

Treasures in Heaven: Defining the Eurasian Old Regime?

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The exemption of people and institutions recognised as religious from public obligations, including taxation and military and labour services, appears to have been universal in the complex societies of Eurasia at least from the end of antiquity until the end of the *ancien régime* – that is, in some cases, until the present. However, the systematisation between the tenth and thirteenth centuries CE of the nature and uses of such exemption was everywhere central to the great transformation of that epoch, essential to the emergence or construction of the *ancien régime* in Europe as in South India, China and Japan. Religious exemption was sometimes promoted and sometimes attacked by rulers, but it is best understood neither as supporting nor as undermining ›the state‹, but as providing a long-term balancing mechanism between centralising powers and local elites; the *waqf* may be seen as performing a similar function in Islamic societies.

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The grounds of Hartfield, the comfortable home of Jane Austen’s Emma, ›were small, but neat and pretty, and the house was modern and well built.‹¹ The Woodhouses, ›the younger branch of a very ancient family‹, had been settled there for several generations. They ›had long held a high place in the consideration of the neighbourhood‹, and the village of Highbury afforded Emma no social equals.² On the other hand, ›the landed property of Hartfield certainly was inconsiderable, being but a sort of notch in the Donwell Abbey estate, to which all the rest of Highbury belonged; but [the Woodhouses’] fortune, from other sources, was such as to make them scarcely secondary to Donwell Abbey itself, in every other kind of consequence.‹³ Some time around 1700, we conclude, the younger son of the ancient family from which Emma was descended had made fortune enough to establish himself respectably at a convenient distance from London, but not enough to purchase a substantial estate. He bought his land from the Knightleys of Donwell Abbey, who had acquired it at the dissolution of the monasteries, some century and a half earlier. We must infer that they welcomed the money. George Knightley had little to spare in 1814, even though his estate embraced two

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1 Austen, *Emma*, ch. 32, 253.

2 Austen, *Emma*, ch. 16, 129; ch. 1, 11.

3 Austen, *Emma*, ch. 16, 129.

whole parishes and ›neither fashion nor extravagance‹ had tempted his forebears to deplete their timber, or to replace the original house.⁴ By that time, however, the ›other sources‹ of the Woodhouse wealth had swollen enough to give Emma a fortune of £30,000, equal to that of Georgina Darcy in *Pride and Prejudice*, though Hartfield was certainly no Pemberley. Her elder sister had presumably had the same when she married John Knightley, seven years earlier. We should surmise that this wealth derived from banking, or from spices and other luxuries from the East Indies, rather than the slaves or sugar from the West that paid for the two carriages maintained by Mr Suckling of Bristol, the brother-in-law of the distressingly *arriviste* Mrs. Elton.⁵

Thus, with a few seemingly casual strokes of her brush, Jane Austen connects the great social transformations that carried England from the middle ages to the brink of industrial society. The dissolution of the monasteries had been crucial. It released something like a quarter of the nation's landed wealth to fuel a surge of social mobility – a ›rise of the gentry‹ among whom the Knightleys found a secure though modest place. It also stood and stands supreme – ›one of the most revolutionary acts in English history‹ in George Bernard's words⁶ – as the great symbol of the long and complicated processes through which the elementary structures of the medieval order gave way to those of the modern state. That so large a proportion of the kingdom was no longer exempt from royal taxation and jurisdiction – largely theoretical though the immunity had already become in practice⁷ – was a decisive step in unifying the land and resources of the entire realm within a single system of governance, tenure, patronage, and markets, and to make possible in their turn the military, commercial, and colonial ventures from which the fortunes of the Woodhouses and the Sucklings would be won.

