4.

The Role of Socio-Political Factors in the Emergence of "Public" and "Private" Domains in Early Mesopotamia*

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Conceptual domains

Irreverently, let me begin the way *Pinocchio* does.
"Once upon a time, there was . . .
— A king! — so would my young readers say right away.
— No, kids, you got it wrong.
Once upon a time there was a piece of wood."
Listen now to the *Enūma Elish:*
"When, high above, the heavens were not identified as yet
and, down below, firm ground was yet without a name, . . . "
Given our modern expectations, we would be tempted to continue:
"then it was that the divine world took shape above,
and then it was that *man* was created down below . . . "

But no, the emphasis in the ancient text is instead in quite a different direction. The creation of man is in fact almost incidental in the *Enūma Elish* (vi 33f). It is instead the city, in its specific cultural embodiment as Babylon, that emerges as the object of major attention and concern (v; vi 56-78).

It is the same theological locus we find in the Sumerian *King List*: the descent of kingship from heaven, and its transfer as a tangible good from one territorial urban seat of power to another. What is being transferred transcends the individual kings even as it lists them as concrete representatives of the institution itself. It reflects a perception that places rank and function ahead of the individual. Or think again of Atram-hasis. Mankind is created to assume, as a social group, the collective task of serving the gods, to replace what a lesser class of gods had done previously. What is remarkable is that the accent is not on the individual but on the group, in its social, economic and political configuration.

We may speculate whether perhaps there could be here a reflection of the changes brought about by the urban revolution. The answer must remain speculative, but it seems reasonable to assume that such a revolution (as indeed it was) did not exhaust itself in the creation of new structures of power, new technologies of manufacturing and new systems of communication. It also affected the perceptual world of the people involved. The increased size of settlements created a critical mass whereby face-to-face association no longer was possible among each member of the social group. And yet, remarkably, the group retained an internal solidarity that gave it a strong identity and permanence. Individuals belonged together because of ties that were not inscribed in personal relationships, but rather were mapped within the boundaries of a shared territorial organization. We thus may infer that the city loomed large as a psychological dimension, an overarching reality that acted as a living organism, through whose tensional pull many individuals recognized themselves as parts of a larger whole.

It seems reasonable to assume is that no such picture would have obtained in pre-urban times. Within a pre-urban village (as distinct from the para-urban villages discussed below) face-to-face association was the bond of solidarity. Personal acquaintance preceded group solidarity, serving as its foundation. Such solidarity also was tested in identifying people outside the group. The foreigner was anyone who could not personally be recognized.

In such a perspective the group itself — and this brings us closer to our topic — was private. It had commonality of interests (which is what

made it a group), but this commonality rested on the reciprocal personal awareness of those who shared whatever they had in common.

If this is correct, then the dichotomy between public and private is coterminous with the origin of the city. In this sense the city may be defined as a public group, one whose internal solidarity derives from factors other than the reciprocal private knowledge of its individual members.

Alternatively, it stands to reason that the very distinction between "public" and "private" was inoperative in pre-urban times. To speak of pre-urban villages as private groups means in effect that they had not yet developed in such a way as to aquire an institutional reality *vis-à-vis* their members. Of course, groups had their own symbols, internal articulations, and even their separate identities; otherwise they would not have been groups. But they remained entities perceptually identical with the sum of their members. For this reason I see in the breaking of the barrier of face-to-face association the origin not so much of a *distinction* between public and private, as if one derived from the other, but rather the origin of the opposition itself. If by "public" I mean not just the group of individuals I already know, but the group as the source *through* which I can identify individuals as my associates, then by "private" I must mean not just an individual I already know as individual, but the individual in his *opposition* to the group. In linguistic terms the two poles of the opposition can only be marked once the opposition obtains, not independently apart from it.

All the factors we associate with the urban revolution support this conclusion. The sharper articulation of (1) political controls provided an administrative infrastructure and an ideological suprastructure. Through the administration we see the life of this public organism take shape; through the ideology we see the perceptual apprehension of the social group's unity affirm itself.

The dramatic advances in (2) manufacturing technology, monumental architecture, irrigation works and metallurgical production, along with the complex development of long distance trade, put the individual before the finished products. Such products were far removed from nature, and also no longer universally understood in terms of their genesis. They were public, in the sense that they required chains of transformation transcending the perceptual range of any given individual. The production process was a system of steps that entailed a non-contiguity between at least some of these steps (*e.g.*, a metal weapon could be acquired without the user having witnessed each and every step in the chain from mining ores to transshipping ingots, smelting and casting). It is in this sense that we can properly speak of an "industrial" production.

As a new (3) system of communication, writing served to standardize discourse and flatten personal idiosyncrasies. As an external extension of logical brain functions, it gave these functions an existence that could be inspected at any time by any one technically prepared. This gave a public mode of visibility and verifiability that countered the privacy of individual domains.

(4) The differentiation of social ranks and specialization of occupational crafts created a new perspective in the way humans looked at each other. They came to play functional roles within impersonal systems. As such, many easily stood to lose their own personal identities — witness especially the introduction of slavery (if we can associate that too with the city), the most extreme functionalization of human individuals.

Finally, (5) law emerged as something different from custom. Uniform standards were applied to resolve conflicts. These standards acquired a hypostasis of their own as an independent reality, regardless of contingent circumstances.

