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A Reply to Johann Arnason

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Reply to Johann Arnason's Comments

Toby Huff

It is an honor to have the comments of Johann Arnason on my paper. He has raised many issues and important questions. No doubt we will disagree of some minor issues but agree on major ones and I appreciate this opportunity to discuss matters vital to civilizational analysis. There are more issues here than I can address in our limited space, so I shall confine my reply to what I see as the most important of the questions raised.

I agree with Arnason's comments on Max Weber's legacy and his overlooking of imperialist consequences of Europe's ascendancy. Likewise, his comments on Eurocentric issues and the now excessive attacks on Weber seem to me justly put. No doubt Weber's understanding of Japan was deficient and given his sparse comments on Japan and his extraordinary knowledge of many other cultures and civilizations, his missteps on Japan seem forgivable.

I shall return, however, to his reference to "normative projections" that most likely refer to Weber's notion of "world-historical" consequences. I will also return to the question of why I put so much stress on the unfolding of the European legal revolution in the late medieval period.

A basic difference between us is the role of evidence versus theory in doing civilizational analysis. I believe one should start with a reasonably clear problem and then dig into the empirical/historical evidence. Eisenstadt's approach seems to start at the other pole. His paper cited by Arnason is an entirely theoretical and vast survey, impressive as it is, that covers huge sweeps of time and space (from 500 BC to about 100 AD, and even later "modern" developments), suggesting all sorts of developments, structurations and "crystallizations." But the paper does not cite a single historical or sociological study that could support his many generalizations during the Axial Age.¹³ So it should not be surprising that my comparison of three civilizational encounters (the West, Islam, China), based as it is on decades of trying to find and master the best historical sources, finds little help in what Eisenstadt has written.

¹³ Shmuel Eisenstadt, "The Civilizational Dimension in Sociological Analysis," *Thesis Eleven* 62 (2000): pp. 1-21.

A perplexing feature of the Eisenstadt discussion is the fact that it proceeds with an unclear conception of civilizational analysis that constantly verges back-and-forth between the putative civilizational complexes (ancient Greece, Israel, China, Buddhism, Hinduism, etc.) and references to “societies.” It is pretty much agreed among sociologists that “societies” are social groups with distinct boundaries established by their governments and economies. Having a formal governmental structure is the defining characteristic of societies in this sense. In my understanding *civilizations* are much larger units of two or more societies (or peoples) as articulated by Durkheim/Mauss and Nelson¹⁴. This concept is a breakthrough in thinking about civilizations as *trans-national* complexes. Such entities often have unclear boundaries because they generally are *voluntary* entities, not empires or coercive entities (though this could happen). This gets us to what it is that allows cultural phenomena to grow and transcend national boundaries. The Durkheim/Mauss problematic asks: what is the nature of this “coefficient of expansion”¹⁵ that some cultural phenomena have that allows them to become translocal if not universal? Eisenstadt does not at all address this question of how and why civilizational phenomena are trans-societal.

Eisenstadt does make an interesting suggestion that the “core” idea behind the concept of “civilization” is an “ontological or cosmological vision.”¹⁶ He suggests that such visions generally involve sacred, cosmological references and often entail tensions with the mundane world. But does this help us understand the fundamental differences in orientation between the Greek/Hellenic complex, Islamic civilization, Western and Chinese civilizations?

Of course, one could improve on my description of the three encounters (between the West, Islam, and China) but for the purpose of why the three took such different approaches to naturalistic inquiry, it is far more useful to consider their alternative *philosophies of nature* (which may have ontological references). These somewhat metaphysical notions are more easily described and there is considerable literature on the subject.

Thus, the ancient Greeks created a philosophy of nature (later adopted by Europeans) that suggested that the natural world is a lawful, autonomous order, probably made up of small particles, and a natural world that human beings can know and explain with the aid of reason and logic.¹⁷

¹⁴ Emile Durkheim and Marcel Mauss, “Note on the Notion of Civilization,” *Social Research* vol. 38, no. 4 (1971): 809-813; translated by Benjamin Nelson.

¹⁵ *Ibid.*, p. 811.

¹⁶ Eisenstadt, *ibid.*, p. 2.