That, at any rate, has been the conclusion of a galaxy of social theorists, economists and historians from a little before Jane Austen's time until a little before our own. In answer to the question ›Why Europe?‹, when one wonders how some civilizations of the world made the breakthrough to industrialism, the formation of the modern state has been seen almost unanimously as a necessary condition of economic modernisation, and the removal of religious exemption as a necessary condition of that formation. That this view has not been confined to book-lined studies, or even to glass and ivory towers, is sufficiently attested by the centrality, and often by the bloodiness and bitterness, of the struggle between ›Church‹ and ›State‹ everywhere in nineteenth- and much of twentieth-century Europe, from the moment in 1791 when the French made the dissolution of their monasteries and the appropriation of church lands one of the first and essential steps of their revolution. That the church in Greece remains exempt from taxation to this day is deeply contentious; in the opinion of many it is a substantial factor in that country's present fiscal and political distress.⁸

That alone makes the exemption of religious persons, places and institutions from the burdens and obligations of ordinary life significant well beyond the ranks of medieval historians. The reasons why these exemptions came into existence and the ways in which they

4 Austen, *Emma*, ch. 42, 336; ch. 26, 199.

5 Austen, *Emma*, ch. 22, 172.

6 Bernard, *Dissolution of the Monasteries*, 390.

7 cf. Maitland, *Constitutional History of England*, 506-514.

8 I owe this point to Mark Greengrass.

worked are important not only because their unravelling in modern times has been so necessary – and often painful and destructive – but also because we are not yet done with them. And, despite the great prominence almost always accorded to other aspects of religion in the development of societies and their cultures and institutions, religious exemption has featured hardly at all in any of the comparative discussions of world history that I know, and very little even in the secondary accounts of the character and development of particular societies and civilizations from which such comparative discussion necessarily proceeds. That is certainly more a confession of ignorance on my part than an accurate account of the historiography, and no doubt the subject has been taken much more seriously and studied more thoroughly by regional specialists than it implies. Nonetheless, this is a topic whose experts owe us, at the very least, the duty of contributing their knowledge and conclusions somewhat more assertively to wider discussion.

In the Roman world, exemption from civic obligations was one of the benefits that accrued to Christians with the conversion of Emperor Constantine in 312 AD. The property that pious donations showered on the Church thereafter remained liable to the regular land tax, but it was generally exempted from special or extraordinary levies. Its clergy were granted personal exemptions, the lower clergy from the poll tax and the taxes levied on merchants and craftsmen, and from billeting and *corvée* labour services; the higher from the civic and military obligations that weighed heavily on other citizens. As numbers grew, however, increasingly strenuous attempts were made to contain the cost and restrict the abuse of these privileges in various ways, by, for example, limiting the circumstances or conditions in which they could be claimed, or the number of people who might be ordained, and so forth.⁹ Similar privileges were accorded to the officials of synagogues, which were also exempt from billeting, until 383 in the western Empire and somewhat later in the eastern.¹⁰ For Jews these privileges had a longer history, which it is beyond my power to pursue: we should note at least that the decisions of their courts in civil disputes between those who resorted to them voluntarily were enforced by the imperial authorities, and that Jews were excused military service in the legions.¹¹

As the Roman Empire in the east mutated into the Byzantine world the principle of liability to the land tax remained, but it became increasingly common for emperors to include exemption from it or from other obligations with the grants of land that they made to the church for one reason or another, especially when founding monasteries. That is, the power to take taxes from the people who actually paid them, or to secure the very remunerative profits of justice from the people subject to it, were passed from the grantor – usually a monarch – to the grantee: usually a great lord, a church or a monastery. In principle, therefore, any such grant involved a transfer of power from a central authority to a local community or magnate. Sometimes the lavishness of such gifts provoked reaction, as when Nicephoros I (emperor 802-811) reclaimed for the imperial demesne donations of land made by his predecessor Irene, and subjected the tenants of churches and monasteries to the hearth tax from which, it seems, she had exempted them.¹²

9 Jones, *Later Roman Empire*, 894-937.

10 Jones, *Later Roman Empire*, 946.

11 Lane Fox, *Pagans and Christians*, 429.

12 Ostrogorsky, *History of the Byzantine State*, 188-189.

In the next century, the issue lay at the heart of one of the great crises of the Byzantine state, culminating in an absolute prohibition of any further increase of church property, including new monastic foundations, by the second Nicephoros, Phocas. A barrage of fulminations from his reign (963-969) and that of his predecessor Romanos Lekapenos inveighed against the powerful (*dunatoi*) who were usurping the land of the poor. Its purpose was to provide rhetorical cover for the attempt of those emperors to reassert their powers of taxation and jurisdiction, which had been lost to the provincial aristocracy of every part of the empire, often, though not only, under the guise of monastic endowment. Nicephoros Phocas' prohibition did not last, not least because, in Rosemary Morris's words, 'the weapons of the imperial authority were limited by the fact that the very class they sought to curb, the great landowners of the provinces, was also the source of the governmental elite.'¹³ It was soon revoked, probably by his immediate successor, Emperor John Tzimisces (r. 969-976), and the eleventh century was once more a period of great monastic foundations, often but by no means only funded from older, decaying institutions. An increasing proportion of these grants included immunity from taxation, and though emperors were more reluctant to give exemption from their jurisdiction, that too became increasingly common.¹⁴

