Chapter 5 of:

Law and Anthropology
Outlines, Issues, Suggestions

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The present part of “Law and Anthropology: Outlines, Issues, Suggestions” is an abridged version of the text of the hardcover edition, shortened by certain subchapters or other sections. The text and the footnotes left out are indicated by the words: not included. The reader who wants to see these omitted parts is referred to the hardcover version (see preceding paragraph).
Chapter 5: Theories of culture and cultures

Chapter 5 on the attributes of culture and cultures is structured according to the influence of the axial age. The term has already been mentioned in Chapter 1 II. 4. and Chapter 3 III, IX. 2., above. What does axial age mean, and how is it related to other theories of cultural development? A new approach is offered as to the role of time concepts for the distinctions between cultures. By sketching circles of cultures (in particular the modes of thought that shape cultures) some modern issues find discussion, for example the question of whether in view of recent developments it is still appropriate to speak of “East and South Asian cultures”, why Islamic difficulties with the concepts of time and unit interconnect, and why identity as a concept of cultural anthropology is so important. The forms of cultural neighborhood – peaceful or hostile -, culture change, minorities, and migration present interesting novel issues. On acculturation, in view of some disrespect that concept is encountering today, a modernized conceptualization is on offer. Law (primarily), economics, religion, and politics furnish the examples. *In the present world of global politics, economies, and efforts of introducing and maintaining peace by ways of law culture comparison is inevitable.*

So far, culture has been defined (in Chapter 3 1 1 and 2, in relation to other definitions) as the attribute of a society that refers to the patterns of conduct of its participants – traditional but open to change – in contexts concerning knowledge, belief, art, morals, law, custom or other mentally reflected activities or states. The present Chapter 5 is devoted to the anthropological attributes of culture. While concerned with themes around culture and relating to culture from an anthropological point of view, it does not amount to a complete theory of culture. Rather,
various aspects are discussed as important contributions to the content of culture or as influenced by it. The inventory of these aspects is certainly not complete. While future developments may demand a study of additional or different cultural themes, the following culture-related subjects will receive mention:

(I) Structures of cultures; (II) Surveys on culture and cultures. Human Relations Area Files (HRAF). Axial age, the modes of thought, and the law; (III) The theory of culture and cultures. Cultural holism and pluralism. *Cultural Universals and Cultural Specificities.* Cultural time concepts. (IV) Person. Individuality, Identity. Culture personality. Vita research; (V) The circles of culture, based on the modes of thought (pre-axial age; East and South Asian; Tragic Mind; Judaism, Christianity; Islam; Modern-totalitarian);: (VI) Acculturation; (VII) Culture change and culture loss; (VIII) Culture transfer. Receptions. Transplants. Internalization. Legal families of law; (IX) The anthropology of borders, corridors, trails; and trading routes; (X) Forms of cultural neighborhood (in situations of national borders, enclaves, and “mixes” or “melting pots”). (XI) The anthropology of minorities. (XII) Migration; section XIII sums up these aspects by several lines on cultural justice with a preview on Chapters 7 and 16, and section XIV contains a bibliography. The sequence follows partly moving from the more general to the more specific, as well as from the advantage of using known concepts in later contexts.

I. Structures of cultures

Sociocultural anthropology uses a distinct terminology in which theme has a central role. Themes are parts of the general theory. Cultural themes may be overt or covert.

1. Overt themes

Overt themes are quantifiable, and they can be observed. They can be objects for investigations. Their discovery may take time, but should in general be feasible within a year or less, depending on experience, accessibility, and intensity of observation. Overt themes are either ideational or behavioral.

Ideational themes can be non-value-laden, or value-oriented. For instance, a non-value-laden ideational theme of culture is the feeling of respect for a big man or a chief. Value-oriented ideational themes are characterized by either positive evaluations such as the esteem of a cross-cousin marriage, or negative evaluations such as incest taboo. We will see that valued cross-cousin marriage and tabooed incest may move close to each other (Chapter 8).

Behavioral themes can be grouped in four categories: (a) Cultural functions. They may serve special functions of cultures such as purity, identity, or defense. Food taboos or care of the elderly are further examples of special functions. Culture as such may also serve functions. It has already been remarked that three general functions of culture are the control of incest and comparable issues, of power, and of other-worldly relationships. The last general function if applied to animism calls for a person in whom the relationship to the other-world can be

contours are still shaping up.

section I., II and III. are introductory and concern aspects of culture and cultures already addressed from different aspects in earlier chapters.
focused, because the animistic this-worldly nature-culture tension is this-worldly – hence
person-bound - , but the focus is the other-world. Under a general functional point of view,
this person is the shaman. In the shaman, the cultural task of maintaining relations to the other
world personalizes itself as far as animism is concerned. Thus defined, shamanism can be
traced in all religious types with all its varying forms, from totemism over magic to
divination.3 (b) Cultural purposes. They are closely related to cultural functions but restricted
to aims and goals nearer at hand such as the raising of animals for religious sacrifices or sport
events, e.g., cock fights, bull fights. (c) Cultural patterns (Ruth Benedict: “configurations”).
They concern whole entities of cultural life styles such as nomadism, segmented society,
superadditive societies, or trading nations (e.g., Chinook, Phoenicians, Franks). (d) The two
most used terms are “cultural traits” and “cultural complexes”. A trait (Merkmal,
Kulturmerkmal) is any content-related characteristic of a culture, for example the wearing of
the leopard skin by the Nuer “leopard skin chief”, the number of colors known in a given
culture, or the terms for types of snow. A cultural complex is a combination of several cultural
traits such as blood feud, compensation to avoid blood feud (Wergeld), or liminality expressed
by an initiation rite or a wedding ceremony. Adding up a larger or smaller number of traits
makes a complex and thus no sharp line between trait and complex can be drawn.

1. Covert themes

Cultural themes of covert character can be understood only after an extended period of
participant observation. Examples are gender-specific ways of speaking or tacit behavior, the
underdog feeling in certain agricultural populations, a sensibility for certain kinds of humor,
and (as a rule) modes of thought. Fairytales and local taboos are other sources of covert
cultural themes. Careful familiarization with local or regional habits, “dos” and “don’ts”,
conversation with elders, and personal friendships may help the researcher to enter the world
of covert cultural themes.

*The line of distinction between overt and covert culture is drawn by the factor time: It takes
two to three years to understand a covert cultural theme. This is about the time needed to
discover that one starts beginning to dream in a foreign language. Here is hidden another
possible bridge between cultural and biological anthropology.*

II. Surveys of culture and cultures. Human Relations Area Files (HRAF). Axial age, modes of
thought, and law

There are several kinds of cultural surveys. The writers who drafted them did so for rough
orientation. Thus, none of these surveys should be used in a schematic, unflexible way. The
text including footnotes4, 5, and6 on the “raw structures” and the Human Relations Area Files

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3 This may explain the observations and speculations found in Mircea Eliade, Schamanismus
und archaische Ekstasetechnik, Zurich & Stuttgart 1956: Rascher; Horst J. Helle,
Religionsoziologie: Entwicklungen der Vorstellungen vom Heiligen, Munich 1997: Oldenbourg;
idem, Religionsoziologie des Schamanismus, Einsichten, University of Munich, 1997/2, 46 – 48.
4 see Chapter 2 II. 1.c..above.
5 On Morgan, Main, and Tylor, see Chapter 2 II 1. b., above. Followers of Morgan are, e.g.,
Joshua McIlwain and C. Lyell, but others such as John Lubbock disagreed; on them and Morgan’s
influence in general, Burkhard Ganzer, Lewis Henry Morgan, in: Wolfgang Marschall (ed.)
(HRAF) is not included in this study and research version because of its rather detailed nature and its partial coverage elsewhere in the text (Chapters 2 and 15). However, a remark on pre- and post-axial age cultures is indispensible:

An important criterion of distinction between cultures is what since Karl Jaspers has been called the “axial age”. It is the period of human history when many religions emerged which still today exist: Zoroastrism (resumed by Manicheism), the Upanishads and other teachings leading to modern Hinduism, Taoism, Buddhism, Confucianism, the Pre-Socratic philosophies and the Greek Tragic Mind (sometimes called “polis religion”), Judaism of the Babylonian Exile (later referred to by Christianity and Islam). With reference to earlier publications, this is not the place to extensively discuss “axial age” again.  

A more detailed presentation of this concept is found in Chapter 9 IV where the anthropology of government will be examined. The axial-age religions and the modes of thought shaped by those religions are of paramount impact on human styles of societal order, forms of government, and sources and contents of law. Here in Chapter 5 I., where kinds of culture and their traits are to be reported, the focus is on the cultural meaning of the axial age.

Axial age is the time in human history when animistic belief systems on a broad scale became subject to doubt, particularly in ethical respect. In pre-axial times human beings related to nature in a tribe- or nation-specific manner (“animism in a wide sense”). The axial age turned this ethical plurality into a generalized good-bad dichotomy. A reason may have been the demographic fact that more contacts arose between clans, tribes and nations, by commerce,  


7 Axial-literature is not numerous. A collection: Erwin Rohde, Psyche, Seelenkult und Ubersterblichheitsglause der Griechen, Freiburg 1890: Mohr (10ed. 1925) (“Wendezeit”); Karl Jaspers, Die Achsenzeit, in: Ernst Schulin (ed.), Universalgeschichte, Cologne 1974: Kiepenheuer & Witsch, 96 – 106; (orig. 1949) the contributions in 104/2 Daedalus 1975, among them B. I. Schwartz, A. Momigliano, Eric Weil, and Louis Dumon; Shmuel Noah Eisenstadt 1986; 1987; 1992; Stefan Breuer, Kulturen der Achsenzeit: Leistung und Grenzen eines geschichtsphilosophischen Konzepts, 45 Saeculum I, 1 – 33 (1994); Johann P. Arnason, East Asian Approaches: Region, History, and Civilization, 57 Thesis Eleven 97 – 112 (1999/1); W. Fikentscher (1975a), 50, 90, 94, 103 – 107, 170 ff., 270 ff. (use of the concept of axial age for comparative cultural studies and in legal methodology); idem (1977a), 413, 420 - 439.; idem (1995/2004, XL ff., 170 ff., 190); idem, Power Controlling Societal Order, Economy, Religion, and the Modes of Thought: Kritik/Critique to Shmuel Noah Eisenstadt “Culture and Power - A Comparative Civilizational Analysis”, 17/1 Erwägen Wissen Ethik (EWE)/Deliberation Knowledge Ethics, 31 – 34 (2006); idem, Axial Age: Terminology and Impact, Erwägen Wissen Ethik (EWE)/Deliberation Knowledge Ethics 17/3, Appendix, 427 – 429 (2006), with an answer by S. N. Eisenstadt, The Basic Characteristic of Axial Civilizations, at 429 - 432); J. P. Arnason, S.N. Eisenstadt, & B. Wittrock (eds.), Axial Civilizations. Leiden 2005: Brill; Robert N. Bellah, What is Axial About the Axial Age?, 46/1 Archives Européennes de Sociologie, 69 – 89 (2005) = 46 European Journal of Sociology, 69 – 89 (2005); Hann & Group (2006), 3, 24 f. with a list of recent books and articles. The main difference between the other authors’ and my own approach is that the other writers focus on similarities and dissimilarities of axial age phenomena within the various cultures against the background of the issue of ascertaining or disproving the concept of axial age as such, and my starting assumption is animism in the broad sense from which vantage point it is easier to study from outside how axial age phenomena have changed the landscape of cultures worldwide. My main result is that the axial age consists in a generalization of formerly tribe-or-nation-specific ethical standards with the consequences of of replacing religious types by total religions (in Pospíšil’s terminology) and thus constituting historical and contemporaneous culture-relevant modes of thought. On the ensuing importance of the axial age for the types of human organization see Chapter 9 IV, below, and the literary dispute with Eisenstadt, cited above.
migration, traveling, or warfare, and people discovered that other people have different spirits and gods and different allegiances to them in terms of good and bad. By way of comparison, clan, tribal and national standards of good and bad and their authorities rooted in creation stories began to falter. Conquering the other, of course, solved the problem by subjecting the defeated to the ethical principles of the victor. But many contacts may not have lead to conquest. Unsure of what the applicable ethical standards are to be, clan, tribal and national spirits and gods became confronted with (and possibly got wholly or partly obsolete by) a worldwide good-bad ethics and its profound religiously-dogmatic, societal and legal consequences...

Historians roughly associate the axial age to the period between 650 and 400 B.C.E. It was the time of which we in hindsight say that it was the period of many religious foundations. Several of them have been mentioned before. It is indeed striking that within this relatively short period of 250 years so many religions traditionally see their “foundation” or locate their revered “founder”. Probably, some of these “religious founders” were not more than personalized dogmatic revolutions (comparable to Sigmund Freud’s “Moses”) which necessarily became triggered by that ethical good-bad secularization, which may be called the “new ethics”. The “founders” of axial age religions include the legendary Zoroaster (about 630 – 560 B.C.E., others say around 950 B.C.E.), the Brahmanic authors of the Upanishads and of the Bhagavad-Gita, Lao-tse, Confucius, Menzius, Buddha, the organizers of the synagogue during the Jewish exile and possibly identical with the Isaiah group of prophets (Isaiah 43, 19) and/or the group of returnees to Jerusalem in 537 B.C.E. under Jesua, the pre-Socratic philosophers and the politicians who defined the (“Tragic”) Greek polis religio. It is self-evident that the axial age as awareness of non-clan, non-tribal, transnational, worldwide (Deutero-Isaya: “up to the isles”) and for purposes of comparison secular and simplified good-bad ethics influenced culture and cultures.

The axial age as described by modern philosophers and historians geographically encompasses the then known world, reaching from Gibraltar to Japan, and from Scythia to the upper Nile. The question has been raised how Pharaoh Ekhnaten’s monotheism (1,400 B.C.E.) may relate to the axial age. The answer is that Egyptian pre-axial-age monotheisms is not singular but consists in a not infrequent form of deus otiosus and thus belongs to pre-axial-age animism in the broad sense as a numerical extreme of polydaemonism and polytheism. Another critical question refers to Christianity and Islam, both more than five hundred respectively one thousand years after the axial age. Can they be said to belong to, or at a minimum to be influenced by, the axial age? Both Christianity and Islam expressly recollect exilic Judaism, through references to Isaya-tradition and other Abrahamic-Davidian connecting points.

It is to be acknowledged that a culture outside of this “Old World,” experiences its own axial age at any time, outside those 250 years and even today and in the future. Pre-axial age societies have become rare. To understand and to respect them is a noble duty of missionaries from other religions, and for governments from the economically and politically dominant cultures. It is here where, in the present world, the reasons lie for the differences of religions, and for the different societal, legal, economic, and political models. The axial age that has created the total (= world and life explaining) religions and the typical behavioral patterns of their followers. In many religions, their dogmatics determine their ethics. However, the axial age phenomenon seems to be a case where this sequence turned around: In dogmatic respect, based on the arsenals of animistic traditions, post-axial age religions look like variations of attempts to find dogmatic reasons for the axial-age enlightenment of having discovered a general ethics of good versus bad.
In post-axial-age societies, cultures are diversified by total religions and their ethical standards. Childe’s two revolutions point the way of interpretation of these cultures. One can speak of three consecutive “revolutions”, the neolithic, the urban, and the axial age. Humans began to mentally reflect and doubt guiding rules for their behavior independently from the supranatural. While pre-axial age “religious types” were defining the belief systems of single tribes or nations, post-axial age “total religions” could not but address the whole world, resulting in the question of means and ways to deal with people who hold different worldviews.

This nalsom applied to the domain of law. Theophrastos’ collection of polis laws, the jus gentium of the Roman praetor peregrinus, the Frankish rule of quislibet vivit sua lege, Hugo Grotius’ replacement of the Empire through fides among the sovereigns, the rules of conflict-of-laws, and the International Competition Network (ICN) are a few attempts at dealing with the issue.

III. Theory of culture and cultures. Cultural holism and pluralism: Cultural time concepts

The meanings of the term culture and the distinction between its “holistic” use (“in the singular”) and its pluralistic sense (“in the plural”) has been discussed in Chapter 3 I. Here follow more examples to show the role of this distinction for cultural themes.

1. Culture (in the singular)

The term culture in the singular is used in the sense of attributing a characteristic to a person or a group of persons, for example when it is said: “This kind of pottery evidences the high artistic culture of the Mimbres society of the Northamerican Southwest”, or “Meditation is an important part of Buddhist religious culture”. The Latin word cultura means plantation, cultivation, or care, in contrast to natura. The original intention of the expression cultura is to describe a human activity dealing with natura, the natural environment as it is grown by itself. In a wider sense, cultura is used by Cicero. He compares the cultivation of a piece of land with the philosophical education of a person.

Thus, the literal meaning of culture is the result of a cultivating and educational human activity in the singular. The historical period of discoveries, beginning in the 15th century, raised the issue whether the aborigines who inhabited the newly discovered lands are beings who belong to the realm of nature (hence the German term “Naturvolk”) or whether they also have culture. Together with the growing conviction that aborigines are humans and not just parts of nature, the term culture had to be used in the plural. From colere = to plant, to raise and take care of crops. Hans Fischer & Bettina Beer, Ethnologie, 5th ed. Berlin 2003: Reimer, 60 ff. The following lines on culture in the singular and in the plural and the quotes attached owe much to the unpublished paper by Thomas Glas, Kultur vs. Kulturen: Kulturpluralismus und Kulturholismus, unter besonderer Berücksichtigung des Phänomens eines Ethnozentrismus, University of Munich, seminar paper, Winter 2006/07.

For doing this important step, both Roland Girtler (Kulturanthropologie, 2nd ed. Vienna & Muenster 2006: LitVerlag, 19 ff.) and Thomas Glas (see note 240) point to the influence of René Descartes’ Traité de l’homme (1648). The modern development that led to E. B. Tylor’s (holistic
2. Cultures (in the plural)

When used in the plural, cultures are the constituent parts of what is called cultural pluralism. Cultural pluralism opens the fields of study of culture comparison – there are literate and illiterate cultures, shame cultures and guilt cultures, risk-aware and risk-aphatic cultures, etc. -, culture transfer and culture transplants (see VII. below), cultural legal pluralism, culture shock, foreign aid, missionizing, peace-keeping and peace-restoring, etc. Today, the use of the word culture in the plural is a matter of course (“there are more than 6,000 African cultures south of the Sahara”; “in history and presence the world has seen at least 10,000 cultures”). In cultural anthropology, the theory of the modes of thought (“behind the cultures”) is an attempt to enable culture comparison without being flooded with these numbers.\(^\text{11}\)

3. From history to system and return (a remark, including footnotes\(^\text{12}\) and\(^\text{13}\), not necessary for this study and research version, and therefore not included)

4. Cultural universals and cultural specificities

This distinction refers to cultural traits and complexes that are either common to many if not all cultures or restricted to single cultures. Schiefenhoevel (1997) quotes from George P. Murdock a list of universals (at 62): Age-grading, athletic sports, bodily adornment, calender, cleanliness training, community organization, cooking, cooperative labour, cosmology, courtship, dancing, decorative art, divination, division of labor, dream interpretation, education, eschatology, ethics, ethno-botany, etiquette, faith healing, family, feasting, fire-making, folklore, food taboos, funeral rites, games, gestures, gift giving, government, greetings, hair styles, hospitality, housing, hygiene, incest taboos, inheritance rules, joking, kin-groups, kinship nomenclature, language, law, luck, superstitions, magic, marriage, mealtimes, medicine, modesty concerning natural functions, mourning, music, mythology, numerals, obstetrics, penal sanctions, personal names, population policy, post-natal care, pregnancy usages, property rights, propitiation of supernatural beings, puberty customs, religious ritual, residence rules, sexual restrictions, soul concepts, status differentiation, surgery, tool making, trade, visiting, weaning, and weather control.

Schiefenhoevel (at 63) proposes to add to this list: sexual jealousy, genital shame, the avoidance of sexual intercourse in public, mourning behavior after the death of a close person, babyltalk, superlatives involving expression of fear….., a tendency to instantaneously and almost irreversibly learn to fear snakes and spiders….., the concept of the obscene, swearing and the use of taboos terms in such exclamations, the concept and consequences of ethnicity, “and many others”. According to more recent research, not all of Murdock’ universals are empirically tenable, such as community organization, cooperative labor, divination, division of labor, or trade. Others, like incest taboos, status differentiation need qualification. So do

\(^{11}\) See Chapter 3 I, and in this Chapter (5) IV.

\(^{12}\)

\(^{13}\)
intellectual property and competition (W. Fikentscher 2007).

Cultural specificities are, for instance, the wearing of skirts or trousers by men, spinning and weaving by women or men, and the kinds of hair do (in contrast to having hair styles as such).*

5. Time concepts. Aspectivity and perspectivity. Links between time and space.

Notions of space, personal relation to objects, concepts of personality and individuality, time, and many more cultural traits and complexes can be studied culture by culture. Often the distinctions are obvious and striking, sometimes they are hidden and, because of their covert character, can be understood only after long years of participant observation. Since these types of comparisons of cultures cannot be made of all through the 10,000 cultures of this world, it may be permissible to reduce that great number to a more manageable number of what has been called “modes of thought”. Typically they bind a smaller or greater number of cultures together. A mode of thought is a theme of cultural anthropology that connects human data perception with mentally reflected behavior in a culture-shaping way. In different cultures, data are perceived, reflected and acted upon differently. Many implications are conceivable when one attempts to collect those data and the resulting reflections. Then, those notions of space, relation to objects, concepts of personality and individuality etc. can be compared - not culture by culture, but - mode of thought by mode of thought.\[14\] The objects of comparison in that earlier publication were, in particular, cultural attitudes towards space, time, risk, risk-influenced ethics, conceptual unit-building and ensuing social ordering, accentuation of activities or attributive descriptions (“the-shield-of-Achill” issue).\[15\] Of course, culture comparison could be extended to many more objects. The list of properties characterizing specific cultures and the modes of thought which shape these cultures is only one of many possibilities, and it is necessarily incomplete. The properties that are mentioned here are interesting for the lawyer, but not only for him, political scientists, psychologists, theologians, and sociologists might as well profit from their examination... All this has been developed in detail and with references to the authorities in the modes-of-thought book to which reference has here to be made. What has been said about the modes of thought necessarily fits for cultures, since the modes of thought are middle- (not ideal-)typical human mind-sets behind cultures, shaping the particular character of each (examples: most East and South Asian cultures are influenced by a world-view of detachment; pre-axial-age cultures are not thinkable without specifically strong ties to nature, environment, family and family metaphors; etc.). In the following parts of this Chapter 5, several aspects discussed in the book on the modes of thought will have to be resumed in the context of culture and cultures theory. But a general reiteration will not be given.

Of the many culture-specific properties, time is a central cultural theme, and is used here to illustrate culture comparison with the aid of at least one complex. Time is a telling indicator of


\[15\] Ibidem, 181 ff. (in general), 238 ff.(hunters’ and gatherers’ modes of thought), 289 ff.(modes of thought of cultivators), 292 ff.pre-axial-age modes of thought in general), 334 ff. (East and South Asian modes of thought), 394 ff.(Greek Tragic Mind, Judaism, and mainstream Christianity modes of thought), 419 ff. (Islam as a mode of thought), 452 ff. (modern totalitarian modes of thought).
The chief differences between cultural time concepts lie in the time-reflecting person’s aspective of perspective view on time. The dichotomy of aspective and perpective concepts of time is taken from comparative studies of space. In all pre-axial-age cultures, and some post-axial age ones, orientation in space is of an aspective nature (Emma Brunner-Traut, who wrote the seminal publications in this field). In aspective presentation, there is no outside vantage point. The Sapir-Whorf hypothesis holds that in Hopi no future tense exists and that therefore the conception of future things and events in Hopi meets difficulties: Edward Sapir, Language: An Introduction to the Study of Speech, New York 1921: Harcourt, Brace & Co.; idem, Anthropology and Sociology, in: W. Ogburn & A. Goldenweiser (eds.), The Social Sciences and Their Interrelations, Boston 1927: Houghton Mifflin, 97 – 113; Benjamin L. Whorf, Language and Logic, New York (1941): Wiley; idem, Language, Thought, and Reality, in: J. B. Carroll (ed.), Language, Thought, and Reality: Selected Writings of Benjamin L. Whorf, Cambridge, Mass. 1956: MIT Press; idem, The Hopi Language. Chicago University Library, Microfilm Collection of Manuscripts on Americam Indian Cultural Anthropology no. 48 (undated). Contra (the Hopi have a future tense and can think in terms of the future) Ekkehart Malotki, Hopi Time: A Linguist Analysis of the Temporal Concepts in the Hopi Language, Berlin 1983: Mouton cf., idem, Hopi-Raum: Eine sprachwissenschaftliche Analyse der Raumvorstellungen in der Hopi-Sprache, Tübingen 1979: Narr. The book “Modes of Thought” (1995/2004) was written to show, among other results, that the Sapir-Whorf hypothesis ought to be turned around: human language can express only what a human mode of thought, and - more narrowly - a human culture, is able to contain. For cultures, the same result was reached, seemingly independently, by Daniel L. Everett, Cultural Constraints on Grammar and Cognition in Piraha: Another Look at the Design Features of Human Language, 46/4 Current Anthropology, 621 – 646 (2005); to him, see Kate Douglas, Lost for Words, New Scientist of March 18, 2006, 44 – 47; and Rafaela von Bredow, Leben ohne Zahl und Zeit, Der Spiegel 17/2006, 150 – 152; both stressing the radicality of the new sight; see also Katharina Kramer, Wo die Vergangenheit vorne liegt, Geo Wissen No. 36 (2005), 168 f. Everett’s and my observation refute not only the Sapir-Whorf hypothesis (or rather turn it around: speech follows thought) but also, at least to some degree, Noam Chomsky’s “universal grammar". - In a conversation of 1999, I asked a Hopi law professor and friend, Patricia Sekaquaptewa, who is right, Sapir and Whorf, or Malotki. Here is the answer. The question, whether the Hopi language has a future tense and future things can thus be expressed or not, is wrong in itself. The Hopi language designates reality not as static data or givens, but describes everything as being in flux and development, in a continuum that moves on, sometimes faster, sometimes slower. This includes, of course, the consciousness of future, presence, and past. But these stages in time are not being addressed in separate grammatical forms.
point, neither the “true” perspective that depicts objects in a logical-systematic ways (using a vanishing point and, in case of a sculpture, a center of gravity), nor the “parallel” perspective that permits pictorial story-telling (such as in Chinese and Japanese art). In aspective presentation, the important aspects of an object are depicted “disproportionately” large, the unimportant aspects are small. As in most early medieval altar canvasses, kings, princess, and sponsors are modeled tall, their wives somehow smaller, and the servants tiny.  

The psychologist William Hudson presented the following pictures of an elephant to Bantu people in his home land South Africa, and later to many other African ethnic groups:

Graph: Aspective and perspective elephant, see next page

When the drawing on the right was shown (or another “perspectively correct” drawing showing the elephant from a side angle, or from the front) the Bantu observer could not decipher it. The other drawing on the left, however, was recognized as an elephant at once. Point-of-gravity centered sculptures are a discovery of the (acial-age) Greek polis culture. Similarly, Greek pottery since 500 B.C. begins to show “true” perspective. The point of gravity is the inner vanishing point. The concept of the polis as a political unit that is more than the sum of its parts (namely, its members) is accompanied in the fine arts by the use of the vanishing point and the point of gravity, and in the sciences by the use of the concept of system. It follows that aspective art is not limited to animism. It is a general feature of all pre-axial age and some post-axial age cultures

Aspectivity refers a unilinear bipolar look of an observing person (= the one pole) upon an object (= the other pole) without comparative looks to the right or left or other directions. Thus, aspective is an alternative to perspective. Perspective means a plurilinear comparing look that places the regarded object in a critical context to its surroundings, and hereby makes the object meaningful. A second characteristic of aspective is its tendency, to give the depicted object meaning, to attribute to the object properties that are important to the observer. By contrast, perspective is a circumspect look of an observing person upon an object from a tripolar vantage point, relating the object to its environment and thereby describing the object’s characteristics and relationships in their importance to the environment. The observing person is the one point, the object the second, and at least one point related to the object the third point. In perspective, this third point may be the vanishing point at the horizon, or the point of gravity within a statue.

This leads back to the dichotomy between aspective and perspective orientation in time. In

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17 Brunner-Traut 1990; cf. Hallowell 1955: 184ff.; 203ff; horse statues (Laibungstiere) from Assur show five legs instead of four because they could be viewed from the front and from the side, Barthel Hrouda 2003:7,27.

18 Deltgen 1978: 31, quoting New Scientist, 1972; on the boundaries and direction awareness of the Pueblo Indians, see Alfonso Ortiz 1972;: 142ff.; on problems Indians have with fences, Linderman: 17–21. I may also refer to the examples and the corresponding texts with references in Fikentscher 1977 a: 64ff., and idem 1995/2004, 254, showing a table in aspective, “true” perspective, and East Asian “parallel” perspective form. When German colonial officers before World War I tried to use Herero scouts in what is now Namibia, the scouts had difficulties “reading” a map of an area in which they were able to find their way comparably much better than the Germans. Correspondingly, sculptures in animist societies do not feature a point of gravity. On pre-axial-age spatial categories that pose problems similar to time categories, Bernhard Grossfeld & Hoeltzenbein, Poetic Legal Dreams, 55 AJCL 47 – 66 (2007).
animist, Old Egypt, cyclical (Hindu, Buddhist), gnostic-eschatological, naïve-antiquarian, ad-
fontes antiquarian, and ecclective-antiquarian cultures, there is hardly ever a concept of “time
as a straight line”, i.e., a time concept that enables “correct” historical perspective and, e.g., a
thoroughgoing counting of years. To illustrate, the Bavarian farmer who invoking the “good
old time” says: “We ought to do it exactly as our forefathers did”, renders an aspective
description: His historical sense is limited to himself and forefathers’ time in in bipolar manner.
The lawyer who says: “The German Civil Code of January 1, 1900, attempted to represent the
Roman law as it had developed until December 31, 1899, but today our judges apply the Code
as we need it in the 21st century and they will continue to develop it”, thinks in terms of past,
presence, and future, and hereby takes a perspective position outside of the flow of time.

Proceeding from left to right in the graph that shows the cultural understandings of time,
above, the various time concepts can briefly and summarily be characterized as follows (as
“middle types”, omitting many details):

(1) “No-time cultures” probably do not exist, and “deficient understandings of time” involves
an ethnocentric position that is no longer acceptable. However, there are occasional remarks
about early cultures which allegedly lack any conception of time and history. Pirsig’s remark
about missing time in Hopi language have just been mentioned. The Acheguachahi of
Paraguay seem to have no future tense. The Piraha of Brazil (south of Manaus) do not
express the past tense. Some tribes think the past to be safe ahead of mankind because it has
already occurred, but the future to be non-existent because of its uncertainty, etc.

