

INTRODUCTION

MIRIAM HOEXTER AND NEHEMIA LEVTZION

The essays included in this volume were presented and discussed at an international workshop on the Public Sphere in Muslim Societies, held at the Van Leer Jerusalem Institute in October 1997. The workshop concluded two years of deliberations on the public sphere in general and its application to Muslim societies in particular, by a study group whose participants then presented their papers. They were joined by international scholars represented in this volume by Dale F. Eickelman. Their comments added substance to the project's aim to develop the concept of the public sphere in Muslim societies.

For the purposes of this volume we have adopted the definition of the public sphere put forward by Shmuel N. Eisenstadt and Wolfgang Schluchter. They define the public sphere as a sphere located between the official and private spheres. While both the official and the public spheres work for the common good, the public sphere recruits its personnel from the private sphere, not from the ruler's domain. The public sphere is thus autonomous from the political order, and "its influence rests on interpretations of the common good vis-à-vis the ruler, on the one hand, and the private sphere, on the other."¹ The concept of the public sphere adds a new dimension to the discourse on civil society. It shifts the emphasis from the political authorities to society and stresses the close connection between the autonomy of this sphere and the idea of the social order as promulgated in a specific society or culture without necessarily developing in the direction of Western political institutions.

The foreword and concluding chapter expand on the theoretical and comparative perspectives. The other chapters are case studies stretching from the ninth century to the twentieth. They certainly do not cover all periods or all regions of the Islamic cultural area; but they all refer to institutions that were central to Muslim societies during most periods and in most parts of the Muslim world. Each chapter deals with a specific period and region and treats specific aspects of the public sphere. Much of the discussion centers around issues, events or institutions connected with Islam. However, rather than a system of worship, confined to the private sphere,² the emphasis in all chapters

is on Islam as a regulator of the social order. We thus focused on the role of the *shari`a* as an autonomous civic force; the ensuing autonomy of institutions and social groupings based on the *shari`a* and their dynamics; the role of the community in the public sphere; and the nature of the interaction between the society and the ruling authorities. We have been inspired by the approach of Marshall Hodgson, who identified three religiously sanctioned institutions that held together all groupings of the *umma* (the community of believers) in the town: the *shari`a* laws, the *waqf* foundations, and the Sufi brotherhoods (*tariqa*, pl. *turuq*).³ All three institutions figure prominently in the essays.

Umma and *shari`a* are central conceptions running through the discussion in virtually all the chapters included in the present volume. The *umma*—the community of believers—was accorded central importance in Islamic political thought. Not only were the protection and furthering of its interests the central concern of the ruler, the individual Muslim, and the *`ulama'*; the *umma's* consensus (*ijma`*) on the legitimacy of the ruler as well as on details concerning the development of social and cultural norms was considered infallible. The community of believers was thus placed as the most significant group in the public sphere, and above the ruler (see Miriam Hoexter).

The *shari`a*—the sacred law, or the rules and regulations governing the lives of Muslims, derived in principal from the Qur'an and *hadith*⁴—was developed by *fuqaha'* (jurists) and was basically an autonomous legal system, independent of the ruler's influence. Above and beyond being a legal system, the *shari`a* embodied the values and norms of the social order proper to the community of believers and became its principal cultural symbol. The sacred nature of the *shari`a* is deeply entrenched in the public sentiment of Muslim societies. The sanction of the sacred law has contributed to the formation of a Muslim public opinion and endowed institutions and social groupings based on the *shari`a*—such as the *qadi*, the *mufti*, the schools of law (*madhahib*)—with a high degree of autonomy vis-à-vis the ruler. It has also accorded moral authority to the *`ulama'*—the *shari`a* specialists—who have asserted their position as authorized interpreters of the *shari`a* law and custodians of the moral values underlying the ideals of social order of the *umma*.

As Nimrod Hurvitz shows, the *`ulama'* secured themselves this role early in Islamic history. In his reinterpretation of the inquisition (*mihna*) he argues that already in the early ninth century the articulation of religious dogma was the domain of the *`ulama'*. The failure of the *mihna*, in which caliphs attempted in vain to enforce acceptance of the theological view of one faction of the *`ulama'*, gave further substance to the division of responsibilities between the *`ulama'* and the rulers. It also secured the autonomy of the *`ulama'* in centuries to come.