None of this would have come as a surprise to the Venerable Bede, the English monk who in 734 had complained bitterly in a famous letter to Bishop Egbert of York of the prevalence of monasteries 'both numerous and large', which were 'useless to God and man because they neither serve God by following a regular monastic life nor provide soldiers and helpers for the secular powers who might defend our people from the barbarians.' 'There are', he explained, 'laymen who have no love for the monastic life nor for military service, who commit a grave crime by giving money to the kings and obtaining lands under the pretext of building monasteries, in which they can give free rein to their libidinous tastes; these lands they have assigned to them in hereditary right through written royal edicts, and these charters, as if to make them really worthy in the sight of God, they arrange to be witnessed in writing by bishops, abbots and the most powerful laymen. Thus they have gained unjust rights over fields and villages, free from both divine and human legal obligations...'¹⁵ To whatever extent this contributed to the expansion of monasticism in early medieval Europe it was certainly one of its effects, and a principal reason for the decay of the monastic life widely complained of in the following century.

But what comes around goes around. It soon suited noble patrons to redistribute the lands which they had secured for the monasteries in this way among their families and private followers. The resulting impoverishment and even disappearance of many monastic houses, conventionally and rhetorically attributed to the Vikings, was for King Alfred of Wessex, his West Saxon successors and many of their continental contemporaries, what made necessary the great revival of monasticism that from the middle of the tenth century powered 'the making of the middle ages' in Latin Europe. The foundation during the next two hundred years of some thousands of religious houses between the shores of the Mediterranean and the Baltic shaped both the real and the imaginative landscapes of the world – the construction and definition of the medieval Church itself – that was to be dismantled by Reformation and Revolution.

13 Morris, *The Powerful and the Poor*, 26.

14 Angold, *Church and Society*, 317-320.

15 Bede, *Ecclesiastical History*, 350-351.

The principle of religious exemption in a variety of forms was essential to this process. Exemption from royal taxation and jurisdiction meant in practice exemption from the sway of those who claimed royal authority for powers which had in fact been usurped, or at any rate exercised, by their own forebears. This was the instrument that guided Edgar the Peaceful (king of Wessex 959-975) in the establishment of new and as it were uncontaminated centres of power in those parts of his kingdom where his grasp was most tenuous, such as, in East Anglia, the great abbeys at Ely, Ramsey, Thorney and Peterborough. When Duke William I of Aquitaine founded the abbey of Cluny in Burgundy, in 909, he protected it from the control not only of secular lords but, crucially, of the local bishop of Macon, by granting it immunity from all authority save that of the Pope. (Two hundred years later the same exemption from episcopal authority was essential to the creation of another quintessentially medieval institution, the university.) In the years that followed, Cluny's authority in its lordship was entrenched and its privileges amplified and extended by a battery of exemptions and prohibitions that secured it immense wealth and opened the way for it to become by 1100 the head in one way or another of many hundreds of monasteries all over western Europe: castles were not to be built for forty miles around or tolls collected from those travelling between Cluny and the major towns of the surrounding region; disturbers of the peace of its lordship were excommunicated, and comprehensive rights were secured over the churches and cemeteries of its estates and parishes, and of the people who were born, married, worked, and died in them.¹⁶