(2) Another cultural concept of time is history understood as (the normative guideline of)
presence. The past is being drawn into the presence to give guidance there. Helmut Brunner
(1989) and Emma Brunner-Traut (1963; 1990) describe this history as still existing presence
and as a key to deciphering Old-Egyptian world view. The past is still present, and it controls
presence. In idealized reality, no past is believed to have existed. Therefore, whenever

19 Evans-Pritchard 1939; C. Geertz 1973 b: 391 (Bali); Hallowell 1955: 216ff.; Dozier 1977
(Hopi) and, in dramaturgy, the Aristotelian-Shakespearean plot – here Tony Hillerman and
Umberto Eco err). Alfonso Ortiz’ remark (1972: 143) that the Pueblos are “ahistorical”, and von
Bothmer’s observation in Nigeria that “time plays no role” (in W. Hillebrand: 143) should be read
to this effect. Pueblo Indians have a different concept of time: “past as the better presence”
combined with cyclicity (W. Fikentscher 1995/2004, ch. 6 V 1 b; Kurath: 23, 49). Ancient Egypt’s
animistic-polytheistic culture developed time concepts that cannot be discussed here in detail (cf.,
1995/2004 ch. 6 V 1; Jan Assmann 1975, and Assmann’s other works listed, e. g., in Assmann
1991, 115ff.). Starting from his studies on Old Egypt, Jan Assmann, Aleida Assmann, Tonio
Hölscher, Wiehl, and others wrote a number of publications on culture and history (e. g., J.
Assmann, J. & T. Hölscher (eds.) 1988). These works, along with Jack Goody’s studies on the
influence of writing on culture, generalize the relations between culture, time, and literacy in a
way that does not evenly distinguish between the various modes of thought. For example, the
important role “creation stories” of animist tribes play for comparative study of cultures and time
concepts should be given closer attention in this context. There is much ethnocentric (Western)
understanding of the concept of time in these writings.- Biological investigations may have
contributed to this. On brain aspects of time perception, e.g., Ernst Pöppel, Die Hirnforschung,

20 Communication Anne van Aaken (2006)

21 See note 276, above.

22 Katarina Kramer, Wo die Zeit vorne liegt, Geo Wissen No. 38 2005, 168 f.
possible, the past is mummified. Helmut Brunner used the phrase: “The Ancient Egyptians
stood with their back towards the future”. There was no flow of time, no acceptable
development. The Bavarian farmer’s “good old time” belongs here. Islam, to the degree that it
denies the occurrence of important things since the Prophet Mohammed’s, a.s., death and the
completion of the sharia, is close to that “standing with the back towards future”. The “door to
knowing (ijtihad)” has been closed (since 220 A.H. = 850 B.C.E.). One consequence is the
necessity of re-establishing the old order including strict sharia. Once this has been performed,
the fulfilment and perfection of life is present again.

(3) A third, widespread attitude towards time is a belief in cyclicity. It holds that everything
has always been there, and everything will return, cycle after cycle. The cycle of the year’s
seasons is a convincing model. The Nuer in southern Sudan use an ecological category of time
that matches phases of rain and drought to corresponding stays in villages and
camps.23 The malleability of time, together with tribe-specific ethical standards of necessity
creates a consciousness that involves the worshipping the presence of those who have lived
and of those who will live under the same norms of belonging: “ancestor worship” is a
reflection of tribal ethics influenced by reiterative time.

A cyclic understanding of time in rather pure form controls the Hindu belief. The steady
return out of death into some form of life and from life to death is called samsara, in Western
translation often rendered as the wandering of the soul (Seelenwanderung). Rebirth is certain,
and according to one’s meritorious or disgraceful life, rebirth will occur in a somewhat higher
or lower status of the animal or human world (karma). In principle, there is no escape from
this eternal wheel of life and death so that Hinduism defines itself as sanatama dharma,
literally: the eternal religion. This all-embracingness of time and space enables hinduism to
integrate pre-axial-age animist religious types such as ancestor worship and polydaimonism,
as well as post-axial-age traits such as gnosticism. The Indian national flag with its colors
yellow, white and green features, in its middle field, the wheel as the symbol of eternal
repetition and redundancy. Only by forsaking attachment to the circle of life and death by
personal restraint, indifference towards others (even family) and environment, and instead by
concentration on one’s own internal values (the teaching of the Bhagavat-Gita), the eternal
wheel of rebirths can at an indefinite distance of time, be left behind and rest from repetition
be gained (muki, or moksha).24

Buddhism shares with Hinduism the belief in cyclic time. However, the escape from cyclicity
is obtainable by a world-denying way of life. A gnostic way to redemption by individual good
works opens. The Buddha teaches the eightfold way – an ethical guideline – to let the believer
know that overcoming the eternal wheel of rebirths can be performed for the one who gave up
all forms of attachment to this world. Introductory presentations of Buddhism to Jews or
Christians sometimes compare the relationship of Hinduism to Buddhism to that of Old

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24 However, the personal Karma which is attached to the individual’s eternal cycle of rebirth
(samsara) cannot be removed by Brahma, the eternal supreme being. Here, Buddhist gnostic
teaching offers a way out: apart from the halting of the wheel at an indefinite distance of time, as
described above, the eightfold path to nirwana opens a cumbersome, but meritorious way out of
the wheel’s working. For more details see Michael v. Brück, Wo endet Zeit?, in: Kurt Weis (ed.),
and 225 ff. (Buddhism); W. Fikentscher (1975a), 180 – 190 (Hinduism) and 190 – 206
(Buddhism), with some authorities. See also, e.g., Rodger Doyle, Measuring Modernity, Scientific
American, December 2003, 22, for additional references.
Testament to New Testament. Buddhism is a post-axial-age total religion trying to explain all facets of life. Buddhism also starts from a cyclic understanding of time but includes an eschatology (a teaching of the last things) that puts an attainable end to eternal redundance. Hindu and Buddhist time concepts are both aspective, but the Buddhist development opens a window of perspectivity, if a negative one, in the shape of total dissolution of reality (nirvana) and hereby the end of the incessant causalities of reward and redress.

(4) A Buddhist approach reflects a fourth attitude to time that may be called “gnostic-cyclic-eschatological”: The basis is an indifferent time concept that does not know a flow from past to presence to future and is similar to cyclicity according to the Hindu and Buddhist concepts. But additionally, there is a final stage when all comes to a perpetual state of completion. In Buddhism, this is the dissolution and detachment of everything in nirvana. In Islam, by contrast, the final state of fulfillment of revelation has already arrived and become history. It has come with the Prophet Mohammed, a.s. His revelation of God’s truth and will taught mankind everything it needs. Before Hegira (622 A.D.), there was time that developed in history. But now, after the Prophet’s revelations to His followers, everything important to humans is known and openly accessible. This means an end to history as understood in the former sense. History stops. Nothing can further be developed, because nothing needs to be developed further. However, Islam knows an eschatology consisting of a Last Judgment over the deeds and misdeeds of all humans. The idea of a Last Judgment is foreign to Hinduism and Buddhism. The judgment is given by cyclicity under better or worse circumstances. However, Buddhism and Islam converge in the assumption of “a way out” of the endless cycles.

With regard to Islam, this comparison raises a question. Answering it invites to extend the comparison to modern totalitarian belief systems which also show gnostic and eschatological traits. In Islam, what happens to time and history between the Prophet’s revelation, at the latest at time of His death (12 A.H. = 634 A.D) and the Last Judment. Mohammed, a.s., taught His followers that the period of time between revelation and Last Judgment is “dark”, or “hidden”. In the Koran, usually this time is called “the later”, “the dark”, *“the hidden”*, “the secret”, or “the concealed”.25 Throughout the time after the Prophet’s death, the guiding line for ethical behavior has to be the revelation, including the sharia, and thus something obviously already passed but *at the same time* as the correct presence (see before). This implies that the Islamic concept of time is also aspective: At least after the Hegira, past, presence, and future *as ongoing and passing time* do no longer exist (given that they existed before). After Hegira, historical studies, let alone critique, lack justification. This is the consequence of the fulfilment of time after revelation.

Thus, Islam knows three concepts of time: the time before Mohammed, a.s., - aspective or perspective - , the aspective “hidden” or “concealed” time (or “no-time”) between Mohammed’s death and the Last Judgment, and the time thereafter (paradise or the fire of hell). Regarding time aspectivity, secular as well as atheist totalitarianism points to the same direction. Alluding to the beginning of Communist revolution, Karl Marx is said to have remarked: “There was history up to now. From now on, there is no history any more”. When Joseph Stalin rejected Leo Trotzky’s concept of a “Permanent Revolution”, he *obviously* referred to Marx. Similarly, Adolf Hitler thought that German history had ended after his and his party’s Access to Power in 1933 (Machtergreifung). For the Nazis, 1933 was the beginning

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of the “Empire of Thousand Years” (Tausendjähriges Reich), a period of time without perceivable end as a final solution to all issues, and a lasting achievement of happiness for all People’s Comrades (Volksgenossen). A critical study of time and development from a point of view outside, that is, in a perspective way, *is* no longer possible. The reason has been mentioned before: In contrast to pre-axial-age religious types (such as ancestor worship or animatism), post-axial-age total religions tend to be mutually exclusive as to their world-and-life-explaining dogmatics which implies a certain intolerance unfavorable to critique and in turn *making* aspective time concepts preferable to perspective ones. *Thus, in what for the “West” is presence and “today”, a Muslim lives between the Prophet’s, a.s., last announcements and the Last Judgment, and this means in a period of not-ongoing time. One consequence is the lacking ability of critical relating to ongoing environment and surroundings and the need to “bargain for reality” and stipulate the morally good. A second consequence is a high grade of volatility of human behavior and a corresponding adaptability to rule-guided behavior. As Mathias Rohe says, Islamic law is able to justify many requirements of modernity.*

(5) A fifth model of time understandings is open to the difference between past and presence and often includes a sense for future, but this awareness is not driven to the point of a critical observation of passing time. In this model, it is accepted that by-gone events are (often revered) history, but what precisely in history followed what and why is of no peculiar interest. This model may be called “naïve-antiquarian”. Declarations of “golden eras” and Aristoteles’ handling of historical data are examples.

(6) A sixth attitude towards time is closely related: From a truly revered history, single events or traditions are singled out and set as models for nowadays’ behavior, law, morals, or etiquette. Humanists developed a keen sense for history, praised historical standards, and studied antiquity. To explain modern developments, they resorted to history, and their battle call was “ad fontes” (to the sources). But what lay between their “sources” and their presence, was not what they were interested in. They jumped across history, often more than 1000 years. Old things of a certain preconceived periods of time became standard-setting. It was history what they looked at, but the look was punctual, perspective in terms distance of time but aspective in terms of development, and in this sense uncritical. The humanists laid open the need for occupation with history, but not for historical growth. A characterization would be “perspective antiquarianism”. In law, perspective antiquarianism became fashionable in the German Historical School of Law (Historische Rechtsschule) at the turn of the 18th to the 19th century. Carl Friedrich von Savigny (1779 – 1861), his followers and many of their students extracted valid German law for use in their own time mainly from classical and post-classical Roman law, beginning in the period of the Roman Republic, the first century B. C. E., and ending with Justinians Corpus Juris, in the first half of the sixth century A.D. Later developments from this Roman law, for example in the times of the humanists and the great natural law teachers of the 17th and 18th centuries were of little interest to these legal “historians”. This resembles the claim “ad fontes” of the humanists, but the interest remained limited to those “fontes” without paying attention to what happened to these sources later. Only one certain distant period of legal history was the envisaged guideline, not history of law in its development. This amounts to an “aspective use of historical data and developments for the explanation of the present”. In essence, Savigny’s “Historical School” was not historical.26

26 W. Fikentscher (Methoden) 1975a, 142, 413 ff.; 1977a, 3 – 107; After having critically reviewed the Methods book, Hermann Klenner later published one of its results, that Savigny’s historical thinking and the Historical School proceeded unhistorically in the above sense, as his own result, H. Klenner, Savigny’s Research Program of the Historical School of Law and Its Intellectual Impact in the 19th Century Berlin, 37 AJCL 67– 80 (1989), with a list of his earlier
Perspective understanding of time has received, in time theory, the title “time as a straight line”. It is the concept of time which is being observed from a point of view outside of the flow of time, so that past, presence, and future can empirically be distinguished, and every moment on that “arrow of time” (Zeitpfeil) may be identified and discussed. In principle, all moments on that “time as a straight line” are of equal importance for the concept of time. Of course, the importance and meaning of these moments vary according to the weight given to each of them by the time researcher. It is this concept of time which is used by the student of history in order to discover causes, reasons, developments, changes, influences on, etc., within the time as it goes by. Among the pre-Socratic thinkers, Herodotus and Heraklitos may be quoted as protagonists of the course of time without beginning and end. In law, it was Rudolph von Ihering (1818 – 1892) who – in opposition to C.F. v. Savigny and the Historical School – proposed to distinguish between a historical view of legal development from an outside point of view in a perspective manner on the one hand, and the dogmatics of the valid and applicable law on the other. Accordingly, in 1857 Rudolph v. Ihering founded a legal journal under the title Jahrbücher für die Dogmatik des römischen und deutschen Privatrechts, explaining the distinction in the editorial and elsewhere.

Once time is judged from a vantage point outside of time’s flow, enabling the observer to distinguish and assess past, presence, and future and within those three categories every moment of time, modes of thought change, as a result, both generally, and of course in law, too. For the development of human self-understanding, and world-understanding, this judgment is of groundbreaking impact, because taking this outside position singles out the observer as an individual viewer of situations. The consequences are manifold:

Since every observer is able to give a different judgment, depending on the vantage point, the observing person takes on the role of an individual. His or her view, being a perspective one and thus open to comparison and critique, amounts to what Parmenides describes as a judgment, or (in Greek and modern logic) a proposition. On the basis of such a proposition, it is possible to say: “This is true” (or untrue), “this is good, just, and adequate” (or not), “this is beautiful” (or ugly). These are the three judgments a human can make (Plato, Parmenides Dialog). The possibility to render judgments (correct ones and incorrect ones) creates the Platonic concept of the idea which can be approached by a judgment, and the truth, morality, and beauty of which can be stated or doubted. The chance of approaching an idea by several observers creates dialog. The uncertainty about the degree of approximation to the idea and the ensuing dialog among the observing makers of judgments implies their equal rank. Thus, perspectivity of time implies democratic equality, isegoria (the right to speak up in political debate without respect to wealth, nobility, and societal standing), and equal participatory position in the Greek and Frankish sense of membership (originally, the Franks had no nobility).

This equality calls for a corresponding societal and legal order (see Chapter 9 below). In turn, the new legal order must build on superaddition (Übersumme), that is, the assumption that the whole can be more than the sum of the parts, and thus needs to have and employ organs. By

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28 Ihering shared editorship first with Gerber, later also with Unger. Details: W. Fikentscher 1976, 134 – 137 ff.
the same token, the superadditive unit creates mutual executable rights and duties, including responsibilities and accountabilities, both among its members and between the members and the organs.

Historically, these are the Greek and Frankish answers to the axial age (see in detail Chapter 9). Of course, cultural concepts of time are closely related to many other traits and complexes of any culture. Some of them have been listed above. A given concept of time in the sense of the chart above works like a steering wheel for many aspects of a culture. In a cultural concept of time, attitudes and proprieties of a culture are reflected and concentrated like signals are in a parabolic mirror. For example, the orientation towards risk, together with corresponding ethical components, is a derivative of the concept of time of a given culture. Every culture, and every mode of thought behind a group of cultures, has its specific attitude towards risk. The spectrum ranges from extremely little risk-awareness, through various positions on risk-shifting or -bearing, to another extreme: no risk-shifting at all, as in strictly monotheistic Islam. Closely related are attitudes towards the morals concerning risk, such as animistic relational ethics, “Eastern” ethics of detachment, Tragic/Jewish/Christian “responsibility ethics” (Verantwortungsethik), Islamic determinist “Insch-Allah” (“God willing”) ethics, Marxist revolutionary and in case of failure self-indictment ethics, etc. In the law of contracts, contracting reflects cultural differences in risk-bearing and the weight of reciprocity.29

The obvious interrelation of time concept, individuality, Parmenidean judgment, Platonic dialog, belief in the objectivity of ideas, epistemological approach, equality of opinions, a new societal legal order and superadditive organization could have been hinged on a starting point other than time, for example on individuality, or societal organization, still the results would have the same as above. The axial age is a complex of interlinking culture changes. Time as the starting point for this interrelation is an especially effective tool of analysis because it is easy to identify. But time is only one trait of several that define the axial age.

History in the perspective sense proves to be particularly effective for explaining culture change. The issue of modernization is nothing but a debate on effects of the axial age and the interrelation of the traits mentioned above. Cultures that do not employ Western perspectivity of time, such as Buddhism or Islam, are tempted to adapt to perspectivity when it comes to “modern” life, and thus to consent to the concept of time as a straight line, while conserving their traditional patterns of concepts and inherited values. This leads to much debated modernization issues which cannot be discussed here.30 In the case of Islam, a literal split into (at least) two factions can be observed: There is the Islam as described above that divides time in pre-revelation aspective or aspective time, the “concealed” and therefore aspective time between revelation and Last Judgment, and the time of eternal redemption or punishment. Since mankind lives, (etically said) “at present”, in the “concealed” period, historical research in Islamic teachings is emically not feasible,31 and the undistorted prophetic revelation,
including classical sharia, is valid law and religion: there is no time that passes. On the other hand, there is the Islamis faction, that opens itself to the “Western”, perspective, concept of time as a line that runs from past to presence to future, and politics call this faction as “moderate” or “non-extremist”. For followers of the “moderate” faction, it is often a problem to be confronted, together with time as a straight line, with other facets of perspectivity such as Parmenidean judgment (in disrespect of strictly monotheistic “Insch-Allah”), Platonic dialog, empirical search for truth, morals, and esthetics, epistemological equality, and consequential tolerance. A somewhat deeper issue, touching upon religious dogma, is whether an at least partial acceptance of time as a straight line requires - under a monotheistic point of departure - a messiah as a messenger of God who Himself accepts the flow of time as His own gift to mankind, and - from a non-messianic point of view - a Tragic Mind (see below IV.5.). The Islamic God withdraws from time (precisely: what His believers sense as time passing by); the Prophetic-Jewish Moreover, whether and which post-axial-age traits are acceptable to Muslims depends on the outcome of the further development of this factionalism. To identify the two factions, the terms “time-closed Islam” and “time-accessible Islam” may be used, considering that a sense of “time” (as well as a sense of history) is a trait of every culture, and of course of every faction of Islam as well. The split between time-closed and time-accessible Islam divides many Islamic countries and groups in the Muslim diaspora. A few important cultural traits other than time are briefly discussed below..

IV. Person. Individuality. Identity. Culture personality. Vita research

1. Person

In anthropology, and thus in anthropology of law, a person is not the same as an individual. A person is any carrier of human characteristics, regardless of the degree of individualization or collectivization of the society to which that person belongs. Animals are not persons since they do not own human characteristics. A person has one or more souls. Pre-axial-age cultures often assign to a person two souls, one concerning the physical existence (a “vegetative soul”), the other referring to the person’s moral (a “normative soul”). The treatment of corpses depends on the culturally variable belief in souls.

An individual is a person to whom that culture to which that persons belongs attributes a particular role of being a family-, lineage-, and clan-independent decision-maker, having responsibilities as a single person, belonging to a guilt culture (in contrast to a shame culture, see Chapter 11), and behave conforming to those independencies. That particular role makes the person a performer of an ascribed role, and instrumental to certain ends. In an in-depth


33 Animals may in some respects act similar to persons, for example hunt, form groups, assist each other, etc., and some ethologists hold that animals may have culture (see Chapter 7).

34 W. Fikentscher, The Soul as Norm: Reflections on an Ojibway Burial Site, in: Werner Krawietz et al. (eds), Sprache, Symbole und Symbolverwendungen in Ethnologie, Kulturanthropologie und Recht, Festschrift f+Rüdiger Schott, Berlin 1993: Duncker & Humblot, 457 – 466. Some cultures know three souls, for example, among some Inuit peoples, who besides vegetative and normative souls believe in the inheritable soul that causes the similarity of blood relatives in the vertical line.
analysis of a biography of a Cherokee Indian – R.H. –, Robert D. Cooter convincingly distinguishes personality and individuality in the following way: “The analysis…..proceeds from the assumption that self-conception unifies personality……..Kinship involves some general prescriptions and a sensibility to particular persons. Within the kin group, relationships were personal; he ((R.H.)) enjoyed autonomy, and he was treated as an end. He had little experience with instrumental relations in which his worth was measured by his performance. The larger world was understood by extension of kin relations – nature as an older relative who is beloved but a bit spooky and the general society as a large system of kin relations in which there is distinction without rank……..((On the other hand)) Instrumental interactions teach children to take an objective attitude towards themselves and others, and to measure value by performance. Performance gets built into identity as the child prepares for the labor market. The end-product is a new kind of person, an individual whose identity depends substantially upon performance relative to internalized values. For this new person, the larger world of nature and society is understood……as……a hierarchy of interdependent roles……..Does the contrast between relatives and individuals exemplify history?…….A life among kin exhibits the core of our humanity in its original form, whereas a life of instrumental roles is an extension of humanity in a novel direction…..”

Thus the four main features: the person as a means to certain ends (for example to be a carrier of individual rights), instrumentality, subject-object dichotomy, and the the ascription of a role of individuality are what Robert D. Cooter calls the novel direction. It is the new societal legal order, mentioned above as a consequence of the (6th) perspective understanding of time.

Another text which – rather bluntly - describes individuation is Chapter 18 of the book of Ezechiel. Here, around 610 B.C.E., the Jews discovered individuality and separated it from kin. The Greek polis discovered it, too, during about the same period: Thucididis in his Historiae “reports” Perikles’ orations to his Athenian fellow citizens, where he openly rejects the influences of families and family metaphors (such as clans). Since then Judaism and, in its footsteps, Christianity are individualist religions, addressing the single believer. Originally, Islam appears to have addressed the individual but later, as a religious system, opted for kin, kin metaphor (e.g., “brotherhood”) and collectivity.

Individuation of personhood has rarely been described in better words. Robert D. Cooter, Individuals and Relatives, in: S. Pavlik (ed.), A Good Cherokee, A Good Anthropologist: Papers in Honor of Robert K. Thomas, Los Angeles 1998: American Indian Studies Center, UCLA, 57 – 92 (the quotes above are on pp. 91 f.). Bohannan (1992), 296, applies “person” in a different sense, along with an almost reverse usage of what is said in the text above. In discussing what he calls the “emergent culture” of today, Bohannan starts from the concept of individualism as it is accepted in Western, e.g., in US culture. An expression of this individualism are civil rights. However, the development goes into the direction of a much broader concept, that of the “person” which is endowed with multi-valued personhood including human rights. Bohannan here follows Theodore Roszak, Person/Planet: The Creative Disintegration of Industrial Society, New York 1978: Anchor & Doubleday. The civilization-critical undertone of Roszak and Bohannan is not shared by Cooter’s role theory.

Very clear: Surah 19.80 (Paret’s numbering); in Henning’s numbering it is 19.83.

Khaled Abou El El Fadl, Islam and the Challenge of Democracy, a Boston Review Book, ed. By Joshua Cohe & Deborah Chasman. Princeton & Oxford 2004: Princeton Univ. Press, 28 f. (see also pp. 96, 113, 126 f.), who sees the change from individuality to collectivity in Islam to have happened since the middle of the 19th century, without giving further reasons for this change other than assuming that the change was in the wake of French conquest of Egypt and similar events and was meant to express an anti-European attitude. Today, both time-closed and time-accessible Islam (El Fadl does not distinguish) collectivize the ummah, as is evident, for example,
2. Identity

Identity is a primordial subject of cultural anthropology and belongs to the most frequently researched topics of the field. Identity research asks: “Who is somebody, in the first place”, or “who is somebody anyhow”, or “who belongs to that group”, or “what defines this group as being different from another”? Identity research forms part of the theory of culture and cultures because this theory is bound to ask: “Whose culture is it that we are talking about?”

Identity in cultural anthropology has two faces: A person can say: “I am a Pashtuni” when expressing that she or he derives descent from the Pashtuni nation in eastern Afghanistan. In this sense, identity marks the quality of a person. A related, but different second meaning is assumed by using the term identity, when a group of persons wants to state that it forms a recognizable unit such as a clan, tribe, or nation. “We all are Coquille Indians and want to be a recognized tribe of the US again”, is such a claim. In this sense, identity defines a part of mankind. Of course, both meanings interconnect, since “belonging to depends on belonging together” and vice versa. The part of mankind may be a smaller or greater group. Collective societies are not used to express their identity in individualistic terms such as tribal heros or spirits. Instead, the collective identity is stated by relating it to other collective entities. A Prairie Indian saying goes: “You are known by the greatness of your enemies”.

In the discussion of legal pluralism in Chapter 1, two meanings had to be distinguished: legal pluralism in the sense of conflict of laws (and the solutions offered by the legal doctrine of conflict of laws), and legal pluralism in the sense of the theory of sources of law. The latter meaning of legal pluralism is is one of the consequences of the anthropological identity issue. Without anthropological identification of human groups there would be no modes of thought, cultures, societies, nations, tribes, clans, lineages, families, or households. All human beings would form an undistinguishable melting pot, an amorphous mass of persons, and any comparison would be impossible. No cultural trait would be identifiable, and no cultural specificity protectable. There would be no homestead for anyone, no tradition or roots, nor

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40 In this sense identity is used in the following text at several spots: in the introduction to Part Two; with reference to nationals of countries in the course of joining the European Union whenever doubt arises whether such a national is “Pole” (Slowene, Chech, Slovak, Estonian, etc) or “European” or both, see text near notes 187 and 314 in Part Two.

41 In the sense of “clan”, “tribal” or “national identity”, identity is used, e.g., in Part Two, below, in Chapters 8 and 9, for example in connection with the theory of cooperative unit, as well as in Chapter 13 VI (conflict of laws). An allegedly extinct Massachusetts tribe, the Mashda, moved for recognition by the BIA. In court, the claim was rejected on the ground that the Mashda “have no culture”. This was to some degree correct because for about three decades the tribe had been dissolved so that little more than archeological sites and traditional stories of the Mashda had survived. Of course, this was also a consequence of the status of near-extinction, so that the reasoning became circular. In effect, under US administrative practice, such lapse of time thus may lead to ending an identity. The US Oil Pollution Act (33 USC) knows the term “damage to culture”.

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from the role revenge against fellow kin, nationals, same-racials, and religious believers plays in debates of Islamic terrorism.
linguistic idiom or characteristic language. Empirical observation, however, teaches that
humans exist in categories. Here the three main problems concerning anthropological identity
start. (1) How should categorizations of humanity be made (by language, history, skin color,
geography, a common law, purpose, etc.; (2) how can discriminations be avoided, and what
amounts to a distinction that discriminates instead of offering “useful” differentiations; (3)
what to do with the obviously countless overlaps, mixes, “double memberships” and “criss-
crossing” (L. Nader) of the various categories? Asking these questions is to concentrate on the
fundamental issue of cultural anthropology: identity.

In the present context, a single premise needs to be given: The outcome, “the product”, of any
anthropological identity categorization, is never pure, but always shaded, twisted, and mixed.
There is no “blond-blue-eyed Aryan”, no “true Han Chinese”, no “typical Bavarian”, and no
car driver who exclusively uses the gas stations along Highway 66. Reality works with
overlaps, imprecisions, interfaces, and exceptions. Therefore, in anthropology, Max Weber’s
(gnostic) concept of “ideal type” is useless. But this does not mean that cultural
categorizations are useless. Even “airport society”, “suburbia” and “workforce” are
anthropological categories. Instead of the ideal type, a concept of a “central type” is
recommendable (for more details see W. Fikentscher 1995/2004, 15 f.).

*Identity and collective trauma are anthropologically interrelated topics (communication Kai
Fikentscher 2008). Collectively felt and internalized traumata often create, or at least
contribute to, cultural identity. The subject matter seems underresearched, at least what a
general survey of incidents and theoretical evaluation are concerned. Collective trauma may
express itself in physical catastrophes such as famine, earthquake, lost war, being hunted for
taking slave, forced baptism, violent expulsion from home country, etc. Collective trauma may
reveal itself as self-doubt (Selbstzweifel), self-uncertainty (Selbtunsicherheit) or self-
reassurance. (Selbstvergewisserung). It may be accompanied by psychic individual trauma,
but need not be so. The same holds true for the inverse relationship. Examples are the Jewish
diaspora, the Xhosa famine, the Herero massacre, the “Black Atlantic” (Paul Gilroy), the
persecution of Indios, Indians and First Nations by Entrada, colonialism and homesteading,
the negation of a Kurdish identity after WW I, the Ukrainian famine, the Shoa, the fate of the
Baltic nations of Estonia, Latvia and Lithuania, of different peoples of former Yugoslavia, and
many similar denials of identity. The context of cultural identity and culture personality
including the aspect of national trauma would constitute a rewarding anthropological study.*

3. Culture personality

Cultural anthropology is divided into five fields, archeological,
sociocultural, linguistic, modes of thought, and applied anthropology. Sociocultural
anthropology can be subdivided into three subfields, the anthropological theory of culture, a
presentation of the several cultures, and culture personality. Some writers rank culture
personality even on the next higher level, along with archeological, sociocultural, linguistic,
modes of thought, and applied anthropology (e.g., L. Pospíšil 2004, 32 f.). Culture personality
as a subfield or field of anthropology is interested in significant proprieties of participants of a
given culture. Pejoratively, culture personality could also be dubbed the social science of
alleged cultural stereotypes.

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42 See Chapter 1 B. II above (in the system of empirical anthropology). See also W. Fikentscher
Culture personality is replete with “terrible simplifications”: “All Cretans lie”. Or: “Heaven is when all the mechanics are German, all the chefs French, all the police British, all the lovers Italian, and the whole is organized by the Swiss; hell is when police are German, the chefs British, the mechanics French, the lovers Swiss, and the whole is organized by the Italians”. Or: “Germans are always noisy, Dutch are noisy when abroad, French are noisy when Communist and abroad, and the English get noisy when drunk. The people that most complain about suffering from noise are the Germans, the Dutch never suffer nor complain, the French suffer and complain when not Communist, and the English suffer taciturn and get drunk until they no longer hear any noise whether their own or the others’. Therefore, our hotels invest a lot in P.A. animation and advertise mostly in Great Britain” (communication of a Mallorquin tourist expert; P.A. = public address = outdoor loudspeakers).