These considerations suggest a perceptual framework in which the notion of a public domain may have developed in Mesopotamia. True, it did not acquire a lexical identity; at least I do not know of Sumerian or Akkadian lexical terms that cover the semantic range of our words "public" and "private." However, the emphasis on the communal or social dimension of human life, and the implications inherent in the urban revolution, suggest a structural contrast between the individual and the community. The community acted not only as a group of individuals, but *as an individual itself.* In other words, individuals interacted not only among themselves (singly or as groups), but also with a distinct entity that we may identify as "public." The king was not just a more powerful private individual, he embodied a distinct organism. We do not just have kingdoms as the domains of private individuals more powerful than their subjects; we have, properly, states.

I submit that these distinctions are not anachronistic, irrelevant or inconsequential to our topic. It is important to know whether by privatization we mean the fight toward equalization of individuals (in which case "public" would refer simply to stronger individuals, whose power others wanted to erode), or whether we mean a structural transformation in the relationships between the individuals and their community as an individual *sui generis.* I believe we can make a case for the latter alternative, and that the concept of "public" was really applicable to specific aspects of political power, economic expansion, legal categorization, social intercourse and technological development.

In what follows I will suggest certain practical implementations of the dichotomy between "public" and "private," and how the process took place between one and the other, with particular reference to the direction privileged by this privatization symposium. I will first ask how the concept of "boundary" may have been significant in defining very specifically an area of control, and — just as important — also the point of origin from which control was exercised. By "control" I mean the placing of limits on the ability to alienate a parcel of land defined by specific boundaries.

In some cases, we see the community acting as a legal person, *i.e.*, in such a way that it exercises control in its own name. The tensional factors that hold together ever larger human groups are particularly apparent in the political domain, where group integrity and coherence is fostered by (and contributes to) effective administrative mechanisms. Control thus becomes institutionalized. Hence political institutions should be considered as powerful factors in affirming the reality of the public sphere.

It is in juxtaposition to this emerging public sphere that the role of the private sphere acquires its identity. Concretely, "private" refers to the individual and his (or, to a more limited extent, her) immediate range of action and control. For instance, certain types of land become inalienable (*nasbu*) in order to protect the economic base of individual families (*muškēnum*).

Beyond that, antagonistic tendencies also develop. A notable example is the way in which control over herds on the Middle Euphrates (Mari) remains in the hands of private rural families, in contrast with the development of state herds in southern Mesopotamia and in Ebla. This evolves into new political and economic ("public") structures, *i.e.*, the tribal institutions of pastoral nomadism.

In conclusion, I suggest we consider the ideological component. Public religious structures provided an essential scaffolding for private piety. Do not omina and incantations cater to private needs? Increasingly, perhaps, but with some exceptions. The Amorite agro-pastoralists of the Middle Euphrates developed what may be termed a para-urban religion representing a form of ideological privatization.

Control mechanisms: the technology in the service of the institution

I will use the concept of boundary as a concrete example to show how the public and private realms were closely intertwined. This can be

seen in how each utilized mechanisms that affirmed the necessity of the public while serving the needs of the private.

Boundaries define not only adjacencies, but also ranges of control inside and outside of the domain they encompass. The care exercised in defining and recording them represents an index of awareness of the practical limits within which control could be exercised. The complexity of the mechanisms employed, and the safeguards brought to bear on guaranteeing their results, suggests clearly that public standards were developed, followed and advocated to protect very concrete interests. In examining this issue I will propose a new interpretation of some relevant data, and refer to the impact these mechanisms had on consolidating a "public" conceptual domain.

The two major Mesopotamian items we should consider are the *kudurrum* and the *sikkatum*. The first is generally understood as a boundary stone, with the attendant question left unresolved as to whether the monuments that can be so labelled were placed in the fields or were only commemorative objects kept in a temple. I suggest that the *kudurrum* was not a boundary stone as such, but rather a surveyor's benchmark. The generally pointed tip of the stone monuments would be particularly well suited to mark the point from which distances could have been measured. The very term *kudurrum* may refer etymologically to a single underlying root meaning "to be crest-like" (physically like a rooster, a kudurrnum, or perhaps psychologically in the sense of being overbearing). The logogram NIG$_2$.DU may be understood as the "thing of walking" or "pacing," *i.e.*, the point from which the "father of the rope" (*abi aslim*, the Akkadian term for "chain-man" or surveyor) would have stretched the rope for measuring. Note that NIG$_2$.DU is also a term for a measure of distance (almost 6 meters), which may have been the standardized length of the surveyor's chain.

The *kudurrum* may have been not only of stone, but also of wood with a metal pin. The description sculpted on the Votive Boulder of Puzur-Insushinak found in Susa may represent just such a benchmark, to which the text inscribed on it would refer in speaking of "a copper and cedar nail." The deity shown in a kneeling position and holding this presumed benchmark in his hands would then be sighting along the top of the nail, much as a surveyor would. The text further says that the ruler opened a canal and set up a statue near the city gate. This may be understood as referring to the need of sighting elevations from the gate, so that the new canal's water would not overflow into the gate itself.

A commemorative dimension came to be associated with these benchmarks in two ways. First, an inscribed version of an actual benchmark in stone would be placed in a public place to identify the details associated with the surveying operation itself, and with the events that accompanied the change of ownership. Second, a miniature version would be included with the items placed in foundation deposits to indicate that title to the property had been formally established through proper techniques. In either case the *kudurru* came to provide a parallel perceptual embodiment for the field as a distinct physical reality, which was now identifiable as a precisely measured entity.