And so on. I need not linger on the centrality of the principles both of the exemption of institutions from the customary claims and prerogatives of secular lordship, and of individual monks and clerics from the authority and jurisdiction of those lords and their courts, to the great conflicts between ›Empire and Papacy‹, or ›Church and State‹ of the eleventh century and beyond. The crucial point on which it depended was contained in a single event, or in the memory of a single event, at Laprade St. Germain, near Le Puy, in the Auvergne region of France, in 975.¹⁷ The chronicle that preserves it dates from the twelfth century, and may represent an idealised memory, or even one concocted at that time, rather than an accurate record of events. If so, it exemplifies all the more strikingly the essential principle upon which property in Europe was redistributed on a massive scale between the late tenth and the late twelfth century.¹⁸ It tells how Bishop Guy of Le Puy called a meeting with the local strong men (*militēs ac rustici*) to discuss the return of the lands which they had appropriated from his church; when they declined to co-operate he secured their agreement by springing a cleverly planned ambush with troops borrowed from his cousin in the neighbouring county. The paragraph of the chronicle immediately following the description of this triumph, however, records that Bishop Guy then made a division between his own personal revenues and those of the church, and required the cathedral clergy to embrace the common life – that is, to renounce personal property and vow themselves to chastity.

16 Constable, Review of Didier Méhu, 1345.

17 Lauranson-Rosaz, *L'Auvergne et ses marges*, 412-419.

18 Chronicle of St. Pierre du Puy in Devic and Vaissette, *Histoire du Languedoc*, V, 15.

In other words, the leading families of the diocese had returned land to the church for the support of those of their own members who occupied the cathedral stalls, on condition that it would remain the property of the church in perpetuity, not that of the bishop, and that it could not become the patrimony of new, rival dynasties, fathered by the canons. Bishop Guy's arrangements describe the pattern of innumerable settlements great and small for the next two hundred years, reinforced by increasingly precise and stringent stipulations about the life, demeanour and recruitment of both clergy and monks, which always ensured that the price of their endowment was an ever wider and more unbridgeable gulf between their lives and property and those of their brothers in the world.¹⁹ In this way the former oscillation between the enrichment of the church and its despoliation was ended, and western Europe was provided with a dual structure of landholding, by right of blood on the one hand and of profession and ordination on the other, elegantly articulated in such a way (since ordination negated hereditary rights) that a claim to either could be asserted only by disclaiming all interest or right in the other.

This was the foundation of the society of orders – those who worked, those who fought, and those who prayed – that was Europe's *ancien régime*.²⁰ The exemption of both people and institutions recognised as religious from worldly obligations was essential to its establishment, its character and its subsequent development. But it was not only, or particularly, European. The principle that entry to the religious life freed individuals from civic obligations, including military and labour services as well as personal taxes, and their communal property also from taxation, was widely, even perhaps universally accepted in South, Southeast and East Asia throughout our period. It is most familiar and its consequences most abundantly documented in the case of Buddhism, whose monks and monasteries constitute by far the most numerous set of such institutions in world history. But it was not in any way peculiar to Buddhists: Brahmins in India, Daoists in China, Shintoists in Japan, and many others enjoyed the same privileges. The Asian belief systems did not make the absolute truth-claims or demand exclusive allegiance of the kind associated in the west with Islam and Christianity.²¹ Religious exemption, therefore, was not connected with particular cults or teachings. It may have a long prehistory, at least in India, for it seems that when Buddhists appeared in China in the third century AD they brought with them their claims to the exemption of their property from taxation.²² Its direct and enduring consequence was contained in the term used in Chinese texts to describe consecrated property, *ch'ang-chou*: 'that which remains permanently.'²³ Everywhere temples and monasteries acquired property in all its forms and in great quantity, but especially and most importantly in land. Despite the setbacks occasioned by frequent and sometimes severe reaction, they accumulated immense wealth and retained it until modern times, when it became prominent among the targets of reformers and revolutionaries as regularly and at least as fiercely as in Europe. The Khmer Rouge regime in Cambodia (1975-1978) not only defrocked all Buddhist monks and murdered many thous-

19 Moore, *First European Revolution*, 81-101.

20 Duby, *Three Orders*.

21 Moore, *Medieval Christianity*.

22 Gernet, *Buddhism in Chinese Society*, 39.

23 Gernet, *Buddhism in Chinese Society*, 67.

ands of them, but demolished Pnomh Penh cathedral brick by brick,²⁴ as a symbol no doubt of French imperialism no less than of the old regime. A more benign manifestation of a similar sentiment was observed by Mikhail Adolphson, to whose fine work on Buddhist monasteries in Japan I am much in debt, when on his first visit to Kyoto in 1986 he was disappointed to find most of its great monasteries and shrines closed to visitors. They were on strike against the mayor, who wished to levy a tourist tax on forty of the main sites. Local opinion and the press might have been expected to support the monks in resisting this imposition on the tourist trade, but in fact they applauded the mayor for standing up to their customary avoidance of public obligations.²⁵