In many countries, certain parts or groups of inhabitants fall victim to stereotype teasing, such as the people from Berne in Switzerland for their alleged slowness, or the East Frisians in Germany for their “obvious” denseness. In this context it is noteworthy that in many nations there is a north-south tension between “arrogant” northerners and “dull” southerners. But culture personality can be serious science. Notorious Japanese interest for gardening with plants, stones and gravel, Spanish proverbial pride, German inclination for as-uniform-as-possible systems of law and order, French love for elegant language, Kurdish insistence on honor – all these characteristics represent traditions that count, for example in the frame work of “ordre public” and public policy in private international law and for the recognition of foreign judgments. Justice Oliver W. Holmes, Jr., once remarked that in a country such as Bavaria, where people begin a revolution because of a beer price hike, the price of beer is a human right.

Of course, there are always exceptions to the rule and the stereotype. But an anthropologist often wants to explain certain behavior and look for certain standards.. To this end, culture personality, applied with due caution and reserve, may be a useful tool. Some cultures of renown have typical attitudes towards all other cultures. The Han Chinese are said to regard their home country, China, as the “land of the middle”. According to this view, China is the central place of humankind, and all non-Chinese peoples a kind of prevented Chinese. Trade agreements with China incorporate in the first line tributes brought by others to China. To those who bring such contributions to the center, Chinese leaders may grant counter-gifts. Such traditional attitudes stick to cultures in a covert manner, and modern international rationale is hardly fit to change them. Similarly, “America first” is a wide-spread feeling in the US, born maybe from pioneers’ pride, two victorious world wars, and economic prosperity. After decades of refusals of US governments to cooperate in an international antitrust law agreement, a German-Japanese semi-private initiative decided to move on without the US. Within a year, the US took the initiative for the establishment of the International Competition Network (ICN) and declared to want to be the “leader” in the field. Russia’s Christian-Orthodox principle of verticality in the orderings under church and state sees Moscow in the Byzantine tradition of theocracy. When asked in 1991 whether the Breshnjew doctrine, according to which Russia has the right to one-sidedly politically or militarily intervene in other countries whenever this might work in favor of Russian interests, was discarded together

43 See, e.g., the study by Erhard Blankenburg, Patterns of Legal Culture: The Netherlands Compared to Neighboring Germany, 46 AJCL 1 – 42 (1998).

with the end of the Soviet-led “Socialist Camp”, or whether this Russian principle of international relations was still in force, a Russian expert of international law and diplomat answered that the Breshnew doctrine is still valid. The Chinese, US-American, and Russian attitudes can be called “unilateralisms”. Such unilateralisms place the own political culture on top of the relations to other cultures. They can also, as culture personalities, be found in smaller nations such as Serbia which struggles to establish contacts with other nations.

There are other “lateralisms”. A widely used pattern is bilateralism: International relations are regarded in a bilateral framework solely between two partners. Japan tends to see international relations bilateral. Joining ASEAN would mean to give up bilateralism in favor of multilateralism, but this seems to be hard on Japanese self-esteem, in spite of all advantages ASEAN would offer. Poland acceded to the EU but never really felt as a member of the club. The seemingly incessant Polish veto discussions and other disputes are always being carried on between Poland and the EU, bilaterally, not between Poland as a member and other EU members.

The general Western Continental approach to international matters is the one of multilateralism along with the covertly accepted wisdom that the whole is more than the some of the parts. There are also more or less pure “non-lateralisms”. Ancient Egypt could not imagine that there were other viable nations. The realization that the Hethites were somebody who could not be conquered but had to be dealt with an agreement as outsiders of equal standing led to a severe psychological crisis of the Pharaonic empire from which it never really recovered. A religiously founded non-lateralism can be found in most members of the Arabe League. Its proverbial inefficiency is rooted in the absence of the Grotianic fides, caused by strict monotheism: the only lateralism - sit venia verbo - of a Muslim is the one to God. Thus, what here is called the “lateralisms” are a fascinating up-to-date area of culture personality. At the bottom lies much of what has been discussed in connection with the identity concept. Needless to say that culture personality statements about lateralism are just as “superficial” as all others and can only represent mainstream observations. There will be many Han who do not share the “country of the center” conviction, and many Serbs with multilateral international ambitions.

In anthropology, many authors have worked on culture personality. It is said that Leslie Alvin White’s (1900–1975) studies started the field of culture personality. Other writers in the field are Ruth Benedict, Margaret Mead, Julian H. Steward, A. I Hallowell, Ralph Linton, John Honigman, G. Bateson, A.F.C. Wallace, Clyde Kluckhohn, Edward T. Hall, Mildred R. Hall,
4. Vita research (text omitted and not included here because of lesser interest).

Anthropological vita research is a relatively new area of study. Here a historic person is placed at the center of an anthropological study, and the biographic presentation of her or his life is used to introduce the reader to the societal surroundings and cultural conditions of that time and land. The interest in the life and fate of the protagonist is combined with historic and societal information, in order to report on an certain culture at a given period and a given place.

V. Circles of cultures, based on the “two revolutions” (neolithic, urban) and on the modes of thought (pre-axial age incl. Ancient Egyptian; Southeast Asian; Western; Islamic; secular-totalitarian)

To understand the plurality of cultures as they present themselves today to the researcher of cultures, realizing the impact of the axial age is indispensible. In turn, to understand the axial age, it is convenient to apply V. Gordon Childe’s two “revolutions” and draw the conclusions from the second, the “urban revolution”, for the “axial age”.

1. The “two revolutions”

Childe’s “two revolutions” and their relationship to the axial age may be summarily described as follows:

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50 Axial age in the sense explained before, see I. 3. and II. 3., above; and Chapter 3 III.; the following text under 1. is an abbreviated adaptation from W. Fikentscher (1995/2004 – in the 2d ed. - Pref. Note, part V).

51 On Childe, see the introductory remarks in Chapter 3 III, above. On the meaning of axial age and materials, see, for an introduction in this Chapter, the remarks in I. 3, and II 3.above. Here, both ideas – Childe’s revolutions and the axial age – will be combined.
a. Before the neolithic revolution, all humans live as foragers. Hunters, gatherers, and fishers (= foragers) collect what nature produces. Therefore, foragers do not cultivate. While the North Siberians learned to herd the reindeer, the Eskimo never tried to reproduce the caribou. Surviving by hunting requires living in small groups (with a number of persons usually not more than fifty, often less). When a group becomes too numerous so that hunting, gathering and fishing turn unproductive, the group splits. The split is often along the line of relative concepts of “modern” versus “traditional”. Since the reasons for the split grow over time, the critical point is reached when the modernists begin to outnumber the traditionalists. When tensions grow unbearable, in the majority of cases the traditionalists leave, and religious reasons will be quoted for the move. It is more plausible that the world has been settled by traditionalists, than by adventurers (although adventurers may have caused splits, too). Besides, adventurers pushed on without splits. The speed by which mankind expanded has been estimated at five to ten miles per generation on an average (probably the generations were shorter than today). Society is guided by consensus and big man leadership. Consensus is necessary to carry on daily decision-making. Specialists for tracking, kindling fire, making and using tools and weaponry, forecasting the weather, healing, divining and other spiritual services generate leadership in their various proficiencies, and in addition there is frequently an all-round personality as the “big man” in charge. The position big man, if existent, is not inheritable and usually not otherwise transferable. The big man is appointed and dismissed by consent. He is a leader, but not more than the primus inter pares within a “close-knit” consensus society. Most big man societies are patrilineal. In matrilineal societies, are there “big women”? The pattern of the foraging society changes during the neolithic revolution (about 12,000 to 10,000 year ago). People begin to cultivate and thus engage in reproduction for consume, both of plants and animals. Herders, horticulturalists, and farmers reproduce and thus are able to save and store. The ability to reproduce and thus be more independent from hunger is called the neolithic revolution. iUsable land and access to it by trails become assets. With more durable property, there is wealth (and poverty) and influence (and lack of it). Wealth can be accumulated by processes within the family such as storing, marriage and inheritance.ii Lineage heads become leaders, and when lineages expand, artificial lineages, called clans (often encompassing several lineages), gain importance, and with them clan leaders.iii Since wealth may last beyond a single generation, wealthy families arise, and with them aristocracy – matri-, patri-, ambi-, or bi-lineal. Thus, cultivating societies can generally be characterized by lineage or clan leadership. Leadership may still be vested in big men, especially in early horticulturalist societies (e.g., Kapauku). But for demographic and territorial reasons, lineage and clan leadership will for the most part grow into chieftaincy and inheritable kingdoms.

b. The next “revolution” in V.G. Childe’s sense, the urban revolution, is characterized by a beginning of division of labor: Not everyone does everything anymore for her or his life support. There are now blacksmiths, tanners, potters, and traders. This enables and induces a separation of cities from the surrounding country side. Such centers develop into marketplaces which require a market police. The military, and its financing by taxes, add more power to the leading clan or clans. City kings and territorial kingships become possible. But separation of labor causes specialization and divergent individual and groups interests. Separated labor and abilities tend to reflect themselves in a form of societal leadership that builds upon cooperation. All are needed, and thus all should contribute. The urban revolution calls for a unit to which many should offer their views. Here is where the axial age poses problems: Some post-axial-age cultures tackle the unit-problem, others not.

c. The axial age is not an “revolution” of this kind, but a just as important step in cultural
evolution. It is distinguished from the two revolutions by its independence from time. But what is precisely is the “axial age”? Axial age means that spirits and gods become confronted with (and possibly get subjected to) a “new” worldwide good-bad ethics. This implies that “axial age” means two different phenomena: a certain period in world history, and a time-independent culture change of any animistic society. Historians roughly fix “the” axial age to the period between 650 and 400 B.C.E. It was the time of many religious founders and foundations: Zoroaster (about 630 – 560 B.C.E.), the Upanishads, Lao-tse, Confucius, Buddha, the synagogue during the Jewish exile, the Greek polis, etc. From this it follows that the modes of thought that are to be found in this world and explain and categorize the cultures have, next through the “two revolutions”, strongly been shaped by the axial age in the historical sense. It is self-evident that the axial age by its essence (a non-tribal, trans-national and in this sense secular good-bad ethics) influences human society and its ideas of leadership. The axial age as described by philosophers and historians concerns the then known world, from Gibraltar to Japan. However, it is possible that another culture, outside of this “old world,” experiences its own axial age any time in history or presence. This is meant by “independence from time”.

The influence of the axial age on the societal patterns just described is of special interest here. What do post-axial age societies, their leadership, production and distribution, settlement and other complexes typically look like? In the first edition of W. Fikentscher (1995/2004, 170 ff.) the axial age was introduced in connection with the elements of the modes of thought, whereas V.G. Childe’s two “revolutions” are reported (and utilized for structuring the modes of thought) on p. 238ff. in the context of hunters’ and gatherers’ societies. This sequence is not convincing. Childe’s two revolutions should be mentioned first. The axial age should follow since it is particularly important for today’s modes of thought. There may even be talk of three consecutive “revolutions”, the neolithic, the urban, and the axial age. Suggestions were made to add to V.G. Childe’s neolithic and urban revolutions one, two, or three more revolutions, such as rationalism in the 16th century, the industrial age of the late 18th and early 19th century, or the informational revolution during the second half of the 20th century. These suggestions will not be taken up here because their respective reach is significantly more limited than that of the neolithic, the urban, and the axial age ethical revolutions. Indeed, it is the combination of V. Gordon’s two revolutions with Jaspers’ observation of the axial age which is of utmost explanatory force for growth and existence of historical and present-day cultures and thus for a good deal of human history and development. The anthropological consequences for the world in which we live are easy to see: Europe’s “special way”, colonization and decolonization, imperialism, uni-, bi- and multilateralism, the theory of sovereignty in the law of nations, the self-understanding of Han China as land at the center of the world, Africa’s plight, Islam’s disunity – all these shaping factors of the world as we presently find it have been caused by what Childe and Jaspers describe as the hubs of human development, if one combines them.

If there is any development, comparable in its impact on human society to the revolutions Childe has identified, it may very well be globalization, because through its all-pervading turn from knowing an “outside” to the realization that there is only an “inside” left, globalization affects all aspects of human life. In a way, the historical axial age was a similar globalization, and a contemporaneous culture change towards “new ethics” contributes to modern globalization because, as mentioned, the core of the axial age cultural revolution is the replacement of behavioral guidance by spirits and gods through a worldwide abstract
ethical standard of good and bad.

We now know that this gives the axial age the meaning that humans begin to mentally reflect and doubt guiding rules for their behavior independently from the supranatural, so that pre-axial age “religious types” are defining the belief systems of single tribes or nations, while post-axial age “total religions” address the globe. Therefore, the plurality of cultures as it exists today may be seen as a consequence of the axial age. Pre-axial-age cultures encompass foragers, reproductionists, and those post-urban-revolution cultures that escape or avoid the changes called for by the entry in the axial age: The tasks posed by the axial age as described in 1.c. above (recognition of a world-wide good-bad ethics, individuation of the person as told in Ezechiel 18, solving the issue of the cooperation of the contributors of separated labor, etc.) are either not recognized, or seen but not taken up, or seen and taken up but suppressed by traditional leadership. The urban revolution does not necessarily lead to entry in the axial age, and hence, there are post-urban-revolution pre-axial-age cultures. For societies, the dependency of leadership on belief systems is of considerable impact. Here also lie the reasons lie for the differences of religions, and for the different societal, economic, and leadership models (Bernard Lewis’ and Samuel Huntington’s “clashes”) in the present world. The axial age the cr total (= world and life explaining) religions and the typical behavioral patterns of their followers. This makes possible to draft a concatenated list of human societies and their appropriate forms of law and economy, societal leadership and power control, taking modes of thought into consideration as they have been shaped by the axial age. But from now on, since post-urban-revolution cultures can be pre- or post-axial-age ones, the distinction between pre- and post-axial-age cultures is more important.53

d. The preceding paragrapghs tried to combine Childe’s “revolutions” and Jaspers’ axial age. The result was the statement that the culture-shaping modes of thought which we find in our present world derive from that combination. This gives rise to the question which modes of thought are presently existing. An overview of the existing modes of thought, and how additional modes of thought can be artificially be composed from their elements (“culture chemistry”) is provided in the book “Modes of Thought”.54 In anthropology, modes of thought

53 On the „clashes of civilizations“ Bernard Lewis, Die Welt der Ungläubigen. Frankfurt/Main 1984: Propyläen; Samuel P. Huntington, The Clash of Civilizations and the Remaking of World Order. New York 1996: Simon & Schuster; Jörg Calliess (ed.), Der Konflikt der Kulturen und der Friede in der Welt, oder, Wie können wir in eine pluralistischen Welt zusammenleben?, Loccumer Protokolle 65/94, Rehberg-Loccum 1995; Evangische Akademie Loccum. - On the relationship between Childe’ concepts and the modes of thought: In the first edition of the “Modes of Thought” (1995), the axial age was introduced in connection with the elements of the modes of thought on p. 170ff., while V.G. Childe’s two “revolutions” were reported and used there for structuring the modes of thought on p. 238ff., in the context of hunters’ and gatherers’ modes of thought. This sequence seems to me no longer convincing. Childe’s two revolutions should be mentioned first. The axial age should follow those “revolutions” since it is of particular importance for the modes of thought. Ar any rate, the combination of Childe’s two revolutions with Jaspers “discovery” of the axial age is a key to understanding history’s and today’s wealth of cultures, including religions.

shape cultures and “bundle” them to groups of cultures. Condensed versions of these groups follow here:

2. Pre-axial-age cultures

Pre-axial age societies, composed of either foragers or reproductionists, are characterized by tribal structures and tribal ethics. Tribes are a type of societal entities. The entities may be smaller than a tribe, such as lineages, or clans, phratries, or moieties. Or they may be larger, such as nations or federations. But the typical standard for good and bad is what is good and bad as seen from the tribal vantage point. In Hopi, indecent and unseemly behavior is called “ka-hopi”. If the own tribal standard is the decisive criterion for good and bad, outsiders are not “real people”. Therefore, tribal people frequently call themselves simply: “people” or “men” (Navajo: dinee = people; Germanic: dietz, deutsch, dutch = people, etc.; Ainu, people on Hokkaido, the northern most of the four great Japanese islands = men, humans; Anywa, a tribe neighboring the Nuer, = men, see Schlee, in Report of the Max-Planck Institute for Social Anthropology 2002/2003, 53 ff.). Thus, whether outsiders are people of the same sort and quality as the inside group is a problem (Bandelier 1890, 1971).

Pre-axial-age cultures have often been called primitive (Lévy-Bruhl, Murdock, Epstein, etc.). This epithet may be justified with regard to technical tools compared with modern high-tech instruments. It is certainly not justified with respect to mentality and thinking abilities. Practically all field researchers receive, from their contacts with foraging peoples, nomads, horticulturalists and early farmers, cogent impressions of ingenuity and refinement whenever interpersonal relations, expertise in material culture, and survival techniques are concerned. Attempts at analyzing the “primitive mind” have been given up. Some anthropologists assert that the so-called “primitive mind” in reality often is overcomplicated and extremely demanding on the persons involved. When Robert K. Thomas, a Cherokee, married into a Pasqua Yaqui family, it was not easy for him to understand the hints that were necessary to understand the working of a Pasqua Yaqui family (communication Robert D. Cooter, R.K. Thomas’ friend). Compared with the mental life in “close-knit societies”, Western habits often seem easy to follow.

Consensus is necessary to carry on daily decision-making, but finding that consensus is often a matter of high-grade diplomacy. In difficult situations, specialists may become leaders in their various proficiencies. In addition, in foraging and some reproductionist societies, there may be a “big man” as leading figure. Big men are no chiefs. The big man is appointed and dismissed by tribal consent in recognition of his personality and abilities within his “close-knit” consensus society. Herders, horticulturalists, and farmers reproduce and thus are able to save and to store harvested goods (provided they are storable). The importance of property increases considerably. The cultural step of being able to reproduce and thus be more independent from hunger is called, as has been mentioned before, the Neolithic revolution.

55 see Chapter 3 IV 2.

The role of the chief grows from the greater demands on internal peace-keeping. More details of the types of leadership in pre-axial-age societies will be discussed in Chapter 9 in the context of maintaining societal order.

Pre-axial age societies rely on two elements for the identification of recommendable behavior: on consensus, and on big man or chieftain leadership. Foraging societies prefer big men, for the reasons just mentioned. That big men may also be found in reproducing societies, is due to an effect of (what may be called) societal inertia: The appropriate type of leadership for a reproducing society would be the chief, for the reasons just mentioned. But tradition may leave the institution of the big men unchanged. However, as far as reproducing societies possess storable property, there may be present – in the absence of a chief – extreme egoism and fragmented protection of property. This is an explanation for the “Kapauku capitalism” that has intrigued many economic anthropologists since its description by Pospíšil (1963). The “urban revolution” with its division of labor between professions would call for a type of leadership that profits from the “oversum principle” that the whole is more than the sum of the parts; because ideally the professions have to cooperate. In mathematics, the oversum principle is called super-additivity or superaddition. But not all urban societies decide to make use of superadditive efficiency. Urban societies frequently stay chiefdoms or kingdoms. Their citizens rather remain loyal to their chiefs and kings. Again, there is this “overhang effect” due to societal inertia. Comparable to the continuation of the big-men system in reproducing societies, societal inertia prevails, if not simple fear of power. The architecture of society and its leadership of the former type of the society overhangs into the later type: the big man into reproducing societies, and the chief into the urban societies.

Here, at the transition of pre-axial-age tribalism to post-axial-age good-and-bad ethics, the differences between the thought-modal outcomes of the axial age become of decisive importance: There are two fundamentally opposite solutions which the axial age presented to mankind.

One is the recommendation to get detached from this (ugly) world. The other exhorts mankind to stay attached to this world (however ugly it may be). For axial-age world-views which propagate detachment from the world, a new interpretation of human society and its respective types of leadership is essentially a non-issue: The world is already doomed and has to be overcome. Therefore, post-axial age modes of thought recommending world denial will be reluctant to replace pre-axial age societal patterns by new models and ideals. For axial-age world-views that idealize detachment from the world, a new interpretation of human society becomes possible. The world has to be overcome anyway. It is therefore to be expected that post-axial age modes of thought which recommend world denial do not replace pre-axial age societal and leadership patterns, but carry them on as part of the burden to be dropped, understandably playing down their human importance. Hinduism and Buddhism in most of their variants give examples for this attitude: Their thinking about society and leadership does not produce new models, but retain pre-axial-age models combined with disinterested or distanced interpretation. Hinduism pronounces the eternal repetition of forms of life, symbolized by the wheel (samsara). Confucianism, a basically sceptical look at human society and leadership as inevitable burdens, adds wise and practical advice how to deal with them. Confucianism is “semi-detached”, but tendencies of a modern tragic mind to fill the gap between semi-detachment and worldly realism has been noted (W. Fikentscher 1995/2004, 160, 307 ff.). As societal corollary, after the axial age, predominantly world-denying or world-sceptical modes of thought retain chieftaincy, royal or imperial leadership, or one-party

57 On the importance of these leadership issues for human societal order see Chapter 9, below.
top cadres (more details in Chapter 9).

By contrast, the basic attitude towards world and life in it is different for world-attached axial-age solutions: The consensus tradition is being confronted with a principled doubt whether the result of consensus is good or bad under an ethical standard that no longer flows from clan, tribal or national expediency, but from comparable world-wide standards. Leadership by a big man, chieftain, or king finds itself exposed to critique.58

3. (Post-axial age) East and South Asian cultures

To summarily characterize the genesis and essence of East and South Asian cultures seems to be an overambitious task. It may have been Adolf Bastian who first said that anthropological purposes East and South Asian societies may be grouped together as a significant conglomerate of similar and comparable cultures for. Others followed, some concentrating on one or more single cultures with only cautious glances at East and South Asia as a whole, while others attempted to draw a larger picture and attempting at elaborating on points of comparison.59 Among the latter, Joseph Needham found stability in Chinese and neighboring societies a reason for their relatively high and parallel developent, whereas Max Weber saw “worldly ascetism” as a source for culturally related achievements in East and South Asia, most of all in its societies and economies.60 In the “Modes of Thought” (1995/2004, at 295 ff.) the typical attitude of East and South Asian cultures is being ascribed to “detachment”, to intended separation from this – in principle - evil world.

Joseph Needham wrote in the fifties and sixties of the 20th century, Max Weber forty years before him. Neither Needham nor Weber could have foreseen the imposition of Marxism on China, Mongolia, Laos, North Korea, Vietnam, and the rapid economic developments in Japan, South Korea, Republic of China on Taiwan, Chinese People’s Republic, India, Malaysia, Singapore, just to name the most salient. Weber, whose one focus was economy might have seen himself in need of re-examining the older theories. These occurrences make it difficult to formulate general statements. The old questions of common characteristics and points of cultural comparison today are amended by at least one more: Do economic developments influence the mental structure of people?

Is economic activity or incipient prosperity being reflected – in Needham’s opinion – in greater stability, or – in Weber’s coordinates – in less worldly ascetism, or – my own derivation – in lesser detachment resp. increasing attachment to this world? Karl Marx would say: Of course, the economy shapes the mind of people. Charles de Gaulle would disagree and repeat his post-World-War-II statement (with a look on post-war occupied Germany) that the characters and mind-sets of a people never alter, in spite of all historical, economical, political, or military changes. In my earlier book (1995/2004), I defended the position that the modes of thought which are behind the cultures and shape them, are rather fixed mental constructs, but that modes of thought can change and thus cultures, too. For example, the axial

58 In the Modes of Thought (1995/2004), this is the point where the description of the post-axial-age modes of thought begins (295 ff.). In the present book, the expressions of the modes of thought, cultures, are being focussed. Again, the characterizations will be brief. Many traits can simply be foreshadowed by analogy.


60 See the discussions of both opinions loc. cit. 313 ff.
age was defined as a period in the mental development of mankind that brought about many
changes. Therefore, it was then held probable that philosophical theories and lofty moralities,
such as that of the Bhagavat-Gita, or a feeling of attachment to or detachment from this world
shape the consciousness of whole populations (loc.cit at 325).

This was stated despite Pospíšil’s warnings (1971: 19): “Preoccupied with the notion that
actual behaviour of people is controlled and guided by the various leading philosophies of the
nations, Northrop implicitly equated Ehrlich’s living law with these philosophies. He
concluded that to understand, for example, the Chinese living law, one would have to study
Confucian philosophy, while to understand modern Russian living law one must turn to Marx-
Leninism ….. Besides the fact that an overwhelming majority of the Chinese were …..
ignorant of the official Confucian philosophy, nothing can be farther from Ehrlich’s living law
than principles of well-formulated scholarly philosophies which usually are the property of
very few in a given society: “living law” derives from the actual behavior of people, not from
officially recognized theories posited in scholarly treaties.”

Against Pospíšil one can argue that it may not be learned books and “official philosophies”
which shape the mind-set of a culture. Of course, it would be ridiculous to contend that every
Hindu, Buddhist, Taoist and Confucianist thinks in terms of detachment from this world and
of self-centeredness according to the Bhagavat-Gita morality. But there may be a general trend
within a specific culture, an underlying generally accepted attitude towards the approach to
ontological and epistemological data, an opinion that finds my support because the power and
Persistence of philosophically founded cultural attitudes are observable, if covert, data. Thus,
economic change and beginning prosperity are – as such – no reasons to assume a culture
change or change of a culture-shaping mode of thought. This is generally true, and it is true
for East and South Asia. Thus, detachment must be searched in older and more modern
developments there, and the question is whether the recent developments were strong enough
to cause culture change. But both Hinduism and even more Buddhism view world and life in
it with a critical, resigned attitude, still today. Samsara and the Eightfold Path to possibly and
slowly escape it are not joyous, this-worldly, and not even combattive approaches to the
meaning of human life. A hidden causality and a hard-to-obtain worldly-ascetic betterment are
the strands of fate. Modernity is accepted, to be sure, and energetic activities unfold along
with modernity. Still, the Bhagavad-Gita remains the ultimate ethical point of orientation, and
it places care for one’s own and the world’s betterment in general terms over serving thy
neighbor, here and now, and getting organized for it.

Is it therefore legitimate, in view of the general attitude of detachment which can be discerned
in East and South Asian cultures, to speak of just one East and South Asian mode of thought?
Just because there are a great number of cultures in this geographic area there must not be
equally as many cultural modes of thought. It cannot be denied that all these cultures – with
the partial exception of Confucianism – share the themes of detachment from the world and
self-centeredness, both in a non-individualistic sense. According to the theory of cultural
plurality, the possibility of one mode of thought common to these disparate cultures may be
tenable.

But – to use two extremes – modern Japanese Zen-Buddhism is far less “awe-inspired” (and
“-inspiring”) than for example the elaborate services and modes of worship of Taoism,
Tantrism and Vajrayna (the “diamond-vehicle”), so that the existence of cultural plurality per se ought to be accepted as decisive. Therefore, several East and South Asian *modes* of thought and a substantial number of cultures sustained by these modes of thought may be combined to form the geographic cultural “province” (Adolf Bastian) of East and South Asia. At the same time, the empirical observation is still valid that they are all alike in one point of central impact: a detached view on world and life.

While in Hinduism an escape from eternal reiteration seems almost impossible, Buddhism teaches such escape under the conditions of the Eightfold Path. In this respect, the two branches of Buddhism are of importance. Hinayana Buddhism (the smaller vehicle, practiced in Thailand, Myanmar, Cambodja, Sri Lanka, and parts of Laos, Vietnam, and Korea) maintains the purer and stricter dogma, Mahayana Buddhism (the larger vehicle, practiced in the other Buddhist regions, including Japan, China, and Indonesia) is the more lenient version, including the belief in spirits and in Bodisattvas, persons who completed the Eightfold Path to the point of near-fulfilment, and then decided to help others to move ahead on the Path to reach the *Nirvana* together with them as well. Especially by the introduction of the Bodisattvas, an element of mercy, caring, and compassion – and thus elements of attachment - enters Buddhist conviction.  

With Confucianism, traits may be different, at least at first sight. Confucianism’s attachment to the aim of making this world a decent and liveable place (see 2. above) should be taken into serious consideration, and separate answers should be given when thought-modal consequences are discussed. However, the gnostic approach to self-cultivation which is also inherent in Confucianism will lead to results similar to other East and South Asian modes of thought. Confucius’ ethics teach an attachment to this world up to a certain, albeit distanced and practice-oriented, degree. There are five inter-human relations which have to be guarded: the relationships between father and son, husband and wife, emperor and subject, older brother and younger brother, (older) friend and (younger) friend. These are five basic vertical ties. However, this attachment does not lead far into this world because it is mainly - if not altogether - meant for the good days. Confucian rules teach how to make good days a reality. However, if events go wrong, the teachings of Confucius offer no dogmatic or ethical parachute. In comparison, even Protestant work ethics offer redemption. Thus, In Confucianism, attachment is partly withheld. It may be called a semi-attachment.

The five Confucian virtues are:

- **Zhi** ( ) = wisdom, knowledge
- **Xin** ( ) = trustworthiness
- **Li** ( ) = propriety, rites (there are 300 rules of rites, and 3,000 of dignified manner)
- **Yi** ( ) = righteousness, and
- **Ren** ( ) = humanity, benevolence (including cultivating personality and observing good

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62 In Japanese, Bodisattvas are called Bosatsu (a combination of botei satsutaba). The term busutsu appears to have fallen in disuse; cf. W. Fikentscher (1995/2005), 305, communication Eike Mai Rapsch. On other differences between Hinayanaism and Mahayanaism, see W. Fikentscher, loc. cit. 303 ff., idem, (1975a), 303 ff. *Whether Japan may rather be counted on the side of Hinayana or Mahayana, is an open question that under the general openness of denominational thought in Japan need not be decided. The Zen Buddhism of the Samurai tradition is usually counted among the variations of Hinayana, the strong influence of bosatsu reverence speaks in favor of Mahayana. Presently, the Buddhist ideal of loosing one’s identity and self in overcoming the ties to this world is gaining legal importance in the Khmer Rouge trials; see V. Hancock, “No-self” at Trial: How to reconcile Punishing the Khmer Rouge for Crimes Against Humanity with Cambodian Buddhist Principles, 26/1 Wisconsin International Law J. 87 – 129 (2008).*
For the bad days, Confucianism gives no instructions to its followers. A Chinese adage is “A person with a determined heart frightens problems away”, so that a strong person should have no problems. When evil strikes, the Confucianist must look for another belief system – and many Confucianists do –: Marxism, Taoism, Hinayana-Buddhism, Western Judaic/Christian redemption from the Tragic Mind, animism, etc. Confucianism is not a belief system for the victimized and suffering, and while it is rather indifferent to the persecuted and less happy ones, and to the days of bad fortune and despair, it is tinted with speculation in much the same manner as detached belief systems are. Moreover, Confucianism teaches gnostic ascetism and modesty in much the same way as Hinduism and Buddhism. Confucius said: “One who nourishes oneself with air shines like God and lives long”.

