) The Kind of Work [typical of civil society]

196. The means of acquiring and preparing the particularized means appropriate to our similarly particularized needs is work.

Through work the raw material directly supplied by nature is specifically adapted to these numerous ends by all sorts of different processes. Now this formative change confers value on means and gives them their utility, and hence man in what he consumes is mainly concerned with the products of men. It is the products of human effort which man consumes. [A.]

197. The multiplicity of objects and situations which excite interest is the stage on which theoretical education develops. This education consists in possessing not simply a multiplicity of ideas and facts, but also a flexibility and rapidity of mind, ability to pass from one idea to another, to grasp complex and general relations, and so on. It is the education of the understanding in every way, and so also the building up of language. Practical education, acquired through working, consists first in the automatically recurrent need for something to do and the habit of simply being busy; next, in the strict adaptation of one's activity according not only to the nature of the material worked on, but also, and especially, to the pleasure of other workers; and finally, in a habit, produced by this discipline, of objective activity and universally recognized aptitudes. [A.]

198. The universal and objective element in work, on the other hand, lies in the abstracting process which effects the subdivision of needs and means and thereby *eo ipso* subdivides production and brings about the division of labour. By this division, the work of the individual becomes less complex, and consequently his skill at his section of the job increases, like his output. At the same time, this abstraction of one man's skill and means of production from another's completes and makes necessary everywhere the dependence of men on one another and their reciprocal relation in the satisfaction of their other needs. Further, the abstraction of one man's production from another's makes work more and more mechanical, until finally man is able to step aside and install machines in his place.

(c) Capital [and class-divisions]<sup>53</sup>

199. When men are thus dependent on one another and reciprocally related to one another in their work and the satisfaction of their needs, subjective self-seeking turns into a contribution to the satisfaction of the needs of everyone else. That is to say, by a dialectical advance,<sup>54</sup> subjective self-seeking turns into the mediation



of the particular through the universal, with the result that each man in earning, producing, and enjoying on his own account is *eo ipso* producing and earning for the enjoyment of everyone else. The compulsion which brings this about is rooted in the complex interdependence of each on all, and it now presents itself to each as the universal permanent capital (see Paragraph 170) which gives each the opportunity, by the exercise of his education and skill, to draw a share from it and so be assured of his livelihood, while what he thus earns by means of his work maintains and increases the general capital.

200. A particular man's resources, or in other words his opportunity of sharing in the general resources, are conditioned, however, partly by his own unearned principal (his capital), and partly by his skill; this in turn is itself dependent not only on his capital, but also on accidental circumstances whose multiplicity introduces differences in the development of natural, bodily, and mental characteristics, which were already in themselves dissimilar. In this sphere of particularity, these differences are conspicuous in every direction and on every level, and, together with the arbitrariness and accident which this sphere contains as well, they have as their inevitable consequence disparities of individual resources and ability.

The objective right of the particularity of mind is contained in the Idea. Men are made unequal by nature, where inequality is in its element, and in civil society the right of particularity is so far from annulling this natural inequality that it produces it out of mind and raises it to an inequality of skill and resources, and even to one of moral and intellectual attainment. To oppose to this right a demand for equality is a folly of the Understanding which takes as real and rational its abstract equality and its 'ought-to-be'.

This sphere of particularity, which fancies itself the universal, is still only relatively identical with the universal, and consequently it still retains in itself the particularity of nature, i.e. arbitrariness, or in other words the relics of the state of nature. Further, it is reason, immanent in the restless system of human needs, which articulates it into an organic whole with different members (see the following Paragraph).

201. The infinitely complex, criss-cross, movements of reciprocal production and exchange, and the equally infinite multiplicity of means therein employed, become crystallized, owing to the universality inherent in their content, and distinguished into general groups. As a result, the entire complex is built up into

particular systems of needs, means, and types of work relative to these needs, modes of satisfaction and of theoretical and practical education, i.e. into systems, to one or other of which individuals are assigned—in other words, into class-divisions. [A.]

202. The classes are specifically determined in accordance with the concept as (a) the *substantial* or immediate [or agricultural] class; (b) the reflecting or *formal* [or business] class; and finally, (c) the *universal* class [the class of civil servants].<sup>55</sup>

203. (a) The substantial [or agricultural] class has its capital in the natural products of the soil which it cultivates—soil which is capable of exclusively private ownership and which demands formation in an objective way and not mere haphazard exploitation. In face of the connexion of [agricultural] work and its fruits with separate and fixed times of the year, and the dependence of harvests on the variability of natural processes, the aim of need in this class turns into provision for the future; but owing to the conditions here, the agricultural mode of subsistence remains one which owes comparatively little to reflection and independence of will, and this mode of life is in general such that this class has the substantial disposition of an ethical life which is immediate, resting on family relationship and trust. ✓

The real beginning and original foundation of states has been rightly ascribed to the introduction of agriculture along with marriage, because the principle of agriculture brings with it the formation of the land and consequentially exclusively private property (compare Remark to Paragraph 170); the nomadic life of savages, who seek their livelihood from place to place, it brings back to the tranquillity of private rights and the assured satisfaction of their needs. Along with these changes, sexual love is restricted to marriage, and this bond in turn grows into an enduring league, inherently universal, while needs expand into care for a family, and personal possessions into family goods. Security, consolidation, lasting satisfaction of needs, and so forth—things which are the most obvious recommendations of marriage and agriculture—are nothing but forms of universality, modes in which rationality, the final end and aim, asserts itself in these spheres.

In this matter, nothing is of more interest than the ingenious and learned explanations which my distinguished friend, Herr Creuzer,<sup>56</sup> has given\* of the agrarian festivals, images, and sanctuaries of the ancients. He shows that it was because the ancients themselves had

\* Notably in the fourth volume of his *Mythologie und Symbolik*.



become conscious of the divine origin of agriculture and other institutions associated with it that they held them in such religious veneration.

In course of time, the character of this class as 'substantial' undergoes modifications through the working of the civil law, in particular the administration of justice, as well as through the working of education, instruction, and religion. These modifications, which occur in the other classes also, do not affect the substantial content of the class but only its form and the development of its power of reflection. [A.]

204. (b) The business class has for its task the adaptation of raw materials, and for its means of livelihood it is thrown back on its work, on reflection and intelligence, and essentially on the mediation of one man's needs and work with those of others. For what this class produces and enjoys, it has mainly itself, its own industry, to thank. The task of this class is subdivided into

- (α) work to satisfy single needs in a comparatively concrete way and to supply single orders—craftsmanship;
- (β) work of a more abstract kind, mass-production to satisfy single needs, but needs in more universal demand—manufacture;
- (γ) the business of exchange, whereby separate utilities are exchanged the one for the other, principally through the use of the universal medium of exchange, money, which actualizes the abstract value of all commodities—trade. [A.]

205. (c) The universal class [the class of civil servants] has for its task the universal interests of the community. It must therefore be relieved from direct labour to supply its needs, either by having private means or by receiving an allowance from the state which claims its industry, with the result that private interest finds its satisfaction in its work for the universal.

206. It is in accordance with the concept that class-organization, as particularity become objective to itself, is split in this way into its general divisions. But the question of the particular class to which an individual is to belong is one on which natural capacity, birth, and other circumstances have their influence, though the essential and final determining factors are subjective opinion and the individual's arbitrary will, which win in this sphere their right, their merit, and their dignity. Hence what happens here by inner necessity occurs at the same time by the mediation of the arbitrary will, and to the conscious subject it has the shape of being the work of his own will.

In this respect too there is a conspicuous difference, in relation to the principle of particularity and the subject's arbitrary will, between the political life of the east and the west, and also between that of the ancient and the modern world. In the former, the division of the whole into classes came about objectively of itself, because it is inherently rational; but the principle of subjective particularity was at the same time denied its rights, in that, for example, the allotment of individuals to classes was left to the ruling class, as in Plato's *Republic*,\* or to the accident of birth, as in the Indian caste-system. Thus subjective particularity was not incorporated into the organization of society as a whole; it was not reconciled in the whole, and therefore—since as an essential moment it emerges there in any event—it shows itself there as something hostile, as a corruption of the social order (see Remark to Paragraph 185). Either it overthrows society, as happened in the Greek states and in the Roman Republic; or else, should society preserve itself in being as a force or as a religious authority, for instance, it appears as inner corruption and complete degeneration, as was the case to some extent in Sparta and is now altogether the case in India.

But when subjective particularity is upheld by the objective order in conformity with it and is at the same time allowed its rights, then it becomes the animating principle of the entire civil society, of the development alike of mental activity, merit, and dignity. The recognition and the right that what is brought about by reason of necessity in civil society and the state shall at the same time be effected by the mediation of the arbitrary will is the more precise definition of what is primarily meant by freedom in common parlance (see Paragraph 121).

207. A man actualizes himself only in becoming something definite, i.e. something specifically particularized; this means restricting himself exclusively to one of the particular spheres of need. In this class-system, the ethical frame of mind therefore is rectitude and *esprit de corps*, i.e. the disposition to make oneself a member of one of the moments of civil society by one's own act, through one's energy, industry, and skill, to maintain oneself in this position, and to fend for oneself only through this process of mediating oneself with the universal, while in this way gaining recognition both in one's own eyes and in the eyes of others. Morality has its proper place in this sphere where the paramount thing is reflection on one's doings, and the quest of happiness and private wants, and where the contingency in satisfying these makes into a duty even a single and contingent act of assistance.

At first (i.e. especially in youth) a man chafes at the idea of resolving

\* Book iii [415 a-d].

on a particular social position, and looks upon this as a restriction on his universal character and as a necessity imposed on him purely *ab extra*. This is because his thinking is still of that abstract kind which refuses to move beyond the universal and so never reaches the actual. It does not realize that if the concept is to be determinate, it must first of all advance into the distinction between the concept and its real existence and thereby into determinacy and particularity (see Paragraph 7). It is only thus that the concept can win actuality and ethical objectivity. [A.]

208. As the private particularity of knowing and willing, the principle of this system of needs contains absolute universality, the universality of freedom, only abstractly and therefore as the right of property. At this point, however, this right is no longer merely implicit but has attained its recognized actuality as the protection of property through the administration of justice.

#### B. *The Administration of Justice*

209. The relatedness arising from the reciprocal bearing on one another of needs and work to satisfy these is first of all reflected into itself as infinite personality, as abstract right.<sup>57</sup> But it is this very sphere of relatedness—a sphere of education—which gives abstract right the determinate existence of being something universally recognized, known, and willed, and having a validity and an objective actuality mediated by this known and willed character.

It is part of education, of thinking as the consciousness of the single in the form of universality, that the ego comes to be apprehended as a universal person in which all are identical. A man counts as a man in virtue of his manhood alone, not because he is a Jew, Catholic, Protestant, German, Italian, &c. This is an assertion which thinking ratifies and to be conscious of it is of infinite importance. It is defective only when it is crystallized, e.g. as a cosmopolitanism in opposition to the concrete life of the state. [A.]

210. The objective actuality of the right consists, first, in its existence for consciousness, in its being known in some way or other; secondly, in its possessing the power which the actual possesses, in its being valid, and so also in its becoming known as universally valid.

#### (a) Right as Law

211. The principle of rightness becomes the law (*Gesetz*) when, in its objective existence, it is posited (*gesetzt*), i.e. when thinking makes it determinate for consciousness and makes it known as

what is right and valid; and in acquiring this determinate character, the right becomes positive law in general.

To posit something as universal, i.e. to bring it before consciousness as universal, is, I need hardly say, to think (compare Remarks to Paragraphs 13 and 21). Thereby its content is reduced to its simplest form and so is given its final determinacy. In becoming law, what is right acquires for the first time not only the form proper to its universality, but also its true determinacy. Hence making a law is not to be represented as merely the expression of a rule of behaviour valid for everyone, though that is one moment in legislation; the more important moment, the inner essence of the matter, is knowledge of the content of the law in its determinate universality.

Since it is only animals which have their law as instinct, while it is man alone who has law as custom, even systems of customary law<sup>58</sup> contain the moment of being thoughts and being known. Their difference from positive law consists solely in this, that they are known only in a subjective and accidental way, with the result that in themselves they are less determinate and the universality of thought is less clear in them. (And apart from this, knowledge of a system of law either in general or in its details, is the accidental possession of a few.) The supposition that it is customary law, on the strength of its character as custom, which possesses the privilege of having become part of life is a delusion, since the valid laws of a nation do not cease to be its customs by being written and codified—and besides, it is as a rule precisely those versed in the dearest of topics and the dearest of thoughts who talk nowadays of 'life' and of 'becoming part of life'. When a nation begins to acquire even a little culture, its customary law must soon come to be collected and put together. Such a collection is a legal code, but one which, as a mere collection, is markedly formless, indeterminate, and fragmentary. The main difference between it and a code properly so-called is that in the latter the principles of jurisprudence in their universality, and so in their determinacy, have been apprehended in terms of thought and expressed. English national law or municipal law<sup>59</sup> is contained, as is well known, in statutes (written laws) and in so-called 'unwritten' laws. This unwritten law, however, is as good as written, and knowledge of it may, and indeed must, be acquired simply by reading the numerous quartos which it fills. The monstrous confusion, however, which prevails both in English law and its administration is graphically portrayed by those acquainted with the matter.<sup>60</sup> In particular, they comment on the fact that, since this unwritten law is contained in court verdicts and judgements, the judges are continually legislators. The authority of precedent is binding on them, since their predecessors have done nothing but give expression to the unwritten law; and yet they are just as much exempt from its authority, because they are themselves

repositories of the unwritten law and so have the right to criticize previous judgements and pronounce whether they accorded with the unwritten law or not.

A similar confusion might have arisen in the legal system of the later Roman Empire owing to the different but authoritative judgements of all the famous jurists. An Emperor<sup>61</sup> met the situation, however, by a sensible expedient when, by what was called the Law of Citations, he set up a kind of College of the jurists who were longest deceased. There was a President, and the majority vote was accepted.\*

No greater insult<sup>62</sup> could be offered to a civilized people or to its lawyers than to deny them ability to codify their law; for such ability cannot be that of constructing a legal system with a novel content, but only that of apprehending, i.e. grasping in thought, the content of existing laws in its determinate universality and then applying them to particular cases. [A.]

212. It is only because of this identity between its implicit and its posited character that positive law has obligatory force in virtue of its rightness. In being posited in positive law, the right acquires determinate existence. Into such existence there may enter the contingency of self-will and other particular circumstances and hence there may be a discrepancy between the content of the law and the principle of rightness.

In positive law, therefore, it is the legal which is the source of our knowledge of what is right, or, more exactly, of our legal rights (*Rechtens*). Thus the science of positive law is to that extent an historical science with authority as its guiding principle. Anything over and above this historical study is matter for the Understanding and concerns the collection of laws, their classification on external principles, deductions from them, their application to fresh details, &c. When the Understanding meddles with the nature of the thing itself, its theories, e.g. of criminal law, show what its deductive argumentation can concoct.

The science of positive law has not only the right, but even the inescapable duty, to study given laws, to deduce from its positive data their progress in history, their applications and subdivisions, down to the last detail, and to exhibit their implications. On the other hand, if, after all these deductions have been proved, the further question about the rationality of a specific law is still raised, the question may seem perverse to those who are busied with these pursuits, but their astonishment at it should at least stop short of dismay.

With this Remark, compare what was said in the Remark to Paragraph 3 about 'understanding' the law.

\* Hugo: *Lehrbuch der Geschichte des römischen Rechts*, § 354 [§ 385 in the 7th edn.].

213. Right becomes determinate in the first place when it has the form of being posited as positive law; it also becomes determinate in content by being applied both to the material of civil society (i.e. to the endlessly growing complexity and subdivision of social ties and the different species of property and contract within the society) and also to ethical ties based on the heart, on love and trust, though only in so far as these involve abstract right as one of their aspects (see Paragraph 159). Morality and moral commands concern the will on its most private, subjective, and particular side, and so cannot be a matter for positive legislation. ★

Further material for the determinate content of law is provided by the rights and duties which have their source in the administration of justice itself, in the state, and so forth. [A.]

214. But apart from being applied to particular instances, right by being embodied in positive law becomes applicable to the single case. Hence it enters the sphere where quantity, not the concept, is the principle of determination. This is the sphere of the quantitative as such, of the quantitative as that which determines the relative value in exchange of *qualia*. In this sphere, the concept merely lays down a general limit, within which vacillation is still allowed. This vacillation must be terminated, however, in the interest of getting something done, and for this reason there is a place within that limit for contingent and arbitrary decisions.

The purely positive side of law lies chiefly in this focusing of the universal not merely on a particular instance, but on an isolated case, i.e. in its *direct* application. Reason cannot determine, nor can the concept provide any principle whose application could decide whether justice requires for an offence (i) a corporal punishment of forty lashes or thirty-nine, or (ii) a fine of five dollars or four dollars ninety-three, four, &c., cents, or (iii) imprisonment of a year or three hundred and sixty-four, three, &c., days, or a year and one, two, or three days. And yet injustice is done at once if there is one lash too many, or one dollar or one cent, one week in prison or one day, too many or too few.

Reason itself requires us to recognize that contingency, contradiction, and show have a sphere and a right of their own, restricted though it be, and it is irrational to strive to resolve and rectify contradictions within that sphere. Here the only interest present is that something be actually done, that the matter be settled and decided somehow, no matter how (within a certain limit). This decision pertains to abstract subjectivity, to formal self-certainty, which may decide either by simply holding to its power (within that limit) of settling the matter by merely terminating deliberation and thereby dismissing it out of hand, or else by adopting

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some reason for decision such as keeping to round numbers or always adopting, say thirty-nine.<sup>63</sup>

It is true that the law does not settle these ultimate decisions required by actual life; it leaves them instead to the judge's discretion, merely limiting him by a maximum and minimum. But this does not affect the point at issue, because the maximum and minimum are themselves in every instance only round numbers once more. To fix them, therefore, does not exempt the judge from making a finite, purely positive, decision, since on the contrary such a decision is still left to him by the necessities of the case. [A.]

(b) Law determinately existent

215. If laws are to have a binding force, it follows that, in view of the right of self-consciousness (see Paragraph 132 and the Remark thereto) they must be made universally known.

To hang the laws so high that no citizen could read them (as Dionysius<sup>64</sup> the Tyrant did) is injustice of one and the same kind as to bury them in row upon row of learned tomes, collections of dissenting judgements and opinions, records of customs, &c., and in a dead language too, so that knowledge of the law of the land is accessible only to those who have made it their professional study. Rulers who have given a national law to their peoples in the form of a well-arranged and clear-cut legal code—or even a mere formless collection of laws, like Justinian's<sup>65</sup>—have been the greatest benefactors of their peoples and have received thanks and praise for their beneficence. But the truth is that their work was at the same time a great act of justice. [A.]

216. For a public legal code, simple general laws are required, and yet the nature of the *finite* material to which law is applied leads to the further determining of general laws *ad infinitum*. On the one hand, the law ought to be a comprehensive whole, closed and complete; and yet, on the other hand, the need for further determinations is continual. But since this antinomy arises only when universal principles, which remain fixed and unchanged, are applied to particular types of case, the right to a complete legal code remains unimpaired, like the right that these simple general principles should be capable of being laid down and understood apart and in distinction from their application to such particular types.

A fruitful source of complexity in legislation is the gradual intrusion of reason, of what is inherently and actually right, into primitive institutions which have something wrong at their roots and so are purely historical survivals. This occurred in Roman law, as was remarked

above (see Remark to Paragraph 180), in medieval feudal law, &c. It is essential to notice, however, that the very nature of the finite material to which law is applied necessarily entails an infinite progress in the application to it of principles universal in themselves and inherently and actually rational.

It is misunderstanding which has given rise alike to the demand—a morbid craving of German scholars chiefly—that a legal code should be something absolutely complete, incapable of any fresh determination in detail, and also to the argument that because a code is incapable of such completion, therefore we ought not to produce something 'incomplete', i.e. we ought not to produce a code at all. The misunderstanding rests in both cases on a misconception of the nature of a finite subject-matter like private law, whose so-called 'completeness' is a perennial approximation to completeness, on a misconception of the difference<sup>66</sup> between the universal of reason and the universal of the Understanding, and also on the application of the latter to the material of finitude and atomicity which goes on for ever.—*Le plus grand ennemi du Bien, c'est le Meilleur*<sup>67</sup> is the utterance of true common sense<sup>68</sup> against the common sense of idle argumentation and abstract reflection. [A.]

217. The principle of rightness passes over in civil society into law. My individual right, whose embodiment has hitherto been immediate and abstract, now similarly becomes embodied in the existent will and knowledge of everyone, in the sense that it becomes recognized. Hence property acquisitions and transfers must now be undertaken and concluded only in the form which that embodiment gives to them. In civil society, property rests on contract and on the formalities which make ownership capable of proof and valid in law.

Original, i.e. direct, titles and means of acquisition (see Paragraphs 54 ff.) are simply discarded in civil society and appear only as isolated accidents or as subordinated factors of property transactions. It is either feeling, refusing to move beyond the subjective, or reflection, clinging to its abstract essences, which casts formalities aside, while the dry-as-dust Understanding may for its part cling to formalities instead of the real thing and multiply them indefinitely.

Apart from this, however, the march of mental development is the long and hard struggle to free a content from its sensuous and immediate form, endow it with its appropriate form of thought, and thereby give it simple and adequate expression. It is because this is the case that when the development of law is just beginning, ceremonies and formalities are more circumstantial and count rather as the thing itself than as its symbol. Thus even in Roman law, a number of forms and especially phrases were retained from old-fashioned ceremonial usages, instead of



being replaced by intelligible forms and phrases adequately expressing them.<sup>69</sup> [A.]

218. Since property and personality have legal recognition and validity in civil society, wrongdoing now becomes an infringement, not merely of what is subjectively infinite, but of the universal thing which is existent with inherent stability and strength. Hence a new attitude arises: the action is seen as a danger to society and thereby the magnitude of the wrongdoing is increased.<sup>70</sup> On the other hand, however, the fact that society has become strong and sure of itself diminishes the external importance of the injury and so leads to a mitigation of its punishment.

The fact that an injury to one member of society is an injury to all others does not alter the conception of wrongdoing, but it does alter it in respect of its outward existence as an injury done, an injury which now affects the mind and consciousness of civil society as a whole, not merely the external embodiment of the person directly injured. In heroic times, as we see in the tragedy of the ancients,<sup>71</sup> the citizens did not feel themselves injured by wrongs which members of the royal houses did to one another.

Implicitly, crime is an infinite<sup>72</sup> injury; but as an existent fact it must be measured in quantity and quality (see Paragraph 96), and since its field of existence here has the essential character of affecting an idea and consciousness of the validity of the laws, its danger to civil society is a determinant of the magnitude of a crime, or even *one* of its qualitative characteristics.

Now this quality or magnitude varies with the state of civil society; and this is the justification for sometimes attaching the penalty of death to a theft of a few pence or a turnip, and at other times a light penalty to a theft of a hundred or more times that amount.<sup>73</sup> If we consider its danger to society, this seems at first sight to aggravate the crime; but in fact it is just this which has been the prime cause of the mitigation of its punishment. A penal code, then, is primarily the child of its age and the state of civil society at the time. [A.]

### (c) The Court of Justice

219. By taking the form of law, right steps into a determinate mode of being. It is then something on its own account, and in contrast with particular willing and opining of the right, it is self-subsistent and has to vindicate itself as something universal. This is achieved by recognizing it and making it actual in a particular case without the subjective feeling of private interest; and this is the business of a public authority—the court of justice.

The historical origin of the judge and his court may have had the form of a patriarch's gift to his people or of force or free choice; but this makes no difference to the concept of the thing. To regard the introduction of a legal system as no more than an optional act of grace or favour on the part of monarchs and governments (as Herr von Haller<sup>74</sup> does in his *Restauration der Staatswissenschaft*) is a piece of the mere thoughtlessness which has no inkling of the point at issue in a discussion of law and the state. The point is that legal and political institutions are rational in principle and therefore absolutely necessary, and the question of the form in which they arose or were introduced is entirely irrelevant to a consideration of their rational basis.

At the other extreme from Herr von Haller's point of view is the barbarous notion that the administration of justice is now, as it was in the days when might was right, an improper exercise of force, a suppression of freedom, and a despotism. The administration of justice must be regarded as the fulfilment of a duty by the public authority, no less than as the exercise of a right; and so far as it is a right, it does not depend upon an optional delegation to one authority by the individual members of society.

220. When the right against crime has the form of revenge (see Paragraph 102), it is only right implicit, not right in the form of right, i.e. no *act* of revenge is justified. Instead of the injured party, the injured *universal* now comes on the scene, and this has its proper actuality in the court of law. It takes over the pursuit and the avenging of crime, and this pursuit consequently ceases to be the subjective and contingent retribution of revenge and is transformed into the genuine reconciliation of right with itself, i.e. into punishment. Objectively, this is the reconciliation of the law with itself; by the annulment of the crime, the law is restored and its authority is thereby actualized. Subjectively, it is the reconciliation of the criminal with himself, i.e. with the law known by him as his own and as valid for him and his protection; when this law is executed upon him, he himself finds in this process the satisfaction of justice and nothing save his own act.

221. A member of civil society has the right *in judicio stare*<sup>75</sup> and, correspondingly, the duty of acknowledging the jurisdiction of the court and accepting its decision as final when his own rights are in dispute. [A.]

222. In court the specific character which rightness acquires is that it must be demonstrable. When parties go to law, they are put in the position of having to make good their evidence and their

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positivism

claims and to make the judge acquainted with the facts. These steps in a legal process are themselves rights, and their course must therefore be fixed by law. They also constitute an essential part of jurisprudence. [A.]

223. These steps in a legal process are subdivided continually within no fixed limits into more and more actions, each being distinct in itself and a right. Hence a legal process, in itself in any case a means, now begins to be something external to its end and contrasted with it. This long course of formalities is a right of the parties at law and they have the right to traverse it from beginning to end. Still, it may be turned into an evil, and even an instrument of wrong, and for this reason it is by law made the duty of the parties to submit themselves to the simple process of arbitration (before a tribunal of arbitrators)<sup>76</sup> and to the attempt to reconcile their differences out of court, in order that they—and right itself, as the substance of the thing and so the thing really at issue—may be protected against legal processes and their misuse.

Equity involves a departure from formal rights owing to moral or other considerations and is concerned primarily with the content of the lawsuit. A court of equity, however, comes to mean a court which decides in a single case without insisting on the formalities of a legal process or, in particular, on the objective evidence which the letter of the law may require. Further, it decides on the merits of the single case as a unique one, not with a view to disposing of it in such a way as to create a binding legal precedent for the future.

224. Amongst the rights of the subjective consciousness are not only the publication of the laws (see Paragraph 215) but also the possibility of ascertaining the actualization of the law in a particular case (the course of the proceedings, the legal argument, &c.)—i.e. the publicity of judicial proceedings. The reason for this is that a trial is implicitly an event of universal validity, and although the particular content of the action affects the interests of the parties alone, its universal content, i.e. the right at issue and the judgement thereon, affects the interests of everybody.

If the members of the bench deliberate amongst themselves about the judgement which they are to deliver, such deliberations express opinions and views still personal and so naturally are not public. [A.]

225. By the judgement of the court, the law is applied to a single case, and the work of judgement has two distinct aspects: first, ascertainment of the nature of the case as a unique, single,

occurrence (e.g. whether a contract, &c., &c., has been made, whether a trespass has been committed, and if so by whom) and, in criminal cases, reflection to determine the essential, criminal, character of the deed (see Remark to Paragraph 119); secondly, the subsumption of the case under the law that right must be restored. Punishment in criminal cases is a conception falling under this law. Decisions on these two different aspects are given by different functionaries.<sup>77</sup>

In the Roman judicial system, this distinction of functions appeared in that the Praetor pronounced judgement on the assumption that the facts were so and so, and then appointed a special *judex* to inquire into the facts.<sup>78</sup>

In English law, it is left to the insight or option of the prosecutor to determine the precise character of a criminal act (e.g. whether it is murder or manslaughter) and the court is powerless to alter the indictment if it finds the prosecutor's choice wrong.<sup>79</sup>

226. First, the conduct of the entire process of inquiry, secondly, the detailed stages of the action between the parties (these stages themselves being rights—see Paragraph 222), and then also the second of the aspects of the work of judgement mentioned in the previous Paragraph, are all a task which properly belongs to the judge at law. He is the organ of the law, and the case must be prepared for him in such a way as to make possible its subsumption under some principle; that is to say, it must be stripped of its apparent, empirical, character and exalted into a recognized fact of a general type.

227. The first aspect of the work of judgement, i.e. the knowledge of the facts of the case as a unique, single, occurrence, and the description of its general character, involves in itself no pronouncement on points of law. This is knowledge attainable by any educated man. In settling the character of an action, the subjective moment, i.e. the agent's insight and intention (see the Second Part<sup>80</sup>), is the essential thing; and apart from this, the proof depends not on objects of reason or abstractions of the Understanding, but only on single details and circumstances, objects of sensuous intuition and subjective certainty, and therefore does not contain in itself any absolute, objective, probative factor. It follows that judgement on the facts lies in the last resort with subjective conviction and conscience (*animi sententia*<sup>81</sup>), while the proof, resting as it does on the statements and affidavits of others, receives its final though purely subjective verification from the oath.



In this matter it is of the first importance to fix our eyes on the type of proof here in question and to distinguish it from knowledge and proof of another sort. To establish by proof a rational category, like the concept of right itself, means to apprehend its necessity, and so demands a method other than that requisite for the proof of a geometrical theorem. Further, in this latter case, the figure is determined by the Understanding and made abstract in advance according to a rule. But in the case of something empirical in content, like a fact, the material of knowledge is a given sensuous intuition and subjective sense-certainty, and statements and affidavits about such material. It is then a question of drawing conclusions and putting two and two together out of depositions of that kind, attestations and other details, &c. The objective truth which emerges from material of this kind and the method appropriate to it leads, when attempts are made to determine it rigidly and objectively, to half-proofs and then, by further sincere deductions from these—deductions which at the same time involve formal illogicality—to extraordinary punishments.<sup>82</sup> But such objective truth means something quite different from the truth of a rational category or a proposition whose content the Understanding has determined for itself abstractly in advance. To show that, since the strictly legal character of a court covers competence to ascertain this sort of truth about empirical events, it thereby properly qualifies a court for this task and so gives it an inherent exclusive right to perform it and lays on it the necessity of performing it—that is the best approach to settling the question of how far decisions on points of fact, as well as on points of law, should be ascribed to courts as strictly juristic bodies. [A.]

228. When judgement is pronounced—so far as the function of judgement is the subsumption under the law of the case whose nature has been settled—the right due to the parties on the score of their self-consciousness is preserved in relation to the *law* because the law is known and so is the law of the parties themselves, and in relation to the *subsumption*, because the trial is public. But when a verdict is given on the particular, subjective, and external facts of the case (knowledge of which falls under the first of the aspects described in Paragraph 225), this right is satisfied by the confidence which the parties feel in the subjectivity of those who give the verdict. This confidence is based primarily on the similarity between them and the parties in respect of their particularity, i.e. their social position, &c.

The right of self-consciousness, the moment of subjective freedom, may be regarded as the fundamental thing to keep before us in considering the necessity for publicity in legal proceedings and for the so-called jury-courts, and this in the last resort is the essence of whatever may be

advanced in favour of these institutions on the score of their utility. Other points of view and reasoning about their several advantages and disadvantages may give rise to an argumentative exchange, but reasoning of this kind, like all deductive reasoning, is either secondary and inconclusive, or else drawn from other and perhaps higher spheres than that of advantage. It may be the case that if the administration of justice were entirely in the hands of professional lawyers, and there were no lay institutions like juries, it would in theory be managed just as well, if not better. It may be so, but even if this possibility rises by general consent to probability, or even certainty, it still does not matter, for on the other side there is always the right of self-consciousness, insisting on its claims and dissatisfied if laymen play no part.

Owing to the character of the entire body of the laws, knowledge both of what is right and also of the course of legal proceedings may become, together with the capacity to prosecute an action at law, the property of a class which makes itself an exclusive clique by the use of a terminology like a foreign tongue to those whose rights are at issue. If this happens, the members of civil society, who depend for their livelihood on their industry, on their own knowledge and will, are kept strangers to the law, not only to those parts of it affecting their most personal and intimate affairs, but also to its substantive and rational basis, the right itself, and the result is that they become the wards, or even in a sense the bondsmen, of the legal profession. They may indeed have the right to appear in court in person and to 'stand' there (*in judicio stare*), but their bodily presence is a trifle if their minds are not to be there also, if they are not to follow the proceedings with their own knowledge, and if the justice they receive remains in their eyes a doom pronounced *ab extra*.

229. In civil society, the Idea is lost in particularity and has fallen asunder with the separation of inward and outward. In the administration of justice, however, civil society returns to its concept, to the unity of the implicit universal with the subjective particular, although here the latter is only that present in single cases and the universality in question is that of *abstract* right. The actualization of this unity through its extension to the whole ambit of particularity is (i) the specific function of the Police, though the unification which it effects is only relative; (ii) it is the Corporation which actualizes the unity completely, though only in a whole which, while concrete, is restricted.<sup>83</sup> [A.]

### C. The Police and the Corporation

230. In the system of needs, the livelihood and welfare of every single person is a possibility whose actual attainment is just as much

conditioned by his caprices and particular endowment as by the objective system of needs. Through the administration of justice, offences against property or personality are annulled. But the right actually present in the particular requires, first, that accidental hindrances to one aim or another be removed, and undisturbed safety of person and property be attained; and secondly, that the securing of every single person's livelihood and welfare be treated and actualized as a right, i.e. that particular welfare as such be so treated.

(a) Police [or the public authority]

231. Inasmuch as it is still the particular will which governs the choice of this or that end, the universal authority by which security is ensured remains in the first instance, (a) restricted to the sphere of contingencies, and (b) an external organization.

232. Crime is contingency as subjective willing of evil, and this is what the universal authority must prevent or bring to justice. But, crime apart, the subjective willing which is permissible in actions lawful *per se* and in the private use of property, also comes into external relation with other single persons, as well as with public institutions, other than law-courts, established for realizing a common end. This universal aspect makes private actions a matter of contingency which escapes the agent's control and which either does or may injure others and wrong them.

233. There is here only a possibility of injury; but the actual non-occurrence of injury is at this stage not just another contingency. The point is that the actions of individuals may always be wrongful, and this is the ultimate reason for police control and penal justice.

234. The relations between external existents fall into the infinite of the Understanding; there is, therefore, no inherent line of distinction between what is and what is not injurious, even where crime is concerned, or between what is and what is not suspicious, or between what is to be forbidden or subjected to supervision and what is to be exempt from prohibition, from surveillance and suspicion, from inquiry and the demand to render an account of itself. These details are determined by custom, the spirit of the rest of the constitution, contemporary conditions, the crisis of the hour, and so forth. [A.]

235. In the indefinite multiplication and interconnexion of day-to-day needs, (a) the acquisition and exchange of the means to their satisfaction—a satisfaction which everyone confidently expects to be possible of attainment without hindrance, and (b) the endeavours made and the transactions carried out in order to shorten the process of attainment as much as possible, give rise to factors which are a common interest, and when one man occupies himself with these his work is at the same time done for all. The situation is productive too of contrivances and organizations<sup>84</sup> which may be of use to the community as a whole. These universal activities and organizations of general utility call for the oversight and care of the public authority.

236. The differing interests of producers and consumers may come into collision with each other; and although a fair balance between them on the whole may be brought about automatically, still their adjustment also requires a control which stands above both and is consciously undertaken. The right to the exercise of such control in a single case (e.g. in the fixing of the prices of the commonest necessities of life) depends on the fact that, by being publicly exposed for sale,<sup>85</sup> goods in absolutely universal daily demand are offered not so much to an individual as such but rather to a universal purchaser, the public; and thus both the defence of the public's right not to be defrauded, and also the management of goods inspection, may lie, as a common concern, with a public authority. But public care and direction are most of all necessary in the case of the larger branches of industry, because these are dependent on conditions abroad and on combinations of distant circumstances which cannot be grasped as a whole by the individuals tied to these industries for their living.

At the other extreme to freedom of trade and commerce in civil society is public organization to provide for everything and determine everyone's labour—take for example in ancient times the labour on the pyramids and the other huge monuments in Egypt and Asia which were constructed for public ends, and the worker's task was not mediated through his private choice and particular interest. This interest invokes freedom of trade and commerce against control from above; but the more blindly it sinks into self-seeking aims, the more it requires such control to bring it back to the universal. Control is also necessary to diminish the danger of upheavals arising from clashing interests and to abbreviate the period in which their tension should be



eased through the working of a necessity of which they themselves know nothing. [A.]

237. Now while the possibility of sharing in the general wealth is open to individuals and is assured to them by the public authority, still it is subject to contingencies on the subjective side (quite apart from the fact that this assurance must remain incomplete), and the more it presupposes skill, health, capital, and so forth as its conditions, the more is it so subject.

238. Originally the family is the substantive whole whose function it is to provide for the individual on his particular side by giving him either the means and the skill necessary to enable him to earn his living out of the resources of society, or else subsistence and maintenance in the event of his suffering a disability. But civil society tears the individual from his family ties, estranges the members of the family from one another, and recognizes them as self-subsistent persons. Further, for the paternal soil and the external inorganic resources of nature from which the individual formerly derived his livelihood, it substitutes its own soil and subjects the permanent existence of even the entire family to dependence on itself and to contingency. Thus the individual becomes a son of civil society which has as many claims upon him as he has rights against it. [A.]

239. In its character as a universal family, civil society has the right and duty of superintending and influencing education, inasmuch as education bears upon the child's capacity to become a member of society. Society's right here is paramount over the arbitrary and contingent preferences of parents, particularly in cases where education is to be completed not by the parents but by others. To the same end, society must provide public educational facilities so far as is practicable. [A.]

240. Similarly, society has the right and duty of acting as trustee to those whose extravagance destroys the security of their own subsistence or their families'. It must substitute for extravagance the pursuit of the ends of society and the individuals concerned. [A.]

241. Not only caprice, however, but also contingencies, physical conditions, and factors grounded in external circumstances (see Paragraph 200) may reduce men to poverty. The poor still have the needs common to civil society, and yet since society has

withdrawn from them the natural means of acquisition (see Paragraph 217) and broken the bond of the family—in the wider sense of the clan (see Paragraph 181)—their poverty leaves them more or less deprived of all the advantages of society, of the opportunity of acquiring skill or education of any kind, as well as of the administration of justice, the public health services, and often even of the consolations of religion, and so forth. The public authority takes the place of the family where the poor are concerned in respect not only of their immediate want but also of laziness of disposition, malignity, and the other vices which arise out of their plight and their sense of wrong.

242. Poverty and, in general, the distress of every kind to which every individual is exposed from the start in the cycle of his natural life has a subjective side which demands similarly subjective aid, arising both from the special circumstances of a particular case and also from love and sympathy. This is the place where morality finds plenty to do despite all public organization. Subjective aid, however, both in itself and in its operation, is dependent on contingency and consequently society struggles to make it less necessary, by discovering the general causes of penury and general means of its relief, and by organizing relief accordingly.

Casual almsgiving and casual endowments, e.g. for the burning of lamps before holy images, &c., are supplemented by public almshouses, hospitals, street-lighting,<sup>86</sup> and so forth. There is still quite enough left over and above these things for charity to do on its own account. A false view is implied both when charity insists on having this poor relief reserved solely to private sympathy and the accidental occurrence of knowledge and a charitable disposition, and also when it feels injured or mortified by universal regulations and ordinances which are *obligatory*. Public social conditions are on the contrary to be regarded as all the more perfect the less (in comparison with what is arranged publicly) is left for an individual to do by himself as his private inclination directs.

243. When civil society is in a state of unimpeded activity, it is engaged in expanding internally<sup>87</sup> in population and industry. The amassing of wealth is intensified by generalizing (a) the linkage of men by their needs, and (b) the methods of preparing and distributing the means to satisfy these needs, because it is from this double process of generalization that the largest profits are derived. That is one side of the picture. The other side is the subdivision and restriction of particular jobs. This results in the dependence

and distress of the class tied to work of that sort, and these again entail inability to feel and enjoy the broader freedoms and especially the intellectual benefits of civil society.

244. When the standard of living of a large mass of people falls below a certain subsistence level—a level regulated automatically as the one necessary for a member of the society—and when there is a consequent loss of the sense of right and wrong, of honesty and the self-respect which makes a man insist on maintaining himself by his own work and effort, the result is the creation of a rabble<sup>88</sup> of paupers. At the same time this brings with it, at the other end of the social scale, conditions which greatly facilitate the concentration of disproportionate wealth in a few hands. [A.]