As far as I can see, then, leaving the Islamic world aside for the moment, religious exemption was not only common but in effect universal among the citted societies of Eurasia during a millennium and more from around 400 CE, or earlier. It seems also, however, that the nature and use of such exemptions was elaborated and systematised in many regions between the tenth and thirteenth centuries, when the world cultures or civilizations we know today were assuming clear identities, and the contours of the modern world were taking shape.

The nature of the structural role of exemption is less obvious. It was probably simplest, and most easily visible in China, where, if less than it appears on the highly polished surface, the continuity of political, governmental and social structures between the end of antiquity and the nineteenth century was nevertheless both considerable and remarkable. The rapid expansion of Buddhism in China from around 400 CE owed at least as much to aristocratic as to imperial patronage, especially in the south. ›That which remains permanently‹ was attractive to rulers in itself, as a source of the social stability that was always the primary objective of the imperial regime. Like their counterparts everywhere, Buddhist monasteries and temples were of great value as centres of colonisation and for the extension of agriculture, the creation of markets, the inculcation of culture and the articulation of social order. Nevertheless, religious exemption in China does not appear to have been either a goal or an instrument of imperial power. On the contrary, it was repeatedly limited or attacked, both in itself and still more when abused, as a major drain on the imperial treasury. The sale of certificates of ordination, for example, was a perennial and lucrative form of tax evasion. In what was probably the greatest such reaction, between 843 and 846, some 40,000 temples and shrines were suppressed, about 250,000 monks and nuns were deprived of their status, and around 150,000 labourers were freed – which is to say, in both cases, made liable to pay taxes.²⁶

On the other hand, though the Song dynasty, between the tenth and thirteenth centuries, is usually identified as the great period of Confucian or neo-Confucian revival, Buddhist temples and monks were lavishly supported by the court and officials, and considered essential to the regime as providing sites especially for commemorating war dead, marking imperial birthdays and death days, and housing specimens of imperial calligraphy and portraits of emperors, thus expressing and reinforcing links between emperor, literati and the people.²⁷ They continued to act as foci of communal activity, funded both by gentry families and by

24 Reid, *History of Southeast Asia*, 393.

25 Adolphsen, *Teeth and Claws*, 3.

26 Rossabi, *History of China*, 162-163.

27 Halperin, *Out of the Cloister*, 112-158.

magistrates, and to reflect and support local structures of power, including its rivalries. In 1667 there were about 80,000 registered temples for a population of around 150 million, and when Taiwan was colonised in the early years of the eighteenth century, temples were immediately established by the newcomers, though it seems that they were identified with particular social groups, such as officials and merchants, rather than intended as general instruments of sinification.²⁸

Brevity misleads, and this sketch would certainly have been less bland if it had considered the emergence of regional power bases, and the periodic rebellions in which Buddhist monks were frequently implicated. Nevertheless, it seems fair to conclude that after the tenth century religious exemption in China served predominantly, though mainly indirectly, to support the state. In Japan between the tenth and thirteenth centuries, on the other hand, a number of great Buddhist monasteries acquired a level of independent political power, including military power, which made them, along with the court elite of the capital on one hand, and the provincial warlords on the other, the third of the ›Gates of Power‹ which shared domination. Key to this ascendancy was the provision of financial support directly from the imperial treasury that gave way to what was in effect a system of immunities – the right to control cultivation over and collect taxes from designated parcels of land. That led, by a route very familiar to historians of Europe, to the acquisition of vast estates and their cultivators, who in hard times commended themselves and their lands to the monasteries, in the hope of protection and sustenance. Wealth required protection, which was provided both by aristocratic clans increasingly inclined to install sons as abbots, and by military forces built up by the monasteries themselves, often from a nucleus of warrior families which were employed to protect shrines and their pilgrims and revenues. For several centuries this made the support of the great monasteries around the capital necessary to contenders for power, and hence, in the view of Adolphson, significantly moderated the dominance of the court before the tenth century, and of the warrior clans thereafter.²⁹ The independent power of the monasteries was effectively ended during the thirty years or so of intense conflict from which a new and powerful central regime (the Tokugawa *bakufu*) emerged at the beginning of the seventeenth century. At that time the buildings of some of the greatest monasteries were destroyed, their treasures seized, their inmates and peasantry slaughtered and their lands greatly reduced. Their immunity from taxation was withdrawn – but, as we have seen, not forgotten – as part of the modernisation undertaken after the Meiji restoration of 1868.³⁰