Did Marxism under Mao Tse Tung, or the present economic growth of the People’ Republic of China, add new moments to that semi-detached culture? Mao Tse Tung is said to have once confessed to Henry Kissinger that in spite of all the victims and efforts only a few towns in the neighborhood of Beijing may have adopted Marxist life for a while, but that the rest of China never became Communist. The ongoing development of Chinese economic success and power has not yet touched the political command by the Party while essentially leaving *traditional* structures of political leadership, as far as can be seen, intact. Thus, the Confucian roots of Chinese ethics, including their desinterest for situations that go wrong, seem to stay stable. According to Karl Marx’ understructure theory, freedom of economy should trigger freedom of government. Marx errs here, too. Whether major changes will affect China, for example a tendency to develop a Tragic Society of individuals according to the *polis* model, or a time-closed or time-open monotheism, or a modern – pretendedly secular – totalitarianism, etc., remains to be seen. Dealing with foreigners is one of the open Chinese issues. *Another seems to be dealing with the powers of special influence: (1) the modern cadres heading for economic efficiency and liberalized business, (2) the traditional Marxist cadres often combined with entrenched provicial powers, (3), underground forces, and (4) a sometimes corruptible police (cf. the material used in Luo Lingyuan, Die Sterne von Shenzen, Munich 2008: dtv).*

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63 From the five stones placed in front of the new Asia Building of the University of British Columbia, 2000 West Mall, Vancouver, Canada. The term Confucianism is said to have been created by Jesuit missionaries. Confucius himself preferred to be seen as a teacher of older (better: timeless) wisdom, not of a new world view. He considered himself to be a *ru* (pronounced *ju*) = sage. Therefore, discussions of his ans his followers’ teachings by modern Chinese sages could be called *juism* instead of Confucianism (communication Daniel Song 2009). In this book, the usual Western name Confucianism is used for the mainstream Han Chinese mode of thought.*

64 Universität für Musik und darstellende Kunst, Vienna (ed. & publisher), A Scene of Concise Restlessness, Vienna 2002, 49.

There is, in Marxism, a blatant despise of the human being. *It concentrates on the crime of* “wrong thinking”, on wrong consciousness, use value determination *by top cadres and their most powerful members, class struggle (class defined by use value consciousness)*, alienation from created work *under the rules of top cadres planned and controlled planned economy*, deprivation of property, falsified information policy under the keyword of “prawda” = truth, negligible lumpenproletariate, limitation of traveling, etc. This may be caused by Marxism’s (“historical-dialectic”) determinism, or by the alleged necessity of class struggle, or by the empirical emptiness of the use value concept. *Such* inhuman despise is un-Chinese, and the cultural Un-Chineseness of Marxism will bring about China’s return into *a world of sovereign equals*. Based on the persistence of cultural attitudes, as discussed above. and reconfirmed by Mao Tse Tung’s remark to Henry Kissinger, mentioned above, this is more than a speculation. However, the return will take a long-term strategy based on values, and short-term tactics based on interests.

Not China and Japan alone, also India, South Korea and other East or South Asian nations show a remarkable speed in adapting to globalization and market economic mainstream. This adaptation is stronger than in other parts of the world, for example African or Arab.

The explanation for this is to be sought in what has been said before (under 1.) about the concepts of time. For East and South Asian cultures, concepts of time and development over time are not of central importance but at least integrable into modes of thought based on the belief in the eternal repetition of things (samsara) and incessant causality. Thus, passing time is an acceptable concept. Not so in Islam. After the revelation by the Prophet Mohammed, a.s., there has been, in principle, no more ongoing time, and no development beyond the stages already achieved. Therefore, unavoidable submission to time, development, and modernization have led to a split of Islam, in time-closed and time-open Islam, with significant consequences for jihad and tolerance (see 5. below). This is the reason why today Asian achievements tend to pass by Islamic developments (or rather statics), much to the discontent of activity-oriented Muslims. Moreover, the multitude of animist time concepts are not available to Islam since animists are the most despicable targets of jihad, even more than Jews and Christians.66 This means that Islam today runs the risk of falling behind the Bantu cultures between Sudan and Capetown and Daressalam and Dakar (“Ubuntu-Africa”), too. If an ubuntu-founded harmony for the cooperative, similar to the Greek-Frankish model, were drafted and implemented, Africa south of the Sahara with its African Philosophy background could jump to the forefront of “modernization” by-passing the Islamic world by lengths because concepts of time and system would be available. 67 A confirmation of the above statements is offered by the example of Indonesia: Of all Muslimic nations, it is the most inclined to modernization, and while having maintained many animist cultural traits (called: primal in Indonesia), it belongs to South East Asia. - These remarks will be developed further under 6. below where the discussion focuses on Islam.

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66 Koran 2. 186 ff.; 32.21 f.; 33.60 f.; 34.32; 37.95; 65.8 (in Henning’s edition)

2. Post-axial age Tragic cultures

The Tragic mode of thought is based on an active, intervening, attached attitude of the human being towards this world. It shares this attitude with Judaism, Christianity, and Islam. It is to be distinguished in this respect from East and South Asian modes of thought. Tragic cultures are the Ancient Greek, the Frankish (since the middle of the third century A.D.), and a few Northamerican native tribal conglomerates (Iroquois, Tewa, Otoe). Another name for the Ancient Greek Tragic culture is “the religion of the polis.” Whether with respect to their Ancient Greek, Frankish, or Native American origin, the Tragic cultures are “heathen”, not Jewish, Christian, or Muslim. The Italian popes made ample use of the Frankish-Normannic system of fief (trust) which the Normans had borrowed from the Franks, and which was particularly useful for the Church because of its purely administrative, not family-bound nature. Still apparently, the heathen origin of Frankish enfeoffing was no hindrance. Tragic societies are composed of people who honestly confess to each other and towards outsiders the failure of their own personal good efforts and the failure of their societies in spite of idealistic contributions and leadership. A good definition of the Tragic Mind is contained in the letter of Paulus of Tarsos directed to the community of Christians at Rome (in chapter 7 verse 15 – 23), obviously written with respect to the prevailing culture that surrounded that community in the capital of the Roman Empire. The Tragic Mind is predominantly law-related and law-conscious. The classical Greek tragicians offer impressive examples. Cultures differ widely in sensibility to suffering, and the Tragic Mind holds an especially sensible position. A high degree of sensibility for the difference between guilt and fate, between doing wrong and suffering evil, sharpens the mind for the justice of compensation.

In surveys on the “great religions”, “world religions”, “grand belief systems”, “great philosophies, or “most important cultures” often two religions or belief systems are left out: animism, and the Tragic Mind. This is so although by far the longest time (99,37 %) of their four million years old history human beings were animists (and many still are). Although most modern societies of the “West”, as well as Europe’s way through history, and almost every detail of the globalized world are unthinkable without the Tragic Mind. Whenever a pope or another religious leader assembles representatives of the most important world religions, surely there will be no North American Indian, Bantu African philosopher, or Australian aboriginal “dreamer”, and just as surely no expert of the Tragic Mind who could explain the Parmenidean judgment, the ideas of dialog, of membership, or of Frankish-Normannic pledge-of-faith. A German adage goes: Man sieht den Wald vor lauter Bäumen nicht (one does not see the forest because of all the trees). Often things nearby simply are not seen. Yer, animism and the Tragic Mind are relevent factors for culture comparison because the belong to the same category as East and South-Asian, Islamic, and secular-totalitarian modes of


69 On probable reasons for the oversight of animism and Tragic Mind in nowadays discussions of religion and belief systems, see W. Fikentscher (1995/2004), 356.
thought.

A central element of the Tragic Mind is superaddition (Übersumme, oversum), according to which the whole is more than the sum of the parts. This assumption involves the creation of a unit that has members. By definition, these members have rights and duties among themselves. The unit or entity – the product of superaddition - is headed by organs who in turn have rights and duties against the members (accountability being one of the latter). The concept of membership creates individuality (instead of collectivity), individuality creates individual responsibility which - in consequence of the axial-age dichotomy of good and bad as universal principles instead of “ka-Hopi offenses” - creates individual guilt, and events show that this guilt cannot be healed. Hence, there is doom in human action, though carried on with good or at least defendable intentions. Still, withdrawal from this world is no way out of the problem. Historically, Western civil society grew out of the Tragic Mind.

To illustrate, The Greek mind of the polis taught man to marvel, to wonder. This meant taking a “perspective” position outside: to compare and to think in terms of a system. Only the marvelling modes of thought are thus inclined to engage in what “the West” calls reasoned philosophy. To be sure, other post-axial age modes of thought would perhaps like to marvel, too, but in terms of the relevant belief system this is sometimes inadmissable (many a Muslim would perhaps like to know how to historically interprete the Koran; many a Marxist perhaps wanted to know the truth of a story reported in Prawda; Peter Abaelard (1079 – 1142), the scholastic Philosopher, once remarked: “ My students do not want to be confronted with what I teach, they want to understand what I am teaching” – by the way a good example for the difference between aspective and perspective thinking). Belief systems tend to engage in solving the self-imposed task of selecting admissable behavior from the innumerable possibilities open to man as a cultural being. They serve this function by imposing prohibitions against doing this or that, i. e., by taboos. Thus, of all religions and belief systems, that religion or belief system is most human which comes closest to re-establishing man’s old cultural liberty of being curious. Not “back to nature”, but “back to culture – properly defined” is the most human of all calls. Greek Tragic is one of those culture-centered belief systems.

The basic difference between pre-axial-age cultures and the cultures shaped by the Tragic Mind lies in the latter’s breach from nature’s and the gods’ forces, based on a skeptical heroism. The Tragic Mind is different from Eastern detachment by its caring for the individual and a public made up of these individuals. The Tragic Mind knows a private and a public sphere. One of the most concise descriptions of the Tragic Mind is contained in three speeches by Pericles reported by Thucydides in his ‘Peloponesian War’. Thucydides attributed to Pericles fictitious speeches which Pericles did not in fact pronounce. Through this – in modern terms – unscientific practice, Thucydides wanted to emphasize the contents of Pericles’ ideas in their philosophical, historical, and political impact. The general line of argument in those speeches, in particular in the funeral oratory (2nd speech; book II 35–46), is devoted to the concept of responsibility of the individual for himself and, distinct from this, for the community; and to the necessity of facing the tragic fate destined for a mankind of individuals and communities of individuals.

Reading the texts of the Tragic Mind, one cannot but feel impressed by the human warmth.

70 For examples in pre-Bhagavad-Gita, Greek, Germanic, and North American Indian ethics, see W. Fikentscher (1975a and 1995/2004), loc. cit.

with which these statements are made; by the refinement of thought handling, with sovereignty, a holistic entity of ethics, honor, courage, freedom, state, wealth, time, fate, responsibility, eloquence, and intelligence; and by the forlornness of a moral reasoning entirely oriented to this real world. Pericles, through Thukydides, said, in a parenthesis, that for mankind there is no peace without the political liberty, and no political liberty without the courage to defend it. In saying this, he knew and made known to his fellow citizens that every human effort to follow this maxim might be in vain and that only the memory will survive of those who tried because there exists this law of growth and decay (3rd speech, book II 64).

The Tragic philosophy that lay at the bottom of the Greek city state can be compared with the Tragic Mind of other heroic societies and their institutions, for example the Germanic genossenschaft. Aiming for the decent and morally appropriate, but harvesting ill fate and disaster is the theme of the Song of the Nibelungen. An alliance of loyalty is felt to be only viable defense against evil fate. Still disaster cannot be prevented. Similar to Pericles’ statement that grim fatality is fenced off best by the loyalty of the citizens among themselves and towards the city, Germanic sagas teach mutual loyalty as the virtue that is required in the face of hostile destiny. The Tragic Mind as the mode of thought of heroic societies is also at the bottom of the Beowulf saga. Wyrd is the fate that strikes everyone, the well and the ill-minded. In the second part of the saga, the noble, caring and altruistic hero Beowulf kills the dragon but is himself deadly wounded. After Beowulf had killed Grendel, the monster which had tyrannized Heorot, King Hrothgar’s and the Danes’ mead hall, Hrothgar praises the future (in the first part of the saga). But those who listened to the epic knew that Heorot would be destroyed and Hrothgar’s lineage end. Throughout the Beowulf saga, loyalty is praised.

In the New World, the League of the Iroquois is the most prominent example for a heroic society that organizes itself. There is another parallel – with a distinct difference – in the Judaic Apocalyptic Mind that led, for example, to the mass suicide at Masada. The modern importance of the Tragic Mind seems to be increasing. Civil society grows from the Tragic Mind, not from Judaism, Christianity or other belief systems or cultures. Only the Frankish pledge-of-faith (Treueid) enables self-organization across time (more details in Chapter 9). The pledge-of-faith is the political form of Platonism in time as a straight line. The Franks, and Plato, preceded Christianity.

3. Post-axial age Judaism and Christianity.

The thrust of the axial age must have reached Ancient Greece and the Mesopotamian Halfmoon about at the same time, between 650 and 550 B.C.E. One piece of evidence is the similarity of issues discussed in Deutero-Isaya (Isaya 40 – 55) and pre-Socratic texts (especially Parmenides), another Herodotus’ culture-comparative observations, a third the rise of the Greek city-state. In Greek, the ethical good-bad dichotomy encountered a tentatively free self-determined people so that the notion of individual guilt and responsibility led to an egalitarian defense alliance that came to be known as polis. The late-animist polydaemonist set of spirits and gods, inherited from Homer, had to be ordered into a systematic heaven of polytheistic gods (Hesiod) because comparison is always a challenge to look for a system. For the Jews in Babylonian exile, the same ethical good-bad dichotomy happened to meet a foreign-determined people so that the notion of individual guilt and responsibility brought about an egalitarian community of believers and sinners confronted with monotheistic god. The resulting community came to be known as synagogue. Parallel reading of Thucididis, Herodotus and what we have on Parmenides, and of Deutero-Isaya, demonstrates that these themes of the times were much the same, with the noticeable difference that Greek polytheism combined with moral individualism fostered the Tragic Mind, whereas Jewish monotheism
and moral individualism fostered a belief in responsibility, atonement and salvation by returning to a home land under God’s guidance.

The religious problems of the exiled Jews were indeed striking and for the exilants considerably more pressing than those of the Tragic Mind for the Greek citizens: Should the axial-age dichotomy of a world-wide good v. bad standard be accepted? This was – not only politically – an option through the conquest of Babylon by the Persians and Meders, the obvious end of the suppressors’ spirits and gods, and the expectation of a return by permission of Cyrus/Kores. But this would have meant giving up monotheism. To solve this issue, the exilants opted for monotheism. On the other hand, a monotheist god as author of good and bad (as portrayed in Isaya chapter 11) was no longer tenable in view of the new ethics. But if God is only good (as portrayed in Isaya chapters 40 ff. with eschatological-apocalyptic consequences in Isaya 55 ff.), who then is responsible for the bad? Individual guilt and responsibility had to be accepted along with the ethical enlightenment that replaced tribal and national morals with general morals (Ezekiel 18). But if guilt was personal – and God was not the author of the bad anymore – how can a person carry or make good for that guilt? Is a representative of that monotheistic god needed, a messenger, a “chief penitent” (comparable to a cacique of the Tewa speaking pueblo dwellers)? And how does this representative/messenger/chief penitent relate to David, the King, whose reappearance was desired by the exiled people? Finally, what about the geographic and national reach of that monotheistic good god? He could no longer be a tribal or national one, since the good-bad dichotomy applied world-wide.

Isaya 40 – 55 (the “Deutero-Isaya” = second Isaya) and Ezekiel 18 tell of the issues, deliberations, twists of reasoning, outcomes and of the solutions of these problems. The monotheistic god is retained, restated, and modernized in terms of the axial age. God is good. He reigns world-wide (“to the islands”, “to the coastlands far away”) which makes the Jews a nation among other nations of equal status, so that the (other) “nations” (Fremdvölker) become a problem (Exodus 22.20; Isaya 40.15; 42.4; 49.1; 51.5; 66.19; Jeremiah 31.10; 46 – 72


73 and congruent to most pre-axial-age spirits, demons, and gods. To offer a relief from this double role of spirit beings of being the senders of good and bad, pre-axial-age people of many cultures used the figure of the trickster. Tricksters (such as Hiawatha, Coyote, Prometheus, and the Ratcatcher of Hamelen) mediate not only between Gods and mankind, but also between good and bad. Their stories float between good and bad. Therefore, there are no post-axial-age tricksters. For the pre-axial-age (= pre-exilic) Jews for whom God was the cause of good and evil, the maschiach seemed to have been a kind of trickster. See also Chapter 9, note 244, below.

74 Cf., David Daube, Jehova the Good, 1/1 S’vara 17 – 23 (1990). Whether God is just (=good) and therefore cannot be the source of evil is defined as the question of theodicee.

75 Deuteroisaya’s historical existence is a matter of debate: he could be identical with the “the” Isaya who wrote during the early sixth century B.C.E., or be one of his successors, or member and spokesman of a pious school during the exile). His writings should be seen in context with the so-called deuteronomic historical work: Joshua, Judges, Ruth, First and Second Samuel, First and Second Kings. See for certain details W. Fikentscher (1975a), 269 – 306; idem (1995/2004), 386 – 394; only the results can be repeated here.
Man is a member of a synagogue community. Yet man is an individual and as such carrier of individual guilt (Ezechiel 18). Gnostic efforts are in vain. God is gracious in forgiving individual guilt (Isaya 63.7 – 64.12), and he permits the community a return to Jerusalem.

The evil in the world is caused by man’s guilt and taken away by God because there is a messenger, a representative of God who takes on the role of the mashiach (Messiah) - as _incarnation_ instead of _inlibration_ – in recollection of King David’s role as atoner and carrier of hope for reapparition. The conception of a mashiach consists in the conviction that God becomes an active and constituting factor of the time that has been created by Him. It is not specified whether this mashiach is a group of people or an individual, but the mashiach is believed by exilic Jewry and Christianity to come.

The mashiach is the individually-responsible given answer to the problem of theodicee, a problem that has been posed – along with the individual responsibility itself – by the axial-age-defining good-bad generalization. Hence, having no mashiach, for example in Islam, means having no history, presence, and future, in the sense of a time that passes and is open to development. Also, monotheism, for example in Islam, and its concept of sovereignty then suffer. Having no past, present, and future means absence of omnipotence. God becomes locked in His own creative draft.

The similarity between Tragic Mind and Judaism with regard to individualism, time-as-a-straight line, guilt concept, and rejection of gnostic efforts for betterment of world and individual becomes clear. The two differences consist in the exchange of a tragic fate afflicted by a justice-seeking _polis_ by a monotheistic god, and in the replacement of that tragic doom by redemption.

Christianity emerges at exactly this point, so that, regarding dogmatics and ethics, not much needs to be said about it: Jesus of Nazareth declares himself to be the mashiach so that the Tragic Mind loses its tragic element (Paulus of Tarsos in the letter to the Romans, Chapter 7). Birth, death, and announced “coming again” of the messiah opens a stretch of time which conceptionally is not available to the Tragic Mind, Judaism, and other monotheisms. The Christian conception of the messiah consists in the conviction that God becomes part and parcel of the time created for mankind by Himself, and that this has already occurred. Thus, Christianity can be defined as the establishment of a notion of time as a straight line within a monotheistically conceived world, the monotheistic god being _good_, so that his entry into his own time means redemption.

_The simple comparison of “God’s Empire” with a farm in Mark 4. 26 – 29 involves such time as the main driving factor: The farmer scatters seed on the ground. Then he lets the corn grow, and “he does not know how”. It is the earth that “produces of itself”. When the grain is ripe, harvest has come. That’s all. For Judaism and_
Christianity time is what for Islam is *jihad* (strain, effort) because Islam has no time available (see above). For the relationship between Judaism and Christianity it follows that Christians should respect Jews who believe that the messiah will come (in whatever form), and Jews should respect Christians who believe that the messiah will come again.

The cultural impact of Christianity as a belief system is harder to portray. Taking contributions to novel achievements, development, cultural diversity, and closeness to human needs (to avoid the term humanity) as a standard of evaluation, positive and negative influences can be distinguished. On the positive side, the promotion of the steadiness of a government “from the bottom”, through the acceptance of Athanasian Christianity by the allied Frankish tribes around 496 A.D. is a big step forward in the direction of appropriate leadership of urban society (in V.G. Childe’s sense). For urban society this input of human values prevented the repetition of the death of the Ancient Greek *polis*, now of the Frankish cooperative. It opened new possibilities of cooperation, acknowledgments of inalienable moral and legal positions, establishment of trust inside human societies and to the outside among them, and a general sense of history and development. The fine arts, music, philosophy, and law flourished under Christian influence, accompanied by a steady circle of – partially overlapping - piously reformative and secularizing enlightenment periods. A chief cultural impact of Christianity is its ability to get organized under the conditions of an ongoing dialog. The assurance of inviting the other to a Parmenidean-Platonic dialog, against the background of an active (un-Buddhist) attitude to life on either side of the dialog, is a Christian ideal.

On the negative side, Christianity has a historical record that includes recklessness, strife, and cruelty. Whether under the above mentioned standard of evaluation these negative effects follow from characteristics of Christianity as a religion or whether they are phenomena caused by abuses, misinterpretations, or misunderstandings of (otherwise positive) Christian teachings is a religious issue which cannot be decided in the present discussion of cultural relevance. Two kinds of sources for negative cultural effects, however, are apparent.

a. There are *impositions* of Christian dogmas and ethics onto other religions that may give rise to confusion and sectarian Christian behavior. For example, the belief in Christian saints may be imposed on reverence shown to pre-Christian animist heros or spirits of several religious types, and the result is confusion. Post-axial-age total religions which may mix with Christianity include gnostic tendencies, although St. John’s gospel argues from the first to the last chapter against gnosticism. Yet, from Marcion over the monasteries of Constantine and post-Constantine periods, Byzantine state church hierarchy, the Kartharians, indulgencies, rosary piety, Judaic and Calvinist work ethics to Christian anthroposophy – gnostic activism answers to a widespread and lasting sense of reciprocity that heaven must be earned by holy

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79 A Tewa Publo Indian to the author in 1992: “Catholic saints are similar to our spirits. Often they serve the same purposes. But it is not easy to combine them. For us, Catholic saints are too far away - may be in Italy -, and too abstract. They do not have colors, nor mountains”. Similarly, in a conversation in 1988, a Hopi tribal member protested against the idea of mission as such, see text following note 867, below. This is not syncretism, it is – polite - reaction.
b. However, the three most “un-Christian” misunderstandings are based upon flawed translations and unsatisfactory interpretations of the original Greek text of the gospels. A sufficiently developed epistemology has been missing. (1) Matthew 28.19 contains the so-called mission order. Usually this text is translated to the effect that all human individuals shall be taught and baptized. But the Greek text says “panta ta ethne” which means that peoples should be taught, not individuals. Singling out individuals from collective societies for the purposes of mission and telling those individuals of personal guilt, a program of missionaries which often has catastrophic results for family, lineage and clan structures of shame societies, is un-Christian. When missionaries address “heathens” and these heathens do not want to be missionized because they are not used to recruiting non-tribal members for their own religious type, for example ancestor worship, the Christian duty is to leave them alone and to go to another town (Matthew 10.14; Acts 13.51). (2) When St. Augustine was asked whether it is permitted to use force in promoting Christian mission, he gave a fateful answer in the affirmative. He was unaware of a wrong translation of the Greek original into Vulgata Latin. The crusades, and the killing of reportedly 20 million Native Americans were only two of the consequences. (3) A third misunderstanding of this kind, caused by flawed interpretation, refers to a main obstacle of modern eucumenism. On October 31, 1999, in Augsburg where Martin Luther had his disputations with the doctors Cajetanus and Eck, the Catholic and the Lutheran Churches agreed on a “Joint Declaration”. In essence, the Joint Declaration confirmed the Lutheran stance of “sola gratia”: the dogma that human justification and salvation occurs by God’s grace alone, not aided by human judgment, cooperation, sacrifice, or indulgences. One of the promoters on the Catholic side of this Joint Declaration was Cardinal Josef Ratzinger, elected Pope Benedict XVI. The Joint Declaration of Oct. 31, 1999 raises the problem whether the dogma of St. Peter’s Office as the foundation of papal power is also subject to sola gratia, or whether the calling of St. Peter to become “the rock” upon which the Christian Church is built is the installation of a chain of succession of carriers of the papal office. St. Peter says: “You are the Messiah, the son of the living God”. Thereupon, the words of calling are these: “Blessed are you, Simon, son of Jonah. For flesh and blood has not revealed this to you, but my Father in heaven. But I also tell you (kago de soi lego): You are Peter, and on this rock I will build my church…”(Matthew 16.17,18). The

80 See note 222 above.

81 This means no siding here with the “leyenda negra”, attributed to Las Casas and others. It is just a - historically confirmed - report on a warning of King Henry II of France in 1559, given to William of Orange, who seemed to have been deeply moved since at that time the Netherlands counted less than 20 millions. The warning had far-reaching consequences: it led to the foundation of the Dutch Republic in 1572 (Den Briel, April 1); the Dordrecht Assembly of he General States July 15 and, by using its theoretical principles, the democratic revolutions in England in 1689 and USA in 1787 ff.; see for the details Achim R. Fochem, Introduction, in: W. Fikentscher & A.R. Fochem, Quellen zur Entstehung der Grundrechte in Deutschland, Stuttgart 2002: F. Steiner, 11 – 20, at 16 f. The unwillingness of the Hapsburg rulers to protect the Dutch population against the religious persecution by the Spaniards forced the Netherlands to secess from the Empire, this was the main proposition in William the Silent’s carefully formulated Apologia of 1581, directed to the Emperor. Politically, and from a humanist point of view, it was certainly a mistake not to protect the Dutch against the Spaniards, but for Hapsburg the meeting religious duties counted higher than superadditive responsibilities flowing from the Empire’s Frankish constitution. The Hapsburgs acted similarly to Rotfront for which everything “left” is preferable than democracy, because ideological fixation is deemed to prevail over superaddition. It seems farfetched, but it is not without truth that the sacrifice of 20 millions Native Americans through the initiative of William the Silent led to the development of modern democracy in a globalized world, and this historical conjecture is valid independently from the assumption of the leyenda negra as historically correct or false.
text indicates that the appointment is based on what Peter had said as divine inspiration, not on Peter’s human judgment. God’s empire, including His church, develops sola gratia independently of human input (Mark 4. 26 – 29). Both arguments speak in favor of a justification of St. Peter’s Office by instantaneous divine calling, not by spiritual delegation or succession. Consequently, no chain of callings is needed or intended. God could make popes “out of these stones” (cf., Matthew 3.9). A family-metaphoric descent would be an allusion to animism in the above-mentioned sense. Therefore, when the Catholic Church agreed to the Joint Declaration of 1999, it questioned its own theory of papacy. According to the Scriptures, St. Peter’s Office is not bound to a genealogy, rather only to sola gratia. There is no functional genealogy of the Christian church, its tasks and activities. Sola gratia applies to Church, St. Peter’s Office, and eucharist no less than to a human’s standing before her or his God. As regards negative cultural effects (according to the above standard of evaluation, see before a.), the built-up or maintenance of hierarchies as such is no serious objection. But hierarchies may contribute to lack or distortion of legitimation, inhibition of control, and opportunity of abuse.

c. Three times in history, Christendom has missed the goal of a Christian order of life in this world, and all three times this occurred by lacunes in Christian epistemology: (1) Through the Constantinian gnostic-oriental theocracy and its ensuing hierarchic verticalism; (2) in spite of the Frankish “horizontal” attempts, through the zoroastric-manicheic-Augustinian-Lutheran juxtapositon of civitas mundi and civitas Dei whereby the standards by which this world could have been governed in a Christianity-conforming way were to be missed; and (3) through the Continental-(as opposed to Anglo-Normannic)-scholastic theory of papal hierarchy. Constantinism and Augustinian theology did not develop Christian epistemologies. When due to the rediscovery of the writing of antiquity an epistemology was at hand in scholastic times, it was subjected to Christianity as it was understood by scholasticism so that independent thinking was widely repressed (on exceptions and developments W. Fikentscher 1975a, 367 – 370). Martin Luther did not develop much of a Christian epistemology, or else he would have been urged to add political consequences to the Freiheit eines Christenmenschen (1520) something he could not conceive of without loosing the Elector of Saxony’s support. A this-worldly governable Christian way of life began only after the Calvin-critics, the advisers of William the Silent, the irenists, the monarchomachs, and the summarizer Richard Hooker (1566 – 1600) formulated a usable Christian epistemology. It is noteworthy that Christian epistemology builds on a theory of societal ordering. The starting point is the differentiation between (rejected) despotism (Luke 22. 25,26) and (recommended) administration by elders or “city fathers” (archontes, Romans 13). From the latter only, superaddition, a theory of offices, pluralism of opinion, and a theory of incomplete judgment and critical dialog is derived (see Chapter 9 III. 7.).

4.  Islam

“But now we are being confronted with the vehement return of Islam, with a movement which practically overnight appeared on the world stage” (René Girard). There is no doubt that Islam both as a religion and as a mode of thought and as such homestead for many Islamic cultures belongs to the most discussed spiritual and political “movements”, to use Girard’s


words, of our time. The following lines cannot do more than try to throw some light on the cultural effects of Islam from a general and observational anthropological point of view (I never engaged in fieldwork in Islamic countries or in the Muslimic diaspora). Islam as religion is not subject of this study, and the Islamic mode of law has been discussed elsewhere, albeit in “arm chair manner”.

This subchapter is structured as follows: (a.) Some demography, geography, and history (including “pre-Islam”) is mentioned at the outset. (b.) Cultural effects of Islam can most impressively be studied with reference to Islamic epistemology, which in turn opens up aspects of dogmatics and ethics, including time and risk awareness. (c.) A related is a look on secularity and prayer practice follows. (d.) From this, observations of individuality and collectivity, personal or group responsibility, and superaddition can be derived. (e.) This leads to conclusions concerning Islamic notions of human suffering, God’s omnipotence, theodicee, and trinity. The following paragraphs focus on further conclusions to be drawn: (f.) the kinds of Islam, (g.) comparison of Islamic with other cultures, (h.) relationship of Islamic cultures to other cultures including topics like jihad, tolerance, and terrorism, and (i.) a summary. *All* these issues cannot be dealt with here exhaustively. They encompass extensive areas of ongoing debate.

a. In 2002, of the 6.2 billions of inhabitants of the world 1.23 billions, or 19.8%. were Muslims. In 2007, the world population is estimated 6.5 billions, or 4% more than in 2002. The percentage of Muslims of the world population will rise to over one fifth. Among all Muslims, Sunnites count about 83%, Shiites 16%, and other Muslim groups 1%, relations that seem not to have changed much since 1990.

The present status of Islam in the world means that old-style “orientalism” and etic observation from European and American viewpoints are no longer sufficient or justified.

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85 Islam-related world-wide news in broadcast and TV tend to have higher percentage, in German stations in 2007 about 50% or more of all news. These issues mostly concern superaddition (in connection with attempted unit-forming) or (collectivity-defined) terror against outsiders (author’s count).


