To Free the Slave or Enslave the Free?

Reading and Rereading Slavery in the Islamic Tradition

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The candidate confirms that the work submitted is his own and that appropriate credit has been given where reference has been made to the work of others.

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Abstract

This thesis constitutes a theological study exploring competing understandings of slavery within Islamic thought. The purpose of this study is to assess to what extent it can be coherently claimed that the abolition of slavery is compatible with the Islamic tradition. This includes an analysis of classical interpretations of slavery, as well as modern reformist approaches that are described as 'Islamic abolitionism'. Moreover, this study explores why aspects of scripture and tradition pertaining to slavery began to be considered 'problematic' in the modern era, how different thinkers and schools have attempted to address the issue, and the extent to which they have been successful.

Note on Transliteration and Translation

This thesis has used a simplified Arabic to English transliteration method that is based on the *International Journal of Middle Eastern Studies (IJMES)* system. I have also standardised several recurring Arabic terms that do not appear in italics due to their commonality and increasing recognition in English. These terms include Islam, Qur'ān, Sunnah, Ḥadīth, Sharī'ah and Allah. In addition, I frequently use a few anglicised adjectival terms derived from Arabic words namely Islamic and Quranic. All English translations of Quranic verses appearing throughout the thesis are from Abdullah Yusuf-Ali, *The Holy Qur'an: Text, Translation and Commentary* (Birmingham: Islam Vision IPCI, 2001), unless expressly stated otherwise. Other translations have been taken from the translation repository *Quranexplorer.com*. Furthermore, all Ḥadīth reference numbers are taken from the online Ḥadīth repository *Sunnah.com*, unless stated otherwise.

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Introduction

> *'Whatever the believers deem good, is good with God'*
> *– Abdullāh Ibn Mas'ūd*

i.   Background

Slavery is amongst the most ubiquitous and long-lasting institutions in human history. The trade in human beings has existed since the birth of human civilisation and its practice has not been confined to any particular culture, time period or continent. Admittedly, global prohibition of the institution gained traction at a rather late stage in human development. The 18th and 19th Century saw numerous treatises and laws proscribing the institution across the world.[1] The fact that slavery remained unperturbed within human societies for so long has raised difficult questions for philosophers and theologians alike. Indeed, scholars of all persuasions have often grappled with understanding how an institution that was embedded into the fabric of all human societies, came to be discredited and abhorred, to the extent to which it is the yardstick by which many juxtapose the ancient world with the modern 'free-world'.[2] This is notably true of religious traditions. The historical acceptance of slavery has often provoked intense debates and discussion amongst adherents of all religions, and equally amongst believers in the religion of Islam.

The relationship between the religion of Islam and slavery has, in more recent times, come sharply into focus due to the rise of ISIS. The revival of slave markets and slavery, justified in part through the citation of Islamic legal codes, sits near the top of the list of the group's iniquities. In response to these acts, Muslim scholars and organisations banded together in order to refute and castigate ISIS as vicious, malevolent and importantly 'un-Islamic'. One of the most widely circulated works of this genre can be found with the Syrian scholar Shaykh Muhammad al-Yaqoubi's *Refuting ISIS*.

Within his work, Yaqoubi directly critiques ISIS' revival of slavery and their usage of Islamic law to justify their actions. He writes, 'the jurists in recent times have unanimously agreed that slavery is invalid and impermissible… The impermissibility of slavery in Islam has been

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[1] See: David Brion Davis, *The Problem of Slavery in the Age of Emancipation* (New York: Alfred A. Knopf, 2014).

[2] David Brion Davis, *Slavery and Human Progress* (London: Oxford University Press, 1984), p. xiii.

established as a result of Muslims adhering to international agreements of mutual benefit for humanity'.[3]

Within his tract, the condemnation of ISIS and its practice of slavery is unambiguous, and Yaqoubi clearly laments the treatment of the Yazidi families that have been persecuted. However, it is interesting to note that Yaqoubi's denunciation of slavery is premised on the fact that political pacts currently render the practice impermissible. He does not claim, for example, that slavery is inherently antithetical to Islam. Rather, he states, 'eradicating slavery through such agreements does not nullify the rulings of slavery in Islam as transmitted through the Qur'ān and Sunnah, but rather such an arrangement is based upon acting equitably in the best interests of humanity'. For Yaqoubi, slavery has been circumscribed currently due to international treaties and accords. If other nations were to break these pacts, 'it would be permissible for Muslims to retaliate accordingly'.[4]

While many scholars have endorsed Yaqoubi's fatwa, and subscribe to the position outlined above, others have elected a position condemning slavery based on the claim that slavery is fundamentally immoral and in clear violation of the values of Islam. For example, the American scholar Abdul Malik Mujahid, in his *An Islamic Response to ISIS Slavery,* presents arguments claiming that early Islam comprised an 'anti-slavery movement led by Prophet Muhammad' and Islam had always aimed to abolish slavery completely.[5] Similarly, El Fadl argues that ISIS has betrayed Islam as 'the Qur'ān teaches that slavery is an evil and has always been an evil' and slavery should be considered a type of paganism.[6] For scholars such as El Fadl and Mujahid, Islam fundamentally opposes slavery, and does not restrict its practice solely on pragmatic terms.

Furthermore, while the emergence of ISIS may have re-ignited debates regarding slavery, the underlying tension regarding its validity and practice has recurrently been a strongly contested issue amongst Muslim scholarship. Consider, for example, the influential Salafi Shaykh Sāleḥ al-Fawzān's statement, in which he argues, '[the claim that Islam supports abolition] is false,

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[3] Muhammad al-Yaqoubi, *Refuting ISIS: A Rebuttal of its Religious and Ideological Foundations* (Sacred Knowledge Press, 2015), p. 15.

[4] Ibid., p. 16.

[5] Abdul Malik Mujahid, *An Islamic Response to ISIS Slavery* (Chicago: Sound Vision Foundation, 2015).

[6] Khaled Abou el Fadl, 'On slavery and a Moral Reading of the Qur'ān', *Usuli.org* <https://www.usuli.org/2019/08/30/on-ethics-and-the-issue-of-slavery> [accessed 22 January 2020].

and anyone who promotes this argument is committing an act of disbelief'.[7] Fawzān clarifies his position arguing that slavery has been permitted within the Qur'ān and there exists a general consensus regarding its validity within the classical Islamic tradition.[8] Any deviation from the consensus of classical scholarship, for Fawzān, constitutes a severe rupture in 'orthodox' belief, and consequently leads to 'disbelief'. Fawzān's position, while perhaps controversial, is not an anomaly and represents a particular approach to interpreting the religious tradition of Islam that many adhere to. Indeed, it is due to the position outlined above, scholars such as Freamon have claimed that there is a clear link between 'conservative' Islam and the pervasive nature of slavery in parts of the Muslim world.[9]

Importantly, in the modern world, Muslim nations have rejected the institution of slavery on numerous occasions. An example of this can be seen in the sixth World Muslim Congress in Mogadishu in 1965 in which leaders of Muslim states declared that 'as followers of Islam, they could have no truck with any kind of colonialism, imperialism or slavery, for according to Islam these are crimes against humanity.'[10] Similarly, in the Cairo Declaration of Human Rights, the members of the Organisation of Islamic Cooperation (which represents 57 Muslim nations) stated, 'man is born free and no one shall be held in captivity or servitude; no one shall be humiliated or exploited. Servitude belongs to God alone.'[11] However, the final article in the declaration also states, 'all the rights and freedoms stipulated in this declaration are subject to the Islamic Sharī'ah'.[12]

While the Muslim world may have expressly rejected the institution of slavery, interpretations of the Sharī'ah and foundational religious texts in Islam in which slavery is deemed permissible have not necessarily been re-examined in light of the abolitionist principles that much of the world subscribes to. The clash between classical rulings in which slavery is permissible within Islamic law and modern notions of anti-slavery egalitarianism has occasionally been brought

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[7] Ṣāleḥ Al-Fawzān, 'Fatwa of the Scholar Shaykh Ṣāleḥ al-Fawzān', in *Barā'ah 'Ulamā al-Ummah min Tazkiyyah Ahl il-Bid'ah wa-al-Mudhammah (The Innocence of the Scholars of the Ummah from the Commendation of the People of Innovation and Censure),* ed. by Al-Sinānī (Ajman: Maktabat al-Furqan, 2001), pp. 45-47 (p. 46).

[8] Ibid., p. 47.

[9] Bernard Freamon, *Possessed by the Right Hand: The Problem of Slavery in Islamic Law and Muslim Cultures* (Leiden: Brill, 2019), pp. 465-471.

[10] In'amullah Khan, 'The Mo'tamar al-Alam al-Islami (The World Muslim Congress: A Brief Description of its Sixth Conference held at Mogadishu,' *The Islamic Review*, 53 (1965), 27-29 (p. 28).

[11] Organization of the Islamic Conference (OIC), 'Cairo Declaration on Human Rights in Islam', *Refworld* <https://www.refworld.org/docid/3ae6b3822c.html> [accessed 20 May 2020].

[12] Ibid.

to the fore. A historical example of this can be seen with debates regarding the Pakistani constitution during the inception of the country, in which conservative *'ulamā'* lobbied for the protection of slavery within the Pakistani constitution so not to contradict traditional conceptions of the Sharī'ah.[13] Contemporary examples can also be seen within Mauritania, in which it is claimed by human rights activists that almost 15% of the population are currently in bondage, and traditional readings of Islamic law facilitate the continuation of slavery.[14] As such, a serious study of approaches to slavery within the Islamic tradition is pertinent and timely; not only to better understand the Islamic tradition, but also in a bid to negotiate how the Islamic tradition can be understood in the modern world. In the words of Peter Wright,

> If past meanings are potentially part of our own future, we must prepare ourselves to receive them when they arrive again. Such preparation includes learning to recognize what is past about them. Only then will we know how to accommodate them properly when they meet us upon their return.[15]

ii.   Purpose of this Study

This thesis explores competing understandings of slavery within Islamic thought in a bid to measure to what extent it can be coherently claimed that the abolition of slavery is compatible with the Islamic tradition. As demonstrated, the issue of slavery remains highly contested within religious literature and has produced multiple discourses arguing in different directions regarding its validity and permissibility. This study addresses interpretations within the classical period of Islam, assessing conceptions of slavery, freedom and emancipation within 'orthodox' works of exegesis and law.[16] As such, this project assesses the conceptualisation of slavery in the *Tafāsīr* of Ṭabarī, Rāzī, Qurṭubī, Bayḍāwī, Ibn Kathīr and the Jalālayn, as well as prominent legal volumes such as the *Mabsūt* of al-Sarakhsī and *Al-Mughnī* of Ibn Qudāmah. Importantly, this study will also include an exploration of whether historical precedent for anti-slavery thought can be recovered from the classical tradition.

This project also assesses modern reformist approaches to slavery and the development of 'Islamic abolitionism'. Focusing on the contributions of thinkers such as Sayyid Ahmad Khan

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[13] Ishtiaq Ahmed, *The Concept of an Islamic State: An Analysis of the Ideological Controversy in Pakistan* (London: Pinter, 1987), p. 88.
[14] Rana Khoury, 'Mauritania's Fight against Slavery Provokes Islamists', *Al-Arabiya* <http://english.alarabiya.net/articles/2012/06/11/219996.html> [accessed 2 December 2015].
[15] Peter Wright, *Modern Qurʾānic Hermeneutics* (Ph.D. Thesis: University of North Carolina, 2008), p. 197.
[16] As these two symbiotic disciplines produce the clearest discourses regarding the permissibility and prohibition of actions, this thesis focuses on exegesis and law.

and Muhammad Abduh, this thesis explores how scholars sought to re-interpret aspects of the classical tradition and the extent to which they were successful. For reformists, accepting that slavery was an evil that needed to be eliminated raised significant questions concerning the reasons it had been granted legitimacy within religion to begin with. It led to the development of rational hermeneutic methods, disassociation with centuries of previous scriptural interpretation and engagement with theories of natural law.

On a broader level, this thesis addresses the ethical concerns raised by reading 'difficult' aspects of scripture in the modern epoch, and the differing hermeneutical negotiations conducted by scholars attempting to convey allegiance to an inherited religious tradition. Furthermore, this study attempts to assess why specific aspects of scripture and tradition pertaining to slavery began to be considered problematic in the modern era, and how different thinkers have attempted to address this. In doing so, this thesis contributes to a deeper understanding of hermeneutics in the context of the Islamic tradition and attempts to clarify the reasons for the divergent positions regarding the permissibility of slavery within Islam.

iii.   Literature Review

The study of slavery and abolition within the context of Islam and the Muslim world is currently developing, expanding and receiving increased attention. A number of scholars approach the subject using different methods and focusing on differing aspects of the subject matter. The majority of the works that broach the topic of slavery within an Islamicate context are historical studies that focus on slavery and/or abolition in particular geographic contexts. These works tend to provide either political, economic or social histories.

For example, there have been a number of studies devoted to assessing slavery and abolition within the Ottoman Empire. Hakan Erdem's *Slavery in the Ottoman Empire and its Demise* constitutes one such example, [17] as well as Ehud Toledano's *The Ottoman Slave Trade and its Suppressions.*[18] Both of these contributions fall into the categories of political and economic histories of abolition, whereas Madeline Zilfi's *Women and Slavery in the Late Ottoman Empire: The Design of Difference* constitutes a social history and focuses on the treatment of

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[17] Hakan Erdem, *Slavery in the Ottoman Empire and its Demise: 1800-1909* (Basingstoke: Macmillan, 1996), pp. 125-151.

[18] Ehud Toledano, *The Ottoman Slave Trade and its Suppressions* (Princeton: Princeton University Press, 2014). Toledano's earlier work constitutes a social history approach to the study of slavery: Ehud Toledano, *As if Silent and Absent: Bonds of Enslavement in the Islamic Middle East* (London: Yale University Press, 2007).

female slaves.[19] Other works addressing slavery within an Islamicate context have addressed slavery in Africa. Paul Lovejoy's *Transformations in Slavery: A History of Slavery in Africa* focuses on the links between economic changes and the practice of slavery across Africa,[20] while Elisabeth McMahon's *Slavery and Emancipation in Islamic East Africa* constitutes a social history of emancipated tribes in East Africa.[21] These types of historical works do not particularly focus on theological interpretations or Islamic law; however, they provide relevant contextual detail which help situate aspects of this study, especially those that focus on the period of abolition.

More general historical works can be seen with the contributions of William Clarence-Smith, Bernard Freamon and Jonathan Brown. William Clarence-Smith's *Islam and the Abolition of Slavery* provides a general historical survey of abolition within the Muslim world and details the responses from various thinkers, activists and rulers. Within his work, Smith notes there exists a dearth of literature on the topic and argues 'deeper studies in the field… are urgently needed'.[22] I agree with Smith's assertion, as there remains a scarcity of literature exploring how abolitionist ideas proliferated across Muslim societies. While this thesis does not focus primarily on demonstrating how abolitionist ideas spread, later chapters do contribute to a deeper understanding of how these ideas developed and the scholars that promoted them. Smith does not focus on the theological arguments presented by thinkers in a sustained manner; however, his placing of Sayyid Ahmad Khan as central to the development of anti-slavery readings remains a significant contribution to the field.[23]

In a similar manner to Smith, Bernard Freamon has penned a broad survey of slavery within Islamic contexts entitled *Possessed by the Right Hand: The Problem of Slavery in Islamic Law and Muslim Cultures*.[24] Within his work, Freamon highlights the diverse manifestations of slavery across Muslim civilisations and geographies, exploring instantiations of slavery across Arabia, Africa and India. In his later chapters, Freamon discusses the persistence of slavery in parts of the Muslim world and claims that its continuation has been facilitated by the fact that

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[19] Madeline Zilfi, *Women and Slavery in the Late Ottoman Empire* (Cambridge: Cambridge University Press, 2010).

[20] Paul Lovejoy, *Transformations in Slavery* (Cambridge: Cambridge University Press, 1983).

[21] Elisabeth McMahon, *Slavery and Emancipation in Islamic East Africa* (Cambridge: Cambridge University Press, 2013).

[22] William Clarence-Smith, *Islam and the Abolition of Slavery* (London: Hurst, 2006), p. 233.

[23] Ibid., p. 196.

[24] Bernard Freamon, *Possessed by the Right Hand: The Problem of Slavery in Islamic Law and Muslim Cultures* (Leiden: Brill, 2019).

classical readings of slavery have never been reinterpreted. Within this thesis, I strongly challenge this view through highlighting the work of reformist thinkers that are generally neglected within Freamon's work.

Additionally, Jonathon Brown has produced a book of comparable size and scope entitled *Slavery and Islam*. His work equally covers a vast array of cultures, epochs and civilisations, fluctuating between providing a history of slavery in the Muslim world and discussions of slavery within Islamic law. As such, Brown explores legal arguments in parts of his work, arguing that slavery can be restricted through the legal concept of *taqyīd al-mubāḥ* (restricting the permissible).[25] Brown claims that reform of the tradition is not needed, as there exist adequate legal and theological tools within the classical/ 'orthodox' tradition to restrict the practice of slavery within Islam without serious revision.

Within the works of Brown and Freamon, there is overlap with some of the themes that are covered within my thesis. While their contributions are mainly historical, both works invariably make normative claims regarding the position of slavery within Islam. My agreements and departures with both scholars receive fuller treatment in Chapter Five of this work in which their positions are placed within their intellectual currents alongside their interlocutors and opponents. [26]

Other historical works that engage with the topic of slavery and Islam can be seen with Powell, Ghazal and Robinson-Dunn. Their respective contributions constitute social histories that explore how debates regarding slavery and abolition manifested during the 19th century. For example, taking from Clarence-Smith's work, Powell develops understandings of Sayyid Ahmad Khan's life and how he came to challenge slavery in her 'Indian Muslim Modernists and the Issue of Slavery in Islam'.[27] Though Powell doesn't delve into theological dynamics within her chapter, her contribution is noteworthy as she situates the centrality of India within abolitionist discourse and is perhaps one of the few scholars to explore slavery within the Indian

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[25] Jonathan Brown, *Slavery & Islam* (London: Oneworld Academic, 2019), p. 274.

[26] My conversations with both Bernard Freamon and Jonathan Brown regarding slavery and its place in Islam can be found on the Network ReOrient Podcast. See: Haroon Bashir, 'Slavery and Islam: A Conversation with Prof. Jonathan Brown', *Network ReOrient* <https://open.spotify.com/episode/3w8Qu898M8hUoLIC5fWYlw>; also see: Haroon Bashir, 'Possessed by the Right Hand: An Interview with Prof. Bernard Freamon', *Network ReOrient* <https://open.spotify.com/episode/3YL3CQNYo89rQ6loIOzae5>.

[27] Avril A. Powell, 'Indian Muslim Modernists and the Issue of Slavery in Islam', in *Slavery and South Asian History*, ed. by Indrani Chatterjee and Richard Eaton (Bloomington: Indiana University Press, 2006), pp. 262-286.

context. Similarly, Amal Ghazal's chapter on 'Debating Slavery and Abolition in the Arab Middle East' details a similar trajectory for modernist discourse within Egypt during the 19th century and identifies the figures of Muhammad Abduh and Rashid Rida as central to the development of anti-slavery thought in Egypt.[28] Both of these works are key as they establish Abduh and Khan as central to the anti-slavery movements emerging within the Muslim world.

Similarly, Diane Robinson-Dunn in *The Harem, Slavery and British Imperial Culture* explores how resistance to the twin issues of slavery and concubinage informed notions of 'Englishness' in the late 19th century, which were based on developments taking place in Egypt. Importantly, Robinson-Dunn argues that '[identities] informed by new understandings of the relationship between Englishness and Islam were not simply produced… Rather their creation, re-creation and exchange were interdependent on one another, constituting one complex process'.[29] However, she does note that Islam was viewed as the root cause of slavery within anti-slavery activities. She argues,

> Understanding Islam in this way served specific political purposes: it generated support for the anti-slavery cause by presenting it as a struggle between good and evil; and it also helped to create, or actually recreate in a new context, a sense of English national identity closely associated with liberal Enlightenment ideas.[30]

Robinson-Dunn's work is significant as it helps situate reformist thinkers attempting to reinterpret the Islamic tradition within their intellectual climate and helps develop an understanding of the currents that reformist thinkers were reacting against.

Similar to Robinson-Dunn, Keith Hamilton's edited work *Slavery, Diplomacy and Empire: Britain and the Suppression of the Slave Trade, 1807-1975,* addresses the role of the British within anti-slavery campaigns. The chapters regarding anti-slavery campaigns in Egypt are informative, as they highlight that there were deep disagreements amongst the British elite regarding their views on abolitionism in the Muslim world. In a chapter regarding Egypt, for example, it is argued that 'some diplomats and officials went so far as to manipulate Islamic beliefs and institutions to delay the imposition and enforcement of abolition as they were

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[28] Amal Ghazal, 'Debating Slavery and Abolition in the Arab Middle East', in *Slavery, Islam and Diaspora*, ed. by Paul E Lovejoy, Behnaz Mirzai and Ismael Musah (Trenton: Africa World Press), pp. 139-154.

[29] Diane Robinson-Dunn, *The Harem, Slavery and British Imperial Culture: Anglo-Muslim Relations in the Late 19th Century* (Manchester: Manchester University Press, 2006) pp. 3-4.

[30] Ibid., p. 74.

fearful that tampering with servitude would cause rebellion and wars'.[31] On the other hand, it is also noted that there were British officials that were engaged in the promotion of abolitionist ideals using the Islamic faith in conjunction with Islamic scholars, using the friendship between Wilfred Blunt and Muhammad Abduh as a prominent example.[32]

Alongside the historical works on slavery, there has been a steady increase in the study of slavery within Islamic law. Kecia Ali's contributions *Marriage and Slavery in Early Islam* and *Sexual Ethics and Islam: Feminist Reflections on Qur'an, Hadith, and Jurisprudence* both raise pertinent questions regarding Islamic law and its relationship to slavery.*[33]* In her *Marriage and Slavery*, Ali draws parallels between marriage laws and legislation pertaining to slavery, highlighting the underlying premise of male payment for access to sexual relations. Similar themes are echoed in *Sexual Ethics and Islam* in which Ali treats slavery briefly along with other pertinent issues such as divorce, circumcision and homosexuality. A dominant theme within Ali's work emphasises the legal tradition often dehumanised female slaves and viewed their function primarily for the sexual gratification of male owners.[34] I agree with Ali's position to a certain extent; however, it could certainly be argued that the positions cited within Islamic law were far more assimilationist than those found within other civilisations, which tended towards exclusivity.

Equally, research suggests that Muslim scholars often attempted to facilitate the emancipation of female slaves. For example, Jonathan Brockopp's contribution in the form of his *Early Mālikī Law: Ibn 'Abd al-Hakam and his Major Compendium of Jurisprudence* argues the emancipation of female slaves was strongly promoted within legal discourse.[35] Brockopp provides insightful detail into the rulings regarding slaves within the legal handbook of Mālikī scholar 'Abd al-Ḥakam's *Al-Mukhtaṣar al-Kabīr*. The book is dedicated to exploring the rulings regarding slavery and focuses on emancipation contracts in particular. Similar to the works above, a useful contribution exploring the intersections of race, slavery and law can be seen with Chouki el-Hamel's *Black Morocco: A History of Slavery, Race and Islam,* which

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[31] William Clarence-Smith, 'The British 'Official Mind' and 19th Century Islamic Debates over the Abolition of Slavery', in *Slavery, Diplomacy and Empire: Britain and the Suppression of the Slave Trade, 1807-1975,* ed. by Keith Hamilton and Patrick Salmon (Brighton: Sussex Academic Press, 2009), pp. 125-142 (p. 125).

[32] Ibid., p. 136.

[33] Kecia Ali, *Marriage and Slavery in Early Islam* (London: Harvard University Press, 2010).

[34] Kecia Ali, *Sexual Ethics and Islam: Feminist Reflections on Qur'an, Hadīth, and Jurisprudence* (Oxford: Oneworld Publications, 2006), p. 41.

[35] Jonathan E. Brockopp, *Early Mālikī Law: Ibn 'Abd al-Hakam and his Major Compendium of Jurisprudence* (Leiden: Brill, 2000), p. 204.

addresses the historic interplay between slavery and race within Morocco.[36] El-Hamel's contribution is significant as he works with Islamic legal texts and attempts to show how ideas regarding race and slavery were instantiated within the context of Morocco. Though his work doesn't focus particularly on abolition, his assessment of interpretations of Islamic legal texts helps theorise conceptualisations of slavery similar to Brockopp and Ali. The works on Islamic law and slavery, while contributing to debates regarding pre-modern conceptions of the practice, do not devote attention to the issue of abolition and the (im)permissibility of slavery in the modern day.

Another important genre of literature can be seen with studies that explore the intersections of Islam, race and slavery. A recent contribution to this genre can be seen in the form of a special issue in the *Comparative Studies of South Asia, Africa and the Middle East* journal which explores manifestations of slavery in Africa and Asia, focusing specifically on 'Muslim' slavery and its intersections with race. A useful contribution can be seen with Gubara's 'Revisiting Race and Slavery through 'Abd al- Rahman al- Jabarti's 'Aja'ib al-Athar'. Gubara uses Rahman's classical work from 17th century Egypt to explore the problematic nature of concepts such as 'race' and 'slavery' being applied in a trans-cultural fashion. Further, she also assesses the politicisation of the study of slavery, reflecting on the challenging categorisations constructed within academic works, and assesses their genealogies.[37] Similarly, Chatterjee's article titled, 'Afro-Asian Capital and its Dissolution', explores the complexities of race and slavery in British India. She highlights the negative impact abolitionist discourse had on Afro-Asian men, and how a European racialised discourse shaped their treatment, as well as comparing this treatment to the way these communities were conceptualised and understood in Mughal times.[38] These works seek to complicate simplistic understandings of slavery, and problematise trans-historical and trans-cultural conceptions of slavery and its historical manifestations.

Additionally, Bernard Lewis' contributions on this issue are slightly problematic. Lewis has completed two texts on the issue, his *Race and Slavery in the Middle East: An Historical*

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[36] Chouki El-Hamel, *Black Morocco: A History of Slavery, Race and Islam* (Cambridge: Cambridge University Press, 2013).

[37] Dahlia A.M. Gubara, 'Revisiting Race and Slavery through 'Abd al-Rahman al-Jabarti's 'Aja'ib al-Athar', *Comparative Studies of South Asia, Africa and the Middle East*, 38. 2 (2018), 230-245 (pp. 231-236).

[38] Indrani Chatterjee, 'Afro-Asian Capital and its Dissolution' *Comparative Studies of South Asia, Africa and the Middle East*, 38. 2 (2018), 310-329.

Enquiry and *Race and Colour in Islam.*[39] Both have been widely circulated and are oft-quoted with Lewis cited as an authority on the issue.[40] Within his work, Lewis can be seen to produce simplistic and essentialist narratives regarding slavery and race that lend themselves to Eurocentric readings of history. For example, Lewis focuses primarily on negative depictions of Africans by Arab authors. His books do not explore, for example, the Malian empire of Mansa Musa, or the renowned scholarship of Aḥmad Bābā.

Rather, Lewis proceeds to juxtapose Islam, slavery and blackness, with 20 of the 24 paintings illustrated within his *Race and Colour* depicting black slaves with white masters.[41] A more balanced approach to 'race and colour' in Islam would perhaps make reference to the fact that the majority of slaves within the Muslim world were not in fact African. The narratological ark of his work situates the Muslim world as the location in which the kernel of anti-black racism was nurtured. While my project does not focus specifically on the issue of race, the topic is covered and serves to refute arguments regarding Islam promoting an 'anti-black' outlook.

Additionally, a number of other contributions have equally served to theorise the contributions of reformist thinkers. These works focus more readily on theological disputations and intra-religious claims to authority amongst reformists and 'orthodox' scholarship. For example, *Islamic Thought in the Twentieth Century,* edited by Suha Taji-Farouki & Basheer Nafi, contains a number of chapters focusing on the birth and development of reformist thought.[42] Equally, Daniel Brown's *Rethinking Tradition in Modern Islamic Thought* explores the diverging discourses that have been produced through Islam's conversation with 'modernity'.[43] Similar to Brown, Baljon's *Modern Muslim Koran Interpretation* highlights the differing directions Quranic interpretation has travelled following Muslim interactions with 'modernity'.[44] These contributions work to theorise reformist thought as a whole; however, issue of slavery is generally absent within their analysis and is not explored.

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[39] Bernard Lewis, *Race and Color in Islam* (London: Harper Torchbooks, 1971).

[40] The most recent example of this I have come across can be seen in Heng's *The Invention of Race* in which she cites Lewis as an authority 'on Islamic civilisations negative responses to black skin and Africans'. See: Geraldine Heng, *The Invention of Race in the European Middle Ages* (Cambridge: Cambridge University Press, 2018), p. 12.

[41] Lewis, *Race and Color*, pp. 39-63.

[42] *Islamic Thought in the Twentieth Century*, ed. by Suha Taji-Farouki & Basheer M. Nafi (London: I.B. Tauris, 2004).

[43] Daniel Brown, *Rethinking Tradition in Modern Islamic Thought* (Cambridge: Cambridge University Press, 1999).

[44] J.M.S Baljon, *Modern Muslim Koran Interpretation (1880-1960)* (Leiden: Brill, 1968).

While there has been a steady increase of literature addressing slavery within the Islamicate context, a comprehensive study of theological views regarding slavery and abolition within the Islamic tradition has not been undertaken previously. The majority of the works conducted constitute historical studies focusing on specific regions of the world or broad histories of slavery, while other works have attempted to theorise slavery within an Islamicate framework or focused on the intersections between race and slavery. The focus of this project is unique in so far as it engages scriptural interpretation and focuses primarily on Islamic theology, Islamic law and Quranic hermeneutics and the way these disciplines have been, and continue to be, utilised in order to support and oppose pro-slavery and pro-abolitionist positions.

iv.   Methodology

This thesis is primarily a theological study assessing the interpretation of slavery within the intellectual tradition of Sunnī Islam. Working primarily with texts, this study explores the disciplines of exegesis, law and theology in a bid to measure conceptualisations of slavery and abolition within Islamic discourse. Furthermore, this study also explores the genealogy and development of 'Islamic abolitionism' and its reception from scholars in the 19th and 20th century. This thesis works with primary and secondary sources, utilising legal treatises, theological texts, Quranic commentaries, as well as pamphlets, newspapers, magazine articles and general literature written during the 19th and early 20th century addressing slavery and abolition.

This work does not purport to be an anthropological or sociological study of slavery and abolition in the Muslim world; rather, it primarily focuses on the interpretation of text. Though text can work as a lens through which social and historical context can be viewed, it can also be difficult to make definitive claims regarding historical realities through written text alone. Therefore, this study focuses on how Muslim thinkers have interacted with their religious tradition, how they think and argue, and ultimately how they have employed, and continue to employ different aspects of their inherited tradition to reconcile their faith with the exigencies of the modern world.

v.   Clarifying Key Terms

There are three contentious terms that provoke debate within scholarship, and I would therefore like to clarify their usage within this work. The first term is 'slavery'. There exists a plethora of scholarship highlighting the difficulty in attempting to provide a universal definition of

slavery that is useful trans-historically and trans-culturally. While a basic definition of slavery may refer to a condition 'in which one human being was owned by another' and was considered as a form of 'property', the practice of slavery has manifested in various ways across history.[45] For example, research demonstrates that slavery in the Muslim world markedly differed from the practice of slavery in the Western world. In some cases of slavery within the Islamicate context, slaves were able to rise to become high ranking generals in the army who commanded numerous contingents of free men.[46] In other cases, slaves held official positions in administrative bodies and in some instances, slaves rose through the ranks to become rulers. Indeed, the first Muslim ruler to legally abolish slavery was Aḥmad Bāy of Tunis, the son of a Sardinian slave-girl.[47] Miers notes, 'some [slaves] became richer than their owners through trade and other means. They even acquired slaves of their own and could keep their wealth for their lifetime. In the Muslim world, slaves were not necessarily the lowest rank in society.'[48] These examples share little parallel with experiences of slavery in the trans-Atlantic context. Therefore, while in some contexts, slaves certainly constituted the most vulnerable in society, in other contexts, this certainly was not the case. Furthermore, even within particular civilisations, manifestations of slavery differed. For example, the plantation slavery experienced by Zanj slaves rebelling in 9th century Baghdad fundamentally contrasted to the military slavery that allowed the Mamluks to create their own dynasty.

While recognising the fluctuations in practices that have been described as slavery, this project does not attempt to map out or argue for a universal definition. Rather, I focus on the theorisation of slavery (or *riqq*) within Islamic thought, in place of its actual manifestations. Within Islamic exegetical and legal discourse, the concept of slavery remained a consistent entity in the minds of Muslim scholars, with rules and regulations surrounding it. The issue of an exact definition remained a somewhat nebulous proposition as scholars differed on the exact demarcations regarding what fully constituted a slave. This will be explored more fully in the coming chapters. As a general marker, however, *riqq* in Islamic thought was conceptualised as referring to a condition in which a people were legally owned and did not have complete legal control over aspects of their movement, labour, sexuality and in some cases, progeny. Rather,

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[45] Richard Hellie, 'Slavery', *Encyclopædia Britannica* <https://www.britannica.com/topic/slavery-sociology> [accessed 3 January 2020].

[46] Indrani Chatterjee, 'Afro-Asian Capital and its Dissolution', *Comparative Studies of South Asia, Africa and the Middle East*, 38 (2018), 310-329 (p. 312).

[47] Leon Carl Brown, *The Tunisia of Ahmad Bey: 1837-1855* (Princeton: Princeton University Press, 1984), p. 30.

[48] Suzanne Miers, 'Slavery: A Question of Definition', *Slavery and Abolition*, 24 (2003), 1-16 (p. 4).

it was understood that the master had some form of control over these facets of the slave's life.[49] Therefore, when discussing slavery in the Islamic tradition, this is the practice I refer to.

The second term to be discussed is 'classical Islam'. The term classical Islam is by no means a perfect designation; however, it is widely used within academic works pertaining to Islam to describe the practice and interpretation of Islam from its birth up to the eighteenth century. Classical is usually juxtaposed with modernist/reformist readings of Islam that emerge after the eighteenth century. For example, Winter argues that 'the term 'classical' is used to cover the era which stretches between Quranic revelation and the eighteenth century, with the accent falling on the period between the tenth and thirteenth centuries'.[50] In place of 'classical', Seyyed Hossein Nasr elects to describe this era as 'traditional Islam' and distinguishes between the characteristics of traditional Islam and the trend of 'modernism' that was influenced by Western thought.[51] Therefore, I use the terms classical/ traditional Islam to refer to the periods from early Islamic scholarship in the eighth/ninth century up to the eighteenth century.

The third term to be discussed is 'orthodoxy'. The term 'orthodoxy' is not indigenous to Islam and is borrowed from Christianity; however, as with the term 'classical', it is commonly used within academic literature pertaining to Islam. Ahmad al-Shamsy argues that the 'broad outlines of the developed Sunnī orthodoxy … [were] structured around several established schools of law, which defined right action, and the three main 'schools' of theology (Ashʿarīs, Māturīdīs and traditionists) that defined right belief'.[52] Therefore, the use of the term 'orthodoxy' within this thesis follows Shamsy's definition. Although, it must be noted that the use of 'orthodoxy' is not utilised in a manner to denote a judgement on 'correctness'; rather,

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[49] The variations in legal definitions amongst Muslim scholarship has also been noted by Freamon. See: Bernard K. Freamon, 'Definitions and Conceptions of Slave Ownership in Islamic Law', in *The Legal Understanding of Slavery: From the Historical to the Contemporary*, ed. by Jean Allain (Oxford: Oxford University Press, 2012), pp. 45-59.

[50] Tim Winter, 'Introduction', in *The Cambridge Companion to Classical Islamic Theology*, ed by. Tim Winter (Cambridge: Cambridge University Press, 2008), pp. 1-18 (p. 2). Similarly, Kurzman highlights the distinctions between modernist/reformist Islam and the classical/traditional Islam that preceded it. See: Charles Kurzman, 'Introduction', in *Modernist Islam 1810-1940: A Sourcebook*, ed. by Charles Kurzman (Oxford: Oxford University Press, 2002), pp. 3-27.

[51] See: Seyyed Hossein Nasr, *Traditional Islam in the Modern World* (London: Kegan Paul, 1994), pp. 11-27.

[52] Ahmed al-Shamsy, 'The Social Construction of Orthodoxy', in *The Cambridge Companion to Classical Islamic Theology*, ed. by Tim Winter (Cambridge: Cambridge University Press, 2008), pp. 97-118 (p. 107). For a fuller analysis on the various disputations regarding 'orthodoxy' within Islam, See: *Tajul Islam, Scholastic Traditional Minimalism: A Critical Analysis of Intra-Sunni Sectarian Polemics* (PhD Thesis: University of Exeter, 2015).

the term is used to signify a body or 'school' within Sunnī Islam. Additionally, the use of the term '*ulamā'* refers to scholars that adhere to and purvey 'orthodoxy'.

The complexity, impreciseness and limitations of these terms are presented by Netton. Netton demonstrates that much of this terminology has a distinct genealogy and does not fully represent or translate directly into the Islamic context.[53] I agree with Netton's observations, especially regarding the assumptions that underpin a term such as 'orthodoxy'. However, due to the general utilisation of these terms within the field, I elect to use these terms as general markers within this study while recognising their imperfect nature.

vi.   Summary of Chapters

Chapter One is entitled 'Slavery within Classical 'orthodox' Exegesis' and explores classical views on slavery within Quranic commentaries and exegetical literature to ascertain how slavery was approached and viewed. The commentaries that have been utilised within this chapter are generally classified as from among the Sunnī 'orthodox' tradition which include the *tafāsīr* of Ṭabarī, Rāzī, Qurṭubī, Bayḍāwī, Ibn Kathīr and the Jalālayn. These works have been selected due to their importance and influence within Quranic exegesis. The primary question explored within this chapter addresses whether classical commentators promoted, accepted or contested the acceptability of slavery within Islam.

Chapter Two examines the conceptualisation of slavery in Islamic law, and is entitled 'Persons, Property and Liminal Spaces: The Slave in Islamic Law'. Chapter Two outlines the legal rulings within the Sunnī schools of law pertaining to enslavement, emancipation and assesses attitudes towards slaves. As Quranic commentaries were somewhat limited in the scope of their conversations regarding slavery, as they could only discuss (to some extent) the significance of Quranic verses, Islamic law provides far more detail regarding the conceptualisation of slavery through the types of edicts and discussions prevalent within Islamic legal discourse.

Chapter Three explores the birth and development of the 'Quranic abolition' thesis. Focusing on Sayyid Ahmad Khan and his *Ibṭāl-e-Ghulāmī*, Chapter Three analyses Khan's innovative arguments regarding the abolition of slavery being established at the time of Prophet Muhammad. This chapter also assesses Khan's interlocutors, and his disagreements with Orientalist scholars such as William Muir, whilst highlighting the reception of his ideas from

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[53] Ian Richard Netton, *Islam, Christianity and Tradition: A Comparative Exploration* (Edinburgh: Edinburgh University Press, 2006), pp. 45-105.

scholars such as Mawlana Abdullāh 'Askarī and Mawlana Saeed Akbarabadi. Chapter Three also demonstrates how Khan's arguments were promoted and spread by influential reformist thinkers such as Cheragh Ali and Ghulam Ahmad Parvez.

Chapter Four assesses the development of the 'Quranic gradualism' thesis promoted by Muhammad Abduh and Rashid Rida. Working primarily from the *Manār,* Chapter Four explores the attempt to reconcile Islam with abolition presented originally by Egyptian reformists. This chapter highlights the refutations lodged against Abduh and Rida from *'ulamā'* such as Shaykh Hussain al-Jisr and Yūsuf al-Nabahānī. It also explores how the ideas of Abduh were popularised by the likes of Sayyid Qutb and Ibn 'Āshūr.

Chapter Five addresses the divergent interpretations of slavery and explores why Islamic scholars are approaching the same subject matter and producing vastly different readings. Focusing on hermeneutical paradigms, Chapter Five explores which interpretation to slavery may be deemed 'correct' in order to provide a conclusive answer to whether the Islamic tradition is compatible with the abolition of slavery.

The primary questions that will be addressed within this study are the following:

- How was slavery conceptualised within the classical period of Islam?
- What were the rules regarding enslavement and emancipation within Islamic law?
- What were the different responses from Muslim scholarship to the idea of abolition?
- Can the Islamic tradition be coherently reconciled with the abolition of slavery?

Chapter One: Slavery in Classical 'Orthodox' Exegesis

Allah puts forth a Parable— a man belonging to many partners at variance with each other,

and a man belonging entirely to one master: are those two equal in comparison?

Sūrah Al-Zumar

1.1 Introduction

The Qur'ān is the sacred scripture of Islam. Muslim belief attests that the Qur'ān was revealed to the Prophet Muḥammad. Though this revelation took place in seventh century Arabia, Muslims claim the timeless nature of its message renders the Qur'ān applicable to all times and places.[54] The Qur'ān has always been, and continues to be, the cornerstone from which Muslims interpret their faith and derive their understanding of the world. Though the scripture is not a particularly legally orientated text,[55] it has been established as the primary source through which Islamic law has been derived.[56]

Throughout the centuries, Muslim scholars have interpreted the Qur'ān in diverse fashion, which has led to the development of an innumerable amount of commentaries with varied approaches and positions on most points of doctrine. Indeed, while research suggests that the earliest generations after the Prophet were hesitant to interpret the holy scripture of Islam,[57] 'this attitude soon gave way to all books of interpretations which were more or less coloured by the faiths and old ideas of the new converts'.[58] This led to the development of the science of exegesis ('*ilm al-tafsīr*) whereby an attempt was made to standardise Quranic exegesis.[59] Principles were established in order to regulate legitimate methods of approaching the text. For example, it was expected that an exegete would have a mastery of the Arabic language, lexicography and Arabic literature. Additionally, the literature pertaining to the occasions of

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[54] Tamara Sonn, 'Introducing', in *The Blackwell Companion to the Qur'ān*, ed. by Andrew Rippin (Oxford: Blackwell, 2006), pp. 3-17 (p. 3).

[55] The classifications for legal verses can differ according to exegetes, with some placing the number at around 500, while others roughly estimate closer to 50 (out of 6,000). See: Muḥammad 'Alī al-Sābūnī, *Rawā'i' al-Bayān fī Tafsīr Āyāt al-Aḥkām min al-Qur'ān* (Beirut: Maktaba Assrya, 2012).

[56] Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 2003), pp. 22-46.

[57] See: Harris Birkeland, 'Old Muslim Opposition against Interpretation of the Koran', in *The Qur'ān: Formative Interpretation,* ed. by Andrew Rippin (Aldershot: Ashgate, 1999), pp. 41-80.

[58] Fazlur Rahman, *Islam* (Chicago: University of Chicago Press, 1979), p. 40.

[59] Fred Leemhuis, 'Origins and Early Development of the Tafsir Tradition', in *Approaches to the History of the Interpretation of the Qur'ān,* ed. Andrew Rippin (Oxford: Clarendon Press, 1988), pp. 13-30.

revelations was established as a necessary precursor so as to properly situate revelation and its chronology. Moreover, the historical traditions reporting the opinions of companions regarding injunctions and legal material in the Qur'ān were also given importance.[60]

The importance and preponderance given to any one of these auxiliary fields led to a number of differing approaches to the Qur'ān. For example, the dominant methods amongst the schools of exegesis were compartmentalised into either *tafsīr bil-ma'thūr* (commentary based upon transmitted knowledge), which includes the likes of the seminal *Tafsīr al-Jalālayn*, or *tafsīr bil-ra'y* (commentary based upon personal opinion), an example of this can be seen with Rāzī's *Al-Tafsīr al-Kabīr/Mafātīḥ al-Ghayb*. Other classifications include *tafsīr lughawī* (linguistic commentary) such as Bayḍāwī's *Anwār al-Tanzīl,* or *tafsīr fiqhī* (commentary focusing on Sharī'ah) such as Qurṭubī's *Al-Jāmi' li-Aḥkām al-Qur'ān.*[61]

The aim of this chapter is to explore and analyse classical views regarding slavery within Quranic commentaries and exegetical literature to ascertain how slavery was approached and viewed. The commentaries that have been utilised within this chapter are generally classified as from among the Sunnī Orthodox tradition which include the *tafāsīr* of Ṭabarī, Rāzī, Qurṭubī, Bayḍāwī, Ibn Kathīr and Jalālayn. These works have been selected due to their importance within 'orthodox' Quranic exegesis and have often been described as the 'unofficial Sunnī Canon' of *tafsīr*.[62] The questions addressed within this chapter include:

1. How does the Quranic text reference slavery?
2. How were these verses understood by classical commentators?
3. Did classical commentators promote, accept or contest slavery?
4. Did anti-slavery thought exist prior to the modern period?

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[60] Rahman, *Islam*, p. 41.

[61] It should be noted that these categorisations are broad markers and any *tafsīr* may include a number of approaches. For example, the *Jalālayn* is described as a commentary based upon transmitted knowledge; however, it equally includes linguistic and legal discussions. This principle can be extended to most exegetical works.

[62] Jalāl al-Dīn al-Maḥallī and Jalāl al-Dīn al-Suyūṭī, *Tafsīr al-Jalālayn*, trans. by Feras Hamza, ed. and intro. by Ghazi bin Muhammad bin Talal (Amman, Jordan: Royal Aal al-Bayt Institute for Islamic Thought, 2007), p. ii.

1.2 Vocabulary for Slavery in the Qur'ān: A Conspectus

The topic of slavery does not feature prominently within the Quranic text. Attempting to attribute an accurate number of verses referencing slavery can prove to be a somewhat onerous task, as the language used to refer to slaves and slavery has often been interpreted in numerous different ways. Brockopp numbers the verses citing slavery at 29, while equally accepting that 'the number of these verses is inexact, since several words which refer to slaves have secondary meanings, rendering their translation difficult'.[63]

The most prominent term within the Arabic language associated with slavery and bondage is the term *'abd*. However, within the Qur'ān the more prominent usage of the word appears to be linked primarily with servitude and worship of God. For instance, *'abd* is used on a number of occasions to describe the Prophets of God. The Prophet Muḥammad is referred to as an *'abd* of Allah: *'And if ye are in doubt as to what We have revealed from time to time to Our servant ('abdinā), then produce a Sūrah like thereunto' (Q2:23).* In a similar fashion, Jesus is also described as an *'abd* of Allah: '*Christ disdaineth nor to serve and worship Allah (an yakūn 'abdan lillāh)'* (Q4:172). Indeed, practically all of the Prophets are at some point in the Qur'ān described as servants of Allah using the term *'abd*.[64]

Nevertheless, the term is still used to refer to enslaved peoples within the Quranic text, and this is made clear through specific designations that accompany the word *'abd*. For example, in Q2:178 *'abd* is juxtaposed with the free man (*al-ḥurr*) and women (*al-unthā*).[65] In a similar fashion, *'abd* is used in conjunction with its female cognate (*ama,* plural *imā'*),[66] and in one instance is qualified with the term *mamlūk* (*'abdan mamlūkan*) which may literally be translated as 'a slave that is owned'.[67] This has led some to argue that the primary signification of the term *'abd* in Arabic may have been slave; however, 'by the time of the Qur'ān's

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[63] Brockopp, *Early Mālikī Law,* p. 128.

[64] Nearly all of the Prophets are described by the term '*abd*. See: Q38:17 for David, Q54:9 for Noah, Q38:30 for Solomon, Q38:41 for Job.

[65] Q2:178: 'The law of equality is prescribed to you in cases of murder; the free for the free, the slave for the slave (*al-'abdu bil-'abdī*), the woman for the woman'.

[66] Q24:32: 'Marry those among you who are single, or the virtuous ones among your slaves, male or female: (*ibādikum wa imāhikum*). Also the verse Q2:221: 'a man slave who believes (*'abdun mu'minun*) is better than an unbeliever, even though he allures you' is preceded by a verse which mentions a female slave (*amatun mu'minatun*).

[67] Q16: 75: 'Allah sets forth the Parable (of two men: one), a slave under the dominion of another *('abdan mamlūkan);* He has no power of any sort; and (the other) a man on whom We have bestowed goodly favours from Ourselves, and he spends thereof (freely) privately and publicly: are the two equal? (By no means;) praise be to Allah. But most of them understand not.'

appearance, *'abd* as "slave" was sufficiently uncommon as to require a textual gloss'.[68] This argument is supported by Rāzī's (d. 1210) discussion of the verse, in which he states, 'why does Allah say owned (*mamlūk*) and every slave (*'abd*) is essentially owned… owned is mentioned to distinguish between the slave and the freeman, because it could be argued that every free-man is a slave of God (*'abdullāh*)'.[69] Further, the fact that other verses use the term *'abd* without any qualification signifies that the primary usage within the Quranic environment was associated with servitude to God rather than slavery.

Interestingly, this is not necessarily unique to the Qur'ān; a similar usage can be seen within the Biblical text. The term *'abd* shares the 'etymological origin as the Hebrew terms *ebd* or *bd*, used in the Torah'.[70] The biblical vocabulary for slavery, '*ebed* as a noun and *ābad* in its verbal form, equally contains a number of divergent meanings. As Swartley notes,

> Both Moses (Deut 34.5; etc.) and David (Ps. 18.1) are called the "servant [Hebr. ʿebed] of the Lord," and Israel and others are instructed to "serve" (ʿābad) the Lord (Deut. 11.12; Ps. 2.11; etc.; see Worship). The same imagery is found in the New Testament. Just as Jesus took upon himself "the form of a slave" (Phil. 2.7), so Jesus' followers are also to think and do (Phil. 2.5; cf. Mark 10.42–45); thus, Paul identified himself as a slave of Christ (Rom. 1.1; Phil. 1.1). [71]

Along with the terms *'abd* and *ama*, the term *fatā* (lit. young boy) is frequently translated as slave-boy, with its feminine cognate *fatāya* (lit. young girl) as slave-girl. However, there is equal ambiguity with these terms, as can be seen within Quranic translations. For example, the term *fatā* in the verse Q12:30, which refers to Zulaykha seducing Yūsuf, is translated in a number of differing ways. Yusuf Ali takes *fatā* here to mean *slave*, while Daryabadi translates it as *page*, and Mohsin reads the apparent meaning as *young man*.[72] Similarly, with the verse Q18:60, in which Moses addresses *fatāhu*, Ali translates the term as *attendant*, while Uthmani uses *young man*, and Pickthall translates *fatā* in this instance as *servant*.[73] In a similar fashion,

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[68] Brockopp, *Early Mālikī Law*, p. 129.

[69] Fakhr al-Dīn Muḥammad b. 'Umar b. al-Ḥusayn al-Rāzī, *Al-Tafsīr al-Kabīr (a.k.a Mafātīḥ al-Ghayb)*, 32 vols (Beirut: Dar ul-Fikr, n.d.), vol. 20, p. 87.

[70] Bernard K. Freamon, 'Definitions and Conceptions of Slave Ownership in Islamic Law', in *The Legal Understanding of Slavery: From the Historical to the Contemporary*, ed. by Jean Allain (Oxford: Oxford University Press, 2012), pp. 45-59 (p. 51).

[71] Willard M. Swartley, 'Slavery', in *The Oxford Companion to the Bible*, ed. by Bruce M. Metzger and Michael D. Coogan (Oxford: Oxford University Press, 2004).

[72] Yusuf Ali: 'Ladies said in the City: "The wife of the `Azīz is seeking to seduce her *slave* from his (true) self.' Daryabadi: 'And women in the city said; the wife of the 'Azīz hath solicited her *page* against himself.' Mohsin: 'And women in the city said: The wife of Al-'Azīz is seeking to seduce her *young man*.'

[73] Yusuf Ali: 'Behold, Moses said to his *attendant*. Uthmani: 'Recall, when Musa said to his *young man*.' Pickthall: 'And when Moses said unto his *servant*.'

the term *fatāyāt* is presented as believing-girls, maids and slave-girls within various readings.[74] Therefore, the multiple meanings of *fatā/fatāyāt* render its primary translation as slave difficult.

The clearest references to slavery within the Quranic text are found with the periphrasis term *raqaba* (lit. the nape of the neck), and the circumlocutory expression *mā malakat aymānukum/hum* which is generally taken to refer to female concubinage. The term *raqaba* (or *riqāb*) appears in the Qur'ān on 9 occasions in 7 verses,[75] and is predominantly preceded with the annexed structure *taḥrīr* (the freeing of).[76] As such, the contexts in which the term is found generally exhort emancipation (*taḥrīr al-raqaba*). The one anomalous appearance can be found in the infamous verse Q47:4, in which the term is preceded by *ḍarb* (*ḍarb al-riqāb* - strike the necks) and is understood to sanction killing enemy combatants on the battlefield.[77] The other clear reference to slaves is found with the phrase *mā malakat aymānukum*. This is found in the Qur'ān 14 times,[78] and generally addresses either the good treatment of slaves, or regulations regarding sexual relations with female slaves.[79] Additionally, the term *asīr* (pl. *usarā'*) is often read as a referent to slavery; however, it could also easily be translated as captive.[80]

Interestingly, the terms found in the Qur'ān appear very much isolated to its context. Other terms that are far more prominent in classical Arabic literature, such as *raqīq, jāriya* and *khādim* are not utilised in reference to slavery within the Quranic text. For example, *jāriya* is commonly used to refer to slave-girls within general Arabic literature and numerous legal texts; however, within the Qur'ān the mode of *jāriya* can be found describing either sailing ships or a flowing spring.[81] Similarly, the term *raqīq* in post-Quranic Arabic is used to describe slaves captured in war, whereas in the Qur'ān the only use of the trilateral root can be found referring

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[74] With the verse Q4:25, Yusuf Ali translates *fatāyātikum* as believing girls; however, in the verse Q24:33, Yusuf Ali translates *fatāyāt* as maids. Pickthall translates Q24:33 as slave-girls.

[75] See verses: Q2:177, Q4:92, Q5:89, Q9:60, Q47:4, Q58:3, Q90:13.

[76] Although Q90:13 uses *faqq*, with the same intended meaning.

[77] Q47:4: 'Therefore, when ye meet the Unbelievers (in fight), smite at their necks; At length, when ye have thoroughly subdued them, bind a bond firmly (on them): thereafter (is the time for) either generosity or ransom: until the war lays down its burdens.'

[78] Q4:3, Q4:24, Q4:25, Q4:36, Q16:71, Q23:6, Q24:31, Q24:33, Q24:58, Q30:28, Q33:50, Q33:52, Q33:55, and Q70:30.

[79] For good treatment, see Q4:36: 'Serve Allah and join not any partners with Him: and do good— to parents, kinsfolk, orphans, those in need, neighbours who are near, neighbours who are strangers, the Companion by your side, the way-farer and what your right hands possess'. For sexual relations, see Q4:24: 'Also (prohibited are) women already married, except those whom your right hands possess'.

[80] See: Q2:85, Q8:67, Q8:70 and Q78:8 for the use of *asīr*.

[81] Q88:12: 'Therein will be a bubbling spring.' ('*aynun jāriya*)'.

to parchment.[82] As such, Quranic Arabic regarding slavery remains somewhat isolated from later usage within legal texts and literature. Unfortunately, pre-Quranic Arabic equally provides little help in this regard, due to the lack of source material available.[83]

Overall, references to slavery are scattered throughout the Qur'ān, without making up any large portions of any specific chapter. The term *'abd* is used to refer to slavery on particular occasions, and the terms *raqaba* and *mā malakat aymānukum* clearly address slavery and slaves when cited. The terms *fatā, fatāyāt* and *asīr* are less clear in this respect, as their propensity to have multiple meanings render their translation slightly more difficult. We will proceed to assess how these aforementioned verses were read and interpreted within the classical tradition.

1.3 'Allah has favoured some of you over others': Classical Exegesis and the Hierarchical Paradigm

In the modern day, the fact that the Qur'ān condemns slavery and supports abolition is a belief that many Muslims ascribe to.[84] A copious amount of material has been written regarding the Qur'ān's propensity to be read as a radically egalitarian text,[85] and while the edicts found within the Qur'ān regarding manumission cannot be denied, it is equally noteworthy that for the majority of its history, the Qur'ān was interpreted as a text legitimising slave-ownership. Classical commentaries of the Qur'ān served to embed the institution of slavery within a normative model of an idealised society. That is to say, slavery was not simply viewed as an unpleasant reality that was to be tolerated; rather, it was actively viewed as part of the divine

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[82] Q52:3: 'In a scroll unfolded.' (*fī raqqin manshūr*)'.

[83] As Brunschvig correctly notes, 'the sparse and controversial data available to us for the pre-Islamic period are insufficient to provide reliable answers'. Indeed, the scarcity of data regarding the slavery within pre-Islamic Arabia makes it difficult to express any definitive claims regarding the workings of slavery prior to Islam. The little information we do have is deduced through fragments of pre-Islamic poetry, through which we can attempt to piece-together some semblance of a picture, but this remains wholly incomplete'. See: Robert Brunschvig, ''Abd', in *Encyclopaedia of Islam*, 2nd edn, ed. by P. Bearman and others <http://dx.doi.org/10.1163/1573-3912_islam_COM_0003>.

[84] The large number of responses to slavery and ISIS from Muslims demonstrate this. See: Mariam Hakim, 'The Truth about Muslims and Sex Slavery- According to the Koran rather than Isis or Islamophobes', *Independent* <http://www.independent.co.uk/voices/the-truth-about-muslims-and-sex-slavery-according-to-the-Qur'ān-rather-than-isis-or-islamophobes-a6875446.html> [accessed 6 January 2018]; Also see: 'Does the Qur'an Allow Sex with Slaves/Concubines?', *Quranic Path* <http://www.Quranicpath.com/misconceptions/concubines.html; http://misconceptions-about-islam.com/islam-Qur'ān-abolish-slavery.htm.> [accessed 6 January 2018].

[85] See: Farid Esack, *Qur'ān, Liberation & Pluralism: An Islamic Perspective of Interreligious Solidarity against Oppression* (Oxford: Oneworld, 1997); Shadaab Rahemtulla, *Qur'an of the Oppressed: Liberation Theology and Gender Justice in Islam* (Oxford: Oxford University Press, 2017); Hamid Dabashi, *Islamic Liberation Theology: Resisting the Empire* (London: Routledge, 2008).

order through which God demonstrated his grace and favour on the prosperous, as well as testing the less fortunate with trials and tribulations.