245. When the masses begin to decline into poverty, (a) the burden of maintaining them at their ordinary standard of living might be directly laid on the wealthier classes, or they might receive the means of livelihood directly from other public sources of wealth (e.g. from the endowments of rich hospitals, monasteries, and other foundations). In either case, however, the needy would receive subsistence directly, not by means of their work, and this would violate the principle of civil society and the feeling of individual independence and self-respect in its individual members. (b) As an alternative, they might be given subsistence indirectly through being given work, i.e. the opportunity to work. In this event the volume of production would be increased, but the evil consists precisely in an excess of production and in the lack of a proportionate number of consumers who are themselves also producers, and thus it is simply intensified by both of the methods (a) and (b) by which it is sought to alleviate it. It hence becomes apparent that despite an excess of wealth civil society is not rich enough, i.e. its own resources are insufficient to check excessive poverty and the creation of a penurious rabble.

In the example of England we may study these phenomena on a large scale and also in particular the results of poor-rates, immense foundations, unlimited private beneficence, and above all the abolition of the Guild Corporations. In Britain, particularly in Scotland, the most direct measure against poverty and especially against the loss of shame and self-respect—the subjective bases of society—as well as against laziness and extravagance, &c., the begetters of the rabble, has turned out to be to leave the poor to their fate and instruct them to beg in the streets.<sup>89</sup>

246. This inner dialectic of civil society thus drives it—or at any rate drives a specific civil society—to push beyond its own limits and seek markets, and so its necessary means of subsistence, in other lands which are either deficient in the goods it has over-produced, or else generally backward in industry, &c. ✓ imp!

247. The principle of family life is dependence on the soil, on land, *terra firma*. Similarly, the natural element for industry, animating its outward movement, is the sea. Since the passion for gain involves risk, industry though bent on gain yet lifts itself above it; instead of remaining rooted to the soil and the limited circle of civil life with its pleasures and desires, it embraces the element of flux, danger, and destruction. Further, the sea is the greatest means of communication,<sup>90</sup> and trade by sea creates commercial connexions between distant countries and so relations involving contractual rights. At the same time, commerce of this kind is the most potent instrument of culture, and through it trade acquires its significance in the history of the world.

Rivers are not natural boundaries of separation, which is what they have been accounted to be in modern times. On the contrary, it is truer to say that they, and the sea likewise, link men together. Horace is wrong when he says:

*deus abscondit  
prudens Oceano dissociabili  
terras.\**

The proof of this lies not merely in the fact that the basins of rivers are inhabited by a single clan or tribe, but also, for example, in the ancient bonds between Greece, Ionia, and Magna Graecia, between Brittany and Britain, between Denmark and Norway, Sweden, Finland, Livonia, &c., bonds, further, which are especially striking in contrast with the comparatively slight intercourse between the inhabitants of the littoral and those of the hinterland. To realize what an instrument of culture lies in the link with the sea, consider countries where industry flourishes and contrast their relation to the sea with that of countries which have eschewed sea-faring and which, like Egypt and India, have become stagnant and sunk in the most frightful and scandalous superstition. Notice also how all great progressive peoples press onward to the sea.

248. This far-flung connecting link affords the means for the colonizing activity—sporadic or systematic—to which the mature civil society is driven and by which it supplies to a part of its

\* *Odes*, I. iii [ll. 21–3, 'God of set purpose has sundered the lands by the estranging sea'].

population a return to life on the family basis in a new land and so also supplies itself with a new demand and field for its industry. [A.]

249. While the public authority must also undertake the higher directive function of providing for the interests which lead beyond the borders of its society (see Paragraph 246), its primary purpose is to actualize and maintain the universal contained within the particularity of civil society, and its control takes the form of an external system and organization for the protection and security of particular ends and interests *en masse*, inasmuch as these interests subsist only in this universal. This universal is immanent in the interests of particularity itself and, in accordance with the Idea, particularity makes it the end and object of its own willing and activity. In this way ethical principles circle back and appear in civil society as a factor immanent in it; this constitutes the specific character of the Corporation.

#### (b) The Corporation

250. In virtue of the substantiality of its natural and family life, the agricultural class has directly within itself the concrete universal in which it lives. The class of civil servants is universal in character and so has the universal explicitly as its ground and as the aim of its activity. The class between them, the business class, is essentially concentrated on the particular, and hence it is to it that Corporations are specially appropriate.

251. The labour organization of civil society is split, in accordance with the nature of its particulars, into different branches. The implicit likeness of such particulars to one another becomes really existent in an association, as something common to its members.<sup>91</sup> Hence a selfish purpose, directed towards its particular self-interest, apprehends and evinces itself at the same time as universal; and a member of civil society is in virtue of his own particular skill a member of a Corporation, whose universal purpose is thus wholly concrete<sup>92</sup> and no wider in scope than the purpose involved in business, its proper task and interest.

252. In accordance with this definition of its functions, a Corporation has the right, under the surveillance of the public authority, (a) to look after its own interests within its own sphere, (b) to co-opt members, qualified objectively by the requisite skill and rectitude,

to a number fixed by the general structure of society, (c) to protect its members against particular contingencies, (d) to provide the education requisite to fit others to become members. In short, its right is to come on the scene like a second family for its members, while civil society can only be an indeterminate sort of family because it comprises everyone and so is farther removed from individuals and their special exigencies.

The Corporation member is to be distinguished from a day labourer or from a man who is prepared to undertake casual employment on a single occasion. The former who is, or will become, master of his craft, is a member of the association not for casual gain on single occasions but for the whole range, the universality, of his personal livelihood.

Privileges, in the sense of the rights of a branch of civil society organized into a Corporation, are distinct in meaning from privileges proper in the etymological sense.<sup>93</sup> The latter are casual exceptions to universal rules; the former, however, are only the crystallization, as regulations, of characteristics inherent in an essential branch of society itself owing to its nature as particular.

253. In the Corporation, the family has its stable basis in the sense that its livelihood is assured there, conditionally upon capability, i.e. it has a stable capital (see Paragraph 170). In addition, this nexus of capability and livelihood is a *recognized* fact, with the result that the Corporation member needs no external marks beyond his own membership as evidence of his skill and his regular income and subsistence, i.e. as evidence that he is a somebody.<sup>94</sup> It is also recognized that he belongs to a whole which is itself an organ of the entire society, and that he is actively concerned in promoting the comparatively disinterested end of this whole. Thus he commands the respect due to one in his social position.

The institution of Corporations corresponds, on account of its assurance of capital, to the introduction of agriculture and private property in another sphere (see Remark to Paragraph 203).

When complaints are made about the luxury of the business classes and their passion for extravagance—which have as their concomitant the creation of a rabble of paupers (see Paragraph 244)—we must not forget that besides its other causes (e.g. increasing mechanization of labour) this phenomenon has an ethical ground, as was indicated above.<sup>95</sup> Unless he is a member of an authorized Corporation (and it is only by being authorized that an association becomes a Corporation), an individual is without rank or dignity, his isolation reduces his business to mere self-seeking, and his livelihood and satisfaction become insecure. Consequently, he has to try to gain recognition for himself by giving



external proofs of success in his business, and to these proofs no limits can be set. He cannot live in the manner of his class, for no class really exists for him, since in civil society it is only something common to particular persons which really exists, i.e. something legally constituted and recognized. Hence he cannot achieve for himself a way of life proper to his class and less idiosyncratic.

Within the Corporation the help which poverty receives loses its accidental character and the humiliation wrongfully associated with it. The wealthy perform their duties to their fellow associates and thus riches cease to inspire either pride or envy, pride in their owners, envy in others. In these conditions rectitude obtains its proper recognition and respect.

254. The so-called 'natural' right of exercising one's skill and thereby earning what there is to be earned is restricted within the Corporation only in so far as it is therein made rational instead of natural. That is to say, it becomes freed from personal opinion and contingency, saved from endangering either the individual workman or others, recognized, guaranteed, and at the same time elevated to conscious effort for a common end.

255. As the family was the first, so the Corporation is the second ethical root of the state, the one planted in civil society. The former contains the moments of subjective particularity and objective universality in a substantial unity. But these moments are sundered in civil society to begin with; on the one side there is the particularity of need and satisfaction, reflected into itself, and on the other side the universality of abstract rights. In the Corporation these moments are united in an inward fashion, so that in this union particular welfare is present as a right and is actualized.

The sanctity of marriage and the dignity of Corporation membership are the two fixed points<sup>96</sup> round which the unorganized atoms of civil society revolve. [A.]

256. The end of the Corporation is restricted and finite, while the public authority was an external organization involving a separation and a merely relative identity of controller and controlled. The end of the former and the externality and relative identity of the latter find their truth in the absolutely universal end and its absolute actuality. Hence the sphere of civil society passes over into the state.

The town is the seat of the civil life of business. There reflection arises, turns in upon itself, and pursues its atomizing task;<sup>97</sup> each man maintains himself in and through his relation to others who, like himself,





114. *Paragraph 180.*

In earlier times, a Roman father had the right to disinherit his children and even kill them. Later he lost both these rights. Attempts were made to forge into a legal system this incoherence between unethical institutions and devices to rob them of that character, and it is the retention of this incoherence which constitutes the deficiency and difficulty of the German law of inheritance. To be sure, the right to make a will must be conceded; but in conceding it our point of view must be that this right of free choice arises or is magnified with the dispersion and estrangement of the members of the family. Further, the so-called 'family of friends' which testamentary disposition brings with it may be admitted only in defect of members of the family proper, i.e. of spouse and children. To make a will at all entails something obnoxious and disagreeable, because in making it I reveal the names of my favourites. Favour, however, is arbitrary; it may be gained surreptitiously by a variety of expedients, it may depend on all sorts of foolish reasons, and as a condition of having his name included in a will, a beneficiary may be required to subject himself to the most abject servilities. In England, the home of all sorts of eccentricity, there is no end to the folly and whimsicality of bequests.

115. *Paragraph 181.*

The starting-point for the universal here is the self-subsistence of the particular, and the ethical order seems therefore to be lost at this point, since it is precisely the identity of the family which consciousness takes to be the primary thing, the divine, and the source of obligation. Now, however, a situation arises in which the particular is to be my primary determining principle, and thus my determinacy by ethical factors has been annulled. But this is nothing but a pure mistake, since, while I suppose that I am adhering to the particular, the universal and the necessity of the link between particulars remains the primary and essential thing. I am thus altogether on the level of show, and while my particularity remains my determining principle, i.e. my end, I am for that very reason the servant of the universal which properly retains power over me in the last resort.

116. *Paragraph 182.*

Civil society is the [stage of] difference which intervenes between the family and the state, even if its formation follows later in time than that of the state, because, as [the stage of] difference, it presupposes the state; to subsist itself, it must have the state before its eyes as something self-subsistent. Moreover, the creation of civil society is the achievement of the modern world which has for the first time given all determinations of the Idea their due. If the state is represented as a unity of different persons, as a unity which is only a partnership, then what is really meant is only civil society. Many modern constitutional lawyers

have been able to bring within their purview no theory of the state but this. In civil society each member is his own end, everything else is nothing to him. But except in contact with others he cannot attain the whole compass of his ends, and therefore these others are means to the end of the particular member. A particular end, however, assumes the form of universality through this relation to other people, and it is attained in the simultaneous attainment of the welfare of others. Since particularity is inevitably conditioned by universality, the whole sphere of civil society is the territory of mediation where there is free play for every idiosyncrasy, every talent, every accident of birth and fortune, and where waves of every passion gush forth, regulated only by reason glinting through them. Particularity, restricted by universality, is the only standard whereby each particular member promotes his welfare.

117. *Paragraph 184.*

Here ethical life is split into its extremes and lost; the immediacy of the family has fallen apart into a plurality. Reality here is externality, the decomposing of the concept, the self-subsistence of its moments which have now won their freedom and their determinate existence. Though in civil society universal and particular have fallen apart, yet both are still reciprocally bound together and conditioned. While each of them seems to do just the opposite to the other and supposes that it can exist only by keeping the other at arm's length, none the less each still conditions the other. Thus, for example, most people regard the paying of taxes as injurious to their particular interest, as something inimical and obstructive of their own ends. Yet, however true this *seems*, particular ends cannot be attained without the help of the universal, and a country where no taxes were paid could not be singled out as invigorating its citizens. Similarly, it might seem that universal ends would be more readily attainable if the universal absorbed the strength of the particulars in the way described, for instance, in Plato's *Republic*. But this, too, is only an illusion, since both universal and particular turn into one another and exist only for and by means of one another. If I further my ends, I further the ends of the universal, and this in turn furthers my end.

118. *Paragraph 185.*

Particularity by itself is measureless excess, and the forms of this excess are themselves measureless. By means of his ideas and reflections man expands his desires, which are not a closed circle like animal instinct, and carries them on to the false infinite. At the other end of the scale, however, want and destitution are measureless too, and the discord of this situation can be brought into a harmony only by the state which has powers over it. Plato wished to exclude particularity from his state, but this is no help, since help on these lines would contravene the infinite right of the Idea to allow freedom to the particular.

← Kuwait!

It was in the Christian religion in the first place that the right of subjectivity arose, together with the infinity of self-awareness, and while granting this right, the whole order must at the same time retain strength enough to put particularity in harmony with the unity of ethical life.

119. *Paragraph 187.*

By educated men, we may prima facie understand those who without the obtrusion of personal idiosyncrasy can do what others do. It is precisely this idiosyncrasy, however, which uneducated men display, since their behaviour is not governed by the universal characteristics of the situation. Similarly, an uneducated man is apt to hurt the feelings of his neighbours. He simply lets himself go and does not reflect on the susceptibilities of others. It is not that he intends to hurt them, but his conduct is not consonant with his intention. Thus education rubs the edges off particular characteristics until a man conducts himself in accordance with the nature of the thing. Genuine originality, which produces the real thing, demands genuine education, while bastard originality adopts eccentricities which only enter the heads of the uneducated.

120. *Paragraph 189.*

There are certain universal needs such as food, drink, clothing, &c., and it depends entirely on accidental circumstances how these are satisfied. The fertility of the soil varies from place to place, harvests vary from year to year, one man is industrious, another indolent. But this medley of arbitrariness generates universal characteristics by its own working; and this apparently scattered and thoughtless sphere is upheld by a necessity which automatically enters it. To discover this necessary element here is the object of political economy, a science which is a credit to thought because it finds laws for a mass of accidents. It is an interesting spectacle here to see all chains of activity leading back to the same point; particular spheres of action fall into groups, influence others, and are helped or hindered by others. The most remarkable thing here is this mutual interlocking of particulars, which is what one would least expect because at first sight everything seems to be given over to the arbitrariness of the individual, and it has a parallel in the solar system which displays to the eye only irregular movements, though its laws may none the less be ascertained.

121. *Paragraph 190.*

An animal is restricted to particularity. It has its instincts and means of satisfying them, means which are limited and which it cannot overstep. Some insects are parasitic on a certain kind of plant; some animals have a wider range and can live in different climates, but there is always a restriction preventing them from having the range open to man. The

need of shelter and clothing, the necessity of cooking his food to make it fit to eat and to overcome its natural rawness, both mean that man has less comfort than an animal, and indeed, as mind, he ought to have less. Intelligence, with its grasp of distinctions, multiplies these human needs, and since taste and utility become criteria of judgement, even the needs themselves are affected thereby. Finally, it is no longer need but opinion which has to be satisfied, and it is just the educated man who analyses the concrete into its particulars. The very multiplication of needs involves a check on desire, because when many things are in use, the urge to obtain any one thing which might be needed is less strong, and this is a sign that want altogether is not so imperious.

122. *Paragraph 191.*

What the English call 'comfort' is something inexhaustible and illimitable. [Others can discover to you that what you take to be] comfort at any stage is discomfort, and these discoveries never come to an end. Hence the need for greater comfort does not exactly arise within you directly; it is suggested to you by those who hope to make a profit from its creation.

123. *Paragraph 192.*

The fact that I must direct my conduct by reference to others introduces here the form of universality. It is from others that I acquire the means of satisfaction and I must accordingly accept their views. At the same time, however, I am compelled to produce means for the satisfaction of others. We play into each other's hands and so hang together. To this extent everything private becomes something social. In dress fashions and hours of meals, there are certain conventions which we have to accept because in these things it is not worth the trouble to insist on displaying one's own discernment. The wisest thing here is to do as others do.

124. *Paragraph 195.*

The entire Cynical mode of life adopted by Diogenes was nothing more or less than a product of Athenian social life, and what determined it was the way of thinking against which his whole manner protested. Hence it was not independent of social conditions but simply their result; it was itself a rude product of luxury. When luxury is at its height, distress and depravity are equally extreme, and in such circumstances Cynicism is the outcome of opposition to refinement.

125. *Paragraph 196.*

There is hardly any raw material which does not need to be worked on before use. Even air has to be worked for because we have to warm it. Water is perhaps the only exception, because we can drink it as we find it. It is by the sweat of his brow and the toil of his hands that man obtains the means to satisfy his needs.

## 126. Paragraph 197.

The savage is lazy and is distinguished from the educated man by his brooding stupidity, because practical education is just education in the need and habit of being busy. A clumsy man always produces a result he does not intend; he is not master of his own job. The skilled worker, on the other hand, may be said to be the man who produces the thing as it ought to be and who hits the nail on the head without shrinking (*keine Sprödigkeit in seinem subjektiven Tun gegen den Zweck findet*).

## 127. Paragraph 201.

The ways and means of sharing in the capital of society are left to each man's particular choice, but the subdivision of civil society into different general branches is a necessity. The family is the first pre-condition of the state, but class divisions are the second. The importance of the latter is due to the fact that although private persons are self-seeking, they are compelled to direct their attention to others. Here then is the root which connects self-seeking to the universal, i.e. to the state, whose care it must be that this tie is a hard and fast one.

## 128. Paragraph 203.

In our day agriculture is conducted on methods devised by reflective thinking, i.e. like a factory.\* This has given it a character like that of industry and contrary to its natural one. Still, the agricultural class will always retain a mode of life which is patriarchal and the substantial frame of mind proper to such a life. The member of this class accepts unreflectively what is given him and takes what he gets, thanking God for it and living in faith and confidence that this goodness will continue. What comes to him suffices him; once it is consumed, more comes again. This is the simple attitude of mind not concentrated on the struggle for riches. It may be described as the attitude of the old nobility which just ate what there was. So far as this class is concerned, nature does the major part, while individual effort is secondary. In the business class, however, it is intelligence which is the essential thing, and natural products can be treated only as raw materials.

## 129. Paragraph 204.

In the business class, the individual is thrown back on himself, and this feeling of self-hood is most intimately connected with the demand for law and order. The sense of freedom and order has therefore arisen above all in towns. The agricultural class, on the other hand, has little occasion to think of itself; what it obtains is the gift of a stranger, of nature. Its feeling of dependence is fundamental to it, and

\* [On the authority of Arthur Young's *Lincolnshire* (1799), Halévy remarks that, if you were in the offices of a certain farm there, 'you could not tell whether you were on a farm or in the heart of a large factory' (*History of the English People in 1815*, Bk. ii, Chap. i).]

with this feeling there is readily associated a willingness to submit to whatever may befall it at other men's hands. The agricultural class is thus more inclined to subservience, the business class to freedom.

## 130. Paragraph 207.

When we say that a man must be a 'somebody', we mean that he should belong to some specific social class, since to be a somebody means to have substantive being. A man with no class is a mere private person and his universality is not actualized. On the other hand, the individual in his particularity may take himself as the universal and presume that by entering a class he is surrendering himself to an indignity. This is the false idea that in attaining a determinacy necessary to it, a thing is restricting and surrendering itself. llv

## 131. Paragraph 209.

From one point of view, it is through the working of the system of particularity that right becomes an external compulsion as a protection of particular interests. Even though this result is due to the concept, right none the less only becomes something existent because this is useful for men's needs. To become conscious in thought of his right, man must be trained to think and give up dallying with mere sensation. We must invest the objects of our thought with the form of universality and similarly we must direct our willing by a universal principle. It is only after man has devised numerous needs and after their acquisition has become intertwined with his satisfaction, that he can frame laws for himself.

## 132. Paragraph 211.

The sun and the planets have their laws too, but they do not know them. Savages are governed by impulses, customs, and feelings, but they are unconscious of this. When right is posited as law and is known, every accident of feeling vanishes together with the form of revenge, sympathy, and selfishness, and in this way the right attains for the first time its true determinacy and is given its due honour. It is as a result of the discipline of comprehending the right that the right first becomes capable of universality. In the course of applying the laws, clashes occur, and in dealing with these the judge's intelligence has its proper scope; this is quite inevitable, because otherwise carrying out the law would be something mechanical from start to finish. But to go so far as to get rid of clashes altogether by leaving much to the judge's discretion is a far worse solution, because even the clash is intrinsic to thought, to conscious thinking and its dialectic, while the mere fiat of a judge would be arbitrary.

It is generally alleged in favour of customary law that it is 'living', but this vitality, i.e. the identity between the subject and what the law provides, is not the whole essence of the matter. Law (*Recht*) must be known by thought, it must be a system in itself, and only as such can it

be recognized in a civilized country. The recent denial that nations 'have a vocation to codify their laws' is not only an insult; it also implies the absurdity of supposing that not a single individual has been endowed with skill enough to bring into a coherent system the endless mass of existing laws. The truth is that it is just systematization, i.e. elevation to the universal, which our time is pressing for without any limit. A similar view is that collections of judgements, like those available in a *Corpus Juris*, are far superior to a code worked out in the most general way. The reason alleged is that such judgements always retain a certain particularity and a certain reminiscence of history which men are unwilling to sacrifice. But the mischievousness of such collections is made clear enough by the practice of English law.

133. *Paragraph 213.*

In the higher relationships of marriage, love, religion, and the state, the only aspects which can become the subject of legislation are those of such a nature as to permit of their being in principle external. Still, in this respect there is a wide difference between the laws of different peoples. The Chinese, for instance, have a law requiring a husband to love his first wife more than his other wives. If he is convicted of doing the opposite, corporal punishment follows. Similarly, the legislation of the ancients in earlier times was full of precepts about uprightness and integrity which are unsuited by nature to legal enactment because they fall wholly within the field of the inner life. It is only in the case of the oath, whereby things are brought home to conscience, that uprightness and integrity must be taken into account as the substance of the matter.

134. *Paragraph 214.*

There is one essential element in law and the administration of justice which contains a measure of contingency and which arises from the fact that the law is a universal prescription which has to be applied to the single case. If you wished to declare yourself against this contingency, you would be talking in abstractions. The measure of a man's punishment, for example, cannot be made equivalent to any determination of the concept of punishment, and the decision made, whatever it be, is from this point of view arbitrary always. But this contingency is itself necessary, and if you argue against having a code at all on the ground that any code is incomplete, you are overlooking just that element of law in which completion is not to be achieved and which therefore must just be accepted as it stands.

135. *Paragraph 215.*

The legal profession, possessed of a special knowledge of the law, often claims this knowledge as its monopoly and refuses to allow any layman to discuss the subject. Physicists similarly have taken amiss

Goethe's theory about colours\* because he did not belong to their craft and was a poet into the bargain. But we do not need to be shoemakers to know if our shoes fit, and just as little have we any need to be professionals to acquire knowledge of matters of universal interest. Law is concerned with freedom, the worthiest and holiest thing in man, the thing man must know if it is to have obligatory force for him.

136. *Paragraph 216.*

Completeness means the exhaustive collection of every single thing pertaining to a given field, and no science or branch of knowledge can be complete in this sense. Now if we say that philosophy or any one of the sciences is incomplete, we are not far from holding that we must wait until the deficiency is made up, since the best part may still be wanting. But take up this attitude and advance is impossible, either in geometry, which seems to be a closed science although new propositions do arise, or in philosophy, which is always capable of freshness in detail even though its subject is the universal Idea. In the past, the universal law always consisted of the ten commandments; now we can see at once that not to lay down the law 'Thou shalt not kill', on the ground that a legal code cannot be complete, is an obvious absurdity. Any code could be still better—no effort of reflection is required to justify this affirmation; we can think of the best, finest, and noblest as still better, finer, and nobler. But a big old tree puts forth more and more branches without thereby becoming a new tree; though it would be silly to refuse to plant a tree at all simply because it might produce new branches.

137. *Paragraph 217.*

Law and the right are identical in the sense that what is implicitly right is posited in the law. I possess something, own a property, which I occupied when it was ownerless. This possession must now further be recognized and posited as mine. Hence in civil society formalities arise in connexion with property. Boundary stones are erected as a symbol for others to recognize. Entries are made in mortgage and property registers. Most property in civil society is held on contract, and contractual forms are fixed and determinate. Now we may have an antipathy to formalities of this kind and we may suppose that they only exist to bring in money to the authorities; we may even regard them as something offensive and a sign of mistrust because they impair the validity of the saying: 'A man is as good as his word.' But the formality is essential because what is inherently right must also be posited as right. My will is a rational will; it has validity, and its validity should be recognized by others. At this point, then, my subjectivity and that

\* [Hegel's acceptance of this anti-Newtonian theory, e.g. in *Enc.*, § 320, gave great pleasure to Goethe. For a summary and criticism of the theory, see e.g. G. H. Lewes: *Life of Goethe*, Book V, chap. ix.]



of others must be set aside and the will must achieve the security, stability, and objectivity which can be attained only through such formalities.

138. *Paragraph 218.*

It seems to be a contradiction that a crime committed in society appears more heinous and yet is punished more leniently. But while it would be impossible for society to leave a crime unpunished, since that would be to posit it as right, still since society is sure of itself, a crime must always be something idiosyncratic in comparison, something unstable and exceptional. The very stability of society gives a crime the status of something purely subjective which seems to be the product rather of natural impulse than of a prudent will. In this light, crime acquires a milder status, and for this reason its punishment too becomes milder. If society is still internally weak, then an example must be made by inflicting punishments, since punishment is itself an example over against the example of crime. But in a society which is internally strong, the commission of crime is something so feeble that its annulment must be commensurable with its feebleness. Harsh punishments, therefore, are not unjust in and by themselves; they are related to contemporary conditions. A criminal code cannot hold good for all time, and crimes are only shows of reality which may draw on themselves a greater or lesser degree of disavowal.

139. *Paragraph 221.*

Since any individual has the right *in judicio stare*, he must also know what the law is or otherwise this privilege would be useless to him. But it is also his *duty* to stand his trial. Under the feudal system, the nobles often refused to stand their trial. They defied the court and alleged that the court was wrong to demand their appearance. Feudal conditions, however, contravened the very idea of a court. Nowadays monarchs have to recognize the jurisdiction of the court in their private affairs, and in free states they commonly lose their case.

140. *Paragraph 222.*

A man may be indignant if a right which he knows he has is refused him because he cannot prove it. But if I have a right, it must at the same time be a right posited in law. I must be able to explain and prove it, and its validity can only be recognized in society if its rightness in principle is also made a posited rightness in law.

141. *Paragraph 224.*

It is straightforward common sense to hold that the publicity of legal proceedings is right and just. A strong reason against such publicity has always been the rank\* of justices; they are unwilling to sit in public

\* [In the eighteenth century, judicial authority was often still vested in Lords of the Manor.]

and they regard themselves as a sanctuary of law which laymen are not to enter. But an integral part of justice is the confidence which citizens have in it, and it is this which requires that proceedings shall be public. The right of publicity depends on the fact that (i) the aim of the court is justice, which as universal falls under the cognizance of everyone, and (ii) it is through publicity that the citizens become convinced that the judgement was actually just.

142. *Paragraph 227.*

No grounds can be adduced for supposing that the judge, i.e. the legal expert, should be the only person to establish how the facts lie, for ability to do so depends on general, not on purely legal, education. Determination of the facts of the case depends on empirical details, on depositions about what happened, and on similar perceptual data, or again on facts from which inferences can be drawn about the deed in question and which make it probable or improbable. Here then, it is an assurance which should be required, not truth in the higher sense in which it is always something eternal. Here such assurance is subjective conviction, or conscience, and the problem is: What form should this assurance take in a court of law? The demand, commonly made in German law, that a criminal should confess his guilt, has this to be said for it, that the right of self-consciousness thereby attains a measure of satisfaction; consciousness must chime in with the judge's sentence, and it is only when the criminal has confessed that the judgement loses its alien character so far as he is concerned. But a difficulty arises here, because the criminal may lie, and the interest of justice may be jeopardized. If, on the other hand, the subjective conviction of the judge is to hold good, some hardship is once more involved, because the accused is no longer being treated as a free man. Now the middle term between these extremes is trial by jury, which meets the demand that the declaration of guilt or innocence shall spring from the soul of the accused.\*

143. *Paragraph 229.*

In civil society, universality is necessity only. When we are dealing with human needs, it is only right as such which is steadfast. But this right—only a restricted sphere—has a bearing simply on the protection of property; welfare is something external to right as such. This welfare, however, is an essential end in the system of needs. Hence the universal, which in the first instance is the right only, has to be extended over the whole field of particularity. Justice is a big thing in civil society. Given good laws, a state can flourish, and freedom of property is a fundamental condition of its prosperity. Still, since I am inex-

\* [The verdict of his peers is the verdict of the criminal's own soul or reason because reason is universal and so common to them and to him alike. His crime is his subjective defiance of his reason or his inner universality—see Part i, subsection 3 (c).]



trically involved in particularity, I have a right to claim that in this association with other particulars, my particular welfare too shall be promoted. Regard should be paid to my welfare, to my particular interest, and this is done through the police and the Corporation.

144. *Paragraph 234.*

Here nothing hard and fast can be laid down and no absolute lines can be drawn. Everything here is personal; subjective opinion enters in, and the spirit of the constitution and the crisis of the day have to provide precision of detail. In time of war, for instance, many a thing, harmless at other times, has to be regarded as harmful. As a result of this presence of accident, of personal arbitrariness, the public authority acquires a measure of odium. When reflective thinking is very highly developed, the public authority may tend to draw into its orbit everything it possibly can, for in everything some factor may be found which might make it dangerous in one of its bearings. In such circumstances, the public authority may set to work very pedantically and embarrass the day-to-day life of people. But however great this annoyance, no objective line can be drawn here either.

145. *Paragraph 236.*

The oversight and care exercised by the public authority aims at being a middle term between an individual and the universal possibility, afforded by society, of attaining individual ends. It has to undertake street-lighting, bridge-building, the pricing of daily necessities, and the care of public health. In this connexion, two main views predominate at the present time. One asserts that the superintendence of everything properly belongs to the public authority, the other that the public authority has nothing at all to settle here because everyone will direct his conduct according to the needs of others. The individual must have a right to work for his bread as he pleases, but the public also has a right to insist that essential tasks shall be properly done. Both points of view must be satisfied, and freedom of trade should not be such as to jeopardize the general good.

146. *Paragraph 238.*

To be sure, the family has to provide bread for its members, but in civil society the family is something subordinate and only lays the foundations; its effective range is no longer so comprehensive. Civil society is rather the tremendous power which draws men into itself and claims from them that they work for it, owe everything to it, and do everything by its means. If man is to be a member of civil society in this sense, he has rights and claims against it just as he had rights and claims in the family. Civil society must protect its members and defend their rights, while its rights impose duties on every one of its members.

147. *Paragraph 239.*

The line which demarcates the rights of parents from those of civil society is very hard to draw here. Parents usually suppose that in the matter of education they have complete freedom and may arrange everything as they like. The chief opposition to any form of public education usually comes from parents and it is they who talk and make an outcry about teachers and schools because they have a faddish dislike of them. None the less, society has a right to act on principles tested by its experience and to compel parents to send their children to school, to have them vaccinated, and so forth. The disputes that have arisen in France\* between the advocates of state supervision and those who demand that education shall be free, i.e. at the option of the parents, are relevant here.

148. *Paragraph 240.*

There was an Athenian law compelling every citizen to give an account of his source of livelihood.† Nowadays we take the view that this is nobody's business but his own. Of course every individual is from one point of view independent, but he also plays his part in the system of civil society, and while every man has the right to demand subsistence from it, it must at the same time protect him from himself. It is not simply starvation which is at issue; the further end in view is to prevent the formation of a pauperized rabble. Since civil society is responsible for feeding its members, it also has the right to press them to provide for their own livelihood.

149. *Paragraph 244.*

The lowest subsistence level, that of a rabble of paupers, is fixed automatically, but the minimum varies considerably in different countries. In England, even the very poorest believe that they have rights; this is different from what satisfies the poor in other countries. Poverty in itself does not make men into a rabble; a rabble is created only when there is joined to poverty a disposition of mind, an inner indignation against the rich, against society, against the government, &c. A further consequence of this attitude is that through their dependence on chance men become frivolous and idle, like the Neapolitan *lazzaroni* for example. In this way there is born in the rabble the evil of lacking self-respect enough to secure subsistence by its own labour and yet at the same time of claiming to receive subsistence as its right. Against nature man can claim no right, but once society is established, poverty immedi-

\* [Rousseau's *Émile*, published in 1762, is the classic demand for freedom in education. State supervision was advocated by La Chalotais in his *Essai d'Éducation nationale*, published a year later. The Jesuits, the chief educators in France, were expelled in 1764. The revival of family life also helped to stimulate French interest in education in the second half of the eighteenth century.]

† [Herodotus, ii. 177. Plutarch: *Life of Solon*, chap. 22.]

ately takes the form of a wrong done to one class by another. The important question of how poverty is to be abolished is one of the most disturbing problems which agitate modern society.

150. *Paragraph 248.*

Civil society is thus driven to found colonies. Increase of population alone has this effect, but it is due in particular to the appearance of a number of people who cannot secure the satisfaction of their needs by their own labour once production rises above the requirements of consumers. Sporadic colonization is particularly characteristic of Germany. The emigrants withdraw to America or Russia and remain there with no home ties, and so prove useless to their native land. The second and entirely different type of colonization is the systematic; the state undertakes it, is aware of the proper method of carrying it out and regulates it accordingly. This type was common amongst the ancients, particularly the Greeks. Hard work was not the business of the citizens in Greece, since their energy was directed rather to public affairs. So if the population increased to such an extent that there might be difficulty in feeding it, the young people would be sent away to a new district, sometimes specifically chosen, sometimes left to chance discovery. In modern times, colonists have not been allowed the same rights as those left at home, and the result of this situation has been wars and finally independence, as may be seen in the history of the English and Spanish colonies. Colonial independence proves to be of the greatest advantage to the mother country, just as the emancipation of slaves turns out to the greatest advantage of the owners.

151. *Paragraph 255.*

The consideration behind the abolition of Corporations in recent times is that the individual should fend for himself. But we may grant this and still hold that corporation membership does not alter a man's obligation to earn his living. Under modern political conditions, the citizens have only a restricted share in the public business of the state, yet it is essential to provide men—ethical entities—with work of a public character over and above their private business. This work of a public character, which the modern state does not always provide, is found in the Corporation. We saw earlier [Addition to Paragraph 184] that in fending for himself a member of civil society is also working for others. But this unconscious compulsion is not enough; it is in the Corporation that it first changes into a known and thoughtful ethical mode of life. Of course Corporations must fall under the higher surveillance of the state, because otherwise they would ossify, build themselves in, and decline into a miserable system of castes. In and by itself, however, a Corporation is not a closed caste; its purpose is rather to bring an isolated trade into the social order and elevate it to a sphere in which it gains strength and respect.



## Chapter 5

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### Reason and Religion

Matters such as the place of religion in our age, the role of people in shaping their destiny, the relationship between religion and modernity and religious government to liberalism, as well as the relationship between religion and democracy, are central issues for us today. If we do not attend to them, it will only be we who are absent from the scene. A person truly living in his own time is one who understands today's world and tries to offer more innovative solutions to current problems. If we are present physically in time but absent in thought, we cannot claim to be present in our own time. Today, friends of our revolution wish to know what models and plans this revolution offers for life, and foes hope that this revolution fails and fades from the scene. Thus, these are pressing issues present in our time that must be addressed.

Three great historical figures—Imam Khomeini, and martyrs Motahhari and Sadr—have played an important role in our recent history and in shaping the thinking of the current age, especially among new generations of Muslims. Their greatest achievement was their ability to transform the Muslim world culturally, especially Shiism. Imam Khomeini, who was the harbinger of new thinking and a new culture, became the source of a great historical transformation. These three were exceptional in their knowledge and experience, and no thinker and scholar can ignore or circumvent their insights. For those without formal religious training, heeding the prescriptions of the clergy is necessary in practical matters, but in the realm of thought, no thinker can blindly follow the clergy, however outstanding they are—unless religious leaders are among the Infallibles. That is why I do not believe that great figures such as Motahhari and Sadr had the last word in religious and intellectual matters.

The point to focus on is that these were pioneers who took the first steps with confidence, and in this sense represent models for us to emulate. They are indeed worthy of tremendous respect. But their ideas must be subjected to critique. Did Motahhari and Sadr bring a new discourse to our society? I believe that the new discourse had already begun to permeate our society before the involvement of these figures, arising from our encounter with the West. Some rigidly traditional parts of our society completely rejected the West, while some Westernized intellectuals sought to dissolve themselves in the West. And there were reformers of religious thought in the Sunni and Shiite sects of Islam such as Seyyed Jamal-Eddin Assadabadi, Sheikh Mohammad Abdeh, Ighbal Lahouri, Allameh Naeeni, and great figures such as Motahhari, Shariati and Sadr who wanted neither to dissolve into the West, nor to completely reject it, hoping instead to chart a healthy middle ground. A book by Assadabadi, for example, put forth a critique of materialism that generated lengthy discourse in this tradition.

Before the time of martyrs Motahhari and Sadr, Allameh Tabatabai in Iran and many thinkers elsewhere in the Muslim world had tried to find new answers to these types of questions. What makes Mottahari and Sadr exceptional is their attempt to defend Islamic thought from Marxist and materialist thought so as to be able to usher in a new discourse based on a deep understanding of issues. This discourse must be the focus of all clerics and intellectuals who believe in religion and enlightenment.

The question of the West's deficiencies needs more precise scrutiny. Major differences exist between our religious thought and Western values. Our thinking is based on the existence of an omnipotent, all-knowing God, while the West rejects such a being, at least in the sphere of running social affairs. This is a great difference between us which implies that in spiritual matters the West has less power than we do.

At present the West possesses economic, technological and scientific power, while we Muslims lag behind in this area. The *Qur'an* prescribes, 'Against them make ready your strength to the utmost of your power' (Holy *Qur'an*, 9.60), in effect counseling us to attain the material sources of power as well, such that we can demand our rights on the basis of this power. It is here that I want to distinguish foundations from guidelines, for I see civilization as

a foundation, not a guiding light. Civilization is built upon the specific beliefs, needs, and concerns of people. As such, a people's beliefs may change and so may civilization. After the Prophet Mohammad, in the third and fourth Muslim centuries (eighth and ninth centuries C.E.), Muslims created a new civilization on the basis of the teachings of Islam, the *Qur'an*, and what they had learned from Persian and Greek civilizations. But the fact that the golden age of Islamic civilization has passed does not mean that the *Qur'an* and Islam have withered too. We Muslims believe that we must maintain our faith in the *Qur'an* and authentic Islam while searching for new answers to today's questions on the basis of religion. The products of Western civilization are everywhere, but I believe that this civilization, too, is not ultimate because it is a human construct.

All human achievements must be utilized by new generations, just as Western civilization borrowed heavily from the Islamic world, which in turn had been enriched in its golden age by Persian and Greek culture. My main question is, what should we Muslims do now that Western civilization is dominant and we have lost our previous civilization? If we want to be instrumental in today's world, should we return to the West's past—which would be regressive—or do we want to transcend Western civilization, or do we merely want to dissolve into the West?

The rigidly traditional want us to return to the past. The Westernized prescribe that we melt into the West, but those who really care about the well-being of their national and religious culture believe that we must incorporate the West to be able to transcend it, remaining aware of our own religious sources, as well as the questions and puzzles of today's world. We must adopt all of the positive achievements of the West, but see them in relation to our own heritage so we can fill in its deficiencies. That is why we must place greater focus on the future of the West than on its past.

Rectitude is one of the pillars of all religions, especially Islam, and we need a specific interpretation of the term. Unfortunately the idea of rectitude in the history of Islam has been limited to the realm of the individual, because the truly pious of the Shiite faith have never governed society.

This has also been true of the Sunnis; the only people who were allowed to govern were the powerful, while the people were kept away from the reins of power. Social rectitude has no precedent in

our history. The same Muslims who believed in rectitude committed many social injustices in the Muslim world, and individual rectitude has not been able to overturn these inequities.

