

17. Conscripts of Western Civilization

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In fact, acculturation has always been a matter of conquest. Either civilization directly shatters a primitive culture which happens to stand in its historical right of way, or a primitive social economy, in the grip of a civilized market, becomes so attenuated and weakened that it can no longer contain the traditional culture. In both cases, refugees from the foundering groups may adopt the standards of the more potent society in order to survive as individuals. But these are conscripts of civilization, not volunteers.

Stanley Diamond

TODAY IT IS NOT merely "primitive cultures" that are shattered by more powerful "civilization"; all societies that anthropologists study are being destroyed and remade by the forces that were unleashed by European imperialism and industrial capitalism. The modern world is now structured as a power domain in which political, economic, and ideological processes interact directly, regardless of distance, and where historical agents in very different places are obliged to address aspects of identical problems. To say this is not to assert that the globe is socially homogeneous, or that non-European societies have lost their cultural "authenticity." Such claims have been made or denied by travelers, anthropologists, and political ideologues for generations. My point is a different one: that social and cultural variety everywhere increasingly responds to, and is managed by, categories brought into play by modern forces. If, as some anthropologists now put it, culture is always invented (see Wagner 1981), if invention always opens up the possibilities for difference, then it should also be clear that the conditions of invention are no longer what they once were, as Diamond points out (1974: 204-6). More precisely, even if it is true that new cultural forms are

being continuously invented in different societies, these societies now live in a single, shared world, a world brought into being by European conquest.¹

One of these conditions, on which much has been written, is the emergence of a world economy. We know that there are great differences in the ways European capitalist enterprises penetrated non-European countries and contributed to the reorganization of their economies. But we know, too, that the differences are generated within a modern political-economic field, in which local and global forces interact. Another (related) new condition has resulted from the formation of modern states on European patterns throughout the world. Systems of centralized government, of bureaucratic control, of class rule, have existed since ancient times in various parts of the globe, but the modern state is quite distinctive. It is distinctive not because it is essentially the instrument of bourgeois domination—we know that it can and does exist in nonbourgeois societies—but because it deploys distinctive categories and thus conditions distinctive political practices. The state of the “nation’s economy” (“political economy”) is at the center of such practices, related to concepts of increasing material wealth and social improvement (“progress”).

The main elements of a recognizably modern concept of the state emerged in northwestern Europe from the late thirteenth to the late sixteenth centuries. A historian of political ideas has put it thus:

The decisive shift was made from the idea of the ruler ‘maintaining his state’—when this simply meant upholding his own position—to the idea that there is a separate legal and constitutional order, which the ruler has the duty to maintain. One effect of this transformation was that the power of the State, not that of the ruler, came to be envisaged as the basis of government. And this in turn enabled the State to be conceptualized in distinctly modern terms as the sole source of law and legitimate force within its own territory, and as the sole appropriate object of its citizens’ allegiances. (Skinner 1978:x)

Accompanying this shift there developed a new vocabulary in which the concept was discussed (including the word *State/l’Etat*) and by means of which new political practices were oriented. From being a dominant segment of society, the state became the dominant mode of

organizing its life—in terms of the momentous new categories of “public” and “private.”

Of course, it has never been the case even in Europe that every “citizen” actually envisaged the state in constitutional terms, or always gave the loyalty demanded by its law. The exercise of power, there as elsewhere, met with various resistances. But the state’s agents (those who speak in its name) sought to build the conditions by which its distinctive powers could be defined and secured—a process not to be confused with the *extension* of state power (the state is more than the formal apparatus of Government) but to be identified as its reorganization. Those who resisted that process did so with a growing recognition that the social conditions of their own existence—including their relative advantages—were determined within the domain organized as the state. The Law is one of these conditions, the condition most responsible for making the struggles of modern politics so different from those occurring in premodern states. Thus, it is only in the modern state that we find struggles within and about various legal categories that constitute working-class politics, the politics of gender, the politics of sexuality, and the politics of procreation.

