

Max Planck Institute for Social Anthropology
Department 'Resilience and Transformation in Eurasia'

Martha Mundy

**The Solace of the Past in the Unspeakable Present:
the historical anthropology of the 'Near East'**

Goody Lecture 2013



MAX-PLANCK-GESELLSCHAFT

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Jack Goody

Jack Goody was born near London in 1919. Formative experiences during the Second World War led him to switch from studies of literature to social anthropology. He undertook fieldwork in Northern Ghana during the last decade of British colonial rule and taught anthropology at Cambridge University alongside Meyer Fortes and Edmund Leach. Ghana remained important in Goody's work for some years after independence but, particularly after succeeding Fortes as William Wyse Professor of Social Anthropology in 1972, he began to explore long-term historical contrasts between sub-Saharan African societies and those of Europe and Asia. Goody views the Old World as a unified entity since the urban revolution of the Bronze Age; numerous publications have highlighted developments in East Asia and criticised the eurocentric bias of Western historians and social theorists. His many books engage with productive systems, the transmission of property and class inequality in global history; with kinship, marriage and the "domestic domain"; with technologies of communication, especially writing, the transmission of myth and of knowledge generally; and with various realms of consumption, including cuisine and flowers. These fields are not approached in isolation but in their interconnections. Ethnographic insights are essential, but they are just one component of Goody's comparative, world-historical agenda. His best known works include *Death, Property and the Ancestors* (1962); *Technology, Tradition and the State in Africa* (1971); *Production and Reproduction* (1976); *The Domestication of the Savage Mind* (1977); *The Development of the Family and Marriage in Europe* (1983); *The Oriental, The Ancient and the Primitive* (1990); *The East in the West* (1996); *The Theft of History* (2006); *Renaissances: the one or the many?* (2010); *The Eurasian Miracle* (2010); *Metals, Culture and Capitalism: an essay on the origins of the modern world* (2012).

Goody's agenda, unique in contemporary anthropology, is one to which the Department 'Resilience and Transformation in Eurasia' at the Max Planck Institute for Social Anthropology seeks to contribute. In an annual lecture series, a distinguished scholar addresses pertinent themes for anthropology and related fields:

Goody Lecture 2011: Keith Hart, "Jack Goody's Vision of World History and African Development Today".

Goody Lecture 2012: Peter Burke, "A Case of Cultural Hybridity: the European Renaissance".

The third Goody Lecture was given by Martha Mundy on 18th July 2013.

Martha Mundy

The Solace of the Past in the Unspeakable Present: the historical anthropology of the ‘Near East’

Introduction

In this third lecture in the series honouring Jack Goody, it seemed appropriate to begin with one aspect of Goody’s wide reaching work to which I had responded in my own career. But on second thought, I found this approach a-historically academic when writing of someone I have known for forty years, and who over all but the last five had to vouch for me professionally. For such a long ‘supervision’, perhaps a more personal timeline may be allowed. So in the lecture which follows, I shall move between Goody’s work and my own.

In 1973 Jack Goody agreed to tutor me in Cambridge, although, registered in what was then the Faculty of Oriental Studies, I was not a student of his department or college. At the time I had funding for 18 months’ doctoral research in North Yemen (but was to stay for 48) and I felt that I needed training beyond my study of classics, Arabic and geography. Goody had a very sympathetic curiosity about Arab societies; it was in Libya that he had begun his military service in World War II and was first taken prisoner, an experience of violence and forced sociality that marked him for life (Goody 1995: 120). It was probably the fact that my destination was Yemen that led Jack Goody to agree to set essays on kinship and lineage for a rank beginner. In his rooms at St Johns College hung a large portrait of William Robertson Smith in Arab robes whose 1885 *Kinship and Marriage in Early Arabia* was to form part of my readings

along with the work of Africanists such as Fortes, Evans Pritchard and others.¹ I was also introduced to the European family history of the Cambridge group for the History of Population and Social Structure: Peter Laslett's *Household and Family in Past Time* had just appeared. And of course I read Goody's own work – *The Developmental Cycle in Domestic Groups* (1958), *Death, Property and the Ancestors* (1962), *Succession to High Office* (1966), *Technology, Tradition and the State in Africa* (1971), and, still in draft (with Tambiah) *Bridewealth and Dowry* (1974). It was a very productive period of Goody's life, and before I had finished my doctorate, by then under his formal supervision, *Production and Reproduction* (1976) and *The Domestication of the Savage Mind* (1977) had both appeared, and *The Development of the Family and Marriage in Europe* (1983) was well underway.