¹⁷ This and the following paragraphs draw from the third revised edition of my book, *The Rise of Early Modern Science: Islam, China and the West* (Cambridge University Press, third edition, forthcoming, 2017)

In contrast, the Islamic philosophy of nature denied such rational-causal principles, insisting instead that God is always in control, and that humankind can only know what God enables or permits one to know.¹⁸ This is, of course, only one part of the story, as my paper shows. Moreover, even with the aid of all the Greek-into-Arabic translations of the core Greek scientific and philosophical texts, the Muslims did not institutionalize the Greek modes of inquiry. Consequently, there was early success that soon dissipated.

The classic Chinese philosophy of nature entailed the polarities of yang/yin, the five elements (water, wood, fire, earth, and metal) and the elusive energy called Chi. Here no causal laws operate, there is no push-pull mechanism(s) operative. There is also a notion of cyclical change over long periods of yang and then yin domination in timeless cycles. In the long run (from ancient times to the 20th Century) no group of scholars emerged who could or would overthrow that Confucian worldview (even with the help of the European missionaries and thousands of translated books¹⁹). In a word, we can understand these three intercivilizational encounters without resorting to Eisenstadt's loftier locutions such as "world-articulating meanings" and so on. From my limited reading on the subject, I do not know of useful discussions of "multiple modernities" that also take into account what I see as the fundamental grounding of European civilization and its "modernity," to which I shall return.²⁰

Although I have difficulty with Chris Wickham's precise time-line in the long citation from his work, it strikes me that the general thrust of his statement endorses the multiple factor and historical approach that I set out in the Epilogue to *Intellectual Curiosity and the Scientific Revolution*.

Moreover, whatever point one wants to make with regard to the Holy Roman Empire and its role in Central and Eastern Europe, the fact is that like all the other territorial entities in Europe of the time, it adopted and operated with the aid of the *ius commune*, the common law of Europe.²¹ This was the new and revised legal system that the canonists and Romanists fashioned as one part of what I have called the legal revolution of the long 12th century.

¹⁸ This is the well-known Islamic philosophy of occasionalism also discussed in *The Rise of Early Modern Science*.

¹⁹ This I discussed in some detail in *Intellectual Curiosity and the Scientific Revolution. A Global Perspective* (New York: Cambridge University Press, 2011), chapter 4.

²⁰ This idea was advanced by S.N. Eisenstadt: "Multiple Modernities," *Daedalus* 129 #1 (2000): 1-29. Eisenstadt deserves credit for advancing this idea, but by claiming that the new modernity was an 18th century phenomenon with its "first expansion" in the Americas (p. 13) seems to me off the mark. I shall return to this.

²¹ Peter Stein, *Roman Law in European History* (New York: Cambridge University Press, 1999); Michael Hoeltlich and Jasonne M. Grabler, "The Establishment of Normative Legal texts. The Beginning of the *Ius Commune*," pp. 1-21 in *The History of Medieval Canon Law in the Classical Period, 1140- 1234*, edited by William Hartmann (Washington, D.C: Catholic University of American Press, 2008).

Moreover, this new Romano-canonical system was taught in universities across Europe. As a result, advocates across the Continent (and England) had to know both the Ecclesiastical and civilian version of canon law, both based on the same legal principles. This they had to do because they might have to try a case in an Ecclesiastical court.

This new legal system, above all other cultural factors, is what gave “Europe as a civilization” its center and “framework of interacting” in all sorts of encounters and transactions, that is, its *modus operandi*. In this sense, I am not “isolating” a single factor but pointing to the multiple revolutions in institutional arrangements that gave Europe an entirely new footing for virtually every aspect of political, economic, and educational life. As I stressed in the first part of my Plenary paper, the European legal revolution of the twelfth and thirteenth centuries laid the foundations for what we now recognize as *modern political institutions*.²² These include due process of law, the notion of elective representation in all forms of corporate bodies, the *very idea of legally autonomous organizations*, and not least of all, legally autonomous professional associations (of doctors and lawyers), charitable organizations, universities, as well as cities and towns. All of these innovations, including the rise of *parliamentary* governance, arose out of medieval canon law and contributed to the stability of economic enterprises and made local self-government possible. Each of these developments was part of the emergence of constitutionalism as understood in the Western world.