Islam has gained momentum in the traditional Muslimic countries, and has developed a “European Islam” in France, Germany, the Netherlands, and other Western countries. In Berlin 135,000 to 140,000 Turks live of which every fourth is a practicing Muslim.  

The Islamic economic world shows ambivalent aspects. In London, about 160 Islamic finance institutions do business. In 2001, their total assets amounted to some 100 billion US$. 80% of these institution take some legal form of a fund. They work with share holding or equity capital instead of interest. The most used circumventions (hijal) of the Islamic prohibition of interest taking (riba) are the following: (1) sale and resale: the debtor of a loan sells the creditor an object which is to be resold at a higher price when the loan is mature; (2) share holding: the creditor holds a share in an undertaking of the debtor and directorship and profits and/or losses are divided (musharakah), a special form of musharakah being mudarabah where the creditor (e.g., a bank) gives the debtor a loan for the latter’s firm but refrains from active direction; (3) quasi-leasing: ijara is a form of financing where the creditor lends the debtor tangible capital similar to a leasing contract; (4) payment for additional activities: in murabahah contracts, the creditor (e.g., a bank) assumes the additional role of agent or broker and is paid for this activity; (5) two consecutive contracts of work for hire: in istisna financing agreements, the debtor concludes a (first) contract of a work for hire with a bank as creditor, then the bank concludes a (second) contract of work for hire with a builder, and after performance the bank pays the builder (which makes istisna a risky business for the bank), and the debtor pays the bank a higher price which contains the reward for the bank’s credit to the debtor. 

Interestingly, a Christian circumvention of the medieval prohibition of interest taking which was harsh and often ruinous for the debtor and now prohibited in § 1229 German Civil Code of 1900 (forfeiture of a collateral) does not seem to apply in modern sharia law. Condensed to a theory, the circumvention of the prohibition of interest taking can assume four different forms: (1) payment for additional activities on the side of the creditor, such as consultation, agency, or leasing; (2) share holding and profit sharing (partiaric contracts in Roman law); (3) splitting contracts (e.g., istisna; sale and resale); (4) forfeitures.

However, despite these refined credit techniques in disregard of a basic prohibition and the ensuing credit mobility, business in Islamic countries is widely regarded unsatisfactory, in

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89 Bavarian Broadcast No. 5, of 9-22-01.

90 iwd, of 12-10-87; Florian Amereller, Hintergründe des “Islamic Banking”, Berlin 1995: Duncker & Humblot; Clement M. Henry & Rodney Wilson, The Politics of Islamic Finance, Edinburgh 2004: Edinburgh Univ. Press; Volker Nienhaus, The Performance of Islamic Banks, in: Chibli Mallat (ed.), Islamic Law and Finance, London 1988: Routledge; Ulf R. Siebel (ed.), Projekte und Projektfinanzierung, in: Handbuch der Vertragsgestaltung und Risikoabsicherung, Munich 2001: C.H. Beck, 242 – 250, with materials. – The prohibition of taking interest from poor fellow citizens in Exodus 22. 25 is the original source of Koranic, Jewish and Christian prohibitions of interest taking. Whether Exodus 22.25 aims at interest as such, or just usury, or just credits to poor business partners is controversial. In the 4th century, the Christian church prohibited interest taking to church officials, and in 443, the Church expanded the prohibition to lay people. In the Koran, interest taking is prohibited in Surah 2.275, 278; 3. 130. In 1311, Church sanctions were introduced: exclusion from eucharist and from Christian funeral ceremony. Later, secular legislation followed, until interest taking became permitted again. Christian circumventions were purchase against annuities, and forfeiture of the pawn or object of mortgage.
spite of billions of dollars earned from oil and natural gas. Experts rate Islamic countries among the poorer group of developing countries. The reasons for these discrepancies are seen in the unwillingness of Islam to accept non-Islamic principles of freedom of education, critical judgment, inequality of human beings according to the *sharia*, business organization, and trust.\(^1\)

*Law and religion* in Islam are not two different forums,\(^2\) but essentially identical. Thus, there is no control of the law by religious standards. It is not wrong to say that Islam is law. This law consists – undisputed between all directions and schools of Islam – of the Koran and the *sunna*, the ideal and exemplary deeds and behavior of the Prophet, a.s. The word *sharia* is derived from the Verb shara’a which means to show and prescribe an obvious, even way to a water well (cf. Surah 45, 18). The use of the image of the “way” to something necessary (water) proves gnostic influence on the Koran, certainly traceable to pre-Islamic times. “Way” is an axial-age term for handling supranatural cultural issues (Buddhist “Eightfold Way”, etc.).\(^3\) The gnostic-mystic version of Islam, Sufism, likes to make use of the way metaphor: *tariqa* – the mystic way – leads to *haqiqah* (truth) and *ma’rifa* (epistemologically knowing the truth). A certain contradiction can be found in the fact that Eastern gnostic way conceptions contain the elements of search, possible error, repeated attempts, multiple versions, and hence at least a certain amount of free will. However, the Islamic way called *sharia* is a forcible instrument that does not tolerate doubt or deviations. In this strict and obligatory form *sharia* claims universal validity for all humans. Non-Muslims have to be subjected to it. The sharia is the foundation of all law in Islamic states (Kairo Declaration of Human Rights in Islam of 1990). In two states; Saudi Arabia and Iran,\(^4\) the *sharia* exclusively applies, and to its full extent; the same holds true for certain Muslimic parts of other states (Sudan and Nigeria). In other Islamic countries such as Afghanistan, Algeria, Yemen, Jordan, and the Indonesian province of Atjeh, the sharia is in force in combination with with local customary law.\(^5\) In Brunei, Egypt, other parts of Indonesia,\(^6\) Irak, Kuwait, Lebanon,\(^7\) Libya, Maledives, Malaysia, Mauretania, Oman, Pakistan, Qatar, Somalia, Syria, and Tunisia *sharia* is used side by side with Western style legislation.\(^8\) Morocco has Islamic family law. The only state with

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\(^{1}\) iwd No. 2 of 1-29-03.; 4 f.; Arnold Hottinger, interview with Adelbert Reif, Universitas Orientierung in der Wissenschaft, No. 700, Stuttgart Oktober 2004: Hirzel, 1070 – 1076.

\(^{2}\) In the sense of Chapter 4, above. See also Michael Gilsenan, Recognizing Islam: Religion and Society in the Modern Middle East, London 1982: Croom Helm.

\(^{3}\) In this sense, as a term for belief system, religion, sect, etc., “way” is sometimes used in the Bible, too, cf. 1 Cor. 12, 31; Acts 14.14, 18.25, 24.14; asked which way he would recommend to find truth, Jesus, obviously with critical reference to the Eastern axial-age tradition, rejects the way metaphor and answers “I am the way, the truth, and the life.....”, John 1.6 (John is the most outspoken anti-gnostic gospel).


predominantly Islamic culture in which the *sharia* does not apply is Turkey.  

The current trend in the Islamic world goes to a broader application of *sharia* rules.

b. Islamic international *politics* in relation to the non-Islamic parts of the world show very diverse cultural patterns and can hardly be described in a few words. The scale goes from friendly and peaceful ties (Emirates, Oman, Kuwait) via professionally correct but sometimes strained diplomatic relations (Saudi-Arabia, Indonesia, Tunesia etc.) to unsatisfactory and even hostile confrontations (Iran does not even honor the 2,500 year old customs and laws of protection of diplomatic personnel), Sudan, Libya, Syria etc. The destruction of the World Trade Center on Sept. 11, 2001 by Muslims who do not act as soldiers of an enemy nation nor as criminals who can be attributed to a nation state, but solely as Muslims, has created a new quality of intercultural tension. Since Osama Bin Laden and other Al Qaida-leaders have characterized Islam as the driving force behind the attack, one could have expected an Islamic attempt to come to terms with it. It cannot have gone unnoticed by other Islamic leaders that the world tries to make sense of what happened against the background of the Islamic doctrinal distinction of the inhabited world between *dar-al-Islam* (the realm of peace by submission under Allah’s will) and *dar-al-harb* (the realm of chaos, conquest, and death of the non-believers). Apart from the “epistemologist” group of Iranian philosophers Muslims do not distinguish between the act of knowing and an object of knowing. In other words, they know what the want to know and do not doubt the truth, justice, or beauty of the object. There are no Parmenidean judgments, no reasoned propositions within a dialog, and therefore no critique. This leads to a blockade of thinking about September 11, 2001, and thus to a heavy burden on Islam’s trustworthiness, regardless of what the result of such dialog might be. What is missing is the critical political judgment based on a critical philosophical judgment, shaped in a group of dialoging members. All that remains is Aristotle’s *entelechia*, the drawing of a conclusion from pre-defined purposes, and hence from pre-bargained preferences. Perhaps a solution would lie in a separation of *jihad*- and non-*jihad* Islam, but the wisdom that *jihad* is Islam-inherent is undisputable and dialog-removed in the portrayed sense.

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102 See note 54, above.

suggests jihad in Surahs 2.191; 2.216; 4.89, 91; 5.35; 8.38; 9.5 and 9.16. Four out of these quotes require jihad against animists (that is, participants of pre-axial-age cultures): 2.191; 4.89 and 91; 5.35 and 9.5, admonishing to persecute and even kill them.

c. Can Islamic society be a human-rights democracy? Yes, but at the price of the Tragic Mind, or of the acceptance of inalienable values to be derived from Islam including the inalienable freedom to leave Islam. These alternatives would also require the acceptance of time-as-a-straight line at least to some extent. In this context, the theory of the “greater jihad” as developed by the Prophet Muhammad, a.s., on the occasion of the military and diplomatic conquest of Mekka in 630 C.E. as a virtue of fighting against oneself, and thus of self-restraint (Brugman 1998, 111) points the way to a reflective, discursive, and explicit thinking and thus to Islamic Cartesian doubt across time. Human rights and democracy in relation to Islamas such will be discussed below.

Here the Islam-political dilemma of the unit of dialog partners, of members, the confrontational issues in many parts of the Islamic world, and between the Islamic world and the outside world are based. The Palestine-Israel confrontation is hinged upon the superadditive issue of a constitution that assigns inalienable positions to its members, including Israeli settlements and Arab enclaves. A great deal of the difficulties between Israel and the Palestine Authority has its roots in this issue of superaddition and membership.: Religious politics of Israel were since its creation in 1948 based on keeping equal distance to both Islam and Christianity, i.e., in personal terms, essentially to Muslim and Christian Arabs. These politics overlook that Judaic and Christian traditions are definitely influenced by superadditive forms of public life, whereas the Muslim tradition does not know superaddition but ummah collectivity and leadership instead. In the present constitutional debates, for example in the 2007/8 Annapolis process, Christian Arab modes of thought could have been of considerable assistance to the Israeli stance without doing any harm to Jewish religion. The Israeli neglect of the organizational-anthropological point of departure of any settlement now shifts Christian Arab positions to the Muslim side, dismissing the Christian Arabs for apparent non-organizationability. The pacification of Iraq depends on the superadditive issue of a constitution that assigns safe positions, executable in a non-corrupt court system, to Iraqi citizens, denominations, and ethnic groups. The list of examples could be continued, but the central argument would be similar.

A rather recent area of research – triggered by the aforementioned general rise of interest in Islam – is the world to which the Prophet Mohammed, a.s., spoke, known as “pre-Islam” (pré-Islam, Vorislam), etc. Was it an animist or polytheist world of early Arabic tribes that had to be overcome? Did the Prophet want to proclaim an opinion to contemporary christological controversies? Was there a competition with Christian local communities or monasteries? Or with Jewish synagogue communities? Or with Neoplatonic philosophies? How strong was the

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\(^{104}\) Cf., Joseph Weiler, Israel and the Creation of a Palestinian State: A European Perspective, London 1985: Croom Helm; even a few blocks within a city may form a cultural enclave with an own respected government, see for an example the Las Vegas Paiute (from my not yet *published* fieldnotes). On Abdallah Frangi, whose ideas about Palestine’s future are not far from Weiler’s, see Nina Grunenberg, Radio Freies Palästine, DIE ZEIT No. 19 of May 2, 2002, 9.

influence of Eastern gnostic “ways” including ascetism at the time? Did the Prophet in His statement that Islam knows no “monkery” take sides in the controversy between world-denying oriental-Christian and world-attached Western Christian monasterianism (as introduced by Benedict of Nursia)? Was there a link with other axial-age innovations, older than Christianity? Were there any texts that influenced sections of the Koran? Can the world which the Prophet addressed through His revelations be at least in part reconstructed by the Christian gospels including the so-called apocryphic ones? Was the Prophet confronted with the Petrine-Paulinic controversy, or with the Augustinic (and possible Zoroastric-Manicheic influenced) *civitas dei – civitas mundi* controversy? Given the far-reaching identity of the Islamic belief system and law, what was the law at the time and place of early Islam? These are some of the questions that have just begun to be asked in the context of “pre-Islam”. The eight German Academies of Sciences, organized in the *Union der deutschen Akademien der Wissenschaften* (seated in Mainz) in 2007 announced a joint program under the title “*Corpus Coranicum*” on the historical and cultural background of Islam. The announcement shows a purely etic – and therefore probably partly questionable approach.105

d. *Islamic epistemology* does not seem to be an elaborate branch of Islamic philosophy.106 The subject is intriguing. An obedient Muslim is able to answer the epistemological question: How do I know something?) in a straightforward manner: “All I need to know is what my God, Allah, told humankind through His messenger, the last Prophet, Mohammed, a.s., and this is laid down in the Koran, Sunna, and the other true sources of the Sharia; God’s law is all I have to know, and I know it from these sources”. The Koran as revelation of God’s word by the Prophet gives the book the quality of being God (the so-called Muslimic “inlibration”). This type of epistemology does not leave room for doubt. Any error is a misjudgment and can therefore be omitted. If doubtless epistemologies are epistemologies, then Islam has one. If an epistemology has to include questions that can be answered one or the other way, Islam means knowing and not wanting to know.

When increased populations, traveling, trading, and contact around 600 B.C.E. triggered increased comparison and the quest for common ideas, early Greek philosophers – later called the “pre-Socratic” – asked whether among the tribes and nations there were shared concepts of the true, the good, and the beautiful. Parmenides with whom this kind of investigation is most


106  See notes 54 and text near note 355 above; Herta Müller, Sarkuhi ist unschuldig, DIE ZEIT No. 32 of August 1, 1997, 37; Katajun Amirpur, Kritikern eins „in die Fresse schlagen”, DIE ZEIT No. 51 of December 14, 2006, 61.
often connected held that a human being has the option of asking the questions for the true, the good, and the beautiful, to think about them, and to reach a result. This he called a judgment, or a proposition, and he taught that every human being has the right and the power to make such judgments. He reduced the process of making a judgment to three elements: the judging human being, the object to be judged (whether it is true, good, and beautiful), and an epistemological tie between those two which he called “thinking”. Parmenides lived in a polytheist world which permitted him to neglect the issue of whether a human being might be entitled to judge in the first place.  

A strict monotheistic belief system such as Islam is bound to reserve the right and the power to judge to the only God. Therefore, the Parmenidean judgment is not limitless available for Islam, but has to be placed under the proviso of “Insch-Allah” – God willing. A Muslim is therefore restricted to the immediate, doubt-free access to things in the manner of Aristotle’s entelechia, the sense-finding out of the object itself, always on condition of God’s approval. Whereas Parmenides’ indirect student Socrates derives from the theory of judgment the conviction of existing ideas (e.g., the true, the good, the beautiful, in order to give the judgments objects to be judged), and Plato developed from the theories of judgment and of ideas the theory of dialog as an instrument of better approaching the ideas, Islam has no access to dialog, nor to the Plato-influenced Kantian teachings about judgments of truth (“pure reason”), morality (“practical reason”), nor esthetics (Kritik der Urteilskraft). This means that for understanding and re-enacting Islamic reasoning, Parmenides, Socrates, Plato, and Kant are irrelevant.

This does not mean that Islam has no “reasoning”. Islamic reasoning is akin to pre-axial-age thinking and Aristotelian concluding: the nature of things defines their meaning and purpose, which to know is open to all believers – God willing. This is not a worse, less efficient or less cogent way of concluding. It is different. For a culturally meaningful exchange of opinions with Islamic thinkers, forming meta-judgments is therefore necessary. Derivation and legitimation of such meta-judgments could be based on reality and value estimations, or other pre-established criteria. It seems, as an ahistorical argument, that one of the most ardent opponents of Islam is Parmenides with his opinion that distanced, critical thinking stands between man and object. This perspective “thinking” as a third entity besides person and object looks like employing, for getting to know something, a competing god which from an Islamic point of view amounts to no less than apostasy.

In terms of time, Islamic-Aristotelian epistemology (see above b. first paragraph) is a matter


108 Therefore, a question such as “what would Kant say about the war in Afghanistan” makes little sense, see Volker Gerhardt, Eine Frage an Kant: Der Afghanistan-Konflikt aus der Sicht der Kritischen Philosophie, Forschung und Lehre 12/2001, 639 – 641; Kant’s answer could be: “Forget the pre-Socrates, Socrates, Plato and myself, study pre-axial-age reasoning, Aristotelian epistemology, its Islamic reception – then you will find an emic solution which you may metatheoretically compare to an etic one”. See generally Felix Klein-Franke, Die klassische Antike in der Tradition des Islam, Darmstadt 1980: Wiss. Buchgesellschaft; on dialog, e.g., Hans Küng, Der Islam: Geschichte, Gegenwart, Zukunft, Munich & Zurich 2004: Piper; Institut für Auslandsbeziehungen (ed. & publ.), Der Westen und die islamische Welt, Stuttgart 2004; A. Bsteh SVD & Tahir Mahmood (eds.), Vienna International Christian-Islamic Round Table publ., 3 vol. Mödling 2003, 2004 & 2005: Religionstheologisches Institut St. Gabriel; on the three last publications see the review by Helmut Reifeld, Der Dialog mit dem Islam bleibt schwierig, KAS/Auslands-Informationen 3/2005, 131 – 148.
of the here and now. It does not need time. Parmenidean-Platonic epistemology requires time, to
calculate the issue, exchange of opinions, debating doubts, etc. Dialog takes time, and chances are it makes you wiser. Allah’s world stands complete, fixed, whereas the God of the Jews and of the Christians lets His world grow and develop (Mark 4. 26 – 29, comparing the world to a farm). Therefore Jews and Christians can pray to God for something, not just to God. The official prayers of Islam do not include to pray for something, they are incantations of God’s greatness and mercy. Muslims give honor to Allah in almost every respect, except for time. As to time, a Muslim does not need to honor God because there is no time which God provides for human use over time. Islamic prayers are praise of Allah and as such self-confirmations of the belief in the only God. Islamic prayers do not serve to pray. Praying means to ask the addressee of the prayer to do or omit something. This would imply that Allah in His mercy when planning the world would have committed an error. Of course, to assume this would be sacrilegious. Therefore, Islamic prayers do not pray in order to receive something but pray to someone, to God. It is not prohibited to pray for health, for passing the exam, for not getting unemployed, for consolation, for a child’s welfare, for the soul of a deceased in heaven, and so on. But these prayers, being permitted because of human feableness, are called “inofficial”. The five official prayers of a day, including the important Friday prayer, are no instruments to change Allah’s mind. For a Muslim, the world is made by God; for a Jew and a Christian, the world is in the making by God. Therefore, for a Muslim, the world is God’s empire; Jews and Christians pray that the world will be God’s empire..

Allah’s monotheistic power over and care for the world is to be understood as a time-removed phenomenon while the growth and development of God’s empire in Jewish-Christian understanding makes the prayer of an individual a building stone of such increase. Islamic monotheism ends where honoring God across time is at stake. Therefore Islam has its well-know difficulties with ongoing time, history, development, the closing of the “door of understanding” (ijtihad), testing and test results, and time-related values.109 Allah would never think of entering His own time, as the God of the Jews and Christians does in the shape of a “man’s son”, for love of His “children”. But to negate the flow of time leads to an abridged monotheism. Thus, the religious program of a strict monotheism is exposed to certain difficulties: Time-bound, individually shaped ties to fellow human beings as well as to the environment are hardly to be stored in it. Only if the human being and every natural reference are radically dis-individualized, a strict monotheism can succeed.

In terms of culture, the religious program of Islam is rather unique because of lack of time-as-a-straight line it cannot integrate individually formed interhuman and environment-attached relations. A time-open monotheism needs a messiah, but a messiah in Islam is intolerable. Only if one detaches the individual and nature from time, strict monotheism may convince. Islam needs no messiah because its validity is momentous, for every moment, not across a growing and developing time. Because it needs no messiah, it needs no Holy Spirit as messiah’s memory and spiritual presence to the “Last Day”. In this sense, Islam is truly monotheistic, not trinitarian, but at the price of timelessness (in the sense of time-as-a-straight line until the “Last Day”). With regard to time, Islamic monotheism has no etic answer concerning its own dogma. Only etic answers from outside monotheism are possible.. For Islamic culture, this living outside of time and without development is of course of great relevance and explains many traits. It explains, for example, the desire of many Muslims to get back to the time of Mohammed, a.s., and the first four Kalifs, the Rashidun (1 – 38 A.H. =

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109 In favor of opening Islam to time: Smail Balic, see note 353 above; Thomas L. Friedman, Breaking the Circle, NYT of Nov. 16, 2001, 16; Bassam Tibi, Das arabische Staatsensystem, ein regionales Subsystem der Weltpolitik, Mannheim 1996: B.I. Taschenbuchverlag; contra: Mohamed Talbi, Interview in Jeune Afrique, l’intelligent, No. 2346 of Dec. 25, 2005.
622 – 661 A.D.), the “Golden Period”, when things seemed well-ordered and near to perfection (Abu Bakr 632 – 634, Umar Ibn al-Khattab – 644, Utman – 656, and Ali – 661). That so often values as they are represented by Koran and Sunna suffer from disrespect or just poor attention may have one of its reasons in the fact that they cannot be asserted by Parmenidean judgments and made subject to Platonic dialogs. It cannot be denied that of the 6.5 billion people who live on this world, the 1.3 billion Muslims are surrounded by roughly 4.5 billions whose mental coordinates are shaped by the cultural-philosophical development from Parmenides to Kant. Hence Islam needs to confront this fact, above all in the age of globalization. *The chief issue Islam has to cope with in a globalized world is that the Parmenidean critical judgment is irreconcileable with strict monotheism but that the human brain is made for such judgment. Islam is a world without Plato, and therefore a world without Parmenides, so that forming judgments and objects to be judged are lacking.*

For followers of Islam, the world stands as it does, and it stands well. That this-worldly futurelessness is Islam’s fate. Not all that happens can be interpreted by reinterpretations (and certainly not by so-called hijals as more or less disrespected “tricks” of interpretation). It is difficult to deny the progress of time once the creation of time by God the Creator has been acknowledged. Humans who believe in a monotheistic God as creator of time should not try to take their God’s time out of His hands and declare it moot. But this is what people do when they declare the revelation of God’s wisdom and will to mankind to be the last act within that time. Islam’s monotheism is a time-deprived one, and therefore not a really convincing one. In a truly monotheistic belief system, human propositions about time cannot be placed above God’s propositions about time. *By believing in a last announcement to mankind Muslims deprive their God of ongoing activities with mankind and thus subject Him to an anthropomorphic – human-like - behavior.*

In Islamic view, the factor time is closely connected with the issue of sovereignty. Although there is after the end of the Ottoman Empire (1299 – 1922) presently in Islam no acting Kalif, the reign of the sharia would require a Kalif, appointed for life time, as the only Islamic worldly leader. His task would be to see to it that the ummah, the assembly of all Muslims, is only responsible to God as sovereign. Human sovereignty besides this religious sovereignty is not existent. God’s sovereignty is timeless. This makes it hard for a Muslim to accept other forms of sovereignty, such as the sovereignty of a state, a demographic government, or a human judgment rendered in personal responsibility. Islam is a world without Plato. Therefore, Islam is a world without Parmenides. Al-Farabi’s (870/871 – 950/951 C.E.) neo-Platonism failed to influence his followers.

e. Since the period during which things seemed well-ordered and near to perfection lie so far back in (what for non-Muslims is) history, it is not easy for Muslims to make correct decisions today. The Prophet’s life serves as a model. Islam knows godly legal titles against humans to obey certain duties, and within this framework of godly legal titles also duties towards humans. Therefore besides these duties many issues of modern times may be left open simply because time has passed by and unforeseen situations have occurred. Instructions on how to behave, for example under duress of migration, under a modern political regime, or in view of superadditive organizations which cannot be squared with the principles of the ummah, sometimes cannot be drawn from medieval examples. Love, trust, and reliance among human beings are societal flowers that have not been planted by the sharia. Given that reason is bestowed upon man, different opinions may be put forward and bargained about. Therefore, “bargaining for reality” is an appropriate replacement for missing this-worldly trust
Allah does not bind Himself to men, and therefore not the individuals of the people of His creation to one another except for said duties (Muhammad Shama, of Al-Ahzar University in Cairo, “Ehrung des Menschen im Islam” (Honoring Man in Islam) of May 22, 2007, Zur Debatte 7/2007, 19 – 21, at 20). Thus, there can be no rule of trust and reliance across time among human beings because Allah did not take the initiative to start time-related love and trust in humans, and consequently He did not, mirroring this love and trust, plant trust and reliance among human beings. Neither is there – in view of God’s omnipotence – any reliance on life-shaping, risk-minimizing facts. God’s omnipotence is stronger than any law of causality. Causality is not more than usage, and a miracle is nothing more than an exception to usage. There is no propter hoc, only a post hoc, Al-Ghazali (d. 1111) taught that a man does not die because he has been beheaded, but after he has been beheaded). The concept of time which underlies this “post hoc” irresolvably conflicts with the lack of time-as-a-straight line Obviously Al-Ghazali worked with a naïve time concept, since his basic idea that God creates the world anew in every moment would have permitted neither propter hoc nor post hoc (see for details W. Fikentscher 1995/2004, 412, 432). Therefore, facts are malleable and unsafe, and trust is a risk, so reality has to be bargained for, and rebargained, always considering the relevant prevailing circumstances.

The lack of time-as-a-straight line in Islam has, apart from epistemological consequences, ethical implications. If time does not pass, and the ideal state was the Hegira (= 622 A.D.) and the 39 years after that, future-directed activities are difficult to conceive. The destiny of the world has been pre-fixed by the world’s ruler, God. Ethically, this could be understood as a basis for utmost inactivity. However, Islam is not world-detached like Buddhism, but a world-attached belief system. This means that the lack of time-as-a-straight line has to be replaced by a mandate to become active. In Islam, this mandate is known as jihad.(= effort, engagement, overcoming, fight). In short, it replaces time.\textsuperscript{111} Since epistemology in the meaning of getting to know (and therefore dialog) are neither necessary nor possible, jihad represents effort without accompanying learning, rather an accomplishment of known things. Jihad is performed not in order to influence let alone gear historical developments but to pursue an eschatological final state is, a state the quality of which is fixed and which comes close to the “Golden Period” of Islam after Hegira.

f. Against the conceptual background of jihad it is possible to explain what in Islam is comparable to what in (most) other belief systems are values, or preferences. Values, or in more modern variation, preferences, are positions which may be pursued, to be aimed at, by


\textsuperscript{111} Comparable is the combination of strict-Calvinist determinism and this-worldly activism in Max Weber’s understanding of the Protestant Ethics, and the Marxist exhortation to engage in revolt and class struggle because (!) historical and dialectic materialism makes world revolution a sure thing to come; see on this illogical combination of determinism and decisionism, W. Fikentscher (1976), 544 – 546 (“Stalin’s Therefore”). \textsuperscript{*} – The difference between Max Weber’s approach to strict-Calvinist determinism and capitalism-fostering worldly activism and my own cooperative-economical theory (details in Chapter 9 below) is the following: Methodologically Durkheimian, i.e. rule-searching, Max Weber finds the reason for capitalist success of the West in this-worldly but religiously founded ascetism of strict Calvinism as a Christian denomination. My view derives from the empirical anthropological observation that economic success (not only of the West but everywhere) is founded upon pre-Christian “heathen” cooperation in superadditive units of (hereby created) individuals – thus becoming “members” - , based upon personal internalized moral trust and law: classical and hellenist polis, Roman Republic as long as polis-modeled , Frankish cooperative, League of Iroquois, Tewa speaking Pueblo). In the parable of the Good Samaritan, the hero is the animisr-polytheist well-to-do hellenist citizen-merchant.\textsuperscript{*}
persons who wish these positions to become reality. Efforts under jihad aim at making reality what has already been determined to be. Therefore, efforts of jihad are different from values in the sense of other belief systems. Islam as submission and striving for values are mutually exclusive. Standing up for, or weighing, values, is un-Islamic. An “Islamic use value” does not exist. Rather, the values to be pursued are set by the Almighty God, and they become visible in the ummah’s (= the collectivity of the believers) or the ulema’s (= the experts’) consent, practically in the results of the bargainings of the followers of Islam. This is one of the reasons for the extraordinary number of defendable positions, all of them self-reflexive and autonomous rather than not value-oriented in the non-Islamic sense. To summarize: Islamic monotheism is time-(as-a-straight-line)less. Instead, Islam replaces the lack of passing time by jihad.

The following cultural aspects of Islam are additional consequences of what has been said under a. through f. above about human rights, epistemology, time, and ethics.

g. Additional suggestions may be given for the debate on whether Islam can, may or indeed must accept democracy. Among many writers, Khaled Abou El Fadl and a group of experts have discussed this questions. There are four theories:

(1) The first theory claims that Islam and its sources require democracy. Yaşar Nuri Öztürk holds that the Koran prescribes democracy, for example in Surah 60.12 where even the Prophet Mohammed is told, by Allah, to obtain bajat from the leaders of the community, who speak for the whole community, including the women. Bajat means, according to Öztürk, an agreement to govern and to be governed, similar to the contrat social.

(2) El Fadl himself belongs to the (most numerous) group of writers who think that Islam does not require, but permit democracy: Islam can accept democracy as far as “freedom, foregiveness and tolerance and the pursuit of overlapping consensual commitments are virtues that are important to a democracy but……not exclusively Western”. Khalid Abou El Fadl’s answer is a “yes, but”, insisting on certain conditions. He sees no sense in opposing views and voting on them, rather in freedom of expression, foregiveness, tolerance, and

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112 For this see, e.g., Mathias Rohe, note 353 above. There are serious doubts whether under the rules of Islamic morality such completely time-deprived ethical quodlibet is really tenable.


115 El Fadl op.cit. 111 f.

consensus.  

(3) A third group of authors denies that democracy can be combined with Islam. One of them is Jeremy Waldron who cannot find in Islam what he thinks is essential for democracy, namely, “a system of open decision making empowering and facilitating the confrontation between opposed ideas and interests in the context of representation, debate, and voting”.  