Thus if we say that we possess rectitude and the West does not, we have to know exactly what we mean by rectitude. To religious believers, the relationship between God and humans is clear, but the relationship of subjects to their rulers, individuals to their society, and various constituents of society to one another have not been scrutinized deeply enough to enable us to know the requirements of this-worldly rectitude.

Westerners believe that their culture is based on liberty. Before the advent of modern civilization, the issues of social, political, and civil liberties did not exist in the West because pre-modern Muslims and Westerners of the Middle Ages believed in salvation. Today, salvation is conceived as living free of restrictions, but in the Old World it meant freedom from internal restrictions and deficiencies such as worldly lust.

Some sects in the Islamic world went so far as saying that salvation can only come from self-denial and shunning all material objects, including even society. Farabi viewed Sufis, who prescribed such denial, as ignorant. He believed in salvation, too, but he felt that salvation can only come through immersion in a civil society guided by freedom from internal restraints and defects. But liberty, as conceived in the West, is the exact opposite of this because it rests on freedom from external intrusions into one's life, such that one's life is governed by no one other than one's self. The Western idea of individualism gives primacy to human understanding and desires, and a free person is one whose search for the fulfillment of needs is not hindered by anything. Of course, liberty has limits, and that is the liberty of others. This liberty has also had positive effects as people have taken their destiny into their own hands, and government has become a servant of the people and accountable to them, not their master. In contrast, in previous autocratic regimes, rulers were above the people and thought of them as mere pawns at the complete mercy of their rulers. But when people were freed from the shackles of this domination, they collectively gained power over their rulers.

Liberty is freedom from external bonds. In contrast, the pre-modern idea of salvation rested on freedom from inner bonds,

oblivious to social and political liberties and rights. Both of these visions are incomplete. Modern liberalism ignores internal freedom, and while it is not concerned with whether or not humans are slaves to their passions, it requires that humans not be subjugated to the whims of their rulers. We, on the contrary, have tried to prevent people from falling prey to their desires, even though tyrants governed and enchained Muslim society. My prescription is that we try to attain both kinds of freedom, as we refer to the *Qur'an* and our society. We may reject many aspects of Western liberalism, but we cannot deny its many achievements. As we discern the faults and strong points of the West, we must also direct this form of critical thinking at ourselves.

Reason can be defined in various ways, and we must specify what kind of reason we mean: Platonic, Aristotelian, neo-Platonic, the reason envisioned by Muslims and the Sufis, the reason of Ibn-Roshd, or that of Descartes, Kant, or Hegel.

In my view, reason is the common bond of all humans, a means of connecting to the world and to others, the same reason through which Plato and Aristotle communicated their views. Reason and intellect represent the only way of understanding this world, even though this understanding is too relative to guide us to ultimate truths. Our great thinkers, while aware of the indispensability of reason, knew that reason alone could not discover all of reality. Our religious tradition claims that it is ultimately faith of the heart, not the intellect, that comprehends the whole of reality.

If we think of reason and faith as contradictory and opposed to one another, because reason achieves more instrumental impact in this world, faith will be sidelined. It is important to note that the faith I am talking about exists alongside and parallel to reason, not in opposition to it.

Reason can merely take us to the gates of the afterlife. Even though it is aware that the world is not limited to the material, it cannot go farther than this world. It is here that faith must step in. Humans cannot do without reason in their lives as they encounter practical matters, and if they have to choose between faith and reason, they will choose the latter. Interpretations of the world based on reason are relative, a relativity that also permeates our perceptions of religion. But if our understanding of religious tradition and the *Qur'an* gets moribund and in need of transformation, this does not mean that tradition and the *Qur'an* have aged themselves. Our intellect is capable of adapting to the



current world while also remaining attuned to tradition and the *Qur'an*, such that the solid essence of religion is not harmed. Our religious thinking is bound to evolve.

Humans instinctively seek God, a reality present in the direct experiential contact with the divine. Unfortunately, many of our anachronistic interpretations of religion have assumed the veneer of sanctity and are viewed as being immutable.

It is certain that humans will take further steps toward spiritual fulfillment, for a narrow and materialistic existence will inevitably torment them. We believe that religion does not oppose material well being, but invites all humans to a grander, more exalted place than the material world.

As a believer I am certain that the future belongs to religion; as an advocate of reason, I can already see the signs of the eager reception awaiting religion in today's world.

## Chapter 11

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# Our Revolution and the Future of Islam

Civilizations rise and fall. From the dawn of history this has been the fate of Sumerian, Chaldean, Assyrian, Chinese, Indian, Persian, Greek, Roman, and Islamic civilizations. At its zenith, Islam acted as the conduit between these ancient civilizations and the modern age. Today, it is Western civilization that reigns supreme, casting its shadow upon all corners of the world.

### *The Interplay of Civilizations*

Unless they are completely unaware of each other's existence, civilizations ordinarily affect and transform one another. For instance, America's indigenous civilization was completely unknown to the outside world until Europeans discovered the continent. But once the connection was made, the massive tide of explorers and immigrants who conquered and appropriated the new world could not be held back. Using their superior power and resources, the newcomers ruthlessly subjugated and destroyed the continent's old civilization. The wave of European immigrants that took over the Americas eventually succeeded in turning North America into the most powerful center of Western civilization.

Give-and-take among civilizations is the norm of history. Prior to the discovery of the Americas, the civilizations of Asia, Africa, and Europe had been in contact since antiquity, transforming one another in various ways. Fundamentally influenced by Greek civilization, Islam played a central mediating role by introducing Europeans to the achievements of Greek thought and philosophy. Thus 'new' civilizations are never

new in the true sense, for they always feed on the work of previous civilizations, appropriating and digesting all that fits their needs, dispensing with all that does not.

#### *The Main Sources of the Emergence of Civilizations*

Of the many factors that spur the emergence, rise, and demise of civilizations, two are fundamental: the dynamism of the human mind, and the concomitant surfacing of new needs and necessities in human life.

The human mind is instinctively active, perpetually driven by a burning curiosity that confronts a never-ending chain of new questions to which it must find answers, or it will not rest or be content. But once a discovery is made, the new answers bring to view an untested world replete with new questions, an eternal cyclical process.

At the same time, humans strive to fulfill their material needs, which beckons them to seek greater mastery over the natural world through invention and innovation. The combination of the will to dominate nature and the will to create alters the material and psychological makeup of the human world, and this creates new needs and necessities.

The dynamism of the human constitution and the resulting search for answers to pressing questions or needs spurs a constant transformation of the human historical consciousness. The same two fundamental qualities of humans that underpin the inevitability of change are also the cause of the emergence and decline of civilizations. While other human, social, and natural factors slow down or accelerate the coming, going, and interchange of civilizations, the desire and need for change is the most important in this regard.

Every civilization is based on a specific world-view which is itself shaped by a people's idiosyncratic historical experience. For as long as the existing world view successfully addresses the fundamental questions and needs of a community, it remains intact. But when the collective consciousness and soul of a people outgrow the limitations of the existing civilization, the search for new ideas begins in earnest, often taking the form of turning to other civilizations for clues. This is the secret of the emergence, flourishing, and fall of all civilizations.

#### *The Crisis of Civilizations*

When it is first born and subsequently at the point of its demise, each civilization places its adherents in a state of crisis. At first, when a new covenant arises in the history of a people and the ground is ripe for the emergence of a new civilization, the social fabric is strained. The new civilization heralds new and often revolutionary customs and mores. But the previous civilization will not easily relinquish its entrenched and institutionalized dominance. Historically shaped social habits are hard to break. Much of society remains glued to the mental and emotional predilections of the previous era. The need to throw out the deeply ingrained attachments and replace them with a new world view induces a painful identity crisis.

At the same time, the new civilization has not been tried out in real life. Its inner contradictions are hidden from view, for it has not passed the litmus test of experience. To endure and lay roots, the new civilization must adapt and fine-tune itself as it encounters the evolving realities of social life. Until this process of adaptation and transformation reaches its fruition, social identity crisis is the norm.

The other instance of crisis, at the point of the demise of a civilization, appears when the dominant world view cannot satisfy the psychological, material, and social needs of its constituents. People begin to experience a troubling void and sterility. Again, the historically conditioned predilections that are rendered anachronistic will not be easily abandoned. This state of limbo can merely offer the veneer of civilization bereft of substance and soul. An existential void sets in that brings on a full-blown identity crisis.<sup>1</sup>

<sup>1</sup> This argument does not imply that each of the two types of crisis necessarily follows the other. Because of the connection of the 'death crisis' of the first civilization to the 'birth crisis' of the second, they must not be viewed as being identical because:

First, my focus is on the crisis that one civilization creates, one at the peak of civilization and the other at its nadir, not the crisis of the end of one and the birth of the second. Second, even if the crisis of the end of one civilization and the crisis of the birth of another civilization coincide, this does not mean that we should see them as being one and the same, for these two crises are qualitatively different in nature, similar to the way life and death are different. Third, it is not as though as soon as a civilization dies there is immediately another one to

This discussion is meant to set up the fundamental question, what historical condition does our own society live in and what is going to become of it?

#### *Crisis in the West*

Indeed, ours is the age of the dominance and entrenchment of Western civilization, a civilization that has lived for more than four centuries and has made great strides in science, politics, and social regulation. But we must accept that the West today faces an acute crisis, a crisis in its thought and all other spheres. Those familiar with the history of Western civilization and its philosophical, scientific, and artistic expressions can more or less see the signs of this crisis. The West was not confronted with a crisis of this magnitude in the eighteenth and part of the nineteenth century. What does the current crisis signify?

It is possible to assert that Western civilization is worn out and senile. Four centuries is a long time for a civilization—even though it is possible that in the past some civilizations may have lived longer than this. But science, technology, and electronic communication have vastly accelerated the pace of change like never before. The life of Western civilization from the Renaissance to the present cannot be viewed as short, and to treat Western civilization as old would not be an exaggeration.

#### *From Crisis to Demise of the West?*

This is not an easy question to take on. Crises are sometimes limited and temporary. This has often occurred in the life of civilizations which have displayed the ability to confront crises successfully and remain intact. For example, in the nineteenth century, the West managed to successfully surmount the crisis that it encountered.

The capitalist order, which represents a key feature of

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replace it. Instead, a civilization comes, stays for centuries and then leaves. Different societies provide different breeding grounds for civilizations. To know this for certain requires greater and more careful scrutiny which this author has not had the chance to undertake. Nonetheless, we should not doubt the qualitative difference between these two kinds of crisis.

Western civilization, encountered great difficulties in the second half of the nineteenth century and during the two world wars of the first half of the twentieth century. But Marxism came to its rescue. The West managed to modify its mental and material structures, coming out of these crises in one piece.

Despite the claims of its protagonists, Marxism was an impractical and unrealistic philosophy. Precisely because of these deficiencies and its lack of adaptability, it did not last. It was kept standing for seventy years only through the use of force and propaganda. Still, although Marx did not offer a solid and comprehensive philosophy, he was a great pathologist of the capitalist order. What Marxists proposed forced the West to become introspective and to search for ways of adjusting capitalism's methods to the demands of the time, and to modify its social, economic, and political order from within. One key tactic of the West was to replace its old colonialism—which was sowing the seeds of a worldwide explosion—with neocolonialism. This allowed the West to contain and defuse the crisis, postponing its reemergence for a while.

But what about the present crisis? Can the West also pass through this difficult period unscathed? We cannot predict this with certainty, but to the extent that human understanding and research allows, we can collect evidence and observe empirical reality and arrive at a theory on that basis. This is an important task for objective and judicious academic research.

#### *The West's Antidotes for Crisis*

The West has adopted a strategy similar to the one it used at the beginning of this century which allowed it to circumvent previous crises: by modifying the ways of old colonialism into a more sophisticated neocolonialism. The so-called 'new world order' is the West's new strategy for handling a crisis that has shaken it at the core.

Presenting itself as the main sponsor and protector of the 'new world order', the United States is focused on adapting neocolonialism<sup>2</sup> to the new age. The logic of this transformation

<sup>2</sup> The very quest for a 'new world order' is an obvious sign that the current order is under serious strain as it fails to meet people's fundamental needs. The evermore frequent and extensive discussion of the new 'order', especially in the West, is itself proof for the existence

is similar to the shift from old colonialism to neocolonialism. There is other evidence attesting to the decline of the current Western civilization as well. While it is certain that Western civilization is old and worn out, the question of whether it has reached the end of its path needs more thinking and scrutiny. What does the future hold?

#### *Crisis in Our Revolutionary Society*

Our society also confronts a crisis today, and although this crisis is to some extent attributable to global conditions, it is different from the West's crisis. Through our revolution we tried to free ourselves from the shackles of the West's domination. Our revolution made us introspective, we decided to struggle for our independence, to be masters of our own fate. In this regard, we have made great headway in the political, economic, and cultural spheres. But is it possible that we would fall into the West's trap of domination again? This depends on the path we choose in the future and on what the West's own destiny is. The Islamic revolution was a momentous event in the history of the Iranian nation and the Islamic community, and we can rightly say that because of our revolution we have dispensed with many borrowed and Western values that dominated our thinking. Through realizing our own authentic historical and cultural identity, we have laid a completely new groundwork for regulating our society.

Our revolution proposed the creation of a religiously based system and our society accepted this with enthusiasm and took steps to reach this great goal. The crisis that we experience today can only be remedied if we shed the vestiges of our borrowed identity and don a new garb. Our current crisis is the crisis of birth which I referred to earlier. Our new civilization is on the verge of

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of a crisis in the West and in the rest of the world. We cannot overlook the fact that oppressive powers, led by the United States, continue their deceitful attempt to manipulate the current historical moment and world consciousness to assert their destructive domination of the developing world under the guise of the 'new world order'. This is an attempt to subvert and prevent fundamental transformation in the current order that would benefit all of humanity. There is voluminous material on the 'new world order' which I defer to another occasion.

emergence.

We cannot confront this crisis with trepidation. We must embrace it boldly and intelligently. Only when we have understood the most fundamental historical questions of this epoch can we develop the willingness to solve them.

We wish to base our life on the tenets of Islam; we possess the will to create an Islamic civilization. At a time when Western civilization is going through its last days, or at least experiencing senility, we must ask, did not Islamic civilization already emerge once and end centuries ago? And does not the death of a civilization mean that we can no longer base thought and action on its teachings? Does not this rule apply to our history? Does the coming and passing of Islamic civilization mean that the period of Islam, which provided the basis for Islamic civilization, is over?

If the answer to this question is affirmative, has our revolution been a fruitless effort moving against the traditions of creation and laws that govern the march of civilizations? This is one of the most important and pressing questions that confronts our revolution. If we do not approach it with level-headedness and objectivity, if we cannot find a solid answer to this question, our revolution will inevitably encounter great danger and difficulty.

My answer to the above question is negative. But with this answer I do not want to debunk the rule that I proposed about civilizations. Generally, I believe that the law holds, but on the basis of my view of religion, I take this case not as a falsifier of the above but as falling outside its purview. For what creates a civilization is the vision and effort of humans, while religion is above and beyond the vision of individuals and societies and thus transcends civilizations.

If the sun has set on Islamic civilization despite its many monumental achievements, a certain view of religion—which was appropriate for that period—has ended, not the age of religion itself.

One of the greatest difficulties that religions have encountered historically has arisen out of confusing the specific religious teachings designed for specific times and places with the idea of religion itself. Naturally, with the obsolescence of age- and place-specific religious thought, some have the impression that the era of religion is over as well. But religion

transcends the specific civilizations that it gives rise to.

Civilization addresses specific needs and dilemmas of a community in a particular time and place. When conditions and times change, new questions arise that in turn require new answers—and hence a new civilization.

Religion, on the other hand, sheds light on questions of eternity, charting a general and timeless path for humanity, giving direction to life despite its ever-changing circumstances. Religion guides human talents to their plateau, instilling in people a sense of duty in different historical conditions.

Thus if we think of religion as being identical to civilization or culture, then the passing of civilization must imply that the era of religion is over as well. But if we believe that religion supersedes and transcends civilization and the specific mores of community, then religion can contain many different interpretations that give rise to various civilizations. The inevitable transformations of human life will do no damage to the eternal life of religion.

In this view, the core of religion possesses such dynamism that in any age it can provide answers to questions and a fulfillment of needs. Thus, while the old Islamic civilization has vanished, religion stands deeply rooted and can generate new civilizations, even though the specific interpretations of religion which have spawned past Islamic civilizations have withered.

With this general picture, I will try to address a number of pressing issues that confront our society today.

Our vision of consolidating a system of religious governance in our future-oriented society cannot be materialized in a vacuum. We cannot implement this vision without full contact with the international community. We have come upon this important task at a time when Western civilization dominates the world. Yet simultaneously we must try to free ourselves from the domination of the West. It is thus natural that we confront the West, and the upshot of this confrontation will determine our future.

#### *Two Countenances of the West*

The West displays two features: one political, the other intellectual. Its political orientation serves as the most outward manifestation or veneer of Western civilization. The intellectual

foundations of Western civilization illustrate its general world view. We must diligently distinguish between these two aspects. Only then can we find the proper way of confronting the West. This path must be traveled with prudence.

Even though the West has grown old, it maintains tremendous political, economic, military, and technological power, simultaneously wielding a formidable propaganda and communication apparatus to manage the world's perceptions. Equally important, the global economy is controlled and regulated by Western financial institutions.

The West's advanced systems and institutions often legitimize its political power, ensuring its decisive presence in all significant global developments. The military might of Western capitalism is also vast, and even if we concede that official military pacts are not as common as they were, the military and destructive power of the West remains intact.

Politically, the West aims to govern all corners of the world and to dominate the theory and practice of international relations. It possesses the material and symbolic sources of power simultaneously, and it will stop at nothing to achieve its goals and protect its interests. Our struggle with the West is of life-and-death importance.

In its political embodiment, the West does not wish us—or any people—to be independent, free, and masters of our own fate. For if one feature of Western imperialism is violating others' territories and exploiting their economies, the concomitant feature is dominating the world of ideas. The West propagates a world view that lures its prey into subjugation.

We confront a determined enemy that brings all of its material, military, and informational resources to convince us to surrender, or risk being destroyed if we resist. The bitter experience of confrontation between domination-seeking powers and the oppressed masses is too evident to be hidden to anyone.

In political confrontations the enemy uses the mask of science and culture to deceive us. But in reality its only wish is to induce a people to surrender to its wishes and serve its interests, and to appropriate all of the victims' resources to serve the imperialist power.

Although the West has no qualms about using the most repressive and violent techniques, even its military and overtly



oppressive measures are shrouded in seemingly humanistic and misleading guises that divert public opinion from reality.

When colonial powers violate other peoples, they never concede that their aim is to rob the victims' resources or to subjugate them politically. Instead, by abusing their persuasive powers, they try to disguise their crimes through words and ideas that are acceptable to all of humanity. From old times, colonial powers have used the excuse of developing and civilizing other peoples to violate them and rape their lands. Today, like before, the political motto of the West remains defending freedom, human rights, and democracy.

At this juncture our struggle against the West is central to our survival. Any form of reconciliation and appeasement, given the penchant of the opponent for deception, will lead to nothing but our debasement and trampling on our pride. We must struggle against this with all our might, and victory is not beyond our reach. We must depend on God and ask for His guidance, relying on our own historical identity which we have regained through our revolution. With faith in the power of an awakened people and by strengthening the desire for independence and freedom, we must stand firmly opposed to an enemy that lacks humanitarian incentives. This is indeed possible. The awesome resistance of our nation to the conspiracies and crimes of the oppressors can be a lesson for all nations who wish to regain their independence and pride.

Yet, while ignoring the politically treacherous goals and conspiracies of the West can be catastrophic, we cannot see the West merely in political terms or reduce its whole civilization to political issues. This would also lead us to a harmful dead end.

Western civilization is not limited to its political aspects. Alongside Western politics, there is a system of values and thinking which we must also come to understand and learn to deal with. Here we are confronted with our philosophical and moral opposite, not just with a political rival. To understand the West, the best tool is rationality, not heated, flag-waving emotionalism. Not just here, but nowhere can force offer an effective response to a way of thinking that we consider flawed. That would be self-defeating and counterproductive.

However, mired as they are in shallowness and hype, it is possible that opportunists will take any thought and culture that

their audience dislikes and give it political salience and call it a conspiracy to destroy their political base. This does not come from contemplation but from the need to justify their irrational encounter with opposite views, obviating the need for education and a more powerful logic. This is very common among the overly politicized.

Resorting to force is appropriate in confronting a military invasion, conspiracy, or political sabotage. But the way to oppose thought and culture is not through the use of military, security, and judicial means, for using force only adds fuel to the opposite side's fire. We must confront the thought of the opponent by relying on rationality and enlightenment and through offering more powerful and compelling counter arguments. Only comprehensive and attractive thinking can repel this sort of danger. If we do not possess such logic and knowledge, we must endeavor to attain it as our first priority. Islam furnishes us with such a capability. And if some Muslims are devoid of it, the fault lies with them, not with Islam.

If, God forbid, some people want to impose their rigid thinking on Islam and call it God's religion—since they lack the intellectual power to confront the opposite side's thinking on its own terms—they resort to fanaticism. This merely harms Islam, without achieving the aims of those people.

In rejecting the West we wish to free ourselves from its political, mental, cultural, and economic domination, for as Muslims, we differ from them fundamentally in world view and values. Thus, to understand our points of contention and to negate the rival's domination, we have no choice but to appraise and understand the West precisely and objectively.

We have to keep in mind that Western civilization rests on the idea of 'liberty' or 'freedom'. These are indeed the most cherished values for humanity in all ages, and to be fair, Western civilization's march from the Middle Ages to modern centuries has broken many superstitions and chains in thought, politics, and society. The West has indeed freed humans from the shackles of many oppressive traditions. It has successfully cast aside the deification of regressive thinking that had been imposed on the masses in the name of religion. It has also broken down subjugation to autocratic rule. These are all positive steps and adaptive to the traditions of creation. Yet, at the same time, the view of the West about humans and freedom has been rigid and one-

dimensional, and this continues to take a heavy toll on humanity.

When confronting the opponent in the name of rejecting the West and defending religion, if we stifle freedom we will have caused a great catastrophe. Neither the traditions of creation allow this nor does Islam desire it. But if rejecting the West means critiquing its view of freedom, humanity, and the world, then we will have achieved our most fundamental historical mission.

Indeed, we take issue with the West on the notion of freedom. We do not think that the Western definition of freedom is complete. Nor can the Western view of freedom guarantee human happiness. The West is so self-absorbed in its historical setting and thoughts that it cannot see the calamities that its incorrect view of humanity and freedom has caused. If we look at the West from the outside, we can objectively judge this issue. But achieving this important task requires much intellectual rigor and knowledge.

#### *Benefiting from the West's Experience*

As Western civilization becomes increasingly worn out and senile, humanity is today searching for a new vision for its future, awaiting a new civilization which is more capable of meeting its material and spiritual needs and wants. Through our Islamic revolution, we have endeavored to create a new system whose values and visions differ markedly from what is prevalent in the Western-dominated world. Can we claim that our Islamic revolution has opened a new chapter in human history?

As noted above, no civilization is independent of the influences of those that have preceded it. The nature of the human mind does not allow it to suddenly and completely dispense with the experiences and knowledge of previous times. The secret of the evolution of human life on planet earth is that every person and generation starts its movement where others have left off. If all generations started and ended at the same point, human destiny would be no different from that of bees. The difference between humans and other social animals is that humans learn from their past experience, improve upon it, and leave their achievements for the next generation. This process has continued uninterrupted for as long there has been a human race. Thus, there is no limit to human evolution.

Civilization, which is the fruit of humans' intellectual,

emotional, and practical endeavors, works the same way. A vibrant, civilization-building thought is a thought that incorporates all the positive aspects of the previous civilizations, digests it, and adds to it.

Now, on the basis of our popular revolution we wish to construct an Islamic system. But we can only think of our revolution as giving rise to a new civilization if we have the ability to absorb the positive aspects of Western civilization and the wisdom to recognize the negative aspects of it and to refrain from absorbing them. This means that if we can break through the dead ends that the West has reached because of its values, and pass through them unscathed, we will succeed in our mission.

If we must adopt the positive features of Western civilization, simultaneously casting aside its deficiencies, we have no choice but to understand the West correctly and comprehensively in the first place. We must judge it fairly and objectively and learn from and use its strengths, staying clear of its defects by relying on our revolution's Islamic values. It is obvious that this approach is different from a rigidly political appraisal of the West. Those who cannot separate the political West from the nonpolitical West are acting against the interests of the nation and the Islamic revolution, even though they may be doing so inadvertently. Here, introspection, rationality and objectivity will be effective, not harsh words and violence.

#### *The Difficulties of Our Revolution*

In all fairness, our Islamic revolution has been the source of great transformations in many corners of the world, and we, as the source of revolution, are naturally the most affected by these transformations. In the wake of our revolution, we have a mission which is as grand and formidable as the challenges we encounter. Passing through this difficult stage requires much wisdom and far-sightedness, as well as patience and perseverance.

Although Islam had existed for centuries in the collective consciousness of believers as a collection of thoughts and values, our revolution propelled it into the contemporary political and social sphere, where it stands steadfast against its opponents. At the same time, this development has brought three novel challenges to the fore: our people's expectations, the opponent's treachery and conspiracy, and discord within our society.

First, our people's expectations. Now that a new system based on new ideas has taken over the reins of governance, people expect a great deal from it. This is especially true of those who have sacrificed for the system. Before the Islamic revolution, people did not have many expectations because our economy, culture, politics, and educational system were dominated by the enemy, giving us the sense that we were not masters of our own fate. But as an Islamic and independent government has come to power—as all of the state's resources have been placed in Islam's hands—people have the right to expect the fulfillment of their needs and wants.

People wish to know specifically how the new system will regulate their lives and guarantee their rights. They also want to know the system's policy toward science, and technology, as well as social justice and equity.

At this juncture, people will not be satisfied with promises alone; they want real, tangible, and practical results. Our system will be successful only if it can meet these expectations.

Some expectations are undoubtedly unrealistic. No government can work miracles overnight and eradicate all bottlenecks. Nor have all of people's expectations been based on a realistic appraisal of available resources. It is conceivable that unrealistic visions as well as impractical and unattainable ideologies have spurred these exaggerated expectations. Still, government must have the power to satisfy people's needs and guide them to modify their expectations and views. If it is not possible to meet all expectations—and it is not—at least people have to be convinced that our orientation is generally toward a fulfilling life, focused on meeting their spiritual and material needs.

Our society has to believe that what the revolution has offered and what it expects of people will simultaneously meet individual and societal needs, utilizing all of society's human resources and achievements. Society must also believe that our system is not burdened with the shortcomings and strains that bedevil our opponents. The natural expectations of people put officials and the elite under great pressure to perform, and the enemy fans the flames of people's expectations in various ways.

Second, the opponent's treachery and conspiracy. Before the victory of our revolution we had many theoretical disagreements with opposing schools of thought. Those confrontations were easy to carry out because there was no real friction. But when ideas are

put into practice and taken to the social and political sphere, opponents feel more threatened and thus resort to more violent and comprehensive confrontation.

Conspiracy to overthrow the revolutionary system, spying, economic pressure, fomenting pessimism and dejection among our people, attributing all our problems to the system's officials and portraying them as incompetent in meeting people's difficulties, and even resorting to military force to damage the revolution and its popular base, are among actions taken by opponents who see their interests threatened by the new system. Our great nation in this period has experienced all sorts of enemy conspiracies. Just when the system and its managers need people's calm and optimism more than ever to focus all their thoughts and ingenuity on meeting society's needs, we encounter a heavy storm of enmity and conspiracy that sometimes forces us to focus our scarce resources on counteracting the danger posed by the foreign enemy and its domestic sympathizers.

These are among our greatest difficulties at this juncture, and there is no other way than to confront these realities. In the midst of these pressing difficulties, we must persevere and march on with patience, confidence, and wisdom.

Third, discord within. In the last hundred years our society has experienced two acute woes which have weakened and undermined its fabric. These woes have become more chronic and troubling at this sensitive juncture in our history. One is secular intellectualism, the other being unenlightened religious dogma.

#### *The Secular Intellectual*

Our society has a religious identity. All throughout Shiism's history, the clergy have played a crucial role in awakening people to social pathologies, inciting them to fight injustice, awakening their religious identity. In our history, Islam has perpetually invited people to unity in religious belief, protecting their individual and social dignity. With their incessant calls to social justice throughout the history of Islam, populist religious leaders have served as society's most astute pathologists and healers.

That is why Muslim societies have never harbored a negative view of religion. This stands in stark contrast to Western societies where unsavory and misguided religious leaders have turned

people away from religion.

In the Muslim world, especially in Iran, whenever oppressed people have risen against tyranny, their activism has been channeled through religion. People have always witnessed the fiery and bloodied face of religious revolutionaries who have risen to fight oppression and despotism.

Our social conscience is replete with memories of the clash of true believers with hypocrites who have used religion to justify people's misery. Our part of the world has witnessed the historical antagonism between truth and justice-seeking religion and the oppressive and misguided views of religion that have been the tool of oppressors.

Is it not true that in the history of Islam, religion has opposed religious and secular tyranny? Have not most martyrs of truth been religious activists? Is it not the case that over the past hundred years, religion has been the greatest champion of the fight against despotic agents of colonialism? Has not the experience of religious struggle, among other revolutionary and nationalist experiences—some of which are worthy of praise—been the most successful?

Our society is religious and it is natural that secular intellectuals have never enjoyed a social base or a place in our people's hearts.

Unfortunately what has been called intellectualism in our society has been a movement that has been superficial and cut off from the people. Never has the voice of self-appointed intellectuals traveled beyond the cafeterias and coffee houses where they have posed as a political opposition. Even if people have heard their voice, they have found it incomprehensible. Thus, there has never been any mutual understanding.

And if public-minded intellectualism came to the fore and gained respect, it was through people who cast their claims in authentic, traditional, and religious terms. This was the reason for the vast popularity of figures such as Jalal Al-e Ahmad<sup>3</sup> and Ali Shariati.<sup>4</sup> These two were real intellectuals, and our society

<sup>3</sup> *Translator's Note:* Jalal Al-e Ahmad (1923-1969). Seminal and prolific Iranian writer who popularized the effects of the cultural imperialism of the West or 'Westoxication' among his generation.

<sup>4</sup> *Translator's Note:* Ali Shariati (1923-1977). Iranian sociologist and

felt that they were a part of the people and spoke to the people's pains and concerns.

The secular intellectual, knowingly or not, pours water into the enemy's mill, the same enemy who is against our independence, who opposes our people's authentic culture, religion, and freedom. History testifies that this group has on the whole been on the same side as, and has sometimes actively cooperated with, despotic systems propped up by foreigners. But fortunately, because it lacks deep roots in our culture and people's souls, it has not had much effect. Today also, I believe secular intellectuals present no real danger, even though they may foment chaos in the minds of the young and other susceptible parts of society, or provide a foothold and opening for the enemy to penetrate society.

#### *Religious Dogma*

The other main problem we face is the parochialism and regressive visions of dogmatic believers. Religious dogma is nothing more than ascribing sanctity and eternity to limited and incomplete human interpretations, and giving priority to emotions over rationality and realistic appraisal.

If we ask dogmatic believers—who may see themselves as thinkers and intellectuals—what they expect from the revolution, they claim that they want a return to Islamic civilization.

We must alert such people that their wishes are anachronistic. The specific thoughts that underpinned Islamic civilization ended with the passing of that civilization. If it had maintained its dynamism, relevance and ability to provide answers to people's problems, that civilization would have endured.

Dogma presents the most formidable obstacle to institutionalizing a system that wishes to provide a model for the

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reformer of religious thought who played an important role in bridging the gap between Islamic thought and modern Iranian intellectuals. His numerous books and speeches, widely disseminated before the 1979 revolution, were instrumental in arousing Islamic revolutionary sentiment among Iranians.

present and future of human life, a system based on a more powerful logic than competing schools and ideologies.

The effect of dogma on our society which has a religious identity is vast. Its negative effect is greater than secularism, especially because dogmatic believers usually project the aura of religious legitimacy. Their religious duties compel them to act but they have no connection to authentic Islam, the Islamic revolution, or to the present and the future.

Imam Khomeini,<sup>5</sup> especially in the last two years of his life, was deeply concerned with the danger that dogma and backward vision posed to the revolution's path and the progress and welfare of Islamic society. In line with all of Imam Khomeini's warnings, vigilance about this phenomenon is crucial to us and the future of the Islamic revolution.

#### *The Void in Religious Intellectualism*

Here I want to touch on one of the most important deficiencies of our society at this sensitive juncture, hoping that it spurs debate among thinkers, irrespective of whether they accept my proposition or reject or modify it.

In my view, the greatest defect we have in the sphere of thought and development is the lack or weakness of religious intellectualism, even though I see the ground as ripe for its emergence and growth.

An intellectual, in my view, is one who lives in his own time and understands the issues and problems confronting humanity in that period. He keenly pursues such knowledge, and because he understands the problems of the day, he represents the only hope for finding solutions to those problems. For how can we expect someone to solve a problem when he does not know that a problem exists? Here, moral rectitude will not suffice. Nor will knowledge by itself. A moral person who is a moving encyclopedia but lives outside his time, for whom the most pressing problems are for example the second and third Islamic centuries, cannot solve even the smallest of today's problems, for today's problems do not

<sup>5</sup> *Translator's Note:* Ayatollah Ruhollah Khomeini (1902?-1989). Leader of the Iranian revolution of 1979 and the founder of the Islamic Republic of Iran.

interest him.

In contrast, the main quality of an intellectual is that she lives in her own time, taking on a social responsibility, her mind constantly curious and restive about reality and human destiny. An intellectual is one who respects rationality and thinking and also knows the value of freedom.<sup>6</sup>

#### *Who is a Religious Believer?*

A believer is one whose vision of being transcends the small cage of the material, and while he sees humans as having come from nature, he does not see them as limited to the natural world. Instead he sees every human as bigger than the whole of nature, because nature is limited while humans are, in a way, limitless and eternal. Just as the questions and needs of humans know no limits, time and space cannot limit and circumscribe humans in their narrow bounds. For this reason, humans look at the future and at the past, and with the aid of their mental faculties break the bounds of nature to find the gateway to transcend it.

The religious intellectual is one who loves humanity, understands its problems, and feels a responsibility toward its destiny and respects human freedom. She feels that humans have a divine mission and wants freedom for them. Whatever blocks the path to human growth and evolution, she deems as being against freedom.

Our dynamic society at this sensitive juncture badly needs religious intellectuals. If religion and intellectualism are combined, we can hope that our great Islamic revolution will be the harbinger of a new era in human history. But if these two are separated, each will endanger the health of society.

When you mention God to secular intellectuals, they say they prefer to focus on humans. When you mention humans to the dogmatically religious, they say they prefer God. But the religious intellectual seeks 'Godly humans', a creation whose emergence is as pressing a need today as it will always be.

<sup>6</sup> My interpretation of the intellectual is based on convention. I use this concept to refer to actual, existing individuals. Others may have interpretations that do not allow a combination of intellectualism and religious belief. But it is unwarranted to confine ourselves to the prejudiced interpretation of a certain social group.

## INTRODUCTION

Augustus Richard Norton

The global trend toward more open political systems is by no means immutable, and autocratic rule is certainly not obsolete, but “democracy” vibrantly resonates in all of the corners of the world. The simple ideas that people should have a voice in decisions that effect their lives, that government should respond to citizens’ needs, that people have a right to not be mistreated by their rulers seems to provoke little controversy, except, that is, until we come to the Middle East and, particularly, the Arab world. There democracy is said to have little resonance.

Judging from recent articles in leading journals of opinion like *Foreign Affairs*, a new global bipolarity is emerging.<sup>1</sup> Unlike the Cold war, the yawning divide is not ideological but cultural. Yet, the stakes are every bit as high as during the Cold war when vast collections of people were ideologically summarized. Today, there is an alarming tendency for informed observers to argue passionately for basic freedoms in the West, while reacting with utter skepticism to the simple proposition that these same basic freedoms also have a home in the world beyond the familiar confines of “our” world. Any dichotomization of humanity is alarming, but this one also has a self-fulfilling quality to it, especially since leading statesmen and policymakers in the West now contemplate building policies on the presumption that the world is cleaved culturally between those with a yearning for freedom and those content to live in bondage.

The central arena for civilizational jousting between Muslim societies and the West is the Middle East. Not surprisingly, western arguments to the effect that the people of the Middle East are—in the main—ill-suited not to say hostile to democracy, have been music to the ears of autocrats who have repaired their frayed partnerships with the denizens of western policymaking circles, producing, at times, some unsavory alliances. The coins of the realm in these circles are stability and order. Thus, vocal advocates of elections and political participation are suddenly mute when they step into Middle Eastern realms. Often, the silence

<sup>1</sup> Samuel P. Huntington, “Clash of Civilizations?” *Foreign Affairs* 72, no. 3 (Summer 1993): 22-49.



is loud indeed, as in 1992 when the Algerian army nullified elections or in 1993 when successful elections in Yemen were met with studious diplomatic indifference in major western chanceries.

Nonetheless, the authoritarian rulers of the region confront burgeoning demands and continuing erosion of their legitimacy. The end of the Cold war has made the rulers' dilemmas even more severe, since they may no longer count on the automatic support of a world power, and since they have lost one rationale for maintenance of muscle-bound national security states.<sup>2</sup> As the end of the Arab-Israeli conflict appears increasingly plausible, if not over-determined, a related complication emerges for governments that have justified domestic shortages, the diversion of civilian resources to support the military, and the suspension of basic political rights by recourse to the Arab-Israeli conflict. Arguably, as the reality of an end to this central conflict sinks into public consciousness in the Arab countries and perhaps in Israel as well, demands for a share of the "peace dividend" will be heard. The Middle East after the Arab-Israeli conflict will likely experience an acceleration in domestic political crises, as well as a rejuvenation of domestic political opposition to the present governments.

Important experiments in opening up political space are underway in Jordan and Kuwait, and until civil war erupted in 1994, a fascinating experiment in democratization was unfolding in Yemen. Incipient political openings in Algeria and Tunisia have been harshly reversed—in the first instance quite abruptly, while in the second the clamps are being applied somewhat more gingerly. A loosening of the clamps, driven by the need to liberalize the stagnant economy, has started in Syria, although one would have to be an incorrigible optimist to foresee very quick positive results on the political liberalization front. In neighboring Lebanon, the restoration of free political life remains a prospect under the leadership of Prime Minister Rafiq Hariri, although the intimidating influence of Damascus is not reassuring, nor are Mr. Hariri's anti-liberal tendencies. In non-Arab Iran, the revolution has come to an end, associational life is reviving and elections are technically fair, if still ideologically constricted. Meanwhile, in the Arab Gulf states incipient democracy movements are trying to find their footing, and rulers have rejoined by bestowing consultative councils (sing., *majlis al-shura*) in Bahrain, Oman and, most notably, in Saudi Arabia. At best, these

<sup>2</sup>To use the term "national security state" to Shibley Telhami, who used it at the inaugural meeting of the Civil Society in Middle East program, held at Princeton University, in February 1992.

appointive bodies are several steps away even from inchoate legislatures, but the direction of change is not in dispute. These are small increments of change obviously, hardly major experiments in liberalization or democratization.

If western observers express cynicism about democracy's short term prognosis in the Middle East, many of those who govern these societies are acutely aware that business as usual is not the answer. Indeed, although the Algerian attempt to foster a multiparty democracy was badly flawed, and ended disastrously, other, less discouraging experiments are underway in Jordan and Kuwait. These latter experiments are little known in the West, except among specialists, and this lacuna in public debate illustrates why informed discussion could stand some stimulation.

In each case, non-democratic regimes have calculated recently that political reform is a good survival strategy, and, as a result, have fostered reasonably fair elections (twice, in the case of Jordan). The resulting discernible, if subtle improvement in political life contrasts dramatically to the majority of Arab states where elections are acts of compliant approval and contestation is rare.

While there is wide disagreement about the outcome, there has long been little doubt that the regimes in the region are under increasing pressure from their citizens. In some instances, rulers—prisoners of their own promises to lead their people to glory—are under siege from citizens no longer willing to buy empty promises or tolerate self-serving and incompetent officials. Repression at the hands of the state has become a topic of public discussion, and human rights activists, though still relatively few in number, have become increasingly vocal. In short, the region's governments, especially the Arab ones, are facing persistent crises of governance. None of this is meant to imply that all Middle East governments will choose the path of political reform, even less democratization. In some cases, those at the helm will stubbornly resist reform and even strive to turn back the clock, but it is hard to imagine that these tactics will succeed. Other leaders will attempt reform, and not because they wish to relinquish power, but because they seek to keep it. Some two dozen states comprise the Middle East. General predications can hardly account for the vagaries of leadership, the play of chance, or the disparate roles that external powers will fulfill. Nonetheless, the pressures for change are general and growing, although they are obviously not equally intense in all states.