This is not to argue that freedom and manumission were not celebrated as meritorious and commendable, nor is it a dismissal of the emphasis numerous scholars placed on the importance of emancipation within their works. However, it is an acknowledgement that the distinction between slaves and masters was considered a legitimate hierarchical structure that, in the minds of many classical scholars, mirrored Allah's relationship with his creation.[86] Indeed, the power-dynamic between master and slave was often directly read as analogous to Allah's supremacy over his dominion. These overtures are most clearly evidenced within classical commentaries of the Qur'ān.

For example, the material written regarding the verse Q16:71 serves as a clear example in point. The verse reads *'Allah has bestowed His gifts of sustenance more freely on some of you than on others: those more favoured are not going to throw back their gifts to those whom their right hands possess, so as to be equal in that respect. Will they then deny the favours of Allah.'* While modern commentaries have favoured reading this verse as a call for material equality between owner and slave,[87] classical interpretations have tended to gloss the verse with a completely different emphasis. The *Jalālayn*[88] notes,

> And God has favoured some of you above others in [respect of] provision, thus, some of you are poor, some are rich, some owners, others are owned. Now those who have been [more] favoured, namely, the masters, would not hand over their provision to those [slaves] whom their right hands possess… The meaning is: they do not have partners from among their slaves in respect of their wealth, so how can they make certain of God's servants partners of His? Is it then the grace of God that they deny?[89]

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[86] This hierarchical worldview not only informed the manner in which Quranic verses were expounded, but also had ramifications and consequences for conceptions of jurisprudence. Slavery in jurisprudence will be explored in more detail in the following chapter.

[87] For example, the Pakistani modernist thinker Parwez claimed the interpretation of the verse should be understood as 'different individuals possess different capacity for work. Every programme or project requires the cooperation of all for its accomplishment. The divine *Nizam-e-Rabubiyya* requires that the produce should be distributed amongst all according to their needs. Those who possess greater capability generally do not adhere to this system, thinking that according to this arrangement all will be equal and they, therefore, take more than the others.' See: Ghulam Ahmed Parwez, *Exposition of the Holy Qur'ān*, trans. by Habib-ur-Rehman Khan (Lahore: Tolu-e-Islam, 2010), pp. 374-375.

[88] *Al-Jalālayn* was first by composed by Jalāl al-Dīn al-Maḥallī in 1459 and then completed after his death by Jalāl ad-Dīn al-Suyūṭī in 1505, hence its title, referring to the two Jalals.

[89] Maḥallī and Suyūṭī, *Jalālayn*, p. 287.

Unlike modern commentaries, in which the verse is read as a denunciation and censure of the mistreatment of slaves, the *Jalālayn*'s commentary justifies the designations that have been allocated to various peoples, including masters and slaves. As such, 'some of you are poor, some are rich, some owners, others are owned' as 'God has favoured some of you above others'. Furthermore, the *Jalālayn* links the verse to a dismissal of polytheism in lieu of a call to improve the lot of the slave. Moreover, the commentary utilises the slave owners' relationship with his slave and compares it to Allah's relationship with creation which clearly serves as an indication that slavery was not read as any sort of aberration to the divine will. Rather, the hierarchical structure between master and slave is read as an analogy to establish the supremacy of Allah and his lordship over his dominion.

In a similar fashion to the *Jalālayn*, Ṭabarī (d. 923), notes that this verse has been read as a refutation to those who claim that Jesus is the son of God, clarifying that God would not share his dominion with his creation, in the same way that slave-owners do not share their wealth with their slaves.[90] Bayḍāwī (d. 1286) also reads the verse as a justification for the hierarchy found within society. He claims that the verse explains that some have been favoured by God over others, and 'from them are the rich and others are poor. Some are masters who are entrusted with wealth, while others have the lot of the slave and have nothing'.[91] The fact that social divisions are read as divinely mandated rather than socially dictated also perhaps indicates the lack of discussion within commentaries regarding changing the hierarchical structures that are described. Ultimately however, Bayḍāwī reads the verse in a similar manner to Ṭabarī and the *Jalālayn*. His analysis concludes that the verse is 'a refutation of polytheists, as they associate partners with God from his creation, yet they do not permit any association between them and their slaves in regard to the wealth that Allah has bestowed upon them'.[92]

In his commentary regarding this verse, Ibn Kathīr (d.1373) narrates a tradition attributed to Ibn Abbās, in which he states, 'God is saying: If they do not want their servant to share their wealth and wives, how can my servant share my sovereignty'.[93] Ibn Kathīr echoes the line of

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[90] Abū Jaʿfar Muḥammad b. Jarīr al-Ṭabarī, *Tafsīr Al-Ṭabarī: Jāmi' al-Bayān an' Ta'wīl ay il-Qur'ān*, 12 vols (Beirut: Dar al-Kutub al-'Ilmiyah, 1997), vol. 4, p. 537.

[91] Nāṣir al-Dīn Abū al-Khayr 'Abdullāh ibn 'Umar al-Bayḍāwī, *Anwār al-Tanzīl wa Asrār al-Ta'wīl*, 5 vols (Beirut: Dar Ihya al-Turath al-Arabi, 1997), vol. 3, p. 233.

[92] Ibid, p. 234.

[93] Abū al-Fidāʾ Ismāʿīl Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm* (Beirut: Dar Ibn Hazm, 1974), p. 1069.

argument presented by the other exegetes by linking the verse to a refutation of polytheism. However, he follows this with another narration attributed to Ḥasan al-Baṣrī,

> Umar ibn Al-Khaṭṭāb wrote this letter to Abū Mūsā Al-Ash`arī: Be content with your provision in this world, for the Most Merciful has honoured some of His servants over others in terms of provision as a test of both. The one who has been given plenty is being tested to see if he will give thanks to Allah and fulfil the duties which are his by virtue of his wealth.[94]

The second narration consists of a letter attributed to the second Caliph 'Umar ibn Al-Khaṭṭāb, and through the use of the contents, Ibn Kathīr attempts to justify a hierarchical world-view in which slavery is part of the natural order of the world. The idea advances the claim that the rich and poor are equally being tested to see if they will 'fulfil their duties by virtue of the wealth' given to them, and in lieu of necessarily attempting to change these conditions, the truly devout should 'be content in [their] provisions'. It would follow then that the state of slavery should be considered a test from Allah, and a slave should accept the situation he finds himself in, as 'the Most Merciful has honoured some of His servants over others in terms of provision as a test of both'.

What can be seen within the commentaries is the establishment of a hierarchical worldview or what might be described as an 'idealized cosmology' of hierarchy.[95] That is, a conceptualisation of a world in which imbalanced power structures such as slavery are not simply tolerated; moreover, they are viewed more broadly as part of a divine order. Within the works, the difference between master and slave is constantly utilised as a mirror to explicate the unequal power dynamic between Allah and his creation. The fact that the power imbalance between master and slave may be illegitimate or exploitative is never addressed or considered; rather, the focus within these works emphasise compliance with the order of society, as they consider it divine providence that 'some of you have been favoured over others'.

Another interesting case that demonstrates classical views regarding slavery can be seen with the commentaries on the verse Q16:75. The verse reads,

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[94] Ibid.

[95] I use the term in the sense defined by Ayesha Chaudhry: 'Idealized cosmologies are visions of the universe as it would exist if all humans submitted entirely to God's laws. It is the world as God intended it, as it should be, unpolluted by mundane realities'. See: Ayesha S Chaudhry, *Domestic Violence in the Islamic Tradition: Ethics, Law and the Muslim Discourse on Gender* (Oxford: Oxford University Press, 2013) p. 11.

> Allah sets forth the Parable (of two men: one) a slave under the dominion of another; He has no power of any sort; and (the other) a man on whom We have bestowed goodly favours from Ourselves, and he spends thereof (freely), privately and publicly: are the two equal? (By no means;) praise be to Allah. But most of them understand not.

Regarding this verse, the *Jalālayn* argues that the 'slave under the dominion of another; He has no power of any sort' should be understood as a referent to idols, while the man who spends freely alludes to the difference between idols and Allah. The *Jalālayn* reads the parable as a similitude denouncing polytheism and establishing the power of Allah, 'the first similitude is for the idols, while the second is God, exalted be He. Are they equal? The powerless slaves and the dispensing free men? No. Praise belongs to God alone'.[96] Similarly, Bayḍāwī argues that the verse alludes to the impossibility of comparing a powerless slave to his master, in the manner to which 'it is impossible to draw equivalence between powerless idols to Allah who has no restrictions and has power over all things.'[97]

A far more comprehensive discussion regarding the verse and its implications can be found in Rāzī's commentary. Rāzī also states that the verse deals with the absurdity of idol-worship, as 'it is impossible to make a comparison between [a poor slave and a rich man] ... so how can a rational mind make a comparison between Allah who provides sustenance, and between idols who are unable to do anything'.[98] Rāzī then proceeds to explore differing interpretations of the verse. He argues some have claimed that the distinction between the poor slave and the rich man symbolises the difference between the disbelievers and the Muslims, while others have argued that 'the slave who is owned' referred to a specific slave of 'Uthmān bin 'Affān and 'he who we have provided sustenance to' is specifically referring to 'Uthmān. However, Rāzī concludes that the verse provides a 'general description of every slave and free-man who each possess these characteristics. This is the preponderant view and is in harmony with Allah's intended meaning for this verse'.[99]

Interestingly, however, Rāzī continues the discussion and claims that jurists have understood the verse to advance the argument that slaves are legally unable to own property. He claims that the explicit meaning of the verse indicates that slaves are incapable of possessing power over things, as the inability to own possessions is inherently what constitutes the essence of

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[96] Maḥallī and Suyūṭī, *Jalālayn*, p. 288.
[97] Bayḍāwī, *Anwār al-Tanzīl,* vol. 3, pp. 234-235.
[98] Rāzī, *Al-Tafsīr al-Kabīr*, vol. 20, pp. 85-86.
[99] Ibid. p. 86.

slavery, as well as experiencing humiliation and subjugation (*dhull wa al-maqhūriya*). Rāzī dissects the verse and argues,

> God says there are those to whom We have provided good provision. This second group has been distinguished from the slaves by this description. It is necessary that slaves do not attain this position until they are no longer slaves. Therefore, if a slave owns something, then he has also been granted good provision from God, as legal ownership is good provision regardless of whether it is a little or in abundance… the clear meaning of the verse indicates that a slave is unable to possess wealth.[100]

Therefore, according to Rāzī, the verse clearly distinguishes between 'he who has no power of any sort' and 'he who has been granted good provision'. As such, the two groups cannot intersect and hence Rāzī asserts that in order to preserve the distinction between the groups, slaves are unable to attain the rank of those who have been granted good provision. Consequently, this leads to the argument that slaves are prohibited from owning property of their own. Taking the argument a step further, Rāzī cites a position from Ibn 'Abbās that claims slaves equally do not own the power of divorce (*lā yamliku ṭalāq aydan*); however, he concludes that the majority of jurists contend that owning the right of divorce is not linked with the ability to own wealth or property, as divorce is not intrinsically linked with wealth.[101]

Rāzī's discussion of this verse provides a useful insight into how slavery was understood by classical exegetes. Rāzī's definition of the essence of slavery constituting subjugation, humiliation and an inability to own possessions demonstrates an acceptance that being enslaved was an obsequious experience. His definition also highlights the extent to which slaves were viewed as commodities as opposed to human beings. Indeed, the fact that Rāzī appears far more concerned with remaining faithful to the taxonomies and classifications found within the Qur'ān, in lieu of displaying any empathy or taking issue with the plight of an enslaved human being, reveals the extent to which slavery appears to have been normalised and accepted within religious discourse.

Furthermore, the commentaries of the verse Q39:29 provide a particularly useful insight into the conceptualisation of the master-slave relationship within the classical period. The verse reads:

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[100] Ibid, pp. 86-87.
[101] Ibid, p. 87.

> Allah puts forth a Parable— a man belonging to many partners at variance with each other, and a man belonging entirely to one master: are those two equal in comparison? Praise be to Allah! But most of them have no knowledge.

The majority of commentators read the verse as a condemnation of polytheism, and an appraisal of the coherence and stability of monotheism. For example, Qurṭubī (d. 1273) argues that 'a man belonging to many partners' is an analogy referring to those who worship numerous Gods, and 'a man belonging to one master' refers to he who worships Allah alone'.[102] Similarly, the *Jalālayn* posits,

> The slave of many masters is not the same as the slave of a single person. For in the case of the former, if all of his masters were to demand his service simultaneously, he would be confused as to whom of them he should serve — which is the similitude of the idolater; the latter is the similitude of the one who believes in the One God.[103]

Ibn Kathīr equally interprets the verse as a deprecation of polytheism, claiming 'are the two equal in comparison? They cannot be compared. By the same token, the idolator who worships other gods besides Allah, and the sincere believer who worships none besides Allah are not equal. What comparison can be made between them?'. He proceeds to cite an opinion attributed to Ibn 'Abbās and Mujāhid in which it is said 'this verse is the parable of the idolator and the sincere believer.'[104]

Within the commentaries, the underlying premise asserts that serving more than one master faithfully is impossible, and this is understood metaphorically as a dismissal of polytheism. What is striking within the exegesis regarding this verse is the fact that none of the commentators take issue with the fact that a slave may have conflict between serving a slave-master and serving Allah. Considering that polytheism is often cited as the only unforgivable sin within Islam, it might be expected that classical exegetes may have struggled with the idea that a slave could have another master other than Allah. However, the fact that slavery necessitates being held accountable to other than God is not queried or problematised; rather, the discussion is conspicuously overlooked within the discourses regarding the meaning of the verse.[105]

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[102] Abū 'Abdullāh al-Qurṭubī, *Al-Jāmi' li-Aḥkām al-Qur'ān,* 24 vols (Beirut: al-Risalah Publishers, 1995) vol. 18, p. 274.

[103] Maḥallī and Suyūṭī, *Jalālayn*, p. 540.

[104] Ibn Kathīr, *Tafsīr al-Qurʾān,* pp. 1619-1620.

[105] Due to this apparent contradiction, modern readings of the same verse have attempted to utilise the text as a critique of the institution of slavery in of itself. Ghulam Parvez, as one example, argues that the message of the

Furthermore, there are numerous examples that highlight the fact that slaves were deemed to be commodities that were free to be bought and sold. Perhaps the clearest example of such can be seen with Qurṭubī's discussion of the verse Q2:178. Qurṭubī discusses the positions regarding the amount of blood money that should be paid for homicide, along with a debate of whether a free man should be considered liable for retribution (*qiṣāṣ*) for killing a slave. He states,

> The majority position amongst scholars is that a free man is not killed in retaliation for the murder of a slave due to the distinctions stated in the verse... Furthermore, there exists a consensus that if someone kills a slave accidentally, he only repays the price of that slave. As slaves do not resemble the free in cases of accidental murder, the same is true of intentional homicide. Moreover, a slave is a commodity (*fa inna al-'abd sila*) who is bought and sold and can be disposed of by a free person as per their wishes; therefore, there is no equality between them *(wa lā musāwah baynahu wa bayna al-ḥurr wa lā muqāwama)*.[106]

Qurṭubī does cite a minority position that is attributed to Abū Ḥanīfa, Ibrāhīm al-Nakha'ī and al-Thawrī among others, that claims a free man should be killed if he has murdered a slave. The minority position contends that the blood of a slave has the same inviolability as that of a free man (*mutasāwiyān fī al-ḥurma*), and the murder of a slave can be satisfied by retaliation.[107] However, the majority position amongst scholars affirms that a slave can be killed by a free person without any retaliation, which appears to highlight that slaves were deemed primarily as property who could be 'bought and sold and disposed of by a free person' as 'there is no equality between them'.

To conclude, the classical views explored demonstrate that slavery was normalised and accepted amongst exegetes and scholars. The fact that a human being could be legally owned, bought and sold by another was viewed as a legitimate mode of transaction. The hierarchical structure between master and slave was occasionally used as a metaphor to describe Allah's

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verse asserts that one can either be bound to slave-masters, or follow Allah and his message. See: Parwez, *Exposition of the Holy Qur'ān,* pp. 767-768.

[106] Qurṭubī, *Al-Jāmi' li-Aḥkām al-Qur'ān,* vol. 3, p. 68. Interestingly, the debate concludes that murder of a woman by a man can licit retaliation; however, if a Muslim was to murder a non-Muslim, then as per the slave, no retribution would be warranted.

[107] Ibid., pp. 67-68.

relationship with his creation, and it can be asserted that slavery was not viewed as an aberration of the divine will, nor a problem that needed to be solved. [108]

The fact that a slave was obedient to a master other than Allah was not discussed as *shirk* or a form of polytheism, as the hierarchical structure was interpreted to be sanctioned by scripture and decreed by God. Indeed, particular Ḥadīth were cited to argue that for a slave to be rewarded by God, he must show obedience to his master. For example, a Ḥadīth narrated by Abū Mūsā states, 'the Prophet said, the slave who worships his Lord in a perfect manner, and is dutiful, sincere and obedient to his master, will get a double reward.'[109] This, in turn, expatiated an outlook in which slaves were religiously bound to their masters, and helped further cement a hierarchical paradigm in which slave-masters held divinely mandated authority over their slaves.

1.4 Ham's Curse, the Mother of Ishmael and Solomon's Concubines: Slavery in the *Qaṣaṣ al-'Anbiyā'*

The *Qaṣaṣ al-'Anbiyā'* literature is a genre of exegesis that includes tales and legends concerning the Prophets mentioned in the Qur'ān.[110] The *Qaṣaṣ* literature can be found throughout exegetical and historiographical works, and the literature became popular to the extent that a specific genre devoted to the lives of Prophets was developed and cultivated.[111] The impact of the *Qaṣaṣ* literature should not be underestimated in regard to its theological and legal influence. As Stowasser demonstrates, interpretations of the lives of the Prophets were often viewed as instructive lessons through which morality could be derived and established.[112] As such, the *Qaṣaṣ* literature that addresses the issue of slavery deserves exploration.

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[108] Interestingly, Chaudhry cites a similar occurrence in terms of the language used to describe the relationship between husbands and wives amongst classical exegetes. She states 'The *qiwāma* of husbands over wives was often discussed using the same language that exegetes used to describe the lordship of God over humans. Prophetic reports used by pre-colonial exegetes to support husbands' lordship over their wives effectively turned husbands into shadow deities'. See: Chaudhry, *Domestic Violence in the Islamic Tradition*, pp. 40-41.

[109] Al-Bukhārī, 'Ṣaḥīḥ al-Bukhārī', Ḥadīth no: 2551.

[110] Jan Pauliny, 'Some Remarks on the Qisas al-Anbiya works in Arabic Literature', in *The Qur'an: Formative Interpretation,* ed. by Andrew Rippin (Aldershot: Ashgate, 1999), 313-326 (p. 313).

[111] Roberto Tottoli, *Biblical Prophets in the Qur'an and Muslim Literature* (Surrey: Curzon Press, 2002), p. 138.

[112] Barbara Stowasser, *Women in the Qu'ran: Traditions and Interpretations* (Oxford: Oxford University Press, 1994), especially Chapter 4: 'The Chapter of Zulaykha' pp. 50-56. The construction of women as temptresses that needed to be guarded against was often established through the use of the Yūsuf and Zulaykha narrative. Also see: Khalil 'Athamina, 'Al-Qasas: Its Emergence, Religious Origin and Its Socio-Political Impact on Early Muslim Society', *Studia Islamica*, 76 (1992), 53-74 <doi:10.2307/1595660>.

One of the clearest examples of the *Qaṣaṣ* literature broaching the issue of slavery can be found with the story of Noah and the Hamitic malediction. The Biblical rendition of this parable appears to have been central to anti-black racism throughout the transatlantic context.[113] The Muslim account differs slightly from the Biblical narration, but the consistent message found within both versions remains that the descendants of Ham were cursed to be 'black and enslaved to their brethren' by Noah.

The story of Noah's ark can be located throughout the Qur'ān; however, there are no references to the curse of Ham within the scripture.[114] Narrations of the Hamitic narrative within Islamic literature generally derive from and cite Genesis 9:20-25. The Biblical account reads:

> Noah, a man of the soil, proceeded to plant a vineyard. When he drank some of its wine, he became drunk and lay uncovered inside his tent. Ham, the father of Canaan, saw his father naked and told his two brothers outside. But Seth and Japheth took a garment and laid it across their shoulders; then they walked in backward and covered their father's naked body. Their faces were turned the other way so that they would not see their father naked. When Noah awoke from his wine and found out what his youngest son had done to him, he said, "Cursed be Canaan! The lowest of slaves will he be to his brothers.[115]

The Biblical story has generally been understood to have developed as a justification for the Israelites domination over the Canaanites.[116] This perhaps accounts for the strange invocation against Canaan, the son of Ham, instead of Ham himself. Furthermore, there exists no clear reference to blackness within the actual text of the Bible, and the origins of the anti-black aspect of the curse has caused disagreement amongst scholars.

Goldenberg, in his study of the curse of Ham in Abrahamic religious discourse, claims that the addition of blackness to the curse of slavery 'begins to appear in 7th century Islamic texts. This exegetical innovation coincides with the seventh century Muslim conquests in Africa, which

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[113] See: David Whitford, *The Curse of Ham in the Early Modern Era: The Bible and Justification for Slavery* (Farnham: Ashgate, 2009). Also see: Davis, *Slavery and Human Progress*, p. 83.

[114] The only mention of an 'unnamed son' of Noah in the Qur'ān can be found in Q11:40-46. The unnamed son refuses to board the Ark with Noah, and Noah pleads with God to pardon his son. God replies 'O Noah! he is not of thy family: for his conduct is unrighteous'. Al-Qurṭubī suggests the 'unnamed son' that the Qur'ān refers to in this verse may in fact be the 'Can'ān' mentioned in the Bible. This is somewhat strange considering Canaan is generally considered to be the grandson of Noah. See: al-Qurṭubī, *Al-Jāmi'*, vol. 11, p. 122. He also states that another view claims the fourth son may have been called Yām. Interestingly, Razi discusses whether the fourth 'son' of Noah is his biological son or whether the term 'ibn' is simply a sobriquet, as some argue that a biological son of an infallible prophet cannot be a disbeliever. See: al-Rāzī, *Al-Tafsīr al-Kabīr,* vol. 17, p. 240.

[115] 'Genesis 9:20-25 New International Version', *Bible.com* <https://www.bible.com/bible/111/GEN.9.20-25.NIV> [accessed 13 February 2019].

[116] David M. Goldenberg, *The Curse of Ham: Race and Slavery in Early Judaism, Christianity and Islam* (Princeton: Princeton University Press, 2003), p. 98.

brought an increasing influx of black African slaves to the Near East.'[117] A similar argument is elected by Firestone who argues that there is no association between blackness and slavery on the Rabbinic and Biblical levels, and the association 'would come only later with the Islamic and then later Christian interpretive layers, when the curse of slavery and blackness are joined together in order to provide authoritative justification for enslaving Africans under Muslim and Christian slavers'.[118]

El-Hamel, however, highlights that Talmudic exegesis dating back to 500 A.D. clearly cites blackness as part of the curse. Furthermore, he also argues the term Ham in Hebrew carries connotations of blackness, whether it is explicitly referenced within the passage or not. El-Hamel states that 'the Hamitic curse can be found in early Judaic literature (predating Islam) and clearly brings race, that is, blackness, to the forefront as the punishment levied on Ham's descendants.'[119]

Accounts of Ham's curse within Islamic literature run concurrent to the Biblical account; however, there are notable differences. Specifically, no readings of the story within Islamic accounts cite Noah's drunkenness as the reason for his laying naked upon the ark. This omission would be expected in light of conceptions of Prophets and their infallibility ('*Iṣmah al-Anbiyā'*), and the conflict Noah's drunkenness would create theologically. Interestingly, the two dominant accounts within Islamic literature attribute the cause of the curse to either Ham viewing his father naked, or Ham having sex upon the ark.[120]

For example, Ṭabarī, in his seminal *Tārīkh al-Rusul wa al-Mulūk* (*History of the Prophets and Kings*) narrates that Ham was cursed due to initiating intercourse on the ark, though it had been forbidden. The tradition reads, 'Ham had sex with his wife in the ark, so Noah prayed that his

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[117] Ibid., p. 197.

[118] Reuven Firestone, 'Early Islamic Exegesis on the So-Called 'Hamitic Myth'', in *Adaptations and Innovations: Studies on the Interaction between Jewish and Islamic Thought and Literature from the Early Middle Ages to the Late Twentieth Century, Dedicated to Professor Joel L. Kraemer*, ed. by. Y. Tzvi Langermann and Josef Stern (Leuven: Peeters, 2007), pp. 51-68 (p. 53).

[119] El-Hamel, *Black Morocco,* pp. 64-65.

[120] Both of these accounts can also be found within Biblical exegesis, along with a number of others. These include Ham attempting to castrate Noah, paternal incestuous rape, and maternal incestuous rape. See: John Sietze Bergsma and Scott Walker Hahn, 'Noah's Nakedness and the Curse on Canaan (GEN 9:20-27)', *Journal of Biblical Literature*, 124. 1 (2005), 25-40.

seed be altered, and he produced the Blacks'.[121] Similarly, Ibn Kathīr also cites Ham having intercourse on the ark, but equally references viewing his father naked. He states,

> It is stated that Ham had intercourse with his wife upon the ark and Noah prayed to God to disfigure his disposition and seed. Therefore, he had a son who was black, and he was Canaan b. Ham, the ancestor of the Blacks. It is also stated that he saw his father sleeping and his private parts were exposed, and he did not cover them, but his brothers did. Due to this, [Ham] was cursed so that his seed was changed and his progeny would be slaves to their cousins.[122]

Generally, narrators appear to give preponderance to the narrative in which Ham is cursed due to seeing his fathers' genitals. Ibn al-Athīr (d. 1233), in his *Al-Kāmil fī al-Tārīkh (The Complete [book] of History]* narrates,

> The Blacks (*al-Sūdān*) are from the lineage of Ham, because Noah was asleep with his private parts exposed, and Ham saw this and did not cover them. Then, Shem and Japheth saw this and threw a covering over their father. When Noah awoke, he learnt what Ham and his brothers had done, and he cursed Ham.[123]

A similar rendition of the story is provided within the *Tārīkh* of al-Ya'qūbī (d. 898). However, al-Ya'qūbī emphasises Ham's laughter at his father's genitals as the primary cause of the curse. Unlike Ibn al-Athīr, al-Ya'qūbī also alleges that the curse was not invoked against Ham, but Canaan instead. Al-Ya'qūbī narrates,

> Verily, Noah was sleeping during the day and his robe was not covering him. His son Ham saw his genitals and laughed. His brothers Shem and Japheth were informed about this and they took a covering to place on top of Noah. With their faces turned away from him, they threw the covering over him. When Noah awoke from his sleep and became aware of the news, he cursed Canaan the son of Ham, and he did not curse Ham.[124]

Perhaps one of the most detailed renditions of the tale can be found within the *Qiṣaṣ al-Anbiyā'* of al-Kisā'ī. As with al-Ya'qūbī, al-Kisā'ī emphasises that Ham laughed at his fathers' genitals, which becomes the motivating factor for the curse. Al-Kisā'ī states,

> It is stated that one day Noah approached his son and said, 'I have not had the pleasure of sleep since boarding the ark, and I would like to sleep until I am satisfied'. Noah placed his head on the lap of his son, Shem, and fell asleep. Then, a strong wind blew and

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[121] Abū Jaʻfar Muḥammad b. Jarīr al-Ṭabarī, *The History of al-Ṭabarī (Taʼrīkh al-Rusul waʼl-Mulūk)*, trans. by William Brinner, 40 vols (Albany: State University of New York Press, 1989), vol. 1, p. 196.

[122] Abū al-Fidāʼ Ismāʻīl Ibn Kathīr, *Qiṣaṣ al-Anbiyā'*, ed. by Mustapha Abdul Wahid (Mecca: Maktaba al-Talib Al-Jamiʼi, 1988), pp. 110.

[123] ʻIzz al-Dīn Abū al-Ḥasan ʻAlī ibn al-Athīr, *Al-Kāmil fī al-Tārīkh*, ed. by Abdullah al-Qādī, 11 vols (Beirut: Dar ul-Kutub al-Ilmiyyah, 1987), vol. 1, p. 61.

[124] Aḥmad ibn Abī Yaʼqūb ibn Jaʼfar al-Yaʼqūbī, *Tārīkh al-Yaʼqūbī,* 2 vols (Leiden: Brill, 1969) vol. 1, p. 12-13.

uncovered Noah's genitals. Ham began to bellow with laughter, whereas Sam covered him up. When Noah awoke, he asked, 'what was the laughter?' Shem informed him of what had taken place and Noah became angry with Ham. 'You laugh at the genitals of your father?' Noah exclaimed, 'May God alter your complexion and blacken your face'. And at that moment, Ham's face became black. Noah turned to Shem and said, 'you protected your father's privacy, may God protect you in this world and show mercy on you in the next. From your lineage, may God bestow you Prophets and nobility. From the lineage of Ham, may there be slaves and slave-girls until the day of resurrection. From Japheth's lineage, may he bestow tyrants, kings and rulers.[125]

Throughout the various narrations, Ham is consistently described as the antagonist of the tale, while Shem is lauded as the protagonist. Within much of this literature, Shem is extolled as the honourable son who protects his father's honour. On numerous instances, Shem and his progeny are praised as the rightful heirs to Noah's legacy.[126] Descriptions of Japheth are more ambiguous in this respect. While al-Ya'qūbī places Japheth alongside Shem in his narration, al-Kisā'ī omits Japheth from the curse story entirely. The most interesting, and rare, account of the story can be found in al-Mas'ūdī's (d. 956) *Akhbār al-Zamān* (*History of Time*) in which he claims that the curse was invoked upon both Ham and Japheth. Al-Mas'ūdī states,

> Noah was asleep and his private parts were uncovered. Ham saw this and did not cover his father but instead began to laugh. Japheth remained silent and did not rebuke him. Shem shouted at both of them. Noah learnt of this and cursed Ham so that his progeny would be black, disfigured and slaves to the children of Shem. And he cursed Japheth that his progeny would become slaves to the children of Shem, and they would be the most wicked of people.[127]

In this fascinating account, the children of both Ham and Japheth are both cursed by Noah to be slaves to the children of Shem. While this version of the story appears to differ significantly from the Biblical account as well as other narrations, the inclusion of Japheth within the remit of the curse follows a particular logic. The practice of slavery in the Islamicate world was generally not linked to any specific peoples or colour. While the curse of Ham appears to highlight the enslavement of black peoples, it does not explain the enslavement of other groups. Therefore, the amendment to the story may have been al-Mas'ūdī's attempt to explain the existence of non-black slaves within Muslim contexts.

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[125] Al-Kisā'ī, *Qiṣaṣ al-Anbiyā'*, pp. 98-99.

[126] Abū al-Ḥasan ʿAlī ibn al-Ḥusayn al-Mas'ūdī, *Akhbār al-Zamān* (Cairo: Abdul Hāmid Ahmad Hanafi, 1938), p. 83. Also see: Al-Mas'ūdī, *Murūj al-Dhahab wa Ma'ādin al-Jawāhir*, ed. by Muhammad Abdul Hāmid (Beirut: Dar al-Fikr, 1973), p. 41.

[127] Al-Mas'ūdī, *Akhbār al-Zamān,* p. 83.

Furthermore, while the general connotation of the narrative seeks to frame blackness negatively, such constructions do not encompass the scope in which the story has been interpreted and appropriated. While there are no doubt countless renditions scattered throughout the oral histories of Muslim communities, a remarkable interpretation of Ham's blackness can be located with the Harratin, a North-African peoples that reside across Morocco, Mauritania and Algeria. For the Harratin, the source of their blackness does not represent a curse. Rather, it signifies the divine word of God,

> The Harratin relate that they are the descendants of Noah's second son, Ham, and that once upon a time they used to be white. One day, however, Ham protected his head during a heavy rain-storm by carrying the Koran on top of it. The rain was so heavy that it washed all the characters of the holy book on to Ham's skin; these characters, being sacred, were indelible, and so they turned Ham and his offspring black forever![128]

Additionally, it should be noted that numerous scholars also refuted the linkage between slavery and blackness within the Islamic tradition. Aḥmad Bābā al-Timbuktī (d. 1627) famously rejected the curse as 'inauthentic' in his *Mi'rāj al-Su'ūd* (The Ladder of Ascent), arguing that slavery could not be linked to blackness as 'there is no difference between one race and another'.[129] Ibn Khaldūn (d. 1406) similarly concluded that there was no scriptural justification to validate the story.[130]

Numerous other works equally took aim at the narrative, citing numerous black heroes from Islamic history and arguing that blackness could not be viewed as a curse. A genre described as 'Black Excellence literature' rejected the Curse of Ham narrative and dismissed it completely. For example, Al-Jāḥiẓ's (d. 869) *Fakhr al-Sūdān alā al-Bīḍān* (The Pride of the Blacks) linked blackness with geography and proximity to the Sun. Abū al-Faraj Ibn al-Jawzī (d. 1200) in his *Tanwīr al-Ghabash fī Faḍl al-Sūdān wa al-Ḥabash* (Illuminating the Darkness Regarding the Virtues of the Blacks and the Abyssinians) argued that differences in colour were linked to divine providence. A similar argument was elected by Jalāl al-Dīn al-Suyūṭī (d. 1505) in his *Raf' Sha'n al-Ḥubshān* (Elevating the Status of the Abyssinians) and by Mullah

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[128] Remco Ensel, *Saints and Servants in Southern Morocco* (Leiden: Brill, 1999), p. 34.

[129] Aḥmad Bābā Al-Timbuktī, *Mi'raj al-Su'ud*, trans. by Fatima Harrack and John Hunwick (Rabat: Mohamed V University, 2000), pp. 25-26.

[130] Ibn Khaldūn, *The Muqaddimah: An Introduction to History,* trans. by Franz Rosenthal (Princeton: Princeton University Press, 2005), pp. 169-170.

'Alī Effendī in his *Raf'i ul-Gubus fi Fezayili al-Hubus* (Dispelling the Darkness regarding the Merits of the Abyssinians).[131]

Therefore, generalised statements regarding Islam's perceived negativity towards blackness are problematic. This is not to assert that anti-black sentiment cannot be located within the history of the Islamicate. It is simply to claim that the history of blackness cannot be properly recovered through the exceptional focus on one aspect of it. Such readings lead to unsubstantiated conclusions. For example, David Goldenberg's argues that the curse of Ham was pivotal in the justification of slavery within the Islamicate, as 'in Islamic history, it was not Canaan who was enslaved, but Black Africa.... The same mythic justification was then adopted from Islam by other societies in which the Black became the slave'.[132]

While the curse of Ham was used as a justification for anti-black racism throughout the transatlantic slave-trade, the narrative was simply not deployed in the same manner within the Islamicate world. Indeed, the curse of Ham was seldom invoked by Muslim scholars to justify slavery. Rather, the linkage between slavery and blackness often caused consternation amongst scholarship, as slavery was justified due to disbelief and not blackness within Islamic doctrine. Therefore, non-black unbelievers could legitimately be taken as slaves, while a black Muslim could never be enslaved according to Islamic law, and the curse of Ham appeared to contradict this well-established belief. Statements that insinuate that 'Black Africa' was enslaved by Muslims due to the Hamitic narrative demonstrate the problematic nature of essentialist readings of history. As Jackson correctly highlights, black communities did not constitute a slave-class in the Islamicate and 'there is no evidence to the effect that most blacks were slaves.'[133]

The legitimacy of the curse of Ham was clearly contested within Islamic scholarship; however, the narrative does not constitute the only parable that appears to justify the permissibility of slavery. Interpretations of the story of Abraham and Hagar equally purport an implicit acceptance of slave-ownership. Again, as with Ham's curse, the Qur'ān provides very little in

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[131] For more on the Curse of Ham and its contestation within Islamic scholarship, see: Haroon Bashir, 'Black Excellence and the Curse of Ham: Debating Race and Slavery in the Islamic Tradition' *ReOrient* 5 (2019), pp. 92-116.

[132] David Goldenberg, 'The Curse of Ham: A Case of Rabbinic Racism?', in *Struggles in the Promised Land*, ed. by Jack Salzman & Cornel West (Oxford: Oxford University Press, 1997), pp. 21-52 (pp. 34-35).

[133] Sherman A. Jackson, *Islam and the Blackamerican: Looking toward the Third Resurrection* (Oxford: Oxford University Press, 2005), pp. 104-105.

terms of detail or information regarding Abraham, Sara or Hagar.[134] However, extra-canonical commentaries are replete with stories and narrations regarding Abraham's relationship with his wife Sara, and with 'Hagar, his Egyptian concubine'.[135]

The general narrative regarding Abraham's acquisition of Hagar begins with Abraham's journey through the lands of a tyrannous king while accompanied by his wife Sara. [136] The tyrant king is famed for killing the husbands of beautiful women, and therefore when Abraham and Sara cross his path, Abraham lies to the king and claims Sara is actually his sister.[137] Following this, the king approaches Sara; however, whenever he attempts to touch her, the king is paralysed by God. Sara then prays for the king to be cured from his paralysis, and in return, he allows Sara and Abraham safe passage, as well as bestowing Hagar as a gift to them.[138] An example of the story can be found within Ṭabarī. The narrative reads,

> [The king] called the lowest of his chamberlains and said, 'You did not bring me a human being, you brought me a devil. Take her away and give Hagar to her'. She was taken out and given Hagar and she went away with her. When Abraham saw her coming back, he interrupted his prayer and said, 'What is the matter?' She answered, 'God has protected me from the unbelieving libertine and has given me Hagar.[139]

The central thrust of the story remains the same throughout different narrations; although, some details do vary. All the narrations espouse the idea that Sara gifted a slave-girl named Hagar to Abraham and allowed him to have relations with her as Sara had become old and didn't believe she could conceive children.[140] However, some details differ regarding the status of Hagar prior

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[134] See: Q26:70-77, Q21:58-60, Q2:127, and Q37:101-109.

[135] Stowasser, *Women in the Qu'ran*, p. 43.

[136] Generally referred to as pharaoh (*fir'aun*).

[137] A more humorous account is provided by Knappert. He reports the legend that Abraham tried to smuggle Sara into Egypt in a large suitcase. Unfortunately, the customs officer insisted on opening the heavy luggage, and upon seeing Sara, reported it to the king. Following this, Abraham sat on a sofa and watched as the King made advances on Sara. When the king's hand became shrivelled, Abraham presented himself as a physician and cured the hand for the price of the woman. The king was so impressed the he gave him not only Sara but also the slave girl Hagar. See: Jan Knappert, *Islamic Legends: Histories of the Heroes, Saints and Prophets of Islam* (Leiden: Brill, 1985), pp. 77-78. Note that Knappert openly states that many of his narrations are oral traditions and wouldn't be found in Orthodox books of exegesis. On page 3 of his book he states, 'the tales in this volume do not belong to the official canon or to the Orthodox received collections'.

[138] For differing narrations of the tale: See: Reuven Firestone, *Journeys in the Holy Lands: The Evolution of the Abraham-Ishmael Legends in Islamic Exegesis* (Albany: State University of New York Press, 1990), pp. 40-45.

[139] Ṭabarī, *Ta'rīkh,* vol. 2, p. 64.

[140] According to narrations from Ibn Kathīr, after Hagar had conceived, she became arrogant toward Sara. Due to this, Sara vowed to cut 'three limbs' of Hagar's in anger. Following this, Abraham ordered Hagar to pierce her ears and have herself circumcised. Hagar was the first women to be circumcised, and from her the custom developed. See: Ibn Kathīr, *Qiṣaṣ al-Anbiyā',* p. 196.

to allocation as Sara's slave. For example, Tha'labī (d. 1035) describes Hagar as a slave within his account of the tradition. He writes, 'They say: Hagar was a respectful slave-girl (*jāriya*), and that Sarah gave her to Abraham saying: 'I consider her to be a pure woman, so take her. Perhaps God will grant you a son from her,' for Sarah had grown old without bearing children. So Abraham had intercourse with Hagar and she gave birth to Ishmael'.[141] However, in al-Kisā'i's rendition of the tale, Hagar is described as a princess and daughter of the king. Kisā'i attributes the tradition to Ka'b,

> It was said: The king had a daughter of extreme goodness and beauty named Hagar. He gave her to Sarah. Then Gabriel came to Abraham and gave him the good news that God would provide him with a child through Sarah, from whom would be born many prophets; and through Hagar a son through whom would appear a prophet by the name of Muḥammad, the seal of the prophets. So when Sarah had grown old and had not provided a son, she gave her maidservant Hagar to Abraham. Perhaps God would bestow a son upon him from her. So Abraham had intercourse with her and she became pregnant. When she gave birth to Ishmael, his face shone like the moon with the light of our prophet Muḥammad.[142]

In Kisā'i's unique addition to the story, a direct link is created between the Prophet Muḥammad and Hagar, and it is perhaps for this reason that Kisā'i asserts that Hagar was indeed a princess, in a bid to establish her noble lineage and lofty status prior to her servitude to Sara and Abraham. While at first glance Kisā'i's attribution of aristocracy to Hagar may appear a surreptitious attempt to establish noble lineage for the Prophet Muḥammad, Kisā'i's rendition appears very similar to a legend from the Jewish tradition. Ginzberg relates the following tradition from the Midrashic exegetical lore,

> The king questioned Sarah as to the man in the company of whom she had come to Egypt, and Sarah called Abraham her brother. Pharaoh pledged himself to make Abraham great and powerful, to do for him whatever she wished… In the love he bore Sarah, he wrote out a marriage contract, deeding to her all he owned in the way of gold and silver, and men slaves and women slaves, and the province of Goshen besides, the province occupied in later days by the descendants of Sarah, because it was their property. *Most remarkable of all, he gave her his own daughter Hagar as slave*, for he preferred to see his daughter the servant of Sarah to reigning as mistress in another harem.[143]

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[141] Abū Isḥāq Aḥmad Ibn Muḥammad ibn Ibrāhīm Al-Tha'labī, *'Arā'is al-Majālis fī Qiṣaṣ al-Anbiyā' Or "Lives of the Prophets"*, trans. and annotated by William M. Brinner (Leiden: Brill, 2002), pp. 136-137.

[142] Muḥammad ibn 'Abd Allāh Al-Kisā'i, *Qiṣaṣ al-'Anbiyā' (Tales of the Prophets),* trans. by Wheeler M. Thackston Jr. (Chicago: Great Books of the Islamic World, INC, 1997), p. 142.

[143] Louis Ginzberg, *Legends of the Jews*, 7 vols (Philadelphia: The Jewish Publication Society, 2003), vol. 1, p. 190.

Similar to Kisā'i's rendition of the tale, the legend provided by Ginzberg asserts that Hagar was indeed a princess before being gifted to Sarah as a slave. Considering the strong reliance on Biblical material to help fill the void within the Quranic text regarding the *Qaṣaṣ al-'Anbiyā'*, cross-over between Biblical commentaries and Islamic interpretations can certainly be found within this genre of literature. As such, it may be that Kisā'i's reading of the story diverges from other Muslim commentaries due to his reliance on certain midrashic commentaries that evince a similar narrative.

Overall, the discussions regarding the Abraham narrative raise no issue with the idea that Hagar was given and received as a slave. The fact that Hagar appears to have no recourse when she is initially given to Sarah by the king, and in the second instance when she is gifted to Abraham, or when she is presented as a suitable vessel for Abraham's progeny, demonstrates the normalization of concubinage. Certainly, Abraham was not the only prophet deemed to have practiced concubinage, as al-Kalbī states 'David had 100 women, and Solomon 1000, 300 of which were concubines'.[144]

However, neither the curse of Ham, nor the concubinage of Hagar, nor the exploits of Solomon are found within the Quranic text. The only mention of slavery within the Quranic text within the *Qaṣaṣ al-'Anbiyā'* genre is found with the story of Joseph. The accounts regarding Joseph are perhaps the most fascinating in regard to the issue of slavery and its interpretation. Whereas the characters of Ham and Hagar could both could be described as having secondary roles, Joseph is clearly the protagonist within his story. Therefore, his enslavement is treated in a visibly different manner by commentators who clearly took exception to the idea that a Prophet of God could be enslaved. Regarding Joseph's ordeal, the Qur'ān states Joseph's brothers took him away from his father due to their jealousy and placed him at the bottom of a well.[145]

Following this,

> Then there came a caravan of travellers: they sent their water-carrier (for water) and he let down his bucket (into the well). He said: "Ah there! Good news! Here is a (fine) young man! So they concealed him as a treasure! But Allah knoweth well all that they do! The

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[144] Brannon M Wheeler, *Prophets in the Qur'ān: An Introduction to the Qur'ān and Muslim Exegesis* (London: Continuum, 2002), p. 262.

[145] See Q12 for the story of Joseph. The narrative of Joseph is the only story that is told chronologically and has a complete chapter dedicated to it.

(Brethren) sold him for a miserable price for a few dirhams counted out: in such low estimation did they hold him! [146]

Regarding this episode, Ibn 'Abbās attempts to demonstrate that the sale of Joseph was wholly illegitimate. He states '[Joseph's brothers] went to Mālik [the traveller] and said 'This is our slave who has escaped from us'. Joseph remained quiet because he was afraid they would kill him. Mālik said 'I will buy him from you'. So they sold Joseph to him, and in doing so the price they received was invalid because it is forbidden to sell a free person'.[147] Unlike the narrations regarding Ham and Hagar, Joseph's sale is described as illegitimate. Similarly, Tha'labī's narration attempts to rationalise the enslavement of Joseph, providing a justification for why God allowed the incident to take place. In a fascinating turn, Tha'labī attributes the culpability of Joseph's sale to Abraham. He writes,

> Some say that Joseph was made a slave and was sold by his brothers because when Abraham once returned from his travels to Egypt, the poor of the land and the slaves escorted him, walking barefoot a distance of more than four parsangs out of veneration for him but he failed to dismount for them. Therefore God revealed to him, 'Because you failed to dismount for my servants who were walking beside you barefoot, I shall punish you by letting one of your descendants be sold into this land.[148]

Interestingly, Tha'labī attributes Joseph's capture to the fact that Abraham mistreated slaves, and as such, God allowed Joseph to be enslaved as a punishment for this. The fact that both Tha'labī and Ibn 'Abbās appear to take issue with Joseph's enslavement establishes a divergence with the way other stories regarding slavery were addressed and treated.[149] This is further evidenced by Rāzī's discussion of the verse Q12:23, in which Rāzī probes whether it can be claimed that Joseph was actually enslaved and owned.[150] The notion that Prophet's cannot be slaves is further emphasised within other literature also. For example, in *Ḍaw' al-Ma'ālī*, a commentary on the classical theological tract *Bad' al-Amālī,* it is clearly stated that freedom is a necessary stipulation for Prophethood.[151] This is justified not only due to the fact

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[146] Q12:19-20.

[147] Wheeler, *Prophets in the Qur'ān,* p. 132.

[148] Tha'labī, *'Arā'is al-Majālis*, p. 195.

[149] Interestingly, Ṭabarī also narrates a tradition that appears to castigate the step-brothers of Joseph. He links this to their impure lineage due to their mothers. According to Al-Suddī: One brother began to beat Joseph, and when he asked another brother for help, the other one beat him too. None of them showed mercy towards him, and they beat him until they almost killed him. He began to shout 'O father, O Jacob, if you could only see what the sons of your slave girls are doing to your son'. See: Ṭabarī, *Ta'rīkh*, vol. 1, p. 150.

[150] Rāzī, *Al-Tafsīr al-Kabīr,* vol. 18, pp. 116-117 – In the discussion pertaining to Q12:23, the issue that is probed is whether Joseph refers to 'Azīz as *Rabbi* (my lord), or whether he refers to Allah. Some exegetes took issue with the idea that he was referring to 'Azīz, as they argued it was unbefitting of a Prophet to be a slave.

[151] Nūr al-Dīn 'Alī al-Qārī, *Ḍaw' al-Ma'ālī ala Manẓūmat Bad' al-Amālī* (Beirut: Dar al-Beiruti, 2006), p.83.

that 'slavery is a trace of disbelief', but also as slaves have no power over their own affairs, and therefore cannot hold power over others, as a Prophet would be expected to.

Furthermore, within a commentary on the classical tract of Ḥadīth nomenclature *al-Bayqūniyya*, the Mālikī scholar al-Salāwī (d. 1840) expresses a similar sentiment. When discussing a Ḥadīth in which the Prophet Muḥammad allegedly said 'I would have wanted to die a slave' (*Ahbabtu an amūt wa ana mamlūk*), Salāwī rejects that these were the words of the Prophet and attributes them to the narrator of the Ḥadīth, Abū Hurayra. Salāwī claims it is impermissible to want to be a slave, especially for a Prophet.[152]

It appears that exegetes were far more comfortable with the idea of slavery when it afflicted individuals they had little empathy with. However, when the recipient of enslavement was a Prophet of God, an underlying unease can be detected. Indeed, it is commonly stated that the scholars consider themselves inheritors of the prophets (*al-ʿulamāʾ wārith al-ʿanbiyāʾ*); as a precaution then, they would no doubt hope to avoid inheriting a life of enslavement. In regard to the tale, the Quranic text purports an ambivalence concerning Joseph's sale, without directly affirming nor explicitly condemning it, and this particular parable is the only story in the Qur'ān in which slavery is actually referenced.

To conclude, Quranic commentaries regarding the *Qaṣaṣ al-ʿAnbiyāʾ* are replete with narrations that implicitly, and occasionally explicitly, condone and legitimise slave-ownership. From Ham's malediction, to the gifting of Hagar, to the concubines of Solomon, classical exegetes took no exception to the legitimisation of slavery within these narratives. Indeed, the Prophets of God have been, and continue to be, considered the best exemplars of good conduct and are often described as infallible; as such, it becomes increasingly difficult to criticise slavery without castigating the Prophets.

However, it is also noteworthy to mention, none of these narratives are found within the text of the Qur'ān. Indeed, the characteristics of the Quranic text concerning the *Qaṣaṣ al-ʿAnbiyāʾ* can be described as allusive and fragmentary, with a complete disregard for chronology or supplementary detail. The stories are completely dissimilar from the stories in the Biblical tales in this sense, they serve not to establish a time-line, nor explain the history of a people; rather, the Quranic stories repetitively establish the importance of God-consciousness and good-conduct, as such, the details within the stories are sparse. As a result of the scarcity of

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[152] Aḥmad ibn Muḥammad al-Salāwī, *Sharh Bayqūniyya* (Casablanca: Dar Ibn Hazm, 2010), pp. 226-227.

information within the Qur'ān, exegetes were prompted to refer to extra-canonical traditions in order to provide further information about the lives of previous Prophets. As Tottoli notes,

> The popularity of the traditions and of the legends regarding the Biblical prophets indirectly stimulated the first exegetes to provide answers to all the questions which were passed over by the Qur'ān in relation to this topic. For the exegetes of the first period, therefore, to provide a commentary on the sacred text meant to put forward explanations and stories that were more detailed than the words of the Qur'an in order to reconstruct coherently the events of the pre-Islamic age.[153]

Therefore in order to embellish the stories of previous prophets, extra-canonical traditions can be found that are 'made up of details taken from the Biblical text, while on other occasions they come from Rabbinical literature and Jewish and Christian apocrypha, while in yet others they are absolutely original versions'.[154] The information gleaned from the Biblical material is often described as *Isrā'īliyyāt*.[155] The acceptance of *Isrā'īliyyāt* has historically been a contentious issue, with many commentators critiquing their inclusion within the exegetic lore. An early opponent to the use of the *Isrā'īliyyāt* was the renowned Ibn Taymiyyah. The sceptical approach of Ibn Taymiyyah claimed that the *Isrā'īliyyāt* had often been accepted by exegetes without proper scrutiny and argued that many of these stories should be approached with caution.[156] This critical approach found full fruition in the works of the Egyptian scholar Muhammad Abduh. According to Abduh, Quranic narrative was not to be taken as a historical document and historic incidents mentioned in the Qur'ān were simply presented in a literary style to convey lessons of admonition and exhortation. Abduh argued,

> Historiography is a scientific field of knowledge based on inquiry and critical investigation of the available data such as reports, testimonies, memories, and geographical or material evidences. The Quranic stories, on the other hand, are meant to serve ethical, spiritual, and religious purposes. They might be based on some historical incidents, but the purpose is not to provide knowledge about history.[157]

The scepticism exhibited by Abduh stems from the lack of detail found within the parables in the Qur'ān; names of persons, places and dates are not mentioned in the narratives; in fact when viewed, one would find the majority of the details are omitted from within the text in comparison to previous versions of the stories. This ambiguity was accepted by Islamic

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[153] Tottoli, *Biblical Prophets in the Qur'an,* p. 98.
[154] Ibid., p. 101.
[155] Massimo Campanini, *The Qur'ān: Modern Muslim Interpretations*, (London: Routledge, 2011), p. 73.
[156] Ibid., p. 172.
[157] Nasr Abu-Zayd, 'The Dilemma of the Literary Approach to the Qur'an', *Alif: Journal of Comparative Poets,* 23 (2003) 8-47 (p. 19).

exegetes, however according to Abduh, their fundamental flaw was attempting to clarify these obscurities (*mubhamāt*) with *Isrā'īliyyāt*. Abduh claims that had God wanted the ambiguities explained, he would have provided the stories with details; the obscure passages were purposefully left ambiguous, so as to be read as ethical emblematic stories, and not historical occurrences. [158] In consideration of the issue of slavery, rejection of the extra-canonical material certainly aids an anti-slavery outlook, in so far as, it distances previous Prophets of God from accusations of slavery altogether.

1.5 Freeing the Slave, Enslaving the Free: Interpreting the Legal Content in the Qur'ān

The Qur'ān is the primary source from which Islamic law is derived. Consequently, exegetes assiduously combed through the verses considered legal in nature to extract rulings that could be established as law. The rulings regarding the regulation of slavery within the Qur'ān can approximately be divided into three categories.[159] The first category deals with the emancipation of slaves, the second category treats the enslavement of captives, and the third addresses sexual relations with female captives and concubines.

1.5.1 *Taḥrīr ar-Raqaba* and Emancipation

Within the Quranic text, the freeing of slaves is encouraged within numerous verses. The concept of manumission is consistently described as a laudable deed and an act that is of the most pleasing to God.[160] However, it should be noted that while many modern commentators utilise these types of verses to emphasise a Quranic ethos anticipating an age of abolition, classical interpreters did not necessarily colour these verses with the same hue.[161] For instance, the verse Q90:13 commands believers to 'free the bondman' (*fakku raqaba*).[162] Regarding this, Qurṭubī states that the command specifies freeing captives of war, whereas Ibn Kathīr quotes

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[158] Others who have followed Abduh's methodology include: Ahmad Khalafallah, *Al-Fann al-Qaṣaṣī fī al-Qur'ān al-Karīm* (Cairo: Maktabat al-Nahdah al-Missriyah, 1957); Naguib Mahfouz, *Children of Gebelawi* (London: Heinemann, 1981).

[159] These classifications are general approximations. The verses Q2:178 and Q4:36, for example, do not address emancipation, enslavement or sexual relations. Rather, Q2:178 discusses the positions of slaves in regards to homicide and crime, while Q4:36 encourages believers to show kindness to slaves.

[160] 'Manumission and charity are the most virtuous of deeds, and it is narrated from Abū Ḥanīfa that manumitting [slaves] is preferable to giving charity'. *(al-'itq afḍal min as- ṣadaqa).* Qurṭubī, *Al-Jāmi' li-Aḥkām al-Qur'ān,* vol. 22, p. 302.

[161] The gradualist position proposed by modern reformers will be explored in Chapter 4.

[162] Q90:12-13: 'And what will explain to thee the path that is steep?- (It is:) freeing the bondman;'.

a plethora of traditions in a bid to highlight the virtue of specifically freeing a Muslim slave.[163] Importantly, the verse is not read as a critique of slavery as an institution; rather, it is understood to highlight the benefit accrued by emancipation.

Further to this, Q2:177 and Q9:60 exhort believers to help those in bondage (*al-riqāb*) through the gifting of alms.[164] Commenting on these verses, exegetes were primarily concerned with demarcating the correct recipient of charity. Regarding Q2:177, Ibn Kathīr argues that the verse refers to the *mukātab* slaves who are seeking to free themselves but 'cannot find enough wealth to buy their own freedom (*lā yajidūna mā yu'addūnahū fī kitābatihim*)'.[165] Similarly, regarding Q9:60, Rāzī discusses the various methods the alms may be administered and the most accurate process to ascertain the religiosity of the slave, as the most pious slaves would naturally be the most deserving of freedom. He also questions whether the slave should receive the alms, or whether it should be delivered directly to the master in order to purchase the slave's freedom.[166]

Though many of the classical commentators assert that manumission remains a righteous act, it is important to note that these verses were not considered to be part of any larger movement towards abolition or the extinction of slavery, nor is slavery described as sinful or in any way problematic. Indeed, as can be seen, the focus from commentators appears to coincide more broadly with a legalistic impulse to designate clear taxonomies for the alms. The classifications include the type of slave that should be freed, the religious affiliation of the slave, and whether the master should receive the charity on behalf of his property. These types of queries demonstrate that the commentators were far more concerned with the minutia of the law, in lieu of any broader motivation to necessarily combat or problematise slavery as an institution within Islam.

Comparable trends can be elicited from the commentaries on verses urging believers to free slaves as an expiation for sins. For example, the verses Q58:3 and Q5:89 command believers

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[163] Ibn Kathīr, *Tafsīr al-Qurʾān,* pp. 1997-1998. Interestingly Ibn Kathīr cites numerous Ḥadīth that stress the importance of freeing a Muslim slave (*raqaba muslima/muʾmina*). Take for example the subtle differences between Ḥadīth cited by Qurṭubī and Ibn Kathīr. Qurṭubī cites 'Whosoever frees a slave (*fakku raqaba*), God will free each of his limbs from the fire', whereas Ibn Kathīr cites a slightly amended version 'Whosoever frees a Muslim slave (*man ʿataqa raqaba muʾmina*), God will free each limb from the fire'.