The large measure of autonomy enjoyed by *`ulama'* in subsequent centuries—not only in matters of doctrine, but also in the exercise of their daily duties—is demonstrated in a number of papers. Daphna Ephrat relates that

once an *`alim* in Seljuk Baghdad was appointed to teach in a *madrasa* endowed by a ruler, he enjoyed “academic freedom” in the admission of students and in all matters related to the content of his teaching. He could even influence the selection of his successor. The independence of the *`ulama'*—whether or not they held official positions—in the context of the Ottoman Empire is discussed by Haim Gerber. Although dependent on the ruler for his appointment, the *qadi* enjoyed a large measure of autonomy in the administration of justice in his court. In both substance and procedure, he followed the *shari`a* law and the ruler did not usually intervene in its day-to-day administration (see Ephrat, Gerber, and Aharon Layish). An in-depth analysis of the *qadi*'s function is given in Layish's chapter. Discussing the role of the *qadi* in the process of sedentarization of tribal societies in Libya and the Judean Desert, he explains how the *qadi*'s court became a distinct arena of the public sphere, free from the ruler's intervention. He demonstrates the measure of discretion of *qadis* in reconciling *shari`a* and custom, thus creating a favorable climate for members of a tribal society to apply to *shari`a* courts and eventually bringing tribal society within the orbit of normative Islam.

Ephrat, Layish, and Daniella Talmon-Heller articulate the broader public mission of the *`ulama'* and their ethic of public service, which consisted of providing guidance to the community concerning the proper norms of social, moral, and legal behavior. Indeed, their manifold functions—as judges, *muftis*, teachers, guardians of orphans, leaders of prayers, preachers—brought the *`ulama'* into daily contact with the people and made them natural leaders of public opinion and informal representatives of the community.

`Ulama' sometimes converted their charisma into social, economic, and even political power, and became leaders of autonomous organizations. Two categories of such organizations are represented in the present volume: the schools of law (*madhahib*) and the Sufi brotherhoods (*uruq*). As Ephrat and Nehemia Levtzion demonstrate, these organizations performed a variety of social functions and became major foci of communal life. They developed and restructured themselves according to their own dynamics, and their relative importance in the public sphere changed in the course of time.

Ephrat dwells on the change from factionalism and violent clashes among adherents of the different *madhahib* from the ninth century onward, to a spirit of cooperation and tolerance in the twelfth century. By that time the social importance of the schools of law had diminished, and their place as principal actors in the public sphere was gradually taken over by the Sufis. Only the Hanbalis retained a high degree of cohesive communal life in later periods. This is also illustrated in Talmon-Heller's study of a Hanbali community, whose members migrated from their villages in the region of Jabal Nablus to Damascus in the middle of the twelfth century, where they continued to lead their own organized community life, led by authoritative shaykhs. Under Zangid and Ayyubid rule she found no similar organization of community life

among the adherents of the larger Shafi`i and Hanafi schools of law in Syrian cities. Relations between schools of law in that period were definitely less strained and violent than in Seljuk Baghdad.

The integration of Sufism into the mainstream of Islam in the eleventh and twelfth centuries was marked by the emergence of Sufi brotherhoods (*ṭuruq*) as new social institutions, where disciples were inducted and trained by their masters. Gradually, Sufi brotherhoods also recruited lay people, and Sufism moved from the private to the public sphere. For six centuries, from the twelfth century to the eighteenth, Sufi brotherhoods were central to the life of the individual and the community. Levtzion analyzes the development of Sufi organizations and structures at different periods, as well as patterns of relationships between Sufi brotherhoods and the state, ranging from withdrawal and autonomy to dependency. In the eighteenth century, Sufi brotherhoods transformed into large-scale, cross-regional organizations. Brotherhoods penetrated into the countryside and mobilized the common people by addressing them in the vernacular language and articulating their grievances. As this process seems to have been associated with the decline of states, one may say that the public sphere created by the brotherhoods expanded at the expense of the official sphere.

The role of *waqf* foundations in the public sphere is discussed by Gerber and Hoexter. Throughout the premodern Islamic world, endowments were made by all strata of the Muslim population. They provided for the financing and maintenance of a host of public services and did so through an institution whose rules had remained, across the centuries, an integral part of the *shari`a*. Following Hodgson, Hoexter describes the *waqf* as a major tool through which the Islamic idea of the social order proper to the *umma* was implemented. She discusses the ideology underlying the Islamic endowment institution, its impact on the formation of the urban public space, its contribution to the crystallization of autonomous groups within the community of believers, and the nature of the discourse between the society and the ruling authorities generated by the *waqf*.