The Gulf war of 1990-91 did not create or unleash the discontent and

the disdain that widely characterizes popular perspectives on government, but the war certainly accelerated the crisis by highlighting the inefficacy and the weakness of many of the regimes. Western pundits, particularly American ones, looked for eruptions in the street, and were reassured to find so few of them, but the impact of the war was more subtle than sound-bite profundities about the "Arab street" imply. In fact, pressures for change have been building steadily for almost three decades. The Gulf war provided a glimpse of the discontent and the routine repression of authoritarian governments that is usually masked from view. The war also exposed the divisive animosities that divide rich Arab states from poor ones, and put lie to the proposition that aid transfers, even generous ones, by the wealthier Arab states will sate popular discontent and anger.

Only in a handful of Middle East countries, notably Israel and less emphatically Turkey, is there a functioning, participant political system in which people vote regularly and meaningfully, where the freedom to speak freely is protected and where the rights of the individual enjoy significant respect. In many other instances, elections are shamelessly rigged, individual rights are pillaged and free association is prohibited. Time-honored remedies are still plied—co-opting critics, bribing recalcitrants with privileged access to power and to deals, locking up dissenters, and worse—but the scope of failure is so broad that few rulers have pockets deep enough or jails large enough to cope with the problem in the familiar ways. Even repression ceases to be effective at certain point, as Michael Hudson noted in 1988: "I would suggest that until recent years the costs of suppression have been lower than the costs of toleration, but that situation may be changing."<sup>3</sup>

The trends outlined here reflect global trends as well, especially the powerful demonstration effect of the momentous events in Europe since 1989. Middle Eastern autocrats have been no more successful in insulating their realms from the global revolution in communications, than autocrats in Africa and Asia. The Middle East is bombarded with information. Moreover, as Alan Richards succinctly argues here, the flow of information is part and parcel of the free market and to try to stifle that flow would be a fool's errand for any state pursuing economic liberalization. Even without the penetration of the electronic media or the fax machine, hundreds of thousands of labor migrants, moving back

<sup>3</sup> Michael C. Hudson, "Democratization and the Problem of Legitimacy in Middle East Politics," Presidential address of the Middle East Studies Association, 1987, *Middle East Studies Association Bulletin* 22 (1988): 157-171, quotation from p. 165.

and forth across the region, carry powerful images of change and dissent. The new language of politics in the Middle East talks about participation, cultural authenticity, freedom and even democracy. No doubt, the defining flavor of the 1990s is participation.<sup>4</sup> Like Coca Cola, "democracy" needs no translation to be understood virtually everywhere, yet the vocabulary of democracy is more succinct than the institutional variations that democracy may assume. There is no reason to presume, a priori, that one variant or another of western democracy is especially adaptable to the other locales. Instead, scholars must be alert to the possibility that the Middle East will evolve its own characteristic style of democracy, no doubt with an Islamic idiom in some instances.

Although skeptics abound, the last few years have seen a striking amount of speculation and discussion of the prospects for political liberalization in the Middle East, and particularly in the Arab world. Middle East rulers are talking, in cautious tones to be sure, about the need to renovate their political systems. Granted, their view of political change often amounts to little more than democracy by decree. Neither Thomas Paine nor Thomas Jefferson would be much impressed, but we need not belabor the arrogance of imposing an exogenous ideal-typical model of democracy. By now, it should be transparent that there is no single template for political reform in a region as diverse as the Middle East. A cynic might conclude that the goal, especially in those states in dire economic straits, is simply to spread the blame for failed economic policies, for spectacular rates of unemployment and underemployment, and for inadequate public services. Certainly, the discovery of a democratic vocabulary does not stem from idealistic conversion, but from pragmatic conclusions about the need to relieve pressure and vent political steam, as well as the shrewd recognition that democratization wins international favor. The result may look more like Singapore than New York, but that is not a choice to be made here.

Some political leaders have been willing to liberalize, but none has been willing to comprehensively democratize. Liberalization refers to reformist measures to open up outlets for the free expression of opinion, to place limits on the arbitrary exercise of power, and to permit political association. In contrast, democratization, namely, freely contested elections, popular participation in political life and—bluntly—the unchaining of the masses, has not occurred. Indeed, the electoral successes of the Islamic Salvation Front (FIS) in Algeria, and the disastrous spiral of

<sup>4</sup> As Albert Hourani noted in a letter to this writer in 1991.

events since the coup d'état of January 1992, have doubtlessly reinforced the anxiety that open elections inspire in the minds of people practiced in thwarting dissent and untutored in the contesting of genuinely open elections.<sup>5</sup> At the same time, Arab intellectual elites who previously emphasized the imperative of democratization have now discernibly cooled on the project fearing that home grown Islamists would replicate the electoral successes of FIS, and would therefore offer the prospect of replacing one variety of authoritarian rulers with another. The grounds for these fears needs to be addressed, of course, and the basic issues are introduced in this chapter.

### *The Authoritarian Paradox*

Why are authoritarian governments prevalent in the Middle East? Culturalist explanations leave us with a very pessimistic picture of societies condemned to despotism by virtue of deep-seated patterns of endogamy, patriarchalism and patrimonialism, or by virtue of the pervasive influence of Islam. Jill Crystal reminds us however, that the question is not simply the absence of democracy, but the presence of authoritarianism with its signature institutions of oppression and control, its ideology and its underlying political economy.<sup>6</sup>

Until recently, the comparative political history of Middle East governments has been a story of attempts to mobilize support and instill legitimacy around the notion of political unity and the imperative of social solidarity.<sup>7</sup> Leading examples include Jamal 'Abd al-Nasir's experimentation with mobilization politics in Egypt, particularly through the Arab Socialist Party, and Shah Muhammad Reza Pahlavi's ventures in political party creation, aptly described as pseudo-participation.<sup>8</sup> These efforts failed.

Notwithstanding the ruler's emphasis on creating unity and solidarity, the paradox is that the result has been actually the opposite, namely that such socially familiar and divisive forms of association, as family, clan and sect, have become a refuge in times of peril and the only secure base for structuring even modest political action. Thus, ancient hatreds

<sup>5</sup> Volume II of this set will contain John Entelis' study on Algeria.

<sup>6</sup> Jill Crystal has developed this theme in "Authoritarianism and Its Adversaries in the Arab World," *World Politics* 46, no. 2 (January 1994): 262-289.

<sup>7</sup> See John Waterbury and Alan Richards, *A Political Economy of the Middle East* (Boulder: Westview Press, 1990), esp. the chapter on "solidarism," pp. 330-52.

<sup>8</sup> For a well-crafted treatment of pseudo-participation see Jerrold D. Green, *Revolution in Iran* (New York: Praeger, 1980).

and timeworn claims do not persist because people in these societies reject more inclusive, more participant forms of government, but because their present authoritarian governments breed exclusivity and thwart open participation. In short, authoritarianism and sectarianism, and other social particularisms, go hand in hand.<sup>9</sup> In his chapter on Syria, Raymond Hinnebusch generalizes about authoritarian-populist regimes: "While they exercise their power through the military and bureaucracy, they lack a stable social base in a dominant class (aristocracy or bourgeoisie) and, therefore, substitute the use of primordial (kinship, ethnic, regional) 'asabiyyah and patronage to assure elite solidarity and the deployment of Leninist party organization and corporatist association to incorporate a popular constituency."<sup>10</sup>

### *Civil Society in the Middle East*

The symbol of democracy is the contested election and the secret ballot. This is altogether understandable, since the right to cast a meaningful ballot free of coercion is a metaphor for a participant political system. But, democracy does not reside in elections. If democracy—as it is known in the West—has a home, it is in civil society, where a mélange of associations, clubs, guilds, syndicates, federations, unions, parties and groups come together to provide a buffer between state and citizen.<sup>11</sup> Although the concept of civil society is resistant to analytical precision, the functioning of civil society is literally and plainly at the heart of participant political systems.

In fact, the icon of the global trend of democratization is civil society. In the face of repression in Latin America, Eastern and Southern Europe, civil society is sometimes credited with thwarting authoritarian designs and challenging arbitrary rule. Nonetheless, civil society did not topple regimes, as much as the regimes crumbled from internal corruption and hollow claims for legitimacy. Civil society was more the beneficiary than the wrecking ball. Moreover, civil society is often idealized as an unmitigated good thing. Like any social phenomenon, civil society can, and, often, does have, a negative side. Self-interest, prejudice and hatred

<sup>9</sup> For a compelling polemical development of this argument see Samir al-Khalil [Kanaan Makiya], *The Republic of Fear* (Berkeley, CA: University of California Press, 1989).

<sup>10</sup> Raymond Hinnebusch, in this volume, p. 239.

<sup>11</sup> This definition of civil society, though developed independently, is similar to the one offered by Bryan S. Turner, "Orientalism and the Problem of Civil Society in Islam," Asaf Hussain, Robert Olson, and Jamil Qureishi, eds., *Orientalism, Islam, and Islamists* (Brattleboro, VT: Amana Books, 1984), p. 27.

cohabit with altruism, fairness and compassion, and the unrestrained free play of civil society is a chilling thought, not a warm and fuzzy one.

Civil society speaks in a myriad of voices. The vanguard of civil society has been human rights activists, religiously-inspired protest movements, artists, writers and professional groups of lawyers, doctors or engineers who insist on governmental accountability and thereby expose the excesses and the weaknesses of authoritarian rulers. There is no denying the awe-inspiring courage that must be summoned to speak out, to demonstrate, to stand one's ground in circumstances where the policing apparatus is both ubiquitous and untethered by legal restrictions, where the sovereignty of the individual is a gift rather than a right.

Civil society is also grounded in a free economic market and the quest of the bourgeoisie for political differentiation from the state. As Simon Bromley notes, the rallying cry of the bourgeoisie has been liberalism not democracy, but the formation of a civil society is enabling for democracy.

[A] liberal civil society provides both the structural underpinning of representative democracy and the terrain on which an organized working class can develop. Historically, the latter have proved to be not capitalism's 'grave-diggers' but its democratizers.<sup>12</sup>

The fostering of civil society is a crucial step toward realizing a freer Middle East. One is hard pressed to design a participant political system which could survive very long in the absence of a vibrant civil society. In short, the existence of civil society is central to democracy.

However, civil society enthusiasts often contain their excitement when it comes to the Muslim world, and especially the Middle East. There, civil society is said to be deficient, corrupt, aggressive, hostile, infiltrated, co-opted, insignificant, or absent, depending on which observer one prefers to cite. For instance, in widely read essay, Ernest Gellner notes that Muslim societies "are suffused with faith, indeed they suffer from a plethora of it, but they manifest at most a feeble yearning for civil society."<sup>13</sup>

One way, an important way, of assessing the quality of political life in the Middle East is to inquire into the status of civil society there, to plumb their "yearning" for civil society. As Saad Eddin Ibrahim notes here, there has been impressive growth in associations since the mid-

<sup>12</sup> Simon Bromley, *Rethinking Middle East Politics* (Austin, TX: University of Texas Press, 1994), p. 167.

<sup>13</sup> Ernest Gellner, "Civil Society in Historical Context," *International Social Science Journal*, no. 129 (August 1991), p. 506.

1960s to the late 1980s. During this period the numbers grew from 20,000 to 70,000. Of course, only a minority are active and effective. Ibrahim cites a recent study in Egypt showing that 40% of registered associations are actually viable. Among the interesting blossomings of civil society is the emergence of political parties, including 46 in Algeria, 43 in Yemen, 23 in Jordan, 19 in Morocco, 13 in Egypt, 11 in Tunisia, and 6 in Mauritania. But, far more important are the professional syndicates (*niqabat*) which have sometimes given shape to politics. In Sudan, the professional associations effectively overthrew the government in both 1964 and 1985. Significantly, the present Islamist-cum-military government of Sudan rushed to regulate and stifle syndicates, apparently to preclude a reprise. In Egypt, Morocco and Tunisia, the syndicates have often been potent players, not least because of their linkage to international counterparts that enable them to enlist moral protection from abroad.

If, as we assume here, a vital and autonomous civil society is a necessary condition of democracy (though not a sufficient one), what does the present status of Middle East civil society portend? More fundamentally, does civil society exist in the Middle East?<sup>14</sup> Many observers are doubtful that civil society, particularly in the Arab world, is sufficiently diverse or mature to lend durability to open, participant systems.

Moreover, a number of respected scholars have expressed skepticism that vibrant, autonomous civil societies will soon emerge in the Arab countries, considering the statist economies that stifle free association and the intolerance of populist Islamist movements. In the Middle East, and particularly in the Arab states, democracy has been bestowed rather than won, and, as the Algerian example illustrates, the gift may be revoked. Gudrun Krämer's comment is to the point:

The experiments in controlled liberalization that have occurred so far seem to be notable for the absence of what are commonly regarded as basic socio-economic, political and cultural prerequisites of liberal democracy, such as involvement of broad sectors of "civil society," government dependence on internal mobilization of resources rather than oil or political rent, and a stable regional environment.<sup>15</sup>

Recent writings by leading scholars tends to endorse Krämer's skepticism.

<sup>14</sup> The absence of a civil society to counter-balance despotic power was taken to be a marker of Oriental society by Karl Wittfogel in *Oriental Despotism* (New Haven, CT: Yale University Press, 1957), and it is this lacuna that lies at the heart of the Orientalist analysis.

<sup>15</sup> Gudrun Krämer, "Liberalization and Democracy in the Arab World," *Middle East Report*, no. 174 (January-February 1992), pp. 22-25, 35; quotation at p. 22.

John Waterbury refers to the "non-nurturing environment" of the Middle East<sup>16</sup> and Michael Hudson reveals that he is more pessimistic than he was only a few years ago about the chances for democracy in the Middle East.<sup>17</sup>

Syria is a case in point. In his article here, Raymond Hinnebusch argues that economic liberalization in Syria is intended to broaden the regime's political base and to lift disabling economic controls stemming from Syria's failed statist experiment. Though the process is moving forward at a restrained pace, Hinnebusch notes that one result may be a more active civil society but not democracy. Syria's traditional merchants, until recently, were politically muffled and over-regulated. The merchants are benefiting from the economic reforms and are regaining influence in the process. In short, Hinnebusch is pointing to an increasing scope for civil society in Syria. These developments may have significant consequences for the stability of Syria when the inevitable moment of succession arrives. As Hinnebusch notes, it is unlikely that the reemergent civil society will give rise to pressures for democracy. The Syrian regime has grounded its legitimacy in the peasantry and the working class, and the promotion of democracy would, Hinnebusch surmises, enliven anti-capitalist populist forces. Although analysts prone to essentialist arguments posit a post-Hafiz al-Asad struggle along sectarian lines, Hinnebusch's argument points to a different logic of competition. The strata of the society that has benefited from Syria's state dominated economy will be at odds with the revived merchant class.

There is no disguising the western origins of the civil society concept, but the lineage of the concept should be largely irrelevant. The idea of civil society is potent analytically insofar as it exposes an important array of research questions. Applying the concept in the Middle East is not an exercise in imposing alien social values on the region, any more than exploring aspects of religiosity can be construed as proselytizing. For policymakers, activists, politicians and others committed to the buttressing or building of civil society, the study of civil society is unlikely to uncover a magic formula or reveal surefire prescriptions.

<sup>16</sup> John Waterbury, "Democracy without Democrats? The Potential for Political Liberalization in the Middle East," in Ghassan Salamé, ed., *Democracy without Democrats?* (London and New York: I.B. Taurus, 1944), pp. 23-47.

<sup>17</sup> Compare Hudson's "Democratization and the Problem of Legitimacy in Middle East Politics," *MESA Bulletin* 22, no. 2 (December 1988): 157-171, to his August 1992 testimony before the U.S. House of Representatives Subcommittee on Europe and the Middle East of the Committee on Foreign Affairs, August 1992.

Instead, the contribution is a more fundamental one, namely to provide an outline image of Middle East civil society without getting bogged down, unnecessarily, in post-modernist obfuscation or ideal-typical fixations.

One deft appreciation of civil society has stressed the historical specificity of the concept, while expressing doubt that the idea of civil society can travel much beyond western Europe and the United States, but this conclusion smacks of a familiar problem: a confusion of the ideal-typical and with the real world.<sup>18</sup> Certainly, the reality of civil society in the West, often contrasts sharply with ideal-typical civil society. Recent examples from eastern and central Europe, as well as from some quarters of the developing world, counsel that a categorical rejection of the idea of civil society in the Middle East is unwarranted, not least because the idea of civil society is fast becoming part of the indigenous intellectual and policy dialogues.

The existence of a civil society implies a shared sense of identity, by means of, at least, tacit agreement over the rough boundaries of the political unit. In a word, citizenship, with associated rights and responsibilities, is part and parcel of the concept. Citizenship underpins civil society. To be a part of the whole is a precondition for the whole to be the sum of its parts. Otherwise, society has no coherence, it is just a vessel filled with shards and fragments. Thus, the individual in civil society is granted rights by the state, but, in return, acquires duties to the state. All governments, but particularly autocracies, tend to trivialize citizenship, emphasizing displays of citizen support and patriotic ceremonies, while paying only lip service to the rights of citizenship.<sup>19</sup> Where the state, through its depredations and failures has lost the loyalty of its citizens, citizenship is an early casualty. As legitimacy crumbles, civil society threatens to fragment as well. It is meaningless to speak of civil society in the absence of the state.

Civil society is more than an admixture of various forms of association, it also refers to a quality, civility, without which the milieu consists of feuding factions, cliques, and cabals. Civility implies tolerance, the willingness of individuals to accept disparate political views and social

<sup>18</sup> Adam B. Seligman, *The Idea of Civil Society* (New York: The Free Press, 1992).

<sup>19</sup> This observation is borrowed from Guillermo O'Donnell and Phillippe C. Schmitter, *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies* (Baltimore: Johns Hopkins University Press, 1986), p. 48.

attitudes; to accept the profoundly important idea that there is no right answer.<sup>20</sup> I would like to emphasize that it is as relevant to look for civility within associations as it is to observe it between them. Ironically, groups which espouse democracy and other commendable values often do not exemplify these values internally.

Thus, a robust civil society is more than letterhead stationery, membership lists, public charters and manifestoes. Civil society is also a cast of mind, a willingness to live and let live. The antithesis of civility was grimly revealed by a gunman arrested in the June 1992 killing of Farag Fouda, the Egyptian secularist and critic of Muslim fundamentalism: "We had to kill him, because he attacked our beliefs."<sup>21</sup>

Unfortunately, civility is a quality which is missing in large parts of the Middle East. As Mustapha Kamil al-Sayyid observes in his cogent article, even in Egypt, widely revered for an active associational life, civil society is undermined by a deficit in political toleration and constricted by arbitrary government regulation. The absence of civility counsels skepticism about the short-term prospects for democracy in the region; however, if the art of association, as de Tocqueville called it, can be learned, then the promotion of civil society is no less than the creation of the underpinnings of democracy.

When groups and movements do emerge they often come in the form of human rights and women's movements. Both assert fundamental moral claims, namely the dignity of the person and the equality of the individual. Since the claims of such groups are truly basic ones, they are not easily assailed, at least explicitly, by the authorities of the state. Accordingly, they may enjoy more freedom of action than political opposition forces, or those groups which wish to affect the allocation of economic resources. These groups may also be less susceptible to co-optation, since their demands may not easily be assuaged by privilege, position or cash.

Though elements of civil society are likely to stand in opposition to the government, government must play the essential role of referee, rule-maker and regulator of civil society. Civil society, it needs to be emphasized, is no substitute for government. All too often, there is a

<sup>20</sup> See the timely essay by Edward Shils, "The Virtue of Civil Society," *Government and Opposition* 26, no. 1 (Winter 1991): 3-20.

<sup>21</sup> *The Economist*, June 13, 1992, p. 40.

tendency to commend civil society as a panacea, but the evidence is compelling that the state has a key role to play.

Democratization is neither the outright enemy nor the unconditional friend of state power. It requires the state to govern civil society neither too much nor too little, while a more democratic order cannot be built through state power, it cannot be built *without* state power.<sup>22</sup>

Influenced by the events in Europe, some scholars have widely asserted that civil society is the natural enemy of autocracy, dictatorship and other forms of arbitrary rule. For instance, examining Eastern European cases, Giuseppe Di Palma argues that civil society is an organic part of democratic systems, but that it is in opposition to absolutist regimes by definition.<sup>23</sup>

Yet, it is naive to expect civil society to topple the state. The interface between government and civil society will often be defined by cooperation rather than conflict. As Michael Bratton emphasizes, we need to be alert to the "more subtle strategies" that may be adopted, especially in non-democratic settings.

Just as we require a framework that enables us to account for citizen engagement as well as disengagement, we need to leave room for engagement between state and society that may be congruent as well as conflictual. And from a practical point of view, we cannot realistically expect fledgling civic associations to shoulder the onerous burden of opposition in a context where state elites are prone to equate opposition with disloyalty and treason. More subtle strategies than direct confrontation are required.<sup>24</sup>

Government remains crucial to the project of political reform in the Middle East, and political reform is vital to insure stability; not stability in any static sense, since it is obvious that the problems that plague governments—inefficacy, faltering legitimacy, and corruption—cannot be wished away. Instead, projects of reform must instill a dynamic stability and that means civil society must have room to breathe.

Given the integral central connection between civil society and democracy, the long-term prospects for successful democratization in Lebanon, Egypt and Iran may be better than is commonly assumed. Moreover, while the Palestinians lack a state, there are, as Muhammad Muslih notes, the stirrings of a vibrant civil society. Whatever political entity finally emerges on the West Bank and in Gaza, there is a sound

<sup>22</sup> John Keane, *Democracy and Civil Society* (London: Verso, 1988), p. 23.

<sup>23</sup> Giuseppe Di Palma, "Legitimation from the Top to Civil Society: Politico-Cultural Change in Eastern Europe," *World Politics* 44, no. 1 (October 1991): 49-80.

<sup>24</sup> Michael Bratton, "Beyond the State: Civil Society and Associational Life in Africa," *World Politics* 41, no. 3 (April 1989): 407-430, quotation at p. 418.



basis for attributing to the Palestinians a high potential for developing a participant political system. Elsewhere the prospects are more problematic, if not bleaker. In Iraq, civil society has been systematically decimated. Although in the Kurdish region associational life, if not civil society, has been rejuvenated, it is hard to imagine a durable participant system taking root in the entire country any time soon.

Ironically, the best opportunity to create a vibrant civil society may come in those states widely viewed as "traditional" or "backward." In cases where the state has not erected elaborate mechanisms for control and intimidation, nor fostered an enormous bureaucracy or a massive state elite, political development may follow different paths, though it is important not to underestimate the coercive power of even "weak" states. Yemen is an illustration. On the one hand, elements in proto-civil society—notably, some women's groups showed real vitality and assertiveness. Moreover, Yemen's strong tribal formations formulated quasi-liberal political demands upon government. In the run-up to the 1993 elections, when the government showed signs of attempting to shirk balloting, tribal "conventions"—sometimes involving 10,000 or more participants—sembled to insist that the electoral process go forward and also enumerated demands upon the government of the nascent unified Yemen. Until dashed in the spring of 1994, when heavy fighting erupted between the autonomous militaries of northern and southern Yemen, hopes rang high for the democratization experiment that began with the unification of the two Yemens in 1990. The elections were relatively fair and no party won a clear victory. As a result only a coalition government could successfully rule. Thus, the elections seemed to break the pattern of single party politics prevalent in the Arab world. The post-election period was marked by considerable violence, however, and despite the appearance of a fledgling civil society, clubs were once again trump. With the victory of the northern forces, and the preservation of a unified Yemen, authoritarian trends threaten to prevail.<sup>25</sup>

No doubt, political change will follow a variety of paths in the Middle East, and reformist programs will no doubt suffer further reverses. In some cases, people will be led in circles, only to find themselves where they began. In others, the rulers will adopt what the Arabs call "facade democracy" (*dimuqratiyyah shikliyyah*), employing the vocabulary of democracy while continuing business as usual. Muddling through is an option, but the pressures to open up the political systems of the Middle

<sup>25</sup> This is the subject of Sheila Carapico's study, to appear in volume II.

East may not abate, and, if civil society continues to gain its footing, issues of accountability and performance will grow in importance.

Though the region continues to be marked by regular encroachments upon the dignity of individuals, the trajectory of Middle East politics is clearly toward an increased emphasis on the right of the individual to be free from the arbitrary abuse of the state. The evidence is still mixed, but it is sufficient to suggest that the time has come to stop talking about Middle East exceptionalism when we discuss the global trends.

Although judging from the press in the West one would think that the Islamist groups are the only opposition groups in town, the Islamists are only one component in an array of groups that populate civil societies in the Middle East. In rich and poor states alike, incipient movements of men and women are demanding—in one form or another—a voice in politics. Women's movements are on the leading edge, especially in Algeria, Egypt, Iran, Israel, Kuwait, Turkey, Yemen and amongst the Palestinians. Businessmen's groups in Jordan and Egypt have assertively represented their own economic interests, while providing an organizational model adaptable to other purposes. In May 1992, organized labor toppled the government of Omar Karami in Lebanon and, later, an array of organizations boycotted and monitored parliamentary elections under Syrian tutelage.

Instructive vignettes illustrate the relevance of focusing on civil society. Admittedly, the state is not disappearing from view, and loyalties of kinship are not about to be eclipsed by secular organizations. Nonetheless, no understanding of the contemporary Middle East will be complete unless it takes into account the status of civil society in the region.

\* In Lebanon, despite the accumulated destructive and financial power of the militias that reigned from 1975 to 1990, participants in civil society, such as the trade and professional unions, resisted the militia-populated war system and worked to thwart the fragmentation of Lebanon into sectarian enclaves. Large-scale public demonstrations for peace challenged the militias' claims to authentically represent the Lebanese.<sup>26</sup>

\* In Kuwait, one finds the most impressive civil society in the Arab Gulf states. In addition to a reasonably lively press, an array of professional associations and a number of cultural clubs, Kuwait offers two relatively unique components of civil society. The *diwaniyyah* is an

<sup>26</sup> Antoine Messara, "Civil Society against the War System: The Lebanese Case" (in Arabic), a paper presented at an International Peace Academy sponsored conference in Giza, Egypt, May 28-30, 1992.

essential element in Kuwaiti civil society. The *diwaniyyah* is a gathering place in leading citizens' homes where men gather to socialize and share views on a range of topics from sports to politics. The *diwaniyyah* is traditionally a male gathering, but (in recent years) some women have started their own *diwaniyyat*. It is well understood that no candidate for office could win election if he did not visit most, if not all, of the *diwaniyyat* of his district. When the Law of Gatherings prevented the holding of any meeting without prior permission from the authorities, the *diwaniyyat* were excluded. As Ghanim al-Najjar notes, Kuwait's pro-democracy movement started in a *diwaniyyah*.<sup>27</sup> In the period following the suspension of parliament in 1986, the *diwaniyyat* became centers of opposition activity. In effect, the *diwaniyyat* function as proto-parties in a political system where political parties are proscribed. Since the institution of the *diwaniyyah* is culturally engrained, the government is hard-pressed to shut them down. At best, government agents can report on the discussions that take place there.

Less well known is the cooperative, which proved instrumental as a superstructure for lending support to the resistance during the Iraqi occupation of Kuwait. While the government quickly crumbled before the onslaught of the Iraqi invasion, the resistance found a firm footing in civil society. In 1990, as Neil Hicks and Ghanim al-Najjar report in their chapter here, there were over 170,000 subscribers in cooperatives, which were organized to meet a variety of consumer needs, especially purchases of food. In fact, the cooperative accounted for 80 percent of all food retailing. The structure of the cooperatives, with established financial systems, well-exercised roles and patterns of social interaction, lent itself to supporting the resistance, and since cooperatives pervaded Kuwaiti society, the Iraqis were hard-pressed to control them. Cooperatives, therefore, continued to function in the face of the Iraqi occupation. Moreover, serving on the board of a cooperative proved to be a good political apprenticeship—at least 19 members of the parliament elected in 1992 previously served on cooperative boards. It is also noteworthy that although women are denied the franchise to vote in national elections, they do vote in cooperative elections.

After the Iraqis were expelled, the democratic movement resonated even in Kuwaiti tribes where innovative primary elections produced anything but predictable results. In almost all cases, tribal chiefs lost the primary balloting to fellow tribesmen.

\* Jordanian civil society truly found its voice during the Gulf crisis.

<sup>27</sup> Ghanim al-Najjar, "Civil Society in Kuwait," a paper presented at the International Peace Academy sponsored conference in Giza, Egypt, May 28-30, 1992, p. 12.

Professional associations in Jordan were very active in organizing congresses and demonstrations against the allies' actual goals of dominating the Arabian Gulf and of destroying Iraq, on the one hand, and in collecting donations to help Iraqis to face the blockade imposed over them on the other hand. In response to this, the Jordanian government had to respect the professional associations' stand over the Gulf crisis, even when their stand was, in some cases, against the official position of the government.<sup>28</sup>

The Jordanian case helps to illustrate that the development of civil society will not necessarily evoke applause for western policies. Moreover, as Laurie Brand notes in her chapter on Jordan, the process of opening up space for civil society also threatens to widen existing cleavages, as between Palestinians and East Bankers.

Of course, since 1989, King Hussein has been experimenting with democracy. As Laurie Brand notes in this volume, "What is currently unfolding in Jordan, however exciting, is a liberalization process managed from above, part of a strategy intended to ensure the continuation of the monarchy." Parties were only legalized in 1992, and few are more than cliquish formations. (The Islamic Action Party is a major exception. This is the force—derived from the Muslim Brotherhood—that won 22 seats in 1989.) As Brand notes, only 1.4 percent of respondents, in a recent survey, reported membership in a party and only 6 percent anticipated joining a party. Far more important are the professional associations (*niqabat*)—the groupings of doctors, engineers, lawyers, dentists, pharmacists, journalists, writers, geologists, agricultural engineers that often articulate political positions, though they seldom directly challenge the government.

\* In Jordan, as in other authoritarian settings, government strives to manipulate and control civil society. A familiar pattern is the creation of competing groups to challenge assertive autonomous associations. For instance, in both Jordan and Tunisia, women's groups have been created by the government expressly to dampen support for autonomous groups. In Yemen, the League of Human Rights was countered with a government-created alternative, which, as Sheila Carapico notes, held its first meeting in a police headquarters.

\* The associations that comprise civil society often provide an outlet for the free expression of political ideas. In Tunisia,

the absence of free space for social and political expression [in state-dominated corporatist structures] meant that dissenting voices sought substitute political arenas in the union, the university, and the mosques, [and even in]

<sup>28</sup> 'Atef Odhibat, "Civil Society in Jordan: A Preliminary Assessment," a paper presented at an International Peace Academy sponsored conference in Giza, Egypt, May 28-30, 1992, p. 18.

cultural associations such as the Association of Cine clubs which later led to the formation of the most leftist weekly ever to appear in the country, *le Phare*.<sup>29</sup>

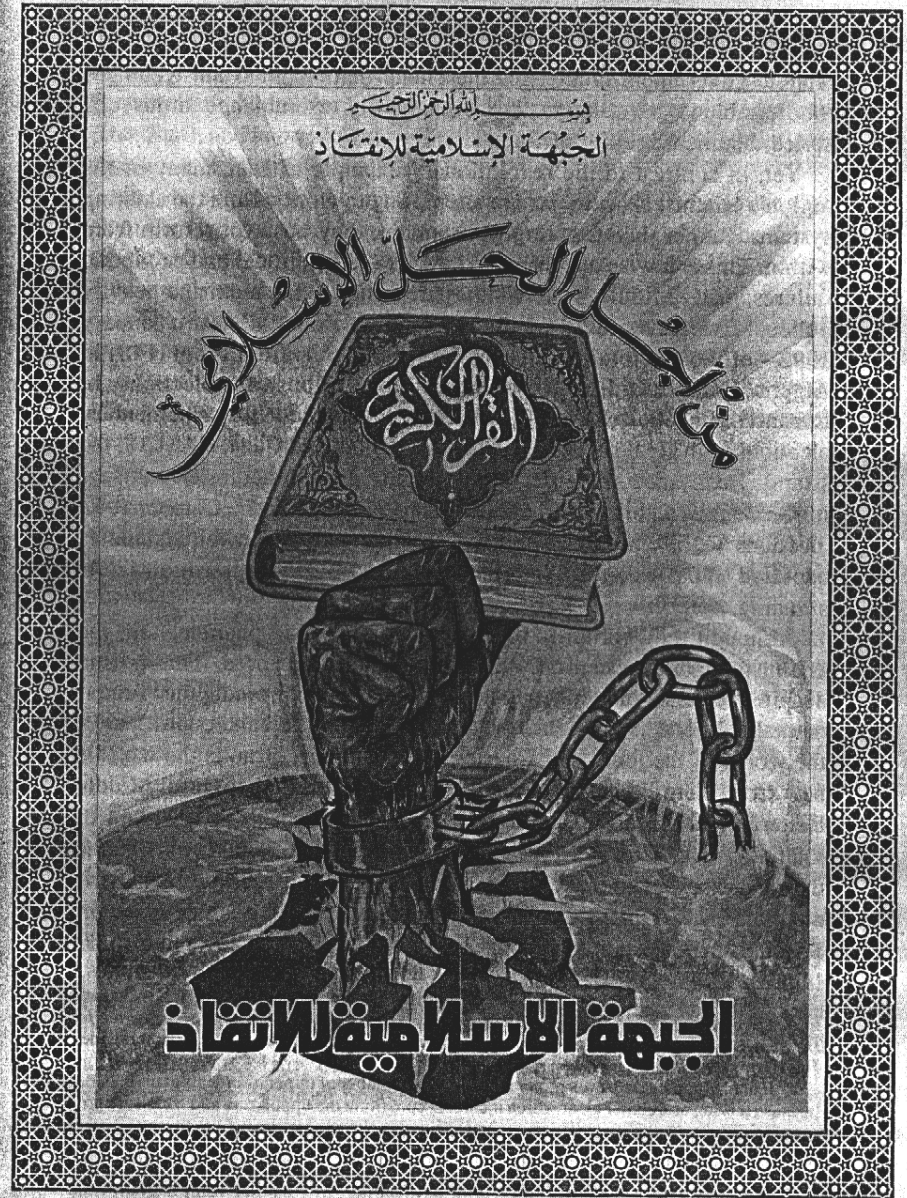
The government clamp down on the usually vibrant labor unions, in the late 1970s and early 1980s, coincided with a dramatic rise of an assertive Islamic movement, illustrating, yet once more, that repressive government has helped to create the space in which the populist Islamist movements have thrived. The Islamist bogey man provides regimes an excuse not to move toward more open contestation, while simultaneously keeping a tight lid on civil society.

In fact, civil society in Tunisia is penetrated, co-opted and controlled. The combination of state surveillance and financing insures that no one steps too far out of line. Parties are controlled and precluded from meaningful representation. Yet, Tunisia is promising in some ways. There has been an impressive blossoming of NGOs since 1988 with the number growing from 3,300 to more than 5,100 in 1994. As Eva Bellin notes, the Tunisian military is weak, the middle class is unusually large, literacy is relatively high (74 percent for males and 56 percent for females, which is well above the comparable figures for Iran, Iraq, or Egypt), incomes are comparatively high, and Tunisia spurned Arab socialism and followed instead a quasi-liberal path of development. The regime self-consciously promotes civility, but it also prefers control. Moreover, the state's commitment to the development of civil society has one major exception, namely the Islamists. For many Tunisian intellectuals—like intellectuals across the Middle East—the Islamist alternative only poses a choice between laic and theocratic authoritarianism.

#### *Islamists and Political Reform*

Across the Arab world, the clarion call of pan-Arabism, in its several variants, now often falls on deaf ears. The prevailing ideology of opposition in the Arab countries, as in the broader Middle East, is signaled by the simple claim made more and more frequently across the region, "Islam is the solution." If those occupying the seat of power are sometimes indecisive and on the defensive, the Islamist groups are neither. Islam is viewed by an active minority as an emerging, durable and appealing political ideology, as well as a defense against the encroachments of "western decay." Islamist movements are as notewor-

<sup>29</sup> Abdelbaki Hermassi, "Notes on Civil Society in Tunisia," a paper presented at an International Peace Academy sponsored conference in Giza, Egypt, May 28-30, 1992, pp. 7-8.



This FIS poster was created in 1991 for the parliamentary elections. Atop the poster is the *basmala* ("In the name of God the merciful, the compassionate"), followed by "the Islamic Salvation Front" (*al-jabha al-islamiyyah li-ingadh*). The slogan arched over "the Blessed Qur'an" is "for the sake of the Islamic solution." The front's name is repeated at the bottom. (Courtesy of Robin Wright)

thy in the secular Republic of Turkey as in the Sudan, where a militantly Islamic government challenges the cliché that Sunni Islam would be inhospitable to governments bearing a family resemblance to the self-styled Islamic Republic of Iran.

Yet, in contrast to the revolutionary example of Iran, many of the region's Islamist movements are attempting to work within the existing systems. Rather than toppling government, they push for reform from within. This is a wise approach. Whatever their political and economic failures, many Middle Eastern states are armed to the teeth and heavily policed. Even after the stunning reversal—the coup d'état in January 1992—of the electoral victory by the Islamic Salvation Front (FIS) in Algeria, many Islamists elsewhere continue to push for elections. In Lebanon, Hizballah (Party of God), competed in the 1992 parliamentary elections with great success.<sup>30</sup> In the West Bank and Gaza, HAMAS, the Islamic Resistance Movement, has clearly signaled that it will compete in elections as an organized opposition to the PLO. In the October 1992 elections to fill the 50 seats of the parliament in Kuwait, Islamists captured about two-thirds of the seats won by the opposition in its stunning victory.<sup>31</sup>

Although they certainly represent a region-wide phenomenon, the Islamists are not a centrally-directed, monolithic force. This is true despite the persistent tendency in some quarters to promote the “fundamentalist” trend as a product of Iranian manipulation and control, as in the words of the journalist Charles Krauthammer: “Iran is the world's new Comintern.”<sup>32</sup> The legitimate concern of many thoughtful Middle Easterners is that the Islamic solution will turn out to be a variant of totalitarianism. One can hope that the realities of political life will tame their excesses, even make pragmatists of them, but such social experiments can be very painful, even if the predicted results eventually occur. Specialists are certainly right to emphasize Islamic concepts like *shura*

<sup>30</sup> Augustus Richard Norton and Jillian Schwedler, “Swiss Soldiers, Ta'if Clocks, and Early Elections: Toward A Happy Ending in Lebanon?” Deirdre Collings, ed., *Peace for Lebanon? From War to Reconstruction* (Boulder, CO: Lynne Rienner Publishers, Inc., 1994), pp. 45-65.

<sup>31</sup> There is considerable disagreement about the number of opposition seats actually won, because it is not altogether clear which members constitute the opposition and which are pro-government. Contemporary press estimates claim that the opposition won as few as 19 seats and as many as 37. The strong representation of Islamists is not at issue.

<sup>32</sup> Charles Krauthammer, “Iran to become new ‘Evil Empire?’” *Democrat and Chronicle*, January 4, 1993 (Rochester, NY). Two days earlier, in a similar vein, Israeli Prime Minister Yitzhak Rabin said: “We call on all nations, all peoples to devote their attention to the great danger inherent in Islamic fundamentalism.” Quoted by Michael Parks, “Israel Sees Self Defending West Again,” *Los Angeles Times*, January 2, 1993.

(consultation), *ijma'* (consensus), and *ba'ya* (affirmations of communal loyalty), but these concepts do not comprise a compelling theory of government. Moreover, there would be more comfort if *hurriyyah* (freedom), and *huquq al-insan* (human rights) received equal play in the discourse of Islamic populists.<sup>33</sup>

In fact, skepticism amongst some western observers runs so deep that even the logic of their own arguments is overshadowed by the danger presumed inherent in the emerging social forces of Islamic populism. One widely read argument runs along the following lines:

>The Arab regimes are inefficient, often corrupt, and persistently unresponsive to the needs of the majority of their citizens;

>simultaneously, the regimes' legitimacy is eroding under the strains of the shattering of Arab unity, the end of the Cold war, and the move toward a resolution of the Arab-Israeli conflict;

>the force of populist Islam has moved into the void, and is capturing the social base that the regimes are losing by offering a dynamic ethos of change and reform, while simultaneously providing a basis for erecting a network of social services that the government does not provide;

>however, these political movements are inherently anti-western, anti-Israeli, anti-women and anti-democratic. Therefore, there is no sensible alternative for western governments save to oppose these movements and lend support to the corrupt, ineffective and widely-hated regimes.<sup>34</sup>

This is a maliciously dangerous argument that could lead to precisely the sort of clashes of civilizations that leading conservative scholars like Samuel P. Huntington are predicting as the defining element of the post Cold-war world.