The law was not marginal in premodern states. Neither was it inevitably conceptualized as an expression of the *king’s* will. Medieval theories were not innocent of the idea that the monarch, although supreme, had a duty to maintain Justice by means of the Law.² For this reason, the term “constitutional state” (*der Rechtsstaat*) is perhaps not the best way of describing what is original to the modern state. The point is that, in a modern state, laws are enacted not simply to command obedience and to maintain justice, but to enable or disable its population. The Law is neither a transcendent principle of justice nor an overarching framework of society. It is more than merely an instrument, for the idea of the Law as a means to an end is an ancient one. In the modern state, law is an element in political strategies—especially strategies for destroying old options and creating new ones.³

All populations throughout the world are now divided into modern states with clearly defined borders,⁴ constituted in familiar ways, having comparable functions. Wherever a state does not have modern forms and functions, it is subjected to pressures—internal and external—to acquire them. I am not, of course, making the easily refutable claim that these states are all identical or that they are all

constitutional democracies. It is not a matter for serious dispute that modern states differ greatly in the degree to which they allow the exercise of political liberties by their citizens—and that these differences have something to do with variations in socioeconomic class structure. But my concern is not with the question that preoccupies so many political observers of the non-European world, of what it is precisely that makes certain contemporary states repressive—and therefore “unsuccessful.” I wish here simply to emphasize some of the distinctive features of modern states that all populations now share. These features can be summed up by saying that modern states destroy and rebuild moral and political options in characteristic ways.

In the premodern state, individuals are dependents of the sovereign, subordinate to him, subject to his power and protection. The modern state presupposes the equal citizen, not subject to a superior power, but the subject of specific rights, a part of the sovereign body, and in that sense of the state. But the crucial difference is that the law becomes a means for creating conditions in which equal citizens can do certain things as “free agents.” This change implies a deliberate transformation of subjects from one kind of person to another.

In order to transform people into modern citizens who are regulated by modern norms of physical and mental health, the state must exercise specific powers—powers that are already in operation in Western industrial societies. It is for this reason that virtually all social life in such states becomes politicized. But many non-Western states are today repressive precisely because they aspire to a Westernized political existence before they have developed ideological and administrative apparatuses adequate to that existence; where institutions regulated by the state are unable to bring about and maintain conditions in which citizens cannot help but live “better” lives, state power typically takes the form of brute force. In the Middle East, examples of the use of brute force against national populations for Westernizing purposes included Ataturk’s Turkey, Marxist South Yemen (FDY), and Ba’athist Iraq. In this sense, such states are significantly *less* powerful than their counterparts in Western industrial societies, where formative and manipulative practices are more extensively institutionalized. I stress that this weakness is not merely a matter of the inability of such states to generate economic growth or collect an adequate proportion of their revenue from taxes. Rather, it is the relative absence of the legislation and implementation of the

mass of rules that define and redefine the daily conditions in which subjects live.

Within the modern world that has come into being, changes have taken place as the effect of dominant political power by which new possibilities are constructed and old ones destroyed. The changes do not reflect a simple expansion of the range of individual choice, but the creation of conditions in which only new (i.e., modern) choices can be made. The reason for this is that the changes involve the reformation of subjectivities and the reorganization of social fields in which subjects act and are acted upon. The modern state—imperial, colonial, postcolonial—has been crucial to these processes of construction/destruction.

The rôle of destructive forces in the creation of a new world by Western imperialism was described by Marx more clearly than by most of his contemporaries. Thus writing on India, in a typically polemical style, he affirmed:

England has to fulfill a double mission in India: one destructive, the other regenerating—the annihilation of old Asiatic society, and the laying of the material foundations of Western society in Asia.

Arabs, Turks, Tartars, Moguls, who had successively overrun India, soon became *Hinduized*, the barbarian conquerors being, by an eternal law of history, conquered themselves by the superior civilization of their subjects. The British were the first conquerors superior, and, therefore, inaccessible to Hindu civilization. They destroyed it by breaking up the native communities, by uprooting the native industry, and by leveling all that was great and elevated in the native society. The historic pages of their rule in India report hardly anything beyond that destruction. The work of regeneration hardly transpires through a heap of ruins. Nevertheless it has begun. (Marx [1853] 1959:33)

I do not want to enter into the debate over this Victorian reading of precolonial Asian history. (Were non-European societies “essentially” unchanging prior to the advent of modern capitalism?) Nor do

I wish to contest here the judgment, which is so characteristic of nineteenth-century European writing, regarding the moral superiority of their civilization over that of others. Instead, I want to focus on Marx's recognition that other peoples were to be forced to become "better than they were"—and that this required in the first place the destruction of all those conditions in which practices belonging to a "lower civilization" were both possible and desired. Thus, as the historical powers developed in India as elsewhere, the elimination of non-European practices was accomplished at first by the exercise of brute violence, and then by a combination of intimidation and manipulation, in which legislation was a crucial element.

