

Civil Society Institutions in Pre-Islamic Mecca

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Abstract

The political structure of Mecca in between 4th – 6th centuries AD had been a remarkable one from many aspects. Sometimes referred as “Mecca city-state”, or “the state of tribes”, or “the state of merchants”; Mecca administration had a very original type of civil structure compared to its contemporaries. People of Mecca, despite not having a legal state, had been using their cultural and commercial advantages so well that it made them possible to stand against two superpowers of its time, the Roman Empire and the Sasanian Empire, which were trying to dominate Mecca from time to time. Being impossible to compete with these imperial powers militarily, Mecca was using both its non-military methods, and its commercial and cultural advantages based on its civil society institutions. This brought Mecca a high reputation amongst Arab Peninsula. In this study, we will try to examine the unique type of democratic administration in Mecca based on civil society institutions and common law and the spontaneous order that arose from them.

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There were two superpowers in the world during the time of Muhammad. One of them was the Roman Empire and the other was the Sasanian Empire. The Arabian Peninsula was mostly a region of political conflict between these two powers. Due to its location, its cultural and administrative structure, Mecca was a center of tourism and trade, and a tax haven and a free zone for people from both lands. This was because Mecca was not under the authority of a central power and it made possible for the inhabitants to form a powerful civil society based on their customs.

When we look at the administrative structure of Mecca, we see that many of the public services were shared between and governed by civil structures which are called “tribes”. The administrative system through which these tribes are coordinated was more like a large civil society institution rather than a legal government. All of the public services were executed within the same manner.

Central Element of the Civil Society: Tribes

We have mentioned that the administrative structure of Mecca was more like a civil society than a legal government. Therefore, the word Mecca in this work is synonymous with a certain society, namely the people of Quraysh. The people of Quraysh consisted of a certain number of well-known tribes. A tribe was more than just an extended family, because it was possible for someone to be accepted into a tribe or to be banned from it. It was more like a civil organization based not completely, but mainly on blood relationship.

The people of Quraysh were politically free people. They had never been under the rule of a king or any kind of central authority.¹ They didn't have any state or any kind of institution that possessed enforcement authority. They were a self-regulating civil society which had deep-rooted culture and traditions.

It is possible to understand how deep this culture of Mecca was through an example. There was a man named Uthman ibn Huwayrith² in Mecca. He was a monotheist and later chose Christianity as his religion. Uthman moved to Syria, which was under the rule of Roman Empire. According to historical records, he spoke with either the emperor or one of his kings, and was assigned as governor to Mecca with being equipped by a royal decree and a coat of arms. Mecca was geographically seen as under the rule of Romans, but they had never been successful at governing them. Uthman went to Mecca and

¹ Hamidullah, 2009, #1373, #1387, #1431.

² He was the cousin of Muhammad's wife Khadija.

announced his people what had been given to him. All he received was mockery and refusal. The people of Quraysh did not recognize what had been given to him. They told him that the free people of Quraysh had never submitted to anybody and would not submit to this Emperor for sure. Uthman went back to Syria and Romans started to imprison traders from Mecca who came to Syria. However, it didn't last long.³

Mecca is a district that includes a sanctuary, which has always been regarded as a sacred building in human history. It is synonymous with the name "al-Haram" (sacred region). Due to the reputation of Kaaba, Mecca was always a center of religious tourism and trade. Kaaba was always known as the house of God and the first sanctuary in the face of the earth. Quran states that it is the first house of people, meaning it was the place where Adam and Eve lived.⁴ It was demolished during the great flood and Abraham reconstructed it with his son Ishmael. They were both messengers of God. Therefore, Abraham was regarded as the father of Mecca, as well as the messenger of God. This particular aspect of Mecca brought the city an international identity that made it very difficult to be dominated by a foreign power. We can think of today's Vatican, to be able to understand this phenomenon.