The role of the community in the public sphere and the nature of the interaction between the society and the ruling authorities are of central importance to an understanding of the dynamics of Muslim societies. They are discussed in virtually every chapter.

The community of believers exercised its influence in the public sphere in several ways. Gerber discusses the measure of autonomy of more or less structured organizations, such as professional guilds and neighborhoods. He and Hoexter dwell on the importance of endowments made by members of guilds and neighborhoods, groups of common origin, the *ashraf* (descendants of the Prophet), etc., in providing them an independent economic basis. Furthermore, they show how, through endowments, these groups enhanced group identification and social interaction among their members and became influential factors in the public sphere.

The concept of the public sphere may address also the role of the common people, or the uninstitutionalized community, and its participation in molding or changing social and normative practices. Talmon-Heller gives several examples of the active participation of the general public in twelfth- and thirteenth-century Damascus in the shaping of religious practices that became *sunna* for most believers. The community often succeeded in doing this in the face of initial strong opposition of *'ulama'* backed by the ruler. One of the most striking examples is that of saint worship and the visitation of tombs, which in turn contributed greatly to the growing popularity of devotional Sufism, as argued by Levtzion. Gerber shows how popular support contributed to the rise of the *shari`a* in the Ottoman Empire in the course of the fifteenth century, at the expense of the criminal law enacted by the state (*qanun*). The role of the community in the process whereby cash endowments were legalized in the Ottoman Empire (Gerber and Hoexter) is another case in point. All these examples point to the dynamics of a living tradition influenced to a large degree by public opinion. In addition, Gerber and Hoexter emphasize the variations in legal practice within the Islamic cultural area, influenced by local circumstances or resulting from different approaches to certain points of law prevalent among various local population. They also discuss some of the mechanisms that enabled the incorporation of changes in the *shari`a*: the *ijma`*—the consensus of the community of believers; the legitimization of custom (*`urf*, *ta`aruf*, *ta`amul*)—both general and local; and appealing to the best interests of the community of believers. The central position in the public sphere accorded to the community of believers in Islamic thought and practice is thus highlighted.

The importance of the *shari`a*—not only as a practical guide encompassing the moral values and norms of the public order proper to the *umma* but also as a symbol of cultural identity—and the central position of the *umma* in the public sphere were found to have been crucial factors affecting the relations between rulers and society.

While the ruler was devoid of authority to determine the norms governing the public sphere, his responsibility to uphold the *shari`a* was the condition for the legitimization of his rule. This responsibility implied an obligation on the part of the ruler to make sure that the public sphere in the territory under his control was construed in conformity with the basic moral norms and values of Islam, and that the law was administered according to the specific rules of the *shari`a*. The ruler's adherence to these norms and rules was the touchstone of his relations with the community under his control (see Hoexter).

To a large extent these principles determined the nature of the ruler's involvement in the public sphere. The rulers' degree of involvement in the public sphere and the nature of their relations with the community varied of course over the centuries and were largely dependent on their strength and the type of political regime.⁵ Hurvitz shows how, as a result of the *mihna*, the

space in which *ʿulamaʿ* defined the doctrine was enlarged and limits were set to future intervention of rulers in this field of action in the public sphere. Indeed, except in cases in which a ruler claimed special spiritual powers—that is, declared himself a *mahdi* (a divinely guided ruler who would restore Islam to its original perfection)—instances of personal involvement by rulers in matters of doctrine in periods subsequent to the *mihna* must have been very rare. Discussing Seljuk Baghdad, Ephrat dwells on the nature of rulers' intervention in the important ongoing debate between the schools of law (*madhahib*). The rulers kept aloof of the doctrinal debates; nor did they interfere in the formation or activities of social organizations based on *madhhab* adherence. Only when the rivalry between *ʿulamaʿ* and their supporters took a violent turn and public order was threatened did rulers step in to restore peace and order. Interestingly enough, as Ephrat shows, while preferring Hanafi or Shafi'i *ʿulamaʿ* in official positions, rulers often sided in such conflicts with their rivals, the Hanbalis—obviously because of their greater popular appeal and the large following they succeeded in mobilizing.