[164] Q2:177: 'spend of your substance out of love for Him, for your kin, for orphans for the needy, for the wayfarer for those who ask, and for the ransom of slaves…' Q9:60: 'Alms are for the poor and the needy, and those employed to administer (the funds); for those whose hearts have been reconciled; for those in bondage…'

[165] Ibn Kathīr, *Tafsīr al-Qurʾān,* pp. 231-232.

[166] Rāzī, *Al-Tafsīr al-Kabīr*, vol. 16, p. 114.

to free slaves as a recompense for *ẓihār* (a form of divorce) and breaking an oath.[167] Similarly, commentators assess the category of slave the verse addresses, and whether emancipating a slave is preferable to other acts, such as feeding the poor.[168] Another example can be seen with the verse Q4:92 in which God commands believers to free a believing slave as an expiation for accidental homicide.[169] Rāzī's discussion of this verse demonstrates quite lucidly that the anti-slavery potential within these verses was somewhat overlooked within the classical tradition. After traversing the various conflicting narrations ascertained from the context of revelation literature (*asbāb un-nuzūl*), Rāzī commences an analysis of various classifications of murder and the correct amount of blood money owed for each taxonomy.

The emphasis within his commentary remains far more focused on attributing the correct amount of value for the murder that has taken place, in lieu of the implication this verse has for slavery and emancipation. Indeed, when the emancipation of slaves is discussed, it is raised in the context that the verse specifies that a 'believing slave' must be freed. As such, Rāzī cites the position of Ibn 'Abbās that states 'the slave is not freed unless he fasts and prays'. Furthermore, he explores the juristic stance on emancipating child slaves as a child's faith is difficult to ascertain due to their lack of obligation to pray or fast. Accordingly, Ibn 'Abbās' position concludes that child slaves cannot be freed, whereas Shāfi'ī, Mālik and Abū Ḥanīfa argue that 'a child is freed if one of his parents were Muslim'.[170]

However, the command that engendered the most discussion, and reveals most clearly the competing trends regarding emancipatory discourse amongst Quranic exegetes, was Q24:33.[171]

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[167] Q58:3 states 'But those who divorce their wives by *ẓihār*, then wish to go back on the words they uttered— (it is ordained that such a one) should free a slave before they touch each other'. Q5:89 – 'Allah will not call you to account for what is futile in your oaths, but He will call you to account for your deliberate oaths: for expiation, feed ten indigent persons, on a scale of the average for the food of your families; or clothe them; or give a slave his freedom.'

[168] Ibn Kathīr states 'feeding the poor is easier than clothing them, and clothing the poor is easier than granting a slave freedom,' See: Ibn Kathīr, *Tafsīr al-Qurʾān,* p. 647.

[169] The verse states, 'Never should a believer kill a believer; but (If it so happens) by mistake, (Compensation is due): If one (so) kills a believer, it is ordained that he should free a believing slave, and pay compensation to the deceased's family, unless they remit it freely. If the deceased belonged to a people at war with you, and he was a believer, the freeing of a believing slave (Is enough). If he belonged to a people with whom ye have treaty of Mutual alliance, compensation should be paid to his family, and a believing slave be freed.'

[170] Rāzī, *Al-Tafsīr al-Kabīr,* vol. 10, p. 237.

[171] It is argued that the concept of *kitāba* contract within Islamic law was developed from this verse. Interestingly, Crone argues that this verse has no link to emancipation, and interprets the command as referring to marriage contracts. Taking from the Hebrew term for marriage contracts (*ketubah*), she argues that the entirety of *Sūrah Nūr* addresses sexuality and marriage, and therefore, Crone finds marriage contracts as a more plausible reading than emancipation contracts. Furthermore, she suggests that the scholars of the Sunnī, Shī'a

It reads '*And if any of your slaves ask for a deed in writing, give them such a deed (fa-kātibūhum) if ye know any khayr in them*'.[172] Two aspects of the verse provoked contention and disagreement. The first centred on whether the command to grant a contract was an obligation or simply a recommendation, while the second was linked to the term *khayr* and its polysemic potential.

Regarding the nature of the command, groups of scholars argued that it was obligatory (*wājib*) to write out a freedom contract for every slave that requested it. This position, held by 'Aṭā' ibn Abī Rabāḥ, 'Umar bin Dīnār and proponents of the Ẓāhirī school, claimed that it was obligatory for a master to bequeath his slave a freedom contract based on the context of revelation for the verse. It was argued that the verse was revealed when the slave of Huwaytib ibn 'Abd al-'Uzza, named Subayh, requested an emancipation contract from his master. Huwaytib refused his request, and the verse was subsequently revealed. Following this, Huwaytib agreed to free him for 100 dinars, and even offered him 20 dinars as a gift.[173]

Furthermore, a tradition regarding 'Umar ibn Al-Khaṭṭāb and Anas ibn Mālik lent further proof to this argument. Anas owned a slave named Sīrīn, who requested a freedom contract, and Anas refused. The news reached 'Umar who ordered Anas to grant the contract, and again Anas refused. Following this, 'Umar whipped Anas and recited the verse, and Anas finally granted the contract. As Rāzī notes, 'if the command [from the verse] had not been an obligation, then surely whipping Anas would have been a grave injustice'.[174]

However, the majority position remained that the verse was simply a recommendation. As Qurṭubī notes, if a slave requests a freedom contract, then it is recommended to grant it (*al-mustaḥab*), as the major scholars of the past have stated it is not obligatory.[175] The reasoning underpinning this position is based on a tradition attributed to Prophet Muḥammad which states 'the property of a Muslim is unlawful unless it is willingly given', which leads to the conclusion that a master cannot be obligated to part with his property lest he consciously allows it.

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and Khārijite traditions simply 'had forgotten the original meaning of *kitāba* in the verse'. See: Patricia Crone, 'Two Legal Problems Bearing on the Early History of the Qur'ān', *Jerusalem Studies in Arabic and Islam,* 18 (1994), 3-20.

[172] I have intentionally not translated the term *khayr* in this verse due to its numerous contested meanings.

[173] Alī ibn Aḥmad al-Wāḥidī, *Asbāb al-Nuzūl* (Amman: Royal Aal al-Bayt Institute for Islamic Thought, 2008), p. 119.

[174] Rāzī, *Al-Tafsīr al-Kabīr,* vol. 23, p. 218.

[175] Qurṭubī, *Al-Jāmi' li-Aḥkām al-Qur'ān,* vol. 15, pp. 235-237.

Disagreements equally continued regarding how the second aspect of the verse was to be understood. The verse states that the contract should be given 'if you know any *khayr* in them'. For the likes of 'Aṭā', and those who argued that the verse was obligatory, *khayr* referred to wealth. 'Aṭā' cited the verse Q2:180 in which the Qur'ān states '*when death approaches any of you and he leaves behind wealth (khayr)*' to prove that the dominant meaning of khayr in the Qur'ān clearly refers to wealth.'[176]

When these two aspects of the verse became coupled, this subsequently led to the argument that when a slave has enough wealth to pay for his contract, the master was obliged to grant his freedom.[177] This position no doubt empowered the slave within the master-slave relationship, as it presented the slave with the option to buy his own freedom if and when he had the means to do so. However, there were a number of differing interpretations regarding the meaning of *khayr* that attributed the master far more control over the situation. For example, Ibn Sīrīn interpreted the term as referring to steadfastness in prayer, whereas Nakhā'ī translated *khayr* as loyalty and truthfulness. Ḥasan considered *khayr* to refer to piety, while Shāfi'ī linked it to the ability to earn.[178]

As well as the matters directly linked to the verse in the Qur'ān, a number of subsidiary issues were also provoked when exegetes considered the implications of Q24:33. For example, Qurṭubī explores at length the point a slave can be considered a free-man upon establishing a freedom contract. He argues that the majority of scholars conclude that the slave is considered property until the final dirham of the contract has been paid.[179] However, a minority position attributed to ʿAlī ibn Abī Ṭālib contends that if a portion of the contract has been paid, the slave is considered a free-man who is simply in debt (*idha addā ash-shaṭr fa-hu garīm*).[180] Another issue raised considers the position of child slaves. Shāfi'ī claims that in order to receive a freedom contract a slave must have attained puberty, as the Quranic verse stipulates to bequeath the contract upon those that desire the contract. Shāfi'ī contends that a child is in no position

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[176] Rāzī, *Al-Tafsīr al-Kabīr,* vol. 23, pp. 218- 219.

[177] The question of a slave owning wealth independently of his master does provoke reflection regarding the nature of slavery as understood by the scholars who argued for this position. As discussed in the previous section, some scholars clearly argued slaves could not own wealth or property and this naturally impacted their interpretations of *khayr* in this context.

[178] Rāzī, *Al-Tafsīr al-Kabīr,* vol. 23, p. 219.

[179] Abū Dāwūd Sulaymān ibn al-Ash'ath, *Sunan Abū Dāwūd*, trans. by Nasiruddin al-Khattab, 5 vols (Riyadh: Dārussalām, 2008), vol. 4, book 29, chapter 1, tradition 3926, p. 340. - 'The *mukātib* is a slave so long as there is a Dirham left (to pay) for his contract of manumission.'

[180] Qurṭubī, *Al-Jāmi' li-Aḥkām al-Qur'ān,* vol. 15, p. 243. Another narration from Ali states 'emancipation commences upon the first payment [of the contract]'.

to desire anything of their own accord and therefore should not be granted the contract. Whereas, the position of Abū Ḥanīfa appears slightly more lenient in this respect, as he argues that it is permissible to grant the contract to a child with the consent of a guardian.[181]

Furthermore, Shāfiʿī elects that if the master grants a contract but does not necessarily intend to do so, the contract should be considered invalid (*lam yanwī bi-qalbihi...lam yuʾtaq).* His position pivots on the fact that the freedom contract does not recompense the master in any way, as everything the slave earns ultimately belongs to the master (*mā fī yad al-ʿabd, fa-huwa milk al-sayyad*) and the master does not benefit through being paid by his own property. As such, it is ultimately an act of goodwill that must be truly intended on the part of the slave-owner. On the other hand, Abū Ḥanīfa and Mālik contend that as God did not stipulate any sort of condition in the verse *(fa-kātibūhum khāla ʿan hādha ash-sharṭ),* the contract must be considered legitimate irrespective of the feelings of regret the master may develop upon its instantiation.[182]

The debates regarding the freedom contract reveal the differing trends amongst exegetes when attempting to delineate the rules and regulations pertaining to emancipation within the Qurʾān. Some interpreters clearly empathised with the plight of slaves seeking to earn their freedom and attempted to devise ample opportunities for those who were enslaved to escape bondage. On the other hand, groups of scholars lent preponderance to protecting the interests of the masters and prioritised the masters right to property over the right to freedom for the slave. For example, the position of ʿAṭā' regarding the compulsory nature of the verse Q24:33 certainly belongs in the former category, as it attributes the power of decision making to the slave. Furthermore, ʿAlī's minority position regarding being considered a free debtor on the first payment of the contract equally grants the slave freedom immediately rather than after a protracted time-period. The positions of Abū Ḥanīfa and Mālik that were cited would equally fall into the former category, while Shāfiʿīs positions would certainly tend towards the latter.

To conclude, as the Qurʾān promoted the emancipation of slaves in a number of different verses, freeing slaves was considered a commendable act that earnt merit for the believer. However, as demonstrated, these verses were generally not understood as part of any larger critique of slavery as a system, nor were they considered as a call for the gradual abolition of slavery. Moreover, exegetes tended to be far more concerned with developing a sophisticated

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[181] Rāzī, *Al-Tafsīr al-Kabīr.* vol. 23, p. 218.
[182] Ibid., p. 217.

legal system concerning slavery and emancipation that occasionally demonstrated preference for the rights and interests of slave-owners in lieu of the actual slaves. With that said, anti-slavery sentiments can be recovered from particular readings of the Qur'ān. The contributions of 'Aṭā' and others, appear to reveal a will to facilitate emancipation wherever possible. This demonstrates that even within the classical tradition in which slavery was normalised, groups of Muslim scholars struggled with the idea of bondage, and ultimately attempted to make freedom as accessible as possible.

1.5.2 Taking Captives and *Istarqāq*

Regarding enslavement, there appear to be no clear injunctions that command believers to take slaves. Consequently, most of the exegetical material referencing enslavement can be found in reference to verses that address taking captives during warfare. The two verses that address taking captives are Q8:67 and Q47:4.[183] Interestingly, the conventional terms for slavery are not referenced within these verses. Rather than the terms of *raqaba* or *milk al-yamīn*, within Q8:67 the term *asīr* can be found, while Q47:4 utilises the more elusory *shuddul-wathāq.*

The verse Q8:67 reads *'It is not fitting for an apostle that he should have prisoners of war (yakūna lahū asrā) until he hath thoroughly subdued the land. Ye look for the temporal goods of this world; but Allah looketh to the Hereafter; and Allah is Exalted in might, Wise'.* There appears to be unanimity of opinion that this verse was revealed following the battle of *Badr*. Overlapping traditions are cited from amongst the commentariat that differ on specific details; however, all contend that a disagreement ensued after the battle between Abū Bakr and 'Umar. The argument centred on the treatment of captives, and the verse was revealed after the dispute. Bayḍāwī states,

> The Prophet had 70 captives on the day of *Badr*. From them were Abbās and Aqīl ibn Abī Ṭālib. Abū Bakr said: They are your clan and your family, make them captives, perhaps God may forgive them and we can take from them a ransom that strengthens us against the unbelievers. However, 'Umar argued: Strike at their necks as they are the leaders of

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[183] The verse Q33:26 also references taking captives. However, the reference to captives is not included as a justification for slavery and receives little treatment within classical commentaries. Rather, the focus centres upon the treachery of *Banī Qurayẓa* and Ṣa'd's judgement on the matter. As such, I have not included Q33:26 within this discussion due to the lack of consideration classical exegetes afforded the verse regarding its link to captivity, ransom and slavery. The verse Q33:26 reads: 'And those of the people of the Book who aided them— Allah did take them down from their strongholds and cast terror into their hearts, (so that) some ye slew, and some ye made prisoners (*ta'sirūna farīqan*)'.

disbelief (*a'imat ul-kufr*)…The Prophet and his companions chose to ransom the captives.[184]

Bayḍāwī follows this with a quite extraordinary narration in which 'Umar approaches the Prophet the following day after the verse has been revealed and finds Abū Bakr and the Prophet weeping. 'Umar asks 'O Messenger of Allah, what is it that makes you and your companion weep? If I can cry, I will cry with you, if not I will feign crying!' *(fa-inn ajid bukā', bakaytu, wa illa tabākaytu)'* to which the Prophet replied 'I am crying because your companions took ransom for captives, and their chastisement was closer to them than this tree (and he pointed to a nearby tree).[185] Similarly, Ibn Kathīr narrates that the Prophet Muḥammad asked the companions what should be done with the captives from the battle of *Badr*. 'Umar on separate occasions petitioned that they should be executed, but the Prophet ignored him until Abū Bakr stood up and said, `O Allah's Messenger! I think you should pardon them and set them free in return for ransom.' Thereupon the grief on the face of Allah's Messenger vanished. He pardoned them and accepted ransom for their release'. Following this, 'the Messenger of Allah fixed four hundred dirhams in ransom in the aftermath of *Badr*.'[186]

Following the subsequent ransom and release of the captives, the verse was said to be revealed reprimanding the Prophet for allowing the captives to return to enemy forces and strengthening their ranks. Rāzī interprets the verse as a caution so as not to prolong the war by allowing enemies to return to their forces, as he argues that ransoming prisoners would only lead to greater harm and bloodshed, as enemy combatants would not fear falling into the hands of Muslim forces.[187] Consequently, commentators argue it is preferable to execute prisoners, in lieu of ransoming them. However, it is permissible to ransom prisoners so long as the enemy is not in an advantageous position during the hostilities. Importantly, this verse is interpreted by commentators as a choice between ransoming or executing captives; therefore, Q8:67 was never considered a justification for taking slaves.

The second verse that refers to imprisoning captives within the Quranic text is Q47:4. The verse reads:

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[184] Bayḍāwī, *Anwār al-Tanzīl,* vol. 3, p. 67.
[185] Ibid.
[186] Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm,* p. 854.
[187] Rāzī, *Al-Tafsīr al-Kabīr,* vol. 15, pp. 205-208.

> Therefore, when ye meet the Unbelievers (in fight), smite at their necks; at length, when ye have thoroughly subdued them, bind a bond firmly (*fa-shuddul wathāq*): therefore (is the time for) either mercy or ransom: until the war lays down its burdens.

Regarding this verse, the *Jalālayn* notes,

> Then, when you have made thoroughly decimated them, bind, spare them, take them captive and bind firmly... Thereafter either [set them free] by grace, that is to say, either show them grace by setting them free unconditionally; or by ransom, ransoming them with payment or with Muslim captives, until the war, that is to say, its participants, lay down its burdens, its heavy loads of weaponry and other things, so that either the disbelievers surrender or enter into a treaty.[188]

The *Jalālayn* argues that this verse was revealed after the battle of *Uhud*, and therefore abrogates the verse Q8:67, which was understood to restrict the ransoming of captives. Importantly, the *Jalālayn* follows the literal wording of the verse and claims that captives of war should be either freed through ransom, or through unconditional manumission as a demonstration of grace. Interestingly, Ibn Kathīr elects a similar line of argument, he writes,

> Bind the captives that you have captured. Then after the war has ended, decide their outcome. If you choose to, mercifully free them for nothing, or if you choose to, ransom them with their wealth and fix conditions upon them. This verse was revealed after the events of *Badr*, in which God censured the believers for taking too many captives and extracting ransom from them in lieu of executing their enemies.[189]

Ibn Kathīr also reads Q47:4 as an amendment of the earlier ruling of Q8:67, in which believers are censured for ransoming captives in lieu of executing them. Both the *Jalālayn* and Ibn Kathīr limit the verse to two options, either ransoming captives or freeing them out of grace. However, other commentators expand the options to four. For example, Rāzī argues,

> The fate of the captives is not confined to only two possibilities, rather it is permissible to kill, enslave, confer favor or ransom them. We deem this is an instruction as the command was mentioned in generic terms and subsumes all races. However, it is not permissible to enslave Arabs following captivity as the Prophet never mentioned enslavement despite being in their midst.[190]

Rāzī argues that there are actually four options available to the leader of the Muslims. As well as conferring favour through unconditional freedom, and ransoming the captives, the *Imām* may also execute or enslave those who have been imprisoned. However, what is striking regarding Rāzī's reading of the verse is his subsequent claim that the command does not

[188] Maḥallī and Suyūṭī, *Jalālayn*, p. 594.
[189] Ibn Kathīr, *Tafsīr al-Qurʾān al-ʿAẓīm,* p. 1717.
[190] Rāzī, *Al-Tafsīr al-Kabīr*, vol. 23, p. 44.

encompass the Arabs. Indeed, Rāzī suggests that the Prophet Muḥammad never enslaved Arabs and therefore the act should not be considered permissible. Rāzī's position on not enslaving Arabs is not entirely isolated. While it does not feature greatly within other exegetical texts, the debate is developed within legal manuals in which Arabs are described as superior to non-Arabs. For example, Ibn Taymiyyah discusses the differing positions on the permissibility of enslaving Arabs. He states, 'Abū Ḥanīfa does not permit the enslaving of Arabs (la yajūzu istarqāq al-'arab)… as the Arabs have been favoured by their noble lineage (ikhtaṣṣu bi-sharaf al-nasab), as the Prophet was from among them'.[191]

The most comprehensive discussion regarding the legality of the verse can be found in Qurṭubī. Qurṭubī begins his discussion through citation of an anecdote regarding Ḥajjāj ibn Yūsuf and his treatment of captives, which provides a fascinating example of how this verse was understood historically. The story reads that Ḥajjāj had captured 4,800 captives from the army of 'Abdul Raḥmān ibn al-Ash'at following battle. Following this, Ḥajjāj ordered their execution and nearly 3,000 had been killed until a man stepped forth and said,

> Oh Ḥajjāj, God will not bless you! Ḥajjāj replied: why is this? The man replied: Because Allah has said 'when ye have thoroughly subdued them…either convey mercy or ransom: until the war lays down its burdens.' (Q47:4) and this is the right of the unbeliever. By God, you have not shown any mercy, nor have you ransomed them! … Ḥajjāj replied: Uff! The stench of these corpses! Were there not any from amongst them that could have said these words? Leave the path of those who remain! … and they were nearly 2,000.[192]

The story regarding Ḥajjāj provides a fascinating insight into how this verse was understood. Firstly, the fact that the verse was recited in order to protect the 'the right of the disbeliever' exhibits that it was interpreted to safeguard the lives of enemy soldiers from execution. Secondly, the man chastises Ḥajjāj for not showing mercy, nor for ransoming the captives, which ostensibly reveals a reading of the verse that allows for only two possibilities for captives. Furthermore, the fact that there is no discussion regarding enslavement demonstrates that this verse was not necessarily always read as a justification for slavery, and in this context, was understood as a call for pardoning enemy troops.

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[191] This appears to have been influenced by a narration from 'Umar which states: Arabs cannot be owned (laysa 'ala al-'arab mulk). See: Taqī ad-Dīn Aḥmad Ibn Taymiyyah, Majmū' al-Fatāwa, 37 vols (Al-Mansura: Dar al-Wafa' lil-Taba'a wa al-Nashr, 1998), vol. 31, pp. 219-220. For more on Ibn Taymiyyah, see: Mustapha Sheikh, A Treasury of Ibn Taymiyyah: His Timeless Thought and Wisdom (Markfield: Kube Publishing, 2017).

[192] Qurṭubī, Al-Jāmi' li-Aḥkām al-Qur'ān, vol. 19, p. 244.

Further to citing this story, three differing positions regarding this verse are discussed.[193] The first position claims that Q47:4 has been abrogated, and it is therefore not permissible to free captives. Rather, due to verses Q9:5, Q9:36 and Q8:57, Muslim forces have been ordered to execute all enemy combatants.[194] To justify this position, an opinion attributed to Abū Bakr is cited, 'Abū Bakr was contacted regarding the ransoming of captives, and it was requested that so and so should be freed. Abū Bakr said: Kill that person, for killing a polytheist is preferable to me'.[195] Indeed, the rationale underpinning this position claims that if soldiers are handed back to enemy forces, this will naturally strengthen the enemy and prolong the war. However, it is also stated that in the case of women, children or whosoever has paid the *jizya*, no violence can be committed against them.[196]

The second position, attributed to Ḍaḥak, Thawrī and 'Aṭā', elects that the verse Q47:4 abrogates all other verses pertaining to warfare. A narration attributed to 'Aṭā' reads, 'show mercy or ransom them, ultimately means that you should not kill the polytheist; rather, God has commanded to free them out of mercy or ransom'. Another narration states 'al-Ḥasan hated killing prisoners, and he would always recite Q47:4 as a justification for this'.[197] This position interprets the verse as a concession towards enemy soldiers, indicating that they should not be executed upon capture, and appears to correspond with the readings of Ibn Kathīr and the *Jalālayn*.

The final position, which is also declared by Qurṭubī to be the most preponderant, claims that the verse is perspicuous and ultimately places the decision in the hands of the *Imām*. Qurṭubī opines that within the life of the Prophet and the rightly-guided caliphs, numerous measures were taken regarding captives at times of war, which include execution, manumission as an act of mercy, enslavement, or accepting ransom. As such, 'if we meet disbelievers in battle, we kill them. If we take captives, then it is permissible to kill, enslave, ransom or free them out of mercy, according to whatever is correct for the Muslims'.[198]

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[193] Qurṭubī actually states five positions; however due to overlap, these can be condensed to three.
[194] Q9:5: 'fight and slay the pagans wherever ye find them…' Q9:36: 'So wrong not yourselves therein and fight the pagans all together as they fight you all together.' Q8:57: 'If ye gain the mastery over them in war, disperse, with them, those who follow them, that they may remember.'
[195] Qurṭubī, *Al-Jāmi' li-Aḥkām al-Qur'ān,* vol. 19, p. 245.
[196] Ibid.
[197] Ibid., p. 246.
[198] Ibid., p. 247.

The differing positions appear to conflict regarding the chronology of Q47:4. For example, those that claim that Q47:4 has been abrogated argue that the verse was revealed prior to *Sūrah al-Tawbah*, and therefore render its rulings inapplicable. Others consider Q47:4 to be the final verse to be revealed regarding captives, and therefore consider it to abrogate all others. The final position, presented by Qurṭubī, claims that four options are available to the leader of the Muslims, and enslavement is included within this. This position appears to be agreed upon amongst the legal schools.

Overall, very little in the Quranic text can be found concerning taking slaves. The verses that are interpreted to permit enslavement generally address taking captives at times of war. Q8:67 was read as a disapproval for ransoming captives, and consequently a call to execute captured enemy combatants, which naturally negated any concept of enslavement. The only references to slavery can be found in the commentaries addressing the verse Q47:4. The majority contend Q47:4 established the justification of slavery in the Qur'ān; however, it should be noted that some disagreed with this interpretation. This is not to argue that 'Aṭā', Ibn Kathīr and the *Jalālayn* did not condone taking slaves in one form or another; as shown previously, slavery was considered part and parcel of the religious tradition. However, it does demonstrate that these scholars found very little within the Quranic text which appeared to justify enslavement, and their commentaries on the verses regarding captives reflect such.

1.5.3 *Milk al-Yamīn* and Sexual Relations

The final category regarding slavery within the Qur'ān regulates sexual relations with slaves. The term generally utilised in this context is the periphrasitic *mā malakat aymānukum*. There appears to have been a consensus of classical opinion that concubinage did not translate into prostitution, based on the explicit wording of the Quranic verse Q24:33.[199] Nevertheless, exegetes readily accepted that the Qur'ān permitted sexual relations between masters and their slaves. Quranic verses such as Q23:5, Q70:29 and Q4:3 were all interpreted to endorse and legitimise sexual access to female slaves from their male owners.[200] For example, regarding Q4:3, Ibn Kathīr notes,

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[199] Q24:33: 'But force not your maids to prostitution when they desire chastity, in order that ye may make a gain in the goods of this life.'

[200] Q23:1-6: 'The Believers must win through. Those who humble themselves in their prayers; Who avoid vain talk; Who are active in deeds of charity; Who abstain from sex, Except with those joined to them in the marriage bond, *or whom their right hands possess*.' Q70:29: 'And those who guard their chastity, Except with their wives *and whom their right hands possess*― for they are not to be blamed'. Q4:3: 'If ye fear that ye shall not be able

> This verse commands that if you fear you will not be able to do justice between your wives by marrying more than one, then take only one wife, or satisfy yourself with only female captives, as it is not obligatory to treat them equally, rather it is only recommended. Therefore, if one does so, then that is good, and if one cannot, there is no objection. *(fa-man fa'ala fa-ḥasan, fa-man lā, fa-lā ḥaraj)*.[201]

It was therefore concluded that legitimate intercourse was permitted in two cases; with a spouse through marriage, or through slave-girls and female captives. The right of intercourse only extended to male slave owners to female slaves however, as homosexual encounters were considered illegal, as were relations between female slave-owners and male slaves. This point is emphasised by Qurṭubī who stresses that male slaves are in complete control of their sexual organs and cannot be compelled to have sex *(buḍ' al-'abd fa-lā ḥaqqa lahu fīhi)*; however, 'this is juxtaposed with the case of the female slave, as the master has ownership of her genitals in their entirety *(bi-khilāf al-ama, fa innahu lahu ḥaqq al-mamlūkiya fī buḍ'iha li-yastawfīha)*.[202]

While it was unanimously accepted that female slaves were legitimate sexual partners for male slave-owners, exegetes struggled to reconcile the sexual availability of concubines outside of wedlock with Quranic commands to marry their slaves. The Qur'ān can be seen to encourage both male and female believers to marry slaves. For example, Q24:32 commands believers to marry the virtuous amongst their slaves, both male and female. Additionally, Q2:221 states that marrying a believing slave is preferable to marrying a free disbeliever.[203] Regarding Q2:221,

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to deal justly with the orphans, marry women of your choice, two, or three, or four; but if ye fear that ye shall not be able to deal justly, then only one, *or that which your right hands possess.*'

[201] Ibn Kathīr, *Tafsīr al-Qurʾān al-'Aẓīm,* p. 441.

[202] Qurṭubī, *Al-Jāmi' li-Aḥkām al-Qur'ān,* vol. 15, p. 231. The disparity is clarified by the Ḥanbali jurist Ibn al-Qayyim, who states 'It is permitted for the man to enjoy his slave girl through intercourse or any other means; however, it is not acceptable for a woman to enjoy her male slave … As the master is the conqueror of his possession *(al-sayyad qāhir li-mamlūkihi)*, and a ruler over them. This is similar to how a husband is conqueror of his wife and ruler over her, and she is under his power and authority akin to a prisoner. Due to this, it is forbidden for a male-slave to have intercourse with his female-master as the slave cannot simultaneously be her property and her dominator, and the female master simultaneously be his ruler and the one who is dominated. See: Muḥammad b. Abī Bakr Ibn Qayyim Al-Jawziyyah, *I'lām al-Muwaqqi'īn 'an Rabb al-Ālamīn*, ed by. Ahmad Az-Za'bī, 2 vols (Beirut: Sharikat Dar al-Arqam, 1997), vol. 1, pp. 357-358.

[203] Q24:32: 'Marry those among you who are single, or the virtuous ones among your slaves, male or female: if they are in poverty, Allah will give them means out of His grace: for Allah encompasseth all, and He knoweth all things'. Q2:221: 'Do not marry unbelieving women until they believe; a slave woman who believes is better than an unbelieving woman even though she allures you. Nor marry (your girls) to unbelievers until they believe: a man slave who believes is better than an unbeliever, even though he allures you.'

the *Jalālayn* notes this verse was revealed to refute the idea that it was shameful to marry a slave-girl.[204] Furthermore, the verse Q4:25 states,

> If any of you have not the means wherewith to wed free believing women, they may wed believing girls from among those whom your right hands possess: and Allah hath full knowledge about your Faith. Ye are one from another: wed them with the leave of their owners, and give them their dowers, according to what is reasonable.

In the minds of many exegetes, Quranic proclamations to marry slaves were juxtaposed with the fact that slave-girls were readily accessible for sex without marriage.[205] An example of this can be seen with Zamakhsharī (d. 1144), who attempted to rationalise the difference between intercourse in marriage and sex with concubines, claiming that marriage is solely for procreation, while concubinage is primarily for enjoyment and pleasure.[206] Indeed, as Brockopp notes, 'the marriage of free persons to slaves was unusual in other Near Eastern cultures and there appears to have been some problems with its incorporation into Islamic society'.[207] This is supported by Freamon, who also adds 'almost all slave systems prohibited such marriages and visited serious consequences on transgressors. The Hindu law, for example, stipulated that marriage to a slave resulted in the enslavement of the free spouse. Under Roman law, sexual union between a Roman woman and a slave was severely punished and the children of such unions were also enslaved'.[208]

The tension becomes keenly apparent within discussions of Q4:25. For example, Rāzī accepts that marrying a slave-girl is permitted; however, he notes that Shāfiʿī has presented three conditions that must be met for this to be possible. Firstly, it is only permitted if the believer does not have the dowry to marry a free woman. The second condition claims that one should only marry a slave if they have been celibate for a long period of time previously. This appears to allude to the fact that marriage to a slave should be considered the last viable option after attempting abstinence from sex. The third and final condition states that 'the slave girl must be a believing Muslim and not a disbeliever' as 'if she is a disbeliever then she is deficient on two counts: slavery and disbelief. And there is no doubt that the child [born from this relation] will

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[204] Maḥallī and Suyūṭī, *Jalālayn*, p. 40.

[205] For more on the similarities and differences between slavery and marriage in Islamic law, see: Kecia Ali, *Marriage and Slavery in Early Islam* (Harvard: Harvard University Press, 2010).

[206] El Hamel, *Black Morocco*, p. 24.

[207] Jonathan E. Brockopp, 'Concubines', in *Encyclopaedia of the Qur'ān*, ed. by Jane Dammen McAuliffe <http://dx.doi.org/10.1163/1875-3922_q3_EQSIM_00088>.

[208] Freamon, 'Definitions and Conceptions of Slave Ownership in Islamic Law', p. 51.

follow the mother to freedom or enslavement, and therefore the child will also be a slave to disbelief'.[209]

Rāzī subsequently issues a warning to all those considering marrying a slave-girl, stating that they should only do so if absolutely necessary. He contends that it is preferable to avoid marrying a slave, as 'the child born from this relation will follow its mother into slavery'. Additionally, he argues that the decency of slave-girls has been compromised due to the nature of their work, as such, they cannot be trusted as 'slave girls are accustomed to cavorting with men, and therefore may be impudent. Consequently, she may return to her immoral ways [after marriage]'. Most importantly however, Rāzī stresses that the right of the master will always outweigh the right of the husband (*ḥaqq al-mawla alayhā a'ẓam min ḥaqq al-zawj*). Rāzī imagines situations in which the husband and wife are prohibited from visiting one other due to the master's command, or in a worse scenario, 'perhaps the master will sell her to another person. The sale of the slave girl is her divorce – she becomes a divorcee whether her husband accepts or denies it. The second [new] master may travel with her, and the persons child, and this would no doubt be most painful'.[210]

Scepticism and aversion to marrying slaves can be found amongst most exegetes who equally display reticence regarding the practice. The *Jalālayn*, as one example, notes that 'it is better for you to be patient, and abstain from marrying slave girls, lest the child [from this relation] should become enslaved also'.[211] Unlike Rāzī however, the *Jalālayn* does not attribute any defect to the slave-girls personality; rather, the *Jalālayn* argues,

> [Allah] is the One to know her true merit: many a slave girl may be more excellent in faith than a free woman, and this is meant to encourage marriage with slave girls; the one of you is as the other, being equal in religion, so do not disdain to marry them.[212]

The contradictory positions demonstrate that Quranic exegetes clearly struggled to reconcile the positions elucidated within the Qur'ān. In the minds of classical exegetes, it was relatively clear that slavery was a deficiency, and it was somewhat unclear why a free person would risk marrying someone with this defect. Equally however, they attempted to negotiate the fact that the Qur'ān appeared to encourage believers to marry slaves. As such, classical exegetes

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[209] Rāzī, *Al-Tafsīr al-Kabīr*, vol. 10, pp. 58-59.

[210] Ibid., p. 61.

[211] Maḥallī and Suyūṭī, *Jalālayn*, p. 89.

[212] Ibid., p. 89.

caveated their interpretations of verses encouraging marriage with slaves with numerous conditions, ultimately suggesting that it was preferable not to engage in such a marriage.

Furthermore, exegetes saw no issue with the idea that a slave-owner had sexual access to his female slave, and further to this, they interpreted the verses encouraging marriage to slaves as a concession for those who were unable to marry a free-woman. These verses were not understood to be of benefit for the slaves; rather, they were predominantly interpreted as a path to marriage for those who could not afford the dowry of a free-woman. Also, the fact that abstinence from sex is suggested as preferable to marriage with a slave also highlights that in the minds of exegetes, marriage to a slave was solely for access to sex, presumably for those could not afford to buy a slave-girl of their own.

Unlike the debates regarding enslavement and emancipation which highlight contradictory opinions, the issue of concubinage and sexual relations presents a consistent position within classical exegesis.[213] This was no doubt aided by the gender of classical commentators being entirely male.[214] As such, the interpretations of the verses show little consideration for the female-slave, while simultaneously emphasising the right of the male-slave to have full control of his sexual organs.[215] Indeed, numerous readings in the modern period have sought to centre gender-justice within their work and challenge such interpretations, and this certainly raises questions regarding whether differing interpretations regarding sexual access to concubines may have surfaced earlier in history had more female exegetical voices been transmitted within the classical interpretive tradition in Islam.

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[213] El-Hamel challenges this as he claims Rāzī rejected concubinage, and he evidences this through a quote from Muhammad Asad. While Rāzī does query the meaning of Q4:24 and presents various positions, he does not reject the notion of concubinage within his work, nor does he claim that right hand possessions refer specifically to spouses (as el-Hamel/Asad suggest). See: El-Hamel, *Black Morocco*, p. 25. Also see: Rāzī, *Al-Tafsīr al-Kabīr*, vol. 10, p. 25.

[214] The fact that all of the discussion regarding marriage to slaves is constructed around a free male marrying a female concubine highlights the extent to which gender influenced these debates.

[215] The gender disparity between male and female slaves is further pronounced in numerous legal debates. For example, regarding whether slaves should be consulted if their marriages are being arranged, Abū Ḥanīfa argues that the male slave should only be married if he consents, whereas the female slave can be married through compulsion. (*lā yazzawaj al-'abd illa bi-idhnihi, wa yazzawaj al-ama bi-ghayri idhniha*). For more on this debate, see: Abū Ja'far Aḥmad ibn Muḥammad al-Ṭaḥāwī, *Mukhtaṣar Ikhtilāf al-'Ulamā'*, 3 vols (Beirut: Dar al-Basha'ir al-Islamiyyah, 1995), vol. 2, p. 312.

1.6 Conclusion

This chapter set out to answer the following four questions:

1. How does the Quranic text reference slavery?
2. How were these verses understood by classical commentators?
3. Did classical commentators promote, accept or contest slavery?
4. Did anti-slavery thought exist prior to the modern period?

Firstly, this chapter has demonstrated that within the Qurʾān, the subject of slavery is only treated briefly. Out of the approximately 6,600 verses within the Qurʾān, slavery is referenced in roughly 30. Some of the terminology in the Qurʾān that is occasionally understood to refer to slavery possesses polysemic potential, such as ʿ*abd, fatā and fatāyāt*, which render their translation difficult. However, other terms clearly address slavery, such as *raqaba* and *mā malakat aymānukum*. These verses generally refer to emancipation and the regulation of relations with slaves, while commands to enslave free people are virtually non-existent.

Secondly, slavery was normalised and accepted amongst classical exegetes and scholars. The fact that a human being could be legally owned, bought and sold by another was viewed as a legitimate mode of transaction. Furthermore, it is important to note that slavery was not simply tolerated by classical scholars, but actively read as part of divine providence, through which both the slave-master and the slave were being tested through their allotted roles. Indeed, the power-dynamic between the master and slave was often conceptualised in a manner analogous to the relationship between God and his creation. The normalisation of slavery can also be found in the narratives regarding Prophets within exegetical literature. In particular, the commentaries regarding the parables of Ham and Abraham legitimise enslavement and concubinage through their various renditions. This is especially pronounced due to the concept of infallibility attributed to Prophets within Islamic theology. However, as demonstrated, many of these narrations are extra-Quranic, with very little being found concerning slavery in the Quranic *Qaṣaṣ al-ʾAnbiyāʾ* literature.

Thirdly, the majority position amongst classical exegetes interpreted the verse Q47:4 as a justification for the enslavement of captives following warfare. It is important to note that this was the only legitimate medium through which enslavement could be enacted according to exegetes. There appears to have also been a consensus amongst scholars that the Qurʾān granted a male slave-master the right to have intercourse with his slave-girls. Furthermore, the

numerous verses promoting the emancipation of slaves were interpreted as highlighting the virtue in freeing slaves. Therefore, emancipating slaves was oft described as one of the most favourable deeds in the eyes of God. However, this did not lead to any critique of slavery as an institution or provoke any concern regarding the ethics of enslavement.

Addressing the fourth question, there did exist minority positions from the classical exegetical tradition that appear to empathise with slaves more so than with their masters. On numerous points, an emancipatory trend can be recovered which attempts to accelerate the opportunity to attain freedom for enslaved peoples. This demonstrates that groups of classical scholars clearly struggled to reconcile the institution of slavery within the remit of Islam and their scholarship reflects this attitude. Though this did not translate into a fully-fledged anti-slavery hermeneutic as such, these types of positions demonstrate that an emancipatory outlook existed within the classical tradition, which was certainly developed and built upon by abolitionist reformers. Therefore, it is possible to argue that anti-slavery thought can be recovered from the classical tradition.

As a final point, it is important to note that the environments that many exegetes found themselves in were as far removed from the Quranic milieu as the modern readers. That is to say, Qurṭubī's life in thirteenth century Andalusia had very little in common with the deserts of seventh century Ḥijāz. Similarly, the bustling streets of fourteenth century Damascus in which Ibn Kathīr found himself were equally dissimilar to the Quranic environment. As such, their interpretations of slavery had far more to do with the attitudes found within their respective cultures and societies than they necessarily did with the early Muslim movement within seventh century Ḥijāz.

To emphasise this point, one might consider that when the Qur'ān references battles with enemy combatants, historical data suggests these were small scale battles and raids that the Prophet Muḥammad and his companions participated in against members of the *Quraysh*. Contrast this, for example, with the large-scale wars partaken by Muslim forces against the Byzantine and Sassanid empires in the following centuries post-Quranic revelation and how this style of warfare may have impacted interpretations of Quranic commands regarding battle. In a similar fashion, historical data suggests that while slavery was commonly practiced within the Ḥijāz region, 'slaves were held in small numbers, with exceptionally rich persons owning

no more than several dozen'.[216] This was certainly not the reality addressed by many jurists and exegetes who attempted to expand Quranic revelation regarding slavery to Islamicate societies in which 'tens of thousands of captured slaves poured into Damascus and other urban centres'.[217] The fact that 'by the time of Muḥammad's death, slaves did not make up a large proportion of the believers'[218] does not appear to have been considered by later scholars. As such, a clear disconnect can be observed between the brief treatment of slavery within the Qur'ān, and the expansive chapters found in the exegetical and legal traditions. This chapter explored exegetical literature on slavery and assessed some aspects of jurisprudence. The following chapter will focus on the laws regarding slavery in a more comprehensive manner.

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[216] Brockopp, Jonathan E, 'Slaves and Slavery', in *Encyclopaedia of the Qur'ān*, ed. by Jane Dammen McAuliffe <http://dx.doi.org/10.1163/1875-3922_q3_EQSIM_00393>.
[217] Ibid.
[218] Ibid.

Chapter Two: Persons, Property and Liminal Spaces: The Slave in Islamic Law

Whoever sets his slave free in the name of God, or for Satan, or for an idol,

the slave is considered free

– Al-Qudūrī

2.1 Introduction

Modern scholarship working on slavery has often noted the difficulty in attempting to provide a universal definition for the practice. The issue of definition was an equally nebulous question for many Muslim jurists. Within legal discourse pertaining to slavery, it was generally accepted that the master had control of the slave's movement, labour, sexuality and in some cases, progeny. Therefore, the slave was indelibly under the control of the master. However, jurists often struggled to balance between the rights of the owner and the rights of the slave. The emphasis on humane treatment of slaves and the promotion of emancipation found in the Qur'ān manifested in large parts of the legal tradition, yet the harsh and brutal realities of slavery equally led to legal rulings that disenfranchised and commodified slaves. As a result, jurists attempted to negotiate often intractable paradoxes, and found themselves positing inimical positions in regard to slavery and emancipation that can be found throughout various legal manuals of Islamic law.

To what extent these legal texts were instantiated within history is perhaps one of the most important and complex questions for those working in the field. As Marmon states, 'there are times when slavery as constructed by Islamic law and slavery practiced by Muslim communities seem to coincide with remarkable symmetry'.[219] However, there are equally examples in which principles of Islamic law are conspicuously neglected. Therefore, while it can certainly be argued that these legal manuals may have influenced and impacted Islamicate societies, the purpose of this chapter is not to establish such historical concatenation.

Rather, this chapter outlines and assesses the legal rulings within the Sunnī schools of law pertaining to enslavement, emancipation and attitudes towards slaves. The conceptualisation of slavery within Islamic law becomes particularly significant when discussing the legality of

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[219] Shaun Marmon, *Slavery in the Islamic Middle East* (Princeton: Markus Weiner Publishers, 1998), p. vii.

slavery due to the fact that some scholars argue that slavery, as envisaged within Islamic law, is so benign that it does not constitute any form of abuse or injustice.[220] Therefore, it becomes significant to assess the manner in which slavery was conceptualised by Islamic jurists, and explore the rules and regulations pertaining to servitude. This chapter utilises numerous legal manuals from the 'orthodox' schools as sources. In doing so, this chapter attempts to provide a comprehensive overview of the rules regarding slaves from across the four schools.

The questions this chapter seeks to address are:

1. What were the laws regarding enslavement?
2. What were the avenues for emancipation?
3. Were slaves considered persons or property within legal discourse?

2.2 Laws of Enslavement: *Dār al-Ḥarb, Dār al-Islām* and *Ghanīma*

In modern discourse, a famous quote of the second caliph 'Umar is often circulated in a bid to emphasise the Islamic ethos towards freedom. The story narrates that 'Umar reprimanded a governor of Egypt for enslaving free men. 'Umar is quoted as saying 'since when have you enslaved people while their mothers had given birth to them in freedom'.[221] It has often been suggested that within 'Umar's statement resides a kernel of anti-slavery sentiment and a call to prohibit the enslavement of the free. In fact, some have gone as far as to claim that the UN Charter on human rights has taken from 'Umar's foresight.[222] However, the essence of 'Umar's statement belies the common assumption that he was repudiating the enslavement of free people, with Moosa suggesting it was more probably linked with establishing the correct lineage for the offspring of concubines in a bid to prevent incestuous relationships.[223] In reality, Islamic law did accept that free-people could legitimately become enslaved through designated means.

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[220] These debates, and their modern proponents, will be treated more fully in Chapter Five.

[221] Muḥammad Yūsuf Kāndhlawī, *Ḥayāt uṣ-Ṣaḥāba*, 5 vols (Beirut: Resalah Publishers, 1999), vol. 2, pp. 337-338.

[222] Wahiduddin Khan, *Islam Rediscovered: Discovering Islam from Its Original Sources* (New Delhi: Goodword Books, 2002), p. 339.

[223] Moosa writes, 'It is not very clear whether 'Umar was actuated by concerns of freedom in limiting the sale of female slaves who had offspring or whether he wanted to prevent the proliferation of incest. For there were real concerns that a young female slave separated from her offspring when sold off could years later unknowingly be sold as a concubine to her wealthy offspring'. See: Ebrahim Moosa, 'Critical Islam: Beyond Apologia', in *The Norton Anthology of World Religions*, ed. by Jane Dammen McAuliffe (London: Norton & Company, 2015), pp. 591-596 (p. 592).

Islamic law recognized two legitimate avenues for the continuation of slavery. The first was for those who were born into slavery. In this case, it was judged that the child born from a slave mother would also inherit her status as a slave. The child would be owned by the mother's master, unless the master was also the father of the child, in which case the mother and the child would both be set free.[224] Furthermore, some scholars held that the child should be considered free if any of the parents were free, but this was not universally acknowledged.[225] Additionally, if both parents were slaves owned by different masters, the child would be jointly owned by both masters.[226]

The second legal avenue for enslavement was capture through warfare. It was generally accepted that this ruling could never imbibe free Muslims; however, numerous historical examples highlight that this principal was seldom preserved, with Muslims arbitrarily being excommunicated and captured.[227] It was recognized amongst the schools of law that free non-Muslims from the territories of war (*dār al-ḥarb*) could legitimately be taken as slaves by Muslim forces as spoils of war (*ghanīma*).[228] Generally, enslavement was not understood to constitute random acts of kidnapping according to jurists, but rules and regulations specifically linked to warfare were enacted.

In order to lawfully capture enemy combatants, jurists emphasised the need for the leader of the Muslims to have firstly proclaimed a war that was both *justum* and *pium* in its nature.[229] For example, Shaybānī's (d. 805) *Siyar* begins with a discussion regarding how the Prophet Muḥammad would personally charge his commanders to fear God and conduct themselves in

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[224] *Umm al-walad* will be discussed in more detail in the following section.

[225] For example, Qudūrī states: 'The child of the slave-woman from her master is [born] free, but her child from her husband is owned by her master, and the child of the free woman from a slave is born free'. See: Muḥammad ibn Aḥmad al-Baghdādi al-Qudūrī, *The Mukhtaṣar of al-Qudūrī: A Manual of Islamic Law According to the Ḥanafī School*, trans. by Tahir Mahmood Kiani (London: TaHa Publishers, 2010) p. 480.

[226] This position appears to have been held primarily within Shi'i circles. See: Brunschvig, ''Abd' in *Encyclopaedia of Islam*, (Leiden: Brill, 2012).

[227] There are many historical examples of such; however, perhaps the clearest of them can be seen with the Sokoto Caliphate and its unsuccessful attempts to quell the enslavement of Muslims. See: Jennifer Lofkrantz, 'Protecting Freeborn Muslims: The Sokoto Caliphate's Attempts to Prevent Illegal Enslavement and its Acceptance of the Strategy of Ransoming', *Slavery & Abolition*, 32 (2011), 109-127.

[228] 'The term spoils (*ghanīma*) is applied specifically to property acquired by force from non-Muslims…property taken without force would be regarded as *fay'*. See: Majid Khadduri, *War and Peace in the Law of Islam* (Baltimore: John Hopkins Press, 1955), p. 119.

[229] That is to say, the war needed to be sanctioned by religion and the command of God.

a just manner prior to sending out a detachment.[230] Following this, he cites the rules of engagement which set out the regulations for engaging in combat,

> Combat [only] those who disbelieve in God. Do not cheat or commit treachery, nor should you mutilate anyone or kill children. Whenever you meet your polytheist enemies invite them [first] to adopt Islam. If they do so, accept it, and let them alone. You should then invite them to move from their territory to the territory of the émigrés [Madina]…. If they refuse [to accept Islam], then call upon them to pay the jizya (poll tax); if they do, accept it and leave them alone.[231]

The ruling by which combatants must firstly be given the opportunity to become Muslim through an invitation to Islam appears to have been derived from the verse Q17:15 which reads 'nor would We visit with Our Wrath until We had sent an apostle (to give warning)'.[232] Due to this, jurists emphasised the need to extend an invitation to enemy combatants prior to engagement. The Ḥanafī jurist Sarakhsī (d. 1090) argues, 'if they fight them without inviting them [to Islam], they are sinful for this action (athimīn fī dhālika); however, they are not liable for compensation for the destruction of people or property'.[233] Shāfiʿī (d. 820) appears more punitive than Sarakhsī, as he argues that blood money is owed if combatants are killed prior to being invited to Islam. Shāfiʿī states, 'it is not permitted to fight the disbelievers until you invite them to Islam, and if you kill any from them, you are liable to pay blood-money and commit expiation [for this sin]'.[234] It appears to have been generally accepted that military expeditions were not binding on 'minors, slaves, women, the blind, the disabled and amputees', although if Muslim territories were attacked, 'repulsing the attack is obligatory upon all the Muslims', including 'slaves without the permission of their master'.[235]

Following the rejection of Islam and the *jizya*, it was considered legitimate to attack and conquer enemy territories. Once the army had been defeated, jurists generally agreed that the *imām* was given a choice concerning the treatment of the captives. According to Abū Ḥanīfa (d. 767), it was not legitimate to ransom enemy prisoners, nor free them out of favour. Rather,

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[230] Muḥammad ibn al-Ḥasan al-Shaybānī, *The Islamic Law of Nations: Shaybānī's Siyar*, trans. by Majid Khadduri (Baltimore: John Hopkins Press, 1966), p. 76.

[231] Ibid.

[232] For more on this see: Khadduri, *War and Peace*, pp. 96-98.

[233] Abū Bakr Muḥammad b. Aḥmad b. Abī Sahl al-Sarakhsī, *Al-Mabsūṭ*, 30 vols (Beirut: Dar al-Kutub al-Ilmiyah, 2001) vol. 10, p. 36.

[234] Ibid. However, there does appear to be a position cited by Ṭaḥāwī that equally contends that there is no issue with attacking enemies without an invitation. Ṭaḥāwī states: 'If they invite them [to Islam] prior to battle, then this is excellent; however, there is no issue in attacking them without inviting them beforehand (*lā ba's bi-an yugīru ʿalayhim bi-ghayri daʿwah*)'. See: Al-Ṭaḥāwī, *Mukhtaṣar Ikhtilāf al-ʿUlamā'*, vol. 3, p. 425.

[235] Qudūrī, *The Mukhtaṣar of al-Qudūrī*, p. 661.

the *imām* of the Muslims held binding authority, 'if he wants, he kills them. If he wants, he enslaves them, or if he wants, he leaves them as free men under the contract of the *dhimmah* to the Muslims'.[236] From these options, '[the *imām*] should examine the situation and decide whatever he deems to be advantageous to the Muslims'.[237] However, if the captives became Muslims, the *imām* would lose the right to execute the captives, and they would instead only be divided as booty amongst the soldiers.[238]

Other jurists differed from the Ḥanafī school on this position, with some stressing the obligation to ransom captives in order to free Muslim soldiers captured by enemy forces.[239] The Mālikī position, for example, offered five options to the *imām*. The *imām* is permitted to kill the enemy soldiers if he so wills, or he may free them, ransom them for other Muslims or goods, apply the *jizya* upon them, or take them as slaves.[240] The five options are in reference to male combatants, 'as for the women and children, the only options available are slavery and ransom'.[241] As with the Mālikīs, the Shāfiʿī and the Ḥanbalī school also allowed freeing and ransoming captives, with the condition that Muslim soldiers were recompensed by other goods from the booty.[242]

Interestingly, Abū Ḥanīfa was especially insistent on the fact that captives should only be divided amongst the soldiers once the army had returned to the safety of the land of Islam (*dār al-Islām*). This appears to have stemmed from the anxiety that captives could not be secured until Muslim legions had returned to their own borders.[243] Abū Ḥanīfa emphasised the importance of territoriality to the extent that he argued it was preferable to execute male

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[236] Ibid., p. 666. Unlike Abū Ḥanīfa, Shaybāni and Abū Yūsuf contend that enemy prisoners can be ransomed for Muslim prisoners imprisoned by the enemy.

[237] Shaybānī, *Siyar*, p. 101.

[238] Abū Jafar Muḥammad ibn Jarīr al-Ṭabarī, *Kitāb Ikhtilāf al-Fuqahā'*, ed. by Joseph Schacht (Leiden: Brill, 1933), p.142.

[239] Ibid., pp. 144-146. Also see: al-Zuḥaylī, *Al-Qawāʿid al-Fiqhiyyah wa taṭbiqātuhā fī al-madhāhib al-arbaʿah* (Damascus: Dar al-Fikr, 2006), p. 221. Zuḥaylī notes 'whosoever possesses a disbelieving captive of war is compelled to sell or ransom him in exchange for a Muslim captive held by the disbelievers, if they stipulate this for freeing the Muslim captive that they possess. Because the harm that accrues from a Muslim remaining in the hands of the disbelievers is more than the harm accrued from compelling a Muslim to sell what is in his possession from the disbelieving captives, as the first is a humiliation for the Muslims and harmful for the religion'.

[240] Muḥammad Ibn Saʾīd Ibn Ḥabīb Saḥnūn, *Al-Mudawwana al-Kubra*, 6 vols (Beirut: Dar al-Kutub al-Ilmiyyah, 1994), vol. 3, pp. 19-20.

[241] Ibid., p. 20.

[242] Wahba Muṣṭafā Al-Zuḥaylī, *Athār al-Ḥarb fi al-Fiqh al-Islāmī: Dirāsa Muqarrana* (Damascus: Dar al-Fikr, 1998), p. 421.

[243] Shaybānī, *Siyar*, pp. 97-98.

prisoners who were unable to be transported in lieu of dividing them amongst soldiers in the territory of war.[244] Indeed, he stated that Muslim forces should utilise surplus means of transport if available, or if not, they should lease animals to transport the slaves. However, if these means could not be ascertained, 'the *imām* should oblige them to go on foot if they are able to do so... [If they are unable to walk] the *imām* should kill the men and spare the women and children, for whom he should hire means for carrying them.'[245] Abū Yūsuf (d. 798) echoed the sentiment of his master; although, he importantly caveated his position with the amendment that 'when no transport can be found, the spoils may be divided [in *dār al-ḥarb*].'[246] Shāfiʿī on the other hand, displayed no aversion to dividing the ascertained goods within the enemy territory, stating 'there is no issue with dividing it in the territory of war so long as the disbelievers have been thoroughly defeated'.[247]

The issue of territoriality continually resurfaces within debates regarding issues pertaining to captives and slavery. For example, a debate that divided opinions amongst the jurists was that of a Muslim who had married a non-Muslim wife, who subsequently became pregnant while in the territory of war. It was argued that if Muslims were to conquer this territory, the mother and the foetus would be included in the spoils and legible for enslavement. However, once the child was born, the child would become free, while the mother would remain a slave.[248] This position was elucidated by Shāfiʿī who argued 'the child cannot be considered amongst spoils [of war], because the foetus in the mother's stomach is considered Muslim due to the faith of his father, and Muslims cannot ever be enslaved (*lā yustaraq abadan*)'.[249] However, this position was rejected by Sarakhsī who claimed, 'the foetus is included in the judgement as a part of the mother, and her entirety is considered as amongst the spoils'. Sarakhsī posits that in the same way the foetus is included when the mother is emancipated, it is only logical that the same principal applies concerning enslavement. Sarakhsī's position on this issue appears to represent a broader trend amongst the Ḥanafīs that tends to stress the fact that the rights of

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[244] Ibid., p. 98.

[245] Ibid., p. 98.

[246] Sarakhsī, *Al-Mabsūṭ*, vol. 10, p. 40.

[247] Ibid., p. 38. Also see: Muḥammad ibn Idrīs al-Shāfiʿī, *Kitāb Al-Umm,* 10 vols (Al-Mansurah: Dar al-Wafa lil-Tibaah wa-al-Nashr wa-al-Tawzi, 2001), vol. 5, pp. 302-304. Mālik's position appears closer to Shāfiʿī's on this issue. See: Saḥnūn, *Al-Mudawwana al-Kubra*, vol. 3, pp. 25-26. Also: Ṭabarī, *Kitāb Ikhtilāf al-Fuqahā'*, pp. 129-133.

[248] Ṭaḥāwī, *Mukhtaṣar Ikhtilāf al-ʿUlamā'*, vol. 3, p. 452.

[249] Sarakhsī, *Al-Mabsūṭ,* vol. 10, p. 75.

Muslims cannot be properly protected in the territory of war and appear more punitive for those who do not return to the territory of Islam in comparison to other schools.