Sir Fitzjames Stephen, one of the most influential legal reformers and administrators in nineteenth-century India, understood that the forced destruction by the British of non-Western institutions was not gratuitous:

The English in India have been by circumstances committed to an enterprise which is in reality difficult and dangerous to the last degree, though its difficulties and dangers have thus far been concealed by the conspicuous success which has attended these efforts. That enterprise is nothing less than the management and guidance of the most extensive and far-reaching revolution recorded in history. *It involves the radical change of the ideas and institutions of a vast population which has already got ideas and institutions to which it is deeply attached.* The only method of conducting this revolution to a good end is by unity of action and policy, communicated from a central authority to a small number of picked local officers, the central and local authorities being supported by a military force sufficient to give them practically undisputed executive power, and the whole body being regulated by known laws impartially administered. (Stephen 1883:566; emphasis added)

A revolution from above, by which the circumstances of the social life of a vast non-European population were to be forcibly altered, was essential precisely because that population was already deeply attached to its own practices.⁵ Once the revolution had been effected, Westernized Indians would be able to practice and desire "better" things—but premodern Indians could not desire the new preconditions for those better desires. It was the concern of many British

liberals—including John Stuart Mill⁶—that the right social preconditions should first be put in place, which led them to argue that the principle of representative government was dangerously inappropriate to India. For Mill, as for other nineteenth-century Europeans, it was not specific virtues that were lacking among peoples who belonged to "lower civilizations," virtues whose cultivation might be thought to be essential to a particular form of political life, such as honesty, courage, a sense of communal obligation, or the ability to make sound judgments. What was lacking was not a virtue, a learnt social skill, but something more like a natural force: an unfulfillable desire, a "spring of spontaneous improvement." To implant the desire for progress in native minds it was essential to employ despotic powers—including, where necessary, violence. It is no accident that this idea of progress as the education of "less civilized" peoples by the application of superior force—superior in the double sense of stronger and more moral—flourished in the post-Enlightenment era of European imperial expansion.⁷

Fitzjames Stephen, writing two decades after Mill, did not consider that despotic rule by the British in India (as expressed, for example, in the suppression of "practices dangerous to health and revolting to decency," and in "the enforcement of free trade") should be regarded as temporary, and as necessary only during India's cultural immaturity:

I do not share in the view so stated and insinuated in all kinds of forms, that it is a moral duty on the part of the English nation to try to educate natives of India in English ideas in such a way as to lead them to set up a democratic form of government administered by representative assemblies. (Stephen 1883: 549, 561)

Fitzjames Stephen's position is difficult to demolish, for it is impossible to deduce the existence of such a duty from the mere fact of British dominance. One must bear in mind that it was the untenability of India, rather than a clear sense of moral duty, that led the British to yield sovereign power in 1947. But equally relevant to my argument is the fact that the nationalist opposition was itself a product of the British revolution in India—albeit an unintended one. The Indian Congress demand for a secular, democratic, independent state that would undertake its own national development was made possible because of the destructive transformations wrought under British rule.

I don't want to be misunderstood. I must emphasize that my purpose is not to repeat the familiar moralistic charge that European imperialism perpetrated great cruelties and injustices in the lands it conquered. I am not interested in arguing over the moral pluses and minuses of the European imperial enterprise. (Was its violence really any worse than the violence of non-European empires? Did the benefits brought about by Europe's destruction of old social conditions outweigh the injuries?) Nor do I wish to maintain that Imperial political power—as opposed to the European project of destruction and reconstruction—was absolute in the way Fitzjames Stephen argued it should be. My concern instead is to stress something that is not in dispute: that a new world has been forcibly created as a consequence of the West's imperial adventure, and that the categories (political, economic, cultural) in terms of which that world has increasingly come to live have been put in place by characteristic modalities of modern power. Destruction—whether it was carried out by Europeans or by non-European rulers anxious to defend themselves by attempts at Westernization—interests me here only to the extent that it is integral to *modern* power, especially the power of the modern state.