China seems, then, to offer an example of how religious exemption might strengthen the state by providing legitimacy and supporting the informal networks that underpinned the formal exercise of power. Japan, on the other hand, has long been regarded as the classic case in which the state was undermined by the irreversible concession of the powers of taxation and jurisdiction without which it could hardly be said to exist, achieved not wholly, but significantly, through the mechanisms of religious exemption. Yet to frame the issue in those terms – whether religious exemption was a force friendly or inimical to the state – seems to me to beg the question. Nobody needs to be reminded of the perennial tendency of histo-

28 Naquin and Rawski, *Chinese Society*, 41-44.

29 Adolphson, *Gates of Power*, ch. 3-5.

30 Totman, *History of Japan*, 207-216, 300-301.

rians to place the state and its fortunes at the centre of their concerns, even to the point of exclusivity, or of how the agenda of the period between 600 and 1200 – and not only in the history of Europe – has traditionally been defined in terms of the decline and fall of the great empires of antiquity, and the extent of their survival, real and imagined. But that is not what the best historiography is saying now – such as, to take a distinguished example, *Reframing the Feudal Revolution* by Charles West.³¹ We are learning (dare I say, at last?) to do better, to think of power as capable of being exercised upwards as well as downwards, to consider the formation of communities as well as of states, and therefore to be curious about the agency of subjects as well as of sovereigns. West's reframing begins precisely by rejecting the traditional antithesis between ninth-century lords either as compulsive predators temporarily held in check by strong kings, or as proceeding merrily on their plundering way under cover of a skilfully constructed image of (Roman) imperial revival. They were indeed constrained, he argues, but not by royal power. Their conduct was shaped by competitive tension among themselves, in which, increasingly, the most effective means of securing advantage was by constructing a society continuously more ordered, and therefore both more productive and more exploitable. That ultimately meant the creation and expansion of village communities by every available means from brute force to pastoral care, not directed by any programme but shaped and reshaped by contingency and opportunity. It culminated, around the middle of the eleventh century, in the emergence of jurisdiction rather than direct exploitation as the key to the construction of enduring, universal power.³² To the creation of this new form of lordship, as we have already seen at Laprade, the principle, and the acknowledgement, of religious exemption was fundamental.

For a striking analogy we can turn to James Heitzman, who examined the role of religious donation in economic and social growth, supporting a spectacular temple culture, in the Chola kingdom in southern India (849-1279).³³ Like West, Heitzman rejected a traditional historiographical antithesis, in this instance between royal initiative and assemblies of cultivators as the source of the impetus. His analysis revolved instead around the ways in which local strong men acted as intermediaries between the two, using religious donation, and with it exemption from taxation, to bring new land into cultivation, in the process consolidating their own status both at court and in the localities. While their empire was expanding the kings were content with the enhanced symbolic presence conveyed by their patronage (in return for legitimacy), but when the gains of military expansion began to dry up, towards the end of the eleventh century, they began more aggressively to look inwards for revenue, which in turn caused the local notables to turn over yet more lands and revenues to the temples, as a means of keeping them in the family.

31 West, *Reframing the Feudal Revolution*.

32 West, *Reframing the Feudal Revolution*, *passim*: ch. 6, 173-198, is especially pertinent to the present comparison.

33 Heitzman, *Gifts of Power*.

In most, though not all, of the societies I have mentioned, religious exemption had a secular counterpart in which similar powers and rights were conferred on warriors, with similar consequences. I steer clear of the hoary and usually fruitless argument as to whether or not all such arrangements are properly called ›feudal‹. It is worth noticing, however, that that argument has generally been conducted on the same assumption as discussion of religious exemption, namely that it is about the concession of powers by the state, why such concessions were made, and with what consequences.