(4) A fourth opinion may be added that starts from theory (3) but mentions certain conditions under which Islam could turn from a necessarily undemocratic belief system to a symbiosis of Islam and democracy. Bassam Tibi considers the jihadist threat of totalitarianism to be very serious but believes in the possibility of a cultural reform of Islam and democratization. He comes close to the point of view that follows from the above remarks: Islam can accept democracy if it opens itself to time-as-a-straight line. Otherwise the democratic progress from one legislative period to the next and, in connection herewith, a possible change from previous minority to majority, cannot be performed. A requirement closely connected with the acceptance of current time is an individuality of judgment, and a Parmenidean character of this judgment. Otherwise political opinions cannot be counted to become majority or minority opinion. A third requirement would be the introduction of superaddition, that is, the assumption that the voters are the members of a unit which by granting rights and duties to the members is more than the sum of the parts. Taken together, this would mean a far-reaching approach of the consensus society of the traditional ummah in the direction of the ancient Greek polis, whereby the ummah need not be abolished, but may be retained as the religious community of the Muslims.

h. Another question is whether a belief in passing time would require a belief in a messiah. This would indeed end Islam. However, such a consequence is not indispensible as the Greek polis and the non-Christian Frankish cooperative show. The introduction of time-as-a-straight line to Islam, not necessarily by conscious culture change but by mere political practice, without letting the monotheistic god send a messiah, would place Muslims in a mental state coming close to the followers of post-exilic apocalyptic Judaism. A monotheism without expectation for a God present across time would have some similarity with millenarism, and thus offer some stability. Clearly, the door to wisdom and knowing (igtihad) could be reopened. This would facilitate democratic opinion-forming in the Parmenidean-Kantian manner, far away from any hijal. Islam would gain political ethics ready for use across time. Turning dispute-removed holdings into debatable values would strengthen Islam. And yet, there would be – as welcome control - recourse to revealed truths in the meaning of the proviso of Simmias. The difference between the asking Plato - the West’s leading epistemologist, who asks - and the knowing Aristotle - Islam’s philosophical supporter, who knows - can be defined as follows: Plato’s epistemology is based on Simmias’ condition of doubt (defined as absence absence of revelation), Aristotle does not recognize this condition so that for him no revelation is possible or necessary.

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117 At 112.

118 For Waldron, see El Fadl, op. cit. at 55 – 58 (58). Similarly, Bassam Tibi, Demokratie ist Unglaube, FAZ No. 152 of Juli 3, 1996, 34; but see the following note.


It should be noted that the discussion of Islam’s compatibility with democracy is frequently brought under the headline of sovereignty or authority. It is said, for instance, that God’s sovereignty has to be respected above all so that “people’s sovereignty” as required for democracy is in conflict with Islam. Others use the term authority with similar arguments. However, sovereignty and authority should not be confused, and a clarification of both terms may solve the issue. Monotheism assigns sovereignty to God, but it does not, in and of itself, bar the creation or the use of authority. There are different kinds of monotheism: (1) Where monotheism holds that God made man a thinker who, for example, is able to render a Parmenidean judgment, God grants man the power to have authority as far as the judgment goes. By consequence, the same must hold true for a judgment that is the result of a Platonic dialog, and thus apt for a democratic decision. (2) Where monotheism identifies sovereignty and authority, God disables man to render judgments, to engage in a dialog, and to make democratic decisions. It seems that traditional Islam follows theory No. (2). But the position No.(1) is not un-Islamic. Position No. (2) is self-defeating by the assumption that man cannot decide about the true, the morally good, and the esthetically acceptable because of God’s sovereignty. But a God who is afraid of human authority is not omnipotent. Rather, God’s sovereignty is the ideal source of human authority to judge in the Parmenidean sense.

i. A subject closely related to Islam’s compatibility with democracy is the question whether Islam knows a separation of private from public sphere. This separation presupposes the separation of individual and public. The creators of this distinction are the fathers of the Greek polis. According to Khaled Abou El Fadl’s convincing historical arguments, Islam rejected individualism at the latest in the middle of the 19th century, in order to have a practical dividing line against Judaism and Christianity. From this it would follow that Islam has no or different concepts of private and public spheres. The gist of the issue is superaddition – again –.: Only where the whole – the polis – is regarded to be more than the addition of its citizens (the citizens as its members with rights and duties among themselves and between themselves and the whole) there can be talk of a separation of of private and public spheres in the general sense.

j. Here, a word about risk and discouragement is in order. It has been said that it is impossible to deter a Muslim because he knows his fate in God’s hand so that any calculation of whether an act is worthwhile the sacrifice connected with it is futile. There is certainly some truth in this statement, and Western political, economic, and military planning will do good to reckon with low Islamic risk awareness. On the other hand, most “kismet”-stories and reports on Muslimic fatalism seem exaggerated. Muslims are highly sensible to discouragement. When something does not work out, a Muslim may think that Allah’s will is not in favor of it. Thus, it might be better not to try. In this aspect, Islam is similar to Marxism. For Islam and Marxism, sensisibility to failure follows from the inadmissibility of the Parmenidean judgment. In Marxism, the Parmenidean judgment is possible, but pre-empted by the decisionism of the “top cadres in the metropolies”. In Islam, the Parmenidean judgment is a sacrilege, because it may pre-empt Allah’s will. Human goal-setting requires such a judgment, so that failure
requires another such judgment. In Islam, this is difficult to perform, and in Marxism it is forbidden. The less risk-aware a mode of thought, the easier it is to discourage its carriers. Martin Luther’s pecca fortiter is missing in both Islam and Marxism.

k. Theodicee, secularism, prayer practice, guilt and shame, and human rights are related subjects in Islam. Theodicee (from theos = God and just = dikaios) is the issue whether God is responsible for the misery of the world. The issue arises together with the decision, by the Jews in exile, that the answer to the challenge of a secular non-tribal and non-national worldwide good-bad ethics must be that God is good. What, however, is Islam’s position to theodicee?

Unlike animism (in the wide sense), Hinduism, Buddhism, Tragic Mind, Judaism, and Christianity, Islam does not start its position towards the evil in the world with concepts like misery, disease, suffering, and ill fate. Islam has little sense for tragedy. In accordance with the overwhelmingly legal understanding of the Islamic belief system, a wrong in Islam arises almost exclusively through human unjust behavior. God is not the author of unjustice, but humans may be, Koran 3.182; 8.51; 22.10; 41.46; 50.29. Humans can behave unjustly against others and also against themselves, 2.231; 3.117; 12.79. Therefore, it is un-Islamic when a Muslim kills another Muslim (Brugman 109 f.). When a suicide bomber kills Muslims, instead of non-believers - and in Pakistan and Afghanistan this is currently the rule rather than the exception – the suicide bombers are soon declared martyrs, in order to whitewash them from the sin of killing fellow Muslims. Therefore, Benazir Bhutto was herself declared a martyr within minutes after her death on December 27, 2007, in order to prevent the assassin from being entitled to martyrdom.

As an exception, the Koran lists some situations of human distress and suffering, speaking of God’s mercy to the victims of such faultless misfortune. All these examples have been taken from the Bible, Old and New Testament (see the quotes in Koran 21, 74 – 90). The Koran even deems possible that God is the source of evil. This is similar to the situation before the axial age in the Babylonian exile (see Isaya chapter 11): In the same sense, Surah 33, 17 states that there is no protection whatsoever if God wants to hit humans with evil. But in the foreground of Koranic revelation are human offenses against humans as source of wrong. Consequently, Islam has no doctrine of original sin (the Christian term for faultless genetic misery in Exodus 20.5). As in Judaism and Christianity (Ezekiel 18; Matthew 8. 21,22), there is a concept of individual guilt in Islam, and man comes into this world free of sin and responsible for her and his own behavior. Among the other main modes of thought in this world, Animism (in the wide sense), Hinduism, Buddhism, Greek Tragic Mind, Judaism, and Christianity, Islam is the only where leading a responsible, faultless, decent life is enough to be safe from being engaged in evil. It is hard to find a Muslim who tells you that he or she has a bad conscience.

123 E.E. Evans-Pritchard wrote a famous chapter on wrong in certain

124 Confucianism is, in this respect, somehow similar to Islam: it works for normal behavior but has no answers if things go awry; see W. Fikentscher (1995/2004), 309. Islam has (biblical) answers if things go awry, but - apart from these references to Judaism and Christianity - it does not accept that things may end tragically (a conception that requires time).

animist societies, titled “Witchcraft Explains Unfortunate Events”.

The belief in witches is – officially - un-Islamic Therefor in official Islam the phrase would go: Human wrongdoing explains unfortunate events. This negation of tragic evil is one of the strongest arguments in favor of Islamic mission, for example in the spread of Euro-Islam.

The general solution which Islam offers for such human wrongdoing is punishment (see the verses of the Koran quoted in the foregoing paragraph). But Allah may forgive human wrong because he is merciful. The time for punishment and pardon is the Last Judgment (Surah 6, 25 – 32; and same verses as above). When it comes, divine pardon will be the preferred solution, punishment the less frequent, because heaven has eight doors, and hell seven. In Islam, there is no general authorization to Allahs servants, the Muslims, to share in the execution of punishment and pardon. But jihad is a Muslim duty, and punishing unbelievers is part of jihad. Time and patience play no role. Punishment may happen just as well today, at least when it is part and parcel of jihad, the effort to spread Islam or to fence off damage. Damage done to Islam includes discriminatory or socially disadvantageous treatment of Muslims or Islamic institutions. Punishment is to be applied just as collectively as the damage is done, so that there are no innocent by-standers. In contrast, in Matthew 13. 25 – 30 the story is told when Jesus’ followers offered to punish the unbelievers. Jesus again, as in Mark 4. 26 – 29, compared the kingdom of god to a farm, where good wheat and evil weeds should be permitted to grow together undisturbed till harvest, and only then will be severed. In short, Islam is Christianity minus time.

Islamic theodicee gives rise to a certain (bargain-subjected) shortlivedness of societal relations. In order to introduce longer and more regular periods for ordering society, Kemal Atatürk, the founder of modern Turkey after World War I, insisted on a separation of state and religion. This “secularism” in Islamic Turkey is not only to limit the influence of “fundamentalist religious rules” on society but also to guarantee a “form of life that opens access to science and intelligence”. While officially claiming to maintain and safeguard secularism as part of Turkish constitutional theory and practice, recent political developments seem to indicate a stronger influence of Islamic positions within the Turkish government and state. It remains to be seen whether this will lead to recurrent instabilities the founder of modern Turkey wanted to avoid. It should be noted, however, that Atatürk’s Turkey did not understood secularism as religious tolerance in the meaning of Western open and civil society, and whether secularism one day will develop into tolerance remains to be seen.

Thus, carriers of the (secular and tolerant) civil society in the Western sense are individuals. They are members of a superadditive unit, for example a nation state, and should have individual rights against one another and against the unit.

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128 Words taken from a message of the former Turkish President of State Ahmet Necdet Sezer of February 5, 2001, on the day of the 64th anniversary of the introduction of obligatory laicism into the Constitution of the Republic of Turkey.

129 The weaker development of the latter in the Normannic type of the Frankish cooperative organization (“the lack of an Art. 19 (4) German Constitution”) will be discussed in Chapter 9, text near notes 206 ff.; see also the remark before 6., above.
it is guilty. Western civil societies are “guilt societies”. In a collective society, such as most pre-axial-age societies and also in Islamic society (see before, according to Khaled Abou El El Fadl since the middle of the 19th century) there can be no individual guilt. There is collective shame. Therefore, collective societies are called “shame societies” because the perpetrator’s family, lineage, clan or tribe has to carry the shame connected with the deed. In connection with Islamic ethics and theodicee this explains the essence of what in the Western media is called Islamist terrorism, and it also explains the use of weaponry and “human” or “living shields”. Seen emically, the self-defined “attack” on Islam by discriminatory or socially disadvantageous treatment of a Muslim or an Islamic institutions is a collective act. This implies that any single person belonging to the likewise self-defined counter-group (family, lineage, clan, tribe, nation, denomination, skin color, gender, etc) is just as “guilty” of the “attack” as any other such participant. Therefore, it is – emically – permitted to kill, maim, kidnap, take hostage, or otherwise counter-damage her or him. As to weaponry, the same deliberations emically “justify” the use of explosives because explosives are able to hit what etically is a harmless by-stander, shopping house-wife, pedestrian, tourist, onlooker, etc. Again, the same philosophy emically permits the use of human or living shields. Who is to judge these collective assumptions? Intentionally hitting innocent people is not permitted under any civilized and international law. Interestingly, it is also prohibited under the sharia: harbis are non-Muslims at war with Muslims. The sharia prescribes to kill these harbis, but to spare women, children, and non-fighting men such as monks. At least by way of qijas (analogy) this means that non-fighting persons may not be harmed. It also means that arming a province for war (e.g., turning Northern Lebanon into “Hisbollah-land” as a platform for missile warfare) includes the duty of the military to built air raid shelters for non-fighting civilians. Islamic collectivism is not as pure as Khaled Abou El Fadl writes. There seem to be some remnants of Islamic individualism, to say the least.

However, Islamic individualism runs into the problem of punishment without pardon Surah 3.182; 6.25 ff). This is understandable against the background of Islamic denial of faultless guilt: there must be a culprit. But as far as the Koran accepts biblical tragic (Surah 21. 74 – 90), where is the culprit? Here the meanings of time and the messiah as God within His own time make the Christian approach plain: Islam needs no messiah only when it understands itself as a collective religion without individually attributable guilt for world’s misery. If Islam recognizes individual guilt, it has in order to remain consistent to deny theodicee and hereby the good God. Then, Islam’s God is the god who brings the good and the bad. But this is not Allah as the Prophet, a.s., teaches Him. The messiah suffered because God in His mercy did not want to leave humans as individuals alone to be the carriers to be punished of faulty and faultless guilt.


Does Islam have, require, or negate human rights?  

Historically, human rights are executable rights of individuals against government, religious authority, and parliamentarian majority. Islam is, according to Khaled Abou El Fadl (see above), at least in its mainstream since about 1850 A.D. a collectivist belief system. As a consequence, Islam cannot acknowledge individual (such as human) rights. Modern understanding of human rights derives from them a bundle of interhuman values which affect the relationships between humans (not just against government, religious authority, or parliamentarian majority), e.g., by granting torts claims based on such values, or injunctive relief. In Islam, these private law effects of human rights are just as excluded as any right against government and other public bodies. This follows from a human’s standing in front of the radically monotheistic God: Professor Muhammad Shama of Al-Ahzar University, Cairo, in his already mentioned lecture “Ehrung des Menschen im Islam” (Honoring Man in Islam) of May 22, 2007, Zur Debatte 7/2007, 19 – 21, at 20) concludes: “Therefore, everything in the universe is at his service (scil.: the human being, personified in Adam), whereagainst God made man servant to absolutely nothing, but rather asked him to serve HIM in prayer”. Islam does not know serving your neighbor, let alone giving the neighbor a right (and follows in this a consequential anti-animist – anti-lineal and anti-clan – line). This confirms El Fadl’s position. It also coincides with strict monotheism that places human intentions under a “God-willing” (Insch-Allah) reservation. From “God willing” it follows that God’s care for humans cannot be used as an unequivocal motivation for human care for other humans, because either that human is already cared for and does not need care, or God has not cared about that person and then human care would be opposed to God’s will. “God-willing” is incongruent with the “glorious freedom of God’s children” (Romans 8.21).

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133 According to Richard Hooker’s system of 1592 which integrates the scattered juristic achievements of the Calvin-critics, the ierenists, the Dutch revolution since 1572, the monarchomachs, and the interests of the British crown: W. Fikentscher (1977a), 583 f.; Fikentscher & Fochem, note 334 above.

134 Therefore, the Cairo Declaration Declaration of Human Rights in Islam of August 5, 1990, adopted and issued at the Nineteenth Islamic Conference of Foreign Ministers, signed by 57 wholly or partly Islamic countries, is systematically correct in generally placing the sharia above the Universal Declaration of Human Rights of the United Nations (1948). Whether this hierarchy in validity is correct on the merits is another question (see for a possible answer W. Fikentscher (1994), 255 – 307).
(1) Are there different kinds of Islam? Of many a mind-set or ideology it is said that it can be separated in so different kinds or branches that there can be no talk of a “real” one. Whether this true or not depends on whether this mind-set or ideology can be reduced to a single criterion which is common to all subspecies, so that upon this core criterion the various kinds can be based and distinguished from one another. For example, it is sometimes said of Marxism that there are so many kinds of Marxism that there is no “real” one. But all variations of Marxism, even pure “Marxist method” have in common the belief in the use value as a guiding standard. There is no Marxism that does not depend on the distinction between use and exchange values.

Islam is different: It has been shown above that a common criterion of Islam is its non-approachability via the Parmenidean judgment. But this is a negative criterion that opens so many possibilities that a concept of “the Islam” may appear a matter of doubt. A consequence of the wealth of possibilities is that in Islam kinds of kinds have to be distinguished. Here are some ways of outlining Islam:

(2) The schism between Sunnites and Shiites is widely known. It occurred only 27 years after the death of the Prophet Mohammed, a.s.(634) in 661 when Ali, cousin and son-in-law to Mohammed and pretender for the caliphate was murdered and Moawija acceded to the leadership of Islam. Moawija founded the heritable caliphate of the Umayyads (- 749) and thus the Sunnite faction whereas the followers of Ali became the Shiites. The Shiites adopted elements of the Zoroastrian tradition, centered in Persia with extensions to Iraq, Syria, Lebanon, and India, of strictly observing the axial-age good-bad distinction. Today Shiite Islam is known for its principledness.

(3) Ernest Gellner has made the point that almost all religions present themselves in two shapes: a popular version that addresses the commoner with more or less colorful rites, focussing on orthopractice instead of orthodoxy, belief in helpful spirits, and relatively simple dogmatics and ethics, and an intellectually “higher”, stricter form for the more thoughtful members and followers that lacks pompous externalities and ritual. Gellner finds high culture within Islam where it has become the pervasive culture of broad section of society and has taken on the function of what in other societies functions as nationalism. “Low” Islamic religious culture concentrating on orthopractice might then mean less nationalism.

It should be noted that Gellner does not identify high culture with Shiitism and low culture with Sunnitism. His dividing line runs through both traditional branches of Islam. While his general observation of high v. low religious intellectualism may be applicable to many religions, for Islam it seems doubtful. While strongly nationalist tendencies such as in Iran may to some degree conform with Zoroastrian principledness, nationalist impressions received from modern Iran and other Muslim states do not necessarily underline intellectualist tendencies.

(4a) Rather, another divide, related to Gellner’s distinction but on a a different terrain, may be interpreted into modern Islam. It is the obvious contrast between a peaceful, reasoned, cooperative Islam, and violent, aggressive Islam which appears under different names: “jihadist”, “terrorist”, “islamist”, “extremist”, “excessive” “radical”, “fundamentalist”, “radicalized violent criminal”, etc. Islam-immanent markers of distinction between the two

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are hardly available since the Holy Koran easily changes from the one to the other. Therefore, it is difficult to pinpoint the exact trait that defines the difference. An easier access seems to be from outside: Gellner would call the “higher”, peace-seeking form religious culture, meaning the more intellectual, thoughtful, and reflexive variant. The aggressive side of Islam would be assigned by Gellner to the “lower” sphere. But this would not do justice to the lofty theories of self-defense which are being presented with considerable intellectual input. Nor may Bin Laden whose nick name is “the professor” be categorized as folkish. The relationship between peaceful and peace-making Islam on the one hand and jihadism on the other must be left unanswered. - The following divergent approaches can be observed in the Islamic diaspora:

(4b) Are there South-East-Asian Muslims to be distinguished from traditional, Arab Muslims? For the peoples in East and South Asia, conceptions of time and development may not be of central importance, but they can be mentally integrated into the wheel of eternal existence (the Hindu samsara). However, in Islam, time and development, including modernization, are potentially disturbing sacrileges. Therefore, in East and South Asia a limited understanding of time and development has brought about a special kind of Islam which has been studied thoroughly been by anthropologists of the Leyden School, Clifford Geertz and his collaborators (including Lawrence Rosen), Franz and Keebet von Benda-Beckman, and many others. While generally insisting on the religious unity of Islam they point to the East and South Asian shades of Islam with their influences of animism (adat law), Hinduism (Bangla-Desh), or Buddhism (Java). This is also a reason why Asia generally moves ahead of Islam, as mentioned. Even the varieties of animistic time conceptions are inaccessible for obedient Muslims whose main enemies have to be the animists (see 2.191 - 193, 216; 8.38; 9. 5 - the “Sword-Surah” directed against the animists--; 9.16; 37,93; 65.8 - 10; etc.).

(4c) Are there – on the other, western side - Euro-Muslims as “organized Muslims” (my term)? There is talk of “Euro-Islam”. It is embodied in the groups of Europeans who converted to Islam (the number seems to be rising) and in the migrant groups from Islamic countries. Euro-Islam is to be found in multiple Islamic organizations. Austria and Belgium, both trying to give a legally recognized status to Muslims, have the longest experiences. Whether organized or not, Muslims living in European national societies live the same life as the ordinary citizens, being integrated legally, linguistically and socially to varying degrees into their host societies. They may participate in public life and not infrequently are members of local, intermediate, or higher parlaments.

(5) Are there human-rights Muslims? These are Muslims that accept human rights as valid norms within, side-by-side, or even superior to the sharia. There are Muslims who share in discussions about democracy, human rights, rights of women, and the relationship between the

sharia and the law of the host country. For them, the alleged primacy of the sharia (see above) is a matter of debate. The prevailing opinion among “human-rights Muslims” is that there are human rights and that they have to be interpreted in the light of Islamic teachings (the “side-by-side solution”). However, since human rights are individual rights (even when they protect an individual group such as minority against the majority) and Islamic teachings contain, at least at present, overwhelmingly collective truths, Islamic interpretation of human rights may be somehow misleading. Before entering into a discussion about the relationship between human rights and sharia, the role of the individual in Islam needs clarification. In this context, The Cairo Declaration on Human Rights in Islam (CDHRI) of August 5, 1990 mentions some individual rights, for example the right of free speech (Art. 22). Other human rights mentioned in the CDHRI are collective rights, such as the right to education (Art. 9) and the right of freedom from colonization (Art. 11/2). The CDHRI is valid only within the limits of the sharia (recital 7 of the preamble) and admit only the sharia as guideline for interpretation (Art. 25). It does not grant the right of freedom to choose and change one’s religion, but protects against enforced changes. The CDHRI has frequently been criticized because of its discriminations against non-Muslims and women (Rhona Smith 2003, 195).

(6a) Official v. unofficial Islam, and – in a similar sense - universal v. local Islam, are other debated subcategories. Is there a distinction between official and unofficial Islam? Such a dichotomy could be derived from the differentiation of official and unofficial prayers (see d. above). Is there perhaps an official face of strict Islamic observation, alongside a more loosely styled practical Islam that includes syncretic mixes with European and US-American cultures with their individual-collective, private-public-spherical, grass-roots organizational daily things including the Jewish-Christian prayer for something? A small, electric-bulb-lit Christmas tree in the eveningly window of a Muslim family home in a German suburb would be an inconspicuous symbol. Empirical observations of this sort may be evidence that there is unofficial Islam.

(6b) Pawel Jessa wrote on “Religious Renewal in Kazakhstan: Redefining ‘Unofficial Islam’”, in Chris Hann & the “Civil Religion” Group (169 – 190), and Manjy Stephan on “‘You Come to Us Like a Black Cloud’: Universal versus Local Islam in Tajikistan” (ibid. 147 – 168). In Kazakhstan, similar to Western European and American Islam, there is both an official Islamic canon, while unofficial popular practices and rituals persist. Jessa mentions two variants of unofficial Islam: Sufi revitalization (showing gnostic inclinations), and regained traditions of often mere local importance (indicating older animist influence). The general picture which Jessa draws of Kazak Islam demonstrates promising tolerance and “civility”. Stephan’s report on Russian influence on Islam is less confident.

(7) Time-open and time-removed Islam is another possible categorization. Euro, human-rights conscious, and unofficial variations of Islam have no difficulties with passing time. Too strong is the influence of the other modes of thought pervading the host societies and their cultures.

The radical, violent forms of jihadist Islam may suffer from not having enough time. Success must be here and now. Time-open Islam tends to focus on understanding the Prophet, a.s., and

His teachings whereas time-removed Islam aims at imitating Him and His works.

(8) Secular and obedient Muslims: Muslims from Turkey (much less from other countries)
often include not only obedient and confessing adherent of the Koran and sharia, but also nationals who follow Atatürk’s separation of nationalist citizenship and religious partiality. In this aspect, they behave similar to citizens of Western states. Human-rights-consciousness and acceptance of “inofficial” behavior are not identical with secularism, but may be found more on the secular side of the specter than on the religious side. The difficulty of such Islamic secularism lies in the inconsistencies of time conceptions. It is not comfortable to politically live in perspective post-axial-age “Greek” by-passing time, and religiously under pre-Parmenidean aspective and “uncritical” non-history. This may explain the heat of the debate around recent Turkish attempts to combine secular state and Islamic concepts.

m. Enculturations. Because of its basic clarity and the straight-forwardness of the Prophet’s teachings, Islam has always been susceptible to foreign cultural and thought-modal influences. Over centuries, this has led to many combinations of Islam with other cultural traditions. For example, Zoroastrian influence contributed to Shiitism at a very early stage of Islam. Sikhism, founded by Nanak (1469 – 1538) is the product of a successful attempt to reconcile Hinduism and Islam under the principles of an aniconic (= picture-free) monotheism, its founder is Nanak (1469 – 1538). Eastern gnosticism and its ascetic attributes shaped Sufism with its mystic and non-mystic branches, its dervishes, fraternal orders, and partly individualist philosophies. \(^{138}\) Sikhism and Sufism are mixtures that cannot be called kinds of Islam, and syncretism is no fitting category either because of lacking volatility. They are culture changes, based on borrowing or partial assimilations. Less obvious are single borrowed traits that add facets to Islam which do not really grow from Islam but form its appearance, often more the outer than the inner. An example are animist relics such as societal segmentation, \(^{139}\) clan leadership, circumcision, or belief in evil spirits. The division of dar-al-Islam and dar-al-harb seems to be a borrowed trait from animist segmented societies whose principle is disunity towards the inside, but alliances towards the outside. As far as the concepts of jihad and of dar-al-harb are connected – one of the meanings of jihad is to conquer dar-al-harb – jihad is another animist, “heathen”, trait and thus not genuinely Islamic. A shintoist(-animist) implant is the suicide (“kamikaze”) mentality which may lie at the bottom of Muslimic terrorist suicide attacks or at least shows striking similarity, reinforced by the hope for immediate access to Paradise according to Islamic dogma, and heavily aggravated by victimizing women, children, innocent non-fighting by-standers (“monks”). Suicide is just as anti-sharia as are these “collaterals”. Thus, besides the shintoist-animist allusion, the suicide attacks by pious Muslims also show a gnostic input (effort to “enter paradise”). Suicide attacks can be defined as gnostic preemptions of human perfection and problemlessness in a shame society that ethnocentrically generalizes itself. Melancholic-tragic impact and thus a relationship to the Tragic Mind is witnessed by modern “time-open” Islamic writers. \(^{140}\) Under the Tragic Mind, a problem is to be solved. As remarked before, for the mainstream Chinese mode of thought a person with a determined heart frightens problems away. In a nutshell, the


\(^{139}\) For details of societal segmentation, see Chapter 9 IV.

\(^{140}\) Cf., Orhan Pamuk, Rot ist mein Name, 2002; idem, Schnee, Frankfurt/M. 2007: Fischer Taschenbuch (orig. 2005); see also Joachim Sartorius, Orhan Pamuk ist für uns ein Glücksfall, DIE ZEIT N.4 of October 27, 2005, 59. – The prizewinning movie „The Other Side“ (Die andere Seite) of 2007 demonstrates that and how Islam, once it opens itself to individualism, personal feelings of guilt, and a Shakespearean plot across time, becomes influenced by the Tragic Mind. On religious motivations of suicid attackers Hans Maier, Religiöse Motive von Selbstmord-Attentätern in der Kritik, 38 Zur Debatte 2/2008, 16 – 19.
diverging attitudes towards a problem define the differences between West and East.

Jihadism is envy for and replacement of time, individual judgment, dialog, and superadditive unity. Terrorism is envy’s product. Often, the envy is being sublimated into a feeling of oppression, and from there into a perceived need for (collectivized) revenge. A third important motivation for engaging in terrorist activities is, according to a study among British-born Muslims, the rejection of a double moral standard: “the West” with its big talk about democracy, freedom, and rule of law permits Guantánamo and Abu Ghraib. On the occasion of the sixth anniversary of the killings in the name of Islam of more than 2,700 innocent by-standers and tourists (the sharia’s women, children, and non-fighting men such as monks) in New York’s World Trade Center, Osama bin Laden gave a video interview on September 7, 2007, admonishing US-Americans to convert to Islam. A cultural anthropological answer to Osama Bin Laden would be that US-citizens are already Muslims and need no conversion, inasmuch as they are Christians or Jews: If Islam is Christianity or Judaism minus time, Christianity and Judaism are Islam plus time including its corollaries, to wit, a monotheistic God within His own time and not outside or above of it. A time-implemented Islam would mean God’s empire growing instead of immovable, human individual judgment, dialog, tolerance, superadditive units, civil society, organized welfare, individual rights and duties instead of collective obedience, however coming at a price: mashiach.

n. Islam’s relationship to other cultures or modes of thought has already partly been addressed in the foregoing paragraph on enculturations. Relations of equal rank exist, e.g., with the Russian Orthodox Church in order to oppose Catholicism in Russia. Non-messiah time-openness in the sense described above calls for cultural configurations corresponding to the Tragic Mind and its futile feelings of personal guilt. Islamic mission opens many contacts to other cultures, not the least in Africa, mainly along Africa’s east coast from Egypt to South Africa, and there predominantly in the Sufi tradition (communications during fieldwork in Namibia) and along what used to be the “Silk Road”. Relations between Islam and Marxism are difficult because for Muslims Marxists are atheists. A thought-modal difference consists in a different treatment of the Parmenidean judgment. Marxism uses the Parmenidean judgment but operates with politically obligatory, fabricated truths and evaluations (Pravda, De Waarheid, Die Wahrheit/Niedersächsische Volksstimme, etc). Islam operates without Parmenidean judgments because of the “Insch-Allah” proviso. In Marxism, arbitrariness of judgments originates in the monopolized interpretation of the use value concept by the political leaders, the “cadres in the metropolises”. In Islam, the arbitrariness of judgments originates in anybody’s interpretation of God’s will, without Islam-theoretical ethical control. True, there may exist rudimentary principles for the definition of “God’s will” but not for application in everyday life in a manner comparable to Christianity with its principles of service, patience, and dialog.