II

The image of “conscripts,” as opposed to “volunteers,” does not suggest merely the recruits' initial attitude, but also the nature of the army and the war it has been fighting. To instill the desire for progress in the non-European world, it was necessary to inscribe modern Western categories into the administrative and legal discourses of that world. It was through such discursive powers that people undergoing “modernization” were compelled to abandon old practices and turn to new ones. The massive redefinition and regularization of property rights is probably the best example of this process. But there are others.

Anyone familiar with the recent history of the Middle East knows the story of the measures taken in various countries to reform Islamic law (the Shari'a) in conformity with the presuppositions of Western social practice. At first in the areas of commercial, penal, and procedural law, and later, more hesitantly, in that part of the Shari'a that Western and Westernized historians call “family law”—marriage, divorce, inheritance, etc.—European principles replaced or re-

stricted Islamic rules and practices.⁸ Reviewing these changes in the Ottoman Empire and its successor states, a historian of modern Islamic law observed:

It might be well asked why it was that the Shari'a was thus progressively set on one side in favor of codes derived largely from the West. Initially, it seems clear, this was far less the result of any popular demand for reform . . . than imposed upon the people from above, partly in the interest of administrative efficiency and national progress, and partly in order to satisfy foreign opinion. But as time went on, the conservative opposition to these reforms was challenged by a variety of arguments put forward by the more progressive elements in the countries concerned. (Anderson 1959:22–23)

Arguments may well have “challenged” conservatives, as rationalists claim, but the fact remains that the inscription of Western legal categories depended less on persuasive argument than on constraints put into effect by persons acting in the name of the state. What mattered was not that the Muslim population thought well of the legal reforms, but that, the reforms being “imposed upon the people from above,” the state could create and maintain new conditions to which everyday practices had henceforth to be related. In this context, it is not what people believe that counts, but how they live. The conditions that brought particular Western categories into play embodied not a transcendent principle of improvement—consciousness of good leading to abandonment of evil—but the outcome of warring forces, in which the stronger power destroyed the weaker.⁹

Take, for instance, Shari'a rules of marriage and divorce, which give greater rights to men than women. A man may have up to four wives simultaneously; a woman can have only one husband at a time. A husband may divorce his wife unilaterally, by uttering a formula, but a wife does not possess an equivalent right; in order to obtain a dissolution of her marriage, she has to sue for a judicial order (traditional Hanafi and Shi'i rules do not provide even this option to a wife). These inequalities are undeniable, although Muslim apologists have produced arguments to justify or explain them away. Are the Western-inspired reforms in the domain of “family law” a consequence of moral weaknesses? Or a consequence of the superior power of Western or Westernized reformers? Before we attempt to

answer these questions, it is worth noting that reform in these matters takes the line of restricting the traditional rights of Muslim men and not of enlarging the traditional rights of Muslim women. Thus, modern reform in the Muslim world has never empowered a woman to contract polyandrous marriages. More significantly, it has never empowered a wife to effect a dissolution of her own marriage unilaterally and without judicial intervention. The reason such forms of inequality have not been inscribed by the law has to do with the dominant practices of state, selfhood, and sexuality in modern Western societies; it has nothing to do with moral principle as such. Or rather, if it has anything to do with the latter, it is precisely because morality is constructed by the former.

In the modern West, the family is a legal unit created by marriage;¹⁰—the conjugal bond forms its core. That exclusive unit is the domain par excellence of private law, i.e., of the principles by which “private,” political-economic regimes within the state are legally maintained. The exclusive conjugal bond, which constitutes the basis of the legal family unit, stands in contrast to the network of rights and obligations between kin and affines brought into being by a Shari’a marriage. As a “private” (autonomous) unit,¹¹ the modern family is a precondition for the bourgeois conception of morality.¹² Any legal measure that loosens the bond between the conjugal couple may threaten the integrity of “the family”—and therefore undermine the formation of “moral desires.” Because progressive reform in Muslim countries is based on the moral principle of the Western conjugal family, it requires that divorce be made more difficult than it was according to unmodified Shari’a rules. This progress has involved not only the legal reformulation of rules but also the forcible appropriation by the state of the capacity to construct or dissolve procreative sexual relations. Here, as in other social domains, “moral improvement” and the reorganization of modern state power go hand in hand.