So after two terms' tutorials I went off to Yemen determined to study rural family and economy with the same methods as were then deployed in European family history. Critique of orientalism was in the air: Anouar Abdel-Malik's 'Orientalism in crisis' had appeared in 1963 and Talal Asad's collection *Anthropology and the Colonial Encounter* in 1973, while Edward Said's *Orientalism* would appear in 1978 soon after I had returned from Yemen to write my dissertation.

North Yemen and Social Anthropology

By documenting the basic units of production and reproduction in the valley near Sanaa where I did fieldwork, I came to understand Northern Yemeni 'tribes' (*qaba'il*) as self-organizing, geographically-grounded communities built from houses able to contract politically with one another. Yemeni tower

¹ Robertson Smith had reached the vicinity of Mecca but not Yemen. After he was stripped of his Chair in Hebrew and Old Testament Exegesis at the Free Church College in Aberdeen following objections to his historical biblical scholarship, he gave himself to learning Arabic and travelling widely in North Africa and North Arabia. I am not quite sure what I made of *Kinship and Marriage in Early Arabia*, an extraordinary text structured about the evolutionary theses of McLennan, yet learned and critical on the Arabic genealogists in a spirit that would have echoed what the late Mahmud al-Ghul had taught me in New York two years before about the deployment of genealogy in al-Baladhuri as an organising model in the Arab armies of the conquest.

houses are rightly celebrated as architecture.² Yet their primacy in social organization had not been analytically foregrounded. The tax-paying, arms-bearing heads of houses could agree to binding norms and to jural co-responsibility; they did this in negotiation with overarching state authority. Inside and outside the state, the categories of Islamic jurisprudence were both honoured and vernacularly familiar; Islamic literati penned local laws. My sociological characterization of North Yemeni rural society was very far from Robertson Smith's judgement that: "The key to all divisions and aggregations of Arab groups lies in the action and reaction of two principles: that the only effective bond is a bond of blood, and that the purpose of society is to unite men for offence and defence."³ (Robertson Smith 1905: 69)

My analysis met a critical response from several anthropological peers; it went against their interpretations of 'the tribe' as an expression of genealogical ideology, as an organisation so bound up with values about masculine honour as to be fundamentally everywhere the same, in other words, as first and foremost a political and discursive phenomenon. By contrast, I sought to develop a sociological analysis of a particular 'tribe' as built from the combination of houses and quarters. I described the internal governing of the houses, their combining in the community (tribe) and their relation, in geographical space and social imagination, with other such units and with state government. I argued that one pillar of the state's legitimacy derived from its vouchsafing the right-ordering of relations between men and women inside the house where shaykhly rule could not enter. Although I had privileged access to women in my fieldwork and could therefore give proper place to women's role in 'tower-house' society, the tribal view of Yemeni society reflected in turn the view of male anthropologists participating only in men's sociality.

My work was not conducted as historical anthropology. But the region was changing so rapidly consequent to the boom in oil revenue in Saudi Arabia that even by the time I came to rework my doctoral material a decade later as *Domestic Government: kinship, community and polity in North Yemen* (1995), it was striking how 'tribe and shaykh' (conceptually outside the state hitherto) were being adopted as a model of state governance itself. My field research had

² At the time I wrote a short introduction to the work of an architect friend see Varanda 1981: 2-4.

³ And Robertson Smith (1905: 62) "(...) the Arabs were incapable of conceiving of any absolute social obligation or social unity which was not based on kinship (...)."

coincided with the presidencies of Qadi ‘Abdul-Rahman al-Iryani and Lieutenant-Colonel Ibrahim al-Hamdi. From 1974, with a vision of rural social organisation as local associations capable of cooperative development initiatives, al-Hamdi had moved against leading shaykhs affiliated to Saudi Arabia. In 1977 he was assassinated the night before he was to go to Aden for what would have been a very different kind of unification of the Northern Yemen Arab Republic with the Southern People’s Democratic Republic of Yemen from that wrought in 1990 and 1994. His lasting successor, Lieutenant ‘Ali ‘Abdullah Salih was to build a military state in alliance with Saudi-backed tribal elites. In this ‘the tribe’ (in the sense of my anthropological critics) did indeed become a nativist idiom of politics in the military state. And at the level of production, the bases of the older territorial tribes were becoming radically eroded: mining of sub-soil water and abandonment of the locally-crafted infrastructure sustaining rain-fed food-production was to continue unabated in the years of Salih’s presidency under the watchful eye of international development agencies and NGOs guiding economic policy and social provision (Mundy et al. forthcoming).