Islamic ethics are too loosely structured (in other words: too much dependent on the ulema’s - experts’- dominant opinion and therefore too wide-meshed) in order to furnish enough “leading values” in Karl Jaspers’ sense). Of course, in terms of leadership, this may favor regional or local strongmen. It seems to be a characteristic of (post-axial-age) total religions

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141 Jochen Bittner, Jung, rebellisch, explosiv, DIE ZEIT No. 30 of Juli 21, 2005, 8.
143 On the Silk Road, see, e.g., Thomas O. Höllmann, Die Seidenstrasse, 2nd ed. Munich 2007: C.H. Beck; idem, Das Seidenstraßenprojekt der UNO, UNESCO heute, 1/1993, 32 – 35.
that they cause dogmatics and ethics to enter into an especially close relationship. By contrast, (pre-axial-age) religious types coordinate their dogmatics and ethics much more loosely (therefore those strogmen are no big men). Still, the closeness of ethical rules to dogmatic assumptions varies among total religions. In Christianity, dogmatics and ethics are particularly close: repeatedly, Jesus of Nazareth demands behavior resembling his own behavior. In Islam, interhuman behavior is not strictly modelled after Islamic belief. Otherwise there would be a requirement of submission of all obedient humans to all other obedient humans which is hardly workable and certainly not the case in the relations between Muslim men and women.

Islam, Marxism, and Christianity are also comparable with regard to risk. Because of Allah’s benevolent will and foresight, a Muslim is rather insensitive to risks (so that it is nearly impossible to deter a Muslim). Inversely, a Muslim is particularly sensitive in the handling of failure: If something goes wrong, Allah’s will and foresight must be the cause, and therefore it should be given up. In this, Islam is similar to Marxism. For Islam and Marxism, this sensitivity to failure follows from the absence resp. inhibited Parmenidean-Platonic search for and judgment of truth. Human goal-setting requires judgment so that failure gives rise to revised and improved judgment. The less a mode of thought is risk-aware, the sooner its followers are to be discouraged.

The relationship between Islam the the concepts of value is worth a study in itself. It cannot be presented here even in abbreviated form. Because of the unconditional submission of humans to God, the Islamic meaning of “value” is different from the Western-Greek meaning. From a Western-Greek perspective, unconditional surrender and “value”, confession of values, weighting of values, holding something valuable etc., are mutually exclusive, and the Western-Greek attitude towards values are acts of disbelief. Therefore, Islam does not know and would refuse the Marxist use value. Rather it is the God on High, Allah, who determines all value, and such a value is knowable, no matter of doubt, and able to be transformed into reality by those of the believers who are successful in having bargained for reality. It is one of the reasons for the astonishing multitude of defendable positions in Islam: unconditional submission turns into multifariousness, into liberty from. But the multiformity is not value-bound. Rather it is self-reflexive-autonomous. Predictions are not the task at hand. But the may be ventured under the heading of applied anthropology. This non- (or anti-)Parmenidean and non- (or anti-)Platonic lack of value-oriented judgment may one day lead to (and in some heads exists already as) concerted anti-Western efforts.: Both pravda and Insch-Allah prevent people from making self-responsible, value-bound decisions, necessary, e.g., for having a democracy. Anti-democrats are not picky in looking for arguments. An alliance of European and Russian Marxists with Muslimic parts of the world would mean a lot of trouble for freedom.

o. An Islamic relationship to other cultures of a special, alienated kind is Islamic terrorism. It is a world-wide movement without specific geographic or ethnic base. In this, it resembles piracy. In classical law of nations, a pirate was regarded hostis humanis generis, an enemy of humankind (21 Ruling Case Law (R.C.L.) 419f.). The same can be said today of a terrorist, called so because of an indiscriminate selection of victims. The main reasons that may make
him a terrorist are discussed under f. above: a feeling of oppression, a felt need of revenge as traditional part of a feud between collective groups, and a criticism of double morality. There may be additional motives: a sense of obligation to share in jihad, friendship and comradship with others, personal disappointments, insults by family members or assumed friends, the sense of being superfluous in a youth bulge context (“the older brother got the farm”), religious fervor (called “Holy War” in order to claim a position of defense), revolutionary idealism, living out brutality, etc.

Islamic terrorism should not be identified or mixed with other kinds of Islam, as they are listed above. It amounts to a special facet of Islam that, as pointed out earlier, utilizes certain sides of Islam that are not the most consistent ones, such as the partly animist, partly Islamic concept of jihad, the conceptional difficulties of Islam with time, or the Islamic reluctance of rendering self-responsible statements (“Parmenidean judgments”). The latter factor may also be responsible for the silence with which the vast majority of more than one billion of Muslims watch terrorism that is being committed in the name of jihad as an Islamic duty. This is no good omen for international respect of sharia.

The main weapon of terrorism committed in the name of Islamic jihad is suicide bombing. Suicide attackers kill by far more Muslims than “infidels” although it is un-Islamic to kill fellow Muslims (Brugman 109 f.). Thus, suicide attackers kill both Muslims and infidels in the name of Islam disregarding (the Western concept of) causality. Therefore it is difficult to criticize the subjective psychology of suicide attacks without getting into a conflict with basic principles of Islam. However, this difficulty can be overcome by assuming that the killers are abusing the name of Islam and thus in doing so separate their deeds and psychology from Muslim belief. More problematic is the separation of the objective context between suicide killing psychology and Islam. But it can be done. Islam knows no visible time and development between 632 A.H. and the Last Judgment. This period is, in the words of the Prophet, a.s., “dark”. One way of saying this is that Islam offers no visible future. It does not have to because it is perfect. But humans need to imagine future. Thus they seek a future. But this future does not exist in this real world. It exists in the other-world. Islam envisages it as Paradise. Gnostics offer a future by jihad, effort, active input. Suicide killers seek their future in Paradise. For them, their bombings are a short-cut to future. Suicide killings are to replace future. This context may bring Islam itself under criticism when one criticizes the killings of Muslims by Muslim suicide candidates. It makes that criticism appear so difficult. It sounds like: Give Islam a future and these killings will stop. Jihad is being used to replace time, so time may replace jihad. But introcing a future into Islam means introducing the element of time into Islamic religious dogma. This means accepting Allah as a monotheistic God who is active across time, and this requires something of a messiah whether you like it or not, and irrespective of how one may call, imagine, circumscribe, and depict such a God across time, as “Son of Man” or otherwise. One way out of this dilemma is the assumption of utter determinism bordering at a deus otiosus, another to devise an Islam-specific concept of time that ethically works satisfactorily. Both propositions cannot be tackled here.

d* Is Islam a gnostic movement? Is Christianity gnostic? Are there links of both to Eastern (esp. Budddhist) or other gnosticism? Only brief remarks can be offered on these broad and well discussed subjects (for more details and some material see W. Fikentscher 1995/2004, 159, 162 f., 396, 414). The Prophet’s, a.s., teaching is basically anti-gnostic. He castigates “monkery”. The negative impression which pre-Benedictine Christian monasteries and their

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145 There are few exceptions: the Topkapi Declaration (2006) of outstanding Islamic authorities, see Jörg Lau, Keine Gewalt, DIE ZEIT No. 28, of Juli 2, 2006, 38; and the open letter of October 12, 2006, written by 38 Islamic leaders and addressed to Pope Benedict XVI., see the in FAZ No. 247, of October 24, 2006, 6.
isolation from Christian communities (with apparently very few exceptions) have earlier made
upon the Arab world may be a reason for such an unfavorable opinion of what was left of
Emperor Constantine’s Christian orientalism. Active engagement for the belief in God, not
world-removed isolated striving for betterment of the soul, was the Prophet’ parole. And
betterment of the human society could not form part of that engagement since the Muslim
relates to his neighbor only through God (Khalid Abou El Fadl; Muhammad Shama). So there
was little occasion to meet gnosticism. However, the exclusive direction of the Muslim to God
and the ensuing principled objectlessness of the Muslim’s surroundings, both following from
that exclusivity - the all-pervading “Insch’Allah” instead of Parmenides’ judging reality,
morals, and esthetics - is a challenge for engaging in bargaining reality (morals and esthetics),
and herein lies a prize hidden for the bargain’s winner. Moreover, the Muslim is the elected
one while faring through the perils of this world. Both features of Islam may attribute to it a
touch of gnosticism, similar to Max Weber’s Protestant ethics.

This is different from the Christian belief in salvation. Salvation is a gift *sola gratia*, without
any reciprocity. No bravery, no success, no successful bargain, no good works are required.
Really not? The parable of the Good Samaritan is a praise of the brave one, and the question
of the scribe at the start of the parable “who then is my neighbor to whom you think I owe
help (by the way, without “Insch’Allah”)?” is immediately turned around by Jesus into the
question “to whom should I be a neighbor?”. But is the story not a gnostic exhortation to
engage in striving for personal and social betterment, a *command for jihad* (as Islam may call
such a command)? This would no longer mean salvation *sola gratia*. However, for Jesus of
Nazareth helping your neighbor is a matter of course because he helped us. It is not a price to
be paid for salvation. The gospel according to St. John is one big coherent text against
agnosticism, probably one of the strongest ever written. Paul’s letter to the Romans Ch. 6 to 8
is another, shorter and more philosophic.*

q. To sum up the cultural *impact of Islam on the world* in history and presence is not an easy
task. Even more difficult are predictions for the future, for example, the Turkish plea to join
the European Union. And most difficult would be to try recommendations for such
development. Again, predictions enter the field of applied anthropology, and they may so. In
the light of the foregoing discussion, at least the following points may be raised as a summary
of Islam’s observable impact on world culture and as salient for Islam’s prospective peaceful
coeexistence with other cultures.

(1) It would be a welcome step to re-individualize Islam (in Khaled Abou El El Fadl’s sense).
Collectivism should not stay the Islamic mainstream. This would mean a return to guilt
culture and a corresponding decrease of shame culture traits such as revenge and feud
concepts as against “the West”, “the Eastern capitalists” China, Japan, and India, or any
emical “oppressor”.

(2) Advisable is a positive attitude towards the Parmenidean judgment. This could be
performed on the basis of the “greater jihad”, recommended by the Prophet Mohammed, a.s.,
in 8 A.H. = 630 A.D. after the defeat of the Mekka clans: Self-restraint creates time for
deliberation and peace-making. Another source for the Parmenidean judgment could be
Abdelkarim Sorush’ “epistemology”.

(3) Even a bit of individualism and individual judgment would pave the way to the
superadditive unit so that it would become thinkable that the whole is more than the sum of
the parts, and units under private and public law become possible that have members and

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146 Independent Commission on Turkey (ed.), Turkey in Europe: More Than a Promise?, New
York 2004: Open Society Institute & Soros Foundations Network; J.M. Westerfield, Behind the
Veil: An American Legal Perspective on the European Headscarf Debate, 54 AJCL 637 – 678
organs, tied among each other by individual rights (including human rights) and duties (including social duties). Corruption would be better controllable.

(4) That bit of individualism and individual (and thus self-responsible) proposition-making would introduce enough time, and dialog across time, to justify a theory of God-guided development. Most of all for modern Islamic ethics and law this would be useful and beneficial.

(5) After 1945, nobody oppresses Islam,. The feeling of being oppressed, claimed by the terrorists as a reason for their deeds, is a misnomer for subjectively felt backwardness in comparison with Western Judaic-Ancient-Greek-Christian, East and South Asian, and possibly also Bantu-African modernity. Once the foregoing points (1) through (4) are being tackled, the cultural impact of time-open Islam for the world would considerably rise.

7. Modern secular-totalitarian cultures

a. In the early twenties, Italian fascism grew from Marxist socialism by replacing the international with a nationalistic appeal. The empowered, disappointed post-World-War-I generation in Italy rallied behind the charismatic leader (“Il Duce”) Benito Mussolini (1883 – 1945) who in 1920 openly proclaimed to have no political project except to govern Italy in order to “save” the country. In 1921, the Partita Nazionale Fascista was formed under his leadership. In the next year, Mussolini discarded his originally socialist, anti-monarchist, and anti-Catholic program in favor of a pure, voluntaristic, anti-parliamentarian, and dictatorial nationalism, with a special emphasis on the military and on labor relations. In 1943, the Italian fascist regime was overthrown by troops of the Italian king under Marshall Badoglio, and in 1945 Mussolini was killed by Italian resistance fighters.

After 1922, the cultural importance of fascism developed into serving as a model for similar movements of analogous nationalist tendencies as societal form and mental attitude in many countries, the most prominent one German Nazism (for National Socialism, see b.). Among them, the “British Union of Fascists” (Mosley) is the only one which in its title expressly referred to fascism. 147

b. By far the most deadly form of nationalist-fascism took on, in Germany, the form of National Socialism (“Nazism”). Joseph Goebbels, the later propaganda minister of the Nazi government, is said to have remarked in the late twenties of the 20th century that ideology and methods of National Socialism and Marxism are about the same with the only major difference that Marxism is international, and National Socialism national. There may be some truth in this statement, however, some differences should not be overlooked. Nazism had less theory. The Marxist idea of use value as the guiding societal value has at least some appeal of economic science and can be logically opposed to market (or exchange) value. The leading Nazi value of “blood and soil” (Alfred Rosenberg, Der Mythos des 20. Jahrhunderts (The Myth of the Twentieth Century), 1930, is a much less rational sounding counterpart. Nazism was from its outset a militarist movement, led by World-War-I survivors who tried to glorify their war experiences. As in Italy, industry and business favored fascism/national socialism over international Marxism and were content to see Marxism kept at bay an attitude which in turn was exploited by the “leaders” for their own purposes.

The historian Percy Ernst Schramm (Univ. of Göttingen) once said that National Socialism is the institution that put the Prussian sword into the hands of Austrian tomfoolery. The result was crime of disastrous extent. 148


148 An anthropology of Nazism has not yet been written and cannot be written here. Earlier
became the basis for massive crime and genocide. In historical descriptions of the relatively short time in which Nazism was able to destroy large stretches of Europe and kill six million Jewish citizens of German and other nations it is sometimes said that Nazism of course had it criminal side but also here and there an acceptable point. Such pretendedly balancing statements suffer from a fundamental mistake that may be called anthropological: If a society is based on criminal principles, crime affects every societal trait. Nazism is a culture of lie and terror. The whole system is so much soaked with crime that every cultural trait suffers from the all-pervading poison of criminal intent and inhumanity. The “acceptable-points” rhetoric is flawed.

c. This may also be true for an observation, related to the handling of property, by Elena Bonner, on how Marxism and Nazism worked mind-damaging in different ways. In one respect, Mrs. Sacharow thought Marxist ideology to be more desastrous for the human personality than National Socialism: Marxism deprives the person of property so that there is no foothold anymore to stand on.\textsuperscript{149} Marxism contributed to a modern secular-totalitarian world culture for more than seventy years. Marxist theory and methodology stipulates for every thing a contrast between its value that can be negotiated (exchange value = market value) and its use value that can only be “scientifically” ascertained. Under Marxist rule, people have to believe in the correctness of officially (= scientifically) prescribed use values. Use values must not be discussed, otherwise they are exchange values (and create surplus value which should be avoided). Use values are authoritatively determined not only for material things. Also mental objects are fixed, such as access to information, option for a certain understanding of time, mobility including travel destinations, sanity and insanity, and truth in general (“prawda”). Forcing people to believe in the correct determination, by “Party” and state, of such material and immaterial contents of consciousness characterizes Marxism as a species of theocracy. In a society where one is not permitted to ask for values but obliged to uncritically obey politically prescribed use values state authority cannot originate in the people. After its economic failure in 1989 (a society based on use values cannot survive because it has no control over the cost), Marxism in the early 21\textsuperscript{st} century survives only in the People’ Republic of China, North Vietnam, Cuba, some Western esoteric circles, and in the memories of leftist parties.\textsuperscript{150}

To conclude, the application of the modes of thought to the anthropological study of a society and its own control of societal power produces certain rather robust results of categorization and predictable conduct in a number of cultures. Six shorter subchapters on culturally relevant phenomena follow below

\textbf{VI. Acculturation (an enlarged theory)}

Acculturation is the field of cultural anthropological theory that deals with issues that arise when two or more cultures encounter each other. According to Richard Thurnwald (1932),

\textsuperscript{149} See the first para of Chapter 11, below.

acculturation is a “process of adaptation to new conditions of life”, a definition that has found not many followers. Literally deriving from the Latin *ad culturam*, this definition relates persons to circumstances. Instead, the majority of opinions about acculturation relates cultures to cultures. Following a suggestion of the American Anthropological Association (AAA), three renowned anthropologists of their time, Robert Redfield, Ralph Linton, and Melville J. Herskovits began, in the early thirties, drafting a theoretical survey of the anthropological term acculturation. Their view, which for many is still the position to begin with, is the basis for the following, though with substantial modifications or additions. A general remark may be made first: All cultures are in flux. Relatively stable cultures such – allegedly – the Ancient Egyptian – are rare. This means that in most cases the following instances of biculturalty, coexistence, and acculturation do not trigger the development of one or more cultures that was not there before. Rather, cultures move on, across time. When then biculturalty, coexistence or acculturation enters the scene, things that are already in motion continue motion but may change direction. This is meant by the changes to be mentioned now.

When two (or more) culturally autonomous ethnic groups come into contact, there are two possible outcomes: either there is a culture change in one or the two (or more) cultures, or there is none. If there is none, the result is either biculturalty, or it is coexistence. In both non-change types, the encountering cultures are kept and maintained separately. However, biculturalty and coexistence are two different forms of culture contact:

1. **Biculturalty**

In the case of biculturalty, cultural contact is internalized. One and the same person belongs to the two cultures that are present in its mind. The person internalizing two separate cultures can live at will in either culture, and decides for the moment in which it wants to be. However, the person keeps these cultures separate, again internally. A Hopi Indian is educated to be a Hopi at home, but behave and think like a “white” when going to Washington, D.C., for

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152 Robert Redfield, Ralph Linton & Melville J. Herskovits, Outline for the Study of Acculturation, 41 American Journal of Sociology 366 – 370 (1935) = Memorandum on the Study of Acculturation, 38 American Anthropologist 149 – 152 (1936). Their definition of acculturation was first given in 1930 by the Subcommittee on Acculturation (appointed by the Social Sciences Research Council), the members of which were the three researchers mentioned. It says that acculturation “comprehends those phenomena which result when groups of individuals having different cultures come into continuous first-hand contact, with subsequent changes in the original cultural patterns of either or both groups”. For the following, see the more elaborate changes and the cited literature in W. Fikentscher (1995/2004), 476 – 482; idem, Migration, Akkulturation und Bikulturalität aus rechtsanthropologischer Sicht, in: R. Böttcher, G. Hueck, B. Jähnke u.a. (eds.), Festschrift Walter Odersky, Berlin/New York 1996: de Gruyter, 431. The above lines are a modernized version of the two older texts. The new version attempts including concepts such as “integration”, “parallel society”, “tourism”, “Leitkultur”, “multi-culti”, etc.

153 My thanks go to Kai Fikentscher for this comment.

154 on culture change in particular, see VII below.

155 For biculturalty, see W. Fikentscher (1995/2004), 476 ff.; for coexistence, see, for example, Kartomi: 237: “pluralistic coexistence”; cf. also L. Kuper and M. G. Smith; Vanderlinden 1971.
negotiations with the BIA, or entering into other contacts with other white persons. If more than two cultures are being internalized, *multiculturality* would be the appropriate term. Multiculturality is to be distinguished from what below is characterized as “airport society”: the temporary presence of many persons of different cultures in the same geographic area such as an airport or an international tourist area.

2. Coexistence

In the case of coexistence, the participants of the encountering cultures do not internalize the contact. Each person belongs to one culture only and does not leave it, but both (or more) cultures coexist while being kept and maintained separate externally. An example may be the city of Mostar, former Yugoslavia, where the famous arched bridge separates the Serbian and the Bosnian parts of the city: persons are either Serbs, or Bosniaks. A more recent synonymous term for coexistence is “parallel society” (*Parallelgesellschaft*). Some protagonists of integration (which as we will see is a form of assimilation) use the term “parallel society” with an undertone of criticism, to the effect that immigrants who insist on their way of life “parallel” to the mainstream or framing culture refuse to do their share to promote integration into the mainstream (framing) society. Turkish *Gastarbeiter* in Germany are sometimes exposed to such critical comments, as well as early German settlers have been in USA. If persons of more than two cultures enter into coexistence, one can speak of *multicultural coexistence*. The already mentioned “airport society” may hold multicultural coexistence. There are three special forms of (apparent) coexistence that will be discussed in the context of cultural neighborhoods (see XI. below): (1) the anthropology of minorities in situations of national borders, (2) the anthropology of enclaves and ghettos, and (3) the anthropology of syncretism and “melting pots”. These forms of coexistence pose their own problems.

3. Acculturation (classic terminology)

If there is at least one culture change as the result of the contact of two or more cultures, the meeting of the cultures is called *acculturation*. A dominant culture will often claim that it implanted its cultural values in the less strong culture “enriching” it. Such strictly unilateral acculturations are largely theoretical. More often than not, the “inferior” culture will introduce at least some of its traits to the dominant one.

Acculturation can be subdivided. There are four different kinds of criteria, and all are used in acculturation theory. Their respective points of reference are: (a.) the cultural *source* of the culture change, changes, or exchanges; (b.) the *cause* through which acculturation takes place; (c.) the *personal involvement* of the participants in the change(s); and (d.) the *results* of acculturation. Those four different ways of distinction, however, may be combined with one another. As the literature often confuses some or all of these four criteria, the distinctions used by the writers on acculturation necessarily vary. M. Gordon (77), for example, uses acculturation and assimilation interchangeably, while Teske and Nelson make great efforts to distinguish them. But on the whole most authors are in agreement on the resulting kinds of acculturation.

a. If acculturation is seen from the point of view of the *cultural sources* from which culture

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change may flow, there is only one basic distinction: “The innovation can originate within the culture itself, and then we speak of either invention or discovery, or it may come from outside a culture, in which case we call it borrowing (or diffusion)” – both used in a broad sense – (Pospíšil 1986a, 50). The cases in which acculturation is achieved through invention or discovery within one’s own culture are on the whole rare, but they occur when, for instance, a culture, having come into contact with another, develops a (mostly adaptive) change from its own source. When the Romans fought against Carthage during the First Punic War, there occurred quite a bit of “acculturation” on both sides as to the style of warfare. One distinctive feature of acculturation on the Roman side was an invention of their own, breaking away from the habit of destroying a conquered city, killing the adult males, and enslaving the rest of the population. This inventive change brought Rome many friends in what is today southern Italy, thus giving a competitive advantage over Carthage. Reaction as a result of acculturation (see infra), is as a rule invented. Otherwise, acculturation means borrowing (in a wider sense).

b. The cause of acculturation can either be free borrowing (referring here not to the cultural source, but in a different, narrower and process-related sense), by dominance, by migration (Zuwanderung), or by immigration (Einwanderung).

(1) Free borrowing is also called incorporation. One example is the Navajo nation, which during the 17th century freely borrowed herding and trading from the Spaniards. Free borrowing may work one way (reception of Roman law in Germany in the 15th century; Chinese script in Japan), or both ways (frequent for fairy tales).

(2) If acculturation is achieved by dominance, one also speaks of directed culture change (Spicer 1940 (1967); 1943; 1973). It usually works only one way (examples are rare; the Norman conquest of England 1066 A.D. comes close). A special form of acculturation caused by dominance is missionizing by a politically, militarily, or economically superior total religion.157

(3) Another cause of acculturation may be migration (Zuwanderung). Migration can be on a commuter basis (for example for seasonal workers). It also may lead to a more stable relationship between the migrant and the host country. Migration is discussed below (IX.).

(4) Still another cause is immigration (Einwanderung).158 An immigrant will often adopt at least a few cultural traits of the destination country because it will be her or his new home.159

c. As to the personal involvement of the participants, acculturation occurs either through internalization (Pospíšil 1986: 60; 1982: 248ff.) or imposition of the other culture. An

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157 On the difference between religious types and total religions see Chapter 3 above. An example of mission with military support is the Spanish entrada in the New World, see Edward H. Spicer (1962) and Marc Simmons (1988). On the doubtful interpretation of the Christian mission order see text before note 334, above.

158 I thank Ugur Kör, a seminar student of mine, for drawing my attention to a strict differentiation of Zu- and Einwanderung. A “commuting” migrant (a term used in the US Immigration and Nationality Act - INA-) may become an immigrant, but this will change her or his status, in anthropology and in law.

159 An example: Bärbel Wehr, Rechtsverständnis und Normakzeptanz in ethnopluralen Gesellschaften: Eine rechtsanthropologische Untersuchung über das Verhältnis Deutscher kurdischer Abstammung aus der Türkei in München zur deutschen Rechtsordnung, Munich 2000: C.H. Beck, who correctly distinguishes the acceptance of a legal system and the acceptance of how it is applied. Other examples are the „Molukkers“ in the Netherlands, and Sudanese boys in Maine and Vermont, both ethnic groups transferred to a radically new environment.
example of internalization are West Germany’s and European antitrust rules (Art. 85, 86 – now Art. 81 and 82 - EC Treaty). They reflect internalized US antitrust policy as it existed before 1982. An example of imposition is Kemal Atatürk’s enactment of the Swiss Civil Code in Turkey in 1925. A species of acculturation that may be called intentional non-involvement or guarded internalization is represented by writers, mainly in the Chinese and Islamic worlds, who distinguish the essential traditional culture (to be retained) and the non-essential western achievements of modernization (to be superficially accepted and tolerated). In this way, “culture” and “civilization” may be mixed in order to make a modern life in traditional surroundings possible. Wolfgang Bauer (1980, 38) quotes Chang Chih-tung (1837–1909) to this effect, and Wolffsohn (1992, 230), Diner (in Taubes 1987, at 246f.) and Sivan (1985) refer to similar statements by fundamentalist Islamic authors. However, Wolfgang Bauer (loc. cit.) appropriately calls this begging the question of how to square traditional culture and Western modernity. The idea is not far from the model of biculturality. Constitutionally secured biculturality may facilitate intentional non-involvement in Western “civilization” while availing oneself of its advantages.

d. Finally, the results of the process called acculturation can be a focus. The bulk of anthropological literature concentrates on this aspect, with various accents on pace and process. Five kinds of results are to be mentioned:

(1) Assimilation is the most frequently quoted concept. Kartomi (at 233) calls it transculturation. Sometimes the term assimilation is used in a chiefly person-related sense, and transculturation in a culture-related sense. Assimilation is defined as the replacement of one culture with another (e.g., Marxist culture replacing German culture in East Germany 1945–1990). Assimilation may be full so that nothing of the assimilated culture remains. When the USA and Australia in their own countries, and the Japanese in conquered Taiwan, tried to assimilate the Northamerican Indians, the Australian aborigiones, and the Taiwanese indigenous peoples respectively, the (in every case unsuccessful) intention was to perform a full assimilation. In the majority of cases, assimilation is only partly. The dominant culture succeeds in partly imposing its own traits and complexes on the receiving culture, but the latter retains more or less cultural property of its own.

Partial assimilation may also be called adaptation because one or both sides enter into a give and take. Thus, there are situations where two (or more cultures) remain and yet adapt to one another to some degree, by free borrowing or dominance. Unilateral or multilateral adaptations can be distinguished. The US and European cultures are presently engaged in a course of mutual adaptation, with Americans borrowing some of the food customs (muesli), and Europeans some of the clothing habits (blue jeans). In a similar vein, Teske and Nelson (1974) point to the need for a concept implying less than (full) assimilation. They give the example of a research scholar living in a foreign country for a number of years who is not assimilated but “only acculturated” (Teske and Nelson apply a narrow concept of “acculturation” which they oppose to assimilation, in that the latter requires identification with the outgroup (the surrounding culture) and acceptance by this outgroup. Both elements are missing in “acculturation”, they say. This narrow use of the term “acculturation” conflicts with the broad definitions of acculturation offered by Thurnwald, the mentioned Subcommittee, and the dominant opinion, which all are followed here. Therefore non-complete or partial assimilation or (uni-, bi- or multilateral) adaptation may be preferable terms).

A difficult concept is integration. It may be discussed in connection with partial assimilation = adaptation. As to sources (a., supra), integration is ambivalent and can lead to invention or
borrowing. Borrowing is the rule. Regarding the causes (b., supra), dominance is more frequent than free borrowing, since the culture into which integration is to be performed is the prevailing one, and the culture to be integrated is the (in most cases weaker) “newcomer”. Dominance will be stronger for immigrants because of their closer attachment to the host country, less dominant for non-commuting migrants, and least dominant for commuting migrants (see b. (3) and (4) above). Free borrowing is important for the integrative success. Personal involvement (c., supra) differs depending on the time that is granted for the process and on the reasons for the upcoming integration: the longer and the more stable the integration is envisaged, the more personal involvement is required. The true test for successful integration, however, is the result. Migration, on a commuter or on a more stable basis, asks for much less integration than immigration. It would not be justified to deny differences between these three cases of integration: Zuwanderung (seasonal or more durable) requires less integration than Einwanderung (see b. (3), (4) above). But in any case, integration involves partial assimilation = adaptation. Only the degree varies. And it would be wrong to require, on the side of the receiving culture (the culture to be integrated in) fusion (see (2) below), or participation in a “globalized” “airport society” (see (3) below), or blocking off retention of traditions, religion, folklore, etc. (see (4) below. Anyone of these non-adaptive policies would most certainly lead to reaction (see (5) below).

However it is the right and the duty of the prevailing or “dominant” culture (the culture to be integrated in = the “host” or “framing culture”) to provide for law and order necessary both for the integration and for its own integrity. Otherwise the imported cultural traits and complexes of the migrants and immigrants would destabilize the system in which these persons are to be integrated. In Germany, this dominant or host culture was given the term “Leitkultur” (= leading culture). In public opinion, it remains a contested concept. The present study of integration as a subcategory of adaptation (= partial assimilation including a give and take on one or more sides) argues that there is justification for such a concept, although the choice of the word is unfortunate. “Leading” may evoke the connotation of leadership, although the host culture is not to function as a “cultural leader”, but as an (existing) cultural mainstream. Instead of “leading culture” (Leitkultur), a better term would be “frame culture” or “framing culture” (Rahmenkultur) because the host culture provides for the constitutional and societal frame in which both the migrant and the immigrant may fit, along with all their cultural retentions.

A special case of partial assimilation = adaption is what is called enculturation (or inculturation). The term is mostly used to describe a result of religious missionizing. Hence, enculturation is that partial adaptation that combines traditional cultural complexes and traits, e.g., of an African tribe, with religious holdings introduced by missionaries, e. g., Christian, or Muslim. Using this term, sometimes it is not clear what is being enculturated into what: the retained local traits into the otherwise successfully spread religion, or the missionized religion into the existing local culture? The answer depends on an evaluation. If the missionized religion remains only a varnish on the in essence stable local culture, the religion is enculturated. If the mission results in a pervading culture change with some remaining traditions such as fetishes and the belief in local mountain and well spirits, the former culture with its remaining traits is being enculturated.