The reform of non-European legal systems is not merely a matter of the imposition of Western categories by force; it also sets in motion contradictory movements characteristic of modernity. For example, legislation seeking to abolish child-marriage should be seen by the anthropologist not as the outcome of virtuous agents determined to eradicate vicious practices but as one condition among others for creating subjects who can respond to a new order of virtue and vice.

Setting a minimum age limit to the marriage of girls has been represented as an act of protection against the sexual exploitation of

the young by men who are inevitably more powerful because of their age. However, it is more complicated than that. For the reforms do not forbid marriage in all cases where the parties differ greatly in age—a middle-aged man of forty-eight, say, can marry a very young woman of sixteen; they do forbid it in certain cases where the parties are equivalent in age—a boy and a girl both of twelve, for example. The dominant concern seems to be to prevent sexual intercourse where either party is a child. Indeed the normative conception of “childhood” here is that sexual excitation is dangerous to it;¹³ that sexuality is proper only to “adults,” individuals “mature” enough to handle its conditions. These ideas have a particular—and often bizarre—history in the modern West and have often formed the basis of modernizing reform in the non-European world.

Western conceptions of children’s proper sexuality apply to relations outside of marriage as well as within it, and therefore call for the policing of all intimate relations between children and adults. In late nineteenth-century England, the act which raised the legal age of consent for girls to sixteen was the outcome of a successful moral campaign to control prostitution. In her study of Victorian prostitution, J. R. Walkowitz has described how that measure (the Criminal Law Amendment Act of 1885) “gave the police far greater summary jurisdiction over poor workingwomen and children” and thus demonstrated the intimate connection in modern European society between a particular conception of sexuality and the growth of modern state power (Walkowitz 1980:249). Some aspects of this conception are summed up in the following paragraph:

Feminists and personal-rights advocates within the repeal camp also tended to share the same feelings of guilt and anxiety over youthful sexuality as other members of the middle class. These conflicting emotions of fear and guilt operated both consciously and unconsciously. Defenders of the age-of-consent legislation tried to depict girls as the passive victims of male sexual abuse and not responsible for their sexual activity. Their formal denial of girlhood sexuality reflected a “transitional” view of childhood and adolescence as stages of life marked by dependency but not by any specific psychosexual development. Accordingly, reformers only rarely made reference to the actual sexual development of the girls they were seeking to protect.

Nonetheless, anxiety over the sexual precocity of working-class girls existed just beneath the surface. We have seen, in the case of Plymouth and Southampton, how the closing of fairs and the establishment of 'girls' evening homes' were linked to mounting public concern over the easy social and sexual intercourse between working girls and boys. Sometimes this secret obsession with young girls as sexual objects found a more perverse expression, as the brief commerce in Victorian child pornography and Stead's own prurient exposés amply demonstrate. (Walkowitz 1980:249)

It was, significantly, only after the Criminal Law Amendment Act of 1885 was passed in England that "child-marriage" became an object of moral reform in the British empire.¹⁴

Although ideas about children's sexuality have changed at least in some sections of society since the late nineteenth century, the concern to protect children against sexual activity remains very powerful in collective representations of morality and in the workings of the law. The result, paradoxically, is an increasing tendency to render intimate relations between children and adults the objects of suspicion, and thus to charge them with sexual significance.¹⁵ Every moment of a modern child's development, every place where it might spend its time, every thing or person it might encounter, becomes potentially dangerous to the child's sexuality.¹⁶ Eventually this includes relations between parents and their offspring, and so leads to a growing preoccupation with the dangers of incest, which is not merely a spiritual transgression but the object of criminal law. The role of state apparatuses in policing infantile sexuality, in anticipating it, or correcting it where it has escaped prevention, becomes increasingly salient. The power of adults over the sexuality of modern children is not nullified; it is mediated, transformed, and reinforced by agencies and practices that the modern state authorizes.¹⁷

Western-inspired legislation outlawing child-marriage is therefore part of a complex, ambiguous movement that is not fully described as the self-evident elimination of inequality and exploitation. Such legislation works toward the forcible construction of new, and contradictory, social relations that define the autonomous (and suspicious) modern self. Thus in the modern state the secular desire for progress brings with it the reconstruction and reallocation of very different kinds of desire.