Rulers in all periods certainly issued decrees relating to the *shariʿa*. However, as Hoexter points out, these decrees were not the result of a ruler's own discretion, nor was he involved in the preceding doctrinal debate. The ruler's decision was needed in order to clinch a lengthy discussion among the *ʿulamaʿ*; the decree was issued at the instigation of chief *ʿulamaʿ* and was always based on a legal opinion (*fatwa*) given by a chief *mufti*.

As part of their duty to uphold the *shariʿa* in the territories under their control, rulers certainly cooperated with *ʿulamaʿ* in many ways. Talmon-Heller describes various aspects of such cooperation during a period in which Islam and *shariʿa* were still in the process of taking root in the population and the orthodox doctrine was in danger of succumbing to various kinds of heterodox views, deviant groups, and eccentrics. She stresses the close cooperation of Ayyubid and Zangid rulers with *ʿulamaʿ* in enforcing Sunni orthodoxy (*ihyaʿ al-sunna*) in their domains.

The personal piety or learning of a ruler, his public deference to revered *ʿulamaʿ* and to religion in general, and, *mutatis mutandis*, victories in the name of Islam certainly contributed to public legitimization of a particular ruler. Endowments by rulers and their entourages for public purposes had a similar effect on the attitude of the community to its rulers (see Hoexter and Gerber). They symbolized the adherence of the endowing ruler to the norms of good order inherent in the ideology of the *waqf*, created a bond of shared values between the ruler and the community, and contributed to public legitimization of the endowing ruler. Here, as in other cases, the role of the *shariʿa* as a symbol of cultural identity is highlighted.

Moreover, the rules of the *waqf*—which withdrew ownership of the endowed assets from the endower and placed transactions relating to the

endowed properties under the authorization of the *qadi*—the proliferation of endowments, and the community’s vested interest in the institutions created and supported by *waqfs* brought about the active involvement of the ‘*ulama*’ and the community in the way large foundations were administered, and generated a continuous discourse between community, the ‘*ulama*’, and the rulers concerning major issues in the public sphere (Hoexter).

The picture that emerges from the contributions to this volume is that of a vibrant public sphere, accommodating a large variety of autonomous groups and characterized by its relatively stable yet very dynamic nature. The community of believers was the center of gravity around which activity in the public sphere revolved. Its participation in the formation of the public sphere was a matter of course; its well-being, customs, and consensus were both the motives and the main justifications for the introduction of changes in social and religious practices, in the law and policies governing the public sphere. The independence of the *shari`a* and the distribution of duties toward the community between the ruler and the ‘*ulama*’, established very early in Islamic history, were crucial factors in securing the autonomy of the public sphere and putting limits on the absolute power of the ruler.

The implications of these findings for earlier theories as to the nature of relations between society and its rulers are discussed by Gerber and Hoexter. Gerber disputes the concept of the Ottoman Empire as a state of unbridled Oriental despotism. Hoexter challenges the idea embedded in the “Oriental despotism” thesis—the notion of a total separation and estrangement of the society from its rulers, and the latter’s lack of concern for the community and its needs. Both point to the existence of a kind of social contract or a bond of shared values as the basis of state-society relations.

The absence of formal institutions in early Muslim societies has been the cornerstone of the thesis postulating a lack of civil society in premodern Muslim-majority societies and an extreme despotism on the part of the rulers. The papers that make up this volume demonstrate that formal institutions are not necessarily the only, and perhaps not even the most efficient way of securing an autonomous public sphere and mitigating the despotism of rulers. Indeed, informal relations and an ongoing discourse between society and its rulers governed the public sphere in Muslim societies. Social order, the dynamic participation of the community and its spokesmen in the public sphere, and discourse with the rulers rested on shared norms and values that created a bond of common cultural imaginary between ruler and society and placed limits on the absolute power of the ruler.

NOTES

1. Eisenstadt and Schluchter 1998, 10.
2. For theoretical discussions of the religious public sphere and the blurred boundaries between private and public spheres—see Eickelman, Eisenstadt, and Hoexter in this volume.
3. Hodgson 1974, vol. 2, 119.
4. Calder *EP*.
5. See Arjomand 1999 on the relationship between types of political regime and the use of endowments as instruments of public policy.