The ›concession‹ of a right or power presupposes a legitimate claim to it, but historians are under no obligation to underwrite the validity of such claims.³⁴ History does not have to start with states, either in theory or practice. The advance, of which I have taken Charles West and James Heitzman as exemplars, from the habitually top-down perspective, opens the possibility of reversing it. When Sir Richard Southern famously remarked that the great question in tenth-century Europe was how far the disintegration of authority could go, his answer was: until the point was reached where the effective political unit was the area that could be controlled by one man and his immediate followers.³⁵ Such men are usually called nobles, or lords, out of deference to their descendants, who formed the European aristocracy of the next millennium, but it has often been said that they might as accurately be described as gang-leaders or *capos*. Why should such a *capo* join in the pretence that he levied taxes or commanded services in his territory by permission of an outsider, of whatever royal or imperial pretensions, and one who in practice lacked the capacity to prevent him and others like him from doing so? The standard answer is that the *capo* longed for legitimacy, and for acceptance by the possessors of social prestige as one of themselves. Certainly we should not underestimate the power of that human craving, though we might ask more often than we do, ›legitimacy in whose eyes, and on what conditions?‹ There were in addition, of course, other advantages and opportunities, sometimes great ones, in participation in a wider political community. But there was also a price. If a sovereign could confer legitimacy he could also withdraw it, arbitrarily or in specified circumstances. And a time might come, as it did in both the Chola and the French kingdoms in the twelfth century, when a sovereign who had long been content to exercise his acknowledged authority merely symbolically, from a distance, acquired the capacity or inclination to do so directly. From the point of view of the local chieftain that risk was the converse of the one that the sovereign had taken in delegating power in the first place, that delegation might one day become permanent alienation. This is to say then that there were good reasons on both sides for a warrior or a group of warriors and a king, contemplating an exchange of a potential claim to power on the ground for present legitimacy, to regard one another with long-term distrust, regardless of their immediate interest in reaching an accommodation. The stand-off, I suggest, could be resolved by creating a neutral category of land and power, directly controlled by neither, but capable of advancing, at one remove as it were, the interests of both. A rough analogy might be with the constitution of the United States, in which the Supreme Court is conceived not directly as holding a balance between executive and legislature, but rather as independent of both, and therefore a safeguard against the tyranny of either.

34 Specifically rebutted, in the case of Western Europe by Brown, *Tyranny of a Construct*, and Reynolds, *Fiefs and Vassals*. For recent exploration of alternative approaches, Cooper and Leyser, *Making Early Medieval Societies*, including notably the papers of Fouracre, Costambeys and White.

35 Southern, *Making of the Middle Ages*, 79-96. The answer is not explicit.

In this light the ›exemption‹ should be understood not only as what the sovereign conceded to the chieftain, but also as what the chieftain withheld from the sovereign. That seems to me a pretty good description of what happened at Laprade in 975, made very nearly explicit in the surviving record of it. To say so, however, highlights the difficulty presented by the elephant of whose presence in my Eurasian room the reader must have been increasingly conscious, the Islamic world. Islam lacked not only many of the institutions – most obviously, monasteries or collective religious life in any institutional form – around which my discussion has revolved to this point, but the very distinction between secular and religious spheres on which it has been premised. It did, however, possess a legal device which served some of the same purposes, namely the *waqf*, ›an assignment in perpetuity of the income from a piece of property for charitable purposes.‹ The *waqf* placed the property in question under the care of the *qadi* (judge), and ultimately of the ruler; it was exempt in principle, and largely in practice, from arbitrary seizure. The variety of the property's income's uses was immense – supporting mosques, hospitals and schools, hostels for travellers, public fountains, caring for sick animals, providing a fund to insure servants against the cost of accidental damage.³⁶ In the eleventh century and after, its most spectacular deployment was in the foundation of the *madrashah* for the support of teachers and students, and which proliferated throughout the Islamic lands.