Another issue that raised considerable anxieties amongst juristic scholarship was the treatment of captives. This was primarily based on the reciprocal nature of capture and ransom within warfare. For example, jurists proffered that enslaved combatants should be treated fairly, with kindness and cannot be forcibly converted.[250] Furthermore, they should not be beaten or pressured to give up information regarding the location of their base, their weapons, or the weaknesses of their forces, according to Mālik.[251] This principle was ostensibly justified due to the fact that scholars considered that enemy forces may reciprocate such types of behaviour. As such, Muslim prisoners were commanded to refuse to reveal information that would be deleterious to Muslim forces, to partake in campaigns against Islam, and to change their religion, unless compelled due to the fear of death.[252] Furthermore, it was equally argued that Muslim prisoners who had been captured by enemy forces 'were under no obligation to submit or obey the orders of the enemy; if they were able to escape or destroy enemy property, they should do so. If, however, the Muslim prisoner pledged himself not to escape, he must observe faithfully his parole.'[253]

The importance of a Muslim's pledge was constantly stressed within legal works, even in regard to combatant forces. It was argued that if enemy forces captured a Muslim's slave-girl, and her master entered the territory of war as a merchant or under an oath of protection ('amān), it was not legitimate for him to usurp her.[254] Furthermore, he was not permitted to have any physical contact with her, as her capture had been legitimised due to the fact that she had been taken to the territory of war.[255] Elucidating this point, Abū Ḥanīfa stated,

> If the man enters under 'amān he should not violate the pledge he has given [to the inhabitants of the territory of war] or the agreement he has made with them, nor should he break faith with them. He should rather fulfil [all his obligations] to them as they would fulfil them to him.[256]

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[250] Zuḥaylī, *Al-Qawā'id al-Fiqhiyyah,* p. 977.
[251] Zuḥaylī, *Athār al-Ḥarb fi al-Fiqh al-Islāmī*, p. 414-415.
[252] Tabari, *Ikhtilāf*, pp.196-198.
[253] Khadduri, *War and Peace*, p.129.
[254] Ṭabarī, *Kitāb Ikhtilāf al-Fuqahā'*, p. 194.
[255] Shaybānī, *Siyar*, pp. 136-137.
[256] Ibid., p. 138.

To conclude, what can be gleaned from these types of debates amongst the jurists is a somewhat ambivalent position on taking slaves through warfare. The act is not actively encouraged or necessarily discouraged; rather, the fundamental principle that is repeatedly asserted stresses the importance of military superiority within the overall battle. Therefore, the positions regarding slaves are generally considered in light of the military positions of Muslim forces and tend to differentiate between those who could actively harm Muslim forces and those who could not. For example, it was deemed impermissible to execute 'women, children, the blind, the crippled, and the insane' which appears to indicate that execution of male combatants was primarily linked with the fear of retaliation and not from any specific form of aggression towards unbelievers.[257] This is clearly exhibited in a ruling which states that it is permissible to sell captives of wars to Christians and Jews living in Muslim lands, but categorically forbidden to sell them to the inhabitants of the territory of war, as this would benefit enemy combatants against Muslims.[258] Overall, acquiring slaves through warfare was considered a legitimate aspect of combat, through which the captured individuals were viewed as spoils for the victorious soldiers.[259]

2.3 Emancipation Contracts: *Tadbīr, Istīlād and Kitāba*

The rules regarding freeing slaves can often be located within the chapter of emancipation (*kitāb al-'itāq*) in most comprehensive legal manuals, though general rulings regarding slaves are interspersed amongst most legal discussions.[260] While the thematic categorisations in legal texts often differ according to the preferences of the compiler, many begin by discussing the

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[257] Zuḥaylī, *Athār al-Ḥarb fi al-Fiqh al-Islāmī*, pp. 418-420. However, this rule was justified on the premise that they were not actively engaged in combat. If they were involved in combat, differing positions amongst the jurists emerged regarding whether or not they could be executed.

[258] Ṭabarī, *Kitāb Ikhtilāf al-Fuqahā'*, p. 144.

[259] This position appears to correspond with the treatment of 'outsiders' to communities in most pre-modern societies. As Rodriguez notes, 'most slave societies tended to marginalize the slave by enslaving only people who might be considered as separate from the community – especially criminals, foreigners and war captives. These individuals endured what some scholars have described as "social death" as they owed their very survival to the magnanimous mercy of their captors. Within such a society, there were no rights or privileges that applied to the once-spared. Essentially, slavery was perceived as a benevolent act." Junius Rodriguez, 'Introduction' in *The History Encyclopaedia of World* Slavery, ed. by Junius Rodriguez, 2 vols (Santa Barbara: ABC-CLIO, 1997), vol. 1, pp.13-24 (p.13).

[260] As Ali notes, 'the omnipresence of slaves in legal texts owes not only to their social presence but also to their utility in legal discussion: slaves are useful to think with. Slaves appear not only in chapters devoted to subjects such as manumission but also interspersed throughout discussions of matters where slavery itself is marginal'. See: Kecia Ali, *Marriage and Slavery in Early Islam*, p. 7.

correct terminology that militate the status of slavery. For example, the Ḥanafī legal manual the *Mukhtaṣar* of al-Qudūrī (d. 1037) states,

> Thus, if [the master] says to his slave, or to his slave-woman: 1. 'you are free' 2. 'set free' 3. '*atiq* (set free) 4. 'freed' 5. 'I have freed you' 6. 'I have set you free', then he [or she] is free, whether the master intended setting [them] free or not. Likewise, when he says, 'your head is free', 'your neck', 'your body', or he says to his slave-woman, 'your vagina is free (*furjuki hurr*)'.[261]

When the statement of emancipation from the master are expressed clearly such as within the cited examples, the intention of the master does not impact the outcome of the slaves' emancipation. However, in other cases in which the master's statement is slightly more ambiguous, intention becomes the determinant factor regarding the legal consequence of the statement. For example, 'if [the master] says: 'I have no ownership over you' and by that, he intends freedom, then [the slave or slave-woman] is set free, but if [the master] does not intend [freedom, then] they are not set free.' Furthermore, 'if [the master] says: 'I have no authority over you' and intends setting free by that, [the slave or slave-woman] is not free'.[262] The intense and often arcane focus on nomenclature and phraseology perhaps reveals the types of debates that ensued between enslaved people and their masters when seeking arbitration from jurists regarding emancipation and manumission. It may be for this reason that within legal texts, a particularly attentive approach towards language can be seen, in which there are clear delineations for what constitutes legal manumission and what does not.[263]

Having navigated the correct terminology for manumission, the legal texts generally proceed to discussions of the various emancipation contracts and the rules governing them. These include the *tadbīr*, *the istīlād*, and the *kitāba*. Jurists devoted attention to these contracts as once they were established, the relationship and power dynamic between the master and the slave transformed, and the slave attained a number of rights that had previously not been

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[261] Qudūrī, *The Mukhtaṣar of al-Qudūrī*, pp. 475-476. The fact that the sexual organs of a female slave are explicitly highlighted as part of the formulaic expression of emancipation demonstrates quite clearly that within the minds of classical jurists, the master had complete possession and every right to sexual activities with his female slaves.

[262] Ibid., p. 476. For a thorough exposition of slavery rulings within the *Mukhtaṣar al-Qudūrī*, see: Mona Siddiqui, *The Good Muslim: Reflections on Classical Islamic Law and Theology* (Cambridge: Cambridge University Press, 2012), pp. 36-66.

[263] An example of this can be seen within the compilation of the Ḥanafī jurist Qāḍī Khān in which he dedicates an entire section to provide examples of various phrases that may or may not constitute legitimate emancipation. See: Qāḍī Khān, *Fatāwa Qāḍī Khān*, 3 vols (Beirut: Dar al-Kutub al-Ilmiyya, 2009), vol. 1, pp. 511-522.

afforded to them. As such, jurists attempted to correctly detail the implications entailed for both the master and the slave.

2.3.1 *Tadbīr* and the *Mudabbar*

The *tadbīr* designated that a slave was to be granted freedom upon the death of his master, and therefore, the slave that was bestowed this contract was named a *mudabbar*. The *tadbīr* contract was not considered an obligation upon the master; rather, it was promoted as a praiseworthy deed. The contract was established with the simple formulaic expression 'you are *mudabbar*' or 'you are set free upon my death'.[264] It was generally accepted that the *mudabbar* must have reached puberty and be considered of sound mind.[265] Once the contract had been bequeathed, the master was unable to sell his slave or bestow him as a gift to another master. This said, he still held full possession of the slave's property and could order him to work.[266]

In regard to the *mudabbara*, it was argued that the master was permitted to have sexual access to her even after the *tadbīr* contract has been confirmed.[267] Although, some scholars argued that if the female slave possessed a promise of freedom on a specific date, the master was prohibited from approaching her. For example, the *Risāla* of Ibn Abī Zaid (d. 996) states '[the master] cannot have intercourse with a female slave who will be set free on a certain date nor can he sell her'.[268] This is specifically in cases in which the master has promised freedom specific to a date and is not contingent upon his death. At this point, 'such a relationship resembles a *muta'a* contract. (*yushbih nikāḥ al-muta'a*)'.[269] If the master does approach the female slave during this period, she is immediately freed, and he is subject to a minor punishment (*yu'addib alā ḥadhā*).[270] Furthermore, the status of *tadbīr* also extends to the

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[264] Ṭaḥāwī, *Mukhtaṣar Ikhtilāf al-'Ulamā'*, vol. 3, p. 186.

[265] Regarding the *mudabbar*, the Mālikī scholar Al-'Adawī states, that the slave must be of age to be considered responsible and sane, as it is not sound to grant it to a mad person or a child. However, it is not stipulated that the slave must be Muslim. See: 'Alī ibn Aḥmad al-'Adawī, *Ḥāshiyat al-'Adawī alā Kifāyat al-Ṭālib al-Rabbānī li Risāla ibn Abī Zaid al-Qayrawānī*, 4 vols (Cairo: Matba'a al-Madani, 1989), vol. 3, p. 464.

[266] See: Sarakhsī, *Al-Mabsūṭ*, vol. 7, pp. 190-206. Also see: Al-Shāfiʿī, *Kitāb Al-Umm*, vol. 9, pp. 311-334; Saḥnūn, *Al-Mudawwana al-Kubra*, vol. 2, pp. 210-228; Abū Muḥammad Abd Allāh b. Aḥmad b. Muḥammad Ibn Qudāmah, *Al-Mughnī*, 15 vols (Riyadh: Dar Alam al-Kutub, 1997), vol. 14, pp. 412-440.

[267] Qudūrī states 'If she is a slave woman, he may have sexual intercourse with her and he may [also] marry her [to someone]'. See: Al-Qudūrī, *The Mukhtaṣar of al-Qudūrī*, p. 481.

[268] Ibn Abī Zaid al-Qayrawānī, *Al-Risāla fī Fiqh il-Imām Mālik* (Beirut: Dar al-Kutub al-Ilmiyya), p. 83.

[269] 'Adawī, *Ḥāshiyat al-'Adawī*, vol. 3, p. 466.

[270] Ibid.

offspring of the *mudabbara*, 'the child of the woman who is to be set free on the death of her master is [also] set free on the death of her master'.[271]

Interestingly, basing the contingency of a slave's freedom upon the death of their master was clearly not the most innocuous incentive for a slave hoping to attain freedom. Consequently, jurists were forced to legislate for the problematic, yet quite conceivable situation, in which a *mudabbar* may murder his master in a bid to attain his freedom. The position attributed to Mālik states, 'if the slave murdered [his master] intentionally, his *tadbīr* contract is void, and he remains a slave for the heirs [of the master]. If they wish, they may execute him or allow him to live as a slave to them.'[272] Ibn Qudāmah (d. 1223) of the Ḥanbalī School similarly adds that the *tadbīr* contract is nullified through murder as '[the *mudabbar*] intended to hasten his emancipation by means of murder, and he is therefore punished through affirmation of the opposite of his intention, which is the nullification of the *tadbīr* contract.'[273] This is due to the fact that the *tadbīr* resembles inheritance, and inheritance becomes void if the beneficiary murders the person he will inherit from. However, the Ḥanafī jurist Al-Tahāwī (d. 993) adds that the contract remains valid, 'if the murder was accidental, then there can be no charge imputed against [the *mudabbar*]'.[274]

2.3.2 *Istīlād* and the *Umm al-Walad*

Similar to the *mudabbar*, another avenue that emancipated the slave upon the master's death was that of the *umm al-walad*. In cases in which a female slave gave birth to a child from her master, her status was transferred to that of the *umm al-walad*. At this juncture, it was not permitted for her master to sell her or transfer her ownership to another. However, he was allowed to have intercourse with her, make use of her services, hire her out, and according to some schools, marry her away. Furthermore, it was considered that the child born from such relations would also be born free, which differed from the general position regarding the

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[271] Qudūrī, *The Mukhtaṣar of al-Qudūrī*, p. 482.

[272] Ṭaḥāwī, *Mukhtaṣar Ikhtilāf al-'Ulamā'*, vol. 3, p. 189.

[273] Ibn Qudāmah, *Al-Mughnī*, vol. 14, p. 437.

[274] Ṭaḥāwī, *Mukhtaṣar Ikhtilāf al-'Ulamā'*, vol. 3, p. 189. Regarding this issue, also see: Al-Zuḥaylī, *Al-Qawā'id al-Fiqhiyyah*, p. 417. The Ḥanbalī scholar Laḥjī also argues that the *mudabbar* murdering his master does not nullify his freedom contract. See: 'Abdullāh bin Ṣa'īd al-Laḥjī, *Iydāḥ al-Qawā'id al-Fiqhiyyah li Ṭullab al-Madrassa al-Sawlatiyyah* (Saudi Arabia: Matbah Madani, 1968), p. 76.

children of slaves following the status of their mothers. However, her children from other relations would only be considered free only when she was emancipated. [275]

Even in the case of a still-born child, jurists argued for the transferal of the female slave's position to that of the *umm al-walad*. The Mālikī school extended this further and argued that even a miscarriage should constitute an alteration to the status of the female slave.[276] However, this was ultimately linked to an acceptance of paternity from the master. The schools differed regarding what constituted a legitimate denial of paternity. For example, the Ḥanafīs argued 'the paternity of her child is not verified unless the master acknowledges it. Then, if she bears a child after that, his paternity of it is established without acknowledgement. And, if he denies it, it is [legally] negated by his statement [of denial]'.[277] Whereas the Mālikī position contended that the only legitimate denial was through abstinence from sexual intercourse for more than one menstrual cycle.[278]

Similar to the *tabdīr*, the freedom of the *umm al-walad* was also contingent on the death of her master. As expected, this necessitated the need to legislate for the eventuality that an *umm al-walad* murders her owner. However, unlike with the case of the *mudabbar*, it was surprisingly argued that the *umm al-walad* would be considered free upon murdering her master. There was agreement amongst the schools that,

> If the *umm al-walad* murders her master, she is emancipated. As it is not possible to transfer her ownership to another, and the ownership of her current master has ceased through his death. She therefore becomes a free-woman, as would have been the case if he had been murdered by another, and she must pay the price of herself.[279]

The fact that she should be considered free was accepted by the Shāfiʿī school; however, with the proposed caveat that she was liable for blood money in order to become a free-woman. This was justified through the fact that 'it is obligatory for a free person who murders a free person to pay blood-money'.[280] However, the Ḥanbalī school maintained that when the crime was perpetrated, she was not free but in a state of servitude as an *umm al-walad*, and therefore she

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[275] For a thorough exposition of the rulings regarding the *Umm al-Walad*, See: Ibn Qudāmah, *Al-Mughnī*, vol. 14, pp. 580-608.

[276] Ibn Abī Zaid states 'If she miscarries a child, she is considered an *umm al-walad*'. See: Ibn Abī Zaid, *Al-Risāla*, p. 84. Al-ʿAdawī adds that a lump, clot or clotted blood all constitute a miscarriage. Al-ʿAdawī, *Ḥāshiyat al-ʿAdawī*, vol. 3, p. 485.

[277] Qudūrī, *The Mukhtaṣar of al-Qudūrī*, p. 483.

[278] Ibn Abī Zaid, *Al-Risāla*, p. 84.

[279] Ibn Qudāmah, *Al-Mughnī*, vol. 14, p. 607.

[280] Ibid., p. 608.

cannot be expected to be judged as a free person, and is not obligated to pay more than her price (*fa-lam yajib bi-hā akthar min qīmatihā*).[281]

The fact that jurists argued that the *umm al-walad* could legitimately murder her way to freedom is demonstrative of the complex nature of laws pertaining to slavery within Islamic law. It is perhaps due to this complexity that scholars have pointed towards the importance of disentangling the notion of *umm al-walad* from the European notion of concubinage.[282] This is certainly not to suggest the female slavery within the Islamicate context was not primarily sexual, nor that clear parallels cannot be drawn between the structures; rather, it is the acknowledgement that there are also clear differences between how the two institutions functioned. The differences between the notions of concubinage is most clearly evidenced through the fact that many of the rulers within the Islamicate world were born of such relations, and this was seldom viewed as problematic, whereas similar instances cannot be located within European practice.[283] This is clearly elucidated by Marmon who asserts,

> Roman law set down the harsh principle that the child of a slave mother followed her into slavery (*partus ventrum sequitur*) regardless of the father's status – a principle upheld by subsequent slaveholding societies in the West, including those in the New World. Islamic law, however, maintained that the child of the slave woman by her master was born into freedom. Thus, the female slave became something more than a mere object for her master's sexual gratification: she was a potential child bearer for her master and, by extension, for her master's kinship group. [284]

2.3.3 *Kitāba* and the *Mukātab*

From the three contracts, the *kitāba* contract was the only one understood to have stemmed directly from the Qur'ān.[285] As such, aspects have been dealt with in Chapter One; however, the legal material regarding the *kitāba* contract far outweighs the content treated within the

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[281] Ibid., Also see: Al-Zuḥaylī, *Al-Qawā'id al-Fiqhiyyah*, p. 421.

[282] Siddiqui, *The Good Muslim*, p. 56.

[283] An example of this can be seen with Aḥmad Bāy of Tunis, the first leader in the Muslim world to abolish slavery. Aḥmad Bāy was the son of a Christian *umm al-walad*, as were many of the rulers that preceded him. See: Brown, *The Tunisia of Ahmad Bey,* p. 30. Freamon states that out of the 37 caliphs in the 'Abbāsid Empire, 34 caliphs were born from these relationships. See: Freamon, 'Definitions and Conceptions of Slave Ownership', p. 55. For more on the power of concubines in the Islamicate, see: Leslie P Peirce, *The Imperial Harem: Women and Sovereignty in the Ottoman Empire* (Oxford: Oxford University Press, 1993); Matthew S. Gordon, *Concubines and Courtesans: Women and Slavery in Islamic History,* ed. by Matthew S. Gordon & Kathryn A. Hain (Oxford: Oxford University Press, 2017).

[284] Shaun Marmon, 'Concubinage, Islamic', in *Dictionary of the Middle Ages*, ed. by Joseph Strayer (New York: Scribner, 1983), vol. 3, p. 528.

[285] It is understood to have been developed from the verse Q24:33 'And if any of your slaves ask for a deed in writing, give them such a deed (*fa-kātibūhum*) if ye know any *khayr* in them'.

exegetical material. Indeed, from the three emancipation contracts found within Islamic law, the *kitāba* is often addressed with the lengthiest legal discussion.

The *kitāba* presented an opportunity for a slave to purchase their freedom through the payment of their value to their master. One of the fundamental issues regarding the *kitāba* for jurists concerned whether it was obligatory for a slave who requested it. A minority position claimed that the *kitāba* was indeed obligatory upon the master, citing various Ḥadīth traditions and opinions of the companions of the Prophet Muḥammad. However, the majority position amongst the schools asserted that the contract was ultimately recommended (*mustaḥabb*), and the master was under no obligation to bestow the contract.[286]

One of the most contentious legal issues regarding the *mukātab* concerned his property and whether the master had any access to it. The Mālikī position was perhaps the most explicit regarding the issue, with the jurist Ibn ʿAbd al-Ḥakam (d. 829) stating '[the *mukātab's*] property is inviolable; his master may not touch it once the contract has begun'.[287] Within the Mālikī school, it was even stipulated that the *mukātab* gained the ability to own slaves and concubines of his own.[288] However, other schools contended that anything acquired by the *mukātab* was included as payment towards the freedom contract, and therefore the *mukātab* was unable to possess wealth, goods and slaves.[289]

On many other issues however, the *mukātab* gained a number of rights and was ostensibly viewed as akin to a free person. He gained the ability to trade and disobey direct orders from his master. For instance, it was argued that the *mukātab* could not be prohibited from travelling if he so wished. While the Shāfiʿī school limited this to travelling to a relatively close location, the majority of jurists allowed the *mukātab* to travel without restriction, irrespective of his master's permission.[290] In fact, the Ḥanafī and Ḥanbalī schools contended that even if the restriction of travel was stipulated within the *kitāba* contract, the clause should be considered void, as it limits the ability of the *mukātab* to earn wealth in order to attain his freedom.[291]

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[286] Ibn Qudāmah, *Al-Mughnī*, vol. 14, p. 442 - 'If the slave requests the freedom contract from his master, it is recommended to bestow it if he sees *khayr* in him, but it is not obligatory to do so. This is the preponderant position of the [Ḥanbalī school], and it is also the position of the majority of the people of knowledge'.
[287] Brockopp, *Early Mālikī Law*, p. 18.
[288] 'According to the Mālikīs, the slave may lawfully have concubines without giving rise to any theoretical difficulties', See: Brunschvig, ''Abd', in *Encyclopaedia of Islam.* Also see: Ali, *Marriage and Slavery*, p. 165.
[289] Zuḥaylī, *Al-Qawāʾid al-Fiqhiyyah,* p. 967.
[290] Ibn Qudāmah, *Al-Mughnī*, vol.14, pp. 475-476.
[291] Ibid., p. 476.

Furthermore, the master had no right to terminate the contract unless the conditions had been violated. Indeed, even if the master perished, the contract remained valid and was to be inherited by the master's heirs. The only method in which the contract was nullified was if the *mukātab* failed to make his payments or the *mukātab* died. In both cases, however, jurists attempted to legislate in a bid to offer leniency. For example, the Ḥanafī school argued that that if a *mukātab* is unable to make his payments, a judge should assess his circumstances, and if he is owed a debt or there is a chance the *mukātab* may gain some property that may cover his payments towards the contract, 'the judge should not hasten towards declaring him insolvent (*lam yaj'al bi-ta'jīzihi*)' and should grant him time to attempt to locate funds. Similarly, a narration attributed to Abū Yūsuf states 'he should not be declared insolvent until two successive payments have been missed'.[292] Regarding insolvency, Shāfiʿī added that the decision is ultimately linked to the good will of the master, and it was only if the master chose to void the contract, that the *kitāba* would be nullified.[293] It was also stipulated that if a *mukātab* was to perish, and he owned property or some form of wealth, the remainder of the owed amount should be taken from this wealth 'and it is ruled that he was set free during the last part of his life'.[294] This consequently led to the fact that the children of the *mukātab* were also set free and could inherit whatever wealth was remaining.

There have been numerous discussions regarding the origin of the *kitāba* and the extent to which it can be considered Quranic in its inception. Crone, as one example, attempts to locate the *kitāba's* birth within the Greek institution of *paramone*. She argues that Islamic conception of *kitāba* parallels the Greek *paramone* and that 'the similarities between the Greek and the Islamic institutions are indeed obvious'. She writes,

> Both are two-stage manumissions: an initial grant of limited freedom is followed by one of full freedom when certain conditions have been fulfilled. In both cases the conditions are further service and/or payment associated with a duty to remain, though other conditions could be added too. And in both cases it was customary for the manumitter to renounce some of his rights, while the penalty for non-fulfilment of the contract by the freedman was, or could be, re-enslavement.[295]

While there are clear similarities between the Greek *paramone* and the *kitāba* contract, Crone's assertion that the *kitāba* is derived from the Greek institution can only be legitimised through

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[292] Qudūrī, *The Mukhtaṣar of al-Qudūrī*, p. 490.

[293] Shāfiʿī, *Al-Umm*, vol. 9, p. 427.

[294] Qudūrī, *The Mukhtaṣar of al-Qudūrī*, p. 490.

[295] Patricia Crone, *Roman, Provincial and Islamic law* (Cambridge: Cambridge University Press, 1987), p. 73.

her assumption that the original Quranic edict in Q24:33 does not refer to the emancipation contract.[296] Instead, she argues that the verse refers to a marriage contract, and *kitāba* was only read as emancipation once *paramone* had been imbibed by Islam much later in history. While her thesis is not grammatically implausible, her argument struggles to account for the fact that there is simply no classical exegetical material referring to *kitāba* as a marriage contract as she purports. Simply put, Crone attempts to argue that the entirety of Muslim scholarship simply 'had forgotten the original meaning of *kitāba* in the verse'.[297] The fact that Muslim commentators often narrate a plethora of differing interpretations for any single verse, often citing contradictory positions, does raise the question as to why Crone believes the original meaning of the verse would not have been retained amongst the varied readings. A far more plausible account would be to accept that the *kitāba* in the Qur'ān refers to the emancipation contract and simply shares parallels with other systems.[298]

To conclude, the emancipation contracts found within the legal manuals of Islamic jurisprudence often elicited differences of opinions regarding the minute details amongst the different schools. However, the fundamental stipulations and consequences of the contracts were agreed upon by consensus amongst scholarship. In regard to the *tabīr* and *istīlād*, both agreements were instantiated upon the death of the master which led to the slave being freed. Whereas, the *kitāba* agreement was premised on a payment of a certain amount of wealth which ultimately led to the emancipation of the *mukātab*. Assessing the judgements concerning the contracts, there certainly appears to have been a clear predilection amongst jurists to facilitate and enable the bestowing of freedom wherever possible, even when these rulings clearly contradict the principles generally applied within Islamic law.[299] Overall, entering into these contracts earned a number of rights for the slave, and while the slave was not considered altogether free, their legal status was vastly improved in comparison to the slave who was completely owned.

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[296] Her claim fits more broadly with hyper-sceptical approaches to the narratives of Islamic origins. See: Fred M Donner, *Narratives of Islamic Origins: The Beginnings of Islamic Historical Writings* (Princeton: The Darwin Press, 1998), pp. 20-31.

[297] Patricia Crone, 'Two Legal Problems Bearing on the Early History of the Qur'ān', pp. 3-20.

[298] Ibid., pp. 26-30. See Chapter 1 for the exegetical discussions of Q24:33.

[299] A clear example of this can be seen within legal texts. The Ḥanbalī jurist Laḥjī notes that children that murder their parents for inheritance are punished by inheritance being denied to them. However, he explicitly excludes female slaves murdering their masters from the principle. This discussion is included in a section entitled 'Those who hasten towards something before its allotted time period are punished through it being forbidden to them'. See: Laḥjī, *Iydāḥ al-Qawā'id al-Fiqhiyyah*, p. 76.

2.4 'The one who mistreats his slave will not enter paradise': Liminality and Legal Discourse

One of the most highly contested issues within Islamic law concerns the treatment of slaves, and the extent to which slaves are addressed as either human beings or dehumanised commodities in legal discourse. While legal texts may not be the most accurate barometer for the actual treatment of slaves within Islamicate history,[300] such texts contain valuable insight regarding normative conceptualisations of slavery within religious scholarship. For example, there are numerous instances in which slaves are clearly considered akin to livestock and commodities. As Brunschvig states, 'in the various classes of property distinguished by the *fiḳh*, [the slave] generally ranks with the animals and his lot is like theirs.'[301]

However, there equally exists a strong impetus within legal texts in which scholars seek to emphasise the humanity of slaves, and implore slave owners not to mistreat their slaves as 'the one who mistreats his slave will not enter paradise.'[302] This antinomy, in which slaves are described as commodities and yet often referred to as human beings, denotes a moral confusion on the part of legal scholars regarding slaves that permeates many aspects of jurisprudence pertaining to slavery. As Freamon elucidates,

> The confusion in the *fiqh* over definitional matters reflects the struggle between a legal regime that emphasized piety, a moral egalitarianism, and emancipation and an economic and political regime that sought to increase the imperial gains and social advantage of the Muslim empires and owners of property.[303]

Indeed, there are numerous examples in which the humanity of a slave appears to be acknowledged and promoted within legal discussions. For example, the Mālikī school explicitly states, 'one should treat slaves with kindness (*yutaraffaq bi-al-mamlūk*) and not compel them to undertake work they are unable to complete'.[304] A lengthy discussion of the topic can be found in Ghazālī's seminal *Ihyā' 'Ulūm ul-Dīn*, in which he explicitly discusses

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[300] El-Hamel, *Black Morocco*, pp. 6-7. For example, El-Hamel argues that focusing solely on legal texts has led to apologetic approaches that are written 'emphasizing the generosity of Islam toward those enslaved and hence undermining the experiences and agency of the enslaved people'.

[301] Brunschvig, ''Abd', in *Encyclopaedia of Islam.*

[302] Abū ʿĪsā Muḥammad ibn ʿĪsā Al-Tirmidhī, *Jāmiʿ al-Tirmidhī*, trans. by Abu Khalyl, 6 vols (Riyadh: Maktaba Darussalam, 2007), vol. 4, book. 25, tradition. 1946, p. 55.

[303] Freamon, 'Definitions and Conceptions of Slave Ownership', p. 54.

[304] Ibn Abi Zaid, *Al-Risāla*, p. 121.

the importance of treating slaves well as a religious duty. Ghazālī (d. 1111) cites a number of Aḥādīth from the Prophet Muḥammad,

> The final statement regarding slaves from the Prophet advised: Fear God. Provide slaves with the same food you eat, provide them cloth you wear and do not inflict on them work beyond their capability. If you don't wish to possess them, command them to go and don't perpetrate chastisement on the servants of God. God has placed them under your control. If He so wishes, He may place you under their control. The Prophet said: Provide the slaves food and cloth with fairness and don't command them to commit works beyond their capacity.[305]

Ghazālī concludes his discussion by emphasising that while the master may have power to punish the slave due to any mistakes he may make, God has the power to punish the master for his sins and faults, and the master should consider this when addressing his slaves as God will not show mercy to those who are not merciful.[306] The caution to the master warns that he could equally find himself in such a position appears to humanise slaves in so far as Ghazālī's statements encourage masters to empathise with their slaves and recognise that the misfortune of slavery could befall anyone. A number of legal rulings echo the sentiments of Ghazālī's statement. For example, it was stipulated that if a master is unable to provide adequate maintenance for his slave, as a result of such, the slave must be sold or freed.[307] The Mālikī's explicitly state that if a slave is mistreated to the point of mutilation or maiming, the slave must be emancipated.[308] Moreover, it was categorically forbidden to separate a young slave from their mother, with the consequence of the sale being nullified as a result.[309] Additionally, it was stated that if someone comes into possession of a relative, it was compulsory to free them.[310] All of these examples evidence some form of acknowledgement of the humanity of an enslaved person.

Furthermore, in regard to the dictates of religious observance (*ibādāt*), it has been noted that 'the Muslim slave has a religious status theoretically identical with that of his free coreligionists'.[311] Religious observances serve as an excellent case in point to exhibit the

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[305] Abū Ḥāmid Muḥammad b. Muḥammad al-Ghazālī, *Ihyā' 'Ulūm ul-Dīn* (Beirut: Dar Ibn Hazm, n.d.), p. 683.
[306] Ibid.
[307] Brunschvig, ''Abd', in *Encyclopaedia of Islam.*
[308] Brockopp, *Early Mālikī Law*, p. 152.
[309] A tradition attributed to the Prophet Muḥammad states, 'Whoever separates a mother and her child, then Allah will separate him and his beloved on the Day of Judgement'. This is found in the chapter titled 'It is Disliked to Separate (related) Captives' in Al-Tirmidhī, *Jāmi' al-Tirmidhī*, vol. 3, book. 19, tradition. 1566, p. 338.
[310] Zuḥaylī, *Al-Qawā'id al-Fiqhiyyah*, p. 744.
[311] Brunschvig, ''Abd', in *Encyclopaedia of Islam.*

attempts made by jurists to negotiate the paradox in which slaves fluctuate between persons and property. For instance, slaves were equally obliged to pray and fast the requisite amount of times as free believers. In this sense, they were viewed as spiritually equal to free folk, with some scholars emphasising that slaves may often be more pious than the free.[312] Furthermore, the consensus amongst jurists generally allowed slaves to lead the prayer if they were the most qualified to do so. This was based on traditions regarding ‘Ā’ishah which stated that her slave led the companions in prayer. The tradition states, ‘Abū Amar, the slave of ‘Ā’ishah, led many people in prayer, and Abū Amar was the slave of ‘Ā’ishah and had not been emancipated’.[313] While certain narrations from the Ḥanafīs and the Mālikīs exhibit somewhat of a disinclination to a slave leading prayers, the Ḥanbalī school states that ‘the one to lead the community in prayer is the one from them who is the most proficient in the book of Allah’, alluding to the fact that if a slave is the most knowledgeable, the role of leading prayer should be allocated to him.[314]

However, it was also posited that religious rights that may necessitate any freedom of movement are limited for the slave. Any religious obligations for the slave were balanced against the masters right to control and restrict the slave’s movement and as a result of such, the *jihād*, the *hajj* and even the Friday prayer were not permitted for the slave unless expressly allowed by his master.[315] Although some scholars argued that slaves should be allowed to attend the Friday the prayer due to the verse Q62:9,[316] Ibn Qudāmah opposes this argument and cites a Ḥadīth attributed to the Prophet which states that ‘the Friday prayer is a duty for every Muslim except four: the slave, the woman, the child and the ill’, as such it is claimed that the slave can only attend with his masters explicit permission.[317] It was also accepted that slaves were not permitted to serve as judges, give testimony in a trial or exercise authority over

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[312] For example, the *Jalālayn* states ‘many a slavegirl may be more excellent in faith than a free woman’. See: Maḥallī and Suyūṭī, *Jalālayn,* p. 89.
[313] Abū Bakr ‘Abd al-Razzāq al-San’ānī, *Al-Muṣannaf li al-Ḥāfiẓ al-Kabīr Abī Bakr ‘Abd al-Razzāq al-San’ānī,* 11 vols (Johannesburg: al-Majlis al-Ilmi, 1970) vol. 2, p. 393-394.
[314] Ibn Qudāmah, *Al-Mughnī*, vol. 3, p. 26. Although this is contested by the Ḥanafī’s who disapprove of the act.
[315] Ibn Abi Zaid, *Al-Risāla*, p. 53. Freedom is cited as part of the preconditions for those on whom the *Hajj* is obligatory.
[316] Q62:9: O ye who believe! When the call is proclaimed to prayer on Friday (the Day of Assembly), hasten earnestly to the Remembrance of Allah, and leave off business (and traffic): That is best for you if ye but knew.
[317] Ibn Qudāmah, *Al-Mughnī,* vol. 3, pp. 217-218.

the affairs of others, although 'slavery would not, however, preclude him from giving fatwas, just as it does not preclude him from narrating Ḥadīth'.[318]

Another complex case can be seen with a slave that was granted authorisation (*idhn*) by his master. The slave was considered authorised *(ma'dhūn),* which consequently led to gaining a number of rights regarding property and trade. For example, a *ma'dhūn* slave was able to buy and sell goods, pawn items, as well as taking guarantees and deposits against debtors without prior approval of his master. As such, the *ma'dhūn* was viewed as a legitimate representative of his master. However, the *ma'dhūn* was not permitted to get married, get other slaves married, bequeath a *kitāba* contract or emancipate other slaves.[319] A revealing comparison found in the *Mukhtaṣar* of Al-Qudūrī likens the *ma'dhūn* slave to a child, stating 'if a child's guardian authorises a minor to trade, then he is like that *ma'dhūn* slave in buying and selling'.[320] In certain instances, it can certainly be argued that slaves were discussed as human beings with limited legal capacity, as in the case of minors and the insane.

In addition to this, there are numerous examples in which jurists attempted to legislate in order to secure freedom for slaves, often in direct contravention of clearly established principles in Islamic law. A clear instance of this can be seen with the issue of 'blasphemous emancipation', that is, if a master emancipates his slave in the name of Satan or idols. According to the Ḥanafī school, such a statement, while completely illegitimate in its content, would still be considered a legitimate manumission. As Qudūrī states, 'whoever sets his slave free in the name of God or for Satan or for an idol, the slave is considered free'.[321] Additionally, it is also argued that 'the setting free [of a slave] by a coerced or intoxicated person is valid.'[322] While blasphemy would generally nullify contracts and sales in other instances, jurists tend to disregard the general principles in place and tend towards allowing emancipation to occur.

The contravention of general principles in order to expatiate emancipation can be located in numerous legal rulings and highlight the lengths to which jurists attempted to assuage rulings

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[318] Freamon, 'Definitions and Conceptions of Slave Ownership', p. 58.

[319] Sarakhsī, *Al-Mabsūt*, vol. 25, pp. 3-22.

[320] Qudūrī, *The Mukhtaṣar of al-Qudūrī,* p. 367.

[321] Ibid., p. 479. In his commentary on the *Mukhtaṣar* of Al-Qudūrī, Maydānī adds, 'Whoever sets his slave free for the face of God or for Satan or for an idol, [the slave] is set free. Since the ordinance of manumission was issued by the master and thereby extends to the slave, the emancipation occurs. His statement thereafter is nonsensical and sinful, as he seeks to venerate disbelief'. See: 'Abd al-Ghanī al-Ghunaymī al-Maydānī, *Al-Lubāb fī Sharḥ al-Kitāb*, 4 vols (Beirut: al-Maktaba al-Ilmiyya, n.d), vol. 3, p. 117.

[322] Qudūrī, *The Mukhtaṣar of al-Qudūrī,* p. 479.

pertaining to slavery and freedom. For example, it was argued that if the *mukātab* claims his freedom contract is worth 1000 dirhams, and his master claims the contract is worth 2000 dirhams, 'the judge should rule on the claim of the *mukātab* so long as he takes an oath, and establish the contract at 1000 dirhams'.[323] The fact that the slave's word would be held in higher regard than his masters' claim clearly demonstrates the extent to which jurists attempted to promulgate emancipation, as this principal would not be justified in other contexts.

Indeed, Ibn Qudāmah cites an issue that similarly raises problematic consequences and appears to contradict general wisdom regarding contracts and their stipulations. He narrates a ruling in which it is stated that 'if [the master] says to his slave: you are free if I sell you, then he proceeds to sell him, the slave becomes free'.[324] A minority argue that the master cannot govern over that which he does not own. As such, once the slave is sold, the master is in no position to free him and has no power over him as he is no longer his property. While the criticism of the ruling is quite clear and consistent, the majority of jurists accept the ruling as legitimate, which again appears to be borne of a desire to expatiate emancipation wherever possible.

This type of emancipatory ethic can be located throughout legal literature in a number of instances. In one example, it was argued that if a married female slave gave birth to a child, and her master claimed paternity, his claim would not be accepted. Rather, the lineage of the child would be established through the female slave's husband. However, 'the child is still born free (*yusīru al-walad hurr*), and the female slave still becomes the *umm al-walad* of the master'.[325] In this case, it is logically inconsistent that the child should be attributed freedom and the mother would become an *umm al-walad*, whilst simultaneously denying the paternity of the master. Yet, jurists justified the seemingly illogical in order to allow freedom. In another instance, jurists argued that even if a master freed the wrong slave mistakenly, the emancipation would still be valid.[326] It was also argued that a foundling (*laqīt*) whose origins remain unknown cannot be taken as a slave and must be considered free.[327]

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[323] Sarakhsī, *Al-Mabsūt*, vol. 8, p. 66.

[324] Ibn Qudāmah, *Al-Mughnī,* vol. 6, p. 27.

[325] Muṣṭafā Aḥmad Zarka, *Sharḥ al-Qawā'id al-Fiqhiyya* (Damascus: Dar al-Kalam, 1989), p. 413.

[326] Laḥjī*, Iydāḥ al-Qawā'id al-Fiqhiyyah,* p. 79.

[327] Qudūrī, *The Mukhtaṣar of al-Qudūrī*, p. 346. It is further stated that 'if a slave claims [the foundling] to be his son, his lineage from him is established but he is free'.

’abda sila) who can be bought and sold, and can be disposed of by a free person; therefore, there is no equality between them (*wa la musāwah baynahu wa bayna al-hurr*)’.*332* Therefore, the majority position stated that if a slave was murdered, the murderer was only obliged to pay the price of the slave to the master for losses incurred. This was disputed by the Ḥanafī school who argued that if a free man murdered a slave, then the free man should also be killed as a result. However, this was caveated by the assertion that a man should not be killed for ‘[murdering] his slave, his slave who is to be set free after his death (*mudabbar*), his slave who he has given a contract to purchase his own freedom (*mukātab*) or for his son's slave’.[333]

Furthermore, though the virtue of emancipation and freedom was consistently promoted, jurists unanimously agreed that an absconded slave (*al-'abd al-ābiq*) was to be returned to his master, and compensation should be paid to those who returned him.[334] The discussions within the legal texts often focus on the importance of proving that the correct person receives the reward for the capture of the slave, and the difference in price for the varying distances that may have been covered in the slave's return.[335] There exists little discussion as to why a slave may attempt to abscond from his master in the first place, nor any consideration for his desire to escape his masters grasp. Additionally, jurists utilised a Ḥadīth attributed to the Prophet Muḥammad which states, ‘any slave who absconds from his master is guilty of disbelief (*kufr*), until he goes returns’, which further emphasised the religious obligation for a slave to remain faithful to his master.[336]

The clearest example of the commodification of slaves, however, can be found in reference to the female slave. While both male and female slaves are discussed in dehumanising terms, the sexual nature of female slavery emphasises the commodification of slaves more starkly. The sexual nature of female slavery is perhaps most clearly expressed by a formula of emancipation for female slaves ‘your vagina is free (*furjuki hurr*)’.[337] There are numerous legal rulings which accentuate the sexual nature of female slavery. One example can be seen when discussing

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[332] Qurṭubī, *Al-Jami'*, vol. 3, p. 68.

[333] Qudūrī, *The Mukhtaṣar of al-Qudūrī,* p. 506.

[334] Sarakhsī, *Al-Mabsūt*, vol. 11, pp. 18-35.

335 Ibid.

[336] Nawawī, in his commentary on Muslim, posits that ‘disbelief’ in this instance may not necessarily signify the slave has ceased to be a Muslim. Rather, he argues that it may indicate that absconding is from the actions of disbelief, it may lead to disbelief, or ‘*ka-fa-ra*’ refers to a rejection of the master's blessings. He also cites another narration of the tradition that reads ‘if the slave absconds, his prayer is not accepted’. See: Abū Zakariyya Yaḥya Ibn Sharaf al-Nawawī, *Saḥīḥ Muslim bi-Sharḥ al-Nawawī*, 18 vols (Cairo: Mu'assasat Qurtubah, 1994), vol. 2, pp. 76-78.

[337] Qudūrī, *The Mukhtaṣar of al-Qudūrī,* p. 475.

legitimate faults for the rescinding of sales. Female slaves can be returned due to halitosis (*bakhr*), odorous armpits (*dafar*) and a propensity for illegitimate intercourse (*zinā'*), while none of these constitute a fault in the male slave.[338] This point is emphasised by Marmon who states that the primary purpose of female slavery is 'sexual service and childbearing' *(al-istifrāsh wa-ṭalab al-walad)*, while for male slaves it is simple service (*istikhdām)*.[339]

Furthermore, slave girls are often discussed as a legitimate receptacle for men to express their sexual urges without falling into sin. This can be seen in legal rulings in which it is argued that it is preferable to have intercourse with a female slave than to masturbate, or if one cannot afford to buy a female slave, it is preferable to marry her for a short time.[340] While there is relative silence regarding the issue of consent, Kecia Ali strongly posits that male slave-owners did not consider obtaining consent necessary prior to engaging in sexual activity with their slaves.[341]

The commodification of slaves and their subsequent distinction from the free can also be seen in the views regarding what parts of the body are considered intimate ('*awrah*). While both the free man and the male slave are obliged to be covered from their navel to their knee, the free woman is expected to cover all of her body except her face and hands.[342] Conversely, the slave woman is only obliged to cover from the navel to the knee as is the case with men.[343] As a result, the female Muslim slave was not obliged to wear a head scarf, cover her chest, breasts and back, even in the case of prayer.[344] This ruling arguably stems from a tradition concerning the second Caliph 'Umar ibn al- Khaṭṭāb in which 'Umar reprimanded a slave girl for attempting to don the veil. The narration posits that 'Umar beat the female slave, stating, 'do

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[338] Ibid., pp. 167-168.

[339] Marmon, *Slavery in the Middle East*, p. 4.

[340] Yūsuf Ibn 'Abd al-Hādī, *Al-Qawā'id al-Kulliyah wa Dawābit Fiqhiyah* (Beirut: Dar al-Bashair al-Islamiyah, 1994), p. 100.

[341] Kecia Ali, 'Concubinage and Consent', *International Journal of Middle Eastern Studies*, 49.1 (2017), 148-152 <https://doi.org/10.1017/S0020743816001203>.

[342] 'Abd ul-Raḥmān al-Jazīrī, *Kitāb al-Fiqh fī Madhāhib al-Arba'a*, 5 vols (Beirut: Dar al-Kutub al-Ilmiya, 2014), vol. 1, p. 172. Opinions vary regarding what constitutes the '*awrah* of a free woman, with some claiming the feet can also be shown, while others argue the face, hands and feet must all be covered.

[343] Ibid., p. 172. 'The limit of the intimate parts of the man and the female slave constitute what is between the navel and the knee'.

[344] However, some jurists distinguished between the '*awrah* within the prayer and outside the prayer. For example, Ibn 'Ābidīn states that 'it is permissible [according to the agreement of scholars] for the female slave to pray and her head is uncovered (*ra'suhā makshūf*) however, if she prays and her chest and breasts are uncovered, this is impermissible according to the majority of our scholars. The chest of the female slave is considered '*awrah* during prayer, but not outside of the prayer'. Muḥammad Amīn Ibn 'Ābidīn, *Radd al-Muḥtār 'alā Darr al-Mukhtār Sharḥ Tanwīr al-Absār,* 14 vols (Beirut: Dar al-Kutub al-Ilmiya, 2003), vol. 2, p. 77.

not attempt to appear like a free woman'.[345] The distinction between the dress of free women and slave women is further emphasised within Quranic exegesis regarding the verse Q33:59.[346] It is argued that the verse indicates that free women should veil so as to not be compared to slave women, as slave women are more likely to be harassed by men.[347] The fact that free women were obliged to cover themselves, while slave women could arguably be compelled to uncover, highlights the chasm between the free and the enslaved within legal thinking. Indeed, for jurists, while it was unthinkable that a Muslim free woman may uncover in view of men outside of her family, the acceptance that female Muslim slaves could be forced uncover highlights the extent to which slaves were commodified within legal thought.

To conclude, slaves appear to have occupied a particularly complex place within legal thought. On the one hand, numerous Quranic injunctions and Ḥadīth traditions promoting the good treatment of slaves led scholars to underscore the humanity of slaves. Conversely, the fact that these people were owned by others naturally led to their legal rights being heavily restricted and curtailed by the rights of their masters.

The paradox, in which slaves were considered both persons and property simultaneously, was never coherently negotiated by legal scholars. The strong impetus towards emancipation, the emphasis on good treatment, and the fact that slaves could lead the free in prayer all indicate that slaves were conceived as human beings in an unfortunate position. Whereas, the fact that slaves could be legally murdered by their masters without retribution, could be compelled to return if they absconded, and the sexual utilisation of female slaves all indicate their role as property, In sum, the legal rulings pertaining to slaves indicate that in the minds of legal scholars, slaves occupied a liminal space situated between people and property.

2.5 Conclusion

The questions this chapter sought to address were:

1. What were the laws regarding enslavement?
2. What were the avenues for emancipation?

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[345] 'Abd Allāh ibn Muḥammad ibn Abī Shaybah, *Al-Muṣannaf*, ed. Usāma ibn Ibrāhīm, 15 vols (Cairo: al-Faruq al-Haditha li-al-Tiba'a wa al-Nashr, n.d.) vol. 3, tradition. 6296, p. 114-115.

[346] 'O Prophet, tell thy wives and your daughters, and the believing women that they should cast their outer garments over their persons: that is most convenient, that they should be known (as such) and not molested. And Allah is Oft- Forgiving, Most Merciful.'

[347] Rāzī, *Al-Tafsīr al-Kabīr*, vol. 25, p. 231. Also see: Wāḥidī, *Asbāb al-Nuzūl,* p. 132.

3. Were slaves considered people or property within legal discourse?

Firstly, the continuation of slavery was legitimised through two legal avenues. The first of these was for those who were born into slavery. The ruling regarding birth into slavery posited that a child's status was contingent on the status of his mother at the time of his birth. The second legal avenue for lawful enslavement was capture through warfare. It was generally accepted amongst the four schools that upon victory in a battle, the commander of the Muslims had a choice regarding the treatment of captives. The five options available to the *imām* were execution, freeing the captives out of good will, ransom, applying the *jizya*, or enslavement. The schools differed regarding the preference of these options, with Abū Ḥanīfa claiming it was illegitimate to ransom or free captives. Enslavement was not actively encouraged or necessarily discouraged; rather, the fundamental principle asserted within legal texts stresses the importance of military superiority within the overall battle. It was categorically forbidden to enslave free Muslims, and while it has been argued that enslavement was a punishment for disbelief, legal rulings appear to demonstrate enslavement was more probably linked to being considered an enemy of the state. It was equally forbidden to enslave non-Muslims who were citizens of the Muslim state.

Secondly, as well as the various expiations for sins that have been explored in Chapter One, the legal code stipulated three emancipation contracts that served as avenues towards emancipation. It should be noted that none of the contracts were deemed obligatory on the request of the slave, and ultimately, all jurists attributed the power to bestow a contract to the master. The *tadbīr* contract was a promise of emancipation upon the death of the master and was instantiated once the master perished. Once the *tadbīr* contract had been promised, the *mudabbar* gained a number of rights and freedoms. Furthermore, the *istīlād* contract was specifically for female slaves who gave birth to their master's child. At that stage, the female slave's status transferred to that of the *umm al-walad*. Similar to the *mudabbar,* the *umm al-walad* gained rights and would also be freed upon her master's death. Importantly, the child of the *umm al-walad* was born free. The third contract was the *kitāba*, which was premised on a payment of a certain amount of wealth which ultimately led to the emancipation of the *mukātab*. Entering into these contracts earned rights for the slave, and their legal status was vastly improved in comparison to the slave who was completely owned.

In regard to the third question, slaves were considered both persons and property simultaneously, and this antinomy was never completely negotiated by legal scholars. A

humanitarian trend can certainly be located within legal discourse in which the good treatment of slaves is accentuated. As such, it is argued that slaves should be fed with the same food as the master eats and clothed with the same cloth. However, there are equally rulings that demonstrate that slaves, in certain contexts, were treated no different to livestock. Overall, the legal rulings pertaining to slaves demonstrate that in the minds of legal scholars, slaves occupied a liminal space situated between persons and property.

As a final point, it should be noted that while emancipation is clearly impelled throughout the legal tradition, such support did not lead to the denunciation of slavery as an institution. While Muslim abolitionists clearly found encouragement in the emancipatory ethic located within the legal tradition, the virtue and merit of emancipation was also utilised by those attempting to preserve slavery. For example, a nineteenth century Muslim proponent of slavery argued, 'slavery cannot be abolished, as to do so would be to deny the future generations the opportunity to commit the virtuous deed of freeing slaves'.[348]

Furthermore, it could certainly be posited that it would be iniquitous to expect classical scholars in the Muslim world to propound abolitionist principles that were yet to be born. However, the principles of Islamic law demand an imperious obedience towards classical rulings. Therefore, the acceptance of slavery and lack of censure within the classical legal tradition was routinely cited by those attempting to protect and preserve the institution of slavery within the Muslim world as an authoritative piece of evidence to militate against calls for abolition. As another nineteenth century interlocutor propounded, 'the permissibility of enslavement in our religion has been confirmed by scripture and is agreed upon by a consensus of [legal] scholarship (*ijmāʿ*)'.[349] It is perhaps for this reason that many of the abolitionist scholars called for reform of classical Islamic law, and professed that the legal system in its classical form was not fit for purpose and needed to be completely reworked.

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[348] Clarence-Smith, *Islam and the Abolition of Slavery,* p. 189.
[349] Muhammad Ali, *Radd al-Shiqāq fī Jiwāz al-Istarqāq* (Kanpur: Matbaʿ Nizami, 1874), p. 1.

Rereading Slavery in an Age of Abolition

Prelude to Chapters Three and Four

The development of Islam into a tradition that coherently challenged the legitimacy of slavery as an institution marks a significant shift from the classical position in which slavery was deemed as part of the divine order. As demonstrated within previous chapters, the idea that enslavement was sanctioned by both the Qur'ān and the Prophet Muḥammad was ubiquitous within tracts and treatises addressing the issue, and as a result, classical scholars developed a theological and legal outlook regarding enslavement that provided religious justification for its place in society. The birth and promotion of 'Islamic abolitionism', the idea that Islam was antithetical to slavery, developed into a fully-fledged hermeneutic in the 19th century and was generally promoted by reformist scholarship. The reformers employed differing arguments and methods in their bids to reconcile the ideal of abolition with the religious tradition of Islam.

However, while a coherent abolitionist hermeneutic was developed in the 19th century, anti-slavery discourses that serve as antecedents to Islamic abolitionism can be located scattered throughout Islamicate history. An example can be seen with the leader of the Qarmatian movement in early Islam, Ḥamdān Qarmaṭ. Qarmaṭ (d. 899) was known to be a vocal opponent to slavery and the slave-trade, so much so that he was exiled from a number of cities due to his 'violent denunciations against domestic slavery'.[350] It is also claimed that Qarmaṭ attempted to aid the Zanj Rebellion in Iraq, which constituted a slave-revolt and a resistance against the inhumane exploitation of the enslaved Zanjis.[351]

Another example can be seen with the Moghul emperor Jalāl ul-Dīn Muḥammad Akbar, famously known as Akbar the Great (d. 1605). While Akbar's ostensible liberality is generally celebrated by commentators, his anti-slavery sentiment has been overlooked somewhat.[352] In 1562-63, Akbar issued a decree 'prohibiting the imperial soldiers from enslaving women,

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[350] Syed Ameer Ali, *Personal Law of the Mohammadans* (London: W.H Allen, 1880) p. 39. Also: Clarence-Smith, *Islam and the Abolition of Slavery*, p. 57.

[351] El-Hamel, *Black Morocco*, p. 43.

[352] For example, neither Wink nor Burke mention Akbar's views regarding slavery. See: Andre Wink, *Akbar* (Oxford: Oneworld, 2009), also: Samuel M Burke, *Akbar: The Greatest Mogul* (New Delhi: Munshiram Manoharla, 1989).

children and kinsmen of the opposing soldiery… the order banned the sale of slaves as well'.[353] Hodgson notes that while Akbar attempted to limit the avenues to obtain slaves, his intention was to 'eliminate slave-trading generally'.[354] While slavery was never completely eradicated in the Moghul period, evidence demonstrates that Akbar's efforts did have some impact, as 'none of the European travellers (of this period) mention a slave-market with reference to any city in the Moghul Empire'.[355] Furthermore, Rudolph Ware's fascinating account of the Imamate of Futa Toro in 18th century West Africa also provides another example of anti-slavery sentiment within the Muslim world. Ware argues that as a result of the aggressive enslavement of Africans by Europeans, the Imamate of Futa Toro 'Abd al-Qādir prohibited slavery for a period.[356]

These examples highlight that anti-slavery thought existed in the Muslim world prior to European imperialism. In that sense, these moments serve as a counterbalance to those who claim that anti-slavery thought was born within the Muslim world due only to colonial influence. For example, the historian Bernard Lewis argues 'the abolition of slavery itself [within the Muslim world] would hardly have been possible'[357] without foreign intervention, as slavery was upheld within Islam as 'an institution sanctified by scripture, law, and tradition and one which in their eyes was necessary to the maintenance of the social structure of Muslim life'.[358] These types of prevarications simplify an especially complex period of history, and whilst there are some pertinent points raised by the likes of Lewis, his claim is premised on problematic assumptions regarding the role of colonial powers.

The role of Western colonial powers was certainly not as consistent as is envisaged. For example, there are clear examples in which British officials attempted to 'manipulate Islamic beliefs and institutions to delay the imposition and enforcement of abolition, for they were fearful that tampering with servitude would cause rebellions and wars'.[359] As such, Lovejoy claims that colonial powers occasionally 'became the defenders of slavery and the greatest

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[353] Shadab Bano, 'Slave Acquisition in the Mughal Empire', *Proceedings of the Indian History Congress*, 62 (2001), 317-324 (p. 317).

[354] Marshall G. S. Hodgson, *The Venture of Islam: Conscience and History in a World Civilisation*, 3 vols (London: University of Chicago Press, 1974), vol. 3, p. 71.

[355] Bano, 'Slave Acquisition', p. 317.

[356] Rudolph T. Ware III, *The Walking Qur'an: Islamic Education, Embodied Knowledge and History in West Africa* (Chapel Hill: University of North Carolina Press, 2014).

[357] Bernard Lewis, *Race and Slavery in the Middle East: An Historical Enquiry* (Oxford: Oxford University Press, 1990), p. 78.

[358] Ibid., p. 79.

[359] Clarence-Smith, 'The British 'Official Mind'', p. 125.

single impediment to full emancipation'.[360] Though the British parliament was quick to propagate anti-slave trade laws, 'the institutions charged with implementation [of these laws] were neither interested, due to regional political interests, nor equipped well enough to fulfil their task.'[361]

The collusion of European powers often allowed a continuation of slavery in the Muslim world in a bid to preserve the status-quo, not only to supply slave labour within regions that were economically beneficent to colonial powers, but also to preserve relations with slave-owning elites. Furthermore, research suggests that abolitionist readings of the Islamic tradition were essential to transforming social attitudes towards slavery and helping abolitionist legislation become a lived reality.[362] Similar to the Christian tradition, Muslim thinkers equally debated and deliberated on their relationship with the institution of slavery, conceptions of freedom and abolition, and the link between slavery and imperialism.[363] Historians, such as Lewis, while focusing on the role of colonial hegemony have tended to overlook the role of Islamic law in developing frameworks for emancipatory readings of the Islamic tradition, and how these readings helped accelerate the adoption of abolitionism as an ideal to be strived for.