The *sikkatum*, on the other hand, would be the (temporary) marker or control point to which the distance was measured, starting from the benchmark itself, *i.e.*, from the *kudurrum*. For actual surveying operations it might have been of metal or wood, but the clay version is the one we know best because it is the one used as a symbol of ownership.

For a number of reasons which cannot be detailed here, I assume that the proper display setting of these clay nails was within the frame of perforated plaques of stones that would have been embedded in a wall. It is conceivable that such display would have obtained not only in the building whose title of ownership was being declared in the document, but also in communal spaces such the temple or a public square.

What is common to both the *kudurrum* "benchmark" and the *sikkatum* "control point," in terms of their monumental utilization for display purposes, is the metonymic value attached to them. The symbols of specialized surveying tools represent (a) the formality of the operation as a guarantee that proper technical standards had been employed, and (b) the integrity of property measured and its ensuing title of ownership. They thus stand for both the surveying and the surveyed, the bounding and the bounded, the boundary as action and as result.

The implications for our topic of privatization are significant. In a way we may say that surveying is the conceptual equivalent of coinage. By placing a public guarantee on an operation and its result, it provides a safeguard for public or private use. While coins guarantee movable wealth, benchmarks guarantee real estate. This is clearly linked to the significance the public dimension had come to acquire, and to the awareness for it that must have developed as something above and beyond the private sphere. It is not only the technical complexity of the operation that escaped the ken of normal private individuals; it is especially that the efficacy of its results, and the limits it placed on private interaction, was established through channels that necessarily were, and could only be,

public. Not only was the public sphere present and operative, it was absolutely required if private relationships (affecting in this specific case title to property) were to remain stable.

What I have attempted to show is that the distinction between public and the private spheres was not just a blurred perception of something that vaguely transcended the reach of the single individual. It was rooted in the recognition of specific ranges of control that were dependent on technical standards known only to the practitioners, but guaranteed by the state. By "range of control" I mean in this case that alienation of real estate could take place only by following such technical standards. The surveyed boundaries defined the parcel's integrity, and therefore the applicability of the owner's control.

A reason why I attach great significance to this particular aspect of ownership derives from the need to define more specifically what we mean by private ownership. It goes without saying that individuals and groups would have felt and expressed, from early prehistory, a proprietory disposition toward tangible goods. We may also well expect that there would have been conflicts in relating to goods, when more than one individual or group claimed the same good as their own. But properly speaking we should restrict the beginning of the notion of private property to the moment when the concept of alienation is introduced. Only when the control of a given good can be handed over according to recognized mechanisms does ownership become more than temporary exclusive use. To be valid and binding, such mechanisms must be public. Once again, the idea of a private dimension makes sense only if it can be seen in its polar opposition to the public domain. We will now look more closely at the role of the state as the main institutional embodiment of this domain.

Focus of control: the institution as legal person

I have already referred to the lack of Mesopotamian words for "public" or "private," but I have tried to show how these domains were present as operative principles, if not as explicit semantic categories. Analogously, we do not find a term that would be equivalent to "state" or even "kingdom." Yet the identity of the public institution is clear, in both its legal and its political implications.

The 23rd article of the Code of Hammurapi states that if the victim of a robbery cannot be reimbursed for his losses because the robber has not been found, then "the city and the city-mayor (âlum u rabîânum) in whose territory and jurisdiction the robbery took place" will recompense

the victim for his loss. In the 32nd article it is stated that if a prisoner is ransomed in a foreign country by a merchant, the individual will be responsible for defraying the merchant's costs. Should he be unable to do so, the funds will come from the treasury of the city temple (*bît il âlišu*). If that too is depleted, the royal treasury (*ekallum*) will pay. In both instances the city appears as a legal and economic entity, which is represented administratively by the mayor in one case and the temple in the other. The responsibility is guaranteed by a higher authority, the state, embodied by the king. On the one hand he includes these statements in his "decisions of righteousness" (*dînat mîšarim*, CH xlvii 1-2), as he calls his laws; on the other, he adds the palace as a final source of funding when all other avenues have been exhausted.

There is an interesting extension to the sphere of international law of the principle envisaged in the first situation. It is found in a letter sent by a Kassite king, Burnaburiash, to the Egyptian pharaoh Amenhotep IV (EA 8). Complaining about the murder of some of his merchants and the theft of their goods, Burnaburiash asks that the local kings of Canaan, where the events had taken place, be held responsible and punished accordingly, with the goods being returned to Babylon. He appeals to a general principle: "Canaan is your land, and its kings are your servants. In your land I have been offended. Get to the wrongdoers and return my silver to me" (24-26). The kings of Canaan and their cities are considered as equivalent to the mayor and his city in the *Code*, and Pharaoh is considered as ultimately responsible in his role as the overlord to whom the vassal kings owe their allegiance.

Conversely, we may consider those instances (*e.g.*, in Ugarit) where a breach of private contracts results in the payment of fines to the palace. It is as if the state were collecting a fee for the service provided in guaranteeing the integrity of the contract.

We see in these examples a link between legal principles and the state in such a way that the state (or its component elements, such as a provincial city or a vassal kingdom) acts properly as a legal person. But the constitutive moment of this entity is not so much legal as political. In my view it is the factor of power and its administration that brings about the coalescing of the human group and establishes a "public" entity in the proper sense of the term. The sense of self-identity of a community is correlative to the effectiveness of political power. It is established as soon as we go beyond the level of the non-urban village.