Domestic Government was written as ethnography but reads today as a study in history. The changes so evident in Yemen in recent years pose two problems for analysis: the character of emerging political and class relations, and the socio-political consequences of economic subjection to outside forces. In both respects, Yemen enjoys little autonomy from the wider world (Hill et al. 2013).

Goody and History: African foundations

Imperialism and the state were not privileged themes of Jack Goody. Yet it is not that he never touched upon them: in a moment I shall turn to his 1971 essay *Technology, Tradition and the State in Africa*, a text exceptional in his work for placing the state at the centre of its analysis. Goody’s generous and ludic anthropology, forged by his study of groups that anthropology termed acephalous, i.e. without a sovereign head, the LoDagaa and LoWilli, sees men and women in society as productive through cooperation, communication and exchange. His concern with the complex permutations of human kin relations and their

building through production and reproduction was central in his writing: from *Death, Property and the Ancestors* (1962) to *The Oriental, the Ancient and the Primitive: systems of marriage and the family in the pre-industrial societies of Eurasia* (1990), right through to *Metals, Culture and Capitalism: an essay on the origins of the modern world* (2012). The resulting historical vision is far from that of the slaughterhouse of history, as if wilfully avoiding the tragic.

Goody wrote of the formation of his generation:

We had grown up between the two wars, with an interval of only twenty-one years from one terrifying destruction to the next, and lived our adolescence under the shadow of continental Fascism in its devastating oppression and annihilation of man by man, in practice and in ideology. This period began with the murderous Japanese attacks on China, the archaic colonial conquests of Italy, the devastating civil war in Spain and the inexorable expansion of Germany, against the background of the widespread suppression and maltreatment that was going on in those countries. That period was followed by six-and-a-half years of life under arms, during which time all one could look forward to was post-war reconstruction, through the national government and through the United Nations.

That reconstruction obviously involved the dissolution of earlier empires, the whole process of decolonisation that began with India in 1947 and that was envisaged, at least under Labour rule and to some extent by Conservative politicians as well, as gradually extending to the rest of the colonial territories. In a sense the deconstruction of the empire was part and parcel of the reconstruction of Britain. ...it was a heady prospect, indeed heady in actuality too, for the major part of the process was complete within some ten years, by 1960, the Year of Africa. (Goody 1995: 120)

Goody traces his own engagement with the study of history to the “new Africa” which “demanded an account of its own past and present” (Goody 1995: 121).

In terms of intellectual inspiration Goody writes that he, like other students in the 1930s, had to “make some kind of resolution of their interests in two major figures, Marx and Freud”, noting that his contact with Marxism had been longstanding but through social anthropology he also encountered Durkheim and Weber (*ibid.*). In his work of the 1960s and 1970s, Weber appears far more present than Marx. That said, Goody had sympathy with Marxist anthropologists – he urged me to read Claude Meillassoux’s *Femmes, Greniers, Capitaux* in 1975 – and with historian colleagues who had been hounded under McCarthy – such as Moses Finley and Owen Lattimore, the last a model scholar for Goody’s Eurasia.

But let us return to the state. Goody’s 1971 essay had four parts: ‘Feudalism in Africa?’, ‘Polity and the means of production’, ‘Polity and the means of destruction’, and ‘Polity and ritual: the opposition of horse and earth’. In the first, he made an argument that was to become rather shrill in later life with regard to capitalism, but which was surely apt for feudalism:

Of course, certain general trends of development in political, legal, and economic institutions are rightly accepted by most students of society and the study of these trends has often gained much from the approach associated with the names of Marx and Engels.⁴ What blocks advance, here as in other fields of comparative studies, is a rigid attachment to particular European-based schema, whether this be derived from an explicit ideological commitment or from an inability to see beyond our own cultural tradition. (Goody 1971: 13–14)

Goody then argued that “(...) we need to take a closer look at the means and organization of production in Africa and Europe instead of tacitly assuming identity in these important respects.” (Goody 1971: 14) And here Goody states that the fundamental difference between the two was not in exchange and markets or military organization (ownership of the means of destruction) but in the system of production (especially ownership of the means of production). (Goody 1971: 22) He stresses the historical plurality of paths to statehood, but overall he views the ruling class as predatory: “Booty was indeed part of the productive system of the ruling class.” (Goody 1971: 36) And again,

⁴Goody’s footnote is to the archaeologist V. Gordon Childe.