Quran states that Mecca was the safest place around in that period of time.⁵ We can observe it in the life of Muhammad. In spite of criticizing severely the wicked abuse of religion in Mecca which the elite depended on, and promoting the truth without any compromise, he had been able to live among them 12 more years without being physically attacked in anyway. This is a very important fact that motivates us to focus on the civil structure of that city.

Mecca never experienced an authoritarian kind of political government.⁶ The administrative structure of Mecca was based on tribes that compete with each other. Tribes used to act like today's CSOs, all having a certain share in the administration of Mecca. All of the public services were undertaken by tribes that took pride in them. Whenever a tribe became more powerful, the others used to form pacts in order to reset the balance. It was a social order where every person was in the system by belonging to a certain tribe and having certain responsibilities. The major issues were discussed and resolved in a general assembly formed mostly by the elders.

³ Hamidullah, 2009, #1360; Osman, 2005, p.69.

⁴ *"The first house established for mankind is the one at Mekka; blessed, and a center of guidance for all people."* (Q. 3:96)

⁵ *"Don't they see how we have made the sacred region safe, while people are being carried away all around them? Do they still trust in falsehood, and not trust in the blessings of God?"* (Q. 29:67)

"They say: if we follow the guidance with you, we will be snatched from our land. Did we not provide for them the safety of this sacred region? Every kind of product is being brought to them from us as a livelihood. Yet, most of them do not know." (Q. 28:57)

⁶ Hamidullah, 2009, #1373.

The tribes of Quraysh were in an economical and political competition with each other. The ones that had more members, or had larger commerce network, or had a good record on public services gained international reputation which opened new opportunities for bigger political and commercial partnerships, etc.

The Civil Institution of Administration

The civic center of Mecca was the building called “Dar al-Nadwa”. It was a rectangle-shaped, semi-open hall just across the Kaaba, decorated with windows and statutes. All of the important meetings were held here. Public decisions about commercial activities and the organization of pilgrimage were taken here by consensus. The value of a proposal was determined according to the age, knowledge, wisdom, dignity and expressing ability of the proponent, as well as the wealth and reputation of his tribe. Everyone could have a chance to speak. However, people tended to follow the decisions of those who undertook public services of Mecca and belonged to a noble tribe.⁷

To attend the regular meetings or represent his tribe in *dar al-nadwa*, it was expected for someone to be at least in his forties, although exceptions could be made. For example, Amr ibn Hisham (a.k.a. Abu Jahl) was accepted in his twenties because of his cleverness.⁸ All of the public announcements like weddings, adoptions, protections, bans, oaths and special ceremonies like clothing the girls who reached puberty were realized in this building.

Organizing the meetings in *dar al-nadwa*, calling the necessary people and other stuff were one group of the public services and undertaken by Uthman ibn Talha⁹ during the time of Muhammad. His duty was like of a president of the assembly.

Civil Institutions of Internal Affairs

The civil institution of protection was very strong in Mecca due to the absence of a legal government. All members of the Quraysh tribe were under the protection of their families. Others who were not members of the Quraysh tribe, or whose families had vanished, or orphans, or slaves, or war captives had to be taken under protection by a local family in order to survive in Mecca. This institution is referred in resources as “walâ” (guardianship). When an outsider enters the protection of a native tribe in order to come into Mecca for commercial purposes or some other reason, it was called “jiwâr” (neighborhood) or “himâya” (protection) or “amân” (security). When an outsider permanently enters under the protection of a native tribe, it was called “hilf” (oath). The term was also used when two tribes or more made a political pact with each other. Political pacts were realized with religious rituals like putting hands in the same water,

⁷ Encyclopedia of Islam (TDF): “darünnedve”.

⁸ Encyclopedia of Islam (TDF): “ebu cehil”.

