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The Formation of Islam

Religion and Society in the Near East, 600–1800

JONATHAN P. BERKEY
Davidson College

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CHAPTER 12

Issues of Islamic identity

The master narrative of the two and a half centuries which followed the ʿAbbasid Revolution might be characterized as one that took the institution of the caliphate from revolution to autocracy, and thence to disintegration and the concomitant fragmentation of the *umma* – that, at least, was the political framework within which radical transformations in the society and religious identity of Muslims transpired. What follows is a very brief sketch of some of the political highlights of the period, from the accession of al-Saffah, the first ʿAbbasid caliph, to the end of the tenth century.[1]

In 762, al-Mansur, the second ʿAbbasid caliph, established a new capital for the empire in Iraq. The foundation of Baghdad, which al-Mansur actually called the "City of Peace," reflected the growing tensions between the ʿAbbasids and the supporters of ʿAli's family, who were especially strong in Kufa, the principal Muslim settlement in Iraq which had served as the ʿAbbasid caliphs' first capital. In many ways the city can stand as a metaphor for the character of the Islamic empire in this period, and for its greatness. The city, like the state of which it was the capital, was an ambitious enterprise. Much of it was occupied by and organized around explicitly imperial structures – palaces, gardens, vast reception halls – with a domed room housing the caliph's throne at the very center. Everything about the city – its spatial arrangement and decoration, the ceremony of the caliphs and their courtiers within it, its very location not far from the old Sasanian capital of Ctesiphon – signaled the unabashed absorption of pre-Islamic imperial traditions, as well as a sharpening of Iranian influence on the character of the civilization. And the whole was not without effect, if we are to believe the historian al-Tabari's famous account of the visit to Baghdad in 917 of Byzantine ambassadors who, though representing themselves a state with a well-developed imperial tradition and ceremonial, were suitably overwhelmed by the splendor of the ʿAbbasid court and the majesty of the caliph.[2]

[1] The best comprehensive history of the ʿAbbasid period can be found in Hugh Kennedy, *The Prophet and the Age of the Caliphate* (London: Longman, 1986).

[2] On Baghdad, its palaces, and the ideology behind them, see Oleg Grabar, *The Formation of Islamic Art* (New Haven: Yale University Press, 1973), 67–72, 166–78; Jacob Lassner, *The Topography of Baghdad in the Early Middle Ages* (Detroit: Wayne State University Press, 1970); and C. Wendell, "Baghdad: *Imago Mundi* and Other Foundation Lore," *International Journal of Middle East Studies* 2 (1971), 99–128.

Some Muslims came to think of Baghdad as the *omphalos*, the navel of the world, and so it is no surprise that the civilization and culture associated with the ʿAbbasid capital has loomed large in later accounts of early Islamic history. The popular view is reflected, for example, in texts such as the *Thousand and One Nights*, in which many of the tales are set "in the days of Harun al-Rashid," the fifth ʿAbbasid caliph (r. 786–809), even though the collection itself took its present shape many centuries later – as if to recall a golden age of prosperity and peace. Such Islamic viewpoints may also have encouraged some Western historians to think of the early ʿAbbasid period as a sort of "classical" one, in which Islamic civilization, having outgrown the parochialism of an Arab faith, embraced a truly cosmopolitan world-view, and in which many of the norms and artifacts which defined "Islam" in later centuries took recognizable shape.[3] The grounds for such a viewpoint are obvious. From a political perspective, the ʿAbbasids were markedly successful, at least until the middle of the ninth century. There was a tremendous concentration of wealth in cities like Baghdad, which provided the material foundations for a vibrant cultural life. Most importantly from our perspective, the late eighth and ninth centuries did see some consolidation of foundational texts and patterns of religious authority within the Muslim community – for example, in the early coalescence of the schools of law (*madhahib*), and the collection and writing down of the first and most important compilations of hadith. But the term "classical" is too strong, and deceptive if it is taken to imply that the state of Islam in this period constitutes a model against which all later incarnations and permutations must be measured. The period was one of growth, struggle, and contention, in which Muslims thought (and fought) very seriously about what it meant to be a Muslim, and in which those struggles took on ever greater significance, as the portion of the population which was Muslim grew relatively larger and as the *dhimmi* communities adapted themselves to a state of permanent inferiority. But much of what was later taken to be characteristic of Islam in fact took clearer shape in the centuries which followed those which form the subject of this chapter – in the period which has been identified as the "Middle Period" of Islamic history.