Therefore, it is imperative to examine the prospect that the Arab world is the asterisk, the exceptional case where societies are uncivil and where an emerging opposition force, namely the populist Islamist movements, is peculiarly inimitable to democracy. Should the global map of political change treat the Middle East as a land of fire-breathing anti-democrats? How can the prospects for tolerant and open political systems emerging there be assessed?

Consistently, the Islamists—skilled populists all—have dispensed promises more freely than programs, and there is certainly no evidence

<sup>33</sup> See John Esposito and James Piscatori, “Democratization and Islam,” *Middle East Journal* 45, no. 3 (Summer 1991): 427-440.

<sup>34</sup> Judith Miller, “The Challenge of Radical Islam,” *Foreign Affairs* 72, no. 2 (Spring 1993): 43-56.



that they hold the solutions to the vexing social and economic problems which plague many states in the region. Some—but not all, it is important to emphasize—of the Islamists are contemptuous, even hostile toward the idea of democracy, which is seen as socially divisive and endemically corrupt. Even more to the point, radical Islamist thinkers, such as the late Sayyid Qutb, argue that sovereignty belongs only to God and that any conception of popular sovereignty ascribes the power of God to others (*shirk*).<sup>35</sup> In point of fact, there is no question that democracy is rejected by *some* Islamists.

As Ahmad Moussalli argues in this volume, the rejection of democracy is not general to Islamists and he usefully distinguishes between the ideological perspectives of radicals and moderates. In fact, Moussalli establishes that there are categorical differences in the two perspectives, in particular around the construction of the institutions of consultation (*shura*). For the radicals, *shura* is an elite function of qualified *'ulama*. In contrast, the moderates entertain the idea that *shura* be construed more broadly as encompassing elections and parliamentary forms of representation. This dichotomy is a very important one that is often ignored even in scholarly writing on the Islamists, or, if not ignored then either dismissed as a ploy or minimized on the grounds that the radical perspective will necessarily prevail.<sup>36</sup>

In other respects, Islamist ideologies share a conception of state-society relations that contrasts with the familiar liberal view. For secular liberals, the state plays a crucial role in protecting the rights of citizens and in regulating the excesses of society. In contrast, while the Islamists do not advocate a vanishing state, they posit a state that is subordinate to society, and is effectively and appropriately the creature of society. This view of state-society relations has obviously negative ramifications for the protection of minority interests and the protection of some individual rights, particularly, the expression of political dissent as well as tolerance for religious diversity.

Gudrun Krämer's incisive summary of the moderate perspective, i.e., the Islamist mainstream, is to the point:

The mainstream position is remarkably flexible with respect to modes of political organization, providing for institutionalized checks on the ruler in the form of a separation of powers, parliamentary rule, and in some cases even multipartyism. It is more advanced than is often acknowledged concerning the

<sup>35</sup> Sayyid Qutb, *Ma'alim fi al-Tariq* (Beirut: Dar al-Shuruq, 7th ed., 1980).

<sup>36</sup> The latter conclusion is developed by Emmanuel Sivan, *Radical Islam* (New Haven, CT: Yale University Press, 1985).

protection of human rights, which are generally founded on the duties towards God but nevertheless widely seen as part of the common heritage of all humankind. Indeed, the protection of individual rights and civil liberties from government supervision and interference, repression and torture figures highly on Islamist agendas. But mainstream attitudes remain highly restrictive with regard to the freedom of political, religious and artistic expression, if that involves the right to freely express one's religious feelings, doubts included, and even to give up Islam altogether.<sup>37</sup>

Politics is, by definition, contingent upon choices and opportunities. To assume otherwise is simply silly. Thus, it is imperative to consider empirical evidence to test the proposition that there actually is a categorical distinction between moderates and radicals.

To argue that popular political players are irremediably intransigent and therefore unmoved by events in the real world is simply foolish. But first, a word is also in order on the distinction between Islamist elites and followers. Because the work of influential writers working in the Orientalist tradition is textual, by definition, they expend little effort looking at the incentives of the Islamist rank and file.<sup>38</sup> Moreover, because they work out of culturally and historically essentialist concepts of Islam they miss the fungibility of popular participation in the Islamist movements. Those moved by the call are—it is true—responding to a culturally authentic and familiar ideology, but they are also making rational choices, for instance, for good health care. Without minimizing the revival of religiosity amongst Muslims, there is no question that the network of private voluntary organizations (PVOs) under the wings of Islamists have cemented and enlisted support among believers. Popular support for these movements is mobile. This means that reductions in Islamist social welfare and health activities will lead to a reduction in popular support especially if comparable or superior services are elsewhere available. Of course, for the foreseeable future, financially-strapped and bureaucratically-unwieldy governments, in Egypt for instance, are unlikely to be able to compete nose-to-nose with the Islamist PVOs.

A fundamentally important question is whether experiments in democracy (as are now underway in Jordan and Kuwait) will domesticate the populist Islamists movements. Put another way, does participation in the political process instill pragmatism and a political logic of give-and-take that will slake all but the most ardent true believer? The

<sup>37</sup> Gudrun Krämer, "Islamist Democracy," *Middle East Report*, no. 183 (July-August 1993), pp. 2-8, quotation from p. 8.

<sup>38</sup> Distinguished practitioners of this approach include Elie Kedourie and Bernard Lewis.

evidence is mixed, but instructive. In Jordan, Kuwait and Yemen, recent elections have brought Islamists into the political process, and in each of these cases leading Islamist politicians have proved willing to play by the rules. This points up that the very decision to participate in elections opens up the ideological cleavage between radicals and moderates, and thereby creates conditions for the formation of new alliances and coalitions. This dynamic process might aptly be called constructive divisiveness.

Of course skeptics marshal the case of Algeria, where the 1991 election—the rules of which were designed to magnify the victory of the ruling party—instead magnified the popularity of the Islamic Salvation Front (FIS). FIS was on the verge of seizing power until it was thwarted by a coup in January 1992. However FIS might have behaved once in power, and experts disagree profoundly, no quantity of *ex post facto ergo propter hoc* arguing will alter the simple fact that FIS won the election and that its victory was stolen from it. Invoking the post-coup anti-regime violence mounted by FIS is quite literally beside the point. Thus, the Algerian case tells us little about political behavior in reformist contexts, and much about how poorly designed elections can lead to unsettling results.

So long as the Islamist movements are given no voice in politics, there can be no surprise that their rhetoric will be shrill and their stance uncompromising. In contrast, well-designed strategies of political inclusion hold great promise for facilitating essential political change. The pace of change is obviously crucial. All too often, the great difference between governments wrought of revolution and those wrought of reform is neglected. This fact, even more than sectarian or ethnic differences, distinguishes the present regime in Iran from its counterparts in the Arab world. Revolutions bring with them a new class of rulers and a reconstruction of the political order, while reform is by definition incremental and familiar.

One promising example is provided by Jordan, where an important experiment in political reform is underway. King Hussein of Jordan argues that democratization is the only answer to ensuring political stability, and he chastises his fellow rulers for viewing democratic reform “as a luxury they cannot afford.”<sup>39</sup> Notwithstanding the monarch’s peroration, Arab rulers do have choices ranging from squashing dissent and co-opting potential opponents to political liberalization and

<sup>39</sup> Quoted by Associated Press, 29 April, 1993.

democratization. If some Middle Eastern states trod the path of democratization, others will remain mired in autocracy.

Meanwhile, essentialists, even highly readable ones like Ernest Gellner, argue that civil society has no home in Muslim society where *din wa dawla* (religion and state) purportedly know no separation and where the very notion of secular society is anathema. (The presence of liberal Islamist forces is pretty much downplayed if not ignored by Gellner.) Not so long ago, the absence of democracy in the Middle East was put down to the existence of the authoritarian states and weak societies deficient in associational life and lacking a sense of public space.<sup>40</sup> Now, with the emergence of the Islamist movements, as Yahya Sadowski notes critically, the explanation shifts to one emphasizing that Middle East societies are so strong that they are in danger of the overpowering the state.<sup>41</sup> Essentialists may, it seems, have it both ways. Other writers, such as Şerif Mardin, have emphasized the historical specificity of civil society, and its roots in the West. The empirical record makes precisely the opposite point. Otherwise, how does one account for the relatively rapid emergence of civil society in Turkey, where to emerge democracy did not really begin until 1950?

Most important, though scholars of the Middle East may debate civil society existentially, theoretically, conceptually, normatively, and ontologically, the simple fact is that civil society is today part of the political discourse in the Middle East. Scholastic debates notwithstanding, civil society is the locus for debate, discussion, and dialogue in the contemporary Middle East.

<sup>40</sup> Fuad Khuri, “Invisible Meanings in Conflict Resolution: Some Macro-Ideological Constructs in Arab-Islamic Culture,” a paper presented at an American University of Beirut-sponsored meeting in Larnaca, Cyprus, June 24-26, 1993; and Yahya Sadowski, “The New Orientalism and the Democracy Debate,” *Middle East Report*, no. 183 (July-August 1993), pp. 14-21, and p. 40.

<sup>41</sup> Sadowski, “The New Orientalism.”





## INTRODUCTION

RECONSTRUCTING THE PUBLIC  
SPHERE IN MUSLIM MAJORITY  
SOCIETIES*Armando Salvatore and Mark LeVine*

The collection of essays in this volume examines how modern public spheres reflect and mask—often simultaneously—discourses of order, contests for hegemony, and techniques of power in the Muslim world. Although the contributors examine various time periods and locations, each views modern and contemporary public spheres as crucial to the functioning, and thus understanding, of political and societal power in Muslim majority countries. Part I of this volume analyzes the various discourses and technologies operating within Muslim public spheres; part II investigates how they impact and interact with the construction of moral and legal arguments within Muslim societies.

The chapters that follow seek to open new horizons for the study of how public spheres are conceptualized, produced, and deployed, not just in the Muslim majority world but in all modern societies. Such a step forward is made possible by our examinations of how discourses and techniques of hegemony are deployed by socio-religious movements, and of how their expression transforms the manner in which public spheres are constructed, and their borders and norms contested. The contributions here explore the impact of such conceptualizations on the very notion of “civil society” and the practices it authorizes, on the ensuing dynamics of hegemony, and on the way secularity, as a set of practices, norms, and discourse, binds together hegemonic discourses.

Our engagement with the public sphere focuses on the horizontal ties that bind together participants in social movements and public communication, rather than on the more often discussed vertical, segmented ties mediated by the institutions and identities of the supposedly modern and secular nation-state. At the same time, however, we interrogate the disciplinary and governmental practices of political elites that constrict and shape the activities of these movements and the horizons of action of their members. In so doing we address Nancy Fraser’s simple yet important critique of Habermas’s seminal discussion of the public sphere, which in her view “stops short of developing a post-bourgeois model while leaving

unproblematized the dubious assumptions of the original liberal/bourgeois model" (Fraser 1997: 71). We do so by delineating such post- (and sometimes non-) bourgeois public spheres as they have emerged and continue to develop in the Muslim majority world. We explore not only their capacity to relativize crucial norms such as those defining "normal" trajectories of secularization, privatization, and/or "progress," but also the extent to which their genealogies and functioning challenge the dominant narratives surrounding the etiology and configuration of modern public spheres more broadly.

Yet in seeking to expand the definition of the public sphere, we are cautious not to adopt either a liberal or a republican-Jacobin norm. For *sharia* notions such as *istislah* that are at the heart of Muslim understandings of the public sphere operate from a different orientation than the liberal or Jacobin European frameworks. *Istislah* is a crucial notion of method of Islamic legal philosophy that is geared toward finding good in each situation, by mediating between contending positions, and shepherding the larger process of achieving balanced solutions that constitute the common good for the involved parties. The resulting public sphere can potentially be seen as a positive-sum game, one that reflects a logic quite distinct from the scarcely plastic—if not zero-sum— notions of social justice based on standards of "pure reason," or, at least, from the zeroing formal culture—that is, the elision of specific cultural and even legal traditions—that often accompanies Western discourses of "the public." Such a singular kind of public reason silences other kinds of reason embodied by autonomous social actors, especially those grounded in a religious identity.

As the contribution by Masud reveals (chapter 7), legal and political reforms can often be justified as implementations of *sharia* when in fact they comprise new notions of equity and cooperation that force people to formulate new claims in the name of the good of the larger society. As important is the dynamic of cooperation and often tension between mechanisms of Islamic mediation and those of supposedly "secular" political systems and "modern" courts (which pose as the incarnation of civil justice and state power), in which both represent attempts to control people's bodies and disperse power within a secularized political landscape.

Given such a plural, contingent, and open understanding of the public sphere, our exploration of these phenomena seeks to accomplish several goals. The first is to develop a "praxiological" conception of the public sphere—that is, one oriented toward uncovering the logic of actual practice—according to which the "public" and the "private" are understood to be contingent categorizations, reposing on specific cultural traditions. From the perspective of ordinary people, these predicates are characterizing procedures that are always particular and contextualized. Second, as Dupret and Ferrié (chapter 6) demonstrate, we ground analyses of public spheres in accounts of "ordinary situations," or daily exchanges, that create moral characterizations that cumulatively work to delineate a complex spectrum ranging from domesticity to publicity, and where

the latter crystallize by virtue of the consolidation of border-enforcing norms. We cannot grasp the public sphere without a background knowledge of these processes of interaction, and without accepting that, before being—under certain conditions—a space of freedom and fairness of reasoned exchange, the public sphere is always a space strictly delimited by moral norms that, however fluctuating, emerge from concrete patterns of interaction that can be replicated but not generalized. Third, as will become clear from our chapter 1, we hope to clarify the need for greater attention to the historical relationship between the evolution of the notions of "civil society" and the "public sphere" as being of a contingent and not of a necessary nature. It is clear that these terms are intimately related yet reflect specific and sometimes competing ways of coming to grips with the relationship among individuals, societies, and the governing structures that rule both. Finally, we believe that in order to accomplish the above goals, the dominant understanding of both secularity and the dynamics of hegemony needs to be challenged and reexamined, and that a fresh understanding of both needs to be developed and redeployed within the sociology of modernity and the societies it has engaged worldwide. We consider hegemony a particularly important concept because it cuts through the overlapping but distinct realms of civil society and the public sphere. Therefore, broadening the base for an analysis of hegemony as well as its relationship to the defining of the secular in political practice will facilitate a more accurate understanding of the functioning of, and possibilities of strengthening, public spheres and democratic cultures in the Middle East and the larger Muslim majority world.

To achieve these goals, the chapters making up part I examine the role of discourses and techniques of hegemony and related interpretive and practical struggles. The public sphere is considered by the authors here to be an arena where official, state-sponsored discourses are both challenged and carried to the wider public by social and more specifically socio-religious actors, particularly as linked to fields delimited by the notions of voluntary and legal action. And it is through the legal field that we move to part II, which focuses on examinations of the role of law as linked to everyday social practices and to the construction of public argument. In this half of the book the tension among Islamic notions of custom (*urf* and *adat*), diverse concepts of common sense, and the wider search for fairness and justice is investigated as essential to the reconstruction of the public sphere in Muslim majority societies during the last century.

### The Leap from Civil Society to the Public Sphere

If one opens a book examining contemporary Middle Eastern societies written during the 1990s, the chances are fairly good that one of the primary means of investigating them will be through the lens of civil society, one of the most important methodological innovations for studying the

Middle East and the larger Muslim (and indeed, third) world to emerge in the post-Cold War era.<sup>1</sup> In introducing his seminal two volumes *Civil Society in the Middle East* (1995–1996), Norton defines civil society as the “icon” of democracy: “If democracy has a home, it is in civil society, where a mélange of associations, clubs, guilds, syndicates, federations, unions, parties and groups come together to provide a buffer between state and citizen . . . The functioning of civil society is literally and plainly at the heart of participant political systems” (1995: 7).

In the latter part of the 1990s, and especially in the new decade, explorations of the public sphere have achieved similar importance as a framework for exploring the modern histories and contemporary dynamics of Muslim societies. Whether it is articulated or not, there would seem to be an emerging consensus among scholars of Islam and the Middle East that the “public sphere” offers a problematic field for investigating the thematic area of democratic development in the region that possesses greater analytical clarity and depth than has been achieved utilizing the civil society framework.<sup>2</sup> Significant research has already been undertaken demonstrating the productiveness of a reflective and theoretically conscious use of the public sphere as an explanatory paradigm for analyzing social processes in the Muslim majority world and Muslim diaspora communities (cf. Salvatore 1997, 2001; Hefner 1998; Stauth 1998; Schulze 2000 [1994]; Werbner 2002; Burgat and Esposito 2003; Eickelman and Anderson 2003 [1999]; Salvatore and Eickelman 2004).

Although the notion of the public sphere is better able to catch the intersection between the problematic and the thematic dimensions of democratic development in the region, it runs the risk of suffering the same fate as civil society: overenthusiasm, a lack of the circumspection warranted by its historical trajectory and problematic character, cynical use (as in the vocabulary of giving and receiving NGOs), and the concomitant loss of an analytic grasp of empirical phenomena. But let us assume that the concept of the public sphere will have a better fate. It is indeed the purpose of this volume to help engender one.

As Nancy Fraser describes it:

The idea of the public sphere designates a theater in modern societies in which political participation is enacted through the medium of talk. It is the space in which citizens deliberate about their common affairs, hence, an institutionalized arena of discursive interaction. This arena is conceptually distinct from the state; it is a site for the production and circulation of discourses that can in principle be critical of the state. The public sphere in Habermas’s sense is also conceptually distinct from the official economy; it is not an arena of market relations but rather one of discursive relations, a theater for debating and deliberating rather than for buying and selling. (Fraser 1997: 70)

The goal of the supposedly “rational” and “open” deliberations taking place in the public sphere was the shaping of a public opinion approximating a rational consensus about the common good (Fraser 1997: 72). Yet as

the work of feminist scholarship has well documented, the idealized bourgeois public sphere explored by Habermas was in fact characterized—indeed, to a significant extent, made possible—by several types of exclusion, particularly gender (and class as well). Thus the postrevolutionary republican public sphere in France was constructed in deliberate opposition to that of the more woman-friendly salon culture that was now deemed “unmanly” and “irrational” (Fraser 1997: 73). This feminization of alternative discursive patterns and sites, as is well known, was repeated precisely in the emasculating colonialist/Orientalist discourses deployed by European powers in the Middle East (cf. inter alia, Said 1978, 1993; Badran 1996; Mir-Hosseini 1999).

And, indeed, we can imagine that in the same way as the public sphere from the start was gendered masculine, it was also “nationalized”—better, “civilized”—as European. Yet we also know that however powerful the normative discourses within Europe or in the colonies, there were always innumerable “counter-civil societies” that attempted to work around the irony of a public sphere based on accessibility and rationality, but factually deployed as a primary strategy of distinction and exclusion (cf. Fraser 1997). And so to give voice to—and at the same time, properly contextualize—these politically and socially marginalized public spheres, we recognize that even where certain categories of people such as women, minorities, or colonized populations were excluded from the dominant public sphere they did not sit idly by, but rather they created alternative parallel public spheres that must be uncovered and investigated. Having recognized these larger dialectics, we must focus on yet another, even more complex phenomenon of the emergence of public spheres, namely on the “public Islam” that cuts across, challenges, and shapes governmental and oppositional public spheres in Muslim majority societies as part of the same process of producing and reproducing a sense of publicness and its norms (cf. Salvatore 2001; Salvatore and Eickelman 2004).

The reason “public Islam” cannot be reduced to Habermas’s “public sphere” becomes apparent when analyzing his famous definition of the latter “above all as the sphere of private people come together as a public” (Habermas 1989 [1962]: 27). The prior constitution of bourgeois private individuals as a condition for access and contribution to the constitution of the public sphere cannot be universalized historically or culturally; nor did it function in practice as described (in its admittedly idealized state) by Habermas. At least one reason for this is that “the idea of the individual as unconditionality . . . was too demanding a principle, one that carried too much baggage” to be universalized across time and geography (Seligman 1997: 172). Habermas’s *Öffentlichkeit* is therefore conceptually too limited to explain trajectories of formation of and access to public spheres—not only for the non-Western world, but for large parts of Europe as well. At the very least it cannot capture the actions for reclaiming the common good performed by various social (including socio-religious) movements that do not reflect or endorse the kind of secularity produced by the modern state by any variant of liberal, republican, or socialist (and, not to

forget, fascist) ideologies. The public sphere does not operate on the basis of primarily functionalist reasons dictated by power or economic interest in the framework of a capitalist liberal democracy. However, even in abandoning its bourgeois prototypical model of the public sphere in favor of a non-bourgeois notion there is still the risk of universalizing—however surreptitiously—this distinctive and historically situated kind of subject imagined by Habermas.

Habermas's theorizing met with a similar shortcoming when, answering some of his critics,<sup>3</sup> he conceded the possibility of “plebeian,” alternative or counterpublics that, according to him, are basically “the periodically recurring violent revolt or a counterproject to the hierarchical world of domination with its official celebrations and everyday disciplines” (Habermas 1992: 427). We agree that there are popular movements that attempt to reformulate and implement discourses of common good aspiring to represent a politically legitimized public reason. However, we stress the importance of examining the extent to which they remain unbound by the strictures of liberal conceptions and norms of publicness. There is the risk—though this is not endorsed by Habermas—that counterpublics are conceived as mere resistance movements, challenging bourgeois hegemony but lacking an alternative notion of the political glue of society (cf. Castells 1996). Indeed, the notion of “counterpublic” itself incorporates this theoretical bias.

When not limited to modern secular settings, the public sphere can be understood as the site where contests take place over the definition of the obligations, rights, and especially notions of justice that members of society require for the common good to be realized (Eickelman and Salvatore 2004 [2002]: 5). The idea of the public sphere is thus a wider and at the same time more specific notion than that of civil society. As put by Shmuel N. Eisenstadt,

Civil society entails a public sphere, but not every public sphere entails a civil society, whether of the economic or political variety, as defined in the contemporary discourse, or as it has developed in early modern Europe through direct participation in the political process of corporate bodies or a more or less restricted body of citizens in which private interests play a very important role. We do indeed expect that in every civilization of some complexity and literacy a public sphere will emerge, though not necessarily of the civil society type. (Eisenstadt 2002: 141)

Habermasian definitions of the public sphere are too rigidly premised on a notion of a civil society of private citizens. This limitation becomes a particular handicap to contemporary theorization when we confront two other problems inherent in the way the public sphere is often described: first, such definitions do not sufficiently consider the modalities through which modern states introduce disciplining and legitimizing projects into public sphere dynamics, and the tension between such activities and the public sphere's specific role as a site for solidarities against the

discursive power of the state; second, public spheres interact continuously with popular cultures in a manner that allows nonelites to challenge and shape hegemonic public discourses (LeVine 2004). As we see in reconstructing a partial genealogy of the liberal view of the public sphere (chapter 1), the grounding of the latter in the interests, rights, and duties of the “private citizen” is just one—albeit historically powerful and largely hegemonic—practiced and theorized approach to the public sphere.

This book, then, marks an attempt to bring to the attention of the scholarly community some of these heretofore little analyzed configurations of the public sphere as they emerged and continue to take shape and function in the Muslim majority world. But although we argue that public spheres must be explored in a much broader and more complex framework than is normally utilized by scholars, our deployment of the concept, not surprisingly, remains rooted in a critical reading of Habermas's seminal *The Structural Transformation of the Public Sphere* (1989 [1962]). That is, we recognize the unique contribution of his work, yet understand the importance of filling fundamental lacunae in his account of what constitutes the public sphere, who participates in it, and most important, what is the genealogy of the specific notions of the common good underlying distinctive configurations of the public sphere.

A central problem is that most conceptions of the public sphere, including that of Habermas, consider secularly oriented rationality to be the normative terrain on which public life thrives. Therefore, it is critical to explore the different means through which social practices inspired by Islam interact and sometimes clash with different forms of secularity as incorporated in the ideologies and practices of most states within Muslim majority societies.

In other words, the idea of the public is culturally embedded. The way a sense of the public is built into social interactions varies considerably depending on modalities of transaction over the definition of the common good, of equitable solutions to collective problems, and of shifting boundaries of inclusion and exclusion, as well as on background notions of personality, responsibility, and justice (Salvatore and Eickelman 2004). It is inevitable, therefore, to compare examples of public Islam with notions of public sphere developed within Western social theory. In so doing, the contributions that follow reveal the public sphere to be more than just the prerogative of “modern,” “Western” societies, or of democratic political systems based on formalized templates of individual rights and their attendant forms of civil society. We demonstrate that semiformal and informal articulations of Muslim traditions and identities can also trigger the emergence of public spheres; moreover, that the coercive and institutional power of the modern state may both further and limit this potential. However, in order to introduce adequately this exploration of contested hegemonies and reconstructions of the public sphere in the Muslim majority world, we need to evidence the layers of tension inherent in the Western notions themselves that provide the background to concrete, historic articulations of the public sphere and related hegemonic forms.

### The Overlapping Dimensions of the Civic and the Public

The public sphere and civil society are clearly overlapping concepts, but in good measure because of a clear transformation—bordering on misunderstanding—in the use of the latter term by scholars during the 20<sup>th</sup> century. Both terms owe their origins to Greek concepts but then more specifically to Roman notions of the *societas civilis*, civic virtue (with both terms emerging out of the Latin *civitas*, or people united in a city), *res publica*, and the concomitant development of the common good—that, as we explore, circumscribes a family of notions that also developed, in parallel, in the Muslim majority world, and largely through Islamic legal discourse. However overlapping in covering fields and meanings of social action, the “civil” and “public” do not coincide, and indeed, if viewed from within concrete genealogies of religious, political, and legal traditions, as also shown by chapter 1, they often create a field of tension.

If we return to the classical Greek use of these terms, Aristotle’s focus on civic responsibility, or virtue, saw it as central to the perfection of human nature; a sentiment that was later picked up by Machiavelli and his contemporaries as they attempted to defend the independence of the postmedieval Italian city-states. For Machiavelli, the survival of these mini-republics depended upon the civic virtue of their citizens; however, like the Jacobins centuries later, he believed that only the institutions of the republic—and not any mediating institutions or individuals—had the right to act for the public good (Machiavelli 1991 [1517], III: 28; Foley and Hodgkinson 2003).

However, another strand took Aristotle in a different direction. Through Aquinas and other scholastics Aristotle’s notion of the *polis*, or city state, was refashioned as a *societas civilis* (as Aquinas describes it in the *Summa theologiae*), founded on the dictates of reason and oriented, above all, toward ensuring peace and the development of virtue. Such a transformation was made possible through the reconsideration of human beings from being “political animals” in Aristotle’s terminology to being “social” beings whose primary goal in life was communion with God, yet at the same time retaining the notion of that participation in the political community. Unlike the Greek *polis*, the *societas civilis* acquires in Aquinas a potentially universal scope, going well beyond a definite polity, and the concomitant communitarian ethos of civic virtue.

In such a context the highest priority of the state would be ensuring the peace that people needed to pursue this primary goal (Foley and Hodgkinson 2003). Yet Aristotle also argued—in a manner foreshadowing Foucault, if viewed from a certain angle—that the good citizen “must possess the knowledge and the capacity requisite for ruling as well as being ruled” (Aristotle 1958: 105). And in the process of ruling and being ruled happiness or perfection is achieved not by the exercise of virtue in private but rather through participating in the governing of society—“Hence, a person

who acts for his or her own good must also act for the good of all fellow citizens” (ibid.; cf. Halper 1998).

At the same time, however, the *polis* whose government was the responsibility of free citizens was not considered by Aristotle (as it was for Plato) a singularly or unitary entity, but rather a “plurality” of segmented units or associations, with “an essential difference between these persons, and between the associations with which they are concerned” (Aristotle 1958: 1252, 1261). Thus we see a tension inherent in the earliest conceptions of political community and the various arenas and mechanisms for its proper functioning that would continually inform—and problematize—modern discussions of civil society or the public sphere: Is the *polis*/political society fundamentally unitary (in a Jacobin sense) or a conglomeration of diverse and potentially competing interests? How do its members interact with their political leaders: directly or through mediating mechanisms? What are the mechanisms of such interaction, pressure or informed consent when they occur? Such questions would be central to debates on the nature of modern politics throughout Eurasia in the modern period.

What is clear is that in the modern era the basis for establishing both civil society and the public sphere emerges through the Rousseauian social contract, which considered the common good the highest priority of citizens, who are supposed to place their right for the individual pursuit of happiness after that of the community’s collective well-being. Yet if for Rousseau (still under the influence of Machiavelli) the state was the arena for defining the nature of the common good, with Adam Smith we see the turn toward what would become classic political and economic liberalism through the foregrounding of private morality predicated on public recognition by one’s peers as the best method for achieving the common good.

Smith’s “liberal” turn, the concomitant atomistic focus on the individual ego–alter relationship, was foregrounded by Adam Ferguson, whose *An Essay on the History of Civil Society* published in 1767 can perhaps be credited as the first deployment of the term “civil society” in English in a proto-sociological sense (Locke in fact used the term earlier, but with a connotation much more restricted to political theory). In this essay Ferguson describes civil society as developing specifically out of the dynamics of the emergent industrial capitalism in Scotland and England, in which the new division of labor made possible the establishment of social institutions independent of the state and allowed for the idea and possibility of a truly “free society” (Ferguson 1995 [1767]). Ferguson’s civil society, derived from *societas civilis*, referred literally to a *civil* society, that is a well-ordered and peaceful society governed by laws. Ferguson believed that the wealth and refinement of a truly civil—that is, civilized—society would undermine its sense of civic virtue; in good measure because the essence of a civil society was not the holistic order of a *polis*, but a society that, though constituting the foundation of the state, is also, inevitably, in tension with it (Foley and Hodgkinson 2003: xiii), due to an irreducible pluralism grounded in a certain primacy of the private sphere (see chapter 1). Therefore, the emergence of civil society



heralds a separation of public and private functions and spheres of a new, modern type.

Ferguson's separation of the public and private functions of society through civil society greatly influenced Kant through his translation into German, providing a basis for the argument that civil society was a foundation for the emerging notion of a liberal republic. With this goal in mind, Kant attempted to move beyond Smith's belief that self-interested or even selfish actions lead to general prosperity through an "invisible hand," arguing instead that people must treat other people as ends in themselves rather than means to the ends of others. Moreover, Kant argued that the ethics and morals that derived from the private sphere would also shape a public arena of rational, critical discourse, which in turn was crucial to shaping the political sphere.

In chapter 1, we trace this genealogy of the public sphere via the Scottish Enlightenment by linking it to the contributions of an author like Giambattista Vico who was more sensible toward the transformations of religious traditions. We highlight the importance of their arguments for analyzing not just the subsequent theorizing about civil society and the public sphere in Scotland, England, France, and Germany, but also for the much more recent interventions of Gramsci and Foucault. But for the purposes of introducing the reader to the main themes and debates surrounding these two concepts, Kant's contribution remains essential. By picking up where Ferguson leaves off, he conceived of the public arena of civil society as separate from the state while remaining crucial to its proper function. As he describes it in propositions 5–7 of his *Idea for a Universal History with a Cosmopolitan Purpose* and in the argument in *An Answer to the Question What is Enlightenment*, the relation and tension between civil society and the state led him to conclude that the realization of a proper civil society constituted both the "greatest problem of the human species" and yet also the culmination of human history (Kant 1970 [1784]: 45–49). That is, with Kant the development of a problematic of public sphere overlaying the thematic notion of civil society develops directly from his argument for the "freedom to make public use of one's reason in all matters" (cf. Chatterjee 1993 for this reading of Kant).<sup>4</sup>

It is at this point in the development of the conceptual pair that civil society begins to be understood more as a problem than a solution for issues of good governance. Hegel certainly understood it thus, and tried to solve it by putting the State back in the center of the equation via the claim that only it could both provide societal unity and the mooring necessary for the realization of Spirit in history (as opposed to civil society's potential for insurmountable particularistic divisions). The importance of the State becomes clear when we understand that with Hegel we see the beginnings of a use of the term civil society in which far from excluding self-interested activities, the term refers *only* to them. In his *Philosophy of Right*, Hegel noted that "individuals in their capacity as burghers in this state are private persons whose end is their own interest"; moreover, he characterized civil

society as "the battleground where everyone's individual private interest meets everyone else's" (Hegel 1991 [1821]: 224–26).

The notion of civil society as a battle ground, of course, would differentiate it from the emerging notion of a public sphere, in Habermas's terminology, as a body of private persons assembling to discuss matters of public concern or common interest and whose public opinions would serve as a counterweight to the still absolutist state (a dynamic that, following Habermas and his teachers, Adorno and Horkheimer, we can describe as being equally relevant in combating the power of the mass culture economy generated by late capitalism and now globalization). The tension in Hegel between two understandings of civil society—first as a realm of divisions and inequalities, and second as a realm in which human beings shape themselves through ethical norms to master their environment and work together—anticipates the problematic dynamics of the bourgeois public sphere explored by Habermas.

It is important to note for the purposes of relating discussions of civil society and the public sphere to Middle Eastern and other Muslim majority societies that the contemporary interest in these concepts is tied to their reappropriation, often via Gramsci, by activists and scholars in places such as Latin America and Eastern Europe as a way to find space to resist powerful and oppressive states when a direct assault (i.e., "wars of manovre" in the Gramscian terminology) on the state was not feasible. It is well known that for Gramsci, in the context of states functioning through hegemony—consent backed by coercion—rather than pure domination, civil society was the arena in which the struggle for hegemony and the potential for achieving state power by the working class unfold. More specifically, Gramsci's focus on civil society highlights the importance of culture as an arena for struggle, as opposed to just economic or political strategies. In other words, Gramsci can be used to open up the public sphere not just to contestations of interests and identities, but of the concepts themselves—inevitably culturally embedded—that delimit and define the public sphere.

This is clear in his discussion of the "ethical state" that "educates consent" by "raising the great mass of the population to a particular cultural and moral level, the level which corresponds to the needs of the productive forces for development and hence to the interests of the ruling class. These initiatives and activities form the apparatus of the political and cultural hegemony of the ruling class" (Gramsci 1971: 258). Gramsci's notion of hegemony and the role of the citizen in its sustenance reminds us that the public sphere can never be as free as in Habermas's bourgeois model. Yet while Habermas misses Gramsci's understanding of the superstructural, that is, cultural dimension of civil society when he defines it via Hegel as a primarily economic sphere (in fact, he doesn't engage Gramsci at all on this issue) he seemingly understands the importance of the state's educative function within society when he argues that in the contemporary period the state and corporate economy have undermined the ability

of citizens to frame independent judgments, assert their authority over their lives, and reconstruct community among themselves (Habermas 1989 [1962]).

Gramsci's idea of cultural hegemony is interesting in that it incorporates a tension or a paradox: that the hegemonized classes who follow the discourses and conceptions of the dominant classes despite the unjust social relations they mask, have a largely autonomous, embryonic conception of a just world (Kantner 1998: 58). This is a motive that goes back to Vico's prototypical account of the conflict between patricians and plebeians (as we explain in more detail in chapter 1). There is in this idea a tension between the Gramscian "good sense" as the sole way to rationally transcend given social situations and power relations, and a more optimistic outlook on the reflexive capacities of the subaltern and the "common sense" of survival philosophies, including religion. In a Gramscian perspective, this can only happen through the role of intellectuals and their communication with the subaltern, in order to trigger off a collective learning process. But if we read Gramsci through such authors like Connolly and Benhabib injustice can only be fought through participation in hegemonic struggles for the *definition* of what is just (Kantner 1998: 58).

Beyond both Gramsci and Habermas, the contributions to this volume point to a new notion of hegemony, one which transcends the overpoliticized concept developed by Gramsci as being engineered through the "education of consent" described above. Rather we see how, depending on the situation, the state and/or nongovernmental and noneconomic organizations take the lead in shaping the attitudes and actions of citizens toward their larger society and their perspective of their role and obligations in achieving the "common good." And, among those organizations, socio-religious actors, groups, and movements often play a major role.

In this framework we articulate an idea of contestation that departs from a notion of hegemony conceived of as still based primarily on class struggle and the capture of state power (though we still believe that class factors and the capturing of the state power build the "wings" of hegemonic games). At the same time we distance our analysis from the inflexible view of history and progress that often accompanies such a perspective. Instead, we move toward an idea of hegemony that places it in the center of the contested cultural understandings of the associational bond underlying society, which better reflects "cultural" issues than does Gramsci's discussion.

More specifically, we see as crucial the contest between notions of secularity versus religiously grounded public reason; and even more basically, we observe how secularity seems to clash with the "common sense" in Muslim majority societies (where there is often no consideration of the possibility of a secular "good sense," as Gramsci terms it—see our chapter 1 for a fuller discussion of this issue) according to which secularity is ultimately oppressive and alien rather than emancipatory and adaptable. As important, our revised notion of hegemony no longer limits the direction and scope of human and social creativity as it does in Marxist and Gramscian notions of history and society. We base this argument

(as discussed in our chapter 1) on the Vichian notion of common sense as being the first hard ground of human creativity and institution building, as well as on Vico's view of religion as one of the main such vectors and products of human institution building based on common sense developed into a wider sense of the common good.

Whether we are examining Shiraz at the beginning of the Pahlavi era or Lebanon today, a trans-Arab controversy on a fatwa condemning suicide bombings or a Yemeni trajectory of empowering autonomous lawyers in their dealing with both state and religious forces (Manoukian, Deeb, Hamzah, and Messick, in chapters 2, 3, 7, and 8 respectively in this volume), it is clear that hegemony is an even broader process than Gramsci's discussion would suggest: it is more than just a competition between a presently dominant bourgeois class that controls the state and the working class that is trying to supplant it. Rather, as the chapters in part I make clear, it is necessary to examine how particular conglomerations of social actors and forces struggle to obtain and distribute social power in pursuance of larger ideological and political objectives—a context in which seizing state power is seldom the primary objective. And here, if the conceptual developments of civil society and the public sphere are impacted by the evolving norms of secularity, the resulting relationship, in which privateness is protected from the force of publicness, too often leaves the former without a determinative influence on the latter as well.

It is indeed on these limits of the private–public distinction, formulated on the basis of historical experience and through the theoretical lenses of a certain type of Euro-American thinker (the trajectory of which we explore below), that alternative hegemonic configurations of publicness in the Muslim majority world and elsewhere base their force and sometimes legitimacy. For example, we must recognize and explore the resourcefulness, resilience, and impact of grassroots public spheres developed by women or other politically disadvantaged groups, which often constitute a positive means of helping their larger societies resist the hegemony of neoliberalism. What's most important here, as Lara Deeb's discussion of women activists in Beirut in this volume clearly demonstrates (chapter 3), is that these grassroots movements accomplish this often, though not always, precisely by deploying "religious" or "traditional" notions of the common good that have been considered in the literature on the public sphere and civil society to be alien (or even threatening) to their proper functioning (as we show in our chapter 1).

Despite—and perhaps because of—the overlap between civil society and the public sphere, it should now be clear why the public sphere has become an important conceptual tool for scholars of Islam and the Middle East. The analytical confusion generated by the recent utilization of civil society to describe a so-called third sector, or buffer, between the state and citizens clearly constitutes a misunderstanding of—or at best, a radical change from—its earlier use by Kant, Hegel, or more recently, Habermas.