⁹ Not to be confused with Uthman ibn Affan, the 3rd president of Muslims.

or sacrificing an animal and stacking hands after touching the animal's blood, or touching the walls of Kaaba and taking the oath in unison. There was also the institution of adoption. All of these alliances needed to be announced in front of Kaaba in order to take effect and all of them (except political pacts) made the people concerned as like family members from that time on. Tribe chiefs were responsible for protecting and sharing the consequences of the actions of their people.¹⁰

Protecting the family was an institution so strong that enemies would become allies for the sake of it. One of the biggest enemies of Muhammad, whom even God sent down verses about, was his uncle Abu Lahab. He vigorously struggled against him during his lifetime. However, when Abu Talib, the leader of Hashim tribe passed away, he became the new tribe leader and started to protect Muhammad against his enemies.¹¹

For the people of Quraysh, giving a promise was more binding than anything else in the world. The society was based on "*My word is my bond*" principle. It was unthinkable for anyone to dishonor his word, as it would be a declaration of his unreliability, which was the most important thing in his culture and customary law. It is not a coincidence that God chose a messenger who is particularly famous for his trustworthiness.¹²

It was impossible to wander the streets of Mecca without being under the protection of a tribe. Foreigners were to take "visa" by using the methods mentioned above. After Abu Lahab became the leader of Hashim tribe, he first protected Muhammad for some time but later he decided to ban him. Expulsion was also a civil institution in Mecca (*khal'*) and the expelled one was regarded as an outsider. Muhammad went to Taif, a close city to Mecca seeking a refuge. When he became unsuccessful at having protection from anyone, he returned to the skirts of Mecca and started requesting protection from people he knew. He was successful at his third attempt. After the refusals of Ahnath ibn Shariq and Suhayl ibn Amr, Mutim ibn Adiy accepted his request and provided him the protection to live in Mecca for some time until immigration to Yathrib (Madina).¹³

Giving protection to someone was a right of the free people of Quraysh. Foreigners or second-class people were not able to protect anybody. There were second-class people in Mecca who were commonly identified as slaves. One could be a slave either by being captured in a war or by failing to pay back a debt or by being born to a slave family. Slaves were subject to trade and females were used as concubines. They did not have social rights of the free people of Quraysh. The only way to get out of this cycle other than being set free was to buy his/her own freedom. This was close to impossible, as they couldn't make much of an income. Therefore, it was usually done by other free men on the purpose of adopting or marrying them, or just being philanthropic.

¹⁰ Ibrahim, 1982, 345-346.

¹¹ Encyclopedia of Islam (TDF): "ebu leheb".

¹² The nickname of Muhammad was "al-amîn", meaning "the trustworthy".

¹³ Hamidullah, 2009, #1415.

Civil Institutions of Foreign Affairs

The foreign affairs of Mecca were mainly based on a commercial treaty called “Al-Ilaf”. It meant “friendship” or “socialization” and it was first introduced by the great grandfather of Muhammad, Hashim ibn Abdumanaf. The people of Quraysh used to organize two big commercial expeditions in a year. One was organized to Syria in summertime and the other to Yemen in wintertime. In order to provide road safety for caravans, they used to get in touch with every community on the road and make brokerage contracts with them. They used to take their goods, sell them and bring back their profit free of commission in exchange for protection during transit pass on their lands. This was called *al-ilaf*, the “friendship agreement” and it was one of the essential sources of their wealth.¹⁴

There were also ambassadors of Mecca who managed the political relations and represented Quraysh in front of other communities. This service was called “sifara” and it was assigned according to merit. The most popular ambassadors of Quraysh during the time of Muhammad was mainly Umar ibn Khattab, and secondly Suhayl ibn Amr.

Settlement of Disputes

Mecca did not have legal courts, judges, or an institution to enforce the execution of judicial decisions.¹⁵ Arbitration was the common traditional method for solving conflicts. There were certain people who were most commonly appointed as an arbitrator and in fact, they had their own area of expertise, but it was not obligatory to go to a specific person in case of a dispute. There was no obstacle for the parties to appoint anyone as an arbitrator, but it was usually determined according to the matter of dispute and of course mutual consent. Due to the voluntariness of the process, there was no opportunity for an appeal. There was no institution for enforcement, so it was a moral obligation for the parties to follow the decree of the arbitrator.¹⁶

The parties used to defend themselves during the trial with their evidences and witnesses. It was their responsibility to find them in order to convince the arbitrator. Some religious practices like flying birds, drawing arrows, consulting the religious authorities were also commonly applied on demand of the parties.