We should now look at alternative types of such power structures and how they reflect the variety of historical embodiments of the "public" domain.

(1) I mentioned earlier the need to distinguish between a pre-urban (or non-urban) and a para-urban village. Although they might be analogous in terms of general settlement size, and possibly also in terms of the size and nature of their individual buildings, the two types of villages are markedly different. In a para-urban village the population presupposes the city. It is a component of a hinterland that gravitates around the city, and presupposes the services of the city at the same time that the city presupposes the services of the village. Whether it is the availability in the village of material goods coming only from the city, or the presupposition of an institutional framework within which the village is integrated (*e.g.*, the legal system as administered by courts and judges), or the background presence of significant institutions otherwise physically absent in the village (such as the great religious festivals, or even simply the existence of a city temple to which the village also relates, if from a distance), all these factors imply a different perception of the community for a para-urban village than for a non-urban village. They also imply the apprehension of a public dimension lacking in the non-urban village understood as a private group.

These considerations about diverse village communities may help us appreciate the variety of political realities in Mesopotamia in terms of a progressive expansion of structural complexity. As I mentioned earlier, the public domain of (2) the early city-state, with its hinterland of villages, is based on breaking the barrier of face-to-face association, yet it retains a link between the perceptual awareness of the territory on the part of the community's members and the effective range of political control on the part of the state. To put it simply, at some point or another the individual members of the group would have seen with their own eyes, or at least would easily have had the possibility of seeing, all the territory that defined the boundary of their group as a public entity. The city-state is a *territorial* state in the sense that territorial congruence is the defining factor for group solidarity; but it is a *city*-state in that such congruence is physically subsumed within the perception of each of its individual members. In many cases the top of a temple tower provides a physical point from which the boundaries of the state can be encompassed within the horizon actually visible to human eye from that artificial height.

The following moments in the political growth of ancient Syro-Mesopotamia read almost like stages in a normative sequence: the boundaries

that define the public domain widen in progressively concentric circles, but the cement that holds the resulting organisms together never seems to weaken.

(3) The expanded territorial state goes beyond the perceptual confines just described for the city-state, in that only a few of the community's members are acquainted with the physical layout of the overall territory, whether it is geographically homogeneous (which we may term regional, *e.g.*, Eshnunna) or macro-regional (*e.g.*, Mari).

There remains in the second millennium a fundamental unity of culture within the political group, but even this barrier is broken in the first millennium with the establishment of (4) the first true empires. Here territorial contiguity remains the basis for the internal congruence of the political group, but the component parts are separated by broad differences in language, ethnic affiliation, local traditions and so on. That we can properly speak of a single type of "state" from the beginning reflects the uniform way in which public institutions remain anchored in the administration of power along territorial lines.

If the territorial state is the first and major socio-political construct in ancient Syro-Mesopotamia, we also witness here the origin and growth of a different construct, where public domain is not rooted in territorial congruence: (5) the tribe. Originating, as I see it, in the progressive detachment of rural classes of the middle Euphrates from their territorial allegiance to the central city, the clustering in tribal units developed new bonds of solidarity resting on the perception of common kinship ties. This process was the converse of what had happened in the village and city. While every (post-urban) village presupposes the city and is properly para-urban, the tribe presupposes the family and is properly para-familial. Family trees (genealogies) may well be fictitious, and enlarged family traditions may reflect historical developments in manners quite different from scribal historiography. But what matters most for our purpose is that the perception of a para-familial, *i.e.*, tribal bond served as a powerful political factor establishing a kind of public domain very much alternative to that based on territorial contiguity.

From public to private: the individual behind the institution

As indicated in Section 1, it seems plausible to assume that the dichotomy between "public" and "private" *originates* as an opposition. Once the urban institution (and then, by derivation, the state) is marked as "public," its individual members are marked as "private." In this sense

"privatization" is a process that goes hand in hand with the development of the public sphere. It can be (1) a way in which private individuals take advantage of the public domain for their own advantage. Or, it may serve (2) as a means whereby certain private privileges are protected systemically, not necessarily out of a developed social conscience but because of the benefit this provides for the public domain. It can also develop into (3) a conflictual position where individuals oppose the public institution, and may lead to the establishment of alternative public institutions. We will look at these three points in turn.

(1) Leadership within the new public group enabled select group of individuals to turn public political institutions to their private gain. By their nature, public institutions were complex systems resting on a delicate balance among their component parts. The construction of massive urban defense systems around the beginning of the third millennium is a case in point. First, their engineering expertise was considerable. Though not comparable to that required in roofing large spaces, for instance, they required the calculation of proper foundations, joints and buttresses, the horizontal leveling over long distances, and the proper layout of the moat in relation to the wall. Second, management of the operation had to follow what can only be called industrial patterns, in the sense of a segmented chain of production. A large number of individual work crews would work at different tasks over a very long period of time, without necessarily being aware of how their individual contribution fit into the larger scheme of things. Third, the motivation to build the wall required strong persuasion and enforcement. A partial wall was of no use whatsoever, and nothing but a fully completed ring would have served its purpose, without the smallest gap. Finally, the economic means had to be made available over an extended period of time, managed in such a way as not to have (at any given time) either excess or lack of funds. All the planning that would have gone into such an operation gives us a measure of how complex the system was to erect such structures. None of that planning, coordination and execution could have been managed without effective central leadership.