Such a claim is particularly insidious as it seeks to legitimise the ills of European colonialism, and completely overlooks the fact that all nations to some extent struggled with the implementation of abolitionist ideals. Indeed, the bloodiest war in American history took place centring on the issue of slavery and bondage.[364] Therefore, to claim that Muslim nations were particularly attuned to slavery and this proclivity could only be uprooted due to foreign occupation serves to assuage anxieties regarding European empires in history.

Such narratives often reproduce romanticised accounts of the development of abolitionism, seeking to link abolition with the 'progressive' nature of Western nations. However, such narratives tend to overlook the more nuanced readings of history that link abolitionism to a

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[360] Paul Lovejoy, *Transformations in Slavery: A History of Slavery in Africa* (Cambridge: Cambridge University Press, 1983), p. 247.

[361] Christine Molfenter, 'Overcoming Bonded Labour and Slavery in South Asia: The Implementation of Anti-Slavery Laws since its Abolition until Today', *South Asia Chronicle*, 3 (2013), 358-382 (p. 367).

[362] Gabriel Baer, 'Slavery in Nineteenth Century Egypt', *The Journal of African History*, 8 (1967), 417-441 (p. 440).

[363] Davis notes that Christian abolitionists forcefully debated whether slavery was permitted within the Bible within America during the 19th Century, leading to abolitionists having to 'disassociate themselves with centuries of Biblical interpretation'. See: Davis, *Problem of Slavery in the Age of Revolution*, p. 524.

[364] David Brion Davis, *Inhuman Bondage: The Rise and Fall of Slavery in the New World* (Oxford: Oxford University Press, 2008), pp. 297-332.

myriad of varying factors, many of which do not represent Western nations as altruistic humanitarians. For example, scholars have argued that the popularity of abolitionism dovetailed with the lack of economic viability of slavery, and subsequently free labour was viewed as more profitable as modern economies began to take shape.[365] Others have emphasised that abolitionists were often deeply racist individuals who cared very little for the enslaved, while scholars have increasingly cited the impact rebellions from enslaved communities had on conceptions of the viability of slavery as a profitable institution.[366] The lack of concern for the welfare of the subjugated is perhaps best exemplified by the fact that the same rhetoric of 'progress' that was used to champion abolition, was equally employed to justify colonialism and, at times, genocide. Disarticulating narratives that seek to impose notions of Western exceptionalism creates space for a clearer understanding of how abolitionist ideas gained traction in parts of the Muslim world and centres the figures who actively campaigned and challenged slavery in the name of Islam.

The following two chapters focus on the ideas of thinkers that championed anti-slavery readings of the Islamic tradition. While there are numerous politicians and activists who combatted the slave-trade, this chapter focuses primarily on thinkers that developed systematic attempts to utilise Islam as an abolitionist tradition. For example, while Aḥmad Bāy of Tunis was one of the first to prohibit slavery in the Muslim world in the year 1846, he used the mistreatment of slaves to argue that modern slavery was not abiding by the standards of Islamic slavery.[367] This type of pragmatic political manoeuvring, while effective, did not necessarily problematise slavery as a concept, nor present Islam as an anti-slavery tradition. Specifically, I focus on thinkers who attempted to oppose slavery from an Islamic perspective, namely, those contributing an innovative approach to reading scripture and tradition as decisively anti-slavery.

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[365] Within his work, Williams tracks how the feasibility and promotion of the abolition of slavery by the British was heavily linked to the unprofitable nature of economies based on slavery, and saw slave-owners incur huge losses. See: Eric Williams, *Capitalism and Slavery* (Chapel Hill: University of North Carolina Press, 1944).
[366] Davis, *Inhuman Bondage*, pp. 157-174. Also: Manuel Barcia, *The Great African Slave Revolt of 1825: Cuba and the Fight for Freedom in Matanzas* (Baton Rouge: Louisiana State University Press, 2012), and Manuel Barcia, 'An Atlantic Islamic Revolution: Dan Fodio's Jihad and Slave Rebellion in Bahia and Cuba, 1804-844', *Journal of African Diaspora Archaeology and Heritage,* 2.1 (2013), 6-18.
[367] Aḥmad Bāy argued, 'this pattern of inhumane conduct did not comply with the Sharia injunction that Muslims treat those under their care with kindness. Under these circumstances, the Sharia even enjoined the 'ulama' to compel slave masters to liberate their ill-treated slaves'. See: Ismael M Montana, *The Abolition of Slavery in Ottoman Tunisia* (Gainesville: University of Florida Press, 2013), p. 102.

These scholars attempted to explore the wider questions raised by the abolition of slavery and the impact these questions had on conceptions of Islamic theology, law and ethics. Accepting that slavery was an evil that needed to be abolished raised questions concerning the reasons it had been granted legal legitimacy by God to begin with. Similarly, Muslims could not claim that the Prophet Muḥammad was the paradigm of morality and good character, yet accept he had owned slaves, whilst condemning slavery. Perhaps the most troubling issue raised by abolitionism for Muslim scholarship was that the quest for abolition was being championed by another civilisation, and more importantly, another religion. These were all topics treated by scholars promoting Islamic abolitionism within their respective works.

Chapter Three: Sayyid Ahmad Khan and 'Quranic Abolition'

'According to the religion of Islam, it is not permissible to trade in slaves. Firstly, it is a sin, but secondly, the greater sin is that nations are given fodder to malign and impugn Islam'
- *Sayyid Ahmad Khan*

3.1 Introduction

Sayyid Ahmad Khan (d. 1898) is perhaps the most well-known scholar from the Indian modernist movement. In 1875, Khan helped establish the Muhammadan Anglo-Oriental College at Aligarh, and consistently promoted his reformist ideas through articles and journals in the English and Urdu languages. The themes addressed within Khan's contributions included 'Quranic interpretation, presenting the sacred texts as in harmony with science and reason, criticism of Ḥadīth (narratives of the Prophet), and calls for renewed *ijtihād* (religious interpretation)',[368] as well as addressing the highly contested issue of slavery within Islam. As Smith notes, 'no Muslim of his generation was as categorical or as zealous in attacking slavery as Ahmad Khan'.[369] Unlike other scholars of his time, Khan vociferously condemned the practice of slavery as immoral and importantly, as 'un-Islamic'. He argued, 'we have to be certain in our hearts that this practice was contrary to the Islamic religion and was in essence bad and unworthy'.[370] Khan initially published his views on slavery within his Urdu journal *Tehzīb ul-Akhlāq*. In 1871, he published a series of articles entitled *Ibṭāl-e-Ghulāmī* (Refutation of Slavery), which were later collated into an entire book by the same name.

Khan's provocations appear to have been aimed primarily at two main groups. Firstly, Khan seems to have been challenging both the scholarly and political classes across the Muslim world for allowing the continuation of slavery and concubinage in the name of Islam. In his work, he argues that 'it is of particular grievance that due to the reprehensible actions of Muslims, Islam receives unrelenting critique'.[371] Khan claims, 'according to the religion of Islam, it is not permissible to trade in slaves. Firstly, it is a sin, but secondly, the greater sin is that other nations are given fodder to malign and impugn Islam. They conclude that due to the

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[368] Charles Kurzman, *Modernist Islam 1810-1940: A Sourcebook*, ed. by Charles Kurzman (Oxford: Oxford University Press, 2002), p. 291.

[369] Clarence-Smith, *Islam and the Abolition of Slavery,* p. 196.

[370] Powell, 'Indian Muslim Modernists', p. 271, Also see: Mohammad Mujeeb, *The Indian Muslims* (London: George Unwin & Allen, 1967), p. 450.

[371] Sayyid Ahmad Khan, *Ibṭāl-e-Ghulāmī* (Mufid-e-Aam: Agra, 1893), p. 16.

despicable actions of Muslim governments, these acts are permitted by the Muslim religion'.[372] Furthermore, within his work, Khan hopes to convince Muslims that the slave-trade is damaging Muslim societies. Khan argues that the continuation of slavery has provoked divine punishment, stating, 'it is of my opinion that Muslim governments suffer in this world and will also suffer in the next … The reason for our dire state is due to allowing practices such as [the slave-trade]'.[373]

The second group targeted by Khan's contribution were European critics. Part of Khan's impetus for writing on the subject appears to have been in response to Orientalist critiques of Islam; namely, critiques levied by the Scottish Orientalist and colonial administrator William Muir. Muir was famed for his hostility towards Islam and was attempting to cast Islam as 'the religion of slavery' in order to liberate Indians from a tradition that was a barrier 'to the reception of Christianity'.[374] Muir's critiques were part of a larger trend of thought that attempted to associate Islam with the institution of slavery in a bid to distance Christianity from the slave trade and link the persistence of slavery in Europe to Islamic influences.[375] It appears that many of Muir's unflattering opinions regarding the Prophet Muḥammad's conduct greatly troubled Khan.[376] This perhaps accounts more readily for the early references in Khan's articles focusing on dissecting the issue of slavery within Islamic law and exegesis, and not on the abolition of the slave trade in India. The questions this chapter seeks to address are:

1. What was Sayyid Ahmad Khan's Quranic abolition thesis?
2. How did his method of interpretation differ from the 'orthodox' method?
3. How was his work received by other scholars?

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[372] Ibid., p. 15.

[373] Ibid., pp. 15-16.

[374] He claimed: 'Three radical evils flow from the faith, in all ages and in every country, and must continue to flow so long as the Coran is the standard of belief… Polygamy, Divorce, and Slavery, are maintained and perpetuated; striking as they do at the root of public morals, poisoning domestic life, and disorganizing society.' See: William Muir, *The Life of Mahomet,* 4 vols (London: Smith, Elder and Co., 1858– 61), vol. 4, p. 321.

[375] Edward Said, *Orientalism: Western Conceptions of the Orient* (London: Penguin, 1991), pp. 317-318. For an in-depth study of colonial missionaries and their criticisms of religion in India, See: Avril A. Powell, *Scottish Orientalists and India: The Muir Brothers, Religion, Education and Empire* (Woodbridge: Boydell, 2010).

[376] Aziz Ahmad, *Islamic Modernism in India and Pakistan 1857-1964* (London: Oxford University Press, 1967), p. 39.

3.2 Q47:4 as the Verse of Liberation: Khan's *Ibṭāl-e-Ghulāmī*

Khan's main thesis claimed that the Qur'ān had not simply restricted slavery and provided slaves with extra rights, it had in fact ordered the complete abolition of the institution in 7th Century Arabia. Khan's claim of abolition was underpinned by his innovative reading of the verse Q47:4, which he referred to as the 'verse of liberation' (*āyat-e-ḥurriyah*). The verse states, 'Therefore, when ye meet the Unbelievers (in fight), smite at their necks; at length, when ye have thoroughly subdued them, bind a bond firmly (on them): therefore (is the time for) either generosity or ransom: until the war lays down its burdens.' For Khan, this verse completely rejected any form of enslavement of war captives, as the Qur'ān commands to either release those captured out of 'generosity or ransom'. In this sense, the verse commanded the abolition of slavery as it ordered that enemy prisoners must be released. Khan states,

> With this verse, the Prophet proclaimed the end of slavery and that all those captured should be set free. However, Muslim scholars have erroneously interpreted these verses due to the following of traditional cultural customs. They therefore proclaimed it legitimate to enslave the captives of war.[377]

In this sense, Khan utilised the classical difference of opinion regarding the verse Q47:4 to bolster his thesis of Quranic abolition.[378] Indeed, even amongst classical commentators, the legal significance of this verse was disputed and challenged, as the verse did not clearly state that enslavement was a legitimate outcome following the capture of enemy troops. The fact that the only method of enslavement recognised by Islamic law was through warfare, and Khan was refuting the legitimacy of that ruling, Khan ultimately concluded that the Qur'ān had allowed no avenues for the enslavement of the free.

Familiar with the classical discussions regarding the applicability of the verse, Khan refuted those who argued that the verse had been abrogated. He explored various readings of the verse and highlighted how some scholars have claimed the verse was revealed after the battle of Badr, while others claim it was revealed near the end of the life of the Prophet.[379] Khan concluded that this was the final verse regarding captives, and therefore it was clear that the Qur'ān had ordered that all captives must be set free, which eradicated any possibility of enslavement and essentially led to the abolition of slavery according to Islam. The

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[377] Khan, *Ibṭāl-e-Ghulāmī*, p. 25.

[378] For a more detailed exposition of the classical discussions of this verse, see Chapter One.

[379] Khan, *Ibṭāl-e-Ghulāmī*, pp. 75-85.

reintroduction of such practices was due to the re-emergence of Arab cultural practices following the passing of the Prophet Muḥammad and the early generations.

In this regard, Khan divided the Islamic tradition between the early period which represented the true message of Islam, and later historical Islam that had accrued innovations, heresies and misinterpretations. The reason for the contemporary and historical acceptance of slavery within Islam was due to historical accretions that had morphed the initial abolitionist proclomation into a tradition in which the institution of slavery had been patronised, which directly contradicted the original Quranic divine injunctions. As Khan states, 'there is not a single Quranic verse or authentic Ḥadīth that permits slavery, however the *'ulamā'* attempt to legitimise slavery through their misinterpretations, and present these misinterpretations as valid readings'.[380] This bifurcation represents the reformist method more broadly; namely, that in order to uncover the true message of Islam, one needed to bypass the misinterpretations of 'orthodox' schools of law and theology and reinterpret the core sources of the Islamic tradition. In this regard, the modernist movement mirrors the Christian Protestant Reformation in its disregard for the traditions of the Church, and its stress on the rereading of scripture without the influence of classical commentary. As such, the reformist method has previously been described as 'Protestant Islam'.[381]

Khan attempted to account for the various verses referring to slavery within the Qur'ān by arguing that such verses referred to pre-Islamic customs that existed prior to Islamic abolition. He claimed that immoral Arab practices were slowly restricted prior to an absolute prohibition, as can be seen with the case of alcohol. Khan argues,

> There is no doubt that even after the revelation of *āyat-e-ḥurriyah*, the slaves that were present within the Arabian milieu were not automatically given freedom, neither were their contracts rescinded. Fresh enslavement was prohibited from this point, and the current slaves were to be gradually freed through the frameworks provided by the Qur'ān.[382]

In claiming such, Khan conceded that slaves continued to exist following the revelation of the verse of liberation; however, he links the practice to both the pagan Arabs and Judeo-Christian traditions. According to Khan, due to the considerable encouragement the Qur'ān purports regarding the emancipation of slaves, within a generation the Arab slave trade would have

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[380] Khan, *Ibṭāl-e-Ghulāmī*, p. 62.

[381] Francis Robinson, 'The British Empire and Muslim Identity in South Asia', *Transactions of the Royal Historical Society*, 8 (1998), 271-289 (p. 287).

[382] Khan, *Ibṭāl-e-Ghulāmī*, p. 29.

dissipated due to Islamic abolition. The Islamic ethos was clearly abolitionist in the eyes of Khan as 'the freeing of slaves is the most beloved act of God on this earth.'[383] Therefore, in a bid to refute the Orientalist contestations portraying Islam as a backward and immoral religion due its toleration of slavery, Khan attempted to prove that it was not the Islamic scripture or the Prophet Muḥammad that had promoted slavery, but the adulterated form of Islam that had proliferated following the demise of the Prophet. In his attempt to preserve the integrity of Islam, Khan impugned on his co-religionists and scholarly predecessors charges of misinterpretation and immorality, and as might be expected, this was not viewed as propitious by the scholarly classes within India in his time.

Khan's unique re-reading of slavery within Islam clearly undermined and violated traditional conceptions of jurisprudence and theology. In many cases, his analysis of legal methods implicitly critiqued theological beliefs due to the symbiotic nature of the two subjects. For example, when treating the Quranic scripture, Khan stressed the importance of a rational hermeneutic through which the Quranic scripture could be interpreted.[384] One of the fundamental principles Khan attempted to expatiate was that revelation and natural law were identical.[385] His epistemological privileging of a rational hermeneutic served his abolitionist argument two-fold; firstly, it allowed Khan to rationalise the rulings in the Qur'ān and derive the *ratio-legis* of divine edicts in order to uncover the principle of the law, in place of accepting the literal purport of the text. A natural consequence of such led to the focus of the principles of the text, in place of the text itself. Ultimately, this shifted the focus away from what the Qur'ān said, and towards the question of what the Qur'ān might want. A clear example of such can be seen in Khan's argument regarding God's inability to support two contradictory principles: slavery and freedom. Khan states,

> These two concepts cannot be simultaneously supported by God, or within God's endless wisdom there is born a necessary contradiction. From these two, only one is consonant with God's approval… It is for this reason that only one, either slavery or freedom, can be considered the correct principle that the law attempts to instantiate.[386]

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[383] Ibid., p. 25.

[384] Christian W. Troll, *Sayyid Ahmad Khan: A Reinterpretation of Muslim Theology* (New Dehli: Vikas Publishing, 1978), p. 276-278.

[385] Hafeez Malik, *Sir Sayyid Ahmad Khan in India and Pakistan* (New York: Columbia University Press, 1980), p. 269.

[386] Khan, *Ibṭāl-e-Ghulāmī*, p. 1.

His discussion of 'the principles' that are established through divine legislation marks a radical shift from more literal readings of the text, in which 'man's intellectual capabilities are thought to be insufficient to determine the rationale behind God's revelation'.[387] Khan consistently argues that the verses pertaining to slavery have been 'misinterpreted by even the greatest of scholars'[388] due to the focus on the letter of the scripture, and a lack of focus on the spirit. The shift towards the spirit of the law in preference of the rulings of the text marks a paradigm shift in Islamic legal theory that characterises a method utilised by many rationalist reformers.[389] Johnston elucidates this point,

> Muslim reformers have tentatively embraced a paradigm shift, from the classical orthodox position (Ash'ari) in which the human mind simply discovers the rulings of divine law …to a position in which reason, now empowered to discern right from wrong and to ferret out the ratio legis behind the divine injunctions – a distinctly Mu'tazilite predilection – is granted the privilege and responsibility to make legal rulings according to the spirit of the Sharī'ah (*maqāṣid al-sharī'ah*).[390]

Secondly, the epistemological privileging of reason allowed Khan to account for the fact that the abolition of slavery was being progressed by a non-Muslim nation. In Khan's view, abolition was a divine command, yet religion had not been able to enact the divine will. Islam, Judaism and Christianity had all historically condoned and permitted an inhumane practice in the name of religion and God. 'The Jewish religion legalised the institution of slavery, and Jesus remained silent regarding the permissibility of slavery, whereas Muḥammad's message regarding slavery was never fully actualised.'[391] Therefore, for Khan, this necessitated another path to reaching ultimate truth and discerning ethics: the use of reason. Due to the focus and development of reason and philosophy in the West, Europeans were able to establish the principles of God's law, whereas those claiming to represent God remained mired in folklore and immorality.[392]

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[387] Wael B Hallaq, *A History of Islamic Legal Theories: An Introduction to Sunni Uṣūl al-Fiqh* (Cambridge: Cambridge University Press, 1999), p. 207.

[388] Khan, *Ibṭāl-e-Ghulāmī*, p. 31.

[389] For a more in-depth study of epistemology within Islamic law, see: George Hourani, *Reason and Tradition in Islamic Ethics* (Cambridge: Cambridge University Press, 1985).

[390] David Johnston, 'A Turn in the Epistemology and Hermeneutics of Twentieth Century Uṣūl al-Fiqh', *Islamic Law and Society,* 11 (2004), 233-282 (p. 234). Also for the links between modern reformers and the classical Mu'tazilite School, See: Richard C. Martin, Mark R. Woodward and Dwi S. Atmaja, *Defenders of Reason in Islam: Mu'tazilism from Medieval School to Modern Symbol* (Oxford: Oneworld, 1997).

[391] Khan, *Ibṭāl-e-Ghulāmī*, p. 25.

[392] Ibid., p. 24.

Khan's abolitionism consequently led him to reassess and reject huge swathes of the Ḥadīth traditions. Within the Ḥadīth, there were numerous references to the Prophet Muḥammad accepting slavery and, in some cases, owning slaves. For example, within the collections of *Bukhārī* and *Muslim*, which are considered the most authentic compilations of Ḥadīth, there were accounts in which the Prophet Muḥammad allowed his companions to enslave and have intercourse with female captives following victory in battle.[393] These materials were regularly cited by Muir and other Orientalists to prove the immoral character of the Prophet and used to denigrate the Islamic tradition.[394] Khan sought to deny that these materials truly represented Islamic history or the Prophet and was therefore highly critical of their usage.

For Khan, the Prophet Muḥammad was the highest ethical ideal, and anything within the Ḥadīth traditions that contradicted his good conduct would need to be scrutinised. Therefore, he was highly critical of the use of Ḥadīth as a legitimate source of religious law as he believed that many of the traditions had been forged and should be considered unreliable.[395] His rejection of Ḥadīth was pivotal for his abolition in the Qur'ān concept, as one of the clearest indications that slavery was legitimised by the Qur'ān were the supporting Ḥadīth traditions. Khan addressed the issue of Ḥadīth in his *Ibṭāl-e-Ghulāmī* with a chapter entitled 'The Ḥadīth that claim the Prophet allowed Concubinage and Slavery' in which he claims that the authenticity of such Ḥadīth are dubious, whereas the Quranic revelation is indisputable; as a result, 'dubious Ḥadīth cannot overrule Quranic commands' and therefore should be discarded.[396] With the rejection of the Ḥadīth that supported bondage, Khan was free to interpret the Quranic verses regarding slavery in a radical fashion, whilst disassociating the Prophet Muḥammad from slavery altogether.

Furthermore, for Khan, the dependence of Muslims on *taqlīd* (imitation) of previous scholars and edicts had left Muslim scholarship in a state of decay, and his attempt to reinvigorate Muslim scholarship was his call for Muslims to vigorously reassess earlier rulings and partake in *ijtihād* (personal reasoning) in order to tackle the issue of slavery, but also other contentious issues within Islamic law. He argues, 'we follow the ruling of God and his Prophet, and we will not be led astray by the judgement of any Mawlana, Mujtahid or jurist due to *taqlīd* '.[397]

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[393] See: Al-Bukhārī, 'Ṣaḥīḥ al-Bukhārī', Ḥadīth no: 5210.

[394] Sheila McDonough, *Muslim Ethics and Modernity: A Comparative Study of the Ethical Thought of Sayyid Ahmad Khan and Mawlana Mawdudi* (Ontario: Wilfrid Laurier University Press, 1984), p. 42.

[395] Malik, *Sir Sayyid*, p. 270.

[396] Khan, *Ibṭāl-e-Ghulāmī*, p. 133.

[397] Ibid., p. 25.

His denunciation of *taqlīd* and call for *ijtihād* appear consistently throughout his work and can be linked to the wider debates between the *'ulamā'* and modernists more generally.[398] *Taqlīd* referred to the adherence to the previous rulings established by the Orthodox schools.[399] This in turn translated as deference to the custodians of the schools: the *'ulamā'*. *Ijtihād* on the other hand, was used by the reformists as a symbolic call to arms, emphasising the need to reinvigorate the Islamic intellectual tradition, and in a sense emphasised the importance of the modernist project in opposition to the positions of the *'ulamā'*. However, it should be noted, Khan's call for *ijtihād* qualitatively differed from previous usages of the term. In the classical use of the term, *ijtihād* was understood as an important source of law within the Sharī'ah framework used only when the main sources, the Qur'ān and the Sunnah, were silent or ambiguous on an issue.[400] Khan's usage of the term was certainly not restricted to the classical sense, in which it was a tool used within an existing system of jurisprudence. Khan utilised the term to challenge the very structure of the legal system, and in a certain sense, the call for *ijtihād* became an emblem for challenging the traditional status-quo within Islamic scholarship.

Ultimately, within his work pertaining to slavery, Khan critiqued traditional conceptions of jurisprudence in a bid to highlight its inability to establish justice and sought to prove that it did not represent the law of God, as 'God's true religion could never allow injustice.'[401] Within his assessment of slavery within Islam, Khan concluded that many Ḥadīth compilations were riddled with forgeries and did not represent the Prophet Muḥammad, and furthermore, Islamic jurisprudence was not fit for purpose. Additionally, he emphasised the need for Islamic jurisprudence to focus on the spirit of the law in order to actualise the Quranic ethos. Perhaps the most distinctive aspect of Khan's argument was his attempt to disassociate Islam from its later historical accretions, arguing the need to return to early Islamic history and reinterpret the sources. Indeed, all of Khan's arguments sought to undermine classical Islamic law and display it as corrupt and unworkable. This consequently indicted much of the *'ulamā'* as defenders of

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[398] The term *'ulamā'* is used broadly to identify scholars that followed 'orthodox'/ Classical Islam in opposition to the modernist school. This includes the Deobandi, Barelwi and Ahl-e-Ḥadīth Schools of India. Tariq Ramadan refers to this trend of scholarship as 'Scholastic/Salafi Traditionalism', See: Tariq Ramadan, *To Be a European Muslim: A Study of Islamic Sources in the European Context* (Leicester: Islamic Foundation, 1999), pp. 239-240.

[399] Kamali, *Principles of Islamic Jurisprudence*, p. 6.

[400] Ibid., pp. 468-472.

[401] Khan, *Ibṭāl-e-Ghulāmī*, p. 24.

an adulterated tradition and framed the reformers as the true representatives of the Islamic tradition.

In the transnational context of this period, Khan's innovative abolitionist reading remained generally unsupported. However, within the Indian subcontinent, support for Khan's thesis was far more profuse. One of his staunchest allies and close associates was a civil servant in the Hyderabad state named Cheragh Ali (d. 1895). In comparison to Ahmad Khan, Ali's contributions to the reform debates in India during the 19th Century have received far less attention; however, his engagement was significant, in many cases bolstering and defending Khan's ideas, in other cases, developing and expanding reformist ideas to the point in which he most probably influenced Khan. As with Khan, Ali was also confronting the arraignment of Islam from European critics. This can be seen with the references to European scholarship littered throughout his work. However, on the particular issue of slavery, it appears Ali sought to defend and support Khan's thesis from the onslaught of criticism it was receiving from the *'ulamā'*. Aziz Ahmad states '[Ali's] writings on slavery in Islam were directed against the traditional theologians in Islamic India, especially against Muḥammad 'Askarī's refutation of Sayyid Ahmad Khan's theory that fresh enslavement was categorically forbidden by the Qur'ān at a specific juncture'.[402]

In his approach to the issue of slavery, Ali supported and developed Khan's thesis. For Ali, slavery is found in the Qur'ān as referring to the cultural practice of the Arab people, and the Qur'ān does not sanction or permit the enslavement of the free. The legislation pertaining to slavery seeks to restrict previous practices prior to the verse of abolition, with which it was declared that slavery was forbidden and no new slaves were to be taken. In his *Critical Exposition of the Popular Jihad*, Ali states,

> It is a false accusation against the Koran that it allows enslavement of the captives of war, and sanctions female captives to the conquerors embrace, or, in other words, female captives are made concubines on the field of battle. There is not a single sentence in the Koran allowing either of the above allegations.[403]

Therefore, akin to Khan, Ali states that the Qur'ān never approved of enslavement and concubinage. He argues that when slavery is found in scripture, it is 'mentioned de facto, but not de jure'.[404] He cites various verses that worked to restrict pre-Islamic slavery and

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[402] Aziz Ahmad, *Islamic Modernism*, p. 63.

[403] Cheragh Ali, *A Critical Exposition of the Popular Jihad* (Calcutta: Thacker, Spink & Co, 1885), p. 193.

[404] Ibid., p. 194.

encouraged the manumission of slaves within a number of different frameworks. For example, a slave was to be freed for the penalty of homicide, as expiation for an objectionable form of divorce, or if a false oath was taken. Ali argues that the manumission of slaves was profoundly encouraged within the Quranic scripture, and the verse of liberation ensured that within a generation, Islam would have abolished the institution.[405]

Unlike Ahmad Khan however, Ali devoted far more time to evaluating the various Ḥadīth traditions pertaining to slaves and exploring the inconsistencies between conflicting sources. He allocates a prolonged portion of the chapter on slavery to the person of 'Māriyah the Copt', a supposed concubine who was sent to the Prophet Muḥammad as a gift. Ali argues that those who attempt to construe Māriyah as a concubine misinterpret the traditions, such as that found in the *Tabaqāt* of Ibn Sa'd. Whereas, he claims, the accepted compilations of Ḥadīth, referring to the six canonised works, never refer to her as a concubine within their narrations.[406] His argument concludes that all those who seek to legitimise concubinage within Islam through the use of Māriyah, whether the Orientalists or traditional scholars, are selectively appropriating the Ḥadīth that justify their underlying predilections.

Within Ali's work, it does appear that Western Orientalist scholarship was also being addressed. In some cases, Ali directly accused William Muir of misinterpreting the Islamic tradition and of being anxious to 'calumniate Mohammad'.[407] This does not negate the fact that Ali's contributions served as a rebuke to Khan's detractors, in fact, according to Powell, Ali's works on slavery were aimed not only at Indian Muslims, but were part of an attempt to construct a larger Muslim discourse regarding slavery that included other Muslim states.[408] Evidence that supports Powell's claim can be seen with Ali's work on proposed legal and social reforms in the Ottoman Empire being dedicated to the Ottoman Sultan 'Abd al-Ḥamīd II.[409]

A similar reference can be found in the work of Sayyid Ahmad Khan, in which he praises the Ottoman Khedive of Egypt Isma'il Pasha for attempting to restrict the slave-trade within Egypt and the Sudan.[410] These dedications suggest Ali and Khan were attempting to stir debate on a transnational level regarding slavery and enlarge the arena in which these discussions were

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[405] Ali, *A Critical Exposition*, p. 196.

[406] Ibid., pp. 204-206.

[407] Ibid., p. 212.

[408] Powell, 'Indian Muslim Modernists', p. 276.

[409] Cheragh Ali, *The Proposed Political, Legal and Social Reforms in the Ottoman Empire and Other Mohammadan States* (Montana: Kessinger Publishing, 2010). See: Introduction.

[410] Khan, *Ibṭāl-e-Ghulāmī*, p. 15.

taking place. Furthermore, these references may be seen as an attempt to not only forge alliances with other like-minded scholars within the Muslim world, but also use these links in a bid to highlight the direction the Muslim world was progressing towards, in a bid to inspire support from Indian Muslims for the reformist project and method. Highlighting that the Ottoman Empire was similarly attempting to restrict slavery within the Muslim world may have displayed that the reformists were not simply heretical Indian Muslims overly influenced by the British as claimed by their opponents; moreover, they were in concordance with the international Muslim community, whereas the *'ulamā'* were restricting Indian Islam from keeping up pace with the rest of the Muslim world.

3.3 Responses to Khan's Abolitionist Thesis: Khan the *Mujaddid*, or the *Dajjāl*?

3.3.1 Rejecting Quranic Abolition: Al-ʿAskarī and Akbarabadi

As expected, Khan's revisionist position drew heavy criticism from all sections of the Indian *'ulamā'*. This included fierce condemnation of his proposals and acrimonious disparagement of his motives. Critics accused Khan of being a colonial puppet and a sycophant, who was attempting to win favours with the British by altering the essence of the Islamic faith.[411] He was routinely condemned for being under the influence of Western thought, with critics arguing he cared not for Islam, but was 'obsessed with the desire to recreate all he had seen in Europe'.[412] Indeed, in a bid to discredit his reformist ideas, rumours were spread across the subcontinent that Khan had actually converted to Christianity, with some going as far as to describe him as the 'devil's representative'.[413] The opposition to Khan's reformist reading of slavery in the Qur'ān was not limited to the Indian subcontinent. His debates with Indian *ulamā* regarding slavery spread as far as the deserts of Arabia, and were included in a list of his theological errors that Molvi Ali Baksh Khan, a prominent opponent of Ahmad Khan from the traditional Barelwi School, took to Mecca in 1873 in search of condemnation from the Ḥijāzī *'ulamā'*. Ali Baksh Khan's quest proved fruitful, with Ḥijāzī scholarship castigating Khan's

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[411] Belkacem Belmekki, *Sir Sayyid Ahmad Khan and the Muslim Cause in British India* (Berlin: Klaus Schwarz Verlag, 2010), p. 109.

[412] Tariq Hasan, *The Aligarh Movement and the Making of the Indian Muslim Mind 1857-2002* (New Dehli: Rupa, 2006), p. 43.

[413] Ibid., p. 47. These accusations appear to have impacted Khan as he makes reference to them in his *Ibṭāl*. Khan states, 'Muslims are proud of slavery, and those who oppose this act, are labelled atheists and Christians'. See: Khan, *Ibṭāl-e-Ghulāmī*, p. 17.

innovative reading of the slavery verses, as well as his other reformist views, and declaring him a *kāfir* (infidel).[414]

In retaliation to this declaration, Khan attempted to forge alliances with other progressive thinkers from across the Muslim world. He wrote to an Arab newspaper, *Al-Jawā'ib*, which had previously published correspondence from the Tunisian government regarding the steps being taken to prohibit slavery. In his letter to *Al-Jawā'ib*, he forcefully stated that there was no Quranic basis for any type of slavery. He stressed that the Qur'ān had abolished the institution, and challenged the *'ulamā'* of Egypt, Istanbul and Tunis to prove otherwise. Khan subsequently published this correspondence in his own journal in 1877.[415] This can be understood as his attempt to alert his fellow Indians to the progressive direction of other Muslim countries that were equally grappling with the problem of slavery. Just as conservative scholars such as Ali Baksh Khan had sought legitimacy from the Arab world regarding Ahmad Khan's infidelity, so too had Ahmad Khan sought support from other Muslim progressives in an attempt to address the problem of slavery, and demonstrate abolition also had support within the Muslim world.

However, the most systematic responses from the *'ulamā'* in regard to the reformist policies of Khan and his abolitionist hermeneutic were the tracts written openly challenging his position. Early examples of this can be seen with the works of Mawlana Muḥammad 'Abdullāh Al-'Askarī and his *Ḥaqīqat al-Islām* (Reality of Islam), and Mawlana Muḥammad 'Alī's *Radd al-Shiqāq fī Jiwāz al-Istarqāq* (Refutation of the Opponent's Argument regarding the Permissibility of Slavery) that both serve as direct critiques to Sayyid Ahmad Khan's re-reading of the slavery verses in the Qur'ān.

In both *Ḥaqīqat al-Islām and Radd al-Shiqāq,* similar arguments are advanced regarding the permissibility of slavery within the Islamic tradition. Both thinkers cite the classical tradition to prove that the Prophet Muḥammad practiced slavery and Quranic verses permitted him to do so. This leads 'Askarī to argue, 'it is worth noting that if taking slaves and concubines was prohibited following 'the verse of liberation', why did the Prophet Muḥammad share out slaves as booty following victory in battles?'[416] Similarly, Muḥammad 'Alī cites verses such as Q23:5 'And they who guard their private parts, except from their wives or those their right hands

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[414] Barbara Daly Metcalf, *Islamic Revival in British India: Deoband, 1860-1900* (New Dehli: Oxford University Press, 2002), p. 325.

[415] Powell, 'Indian Muslim Modernists', p. 274.

[416] Muḥammad 'Abdullāh Al-'Askarī, *Ḥaqīqat al-Islām* (Kanpur: Matba' Nizami, 1874), p. 66.

possess, for indeed, they will not be blamed' in order to prove that the Qur'ān not only allowed slavery, but also legitimised sexual relations with concubines. [417] 'Alī claims that Ahmad Khan has no place to question slavery within Islam, as 'the permissibility of enslavement in the religion of Muḥammad (*Dīn-e-Muḥammadī*) has been established by scripture and is agreed upon by a consensus of scholarship (*ijmā'*)'.[418] The responses from 'Askarī and Muḥammad 'Alī are generally focused on establishing the permissibility of slavery within the classical Islamic tradition, centring solely on intra-religious disputes regarding Quranic interpretation. Within their works, slavery doesn't appear to evoke an ethical concern and there exists no attempt to apologetically justify its acceptance. What can be seen is almost a defiant tone regarding the reality of empires, warfare and the slave-trade, and it is abundantly clear that both thinkers do not struggle to reconcile slavery within their religious outlooks. 'Askarī's and Muḥammad 'Alī's responses are characteristic of the early refutations and responses to the reformists from the *'ulamā'*.

However, the most recognized and widely circulated refutation of reformism was written by Mawlana Saeed Ahmad Akbarabadi (d. 1985), a prominent Ḥanafī jurist of the Deoband School. Akbarabadi's *Islam Mein Ghulāmī Ki Ḥaqīqat* (The Reality of Slavery within Islam) was published in the early 1940's and systematically refuted Sayyid Ahmad Khan's argument regarding slavery. Akbarabadi's position slightly shifts away from the arguments of 'Askarī and Muḥammad 'Alī, displaying more reticence in its approval of slavery. In this sense, Akbarabadi's tract can occasionally appear confused as he attempts to denounce the reformists as misinformed and erroneous, whilst simultaneously attempting to claim that slavery had little to do with Islam and praising abolition. Though his main thesis seeks to defend the classical position on Islamic slavery, claiming that the Prophet Muḥammad had owned slaves and the companions never took issue with slavery, he equally contends that 'the steps taken by the Europeans to abolish slavery are truly praiseworthy'.[419] This careful negotiation between accepting abolition, while rejecting a reinterpretation of Islam, originally proposed by Akbarabadi would come to represent the position of 'orthodoxy' more generally in the future. However, his apologetic tone regarding the institution of slavery should not be mistaken for

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[417] Muhammad Ali, *Radd al-Shiqāq fī Jiwāz al-Istarqāq* (Kanpur: Matba' Nizami, 1874), p. 76.

[418] Ibid., p. 1

[419] Saeed Ahmad Akbarabadi, *Islam Mein Ghulāmī Ki Ḥaqīqat*, trans. by Rafiq Abdur Rahman (Karachi: Darul Ishaat, 2000), p. 53.

any affection towards the reformists, for whom he reserves scathing criticism and describes as 'deceitful' and 'ridiculous'.[420]

Akbarabadi primarily seeks to prove that the revisionism of the reformists completely misrepresents the Qur'ān and the Islamic tradition. He addresses the claims of Sayyid Ahmad Khan regarding the 'verse of liberation' and argues Khan's lack of knowledge of the classical tradition has led to his misinterpretation.[421] Akbarabadi dismisses the ideas that slavery was forbidden and states that there are two types of commands within Islamic law: 'the general' (*'āmm*) and 'the specific' (*khāṣṣ*). The verse that had been dubbed 'the verse of liberation' by Khan was not a command pertaining to slavery in general, but a specific command to set free a particular set of slaves following the battle of Badr. Akbarabadi opines 'to claim that the command [to free slaves] was a general command reveals a lack of understanding of the language of the Qur'ān and the Prophet's life.'[422]

Within his critique of Khan, Akbarabadi consistently attacks the 'lack of understanding' of traditional Islamic sources. This represents Akbarabadi's attempt to bolster the importance and authority of the *'ulamā'*, without whom, it is suggested, the tradition cannot be properly accessed. He stresses that the Prophet Muḥammad enslaved his enemies and was permitted by the Quranic text to do so. He cites the Battle of Ḥunayn as an example in which 'six thousand enemy soldiers were taken as slaves'.[423] Having proved that the Qur'ān allows slavery, Akbarabadi ridicules Khan and Cheragh Ali as the 'simple friends of Islam' who have been heavily influenced by Western thought, and do not have the training to interpret the Islamic tradition. He states,

> It is their peculiarity that they go by the standards of the non-Muslims in assessing the practices and injunctions of Islam. They have on their eyes a special pair of spectacles with coloured lenses that present to them the Islamic dictates in Western attire … They must realise that the facts of Islam are perpetual. They are not influenced by time, place, civilisation or culture… We must not accept or reject the Islamic ways on the basis of non-Muslim values. We must clear our minds of outside influences before finding out whether what we seek is found in the teachings of Islam or not.[424]

Akbarabadi's attempt to affiliate Khan and Ali with the West can be understood as an effort to undermine their interpretations as inauthentic, as it is suggested that the modernists have been

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[420] Ibid., p. 236.
[421] Ibid., p. 71.
[422] Ibid., p. 72.
[423] Ibid., p. 101.
[424] Ibid., p. 69.

compromised due to foreign influences. Akbarabadi proceeds to justify Islam's acceptance of slavery on three separate premises. Firstly, he argues that slavery constituted an integral part to the economy of the Arabian society in which Islam was revealed. Therefore, to completely abolish the slave-trade would have crippled the economic and social systems of Arabia and caused more harm to slaves than benefit as 'the slaves would have struggled to earn a livelihood for themselves in such a situation'.[425] Secondly, he claims that slaves were used as a bargaining chip during hostage situations, 'if infidels enslaved Muslims during times of war, whilst Muslims consistently set the infidels free, this would have led to the Muslims becoming greatly outnumbered'.[426] His third justification for the perpetuation of the slave trade suggests that due to warfare, many men were killed during battle, which left many widows and children without support. In Akbarabadi's opinion, these women and children were lucky to become slaves as 'if there is no arrangement to look after them, provide them with shelter and supervise their conduct, they may perpetrate evil deeds.'[427]

Khan's thesis was generally rejected by the traditional *'ulamā'*; however, while the *'ulamā'* took issue with Khan's argument on theological grounds, others refuted it for political reasons. The Islamist ideologue Abul A'la Mawdudi (d. 1979) equally refuted the idea that slavery was prohibited within Islam and consistently argued that the reality of warfare necessitated the existence of such a system. Within his work, Mawdudi lambasted European critics of Islam, highlighting the millions that were killed due to the trans-Atlantic slave trade. He writes, 'this is the record of the people who denounce Muslims night and day for recognising the institution of slavery. It is as if a criminal is holding his finger of blame towards an innocent man'.[428]

Mawdudi utilised the histories of 19th and 20th century Europe to bolster his argument regarding the necessity of the institution. Mawdudi claimed that Muslims would naturally seek to trade enslaved prisoners of war for captured Muslim prisoners or exchange them for monetary benefit. However, if negotiations between governments broke down,

> The Muslims used to distribute [the captives] among the soldiers of the army that captured them. This was a more humane and proper way of disposing of them than retaining them like cattle in concentrations camps and taking forced labour from them and, if their women folk were also captured, setting them aside for prostitution. In place of such a cruel and outrageous way of disposing of prisoners of war, Islam preferred to spread them in the

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[425] Ibid., p.75.
[426] Ibid., p.79.
[427] Ibid., p.80.
[428] Abul A'la Mawdudi, *Human Rights in Islam* (Lahore: Islamic Publications, 1995) pp.17-18.

population and this brought them in contact with individual human beings. Over and above, their guardians, were ordered to treat them well.[429]

Mawdudi proceeds to justify the use of enslavement as a political tool in warfare in order to protect one's own soldiers, as 'the prisoners of war of the vanquished army are kept in conditions which are much worse than the conditions of slaves' if there are no bargaining chips held. He writes,

> Can anyone tell us what has been the fate of the thousands of prisoners of war captured by Russia from the defeated armies of Germany and Japan in the Second World War? No one has given their account so far. No one know how many thousands of them are still alive and how many thousands of them have perished due to the hardship of the Russian concentration and labour camps. The forced labour which has been taken from them is much worse that the service one can exact from slaves.[430]

However, for all of Mawdudi's hypothetical justifications for slavery, when he was specifically queried regarding the possibility of slave-markets in Pakistan as existed in the Ḥijāz, he claimed that he was unaware of the practice taking place in Arabia.[431] Further, he stated that slavery was by no means encouraged and was in fact a very limited practice in Islam, suggesting he disapproved of the idea of slave markets in Pakistan. Mawdudi opined, 'On a point of principle, I emphasise that outside of war, any form of capturing free people to buy and sell is completely forbidden'.[432]

On the issue of concubinage, however, Mawdudi remained brazen. While his defence of slavery was justified due to foreign policy concerns, his defence of concubinage remained firmly rooted in a deference to scripture. He writes, 'concubinage is affirmed within the Qur'ān. Many discuss this issue without fully comprehending the subject, and they believe that this is perhaps a depraved concoction of the clergy (*molvi*)… This is not from the laws of the clergy or the narrators of the Ḥadīth, rather, this is established in God's scripture'.[433]

For Mawdudi, the legitimacy of concubinage was clearly established within the legal framework of Islam, and he critiqued those who attempted to portray marriage as the only legitimate receptacle for sexual relations. He writes,

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[429] Ibid., pp. 18-19.
[430] Ibid., p. 19.
[431] The question posed to Mawdudi was: '*Kya is nizām-e-sharī'at mein laundī wa ghulām kī kharīd wa farokhat bhī Pakistan kai andar jaiz ho ghi?*'.
[432] Abul A'la Mawdudi, *Tafhīmāt*, 6 vols (Islamic publications: Lahore, NA), vol. 2, pp. 362-365.
[433] Ibid., p. 348.

> There is no need for a marriage contract. While this appears unacceptable to many, it is only due to their misunderstanding. As their societal upbringing has normalised the marriage contract, and it has become habit to view the only permissible relationship between men and women as one that includes a judge, two witnesses, a khutba and a contract. Without these aspects, people believe such a relation is against Islam. However, Islam is not a religion based on custom but a religion based on rationality… If concubinage has been permitted by God's law, how can we reject it? [434]

In Mawdudi's view, concubinage as an institution did not amount to abuse. If there were deviants who simply wanted to abuse women, 'they are free to marry a new woman every day and divorce her the next'.[435] Mawdudi's defence of slavery invoked acrimonious criticism from other Muslim scholars, who felt his approach to religion was bringing Islam into disrepute. The Pakistani intellectual, Ghulam Ahmad Pawez (d. 1985), lambasted Mawdudi and refuted his arguments regarding slavery and Islam, in which he invoked Sayyid Ahmad Khan's Quranic abolition thesis.

3.3.2 Affirming Quranic Abolition: Ghulam Ahmad Parwez

Parwez was perhaps one of the greatest champions of Sayyid Ahmad Khan's Quranic abolition thesis within the twentieth century. For example, in his commentary on verse Q47:4, Parwez echoes Khan's argument regarding the verses command. He states, 'the Arabs used to enslave men and make them prisoners of war and women were made concubines. The Qur'ān closed the doors to slavery forever by this command'.[436] Similarly to Khan, Parwez also accused Muslims of misinterpreting the verse and permitting enslavement, 'the door for future slavery was closed forever was thus closed by the Qur'ān forever. Whatever happened in subsequent history, was the responsibility of Muslims and not of the Qur'ān.'[437]

In a text written directly refuting Mawdudi's views on slavery, Parwez clarifies the argument in more detail. He writes, 'upon assessment of the entire Qur'ān, the reader will struggle to find a single verse that appears to legitimise enslavement… The Qur'ān is completely clear on this matter. In war, your enemy can become your captive until the war is over. After this, the Qur'ān

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[434] Ibid., p. 355.
[435] Ibid., pp. 364-365.
[436] Ghulam Ahmad Parwez, *Exposition of the Holy Qur'ān,* trans by. Habib ur-Rehman Khan (Lahore: Tolu-e-Islam, 2010) p. 862.
[437] Ghulam Ahmad Parwez, *Islam: A Challenge to Religion* (Lahore: Tolu-e-Islam, 2012), p. 301.

stipulates that there are two alternatives: Either show goodwill and release the captive or attain ransom and release the prisoner. There is simply no mention of killing or enslaving them.'[438]

He proceeds to critique a number of Mawdudi's arguments regarding the necessity of slavery as an institution. Parwez highlights that following two world-wars, no modern nation has called for the legitimisation of slavery and concubinage in a bid to deal with prisoners of war, and he derides the idea that prisoners of war must necessarily translate into slaves for a Muslim government. He writes, 'could not they be treated as state guests? Why is slavery the only option?'.[439]

On the point of assimilating slaves into Muslim societies, Parwez argued that Muslims should establish a higher moral order than other civilisations, and in place of conquering people and forcing them to assimilate, Muslims should win their hearts and minds with a superior moral system.[440] Following Sayyid Ahmad Khan's argument, Parwez notes that any verses referring to slaves in the Qur'ān address the previous slaves that existed during the time of the Prophet Muḥammad, 'when those slaves were freed, those rulings became redundant'.[441] He claims that those rules would only be applicable in a context in which a nation that already had slaves became Muslim in a context similar to early Islam.

Furthermore, Parwez lamented the negative image of Islam being painted by scholars such as Mawdudi. He sneered at Mawdudi's provocations,

> Is this the system of Sharī'ah about which we boast, claiming that is from the throne of God?... What a gift from heaven! Perhaps we should be proud of such actions, and perhaps enemy captives will prostrate [to God] when they see their own wives, daughters and sisters becoming prey.[442]

The issue of concubinage appeared to particularly vex Parwez, who devoted a considerable amount of time, and sarcastic rhetoric to show his displeasure at the linkage between sexual relations with concubines, Islam and the Prophet Muḥammad.[443]

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[438] Ghulam Ahmad Parwez, *Qatl-e-Murtad, Ghulām aur Londian aur Yatīm Potey kī Virasāt Virasat* (Lahore: Idara Tolu-e-Islam, N/A) p.53.

[439] Ibid., p.58.

[440] Ibid., p.57.

[441] Ibid., p.57.

[442] Ibid., p.59.

[443] Ibid., p. 65. His sarcastic style is evidenced most clearly in a section in which he attacks Mawdudi for permitting sexual relations with concubines. Parwez argues that Mawdudi generally celebrates whenever non-Muslims follow rulings found within the Sharī'ah, as it is claimed that God's laws are being established and this

Parwez completely rejected the idea of concubinage and argueed that the primary determinants for sexual relations within Islam are based on two premises. 'There are two conditions for relations 1) Those allowed by God 2) A woman's consent. If any of these are not met, then the relation is forbidden. Ponder, will slave girls ever consent to sex? Will this second condition ever be met?'.[444]

Furthermore, Parwez provoked his readers to think about the consequences of permitting such an act. He asks, 'on what grounds could Muslims object if non-Muslims partake in these actions against Muslim women?'[445] Parwez set out his objection to the acceptance of the Ḥadīth lore based on this argument. He claimed ideas such as concubinage are legitimised through Ḥadīth, however, 'the Prophet would have never said that if you find the women of the enemy in war, use them however you please, or sell them. And according to our 'ulamā', you must accept this, and if you do not, then you are rejecting the Prophet himself.'[446]

The utilisation of Khan's thesis by Parwez demonstrates that the Quranic abolition thesis clearly had resonance beyond Khan's initial environment. However, while Khan utilised classical sources to establish his positions, Parwez attempts to persuade his readers by employing emotive arguments as well as a particularly combative rhetorical style within his work. The debates between Parwez and Mawdudi regarding slavery in Pakistan also highlight that the issue of slavery was never resolved though slavery had been abolished, as scholars were continually arguing for its legitimacy. Therefore, Sayyid Ahmad Khan's Quranic abolition thesis was still being deployed to reconcile the Islamic tradition and an anti-slavery outlook.

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will bring people closer to Islam. He then links this idea with the concept of concubinage and states, 'What a strange scene it would be! While Muslims enjoy non-Muslim women in the night, the enemy soldiers would equally enjoy Muslim daughters and wives. The Muslims could then beat their drums boasting that the religion of God is being practiced by everyone! At this point, the devil could pack his bags and return to God, saying 'This world needs me no longer'.

[444] Ibid., p. 61.
[445] Ibid., p. 64.
[446] Ibid., p. 69.

3.4 Conclusion

The questions this chapter sought to address were:

1. What was Sayyid Ahmad Khan's Quranic abolition thesis?
2. How did his method of interpretation differ from the traditional method?
3. How was his work received by other scholars?

Khan was among the first Muslims to condemn slavery as un-Islamic. His claim that slavery was abolished within the Qur'ān was unique in so far as it attempted to deal with the ethical considerations slavery evoked for Islamic theology and attempted to distance both the Qur'ān and the Prophet Muḥammad from the act. By contrast, many of his contemporaries in other parts of the Muslim world simply sought to suspend the institution without questioning its ethical ramifications. Furthermore, his claim of Quranic abolition reconciled the fact that abolition was being advanced by British non-Muslims in India, as ultimately the British were simply enacting and following the original message of the Qur'ān and the Prophet Muḥammad in this regard.

Khan's reading of Islam as an abolitionist tradition was premised on his unique interpretation of the Qur'ān, and specifically verse Q47:4. Khan argued that slavery had existed prior to the Quranic revelation descending, and as a result, the Qur'ān legislated for the community in which it was revealed. Due to this, certain verses refer to slavery and regulate its practice. However, Khan argued that slavery had gradually diminished during the life of the Prophet Muḥammad, and was completely abolished near the end of his life with the revelation of Q47:4. Within the verse Q47:4, the Qur'ān states that prisoners of war should be either freed through grace or ransom, and Khan used this verse to argue that there was no Quranic justification for enslavement of captives. Considering this was the only legal manner in which slaves could be attained according to a general consensus of scholarship, this effectively ended all avenues for enslaving the free.

Secondly, Khan employed a rational hermeneutic for his interpretation of the Qur'ān. His epistemological privileging of a rational hermeneutic served his abolitionist argument two-fold; firstly, it allowed Khan to rationalise the rulings in the Qur'ān and derive the *ratio-legis* of divine edicts in order to uncover the principle of the law, in place of accepting the literal purport of the text. A natural consequence of such led to the focus of the principles of the text, in place of the text itself. Ultimately, this shifted the focus away from what the Qur'ān said,

and towards the question of what the Qur'ān might want. Therefore, though there is no verse in the Qur'ān that explicitly states 'slavery should be abolished', from the various rulings concerning slavery, one can derive that the spirit of the Qur'ān seeks to eradicate slavery.

Furthermore, the epistemological privileging of reason allowed Khan to account for the fact that the abolition of slavery was being progressed by a non-Muslim nation. In Khan's view, abolition was a divine command, yet religion had not been able to enact the divine will. Islam, Judaism and Christianity had all historically condoned and permitted an inhumane practice in the name of religion and God. This was due to the fact that they had not employed their God-given reason to understand their traditions. Due to the focus and development of reason and philosophy in the West, Europeans were able to establish the principles of God's law, which were originally established by the Prophet Muḥammad, and had been rediscovered due to the parallel nature of divine law and natural law.

Additionally, Khan's reformulation of slavery within the Qur'ān was only made possible through his reassessment of the main sources of Islamic law, which caused him to deviate from Islamic 'orthodoxy' on a number of different levels. Due to the lack of Quranic justification for slavery, scholars generally relied on extra-Quranic material to justify enslavement and concubinage. Therefore, scholars referred to the Ḥadīth traditions and Quranic exegesis to argue for the permissibility for enslavement. However, within Khan's reformist method, the Qur'ān was given primacy, while extra-Quranic sources were viewed as suspect. As a result, Khan rejected huge swathes of the Ḥadīth traditions as inauthentic, and also critiqued the classical commentators of the Qur'ān as being misinformed and misguided regarding the issue. As a result, Khan's reformist method undermined the classical structures on which the *'ulamā'* had established their authority. Furthermore, Khan consistently stressed the importance of *ijtihād* and critiqued the notion of *taqlīd*, In essence, this was a call to break away from tradition and reinterpret the sources afresh, which naturally conflicted with those attempted to preserve and protect the classical tradition.

Thirdly, due to Khan's innovative reading, Indian scholars from a number of different schools vehemently criticised his approach, to the point in which he was dubbed a *kāfir* (infidel). Scholars openly refuted the idea that Islam and abolition could be compatible, or that the abolition of slavery was even an admirable goal. Muḥammad 'Abdullāh al-'Askarī and Muḥammad 'Alī both vehemently opposed the idea that abolition was a praise-worthy goal, claiming the institution of slavery had been preserved over a millennia and was completely

legitimate within Islamic law. The opposition to the Quranic abolition hermeneutic was refashioned and redeployed by Mawlana Akbarabadi and Mawlana Mawdudi, who equally defended the use of enslavement within Islam and critiqued the revisionism of Khan. Nevertheless, Khan did have supporters, with many at the Aligarh Institute promoting his work, as well as prominent South Asian scholars such as Cheragh Ali and Ghulam Ahmad Parwez promoting Khan's thesis on the subject of slavery.

Chapter Four: Muhammad Abduh, Rashid Rida and 'Quranic Gradualism'

' It is clear beyond a doubt that the intention of Islamic law was the fundamental eradication of slavery gradually'
Muhammad Abduh

4.1 Introduction

The Egyptian scholar Muhammad Abduh (d. 1905) has often been described, along with his mentor Jamāl al-Dīn al-Afghānī, as 'the most prominent figure of modernist Islam'.[447] Abduh received a traditional Islamic education at the Al-Azhar seminary, before exploring more radical ideas under the tutelage of al-Afghānī. His involvement with al-Afghānī led to the publishing of the famed journal *Al-'Urwa al-Wuthqa* (The Firmest Bond) which served as a clarion call against European imperialism, for Islamic unity and the restoration of the Caliphate.[448] Abduh also served as the Grand Muftī of Egypt in his later years, and much like Sayyid Ahmad Khan, devised programs for educational reform. The similarities between the two figures have not gone unnoticed, with some arguing that Abduh 'might be called the Egyptian counterpart of Ahmad Khan'.[449] Abduh's scholarly contributions appear to have been key in shaping ideas within Egypt, as it is claimed that he 'played an important part in forming public opinion, by a series of articles on the social and political order',[450] and also 'took a hand in most of the reform movements taking place in the country'.[451]

On the issue of slavery, Abduh was one of its most influential opponents from amongst religious scholars. As Robinson-Dunn states,

> Abduh became Grand Muftī in 1899 and was influential in turning Egyptian public opinion against slavery. He pronounced that abolition was, in fact, in the true spirit of Islam. Yet far from wanting to Anglicise or Westernise, Abduh sought to interpret Islam in light of

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[447] Kurzman, *Modernist Islam*, p. 50. Although, Abduh and Rida would describe themselves as *Salafī*.

[448] Majid Fakhry, *A History of Islamic Philosophy* (New York: Columbia University Press, 2004), p. 346.

[449] Baljon, *Modern Muslim Koran Interpretation*, p. 4.

[450] Albert Hourani, *Arabic Thought in a Liberal Age (1798-1939)* (Cambridge: Cambridge University Press, 1983) p. 133.