In one sense, a superior military technology was the productive system of the ruling strata, since it led to the acquisition of slaves, other booty, and taxes on trade. But productivity in the military field clearly differed from productivity in the agricultural and industrial sphere, since such activity necessarily resulted in the impoverishment of others.⁵ (Goody 1971: 43)

The notion of ‘the productive system of a ruling class’ is an odd one, perhaps we would say ‘the mechanism productive of a ruling class’, but the primacy Goody accorded to basic production and his understanding of a ruling class and militarism as predatory does echo Marx. While Goody would continue to celebrate humankind’s ability to make things, his early understanding of militarism and the ruling class faded in his later writings on capitalism. As with feudalism, Goody rejects a reading of world history as fundamentally made in Europe. Europe’s specific contribution to capitalism, he notes, is historically restricted to financial capitalism, but he did not engage with the destructive quality of the alliance of finance capital and militarism.

The Shift to Eurasia

From the 1970s Goody was to turn away from ethnographic work (although his work on the oral tradition of the Bagre was to last many years) to more comparative historical work, focused not on sub-Saharan Africa but on Eurasia. In several books he took pleasure in describing cultural and communicative commonalities of class societies across Eurasia: *Cooking, Cuisine and Class* (1982), *The Culture of Flowers* (1993) and *Food and Love: a cultural history of East and West* (1998). From the 1990s he also gave such *longue-durée* historical description a more critical edge, attacking claims for a Western (and within

⁵ Compare also Goody 1966: 44: “The nature of this domination exercised by the ruling dynasty varies with the nature of the resources controlled, and hence with the productive (economic) and destructive (military) systems.’ And ‘It is important to stress not only the nature of the ‘class’ (or rather ‘estate’) interests involved, but also the nature of the resources under dynastic control.”

that for a ‘little England’ or Anglo-Saxon) exceptionalism or unparalleled originality: *The Oriental, the Ancient and the Primitive* (1990), *The East in the West* (1996), *Capitalism and Modernity* (2004), *The Theft of History* (2006), *Renaissances: the one or the many?* (2009), *The Eurasian Miracle* (2010), and *Metals, Culture and Capitalism* (2012).

One might have thought that, however dependent on secondary literature and at times rapidly written to reach a wider audience, the volume of Goody’s criticism of a ‘Great Divide’ would have silenced the opposition. But of late once again the historiography of ‘great divergence’ is paid honour. Major European Union funding is given to a project on ‘Divergent Paths? The Shape of Power and Institutions in Mediaeval Islam and Christendom’.⁶ The leading institution in the project describes its agenda as:

This project starts from the following proposition: that the clearest trait that distinguishes society in East and West in the Middle Ages is the very formal aspect that European institutions acquired and that was missing from their Islamic counterparts. This divergence may, in turn, have had very significant consequences, notably for the nature and continuity of practices and power in the political, religious, social, economic, and other fields. Such divergence and its consequences were of significance beyond the Middle Ages and continue to have an effect in the present day.⁷

⁶ In the statement on the website the project notes that Byzantium represents a middle term. See <http://www.pimic-itn.eu/research-areas/>: “The project covers three main research areas: **Medieval Studies** – i.e. history of European societies in the Middle Ages; **Arab Studies** – i.e. history of Middle Eastern and North African (plus Sicilian and Andalusian) societies – and **Byzantine Studies**. Despite sharing a common chronological framework for the Medieval period, it has been very rare the collaboration among specialists in these areas.

PIMIC-ITN is an interdisciplinary project that aims at setting a common research agenda and a common ground for the understanding of historical processes from a global perspective. The study of institutional diversity is an excellent opportunity for such endeavour, as it fosters a research agenda based on the study of how was structured law, authority, religion, knowledge or social order in different Eastern or Western milieus. The inclusion of the Byzantine Empire is crucial as the project attempts to avoid the simple comparison of Islam vs. Christendom, a comparison in danger of invoking assumptions of essentialist differences between civilizations.” While the last phrase suggests some hesitation, the binary East and West remain. The collaborating institutions are in Spain, Italy, France, the United Kingdom and Israel; there are a dozen doctoral and post-doctoral fellows.
⁷ http://www.proyectos.cchs.csic.es/diverging_paths/

So too, in America ‘new institutional economics’ (itself no longer new, moreover incapable of analysing norm or institution) is deployed in the demonstration of epochal difference. Thus, Timur Kuran’s *The Long Divergence: how Islamic law held back the Middle East* (2010) is seen to merit professional study in an international seminar organized in 2011 by the economist Daren Acemoğlu, the political scientist James Robinson,⁸ and the historian Roger Owen. As we shall see below, the issue has never been the denial of all historical institutional difference, neither for Goody nor for other notable scholars such as the medievalist Michael Chamberlain (1994: chap 1) who sees the institutions of late medieval Damascus as quite as distinct from the Ottoman as from those of late medieval Western Europe.