Moreover, from at least the mid–late ninth century, the political power of the central ʿAbbasid administration was undermined and fragmented by developments both at the center and on the periphery, and some of these developments had a profound impact on the evolution of religious identities and practice. From at least the reign of al-Muʿtasim (r. 833–42) on, the military power of the state centered on imported slaves, freedmen, and tribesmen hired as mercenaries, many of them of Turkish origin. These Turks and others, who replaced the Arab (and also Iranian) soldiers who had hitherto constituted the core of the Muslim armies, were extremely effective from a military standpoint. However, their mercenary ties to the state or to its leaders contrasted sharply with the religious and ethnic links

[3] As, for example, G. E. von Grunebaum, *Classical Islam: A History 600–1258* (Chicago: Aldine, 1970), esp. 7.

which had previously characterized the ties between the *umma* and its armies.[4] From this point on, therefore, the development of religious institutions and patterns of authority unfolded under circumstances characterized by the exclusion of native Muslim populations from military, and later political, power. This would have an especially great impact on the emergence of the religious scholars, the ulama, as a critical social group.

At roughly the same moment that the character of the military supporting the central state was transformed, that central authority itself began to succumb to centrifugal forces. While the caliphal regime remained a symbol of Islamic unity, effective political power in the provinces outside of Iraq passed into the hands of local regimes. In Egypt, for example, Ahmad ibn Tulun, a Turkish soldier sent out from Baghdad as governor of the province, established an autonomous local government which he was (briefly) able to pass on in dynastic fashion to his son. This pattern – of a nominal acknowledgment of caliphal authority overshadowed by administration of real power by a local regime – turned out to be characteristic of political arrangements in the Near East from the tenth century onward, at least until the Mongol destruction of the caliphate in Baghdad in 1258. Some of the local regimes had profound impact on religious developments. Various autonomous Iranian dynasties, for example that of the Samanids, cultivated a renascence of Persian culture and language, which would prove to be the medium for much medieval religious growth in Islam, especially in the area of Sufi mysticism. The Buyids, originally from the region of Daylam south of the Caspian Sea, actually occupied Baghdad in the mid-tenth century and, while formally acknowledging the position of the caliph, ruled the central provinces of the Islamic empire for over a century. That development was all the more striking as the Buyids were Shiʿis, and it was under their patronage that Twelver Shiʿism began to take more explicit doctrinal form. The fragmentation of political power posed its most serious threat to Islamic unity, and to the ultimate authority of the caliphs, in the Fatimid regime. The Fatimids, as Ismaʿili Shiʿis, rejected completely the authority of the caliphs and established a rival Imamate which claimed for itself supreme religious authority and political sovereignty. The Fatimids established their capital in Cairo, in Egypt, but the Fatimid caliphate was recognized at different times much more widely: in North Africa, western Arabia (including the holy cities of Mecca and Medina), Yemen, parts of Syria, and places as far afield as Sind.[5]

The articulation of a specifically Islamic tradition

As we saw in the previous chapter, there is some controversy as to the point at which we can safely speak of a distinctive Islamic tradition. It is likely that what

[4] On the new military patterns, see Patricia Crone, *Slaves on Horses: The Evolution of the Islamic Polity* (Cambridge: Cambridge University Press, 1980); Daniel Pipes, *Slave Soldiers and Islam: The Genesis of a Military System* (New Haven: Yale University Press, 1981); and Matthew Gordon, *The Breaking of a Thousand Swords: A History of the Turkish Military of Samarra, AH 200–275/815–889 CE* (Albany, NY: SUNY Press, 2001).