Leadership thus served as the public institution's nerve center. And yet the concrete position of leadership, its function and interests, were private and remained so. Section 6 below will describe how an ideology was developed that represented the king almost as a public servant. If this was the image projected, it was because there was an audience for it, that is, because a certain public need (ideological if nothing else) was being served. But as a matter of course, the king used leadership for his own private gain.

The range of control over the public domain was essentially his, and "personally" his. Hence, the first form of "privatization" may be considered to be the exploitation of controls made newly available by the public domain.

The converse is also true: The public domain probably would not have come into existence without the impulse provided by the prospect of private gain. This is how social stratification and economic differentiation made a quantum leap in the wake of the urban revolution. Control of the public domain became a launching platform that catapulted a few individuals rapidly to socially stratospheric heights.

It also plunged others into abysmal lows. I referred earlier to slavery, which I assume to have begun (at least in a systematic way) as a consequence of the development of public domains. In this respect the growth of slavery may be seen as a counterpart to the growth of leadership. The leader is the individual who most directly manipulates the public domain. But the public domain consists ultimately not so much in the natural wealth of a territory as in the human resources themselves, the individuals who make up the group. If the human group is considered as a group that can be handled, so can its component members. The religious dimension that came to be embedded in kingship (about which more later, in Section 6) provided an elegant rationalization for this conceptual development. It left fundamental private freedoms intact, while proposing an almost emotional fulfillment in the acceptance of one's status as a subject. Slavery, on the other hand, is a much more brutal, certainly less elegant *reductio ad absurdum* of the same principle. As a pure and simple functional slot within the system of a public institution, the slave loses in principle "its" private dimension. "It" is the minimal (human) unit of the public sector.

I do not mean to speak here of a distinction between slaves belonging to the palace or the temple as public slaves in contrast with slaves belonging to individuals as private slaves. I mean that the very notion of slavery is mapped into the public domain. Slavery is not an occasional, frequent or even regular abuse of an individual by an another (of which we may well assume many cases in pre-urban times). It is part and parcel of the depersonalization process intrinsic to the public domain's development. The public dimension of the city, of the state, developed in opposition to the private sphere precisely because it grew so large as to cross the threshold of groups based on face-to-face association, *i.e.*, on mutual personal acquaintance. In the city, personal recognition among members of the group rested on their jointly belonging to an overarching impersonal institution. As a result, human beings began to relate to each

other not necessarily (and not only) as persons, but also as functional actors in a well-coordinated system. A potter would serve my functional needs whether known to me personally or not. He would serve as a functional slot which I would expect to find without hesitation in any well-ordered system, in any city. Such functionalization of human relationships may be seen as the conceptual precondition that made it possible to accept slavery as normal.

(2) Between these two extremes of the king and the slave stood the vast majority of individuals. They were simultaneously "servants" of their king and "sons" of their city, subjects and citizens at the same time. Certain mechanisms were soon developed to correct imbalances — not with a humanitarian goal in mind, to be sure, but simply to maintain the fine homeostatic equilibrium that ultimately made possible the system's survival.

One such mechanism aimed at protecting the subsistence basis of private individuals. This was done by setting aside certain parcels of real estate as inalienable property. This acquired a very concrete institutional manifestation, so that there are (at least in my understanding) specific Mesopotamian terms used to describe it. As I see it, the term *muškēnum* referred specifically to an individual so protected, a "homesteader" as we may say in English. His "homestead" (*eqel muškēnum*) could be alienated, but not permanently, because it would revert to him or his family at certain points in time and under certain conditions. The (temporary) purchase of such property would not be a good investment, hence its value would be proportionately lower.

We know from the Khana contracts that other parcels were privileged, and their having a clear title was clearly spelled out. They are called *nasbum*, which I understand to mean "allodial, *i.e.*, with a clear title unencumbered by liens, including homesteading rights." They are qualified as *lâ bāqârim u lâ andurârim*, "for which no repossession right may be recognized, whether as a result of private or state intervention."

Ironically, protection of the homesteader may be viewed as resulting more from a concern for the public domain than as a phenomenon of privatization. The economic efficiency of the state was better served by virtue of having a class of homesteaders able to maintain themselves. Their homestead was protected not so much against encroachments by the state, as against purchases by private capital holders intent on increasing their investment. It appears that even in conquered territories (at least in Larsa after its conquest by Hammurapi) the rights of local homesteaders were protected, at the very moment when other types of real estate were being distributed to Babylonian newcomers.

(3) In ancient Syro-Mesopotamia there was hardly a trace of institutional opposition to such private exploitation of the public good. Political changes were always changes of political fortune, not of structure. The concept of dynastic succession was accepted, and indeed used as a yardstick of legitimacy for the transfer of power. This phenomenon must not be underestimated. Political stability of the public domain was predicated on the most private of relationships, biological descent.

We may sum this up by saying that the state was essentially monarchic, and monarchy essentially dynastic. I say there was *hardly* a trace, but nevertheless a trace. What little can be found is particularly interesting in view of its structural contrast with the established norm, as the following section will make clear.

Private against public: the fight for privileges

As a rule, opposition came in the form of attempts to retain or obtain privileges on the part of certain individuals or certain sectors of the private sphere. (1) An example can be found in the management of animal herds on the middle Euphrates. While in the south and west (Ebla) the great herds were mostly under the direct control of the state, in Mari they remained in the hands of private groups. These groups comprised the rural classes originally at home in the valley floor, progressively swelling into the steppe. Known to us under the common label of "Amorites," they developed a strong sense of ethnic identity and an alternative political system, the tribe. (This at any rate is my understanding of what otherwise is generally seen as nomadic movements *from* the steppe.) There is no indication that the state administration ever attempted to take over a direct control of these herds. A likely reason is that the size of the herds, as well as the nature of the terrain where they grazed, made it impossible for the state to do so. But the state was very keen on imposing military service and levying tribute on these groups. In this it was only partly successful.