A Region Too Close?

But lest this lecture descend to treating seriously arguments Goody so long fought to banish, let us recognize the sticky problem of the physical location of difference. It is a matter of history (not nature) that the division between ‘the East’/Asia and ‘the West’/Europe lies in the Mediterranean, that most ancient basin of exchange and promiscuous proximity. The division is an ideological problem – Istanbulis can rest assured that they can continue to cross the divide twice daily on their ferries, may now travel under the Bosphorus by metro, and can look forward to a further traffic jam over the great divergence on Prime Minister Erdoğan’s third grim bridge.

What did Goody do with institutional differences about the Mediterranean? As we have seen most of his work was to take a wider canvass, but in a 1983 essay, *The Development of the Family and Marriage in Europe*, Goody explored a points of divergence in the legal traditions of Catholicism from Islam (and from Judaism and Orthodox Christianity). In this he argued that in societies where the transmission of class status rests on property devolution, in-group marriage (and in particular to close kin and affines) was generally privileged (Goody 1983: 82). So too it was in Europe as elsewhere around the Mediterranean, save

⁸ Acemoğlu and Robinson co-authored (2012) *Why Nations Fail: the origins of power, prosperity, and poverty*.

for the regulations of the Catholic Church elaborated in the interest of its corporate property acquisition, a point not to escape dissidents and reformers long before Martin Luther and his followers (Goody 1983: 157–182). Alongside the marriage bans (Goody 1983: 134–146) came rules enjoining monogamy (even in the absence of an heir), clerical celibacy and measures against family control of property endowed to the church, such as remained possible through ‘family *waqf*’ under Islamic jurisprudence until governments did away with that in the 19th century (Goody 1983: 113; Mundy 1988: 10–11). Goody’s elegant argument viewed marital and family relations as forged both by communalities of class societies and by divergent institutional histories.

Islamic tradition is by definition central in Goody’s Eurasia. Yet, as Aziz al-Azmeh remarks in his essay on ‘Jack Goody and the Location of Islam’, the amount of material Goody actually cites on Islamic cultures (Arabic, Turkic, Kurdish and Persian combined) remains slender compared to that on China and India (Al-Azmeh 2009: 77). Al-Azmeh speculates that the reason for this could be the aptness for the construction of a comparative field of Eurasia of remoter regions, as against those nearer and more directly enmeshed in European history.⁹ Goody’s only book specifically addressing Islam is an essay on the modern politics of *Islam in Europe* (2004). But this, as al-Azmeh notes, builds its arguments from the primacy of religion in today’s multiculturalist politics rather than from an analysis of Islamic elements through “a sociological grid laying out the possible variations of what is being compared” (Al-Azmeh 2009: 81, citing Goody 2006: 304). And even when writing of Arab kinship, Goody’s customarily voracious reading resulted in few citations. Thus other factors may also be relevant: the limited number of anthropological or historical sociological classics in European languages concerning the Arab lands, Turkey, Iran, or Afghanistan; the textual and often normative character of the scholarship of *Islamwissenschaft*; and the difficulty of access to the un-translated work of native intellectuals who wrote in Arabic, Turkish or Persian. The corpus of knowledge facing Goody was indeed dense but rarely comparative or sociological.

The character of the corpus (and the political battles behind it) played its

⁹ Al-Azmeh 2009: 77 notes that “This might well reflect the particular aptness for his purposes of remoter regions in preference to others more proximate to Europe, and more directly and continuously involved with her history, a proximity and an involvement – indeed, an imbrication – which he treats separately and at some length (2004: ch. 1).”

part in my own choices after I left Goody's supervision. At a practical level, I sought employment where I would have to teach in Arabic (that is to use the language with intellectual peers and students, not only with friends or the subjects of my research). And at a conceptual level, I tackled the corpus of *Islamwissenschaft* on a major theme of Goody's work – inheritance. This resulted in a long essay luxuriating in citation (the antithesis of today's disciplined peer-reviewed journal article) in which I explored three aspects of the sociology of the Islamic laws of inheritance: the archaeology of European (and their occasional intersection with Arabic) readings of the 'meaning' of the law; the sources and sociological interpretation concerning the formation of the law; and a sketch for a comparative sociology of law-in-practice in different agrarian systems.