later generations would recognize as a distinctively Islamic identity did not exist in anything but a very rudimentary state at the death of the Prophet. On the other hand, by the middle of the eighth century, the ʿAbbasids were able to lead an insurgency on explicitly Islamic grounds, advancing a process which was already well underway when the Dome of the Rock was built at the end of the seventh century. Even so, the process was by no means complete, and further developments were both enriched and complicated by the nature of the ʿAbbasids' success.

One can trace the outlines of the fuller articulation of the Islamic tradition in its relations with its sister religions, Judaism and Christianity, in this period. As we saw in the last chapter, there was considerable exchange of ideas and stories between Muslims, Jews and Christians in Islam's early years, for example, in the form of narratives about the pre-Islamic prophets known collectively as the *israʾiliyyat*. Those exchanges mark not only a relatively open cultural atmosphere, but also the fluidity of religious identities at the time, a fluidity perhaps encouraged by the oral nature of cultural transmission.[5] The preference among Muslims for the oral transmission of texts is well known, and is reflected in the very terms by which the earliest Muslim texts are known – *hadith*, for example, meaning "narrative," "story," or "news," that is, "something that is talked about." But the ninth century was one in which those orally-transmitted texts took a more definitive written form. It was then, for example, that Muhammad ibn Ismaʿil al-Bukhari (d. 870) and Muslim ibn al-Hajjaj (d. 875) produced their compilations of hadith, each titled the *Sahih*, the "sound" or "healthy" (i.e., marking the hadith they included as genuine and authoritative), compilations which over time acquired a definitive, almost iconic status among Sunni Muslims. In part, this represented the growing importance of the *sunna*, the normative practice of Muhammad, in the delineation of Muslim standards and practice, for that *sunna* was known principally through the hadith. But it also reflected the *inscription* of authority, and its corollary was the assertion by the ulama, the scholars of the religious and legal sciences, of their principal responsibility for defining and defending the Islamic tradition – a development which we will discuss more fully below and in the following section. Not surprisingly, therefore, this was also the period when the *israʾiliyyat* acquired a suspect reputation among most of the ulama, and while they continued to be transmitted as entertainment and in popular preaching circles, the very term *israʾiliyyat* came to have a negative connotation.[6] In such ways did Muslims begin to assert the independence and exclusivist identity of their religion.

[5] A point made by Reuven Firestone, *Journeys in Holy Lands: The Evolution of the Abraham–Ishmael Legends in Islamic Exegesis* (Albany, NY: SUNY Press, 1990), 15–18.

[6] Gordon Newby, "Tafsir Israʾiliyat: The Development of Qurʾan Commentary in Early Islam in its Relationship to Judaeo-Christian Traditions of Scriptural Commentary," *Journal of the American Academy of Religion* 47, Thematic issue S (1980), 685–97. Newby, however, sees this as a marker that the Muslim "community turned toward the inner values of Islam after the period of seeking external confirmation" (694). That approach strikes me as too essentialist. It makes more sense, I think, to see it as part of a longer-term process by which Islam first *asserted* its distinct identity, rather than as one in which Muslims *returned* to the "true" Muslim path.