[451] Zaki Badawi, *The Reformers of Egypt* (London: Croon Helm, 1978), p. 37.

contemporary needs in order to establish it as the foundation for a progressive society and thus help to narrow the widening gap between religious and secular life in Egypt.[452]

It has been argued that Abduh's interpretation of Islam as a tradition promoting abolition was key for anti-slavery sentiment to gain traction amongst both scholars and common people in Egypt, as 'the abolition of slavery in Egypt would not have been possible without the eventual support of the people and their religious leaders, particularly Muhammad Abduh'.[453] As well as religious scholars, Abduh's influence amongst politicians and government officials is perhaps most clearly highlighted in his correspondence with the British colonial administrator Wilfred Blunt. Within his letter, Abduh works to convince Blunt that the Islamic tradition does not constitute an obstacle to the eradication of slavery:

> The present Ministry is trying hard to suppress domestic slavery. The Mohammedan religion offers no obstacle at all to this nay, according to Mohammedan dogma, Moslems are not allowed to have slaves except taken from infidels at war with them. In fact, they are captives or prisoners taken in legal warfare, or who belonged to infidel peoples not in friendly alliance with Mohammedan princes, nor protected by treaties or covenants… Hence the Mohammedan religion not only does not oppose abolishing slavery as it is in modern times, but radically condemns its continuance.[454]

As well as his own writings, Abduh's ideas were articulated and propagated further by his student Rashid Rida (d. 1935). In 1898, Rida launched the reformist journal named *Al-Manār*, which served as vehicle to propagate reformist ideas. Rida has often been described as the 'leading pupil of Muhammad Abduh during [Abduh's] life, and, since his death, his biographer, editor of his works, and the one who principally carried on his tradition and interpreted his doctrines'.[455] Rida equally challenged the legitimacy of slavery within Islam, though it has been argued that he was slightly more conservative than his teacher. Both Abduh and Rida have been viewed as a repository of anti-slavery thought within the Arab world and are viewed as the originators of the Quranic gradualism thesis.[456]

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[452] Diane Robinson-Dunn, *The Harem, Slavery and British Imperial Culture: Anglo-Muslim Relations in the Late 19th Century* (Manchester: Manchester University Press, 2006), p. 57.

[453] Ibid., p. 67. Also see: Imad Ahmad Hilal, *Al-Raqīq fī Miṣr fī al-Qarn al-Tāsi' 'Ashara* (Cairo: 1999), p. 386.

[454] Wilfred Blunt, *Secret History of the English Occupation of Egypt* (New York: Alfred A Knoff, 1922), pp. 193-194. For more on the relationship between Abduh and Blunt, See: Mark Sedgwick, *Muhammad Abduh* (Oneworld: Oxford, 2010) pp. 45-49.

[455] Charles C Adams, *Islam and Modernism in Egypt: A Study of the Modern Reform Movement Inaugurated by Muhammad Abduh* (Russell & Russell, 1968), p. 177.

[456] For example, Al-Fillālī views Abduh as the father of anti-slavery thought in the Arab world, with Rida cited as a key contributor to Abduh's ideas. See: Ibrāhīm Hāshim Al-Fillālī, *Lā Riqq fī al-Qur'ān* (Cairo: Dar al-Kalam, n.d.), pp. 148-152.

The questions this chapter seeks to address are:

1. What was the Quranic Gradualism thesis?
2. What methods did Muhammad Abduh and Rashid Rida use to reinterpret the legitimacy of slavery?
3. How was this argument received by other scholars?

4.2 The 'Quranic Gradualism' Thesis

Abduh was among the first to articulate the Quranic gradualism thesis within his work.[457] The basic argument claimed that slavery had not been completely abolished by the Qur'ān in the seventh century; however, the foundations for abolition had been established due to various calls to emancipate slaves throughout scripture, and the restriction of fresh enslavement delineated within Islamic doctrine. Therefore, the abolition of slavery was in fact completely attuned with the aims of the religion of Islam.

As Abduh states, 'the religion of Islam permitted enslavement in the same manner as all previous religions; however, this religion, advanced in its legal wisdom in contrast to previous dispensations, did not discontinue the harsh laws all at once'.[458] Rather, he claims, Islam challenged the application of these laws and reformed the severe exploitation of slaves that was being practiced in the name of religion. As a result, 'it can be seen that Islam narrowed the avenues of enslavement, and it becomes clear beyond a doubt that the intention of Islamic law was the fundamental eradication of slavery gradually (*ibṭāl al-riqq asāsan bi-al-tadrīj*)'.[459]

Unlike Sayyid Ahmad Khan, Abduh's approach was more cautious in its reassessment of the religious tradition. The gradualist argument deployed by Abduh utilised the classical tradition instead of completely discounting it in the radical manner proposed by Khan. To justify his

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[457] Other scholars equally suggested similar methods to treat the issue at around the same time in history. Syed Ameer Ali of India, for example, cited an analogous argument, although there is little to suggest Abduh and Ameer Ali had any correspondence or influence on one another. Further, Abduh's thesis was far more influential due to his position and stature as an Islamic scholar. See: Syed Ameer Ali, *The Spirit of Islam* (Calcutta: S.K Lahiri, 1902), pp. 217-226.

[458] Rashid Rida, 'Al-Raqīq wa Aḥkāmuhu fī al-Islam', *Al-Manār*, 8, 1905, pp. 841-860 (p. 856). Abduh is not cited by name in the article; however, an anti-slavery figure from the Arab 'ulamā' is referred to. Ghazal identifies this figure as Abduh and argues his anonymity was due to political sensitivies. See: Ghazal, 'Debating Slavery', p. 146.

[459] Rida, 'Al-Raqīq'*,* p. 856.

position, Abduh listed a number of legal rulings in a bid to demonstrate that Islamic law clearly sought to delimit the sources of enslavement, in order to restrict slavery in general. He cites,

> 1) The Sharī'ah limits slavery to those born to enslaved parents, and to captives of a legal war who are non-Muslims, non-Arabs and not relatives. These are the only categories for enslavement.

> 2) Illegal enslavement is considered of the most prohibited acts (*a'ẓam al-muḥarammāt*), succeeded only by murder

> 3) Emancipation is considered the avenue through which particular sins can be expatiated, so long as the slave's worth is equivalent to the sin committed

> 4) Emancipation is considered the only manner though which the entirety of sins regarding worship can be expatiated

> 5) The vow to free a slave is considered the most important

> 6) Emancipation is considered the only resolution through which a broken vow can be forgiven, so long as the vow has not infringed on other people's rights

> 7) Emancipation is considered as the most complete way of demonstrating gratitude to God's blessings, or [seeking] safety from danger

> 8) Emancipation is considered of the most important stipulations of the will for a Muslim, so that after his death, God may reward [and protect] him from punishment in the afterlife.[460]

According to Abduh, therefore, 'Islam inclined towards obliging all Muslims to free as many of their slaves as they were able to'.[461] As a result, Islam sought to eradicate slavery and promote freedom. Abduh cites a number of other rulings to provide evidence for his claim. He argues that within Islamic law, 'the state of slavery is removed for anyone who claims to be free, due to freedom being the natural state of humans. It is therefore incumbent on the owner to prove the slave is not free'. The burden of proof, therefore, falls upon the master to prove the slave is not free, in place of the slave having to prove his freedom.

Additionally, Abduh argues that within Islamic law it is stipulated that 'if a person affirms their status as a slave, even a thousand times, this would not negate their freedom'. Furthermore, 'emancipation occurs once it is enunciated by the owner, regardless of whether it is said in jest, or while intoxicated, or in a language that is not understood, or he is compelled to assert such'. Equally, Abduh argues that 'the ruling of a judge to emancipate a slave is enforced *even if the*

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[460] Ibid., pp. 856-857.
[461] Ibid., p. 857.

ruling is oppressive'.[462] For Abduh, the fact that jurists went to such extraordinary lengths to facilitate manumission highlights that slavery was always viewed as problematic within the religious tradition of Islam. Perhaps the most significant ruling cited by Abduh concerning abolition can be seen with the claim that the leader of Muslims can contradict the legal schools to restrict slavery. Abduh writes,

> If the Caliph of the Muslims in his legal judgment (there is no doubt that the Caliph is a legal expert) considers all slaves illegal, then the ruling to free them all at one time is valid, regardless of whether this contradicts the judgements of the classical legal schools.[463]

The religion of Islam, according to Abduh, cannot therefore be accused of tolerating and allowing slavery. The various rulings found within the Qur'ān, Ḥadīth and legal schools all demonstrate the extent to which the legal tradition of Islam sought to eradicate slavery through the promotion of emancipation. The reason for the continuation of slavery was in fact due to the abuse of the religious tradition by tyrannical rulers. Abduh states, 'the reality is that the continuation of slavery is due to despotic rulers who are not guided by the religion of Islam; rather, they apply the law according to their whims'.[464]

Abduh severely critiqued the wanton abuse of the Islamic tradition for the nefarious desires of political elites. He accused political leaders of hypocrisy, as 'those rulers now appear in Europe claiming they desire to prohibit slavery but are unable to do so as they fear their Muslim citizens. [They claim] slavery is legally permissible [according to Islam] and there is a necessity to protect Islamic culture.'[465]

However, Abduh argues that the continuation of slavery is not linked to Muslim populations, most of who do not possess slaves; rather, the preservation of slavery in the Muslim world is linked to 'the arrogance of the rulers and those that follow them, not the religion of Islam'.[466] Abduh proceeds to claim that Muslim scholars have generally remained silent regarding the misuse of the religious tradition due to fear of tyrannical rulers, and it is only for this reason that Islam is perceived to have a link with slavery.

Abduh's interpretation of slavery and abolition constituted a unique rereading of Islamic law and its objectives. As established, while emancipation was consistently praised in the tradition,

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[462] Ibid.

[463] Ibid.

[464] Ibid., p. 858.

[465] Ibid.

[466] Ibid.

the eradication of slavery was never considered an aim of Islamic law by classical scholars. However, Abduh utilised the emancipatory ethic found within the classical traditions to not only justify the abolition of slavery in the Muslim world; moreover, he argued that the intention of Islam had always been to eradicate slavery. The persistence of the slave-trade within the Muslim world was linked to despotic rulers who had abused the law, not the religion of Islam.

Abduh's aversion to slavery can also be located in his other works. For example, in his *Risāla al-Tawḥīd*, Abduh interpreted the abolition of slavery as more than simply the eradication of the slave-trade; rather, it symbolised that the only master human beings possess is God. His interpretation placed Islam as a religion of radical egalitarianism in which the only hierarchy that existed was one between Lord and believer. Following the revelation of Islam, Abduh argues,

> [Man] was no longer in bondage to another. He now had the right of one free man among free men: there were no inequalities of high and low, in respect of these rights. There was no 'inferior' and 'superior'. The only distinction between men was in their deeds: the only pre-eminence lay in intelligence and breadth of knowledge.[467]

Abduh's anti-slavery sentiment can also be found in his *tafsīr* of Sūrah al-Balad.[468] Unlike classical commentaries in which the verse was read as a call to emancipate *a* slave, Abduh read the verse which refers to 'freeing the bondman' as alluding to the eradication of slavery as an institution. The verses refer to 'the path that is steep', which Abduh appears to link with abolition. Abduh argues that if this path is taken, it will lead to success in this life and the next. Furthermore, 'with respect to the merits of emancipation, the number of reports have reached the level of mass-transmission, in addition to what has been mentioned in the Qur'ān. It teaches that the inclination of Islam is towards freedom and its antipathy is towards captivity and bondage.[469]

Unlike Ahmad Khan, whose abolitionist approach constituted a rupture from the legal schools, Abduh sought to amalgamate classical law within his method. Abduh linked the continuation of slavery with political elites in place of religious law, and in doing so, sought to placate the religiously 'orthodox' in Egypt and the wider Arab world. As Kerr notes, Abduh's ideas were 'prudent and pragmatic, avoiding sharp breaks with traditional dogmatic formulas and

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[467] Muhammad Abduh, *The Theology of Unity*, trans. by Ishaq Musa'ad and Kenneth Cragg (London: George Allen, 1966), p. 125.

[468] Q90:10-13. The verses read 'And shown him the two highways? (10) But he hath made no haste on the path that is steep. (11) And what will explain to thee, the path that is steep? (12) (It is:) freeing the bondman'.

[469] Muhammad Abduh, *Tafsīr al-Qur'ān al-Karīm, Juz 'Amma* (Cairo: Matba Misr, 1922) p. 90.

elaborating what was novel in his thought only to the extent demanded by clear and present needs'.[470] In doing so, Abduh attempted to appease both the religiously Orthodox whilst equally appealing to those of a more secular disposition. His negotiations between religious conservativism and reformist departures were not always consistent, and Abduh received strong criticism for his positions from opposing directions. However, as a result of Abduh's cautious approach, 'both Abduh's own generation and later ones have revered him as a great teacher'.[471]

Abduh's ideas concerning slavery and abolition were developed and propagated by his student and disciple Rashid Rida.[472] Inspired by Abduh's approach on the subject, Rida wrote on slavery and developed the Quranic gradualism thesis more extensively and in more detail. Within his work, Rida emphasised that the Qur'ān had legislated to abolish slavery using two primary methods. The first was to restrict further enslavement in the future, and the second was to emancipate those who had previously been enslaved gradually. Rida emphasised, however, that the slavery that had been permitted by Islam fundamentally differed from the exploitative practice that had preceded it. Islam had bestowed slaves with rights, whereas 'ancient Egyptians, Babylonians, Persians, Greeks, Indians, Romans, and Arabs kept slaves for the most difficult of tasks, dealing with them in the cruellest manner possible'.[473]

Unlike Abduh, who appeared far more enamoured by European abolitionism, Rida questioned the motives of European and American abolitionists. He argues, 'in neither case, however, were their actions the result of a sincere desire to promote the welfare of humankind. Rather, they did so as the result of their own particular self-interests; and not because they had any real understanding of equality'.[474] He highlights, for example, the disparity suffered across racial lines in which white descendants of Europeans exploit other races, 'in continuation of the system of political slavery considered legitimate by every European government and the European peoples who see nothing wrong in the oppression by whites of any people of a

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[470] Malcolm H. Kerr, *Islamic Reform: The Political and Legal Theories of Muhammad Abduh and Rashid Rida* (Berkeley: University of California Press, 1966), p. 105.

[471] Ibid., p. 105.

[472] Although, Clarence-Smith argues Rida's views became more conservative with the passing of time. See: William Clarence-Smith, 'Islamic Abolition in the West Indian Ocean from C.1800' in *Indian Ocean Slavery in the Age of Abolition*, ed. by Robert Harms, Bernard K. Freamon, and David W. Blight (New Haven: Yale University Press, 2014), pp. 81-100 (p. 86).

[473] Rashid Rida, *The Muhammadan Revelation*, trans. by Yusuf Talal DeLorenzo (Virginia: al-Sadaawi Publications, 1996), p. 142.

[474] Ibid., pp. 142-143.

different colour'.[475] He highlights that the British 'continue to exploit India', though slavery has since been abolished, and across European colonies, the vestiges of slavery are so apparent that non-whites who convert to Christianity are shunned from white churches.[476]

Islam, on the other hand, sought to 'abolish the injustice and suffering caused by slavery. Islam gave people laws that paved the way for the abolition of slavery by degrees, yet in a way that would not cause further suffering'.[477] Rida claims that slavery was not abolished at once was due to the fact that 'to do so would have had negative effects both on the slaveholders and the slaves themselves'.[478] To illustrate his point, he once again turns to the example of the US, in which he claims that many of those who had been set free were forced to return to their masters as they had no wealth and could not feed themselves. Similarly, he argues, the British in Sudan allowed many former slaves to return to their masters, as they feared they would perish due to starvation. Therefore, Rida claims,

> This is a clear illustration that the abolishment of slavery, which was so widespread and such an integral part of society, could not possibly take place all at once, as the result of a religious decree. That would have been neither wise nor practical, for it would have caused untold suffering. The legal system of Islam is foremost a practical system of justice that combines the interests of society in general with human mercy.[479]

Furthermore, Rida argued that the Qur'ān did not promote enslavement; rather, he refers to Q47:4 and states that the verse suggests 'either to grant [captives] their freedom, as an act of charity and good will toward them, or to ransom them in exchange for either money or Muslim prisoners'.[480] Interestingly, Rida utilises the same verse as Sayyid Ahmad Khan and argues that Q47:4 only allows two options for enemy captives, neither of which include enslavement. However, Rida also claims that realpolitik dictated that Muslims include enslavement as a legitimate option within their legal codes, though the Qur'ān does not clearly endorse such. Rida writes, 'for Muslims to set prisoners free in every instance, while the enemies of Islam made their Muslim prisoners into slaves under the worst possible conditions, would have been an open invitation to disaster'.[481]

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[475] Ibid., p. 143.
[476] Ibid.
[477] Ibid.
[478] Ibid.
[479] Ibid., pp. 143-144.
[480] Ibid.
[481] Ibid., p. 145.

Therefore, for Rida, while slavery isn't recommended or promoted within the Qur'ān, enslavement was justified by Muslim leaders in particularly difficult circumstances in order to protect enslaved Muslims that had been captured by the enemy. He caveats this by adding that the example of the Prophet Muḥammad demonstrates that enemies should be set free, as this was what was practiced following the battles of Banī Muṣṭaliq, Ḥunayn and the liberation of Mecca. He states that 'the spirit of the Sharī'ah in these matters should be understood as favouring kindness and forgiveness, when circumstances allow, even toward aggressors.'[482]

Within the work of both Abduh and Rida, a conspicuous attempt to delink slavery from Islam and the Qur'ān is clear. For Abduh, slavery persisted within the Muslim world due to the wicked intentions of slave-owning elites and the rulers who facilitated and patronised the institution. Whilst, for Rida, slavery existed as a legitimate option for military leaders who were not encouraged to enslave enemy populations but could potentially do so if it was advantageous given their position. Within both readings, the conversation shifts from Islamic doctrine to the realities of politics and war, which ultimately absolves the Islamic tradition from any censure or blame. The clear difference between Abduh and his disciple cannot overtly be detected within the content of their arguments; rather, the tone in which the argument is presented. For example, within Abduh's writings, a sense of admiration for Western abolitionism can be detected, in which Abduh seeks to convince Westerners that Islam can be conceived as a thoroughly 'modern' religion. However, Rida's tone is far more antagonistic towards the West, and within his work, Rida attempts to delink abolition from Christianity and the West.

For example, responding to questions concerning slavery in the journal *Al-Manār*, Rida strongly challenges the notion that abolition can be traced back to the influence of Christianity. He claims that while Christians claim that abolition has stemmed from their religious tradition, 'the reality is that [abolition] has stemmed from the intellectual and scientific progress that [Europeans] have arrived at recently, and their religion has had no influence on this'.[483] In fact, Rida asserts that 'had Muslims reached the same state as the Europeans in [the development of their] civilisation and science, Muslims would have been the first to accomplish this great act'.[484] In another article addressing the same subject, Rida echoes this sentiment, claiming that Muslims had not followed their religion correctly on the issue. In a fascinating reading of

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[482] Ibid.

[483] Rashid Rida, 'Al-Dīn Fī al-Naẓr al-Saḥīḥ', *Al-Manār*, 8, 1905, 721-745 (pp. 733-734).

[484] Ibid., p. 734.

Islamic history, Rida links the demise of true Islamic polity to the fifth Caliph Mu'āwiyah and suggests that the continuation of slavery within early Islam was only allowed due to the subversion of the true Islamic spirit established in earlier periods.[485]

The antagonism to Western critiques of Islam can be further located within Rida's discussion of concubinage. He argues that within Europe, huge social problems have arisen due to women having numerous male partners, and the paternity of her children being unknown.[486] The implication of such suggests that European critics are in no position to determine the morality of sexuality within the Muslim world, and Rida proceeds to justify the historical use of concubinage. He claims that in the period of *Jāhiliyyah*, women were consistently forced into prostitution and brutalised. However, the Islamic position sought to assimilate women into the Muslim community. As with the abolition of slavery, concubinage should have been gradually ameliorated through the promotion of marriage with slave-girls or decreeing their emancipation dependent on the birth of a child.[487]

As a final point, Rida provides reasoning for the ostensibly unlimited number of concubines allowed for men within Islamic law. Due to war, his argument runs, there are generally more women than men in society, and it is for men to provide guardianship for women and protect them. Therefore, it is in the public interest to not limit the number of concubines permitted for a man. However, Abduh's position limits the number of concubines to four, drawing analogy from the number of free women that a man can marry.[488]

While Rida appears to rationalise the historical use of concubinage theoretically, in another article assessing the trade of female slaves, he strikes a completely different tone concerning its legitimacy. In response to a question regarding Chinese slave-girls being traded in Singapore, Rida explicitly condemns the actions as un-Islamic. In a similar manner to Abduh, Rida utilises Islamic law to highlight the limited avenues in which legitimate slaves can be acquired, emphasising the lack of Quranic justification for the practice.[489] He proceeds to argue that capturing women of the 'Zanj, Chinese or Caucasians' cannot be considered enslavement,

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[485] Rashid Rida, 'As'ila min Bārīs', *Al-Manār*, 13, 1910, 741-748 (p. 744). Rida states 'had [Mu'āwiyah] and those after him followed the path of the rightly-guided caliphs [preceding them], the Muslims would have possessed the entirety of Europe and the rest of the world'.

[486] Ibid., p. 745.

[487] Ibid., p. 744.

[488] Ibid., p. 745.

[489] Rashid Rida, 'Su'āl 'an al-Istarqāq', *Al-Manār*, 23, 1922, 31-33 (p. 32).

but rather constitutes kidnapping and is categorically forbidden. Rida states that any relations with these women must be considered unlawful. He states,

> The most lenient position may state that whoever is partaking in such is ignorant of the rulings, and that his relationship is suspect and a child [from this] would also be suspect, or it may even be considered clear fornication. No believer in God and the last day would allow these practices.[490]

Overall, Abduh and Rida's Quranic gradualism argument claimed that the rulings found within the Qur'ān and Ḥadīth, which subsequently informed Islamic law, clearly espoused an emancipatory ethic. Therefore, it had always been the intention of Islam to eradicate slavery from the world. Through the restriction of acquiring new slaves and the emphasis on emancipating those already enslaved, slavery would have been eradicated within a few generations of Islam. The reason this had not been accomplished was due to the misuse of the law by political elites in the Muslim world, and while it was completely legitimate to criticise their actions, Islam could not be accused as a religion of tolerating slavery.

This interpretation deviated from the Orthodox approach in a number of ways. Firstly, it appeared to advocate a shift away from the classical tradition, in which Asharite theology had established a position in which the human mind was deemed insufficient to comprehend the *ratio-legis* underpinning legal rulings. The gradualist position claimed the *ratio-legis* of divine law can be uncovered, and the emancipatory nature of the rulings within the Qur'ān and Ḥadīth highlighted that emancipating all slaves was part of the spirit of Islam. Therefore, this emancipatory ethic was in fact pointing towards the complete eradication of slavery and this position ultimately allowed the reconciliation of abolition with the aims of Islam.

Secondly, this method challenged the consensus of Orthodox scholarship in regard to the permissibility of slavery within Islam. As was common place for nineteenth century reformers, Abduh and Rida's method included a call for a re-interpretation of religious sources in order to acclimatise religious law to a rapidly changing world. The legal method employed was generally based on the use of *maṣlaḥa* (public benefit), rather than focusing on specific laws and customs. This was justified by Rida through the practice of the companions, as,

> It is related that the companions, if they saw benefit in anything, used to judge in favour of it, even if this opposed the usual custom followed, for they saw that the correct principle

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[490] Ibid., p. 33.

was to adopt whatever course was beneficial rather than to cling to the details and subsidiary rules of laws.[491]

Furthermore, the break from 'orthodoxy' can be seen in an innovative re-reading of the Qur'ān and the development of renewed exegesis. Whereas the classical approach relied on 'canonical' *tafsīr* texts to explicate the Qur'ān, Abduh and Rida called for a new reading of the Qur'ān so as to make scripture more applicable to the times in which they found themselves. This was typified by an understanding that the Qur'ān was not a book of law, rather a book establishing principles that were to be built upon. Rida states, 'God did not reveal Quranic verses corresponding to the number of occurrences befalling men and say, 'judge by these, they are justice,' but rather what he gave us is a measure by which we ascertain truth by a measure of probability'.[492] As such, the call to focus on the 'spirit' and 'principles' of the law in place of philological exegesis characterised this new approach.

It is important to recognise that both Abduh and Rida were involved in a number of competing discourses and were often attempting to convince and negotiate with vastly different ideological groups. On the one hand, their approach sought to challenge European Orientalists who argued that Islam was an intransigent tradition incapable of addressing the issues brought forth by the modern world.[493] On the other hand, they were addressing the burgeoning secular elites who emphasised that Islam should be limited to the devotional aspects of obedience within the religious sphere. As Hourani notes, 'it was this class which was the greatest danger to the Umma, if it was won to metaphysical secularism; but equally it was from this class only that the leadership of a revived Umma could be drawn'.[494] Finally, Abduh and Rida were attempting to shift the religiously Orthodox towards new interpretations of scripture, law and away from classical delineations of custom and tradition.[495]

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[491] Kerr, *Islamic Reform*, pp. 189-190. Rida wrote in more detail regarding this issue in his work, *The Accommodating Spirit of Islam and the General Sources of Jurisprudence*. See: Rashid Rida, *Yusr al-Islām wa Usūl al-Tashrī al-ʿĀm* (Cairo: Maktabat al-Salam al-Alamiyya, 1984).

[492] Ibid., p. 199.

[493] For example, Abduh took aim at the French foreign minister Gabriel Hanotaux who had written extensively on 'the question of Islam' and the inability of Islam to cope with the modern world. Abduhs responses to Hanotaux can be seen in his work *Islām Bayna al-ʿIlm wa al-Madaniyyah* (Cairo: Dar al-Hilal, 1958).

[494] Hourani, *Arabic Thought*, p. 139.

[495] Kerr describes Abduh as 'a conservative by language and manner and a radical by the implication of many of his teachings'. Kerr, *Islamic Reform*, p. 105.

4.3 Responses to 'Quranic Gradualism': Nabahānī, Qutb and Ibn 'Āshūr

4.3.1 Critiquing Gradualism: Hussain al-Jisr and Yūsuf al-Nabahānī

It may have been assumed that as Abduh was from amongst the scholarly class and well-versed in classical law and theology, he and his reforms may have received slightly less censure from the religiously 'orthodox' than his Indian counterpart Sayyid Ahmad Khan.[496] However, this was not the case, as Abduh and Rida were lambasted as the 'Protestants of Islam' who were attempting to 'please Europeans, annihilate Islam and abolish the Sharī'ah'.[497] Indeed, Abduh's credentials did not insulate his and Rida's work from censure and criticism from the religiously 'orthodox', who took great issue with the claim that Islam had always aimed to abolish slavery.

One of those critics was in fact a previous teacher of Rashid Rida, a Syrian scholar from Tripoli named Hussain al-Jisr (d. 1909).[498] Jisr consistently attacked Abduh and Rida generally, and particularly took issue with their arguments concerning slavery, abolition and Islam.[499] In his *Al-Risālah al-Ḥamdiyyah*, Jisr overtly challenged those that claimed slavery was incompatible with Islam and argued that due to the good treatment of slaves within Islam, slavery should not be seen as a problematic practice. Al-Jisr claimed that slavery in the Muslim world completely differed from forms of slavery practiced in the West, in which slaves were treated poorly, were seldom freed, and were abused due to racism.[500] In contrast, he argued that within the Muslim world, there were no differences between people based on colour, emancipation was consistently encouraged, and slaves were treated as part of the family.[501]

For example, al-Jisr highlighted the concept of *walā'*, and argued that *walā'* was established to protect the slave and make his master accountable for him. Therefore, if the slave committed a crime, the master was liable to pay damages in the same way he would have been for his child.[502] Furthermore, Jisr claimed that slaves were considered legitimate inheritors of their master's estate, and 'many of them, due to this inheritance, became richer than the progeny of

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[496] Unlike Sayyid Ahmad Khan, Muhammad Abduh became the religious figure-head for his nation when he assumed the position of Grand-Muftī of Egypt in 1899, while Ahmad Khan took pride in his lack of religious training, claiming it allowed him to access the religious tradition in a more objective fashion. See: Sayyid Ahmad Khan, 'Lecture on Islam', in *Modernist Islam 1840-1940*, ed. by Charles Kurzman (Oxford: Oxford University Press, 2002) pp. 291-303 (p. 291).
[497] Ghazal, 'Debating Slavery', p. 141.
[498] Adams, *Islam and Modernism in Egypt*, pp. 177-178.
[499] Hourani, *Arabic Thought*, pp. 222-223.
[500] Hussain al-Jisr, *Al-Risālah al-Ḥamdiyyah* (Beirut: Majlis Ma'ārif Wilāyat Beirut, 1887), p. 414.
[501] Ibid., pp. 416-421.
[502] Ibid., p. 421.

the master. Many slaves, once freed, would marry the daughters of their masters… In other cases, slaves went on to become rulers and leaders'.[503] He highlights the case of the Mamlūks in Egypt as an example, and proceeds to list other instances in which slaves achieved lofty stations in the Muslim world. He makes special reference to slaves who became judges, muftīs and important scholars such as the classical jurist 'Aṭā' Ibn Abī Rabāḥ to demonstrate the upward mobility accessible to slaves in the Muslim world. Jisr argues,

> If they had not entered Islam through the medium of slavery, they would have remained in their uncivilised nations in their savage conditions. After all of this, it is still said that Muhammadan Law does not consider slaves as human beings and does not attribute to them rights? May God protect us from such slander![504]

Jisr proceeds to employ a unique form of argument in his defence of slavery. He does not deny that slaves are occasionally abused in the Muslim world; however, he argues that such abuse does not constitute sufficient proof to undermine slavery as an institution. As a way of analogy, he questions whether Muslims should also stop having children, as there are rare instances in which children are neglected and abused by parents. He writes,

> It is said that we find some followers of Islam treating slaves in a cruel manner. Yes, occasionally imbeciles can be found who do not follow the rulings of the merciful Sharī'ah and also mistreat their children in a manner uncompliant with the law. These people are rare, but should it now be said that due to their cruelty that the majority of Muslims treat their children with such malevolence? And should the result of such be that that Muslims should stop having children?[505]

Therefore, he refutes any arguments that slavery within an Islamic framework is inhumane and cruel. He proceeds to establish the religious legitimacy of slavery as an institution within the Abrahamic traditions, claiming that Moses took slaves and the Torah attests to such.[506] Similarly, Christianity also legislated to allow the continuation of slavery, as did Islam, and it is therefore irrefutable that the institution of slavery is sanctified by scripture.[507] As a final point refuting the likes of Abduh and Rida, Jisr argues that the permissibility of slavery should not be seen as a position that is considered 'the lesser of two evils' as it is sometimes argued. Rather, 'it is a rational principle that lends consideration to aspects of compassion, mercy and

[503] Ibid.
[504] Ibid., p. 422.
[505] Ibid.
[506] Ibid., p. 423.
[507] Ibid., p. 426.

humanity wherever it is possible... every writer and affirmer of revelation and the revealed law cannot present an objection [to slavery] following this clarification'.[508]

Overall, Jisr refutes the Quranic gradualism argument in a number of ways. He highlights that slavery has been historically permitted by all monotheistic religions and can be found in the Bible and the Qur'ān. Therefore, it is completely legitimate according to the strictures of religious law. Furthermore, he claims that Islamic slavery has societal functions that have historically allowed slaves to be upwardly mobile, prosperous and successful in their lives. These examples, for Jisr, demonstrate that those enslaved by Muslims were in fact fortunate to escape the 'savage conditions' in which they found themselves. As such, it becomes difficult for Jisr to see why an institution that was helping people escape 'savagery' would ever be abolished or eradicated. For Jisr, slavery was an institution that played a pivotal role within societies, was justified by all Abrahamic traditions, and the reformers could provide no compelling reason as to why it should discontinue.

This sentiment was also echoed by the Shāfi'ī scholar Yūsuf al-Nabahānī (d. 1932) in his critique of Abduh, Rida and their arguments regarding abolition.[509] Nabahānī vehemently defended the institution of slavery and claimed that slavery was part of a natural hierarchy that helped establish balance in the world. He states, 'God has created people and given them stations, the rich and the poor, the strong and the weak… each of these groups enjoys blessings that the other does not'.[510] This also encompassed slaves and their masters, according to Nabahānī, who argued that an incapacitated rich man is unable to benefit from his wealth, and must be assisted by an aide to help him with his affairs. As such, God has permitted him to buy a slave to assist him. In the same way the rich may need slaves, slaves also need guardians, and God has commanded masters to treat them kindly.[511]

Therefore, for Nabahānī, Islamic slavery includes an important paternal aspect, as God has forbidden mistreatment, and encouraged masters to view their slaves as they would their own children. As a result of such, 'many of the slaves did not want to be separated from their masters, as a noble master is a blessing upon the slave, as the slave is a blessing upon the

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[508] Ibid.

[509] Ghazal, 'Debating Slavery', p. 142.

[510] Yūsuf ibn Ismā'īl Al-Nabahānī, *Sa'ādat al-Anām fī Ittbā' Dīn al-Islām*, ed. by Muhammad Ramadan Yusuf (Beirut: 2015), p. 58.

[511] Ibid., p. 59.

master. Each of them benefits from the other, and each enjoys rights upon the other'.[512] Indeed, Nabahānī argues that the balance of rights and responsibilities ultimately led to a mutually beneficial relationship between master and slave, and the reformers who were attempting to abolish slavery were only undermining this propitious relationship. Additionally, however, reformers were also falling into the schemes of European colonialists, who were only promoting abolition 'in order to make themselves more attractive to the disbelievers of the Sudan', as this would 'facilitate their capture of the country, despite knowing that these people need slavery and it is a blessing upon both the masters and the slaves'.[513]

Nabahānī censured those promoting abolition, claiming that slavery can be hugely beneficial for slaves, and those supporting the eradication of slavery were overlooking the positives of bondage. He claims,

> If you saw the slaves that have been left behind who disbelieve in God, and they are ignorant of the affairs of this world and the afterlife, they are distressed and fatigued, and the extreme hardship they face in life. Then, if you see them after their enslavement and their entry into Islam, and their comfortable lives with their masters, and their knowledge of the affairs of religion and the world which they could not have dreamt of, you would come to know that their happiness in this life and the afterlife has stemmed from their enslavement.[514]

As with Jisr, Nabahānī highlights that slaves in the Muslim world proceeded to become rulers and kings, citing the Mamlūk state in Egypt as an example to demonstrate the possibilities for enslaved people post-emancipation. Whereas, for those who have been freed through compulsion and have no masters to care for them, they will be required to live 'a life not befitting even dogs'.[515] As well as the clear religious mandate for slavery established within the religious tradition of Islam, Nabahānī provoked the reformers calling for abolition, arguing that if the overall concern of abolitionists was the wellbeing of slaves, abolition may in fact be undermining this objective and making the lives of slaves considerably worse. As such, Islam could not support an action that would harm slaves, and therefore Islam was antithetical towards abolition.

The fact that slaves may in fact support the abolition of slavery was not considered by Nabahānī or Jisr, nor did they consider any link between abolition and the emphasis on emancipation

[512] Ibid., p. 59.
[513] Ibid., p. 60.
[514] Ibid.
[515] Ibid.

found within the Islamic tradition. For scholars of an 'orthodox' persuasion, slavery was firmly established within the religious tradition, played an important function within the Muslim world, and there was simply no need to re-assess and reform understandings of the institution.

4.3.2 Consolidating Gradualism: Sayyid Qutb and Ibn ʿĀshūr

While Quranic gradualism did receive strong critique, the thesis also received many supporters. Al-Fillālī suggests a number of prominent Arab scholars were influenced by the gradualism argument, such as Shaykh Muḥammad al-Madanī, Ibrāhīm Abū al-Khashb, ʿAbd al-Ḥamīd al-Khaṭīb, Muḥammad Qutb and Amīn al-Kholī to cite a few.[516] However, the thinker that contributed the most to popularising the theory was the Islamist thinker Sayyid Qutb. Qutb (d. 1966) produced one of the most popular and influential modern *tafsīr* of the Qur'ān in his *Fī Ẓilāl al-Qurān* (In the Shade of the Qur'ān), and within his interpretation of the Qur'ān, he espoused a radically egalitarian vision which included the Quranic gradualism argument.[517]

Addressing the issue of slavery, Qutb reinforced the message conveyed by Rida, arguing that slavery was an internationally well-established institution at the advent of Islam. Therefore, 'any movement towards the abolition of slavery would require radical social change and far-reaching economic reforms and adjustments, as well as international treaties and conventions to govern the treatment of war prisoners.'[518] Qutb was unambiguous in his disapproval of slavery and forcefully stated that 'Islam never condoned slavery. There is not a single statement in the Qur'ān that recommends or approves of slavery or the enslavement of war prisoners'.[519] Rather, due to the international tradition of taking prisoners of war as slaves, and the embedded nature of slavery within society and the economy, 'there was no alternative but to phase it out gradually and progressively'. He argued that Islam sought to limit the root causes of slavery that was ultimately guided by an 'overriding objective to avoid social upheaval, and it strove to provide the basic guarantees of a decent living and dignity for freed slaves'. [520]

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[516] Al-Fillālī, *Lā Riqq fī al-Qur'ān*, pp. 281-282.

[517] Due to the popularity of his *tafsīr*, 'Sayyid Qutb has posthumously continued to serve as a popular Islamic spiritual and intellectual guide'. See: Ronald Nettler, 'A Modern Islamic Confession of Faith and Conception of Religion: Sayyid Qutb's Introduction to the *Tafsīr, fī Ẓilāl al-Qur'ān*', *British Journal of Middle Eastern Studies* 21 (1994), 102-114 (p. 102).

[518] Sayyid Qutb, *In the Shade of the Qur'ān*, trans. by Adil Salahi & Ashur Shamis, 18 vols (Leicester: The Islamic Foundation, 2003), vol. 1, p. 333.

[519] Ibid.

[520] Ibid.

Regarding captives of war, Qutb essentially quoted Rida verbatim, arguing that Islam could not unilaterally abolish imposing slavery on captives while non-Muslims would enslave Muslim prisoners, as to do so would have been an abdication of duty to enslaved Muslim soldiers. According to Qutb, numerous other forms of enslavement were completely banned. This was to ensure that a minimal number of slaves entered Muslim society, and these slaves could consequently be properly integrated into the Muslim community. Furthermore, these slaves were provided 'the right to work, own property, earn an independent income, and seek employment with other employers, in order to be able to raise the money to secure his freedom'.[521] Furthermore, numerous measures were taken promoting emancipation and providing opportunities for slaves to gain freedom.

As a result of these measures, 'slavery was bound to be phased out, whereas a drastic or draconian approach to abolish it would have resulted in unnecessary social turmoil and disintegration'.[522] However, the continuation of slavery within the Muslim world was due to 'a gradual decline of the authority of Islam'. In a radical rereading, Qutb associates a continuation of slavery as contradictory to Islam, whereas the abolition of slavery was in fact the true principle within Islam. As a result of this, Islam cannot be censured for the continuation of slavery in the Muslim world, as 'Islam cannot be held responsible for its incorrect implementation in certain periods or societies'.[523]

Therefore, Qutb reinforced the gradualism argument, claiming that Islam had always intended to phase out slavery from the world gradually. However, due to international politics and societal context, Islam had been unable to abolish slavery immediately, as this would have harmed the slaves that Islam had been trying to protect and empower. Qutb closes his discussion of the topic by warning that the history of Islam and slavery has been misunderstood by scholarship, 'the leading culprits in this field are the so called Orientalists, or Western scholars of Islam, and their students, including some sincere but very naive Muslim scholars who were misled by them'.[524]

As with Abduh and Rida before him, Sayyid Qutb also received scathing criticism for his stance on slavery and abolition within Islam. The Saudi scholar Sāleḥ al-Fawzān castigated Qutb, and those who promote the gradualist position, as potentially committing an act of disbelief

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[521] Ibid., p. 334.
[522] Ibid.
[523] Ibid.
[524] Ibid., pp. 334-335.

(*ilḥād*).[525] Fawzān proceeds to clarify that it may be possible to absolve him of this mistake due to his ignorance of the law, as he is among those who are 'simply writers who have not studied the sharī'ah'.[526] Nevertheless, Fawzān argues that 'Islam condoned slavery', and had Islam sought to abolish slavery, a command would have been revealed proclaiming, 'slavery is invalid', as Islam had similarly proclaimed for the worship of idols, usury and fornication'.[527] However, Islam did not proclaim slavery invalid, as slavery 'is a punishment for whosoever insists on disbelief and is too arrogant to worship God'.[528]

Along with Qutb, another prominent thinker who promoted the gradualist argument was the esteemed Tunisian scholar Muḥammad Ibn 'Āshūr (d. 1973). It has been claimed that Ibn 'Āshūr was heavily influenced by Abduh's ideas regarding religion when they met in Tunisia in 1903.[529] Ibn 'Āshūr employed the gradualist approach to abolition within his work on *Maqāṣid al-Sharia* (Objectives of Islamic law) more generally. As with previous iterations of the concept, Ibn 'Āshūr highlights the substantive differences between slavery in the Muslim world and other civilizations. Furthermore, he outlines the reasons as to why slavery was not abolished immediately, as Islam considered 'public and shared interests and safeguarding the social order'.[530]

He argues that a maxim established within Islamic law states, 'the lawgiver aspires for freedom' and as a result it can be inferred 'that one of its main objectives is to abolish slavery and promote freedom for all'.[531] Ibn 'Āshūr demonstrates the potency of this maxim by exploring various rulings pertaining to emancipation, and again highlights the limited avenues through which free people could be enslaved. Regarding the continuation of slavery in the world, as with Abduh, Rida and Qutb, Ibn 'Āshūr links this with politics and not the religion of Islam. He argues that Islam could not completely discontinue the practice without consideration of what would happen to Muslim captives within an internationally practiced institution.[532] Within all of their works, Islam had always intended to abolish slavery, and this

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[525] Al-Fawzān, 'Fatwa of the Scholar Shaykh Ṣāleḥ al-Fawzān', p. 46.

[526] Ibid.

[527] Ibid., p. 47.

[528] Ibid.

[529] See: Basheer M Nafi, 'Ṭāhir ibn ʿĀshūr: The Career and Thought of a Modern Reformist ʿĀlim, with Special Reference to His Work of Tafsīr', *Journal of Qur'anic Studies*, 7 (2005), 1-32.

[530] Muḥammad al-Ṭāhir Ibn ʿĀshūr, *Treatise on Maqāṣid al-Shari'ah*, trans. by Mohamed el-Tahir el-Mesawi (London: International Institute of Islamic Thought, 2006), p. 155.

[531] Ibid.

[532] Ibid., pp. 155-157.

intention had been subverted by politicians, rulers and the contextual realities in which previous Muslim communities found themselves. Islam as a religion did not condone slavery, there was nothing in the Qur'ān that promoted slavery, and abolition was in line with the aims of the religion.

4.4 Conclusion

The questions this chapter sought to address were:

1. What was the Quranic gradualism thesis?
2. How methods did Muhammad Abduh and Rashid Rida use to reinterpret slavery?
3. How was this argument received by other scholars?

Firstly, the Quranic gradualism thesis, developed by Abduh and Rida, argued that the rulings found within the Islamic tradition pertaining to slavery clearly espoused an emancipatory ethic. Consequently, Islam had always aimed to abolish slavery. According to the thesis, Islam had restricted numerous avenues allowing enslavement of the free and had stipulated methods encouraging emancipation for those already enslaved. The obstacle that had denied Muslims reaching the goal of abolition was the misuse of the law by political elites in the Muslim world, and while it was completely legitimate to criticise their actions, Islam could not be accused of tolerating slavery as a religion. On the issue of concubinage, the gradualist method employed similar apologetics to 'orthodox' discourse on the topic. Namely, an emphasis was placed on how concubines were given rights that were not enjoyed in other civilisations.

In regard to the second question, Abduh and Rida deviated from the classical interpretation of slavery in a number of apparent ways. Firstly, the idea that a 'spirit' of the Islamic tradition could be recovered from the legal rulings was a relatively new approach to law and exegesis. This necessitated a theological shift in which human beings could understand God's intentions for the rulings in scripture and could extrapolate a trajectory based on the *ratio-legis* underpinning the rulings. Furthermore, the idea that the Qur'ān was gradually progressing to something beyond itself was equally a new and controversial idea. For many Muslims, the Qur'ān was the perfection of morality and law, and the assertion underpinning the gradualist theory claimed that the Qur'ān sought to direct Muslims beyond its laws.

Finally, both Abduh and Rida personally, and the gradualism thesis more generally, received scathing critique from 'orthodox' scholarship. Shaykh Hussain al-Jisr and Yūsuf al-Nabahānī disagreed with the reformist approach to slavery, and wrote tracts defending the classical

position. The idea that rulings from the Qur'ān could subsequently be overruled with the passing of time was naturally a contentious claim, and such a belief also rendered other parts of the Qur'ān 'abrogateable' as a result. For 'orthodox' scholars, the Qur'ān was complete in its message and morals, and did not need to gradually progress towards anything outside of itself. However, gradualism was promoted by the likes of Sayyid Qutb, Ibn 'Āshūr, as well as many others, who applied the gradualism thesis within their works and helped popularise it, often without a clear reference to Abduh and Rida.

4.5 Summary of 'Islamic Abolitionism'

The global conversation regarding the permissibility of slavery shifted drastically within the nineteenth and early twentieth century. Within the Muslim world, two key reading formations emerged that challenged the notion that slavery was compatible with Islam as has been explored. Amongst the adherents of the Quranic abolitionism approach and the Quranic gradualism method, the argument was centred upon the lack of material encouraging enslavement within the Qur'ān. That is to say, the fact that there were virtually no commands in the Qur'ān that encouraged the enslavement of free people, and the Qur'ān was the central tenet from which Islamic law and belief was derived. Islamic abolitionism reconciled an anti-slavery approach with the Qur'ān in a relatively consistent manner. Much of the material permitting slavery was in fact found with Quranic exegesis and legal material; however, this was not particularly problematic for reformers, as they encouraged Muslims to bypass centuries of 'accretions' and 'misinterpretations' and return to the original sources of Islam. Furthermore, all Islamic abolitionists sought to link abolition to the 'true message' of Islam, and to disassociate abolition from the West and Christianity.

The foundation upon which Islamic abolitionists built their argument was Q47:4.[533] This was generally the verse utilised by classical commentators to argue for the Quranic justification for enslavement of captives. However, due to the lack of explicit justification, much of this was located in Quranic commentaries. As has been explored in previous chapters, even amongst classical exegetes, there was disagreement regarding the legitimacy and purport of this verse. Islamic abolitionists made use of the dissonance amongst scholarship and utilised the verse as a lynchpin for their theories regarding Islam's compatibility with the eradication of slavery.

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[533] Q47:4: 'Therefore, when ye meet the Unbelievers (in fight), smite at their necks; at length, when ye have thoroughly subdued them, bind a bond firmly (on them): therefore (is the time for) either generosity or ransom: until the war lays down its burdens.'

The Quranic abolition method argued that the verse clearly stated that only two options were available to Muslims regarding captives of war, to either free them from grace or ransom them, as the literal wording of the verse suggests. Therefore, the Qur'ān completely disavowed enslaving the free, and as a result, abolished slavery at the time of the Prophet Muḥammad. The gradualist approach also suggested that the Qur'ān didn't encourage or promote slavery; however, it implied it may be open to interpretation as particular circumstances may warrant enslavement in order to protect enslaved Muslims that had been captured by the enemy.

In this sense, proponents of the gradualist approach were far more accommodating to the classical tradition, as they claimed that it was not the Islamic tradition that was particularly problematic regarding the question of slavery. Rather, they castigated politicians and rulers for allowing the continuation of slavery and argued that scholars had always sought to eradicate slavery, which could be evidenced by the numerous rulings promoting emancipation. Rida, for example, linked the continuation of slavery with the rise of the Umayyads, which served to preserve the integrity of the *khulafā' rāshidūn*, and reinforced a commonly held view that the Umayyads had subverted the practice of Islam that preceded them.

On the other hand, Sayyid Ahmad Khan and proponents of his Quranic abolitionism approach focused their critique more clearly towards the *'ulamā'*. While Khan did also lampoon Muslim governments, he viewed scholars as key to the preservation of readings of the Qur'ān in which slavery and concubinage were permitted. For Khan, Muslim scholars were continuing to defame Islam and the Prophet Muḥammad and were still attempting to justify the benefits of the slave-trade in a world in which numerous governments were restricting slavery. In Khan's opinion, this demonstrated quite clearly that it was not only Muslim rulers that needed to be changed; rather, Muslim scholarship in general needed to be reformed.

From the two, the Quranic abolitionism approach proposed by Khan was clearly the more ethically consistent. For Khan, the true message regarding slavery had simply been misinterpreted throughout history due to malevolent forces misusing Islam. The Prophet Muḥammad had abolished slavery, and anything that suggested otherwise was due to historical accretions. Abduh, on the other hand, attempted to repackage the discourse within the classical tradition and claim that its trajectory was always aimed towards the abolition of slavery. The contrasting approaches of Abduh and Khan were perhaps reflective of their statuses and relationships with religious clergies within their environments. Abduh was a graduate of Al-Azhar, and became the Grand Muftī of Egypt, which highlights that not only was Abduh

surrounded by 'orthodox' scholars, he was to some extent part of the clergy. Consequently, his approach naturally appears far more accommodating and reconciliatory towards the *'ulamā'* in general. Ahmad Khan was not of the clergy, and to a large extent, sought to protect Islam from accusations of immorality from Western Orientalism. As such, Khan's frustrations with the *'ulamā'*, who would continuously reaffirm the accusations that Orientalists were making, become apparent in Khan's discussions of slavery.

Again, on the question of concubinage, Khan's Quranic abolition thesis promoted a consistent ethical outlook. Within Khan's interpretation, the Qur'ān and the Prophet Muḥammad had never allowed concubinage, as such a practice was akin to prostitution, and therefore any interpretation claiming such was clearly misinformed. The only legitimate manner for sexual intercourse was through marriage. Within the gradualist approach, the ethical problem of concubinage was generally overlooked, with Abduh and Rida ostensibly justifying its historical use under the pretence of political pragmatism and the realities of warfare.

In sum, it could certainly be argued that the Quranic abolition method enjoyed some popularity amongst modernist groups emanating from South Asia. However, the gradualist method gained far more popularity amongst both lay people and scholars in the modern day. In this sense, the gradualist approach could perhaps be described as the most cited and promoted position within discussions on the topic.[534]

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[534] The gradualist thesis is cited in many discussions pertaining to Islam, slavery and abolition. Along with the highly popular works of Sayyid Qutb and Ibn 'Āshūr, a plethora of examples can be seen. See: Rahman, *Islam*, pp. 38-39; Muhammad Asad, *The Message of the Qur'ān* (Gibraltar: Dar al-Andalus, 1980), pp. 70-71; Fethullah Gulen, *Questions this Modern Age Puts to Islam* (London: Truestar, 1994)*,* pp. 42-52; Mahmoud Mohamed Taha, *The Second Message of Islam*, trans. by Abdullahi Ahmed An-Na'im (New York: Syracuse University Press, 1987), p. 138; Amina Wadud, *Qur'ān and Woman: Rereading the Sacred Text from a Woman's Perspective* (Oxford: Oxford University Press, 1999) p. 82; Abdullah Saeed, *Interpreting the Qur'ān: Towards a Contemporary Approach* (London: Routledge, 2006), p. 119; Asma Barlas, *Believing Women in Islam: Unreading Patriarchal Interpretation of the Qur'ān* (Texas: University of Texas Press, 2002), p. 59. Furthermore, Al-Fillālī lists various scholars in the Arab world that also promoted the Gradualist argument, see: Al-Fillālī, *Lā Riqq fī al-Qur'ān*, p. 272; Also see: Clarence-Smith, *Islam and the Abolition of Slavery*, pp. 207-208. While these examples in no way constitute an exhaustive list, these ideas are certainly popular within modern Muslim discourses pertaining to slavery within academic work. However, it is not only academics that promote the gradualist thesis. The idea is also found within newspapers, websites, blogs and discussions forums. Again, I provide here a limited example of modern discussions of slavery and abolition.
See: 'Why didn't Islam Abolish Slavery Immediately?', *Dar al-Ifta al-Misriyyah* <http://www.dar-alifta.org/Foreign/ViewFatwa.aspx?ID=6830> [accessed 01 July 2019]. 'History will show that Islam did not encourage slavery but rather encouraged moves towards the extirpation of slavery… this extirpation came about after a gradual process because that was the only safe and expedient way of tackling the problem' See: Mufti Ebrahim Desai, 'Islam & Slavery', *Central Mosque* <https://central-mosque.com/index.php/Islam/islam-slavery.html> [accessed 01 July 2019]. 'Islam treated the abolition of slavery in a gradual manner and that is

Chapter Five: What is the Islamic Position on Slavery?
Hermeneutical Paradigms and Interpretive Communities

'Disagreements are not settled by the facts, but are the means by which the facts are settled'
– Stanley Fish

5.1 Introduction

In his *Qur'ān, Liberation and Pluralism,* Farid Esack raises a significant point regarding the hermeneutical endeavour when interpreting the Qur'ān. He states,

> Every interpreter enters the process of interpretation with some preunderstanding of the questions addressed by the text, even of its silences, and brings with him or her certain conceptions as presuppositions of his or her exegesis. Meaning, wherever else it may be located, is also in the remarkable structure of understanding itself.[535]

He proceeds to clarify that while all Muslims take the Qur'ān as an undisputed reference point (along with the conduct of the Prophet Muḥammad) to determine normative Islam, the 'unavoidable point of departure for approaching these criteria' is ultimately shaped by the interpreter's preferences, predilections and hermeneutical contexts. To fully account for interpretive differences regarding the issue of slavery, then, it becomes necessary to explore the question of hermeneutics.

This final chapter turns to an assessment of hermeneutical difference amongst interpreters. This chapter explores the hermeneutical paradigms scholars work within, in a bid to better position and characterise the differences regarding the (im)permissibility of slavery amongst interpreters. In doing so, I attempt to contribute to a deeper understanding of Quranic

how slavery was eliminated in lands where Islam held sway' See: 'Islam's Position on Slavery', *Islamic Centre of Greater Toledo* <https://icgt.org/khutbas-sermon/islams-position-on-slavery/> [accessed 01 July 2019]. 'Slavery has been gradually abolished by Islam' See: 'Slavery and Islam (Submission to God Alone)', *Submission* <https://submission.org/Slavery_and_Islam.html> [accessed 01 July 2019]. 'Islam adopted a gradual way to eliminate it. An immediate order of prohibition would have created immense social and economic problems' See: Shehzad Saleem, 'The Condemnation of Slavery by Islam', *Islamicity* <https://www.islamicity.org/2360/the-condemnation-of-slavery-by-islam/> [accessed 01 July 2019]. 'The institution of slavery was so deep rooted in the society that it was not possible to do away with it at once. In fact, Islam adopted a gradual approach towards it' See: 'About Slavery and Prisoners of War in Islam' *Al-Mawrid* <http://www.al-mawrid.org/index.php/questions/view/about-slavery-and-prisoners-of-war-in-islam> [accessed 01 July 2019]. 'Thus, slavery was gradually phased out from the Islamic society', See: 'How Islam Tackled the Problem of Slavery', *IslamWeb* <https://www.islamweb.net/en/article/117412/> [accessed 01 July 2019].
[535] Esack, *Qur'ān, Liberation & Pluralism,* p. 75.

hermeneutics and aim to clarify why there remains such clear differences amongst scholars regarding this topic.

This chapter addresses the following questions:

1. How do modern 'orthodox' scholars negotiate classical rulings on slavery?
2. What enables reformist scholars to distance Islam from slavery?
3. Which approach to interpreting slavery is correct?

5.2 The 'Orthodox' Hermeneutic: Literalism, Legalism and the Authority of Tradition

As part of his multi-voluminous commentary on Ḥadīth, *Takmilah Fatḥ al Mulhim,* Muftī Taqī 'Uthmānī weighed in on the debate regarding the permissibility of slavery within Islam. He states,

> The clear manifest truth is that taking slaves is permissible in Islam, with its laws and its limits which have preceded, and nothing has abrogated it, and there are wisdoms in this which we have explained, and the opinion of its abrogation is rejected and is against consensus, and has no proof from the proofs of the Sharī'ah.[536]

It should be noted that 'Uthmānī's work should not be misconstrued as a call to reintroduce slavery into the modern world. He clarifies that it is currently not legitimate for Muslim countries to take slaves due to the 'United Nations pact' prohibiting slavery across the world.[537] Equally important, however, he notes that any claim that the rulings permitting slavery have been abrogated should be rejected. The consensus of scholarship, according to 'Uthmānī, holds that enslavement remains a permissible act under certain conditions according to the teachings of Islam. In doing so, 'Uthmānī cites the same justifications as Yaqoubi in his refutation of ISIS (cited in the introduction of the thesis). Both scholars argue that slavery is permitted by the 'orthodox' Islamic tradition; however, they cite international accords as the reason that slavery is currently not practiced.[538]

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[536] 'Uthmānī, 'Slavery in Islam', *Deoband.Org* <https://www.deoband.org/2013/01//Hadith-commentary/slavery-in-islam> [accessed 2 December 2015].
[537] The 'United Nations pact' commonly cited refers to resolution 317 (IV) passed in 1949 calling for 'the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others'.
[538] A similar position is elected by Qaraḍāwī, see: Yūsuf Al-Qaraḍāwī, *Fiqh al-Jihād* (Cairo: Maktaba Wahba, 2009), pp. 1464-1467.

In doing so, 'Uthmānī delivers a riposte to the reformers, who he describes as 'Muslims apologising on behalf of Islam, and distorting it based on the whims of the Westerners'. He cites Sayyid Ahmad Khan and Cheragh Ali by name, labelling their claims of Quranic abolition as false, weak and baseless.[539] 'Uthmānī argues that Islam did not need to abolish slavery, as the rules and regulations pertaining to slavery within Islamic law are superior and not analogous to slavery in other forms. For example, 'Uthmānī notes that prior to Islam, slaves 'would live in the utmost debasement, difficulty and desolation. Their humanity was not recognised and no rights were afforded them'. On the other hand, 'Islam has afforded slaves rights that have no precedent in any other religion'.[540] Therefore, for 'Uthmānī, when practiced properly, slavery is not a form of exploitation and did not need to be abolished.