We can argue that this shift in usage accounts in part for the fact that analyses of civil society of the last decade, however incisive in some

respects, have often muddied the waters more than they clarified them. Yet at the same time we recognize the immediate connotation of “civil society” as a potential generator of civility within the larger society, coming close to the notion of a self-regulating “civil society” in the idealized imagination of it through Ferguson’s day. Such a conception made it a natural term to explore how societies could function through mutual consent rather than coercion, or even the empty hegemony of formally democratic but effectively depoliticized late capitalist consumer societies, which Habermas showed lack properly functioning public spheres.<sup>5</sup>

And since several of the contributions to this volume explore public spheres as they have developed and operate in contemporary late capitalist—in popular terms, “globalized” societies (LeVine and Salvatore, Deeb, Baker, Masud, Hamzah, and Messick, in chapters 1, 3, 4, 6, 7, and 8 respectively in this volume)—it is important to explain why in the global era the notion of the public is so crucial to constructing a proper sociology of Muslim societies. This is because one of the primary processes unleashed by globalization is the “disembedding,” or “deterritorialization” of identities from their moorings in previously hegemonic national and/or religious fields. This process is realized through the intensification of not just capitalist relations with neoliberalism and flexible accumulation strategies, but also via the hypercommodification of cultural symbols and the consequent “culturalization” of political economies affecting all social relations (Tomlinson 1999). In such a situation the need for spheres of public discourse and communication that are relatively free of either economic or political power relations—that is, the public sphere as imagined by Habermas—becomes more readily apparent within societies. Yet as we discuss below, as long as we remain locked within a framework (indeed, a hegemonic one) of secularity, the public sphere will be understood as “a space of zero-degree culture, so utterly bereft of any specific ethos as to accommodate with perfect neutrality and equal ease interventions expressive of any and every cultural ethos” (Fraser 1997: 79). Such a culture free zone of discourse, we argue, does not exist in practice, since public spheres are not just the arenas for the formation and enactment of discursive opinion but of social identities as well (which makes them the “theatre” of a singularly cultural activity; cf. Fraser 1997: 85).

### Secularity and Public Islam

In a recent edited volume, Salvatore and Eickelman argue that “advancing levels of education, greater ease of travel, and the rise of new communications media throughout the Muslim-majority world have contributed to the emergence of a public sphere in which large numbers of people, and not just an educated, political, and economic elite, want a say in political and religious issues,” separately from the formal structure of political authority and the traditionally familiar places of kin, neighborhood, and immediate community (Salvatore and Eickelman 2004: xi). In this context, the expansion of the intellectual and discursive spaces in which a variety of

actors could operate helped Muslims navigate social conditions such as the fragmentation of religious and political authority and the ability to have increasingly open (if uneven and often contradictory) discussions of issues related to the “common good” (*al-maslaba al-umma*). What Salvatore and Eickelman term the emerging “public Islam” includes the participation of a wider spectrum of citizens than had heretofore had access to or helped to shape either the normative expressions of Islamic belief and practice or the larger political system.

Going one step further, the contributions to this volume evince a notion of hegemony that is rooted in the contested interplay of various nodes of interaction—all of them culturally informed—in which groups have the power and ability to use coercive disciplinary measures even when they do not control state apparatuses such as the police or related “services.” Indeed, these nongovernmental centers of power both use coercion and more traditional practices of achieving hegemony, through schools, mosques, and public political ideologies, in practice and discourse.

Our specific contribution to the sociology of public spheres is to explore, in a manner Gramsci and those following his trajectory have not, how groups can achieve hegemony without necessarily targeting state power, through the deployment of techniques of coercion and disciplining, education, and persuasion on the one hand, and through the constant and variable interplay of various circles of interaction and meaning production by different social groupings. Based on recent research (cf. Salvatore 2001) we find public spheres to emerge in the manner suggested by Foucault’s diagnosis of the microphysics of power creating networks or discourses from the bottom up until they cohere into “global or macrostrategies of domination” (Foucault 1980: 39, 158–59).

The resulting bottom-up approach is also important to tracing a genealogy of secularity as a defining moment of the hegemonic forms of modernity, one that can help us understand the role it has played in framing investigations into the public sphere. We can thus see secularity emerging in this manner, taking diverse trajectories in different spaces of contention and production, including in the Middle East. Specifically, Asad’s recent work (2003) facilitates situating the idea that for a society to be modern it must be “secular”—that is, have a formal separation between religion and the state—as itself part of the hegemonic discourse of modernity, not least because of the uncritical manner in which scholars have utilized the idea of “secularity.”

Indeed, Asad convincingly demonstrates how the very term “secular” was introduced by free thinkers in the 17<sup>th</sup> and 18<sup>th</sup> centuries to differentiate themselves from infidels and heretics—that is, to show that they were not being irreligious, but rather changing the parameters for the space and role of religion in emerging modern capitalist (and, we should point out, colonial) societies formed through the cauldron of the modern state. The conceptual and discursive cluster gravitating around the idea of secularity emerged in the context of early modern Europe’s need to address problems such as the

need to control increasingly mobile poor, to govern mutually hostile Christian sects within a sovereign territory, and to present a united identity to the peoples that Europe colonized (Asad 2003: 192). Secularity must be accordingly understood not as an ideology or as the simple separation of church and state—since medieval Christian and Muslim societies did have patterns of separation, while modern states still incorporate religion at various levels for legitimation—but as “an enactment by which a political medium (representation of citizenship) redefines and transcends particular and differentiating practices of the self that are articulated through class, gender and religion” (ibid.: 5).

In fact, with Asad we can declare a fundamental question to be not how we can account for a supposedly increasing structural differentiation of social spaces resulting in the separation of religion from politics, economy, and science, in its “privatization” within its own sphere, and in the supposedly declining social significance of religious belief. Given the problematic nature of these normative assumptions, we should question how and why, under which conditions religion becomes public under conditions of modernity—whether in the shipyards of communist Poland or the bazaars of Pahlavi Iran (Asad 2003: 182). If secularity is, in Asad’s terminology, a “form of life” and a way to mediate between various identities of citizens (ibid.: 5), we can conclude with Fraser that crucial to the proper functioning of public spheres is the ability of all participants to “make others listen even if they would prefer not to hear.” In order to be heard, Asad goes on, religious or other viewpoints may specifically have to actively disrupt existing assumptions and discourses to be heard, so creating a tension with the liberal norms of the public sphere (Fraser 1997: 185). This “disturbing of the peace,” as we might call it, helps us take up Asad’s implicit call simultaneously to provincialize (yet in so doing, in fact opening new spaces for understanding) “secular modernity” as a specific normative project affecting subjectivity and modes of communication, and to recognize that its basic conditions include the ability of state apparatuses to govern through the political authority of the larger “nation-state” discourses, the freedom of exchanges within and beyond the market proper, and even the moral authority of the family without whose complicity the shaping of secular life forms would not be possible (Asad 2003: 235).

These characteristics were shared by many state structures in the Middle East since almost the dawn of the modern era (as were many of the most important markers of capitalism as well: cf. LeVine 2005, building on Pomeranz 2001; Gunder Frank 1999). Therefore, the processes of reconstructing public spheres in Muslim majority societies explored in this volume build by necessity on the ongoing historical tension between the global unfolding of secular discourses and institutions especially since the 1950s, and those claims to the common good and to the legitimization of public action that also play with techniques of power but are rooted in different genealogies of authority and sociocultural values (cf. Salvatore 2001).

Our particular focus on the boundaries and dynamics of the public sphere achieves several important goals, as will become apparent in the chapters that follow. Historically, it enables a plural, contingent, and culturally informed understanding of how hegemony is contested and achieved. Sociologically, it displaces—at least partially—secularity/-ization (and concomitantly, embourgeoisization) as the necessary frame enclosing modern public spheres. As stated by José Casanova, who has set a more open accent on the relation between liberal secularity and “public religions” than Asad’s relatively pessimistic diagnosis:

The very resurgence or reassertion of religious traditions may be viewed as a sign of the failure of the Enlightenment to redeem its own promises. Religious traditions are now confronting the differentiated secular spheres, challenging them to face their own obscurantist, ideological, and inauthentic claims. In many of these confrontations, it is religion which, as often as not, appears to be on the side of human enlightenment. (Casanova 1994: 233–34)

### Summary of the Book and Individual Chapters

When considered in light of our discussion in this introduction (which we deepen in chapter 1), the research findings of this volume reveal certain transversal themes that can be a felicitous guide for future research on public spheres in the Muslim majority world, if not the world at large (see Lynch’s Conclusion). Here we intend transversal to signify both the sense of revealing commonalities in the experience, dynamics, and descriptions of the public sphere cutting across the various case studies, and, as important, the constituting of an alternative reading to the hegemonic narratives that “work to circumscribe and maintain” existing arrangements of power, knowledge, and sociability. Instead, our theoretical approach and empirical findings seek to evoke a sense of the public sphere as at least potentially a “subjunctive space” (such as Lefebvre’s “clandestine” or “representational” spaces—hypothetical spaces of both “as if” and “what if” in which new and exciting (if frightening) spheres of publicness can be imagined and actualized (cf. Lefebvre 1991 [1974]; Reynolds 2003).

At some level, all the experiences and understandings of the public sphere discussed in this volume involve such a process of subjectivizing—and subjunctifying—what until they became hegemonic were destabilizing technologies and discourses of personhood and community. Our reappraisal of concepts such as hegemony and secularity, or the relationship between civil society and public sphere, is intended to suggest several directions that new research can take based on the groundwork laid in this volume. To the extent that we achieve this goal the knowledge produced here will facilitate the exploration by scholars and activists working on, and in, public spheres of its role as the space for scrutinizing the myths of liberal politics and economics, which until today have concealed the complexity of structures of social, political, and economic inequality in modern societies.



## CHAPTER 7

# IS THERE AN ARAB PUBLIC SPHERE? THE PALESTINIAN INTIFADA, A SAUDI FATWA AND THE EGYPTIAN PRESS

*Dyala Hamzah*

In the spring of 2001, Saudi Arabia's Grand Mufti issued a fatwa condemning suicide attacks in the name of Islam. In the Egyptian press, the fatwa was perceived as a desecration of the icon of Palestinian resistance (the martyr or *shahid*). An "Arab public opinion," voicing its concerns over the jeopardized interests of the community (*umma*), was soon staged in its daily columns. In this chapter, I explore a debate that laid bare the contemporary procedures by which consent is manufactured. For that purpose, I address the *reception* of the Saudi fatwa in the Egyptian press, the *argumentation* construed in favor or against it, and the *explanations* put forth to make sense of the acts it sanctioned.

The main outcome of the analysis is that the specialized opinion of the 'ulama is given precedence over nonspecialized opinion and gains the legitimacy of being both "public" and "Arab." I argue that the consensual (mis)representation of the Saudi fatwa that resulted from the debate is proof not of the existence of an Arab public opinion and thus of an Arab transnational public sphere, but rather of its absence. I conclude with a critical assessment of the application of the Habermasian concept of public sphere to the Middle Eastern context of this study.

This investigation primarily addresses the Egyptian press' for a case study of "Arab public opinion." The sheer size of the Arab press makes it impossible to conduct a systematic review at a macro level. The Arab Press surveys published by the Israeli organization, the Middle East Media Research Institute (MEMRI) could have offered an alternative to extensive research, were it not for its problematic handling of the material.<sup>2</sup> Reference to it was therefore kept to a minimum. But there was an organic reason too for this choice of Egypt—namely, its self-posturing as recipient, and amplifier, of an "Arab voice." The self-conscious representation of this country's political weight and cultural centrality in the region is a constant



of its national press and was restaged on the occasion of this particular debate.

### Chronology of a Pre-9/11 Debate

On April 21, 2001, the London-based Saudi daily *al-Sharq al-awsat* released a major interview with Saudi Arabia's Grand Mufti, shaykh 'Abd al-'Aziz ibn 'Abdallah Al al-Shaykh.<sup>3</sup> In the front-page summary of the interview, the mufti's corporate stance regarding the prerogatives of religious scholars (the 'ulama) was affirmed alongside considerations over recent violent militancy. The few lines devoted to suicide operations soon came to be known in the Egyptian press as the "stray fatwa"<sup>4</sup> or the "bomb-fatwa,"<sup>5</sup> provoking a heated debate over the legitimacy of Palestinian "martyrdom operations" against Israel. Lasting in intensity from April 22 till mid-June 2001, the controversy had largely subsided by the 9/11 attacks on the World Trade Center and the Pentagon and was not to recover momentum subsequently. The Egyptian press then focused on the "War on Terrorism," leaving momentarily in the background the Second Intifada, about to enter its second year.

The few articles debating the virtues of martyrdom after 9/11 did so by drawing a distinction between terrorism, on one hand, and heroism and legitimate defence, on the other. At stake for such observers was the manipulation, by violent proponents of Islamic militancy, of the reformist reinterpretation of the *jihad* doctrine as a concept of international law and of the equation of *jihad* with the concept of *bellum iustum*. Egyptian thinker Muhammad Salim al-'Awwa wrote:

The allegations that Arabs are terrorists or that they practice terrorism against Israel are nullified by what is recognized in international law and in the United Nations charters and successive resolutions, i.e., by the distinction between the right to resist the occupying enemy and terrorist acts against civilians. What happened in New York and Washington on September 11 is a terrorist act without any doubt.<sup>6</sup>

However, with the sudden intensification of Palestinian suicide operations in December 2001 leading to the unprecedented measures taken by Israel against the Palestinian Authority and Yasir 'Arafat, the debate floundered in response to the needs of the actual political agenda.<sup>7</sup> Though the issue of suicide bombings cannot be considered specific to the Second Intifada, the Egyptian debate reveals that these operations started to be assessed in clearly dichotomous terms (martyrdom versus suicide) in the wake of the Saudi fatwa that refused to qualify a suicide (*intihar*) attack as martyrdom (*istishbad*), and asserted that such attacks contravened Islamic law.

This dichotomization was confirmed locally and transnationally. Public opinion polls carried out at regular intervals among Palestinians since the

start of the Oslo process have shown the dramatic increase of support of suicide operations as an adequate or legitimate means of resistance to the occupying forces. On the other hand, Egyptian press observers, both "secularist" and "religious," have echoed a quasi unanimous celebration of the glorious martyrs. Religious writers have dominated the debate as they issued innumerable condoning fatwas, after the initial Saudi fatwa ignited the controversy. How the debate picked up again and how it changed after the first suicide attack perpetrated by a woman,<sup>8</sup> are matters beyond the bounds of this contribution. The value of this study transcends the political contingencies of those months and offers insights into the ambivalent emergence of an issue-oriented public discussion in an Arab context that the post-9/11 war scenario has not allowed since.

### Of Contemporary Fatwas

While it was expected that the fatwa that sparked the debate would mobilize *en masse* the specialists of that legal genre, it is less obvious why the discussion remained under their control. In the modern era, the upsurge of that specific legal genre called fatwa<sup>9</sup> in times of crisis has been acknowledged by recipients and practitioners of Islamic consultation (*ifta'*), so as to refute earlier scholarly findings that had declared the institution obsolete (Tyan 1960). This fatwa revival has received recent scholarly attention<sup>10</sup> and the institutional transformations of *ifta'* are now well documented. Noteworthy among those who have attested to the vitality of this legal practice and literature in modern days are Masud, Messick, and Powers (1996) on the one hand, and Skovgaard-Petersen (1997) on the other. They have stressed how *ifta'* has been decisively revived and transformed by print culture and the development of mass media.

Umlil (1996) seems to attribute to the Islamic resurgence of the 20<sup>th</sup> century the responsibility for this renewed role of the fatwa. His stress on an emerging type of "non-official," "fundamentalist" fatwa,<sup>11</sup> puts in evidence its loosened ties with the vast corpus of "jurisprudential precedents" (i.e., the mass of volumes of collected fatwas). The fact that this type of fatwa readily addressed modern social issues<sup>12</sup> probably influenced the institutional fatwa in style, content, and even frequency. But a focal point in the debate here under scrutiny is the fact that the "stray fatwa" and the major counter-fatwas all came from the most official and orthodox (Sunni and Shi'a) institutions, up to the point that the debate is saturated with considerations of status, legitimacy, and justification.

### The Saudi Fatwa

#### *The Front-Page Summary*

Under the heading "Saudi Arabia's Mufti: the Excommunication (*takfir*)<sup>13</sup> of Muslims is a Dangerous Matter," 'Aqil al-'Aqil, *al-Sharq al-awsat*'s

correspondent in Riad cursorily referred on the front page to shaykh 'Abd al-Aziz ibn 'Abdallah Al al-Shaykh's long interview in the inside "religion" page, summarizing it through four apparently unrelated issues: (1) the prerogatives of 'ulama in matters of excommunication (*takfir*); (2) the scholarly prerequisites of Islamic consultation (*ifta*); (3) the illegitimacy of suicide attacks and the fact that they do not pertain to *jihad*, and (4) the illegitimacy of airplane hijacking. While this front-page summary is only a partial reconstruction of the Grand Mufti's words, it must be noted that it is to this truncated and reconstructed text that all participants in the debate would later refer. This made it possible: (1) to ignore or bypass the jurisprudential arguments put forth by the mufti, which are truncated in the summary, and (2) to question the authenticity of his sayings, since the interview framework was absent from the front-page summary.

### *The Text of the Interview*

The text consists of three distinct parts. Starting with a biography of the shaykh, it proceeds to summarize the content of the subsequent interview—in an order of subjects that differs from the one on the front page—before parading the 12-question-and-answer-long interview. The length and complexity of the questions are such as to suggest either their prior formulation by the mufti himself or the assumption by the journalist of the role of *mustafii*' (the individual or institution soliciting a legal opinion), a point I later give more attention. As to the 12 questions, they dealt with diverse issues amongst which: suicide operations and their relation to *jihad* (question no. 1); the issue of *takfir* ("excommunication") and who is allowed to pronounce that legal statute (no. 5); the current passion for and competition over Islamic consultation (no. 6); airplane hijacking (question no. 7); the official representation of Islam (no. 12). While the title of the interview took up the topic of the seventh question/fatwa ("Airplane hijacking and the terrorizing of passengers is illegitimate"), its subtitle bore: "*Takfir* is a dangerous matter which Muslims ought to abstain from and leave to established scholars—in the absence of qualification, Islamic consultation is greater [a crime] than polytheism." The title seems to point to a specific recent event whereas the subtitle focuses on two of the major challenges that official Islam has had to contend with in the last decades of the 20<sup>th</sup> century, as Islamist groups strove to capture religio-political authority through *ifta*' (Willis 1996).

### *Discrepancies*

Nowhere in the article does the condemnation of suicide operations appear in headlines, although this issue is the first to be tackled in the interview and the first point to be summarized in the peculiar introductory part of the interview following the biography of the shaykh. That short reconstructed front-page text displays yet another problematic

feature when compared to the original: it does not make clear whether some of its four fatwas were issued at the spontaneous initiative of the mufti himself while others were issued as an answer to the questions of the journalist ("[The mufti] emphasized . . . And in an interview with *al-Sharq al-awsat*, he considered . . ."). But since the Egyptian opinion makers would single out that short column instead of the original interview, a close look at its apparently unrelated contents is in order. It reveals a subtle, albeit artificial, editorial articulation, where, of the four fatwas listed above, (1) appears to be a species of (2) while (3) and (4) are concrete applications of the former.

In substance, the front-page column ran as follows:

While all muftis are 'ulama, not all 'ulama are muftis since *ifta*' belongs only to those deeply versed in the science of *fiqh* as well as in worldly affairs. Not all who have been driven to impiety, fornication, unlawful innovation would be judged accordingly: better the Muslim public (*umum al-muslimin*) keep their tongues to themselves and leave these matters to the 'ulama. A mufti is a *'alim* with knowledge and understanding in worldly affairs and in the situation of the questioner. He is bent on averting harm and promoting benefit, and endeavors in the exercise of *ifta*', in order to strike a balance between the benefits and the harms entailed when these are in contradiction in the situation which is the object of the fatwa.

What the front-page summary does next is to give a definition of *'ilm* and *'alim*, before delivering the condemnation of suicide attacks and hijacking. In the process, it transforms fatwas 1 and 2 into meta-fatwas, and fatwas 3 and 4 into concrete applications: in this case, of legal opinions on novel social issues:

The mufti sees that the suicide operations have no legitimate cast and are not part of *jihad* for the sake of God. And he expresses his concern lest they be a form of self-killing while stating that the killing of the enemy is an obligation, though it is an obligation which is determined in its modalities. As to airplane hijacking and the terrorizing of passengers (*aminin*: those entrusted to), it is contrary to the *shari'a* due to the aggression on women it breeds and to what is entailed by the breach in security.

### The Context of the Saudi Fatwa

Whether we revert to the original interview or stick to its truncated version, the salient characteristic of these fatwas remains their self-assertiveness and defensiveness. The reported speech adopted by the journalist to illustrate them (as opposed to the interview frame whereby the questions are clearly formulated), adds to the aloofness of the statements. This is retroactively corroborated, however, by the subsequent silence of the mufti in the ensuing controversy.

Without delving on the domestic Saudi turmoil since after the first U.S.-led war against Iraq, which issued in protests against the presence of American troops on Saudi soil and demands for reform,<sup>14</sup> it seems reasonable to think that both “empirical” fatwas were prompted by recent events related to Saudi Arabia. Fatwa 4 addresses the Chechnian hijacking of a Russian plane that occurred on March 17, 2001 and ended, in Medina, with the death of one hijacker and of one female passenger at the hijackers’ hands. Fatwa 3, on the other hand, which was understood by the Egyptian public opinion as concerning the Palestinian suicide operations against Israel, is however susceptible of a double interpretation. Despite the quite explicit formulation of the journalist’s question, the fatwa could have addressed the USS Cole missile destroyer’s suicide bomb attack, which killed 17 U.S. sailors and injured 39 in Aden on October 12, 2000 and in which Bin Laden, notoriously an ex-Saudi national, was incriminated. However, the time span separating this fatwa from the attack (six months) is quite long. Moreover, the adamant retreat of the mufti after the controversy erupted does suggest the inclusion of Palestinian suicide attacks in the circle of prohibition. What counts for the follow-up debate is that in a manner typical of fatwa rhetoric, the case at hand is stated in an impersonal and general tone. While the mufti knows the particulars of the case, the fatwa is stated as applying in general, “given such and such events and presuppositions.”

That the fatwa should be politically motivated comes as no surprise. The position of Grand Mufti in Saudi Arabia is a state appointment. The Supreme Council of ‘ulama (founded 1971), headed by the Grand Mufti, is also an integral component of the apparatus for the state’s religious legitimation. As to the members of organizations promoting violent forms of Islamic militancy, they are first-rate rivals of this institutional and “statist” Islam. The mufti shares a “class” interest with state officials and protects his prerogatives when addressing the *‘umum al-muslimin*, a rhetoric qualification formally designating the ordinary and peaceful laymen, but here most specifically singling out the violent revolutionary contenders of religious and political authority.

The Saudi regime’s commitment to the Israeli-Palestinian peace process initiated by the 1993 Declaration of Principles has been consistently displayed at the diplomatic as well as at the financial levels,<sup>15</sup> and the regime’s interest in the establishment of a Palestinian state is consistent with late king Faysal’s successful transfer, during the 1970s, of the Arab-Israeli conflict from the Arab plane to a broadly Islamic one. This move prompted most Arab states, including Syria, Egypt, and Libya, to accept this redefinition of the conflict after the 1973 war. In 1973 as in 1993, the stakes from the Saudi point of view were the survival, in the case of Saudi Arabia, or the emergence, in the case of Palestine, of a nation-state claiming guardianship over the three holiest shrines of Islam and the assertion of its legitimacy over the contending pan-Arabism of the 1960s and early 1970s or the Islamism of the 1990s and of today.

## The Counter-Fatwas and Other Responses

### *The Reception: Asserting the Transnational Umma*

The reception of the Saudi fatwa in the Egyptian press ranged from outright rejection to unequivocal agreement, with some intermediate degrees of tentativeness. As we map the different reactions, the traditional divide in the “Arab public opinion” between “secularist” and “religious” voices is significantly redrawn.

#### *Incredulous Denial*

Among those who rejected the Saudi sanction of suicide operations were those who did so incredulously, by refusing to believe that such a fatwa could emanate from such an orthodox authority as the Saudi mufti and blaming the media for distorting or even faking it. Others offered inadequate interpretations, saying that the fatwa referred to internal events in Saudi Arabia or applied only in times of peace. Al-Azhar’s shaykh Tantawi’s initial reaction was indeed one of sheer denial,<sup>16</sup> while Hamas’s Rantisi and other religious figures<sup>17</sup> were said to have rejected it prudently.<sup>18</sup> In one occurrence reminiscent of conspiracy theory, a journalist considered three hypotheses: (1) such a fatwa was “insinuated” to *al-Sharq al-awsat*, which lacked the time to carry out the necessary verifications, a hypothesis that is not very plausible given the absence of any official denial by the Saudi mufti and the reputation and wide circulation that the newspaper enjoys; (2) the “insinuated fatwa” (which is examined notwithstanding) raises suspicions as to its timing: aren’t the latest suicide operations close to defeating the enemy, after they made clear that no peaceful coexistence can be achieved without returning the land to its owners in Palestine? (3) such a fatwa was issued by the mufti but only after he was driven to it, intentionally or not, by *al-Sharq al-awsat*’s journalist, who wanted to make a scoop without considering its negative impact on the morale of a people who suffers continuous missile attacks and has no alternative except turning their sons into human bombs.

#### *Condemnation*

Another modality of rejection was through debasing the Saudi mufti by describing him as incompetent or corrupt. A representative of the first opinion was the Egyptian Muhammad ‘Imara, who did not question Shaykh ‘Abd al-‘Aziz’s erudition as *‘alim* but only his credentials as mufti, while offering the only term-to-term refutation of the Saudi mufti’s meta-fatwa on the conditions of *ifta’*. Among those who embark on *ifta’*, said ‘Imara, some might be knowledgeable in the “legal statutes” but are ignorant of reality. And we must be aware of the actors’ intentions, lest we become bookworms, repeating what we find in books without being aware of the reality we live in.<sup>19</sup>

‘Abd al-Rahman al-‘Idwi (professor at al-Azhar in Cairo) was among those who upheld both types of hostile opinions and so delivered the

probably sharpest condemnation of the Saudi mufti. Such sayings, 'Idwi stated, can come only from our enemies who are bent on weakening our will. As to the ubiquitous and popular, Egyptian-born and Qatar-based Muslim Brother shaykh Yusuf al-Qaradawi, he was among the first to voice criticism and one of the few to do so consistently throughout the debate,<sup>20</sup> but his condemnation, as far as we know, never ventured outside the bounds of scholarly argument.

On the front of denial, religious and secular arguments combined to counter a legal and authoritative opinion that was deemed harmful to the self-representation of the "Islamic community" (*umma*). Indeed, denial often sustained by an assertive "we," by the rhetorical, albeit proud, appropriation of the martyrs and self-martyred heroes, of "our" children of Palestine. As Qaradawi summed it up: "What our children in Palestine are doing arouses pride," describing them as "those lion cubs with whom the community glorifies itself." This is a good illustration of the way in which Palestine was inscribed at the heart of the *umma* and consecrated as an icon of Arab nationalism, even for what are otherwise, in Raymond Baker's words (see chapter 4) moderate or *wasatiya* figures.

Elsewhere this icon even assumes the quality of a substitute for national action, as in the Lebanese Shi'a mufti's statement that "the Intifada is the ultimate weapon of the Arabs . . . its endurance is a revivification of the Arab dignity and were it to be defeated, God forbid, we would be left only with collective suicide."<sup>21</sup> A far cry from empty nationalistic slogans, the statement of the Shi'a mufti rather situates suicide bombings in historical perspective: his statement responds to the journalist's question whether the unilateral withdrawal of Israel from Southern Lebanon after two decades of occupation and a relentless resistance by Hizbullah, history would repeat itself in the Palestinian territories.

#### *Political Agreement and Doctrinal Support*

If the denial of the fatwa was carried out in the name of the *umma*, the few religious and political figures who agreed with it did it in the name of the nation-state. Remarkably, however, this agreement, whether delivered by politicians or 'ulama, did not find its way into the Egyptian press. However these voices are significant and so is the fact that they can be found in the Palestinian and Saudi press,<sup>22</sup> that is, in the two national contexts that are central to the debated issues and that one would assume were being narrowly monitored in Egypt, given the Egyptian press's claim to voice Arab opinion. The political and doctrinal support that the Saudi shaykh was granted highlights the significance of omissions in the manufacture of a national public opinion (the Egyptian one) poised as a transnational Arab voice.

Those who de facto agreed with the Saudi fatwa by condemning suicide attacks, were mostly Palestinians involved in the construction of the Palestinian state: the head of the Palestinian Authority Yasir 'Arafat and the journalist Muhammad Masharqa,<sup>23</sup> the Jerusalemite lawyer Jonathan

Kuttab,<sup>24</sup> and academicians like Musa Budeiri and Rema Hammami.<sup>25</sup> But what characterizes the reception of the Saudi fatwa by this quite heterogeneous set of observers is not a real reception, but a condemnation of suicide operations in the name of political opportunism ('Arafat), morality and political expediency (Budeiri/Hammami), or antireligious nationalist legitimacy (Masharqa), sometimes driven by a keen understanding of international opinion (Kuttab). This approach never addressed the fatwa or the person of the mufti whether directly or indirectly. This might also explain why these opinions never found their way into the Egyptian press.

Among the notable non-Palestinian exceptions who lent, de facto or de jure, their support to the Saudi fatwa, were the Lebanese journalist Samir Qassir,<sup>26</sup> who saw in suicide attacks the suicide of a nation, and the Moroccan *alim* shaykh Muhammad al-Hajj Nasir,<sup>27</sup> an expert member of the International Academy of Islamic Jurisprudence. No mufti seemed to have as flatly and unambiguously agreed with the Saudi Grand Mufti as he did, in such rigorous doctrinal terms, with such discriminating notions as to appear ultra-orthodox if compared with the authority he was supporting. We cannot, says the shaykh, assign to any Muslim who dies in a nationalist struggle the attribute of *shahid* if only because, by doing so, we might confer this status upon someone in disagreement with religion; and we may not even declare martyrs those whose Muslim virtues are not in question and who die, because it is not up to us to confer the status of martyr upon he who dies in pursuit of an authentic interest. We may only pray God that He accepts his martyrdom. Nationalist struggle, therefore, does not produce martyrs *sui generis*. Martyrdom is preconditioned on integrity; it is not to be gained through action alone. Religion is not to be subsumed under politics. The fatwa by shaykh Nasir was not only meant to assert some kind of orthodoxy but it also seemed to want to score a point against one of its fiercest mediatic contenders: the above-mentioned shaykh al-Qaradawi. Published in *al-Sharq al-awsat* too, this contestation of Qaradawi's arguments against the Saudi fatwa produced no response from the latter in the Egyptian press; neither did it attract other contenders or defendants of the Qatar-based Egyptian shaykh.

#### *Religious Lip Service*

While many journalistic statements point to the contrary, no mufti, except shaykh Nasir of Morocco, really came directly to the rescue of Saudi Arabia's Grand Mufti. Others paid some ambivalent lip service. Shaykhs al-Sadlan and al-Albani, the alleged front-line supporters of the Saudi mufti according to *al-Sharq al-awsat*,<sup>28</sup> delved each on details in what appears as a diversion for expressing a diluted disagreement. For al-Sadlan, the matter really boiled down to three possibilities, each of which he examined without ever designating names or groups: (1) he who engages in a battle whose fatal outcome is certain is committing suicide; (2) he who engages in a battle in order that Right may dawn and Wrong be annihilated and who dies doing so is a martyr; (3) he who engages in a battle whose

issue is uncertain is not committing suicide. Then follows a statement to the effect that those people who commit such acts are a variety and that some who commit a "suicidal self-sacrificial act" (*amal fida'i intihari*) are probably indoctrinated into thinking that they are fighting for a principle or a cause; those who die under these conditions are not to be described as having committed suicide and so they are pardoned. While Palestinian suicide bombers would certainly not fit in (3) but most definitely in (1), they are morally "saved" by the construing of (2), which is meant to qualify the condemnation, and, as "indoctrinated" individuals, they are furthermore pardoned while the blame seems to lie with their "indoctrinators," the Hamas and Jihad organizations. While initially presented as supportive, the fatwa of al-Sadlan is in fact all to the contrary. The same is also true, though to a lesser extent, of shaykh al-Albani's fatwa, entitled in the article "the suicide operations carried out these days are permitted and not permitted": in an Islamic regime, they are allowed if they emanate from a caliphal or military command. The Caliph or army leader must be well versed in Islamic *jihad*, otherwise these operations would not qualify as permitted. Only a legitimate Islamic authority can guarantee the intentions of the self-martyred. Without it, how would one know whether they all pray and whether there are no communists among them?

Another half-condoning stance was that of shaykh Tantawi of al-Azhar, who supported the operations as long as they did not target civilians. However, Tantawi's opinion was not weighed so much against that of the Saudi mufti as against his own preceding opinions on the legitimacy of suicide operations, which oscillated, between 1998 and 2001, from one side of the spectrum to the other.<sup>29</sup>

Has the public forum afforded by specialized religious debates contributed to remap the traditional divide between "secular" and "religious" voices? While the overwhelming predominance of the religious personnel would lead to answer negatively to the question, a closer look at the arguments deployed might yield a different picture.

### *The Arguments: Asserting the Public Interest*

The arguments developed by the actors in the debate ranged from intra-jurisprudential to extra-jurisprudential, while also offering the occasional mix. The recourse by the layman to jurisprudential arguments and, conversely, the use of extra-jurisprudential arguments by 'ulama is one of the most interesting characteristics of the debate. A second noteworthy feature is that whatever the type of argument used in defence of or against the fatwa, the objective was mostly the assertion of some national form of public interest.

#### *Intra-jurisprudential Arguments*

The intra-jurisprudential arguments sought to refute the correspondence established by the Saudi mufti between martyrdom and suicide in the case

of Palestine: the stakes were high since suicide is generally considered as a grave sin in Islam, disapproved by the Prophet himself who refused to recite the customary prayers for a suicider, and entailing terrible consequences in the afterlife. As they sought to distinguish martyrdom from suicide, actors in the debate, religious and nonreligious alike, did so by resorting to analogous situations of "suicidal martyrdom," which they endeavored to find in the early history of Islam.<sup>30</sup> But they also did so by discussing the notions of objectives and intentions (*niyyat*)<sup>31</sup> in self-inflicted death, in relation with the purposes of the Law (*maqasid al-shari'a*).<sup>32</sup> It was found that those operations were invariably carried out for the love of one's fatherland, or in self-defense and defense of religion and the fatherland (Nasr Farid Wasil<sup>33</sup>), or in defense of land, rights, and dignity (Qaradawi<sup>34</sup>), or in defense of land, honor, and the weak (al-'Idwi<sup>35</sup>), or in defense of land, self, and worldly goods (Kamal Imam<sup>36</sup>).

Since it was ascertained, according to the declarations of an unexpected participant, that "the martyrdom of those who are fighting for Palestine does not mean giving up on life, but rather protecting its meaning" (Saddam Hussein),<sup>37</sup> the suicide bombers were qualified as martyrs and a prophetic *hadith* was called in support: "he who is killed stripped of his religion, his worldly goods and his honor, is a martyr." Those acts were seen as promoting the interest of the nation and/or the *umma*: the superior interest of victory (*maslahat al-intisar*: al-Hajj Nasir); the benefit of Muslims (*manfa'at al-muslimin*: al-Qaradawi); the public cause (*al-qadiyya al-'umma*: 'Imara). In another instance, support for the operations in conjunction with a radical critique of the religious disagreement was uttered, through the plea that the 'ulama stay away from politics for "peoples have interests that are dictated by circumstances and change."<sup>38</sup>

Reading the debate through the prism of the emerging notion of a superior collective interest allows yet another revisit of the traditional divide between secular and religious actors: a *ulim* arguing in favor or against the operations would do so, not so much in the name of doctrine as in the name of immediate national interests. Qur'anic invocations of a transcendent order are subsumed under the national interest: there is no higher expression of *jihad* than self-sacrifice for one's fatherland. If the overlapping of discourses does not achieve "communicative action" (cf. chapter 6 in this volume by Masud), could it be that the jurisprudential concept of *maslahat al-'umma* ("public interest") was bridging over the divide? Could it be that this notion, through the historical transformations it went through, was providing ground for the foundations of a common language? Or is it that the notion was employed through a powerfully integrating mechanism that Bourdieu (1971) has described as "l'effet de double-entente," whereby the *same concept* takes on *opposite meanings* when it serves to express different social experiences? It should suffice here to point to the fact that the Egyptian press was on the same wavelength as the Saudi and Palestinian dailies as far as invocations of the general interest were concerned. This in turn would lend support to the idea of an emerging,



common, trans-Arab political discourse, thanks to the migration of concepts from jurisprudence to “common sense.”

An eloquent illustration of the possible migration of the category of *maslaha* across the religious/secular divide was when *al-Abrar*, a self-declared liberal newspaper, published a suggestive criticism of the Western economicist notion of interest as it was allegedly developed by Samuel Huntington’s “faulty and dangerous representations” of the issue of Jerusalem in *The Clash of Civilizations*. This unsigned criticism summarizes a series of interviews with four scholars on the problem of the “judaization” of Jerusalem.<sup>39</sup> The conclusion is basically that the danger of Huntington’s theory lies in its misrepresentation of sensitive issues. One of them is the misconstruction of Jerusalem as a sentimental issue, rooted in religion and culture, that is, devoid of political and economic interests. The conclusion goes on to say that it is the error of maintaining Israeli settlements in Jerusalem, in contradiction with the peace process and Islamic sentiments, that has led to a consensus among the *umma’s* ‘ulama on the clinging onto Jerusalem, despite the fact that most of the Islamic countries have no political or economic interests in it. Muslims consider the sacred city as a religious, cultural, and therefore political affair of utmost importance: there lies their disagreement with the West. The assertion of identity politics over economics, the defining of national interest as having firm religious and cultural roots is indeed a definition that seems to be shared across the religious/secular divide.

On the other hand, intra-jurisprudential arguments were not able to sustain the legitimacy of suicide attacks on the sole basis of historic precedents and national interest. Indeed, they had to cope with the killing of civilians. In order to repel possible counterarguments to the effect that though the intentions are noble (fighting occupation), the means are ignoble (targeting civilians instead of the military), the rectitude of the suicide bombers’ intention had to be established and this was carried out through legal analogy (*qiyas*). Since the killing of enemy soldiers and the targeting of the military is what wars are all about, and since Israel is a militaristic society through and through, the suicide bombings are in fact never carried out in the midst of civilians, since civilians simply do not exist in Israel.<sup>40</sup> And as if *qiyas* was not enough, Qur’anic verses are mobilized to justify the killing of civilians, the most quoted of which was *al-Baqara*, 194: “Those who assault you, assault them the way they assaulted you.”

#### *Extra-jurisprudential Arguments*

Resorting to extra-jurisprudential arguments is a key feature of contemporary fatwas that rely more and more on all sorts of scientific expertise (Masud et al. 1996). This increasing dependence has raised questions about the nature of the opinion thus being produced. One such example was the fatwa of Muhammad Ibrahim al-Fayyumi, member of the Islamic Research Academy of al-Azhar, who based his ruling throughout on “international legality,” referring to the United Nations Security Council resolutions on

Palestine and especially resolutions 232 and 348, to the 1993 Declaration of Principles, and to the 1998 Wye Plantation Agreement. In his support of suicide operations, Fayyumi refers, like many other scholars, to the right to legitimate defense, a “human and religious right” that is recognized by international law.<sup>41</sup>

Other extra-jurisprudential arguments elaborated on international public opinion, whether local or international. This trend was present mostly among Palestinian actors, including the already mentioned lawyer Jonathan Kuttab and Hamas leader ‘Abd al-‘Aziz al-Rantisi. As they engaged in a polemic in December 2001<sup>42</sup> over the role of international public opinion in exercising pressure on Israel and pushing for conflict resolution, the two entered a rare direct exchange across the secular/religious divide. While Kuttab praised the virtues of nonviolence and the sense of community-building that had prevailed during the First Intifada (when all sections of the Palestinian society and not only “small non-representative armed groups,” were partaking in the resistance to the Israeli occupation), he also registered how badly the slaughter of unarmed children and youths was impacting on Western public opinion. How, indeed, nonviolent actions were more “marketable” than suicide operations. Rantisi would question sarcastically whether “non-violent activists” really thought that the only thing that could mobilize the West was that the Zionist military apparatus massacred thousands of Palestinian children? And whether these “pro-American Palestinians” thought that this would prompt such an emotional reaction as to lead ultimately to the grounding of a Palestinian state?