One of the principal unresolved tensions concerned the cultural orientation of the new faith. We have seen how questions of Arab, even tribal identity continued to shape the political life of the Islamic community right down to the ʿAbbasid revolution. The central importance of a sacred scripture self-consciously revealed in Arabic made some sort of link between Arab cultural orientation and Islam unbreakable. From certain perspectives, especially the linguistic, it was Arabian Islam that triumphed. The Islamic government had already begun to use Arabic as a language of administration under the Umayyads, and in much of the Near East, the momentum was unstoppable, as Arabic gradually squeezed out other languages such as Syriac and Coptic, either eliminating them or reducing them to local liturgical usage. The issues of Arabization and Islamization are related but not identical, and on the whole the Arabs' language spread further and faster than did their religion, at least in the western regions of the Islamic world. In Palestine by the late eighth and ninth centuries, even Christians from the Melkite Church were writing in Arabic, and – which suggests that Arabic was in common usage among their congregants – translating older liturgical works from Greek into the conquerors' tongue. Similarly in Egypt, while Coptic survived longer as a spoken language in some remote villages, by at least the tenth century it was being largely eclipsed, among Christians as well as native Egyptian Muslims, by Arabic.[7] It is notable that the one Near Eastern language which survived on a large scale (albeit in a form heavily influenced by Arabic) was that of the non-Arab cultural tradition which, in the years following the ʿAbbasid revolution, shaped Islam more than any other: namely, Persian.

The question of the cultural orientation of Islam is closely linked to that of conversion to the new faith on the part of the native inhabitants of the territories conquered by the Arabs. The empirical evidence available on the subject is intriguing but limited, and the few attempts which have been made to put it to systematic use have been controversial. Still, we may carefully venture a few propositions. In the first place, the process had begun in a limited way already in the decades before the ʿAbbasid seizure of power. During the conquests, many defeated soldiers, their families, and other captives were enslaved and, later, manumitted after embracing the new faith. The number of converts increased during the later Umayyad period, as the government, especially in Iraq, tightened its methods of tax collection, inadvertently encouraging the flight of (non-Muslim) peasants from the land. Some of these peasants (those who were not caught and sent back to their villages) ended up in the garrison towns established to house and to isolate the Muslim Arab immigrants, and successful integration into those societies effectively required their conversion. The pace of conversion only

[7] Sidney H. Griffith, "The View of Islam from the Monasteries of Palestine in the Early ʿAbbāsid Period: Theodore Abū Qurrah and the *Summa Theologiae Arabica*," *Islam and Christian-Muslim Relations* 7 (1996), 9–28; W. B. Bishai, "The Transition from Coptic to Arabic," *The Muslim World* 53 (1963), 145–50; Ira M. Lapidus, "The Conversion of Egypt to Islam," *Israel Oriental Studies* 2 (1972), 248–62; L. S. B. MacCoull, "Three Cultures Under Arab Rule: The Fate of Coptic," *Bulletin de la Société d'Archéologie Copte* 27 (1985), 61–70; and idem, "The Strange Death of Coptic Culture," *Coptic Church Review* 10 (1989), 35–45.

quickened during the first century of 'Abbasid rule, although there must have been tremendous regional variation. Places such as Egypt and Syria, for example, retained considerable non-Muslim minorities down into the modern period. In Iran, after a slow start, conversion probably proceeded more quickly, so that, by the beginning of the tenth century, the new religion was demographically as well as politically dominant. Secondly, converts came from a variety of different social classes. At first, most were probably from lower social orders – prisoners of war, slaves, and those peasants driven from their farms by oppressive taxation. But certainly some of the upper classes of the non-Arab peoples who came under Muslim rule converted – one need think only of Ibn al-Muqaffa', *mawla*, belle-lettrist, and officer of the state in the first years of 'Abbasid rule, who came from a noble Iranian family, or the various Barmakids, officials and ministers to several 'Abbasid caliphs, at least one of whose ancestors probably held important religious (Buddhist) positions before their descendants converted to Islam.[8]