III

The Indonesian nationalist Soetan Sjahrir wrote in the 1930s:

What the West has taught us . . . [is a] . . . higher form of living and striving . . . and this is what I admire in the West despite its brutality and its coarseness. . . . I would even accept capitalism as an improvement upon the much famed wisdom and religion of the East. . . . The East must become Western. . . . Faust must reveal himself to the Eastern man and mind. (Sjahrir, quoted in Worsley 1964:20)

This typical celebratory text presents as a heroic choice something that had long become an imposed fate. Contrary to appearances, what we have here is not the West being chosen but a Western choice—the desire for unlimited improvement which is at once the precondition and the aim of a collective discipline.

Of course, it can be argued that becoming Western doesn't necessarily mean reproducing European cultural forms. This is certainly correct. But only because "the West" is no longer a cultural system in the received anthropological sense. Essentially, the West has become a vast moral project, an intimidating claim to write and speak for the world, and an unending politicization of power. Becoming Western has meant becoming transformed according to these things, albeit in a variety of historical circumstances and with varying degrees of thoroughness. For conscripts of Western civilization this transformation implies that some desires have been forcibly eliminated—even violently—and others put in their place. The modern state, invented in Europe, is the universal condition of that transformation—and of its "higher truth."

Notes

1. "The creation of the world" is Peter Worsley's memorable phrase for the epochal effects of European expansion from the sixteenth through the nineteenth centuries (see Worsley 1964).
2. See Ullmann 1970. According to classical Islamic constitutional theory, the Muslim ruler was obliged to uphold the *Shari'a* (religious law) (see Rosenthal 1958).
3. For the world conquered by Europe this is evident in the way "custom," constructed by colonial and postcolonial states as a legal category, has become a means of political struggle and change. For Central Africa, see M. Chanock's meticulous study (1985).

4. Or with claims to the clear demarcation of borders—see, e.g., G. H. Blake and R. N. Schonfield (1987).
5. Critics of British rule have sometimes argued that the enormous majority of Indians remained unaffected by radical change in the sense that they remained as miserably poor at Independence as they had been for centuries before it. But it is important to remember that this was now a *modernized* poverty, the object of a totally new politics, and therefore a radically changed condition of social life.
6. With India in mind, John Stuart Mill ([1861] 1975:408–9; emphasis added) wrote:

There are, as we have already seen, conditions of society in which a vigorous despotism is in itself the best mode of government for training the people in what is specifically wanting to render them capable of a higher civilization. There are others, in which the mere fact of despotism has indeed no beneficial effect, the lessons which it teaches having already been only too completely learnt; but in which, *there being no spring of spontaneous improvement in the people themselves*, their almost only hope of making any steps in advance depends on the chances of a good despot. Under a native despotism, a good despot is a rare and transitory accident: but when the dominion they are under is that of a more civilized people, that people ought to be able to supply it constantly.

7. Hannah Arendt has pointed to the very different idea of progress that obtained in the seventeenth century:

The notion that there is such a thing as progress of mankind as a whole was unknown prior to the seventeenth century, developed into a rather common opinion among the eighteenth-century *hommes de lettres*, and became an almost universally accepted dogma in the nineteenth. But the difference between the earlier notions and their final stage is decisive. The seventeenth century, in this respect best represented by Pascal and Fontenelle, thought of progress in terms of an accumulation of knowledge through the centuries, whereas for the eighteenth century the word implied an 'education of mankind' (Lessing's *Erziehung des Menschengeschlechts*), whose end would coincide with man's coming of age. Progress was not unlimited, and Marx's classless society seen as the realm of freedom that could be the end of history—often interpreted as a secularization of Christian eschatology or Jewish messianism—actually still bears the hallmark of the Age of Enlightenment. Beginning with the nineteenth century,

however, all such limitations disappeared. Now, in the words of Proudhon, motion is '*le fait primitif*' and 'the laws of movement alone are eternal.' This movement has neither beginning nor end: '*Le mouvement est; voilà tout!*' As to man, all we can say is 'we are born perfectible, but we shall never be perfect.' (1970:25–26)

However, surprisingly, Arendt does not discuss the role of violence in the theories of progress which were adopted by European imperialists.