Arbitrators used to demand the parties to swear solemnly on sacred things that they respect or worship. Avoiding to swear against an allegation was considered an evidence in favour of the claimant. Popular arbitrators during the time of Muhammad were Abu Bakr ibn Quhafa, Walid ibn Mughira and Harith ibn Qays.

¹⁴ Hamidullah, 1961, p.216-218. Ibrahim, 1982, p.344-345.

¹⁵ Çelikkol, 2002, p.210.

¹⁶ Işılak, 1995, p.70.

Civil Institutions of Treasury

The collective income of Quraysh consisted of an annual contribution of every dweller called “rifada”, and of certain trading taxes for foreign merchants which were specified on the principle of reciprocity. There were also the gifts to Kaaba either brought by pilgrims or sent by nobles from foreign countries and there were some extraordinary collections during times of war, famine, etc. Since Mecca was not a state, there were no government spending, and all of the public services were financed by the persons in charge. The only exception was the catering support for poor pilgrims and that was what *rifada* was about.

Rifada means “support” in Arabic language. It was the main civil & financial institution of Mecca and it was collected annually to support the needy pilgrims. The custom was initiated by the 4th grandfather of Muhammad, Qusay ibn Kilab. Qusay also initiated the duty of *siqaya*, which stood for providing the water need of pilgrims. The duty of *siqaya* was under the responsibility of Muhammad’s uncles Abu Talib and Abbas. *Rifada* was also carried out by the same names according to some sources, or by Harith ibn Amir from a different tribe according to some others.¹⁷

Civil Institutions of the Military

There was no army in Mecca, since there was no state. However, there were certain people with the responsibility of commandership in case of emergencies and it was a moral obligation and a necessity for survival to accept the call of these men during these times. It was also possible to aid the army financially by sending mercenaries rather than joining in person. Women used to take charge in support services or give financial support instead. Everyone was responsible for his/her own expenses. The spoils of war belonged to the ones who were able to lay his hands on it. Everyone owned what he got in the war and undividable goods such as lands were shared among the warriors according to their ranks and support.¹⁸ It was impossible for any dweller of Mecca to be indifferent to a state of emergency. It was regarded as a disgraceful attitude.

Commandership was of the customary public services. It was divided into three categories. Commanding the infantry was called “Liwa” or “Ukab”. Commanding the cavalry was called “Qubba” or “A’inna”. Commanding the whole army and deciding whether to go into war or to get out of it was called “Riyasa” or “Qiyada”.¹⁹ During the battle of Badr and Uhud, the duty of *qiyada* was held by the Umayyad tribe and the duties of *ukab* and *qubba* was held by the Makhzum tribe.²⁰

¹⁷ Encyclopedia of Islam (TDF): “rifade”, “sikaye”, “kusay b. kilab”.

¹⁸ Hamidullah, 2009, #1409, #1419.

¹⁹ Hamidullah, 2009, #1403-1405.

²⁰ Encyclopedia of Islam (TDF): “kiyade”. Hamidullah, 2009, #1403-1405.

Civil Institutions of Religious Affairs

Religious affairs were of special importance since Mecca was the host of an exceptional sanctuary, the Kaaba. The wellbeing of Quraysh was mainly based on religious tourism, just like today's Saudi Arabia. Pilgrimage was the main religious and commercial activity in the city. Kaaba was always known as the house of God and the first sanctuary in the face of the earth. Quran states that it is the first house of people, meaning it was the place where Adam and Eve lived.²¹ It was demolished during the great flood and Abraham reconstructed it with his son Ishmael. They were both messengers of God.²² Therefore, Abraham was regarded as the father of Mecca as well as the messenger of God.