Finally, the growing numbers of non-Arab converts enriched the new religion and the culture which grew up around it, contributing significantly to the shape taken by Islam in these and later centuries; we will trace some of those contributions in the remainder of this chapter. Whether Islam became a majority religion in most regions of the Near East in the eighth century or the ninth or even later, at some point the number of Muslims whose ancestry was non-Arab must have come to outnumber the descendants of the original conquerors. Of course the situation was increasingly confused by inter-marriage, and despite the rather strong feelings which miscegenation could stir up – an Umayyad governor of Mecca had once had a non-Arab *mawla* flogged, and had the man's hair and beard removed, for his temerity in marrying an Arab woman, while the essayist and polemicist al-Jahiz in the 'Abbasid period could still compare intermarriage between Arabs and non-Arab converts to fornication with donkeys and mules – it must in practice have become the rule rather than the exception. But the triumph in much of the Near East of the Arabic language, and of what would in the modern world be called an Arab ethnic identity, cannot disguise the considerable contributions of non-Arabs to the historical construction of Islam. Such contributions became considerably more pronounced in the years following the 'Abbasid seizure of power, as the number of converts grew, as the capital shifted to the east and as the state began to rely more markedly on Persian clients and even the older Iranian imperial traditions.[9]

[8] See Richard Bulliet, *Conversion to Islam in the Medieval Period* (Cambridge, Mass.: Harvard UP, 1979); Michael G. Morony, "The Age of Conversions: A Reassessment," in *Conversion and Continuity: Indigenous Christian Communities in Islamic Lands, Eighth to Eighteenth Centuries*, ed. Michael Gervers and Ramzi Jibran Bikhazi (Toronto: Pontifical Institute of Mediaeval Studies, 1990) (Papers in Mediaeval Studies 9), 135–50; and Crone, *Slaves on Horses*, esp. 50–55.

[9] On the dynamics of "social conversion," see Bulliet, *Conversion to Islam*, 35–40. The same author, in *Islam: The View from the Edge* (New York: Columbia University Press, 1994), stresses the contributions of non-Arab Muslims in the formation of Islam. The citation to al-Jahiz can be found in that work in a note on p. 213, while the incident in Mecca, taken from Abū'l-Faraj al-Isfahānī's *Kitāb al-Aghānī* (Cairo, 1929), 16:107, is cited in Roy Mottahdeh, "The Shu'ūbīyah Controversy and the Social History of Early Islamic Iran," *International Journal of Middle East Studies* 7 (1976), 174–5.

Islam: an urban phenomenon?

Much scholarship on early Islamic civilization has affirmed its fundamentally urban character. Part of the argument's appeal stems from the fact that it flies in the face of so many Western stereotypes which link Islam to the desert Arabs and to a nomadic lifestyle. So, for example, historians have cited the central importance to Muslim self-definition of communal prayer, the coming together of the male Muslim population for prayers and exhortation on Fridays at noon in a *masjid jami'* (literally, a "gathering mosque" or "collecting mosque"), to Muslim self-definition. Christian ascetics in Egypt and elsewhere had fled the temptations of the towns and escaped to the desert, in a process known as *anachoresis*; but the Muslim jurists spoke of migration from the countryside to the city as a *hijra*, valorizing the migration by employing the term used to describe the archetypal "flight" of Muhammad to Yathrib to avoid persecution in Mecca. A famous hadith, which may reflect less the attitudes of Muslims in the Prophet's own day than the biases and expectations of the urban jurists as they crystallized during the early 'Abbasid period, purports to quote Muhammad as saying: "What I fear for my people is milk, where the devil lurks between the froth and the cream. They will love to drink it and will return to the desert, leaving the places where men pray together."[10]

Too much perhaps can be made of an urban bias in the formation of Islamic society and Islamic attitudes. To some extent, the perception may be an optical illusion, a product of the urban origin of the surviving source material, most of which comes from a high literary tradition which was closely associated with life in the cities. Moreover, the spread of Islam from Arabia to the more populous regions of the Near East certainly constitutes one instance of a larger pattern, of the periodic intrusion into settled regions of nomadic peoples living on its periphery. As we have seen, the Arab tribal element remained an important factor in the politics of the nascent Islamic state, at least down to the 'Abbasid Revolution. Finally, one can point to the continuing importance of certain non-urban or at least non-metropolitan regions to the development of Islamic ideas, values, and practices. In the early 'Abbasid period, special mention should be made of the frontier areas, particularly that separating the Islamic and Byzantine empires. The frontier was necessarily a preoccupation of a state which found a portion of its ideological justification in waging *jihad* to expand the borders of the "house of Islam," and some of the early 'Abbasid caliphs took their responsibilities to the frontier and its