Additionally, he cites numerous laws facilitating and encouraging emancipation in order to demonstrate that while slavery did exist, Islamic law sought to accelerate freedom for enslaved peoples. Therefore, freedom is recognised as preferable to slavery and as a result, it is argued that in the modern-day, abolition has achieved the aim of establishing freedom. As 'Uthmānī notes regarding pacts abolishing the practice of slavery, 'it is apparent from the texts on the virtue of emancipation and other [texts] that freedom is more desirable in the Islamic Shari'ah [than slavery], so there is no harm in making such a pact, so long as other nations conform to it and do not violate it'.[541]

Another, more recent, articulation of this position can be seen with Jonathan Brown's *Slavery and Islam*. Similarly to 'Uthmānī, Brown argues that *riqq* within Islamic law should not be equated to slavery as it is currently understood, highlighting the difficulty in attempting to forge a workable universal definition of slavery.[542] Having explored the differences between *riqq* and slavery, Brown concludes that when practiced properly '*riqq* is not grossly and intrinsically wrong'.[543]

Brown claims that there are various legal arguments to justify the restriction of *riqq*, without having to label the practice as immoral or distance it from the historical Islamic tradition as erroneous interpretation. He cites *taqyīd al-mubāḥ (restricting the permissible)* as a possible solution to the conundrum, arguing that *riqq* was never considered a favourable or

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[539] 'Uthmānī, 'Slavery in Islam'.

[540] Ibid.

[541] Ibid.

[542] Brown, *Slavery and Islam,* p. 65.

[543] Ibid., p. 274.

recommended aspect of the Islamic tradition, and can therefore be restricted in pursuit of public interest.[544] In sum, Brown argues that *riqq* should not be castigated as immoral; however, the emancipatory ethic that can be located within the legal tradition demonstrates the desire of jurists to facilitate liberation. As a result of this, 'abolition is the best means to make that wish a universal reality'.[545]

Within the responses of Brown, Yaqoubi, 'Uthmānī, and many others, there is an attempt to restrict the practice of slavery in the modern day, while emphasising that scripturally speaking, Islam permits slavery in certain circumstances. This appears to be the dominant position amongst modern adherents to the 'orthodox' school. For many, of course, this response does not remotely travel far enough to address the scriptural justification for enslavement, and potentially leaves the door open to the return of slave-markets in the future 'if the correct circumstances avail themselves'.[546]

With that said, it is important to note that the reluctance to condemn slavery as immoral by these scholars should not be viewed as a penchant or proclivity towards the institution. Rather, many of the scholars who promote this position are in a sense bound to it due to the strict ramparts of interpretive flexibility afforded by the 'orthodox' hermeneutic.[547]

Within 'orthodox' jurisprudence, the core sources for the derivation of law are the Qur'ān and the Sunnah. Importantly, both sources are read through a rigorously literalist and legalistic

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[544] Ibid., pp. 224-227.

[545] Ibid., p. 264.

[546] It should be noted, it is not only Muslim scholars that hold this position regarding slavery. For example, Rabbi Eliezer Kashtiel, head of a military religious college in Israel was captured on camera extolling the virtues of slavery, stating 'being a slave to a Jew is the best', and when Palestinians become slaves, 'their lives can begin to take shape'. See: Tamari Pileggi, 'Embracing Racism, Rabbis at Pre-Army Yeshiva Urge Enslaving Arabs', *Times of Israel* < https://www.timesofisrael.com/embracing-racism-rabbis-at-pre-army-yeshiva-laud-hitler-urge-enslaving-arabs/> [accessed 3 January 2020]. Another example can be seen with the American Christian Pastor Steven Anderson, who argues slavery should be permitted as it clearly allows such in the Bible. He argues 'if the Bible condones slavery, then I condone slavery. Because the Bible's always right about every subject'. See: Steven Anderson, 'What Does the Bible Say about Slavery?', *Youtube* <https://www.youtube.com/watch?v=EwMtryNZKKY&feature=emb_title> [accessed 3 January 2020].

[547] I refer to the ''orthodox' hermeneutic' in contrast the 'reformist hermeneutic'. Others have opted for different demarcations. Saeed, as one example, refers to 'textualists' and 'contextualists'. For more clarification on terminology used to demarcate different approaches, see footnote 79. For a fuller treatment of the 'orthodox' approach to interpretation, see Duderija's chapter on the features of 'Premodern Manahij and their Interpretational Implications', Adis Duderija, *Constructing a Religiously Ideal 'Believer' and 'Woman' in Islam* (New York: Palgrave, 2011), pp. 69-84.

framework.[548] The Qur'ān constitutes the bedrock for the derivation of law in Islam, and the Sunnah refers to 'all that is narrated from the Prophet, his acts, his sayings and whatever he has tacitly approved'.[549] The Sunnah is generally derived from canonical compilations of Ḥadīth traditions, the most authentic of these are considered to be the *Ṣaḥīḥ of al-Bukhārī and Ṣaḥīḥ Muslim*. The third source of law following the foundational scriptural sources is *ijmā'* (consensus of opinion), the precise usage of *ijmā'* is contested; however, it has generally been understood as 'the unanimous agreement of the Muslim community of any period following the demise of the Prophet Muḥammad'.[550] Within 'orthodox' legal theory, it is accepted that 'the clear directives of the Qur'ān and the Sunnah command permanent validity'.[551] Though there are numerous tools used to derive the details of applied law *(fiqh)*, these edicts are constrained and bound by the rulings set forth by the Qur'ān and Sunnah, which ultimately leads to the fact that *fiqh* can never supersede the rulings and boundaries set forth within the Qur'ān or established by the Sunnah.

Moreover, the Qur'ān is seen to legitimise and regulate the practice of slavery. Numerous rulings are read as permitting its practice, and within this model, *fiqh* cannot contradict and overrule the Qur'ān. To emphasise this point, a well-established maxim within Islamic law states that 'one cannot forbid that which God permits'. The verse cited to justify this principle was generally Q5:87: '*O ye who believe! Make not unlawful the good things which Allah hath made lawful for you but commit no excess: for Allah loveth not those given to excess*'.

Regarding this verse, Rāzī states 'it is clear that just as one may not permit what God forbids, so one may not forbid what God permits.'[552] Therefore, in the same manner that Muslims cannot permit fornication as it is prohibited by scripture, one cannot prohibit slavery as it has been permitted by scripture. Similarly, Qurṭubī narrates 'it is not permissible for a Muslim to forbid an act that has been permitted by God for his believing servants'.[553] As a result, it

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[548] Saeed categorises this approach as focusing on philology and a particularly juristic approach to the Qur'ān, inherently tied to *fiqh*. He states, the 'tafsir tradition remained steadfastly literal and legal in relation to the interpretation of ethico-legal texts. A legalistic-literalistic approach was considered to be the least error-prone'. See: Saeed, *Interpreting the Qur'ān,* p. 10.

[549] Kamali, *Principles of Islamic Jurisprudence*, p. 58.

[550] Ibid., p. 230.

[551] Ibid., p. 2.

[552] Al-Rāzī, *Al-Tafsīr al-Kabīr,* vol. 12, p. 71.

[553] Al-Qurṭubī, *Al-Jāmi' li-Aḥkām al-Qur'ān,* vol. 8, p. 118. Qurṭubī's retort appears to be taking aim at Sufī groups, who would often preach abstinence of worldly desires.

becomes increasingly difficult for scholars to prohibit slavery without violating the legal structures upon which 'orthodox' Islamic law has been built.

Furthermore, according to numerous Ḥadīth traditions, narrations appear to indicate that the Prophet Muḥammad owned slaves, accepted slaves as gifts and allowed the institution of slavery to continue during his time. Perhaps the clearest indication of such can be seen with the Prophet's acceptance of Māriyah al-Qibṭiyyah as a gift from the governor of Alexandria.[554] While modern commentators took issue with the description of Māriyah as a slave-girl, Hidayatullah argues that there are virtually no textual indications from classical sources to challenge Māriyah's status as a slave.[555]

Numerous other instances can be found scattered throughout Ḥadīth compilations. The famous tradition narrated in *Bukhārī* regarding '*azl* (coitus interruptus) constitutes one such example. It reads,

> Narrated Abu Said Al-Khudri: We received female captives in the war booty and we used to practice coitus interruptus with them. So we asked Allah's Apostle about it and he said, "Do you really do that?" repeating the question thrice, "There is no soul that is destined to exist but will come into existence, till the Day of Resurrection.[556]

Alongside these prominent narratives, there are numerous other traditions that appear to indicate that the Prophet Muḥammad allowed enslavement as recompense to his companions for partaking in war. From a juristic perspective, these instances provide further evidence regarding the legality of slavery as an institution.

After the Qur'ān and Ḥadīth, the third most authoritative source of law is the consensus of scholarship (*ijmā'*). It remains relatively clear that a consensus regarding the validity of slavery has existed amongst the four main schools of law within Sunnī Islam since their formation. There are numerous chapters within legal manuals dedicated to exploring the correct method for enslaving the free, the regulations surrounding owning slaves, the rights of slaves, laws pertaining to slavery and sexuality, as well as various rulings regarding emancipation and

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[554] Aysha Hidayatullah, 'Māriyya the Copt: Gender, Sex and Heritage in the Legacy of Muhammad's *Umm Walad*', *Islam and Christian-Muslim Relations*, 21 (2010), 221-243 (p. 223).

[555] Ibid., pp. 225-227.

[556] Al-Bukhārī, 'Ṣaḥīḥ al- Bukhārī', Ḥadīth no: 5210.

manumission.[557] This in turn cements the *Sharī'* legality of the institution of slavery within Islamic law and 'orthodox' scholars are ultimately bound by the framework they ascribe to.

Another important feature of the 'orthodox' hermeneutic emphasises that the interpretation of the Qur'ān should be guided by the earliest communities of Muslims, as 'it is only those closest in time to the Prophet (*salaf*) and therefore to the revelation who can interpret the text authoritatively'. [558] Later generations should simply preserve and transmit these interpretations. As Saeed highlights, the interpretations of 'the ethico-legal texts and the rules derived from them are to be followed in the modern period regardless of changed circumstances. Any attempt to move away from this is tantamount to subversion of Islam.'[559] Therefore, as the earliest generations of Muslims did not condemn or take issue with slavery as an institution, it becomes increasingly difficult to deem the practice immoral without castigating the earlier generations.

As a final point, it is important to recognise that the 'orthodox' approach to the derivation of morality and ethics has generally affirmed a position of 'divine subjectivism'. The divine subjectivist position asserts that 'what God forbids is evil and what God orders is good'. Furthermore, good/evil can only truly be known through revelation. Outside of revelation, man is unable to discern good and evil, as ethical values are ultimately dictated by God. According to this position, 'values are in their essence whatever God commands…. this was the position of the major school of traditionalist theologians, the Asharites, and most Islamic jurists'.[560]

Underpinning the subjectivist position is the notion that God's omnipotence must be preserved. Therefore, 'if man could judge what is right and wrong he could rule on what God could rightly prescribe for man, and this would be presumptuous and blasphemous'.[561] Furthermore, it has generally been argued that judgements based on reason are ultimately led by human whims and desires, and all actions must ultimately be judged according to the standards set by scripture.[562]

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[557] For more details on this, refer to the Chapter Two: 'Persons, Property and Liminal Spaces: 'The Slave' in Islamic Law'.

[558] Saeed, *Interpreting the Qur'ān*, p. 42.

[559] Ibid., p. 42.

[560] George F Hourani, 'Ethical Presuppositions of the Qur'ān', *The Muslim World*, 70 (2), 1-28 (p. 2).

[561] George F Hourani, *Reason and Tradition in Islamic Ethics* (Cambridge: Cambridge University Press, 1985), p. 17.

[562] For a fuller exposition of this debate, see: Sherman Jackson, 'The Alchemy of Domination? Some Asharite Responses to Muṭazilite Ethics', *International Journal of Middle East Studies,* 31 (1999), 185-201.

Therefore, according to the divine subjectivist position, which has been 'the prevailing theory among Sunnite jurists and theologians',[563] it becomes increasingly difficult to label enslaving the free, trading in slaves or allowing slavery as an 'immoral' or 'evil' action. While 'orthodox' scholarship would claim to support justice, the practice of slavery (if manifested according to the rules and regulations of Islamic law) is simply not considered unjust. As ethical values are ultimately dictated by scripture, and scripture (according to 'orthodox' interpretations) permits these actions, few tools exist to problematise slavery within 'orthodox' Islamic thought. This perhaps begins to explain the responses of numerous scholars who refuse to condemn slavery, and simply argue for its limitation due to political pragmatism.

Indeed, the position of 'orthodox' scholarship has remained generally consistent on the issue, though the framing of the argument has certainly adapted to the changing rhetoric regarding the acceptability of slavery in the modern world. While the institution of slavery was still prevalent in the Muslim world, numerous '*ulamā*' argued for its legitimacy, its various benefits and extolled its virtues, as evidenced in previous chapters. Due to the global shift regarding the repugnancy of slave-owning in contemporary society, extolling slavery is certainly not visible within contemporary Islamic discourse on the subject. Therefore, the position of modern 'orthodoxy' cites international treaties and accords as the reason for the current restriction of the practice. However, the consistent position remains that slavery, according to the 'orthodox' hermeneutic, is not antithetical to Islam and is permitted within certain circumstances.

This naturally provokes the question regarding the link between these interpretations and the re-emergence of slavery in the contemporary world. Scholars have highlighted the relation between the inability to condemn and problematise these actions to their recurrence in the modern day. For example, Duderija argues that mainstream Sunnī Islam has struggled to convincingly challenge many of the claims of ISIS regarding its revival of the slave-trade as ISIS ultimately presents a coherent and consistent reading of the classical tradition. He argues,

> The views/interpretations of the IS ideology are often justified with references to the practices of the Salaf and the Companions who are… considered as ultimate points of reference when it comes to ascertaining the legitimacy and authoritativeness of Islamic beliefs and practices. Moreover, in all of the examples discussed above the justifications proffered by the proponents of IS ideology clearly consider the practices established by

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[563] Hourani, *Reason and Tradition*, p. 24.

the early generations of Muslims as a priori universally binding to all Muslims for all times.[564]

Duderija suggests that that the overwhelming evidence highlights that slavery was practiced in early Islam, and the dominant view amongst 'orthodox' scholars extolls the early period as the 'purest' form of Islam. For Duderija, the current manifestation of 'orthodox' Islam must modify its approach to tradition in order to coherently challenge groups such as ISIS. As a resolution to this, Duderija suggests a contextualist approach to Qur'ān and Ḥadīth, a rethinking of how the Sunnah is understood, and a rationalist theological framework.[565]

A similar argument is presented by Ebrahim Moosa. Weighing in on this debate, Moosa provides an anecdotal reference to explain why classical readings of the tradition are to some extent facilitating recruitment for groups like ISIS. He narrates the story of his former classmate Rashid Moosagie from his time at the illustrious seminary Deoband who went on to join ISIS. Moosa argues that Moosagie justified joining the group as he felt they properly practiced certain aspects of the tradition that were prevalent in the books but Deobandi 'ulamā' refused to explore. Moosa writes,

> Groups like the Islamic State propound antiquated teachings still held to be true by many orthodox authorities. These include enslaving prisoners of war and taking female prisoners as concubines. Because mainstream Islam has not truly defused these theological hand grenades by explaining how they apply to the modern world, groups like the Islamic State and disaffected followers like Rashid can view these dangerous teachings as Islam's true ideals.[566]

According to Moosa, the fact that 'orthodox' authorities refuse to condemn acts such as enslavement as morally repugnant and continue to advance the case that these acts are in fact permitted theologically provides groups that practice slavery with more authenticity. As with Duderija, Moosa argues 'a doctrinal overhaul is the best long-term antidote to the radicalism and senseless interpretations that masquerade as Islam'.[567]

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[564] Adis Duderija, 'The *Salafi* Worldview and the Hermeneutical Limits of Mainstream Sunni Critique of *Salafi-Jihadism*', *Studies in Conflict and Terrorism,* (2018), 1-16 (p. 12) <https://doi.org/10.1080/1057610X.2018.1529359>.

[565] Ibid., p. 13.

[566] Ebrahim Moosa, 'My Madrassa Classmate Hated Politics. Then He Joined the Islamic State', *Washington Post* < https://www.washingtonpost.com/opinions/my-madrassa-classmate-hated-politics-then-joined-the-islamic-state/2015/08/21/b8ebe826-4769-11e5-8e7d-9c033e6745d8_story.html> [accessed 13 November 2019],

[567] Ibid.

Additionally, Bernard Freamon has equally critiqued the 'orthodox' position on slavery, arguing that it has resulted in the continuation and permittance of slavery across Muslim communities globally.[568] Freamon notes that various abuses across the Middle East resemble slave-like conditions, even if these communities are not legally 'enslaved'. He cites the cases of Filipino domestic workers in Jordan, South Asian labourers in the UAE and construction workers in Qatar, arguing 'it appears that attitudes towards 'those whom your right hand possess' in the Muslim world have not improved and perhaps have even gotten worse'.[569] Freamon equally claims that anti-slavery readings are needed to combat the continuance of slavery in Muslim nations, and claims that juridical tools of '*maqāṣid*' and '*maṣlaḥa*' are key to establish an anti-slavery hermeneutic.[570] He concludes by arguing that slavery has been permitted due to a lack of 'awareness that Islamic law principles are available to them in crafting an effort to end these practices'.[571]

While many would agree with the general impetus towards combatting injustice or opposing problematic ideologies that are raised within the works of Freamon, Moosa and Duderija, there remains a 'theo-logocentrism' within their arguments that is underpinned with problematic assumptions.[572]

For example, while no one would deny that the abuses suffered by Filipino domestic workers in Jordan, South Asian labourers in the UAE, or construction workers in Qatar are horrendous and need to be radically challenged, it is perhaps a stretch to claim that these are taking place due to classical legal rulings or a particular understanding of verses pertaining to 'right hand possessions' as suggested by Freamon.[573] The bundling of disparate cases together under the assumption that they are influenced by Quranic verses demonstrates a clear example of the problematic theo-logocentrism at play within these works. Indeed, there is little to suggest that these abuses are religiously justified in the minds of the perpetrators, and it could be argued that these types of incidents have far more in common with the abuse of low-paid workers with few rights that can be seen across the world. Freamon is perhaps on stronger ground when he

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[568] Freamon, *Possessed by the Right Hand,* pp. 464-470.

[569] Ibid., pp. 462-463.

[570] Ibid., p. 511.

[571] Ibid., p. 515.

[572] The term 'theo-logocentrism' was originally coined by Maxime Rodinson and refers to the tendency to link all phenomena in the Muslim world to Islam and Muslim scripture, while overlooking the role of historical, political and social factors. See: Maxime Rodinson, *Europe and the Mystique of Islam* (London: IB Taurus, 2002), pp. 104-107.

[573] Freamon, *Possessed by the Right Hand*, pp. 462-463.

discusses Mauritania, a country where there is a clear discourse emanating from 'orthodox' scholarship that argues for the continuation and permissibility of owning slaves.[574]

Further, many of the discourses surrounding ISIS equally produce theo-logocentric analysis through the linkage of ISIS and classical Islamic doctrines.[575] Had the group solely been motivated by religious interpretation, the sheer weight of religious authorities and scholars condemning their actions as un-Islamic and sinful may have caused them to discontinue their practices.[576] Furthermore, a huge number of the victims slaughtered by ISIS have been Sunnī Muslims, therefore, it remains unclear why the so-called 'theological affinities' indicated by the likes of Duderija did not serve as the sturdy hermeneutical bridge upon which Sunnī Muslims would naturally become ISIS recruits.[577]

Rather than focus on their claims of authenticity based on Islamic law, or the loose theological similarities between terrorist groups and 'orthodox' Islam, it may be more accurate to view the actions of these groups in tandem with narco-terrorists in South America, or the LRA in the Congo. They represent weak militias who use subjugation, forced labour and sexual abuse to control and instantiate fear in the populations they govern. In this sense, it may be more useful to view ISIS and its revival of slavery through the prism of organised crime or armed militias, more so than that of Islamic doctrine.[578]

While Ebrahim Moosa highlights the case of 'Rashid Moosagie' who was won over by the arguments of ISIS, there are equally thousands of Deobandi '*ulamā*' who are not convinced by their theological arguments and view their actions as hostile to the faith of Islam. Indeed, the vast majority of 'orthodox' scholarship has refuted ISIS and its revival of slavery, and while

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[574] Ibid., pp. 446-450.

[575] This argument was famously promoted by Graeme Wood in his controversial article 'What ISIS really want' in which he argued that ISIS were essentially the true representatives on Sunnī Islam. Wood states 'The reality is that the Islamic State is Islamic. *Very Islamic*'. See: Graeme Wood, 'What ISIS Really Wants', *The Atlantic* <https://www.theatlantic.com/magazine/archive/2015/03/what-isis-really-wants/384980/> [accessed 03 January 2020].

[576] The retort that ISIS do not consider these authorities to be 'real Muslims' serves only to further question whether reading the groups actions through its link to Islamic doctrine is at all helpful.

[577] Micheal Edison Hayden, Hayden, Michael Edison, 'Muslims 'Absolutely' the Group Most Victimized by Global Terrorism', *ABC News* < https://abcnews.go.com/Politics/muslims-absolutely-group-victimized-global-terrorism-researchers/story?id=48131273> [accessed 23 January 2020].

[578] Indeed, there can often be a false exceptionalisation of Muslims on the issue of slavery, whereas research suggests that there is a regularity of co-occurrence between sex slavery/trafficking and humanitarian crisis more generally. For example, even U.N. peace keeping forces have been heavily critiqued for this. See: Sam R Bell, Michael E Flynn, Carla Martinez Machain, 'U.N. Peacekeeping Forces and the Demand for Sex Trafficking', *International Studies Quarterly*, 62 (2018), 643–655.

some may argue that the position constructed may be theologically 'inconsistent', it has clearly served to convince the majority of the world's Muslims who detest these Jihadi groups. Consequently, while the limitations of the 'orthodox' hermeneutic have been highlighted within this chapter, this does not excuse theo-logocentric accounts of modern-day slavery, while overlooking more salient frameworks to provide analysis for events currently occurring within the Muslim world.

5.3 The Reformist Hermeneutic: 'Contextualising' the Qur'ān

Scholars that may be described as belonging to the 'reformist' school clearly differed with one another across a range of issues. Equally, many of them employed divergent methods in their attempts to acclimatise Islamic belief to the 'modern world'. However, reformist scholars employed hermeneutical shifts that distanced themselves from the 'orthodox' school. Therefore, while discussing the 'reformist hermeneutic' naturally blurs and overlooks the nuanced and sometimes significant differences espoused by individual thinkers, there remains a clear demarcation that differentiates those that employ the reformist hermeneutic in contrast to those who do not.

One of the most significant methodological shifts within the reformist hermeneutic can be seen through the attempt to re-read the primary sources of Islamic jurisprudence. Central to the reformist project were a number of principles; an emphasis on 'tawḥīd; return to the Qur'ān and Sunnah, the ultimate source of legitimacy in Islam; assertion of the role of reason; and the call for renewed ijtihad'.[579] Importantly, however, the vision promoted by reformers 'interpreted the principal Islamic texts, understood reason and sought *ijtihād*, through the prism of modernity; for modernity, however it was perceived, was the internalised, powerful influence against which the project of Islamic reconstruction and revival was envisioned'.[580]

In terms of the approach to the Qur'ān, the reformist method differed from previous attempts to explicate the meanings of scripture. Reformers were often highly critical of what they described as traditional readings of the Qur'ān in which 'Muslim exegetes and jurists often relied on linguistic criteria only to interpret the ethico-legal content and to determine whether

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[579] Basheer M. Nafi, 'The Rise of Islamic Reformist Thought and its Challenge to Traditional Islam', in *Islamic Thought in the Twentieth Century*, ed. by Suha Taji-Farouki & Basheer M. Nafi (London: IB Tauris, 2004), pp. 28-60 (p. 40).
[580] Ibid.

a particular ruling in the Qur'ān is to be universally applicable or not'.[581] This method (occasionally described as 'textualism') argues for a 'a strict following of the text' and adopts 'a literalistic approach to the text'. It was argued that this approach renders the meaning of the Qur'ān to be 'fixed and universal in its application'.[582] This, in turn, restricts the Quranic message as it doesn't take into consideration the context of revelation in a serious manner. For example, the Qur'ān ostensibly states that it is permitted to own slaves and this command is therefore understood as universally applicable. Therefore, any questions regarding why the Qur'ān may have allowed slavery remains unimportant, as does the context of the proclamation, which leads believers to assert that slavery is universally a valid practice.

The reformist hermeneutic, on the other hand, emphasises 'the socio-historical context of the ethico-legal content of the Qur'ān and of its subsequent interpretations'. This approach argues for 'understanding the ethico-legal content in the light of the political, social, historical, cultural and economic contexts in which this content was revealed, interpreted and applied'.[583] As such, this method does not assume that all Quranic laws are necessarily universal; rather, it attempts to distinguish between immutable rulings and those that may change according to the dictates of society and culture. Through assessing the context in which verses were revealed, reformist scholars attempt to derive the 'spirit' of the Qur'ān which is universally applicable, irrespective of societal norms and values. In doing so, they differentiate between the 'immutable principles' which would be relevant in all cultures, societies and times, and those that were specifically instantiated due to the restrictions of seventh century Arabian custom.[584]

A lucid description of the approach is presented by Fazlur Rahman (d. 1988). He states,

> First, one must understand the import or meaning of a given statement by studying the historical situation or problem to which it was the answer …. The second step is to generalise those specific answers and enunciate them as statements of general more-social objectives that can be 'distilled' from specific texts in light of the sociohistorical background and the often-stated *rationes legis*.[585]

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[581] Saeed, *Interpreting the Qur'ān*, p. 1.

[582] Ibid., p. 3.

[583] Ibid., p. 3.

[584] An oft cited argument utilised to justify this position can be seen with verses regarding alcohol. It is generally argued that verses gradually prohibited alcohol to facilitate a steady move away from the strong drinking culture present at the time. Therefore, 'the context' of society clearly has influence on the development of scripture.

[585] Fazlur Rahman, *Islam and Modernity: Transformation of an Intellectual Tradition* (Chicago: Chicago University Press, 1982), p. 6.

Following these initial steps that serve to 'distil' the principles of Quranic jurisprudence and systemise 'its general principles, values, and long-range objectives', Rahman argues that the second step establishes these principles and values in the modern day and therefore the general principles manifest in a specific manner based on the context of a society.[586]

As a result of this approach, as with other reformers, Rahman is able to distance the Quranic text from the practice of slavery through arguing that the principle Islam had sought to establish was that of freedom. He states, 'the Qur'ān accepts the institution of slavery on the legal plane. No alternative was possible since slavery was ingrained in the structure of society, and its overnight liquidation would have created problems in which it would have been impossible to solve, and only a dreamer could have issued such a visionary statement'. However, the Qur'ān made 'every legal and moral effort was made to free slaves and create a milieu where slavery ought to disappear'.[587]

The claim that the Qur'ān sought to 'create a milieu where slavery ought to disappear' is only conceivable due to the previous hermeneutical work done by Rahman. Having established that slavery was ubiquitous in pre-Islamic Arabia, Rahman analyses Quranic verses pertaining to slavery and concludes that the Qur'ān consistently supported emancipation wherever possible. From this, Rahman argues that the Quranic spirit can be seen to support freedom and emancipation and therefore, Islam seeks to abolish slavery. As demonstrated, this greatly differs from the traditional approach to Quranic interpretation in which scholars would display far more hesitance to speak on behalf of God's intentions within his scripture.

While the approach is explicated by Rahman, the method of 'contextualising' Quranic rulings has been central to the reformist hermeneutic since its birth. As Hidayatullah notes,

> An understanding of the Qur'an's historical context *(siyaq)* was also central to the tafsir of modernists. According to Abduh, for example, the Qur'an must be read in light of what it meant for the first Muslim community, its original audience. For [Sayyid Ahmad] Khan, historical context was especially crucial in cases in which the Qur'an used figurative language that conveyed meanings distinct to the immediate audience of its revelation in seventh-century Arabia.[588]

The shift towards the 'spirit' of the text and away from a literal reading of Quranic rulings imbued reformers with a level of interpretive freedom and flexibility. Furthermore, central to

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[586] Ibid., p. 7.

[587] Rahman, *Islam*, pp. 38-39.

[588] Aysha A Hidayatullah, *Feminist Edges of the Qur'an* (Oxford: Oxford University Press, 2014)*, p. 30.

the reformist hermeneutic was a scepticism towards the inherited Ḥadīth corpus. The critiques of the centrality of Ḥadīth took place in two major ways on the part of reformist scholars. Firstly, there was an attempt to differentiate the 'Sunnah' of the Prophet from the development of Ḥadīth. The differentiation was generally emphasised through the polysemic nature of the term Sunnah and its polyvalent usage in early Islam.[589] It was often emphasised that Sunnah and Ḥadīth only became synonymous after the interventions of the likes of Shāfi'ī among others, which opened up avenues to critique the importance of Ḥadīth. The second approach focused on critiquing the authenticity of Ḥadīth traditions and questioning whether they were in fact the sayings of the Prophet Muḥammad or later accretions.[590]

The rejection of Ḥadīth traditions developed a more flexible approach to critiquing slavery, as any traditions that linked the Prophet Muḥammad to the practice of slavery could be disavowed and discarded. As Hidayatullah states,

> Abduh called for rejecting any Ḥadīth reports that were not verifiable as genuinely originating with the Prophet or not universally accepted by Muslims; [Sayyid Ahmad] Khan went as far as to reject the Ḥadīth entirely. Though this extreme view of the Ḥadīth was not shared by all modernists, on the whole, they tend to exhibit some margin of scepticism with respect to the historicity of the Ḥadīth.[591]

Furthermore, the reformist hermeneutic emphasised an implicit suspicion of traditional authority. When treating slavery, this allowed scholars to argue that the abolition of slavery is completely congruent with Islamic teachings, as there is practically no Quranic justification for the enslavement of free people. Any ostensible justification that can be found in books of exegesis and law was simply erroneous. Muslims were not bound by the readings of previous commentators of the Qur'ān, nor were they obliged to follow the schools of law.

For the reformist school, attempts were made to differentiate early Islam, which contains the 'true essence of the divine message', and later historical Islam that had accrued innovations, heresies and misinterpretations. In doing so, scholars were able to bypass traditional interpretations, which allowed them flexibility in determining the 'correct' meaning of the Qur'ān, as well as shaping legal codes that they considered defunct. In this regard, the reformist movement has been compared to the Protestant Reformation in its disregard for the traditions

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[589] For example, in early Islam, Mālik found the Sunnah more accurately preserved through the actions of the people of Medina in place of certain written Ḥadīth traditions. See: Yasin Dutton 'Sunna, Hadith and Madinan Amal' *Journal of Islamic Studies,* 4 (1993), 1-31.

[590] Brown, *Rethinking Tradition,* p. 81.

[591] Hidayatullah, *Feminist Edges*, p. 30.

of the Church, and its stress on the re-reading of scripture without the influence of classical commentary. As Grant and Tracy note, 'Catholic exegesis relies strongly on the authority of the fathers. It interprets the Bible by the tradition of the church. Protestant exegesis makes a fresh start, often overturning the accumulated decisions of centuries.'[592]

However, others have argued that calls to return to the foundational texts within Islam predate the Protestant reformation of Christianity and can be found throughout the centuries within Islamic discourse. For example, Nafi argues a similar approach was employed by the thirteenth century reformer Ibn Taymiyya. He states,

> Central to Ibn Taymiyya's reformist project was his emphasis on the primacy of the original Islamic texts, the Qur'an and Hadith; beyond which he saw only the consensus of the Prophet's Companions and the Companions' Followers as binding… Ibn Taymiyya endeavoured to re- establish the ultimate authority of the earlier, unadulterated views of Islam.[593]

While modern reformers would have expressly disagreed with Ibn Taymiyya on creedal points, Nafi suggests the overall philosophy espoused by reformers to return to the sources was not particularly novel within Islamic history and can continually be seen throughout the centuries. Later iterations include the contributions of Ibn 'Abdul Wahhāb and Shah Waliullah of Delhi which predate European colonisation.[594] As such, Nafi suggests that it would be erroneous to suggest reformers were simply attempting to imitate Protestant Christianity, though they were naturally impacted by the overarching narratives surrounding 'modernity'.

In sum, the reformist hermeneutic shifted away from 'orthodox' approaches to interpreting the Qur'ān and established a new method for deriving jurisprudence and rulings. It argued for a contextualist approach to interpreting the Qur'ān instead of a literalist-linguistic approach. The contextualist approach to the Qur'ān allowed reformist thinkers to move beyond the literal purport of the text in order to establish 'the spirit' of scripture. Their scepticism of Ḥadīth further opened the doors of interpretive freedom, as well as their rejection of previous commentarial tradition and the sciences linked to exegesis. As a result of these hermeneutical moves, reformers were able to distance Islam from the practice of slavery. Due to an abundance of Quranic material promoting manumission, reformers focused on emancipatory aspects of

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[592] Robert Grant and David Tracy, *A Short History of the Interpretation of the Bible* (London: SCM Press, 1985), p. 92.
[593] Nafi, 'The Rise of Islamic Reformist Thought', p. 30.
[594] In fact, Baljon describes Waliullah as a pre-cursor of Modernism in South Asia, arguing that reformist thought in part stemmed from Waliullah's influence. See Baljon, *Modern Muslim Koran,* pp. 2-3.

scripture while discarding and rejecting previous interpretations that appeared to condone or promote enslavement. Consequently, the reformist hermeneutic allowed more interpretive freedom than the 'orthodox', and in that sense, was far more attuned to a reading that problematises slavery.

5.4 Which Approach to Interpreting Slavery is Correct?

Broadly speaking, there are theoretically two opposing trends regarding the validity of slavery within the Islamic tradition. On one hand, we have explored a reading of the tradition in which slavery is viewed and conceptualised as perfectly congruent to an Islamic worldview and is completely legitimate as a practice in certain circumstances. This position, and its variants, has generally been defended by the 'orthodox' school. Conversely, another trend of thinking asserts that the permitting of slavery is fundamentally antithetical to the teachings of Islam and should be considered as analogous to a type of polytheism. This position has been promoted by the reformist school.

For the reformist school, the fact that 'orthodox' readings evince an interpretation of the religious tradition that allows the practice of slavery demonstrates quite clearly the need for reform and highlights the intransigence of classical approaches to interpreting the Qur'ān and deriving law. They argue that 'orthodox' approaches have restricted the reading of the Qur'ān, and in tandem, have misrepresented the true meaning and message of scripture. It is axiomatic within reformist interpretations that Allah and the Prophet Muḥammad would never tolerate injustice, and slavery, even in its benign forms, is ultimately an injustice.

The 'orthodox' retort to the reformist reading of slavery generally fall into three brackets. Firstly, 'orthodox' scholars accuse reformist thinkers of capitulating to Western ideals of morality. The argument is usually framed through acquiescence to foreign influences, usually linked to Christianity, marring the lens through which reformers are attempting to understand Islam. Secondly, 'orthodox' scholars often attempt to undermine reformist readings through emphasising that many of the reformers are not from amongst the *'ulamā'* and are therefore not classically trained. This criticism is utilised in order to undermine the credentials of reformers. Finally, it is generally argued that the reformist approach to interpreting slavery is 'misrepresenting the Qur'ān' and misreading the verses on slavery due to a preconceived notion that slavery is immoral. However, if reformers started from the Qur'ān, and did not project

their values 'upon the Qur'ān', they would recognise that this simply isn't the case, and that scripture permits its practice.

Clearly, both claims cannot be correct. Either the Qur'ān supports slavery or opposes it. [595] The difficult proposition is to assess which interpretation is valid, and which may be deemed illegitimate. When discussing opposing interpretations of scripture, the natural impulse may be to consult the Qur'ān, read the various verses regarding slavery and ascertain 'what the Qur'ān actually says' about the issue in order to determine which of the two groups is more accurately representing the text.[596] However, as demonstrated, both groups are invariably using scripture to prop up their arguments. As Fish rightly points out, referring to the text does not help in solving the interpretive issue, as 'one cannot appeal to the text, because the text has become an extension of the interpretive disagreement that divides them; and, in fact, the text as it is variously characterised is a consequence of the interpretation for which it is supposedly evidence'.[597]

Scripture, then, ceases to be useful as a basis for determining the validity of their interpretations, since their interpretations of scripture are fundamentally enmeshed within the basis of their arguments. Simply put, the Qur'ān cannot be used as a mediator between the two opposing interpretations because there is no agreed upon definition regarding how the Qur'ān should be interpreted. As a result, the Qur'ān as an arbitrator will not yield any results in terms of resolving the disputes.

Essentially, the manner by which slavery in the Qur'ān is being read is shaped by the interpretive rules that are pre-governing the conceptualisation of the Qur'ān. Therefore, 'orthodox' scholars and reformers are, in a very real sense, reading and making reference to two separate scriptures. Consequently, returning to scripture in this case simply reaffirms each group's position while doing little to convince their opponents. As Fish explains, there exists a conviction that 'facts exist in their own self-evident shape and that disagreements are to be

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[595] While the authenticity of Ḥadīth and jurisprudence may be debated, both groups consider the Qur'ān the ultimate source of authority within their respective methodologies, and therefore, the Qur'ān is the best location to explore their differences. Therefore, in the following discussion, I focus specifically on the Qur'ān as representative of the wider Islamic tradition, as ultimately, approaches to the Qur'ān are representative of the interpretations of the wider tradition.
[596] Of course, in attempting to 'accurately' present the text, there exists an implicit assumption that one possesses a greater insight to the 'true' meaning of the text than the scholarship being assessed.
[597] Stanley Fish, *Is There a Text in this Class: The Authority of Interpretive Communities* (Harvard: Harvard University Press, 1980), p. 340.

resolved by referring to the facts as they really are…. However, disagreements cannot be resolved by reference to the facts, because the facts emerge only in the context of some point of view'.[598]

Therefore, the 'facts' of scripture in this case would only reaffirm for 'orthodox' scholars that slavery was permitted at the time of the Prophet, and therefore, theoretically label slavery as a valid practice in the Sharī'ah. Conversely, the 'facts' for reformers would emphasise that 'the context' expediently allowed for slavery at the time of Quranic revelation, with the aim of its eventual abolition (or that slavery was abolished at the time of the Prophet). The 'self-evident' facts of scripture would not settle the disagreement, as ultimately, 'disagreements are not settled by the facts, but are the means by which the facts are settled'.[599] Furthermore, turning to other sources would not resolve the issue but simply supplant the problem. Focusing on the Prophet Muḥammad's life instead of the Qur'ān, for example, would simply replace the disagreements regarding Quranic interpretation to questions regarding the authenticity of sources transmitting knowledge regarding the Prophet Muḥammad, or the role of companions as authorities, or the authority of the legal schools, etc.

This, perhaps, begins to shed light on the interpretive differences between the two groups and the absence of a resolution. It also highlights why both sets of scholars can ostensibly read the same scripture and produce diametrically opposed interpretations. This helps to explain the differences between the two groups yet does little to resolve the issue of which interpretation may be deemed correct.

To determine which reading may be deemed correct, it is important to establish how the 'correctness' of a reading may be validated. The first position, which may be described as Hirschian,[600] claims that text, and in this case scripture, contains inherent meaning that can be uncovered through accurate, objective insight and the purpose of exegesis is to uncover the meaning propounded by the author of the text. Therefore, the text is considered 'an entity which always remains the same from one moment to the next'.[601]

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[598] Ibid., p. 338.
[599] Ibid., p. 338.
[600] I describe this position as Hirschian due to its well-known propagation by E.D. Hirsch. See: Eric D. Hirsch, *Validity in Interpretation* (New Haven: Yale University Press, 1967).
[601] Ibid., p. 46.

Therefore, careful explication of scripture should also produce consistent meanings, no matter when, where or by who it is being interpreted. As such, when readings emerge that differ with an established interpretation, this difference can often be explained away due to an 'interpretive error'. It is dismissed as faulty hermeneutical work on the part of the interpreter as they haven't considered 'factor A' or 'factor B', or perhaps they simply do not possess the intellectual capacity to arrive at the correct reading. Less generous dismissals may attribute alternate readings to nefarious 'foreign influences' or an undue veneration of a particular culture.

As this position claims that scripture can only contain one 'correct' meaning, it often provides no real analysis of interpretive difference, and instead refers to 'interpretive error'. Therefore, this can occasionally lead to an adoption of 'the view from nowhere'.[602] 'The view from nowhere' describes a tendency in which commentators present their views without any serious consideration to the subjective elements of one's own interpretation, while castigating alternative readings for being subjective and unduly influenced by external factors. The 'view from nowhere' approach represents an unselfconscious operation that assumes one's own views are normative and universal, as the reader is simply 'reflecting what the text clearly states'.

An alternative position has been developed by the likes of Gadamer, in which there exists an acceptance that all interpretations are ultimately shaped by the contexts in which they develop and are naturally imbued with a level of subjectivity. The Gadamerian position claims that a completely objective reading of text (and scripture) is philosophically impossible.[603] Accepting Gadamer's position would mark a shift from the claims of 'orthodoxy' and the reformers when approaching readings of the Qur'ān. It forces hermeneuticians to consider the very serious distinction between subjective human attempts to understand scripture and scripture itself. While all interpreters of the Qur'ān seek to uncover the intended meaning of God's word, within this framework, there remains a gap between interpretation and scripture. As Esack

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[602] The term was originally coined by Thomas Nagel, See: Thomas Nagel, *The View from Nowhere* (Oxford: Oxford University Press, 1986), but the use of the phrase within this paper is more representative of the themes discussed within Haraway's paper on situated knowledge and objectivity, See: Donna Haraway, 'Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective', *Feminist Studies*, 14 (1988), 575-599.

[603] Acceptance of the impossibility of objectivity within interpretation has led to what Gerald West describes as an 'interpretive crisis' in which traditional authorities can no longer dictate the meaning of scripture and tradition without criticism of their inherent interests and predilections. See: Gerald West, *Biblical Hermeneutics of Liberation: Modes of Reading the Bible in the South African Context* (Pietermaritzburg: Cluster Publications, 1991), p. 30.

explains, Muslims believe God is the author of the Qur'ān, therefore 'one cannot even begin to consider the prospect of an `objective' attempt to get into the mind of the author in order to understand what is intended by the text'.[604]

According to this position, it would be accepted that the Qur'ān can never truly be concretely explicated, nor its interpretation considered universal as the chasm between divine word and human understanding cannot be bridged. Therefore, no exegesis of the Qur'ān could ever be considered final and absolute. As Esack elaborates,

> The meaning assigned to a text by any exegete cannot exist independently of his or her personality and environment. There is, therefore, no plausible reason why any particular generation should be the intellectual hostages of another, for even the classical exegetes did not consider themselves irrevocably tied to the work of the previous generation.[605]

There is a sense in which this approach has been cautiously acknowledged by Muslims historically.[606] Consider, for example, the introduction to the famous *Al-Fawz al-Kabīr,* Shah Waliullah's (d. 1762) famous work on the principles of exegesis, in which *tafsīr* is defined as 'a science which explores the noble Qur'ān in order to indicate God's intentions in so far as humanly possible *(bi-qadri al- ṭāqa al-bashariyya)*'.[607] The limitations of human understandings of the divine word are explicitly cited, and this admission perhaps also helps explain why there are generally no claims towards a singular 'authoritative *tafsīr*' of the Qur'ān. The argument is developed further by Waliullah, who lists various schools of exegesis that propounded different, and often contradictory, methods to explicate the meaning of scripture. Waliullah writes,

> The field [of exegesis] is vast in which each scholar attempts to explain his understanding of the meanings of the noble Qur'ān. Each scholar articulates his reading according to his capability and comprehension, and furthermore, follows the methodologies prescribed by the masters of his school [of exegesis]. Due to this, the vastness of the field cannot be contained or limited *(lā yuḥaddu qadruhu)*, and countless books have been written within this field.[608]

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[604] Esack, *Qu'rān, Liberation and Pluralism,* p. 62. Again, while the debate could turn to the Prophet Muḥammad and his understanding of the Qur'ān, the disputation simply shifts to whether his views are accurately represented within the extant sources of Ḥadīth, and an endless list of other criteria that could be contested.

[605] Ibid., p. 62.

[606] S. Sayyid, *Recalling the Caliphate: Decolonisation and World Order* (London: Hurst, 2014), p. 152.

[607] Shah Waliullah al-Dehlawi, *Al-Fawz al-Kabīr Fī Uṣūl al-Tafsīr*, ed. by Saeed Ahmad al-Balanburi (Karachi: Maktaba al-Bushra, 2011), p. 9.

[608] Ibid., p. 94.

Waliullah's argument is echoed by Soroush, who states,

> The seal of the Prophets has been and gone, but the seal of commentators has not. No-one's explanations and interpretations of revelation can be placed on a par with revelation itself. Hence, although we have a final religion, we cannot have a final understanding of religion.[609]

The lack of an authoritative voice extends not only to the multiple meanings derived from the Qur'ān, but also to the numerous hermeneutical models and criteria placed upon the Qur'ān to establish its meanings. There is no uniform approach dictating that the Qur'ān must be read in a particular way or according to a set of distinct rules, as expressly stated in the work of Waliullah.

While the general contours of 'orthodox' hermeneutics have been challenged by reformers in modern times, contestations regarding interpretive models have existed since the Qur'ān's collation. For example, the clearest divide emerged amongst the partisans of transmitted knowledge (*tafsīr bil-ma'thūr*) and the partisans of personal opinion (*tafsīr bil-ra'y*) in early debates.[610] The disputations only grew when numerous Sufī exegetical methods (*tafsīr isharī*) developed in which Sufī commentators argued that the Qur'ān had multiple layers which included esoteric meanings that were only accessible to the friends of God (*awliyā'*).[611]

In more recent times, there has been a surge in the development of feminist readings of the Qur'ān that have equally challenged the classical criteria by which the meaning of the Qur'ān should be derived. Feminist readings have emphasised that gender-justice constitutes a valid criteria that should be considered within interpretation. All of these approaches have been influenced and impacted by the historical processes that ultimately shaped the environments in which they developed, and while all of the commentators have no doubt been sincere interlocutors, their interpretations and readings project the contexts of their historical situatedness as much as they represent the divine word of God.

These subjectivities are highlighted quite clearly when discussing the issue of slavery. In the classical period, in which slavery was viewed as a legitimate practice across the world, Muslim scholars equally interpreted the institution as legitimate. However, as global sensibilities shifted regarding its acceptability, Muslim scholars devised new approaches and hermeneutical

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[609] Abd al-Karim Soroush, *The Expansion of Prophetic Experience: Essays on Historicity, Contingency and Plurality in Religion* (Brill: Leiden, 2009), p. 30.

[610] Saeed, *Interpreting the Qur'ān*, pp. 42-68.

[611] Kristin Zahra Sands, *Sufī Commentaries on the Qur'ān in Classical Islam* (London: Routledge, 2006), p. 23.

devices to read scripture in order to develop interpretations that challenged slavery. As such, the worldview of Muslims is found reflected within their interpretation of the Qur'ān and Islam.

The acceptance of subjectivities and lack of universal criteria to measure interpretations can cause concern amongst exegetes. This is due to the fact that scholars lose the ability to judge interpretations against the criteria deemed universal (though they were never actually 'universal'), and this naturally leads to a concern regarding interpretive chaos in which all readings are equally valid, as there exists no foothold from which interpretations can be judged. It is from within this place of ostensible interpretive chaos that the concept famously developed by Stanley Fish becomes useful. Fish claimed that interpretive legitimacy did not reside within the text, nor were all interpretations equally valid at any given point; rather, legitimacy could only ever be deemed valid or invalid based on the criteria that were shared by a set body of readers. Fish developed the idea that interpretation was given validity through an 'interpretive community.'[612]

Within this framework, interpretive legitimacy cannot be held to account to an immutable set of laws that govern how text should be treated, as such laws are always contextual, but is ultimately bound by the rules and regulations established as valid by the interpretive community to which the reading belongs. The lack of universal criteria within the history of interpretation has since been developed within the works of thinkers such as Kermode[613] and Adam.[614] The current of argument that threads their works together emphasises that there have never been transcendent criteria that can be applied universally when interpreting text (or scripture), and more importantly, universal criteria are not needed in order to make judgements regarding the 'correctness' of a reading. Adam states,

> Our impulse to uphold particular criteria for interpretation as necessary, natural, or transcendent masks the circumstantial determinations that shape our evaluative responses. The absence of transcendent criteria is not a loss to be lamented, however; we do not need (transcendent) criteria that we have never had.[615]

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[612] Fish, *Is There a Text in this Class*, p. 338.

[613] Frank Kermode, 'Can We Say Absolutely Anything We Like?', in *The Art of Telling: Essays on Fiction* (London: Routledge, 1983), pp. 156-167.

[614] Andrew K.M. Adam, 'Integral and Differential Hermeneutics', in *Faithful Interpretation: Reading the Bible in a Postmodern World* (Minneapolis: Fortress, 2006), pp. 81-104.

[615] Andrew K.M. Adam, 'Twisting to Destruction: A Memorandum on the Ethics of Interpretation', *Perspectives on Religious Studies,* 23 (1996), 214-222 (p. 217).

Therefore, regarding the issue of slavery, there are two clear reading formations that emphasise differing hermeneutical criteria in their attempts to produce judgements regarding the validity of the practice. As demonstrated, they employ different criteria which they view as legitimate when approaching scripture. For example, while 'orthodox' scholarship relies on philological literalism, reformist scholars emphasise historical contextualism. Due to a lack of agreement regarding the rules of the interpretive endeavour, the results that are produced greatly differ. As such, it could be argued that both readings can be considered valid according to the hermeneutical rules they abide by, and there remains no hermeneutical vantage point to judge between their claims. This is, of course, not to imply that these approaches cannot be critiqued for various reasons, inconsistencies and shortcomings. It is simply to assert that there exists no access to the Qur'ān outside of a hermeneutical paradigm, and all paradigms are contextual.

Furthermore, while this point highlights the theoretical possibility for the validity of any potential reading of the Qur'ān, this does not demonstrate that any interpretation can be considered legitimate or even 'Islamic'. As Sayyid lucidly states,

> While anyone can have an opinion about the Qur'an, it is the opinion of Muslims that is of primary importance, for in a sense Muslims as a collective body comprise the Qur'an's main stakeholders….it is the Muslims' reading of the Qur'an that matters, for it is only for Muslims that the Qur'an truly matters.[616]

Sayyid describes the link between the Qur'ān and Muslim communities as the 'Qur'ān -Ummah nexus',[617] arguing that readings of scripture are ultimately validated through their acceptance and promotion by various communities within the 'Muslim Ummah'. Therefore, while any reading has the potential to be coherent and abide by a hermeneutical schema, it is ultimately Muslim communities that judge and measure whether these interpretations are representative of Islam through their acceptance and promotion of them. Consequently, the reason why both the modern iterations of 'orthodoxy' and reformist readings are considered valid in the modern day, to varying extents, is due to Muslims communities accepting and promoting their claims.

To conclude, there are two dominant schools staking out positions regarding the validity of slavery within the Qur'ān. The 'orthodox' position, which was constructed and articulated in a world in which slavery was viewed as legitimate, argues that the Qur'ān (and by extension Islam) permits slavery in particular circumstances, and never sought to abolish it. Conversely,

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[616] Sayyid, *Recalling,* pp. 153-154.
[617] Ibid., p. 159.

the reformist position claims that the aim of the Qur'ān (and by extension Islam) is fundamentally anti-slavery, and always aimed to eradicate the practice.

In terms of the 'correctness' of the approaches, both are valid according to the hermeneutical paradigms they abide by. While it would no doubt satisfy anxious Muslim minds to argue that the reading claiming the Qur'ān allows slavery is invalid, it is a completely legitimate position according to the 'orthodox' hermeneutic. Equally valid and legitimate, however, is the reformist claim. Therefore, perhaps the more important question is not regarding validity; rather, it may be more useful to discuss popularity. While both readings may be deemed valid, it could perhaps be asserted that the reformist argument regarding slavery is more popular amongst modern scholars and lay-people, whereas the 'orthodox' position generally remains within the domain of the *'ulamā'*.[618]

5.5 Conclusion

This chapter sought to answer the following three question:

1. How do modern 'orthodox' scholars negotiate classical rulings on slavery?
2. What enables reformist scholars to distance Islam from slavery?
3. Which approach to interpreting slavery is correct?

Firstly, within this chapter, the responses from modern adherents to 'orthodoxy' were explored. The general argument presented attempted to negotiate the scriptural permissibility of slavery through the claim that slavery (*riqq*), when practiced according to the rules and regulations prescribed within the Sharī'ah, was not immoral or unjust. Therefore, this practice did not warrant reform and revision. However, due to current international agreements, slavery should not be practiced by Muslims, with the caveat that this could change in the future. The inability of modern 'orthodox' scholars to condemn slavery was linked to the strict ramparts of the 'orthodox' hermeneutic. Due to an approach that privileges philological literalism when interpreting the Qur'ān, coupled with a distinctly scholastic legalism, interpretations have been consistently produced that do not prohibit the practice of slavery.

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[618] See: Footnote 541.

Furthermore, the readings presented by classical authorities provide further interpretive rigidity and boundaries that cannot not be crossed. Additionally, morality is derived solely from these aforementioned readings and cannot be constructed from outside of the prism of scripture. A combination of these characteristics shapes the responses of modern 'orthodox' scholarship, and they are ultimately bound to the hermeneutical boundaries of the 'orthodox' tradition. However, theological beliefs do not translate directly into real world practice, and therefore, a theo-logocentric approach to understanding slavery in the Muslim world should not simply assume causality due to these readings.

Secondly, the reformist position employed a number of hermeneutical shifts that distanced it from classical approaches to interpreting the Qur'ān and deriving law. Primarily, reformist scholarship argued for the 'contextualisation' of the Qur'ān in place of adopting a literalist-legalist position in which Quranic laws were taken literally and viewed as universal. Rather, the reformist position emphasised considering the purpose of Quranic rulings within the milieu of its birth, arguing that the Qur'ān may have been restricted in achieving its goals due to the limitations of the society in which it was revealed. Therefore, while Prophet Muḥammad sought to abolish slavery, he remained unable to do so in his time, as it would have greatly harmed the slaves he sought to empower. Furthermore, reformers were sceptical that the inherited Ḥadīth lore properly represented the teachings of the Prophet Muḥammad, and equally rejected previous commentarial traditions and the sciences linked to exegesis. As a result of these hermeneutical moves, reformers were able to distance Islam from the practice of slavery.

In response to the third question, it was established that due to the reformist and 'orthodox' schools abiding by different hermeneutical paradigms when interpreting scripture, the schools produce opposing readings regarding the Quranic position on slavery. However, as there is no access to the Qur'ān without a filter of a hermeneutical model, there does not exist a vantage point by which one can distinguish between the two paradigms according to a universal criterion. As such, both readings are correct according to the criteria that they adhere to.

Conclusion

'You can't separate peace from freedom, because no one can be at peace unless he has his
freedom'
- Malcolm X

In 2013, an organisation named the 'International Muslim Abolitionist Movement' (IMAM) was formed as part of an initiative enacted by the global anti-slavery charity 'The Abolition Institute'. The purpose of 'IMAM' was to provide Islamic religious justifications for anti-slavery imperatives in order to properly challenge the continuation of slavery in parts of the Muslim world. Research conducted by the charity claimed that the practice of slavery in countries such as Mauritania was facilitated in part by a reliance on traditional religious codes. IMAM argued, 'Mauritanian slave owners often distort the teachings of Islam in order to maintain control of their slaves. They tell them that Islam supports their brutal practice of slavery'.[619] In order to counter this, IMAM collected the signatures of 70 American Islamic organisations endorsing a *fatwā* that claimed 'slavery is an illegal act with no basis in Islamic law and that working against slavery and its impact is a religious obligation'.[620] In doing so, IMAM, and the many signatories to the *fatwā* repeated many of the arguments originally posed by Islamic abolitionists in the nineteenth century, and highlighted once again the significance of the disputations regarding the validity of slavery within Islam.

This thesis began with an aim to contribute a deeper understanding of the debates regarding the (im)permissibility of slavery within the Islamic tradition. To that end, this thesis has explored and analysed theological, legal and exegetical material to produce an original contribution assessing Islamic views on slavery, highlighting 'orthodox' and 'reformist' positions. Throughout the process of this study, three clear positions have emerged regarding the (im)permissibility of slavery as a practice within Islamic discourse. The positions are as follows:

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[619] 'Faith Traditions Against Slavery', *The Abolition Institute* <http://www.stoppingslavery.org/faith-traditions-against-slavery.html> [accessed 01 June 2020].
[620] Ibid.

Classical 'Orthodoxy': *'Allah has honoured some of you over others'*

The classical position, which constitutes the consensus of 'orthodox' Islamic scholarship from the earliest scholars up to the 19th century, interpreted the practice of slavery as legitimate and in accordance with Islamic law and readings of the Qur'ān. As demonstrated in Chapter One and Two, the fact that a human being could be legally enslaved, bought and sold by another was not viewed as contradictory to Islamic teachings. Moreover, slavery was not simply tolerated by classical scholars, but actively described and conceptualised as part of divine providence. This type of hierarchical cosmology is transmitted in virtually all of the major works of classical 'orthodox' *tafsīr*, regardless of the school of exegesis the commentator belonged to. For example, these ideas are found in works of *tafsīr bil-ma'thūr* such as *Al-Jalālayn*, or *tafsīr bil-ra'y* such as al-Rāzī's *Al-Tafsīr al-Kabīr*. Similar ideas can be located in al-Ṭabarī's *Jāmi' al-Bayān,* al-Bayḍāwī's *Anwār al-Tanzīl* and al-Qurṭubī's *Al-Jāmi' li-Aḥkām al-Qur'ān.* Ibn Kathīr's discussion of the topic neatly summarises the hierarchical worldview that the classical position promoted. He states, God 'has honoured some of His servants over others in terms of provision as a test of both'.[621]

Furthermore, the conceptualisation of slavery was more clearly articulated within Islamic law, as exegetical material was to some extent limited to Quranic verses. Islamic law demarcated two legal avenues through which slave numbers could be replenished. The first group were those who were born into slavery. The second legal avenue for lawful enslavement was capture through warfare. Enslavement was not particularly encouraged within legal texts; it remained a choice amongst other choices. Furthermore, scholars often attempted to accelerate the opportunity to attain freedom for enslaved peoples. For example, jurists developed the notions of *tadbīr, istīlād* and *kitāba*. Entering into these contracts earned a number of rights for the slave, and while the slave was not considered altogether free, their legal status was vastly improved in comparison to the slave who was completely owned. Therefore, emancipation was promoted and described as a praiseworthy ideal that should be encouraged.