(2) Fusion (also called blending, accommodation, or syncretism) is defined as the origination of one new culture (or cultural trait) out of more than one (“melting pot”) so that the “melting-pot culture” replaces the cultures (or cultural traits) that contributed to it. To find examples for...

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160 On this deliberation, the decision of the issues of “cultural defense” in a criminal court, and of the public policy reservation in private international law, will depend, see Chapter 11, below
whole cultures is not easy. Hawaii culture appears to be a mix of indigenous, North American, and Japanese culture, and it is said that Argentina, seen at least from the outside, succeeded in forming a rather homogenous culture from indigenous, Spanish, Italian, German, and other European elements. Idealistic programs (such as “green” party platforms, Emery Reves’ “world citizenship” after 1945, or encompassing “world ethics”) to move ahead to a global “multi-culti” uniformity are not convincing. Humans are all of equal value, but they are not equal. Since they all have their cultural homestead. These cultural homesteads deserve respect, diversity, and equal treatment. They do not deserve abolishment by blending. For parts of cultures, “cultural traits” chances for successful and innovative blending and syncretism are greater. Music is an example, medical practice another.

(3) When fusion does not lead to one combined culture but to a geographically defined agglomeration of many cultures present, often for a purpose that brings the many cultures together, an acculturation is created that has still no fixed name. “Airport society” may indicate the outcome. In terms of the triade bilculturality – coexistence – acculturation, an “airport society” is a case of multicultural coexistence: The cultures and their carriers remain separate and little fusion takes place. The “airport” can also be a tourist area, a travel center, a cruise ship, a suburb, a conference hall, an international office place, or a university campus, etc. For such an agglomerations, German humor created the ironic term “multi-kulti”. To some observers this may also create an object of criticism. Is the “airport society” very numerous, “global society” may be an appropriate term. But this could be mistaken for a synonym of the world population. “Globalized society” would avoid this, but the word is clumsy and may bring about an unwelcome connotation of political activities. In spite of all objections, “airport societies” exist, have identifiable characteristics, and follow significant rules. An experienced director of a Swiss organized vacation club once remarked that the easiest way to keep up law and order in such a globalized institution is to mix as many cultures as possible and let no single nation or group become too numerous. “Then the cultures control themselves. But if you have large shares of British, Dutch, French, or German customers, there will be trouble” (personal communication in 1975).

In the West Indies and Lousiana (USA), fusion (blending, accomodation, syncretism) has received the special name of creolization. Despite its derivation from an ethnic word, creolization is not used for Creole culture alone. In cultural anthropology, creolization means any coming together of diverse cultural traits or complexes, with the result of forming new traits or complexes. An example is Cajun culture. Cajuns (orig. “Acadians”) are French-Canadian exiles and their descendants in the state of Lousiana. Cajun music mixes black and white sounds. Gumbo, a Cajun food, is a creolization of French, African, and Native American ingredients.

In the culture of music, a fusion of different cultural traditions is called bimusicality. Examples are Cajun creolized music (see before), Zydeco (Alabama), Papua New Guinea blends of sacred melodies and rhythms with Western style pop music, “Bayernpop” (Bavarian style pop music that includes yodeling), and the mostly hurnerous pieces of a Navajo band that calls itself the “Chelley Valley Brothers”. Bimusical products may also grow from leaving aside certain traits of a musical culture in order to adapt the culturally foreign music to listening customs at home. An example is Western sobstuff deprived of its bass lines in order to fit Chinese ears. Bimusicality should not be mistaken for biculturality (see above). Bimusicality is a fusion, biculturality is no fusion but “two alternative cultural souls in one mind”. If more than two musical cultural traditions fuse, in ethnomusicology multimusicality or musical syncretism are the established terms (cf., Mantle Hood 1971; Kevin Miller 204;
Maya Deren 1983)).

(4) Retention is a form of acculturation that takes notice of traits and complexes of the other culture(s) but results in reflecting about the qualities of one’s own culture, by not always rejecting the other. Recalling these qualities, cultural groups, folklore associations, and traditional leaders favor retention of the traditional culture and rejection or only limited adaptation to foreign cultural input. This may refer to the retention of local costumes, traditional food, music or dances one is accustomed to and likes to practice, etc. In the course of decolonization after 1945, retention has played and still plays a prominent role. Also enclaves and border situations (see below) may give rise to retentive behavior.

(5) Finally, reaction is to be defined as the conscious refusal of the cultural other. Compared to retention, reaction is the stronger form: retention plus rejection, if in a sublime, quasi-imitative form. Sometimes reaction may have self-destructive dimensions. In terms of sources of acculturation (see VI. a., above), reaction is invented. Reaction requires single or serial events directed against a dominant culture. The Catholic Corpus-Christi procession in Protestant Donauwörth that started Germany’s Thirty Years War 1618 – 1648 may be called a reaction, but the Counter-Reformation of the 16th and 17th centuries not. Other examples are cargo cults, chiliastic movements, sometimes with suicidal effect, the plausible and self-protective closing of a pueblo to outsiders during the entire year except for one day when a certain ceremony is held (e.g., Santa Ana Pueblo), the desperate cattle sacrifices of the Xhosa, the Sioux Ghost Dance, and events arising from clashes between a marginalized and a dominant culture. A transient kind is “culture shock”. Enclaves (especially ghettos) and border situations, much less than cultural mixes (see below IX.), may generate reactive behavior.

h) Sources, causes, personal involvement, and result-orientation of the process of acculturation can be combined. A given source or cause does not necessarily lead to a corresponding result. However, invention and the free borrowing process are mutually exclusive because one cannot at the same time invent something and take it over from another.

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166 W. W. Hill 1944.
168 Philip Bock, Culture Shock, New York 1970: Devereux, IX.
A graph of acculturation in the broad sense, as well in the old narrow sense, including more recent developments, shows: **(next page)**

**VII. Culture change and culture loss**

Up to this point in this chapter, culture and cultures were rather discussed as static entities even when seen as entities involved in a steady process of internal growth and development: definitions, categorizations, and dependencies from and connections with historical and thought-modal developments including time perceptions were the points of attention. The rest of this chapter (VII. – XII) deals with culture and cultures in more or less rapid motion, often caused by external influences.

Culture change is the replacement of cultural themes through others. The reasons may be manyfold: peaceful influences by neighboring cultures, conquest and imposition by a hostile nation, the spread of ideas with or without trading with other peoples, change by inventive minds, changes of the climate enforcing changes of agriculture and livelihood, demographic changes such as overpopulation, perhaps accompanied by a “youth bulge” phenomenon, or depopulation by famine, emigration, childlessness, or disease. An important issue has been raised by Thomas Glas. Fieldworking among the Finnish Sami (“Laplanders” – a pejorative term) he noticed that Samish culture had changed, during the last 150 years, so much that cultural continuation could not be upheld. The Sami had adapted to the Finnish-Swedish life style and given up practically all known traits of Samish culture. However; their will to “survive” and continue to live as Sami was strong and lively. If this culture change, culture may not only be what somebody is, but also what somebody wants to be. The Sami, the Hopi, the Herero, the Bavarians, and many other cultural groups want to continue their cultural identity even if, from an objective point of view, culture change borders at culture replacement. The commitment to one’s own culture may be stronger than many a moment of acculturation. The issue remains and it is of considerable political impact whether such continuation can still be recognized as culture change.

Similar situations arise when North- or Southamerican Indians claim to be survivors of a tribe believed to be extinct, and apply for acknowledgment as registered tribe. Can an evident gap in the historical development of a nation or tribe be “filled” or “bridged” by a reconstructed continuity? To accept continuation, and therefore culture change, evidence must be shown in more than one respect, but can be put together from various sources in various combinations, depending on the particular case: language, traditional stories, family recollections, cemeteries, feelings of geographic belonging, historic documents, surviving crafts, proofs of forced migrations or other disposessions, etc.

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169 On cultural themes see Ch.3 I a.E., above. On culture (or cultural) change see Julian H. Steward, Theory of Culture Change, Urbana 1955: Univ. of Illinois Press; Kottak 76; Bohannan 283 (*breakup* of cultures); see also note 145 and Chapter 5 VI, above.

170 See note 240, above.

171 For standards for indigenous peoples in UN organizations, see Chapter 15, below. The cultural complex of belonging is reason enough to refute the assumption of the Chicago School of economists (Milton Friedman a.o.) that in economics culture is an externality and being kept out of the framework of the cost of the firm contributes to its efficiency. Rather, an economic task is to internalize social cost such as environment and belonging to a culture. Feignedly, polluting air and water, and marginalizing a minority reduce cost by treating them as “socialized” externalities (W. Fikentscher 1983 §§ 3, 9, 17, 24). The economic crisis of 2007 – 2011 teaches that such cost
When Martin Gusinde (1886 – 1969) of the ethnographically interested and active Mödling Monastery (near Vienna) that specialized in anthropologically educated Catholic missionary activities visited the Tierra del Fuego Indians between 1910 and 1920, he noticed a culture that soon would be extinct. He turned from mere missionizing to the observation of this process and devoted much of his work to scientifically immemorializing these Indians.172 Elisabeth Colson (1917 – 2001) of Berkeley, CA, published seminal books and articles on culture change, for instance among the Plateau and the Gwembe Tonga which she kept revisiting between 1946 – 1989.173

Although anthropologists should be aware of the changes in the cultures they study – notably in connection with the relatively new concept of “nation-building” - , not many have concentrated on such changes.174 There is a temptation for the fieldworker to idealize the tribe, nation, or institution she or he is studying, and hereby historicize it. Often, the conversation partners of the fieldworker are elderly people because they have the time for lengthy talks, the patience necessary to have an exchange with the uneducated, curious intruder (while the middle generation has to go to work and may not trust the outsider), and the knowledge of things “as they used to be”. But exactly these may be the stories from by-gone times. Valuable as these hourlong conversations with the respected tribal elders are, the fieldworker should always be mind full of the changes that may have occurred since an experienced consultant was an active member of that society.

A special kind of literature on culture change are the “revisiting” studies, also called “restudies”. They are written by anthropologists who walk in the footprints of an earlier generation of anthropologists in order to doublecheck the results of their precursors and report on possible erroneous results and recent developments.175 Another specialty of the broad field

backfire as individual taxes and restitutions (see Chapter 10 below).

172 Martin Gusinde, The Yamana: Life and Thoughts of the Water Nomads of Cape Horn, New Haven 1961; Human Relations Area Files (transl. from German by F. Schütze).


of culture change is culture loss. Ethnomusicology often treats both items in the same context. But also in general cultural anthropology culture loss is observable and, for example, a necessary corollary of imposition in acculturation theory (see VIII, below).

VIII. Culture transfer, receptions, transplants, internalization. Legal families

1. Culture Transfer

Culture transfer is a term used mainly in acculturation theory. On the other hand, culture transfer is also a form of culture change. When Namibia gave itself a constitution modeled under South African, Dutch, French, Swiss, and German influences, tribal life in the Namibian countryside changed. German reunification in 1990 effectuated a wholesale transfer of West German legal, administrative, federal-constitutional and economic culture into East Germany, and it was not easy for East Germany to retain cultural identity in non-political contexts. The subject is still vigorously debated.

2. Reception

Another aspect of culture change (see VII., above) in law are the “receptions” of a whole legal system by another culture. A more recent term is “transplant”. There is not much literature on the theory of such “reception” or “transplant” processes. Outside of law, for example in historical and political sciences, the expression “transplant” is preferred. Here are some historical examples when and where receptions of law took place:

the Code of Hammurabi in the Near East after its creation during the first half of the second millennium B.C.

laws of Greek city states were taken over by other cities within the Greek koiné (commonwealth) so that there was what today would be called an ongoing practice of comparative law.


176 See VIII., below.


the development of the *ius gentium* by the *praetor peregrinus* (the judge for foreign law cases) in Rome.

the spread of the Roman law throughout the Roman empire

the spread of the Code of Manu in Asia

the spread of Islamic law across Northern Africa and elsewhere

mutual exchange and reception of medieval city laws (Lombardy, Hanse); Lübeck Law and Magdeburg Law were taken over by many cities in Eastern and Northern Europe (often recognizable by the term *Rathaus* (= House of the City Council = city hall, in various spellings).

the reception of Roman Law (actually North Italian law as it was taught at Bologna, Florence etc.) throughout the “Holy Roman Empire of German Nation”(1495), with different development in Britain (pertaining to methods, not so much contents)

the introduction of European laws into the colonies of the European nations.

the spread of the British common law.

the reception of the French Civil Code of 1804

the introduction of federal Swiss civil law and Neuchatel cantonal civil procedural law in Turkey in 1925 by Ataturk

the exchange of legal methods and conceptions after World War II between US, Japan, Germany and European Union, for example US antitrust law in Japan, Germany, and European Union; in Japan, there is talk of the two Westernizations of Japanese law, from 1868 through the Meiji Revolution (opening to the West), and after 1945 (defeat by the US).\(^{180}\)

the reception of Swedish marriage property law by Germany in 1957

3. **Internalization**

Internalization may be understood as a person’s or a group’s acceptance of a norm as valid law. A political order may be binding, but not accepted by those who have to obey it. By internalization, a legal norm becomes a *legal* forum for that person or group. Before becoming such forum of *legal* quality, the norm may have had political, societal, or religious (etc.) character. Therefore, internationalization has been discussed in Chapter 4 above (II. at the end, near note 237), especially in the context of the different forums on which a person may be held to be responsible. In connection with criminal punishment or civil liability (see Chapter 12 IV., below), internalization has a similar meaning.

\(^{180}\) See, however the “otoshi dokoro” discussion, notes 493 f., below
4. Legal families

In comparative law transfers and receptions (transplants) and similar phenomena as discussed above result what are called the “families” or “circles” of laws or of legal systems (Rechtsfamilien, Rechtskreise). Many comparatists of law have outlined their own system:

René David numbers eight families of law: Roman-germanic, Common law, Socialist, Islamic, Hindu, Jewish, Canon law, and Far-eastern.

Konrad Zweigert distinguishes ten legal circles: Roman, Germanic, Nordic, Angloamerican, Socialist, Hindu, Islamic, Far-eastern, and Hybrid (e.g., Philippine, Madagaskar, South Africa) – a category lacking in the 2d edition.

Henry W. Ehrmann lists seven legal “families of law”: Romano-germanic, Common law, socialist, Non-Western (incl. China, Islam, Hindu and traditional)

Léon Constantinesco has developed an elaborate system of world views, legal circles, families and relationships of law, legal orders, and legal types. The most numerous class is that of legal orders to which Constantinesco counts about 150 national laws.

Barton, Gibbs, Li & Merryman list six legal cultures: Western; Eastern (China, Japan); religious (Hindu, Muslim, Jewish), traditional, Soviet, and “international legal culture”.


Obviously, authors use criteria derived from different levels of generalization and for different purposes. Partly, the criteria are extracted from historical data, from legal “styles” (Zweigert),

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182 René David (ed.), The Legal Systems of the World : Their Comparison nd Unification, Tübingen 1984 : Mohr Siebeck


from world views and modes of thought, or from geography. This makes them hardly comparable. For purposes of anthropology of law I note that the writers use divergent starting points for their categories of legal cultures. Depending on the literary goals of the relevant expert, all manners of distinction are permissible once that goal is clear.

IX.. The anthropology of borders, corridors, trails, and trading routes

1. Anthropology of borders

The rule in the development of intercultural neighborhood is slow transition, sometimes by almost imperceptible degrees. Traveling north-south from Lower Bavaria through Upper Bavaria, Tyrolia, South Tyrolia (= Alto Adige) to Verona brings one from one dialect to the next – mostly of historical Bavarian origin – and even the linguistic border to Italy appears to be smooth due to local bilinguality. The traveler may be surprised to find same music, same jokes, similar dress, and yet she or he senses passing through a scenery of changing mentalities and local cultures. Borders do not only divide, they also connect and serve as interfaces of multicultural contact. Moreover, they feed cultural imagination and memory. Still, there are borderlines that signify stark contrasts on both sides, and invite confrontation. There are only few anthropological studies on these and other borders that draw cultural (mostly economic) dividing lines between neighboring nations. In some places, cultural splits along certain borders amount to human tragedies, for example:

The Rio Grande between Mexico and the US and the frontier between these two nations west of the Rio Grande through the Sonora desert. The State of California is reported to plan to reinforce the existing steel fence against illegal immigrants from Mexico. There are the western frontiers of Russia bordering to the member states of the EU. What used to be the trouble zones, the borders between Poland and Chechia on the outside and Germany on the inside of the EU, has recently been changed into uniform EU territory since the access via Poland and Chechia to the EU has been moved to the eastern borders of these two states. The Mediterranean Sea (Lampedusa, Ceuta) and the waters between Africa and

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191 Chr. Tenbrock, Verkehrte Angst, DIE ZEIT No. 35 of August 19, 2004, 19; see also note 421, above.
the Spanish and Portuguese islands in the eastern Atlantic, the waters between Cuba and Florida, and the border between the Palestinian territories and Israel are further examples of tragic borders.

To create a term for these culturally incisive frontiers, and for lack of a better expression, they could be called “forbidding borders”. Sometimes these forbidding borders may have their cause in economic differences on both sides of the line: there is enough to eat on the one side, and hunger on the other. In other cases, oppression on one side in contrast to the rule of law on the other makes the difference that causes thousands to illegally cross that border, even at risk of life and limb. My estimation is that more migrate for the rule of law than for fleeing poverty and hunger.

2. Anthropology of corridors

A corridor is a hallway of sorts where people meet. Everyone in the building passes through a door to enter the hallway. The corridor becomes a meeting place, chattels and ideas are being exchanged, comparisons made, and friendships or antagonisms generated. History tells of cultural “corridors” and “hallways” where cultures met and entered in friendly or inimical exchange. The exchange triggered change and development. The Nile Valley, the Fertile Halfmoon between Asia and Europe, the Mediterranean Sea, the German Rhein-Main area, the Columbia River for Northwest Indians are only some examples of culture stimulating corridors. The effect is largely the opposite of culture-separating borders (1. above) even if nature often provides the basis for both.192

3. Anthropology of trails and trading routes

Trails for seasonal migrations – from winter country to summer country and back – are a common cultural complex in nomad societies and in half-nomadic tribes.193

Trading routes are historically important because along them, together with the merchandise, travel ideas, ideologies, and religions.194 Cutting off traditional trading routes can lead to evolutions of considerable dimensions.195 The “Silk Road” is still subject of trade, ideological and political interest. Connecting Turkey via the Caucasian countries of Georgia, Armenia, Chechnya, Azerbeijan, Dagistan and Ingushetia, and further though Iran, Turkmenistan, Uzbekistan, Kazakhstan, Kyrgistan with China, it is one of the oldest and most important trade routes of the world.196 Anthropological treatments of trails and trading routes are not

192 On such a „corridor theory“ W. Fikentscher (1975a), 159 – 162, on the anthropology of the Rio Grande as a cultural border between USA and Mexico, op. cit. 244 ff.

193 Traditional stories of the Paiute Indians report of regular moves of camp on oold trails, in the fall from the mountains to the prairee, in the spring from the prairee to the mountains (fieldnotes from Kaibab Paiutes reservation).

194 Islam on the Silk Road, hunters of the Hudson Bay Co., Pueblos on the northern Rio Grande, Sahara routes, Norman routes of trading warriors through Russia to the Black Sea. The axial age concept of good-bad dichotomy traveled east and west from India and Persia. Mahayana-Buddhist care for human neighborhood and guidance through Bodisattvas such as Amidhaba (Amida) and Kannon started after Nestorianic Christianity contacted the East.

195 When Islamis conquests impeded trading connection between the Mediterranian and the Indic worlds, Europeans opened a new trading route by sea and discovered America..

196 Thomas O. Höllmann, Die Seidenstraße, 2nd ed. Munich 2007: C.H. Beck; idem, Das Seidenstraßenprojekt der UNO, UNESCO heute, 1/1993, 32 – 35; see also text near note 375,
frequent. Research shows that there is much touristic material on historic Highway 66, the “Mother Road” from Chicago to Los Angeles, but no anthropological literature of importance. On Indian trails, Linderman (1968) and Schoolcraft (1847) offer old stories.

X. Forms of cultural neighborhood (in situations of cultural boundaries, enclaves, ghettos, „melting pots”)

1. An ongoing research project

The Bavarian Academy of Sciences in 2006 began a research project on forms of cultural neighborhood. Subject of the research project are the forms, raisons-d’être, and main characteristics of cultures getting in contact. Cultural encounters can be friendly, neutral, or inimical. There can also be talk of succeeding and failing cultural contacts. The conditions for each of the two possibilities are to be addressed. The project is scheduled to last until 2011.

2. Three types of cultural neighborhood

There seem to be three main types of such encounters leading to neighborhoods in a cultural sense: (1) Encounters of cultures may have arisen from borderline situations (see also IX. 1. above). Often the reasons were the more or less haphazard result of warfare. Slavic tribes were subdued by German kings and dukes. Alsace-Lorraine changed from Germany to France and back five times. Ireland was conquered by the British. South Tyrolia was given Italy in 1919. Sometimes the reasons were political or administrative acts without consent of the people. In Africa after 1945, cultures remained neighbors because the colonial powers had divided the land by using a ruler, and the UN decolonization policy in and after 1945 did not want to get involved in ethnic referenda. (2) A second type of cultural neighborhood is represented by enclaves (or ghettos, a pejorative term used for enclaves with degrading policies exercised by the surrounding culture against inhabitants). Northamerican Indians, Australian aborigines, Taiwanese indigenous tribes and many other traditional nations and peoples have been forced to live on reservations which may be the prototype of an enclave. Some enclaves work well and give cultures enough space and enririment to live their traditional life, others suffer from neglect and economic expropriation. (3) The third main type of cultural encounter are those areas or agglomerations where the carriers of diverse cultures live together as a – in general - heterogeneous population. Today, and after a long and difficult development in state and society, African Americans live as US citizens. In Namibia, the indigenous tribes and nations, the British, the Germans, the Dutch, and some other groups form a society of equal respect and mutual exchange. In these cases of mixed cultures, many forms of biculturality, coexistence, or acculturation are possible. A form of cultural neighborhood does not preempt one of the three main categories of acculturation theory, although coeexistence may be a frequent solution. This means that the discussions under VI. above.

and X. in this chapter can be combined.

What are the principles of such cultural encounters in each of the three mentioned situations? When does cooperation work, when not? These are questions under observation and investigation in said project (see 1., above).

XI. The anthropologies of minorities, and second and third state peoples

Minorities research raises related anthropological issues. As such, minority research rather belongs to sociology and sociography (esp. socialization theory), cultural studies, and administrative law. But anthropology may contribute work on cultural aspects.

Conceptionally, minorities are cultural units within or attached to a larger, dominant culture, with their own group or individual interests because of their different historical, linguistic, religious, economic, life style or otherwise distinct character in relation to that dominant culture. Often, more than one of these distinct characteristics apply. Members of minorities need not be lower in numbers than the dominant culture, subordination is the criterion, not so much demographics.\footnote{Minorities are created in several typical ways. Reference may be made to subchapter X 1. and 2, where the reasons for cultural neighborhoods are discussed. Any one of these reasons may also work to produce minorities. In addition, migratory movements (see next subchapter XI.) often create minorities. A distinction should be made between minorities and second or third state peoples. State peoples are defined here as culturally sufficient homogeneous peoples who form such a large share of the population of a nation state that the description as “minority” does no justice to their obvious size. The Indians are a minority in the US, the Danes and the Sorbs are the two German minorities. However, in some instances, the “minorities” are so numerous and territorially large, that the term no longer fits. One fourth of the population in Turkey is Kurdish, and one third of the Turkish territory is where the Kurds live.\footnote{This is no “minority”, but another state people. The reason is that the Kurds had no adequate representation at the negotiations that led to the Treaty of Lausanne of 1923 which constituted the Turkish territory in the shape that essentially exists today.\footnote{Treaty of Lausanne of July 24, 1923; Kottak, 89.} There was a somehow comparable situation concerning the Germans and the Slovaks in former Czechoslovakia after 1919.\footnote{Of the Czechoslovakian population (1972: 14,4 Mio), between 1919 and 1938 43% were Czech, 23 % German, and 22% Slovak.}}

Minorities sometimes flock together in cities and towns where they may be held responsible for in-town problems. Cultural Studies have contributed to this issue.  

Outside of anthropological discourse, minorities research has its own literature, authorized by experts who sometimes work in public administrations, consultative councils, NGO’s, religious organizations, or similar institutions.

### XII. Migration

Similar to minorities research, migration is a field the point of gravity of which lies outside anthropological competence, but -- next to the sciences of demography, politics, history, economy, cultural studies, and law (in particular immigration law) - has its anthropological impact.  

Migration has many forms. They are decidedly shaped by reason that cause migration. The central question is: Was it a voluntary desire to move, or was there force that expelled those who became the migrants. Here are some anthropological issues of migration:

- Not infrequently migration lays the foundation for the growth of minorities and their problems.
- Migration is also related to the anthropology of borders.
- There is an extensive literature on the relationship between migration and identity because the migrant enters a new...

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203 E.g., Leo Lucassen, The Immigrant Threat: The Integration of Old and New Migrants in Western Europe since 1850, Urbana 2005: Univ. of Illinois Press; Cultural Studies research started from minority issues, see Chapter 1 III. 3. e., above.

204 From this literature: Bärbel Wehr; see note 391, above; Brigitte Kohnen, Akkulturation und Kognitive Kompetenz: Ein Beitrag zu einem grundlagentheoretischen Perspektivenwechsel in der sozialisationstheoretischen Migrationsforschung, Münster 1998: Waxmann (relies on evolutionary psychology and recommends activity for promoting the integration of the migrant itself); Michael Krugmann, Das Recht der Minderheiten, Berlin 2004: Duncker & Humblot.

205 Bauböck, Rainer (ed.), Migration and Citizenship: Legal Status, Rights, and Political Participation, IMISCOE Research, Amsterdam 2006: Amsterdam Univ. Press; idem et al. (eds.), Acquisition and Loss of Nationality, IMISCOE Research, Amsterdam 2006: Amsterdam Univ. Press; F. Heckmann, Hauptseminar Integration von Migranten und interethnische Beziehungen, http://web.uni-bamberg.de/~ba6ef3/pdf; The Centre for Migration Studies, New York (since 1964) issues Annual Reports (the 8th Report is of 2007); the University of Nijmegen has a Centre for Migration Law; the University of Bonn runs a website Migration; the University of Stockholm has a Centre for Research in International Migration and Ethnic Relations; etc. There are about eight academic journals on migration, of them one on migration and law.


207 In and after World War II, more than 12 millions of people were migrants forced to leave.

208 Kottak, 92, 427 f.

209 see IX. 1., above.
environment with its demands upon understanding oneself and the new surrounding culture.\textsuperscript{210} Migration has close connections to the themes of societal marginality, since migrants often form a lower or the lowest strata of the receiving society.\textsuperscript{211}

A different aspect is the context of migration and diaspora. Migration may lead to diasporas in other countries, and history is rich with examples, not only concerning the Jewish nation but also others. Many diasporas were created by forcible expulsion, flight, persecution, or resettlement of peoples.\textsuperscript{212} The anthropology of refugees and expellees deals with these diasporic situations. Slave trading began the black diaspora.\textsuperscript{213} Anthropologically, calls for “repatriation” following forced migrations may be cases of what in acculturation theory has been identified as reactions.\textsuperscript{214} Living in a diaspora quite often generates a feeling of “diaspora-identity”.

XIII. Cultural justice and cultural rights. Intercultural justice. Tolerance and its paradox

From a legal perspective, the issue of whether there exists a justifiable distinct treatment of a given culture is what the preceding discussions are all about. Questions of this sort are: Does the proposed form of intended – or simply ongoing - assimilation deserve support or opposition? Should this culturally incisive “forbidding border” be torn down, or upheld and improved? Do a minority or second state people need protection, and if so, in what respect? Should a stream of migrants be channeled or inhibited, legalized or illegalized? These are questions of law, and following the uncompromising anti-positivist line of argument throughout this entire book, necessarily questions of justice.

A distinction can be made between two kinds of justice involved here: Whether cultures should be handled as mental homesteads of human existence is an issue that can be named “cultural justice”. Here, the justice owed by the dominant culture to a subjugated culture is at stake. The point is that what is owed has to be a legal title. Does it give a valid legal title to promise “forty acres and a mule”? There is a temptation for the administration of the dominant culture in order to shake off the participants of a losing culture, to offer cultural reminiscences such as folklore evenings and costume dances. A religious leader of a community of the Atayal tribe on Taiwan, R.o. C. said: “They give us too much culture and too few rights. What we need is rights”.\textsuperscript{215} What this religious leader claims are cultural rights,\textsuperscript{\textsuperscript{210}} See Chapter 5 III, above.

\textsuperscript{211} Marginality is both a sociological and anthropological topic, depending on the role of marginal people in the greater society (example: Roma and Sinti in many European countries), or on the marginalized culture and its traits (Australian aborigines and their “songlines”, see Chapter 9 II. 1., note 59, below).


\textsuperscript{215} Fieldnotes (unidentified Atayal tribal leader).
and such cultural rights are convincing only when they are based upon cultural justice. A theory to solving the issue of cultural justice has been drafted elsewhere, and in modified and shortened form will be reprinted in Chapter 7 below as the closing section of Part One, and in the Postscript of the whole book.

A related, but slightly different question relates to the justice owed by one culture to another. This issue includes one of tolerance between the cultures, versus “clashes” between civilizations, and of inhibiting intolerant cultures which raise the claim to abolish the other. Here justice owed by one culture to another is the point. For the corresponding field of law; Rebecca Tsosie has proposed the term “intercultural justice”. Intercultural justice is a timely analogy to, and expansion of, the law of nations which should not restrict itself to nations but extend its pacificatory rules to regions, alliances, tribes, cultures and other carriers of legal title. Rebecca Tsosie’s introduction of the concept of intercultural justice opens a door between anthropology of law and other fields of investigation. Tolerance is a research item also in conflicts research and peace studies. These are domains of other social sciences, with extensions into anthropology. Here, only a hint may be given to an interesting parallel: Freedom, uninhibited and therefore undefended, may lead to unfreedom, and this is called the freedom paradox. Tolerance, uninhibited and therefore undefended, easily leads to intolerance, and this is the tolerance paradox.

The two kinds of justice belong together: *Cultural justice - justice owed to a culture - is an identity issue. Intercultural justice follows as a consequence from identifying cultures.*

XIV. Bibliography


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218 Peace research on the basis of cultural anthropology is undertaken by a number of institutions, e.g., Zum Stand der Friedens- und Konfliktforschung, University of Augsburg, http://www.uni-protokolle.de/nachrichten/id/86243; in this book, the subject is not dealt with, see however note 183, above, and materials and text there: Günther Schlee has worked on ethnological reasons for conflict, see bibliographie in Chapter 1 II.

219 On the freedom paradox, see Chapter 10, below, and materials cited there.
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