Despite the fact that Abraham was a great figure of monotheism, the leading elites and the men of cloth in Mecca manipulated the foundations of this religion by inventing other figures and associating them with God in his holiness. Contrary to what has been known about them, the people of Quraysh were highly religious people who prayed, fasted, sacrificed, gave alms and did pilgrimage. They were literally the guardians of the house of God, and were called "Ahl-Allah" (the people of God) amongst the Arabs.²³ The problem was not about something they did not do. It was about something they did, which was placing the figures of some so-called saints around the Kaaba to glorify them in order to attract people to Mecca, who look up to those figures.

So everybody came to Mecca with religious purposes regardless of their religion. The statutes that symbolize the angels and some respectable elders of Arabs were placed around the Kaaba and in some waypoints of pilgrimage. Inside the walls of Kaaba, there were no idols, but some drawings of the messengers including Abraham, Ishmael and Jesus son of Mary depicted with his mother. All of these made the maintenance of Kaaba and organizing its surroundings, a duty of high importance and great prestige.

The maintenance of Kaaba was called "hijaba" and the organization of its surroundings was called "sidana". Also the word "imara" meant both of these duties, as they used to be under one man's responsibility. That man was Uthman ibn Talha during the time of Muhammad. There was also the duty of organizing the pilgrimage and it was called "ifaza". No name is mentioned in the sources about who executed this service.²⁴

There were another group of religious works and superstitious practices like charitable gambling and fortunetelling. The charitable gambling was called "aysâr" or "maysir"

²¹ "The first house established for mankind is the one at Mekka; blessed, and a center of guidance for all people." (Q. 3:96)

²² "While Abraham was raising the foundations of that house, together with Ishmael, they said: Our Lord, accept it from us. You are certainly listening and you know." (Q. 2:127)

²³ El-Tayib, 2010, p.28.

²⁴ Encyclopedia of Islam (TDF): "hicabe", "sidane", "imare", "ifaza".

(easiness). It was a game for the wealthy people that ends with almsgiving by the winner. It was just a pleasurable way to gain reputation. It had complex rules and it couldn't be played without a judge. Fortunetelling was also a very common practice in people's lives. It was called "azlâm" (arrows) and even the most important public decisions like going into war with some tribe couldn't be made without consulting the fortunetellers. Both of these works were conducted by Safwan ibn Umayya during the time of Muhammad.²⁵

Civil Institution of Social Insurance

According to the common law of Mecca, murders were subject to retaliation or blood money depending on the choice of the aggrieved party. Manslaughter was subject to blood money. The standard for blood money was 100 camels. The offender was obliged to bring these camels to the neighborhood of the family of the murdered. The amount was usually shared among the family of the offender, since it is a very high amount. If they weren't able to raise the necessary amount, the offender was either to be killed or to take service with the aggrieved family for some time.

There was an institution of social insurance called the "âqila" (liability). It stood for a group of people responsible for paying the blood money when one of them killed someone. All of the adult male members of a tribe were natural members of their *âqila*. It was possible to extend this group by making agreements with other families and lower the amount per capita. Everybody belonged to at least one *âqila*. The system also motivated people to discourage each other against crimes.²⁶

Social Responsibility, Arts and Culture

The tribes of Mecca regarded generosity as an element for competing with each other. Helping the poor, the needy, the orphans, the pilgrims or other travelers was considered essential for the dignity and nobility of the elite. Hence there were many traditions and occasions that let the wealthy people enjoy the prestige of almsgiving.

* Merchants who go abroad with caravans used to sacrifice many animals in front of Kaaba when they returned with good profits. Most of these sacrifices were left there for the poor people.

* There was a charitable gambling, which is mentioned above. Rich people used to gamble and give away their earnings to poor people for gaining reputation.

²⁵ Encyclopedia of Islam (TDF): "ezlam", "meysir", "safwan b. ümeyye".

²⁶ Encyclopedia of Islam (TDF): "akile".