(2) Along similar lines, but with a more direct effort to obtain legally binding exemptions, certain territorial enclaves within the expanded territorial states sought relief from taxation. This involved entire cities or what the literature has designated as "feudal" lands, *i.e.*, districts whose local rulers retained a degree of economic independence from the central government. This formula is found particularly in Babylonia in the late second millennium, for instance with individuals such as a certain Ritti-

Marduk, to whom Nebuchadnezzar I granted considerable autonomy from taxation and conscription and the exercise of judicial functions.

An analogy may be seen with a phenomenon dating from the same period, but which is admittedly different in other respects, namely the relationship of Syrian vassal states to their Hittite and Egyptian overlords. The release from royal jurisdiction in internal affairs granted to Ritti-Marduk of Bt-Karziabku is in many ways analogous to the conditions of vassalship accepted by an Ammistamru of Ugarit. We should not be too nominalistically impressed by the use of the term "king" used for the latter. One may not think at first of Ugarit or Byblos as evincing a type of privatization, if for no other reason than for their rulers having the title "king." But in terms of broader implications, these rulers may be considered as landlords who pay a fee for the use and exploitation of their territory (their "kingdom"). In so doing, they provide a "private" alternative to the incorporation of their territory as a province within a fully integrated empire.

(3) On a different level is the movement of individuals who, in various ways, escape from a given state's normal territorial jurisdiction and live either as small bands or as isolated individuals. Political treaties of the late second millennium dealt at great length with these fugitives (*munnabtûtu*) to gain an international level of supervision that could extend where internal state controls had failed. It is as if these individuals had found a zone of private escape by falling through the cracks of the great territorial public organizations of the cosmopolitan Late Bronze Age. Handling their status through recourse to international law is indicative of the ever widening range of the public domain. A related earlier phenomenon is attested with the *'àbirû*, whom I understand as the individuals who evaded the control of the territorial state to join a *'ibrum*, *i.e.*, a small clan within the developing system of agro-pastoralist tribes.

(4) The latter, *i.e.*, the tribal system ethnically identifiable with the Amorites, was the only type of public domain which emerged in Syro-Mesopotamia as a real alternative to the city and the territorial state (see briefly above, Section 3). In its structure and final outcome, the tribal domain is not so much to be understood as a contrast between private and public, but as the contrast of one type of public system against another. In its origins, however — as shown, among other things, by the resistance of private herders to state controls in Mari, and by the isolated but significant phenomenon of the *'àbirû* — tribalism seems to have been rooted in an effort to assert private interests against the urban territorial state's overriding influence.

As a corollary, it may be worth mentioning two other anomalous political structures that seem to have developed in later periods, deriving in different ways from the tribal public domain. (5) The first is the kingdom of Amurru. This was not, in my view, a state like the others in the Syro-Palestinian world of the late second millennium, *i.e.*, a city-state with expanded hinterland. It was rather the first real *steppe* kingdom. It originated, in my view, from the collapse of the kingdom of Khana. It was the first territorial state that had, and retained, its center in the steppe, and continued to show some measure of its dependence on the tribal background from which it derived.

(6) The other anomalous political structure was the national state of a slightly later period. Ancient Israel is the best known example, and the only one that retained a scribal memory of its past. It is particularly interesting that within Israel, and through its perception of its national past, we find the only articulate record of a proper anti-urban and anti-monarchic ideology. From the patriarchal rejection of the Mesopotamian city (Abraham) to the prophetic warnings against establishing a royal government (Samuel), this tradition makes an argument like no other in the ancient Near East in favor of private resistance to the otherwise inexorable sweep of the public urban domain.

The ideological balance

The pivotal role of private leadership lent a personal dimension to what was otherwise an impersonal construct, the state. This development was in the nature of things, but it also was in the awareness of the individuals involved. The transposition of this personal awareness into an ideological construct went hand in hand with establishment of the institution. Such a transposition occurred along two major lines: (1) metaphorical and (2) religious. An important byproduct was (3), the development of ceremonial circumstances that catered in a special way to the presentation and fruition of this ideological superstructure. Let us review these three points in turn.

(1) There was obviously a vested interest on the part of leaders to develop ideological canons that would uphold their public character and function. Instead of being seen merely as exercising coercive power, the leader would want to project, in his military functions, the image of the shepherd who protects his flock, and who extends his capable help in defending the community against threats to its integrity and interests. Instead of being seen as merely amassing wealth for his personal profit,

the leader would want to project, in undertaking public works, the image of a father building up his household and bringing about the economic growth of his family. Instead of being seen as merely a self-serving master setting up rules for his own advantage, the leader would want to project, in maintaining the legal order, the image of a caring judge upholding the rights of even the weak and oppressed. This is not to say that these images, and others, were wholly fictitious. However cynical these leaders might have been in exercising their power (and however cynical we may choose to be in our analysis), it seems plausible to assume that the cliché behind the image reflected some kind of goal toward which they would in fact strive in establishing and implementing policies. It is even possible that some sense of human fairness might have been present in some at least of these rulers. But even a simple sense of administrative pride would have justified their striving to implement the canons that encouraged the system's stability.