Thus the first section on 'the modern interpretations of the Islamic laws of inheritance' analysed the standard account (Coulson 1964, 1972) of the character of the law as the result of a sedimentation of earlier European readings concerning the relation of law to society: '1750–1810 Through Islamic law one can understand the society of Muslims'; '1810–1870 Islamic law is of religious inspiration; adherence to its provisions – regardless of practicality – springs therefore, from Muslim religiosity'; '1870–1930 Islamic law represents the law of a people, the Arabs, at a time of transformation – from a nomadic tribal society to a settled society based upon the extended patriarchal family'. It was here that the standard account stopped. In the 20th century the 'superimposition' thesis no longer followed Robertson Smith's patriarchy overlying Bachofen's and McLennan's matriarchy, rather it cast Islamic norms as tempering agnatic bonds without entirely sweeping them away. But on the arcane topic of inheritance, it was only from the 1970s that more historicist readings, which I followed in the essay, regained ground (Powers 1979, 1986; Juda 1983). So my account of modern interpretations of the law closed with what was then the present: '1930–1980s: through the societies of Muslims one can understand Islamic law'. Lest this phrase be read as a mere inversion of the late 18th-century legal idealism with which my characterization of European readings had begun, let me quote from the end of that section where it is apparent that what was at stake was how the lived form of the text changes over history, not some kind of sociological reduction of legal text:

Equally telling of the new economic order is the manner in which legal discourse governing domestic relations is pressed into new service. Whereas in the pre-capitalist Middle East the laws governing domestic relations – the law of legitimate alliance and of succession to property – lay at the heart of the structures of society and of the interaction of social classes, today the shrinking of the domestic economy finds its expression in the transformation of Islamic law from a series of formal contracts between parties to an iconic statement about social statuses. Two elements in the older legal tradition have proved useful here. First, Islamic law governing domestic relations was built by a series of extensions outwards from the marriage contract, i.e. the contractual relations between man and wife and through them the two family groups so allied. Second, the marriage contract was distinguished from other contracts by the distinct and unequal status of the parties, an inequality of legal capacity without parallel in the law, except in the distinction of the legal capacity of the slave from the free man. But slavery, along with patronage, has been legally abolished and no one proposes the revival of such institutions today. Thus, in a sense, the unequal capacity of man and woman to contract in the law of legitimate sexual alliance remains today the only divinely sanctioned form of social inequality in the legal tradition.

But today the legal tradition appears not in the meticulous definitions of jural relations to which so many generations of scholars have contributed, but in short digests of legal tradition providing accessible catechisms of the Holy Family: *The Family in Islam*, *The Muslim Woman*. The image assembled therein is one of great beauty. To the dispossessed it promises a return to a world of human scale, a world where, as in the homely tales of the *hadith*, families make history. To the bourgeois it proposes a private vision of social order for a class unable to provide a public model of social order. And to those who rule and must guide popular resentment, it provides a discourse that both promises the people limits to the tyranny of the state – in the figure of the autonomy of the domestic – and yet that, through its constant allusions to the disorder of women's sexuality if unleashed, invites the state to drive the law through the sinews of men who long to be so irresponsible. The natural primacy

of the family is enshrined in holy tradition; it is not simply a transitory social contract devised by men – as, for example, the notional rights of the citizen in the modern codes of secular law. (Mundy 1988: 23)

In the next major section of the essay, in the historicist mode, I turned to examine what was known of the formation of the law. That was of necessity a textual exercise, entailing internal comparison within a single text (the various and at points contradictory principles in the Quranic verses concerning heirs, shares, testation and gift), identifying the comparative grid of contemporaneous legal provisions (Roman, Christian, Jewish and Zoroastrian), charting the internal debates over the formative centuries of the law, and comparing differences in the resultant doctrines, the Imami Shiite proving as different from the Sunni as either one from the legal forms of other faiths of the time. As to the ‘location of Islam’, this section demonstrated that its legal doctrines concerning inheritance were forged in the context of the existing range of legal practices and doctrines.

As for ‘the sociology of origins’, two kinds of tension or transition were evident in the textual material surveyed:¹⁰

This is not to deny that the centuries in which Islamic legal traditions developed and were refined saw an evolution of a kind. But this was, in the East as in the West, an evolution of an historical nature. It has been argued for the Western Roman Empire that during the long centuries of late Antiquity and the early Middle ages, the legal formulation of domestic relations underwent a change: from a principle of the paternalist administration of dependents and property to a unified model of a family corporation, regulated by religion and state, in which each member has his place and share. This shift in the formulation of domestic relations itself registers a gradual transition from the incommensurable and asymmetric households of Antiquity, where great slave-owning households stood alongside tiny units of family production, to a world of commensurable households, in an economy where small units of family or peasant farming dominated production.