Of course, the emergence of the universities created an institutional space for relatively undisturbed public discourse on all sorts of subjects, most importantly by institutionalizing the study of the (Greek-fashioned) natural sciences and incubating modern science. There were further discussions within the universities and no doubt they reverberated back on other political, economic, and political issues.

If, à la Eisenstadt, one would prefer to call this a “new civilization,” I would not greatly object. I would insist, however, that this crystallization occurred long before the 17th century and the Reformation, and that it produced the first real fusion of Greek philosophy, Roman law, and Christianity, a position articulated by Ben Nelson and many other historically minded scholars.²³ That would also, in my view, place the title, the “Axial” shift in the “long 12th century,” whether one wants to call it a “new” Christian civilization or plainly, European civilization. That fusion was unique and was soon exported to the U.S and “Europe overseas.”

²² Huff, “Europe as a Civilization: The Revolution of the Middle Ages and the Rise of the Universities,” *CCR* #69 (2013); 65-86.

²³ Nelson, *On the Roads to Modernity. Conscience and Civilizations*, edited by Toby E. Huff (Lanham, Md: 1981; reprinted 2012), pp. 99-101; and, among others, Edward Grant, *God and Reason in the Middle Ages* (New York: Cambridge University Press, 2001).

Furthermore, that spiritual, legal, scientific complex is in my mind, at the heart of the raging debates today about the rise or “decline” of “the West.” Whatever its fate, that cluster of revolutions centered on the legal domain suggested above has no counterpart in Islamic or Chinese civilization.²⁴

One can explore the early history of Islam and influences on its formation as much as one would like (as Patricia Crone²⁵ and others have done), but the fact remains that the canonical texts centered on the Quran and the hadith collections came to be the central core of Islamic civilization, and there was no influence of the Roman Civil law. The religious scholars (the ulama) worked assiduously to preserve and protect that central legacy, rooted in faith, with the result that there were no revolutions (or reformations) in religious thought, and no breakthroughs in theology or law. There is no Islamic Peter Abelard, Thomas Aquinas or other intellectual innovators equivalent to those in Western philosophy or theology. There were no innovative legal scholars parallel to Gratian, Tancred, or Durand in Western Europe. Beyond that, and with more details provided in *Intellectual Curiosity*, the fact remains that there was no Copernicus, Galileo, Tycho Brahe, or Kepler in the history of Arabic-Islamic science.

Arnason also raises the question of how significant law and legal structures were in China, so I offer this short account. Commentators on China who accent the “Chinese bureaucracy” often forget to note that throughout the empire from before the Sung dynasty (960-1279) throughout the Qing dynasty (1644-1911), the whole regime was based on a legal code borrowed from earlier dynasties. The earlier Tang and Ming codes were simply restated with additions and put in place without basic modification.²⁶ That code was based on a complex set of punishments and mitigations and many hidden assumptions. The Code lacked a section detailing due process so that the actions of the magistrates and all others followed their own whim, with no effort to compile formal case records in order to achieve uniformity of outcome. This also meant that there were no zones of autonomy, no independent associations of doctors or lawyers (lawyers did not exist), nor were there any independent scholars who could decide philosophical and educational issues as European scholars did. All that was controlled by a small elite of official officeholders.

²⁴ I have explored these comparative questions in several chapters in the third edition of my *Rise of Early Modern Science*. Whether we could say that Japan experienced such revolutions of thought and institutional arrangement, I leave to specialists on Japan to determine.

²⁵ Patricia Crone, *God's Rule: Government and Islam. Six Centuries of Medieval Political Thought*. (New York. Columbia University Press, 2005).

²⁶ *The Great Ming Code*, translated by Jiang Yonglin (Seattle: University of Washington Press, 2013).

During various periods of time it was unlawful (and hence backed by punishments) to own books on mathematics or astronomy while astronomical observation was strictly controlled and forbidden outside the royal aegis. Likewise owning or using a telescope was regulated by royal decree when the devices arrived in the 17th century.