8. "Family law" as a distinctive body of legal knowledge and object of professional training emerged only late in the nineteenth century, after the Matrimonial Causes Act of 1857 deprived ecclesiastical courts of all jurisdiction in matrimonial cases (see Johnson 1965). Medieval textbooks on Islamic law—for example, the *Hedaya* and *al-Mughni*—do not employ that concept. Rules relating to marriage, divorce, and so on, are classified together with, for example, commercial dealings (and are known as *mu'amalat*), as opposed to matters relating to punishment (*'uqubat*) and to worship (*'ibadat*).
9. This power has often taken the form of reinterpreting non-European traditions in order to make them compatible with Western ideals. In an interesting essay on the movement to abolish widow burning in British India, Lata Mani describes such reinterpretations of Hindu tradition, and concludes:

This was how the regenerating mission of colonisation was conceptualised: not as the imposition of a new Christian moral order but as the recuperation and enforcement of the 'truths' of indigenous tradition. (1985:115)

Similar reinterpretations which aim to demonstrate a Western essence in Muslim traditions constitute the core of modernist or progressivist Islamic movements. More than anything else, such one-sided reinterpretations represent the structured inequality in power between Western and non-Western traditions.

10. Today, it is common for legislation to provide its own definition [of the family]. But the need for such definitions has only become acute in recent years, as legal recognition has been given to relationships other than those created by marriage. For, traditionally, marriage was an essential prerequisite for the creation of a legally recognised family unit. There are now many exceptions to this principle, but the courts still tend to apply it in the absence of any specific rule to the contrary. (Cretney 1979:3).

The Shari'a does not provide a definition of the family as a legal unit, although legislation in the contemporary Muslim world has done so.

11. The concept of the family as a "private" unit (eventually the object of "private" law) has been traced for Western Europe by P. Ariès:

The historians taught us long ago that the king was never left alone, but in fact until the end of the seventeenth century, nobody was ever left alone. The density of social life made isolation virtually impossible, and people who managed to shut themselves up in a room for some time were regarded as exceptional characters: relations between peers, relations between people of the same class but dependent on one another, relations between masters and servants—these everyday relations never left a man by himself. This sociability had for a long time hindered the formation of the concept of the family, because of the lack of privacy. (1962:398)

The concept of "the private" relates to a particular structure of sociability and exclusion, and a particular set of legal principles, characteristic of the modern Western state, but not of the cultures it has transformed.

12. Thus Bronisław Malinowski, in an appendix to the Church of England Report on *Kindred and Affinity as Impediments to Marriage*, echoes a collective sentiment:

Since the family is the workshop in which all sound moral and social attitudes are wrought, the quality of the mother to child relationship is for the sociologist the touchstone of the health and strength of a community. (1940:102)

13. From the late 1860s on, medical spokesmen and purity publicists agreed that infants and children did show sexual curiosity, that they masturbated and [boys] had erections. Much earnest thought and ingenuity was given to prevention. 'Strict supervision,' belts, and punishment for infringements of an unspoken code were resorted to by worried parents and schoolmasters, although the actual spread of these attitudes, especially outside the middle classes, remains unexplored. Such anxieties were not restricted to Protestant Britain. In France, for example, doctors working in insane asylums seem to have been even readier than their British colleagues to remove the clitoris from 'libidinous patients.' 'Strict supervision,' especially at night, was a normal procedure at most asylums, poorhouses, and refuges for the destitute.

Warnings against masturbation and nocturnal emissions were published throughout the century, but preoccupation with them appears to have been [*sic*] become endemic among medical men and the clergy, especially school chaplains, between 1870 and 1914. Dozens of 'cautions to young men,'

originating as hygiene and purity talks and sermons, were published during these years. (Smith 1977:196-97)

This anxiety over children's sexuality coincided with the growth of anti-intellectual "manliness" codes in schools and universities.

14. In India this reform led, after great controversy, to the passing of the Child Marriage Restraint Act of 1929, by which marriage of girls under fourteen and boys under sixteen was prohibited and subject to penalties.
15. In a discussion of the implications of "pansexuality" in modern Western society, Ariès writes: "It seems to me that a history of friendship would show its decline during the nineteenth and twentieth centuries among adults, in favour of close family ties, and a return to it among adolescents. It has become a trait of adolescence, disappearing later. In recent decades friendship has carried sexual overtones that make it rather sheepishly equivocal or shamefaced. Society looks askance on friendship between men of widely different ages. Today Hemingway's Old Man returning with the boy from their trip to sea would arouse the suspicions of the vice squad and mothers of families" (1985:69).
16. According to a recent handbook prepared for the guidance of the different professionals involved in "the management of sexually abused children and their families"—pediatricians, psychiatrists, social workers, police, lawyers, probation officers—it is crucial to train everyone to anticipate and prevent the incidence of this disease:

Child sexual abuse is a major public health problem that needs a preventive approach. This involves alerting children, parents, and professionals to the problem and providing children with information and the basic skills necessary for their safety and well-being. (Ciba Foundation 1984:109).