#### *The Dichotomous Frame of the Argumentation and the Question of Terrorism*

Following the issuance of the Saudi fatwa, all those who entered the debate over the Palestinian suicide bombings did so by systematically and prudently sticking to the suicide/martyrdom dichotomy imposed by the fatwa.<sup>43</sup> The dichotomous frame offered an unexpected arena for celebrating the virtues of the bomber while denouncing the vices of his foil (he who commits suicide “for his own benefit,” in the curious wording of Qaradawi). It also provided an exit out of the debate on terrorism. While some opinions did touch upon the legitimacy, according to the shari’a, of “terrorizing the enemy,” they usually took great care never to address seriously the stigmatization through their “enemy” ‘of the attacks’ organizers and perpetrators as terrorists. A few notable exceptions did, but in ways, contexts, and timings so different that it is hardly possible to ascertain any pattern. Among them, the first was the opinion of al-Qaradawi, who as early as April 25, 2001, that is, four days after the Saudi fatwa had been issued, made the sharp statement that “these operations are the supreme form of *jihad* for the sake of God, and a type of terrorism that is allowed by the shari’a.”<sup>44</sup> Another exception was Muhammad Salim al-‘Awwa’s refutation of the allegations of wholesale terrorism charges against Arabs: but this



was a post-9/11 opinion and thus will be read by related standards rather than by the dispute on Palestinian attacks and on the fatwa that condemned them. A third such exception, which came as a *billet d'humeur* under the title "How is an Israeli ideological terrorist created," tackled the question only by reverting it.<sup>45</sup> Answering that such an ideological terrorist is processed in Israeli schools and through rituals of commemoration, the author actually calls for the creation of a Palestinian counterpart to fight this war on equal footing: the Palestinian terrorist is yet to come!

Apart from these opinions, the vast majority of the participants managed to evade the question or indeed to answer it on another plane: that of the state of war. The Palestinian society is at war with an enemy within (the occupier), whose military strength is incomparably superior, slaughtering civilians every other day, resorting to political assassinations, and now bent on destroying an eight-year-old process of state-building after having devastated Palestinian economic life. Its answer to this onslaught is nothing less, but nothing more, than an act of war. War being the referential context of all opinions supporting the suicide attacks, the question remains as to why their authors felt the need to justify the reasons and explain the acts of the suicide bombers. To put it differently, if the act of the suicide bomber is morally, politically, and legally self-sustained (it is an act of war, an act of legitimate self-defence, of sacrifice "in the name of") why then is this act constantly pitted against its foil, that is, the act of he-who-commits-suicide-out-of-despair—that anomic act described by Durkheim (1960 [1897]) as being characteristic of "Western suicides," and paradigmatically opposed by Khosrokhavar (1993) to Islamic self-martyrdom? Why this recourse to psychological and sociological categories alongside the religious, the legal, and the political? Is it because the accusation of terrorism is so overwhelming as to prompt the public to produce an all-out assertive discourse on self? Or, to put it in another way, is it because the community feels threatened, its official discourse on self-identity notwithstanding, by the revolutionary potential of these individuals?

### *The Explanation: Individual and Community*

The framework in which the suicide operations were to be "correctly" construed was that of *jihad* against the infidel, and only in that particular instance when it is transformed from *fard kifaya* (collective obligation incumbent on the few who are apt or willing to carry it out, but whose benefits accrue to the whole community) into *fard 'ayn* (individual obligation), in situations of occupation or invasion. However, instead of functioning as an articulating and integrating process of individual and community, *jihad* as a *fard 'ayn* is reportedly operating as a distorting social factor on the ground, breaking down the community into scores of ready-to-die individuals: "For the first time we are unable to absorb all the applicants," a Hamas military official declared in September 2001, while a Jihad leader added, as if in explanation: "Nobody wants to die because he or she likes

death, this is a normal human feeling, but when life is no longer possible and becomes worse than death, death becomes desirable."<sup>46</sup>

Paradoxically, however, the breaking up of social ties, exemplified by this collective atomization as well as by children's disobedience are positively related to community building: the suicide bomber, by morbidly asserting his individuality and the children, by disobeying their parents for the sake of *jihad*, participate in the struggle and thus serve the interest of the community (as in a question addressed by Qaradawi). Similarly, the death of a child or a youth, through martyrdom or self-martyrdom, is presented as a joyful event prompting the parents to smile out of pride at their achievement.<sup>47</sup> General and especially psychological explanations are put forward in lieu of sociological insights and this is significantly facilitated by the blurring of the conditions of reporting.

Indeed, those articles that assert the joy of the parents at the death of their martyred child are not based on interviews. It is not clear whether the reporter is a correspondent reporting the incident or whether he is reconstructing it from press agencies material. The epic or inflated rhetoric and the hagiographic tonality given to the youth's biography take the place of sociological insight and support the psychological justification. That any explanation is deemed necessary after the religious obligation has been asserted does signal that an "iconographic discourse" is being produced to cover up social morbidity and anomization.

This iconographic (as opposed to argumentative) discourse fixes an unbearable event (the death of a child; the suicide of a youth) into a serialized strand of events by dissociating it from its historical genealogy and from its social and human consequences: the dead child belongs no longer to his family but to a glorious martyrs' *galérie de portraits*, and is mourned collectively, not just parentally. The suicide bomber, likewise, and his portrait in religious setting, his inscription in the chain of heroes in a war of liberation, is radically dissociated from the consequences of his act: he has not wrought death and wreckage as he was violently pushed to his tragic end.

It is in this context of a superlative *jihad* that one must resituate those fatwas that were so detailed about the conditions of *jihad* or those countless fatwas that compared the martyr to he-who-commits-suicide, as if in an effort to state clearly the perils entailed in self-inflicted death for he-whose-determination-and-intention-are-not-firm-enough. Their purpose was less an explanation of those suicidal acts than an attempt at averting the revolutionary (from the viewpoint of religious orthodoxy) potential of such acts and of the reasoning on which they were seemingly based (unbearable life/desirable death). Indeed, "this reasoning seems to find increasing, even overwhelming acceptance among all the strata of the Palestinian society, an acceptance transcending political and even ideological orientations." Hussein al-Tawil, an erstwhile member of the Palestinian Communist Party, described martyrdom operations as representing "the highest revolutionary level among humans."<sup>48</sup>

Therefore, the obsessive dichotomy imposed by the debate, the insistence on the conditions to be fulfilled in order to be a real *shahid*, the endless particularizations—all seems to address and to circumscribe this upsurge in morbid voluntary work, so to speak, with all its macabre imagery, celebrating the dislocation and maiming of bodies: a work that is sensed as being less religious than dictated by a rationale of despair. Hence the recourse to the psychological-religious category of *hope*, which averts the accusation of suicide: “He-who-commits-suicide kills himself for his own benefit, while he-who-commits-martyrdom sacrifices himself for the sake of his religion and his nation. While someone who commits suicide has lost hope with himself and with the spirit of God, the *mujahid* is full of hope with regard to God’s spirit and mercy.”<sup>49</sup>

Averting the notion of suicide and despair ultimately serves to prevent the martyr’s act from signifying resignation from life and assertion of the self in death: as in the case of the Bassidji, the Iranian youth enrolled in the martyrologic defence of the Islamic revolution (Khosrokhavar 1993), who is paradigmatically transferred onto the Palestinian scene (Bucaille 1998). The psychological explanation serves the purpose of avoiding such readings, in which the suicide bomber despairs of the effectiveness of the revolutionary utopia and of his ability to assert himself as a social actor. In the Palestinian context, the wreckage of the revolutionary utopia corresponds to the end of the nationalist struggle, brought about by the peace process.

### Conclusion: Of Public Opinion and the Public Sphere

#### *The Doxic Substitution in the Egyptian Public Opinion*

The Egyptian debate over the Saudi fatwa that allegedly condemned Palestinian suicide operations has yielded a peculiar “middle-of-the-road” picture of Egyptian public opinion. A remarkable fact is the absence of the extremes: no voices from the radical militant Islamist constellation (notably, *al-jam’at al-islamiyya*) were heard—at least none reached the Egyptian national press. At the other end of the spectrum, no big figure from among the secular, nationalist intellectuals engaged the “martyrdom versus suicide” dichotomy, the format, and the consensus lines of the debate. The “national consensus” was mostly the making of co-optation by the state (whether “liberals” like al-Azhar’s Tantawi or moderate Islamists like the Qatar-based Muslim Brother Qaradawi) and of ‘ulama engaging jurisprudential as well as non-jurisprudential rationality. On the other hand, the recourse to jurisprudential arguments by the “lay” could signal its appropriation of religious argumentation more than its questioning of the legitimacy of such argumentation.

However, the migration of certain jurisprudential concepts (such as *maslaha*) into common sense (cf. chapter 1 by LeVine and Salvatore) needs further systematized investigations: future research should replot

this debate against other discussions in order to determine whether recourse to *maslaha* signaled the emergence of a common public language bridging over the divide or manifested the mechanisms of Bourdieu’s “double entente,” that is, an extreme polarization of the secular and the religious clad through a consensual use of words. The reception and amplification of non-Egyptian voices was discriminate and traveled along the ambivalent line between the defense of the *umma* and the safeguard of the nation-state. The exclusion of Palestinian or other non-Egyptian voices who agreed with the Saudi fatwa in the name of Palestinian national interest is a sign of how foreign indeed Egyptian public opinion is to another Arab national interest, which it nonetheless asserts to support and whose symbols it appropriates in its calls for the defense of the *umma*. More perplexing is the lack of an ample public resonance to the numerous religious voices in Palestine who took the same stance as their Egyptian counterparts.<sup>50</sup> One explanation could be the self-consciousness of Egyptian journalists of Egypt’s prominent position in the realm of Islamic consultation (*ifta*), prompting them to play down competing non-Egyptian legal advices. Another could lie in the “islamo-nationalism” of Palestinian actors, whose national claims disrupt the master narrative of the *umma* voiced in the Egyptian press.

One could hypothesize that the debate staged in and by the Egyptian press over the Saudi fatwa instrumentalized the Palestinian national cause with the aim of serving a specific domestic agenda, while claiming to speak in the name of a transnational Arab opinion. This agenda, no doubt supported by the state to fight off the influence of Islamists on public opinion, relies on the quite novel idea that the ‘ulama hold not just the historical middle position between the ruler and the people, but that they author public opinion. The way in which the specialist’s opinion (the opinion of a *alim* co-opted by the state) is coming to stand for and pass as the opinion of the average Egyptian is precisely in staging the debate (1) as a controversy between specialists over the interests of the *umma*, and (2) as the expression of an “Arab opinion” over Palestine. The simultaneous mobilization of the religious and secular registers ultimately serves this doxic substitution. What is being subtly equated with the opinion of an imagined *umma* (about a fantasized Palestine) is claimed to be not Egyptian but “Arab” public opinion.

#### *The Conjunction of Journalism and Islamic Consultation*

What the Egyptian press did not question, but indeed built upon, was the way in which the “embarrassing,” the “unacceptable,” the “depressing” fatwa, and “the fatwa which came from nowhere,” was fitted into the Saudi newspaper that published it. What the Egyptian press did not question was the way in which authorized opinion was being reconfigured as public. It missed the distinctive effects of the very conjunction of journalism and Islamic consultation (*sibafa* and *ifta*). This conjunction represents the

mechanism through which the doxic substitution was being effected in the Egyptian public opinion. The journalist who carried out the interview with the Saudi Grand Mufti indulged in the imitation of the rhetoric of *ifta'*: the factual questioning proper to the reporter was replaced by the general enunciation that is integral to the delivering of a fatwa. In other terms, whereas it was expected from the mufti *as a mufti* to answer in very general and non-nominal terms, it was not expected of the journalist *as a journalist* to renounce descriptive and objective questioning and to indulge in sibilant formulations and circumlocutions.

The consequence was that while the mufti remained a mufti in the exercise of his institutional tasks—that is, the frame of the interview did not seem to affect his status—the journalist, quite conversely, adopted the role of the questioner or *mustafti'*: a deferent tone was used in addressing the mufti, and value judgments were passed in the coining of the questions, whereby the journalist *urged* the mufti to make a legal pronouncement. This feature has considerable significance for the way an “Arab public sphere” is being postulated by the Egyptian press when it claims to voice Arab opinion, through naturalizing religious expertise into its agenda and by assuming its universal validity.

### *The Arab Public Sphere*

A recent “interactionist” reassessment of Habermas’s concept of the public sphere has resulted in its redefinition as a locus of “shared anticipation” and an ever-widening circle of reciprocity (Eickelman and Salvatore 2004 [2002]: 15–20). Habermas himself described it dynamically as the competition over the definition of the “public interest” and defined it procedurally as “rational-critical discourse” (Habermas 1989 [1962], 1992). It is the mechanism through which private people come out as public and are enabled, as recalled in chapter 1 of this volume, to contest hegemonies. But Habermas encapsulated in his concept a historical development as well as a normative claim. For the sake of argument, let us however assume that the public sphere exists in as “natural” a way as is assumed of Arab public opinion by the Egyptian press. This allows an assessment of the concept’s implications vis-à-vis the context at hand, rather than requiring a discussion of its normative and historical articulation. These implications are threefold.

#### *Is a Religious Hegemony Preclusive of a Public Sphere?*

The “naturalization” of Islamic consultation (*ifta'*) in and by the press signals that public opinion is hegemonically shaped by concepts pertaining to the religious sphere. This said, it must be stressed that the presence of a hegemonic religious discursive referent does not, in itself, preclude the existence of a public sphere. This hegemonic discourse is the dominant rationality in which debate is carried out, and I have highlighted the fact that the language of the “specialist” was in the process of being appropriated

if not (yet) questioned by the “lay” (as much as the specialist’s discourse was being penetrated by extra-jurisprudential concepts and ideas). This is certainly a far cry from Habermas’s “critical-rational” discourse where personal opinions are relatively unfettered by considerations of status and rituals of authority. However, as a discourse in the making, as a process, it can hardly be dismissed in the advent of a public sphere. Habermas’s public sphere as just recalled, is not only a normative concept but also a narrative about the historical advent of a normative concept. What Habermas has described in his work are moments of the public sphere, stations in time where it was closer or farther away from its ideal state. This said, the inability or refusal of some sectors of Egyptian society to debate within the hegemonic frames of public discourse (the secular nationalist intellectuals and the Islamists) is a problematic feature of this public sphere.

As far as the Islamists are concerned, while their ability to engage in jurisprudential argumentation is not in question (though the legitimacy of their expertise and credentials is been critically scrutinized by their institutional detractors), their political interest would be: as they challenge the legitimacy of the Egyptian regime, it is hard to see how a nationalistic or even a pan-Islamic understanding of public interest (*maslaha 'amma*) could serve their agenda; harder even to see how the Palestinian struggle, which was made into a sort of icon of Arab nationalism (or transnationalism), could serve the political goals they pursue. As to the secular nationalist intellectuals, their inability or refusal to engage in what one could call an “etymological posture”—challenging the religious establishment over their monopoly of *common language*—points to the existence of layers of public discourse that never intersect each other rather than to a dialectic public sphere.

There is no etymological reclaiming and no non-nationalistic political reconstruction of terms like *jihad*, *shahid*, or even *fard kifaya/fard 'ayn*, and no discussions of their sociological or anthropological implications, engaging secular intellectuals with members of the religious establishment. This absence of etymological engagement together with the impossibility to contest the *raison d'État* are indeed very serious impediments to the Egyptian public sphere.

#### *Structural Impediments to Communicative Action*

If the existence of the Egyptian public sphere is problematic, what of the transnational one it postulates in its claims to voice “Arab” opinion? As a construct, “Arab public opinion” is either the product of selection or of integration. Selection was the way of the Egyptian press, which hammered together analogous opinions to fit domestic consensus, as when it canvassed the opinion of the Lebanese Shi'a cleric, rather than that of the Moroccan shaykh, into the Egyptian consensus regarding the legitimacy of suicide attacks. Integration was the way of MEMRI, in its survey of Arab press reactions to the Saudi fatwa:<sup>51</sup> it uprooted specific national opinions from their respective domestic contexts, juxtaposed and consequently

forced them into a transnational narrative without profile, as when it integrated into one framework the opposite opinions of people of two different nationalities, a Palestinian and an Egyptian columnist, instead of making sense of noteworthy de facto consonances across national borders and the religious/secular divide.

While selection precludes the possibility of communicative action (because the consensual order projected by the Egyptian press through the eviction of dissent would have neither the need nor the means for calling to action), integration assumes the possibility of action, based in the presumption of the existence of a public arena were this action be deployed. However, the arsenal of legal and less-than-legal state obstructions to such a deployment in Arab societies (whether through the torture of political prisoners, censorship, restricted political participation, invasive monitoring on associations, unions, NGOs, etc.) renders this double assumption problematic and leaves us with an as problematic alternative: choosing to see in violent militancy, as MEMRI does, an Arab-Islamic expression of “communicative action” (a negation, indeed, of the very notion of public sphere), or stating derisively that the Arab public sphere is to be found in . . . London or Paris.

To come back to the Egyptian context, the minimalism of shared universal categories on the one hand and the constancy of vexed action contribute to carving out a “public sphere” that is not *sui generis* but rather *discreet*, in the mathematical sense of discontinuous—a feature that hardly allows for a historical or genealogical approach to its developments. To put it in empirical terms, nothing is legally secured once and for all and in that sense there is never really an institutional experience of the public sphere on which to build higher grounds: each press debate in Egypt, while sometimes forcefully reminiscent of its predecessors, has to systematically redraw for itself the red lines not to be crossed (cf. chapter 5, this volume, by Dupret and Ferrié).

An exemplary illustration of this predicament of the public sphere in Egypt is the disorientation of contemporary Egyptian intellectuals, who had cultivated in the past a keen sense of self-censorship through the successive and cumulative experiences of British, monarchical, and Nasserist censorships. Faced today with the blurring of the tacit alliances between the nationalist intellectual and the state (Botiveau 1993; Hamzah 2001) brought about by the pressure of Islamic “moral entrepreneurs,”<sup>52</sup> they either abstain from participation or put at risk their livelihoods, freedom (Hamzah 2001), and sometimes their lives.

#### *Deontology and Intentionality*

The role of the Egyptian press in conveying false or partial information, in forcing meanings into outrageous subtitles was instrumental to the inflation of the debate. That role has been underscored by the actors themselves in this particular debate. If for the purposes of sociological inquiry, the intentions of the Saudi mufti when he issued his fatwa matter less than

the way and the backdrop against which his intentions were construed, the same cannot be said of the role of the press, which sidestepped its commitment to objective and accurate reporting. When the public sphere’s main channel of publicity (the media) is structurally flawed, it becomes hard to distinguish communicative action from manipulation and control, notwithstanding the abilities of reading-in-between-the-lines developed by social actors in such political contexts. In this particular debate distortions were so overpowering as to preclude the very conditions of debating.

A more positive role of this dispute has been the circulation of legal opinions that it made possible, though it would be important to locate the actual fatwas in the mass of delivered general opinions, distinguishing between casually expressed opinions and legal opinions, and acknowledging quotations where quotations are due. The fact, for instance, that no reader or commentator ever referred to the real context of the interview, and to the full-blown jurisprudential argumentation of the Saudi mufti made it possible to receive his fatwa at the other end as a clear-cut hostile piece of advice. As it stands, the Saudi fatwa does not belong to the genre of fatwas of condemnations, usually final and nominal, and is not even definite in its formulation.

#### *Action as Icon or the Ultimate Substitution*

By allegedly “tarnishing” the legitimacy of a “just cause,” by shedding doubt on the “holiness of the Palestinian *jihad*,” the Saudi mufti was desecrating the figure of the Palestinian martyr (*shahid*), that is, of what I have tentatively termed a *transnationalist icon*. By this term I mean the appropriation of the Palestinian national struggle by Arab or Islamic community claims, not just by way of action-oriented slogans (the calls for *jihad* notwithstanding), but by plain self-representation. In allegedly casting a shadow over a projection of self, the fatwa was then disrupting processes of identification. But the quasi sacred dimension conferred upon this transnationalist icon, while certainly fuelled by religious sentiment and imagery, is to be equated with its capacity to provide a substitute for action. The Palestinian Intifada did not fail to mobilize the “Arab street,” but the “Arab” political action that ensued was inversely proportional to the mobilization of the so-called Arab opinion. As it appeared, it was not exactly because of his strict orthodoxy that the Saudi mufti was criticized. Rather, it was for messing with that symbolic substitute for action, revealing in the process how insubstantial the Intifada is in building hopes of political change. The very possibility of *action* then, communicative, political, that is, the very pillar of the public sphere, was the ultimate stake of the Egyptian debate.

#### Notes

1. For the Egyptian national press, a list of all the titles consulted is in the References under the entry “CEDEJ.” The systematic “Dossier de Presse”

- collected by the library staff of that research center in Cairo was of invaluable help in reviewing the Egyptian debate. The London-based international Arab press (mainly: *al-Sharq al-awsat*, *al-Quds al-'arabi*, and *al-Hayat*) was also used, as it is available in Egypt to readers, columnists, and the general public.
2. The Middle East Media Research Institute (MEMRI) releases reviews, analyses, and translations of all the Middle Eastern press on its Web site. While it relies heavily on the Egyptian press, it also quotes from otherwise inaccessible national papers. Unfortunately, it has been shown to publish translations predominantly of extremist articles, while ignoring articles even from the same edition of a paper that have moderate or progressive positions or none (cf. Juvan Cole's critique of MEMRI on his "Informed Comment" blog, November 23, 2004) makes its use problematic.
  3. "Mufti 'amm al-Sa'udiyya li-l-Sharq al-awsat: khatf al-ta'irat wa tarwi' al-aminin muharram shar'an," *al-Sharq al-awsat*, April 21, 2001.
  4. "al-Fatwa al-dalla," *al-'Arabi*, April 28, 2001.
  5. "al-Fatwa al-qunbula," *al-Abrar*, April 24, 2001.
  6. Muhammad Salim al-'Awwa, "Fi dhikra al-isra' . . . wa murur akthar min 'am 'ala-l-intifada," *al-Akhhbar*, October 19, 2000.
  7. Cf. the *Agence France Presse* release of December 10, 2001 in Dubai, "Religious scholars at odds over suicide bombings."
  8. It was carried out on January 27, 2002 by a Fatah female ambulance worker in Jerusalem.
  9. Unlike the binding ruling (*qada*) of the judge (*qadi*), a fatwa is a non-binding legal advice issued by a mufti on request by individuals or authorities (*mustafti*). Its subject matter is as diverse as issues of cult, society, and doctrine, etc. The mufti, who is a *'alim* known for his wide scholarly knowledge as much as for his moral integrity, can also issue fatwas at his own initiative. History attests to such spontaneous "advice," whether meant to advance the genre or for more political purposes, when muftis sought to counsel or warn the ruler. See Hallaq (1997) and Masud et al. (1995).
  10. *Ibid.*, where particular stress is laid on the impetus given to fatwa issuance in colonial settings.
  11. Umlil (1996: 24–25) sees the characteristics of the fundamentalist (*usuliyya*) versus the traditional (*taqlidiyya*) fatwa as threefold: "first, it does not recognize the official fatwa nor the scientific and institutional or official legitimacy; second, it is a political fatwa or rather its authors take a political stand by it regarding established order and society and this stand is one of absolute opposition and denial; third, it is bent on authority, since it claims to have the last word and to see it enforced."
  12. The conjunction in Umlil's definition of "fundamentalist" and "non-official" is problematic as it closely espouses the lineaments of political and ideological categories developed in the 1950s and 1960s, when diverse Arab regimes proceeded to gain control over their time-immemorial transnational religious centers of learning and predication (al-Qarawiyyin, al-Azhar, al-Zaytuna, etc.) by folding them into state institutions. A more scholarly approach considers that there are no "official" or "professional" proficiency assessments of muftis in Islam and that those habilitated for *ifta'* among the 'ulama are those whose degree of learning and integrity is certified by their scholarly reputation and institutional cooptation (Masud et al. 1996).

13. An accusation of impiety grossly analogous to excommunication, *takfir* is a performative act of speech that instantly "criminalizes" the accused, turning him into an apostate.
14. Cf. Eickelman and Piscatori (1996: 360–63), who speak, in relation to this period of protest, of "contestation of sacred authority."
15. Saudi financial input in Palestinian institutions amounted for the first 18 months of the Second Intifada to \$400m: *The Economist*, March 23–29, 2002.
16. *Al-Qahira*, May 8, 2001.
17. Hamid al-Maydawi, the khatib of al-Aqsa mosque for one: "if what is being attributed to the Saudi mufti is true, then we disagree with him," *al-Abram*, April 24, 2001.
18. Ahmad Rif'at, *al-Usbu'*, April 30, 2001, in an article devoted to unraveling the "mystery" surrounding the issuance of such a fatwa.
19. In "al-Fatwa al-dalla," *al-'Arabi*, April 29, 2001. See also al-Akhhbar, May 18, 2001: "'Amaliyyat al-fida'iyyin laysat intibar bal istisbad."
20. *Ibid.*, *al-Sharq al-awsat*, May 8, 2001: "'Ulama' muslimun yakhtalifun hawla al-hukm al-shar'i li-l-'amaliyyat al-intihariyya," *al-Abram*, April 26, 2001.
21. *Al-'Arabi*, June 10, 2001: "Mufti al-shi'a: al-intifada aw al-intihar al-jama'i li-l-umma."
22. The first Palestinian daily (*al-Quds*) and the Palestinian Authority-controlled press (*al-Ayyam* and *al-Hayat al-jadida*) in the case of Palestine; *al-Sharq al-awsat* in the case of Saudi Arabia, i.e., the same newspaper that had sparked the controversy in Egypt.
23. *Yanabi'* (*al-Hayat al-jadida*'s supplement), April 24, 2001: "Those Who Support Hamas Must Resign the Leadership to It," translated in MEMRI, *Inquiry and Analysis*, no. 54, May 3, 2001.
24. *Al-Hayat* (London), December 9, 2001, translated in *Courrier International*, December 12, 2001.
25. *Al-Quds*, December 14, 2001.
26. *Courrier International*, December 20, 2001: "Non au suicide collectif d'un peuple!" translated from *al-Nabar* (Beirut), December 2001.
27. *Al-Sharq al-Awsat*, May 8, 2001: "'Ulama' muslimun yakhtalifun hawla al-hukm al-shar'i li-l-'amaliyyat al-intihariyya."
28. *Ibid.*
29. *Al-Wafd*, May 10, 2001: "Fatawa al-harb . . . wa fatawa al-silm." Translation and commentary in MEMRI, *Inquiry and Analysis*, no. 53, May 2, 2001.
30. In MEMRI, *Inquiry and Analysis*, no. 65, July 26, 2001.
31. Cf. e.g., Muhammad Rushdi, *al-Abrar*, April 24, 2001: "al-Fatwa al-qunbula."
32. Cf. *al-Sharq al-awsat*, May 8, 2001: "'Ulama' muslimun yakhtalifun hawla al-hukm al-shar'i li-l-'amaliyyat al-intihariyya."
33. *Al-Sharq al-awsat*, May 8, 2001.
34. *Al-Abram*, April 26, 2001.
35. *Al-'Arabi*, April 29, 2001.
36. *Al-Abrar*, April 24, 2001.
37. *Al-Hayat al-jadida*, April 27, 2001, translated in MEMRI, *Inquiry and Analysis*, no. 54, May 3, 2001.
38. *Ruz al-Yusuf*, April 28, 2001.
39. The four scholars are: Nasr Farid Wasil, the Mufti of the Egyptian Republic; Palestine's shaykh Tahhub; Ibrahim al-'Idwi, professor of Islamic history,



- University of Cairo; Ahmad Taha Rayan, professor at al-Azhar. Cf. *al-Abrar*, August 10, 2001, "Tahwid al-Quds."
40. Al-Qaradawi, on more than one occasion. E.g., *al-Abram al-'arabi*, February 3, 2001.
  41. *Al-Abrar*, April 24, 2001, "al-Fatwa al-qunbula."
  42. Jonathan Kuttab: *al-Hayat*, December 9, 2001; 'Abd al-'Aziz al-Rantisi: www.amin.org, December 26, 2001.
  43. This feature is absent from the debate that unfolded in Palestine between the autumn of 2001 and the summer of 2002. Cf. Hamzah and Larzillière (2005).
  44. *Al-Raya*, April 25, 2001, quoted and translated in MEMRI, *Inquiry and Analysis*, no. 53, May 2, 2001.
  45. *Al-Akbbbar*, May 11, 2001: "Kayfa yakhlaqun irhabiyān isra'īliyyān 'aqā'idīyyān?"
  46. www.amin.org, Khaled Amayreh, September 6, 2001, "Israeli oppression pushes Palestinians to martyrdom operations."
  47. See e.g., *al-Uṣbu'*, April 23, 2001, "Iftahu al-abwab, fa-l-rabi' qadim—al-tifl al-shahid Ahmad Qawasmī."
  48. Khaled Amayreh, www.amin.org, September 6, 2001, "Israeli oppression pushes Palestinians to martyrdom operations." Tawil's Islamist son died in a suicide operation in March 2001.
  49. Yusuf Al-Qaradawī, February 3, 2001, *al-Abram al-'arabi*, translated in MEMRI, *Inquiry and Analysis*, no. 53, May 2, 2001.
  50. Shaykh Hamid al-Bitawi, and an official of Hamas in Nablus (*al-Hayat*, April 25, 2001); the Palestinian Authority's mufti, Ikrima Sabri (*Sawt Filastin*, May 25, 2001); the mufti of Jericho, shaykh Muhammad Isma'il al-Jamal (*al-Hayat al-jadida*, April 27, 2001); Yasir Za'atra, chief editor of Hamas's former newspaper, *Filastin al-muslima (al-Dustur)*, Amman, April 26, 2001); Hamas leader 'Abd al-'Aziz al-Rantisi (*al-Hayat*, April 25, 2001). As one can see, all (but one) reacted within days of the Saudi fatwa.
  51. MEMRI, *Inquiry and Analysis*, no. 54, May 3, 2001.
  52. Howard Becker's sociological category has been recently revisited in the context of the contemporary Middle East (cf. Dupret and Ferrié 2001; Salvatore 2001).

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## A CIVIL SOCIETY IN EGYPT?

Mustapha K. Al-Sayyid

During the past three years, intellectual debates over “uses and abuses of civil society” have been echoed in the Arab world.<sup>1</sup> The controversy, which raged in pages of academic journals, was triggered by the wave of democracy that hit the shores of authoritarianism in Southern Europe, South Asia, and Eastern Europe.<sup>2</sup> Some Arab intellectuals believed they also saw signs of the resurgence of civil society in the Arab world. Interest in this development was so strong that the prestigious Center for Arab Unity Studies, an intellectual foundation known for its pan-Arabist tendencies, organized a January 1992 symposium on that topic in Beirut to which almost 100 Arab scholars were invited to assess the extent to which civil society exists in Arab lands.<sup>3</sup> At the same time in Cairo, the Ibn Khaldoun Center for Developmental Studies began publishing a monthly newsletter entitled *Civil Society: Democratic Transformation in the Arab World*.

While Arab intellectuals debated theoretical propositions, a concrete transformation in social processes was taking place in Egypt, Jordan, Kuwait, Lebanon, Mauritania, Morocco, Tunisia, and Yemen (as well as Algeria prior to the military coup in late December 1991)<sup>4</sup> in which many contradictory features were noticeable, particularly in the case of Egypt. On the one hand, divisive social groups were gaining more freedom to express dissenting views in professional associations and in political parties. On the other hand, individuals claiming to act in the name of Islamist organizations were challenging the government effectively, and

<sup>1</sup> Ellen Meiksins Wood, “The Uses and Abuses of Civil Society,” in Ralph Miliband, ed., *Socialist Register* (Atlantic Highlands, NJ: Humanities Press, 1990), pp. 60-84.

<sup>2</sup> Samuel P. Huntington, “Democracy’s Third Wave,” *Journal of Democracy* 2, no. 2 (1991).

<sup>3</sup> Center for Arab Unity Studies, *Al-Mujtama’ al-madani fi al-watan al-‘Arabi* [Civil society in the Arab world] (Beirut, 1992).

<sup>4</sup> For an account of democratization experiments in the Arab world, see Louis J. Cantori ed., “Democratization in the Middle East,” *American-Arab Affairs* 36 (Spring 1991); Muhammad Muslih and Augustus Richard Norton, “The Need for Arab Democracy,” *Foreign Policy* 83 (Summer 1991); Mustapha K. Al-Sayyid “Slow Thaw in the Arab World”, *World Policy Journal* 8, no. 4 (Fall 1991).

not only in remote villages in Upper Egypt. In Cairo, Islamists attacks against Copts, foreign tourists and individuals voicing opposition to their mission have reached alarming proportions since the summer of 1992. Victims include Farag Fouda, Egypt's most famous secularist writer, in June 1992; an American and a French law professors during President Husny Mubarak's visit to both the United States and France in October 1993. All were assassinated, besides ministers of information April (1993) and the interior (August 1993), who were wounded, and the prime minister (November 25; 1993) who was unhurt by the attempt on his life.<sup>5</sup> Moreover, many usually-moderate voices of the Islamist movement branded intellectuals critical of their views apostates. The sentence for apostasy, which they believe to be sanctioned by Islamic *sharia'ah*, is death, and the punishment may be inflicted by any Muslim should the government fail to carry out that sentence.

While the state has permitted a degree of autonomy for societal actors, some of them, ironically, have demonstrated intolerance for the exercise of freedom of speech, worship, and action by others. Herein lies the contradiction: If associational autonomy is definitely a measure of the resurgence of a civil society, acts of intolerance cast doubts on its "civil" character. These contradictory tendencies warrant an examination of the extent to which civil society exists in Egypt and the factors likely to affect its evolution.

#### *Operational Criteria for Civil Society*

Providing a precise definition of civil society has proven problematic. The concept has been used by many scholars of western political thought, including the natural law school, Hegelian thinkers, and various strands of Marxists. For English philosopher John Locke, civil society was close to what twentieth-century political scientists consider a liberal democracy. Hegel insisted on the crucial position of the "universal class" of enlightened administrators, who, although bound by tradition, do not owe their authority to any type of electorate.<sup>6</sup> Middle Eastern scholars, in contrast, tend to dispute the validity of any definition of civil society inspired by western experiences. Instead, they argue for a

<sup>5</sup> *Al-Mussawar*, January 1, 1993, pp. 18, 20-1; Chris Hedges "For Egypt, a New Front in Islamic Crackdown," *International Herald Tribune*, December 10, 1992, p. 2; *Al-Ahram*, April 21, August 19, November 26, 1993, p. 1.

<sup>6</sup> For a discussion of different concepts of civil society, see John Keane, *Civil Society and the State* (London: Verso, 1988).

definition that reflects the specific experiences of Islamic and Arab societies.<sup>7</sup>

Rather than attempt to bridge the gap between different views or to disentangle the concept from the ideological underpinnings of various intellectual schools, this analysis of Egypt seeks a common ground. In addition to the presence of associations catering to the varied interests of citizens in their social activities, civil society also entails state respect for a reasonable measure of societal autonomy, and acceptance of intellectual and political dissension as a legitimate right—so long as it is bound by peaceful methods of individual and collective action.

Under this definition, three minimal conditions are met: the presence of formal organizations of various types among different social groups and classes; and ethic of tolerance and acceptance by the majority of minority legitimate rights, no matter how such minorities are defined; and limitations on arbitrary exercise of state authority. While such criteria are not met entirely in any society; it is inconceivable to find a society in which all three conditions are totally missing. However, these conditions are largely met in liberal democracies.

#### *Formal Private Organizations*

Since the early 19th century, increasing social differentiation in Egypt has laid the objective foundation for the formation of a civil society. Modernization efforts initiated by Muhammed 'Ali, particularly the expansion of education, Egypt's integration into the international economy, and the emergence of national bourgeoisie contributed to the development of a working class and a professional middle class.<sup>8</sup> These new classes came to demand the right of association for the professional groups they formed. The first groups to acquire such a right were those formed by the political elite, mostly lawyers and businessmen. While the liberal 1923 constitution provided a legal but shaky framework for political life under the monarchy, the right to establish trade unions was not recognized until the 1940s—three decades after the first Egyptian professional association, the Bar Association, came into being.

<sup>7</sup> Brian S. Turner, "Orientalism and the Problem of Civil Society in Islam" in Asaf Hussain, Robert Olson, and Jamil Quereishi, eds., *Orientalism, Islam and Islamicists* (Brattleboro, VT: Amana Books, 1984), pp. 23-42.

<sup>8</sup> See works by 'Abd al-Basit 'Abd al-Mu'ti and Ibrahim Hasan al-Issawi in the series *Dirasat al-takwin al-ijtima'i wa al-tabaqi li Misr: Al-Dirasat al-mahalliyya* [Studies of the social formation and class structure of Egypt: Local studies] (Cairo: National Center for Sociological and Criminological Research, 1988, 1989).

Other groups followed the example of lawyers, doctors, journalists, and engineers in establishing professional organizations to improve their bargaining positions vis-a-vis the state. Authorities encouraged their endeavors because they found such organizations effective instruments for controlling both the middle classes and workers.<sup>9</sup> Thus, the biggest increase in the number and size of membership of voluntary associations took place in the 1950s and 1960s under the tight rule of a military regime that had many features associated with "state-corporatism."<sup>10</sup>

According to the Ministry of Social Affairs, Egypt has a considerable number of associations; there were 12,832 in 1990, and a few hundred more were registered in 1991, for a total of 13,521, or one organization for every 1,824 adult citizen.<sup>11</sup> These are only those associations that come under the supervision of the ministry, all of which are concerned with providing social services, including child and family care, social assistance, care for the elderly, culture, science, literary activities, management and organization, care for prisoners, family planning and community development. According to the 1990 data published by the ministry, 75 percent (9,516) operate only in one field; 25 percent (3,316) operate in two or more fields. Unsurprisingly, Cairo has the largest number of such organizations with 3,266, or 25 percent of the total, followed by Alexandria with 907, or 7 percent of the total. Cairo's share exceeds its demographic weight in the country, reflecting its political centrality in Egypt, although some other governorates, particularly Sharqiyyah and Monoufiyyah have a high number of societies relative to their share of population.<sup>12</sup>

The voluntary associations that do not come under the purview of the Ministry of Social Affairs include 23 trade unions, 26 chambers of commerce, 23 professional associations, and 13 political parties. Although data on membership of these organizations is not available, trade unions, chambers of commerce, and professional associations seem to be

<sup>9</sup> Mustapha Kamil Al-Sayyid, *Al-Mujtama' wa al-siyasa fi Misr: Dawr jama'at al-masalih fi al-nizam al-siyasi al-Misri* [Society and politics in Egypt: Role of interest groups in the Egyptian political system] (Cairo: Dar al-Mustaqbal al-'Arabi, 1983).

<sup>10</sup> Robert Bianchi, *Unruly Corporatism: Associational Life in Twentieth-Century Egypt* (New York: Oxford University Press, 1989).

<sup>11</sup> Ministry of Social Affairs, *Al-Mu'ashirat al-ihsa'iyyah fi majalat al-ri'ayah wa al-tanmiyah* [Statistical indicators in fields of social care and development] (Cairo, 1991), pp. 73-80. Information on 1991 was obtained by the author in an interview with ministry officials in Cairo, November 23, 1993.

<sup>12</sup> Ministry of Social Affairs, *Al-Mu'ashirat al-ihsa'iyyah*.

the largest. The trade union federation claimed a membership of 3,363 million in the 1991, while total membership of professional associations is close to 1,5 million.<sup>13</sup>

Although the number of associations expanded considerably in the mid-1970s, when the onset of political and economic liberalization encouraged various social groups to set up their own organizations,<sup>14</sup> the growth seems to have stagnated since the mid-1980s. The largest increase was registered during the period 1976 to 1981, increasing 41%, from 7,593 to 10,731. Since the 1980s, authorities have viewed such expansion as politically risky.

Egypt's voluntary associations may be classified as class-based associations, professional societies, social care and development organizations, traditional institutions, and political parties. The class-based associations are of two types: those that represent businessmen and those that limit membership to workers. The largest representative bodies of this type are undoubtedly chambers of commerce and industry, which are divided into functional and provincial chapters grouped together under a General Federation of Chambers of Commerce in Egypt. This category includes also the Federation of Egyptian Industries, which groups managers of individual firms in both the public and private sectors.

Despite their large memberships, these two older bodies, largely controlled by the government, have lost ground to more energetic business associations that are restricted in membership but are more influential due to their homogeneous character. In recent years, however, they have started to exhibit more autonomy vis-a-vis the state. Both are presently led by influential private businessmen, replacing managers of state-owned enterprises or government officials. Mohammed Farid Khamis, a prominent industrialist and President of the Investors Society

<sup>13</sup> Ahmad Faris Abd al-Mun'im, "Jama'at al-masalih wa al-sulta al-siyasiyyah fi Misr: Dirasat ala al-niqabat al-mihaniyyah, al-muhamin, wa al-sahafiyyin wa al-muhandisin fi al-fatrah, 1952-1961" [Interest groups and political authority in Egypt: A study of professional associations of lawyers, journalists, and engineers, 1952-1961] unpublished Ph.D. dissertation, Faculty of Economics, Cairo University, 1984, p. 31; Huwayda A.R. Boutros, "Al-Dawr al-siyasi li al-harakah al-ummaliyyah fi Misr, 1952-1982" [Political role of the workers movement in Egypt, 1952-1982] unpublished M.A. dissertation, Faculty of Economics, Cairo University, 1990, p.141. General Federation of Trade unions of Egypt, *Al-masirahe al-tarikhiyya Fi Khamsa wa thalathin 'aman* [The historic march in 35 years] (Cairo: GFTUE, 1991).