Whatever the motives behind this ideology, it is meaningful to note the function it served. It balanced the harshness of the public institution as an impersonal entity by emphasizing the private character of its leadership. Community members were "private" precisely because of their structural (not necessarily political) opposition to the community as "public." Their relationship to this new entity was mediated through the private nature of its leadership. Whether or not the image of the ruler as shepherd, father or judge matched the reality of things, and regardless of how much the ruler might manipulate these images through the skillful rhetoric of political propaganda, the fact remains that the metaphorical mechanisms were effective in promoting a sense of solidarity for private individuals *vis-à-vis* the public institution.

(2) We need not assume a nominal correlation between royal leadership and secular ideology on the one hand, and on the other, priestly leadership and religious power. Whether royal or priestly, leadership was political and its ideology was both secular and religious. The religious ideology was political in that it served similar purposes to those I have labelled metaphoric. Here, too, we should not let an overly cynical attitude steer our analysis. It need not surprise us that religious beliefs should have been used to serve political means, for there is no period in history when this did not occur. But the converse need not surprise us either. There was indeed room for some authentic religious beliefs. The articulation of religious systems gave public shape and form to private perceptions of the divine and its affecting presence. Whatever private response there might have been to the divine, it was channeled through a public conduit: the identification of specific divine beings (mythology), the decoding

of their particular means of self-manifestation (divination), the vehicles for structured human response (cult and magic) were all elements of a shared religious culture that provided the interface between important private and public realms.

So, a first understanding of the interrelationship between private and public in religion is that as religious culture became more public in its complexity, it continued to address genuine private needs. A second dimension concerns the use of religion for political aims. The gods as well as the king served as a hinge between public and private. As religious culture was elaborated into a complex public system, its range of applicability overlapped with that of the state. The pinnacle of the system, the gods, affected the private individuals in ways similar to how they were affected by their political leader. Just as private individuals related not so much to the state as to the leader, so private worshipers related not so much to religion as to the gods. And inasmuch as the highest gods stood in a special and particular relation to the political leader, peoples' access to the gods was facilitated through their access to the leader. This was the major political dimension of religious ideology.

I have referred to all this as ideological balance because I view the effects of ideology as the most articulate and coherent attempt to bridge the gap between the two newly emerging domains of the public and the private. Ideology proposed a rationalization. It also proposed (3) new mechanisms for the fruition of the superstructure it had been offering. I refer to the great religious ceremonies and festivals with which the temple came to punctuate the rhythm of daily urban life. Without undue cynicism, we may view this activity of the temple as serving, next to others, the same purpose that the entertainment industry serves today. These temple activities were urban and public. In their function as a "show," the great festivals gave a public display for private fruition. The different layers of sacrality involved — space, time, persons — were given a perceptual embodiment that brought the public institution within private reach. The sacralized version of urban culture was thus visible and palpable to all. The kerygma was clear: the climax of creation had been the city.

Levine: We own a home in Connecticut. The municipality privatized tax collection, so that checks for the bi-annual property taxes are made out to a certain Joseph X, not in the name of the township.

What you have projected is, therefore, very interesting: With respect to a larger political unit, the smaller unit is private. The City of New York is not presently a "corporate person," because so much of what it does is subject to the approval of the State of New York. But, if the City of New York could manage all of its taxes, that is, pay a certain amount to the State and to Washington, and for the rest, decide exactly how to organize its schools, its police, and the like, it would constitute a legal, corporate person relative to the larger political authority. What I am hearing from you is that there is something relative about the notion of "private."

The free cities of the ancient Near East, with all of their privileges, controlled most of their activities. Because of this degree of independence and control over their own resources, they may have functioned less as public, and more as private organisms.

We ought not to fall into the trap of defining the unit we call private solely in quantitative terms. Is a clan private? Does a family cease to be private when it grows to large proportions?

Mitchell: The private entrepreneurs who conducted Rome's business were called publicans. They bid on taxes as private individuals. They had their own businesses, but they are *publicani* because they collect the public taxes and work in the public sector.

Levine: May I follow up about the guilds we were discussing this morning? I once was criticized for calling something a guild. I was told that they were involved in three aspects of the economy: production, very often marketing, but also recruiting and training, the educational side of manufacturing. This morning it was intimated that this function tends to remain in the family through the generations. For various logical reasons, the major factor in transmitting these crafts was likely to remain in families, but not always so. With regard to this domestic production you were talking about, is this just apparently passing this on from father to son and so on and so forth or wife, or are there outside people. What role does the educational side of this play? It seems to figure somehow in what you are talking about.

Buccellati: It is true about technical skills, such as surveying.

Hudson: Speaking of guilds, one of their important roles was to establish corporate responsibility for their members to parties whom their members injured economically. This points up the importance of defining social units in terms of their responsibility, in contrast to their autonomous property rights. A continuity can be traced from the laws of Hammurapi holding the city responsible for injuries to travelers, down through medieval Europe where, if a merchant was robbed, not only was the city responsible but letters of mark could be issued against any citizen of that city, enabling the injured party to take recourse. While personal responsibility for social costs and injuries has been reduced over the millennia, property's immunity from responsibility has increased. The process reached a watershed a century ago, when the limited liability corporation was innovated to insulate private legal bodies from social recourse against their owners. Throughout most of history, people have had economic recourse against the corporate bodies responsible for causing them injury or damage. But now you have corporations being formed as corporate shells to protect their individual owners from such recourse. This is why New York has so many law suits. So you have a steady narrowing of the legal scope of responsibility down to the individual, even to transient corporate shells, a stripping away of responsibility. This is just the opposite from what you find in Sumer's temple bodies.