¹⁰ In the citation below as in that before I have omitted the footnotes and Arabic diacritical marks of the original and added in square brackets translations of some of the Arabic terms.

If evolution there is, it is evolution of this kind that may be captured in the Islamic texts. It is inviting to consider in this light the shift in terms from the Quranic *wilayah* [patronage/tutorage] and *mawali* [freedmen] to the legal *mawarith* and *wuratha'* [parts of inheritance and heirs]. Equally noteworthy is the displacement of the topic of slaves as property from the centre of discussion of inheritance to distinct and increasingly secondary rubrics. Whereas in the early texts rights over slaves and the transfer of property to and from freedmen lie at the heart of legal treatment of inheritance, in the course of the development of *fiqh* [Islamic jurisprudence] such questions come to occupy distinct rubrics, and far from providing models for the devolution of domestic property in general, they come to represent marginal and increasingly archaic issues preserved in the wider body of *fiqh*. If property in slaves no longer occupies a central place in *fara'id* law, the conception of property (*mulk*) in *fara'id* [inheritance] law remains relatively simple and individual. At no point do the early scholars of the law point to systems of overlapping hierarchical rights in property. Other domains of law were to prove more fertile ground for the elaboration of hierarchical rights to real property – the law of *waqf* [endowments] and the law of revenue administration. (Mundy 1988: 48)

The essay closes with a long third section criticizing received wisdom on the relation of the law to practice (& the practicality of the law) in terms that bear the influence, among other authors, of Goody's writings on the relation of writing to orality.¹¹ After setting out a conceptual methodology for a comparative grid, I then went on to compare in broad outline three systems of devolution of land in family-farming systems ('impartible inheritance/landlord management; diverging devolution/household management; partible inheritance/community management'). Two of the sketches derived from my earlier field work in Yemen but the third drew on published (and, in retrospect, not unproblematic) material concerning the historical systems in Greater Syria on which I was just beginning to work.

¹¹ For sustained discussion of Goody's work on the interface and the oral by a fellow anthropologist, see Messick 1993.

The Syrian work began as an attempt to document family and farming history in one village of the Hauran plain, in the spirit of Tom Kessinger, *Vilayatpur, 1848–1968: economic and social change in a North India village*, but ended many years later in a book spanning a wider compass, *Governing Property, Making the Modern State: law, administration and production in Ottoman Syria*.¹²

In this Richard Saumarez Smith and I tackled three problems. First, unlike the scholarship of British India where agrarian relations and the nature of property transformation had long been central – indeed my co-author had himself written a large tome on the topic (Saumarez Smith 1996) – this was far less true of Ottoman history. Thus, when I started to read the major legal reform texts, notably the 1858 Land code, it became apparent that there was little beyond polemic to explain either internally within the legal tradition or comparatively what kind of a reform this had been. Rather, it was the Ottoman Turkish legal commentaries on the Land Code that helped in understanding the terms of the laws and in raising questions concerning earlier movements in the legal doctrines governing property relations in land. Hence I went deeper to an attempt to chart the genealogy: to the 16th century background and the 17th- and 18th-century writings of Ottoman and, particularly, Syrian jurists. The locus of debate was Islamic (Hanefite) jurisprudence, itself historically mobile, institutionally inflected, legally abstract, and engaged with administrative law (*kanun*). The survey revealed change by the mid-18th century, that ended what had always been, compared to Russia, a shaky doctrinal base for tying cultivators to the land (‘serfdom’) and opened the way to the 19th-century reforms. The empire belonged to world economic history but expressed its reconfigurations in the terms of its own intellectual and institutional traditions.

The second set of problems was as much analytical as substantive: how to relate what occurred in a couple of villages to change in the empire as a whole and how to understand the practical effects of the Ottoman registration of rights to land. An answer to the latter question required work on the registers kept at the level of a district (*kaza*) wherein the holders and objects of rights in land were inscribed. Analysis of the sociological character of the mediating adminis-

¹² *Governing Property* came out in 2007 with I.B. Tauris London, appeared in Turkish 2013 with Tarih Vakfı Istanbul, and is being translated into Arabic for Dar al-Kitab al-Jadid Beirut.

tration and political economy of the district allowed us both to place individual villages and sub-systems within the regional political economy and to grasp the particular 'reform settlement' resultant from negotiation between administrative officers and regional elites.