[10] See, for example, W. Marçais, "Islamisme et la vie urbaine," *Comptes rendus de l'Académie des Inscriptions* (1928), 86–100; Xavier de Planhol, "The Geographical Setting," *Cambridge History of Islam* (Cambridge: Cambridge University Press, 1970), 2:445–7; G. E. von Grunebaum, *Medieval Islam: A Study in Cultural Orientation*, 2nd edition (Chicago: University of Chicago Press, 1953), 173–4; idem, "The Structure of the Muslim Town," in *Islam: Essays on the Nature and Growth of a Cultural Tradition* (London: Routledge, 1964), 141–58; and also now Paul Wheatley, *The Places Where Men Pray Together: Cities in Islamic Lands, Seventh Through the Tenth Centuries* (Chicago: University of Chicago Press, 2001). The hadith can be found in Ahmad ibn Hanbal, *Musnad* (Cairo: Dār al-Ma'ārif, 1956), 2:176.

expansion especially seriously. This region, in northern Mesopotamia and Syria and south-eastern Anatolia, was of course not devoid of cities, but it was removed from the more familiar metropolises such as Baghdad and Damascus. And here, in figures such as ʿAbdallah ibn al-Mubarak (d. 797) and the pious warrior Ibrahim ibn Adham (d. 777–8), there crystallized a distinctive Islamic ascetic tradition which, over time, would take on a mystical dimension and so have an impact on the religious movement which came to be known as Sufism.[11]

But that Islam should take shape in a largely urban milieu – or more precisely that the Islam that developed in an urban context should acquire a normative character among those who called themselves Muslim – is hardly surprising, given the long history of urban life and culture of those lands which, after the initial conquests, formed the heart of Islamdom. By the latter half of the eighth century, the garrison camps constructed for the conquering Arab armies, such as Kufa and Basra, had become real cities in which the Arab settlers, despite the fact that many of them had (or claimed) nomadic roots and that they were originally distributed along tribal lines, had become in fact town dwellers. The foundation of Baghdad itself testifies to the urban orientation of the Muslim elite. The process of conversion on the part of non-Arabs may have functioned in such a way as to strengthen the urban character of the crystallizing Islamic tradition. In a world in which religious identity was so closely linked to social status, the very act of conversion may have stimulated a movement to the cities, that is, to the places in which the convert would be more likely to find those social networks in which he could live his new life as a Muslim.[12]

In fact, the late eighth and ninth centuries were, at least in the heartland of the Islamic empire in Iraq and eastern Iran, a period of considerable urban growth. Baghdad, and later Samarra, the new capital founded by the caliph al-Mutawakkil north of Baghdad, were ʿAbbasid creations, and both became (and Baghdad long remained) major urban centers, the population of Baghdad dwarfing by a factor of ten or more the nearby Sasanian capital of Ctesiphon. The vitality of these cities is critical to an understanding of the religious history of this period, as they provided the crucible for the development of Islamic values and institutions.[13]

This is most clearly visible in Islamic law as it took shape in precisely this period. The Islamic tradition is historically continuous with the Arabian context in which it originated, and tribal concerns had a role in giving that tradition its initial impetus. But the tradition was a living one, which means that the law was shaped as much by the contingencies of the moment as by an increasingly remote and idealized past. So, for example, while Islamic law insists upon the collective

[11] On asceticism on the frontier, see Michael Bonner, *Aristocratic Violence and Holy War: Studies in the Jihad and the Arab-Byzantine Frontier* (New Haven: American Oriental Society, 1996), 107–34.