Given that there were no law schools and there was no independent body of legal scholars, there was little chance for legal evolution or for advanced legal thought. With this background in mind, it would be an exaggeration to suggest that the Chinese had anything like the Western legal system of due process that I mentioned earlier (and have discussed in more detail elsewhere). There were no rights for legal challenge, no strict procedures for getting a case heard by the magistrate who was in effect a person with only “on-the-job training.” Moreover, he had a variety of options that would allow him to ignore any petition that he did not want to deal with, or simply send it back to the lineage elders for resolution.²⁷

Because of this state of affairs in which the Emperor’s decree was law (on top of the official legal code), and with the total absence of a notion of legal autonomy, all sorts of activities were proscribed. Here I shall just mention the innocuous practice of official examination of deceased bodies that were suspected of foul play. Postmortems as such were conducted “by the book” by two novices: the magistrate who had no medical training, and the ostensor, a lowly self-trained, often illiterate person who might have been a barber. The book was called the *Washing Away of Wrongs*, dating from the 12th century and by decree could not be changed in any detail all the way to the early 19th century. The book contains diagrams of mortal and non-mortal places of wounds on the body and which had to be identified by the two officials as they examined the corpse. This was not a proper autopsy (such as Europeans had been carrying out since the 13th century) and in this case without the aid of a properly trained physician, simply followed the book with the ostensor calling out information that he extracted from observing the body to the magistrate who recorded it on the form. It has been observed, however, that even when more informed medical examiners discovered anomalies in the corpses they studied, they were not allowed to make any changes to the official manual.²⁸

²⁷ Among many others, see Melissa Macauley, “Civil and Uncivil Disputes in Southeastern Coastal China, 1728- 1820,” in *Civil Justice in Qing and Republican China*, edited by Kathryn Bernhardt and Philip Huang, pp. 85-121 (Stanford: Stanford University Press, 1994); and idem, *Social Power and Legal Culture. Litigation Masters in Late Imperial China* (Stanford: Stanford University Press, 1998). I discuss the issues further in Chapter 7 in the new edition *The Rise of Early Modern Science*.

²⁸ Pierre-étienne Will, “Developing Forensic Knowledge Through Cases in the Qing Dynasty,” in *Thinking with Cases*, In *Thinking with Cases*, edited by Charlotte Furth, Judith T. Zeitlin, Judith T., and Ping-chen Hsiung, pp. 62-100. Honolulu: University of Hawaii Press, 2007.

In this way the rigidities of the Ming and Qing legal codes prevented learning in this area of human anatomy, which, one would think, had no political implications, but significant benefits for human well-being if subordinates had any leeway to speak and record their new findings. Clearly there were many inhibitive effects of the Chinese legal code on the advance of science and economic activity.

Perhaps there are alternative “modernities” that might be designated as modernity₁, modernity₂, and so on. There is a problem, however, if we are following Eisenstadt’s model. That is, just like the sociologists against whom he is arguing as he attempts to forge the idea of multiple modernities, Eisenstadt adopts a socio-psychological approach which means that he looks at personality characteristics not societal characteristics.²⁹ He talks about conceptions of “human agency,” and “reflexivity” instead of identifying societal (and/or civilizational) structures and institutions. If, however, one thinks about the deep roots of Western culture and civilization and the unique institutions it invented, then one arrives the following suggestion.

In the first type of modernity I would place the presence of a public sphere (including the right to assembly), the unfettered pursuit of science, a free press, a clear sense of due process of law buttressed by articulated rules (not just conventions), the presence of an independent legal profession, parliamentary democracy and constitutionalism, along with legally autonomous commercial enterprises buttressed by secure property rights. The seeds of all these ideas and institutions were planted long before the Reformation, the Enlightenment and the Americas.

These I think are the likely “normative” implications that would flow from a Weberian civilizational analytic. It would be most fascinating to see how a denizen of another culture or civilization would construct an alternative modernity (modernity₂). And what kind of Westerners would choose it?

²⁹ The examples of supposed unilinear development on the roads to modernity that Eisenstadt cites are: Daniel Lerner, *The Passing of Traditional Society* (Glencoe, Ill: Free Press, 1958); and Alex Inkeles, *Becoming Modern: Individual Changes in Six Developing Countries* (Cambridge, Ma: Harvard University Press, 1974). As much as I admire the work of Lerner and Inkeles, it has to be said that their work is entirely ahistorical insofar as it does not reflect upon the cultural and historical foundations of Western modernity as it unfolded far earlier than the Enlightenment. But that was not their problematic. Ben Nelson was well-aware of this problem in Inkeles’ work