However, while manumission was clearly impelled throughout the legal tradition, such support did not lead to the censure of slavery as an institution. As such, according to the classical position, slavery was considered a legitimate practice that was sanctioned by readings of the Qur'ān and Islamic law. The embeddedness of slavery within the Islamic tradition was

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[621] Ibn Kathīr, *Tafsīr*, p. 1069.

consistently cited by scholars who opposed the early advancements towards abolition. As demonstrated in chapters three and four, scholars such as Hussain al-Jisr and Yūsuf al-Nabahānī in the Arabian context, and others such as Muhammad Abdullāh 'Askarī and Muhammad Ali in South Asia, all openly extolled the virtues of slavery.

The classical position is generally disavowed in contemporary discussions regarding the viability of slavery. While a few outliers argue for the practice of slavery, most Muslim scholars, regardless of their hermeneutical persuasion, argue that the abolition of slavery was a necessary and important measure within global development. Indeed, most scholars in contemporary discussions praise abolition, and very few use the language, or frame their arguments, in a similar way to classical scholars.

Modern 'Orthodoxy': *'Permitted but not practiced'*

The second position represents modern articulations of 'orthodoxy'. As such, this position is cited by the majority of *'ulamā'* and conservative Muslim scholars from the mid-twentieth century till the modern day. As demonstrated in earlier chapters, this line of argument was developed by the likes of Mawlana Akbarabadi and continues to be promoted by numerous authorities from the *'ulamā'*, such as Muhammad al-Yaqoubi, Taqī 'Uthmānī and Yusuf al-Qaradawi. In its more academic form, the position has been articulated by scholars such as Jonathan Brown. While each thinker frames their argument slightly differently, the general thrust of this position claims that the interpretations and rulings outlined in the classical tradition are all legitimate and valid. However, due to the context of our contemporary world, they should not be enacted. In this sense, this position attempts to prohibit the practice of slavery, while equally attempting to preserve the integrity of 'orthodox' hermeneutical order and authority.

The position of modern 'orthodoxy' primarily seeks to stake out a site in which continuity with classical authority structures is not undermined, and in doing so, deflects and rejects the claims of reformists. However, there is a realisation that slavery should not be promoted, praised or practiced in the manner that has been articulated by classical Islamic scholarship. Therefore, this position generally cites international agreements regarding the restriction of enslavement as a justification for its current prohibition, while equally holding that the Qur'ān, Sunnah and *fiqh* traditions all permit slavery, and this remains valid, even if not acted upon.

Due to this, slavery as a practice is not deemed problematic, or intrinsically wrong according to modern adherents of 'orthodoxy'. Freedom is more desirable, but slavery is not viewed as 'un-Islamic' or sinful when practiced according to the rules and regulations stipulated within Islamic law. Using this argument, 'orthodox' scholarship negotiates the permissibility of slavery in Islam without disavowing aspects of the tradition. Ultimately, it is claimed that when the rulings regarding slavery are properly established, the practice of slavery is not unjust, immoral or abusive.

However, the limitations of this argument are manifestly evident when assessing the rules pertaining to slavery holistically, even in its most idealised form. As evidenced in Chapter Two, while there were numerous positions that emphasised the good treatment of slaves, there were equally rulings that were clearly dehumanising. While modern 'orthodoxy' highlights laws that appear to encourage the good treatment of slaves, these selective examples do not fully represent the conceptualisation of slavery within the Islamic tradition. To cite a slightly provocative example, according to the Sharī'ah, it was viewed as legitimate to buy and sell slave-girls at markets. It was equally seen as legitimate to purchase a slave-girl for the purpose of intercourse. For those promoting the 'orthodox' position, buying a slave-girl (*jāriya*) for this purpose would not be immoral, unethical or 'un-Islamic'.

For many Muslims, whether of a reformist or 'orthodox' disposition, this would prove a disconcerting image, and provoke questions regarding morality and ethics. The fact that these actions could potentially be justified through the Qur'ān and the legacy of the Prophet Muḥammad may border on the blasphemous for some. Indeed, the Pakistani intellectual Ghulam Parvez consistently lambasted the *'ulamā'* in South Asia for linking the Prophet Muḥammad to concubinage, as Sayyid Ahmad Khan before him.

Therefore, while modern scholars promoting 'orthodoxy' attempt to negotiate classical rulings on slavery with modern discourses regarding justice and freedom, this remains a tenuous relationship. The contradiction between modern sentiments regarding human freedom and positions regarding ownership within the classical traditionunderpins the push from scholars who argue pragmatic revision cannot properly treat the issue of problematic doctrines. The claim is made that the 'orthodox' hermeneutic does not contain the interpretive flexibility to deal with the exigencies of the modern world; rather, a serious approach to reform must be considered.

The Reformist Position: *'Islam always aimed to abolish slavery'*

The third position is promoted by reformist scholarship and claims that Islam is fundamentally opposed to slavery. There are variations of the reformist claim as evidenced in chapters three and four. Within the Muslim world, two key reading formations emerged that challenged the idea that the continuation of slavery was compatible with Islam. The two approaches have been described as 'Quranic abolitionism' and 'Quranic gradualism'.

The argument presented by both groups centred upon the lack of material encouraging enslavement within the Qur'ān. Reformers built their argument upon the Quranic verse Q47:4. This was generally the verse utilised by classical commentators to argue for the Quranic justification for enslavement of captives. However, due to the lack of explicit justification in the literal wording of scripture, this allowed reformers to consistently challenge the legitimacy of enslavement. Indeed, even amongst classical exegetes, there was disagreement regarding the purport of this verse. For example, Atā' rejected that the verse allowed enslavement in the classical tradition. Reformists made use of the dissonance amongst scholarship and utilised the verse as a lynchpin for their theories regarding Islam's compatibility with the eradication of slavery.

The Quranic abolition method, developed by Sayyid Ahmad Khan, claimed the verse Q47:4 clearly stated that only two options were available to Muslims regarding captives of war, to either free them from grace or ransom them, as the literal wording of the verse suggests. The gradualist approach, championed by Muhammad Abduh and Rashid Rida, also suggested that the Qur'ān didn't encourage or promote slavery. Rather, the eventual aim of Quranic legislation was the complete eradication of slavery from society, which were made possible through the various routes to emancipation encouraged by Islam.

On the question of concubinage, Khan's Quranic abolition thesis promoted a consistent ethical outlook. Within Khan's interpretation, the Qur'ān and the Prophet Muḥammad had never allowed concubinage, as such a practice was akin to prostitution, and therefore any interpretation claiming such was clearly misinformed. The only legitimate manner for sexual intercourse was through marriage. Within the gradualist approach, the ethical problem of concubinage was generally overlooked, with Abduh and Rida ostensibly justifying its historical use under the pretence of political pragmatism and the realities of warfare.

Ultimately, from the three outlined positions, it is clear that the reformist position is the most conducive to reconciling the Islamic tradition with the abolition of slavery. Naturally, this would be expected, as interpretations always represent the sensibilities, conventions and worldviews of the scholars that produce them. As reformist readings were developed in an age of abolition, they project the values deemed axiomatic by the scholars engaged in interpretation. The 'orthodox' tradition, on the other hand, was developed and crystallised in a period in which slavery was not viewed as problematic, and the modern adherents to 'orthodoxy' are ultimately limited due to this. As a result, the popularity of reformist approaches to slavery in the modern day are of little surprise, as Muslims in the modern era have naturally inclined towards readings which readily represent the conventions and sensibilities that are established within their contexts.

Furthermore, within this thesis, it was argued that both the 'orthodox' and reformist readings may be deemed 'correct', even though they produce diametrically opposed interpretations. I claim that due to the reformist and 'orthodox' schools abiding by different hermeneutical paradigms when interpreting scripture, the schools produce opposing readings regarding the Quranic position on slavery. However, as there is no access to the Qurʾān without a filter of a hermeneutical model, there does not exist a vantage point by which one can distinguish between the two paradigms according to a universal criterion. As such, both readings are correct according to the criteria that they adhere to. Whether Muslims choose to abide by those readings and interpretations is perhaps another question altogether.

Through excavating, explicating and charting this discourse, this thesis has provided an original contribution to the study of slavery within Islam. As demonstrated throughout this study, the conversations regarding the tradition are not simply discussions about the past; rather, they continue to shape readings of the Islamic tradition for Muslims in the modern day and impact how Muslims choose to live their lives. Therefore, the findings within this thesis contribute to the growing number of studies attempting to measure the viability of living the Islamic tradition within the modern day, demonstrating the trajectories and limitations of various interpretive paradigms within Islam, and the extent they can negotiate the exigencies of the modern world.

While these insights will have an impact on readings of Islam, this study also benefits the study of slavery more generally. While much of the research pertaining to slavery has focused on the transatlantic slave-trade in the Western context, the manner in which slavery was understood and interpreted within pre-modern Islamic discourse will help develop a more holistic account

of the institution for those working in the field. As such, this thesis pushes the often-Eurocentric boundaries of slavery studies through its documentation and presentation of pre-modern Islamic views of slavery.

Furthermore, through highlighting and making available the arguments of reformists and Islamic abolitionists, this study has produced an original interpretation concerning the shift in views regarding slavery amongst Muslim scholarship. Indeed, while many studies have documented abolitionist impulses within Western nations, the development of abolitionist thought within Muslim contexts has remained generally understudied.

Therefore, this thesis uncovers an overlooked intellectual contribution, and in doing so, challenges simplistic narratives regarding abolition being forced onto unwilling Muslim populations. Rather, this study highlights the fierce debates that took place amongst Muslim scholarship. Through translating and presenting the work of Sayyid Ahmad Khan, Muhammad Abduh and Rashid Rida, this thesis has demonstrated that Muslim scholars utilised the Islamic tradition to argue for abolition and the problematisation of slavery. In doing so, the study has highlighted the genealogy of doctrines that have become commonplace for many Muslims in the modern day.

Furthermore, in the final chapter of this thesis, discourses pertaining to slavery are brought into conversation with modern hermeneutical theory. As a result, this thesis has contributed original hermeneutical analysis regarding why scholars differ so strongly regarding the viability of slavery. Through focusing on hermeneutical paradigms, I argue that to properly understand and contextualise these interpretations, the interpretive paradigm these scholars work within must be explicated. In doing so, the impetus to criticise individual interpretations and their outcomes shifts, and the focus turns to the criteria they deem to be valid within their respective reading formations. While this work focuses on slavery specifically, these hermeneutical insights have broader implications for understanding interpretative difference more generally. As such, this theoretical contribution serves to help further understand the disputations regarding scriptural and religious legitimacy that are currently occurring within the Muslim Ummah.

I began this thesis seeking to address whether the abolition of slavery was compatible with the Islamic tradition. Having explored various approaches and claims regarding slavery, I argue there are three distinct positions within Islamic discourse.

1. The classical 'orthodox' position argued for the legitimacy of slavery according to Islam, both in theory and practice. *This position is not compatible with the abolition of slavery.*

2. Modern iterations of 'orthodoxy' altered their approach and claimed that slavery was religiously permitted in theory; however, should not be practiced in the modern day. *This position is partially compatible with the abolition of slavery*, as it claims that Islam can restrict the practice of slavery, even if slavery is not deemed 'un-Islamic' in essence.

3. The third approach, presented by reformist thought, claims that Islam is antithetical to slavery and opposes the practice in principal. According to the reformist argument, slavery fundamentally conflicts with Islamic principles. From the three outlined positions, reformist readings reconcile abolition coherently within their interpretations. *Therefore, reformist readings are completely compatible with the abolition of slavery.*

The question of which of these positions more properly represent the religion of Islam can, however, only be answered by Muslim communities around the world, and the readings they choose to adopt and promote. In sum, I close with the quote that this thesis began with. In the words of Abdullāh Ibn Mas'ūd:

> *'What the believers deem good, is good with God'.*

Bibliography

Books

- Abduh, Muhammad, *Islām Bayna al-ʿIlm wa al-Madaniyyah* (Cairo: Dar al-Hilal, 1958)

- _____, *Tafsīr al-Qur'ān al-Karīm, Juz 'Amma* (Cairo: Matba Misr, 1922)

- _____, *The Theology of Unity*, trans. by Ishaq Musa'ad and Kenneth Cragg (London: George Allen, 1966)

- Abu-Zayd, Nasr, 'The Dilemma of the Literary Approach to the Qur'an', *Alif: Journal of Comparative Poets,* 23 (2003) 8-47

- Adam, Andrew K.M, 'Integral and Differential Hermeneutics', in *Faithful Interpretation: Reading the Bible in a Postmodern World* (Minneapolis: Fortress, 2006), pp. 81-104

- Adam, Andrew K.M, 'Twisting to Destruction: A Memorandum on the Ethics of Interpretation', Perspectives on Religious Studies, 23 (1996), 214-222

- Adams, Charles C, *Islam and Modernism in Egypt: A Study of the Modern Reform Movement Inaugurated by Muhammad Abduh* (Russell & Russell, 1968)

- Ahmad, Aziz, *Islamic Modernism in India and Pakistan 1857-1964* (London: Oxford University Press, 1967)

- Ahmed, Ishtiaq, *The Concept of an Islamic State: An Analysis of the Ideological Controversy in Pakistan* (London: Pinter, 1987)

- Akbarabadi, Saeed Ahmad, *Islām Mein Ghulāmī Kī Ḥaqīqat*, trans. by Rafiq Abdur Rahman (Karachi: Darul Ishaat, 2000)

- Al-ʿAdawī, ʿAlī ibn Aḥmad, *Ḥāshiyat al-ʿAdawī alā Kifāyat al-Ṭālib al-Rabbānī li Risāla ibn Abī Zaid al-Qayrawānī*, 4 vols (Cairo: Matba'a al-Madani, 1989)

- Al-ʿAskarī, Muḥammad ʿAbdullāh, *Ḥaqīqat al-Islām* (Kanpur: Matba' Nizami, 1874)

- Al-Bayḍāwī, Nāṣir al-Dīn Abū al-Khayr 'Abdullāh ibn 'Umar, *Anwār al-Tanzīl wa Asrār al-Ta'wīl*, 5 vols (Beirut: Dar Ihya al-Turath al-Arabi, 1997)

- Al-Fawzān, Ṣāleḥ, 'Fatwa of the Scholar Shaykh Ṣāleḥ al-Fawzān', in *Barā'ah ʿUlamā al-Ummah min Tazkiyyah Ahl il-Bid'ah wa-al-Mudhammah (The Innocence of the Scholars of the Ummah from the Commendation of the People of Innovation and Censure),* ed. by Al-Sinānī (Ajman: Maktabat al-Furqan, 2001), pp. 45-47

- Al-Fillālī, Ibrāhīm Hāshim, *Lā Riqq fī al-Qur'ān* (Cairo: Dar al-Kalam, n.d.)

- Al-Ghazālī, Abū Ḥāmid, *Ihyā' ʿUlūm ul-Dīn* (Beirut: Dar Ibn Hazm, n.d.)

- Al-Jawziyyah, Muḥammad b. Abī Bakr Ibn Qayyim, *I'lām al-Muwaqqi'īn ʿan Rabb al-ʿĀlamīn*, ed. by Ahmad Al-Za'bī, 2 vols (Beirut: Sharikat Dar al-Arqam, 1997)

- Al-Jazīrī, ʿAbd ul-Raḥmān, *Kitāb al-Fiqh fī Madhāhib al-Arba'a*, 5 vols (Beirut: Dar al-Kutub al-Ilmiya, 2014)

- Al-Jisr, Hussain, *Al-Risālah al-Ḥamdiyyah* (Beirut: Majlis Maʿārif Wilāyat Beirut, 1887)

- Al-Kisā'ī, Muḥammad ibn ʿAbd Allāh, *Qiṣaṣ al-'Anbiyā' (Tales of the Prophets),* trans. by Wheeler M. Thackston Jr. (Chicago: Great Books of the Islamic World, INC, 1997)

- Al-Laḥjī, Abdullāh bin Ṣa'īd, *Iydāḥ al-Qawā'id al-Fiqhiyyah li Ṭullab al-Madrassa al-Sawlatiyyah* (Saudi Arabia: Matbah Madani, 1968)

- Al-Maḥallī, Jalāl al-Dīn and Jalāl al-Dīn al-Suyūṭī, *Tafsīr al-Jalālayn*, trans. by Feras Hamza, ed. and intro. by Ghazi bin Muhammad bin Talal (Amman, Jordan: Royal Aal al-Bayt Institute for Islamic Thought, 2007)

- Al-Mas'ūdī, Abū al-Ḥasan ʿAlī ibn al-Ḥusayn, *Akhbār al-Zamān* (Cairo: Abdul Hāmid Ahmad Hanafi, 1938)

- _____, *Murūj al-Dhahab wa Ma'ādin al-Jawāhir*, ed. by Muhammad Abdul Hāmid (Beirut: Dar al-Fikr, 1973)

- Al-Maydānī, 'Abd al-Ghanī al-Ghunaymī, *Al-Lubāb fī Sharḥ al-Kitāb*, 4 vols (Beirut: al-Maktaba al-Ilmiyya, n.d.)

- Al-Nabahānī, Yūsuf ibn Ismā'īl, *Sa'ādat al-Anām fī Ittbā' Dīn al-Islām*, ed. by Muhammad Ramadan Yusuf (Beirut: 2015)

- Al-Nawawī, Abū Zakariyya Yaḥya Ibn Sharaf, *Saḥīḥ Muslim bi-Sharḥ al-Nawawī*, 18 vols (Cairo: Mu'assasat Qurtubah, 1994)

- Al-Qaraḍāwī, Yūsuf, *Fiqh al-Jihād* (Cairo: Maktaba Wahba, 2009)

- Al-Qārī, Nūr al-Dīn 'Alī, *Ḍaw' al-Ma'ālī ala Manẓūmat Bad' al-Amālī* (Beirut: Dar al-Beiruti, 2006)

- Al-Qayrawānī, Ibn Abī Zaid, *Al-Risāla fī Fiqh il-Imām Mālik* (Beirut: Dar al-Kutub al-Ilmiyya, n.d.)

- Al-Qudūrī, Muḥammad ibn Aḥmad al-Baghdādī, *The Mukhtaṣar of al-Qudūrī: A Manual of Islamic Law According to the Ḥanafī School*, trans. by Tahir Mahmood Kiani (London: TaHa Publishers, 2010)

- Al-Qurṭubī, Abū 'Abdullāh, *Al-Jāmi' li-Aḥkām al-Qur'ān,* 24 vols (Beirut: al-Risalah Publishers, 1995)

- Al-Rāzī, Fakhr al-Dīn Muḥammad b. 'Umar b. al-Ḥusayn, *Al-Tafsīr al-Kabīr (a.k.a Mafātīḥ al-Ghayb)*, 32 vols (Beirut: Dar ul-Fikr, n.d.)

- Al-Sābūnī, Muḥammad 'Alī, *Rawā'i' al-Bayān fī Tafsīr Āyāt al-Aḥkām min al-Qur'ān* (Beirut: Maktaba Assrya, 2012)

- Al-Salāwī, Aḥmad ibn Muḥammad, *Sharh Bayqūniyya* (Casablanca: Dar Ibn Hazm, 2010)

- Al-San'ānī, Abū Bakr 'Abd al-Razzāq, *Al-Muṣannaf li al-Ḥāfiẓ al-Kabīr Abī Bakr 'Abd al-Razzāq al-San'ānī,* 11 vols (Johannesburg: al-Majlis al-Ilmi, 1970)

- Al-Sarakhsī, Abū Bakr Muḥammad b. Aḥmad b. Abī Sahl, *Al-Mabsūṭ*, 30 vols (Beirut: Dar al-Kutub al-Ilmiyah, 2001)

- Al-Shāfiʿī, Muḥammad ibn Idrīs, *Kitāb Al-Umm,* 10 vols (Al-Mansurah: Dar al-Wafa lil-Tibaah wa-al-Nashr wa-al-Tawzi, 2001)

- Al-Shaybānī, Muḥammad ibn al-Ḥasan, *The Islamic Law of Nations: Shaybānī's Siyar*, trans. by Majid Khadduri (Baltimore: John Hopkins Press, 1966)

- Al-Ṭabarī, Abū Jafar Muḥammad ibn Jarīr, *Kitāb Ikhtilāf al-Fuqahā'*, ed. by Joseph Schacht (Leiden: Brill, 1933)

- _____, *Tafsīr Al-Ṭabarī: Jāmi' al-Bayān an' Ta'wīl ay il-Qur'ān*, 12 vols (Beirut: Dar al-Kutub al-'Ilmiyah, 1997)

- _____, *The History of Al-Ṭabarī (Ta'rīkh al-Rusul wa'l-Mulūk)*, trans. by William Brinner, 40 vols (Albany: State University of New York Press, 1989)

- Al-Ṭaḥāwī, Abū Ja'far Aḥmad ibn Muḥammad, *Mukhtaṣar Ikhtilāf al-'Ulamā'*, 3 vols (Beirut: Dar al-Basha'ir al-Islamiyyah, 1995)

- Al-Tha'labī, Abū Isḥāq Aḥmad Ibn Muḥammad ibn Ibrāhīm, *'Arā'is al-Majālis fī Qiṣaṣ al-Anbiyā' Or "Lives of the Prophets"*, trans. and annotated by William M. Brinner (Leiden: Brill, 2002)

- Al-Timbuktī, Aḥmad Bābā, *Mi'rāj al-Su'ud*, trans. by Fatima Harrack and John Hunwick (Rabat: Mohamed V University, 2000)

- Al-Tirmidhī, Abū ʿĪsā Muḥammad ibn ʿĪsā, *Jāmi' Al-Tirmidhī*, trans. by Abu Khalyl, 6 vols (Riyadh: Maktaba Darussalam, 2007)

- Al-Wāḥidī, Alī ibn Aḥmad, *Asbāb al-Nuzūl* (Amman: Royal Aal al-Bayt Institute for Islamic Thought, 2008)

- Al-Yaqoubi, Muhammad, *Refuting ISIS: A Rebuttal of its Religious and Ideological Foundations* (Sacred Knowledge Press, 2015)

- Al-Ya'qūbī, Aḥmad ibn Abī Ya'qūb ibn Ja'far, *Tārīkh al-Ya'qūbī,* 2 vols (Leiden: Brill, 1969)

- Al-Zuḥaylī, Wahba Muṣṭafā, *Athār al-Ḥarb fī al-Fiqh al-Islāmī: Dirāsa Muqarrana* (Damascus: Dar al-Fikr, 1998)

- _____, *Al-Qawā'id al-Fiqhiyyah wa Taṭbiqātuhā fī al-Madhāhib al-Arba'a*, 2 vols (Damascus: Dar al-Fikr, 2006)

- Ali, Cheragh, *A Critical Exposition of the Popular Jihad* (Calcutta: Thacker, Spink & Co, 1885)

- _____, *The Proposed Political, Legal and Social Reforms in the Ottoman Empire and Other Mohammadan States* (Montana: Kessinger Publishing, 2010)

- Ali, Kecia, 'Concubinage and Consent', *International Journal of Middle Eastern Studies*, 49.1 (2017), 148-152

- _____, *Marriage and Slavery in Early Islam* (London: Harvard University Press, 2010)

- _____, *Sexual Ethics and Islam: Feminist Reflections on Qur'an, Hadīth, and Jurisprudence* (Oxford: Oneworld Publications, 2006)

- Ali, Muhammad, *Radd al-Shiqāq fī Jiwāz al-Istarqāq* (Kanpur: Matba' Nizami, 1874)

- Ali, Syed Ameer, *Personal Law of the Mohammadans* (London: W.H Allen, 1880)

- _____, *The Spirit of Islam* (Calcutta: S.K Lahiri, 1902)

- Anderson, Steven, 'What Does the Bible Say about Slavery?', *Youtube* <https://www.youtube.com/watch?v=EwMtryNZKKY&feature=emb_title> [accessed 3 January 2020]

- Asad, Muhammad, *The Message of the Qur'ān* (Gibraltar: Dar al-Andalus, 1980)

- 'Athamina, Khalil, 'Al-Qasas: Its Emergence, Religious Origin and Its Socio-Political Impact on Early Muslim Society', *Studia Islamica*, 76 (1992), 53-74

- Badawi, Zaki, *The Reformers of Egypt* (London: Croon Helm, 1978)

- Baer, Gabriel, 'Slavery in Nineteenth Century Egypt', *The Journal of African History*, 8 (1967), 417-441

- Baljon, J.M.S, *Modern Muslim Koran Interpretation (1880-1960)* (Leiden: Brill, 1968)

- Bano, Shadab, 'Slave Acquisition in the Mughal Empire', *Proceedings of the Indian History Congress*, 62 (2001), 317-324

- Barcia, Manuel, 'An Atlantic Islamic Revolution: Dan Fodio's Jihad and Slave Rebellion in Bahia and Cuba, 1804-844', Journal of African Diaspora Archaeology and Heritage, 2.1 (2013), 6-18

- _____, *The Great African Slave Revolt of 1825: Cuba and the Fight for Freedom in Matanzas* (Baton Rouge: Louisiana State University Press, 2012)

- Barlas, Asma, *Believing Women in Islam: Unreading Patriarchal Interpretation of the Qur'ān* (Texas: University of Texas Press, 2002)

- Bashir, Haroon, 'Black Excellence and the Curse of Ham: Debating Race and Slavery in the Islamic Tradition' *ReOrient,* 5 (2019), 92-116

- _____, 'Slavery and Islam: A Conversation with Prof. Jonathan Brown', *Network ReOrient* <https://open.spotify.com/episode/3w8Qu898M8hUoLIC5fWYlw>

- _____, 'Possessed by the Right Hand: An Interview with Prof. Bernard Freamon', *Network ReOrient* <https://open.spotify.com/episode/3YL3CQNYo89rQ6loIOzae5>

- Bell, Sam R, Michael E Flynn and Carla Martinez Machain, 'U.N. Peacekeeping Forces and the Demand for Sex Trafficking', *International Studies Quarterly*, 62 (2018), 643–65

- Belmekki, Belkacem, *Sir Sayyid Ahmad Khan and the Muslim Cause in British India* (Berlin: Klaus Schwarz Verlag, 2010)

- Bergsma, John Sietze and Scott Walker Hahn, 'Noah's Nakedness and the Curse on Canaan (Gen 9:20-27)', *Journal of Biblical Literature*, 124. 1 (2005), 25-40

- Bevir, Mark, *The Logic of the History of Ideas* (Cambridge: Cambridge University Press, 2004)

- Birkeland, Harris, 'Old Muslim Opposition against Interpretation of the Koran', in *The Qur'ān: Formative Interpretation,* ed. by Andrew Rippin (Aldershot: Ashgate, 1999), pp. 41-80

- Blunt, Wilfred, *Secret History of the English Occupation of Egypt* (New York: Alfred A Knoff, 1922)

- Brockopp, Jonathan E, *Early Mālikī Law: Ibn 'Abd al-Hakam and his Major Compendium of Jurisprudence* (Leiden: Brill, 2000)

- _____, 'Concubines', in *Encyclopaedia of the Qur'ān*, ed. by Jane Dammen McAuliffe <http://dx.doi.org/10.1163/1875-3922_q3_EQSIM_00088>

- _____, 'Slaves and Slavery', in *Encyclopaedia of the Qur'ān*, ed. by Jane Dammen McAuliffe <http://dx.doi.org/10.1163/1875-3922_q3_EQSIM_00393>

- Brown, Daniel, *Rethinking Tradition in Modern Islamic Thought* (Cambridge: Cambridge University Press, 1999)

- Brown, Jonathan A.C, *Slavery & Islam* (London: Oneworld Academic, 2019)

- Brown, Leon Carl, *The Tunisia of Ahmad Bey: 1837-1855* (Princeton: Princeton University Press, 1984)

- Brunschvig, Robert, ''Abd', in *Encyclopaedia of Islam*, 2nd edn, ed. by P. Bearman and others <http://dx.doi.org/10.1163/1573-3912_islam_COM_0003>

- Burke, Samuel M, *Akbar: The Greatest Mogul* (New Delhi: Munshiram Manoharla, 1989)

- Campanini, Massimo, *The Qur'ān: Modern Muslim Interpretations* (London: Routledge, 2011)

- Chatterjee, Indrani, 'Afro-Asian Capital and its Dissolution', *Comparative Studies of South Asia, Africa and the Middle East*, 38. 2 (2018), 310-329

- Chaudhry, Ayesha S, *Domestic Violence in the Islamic Tradition: Ethics, Law and the Muslim Discourse on Gender* (Oxford: Oxford University Press, 2013)

- Clarence-Smith, William, *Islam and the Abolition of Slavery* (London: Hurst, 2006)

- _____, 'Islamic Abolition in the West Indian Ocean from C.1800', in *Indian Ocean Slavery in the Age of Abolition*, ed. by Robert Harms, Bernard K. Freamon, and David W. Blight (New Haven: Yale University Press, 2014), pp. 81-100

- _____, 'The British 'Official Mind' and 19th Century Islamic Debates over the Abolition of Slavery', in *Slavery, Diplomacy and Empire: Britain and the Suppression of the Slave Trade, 1807-1975,* ed. by Keith Hamilton and Patrick Salmon (Brighton: Sussex Academic Press, 2009), pp. 125-142

- Crone, Patricia, 'Two Legal Problems Bearing on the Early History of the Qur'ān', *Jerusalem Studies in Arabic and Islam,* 18 (1994), 3-20

- _____, *Roman, Provincial and Islamic law* (Cambridge: Cambridge University Press, 1987)

- Dabashi, Hamid, *Islamic Liberation Theology: Resisting the Empire* (London: Routledge, 2008)

- Davis, David Brion, *Inhuman Bondage: The Rise and Fall of Slavery in the New World* (Oxford: Oxford University Press, 2008)

- _____, *Slavery and Human Progress* (London: Oxford University Press, 1984)

- _____, *The Problem of Slavery in the Age of Emancipation* (New York: Alfred A. Knopf, 2014)

- Desai, Mufti Ebrahim, 'Islam & Slavery', *Central Mosque* <https://central-mosque.com/index.php/Islam/islam-slavery.html> [accessed 01 July 2019]

- Donner, Fred M, *Narratives of Islamic Origins: The Beginnings of Islamic Historical Writings* (Princeton: The Darwin Press, 1998)

- Duderija, Adis, *Constructing a Religiously Ideal 'Believer' and 'Woman' in Islam* (New York: Palgrave, 2011)

- _____, 'The *Salafi* Worldview and the Hermeneutical Limits of Mainstream Sunni Critique of *Salafi-Jihadism*', *Studies in Conflict and Terrorism,* (2018), 1-16 <https://doi.org/10.1080/1057610X.2018.1529359>

- Dutton, Yasin, 'Sunna, Ḥadīth and Madinan Amal', *Journal of Islamic Studies,* 4. 1 (1993), 1-31

- El-Hamel, Chouki, *Black Morocco: A History of Slavery, Race and Islam* (Cambridge: Cambridge University Press, 2013)

- El Fadl, Khaled Abou, 'On Slavery and a Moral Reading of the Qur'ān', *Usuli.org* <https://www.usuli.org/2019/08/30/on-ethics-and-the-issue-of-slavery> [accessed 22 January 2020]

- Ensel, Remco, *Saints and Servants in Southern Morocco* (Leiden: Brill, 1999)

- Erdem, Hakan, *Slavery in the Ottoman Empire and its Demise: 1800-1909* (Basingstoke: Macmillan, 1996)

- Esack, Farid, *Qur'ān, Liberation & Pluralism: An Islamic Perspective of Interreligious Solidarity against Oppression* (Oxford: Oneworld, 1997)

- 'Faith Traditions Against Slavery', *The Abolition Institute* <http://www.stoppingslavery.org/faith-traditions-against-slavery.html> [accessed 01 June 2020]

- Fakhry, Majid, *A History of Islamic Philosophy* (New York: Columbia University Press, 2004)

- Firestone, Reuven, 'Early Islamic Exegesis on the So-Called 'Hamitic Myth'', in *Adaptations and Innovations: Studies on the Interaction between Jewish and Islamic Thought and Literature from the Early Middle Ages to the Late Twentieth Century, Dedicated to Professor Joel L. Kraemer*, ed. by. Y. Tzvi Langermann and Josef Stern (Leuven: Peeters, 2007), pp. 51-68

- _____, *Journeys in the Holy Lands: The Evolution of the Abraham-Ishmael Legends in Islamic Exegesis* (Albany: State University of New York Press, 1990)

- Fish, Stanley, *Is There a Text in this Class: The Authority of Interpretive Communities* (Harvard: Harvard University Press, 1980)

- Freamon, Bernard, 'Definitions and Conceptions of Slave Ownership in Islamic Law', in *The Legal Understanding of Slavery: From the Historical to the Contemporary*, ed. by Jean Allain (Oxford: Oxford University Press, 2012), pp. 45-59

- _____, *Possessed by the Right Hand: The Problem of Slavery in Islamic Law and Muslim Cultures* (Leiden: Brill, 2019)

- 'Genesis 9:20-25 New International Version', *Bible.com* <https://www.bible.com/bible/111/GEN.9.20-25.NIV> [accessed 13 February 2019]

- Gentles-Peart, Kamille, 'West Indian Immigrant Women, Body Politics, and Cultural Citizenship', in *Bodies without Borders*, ed. by Erynn Masi de Casanova and Afshan Jafar (New York: Palgrave Macmillan, 2013), pp. 25-43

- Ghazal, Amal, 'Debating Slavery and Abolition in the Arab Middle East', in *Slavery, Islam and Diaspora*, ed. by Paul E Lovejoy, Behnaz Mirzai and Ismael Musah (Trenton: Africa World Press), pp. 139-154

- Ginzberg, Louis, *Legends of the Jews*, 7 vols (Philadelphia: The Jewish Publication Society, 2003)

- Goldenberg, David M, *The Curse of Ham: Race and Slavery in Early Judaism, Christianity and Islam* (Princeton: Princeton University Press, 2003

- _____, 'The Curse of Ham: A Case of Rabbinic Racism?', in *Struggles in the Promised Land*, ed. by Jack Salzman & Cornel West (Oxford: Oxford University Press, 1997), pp. 21-52

- Gordon, Matthew S, *Concubines and Courtesans: Women and Slavery in Islamic History,* ed. by Matthew S. Gordon & Kathryn A. Hain (Oxford: Oxford University Press, 2017)

- Grant, Robert M, and David Tracy, *A Short History of the Interpretation of the Bible* (London: SCM Press, 1985)

- Gubara, Dahlia A.M, 'Revisiting Race and Slavery through 'Abd al-Rahman al-Jabarti's 'Aja'ib al-Athar', *Comparative Studies of South Asia, Africa and the Middle East*, 38. 2 (2018), 230-245

- Gulen, Fethullah, *Questions this Modern Age puts to Islam* (London: Truestar, 1994)

- Hallaq, Wael B, *A History of Islamic Legal Theories: An Introduction to Sunni Uṣūl al-Fiqh* (Cambridge: Cambridge University Press, 1999)

- Hamilton, Keith, *Slavery, Diplomacy and Empire: Britain and the Suppression of the Slave Trade 1807-1975*, ed. by Keith Hamilton and Patrick Salmon (Brighton: Sussex Academic Press, 2009)

- Hakim, Mariam, 'The Truth about Muslims and Sex Slavery- According to the Koran rather than Isis or Islamophobes', *Independent* <http://www.independent.co.uk/voices/the-truth-about-muslims-and-sex-slavery-according-to-the-Qur'ān-rather-than-isis-or-islamophobes-a6875446.html> [accessed 6 January 2018]

- Haraway, Donna, 'Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective', *Feminist Studies*, 14 (1988), 575-599

- Hasan, Tariq, *The Alighar Movement and the Making of the Indian Muslim Mind 1857-2002* (New Dehli: Rupa, 2006)

- Hayden, Michael Edison, 'Muslims 'Absolutely' the Group Most Victimized by Global Terrorism', *ABC News* < https://abcnews.go.com/Politics/muslims-absolutely-group-victimized-global-terrorism-researchers/story?id=48131273> [accessed 23 January 2020]

- Hellie, Richard, 'Slavery', *Encyclopædia Britannica* <https://www.britannica.com/topic/slavery-sociology> [accessed 3 January 2020]

- Heng, Geraldine, *The Invention of Race in the European Middle Ages* (Cambridge: Cambridge University Press, 2018)

- Hidayatullah, Aysha A, *Feminist Edges of the Qur'an* (Oxford: Oxford University Press, 2014)

- _____, 'Māriyya the Copt: Gender, Sex and Heritage in the Legacy of Muhammad's *Umm Walad*', *Islam and Christian-Muslim Relations*, 21. 3 (2010), 221-243

- Hilal, Imad Ahmad, *Al-Raqīq fī Miṣr fī al-Qarn al-Tāsi' 'Ashara* (Cairo: 1999)

- Hirsch, Eric D, *Validity in Interpretation* (New Haven: Yale University Press, 1967)

- Hodgson, Marshall G. S, *The Venture of Islam: Conscience and History in a World Civilisation*, 3 vols (London: University of Chicago Press, 1974)

- Hourani, Albert, *Arabic Thought in a Liberal Age (1798-1939)* (Cambridge: Cambridge University Press, 1983)

- Hourani, George F, 'Ethical Presuppositions of the Qur'ān', *The Muslim World*, 70. 2 (1980), 1-28

- _____, *Reason and Tradition in Islamic Ethics* (Cambridge: Cambridge University Press, 1985)

- 'How Islam Tackled the Problem of Slavery', *IslamWeb* <https://www.islamweb.net/en/article/117412/> [accessed 01 July 2019]

- Ibn 'Abd al-Hādī, Yūsuf, *Al-Qawā'id al-Kulliyah wa Dawābit Fiqhiyah* (Beirut: Dar al-Bashair al-Islamiyah, 1994)

- Ibn 'Ābidīn, Muḥammad Amīn, *Radd al-Muḥtār 'alā Darr al-Mukhtār Sharḥ Tanwīr al-Absār,* 14 vols (Beirut: Dar al-Kutub al-Ilmiya, 2003)

- Ibn Abī Shaybah, 'Abd Allāh ibn Muḥammad, *Al-Muṣannaf*, ed. Usāma ibn Ibrāhīm, 15 vols (Cairo: al-Faruq al-Haditha li-al-Tiba'a wa al-Nashr, n.d.)

- Ibn Al-Ash'ath, Abū Dāwūd Sulaymān, *Sunan Abū Dāwūd*, trans. by Nasiruddin al-Khattab, 5 vols (Riyadh: Dārussalām, 2008)

- Ibn Al-Athīr, ʿIzz al-Dīn Abū al-Ḥasan ʿAlī, *Al-Kāmil fī al-Tārīkh*, ed. by Abdullah al-Qādī, 11 vols (Beirut: Dar ul-Kutub al-Ilmiyyah, 1987)

- Ibn ʿĀshūr, Muḥammad al-Ṭāhir, *Treatise on Maqāṣid al-Shari'ah*, trans. by Mohamed el-Tahir el-Mesawi (London: International Institute of Islamic Thought, 2006)

- Ibn Kathīr, Abū al-Fidāʾ Ismāʿīl, *Qiṣaṣ al-Anbiyāʾ*, ed. by Mustapha Abdul Wahid (Mecca: Maktaba al-Talib Al-Jami'i, 1988)

- _____, *Tafsīr al-Qurʾān al-'Aẓīm* (Beirut: Dar Ibn Hazm, 1974)

- Ibn Khaldūn, *The Muqaddimah: An Introduction to History,* trans. by Franz Rosenthal (Princeton: Princeton University Press, 2005)

- Ibn Qudāmah al-Maqdisī, Muwaffaq al-Dīn Abd Allāh, *Al-Mughnī*, 15 vols (Riyadh: Dar Alam al-Kutub, 1997)

- Ibn Taymiyyah, Taqī ad-Dīn Aḥmad, *Majmūʹ al-Fatāwa,* 37 vols (Al-Mansura: Dar al-Wafa' lil-Taba'a wa al-Nashr, 1998)

- ICGT, 'Islam's Position on Slavery', *Islamic Centre of Greater Toledo* <https://icgt.org/khutbas-sermon/islams-position-on-slavery/> [accessed 01 July 2019]

- Islam, Tajul*, Scholastic Traditional Minimalism: A Critical Analysis of Intra-Sunni Sectarian Polemics* (PhD Thesis, University of Exeter, 2015)

- Jackson, Sherman A, *Islam and the Blackamerican: Looking toward the Third Resurrection* (Oxford: Oxford University Press, 2005)

- _____, 'The Alchemy of Domination? Some Asharite Responses to Mutazilite Ethics', *International Journal of Middle East Studies,* 31 (1999), 185-201

- Johnston, David, 'A Turn in the Epistemology and Hermeneutics of Twentieth Century Uṣūl al-Fiqh', *Islamic Law and Society,* 11 (2004), 233-282

- Kamali, Mohammad Hashim, *Principles of Islamic Jurisprudence* (Cambridge: Islamic Texts Society, 2003)

- Kāndhlawī, Muḥammad Yūsuf, *Ḥayāt uṣ-Ṣaḥāba*, 5 vols (Beirut: Resalah Publishers, 1999)

- Kermode, Frank, 'Can We Say Absolutely Anything We Like?', in *The Art of Telling: Essays on Fiction* (London: Routledge, 1983)

- Kerr, Malcolm H, *Islamic Reform: The Political and Legal Theories of Muhammad Abduh and Rashid Rida* (Berkeley: University of California Press, 1966)

- Khadduri, Majid, *War and Peace in the Law of Islam* (Baltimore: John Hopkins Press, 1955)

- Khalafallah, Ahmad, *Al-Fann al-Qaṣaṣī fi al-Qur'ān al-Karīm* (Cairo: Maktabat al-Nahdah al-Missriyah, 1957)

- Khan, In'amullah, 'The Mo'tamar al-Alam al-Islami (The World Muslim Congress: a Brief Description of its Sixth Conference held at Mogadishu),' *The Islamic Review*, 53 (1965), 27-29

- Khān, Qāḍī, *Fatāwa Qāḍī Khān*, 3 vols (Beirut: Dar al-Kutub al-Ilmiyya, 2009)

- Khan, Sayyid Ahmad, *Ibṭāl-e-Ghulāmī* (Mufid-e-Aam: Agra, 1893)

- Khan, Wahiduddin, *Islam Rediscovered: Discovering Islam from Its Original Sources* (New Delhi: Goodword Books, 2002)

- Khoury, Rana, 'Mauritania's Fight against Slavery Provokes Islamists', *Al-Arabiya* <http://english.alarabiya.net/articles/2012/06/11/219996.html> [accessed 2 December 2015]

- Knappert, Jan, *Islamic Legends: Histories of the Heroes, Saints and Prophets of Islam* (Leiden: Brill, 1985)

- Kurzman, Charles, *Modernist Islam 1810-1940: A Sourcebook*, ed. by Charles Kurzman (Oxford: Oxford University Press, 2002)

- Leemhuis, Fred, 'Origins and Early Development of the Tafsir Tradition', in *Approaches to the History of the Interpretation of the Qur'ān,* ed. Andrew Rippin (Oxford: Clarendon Press, 1988), pp. 13-30

- Lewis, Bernard, *Race and Color in Islam* (London: Harper Torchbooks, 1971)

- _____, *Race and Slavery in the Middle East: An Historical Enquiry* (Oxford: Oxford University Press, 1990)

- Lofkrantz, Jennifer, 'Protecting Freeborn Muslims: The Sokoto Caliphate's Attempts to Prevent Illegal Enslavement and its Acceptance of the Strategy of Ransoming', *Slavery & Abolition*, 32 (2011), 109-127

- Lovejoy, Paul, *Transformations in Slavery: A History of Slavery in Africa* (Cambridge: Cambridge University Press, 1983)

- Mahfouz, Naguib, *Children of Gebelawi* (London: Heinemann, 1981)

- Malik, Hafeez, *Sir Sayyid Ahmad Khan in India and Pakistan* (New York: Columbia University Press, 1980)

- Marmon, Shaun, 'Concubinage, Islamic', in *Dictionary of the Middle Ages*, ed. by Joseph Strayer (New York: Scribner, 1983)

- _____, *Slavery in the Islamic Middle East* (Princeton: Markus Weiner Publishers, 1998)

- Martin, Richard C, Mark R. Woodward and Dwi S. Atmaja, *Defenders of Reason in Islam: Mu'tazilism from Medieval School to Modern Symbol* (Oxford: Oneworld, 1997)

- Mawdudi, Abul A'la, *Human Rights in Islam* (Lahore: Islamic Publications, 1995)

- _____, *Tafhīmāt*, 6 vols (Islamic publications: Lahore, n.d.)

- McDonough, Sheila, *Muslim Ethics and Modernity: A Comparative Study of the Ethical Thought of Sayyid Ahmad Khan and Mawlana Mawdudi* (Ontario: Wilfrid Laurier University Press, 1984)

- McMahon, Elisabeth, *Slavery and Emancipation in Islamic East Africa* (Cambridge: Cambridge University Press, 2013)

- Metcalf, Barbara Daly, *Islamic Revival in British India: Deoband, 1860-1900* (New Dehli: Oxford University Press, 2002)

- Miers, Suzanne, 'Slavery: A Question of Definition', *Slavery and Abolition*, 24 (2003), 1-16

- Molfenter, Christine, 'Overcoming Bonded Labour and Slavery in South Asia: The Implementation of Anti-Slavery Laws since its Abolition until Today', *South Asia Chronicle*, 3 (2013), 358-382

- Montana, Ismael M, *The Abolition of Slavery in Ottoman Tunisia* (Gainesville: University of Florida Press, 2013)

- Moosa, Ebrahim, 'Critical Islam: Beyond Apologia', in *The Norton Anthology of World Religions*, ed. by Jane Dammen McAuliffe (London: Norton & Company, 2015), pp. 591-596

- _____, 'My Madrassa Classmate Hated Politics. Then He Joined the Islamic State', *Washington Post* <https://www.washingtonpost.com/opinions/my-madrassa-classmate-hated-politics-then-joined-the-islamic-state/2015/08/21/b8ebe826-4769-11e5-8e7d-9c033e6745d8_story.html> [accessed 13 November 2019]

- Muir, William, *The Life of Mahomet,* 4 vols (London: Smith, Elder and Co., 1858– 61)

- Mujahid, Abdul Malik, *An Islamic Response to ISIS Slavery* (Chicago: Sound Vision Foundation, 2015)

- Mujeeb, Mohammad, *The Indian Muslims* (London: George Unwin & Allen, 1967)

- Nafi, Basheer M, 'Ṭāhir ibn ʿĀshūr: The Career and Thought of a Modern Reformist ʿĀlim, with Special Reference to His Work of Tafsīr', *Journal of Qur'anic Studies*, 7 (2005), 1-32

- Nagel, Thomas, *The View from Nowhere* (Oxford: Oxford University Press, 1986)

- Nasr, Seyyed Hossein, *Traditional Islam in the Modern World* (London: Kegan Paul, 1994)

- Nettler, Ronald, 'A Modern Islamic Confession of Faith and Conception of Religion: Sayyid Qutb's Introduction to the *Tafsīr, fī Ẓilāl al-Qur'ān*', *British Journal of Middle Eastern Studies,* 21 (1994), 102-114

- Netton, Ian Richard, *Islam, Christianity and Tradition: A Comparative Exploration* (Edinburgh: Edinburgh University Press, 2006)

- Organization of the Islamic Conference (OIC), 'Cairo Declaration on Human Rights in Islam', *Refworld* <https://www.refworld.org/docid/3ae6b3822c.html> [accessed 20 May 2020]

- Parwez, Ghulam Ahmed, *Exposition of the Holy Qur'ān*, trans. by Habib-ur-Rehman Khan (Lahore: Tolu-e-Islam, 2010)

- _____, *Islam: A Challenge to Religion* (Lahore: Tolu-e-Islam, 2012)

- _____, *Qatl-e-Murtad, Ghulām aur Londian aur Yatīm Potey kī Virasāt* (Lahore: Idara Tolu-e-Islam, n.d.)

- Pauliny, Jan, 'Some Remarks on the Qisas al-Anbiya works in Arabic Literature', in *The Qur'an: Formative Interpretation,* ed. by Andrew Rippin (Aldershot: Ashgate, 1999), pp. 313-326

- Peirce, Leslie P, *The Imperial Harem: Women and Sovereignty in the Ottoman Empire* (Oxford: Oxford University Press, 1993)

- Pileggi, Tamari, 'Embracing Racism, Rabbis at Pre-Army Yeshiva Urge Enslaving Arabs', *Times of Israel* <https://www.timesofisrael.com/embracing-racism-rabbis-at-pre-army-yeshiva-laud-hitler-urge-enslaving-arabs/> [accessed 3 January 2020]

- Powell, Avril A, 'Indian Muslim Modernists and the Issue of Slavery in Islam', in *Slavery and South Asian History*, ed. by Indrani Chatterjee and Richard Eaton (Bloomington: Indiana University Press, 2006), pp. 262-286

- _____, *Scottish Orientalists and India: The Muir Brothers, Religion, Education and Empire* (Woodbridge: Boydell, 2010)

- Quranic Path, 'Does the Qur'an Allow Sex with Slaves/Concubines?', *Quranic Path* <http://www.Quranicpath.com/misconceptions/concubines.html; http://misconceptions-about-islam.com/islam-Qur'ān-abolish-slavery.htm.> [accessed 6 January 2018]

- Qutb, Sayyid, *In the Shade of the Qur'ān*, trans. by Adil Salahi & Ashur Shamis, 18 vols (Leicester: The Islamic Foundation, 2003)

- Rahemtulla, Shadaab, *Qur'an of the Oppressed: Liberation Theology and Gender Justice in Islam* (Oxford: Oxford University Press, 2017)

- Rahman, Fazlur, *Islam* (Chicago: University of Chicago Press, 1979)

- _____, *Islam and Modernity: Transformation of an Intellectual Tradition* (Chicago: Chicago University Press, 1982)

- Ramadan, Tariq, *To Be a European Muslim: A Study of Islamic Sources in the European Context* (Leicester: Islamic Foundation, 1999)

- Rida, Rashid, 'Al-Raqīq wa Aḥkāmuhu fī al-Islām', *Al-Manār*, 8 (1905), 841-860

- _____, 'Al-Dīn fī al-Naẓr al-Ṣaḥīḥ', *Al-Manār*, 8 (1905), 721-745

- _____, 'As'ila min Bārīs', *Al-Manār*, 13 (1910), 741-748

- _____, 'Su'āl 'an al-Istarqāq', *Al-Manār*, 23 (1922), 31-33

- _____, *The Muhammadan Revelation*, trans. by Yusuf Talal DeLorenzo (Virginia: Al-Sadaawi Publications, 1996)

- _____, *Yusr al-Islām wa Usūl al-Tashrī al-'Ām* (Cairo: Maktabat al-Salam al-Alamiyya, 1984)

- Robinson, Francis, 'The British Empire and Muslim Identity in South Asia', *Transactions of the Royal Historical Society*, 8 (1998), 271-289

- Robinson-Dunn, Diane, *The Harem, Slavery and British Imperial Culture: Anglo-Muslim Relations in the Late 19th Century* (Manchester: Manchester University Press, 2006)

- Rodinson, Maxime, *Europe and the Mystique of Islam* (London: IB Taurus, 2002)

- Rodriguez, Junius, 'Introduction', in *The History Encyclopaedia of World Slavery*, ed. by Junius Rodriguez, 2 vols (Santa Barbara: ABC-CLIO, 1997), pp. 13-24

- Saeed, Abdullah, *Interpreting the Qur'ān: Towards a Contemporary Approach* (London: Routledge, 2006)

- Saḥnūn, Muḥammad Ibn Saʿīd Ibn Ḥabīb, *Al-Mudawwana al-Kubra*, 6 vols (Beirut: Dar al-Kutub al-Ilmiyyah, 1994)

- Said, Edward, *Orientalism: Western Conceptions of the Orient* (London: Penguin, 1991)

- Sands, Kristin Zahra, *Sufi Commentaries on the Qur'ān in Classical Islam* (London: Routledge, 2006)

- Sayyid, Salman, 'Empire, Islam and the Postcolonial', in *The Oxford Handbook of Postcolonial Studies*, ed. by Graham Huggan (Oxford: Oxford University Press, 2013), pp. 127-141

- _____, *Recalling the Caliphate: Decolonisation and World Order* (London: Hurst, 2014)

- Saleem, Shehzad, 'The Condemnation of Slavery by Islam', *Islamicity* <https://www.islamicity.org/2360/the-condemnation-of-slavery-by-islam/> [accessed 01 July 2019]

- Sedgwick, Mark, *Muhammad Abduh* (Oneworld: Oxford, 2010)

- Shah Waliullah al-Dehlawi, *Al-Fawz al-Kabīr Fī Uṣūl al-Tafsīr*, ed. by Saeed Ahmad al-Balanburi (Karachi: Maktaba al-Bushra, 2011)

- Sheikh, Mustapha, *A Treasury of Ibn Taymiyyah: His Timeless Thought and Wisdom* (Markfield: Kube Publishing, 2017)

- Siddiqui, Mona, *The Good Muslim: Reflections on Classical Islamic Law and Theology* (Cambridge: Cambridge University Press, 2012)

- Skinner, Quentin, 'Meaning and Understanding in the History of Ideas', *History and Theory*, 8 (1969), 3-53

- Sonn, Tamara, 'Introducing', in *The Blackwell Companion to the Qur'ān*, ed. by Andrew Rippin (Oxford: Blackwell, 2006), pp. 3-17

- Soroush, Abd al-Karim, *The Expansion of Prophetic Experience: Essays on Historicity, Contingency and Plurality in Religion* (Brill: Leiden, 2009)

- Stowasser, Barbara F, *Women in the Qur'an: Traditions and Interpretations* (Oxford: Oxford University Press, 1994)

- Submission, 'Slavery and Islam (Submission to God Alone)', *Submission* <https://submission.org/Slavery_and_Islam.html> [accessed 01 July 2019]

- Sultan, Mushafiq, 'About Slavery and Prisoners of War in Islam' *Al-Mawrid* <http://www.al-mawrid.org/index.php/questions/view/about-slavery-and-prisoners-of-war-in-islam> [accessed 01 July 2019]

- Swartley, Willard M, 'Slavery', in *The Oxford Companion to the Bible*, ed. by Bruce M. Metzger and Michael D. Coogan (Oxford: Oxford University Press, 2004), pp. 700-701

- Taha, Mahmoud Mohamed, *The Second Message of Islam*, trans. by Abdullahi Ahmed An-Na'im (New York: Syracuse University Press, 1987)

- Taji-Farouki, Suha, and Basheer M. Nafi, *Islamic Thought in the Twentieth Century,* ed. by Suha Taji-Farouki & Basheer M. Nafi (London: I.B. Tauris, 2004)

- Toledano, Ehud R, *As if Silent and Absent: Bonds of Enslavement in the Islamic Middle East* (London: Yale University Press, 2007)

- _____, 'Enslavement and Abolition in Muslim Societies', *Journal of African History*, 48 (2007), 481-485

- _____, *The Ottoman Slave Trade and its Suppressions* (Princeton: Princeton University Press, 2014)

- Tottoli, Roberto, *Biblical Prophets in the Qur'an and Muslim Literature* (Surrey: Curzon Press, 2002)

- Troll, Christian W, *Sayyid Ahmad Khan: A Reinterpretation of Muslim Theology* (New Dehli: Vikas Publishing, 1978)

- 'Uthmānī, Muḥammad Taqī, 'Slavery in Islam', *Deoband.Org* <https://www.deoband.org/2013/01//Hadith-commentary/slavery-in-islam> [accessed 2 December 2015]

- Wadud, Amina, *Inside The Gender Jihad* (Oxford: Oneworld, 2006)

- _____, *Qur'ān and Woman: Rereading the Sacred Text from a Woman's Perspective* (Oxford: Oxford University Press, 1999)

- Ware III, Rudolph T, *The Walking Qur'an: Islamic Education, Embodied Knowledge and History in West Africa* (Chapel Hill: University of North Carolina Press, 2014)

- West, Gerald O, *Biblical Hermeneutics of Liberation: Modes of Reading the Bible in the South African Context* (Pietermaritzburg: Cluster Publications, 1991)

- Wheeler, Brannon M, *Prophets in the Qur'ān: An Introduction to the Qur'ān and Muslim Exegesis* (London: Continuum, 2002)

- Whitford, David, *The Curse of Ham in the Early Modern Era: The Bible and Justification for Slavery* (Farnham: Ashgate, 2009)

- 'Why didn't Islam Abolish Slavery Immediately?', *Dar al-Ifta al-Misriyyah* <http://www.dar-alifta.org/Foreign/ViewFatwa.aspx?ID=6830> [accessed 01 July 2019]

- Williams, Eric, *Capitalism and Slavery* (Chapel Hill: University of North Carolina Press, 1944)

- Wink, Andre, *Akbar* (Oxford: Oneworld, 2009)

- Winter, Tim, 'Introduction', in *The Cambridge Companion to Classical Islamic Theology*, ed. by Tim Winter (Cambridge: Cambridge University Press, 2008), pp. 1-18

- Wood, Graeme, 'What ISIS Really Wants', *The Atlantic* <https://www.theatlantic.com/magazine/archive/2015/03/what-isis-really-wants/384980/> [accessed 03 January 2020]

- Wright, Peter, *Modern Qurʾānic Hermeneutics* (PhD Thesis, University of North Carolina, 2008)

- Yusuf-Ali, Abdullah, *The Holy Qur'an: Text, Translation and Commentary* (Birmingham: Islam Vision IPCI, 2001)

- Zarka, Muṣṭafā Aḥmad, *Sharḥ al-Qawā'id al-Fiqhiyya* (Damascus: Dar al-Kalam, 1989)

- Zilfi, Madeline, *Women and Slavery in the Late Ottoman Empire* (Cambridge: Cambridge University Press, 2010)