[12] See Bulliet, *Conversion to Islam*, esp. 49–54, and idem, *Islam: The View from the Edge* (New York: Columbia University Press, 1994), 67–79.

[13] On the size of Baghdad and Samarra, see Bulliet, *Islam*, 131; Robert McC. Adams, *The Land Behind Baghdad: A History of Settlement on the Diyala Plains* (Chicago: University of Chicago Press, 1965), 84–102.

responsibility of the social group for, say, the harm inflicted by one individual on another, that law was not simply a relic of ancient tribal practice. It was also a practical response to the pressures evident in the new Muslim cities. There, an individual's social status rested on his membership in larger groups: on the one hand, in religious communities, and on the other, within the Muslim collective, in social units which were still identified by (an increasingly fictive) tribal genealogy but which functioned now primarily as a means of assimilating non-Arab converts and of imparting a sense of social identity in large and growing urban conglomerations.[14] Many of the jurists and scholars who shaped Islamic law were themselves merchants or from commercial families, and so the *shariʿa* quite naturally reflects the tastes and priorities of the urban middle classes. Islamic law constitutes more a discursive tradition informed by competing principles than a fixed body of rules, and so generalizations are inevitably dangerous; but the values of thrift, a disciplined work ethic, and – within the limits imposed by a society in which a person's status was so contingent on that of a larger social or religious group – individual privacy, responsibility, and initiative are readily apparent in the writings of the early jurists. One of the more colorful examples is found in a treatise, *Kitab al-Kasb* (roughly, "on earning"), attributed to the Hanafi jurist al-Shaybani (d. 804), which reports a story about ʿUmar ibn al-Khattab. The caliph saw a group of pious and penitent (and inactive) men and, told that they were the *mutawakkilun*, "those who patiently rely upon God," responded: No, they are the *mutaʾakillun*, "those who eat up [other people's money]."[15]

Much of Islamic law is designed to encourage the commercial spirit. The extensive sections of the law books which deal with sales, partnerships, and other commercial matters afford merchants a considerable freedom to enter into binding contracts, at least in so far as those contracts do not violate basic Islamic principles. So, for example, the Islamic lawyers would generally not allow the law to be used to enforce the sale of a forbidden substance, say, wine; but they also took it upon themselves to develop a series of "tricks" (*hiyal*), that is, legal manoeuvers which enabled them to give tacit acceptance to practices (such as the taking of interest on loans) which, while offensive to certain religious principles (usury is explicitly condemned in the Koran), were nonetheless essential to the smooth functioning of an urban, mercantile economy. More significantly, the lawyers recognized the claims of "custom" (*ʿurf*) in the resolution of disputes and the setting of commercial standards – the custom, that is, of the urban marketplaces. The role of custom is even more prominent in the jurisdiction and activities of the official known as the *muhtasib*. Usually translated as "market inspector," the *muhtasib*'s authority was rooted partly in the Koranic injunction to "command what is good and forbid what is wrong," a religious obligation incumbent on Muslims generally. More specifically, however, he also had a responsibility to insure that commercial transactions were completed fairly and honestly. The office

[14] Norman Calder, *Studies in Early Muslim Jurisprudence* (Oxford: Clarendon Press, 1993), 198–208.

[15] See S. D. Goitein, "The Rise of the Middle Eastern Bourgeoisie in Early Islamic Times," in *Studies in Islamic History and Institutions* (Leiden: E. J. Brill, 1966), 217–41.

of the *muhtasib* probably did not derive directly from that of the *agoranomos* and other officials who supervised market affairs in the ancient and late antique worlds, as a previous generation of Western scholars assumed, but his prominence in medieval Islamic cities did testify more generally to the continuity of religious experience in the late antique and Islamic Near East and to the importance of cities and the commercial milieu as the crucible in which Islamic law took shape.[16]