* Because of the absence of legal enforcement, Arab elites were to empower their rhetoric skills in order to persuade people into their ideas. This led the arts of oratory and poetry become fashionable in Mecca. Tribe leaders used to talk with rhymes in assemblies. Arbitrators used to rhyme their judgments during cases. Rhyming was perceived as a sign of wisdom. The elite used to hire poets in order to learn from them and make them promote their ideas in public. They were also willing to give donations to street performers who praised them in their words.

* There were famous fairs around the Arab peninsula. Besides the huge commercial activity going around, the fairs were also places for poets, magicians and street performers to show their abilities in various competitions. The competitions were organized by certain civilians and the rewards for winners were collected from bets.

* There were also sports competitions in Mecca like wrestling, archery, footrace and even football.²⁷ One aspect of these competitions other than having fun was to allow rich people to race their servants and bet on them. The other important aspect is to allow the young heirs of famous tribes to show their skills and build a reputation which they will need when they become tribe leaders or undertake important duties of Mecca.

Let us also mention the popular social responsibility institution called *hilf al-fudul*. The phrase means “pact of the virtuous”. These were certain people acting on behalf of their tribes who had sworn to protect the merchants, and especially the foreigners from being deceived. It was a very strong civil society initiative and had a great role in providing a safe marketplace in Mecca.²⁸

However, the phrase has also another meaning such as “pact of the remnants”. It was said that the original cause of this initiative was a political one. There were two main political groups in Mecca. One of them was the members of *hilf al-ahlaf* (pact of the sworn) and the other group was the members of *hilf al-mutayyabin* (pact of the purified). After the fijar wars, there was a change in the balance of forces within the members of *al-mutayyabun*. The Umayya tribe was a member of *al-mutayyabun* and gained much reputation after being victorious in fijar wars. They were close with Nawfal tribe, and they started to act like representing the whole faction of *al-mutayyebun*. The other members of the faction, namely the tribes of Hashim, Taim, Asad, Muttalib, and Zuhra had to form another alliance in order to rebalance the powers within the faction and it was called *hilf al-fudul*, meaning the pact of the remnants (of *al-mutayyebun*).²⁹

Apparently, members of *hilf al-fudul* had also engaged in social responsibility in order to gain more reputation to compete with their old henchmen.

²⁷ Hamidullah, 2009, #1369.

²⁸ Hamidullah, 2009, #99-105.

²⁹ Ibrahim, 1982, p.355.

Conclusion

This study, in which we examined the civil society institutions of pre-Islamic Mecca, we have observed two quite interesting facts about the period in question. One of them is the fact that the unitary, centralized planning mind of the common political thought of nation-state systems in the 21st century is not necessarily a requirement for a safe and wealthy society. The other one is the fact that most of the ideas of classical liberalism like free markets, decentralization, civil society, spontaneous order and promoting the individual liberties were substantially experienced in pre-Islamic Mecca.

The civil society of Mecca had a strong natural order which could and still can be an example for both its contemporaries and modern societies. Although we didn't mention in this study, we should inform briefly that this social structure was largely preserved in the Islamic period of Mecca and Medina. The institutions that Muhammad repealed were slavery and all practices based on the exploitation of religion. Despite the common definition of the Messenger's city in sources as the "City State of Medina", our opinion is that Muhammad did not establish an order that can be identified as a state. He did not establish any legal authority in order to control the practices he prohibited like drinking alcohol, gambling, prostitution and loaning on interest. He also did not establish an army and the battles that took place were all fought by volunteers.³⁰ While we know that Muhammad did not punish the civilians who refused to fight in the battles or even deserted during the battle, it would not be true to define the social order of the Messenger as a state.

The structure of civil society in pre-Islamic Mecca was a noteworthy example of a free society. It is maintained with some important amendments of the Messenger until Umayyad dynasty seized control of the Muslim community. As for our opinion, the social order experienced in Medina during the time of Muhammad (622-632) is a period that all political scientists who care for freedom should examine closely. We humbly expect that this study will enhance the necessary attention for it.

³⁰ İslamoğlu, 2013, p.148.

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