17. The author of a handbook for social workers writes:

The question most often put to me when lecturing about child sexual abuse is: 'What to do if you only have a suspicion but no proof that child sexual abuse is going on in a family?' My response is to ask whether the worker has really tried to follow through the suspicion by asking the right questions. What was said or done that made the worker suspicious? Can the child or parent be encouraged to elaborate? Can questions be asked to find out more? *If there is genuinely no possibility of discovering more and testing out suspicions then the solution is to use the same treatment techniques as if sexual abuse had been confirmed.* (Moore 1985:33; emphasis added)

Inquisitors of the medieval Church, who were also concerned to detect and manage a dangerous hidden spiritual disease, knew that the

administration of public health took precedence over abstract concepts of justice.

References

- Anderson, J. N. D.
1959 *Islamic Law in the Modern World*. London: Stevens and Sons.
- Arendt, Hannah
1970 *On Violence*. London: Allen Lane, Penguin Press.
- Ariès, Philippe
1962 *Centuries of Childhood*. New York: Vintage Books.
1985 *Thoughts on the History of Homosexuality*. In *Western Sexuality*, ed. P. Ariès and A. Béjin, 62–75. London: Basil Blackwell.
- Blake, G. H., and R. N. Schonfield, eds.
1987 *Boundaries and State Territory in the Middle East and North Africa*. London: Menas Press.
- Chanock, Martin
1985 *Law, Custom, and Social Order: The Colonial Experience in Malawi and Zambia*. Cambridge: Cambridge University Press.
- Ciba Foundation
1984 *Child Sexual Abuse within the Family*, Ruth Porter, ed. London: Tavistock.
- Cretney, S. M.
1979 *Principles of Family Law*. 3d ed. London: Sweet and Maxwell.
- Diamond, Stanley
1974 *In Search of the Primitive: A Critique of Civilization*. New Brunswick, N.J.: E. P. Dutton/Transaction Books.
- Johnson, E. L.
1965 *Family Law*. 2d ed. London.
- Malinowski, Bronislaw
1940 Appendix 3. In *Kindred and Affinity as Impediments to Marriage: Being a Report of a Commission Appointed by His Grace the Archbishop of Canterbury*, 101–6. London: Society for Promoting Christian Knowledge.
- Mani, Lata
1965 *The Production of an Official Discourse of Sati in Early Nineteenth-Century Bengal*. In *Europe and Its Others*, F. Barker, et al., eds., 107–27. Colchester, U.K.: University of Essex.
- Marx, Karl
[1853] 1959 *The Future Results of the British Rule in India*. In *The First Indian War of Independence, 1857–1859*, pp. 32–38. London: Lawrence and Wishart.
- Mill, John Stuart
[1861] 1975 *Representative Government*. In *Three Essays*, 145–423. Oxford: Oxford University Press.

- Moore, J. G.
1985 *The ABC of Child Abuse Work: Community Care Practice Handbook No. 19*. London.
- Rosenthal, E. I. J.
1958 *Political Thought in Medieval Islam*. London: Cambridge University Press.
- Skinner, F. B.
1978 *The Foundations of Modern Political Thought*. Vol. 1. London: Cambridge University Press.
- Smith, F. B.
1977 *Sexuality in Britain, 1800–1900*. In *A Widening Sphere: Changing Roles of Victorian Women*, ed. M. Vicinus. Bloomington: Indiana University Press.
- Stephen, Fitzjames
1883 *Foundations of the Government of India*. The Nineteenth Century LXXX: 549–66. London.
- Ullmann, Walter
1970 *Medieval Political Thought*.
- Wagner, R.
1981 *The Invention of Culture*. Chicago: University of Chicago Press.
- Walkowitz, J. R.
1980 *Prostitution and Victorian Society: Women, Class and the State*. Cambridge: Cambridge University Press.
- Worsley, Peter
1964 *The Third World*. London: Weidenfeld and Nicolson.