All this is not to suggest that early Islamic cities were a sort of Whiggish paradise of a liberal and libertarian character. There were competing actors and values, as well as contradictory principles and impulses which were woven into the fabric of the law and of the social experience of religion. Those contradictions are especially visible in Muslim women's experience of the Islamic reality. The status and position of women in early and medieval Islamic societies is an especially complex topic, due in part to the multiple layers of cultural and religious suspicion through which Western observers have historically contemplated and criticized Islam, and cannot be dealt with adequately here. But it may serve for the moment to observe that women provide a revealing focus into the tensions and contradictions of Islamic jurisprudence and the relationship between legal theory and social practice. On the one hand, Islamic law accorded women a number of rights and privileges commensurate with the law's general respect for human dignity, responsibility and equality, rights and privileges which eclipsed those held by women in many (including Western) pre-modern societies – the right, for example, of a married woman to own and inherit property in her own right, property which was not at the disposal of her husband. On the other, a number of debilitating social customs were able to attach themselves to Muslim values and so achieved recognition and valorization, either through the law itself or through popular interpretation of legal principles. So, for example, while the custom of ritually excising the external genitalia of women was never universally practiced in the Islamic world, those Near Eastern Muslims who did practice it were able to perpetuate and disseminate it by describing it as a means of protecting the sexual honor of Muslim women, and so justifying it in the name of preserving sexual decorum, an important concern of the Islamic jurists.[17]

[16] On the *muhtasib* and his jurisdiction, see Benjamin R. Foster, "Agoranomos and Muḥtasib," *Journal of the Economic and Social History of the Orient* 13 (1970), 128–44, and R. P. Buckley, "The Muḥtasib," *Arabica* 39 (1992), 59–117. Michael Cook has thoroughly studied the consequences of the Koranic injunction to "command what is right and forbid what is wrong" in *Commanding Right and Forbidding Wrong in Islamic Thought* (Cambridge: Cambridge University Press, 2000). For a case study of the influence of the bourgeoisie on Islamic law, see Abraham L. Udovitch, *Partnership and Profit in Medieval Islam* (Princeton: Princeton University Press, 1970).

[17] On female excision, see Jonathan P. Berkey, "Circumcision Circumscribed: Female Excision and Cultural Accommodation in the Medieval Near East," *International Journal of Middle East Studies* 28 (1996), 19–38. There is of course an extensive literature on the question of women and gender in Islamic society and law, of very uneven quality, much of it of more polemical than historical value. Readers interested in broad introductions to the subject might be best advised to await the forthcoming volume in the present Cambridge series, by Leslie Peirce and Everett Rowson. A very brief introduction can be found in Jonathan P. Berkey, "Women in Medieval Islamic Society," in *Women in Medieval Western European Culture*, ed. Linda E. Mitchell (New York: Garland, 1999), 95–111. If approached with caution, Leila Ahmed's *Women and Gender in Islam: Historical Roots of a Modern Debate* (New Haven: Yale University Press, 1992) is a stimulating discussion.

Other elements in early Islamic society competed with the urban bourgeoisie, in particular the imperial and aristocratic orientation of the caliphs, their court, and the government scribes. And it is important to remember that Islamic law took shape at precisely the same moment that alien military elites secured a monopoly over real political power that was to last down to the modern period. In other words, the cultural and social power of which the *shari'a* is a reflection carried with it no guaranteed access to the actual mechanisms of rule, and so politics in the later centuries would consist of constant negotiation between the Turkish military rulers and the native Muslim elites. But the contribution of the urban middle classes to the parameters of Islamic civilization as they took shape in this period was decisive, if only because of the persistent centrality of the *shari'a* to Islamic identity. It is true that Sufism, which much later became an important, perhaps even dominant mode of Islamic piety, rejected or at least looked with suspicion on many of the values and principles of the jurists. But asceticism, even while rejecting bourgeois values, inadvertently reaffirms their significance; and in the later medieval Near Eastern urban landscape, the Sufi was as much a fixture as the merchant or judge.