The last and overarching problem concerned how to analyse the third moment in the making of property, in land itself. Property relations are forged at the intersection of three moments – law, administration and production. Each of these moments has effect. In order to explore how claims were generated in the process of production, we needed not only longitudinal evidence but also comparison within the district wherein we could, so to speak, hold constant both law and administration. Hence the one village became four belonging to two quite different systems of agricultural production, one in the hills and the other in the plains. In each we attempted to analyse production both synchronically across all households at two points of time, reform (*tapu*) 1876/1884 and cadastral 1933/1939 registration, and diachronically between the two same points in time, for all land transactions and, in much greater detail, for particular households and families. In this we sought to understand the formation of local social groups as arising from subjects combining in the work of making persons and agricultural wealth. And we demonstrated important variations both in patterns of household and marriage between the two productive systems (and, to a lesser extent, in each across time) and in the nature of property in land, the object land only fully coming into being as an object of right through the processes of production.

Conclusion

It is thus not impossible to work in the 'Near East' on the themes that pre-occupied Goody: the relation between family forms and systems of production, particularly farming, and the role of institutions of rule, both religious and state, in the secondary historical differentiation of family forms. Others too have contributed important work on rural history (see for example, Cuno 1993; Doumani 1995; Hanna 2002; Sa'id 2003; Afifi et al. 2005 for something of an overview of recent work). Yet, while possible, such painstaking work remains rare in scholarship on the region and difficult to consolidate institutionally. One should ask why.

Quite simply because of what one can only describe as a devastation of society and production (including both rural and research production) in the Arab Near East. If Goody wrote of the centrality of decolonization for his generation and for the reconstruction of a different post-war Britain, the Arab lands saw decolonization only late and incompletely. The year 1967, when I first went to the region as a student of Arabic, was when, under fire, the last British official left Aden, but beyond that it was a year of Arab defeat, when Israel conquered the West Bank, the Golan Heights and the Gaza Strip. And since the end of the umbrella of protection afforded by the USSR, the interlocked tri-partite mechanisms of the apartheid systems of oil production of the major companies, finance capital expressed in the dollar, and US-led (and Israeli-French-British seconded) militarism seem set to continue social and economic destruction on a scale that renders historical anthropology an irrelevant solace in the rubble of the day. Over the almost half century from 1967 the Near East has seen by far the greatest frequency of international war of any region of the world.¹³ Today's

¹³ 1973 Egyptian/Syrian/Israel war, 1978 Israeli occupation of South Lebanon from which Israel was to withdraw only in 2000, 1980–1988 Iraq-Iran in the longest international war of the 20th century, 1982 Israeli occupation of Beirut, 1991 Iraq-Kuwait and international war, 1994 North Yemeni conquest of South Yemen, 2003 US/UK and allied attack and occupation of Iraq, 2006 Israeli attack on Lebanon, and since 2011 international engagement in support of anti-government forces in Libya and Syria; all this without mention of international engagement in civil conflicts over the years from Sudan to Iraq.

‘New Middle East’ stands far from Goody’s 1960 hope for a ‘New Africa’ that beckoned for its history to be written.¹⁴ (It is of course for others to judge the aptness of Goody’s optimism from within today’s Africa, not least its resource-rich central lands.)

The modern history of the Arab lands forms an uncomfortable object of contemplation by comparison to China and even to India.¹⁵ This promises to remain so. In the absence of a major change in the structure of international capital and ruling-class alliances, there seems little chance that we close neighbours, in a ‘divergence’ ever recreated between Europe and the (Near) East, will be able to share our extravagant human and social wealth and to tell the lords of the earth, imperial corporations and merchant rulers, to lay off their hands.

¹⁴ Timothy Mitchell (2012: 253): “Understanding the contemporary politics of oil involves the difficult task of bringing together the violence that has been repeatedly deployed to secure arrangements for the production of oil and the forms of spectacle and representation that seem somehow an equally indispensable aspect of the undemocratic politics of oil – not least the representation of the most recent rounds of US militarism as a project to bring democracy to the Middle East.”

¹⁵ At the level of economic imperialism, the Arab region as a whole rather stands out for very poor per-capita economic development over the last forty years. Ali Kadri (2012: 121): notes: “Since the start of piecemeal neoliberalism in the early 1980s, Arab economies have experienced lethargic growth. Calculated over 30 years, the real GDP per capita growth average in the Arab world is around one percent.”

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