<sup>14</sup> Center for Political and Strategic Studies, *Al-Taqrir al-istratiji al-'Arabi, 1989* [Arab strategic report, 1989] (Cairo: Dar al-Ahram, 1990), pp.458-62; Ministry of Social Affairs, *Al-Mu'ashirat al-ihsa'iyyah*, p. 254.

of the Tenth of Ramadan industrial town, was appointed to head the Federation of Egyptian Industries; Mahmoud al-'Arabi, a wealthy entrepreneur with activities in several sectors, is chairman of the Federation of Chambers of Commerce in Egypt. Khamis has been instrumental in mobilizing private business people to put pressures on the government, and al-'Arabi called publicly in November 1993 for amendment of the constitution to consolidate the expanding role of the private sector and to allow for competitive elections for the presidency.

The newer associations are limited to the largest firms and businessmen with special ties to foreign powers or to a specific industrial town. Many members are former senior officials of the government. These associations include the Society of Egyptian Businessmen in Cairo, the American Chambers of Commerce in Cairo, the Egyptian-American Business Council, the Society of Businessmen of Alexandria, and the investors societies of the three industrial towns of Tenth of Ramadan, Sixth of October, and Sadat City. Organizations for bankers, importers, and exporters exist, but are less active.

Workers are organized into 23 trade unions that belong to the General Federation of Trade Unions of Egypt. Despite its large size, there is no evidence that the federation enjoys much credibility among its rank and file members. Collective protest movements undertaken by workers, sometimes on a massive scale, have not been inspired by the federation's leadership or leaders of such unions, but have been led mostly by dissident trade unionists or workers who had never been officials of trade unions at any level.<sup>15</sup>

Educated members of the middle class usually join one of 23 professional syndicates. The most active are also the oldest, including the Bar Association and the associations of journalists, medical doctors, and engineers, although they are not the largest in terms of membership. The largest two associations are those of teachers and graduates of faculties of commerce. Both are supportive of government policies and rarely undertake independent action, but this docile attitude seems to be disappearing from the teachers syndicate. The differences in how the professional associations relate to the government can be explained by social conditions of members, established traditions in certain syndicates, and the success of radical opposition groups in capturing executive offices.<sup>16</sup>

<sup>15</sup> For the details, see Butros, *Al-Dawar al-siyasi*.

<sup>16</sup> Activities of professional associations are well covered in Center for Political and Strategic Studies, *Al-Taqrir al-istratiji al-'Arabi*, various issues.

A variety of other organizations cater to the different interests of citizens, ranging from benevolent and religious causes to literary and scientific concerns. The most active in this category are university professors clubs, which have become prominent in the country's politics since the early 1980s. Such clubs perform various functions, including those of trade unions and political parties, and serve as forums for debating literary and scientific issues.<sup>17</sup>

Any examination of civil society organizations in Egypt should include neo-traditional institutions, which have continued to be centers of social and political activities, often beyond the control of the government. These mosque and church-based associations use places of worship as centers for social and political activities, a practice in Egypt that dates to the Pharaonic era. In the late 18th century, for example, Cairo's two revolts against Napoleon's armies were launched from al-Azhar. What is unique about the current situation, however, is the use of places of worship by social movements that have modern features, such as their type of education and organization, to recruit and mobilize supporters against other institutions and practices of society. Those who carry out educational, medical, social and political activities in mosques and churches are not traditional clergymen, *shaykhs*, or priests, but young professionals who received their education in the country's Western-type universities and who are alienated for a variety of reasons from the country's social and political system.

Such religion-based institutions have ambivalent relationships with other organizations because their integration in civil society depends very much upon their acceptance of other organizations. Such acceptance, however, does not seem to be a universal rule among these neo-traditional groups, as manifested in their equivocal attitude toward the June 1992 assassination of the secularist writer Farag Fouda by Muslim extremists.

Political parties in Egypt pre-date independence, with the exception of the 23 year period between 1953 and 1976 when legal political activity was confined to a single mass organization. Since the gradual demise of the single party, the number of legally authorized political parties has increased to 13. Apart from five parties—the ruling National Democratic Party, the liberal Neo-*Wafd* Party, the centrist and now Islamist Socialist Labor Party, the leftist Progressive Unionist Patriotic Rally,

<sup>17</sup> See comment by M.S. Habib in Center for Arab Unity Studies, *Al-Mujtama' al-madani*, pp. 544-6.

and the newly authorized Arab Democratic Nasirite Party—the other eight parties are not politically significant. The Muslim Brothers and the Communists have not obtained the right to legally establish parties, but they express their views through existing authorized parties.<sup>18</sup> Thus, Communists are present among leaders and activists of the Progressive Unionist Patriotic Rally, and Muslim Brothers have sought electoral alliances first with the Neo-Wafd and later with the Socialist Labor Party.

Given the lack of sufficient research on the social background of members of major parties in Egypt, it is difficult to determine which party is most representative of the country at large. Based on the social background of their leaders and party platforms, however, it is possible to draw a rough profile. The National Democratic Party seems to be more of a multi-class party than the others; the Neo-Wafd Party seems to receive most of its support from members of the middle and upper middle classes; and the Socialist Labor Party and the Progressive Unionist Patriotic Rally both appeal mainly to the lower and salaried middle class, although they claim to speak for the “workers”.

In terms of electoral strength, both the Neo-Wafd and the Socialist Labor Party have won hundreds of thousands of votes, reaching nearly 1 million when engaged in an electoral alliance with the Muslim Brotherhood. The electoral strength of the Progressive Unionist Patriotic Rally diminished in the 1980s, falling from some 400,000 to 200,000 votes between 1984 and 1987. The National Democratic Party claims 70% of registered voters, although the low turnout in the 1990 legislative elections and the 1992 local elections suggests that the party has great difficulty in mobilizing supporters in the country at large, particularly in major urban centers.<sup>19</sup>

#### *Spirit of Tolerance*

An essential feature of a civil society is a large measure of respect for freedom of conscience and thought, not only by state authorities but more importantly by citizens. In Egypt, various ideologies are present in

<sup>18</sup> Leaders of the Muslim Brothers have not even succeeded in getting the Supreme Administrative Court of the Council of State to repeal the 1954 decision by the Revolutionary Command Council dissolving the society. *Al-Ahram*, July 7, 1992, p.7

<sup>19</sup> For an analysis of legislative elections in Egypt, see Center for Political and Strategic Studies, *Intikhabat Majlis al-Sha'b: Dirasah wa tahlil* [People's Assembly election: Study and analysis] (Cairo, 1986, 1988, 1992).

public debate. Islamist, Nasirite, Marxist, and liberal viewpoints are all reflected in newspaper articles, books, movies, and plays. However, limits on public expression do exist. Any scholarly or literary work that a religious authority deems offensive to religion, particularly Islam, is prohibited. The case of Naguib Mahfouz's *Sons of Gabalawi* is well-known. Books by Tariq al-Bishri, Louis Awad, and Sa'id 'Ashmawi have been censored by al-Azhar, and sometimes even by petty officials of the Islamic Research College. Censorship measures have been supported publicly by some writers who claimed to be advocates of an Islamic solution to all the country's problems.<sup>20</sup>

Lack of tolerance has also been demonstrated by groups of young Islamist militants who disrupt gatherings organized by their fellow students, assault their book fairs, and even attack weddings, believing that these activities are contrary to the true teachings of Islam. Extremist Islamists have carried this fight even further through assassinations and threats of assassination against outspoken secularists. More alarming has been the position taken by some reportedly-moderate religious dignitaries. Although leaders of the Muslim Brotherhood did condemn the assassination of Farag Fouda, they seemed to justify the assassins' actions by claiming that Fouda provoked them by attacking Muslim beliefs. The highly-respected Shaykh Mohammed El-Ghazali, who is close to the Brotherhood, testified during the trial of Fouda's accused assassins that a Muslim who abandoned his religion is punishable by death. The defendants' lawyer, who accepted that Fouda was an apostate, asked Ghazali who should carry out the death sentence in such instances. He replied that it was the duty of the Muslim government to carry out the sentence, but could be carried out by an individual Muslim if the government failed to act.

Ghazali added that no penalty existed in Islam for an individual who acted on such a basis. The statement gave rise to a wide debate in the country. Although some religious dignitaries of the official establishment disagreed with Ghazali's interpretation, most prominent figures of the Islamist movement remained silent, implicitly condoning the statement.<sup>21</sup>

On another occasion, an academic promotion committee at Cairo University, comprised of a majority of conservative Arabic language

<sup>20</sup> A list of censored books and movies was published in Helmy Salem. "Hona Mahakam al-Taftish. Hona Quabdat al-Azhar" [Inquisition Tribunals and Al-Azhar's tight Hold in Egypt], *Naqd wa Adab* (Cairo, February 1992), pp. 9-29.

<sup>21</sup> Read Shaykh Ghazali's statement in *Al-Sha'b*, June 23, 1993, and in *Al-Ahram*, July 18, 20-25, 1993. p. 9.





Cairo, May 17, 1994, Egypt—Egyptian lawyers run for cover into their office building after police fired tear gas at them in Cairo Tuesday May 17, 1994. The lawyers were protesting the death of a colleague in government custody. Ten lawyers were arrested in the clashes over the death of attorney Abdel-Harith Madani, taken from his office April 26, 1994 by government security agents. His family was notified May 6 of his death. (AP Photo/Norbert Schiller, CREDIT: AP by NORBERT SCHILLER)

professors, blocked promotion to full professorship of Dr. Nasr Abu Zeid, an associate professor of Arabic literature known for his critical analysis of Islamist discourse. One of the members of the committee described Abu Zeid as a person of confused belief (*Khalal fi al-i'tiqad*) who opposes the Qur'an and calls on Muslims to abandon both their holy book and traditions of their prophet. His report to the promotion committee amounted in fact to a trial of the personal convictions of Abu Zeid, rather than an examination of his scientific work. The promotion committee endorsed the view of this professor, Dr. Abdel Sabour Shahin, against recommendations of the two other readers, thus rejecting promotion of Abu Zeid to full professor. Its decision was ratified later by the Council of Cairo University made up of deans of all its faculties. All these reports were published in the daily *Al-Ahram* and in some literary reviews and were commented on by intellectuals of opposed ideological camps in a heated debate throughout the summer of 1993. Some viewed the matter to be a serious assault on freedom of conscience and thought in the country's most respectable university, while others found it a merely an academic dispute to be settled through academic channels.<sup>22</sup>

However, the episode took disturbing proportions when a lawyer claiming to be a zealot of the Islamic cause filed a suit at a personal status and family court, asking the court to order a divorce between Abu Zeid and his wife. In the plaintiff's view, Abu Zeid had demonstrated his apostasy in his scientific work, and was thus disqualified to marry a Muslim woman. While many did not believe such a case to be admissible by any court, a court in Giza opened hearings on the case in November 1993. The agitation surrounding the trial did not enable the court to proceed immediately to the hearing. When the case first came before the court, the lawyer who filed the suit was accompanied by dozens of his supporters, including some prominent *shaykhs*, who made such noise that the court postponed its consideration of the case. Two weeks later, when the court tried to hear the case on November 25, a counter-mobilization of Abu Zeid's supporters disrupted the court again, and the case was again rescheduled. The court ruled in February 1994 to reject the case as inadmissible but the plaintiff appealed this sentence before a higher court, which will not start its proceedings until late summer of 1994. While neither the Muslim Brotherhood nor any of the radical Islamist groups were involved in that trial, many intellectuals in the country found in the Abu Zeid affair a grave reminder of the limits to

<sup>22</sup> Documents related to Abu Zeid's case were published in *Al-Qahira; Megallat al-Fikr wa al-Fann al-Mu'asir*, April 1993.

tolerance and freedom of thought, conscience and belief in present-day Egypt. Their concern stemmed particularly from the fact that Abu Zeid continued to declare himself a Muslim who limited his scientific work to the analysis of the discourse of some Muslims, not to the Muslim sacred texts, i.e., the Qur'an and the prophets traditions.<sup>23</sup>

#### *Limits on State Powers*

Although the Egyptian state does not possess absolute power vis-a-vis its citizens, the real limits to what it can do are based on the perceptions of officials and the political culture of the country, rather than on constitutional or legal restrictions. The permanent constitution of 1971, like similar constitutions of authoritarian regimes, provides for the respect of a long list of civil and political rights, prohibits torture, and stipulates rules for the exercise of state power in different domains. At the same time, it leaves many details to be decided by laws and regulations, and can be interpreted by state authorities in ways that violate the fundamental rights of citizens.

Successive governments in Egypt, particularly that of Anwar al-Sadat, introduced a vast array of laws with myriad restrictions on citizens' exercise of their rights. Not content with such restrictive laws, the government of Mubarak has called for and obtained from a docile People's Assembly renewal of emergency powers initially granted in 1981. Under these powers, the government can take any measures "required by the circumstances," including the suspension of the constitutional rights of citizens. State authorities have, however, accepted certain self-imposed limitations that have expanded the scope of autonomy of civil society organizations in the country, namely respect for the freedom of expression, as its exercise does not entail calls for armed struggle against the government, and enforcement of court rulings, even when such rulings are contrary to preferences of the executive authority. Civil society organizations have not failed to appreciate the opportunities that such self-imposed limitations on the part of the state have opened for the further expansion of their margin of freedom.

It is important to note, however, that state authorities did not accept self-imposed restrictions because they had suddenly become new converts to the cause of democracy. Rather, they found during the 1981

"autumn of fury" that the cost of repressing all political and social forces in the country was not only too high, but counterproductive. Sadat was assassinated among "his soldiers" after having ordered the arrest of 1,500 citizens of all political persuasions. Mubarak, his successor and then the vice-president of the republic, was standing next to Sadat when the assassins' bullets put an end to his life. Such a lesson is not easily forgotten.

However, a return to the single mass organization of the 1950s was not practical in 1981 because that formula had been discredited in the eyes of the public and ruling groups since the military defeat of June 1967. The ruling elite appreciated the diplomatic and economic benefits that the regime could achieve through the maintenance of a liberal facade, believing this would induce Western governments and investors to be more sympathetic toward the country. In addition, a liberal political formula offered the additional advantage of isolating the more radical opposition groups intent on continuing the armed struggle against the government because most other opposition groups had aspired to this formula during the last years of Sadat's rule. Thus, Mubarak must have thought that a little dose of political liberalization would not seriously threaten the stability of his government, but rather would ease tensions caused by his predecessor's harsh methods of dealing with the opposition.

An example of a self-imposed limitation was the willingness of Mubarak's government to respect decisions of the judiciary as much as possible. Such willingness, more marked in the early years of Mubarak's rule than during the last years of his second term in office from 1987-1993, opened the way for Egypt's liberal-minded justices to reshape several components of the authoritarian system inherited from Sadat. Consequently, the veto with which the Committee of Political Parties opposed the establishment of the new parties was countered through court decisions, and the number of parties in Egypt increased from four in 1981 to thirteen at present. The deplorable electoral law of the national assembly was amended twice in 1987 and 1990 in anticipation of negative court rulings as to its constitutionality. The national assembly was dissolved on the two occasions before it completed its constitutional term of five years in order to save Mubarak's regime a show-down with the country's prestigious judges. In many other instances, Egyptian justices have equally demonstrated that they became the most effective agent of political change. However, it was Mubarak's regime which had enabled them initially to play such a role, thanks to several laws

<sup>23</sup> On the divorce case, Helmy al-Namnam, "Quadiyyat Talaq Raghm Anf al-Zawjain" [Divorce case against wishes of the married couple], *Al-Mussawar*. November 19, 1993, no. 3606, pp. 58-61.

introduced during Mubarak's first presidential terms which increased their autonomy vis-à-vis the executive authority.<sup>24</sup>

### *The State and Civil Society*

Faithful to its more than five millennia tradition of centralized power, the Egyptian state has been reluctant to permit uncontrolled associational life. Mubarak's government decided to maintain the controls, mostly codified in law, which he had inherited from his predecessors. In dealing with associational activities, the state justified its actions by referring to two important pieces of legislation, namely Law 32 of 1964 on citizens' societies and Law 40 of 1977 on political parties.<sup>25</sup>

The first law requires any society to register with the Ministry of Social Affairs. An important condition for such registration is a commitment by the proposed society not to engage in political activities. The term "political activity" has been interpreted quite loosely, however, and the ministry has denied registration to certain associations, most notably the Arab Organization for Human Rights and its Egyptian chapter, although the first had been given observer status in the UN Economic and Social Council. The ministry also took advantage of the law to intimidate other societies by threatening to suspend their activities if they continued certain actions or if their elected leaders were not approved by security agencies. The ministry even replaced the elected councils of some societies that it suspected of being arenas for activities of Islamist militants as was the case of the Society of Cooperation of the Followers of the Qur'an and the Muhammadan Tradition, as well as another Islamic society in Alexandria in the summer of 1994.<sup>26</sup> Successive electoral victories since the late 1980s by Islamists in professional associations have prompted some leaders of the National Democratic Party to adopt a law that would enable the government to appoint executive councils of professional associations if less than 33 percent of their members participated in elections.<sup>27</sup>

<sup>24</sup> CPSS, *Al-Taqrir*, 1992, pp. 229-307.

<sup>25</sup> For the law on citizens' societies, see Amir Salim al-Muhami, *Difa'an an haqq takwin al-jam'iyyat* [Defending the right of association] (Cairo, 1992). For the law on political parties *Al-Hay'a al'amma li She'oun al-Matabe' al Amiriyyah. Dostour Jomhoriyyat Misr al-Arabiyyah* [Constitution of the Republic of Egypt] (Cairo: HASMA, 1991), pp. 105-122.

<sup>26</sup> Center for Political and Strategic Studies, *Al-Taqrir al-istratiji al-'Arabi*, 1990 [Arab strategic report, 1990] (Cairo: Dar al-Ahram, 1991), pp. 451-3

<sup>27</sup> Ibrahim Nafi' "Mantiq khati' wa itijah marfud" [A mistaken logic and an unacceptable attitude], *al-Ahram*, December 24, 1992, pp. 1,3. Also, *Al-Ahram* and *Al-Wafd*, February 17, 1993.

The law on political parties stipulates the many conditions for the establishment of a legally recognized political party. For example, the law bans any party with a religious or confessional platform that appeals to a particular social class or propagates an atheist ideology. It prohibits the formation of any party opposed to the principles of the so-called Corrective Revolution, the term Sadat used to describe his arrest of Nasirite leaders of the former Arab Socialist Union. In addition, it requires approval of a proposed party by a special committee dominated by government representatives. Citizens have the right to appeal decisions of the committee before the Supreme Constitutional Court, and nine parties already won this judicial battle when their disputes with the committee were taken to the court. If the government is intent on preventing the formation of certain parties, however, the judicial battle could continue indefinitely.<sup>28</sup>

Other laws enable the government to arbitrarily curtail the autonomy of specific associations. Recent amendments of the penal code, justified by the government as being indispensable in the fight against terrorism, further strengthen its repressive capacity vis-a-vis associations.<sup>29</sup> In addition, the law on political parties has been amended to ban any activity by people applying for authorization of a new party before approval is granted and to require existing parties to inform the Committee of Political Parties, dominated by the National Democratic Party, of any contacts or joint activities with foreign political parties.<sup>30</sup> Armed with such laws, the government can disqualify people from running as candidates for elected posts in parties or even in general elections. Names of candidates should be approved by the so-called Public Socialist Prosecutor, although this official has not shown much zeal in the exercise of this specific power<sup>31</sup> and the Committee of National Dialogue, which met early in the summer of 1994, recommended stripping the Public Socialist Prosecutor of this power.

Government authorities may limit activities of professional associations, trade unions, and political parties, such as public meetings, for which prior authorization must be obtained.<sup>32</sup> They may also suspend or ban publications of certain societies, a measure taken by Sadat against

<sup>28</sup> CPSS, several issues.

<sup>29</sup> See al-Muhami, *Difa'an an haqq*, pp. 105-22.

<sup>30</sup> *Al-Ahram*, July 16, 1992, p. 5

<sup>31</sup> *Al-Ahali*, December 23, 1992, p. 5.

<sup>32</sup> Rahma Rif'at, "Al-Intihakat al-qanuniyyah wa al-idariyyah fi intikhabat 1991" (Legal and administrative violations in the 1991 elections) in *Nadwat al-haraka al-ummaliyya al-Misriyyah fi al-intikhabat al-niqabiyyah am 1991* [Seminar on the Egyptian workers movement in trade union elections of 1991] (Cairo: Arab Research Center, December 1992).

several opposition parties' newspapers and by Mubarak against *Sawt al-Arab*, the Nasirite weekly, for a critique of the Saudi Arabian government.<sup>33</sup> Moreover, the Public Prosecutor has resorted recently to ban publication of any views or comments on certain issues, most of which relate to cases of corruption among senior government officials.<sup>34</sup> The weight of government intervention is felt most heavily by the trade unions. The law establishing the central organization of trade unions allows the Ministry of Manpower to intervene in their activities, although the International Labor Organization has exerted pressure on the government to draft a new trade union law that conforms to international labor standards, which is being debated in the country at present. Nevertheless, a powerful president of the General Federation of Trade Unions of Egypt, described as "out of line" with respect to the government's open-door economic policy, was removed a few years ago at the instigation of the Minister of Manpower and Training and replaced by the secretary of trade union affairs within the National Democratic Party. The former Minister of Manpower had done his best to dislodge another president of the federation who had allegedly reached the age of retirement, despite a legal opinion opposed to such interpretation of the law on trade unions. The matter was settled only when the minister quit his post in a cabinet reshuffle in October 1993.<sup>35</sup>

However, there is no doubt that Mubarak and his advisers were willing to allow political parties, professional associations, as well as citizens societies a considerable measure of autonomy in running their own affairs and in expressing their members' views on issues ranging from professional concerns to major problems of domestic and foreign policies. In fact, the first decade of Mubarak's regime, spanning his first term in office (1981-1987) plus most of his second term, was marked by this willingness to accommodate opposition groups within a legal framework of political action.

This accommodating approach has been gradually reversed since the summer of 1992. The first sign of reversal was the acceptance by the People's Council of several legislative amendments proposed by the government on various laws, including in particular the penal code and the law of political parties. Amendments of the penal code aimed at stiffening sentences on activities judged by the authorities to constitute

<sup>33</sup> Arab Organization for Human Rights, *Huquq al-insan fi al-watan al-Arabi* [Human rights in the Arab world] (Cairo, 1989), pp. 146-7.

<sup>34</sup> *Al-Arabi*, Cairo, December 27, 1993, p. 3.

<sup>35</sup> Amin Taha Morsi "Al-inqelab al-akhir fi itehad al ummal" [The last coup in the workers' federation] *Rose el-Youssef* no. 3410, October 18, 1993, Cairo, pp. 62-63.

encouragement of terrorism, and to allow security forces a freer hand in pursuing people suspected of involvement in such activities. Other amendments further curtailed freedom of political parties in formation and required existing political parties to report to the Committee of Political Parties in advance of any contacts they plan to have with foreign political parties and associations. These early signs of reversal of the accommodative approach coincided with an upsurge in armed opposition actions attributed to people claiming to act in the name of radical Islamist organizations, which led to the murder of tens of people including Copts, foreign tourists, security officials as well as ordinary citizens.

Such legislative amendments in the summer of 1992 did not affect much organizations of the incipient civil society. Those involved in terrorist actions were not known to be active in any so-called civil society organizations. They could be aptly described as marginal groups in every sense of the term. Other measures taken by the government in the last year of Mubarak's second term, as well as immediately after the referendum of October 4, 1993 extended his presidency to a third term, have fallen squarely on different categories of civil society organizations, political parties, professional associations and citizens societies alike.

Alarmed by the success of the Islamist movement in capturing majority of seats in the national council of the Bar Association in September 1992, the government moved cautiously to limit the chances of a repeat victory in other professional associations. Because the Bar Association was considered a stronghold of the liberal and leftist currents in the country's politics, their combined defeat, due partly to infighting, was a clear indication that the Islamists would not be confined to professional associations of the so-called technocratic intelligentsia such as engineers, medical doctors and pharmacists syndicates, and that all other associations of the educated middle class would be targeted in their war of positions against the government. News transpired that the government was preparing a law to make it more difficult for any opposition group to dominate any professional association.

Using blitzkrieg tactics, in February 1993 the government pushed the People's Council to adopt a law on the election of the professional syndicates in less than 48 hours, despite the manifest opposition of 17 of the country's 23 professional associations. Government advisers had reasoned that the Islamists constituted a majority only among the minority of activists in professional associations, and that if the inactive

majority in the syndicates were encouraged to participate, a more diversified leadership would emerge. The new law, called the law on Guarantees of Democracy in Elections of Professional Syndicates, required a quorum of half of the registered members of any association in the election of its leading organs. If such a condition was not met the first time the election is organized, another round of elections would take place two weeks later with the quorum reduced to one third of members. If that condition was not fulfilled, the syndicate would be run by an appointed council made up of oldest members of the syndicate and presided over by a judge. Syndicate members who do not take part in elections would have to pay a fine. Voting arrangements should be provided in work sites of the members. One anomaly of this law was its ban of elections on weekends or on official holidays.

Despite vehement opposition of most syndicates that the law stripped them of their right to decide about their internal regulations, subjecting them to uniform standards which do not take into consideration the varied character of their membership, small and concentrated in some syndicates, like those of journalists or musicians, while being large and dispersed in others like those of graduates of faculties of commerce or the lawyers,<sup>36</sup> the law was enacted and several rounds of elections took place already on the basis of this law in some syndicates in December 1993. In most cases, the quorum was met the first time not only in syndicates with limited membership, such as the journalists and social workers, but in many provincial chapters of the lawyers syndicate. Taking advantage of a dispute about the accuracy of voter lists, judicial authorities ordered postponement of elections in the Cairo and Giza chapters of the Bar Association and in all provincial chapters of the Engineers Syndicate. The postponement led to a major confrontation between the government and the E.S. with the engineers declaring a sit - in strike in the national headquarters of their syndicate, and the government complaining to the Public Prosecutor about actions of leaders of the syndicate. The charges addressed against them are unclear.<sup>37</sup> Having realized that the Islamists are capable of winning majorities in syndicate elections under the new law, government representatives invoked several pretexts to postpone election in the syndicates dominated by Islamicists, particularly the Cairo chapters of both lawyers

<sup>36</sup> See 27 Supra.

<sup>37</sup> On elections of provincial chapters of professional syndicates see al-Sha'b, 21, 28, 31 December 1993, *Al-'Arabi* 13, 20 December 1993, *Al-Ahali*, 15, 22, 29 December 1993, *Al-Wafd*, December 1993.

and engineers' syndicate. Although it is too early to judge the impact of the law on distribution of power in the syndicates, it is reasonable to assume the law will probably have little effect on those associations of the technocratic intelligentsia, i.e., scientists, engineers and medical doctors, where the Islamists do not face any serious challenge from other political forces, but it would require, on the other hand, much bigger mobilization on their part in order to maintain their control of other syndicates in which secular political forces used to have a larger following, as was typically the case in the Bar Association, where they might have suffered some losses in recent elections in its provincial chapters.

President Mubarak does not seem to be satisfied that the new law will ensure the dislodging of the Islamists or any opposition groups from their influential positions in organizations of the educated middle class. He has expressed his displeasure with the way some journalists exercise their freedom of speech. In November 1993, the president of the Journalists' Syndicate, a mouth piece of the regime, pushed members to approve a draft law that would have threatened their job security. The attempt was aborted, primarily due to strong opposition by the journalists, who organized public meetings to denounce the measure. On several other occasions, the Minister of Education has warned university professors against involvement in politics, arguing that political parties, not faculty clubs, were the proper place for discussion of political issues. He was referring to debates of public issues by university professors in their clubs. *Al-Sha'b* newspaper, an organ of the Islamist Socialist Labour Party, reported that the Minister proposed changing the universities law to make it legally possible to transfer university professor to administrative posts. In fact, the Universities Law was amended by the People's Assembly on May 30, 1944 to deprive university professors of their right to elect deans of faculties who would be henceforth appointed by rectors of universities, appointed also by the President on recommendation of the Minister of Education.<sup>38</sup>

Mubarak's government has not shown any inhibitions in using "dirty tricks" to confront oppositional voices. Dr. Helmy Murad, the Deputy-Leader of the Socialist Labour Party, together with 'Adel Hussein its Secretary General, were arrested and held briefly following the referendum on a third term for Mubarak on October 4, 1993. Both were interrogated

<sup>38</sup> *Al-Sha'b*, December 2, 1993 p. 1, *Al-Ahram*, 31 May 1994, p.1.



by the public prosecutor, who questioned some of the ideas expressed in their writings that he found to be offensive to President of the Republic and to Egypt's relations with friendly countries. Mubarak was particularly angry over a book they published just before the referendum, in which they explained why people should oppose renewal of Mubarak's presidential term. When the President was unsatisfied with simply censoring the book, the two authors, together with the editor in chief of their party's newspaper and some fellow journalists, were questioned by the public prosecutor for having dared to make their views on such matters known to their readers. During the same period, the President of the Faculty Club of Assiut University and student leaders at several universities—all of whom are activists of the Islamist movement—were briefly arrested following open disagreements with university authorities over faculty and students' problems.<sup>39</sup>

In dealing with the state, civil society organizations have striven to use the political resources at their disposal. Solidarity among such organizations is viewed as the best way to mobilize common resources to expand their autonomy. Very few organizations, however, are willing to engage in confrontations with the state over the question of their autonomy or any other matter. Their leaders view maintaining good relations with the government as the best way to ensure receiving government favors in terms of appointments in legislative or advisory bodies, obtaining facilities and benefits for their members, or simply escaping the wrath of officials, particularly security forces. Thus, solidarity actions have been few and of a temporary nature, such as the formation by major opposition parties and some professional associations of the Committee for the Defense of Democracy to guarantee fairness in the 1984 legislative elections, or joint action by opposition parties in calling for the dissolution of the People's Assembly after the judiciary ruled it unconstitutional in 1990.

The usual practice of civil society organizations is to use their political resources to obtain concessions from the government or to effect societal change in ways consistent with their vision of an ideal social order. Two types of organizations seem to be particularly skillful in using these resources—business and Islamist groups. Business associations use their strategic contacts, knowledge, money, access to the media, and support of foreign powers and international financial insti-

<sup>39</sup> *Al-Ahram*, October 10, 1993, *Al-Sha'b*. September 28, October 1, November 12, December 29, 1993.

tutions on which the country is financially, technologically, economically, militarily, and politically dependent in order to pressure the government into accelerating a liberal program of economic restructuring and to consult with them during the decision-making process. Frequent meetings at the highest levels of government between senior government officials and top businessmen, individually as well as in their associational capacities, demonstrate the success of these organizations in attaining some of their goals. Prominent businessmen are often invited to participate in debates about economic policy with senior cabinet members and in the presence of the President. They also have been consulted about major pieces of legislation concerning economic reform.

The Islamist movement has succeeded in using its resources to gain a large space within civil society. Thus, the movement utilizes its members' knowledge and organizational skills, financial resources, and access to mosques, newspapers, publishing houses, professional associations, and political parties, to mobilize opposition to governmental policies or the state. The movement hopes to transform the social order following its gradual takeover of society's institutions. Because of its skills, as well as a history of disappointing performances on the part of its rivals, the Islamist movement in Egypt is the most representative and the powerful actor in a civil society with contradicting features. Islamist militants have succeeded in winning a majority of seats in the professional associations of engineers, medical doctors, pharmacists, scientists, and lawyers. They also run university professors' clubs in Cairo, and Assiut universities and control student governments in most universities whenever students are allowed the opportunity to participate in fair elections.

The strong presence of the Islamist movement—particularly its mainstream organization, the Muslim Brotherhood—in professional associations, publishing, and private business has led several political parties to seek alliance with it. The electoral alliance with the *Wafd* Party in 1984 was short-lived because the *Wafd* was too strong to be taken over by the Muslim Brothers. The relatively weaker position of the Socialist Labor Party and the Liberal Socialist party, however, has contributed to the durability of the agreement they reached with the Muslim Brothers. The Labor-Islamic Alliance made a strong showing in the 1987 legislative elections as well as in local elections in November 1992.



### Conclusion

In Egypt, only one of the three criteria for a vibrant, autonomous civil society—the presence of a large number of active formal associations catering to citizens' interests in many areas—is adequately met. Notwithstanding a relatively large measure of freedom of expression, both the state and societal actors routinely penalize dissenters from what are considered correct political positions. Moreover, state authorities have been narrowing the area of autonomy granted to political parties and professional associations in the 1980s.

The first criterion has been met because it reflects a process of social differentiation in society, as well as the myriad interests of citizens, ranging from material preoccupations to social concerns to intellectual pursuits. There is little indication that the Egyptian state, however authoritarian it may become, would ever deny its citizens the right to organize in these fields. Some organizations, especially those active in social welfare, assist the state in attaining its goals. Others do not necessarily constitute a threat to stability because they operate in areas such as sports and friendship that are marginal to any contest for political power. However, the two other criteria for civil society are more problematic.

Some Middle East specialists state that intolerance toward dissenting minorities and the authoritarian state are permanent features of Islamic culture. The mass following of the Islamist movement in Egypt among middle class professionals and university students casts doubts, according to many observers, on whether such attitudes could fade in the future. The record of ruling groups who claim to be defending an Islamic ideal in such societies as Afghanistan, Iran, and Sudan and some of the statements made by spokesmen of the Islamic Salvation Front in Algeria confirm their belief in the incompatibility between Islam and the image of a civil society along the criteria proposed in this study.<sup>40</sup> However, a closer look at the broader setting of the emergence of an embryonic civil society in Egypt suggests another scenario, which, while not ignoring the importance of culture, leaves open the question of the political behavior of people belonging to any specific culture.

According to this interpretation, groups of citizens hold different perceptions of their culture and thus engage in a variety of modes of

<sup>40</sup> See Elie Kedourie, *Democracy and Arab Political Culture* (Washington, DC: Washington Institute for Near Policy).

collective behavior. As such, the presence of one culture in Egypt influenced by Islam would give rise to different attitudes toward dissension as well as authoritarianism. Although secularist positions in Egypt are articulated by only a tiny minority of intellectuals, individuals willing to use force to suppress opposition to an Islamist political order come specific social backgrounds. The assassins of Farag Fouda were frustrated young Egyptians who had not completed their university education and held jobs not requiring any particular skills.<sup>41</sup> Attacks on Copts and foreign tourists, as well as armed clashes with the police, take place primarily in poor districts of Upper Egypt or in squatter settlements located within the "poverty belt" surrounding Cairo. Egyptian newspapers have widely reported the near total lack of public services and the precarious existence led by people in those districts in Assiut and Fayyum governorates and in the Imbaba, 'Ayn Shams and Zawya al-Hamrah quarters of Cairo.<sup>42</sup> Many Islamists do not condone the use of force to settle differences with secularist groups. Ma'mum al-Hudaybi, leader of the Muslim Brotherhood, and several figures among the so-called Independent Islamists have condemned the use of violence, although not always unequivocally. Supporters of nonviolence in the Islamist movement are to be found mostly among professional groups of the middle class and wealthy entrepreneurs.<sup>43</sup>

As for the authoritarianism of state officials, it may stem from a centuries-old traditions of autocratic rule. It also could reflect the realization of state officials that they are incapable of dealing effectively in the short run with the economic and social causes of discontent among the young people of the middle and poor classes. In terms of economic growth, the 1980s could be described as a lost decade for Egypt. Not only did the rate of economic growth drop from 7.4 percent to 5 percent annually, with the per capita rate almost stagnating, but the decade also ended with the significant fall of Egypt from the World Bank's group of lower middle income countries to its group of lower income countries. World Bank statistics also indicated a rise in the inflation rate during the same period, as well as a drop of 10 percent in the real income of industrial workers, their value share of the value added declining from

<sup>41</sup> On the social background of the assassins of Fouda, see *al-Ahram*, January 5, 1993, p. 1.

<sup>42</sup> For an account of living conditions in such areas, see *al-Ahram*, December 8, 1992, p. 3.

<sup>43</sup> Several intellectuals expressing various ideologies presented their views on the question of political violence in *al-Ahram*, p.8, throughout the summer 1992.

54 percent in 1970 to 35 percent in 1989. The UNDP *Human Development Report* put the number of people below the poverty line at 23% of the total population for the 1980's. The economic reform measures that accelerated in the wake of Egypt's agreement with the International Monetary Fund in April 1991 have caused recession, reducing the growth rate to 2.5 percent in 1992, according to official estimates.<sup>44</sup> Under these conditions, the government is concerned that a further democratization would strengthen political opposition, particularly among Islamist groups. The tightening of the penal code, the law on political parties, and the law of professional associations indicate a shift by the government toward harsher methods of dealing with political opposition in general and Islamist groups in particular.

The other method used by the government in its competition with Islamist groups to win the hearts and minds of Egyptian citizens is to outbid them in the claim of conformity to religious, particularly Islamic, values. The Egyptian public has become accustomed to hearing the prime minister read a letter from the Shaykh al-Azhar or other religious dignitaries that states a particular piece of legislation is consistent with Islamic teachings. Prominent religious figures, whose discourse differs very little from that of the Islamist movement, are offered prime time on the government-controlled electronic media to present an official version of Islamic teachings to the public. The impact of mobilizing the *'ulama* on the government's side does not seem to enhance the government's legitimacy, but contributes to the credibility of the Islamist discourse.

Several intellectuals advised the government to dispense with such opportunistic use of religion, allowing instead ideological diversity to be reflected in the electronic media. They advocated permitting secularists, more enlightened spokesmen of the Islamist movement, and Coptic figures to address public opinion through the media. The government, however, has responded to this advice partly by allowing some of those intellectuals to address the public through television while maintaining the same dose of religious programs on the electronic media. It adopted some plans to improve access to poor neighborhoods and to deliver public services to their inhabitants.

<sup>44</sup> For the economic performance of Egypt in the 1980s, see The World Bank, *World Development Report, 1992: Development and the Environment* (New York: Oxford University Press, 1992), pp. 218, 220, 230; United Nations Development Programme, *Human Development Report, 1992* (New York: O.U.P.) 1992, pp. 158-159.

The National Democratic Party government realizes that economic reform is imposing sacrifices on the Egyptian people in the short run and that a further democratization of the political system under current conditions would only favor all segments of the opposition, particularly the Islamist movement. It prefers, therefore, to follow a more cautious approach toward the opposition, mobilizing official Islamic institutions to deprive Islamist groups of the claim that they alone are concerned about respect for Islamic values while enhancing its "political control" capacities through various legislative amendments. The cautious approach does not seem to constitute a sufficient deterrence to the acts of armed opposition to the government that have escalated since the summer of 1992, despite execution of 30 Islamist militants and torture of hundreds in Egyptian prisons although acts of armed opposition have recently subsided dramatically following well-organized assaults by security forces on hide-out places of radical Islamists and arrest of murder of their leaders.<sup>45</sup> As for an alternative economic policy of "growth with redistribution," neither foreign aid donors with their financial institutions nor influential domestic actors are expected to lend any support to such a policy. All these foreign and domestic constraints have the government wishfully thinking that the implementation of economic reform measures will somehow enable it to get out of its economic predicament, and that economic progress will gradually ease the social tensions that have allowed the Islamist movement to find a large following among the youth of middle and lower middle class origins.

Until the ruling groups in Egypt together with their supporters in the United States and international financial institutions realize that economic liberalism does not offer a magic formula for dealing with diverse economic and social problems of all countries of the South, government-imposed limitations on civil society will increase, and the bloody confrontation between security forces and young impoverished Egyptians who believe that they are fighting for an Islamic cause could flare up again. Under such conditions, the only prospect that one can envisage for Egypt's embryonic civil society is one of a protracted crisis.

<sup>45</sup> Egyptian Organization For Human Rights. *Jarimaton bela 'iqab al-ta'thib fi Misr. Unpunishable Crime, Torture in Egypt* [Comment of the Egyptian Organization of Human Rights on the first supplementary report submitted by the Egyptian Government to the U.N. Committee for Action against Torture, in its session of November 1993] (Cairo, December 1993).