Like the monastery or the temple, the *waqf* offered advantages to the donors as well as to the recipients of its charity, as the only legal means of maintaining the integrity of a property against sub-division through multiple inheritance. It could become, in effect, a family trust. Thus, a donor's descendants might be bequeathed rights in a *waqf* foundation, such as a share of surplus income, or the right to go on living in the family house which had been handed over to it. *Mansabs* – bursaries for teachers or students associated with *madrashah* – rapidly became an important source of patronage, as entry to monasteries or cathedral canonries did in Europe. Thus, 29 *madrashah* were founded in Damascus between 1154 and 1224, almost all by members of prominent ruling or military households, including several women. One donor, for example, had been a governor of the city until he was dismissed and imprisoned, but on his release became a scholar in his *madrasa*, where he was buried, and his splendid tomb could be venerated.³⁷ In this way the military rulers, or rather occupiers, and their entourage, were able not only to make their property to some degree effectively heritable, but to associate themselves with the old civilian elites, and insert themselves into the social and sacred geography of the city, in much the same way that eleventh-century Norman hoodlums secured their souls and posthumous reputations by founding monasteries. Without commenting more directly on the extent to which the *waqf* may be said to fit my general model for the functions of religious exemption, therefore, it seems fair to suggest, at any rate, that it made possible the creation of something approximating to a public sphere which enjoyed a measure of protection against the domination of particular or sectional interests, and a high degree of protection against the vicissitudes of time and tyranny to which property in these lands remained vulnerable.

36 Southern, *Making of the Middle Ages*, 79-96. The answer is not explicit.

37 Chamberlain, *Knowledge and Social Practice*, 51-59.

On the other hand, the uncompromising individualism of Muslim religious life highlights a distinction which has probably deserved a larger place in this discussion. I have been describing religious exemption essentially as an institutional phenomenon, and as a device for regulating power relations among elites. But very frequently, most obviously in China, the personal exemption of individual ›monks‹ from civic obligations created acute difficulties for the state. In Latin Europe, as far as I can see, the question barely arose. A vigorously maintained tradition of effective episcopal authority – and increasingly from the ninth century the Rule of St. Benedict with its vows of stability and obedience – meant that a religious was effectively defined as such by ordination, or by his or her membership in a religious community. When individuals appeared, as of course they did, who claimed the status without such credentials, far from being legally privileged, they were seen and could be treated as anomalies. They might occasionally make a stir, but were more often sidelined, with more or less firmness, by a well-oiled machinery of pastoral discipline. The position was less clear-cut in Byzantium, however, and apparently less clear-cut again in India, where such people, including Muslim *ulema* and *sufis*, derived their claims to religious status – and with it sometimes very considerable social power – in part from the approbation of venerated teachers or fore-runners, and in part from their personal display of piety and ascetic renunciation.

This is no place, or time, for a comparative history of the holy man, which would stretch, I think, much further back in time, and over an even greater miscellany of societies.³⁸ Nevertheless, it is worth remarking that to the extent that he is to be understood as a vehicle for regulating in some manner relations between the powerful and the poor, the role of the holy man would be complementary to that which I have described for institutions, as regulating relations among the powerful themselves. This suggests that we should consider religious exemption not as one subject but as two, though frequently overlapping and interwoven. For me, this is a consoling thought. Since, in a moment of reckless bravado, I proposed the title for this article, it has cost me a good deal of apprehension. It was easy enough to see how religious exemption contributed in the tenth, eleventh and twelfth centuries to the construction of the societies and cultures which are recognisably those of the Eurasian *ancien régime*, and easy enough to see how its importance to that regime was attested by the urgency and passion with which it was eradicated when the regime was ended. It was less obvious how it could be said to define the beginning of a historical epoch. But the inclusion of the much more ancient and ambiguously problematic phenomenon of the holy man suggests that the answer is the same as that to several other current controversies as to what was ›new‹ in the tenth and eleventh centuries, and whether the transformation wrought by the totality of such developments constituted a revolutionary break with the past. It was not the individual elements that established or characterised the new regime. It was their combination.

38 The coincidence of title between this paper and Peter Brown's most recent meditation on the nature and functions of religious poverty (Brown, *Treasure in Heaven*) underlines not only the richness of both themes, but the desirability of relating them to one another a good deal more subtly than can be attempted here.

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