Lamberg-Karlovsky: There are many different places one could choose to intersect on your wide-ranging paper. A point I want to bring up — I think that you mentioned it, and Dietz too — that we are dealing with something that exists already as a mature configuration when we find it in the third millennium. You were sort of cogitating on the perceptions of those who first undertook the urbanization process, and you pointed to its agricultural origins. I want to go back to this remote period of agricultural origins, because here rests some fundamental aspects of private versus public in the archaeological context of just who commands the surplus. Where is the surplus stored? Who controls access to it? Who distributes it?

There has been a fundamentally important transformation in our understanding of the neolithic in the past several years. It turns on the idea best advanced by Ofer Bar-Yosef, that the neolithic's agricultural origins were confined to a smaller geographical area than previously believed, and took place within a much more rapid schedule. It took place somewhere around 8000 BC in the southern Levant. I want to skip to the period of 6500 BC. If you look at the Pre-Pottery Neolithic B sites, what is becoming increasingly apparent is that the context where things are stored is in

the domestic house, not centralized storage facilities. Adjacent to it are clearly storage facilities. Someone is bringing up the emmer and the barley and such. It is highly probable, I would argue, that the individuals who lived in those houses commanded that surplus, and that they owned it privately. It is also not unreasonable to assume that at least 20% (and maybe as much as 30%) of the harvest had to be stored as seed corn. The germinating aspect of the early seed types were not so robust. That amount of the harvest represents a substantial amount of labor, once again probably undertaken by the householder and stored in the house. That is private property.

Just for the fun of it, let's reverse the aspect from privatization and consider the possibility that what you are dealing with is, in effect, a process of communalisation. Suppose the initial conditions of the neolithic were autonomous household communities, villages that were basically self-sufficient. Suppose that they somehow were directed by headmen, by senior members of lineages etc. That is entirely speculative, but the dominant aspect that would suggest that the surplus is in the hands of domestic households and owned privately. This is capital, if you will. What then happens in the context of urbanization is that the emerging administrative authorities are going to extractively command your private surplus into what now becomes the corporate surplus of the city.

What we might be dealing with here is quite the opposite of the process of privatization from the neolithic to the urban epoch. A large amount of productive capital, labor, craft, etc. was undertaken in the domestic community. What happened with the urban process from this aspect? Was the institutionalized form of this capital surplus —whatever form it took, palace, temple or whatever — one of a corporate elite extracting from all these individuals, centralizing and coercing a surplus?

With regard to writing I often think of it as permanent memory. But Giorgio, regarding what you are dealing with in the earliest texts, I do not see them as what you suggested they were. Perhaps this happened later, but aren't the earliest records intended for very temporary usage, not for long periods of time? They are effectively monitoring production, consumption, etc. They indeed make up a permanent record, but the memory is very short. In time, they become more permanent in the context of memory.

I am not playing the devil's advocate by reversing the arrow from privatization, but I think there is substantial speculative, archaeologically derived argumentation which has substantive evidence behind it.

Buccellati: What I mean is that to have two days of work written up allows you to compare those two days in a way that human memory does not allow. It creates a form of memory that even para-urban villages develop, even if they do not have writing themselves.

Going back to your other point, I agree with your suggestion that there may be communalisation. I agree if you would call "private" whatever comes before. I don't think the villages of the Halaf type had "public" buildings or structures, because the group is too small. I like to see the growth of the group as the standard whereby the public becomes truly public. In that sense, yes, there is communalisation, because "public" begins only when there is a city.

Wealth differentiation is limited in the agricultural state. It is at that point that there is communalisation. But as soon as you get public, you also get private. I really don't see much to this idea that there is a real distinction between the pockets of the king and the public sectors; even the Assyrian Empire was an extended personal palace of the king.

PRIVATIZATION

IN THE ANCIENT NEAR EAST
AND CLASSICAL WORLD

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Cover: Stone *kudurru* of Puzur-Inshushunak from Susa. Courtesy of the
Musée du Louvre.

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It is a reflection of this colloquium's path-breaking choice of topics that no ready-made terminology yet exists to describe the increasingly autonomous private control of land, handicraft workshops and credit from the Bronze Age through classical antiquity. An important feature of these meetings was therefore the interaction among the participants to develop a common vocabulary to clarify and indeed, debate the phenomena being discussed. Tapes of the discussion were made by Lynn Yost, who also designed this book and computerized its composition. Transcription of these tapes, replete as they were with terminology in seven ancient languages, was heroically accomplished by Anne Robertson, to whom I cannot acknowledge sufficient gratitude.

I also would like to thank the major participants for their interest in further pursuing the lines of investigation which this conference opened up. A Scholars Conference on Ancient Near Eastern Economies has been formed, comprising Baruch Levine (New York University), Carl Lamberg-Karlovsky (Harvard University), Muhammed Dandamayev (Institute of Oriental Studies, St. Petersburg) and myself. The group's biannual meetings will be split between New York and St. Petersburg, starting with a colloquium on "Urbanization and Land Use in the Ancient Near East" in 1996-97. Publication of these proceedings will inaugurate a new journal, *Ancient Economies.*

Many thanks are given to the Henry George School and New York University who helped host this inaugural meeting.

MICHAEL HUDSON